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Notice of Appeal.

In Chancery of New Jersey.

Between RAYMOND P. WORTENDYKE, Trustee, etc., *Complainant,* *and* LOUIS RAYOT, *et als.*, *Defendants.*	*On Bill.* *Notice of Appeal.*

The complainant hereby appeals from the Final Decree made herein upon the 17th day of July, 1916, in the following respects:

1. That said decree does not order and direct that all of the property mentioned and set forth in the complainant's bill of complaint should be sold to pay and satisfy the complainant's claim.

2. That said order or decree does not provide that all of the rents and profits collected by the defendant, Barney Hermes, should be accounted for by him and should be applied to the payment of the claim of complainant.

3. That said decree only sets aside the deed of conveyance therein referred to in paragraph 1 so far as the interest of Louis Rayot is concerned, whereas said decree should have set aside said conveyance absolutely and subjected all of said lands to the claim of complainant.

4. In so far as said decree fails to subject all of the lands and premises mentioned and referred to in the complainant's bill of complaint and the rents, issues and profits thereof from the 26th day of May, 1913, to the claim of complainant.

Dated August 24, 1916.

ALEXANDER J. HIGGINS,
MERRITT LANE,
Solicitors of Complainant
and of Counsel.

I conceive there is good and just cause for appeal in the above stated cause.

MERRITT LANE,
Of Counsel with Complainant.

Petition of Appeal.

New Jersey Court of Errors and Appeals

Between	
RAYMOND P. WORTENDYKE, Trustee, etc., *Complainant-Appellant,*	*On Bill.*
and	*On Appeal.*
LOUIS RAYOT, *et als.*, *Defendants-Respondents.*	*Petition of Appeal.*

To the Honorable, the New Jersey Court of Errors and Appeals in the last resort in all causes.

The petition of Raymond P. Wortendyke, Trustee, etc., respectfully shows:

That your petitioner finds himself aggrieved by a final decree made in the Court of Chancery by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, bearing date the 17th day of July, 1916, in a cause wherein your petitioner is complainant and Louis Rayot, Margaret Rayot and Barney Hermes are defendants in this respect, to wit:

That the said decree does not order, adjudge and decree that all of the lands and premises mentioned and set forth in the bill of complaint should be sold to pay the amount due to the complainant as trustee in bankruptcy for the benefit of the creditors of Louis Rayot and that said

decree does not order, adjudge and decree that all of the rents of said lands and premises collected from the 26th day of May, 1913, are subject to the claim of the complainant and does not direct the said Barney Hermes to account for all of said rents, issues and profits and in that said decree does not order, adjudge and decree that there was actual fraud in the transfer made by Louis Rayot and Margaret Rayot, his wife, to Barney Hermes, bearing date the 26th day of May, 1913, to such an extent as that said lands and premises are now subject to the claim of the complainant, and that said defendants have no rights or interest therein and in that said decree does not order, adjudge and decree that the conveyance originally made upon the 22nd day of June, nineteen hundred and ten, was in fraud of the creditors of Louis Rayot, and your petitioner humbly appeals from such decree as aforesaid in so far as it does not order, adjudge and decree as aforesaid upon the ground that the same is erroneous for that it should have adjudged and decreed that the conveyance made upon the 22nd day of June, nineteen hundred and ten, was in fraud of the creditors of Louis Rayot and that the conveyance made upon the 26th day of May, 1913, and recorded in the office of the Register of Bergen County in Liber 849, page 82, etc., by Louis Rayot and Margaret Rayot, his wife, to Barney Hermes, was in fraud of the creditors of Louis Rayot and that the said Louis Rayot and Margaret Rayot, his wife, and Barney Hermes actively participated in said fraud and that it should have been decreed that the lands and premises mentioned and set forth in the complainant's bill of complaint were wholly subject to the claim of complainant and

should be sold to raise and satisfy the amount due the complainant and for that it should have been ordered, adjudged and decreed that all of the rents, issues and profits of said lands and premises collected from the 26th day of May, 1913, were subject to the claim of complainant and that the said Barney Hermes should account to the complainant for said rents so collected.

Your petitioner, therefore, prays that the said decree of the said Chancellor may be in the particulars aforesaid reversed, set aside and for nothing holden and that the Chancellor should be directed to make an order or decree in accordance with the prayer hereof.

And that your petitioner may have such relief in the premises as to this Court shall seem meet.

ALEXANDER J. HIGGINS,
Solicitor for Appellant.

MERRITT LANE,
Of Counsel with Appellant.

Service of a true copy of the within acknowledged this ninth day of September, 1916.

J. EMIL WALSCHEID.

Answer to Cross-Petition of Appeal.

New Jersey Court of Errors and Appeals

Between RAYMOND P. WORTENDYKE, Trustee, *Complainant-Appellant,* *and* LOUIS RAYOT, *et al.*, *Defendants-Respondents.*	*On Appeal from Court of Chancery.* *Answer to Cross-Petition of Appeal.*

The answer of the above named respondents to the cross-petition of appeal of the above named appellant:

These respondents not acknowledging all or any of the matters which in said petition of appeal are contained to be true for answer thereto nevertheless say and admit that a decree was on the 17th day of July, 1915, made and entered in the Court of Chancery of the State of New Jersey in a cause for that purpose mentioned, in the said petition as therein stated but as to the substance and form thereof these respondents pray to refer thereto, when the same shall be produced. And these respondents are advised and believe that the said decree is agreeable to equity except as set forth in a petition of appeal heretofore filed by the respondents and pray that the cross-appeal may be dismissed with costs to the respondents herein, subject to the appeal heretofore taken by the respondents.

J. EMIL WALSCHEID,
Solicitor and of Counsel with Respondents.

Arthur W. Cross, Law Printer, 243 Market Street, Newark, N. J.

Appeal of Complainant.

New Jersey Court of Errors and Appeals

Between

RAYMOND P. WORTENDYKE.
Trustee, etc.,
Complainant-Appellant,

and

LOUIS RAYOT, *et als.*,
Defendants-Respondents.

On Appeal from the Court of Chancery.

Brief of the Defendants-Respondents.

Statement of Facts.

This is an appeal by a complainant from a decree of the Court of Chancery, setting aside a conveyance of real estate as in fraud of creditors and granting other relief.

The appeal is based upon the theory that the relief granted is not all to which complainant is entitled.

The bill is filed by complainant, as trustee in bankruptcy, to set aside conveyances made by Louis Rayot, a bankrupt. It appears from the bill, and is admitted by his answer, that about the 18th of August, 1907, Louise Gousset, the mother of the bankrupt, died, leaving her last will and testament, which was admitted to probate, and by which she devised all the property, with the buildings thereon erected, known as two and forty-nine one-hundredths acres, situate in the Borough of Fairview, Bergen County, New Jersey, to her four children, Mrs. Lucy Grod, Mrs.

Zeline Baker, Louis Rayot (the bankrupt), and Aimee Gousset, as tenants in common, in fee.

On the 24th day of June, 1910, said devisees conveyed said lands to Barney Hermes, single, who re-conveyed to said devisees a certain portion of said two and forty-nine one-hundredths acres, in pursuance of an agreement to that effect before made among them, so that each would own in fee simple a certain part in his or her own rights. Pursuant to said agreement, Barney Hermes, by deed dated the 22nd of June, 1910, recorded the 24th of June, 1910, conveyed a portion of said land, namely: "A tract of one and forty-nine one-hundredths acres, excepting therefrom a portion thereof thereinafter described," to Louis Rayot *and wife.* It is alleged by complainant that said conveyances were voluntary, and were made by virtue of an agreement made between the said Hermes and said devisees whereby a certain portion of the property devised by the said Louise Gousset would be owned in fee by Louis Rayot in his own right. Afterwards, by deed dated the 26th day of May and recorded the 27th day of May, 1913, Louis Rayot and his wife conveyed to Barney Hermes the lands and premises theretofore conveyed by Hermes to them.

Paragraph 8 of the amended bill alleges that while the said Louis *and his wife* were the owners, and prior to the conveyance to Hermes of May, 1913, Louis Rayot erected on the premises four one-family houses, upon which he executed four mortgages in the sum of six hundred dollars each. This paragraph is substantially admitted by Louis Rayot, excepting that he denies the moneys therefore were furnished by him. The answer of Mrs. Rayot to this paragraph is an admission that the "said defendant physically erected the buildings on the premises; that there

is a mortgage of six hundred dollars on each house, but denies that said Louis Rayot erected them out of his own money or property." The answer of Hermes pleads ignorance of all the facts set out in the bill excepting that he denies that the conveyance of May, 1913, to him was voluntary, and on the contrary, says he paid a valuable consideration therefor.

No evidence was taken on the question of who advanced the funds to erect the four buildings.

The prayer of the bill is that it may be adjudged and decreed that the lands conveyed by Rayot and wife to Hermes by the deed last mentioned, being the deed dated May 26th, 1913, and recorded May 27th, 1913, belong to Louis Rayot, bankrupt, and that said conveyance was voluntary and made with the intent, on the part of the parties thereto, to hinder, delay and defraud the creditors of Louis; and that said land may be decreed to be sold for the payment of the debts due to the creditors of Louis.

There is no prayer that the first conveyance, made by Hermes to Rayot and wife on June 22nd, 1910, (being the conveyance intended to effect partition) be declared void.

Complainants now complain that the Court below did not set aside the deed first mentioned. The testimony at the trial showed that prior to the voluntary partition effected by this deed Mrs. Rayot refused to execute a deed unless the lands which were to be received by her husband were placed in their joint names for the protection of herself and her family. This was agreed to; and accordingly, she joined with her husband and the other devisees in a conveyance of the entire tract of two and forty-nine one-hundredths acres to Hermes; and Hermes, in the partition, conveyed the tract containing less than one and forty-nine one-hundredths acres to Louis Rayot and

his wife; *and the deed was promptly recorded.* The property, at that time, was vacant land appraised at the value of $3,000. *What the value of the portion of the two and forty-nine one-hundredth acres remaining* (which apparently had a building erected thereon) was, and how *that was disposed of, is not shown by the pleadings or proofs.*

At the time that this conveyance was made the defendant, Louis Rayot, was indebted to Ringger & Company and to Thomas Henry in about $5,200. At the same time he owned a Packard automobile, for which he paid $5,600 the year prior, and sold it in 1911 for $2,500. He had properties on Angelique street, Summit avenue and DuBois street, which he sold after this conveyance, and which netted him $11,850; making the total, including his automobile, upwards of $14,000 being almost three times the amount of his debts, excluding the property in question. The Vice-Chancellor, in dealing with this branch of the case, said:

> "In Haston *v.* Castner, 31 N. J. Eq. 697, Chief Justice Beasley said,
>
> 'When the conveyance is not voluntary, but is upon a consideration, then the rule is that in order to overthrow it a fraudulent intent must be made to appear, just as it must be when the debts sought to be enforced have been contracted subsequently to the conveyance.' In that case the Court said that 'the idea that the conveyance was made with a fraudulent intent was utterly exploded by the admitted circumstances.' At that time the grantor was not insolvent, but had ample means for the payment of his debts, and was, therefore, under no influence leading him to put the property out of his hands for an illegal purpose. The deeds were

drawn by a scrivener of the neighborhood, and were recorded. The circumstances that the farms were put to grantor's children at a considerable under-valuation was, under the circumstance not unnatural, and could not be a fact of much importance in a transaction attended with so many indications of an honest purpose.

"In the case now before us the wife released her dower in other property, the value of which has not been shown; and also, by executing the deed which resulted in the voluntary partition, she saved for the parties the delay and expense of a proceeding in partition, all of which constituted a valuable consideration; and, as in the Haston-Castner case, the husband had more than ample means to pay all his debts. There is nothing in the case which suggests, even by inference, that at the time that this conveyance was made on June 22d, 1910, Louis Rayot had the slightest thought of having the convevance made to husband and wife to hinder, delay and defraud his creditors.

"My view, therefore, is that the deed of June 2nd, 1910, is valid and should stand."

Argument.

Point I.

The conveyance of June 2, 1910, is a valid conveyance and should not be set aside.

The rule is firmly established in this State that if a consideration has been given on such a conveyance the question then is, whether the *purpose* of making the deed was fraudulent.

The deed in this case was promptly recorded and was therefore notice to all thereafter dealing with the bankrupt.

The recording of the deed is also considered on the score of *bona fides.*

In this case the wife released dower in other lands, in the lands in question and also saved partition expenses to the parties.

A release of dower by a wife in the lands of her husband is a sufficient consideration to support a conveyance to her of property of her husband.

20 Cyc. 523, and cases cited under note 41.

The case of *Haston* v. *Castner,* relied upon by the Court below, correctly sets forth the law.

Point II.

Complainant was not entitled to any relief against the deed of June 2nd, 1910.

No relief was prayed against this deed.

The relief afforded by a decree must conform to the case made out by the pleadings as well as by the proofs and that granted under the general prayer must be *secundrum allegator et probata.*

Newark v. *Erie Railroad Co.,* 76 N. J. Eq. 317.

Conclusion.

It is respectfully submitted that the appeal of complainant be dismissed.

Respectfully submitted,

J. EMIL WALSCHEID.
Of Counsel with Defendants-Respondents.

March Term, 1917.

Arthur W. Cross, Law Printer, 243 Market Street, Newark, N. J.

New Jersey Court of Errors and Appeals

Between RAYMOND P. WORTENDYKE, Trustee, etc., *Complainant-Respondent,* *and* LOUIS RAYOT, *et als.*, *Defendants-Appellants.*	*Appeal from the Court of Chancery.* *Appeal of Defendants.*

Brief on Behalf of Defendants-Appellants.

Statement of Facts.

This is an appeal from a decree of the Court of Chancery setting aside a conveyance of real estate, as in fraud of creditors and granting other relief.

The bill is filed by complainant, as Trustee in Bankruptcy, to set aside conveyances made by Louis Rayot, a bankrupt. It appears from the bill, and is admitted by his answer, that about the 18th of August, 1907, Louise Gousset, the mother of the bankrupt, died, leaving her last will and testament which was admitted to probate, and by which she devised all the property, with the buildings thereon erected, known as two and forty-nine one-hundredths acres, situate in the Borough of Fairview, Bergen County, New Jersey, to her four children, Mrs. Lucy Grod, Mrs. Zeline Baker, Louis Rayot (the bankrupt) and Aimee Gousset, as tenants in common, in fee.

On the 24th day of June, 1910, said devisees conveyed said lands to Barney Hermes, single,

who re-conveyed to said devisees a certain portion of said two and forty-nine one-hundredths acres, in pursuance of an agreement to the effect before made among them, so that each would own in fee simple a certain part in his or her own right. Pursuant to said agreement Barney Hermes, by deed dated the 22d of June, 1910, recorded the 24th of June, 1910, conveyed a portion of said land, namely: "A tract of one and forty-nine one-hundredths acres, excepting therefrom a portion thereof thereinafter described" to Louis Rayot *and wife.* It is alleged by complainants that said conveyances were voluntary, and were made by virtue of an agreement made between the said Hermes and said devisees whereby a certain portion of the property devised by the said Louise Gousset would be owned in fee by Louis Rayot in his own right: Afterwards, by deed dated the 26th day of May, and recorded the 27th day of May, 1913, Louis Rayot and his wife conveyed to Barney Hermes the lands and premises theretofore conveyed by Hermes to them.

Paragraph 8 of the amended bill alleges that while the said Louis *and his wife* were the owners, and prior to the conveyance to Hermes of May, 1913, Louis Rayot erected on the premises four one-family houses, upon which he executed four mortgages in the sum of six hundred dollars each. This paragraph is substantially admitted by Louis Rayot, excepting that he denies the moneys therefore were furnished by him. The answer of Mrs. Rayot to this paragraph is an admission that the "said defendant physically erected the buildings on the premises; that there is a mortgage of six hundred dollars on each house, but denies that said Louis Rayot erected them out of his own money or property." The

answer of Hermes pleads ignorance of all the facts set out in the bill excepting that he denies that the conveyance of May, 1913, to him was voluntary, and, on the contrary, says he paid a valuable consideration therefor.

No evidence was taken on the question of who advanced the funds to erect the four buildings.

The prayer of the bill is that it may be adjudged and decreed that the lands conveyed by Rayot and wife to Hermes by the deed last mentioned, being the deed dated May 26th, 1913, and recorded May 27, 1913, belong to Louis Rayot, bankrupt, and that said conveyance was voluntary and made with the intent, on the part of the parties thereto, to hinder, delay and defraud the creditors of Louis; and that said land may be decreed to be sold for the payment of the debts due to the creditors of Louis.

There is no prayer that the first conveyance, made by Hermes to Rayot and wife on June 22d, 1910 (being the conveyance intended to effect partition), be declared void.

At the time the second deed, the deed which conveyed the premises from Louis Rayot and wife to Hermes was made, Rayot and his wife were seized of the premises in an estate by the entirety. At the date of the conveyance the husband was indebted to Ringger & Company in about $6,600, and to Henry in about $200, and had no other property. The deed was delivered to Hermes on May 26th, who had it recorded at Hackensack on May 27th, 1913.

On March 16th, 1914, Rayot filed his voluntary petition in bankruptcy.

The defendants claim that shortly prior to May 26th, 1913, Rayot and wife made a bargain with Hermes to purchase this property for $12,000 by the payment of $9,600 in cash and the

assumption of the payment of mortgages then on the premises for $2,400; that at that time Hermes paid a deposit of $200, for which he took a receipt. This receipt was not produced at the trial, the defendants claiming that it was either lost or destroyed, but the bank account of the bankrupt shows that on May 22, 1913, he deposited $294.00. The title was passed at the office of Mr. Peter Bentley on May 26th, 1913, at which time it is asserted Hermes paid the balance of the purchase price, $9,400, in cash; one-half of this sum was received by Mrs. Rayot and the other half by Mr. Rayot. Mr. Rayot says he had borrowed $2,000 from his half-brother, Aimee Gousset, and that after paying this sum and sundry bills, he had left about three thousand dollars, which he kept at home, and disbursed for household and other expenses. His check account subsequent to May 26th, 1913, shows deposits of $2,948.97, of this sum $540.00 represented note discounts; the balance was deposited by him between May 26th, 1913, and June 22d, 1914, while he was out of work and without income except from the small houses. Mrs. Rayot says that she kept her half at home because she did not trust banks. Barney Hermes is a bachelor, and had been for a number of years a painter and decorator, and a dealer in real estate, he says he had accumulated about fifteen thousand dollars, which he kept in his strong box at home. He had a small bank account, which he says he kept to pay small bills with. This account over a period of five years did not receive more than $330 per annum by way of deposits, which were drawn against usually in small sums.

Mr. Bentley says that at the time of passing title he saw but did not count the money; he saw

a large roll of bills lying on the table; he did not see the money paid. He was engaged at the time in dictating an instrument to enable Mr. Rayot, after the sale, to collect the rents as agent for Hermes, as Rayot lived at the premises and Hermes lived forty odd miles away in another county; while preparing this paper he was in and out of the room.

Mrs. Rayot says that in addition to the half which she so received, she also sold to Tiffany & Company diamonds for $700, about a year before she testified, which would be about the spring of 1914. These moneys were mingled with her one-half of the purchase price. At the trial she produced in Court $2,800 in cash, which she said were the bills which she received on the sale to Hermes and of her diamonds, excepting that she had changed bills from her fund on different occasions.

The complainants, in order to negative the idea that Hermes paid this consideration, offered evidence of officials of the Treasury Department tending to show that a number of the bills which she produced had not been issued when the consideration of this deed is alleged to have been paid, and at the time when she sold the diamonds to Tiffany.

At the hearing of the cause complainant in order to show his right to bring the action as trustee in bankruptcy offered, over the objection of defendants, that there was no proof that the claims had been allowed by the Referee in Bankruptcy, and that the statutory period of one year within which they might have been allowed had passed (Case, p. 41) the claims of Jacob Ringger, George Cox & Sons and Thomas Henry, which had been *filed* and *docketed*. The

Vice-Chancellor overruled the objection and received the claims in evidence (Case, p. 42).

The Vice-Chancellor found the story of the defendants unworthy of belief and advised a decree "that the conveyance made by Rayot and wife to Hermes, dated May 26th, 1913, *be set aside as against the complainant to the extent of the claims of Ringger & Co. and of Henry.*

The complainant thereupon took a decree which adjudges:

(1) That the deed of conveyance made by Louis Rayot and Margaret Rayot, his wife, to Barney Hermes, bearing date the 26th day of May, 1913, and recorded in the Office of the Register of Bergen County in Liber 849, pages 82, &c., was, *so far as the interest of Louis Rayot is concerned* in fraud of the creditors of the said Louis Rayot *and that such interest as now held by the said Barney Hermes is an equal undivided one-half interest in said lands and premises and that said deed so far as said equal undivided one-half interest in said lands and premises be and the same is hereby set aside, annulled and for nothing holden as against any execution to be issued under this decree.*

(2) That the complainant is entitled to an accounting of the rents, issues and profits of said lands and premises collected by the said Barney Hermes from the 26th day of May, 1913, and is entitled to have paid to him one-half of the net amount of said rents, *the question as to the disposition of the other one-half of said rents to be reserved until the coming in of the Master's report.*

(3) That the complainant is entitled to his costs of this suit to be taxed together with a counsel fee of five hundred dollars to be included in said taxed costs.

(4) That the complainant have execution or executions to carry out the terms of this decree according to the course and practice of this Court.

(5) *That the only claims proven in this cause against which the transfer is set aside as hereinbefore adjudged and decreed are the claims of Jacob Ringger which is hereby adjudged and decreed at the sum of $6,645* with interest thereon from the 2d day of January, 1912, making a total of $8,439.15, and of Thomas Henry, which *is hereby adjudged and decreed at the sum of $150, with interest thereon from the 2d day of January, 1912, making in all the sum of $190.50.*

And it is further ORDERED, ADJUDGED AND DECREED that it be referred to Frank P. McDermott, Esq., one of the Special Masters of this Court:

(1) To take testimony, ascertain and report on the amount of rents received from the whole of said premises since the 26th day of May, 1913, as well as the disbursement made out of the same for taxes and other purposes in keeping down liens and the preservation and protection of the premises and of the propriety of the same and the allowance or disallowance thereof.

(2) To take testimony, ascertain and report on the amount of moneys or other contribution by way of labor and materials contributed by the defendant, Louis Rayot, toward the erection of said buildings, the total cost thereof and who if anyone other than the said Louis Rayot contributed in money, labor or materials towards said erections, the extent to which said lands were enhanced in value by such erections and the relative value of said lands and buildings, the time when such contributions were made and the several amounts.

And it is further ORDERED, ADJUDGED AND DECREED that unless the defendants, shall within thirty days after service upon them of a copy of this decree, which need not be certified and of the taxed bill of costs pay to the complainant, or his solicitor, the amount due to him upon the claims of Jacob Ringger and of Thomas Henry, to wit, the sum of $8,629.65 together with interest from the date hereof and the taxed costs of this suit, then application may be made without notice for execution, executions or other process to enforce the provisions of this decree and the course and practice of this Court.

And it is further ORDERED that Emil Schuman be and he is hereby appointed Receiver of the said lands and premises to collect the rents, issues and profits thereof pending the further order of this Court with all the powers of a receiver usual in such cases, to account as this Court shall hereafter direct, and that the defendants be and the same are hereby restrained from collecting *any* rents, issues and profits; and the said receiver shall before entering upon the discharge of his duty give a bond to the Chancellor for the faithful performance of his duties in the sum of one thousand dollars, to be approved by any Special Master of this Court, and shall have the power to use such moneys as may be necessary to pay accruing taxes, water rents, assessments and interest.

And it is further ORDERED that this cause be retained for such further proceedings, order and decree as may be necessary to carry out the intent hereof, and that the complainant may at any time make application on the foot of this decree for such relief as may be proper.

Argument.

Point I.

The Court of Chancery admitted illegal evidence prejudicial to the defendants over the objection of the defendants in that it admitted in evidence claims filed with the Referee in Bankruptcy without proof that they had been allowed as required by law.

Counsel for complainant called the Referee in Bankruptcy as a witness and asked him if he had "the claims filed" in the Matter of Louis Hayot. The Referee answered:

> "I have them right here. This is showing you Loose Leaf Docket No. 290, in the Matter of Louis Rayot, Bankrupt. 'Date of Adjudication, March 16, 1914. Attorneys of bankrupt, Peter and John Bentley, 75 Montgomery street, city. 1914. May 7th, claim of George Cox & Sons, of 817 Hackensack Plank road, West Hoboken, for $60.79; same date, claim of Thomas Henry, of 180 Palisade avenue, Union, N. J., $108.56. October 19, same year, claim of Jacob Ringger, Newark avenue, Jersey City, for $6,667.92.' The claims are marked with my *filing mark*, and the letter D in a circle, which means that they have been duly *docketted* in this loose-leaf system."

Whereupon the following colloquy and additional testimony in relation to these claims was had and taken:

By the Vice-Chancellor.

Q Are those all the claims that were *presented?* A Only three.

Mr. Lane. I offer, if your Honor please, the claim of Jacob Ringger —I make the whole offer at one and

the same time—and also the claim of Geo. Cox & Sons, and also the claim of Thomas Henry, referred to by the Referee in his testimony.

Mr. Bentley. I object to the offer of the claims, on the ground that there is no proof before your Honor that these claims have been allowed by the Referee, and that the statutory period of one year within which the claims may be allowed has passed.

The Vice-Chancellor. "Allowed" or "presented?"

Mr. Bentley. "Allowed."

The Vice-Chancellor. Suppose there was litigation over the allowance of a claim, and it runs beyond a year?

Mr. Bentley. Then they may be allowed, as I understand it, after that; but it appearing that there is no litigation, or has been no litigation over the claims, I object to them on that ground.

The Vice-Chancellor. What have you to say, Mr. Lane?

Mr. Lane. I think that the proof now shows that they have been allowed as far as the Bankrupt Act is concerned. There was no objection filed, was there, Mr. Beach?

The Witness. No; the claims have been allowed, under the decision of the Supreme Court of the United States in the Matter of Dresher.

The Vice-Chancellor. The objection will be overruled.

Mr. Lane. I do not suppose it is necessary to mark these, if your Honor please; they are identified.

The Vice-Chancellor. No. Are there copies that can be used as substitutes?

Mr. Lane. I will have copies made. There are not any copies now. I suppose Mr. Beach will have to leave them here, because we may want to use the items, I think, in the course of the examination of other witnesses.

The Vice-Chancellor. Is there any question about these accounts being taken from the books of account of original entries of the parties?

Mr. Lane. No question about that. *The claims were allowed.*

The Witness. I think I can clear this up in just a minute, if you care to have me.

Mr. Lane. Go ahead.

The Witness. Under the Bankruptcy Act, and the rules in this District—

Mr. Bentley. You are going to testify now, to the rules of the District, are you, Mr. Beach?

The Witness. Yes.

Mr. Bentley. Well, I don't think he ought to.

The Vice-Chancellor. I suppose counsel can dig those out.

The Witness. Well, your Honor spoke about it being an open account—as a matter of fact, this big one (referring to the Ringger claim) is on notes, and the original notes have been produced and returned in every case.

(Case, pages 40-43.)

Cross examination by Mr. Bentley.

Q Mr. Beach, as to these three claims which you have said were allowed, they were *filed* by the respective parties, were they not, in your court? A *They were.*

Q Did you see them at the time they were filed? A I did.

Q Did you make an examination of them? A I did.

Q Did you make the entry of these claims in this Loose Leaf Case No. 290? A *I did not.*

Q It was made under your supervision? A It was.

Q After you looked at these claims, what did you do with them?

Mr. Lane. I object to that, *as impeaching or attempting to impeach the record and what has been done by a court of general jurisdiction.*

Mr. Bentley. He says that he allowed them.

The Vice-Chancellor. He said the claims were allowed.

Mr. Bentley. I want to show how they were allowed.

Mr. Lane. Then you are going into the jurisdiction of what has been done in the United States District Court.

The Vice-Chancellor. I think I will sustain the objection. It speaks for itself.

Q Did you ever make any order, Mr. Beach, in the Bankruptcy Court of the United States for the District of New Jersey, allowing these claims? A It is unnecessary.

Q Will not you answer my question, then? A *I did not make one,* because it is not necessary.

Q And the only thing that was done under your inspection was to make this entry in this loose-leaf ledger? A *No, they were stamped filed.*

Q They were stamped filed? A *With the official stamp.*

Q And with also the stamp "D" with a ring around it? A *That is not done until they are entered here in this loose-leaf docket.*

Q And that "D" with the ring around it indicates that they were entered in the docket? A It does.

(Case, pages 45-46.)

Section 57 of the Bankruptcy Act regulates the proof and allowance of claims. It prescribes (a) what a *proof of claim* shall consist of; that (c) "claims *after being proved* may, *for the purpose of allowance,* be *filed* by the claimants in the courts where the proceedings are pending or before the Referee, if the case has been referred"; and that (d) "Claims which have been *duly proved* shall be allowed, upon receipt by or upon presentation to the court, *unless* (1) objection to their allowance shall be made by parties in interest, or (2) their consideration be continued for cause by the Court upon its own motion."

The language of the act in relation to the distinction between the allowance of claims and the proof of claims is carefully preserved throughout section 57, section 55 and elsewhere in the act. The proof of claim is one thing, its allowance by the Court is quite a different step. When the act refers to a proof of claim it means the

deposition or statement of the creditor. When it refers to its *acceptance by the Court,* it uses the word allowance.

Matter of Back Bay Automobile Co., 19 Am. B. R. 33.

And proof and allowance are two separate and distinct steps.

In Re Mertens, 16 Am. B. R. 825; 147 Fed. 117; 77 C. C. A. 473.

In re Horstein (D. C. N. Y.), 10 Am. B. R., 308; 122 Fed., 266.

The distinction between *proof* and *allowance* is much the same as that between *evidence* and *judgment.*

Claims in bankruptcy must be proven. Proofs of debt must comply with the act and general orders and forms. Proofs of claims must be in writing under oath and signed by the creditors. A claim as proven should be *received* and *filed* by a referee receiving it, and amounts to a *prima facie* case.

Whitney v. *Dresser,* 200 U. S., 532, thus *proving* the debt for all purposes in the proceeding unless objected to or continued for consideration, *but* a proved claim does *not* become *allowed* by the filing thereof since the allowance of a claim, different from the party's act of *proving* and the *ministerial act* of filing, is a *judicial act;* and until a direct or indirect order of allowance is made, objection to a claim *may* properly be filed, it being unnecessary, *until such order is made* to proceed under section 57 K. or L. for a *reconsideration* of the claim and a recovery of a dividend already paid.

In re Two Rivers Woodenware Co., C. C. A., 7th Cir.; 29 Am. B. R., 518.

An order of allowance is therefor essential to the validity of a claim and since the trustee in bankruptcy in this case *has no standing to prosecute this action* unless he has creditors in the bankruptcy whose claims have been duly allowed, the failure to show by legal evidence the legal allowance of the claims was not only injurious to the defendants, but should if the contentions of defendants made under this head are correct lead to a dismissal of the bill, since there is no other evidence in the case to support the right of the trustee to bring the action.

It is true that Mr. Beach in answer to a question by Mr. Lane said: "The claims have been allowed under the decision of the Supreme Court of the United States in the Matter of Dresher" (undoubtedly the case of Whitney *v.* Dresser, *supra*). But this is merely the *opinion* of the witness; it does not constitute proof of allowance. Again he does not tell the Court *why* he says that these claims were allowed, and when Mr. Bentley cross-examined him in order to get at the *foundation of the opinion* and asked him "After you looked at these claims, what did you do with them?", counsel for complainant objected that the question constituted an attempt to *impeach the record and what has been done by a court of general jurisdiction,* and the objection was sustained, when no record of the court *showing an adjudication of allowance* was before the Court and where the only thing which there was before the Court was an opinion by a witness that allowance had been made within the lines of the decision hereinbefore cited. We submit that by the ruling the defendants were prevented from inquiring into the correctness of the only thing then before the Court showing allowance of these claims, *i. e.,* the opinion of the witness.

We therefore submit that the Court of Chancery erred to the prejudice of these defendants in the admission of the claims as evidence.

Nor can complainant cure the error, as he attempted to do, *by proving the accounts upon which the claims are founded.* He did this in the Henry and Ringger claims, *but not in the Cox claim,* and *took his decree for the benefit of the two for whom he proved the accounts, adjudicating in this cause the amount for which each of the two claims should stand based upon the proof of the accounts and of the note* (Case, p. 399, fol. 30). He has no standing upon the book accounts proved or upon the notes offered in evidence, for unless the claims of the creditors for whose benefit he prosecutes the suit *have been allowed* they are mere *general creditors* of the defendant, who could not even file a bill to set aside the conveyance, nor can they share in the distribution of the bankrupt's estate without a *judgment* in bankruptcy allowing their respective claims.

Point II.

The Court of Chancery erred in making a decree that the deed of conveyance made by Louis Rayot and Margaret Rayot, his wife, to Barney Hermes, bearing date the 26th day of May, 1913, was, so far as the interest of Louis Rayot is concerned in fraud of the creditors of the said Louis Rayot, and that such interest as now held by the said Barney Hermes is an equal undivided one-half interest in said lands and premises, and that said deed so far as said equal undivided one-half interest in said lands and premises be and the same is hereby set aside, annulled and for nothing holden as against any execution to be issued under this decree.

On May 26th, 1913, before the conveyance to the defendant Hermes, Louis Rayot and Margaret Rayot, his wife, held the lands in question as tenants by the entirety *and not as tenants in common.*

The decree not only sets aside the fraudulent conveyance but creates in Louis Rayot an estate which prior to that conveyance did not exist, namely "an equal undivided one-half interest in said lands."

The Vice-Chancellor found that the conveyance of May 26th, 1913, was fraudulent as against the creditors of said Louis Rayot.

Section 12 of our Act concerning Frauds and Perjuries holds such a conveyance to be *utterly void and of no effect,* against those persons whose actions, debts, etc., are or may be hindered or defeated by such covinous or fraudulent devices and practices.

2 C. S. 2618, sect. 12.

And our courts have fully sustained the proposition that a fraudulent conveyance is no conveyance at all.

And courts of law and courts of equity have concurrent jurisdiction over alienations made in fraud of creditors.

Smith v. *Wood,* 42 N. J. L. 563; affd. 44 N. J. L. 603.

At law the procedure is to treat the fraudulent conveyance as a nullity, to proceed to execution and sale of the premises upon the judgment against the grantor in the fraudulent conveyance and then to bring ejectment against the fraudulent grantee. At law then, there can be no decree *defining the estate left in the fraudulent grantor* after he has made his fraudulent conveyance. At law the plaintiff looks and must look to the title of the fraudulent grantor at the

time of the fraudulent conveyance in order to ascertain just what estate he is proceeding against by execution and sale and what estate he will obtain by his judgment in ejectment.

The rule at law is that: "A covinous conveyance of land is *no conveyance* as against the interest intended to be defrauded, and ought by the rules of good pleading so to be treated when a party is seeking to avail himself of the statutes of fraudulent conveyances."

Mulford v. *Peterson, et ux.*, 35 N. J. L. 127, 134.

The rule has been stated in equity in applying it to lands of a decedent debtor as follows: "When lands are attempted to be conveyed in fraud of creditors, as the statute against frauds and perjuries makes such conveyance *amsolutely void,* such conveyance *cannot disturb the seizin* of the decedent in such lands, so far as relates to the creditors so injured. With regard to his creditors, the debtor, in contemplation of law dies seized of the lands *notwithstanding such fraudulent alienation.*" * * *

Haston v. *Castner,* 31 N. J. Eq. 697, p. 700.

And in *Phelps* v. *Morrison,* 25 N. J. E., 538, Mr. Chief Justice Beasley in speaking about the effect of the statute said at pp. 543-44:

> "Such a transaction is, in law regarded as a fraud, and the conveyance declared to be void by the express language of the statute for the prevention of fraud and perjuries. Such a title could be vacated by force of the judgment of the complainant either in a court of law or in equity, so long as the title legal or equitable remained in his wife, she being looked upon as a fraudulent grantee. In the absence of ex-

> traneous conditions the complainant in the present case, could then have proceeded under his judgment against the husband to sell the land the title to which had thus *been attempted to be transferred* to the wife and the purchaser at such sale would have acquired all the right in the premises which had been vested in the husband *at the time be executed the forbidden conveyance.* That such is the effect of the statute has been often judicially declared in the state and elsewhere, and therefore requires neither elucidation by argument nor authentication by the citation of authorities. * * * I have already stated that the judgment is against the husband, and that the legal title to the property is now in his wife, as his fraudulent grantee. If the case stopped at this point, there would be no question with respect to the lien of the judgment. It would clearly bind the land so that it could be sold under it. But the effect does not proceed from the principle of the common law, for, under that system, the title being out of the judgment debtor, could not be reached in the hands of his grantee, except by proceedings in equity. That the judgment against a debtor can be levied against lands aliened by him in fraud of his creditors prior to the rendition of such judgment, is an effect due *exclusively* to the operation of the second section of the statute for the prevention of frauds, which declares that every such conveyance shall be clearly and utterly void, frustrate and of no effect."

The statute amending the transfer of the title, the judgment becomes attached to the land as completely as though the fraudulent conveyance

had not been made. Does the statutory recission of the fraudulent conveyance occur in the present case.

And it has been held that the object of a bill in Chancery so far as it relates to lands in which the debtor has a legal estate subject to the statutory lien of judgment against him is fully obtained when a decre is pronounced clearing away the fraudulent obstruction to the ordinary and legal remedy by execution.

Chautauqua Co. Bank v. *Risley,* 19 N. Y. 369, at p. 373.

White's Bank of Buffalo v. *Farthing,* 101 N. Y. 344.

In the case at bar the decree therefore ought to have been one which merely set aside the fraudulent conveyance and when the Court below went beyond that point it committed error prejudicial to the defendants in creating an estate larger and more valuable than really existed in Louis Rayot, the debtor, at the time of the conveyance.

The rights of tenants by the entirety are clearly defined in the State, thus: The right of possession of husband and wife existing by virtue of an estate by the entireties as modified by the Married Woman's Act, amounts in its essential features to a tenancy in common for the joint lives with remainder to the survivor. By the husband's conveyance of his interest in such an estate the grantor becomes tenant in common with the wife but only for the joint lives of husband and wife.

Schulz v. *Ziegler,* 80 N. J. Eq. 199.

When husband and wife hold lands by an estate in entirety, the wife, during the joint lives of herself and husband, is entitled to her share

of the usufruct of the land, and the right of survivorship in fee still exists as at common law.

Servis v. *Dorn,* 76 N. J. E. 241.

Bilder v. *Robinson,* 73 N. J. E. 169.

In *Bultor* v. *Rosenblath,* 42 N. J. E. 654, a conveyance had been made to the defendant Butlor *and his wife.* A further conveyance had then been made by the defendant and wife which was declared void as against the judgment of complainant. The decree, however, did not stop there, but continued and decreed that by virtue of the conveyance aforesaid to said Christian and Minna the said Christian Butlor was seized as against complainant, *as tenant in common with his wife* of the lands so conveyed. This case then presented practically the same result as was achieved by the decree in the case, although in the Rosenblath case the reason advanced for claiming an estate in common was that the Married Woman's Act had produced that result.

The Court of Errors, however, reversed the decree and held that there was no tenancy in common between husband and wife, that the wife was entitled to possession of one-half of the estate in common with her husband but that the right of survivorship still existed as at common law.

We therefore submit that the decree should be modified so that it merely decrees that the conveyance be set aside without creating any tenancy in common and leaving complainant to take under that decree what the law there gives him under the cases hereinbefore set out.

Point III.

The Court of Chancery erred in making a decree that the complainant is entitled to an accounting of the rents, issues and profits of said lands and is entitled to have paid to him one-half of the net amount of said rents, the question as to the disposition of the other half of said rents to be reserved until the coming in of a master's report and providing that the master be appointed to take testimony and to ascertain and report on the amount of money or other contributions by way of labor and material contributed by the defendant, Louis Rayot, towards the erection of the buildings upon said lands, the total cost thereof, and who, if any one other that the said Louis Rayot contributed any money, labor or materials towards said erection, and the extent to which said lands were enhanced in value by said erections, and the relative value of said lands and buildings, the time when such contributions were made, and the several amounts, and also restraining the said defendant, Hermes, and the defendant, Margaret Rayot, from collceting any rents, issues and profits of said land.

The prayer for relief does not cover any of the materials set out in the above heading.

The bill of complaint alleged that certain buildings upon said land had been built by the bankrupt (paragraph 8, amended bill of complaint, p. 16). The answer of both Louis Rayot and the defendant, Margaret Rayot, while admitting that the defendant, Louis Rayot, physically erected said buildings, denied that he had erected them out of his own money or profit (Case p. 26, subdivision 8; Case p. 23, sub-division 8). An issue had thus been tendered.

But no testimony whatsoever was taken upon the same.

A portion of the decree herein referred to is then based upon allegations of the bill as to which an issue was tendered by the pleadings but as to which no proof was submitted and as to which the bill prayed for no relief.

The cause was referred to the Vice-Chancellor for a hearing and the complainant has had his day upon these issues, if they were tryable under the bill as framed. We contend that to decree that the complainant is entitled to an accounting of all of the rents, issues and profits is to decree that he is entitled to more than Louis Rayot was possessed of as a joint tenant holding by the entirety and that so to decree and to decree that the defendant, Margaret Rayot, was not to collect the rents of said premises belonging to her as a tenant by the entirety is to take from Margaret Rayot her property without due process of law in a cause wherein no relief could have been or has been asked against her.

> "The relief afforded by a decree must conform to the case made out by the pleadings as well as the proofs, and that granted under the general prayer must be *secundum allegata et probata.*"
>
> *Newark* v. *Erie Railroad Co.*, 76 N. J. Eq. 317.

Conclusion.

We submit that if we are right upon the first point argued the result must be a reversal of the decree entered below and if we are right upon the other two points argued, the result must be a modification of the decree.

Respectfully submitted,

J. EMIL WALSCHEID,
Of Counsel with Defendants-Appellants.

March Term, 1917.

Arthur W. Cross, Law Printer, 243 Market Street, Newark, N. J.

New Jersey Court of Errors and Appeals

Between

RAYMOND P. WORTENDYKE, Trustee, etc.,
Complainant-Respondent,

and

LOUIS RAYOT, *et al.*,
Defendants-Appellants.

On Appeal from Court of Chancery.

Between

RAYMOND P. WORTENDYKE, Trustee, etc.,
Complainant-Appellant,

and

LOUIS RAYOT, *et al.*,
Defendants-Respondents.

Cross Appeal from Court of Chancery.

Briefs and Points for Complainant-Respondent and Cross-Appellant.

Statement.

The object of this suit is to compel the defendants to convey the estate of Louis Rayot, Bankrupt, to the complainant, the Trustee in Bankruptcy of Louis Rayot, which estate is now held by the defendant, Barney Hermes, the same having been conveyed to him by Louis Rayot and Margaret Rayot, his wife, and received by Barney Hermes, to hinder, delay and defraud the creditors of Louis Rayot; all of the

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said defendants actively participating in the fraud.

The defendant, Louis Rayot, became indebted to one of the creditors, to wit, Jacob Ringger, on a running account which started in the year 1904 (as appears by the testimony of Minnie Ringger, on the second line on page 64), and continued from that time until about 1912 (as appears on page 64 on the 24th line), and as a result of the business so transacted, Louis Rayot was indebted to Jacob Ringger in May, 1913, in the sum of $6,645.00, and on the 23rd day of May, 1913, the said Jacob Ringger caused a letter to be written to the defendant, Louis Rayot (a copy of which appears on page 60, line 10, in the testimony of Minnie Ringger), requesting a settlement. The letter was received by Louis Rayot on the 24th day of May, 1913 (as admitted on page 175 of his testimony on the 17th line), and two days thereafter he went down to Mr. Bentley's office and made a deed for the property (as appears on line 20, page 175 of the testimony of Louis Rayot), and which was all he owned, and after making the conveyance, Rayot calls on Ringger and gives him three notes in settlement of the account and requests that they be made out for *four* months each, and states his reason for not paying them, that he is short of money and cannot sell his property (as appears by the testimony of Mr. Neff on page 82, line 40), whereas the fact was that Rayot had conveyed his property to Barney Hermes and had, if the story he tells is true, in his possession and pocket at that very moment more than $3,000.00 in cash and Rayot fails to pay the notes, files a petition in voluntary bankruptcy. No assets come to the hands of the trustee (as appears in the testimony of Ray-

mond P. Wortendyke, Trustee, on page 73, line 35), and when Louis Rayot and wife convey the property in question to Barney Hermes, he stripped himself of every asset he had that might be reached by his creditors. The account of the transfer of the property is that Barney Hermes paid $9,600.00 in cash for the deed to the said property to Louis Rayot and wife; that notwithstanding he had an account in the Hudson Trust Company in Union Hill, he took the $9,600.00 from a tin box in the bureau drawer at his home, and after taking the same from the box, there remained $5,000.00 in addition to that that had been removed at the time the money was paid over by Barney Hermes to Rayot. Mr. Bentley was out of the room (as appears in the testimony of Bentley on page 231, line 21). On the examination of Barney Hermes, he produced $250.00 and testified that was all that remained of the $5,000.00 which he had after buying the property from Louis Rayot. He is unable to account for the disappearance of the $5,000.00 and in addition thereto, the sum of $126.00 a month additional income he had more, than before the purchase of the property, and with the money he produced was considerable Federal Reserve bills, which were not in circulation in 1913, and therefore could not have been part of the $5,000.00 remaining in the box after the purchase of the Rayot property in May, 1913. It also appears that Barney Hermes was a man of small means; his bank account was very small; he drew checks payable to bearer for cash (Exhibit C. 16, page 363). It also appears in the testimony of Barney Hermes that he borrowed money on mortgage during the years 1912 and 1913, and it also appears from the testimony that all the defendants, excepting Mar-

garet Rayot, had a bank account, but not any of this $9,600.00 was either taken from the bank by the grantee or put in the bank by the grantor, and that Mrs. Rayot produced about $2,800.00 in cash, which she testified was part of the money received from Barney Hermes in May, 1913 (and which was demonstrated by Exhibit C. 3, June 24th, page 377); that the money she produced had not been issued for circulation on the 26th day of May, 1913, and therefore was no part of the money she had received, and therefore demonstrates clearly that her testimony was absolutely false and fictitious.

The decree of the Chancellor adjudges that the deed made by Rayot and wife, on May 26th, 1913, so far as the interest of Louis Rayot was concerned was made in fraud of said creditors, and that the said interest the said Barney Hermes now holds is the equal undivided one-half interest in the lands and premises and that the deed so far as the equal one-half interest received from Louis Rayot is concerned is set aside and for nothing holden, and that the defendant account to the complainant for one-half of the rent received by Barney Hermes from the 26th day of May, 1913 (as appears in the decree on page 397, etc.).

The defendants have appealed from that part of the decree set forth in their petition of appeal in the defendants' state of the case (as appears on page 3, etc.), for the reasons set forth in their said petition on page 6 and hereinatfer set forth.

And the complainant has appealed from that part of the decree set forth in his petition of appeal in the complainant's state of the case (on page 3, etc.), for the reasons set forth in the said petition of appeal on page 3, and hereafter appearing in this brief.

Both of these appeals are to be argued together.

The defendants base their denial of the liability in this suit and of the right of the complainant to the relief prayed for in his bill upon the following grounds, to wit:

Points of Defendants-Appellants.

1. The evidence in the cause does not warrant a finding that the deed of conveyance made by the defendant Rayot to the defendant Hermes on the twenty-sixth day of May, 1913, and recorded in the office of the Register of Deeds of Bergen County in Liber 849 of Deeds at page 82, etc., was a voluntary conveyance or was made in fraud of any creditors of the said Louis Rayot by the said Louis Rayot or by Margaret Rayot, his wife.

2. The evidence in the cause does not warrant a finding that the defendant Hermes in purchasing the lands referred to in said decree, participated in or had any knowledge of any purpose or intent of Louis Rayot to defraud creditors, if any such purpose or intent really existed in said Louis Rayot.

3. If the deed of conveyance made by the defendant Rayot to the defendant Hermes was so far as the interest of Louis Rayot is concerned in fraud of creditors then defendant Hermes took nothing by said deed and the interest of the said Louis Rayot in said land which can be reached by his creditors is the right of possession of the said Louis Rayot to the lands as tenant in common with his wife, but only for the joint lives of husband and wife.

4. If the deed of conveyance made by the defendant Rayot to the defendant Hermes is void, it is absolutely void, and the creditors of Louis

Rayot can take no more upon avoidance of said deed than one-half of the net income of said lands for the joint lives of Louis Rayot and Margaret, his wife, or maintain partition against the wife or sell the estate of the said Louis Rayot, said estate being limited to a tenancy in common for the joint lives of the said Louis and Margaret Rayot.

5. The estate conveyed by defendant Louis Rayot in the lands by means of the deed described in said decree to defendant Barney Hermes is not a half interest in said land, but is merely a life estate held by said Louis Rayot in common with defendant Margaret Rayot for the joint lives of both.

6. The evidence in said cause does not warrant the making of any decree against the estate in the land referred to in the deed described in said decree or against the rents, issues, or profits thereof which belonged to defendant Margaret Rayot before the execution and delivery of said deed.

7. The evidence in said cause does not justify the appointment of a receiver to collect and hold the rents, issues and profits of the estate in the lands referred to in the deed described in said decree which belonged to Margaret Rayot prior to the execution and delivery of said deed.

8. The proceeds of the labor expended by Louis Rayot upon the lands described in the said decree in making improvements upon said lands while the title to the same was in him and in his wife is exempt from the claims of his creditors to the extent that it improved and enhanced the estate of the wife in said lands.

9. In the absence of evidence of a fradulent design in Louis Rayot and in Margaret Rayot towards the creditors of Louis Rayot the value

of improvements made by Louis Rayot upon the lands described in the deed referred to in said decree while the title to the same was in him and in his wife is exempt from the claims of his creditors to the extent that these improvements enhanced the estate of the wife in said lands.

10. In the absence of evidence of a fraudulent design in Louis Rayot and in Margaret Rayot towards the creditors of Louis Rayot the value of improvements made by Louis Rayot upon the lands described in the deed referred to in said decree while the title to the same was in him and in his wife is exempt against the claims of creditors arising after said improvements have been made.

11. In the absence of evidence of a fraudulent design in Louis Rayot and in Margaret Rayot towards the creditors of Louis Rayot the value of improvements made by Louis Rayot upon the lands described in the deed referred to in said decree while the title to the same was in him and in his wife is exempt against the claims of creditors arising after said improvements have been made to the extent that said improvements have enhanced the estate of the wife in said lands.

12. The Court of Chancery admitted illegal evidence prejudicial to the defendants and over the objection of the defendants.

13. The Court of Chancery refused to admit legal evidence beneficial to the defendants against the objection of the defendants.

Points of Complainant-Appellant.

The complainant-appellant has filed a cross-appeal in the above entitled cause appealing from that part of the decree for the reasons:

1. That the decree does not decree that all the lands and premises mentioned in the bill of complaint should be sold to pay the amount due the complainant as trustee in bankruptcy for the benefit of the creditors of said Louis Rayot.

2. Because the testimony clearly shows that all of the defendants participated in the fraud.

3. Because the decree does not provide that all the rents and profits received by Barney Hermes from May 26th, 1913, should be accounted for to the complainant, and because the evidence shows that all of the defendants actively participated in the fraud.

4. Because the decree does not order that there was actual fraud in the transfer made by Louis Rayot and Margaret Rayot, to Barney Hermes, in the execution of the deed bearing date May 26, 1913, and the evidence clearly shows that they did all actively participate in the said fraud.

5. Because the decree does not set aside the original conveyance made by Louis Rayot on June 22nd, 1910, when he caused one-half of the property to be put in the name of his wife, whereas, the evidence clearly shows that at that time he was indebted to Jacob Ringger in a large sum of money and was indebted to the other creditors, and that their debts have not been paid but have continued to exist from that time up to the present time, and that the said Margaret Rayot did not pay a valuable consideration for the conveyance, and if any consideration was paid at all the same was grossly

inadequate to the value of the property received, it should at least have been set aside reserving to her the value of that which she had paid for the conveyance to her, if anything.

6. Because the evidence clearly shows that all the defendants actively participated in the fraud on May 26th, 1913, and by reason thereof the conveyance should be set aside and the lands subjected wholly to the claims of the complainant, and should be sold to raise and satisfy the amount due the complainant.

In answer to the reasons set forth by the defendant-appellant, counsel for the respondent respectfully submits:

Argument.

I.

The evidence is absolutely conclusive that the deed made by Rayot and wife to Barney Hermes on May 26th, 1913, was a voluntary conveyance and made in fraud of the creditors of the said Louis Rayot, and because it has all the badges of fraud which are set forth in detail in 20 Cyc., page 441, and in addition to all of those there are many others which appears in the testimony. All the badges of fraud known in the law as indicating a fraudulent transfer clearly appears in the testimony. 20 Cyc., page 441. *Carton* v. *Booze,* 2 Robinson, page 771; *Hancock* v. *Elmer,* 16 Dick. 558, affirmed in 63 N. J. Eq. 802; *Morris Canal Co.* v. *Stearns,* 24 Eq. 414; *Second National Bank* v. *O'Rourke,* 13 Stewart, page 99; *Christie* v. *Bridgman,* 6 Dickinson, 335; *Knight* v. *Packark,* 12 N. J. Equity, page 214, and on page 219, the Chancellor says:

> "I think such a deed is void against creditors whether the debtor executed it with

fraudulent intent or not, it is a violation of the rights of the creditors, which delays them in the collection of their debts, and must be regarded in equity as a fraud and as declared void as against them.

II.

The evidence is ample to justify the conclusion that the defendant, Barney Hermes participated in and had knowledge of the fraudulent purpose and intent of Louis Rayot and Margaret Rayot, to defraud, hinder and delay the creditors of Louis Rayot in the collection of their debts. And further because the said Barney Hermes did not pay any consideration for the conveyance of the property to him on May 26th, 1913, or at any other time and his testimony clearly indicates his fraudulent intent and participation in the fraud by Louis Rayot and Margaret Rayot to accomplish their fraudulent intent and desire. *Haggerman* v. *Buchanan,* 18 Stewart, page 296, and on page 296, the Court says: "The character of a voluntary conveyance, when attacked by a creditor having a pre-existing claim, is definitely settled by this Court. *Washington National Bank* v. *Beatty,* 77 N. J. Equity, page 254; *Battery Park National Bank* v. *Brown,* 96 Atlantic Reporter, page 866.

III.

Barney Hermes by reason of the conveyance took the absolute title in fee to the said land and the estate of entirety existing previous to the conveyance terminated, and the conveyance by Louis Rayot and wife to Barney Hermes on May 26, 1913, was made in fraud of creditors and actively participated in by all the defendant parties is a good conveyance as between the

parties thereto, and if a surplus should remain after the satisfaction of the claim of the complainant, the surplus or any remaining would belong to Barney Hermes. *Miller* v. *Mackenzie,* 2 Stewart, Equity, 291; *Demarest* v. *Terhune,* 18 Equity, 532; *Dowe's case,* 68 N. J. Equity, 16.

IV.

The deed from Rayot and wife to Barney Hermes is not void but voidable only by an action instituted by the creditors of Louis Rayot and is valid between the parties. *Den ex Dem, Stewart* v. *Johnson,* 3 Har. at page 97, the Court says:

> "But this is a mistake. If she proved the deed fraudulent as to creditors, she did not thereby restore her husband's title to the land nor her own right to dower. As against her husband and herself, the deed would remain, both at law and in equity, a perpetual bar."
>
> *Campbell* v. *Weber,* 9 Buch. 519; *Frey* v. *Boylan,* 23 N. J. Equity, 90; *Boorum* v. *Tucker,* 51 N. J. Equity, page 135; *Goodheart* v. *Goodheart,* 63 N. J. Equity, page 746.

V.

The estate conveyed by Louis Rayot was the undivided fee in the entire estate, which the wife by joining made absolute in Barney Hermes, and she estops herself from claiming any right by her act and Barney Hermes can derive no advantage from it by reason of the fraud of all the parties involved therein and because he took the entire estate by the deed of Louis Rayot, her joining being a release of her interest. And

she cannot assert any claim thereto, because the estate having been conveyed in fraud of creditors is valid as between the parties thereto and the estate by entirety existed only by reason of the joint ownership of parties having the relation to each other of husband and wife and upon the conveyance to Barney Hermes that estate by the entirety which had previously existed ceased and Barney Hermes became seized in fee as against everybody except the creditors of Louis Rayot of the entire estate in fee, and it will only be opened up for the purpose of permitting the creditors of Louis Rayot to receive satisfaction of their debts. Because Barney Hermes did not pay anything for the conveyance to him Margaret Rayot actively participated in the fraud at the time of the conveyance and continued to assist in the fraudulent enterprise of the defendants to the extent of committing perjury in the Chancery Court, by testifying that the money she produced was the identical money received by her on May 26th, 1913, which money at that time had not been put in circulation (as appears by Exhibit C. 36, page 377), and in the opinion of Vice-Chancellor Griffin, *Severs* v. *Dodson,* 53 N. J. Equity, page 633: "A voluntary conveyance is not perceived void except as against present debts."

VI. and VII.

By reason of the voluntary conveyance made to Margaret Rayot on the 22nd day of June, 1910, by Louis Rayot, at which time he was indebted to the present claimants represented by the trustee in bankruptcy, and if she paid any consideration for the conveyance to her, it was so grossly inadequate to the value of the property received by her all the rents, issues and

profits from the property so received by her should be accounted for to the complainant and charged with the value of that which she gave, in other words, she should, if the Court concludes she paid out a valuable consideration, construe it to be a lien by way of mortgage upon the said property for the value thereof and no more. 20 Cyc., page 635. The fraudulent grantee is also chargeable with the rents and profits during his possession thereof. *Lee* v. *Cole,* 44 New Jersey Equity, 318; *Mead* v. *Combs,* 19 N. J. Equity, 112; *Lawson* v. *Dunn,* 66 N. J. Equity, 90; *Borden* v. *Doughty,* 42 N. J. Eq., 314.

VIII.

The labor and money expended by Louis Rayot upon the lands are subject to the claims of the creditors because at the time of the expenditure, the said Louis Rayot was greatly indebted to Jacob Ringger, one of the present claimants, which debt continues to exist to the present time and the improvements and labor and money expended were voluntary gifts made by the husband in fraud of his creditors.

Lee v. *Cole,* 44 N. J. Eq., 318.

IX., X. and XI.

The evidence clearly shows that all the defendants participated in the fraud on the 26th day of May, 1913, and that the said Louis Rayot was indebted to the creditors represented by the complainant, the trustee in bankruptcy of Louis Rayot, from 1904, which debts continue to exist, and the improvements were made by the said Louis Rayot, while he was so indebted to the creditors, as voluntary gifts to the wife in

fraud of creditors, and the improvements were made after the conveyance of the property by Louis Rayot to Margaret Rayot, which was in 1910. *Haston* v. *Castner,* 4 Stewart, page 697.

XII.

No illegal evidence was admitted.

XIII.

The Court received all the legal evidence beneficial to the defendants that was properly offered.

Arugment.

The complainant-appellant respectfully submits in support of the reasons set forth by him, the following:

I.

All of the property held by Barney Hermes should be subjected to the lien of complainant's claim, because the evidence clearly shows actual fraud by all the parties. 20 Cyc., page 441; *Battery Park National Bank* v. *Brown,* 95 Atlantic Reporter, page 866; *Washington National Bank* v. *Beatty,* 77 N. J. Equity, page 254.

II. and III.

All the rents, issues and profits received by Barney Hermes from the 26th day of May, 1913, should be accounted for by Barney Hermes, because he paid nothing for the property and received the same for the purpose of delaying, hindering and defrauding the creditors of Louis Rayot in the collection of their debts.

Lee v. *Cole,* 44 N. J. Eq., 318.

20 Cyc., 635.

IV.

The conveyance of June 22nd, 1910, whereby Louis Rayot put one-half of the property in the name of his wife, the interest of the wife should be set aside because the said Louis Rayot was indebted at that time, which debts continue to exist and the conveyance was voluntary and made in fraud of creditors. *Frey* v. *Boylan,* 23 N. J. Equity, page 90; *Stewart* v. *Johnson,* 3 Har., page 97; *Dowe's case,* 68 N. J. Equity, page 11; *Day* v. *Allen,* 78 Atlantic Reporter, 674; *Campbell* v. *Weber,* 9 Buchanan, 519.

V.

The conveyance of June 22nd, 1910, should be set aside because a voluntary conveyance is void as to the existing creditors of the grantors, though there was no fraudulent intent in making it. *Morris Canal Co.* v. *Stearns,* 23 N. J. Eq., 414; *Haston* v. *Castner,* 31 N. J. Eq., page 697; *Washington National Bank* v. *Beatty,* 77 N. J. Eq. 254.

VI.

The conveyance of May 26th, 1913, should be set aside and the entire land wholly subjected to the claims of the complainant, and the entire tract should be sold to raise and satisfy the amount due the complainant. *Miller* v. *Mackenzie,* 2 Stewart, 291; *Demarest* v. *Terhune,* 18 N. J. Eq., 532; *Dem, ex Dem, Stewart* v. *Johnson,* 3 Har., 97; *Campbell* v. *Weber,* 9 Buch., 519.

Finally.

The Court below said (opinion, page 396, line 34): "The whole story of the defendants is so highly improbable as to be unworthy of belief."

In reference to the question of fraud it has been proven to a point of demonstration that the defendants, Louis Rayot, Margaret Rayot, his wife and, Barney Hermes actually united in an attempt to defraud the creditors of Louis Rayot in the month of May, 1913, and that they have continued in the pursuit of the conspiracy even by the use of perjury upon the part of all three before the Referee in Bankruptcy and before the Court of Chancery, with the object and hopes of retaining the fruits of the conspiracy and have not yet abandoned the same.

The fraudulent grantors of this property cannot receive back or have with the assistance of this court any interest in the said property, and if a surplus should remain after the creditors of Louis Rayot are satisfied, Mrs. Rayot or Louis Rayot would not be entitled to the same, but it would go to the fraudulent grantee, the deed being absolutely void only as against the creditors of Louis Rayot, it is void to such an extent that Barney Hermes cannot claim an interest in any part thereof as against the creditors now represented by the present complainant, nor can Mrs. Rayot, who actively participated in the fraud set up any right as against the complainant in this court.

It has been held the wife's dower is barred at law by her joining in a deed with her husband, which deed is fraudulent and made for the purpose of defrauding the creditors of the husband, and the same reasoning would apply to Margaret Rayot in joining in the deed with

her husband whether she conveyed a dower right or other interest, nor can any other person claim her right which existed before her actual participation in the fraud and joining in the fraudulent conveyance, and that being so Barney Hermes is not in a position to claim any benefit by reason of her interest in the estate before the participating in the fraud by her.

The right of the grantors, including the estate of the wife previous to the participation in the actual fraud, is swept away from her because of her participation in the fraudulent scheme to defraud creditors and is lost to her and can only be attacked with success by a creditor of her husband, who has the undoubted right to have the conveyance treated void as against his debt and to that extent only is it set aside.

It is respectfully submitted that the decree should be reversed and that the record should be remitted with directions that all of the property held by Barney Hermes described in the bill of complaint conveyed to him on May 26, 1913, should be sold to pay the claim of the complainant, the Trustee in Bankruptcy of Louis Rayot, and that Barney Hermes account to complainant for all the rent, profit and income since May 26, 1913, and that the conveyance of June 22, 1910, to Margaret Rayot be set aside and that all the lands be subject to an execution to be issued under that decree.

Respectfully submitted,

ALEXANDER HIGGINS,
Solicitor for and of Counsel with
Complainant-Respondent—Cross-Appellant.

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Notice of Appeal.

(Filed July 28, 1916.)

In Chancery of New Jersey.

Between	
RAYMOND P. WORTENDYKE, Trustee, *Complainant,*	*On Bill, etc.*
and	*Notice of Appeal.*
LOUIS RAYOT, *et al.*, *Defendants.*	

To Alexander J. Higgins, Esq., and Merritt Lane, Esq., Solicitors of and of Counsel with complainant:

GENTLEMEN:

The defendants, Louis Rayot, Margaret Rayot and Barney Hermes, hereby appeal from the final decree and every part thereof made in this Court in the above entitled cause on the 17th day of July, 1916, to the Court of Errors and Appeals in the last resort in all causes.

Dated, July 26th, 1916.

J. EMIL WALSCHEID,
Solicitor of and of Counsel with Defendants.

Notice of Appeal.

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

J. EMIL WALSCHEID,
Solicitor of and of Counsel with Defendants.

I hereby acknowledge service of a true copy of the within notice on me this 26th of July, 1916.

ALEXANDER J. HIGGINS,
Solicitor of Complainant.

Petition of Appeal.

(Filed August 9, 1916.)

New Jersey Court of Errors and Appeals

Between RAYMOND P. WORTENDYKE, Trustee, Etc., *Complainant-Respondent,* *and* LOUIS RAYOT *et als,* *Defendants-Appellants.*	*On Appeal from Court of Chancery.* *Petition of Appeal.*

To the Honorable the Court of Errors and Appeals in the Last Resort in all Causes:

The petition of Barney Hermes, Louis Rayot and Margaret Rayot, his wife, the defendants below and appellants in this case, respectfully shows:

That your petitioners find themselves aggrieved by a final decree made in the Court of Chancery of the State of New Jersey bearing date the seventeenth day of July, 1916, in a cause wherein Raymond P. Wortendyke as trustee, etc., is complainant and your petitioners, Barney Hermes, Louis Rayot and Margaret Rayot, are defendants in this respect, to wit:

"1. That the deed of conveyance made by Louis Rayot and Margaret Rayot, his wife, to Barney Hermes bearing date the 26th day of May, 1913, and recorded in the office of the Register of Bergen County in Liber 849, pages

82, &c., was, so far as the interest of Louis Rayot is concerned in fraud of the creditors of the said Louis Rayot and that such interest as now held by the said Barney Hermes is an undivided one-half interest in said lands and premises and that said deed as far as said equal undivided one-half interest in said lands and premises be and the same is hereby set aside, annulled and for nothing holden as against any execution to be issued under this decree.

2. That the complainant is entitled to an accounting of the rents, issues and profits of said lands and premises collected by the said Barney Hermes from the 26th day of May, 1913, and is entitled to have paid to him one-half of the net amount of said rents, the question as to the disposition of the other one-half of said rents to be reserved until the coming in of the Master's Report.

3. That the complainant is entitled to his costs of this suit to be taxed together with a counsel fee of five hundred dollars to be included in said taxed costs.

4. That the complainant have execution or executions to carry out the terms of this decree according to the course and practice of this Court.

5. That the only claims proven in this cause against which the transfer is set aside as hereinbefore adjudged and decreed are the claims of Jacob Ringger which is hereby adjudged and decreed at the sum of $6,645, with interest thereon from the 2nd day of January, 1912, making a total of $8,439.15, and of Thomas Henry, which is hereby adjudged and decreed at the sum of $150 with interest thereon from the 2nd

day of January, 1912, making in all the sum of $190.50.

AND IT IS FURTHER ORDERED, ADJUDGED AND DECREED that it be referred to Frank P. McDermott, Esq., one of the Special Masters of this Court:

(1) To take testimony, ascertain and report on the amount of rents received from the whole of said premises since the 26th day of May, 1913, as well as the disbursements made out of the same for taxes and other purposes in keeping down liens and the preservation and protection of the premises and of the propriety of the same and the allowance or disallowance thereof.

(2) To take testimony, ascertain and report on the amount of moneys or other contribution by way of labor and materials contributed by the defendant, Louis Rayot, toward the erection of said buildings, the total cost thereof and who, if anyone other than the said Louis Rayot contributed in money, labor or materials toward said erections, the extent to which said lands were enhanced in value by such erections and the relative value of said lands and buildings, the times when such contributions were made and the several amounts.

And it is further ORDERED, ADJUDGED AND DECREED that unless the defendants shall within thirty days after service upon them of a copy of this decree, which need not be certified and of the taxed bill of costs pay to the complainant, or his solicitor, the amount due to him upon the claims of Jacob Ringger and of Thomas Henry, to wit, the sum of $8,629.65, together with interest from the date hereof and the taxed costs of this suit, then application may

be made without notice for execution, executions or other process to enforce the provisions of this decree and the course and practice of this Court.

And it is further ORDERED that Emil Schuman be and he is hereby appointed receiver of the said lands and premises to collect the rents, issues and profits thereof pending the further order of this Court with all the powers of a receiver usual in such cases, to account as this Court shall hereafter direct, and that the defendants be and the same are hereby restrained from collecting any rents, issues and profits; and the said receiver shall before entering upon the discharge of his duty give a bond to the Chancellor for the faithful performance of his duties in the sum of one thousand dollars, to be approved by any Special Master of this Court, and shall have the power to use such moneys as may be necessary to pay accruing taxes, water rents, assessments and interest.

And it is further ORDERED that this cause be retained for such further proceedings, order and decree as may be necessary to carry out the intent hereof, and that the complainant may at any time make application on the foot of this decree for such relief as may be proper."

Your petitioners therefore have severally appealed from all of said decree and from each and every part thereof because the same is erroneous as against each of them for the following reasons:

1. The evidence in the cause does not warrant a finding that the deed of conveyance made by the defendant Rayot to the defendant Hermes on the twenty-sixth day of May, 1913, and recorded in the office of the Register of

Deeds of Bergen County in Liber 849 of Deeds at page 82, etc., was a voluntary conveyance or was made in fraud of any creditors of the said Louis Rayot by the said Louis Rayot or by Margaret Rayot, his wife.

2. The evidence in the cause does not warrant a finding that the defendant Hermes in purchasing the lands referred to in said decree, participated in or had any knowledge of any purpose or intent of Louis Rayot to defraud creditors, if any such purpose or intent really existed in said Louis Rayot.

3. If the deed of conveyance made by the defendant Rayot to the defendant Hermes was so far as the interest of Louis Rayot is concerned in fraud of creditors then defendant Hermes took nothing by said deed and the interest of the said Louis Rayot in said land which can be reached by his creditors is the right of possession of the said Louis Rayot to the lands as tenant in common with his wife, but only for the joint lives of husband and wife.

4. If the deed of conveyance made by the defendant Rayot to the defendant Hermes is void, it is absolutely void, and the creditors of Louis Rayot can take no more upon avoidance of said deed than one-half of the net income of said lands for the joint lives of Louis Rayot and Margaret, his wife, or maintain partition against the wife or sell the estate of the said Louis Rayot, said estate being limited to a tenancy in common for the joint lives of the said Louis and Margaret Rayot.

5. The estate conveyed by defendant Louis Rayot in the lands by means of the deed described in said decree to defendant Barney Hermes is not a half interest in said land, but

is merely a life estate held by said Louis Rayot in common with defendant Margaret Rayot for the joint lives of both.

6. The evidence in said cause does not warrant the making of any decree against the estate in the land referred to in the deed described in said decree or against the rents, issues, or profits thereof which belonged to defendant Margaret Rayot before the execution and delivery of said deed.

7. The evidence in said cause does not justify the appointment of a receiver to collect and hold the rents, issues and profits of the estate in the lands referred to in the deed described in said decree which belonged to Margaret Rayot prior to the execution and delivery of said deed.

8. The proceeds of the labor expended by Louis Rayot upon the lands described in said decree in making improvements upon said lands while the title to the same was in him and in his wife is exempt from the claims of his creditors to the extent that it improved and enhanced the estate of the wife in said lands.

9. In the absence of evidence of a fraudulent design in Louis Rayot and in Margaret Rayot towards the creditors of Louis Rayot the value of improvements made by Louis Rayot upon the lands described in the deed referred to in said decree while the title to the same was in him and in his wife is exempt from the claims of his creditors to the extent that these improvements enhanced the estate of the wife in said lands.

10. In the absence of evidence of a fraudulent design in Louis Rayot and in Margaret Rayot towards the creditors of Louis Rayot the

value of improvements made by Louis Rayot upon the lands described in the deed referred to in said decree while the title to the same was in him and in his wife is exempt against the claims of creditors arising after said improvements have been made.

11. In the absence of evidence of a fraudulent design in Louis Rayot and in Margaret Rayot towards the creditors of Louis Rayot the value of improvements made by Louis Rayot upon the lands described in the deed referred to in said decree while the title to the same was in him and in his wife is exempt against the claims of creditors arising after said improvements have been made to the extent that said improvements have enhanced the estate of the wife in said lands.

12. The Court of Chancery admitted illegal evidence prejudicial to the defendants over the objection of the defendants.

13. The Court of Chancery refused to admit legal evidence beneficial to the defendants against the objection of the defendants.

Your petitioners therefore pray that the said decree of the said Chancellor may be in all things reversed, set aside and for nothing holden, and that your petitioners may have such other relief in the premises as to this Honorable Court shall seem meet.

And your petitioners will ever pray.

J. EMIL WALSCHEID,
Solicitor and of Counsel with Petitioners.

Answer to Petition of Appeal.

(Filed September 7, 1916.)

NEW JERSEY COURT OF ERRORS AND APPEALS.

Between RAYMOND P. WORTENDYKE, Trustee, Etc., *Complainant-Respondent,* *and* LOUIS RAYOT, *et als.*, *Defendants-Appellants.*	*On Appeal from Court of Chancery.* *Answer to Petition of Appeal.*

The answer to the above named respondent to the petition of appeal of the above named appellants.

This respondent not acknowledging all or any of the matters which in the said petition of appeal are contained to be true for answer thereto nevertheless says and admits that a decree was on the 17th day of July, 1916, made and entered in the Court of Chancery of the State of New Jersey in a cause for that purpose mentioned in the said petition as is therein stated, but as to the substance and form thereof this respondent prays to refer thereto when the same shall be produced. And this respondent is advised and believes that the said decree is agreeable to equity and he prays that the same may be affirmed with costs to be adjudged to this respondent, subject only to a cross appeal by this respondent filed or to be filed.

ALEXANDER J. HIGGINS,
MERRITT LANE,
Solicitors and of Counsel with Respondent.

Amended Bill of Complaint.

(Filed September 30, 1914.)

In Chancery of New Jersey.

To His Honor Edwin Robert Walker, Chancellor of the State of New Jersey:

1. Humbly complaining, shows unto your Honor, by amended bill, your orator Raymond P. Wortendyke, of the City of Englewood, County of Bergen and State of New Jersey.

That on or about the eighteenth day of March, nineteen hundred and fourteen, Louis Rayot of the Town of Fairview, County of Bergen and State of New Jersey, filed a voluntary petition in bankruptcy in the District Court of the United States in the District of New Jersey, and shortly thereafter was adjudicated a bankrupt, and that a meeting of the creditors was held for the purpose of electing a trustee, wherein Raymond P. Wortendyke was duly elected by the creditors as trustee for the said Louis Rayot, bankrupt, on the sixth day of May, nineteen hundred and fourteen, and was thereafter duly confirmed trustee for the said Louis Rayot, bankrupt, by order of George R. Beach, Referee in Bankruptcy, dated on that day.

2. And your orator further shows that he has filed a bond and assumed the duties as trustee of the estate of the said Louis Rayot, bankrupt, and in pursuance of his duties as such trustee, he investigated the estate of the said Louis Rayot, bankrupt, and was unable to find any assets standing in the name of Louis Rayot, bankrupt, which would satisfy the indebtedness

due from the said Louis Rayot, bankrupt, to his creditors or in satisfaction of any part of such indebtedness.

3. And your orator further shows that on or about the eighteenth day of August, nineteen hundred and seven, Louise Gousset, the mother of Louis Rayot, bankrupt, died leaving her surviving as her only heirs at law, Lucy Grod, a daughter; Zeline Baker, a daughter; Louis Rayot, a son, and Amie Gousset, a son, and by a will admitted to probate in the office of the Surrogate of the County of Bergen, filed in Liber G, page 209, she devises all that property together with the building thereon erected known as 2.49 acres situate in the Borough of Fairview, Bergen County, N. J., to her four children, Mrs. Grod, Mrs. Zeline Baker, Louis Rayot and Amie Gousset, to have and to hold share and share alike, to their heirs and assigns forever.

4. And your orator further shows that thereafter on or about the twenty-fourth day of June, nineteen hundred and ten, the heirs at law hereinbefore mentioned of Louise Gousset, deceased by deeds of release and conveyance executed to each other and conveyed and released all the property devised in the will of Louise Gousset known as the 2.49 acres, situate in the Borough of Fairview, Bergen County, New Jersey, to Barney Hermes, single; and the said Barney Hermes did then re-convey to the said children a certain part or parcel of the said 2.49 acres as had been agreed upon by them among themselves in pursuance of an agreement to that effect before made among them; all of which were voluntary conveyances made for the purpose of vesting parts of the land devised by

Louise Gousset to her children so that each would own in fee simple a certain tract thereof, in his or her right.

5. And your orator further shows that the said Barney Hermes did by deed of conveyance dated on the twenty-second day of June, nineteen hundred and ten, and recorded on the twenty-fourth day of June, nineteen hundred and ten, in Book 755 of Deeds for Bergen County on page 647, convey to Louis Rayot and Margaret Rayot, his wife,

ALL that certain lot, tract, piece or parcel of land and premises, situate in the Borough of Fairview, Bergen County, and State of New Jersey, and more particularly described as follows:

BEGINNING on the east side of Turnpike Road leading from Hackensack to Hobcken and thence running at right angles along the northerly line of lands of one MacDonald; and thence south seventy-two (72) degrees easterly along the line of MacDonald & Suckley three hundred and forty-five feet and three-tenths of a foot (345.3) to lands of Samler; thence north fifteen (15) degrees thirty (30) minutes east one hundred and seventy-six feet and eighty-eight one-hundredths of a foot; thence north seventy-two (72) degrees thirty (30) minutes west three hundred and forty-nine feet (349) to the easterly side or line of said Turnpike; south no degrees fifteen (15) minutes west one hundred and eighty-five feet and seven one-hundredths of a foot (185.07) to the point or place of beginning; containing one and forty-nine one-hundredths acres, excepting therefrom the following tract of land:

BEGINNING at the southwest corner of said plot in the easterly line of Turnpike which part is the northwest corner of lands of Louise Gousset; thence south 84¼ degrees east eighty-five feet and fourteen one-hundredths of a foot (85.14) north 74¼ degrees west eighty-four feet and eight one-hundredths of a foot south thirteen feet and two-tenths of a foot (13.2) to the point or place of beginning. Recites that it is the same property conveyed to party of the first part by deed from Amie Gousset and others to be forthwith recorded, and which was duly recorded in Liber 754, page 465, on the twenty-fourth day of June, nineteen hundred and ten.

6. And your orator expressly charges that the last mentioned conveyance was a voluntary conveyance made by the said Barney Hermes to the said Louis Rayot and Margaret Rayot, his wife, by virtue of an agreement made between the said Barney Hermes and the said Louis Rayot and the other children of the said Louise Gousset, whereby a certain portion of the property devised by the said Louise Gousset would be owned in fee by Louis Rayot in his own right.

7. And your orator further shows that afterwards to wit, on the twenty-sixth day of May, nineteen hundred and thirteen, the said Louis Rayot and Margaret Rayot, his wife, did by deed of conveyance dated on that day and recorded on the twenty-seventh day of May, nineteen hundred and thirteen, in the office of the Clerk of the County of Bergen, in Liber 849, page 82, etc., convey, transfer, set over and assign to the said Barney Hermes of the Borough of Bellemead, Somerset County, and State of New Jersey,

ALL that certain lot, tract, piece or parcel of land and premises, situate, lying and being in the town of Fairview, County of Bergen and State of New Jersey, and more particularly described as follows:

BEGINNING at a point on the easterly side of the Turnpike Road leading from Hackensack to Hoboken at right angles to the northerly line of lands of one MacDonald; thence south seventy-two (72) degrees east along the line of MacDonald and Suckley three hundred and forty-five feet and three-tenths of a foot (345.3) to lands of Samler; north fifteen (15) degrees thirty (30) minutes east one hundred and seventy-six feet and eighty-eight one-hundredths of a foot (176.88); thence north seventy-two (72) degrees thirty (30) minutes west three hundred and ninety-four (394) feet to the easterly side of said Turnpike; thence south no degrees fifteen (15) minutes west one hundred and eighty-five feet and seven one-hundredths of a foot (185.07) to the point or place of beginning; containing one and forty-nine-hundredth acres (1.49), excepting, however, a plot,

BEGINNING at the southwest corner of said plot in the easterly line of Bergen Turnpike which part is also the northwest corner of lands of said Louise Gousset; and thence south 84¼ degrees east eighty-five feet and fourteen-hundredths of a foot north 74½ degrees west eighty-four feet and eight one-hundredths of a foot south thirteen feet and two-tenths of a foot (13.2) to the point or place of beginning. Subject to four mortgages for $600.00 a piece and recites being same premises conveyed to parties of the first part by the said party of the second part by deed recorded in Liber 755 of Deeds for Bergen County on page 647.

8. And your orator further shows that previous to the last conveyance hereinbefore mentioned and while the said Louis Rayot and Margaret Rayot, his wife, were the owners of the said property, the said Louis Rayot did erect and build on the said premises five two-family houses and shortly thereafter executed five certain mortgages to the Hudson Trust Company, a corporation of the State of New Jersey, in the sum of six hundred dollars ($600.00) on each of the said five two-family houses hereinbefore mentioned.

9. And your orator further shows that while the said Louis Rayot, bankrupt, and Margaret Rayot, his wife, were the owners of the said premises above mentioned and described, the said Louis Rayot, bankrupt, approached Jacob Ringger, Thomas Henry and other creditors of the said Louis Rayot, bankrupt, and represented to the said Jacob Ringger, Thomas Henry and the other creditors mentioned in the voluntary petition of the said Louis Rayot, bankrupt, filed in the Bankruptcy Court hereinbefore mentioned, that he was about to erect five two-family houses on the property hereinbefore described, and by reason thereon, required certain materials and requested the said Jacob Ringger, Thomas Henry and the other creditors in the schedule hereinbefore referred to, to furnish him with building materials on credit; and that the said Jacob Ringger, Thomas Henry and the other creditors did furnish large amounts of building materials to the said Louis Rayot for the erection of the buildings on the property hereinabove described to such an extent that on or about the second day of January, nineteen hundred and twelve, there was due to Jacob

Ringger, trading as Jacob Ringger & Co., on a book account for goods sold and delivered by the said Jacob Ringger to the said Louis Rayot, bankrupt, which book account started on the second day of January, nineteen hundred and four, and continued to the second day of December, nineteen hundred and thirteen, showing a balance due to the said Jacob Ringger from the said Louis Rayot, bankrupt, on the second day of January, nineteen hundred and twelve, the sum of six thousand six hundred and forty-five dollars ($6,645.00); and that on the second day of January, nineteen hundred and twelve, there was due to Thomas Henry from the said Louis Rayot, bankrupt, on a book account running from nineteen hundred and ten to nineteen hundred and fourteen, for goods sold and delivered by the said Thomas Henry to the said Louis Rayot, bankrupt, amounting to the sum of one hundred and fifty dollars ($150.00); and that on the second day of January, nineteen hundred and twelve, there was due to the Gardner & Meeks Co., a corporation, from the said Louis Rayot, bankrupt, on a book account running from nineteen hundred and ten to nineteen hundred and fourteen, for goods sold and delivered by the said Gardner & Meeks Co., a corporation to the said Louis Rayot, bankrupt, amounting to the sum of one thousand three hundred and eighty-three dollars ($1,383.00); and that on the second day of January, nineteen hundred and twelve, there was due to George Cox, trading as George Cox & Son, from the said Louis Rayot, bankrupt, on a book account running from nineteen hundred and eight to nineteen hundred and fourteen, for goods sold and delivered by the said George Cox & Sons to the said Louis Rayot, bankrupt, amounting to the sum of sixty-

two dollars ($62.00); and that on the second day of January, nineteen hundred and twelve, there was due to the Hudson Trust Company from the said Louis Rayot, bankrupt, for moneys loaned the sum of three hundred and fifty dollars ($350.00), which in all amount to the sum of eight thousand five hundred and ninety dollars ($8,590.00).

10. And your orator further shows that at the time of the conveyance last mentioned and described the said Louis Rayot, bankrupt, was indebted to Jacob Ringger and Thomas Henry and to the other creditors for which your orator is trustee for a part or all of the debts which said Louis Rayot sets forth and admits in his voluntary petition in bankruptcy heretofore filed in said cause in the United States District Court in the District of New Jersey; and your orator charges and insists that the said conveyance by the said Louis Rayot, bankrupt, and Margaret Rayot, his wife, to Barney Hermes as set forth in paragraph seven of this bill, was a voluntary conveyance, and no consideration was paid therefor by the said Barney Hermes to the said Louis Rayot, bankrupt, or Margaret Rayot, his wife, but was made on the part of the grantors thereof and was accepted by the grantee thereof with intent on the part of all the parties thereto to defraud, hinder, delay and embarrass the creditors hereinabove mentioned of the said Louis Rayot, bankrupt, and your orator, trustee for the said Louis Rayot, bankrupt, in the collection of the debts heretofore mentioned and appearing in the schedule heretofore filed by the said Louis Rayot, bankrupt, in the United States District Court in the District of New Jersey, a copy of which is hereto annexed.

11. And your orator further shows that by reason of the said conveyance hereinbefore mentioned your orator cannot proceed to perform his duties as trustee as hereinbefore mentioned for the reason hereinbefore stated, and that he has frequently and in a friendly manner applied to the said Louis Rayot, bankrupt, to pay the said amounts due to the said creditors of the said Louis Rayot, bankrupt; and your orator further shows that the said Louis Rayot, bankrupt, has refused and still refuses to pay any part of the said debts and accounts as in equity and in good conscience he ought to have done.

12. In consideration whereof and as your orator is without any remedy at the common law and can obtain adequate relief only by the aid of this Honorable Court; to the end, therefore, that the said Louis Rayot, bankrupt, and Margaret Rayot, his wife, and Barney Hermes, defendants hereto, may without oath full, true and perfect answers make to all and singular the premises to the best of their knowledge, information and belief, and that they may set forth and discover the entire source of all the money used in the purchasing of the lands conveyed to the said Barney Hermes by the said Louis Rayot, bankrupt, and Margaret Rayot, his wife, as hereinbefore stated; and that it may be adjudged and decreed by this Honorable Court, that the lands and premises conveyed to the said Barney Hermes by the said Louis Rayot, bankrupt, and Margaret Rayot, his wife, belong to the said Louis Rayot, bankrupt, and that the conveyance mentioned in paragraph seven hereof by Louis Rayot and Margaret Rayot, his wife, to the said Barney Hermes was a voluntary conveyance made by the said Louis Rayot, bankrupt, while he was indebted to his creditors

as hereinbefore alleged, and that the said last mentioned conveyance made by the said Louis Rayot, bankrupt, and Margaret Rayot, his wife, to the said Barney Hermes, was made with intent on the part of all the parties thereto, to hinder, delay and defraud your orator and the creditors of the said Louis Rayot, bankrupt, in the collection of the debts due to them, and for which creditors your orator was duly appointed trustee of the said Louis Rayot, bankrupt, as hereinbefore stated, and that it further be decreed that the said lands are liable in equity for the payment of the debts due to the creditors of the said Louis Rayot, bankrupt, and that the said tract of land hereinbefore mentioned and described in paragraph seven of this bill may be decreed to be sold for the payment of the debts due to the creditors of the said Louis Rayot, bankrupt, and that out of the proceeds thereof, your orator may be paid the amount due to the creditors of the said Louis Rayot, bankrupt, or some part thereof, and the costs of this suit to be taxed, together with a reasonable counsel fee.

13. And that your orator may have such further and other relief as is agreeable to equity and good conscience.

14. May it please your Honor the premises considered to grant unto your orator the State's writ of subpoena issued out of and under the seal of this Honorable Court, directed to the said Louis Rayot, bankrupt, and Margaret Rayot, his wife, and Barney Hermes, therein and thereby commanding them and each of them, at a certain day and under a certain penalty to be therein expressed, personally to be and appear before your Honor, in this Honorable

Court, then and there to answer the premises and to stand to, abide by and perform such order and decree therein as your Honor shall seem meet and as shall be agreeable to equity and good conscience.

And your orator will ever pray, etc.

ALEXANDER J. HIGGINS,
Solicitor for and of Counsel with Complainant.

Answer of Louis Rayot.

(Filed December 11, 1914.)

IN CHANCERY OF NEW JERSEY.

Between RAYMOND P. WORTENDYKE, Trustee, *Complainant,* *and* LOUIS RAYOT, *et als.*, *Defendants.*	*On Bill, &c.* *Answer of Defendant, Louis Rayot, to Amended Bill.*

The answer of LOUIS RAYOT, to the amended bill of complaint filed in this cause, or to so much and such parts thereof as this defendant is advised it is necessary and material for him to make answer unto, answering says:

(1) He admits the allegations in paragraph one of said amended bill.

(2) That he has no knowledge of the allegations contained in paragraph two of the said amended bill, and therefore leaves the complainant to prove the same.

(3) He admits the allegations contained in paragraph three of said amended bill.

(4) He admits the allegations contained in paragraph four of said amended bill.

(5) He admits the allegations contained in paragraph five of said amended bill.

(6) He denies the allegations contained in paragraph six of said amended bill.

(7) He admits the allegations in paragraph seven of said amended bill.

(8) He admits that there were erected five two-family houses upon said premises while the title thereto stood in the name of this defendant and the said Margaret Rayot, and that shortly after the erection of said buildings five certain mortgages were placed upon said premises for six hundred dollars each, but denies that all of the money therefor was furnished by this defendant.

(9) He denies that while he was bankrupt he approached Jacob Ringger, Thomas Henry and other creditors and represented to them, or either of them, or other creditors, that they furnish materials to him on credit. He admits that the said persons did furnish materials in large amounts for building purposes as had been their custom for a number of years. He denies that he was finally indebted to the said Ringger in the sum of six thousand six hundred and forty-five dollars.

(10) He admits his indebtedness to the said Jacob Ringger, Thomas Henry and other creditors as set forth in his petition in bankruptcy, but denies each and every other allegation contained in paragraph ten of said amended bill.

(11) And this defendant further answering said amended bill says, that the conveyance by him and his said wife, Margaret Rayot to the defendant, Barney Hermes, was made in good faith and for a valuable consideration, and not for the purpose of hindering, delaying, defrauding, or embarrassing his creditors or any other person or persons.

(12) And this defendant further answering says, that his mother, Louise Gousset, departed

this life, leaving real estate to her children as tenants in common, of whom this defendant was one. That he was married at the said time to his wife, Margaret Rayot; that his said wife had a right of dower or other interest in said property. That for the purpose of settling said estate without partition, and the necessary cost and expense thereof, and without setting off to his wife her dower right, this defendant did agree to and with his said wife, that in consideration of her releasing her dower right in and to said premises that he would convey or cause to be conveyed to her, an undivided one-half interest in the premises hereinbefore described, and that upon said consideration the said Margaret Rayot consented to and did execute the deed first above referred to, to the said Barney Hermes.

(13) And this defendant further answering says, that by reason of the fact that the complainant has failed to allege that the claims of the persons mentioned in said bill of complaint as being creditors in bankruptcy of this defendant, had filed with the United States District Court for the District of New Jersey their several claims against this defendant, which had been allowed by the said Court, makes the said bill of complaint defective and demurrable, and this defendant prays that he may have the same benefit of this, his answer, as if he had regularly demurred to said amended bill of complaint.

All of which matters and things this defendant is ready and willing to verify and prays that he may be hence dismissed, with his costs most wrongfully sustained.

PETER & JOHN BENTLEY,
Solicitors for Defendant,
Louis Rayot.

Answer of Margaret Rayot.

(Filed December 11, 1914.)

IN CHANCERY OF NEW JERSEY.

Between RAYMOND P. WORTENDYKE, Trustee, *Complainant,* *and* LOUIS RAYOT, *et als.*, *Defendants.*	*On Bill, &c.* *Answer of Defendant, Margaret Rayot, to Amended Bill.*

The answer of Margaret Rayot, to the amended bill of complaint filed in the above entitled cause, or to so much and such parts thereof as this defendant is advised it is necessary and material for her to make answer unto, answering says:

(1) She has no knowledge of the allegations contained in paragraph one of said amended bill, and therefore leaves the complainant to prove the same as the Court may direct.

(2) She has no knowledge of the allegations contained in paragraph two of said amended bill, and therefor leaves the complainant to prove the same as the Court may direct.

(3) She has no knowledge of the allegations contained in paragraph three of said amended bill, and therefore leaves the complainant to prove the same as the Court may direct.

(4) She admits the allegations contained in paragraph four of said amended bill, except-

ing that the conveyance therein was voluntary as will hereinafter more fully appear.

(5) She admits the allegations contained in paragraph five of said amended bill.

(6) She denies the allegations contained in paragraph six of said amended bill.

(7) She admits the allegation in paragraph seven of said amended bill.

(8) She admits that the said defendant physically erected the buildings on the premises; that there is a mortgage of six hundred dollars on each house, but denies that the said Louis Rayot erected them out of his own money, or property.

(9) She has no knowledge of the allegations contained in paragraph nine of said amended bill, and therefore leaves the complainant to prove the same as the Court may direct.

(10) She has no knowledge of the indebtedness if any, of the said Louis Rayot, or whether he had any creditors at the time of the last mentioned conveyance; she denies absolutely that the conveyance referred to in said bill by this defendant and Louis Rayot to Barney Hermes as set forth in paragraph seven of said amended bill was a voluntary conveyance and no consideration was paid therefor, and that the same was made and accepted by the said Hermes with intent to defraud, hinder, delay and embarrass the creditors of the said Louis Rayot, if he had any.

(11) This defendant further answering says, that at the time of the death of Louise Gousset referred to in said bill, the said defendant, Louis Rayot, became vested with a one-fourth undivided interest in and to certain premises in

Fairview, N. J., referred to in said amended bill, and that this defendant thereupon had a right of dower or other interest in and to said premises by reason of the fact that she was the wife of said defendant, Louis Rayot. That it was then agreed between the said defendant, Louis Rayot, and this defendant, that if this defendant would sign a deed for said premises, releasing her dower right therein and to certain other premises, that the said Louis Rayot was to convey, or cause to be conveyed to this defendant an undivided one-half interest in and to the premises lastly described in said bill of complaint, and thereupon she executed the said deed. That upon the sale of the said premises to the said Barney Hermes this defendant received a valuable consideration therefor from the said Barney Hermes.

WHEREFORE she prays she may be hence dismissed with her costs most wrongfully sustained.

PETER & JOHN BENTLEY,
Solicitors for Defendant,
Margaret Rayot.

Answer of Barney Hermes.

(Filed December 11, 1914.)

IN CHANCERY OF NEW JERSEY.

Between RAYMOND P. WORTENDYKE, Trustee, *Complainant,* *and* LOUIS RAYOT, *et als.*, *Defendants.*	*On Bill, &c.* *Answer of Defendant, Barney Hermes, to Amended Bill.*

The answer of BARNEY HERMES, to the amended bill of complaint heretofore filed in this cause, or to so much and such parts thereof as this defendant may be advised it is necessary or material to make answer unto, answering says:

(1) That he has no knowledge of any of the allegations contained in the bill of complaint, excepting the conveyances of the property as described therein to this defendant by the defendants, Louis Rayot and Margaret, his wife, the re-conveyance thereof by this defendant to the said defendants, Louis Rayot and Margaret Rayot, and the re-conveyance thereof by the said defendants, Louis Rayot and Margaret Rayot to this defendant, and therefore leaves the said complainant to prove all the allegations in said bill of complaint, as the Court may direct.

(2) He denies that he took said premises or that the same were conveyed to him voluntarily,

or with intent to hinder, delay, defraud, or to embarrass the creditors of the defendant, Louis Rayot, if he had any, and on the contrary says that the same were purchased by this defendant from the said Louis Rayot and Margaret, his wife, for a good and substantial and valuable consideration.

WHEREFORE this defendant prays that he may be hence dismissed with his costs most wrongfully sustained.

PETER & JOHN BENTLEY,
Solicitors for Defendant,
Barney Hermes.

Reply.

(Filed December 18, 1914).

IN CHANCERY OF NEW JERSEY.

Between

RAYMOND P. WORTENDYKE, Trustee,

Complainant,

and

LOUIS RAYOT, *et als.*,

Defendants.

On Bill, &c.

Reply.

The complainant joins issue on the answers of the defendants.

ALEXANDER J. HIGGINS,
Solicitor for Complainant.

Order of Reference.

(Filed December 23, 1914).

IN CHANCERY OF NEW JERSEY.

Between	
RAYMOND P. WORTENDYKE, Trustee, etc., *Complainant,*	*On Bill, &c.*
and	*Order of Reference.*
LOUIS RAYOT, *et al.*, *Defendants.*	

This matter being opened to the Court by Alexander J. Higgins, Esq., solicitor for and of counsel with the complainant in the presence of Peter Bentley, Esq., solicitor and of counsel with the defendants, and upon reading the consent hereto underwritten:

It is thereupon on this 23rd day of December, 1914, Ordered that the above stated cause be referred to Hon. John Griffin, one of the Vice Chancellors of this Court, to hear the same for the Chancellor and to report thereon to him and advise what order or decree should be made therein.

EDWIN ROBERT WALKER,
C.

We consent to the making of the above order.

ALEX. J. HIGGINS,
Solicitor for Complainant.

PETER & JOHN BENTLEY,
Solicitors for Defendants.

Opening.

IN CHANCERY OF NEW JERSEY.

Between	
RAYMOND P. WORTENDYKE, Trustee, etc., *Complainant,*	*On Bill, &c.*
and	*Minutes of Final Hearing.*
LOUIS RAYOT, *et al.*, *Defendants.*	

Appearances:

A. J. Higgins and Merritt Lane, Esqs., for complainant.

Peter and John Bentley, Esqs., for defendants.

Before HON. JOHN GRIFFIN, Vice Chancellor.

Chancery Chambers, Jersey City, N. J., April 7th, 1915.

The Vice Chancellor. You may proceed.

Mr. Lane. Mr. Higgins has gone down to get Mr. Beach, who will be the first witness.

Mr. Bentley. If your Honor please, it seems to me that there is a preliminary question to be disposed of before we proceed with the trial of this case, and, with your Honor's permission, I should like to raise that question at this time. The bill of complaint was filed by Raymond P. Wortendyke, as the Trustee in Bankruptcy of this estate of Louis Rayot, one of the defendants. The amended bill, among other things, alleges that there is annexed to said amended bill a statement of the amounts due and owing by the defendant bankrupt.

An inspection of the bill shows that there is not such a list. The answer of the defendant, Louis Rayot, in the last paragraph, pleads as follows: "And this defendant, further answering, says that by reason of the fact that the complainant has failed to allege that the persons mentioned in the said bill of complaint as being creditors in bankruptcy of this defendant had filed with the United States District Court for the District of New Jersey their several claims against this defendant which had been allowed by said Court, makes the said bill of complaint defective and demurrable, and this defendant prays that he may have the same benefit of this, his answer, as if he had regularly demurred to said amended bill of complaint—

The Vice Chancellor. How can the bankrupt take advantage of that? What interest has he in this property? The other defendants have not answered that way, or raised any question in respect to it.

Mr. Bentley. Rayot can take this advantage—that if there are other creditors, or other persons interested (and there may be, we don't know), he is preserving their rights as against those who are represented in this bill of complaint—in other words, can your Honor say that because the Trustee in Bankruptcy of the complainant files a bill in which he says that he has been unable to locate sufficient property to make the amount due creditors of the bankrupt whose claims have not been allowed (and, so far as we know, have not been presented —so far as we know, nothing has been

done), that it puts him in a position to come before this Court in behalf of those alleged persons and exhibit his bill of complaint? Now, he says he is Trustee in Bankruptcy for the defendant Louis Rayot; then he sets forth the conveyances—

The Vice Chancellor. Really what he sets forth is as of the period when Louis Rayot was indebted to the creditors mentioned in the bill there, and who are mentioned in the schedule.

Mr. Bentley. Yes, sir.

The Vice Chancellor. Now, suppose that, immediately on being appointed as trustee, the trustee makes an investigation and finds out that the estate is insolvent and he desires to file a bill to set aside conveyances as fraudulent, is it a ground of defense that at that time only ten dollars' worth of claims were proven? Must he not wait, really, until the time to prove claims expires, and then put in evidence just exactly what claims are proven and their dates and the character of the claims, which would, in the hands of a creditor, if he had obtained a judgment, be a ground for setting aside the conveyance?

Mr. Bentley. Well, in this case the time to file claims has expired.

The Vice Chancellor. It had not when the bill was filed.

Mr. Bentley. It had not when the bill was filed.

The Vice Chancellor. Now, why is it not a matter of proof, rather than a matter of pleading?

Mr. Bentley. Do you mean, that they had these claims?

The Vice Chancellor. That the claims had been allowed?

Mr. Bentley. Because they must predicate their suit upon an indebtedness by this defendant, the defendant bankrupt. Now, there was nothing which had adjudicated or determined in the Court of Bankruptcy that these creditors, or these persons named as creditors, had claims against this defendant bankrupt.

The Vice Chancellor. Every man who pleads says he had a claim against him. Your point is that it does not show that they had presented their claims to the Referee in Bankruptcy?

Mr. Bentley. They say they have claims but I may say, forsooth, that I have a claim against Tom Jones, but don't I have to do something more than that? Don't I have to show that this claim has been allowed? In other words, must there not be a liquidated amount; must it not be settled by a judicial proceeding, or by a decree or judgment of some court, or some order? Just to come in and say, or charge, that "I, as trustee, believe that these persons are creditors of the defendant bankrupt," is that sufficient?

The Vice Chancellor. Does not the statute say, virtually, that upon an adjudication in bankruptcy the claims of creditors shall be affixed upon the property of the bankrupt in the same manner as if judgment had been entered?

Mr. Lane. It goes further than that.

Mr. Bentley. If they are allowed; yes, sir.

The Vice Chancellor. Don't they all remain inchoate until the claims are either proven or disallowed? I am inclined to do this: I have set two days for the trial of this case; if I should listen to your motion and decide in your favor now it would mean that this case would not be tried until next September or October. I am going to refuse your motion, because I think it is the proper thing to do under the circumstances.

Mr. Bentley. Yes, sir; I simply want to bring it before the Court.

The Vice Chancellor. It may be that the complainant may see fit to apply to amend his bill if he thinks it is necessary. This matter can all be handled when the case is closed. Now you may proceed with your case, Mr. Lane. As I understand the situation, there are really but three concrete points, eliminating the technical part of it —the first is, what consideration did Mr. Hermes pay for this property—was it a valid sale to him? And the answer does not disclose what he paid. I do not know that the bill prays for such a disclosure. The second is, if that deed is set aside, where does the property rest? The property then would vest in Louis Rayot and his wife, as joint tenants; and the bill itself does not clearly ask for—well, no, it could not ask to set that aside—but it does pray that it be decreed to be the property of Louis Rayot; and if that prayer is allowed

it would mean that Louis Rayot would hold the property subject to the dower right of his wife, instead of an estate by the entirety. Is there anything further in the case than I have said?

Mr. Lane. I think that is all. The bill does, if your Honor please, pray for discovery.

The Vice Chancellor. I know, but just read the language over. It does not claim that they may disclose what moneys were paid; it prays for a discovery as to the source of the moneys.

THE CASE FOR THE COMPLAINANT.

Mr. Lane. I offer in evidence a petition and schedules in bankruptcy of Louis Rayot, filed in the United States District Court on the 16th day of March, 1914 (handing the same to Mr. Bentley for his inspection).

Mr. Bentley. I object to it upon the ground that it is immaterial, and that there is no certification.

Mr. Lane. It is the original—it is a duplicate original, which, under the statute, must be filed.

The Vice Chancellor. Is that from the files? It is marked "Filed?"

Mr. Lane. It is from the files of the Court.

The Vice Chancellor. I overrule the objection and admit the offer.

The paper is marked Exhibit C. 1.

Mr. Lane. I offer in evidence order of the trustee's appointment, and notice of the trustee, which is another original.

Mr. Bentley. I object to it, on the ground that it is immaterial and not properly certified. It is marked "Copy"—it is not an original, evidently.

The Vice Chancellor. It does not appear that that is an original.

Mr. Lane. (Upon inspecting the paper.) It is not an original.

The Vice Chancellor. What is the rule as to certification or exemplification in bankruptcy, to make it evidence?

Mr. Lane. I don't know.

The Vice Chancellor. You had better wait until Mr. Beach produces the original files, and then offer the original in evidence; and this copy can then be substituted.

MINNIE RINGGER, sworn.

Direct examination by Mr. Higgins.

Q Miss Ringger, you are connected with Jacob Ringger & Co.? A Yes, sir.

Q In what capacity? A Well, I am managing the business of my father—bookkeeper, taking care of the entire business.

Q And as bookkeeper, do you have charge of the books? A I do, yes.

Q Marked Nos. 1, 2, 6 and 7 (referring to several books of account now produced and shown to the witness)? A Certainly—all we have here.

Q And did you have charge of the tickets, these yellow slips (referring to a number of papers shown the witness)? A Yes, sir; I have charge of everything we have with us.

Q And this book known as "Current Ledger?" A Yes, sir.

Q And are these the books of the Jacob Ringger Company? A They are—both of Jacob Ringger & Co. and also of Ringger & Freiberger.

Q And I also show you—

The Vice Chancellor. Do you propose to prove the account now?

Mr. Higgins. I propose to prove the account of Jacob Ringger against Louis Rayot.

The Vice Chancellor. How can you do that if he filed no claim with the Referee in Bankruptcy?

Mr. Lane. We have.

The Vice Chancellor. Well, why didn't you prove the claim?

Mr. Lane. The difficulty is, Mr. Beach is not here.

The Vice Chancellor. Your claim must depend on your having an allowed claim, as I understand the law.

Mr. Lane. That is so, probably, when the case comes to an end; but even if this claim is not allowed, we have the right to show all the debts which existed at the time. Even if on this particular claim we could not succeed in getting a final decree, we can show that he was indebted at that time. The purpose of showing all of these antecedent proceedings is to show that at the time the transfer was made—

The Vice Chancellor. Well, I think you had better put in your near proof first, because this proof may not be necessary when you get through with that. There is no use in going into a long examination of the books until you do that.

George R. Beach, direct.

Mr. Lane. I will go down and get Mr. Beach. I told him to come up.

The Vice Chancellor. You had better get your witness.

Mr. Lane. Well, your Honor, Mr. Beach was subpoenaed yesterday.

The Vice Chancellor. Well, take your regular proceeding. Mr. Beach ought to be here. The Court and counsel cannot wait here all day for counsel to present their case. Here it is almost eleven o'clock and there is no witness here. I will give you ten minutes more, and if it is not ready then I will adjourn the case.

(At this point Mr. Beach appeared in the hearing room, and the present witness was directed to stand aside for the present.)

GEORGE R. BEACH, Esq., sworn.

Direct examination by Mr. Lane.

Q You are Referee in Bankruptcy? A I am.

Q And the matter of Louis Rayot was referred to you, as Referee? A It was.

Q Have you the claims that have been filed? A I have them right here. This is showing you Loose Leaf Docket No. 290, in the Matter of Louis Rayot, Bankrupt. "Date of Adjudication, March 16, 1914. Attorneys of bankrupt, Peter and John Bentley, 75 Montgomery street, city. 1914. May 7th, claim of George Cox & Sons, of 817 Hackensack Plank road, West Hoboken, for $60.79; same date, claim of Thomas Henry, of 180 Palisade avenue, Union, N. J., $108.56. October 19, same year, claim of Jacob Ringger, Newark avenue, Jersey City, for $6,-

George R. Beach, direct.

667.92." The claims are marked with my filing mark, and the letter D in a circle, which means that they have been duly docketted in this loose-leaf system.

By the Vice Chancellor.

Q Are those all the claims that were presented? A Only three.

Mr. Lane. I offer, if your Honor please, the claim of Jacob Ringger—I make the whole offer at one and the same time—and also the claim of Geo. Cox & Sons, and also the claim of Thomas Henry, referred to by the Referee in his testimony.

Mr. Bentley. I object to the offer of the claims, on the ground that there is no proof before your Honor that these claims have been allowed by the Referee, and that the statutory period of one year within which the claims may be allowed has passed.

The Vice Chancellor. "Allowed" or "presented?"

Mr. Bentley. "Allowed."

The Vice Chancellor. Suppose there was litigation over the allowance of a claim, and it runs beyond a year?

Mr. Bentley. Then they may be allowed, as I understand it, after that; but it appearing that there is no litigation, or has been no litigation over the claims, I object to them on that ground.

The Vice Chancellor. What have you to say, Mr. Lane?

Mr. Lane. I think that the proof now shows that they have been allowed as far

as the Bankrupt Act is concerned. There was no objection filed, was there, Mr. Beach?

The Witness. No; the claims have been allowed, under the decision of the Supreme Court of the United States in the Matter of Dresher.

The Vice Chancellor. The objection will be overruled.

Mr. Lane. I do not suppose it is necessary to mark these, if your Honor please; they are identified.

The Vice Chancellor. No. Are there copies that can be used as substitutes?

Mr. Lane. I will have copies made. There are not any copies now. I suppose Mr. Beach will have to leave them here, because we may want to use the items, I think, in the course of the examination of other witnesses.

The Vice Chancellor. Is there any question about these accounts being taken from the books of account of original entries of the parties?

Mr. Lane. No question about that. The claims were allowed.

The Witness. I think I can clear this up in just a minute, if you care to have me.

Mr. Lane. Go ahead.

The Witness. Under the Bankruptcy Act, and the rules in this District—

Mr. Bentley. You are going to testify now, to the rules of the District, are you, Mr. Beach?

The Witness. Yes.

George R. Beach, direct.

Mr. Bentley. Well, I don't think he ought to.

The Vice Chancellor. I suppose counsel can dig those out.

The Witness. Well, your Honor spoke about it being an open account—as a matter of fact, this big one (referring to the Ringger claim) is on notes, and the original notes have been produced and returned in every case.

By Mr. Lane.

Q Will you produce the order appointing the Trustee? A I cannot. The order appointing the Trustee was at once certified to the District Court at Trenton.

Q Did you make, as Referee, an order appointing a Trustee in this case? A I have no doubt that I did.

Q I show you a paper bearing the date the 6th day of May, 1914, and ask you if, by reference to that paper, and refreshing your recollection, you can tell whether you made such an order, and when? A It was made on the 6th of May, 1914.

Q Appointing whom? A Appointing Raymond P. Wortendyke Trustee.

Q And is that a copy of the order? A That is a true copy of the order, certified in the usual way.

Q Now, referring to a paper bearing date the 13th day of May, 1914, and refreshing your recollection, can you tell me whether the Trustee filed his bond, approved by you?

Mr. Bentley. I object, until the original is produced.

George R. Beach, direct.

The Vice Chancellor. You can suspend that, and go on with the case. If counsel wants to have all this proved, the original records can be produced at a later date.

The Witness. If you care to send downstairs, my original dockets are there.

Q And that is an official file? A That is an official file.

The Vice Chancellor. There is no use wasting time where these technical objections are interposed. If there is any doubt about these instruments being originals, or that the best evidence will be the originals, the originals can be produced, I can, if necessary, sit on some motion day to let this technical proof be offered; but counsel may proceed to prove it now, if he can.

(The original docket of Mr. Beach that shows the Rayot case was sent for by Mr. Lane.)

Q I press the question, whether or not, by refreshing your recollection by this paper, dated the 13th day of May, 1914, you can tell me whether you did, in fact, as Referee, approve the bond of the Trustee?

Mr. Bentley. I object, on the ground that it is not the best evidence.

Mr. Lane. It is the evidence of the man who did it.

The Vice Chancellor. Well, may the original records be produced from Trenton in this Court?

The Witness. They certainly can be.

George R. Beach, cross.

The Vice Chancellor. Then I will sustain the objection.

Cross examination by Mr. Bentley.

Q Mr. Beach, as to these three claims which you have said were allowed, they were filed by the respective parties, were they not in your court? A They were.

Q Did you see them at the time they were filed? A I did.

Q Did you make an examination of them? A I did.

Q Did you make the entry of these claims in this Loose Leaf Case No. 290? A I did not.

Q It was made under your supervision? A It was.

Q After you looked at these claims, what did you do with them?

Mr. Lane. I object to that, as impeaching or attempting to impeach the record and what has been done by a court of general jurisdiction.

Mr. Bentley. He says that he allowed them.

The Vice Chancellor. He said the claims were allowed.

Mr. Bentley. I want to show how they were allowed.

Mr. Lane. Then you are going into the jurisdiction of what has been done in the United States District Court.

The Vice Chancellor. I think I will sustain the objection. It speaks for itself.

Q Did you ever make any order, Mr. Beach, in the Bankruptcy Court of the United States

for the District of New Jersey, allowing these claims? A It is unnecessary.

Q Will not you answer my question, then? A I did not make one, because it is not necessary.

Q And the only thing that was done under your inspection was to make this entry in this loose leaf ledger? A No, they were stamped filed.

Q They were stamped filed? A With the official stamp.

Q And with also the stamp "D" with a ring around it? A That is not done until they are entered here in this loose leaf docket.

Q And that "D" with the ring around it indicates that they were entered in the docket? A It does.

Q (*By Mr. Lane.*) Was there testimony taken before you, as referee? A In this case there was.

Q I show you a typewritten transcript and ask you whether you were present at the time the testimony was taken included in that transcript? A I was present.

Q And those are the witnesses, Louis Rayot, Barney Hermes, Margaret Rayot and Aimee Gousset—did you swear the witnesses? A I did.

Q Have you examined that transcript? A Why, I haven't examined it until just recently, when I was subpoenaed in this case. Of course I remembered it at the time, but that is almost a year now.

Q Did you examine the transcript, after it had been transcribed, a short time after the testimony was taken? A Do you mean had I read that over?

Q Yes. A I usually do, yes.

Q Did you in this case? A I think I did, yes.

Q Could you tell whether that is a correct transcript of the testimony as given before you? A Well, of course, Mr. Lane, I remember generally about this case, and I remember the principal features in it, and the testimony as stated in here sets those forth. With the tremendous amount of testimony I have taken before me it would be impossible to remember every word—a physical impossibility.

Q Is that a filed record? A That is a filed record, yes.

Q Now, I show you—

The Vice-Chancellor. Aren't you going to have that marked for identification (referring to the typewritten transcript of stenographer's notes just shown the witness)?

Mr. Lane. I ask that that be marked for identification.

The Witness. Well, now, your Honor, if it is not absolutely necessary, or if there is a small mark on it, because those all have to be filed in Trenton, every one of them, and they have to be marked again, and there seems to be a great objection to having other courts' marks on them. If you will just make a little mark inside there that will do nicely.

(The transcript was thereupon marked for identification G. R. B. 1.)

Q When you have finished with this case, all of the papers, including this testimony (G. R. B. 1) is filed among the files in Trenton, is it not? A Filed in the Clerk's Office, yes.

George R. Beach, cross.

Q I show you a book called "Bankruptcy Docket" and refer to page 290—is this a book required to be kept, under the Bankrupt Act, by the Referee? A It is. It is specially prepared, by the rules of the District Court.

Mr. Lane. I offer in evidence as a record, page 290, and the statements contained on page 290, in the matter of Louis Rayot.

By Mr. Bentley.

Q Who made the entries in there—one of your clerks? A One of the clerks, yes.

Mr. Bentley. I object to the offer, on the ground that it is immaterial and irrelevant.

The Vice Chancellor. It is a public record, and the presumption is that all public records are properly kept.

Mr. Bentley. I have not said anything against the keeping of the record.

The Vice-Chancellor. I will overrule the objection.

Mr. Lane. May I read into the record just what there is on there?

The Vice-Chancellor. Why not just make a copy of it?

The Witness. Do you want the whole record?

The Vice-Chancellor. Yes. Suppose you just have a copy made of that sheet and then that can be marked as Exhibit C. 2.

The Witness. You just want a record of the proceedings?

Mr. Lane. Yes. We don't care anything about this (indicating a certain portion of the entries not specified to the stenographer.)

George R. Beach, cross.

The Vice-Chancellor. Well, it might be well, as the whole sheet is important, to just copy the whole thing.

The Witness. All right; we will make an exact copy.

Further cross examination by Mr. Bentley.

Q This page 290 from your Bankruptcy Docket is supposed to contain the proceedings in this case, is it not? A Yes.

Q And everything which is done? A Everything that is done here in Jersey City. Of course, there is another docket in Trenton that corresponds with this, exactly.

Q And they copy what you send forward in Trenton? A They do. There are two records kept.

Q Now, it is impossible for you to say, Mr. Beach, is it not, that you were present when all of this testimony was taken contained in G. R. B. 1? A I think it is not impossible. My recollection is that I watched that case very closely.

Q Your best judgment is that you were present at all times? A At all times; but I might have slipped out of the room for a minute, or something of that kind. But, as I am here today, I remember these witnesses.

Q Oh, there is no doubt you swore them and saw them at the time, and that you recognize their faces? A I haven't looked at it (referring at the stenographic transcript G. R. B. 1) until a few days ago, as I say, but I remember very distinctly the whole matter.

Q And the testimony was taken stenographically? A It certainly was.

Q And it was not taken by you? A It was not.

Q And it was not transcribed by you? A It was not.

Q And you cannot say whether or not the testimony contained in that book contains the true questions and answers propounded to and given by the witnesses? A Do you mean each particular one?

A Of course I cannot; that is not a physical possibility.

Mr. Lane. That is all. (To the witness.) Will you send up the two stenographers who took that testimony, with their original notes, if they can find them?

The Witness. Well, you can imagine what a job that is going to be, if it is going to be insisted upon.

The Vice-Chancellor. Well, counsel ought to come prepared to try their case.

The Witness. We will do it, of course, if it is possible.

Mr. Lane. You had better leave that testimony here, and the claims. Mr. Bentley, do you insist on getting the original stenographic notes?

Mr. Bentley. You are trying your case, Mr. Lane.

Mr. Lane. (To Mr. Beach.) You need not send up the stenographic notes if you cannot find them right away; just send the stenographers.

The Witness. Well, we can find the notes; it only makes a great amount of trouble; but if it is insisted upon I guess I can get them.

MISS MINNIE RINGGER, recalled.

Direct examination resumed by Mr. Higgins.

Q These are the books of Jacob Ringger & Co. (referring to a number of account books now before the witness)? A Of Jacob Ringger & Co., and also of Ringger & Freiberger.

Q And what became of the firm of Ringger & Freiberger? A The firm has dissolved partnership, and Mr. Freiberger turned his interest over to Mr. Ringger.

Q And have you an assignment, or some paper evidencing that? A I have, yes (paper produced and handed the witness who inspected it and returned it to examining counsel).

Q That is the paper? A That is the paper, yes.

Mr. Higgins. I offer in evidence assignment of book accounts and all obligations of the firm of Ringger & Freiberger, which was composed of Jacob Ringger and Jacob Freiberger, to Jacob Ringger, as attorney, for collection of the same; and ask that it be marked as the next exhibit.

(The paper is admitted without objection, and is marked Exhibit C. 3.)

Q Now, I show you notes, one for $2,200, dated May 27, 1913, payable to the order of Jacob Ringger & Co., at four months after date, at the Highland Trust Company, West Hoboken, N. J., and ask you if you know who signed that note? A Mr. Rayot has signed it.

Q Do you know that to be Mr. Rayot's signature? A I do, yes.

Q Was the note signed in your presence? A Yes.

Mr. Higgins. I offer the note in evidence.

Mr. Bentley. I object to it, on the ground that it is immaterial.

The Vice-Chancellor. The objection will be overruled.

(The note is admitted and marked Exhibit C. 4.)

Q I show you a note dated May 27th, 1913, payable four months after date, to the order of Jacob Ringger & Co. for $2,200, payable at the Hudson Trust Company, West Hoboken, N. J., and ask you who signed that note? A Mr. Rayot signed it.

Q In your presence? A Yes, sir.

Mr. Higgins. I offer that note in evidence.

Mr. Bentley. Same objection. It is immaterial and irrelevant.

The Vice-Chancellor. The objection will be overruled.

(The note is admitted and marked Exhibit C. 5.)

Q I show you a note dated May 27, 1913, for $2,200, payable four months after date, to the order of Jacob Ringger & Co., at the Hudson Trust Company, West Hoboken, N. J., and ask you who signed that note? A Mr. Rayot has signed it.

Q In your presence? A Yes, sir.

Mr. Higgins. I offer that note in evidence.

Mr. Bentley. If you have the bank stamp on it, you ought to include that, ought you not?

Minnie Ringger, direct.

The Vice Chancellor. The note, with all its markings, goes in.

Mr. Bentley. I object to the offer, on the ground that it is immaterial and irrelevant.

The Vice Chancellor. The objection will be overruled.

(The note is admitted and marked Exhibit C. 6.)

Q Now, when those notes came due (C. 4, C. 5 and C. 6), were they paid by Mr. Rayot? A They were not paid when they became due. He has paid off on the three notes $100, and also the interest, which amounted to $132.

Q Then, did he give you new notes? A He gave us new notes for the difference.

Q For the balance remaining due? A Yes, sir.

By the Vice-Chancellor.

Q That is, the three notes represent the same original indebtedness? A Yes.

Q One is just a renewal of the other? A Well, these three notes are for the whole indebtedness (referring to Exhibits C. 4, C. 5 and C. 6); those three notes were renewed when they became due.

Q I see. Then what is this mark "paid?" A We had to give our check to the bank to take out this note (referring to the particular note specified by the Court) and put in the renewal note.

By Mr. Higgins.

Q I show you note dated November 27, 1913, for $2,175, payable to Jacob Ringger & Company, and ask you who signed that note? A Mr.

Rayot signed it. That is a renewal of one of these three.

Q That is a renewal of one of the former three notes? A Yes.

Q (*By the Vice-Chancellor.*) Has that been paid? A No, this has not been paid.

Q (*By Mr. Higgins.*) Has anything been paid on account of this note? A Nothing at all. Mr. Rayot had disappeared at the time this note became due. We had to take them out from the banks.

Mr. Higgins. I offer that note in evidence.

Mr. Bentley. Objected to, on the ground that it is immaterial and irrelevant.

The Vice-Chancellor. Objection overruled.

(The note is admitted and marked Exhibit C. 7.)

Q I show you a note, dated September 27th, 1913, for $2,150, payable four months after date, to the order of Jacob Ringger & Co., at the Hudson Trust Company, West Hoboken, N. J., and ask you who signed that note? A Mr. Rayot signed it.

Q In your presence? A Yes, sir.

Q And has that note been paid? A No, sir; it has not.

Q And you took it out of the bank? A Yes, sir.

Q And was this a renewal of one of the previous notes? A A renewal of one of these, yes.

Mr. Higgins. I offer it in evidence.

(Same objection. Same ruling.)

The note is admitted and marked Exhibit C. 8.)

Minnie Ringger, direct.

Q I show you a note, dated September 27, 1913, for $2,175, payable four months after date, to the order of Jacob Ringger & Co., at the Hudson Trust Company, West Hoboken, N. J., and ask you who signed that note? A Mr. Rayot has signed it.

Q And has that note been paid? A No, sir.

Q Is that a renewal of one of the previous notes? A It is, yes.

Mr. Higgins. I offer that in evidence. Same objection. Same ruling.)

(The note is admitted and marked Exhibit C. 9.)

Mr. Higgins. I ask you, Mr. Bentley, to produce the original letter sent to Mr. Rayot, asking for a settlement of the account.

The Vice-Chancellor. Are you going to connect these notes with the claim filed in bankruptcy?

Q Those notes (referring to Exhibits C. 4, 5, 6, 7, 8 and 9) are the notes given in settlement of the account of Jacob Ringger against Mr. Rayot?

Mr. Bentley. I object to the question, on the ground that it is most leading.

The Vice-Chancellor. The objection will be sustained.

Mr. Higgins. I think, if we ask Mr. Bentley for that letter, it will show how the notes came into existence, what they were given for, and all about it.

The Vice-Chancellor. Well, perhaps the witness can state.

Mr. Lane. Just ask her how those notes happened to be given.

Mr. Higgins. Well, it would be better for us to get that letter.

Mr. Bentley. What letter do you want?

Mr. Higgins. A letter addressed to Mr. Rayot, from Mr. Ringger, dated May 23, 1913.

Mr. Bentley. We have no such letter in our possession.

Mr. Higgins. Now I ask Mr. Neff to produce the letter book. We have served notice. You admit service of the notice (addressing Mr. Bentley)?

Mr. Bentley. Yes, you served notice.

(Letter press copy book produced by Mr. Neff.)

Q I show you a book marked "Letter Book, No. 2, J. R. & Co." and ask you what that book is? A This is our letter copy book.

Q That is the letter copy book of Jacob Ringger & Co.? A Yes, sir.

Q And I show you a letter on page 199 of that book, and ask you if that is a true copy of the letter you sent to Mr. Rayot on the 23d day of May, 1913? A It is, yes.

Mr. Higgins. I offer that in evidence.

Mr. Bentley. I object, on the ground that the proper foundation has not been laid to introduce the letter.

The Vice-Chancellor. That objection will be sustained. It does not appear that it was ever mailed or received.

Q Do you know, Miss Ringger, when that letter was written up was it signed by anybody? A Certainly it was.

Minnie Ringger, direct.

Q By whom was it signed? A By my father.

Q Then what was done with it after it was signed by your father? A It was put in the mail box by me.

Q Well, was it copied first? A First copied, yes.

Q In this book? A Yes, sir.

Q And then was it mailed? A It was mailed.

Q Who mailed it? A I did.

Q And was it stamped and addressed—did the envelope have a stamp on it? A It certainly did.

Q And was it addressed? A It certainly was.

Q The envelope was addressed? A Yes.

Q Whom was it addressed to? A Mr. Rayot, Greely Avenue, Fairview, N. J.

Q And did you ever receive any reply from Mr. Rayot in reference to that letter? A Yes, we did.

Q What was the nature of the reply? A It was on this here 27th day of May, when he came into our office—

Mr. Bentley. Just a moment. The witness has testified that she received a reply to that letter. I think she ought to produce the reply.

Mr. Higgins. She has produced it in the shape of notes.

By the Vice-Chancellor.

Q What was the character of the reply you received—did you receive a letter, or any other written communication from Mr. Rayot? A

No, he came to the office first to reply to the letter.

By Mr. Higgins.

Q Did he state anything, then, when he was at the office, about the letter? A He said he received our letter.

Q And that is a true copy of the letter (referring to the press copy on page 199 of the Letter Press Copy Book)? A That is.

Mr. Higgins. We offer that letter in evidence.

By Mr. Bentley.

Q Do you remember mailing that letter, Miss Ringger? A Well, I would remember every letter that gets written, I would put in the mail box, going home.

Q You mean that is your habit? A That is my habit.

Q And that is your custom, is it not? A Yes, sir.

Q And you believe that when you wrote this letter to Mr. Rayot that your father signed it—is that correct? A That is correct.

Q And that you then copied it in this book—is that correct? A I haven't copied it.

Q Someone else copied it? A My assistant.

Q Your assistant copied it, and then you think the letter was put in an envelope? A Yes.

Q And that it was stamped? A Yes.

Q And addressed? A Yes.

Q And that you mailed it to Mr. Rayot? A Yes.

Q Now, just from your custom you think you did that, don't you? A I think so, because—

Minnie Ringger, direct.

Q (Interrupting.) You do not remember this specific incident, do you? A You mean that I know that I just put this specific letter in? Well, I may have had more at the time, not only this one.

Q You don't understand me—do you remember the occasion distinctly that you took this letter and dropped it in the letter box? A Well, I don't see how I could have done it any other way.

Q Well, you don't remember it, do you? A I know that he got the letter, because he said he did.

Q That is not the question; I understand the way you feel about it; but you don't remember having that letter in your hand and dropping it in the letter box, do you? A Not exactly to say.

Q Any more than the letter on the other page, 198—you don't remember distinctly dropping that letter, do you, in the box? A Well, I don't see how it could have got in the box any other way.

By the Vice-Chancellor.

Q No, answer the question. You do not specifically recall the fact that you deposited this particular letter in the box? Won't you say so because the letter was written, and it was your general custom to mail them? A Yes.

Mr. Bentley. I object to the offer.

The Vice-Chancellor. The objection will be overruled, because the witness says that Mr. Rayot admitted having received it.

Mr. Lane. I think this letter ought to be read to your Honor, unless your Honor has read it.

The Vice-Chancellor. I have not read it.

Mr. Lane. It is under date of May 23d, 1913, and is as follows:

"West Hoboken, N. J., May 24d, 1913.
Mr. Louis Rayot,
Greely Avenue,
Fairview, N. J.
Dear Sir:-

Looking over your account, we find that you owe us at present about $6600.00. Your contracts started with May, 1904, up to May 1st, 1913, including the extra's on same amount to about.....$17800.00.....
Extra tickets from 1904 up to now for different jobs and repairings about.....$ 2500.00.....

$20300.00.....
Received by cash, one note and one mortgage .....$13655.00.....
.....
.....Balance due about $ 6645.00.....

We will have your bill ready about the first part of July, started from the year 1904.

We would kindly ask you to let us have some cash or notes at your earliest convenience, as we are very short on funds at present.

Hoping that you will not disappoint us, we remain,

Yours truly,
(Signed) JACOB RINGGER & Co."

The Vice-Chancellor. What is the date of the conveyance?

Minnie Ringger, direct.

Mr. Lane. The date of the conveyance is the 26th.

The Vice-Chancellor. And that letter is May 20th?

Mr. Lane. May 23d.

The Witness. May 23d is the date of the letter.

By Mr. Higgins.

Q Now, when Mr. Rayot called at your office, what did he say? A He came into the office (that was on the 27th, in the morning, the date of these notes), and he said that he received our letter and he didn't have any money at the present time, he was very short, he had no cash money on hand, he was tied up, he couldn't sell any real estate, and he was sick, he could not do any work, that the only way he could help us out was by giving us notes for this amount.

Q And then he gave you notes, did he? A Then he gave us notes.

By the Vice Chancellor.

Q What notes did he give? A These notes (the witness refers to the notes Exhibits C. 4, C. 5 and C. 6).

By Mr. Higgins.

Q Did he say anything else about settling the account? A Yes. I said to him he needn't give us notes for the full amount, he should give us notes on account, and then when we have his bill completed he can give us the balance then; but he didn't want to, he said he would rather settle the full amount providing we would accept it as a full settlement; and he wanted the notes made $2,200 each, to settle the entire account.

Minnie Ringger, direct.

Q And did he say anything about the time in which they were to come due? A Yes, we wanted to make these notes three months, but he said we had better make them four, because in four months he thought he would be able to cut them down considerably.

Q Did he say anything more as to how or why, or anything about payment on account? A Because he expected at that time that he would be able to probably sell something, or have some transaction where he would get some money; he expected at the time to have quite some money in four months, when these notes would come due.

Q Do you have in these books a copy of the account of Mr. Rayot? A I certainly have, yes.

Q For which those notes were given to settle? A Do you want me to show it?

Q Yes; turn to Mr. Rayot's account, please. A (The witness complies.)

Q I show you, Miss Ringger, a claim filed in the Bankruptcy Court, in the matter of Louis Rayot, bankrupt, and ask you if that account attached to the proof of claim is a true copy of your books? A Well, should I look it all through?

By the Vice-Chancellor.

Q Well, do you know? Do you know how it was made up? A That is a copy of our account, I can see from the items. Yes, this is our account.

Q That is your account with Louis Rayot? A Yes, sir.

Q And the copy of the notes attached to the front part, the first page of this claim (indicat-

ing) is a true copy of the notes that Louis Rayot gave you to renew the original notes—dated September 27th? A Those are the renewal notes.

Q And those are true copies of the renewal notes? A Yes, they are true copies of the renewal notes (indicating the entries specified by the Court). These were the originals (indicating other entries).

Mr. Higgins. I offer that claim in evidence.

The Vice-Chancellor. Well, hasn't that been offered once?

Mr. Lane. We offer not the claim, we offer the account attached to the claim.

Q What is the balance due, Miss Ringger? A $6,667.92.

Q Have you kept the books of account of Jacob Ringger & Co? A Yes, sir; with an assistant.

Q And who was the assistant? A Mr. Neff.

Q Is Mr. Neff in court? A He is here, yes.

Mr. Higgins. We offer the books in evidence.

Mr. Bentley. May I cross examine the witness a minute? It will probably save time.

The Vice-Chancellor. Certainly.

By Mr. Bentley.

Q This account shows that Mr. Rayot did $19,999.92 worth of business with you, does it not? A No, I guess not, because these notes have been charged up twice after they have been renewed, and the amount had been added together.

Q When did the account start? A You will have to get the old ledgers to show.

Q Cannot you tell me about when? A About 1904, was the beginning of the account.

Q Now, when did the account stop being active—that is, when did he stop buying merchandise from you to any extent? A When did he buy the last merchandise from us?

Q No, when did he stop buying merchandise to any large amount from you?

The Vice-Chancellor. Well, that is a question of the opinion of the witness; perhaps she had better state when the last item was bought.

Q I call your attention to the balance sheet of Louis Rayot, No. 3—no merchandise exceeding $25.00 in amount was purchased from you subsequent to the month of July, 1912—is not that correct? A Not exceeding $25.00?

Q Yes. A No.

Q In July, 1912, Mr. Rayot purchased from you $460 worth? A Yes.

Q And in May he purchased $4.01? A Yes.

Q In May another $1.10? A Yes, sir.

Q In April $6.75? A Yes.

Q And in April $25.20? A Yes, sir.

Q And 32 cents, and 16 cents, in April? A Yes.

Q In February $24.50? A Yes, sir.

Q In June, 1911, $1.85? A Yes, sir.

Q Another $1.76 in June? A Yes.

Q In May—

The Vice-Chancellor. Why do you want to copy the account in the record?

Mr. Bentley. I don't.

Q Then, in May, 1911, $405.00? A Yes, sir.

Minnie Ringger, direct.

Q No item over $50.00 until you get back to September, 1910, when he purchased $552 worth? A Yes.

Q In July, 1910, $491.00? A Yes, sir.

Q Then no large amount until you get to April, 1910, when he purchased about $416.05? A Yes, sir.

Q That is correct, is it not? A That is all correct, yes.

Q I call your attention to the month of February, 1910—he purchased $4,657.91, didn't he? A Yes.

Q And in May, 1909, he purchased $346.70, is that right? A Yes.

Q And in September, 1908, he purchased $1,194.00 and $95.41, didn't he? A Yes, but may I say, he purchased this, but he has made payments on it.

Q I am going to come to that in a minute; now, this account contained in this book, that is, this ledger account, starts on January 13th, 1908? A Yes.

Q And it ends up at the period I indicated a moment ago? A Yes.

Q Now, the payments which he made to you were these, weren't they: 1908, February 10, $400.00? A Yes, sir.

Q April, 18—

The Vice-Chancellor. Why go into all of that? The book shows it.

Mr. Bentley. I thought probably your Honor wanted to see it.

The Vice-Chancellor. Oh, no; I can't take the thing as an expert, and examine it.

Mr. Bentley. Well, when it comes to the question of argument I think it will be nec-

essary. Of course this is all going to be copied. I want to have a copy of it.

The Vice-Chancellor. Well, it can be left here so that counsel can have an examination of it.

Mr. Lane. Counsel will be given an opportunity to get all the copies he wants.

Mr. Bentley. All right; that is all I want.

Q Now, Miss Ringger, how long have you been employed by the company? A Nineteen years.

Q You were there in 1904, then? A Oh, yes, certainly.

Q And you saw Mr. Rayot very frequently, didn't you? A Yes.

Q And Mr. Rayot asked you for a bill, didn't he? A Well, he did several times, yes.

Q Didn't he ask you, prior to the time he gave you these notes, for a bill of his account, on several occasions? A. No, the bill that he asked—

The Vice-Chancellor. (To counsel for complainant.) Well, are you through, gentlemen?

Mr. Higgins. No, I am not through.

Mr. Bentley. Oh, I beg your pardon.

Mr. Higgins. You asked for permission to ask some questions on this book.

Mr. Bentley. Yes, you are right.

The Vice-Chancellor. Produce your books, and have them marked.

Mr. Bentley. I object to these books, on the ground that the books cannot be evidential as to the amount due from the bankrupt to the Ringger Company, which is represent-

ed by the Trustee in Bankruptcy, for the reason that the claim is the only proper evidence of the amount due, and that that claim, not having been allowed—

The Vice-Chancellor. He is not offering, as I understand, the books for the purpose of showing the amount due, but for the purpose of showing the history and origin of the transaction.

Mr. Bentley. It is probably evidential on on that ground.

The Vice-Chancellor. The claim itself establishes the amount due.

Mr. Higgins. We offer in evidence Cutrent Ledger, No. 1, of Jacob Ringger & Co., showing the account of Louis Rayot.

Mr. Lane. Does that show the whole account?

Mr. Higgins. No, that starts from 1908. We also offer Ledger No. 4, showing the account of Ringger & Freiberger against Louis Rayot; and Ledger No. 5, showing the account of Ringger & Freiberger against Louis Rayot; and Cash Book No. 3, of Ringger & Freiberger, showing account of Louis Rayot; Contract Book No. 6 of Ringger & Freiberger, showing the account of Louis Rayot; Contract Book No. 7 of Ringger & Freiberger, showing the account of Louis Rayot; Contract Book No. 1, showing account of Jacob Ringger & Company with Louis Rayot; and Contract Book No. 2 of Ringger & Co., snowing the account of Louis Rayot; also Note Book, showing the record of notes of Jacob Ringger & Co., starting February, 1910; and the

Note Book of Ringger & Freiberger, starting in 1904.

Q Now, Miss Ringger, on the 27th day of May, 1913, when you received the notes from Mr. Rayot, did you see Mr. Rayot after that time? A We seen him when he renewed these notes.

Q When was that? A Four months after.

Q On September 27th? A Yes.

Q When the notes were given to you on September 27th how long were they to run? A Four months.

Q When those notes became due did you see Mr. Rayot? A Yes, he came to the office.

Q When the renewal notes became due? A Oh, no; then he didn't show up.

Q Did you try to get into communication with him? A We certainly tried all we possibly could to get hold of him.

Q What efforts did you make to get into communication with Mr. Rayot at that time? A We had been calling him up to see if we couldn't get him, by the telephone in his house, at first.

Q Was he at the house? A He wasn't at the house; he couldn't be found anywhere.

Mr. Bentley. I object to the last part of that answer, if your Honor please; she says he "couldn't be found anywhere."

The Vice-Chancellor. That will be stricken out.

Q Did you send somebody to his house? A Yes, we sent two persons there.

Q Who did you send? A My nephew and Mr. Turck.

Q Did you go there yourself? A No, sir.

Minnie Ringger, cross.

Q How long was it after the renewal notes came due that you saw Mr. Rayot again? A I haven't seen him no more since the renewal notes have come due.

Q Until this morning? A Until this morning.

Q Did you write to him to call at your office? A Not since.

Mr. Higgins. None of these books have been marked.

The Vice-Chancellor. I think they have: sufficient identification, when you refer to them by the numbers of the books.

Q When Mr. Rayot offered to you the original notes dated May 27th, 1913, did he say anything about his Fairview property? A Why, he said he couldn't sell it; that is why he couldn't give us any money, that he has not got any cash money at all.

Q Did he say anything about his property when he renewed them, four months later? A Why, he gave the same story; he said he was too tied up, he couldn't dispose of any of his property, it was pretty hard to sell anything, and that was the reason he couldn't pay off more than twenty-five dollars on the two notes, and fifty on the other.

By the Vice-Chancellor.

Q And the interest? A And the interest.

Cross examination by Mr. Bentley.

Q Now, Miss Ringger, going back to where I was questioning you when Mr. Higgins took up your direct examination—did not Mr. Rayot, on a number of occasions, ask you for a bill of what he owed? A He had asked for a cer-

tain bill of a party by the name of Miss Snyder—a separate bill for that account.

Q Will you please answer my question—didn't he, on several occasions prior to May 27th, 1913, ask you for a bill of his entire account? A Not of the entire account; no, sir.

Q And didn't you promise to give it to him? A I have promised to give it to him for what he has asked me—for several jobs.

Q Have you ever, to the present day, mailed or given to Mr. Rayot a copy of his account with Ringger & Company? A No, we have not.

Q Why not? A Because when he has given us these notes of $2,200 each he didn't want it, he says it was not necessary to give him a bill—providing we was satisfied to accept the settlement of the $6,600 he didn't require any.

Q Now, he started doing business with you in 1904? A Yes.

Q And up to the time that he gave you these notes in 1913 you never gave him a bill of his account, did you? A Of different accounts, we did.

Q Of all his entire account, showing the balance? A Not of the entire account, no.

Q You know that Mr. Rayot had considerable property, don't you, at one time? A We did, yes.

Q And you knew that he had a nice looking automobile? A Yes.

Q You knew that he owned property on Angelique street, didn't you? A Yes.

Q And you knew that he owned several other pieces of property? A The last we knew he owned—

Q You knew he owned several others beside the Angelique and Fairview properties? A We always did, yes.

Q Prior to 1913? A Yes.

Q Don't you know, as a matter of fact, that on more than three occasions prior to 1913, Mr. Rayot went to you and asked you for a bill of his entire account, and said that if you would send him a bill he would give you a check for what he owed you? A No, he didn't say anything like that.

Q He never said anything of the kind? A No.

Q He never offered to pay you, did he? A We asked him for notes several times, but he says, "What is the use of giving notes, I can't pay them with my property."

Q Well, if you asked him for notes several times and he would not give them to you why did you write him in May, 1913? A Why, we asked him for notes again. First we asked him for cash, and in case he had no cash he should give us a note.

Q But a moment ago you said that you had asked Mr. Rayot for notes a number of times prior to May, 1913, didn't you? A Yes.

Q And you said he refused to give you any notes—is that correct? A At one time he gave us notes.

Q One time—but the other times he refused? A Yes.

Q Well, then, he had been refusing to give you notes; why did you write him again in May and ask him to give you a note? A Well, we asked him for both—either check or notes.

Q How? A With that letter.

Q In that letter? A Yes.

Q And that is what you asked him for in that letter? A Yes.

Q And did you think he was going to give them to you when he had refused before? A Why, we expected he would give us some money, some cash money.

Q You had kept track of Mr. Rayot's financial condition, more or less, hadn't you? A I have, yes.

Q And what property he owned? A Yes.

Q And what he sold? A I haven't kept track of what he sold.

Q Well, you knew that his business was that of a contractor, didn't you? A Yes, sir.

Q Erecting houses—you knew that? A It was building speculations, yes.

Q And he would sell them as soon after they were completed? A Sometimes he sold them quick; sometimes he had them longer.

Q And you knew, generally, what he sold and what he did not sell, didn't you? A I didn't know it.

Q Well, your father did? A We didn't make any searches.

Q But you kept track of it, didn't you, by the newspapers, or otherwise? A No, we didn't pay any attention to it.

Q You didn't? A No, sir.

Q Now, you say, on May 27th, when he gave the first series of notes, that he spoke of the Fairview property? A Yes.

Q What did he say? A Why, he said he couldn't sell any of the property; times were so bad he couldn't sell any of it.

Q Is that all he said? A And that is why he couldn't give us any cash money.

Q Didn't he tell you, at that time, he had sold it? A He did not.

Q What did he say about the property in September? A He said the same thing; he said that he had no money yet, that he couldn't dispose of any property, and that was the reason why he couldn't pay off any more.

Q You knew that he had sold it when September came around, didn't you? A We did not know.

Q You did not? A No.

Q Do you know whether your father knew it? A He didn't know it, either.

Q Didn't know it, to your knowledge? A No.

Q When the notes came due, and they were not renewed, you simply called Mr. Rayot up on the 'phone? A You mean the first time—the first time when the notes became due?

Q No, this last time, when they were not paid. A We had been waiting for him until about noontime, and then he didn't show up, and we tried to call him up on the 'phone.

Q And you couldn't reach him? A We could not get him.

Q And you didn't know where he was, of course? A No.

RAYMOND P. WORTENDYKE, Esq., sworn.

Direct examination by Mr. Lane.

Q You are the trustee in bankruptcy in this Rayot matter? A Yes, sir.

Q Have you any assets come to your hands? A I have not.

Q Have you endeavored to ascertain whether there were any assets or not? A Through my solicitor, I have.

Q And did you discover any? A I have not discovered any.

Q Did you have the witnesses examined before the Referee in Bankruptcy, for the purpose of discovering the assets? A Yes, sir.

Q Did that result in anything? A No.

Cross examination by Mr. Bentley.

Q Mr. Wortendyke, you and Mr. Higgins occupy adjoining offices? A Yes, sir.

Q He has taken entire charge of this matter, has he not, for you? A Largely so.

Q And he has done what he saw fit, without conference with you, has he not? A I cannot say that.

Q Did he tell you that he was going to have an examination of the witnesses before the referee? A Yes, sir.

Q You did not tell him to do so, did you? A We had some consultation about it.

Q He did it on his own initiative? A I don't say that.

Q Then all you know is that you personally have not been able to discover any assets belonging to Mr. Rayot—is that correct? A Yes.

Q You have not made any investigation or search, have you? A I have stated that what investigation were made were made by my solicitor.

Q Well, you have not made any yourself? A Not personally; no, sir.

The Vice-Chancellor. Well, is it disputed that there is no property? The bankruptcy petition shows very little assets.

Mr. Bentley. That is all.

BEATRICE I. GOLL, sworn.

Direct examination by Mr. Lane.

Q You are a stenographer? A I am.

Q And employed by George R. Beach, Referee in Bankruptcy? A Yes, sir.

Q As stenographer, did you take certain testimony before Mr. Beach in the matter of Louis Rayot? A I did.

Q Of the testimony contained in this volume, which has been marked for identification G. R. B. 1, what part of it did you take? A I took from page 1—

Mr. Bentley. You mean, what part did she transcribe?

Mr. Lane. "What part did you take stenographically"?

Mr. Bentley. That is right.

A From page 1 to page 23, inclusive.

Q And that includes the testimony of Louis Rayot? A Yes, sir.

Q After that was taken by you stenographically, did you transcribe it? A I did.

Q Is this volume (G. R. B. 1) the result of your transcription? A Yes, sir.

Q From page 1 to page 23, inclusive? A Yes.

Q When you had transcribed it did you read it over? A I did, yes.

Q Was it, or was it not, correct, as to what was said? A It was.

Q Can you, at this time, without reference to this book, tell us what Mr. Rayot said? A No, I could not; without reference to the book, I couldn't.

Beatrice I. Goll, cross.

Q Without reference to this book, can you tell us what Mr. Louis Rayot said? A By refreshing my recollection, I could.

Q Well, you could by reading it? A Yes, I could remember it by reading it.

Q Your recollection, however, would be based entirely upon what you saw there, wouldn't it? You would not have any independent recollection, would you? A No, I wouldn't.

Q It would be based on what you saw there? A Yes.

Q And you were satisfied, at the time this was transcribed, that it was correct? A Yes.

Mr. Lane. I offer pages 1 to 23, both inclusive—the testimony of Louis Rayot.

Mr. Bentley. May I cross examine the witness?

The Vice-Chancellor. Oh, yes.

Cross examination by Mr. Bentley.

Q Miss Goll, you were present, as the official stenographer of the Referee in Bankruptcy, at the time Mr. Rayot was examined? A I was.

Q And you took down to the best of your ability the questions and answers propounded? A I did.

Q And the answers which were given—and you transcribed those, to the best of your ability? A I did.

Q After you transcribed those stenographic notes, what did you do with the notes? A Why, we keep our notes in the office.

Q And you still have your notes there? A Why, they are somewhere in the office.

Q What did you do with the testimony which you had transcribed from your notes? A Why,

that is the testimony (referring to the book of typewritten testimony, G. R. B. 1).

Q This is it? A Yes.

Q Well, after you had transcribed it what did you do with it? A After it was transcribed it was filed in the papers, in the Rayot papers.

By the Vice-Chancellor.

Q You turned it over to Mr. Beach? A Yes.

Q (*By Mr. Bentley.*) So that you won't misunderstand me—you transcribed it on the typewriter machine, sheet by sheet, and, we will say, you completed your twenty-four sheets, or twenty-three sheets—then what did you do with those twenty-three sheets, if anything? A Well, then, they were bound together and filed with the rest of the papers.

Q You did not read them over again? A Why, I always read them over after I write them.

Q That is, you read them to see if you have made any mistake in the typewriting, or dictation, or anything of that kind? A Yes.

Q Or if you have misspelled a word? A Yes.

Q And that is all you do, is it? A Yes.

The Vice-Chancellor. That is not quite fair, is it, because, if a line is omitted and it does not make sense, in such a case, then, you refer to your notes?

The Witness. Oh, then I have to refer back to the notes.

Q In other words, Miss Goll, so as to make it perfectly fair (and I want to be fair), you do not compare this (G. R. B. 1) with your

stenographic notes after you have written it? A Not if it makes sense.

Q If you find a place that doesn't make sense, why, then, you turn to your stenographic notes and make the correction? A Yes.

Q And whose handwriting is this on page 4, where the work "things" has a lead pencil mark run through it, and "needs" is written after it? A That is not mine.

Q That is not your handwriting? A No.

Q And also the same thing happening a little further up, on page 4, where the word "things" has been scratched out with a lead pencil mark—that is correct, is it not? A Yes.

Q And the word "needs" written after it—that is not in your handwriting?

Mr. Lane. Just a minute; that is unfair.

Mr. Bentley. Do you mean it is not scratched out?

Mr. Lane. It is not scratched out, it is a notation in lead pencil there, with "needs," written with a question mark after it. There is no change made in the transcript at all.

Q I will try to put it more plainly: There appears this question: "Q Well, approximately, how much of that three thousand dollars did you use for your own personal things"—now, a lead pencil is run through the word "things," is it not? A Yes.

Q And also through the interrogation point? A Yes.

Q And after that, the word, in lead pencil, "needs," is written, is it not? A Yes.

Q Did you scratch out the word "things," as I have indicated, or write the word "needs?" A No.

Beatrice I. Goll, cross.

Q Then further on is this question: "Q Would you say you used at least one-half of that for your personal things?" Now, the word "things" and the interrogation point have a line run through them, have they not? A Yes.

Q And after that is the word "needs," with an interrogation point, both in lead pencil—that is correct? A Yes.

Q Did you write the word "needs," or make the interrogation point? A No.

Q So that, to tell whether this testimony contained on pages 1 to 23, inclusive, truly stated the questions and answers propounded to the witnesses in the proceedings that were held, you would have to refer to your stenographic notes, would you not? A Well, these were a true copy at the time I wrote them.

Q As far as you know? A So far as I know.

By Mr. Lane.

Q Well, you knew, did you not? A Yes, I knew at the time.

Mr. Bentley. I now object to the offer, upon the ground, first, that it does not appear that this evidence is material or relevant at this time; secondly, upon the ground that it does not appear that it is the best evidence—the best evidence being the stenographic notes of the person who took the testimony and the proceedings.

Mr. Lane. This testimony is offered, if your Honor please, under a direct ruling of the Court of Appeals, in a case (the name of which has now escaped me) where it was held that where a witness (he doesn't even have to have a memorandum made by him-

self) can testify that at the time the memorandum was made it correctly stated the facts, he could not refresh his recollection about it, but only could say that it was correct at the time it was made—that that goes in evidence. It was used before Vice-Chancellor Garrison in the case of the Second National Bank *v.* Hogencamp, and the vice-chancellor there admitted testimony similar to this.

The Vice-Chancellor. Do you mean to say that if the witness has got an original record, that a copy made from that, transcribed into longhand, is evidence, without producing here original notes for cross examination on them, even if the notes can be produced?

Mr. Lane. Yes—upon the ground that we are producing not a record, we are now producing this witness to testify what she heard this witness, Louis Rayot, say. Now, she cannot tell us what she heard him say, but she does tell us that she has a piece of paper here, that she made that piece of paper, and that she knows, at the time that piece of paper was made (which was near the time that he testified) that that correctly indicated what he testified to. Now, it does not make any difference—it is not offered as a record, it is merely offered as "canned evidence," as Vice-Chancellor Garrison put it; and there is a direct authority for that in the case that I have referred to.

Mr. Bentley. If your Honor please, there has been no suggestion by the witness as to when this testimony was transcribed. We don't know when it was.

Mr. Lane. Well, I will clear that up.

John J. Neff, direct.

By Mr. Lane.

Q Within what space of time, Miss Goll, was that testimony transcribed? A Within a week.

Q (*By Mr. Bentley.*) And, of course, you relied entirely on your stenographic notes in transcribing? A Certainly.

Q And have you those notes? A Yes.

The Vice-Chancellor. As a matter of fact, that is not the purpose. The production of the stenographic notes would be merely formal, because she undoubtedly transcribed her notes correctly; but counsel has the right to object to the want of the technical proof, and if he is right in his contention he has the right to have this testimony excluded.

Mr. Bentley. Will your Honor do this—will you hold that over, subject to Mr. Lane convincing your honor that he is right? It seems to me that the duty ought to devolve upon him to prove that he is right in his assertion.

Mr. Lane. Mr. Bentley is as familiar with the case, I think, as I am.

Mr. Bentley. I am not familiar with it.

The Vice-Chancellor. Well, counsel can get the case during recess and renew the motion after recess. I will therefore hold the question over until two o'clock.

JOHN J. NEFF, sworn.

Direct examination by Mr. Higgins.

Q Mr. Neff, you are employed where? A With Jacob Ringger & Co., as assistant bookkeeper.

Q During the course of your employment did you become acquainted with Mr. Rayot? A Yes, I know him since 1904.

Q Were you present at a conversation between Mr. Rayot and Miss Ringger on the 27th day of May, 1913? A Yes, I was there.

Q What was the nature of that conversation? A Mr. Rayot came in our office about between ten and half-past ten in the morning; and he came in and said, "I received your letter, but I cannot give you any money;" so we said "what is the matter, Louis?" (I always called him by his first name); and he says, "I am all tied up; I haven't got any cash, and I can't do a damn thing with my property"—that is the very words he used—"and I am not working." So Miss Ringger told him, "Why, we will accept notes, if you haven't got any cash, Mr. Rayot." He said, "All right, then." He said to me, "Make out three notes." I made out the three notes myself, and he signed them.

Q Are those the notes, Exhibits C. 4, C. 5 and C. 6? They are in your handwriting. A That is my handwriting; and that is the signature of Mr. Rayot. Mr. Rayot signed them in my presence.

Q What did he say when he gave you these notes? A I was going to make the notes out at three months; I said "I am going to make them three months;" he said "No, make them four." I said "Why?" He says "Why, in four months I may be able to cut off a whole slice of them, and in three months I couldn't do it." I said then I would, and I made them out in four. He wanted them that way.

Q Did he say anything about selling property? A No, he said in the office he couldn't

do anything with the property, that the property was all tied up, and he could not dispose of the property, and that is why he had no cash.

Q Did you know where he was living at that time? A Yes.

Q Where was he living? A He was living in Greeley Avenue, in Fairview.

Q In a house that he had built? A In a house that he had built, yes.

Q And do you know where he lives to-day? A Now I do, yes.

Q Where does he live? A He lives in the same place, as far as I know. I haven't been there for the last year or so.

Q Do you recall seeing Louis Rayot on the 27th of September, 1913, when he gave renewal notes for the notes marked Exhibits C. 4, C. 5 and C. 6? A Yes, I was there myself. I made out those notes, too.

Q You made out the notes marked Exhibit C. 7, C. 8 and C. 9? A Yes. He came in and wanted to renew the notes and pay $25 on each one. I said to him "Louis, we can do that in the Commonwealth Trust Company, and in the Hudson, but we cannot do it at the Peoples Bank because Mr. Foreman will not accept them." I told him that.

Q Why was it necessary to refer to these different banks? A Because the Commonwealth will do it, but the Peoples is very particular.

Q I know, but did you have a note in each bank? A Yes, we had a note in each bank.

Q And you told him that you did not think you would be able to discount it at the Peoples? A At the Peoples, on $25—yes.

Q That is, you had an original note in the Hudson Trust Company— A Commonwealth, Hudson and Peoples.

Mr. Bentley. Not quite so leading, Mr. Higgins, please.

Mr. Higgins. Well, he has already testified to this.

Q When the new notes were given, what was said about taking the new notes with a payment on account? A Well, then he came in and said he wanted to pay $25 on account, and I told him—

Q That is, say it clearly—was it $25 on all three notes, or $25 on each note? A No, it was $25 on each note, and I called up Mr. Foreman of the Peoples Safe Deposit and Trust Company.

Q Mr. Rayot was there at the time, was he? A Mr. Rayot was there at the time.

By the Vice-Chancellor.

Q As the result of that conversation, what did you say to Mr. Rayot? A Then I called up Mr. Foreman, your honor.

Q Then what did you say to Mr. Rayot? A I told him to wait, I would call up the Peoples Bank and see whether they would accept $25, and he was there while I called up Mr. Foreman, and I told him Mr. Rayot was at our office ready to give us a renewal for $25 less; and he said "No, he wouldn't accept that, nothing else but $50 and I told Mr. Rayot that the Peoples would not do it. Then he said "Well, I suppose I will have to do it," he says, "but I am short," he says to me.

Q (*By Mr. Higgins.*) Then he made the new note? A He made a new note for $50 less in

the Peoples, and $25 in the Commonwealth and Hudson Trust.

Q So, in the other two he just reduced them $25 and gave a new note, and on the note you discounted in the Peoples he had to pay off $50? A Yes.

Q And a new note for the balance? A Yes.

Q Then, when the renewal notes came due, did you see Mr. Ryot? A Well, no, I haven't seen Mr. Rayot at all since the notes came due.

Q When the notes came due on January 27th, 1914, did you try and get into communication with Mr. Rayot? A Well, we waited until about half-past eleven. We expected him all morning, because he had to renew the notes. Then, when he did not appear until half-past eleven, we called up his house—I called up myself—and Mrs. Rayot told me that he was not home; then we called up again about two o'clock in the afternoon, and again at three; I don't know how many times I called up.

Q Did you go over to the house? A I did, yes.

Q When did you go over to Mr. Rayot's house? A I went the following morning, at seven o'clock.

Q And did you see him? A I seen Mrs. Rayot, but I did not see Mr. Rayot.

Q Did you inquire whether he had been home? A I did, yes.

Q And did you call again at Mr. Rayot's house? A No, I called up on the telephone; but then finally Mrs. Rayot told me not to bother her no more.

Q When did you see Mr. Rayot after that time? A I haven't seen him since.

John J. Neff, cross.

Q Until this morning? A Until this morning.

Cross examination by Mr. Bentley.

Q Mr. Neff, you are Miss Ringger's assistant? A I am.

Q Did you know Mr. Rayot pretty well? A I know him since 1904.

Q Knew him well enough to call him by his first name? A I did, yes.

Q And he called you by your first name? A Yes.

Q You kept track of his financial condition, didn't you, more or less? A No, I never went after him.

Q You knew what he owned? A Well, I knew he had some property.

Q You knew when he sold it? A No, if I had to do that I would be too busy to do it.

Q You knew the Angelique street property, didn't you? A I knew he had some up in Angelique street, but I didn't know exactly what.

Q You knew he had some other property? A I knew he had some other property.

Q Eight or nine pieces? A That I don't know.

Q You knew he had a nice big automobile? A I knew that. He was often at our place with it.

Q A Packard car? A A Packard car.

Q The day that these notes were given—the first notes—who were in the office? A Miss Ringger and I.

Q Anybody else? A No, nobody else. I believe Mr. Ringger came in while he was there; but when Mr. Rayot came in there was nobody

there but Miss Ringger and I; but Mr. Ringger came there afterwards, while he was there.

Q Then you three fixed this matter up? A Well, there was nothing to fix up; I wrote the notes out because he told me to make them out.

Q Then you three men fixed it up, that he was to give these notes? A Well, he couldn't—

The Vice-Chancellor. Well, answer the question.

A I wrote out the notes myself.

Q And Mr. Rayot signed them? A Yes, Mr. Rayot signed them.

Q Who did the talking to Mr. Rayot? A Miss Ringger and I.

Q Both? A Both.

Q What did Mr. Rayot say about being short of money; if anything? A Well, he said he couldn't dispose of his property, he was so darn short, he told me—I am sorry to say—but those were the very words he said—I remember it well—that he was so darn short, he couldn't do anything with his property, he was all tied up, that he had no cash, he would give his notes.

Q Did he refer to what property? A Why, at Fairview.

Q Did he say "Fairview?" A He did.

Q You remember that property was owned by Mr. and Mrs. Rayot together, don't you? A No, I never knew that; I don't know it to-day.

Q You don't know that? A I was always under the impression that Mr. Rayot owned it.

Q When the notes came due did you have a conversation? A We had.

Q He came in again just about that date? A The same time, four months after, exactly; and I believe I have already said he could not

renew any more than $25—that is, he wanted to renew in each bank.

Q And weren't you a little suspicious of the fact that he could not pay more than $25 on those notes? A No, he said he was still so tied up. I said "What is the matter? Can't you pay any more? The banks don't like it." He says, "I am sorry; I am all tied up; I haven't got any cash, what am I going to do?" He said he couldn't do it; and I told him I would have to call up the Peoples.

Q Well, that is all he said about not having the money? A He said he was all tied up, he couldn't do anything with his property yet.

Q What property? A I understood always it was Fairview.

Q What words did he say? A He said "I am so darned short; I am tied up; I am sick," he said, "and I haven't got no work; I am sick, and I still can't get rid of that property, I can't do nothing with it."

Q What property did he say, or mention it? A Well, I won't exactly say that, but I was under the impression it was the Fairview property.

Q Now, who had immediate charge of the books of the Ringger Company? A Well, Miss Ringger is the chief bookkeeper; I am her assistant.

Q Mr. Rayot talked to you about his account, didn't he? A Well, sometimes he did, yes.

Q And he asked you for a bill of his account, didn't he? A Well, he did for some odd jobs; he had a job there and a job here, and he used to ask me for those.

John J. Neff, cross.

Q Didn't he ask you, on more than one occasion, to give him a full bill of all he owed you? A No, he never did.

Q Did you ever make a bill to him? A I did make a bill, but not what you call a "full bill."

Q Between 1904 and the present date? A No, sir.

Q Why not? A He never asked for it. I told him—

Q Never mind. Is it not your custom to render bills to people who do business with you? A It is, sir.

Q Why didn't you render them to him? A Because he is what you call a contractor, and he had what you call a running account, right along; he had jobs right along, and he had paid off from time to time.

Q And, still, don't you think you ought to have sent him statements the first of every month, showing how much he owed? A He knew, more or less, how much he owed.

Q No, answer the question (question repeated). A Well, we didn't do that.

Q Well, don't you think you ought to have done it? A No, he knew what he owed.

By the Vice-Chancellor.

Q The question is, didn't you think you ought to do it? A No, we did not.

By Mr. Bentley.

Q Why not? A Because he had contracts sometimes, and we couldn't send the bill while the contract was going on.

Q Didn't you make a charge against him of everything you furnished him with? A Now we do, yes.

John J. Neff, cross.

Q And you put it in the book, didn't you? A Yes.

Q And you could have copied that book account at any time, couldn't you? A Well, that would be a difficult job to do; I wouldn't want to do it; it would take a long time to do it.

Q Well, you could, for instance, send him a bill for all materials you furnished for the month of June, couldn't you, say? For instance, you could have done that? A We could, but it was not a business way.

Q And the 1st of August you could have sent him a statement containing the bill rendered, and the goods he bought in July, couldn't you? A We could, but it wouldn't be a business way. If you send a bill you have got to send the whole bill, or nothing at all.

Q Don't you know that on more than one occasion Mr. Rayot went to the office of Ringger and asked for a bill, and said if he received it he would pay it? A No, he never said that in my presence, and I am under oath I think, here.

Q But you know he was after a bill? A He was after bills for certain jobs, yes.

Q But you know he asked for a complete bill more than once? A No, sir; he never did, in my presence.

By Mr. Higgins.

Q And he would be doing contract jobs for other people? A Yes.

Q And you would be sending material to the different places, charging it to Mr. Rayot's account? A We did.

Q And when he would call he would want a particular statement on a certain job, would he? A Yes.

Q And you would give it to him? A That is all.

Q (*By Mr. Bentley.*) Didn't you send statements every month to all your other customers? A Not all, no.

Q Do you let bills run for seven years, or nine years, with other people? A If we trust them, we do, yes.

Q For nine years? A If we trust them, we do, yes; and we trusted Mr. Rayot, we certainly did; I have told him personally that we did.

Q Do you mean to say you have other customers whose accounts you let run for nine years, without sending them a full statement of what they owe? A Yes, we have got two more.

NICHOLAS BISSACCIA, sworn.

Direct examination by Mr. Higgins.

Q What is your business? A Builder.

Q A builder? A Yes, sir.

Q And have you been building and dealing in real estate in Hudson County and Bergen County? A Yes, all over New York before.

Q And in New York, before? A Yes.

Q How many years have you been in the business of building? A Pretty near fifteen years.

Q During that time, how many houses and pieces of property do you think you have dealt with—bought and sold and rented? A I would not like to tell you, but I think over a million dollars.

Q Over a million dollars' worth of property? A Yes.

Q And do you know where Mr. Rayot lives —Louis Rayot? A Yes, on Greeley avenue and Broad street, Fairview.

Q Were you in that neighborhood recently? A Yes, a couple of days ago.

Q I show you a description of property, and ask you if you saw the property described in that paper? A Yes, I saw this paper.

Mr. Higgins. (To Mr. Bentley.) Do you admit that is a copy of the description of the property?

Mr. Bentley. I don't know what it is.

The Vice-Chancellor. Well, if he identifies the description the Court can compare the description in the bill of complaint with it.

Q What property did you see out there, Mr. Bissaccia? A Well, I saw the property from the corner of Greeley avenue and Broad street up to the last small house, around about 394 feet, more or less, deed, and about 185 feet wide, including four one-family houses.

Q That is, you are speaking about the one-family houses? A Yes.

Q And what else? A One house on the corner.

Q One two-family house on the corner?

Mr. Bentley. I object to that, on the ground that it is leading.

The Vice-Chancellor. It will be stricken out.

The Witness. The one on the corner, I imagine, is a one-family house.

Q Anything else? A And one a little farther away, and I considered it a two-family house.

Q And then, anything else? A Well, some ground, back of the land, between—I couldn't tell now the exact dimensions in the way of speaking of the deed; I said the plot is 394 by 185.

Q And in looking over the property did you come to an idea as to its value? A Well, I looked over the property, but not inside—from the outside—and, in my judgment, I figure the cheapest that you can put them up, even with the improvements, so far, I judge, in the neighborhood—

Mr. Bentley. I submit that this man is not qualified to testify to the value of this property; he says that he has seen certain houses, he don't know whether they were one-family or two-family houses; he has not seen the inside of them; and he says he is going to give us the cheapest figure that they could be erected for. I submit, in addition to that, that he is not qualified as an expert on the value of the cost of buildings. Further, he does not say whether that cost is what the cost would be at this time, or whether it is the cost as it would have been twenty years ago. In other words, he is appearing before your Honor as an expert, and he has not offered any evidence upon which I think your Honor could rely to determine as a fact what the value of this property is, or was.

The Vice-Chancellor. The witness has bought and sold a million dollars worth of property; he is speaking now of what the value of this property would be—each house—based on the idea that it is a one-family house, or a two-family house, and

giving the cheapest construction cost; now, if a man cannot give an opinion on the value of property on such a basis, then he had better quit dealing in real estate.

Mr. Bentley. May I say one other thing —while he said he had built to the extent of $1,000,000.00, that may have been two buildings; he does not say he ever built a building similar to these, or anything of the kind.

The Vice-Chancellor. I did not take that to be what he meant.

By the Vice-Chancellor.

Q How many separate and distinct buildings did you buy and sell? A I built from a six-story house to a one-family house; and I have experience.

The Vice-Chancellor. I will permit it. The effect of the tentimony is lessened by the fact that he does not know what the interior of the houses was like, but it is lessened in your favor.

Mr. Bentley. Somewhat.

Q (Question repeated as follows: In looking over the property did you come to an idea of its value?) A Yes.

Q How much? A In the neighborhood of $16,000.

Q (*By the Vice Chancellor.*) Is that for the buildings and land? A Buildings and land and everything, yes.

Q What do you know about the value of land in that vicinity? A Well, I investigated in the neighborhood, and also around five months ago I was with a New York real estate man, and he

offered me seventeen acres in that neighborhood—

The Vice-Chancellor. Oh, well, you cannot say that; this witness has not shown any capacity to testify as to the value of land. I thought he was going to testify as to the value of the buildings on the land.

The Witness. Well, if you give me time, I can explain.

The Vice-Chancellor. No, you are a witness. What appraise the buildings at?

Mr. Higgins. Separately from the land?

A I appraised the buildings, the one-family houses, around fifteen hundred apiece.

Q (*By Mr. Higgins.*) And the other houses that you saw on the property, what did you value those at? A I appraised the other one (examining a paper now produced by the witness) at $4,000—for the corner house, with the land.

Q And the other house? A The other one, $4,500.

Q No, the value of the buildings, without the land—pay no attention to the land value, and give us the appraised value of the real estate, that is, the property on the real estate—the buildings, now, not the land? A Yes, but I got it this way: If you want to give me a couple of minutes' time, then I will produce the price without the land, you see; because the corner house, in my judgment (there were six lots), I put at $4,000, ground and all; they are lots in the neighborhood of 25x100, that cost in the neighborhood of $150.

Q Have you bought and sold land? A Not in that neighborhood.

The Vice-Chancellor. Oh, an acre of land there might not be worth as much as five inches in the section where he has been dealing in real estate. Perhaps you had better let the witness step down and figure how much the buildings are worth to construct; and inasmuch as his opinion is based on a one-family house, and I understand these are two-family houses—

Mr. Higgins. Well, there are four one-family and two two-family houses.

The Vice-Chancellor. Well, let the witness step down, and figure out what a one-family house was worth to construct at the time when these conveyances were made, and what a two-family house was worth.

(The witness stands aside).

ELIZABETH V. SCHENCK, sworn.

Direct examination by Mr. Lane.

Q You are a stenographer? A I am.

Q And an employee of George R. Beach? A Yes.

Q I show you a book, which has been marked G. R. B., 1, and ask you whether, as stenographer, you took any of the testimony transcribed in that book, and, if so, which parts of it? A I took from page 24 to 109, both inclusive.

Q (*By the Vice-Chancellor.*) To the end? A To the end.

Q (*By Mr. Lane.*) And that includes the testimony of Barney Hermes, Margaret Rayot and Aimee Gousset, does it not? A Yes.

Q How was that testimony taken—stenographically? A Yes.

Q When you took it stenographically, did you correctly take it? A Yes.

Q How soon after it was taken stenographically did you transcribe it into this book? A Possibly a day.

Q At the time you transcribed it in the book, onto these sheets, rather, was it correct? A Yes.

Q Did you hear the witnesses testify? A Yes.

Q Have you your shorthand notes? A I believe I have.

Q Without the use of this testimony you cannot tell us now what these witnesses testified to, can you? A No.

Q And your testimony as to what they testified to, if you used your notes, would be based entirely upon what appears in those notes, wouldn't it? A Yes.

Q That is, you would have no independent recollection from merely reading over this testimony as to what these witnesses testified to? A No.

Cross examination by Mr. Bentley.

Q Miss Schenck, at the time the testimony was given by the witnesses you wrote down stenographically, to the best of your ability, what was said? A Yes.

Q And all the proceedings contained in those pages? A Yes.

Q And after that you transcribed your stenographic notes into this typewriting? A Yes.

Q And you transcribed that, to the best of your ability? A Yes.

Q After you had transcribed your notes onto these pages did you make any comparison with

your stenographic notes? A Oh, they were compared as I wrote them.

Q Who compared them? A I did.

Q That is, you started off and found the name of Barney Hermes, who had sworn, and "testified as follows—examined by Mr. Young," and you then wrote that, did you not? Then, what you did was to compare that to see if it was correct, subsequently to the time you wrote it? A It was just compared as it was written.

Q As you went along? A Yes.

Q That is, you typewrote here what you found in your notes? A Sure.

Q After you had typewritten this you didn't have anyone read this to you, so you could compare it with them? A No.

Q You read it all over, I suppose, afterwards, didn't you? A No, it was just read over as I transcribed it.

Q And, as I understand, you have your notes? A I believe I have them.

Q They are downstairs, filed away? A I think so.

Q Did you do all this typewriting, beginning with page 24 to the end of the book, namely, page 109? A Yes, that is all mine.

Q There is a difference in the ink—I suppose that is due to the ribbon? A That is the ribbon.

Mr. Lane. I offer the testimony of Barney Hermes and Margaret Rayot; I cannot offer the other (referring to the testimony of Aimee Gousset.)

Mr. Bentley. I object, on the same grounds as urged before.

The Vice-Chancellor. Well, there will be the same ruling as in the other case.

Mr. Lane. I call for the deeds of conveyance—the deed to Mr. Rayot and his wife, and the deed from Mr. Rayot and his wife to Barney Hermes.

Mr. Bentley. What do you want first?

Mr. Lane. I want both, at once.

Br. Bentley. What is the first deed you asked for?

Mr. Lane. I asked for the deed from Barney Hermes to Rayot and his wife; and I want the deed to Barney Hermes from the heirs of Gousset.

(The deeds called for are produced and handed to Mr. Lane by Mr. Bentley.)

Mr. Lane. Now, I want the deed from Rayot and wife to Barney Hermes—the last deed.

Mr. Bentley. I have a number of deeds here; tell me what you want.

Mr. Lane. I want the deed from Rayot to Barney Hermes.

(The deed is produced by Mr. Bentley.)

Mr. Lane. I offer in evidence deed from Aimee Gousset, *et al.*, to Barney Hermes, dated June 22d, 1910; recorded in Liber, 755 of Deeds, p. 645, of Bergen county; also deed from Barney Hermes to Louis Rayot, dated June 22d, 1910; recorded in Book 755 of Deeds for Bergen county, p. 647; also deed from Louis Rayot and wife to Barney Hermes, dated May 26, 1916; recorded on the 27th day of May, 1913, at 2.23 o'clock, in Book 849 of Deeds for Bergen county, p.

82, acknowledged upon the 26th day of May, 1913, before Peter Bentley.

Mr. Bentley. I object to the first two deeds which are offered in evidence, upon the ground that, from the evidence in this case, they are immaterial and irrelevant.

The Vice-Chancellor. From the present evidence in this case?

Mr. Bentley. Yes.

The Vice-Chancellor. Well, the case is not closed. I will overrule that objection.

Mr. Bentley. My idea is that they cannot put the cart before the horse.

The Vice-Chancellor. They can, with the privilege of the Court. Besides that, the bill virtually prays that Louis Rayot be held as trustee, or that this property that was conveyed by the heirs to Louis Rayot and his wife be declared to be the property of Louis Rayot. It is right at the threshold of their case to offer these deeds in evidence, for they seek to have them reformed, or set aside.

Mr. Bentley. Well, I simply want to get my objection in. And to the other deed I object, on the same ground.

The Vice-Chancellor. Same ruling.

(The deeds are admitted and marked respectively Exhibits C. 10, C. 11 and C. 12.)

Mr. Lane. At this time I want to call your Honor's attention to the fact that the consideration expressed in this last deed was "one dollar and other good and valuable consideration," and that on the back of the deed there is marked "Return to Louis Rayot, Fairview, N. J."—that is, the deed

was to be returned from the register's office to the grantor. And it is stipulated that the record in the register's office shows that it was so returned.

Mr. Bentley. Well, I call your Honor's attention to the fact that down below is written "Barney Hermes, Belle Meade, Somerset County, N. J.," which has been scratched out.

The Vice-Chancellor. Perhaps your witness is capable of testifying to the cost of these buildings now.

NICHOLAS BISSACCIA, recalled.

Direct examination by Mr. Higgins.

Q Mr. Bissaccia, what is the cost of these buildings that you testified you saw in Fairview? A Four one-family houses, $1,500 apiece—

The Vice-Chancellor. That is, to construct? A To construct; yes, sir. The one-family house on the corner, $3,400; and the two-family house, $3,700. I consider the valuation of the land, one acre and a half, at $3,000. It is undeveloped land.

Q It is undevloped land? A Exactly. I don't know exactly how much land they have in each house.

Q That is all right; you are only asked to testify as to the value of the buildings. What total does that make for the cost of the buildings, without the land? A $13,100.00.

Cross examination by Mr. Bentley.

Q Where do you live? A 300 Stevenson street, West Hoboken.

Q Did you ever live in Bergen County? A No; I have built in Bergen.

Q What are you in—the real estate business? A I am a builder.

Q Have you built any houses lately? A Certainly.

Q How lately? A The last operation was five months ago.

Q You finished it five months ago? A Six houses, yes.

Q Where were they? A From 141 to 151 Palisade avenue.

Q Jersey City? A West Hoboken.

Q What houses did you build prior to that? A Before that one?

Q Yes. A I built one on the corner of Malone and Summit avenue, five stories high.

Q What city? A West Hoboken.

Q When did you finish that? A About five years and a half ago.

Q What houses did you build just prior to that one? A You mean, in West Hoboken?

Q Anywhere? A I lived in West Hoboken five years and a half.

Q You said you completed five or six houses about five months ago, and completed one three and a half years ago; now, what was the building operation you had just prior to the one three and a half years ago? A I beg your pardon, Counselor—three years and a half ago I finished one building, five stories high, for twenty families. Then I started six buildings for eight families each, and I completed them around two and a half years ago, more or less.

Q Now, since then have you done anything? A Wait—then I built another one on Angelique

street, and put up twelve two-family houses—brick.

Q All of these buildings have been brick, haven't they, that you built? A All brick; and I put up five one-family houses, frame, on Angelique street.

Q When? A About the same time I built the brick ones.

Q About how many years ago? A About a year and a half ago.

Q Are those the only frame houses you built within the last five years? A Yes.

Q Those are the only ones? A Yes.

Q Have you built any other frame houses in ten years? A No.

Q Have you ever built any other frame houses? A I built at one time, around ten years ago, two two-family houses, in New York.

Q And that is all the frame houses you ever built? A Yes.

Q You went and looked at this property for Mr. Ringger? A Yes, sir.

Q And when did you first go and look at it? A Around Thursday, I think.

Q Of last week? A Of last week.

Q And you fixed a value on the land? A Approximated the value on the land, yes.

Q Didn't you go in the houses? A No.

Q You just took a look at them from the outside? A Yes. I measured on each side of the buildings.

Q How did you arrive at the figure of $1,500 for the one-family houses? A Well, for this reason—one-family brick houses cost us, with steam, in the neighborhood of eighteen hundred or nineteen hundred and fifty dollars, with an eight-inch wall. Now, when we go to put a

rough frame house up, sometimes we can put two sheets of wood outside, or one sheet and paper, and they come cheaper, about $150, or $200, between the brick and the frame—I think they cost, at the present time, $176; a few years ago they cost only $152 or $153. The value I put on these houses is without steam.

Q Then you didn't measure the size of these houses? A Yes, the little one on the front, yes.

Q How big did you find that to be? A I measured them there; they stand on one lot. If you want to consider one lot—

Q (Interrupting.) How big was the house? A Wait a minute.

Q Cannot you answer me that? A Yes.

Q How large was it? A It was 22 feet.

Q And how deep was it? A 26, without the porch, or 26.6, probably—six inches, more or less, don't cut any figure.

Q And how high was it? A It is two stories high.

Q Have a cellar under it? A Yes.

Q How was it finished inside? A I told you I was not inside.

Q Then you have given an estimate of the cost to reproduce these houses without being inside? A I told you that before, yes.

Q And you think you can give a correct statement? A What do you mean by "correct?" It is a question of interpretation.

Q Would you contract to build a house like that for $1,500.00? A Every time, yes.

Q You will? A Yes, I will.

Q And you have valued these houses, and you made it $16,000, haven't you? A It all depends on how much land you want to put in a house.

Nicholas Bissaccia, cross.

Q Didn't you say, a little while ago, your valuation of the land and houses was $16,000.00? A It all depends on how much land you want with the houses.

Q Didn't you say that? Yes, or no, please. A I say, approximately.

Q Didn't you say that that was the cheapest value you put on the houses and lots? A Yes.

Q You did, didn't you? A Yes, sir.

Q Do you want to buy the property for $14,000? A I don't want it for $12,000. It is the difference between the purchaser and the seller—all depending on the people that want to buy.

Q Well, what is the market value of the houses to-day, as they stand? A The real estate, to-day?

Q The market real estate value, to-day, of the six houses? A Of the six houses?

Q Yes. A I don't answer that; I don't know.

Q You don't know? A No, because I can't tell.

Q Well, in making up your figure of what they were worth, don't you have to take into consideration the market value? A You cannot take it into cnsideration.

Q You cannot? A No, it is impossible; it all depends on the people that want to buy.

Q Was the value you put upon the houses the value of the property to-day, or last week, or is it the value of the property in 1913? A I cannot answer.

Q You cannot answer that? All right.

The Vice-Chancellor. He gave there the cost or value to put them up.

Q Supposing you found there were improvements on those houses? A Yes.

Q Would that increase the value of them? A Sure.

Q How much would it increase it in each house? A You can increase it—

Q (Interrupting.) Well, in an ordinary house, such as that was? A It all depends on what you wanted. If you wanted a parquet floor and you want a nice floor in a bedroom, and steam, it all tends to bring the price up.

Q Suppose you put all those improvements in? A Well, I figured the plumbing in this price.

Q Oh, the plumbing is in this price? A Yes.

Q Did you figure on parquet floors? A Oh, no; the neighborhood did not require any parquet floor there.

Mr. Lane. We have several bank clerks under subpoena who haven't got here yet; and with the production of those bank clerks, and the production of the stenographic minutes, I think we close.

The Vice-Chancellor. I think we ought to close this case to-day; I will adjourn until two o'clock.

AFTERNOON SESSION.

Hearing of the cause resumed at two o'clock, P. M.

ELIZABETH V. SCHENCK, recalled.

Direct examination by Mr. Lane.

Q Miss Schenck, have you searched for your original notes? A Yes, sir; I have.

Q Have you searched in your office, in any place that you thought they might be? A Yes.

Q Have you been able to find them? A I have not.

Mr. Lane. I am going to change the form of the question, so as to bring it squarely within the case of Myers *v.* Weger, in 62 N. J. Law, 441. I offered this book of testimony in evidence.

Q I now ask you, Miss Schenck, to take the book of testimony (G. R. B., 1) and read to us what the witnesses said, from the book?

Mr. Bentley. I object, if your Honor please, on the ground that it is not the best evidence.

The Vice-Chancellor. She cannot find her notes.

Mr. Bentley. Well, I would like to examine her on the question, if I may.

By Mr. Bentley.

Q Miss Schenck, it is now about five minutes past two? A Yes.

Q And you testified this morning shortly before recess? A Yes.

Q Sometime before one o'clock? A Yes.

Q And since that time you have made an examination for the original book containing your shorthand notes referred to? A I have.

Q And you haven't found them? A No.

Q What search did you make? A I looked all through the notes.

Q Did you make an examination of the stenographic books which you have kept of the notes which you have taken? A Yes.

Elizabeth V. Schenck, cross.

Q Did you find any covering the period when the testimony of these witnesses was taken? A No, I did not.

Q Couldn't find any book at all? A No.

Q Do you think, if you made a more thorough search, you might find it? A No, I do not.

Q You don't think there is any possibility of the book being there? A No.

Q Do you know when you last saw it? A No, I do not.

Q What is your custom as to filing such books away? A We don't keep them.

Q Do you destroy them? A We keep the books until we get about twenty-five.

Q And then you destroy them? A Then we throw them in the basket.

Q About how long does it take you to fill twenty-five books? A Oh, I would say, about three months.

Q Can you say that you have not been able to find your books back of three months? A Yes.

Q You have not been able to? A No, I haven't.

Q You haven't any? A I haven't any.

Q Do you remember destroying the book which the testimony of these witnesses was in? A I don't remember that particular book.

Q And not having compared the testimony which is in the typewritten book with your notes, you cannot say but what there may be some mistakes in the typewritten copy of the testimony, can you? A There may be a few.

By Mr. Lane.

Q To the best of your knowledge, the report was accurately transcribed, was it not? A Yes.

Q And if there is any mistake, it is due to the fallibility of human nature, is that so? A Yes.

Mr. Lane. Now I press the question, if your Honor please.

Mr. Bentley. I object to it, on the ground that it is not the best evidence, and that it does not appear conclusively that the stenographic notes of this testimony contained in the book are not in existence; and, further, that the testimony offered is immaterial, irrelevant and incompetent; and that the witnesses who were examined at that hearing are present in court, or two of them, and the third one will be here in a few moments.

The Vice-Chancellor. What was the date of the testimony?

By Mr. Bentley.

Q It was along in May, wasn't it? A The first was begun about the middle of June.

Q What year? A 1914.

Mr. Lane. (Producing and referring to the book of testimny, G. R. B., 1.) The testimony commenced on June 19, 1914, and ended July 10, 1914.

The Vice-Chancellor. Will you let me see your case (referring to the authority cited by Mr. Lane, Myers *v.* Weger, 62 N. J. Law, 441)? It does seem to me as if there is no doubt as to the admissibility of it now.

(Mr. Lane handed the volume containing the opinion referred to, the Court).

Mr. Lane. Wigmore has a very extensive article on it, and Wigmore comes to the con-

clusion that the books themselves are admissible in evidence. Now, our Courts have not gone that far. But what Vice-Chancellor Garrison, in the case I referred to, allowed the witness to do was to take the transcript and read from it; although I think it is itself admissible in evidence—or Wigmore says it is—as documentary proof.

The Vice-Chancellor (To Mr. Bentley.) You do not object because the witness has not physically read the testimony?

Mr. Bentley. No, sir.

The Vice-Chancellor. Well, I will admit it, because it appears that the witness has made a thorough search for her notes; the testimony was taken more than three months ago; and she says that the custom is to destroy the note books after she had accumulated twenty-five, and that that would take about three months. I am satisfied that the note book, on search, could not be found; therefore, the testimony written up by this young woman in the ordinary course of the procedure in the Bankruptcy Court is entitled to the credit that she gives it, namely, that it is a true transcription of her notes. On the second ground, I am satisfied that it is evidential, because it is the testimony of the three defendants taken in this case, and is offered, more or less as declarations against interest. Have you any further cross examination?

Mr. Bentley. No, sir.

(The typewritten testimony in the book of testimony, included between pages 24 and

102, inclusive, is now marked Exhibit C. 13.)

Mr. Lane. Do you want me to call the other stenographer, Mr. Bentley, and put the same questions to her?

Mr. Bentley. May I ask this young lady a question that may obviate that necessity?

The Vice-Chancellor. Yes.

By Mr. Bentley.

Q Did Miss Goll make the same examination? A Yes.

Q Did she find hers? A No.

Mr. Bentley. I am willing to stipulate on the record that Miss Goll will testify to the same as Miss Schenck has; and I object to the other testimony being offered on the same ground (referring to the pages from 1 to 23 inclusive in the same book of typwritten testimony, G. R. B., 1).

The Vice-Chancellor. And the same ruling will be made; and, of course, Miss Goll, if she was here, would read her own transcript of the testimony in answer to the question to be propounded by counsel, and swear that it also is a true transcript of her notes of what transpired in the taking of the testimony.

Mr. Lane. I ask, then, that that transcript, from pages 1 to 23, inclusive, be marked in evidence. (And it was marked Exhibit C. 14.)

RALPH BERNHARDT, sworn.

Direct examination by Mr. Higgins.

Q Mr. Bernhardt, you were in the employ of Mr. Thomas Henry? A Yes, sir.

The Vice-Chancellor. How much is Mr. Henry's claim?

Q What is the amount of Mr. Henry's claim? A $108—something like that.

The Vice-Chancellor. Is there any purpose in going into this?

Mr. Lane. Merely for the purpose of showing when it accrued, that is all.

Q $108, wasn't it? A $108.56.

Mr. Lane. If you will admit, Mr. Bentley, that that is a correct transcript of the account of Mr. Henry, all right (showing Mr. Bentley a paper).

Mr. Bentley. (Examining the transcript in question.) Yes.

Mr. Lane. I offer that in evidence as a transcript of the account of Thomas Henry.

The Vice-Chancellor. It is in evidence once; it is an original record of the Bankruptcy Court and will not be marked.

Cross examination by Mr. Bentley.

Q This account began on the 29th day of March, 1909, didn't it? A Yes, sir.

Q That is the first debit charge against Mr. Rayot? A Yes.

Q And the last debit charge against Mr. Rayot is what? A March 2d.

Q March 2d, 1912—that is correct? A That is right.

Q The total amount of the goods sold to Mr. Rayot was $629.47—is that correct? A There has been credits deducted from that on previous bills, you know; that is not the total amount of material received at that time; don't you see it is $269, and then there is $168 (indicating entries on the account). Do you want to know what those total amounts are?

Q Yes, if you can do it quickly for me. A (After making a calculation.) The total amount of the purchases by Mr. Rayot from Mr. Henry was $1,257.07. That is right.

Q And he paid all of that during the running of the account but $108.56? A That is right.

Q And those payments were made in cash? A All the time.

Q And some of these debit charges against Mr. Rayot are interest, are they not? A Yes, there is about fifteen dollars, I think; something like that.

Q For interest? A Yes.

Mr. Lane. I ask that that transcript be marked.

The Vice-Chancellor. Well, it is an official record from the Court; the paper is the account annexed to the claim of Thomas Henry, filed in the Bankruptcy proceedings. It need not be marked.

BARNEY HERMES, sworn.

Direct examination by Mr. Lane.

Q Mr. Hermes, have you produced your bank book with the Hudson Trust Company? A I haven't got no bank books.

Q You have no bank books? A No, sir.

Q Where are they? A I haven't got any.

Q Where are they? A I ain't got no bank account.

Q Oh, but you did have a bank account with the Hudson Trust Company, didn't you? A I did when I was in business.

Q Well, haven't you got the books? A No, sir.

Q Well, why didn't you testify before the Referee that you did not have the books?

Mr. Bentley. I object to the question, on the ground that he is endeavoring to impeach his own witness, and that he is cross examining a witness whom he calls for direct examination.

Mr. Lane. I have a right to do that, where the witness is a party charged with fraud.

The Vice-Chancellor. I will permit the question.

Mr. Bentley. And I may have that one objection to the whole line of examination?

The Vice-Chancellor. By all means.

Mr. Bentley. And I make the further objection that it does not appear that he did so testify.

The Vice-Chancellor. It does not appear that he was asked.

Mr. Bentley. Or that it does not appear that he was asked.

Mr. Lane. Well, I will get the place where he does in just a second.

Q You did testify before the Referee in Bankruptcy on page 49, as follows: "Q You do keep a check book? A Yes. Q Keep a record on the stubs? A Yes. Q You have a bank book? A Yes, a check account * * * Q

What records do you keep on these stubs in your check book? A When I pay small bills I generally keep a record of them. Q Does it also show what moneys are paid to you? A Not on the check book. Q Where do you show that? A I have that in a receipt stub book. Q That shows the moneys you received? A Yes, the stubs in the receipt book." And further on page 52: "Q What have been your daily balances in that bank during the last three years, average? A I don't know; can't be so very much, because I haven't had the bank book balanced yet. They generally send me notice to send the book down."

The Vice-Chancellor. Is this all one question?

Mr. Lane. There is one other place I want to refer to. I think it is the last of the testimony where he says he has not produced them before the Referee because it was his private business. (Continuing the question.)

Q "Q (pp. 63-64.) You have an account with the Hudson Trust Co. at the present time? A Yes. Q And you have a check book in your home at Millstone? A Yes, sir. Q Notwithstanding this subpoena that was served on you, you failed to produce the bank book and check book? A That is my private business." Now, in view of that testimony, how is it you now testify that you have not any bank books or check books? A I never bothered with the checks any more.

Q Did you understand the questions that were asked you when you were before the Referee? A Well, at that time I had it, yes.

Q Then you have destroyed the check book since then? A Well, yes—

Q Well, is it yes, or no? A Yes.

Q You have destroyed that check book since the hearing before the Referee; is that right? A That is about a year ago, I guess it was.

Q Was it before or after the hearing before the Referee? A Well, I ain't sure, I can't say.

Q How did you destroy it? A Generally burn them up.

Q I did not ask you what you generally do; how did you destroy this particular check book? A Well, all the check books I generally burn up.

Q Did you destroy the particular check book and bank book that you swore you had in your house in Millstone when you were before the Referee? A I don't know which book you mean.

Q You have been in business for fifteen years, haven't you? A Yes, sir.

Q And you have done a large business, haven't you? A Yes, sir.

Q You know what a bank book is, don't you? A Yes, I know.

Q Then why don't you know when I ask you where the bank book is that you had in your house at Millstone? Cannot you understand the question? A Yes.

Q Where is it?

The Vice-Chancellor. The bank deposit book.

A Oh, that is in my bank.

The Vice-Chancellor. The bank deposit book is in the bank?

A Yes.

Barney Hermes, direct.

Q When did you send it to the bank? A I guess that has been lying up there for a few months yet.

Q Can you give me any idea when you sent it there? A No, I can't; it is so long ago I don't remember that.

Q Have you got a balance there now? A No.

Q Well, don't you know? A No. I always expected, the first chance, to go down to West Hoboken, that I was going to go down and see about it.

Q But you haven't had a chance to get down to West Hoboken to see about it? A No, sir.

Q And you cannot tell me whether you sent the bank book to be balanced before or after you testified before the Referee? A I cannot say what day or what month; I don't know.

By the Vice-Chancellor.

Q Well, did you send it before you testified before the Referee, or afterwards? A Oh, afterwards, I believe it was.

By Mr. Lane.

Q Where is your check book? A I haven't got no check book.

Q But you did have a check book? A Yes, I did.

Q And you did put in the check book what you did with the money, didn't you—on the stub? A Yes.

Q And you had a receipt book? A Check book.

Q And didn't you have another book, a receipt book? A No, I didn't have any extra book.

Q Well, what did you do with your check book? A I burned them up after I didn't have any use for them.

Q When did you burn them up—when did you burn the ones you did have in your place in Millstone when you testified before the Referee? A Why, it is a long while ago, I guess.

Q Well, how long? A I don't know; about half a year ago, something like that.

Q After you testified before the Referee, was it? A I believe it was after.

Q And it was after this suit was started, wasn't it? A I never heard nothing more after that.

Q Wasn't it after this suit was started? You know when the suit was started, don't you? You know when the subpoena was served on you, don't you, eh? A What, the one I got the other day—Saturday evening?

Q The suit to set aside this conveyance, this particular suit—do you remember when that was started? Well, for your own information, it was started on May 14, 1914, and you testified in bankruptcy after that time, and it must have been after this suit was started that you destroyed that check book—is not that right? A I guess so.

Q And you knew that Mr. Higgins had asked you to produce the check book and your bank book, didn't you, before the Referee, and you said you wouldn't do it because you said it was your private business, didn't you? A Yes, sir.

Q And then you went home and destroyed the check book, didn't you? A Long after that.

Q Yes, after that you went home and destroyed it? A Yes. Not right away.

Q Not right away—how long afterwards? A Oh, a few months after that.

Q Did you ask anybody, before you destroyed it, whether you should destroy it, or not? A No, sir; because I didn't have no use for it no more.

Q And you haven't any other books at all, have you? A No, sir.

Q Mr. Hermes, on the 16th day of May, 1911 you borrowed from a man named William M. Rossignol the sum of two hundred dollars, didn't you? A Yes.

Q And you gave a mortgage to secure it? A Yes.

Q And that mortgage covered property in the Township of North Bergen, didn't it? A Yes, sir.

Q And that mortgage has not yet been cancelled, has it? A Why, sure.

Q It has—when was it cancelled? A I don't know, just one or two years ago, or more.

Q And on the 6th day of February, 1906, you borrowed from a man named Frank Hall $1,200, didn't you?

Mr. Bentley. I object, on the ground that it is immaterial what he borrowed from people.

Mr. Lane. The testimony is in, which your Honor has not read yet, that this man had fifteen thousand dollars in a tin box, lying around his house for the last five or six years, or more—savings from his business, in this tin box; at the same time we show that he has been borrowing money from different places. Now, it goes to the question whether his testimony as to this

fifteen thousand dollars in the tin box was true, or not.

The Vice-Chancellor. I will permit the question.

A Yes, sir.

Q And you gave a mortgage to secure that, didn't you? A Yes, sir.

Q Have you produced any cancelled checks drawn on the Hudson Trust Company from January 4th, 1909, to August 28th, 1914? A No, I just told you before I couldn't do that.

Q All those were destroyed. A Yes.

Q Have you produced any papers that you say you kept in this tin box? A Yes, sir.

Q Let me see them?

Mr. Bentley. Here they are (producing a tin box). What do you want to know? Here they are.

Mr. Lane. I want to see all of those papers in the tin box; I just want to look at them to see what they are.

Mr. Bentley. Here they are. Do you see them.

Q Those are the papers that were kept in the tin box? A Yes, sir.

Q And that is all you kept in the tin box? A Yes, sir.

Q That is all the papers you ever had in the tin box? A Yes, sir.

Q Do any of these papers have anything to do with this property? A Yes, sir.

Q Have you produced the balance of the money that you kept in the tin box? A Yes. I got three hundred dollars in my pocket. I kept that.

Q How much? A I guess about two hundred, two hundred and fifty, or something like that.

Q Let me see that? A (The witness produced a bundle of notes which he exhibited to examining counsel.)

Q Is there $200 there? A There is about $250.

Q And did that come out of the tin box? A Yes, sir.

Q Is that all you have left in the tin box from that $15,000? A Yes, sir.

Mr. Bentley. Do you want me to count it, Mr. Lane?

Mr. Lane. No, I will take the man's word that there is $250 there.

Q You got that, I suppose, this morning from that tin box, didn't you, Mr. Hermes? A I brought that along with me, with the tin box, yes.

Q I did not ask you whether you brought it along with the tin box; you got it from the tin box, did you? Let me see the money that you have got there, just for a second? A (The witness complied, handing the bundle of notes to Mr. Lane.)

Q (Selecting two of the bills from the number) I suppose these two bills were also a part of that $15,000 that was in that tin box in 1914?

Mr. Bentley. There are three bills there. I object to the question, on the ground that he has not said that.

Mr. Lane. I have not asked him that, I asked him whether they were or not.

Q I suppose those two bills were a part of that $15,000? A Oh, no; I generally change bills sometimes, big bills.

Q You changed big bills into small bills and then put them into this tin box? A Yes.

Q Eh? A Sometimes.

Q Did you do it in this case? A Well, sometimes I give my neighbors change up there, and I get smaller ones and bigger ones—just according.

Q And this $15,000 that you spoke about in your testimony before the Referee, I suppose was in all small bills, like these, too, was it? A Small and large, yes.

Q How large? A Fifties, twenties, tens and fives.

Q Fifty is the highest, is that right? A I believe so.

Q Well, don't you know? Can't you tell me definitely whether in that tin box, among this $15,000, you ever had a $100 gold certificate or silver certificate? A Well, I don't remember no more, it is so long ago.

Q But you think it was fifties, twenties and tens, and you think that these three bills probably came from change that you made up there; is that right? A Yes, sir.

Q Didn't you get these at the bank this morning? A No, sir.

Q Well, didn't you get them in the bank yesterday? A No, sir.

Q Do you keep any bank account now, except at the Hudson Trust Company? A No, sir.

Q And this is all the money you have got in the world? A That is all just now, yes.

Mr. Lane. The three bills which I have been referring to, for the purpose of the

record I will state are three Federal Reserve notes.

The Vice-Chancellor. Dated when?

Mr. Bentley. Authorized by the Federal Reserve Act of December 23d, 1913.

Mr. Lane. The money did not go out until the middle or first part of 1914.

Mr. Bentley. I don't know when it went out. I think you have got to show that

Q What happened, Mr. Hermes, to the five thousand dollars that was left in this tin box when you purchased this property in May, 1913? A I don't understand you.

Q (Question repeated.) A Oh, I used it to live.

Q Used it to live? A Yes.

Q All of it? A I had expenses always.

Q So that you lived down, now, to the point where, of that $5,000 that was left in May, 1913, you only have this $250 left, is that right? A Yes, sir.

Q And you have not got, have you, Mr. Hermes, a single scratch of the pen to show that you ever paid Mr. Rayot any money at any time for this property, is not that right? Is there any single writing, written by anybody, that you can show the payment of a dollar?

Mr. Bentley. I submit that the deed is in evidence.

Q Except deeds which show "one dollar and other consideration"—just a single scrap of paper, is there not?

The Vice-Chancellor. Answer the question.

A I guess they are all in that tin box there, I ain't sure.

Q You are talking now about receipts, after you bought it, aren't you? Is there any scrap of paper to show that you ever paid a dollar to Mr. Rayot for this property? A I haven't got any.

Q No. Is there anything to show, is there any scrap of paper to show that Mr. Rayot ever paid you one cent of rent for that property after you bought it? A Why, he was paying his rent every month.

Q Did you ever give him a receipt for it? A Why, certainly.

Q You did give him a receipt? A Yes.

Mr. Bentley. (To Mr. Lane.) Do you want them.

Mr. Lane. Not now, I do not; not now.

Q You are sure of that? A Yes, sir.

Q You are sure you gave him receipts? A Yes, sir.

Q When did you give him the last one? A In March.

Q When did you give him the one before that? A February, I believe.

Q Well, did he come to see you every month and give you the money for the rent? A Sometimes I would go down myself, and sometimes he would bring it up.

Q Did you get it every month? A Yes, sir.

Q Every single month? A Yes, except this month.

Q And you have been getting it every single month since May, 1913, is that right? A Yes, sir.

Cross examination by Mr. Bentley.

Q Mr. Hermes, I show you ten receipts, running from June, 1914, to March, 1915, each

one signed "Barney Hermes," are those your signatures? A Yes, sir.

Q And do they represent payments made to you by Mr. Rayot? A Yes, sir.

Q Of what? A Of $126 a month.

Q Each one $126? A Yes, sir.

Q What was that rent for? A For the six houses.

Q Did that include Mr. Rayot's rent each month? A Yes, sir.

Q How much did he pay a month? A $30.00.

Mr. Bentley. I offer these for identification. (The receipts were marked for identification, as one exhibit P. B, 1.)

Mr. Lane. I desire to cross examine on them, unless you are not going to offer them in evidence. If you are, I want to know it.

Mr. Bentley. No; wait a minute; I am not going to offer them in evidence. You wait until your time comes.

Q I show you a paper dated May 26, 1913, addressed to Mr. Louis Rayot, Fairview, N. J., and signed "Barney Hermes"—whose signature is that? A That is mine.

Mr. Bentley. I offer that for identification.

(The paper is marked for identification P. B, 2.)

Q Who took care of these houses since they were purchased by you? A Mr. Rayot.

Mr. Lane. Well, that I object to, as not proper cross examination.

Mr. Bentley. Oh, I think we have a right to go into the whole thing, now they have succeeded in getting this man on the stand.

Mr. Lane. You are trying it in a technical way, and refusing to permit cross examination on the exhibits which you are getting in here for identification, and I think we are entitled to have you strictly confined to cross examination.

Q And I show you six receipts from the Hudson Trust Company, dated March 31, 1915 September 30, 1914; December 31, 1914; December 31, 1913; June 30, 1914; and March 31, 1914, all to Barney Hermes, Esq.—did you ever see those before? A Yes, sir; I mailed them always to the Hudson Trust—mailed them back with the cash.

Mr. Bentley. I offer those for identification.

(The six receipts were marked for identification, as on exhibit, P. B, 2.)

Q I show you a number of gas bills, or what purport to be gas bills, fastened together, there being nine in number—did you pay those? A Mr. Rayot paid them for me.

Q Out of what? A Out of the rents.

Q And did you allow him the difference between the total rents and what he paid? A Yes, sir.

Mr. Bentley. I offer those for identification.

(The nine gas bills were marked for identification, as one exhibit, P. B, 4.)

Q I show you a bill from Joseph A. White to Barney Hermes, did you ever see that before? A Yes, sir; I paid that.

Q Yourself? A Yes, sir; myself.

Mr. Bentley. I offer that for identification.

(The bill was marked for identification P. B, 5.)

Q I show you a paper from the Hudson Trust Company, dated October 22d, 1914, addressed to Barney Hermes, Esq., and signed "Hudson Trust Company per H. M.,"—did you receive that? A Yes, sir.

(The paper is offered for identification by Mr. Bentley, and marked P. B, 6.)

Q Do you owe any taxes on this property? A Yes, sir.

Q How much? A Well, there is two years.

Q Are these the tax bills (showing the witness two papers)? A Yes, sir.

Mr. Bentley. I offer these for identification.

(The two tax bills are marked for identification, as one exhibit, P. B, 7.)

Q I show you a great number of receipts, or papers purporting to be receipts of the Hackensack Water Company to Barney Hermes, were those rents paid? A Yes, sir.

Q By whom? A By Mr. Rayot.

Q And charged to you? A Yes, sir.

(The receipts were marked for identification.

(The receipts were marker for identification, as one exhibit, P. B, 8.)

Q Mr. Hermes, I call your attention to Exhibit C. 12, which is the deed from Louis Rayot to you, do you remember the execution of that deed? A Yes, sir.

Q Do you remember the time and occasion? A Yes, sir.

Q Who actually took that to the County Clerk's Office in Bergen County to be recorded? A I did.

Q At the time you took it there was "Belle Mead, Somerset County, N. J.," written on it? A Yes, sir.

Q Do you know how it happened that "Fairview, N. J.," was written under the "Louis Rayot"? A Well, I was going to move at that time down from Belle Mead up to Millstone, and I notified them to send it down to Mr. Rayot, so it would not get lost in the mail.

Q Do you remember how you came to give the Rossignol mortgage? A Yes; I wanted to sell some lots, and I couldn't at that time, so I took a mortgage out; I thought I could sell them easier.

Q With the mortgage on it? A Yes.

Q Did you get the money? A I guess there was $200.

Q You actually received the money? A Yes.

Q Do you remember the mortgage of $1,500 which Mr. Lane drew your attention to, I think to Frank Hall? A Yes. That was to settle my mother's estate.

Q That was independent of your own matters? A Yes, sir.

Mr. Lane. Well, now, he did not say anything of the kind.

Mr. Bentley. Well, I am cross examining.

Mr. Bentley. Well, you are cross examining a witness that is rather favorable to you.

Mr. Bentley. Yes, but they called him at their peril.

The Vice-Chancellor. No, I do not think so, in a proceeding of this kind.

Q Well, Mr. Hermes, what checks did you draw on this account on the Hudson Trust Company—what class or what sort of checks? A Oh, for small amounts.

Q Did you ever keep any large amount of money in that bank? A No, not so very large.

Q Well, what would you say was the largest? A About fifteen hundred, or something like that.

Q You had as high as fifteen hundred? A Yes.

Q Did you have that much at the time? A I believe it was that—I ain't sure—I had that during the time I was in business.

Q And when did you quit business? A About from eight to nine years ago.

Q And after you quit business did you use your bank account much? A Yes, once in a while.

Q How many checks did you draw, do you suppose? A I really don't know.

Q Well, would they be large or small? A Well, they were most of them small bills.

Q Did you maintain a large balance after you quit business? A No, sir.

Re-direct examination by Mr. Lane.

Q Mr. Hermes, these bills that you have produced, that have been paid, were all paid actually by Mr. Rayot, weren't they? That is, the money was turned over by Mr. Rayot to the people to whom it was owed? A Not all of them.

Q Well, which ones were? A The gas bills and the water bills.

Q And is that all? A Yes; that is what he paid; that is all he paid.

Q How about the repairs? A Well, I paid some bills, and I notified him to pay the others when the bills came in.

Q Well, did Mr. Rayot pay it, or did you? A Well, some that I got sent to me, I paid; and others I notified him to pay.

Q And then he would send you the receipts? A Yes, sir.

Q Now, are you sure that some of these repairs were paid in that way by you? A Yes, sir.

Q How is it, then, that you testified before the Referee: "Q And who makes the repairs? A I do. I let Mr. Rayot have them made and send me the bill. Q He sends you the bills? A Yes. Q And you pay the bills? A Yes, I pay the bills. Q How do you pay them? A I send him the money, to Mr. Rayot, to pay them, and he sends me the receipts"—now, why didn't you testify before the Referee that sometimes you did that way, and sometimes you paid them yourself, if it were the fact? Is it not because you think today it makes your case stronger by saying that you paid some of them direct, and you did not think of that when you testified before the Referee? If it is not, Mr. Hermes, why do you wait for three or four seconds before answering, or half a minute? A Well, I may have said it; I ain't sure.

Q You knew then, just as well as you do now, whether the fact was that he paid them all and sent you the receipts, or whether the fact

was that you paid some, and he paid some—is not that so?

The Vice-Chancellor. (To the witness.) Can't you answer the question?

A I really don't understand the last part?

(Question repeated.)

A Well, sometimes the bills got sent up to me.

By the Vice-Chancellor.

Q Didn't you know as much then on the subject as you know now—when you testified before the Referee? A I believe—I don't know what I said at that time, it is so long ago.

Q Well, didn't you know as much then on the subject as you do now?

(No response.)

The Vice-Chancellor. (To Mr. Lane.) Go ahead.

By Mr. Lane.

Q Can't you answer it, Mr. Hermes? A I really don't catch on to it—that last part.

Q You testify now that you get your rent regularly from Mr. Rayot, haven't you? A Yes, sir.

Q Every month? A Yes.

Q And you have gotten it that way ever since the title was passed, is not that so—he has paid you this $126 a month, is that so? A Yes, sir.

Q Why did you testify, sir, before the Referee, on page 61: "Q When did you get your rent before the last time? A I guess a month or two before that. Q Don't you get it regularly? A No. Q Why? A I don't know. Q Don't you know if your rent is behind? A

I am not particular about that. I know the money is good." Now, why do you testify now you get it regularly, every month, this $126.00, and you testified there you did not get it regularly?

Mr. Bentley. I object to the question, on the ground that he did not say, in answer to my question, that he got his money regularly; he said he received it every month for so many months; there was nothing said about "regularly" or "irregularly."

Mr. Lane. I just asked him; he said he did get it regularly—$126.00 a month.

Mr. Bentley. That may be so, but prior to the time he was examined before he may now have received it regularly. Now, distinguish the two.

Mr. Lane. He has just testified that he got it regularly from the time title was passed.

Mr. Bentley. I do not recall that.

(The former testimony of the witness on this point was read by the stenographer.)

Mr. Bentley. It seems to me, in fairness to the witness, he ought to ask him what he means by "regularly." He might have one idea in his mind, and Mr. Lane have another.

The Vice-Chancellor. You can ask him that.

Q Now, Mr. Hermes, why did you testify in the way you did before the Referee, and the way you do now; once you testified you got it regularly every month, and the other time you testified you did not get it regularly?

Mr. Bentley. I object to the question. He has not said he got it regularly every month. He said he "got it regularly." I think I am correct in my statement.

Mr. Lane. He said "regularly, every month."

The Vice-Chancellor. I will permit the question. The witness can criticise the question in his answer, if he did not so testify.

(Question repeated.)

A I don't know why I said "regularly every month." I knew that I got it regular.

Q Yes, before the Referee you testified that you did not get it regularly; now, what did you mean by testifying before the Referee that you did not get it regularly, and now testifying here that you did get it regularly? Is there any explanation that you can make why you testified two ways? A Well, it is so long ago I don't remember.

Q Mr. Hermes, the fact was the same then as it is now, is not that so, eh? A Yes.

Q And you were trying to tell the truth then, weren't you? A Yes.

Q Then, why should you tell one thing then, and another thing now? Can you answer it? A What?

Q Well, let me ask you this: These taxes and water rents, how did you pay them, by check, or how? A Well, the taxes I didn't pay yet.

Q Well, you paid some taxes, haven't you? A Not the last two years'.

Q Well, did you pay any back taxes? Have you paid any taxes at all on this property? A No.

Barney Hermes, re-cross.

Q Haven't paid any taxes? Did you pay the water rents? A I let Mr. Rayot pay them.

Q How did you send the interest to the Hudson Trust Company? A By money order.

Q Any checks? A No, sir.

Q Whom did you send the money orders to, the Hudson Trust Company? A Yes, sir.

Q Direct to them? A Yes.

Q Not to Mr. Rayot? A No, sir.

Q At the same time you sent those money orders you had a bank account in the same bank, hadn't you? A I did first off, yes—a year ago.

Re-cross examination by Mr. Bentley.

Q How long since you have drawn a check on the Hudson Trust Company? A I really don't know; I guess the early part of last summer.

Q Haven't used it actively of late? A Haven't used it at all.

Q Have you any balance there now, that you know of? A I really don't know. I sent the book down; I never went down to get it yet.

Q Where do you live, Mr. Hermes? A Millstone.

Q And where is Millstone? A About forty-one miles from Jersey City.

Q And how often do you come to this part of the State? A Well, this is the first time since the last time I was in the Referee's Court.

Q That was last summer? A Yes; this is the second time.

Q So you have no use for a bank account in Hudson County? A No, sir.

Q Have you one out in New Brunswick? A No, sir.

Barney Hermes, re-cross.

Q Or anywhere else? A No, sir.

Q Now, when you testified before the Referee that you did not receive your rent regularly, what did you mean—just tell the Court what you meant, as between your saying today that you did receive it regularly? A Well, I got it during the month sometimes—not on the first sometimes—the fifteenth or the middle of the month.

Q Then if you received it around the first, you called that "regular"? A Yes, sir.

Q And if it was later on in the month "not regularly"? A Yes, sir.

Q Did you always receive your rent in full for those houses during the current month—that is, the month that the rents were due? A Well, sometimes the first, or around the second, or the middle of the month.

Q Would it ever run into the next month? A No, it was near the end of the month, sometimes.

Q Are you a man of any education? A Only a common education.

Q Where were you born? A New York City.

Q And where did you attend school? A New York City.

Q Did you graduate from school? A I really don't know any more.

Q How old were you when you stopped going to school? A I don't know—about sixteen or fifteen, or something like that.

Q What occupation did you take up after you quit school? A Ornamental decoration—papier-mache work.

Q And you followed that trade for some time? A Yes, sir.

Barney Hermes, further re-direct.

Q So that your early education was obtained before or by the time you were sixteen years of age? A Yes.

Q You are nothing of a scholar? Do you know what I mean by that? A I am nothing of a scholar, that's right.

Q Are you much of a scholar? A No, not much, no.

Q Have you ever been in court before you were in on this case? A No, sir.

Further re-direct by Mr. Lane.

Q All of these papers—every one of the papers which you have produced as coming from this tin box, have reference to this particular property, is not that so? A Yes, sir.

Q And there were no other papers in the tin box except those that had reference to the property? A No, sir.

Q What papers did you have in that tin box before you put the papers that had reference to this property in it?

Mr. Bentley. I submit that is not re-direct examination. I did not object at the first time that they opened it up, and now they open it up again.

The Vice-Chancellor. I think it is a matter of discretion. I will permit it.

Mr. Bentley. I think so, possibly, but I think they should finish it.

The Vice-Chancellor. Sometimes counsel forget.

Mr. Lane. In this case I did forget.

The Vice-Chancellor. I will permit the question.

(Question repeated.)

A From the other property that I sold; and after I sold that property I gave the papers with it.

By Mr. Lane.

Q That $200 you borrowed you paid back in installments, didn't you? A I don't remember any more; I believe that was on a note.

Q Didn't you pay it back in installments—several payments? A I don't know any more.

GUSTAVE HELFF, sworn.

Direct examination by Mr. Lane.

Q Your business is what? A Bookkeeper.

Q Of what bank? A Hudson Trust Company, West Hoboken.

Q Does that bank carry an account with Louis Rayot? A Yes, sir.

Q And that account extended from December 12, 1908, down to January 22d, 1914? A That is the proof I made up (referring to a paper now in the hands of examining counsel).

Q Did you make up that transcript of the account from the books, showing the account, and showing both debits and credits? A Yes, sir.

Q Is that a correct transcript from the books of the bank? A Yes, sir.

Mr. Lane. I offer it.

Mr. Bentley. I object to it.

Mr. Lane. (To Mr. Bentley.) Do you want me to bring down the daily books of the bank?

Mr. Bentley. If I can submit this to Mr. Rayot, and he says it is comparatively correct, I will be willing to let you offer it and

waive the production of the books; but I won't otherwise.

The Vice-Chancellor. He is only offering that to show what the books would show, if produced, Mr. Bentley.

Mr. Bentley. But the books are the best evidence.

The Vice-Chancellor. True. You have a right to object to it on that ground.

Mr. Bentley. Now, I say if Mr. Rayot looks at it and says it is comparatively correct, why, then I am willing to waive the production of the books. But I have had an experience of this kind before, and that is the reason I do that.

The Vice-Chancellor. You may show it to him.

Mr. Bentley. (After submitting the paper to Mr. Rayot for his inspection.) I am willing you should use this, subject to verification, if necessary.

The Vice-Chancellor. That is very proper.

Mr. Bentley. And I can have the benefit of using this, if I want to?

Mr. Lane. What do you mean by that?

Mr. Bentley. Why, I mean of copying it and making extracts from it (referring to the transcript produced by the witness).

Mr. Lane. Certainly.

The Vice-Chancellor. The objection is withdrawn, and the offer is admitted, subject to the right of verification by the defendant, or his counsel, if he so desires, and with leave to take copies of the paper.

Gustave Helff, cross.

(The transcript was thereupon marked Exhibit C. 15.)

Q Is that a true transcript of the account of Barney Hermes? (Showing the witness another paper.) A Yes.

Q From the 4th day of January, 1909, until the 28th day of August, 1910? A Yes, sir.

Mr. Lane. I offer it.

By Mr. Bentley.

Q This shows that he has a balance there of $4.42? A No, sir; it balances up, $1,648.30 (indicating the last entries on the account).

Q The last check drawn on this account was August 28, 19—? A No, that is a deposit. The last check was $5.00.

Mr. Bentley. I have no objection to the introduction of this paper subject to the same stipulation made as to the others.

The Vice-Chancellor. All right; it may be so admitted. (The transcript of account was thereupon marked Exhibit C. 16.)

Cross examination by Mr. Bentley.

Q The last check on this account reached your bank July 11, 1913? A 1913.

Q And was it five dollars? A Five dollars, yes.

Q And the last deposit was August 28th, 1913? A $4.42.

Q So that there must have been an overdraft, as a matter of fact? A There was an overdraft.

Q And by making the deposit of $4.42 he made his account good? A I don't know whether he made the deposit, or not.

Q Well, somebody did? A Yes.

Q The deposit made the account good? A Yes.

Q Now, he had an account subsequent to August 28th, 1913, hadn't he? A Why, yes, up to July there was an active account.

Q But I mean after July 28, 1913, he still maintained an account with your bank, didn't he? A That overdraft was all there was.

Q Well, does this statement show the condition of Mr. Hermes account for all time after August 28th, 1913? A Up to the present time. That is the way the ledger reads.

Q And there has been no other account? A No.

Q No other checks drawn? A No.

Q And no other deposits made? A No, no other deposits and no other checks.

The Vice-Chancellor. Well, I assume that he might have opened another account without this witness knowing of it; is not that so?

The Witness. Maybe in another bank.

The Vice-Chancellor. He might have another account in your bank, or would it all go into this account?

The Witness. He might be in the savings account; I don't know about that.

The Vice-Chancellor. You have a check account and a savings account?

The Witness. Yes.

Q Suppose he had opened an account in December, 1913, would you know it? A In the check account?

Q Yes. A Yes, I would know it.

Q What is your official position? A Individual bookkeeper.

Q Running from what? A I am in general charge of the three ledgers there.

Q And you have all of the accounts? A Yes.

Q Your books do not run from A to L and from M to Z? A Well, I have charge of them all, you see. I take them off.

Q Do you know where Mr. Hermes' bank book is? A It is at the bank.

Q And his cancelled checks are there? A Since the last balancing.

BARNEY HERMES, recalled.

By Mr. Lane.

Q In this account (referring to bank transcript of account ot Barney Hermes with Hudson Trust Company of West Hoboken) there seems to be regularly, pretty nearly every week, a payment of five dollars, an even amount—can you tell me what those five dollars are, what they represent—what checks they were, to whose order? A Five dollars? I believe that was five or six years ago, wasn't it?

Q No, it continues right down, sir, to 1912 and 1913—right down to the closing of the account; most of the checks are $5.00 checks.

Mr. Bentley. Oh, no, Mr. Lane, do not say that.

Q Well, take out the "most"—a great proportion of them?

Mr. Bentley. No, a number of them.

The Vice-Chancellor. Well, the account speaks for itself as to how many there are. (To the witness.) He asks you what those five dollar checks were given for.

A I really don't know, it is so long ago.

Q Well, cannot you remember the five dollar checks that were given here just before you closed your account? What were they for? A Why, they may be for small bills, something like that; I don't know.

Q Weren't they to your own order? A I don't know.

Q Might they have been to your own order? A They may have been; I am not sure.

Q Were they to bearer, without endorsement? A I really can't say; I am not sure.

Q Do you recollect what this $100 check was for on the 19th of June, 1912? A 1912? No, I don't know.

Q Well, might that have been to your own order? A I don't know.

Q Well, it may have been, may it not, to your own order? A It may have been; I don't know; it is so long ago I don't remember that.

Q Were not most of the checks which you drew on this account to your own order? A Well, those were small bills.

Q Were not most of them drawn to your own order? A No, not the most of them, I don't believe; I ain't sure.

Q You are sure a great many of them were, at any rate? A There were some, yes.

Q All through this account, eh? A I ain't sure of it.

Q Will you kindly tell me why you drew checks to your own order, with fifteen thousand dollars in cash in your tin box, during all the time that this bank account went on? A Well, after I started to give up business I wanted to get rid of the money in the bank, and I took the money out.

Q And that is the reason, I suppose, is it, that on July 28th, 1913, you put $290 in there? A That was to pay some bills; sometimes I used to give out checks just to pay money for the bills, to cover them.

Q Can you tell me one reason why you drew money to your own order out of this bank account if you had this fifteen thousand dollars in cash in the tin box—in small bills, five, tens, twenties and fifties? A Just what I said before, I paid small bills with it.

Q But you would not, to pay small bills, draw money out to your own order, would you? A No, not to my own order.

Q Then why did you draw money to your own order out of this bank account when you had fifteen thousand dollars in cash in the tin box?

Mr. Bentley. I object to the question, on the ground that he has not said he did; he said he "may have, he didn't know," I submit to your Honor.

The Vice-Chancellor. Well, you can ask him if he has any reasons why he should draw money to his own order when he had fifteen thousand dollars in this tin box.

Q Was there any reason why you should draw money to your own order out of this bank account, if you had fifteen thousand dollars in cash in this tin box? A Why, I only done that to pay up small bills; I didn't want the bother.

Q Didn't want the bother with what? A With paying out the cash out of the house, so I took it out of the bank. I was going to close out the bank account.

Q That is the explanation you made once before, and then I showed you that instead of

drawing out your bank account you had made deposits up to the last minue, right up to August, 1912; so you kept putting in the bank. A That might have been once when I paid a bill and I gave for it at that time.

Q Well, when did you make up your mind to draw down this deposit? A After I gave up business.

Q When was that? A After I left Hoboken —West Hoboken.

Q When? That doesn't mean anything. A Oh, about four years, or something like that—four or five years ago.

Q Well, was it as much as five? A About that.

Q Then if you made up your mind then to draw down the deposit, why did you deposit on the 10th of February, 1912, $600? A That is to pay bills. I sent a check out for them.

Q To pay bills which were then due? A Yes, sir.

Q Don't you know that it took you over a year to get rid of that six hundred dollars? A I don't know how long it took.

MINNIE RINGGER, recalled.

Direct examination by Mr. Lane.

Q Have you figured what there was due to Ringger & Company in June, 1910—the amount? A Something over $5,000.

Q Have you got the figures (showing the witness a slip of paper)? A Five thousand, three hundred—

Mr. Bentley. I object to her testifying from this statement. I should like to see the books.

The Vice-Chancellor. Well, the books are here for counsel to inspect. The witness can tell that she has made a calculation of the amount, for the convenience of the Court, subject to correction. (To the witness.) Now, state the amount?

A $5,324.51.

Cross examination by Mr. Bentley.

Q What payments were made by Mr. Rayot on that $5,324.51 after June, 1910? A Well, I cannot say out of my head; I can say if I look into the books.

Q Well, will you look into the books, before we go further?

The Vice-Chancellor. What is the necessity of doing that? The books show what the payments are.

Mr. Bentley. Well, I cannot go over the books for the purpose of arguing the matter, or having it on the record—

The Vice-Chancellor. Well, to be brief, I will strike all of this testimony out and make my own calculation.

Mr. Lane. Well, you can do that. I simply did it for convenience. The whole copy of the account is here; you can get it from the account.

Mr. Bentley. I was going to suggest this: that the witness figure what has been paid on account, exclusive of the notes, since June, 1910, so that, before the case is finished, I may call her and ask her what that amount is. (To the witness.) Will you do that, Miss Ringger?

Mr. Lane. Well, we will have that done.

Mr. Bentley. Show the dates, will you?

The Vice-Chancellor. Call your next witness.

Mr. Lane. I offer in evidence record of the proceedings in the Supreme Court, in the case of Jacob Ringger, trading as Jacob Ringger & Company, plaintiff, *v.* Louis Rayot, on attachment. I have here a copy of the record.

Mr. Bentley. I object to it, upon the ground that it is immaterial and irrelevant.

The Vice-Chancellor. Did Mr. Rayot appear?

Mr. Bentley. Yes, sir.

The Vice-Chancellor. He did.

Mr. Lane. He appeared in that suit, and moved to quash, and then, before the motion came on, took proceedings in bankruptcy.

The Vice-Chancellor. What does that prove?

Mr. Lane. It merely proves that the bankruptcy proceeding were instituted at a result of the attachment proceedings begun by Ringger, and because of the issuance of the warrant commanding Mr. Rayot to appear and testify; and it shows that the whole thing was a forced procedure and for the particular purpose of getting rid of this claim.

Mr. Bentley. I object. It appears that the last order, made March 24, 1913, ordered that the said rule be adjourned to April 4, at the Court House; and further ordered that either party may take depositions. The rule to show cause, being a rule why the attachment should not issue upon the ground

that Mr. Rayot was an actual resident of the State when the writ was served, and was at his home, and could have been served. I say it is not the least bit evidential in the cause.

The Vice-Chancellor. I will exclude it. I do not see where it is material.

COMPLAINANT RESTS.

THE CASE FOR THE DEFENDANTS.

MRS. MARGARET RAYOT, sworn.

Direct examination by Mr. Bentley.

Q Mrs. Rayot, you are one of the defendants in this suit—you are one of the parties? A Yes.

Q And you are the wife of Louis Rayot? A Yes.

Q When were you married to Mr. Rayot? A Twenty-three years ago.

Q Any children by that marriage? A One.

Q And living? A Yes.

Q And how old? A Twenty-two.

Q A boy or girl? A A boy.

Q You have always lived with Mr. Rayot? A Yes, always.

Q And still continue to live with him? A Yes.

Q And now are residing at Fairview, New Jersey? A Yes.

Q Did you know Louisa Gousset in her lifetime? A Yes.

Q Who was she? A She was my mother-in-law.

Q The mother of your husband? A Of my husband.

Q Do you remember when she died? A It was in August, I believe, six or seven years ago—seven years.

Q When she died did she leave any real estate? A She did.

Q Where? A In Fairview and West Hoboken.

Q I show you a deed, which has been marked in this case "Exhibit C. 10," and especially the signature, "Margaret Rayot,"—did you sign that deed? A I did.

Q And the signature "Louis Rayot" is your husband's? A Yes, that is his.

Q How did you come to sign that deed—this being a deed dividing your mother-in-law's estate? A That is the acre and a half?

Q Yes. A I told him I would sign that deed if he would give me a half share in it when he bought it back.

Q Bought it back from where? A From Mr. Hermes, to settle that estate.

Q And under those conditions did you sign that deed? A I signed the deed, yes.

Q And the day that deed was signed were you present? A I was.

Q And I show you a deed from Barney Hermes to Louis Rayot and to you, Margaret Rayot? A That is where he bought it back from Mr. Hermes.

Q And was that the re-conveyance in accordance with your agreement? A It was.

Q Why wouldn't you sign this first deed, namely, Exhibit C. 10, before Mr. Rayot agreed to convey the property half to you and him? A Why, to protect my child and myself.

Q In what way? A Well, so that I would have something in case anything happened.

Mrs. Margaret Rayot, cross.

Q And it was upon that agreement that you signed it? A It was.

Q Now, after the re-conveyance to you and your husband by this deed, Exhibit C. 11, were any improvements made upon the premises? A Yes, there was six houses put on.

Q By your husband? A Yes.

Cross examination by Mr. Lane.

Q How much of the money that you got from this transaction have you got now, Mrs. Rayot?

Mr. Bentley. I object on the ground that it is not cross examination; I asked her nothing about money, sir.

The Vice-Chancellor. Her attention was not called to the last deed to Mr. Hermes, was it?

Mr. Bentley. No, sir.

Mr. Lane. No, that is perfectly correct, but she is a party, and she is produced here as a party and examined.

Mr. Bentley. She is under your subpoena.

Mr. Lane. I know she is under my subpoena, Mr. Bentley,—

The Vice-Chancellor. No, no; let counsel address the Court.

Mr. Lane. And I think I am to be allowed some greater latitude on examination than that of an ordinary witness, in a case of this kind.

The Vice-Chancellor. I think I will permit the question. It is a case of an alleged fraudulent conveyance, and there ought to be more latitude in such a case than in an ordinary case.

Mr. Bentley. I agree with your Honor, but if your Honor will bear in mind—I do not want to be obstreperous—but I called this lady to the stand and asking her about a transaction that occurred some years prior to the alleged fraudulent conveyance. Now, it seems to me this is going pretty far on cross examination.

The Vice-Chancellor. I think, perhaps, that is right. The witness can be called on your behalf, Mr. Lane. I do not see that it makes any difference.

Mr. Lane. Well, I have no further questions.

LOUIS RAYOT, sworn.

Direct examination by Mr. Bentley.

Q Mr. Rayot, you are one of the defendants? A Yes, sir.

Q And Mrs. Margaret Rayot is your wife? A Yes.

Q And you have been married how many years? A Twenty-three years.

The Vice-Chancellor. I suppose he has been married the same time as his wife, and she said twenty-three years.

Q I show you deed marked Exhibit C. 10, from Aimee Gousset, *et al.*, to Barney Hermes, and call your attention to the signatures "Louis Rayot" and "Margaret Rayot"—you recognize those signatures? A Yes, sir; I do.

Q Prior to the execution of that deed did you have any conference or conversation with your wife about the execution of it? A Well, this was the property of my mother; it was an

estate, and it was to be divided up, and I wanted my wife to sign the deed, and she wouldn't do it unless I put her name on the deed.

Q On what deed? A On the deed when I bought it back.

Q I show you Exhibit C. 11, which is a deed from Barney Hermes to Louis Rayot and Margaret Rayot—is that the deed to you and your wife which she insisted on having? A Yes, sir.

Q And you held that title between you until the conveyance by the deed Exhibit C. 12, to Barney Hermes, dated May 26th, 1913 (showing the witness the deed in question)? A Yes, sir.

Q Mr. Rayot, how long have you been doing business with the Ringger Company? A Well, I can't exactly judge, I think about probably fifteen or sixteen years, probably longer, I cannot tell.

Q What is your occupation, or what was it prior to 1913? A I was a contractor and builder.

Q Did you build many houses? A Quite a few, yes, sir.

Q Were you prosperous, or not, up to 1911, I will say? A I was very prosperous there for a time, yes, sir.

Q What did you own in 1911 or 1912, in the way of real estate? A In 1912 I only had the property in Fairview.

Q What did you own in 1911? A I had a piece of property in Angelique street, West Hoboken, I believe.

Q What was the value of that? A The value of the property?

Q Yes. A Well, I don't really know; I bought it at auction.

Q What did you pay for it? A Well, I bought it for—it was very close on to fifteen thousand.

Q Was it part of your mother's estate? A Yes, sir.

Q Did you subsequently sell it? A Oh, I kept it, I should judge, about, well, about, oh a year or two, I believe—I know it was over a year, anyway—and I sold it.

Q Did you lose money on it? A Quite some; yes, sir.

Q Had you lost any money on contracts for building? A I had; yes sir.

Q How much—have you any idea—for the three years prior to 1913? A Well, on that Angelique street property I lost over thirteen hundred dollars there.

Q Did you lose any other money which you can specifically specify? A I built a house for my brother on Dubois street and Spring street; I lost around eighteen hundred dollars there.

Q Did you lose any other? A Yes, sir.

Q Tell us what others you can recollect? A I built a house down in Fairview, in Morris street, and I lost some money there.

Q How much? A Well, I should judge about, I guess about five or six hundred dollars.

Q Now, any others that you can think of? A I cannot recall; it is not within my memory.

Q Did you make any purchases of personal property—did you buy an automobile? A Oh, yes, sir; I did.

Q When did you buy that? A I think it was in the year 1909, I believe.

Q What did you pay for it? A I paid $5,600 for it.

Q Complete? A Yes.

Q How long did you have that? A Oh, I had it, I guess, a little over two years.

Q Did you sell it? A Yes, sir.

Q What did you get for it? A I got either twenty-five or twenty-six hundred dollars for it.

Q Whom did you sell it to? A I sold it to the Packard people over in New York. I took it over there and they sold it for me.

Q It was a Packard car? A It was a Packard car; yes, sir.

Q What had been your mode of living prior to 1912, as to the expensiveness of it? A What it cost me through the week, or what?

Q Did you live nicely? A I lived comfortably; yes, sir.

Q And did you make your wife presents? A Yes, sir.

Q Did you give her jewelry? A Yes, sir.

Q To any extent? A Well, I gave her a pair of earrings that cost me eight hundred dollars.

Q Alone? A Yes, sir.

Q Did you give her other jewelry? A Well, I gave her a brooch.

Q In June, 1910, were you possessed of sufficient real estate to pay all your debts and obligations? A In 1910? Yes, sir. I was pretty well fixed then.

Q Were you worth more than you owed? A Yes, sir.

Q How much were you worth above what you owed? A Well, I don't really know altogether what I was worth, but still I know I could have paid my debts at that time.

Q Well, can you tell us what you owned at that time? A I had a piece of property in Dubois street.

Q What was that worth? A Well, it was worth a little over five thousand dollars.

Q Any mortgage on it? A $1,500 mortgage.

Q What other property did you own—you owned the Fairview property, didn't you? A I believe I had one in Dubois street, too, at that time.

Q What was that worth? A Oh, I think around forty-two or forty-four hundred, I forget just which.

Q What mortgage on it? A I think there was over two thousand dollars on it.

Q Did you own any other real estate? A Only what I had down at Fairview.

Q Didn't you have the Angelique street property in 1910? A That is the one I lost money on; yes, sir.

Q What did you pay for that? A That was close on to fifteen thousand dollars.

Q Any mortgage on it? A I think the Hudson Trust held an eight thousand dollar mortgage on it.

Q And that is all there was on it? A Eight thousand dollars.

Q Did you own the Fairview property in June, 1910, or an interest in your mother's estate, I will put it, in June? You bought it in June, 1910? A Yes, I believe I did.

Q Now, what was that property worth—the entire property your mother left in Fairview? A That is, where I am living now?

Q All the property your mother left in Fairview?

The Vice-Chancellor. What you divided up.

A Oh, what we divided up? Well, believe we settled for three thousand dollars—in that neighborhood.

Q That was for the acre and a half, wasn't it? A For the acre and a half; yes, sir.

Q Now, she left a house out there, as well, didn't she? A She left a house; yes.

Q What was the house worth?

The Vice-Chancellor. Well, at the time you made this partition among yourselves wasn't there a price fixed on this house and the various pieces of property?

A Yes, sir; I was just trying to think what it was; I don't exactly remember. Well, I really don't remember what the price was, but I know there was a price set on it. That was to straighten up the estate. I don't remember the price set on the other piece of property.

Q That is, the house? A Where the house is. I don't know.

Q Well, what was it worth at that time? A Oh, I don't believe it was worth more than probably about seven or eight thousand dollars, if it was worth that.

Q Everything your mother left in Fairview? A Yes, sir.

Q And you had a one-fourth interest in that? A Yes, sir.

Q At that time did you owe any money, outside of the mortgages which you have described? A Oh, yes.

Q Whom did you owe? A Well, I owed Jacob Ringger & Company and Gardiner & Meeks.

Q How much did you owe them, Gardiner & Meeks? A Oh, I don't remember how much that was.

Q Well, was it any large sum of money? A No, sir; not so much.

Q A thousand dollars? A Well, probably less.

Q Less than five hundred? A I couldn't recall.

Q But less than a thousand? A Oh, yes.

Q Who else did you owe? A Well, I might owe minor bills also, but who I can't just recall.

Q To what extent did you owe other people? A Well, probably $100, or propably more.

Q $100? A Yes.

Q Can you say that you did not owe over, at the outside, in addition to the mortgages on your property, $2,000—

Mr. Lane. Objected to as leading, if your Honor please.

The Vice-Chancellor. Why, is this in 1910?

Mr. Bentley. Yes, in June, 1910.

The Vice-Chancellor. Why, the Ringger account was over five thousand dollars.

Mr. Bentley. I said in addition to the Ringger account; I was interrupted in the middle of my question.

The Vice-Chancellor. Well, the question is leading.

Q How much would you say you owed in June, 1910, when this conveyance was made, in addition to what you owed on mortgages and what you owed to Jacob Ringger?

The Vice-Chancellor. About.

A About what I owed?

The Vice-Chancellor. Yes, outside of the mortgages, and outside of what you owed the Ringger Company?

A I don't believe I owed much over a thousand dollars; it might be a little more, or less.

Q Well, what do you mean by "a little more?" A It might have been a few hundred more, or it might have been a few hundred dollars less.

Q Would fifteen hundred dollars cover it? A Oh, yes.

Q Mr. Rayot, did you agree or consent with your wife to have her name included in this deed for the purpose of defeating your creditors? A No, sir.

Q Or was any such subject talked about between you and her? A No, sir.

Q Did you have any such thought in your mind? A No, sir.

Q You carried a large account with Ringger, didn't you—did a big business? A I done quite a little business; yes, sir.

Q And how did you generally make payments to him? A Well, I used to give him a couple of hundred dollars, at times a hundred dollars; or if I had a mortgage I would pass over the mortgage to them.

Q What do you mean by "a mortgage?" A Well, if I should sell a building and I would take a mortgage on it (the party would not have sufficient money) I would take this mortgage and pay this mortgage back to Ringger for the money, on account of the bill.

Q And that account ran along from year to year? A Well, it ran along the way it is still.

Q Have you ever had a statement of your account from Ringger? A No, sir; I don't know what I owe today.

Q Did you ever ask for one? A Yes, sir; several times.

Q Who did you ask? A I asked Miss Ringger; I asked Miss Ringger at least three or four times.

Q What did she tell you? A She says they were working on it.

Q And when was that? A That was about around 1910 or 1911, I believe—1910, the latter part of 1910.

Q Did you have the money with which to pay Ringger at the time you were trying to get your bill? A Yes, sir; that is what I wanted the bill for.

Q Was it your intention to pay it? A Yes, sir.

Q Did you tell them so? A I told them I wanted to get my bill because I wanted to pay it.

Q Did you say that more than once? A I was there twice—with a witness—not went there purposely with a witness, but happened to go there; and I asked for my bill in the presence of my brother.

Q Your brother who is sitting here in court? A Yes, sir.

Q And did you ever ask Mr. Ringger himself for the bill? A I asked him how it was I wasn't getting my bill, and he told me the bookkeeper was working on it.

Q And when was that? A That was the latter part of 1910.

Q Did you ever talk to Mr. Neff about your bill? A Mr. who?

Louis Rayot, direct.

Q Mr. Neff. A The bookkeeper?
Q Yes. A Yes, sir.
Q And ask him for the bill? A He told me I had to see Minnie. That was Miss Ringger.
Q Did you tell him you wanted to pay it? A No, sir; I just asked for my bill, if my bill was ready.

The Vice-Chancellor. How much longer will you take with this witness?

Mr. Bentley. I think probably I have got considerable to go through.

The Vice-Chancellor. I guess we had better adjourn, then, until tomorrow morning.

Recess until Thursday, April 8th, 1915, at ten o'clock A. M.

Chancery Chambers, Jersey City, Thursday, April 8, 1915.

Hearing of the cause resumed at ten o'clock A. M.

LOUIS RAYOT, recalled.

Direct examination resumed by Mr. Bentley.

Q Mr. Rayot, after the deed was executed from you and Mrs. Rayot to Mr. Hermes, who collected the rents of the premises? A I did.
Q I show you a paper marked P. B-2—have you ever seen that before? A Yes, sir; Mr. Hermes gave me that.
Q Mr. Hermes gave you that? A Yes, sir.
Q And, under that did you collect the rents? A Yes, sir. I also paid some bills.

Mr. Bentley. I offer this in evidence.

Louis Rayot, direct.

Mr. Lane. I want to cross examine on this.

By Mr. Lane.

Q Where was this drawn? A It was drawn in Mr. Bentley's office.

Q And when? A In 1913, in May some time, the latter part of May.

Q And was it the same day the conveyance was made? A I believe it was; yes, sir.

Q And who drew it? A Well, Mr. Bentley —the typewriter drew that. Mr. Hermes signed it.

Q And as a part of the transaction of closing the title and making the deed? A No, sir. Mr. Hermes had spoke about the collecting of the rents. I said, "I can collect and pay you."

Q Well, was it part of the same transaction, during the time that you and Mrs. Rayot and Mr. Hermes were there closing the title—part of that same transaction? A Yes, that was the time I got this; yes, sir, the same day.

Q And Mr. Bentley was there all the time? A Yes, sir.

Q From the time you came into the office until the time you left—is that right? A Yes, sir.

Q Mr. Peter Bentley? A Yes, sir.

Q And who instructed him to draw this paper—you, or Mr. Hermes? A Well, Mr. Hermes authorized me to collect the rents.

Mr. Lane. I have no objection.

(The paper was thereupon admitted in evidence, and retains its same Exhibit number, P. B., 2.)

Louis Rayot, direct.

By Mr. Bentley.

Q On the day that deed was executed, who all were present? A There was Mrs. Rayot, Mr. Hermes, myself, Mr. Bentley.

Q That is all? A That is all.

Q Do you remember when Mr. Bentley left the room, if he did? A That was the time, I believe, you got up this paper here, if I am not mistaken (referring to Exhibit P. B-2).

Q When, after that, did he leave the room, if at all? A Well, I don't recall; I know you went out and had this typewritten there, this paper.

Q Now, under this authorization, Exhibit P. B-2, did you manage the property? A Yes, sir.

Q Did you collect the rents? A Yes, sir.

Q Did you pay them to Mr. Hermes? A Yes, sir.

Q How did you pay him? A Well, I paid him sometimes the 7th of the month, sometimes he got it the 15th of the month.

Q Did you pay him in cash, or by check? A In cash.

Q When you paid him did you receive anything? A I received a receipt; yes, sir.

Q Where did you pay him? A Well, I paid him sometimes at Fairview—he came after it—and at other times I paid him at his house at Millstone.

Q When you paid him did he give you anything? A He gave me a receipt; yes, sir.

Q And what was the amount of that receipt? A I believe $126.00.

Q Well, was that the rent of the premises? A Yes, sir.

Q Did you pay any moneys out on account of the maintenance of this property? A I

have paid out some gas bills, and also for water bills, and a paper hanger and decorator that done some work there.

Q Did you pay him? A Yes, sir.

Q After you paid them what did you do as to deducting them from the rent? A I gave Mr. Hermes whatever money I had, and the receipt.

Q For the difference? A For the difference, up to $126.00.

Q I show you a number of receipted gas bills—did you pay those? A Yes, sir.

Q I show you a number of receipted water bills—did you pay those? A Yes, sir.

Q Out of the rents of the premises? A Yes, sir.

Mr. Bentley. I offer them in evidence (exhibiting same to Mr. Lane for his inspection).

Mr. Lane. I have no objection.

(The receipted gas and water bills were thereupon admitted in evidence, retaining their original markings, P. B-8 and P. B-4 respectively.)

Q I show you a number of receipts which have been marked P. B-1, and ask you to look at those; are those receipts given to you by Mr. Hermes? A Yes, sir.

Q For rent? A Yes, sir.

Mr. Bentley. I offer them (showing same to Mr. Lane for his inspection).

By Mr. Lane.

Q Mr. Rayot, in whose handwriting is the body of these receipts? A Mr. Hermes'.

Q All of them? A Yes, sir.

Q And where were they all drawn? A I don't know; I suppose Millstone.

Q I did not ask you that; where did you get them all? A Why, some I got at Millstone, and some at the house where I am living.

Q And you paid him regularly every month? A Well, as soon as I could when I got the rents; yes, sir.

Q Well, some time during each month you paid him, did you, either at your house or at Millstone? A Yes, sir.

Q How many times did you pay him in Millstone, and how many times at your house? A Well, I don't recall how many times I have been up there.

Q Well, what was the last time before June 9, 1914, that you were there—when you testified before the Referee? A I couldn't recall when it was.

Q Well, was it a month, or two months? A I couldn't tell you; I couldn't recall when it was; I didn't keep this in my mind.

Q And each time you spent money out of the rents it was deducted from the amount that you had on hand, wasn't it? A Yes, sir.

Q And you gave Mr. Hermes the balance; is that right? A Of the rents; yes, sir.

Q Sure of that? A Yes, sir.

Q No question about it? A Sure of it.

Q Why are all of these receipts, then, from June 7, 1914, for the whole amount of $126.00 when apparently you had paid out moneys since that time by your receipts you presented here?

Mr. Bentley. I object to that question on the ground that he has already testified before on cross examination that what he did

was to deduct the amount which he had expended during any month, and to give the balance to Mr. Hermes, who would then give him a receipt for the full $126.00.

Mr. Lane. No, he has not testified to any such thing.

The Vice-Chancellor. That is the way I understood it—he turned in the vouchers and the cash to the amount of the $126.00.

A Yes, sir.

The Vice-Chancellor. And took a receipt for that amount.

A Yes, sir.

Q Took a receipt for the full amount? A Yes, sir.

Q There were no vacancies in these houses during any of the time—is that right? A Yes, sir; there has been a vacancy.

Q Well, how is it the receipt is always $126.00? A There has been a vacancy there for half a month, I think, or a month.

Q How is it, then, that the receipts are always for $126.00, if there were vacancies there? A I couldn't tell; it must be a mistake in the receipt. I never noticed that.

Q Weren't there several vacancies there, and didn't you so testify before the Referee? A No, sir; not to my knowledge.

Mr. Lane. I do not suppose I can object to the offer of the receipts, if your Honor please, for what they are worth.

The Vice-Chancellor. You can object; the question is whether the Court will sustain the objection.

Mr. Lane. Well, I assume that they go in for what they are worth. He has testified that they were receipts given to him.

(The receipts were thereupon admitted in evidence, retaining their original marking of P. B-1.)

By Mr. Bentley.

Q Mr. Rayot, these receipts run from June 7th, 1914, to March, 1915? A Yes, sir.

Q Do you know whether there have been any vacancies between those periods? A There has been one vacancy, I believe; that was, I believe, for a half a month, or whatever it was, during March, if I am not mistaken, 1914.

Q Of 1914? A I believe so.

Q But has there been any vacancy since the 1st of June, 1914? A No, I don't believe there was; no, sir.

Q Do you know where the receipts are from June, 1913, to June, 1914? A I don't know; I believe you have got them there, haven't you?

Q No, they do not appear to be here; that is why I asked you if you know where they are? A From 1914?

Q From June, 1913, to June, 1914? A I couldn't say where they are; I thought I had them here.

Q Well, you undoubtedly have the rest of them, haven't you? A I think I must have.

Mr. Lane. Please do not lead him.

Q Well, have you the rest of them? A I believe I have; I am not sure of it.

Q Will you make an examination, and produce them? A I will if I find them.

Mr. Bentley. If your Honor please, I should like to offer in evidence three insurance policies, and four insurance certificates, two of the policies being issued to Louis Rayot, and having certificates attached that the interest is now vested in Mr. Hermes; and the rest to Mr. Hermes.

Mr. Lane. I object to them, on the ground that they are immaterial. Of course the property will be insured in the name of Mr. Barney Hermes. If it was not insured in his name the insurances would be no good.

The Vice-Chancellor. I will admit them for what they are worth.

(The papers were thereupon marked as one Exhibit, D. 20.)

Q Mr. Rayot, have you any letter from Ringger & Company, dated May 24th, or thereabouts, 1913? A I couldn't tell you. Whatever letters I have got, you have.

Q Have you any recollection of receiving a letter, a copy of which has been offered in this case, dated May 24th, 1913 (showing witness letter press copy book); it is dated May 23d, 1913, addressed to you, and says, "Looking over your account, we find that you owe us at present about $6,600," being on page 199 of letter book No. 2, marked "J. R. & Co."; did you receive the original of that? A Yes, sir.

Q And whom did you give it to? A Gave it to Mr. Bentley.

Q Did that letter, or the contents of that letter, have anything to do with your making this conveyance? A No, sir.

Q Had you made any negotiations, prior to that time, about the sale of these premises—had you talked to anybody about selling prior to May 23d or May 24th, 1913? A I tried to sell the property all along.

Q What endeavors did you make to sell it? A I have asked different ones if they could sell it for me.

Q Whom did you ask? A Well, I can't just recall now, but different ones I spoke to about it.

Q Had you talked to Mr. Hermes about this sale prior to the time you received this letter, on page 199? A Yes—before that, yes, sir.

Q Do you remember going to Ringger & Company and giving them the first series of notes? A I have gave—

Q Do you remember it? Do you remember going there in answer to this letter on page 199? A Yes, sir.

Q At that time, or at the time that you gave the notes, on the 27th of May, 1913, did you tell Miss Ringger or Mr. Neff, or anyone else, that you owned the Fairview property at that time? A No, sir. I didn't say anything about it.

Q Did you tell them in September, 1913, on the 27th day (and by "them" I mean Mr. Neff or Miss Ringger), or anybody else, that you owned the Fairview property? A No, sir.

Q Did you tell them, on either of those occasions, that when you sold the Fairview property you would pay the note, or make a big cut on it? A No, sir.

Q Did you say anything to that effect? A No, sir.

Q Did you lead anybody to believe that you were the owner of this property?

Mr. Lane. Objected to.

Q Did you tell anybody, after the deed was executed for the sale of this property, that you owned it? A No, sir.

Q Mr. Rayot, what has been the state of your health for the last three or four years? A Well, I have been ailing, on and off.

Q What has been your trouble? A Well, I have had trouble with the head, and also bothered with piles; I have been operated on for them twice.

Q Have you spent any moneys on doctors in the last few years? A Yes, quite a little.

Q Much? A Quite a little; yes, sir.

Q Does your head bother you still? A Yes.

Q To what extent? A Well, I don't know; I get such severe headaches, as though my head is going to bust.

Q When you have those headaches, what is the condition of the working of your mind? A Well, I am not good for anything.

Q What do you mean "you are not good for anything?" A My head pains me so that I have got to hold it down in my hands.

Q Is the working of your mind free and easy at those times? A No, sir.

Q Do you have trouble to remember? A Yes, sir.

Q How many buildings have you erected during your time as a contractor? A That would be pretty hard for me to say.

Q Well, about how many, do you suppose—have you erected twenty-five? A Oh, yes; more than that.

Louis Rayot, direct.

Q And the buildings in question you had immediate charge of, hadn't you—the buildings on this property at Fairview? A Yes, sir.

Q What was the value of the four houses in May, 1913?

The Vice-Chancellor. With the land?

Mr. Bentley. No, sir; the value of the four one-family buildings, without the land.

A That is, to erect?

Q No, what were they worth in May, 1913, those buildings?

The Vice-Chancellor. What could they have been built for on that day?

A Well, they cost me about twelve or thirteen hundred dollars apiece.

Q What did the other house cost you?

By the Vice-Chancellor.

Q One moment—right there: That was the cost to you, as builder? A No, sir.

Q You did not add profit to that—now, suppose you added the builder's profit to the buildings, what would it cost a person to make a contract with you and have you erect them? A I figured my time in with that; that is my time and profit; yes, sir.

By Mr. Bentley.

Q What was the other house worth, the single house? A That cost me around twenty-two or twenty-three hundred dollars.

Q Did you figure your time, in the same way? A Yes, sir.

Q What was the two-family house worth? A Well, I am not exactly sure, but I think it

was in the neighborhood of twenty-five or twenty-four hundred dollars.

Q Well, would twenty-five hundred dollars cover it? A Yes, sir.

Q What was the value of the land at that time upon which you erected these houses? A In the whole, or in a single lot?

Q A single lot—take the four houses first? A Well, they are worth about, in a single house —the lots up there is worth about probably $150 a lot.

Q And what was the one where the big house was on worth? A Probably about $200.

Q And what was the one where the two-family house was on worth? A About the same.

Q Could you have bought lots in that immediate vicinity at that time for that amount of money? A Yes, sir, by taking a plot.

Q Can you buy them up there for that price today? A You can buy them right up above that, where there are small houses, I believe for $150.

Q The lots? A I believe so, today; I am not positive about that, but I believe so.

Q What improvements were in these houses? A In which ones?

Q In the four houses? A Well, there is a range and a bath and a toilet; that is all.

Q No heat? A No, sir.

Q What were the improvements in the big house? A Well, there is a bath, a toilet, and the tubs and a heater.

Q Steam heat? A Hot water heat—hot water.

Q What improvements were in the two-family house? A The same as the other house.

Q When did you stop the contracting business? A Oh, I should judge that was in the neighborhood of about a year ago—ten months; I don't just recall.

Q Well, did you stop the contracting business after or before you sold this property to Mr. Hermes? A In contracting for buildings entirely?

Q Yes. A That was before I sold this property.

Q Now, since that time what work have you done, if any? A Well, I haven't done a great deal of work; I have been sick the biggest part of the time.

Q Well, how much of the time have you worked?

The Vice-Chancellor. Is that material?

Mr. Bentley. I think it is, sir, in view of the fact that the testimony is in showing that this man received this money.

The Vice-Chancellor. All right.

A I don't believe I worked more than about ten months in the whole time.

Q You did have one independent contract, did you not? A Well, it was a small job that I took.

Q What did you take that job for? A I took it for $125.00.

Q What did it cost you? A It cost me around $450.

Q Before you finished it? A Yes, sir.

Q So you lost the difference? A Yes, sir.

Q What books of account have you kept since you started in business? A Books?

Q Yes. A I never kept no books.

Q Not a book of any kind? A No, sir.

Louis Rayot, direct.

Q How did you keep track of what you owed merchants? A Well, they were supposed to send their bills every month.

Q What did you do with the receipts you received, if you did receive any, from merchants? A Well, as I paid I used to destroy the receipts.

Q I call your attention to Exhibit C. 15, which is your account, or a transcript of your account with the Hudson Trust Company, and call your attention to the deposits as they run along, quite frequently and for considerable sums of money, in this column: Now, when you come to the early part of 1910 I notice that the amounts of the deposits and the frequency of them begin to decrease very materially, and, as the time passes, decrease more and more—was that when you began to lose money in business? A Yes, sir.

Q You had a line of discount, hadn't you, with the Hudson Trust Company—they discounted your paper? A Yes, sir.

Q And some of these items should be discounts? A They were notes.

Q That is what I mean—discounted notes? A Yes, sir.

Q Take, for instance, that $5,000 deposit—can you tell whether that is a note, or not? A I couldn't say as to that.

Mr. Lane. Wouldn't it show the discount, if it is?

Mr. Bentley. I don't think there is anything to indicate the discount.

The Vice-Chancellor. In most banks they put a "D" to show it.

Mr. Lane. An "N." There it is (indicating on the transcript).

Louis Rayot, cross.

Q There is one note dated February 7, 1909, of $1,280.55? A I don't know what that was for.

The Vice-Chancellor. If it has got "N" against it, it means you discounted a note.

Q And there is one of $2,250 (indicating another entry on the transcript). A I can't recall what that was for.

Q Did the bank close down on your discount —did the bank stop discounting paper for you? A Yes, sir.

Q Now, yesterday I called your attention to the property you had in June, 1910, and what you owed: Did you have your automobile at that time? A I had it in 1910.

Q Did you have it in June, 1910? A Yes, sir.

Q When did you sell it, do you remember? A I couldn't recall the time, Mr. Bentley; I never kept a tally of that.

Cross examination by Mr. Lane.

Q You did not tell, did you, Miss Ringger, or Mr. Neff, at the time you saw them in May 27th, the day after you transferred this property, that you would not have any money until you could sell your Fairview property? A No, sir.

Q You are sure of that? A Yes, sir.

Q There never was any doubt in your mind about it, was there? A No, sir.

Q And you were just as sure of it in June, 1914, as you are now, is that right? A In 1914?

Q Yes, when you testified before the Referee —you were sure of it then, that you never told them that, weren't you? A I think I was; yes, sir.

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Q Well, are you any more sure now than you were then? A I know I owed them some money—

The Vice-Chancellor. No, answer the question.

Q You did not tell them that you would not have any money until you could sell your Fairview property, did you? A No, sir.

Q And you were just as sure in June, 1914, that you did not tell them that as you are now, is not that so? A Well, I am almost sure of it.

Q Will you tell me why you testified, on page 73: "Q Do you remember saying to Ringger, about the time you were making out new notes, that you wouldn't have any money until you could sell your Fairview property? A I don't remember?" A Well, if I did I don't remember saying so.

Q Well, didn't you remember then, in June, 1914, whether you had told them that you wouldn't have any money until you sold your Fairview property, or not? A I don't remember saying so; no, sir.

Q Well, you did say so, according to the record. A Well, if I did, I don't remember saying so.

Q Was it true that you did not remember at that time? A Yes, sir.

Q Didn't you remember, in June, 1914, whether you had told that to Mr. Ringger, or not? A I don't remember; no, sir.

Q When did you take this letter of May 23d, 1913, to Mr. Bentley? A I don't remember when it was.

Q Well, was it before the deeds were made, or afterwards? A It was afterwards, I believe, if I am not mistaken.

Louis Rayot, cross.

Q Well, how long before you went to Mr. Ringger was it that you took it to him? A I don't know; I can't recall.

Q This letter you received on the 23d, didn't you, or the 24th? A Yes, sir.

Q Asking for a settlement of your account with Ringger? Is that right? On the 26th you went down to Mr. Bentley's office, and had this property transferred, didn't you? A No, sir.

Q Well, when? A It was 1913, in May.

Q Yes, on the 23d day of May, 1913, you received this letter asking for a settlement of your account, didn't you, or on the 24th? A Yes, sir; it was the 24th I got it.

Q And on the 26th, or two days afterwards, you went down to Mr. Bentley's office and transferred all your property, didn't you? A On the 26th I sold the property; yes, sir.

Q And on the 27th you went to Mr. Ringger, didn't you? A I don't remember whether it was the 27th, or not.

Q Well, the notes show you did go there on the 27th. Now, do you mean to tell us that you did not show it to Mr. Bentley until after the 27th, after you saw Ringger and gave the notes? A This was after; yes, sir.

Q Why did you show it to Mr. Bentley at all, then? A I asked him about my bill, if I shouldn't have a complete bill, and I was going to get one in June.

Q After the 27th, mind you? A Yes, sir.

Q After you had made the notes, after you had settled your account, you went down there to Mr. Bentley and showed him that, in order that you might get a bill; is that right? A Yes, sir.

Louis Rayot, cross.

Q Why did you, on the 27th day of May, give notes to Mr. Ringger, if you were not satisfied that their account was right. A Because they wanted the notes and I gave them notes.

Q To settle your account? A Yes.

Q Without requiring the bill? A Yes, sir; they were going to give me the bill; they were going to mail me the bill.

Q And you never showed Mr. Bentley this letter until after the 27th; is that right? A They were going to mail me the bill and I never got one.

Q You never showed Mr. Bentley that letter until after the 27th; is that right—after you had given the notes, is that right? A I am quite sure that it was after that time; yes, sir.

Q What did Mr. Bentley tell you when you showed him the letter? A I can't recall what he told me.

Q Well, did he give you any advice at all? A That I should have the bill.

Q Did you go after Ringger for the bill, after that time, after the 27th? A I expected one in June.

Q Did you, acting on the advice of Mr. Bentley, go after the bill after the 27th? A I went there and renewed the note after that.

By the Vice-Chancellor.

Q You do not answer the question; he asked you if you went to Mr. Ringger after May 27th, and after you had received this advice from Mr. Bentley—did you go to Ringger and ask him for his bill? A No, sir, I did not; I expected it and didn't get it.

Louis Rayot, cross.

By Mr. Lane.

Q Well, did not Mr. Bentley tell you you were entitled to a bill and ought to get it? A He just told me I was entitled to a bill; yes, sir.

Q Did you tell Mr. Bentley that you had settled by giving notes? A I didn't settle that; that was a temporary settlement.

Q Did you tell Mr. Bentley that you had given notes? A Yes, sir.

Q And that you were not satisfied that those notes correctly evidenced the amount that was due from you? A Well, I gave it to him according to the way this here bill showed here, and that I was going to get a correct bill, and so I gave these notes on that condition.

Q Didn't he tell you to go immediately and get the bill? A Didn't tell me to go immediately; no, sir.

Q Then he gave you no advice at all? A He told me I ought to have the bill, yes, sir. I asked for this bill several times, and he never gave it to me.

Q Now, on the 26th day of May, 1913, you knew, as a matter of fact, that you could not pay your debts, didn't you? A No, sir; I did not.

Q Well, how did you expect to pay them? A Well, if I could work and get in money I would have paid them.

Q You knew you did not have the money then to pay them, didn't you? A If I had the work—

(Question repeated.)

The Vice-Chancellor. At the time you made this deed?

A At the time I made this deed?

The Vice-Chancellor. You knew you hadn't money sufficient to pay your debts?

A No, sir; that wasn't it. I didn't have a great deal of money.

Q You knew that after you transferred this property to Mr. Hermes you did not have a single thing in this world, except what you got for that property, didn't you? A That is all the money I had; yes, sir.

Q Yes, and you knew that that money was not sufficient—assuming that you had it, now—to pay your debts, didn't you? A Well, I didn't have all of the money in that.

Q Well, then, so much the less did you have money sufficient to pay your debts, is not that so? A Yes, sir, that was less; yes, sir.

Q And you mean to say that when you went down to Mr. Bentley's office, on the 26th day of May, 1913 to make this transfer, when you had this letter in your pocket, and you knew that you ought to have a bill, and you knew that Ringger was pressing you and was demanding notes, that you did not ask advice of Mr. Bentley then with respect to what you should do?

Mr. Bentley. I object, on the ground that the question presupposes a fact which has not been proven in this case, namely, that he had the bill in his pocket.

Mr. Lane. Well, I withdraw it.

Q With this letter in your possession, and with knowledge of this letter, when you went to Mr. Bentley's office on the 26th day of May, 1913, do you mean to say that you did not ask him anything about that letter, or about what you should do? A No, sir; I did not have it with me.

Louis Rayot, cross.

Q And because you did not have it with you was the reason why you did not ask him about it; is that so? A I did not ask him about it at all.

Q Now, will you tell me how many days after the 27th it was that you did go down to Mr. Bentley's office and give him that letter, or show it to him? A I think it was three or four days later.

Q Three or four days later? A To my knowledge; yes, sir.

Q Will you tell me why you waited for three or four days after the 27th before you showed him the letter, when you had it on the 24th, and when you were down to Mr. Bentley's office on the 26th? A I got to thinking about that bill. That was the reason I wanted to get my bill.

Q Mr. Hermes never gave you any money to pay these bills that you have paid here, did he?

The Vice-Chancellor. Which bills are those?

Mr. Lane. The bills he testified he has paid—the water bills and the Public Service bills.

A I paid that out of the rent, and the balance of the rent I gave to Mr. Hermes with those bills.

Q He never turned over to you the money to pay them, in cash, did he? A No, sir, only deducted it from the amount of the rent, and I gave him the bills with the balance of the rent.

Q So that he never turned over to you any cash, any money, to pay these bills, did he? A No, sir—only deducted it from the amount.

Louis Rayot, cross.

Q Nor did he turn over to you any moneys to pay any repair bills, in cash, did he? A No, sir.

By the Vice-Chancellor.

Q Did he turn over to you any money to pay any bills? A Only as I would deduct it from the amounts.

Q No, no; you do not understand: Did Mr. Hermes give you any money personally to pay any bills? A No, sir; he did not; he told me to take it out of the rent, whatever the bill was, and give him the balance and the receipts.

By Mr. Lane.

Q Where are the receipts prior to June 7th, 1914, Mr. Rayot? A I must have them home, if I am not mistaken; I thought they were all here, I see they are not.

Q There are none there, Mr. Rayot, prior to the time that you testified in the bankruptcy proceedings. A (Examining the ones in court.) They are here to March.

Q Now, there are no receipts there prior to the time you testified in the bankruptcy proceedings before the Referee? A I have got receipts for them all.

Q Why didn't you produce them here to-day? A I thought they were there.

Q Did you keep them separate? A No, sir, they were all together, I believe; they were all together just the same as these here. They were all together, I think

Q Can you explain why it is that the receipts missing happen to be the ones prior to June 7th, 1914, when you testified in the bankruptcy proceeding? A Probably Mr. Bentley has them there; I couldn't say.

Mr. Lane. Well, I ask for them, if Mr. Bentley has them.

Mr. Bentley. Mr. Bentley's recollection is refreshed, that he is quite certain—

Mr. Lane. If you want to testify, then testify. I asked you to produce them.

Mr. Bentley. I say they are in the possession, to the best of my knowledge and belief, of the Referee in Bankruptcy for this county.

The Witness. If I am not mistaken, I know I had them.

Q Did you produce these receipts, Mr. Rayot, before the Referee in Bankruptcy? A Yes, I believe I did.

Q You did? A I believe so, if I am not mistaken; I am not sure about it; I think I did.

Q And you testified with respect to those receipts before the Referee in Bankruptcy? A I am not sure about it, but I think I did.

Mr. Lane. The record, if your Honor please, shows that they were not produced.

Q How long had these receipts which have been marked in evidence been in your possession? A How long?

Q Yes—have they been in your possession up to this time, or who has had them? A Ever since I gave him the rents; every month I got one.

Q When did you turn them over to your counsel—these receipts? A Why, yesterday.

Q You have had them in your possession ever since that time, is that right? A Yes, sir.

Q And you had the other receipts in your possession, too? A Yes, sir.

Louis Rayot, cross.

Q And they were all in one place in your house? A Yes, sir; in my house.

Q And you produced these, and you did not produce the others? A Well, I thought they were with me here; I am almost certain I produced them at the other hearing, if I am not mistaken; I am not sure about it, but I think I did.

Q Don't you remember testifying in the bankruptcy proceeding that you had receipts, but that you had left them home? A I don't recall. I thought I had them with me.

Q You never kept receipts, did you, of any other business transaction you had? A Well, I did probably, for a short time, and then destroyed them.

Q But you haven't receipts now of any of your creditors in any of your business transactions, have you? A No, sir.

Q Why did you keep these particular receipts? A Well, I don't know; as I collected the rents I just simply kept them, that's all.

By the Vice-Chancellor.

Q No, but why did you keep them—did you have any motive in keeping them? A No, sir; I did not.

By Mr. Lane.

Q How long was Mr. Bentley out of the office when he dictated this paper, this authorization? A Well, I should judge, probably about five minutes; I can't just recall exactly how long it was.

Q And I suppose, Mr. Rayot, that during that five minutes that Mr. Bentley was out of the office was the time this ninety-six dollars

passed over the desk; is that right? A Yes, the money was passed over.

Q So when Mr. Bentley went out of the office there was no money on the table, and when Mr. Bentley came back in the office there was no money on the table—is that right? A Yes, there was money on the table.

Q There was? A Yes, sir.

Q So Mr. Bentley saw some of the money pass, did he? A I couldn't say whether he did or he didn't. I didn't look at Mr. Bentley, I was looking at the money.

Q What? I didn't look at Mr. Bentley, I was looking at the money.

Q So that if Mr. Bentley wanted to see the money pass he could have seen it, then—is that right? A I suppose he could, if he had looked.

Q He was there during the time the money passed, was that right? A Well, I believe he was; yes, sir.

Q Well, that is your best recollection? A Yes, sir.

The Vice-Chancellor. Where does it appear that $9,600 was paid?

Mr. Lane. It is in the testimony referring to the testimony taken before the Referee in Bankruptcy. It ought to have been read to your Honor to give you the real understanding of it.

The Witness. It was $9,400, to my recollection, was all.

Q Well, over $9,000, in bills, fives, tens, twenties and fifties? A Yes, sir; if I am not mistaken there were a few larger bills.

Louis Rayot, cross.

By the Vice-Chancellor.

Q Did you count the money before you put it in your pocket? A Yes, sir.

Q Was Mr. Bentley present while you counted the money? A I couldn't recall; he had this here paper dictated there then; there was this paper drawn.

Q What was the character of the bills that this $9,400 was paid in? A What was that?

Q What was the character of the bills—what denominations? The amount of the bills?

Q What denomination were the several bills —were they ones, fives, tens, twenties? A They were in fives, tens, twenties, fifties, and there were a few larger bills.

Q What denomination? A I believe in hundreds; I don't just recall exactly now.

Q Do you recall how many times you counted the money over before you put it in your pocket? A No, sir; once was sufficient.

By Mr. Lane.

Q How much interest was due on this mortgage of $2,400 at the time this transfer was made? A I believe it was $36.00, if I am not mistaken.

Q How much taxes were due? A I do not recall the amount.

Q Well, there was some due, wasn't there? A There was two years due, I believe.

Q I show you your transcripts of account, Exhibit C. 15, and refer you to an item of July 7th, 1913, which is two months after this transfer was made, and to a deposit of $1,655, and ask you what that $1,655 represents, if you know? A I don't recall what that was for.

Louis Rayot, cross.

Q Well, it is a large amount, is it not, for you to deposit at that time—$1,655.00? Now, in view of the fact that you did not keep any books, cannot you put your mind back to that time and tell me what that $1,655 is for? A No, sir, I cannot; I couldn't tell you what that was for.

Q You cannot even guess what it was for? A No, sir.

Q At least, you are now satisfied that you did deposit in the bank, two months after you made this transfer $1,655, aren't you. A Well, I couldn't tell you.

By the Vice-Chancellor.

Q Well, do you know who paid you the $1,655 —was it paid in one sum or several sums? A I don't recall how that was paid, or where this comes in.

Q (*By Mr. Lane.*) On May 22d, 1913, you deposited $294; can you tell me what that was for? A Well, this deposit, to my recollection, is some of the money that I deposited in the bank and paid it out in checks.

Q Some of what money? A Some of the money I got from the property. That is the only way I can account for it.

Q Is that correct? A Yes.

Q Do you testify that way now? A I believe that is the only way I can.

Q Why did you testify before the Referee in Bankruptcy that you did not deposit a cent of this money, but carried it around in your pocket until it was gone? A Well, if I did—

Q Well, you did testify so before the Referee in Bankruptcy.

Mr. Bentley. Show it to him. I submit he has a right to have it read to him.

The Vice-Chancellor. Yes. Suppose you let Mr. Higgins look for that, and you go ahead.

Q On page 17, Mr. Rayot, you testified as follows: "Q What became of the money you got from Barney Hermes, the balance of $3,000 you had from the estate, where did you keep that? A I have been paying bills, etc. Q Where are you keeping the money? A In my pocket. Q You kept $3,000 around in your pocket for how long? A Not very long. Q To whom did you pay the largest amount to out of that $3,000, and when did you pay it? A I paid it for living purposes. Q To whom did you pay it and when did you pay it, the largest amount of that $3,000 that you carried around in your pocket? A I can't just recall. Q Can't you recall one person? A I have been paying a little bit to everybody. Q Give us the name of one person, how much, and when, out of that $3,000 you had in pour pocket? A I paid Ringger on account of the notes and interest—

Mr. Bentley. I do not want to interrupt you, but you are referring to another transaction.

Mr. Lane. I am not referring to another transaction at all.

Q (Resuming reading.) Q Was that out of the $3,000 in your pocket? A Yes, sir—

Mr. Bentley. But you started off with "Q What became of the money you got from Barney Hermes, the balance of the

$3,000 you had from the estate, where did you keep that?''

The Vice-Chancellor. Counsel has the right to proceed in his own manner.

Mr. Bentley. May I interpose an objection: The witness' attention has been directed to what became of certain moneys; he has been confronted with his testimony at a former proceeding; I submit to your Honor that what is being read to the witness is not the same transaction which he was being interrogated about.

The Vice-Chancellor. No, it was the $3,000 he got from the estate.

Mr. Bentley. But now he is cross examining him about the money he got from Barney Hermes.

The Vice-Chancellor. He is reading the testimony to him. That testimony indicates that the examination starts practically with the $3,000 he got from the estate; now, he is giving the testimony just as it appears.

Mr. Bentley. But your Honor will notice that that transaction took place in 1910, with the estate.

The Vice-Chancellor. I don't care when it took place.

Mr. Bentley. This transfer was in 1913—

The Vice-Chancellor. I don't care when it happened; the weight of this testimony depends on whether he says it is true or untrue.

Q In order to clear this thing up, Mr. Rayot, did you ever get any $3,000 from any estate in June, 1910, or any sum from an estate? You

got the property, didn't you? A I don't recall; I don't recall what I got.

Q Do you mean to say now that in June, 1910, you got any money, cash, out of the Gousset estate? A I believe I got some money; yes, sir, and some property, too.

Q And some property? A Yes, sir.

Q You got money and property? A The property was sold, and then re-bought.

Q Then Barney Hermes did pay to you, in June, 1910, some money, didn't he? A In June, 1910?

Q Yes. A No, sir.

Q He did not? A No, sir.

Q He did not pay anything for the conveyance he got, then, did he? A It was a settlement of the heirs, at that time, of the estate.

Q And you did not get any money from Barney Hermes at that time, did you? A No, sir; it was just a transfer that same day from the estate over to me and my wife.

Q Why did you testify as you did, on page 22,—"Q You did not put any of this $3,000" (referring now to the money, the balance of the money in your hands out of the $9,600) "in the bank notwithstanding that you had this bank account? A No, sir. Q Why didn't you put it in the bank if you had the bank account? A Because I didn't put it in the bank. Because I didn't have to put it in the bank. Q Why didn't you put it in? That was the way you were conducting business. A I wasn't working and I wanted money. I owed money and used it up"—why did you testify that way if there is any possibility that this $1,655 deposit deposited in July, 1913, was a part of that money? A Well, if I did testify that way I

didn't mean it that way, because I must have deposited some of that money in the bank.

Q Then you did not mean it? A I had been, I suppose, nervous, and that is what I said; but I must have deposited some of that money in the bank at that time.

Q You did not mean it when you twice testified before the Referee that you did not put a cent of this money in the bank, but kept it in your pocket and paid it out for bills—you did not mean that, did you? A No, sir; I must have deposited some of that money in there.

Q Can you tell me why you deposited the sum of $1,655 in there? Why did you make it $1,655? A I have been paying that out—I don't know how it was—in checks, or I don't know how it was, or drawing it myself; I don't know just how that was transacted now.

Q Can you tell me what the $294.00 deposited on May 22d represents?

The Vice-Chancellor. What year?

Q 1913. Was that also part of that money? A I suppose it must have been; I cannot recall what this was all for.

Q Well, it was before the deed was transferred and you got the money, so it could not be part of the money, could it? A I don't know what that is, unless that was the renewal date of a note.

The Vice-Chancellor. This $3,000, as I understand it, was paid over in 1910.

Mr. Lane. No, sir; Mr. Bentley is entirely wrong on that; there was no money paid in 1910 at all, it was all 1913.

The Vice-Chancellor. That testimony before the Referee, indicates, though, that he got $3,000 from the estate.

Mr. Lane. That is wrong. It is a little ambiguous because you have not got the context; the context shows what the parties were referring to at that time.

The Vice-Chancellor. It may be ambiguous to the witness, too.

Mr. Lane. Well, I am trying to clear it up now, because the witness has said that he did not get any money from the estate at that time.

Q What you had left out of the $9,600 paid to you by Mr. Barney Hermes was about $3,000, wasn't it? A What I got from Mr. Hermes?

Q What you had left, after, as you say you paid your wife and after you paid Aimee Gousset $2,000? A Well, I had in the neighborhood of $3,000, or a little less; I don't just exactly recall how much it was.

Q And it was out of that $3,000 that you testified before the Referee that you paid Mr. Ringger on account of his notes, wasn't it? A Well, I believe, if I am not mistaken, I must have deposited some of that money in there, and I gave checks, if I am not mistaken; I don't just recall how this was done now, I didn't keep that in my memory.

Q You testified, didn't you (p. 18): "Q Give us the name of one person, how much, and when, out of that $3,000 you had in your pocket? A I paid Ringger on account of the notes and interest. Q Was that out of the $3,000 in your pocket? A I can't just recall,"—you so testified, didn't you? A If I am not mistaken I paid Ringger with checks; I am not sure now.

Q When? A Well, the time of the notes here, I believe.

Q At the time the notes were made, on May 27th? A At the renewal of the notes; I forgot just how that went, now; it was some time ago.

Q Will you tell me about this deposit of August 21, 1913, of $195.97—that is a note, is it not? A I know I had some notes in there; I don't just remember what that was.

Q Well, that was a note discounted, wasn't it, or was it a note renewal? A I couldn't say; I have had several notes there; I worked a good deal on notes, anyhow.

Q You do not remember, then, whether or not on the 21st day of August, 1913, you discounted a note with the Hudson Trust Company? A I don't remember; I didn't keep tally of that at all.

Q Well, can you tell me what that note could have been discounted for, assuming it was discounted at that time? It appears from that transcript that that is the first time that note appears in the record? A I don't know anything about that note.

Q You don't know why you needed the money at that time, when you had three thousand dollars in your clothes? A I believe it was an old note renewed, if I am not mistaken; I couldn't say positively; I know I had been paying off on notes and renewing them. It ought to show there somewhere.

Q Well, now, will you tell me what this deposit of August 30, 1913, for $245 is? Do you recollect that, what it is for? That is not a note. A I couldn't tell, unless I deposited some of that money.

Q Do you know what this $300, on September 29, 1913, is? A I don't remember what this was.

Q Unless you deposited some of that money —is that right? A I couldn't tell you what that was.

Q It may have been some of that money—is that right? A It might have been; I couldn't say exactly.

Q This $650, on November 11, 1913, I suppose that may have been some of that money, too? A I couldn't say what that was for.

Q May it not have been some of that money? A I couldn't tell you; I didn't keep any tally of all this; I haven't no records at all to show.

Q Do you know what it could have been, if it was not some of that money? A No, sir, I couldn't tell you; it is not in my mind at all.

Q Then it may be, Mr. Rayot, that you deposited in this bank account, at various times, out of the moneys which you carried in your pocket, out of this $3,000 in your pocket, as much as $2,300—is that right? A I don't recall what it was; I don't know.

Q Although you testified before the Referee that you did not deposit any of it—is that right? A Well, to my recollection, I don't remember exactly what I testified.

Q Well, what is the fact? A Well, I am just telling you.

Q Do you know whether it was part of this cash money you had in your pocket, or whether it was not, that you deposited at these different times? A To my recollection I don't remember; I don't remember what it was.

Q Didn't you testify before the Referee that you had used all of this $3,000 up by payments made in cash to some people whom you could not recollect, but most of it used for cash expenses, twenty-five, thirty-five, fifty dollars a week to

your wife for living expenses—didn't you testify to that? A I have paid out some cash, and also, if I am not mistaken—

The Vice-Chancellor. The question is, did you testify so before the Referee?

A Yes, I did. I also believe I paid out in checks, to my knowledge I don't just remember how that was, it is so long ago.

Q But you testified on your direct examination, Mr. Rayot, that in June, 1910, you were able to pay Ringger and Gardiner & Meeks, who were your largest creditors at that time, all that you owed them—is that right? A When was that?

The Vice-Chancellor. In June, 1910.

A Yes, sir.

Q Do you know how much you owed Mr. Ringger at that time? A No, sir; I do not.

Q Well, you owed him at that time approximately $5,000, according to the testimony—will you tell me where you had the $5,000 to pay him what you owed him? A Yes, sir.

Q Where? A I had the property in Dubois street; that was worth $5,000.

Q Over and above encumbrances? A What is "encumbrances"?

Q Mortgages. A No, sir.

Q Well, what was your equity worth? A That was worth—that is, taking off the mortgages, you mean?

The Vice-Chancellor. Certainly.

A That was worth every bit of $3,500.

Q Yes. When did you sell it? A Why, I don't exactly know the year, but I think it was around 1910, I believe; I have forgot exactly.

Q Well, was it before June, 1910, or after June, 1910? A I cannot recall.

Q Well, then, you do not know, as a matter of fact, whether you had money enough at that time? A I know pretty near that I did, because I had property besides that.

Q When you did sell this property what did you get for it? A I sold it for $5,500.

Q In cash? I don't care what you sold it for—what did you get for it? A $5,500; and there was $1,500 to come off of that.

Q What did you get in cash?

Mr. Bentley. Oh, if he took back a mortgage, I submit that is right.

Q Well, in cash or mortgage—security? A That is $4,000.

Q Well, don't you know now how much you did get, as matter of fact? A I believe it was $4,000.

Q Did you get it in cash? A I got it in cash; yes, sir.

Q Got it in cash? A Yes, I believe I did.

Q Then you got, in cash, $4,000 when you sold that property? A I believe I did; I am not altogether positive, but I think I did.

Q What did you do with the cash you got? A I don't remember what I used that for.

Q Well, did you put it in the bank? A Some of it.

Q Do you know how much of it? A No, sir; I do not.

Q What other property did you own in June, 1910? A I had one at Summit avenue.

Q When did you sell that? A I am just trying to think; I think it was in the latter part of 1911, if I am not mistaken—well, around 1910 or 1911.

Louis Rayot, cross.

Q What did you get for that? A I don't remember whether I sold that for forty-four or forty-three hundred; I have forgot exactly the amount.

By the Vice-Chancellor.

Q What encumbrance was against it? A I am not sure; I think it was $2,500.

By Mr. Lane.

Q Well, what cash did you realize?

Mr. Bentley. Cash or mortgage?

A $2,000.

Q What other property did you own? Did you put that money in bank? A I don't remember where that money went to; I couldn't recall whether it went into bank, or not.

Q That was the latter part of 1911? A Well, I couldn't say.

The Vice-Chancellor. The latter part of 1910, or, perhaps, the early part of 1911?

A Yes; I have forgot exactly when that was; that is as near as I can come to it.

Q And what other property did you own? A I believe I owned the Angelique street property at that time, if I am not mistaken.

Q Do you know? A Well, I am almost sure.

Q Do you know when it was sold? A Yes, sir; I had it in 1910; I couldn't tell you exactly when I sold it.

Q What did you get for it when you did sell it? A I didn't get much, I remember I sold it in two parts; it was a plot 50x100, with two buildings on to it. I believe I sold the one plot with the buildings, I believe it was for eleven

thousand and a few dollars, I forget exactly the amount, eleven thousand and fifty, I believe; I don't just exactly remember the amount, but I know it was about around eleven thousand dollars for that one part, that one plot.

Q Was that your equity in it? A No, sir.

Q What was the amount you got from it? A Well, I don't just remember now. It was fifty feet by one hundred.

By the Vice-Chancellor.

Q Well, what encumbrance or mortgage was against it? A $6,000, in the Hudson Trust.

Q Was there anything else against it, taxes or water rents? A No, sir; there was nothing else.

Q Well, how were you paid, then, in cash or mortgage? A The way they paid me?

Q Yes. A In money.

By Mr. Lane.

Q Cannot you give us an idea of how much money you got?

The Vice-Chancellor. Well, that would be about $5,000.

Q Well, did you get in cash about $5,000? A It was in cash, I believe, yes, sir; I believe it was; I don't just remember exactly; I think it was if I am not mistaken.

Mr. Bentley. You did not cover the other building, if you want it.

Q Well, give us all of it? A And the other, 25 feet by 100, I sold that, if I am not mistaken, for, I think it was $2,850, or whatever it was.

Q When did you get that—when did you sell that? A I cannot recall just when I sold it.

Louis Rayot, cross.

Q What did you do with the money? A Now, I got—there was a $2,000 mortgage on that.

By the Vice-Chancellor.

Q Well, you got $5,000 for the 50 foot lot and about $800 from the 25 foot plot? A Yes, sir.

Q Now, what disposition did you make of those moneys after you received them? A I don't know what I done with that, I don't remember just where that went. I would have an awful time to think where that went. I had ready cash. I know that.

Q Well, did you put it in bank? A As a rule I generally put the most of it in bank, as a rule.

By Mr. Lane.

Q You owed your brother Aimee Gousset, about that time about $2,000, didn't you? A When was that?

Q In June, 1910? A No, sir.

Q When did you start to borrow from him? A It was in the latter part or around 1912, when I started to borrow from him.

Q In 1912? A The latter part of 1912.

Q And how much did you borrow from him? A Well, I borrowed $2,000—over that, in fact.

Q Well, did you keep any record of it at all? A No, sir.

Q And he kept no record? A It was in large sums I borrowed at a time—$500 at a time.

Q Well, how much did you borrow? A I borrowed $2,000.

Q Well, you said more than that. A Well, there was two notes that is paid off to the bank; I owe him that. He had to pay two notes that went to protest in the bank. He paid them.

Q How many times did you go to him and borrow money? A I can't exactly give you the amount of times.

Q And it started in 1912? A In the neighborhood of 1912; yes, sir.

Q Then you got rid, between June, 1910, and the early part of 1912, of $9,300, besides the money that you were making from your business —is that right? A Yes, I could easily get rid of it.

Q And besides that, from 1912 to June, 1914, you got rid of the $2,000 that you borrowed from your brother? A I used it.

Q And you got rid of the $3,000 that you got from Hermes on the property? A Yes, sir.

Q Besides getting rid of all of the money which appeared to have been deposited in this bank account—that is right, is it not? A Yes, sir.

Q Well, why not? A Because I have lost money on all my contracts; that is why; if you want to know the positive fact.

Q What moneys have you lost on your contracts since June, 1910? A Why, I have lost on the Angelique street property considerable.

Q You told us what you got out of the Angelique street property, so you did not lose anything on that? A I paid close to $15,000 for the Angelique street property, and I only got $11,000 and $800 out of it and I lost the rest—

By the Vice-Chancellor.

Q Well you got $11,000 and $2,800. A There was a $2,000 mortgage on the other property.

Louis Rayot, cross.

By Mr. Lane.

Q Listen to me—I don't care whether you paid $100,000 for the Angelique street property in 1909, I am asking you what you lost from June, 1910, to account for the dissipation or the disposition of this $11,000.

Mr. Bentley. Now he started to tell you.

Mr. Lane. No, he did not. What he lost on his Angelique street property has nothing to do with it, because that is a long time before this that he paid for that.

The Vice-Chancellor. The fact of the matter is very plain—it doesn't make any difference what he paid for the Angelique street property; he bought it before 1910.

Mr. Bentley. No, sir; he bought it in June, 1910. That was the time of the settlement of the Gousset estate, and he sold it about two years later. Now he bought it for over $15,000, and got $11,800 for it, so he lost over $3,200 on that one transaction.

The Witness. And I have decorated the inside—went to a great deal of expense.

The Vice-Chancellor. Then the last question was confusing.

Q When did you buy the Angelique street property? A I cannot just recall the date I bought it, or the year.

Q From whom did you buy it? A From Mr. Wolbert, the auctioneer.

Q It was before June, 1910, wasn't it? A Well, I don't remember—in that neighborhood, sometime.

Q You paid for it by check, didn't you? A Yes, sir; I believe I did by check.

Q And you paid $15,000 for it—is that right? A Well, by checks or cash, whichever it was. I know I paid for it, that is all.

Q All right. I show you your account from April 28, 1910, to July 1, 1910, and ask you whether you can pick out of that account anything which you paid for the Angelique street property. A Well, my share was to come out of this here.

Q Well, any amount that approximates the amount you paid for it? A It was an estate, and my share was to come out of this, and for me to recall all of these things I would have an awful lot to do. I have got no records; I can't produce no books to bring here to show these things.

The Vice-Chancellor. As I understand his former testimony the Angelique street property was owned by the estate, and it was sold in partition—is that right, Mr. Bentley?

Mr. Bentley. No, sir; sold at public auction, by written consent of all the heirs.

The Vice-Chancellor. Well, I mean it was property of the estate?

Mr. Bentley. Yes, sir.

The Vice-Chancellor. And he had his share coming out of it?

Mr. Bentley. He had his share coming out of it.

Mr. Lane. When was it sold?

Mr. Bentley. It was sold in June or July, 1910. I had entire charge of the transaction. Do you want me to tell how it was done?

Louis Rayot, cross.

The Vice-Chancellor. The record will show it.

Mr. Bentley. But the record would not show how the finances passed.

The Vice-Chancellor. Well, you had charge of it, you have the memorandum.

Mr. Bentley. I know, but I have got it in my head.

Q Is it not a fact, Mr. Rayot, that you sold this Angelique street property by deed dated June 30th, 1910, recorded July 22d, 1910—sold it, now, to Louis Stern? A It was 1910 I sold it?

Q Yes. A Well, I don't recall; whatever is there I suppose is right; whatever is on the record, that is when I sold it.

The Vice-Chancellor. When was it recorded?

Mr. Lane. July 2d, 1910.

The Vice-Chancellor. There is a deposit in bank of $5,000 on that date.

Mr. Lane. The consideration was $2,800.

Mr. Bentley. That was the little house.

The Court. That is strange—on July 2d there is the deposit (indicating an entry on the bank transcript). There is a deposit on July 1st of $400 and on July 2d, of $250, and on July 2d of $5,000. Now, when was the deed for the large piece recorded?

Q You sold the large piece of property to Charles Wolff, by deed dated July 1st, 1910, recorded July 2d, 1910, did you not? A Yes, sir; to Mr. Wolff.

large piece?

The Vice-Chancellor. That is for the

Mr. Lane. The large piece. They are both the same day.

The Vice-Chancellor. On that date there was a deposit of $5,000.

Q So that that $5,000 and that $2,800 went into the bank, did it.

The Vice-Chancellor. No, not the $2,800.

The Witness. Well, I only got $800.

The Vice-Chancellor. $5,650 went into the bank.

Q At any rate, the money you got from those two houses went into the bank account, didn't it? A It must have.

Q Do you know what this $3,800 is down here, deposited on July 14, 1910 (referring to another entry on the bank transcript)? A I cannot recall what that is for.

Q Do you know what this payment of $2,261.25 of July 23d, 1910, represents? A I can't recall what that was paid for.

Q At any rate, you used all of this money up, that you got in paying your debts, other than Ringger's, didn't you? A I have been paying Ringger on account.

Q Yes, you paid him $50 on account. How much did you pay him? A I paid him considerable.

Q Well, how much?

The Vice-Chancellor. What is the use of going into that?

A I paid him with second mortgages, and also some cash, and I have paid him in checks also.

Q Is it not a fact, Mr. Rayot, that this Angelique street property which has been said to have

been transferred to you in 1910 was actually transferred to you by deed dated April 26, 1909, and recorded April 28, 1909, from Zeline Baker and husband and others to Louis Rayot?

Mr. Bentley. What date was that? I said he had it in June, 1910.

Mr. Lane. You led me to believe that he purchased it at a partition sale of which you had knowledge, in 1910.

Mr. Bentley. It was sold at public auction about a year before it was sold by him. It was sold sometime in 1910.

Mr. Lane. Well, the fact is that he got it in April 26, 1909.

Q Now, then, in what other ways did you lose money from 1910 on? A Oh, I had a Packard car. I sold that at a sacrifice.

Q You bought the Packard car before 1910, didn't you? A In 1909.

Q Well, you got money from that—you got $2,500 from that? A I only got $2,500 on $2,600.

Q Well, you got that from your Packard car, so that went in with the $11,000 that you used.

By the Vice-Chancellor.

Q When did you sell that? A I couldn't say, exactly. I got it about the latter part of 1909, I believe, and I had it a little over two years, if I am not mistaken.

Mr. Lane. I think there is a deposit there of $2,500 about the time he says he sold it.

The Witness. I don't exactly recall just exactly the time I did sell it.

Louis Rayot, cross.

By Mr. Lane.

Q I am asking you where you lost money, not where you made money? A I didn't make it on the Packard car.

Q You got $2,500 more money to use than you had in June, 1910? A Yes, but did I make anything on the Packard car?

Q Tell us some places in which you lost money since June, 1910? A I have done a job out in Morris street, Fairview; I done that for $1,300, and it cost me over $1,500.

Q All right, you lost $200 there? A Yes, sir.

Q All right, that is one. Now, any other? A I built Eveson's in Fairview.

Q How much did you lose there? A I lost there—I didn't keep a record of it—but I am sure I lost over $300 there.

Q What else? A And I built two in Richfield.

Q How much did you lose? A I lost there; I don't just recollect how much I lost, but I went back on those two houses. It was a time that I was very sick.

Q Well, give us an estimate of what you lost? A I lost every bit of $400.

Q $400—now, what else? A I have lost on the corner of Spring street and Dubois street.

Q This is all since 1910, is it? A No, sir; it was after that.

Q I mean after that? A No, sir; it was not in 1910.

Q After 1910? A It was after 1910; yes, sir.

Q That is all I want to know. How much did you lose on that? A I lost over $1,800 there.

Louis Rayot, cross.

Q Yes—what else? A I lost on the Angelique street property.

Q You have told us about that. Now, what are the other contracts that you lost on? A I got $11,800—

The Vice-Chancellor. No, you told us all about the Angelique street property.

A Then I done a job in Richfield for $125 and that cost me $400 by the time I got through.

Q That is another $300—now what others? A Well, I can't recall, but I know I have made very little money during that time—in fact, none. I have had doctor's expenses all that time, too. I have been sick for a long time and had considerable doctor's expenses.

Q By the way, did you, during this course of time, make any money? A No, sir.

Q How about the job of Michaelsons? A I didn't make a nickel there, not a cent, I was out of money there.

By Mr. Bentley.

Q Which is the Michaelson job? A In Richfield.

Q You have described that? A Yes; I lost $400 there.

By Mr. Lane.

Q Going back to whether you have these receipts, or whether you produced them before the Referee in Bankruptcy, you testified before the Referee in Bankruptcy, page 14 "Q Have you got the receipt that you got from him" (referring to Mr. Hermes) "when you turned this rent over to him? A No, sir"— A Which receipt was that?

Louis Rayot, cross.

Q Well, I will read a little further, so you can make up your own mind about that. On page 13 you testified: "Q And does Mr. Hermes give you a receipt when you turn this money over to him? A Yes, sir." And then, further down. "Q Have you got the receipt that you got from him when you turned this rent over to him? A Yes, sir." A Well, if I said that, I didn't mean it that way because I have got receipts.

Q You didn't mean it? A Yes, sir. You get a man so nervous he don't know what he is talking about.

Q Did you see Mr. Bentley prior to May 26th, 1913, at the time this transfer was made, with respect to the transfer, at all? A No, sir.

Q You just happened in on him that day without his knowing you were coming? A Yes, sir; I believe I did; if I am not mistaken.

By the Vice-Chancellor.

Q When did you make the bargain with Mr. Hermes to sell the property to him? A It was about two weeks before the time the deed had been signed.

Q And did you have a search of the property when you bought it? A No, sir; I merely took the searches, I believe, that my mother had, from the estate; I knew it was clear.

Q Do you know whether Mr. Hermes made a search? A I don't know what Mr. Hermes done; I don't know anything about it.

Mr. Lane. To enlighten your Honor as to what the testimony shows, Mr. Hermes, in the testimony that has been offered but not read to your Honor, testifies that he made a search himself out at Hackensack.

Mr. Bentley. He says he went there for the purpose of a search.

Mr. Lane. No, he says he made one. It is in the testimony.

Q Have you got any of the money, any of the $3,000, that you have got left now? A No, sir.

Q As a matter of fact, now, did Mr. Hermes, at the time of the settlement of the estate, in fact, pay over any money or not? A Yes, sir.

Q And how much of that money did your wife get? A We handed him over the money to settle up the estate—I did.

Q How much of the money that Mr. Hermes paid did your wife get? A My wife didn't get any.

Q Now, are you sure of that? A If I am not mistaken, I gave her $100. I forget now just how that was; but it was to settle the estate up.

Q Well, as a matter of fact, you have testified in the bankruptcy proceedings in two ways —that Mr. Hermes did not pay any money, and that Mr. Hermes did pay some money, and that your wife got half of it; now, which is the fact— did Mr. Hermes pay any money, and did your wife get any part of it? A This money that was turned over was to settle up the estate, so each one could get their share.

Q Did your wife get any part of it? A If I am not mistaken, she got $100 for signing the deed, and also that she was to be mentioned in the deed.

Q And still got the $100, too? A Yes.

Q The first time that you ever mentioned this alleged agreement with your wife, that her

name was to be put in the deed, in all of these proceedings, is here on the stand now; is not that right? A Yes, sir; she was to be put in the deed.

Q You never said that before the Referee, did you?

Mr. Bentley. I do not think that is fair, if your Honor please, because the record does not show that he was asked it.

Mr. Lane. Well, I will withdraw it. The record speaks for itself.

Q Where did this conversation with your wife take place, under which she was to be named in the deed? A In my house.

Q And she and you were alone there? A Yes, sir.

Re-direct examination by Mr. Bentley.

Q You were asked to give a list of the property you had in June, 1910, and have described the Dubois street property, the Summit avenue property, the Angelique street property, but you did not mention the Fairview property.

The Vice-Chancellor. No, he did not.

Q What did that cost you?

The Vice-Chancellor. Well, he has given that.

A When I bought it?

Q Yes. A I think it was in the neighborhood of around $3,000, or so, if I am not mistaken.

Q And out of that $3,000 your share came, didn't it? A Yes, sir; I got my share. It was divided up.

Q That is, the property was sold by all of the heirs to Barney Hermes for $3,000? A Yes, sir.

Q And Barney Hermes paid each one $750? A Yes, sir.

Q And you gave him that money? A I gave him the money to pay each heir, because there was an argument there between the heirs; they did not seem to agree. That was how that was done.

Q So that you got that $750 of the $3,000? A Yes, sir.

Q So that the property stood you $2,250 in cash, and your share? A And my share; yes, sir.

The Vice-Chancellor. Right there, Mr. Bentley—was that $750 he paid for the six lots?

Mr. Bentley. That is what he paid for the acre and a half there.

The Vice-Chancellor. Well, the acre and a half is more than six lots?

Q How much property did you receive in area for the $3,000? A Well, it is not quite an acre and a half.

Q And how much of the property do the six houses occupy?

The Vice-Chancellor. Well, I understand it. He paid about $3,000 for about 27 lots.

Mr. Bentley. Yes, sir.

The Winess. An acre and a half.

Q Mr. Rayot, I show you a tax bill for 1911; is that for the houses in question and the land on which they stand? A Yes, sir.

Q All of them? A Yes, sir.

The Vice-Chancellor. Are you attempting to prove value?

Mr. Bentley. No, I am not attempting to prove value; but it has been held, I believe, that the assessed value of property is some evidence of the value.

Q I show you another tax bill for 1912; does that cover the property? A Yes, sir.

Q They are receipted, both of them? A Yes, sir.

Mr. Bentley. I offer these tax bills in evidence.

(Admitted and marked Exhibits D. 21 and D. 22, respectively.)

The Vice-Chancellor. Well, that is about forty per cent. of what the witness appraises the property at himself.

Q I show you tax bills for 1913 and 1914, unreceipted; are they for that property? A Yes, sir. I did not know that they were not paid, though.

Mr. Bentley. I offer those in evidence. The 1913 bill shows an appraisement of $7,800 and the 1914 bill an appraisement of $8,300.

(Admitted and marked Exhibits D. 23 and D. 24, respectively.)

Q Mr. Rayot, in answer to Mr. Lane's questions, or one of them, you described losses that you had since 1910, in building operations; did you build a building for your brother? A Yes, sir.

Q How did you make out on that contract? A Well, I made out bad there.

Q Did you earn money or lose money? A I lost money there.

Louis Rayot, re-direct.

Q How much? A I lost, in fact, a little over $1,800 there.

Q Prior to 1910 do you know what it cost you to live, a year, that is, to maintain your family? A Oh, it cost me, well, an average of three or four thousand dollars a year.

Q After 1910 did you maintain your family in the same manner? A I couldn't recall that any more; no, sir.

Q Was part of this $9,300 which Mr. Lane referred to used in living expenses? A Yes, sir.

Q Can you say whether or not Mr. Hermes gave you receipts prior to the month of June, 1914? A Yes, sir.

Q Are you certain where they are at this time? A I am not certain, but I believe I have them. I thought they were with those receipts.

Q Now, going back to the Angelique street house, I understand that you bought that sometime prior to 1910? Well, the record shows. A Well, I cannot recall just when it was; whatever the records are.

Q In 1909, the record shows, which Mr. Lane exhibited. That was put up at public auction? A I bought at public auction; yes, sir.

Q From Mr. Wolbert? A From Mr. Wolbert; yes, sir.

Q What was the price you paid for it? A I can't exactly tell what, but I know it was close to $15,000.

Q And you held it until you sold the two parcels? A Yes, sir.

Q Now, when you bought it for $15,000 what interest had you in that as an heir of your mother's estate? A Well, it was divided up—divided up into three

Louis Rayot, re-direct.

Q So that $5,000 of it was your part? A That was my part; yes, sir.

Q Now, when you closed the title did you give a mortgage? A When I sold it?

Q When you bought it? A When I bought it the Hudson Trust Company gave me six thousand dollars on mortgage on it.

Q And the balance of the purchase price—how did you pay that? A Why, I believe with cash and checks, I don't just remember now; I know I paid it, that is all.

Q And when you sold it you realized but $3,200 in cash, is that correct? A All over the mortgage. I sold—

The Vice-Chancellor. Oh, no, no.

A I sold the Angelique street property, that is the one parcel, or both, we will say, for eleven thousand eight hundred and something, I forget just what it was.

By the Vice-Chancellor.

Q You sold them both for thirteen thousand and something, wasn't it? A No, sir; eleven thousand.

Q Wasn't there a $2,000 mortgage on the small tract? A Yes.

Q And you sold that for $2,800? A $2,800.

Q Then you sold the other for eleven thousand? A Yes, sir.

Q That made $13,800; there was a mortgage of $6,000 on the large tract, and $2,000 on the small tract, making $8,000; therefore you received $5,800 back? A Yes, sir; that is right.

By Mr. Bentley.

Q Did you sell the small tract for $2,800 above the mortgage?

The Vice-Chancellor. Oh, no, no.

A With the mortgage.

Q You got $800 in cash out of it? A Yes, sir.

Q Have you disposed of any of your wife's jewelry or paraphernalia? A Yes, sir.

Q What? A Disposed of a pair of the earrings.

The Vice-Chancellor. There is no attack made on that, is there?

Mr. Bentley. No, sir.

The Vice-Chancellor. Why go into it?

Mr. Bentley. I think your Honor is right; I simply found out the amount that was received for it, and where they were sold; I was going to show that; I did not know it before. I think that is all except one other question.

Q Mr. Rayot, do you remember a writ of attachment being issued against you, or hearing of it? A Yes, I have heard of it.

Q And you defended it? A Yes, sir.

Q Now, during 1910 you made considerable payments to Mr. Ringger, didn't you, on account of his bills?

The Vice-Chancellor. What has that got to do with it?

Mr. Bentley. Well, they intimated that that he had paid everybody but Ringger after 1910.

The Vice-Chancellor. Why, his book shows what he paid. How can he testify to it?

Mr. Bentley. All right; it is right here; that is all.

Louis Rayot, re-direct.

By Mr. Lane.

Q Mr. Rayot, a large part of the bill of Ringger is made up of materials purchased for use in this Fairview property, is not that so? A No, sir.

Q It is not? A No, sir. Mr. Austin furnished all of that.

Q How long would it take you to go back to your house and get these receipts which you say are there? A About probably three hours.

Q Where would you go to look for them? A At my house.

Q Where in your house? A At Fairview.

Q Where in your house? A Why, in the kitchen.

Q At the same place where you had these others? A Yes, sir.

Q Are you willing to immediately start for your house in an automobile and get those receipts and bring them down here? A Yes, sir; I am willing, if I find them.

Q Well, I am going to send you with some chauffeur up there and get them if you have got them there; are you willing to do it? A If I have got them I will get them; yes, sir; unless they are mislaid here; I thought they were all together.

Q I want to know whether they are produced from your house, or not before Barney Hermes and you have a conference, that is all.

Mr. Bentley. Oh, I think that is unfair.

The Vice-Chancellor. I won't permit any such characterization. Counsel may try his case, and if this witness wants to go with the chauffeur to look for the receipts, he can do so.

Mr. Bentley. And we are perfectly willing to go.

Q Well, you were served with a subpoena to produce those, by us, were you not?

Mr. Bentley. You did not serve a subpoena upon him at all. I have served the subpoena on him.

The Vice-Chancellor. Go right ahead with the case.

Mr. Lane. That is all.

LOUIS MILLER, sworn.

Direct examination by Mr. Bentley.

Q What is your business? A Painting and papering.

Q Do you know Mr. Hermes, sitting over here? A Yes, sir.

Q Did you ever see him before to-day? A Yes, sir.

Q I show you bill dated July 11, 1914, to Mr. Hermes, for $130, marked "Paid in full"—was any of that money paid to you by Mr. Hermes? A Yes, sir.

Q How much, do you remember? A There was eighty dollars paid by Mr. Hermes.

Q Where was it he paid that to you? A Out in Greely avenue, Fairview.

Q There is another receipt with it, dated May 29th, 1914, of fifty dollars—who gave you that money? A Mr. Rayot.

The Vice-Chancellor. That was all after the bill was filed.

Mr. Bentley. Yes, but it is evidential, it seems to me. I offer both the receipts in evidence.

Louis Miller, cross.

Cross examination by Mr. Lane.

Q Who ordered this work?

The Vice-Chancellor. He said Mr. Hermes ordered it, I understand.

Mr. Bentley. He said Mr. Hermes paid for it.

Q Who ordered the work? A Mr. Rayot.

Q Where was he when he ordered the work? A He came over to my place and he said he had some work to be done, and wanted me to give a figure on it. I went over and I gave him a figure.

Q This was paid in cash? A Yes, sir.

Q And in your place of business? A No, sir—out in Fairview.

Q In Greely avenue? A Yes, sir.

Q Mr. Rayot paid you the cash? A Mr. Hermes paid me the cash.

Q Was Mr. Hermes there? A Yes, Mr. Rayot paid me fifty dollars on account.

Q He paid you fifty dollars on account? A Fifty, on account.

Q Then you gave this receipt dated May 29, 1914? A Yes; and when the work was completed I went over to the building one Saturday, and Mr. Hermes was there, and he paid me the balance.

Q Where was Mr. Hermes present? A At Mr. Rayot's house.

Q And how did you come to go there at that particular time? A I don't remember exactly, but I think I seen Mr. Rayot through the week, and he told me Mr. Hermes would be there on Saturday; I think he said "Come on Saturday."

Q Was it paid in cash? A Yes, sir.

(The two receipts identified by the witness are offered in evidence by Mr. Bentley, admitted without objection, and marked Exhibits D. 25 and D. 26.)

MARGARET RAYOT, re-called.

Direct examination by Mr.Bentley.

Q Did you see receipts given by Mr. Hermes to your husband for the rents, prior to June, 1914? A Yes, I got some of them.

Q Where? A At his house, when I took the rent up there sometimes.

Q Did you pay some of the rent? A I took some of the rents up there.

Q How did you get up there? A With my brother-in-law, in his automobile

Q Do you know where those receipts are now? A I thought they were all here; if they are not here they are home, because we have them.

Q You think they are home? A Yes, sir; because we have every one.

Q After your husband and you conveyed this property to Mr. Hermes did your husband continue to give you money to run the house? A He did, yes, for a while.

Q And after that who did you have to depend on? A On my brother-in-law.

Q And when the property was sold you received your share? A I received my one-half.

Q And did you spend it any more freely than you had to? A No, only when it was necessary, as I needed something.

Q And to help the household along you were willing to dispose of your jewelry, and did? A Yes, I did.

Margaret Rayot, cross.

Q And who had the benefit of the money received from that? A It went for bills, for living and doctor bills.

Cross examination by Mr. Lane.

Q Is any of the money that you got left? A Yes, sir.

Q How much? A A little over $2,800.

Q And where is it? A I have it.

Q Where? A Right here.

Q And where was it before you had it here? A Down in my house.

Q Where? A In the cellar.

Q Where in the cellar? A I hid it.

The Vice-Chancellor. She is not going to tell you.

The Witness. No, I said that on the other examination they gave me.

Q And notwithstanding the fact that you had this $2,000, you sold your jewelry? A I did.

Q And when? A I don't know whether it is a year or a little over a year ago; Mr. Tiffany can tell you when he got them.

Q And how much did you get for them? A I got $720 back for them.

Q And what had you paid for them? A $800.

Q When? A 1910, I think it was.

Q What did you do with the $720 you got from your jewelry? A Paid doctor's bills and nurse's.

Q Put it in the same place as this $2,800? A It was not necessary, for I had to pay it out.

Q Well, did you, as a matter of fact, put it in the same place this $2,800 was in? A Well, it was all together, only as I paid it out.

Q And did you also put the money that your husband gave you in the same place? A Why,

that is the only money I had to put there, when I got it.

Q Originally the money that you got was about $3,400, wasn't it? A No, it was $4,800. I got half.

Q Do you mean that, Mrs. Rayot? A I mean it, yes.

Q That you got $4,800? A I got $4,800—I got half.

Q You are positive of that? A Yes, I am positive of that.

Q Why did you testify before the Referee, on page 96, as follows: "Q How much money did you take from Mr. Bentley's office? A I don't recall the amount. Q About how much was it? A It might have been $3,000, or a little more or less. Q Less than $5,000? A Considerable. Q It was less than $4,000? A Yes. Q Are you sure of that? A Yes. Q How do you figure the amount you received? A I told you I could not tell you exactly. Q Can you tell me within a thousand dollars? A About $3,500, or $3,400. Q Did you get $4,800? A No, I did not. Q Positive? A Yes"? A Well, I may have said it.

Q Well, you did say so, Mrs. Rayot, and you said you were positive; now, why? A I may have said it and did not understand the question. I never was on the stand before, and I am not nervous today and I know what I am saying, and how much I got.

Q Mrs. Rayot, do you mean to say that you might have, because of your nervousness, not understood those series of questions put to you? A I don't know; I couldn't answer on the stand when they asked me anything.

Q Then do you mean to say that you did not understand this question, which immediately follows: "Q You think it was like $3,000? A It was $3,400 or $3,500?" A Well, I wasn't sure then.

Q You were sure and positive that it was not $4,800, weren't you? A No. If I said it I didn't mean it; but what I am saying now is the truth, and I know what I got.

Q Well, was what you said then the truth? A Well, I tried to tell the truth, but I must have misunderstood the question. I couldn't answer on the stand when they asked me because they had me on the acre and a half of the property, and I didn't know what they were asking me.

Q There is no difficulty in your understanding what the figures "4,800" mean, is there? A Well, I know now what I got, but I didn't know positive then. If I said it, I may have; but I don't recall that I said that amount.

Q And were you so nervous a few moments afterwards that you did not understand the question, on page 97, "Q And you waited until your husband got home before you counted the money? A When I got home. Q Before he came in? A I told you there was $3,400; it might have been a little more"—volunteered by you; wasn't that right? A I don't know; I am telling you now what I got, and what I said then I don't recall; and if I said it, it was a mistake.

Q And it was also a mistake, on page 98 of the record, in which the question was asked "Q What did you do with the $3,400 you got and brought home with you? A I spent some of it," and on page 99, where you were asked "Q What safe place did you have to put $3,400

in the house''? and you never suggested that it was not $3,400 but it was $4,800, did you? Where did I say I put it there?

Q Well, what did you do with the, as you say, $4,800 that you got? A What did with it?

Q Yes. I withdraw that for a moment. How did you figure out that you should get this $4,800? A Because that was half of ninety-six.

Q Did you get any money at the time the estate was closed in 1910? A Which estate is that?

Q The Gousset estate. A On Angelique street?

Q The whole business? A Well, that was sold three different times, and I don't know which one you mean.

Q I am referring now to the transfer which you were testifying about when you were before the Referee, when Mr. Hermes bought the Fairview property and afterwards transferred it back to you? A Oh, that was $100, and that I should have an interest in it.

Q Did you get any money? A $100, and a half interest in it.

Q $100, and a half interest in it? A Yes.

Q Now, you are positive that what you got was $100, is that right? A Yes, I am pretty sure of it.

Q Well, in what way have you refreshed your recollection since you testified before the Referee? A I said before the Referee he gave me some money so that I would sign it; but I didn't say the amount.

Q No, Mrs. Rayot, you testified before the Referee, on page 87, "Q How much was it? A I don't know." A Well, he always gave

me money every time he sold a piece of property, and I couldn't recollect just the amount he gave me then; for he never sold a piece that he didn't make me a present of $100 or so for myself.

Q I am asking you now how it is that you testified before the Referee that you did not know how much you got, and now are able to testify that you got $100—how did you refresh your recollection? A Because after I got off the stand I could tell you how that was transacted, that corner, and everything about it; but when I was sitting there I couldn't remember anything about it, because I never was on the stand before and questioned; and if I knew I was going to be questioned I would have remembered a little bit better.

Q You were asked before the Referee, on page 99, "Q Why did he put one-half of it in your name? A Because I wanted it that way. Q He did it to please you? A To protect myself and my child,"—you did not state there, when you were asked why he put it in your name, that you would not sign the deed to the Fairview property until it was put in your name, did you? A I said he gave me some money to sign it. They didn't ask me if I had an interest, or anything about that. I answered what they asked me.

Q When you were asked why he put it in your name and his own, you did not say then that he did it in pursuance of an agreement between you and him that you would not sign the deed unless he did put it that way, did you? A Didn't I say he put it there to protect my child and myself?

Q Yes. A Well, that is the same I say now.

Q You did not say it was in pursuance of any agreement, did you? A Well, they didn't ask me.

Q But you did say with respect to the transfer of the Fairview property (in which you got one-half of the money, so you stated) you stated there that you would not sell it and would not sign your name unless he did give you one-half, didn't you?

Mr. Bentley. Read it to her, Mr. Lane.

Q (Reading, p. 91, top.) "Q What did you do about selling it? A I said if he sold it I wanted my half." A Yes, I did say so.

Q Now, Mrs. Rayot, you were down at Mr. Bentley's office at the time this property was sold and this money passed, weren't you? A Yes, I was.

Q And Mr. Bentley was there also? A What do you mean—when the money was passed?

Q Yes. A I can't say that Mr. Bentley was in there and saw the money pass. Mr. Bentley left the room for a few minutes, but I didn't know for what.

Q So Mr. Bentley might have been out of the room when this money passed, is that right? A Yes.

Q Was the money counted on Mr. Bentley's desk? A It was not counted in front of Mr. Bentley.

Q Was it counted on his desk? A It was laid on his desk when he went out.

Q And it made quite a bundle, didn't it? A Yes, quite a bundle.

Q Some $9,600, in nothing larger than what? A Hundreds.

Q How many hundreds were there? A I don't know.

Margaret Rayot, cross.

Q Were there many hundreds? A I couldn't tell you; I didn't have them all.

Q What did you do with the difference between this $4,800 and the $2,800 which you have now got—something like $2,200? A Why, I spent it.

Q Spent it for what? A I don't understand what you mean.

By the Vice-Chancellor.

Q What did you spend the money for? A Oh, for different things—doctors' bills, living, clothes, household things.

By Mr. Lane.

Q Well, how much for doctors' bills? A I had pretty near $150 last March for my son; and I had a nurse there for him.

Q What else did you spend it for? A I spent it for clothes.

Q How much did you spend for clothes? A I just couldn't give you the amount, what I spent for clothes.

Q Well, about? A Well, I couldn't tell you that.

Q Cannot you give me some estimate of it? A No, I cannot, for some I have made and some I buy ready-made.

Q Did you spend it for running the house? A Yes, some of it.

Q And that in addition to the money that your husband gave you, and in addition to the $700 you got from your jewelry? A Why I couldn't get money from him when he hasn't worked for almost three years.

Q Well, didn't he give you any during those six years? A He gave me what he could afford to.

Q How much? A I couldn't tell you. He worked in one place from October until the last of April for $100.

Q Now, you were present before the Referee when he testified, were you not, in June of 1914, less than a year ago? A No, I was not.

Q Well, he did testify before the Referee, in endeavoring to account for the moneys which he had, that he had given you between twenty-five and thirty-five to forty-five dollars a week, averaging $150 a month, for living expenses; is that so?

Mr. Bentley. I object to the question, if your Honor please, on the ground, first, that the attention of the witness has not been directed to any such testimony; and, further, that it is not proper contradiction and not proper cross examination.

Mr. Lane. I withdraw it.

Q Did your husband give you thirty, or forty, or twenty dollars a week, averaging more than thirty dollars a week, sometimes as high as fifty dollars a week, about one hundred and fifty dollars a month, sometimes more? A Yes, he has, until he didn't have any more and he didn't give it to me.

Q During all of that time—during the time from May, 1913, down to June, 1914, did he? A June, 1914?

Q From May, 1913, to June, 1914—from the time of the conveyance down to the time of the taking of the testimony? A No, he didn't give it to me down to 1914.

Q He did not? A No.

By the Vice-Chancellor.

Q Up to what time did he give it to you? A Up until about a year and a half ago, I

guess it is; it might be a year, it might be a little more or less, I don't just exactly know.

Q Do you recollect what month he stopped giving you money in such sums as from twenty to fifty dollars a week? A Well, that is quite a long while ago.

Q Well, was it during 1914? A It might have been 1913 or 1914.

Q That he stopped giving it to you? A Yes, a little before that.

By Mr. Bentley.

Q It might have been 1913, or '14? A Yes; I think it was 1913, Mr. Bentley.

By Mr. Lane.

Q 1913, when? A I couldn't say what month.

Q Sometime during the year 1913? A Yes, I think it was.

Q That is during the year this conveyance was made—bearing in mind the fact that the conveyance was made from you and your husband to Mr. Hermes in 1913 in May, was it during that year he ceased to give you this amount of money? A Yes, it was the latter part.

Q The latter part of that year? A Yes, that is right.

Q And since that time you have been running the house and paying your own money? A Yes, I have been running the house.

Q You have been supporting the house by paying the money, have you? A Supporting the house?

Q Yes, paying the money out for living expenses? A Yes.

Q You have, yourself? A Yes.

Q From your own money—from this fund of $4,800? A No, not all of it. I got some from my brother-in-law.

Q You got some from your brother-in-law? A Oh, yes.

Q Then your brother-in-law assists in the maintenance of this house? A He certainly did, or it wouldn't have kept up, unless I spent my own.

Q How long has he been assisting in the maintenance of the house? A Oh, about a year.

Q What does he contribute towards the maintenance of the house? A Why, I don't think I have to tell the amount.

Mr. Bentley. I object, if your Honor please; I think it is immaterial what he gives; it is a private matter, entirely.

The Vice-Chancellor. I will permit the question.

A Sometimes twenty, sometimes thirty, and as high as forty.

Q A month? A A week—not a month, a week.

Q And that has been continued for the past year? A Yes, sir, it has.

Q How many are you in family? A Four.

Q Who are they? A My son, my husband, my brother-in-law and myself.

Q What is his business? A Why, he hasn't any; he attends to his own.

Q Well, what is it? A Why, it is not anything; he don't have to work.

Q He don't? A No.

Q He has got money enough not to work? A Yes, that is it.

Margaret Rayot, cross.

Q And your brother-in-law very often carries on his person large sums of money, doesn't he? A Yes, he does.

Q $2,000? A Oh, I don't know what he carries; I don't know his business that much.

Q Well, you were present and heard him testify before the Referee, that it was no unusual thing for him to carry around in his pocket two thousand dollars, weren't you? A I don't remember what he said.

Mr. Bentley. Why don't you read it right?

Q (Reading from page 108 of the testimony before the Referee in Bankruptcy—testimony of Aimee Gousset.) "Q Is $2,000 a large amount of money for you to have on hand?" and he said "No"—referring to having it on hand as distinguished from having it in the bank, Mr. Bentley.

Mr. Bentley. Oh, is it? I thought money in bank was "on hand."

The Vice-Chancellor. Whatever is in the testimony can be put in, in his language, and the Court will construe what he meant.

Mr. Lane. Well, the context clearly indicates, I guess, what was referred to.

By Mr. Bentley.

Q Mrs. Rayot, have you the money with you? A Yes, I have.

Q Will you let me see it? A (Witness produces bundle of money which she hands to Mr. Bentley.)

Mr. Bentley. (To Mr. Lane.) Do you want to count it?

Mr. Lane. I will take a chance and look over it to see if there are, or not, any Fed-

eral reserve bills in it (taking the package of money from Mr. Bentley).

Q Mrs. Rayot, certain moneys have been paid to counsel in this case, have they not? A Yes, they have.

Q At the time that this money was passed, do you remember how you happened to be at Mr. Bentley's office—that is, whether it was by appointment, or not? A What—for the settling of the matter?

Q Of the sale to Mr. Hermes? A Why, it was to sign the deed.

Q Do you know whether an appointment was made with Mr. Bentley, or not? A Yes, sir; it was.

Q Previously? A Yes.

Q And do you know how long previously? A No, I could not say that.

Q Do you remember the execution of the papers—do you remember the papers being executed at that time—being signed? A Yes, yes.

Q Do you remember any questions being raised about the right of your husband to run the property of Mr. Hermes? A Yes.

Q Do you remember what I said on the subject? About a paper? A Being drawn up?

Q Yes. A Yes.

Q And you remember the execution of a paper, don't you? A Yes.

Q (*By the Vice-Chancellor.*) How long was Mr. Bentley out of the room? A It might have been ten minutes.

Q Was it during that time that the money passed from Mr. Hermes to your husband? A Yes.

Q (*By Mr. Lane.*) This is the money is it, Mrs. Rayot, that you got from Mr. Hermes (re-

ferring to the package of money produced by the witness)? A Yes, it may be, but there may have been a bill changed at Macy's store, a large bill, and I may have put the smaller ones there.

Q When may it have been that the bill was changed at Macy's? A I couldn't tell you. You can go and ask them to show you the books.

Q You had in mind, when you said that there might have been a bill changed at Macy's, a particular occasion, hadn't you? A Well, I bought several things there.

Q And what was the denomination of the bill that was changed? A Well, I couldn't say; I said it might have been, I did not say positive it has been, but it might have been.

Q To the best of your recollection, this is the identical money, is it? A Yes, the most of it.

Q Might there have been more than one bill changed at Macy's? A Oh, I changed some somewheres else.

Q So some of this may have been changed somewheres else? A Yes, I changed a fifty dollar bill in Mr. Niessen's in Union Hill about a year ago.

Q Will you tell me why you changed a large bill, when you had a large number of fives here? A Just because I didn't want the big ones.

Q You wanted more bulk? A Yes.

Q Have any of these bills been changed within the past year, Mrs. Rayot? A No.

Q Mrs. Rayot, you did not change any of these bills into larger bills, did you? A No, sir.

PETER BENTLEY, Esq., sworn.

The Witness. Shortly prior to May 26th (or the date of this deed), 1913, an appointment was made by Mr. Rayot for me to meet him relative to selling some property. The day that he came I was very busy. I found out what they wanted and drew the deeds which were executed. Someone produced a large amount of money; it was a big roll; I know that I saw it, and I can remember saying, after the papers were signed, that there was no necessity of my being present, and I went to one of the other rooms and transacted some other business. I remember leaving the room on one occasion, because they told me (Mr. Rayot did, I think) that he was to conduct the property for Mr. Hermes; and I went out and drew the exhibit, P. B. 5, which is the authorization to Mr. Rayot. I was not present when the money was counted, or divided, if it was divided.

Cross examination by Mr. Lane.

Q You had a conversation with me the day before yesterday, hadn't you? A Yes.

Q And I asked you whether you were going to be a witness, did I not? A Yes.

Q And you said you were not, did you not? A I did.

Q You said you did not know anything about it, so far as the money was concerned, didn't you? A I did.

Q And I suggested to you at that time that if there had been any such amount of money there you would have known it, did I not? A I don't know as you did; I don't recollect it, if you did.

Q And when I said that, didn't you say to me, "Well, I don't know anything about it, anyhow," or words to that effect? A I may have said so to you.

Q Don't you remember having said it? A No, I do not—that I didn't know anything about the transaction?

Q Yes. A No, I did not.

Q That you did not know anything about the transaction, so far as the money was concerned? A No, I did not say that.

Q And when did you change your mind as to whether you were going to be a witness, or not? A I had a notion in my mind all the time that I was going to be a witness.

Q Then you weren't telling the truth to me? A Not to you—I was not going to divulge to you what I was going to do.

Mr. Lane. That is all.

Further direct.

The Witness. What brought about, or particularly accounted for my conversation with Mr. Lane was the fact that he said "If you will go on the witness stand and swear that you saw the money, and saw it counted, or counted it, you may be able to get away with this case, but otherwise you won't."

Further cross examination by Mr. Lane.

Q And you thereupon stated you did not see the money pass, and did not know anything about it, and was not going to be a witness, didn't you? A I intimated to you that I was not going to be a witness, yes.

Q And, with knowledge of the fact that you were going to be a witness on what you must consider, as counsel, a most important part of this case, you have still persisted to act as counsel from the beginning until this time, have you not? A Yes, because I knew there would be an opposing counsel to testify to the contrary, which is the rule.

Mr. Lane. I want to put on an expert witness before your Honor adjourns.

Mr. Bentley. Go ahead.

CHARLES SINGER, Jr., sworn.

Direct examination by Mr. Lane.

Q What is your business? A Real estate.

Q And where? A Town of Union and vicinity.

Q How long have you been in that business? A Sixteen years.

Q Are you familiar with the property on Greely avenue, Fairview, formerly owned by Rayot? A I am.

Q Have you made an appraisement of the value of that, its actual value, as of May, 1913? A I have.

Q Will you tell me what, in your opinion, was the value of the property in May, 1913?

Mr. Bentley. I object to the question on the ground that he has not qualified as an expert.

The Vice-Chancellor. The Court knows Mr. Singer to be an expert, but you can examine him, if you desire.

By Mr. Bentley.

Q Did you ever buy or sell property in Fairview, Mr. Singer? A I did.

Q Where? A Right at the railroad station.

Q Whose property? A Mr. Ruh's.

Q When? A About nine months ago.

Q Ever sell any other property in Fairview? A I can say I am just after acting as expert for the Fairview Cemetery Company—

Q No, I don't care about that—did you ever sell any other property in Fairview? A Yes.

Q When? A About two years ago.

Q What property? A A piece of mine on the upper section.

Q Anywhere near the property in question? A Well, it is about a mile and a half to the east.

Q Away the other end of Fairview? A Well, it is in the upper section, the middle section.

Q Did you ever sell any other? A Not within Fairview itself, within the last year.

Q Did you ever buy any in Fairview, outside of the piece you owned yourself? A No, not in Fairview.

Q So the only experience you had in selling or buying real estate at Fairview was the sale of your own piece and the sale of Mr. Ruh's piece? A Yes. I want to say that we have mortgage experience there, too; we place money in all of that neighborhood there.

Q Is not Mr. Ruh's property in Hudson county? A No.

Q You are sure of that? A Well, now, I won't say but you are correct on that; there is a neck comes out; it is within three blocks; it is immediately to the west—that is right, there is a dividing line there.

Q So the only experience you had in buying or selling real estate in Fairview, N. J., is the one piece that you owned yourself? A Yes.

Q And did you buy that, or did you receive it by will? A Purchased it, and sold it.

Q When did you purchase it? A As I say, about two years ago.

Q And when did you sell it? A Shortly afterwards.

Q You only held it for a few months? A A few months.

Mr. Bentley. I submit that this gentleman is not qualified to act as an expert. He may be an expert in every sense of the word, so far as having knowledge of what the duties of an expert are, but I submit that he has not shown to the Court that he has had sufficient experience in Fairview to value the real estate.

By the Vice-Chancellor.

Q How far is this property of yours from the property in question? A The property that I held and sold?

Q Yes. A About a mile and a quarter, I should say. But I want to say this, that we have the largest—

Q Never mind that. Then that one piece is the only transaction you ever had in Fairview? A I might say, a year ago the township wanted to retain me in a school site matter, but it did not come to an issue.

The Vice-Chancellor. How much value is this testimony? The witness has had one transaction in Fairview; he is not resident there, and the sale was a mile and a half from the premises in question.

Charles Singer, Jr., direct.

By Mr. Lane.

Q Where is Fairview? A Fairview is directly north of North Bergen.

Q Do you have transaction in North Bergen? A In the upper section we do the most business. I can safely say, of anybody—in that northern section.

Q Is Fairview a small or a large place? A A small town—it is a borough.

Q All of the north Hudson towns are all there together, aren't they, as a matter of fact? A Yes, they are.

Q You have dealt in real estate in North Bergen, Union Hill, Town of Union—all around the northern end of the county, haven't you? A Extensively.

Q Are there any real estate agents in Fairview proper, that you know of? A None down there; they are all up on the top of the hill, at Hudson Heights.

Q And there aren't very many sales down there, are there, anyhow? A Very few.

The Vice-Chancellor. I will let him testify, for what it is worth.

Mr. Bentley. I want to have my objection noted.

The Vice-Chancellor. Oh, yes.

Mr. Bentley. I mean, it is admitted over my objection?

The Vice-Chancellor. Yes.

By Mr. Lane.

Q Will you tell us what the value of the property, in your opinion, was, in May, 1913, how you make up that valuation? A I examined this property yesterday. I wish to say that

the real estate conditions as of 1913 and today are the same. This property is a plot of ground about 200 feet facing the Bergen turnpike, and runs back about 300 feet—325 feet. A street called Greely avenue (it is not a street, it is a dedicated street on the map, but it is not an improved street except on the side of this property) has cement sidewalks and curbs and has water and gaspipe laid. There is a distribution of ashes, but it is not an improved street in the sense as we understand it.

Q (*By the Vice-Chancellor.*) That is, Greely street? A "Greely Avenue," as they call it. This property was cut up in the most advantageous manner by putting a street in called "Broad Avenue;" that is a narrow street, about 25 or 30 feet wide. Broad avenue has no improvements whatever. The land on the Bergen turnpike is well located, high, on an incline, and represents 200 feet frontage, and, as I say, the depth varies. I have plotted it out in what I believe would be the most practical plotting so as to give a fair value. I have called the property fronting at the corner of Greely avenue and Bergen turnpike—

The Vice-Chancellor. There is no question about these six pieces, is there? Was the whole acre and a half sold?

Mr. Lane. Yes, sir.

The Vice-Chancellor. Oh, I understood it was just those six lots.

Q Well, just state what, in your opinion, is the value of the lots? A I have taken the lots facing the Bergen turnpike, eight of them, at $350; that gives a depth on the extreme north side of that property of 125 feet, making

$2,800. Plot B, which is 75 feet to the east of that, and forming the corner of Broad avenue and Greely avenue, 2 lots, at $150, and one at $200, or $500. Plot C, is the land immediately to the south of those, facing Broad avenue; (it is 100x100 in the plottage which I have made, and which would be the practical way to cut it up), at $75 each or $300. Plot D, on which the four one-family houses are built, I have estimated three of those inside lots at $150 each, or $450, and the corner at $200. Plot E, which is the property on the east side of Broad avenue, directly to the south of this property, which is a plot 100x100, or about four standard lots, at $75, being $300; or a total land value of $4,550. I made an examination of the buildings on the premises. When I said "I made an examination" I could not enter the one-family house, a two and a half story frame building occupied by Mr. Rayot; that was closed. I was in every other house but one of the one-family houses, where there was nobody home; and I found they are about five years old; they are in good condition; they might require, or it would be prudent to put on a coat of paint, but they do not suffer by want of it.

Q What do you think they are worth? A They are worth $1,800 apiece.

Q That includes the land? A No, that is the buildings themselves—or $7,200 for the four. I estimate the building that Mr. Rayot lives in at $2,500. There is a two-family house; I estimate the two-family house, which is to the south of that, at $3,800—I find it has steam heat, five or six rooms. I found that the rental of the one-family houses was $16 each, and of the two-family house $15 on the first floor and $17

on the second, which I want to say is a fair rental all through for the property. There is a garage on the property, too, a two-story frame garage, directly to the east of Mr. Rayot's house. I estimated that at $200; making a total value of $18,250.

Cross examination by Mr. Bentley.

Q Then you think that the value in 1913 was the same as of today? A I do, in that locality.

Q That is, then the whole property was then worth $18,250; is that correct? A Yes.

Q So, if Mr. Hermes bought it for $12,000, he got a bargain, didn't he? A He got a bargain.

Q At two-thirds of the value? A Yes.

Q And any man would be foolish not to take advantage of such an opportunity as that, wouldn't he? A I should say so.

Q Any man ought to be looking for that, ought he not? A Yes.

Q Now, do you want to buy it for $12,000? You can have it. Do you want to take it for $12,000? A Well, give me a little chance. I didn't come down here to buy property. I would gladly consider that offer.

Q No, you are before the Court and say now that this property is worth $18,200, and that any man who purchased it for $12,000 got a bargain? A I say so.

Q Now, I say to you, on behalf of Mr. Hermes, that he will execute to you a contract to sell it to you for $12,000—will you take it? A I would be glad to consider it if you would give me a few days.

Q No, I want to know now? A I am not prepared to do it now.

Q How do you base this value of the land—

The Vice-Chancellor. Well, we will adjourn until two o'clock, if you are going on with the witness. I thought you could close with him this morning.

Recess until two o'clock, P. M.

AFTERNOON SESSION.

Hearing of the cause resumed at two o'clock, P. M.

CHARLES SINGER, re-called.

Cross examination resumed by Mr. Bentley.

Q Mr. Singer, you have given an estimated value on this property, consisting of real estate and improvements, of $18,200, have you not? A I did.

Q All right—how much did you value the land at? A $4,550.

Q What did you predicate that valuation on? A On pieces of land of the same nature and kind in the immediate vicinity.

Q What other sales do you know of, in the immediate vicinity, now, of your own knowledge? A I know of our own sales, that is, right in the adjoining township.

Q What kind of a property did you sell? You mean in North Bergen? A Yes, but this is the same thing.

Q And that is how far from the property in question? A A mile.

Q A good mile? A Well, about a mile, yes.

Q And an entirely different sort of property?

The Vice-Chancellor. That is, different surroundings.

A Different surroundings. The same price and value apply.

Q What is the population of Fairview? A The population of Fairview may be four thousand people, as far as I know.

Q Have you any knowledge of what its population is? A Well, I am only giving you what I understand its population to be, and I am fairly well posted.

Q From what do you get that understanding? A Well, I keep reading on the matter.

Q Then it is what you see in the press?

The Vice-Chancellor. What difference does that make?

Mr. Bentley. I suppose it does not make any, your Honor.

By the Vice-Chancellor.

Q What theory have you as to the relation of the value of the property to its rental value? A I base my values, in the first place, wherever I would value land, on what could be done with this land, as to what could be done with the land, what practical use it would have.

Q If this property is worth $18,000, according to your theory, what should be the annual rental derived from it? A I would say $1,800; but this land is not all occupied, your Honor; there is a lot of vacant land here.

Q Then your theory is that there ought to be a rental value of ten per cent., gross? A On any ordinary house, yes.

The Vice-Chancellor. Well, that would cut your rental value down $300, and the

property, rented right up to the minute would produce $1,500 a year.

By Mr. Bentley.

Q Suppose it rents for $1,512 a year, as the Court says, basing the value on the rental, what is the value? A $18,250.

Q Don't you always figure that it ought to bring ten per cent. gross of the value? A I do; but I say there is vacant land here.

Q (*By the Vice-Chancellor.*) Not in the $15,000. A Beg pardon?

Q Oh, you are taking the whole tract? A Oh, yes.

Q (*By Mr. Bentley.*) Are you aware of the fact that other lots within two hundred feet of the lots in question can be purchased (that is, two lots together, 50 feet wide and 200 feet deep) for $500? A I am not. I know I went over every bit of that ground with the assessor for three days at the hearing of the Fairview Cemetery matter, where adjoining lands were taken of the owners, and I was the expert for the Fairview Cemetery, and every lot is assessed for the amount of money I told you—all the similar land in that locality.

The Vice-Chancellor. What is the necessity of going so elaborately into this question of value?

Mr. Bentley. None, sir.

The Vice-Chancellor. Because if this man has paid $9,600 into this property under circumstances that might justify setting the sale aside on the ground of its inadequacy and quasi-fraud, perhaps then the property might be put up at auction and sold and let

him get his money back and let you get the surplus.

Mr. Bentley. Your Honor should bear in mind that while he paid $9,600, he also made $2,500 in mortgages, that would make $12,000.

The Vice-Chancellor. That is true.

DEFENDANTS REST.

COMPLAINANT'S REBUTTAL EVIDENCE.

GUSTAVE HELFF, recalled.

Direct examination by Mr. Lane.

Q Have you got the cancelled checks which were left at the bank by Hermes? A (The witness produces a number of cancelled checks which he hands to examining counsel.)

Mr. Lane. I offer in evidence 17 checks signed by Bernard M. Hermes, and drawn to various persons—eleven of them drawn to bearer.

Mr. Bentley. I object, on the ground that they are immaterial and not rebuttal.

The Vice-Chancellor. In what way are they immaterial?

Mr. Bentley. I do not see how they are material.

The Vice-Chancellor. First, I will ask Mr. Lane, how do you regard them as material?

Mr. Lane. It shows that during the time he said he had this $5,000 in this tin box, in all kinds of bills, he has drawn money out to his own order, possibly—to the order of bearer—out of this bank.

The Vice-Chancellor. Well, I think everything reflecting on the action and business conduct of the defendants, in a case of this character, which is a question of fraud, or where questions of fraud are involved, are admissible. As to its not being rebuttal, I will overrule that objection; I think that is within the control of the Court. When the complainant was on his case yesterday the checks were not here, and while the counsel for the complainant did not ask leave to reserve the right to put in the checks later, nevertheless it is a matter properly to be admitted to shed all the light possible on the case.

(The checks were thereupon admitted in evidence, and marked as one exhibit, A, of complainant.)

Mr. Bentley. May I call your Honor's attention to the fact that the oldest check is dated March 27, 1914, which is nearly a year after the transaction?

The Vice-Chancellor. Well that, of course, sheds light on the question as to his drawing these moneys to the order of bearer, and having $5,000 in the box. His statement as to that is more or less tied up with the statement as to having $5,000 in the box.

No Cross Examination.

The Witness. Do you wish this book?

Mr. Lane. We don't care about the book. We have a transcript of the account; we want the vouchers.

The Witness. If you want the vouchers, we want to have some receipt for this thing.

Mr. Lane (to Mr. Hermes.) Mr. Hermes, are you willing that we should keep these vouchers here?

Mr. Bentley. Oh, there is no objection to that. Why don't you surrender them to me as his counsel, including the book?

The Witness. Well, will you give me a receipt for these?

Mr. Bentley. Yes, make out a receipt, and I will sign it.

EDWARD HUNKE, sworn.

Direct examination by Mr. Lane.

Q Your business is what? A Cashier.

Q Of what? A First National Bank of Guttenberg.

Q Did you have some dealings with Mr. Hermes? A The only dealings we had was he had a loan from our bank—$200.

Q Have you got the cashier's check that paid it? A (The witness produces check, dated May 16th, 1911.)

Q Can you tell me how that loan was paid? A It was paid off in two payments.

Q When? A One payment was paid March 22d, 1912, of $100, and the balance was paid June 18th, 1912.

Q Was it represented by a note? A Yes, a note, secured by a mortgage.

Q And was a three months' note, wasn't it? A Yes, sir—three months at a time.

Q And the first time it became due it ran for a year before it was paid, did it not? A Yes, sir; it ran more than three months before it

was paid off; it was renewed a couple of times before payment was made.

Cross examination by Mr. Bentley.

Q Who made the note? A Mr. Barney Hermes.

Q He was the maker of it? A Yes, sir.

Q Who was the endorser? A There was no endorser on it.

Q Well, how does William M. Rossignol figure in it? A The mortgage to secure the note was made in the name of Rossignol.

Q And then Rossignol deposited that with you to get the money? A The mortgage was deposited as security there, and the check was made to Rossignol and endorsed over to him.

Q That is, Mr. Rossignol deposited the mortgage and note with you, as security? A No, Mr. Hermes deposited the note and mortgage.

Q Whom was the mortgage payable to? A Payable to Rossignol, and he assigned it to the bank.

By Mr. Lane.

Q Who is Mr. Rossignol? A He is one of our bookkeepers.

Q And that is the way your bank does business, when you want to take security in that way? A Yes, sir.

LOUIS RAYOT, recalled.

Further cross examination by Mr. Lane.

Q During recess did you go up to your house and endeavor to find these receipts preceding June 7, 1914? A Yes, sir; I did.

Louis Rayot, further cross.

Q Did you find them? A No, sir; I did not; but I am certain they must be here.

Q But you did not find them? A No.

By Mr. Bentley.

Q Have you any definite recollection of what became of them? A I am almost certain—as certain as I am sitting here in this chair—that I brought them here yesterday morning; I gave you the whole of them; and, furthermore, I had them, if I am not mistaken, up to Mr. Beach's office; I am just as certain as I am sitting in this chair, I believe I produced them there; and I had them yesterday. It is a very peculiar thing that they are not here now.

Q Do you remember distinctly having them in your hands yesterday? A Just as certain as I am here; yes, sir.

By Mr. Lane.

Q If you remember so distinctly having them in your hand yesterday, why didn't you say so when you were on the stand last? A I had an idea that I may have had them in my pocket and changed this coat; this is a different coat from what I had on yesterday, and I thought it might be possible that such a thing might have happened. Going up in the automobile I even told this gentleman that I am just as positive as sitting in this chair that I had them up there yesterday, that I had them all together.

Q You did not say when you were on the stand here this morning, or did not suggest that you had seen those papers yesterday anywhere. A I said so.

Q This morning? A Yes, sir; that I was almost certain I had them here, yes, sir; I did say so; yes, sir.

Peter Bentley, further cross.

Mr. Lane. Is Aimee Gousset in Court?

Mr. Bentley. I do not see him. He was not under subpoena for to-day?

PETER BENTLEY, Esq., recalled.

Further cross examination by Mr. Lane.

Q Mr. Bentley, since this case started yesterday morning, up until the recess at noon, Mr. Aimee Gousset has been sitting alongside of you here, has he not? A Yes, sir.

Q And Mr. Gousset is a brother, or brother-in-law of Mr. Rayot, is he not? A A half-brother.

Q And the person to whom Mr. Rayot testified he gave $2,000 of this money in cash, before Mr. Beach? A I think so; I won't be positive what he testified to.

Q There are not two Mr. Goussets, are there? A Only one, that I know of.

Q And if he testified that he did give $2,000 to Mr. Gousset in cash, it is that Aimee Gousset, is it not? A I presume so, as far as I know.

Q And Mr. Hermes, who is the one who invested $9,600 in this property, has, during the same space of time, been sitting on the back seats and has not been consulting with you at all, has he? A Yes, I have consulted with him.

Q He has never sat alongside of you, as Mr. Gousset has? A No.

Q And Mr. Gousset was under subpoena on our side, was he not? A I don't know.

Q Didn't he show you the subpoena? A No, sir.

Mr. Lane. (To the witness.) Do you admit he was under subpoena, Mr. Bentley?

Mr. Bentley. For yesterday?

Louis Rayot, further cross.

Mr. Lane. Yes, for yesterday.

Mr. Bentley. If you say he was subpoenaed I have no doubt that he was under subpoena.

Mr. Lane. Well, he was subpoenaed, and I have the original.

LOUIS RAYOT, recalled.

Further cross examination by Mr. Lane.

Q When you received these various payments from Mr. Gousset, your half-brother, you never gave him anything in writing, did you? A No, sir.

Q And when he received the $2,000 in cash from you there was nothing in writing given to you, was there? A I do not recall it; I don't think there was.

Q You haven't any such writing, have you, showing that you paid him $2,000 in cash? A No, sir.

Mr. Bentley. I rest, with the exception of offering in evidence any exhibit I may have overlooked, and which was marked for identification. I don't think I have.

Mr. Lane. Well, I would like to know what they are before we close.

The Vice-Chancellor. There is one thing counsel may have overlooked, and that is the question of the records in the bankruptcy proceeding.

Mr. Lane. Your Honor is right.

The Vice-Chancellor. I suppose that those could be offered on Monday afternoon if necessary.

Mr. Lane. (To Mr. Bentley.) Do you want to insist on those records?

Mr. Bentley. Which do you mean?

Mr. Lane. The original records in the bankruptcy proceeding, the original appointment of the trustee, etc.

Mr. Bentley. Well, I will talk, between now and Monday, with you about it. I made a hurried examination, and I am not certain that there was an order. My mind is not clear that I saw an order.

Mr. Lane. Well, if the order does not appear on file, then I shall produce Mr. Beach, the referee, to prove it by secondary evidence. It has been lost, that is all.

The Vice-Chancellor. No, it is in Trenton.

Mr. Lane. Well, I mean in Trenton. If it is lost, and we cannot produce the original, the referee, who made the order, can then testify that he made it, because he has already testified he made it.

Mr. Bentley. Who?

Mr. Lane. Mr. Beach.

Mr. Bentley. No, an order was made referring the case to Mr. Beach.

Mr. Lane. Mr. Beach testified he made an order appointing the trustee, and the record shows it.

The Vice-Chancellor. In case the original order is lost, he can be put on the stand to show that the order was actually made at the time.

Mr. Bentley. I suppose proof could be offered.

The Vice-Chancellor. The mere fact that the original record has been lost does not preclude any right that is gained under it.

Mr. Bentley. I know, but there are some things in this case which, in diligence, as far as my client is concerned, I feel that I ought not to make admission about, until I know the facts.

The Vice-Chancellor. Oh, no, counsel should not. Very frequently, close analysis in a case reveals more than a mere casual examination would.

Mr. Lane. Now, there is the testimony of Louis Rayot, Barney Hermes and Mrs. Rayot that was to be read—I want to know whether your Honor wants us to read it to you now, or whether you want to consider it on the typewritten copy of it?

The Vice-Chancellor. I will take the typewritten copy and read it. Now, on the subject of the testimony of Mr. Hermes (he being the party most vitally affected, and he is really the defendant in this suit) I imagine that his testimony is absolutely admissible as statements against interest. As to the testimony of Louis Rayot and Mrs. Rayot and of whatever witness whose testimony was offered—

Mr. Lane. There were no others.

The Vice-Chancellor. They were confronted with their evidence, and, as I understand, the rule is that where a person is fronted with his testimony or written letter or document, the whole document goes in—of course, I don't know that the whole testimony of Mr. Rayot, *en bloc,* was offered in evidence.

Mr. Lane. It has been offered in evidence, and was admitted by your Honor, and the case has proceeded upon that theory. And it is clearly admissible in a fraud case —admissible as against them, at any rate; and if the fraud be proven, or, if between the two, you can spell out a fraud, then it is admissible as against all; and we have the right to prove it as against one. But there was no objection made on that ground, and it went in, *en bloc.*

Mr. Bentley. I made my objection at the time.

Mr. Bentley. You made your objection on the ground that it was not properly proven, and it was overruled. The testimony of Aimee Gousset, which was never proven in this record, has not been offered and cannot go in, of course.

Mr. Bentley. Your Honor said you would allow me, at the proper time, to argue whether it was admissible, or not; and when it comes to the argument that is one of the points I shall raise.

The Vice-Chancellor. You may do so. I won't consider the case closed with the testimony out. If counsel is going on the theory that this testimony is in and is to be considered, and it becomes necessary to even open the case to do it—

Mr. Bentley. Let us proceed on the record the way it is. I am willing to go on the record the way it is.

Mr. Lane. I am willing to rest on the record the way it is. If this testimony had not been offered in evidence I would have

gone over the testimony question by question and examined the witness and asked him if he had not testified so-and-so.

The Vice-Chancellor. I think the testimony of Mr. Rayot, Mrs. Rayot and Mr. Hermes should be written up. I do not recall that any of the other is necessary. Of course that is the bulk of the testimony, practically.

Mr. Lane. I would like the testimony you have mentioned, and also that portion of the testimony of Miss Ringger and Mr. Neff bearing on what took place on May 27th in the Ringger place, and what took place three months later when the notes were renewed. They testified to conversations which were denied by Mr. Rayot.

The Vice-Chancellor. Oh, yes; what Miss Ringger and the assistant said was that, in a general way, he (Rayot) said that the Fairview property had not been sold yet, and they made the notes at four months instead of three, so he could make a substantial payment at that time. But there is no evidence in the case, as I recall it, that Mr. Rayot when he gave these notes, informed the Ringgers that he had disposed of this property; and the evidence is quite clear, as I understand it, that they had no knowledge of the sale until a long time afterwards, perhaps down to the date of the bankruptcy proceeding.

Mr. Bentley. If they had no knowledge of it, it is not in the record. They did not testify to it.

The Vice-Chancellor. They testified they had no knowledge.

Mr. Lane. They testified they had no knowledge; and Mr. Rayot says, in the testimony before Mr. Beach, that he told them neither the one thing nor the other.

The Vice-Chancellor. Well, you had better arrange with Mr. Black to write up the testimony of those parties. I doubt if it is necessary to write up the testimony of Miss Ringger and her assistant. If I want to refresh my memory on any part of that I can have Mr. Black read it to me; but I understand now that her testimony is that when the note was given he said that the Fairview property was not sold, and that he had it in his hands, and he was short and he could not pay for that reason, and he wanted four months extension instead of three in order to be able, at the time the notes fell due, to make a substanial payment.

Mr. Bentley. And he denied there was such a conversation.

The Vice-Chancellor. Of course. On the 23d of May, 1913, the letter was written by Miss Ringger to Mr. Rayot. On May 26th the conveyance was made by Mr. Rayot to Mr. Hermes. On May 27th the first three notes were given; and at that time Mr. Rayot did not tell the parties that he had, the day before, conveyed all of his property. Now, of course, if he had received $4,800 at that time he could have made a substantial payment on account of this indebtedness. Then in September—either September or May, one of the other—when it was said that he should make a three months' note, Mr. Rayot said, "Make it a four months'

note, because I may not be able to do anything in three months; whereas, in four months I may be able to make a substantial payment.'' Now, at the very moment he made that statement he had $4,800 in his pocket.

Mr. Lane. Yes, sir, I would like to have the oral argument as soon after this hearing as we could, so that it won't get out of your Honor's attention.

The Vice-Chancellor. I won't have counsel submit an argument on the facts. I will hear them orally and just take a short brief on the points of law involved. Mr. Lane can serve his brief on Mr. Bentley by a week from Monday, and you may reply, Mr. Bentley, on the following Monday; and they will be just as to the law, only; and on that Monday at two o'clock, in the afternoon, I will hear argument on the facts.

Mr. Bentley. That is, the same afternoon that I serve my brief?

The Vice-Chancellor. Yes, sir; or come in at eleven o'clock.

Case adjourned, for oral argument, until Monday, April 26, 1915.

Discussion.

On Monday, April 26, 1915, the oral argument of the case was, by consent of counsel, further adjourned until Wednesday, the 24th day of June, 1915, at ten o'clock, A. M., at the Chancery Chambers, Jersey City, N. J.

Chancery Chambers, Jersey City,
June 7th, 1916.

Before Hon. John Griffin, Vice-Chancellor.

Mr. Lane, for the motion.

Mr. Bentley, *contra.*

Mr. Lane. We have a matter returnable today as to whether a receiver should be appointed in Wortendyke *v.* Rayot. My application is for the appointment of a receiver. Mr. Bentley was to let me know whether he would require me to take testimony in Washington, or not. He has not let me know.

Mr. Bentley. It skipped my mind entirely, but I am afraid you will have to. I have communicated with Washington, and from some information I have there obtained, I prefer that Mr. Lane prove his allegations.

Mr. Lane. Is the information to the effect that I cannot get the proof because the Department will not let me have it?

Mr. Bentley. No.

Mr. Lane. Because, if it is, I think I will get it. In that aspect of the case, if your Honor please, I ask for the appointment of a receiver now to collect the rents, issues and profits of the property, pending the examination of the case.

The Vice-Chancellor. This is a bill to set aside a conveyance as fraudulent?

Discussion.

Mr. Lane. This is a bill to set aside a conveyance as fraudulent. The case has been heard before your Honor, and the testimony which your Honor directed written up has been written up. Your Honor will recollect that it was testified that—

The Vice-Chancellor. Well, how soon can this case be closed?

Mr. Lane. I don't know. If I have got to take testimony in Washington it will take a couple of weeks, at any rate, to take that testimony.

Mr. Bentley. I will take short notice.

Mr. Lane. I have got to arrange to get it, Mr. Bentley. You know how difficult it is to get evidence from a department. It will take some time to get it, and I have got to go to the Secretary of the Treasury.

The Vice-Chancellor. This is the 7th of June.

Mr. Lane. Your Honor will recollect the facts: It was testified here that this man who now holds title paid over nine thousand, eight hundred and some odd dollars that he took from a tin box where he had about fifteen thousand dollars in cash.

The Vice-Chancellor. I recall it.

Mr. Lane. And the transfer took place pending, or after the receipt of a letter from us that we would enforce our claim. The letter was in the pocket of the debtor at the time he went down to see Mr. Bentley, but he did not show it to him; but he got some advice from him; afterwards this money was paid over in Mr. Bentley's office at the psychological moment that Mr. Bentley hap-

pened to be out of the office and did not see it; and out of the balance of five or six thousand dollars in this tin box, Mr. Hermes, the present owner, could only produce about $250, and part of that was Federal reserve money, which, there is no question, was not issued until after the episode of the transfer of the title.

The Vice-Chancellor. He produced more than $250.

Mr. Lane. $250 is all he produced, that being the balance of the five or six thousand dollars. It was the balance of the $5,000, he said, that remained in this tin box after he had taken out a quantity of it. Then Mrs. Rayot testified, first-off, that she got $4,800, and then afterwards she testified it was $3,000, and she produced some $2.800, I think, that she kept, she said, in a place in the cellar—where, she would not tell us—and it is that money that she testified to that was a part of the money that she got in the spring of 1913, and that the department advises me was not issued (or all except three bills, I think) was not issued until the latter part of 1914, or the early part of 1915. But, aside from that testimony entirely, it seems to me that this is a case now where these people ought not to be permitted to take this $126 a month rent that comes in from the property and do as they please with it—and not even pay the taxes on the property. Taxes for two years are now due. I submit to your Honor that the whole thing reeks with fraud from beginning to end, and that, on this testimony about to be taken, your Honor will have to

set aside that conveyance. But here we have now (and your Honor has the right to consider it upon the question of appointing a receiver) the statement of the Comptroller of the Treasury that these bills, which she swore here before you were obtained by her in the spring of 1913, were not issued by the department until 1914 or '15.

The Vice-Chancellor. Cannot you close this whole matter on the 24th of June?

Mr. Lane. I don't know, if your Honor please. I know this, that it is extremely difficult to get testimony from a department of the United States. The department officials cannot give it without leave of the secretary of the department himself, and there is no subordinate official who can give that leave. You have to go to the secretary in order to get it; and I do not know how long it is going to take to induce the secretary to allow the testimony to be taken in this case. They have given me information, but they won't open their records.

Mr. Bentley. Leaving out the inaccuracies in the statements that Mr. Lane has made—

The Vice-Chancellor. Well, the rent for this month is paid, is it not?

Mr. Bentley. The rent for this month is going to be held. I will tell your Honor that we will have the rent paid to us and then will produce it in court, so that that is protected. If your Honor will look at the bill, you will see that, in its present form it is impossible to appoint a receiver. That is my judgment. The prayer of the bill has no reference whatsoever to the appointment of

a receiver. My contention is that, consequently, a receiver could not be appointed, in the first place, without an amendment of the bill; so that I say, upon that ground alone, a receiver cannot be appointed.

The Vice-Chancellor. You are holding the fund, are you not?

Mr. Bentley. Not myself, but the brother-in-law of the defendant is going to hold it, and he is a man worth several hundred thousand dollars. I told Mr. Lane I would be responsible for the money, and will produce it.

The Vice-Chancellor. Then I will lay the matter over to the 24th of June, and then you may be able to take the testimony and close it.

Mr. Bentley. The whole matter; yes, sir; I will expedite it in any way I can.

The Vice-Chancellor. You can take short notice?

Mr. Bentley. Yes.

Mr. Lane. Well, I understand that, in the meantime the money will be held?

The Vice-Chancellor. Mr. Bentley says he will be responsible for the money that has been paid for the month of June. I presume all the money has not been paid at this time, anyway.

Mr. Bentley. No, sir; it has not; but the $126 is to be collected, and is to be turned over to Aimee Gousset, who is the brother of Rayot, and he said he would give it to me on three hours' notice, or on sending for it; so I will be personally responsible for the June money.

The Vice-Chancellor. You will try to close the case on June 24th, will you?

Mr. Lane. I will, if I can get leave of the department to take the testimony. That is something beyond my control. All I have is the official documents, that is all; and your Honor will realize how hard it is to get a department of the United States to help anybody in a civil cause.

The Vice-Chancellor. I think they would be just as much interested in seeing justice was done as anybody.

Mr. Lane. They ought to; unfortunately, they are not.

Chancery Chambers, Jersey City,
June 24, 1915.

Mr. Lane. If your Honor please, you will recollect that your Honor opened this case for the purpose of putting in certain testimony with respect to the issue, or time of issue, rather, of the bills which were produced here by Mrs. Rayot. Testimony has been taken yesterday at Washington, and I have it here. I desire to call myself now for the purpose of proving the numbers of the bills, &c., as I took them from the bills which were here, so as to lay the foundation for the testimony we took in Washington.

Mr. Bentley. I suppose your Honor has not formally passed on the question of opening the case.

Mr. Lane. He has formally made an order opening the case.

Mr. Bentley. Well, your Honor said you would open it, and that it was a matter of discretion.

Mr. Lane. The Court has made a formal order opening the case. You have a copy of it there.

MERRITT LANE, Esq., sworn.

The Witness. At the time of the hearing of this cause, at which Mrs. Rayot produced some $2,800 in bills, they were handed over to me and I took a list of certain of the bills, with the numbers which were upon them. I have the list, and I offer that list in evidence. It is in my handwriting.

Cross examination by Mr. Bentley.

Q Mr. Lane, annexed to this are the last two pages, which you specifically refer to, do you not? A I am now only referring to the last page, the one in my handwriting.

Q And the last one is in your handwriting? A The last page is all in my handwriting, in ink. The notes on it have no reference to it.

Q And you took these numbers from those bills? A I did.

Q And only from the bills which appear on this paper? A Correct.

The Witness. While I am on the stand I will say that Mr. Higgins, at the same time, and in my presence, took the numbers of the bills which appear upon the next to the last page, which is in his handwriting; and those numbers, I should say—the major part of them, at least those which were over fifty dollars—I looked over.

Q You did not make any comparison? A I made a comparison—I should say not of all of them.

Q You cannot say which ones of them you made a comparison of? A I cannot say which ones of them. Most of them I compared.

Mr. Lane. I offer this list which is in my own handwriting in evidence.

Mr. Bentley. I object to the last page, on the ground that it has not been properly proven; and also the next to the last page.

Mr. Lane. I am not offering the next to the last page.

Mr. Bentley. Well, I object to the last page, on the ground that it has not been properly proven.

The Vice-Chancellor. Well, of course there has been some testimony taken as to this that I don't know of. Is there testimony taken identifying the date of issue of these bills shown on Exhibit C. 1, which you offer in evidence?

Mr. Lane. That comes later. I am only offering that to show now the numbers of the bills which were offered in evidence in this case. I took the numbers of the bills when they were offered in evidence.

The Vice-Chancellor. Were the bills offered in evidence?

Mr. Lane. Yes, sir; as the bills were produced by Mrs. Rayot they were turned over to counsel and taken by me and Mr. Higgins and examined, and the numbers taken off, at that table, and handed back to Mrs. Rayot.

Merritt Lane, direct-cross.

By Mr. Bentley.

Q You have a copy of the testimony of Mrs. Rayot, when the bills were produced in court? A I have.

Q Will you produce that, please? A (The witness produces same and hands it to Mr. Bentley.)

Q You do not find in the testimony, do you, Mr. Lane, anywhere, that the bills were offered in evidence? A I do not find anywhere where the bills were offered in evidence and marked; I do find where the bills were handed over to counsel and examined by counsel, and then handed back to Mrs. Rayot.

Q You find this in the testimony, don't you: "Q Mrs. Rayot, have you the money with you? A Yes, I have. Q Will you let me see it? A (Witness produces bundle of money which she hands to Mr. Bentley.) *Mr. Bentley* (to Mr. Lane.) Do you want it counted? *Mr. Lane.* I will take a chance and look it over and see if there are, or not, any Federal reserve bills in it (taking the package of money from Mr. Bentley)"? A Yes.

Q And there is no offer of the bills in evidence? A No, not of the bills, as bills.

Q I understood you to say that the money was offered in evidence? A Well, I meant that it was—if I said it was formally offered in evidence, I was mistaken; it was not formally offered in evidence; it was produced and handed over to counsel and this list of numbers taken, and then handed back.

The Vice-Chancellor. Well, now, do you think, Mr. Bentley, that these bills—legal tender, lawful money of the United States

—should be marked in evidence and retained as exhibits?

Mr. Bentley. No, sir, I don't think they ought to be marked in evidence.

The Vice-Chancellor. Well, how can they be retained?

Mr. Bentley. I think they should have been offered in evidence, the same as a record of this court. When a record of this court is produced for evidence, it is not marked, but it is offered, and, under the rules and practice of this court, it is not marked. My notion is that the bills must have been offered.

The Vice-Chancellor. Well, the bills were produced in court, were handed to counsel for inspection; counsel says he made a memorandum of the numbers, and that this list which he attempts to offer in evidence, Exhibit C. 1, contains the numbers of certain bills which he examined. If the objection is to the fact that the witness fails to testify to each of them, namely, to the number of each bill, using the paper to refresh his memory, I will sustain the objection; but if counsel's objection goes to the admissibility of evidence to show what the numbers of the various bills are that he examined, the bills being in the custory of the defendants, I will overrule the objection.

Mr. Bentley. I do not want to take up the time of the court and compel Mr. Lane to go over this. I will say that frankly, your Honor.

The Vice-Chancellor. Well, in view of that statement of counsel, I will overrule the objection.

(The last page of the statement identified by the witness is now admitted and marked Exhibit C. 1 of June 24, 1915.)

ALEXANDER HIGGINS, Esq., sworn.

Direct examination by Mr. Lane.

Q At the time the bills, $2,800, about, were produced, did you take off the numbers of certain of them? A I did.

Q I show you a list, which appears to be in your handwriting, and ask you whether that list represents the numbers that you took off? A Yes, those are the numbers that I copied from the files that were produced in court by Mrs. Rayot.

Q At the same time that I was taking them off? A At the same time you were taking off on another sheet, other numbers of other bills.

Mr. Lane. I offer that list in evidence.

By Mr. Bentley.

Q Did you take off the numbers of all the bills which were produced? A No.

Q Did you take off the numbers of all the bills which were produced? A No.

Q Did you and Mr. Lane, together, take off all the numbers of all the bills which were produced? A I don't think we did.

Q There were a great number that you did not take off? A There were some we didn't take off.

Q You are familiar with this letter annexed to this exhibit marked C. 1, being a letter dated April 19, 1915, are you not? A Yes, sir.

Q And annexed to that letter from the Deputy Comptroller is a list of bills? A Yes, sir.

Q Some of them, he says, cannot be identified? A Yes, sir.

By Mr. Lane.

Q We took off, did we not, Mr. Higgins, all of the larger bills, fifties and one hundreds and a few of the smaller bills, fives and tens? A Yes, sir.

By Mr. Bentley.

Q There may have been some twenties that were not taken off?

Mr. Lane. It is easy to determine, because you can count it up and subtract it from $2,800, then you can find how many are missing.

The Vice-Chancellor. The only reason why he possesses any evidential force is that they say that the bills were not issued at the time your client says the money was paid. All the others were issued before.

Mr. Lane. I will assume that. I offer that list made by Mr. Higgins.

(Same objection.) (Same ruling.)

(The list identified by Mr. Higgins is admitted and marked Exhibit C. 2 of June 24, 1915.)

Mr. Lane. While counsel are here, in order to get the testimony straight I offer in evidence the testimony taken yesterday in Washington.

Mr. Bentley. Before it is admitted I want to say a word: I have no objection to the testimony going in, but I don't want to be charged, and I am satisfied from what Mr. Higgins will say, that I ought not to be charged with the cost and expense of this.

The Vice-Chancellor. Well, that is another matter.

Mr. Bentley. Yes, sir. Mr. Higgins, I matter, a subsequent matter. The testimony

The Vice-Chancellor. That is another am satisfied, will be absolutely fair.
may be marked in evidence (and it was marked Exhibit C. 3 of June 24, 1915).

Mr. Lane. Do I understand you consent to the admission in evidence now of the letter from the Deputy Comptroller?

Mr. Bentley. No.

Mr. Lane. You do not?

Mr. Bentley. No. That is why you took the testimony.

Mr. Lane. Well, if you do not, I want that on the record. Also I still insist that you be charged with the cost of taking that testimony.

Mr. Bentley. Now that you have the testimony, why should you use the letter?

The Vice-Chancellor. Is there anything further, gentlemen?

Mr. Lane. No, sir; nothing further, except that I understand that we proceed on the 28th of July?

The Vice-Chancellor. The 28th of July.

Exhibits C. 1 to C. 6.

Mr. Bentley. I would like Mr. Lane to write me a letter upon what theory he thinks this case should be decided in his favor?

Mr. Lane. I will let you know now—that your clients are guilty of actual fraud.

Mr. Bentley. That is enough.

Case adjourned for argument on July 28, 1915.

EXHIBITS.

EXHIBIT C. I.

Original Petition and Schedules in Bankruptcy filed March 16, 1914, by Peter and John Bentley as attorneys in the matter of Louis Rayot. (Not printed.)

EXHIBIT C. II.

"Bankruptcy Docket" (page 290) kept by Hon. George R. Beach as Referee under the Bankruptcy Act as provided for by the rules of the U. S. District Court. (Not printed.)

EXHIBIT C. III.

Assignment of book accounts and all obligations of the firm of Ringger & Freiberger which was composed of Jacob Ringger and Jacob Freiberger to Jacob Ringger as attorney, for collection of the same. (Not printed.)

EXHIBITS C. IV., V. & VI.

Three promissory notes each dated West Hoboken, N. J., May 27th, 1913, made by Louis Rayot to the order of Jacob Ringger and Company, each for $2,200, and each payable four

Exhibits C. 7 to C. 10.

months after date at Hudson Trust Company. (Not printed.)

EXHIBITS C. VII., VIII. & IX.

Three promissory notes each dated West Hoboken, N. J., September 27, 1913, made by Louis Rayot to the order of Jacob Ringger and Company, each payable four months after date at the Hudson Trust Company. Exhibits C. VII. and C. IX. each being for the sum of $2,175; Exhibit C. VIII. being for the sum of $2,150, each of said notes bearing interest. (Not printed.)

EXHIBIT C. X.

Deed bearing date June 22, 1910, made by Amiee Gouisset, single, Zeline Baker and Henry, her husband; Lucie Grod and Charles, her husband; Louis Rayot and Margaret, his wife, parties of the first part; to Barney Hermes, party of the second part; conveying the following described premises:

All that tract or parcel of land and premises hereinafter particularly described, situate, lying and being in the Borough of Fairview, in the County of Bergen, and State of New Jersey, BEGINNING at a point in the easterly line of the Turnpike Road leading from Hackensack to Hoboken, where the same is intersected by the northerly line of lands now or formerly of one MacDonald, and running thence south seventy-two degrees east along the line of said MacDonald and along the line of lands of the estate of Suckley three hundred and forty-five feet and three-tenths of a foot to the line of lands now or formerly of one Semler, thence north fifteen degrees thirty minutes east one hundred and

Exhibit C. 11.

seventy-six feet and eighty-eight one-hundredths of a foot, thence north seventy-two degrees thirty minutes west three hundred and ninety-four feet to the said easterly line of said Turnpike and thence south no degrees fifteen minutes west one hundred and eighty-five feet and seven one-hundredths of a foot to the place of beginning. Containing one acre and forty-nine one-hundredths of an acre.

Excepting thereout a parcel described as follows:

BEGINNING at the southwesterly corner of said plot in the easterly line of the Bergen Turnpike, which said point is also the northwesterly corner of the lands of said Louise Gousset, and from thence running (1) south eighty-four and one-quarter degrees east eighty-five and fourteen-hundredths feet to a stake, thence (2) north seventy-four and one-quarter degrees west eighty-four and eight-hundredths feet, thence (3) in a southerly direction thirteen and two-tenths feet to a stake to the point of beginning.

Said deed is full covenant and warranty deed, signed, sealed and delivered in the presence of Peter Bentley and duly acknowledged before Peter Bentley, Master in Chancery of New Jersey, on June 22nd, 1910, and recorded in the Clerk's Office of the County of Bergen, N. J., on June 24th, 1910, in Liber 755 of deeds for said county, at page 645, etc. (Not printed in full.)

EXHIBIT C. XI.

Deed bearing date June 22, 1910, made by Barney Hermes to Louis Rayot and Margaret, his wife, conveying the premises described in Exhibit C. X. Said deed being a full covenant and warranty deed, signed, sealed and delivered

Exhibit C. 12.

in the presence of Peter Bentley and duly acknowledged before Peter Bentley, Master in Chancery of New Jersey, on June 22nd, 1910, and recorded in the Clerk's Office of the County of Bergen in Liber 755 of deeds for said county, on page 647, etc. (Not printed in full.)

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EXHIBIT C. XII.

Deed bearing date May 26th, 1913, made by Louis Rayot and Margaret, his wife, to Barney Hermes, single, conveying the premises described in Exhibits X. and XI., by full covenant and warranty deed, subject to the operation of four certain mortgages for $600 apiece, interest thereon and taxes. Said deed acknowledged May 26th, 1913, before Peter Bentley, Master in Chancery of New Jersey, recorded in the Clerk's Office of the County of Bergen, on May 27th, 1913, in Liber 849 of deeds for said county, page 82, etc. (Not printed in full.)

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Exhibit C. 13. (Barney Hermes.)

EXHIBIT C. 13.

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY.

In the matter of LOUIS RAYOT, *Bankrupt.*	*In Bankruptcy* *Testimony.*

Adjourned first meeting of creditor bankrupt, held at the Bankruptcy Court Room, 75 Montgomery street, Jersey City, N. J., on Friday, July 10th, 1914, at 4.30 P. M., before

HONORABLE GEORGE R. BEACH, Referee in Bankruptcy.

Appearances:

Charles Young, Esq., representing Mr. Higgins, attorney for trustee.

Peter Bentley, Esq., attorney for bankrupt.

Bankrupt in person.

BARNEY HERMES, being duly sworn according to law, upon his oath, testified as follows:

Examination by Mr. Young.

Q Where do you live? A Millstone.

Q Any address there? A No.

Q Do you know Mr. Rayot? A Yes.

Q How long have you known him? A I guess about fifteen years or more.

Q Have you been in business? A Yes.

Q What business? A In the decorating business and real estate.

Q Where in the decorating business? A In West Hoboken.

Exhibit C. 13. (Barney Hermes.)

Q When? A I retired the last five or six years.

Q Where in the real estate business? A During the same time.

Q What business besides decorating, have you had with Mr. Rayot? A Real estate; sold property for him.

Q Do you remember the transaction with respect to the Fairview property? A Yes, the property I own now.

Q From whom did you acquire that property? A I had that property first off to settle the estate.

Q The estate of whom? A I guess Gousset's estate.

Q Was it Mrs. Gousset? A I believe she died; to settle her estate.

Q Do you know who she was? A No.

Q What do you mean to settle the estate of Mrs. Gousset? A For the heirs. They wanted to settle the estate, and I was in the real estate business at the time, and I wanted to get that property, so I settled the estate and after that I bought it cheap.

Q What do you mean by settling the estate? A How do you mean?

Q You said you settled the estate? A To settle the estate; divided the money up and gave it to the heirs.

By the Referee.

Q What had settling the Gousset estate to do with this real estate? A I don't understand you.

Q What had this Gousset estate matter to do with the buying of the Fairview property from Mr. Rayot? A That is different. I thought you meant when I first bought it.

Exhibit C. 13. (Barney Hermes.)

Q What had it to do with the other? A Nothing.

Q Why do you mention this Gousset estate? A Because I bought it the first time. I thought you meant when I bought it first.

Q When was that A I don't remember.

Q Ten years ago? A I guess not so long.

Q Eight? A I don't remember. I wouldn't swear to it.

Q Was it more than three years ago? A Oh, yes.

Q More than five years ago? A I guess so.

Q How much property do you buy and sell? A I buy lots of it and sell it for other people.

Q Buy very much for yourself? A I did for a while.

By Mr. Young.

Q Do you know who Mrs. Gousset was? A No.

Q Did you know she was related to Mr. Rayot? A She was his mother, I believe.

Q When you said something about settling the estate, what did you mean by those particular words, "Settling the estate"? A So the heirs would all get their share.

Q From whom did you buy the property at that time? A From the heirs.

Q And who were they, if you recall? A Mr. Rayot and his wife, Mr. Gousset, Mrs. Becker and Mrs. Grod.

Q Do you remember who the children were, from whom you got the title? A I just gave you that.

Q How much did you pay for this property at that time? A I really forget about it.

Q Approximately can you tell? A Over three thousand dollars; I guess more.

Exhibit C. 13. (Barney Hermes.)

Q What did the property consist of in those days? A An acre and a half of land.

Q In Fairview? A Yes.

Q Anything besides that? A An old mansion.

Q The mansion was on the acre and a half? A No, next to it.

Q How next to it? A Right next to the land I have now.

Q Where was the mansion located, on what street? A Broad street.

Q Where was the acre and a half? A Greely and Broad.

Q Do you remember how long ago that you got the title? A No, it was so long ago.

Q How long did you own it at that time? A I didn't have it long, because I sold it back to the heirs; Rayot, I believe it was.

Q How much did he pay you for it? A I really have forgotten now.

Q As much as you had paid? A Yes, I believe it was a little more than I paid.

Q Don't know how much more? A No; I made something out of it, I know.

Q Did you get a deed for the property? A Yes.

Q Signed by all the children? A Yes, I believe it was.

Q Record that deed? A Yes, I believe it was recorded.

Q Did that deed show the consideration you paid? A I don't know; I believe it was not.

Q Didn't show it? A No.

Q How was the consideration paid by you? A I guess by one dollar.

Q I mean actual consideration paid at that time? A In cash.

Exhibit C. 13. (Barney Hermes.)

Q Three thousand dollars or more in cash? A Yes.

Q How was the consideration paid to you by Mr. Rayot when you deeded it to him? A In cash, I guess.

Q Where was the consideration passed? A I guess down in Mr. Bentley's office.

Q In this building? A No, I don't believe it was in this building.

Q Do you know where it was? A Somewhere down in Jersey City; I don't know where; I don't believe it was this building.

Q How did you know how to go to his office? A I had the address at that time.

Q What did you do with the three thousand dollars you got from Mr. Rayot, or more? A I generally invested it.

Q Put it in the bank? A I put some in the bank.

Q Where did you keep a bank account at that time? A Hudson Trust.

Q You put some of that in the Hudson Trust; how much of it? A I don't know; I don't carry much money in the bank.

Q Put half of it in? A No.

Q Where did you keep it? A Always kept it with me.

Q On your person? A Yes, or home; I never trust the banks much.

Q Have a safe home? A Yes.

Q Keep it in the safe? A Yes.

Q How much did you keep on your body? A I really don't know. I always carry money. I really don't know how much I have in my pockets now.

Q You own the property now, don't you? A Yes.

Exhibit C. 13. (Barney Hermes.)

Q When did you acquire it the last time? A About a year ago.

Q From whom? A Mr. Rayot.

Q Did you pay any consideration for it? A Why certainly.

Q How much? A Ninety-six hundred dollars cash; full amount was twelve thousand dollars.

Q You paid ninety-six hundred dollars in cash? A Yes.

Q What became of the other? A There is a mortgage of twenty-four hundred dollars on the house.

Q Mortgages you assumed? A Yes.

Q You say the ninety-six hundred was in cash? A Yes.

Q What kind of money was it? Denomination of the bills? A All small amounts. I really don't remember what it was. Fifties, twenties, fives; all small amounts.

Q Have a bank account at that time? A Yes, small.

Q In the Hudson Trust? A Yes, sir. I don't keep money in the banks, only to pay small bills.

Q Have any other bank account at the same time? A No.

Q Where did you get the ninety-six hundred dollars from, that you paid to Mr. Rayot? A I have been in business over fifteen years, and saved.

Q In the decorating business and real estate business A Yes.

Q Where did you have your decorating business? A West Hoboken.

Q What address? A 713 Walnut street.

Q How long had you been there? A I been about twenty years in West Hoboken.

Exhibit C. 13. (Barney Hermes.)

Q All that time in the decorating bu-
A No, about fifteen years in the decorating business.

Q What particular branch of the decorating business? A Ornamental plastering, center pieces, and papier-mache work and all fancy ornamental work.

Q What was the extent of your business there? How much did you do a year? A About three to between five and six thousand dollars a year, net profits. I saved most of my money.

By the Referee.

Q Are you married? A No, sir.

By Mr. Young.

Q What was the extent of the business you did? Total amount of business up there, a year? What were your sales a year, in the ornamental business? A I never kept a book account that way.

Q Have a bank account during those days? A No.

Q All business was done in cash? A Yes, sir.

Q When did you start a bank account? A Good many years ago. I had an account in a New York savings bank before I started business, but so many banks fail that I always carried money with me then.

Q When did you start your bank account here in the Hudson Trust Company? A It must be nine or ten years ago.

Q During the time you were in the decorating business? A Yes. I always kept some money there.

Exhibit C. 13. (Barney Hermes.)

Q How much money did you start that business with? A I don't know; about one or two thousand dollars.

Q What was the largest amount that you had in bank at any one time, here in Hudson County? A I guess about two thousand dollars.

Q Have you got your bank book with you? A No.

Q Have you brought the papers you were ordered to bring with you? A Yes, I have the deeds here.

Q Why didn't you bring the first deed to you to the Fairview property? A You have it there.

Q It isn't here? A I must have forgotten it.

Q You have that deed, have you? A I believe I have. I have so many papers home, I really don't know what is there.

Q Did you turn that deed over to Mr. Rayot, at the time you transferred the property to him? A Yes, when I sold it back to him I gave him the old deed.

Q The deed to you? A Yes.

Q That is the reason you haven't got it here today? A Yes, I believe that is. I don't know whether I have it or not.

Mr. Young calls on the bankrupt for the production of the deed, being deed from Mr. Rayot and wife, Mr. Gousset, Mrs. Becker and Mrs. Grod to Barney Hermes, and bankrupt says, "I do not think I have it, I generally give all the old deeds to people when I sell land to them."

Witness produces a deed, dated September 18th, 1913, between the bankrupt and

Exhibit C. 13. (Barney Hermes.)

his wife, and Barney Hermes, recorded in Bergen County Clerk's Office, in Book 858 of Deeds, pages 335, &c.

Deed dated May 26th, 1913, between the bankrupt and his wife and Barney Hermes, recorded Bergen County Clerk's Office, Book 849 of Deeds, pages 82, &c, covering the property in question.

Three paid bills of the Hudson Trust Company, against Barney Hermes for interest on loan of $2,400.00; receipts dated respectively December 31, 1913, March 31, 1914, and June 30, 1914; thirty-six dollars each.

A receipted bill of Jacob Leuly, against Barney Hermes, dated January 24th, 1914, for premium on policy No. 2445932, Mutual Building, for $19.50.

Twelve receipted water bills, issued by Hackensack Water Co., against Barney Hermes, on various dates, for various amounts, and covering property at Fairview.

Also an agreement between Emma A. Merritt Chester and Herbert Chester, her husband, of the first part, and Louis Rayot and Margaret Rayot, his wife, of the second part, dated September 12th, 1910, and recorded in Bergen County Clerk's Office, in Book 764 of Deeds, on pages 459, &c., respecting an encroachment concerning the Fairview property.

Also policy of fire insurance issued by North British and Mercantile Insurance Co., No. 2445346, dated July 28th, 1913, and issued to Louis Rayot, covering premises in Fairview, for three years, and contain-

Exhibit C. 13. (Barney Hermes.)

ing a record of the transfer of title from Rayot to Barney Hermes, dated October 1st, 1913, attached to and forming part of said policy.

Also a policy of fire insurance issued by the same company, No. 2445932, dated January 14th, 1914, covering premises in Fairview and, running for a term of three years, issued to Barney Hermes.

Q Have you any contract in writing made with Rayot, concerning this Fairview property? A What do you mean?

Q Contract for sale, respecting that property? A I don't know; I don't remember about that. I know I paid him cash on account, that time. I don't remember the contract.

Q How did you come to buy that property from Rayot? A I always wanted to get it, and I got a bargain once, and I took it.

Q Did he offer the property to you? A I found out it was for sale, and I found out I could get a chance and I went and took it.

Q How did you know it was for sale? A I heard it.

Q From whom? A I don't remember.

Q Isn't it a fact that Mr. Rayot himself offered this property to you? A Mr. Rayot might have, I don't recall any more.

Q When was this? A Over a year ago.

Q Have you been engaged in any business in the past year? A No, sir.

Q So that you have done nothing since the time you acquired this property? A I have been retired for the last five years or more.

Q Then why don't you remember the details of this Fairview property sale? A Well, I

Exhibit C. 13. (Barney Hermes.)

don't bother about anything like that at all. I don't worry about anything.

Q How do you come to remember the amount you paid for it? A Well, I know that. I can't forget that amount.

Q Remember how much you paid on account? A When I first bought it?

Q The last time. From Rayot? A I paid around ninety-six hundred dollars, or ninety-four hundred dollars. First off I paid two hundred in cash.

Q Did you get a receipt? A Yes, I believe I did.

Q Where is it? A I guess I destroyed it by this time. After I got the deed, I didn't need that.

Q When you paid the two hundred dollars, did you get something else besides the receipt? A We had it in writing, I believe.

Q Who made that writing? A I guess I did, or Mr. Rayot, I am not sure.

Q Tell us the contents? A Just about the property, and that he got two hundred dollars on account, and the balance was ninety-four hundred, I believe.

Q What do you mean by "Just about the property"? A I bought another plot after that; I bought the lots, the lots in the back.

Q Can't you tell us more particularly what that written paper showed? A It is a receipt for two hundred dollars.

Q And it stated nothing further? A That it was for the property, and the balance was so much, and to be paid at a certain time.

Q Remember when that receipt was given? A I guess it was in June.

Exhibit C. 13. (Barney Hermes.)

Q What year? A I guess 1912, or 1913, I am not sure.

Q June, 1912? A The deed will show.

Q I am speaking now of the last transfer to you from Mr. Rayot, of the Fairview property, the acre and a half? A About a year ago.

Q How much did you pay on account that time, or is that the two hundred dollars you have referred to? A The two hundred dollars binded the first bargain, and the second sale I bought was twenty-five or two hundred a lot.

Q You say when the receipt was made in June, 1912; you don't believe that, do you? A I am puzzled up.

Q Tell us, can't you, with little more detail, the facts concerning that transfer by him to you. How was it brought about? A That is the way, I paid two hundred dollars to bind the sale.

Q That was when? A Over a year ago.

Q About when? A I don't know whether in May or June.

Q Last year? A I believe it was.

Q You got a receipt for that two hundred? A I did have a receipt, yes.

Q Who prepared that receipt? A I don't remember now.

Q Where was it drawn up? A I don't know. I have done so much business that I don't remember.

Q You stated that you haven't worked in five or six years? A Not steady, but going around buying and selling.

Q Didn't you state a few minutes ago that you had retired from business? A I don't do any special work. If I get a chance to make one or two hundred I will take it. I don't call that work.

Exhibit C. 13. (Barney Hermes.)

Q You don't know where that receipt was drawn up? A I don't remember.

Q Where were you living at that time? A Bellemeade, I believe.

Q Were you at Mr. Rayot's house or was he at your house when this receipt was drawn? A I believe I was down at his house.

Q Where? A At Fairview.

Q Tell us what the receipt stated? A I told you before.

Q Tell us again? A I paid two hundred dollars on account, and that the balance was ninety four hundred dollars.

Q To be paid when? A On a certain time, I forget the date.

Q Did it state? A I believe it did.

Q Did it state what property it was applied on? A Yes, sure. There is a mortgage of twenty-four hundred dollars on it.

Q What property did it state the payment was to be applied on? A Mr. Rayot's prop erty.

Q Anything else? A No.

Q Was that all that Mr. Rayot owned at that time? A I don't know what he owned at the time. I only bought that Fairview property, I know.

Q How soon after the receipt was given did you get the title? A About a month or so.

Q Did you search the title? A Sure.

Q Who did that for you? A I did.

Q Where did you search it? A In Bergen County.

Q Have you got the abstract of search? A I don't know. I haven't got it here, have I?

Q Don't you keep those abstracts as a rule? A Yes, but I have so many papers home I don't know what is there.

Exhibit C. 13. (Barney Hermes.)

Q Have you made any search since that time? A No.

Q Yet you don't know if you kept this particular search? A I have a tin box full of papers of all kinds.

Q How long did it take you to make this search? A I don't know. Not so very long.

Q How long? A I was up there and one day I made a search.

Q In one day, covering this Fairview property with six houses on it? A Yes, sir.

Q Tell us how you made the search; what you did and the work you did?

(Objected to by Mr. Bentley.)

Q What work did you do in making the search? How do you make a search? A I have been a Justice of the Peace for ten years, and I have been making searches in Hudson County.

Q As Justice of the Peace? A Yes.

Q What books do you look at while making a search? A Books in the Register's Office.

Q Did you go to the Register's Office in Bergen County? A Yes.

Q Do you know what part of the building the Register's Office is in? A I don't remember now.

Q You know there is a Register's Office there, don't you? A Yes.

Q What books did you see in there? The index work, the nature of the books, what they contained? A The books of the property of Fairview.

Q Did they refer only to the Fairview property, the book you saw? A No; they are all about Fairview.

Exhibit C. 13. (Barney Hermes.)

Q Tell us a little more particularly what they were. How they are gotten up. What do the books contain? A All about the property.

Q What was the first property that you saw contained in these books? A When I looked it up the Gousset estate was.

Q What was the first book you looked at? A I don't remember any more.

Q How many books did you look at in making the search of the Fairview property? A I really don't know any more.

Q When was it? A More than a year ago.

Q Since that you have retired from business you say? A Yes.

Q You never did make that search, did you? A Yes, I did.

Q Took you one day to make it? A Yes.

Q What time of the day did you start that search? A I don't know.

Q Remember the time of day it was? A No, I do not.

Q Did you stop in the Surrogate's Office on that day? A Well, I really don't know any more.

Q Is the Surrogate's Office in that building. A Yes, sure.

Q In the County Clerk's Office, too, were you? A I guess so.

Q Are the County Clerk's and the Register's offices together? A I really don't know any more. It is so long ago.

Q What time of the day did you start that search? A I don't know.

Q How did you go there, to this building? A To Hackensack.

Q By what road? A By trolley car.

Exhibit C. 13. (Barney Hermes.)

Q From where? A From anywhere. Hudson County or anywhere.

Q What line? A Bergen Pike.

Q Where did you get off the car in Hackensack? A I don't know what street it was.

Q Never been to Hackensack before, had you? A Sure, lots of times.

Q Know what street this building is on? A Yes, but I have forgotten.

Q Do you know where Essex street is, in Hackensack? A No.

Q What streets do you know there? A I don't know any streets there; when I go around I never look at the streets.

Q Know where Main street is? A Yes.

Q Where is that? A Where the trolley cars pass.

Q Which trolley car? A I really forget.

Q How many books did you look at that day? A I don't know.

Q When did you get through making the search? A I don't know any more.

Q Take you more than an hour? A I guess so.

Q Two hours? A I really don't know how long.

Q Where did you go from to Hackensack that day? A I don't know really where I was that day; from Bellemeade, I guess.

Q From Bellemeade how did you get to Hackensack? A Took the train, as far as Newark, I believe.

Q What line is that on? A Philadelphia and Reading R. R.

Q From there you took a car to where? A Hackensack.

Q Don't remember what street you got off at? A No.

Exhibit C. 13. (Barney Hermes.)

Q When you got off did that take you right by the building where you made the search? A I believe it did, I am not sure.

Q Where did you go when you got through searching? A I really don't know; I must have gone home, I guess.

Q How did you go home from there? A I believe I took the car down to Jersey City.

Q Where did you board the car in Hackensack? A I don't know. I stopped in a saloon on the way, and I went to West Hoboken and stayed there all night.

Q Which car? A Bergen Pike car,

Q Where did you board the Bergen Pike car, after you got through making the search? A At Hackensack, I really don't know what street.

Q Did you have to transfer from one car to another? A Sure to go to Jersey City.

Q Did you board the Bergen Pike car first in Hackensack and then transfer from one car to another to come to Jersey City? A I don't recall. I know I changed cars.

Q What kind of a building is this building you were in in Hackensack? A I don't know; I didn't look around how the building looked.

Q Do you know how you got into the Register's Office? A I don't know.

By the Referee.

Q How did you know where to find the books? A I asked somebody, I believe.

By Mr. Young.

Q You took the elevator to go upstairs? A I don't remember any more.

Q What did you ask for when you got into the building? A I really don't remember.

Exhibit C. 13. (Barney Hermes.)

Q Why didn't you produce your bank book here today? A I don't see that that is anybody else's business.

Q Have you got the subpoena with you? A No, I have not.

Q Know what it called for? A Books, deeds and papers.

Q What else? A That is about all, I believe.

Q Don't you call a bank book a book? A That is my private business.

Q Have you got any check books? A Yes.

Q Why didn't you produce them? A I don't know if that is anybody's business. I don't know why I should bring it around.

(Mr. Bentley objects because witness wasn't paid for producing any books or coming here today.)

Q What books have you got Mr. Hermes? A I don't use any books.

By the Referee.

Q Do you keep a ledger? A No.

Q Do you keep a day book? A No.

Q Do you keep a journal? A No, I don't keep any books.

Q Do you keep any record of business transactions which you have had? A No.

Q No books at all? A No.

Q You do keep a check book? A Yes.

Q Keep a record on the stubs? A Yes.

Q You have a bank book? A Yes. A check account.

By Mr. Young.

Q You don't make a point of keeping records of transactions in other books? A No.

Exhibit C. 13. (Barney Hermes.)

Q What records do you keep on these stubs in your check book? A When I pay small bills I generally keep a record of them.

Q Does it also show what moneys are paid to you? A Not on the check book.

Q Where do you show that? A I have that in a receipt stub book.

Q That shows the moneys you received? A Yes, the stubs in the receipt book.

Q Does your check book or check books show the transaction with Mr. Rayot? A No, I only use that to pay small bills.

Q Have you any record of your transaction with Mr. Rayot outside of these deeds? A No, I guess not.

Q You had a check book at the time you paid the cash to Mr. Rayot, had you not? A I guess so.

Q On the Hudson Trust Company? A Yes.

Q Why didn't you draw a check for the amount instead of cash? A I never put that much money in the bank.

Q Did you have any other moneys beside those ninety-six hundred dollars? A Yes.

Q Where? A In the house?

Q All in the house? A Yes.

Q Where did you keep it in the house? A In the box.

Q Where was the box? A In the house.

Q Where in the house? A In the bureau.

Q Where did you have this bureau? A In the bedroom, upstairs.

Q Where was this? A In Bellemeade.

Q What kind of a house was it? A Farm house.

Q How many stories? A Two and a half.

Exhibit C. 13. (Barney Hermes.)

Q Who did you live with there? A I got a party taking care of the place there. They did at that time.

Q How many people in the house? A Man and wife and two children.

Q And you boarded with them? A Yes.

Q And you used to keep this amount of money on hand all the time in your room? A Yes, sir. This woman used to know my mother and I trusted her.

Q And yet you say that you did have as much as two thousand dollars in the Hudson Trust Co. at that time? A Yes, but I was in business at the time, and I didn't want to have too many bills.

Q How long ago was it you had this two thousand dollars in the Hudson Trust? A About ten years or more.

Q What have been your daily balances in that bank during the last three years, average? A I don't know; can't be so very much, because I haven't had the bank book balanced yet. They generally send me notice to send the book down.

By Mr. Beach.

Q Did you average five hundred dollars? A I don't know.

Q How would you put this money away? As you get money would you put it in this tin box? A Yes, sir.

Q What size bills were they? A All small and large.

Q Fifty dollar bills? A Fifty, twenty, ten.

Q Any five hundred dollar bills? A No, not as high as that.

Q And besides the ninety-six hundred dollars in bills, you had other money there? A Yes.

Exhibit C. 13. (Barney Hermes.)

Q How much more? A I don't remember.

Q Five thousand dollars more? A Something like that.

By Mr. Young.

Q You mean to say you had nearly fifteen thousand dollars in bills in the house, and there wasn't any one bill higher than one hundred dollars? A There might have been a few higher. I don't know how much I have there now.

Q What kind of a box was it? A Regular long sized tin box (denoting about two feet long and eight inches high).

Q What color was it? A Black.

Q Have a lock on it? A Sure.

Q In what drawer in the bureau did you keep this box? A In the middle.

Q How many drawers did the bureau have? A Four.

Q Four? A It is a bureau with a secret drawer in the bottom. You wouldn't notice it was a drawer at all. I call that the fourth one, then there are three others; in the middle of those three.

Q Have any silver with this money? A No. I generally keep paper money there.

Q How did you get this fifteen thousand dollars? A I have been working long enough in business and I saved my money.

Q How long did it take you to accumulate that fifteen thousand dollars? A I have been in business over fifteen years or more; in the decorating business and in the real estate business.

Exhibit C. 13. (Barney Hermes.)

Q How much does it cost you a year to live?

(Objected to by Mr. Bentley, as going into witness's personal affairs.)

By the Referee.

Q You have some property, haven't you? A Yes, in North Bergen, West Hoboken, Somerset County.

By Mr. Young.

Q Why did you give up the decorating business?

(Objected.)

(Question withdrawn.)

Q Did you make any money on your real estate transactions? A Yes.

Q Tell us one you made profit on? A When I sold I made one hundred dollars and commissions; I generally had people sign an agreement.

Q When did you make money last, in the real estate business? A About eight or nine months ago.

Q What transaction was that? A Out in the country, selling a farm.

Q Whereabouts? A In Montgomery Township.

Q Where is that? A Back of Hollington.

Q In what State? A New Jersey.

Q What county is that in? A Somerset County.

Q Was it your property? A Yes.

Q And you sold to whom? A Another party from out there.

Q Remember his name? A A party from Skillman. I forget his name now.

Exhibit C. 13. (Barney Hermes.)

Q What did you sell it for?

(Objected to by Mr. Bentley, on the ground that it is long after the transaction in question, and is a personal affair, and it has nothing to do with the matter before the Court.)

Q Tell us some deals you have had in the real estate business?

(Objected to, unless the time is fixed.)

Q The one prior to the last one, when was that? A I forget now.

Q Can't you tell us? A I don't remember.

Q Make any profit on that? A Always made profit?

Q What was that? A That was other people's property.

Q You acted as agent? A Yes.

Q Where was it located, this property? A I guess that was in North Bergen; no, I guess that was my own property, I sold in New Durham.

Q The one prior to the last, I am talking of? A I guess the last one, or the one before that within the year I sold down here in New Durham.

Q Since you got the property from Mr. Ravot? A Long while after that.

Q How many sales did you put through during the year 1913? Real estate sales? A About three or four, I guess.

Q Can you tell us the purchasers?

(Objected to by Mr. Bentley, on the ground that it is immaterial, irrelevant.)

A I don't remember.

Q Do you remember the properties? A Some of them.

Exhibit C. 13. (Barney Hermes.)

Q Tell us them. A Two lots in North Bergen.

Q What street? A Dell avenue. A place out in Montgomery township, I guess a place out in Skillman.

Q Do you know to whom you sold that? A I don't remember. I was acting as agent.

Q What else? A One in West Hoboken.

Q Where was that? A That may have been the year before. In Angelique street.

Q To whom did you sell that? A I don't remember.

Q Your property? A No, I was acting as agent.

Q You said you owned real estate? A I sold it.

Q What have you got now? A In Fairview, Bergen County; that is all just now.

Q When did you sell the last property you owned? A About six months ago. Two lots up here. Then the farm out there in Montgomery.

Q Are you related to the bankrupt? A No, sir.

Q How long have you known him? A I guess about fifteen years or so.

Q Where was Mr. Rayot in those days? A Carpenter business.

Q Where? A Spring street, West Hoboken.

Q That was fifteen years ago? A Or less. I won't swear to that. When I was in the decorating business.

Q Know what business he has been in all the time? A No.

Q At that time he was a carpenter, you say? A Yes, at that time.

Exhibit C. 13. (Barney Hermes.)

Q Have you been in touch with him from time to time since the last fifteen years? A No, very seldom I see him.

Q How did you know where to find him on the occasion that you bought this Fairview property? A I hunted him up.

Q Where did you find him? A In Fairview.

Q You knew for a long time he had been living there? A Not for so long. Before that he lived in Dubois street.

Q Why did you say you had to search him up? A Where he lived in Fairview at that time.

Q How long before you bought this Fairview property did you know he lived in Fairview? A I knew it about, maybe half a year or so.

Q You didn't have to look very hard for him, did you? A No, not very hard.

Q Who gets the income from these properties in Fairview? A I do.

Q How do you get them? A Every month or so.

Q How? A Sometimes I go there and get them, and sometimes he brings them.

Q You go to Fairview and get them from the tenants? A No, he is acting as agent.

Q For how long? A During the past year.

Q And he collects the rent? A Yes.

Q And turns the rents over to you? A Yes.

Q Where? A At my house, or I come to his place.

Q When did he turn money over, last? A June seventh.

Q How much on that day? A One hundred and twenty-six dollars.

Exhibit C. 13. (Barney Hermes.)

Q For how long? A One month.

Q Whose rent was it? A From the six houses.

Q Are the houses all rented? A All except one, I believe.

Q Which one? A I haven't looked; I guess the two family house.

Q Is Mr. Rayot one of your tenants? A Yes.

Q In which house does he live? A The big house on the corner.

Q How much does he pay you? A Thirty dollars a month. That includes the garage in the back.

Q What other tenants have you there? A Four other families there.

Q They are all occupied? A Yes, all except one.

Q The big house is vacant? A I believe it is.

Q Do you know how long it has been vacant? A I don't know.

Q When did you get your rent before the last time? A I guess a month or two before that.

Q Don't you get it regularly? A No.

Q Why? A I don't know.

Q Don't you know if your rent is behind? A I am not particular about that. I know the money is good.

Q Notwithstanding he is a bankrupt? A I never knew that until I got the subpoena.

Q How many times have you seen Mr. Rayot since June 7th? A That is the last time I saw him; it was on Saturday.

Q How often have you seen him since March 16th, 1914? A I don't know. I don't keep account of all that.

Exhibit C. 13. (Barney Hermes.)

Q Who pays the taxes and water rents? A I do.

Q Pay them by check? A Check or money orders.

Q To whom do you pay the taxes? A I didn't pay this year's taxes yet. Not last year's I mean.

Q So you haven't paid any taxes since you bought the property? A No, not yet.

Q How about the water rents? A That is paid right along.

Q You paid that in cash? A Yes.

Q To whom did you pay it? A I gave the money to Mr. Rayot, and let him pay it.

Q What is the total rents you get out of the property? A One hundred and twenty-six dollars a month.

Q That money is all turned over to you by Mr. Rayot? A Yes.

Q And who makes the repairs? A I do. I let Mr. Rayot have them made and send me the bill.

Q He sends you the bills? A Yes.

Q And you pay the bills? A Yes, I pay the bills.

Q How do you pay them? A I send him the money; to Mr. Rayot to pay them and he sends me the receipts.

Q Have you got those bills? A No, I have not.

Q Why didn't you produce them? A I didn't know you wanted that kind of bills.

Q What repairs were made in the houses? A Papering done.

Q In what house? A In the two-family house.

Exhibit C. 13. (Barney Hermes.)

Q How long has this house been vacant? A I don't know. I haven't got the month's rent this month.

Q When did you see your property last? A A good while ago.

Q How long is that? A Early part of the summer.

Q Sometime in May? A Early part of May.

Q Haven't seen them since? A No.

Q You have these receipts at home, you say? A Yes.

Q You knew the subpoena required your producing them? A It only said about deeds, it didn't say anything about bills.

Q Who holds the mortgages on that property? A Hudson Trust Co.

Q Who pays interest? A I do.

Q How do you pay them, by check? A Money order.

Q You have an account with the Hudson Trust Co., at the present time? A Yes.

Q And you have a check book in your home at Millstone? A Yes, sir.

Q Notwithstanding this subpoena that was served on you you failed to produce the bank book and check book? A That is my private business.

Exhibit C. 13. (Louis Rayot.)

UNITED STATES DISTRICT COURT.

DISTRICT OF NEW JERSEY.

In the matter of LOUIS RAYOT, *Bankrupt.*	*In Bankruptcy.* *Testimony.*

Adjourned first meeting of creditors in the above entitled matter, held at the Bankruptcy Court Room, 75 Montgomery street, Jersey City, N. J., on Monday, July 13th, 1914, at 4:30 P. M., before

HONORABLE GEORGE R. BEACH, Referee in Bankruptcy.

Appearances:

Charles Young, Esq., trustee.

Peter Bentley, Esq., representing the bankrupt.

Alexander J. Higgins, representing trustee.

Bankrupt, in person.

LOUIS RAYOT, being duly sworn, according to law, upon his oath, testifies as follows:

Examination by Mr. Higgins.

Q How many conveyances did you make to Barney Hermes, of your Fairview property? A Two.

Q What did Barney Hermes pay for the first one?

(Objected to on the ground that it has been fully covered.)

(Question withdrawn.)

Exhibit C. 13. (Louis Rayot.)

Q What did the first conveyance consist of? A Consisted of the acre and a half.

Q Were the six houses in that or the second conveyance? A In the first conveyance; the first sale.

Q What did the second conveyance consist of? A Plot twenty-five by about two hundred.

Q Is there a house on that? A Nothing on that.

Q When you closed up the first conveyance, where was it done? Where did it take place? A In Mr. Bentley's office.

Q What day was that? A Sometime in May, 1913.

Q And who drew up the deed for the property? A Mr. Bentley.

Q And who told Mr. Bentley what to put in the deed? A I did.

Q Did you give him the contract that you had made with Barney Hermes? A I gave Mr. Bentley the old deed.

A What deed did you give Mr. Bentley? A The deed to the acre and a half.

Q Where did you get the deed that you gave Mr. Bentley? Who made that deed? A Barney Hermes.

Q Who conveyed to Barney Hermes? A The estate.

Q Who drew the first deed to Barney Hermes? A The estate.

Q Who drew the first deed that Barney Hermes got? A Mr. Bentley.

Q Were you present at that time? A Yes, sir.

Q Where was it drawn up? A In Mr. Bentley's office.

Exhibit C. 13. (Louis Rayot.)

Q And did you sign it at that time? A Yes, sir.

Q Was there any money transferred at that time? A I believe there was.

Q Remember that you swore there wasn't? A I don't exactly remember.

Q Were you ever in business with Barney Hermes? A No, sir.

Q But he used to attend to all your transfers of property for you, didn't he? A No, sir.

Q He represented the estate in drawing up all the legal papers? A No, sir.

Q You used to receive advices from Barney Hermes in regard to real estate matters? A No, sir.

Q What were your business relations with Barney Hermes? A I used to buy ornamentals from him. He used to take my ornamental work contracts.

Q Is that all? A He also sold property for me, as agent.

Q How did he come to be used as the party who received the conveyance of your mother's estate, and reconveyed it to you. How was he selected for that purpose? Did you select him? A No, sir.

Q Who did? A Mrs. Grod.

Q Did he attend to the drawing of papers and advices for your mother, or sister? A No, sir.

Q Did you ever borrow any money from Barney Hermes? A No, sir.

Q You had an automobile, Mr. Rayot, did you not? A Yes, sir.

Q Where is the automobile now? A I couldn't tell you.

Q When did you part with it? A I don't exactly know how long.

Exhibit C. 13. (Louis Rayot.)

Q Was it before or after the sale of the Fairview property? A Long time before.

Q Year before? A Longer than that. It was a good deal longer than a year; a couple of years, to my knowledge.

Q Who did you sell it to? A I don't know; a man from New York State bought that automobile. I never saw the man.

Q How did he come to buy it? A I took it over to Packard's in New York, and told them to dispose of it for me.

Q Sold it through them, did you? A Yes, sir.

Q How much did you get for ot? A Twenty-five hundred dollars.

Q Did you put that money in the bank? A No, I don't believe I did.

Q Put any of it in the bank? A No, sir, I had other places to put it.

Q Who did you pay with some of that twenty-five hundred? A I couldn't tell you. I don't recall; it is too long ago.

Q How long ago was it? A I couldn't just say. It is over a year any way.

Q How long have you been in the habit of keeping the money in your pocket, paying in cash your bills, instead of through the bank? A I always did it. On and off I paid in checks, and paid in cash.

Q Who was present in Mr. Bentley's office at the time Barney Hermes paid you the ninety-six hundred dollars for the Fairview property? A Mr. Hermes, my wife and I.

Q Who else? A That is all.

Q The time the property was transferred from the estate to Barney Hermes, who was present in Mr. Bentley's office? A Mrs.

Exhibit C. 13. (Louis Rayot.)

Becker, Harry Becker, Mrs. Grod; I believe Charlie Grod was there; Amiee Gousset and myself and wife, and Mr. Hermes.

Q What was the idea of coming to Mr. Bentley's office that day? A Drawing up the deeds and turning over the property, to my knowledge.

Q Whose suggestion was it to go to Mr. Bentley's office? A We always did business in Mr. Bentley's office.

Q Do you mean you, or Hermes, or who? A My mother used to do business in Mr. Bentley's office, and my brother; I think he was the one that made the suggestion.

Q Tell us in detail of what happened in Mr. Bentley's office? What did you do when you got there? A I don't recall what we did.

Q Did you sign any papers? A Yes, sir; I signed a deed.

Q What else did you do? A I don't recall what was done.

Q Was there any money passed from one to the other, at that time? A I don't recall. There must have been. I don't recall.

Q What makes you say there must have been? A Because we sold the property.

Q What makes you think you sold the property? A Because we transferred to Hermes to break up the estate.

Q What did Mr. Hermes do with it? A He transferred over to me and my wife.

Q A part of it to you and your wife? A He transferred the whole tract. To my wife and me.

Q Did Barney Hermes pay any money for it? A I don't remember just what was done.

Q The money you have in mind is money you may have paid to the other heirs, to your

Exhibit C. 13. (Louis Rayot.)

brothers and sisters, is that it? A I don't remember. There was something paid; I just don't remember what it was.

Q At any rate, when you left Mr. Bentley's office, Barney Hermes had no interest in that tract of land, is that right? A Only to straighten up the estate. That was all.

Q Do you know whether Barney Hermes owns a farm in Union County, or not? A I don't know anything about Barney Hermes.

Q Why didn't you try to get a mortgage on this property from Barney Hermes?

(Objected to by Mr. Bentley, on the ground of being immaterial, irrelevant.)

(Question withdrawn.)

Q When did Barney Hermes move away from Hudson County? A I don't know.

Q Did you advertise your property for sale in Fairview? A No, sir; but I asked several people to buy.

Q When did you for the first time try to sell your Fairview property? A It was always for sale.

Q When did you know for the first time that it was sold? A When we sold to Barney Hermes.

Q You sold to Barney Hermes in May, did you? A In May, 1913.

Q When did your notes come due that you gave to Ringger, the last notes? A I don't remember.

Q They came due after you sold to Barney Hermes, didn't they? A I don't remember.

Q Do you remember saying to Ringger, about the time you were making out new notes, that you wouldn't have any money until you could

Exhibit C. 13. (Louis Rayot.)

sell your Fairview property? A I don't remember.

Q Do you remember that you told Ringger, after May, 1913, that you didn't sell your Fairview property? A No, sir; I didn't tell Mr. Ringger anything like that.

Q You won't swear that you told Mr. Ringger that you sold your Fairview property, will you? A I didn't tell him that I did sell it, or I didn't tell him that I didn't sell it.

Q Did you tell him you couldn't pay him anything on that account until you sold some property? A I didn't tell him.

Q Is the garage occupied, that is on part of this property? A Yes, sir.

Q Who occupies it? A Aimee Gousset, my brother.

Q Where does he live? A In Fairview.

Q Does he pay rent for the garage? A Yes, sir; thirty dollars a month.

Q That is in the back of the piece of property you live in? A Yes, sir.

Q When was the last time Barney Hermes was up to see that property? A Saturday morning.

Q When had he been there before? A I don't remember when he was there the last.

Q How did you get word to Barney Hermes that your property was for sale, at Fairview? A I don't know how he heard of it. It was always for sale.

Q Didn't you get word to him? Was he out in Bellemeade at that time? A I don't know.

Q Do you know whether he moved to Bellemeade after he bought the property, or not? A I don't know whether he moved there after he bought it. I know he lived in Bellemeade.

Exhibit C. 13. (Louis Rayot.)

Q Isn't it a fact that you had been in communication with Barney Hermes, previous to selling this property to him? A No, sir.

Q Tell me in detail how it came about that Barney Hermes bought this property? A Barney Hermes came to me and wanted to know if I wanted to sell this property. I said I would take twelve thousand dollars, for it, subject to tweny-four hundred dollars mortgage.

Q Then what did you do? A We had an agreement, and he paid on account two hundred dollars.

Q Who drew up that paper? A I did.

Q What day was that? A I don't just recall the date.

Q What month was it? A I don't remember; it was sometime in May, if I am not mistaken.

Q What time of the day did he call on you? A It was sometime in the morning. Forenoon.

Q Where did he meet you? A At my house.

Q Where did you live? A In Fairview.

Q In the property? A Yes, sir.

Q What time was the paper drawn up? A Drawn up in the forenoon.

Q About what time? A I don't remember.

Q You built the property in Fairview yourself? A Yes, I did.

Q And don't you remember talking to Barney Hermes about the property when you were building it? A I don't remember.

Q You don't even remember being in Barney Hermes's in connection with this property, until this day he came down and talked about buying this property from you? A Yes, sir.

Exhibit C. 13. (Louis Rayot.)

Q And then the contract was drawn up right then and there? A Yes, sir.

Q How long after the contract was drawn, did you come down to Mr. Bentley's office, and give the deed for the property? A I don't know how long after.

Q Same month? A Sometime in May.

Q You collect the rent from this property, do you? A Yes, sir.

Q How many tenants have you got there now? A Seven.

Q You got four one-family houses, have you? A Yes, sir.

Q You get sixteen dollars from each family? A Yes, sir.

Q What are the names of the tenants that occupy the four one-family houses?

(Objected to on the ground that it is immaterial, irrelevant and incompetent.)

Q Do you recall their names?

(Witness is instructed not to answer.)

(Objection overruled by the Referee.)

A One by the name of Henry Mertz.

Q Which house does he occupy? A The farthest away from Broad avenue. The next is Mrs. Kiel. The next is Joseph Kopp, the next is William Cartwright.

Q Who lives in the two-family house? A Mrs. Hawkins.

Q Living upstairs? A On the second floor.

Q Who lives downstairs? A William Hack.

Q Who lives in the next house? A Louis Rayot.

Q And the garage is occupied by him? A The garage goes with the house, at thirty dollars a month, and is occupied by Aimee Gousset.

Exhibit C. 13. (Louis Rayot.)

Q Under what circumstances did the sale of the lot in September, to Barney Hermes, come about? A I guess I needed the money.

Q Did you go and tell him the lot was for sale? A No, sir.

Q Did he come and tell you he wanted to buy it? A I told him I would sell that lot if he wanted to buy it.

Q You stated what you would take for it? A I said two hundred and fifty dollars.

Q What did he say? A "I will buy the lot."

Q Well, what did you do? A I came down to Mr. Bentley and had a deed drawn up, and he gave me the money.

Q How many deeds did you have drawn? A One.

Q How was that money paid to you? A In cash.

Q What paper did you give back to Barney Hermes at the time you gave him the deed? What agreement did you have with him? A None.

Q What did you do with the money you got?

(Objected to on the ground that it has all been covered.)

Q How much did you receive for the sale of this lot? A Two hundred and fifty dollars.

Q What did you do with that? A Spent it.

Q Was Barney Hermes up to the Fairview property in June of this year? A I don't remember.

Q How many times has he been there, to your knowledge since the day he bought the property? A I don't remember how many times.

Q Has he been there at all? A Yes, sir.

Q How many times? He was there the other day, the day after the proceedings, wasn't he? A Yes, sir, he was there Saturday morning.

Exhibit C. 13. (Louis Rayot.)

Q When was he there before that? A I don't remember.

Q He doesn't know whether the property is all occupied at the present time, or not? A One part was vacant, but it is all rented now.

Q And when repairs are needed there, do you make the repairs? A If there is any repairing to do I do it.

Q When did you turn the last rents over to Barney Hermes, from this Fairview property? A One Sunday, June 7th, I believe it was.

Q Where did you give the rent to Barney Hermes? A I brought them to his house.

Q You are sure of that? A Yes, sir.

Q And it was on a Sunday? A Yes, sir.

Q When was the last time that you gave rents of the Fairview property to Barney Hermes, that he called for them? A I don't remember. I have been there two or three times and he has been up to my place.

Q Barney Hermes was a neighbor of yours for a number of years, in West Hoboken, wasn't he? A No.

Q Didn't he live near you? A About two blocks away from me.

Q You lived in West Hoboken, didn't you? A In Dubois street.

Q And he lived on the next street to you? A No, he lived on Walnut street, and I lived on Dubois street.

Q Ever belong to the fire company in West Hoboken? A No, sir.

Q How much money did you give Barney Hermes on the seventh of June, as rent from the Fairview property? A One hundred and twenty-six dollars.

Exhibit C. 13. (Louis Rayot.)

Q Did you give him one hundred and twenty-six dollars each time you went out there, as rent from the Fairview property? A No, sir.

Q Was that the total rent you collected from all the tenants? A For June, yes.

Q Any vacancies at that time? A No, sir.

Q You knew Barney Hermes for fifteen years, is that right? A For about, to my knowledge, eight years or so. I just don't remember how long.

Q Did he ever conduct a real estate business? A He was a Justice of the Peace.

Q And real estate office? A I don't know; he sold some property for me.

Q When you bought the property on Dubois street did you have it searched?

(Objected to on the ground that it is too remote.)

(Question withdrawn.)

Q Did Barney Hermes ever make any searches for you on any of your property? A No, sir.

Q Did Mr. Bentley make searches for you, when you bought property? A Not always. Mr. Leuly used to make mortgages for the Hudson Trust Company, and he used to search for me. Mr. Rich also did that for me.

Q Where is your wife? A I don't know where she is now; home, I suppose.

Q Do you do any business for your wife? A No, sir.

Q Is she engaged in any business for herself? A No, sir.

Q Has she got a separate bank account? A I don't know anything about it.

Q You know you gave her forty-eight hundred dollars, didn't you? A Yes, sir.

Exhibit C. 13. (Margaret Rayot.)

Q Did you get a receipt for it? A No, sir.

Q Do you know what she did with the money? A I don't know.

Q Did she ever loan you any of it? A No, sir.

Q You spent several days in the early spring out with Barney Hermes, didn't you, this year? A No, sir.

Hearing adjourned to August 19th, 1914, at ten A. M.

UNITED STATES DISTRICT COURT.

DISTRICT OF NEW JERSEY.

In the Matter of LOUIS RAYOT, *Bankrupt.*	*In Bankruptcy.* *Testimony.*

Adjourned first meeting held at the Bankruptcy Court Room, 75 Montgomery street, Jersey City, N. J., August 19th, 1914, at ten o'clock.

PRESENT: Peter Bentley, representing bankrupt.

Alexander Higgins, representing trustee.

MARGARET RAYOT, being duly sworn testified as follows:

By Mr. Higgins.

Q How long have you been married to Louis Rayot? A 22 years.

Q You know Mr. Rayot owns property in Fairview, Bergen County, New Jersey? A Yes.

Exhibit C. 13. (Margaret Rayot.)

Q How did he get it? A Through his mother's estate.

Q Tell us the details. A He had a share of it.

Q What was that share, how much, one-third or one-fifth? A I could not tell you.

Q How many children did his mother leave? A Four.

Q What occurred concerning the property after she died? A I don't know that either.

Q Do you know a man by the name of Barney Hermes? A I do.

Q Have any dealings with him? A Yes.

Q What were the relations, the dealings you had with him? A They sold a piece of property and settled the estate.

Q Was the entire estate of Mr. Rayot's mother deeded to Barney Hermes? A No.

Q How much was deeded to him. Immediately after the death of Mr. Rayot's mother and previous to any other dealings you had with Barney Hermes? A The first he bought about an acre and a half.

Q How was that sale made? A To settle the estate.

Q And all the children of Mrs. Rayot signed the deed? A They did.

Q Did you sign the deed? A I did.

Q What was the nature of that settlement; did you get any money from Barney Hermes? A I would not sign until I got half.

Q The time you said you were settling the estate, you made some conveyance to Barney Hermes, did he pay you or the estate any money at that time, do you know? The first time the deed was made to Barney Hermes, did he pay anything for that conveyance to him? A Yes, it was $3,000.

Exhibit C. 13. (Margaret Rayot.)

Q Who did he pay that to? A I could not tell you that.

Q You did not get any of it? A I did, I got one-half.

Q You got one-half of the $3,000? A No, I did not.

Q What did you get? A It was never close enough to business to know that.

Q You say you received something. You said he paid $3,000 at the time of the settlement of the estate and you got some of that money, is that right? A I don't understand you yet.

Q Mrs. Gousset died and left an estate and that estate was sold, part of it to Barney Hermes to settle the estate? A Yes.

Q Did he pay anything for that conveyance to him at that time? A All the heirs got their share out of it.

By Referee.

Q Mr. Higgins wants to know if Barney Hermes paid anything to the estate at the time it was settled up? A No, he did not.

By Mr. Higgins.

Q That was a voluntary conveyance made for the purpose of settling up the estate? A I think so.

Q So that you did not get anything from that conveyance at that time, you did not get anything at that time? A No.

Q When did Barney Hermes purchase any more of the property from either the estate or from your husband? A About a year and a half ago.

Exhibit C. 13. (Margaret Rayot.)

Q How did the second conveyance come to be made to Barney Hermes? A Because he wanted to sell it.

Q Who wanted to sell it? A My husband.

Q After Barney Hermes took this voluntary conveyance what did he do with the land, after it was given to him to settle the estate? A I don't know whether you are speaking about what is on it now or whether it was without any houses on it when he first bought it.

Q What did he do with it after he got it from the estate? You testified there was about an acre and a half, what did he do with it? A We bought it back.

Q Barney Hermes got it from the estate for nothing? A No.

Q How much did he pay for it? A He paid $3,000.

Q Are you sure that he bought it from the estate? A Yes.

Q How much did he pay? A $3,000.

Q Did you get any of that money of that $3,000? Why do you hesitate? A Because I want to think. I might have gotten some.

Q How much did you get? A That I can't tell you.

Q What makes you think you got some money? A I know I did.

Q Who from? A That property was in two or three pieces, I don't know.

Q What is it you don't know, why do you think you got any money of this $3,000? A Because he always gave me some when he sold anything.

Q You don't remember it at all, your getting the money? A Yes, I do.

Q How much was it? A I don't know.

Exhibit C. 13. (Margaret Rayot.)

Q Who did you get it from? A From my husband.

Q What did you do with it? A I spent some of it.

Q Who was the money paid to, who did Barney Hermes pay the $3,000 to when he bought the property? A I can't tell you that, I know the heirs all got their share.

Q Were you present when the money was paid? A I don't remember.

Q Who told you that he paid $3,000? A My husband.

Q When did your husband buy the property back from Barney Hermes, this acre and a half? A I don't know just when he bought it back.

Q What did the estate of Mrs. Gousset consist of, how much property was there there? A I can't tell you that.

Q Was there any other conveyance made to Barney Hermes of this Gousset property, the only one you speak of is the property where the houses are now? A At that time there was no houses on it.

Q When your husband purchased from Barney Hermes he purchased the same acre and a half that Barney Hermes had purchased from the Gousset estate? A Yes.

Q The other brother and sister did not own any of the property? A Yes, that is right.

Q How long did Barney Hermes hold it before Mr. Rayot bought it back? A I don't know.

Q How long did Mr. Rayot have it? A Maybe two and a half years.

Q What did he do with it while he had it? A He lived there.

Exhibit C. 13. (Margaret Rayot.)

Q Built houses on it? A Yes.

Q At the time he bought it from Barney Hermes were you consulted about that purchase? A Only that he wanted to sell it.

Q That Barney Hermes wanted to sell it? A No, that my husband wanted to sell it.

Q At the time Barney Hermes sold that were you consulted about it? A He said he wanted to buy it back.

Q Tell us what occurred from the time he said he wanted to buy it and when he did buy it. A He bought it and built a house on it.

Q Did you sign any paper in connection with that purchase? A I had to sign the deed.

Q At the time he bought it you did not have anything to do with it? A No.

Q Do you remember how the title to that property was taken in whose name the property stood at the time he bought it back? A I think it was in his name and in my name.

Q You are not sure? A Yes.

Q Why did he put one-half of it in your name? A Because I wanted it that way.

Q He did it to please you? A To protect myself and my child.

Q Do you recall what time that was? A No, I could not tell you, I never kept the dates in my mind.

Q After he built the house on it, what was said about selling it to Barney Hermes, were you consulted about that? A He said he wanted to sell it. He didn't work for three years and had been sick and he decided to sell it.

Q What efforts did he made to sell it? A He would sell it to anybody that wanted to buy it. There was no one in particular.

Q Did he advertise it for sale? A No, he said he wanted to sell it.

Exhibit C. 13. (Margaret Rayot.)

Q Who did he tell? A He told different ones.

Q What did you say about selling it? A I said if he sold it I wanted my half.

Q What were you getting out of it? A What was left.

Q What do you mean? A After the mortgage and taxes were taken out.

Q When did you see Barney Hermes from the first time regarding the sale of the property to him, after the houses were built? A My husband saw him.

Q When did your husband see him? A I could not tell that.

Q When were you consulted about the sale of the property, the terms of sale, were you consulted? A I was.

Q What was said to you about it? A He said he wanted to sell it that he needed the money.

Q What did he say to you about your interest in it? A He said if I would sign the deed he would give me half.

Q How much did he say he was going to sell it for? A $12,000.

Q What did you say about that price? A I was satisfied.

Q Is that all that was said about it? Did he tell you who he was going to sell it to? A Yes.

Q How did you know? A He told me.

Q Did you sign any contract regarding the sale of the property? A I did not.

Q Any contract drawn up regarding the sale of the property? A I could not tell you.

Exhibit C. 13. (Margaret Rayot.)

Q What paper did you sign in connection with the sale of the property? A I signed the deed.

Q When did you sign the deed? A About a year and a half ago.

Q Where did you sign it, where were you? A In Mr. Bentley's office.

Q Who else was there? A My husband, Mr. Hermes.

Q Anybody else? A Mr. Bentley.

Q Anybody else? A I think not.

Q How long was that after Mr. Rayot had told you he was going to sell it to Barney Hermes for $12,000? What length of time elapsed between the time he said he was going to sell it and when you signed the deed? A It might have been a week or two or three days, I don't remember.

Q You were living in this property in Fairview? A Yes.

Q And live there yet? A Yes.

Q Did you see Mr. Hermes that time before the property was sold? A Yes, he had been there.

Q Previous to the time you signed the deed? A Afterwards.

Q Not before? A I was not around when he was down there the first time.

Q How many times did you see Mr. Hermes there after you signed the deed? A I can't tell you that.

Q Was it more than four times? A He came down and got the rents.

Q He collected them? A No, he did not collect them, he gets it from us.

Q Mr. Rayot brings them up to him sometimes and sometimes Mr. Hermes gets them?

Exhibit C. 13. (Margaret Rayot.)

A We used to collect them and then he came after them.

Q After you signed the deed, what was done about the deed or the money? A What do you mean?

Q What happened, did you go home, or did you sign any other papers or make any other agreements; what else was done? A I went home.

Q Was there anything said about Mr. Rayot buying the property back again from Mr. Hermes? A No.

Q Any papers signed to that effect? A No, sir.

Q How long did you stay in Mr. Bentley's office after the deed was signed? Did you go home before Mr. Rayot and Mr. Hermes, or leave the office with them? A I think I went down to the door and Mr. Hermes went home and I went home myself.

Q Did you go back to Mr. Bentley's office after you signed the deed? A No.

Q You have never been there since, after you signed the deed? Did you go back to Mr. Bentley's office after you left there? A No, sir.

Q When did you meet Mr. Rayot, again; when did you see him? A When I got home.

Q Was he home when you got home? A No.

Q How soon did he come in after you got home? A I think Mr. Hermes went down to the saloon and had a drink with Mr. Rayot and I was not in the house very long before Mr. Rayot came in.

Q Did Mr. Hermes come home with him? A No.

Exhibit C. 13. (Margaret Rayot.)

Q What did he say when he got home? A I don't know that he said anything.

Q Did you bring any papers to Mr. Bentley's office when you went to sign the deed? A No, I did not.

Q You went home without anything? A Yes, I did.

Q You saw your husband after he came back from Mr. Bentley's office? A I don't know when it was he got back.

Q When did he mention anything about the transaction that was made in Mr. Bentley's office? Did he give you anything concerning the property? A Do you mean money or papers?

Q Anything, I said did he give you anything? A Yes, he gave me money.

Q When did he give you money? A When it was sold, when I signed the deed.

Q That was in Mr. Bentley's office? A Yes, I took the money.

Q Why did you say you went right home? You didn't say anything about the money. A I did not know what you meant. You asked me if I took any papers.

Q How much money did you take from Mr. Bentley's office? A I don't recall the amount.

Q About how much was it? A It might have been $3,000 or a little more or less.

Q Less than $5,000? A Considerable.

Q It was less than $4,000? A Yes.

Q Are you sure of that? A Yes.

Q How do you figure the amount you received? A I told you I could not tell you exactly.

Q Can you tell me within a thousand dollars? A About $3,500 or $3,400.

Q Did you get $4,800? A No, I did not.

Exhibit C. 13. (Margaret Rayot.)

Q Positive? A Yes.

Q You think it was like $3,000? A It was $3,400 or $3,500.

Q When did you get that money? A When the deed was signed I got that.

Q In Mr. Bentley's office? A Yes.

Q How was the money given, what kind of money? Checks? A No checks.

Q Mr. Hermes did not have any check there that day? A I don't know about his business, I got cash money.

Q Who from? A Mr. Hermes.

Q He turned it over to you himself, did he? A It was divided.

Q Who handed you your share of the money? A My husband.

Q You are sure of that? A Yes.

Q Did you count it? A No.

Q Didn't you count it at all? A I suppose he did and I trusted him that far.

Q When did you count it? A When I got home.

Q You went home alone? A Yes.

Q And you waited until your husband got home before you counted the money? A When I got home.

Q Before he came in? A I told you there was $3,400 it might have been a little more.

Q And your husband had cash money for his share of the property? A Yes, he did.

Q What did he do with that? A I don't know what he did with it.

Q Ever give you any of that money? A No, I don't think he did.

Q Ever give you any money after you signed the deed, except this $3,400 you say you got? A Only to run the house on.

Exhibit C. 13. (Margaret Rayot.)

Q How much did he give you to run the house? A He gave me sometimes $20, $25, $30, sometimes $40.

Q What, a week or a month? A A month.

Q Give you that in cash? A Yes.

Q Where did he get that money? A I suppose some of what he had.

Q Where did he have it? A I don't know.

Q What did you do with the $3,400 you got and brought home with you? A I spent some of it.

Q Put any of it in the bank? A I did not.

Q How long did you have it, have you got some of it now? A Yes, I have.

Q Got a bank account? A No, I have not.

Q Ever have a bank account? A No, never.

Q You kept that in the house all the time, did you? A I kept it in the house.

Q And in addition to that $3,400 Mr. Rayot used to give you $30 and $40 to run the house on? A Yes, sometimes less. It did not always average that.

Q You haven't got a safe in the house, have you? A No.

Q Got no place, no vault in the house? A No, but there are places where you can put things to conceal them if you want to.

Q What safe place did you have to put $3,400 in the house? A I don't think it is necessary to say where I put it.

Q Where is it? A In the cellar.

Q In the coal bin? A I don't say where it is, for when I go home it might not be there.

Q Mr. Rayot had another piece of property that he also sold to Mr. Hermes? A Yes, one lot.

Q How much did he get on the sale of that? A $250.

Exhibit C. 13. (Margaret Rayot.)

Q When did he sell that? A That is over a year ago, I think.

Q It was pretty near the time he sold this other piece? A I could not tell you whether it was the same time.

Q You sign any paper in connection with that? A I signed the deed.

Q Where? A In Mr. Bentley's office.

Q Take anything home after you signed the deed? A No, I did not get any of that.

Q How is that? A Because he needed it for his bills.

Q That is what he told you? A He had not worked for three years and had been sick and I think he needed it.

Q You live in that house at the present time in Fairview? A Yes.

Q And you have a chicken farm up there? A No, I have only about forty chickens for my own use.

Q They are your chickens? A Yes, that is what I spent some of my money on.

Q You don't know that most of the apparatus you used for raising chickens was bought from a man by the name of Cox? A There was not anything bought but a breeder and my son bought that and paid his father $1.00 a week off on it.

Q Don't you remember saying at the time the attachment proceedings were issued that you said that he, Mr. Rayot, went off and left you very bad off, that he left all those chickens there and you did not know anything about them? A That is what he left, I will explain that. It was the little chickens, there was no place to put them.

Exhibit C. 13. (Margaret Rayot.)

Q Did you ever say they all belonged to Mr. Rayot? A I did not. He never owned a chicken they were always mine.

Q Mr. Rayot had an automobile, didn't he? A Yes, and he lost $2,500 on it, too.

Q When did Mr. Rayot part with the automobile? A I could not say, about three years ago. I don't exactly know the time.

Q He has a garage on the place, in the back of the property? A It is there, yes.

Q When did he take it out of the garage? A About three years ago.

Q Who did he sell it to? A Sold it to the Packard people.

Q He did not know Mr. Hermes three years ago? A Yes.

Q How much did he get for it? A $2,500 and he paid $5,500.

Q How much of that $2,500, did you get? A I did not get any.

Q You don't know the name of the purchaser of that car? A The Packard people can give it to you.

Q Where are they located? A 67th street and Broadway, I think.

Q Where were you living when Mr. Rayot was building these houses in Fairview? A Just where I am.

Q You are living in one of the new houses? A I am living in one of the first houses that was put there.

Q Where were you living when that was built? A In Dubois street, West Hoboken.

Q Did Barney Hermes live in the neighborhood? A He lived two blocks from there, I believe.

Exhibit C. 14. (Louis Rayot.)

Q How long have you known Mr. Hermes? A I have known him to speak to only since he bought the property. I think I spoke to him twice when I lived up there.

Q Had he been at your house after he got the property from the estate before Mr. Rayot bought it back? A No.

Q Were you ever in conversation with Barney Hermes regarding the property at all? A No.

Q You remember seeing Mr. Hermes and your husband in your house talking after he had bought the property from the estate? A No.

EXHIBIT C. 14.

UNITED STATES DISTRICT COURT.

DISTRICT OF NEW JERSEY.

IN THE MATTER OF LOUIS RAYOT, *Bankrupt.*	*In Bankruptcy.*

Adjourned first meeting of creditors in the above entitled matter held at the Bankruptcy Court Room, 75 Montgomery street, Jersey City, N. J., on Friday, June 19th, 1914, at 4 P. M., before

HONORABLE GEORGE R. BEACH, Referee in Bankruptcy.

Appearances:

Peter Bentley, Esq., attorney for bankrupt.

Bankrupt, in person.

Alex. Higgins, Esq., representing the trustee and creditors.

Charles Young, Esq.

Exhibit C. 14. (Louis Rayot.)

LOUIS RAYOT, being duly sworn according to law, on his oath testified as follows:

Examination by Mr. Young.

Q Where do you live, Mr. Rayot? A I live in Fairview, N. J.

Q And you have lived there how long? A About four years.

Q And at what address? A I lived in New Jersey all my lifetime, about forty-two years in West Hoboken and about four years in Fairview.

Q Were you ever the owner of any real estate? A At one time, yes, sir.

Q Where was it located? A It was in Fairview.

Q When did you own it? A I owned it in 1913.

Q And until when did you own it? A Until sometime in May, 1913.

Q You say it is in Fairview. Whereabouts? A Broad avenue and Greeley avenue.

Q Two parcels? A Yes.

Q Who owns them now? A Mr. Hermes.

Q How did he acquire them? A He bought the one parcel on Greeley avenue and then he bought the other lot.

Q And from whom did he buy them? A From me.

Q What was the consideration he paid for the Greeley avenue property? A He bought it for $12,000.00, subject to a mortgage.

Q Of how much? A $2,400.00.

Q So that the total consideration of the Greeley avenue property was how much? A $9,600.00

Exhibit C. 14. (Louis Rayot.)

Q He paid you $9,600.00 and assumed a mortgage of $2,400, that makes up the $12,000? A Yes, sir.

Q How much money did he pay for the Broad avenue property? A $200.00.

Q What did they consist of? Just an undeveloped lot? A About 25x200.

Q What did you do with the moneys you received from Mr. Hermes for these two plots? A I gave my brother $2,000.00 Aimee Gousset.

Q Is he your brother? A My half-brother. And my wife got half of the remainder. She got $4,800 when we signed the deed.

Q All you got for the two tracts was $9,800? A Yes.

Q And you paid Mr. Gousset $2,000, that left $7,800? A Yes.

Q Now, how did your wife get $4,800.00? A $4,800 on the first part of the sale.

Q That left $3,000, did it? A When I first sold the first property and signed the deed she got $4,800 and Mr. Gousset then got $2,000.

Q What became of the balance? A The balance of the money I used for living purposes, paying rents, etc. I sold the first parcel in May, 1913. The second parcel was in September, 1913.

Q So that since May, 1913, you have spent for living purposes approximately $3,000? A Yes, sir, and I have paid a couple of old taxes out of that.

Q How much do they amount to? A I think around over $300. And I paid on different notes $50, etc., I can't just recall.

Q Well, approximately how much of that $3,000 did you use for your own personal needs? A I couldn't exactly say. Sometimes I would

give $40 a week to my wife and other times $30, when I bought the clothes and one thing or other.

Q Would you say you used at least one-half of that for your personal needs? A Yes, more than that.

Q And the rest you used for paying taxes? A Yes, and I paid some interest on notes.

Q To whom did you pay any moneys on account of notes? A Hudson Trust, on renewed notes I paid $50.

Q What altogether did you pay on account of notes since May, 1913? A I couldn't recall.

Q How much notes did they hold of yours in May, 1913? A I can't recall.

Q Did you owe any moneys to anybody else at that time? A Yes, sir.

Q And to whom? A I owed Ringger & Co. I owed Gardner & Meeks.

Q How much did you owe Ringger & Co.? A Around over $6,000, I think. I couldn't tell you exactly.

Q And did you pay them any of this $9,000 you got from the sale of this property? A I paid them on account of the notes. I had three notes with them and then I paid them on account. I don't just remember what it was. I think it was around over some $300.

Q You paid that out of the moneys you received from the sale of this property? A Yes, sir.

Q How much did you owe Gardner & Meeks at that time? A $1,200 or $1,500.

Q Did you pay them anything out of this money? A Yes, sir; I paid them on account of their note.

Q How much? A I gave them $50 on their note and interest.

Exhibit C. 14. (Louis Rayot.)

Q Why did you pay one-half of this money to Mrs. Rayot? A Because she refused to sign the deed otherwise.

Q In whose name was the title? A In mine and my wife's.

Q Why did you pay $2,000 to your brother Gousset? A I borrowed the money from him. He loaned me the money to pay my loan.

Q When did he loan you that money? A At different times.

Q Prior to the time you disposed of this property to Hermes? A Long before.

Q Why didn't you use some of this money to pay your general creditors instead of pay this $2,000 to Gousset? A He wanted his money. He asked me for his money several times.

Q Had any requests been made upon you by the other creditors for payment at that time? A I don't remember whether there was or there wasn't.

Q How did Hermes pay you this money that you just testified about? A In cash.

Q Where was the title passed? A In Mr. Bentley's office.

Q Do you remember the day the title was closed? A I don't exactly know. It was in May, 1913.

Q And he had with him $9,800 in cash? A No, sir, $9,600.

Q And how did he pay this other $200? A In cash. That was in September.

Q So that in May, 1913, Mr. Hermes handed to you $9,600 in cash in consideration of your giving him the title to that property in Fairview? A Yes, sir.

Exhibit C. 14. (Louis Rayot.)

Q Do you remember the kind of bills there were? A There were large and small.

Q You had a bank account at that time, did you not, in the Hudson Trust Company in Hoboken? A I did, but not of any account.

Q Do you know whether Mr. Hermes had a bank account at that time? A I don't know.

Q You were going to tell us the nature and kind of bills he paid you? A Large and small bills.

Q How large? A $100.

Q Not larger than $100? A No, sir.

Q How many $100 bills were there, if you recall? A I don't just recall.

Q And there were smaller bills? A Fives, tens and twenties.

Q How long had you known Mr. Hermes prior to that time? A I guess about six or eight years.

Q Somewhat friendly with him? A No, sir, not exactly. Only in a business way.

Q You had had business relations with him? A Yes.

Q What did they consist of? A He sold some property for me. He was a real estate agent. He had sold some property.

Q Did he have a real estate office? A No, sir.

Q Where did he reside? A Walnut street, West Hoboken.

Q You say he was a real estate agent there and handling some transactions for you? A Yes.

Q What real estate did you own that he handled for you? A I had some in Angelic street, West Hoboken.

Exhibit C. 14. (Louis Rayot.)

Q Do you remember the number? A No, sir, I do not. I had something, I believe it was, Walnut street. Couple of them there.

Q Any other? A I guess that is all.

Q Did he collect the rents for you? A No, sir.

Q How did he handle these properties for you? A Agent to sell.

Q You collected the rents yourself? A No rents, I was building on speculation.

Q What became of those properties? A I sold them.

Q And what did you do with those moneys? A I don't know where that money is at this time.

Q Was that money used for the purpose of buying this Fairview property? A No, sir.

Q That was long before? A Yes.

Q How did you come to acquire this Fairview property? A Through the estate of my mother.

Q Left by your mother at the time of her death? A Yes.

Q To whom was it left? A To Mrs. Lucy Grod.

Q Is she your sister? A Yes, and Selena Baker, another sister.

Q So that it was owned by you four jointly? A Yes, sir.

Q How did the property eventually come to you? A It was sold to Barney Hermes and then I bought it back from Barney Hermes.

Q And sold to Barney Hermes by whom? By you four? A Yes, sir.

Q Did Barney Hermes pay any money for it at that time? A That was to straighten out the estate.

Exhibit C. 14. (Louis Rayot.)

Q So he paid no money for it at that time? A No, sir.

Q Then when it was deeded to Barney Hermes he deeded it to you? A Yes, he divided the tract.

Q And as a result of that you became the owner of the Fairview property? A Yes.

Q What other properties did your mother die seized of? A There is another piece of property this side of it. An acre and a half in Fairview.

Q In forming part of this tract that came to you? A No, sir; a different tract.

Q And any others? A And then there was one in Angelic street, No. 525, No. 527.

Q Is that the same property that was owned by you on Angelic street? A This is a different piece of property. This is a piece of property that was left by my mother.

Q You had never owned that particular piece of property? A I had owned one lot at one time. This 527.

Q How did it come into your mother's name? A It belonged to my mother and I had done some work for her and she deeded it to me for the amount of the money she owed me. There was a well on it and I said I would dig the well and she said "No, I will take it back," and she gave me a lot on Elm street.

Q And that is how you got the Elm street lot? A Yes. More of an exchange.

By Mr. Higgins.

Q Now, Mr. Rayot, when you had this property in Bergen County, Fairview, what did you do with it? Do you live in that property now, the property in Fairview? A No, sir.

Exhibit C. 14. (Louis Rayot.)

Q When did you move out of the property? A I didn't move yet.

Q Then you still occupy one house? A Yes, sir.

Q Then you manage the other house that you built on the property? A I collected the rent for Mr. Hermes.

Q What is the income on that property from all those houses? A I got $16 a month for each of the small houses.

Q How many small houses are there? A Four.

Q You built those four, didn't you? A Yes, at one time.

Q How much did you get for the other house? A $32.

Q How much rent did you pay? A $30.

Q Is that another house or is that included in the $32? A That is another house.

Q So in all there are six houses? A Yes, sir.

Q Did you collect the rent for the month of June? A Yes, sir.

Q Where is that money? A Mr. Hermes has it.

Q Is Mr. Hermes coming to you each month to get that money? A No, I am working, so I took it Sunday before last to Mr. Hermes, in Millstone, N. J.

Q He did live in Bellemeade? A Yes.

Q What is his address in Millstone? A Millstone is all I know.

Q Are you employed in Millstone? A No, sir. I am working in Union Hill.

Q Is Mr. Hermes working in Millstone? A I don't know.

Q Is Mr. Hermes married? A No.

Exhibit C. 14. (Louis Rayot.)

Q Whom does he live with in Millstone? A I couldn't tell you.

Q When you saw him there where did you see him? A I saw him there in a house in Millstone.

Q Private house or a hotel? A Private house.

Q Do you know whether he runs that house or is boarding there? Of what is his position there? A I couldn't tell you.

Q Do you know the name of the road he lives on? A No, sir.

Q How far is it from the station? A About half an hour.

Q Walking? A Walking.

Q And does Mr. Hermes give you a receipt when you turn this money over to him? A Yes, sir.

Q When did Mr. Hermes move from Bellemeade? A I couldn't tell you.

Q How did you know he was in Millstone? A He let me know.

Q When did he let you know? A To my recollection, I should judge about three or four months ago.

Q What did he say to you when he notified you that he was in Millstone? A That he is in Millstone, N. J., near the station.

Q Is that all? A That was all.

Q Have you got that letter with you? A No, sir.

Q Have you got the receipt that you got from him when you turn this rent over to him? A No, sir.

Q What books have you got? A Haven't got any.

Q Bank books? A Only what I have got here.

Exhibit C. 14. (Louis Rayot.)

Q Did you have a bank account when you received $9,600 from Mr. Hermes? A Yes, sir.

Q And did you put it in the bank? A No, sir.

Q And how many times have you been to Millstone to Barney Hermes? A The Sunday before last I have been there.

Q How did you find it the first time you went down to see him? A He told me he was near the white church, to go over the bridge. So I inquired and they told me where the church was and that is how I found him.

Q Is there any money in this bank, the Hudson Trust Company, at the present time? A There is a little in there. I don't know just how much.

Q Have you got any money in any savings bank? A No, sir.

Q Where are your check books on this Hudson Trust Co.? A I haven't got any.

Q You did have some? A Yes, I know at one time.

Q Where are they? A They were destroyed. I never kept any.

Q You haven't any records at all as to your payments of money from the time you opened this account in the Hudson Trust Company to the present time? A No, sir.

Q When did you destroy the books? A I never kept them. Never thought they were any good.

Q Where are the vouchers you got back from the bank? A I haven't got them.

Q When a man sent you a bill how did you know you owed him? A If I paid him I knew it was paid.

Exhibit C. 14. (Louis Rayot.)

Q If you didn't pay how did you know? How could you tell how much you owed him if you didn't keep any books? A Only when he sent me a bill. That is the way I knew what I owed him.

Q Then you didn't have any way of telling what you owed him? A I knew what I paid after I paid him.

Q What do you do with the rent money when you collect it from these tenants? Do you put it in the bank? A No, sir.

Q Pay it in cash? A Yes, to Mr. Hermes.

Q Who pays the interest on the mortgage on the property? A Mr. Hermes.

Q Did you ever pay it after you conveyed that property to Mr. Hermes? A No, sir.

Q Are you sure? A Yes, sir.

Q When did you draw your last check in the Hudson Trust? A I don't know.

Q Where did the $196 come from that you put in the Hudson Trust Company on the 22d day of January, 1914? A I don't know. I didn't put any money in there.

Q What became of the money you got from Barney Hermes, the balance of $3,000 you had from the estate, where did you keep that? A I have been paying bills, etc.

Q Where are you keeping the money? A In my pocket.

Q You kept $3,000 around in your pocket for how long? A Not very long.

Q To whom did you pay the largest amount to out of that $3,000, and when did you do it? A I paid it for living purposes.

Q To whom did you pay it and when did you pay it, the largest amount of that $3,000 that

you carried around in your pocket? A I can't just recall.

Q Can't you recall one person? A I have been paying a little bit to everybody.

Q Give us the name of one person, how much, and when, out of that $3,000 you had in your pocket? A I paid Ringger on account of the notes and interest.

Q Was that out of the $3,000 in your pocket? A Yes, sir.

Q Will you swear to that, that it was cash that you paid Ringger out of your pocket? A I can't just recall.

Q What made you think you paid Ringger some of that $3,000 you had in your pocket? A That is so long ago that I can't just remember whether I paid him in cash or by check. I know I gave him three notes.

Q What made you think that you paid Ringger some money out of that pocket? A I thought I gave him some of that cash.

Q Why did you think that? You said you did, and then I asked you if you were sure and then you said you couldn't remember? A I said I thought I gave Ringger some of that money and I gave Gardner and Meek some.

Q You won't swear that you didn't give him some of that money? A No, I can't swear whether I gave it to him in cash or by check. I have been paying notes on the bank and I lived, and I bought my clothes. A suit of clothes and paid the rents.

Q And you can't think of one person you paid any money to out of that $3,000 you had in your pocket, is that right? It is just about a year ago you had that $3,000 in your pocket? A I don't just recall to whom I paid.

Exhibit C. 14. (Louis Rayot.)

By the Referee.

Q Well, when was the last of it used up? A I can't just recall.

Q Did you have any on the first of January, this year? A No, sir.

Q Did you have any on the first of December? A I don't know. I didn't have much of it. I don't believe I had any of it then.

Q Did you have any the first of November? A Yes, I had some the first of November.

Q Did you have any the middle of November? A Well, I didn't keep track of the months and I don't just remember.

Q Well, you said you didn't have any in December and you did have some in November, now when was it when it all went? A I can't remember the month.

Q It was sometime during the month of November? A Yes, but I can't remember.

Q How many are there in your family? A There are three.

Q Yourself and your wife? A And my son.

Q How old is he? A He is twenty-one.

Q Is he working? A He just started to work yesterday morning.

Q He has never worked before? A He helped me occasionally.

Q Did you ever give him any money? A Yes, sir.

Q Have you given him any within the last year? A I gave it him until about, I guess, July, 1913.

Q How much? A I gave him $3 a week. And I gave him his clothes and his food.

Q That is up to the first of July? A Yes, as far as I can remember. I told him he had to get some work.

Exhibit C. 14. (Louis Rayot.)

Q So you had that $3,000 or part of it in your possession from May until sometime in November, in your pocket? A No, sir.

Q During what period did you have it? A I had some of it left.

Q That is what I asked you. You had the $3,000 or some part of it in your pocket from May until November? A Yes, part of it.

Q And in all that time you can't remember one person to whom you paid that money or any part of it? A I owed money to a plasterer and I paid him.

Q What is his name? A Lefeurro.

Q How much did you pay him? A I don't remember.

Q Well, $100? A I couldn't just tell you what it was.

Q Well, was it $500? A It wasn't that much.

Q Was it less than $200? A Yes, sir.

Q Was it less than $100? A I don't just recall what it was.

Q Where is his bill now? A I haven't it here.

Q Didn't he give you a receipt? A Yes.

Q Where is it? A I must have it home.

By Mr. Higgins.

Q What is his address? A He is in Palisade avenue, West Hoboken.

Q Do you know what his first name is? A I don't know.

Q You had a bank account up to January, 1914, didn't you? A Yes.

Q You didn't put any of this $3,000 in the bank notwithstanding that you had this bank account? A No, sir.

Exhibit C. 14. (Louis Rayot.)

Q Why didn't you put it in the bank if you had the bank account? A Because I didn't put it in the bank. Because I didn't have to put it in the bank.

Q Why didn't you put it in? That was the way you were conducting business. A I wasn't working and I wanted money. I owed money and used it up.

By Referee.

Q How much did it cost you a week to run your house? A I don't really know what it cost. I gave my wife $30 or $40 or $20.

Q Did you average $30 a week? A No, sir. It was more. I gave as much as $50 a week. If you want to average it, I should judge from $30 to $35 a week.

Q It would be about $150 a month? A Yes, sir. Sometimes more.

Q Did it ever go over $200 a month? A No, sir, it wouldn't go over $200.

Q In what other way did you spend any money? A I bought my clothes.

Q How many suits of clothes did you buy? A I bought a suit and an overcoat.

Q Every month? A I bought my boy a suit and overcoat. I bought twelve ton of coal.

Q These are the only things you spent money on? A Yes.

Meeting adjourned until July 10th at 4.30 P. M.

Exhibit C. 15.

EXHIBIT C. 15.

Account of Louis Rayot with Hudson Trust Co.

1908.			Checks.	Deposits.
Dec.	12	Balance		$ 2,093.10
	16		125.00	
	17		200.00	
	19		53.00	
	23		84.54	
	26		30.00	
	28		2.42	
	30			107.00
	31		35.00	1.53
1909.				
Jan.	2		8.00	
	4		650.00	
			13.32	
	5		18.75	
	6		112.50	
	18		2.00	25.00
	29			.90
Feb.	1		41.50	
	2		100.00	
	5		155.00	315.00
	8		40.00	
	17		25.00	
			57.00	
	20		50.00	
	26			.48
	27		50.00	
Mar.	1			80.00
				15.00
	5		657.00	
	6		57.63	
	12			1,000.00
	13		100.00	1,700.00

Exhibit C. 15.

		Checks.	Deposits.
	15	24.30	
		115.38	
	16	150.00	
	17	50.00	
		29.24	
	19	2.90	
	20	110.00	
	27	100.00	
	30	70.11	
	31	35.25	.78
Apr.	1	112.50	
	2	212.50	300.00
		15.81	
	3	80.00	
	5	22.00	
		56.00	
	6	18.72	
	10	60.00	
	12	30.00	
	13		200.00
	16		75.00
			13.92
	17	273.47	1.500.00
	19	55.50	
		13.00	
	20	50.00	
	21		32.00
	22	300.00	
Apr.	23	40.00	89.65
		10.70	
	24	75.00	
	26	17.00	
			300.00
	27		8,000.00
	28	9,068.62	

Exhibit C. 15.

		Checks.	Deposits.
	29	20.25	25.00
			.54
	30	18.00	2,468.85
		100.00	
May	1	200.00	
	3	2,900.00	
	4		330.35
	5	10.00	
	6		15.00
	8	375.00	1,000.00
	10	36.80	
		25.00	
	13	37.60	
	15	110.00	
	17	52.50	
	18	300.00	
	22	100.00	30.00
	24		225.00
	25	40.00	
	26		600.00
	28	50.75	
	29	125.00	300.00
		2,500.00	500.00
June	1	30.00	2,000.00
	5	125.00	
	8		104.00
	12	644.00	
	14		20.00
	17	50.00	
		45.32	
		125.00	
	19	50.00	100.00
	21		20.00
		25.00	
	26	56.00	
	28	50.00	
		5.00	

Exhibit C. 15.

			Checks.	Deposits.
		29	100.50	1,000.00
				1,492.11
	July	1	2,010.00	35.00
		2	102.75	215.00
			100.00	
			132.50	
10				
		3	81.75	
		6	45.00	
		9		36.00
		10	125.00	
		17	150.00	
		19		200.00
		22	10.00	
		23		25.00
		24		
			481.00	
20		24	160.23	1,000.00
		26	20.00	
		29	40.00	
	July	31	165.00	
	Aug.	2	1,510.00	1,484.47
			20.00	
		3	20.00	30.00
		4		50.00
		7	175.00	
			20.10	
30				
		14	140.00	1,000.00
		16	100.00	
		18	17.55	
		23		18.00
		26		75.00
			172.00	
		28	150.00	
		30	21.00	
			25.00	

40

Exhibit C. 15.

		Checks.	Deposits.	
Sept.	4	200.00		
			75.00	
	9	75.00	1,000.00	
	10	200.00		
		170.00		
	11	100.00		10
	14		1,000.00	
	16	73.63		
		245.00		
	18	10.30		
	21	25.00	3,000.00	
	22	4.25		
	23	4,280.21		
	25	243.00	25.00	
	29	22.00	100.00	
	30		35.00	
		23.40		20
Oct.	2	290.00	400.00	
			64.00	
	4	1,500.00	1,484.47	
	5	154.08	20.00	
	6	37.50		
	7	10.00		
		120.00		
	9	200.00	2,000.00	
	11		20.00	30
	13		15.00	
	15	110.00		
	18	91.50	20.00	
	22	105.00		
	23	140.00		
	26	75.00		
		20.00		
	27	1,000.00		
	29		.34	
		10.00		
	30	240.00		40

Exhibit C. 15.

			Checks.	Deposits.
	Nov.	1		30.00
		4		30.00
			1,510.00	
		6	202.00	2,500.00
		10	62.30	
10		13	90.69	
		18		25.00
		26		25.00
	Dec.	6	1,500.00	1,286.54
		11	100.00	
		13	5.75	30.00
			28.99	
		14	73.70	
		18	60.00	
		21		40.00
		24	145.00	
20		29	35.00	
		31	85.00	
	1910.			
				127.00
	Jan.	4		100.00
		5	172.16	
		6	37.50	
		8	50.00	
		10	4.20	
		12		20.00
30		15	23.00	
		21		200.00
		24	20.00	
			30.00	
		31	60.00	
				52.16
	Feb.	7	1,300.00	1,280.55
		9		200.00
		10	179.37	
		16		1,515.00
40				

Exhibit C. 15.

		Checks.	Deposits.	
	17	500.00		
	18	500.00		
	19	45.00		
	21	150.00		
	26	60.00		
Mar.	1	10.51		10
	3	50.00		
	8		20.00	
	12	55.00		
	17		350.00	
	18	43.93		
		395.49		
	19	50.00		
	24		250.00	
	26	75.00		
	31	10.00		20
Apr.	2	25.00		
	4		20.00	
	5	206.25		
	7		15.00	
	9	140.00		
	11		135.00	
	12	25.00		
	16	80.00		
	23	25.00		
	25		400.00	30
	26	10.00		
	28	150.00		
	30	167.80		
May	6		250.00	
	7	90.00		
	10	1,300.00	1,175.74	
	14	75.00	250.00	
	16	30.00		
	17		50.00	
	18	50.00		
				40

Exhibit C. 15.

			Checks.	Deposits.
		23	35.00	
		24	15.00	
			65.00	
		28	35.00	
	June	1	10.00	
10			490.26	
		4	1,518.00	3,500.00
		7	45.00	
		10	39.21	
		11	100.00	
		18	30.00	
		20	200.00	200.00
		22	2,250.00	2,250.00
		25	100.00	
		27		200.00
		28	11.75	
20				.48
		30		100.00
				400.00
	July	1	168.75	250.00
			56.60	
		2	55.00	5,000.00
			20.44	
			200.00	
		5	62.87	
			64.80	
30				
		9	50.00	
			34.00	
		11	200.00	
		12	11.70	
		13	11.87	
		14	49.38	3,800.00
		16	260.00	
			150.00	
		18	280.00	
		19	27.30	100.00
40		22	2,261.25	

Exhibit C. 15.

		Checks.	Deposits.	
	23	320.00		
	26	10.00		
	29		8.38	
	30	200.00		
Aug.	2	75.00		
	3	10.00		10
	4	27.00	1,000.00	
	6	200.00		
	8	200.00		
	9	37.50	50.00	
	13	175.00		
	16	14.31		
	17	49.10		
	18	6.00		
	20	175.00		
	24	46.95		
	27	275.00		20
	31	369.69	10.77	
Sept.	3	223.13		
	6	22.00		
	9	1,200.00		
	10	125.00		
		28.33		
	15	125.10		
	16	85.00		
	17	50.00		
	19	3.00		30
	20	11.25		
		188.00		
	24	80.00		
	28	403.40		
	30		7.70	
		65.30		
Oct.	1	80.00		
	3	63.00		
	7	40.00		
	8	70.00		40

Exhibit C. 15.

			Checks.	Deposits.
		10	37.50	
			75.00	
		15	152.93	
		20	36.00	
		22	80.00	
		24	640.00	
10		29	100.00	
		31	26.50	4.54
	Nov.	1	14.54	
		5	80.00	
		7		14.00
		15	50.00	
			65.00	
		18	400.00	
		26	55.00	
		29	29.55	
20		30		2.56
	Dec.	2	90.00	
		5	72.00	
		6	66.50	
		7	109.45	
		10	20.00	1,913.00
			68.70	
		12	252.14	
		17		171.06
		19	26.60	
30			18.90	
		22	60.00	
		24	69.52	
		27		30.00
		28	120.00	
		30	6.13	2.47
	1911.			
	Jan.	13	9.00	
		7		60.00
		12	80.00	
40				

Exhibit C. 15.

		Checks.	Deposits.
	14		50.00
			6.78
	16	9.42	300.16
	28	30.00	
		45.60	
	30	300.00	
	31		3.79
Feb.	4	40.00	
	11	20.00	
	18	40.00	
	25	25.00	
	28		3.52
Mar.	3	23.25	
		35.00	
	4	80.00	
	8	30.00	
	9	31.34	
	11	25.00	
	14	50.00	
	17	30.00	
	18	40.00	
	21	16.00	
	25	40.00	
	31		2.70
Apr.	1		600.00
	8	70.00	
	13	500.00	
		45.00	
	15	80.00	150.00
	18	6.25	
		7.50	
	19	136.51	
		80.00	
	21	227.50	
	28	39.00	2.84
	29	80.00	

Exhibit C. 15.

		Checks.	Deposits.
May	1	28.50	
		150.00	
	6	275.00	
		33.00	
	8	70.00	
	9	25.00	
	11	20.00	
		80.00	56.00
	12	306.00	250.00
	16	57.50	
	20	170.00	
	26	202.90	
	31		.88
June	6	50.00	
	8	70.85	
	9	33.00	
	10	40.00	360.00
	22	300.00	
		51.41	
		3.75	
	24	60.00	
June	28	18.00	
July	5	5.90	
	11	23.98	
Aug.	1		2,500.00
	12	1.20	
	19	30.00	
		382.50	
	21	10.08	
	26	20.00	
	31	3.50	2.36
Sept.	1	25.00	
	7	90.00	
	9	70.00	55.00
	13	255.00	200.00
	14	16.82	

Exhibit C. 15.

		Checks.	Deposits.
	16	80.00	
	18	1.00	
	23	125.00	
	29		2.60
		18.30	
	30	125.00	
Oct.	3		15.00
		13.93	
	5	500.00	
	6	1.10	
	9	75.74	
		2.47	
	13	55.00	
	16	12.00	
	21	135.00	
	23	114.00	
	24	10.00	
	26	53.00	
	28	145.00	
	31	25.00	1.15
Nov.	2	25.00	
	4	250.00	
	10	4.65	
	11	260.00	
	13	1.00	
	14	20.00	
Dec.	5		10.00
	6	1.20	1,000.00
	8	4.65	
		1.20	
	9	350.00	
		22.41	
	11	300.00	
	12	40.00	
	13	48.00	
	14	3.33	

Exhibit C. 15.

				Checks.	Deposits.
			15	50.00	
			16	60.00	
			23	140.00	
					10.00
			26		500.00
10	Dec.		29	80.00	
	1912.				
	Jan.		2	200.00	
			4		333.00
			6	85.00	
			10	4.60	
			12	45.00	
			13	112.00	
					100.00
			15	204.00	104.00
			16	5.00	147.71
20			17	26.10	
			18	42.00	
			22	50.00	
			26	60.00	
		Feb.	1	30.00	
			2	1.50	
			5	40.00	
			8		500.00
			9	200.00	
30				4.55	
			14	100.00	150.00
			15	2.40	
			16	75.00	
			17	35.00	
			19	115.94	479.02
			24	10.00	
		Mar.	1	70.00	
			2	134.00	
			4	207.00	
			7	7.53	
40			8	74.21	

Exhibit C. 15.

		Checks.	Deposits.
	9	6.00	240.00
	12	100.00	
		1.80	
	15	35.00	
	18	140.00	
	23	50.00	
	30	55.00	
Apr.	2		40.00
	3	36.00	
	11	11.50	
	12	58.60	
	13	80.00	295.40
	15	39.40	
		50.00	
	20	145.00	
	23	25.00	
May	7		775.00
	9	200.00	
		100.00	
	11	205.45	
	13	101.00	
	15	14.00	
	17	60.68	
	18	70.00	
	23		312.93
	24	114.60	
	25	100.00	
June	1	100.00	
	4		140.00
		50.00	
	8	65.00	209.95
		510.17	160.17
	11	125.00	350.00
	12	4.45	
	13	1.00	
	14	85.00	198.00

Exhibit C. 15.

		Checks.	Deposits.
June	17	80.25	339.36
	24	50.00	
	26	110.00	125.00
		51.76	
	27	16.00	
	23	100.00	
July	2	30.00	
	3	80.00	700.00
	6	16.15	
	8	120.00	
	9		1,000.00
		300.00	
		2.60	
		236.00	
	10	5.75	
	11	206.25	
	12	75.00	
	13	15.00	
	15	300.00	246.25
		1.00	
	16	63.48	
	17	75.00	
	20	70.00	
	26	60.00	
	27	70.00	
Aug.	3	55.00	
	7	45.00	50.00
	8	4.75	
		30.00	
	10	75.00	
	12	75.00	
	14	200.00	
		75.00	
	15	56.83	
			98.50
	16		75.00

Exhibit C. 15.

		Checks.	Deposits.	
Aug.	17	1.00	1,500.00	
		3.50		
	19	600.00		
	20	3.90		
	22	25.00		
	23	30.00		10
	24	70.00		
	27	200.00		
	29	260.00		
	30	6.50		
	31	55.00		
Sept.	3	14.00		
	6	50.00		
	9	3.70		
	11	5.17		
		3.20		20
	14	35.00		
	16	22.00		
	18	33.60		
	21	55.00		
	27	115.00		
Oct.	5	119.00		
			30.00	
	7	24.50	197.00	
	8	36.00		
	9		71.61	30
		3.90	107.00	
	10	417.00	250.00	
		5.45		
	14	250.00	197.00	
	15	3.10	100.00	
	19	40.00		
	26	35.00		
Nov.	8		20.00	
	12	3.90	89.08	
		4.70		40

Exhibit C. 15.

			Checks.	Deposits.
	Nov.	15	100.00	
			3.20	
		16	40.00	
		19	35.00	
		22		196.93
10		23	65.00	
		27	75.00	
			6.66	
		30	30.00	
	Dec.	7	25.00	50.00
		12	25.00	100.00
		13	5.00	
		14	60.00	
		16	4.35	
		17	2.90	
		27		350.00
20		30	150.00	
	1913.			
	Jan.	3	40.00	
			43.74	
		7	200.00	166.40
		8	39.90	
		10	8.75	
		11	4.20	
		13	15.00	
		14	200.00	295.45
30		18	95.00	
		25	140.00	150.00
			10.00	
		27	300.00	700.00
		29	14.40	
		30	150.00	
	Feb.	1	100.00	
		3		10.00
		11	3.40	
		14	6.90	
40				

Exhibit C. 15.

		Checks.	Deposits.	
Feb.	15	4.30		
	17	25.00		
		4.20		
	20	20.00		
	24		50.00	
		17.35		10
	25	200.00	147.70	
Mar.	3	200.00	710.00	
	5	16.00		
	6	91.13		
	7	75.00		
	8	50.00		
		5.95		
	12	21.60		
	14	103.80		
	15	45.00		
	17	3.30		20
	18	20.00		
	22	50.00		
	26	25.00		
	27	5.00		
	29	80.00		
		5.00		
Apr.	4	25.00		
	14	200.00	700.00	
		56.00		30
	15	300.00		
		25.00		
	16	100.00		
	17	6.45		
	18	3.10		
		15.00		
	19	100.00		
			750.00	
	21	75.00	245.00	
	23	100.00		
				40

Exhibit C. 15.

			Checks.	Deposits.
	Apr.	24	2.90	
		26	50.00	
			60.00	
	May	3	100.00	
		9	76.15	
10		12	150.00	
			15.00	
		13	16.30	
		14	7.30	
		15	6.05	
			3.00	
		16	70.00	
		19	20.00	
		22	5.00	294.00
			87.00	
		23	72.50	
20		26	150.00	
		27	15.00	
		31	35.00	
	June	2	50.00	
		23	26.00	
	July	7		1,655.00
		8	763.16	
		9	239.38	
		10	219.09	
		11	7.20	
30		12	35.00	
		15	40.60	
		21	10.00	
		26	25.00	
	Aug.	8	70.00	
		16	16.30	
		20	2.60	
			250.00	
		21	33.06	195.97
		23	4.70	
40				

Exhibit C. 16.

			Checks.	Deposits.
Aug.	30		30.00	
				50.00
Sept.	22		300.00	245.00
	23		5.05	
	24		2.30	
	25			300.00
			79.14	
			15.00	
	29		232.00	
Oct.	20		6.12	
	21		5.50	
	22		2.80	
			18.36	
Nov.	11		3.69	
Dec.	22			50.00
	23		200.00	147.00
1914.				
				16.00
Jan.	22		250.00	196.00
			$92,526.88	$92,527.00
		Balance	.12	
			$92,527.00	$92,527.00

EXHIBIT C. 16.

Account of Bernard N. Hermes with
West Hudson Trust Co.

1909.

			Checks.	Deposits.
Jan.	4	Balance	$	$ 2.88
	5			1.00
	15		3.00	
	21			30.00
Feb.	5		26.43	
	6		3.00	

Exhibit C. 16.

		Checks.	Deposits.
1909.			
Apr.	30		33.00
May	3	33.00	
Aug.	11		10.00
	14	4.20	
Oct.	6		7.00
	13		15.00
	30		6.00
Nov.	1		1.00
	8	36.00	
	15		5.00
	16	4.90	
Dec.	11		10.00
	29	3.00	
1910.			
Jan.	3		40.00
	10	11.44	55.00
		4.62	
	11	85.00	
Feb.	25		5.00
	26	5.25	
Apr.	30		36.00
May	4	36.00	
Aug.	31		15.00
Sept.	20	5.00	
Oct.	1		50.00
	7		50.00
	14	10.00	
	20	5.00	
	27	12.50	
Nov.	3	36.00	
	12	5.00	
	16	10.00	
Dec.	13	4.73	
	14	5.61	
		2.40	
	15	9.00	

Exhibit C. 16.

		Checks.	Deposits.	
1909.				
Dec.	20		35.00	
	21	42.34		
1911.				
Jan.	7		1.00	
	10	95.08		
Mar.	21	3.00		10
	23	1.70		
Apr.	18	2.00		
May	12		27.00	
	16		180.00	
	19	36.00		
	29	3.28		
May	31	3.00		
June	2	87.50		
	3	45.00		
July	10	16.00		
	24	5.00		20
Aug.	26	5.00		
Sept.	8	1.50		
	12	3.00		
Nov.	21	2.00		
1912.				
Feb.	10		6.00	
Mar.	22	108.70		
	23	1.00		
	26	1.00		30
Apr.	3	5.81		
	16	5.00		
May	16	5.00		
	23	10.00		
June	3	10.00		
	4	5.00		
	5	5.00		
	10	5.00		
	15	3.00		
	17	3.00		40
		2.00		

Exhibit C. 16.

		Checks.	Deposits.
1912.			
June	19	100.00	
	25	10.00	
July	5	10.00	
	15	3.40	
	19	5.00	
	25	5.00	
	29	1.80	
Aug.	1	5.00	
	9	5.00	
	16	5.00	
	24	2.40	
	29	6.00	
Sept.	9	2.40	
	10	8.00	
	19	5.00	
	21	3.00	
	23	10.00	
Oct.	2	4.00	
	5	6.00	
	14	6.20	
	19	5.00	
	31	5.00	
Nov.	12	5.00	
	15	10.00	
Dec.	3	10.00	
	7	13.56	
	21	5.86	
	24	10.00	
	28	10.00	
1913.			
Jan.	8	5.50	
	16	5.00	
	17	2.38	
	25	15.00	
	27	5.00	
Feb.	4	10.00	

Exhibit C. 16.

1913.		Checks.	Deposits.	
Feb.	5	5.00		
	8	6.40		
	17	11.20		
	26	5.00		
	27	1.50		
	28	6.00		10
Mar.	6	2.00		
	11	2.00		
	12	3.00		
	14	4.00		
	18	4.52		
	25	4.00		
	27	5.00		
	28	5.00		
	29	2.00		
Apr.	2	3.00		
	7	3.00		20
	10	5.00		
	16	3.00		
	17	2.00		
	25	1.00		
	30	3.00		
May	1	2.00		
	2	2.00		
	6	5.00		
	9	3.00		30
	16	3.00		
	17	4.00		
July	28	40.00	290.00	
		5.00		
Aug.	1	2.50		
	4	14.40		
	5	12.49		
	13	10.40		
	27	2.00		
Sept.	8	5.00		
	12	5.00		40

Exhibit C. 16.

1913.		Checks.	Deposits.
Sept.	19		40.00
	20	5.00	
	25	5.00	
Oct.	10	5.00	
	11	3.00	
	13	3.20	
	17	5.00	
	22	5.00	
	30	10.00	
Nov.	5	5.00	
	13	5.00	
	25	5.00	
	29	1.65	
Dec.	1	3.20	
	2	7.00	
	4	5.00	
	6	4.00	
	8	10.00	
	9	10.00	
	26	6.00	
1914.			
Jan.	9	5.00	
	12	10.00	
	19	2.00	
	20	5.00	
	27	19.50	
	28	5.00	
	31	5.95	
Feb.	9	5.00	
	10	19.50	
	28	3.40	
Mar.	9	5.00	
	13	3.00	
	21	5.00	
	30	5.00	
Apr.	3	4.00	

Exhibit P. B. 2.

1914.		Checks.	Deposits.
Apr.	4	5.00	
	8	5.00	
	11	3.00	
	20	3.00	
	21	2.00	
	22	5.00	
May	1	2.00	
	4	1.00	
	5	3.00	
	7	2.00	
	9	1.00	
	11	1.00	
July	11	5.00	
Aug.	28		4.42
		$1,648.30	$1,648.30

EXHIBIT P. B. 2.

May 26th, 1913.

Mr. Louis Rayot,
Fairview, N. J.

Dear Sir—

I hereby authorize you to manage, collect the rents, pay interest, taxes, water rents, make repairs and do whatever is necessary for the preservation of the premises purchased by me this day from you at Fairview, N. J.

Yours truly,
BARNEY HERMES.

Exhibit P. B. 4.

EXHIBIT P. B. 4.

Gas-bills rendered by Public Service Gas Company to Barney Hermes and paid as set forth in the following statement:

Date of Bill.	Amt. Consumed.	Amt. of Bill.	Date Paid.
Jan. 15	Dec. 18/14—1200 Nov. 18/14— 900		
	300 Cu. ft. @ .90 per 1000 cu. ft.	$.27	Jan. 6/15
Feb. 4, 15	Jan. 18/15—1600 Dec. 18/14—1200		
	400 Cu. ft. @ .90 per 1000 cu. ft.	.36	Feb. 11/15
Mar. 4, 15	Feb. 18/15—2000 Jan. 18/15—1600		
	400 Cu. ft. @ .90 per 1000 cu. ft.	Feb. .36	Mar. 4/15
Mar. 27/14	Mar. 17/14—11000 Feb. 17/14—10600		
	400 Cu. ft. @ 90c per 1000 cu. ft.	Feb. .45 $.36	.81 Apr. 2/14
May 1/14	Apr. 18/14— 200 Mar. 18/14— 000		
	200 Cu. ft. @ 90c per 1000 cu. ft.	$.18	
June 1/14	May 18/14— 400 Apr. 18/14— 200		
	200 Cu. ft. @ 90c per 1000 cu. ft.	$.18	June 25/14
July 1/14	June 18/14— 600 May 18/14— 400		
	200 Cu. ft. @ 90c per 1000 cu. ft.	$.18	
July 27/14	July 20/14— 600 June 18/14— 600		
	000	June .18	July 27/14
Dec. 1/14	Nov. 18/14— 900 Oct. 19/14— 600		
	300 Cu. ft. @ 90c per 1000 cu. ft.	.27	Dec. 8/14

Exhibit P. B. 8.

EXHIBIT P. B. 8.

Water-bills rendered by Hackensack Water Company to Barney Hermes, and paid as set forth in the following statement:

Date of Bill.			Consumpt.	Amt.	Paid.
Feb. 1, 1914	Present Reading:	21300			
	Previous Reading:	19700	1600	$2.80	Feb. 10/14
" " "	Present Reading:	7000		Min.Rate.	
	Previous Reading:	6500	500	2.50	" "
" " "	Present Reading:	10000		Min.Rate.	
	Previous Reading:	8600	1400	2.50	" "
" " "	Present Reading:	21300		Min.Rate.	
	Previous Reading.	19900	1400	2.50	" "
" " "	Present Reading:	2500		Min.Rate.	
	Previous Reading:	1900	600	2.50	" "
" " "	Present Reading:	8400		Min.Rate.	
	Previous Reading:	7500	900	2.50	" "
May 1, 1914	Present Reading:	22600		Min.Rate.	
	Previous Reading:	21300	1300	2.50	May 8/14
" " "	Present Reading:	22800			
	Previous Reading:	21300	1500	2.63	" "
" " "	Present Reading:	9300		Min.Rate.	
	Previous Reading:	8400	900	2.50	" "
" " "	Present Reading:	7800		Min.Rate.	
	Previous Reading:	7000	800	2.50	" "
" " "	Present Reading:	3200		Min.Rate.	
	Previous Reading:	2500	700	2.50	" "
" " "	Present Reading:	11500			
	Previous Reading:	10000	1500	2.63	" "
Aug. 1, 1914	Present Reading:	10300		Min.Rate.	
	Previous Reading:	9300	1000	2.50	Aug. 10/14
" " "	Present Reading:	8400		Min.Rate.	
	Previous Reading:	7800	600	2.50	" "
" " "	Present Reading:	13600			
	Previous Reading:	11500	2100	3.60	" "
" " "	Present Reading:	3800		Min.Rate.	
	Previous Reading:	3200	600	2.50	" "
" " "	Present Reading:	24300			
	Previous Reading:	22600	1700	2.98	" "
" " "	Present Reading:	24100		Min.Rate.	
	Previous Reading:	22800	1300	2.50	" "
Nov. 1, 1914	Present Reading:	14700		Min.Rate.	
	Previous Reading:	13600	1100	2.50	Nov. 12/14
" " "	Present Reading:	4600		Min.Rate.	
	Previous Reading:	3800	800	2.50	" "
" " "	Present Reading:	9200		Min.Rate.	
	Previous Reading:	8400	800	2.50	" "
" " "	Present Reading:	11200		Min.Rate.	
	Previous Reading:	10300	900	2.50	" "
" " "	Present Reading:	25900			
	Previous Reading:	24300	1600	2.80	" "
" " "	Present Reading:	25300		Min.Rate.	
	Previous Reading:	24100	1200	2.50	" "
Feb. 1, 1915	Present Reading:	27400			
	Previous Reading:	25900	1500	2.63	Feb. 18/15
" " "	Present Reading:	9900		Min.Rate.	
	Previous Reading:	9200	700	2.50	" "
" " "	Present Reading:	12500		Min.Rate.	
	Previous Reading:	11200	1300	2.50	" "
Feb. 1, 1915	Present Reading:	5000		Min.Rate.	
	Previous Reading:	4600	400	2.50	Feb. 18/15
" " "	Present Reading:	21100			
	Previous Reading:	14700	6400	9.28	" "
" " "	Present Reading:	26900			
	Previous Reading:	25300	1600	2.80	" "

EXHIBIT D. 20.

Three policies of insurance and four certificates as referred to in the following statement:

No.	Company.	Amt.	Prem.	Assured.	Premises.
		Policies.			
2445346	North British & Mercantile Ins. Co. of London & Ed'brgh	$3500.	$17.50	Louis Rayot. Int. changed to Barney Hermes	Fairview, Bergen Co., N. J.
1057866	Do.	4000.	20.00	Louis Rayot. Int. changed to Barney Hermes	e/s Broad St., abt. 150' S. Greely Ave., Fairview, N. J.
2445932	Do.	4000.	19.50	Barney Hermes	Do.
		Certificate.			
10338550	The Liverpool & London & Globe Ins. Co., Ltd., of Liverpool, Eng.	2000.	9.75	Parney Hermes	Fairview, N. J.
10338549	Do.	2000.	9.75	Do.	Do.
10338548	Do.	2000.	9.75	Do.	Do.
10338551	Do.	2000.	9.75	Do.	Do.

EXHIBIT D. 21.

Tax Bill showing taxes levied against the premises in question in 1911, together with date and amount of payment, to wit:

Property Taxed		Rate of Tax	
No. of Acres—1½		State School	.26
Block Numbers—10		County Tax	.41
Value of Real Estate	$ 750.00	Borough Purposes	.66
Value of Buildings	3400.00	Local School	.97
		Tri Township Poor	.01
Total	$4150.00	District Court	.01
		Total	2.32

	Amount
Per $100	96.28
Cost and Interest	17.98
Total	114.26

Received Payment,

Date, Oct. 10, 1913. THOMAS FAY, Collector.

EXHIBIT D. 22.

Tax bill showing taxes levied against the premises in question in 1912, together with date and amount of payment, to wit:

Property Taxed		Rate of Tax	
No. of Acres—1½		State School	.25
Value of Real Estate	$ 750.00	County Tax	.46
Value of Buildings	6600.00	Borough Purposes	.57
		Local School	1.01
Total	7350.00	Tri Township Poor	.005
		County Poor	.02
		District Court	.005

	Amount
Total $2.32 per $100	170.52
Cost and Interest	14.67
Total	185.19

Received Payment,

Date, Oct. 10th, 1913. THOMAS FAY, Collector.

Exhibits D. 23, D. 26.

EXHIBIT D. 23.

Tax bill showing taxes levied against the premises in question in 1913, together with date and amount of payment, to wit:

Property Taxed		Rate of Tax	
No. of Acres—1½		State School -------	.24
Value of Real Estate----$1000.00		County Tax --------	.45
Value of Buildings------ 6800.00		Borough and Local School Purposes --	1.56
	$7800.00	County Poor -------	.005
		District Court ------	.005
		Total $2.26 per $100	Amount
			$176.28
		Cost and Interest----------	30.96
		Total ----------	$207.24

Received Payment,
THOMAS FAY, Collector.

Date, Sept. 8th, 1915.

EXHIBIT D. 24.

Tax Bill, 1914. (Not printed—missing.)

EXHIBIT D. 25.

May 29, 1914.

Received of Barney Hermes Fifty $50.00 on account for Papering and Painting on the Four Houses.

L. Miller.

EXHIBIT D. 26.

Weehawken, N. J., July 11, 1914.

B. Hermes.

GUARANTEE PAINTERS & DECORATORS,
M. & L. Miller, Prop.

Branch Store
1190 Summit Ave., Jersey City. 354 Broadway.

For Papering and Painting
4 Houses on Greely Ave. $130.00
Received on acount 50.00

Paid in ful 80.00
L Miller

Exhibits "A" C. 1 and C. 2.

EXHIBIT "A" of Complainant—17 checks made by Bernard Hermes, drawn on the Hudson Trust Company, West Hoboken, as follows:

No.	Date.	Amount.	Payee.	Endorser.
961	Mar. 2/14	$5.00	C. A. Methar Estate	John V. D. Methar, Ex'r.
965	Mar. 23/14	5.00	Bearer	
967	Mar. 27/14	4.00	Prudential Ins. Co.	P. B. McDonough
966	Mar. 27/14	5.00	Bearer	
968	Apr. 1/14	5.00	C. A. Methar Estate	John V. D. Methar, Ex'r. Mary Methar, Executrix.
969	Apr. 3/14	2.00	Bearer	
970	Apr. 4/14	1.00	Bearer	
971	Apr. 11/14	1.00	Bearer	D. Ross
972	Apr. 11/14	2.00	Bearer	D. Ross
973	Apr. 17/14	2.00	Bearer	
976	Apr. 28/14	1.00	Bearer	
974	Apr. 14	2.00	Bearer	D. Ross
980	May 1/14	3.00	Bearer	
977	May 1/14	2.00	Bearer	D. Ross
975	May 1/14	5.00	C. A. Methar Estate	J. V. D. Methar, Ex'r. Mary Methar, Executrix of estate of Catherine A. Methar.
979	May 2/14	1.00	Bearer	
978	May 2/14	1.00	Henry Ruppert	Henry Ruppert

EXHIBITS C. 1 and C. 2, JUNE 24, 1915.

	No.	Bills.		
H.	1100724	50.	Gold Certificate	
H.	1479972	50.	" "	
E.	75133	100.		
E.	K867126B	10.	K. 867126B (10)	E. 9867
H.	563859	10.	S. 1669	
M.	4443	100.	A. 362125	
A.	425768	100.	A. 425768—M 2894	
A.	373045	50.	E 345	
X.	817930A	5.	N 1939	
A.	372982B	5.	E 733	
B.	294824	5.	E 345	
A.	50789B	5.	E 345	
O.	54737B	10.	E 4645	
A.	174573	100	Merchants Nat'l B of Portland	P 3536
A.	402155	100	Nat. C. B. of Brooklyn	E 1543
H.	4735	100	Gold Certificate #	
M.	198430	100	" "	
M.	150904	100	" "	
K.	147353	100	" "	
M.	60370	100	" "	
K.	179097	100	" "	
H.	189529	100	" "	

Exhibits C. 1 and C. 2.

K.	274438	50	Silver Certificate	
K.	274443	50	" "	
K.	47589	50	" "	
K.	453287	50	" "	
A.	402526	50.	Merchants Nat'l B. of C of N. Y.	E. 1370
H.	894765	100	Gold Certificate	

50	Nat. Bank of Commerce	A	556211 3473	E 733	34073
50	" " " "	A	3522	E 733	6578
50	Seaboard Nat. Bank	A	1583	P 9141	602
50	Silver Certificate	K	69354E		
50	" "	K	287626E		
50	" "	H	90094E		
50	Hanover Nat Bank	A	329279E		E 1352
50	Silver Certificate	K	75478E		
50	" "	K	364207E		
50	Nat. Bank of Commerce	A	295614E		E 733
100	Nat. Bank of Commerce	A	447451E		E 733
50	Silver Cert.	K	68322E		
10	Union Nat. Bank, Cleveland	K	551415A		M 3202
100	Chase Nat. Bank	A	59477	(4755)	out
10	United States Notes	E	2276473		

EXHIBIT C. 3, OF JUNE 14, 1915.

IN CHANCERY OF NEW JERSEY.

Between

RAYMOND P. WORTENDYKE,
Trustee in Bankruptcy,
Complainant,

and

LOUIS RAYOT, *et als.,*
Defendants.

On Bill, etc.

It is stipulated and agreed that the testimony given in this cause is to be taken by the stenographer and the signatures of the witnesses are waived.

....., *Solicitor for Complainant.*

....., *Solicitor for Defendants.*

Exhibit C. 3—June 14, 1915.

IN CHANCERY OF NEW JERSEY.

Between RAYMOND P. WORTENDYKE, Trustee in Bankruptcy, *Complainant,* *and* LOUIS RAYOT, *et als., Defendants.*	*On Bill, etc.* *Testimony.*

Alexander J. Higgins, solicitor for complainant.

WATSON W. ELDRIDGE, being duly sworn, testified as follows:

Q Now, Mr. Eldridge, your connection with the Treasury Department of the United States Government is of what nature? A Chief of the Division of Issues, Office of the Comptroller of the Currency.

Q In that capacity you come in contact with the books showing the issue of the money to the national banks? A Yes, I do.

Q You are familiar with the books of the Treasury Department showing the issuing of notes from the years 1901 to 1915? A Yes.

Q Those entries are made in the book under your supervision? A Yes, sir.

Q You know that the entries in the book are correct? A They are supposed to be. Of course they are made to the best of the ability of the clerks here that perform the service. We understand of course that they are correct. If they were not we could not balance our currency.

Q And the currency does balance? A The currency does balance.

Q Can you tell me from your knowledge of the books of the Treasury Department when the $100 note was issued to the Chase National Bank of New York City bearing number 4755, Treasury number A59477? A Well, the dates are on that list. I had that list prepared for you.

Q If you will answer those questions by simply giving the date. A You can look at that list. The first entry?

Q Yes. A August 18, 1914.

Q I will ask each question in turn. A Take it in my language. (Witness takes list and reads from it.) $100, Chase National Bank, New York, N. Y. Bank No. 4755, Treasury number A59477, was issued August 18, 1914.

Q I show you lists, marked "Exhibit C. 1," showing the denomination, the bank number of the note, the Treasury number of the note, and ask you when those notes were issued by the Government Treasury Department to the respective banks? A The next one is for $10, to the National Bank of North Hudson, West Hoboken, N. Y.—The first number is the bank number, and the next number the Treasury number in each case.—5930, Treasury K867126B, issued March 13, 1915. $10, Fourth & First National Bank of Nashville, Tenn., No. 16981, H563859, February 25, 1914. $100, New First, Columbus, Ohio, No. 4967, A362125, September 22, 1914. $100, Continental and Commercial, Chicago, Illinois, 21089, A425768, August 8, 1914. $50, Irving National Bank, New York City, N. Y. 3467, A373045, September 19, 1914. $5, Holyoke National Bank, Holyoke, Mass. 8263, X817930A, January 23, 1915. $5, National Bank

of Commerce, New York City, N. Y. 119745, A372982B, September 11, 1914. $5, Irving National Bank, New York City, N. Y., 164417, B294824B, September 29, 1914. $5, Liberty National Bank, New York, N. Y., 47922, A50789B, September 1, 1914. $10, Liberty National Bank, New York, N. Y., 36075, D54737B, September 1, 1914. $100, Merchants National Bank, Portland, Oregon, 915, A174573, September 18, 1914. $100, National City Bank of Brooklyn, N. Y., 2402, A402155, February 24, 1914. $50, Merchants National Bank, New York, N. Y., 1288, A402526, September 2, 1914. $50, National Bank of Commerce, New York, N. Y., 34073, A556211, August 21, 1914. $50, National Bank of Commerce, New York, 6573, A352211, August 15, 1914. Now here is one issued back in 1912. Do you want that?

Q Yes. A $50, Seaboard National Bank, San Francisco, Cal., 602, A158388, October 29, 1912. $50, Hanover National Bank, New York City, N. Y., 6641, A329279, August 14, 1914. $50, National Bank of Commerce, New York, N. Y., 1976, A295614, August 15, 1914. $100, National Bank of Commerce, New York, N. Y., 17013, A447451, August 19, 1914. $10, Union National Bank, Cleveland, Ohio, 30812, K551-415A, March 11, 1914. These others I cannot certify to. They are gold certificates. You will have to go to the Treasury for that. We don't issue anything here but the national bank notes.

Q The dates that you have testified to are the earliest possible dates that the banks could have received that money from the Treasury Department, and also the earliest possible dates that the money could actually be put in circulation? A They are, yes.

Q That is all.

Exhibit C. 3—June 14, 1915.

CHRISTIAN S. PEARCE, being duly sworn to state the whole truth and nothing but the truth, testified as follows:

By Mr. Higgins.

Q Are you connected with the Treasury Department of the United States? A I am.

Q In what capacity? A Assistant cashier.

Q As assistant cashier, are you familiar with the time the moneys are put into circulation and issued by the United States Government? A Yes, sir.

Q I show you now a list of bank notes showing the denomination, Treasury number, and whether they be called silver certificates or gold certificates, and ask you if you can testify from your records in the office of the Treasury Department when the same were issued for circulation. (Witness shown lists marked "Exhibit C. 1.") A I can.

Q Now I show you the lists marked "Exhibit C. 1" containing a list of gold certificates and silver certificates, and ask you to tell us when the certificates were issued, giving the denomination and number as you proceed, from time to time. A The first one is gold certificate H1479972. This was issued for circulation August 5, 1914. $100 certificate M198430, was issued August 6, 1914. $100 certificate M150904, was issued June 19, 1914. $100 gold certificate M60370 was issued January 22, 1914. $100 gold certificate H189529 was issued October 11, 1913. Silver certificate, $50, No. K274438, was issued January 20, 1915; K274443, January 20, 1915; K47589, June 16, 1914.

Q Fifty dollars? A These are all for fifty dollars. K453287, February 13, 1915. You

have it on the memorandum 1914. There is one year's difference in that one. K69354, June 19, 1914; K287626, January 21, 1915. Now here is one you have marked "H90094." It is evidently "K." There is no such number as "H." That is K, June 24, 1914, date of issue. $50 certificate, K75478, June 23, 1914; K364207, January 28, 1915. That is a change of one year there. $50 silver certificate K68322, June 19, 1914.

Q From your knowledge that you have acquired as assistant cashier of the Treasury Department, would it be possible for any of this money to be in circulation in May, 1913, that is, any of the money that you testified was issued after May, 1913? A No, it would not be possible. It goes into the vault here, and on these dates put into actual cash.

Q The public could not possibly have it previous to the date of coming out of the vault? A No, sir. Impossible.

Q You are familiar with the records that you have testified from and know that they are accurately kept? A Absolutely so.

Q And that the dates therein shown are the dates that you have testified to? A Yes, sir.

Q And that they are correct? A They are.

Q That is all.

MAJOR ALFRED R. QUAIFFE, being duly sworn to state the whole truth and nothing but the truth, testified as follows:

By Mr. Higgins.

Q Mr. Quaiffe, you are connected with the Treasury Department of the United States Government? A Yes, sir.

Q In what capacity? A Vault clerk.

Q And as vault clerk, you are familiar with the time the money is actually put into circulation? A Yes.

Q I show you a list marked "Exhibit C. 1," containing the denomination, the number of the bank note, and the date of issue, and ask if you can testify as to when any of these notes were put into circulation by the United States Government. (Witness handed papers marked "Exhibit C. 1.") A Yes, sir.

Q What notes can you testify to, Major? A I can testify to the first, the $50 gold certificate, No. H1100724.

Q As being issued when? A As being issued on the 26th of June, 1913, instead of September 11, 1911.

Q And are there any other certificates that you can testify to? A Yes, sir, the $100 gold certificate E75133.

Q As issued when? A It was issued December 17, 1908, instead of 1907, as is on this list.

Q You have charge of the money in the vault? A Yes, sir.

Q And from that position you acquired a knowledge as to when these two items you have testified about, these two bank notes, were actually put into circulation? A I want to say in reference to that. This first note, for instance, it was technically issued from the reserve vault on the 26th of June. It was sent away on a transfer order to New York City the next day.

Q On the 27th? A The 27th.

Q So that it would be impossible— A It would be possible that this note was not put into circulation for a few days after that par-

ticular date, but that is the date it was issued from the reserve and put into the cash vault, which is the distributing vault.

Q You have testified from the records in the vault? A I got the dates as I gave them from the records.

Q You are familiar with the records and know that they are correct? A Yes, most of these original records are in my own handwriting. It happens that these records (referring to "Exhibit C. 1") were made up by two men who are both dead.

Q That is the book, the government book, that you testified from? A Yes, sir. That is taken from the original entries.

Q You know from your knowledge as vault clerk of the United States Government that it would be impossible for the public to get the $50 certificate No. H1100724 in May, 1913? A Yes, sir, that would be before it was issued.

Q The entries in the books were made under your supervision? A Yes, sir. I have been in charge of the vault for 30 years. I had charge of the books on the dates I have testified about. After I gave up the books, Mr. Pearse or somebody else had charge of the book. I gave it up about the first of July, 1913. Mr. Forsythe, who is now dead, actually made those entries on that date. A day or two before that I had made the entries myself.

Q So that you really made the actual entries up to July 1, 1913? A Yes. These could not be anything but true entries because they are issued numerically, and could not be issued at any other time.

Mr. Higgins. That is all.

Exhibit C. 3—June 14, 1915.

IN CHANCERY OF NEW JERSEY.

Between

RAYMOND P. WORTENDYKE,
Trustee in Bankruptcy,
Complainant,

and

LOUIS RAYOT, *et als.*,
Defendants.

On Bill, etc.

The above testimony was taken before Alexander J. Higgins, solicitor for complainant, who duly swore each witness, and the witness then testified under oath.

And I hereby certify that I was likewise duly sworn by Alexander J. Higgins to take the testimony to the best of my ability and to make a correct transcript thereof in typewriting, and I certify that the foregoing is a correct transcript of the testimony taken at the hearing.

R. D. LILLE.

.....

Opinion.

IN CHANCERY OF NEW JERSEY.

Between

RAYMOND P. WORTENDYKE, Trustee, &c.

Complainant.

and

LOUIS RAYOT, *et als.*,

Defendants.

Opinion.

Submitted, April 3, 1916; decided, May 4, 1916.

For the Complainants, MR. HIGGINS AND MR. MERRITT LANE.

For the Defendants, MESSRS. PETER AND JOHN BENTLEY.

GRIFFIN, *V. C.*

The bill in this cause is filed by the complainant, as Trustee in Bankruptcy, to set aside conveyances alleged to have been made by Louis Rayot, the bankrupt, in fraud of creditors. It appears from the bill, and is admitted by his answer, that about the 18th of August, 1907, Louise Gousset, the mother of the defendant, Louis, the bankrupt, died, leaving her last will and testament, which was duly admitted to probate, in and by which she devised all the property, with the buildings thereon erected, known as two and forty-nine one hundredths acres, situate in the Borough of Fairview, Bergen County, New Jersey, to her four children, Mrs. Lucy Grod, Mrs. Zeline Baker, Louis Rayot (the bankrupt) and Aimee Gousset, as tenants in common,

in fee: That on or about the 24th day of June, 1910, said devisees conveyed said lands to Barney Hermes, single, who then re-conveyed to said devisees certain portion of said two and forty-nine one hundredths acres as had been agreed upon by them among themselves, in pursuance of an agreement to that effect before made among them, for the purpose of vesting parts of the land devised by said Louise Gousset to her children, so that each would own in fee simple a certain part in his or her own right: That said Barney Hermes accordingly, by deed dated the 22d of June, 1910, and recorded the 24th of June, 1910, conveyed a portion of said land, less than one and forty-nine one hundredths acres (the description being "for a tract of one and forty-nine one hundredths acres, excepting therefrom a portion thereof thereinafter described") to Louis Rayot and wife. And it is alleged that said conveyances were voluntary, and were made by virtue of an agreement made between the said Hermes and said devisees whereby a certain portion of the property devised by the said Louise Gousset would be owned in fee by Louis Rayot in his own right: That afterwards, on the 26th day of May, 1913, Louis Rayot and his wife conveyed to Barney Hermes the lands and premises theretofore conveyed by Hermes to them.

Paragraph 8 of the amended bill alleges that while the said Louis and his wife were the owners, and prior to the conveyance to Hermes of May, 1913, Louis Rayot erected on the premises five two-family houses, upon which he executed five mortgages in the sum of six hundred dollars each. This paragraph is substantially admitted

by Louis Rayot, excepting this, that he denies that all the moneys therefore were furnished by him. The answer of Mrs. Rayot to this paragraph is an admission that the "said defendant physically erected the buildings on the premises; that there is a mortgage of six hundred dollars on each house, but denies that said Lous Rayot erected them out of his own money or property." The answer of Hermes practically pleads ignorance of all the facts set out in the bill excepting that he denies that the conveyance of May, 1913, to him was voluntary, but that, on the contrary, he paid a valuable consideration therefor.

No evidence in the cause was taken on the question of who advanced the funds to erect these buildings.

The prayer of the bill is that it may be adjudged and decreed that the lands conveyed by Hermes to Rayot and wife belong to Louis Rayot, bankrupt, and that the conveyance mentioned in Paragraph 7 was voluntary and made with the intent, on the part of the parties thereto, to hinder, delay and defraud the creditors of Louis; and that the land mentioned in Paragraph 7 might be decreed to be sold for the payment of the debts due to the creditors of Louis.

The conveyance referred to in the prayer is that made on May 26th, 1913, by Rayot and wife to Hermes.

There is no prayer that the first conveyance, made by Hermes to Rayot and wife on June 22d, 1910 (being the conveyance intended to effect partition) be declared void.

As the question of the validity of the deed of June 22d, 1910, has been argued, I will assume that the bill is broad enough to permit the Court to deal with it. The questions arise, was there

a valuable consideration to support this conveyance to husband and wife, and was the deed made to hinder, delay and defraud creditors?

The testimony is that prior to the consummation of this voluntary partition, Mrs. Rayot refused to execute a deed unless the lands which were to be received by her husband were placed in their joint names for the protection of herself and her family. This was agreed to; and accordingly, she joined with her husband and the other devisees in a conveyance of the entire tract of two and forty-nine one hundredths acres to Hermes; and Hermes, in the partition, conveyed the tract containing less than one and forty-nine one hundredths acres to Louis Rayot and his wife; and the deed was promptly recorded. The property, at that time, was vacant land appraised at the value of $3,000. What the value of the portion of the two and forty-nine one hundredth acres remaining (which apparently had a building erected thereon) was, and how that was disposed of, is not shown by the pleadings or proofs.

At the time that this conveyance was made the defendant, Louis Rayot, was indebted to Ringger & Company and to Thomas Henry in about $5,200. At the same time he owned a Packard automobile, for which he paid $5,600 the year prior, and sold it in 1911 for $2,500. He had properties on Angelica street, Summit avenue and DuBois street, which he sold after this conveyance, and which netted him $11,850; making the total, including his automobile, upwards of $14,000 being almost three times the amount of his debts, excluding the property in question.

In *Haston* v. *Castner,* 31 N. J. Eq. (Stew.) 697, (705), Chief Justice Beasley said, "When

the conveyance is not voluntary, but is upon a consideration, then the rule is that in order to overthrow it a fraudulent intent must be made to appear, just as it must be when the debts sought to be enforced have been contracted subsequently to the conveyance." In that case the Court said that "the idea that the conveyance was made with a fraudulent intent was utterly exploded by the admitted circumstances." At that time the grantor was not insolvent, but had ample means for the payment of his debts, and was, therefore, under no influence leading him to put the property out of his hands for an illegal purpose. The deeds were drawn by a scrivener of the neighborhood, and were recorded. The circumstances that the farms were put to grantor's children at a considerable under-valuation was, under the circumstance not unnatural, and could not be a fact of much importance in a transaction attended with so many indications of an honest purpose.

In the case now before us the wife released her dower in other property, the value of which has not been shown; and also, by executing the deed which resulted in the voluntary partition, she saved for the parties the delay and expense of a proceeding in partition, all of which constituted a valuable consideration; and, as in the *Haston-Castner case,* the husband had more than ample means to pay all his debts. There is nothing in the case which suggests, even by inference, that at the time that this conveyance was made on June 22d, 1910, Louis Rayot had the slightest thought of having the conveyance made to husband and wife to hinder, delay and defraud his creditors.

My view, therefore, is that the deed of June 22d, 1910, is valid, and should stand.

Touching the question of the improvements placed on the premises after the conveyance to Rayot and wife, a reference will be made to a Master to ascertain the amounts contributed by each in the erection of the building. *Post* v. *Stiger,* 29 N. J. Eq., 554; *Mertens* v. *Schlemme,* 59 A. R., 808; *Bresnihan* v. *Sheehan,* 125 Mass., 11. And all equities will be reserved on this question until the coming in of the Master's report.

Next, as to the deed from Rayot and wife to Hermes, dated May 26th, 1913: The husband and wife were then seized of the premises in fee. At the date of the conveyance the husband was indebted to Ringger & Company in about $6,600, and to Henry in about $200, and had no other property. On May 23d, 1913, Ringger & Company wrote Rayot touching their bill. On May 26th, 1913, the deed was delivered to Hermes; and on May 27th, 1913, Rayot called on Ringger & Company. The bill of Rayot to Ringger was discussed, and finally fixed at $6,600, for which Rayot gave Ringger three notes of $2,200, payable four months after their date. Ringger & Company requested that the notes be made for three months, but Rayot wanted the notes made payable at four months, stating that he might dispose of his Fairview property during that time, and he could then pay the notes. This statement was false and untrue, because at that time he had disposed of the Fairview property. When the notes fell due they were renewed for a further period of four months, Rayot paying $25 on each of two of the notes and $50 on a third, with interest.

At the time that these last mentioned notes were given he repeated to Ringger & Company his assertion that he had not sold his Fairview property.

On Jan. 27th, 1914, the notes fell due, and were not paid.

On March 16th, 1914, Rayot filed his voluntary petition in bankruptcy.

The defendants claim that shortly prior to May 26th, 1913, Rayot and wife made a bargain with Hermes to purchase this property for $12,000 by the payment of $9,600 in cash and the assumption of the payment of mortgages then on the premises for $2,400; that at that time Hermes paid a deposit of $200, for which he took a receipt. This receipt was not produced at the trial, the defendants claiming that it was either lost or destroyed. The title was passed at the office of Mr. Peter Bentley on May 26th, 1913, at which time it is asserted that Hermes paid the balance of the purchase price, $9,400, in cash; that one-half of this sum was received by Mrs. Rayot, and the other half by Mr. Rayot. Mr. Rayot says that he had borrowed $2,000 from his half-brother, Aimee Gousset, and that after paying this sum and sundry bills, he had left about a thousand dollars, which he kept at home, and disbursed the same for household and other expenses. Mrs. Rayot says that she kept her half at home because she did not trust banks. Barney Hermes says that he was a bachelor, and had been for a number of years a painter and decorator, occasionally dabbling in real estate, and that he had accumulated about fifteen thousand dollars, which he kept in his strong box at home. He, likewise, did not trust banks; although he did have a bank account, the bal-

ances from time to time being rather small, but in November, 1911, he deposited $600, which was drawn upon in small sums, leaving however a balance of upwards of $400 for more than six months.

Mr. Bentley says that at the time of passing title he did not count the money; he saw a large roll of bills lying on the table; he did not see the money paid. He was engaged at the time in dictating an instrument to enable Mr. Rayot, after the sale, to collect the rents as agent for Hermes, as Rayot lived at the premises and Hermes lived in another town; that while preparing this paper he was in and out of the room.

Mrs. Rayot says that in addition to the half which she so received, she also sold to Tiffany & Company diamonds for $700, about a year before she testified, which would be about the spring of 1914. These moneys were mingled with her one-half of the purchase price. At the trial she produced in Court $2,800 in cash, which she said were the same bills which she received on the sale to Hermes and of her diamonds, excepting where she had changed bills of large denominations into smaller.

The complainants, in order to negative the idea that Hermes ever paid this consideration, offered evidence of officials of the Treasury Department tending to show that a great number of the bills which she produced had not been issued at the time when the consideration of this deed is alleged to have been paid, and also at the time when she sold the diamonds to Tiffany. Among the bills produced were six United States National Bank notes of the denomination of $100 each, one of which was issued February 24, 1914, and five in August and September,

1914; and four gold and silver certificates, of $100 each, which were issued in October, 1913, January, June and August, 1914, respectively—making, in all $1,000. There were also seventeen $50 notes which were issued after the date of the transfer to Hermes, making a total of $1,850. Prior to the giving of this testimony Mrs. Rayot testified that she was in the habit of changing large bills for smaller ones, from time to time; but, even assuming this to be true and the seventeen $50 bills represented bills taken in exchange for $100 bills, and assuming that she was mistaken as to the date when she sold the diamonds to Tiffany, and that the date was after the date of the issue of seven of the $100 bills, nevertheless there were at least three $100 bills that were clearly issued subsequent to the date of the deed to Hermes, and which, at least, must be parcel of the moneys paid by Hermes, if defendant's stories be true. While her testimony was given prior to the introduction of the evidence of the Treasury officials, and therefore may not have received from her the attention it deserved, nevertheless, as the testimony up to that time indicated that the bills paid by Hermes were not of larger denominations than $100, it would seem important that she should make some further explanation of this apparent discrepancy; but she was not recalled.

Mr. Hermes, as above stated, said at the time of the conveyance he had about $15,000 in his strong box at home, out of which he took the $9,600, being the consideration paid for his purchase. This left him about $5,000 in cash. He was also in receipt of $126 a month rent from the property conveyed, which, after paying the disbursements on account of the property, left

a balance which he might use at least on account of his living expenses. Yet when he testified he produced about $250, which he said was all the cash he had, the remainder of the $5,000, together with the next income from this property, having been used by him during the two years from the date of the conveyance for his living expenses. There is no evidence in the case that Mr. Hermes was a man of such means as to justify such expenditure. He had little, if any other, property outside of this cash. It also appears that on May 6th, 1911, while he had this $15,000 in his strong box, or a large part thereof, he borrowed $200 from the First National Bank of Guttenberg, giving his mortgage to secure the same, and which sum he paid off in installments of $100 each on March 22d and June 18th, 1912. He explains that he thought he could sell the property better with than without a mortgage covering it. In 1906 he also borrowed $1,200, which he says was done to settle his mother's estate. He testified before the Referee in Bankruptcy, after which, and before the trial of this cause, he destroyed his bank and check books and stubs, the latter showing for what purpose the money was drawn. The receipt for the alleged deposit of $200 he could not produce; nor was it produced by any of the defendants, they claiming that it was either lost or destroyed.

The defendant, Louis Rayot, says that in the year 1911 he became ill and began to lose money on his contracts, which subsequently resulted in his failure. He was a rather stupid witness, had very little recollection of the source of his receipts and to whom he had paid out moneys drawn from the bank, even where the sums were

quite large; he kept no books, and, in testifying, relied solely on such memory as he then had.

On May 22d, 1913, about the time it is alleged he entered into this agreement with Hermes to sell, there appears in the transcript of his account a deposit of $294; and on July 7th of the same year, another deposit of $1,655. He was questioned as to the sources from which he received these payments—whether from contract work, or from Hermes, as part of the consideration—but he had no recollection on the subject. From the latter date until the last deposit made in his account on January 22d, 1914, he deposited about $1,200 more, about $540 of which were notes, which, from their odd amounts, would indicate that they were the notes of his debtors. On January 22d, 1914, appears the last draft on his account, $250, which left a balance of twelve cents.

Touching the $2,000 which he says he paid to Aimee Gousset, he says that this sum was made up of a number of loans made to him from time to time. When such loans were made, and the specific amounts he was unable to state. Aimee Gousset, who would seem to be a material witness to corroborate him on this question, with the idea of establishing the fact at least that the $2,000 was actually paid to him, was not called as a witness in this cause.

The whole story of the defendants is so highly improbable as to be unworthy of belief.

I will advise a decree that the conveyance made by Rayot and wife to Hermes, dated May 26th, 1913, be set aside as against the complainant to the extent of the claims of Ringger & Company and Henry.

Final Decree.

Filed.

IN CHANCERY OF NEW JERSEY.

Between

RAYMOND P. WORTENDYKE, Trustee, &c., *Complainant,*

and

LOUIS RAYOT, *et als.*, *Defendants.*

On Bill, &c.

Final Degree.

This cause coming on to be heard in the presence of Alexander J. Higgins and Merritt Lane, of counsel with the complainant, and Peter Bentley, of counsel with the defendants; and the pleadings and proofs of the respective parties having been heard, and the Court having duly considered the said pleadings, proofs and arguments, and it appearing to the Court that the deed of conveyance made by Louis Rayot and Margaret Rayot, his wife, to Barney Hermes bearing date the 26th day of May, 1913 and recorded in the office of the Register of Bergen county, in Liber 849, pages 82 &c., conveying the lands and premises referred to in the bill of complaint was, so far as the interest of Louis Rayot is concerned, in fraud of the creditors of said Louis Rayot; and that such interest so conveyed as now held by the said Barney Hermes is an equal undivided one-half interest in said lands and premises; and it being suggested that the buildings on the lands described in said bill were erected by the said Louis Rayot and with his funds after the con-

veyance which vested the title in said Louis Rayot and wife, and that to the extent that the value of said lands, was enhanced by such erections the complainant is entitled to a lien for one-half thereof upon the one-half interest which by this decree is found to be vested in said Barney Hermes; that the only claims proven in this cause are those of Jacob Ringger amounting at the present time to the sum of $8,439.15 and of Thomas Henry amounting at the present time to the sum of $190.50; that the complainant is entitled, in case payments of such claims are not made within a time to be fixed by this Court, to have an undivided one-half interest in said lands and premises sold to raise and pay the aggregate amount of said claims; that the complainant is also entitled to an accounting of the rents of said lands and premises collected by the said Barney Hermes from the 26th day of May, 1913, that the complainant is entitled to one-half of the net proceeds of said rents, and, the disposition of the other half of the net proceeds of said rents should be reserved until the coming in of the Master's report.

It is thereupon on this 17th day of July, 1916, in the presence of Alexander J. Higgins and Merritt Lane, of counsel with the complainant and Peter Bentley, of counsel with the defendants, by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, ORDERED, ADJUDGED AND DECREED, and the Chancellor doth by virtue of the power and authority of this Court hereby ORDER, ADJUDGE AND DECREE:

(1) That the deed of conveyance made by Louis Rayot and Margaret Rayot, his wife, to Barney Hermes, bearing date the 26th day of May, 1913, and recorded in the Office of the Reg-

ister of Bergen county in Liber 849, pages 82 &c. was, so far as the interest of Louis Rayot is concerned in fraud of the creditors of the said Louis Rayot and that such interest as now held by the said Barney Hermes is an equal undivided one-half interest in said lands and premises and that said deed so far as said equal undivided one-half interest in said lands and premises be and the same is hereby set aside, annulled and for nothing holden as against any execution to be issued under this decree.

(2) That the complainant is entitled to an accounting of the rents, issues and profits of said lands and premises collected by the said Barney Hermes from the 26th day of May, 1913, and is entitled to have paid to him one-half of the net amount of said rents, the question as to the disposition of the other one-half of said rents to be reserved until the coming in of the Master's report.

(3) That the complainant is entitled to his costs of this suit to be taxed together with a counsel fee of five hundred dollars to be included in said taxed costs.

(4) That the complainant have execution or executions to carry out the terms of this decree according to the course and practice of this Court.

(5) That the only claims proven in this cause against which the transfer is set aside as hereinbefore adjudged and decreed are the claims of Jacob Ringger which is hereby adjudged and decreed at the sum of $6,645 with interest thereon from the 2d day of January, 1912, making a total of $8,439.15, and of Thomas Henry which is hereby adjudged and decreed at the sum of

$150, with interest thereon from the 2d day of January, 1912, making in all the sum of $190.50.

And it is further ORDERED, ADJUDGED AND DECREED that it be referred to Frank P. McDermott, Esq., one of the Special Masters of this Court:

(1) To take testimony, ascertain and report on the amount of rents received from the whole of said premises since the 26th day of May, 1913, as well as the disbursements made out of the same for taxes and other purposes in keeping down liens and the preservation and protection of the premises and of the propriety of the same and the allowance or disallowance thereof.

(2) To take testimony, ascertain and report on the amount of moneys or other contribution by way of labor and materials contributed by the defendant, Louis Rayot, toward the erection of said buildings, the total cost thereof and who, if anyone other than the said Louis Rayot contributed in money, labor or materials towards said erections, the extent to which said lands were enhanced in value by such erections and the relative value of said lands and buildings, the time when such contributions were made and the several amounts.

And it is further ORDERED, ADJUDGED AND DECREED that unless the defendants, shall within thirty days after service upon them of a copy of this decree, which need not be certified and of the taxed bill of costs pay to the complainant, or his solicitor, the amount due to him upon the claims of Jacob Ringger and of Thomas Henry, to wit, the sum of $8,629.65 together with interest from the date hereof and the taxed costs of this suit, then application may be made with-

out notice for execution, executions or other process to enforce the provisions of this decree and the course and practice of this Court.

And it is further ORDERED that Emil Schuman be and he is hereby appointed Receiver of the said lands and premises to collect the rents, issues and profits thereof pending the further order of this Court with all the powers of a receiver usual in such cases, to account as this Court shall hereafter direct, and that the defendants be and the same are hereby restrained from collecting any rents, issues and profits; and the said receiver shall before entering upon the discharge of his duty give a bond to the Chancellor for the faithful performance of his duties in the sum of one thousand dollars, to be approved by any Special Master of this Court, and shall have the power to use such moneys as may be necessary to pay accruing taxes, water rents, assessments and interest.

And it is further ORDERED that this cause be retained for such further proceedings, order and decree as may be necessary to carry out the intent hereof, and that the complainant may at any time make application on the foot of this decree for such relief as may be proper.

E. R. WALKER,
C.

Respectfully advised,

JOHN GRIFFIN,
V. C.

A True Copy

ROBERT H. MCADAMS,
Clerk.