

*BILL*

(Filed Oct. 15, 1915.)

10

## IN CHANCERY OF NEW JERSEY

TO HIS HONOR, EDWIN ROBERT WALKER, CHANCELLOR  
OF THE STATE OF NEW JERSEY:

Complaining, shows unto your Honor your orator, First National Bank of Houtzdale, a corporation doing business at Houtzdale, Pennsylvania, under and by virtue of a charter issued by the Government of the United States in accordance with the statutes of the United States:

1. That on September 28, 1915, your orator recovered judgment in the New Jersey Supreme Court against Thomas B. Parker for the sum of \$13,273.10 damages and \$36.65 costs of suit as by the record of said judgment or a certified copy thereof when produced will more fully appear: that on September 28, 1915, your orator caused to be issued and delivered to the sheriff of the County of Camden, an execution in the usual form, directed to the said Sheriff, thereby commanding him to satisfy the said judgment out of the goods and chattels of the said Thomas B. Parker in this county, and if sufficient goods and chattels of the said

Thomas B. Parker could not be found, then out of the lands and tenements of the said Thomas B. Parker whereof he was seized on September 28, 1915, the day of the entering the said judgment or at any time afterwards, and that the said execution was, before the delivery thereof, recorded, and was duly endorsed with the direction to said Sheriff to levy for \$13,273.10 damages and 36.65 costs, with interest thereon from September 28, 1915, besides Sheriff's execution fees.

10 2. That said Sheriff duly made return to said execution that said defendant had no goods or chattels, land, tenements or real estate within his county whereof to make said execution mentioned or any part thereof.

3. That said judgment so recovered still remains in full force and effect, not satisfied or in any manner vacated, and that there is now due and unpaid on said judgment the sum of \$13,309.75 with interest thereon from September 28, 1915, besides Sheriff execution fees of \$3.50.

20 4. That on or about the thirty-first day of July, eighteen hundred and ninety-one, the said Helen Parker, mother of said Thomas B. Parker, did grant and convey unto the Camden Safe Deposit and Trust Company, a corporation of the State of New Jersey, certain bonds, mortgages, securities and property in said deed mentioned and the schedule thereto annexed fully mentioned and set forth, of the value of many thousands of dollars, in trust to invest, re-invest and keep invested the said estate and property; to collect and receive the interest,  
30 income and profits thereof and to pay the same to the said Thomas Bertram Parker, as in and by the said deed specifically set forth; which said deed was duly recorded in the Office of the Register of Deeds of Camden County, in Book 226, of Deeds, page 230, &c., as by reference thereto will more fully appear. A copy of said deed is

annexed hereto and marked Exhibit A.

5. That on or about the sixth day of July, nineteen hundred and one, the said Helen Parker and Thomas Bertram Parker, did make and execute another deed to said Camden Safe Deposit & Trust Company, which said deed was recorded in the Office of the Register of Deeds of Camden County in Book No. 255 of Deeds, page 346, &c., as by reference thereto will more fully appear, (a copy of which is hereto annexed and marked Exhibit B) in and by which it was provided that the said Camden Safe Deposit and Trust Company shall take and hold the said securities and property in said first deed mentioned, to invest and re-invest the said estate, and collect the rents, issues and profits thereof and pay same to said Thomas B. Parker. 10

6. That the bonds, mortgages, securities and property so as aforesaid conveyed to the said Camden Safe Deposit and Trust Company were the estate and property of the said Thomas Bertram Parker and of no other person or persons whomsoever, and your orator charges that the said trust was created out of the property and estate of said Thomas Bertram Parker for his own use and benefit, and not by or for any other person whomsoever. 20

7. That on or about the twenty-second day of September, nineteen hundred and one, the said Helen Parker died, leaving her surviving as her next of kin, her only child, the said defendant Thomas Bertram Parker; that said Helen Parker first made and executed her last will and testament, which was duly proved in the Office of the Register of Wills of Philadelphia, in the State of Pennsylvania, a copy of which your orator will produce when and where this Honorable Court may direct; that by the terms of said will all of the rest, residue and remainder of the said estate of said Helen Parker was left 30

to said defendant Thomas Bertram Parker; that John F. Joline and J. Penrose Collins were constituted executors of said last will and testament and took upon themselves the administration of the said estate; that in December, 1902, the said executors filed their final account of such administration and were duly discharged; that the said defendant Thomas Bertram Parker, as the only son and next of kin of said Helen Parker is the legal representative of said Helen Parker.

10       8. That it is informed and believes that the said Thomas Bertram Parker has, at the time of the filing of this bill of complaint, debts due to him from solvent and responsible persons, and for which he holds divers securities and evidences to a large amount, and has divers goods, wares, and merchandise or other articles of personal property which belong to him, or in which he is in some way or manner beneficially interested; and that he has equitable interest and things in action of some nature or kind which might or ought to be applied to the pay-  
20 ment of the said judgment of your orator against him; that the said defendant has property, debts and equitable interests, things in action or effects of the value of more than one hundred dollars, exclusive of all prior just claims thereon, which your orator has been unable to reach by execution on its said judgment; and that this suit is not brought by collusion with the said defendant, or with any other persons, or for the purpose of protecting the property or effects of the said defendant against the claims of his other creditors.

30       Complainant is without adequate remedy in the Courts of law and therefore prays:

I.

That a writ of subpoena may issue commanding the

defendants, Thomas Bertram Parker and Camden Safe Deposit & Trust Company to answer this bill of complaint without oath.

## II.

That the securities and properties in said deeds of trust may be decreed to have been the estate and property of the said Thomas Bertram Parker, and said trust be declared null and void as against complainant's judgment. 10

## III.

That the said Camden Safe Deposit and Trust Company be ordered to pay over to complainant from said funds the amount due upon its said judgment, with interest thereon and the costs of this suit, and to apply for that purpose any money or property or debts, choses in action and equitable interests belonging to or held in trust for said Thomas Bertram Parker, and be decreed to make a full and true discovery and disclosure of and concerning said funds and trusts. 20

## IV.

That the defendants be restrained from transferring any property, money or things in action due the said Parker or held in trust for him except when such trust has been created by, or the fund so held in trust have proceeded from some other person than the said defendant Parker, and except such property as is now reserved by law, that the defendant, Camden Safe Deposit and Trust Company be restrained from paying or delivering to the said Parker or any other person or persons any 30

such property, money or thing in action, except as aforesaid.

## V

That complainant may be paid the amount due on his said judgment out of said property, money or things in action, with the exceptions hereinabove stated, as may be discovered by these proceedings.

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## VI

That said Thomas Bertram Parker be ordered to appear and make discovery concerning this property and things in action as aforesaid before a Master of this Court.

## VII

That a Receiver be appointed with the usual powers and duties of Receivers in like cases, of all said property and things in action of said defendant, Parker.

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## VIII

Such further and other relief in the premises as the nature of the case may require.

JOHN D. McMULLIN,  
Solicitor for and of Counsel with Complainant.

## EXHIBIT A. (ALSO C 1).

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THIS INDENTURE, made this thirty-first day of July, in the year of our Lord one thousand eight hundred and ninety-one, between Helen Parker, of the City and County of Philadelphia, in the State of Pennsylvania, of the first part, and the Camden Safe Deposit and Trust

Company a corporation and body politic, created by and existing under the laws of the State of New Jersey, located and doing business at the City of Camden, in the State of New Jersey, of the second part.

WHEREAS the said Helen Parker is desirous of securing to her son, Thomas Bertram Parker, the payment of a certain money for his own use, benefit and behoof, and for that purpose has set apart the securities, bonds and mortgages mentioned in the schedule hereto annexed, and decided to assign, transfer and set over the same to a trustee, to hold for the said Thomas Bertram Parker, as hereinafter stated, to collect the interest and income arising therefrom, to invest and re-invest the same, and after deducting all taxes, charges and expenses of this trust, to pay the interest and income then remaining to the said Thomas Bertram Parker, in equal quarterly payments during his natural life, and after his death to pay the corpus of the said estate as hereinafter directed. 10

AND WHEREAS the Camden Safe Deposit and Trust Company has consented to accept said trust, receive said securities, collect the interest and income arising therefrom, keep said estate fully invested, and after deducting said taxes and proper costs and charges, to pay such interest and income to the said Thomas Bertram Parker during his natural life, and after his death, assign, transfer and set over all said estate and all interest then remaining due and unpaid thereon, as hereinafter directed. 20

NOW THIS INDENTURE WITNESSES that the said Helen Parker for the purposes aforesaid and for and in consideration of the natural love and affection which she bears for her son, hath assigned, transferred and set over and by these presents doth assign, transfer and set over unto the said Camden Safe Deposit & Trust 30

Company, its successors and assigns, the securities, bond and mortgages, particularly set forth in the schedule hereto annexed and all interest and income due and to grow due thereon; in trust nevertheless, to invest, re-invest, and keep invested all said real estate and property; to collect and receive all the income, interest, profits thereof, and after deducting therefrom all taxes, charges and expenses incurred in the execution of this trust, to pay said interest and income in equal, quarterly

10 payment to the said Thomas Bertram Parker for and during the term of his natural life, for his sole and separate use, and so that the same shall not be liable to or for his debts and contracts, or for debts and contracts or under the control of any other person, and for immediately after his death to assign, transfer and set over the said trust hereby created and all interest and income remaining due and unpaid thereon to such person or persons, and for such uses, intents and purposes as the said Thomas Bertram Parker shall, by last will and testa-

20 ment in writing, or in writing in the nature of a last will and testament, executed in the presence of two witnesses order, direct and appoint, and in default of such last will or writing in the nature thereof, then to assign, transfer and set over and pay the same to the said Helen Parker, if living, freed and discharged from the trust, but if the said Helen Parker shall have departed this life before the death of the said Thomas Bertram Parker, then to assign, transfer and pay the same to such person or persons, and for such uses and estates as the said Helen Parker shall

30 by her last will, or writing in the nature thereof, executed in the presence of two or more witnesses order, direct and appoint, and in default of such will, or writing in the nature thereof, then to assign, transfer and pay the same to such person or persons as under the interstate laws of the State of Pennsylvania would be entitled

thereto as part of the estate of said Thomas Bertram Parker.

PROVIDED, however, that said Thomas Bertram Parker may at any time during the continuance of the trust hereby created, by and with the consent of his mother, the said Helen Parker, if living, to be expressed by joining with him, in a proper deed of revocation, annul, revoke and make absolutely void, the said trust and cause the bonds, mortgages, securities and property comprising the same to be forthwith assigned, transferred and set over to the said Thomas Bertram Parker, or to the said Helen Parker, or to such other person or persons, and for such uses, intents and purposes as they, by said deed or revocation, or writing in the nature thereof, shall order, direct and appoint, and after the death of the said Helen Parker the said Thomas Bertram Parker, may by a proper deed of revocation, under his hand and seal, alter, revoke, or make absolutely null and void the said trust and cause the said bonds, mortgages, securities and moneys comprising the same to be assigned, transferred and paid to him, or to such persons or person, and for such uses, intents and purposes as he by such deed shall order, direct and appoint, and provided further, that the said Camden Safe Deposit and Trust Company, shall during the continuance of this trust, invest all moneys, re-invest and keep invested the same in first bond and mortgage on real estate worth at least double the amount of such mortgage, or in such lawful securities as are sanctioned by the law of the State of New Jersey for the investment of trust funds, and to hold the same upon the same trusts, and to, for and with the same like trusts, intents and purposes, and with the like powers and authority as are herein and hereby granted, and upon the termination of said trust, will forthwith assign, transfer, set over and pay the securities,

property and moneys comprising said trust estate as herein provided.

IN WITNESS WHEREOF the said Helen Parker hath hereunto set her hand and seal the day and year first above written.

HELEN PARKER (Seal)

10 Signed, sealed and delivered in  
the presence of  
George Reynolds.

STATE OF NEW JERSEY, }  
COUNTY OF CAMDEN, } ss:

20 Be it remembered that on this Thirty-first day of July, in the year of our Lord one thousand eight hundred and ninety-one, before me the subscriber, George Reynolds, Master in Chancery of New Jersey, personally appeared Helen Parker, who I am satisfied is the person named in and who executed the above indenture of conveyance, and the contents thereof having been by me first made known to her, she acknowledged that she signed, sealed and delivered the same as her voluntary act and deed and all of which is hereby certified.

GEORGE REYNOLDS,  
M. C. C. of N. J.

30 Schedule of bonds and mortgages, transferred to and transferred and comprising the trust estate created by the above deed.

Bond and mortgage, dated April 9, 1879, made by Miller H. Wilbur & ux, to the Chancellor of the State of New Jersey, on the premises in the Township of Upper Freehold, Monmouth County, New Jersey, recorded in

the Monmouth County Clerk's Office in Book G, of Mortgages, page 284, etc., to secure \$10,000, there being now due 7959, Bond mortgage, dated October 8, 1881, made by Catherine J. Wilson, & vir. to the Chancellor of the State of New Jersey, on premises in the City of Trenton, Mercer County, recorded in Mercer County Clerk's office in Book 43 of Mortgages, page 178, etc., \$4000. Bond and mortgage, dated March 31st, 1883, made by William W. Conover & ux, to the Chancellor of the State of New Jersey, on premises in the City of Trenton, Mercer County, New Jersey, recorded in the Clerk's Office of said County in Book Z. of Mtgs., page 399, etc., for \$19000, reduced to \$15000. Bond and mortgage dated April 26, 1870, made by William L. Hutchinson & ux. & al. to Peter P. Barrett, and duly assigned by him to the Chancellor of the State of New Jersey, on premises in the City of Trenton, Mercer County, N. J., and recorded in the Clerk's office of said County in Book W of Mortgages, page 462, etc., for \$10,000, now reduced to 7,500. Bond and mortgage, dated February 15, 1865, made by William L. Hutchinson & ux. & al. to Eliza M. Maynard, and duly assigned by her to the Chancellor of the State of New Jersey, on premises in the City of Trenton, Mercer County, N. J. and duly recorded in the Clerk's office of the said County, in Book P of Mortgages, page 571, etc., 2500. Bond and mortgage, dated May 2, 1887, made by Joseph H. Voorhees, & ux. to the Chancellor of the State of New Jersey, on premises in the Township of Montgomery, Somerset County, New Jersey, and recorded in the Clerk's office of said County, in Book E. C. of Mortgages, page 488, etc., 5500. Bond and mortgage of Martha A. Harker and Joseph Harker her husband, to the Chancellor of the State of New Jersey, dated May 1st, 1888 on premises in the Township of Westhampton,

- County of Burlington, State of New Jersey, and recorded in the Clerk's office of said County, in Book M 3 of Mortgages, page 342, etc., 4000; Bond and mortgages, dated July 31, 1888, made by Sarah Weller, et als, to the Chancellor of the State of New Jersey, on premises in the City of Trenton, Mercer County, and recorded in the Clerk's office of said County, in Book No. 71 of Mortgages, page 205, etc., 12,000. Bond and mortgage, dated March 21, 1882, made by Christopher Wentz & ux. to Samuel M.
- 10 Dickensen, and duly assigned by him to the Chancellor of the State of New Jersey, on premises in the City of Trenton, Mercer County, New Jersey, in Book No. 44 of Mortgages page 199 etc., 4000. Bonds and mortgage, dated Nov. 22, 1876, made by William E. Crowell & ux. to the Chancellor of the State of New Jersey on premises in the Township of Raritan, Middlesex County, N. J. and recorded in the Clerk's office of said County, in Book No. 69 of Mortgages, page 90, etc. 6000. Bond and mortgages, dated July 17, 1889, made by Horace H. Norton
- 20 & ux, to the Chancellor of the State of New Jersey, on premises in the City of Trenton, Mercer County, N. J., and duly recorded in the Office of the Clerk of said County, in Book 76 of Mortgages, page 503, etc., 2000. Bond and mortgage, dated Dec. 1st, 1884, made by Austin M. Walton to the Chancellor of the State of New Jersey, on premises in the Township of Ewing, Mercer County, New Jersey, and duly recorded in the Clerk's office of said County, in Book No. 50 of Mtgs. page 555, etc.. to secure \$8000, now reduced to 7000. Bond and mortgage,
- 30 dated March 21, 1885, made by Thomas D. Terhune & ux. to Ference Forrest, and duly assigned to the Chancellor of the State of New Jersey, on premises in the Township of Hopewell, Mercer County, and recorded in the Clerk's Office of said County, in Book 52 of Mtges. page 59, etc., to secure \$2800, now reduced to 2600.

Bond and mortgage, dated September 1, 1890, made by George W. Price & ux. to the Chancellor of the State of New Jersey, on premises in the Township of Hamilton, Mercer County, N. J., and duly recorded in the Clerk's Office of said County, in Book 81 of mortgages, page 325, etc., for 2500. Bond and mortgage, dated July 29, 1886, made by William C. Traphagan & ux. to the Chancellor of the State of New Jersey, on premises in the Township of Franklin, Somerset County, N. J., recorded in the Clerk's Office of said County, in Book D No. 3, of Mortgages, page 279, etc., for \$6500. Bond and mortgage, dated May 28th, 1890, made by Patrick Fitzgibbon & ux. and Philip D. Crisp & ux. to the Chancellor of the State of New Jersey, on premises in the City of Trenton, Mercer County, New Jersey, and duly recorded in the Clerk's Office of said County, in Book No. 80 of Mtgs., page 271, etc., for 18000. Bond and mortgage, dated Jan. 25, 1889, made by Sarah J. Dyer and John V. Dyer, to Charlotte Mass, executrix, and by her duly assigned to the City of Trenton, Mercer County, N.J., and duly recorded in the Clerk's Office of said County, in Book No. 77 of Mtgs. page 51, etc., for 4000. Bond and mortgage dated April 30th, 1883, made by Aaron Harker to the Chancellor of the State of New Jersey, on premises in the Township of Southampton, Burlington County, N. J., and duly recorded in the Clerk's office of said County in Book E 3 of Mtgs. page 41, etc. \$7500. All of the above bonds and mortgages have been regularly and duly assigned to the said Helen Parker. The Camden Safe Deposit and Trust Company, the grantee mentioned in the above deed hereby accepts the trust created by said deed and acknowledges that it has received the securities and trust estate mentioned and set forth in the above schedule. 30

IN WITNESS WHEREOF the said Camden Safe Deposit and Trust Company hath caused its common or corporate seal to be hereto affixed and attested by its proper officers.

Dated August 1st, 1891.

PETER L. VOORHEES, (Seal)  
President.

Attest:  
WM. STILES, Secy.

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Signed, sealed and delivered in the presence of

WM. STILES,  
GEORGE W. WAKEFIELD.

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Recorded December 17th, 1897  
at 1.45 by Jacob Sickler,  
Register.

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(EXHIBIT B; ALSO C 2)

THIS INDENTURE, made this sixth day of July, in the year of Our Lord one thousand nine hundred and one

By and between Helen Parker of the City of Philadelphia, in the State of Pennsylvania, of the first part and Thomas Bertram Parker of the City and State aforesaid of the second part, and Camden Safe Deposit & Trust Company, a corporation and body politic created by and existing under the laws of the State of New Jersey, located and doing business in the City and County of

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Camden in said State of New Jersey, of the third part.

WITNESSETH, that whereas, the said Helen Parker in and by her deed bearing date the thirty-first day of July, A. D. eighteen hundred and ninety-one recorded in the office of the Register of Deeds of the County of Camden in Book No. 226, of Deeds, page 230, &c. did grant and convey unto the said Camden Safe Deposit and Trust Company certain bonds, mortgages, securities and property in the said deed mentioned and the schedule thereto annexed fully mentioned and set forth. 10  
In Trust Nevertheless to invest, re-invest and keep invested the said estate and property, to collect and receive the interest, income and profits thereof and to pay the same to the said Thomas Bertram Parker, as in and by the said deed specifically set forth.

AND WHEREAS the said deed contains among other things the following condition: "That the said Thomas Bertram Parker may at any time during the constitution of the trust hereby created, by and with the consent of his mother, the said Helen Parker, if living, 20  
to be expressed by joining with him a proper deed of revocation annul, revoke and make absolutely void the said trust and cause the bonds, mortgage, securities and property comprising the same, to be forthwith assigned, transferred and set over to the said Thomas Bertram Parker; or to the said Helen Parker or to such other persons and for such uses, uses and intents as they, by said deed of revocation or writing in the nature thereof shall order, direct and appoint, and the said Thomas Bertram Parker after the death of his mother may alter, revoke 30  
and annul the said trusts by deed under his hand and seal duly executed."

AND WHEREAS the said Thomas Bertram Parker is desirous of securing from the said trust estate the sum of eight thousand one hundred Dollars freed and

discharged from the said trust; and the said Helen Parker is willing and desirous that the said sum of money, shall be paid to him at this time for his own purposes freed and discharged of the said trust upon the said Thomas Bertram Parker consenting that the said trust shall be made irrevocable for and during the term of his natural life, so that neither the said Helen Parker together with the said Thomas Bertram Parker during their lives nor the said Thomas Parker after the decease of the said  
10 Helen Parker shall have any power or authority to revoke, alter or make void the said trust for and during the term of his natural life.

AND WHEREAS, no contracts or agreements have been entered into by the said Helen Parker, or by the said Thomas Bertram Parker to hamper or prevent the said parties from further extending the said trust, as herein provided.

AND WHEREAS, the Camden Safe Deposit and Trust Company has joined herein to express the assent  
20 to the alteration and further securing the said Thomas Bertram Parker, and its acceptance of the same.

Now this Indenture Witnesses that the said Thomas Bertram Parker and the said Helen Parker hereby alter, revoke and annul the said trust to the extent of the sum of Eight thousand one hundred dollars above mentioned, and hereby direct and authorize and empower the Camden Safe Deposit and Trust Company, Trustee as aforesaid to pay to the said Thomas Bertram Parker of and from the trust estate aforesaid the sum of eight thousand  
30 one hundred dollars for his own purposes freed and discharged of the said trust, and for and in consideration of the premises and for the better and more permanently securing the moneys so intended to be secured by the said deed of trust to the said Thomas Bertram Parker for and during the term of his natural life and for permitting

the said trustee to pay to the said Thomas Bertram Parker the sum of eight thousand one hundred dollars for his own purposes freed and discharged of the said trust and for other good and sufficient causes and consideration them thereto moving and under the advice of Counsel, learned in law do hereby for themselves and each of them give up and waive any and all right and power which they or either of them had or could have had by virtue of the aforesaid deed of trust or revoke, alter, annul or make void the same or any part thereof, 10  
or to receive the mortgages, moneys, securities and property therein mentioned or to direct the transfer of the same to themselves or to any other person or persons freed and discharged of the said trust for and during the lifetime of the said Thomas Bertram Parker and do hereby severally covenant solemnly promise and agree that they will not alter or attempt to alter, revoke, or annul the said trust during the lifetime of the said Thomas Bertram Parker and do further covenant and agree by and with the Camden Safe Deposit and Trust Company, Trustee 20  
as aforesaid, that the trusts as set forth in the said deed as to the balance of the said trust estate remaining in its hands shall remain irrevocable and unaltered during the lifetime of the said Thomas Bertram Parker, except as far as they are altered or changed by this writing which is only intended to revoke so much of the said trust as above mentioned, to wit; the sum of Eight thousand one hundred dollars and to preclude and prevent the said Helen Parker and the said Thomas Bertram Parker from changing, altering or revoking the same during the life- 30  
time of the said Thomas Bertram Parker, and they and each of them do further re-affirm and re-execute and declare the trusts set forth in the said deed except as the same may be altered as aforesaid.

IN WITNESS WHEREOF, the said Thomas Bertram Parker and the said Helen Parker have hereunto set their hands and seals, and the Camden Safe Deposit and Trust Company hath hereunto set its common or corporate seal attested by its proper officer. Dated the day and year aforesaid.

10	SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF	EPHRAIM TOMLINSON, GEO. W. WAKEFIELD	}	HELEN PARKER (Seal)
				T. B. PARKER (Seal)
				CAMDEN SAFE DEPOSIT AND TRUST COMPANY.
				WILLIAM C. DAYTON, President.

Attest:

GEO W. WAKEFIELD,  
Secretary.

20 STATE OF NEW JERSEY, }  
CAMDEN COUNTY. } SS:

Be it remembered that on this Sixth day of July, A. D. nineteen hundred and one, before me a Commissioner of Deeds of New Jersey, personally appeared Helen Parker and Thomas Bertram Parker who I am satisfied are the persons named in and who executed the within deed or conveyance, and I having first made known to them the contents thereof, they did each acknowledge that they signed, sealed and delivered the same as and for their voluntary act and deed. All of which is hereby certified.

EPHRAIM TOMLINSON,  
Commissioner of Deeds of N. J.

STATE OF NEW JERSEY, }  
CAMDEN COUNTY. } SS:

Be it remembered that on this eighth day of July, in the Year of Our Lord one thousand nine hundred and one, before me a Master in Chancery of New Jersey personally appeared George W. Wakefield, who being by me duly sworn, on his oath saith that he is the Secretary of Camden Safe Deposit and Trust Company the corporation named in the within deed or conveyance, and that William C. Dayton is President; that deponent knows the common or corporate seal of said corporation, and that the seal annexed to the within deed or conveyance is such common or corporate seal: that the said deed or conveyance was signed by the said President and the seal of said corporation affixed thereto in the presence of deponent; that the said deed or conveyance was signed, sealed and delivered as and for the voluntary act and deed of said grantor for the uses and purposes therein expressed pursuant to a resolution of the Board of Directors of said corporation; and at the execution thereof this deponent subscribed his name thereto as witness.

GEORGE W. WAKEFIELD.

Sworn and subscribed the  
day and year aforesaid

S. H. GREY  
M. C. C.

ANSWER

(Filed Nov. 27, 1915.)

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IN CHANCERY OF NEW JERSEY.

Between  
FIRST NATIONAL BANK OF  
HOUTZDALE,

Complainant,

AND

THOMAS BERTRAM PARKER,  
ET AL.,

20

Defendants

ON BILL &C.

ANSWER

The answer of Camden Safe Deposit and Trust Company, one of the defendants in the above stated cause, to the bill of complaint of the complainant therein.

This defendant answering says, that it is not advised save by the complainant's bill of complaint, as to any judgment of the complainant in the above stated cause against Thomas B. Parker, one of the defendants in this cause, or as to the amount thereof or as to the issuing of any execution thereon or as to any return thereof or as to whether said judgment still remains in full force or effect, or as to any amount if any, remaining due thereon at this time, but leaves the said complainant to prove the same as it may be advised.

And this defendant further answering denies that the said Thomas B. Parker or one Helen Parker his mother, did by deed bearing date the thirty-first day of July, A. D. eighteen hundred and ninety-one, and recorded in the office of the Register of Deeds of Camden County in book No. 226 of Deeds, page 230 &c., grant and convey unto this defendant, certain bonds and mortgages and other property as mentioned and set forth in said bill of complaint; this defendant expressly alleges and charges the facts and truth to be that on the day and 10 year last aforesaid, the said Helen Parker mentioned in the said bill of complaint and mother of the said Thomas B. Parker, one of the defendants in this cause, by deed bearing the day and year aforesaid and recorded in the Register of Deeds Office of Camden County in book 226 of Deeds, page 230 &c., in consideration of the natural love and affection which she bore for her said son, Thomas B. Parker, did grant and convey unto this answering defendant, certain bonds and mortgages, securities, &c., in said deed particularly mentioned and set 20 forth by a schedule thereto annexed, and upon certain trusts and conditions therein specifically set forth and that said properties were to be held by this defendant as aforesaid for the sole benefit of her son, Thomas B. Parker, during his natural life and upon his death, the corpus thereof to be for the benefit of certain other persons in said deed mentioned and referred to as in and by the said deed in the possession of this defendant and ready to be produced, will more fully and at large appear.

And this defendant further answering says that the 30 said deed last above mentioned, contained inter alia, a provision and power of revocation of the same by the said Thomas B. Parker, the beneficiary thereof, and one of the defendants in this cause, but that said power of revocation could be exercised only by and with the consent of

his mother, the said Helen Parker, the sole creator of said trust and that the said Helen Parker afterwards on or about the sixth day of July, A. D. nineteen hundred and one, by deed under her hand and seal, consented to the exercise of said power of revocation by her said son, Thomas B. Parker to the extent however, of eight thousand one hundred dollars of the corpus of said trust fund so established by the deed first above mentioned and that the said Thomas B. Parker in consideration of such consent of his said mother to said revocation and the payment to him out of the corpus of the said sum, of the sum of eight thousand one hundred dollars, did by the said deed last above mentioned, surrender and yield up forever, thereafter his right and privilege to revoke, change or alter the said trusts or trust deed first above mentioned during the lifetime of him, the said Thomas B. Parker; that the said Helen Parker and Thomas B. Parker and each of them did therein and thereby reaffirm, re-execute and declare the trusts set forth in the said deed first above mentioned, as in and by the said deed of revocation in the possession of this defendant and ready to be produced, will more fully and at large appear.

And this defendant further answering says that all the estate and property in the hands of this defendant as trustee under the above deed or deeds for the said Thomas B. Parker were transferred to this defendant as such trustee by the said Helen Parker and by no other person or persons. And this defendant is not informed or advised that the estate and property aforesaid was not the property of Helen Parker nor is it informed or advised, save by the complainant's said bill of complaint, that the same is the property of Thomas B. Parker, but leaves the complainant to prove the same as it may be advised.

And this defendant further answering says that this defendant neither admits nor denies but leaves the complainant to such proofs as it may be advised, that on or about the twenty-second day of September, nineteen hundred and one, said Helen Parker died leaving her surviving as her next of kin, her only child the said defendant Thomas Bertram Parker; that said Helen Parker made and executed her last will and testament which was duly proved in the office of the Register of Wills in the City of Philadelphia in the State of Pennsylvania; that by the terms of said will, all of the rest, residue and remainder of the estate of the said Helen Parker was left to said defendant, Thomas Bertram Parker; that John F. Joline and J. Penrose Collins were constituted executors of said last will and testament and took upon themselves the administration of said estate; that in December, nineteen hundred and two the said executors filed their final account of such administration and were duly discharged; that the said defendant, Thomas Bertram Parker as the only son and next of kin of said Helen Parker is the legal representative of said Helen Parker deceased.

And this defendant further answering says that it is not informed save by the complainant's bill of complaint, as to any indebtedness owing by the said Thomas B. Parker or as to any resources or assets which he has or may have or which he is or may be interested in other than those in the possession of this defendant.

And this defendant further answering says that this suit is brought by the complainant in collusion with the said Thomas B. Parker for the purpose of annulling said trust deed or deeds. And this defendant charges that any indebtedness owing by the said Thomas Bertram Parker, to the said complainant, was incurred with the full knowledge by the said complainant of the existence of the said trust deed or deeds above mentioned and subject thereto.

That notwithstanding that a judgment may have been entered in the New Jersey Supreme Court in favor of the complainant against the said Thomas Bertram Parker, that this defendant is not a party thereto; that the amount for which judgment was so entered was not really and honestly due to the plaintiff therein by a much lesser amount and that a large portion of the amount claimed therein was usury and that said judgment was entered for the sole purpose of making it appear that the  
 10 whole debt claimed was really due the plaintiff therein; and was entered by collusion and fraud and in pursuance of a fraudulent scheme entered into between the said complainant and said Thomas Bertram Parker to give the complainant the appearance of being a creditor of the said Thomas Bertram Parker for the amount of said judgment and to that extent to obtain for the use of said complainant and said Thomas Bertram Parker a portion of the estate in trust by this defendant, and is collusive and void as against this defendant, and that the full  
 20 amount of said judgment is not due the said complainant.

All of which matters and things this defendant stands ready to maintain, verify and prove when and where this honorable Court may direct and prays to be hence dismissed with its reasonable costs and charges in its behalf most wrongfully sustained.

GEORGE J. BERGEN,

Sol'r for and of counsel with Camden Safe Deposit and Trust Company, one of the Defendants.

30 (Seal) CAMDEN SAFE DEPOSIT & TRUST COMPANY,  
 by EPHRAIM TOMLINSON,  
 2nd Vice President.

Attest:

JOSEPH LIPPINCOTT,  
 Sec'y.

STATE OF NEW JERSEY, }  
CAMDEN COUNTY. } ss:

The answer of the defendant, the Camden Safe Deposit and Trust Company, was taken this twenty-sixth day of November, in the year one thousand nine hundred and fifteen, before me under the common seal of said corporation as by its said seal thereto affixed appears.

JAMES O. McADAMS, 10  
Atty. at Law of New Jersey.



DECREE PRO CON.

(Filed Dec. 3, 1915)

IN CHANCERY OF NEW JERSEY

Between FIRST NATIONAL BANK OF HOUTZDALE,  Complainant,  AND THOMAS BERTRAM PARKER, ET ALS.,  Defendants	}	10  DECREE PRO CONFESSO.
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This cause being opened to the Court, by John D. McMullin, Solicitor for Complainant, and it appearing that process of subpoena for the defendant, Thomas Bertram Parker to appear and answer complainants' bill has been duly issued and served upon him, and that the said defendant has not appeared and pleaded, answered or demurred to the said bill within the time limited by law, or at any other time, but that he has wholly neglected and failed so to do.

IT IS thereupon, upon this 3rd day of December, 1915, on motion of John D. McMullin, solicitor for complainant, ORDERED AND DECREED that the complainant's bill be and the same is hereby taken as confessed against the said defendant, Thomas Bertram Parker, to the end that such decree may be made against him as to the Chancellor shall seem equitable and just.

E. R. WALKER,

C.





Mr. McMullin: I will offer in evidence certificate from the Clerk of the Supreme Court as to a judgment against Thomas B. Parker in favor of the complainant here, entered September 28th, 1915, for \$13,309.75, and also to the effect that execution has been issued on this judgment and returned *nulla bona*.

The Vice Chancellor: Have you any objection to the certificate, Mr. Bergen?  
10

Mr. Bergen: Well, I do not suppose it is evidence but technicalities I won't object to.

(Said paper marked Exhibit C 1.)

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JOSEPH A. DELATE, a witness produced in behalf of the complainant, being duly sworn according to law,  
20 on his oath says—

By Mr. McMullin:

Q. What is your position in the Clerk in Chancery office?

A. Junior Docket Clerk in Chancery.

Q. At my request have you produced the files in the case of John Brown Parker and others, executors, against Johnston Moore and others?

30 A. I have.

By Mr. Bergen:

Q. What file number is that,—and docket?

A. That is Docket 5, page 748.

Mr. Bergen: Is that offered in evidence?

Mr. McMullin: The file is not. I am going to offer certain papers.

By Mr. McMullin:

Q. Is there among the files a petition of Thomas Bertram Parker, filed July 29th, 1891?

10

A. Yes.

Q. Produce that, please. Do you find such paper among the files?

A. No, sir.

Q. Do you find a decree made on such petition?

A. No, sir.

Q. Do you find a master's report which was filed July 29th, 1891?

A. Not among the files.

Q. Do you find a paper purporting to be a power of attorney signed by Parker—

20

A. No, sir.

Q. —to Peter V. Voorhees?

A. No, sir.

Q. Or a paper being a list of mortgages assigned by the Chancellor to Thomas B. Parker?

A. No, sir.

Mr. McMullin: If the court please, these papers were all in the files and three times when this case has been tried before these papers have been produced. Now<sup>30</sup> all the papers have come down from Trenton with the exception of these four or five papers. I think counsel will probably agree that those papers are in the files and may be offered in evidence the same as though produced. We have agreed that the testimony taken in the prior

cases may be used in this case to the same extent as though taken here.

Mr. Bergen: Well, I do not doubt that it is a mere oversight in mislaying the papers, and I have no objection to the court saying that counsel can produce these papers.

The Vice Chancellor: I do not know whether this court will have a right to accept such stipulations. It may  
10 accept them so far as the parties present are represented, but how can Mr. Parker be bound by such a stipulation? Are you not bound to prove your case strictly against him?

Mr. McMullin: I should say not, sir, because we have taken a decree pro confesso against him.

The Vice Chancellor: The decree pro confesso entitles you to proceed ex parte against him; a decree pro  
20 confesso in equity goes no further than that; it does not dispense with the necessity of proofs.

Mr. McMullin: May we proceed with our case, sir, and produce those papers later?

Mr. Bergen: That was all that I intended to agree to, as merely a matter of convenience. I do not think that in this case the trustee is in a position to make any admissions.  
30

The Vice Chancellor: I do not think you could make any admissions—

Mr. Bergen: Nor do I propose to make any. I think the case ought to be strictly proved.

The Vice Chancellor: —to bind Mr. Parker, I do not think you could. I think that it is probably the duty of the court to require strict proofs as against Mr. Parker, especially in view of the issue which is presented charging a combination upon the part of the complainant and Mr. Parker to render this court and the complainant instruments of convenience and relief for Mr. Parker. If there is any such charge, or even suspicion,—and I confess that there is such a suspicion, however unfounded it may be,—I think strict proof ought to be required. Not 10 only that but, in reading over these pleadings and recalling that this is the third or fourth or fifth time that this same complainant has been before this court with judgments which it is sought to have paid out of this trust fund, I have wondered whether this court might not have a duty to even institute in its own behalf investigation as to why it is that this particular bank is, apparently, at least, so often made the instrument of Mr. Parker to relieve himself against his own trust agreement. I only make those suggestions now in connection with the pres- 20 ent situation, where the files do not appear to be here and where counsel might be inclined to stipulate their contents by reason of their having been here before. I have no doubt of the existence of these files or of what they contain, because I have seen them and examined them in the former cases, and in the first case, the original case, I examined them carefully, and I know in a way exactly what they contain, and I think that for convenience you might perhaps proceed on the assumption that they are here, but I think at the same time we ought to carefully 30 avoid in this case taking anything for granted or dispensing with the necessity of proofs as against the defaulting defendant, Mr. Parker. Do you recall, Mr. Bergen, what these papers which are not here this morn-

ing are and what they contain? I do in a general way but only in a general way.

Mr. Bergen: I do not think that I have ever seen those particular papers. I think that the effect of those papers was this: There was an estate in the hands of the Chancellor consisting of certain mortgages referred to in these papers, investments or securities, and the defendant Parker upon his becoming of age became entitled to  
10 the absolute custody of those securities, and that he thereupon executed a deed of assignment of these various securities to Helen Parker who executed the trust upon which the Camden Safe Deposit & Trust Company is now acting as trustee. I think the papers do probably show—I am led to believe that because the court has so found it heretofore—that the very securities which now compose this estate proceeded from the Court of Chancery.

The Vice Chancellor: That is essentially my re-  
20 collection of the exhibits. When they were first offered I examined them very carefully and critically and they clearly disclosed that this property which is now in the trust, the securities which were turned over to the trustee, originally were securities belonging to defendant Parker, and that when they were turned over to him he simultaneously, as I then held, or as a part of the same transaction put the title to them in the name of his mother. I do not recall at this moment whether they were turned over to him and conveyed by him to his mother or  
30 whether he made a transfer before he received the securities and his mother received them, but in any event the three transactions were all one, namely, the transfers of the securities from defendant Parker to his mother, the execution of a deed of trust by his mother in his favor and the delivery of the securities by the Clerk in

Chancery either directly to his mother or to him and by him to his mother and thence to the trustee. That trust, as I recall it, had a power of revocation in his behalf with the consent of his mother only, did it not.

Mr. Bergen: Yes.

The Vice Chancellor: And then subsequently, in consideration of his mother consenting to a withdrawal of a portion of the principal of the trust fund for Mr. Parker, he executed another declaration whereby he waived the right of revocation as to the remainder of the fund. Is not that substantially what occurred? 10

Mr. McMullin: Yes, sir.

The Vice Chancellor: So the only question now is how far shall we go for convenience, to save the necessity of going over these old proofs that we have already gone over with exactly the same parties before the court,—precisely the same parties, were they not? 20

Mr. McMullin: Yes, sir.

Mr. Bergen: Yes, sir.

The Vice Chancellor: I cannot see any real necessity of postponing the case for the purpose of having the rest of the files brought down. They have been here several times already, and always in suits brought by this complainant against these same defendants, and several times—I cannot remember how many—decrees have been made on exactly the same pleadings, excepting that the issue of collusion, I think, now is made for the first time, or was it made before? 30

Mr. McMullin: Made in each case,—that is, it was made in the last case, too, wasn't it?

The Vice Chancellor: I do not recall that. How many times has this complainant procured judgment against this defendant?

Mr. McMullin: I think this is the fourth time.

10 The Vice Chancellor: This is the fourth time the complainant has come into this court with a similar bill?

Mr. McMullin: Yes.

The Vice Chancellor: Three times prior to this?

Mr. McMullin: Yes.

The Vice Chancellor: I will, unless the counsel ob-  
20 ject, consider these files as offered, and if necessary they can be sent down later. It does not seem to me that we ought to put ourselves to inconvenience for the sake of Mr. Parker.

Mr. McMullin: They were sent for and it is an oversight of the clerk in not sending them.

By Mr. McMullin:

30 Q. Have you the files in First National Bank of Houtzdale against Parker?

A. Yes, sir.

Q. Docket 31, page 511?

A. Yes, sir.

Q. Is there in those files a copy of the testimony and depositions of Parker?

A. Yes, sir.

Q. Taken in that case?

A. Yes, sir.

Q. Will you produce it?

A. (Witness complies).

The Vice Chancellor: I think, Mr. McMullin, we have pretty nearly reached the limit of stipulation. 10

Mr. McMullin: If the court please, I do not propose to do any more than offer the depositions of Parker himself taken in that case.

The Vice Chancellor: They will be evidence against him, perhaps, as far as they go.

Mr. Bergen: I do not think, if your Honor please, that I ought to stipulate anything that will permit evidence to be produced in this case except according to the strict rules of law. 20

The Vice Chancellor: Well, I think these may be offered, Mr. Bergen, unless you wish the stenographer's notes produced, as declarations against interest and only to that extent.

(Said transcript of proceedings of February 28th, 1910, marked exhibit C 2). 30

Mr. Bergen: If your Honor please, they may be declarations against interest, and yet it seems to me there is some question whether they are against interest or not, in view of the fact that it seems to be the desire of this

man Parker to accomplish the breaking of this trust.

The Vice Chancellor: Yes, I am a little inclined to think they are very much in interest but I will let them be filed.

Mr. McMullin: I have heard considerable about the intention of Parker. It would have been the easiest thing in the world, if counsel so desired, to have examined  
10 Parker. He lives in Philadelphia, and has lived in the same place ever since they have been trustee. They did examine the bank, my client, by interrogatories and have the answers to the interrogatories here. I think these averments of collusion or suspicion had better be in some way proven instead of talked about.

The Vice Chancellor: This is not so much a question of collusion now; it is a question of whether or not these declarations are against interest.

20

Mr. McMullin: Counsel agreed that this testimony should be offered in evidence, as a matter of fact; that is the reason I did not come prepared with any other testimony.

The Vice Chancellor: Let them be filed for whatever they are worth. I will consider all the circumstances of the case together.

30

No Cross-Examination.

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EPHRAIM TOMLINSON, alleging himself conscientiously scrupulous of taking an oath, being duly affirmed according to law, upon his solemn affirmation saith—

By Mr. McMullin:

Q. Mr. Tomlinson, are you the Trust Officer of the Camden Safe Deposit & Trust Company?

A. I am.

Q. As such Trust Officer have you in your possession the deed of trust for Thomas B. Parker?

A. I have a copy here (producing paper).

Q. Is that a copy of the original?

A. That is the copy of the original. The original <sup>10</sup> will be here in a few minutes.

Q. Have you a supplemental deed of trust given by Thomas B. Parker and Helen Parker?

A. Yes.

Q. To the Trust Company?

A. Yes.

Mr. McMullin: I offer these two papers in evidence.

20

(Said the original deed of trust marked exhibit C 3, and said supplemental deed of trust marked exhibit C 4.)

Q. Do you hold any securities in this trust at the present time, Mr. Tomlinson?

A. Oh, yes.

Q. More than \$13,000 worth?

A. Yes.

Q. What is the amount? Do you know?

A. The principal today is \$102,645.94, according <sup>30</sup> to the face value of the securities.

Q. What is the general nature of the securities?

A. Mostly mortgages.

Q. Do you know whether or not any of those mortgages are the same as originally came into the hands

of the Trust Company under this deed of trust?

A. A few.

Q. And the balance are the proceeds of those securities?

A. I think they could all be traceable to the fund that came originally under the original declaration of trust.

No Cross-Examination.

10

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Mr. McMullin: If the court please, that is my case.

The Vice Chancellor: I will hear you, Mr. Bergen.

Mr. Bergen: Well, I offer in evidence a certified copy of a record of the judgment by First National Bank of Houtzdale, Pa., against Thomas B. Parker, entered in  
20 the New Jersey Supreme Court September 28th, 1915, for \$13,273.10 damages and \$36.65 costs, total \$13,309.75.

The Vice Chancellor: Does that record show how service was made?

Mr. Bergen: That record is a complete record of the whole case, of all the papers in it. It contains an exemplified copy of the record of the judgment which was  
30 obtained in Pennsylvania. It seems that this judgment in New Jersey was based on a judgment obtained in Pennsylvania. It contains a copy of that record.

The Vice Chancellor: Does it show how service was made?

Mr. Bergen: And it shows that service in New Jersey——

The Vice Chancellor: No, in Pennsylvania.

Mr. Bergen: Mr. McMullin tells me that it was on a judgment note, so that no actual service on the defendant in Pennsylvania was required. He lives in Pennsylvania, doesn't he?

10

Mr. McMullin: Yes.

The Vice Chancellor: I am not familiar with the Pennsylvania proceedings for entering judgment on a judgment note but there must be some proofs of some kind required there in the form of affidavits. Do they form a part of that record?

Mr. Bergen: Yes. Of the Pennsylvania record?

20

The Vice Chancellor: Yes.

Mr. Bergen: Yes. Now, the New Jersey judgment was entered on the exemplification of a record from Pennsylvania. The exemplification seems to begin in this manner: "Philadelphia County, State of Pennsylvania," &c., (reading record; to be inserted).

Mr. McMullin: What is the attorney's name on that?

30

Mr. Bergen: John D. McMullin, Moorestown, N. J.

Mr. McMullin: No, in the Philadelphia proceeding

that you have just been reading. John H. Minds isn't it?

Mr. Bergen: Well, John H. Minds is the attorney.

Mr. McMullin: Yes.

Mr. Bergen: His name appears there, but it does not appear, so far as I see, as attorney, it may be attorney, though. Now, the exemplification of the record was entered in this suit in New Jersey, and the summons—  
10 your Honor asked how it was served in New Jersey. The summons and complaint annexed, with a notice to make a defense, appears to have been served by Joshua C. Haines, by James E. Hewitt, under sheriff. His certificate is duly annexed. It reads: "Duly served the within summons and complaint September 16th, A. D. 1915, on  
20 Thomas B. Parker personally, at the Ridgway Hotel, southeast corner of Market and Delaware avenue, Camden City, County of Camden, N. J. Joshua C. Haines, Sheriff, by James E. Hewitt, Under Sheriff" I offer this certified copy of judgment and proceedings in the Supreme Court in evidence.

(Said paper marked exhibit D 1).

Mr. Bergen: Now, if your Honor please, in this case I served interrogatories under the statute passed in 1915 on the defendant and received answers thereto. I  
30 will read the interrogatories and the answers and offer them in evidence.

The Vice Chancellor: These were served by the defendant, you mean?

Mr. Bergen: Yes, by the defendant Camden Safe Deposit & Trust Company on the complainant, the Houtzdale Bank.

(Interrogatories read by Mr. Bergen and answers read by Mr. McMullin).

(Said interrogatories marked Exhibit D 2 and answers thereto marked Exhibit D 3).

10

The Vice Chancellor: Now, Mr. Bergen, I think you ought to introduce by the way of evidence, unless counsel can stipulate, the facts of the entire litigation.

Mr. Bergen. I was going to do that. I asked the Clerk to bring those files down here.

Mr. McMullin: I am willing to stipulate that there were four suits, this is the fourth suit.

20

The Vice Chancellor: By the same bank?

Mr. McMullin: By the same bank against the same defendant and this Trust Company to set aside this trust on judgments.

The Vice Chancellor: And that all of them were based upon money loaned in Pennsylvania on judgment notes?

30

Mr. McMullin: I imagine they were all judgment notes?

The Vice Chancellor: Well, it cannot be made a stipulation if you are not certain of it, but the suits were

on judgments procured in Pennsylvania?

Mr. McMullin: Yes, on paper discounted by the bank for Parker.

The Vice Chancellor: Yes, and judgments entered in New Jersey on the Pennsylvania judgments, and bill filed by this same complainant in each case based upon the New Jersey judgments for application of these same  
10 trust funds to the payment of the judgments, and that this is the fourth case of that nature by this same bank?

Mr. McMullin: Yes, this is the fourth, and, further that they are all of about the same size.

The Vice Chancellor: Let it also appear—I don't know that it is necessary but it may as well—that the files in this case show that service was made on Parker personally in the same manner that it was made upon him  
20 in the Supreme Court suit, namely at the Hotel Ridgway, at the foot of Market street, Camden. That already appears by the files but it may as well be spread on the record. Now, these stipulations are essentially correct and agreed to by counsel on both sides, are they?

Mr. Bergen: I think they are correct. I thought for certainty, as we have the files here, I would put in evidence the bill and decree in each one of these cases.

30 The Vice Chancellor: Suppose you do that in order to make the proofs more accurate as to time.

---

JOSEPH A. DELATE, recalled.

By Mr. Bergen:

Q. Now, have you there the files in First National Bank of Houtzdale against Parker where in a decree was entered June 14th, 1910?

A. Yes, sir.

The Vice Chancellor. That is the first one, is it? 10

Q. That is the first one, is it?

A. Yes, sir.

Q. Will you produce the bill, answer and the decree?

A. Yes (producing papers).

Mr. Bergen: I offer the bill, answer and decree.

By the Vice Chancellor:

20

Q. What is the file number of that case?

A. Docket 31, page 511.

The Vice Chancellor: The original files need not be marked. You can identify them by the file number and they may be called an exhibit of defendant but not marked.

Mr. Bergen: Now, just for information, the decree<sup>30</sup> in this case, dated June 14th, 1910, is that the Camden Safe Deposit & Trust Company pay over to the complainants, or their solicitor, from the fund in its hands the amount due upon the complainants' judgments, that is to say, to First National Bank of Houtzdale the sum of

\$9,513.71, with lawful interest from May 15th, 1909, amounting to \$614.89, making in all \$10,128.60, and that the bank pay over to the complainant John J. Duffy—I don't know who he was—the sum of \$3,755.61, with interest from May 15th, 1909, amounting to \$243.50, making in all \$3,999.11, and that the complainant pay out of said fund the costs, &c.

The Vice Chancellor: The files in that case disclose  
10 that service was made on the defendant, Thomas Bertram Parker, personally, August 11th, 1909, but does not state where.

Mr. Bergen: By the Sheriff of Camden County.

The Vice Chancellor: Yes, but does not that state at what place, and that Mr. Parker defaulted.

By Mr. Bergen:

20

Q. Now, will you produce the files in the next case of the First National Bank of Houtzdale, in which the decree was entered February 19th, 1912?

A. (Witness complies).

Mr. Bergen: I would like to offer the subpoena in that other case.

The Vice Chancellor: I think I would make an of-  
30 fer of all the files, Mr. Bergen, because you might want to use them in case there is ever any question about the decision in this case, it might become essential to have all the files.

Mr. Bergen: I offer in evidence the whole file in the

previous case mentioned and the files in the case which is now produced.

Mr. McMullin: You had better identify each one by docket and page number.

Mr. Bergen: To wit, Docket 31, page 511.

(Said file considered marked exhibit D 4).

10

Mr. Bergen: Now, I offer in evidence file Docket 34|333, First National Bank of Houtzdale vs. Parker, and I call attention to the fact that the decree directs the defendant Camden Safe Deposit & Trust Company, as trustee, to pay to the First National Bank of Houtzdale the amount due upon its judgment, to wit the sum of \$12,499.98, with lawful interest from October 25th, 1911, amounting to \$239.58, making in all \$12,739.56, and the costs of the complainant and defendant, and I also call attention to the fact that the subpoena was actually served 20 on December 14th, 1911, on Thomas Bertram Parker personally.

The Vice Chancellor: In Camden.

Mr. Bergen: By the Sheriff of the County of Camden.

(Said file considered marked exhibit D 5).

30

Q. Now, will you produce the file in First National Bank of Houtzdale vs. Parker, Docket 38, page 211?

A. Yes, sir (producing papers).

Mr. Bergen: I offer in evidence this file.

(Said file considered marked exhibit D 6).

Mr. Bergen: I call the attention to the decree which bears date September 21st, 1914, and directs the defendant Camden Safe Deposit & Trust Company, as trustee in this same matter, to pay to the complainant Houtzdale Bank from said fund in its hands under said deeds the amount due on complainant's judgment, that is to say, to the First National Bank of Houtzdale, Pa., the sum of  
10 \$13,311.27 damages and costs, together with the sum of \$6.50 costs of execution, with interest on said sums from the 23d day of May, 1914, until paid, and also pay the costs of the complainant and the defendant trust company. I call attention, also to the fact, if your Honor please, that in all of these decrees the solicitor of the complainant was allowed a counsel fee.

The Vice Chancellor: How was the subpoena served in this present case?

20

Mr. Bergen: The subpoena in this case was served June 11th, 1914, on Thomas B. Parker, personally, by the Sheriff of the County of Camden.

No Cross-Examination.

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30 EPHRAIM TOMLINSON, recalled.

By Mr. Bergen:

Q. Mr. Tomlinson, you know Thomas Bertram Parker?

A. Yes.

Q. As Trust Officer you have had occasion to meet him coming into your bank on many occasions?

A. Frequently, very frequently.

Q. Where does he live?

A. Philadelphia.

Q. How long has he lived there?

A. I would suppose all his life, certainly ever since I have been Trust Officer and ever since I have had any connection with the bank.

10

By the Vice Chancellor:

Q. Well, as long as prior to 1910?

A. Yes, sir.

Q. You in the management of this trust pay him, I suppose, periodical income?

A. Yes.

Q. From the trust fund?

A. Yes.

Q. Does he come for it in person?

20

A. Generally.

Q. Do you know anything about him?

A. I know him generally but not intimately, not sufficiently to tell very much of his habits, my views would be largely from inference.

Q. Did you ever have any conversation with him relating to the circumstance that on these various occasions you have been compelled to pay out the principal?

A. Not directly but through Mr. Kirkpatrick, my assistant, we have warned him of the necessity of restricting his expenses, as the trust was gradually depreciating. I might suggest, as a matter of inference in regard to one of your previous questions, that his income or should be amply sufficient for his needs. I think that he is improvident.

30

Q. But you never suggested to him that he is accomplishing indirectly through the First National Bank of Houtzdale in these transactions what he could not accomplish directly?

A. I have not, because I considered it would be useless.

No Cross-Examination.

10 The Vice Chancellor: I would like to hear you, Mr. McMullin, on this legal proposition: What is the difference in equity between Mr. Parker, the cestui que trust, demanding from and receiving from his trustee, the defendant trust company, the principal of this fund, and going to the complainant bank, the First National Bank of Houtzdale, every two years and borrowing from that bank from ten to twelve thousand dollars on his individual paper, when that bank, by reason of its previous loans, knows and necessarily knows that the only possi-  
20 bility of repayment is from the principal of this fund which Mr. Parker cannot touch personally? In other words, from an equitable point of view, does not Mr. Parker, in view of the previous conduct and experience of the complainant bank, essentially give to this bank an order on this fund in borrowing from it these various money?

Mr. McMullin: Where is the difference between  
30 Parker going to this bank, this bank knowing that Parker is good and they can collect, not knowing what he does with his money, knowing that his notes have been paid,— what is the difference between Parker borrowing this money from this bank, between the bank loaning him this money, and Parker going to various banks and trust companies or individuals and borrowing it?

The Vice Chancellor: Because the bank officials know when they loan him the money that they are making themselves a mere agency to enable Mr. Parker to take from the Camden Safe Deposit and Trust Company, his trustee, what he could not take in any other way.

Mr. McMullin: Not necessarily. It is not shown that they know that this money is not subsequently paid back to the trust company, for that matter. Of course, that is rather absurd, I do not suppose they would imagine 10 that, but it does not follow that they could not get the money in another way, and there is absolutely nothing to show collusion here.

The Vice Chancellor: Well, when on three successive occasions, namely, in 1910, 1912 and 1914, Mr. Parker has borrowed on the dates named, respectively, ten thousand, twelve thousand and thirteen thousand dollars in the same manner, and on each occasion the bank has been obliged to resort for the collection of the 20 loans to the same method now pursued, namely, a judgment in New Jersey, personal service upon Mr. Parker out of his own state, in the New Jersey law suit,— service which it is reasonably apparent is made possible by Mr. Parker for the convenience of the bank,— then a bill in equity in New Jersey identical with the present bill with personal service on Mr. Parker procured in the same way, is not the bank chargeable with knowledge of circumstances that make it impossible to escape the conclu- 30 sion that when they make the fourth loan in the same manner they are simply making themselves the instrument for Mr. Parker to accomplish indirectly what he cannot accomplish directly?

(Argument by counsel).

The Vice Chancellor: I think I would like to have counsel study this proposition and reduce their views to writing. There is only one question now involved. The complainant is clearly entitled to a decree unless it should be denied a decree by reason of the equitable circumstances which we have had under discussion. If there is any difference between Mr. Parker reaching his hand into this fund personally and unaided and reaching his hand into the fund through the medium of the complainant, who knows that Mr. Parker could not do it unaided, I would like to see the difference clearly defined. If a distinction can be drawn between this transaction between Parker and complainant bank and a mere order by Parker given to the bank on the trust funds I would like to see that distinction pointed out. Of course there is a difference in form, but is there any inherent difference from an equitable viewpoint? I will ask counsel, if they will be good enough to do so, to submit briefs. Mr. Bergen, I suppose you would be the party with the affirmative of the negative proposition; serve your brief on Mr. McMullin and let him reply to it.

---

### CONCLUSION

LEAMING, v. C.

At the hearing I expressed a doubt whether complainant was entitled to equitable relief. After an examination of the briefs which have been since filed and a further consideration of the case I have reached the conclusion that complainant is not entitled to relief.

By a former decree of this court in a suit in which the same parties and the same trust were before this

court it was determined that the trust assets here in question were conveyed by defendant Parker to defendant trust company in trust for Parker's own use to protect the property so conveyed from his future creditors. The conveyance was made to the trust company by Parker through an intermediary, but the assets conveyed were Parker's assets and were by him placed in the hands of the intermediary for the obvious purposes of having the trust appear to emanate from another person. In that litigation complainant became fully appraised of the fact that the trust was void only as to bona fide creditors of Parker's and that Parker could not in his own behalf recover from the trust company the principal of the trust funds. The three subsequent loans made by complainant to Parker and the proceedings taken in each instance by complainant for recovery from the trust company of the money so loaned render it impossible to escape the conclusion that in making the loan here in question complainant deliberately and knowingly constituted itself an agency to enable Parker to regain control of his property. The circumstance that complainant actually advanced money and sought to make a profit for itself is immaterial; the practical status which complainant has deliberately assumed is that of a permanent conduit between Parker and the trust company from which Parker may draw funds at pleasure; complainant has constituted itself a creditor for the sole and definite purpose of appropriating to itself the superior benefits of that status, creditors rights which appeal to equitable protection are of an inherently different quality. There is no direct testimony that complainant and Parker expressly stipulated that the money should be advanced to him and with his aid collected from the trust funds in the manner that had been pursued on the three previous occasions, but it is impossible to doubt that the transaction included such an

understanding. I am fully convinced that this court cannot be properly made the involuntary machinery for carrying out an arrangement of that nature for the ultimate benefit of Parker.

In *Ruckman vs. Conover*, 37 N. J. Eq., 583, our court of errors and appeals, in a creditor suit to subject to the lien of the creditor's judgment property of the judgment debtor which had been fraudulently placed in the name of another person, said: "When a person has  
10 so placed his property in the name of another for this purpose, he cannot invoke the aid of the court, either directly or indirectly, to recover the control of the property or direct the disposition of it in any form. And whenever it appears that the object of a suitor, under the guise of a creditor's bill, is to aid the fraudulent disposer to regain the control of his property, the court will refuse its assistance." *Winans vs. Groves*, 43 N. J. Eq., 262, is to the same effect. It is probably true that in the present  
20 suit the recovery at this time is sought for the sole benefit of complainant; but it is impossible to view the transaction which is made the basis of this suit as other than a mere advance to Parker to be repaid out of the trust funds in the manner now urged.

I will advise a decree dismissing the bill.

---

Determined: March 28, 1916.

STIPULATION

NEW JERSEY COURT OF ERRORS  
AND APPEALS

10

Between  
FIRST NATIONAL BANK OF  
HOUTZDALE,

Appellant,

AND

THOMAS B. PARKER AND CAM-  
DEN SAFE DEPOSIT AND  
TRUST COMPANY,

Respondent.

STIPULATION.

20

It is stipulated and agreed between John D. Mc-  
Mullin, Solicitor for Appellant, and George J. Bergen,  
Solicitor for Camden Safe Deposit and Trust Company,  
Respondent, as follows:

That the record of the Court of Chancery in the fol-  
lowing cases: 30

John Brown Parker, et al., Executors, Complain-  
ants, and Johnston Moore, Defendant, Docket 5, page  
748:

First National Bank of Houtzdale, Complainants,  
and Thomas B. Parker, and Camden Safe Deposit and

Trust Company, Defendant, Docket 31, page 511: except the opinion and decree.

First National Bank of Houtzdale, Complainant, and Thomas B. Parker, and Camden Safe Deposit and Trust Company, Defendant, Docket 34, page 333: except the opinion and decree.

10 First National Bank of Houtzdale, Complainant, and Thomas B. Parker, and Camden Safe Deposit and Trust Company, Defendant, Docket 38, page 211: except the decree (there being no opinion) all of which records were offered in evidence in the present case, need not be printed at length, and in lieu thereof Counsel agree subject to the stipulations hereinafter set forth that such records and exhibits disclose the following facts:

That Thomas Bertram Parker, Defendant in the present case, was a ward of the Court of Chancery in the proceeding of John Brown Parker, et als., vs. Johnston Moore.

20 That on July 29, 1891, said Parker became of age, and on that date filed a petition and a Power of Attorney to Peter V. Voorhees, his counsel, whereon a decree was made that certain mortgages standing in the name of the Chancellor in said proceeding, aggregating in excess of \$150,000.00, be assigned to said Thomas B. Parker, as his individual property, and such assignments were thereupon made on July 31, 1891. That on the same day said Thomas B. Parker assigned said mortgages unto his mother, Helen Parker, who immediately made a deed of trust of said mortgages unto the Camden Safe Deposit and Trust Company, Trustee, which deed of trust was 30 offered in evidence as "Exhibit C 3."

That on the sixth day of July, 1901, said Thomas B. Parker and Helen Parker, his mother, made a supplemental deed of trust, which was offered in evidence marked "Exhibit C 4."

That the securities passing to the Camden Safe Deposit and Trust Company, Trustee, under these two deeds of trust, were the same as those which were decreed to be turned over to Thomas B. Parker by the Court of Chancery on July 29, 1891, in the case of Parker vs. Moore, above referred to, and the fund belonging to said trust, now in the hands of said Trustee, is the fruits of said mortgages.

That said Helen Parker died on or about September 22, 1901, leaving surviving her one child, the said defendant, Thomas B. Parker, having made her will, duly proven, by which she left her entire estate unto the said Thomas B. Parker. 10

That First National Bank of Houtzdale obtained a decree of the Court of Chancery on June 14, 1910, directing the Camden Safe Deposit and Trust Company to pay it from the funds in its hands under this trust, the sum of \$10,128.60, the amount due upon a judgment of the Supreme Court of the State of New Jersey obtained by it against Parker. 20

That First National Bank of Houtzdale obtained a decree of the Court of Chancery on February 19, 1912, directing the Camden Safe Deposit and Trust Company to pay it from the funds in its hands under this trust, the sum of \$12,739.56, the amount due upon a judgment of the Supreme Court of the State of New Jersey obtained by it against Parker.

That First National Bank of Houtzdale obtained a decree of the Court of Chancery on September 21, 1914, directing the Camden Safe Deposit and Trust Company to pay it from the funds in its hands under this trust, the sum of \$13,311.27, the amount due upon a judgment of the Supreme Court of the State of New Jersey obtained by it against Parker. 30

That the present proceeding is brought upon a judg-

ment of the Supreme Court of the State of New Jersey for \$13,309.75.

That in each of the above four cases judgment was obtained by the Bank against Parker in Pennsylvania, by virtue of warrant to confess judgment contained in a judgment note, a transcript of the judgment was sued on in the New Jersey Supreme Court, personal service in this State made upon Parker, who has always been a resident of Philadelphia, judgment by default against him  
 10 entered, execution issued and returned unsatisfied, a Bill in Chancery for discovery and in aid of execution filed, process thereon served upon Parker in this State and the Camden Safe Deposit and Trust Company, Trustee, decree pro confesso entered against Parker, and an Answer filed by the Trust Company.

That this stipulation is made for the purpose of condensing the record in this case for convenience of the Court and counsel and saving useless expense of printing.

20 That the facts herein set forth are prima facie, and for this appear only, assumed to be true, but in case either party considers that error or omission has been made, or in case it should be so desired, either by the Court, or by either party to this stipulation, neither party shall be bound by the facts above stated, and the appellant shall forthwith cause any part or parts of the above mentioned records to be printed as part of the record in this case.

30 JOHN D. McMULLIN,  
 Solicitor for Appellant.  
 GEORGE J. BERGEN,  
 Solicitor for Respondent.

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INTERROGATORIES

---

IN CHANCERY OF NEW JERSEY.

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<p>Between</p> <p>FIRST NATIONAL BANK OF HOUTZDALE,</p> <p style="text-align: right;">Complainant.</p> <p style="text-align: center;">AND</p> <p>THOMAS BERTRAM PARKER, ET AL.,</p> <p style="text-align: right;">Defendants</p>	}	<p>ON BILL &amp;C.</p> <p>INTERROGATORIES.</p>	<p>10</p> <p>20</p>
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To JOHN D. McMULLIN, Esq.  
Solicitor of Complainant.

SIR: PLEASE TAKE NOTICE, That we demand that within ten days from the day of service hereof you cause answers to the following interrogatories to be made under the oath of the complainant and that you cause the same to be served upon us within the said time. 30

*First Interrogatory.*

What was the consideration of the judgment against Thomas B. Parker mentioned in the bill of complaint in this cause?

*Interrogatories.**Second Interrogatory.*

What part thereof was actually received by Parker personally in cash?

*Third Interrogatory.*

Was any part thereof received by any other person or persons?

*Fourth Interrogatory.*

10 If so, state who they were and their addresses.

*Fifth Interrogatory.*

What sums did they receive and when?

*Sixth Interrogatory.*

In what manner were the payments made?

*Seventh Interrogatory.*

If paid by checks, give dates thereof.

20

*Eighth Interrogatory.*

By whom were the checks issued?

*Ninth Interrogatory.*

To whom were they delivered?

*Tenth Interrogatory.*

On what banking institution were they drawn?

30

*Eleventh Interrogatory.*

When were they cashed?

*Twelfth Interrogatory.*

To whose order were they drawn?

*Thirteenth Interrogatory.*

By whom were they endorsed?

*Fourteenth Interrogatory.*

What were the respective amounts thereof?

*Fifteenth Interrogatory.*

If not paid by checks, state the particulars of the 10  
payments made, to whom, by whom, when, where and  
the respective amounts.

*Sixteenth Interrogatory.*

What officer or officers of the complainant has  
knowledge of the transactions with Parker respecting  
the consideration of said judgment?

*Seventeenth Interrogatory.*

Did you receive any written evidence of the debt 20  
sued on?

*Eighteenth Interrogatory.*

What were the general terms of such written docu-  
ments, if such were given.

*Nineteenth Interrogatory.*

What was the amount to be paid by the debtor as 30  
provided in such written documents?

*Twentieth Interrogatory.*

Were any payments made on account by the debtor?  
If so, state when and in what amounts.

*Twenty-first Interrogatory.*

State in full the transaction between the defendant Parker and the complainant, whereby Parker became indebted to the complainant in the amount for which the judgment mentioned in the bill of complaint was rendered against him.

Dated Jan. 3, 1916.

10

Your respectfully,

GEORGE J. BERGEN,  
Solicitor of Defendant, Camden Safe  
Deposit and Trust Company, Trustee, &c.

ANSWERS TO INTERROGATORIES

IN CHANCERY OF NEW JERSEY.

10

Between  
THE FIRST NATIONAL BANK  
OF HOUTZDALE,  
Complainant,  
AND  
THOMAS BERTRAM PARKER,  
ET AL.,

ON BILL, ETC.  
ANSWERS TO INTERROGATORIES OF CAMDEN SAFE DEPOSIT AND TRUST COMPANY,  
Defendant.

20

In answer to the *First Interrogatory* complainant says:

A loan of Twelve Thousand Dollars was made by Complainant to said Parker on October 28, 1914, for which said Parker gave to Complainant his judgment note, payable in six months; otherwise similar in all details to the note sued upon in Philadelphia. On April 27, 1915, said Parker gave Complainant the note sued upon as aforesaid and the note of October 28, 1914, was returned to said Parker.

In answer to the *Second Interrogatory* complainant says:

The entire amount of Twelve Thousand Dollars was, on October 28, 1914, credited by Complainant to the checking account of said Parker with Complainant, to which account the sum of Three hundred and sixty Dollars, discount on said note for six months, was charged, and the balance remained to the credit of said Parker with this Complainant.

10

In answer to the *Third Interrogatory* complainant says:

No.

In answer to the *Fourth Interrogatory* complainant says:

No.

In answer to the *Fifth Interrogatory* complainant says:

No.

In answer to the *Sixth Interrogatory* complainant says:

By checks of said Parker and orders by him.

In answer to the *Seventh Interrogatory* complainant says:

Parker's checks against this account were paid by this bank as follows:

On	\$5000.00
On	\$5000.00

30

In answer to the *Eighth Interrogatory* complainant says:

The checks were issued by said Thomas B. Parker.

In answer to the *Ninth Interrogatory* complainant says:

Complainant has no knowledge, as the checks have been returned to Parker.

In answer to the *Tenth Interrogatory* complainant says:

On Complainant.

10

In answer to the *Eleventh Interrogatory* complainant says:

This interrogatory is answered by the answer to the seventh interrogatory.

In answer to the *Twelfth Interrogatory* complainant says:

Complainant has no knowledge.

In answer to the *Thirteenth Interrogatory* complainant says:

Complainant has no knowledge.

20

In answer to the *Fourteenth Interrogatory* complainant says:

This interrogatory is fully answered in the answer to the seventh interrogatory.

In answer to the *Fifteenth Interrogatory* complainant says:

In addition to said checks Complainant, by order of Parker, on October 28, 1914, charged said account with Three hundred and sixty Dollars, six months discount on the original note as aforesaid.

30

In answer to the *Sixteenth Interrogatory* complainant says:

The deponent, George W. Ganoe, Cashier.

In answer to the *Seventeenth Interrogatory* complainant says:

Yes.

In answer to the *Eighteenth Interrogatory* complainant says:

The first note was as set forth in the answer to the first interrogatory. Copy of the second note, being the one sued on, is as follows:

\$12,000.00

April 27, 1915.

Three months after date I promise to Pay to the order of First National Bank of Houtzdale, Pa., Twelve thousand .....00|100 Dollars, without defalcation, value received, with interest. And further I do hereby authorize and empower any Attorney of any Court of Record of Pennsylvania, or elsewhere, to appear for and to enter Judgment against me for the above sum, with or without declaration, with costs of suit, release of errors, without stay of execution, and with eight per cent. added for collecting fees; and I also waive the right of inquisition on any real estate that may be levied upon to collect this note, and do hereby voluntarily condemn the same, and authorize the Prothonotary to enter upon the Fi. Fa. my said voluntary condemnation, and I further agree that said real estate may be sold on a Fi. Fa., and I hereby waive and release all relief from any and all appraisalment, stay, or exemption laws of any State, now in force, or hereafter to be passed.

WITNESS

GARFIELD SCOTT

THOMAS B. PARKER (L.S.)

Revenue Stamps \$2.40.

In answer to the *Nineteenth Interrogatory* complainant says:

This interrogatory is fully answered in the answer to the eighteenth interrogatory.

In answer to the *Twentieth Interrogatory* complainant says:

None, excepting its discount above set forth.

In answer to the *Twenty-First Interrogatory* complainant says:

This Complainant, being a National Bank, on October 28, 1914, discounted for said Parker his judgment note for Twelve thousand Dollars in the usual course of business, credited said note to the checking account of said Parker, charging the same day against the account the sum of Three hundred and sixty Dollars, six months discount thereon. The full amount of this note was deposited to Parker's credit, subject to his check, and checks were drawn by him on his account as above set forth, and there remained at the beginning of this action to his credit in this bank, subject to his check, the balance of the proceeds of said note, less checks and discount aforesaid. On April 27, 1915, Defendant, Parker, gave Complainant a new note for the same amount, payable in three months, and the original note of October 28, 1914, was thereupon returned to him. This renewal note was not paid when due. Judgment upon it was obtained in the Common Pleas Court of Philadelphia county, later judgment obtained upon said judgment by Complainant in the Supreme Court of the State of New Jersey, execution issued and returned unsatisfied, all of which appears from the record in the Supreme Court of

New Jersey, which is specifically referred to in the Bill of Complaint filed in this cause.

FIRST NATIONAL BANK OF HOUTZDALE  
By GEO. W. GANOE, Cashier.

STATE OF PENNSYLVANIA, }  
10 COUNTY OF CENTRE, } ss.

Before me, the subscriber, a Notary Public in and for the State of Pennsylvania and County of personally came George W. Ganoe, who being duly sworn according to law, deposes and says that he is the Cashier of First National Bank of Houtzdale, Pa., and is its agent duly authorized to make this affidavit, that he is acquainted with the matters and facts set forth in the foregoing answers to interrogatories and that the same  
20 are true.

Sworn to and subscribed }  
before me this 7th day of } GEO. W. GANOE.  
Jan. A. D. 1916. }

M. WARD FLEMING,  
Notary Public.  
Com. exp. March 9, 1919.

*RECORD OF JUDGMENT*

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EXHIBIT D 1.

THE STATE OF NEW JERSEY, 10  
TO THOMAS B. PARKER:

You are summoned to answer the annexed complaint of First National Bank of Houtzdale, Pennsylvania. And take Notice that unless you file your answer to said complaint with the Clerk of the Supreme Court at Trenton within twenty days after service upon you of this writ and the annexed complaint, the plaintiff may proceed in the suit and judgment may be entered against you.

Witness, William S. Gummere, Chief Justice of the 20  
Supreme Court at Trenton this thirteenth day of September, one thousand nine hundred and fifteen.

JNO. D. McMULLIN, WM. C. GEBHARDT,  
Attorney. Clerk.

NEW JERSEY SUPREME COURT.  
CAMDEN COUNTY

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10	FIRST NATIONAL BANK OF HOUTZDALE, PENNSYLVANIA, Plaintiff.	}	ACTION AT LAW. COMPLAINT.
vs.	THOMAS B. PARKER, Defendant.		

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The plaintiff, a corporation under the laws of the  
20 United States, with its place of business at Houtzdale,  
Pennsylvania, says:

1. On September 7, 1915, at Philadelphia, in the  
State of Pennsylvania, the Court of Common Pleas No.  
4, for the County of Philadelphia, in an action therein  
pending as of June Term, 1915, No. 5340, by this plain-  
tiff against this defendant, by its final judgment duly  
adjudged that the defendant should pay to the plaintiff  
the sum of \$13,220.00, together with the sum of \$6.90  
of costs.
- 30 2. The defendant has not paid said sum or any  
part thereof.
3. Plaintiff demands \$13,226.90, with interest  
from Sept. 7, 1915.

JNO. D. McMULLIN,  
Attorney for Plaintiff.

TO THE WITHIN NAMED DEFENDANT:

Take notice that if you intend to make a defence to this action you must file an affidavit of merits within ten days after service hereof upon you, and an answer within twenty days from such service; and that in default thereof judgment will be entered against you.

JNO. D. McMULLIN,  
Atty. of Pltff. 10

Duly served the within summons & complaint Sept. 16th, A. D. 1915, on Thomas B. Parker, personally, at the Ridgway Hotel, Southeast corner of Market and Delaware Avenue, Camden City, County of Camden, New Jersey.

JOSHUA C. HAINES, Sheriff,  
By JAMES E. HEWITT,  
Under Sheriff. 20

Sheriff's Fees \$2.65.

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EXEMPLIFICATION

PHILADELPHIA COUNTY, }  
STATE OF PENNSYLVANIA. } SCT.

Among the Records and Proceedings of the Court<sup>30</sup> of Common Pleas, No. 4, for the County of Philadelphia, State of Pennsylvania, the following may be found as matter of File and Record at No. 5340.  
June Term, 1915, to wit:

## DOCKET ENTRIES.

June Term, 1915.

<p>J. H. Minds. 5340. U.S.S.\$2.40</p> <p>10</p>	<p>First National Bank of Houtzdale, Pa. vs. Thomas B. Parker.</p>	<p>Judgt. entered on Single Bill under Seal dated Apr. 27, 1915, for \$12,000.00 pay. threemons. with Int. Costs 8 per cent. for Col. release of errors without stay of Execution, waiv- ing Inquisition &amp; Exemption. Sept. 7, 1915 Judg- ment. Eo Die Dams Assd. \$13,220.00.</p>
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20      2      \$12000      April 27th, 1915.  
Dollars      Three months after date I promise to  
40      pay to the order of First National Bank,  
Cents      Houtzdale, Pa., Twelve Thousand Dollars,  
Revenue      without defalcation, value received, with in-  
Stamps      terest

30      And further I do hereby authorize and  
empower any attorney of any Court of Rec-  
ord of Pennsylvania, or elsewhere, to appear  
for and to enter judgment against me for the above sum,  
with or without declaration, with costs of suit, release  
of errors, without stay of execution, and with eight per  
cent. added for collection fees; and I also waive the  
right of inquisition on any real estate that may be levied  
upon to collect this note, and do hereby voluntarily con-  
demn the same, and authorize the Prothonotary to enter  
upon the Fi. Fa. my said voluntary condemnation, and

I further agree that said estate may be sold on a Fi. Fa. and I hereby waive and release all relief from any and all appraisement, stay or exemption laws of any State, now in force or hereafter to be passed.

Witness, GARFIELD SCOTT. THOMAS B. PARKER, (L.S.)  
..... (L.S.)

(Endorsed)

No. 5340. June T. 1915.

C. P. No. 4.

10

I hereby certify that the precise residence address of the judgment creditor Houtzdale, Clearfield County, Penna.

John H. Minds.

Filed Sept. 7, 1915.

James Orr,

Pro Prothy.

John H. Minds.

20

Atty, Pro Plaintiff.

FIRST NATIONAL BANK,  
HOUTZDALE, PA.

vs.

THOMAS B. PARKER,

C. P. No. 4.  
JUNE TERM, 1915.  
No. 5340.

TO PROTHONOTARY:

30

SIR:

Assess plaintiff's damages sec. reg.

JOHN H. MINDS,

Attorney pro plaintiff.

The Prothonotary assessed the plaintiff's damages as follows:

Amount of Note .....	\$12,000
Interest from April 27, 1915, to September 7, 1915 .....	260.
Attorney's Commission .....	960.
	<hr/>
	\$13,220.

10

JAMES ORR,  
Pro Prothonotary.

(Endorsed)

June Term, 1915.

No. 5340. C. P. No. 4.

First National Bank,

Houtzdale, Pa. vs. Thomas B. Parker.

Assessment of Damages.

20

I hereby certify that the precise residence address of the judgment creditor,

Houtzdale, Pa.

JOHN H. MINDS.

Filed, Sept. 7, 1915.

JAMES ORR,

Pro Prothy.

JOHN H. MINDS.

30

JUDGMENT ROLL.

Whereupon it was considered by our said Court before our said Judges that First National Bank of Houtzdale, Pa., the plaintiff herein, recover of Thomas B.

Parker, the defendant herein, the sum of Thirteen thousand, two hundred & twenty ———00-100 dollars lawful money for their judgment, and also the further sum of Six ———90-100 dollars like money for their costs and charges by them about their suit in that behalf expended, whereof the aforesaid defendant ——— convict as appears of record, &c.

And the defendant in mercy, &c.

10

JUDGMENT RECORD

Defendant.	Plaintiff.	Court.	Term.	No	Attorney.	Date.	Amount
Thomas B. Parker	First Nat. Bank of Houtzdale, Pa.	4	June 1915	5340	D.S.B.	1915 Sept. 7	\$13,220

COSTS.

Philadelphia County .....\$6.90  
 Exemplification ..... 3.00

20

786.

Foreign Certificate.

THE COMMONWEALTH OF PENNSYLVANIA.  
 COUNTY OF PHILADELPHIA, SS:

I, Henry F. Walton, Esquire, Prothonotary of the Courts of Common Pleas of the County of Philadelphia, do certify, that the foregoing is a true copy of the whole Record of the cause wherein (SEAL) First National Bank of Houtzdale, Pa., plain- 30 tiff and Thomas B. Parker, Defendant, of June Term, 1915 Number 5340 as full, entire and complete as the same remains on file in Court of Common Pleas, No. 4 of the County of Philadelphia aforesaid, in the case above stated.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the said Courts, this 9th day of September in the year of our Lord one thousand nine hundred and fifteen (1915.)

HENRY F. WALTON,  
Prothonotary.

COUNTY OF PHILADELPHIA, SS:

10 I, Chas. Y. Audenried, presiding Judge of the Court of Common Pleas, No. 4 for the County of Philadelphia, Do Certify, that the foregoing Record, Certificate and Attestation made by Henry F. Walton, Esquire, Prothonotary of the said Court, whose name is thereunto subscribed, and the seal of the said Court affixed, are in due form and made by the proper officer.

In Testimony Whereof, I have hereunto set my hand this 9th day of September, in the year of our Lord one thousand nine hundred and fifteen (1915).

20 CHAS. Y. AUDENRIED,  
President Judge, Court of  
Common Pleas, No. 4

COUNTY OF PHILADELPHIA, SS:

I, Henry F. Walton, Esquire, Prothonotary of the Courts of Common Pleas of the County of Philadelphia, do Certify, that the Honorable Chas. Y. Audenried, by whom the foregoing certificate and attestation were  
30 made, and whose name is thereto subscribed, was at the time of making thereof and still is, Presiding Judge of the Court of Common Pleas No. 4 of the County of Philadelphia, duly commissioned and sworn; to all whose acts, as such, full faith and credit are and ought to be given, as well in Courts of Judicature as elsewhere.

(SEAL) In Testimony Whereof, I have hereunto  
set my hand and affixed the seal of the said  
Courts, this 9th day of September, in the year  
of our Lord one thousand nine hundred and  
fifteen (1915.)

HENRY F. WALTON, Prothonotary.

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(Endorsed)

10

No. 5340. June T. 1915.

C. P. No. 4.

First National Bank,  
Houtzdale, Pa.,

*vs.*

Thomas B. Parker.

(Endorsed)

New Jersey Supreme Court.

First National Bank, of Houtzdale, Pa.

Plaintiff,

20

*vs.*

Thomas P. Parker,  
Defendant.

Action at Law.

Exemplification of Foreign  
Judgment.

JOHN D. McMULLIN,

Attorney,

Moorestown, N. J.

30

## NEW JERSEY SUPREME COURT.

FIRST NATIONAL BANK OF HOUTZDALE, PA.,  vs. THOMAS B. PARKER,  	}	Plaintiff,  Defendant.	ACTION AT LAW. ASSESSMENT.
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10     The complaint in the above stated cause is founded upon the following particulars of demand, to wit:

Judgment of Court of Common Pleas No. 4 of the County of Philadelphia, State of Pennsylvania, in an action therein pending, as of June Term, 1915, No. 5340, by this plaintiff against this defendant,	\$13,220.00
Together with costs on same	6.90

Total,	13,226.90
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20     (A copy of the proceedings in said Pennsylvania Court as well as of the final judgment therein, duly exemplified in accordance with the Act of Congress, is filed in this cause.)

Interest on same from September 7, 1915, to September 28, 1915, 21 days at \$2.20 per day,	46.20
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Sum due,	13,273.10
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STATE OF NEW JERSEY, ss:

30

I, William C. Gebhardt, Clerk of said Court, having examined the plaintiff's complaint, and the exemplified copy of the record above referred to, and being satisfied that the above statement and calculations are correct, do hereby assess the damages of the plaintiff against the

defendant in the above stated cause at the sum of \$13,-  
273.10, besides costs of this suit to be taxed.

WM. C. GEBHARDT, Clerk.

Sept. 28, 1915.

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NEW JERSEY SUPREME COURT.

FIRST NATIONAL BANK OF HOUTZDALE, PA., <i>vs.</i> THOMAS B. PARKER,	}	ACTION AT LAW. 1915, Sept. 13, Sums. & Com. Camden; served Sept. 16. 1915.	10
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The defendant having failed to appear and defend  
this action within the time allowed by law:—

Judgment by default is entered against him for the  
sum of thirteen thousand two hundred and seventy three  
dollars and ten cents besides costs to be taxed.

Entered September 28, 1915,

On motion of

JOHN D. McMULLIN, Atty. 20

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NEW JERSEY SUPREME COURT.

FIRST NATIONAL BANK OF HOUTZDALE, PA., <i>vs.</i> THOMAS B. PARKER.	}	BY DEFAULT. JOHN D. McMULLIN, Attorney.
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\$13,273.10 36.65 <hr style="width: 50px; margin-left: 0;"/> \$13,309.75	Judgment entered this twenty eighth day of September, A. D. nineteen hundred 30 and fifteen, for the sum of thirteen thousand two hundred and seventy three dollars and ten cents damages and thirty six dollars and sixty five cents costs.
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WM. S. GUMMERE, C. J.

NEW JERSEY SS: THE STATE OF NEW JERSEY to  
our Sheriff of our County of  
Camden,

(SEAL)

GREETING :

We command you that of the  
goods and chattels, rights and  
credits of Thomas B. Parker, defendant, in your County,  
you cause to be made the sum of thirteen thousand three  
hundred and nine dollars and seventy five which to First  
10 National Bank of Houtzdale, Pa., plaintiff, lately in our  
Supreme Court, at Trenton, before the Justices of our  
same Court, for its damages which it has sustained and  
which were adjudged to it an action at law, and also for  
its costs and charges by it about its suit in this behalf  
expended, whereof the said defendant is convicted, as  
appears of record; and if sufficient goods and chattels,  
rights and credits of the said defendant cannot be found  
in your County, whereof the damages aforesaid may be  
made, Then we further command you that you cause the  
20 whole or the residue, as the case may require, of the said  
damages to be made of the lands, tenements, heredita-  
ments and real estate whereof the said defendant was  
seized on the twenty eighth day of September nineteen  
hundrd and fifteen or at any time afterwards, in whose  
hands soever the same may be; and that you have that  
money before our Justices aforesaid, at Trenton afore-  
said, on the first Tuesday in November next, to render  
unto the said plaintiff for its damages aforesaid, and  
have you then and there this writ.

30

Witness, William S. Gummere, Esquire, Chief Jus-  
tice, at Trenton, aforesaid, the twenty eighth day of Sep-  
tember, A. D. nineteen hundred and fifteen.

JOHN D. McMULLIN, Atty. WM. C. GEBHARDT, Clerk.

I, WILLIAM C. GEBHARDT, Clerk of the Supreme Court of the State of New Jersey, do certify that the foregoing is a true copy of the entire proceedings in the above stated cause as the same remains on file in my office.

(SEAL) In testimony whereof I have set my hand and the seal of said Court at Trenton, this sixth day of January, A. D., nineteen hundred and sixteen. 10

WM. C. GEBHARDT, Clerk.

## IN CHANCERY OF NEW JERSEY.

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Between  
 10 THE FIRST NATIONAL BANK  
     OF HOUTZDALE, ET AL.,  
         Complainants,  
         AND  
 THOMAS BERTRAM PARKER,  
     ET AL.,  
         Defendants.

ON BILL &C.  
 FINAL DECREE.

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20 This cause coming on to be heard on the bill of complaint and answer of Camden Safe Deposit and Trust Company, in the presence of Ralph W. E. Donges, Solicitor for complainant and George S. Reynolds, solicitor for defendant Camden Safe Deposit and Trust Company, (no one appearing on behalf of defendant Thomas Bertram Parker, the said bill having been heretofore taken as confessed against him);

And it appearing that the complainant John J. Duffy gave due notice of the filing of his petition and  
 30 application to be admitted as a party complainant; and that he has been regularly admitted as a party complainant;

And it appearing that due notice of the amount of complainants' demands of the settling of this decree has been given to the defendants in this cause;

And it appearing from the proofs taken in this cause that the bonds and mortgages and other property and securities assigned by the defendant Thomas Bertram Parker to Helen Parker, on or about July 29, 1891, and by said Helen Parker conveyed to Camden Safe Deposit and Trust Company on July 31st, 1891, were, the sole individual property of said Thomas Bertram Parker and that the said assignments to said Helen Parker were without consideration and as a part of an arrangement to protect the said property from the creditors of said 10 Thomas Bertram Parker, that the deeds of conveyance in the said bill mentioned and described, for the property therein set forth, were made and executed by the defendant Thomas Bertram Parker and Helen Parker for the purpose of creating a trust fund for the benefit of said Thomas Bertram Parker out of the sole and separate properties of the said Thomas Bertram Parker freed of all claims of creditors of said Thomas Bertram Parker, and that said assignments and deeds of conveyance creating such trust are a fraud upon the complainants and 20 void as against their judgments, and that the complainants are entitled to the relief prayed for in the bill of complaint filed in this cause.

It is thereupon, on this fourteenth day of June, nineteenth hundred and ten, on motion of Ralph W. E. Donges, Solicitor for the complainants, ordered, adjudged and decreed, and the said Chancellor, by virtue of the power and authority of this court, does hereby order, adjudge and decree, that the securities and property in said deeds of trust in said bill mentioned and described, 30 that is to say, the deed of conveyance made by Helen Parker to Camden Safe Deposit and Trust Company, bearing date July 31st, 1910, and the deed made by Helen Parker, Thomas Bertram Parker and Camden Safe Deposit and Trust Company, bearing date July 6th, 1901,

and the assignments made by Thomas Bertram Parker to Helen Parker, bearing date on or about the twenty-ninth day of July, 1891, be set aside, annulled and made void as against the judgments of the complainants; and that the said Camden Safe Deposit and Trust Company pay over to the complainants or their solicitor from said fund the amounts due upon the complainants' judgments, that is to say, to First National Bank of Houtzdale, the sum of nine thousand five hundred and thirteen dollars and seventy-one cents, with lawful interest from May 15th, 1909, amounting to Six hundred and fourteen dollars and eighty-nine cents, making in all ten thousand one hundred and twenty-eight dollars and sixty cents; and that said Camden Safe Deposit and Trust Company pay over to the complainant John J. Duffy the sum of three thousand seven hundred and fifty-five dollars and sixty-one cents, with interest from May 15th, 1909, amounting to two hundred and forty-three dollars and fifty cents, making in all three thousand nine hundred and ninety-nine dollars and eleven cents, and that the defendants do pay out of said funds the costs of the complainants and defendant Trust Company in this cause to be taxed, and that the complainants have execution therefor according to the course and practice of this court.

And it is further ordered that the defendants pay to the Solicitor of the complainants and also to the solicitor of the defendant Trust Company each a counsel fee of one hundred dollars to be taxed as a part of the costs in this cause.

30 And it is further ordered, that unless the defendants shall, within ten days after service upon them of a copy of this decree and of the taxed bill of costs, pay to the complainants or to their solicitor the amounts due to them upon their judgments in this cause referred to, and the taxed costs of this suit, the complainants have execu-

tion therefor, and that the said property and securities mentioned in the bill of complaint be sold free, clear and discharged of and from the said assignments and deeds of conveyance, and of and from all claims of said Camden Safe Deposit and Trust Company, thereunder or by virtue thereof.

Respectfully advised:  
E. B. LEAMING, V. C.

10

MAHLON PITNEY,  
C.

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A True Copy.

JOHN H. MCADAMS, Clerk.

## IN CHANCERY OF NEW JERSEY.

Between FIRST NATIONAL BANK OF HOUTZDALE,  Complainant, AND THOMAS BERTRAM PARKER, 10 ET AL.,  Defendants.	}	ON BILL FOR DISCOVERY. <hr style="width: 50px; margin: 0 auto;"/> MEMORANDUM.
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RALPH W. E. DONGES, for complainant.

GEORGE S. REYNOLDS, for Camden Safe Deposit Co.

LEAMING, V. C. It is entirely manifest from the evidence that the personal property conveyed to the Camden Safe Deposit and Trust Company by Helen Parker, in trust, was in fact the property of defendant Thomas  
 20 Bertram Parker. The transfer of the property from Thomas to his mother and from her to the Trust Company can only be properly regarded as successive steps in one transaction, the object of which was to enable Thomas to create a trust for his own use. The trust so created is manifestly void as to future creditors of Thomas, for the reasons stated in *Ward vs. Marie*, 73 N. J. Eq. (3 Buch.) 510.

I am obliged to advise a decree which will be operative to subject the assets in the hands of the trust com-  
 30 pany to the payment of complainants' judgment.

Submitted May 9th, 1910.

Determined May 10, 1910.

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A True Copy.

ROBERT H. MCADAMS, Clerk.

IN CHANCERY OF NEW JERSEY.

Between THE FIRST NATIONAL BANK OF HOUTZDALE, Complainant, AND THOMAS BERTRAM PARKER, ET AL., Defendants.	}	ON BILL &C.  FINAL DECREE	10
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This cause coming on to be heard on the bill of complaint and answer of Camden Safe Deposit and Trust Company, in the presence of Ralph W. E. Donges, Solicitor for complainant, and George Reynolds, Solicitor for 20 defendant, Camden Safe Deposit and Trust Company, (no one appearing on behalf of defendant Thomas Bertram Parker, the said bill having been heretofore taken as confessed against him);

And it appearing that due notice of the amount of complainant's demands and of the settling of this decree has been given to the defendants in this cause;

And it appearing from the proofs taken in this cause that the bonds and mortgages and other property and securities assigned by the defendant Thomas Bertram Parker to Helen Parker, on or about July 29th, 1891, and by said Helen Parker conveyed to Camden Safe Deposit and Trust Company, on July 31st, 1891, were, the sole and individual property of said Thomas Bertram Parker and that the said assignments to said Helen 30

Parker were without consideration and as part of an arrangement to protect the said property from the creditors of said Thomas Bertram Parker; that the deeds of conveyance in the said bill mentioned and described, for the property therein set forth, were made and executed by the defendant Thomas Brtram Parker and Helen Parker for the purpose of creating a trust fund for the benefit of said Thomas Bertram Parker out of the sole and separate property of the said Thomas Bertram  
10 Parker freed of claim of creditors of said Thomas Bertram Parker, and that said assignments and deeds of conveyance creating such trust are a fraud upon the complainant and void as against its judgment, and that the complainant is entitled to the relief prayed for in the bill of complaint filed in this cause:

It is thereupon, on this nineteenth day of February, nineteen hundred and twelve, on motion of Ralph W. E. Donges, Solicitor for the complainant, ordered, adjudged and decreed, and the said Chancellor, by virtue of the  
20 power and authority of this court, does hereby order, adjudge and decree, that the securities and property in said deeds of trust in said bill mentioned and described, that is to say, the deed of conveyance made by Helen Parker to Camden Safe Deposit and Trust Company, bearing date July 31st, 1891, and the deed made by Helen Parker, Thomas Bertram Parker and Camden Safe Deposit and Trust Company, bearing date July 6th, 1901, and the assignments made by Thomas Bertram Parker, to Helen Parker, bearing date on or about the twenty-  
30 ninth day of July, 1891, be set aside, annulled and made void as against the judgment of the complainant; and that the said Camden Safe Deposit and Trust Company pay over to the complainant, or its solicitor, from said fund the amounts due upon the complainant's judgment, that is to say, to First National Bank of Houtzdale, the

sum of Twelve thousand four hundred and ninety-nine dollars and ninety-eight cents, with lawful interest from October 25th, 1911, amounting to Two hundred and thirty-nine dollars and fifty-eight cents, making in all Twelve thousand seven hundred and thirty-nine dollars and fifty-six cents; and that the defendants do pay out of said fund the costs of the complainant and defendant Trust Company in this cause to be taxed, and that the complainant have execution therefor according to the course and practice of this Court. 10

And it is further ordered that the defendants pay to the Solicitor of the complainant a counsel fee of One Hundred Dollars, and to the Solicitor of Camden Safe Deposit and Trust Company, a counsel fee of Twenty-five Dollars to be taxed as a part of the costs in this cause.

And it is further ordered, that unless the defendants shall, within ten days after service upon them of a copy of this decree and of the taxed bill of costs, pay to the complainant or its solicitor, the amount due to it upon its judgment in this cause referred to, and the taxed costs 20 of this suit, the complainant have execution therefor, and that the said property and securities mentioned in the bill of complaint be sold free, clear and discharged of and from the said assignments and deeds of conveyance, and of and from all claims of said Camden Safe Deposit and Trust Company, thereunder or by virtue thereof.

Respectfully advised:

E. B. LEAMING, V. C.

MAHLON PITNEY,  
C. 30

## PART OF EXHIBIT D 6

## IN CHANCERY OF NEW JERSEY.

10 Between FIRST NATIONAL BANK OF HOUTZDALE, Complainant, AND THOMAS B. PARKER, ET ALS., Defendants	}	ON BILL, ETC.  FINAL DECREE.
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20 This cause coming on to be heard upon the bill of the complainant and the answer of Camden Safe Deposit and Trust Company, one of the defendants (the bill having heretofore been taken as confessed against Thomas B. Parker, the other defendant,) and in the presence of John D. McMullin, solicitor for the complainant, and George J. Bergen, solicitor for the answering defendant, Camden Safe Deposit and Trust Company.

30 And it appearing from the proofs taken in this cause that the bonds and mortgages and other property and securities assigned by the defendant, Thomas B. Parker, to Helen Parker, on or about the twenty-ninth day of July, Eighteen hundred and ninety-one, were the sole and individual property of the said Thomas B. Parker, and that the said assignments to the said Helen Parker were without consideration and as part of an arrangement to protect the said property from creditors of the said Thomas B. Parker; that the deeds of conveyance in

said bill mentioned and described for the property therein set forth were made and executed by the defendant, Thomas B. Parker and the said Helen Parker for the purpose of creating a trust fund for the benefit of said Thomas B. Parker, and that said deeds and conveyances are void as against complainant's judgment, and that complainant is entitled to the relief prayed for in its said bill:

It is thereupon, on this twenty-first day of September, one thousand nine hundred and fourteen, upon motion of John D. McMullin, solicitor for and of counsel with the complainant, by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, ordered, adjudged and decreed, and the said Chancellor does, by virtue of the power and authority of this Court, hereby order, adjudge and decree that the said deeds of trust in complainant's bill mentioned and described, that is to say, the deed from Helen Parker unto the Camden Safe Deposit and Trust Company dated the thirty-first day of July, eighteen hundred and ninety-one and the deed made between Helen Parker, Thomas Bertram Parker 20 and Camden Safe Deposit and Trust Company, dated the sixth day of July, nineteen hundred and one, and the said assignments made by said Thomas B. Parker to Helen Parker for the securities and properties described in the two last mentioned deeds, and which assignments were dated on or about the twenty-ninth day of July, Eighteen hundred and ninety-one be set aside, annulled and made void as against the judgment of the complainant herein, and that the said Camden Safe Deposit and Trust Company do pay over unto the complainant or its 30 solicitor from said fund in its hands under said deeds the amounts due on complainant's judgment, that is to say, to the First National Bank of Houtzdale, Pennsylvania, the sum of Thirteen thousand three hundred and eleven Dollars and twenty-seven cents, damages, and

costs together with the sum of Six Dollars and fifty-cents, cost of execution with interest on said sums from the twenty-third day of May, nineteen hundred and fourteen, amounting to Two hundred and sixty-six Dollars and thirty-five cents, making in all the sum of Thirteen thousand, five hundred and eighty-four Dollars and twelve cents. And that the defendant, Camden Safe Deposit and Trust Company do pay out of said fund the costs of the complainant and of the defendant Trust  
10 Company, in this cause to be taxed, and that the complainant have execution therefor according to the course and practice of this Court.

And it is further ordered that the said defendant, Camden Safe Deposit and Trust Company, do pay out of said fund unto the solicitor of the complainant the sum of Fifty Dollars as counsel fee and that it do pay out of said fund unto its solicitor the sum of Fifty Dollars as counsel fee, which said sums are to be included in the taxed costs.

20 And it is further ordered that unless the defendant, Camden Safe Deposit and Trust Company shall, within ten days after service upon them of a copy of this decree and taxed bill of costs pay to the complainant or to its solicitor the amount due it upon its judgment as aforesaid, that the said property and securities held by the said Trust Company under and by virtue of the said deeds above recited be sold free, clear and discharged of said assignments and deeds and all claim of the said Camden Safe Deposit and Trust Company thereunder,  
30 and that out of the proceeds thereof there be paid to the said complainant the said several sums of money due it as above set forth.

Respectfully advised:

LEAMING, V. C.

E. R. WALKER, C.

*FINAL DECREE*

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(Filed May 11, 1916.)

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IN CHANCERY OF NEW JERSEY.

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Between FIRST NATIONAL BANK OF HOUTZDALE, Complainant, AND THOMAS B. PARKER, ET ALS., Defendants	}	ON BILL, &C.  FINAL DECREE.
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This cause coming on to be heard upon the bill of the complainant and the answer of the defendant Camden Safe Deposit and Trust Company, in the presence of John D. McMullin, of counsel with the complainant, and George J. Bergen of counsel with the defendant Camden Safe Deposit and Trust Company, and no one appearing on behalf of defendant Thomas B. Parker, the complainant's bill having been taken as heretofore confessed against him, and the pleadings and proofs having been read and the arguments of the respective counsel having been heard and considered and the Court having duly considered the said pleadings, proofs and said arguments, and it appearing to the Court that the complainant is not

30

entitled to the relief sought and prayed for by it in its bill of complaint;

It is, on this 10th day of May, A. D. 1916, by Edwin Robert Walker, Chancellor of the State of New Jersey, ordered, adjudged and decreed that the complainant's bill be, and the same is hereby dismissed.

It is further ordered and decreed that the complainant pay to the defendant Camden Safe Deposit and Trust Company its costs of this suit to be taxed together with  
10 a counsel fee to its solicitor of fifty dollars and that execution issue therefor according to the practice of this court.

Respectfully advised,  
E. B. LEAMING, V. C.

E. R. WALKER,  
C.

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## NOTICE OF APPEAL.

(Filed May 22, 1916.)

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 IN CHANCERY OF NEW JERSEY.
 

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Between  
 FIRST NATIONAL BANK OF  
 HOUTZDALE, PA.,  
 Complainant,  
 AND  
 THOMAS B. PARKER, AND  
 CAMDEN SAFE DEPOSIT &  
 TRUST COMPANY,  
 Defendants.

} NOTICE OF APPEAL.

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 20

The Complainant hereby appeals from the final decree made in the above stated cause, and from all and every part thereof, to the Court of Errors and Appeals in the last resort in all causes.

JNO. D. McMULLIN,  
 Solicitor for and of Counsel  
 with the Complainant.

30

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

JNO. D. McMULLIN,  
 Of Counsel with the Complainant.

PETITION OF APPEAL.

Filed June 16, 1916.

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10 NEW JERSEY COURT OF ERRORS  
AND APPEALS

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<p>Between FIRST NATIONAL BANK OF HOUTZDALE, PA., Complainant, AND 20 THOMAS B. PARKER, AND CAMDEN SAFE DEPOSIT &amp; TRUST COMPANY, Respondent.</p>	}	<p>ON APPEAL, ETC., PETITION OF APPEAL</p>
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TO THE HONORABLE, THE COURT OF ERRORS AND  
APPEALS IN THE LAST RESORT IN ALL CASES:

30 THE PETITION OF THE FIRST NATIONAL BANK OF  
HOUTZDALE, PA., THE APPELLANT IN THE ABOVE STATED  
CAUSE, RESPECTFULLY SHOWS:

That your petitioner finds itself 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 Tenth day of May, A. D., Nineteen hundred and sixteen, in a cause wherein The First National Bank of Houtzdale, Pa., was Complainant, and Thomas B. Parker, and Camden Safe Deposit and Trust Company, were defendants, in these respects:

First: That the said decree orders that the Complainant's Bill be dismissed.

Second: That the said decree orders that the Complainant pay to the defendant, Camden Safe Deposit and Trust Company, its costs of this suit, together with a counsel fee to its solicitor of Fifty Dollars. <sup>10</sup>

Third: That the said decree adjudges that the said Complainant is not entitled to the relief prayed for, whereas it should have granted said relief.

And your petitioner humbly appeals from the said decree of the Chancellor as aforesaid, on the ground that the same is wholly erroneous, for that, etc.,

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. <sup>20</sup> And that your petitioner may have such relief in the premises as to this Honorable Court shall seem meet.

JNO D. McMULLIN,  
Solicitor for and of Counsel  
with Appellant.

## ANSWER TO PETITION OF APPEAL

(Filed Sept. 14, 1916.)

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NEW JERSEY COURT OF ERRORS  
AND APPEALS

BETWEEN

THE FIRST NATIONAL BANK  
OF HOUTZDALE, PA.,

Appellant,

ON APPEAL, ETC..

20

AND

THOMAS B. PARKER AND CAM-  
DEN SAFE DEPOSIT AND  
TRUST COMPANY,

Respondents.

ANSWER TO PETI-  
TION OF APPEAL.

The answer of the Camden Safe Deposit and Trust  
Company, one of the above-named respondents, to the  
30 petition of appeal of the above-named appellant.

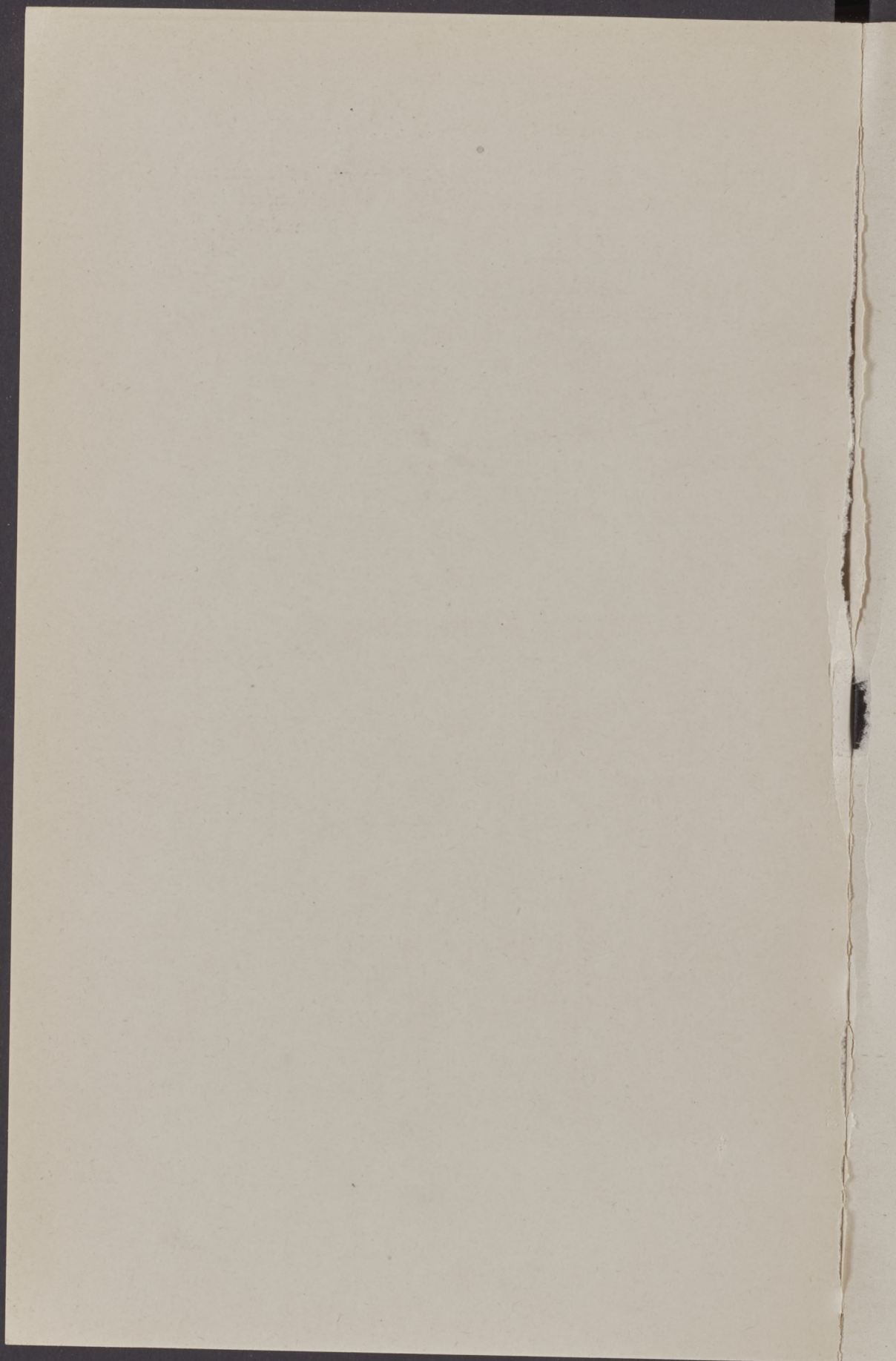
The respondent, Camden Safe Deposit and Trust  
Company, not acknowledging all or any of the matters  
which in the said petition of appeal are contained, to be  
true, for answer thereto, nevertheless, say and admit,  
that a decree was, on the tenth day of May last past,

made and entered in the Court of Chancery, in the cause for that purpose mentioned in the said petition, as is therein stated; but as to 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 prays that the same may be affirmed, with costs to be adjudged to this respondent.

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GEORGE J. BERGEN,  
Solicitor and of Counsel with Camden  
Safe Deposit and Trust Company,  
Respondent.



NEW JERSEY COURT OF ERRORS AND  
APPEALS.

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Between  
THE FIRST NATIONAL BANK  
OF HOUTZDALE, PA.,  
*Complainant-  
Appellant,*  
and  
THOMAS B. PARKER and  
CAMDEN SAFE DEPOSIT &  
TRUST COMPANY,  
*Respondent.* } ON APPEAL.

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BRIEF FOR RESPONDENT.

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GEORGE J. BERGEN, Solicitor and of Counsel with  
Camden Safe Deposit and Trust Company, Re-  
spondent.

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This is an appeal from a decree of the Court of  
Chancery dismissing the complainant's bill. The  
decree is printed in the printed case at page 93. The  
bill sets forth that the complainant recovered a judg-  
ment in the New Jersey Supreme Court against the  
defendant, Thomas Bertram Parker, for \$13,273.10,  
with costs, that it has been unable to recover the

amount of said judgment by execution, that the defendant Camden Safe Deposit and Trust Company as a trustee under certain deeds of trust, holds property of the defendant Thomas Bertram Parker which should be applied in liquidation of said judgment. A decree *pro confesso* was entered against the defendant Thomas B. Parker. The respondent, Camden Safe Deposit and Trust Company, answered the bill (Case, page 20), and set forth that the proceedings taken by the complainant (respondent) were collusive, &c., and that the complainant was not entitled to recover the amount due on the judgment for the reason that the proceedings of the complainant were in pursuance of a fraudulent scheme entered into between the said complainant and the said Thomas B. Parker to give the complainant the appearance of being a creditor and to obtain for the use of the said complainant and Parker a portion of the estate held in trust, &c. A replication was filed to this answer and the case brought to a hearing before Vice-Chancellor Leaming. The conclusions of the Vice-Chancellor appear in the case at page 52.

The facts proved at the hearing show that this is the fourth time that the appellant has appeared in the Court of Chancery of New Jersey as a complainant, to seek its aid in enforcing, against the principal of this trust, payment of a judgment recovered in the New Jersey Supreme Court against the defendant, Parker. The former proceedings in the Court of Chancery were put in evidence (Case at pages 45, 47 and 48), and are set forth in the stipulation of counsel (Case, page 55). It appears therefrom that on June 14, 1910, a decree was entered in favor of the Houtzdale Bank for \$10,128.60 (Chancery Docket No. 31, page 511), on February 19, 1912, a decree was entered in favor of the Houtzdale Bank

for \$12,739.56 (Chancery Docket No. 34, page 333), and that on September 21, 1914, a decree was entered in favor of the Houtzdale Bank in the Court of Chancery for \$13,311.27 with interest and costs (Chancery Docket No. 38, page 211). These decrees are printed in full in the state of the case, pages 82, 87 and 90, respectively. There seems to have been but one opinion filed in any of these three prior cases. This opinion is printed in the case at page 86. It appears (see Stipulation, Case, page 58), "that in each of the above four cases judgment was obtained by the bank against Parker in Pennsylvania, by virtue of warrant to confess judgment contained in a judgment note, a transcript of the judgment was sued on in the New Jersey Supreme Court, personal service in this state made upon Parker, who has always been a resident of Philadelphia, judgment by default against him entered, execution issued and returned unsatisfied, a bill in Chancery for discovery and in aid of execution filed, process thereon served upon Parker in this state and the Camden Safe Deposit and Trust Company, trustee, decree *pro confesso* entered against Parker, and an answer filed by the trust company."

These facts appearing, the Vice-Chancellor at the conclusion of the testimony made certain observations to counsel with regard to the legal inferences to be derived therefrom (Case, pages 50, 51 and 52), a part of which are as follows:

"When on three successive occasions, namely, in 1910, 1912 and 1914, Mr. Parker has borrowed on the dates named, respectively, ten thousand, twelve thousand, and thirteen thousand dollars in the same manner, and on each occasion the bank has been obliged to resort for the collection of the loans to the same method now pursued, namely, a judgment in Pennsylvania, a suit on

that judgment in New Jersey, personal service upon Mr. Parker out of his own state, in the New Jersey law suit,—service which it is reasonably apparent is made possible by Mr. Parker for the convenience of the bank,—then a bill in equity in New Jersey identical with the present bill with personal service on Mr. Parker procured in the same way, isn't the bank chargeable with knowledge of circumstances that make it impossible to escape the conclusion that when they make the fourth loan in the same manner they are simply making themselves the instrument for Mr. Parker to accomplish indirectly what he cannot accomplish directly."

The decree below denied relief in equity to the complainant. We submit that this decree should be affirmed.

#### I.

The appellant is not in court with clean hands and equitable relief should be denied to it.

The defendant Parker obviously cannot by direct attack revoke or obtain money from the principal of this trust. That he is improvident and needs protection is manifest. That he is willing to obtain money even at ruinous rates is apparent. If this were not so, it is unreasonable to think that he would resort to this very expensive method of withdrawing the corpus of this trust fund. The cost of the three prior proceedings has run into several thousand dollars. The appellant is chargeable with notice of Parker's inability to reach this fund by direct attack, and has full knowledge that he needs and needed protection against improvidence.

Vice-Chancellor Leaming while hearing the case (see Case, page 33, l. 11), says:

“ \* \* \* \* in reading over these pleadings and recalling that this is the third or fourth or fifth time that this same complainant has been before this Court with judgments which it is sought to have paid out of this trust fund, I have wondered whether this Court might not have a duty to even institute in its own behalf investigation as to why it is that this particular bank is, apparently, at least, so often made the instrument of Mr. Parker to relieve himself against his own trust agreement.”

On three prior occasions the same forms have been followed, the same notes, judgments, executions, &c. The appellant must have known, when the last so-called loan was made, that the same proceedings would again be resorted to. That such proceedings were contemplated is indicated by the amount (8%) for collection fees inserted in the note and recoverable therewith (see copy of note, Case, page 72).

We think that it is impossible to escape the conviction that the complainant had in view, when it made the so-called loan to Parker on this fourth occasion, that it would proceed as theretofore. If so, it constituted itself a mere conduit whereby Parker might indirectly withdraw funds from the trust estate which he could not withdraw directly.

The complainant in such position is not acting in good faith. Its hands are not clean and is not entitled to relief in equity.

16 *Cyc.* 144;

16 *Cyc.* 145.

A creditor who voluntarily assumes such a position will not be relieved in equity.

Whenever it appears that the object of a suitor filing a creditor's bill is to aid a person who has placed his property in the name of another to hinder and defeat creditors, to regain control of such property, a Court of equity will refuse its assistance.

*Ruckmann vs. Conover*, 37 N. J. Equity, 583 (1883);

*Winans vs. Graves*, 43 N. J. Equity, 263.

In *Ruckmann vs. Conover*, the Court of Errors and Appeals, at page 585, says:

“While the rule is elementary that property so covertly placed in the name of another can be seized and devoted to the payment of the debts of the equitable owner, *yet there is another rule equally elementary*, namely, that when a person has so placed his property in the name of another for this purpose, he cannot invoke aid of the Court either *directly or indirectly*, to recover the control of the property or direct the disposition of it in any form. And whenever it appears that the object of a suitor, under the guise of a creditor's bill, is to aid the fraudulent disposer to regain the control of his property, the Court will refuse its assistance. From a consideration of the testimony taken in this case, I am constrained to the conclusion that the complainant below is placed in this position.”

The Court accordingly refused its aid to the complainant creditor.

The same Court in *Winans vs. Graves*, 43 N. J. E. at page 276, in referring to the position that the complainant in such a case occupies, says:

“While Mr. Graves is not chargeable with any active participation in the original assign-

ment and its purpose, yet his close connection with all these and the subsequent proceedings relative to it must have apprised him of the character of the transaction long before the date of the assignment to him.

“He is chargeable with notice of the design for which the judgment was kept alive and took it burdened with Middleton’s inability to invoke the aid of a court of equity to enforce it.”

We, therefore, contend that these decisions are conclusive upon the subject, and that this complainant stands in the same position with respect to this trust fund that the complainants in those cases stood with reference to the fund or property which formed the subject-matter of those litigations.

## II.

Why should not the complainant be left to its remedies at law?

The answers to the interrogatories in this case show that of the \$11,640 placed to Parker’s account by the complainant as the net proceeds of his so-called loan, only \$1,000 has been withdrawn by him, so that the balance (\$1640), remains in the hands of the complainant which it has not credited on the note nor attempted to use in part satisfaction of its judgment, nor is any explanation made of this fact. From this alone, it is evident that the complainant never intended to look to Parker for payment, but intended to look only to this trust fund. It cannot be contended with any force, that the complainant did not appreciate at the time it made this loan to Parker, that it was merely becoming the agent of Parker to reach the corpus of this trust.

That Parker has been the willing helper of the complainant in each of its various suits against him, demonstrates that he does not occupy towards the complainant the position of the defaulting debtor, but is performing those acts which either expressly or impliedly it was expected that he would perform, in order to obtain the corpus of this estate for his own immediate use.

The complainant has effective remedies, outside this court.

It may proceed by proceedings supplemental to execution and impound the income of this estate. (*Comp. Stat.*, p. 2250, par. 24, 30a, 30b.)

As this estate proceeded from the debtor himself, all the income may be used. This can now be done even without requiring the defendant to appear, by obtaining execution which may be levied in the manner of an attachment on the income.

*P. L.* 1915, p. 182;

*P. L.* 1915, p. 470.

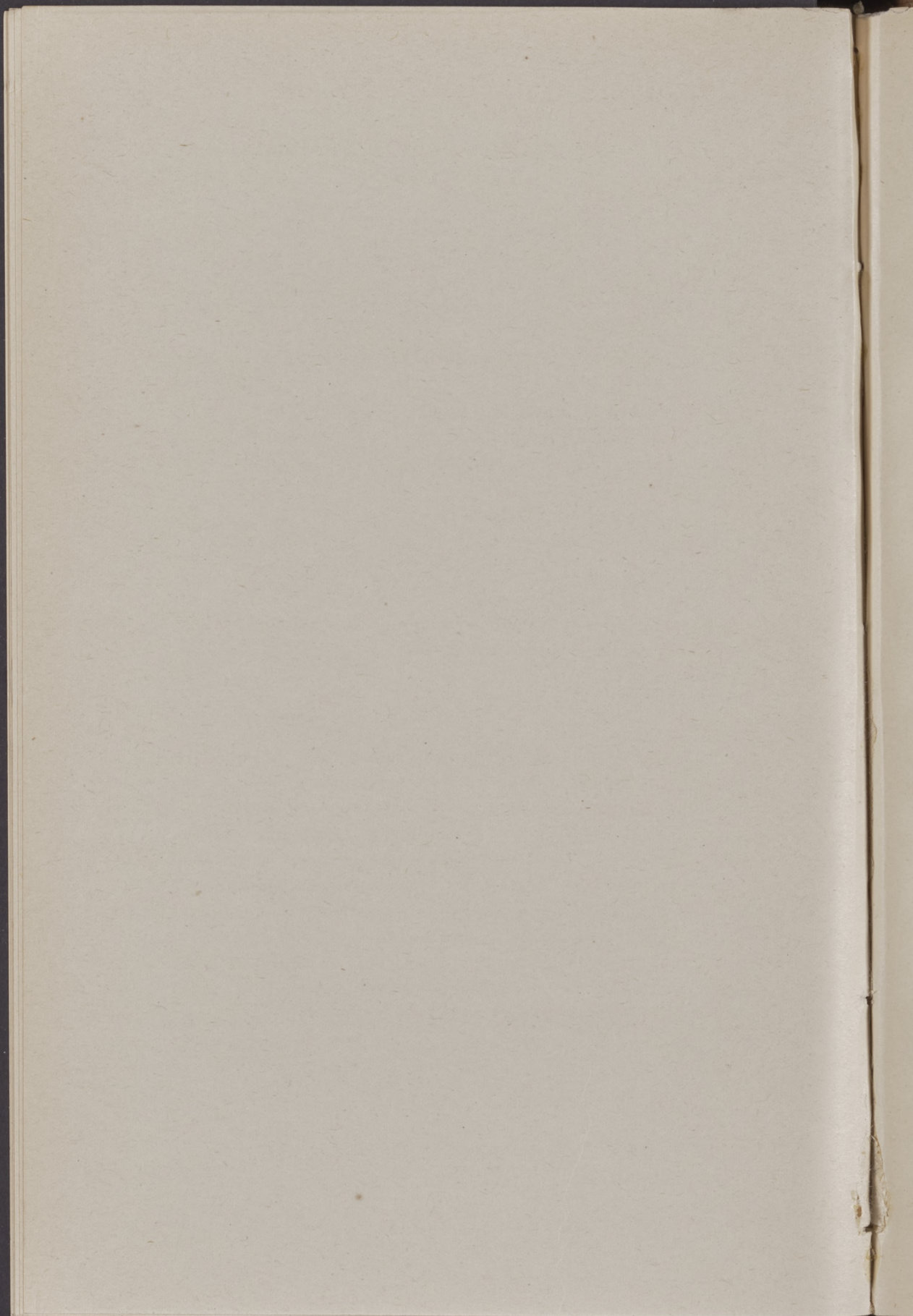
### III.

The result of the foregoing is that the complainant does not need the aid of this Court, if its object is to collect its judgment; it does need the aid of this Court if its object is to assist Parker at will to withdraw the principal of the estate for his use. If the complainant succeeds in this flagrant attack on the principal of this estate, subsequent events are a certainty. The same "loans," judgments, commissions, attorneys' fees, bills in equity will continue until this estate is entirely consumed. If the complainant is denied relief here, its money will be recovered in due time, with legal interest and costs, but out of the in-

come of the trust in such amounts as it may seem proper to a court of law to permit. If such a result ensues, we venture the prediction that subsequent "*bona fide*" creditors will not hasten to assist this young man to waste his patrimony.

We urge that the duty of the Court is the same as the duty of the trustee, to preserve this estate from being squandered, if it can do so without injustice, and that the complainant in this case has no standing in this court.

Respectfully submitted,  
GEORGE J. BERGEN,  
*Solicitor and of Counsel with  
Camden Safe Deposit and  
Trust Co., Respondent.*



NEW JERSEY COURT OF ERRORS  
AND APPEALS.

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Between		
THE FIRST NATIONAL BANK OF	}	BRIEF OF
HOUTZDALE, PA.,		
Complainant, Appellant,		
and		
THOMAS B. PARKER, and CAM-	}	APPELLANT. 10
DEN SAFE DEPOSIT AND		
TRUST COMPANY, (Respon-		
dent),		
Defendants.		

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This appeal is from a Decree of the Court of Chan-	
cery advised by Leaming, V. C.	20

(1). ABSTRACT OF CASE.

The First National Bank of Houtzdale, Pa., on October 28, 1914, loaned Twelve Thousand Dollars to defendant Parker, upon his promissory judgment note. (S. of C. 63). The note not being paid when due, the Bank entered judgment thereon in Philadelphia, Parker's home, a transcript of the judgment was sued upon in the New Jersey Supreme Court, 30 judgment obtained, execution thereon issued and returned unsatisfied. The Bank then brought its Bill in Chancery for discovery under the Statute, and made Camden Safe Deposit and Trust Company, the respondent, a defendant. A decree pro confesso

was taken against Parker, the Trust Company answered.

At the trial it appeared that Parker, when he reached the age of twenty-one years, in 1891, conveyed through an intermediary, securities aggregating in excess of \$150,000.00 unto Camden Safe Deposit & Trust Company, on a spendthrift trust for himself for life, with power of disposal by Will. (S. of C. 56, etc.) This trust was construed by the Court  
10 of Chancery in an earlier case with the same parties, in 1910, (S. of C. 86, opinion of Leaming, V. C.) and held "manifestly void as to future creditors." It also appeared at the trial, that on three prior occasions the Bank had made loans to Parker, and on his failure to pay had obtained judgment, brought discovery proceedings in Chancery and had its judgment paid from this trust fund. The learned Vice Chancellor found that the Bank actually advanced the money, that the suit was for the sole benefit of the Bank, that  
20 there was no direct testimony that the Bank and Parker had colluded together to break the Trust, and then dismissed the Bill, upon the sole ground that the three prior loans and suits, in themselves, were sufficient to establish the conclusion "that in making the loan here in question, Complainant deliberately and knowingly constituted itself an agency to enable Parker to regain his property." (S. of C. 52.)

#### QUESTION INVOLVED.

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Where a judgment creditor applies, under the Statute, to Chancery, for the enforcement of its judgment, against a trust fund created by a debtor for himself; there being no direct testimony of collusion between the debtor and the creditor; is the fact that

the creditor had on three prior occasions sought and obtained the aid of Chancery against the same trust, in itself, sufficient to establish the conclusion that, in making the loan which was the basis of judgment, creditor "deliberately and knowingly constituted itself an agency to enable debtor to regain his property," and to justify the refusal of Chancery to extend its aid? This question is raised by appeal.

(2). SPECIFICATION OF ERROR

10

The Decree of the Court of Chancery is erroneous in that it does not declare the Parker Trust Deed void as to appellant's judgment.

(3). THE CASES RELIED UPON BY THE VICE CHANCELLOR REST UPON DISSIMILAR FACTS.

The opinion rests upon *Ruckman vs. Conover*, 37 N. J. Eq. 583, and upon *Winans vs. Graves*, 43 N. J. 20 Eq. 262, but their facts are utterly different, and it is submitted there is no parallel between our case and them.

In *Ruckman vs. Conover*, the facts were: Ruckman loaned Dorn Three Thousand Dollars, Dorn giving a mortgage therefor to Mrs. Ruckman, in order to hinder and defraud Ruckman's creditors. Allen, who was the attorney and adviser of Ruckman and knew the object of the transaction and Ruckman's desire to get back the loan from Dorn, took a note from Ruckman, assigned it to Conover with his personal guaranty, and Conover, acting as straw man for Allen, and at Allen's expense, obtained judgment against Ruckman and sought the aid of the Chancery Court to enforce this judgment against the mortgage

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debt. During the pendency of the proceedings \$50,000 was paid Ruckman with Mr. Allen's knowledge, but he made no attempt to enforce the debt against it. The Court held that the evidence showed that the object of the suitor was, under the guise of a creditor's bill, to aid the fraudulent disposer to regain possession of his property, and refused assistance.

In *Winans vs. Graves*, 43 N. J. Eq., 262, one Lilliston, to evade his creditors, bought real estate and  
10 had same conveyed to his wife, then, by mesne conveyances, to her sister. Wild, an attorney, procured judgment for professional services against Lilliston and received from him full satisfaction; nevertheless the judgment was assigned to Middleton, who was a straw man for Lilliston. He held the assigned judgment for six years, then Lilliston's wife having divorced him and he losing control of the real estate, Middleton assigned the judgment to Lilliston's own  
20 lawyer, Graves, who brought proceedings to set aside the conveyance. The testimony was conclusive that Lilliston was the real owner of the judgment, and that Graves knew about the whole scheme. This Court dismissed the bill.

In each of these cases the real Complainant was the lawyer of the fraudulent trustor, in each case there was strong affirmative evidence of conspiracy to obtain by indirection what the maker of the conveyance could not otherwise get.

In the case at the bar the loan was made by a Na-  
30 tional Bank, in the ordinary course of business. The Court of Chancery, by three former decrees had said to the Bank, "If Parker does not pay when due, here is a fund applicable to your debt," a fund in excess of \$100,000. Parker may have planned to break this trust by borrowing from the Bank, but unless the

Bank can be said to have been privy to his scheme, it cannot be said to have made the loan and brought these proceedings in mala fide.

There is no conflict of evidence, all that is before the Court is that three times this trust has been declared void as to creditors by the Court of Chancery, that on three prior occasions since 1910, this Bank has loaned money in large sums to Parker and on each occasion has collected the loans in the same manner as it now attempts to collect this fourth loan. 10

The loan was made by the Bank and the money placed to Parker's credit and checked out by him in the usual course of business; (S. of C. 67) there was no attempt made to show that there was any agreement between the Bank and Parker that the Bank should collect out of this fund.

Bad faith on the part of Complainant would be a defence to the Bill, yet the Trust Company, respondent, did not call Parker nor interrogate the Complainant. The Vice-Chancellor rests his finding of 20 bad faith entirely upon the fact that Complainant had three times previously made loans to Parker and had come against this fund. If it be assumed (for there is no proof) that Parker negotiated this loan with a view to the breaking of this trust, and to that end he voluntarily allowed himself to be served with process; bad faith on Parker's part may be established, but how can Parker's mala fides be imputed to his creditor, without further proof.

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BOTH THE STATUTE AND THE THREE PRIOR  
DECREES OF CHANCERY HAVE GUARANTEED  
THE APPELLANT THAT ITS DEBT COULD BE  
COLLECTED FROM THIS TRUST FUND—

The Statute is in most general terms:—

“That every deed of gift and every conveyance, transfer and assignment of goods, chattels or things in action, made in trust for the use of the person making the same, shall be void as against creditors.”

(Rev. 1877, p. 446) 2 Comp. Stat. 2617.

- 10 It is not open to question that the purpose of the Statute is to hold a trust of this nature void as to creditors. This very trust, not only the Statute, but three times by decree, advised by this same Vice-Chancellor has been declared void. The Statute and the Court have published to the world that anyone dealing with Parker may look to this trust property for the enforcement of Parker's obligations. Relying on the Statute and these decrees this National Bank loans Parker \$12,000.00 and the same Court says to
- 20 it—We will not enforce the Statute again for your benefit, because you have been here for help often before, because the effect of our enforcing the Statute will be to aid Parker to break this trust by indirection. Why the very Statute permits the Trustor to do by indirection what he can not do himself. When the maker of a fraudulent conveyance procures credit, to the extent of this credit he sets aside his trust, provided the creditor takes advantage of the Statute.
- 30 That Parker, a resident of Pennsylvania, was personally served with process in Camden in each of these suits, is not evidence that the bank colluded with him. It may be that Parker was honest, desired the Bank to be paid, and, therefore, allowed himself to be served. It must not be forgotten that this fund

is Parker's, that this decree makes him the gainer and the bank the only loser.

WARD vs MARIE, 73, EQ. 510

Were this the first transaction of the Bank with Parker, and were it in evidence that the Bank had given Parker credit knowing that he had no property except this trust fund, and intending to enforce the collection of its loan thereout, it is submitted that the Bank would be entitled to the aid of the Court of Chancery, although the result would have been that by the loan Parker would pro tanto have broken the trust. 10

In Ward vs. Marie, 73 N. J. Eq. 510, a spendthrift trust was made by Marie. His wife, a party to the trust deed, with knowledge that the trust included all her husband's property, with knowledge of his intemperate habits, his improvidence and penury, made loans to him aggregating \$14,000.00 It was contended by the trustee (p. 521) that even if the other creditors might successfully attack this trust, the wife could not, she having participated in the trust, yet the Court of Chancery permitted the wife to recover. 20

Under a somewhat similar statute, in construing the rights of a subsequent creditor against a faulty chattel mortgage, this Court said:

"Knowledge of the existence of a chattel mortgage executed by the debtor will not preclude a creditor from availing himself of the objection that the mortgage is void." 30

Williamson vs. R. R. 29 N. J. Eq. 311, at 336.

Graham Button Co., vs. Spielmann, 50 N. J. Eq. 120, affirmed id. 796.

THE PURPOSE OF THE STATUTE OVERLOOKED BY THE COURT OF CHANCERY.

Its purpose is to protect creditors. Equity takes the Statute and the rule of law underlying it and lays down the additional doctrine that such a trust being an attempted fraud on creditors the grantor will not  
10 be permitted to revoke it. The Court below has lost sight of the purpose of the Act and invokes this incidental rule to defeat the Act. By this decree a void trust is upheld, and Parker's funds protected despite the Act, because of the chance that the creditor and Parker may have intended that the claim be collected from these funds. None but Parker and the Bank have any interest in this case. Which should this Court protect?

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JOHN D. McMULLIN,  
Solicitor for First National Bank  
of Houtzdale, Pa.  
Appellant.