INDEX

PAGE

Bill of Complaint..... 1

Answer..... 29

Reply and Replication..... 31

Amended Bill of Complaint..... 32

Answer to Paragraphs Amending Original Bill 61

COMPLAINANT'S TESTIMONY:

Jay C. Kline—Direct..... 64
Cross..... 64

Charles M. Kessler—Direct..... 68
Cross..... 73

Horace Miller—Direct..... 75
Cross..... 89
Recalled—Direct.....106, 132
Recalled—Cross..... 133

John D. McMullin—Direct..... 89
Cross..... 92

Alfred J. Kurtz—Direct..... 93
Cross..... 104

Harry G. Somers—Direct..... 107

Malcom B. Woodruff—Direct..... 109
Cross..... 111

New Jersey State Library

PAGE

James O'Toole—Direct 112
Cross. 114
Edward Hone—Direct 119
Mrs. Mary Zippler—Direct 120
George Zippler—Direct 121
Cross. 127
Samuel E. Crowley—Direct 134
Cross. 136

DEFENDANTS' TESTIMONY:

Dr. Leslie T. Sooy—Direct 137
Cross. 143
Re-direct. 198
Re-cross. 201
Walter C. Sooy—Direct 227
Cross. 240
Re-direct. 261
Lida H. Sooy—Direct 261
Cross. 263
Mrs. Alma Kyte—Direct 276
Cross. 277

COMPLAINANT'S REBUTTAL TESTIMONY:

Harry G. Somers—Direct 288
Recalled—Direct 317

PAGE

Alfred J. Kurtz—Direct 291
Cross. 293
John Chittenden—Direct 303
Charles M. Kessler—Direct 304
George Zippler—Direct 307
Cross. 308
Mrs. Mary Zippler—Direct 309
Fred Ardrey—Direct 310
Cross. 311
Andrew G. Henry—Direct 312

Exhibit C1, Agreement for Sale of Land..... 327
Exhibit C2, Bond and Warrant..... 330
Exhibit C3, Bond and Warrant..... 334
Exhibit C4, Mortgage..... 337
Exhibit C5, Mortgage..... 345

Conclusions. 353

Final Decree 360

Notice of Appeal..... 389

Petition of Appeal..... 391

BILL OF COMPLAINT.

(Filed May 22, 1930.)

IN CHANCERY OF NEW JERSEY.

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

The complainant, Charles M. Kessler, of the City of Absecon City, County of Atlantic and State of New Jersey, respectfully shows that:

1. On March 6, 1930, the complainant recovered a judgment in the New Jersey Supreme Court in the suit of Charles M. Kessler against the defendants, Lida H. Sooy and Walter C. Sooy. Said judgment was for the sum of $51,916.82, plus interest from July 22, 1929, besides costs of suit.

2. On April 23, 1930, an execution was issued on said judgment out of the Supreme Court of the State of New Jersey, addressed to the sheriff of Atlantic County; sheriff of Atlantic County returned said execution unsatisfied.

3. The defendants do not hold legal title to any property, either real or personal upon a levy can be made, and the complainant's judgment cannot be collected in the courts of law.

4. On March 15, 1929, the defendants, Lida H. Sooy and Walter C. Sooy, conveyed to Leslie Thomas Sooy premises situated, lying and being in the City of Atlantic City, County of Atlantic and

State of New Jersey, bounded and described as follows:

Beginning at a point in the Northerly side of Pacific Avenue at a distance of 50 feet Eastwardly of the Northeasterly corner of Pacific and Michigan Avenues and runs thence (1) Northwardly, parallel with Michigan Avenue, 100 feet; thence (2) Eastwardly, parallel with Pacific Avenue, 50 feet; thence (3) Southwardly, parallel with said Michigan Avenue, 100 feet to the Northerly line of Pacific Avenue; thence (4) Westwardly, in the said line of Pacific Avenue, 50 feet to the place of beginning. Together with the furniture and personal property contained in the dwelling house located on the above described lot of land.

5. On March 15, 1929, the defendants, Lida H. Sooy and Walter C. Sooy, conveyed to Leslie Thomas Sooy premises situate, lying and being in the City of Atlantic City, County of Atlantic, and State of New Jersey, bounded and described as follows:

Beginning at a point on the Westerly line of South Carolina Avenue, 377 feet Southwardly from the Southerly line of Pacific Avenue and runs thence (1) Southwardly, along the said line of South Carolina Avenue, 50 feet; thence (2) Westwardly, and parallel with Pacific Avenue, 150 feet; thence (3) Northwardly, and parallel with South Carolina Avenue, 50 feet; thence (4) Eastwardly, and parallel with Pacific Avenue, 150 feet to the place of beginning.

Together with the furniture and personal

property contained in building located on the above described land.

6. On March 15, 1929, the defendants, Walter C. Sooy and Lida H. Sooy, conveyed to Leslie Thomas Sooy premises situate, lying and being in the City of Absecon City, County of Atlantic and State of New Jersey, bounded and described as follows:

Beginning at an old stone standing near the Southeasterly line of the Main Shore Road leading from Absecon to Oceanville, said stone being the beginning corner described in deed from Memima Steelman, et al., to Wilmer Pedrick and Charles Maurice Kessler, dated January 14, 1909, recorded in Book 397, page 198, and extending thence (1) South 57 degrees 2 minutes West 317 feet to a point by an iron pipe; thence (2) South 38 degrees, 39 minutes East passing over said iron pipe which is set in the line of the old Steelman fence 376.1 feet more or less to another iron pipe; thence (3) South 67 degrees, 41 minutes East 264.9 feet to another iron pipe; thence (4) South 63 degrees 40 minutes East 1895.3 feet to an iron pipe at edge of the meadow near a large cedar tree; thence (5) South 74 degrees 49 minutes East to the shore or Cordery's Bay; thence (6) North along said shore to the seventh corner described in said deed from Jemima Steelman, et al., to said Kessler and Pedrick; thence (7) North 77 degrees West reversing the 6th line in said deed, along an old line ditch 1,100 feet to the 6th corner described in said deed; thence (8) North 83 degrees, 2 minutes West still along said old

line ditch, 2,050 feet to the fifth corner in said deed; thence (9) South 79 degrees, 27 minutes West 500 feet to the fourth corner described in said deed; thence (10) North 71 degrees 13 minutes West 200 feet to the third corner in said deed; thence (11) North 62 degrees, 28 minutes West 500 feet to the second corner in said deed; thence (12) North 65 degrees, 34 minutes West 1575.5 feet to the place of beginning.

Containing 94 acres more or less.

Excepting out of the above described tract lot described as follows:

Beginning at a point in the Southerly line of Shore Road at a distance of 506.27 feet Northeastwardly from the Easterly line of Kessler Avenue, and extends; thence (1) South 64 degrees 22 minutes, 50 seconds East 174.37 feet in a line now or formerly of Daniel Steelman; thence (2) South 25 degrees 37 minutes 10 seconds West 90 feet to a line of a proposed 60 foot width street; thence (3) North 64 degrees 22 minutes 50 seconds West 172.59 feet along Northeasterly line of said proposed 60 foot street; thence (4) Along a curve having a radius of 32.75 feet and a central angle of 123 degrees 05 minutes 40 seconds and length along curve 70.36 feet to a point in the Southerly line of the Shore Road; thence (5) North 58 degrees, 42 minutes, 40 seconds East along said Southerly line of Shore Road, 47 feet to the place of beginning.

7. On March 15, 1929, the defendants, Walter C. Sooy and Lida H. Sooy, conveyed to Leslie T.

Sooy premises situate, lying and being in the City of Absecon City, County of Atlantic and State of New Jersey, bounded and described as follows:

#1. Beginning at a stone, being the most Easterly corner of lands of William Bowler, and extends thence by magnetic bearings of 1912; thence (1) South, 26 degrees and 52 minutes West 103.9 feet; thence (2) South 79 degrees, and 3 minutes East 747.5 feet; thence (3) North 10 degrees East 818.1 feet; thence (4) North 88 degrees and 27 minutes West 537.3 feet to a stone for a corner; thence (5) South, 26 degrees and 29 minutes West, 654.9 feet to the place of beginning.

Containing 11.26 acres.

#2. Beginning in the Southeasterly line of the Shore Road at a point distant 263.13 feet Southwestwardly from a stone monument in said line of the Shore Road, and extends thence by magnetic bearings of 1912, thence (1) South 4 degrees and 5 minutes West along the line of lands of Thomas Bowen, 395.9 feet; thence (2) South 10 degrees West along line of lands of Warren P. Tilton and heirs of Israel Blackman, 1,173.2 feet; thence (3) South 9 degrees, and 30 minutes West still along the line of lands of heirs of Israel Blackman, 410.4 feet; thence (4) South, 28 degrees West still along the line of lands of heirs of Israel Blackman, 30.8 feet to the middle of the Faunce's landing Road; thence (5) South 66 degrees and 28 minutes East along the middle of the Faunce's Landing Road 100 feet; thence (6) South 21 degrees and 47 minutes West along the line of lands of War-

ren P. Tilton, 336.2 feet to the bank of the Absecon River; thence (7) Following down the bank of the Absecon River to a point in the line of lands of Lemuel A. White, said point bearing South 7 degrees and 4 minutes West and is distant 137.5 feet from the last above described point; thence (8) North 48 degrees and 52 minutes East along the line of lands of Lemuel A. White and crossing the Faunce's landing Road, 1,278.5 feet to a Holly Tree for a corner; thence (9) North 28 degrees and 17 minutes East still along the line of lands of Lemuel A. White 1,214.7 feet; thence (10) North 24 minutes West still along the line of lands of Lemuel A. White and along the line of lands of heirs of Zadock Showell 690 feet to the line of lands of Edward Brant; thence (11) North 88 degrees and 4 minutes West along the line of lands of Edward Brant, 170.7 feet; thence (12) South 1 degree and 56 minutes West along the line of lands of Warren P. Tilton, 300 feet; thence (13) North 88 degrees and 4 minutes West still along the line of lands of Warren P. Tilton, 578 feet; thence (14) North 22 degrees West still along the line of lands of Warren P. Tilton, 407.9 feet to the Southeasterly line of the Shore Road; thence (15) South, 57 degrees and 47 minutes West along the Southeasterly line of the Shore Road, 483.2 feet to the place of beginning.

Contains 48.44 acres.

#3. Beginning at a post standing on the Southeasterly side of the Shore Road being the northernmost corner of the lot where Elizabeth Showell formerly lived, and extends from thence

(1) South 2 degrees and a half, East 3 chains and 90 links in the side of said lot; thence (2) North 87 degrees and a half East 1 chain and 26 links; thence (3) North 4 chains and 71 links more or less to the Shore Road; thence (4) Along said Road South 54 degrees West, 1 chain and 44 links more or less to the place of beginning.

#4. Beginning at a stone in the line between Warren P. Tilton and Charles F. Hammel, also corner to land owned by John Frambes, said corner being South 88 degrees and 34 minutes East, in said line at a distance of 167.88 feet from the Southerly line of the Shore Road and extends (1) South 88 degrees and 34 minutes East 175.69 feet to a stone; thence (2) North 3 degrees, and 30 minutes West 237.3 feet to the Southerly line of the Shore Road; thence (3) Along the Southerly line of the Shore Road South 57 degrees and 28 minutes West, 254.84 feet to a stone in the said Frambes line; thence (4) Along said Frambes Line, South 14 degrees and 32 minutes East, 98.59 feet to the place of beginning.

Excepting thereout and from the above described premises, the following lots, tracts or parcels of land and premises heretofore conveyed by the said party of the first part.

Lot 11 Block 152, conveyed unto Lino Fiorelli, said lot being shown on map or plan of lots of Mentone Shores Section C-1 situate in Absecon, New Jersey, Scale 1 inch—100 feet, W. I. Risley, Civil Engineer.

Lot No. 8, Block 152 conveyed unto Peter

Cannaliato, shown on above mentioned map or plan.

Lot No. 3, Block 163 conveyed unto William J. and Alma R. Kyte shown on map or plan above mentioned.

Lot No. 6 & 7 Block 147 conveyed unto W. I. Risley, shown on above mentioned plan.

A part of Lot No. 13, Block 152 on the map or plan above mentioned conveyed unto Hans Corte.

A part of Lot No. 12 Block 152 conveyed unto William J. and Alma R. Kyte.

The above map or plan of lots having been duly filed.

Also that certain lot or tract of land and premises conveyed to Harry Miller, situate on the Southeasterly side of the New York Road, being about 70 feet in front or width on said New York Road, adjoining lands of John Gaskill on the Southwest, and other property of said Miller on the Northeast.

8. On March 15, 1929, the defendants, Lida H. Sooy and Walter C. Sooy, conveyed to Leslie T. Sooy premises situate, lying and being in the City of Absecon City, County of Atlantic and State of New Jersey, bounded and described as follows:

Beginning at the most Northerly corner of lands conveyed by Lemuel A. White, et ux., to Walter C. Sooy, by deed dated May, , 1911, and recorded in Book 461, page 64, commencing at a stake in the centre line of Fourth Street as laid out by Lemuel A. White (100 feet wide) and extends thence by magnetic bearings of

1912; thence (1) North 68 degrees, 23 minutes West along the lands of Sooy and heirs of Zadock Showell 670.6 feet to a point in line of lands of Walter C. Sooy; thence (2) South 24 minutes East along lands of Walter C. Sooy, 171.6 feet; thence (3) Still along land of Walter C. Sooy, South 28 degrees and 17 minutes West 1214.7 feet to a holly tree for a corner; thence (4) Still along land of Walter C. Sooy and crossing Faunce's Landing Road, South 48 degrees and 52 minutes West 1278.5 feet to the bank of the Absecon Creek; thence (5) Following down the bank of the Absecon Creek the several Courses thereof to a stake standing in the centre line of Third Street (50 feet wide) and other lands of Lemuel A. White; thence (6) North 34 degrees and 4 minutes East along centre line of Third Street to the centre line of Absecon and Rivaria Beaches Boulevard (Rivaria Beaches Boulevard being 100 feet wide) 889 feet; thence (7) North 55 degrees and 56 minutes West along the centre line of Absecon and Rivaria Beaches Boulevard to the centre line of Fourth Street, 575 feet; thence (8) North 34 degrees and 4 minutes East along the centre line of Fourth Street, 1720 feet to the place of beginning.

The said Lemuel A. White reserving the right of way of Third Street (50 feet wide) from Absecon Creek to the centre of Absecon and Rivaria Beaches Boulevard and the right of way of Rivaria Beaches Boulevard (100 feet wide) from Third Street to the Westernmost line of said land, being 1,030 feet more or less and the right of way of Fourth Street from the

Absecon Creek to the first mentioned point or place of beginning, being 2188 feet and the right of way of Faunce's Landing Road (50 feet wide) from Third Street to the Westernmost side of said land as public highways running through the said property as laid out on the plan plotted by the said Lemuel A. White, for himself, his heirs, executors and assigns.

9. On March 15, 1929, the defendants, Walter C. Sooy and Lida H. Sooy, conveyed to Leslie Thomas Sooy premises situate, lying and being in the City of Absecon City, County of Atlantic and State of New Jersey, bounded and described as follows:

#1. Beginning at a point in the middle line of a proposed street known as Fourth Street said point being the Northeasterly corner of Lemuel A. White's land; and extends thence (1) Along the middle line of said Fourth Street South 33 degrees 8 minutes West 1720 feet to the middle of a street known as New York Avenue; thence (2) Along the middle line of said Avenue South 56 degrees, 52 minutes East 564 feet; thence (3) North 33 degrees, 8 minutes East 150.06 feet; thence (4) North 55 degrees 20 minutes 3 seconds West 403.46 feet; thence (5) North 27 degrees 14 minutes 9 seconds East 1566.87 feet to the place of beginning.

Containing 4.913 acres.

#2. Beginning at the Southwesterly corner of William Johnson's Plantation and runs first South 58 degrees East 6 chains and 20 links to a corner; thence (2) North 6¾ degrees East 1 chain and 62 links to a corner; thence (3) North

58 degrees West 6 chains and 20 links more or less to the division line between Jacob H. Fans and William Johnson's land; thence (4) South 26¾ degrees West in said division line 1 chain and 62 links more or less to the place of beginning.

Containing 1 acre more or less.

#3. Beginning at the Southwesterly line of said land of Benjamin Johnson and runs; thence (1) In Southerly line of said land, South 55 degrees, 15 minutes East 410 feet to a cedar tree for a corner; thence (2) North 30 degrees East 102.5 feet to a stake for a corner; thence (3) North 55 degrees and 15 minutes West 441 feet to a stake for a corner on the Easterly side of a road running from said Johnson's house to the meadows; thence (4) In the side of said road in a Southwesterly direction 103.5 feet to the place of beginning.

Containing 1 acre of land.

#4. Beginning at a corner of Bakley Risley in Daniel Steelman's line and extending thence (1) Along said Steelman line South 68 degrees and 15 minutes East 397 feet; thence (2) South 48 degrees and 30 minutes East 750 feet; thence (3) North 66 degrees and 30 minutes West 315 feet to the corner of land of Walter C. Sooy; thence (4) North 27 degrees East 612 feet to the place of beginning.

#5. All that certain lot, piece or parcel of land, situate, lying and being in Atlantic County, New Jersey and bounded and particularly described as follows, to wit:

Bounded on the East by the Bay on the North

by Steelman's Creek and being at or near Long Point, and containing about 14 acres of land, more or less and which is the same piece and hereby intended to be the same piece or parcel of land given and bequeathed to Elish Sooy by the last will and testament of his father, Charles Sooy, deceased, and who died on or about the 14th day of November, 1847, in said County of Atlantic and whose said will was probated in said County, and to which reference is here made for more particular description.

Being the same premises of which Felix Leeds died seized, having first made and published his last will and testament, wherein and whereby he did among other things, direct as follows:

"I give and bequeath unto My Grandson Henry Martense, son of Henry Martense and Mary, his wife, a lot of salt grass meadow containing 14 acres more or less situate at the shooting point along Absecon Bay, being the property which I purchased of Elisha Sooy."

"It is my will and request that the said meadow shall be in the care and control and use of Capt. Abel Babcock until my Grandson, Henry Martense shall attain the age of 21 years after which time Henry Martense shall have full possession and control of said meadow, but if the said Henry Martense shall die before attaining the age of 21 years or having attained that age, shall die without heirs, then the said meadow to be sold and the proceeds divided equally between all of my Grandchildren share and share alike.

The said Henry Martense having departed

this life on or about the 25th day of May in the year of our Lord 1892, intestate, unmarried and without issue, before having arrived at the age of 21 years.

Being the same premises which John R. Steelman, Executor of the last will and testament of Felix Leeds, Lida S. Babcock, Elizabeth Sapp and Joseph B. Sapp, her husband, Lida S. Butler and Arthur T., her husband, Walter Sapp and Ada, his wife, Francis Sapp and Cora, his wife, Charlotte B. Hammel and Ambrose L., her husband, Reuben L. Babcock and Bessie B., his wife, heirs at law of the said Felix Leeds, deceased, conveyed unto the said Walter C. Sooy by deed dated Feb. 6, 1913, and recorded in Book 543 of Deeds, page 61 &c.

Together with all the household furniture, fixtures and utensils contained in the building or buildings on the above described premises.

10. On March 15, 1929, the defendants, Lida H. Sooy and Walter C. Sooy, conveyed to Leslie T. Sooy premises situate, lying and being in the City of Absecon City, County of Atlantic and State of New Jersey, bounded and described as follows:

Beginning at a stake for a corner set in the meadow 75 links from the Northerly side of the Salt Works Ditch to the Southward of a fresh water spring by the side of said ditch and extending thence (1) South 42 degrees East to a stake in the head of a small creek called the Boundary between Joseph Ireland and said meadows; thence (2) Down the same by the several courses thereof to the mouth thereof at the

side of Shooting Point and Absecon Bay; thence (3) Bounding by low water mark up the several courses of the meadow crossing a small creeks mouth and the mouth of the Salt Works Ditch to the mouth of a small creek next to the ditch; thence (4) Up the several courses of the said small creek to a stake on the Northerly side of said ditch; thence (5) Along and joining on the said ditch North 75 degrees West 94 chains, 42 links to Joseph Ireland's meadow to a stake for a corner by the said ditch; thence (6) Joining on said Joseph Ireland's meadow crossing said ditch South 16 degrees West 37½ links to a corner; thence (7) South 75 degrees East 37 chains to a corner; thence (8) South 15 degrees West 37½ links to the place of beginning.

Containing 90 acres of salt meadow.

Also all that certain tract of meadow land, Beginning at a corner of 90 acres sold by the Sheriff of Gloucester County unto James Bound and Thomas Latham in 1786 and extending; thence (1) South 42 degrees East to the head of a small creek; thence down the middle of said creek to Absecon Bay by the side of Shooting Point thence West by low water mark adjoining the meadow to the mouth of the first creek to the East of the mouth of Absecon Creek; thence in the division line between the heirs of Samuel and Richard Ireland, the several courses to the Southerly side of the 90 acres; thence North 75 degrees West to the most Westerly line of the 90 acres; thence North 16 degrees West 37½ links to Enoch A. Doughty's corner; thence in his line South 75 degrees East

37 chains to his corner; thence in his line South 15 degrees West 37½ links to the place of beginning.

Containing 70 acres more or less and includes the Joseph Ireland's 50 acres and meadow bought of William Johnson in 1862.

Also Beginning at a peg for a corner being the corner of Zadock Showell, Matthew Sooy and Daniel Tilton, and extending; thence (1) On a course North 70½ degrees West 10 chains and 5/100 of a chain to a peg for a corner; thence (2) South 4½ degrees East 2 chains and 57/100 of a chain to a peg for a corner; thence (3) South 28 degrees 7 minutes West 18.40 chains thence (4) South 13 degrees East 1.90 chains; thence (5) South 16½ degrees West 8 chains and 80/100 of a chain to Absecon Creek; thence down Absecon Creek by following courses (6) South 40 degrees East 5.30 chains; thence (7) South 12 degrees West 5 chains; thence (8) South 52 degrees East 18 chains; thence (9) North 82 degrees East 10.50 chains; thence (10) South 9 degrees West 15 chains and 50/100 of a chain to Absecon Bay; thence (11) Binding said Bay North 87 degrees East 3 chains to the mouth of a small creek thence (12) Up said creek North 14½ degrees East 4 chains and 50/100 of a chain; thence (13) Still following said creek North 28 degrees East 5 chains to a stake by the said Creek; thence (14) North 4 chains and 80/100 of a chain to a stake in the line of lot Number 3 of the original division among the heirs-at-law of Amos Ireland, deceased about 1779; thence (15) In the line of

lot Number Three North 31 degrees West 23 chains to a corner stake near the upland; thence (16) North 61½ degrees West 9 chains and 50/100 of a chain; thence (17) North 22½ degrees East 23.25 chains to the place of beginning.

Containing 60 acres, more or less.

Excepting however, from the last above described tract all that certain tract conveyed by Lemuel A. White and Martha, his wife, to Walter C. Sooy, by deed dated May 18, 1911, and recorded in Book 461 of Deeds, page 64 bounded and described as follows:

Beginning in the middle of a proposed street known as Fourth Street said point being the Northeasterly corner of Lemuel A. White's land and extending thence (1) Along the middle line of said Street South 33 degrees, 8 minutes West 1720 feet to the middle of a street known as New York Avenue; thence (2) Along the middle of said Avenue South 56 degrees, 52 minutes East 564 feet; thence (3) North 33 degrees 8 minutes East 150.06 feet; thence (4) North 55 degrees 20 minutes 3 seconds West 403.46 feet; thence (5) North 27 degrees, 14 minutes 9 seconds East 1566.87 feet to the place of beginning.

Containing 4 acres and 913/1000 of an acre.

Also excepting from the last above described tract all that portion of the lands contained within said tract which were conveyed by Lemuel A. White and Martha, his wife, to Lida H. Sooy, by deed dated April 30, 1912 and recorded in Book 481 of deeds, page 400 &c., bounded and described as follows:

Beginning at the most Northerly corner of lands conveyed by Lemuel A. White, et ux., to Walter C. Sooy, by deed dated May, 1911, recorded in Book 461, page 64, commencing at a stake in the centre line of Fourth Street, as laid out by Lemuel A. White (100 feet wide) and extending thence by magnetic bearing of 1912; thence (1) North 68 degrees, 23 minutes West along lands of Sooy and heirs of Zadock Showell 670.6 feet to a point in the line of lands of Walter C. Sooy; thence (2) South 24 minutes East along lands of Walter C. Sooy, 171.6 feet; thence (3) Still along land of Walter C. Sooy, South 28 degrees, 17 minutes West 1214.7 feet to a holly tree for a corner; thence (4) Still along land of Walter C. Sooy, and crossing the Faunce's Landing Road, South 48 degrees, 52 minutes West 1278.5 feet to the bank of the Absecon Creek; thence (5) Following down the bank of the Absecon Creek the several courses thereof to a stake standing in the centre line of Third Street (50 feet wide) and other lands of Lemuel A. White; thence (6) North 34 degrees 4 minutes East along the centre line of Third Street to the centre line of Absecon and Rivaria Beaches Boulevard (Rivaria Beaches Boulevard being 100 feet wide) 889 feet; thence (7) North 55 degrees, 56 minutes West along the centre line of Absecon and Rivaria Beaches Boulevard to the centre line of Fourth Street 575 feet; thence (8) North 34 degrees 4 minutes East along the centre line of Fourth Street, 1720 feet to the place of beginning.

11. On March 15, 1929, the defendants, Lida H. Sooy and Walter C. Sooy, conveyed to Leslie Thomas Sooy premises situate, lying and being in the City of Absecon City, County of Atlantic and State of New Jersey, bounded and described as follows:

All those 5 contiguous Tracts of upland and meadow, situate in the City of Absecon City, Atlantic County, New Jersey on both sides of the public road leading from the main Shore Road to Samuel Reed's landing and described according to surveys made in 1876 as follows:

Beginning at a stake standing in middle of the public road leading from the main Shore Road to Samuel Reed's landing at a distance of 10½ chains on a course of South 33 degrees West from Chamberlain's and Reed's line and South of Samuel Reed's barn and where the line of a fence made by Samuel Reed intersects said road and runs thence (1) South 58¼ degrees East by said fence 12 chains to the meadow; thence (2) North 77½ degrees East 17 chains more or less to Absecon Creek to a stake for a corner landing near the lower end of the Long Reach; thence (3) Up said Creek the several courses thereof to a small creek or ditch in the upper end of the said Long Reach being the division line between Lewis Reed and Daniel Reed; thence South 44½ degrees West 5 chains and 62 links to the line ditch; thence (4) North 77 degrees West 6 chains and 18 links following an old ditch near the Boat House; thence (5) South 7 degrees West 25 links to a corner; thence (6) North 85 degrees West 1 chain and 32 links to

a corner in the public road aforesaid; thence (7) South 31 degrees and 10 minutes West 6½ chains to a corner and corner to the first tract set off to Lewis Reed; thence (8) South 33 degrees West 56 links to the place of beginning.

Containing 10 acres be the same more or less.

Tract No. 2—Beginning at a stake set for a corner and being the fifth corner of the first lot set off to Lewis Reed and runs; thence (1) In the division line between Lewis Reed and Daniel H. Reed North 12 degrees and 10 minutes East 3 chains and 20 links to a corner standing in the meadow; thence (2) North 15 minutes West 9 chains and 68 links more or less to Absecon Creek at the mouth of a small gut or Creek putting into the meadow at the Southerly side of Absecon Creek; thence (3) Binding Absecon Creek on a general course of North 54¼ degrees East 6 chains and 25 links to a stake in the edge of said creek; thence (4) Still by the Creek aforesaid South 1 degree and 10 minutes East 6 chains and 90 links to a mouth of a small creek more or less; thence (5) Up said small creek South 78¼ degrees West 1 chain and 38 links to a corner; thence (6) South 9 degrees and 10 minutes East 2 chains and 90 links to a corner and mouth of a ditch; thence (7) South 12 degrees and 10 minutes West 7 chains and 72 links more or less to the line of Lewis Reed's land; thence (8) North 66¾ degrees West 2 chains and 50 links to the place of beginning.

Containing 6 acres be the same more or less.

Tract No. 3—Beginning at a stake standing in the middle of the public road leading from main

Shore Road to Samuel Reed's Landing at a distance of 10½ chains on a course of South 33 degrees West from Chamberlain's and Reed line and South of Samuel Reed's barn, and where the line of a fence made by Samuel Reed intersects said Road and thence (1) South 58¼ degrees East by said fence 12 chains to the meadow; thence (2) North 77½ degrees East 17 chains more or less to Absecon Creek to a stake for a corner standing near the lower end of the Long Reach; thence (3) Down Absecon Creek the several courses thereof to the mouth of the line ditch between the property of Samuel Reed, deceased and William Chamberlain, deceased, now the property of Aaron S. Steelman thence (4) Up said line ditch to the upland; thence (5) Still in the division line between Reed and Chamberlain along a line fence to the middle of the public road aforesaid; thence (6) North 33 degrees East 10 chains and 50 links to the place of beginning.

Containing 9 acres be the same more or less.

Tract No. 4—Beginning at a white oak standing at the Northwesterly corner of Scow Dock or ditch where it empties into Absecon Creek and being the Easterly line of the public road aforesaid and runs; thence (1) South 31 degrees and 10 minutes West 8 chains and 25 links to the fourth corner of the first lot set off to Lewis Reed; thence (2) North 66¾ degrees West 4 chains and 33 links to a stake for a corner and corner to second lot set off to Daniel H. Reed; thence (3) Binding Daniel H. Reed's line North 12 degrees and 10 minutes East 7

chains and 72 links being an old ditch a part of said distance, to a small creek; thence (4) Along said Creek North 9 degrees and 10 minutes West 2 chains and 90 links to a stake for a corner; thence (5) Still along said Creek North 78¼ degrees East 1 chain and 38 links to Absecon Creek; thence (6) Down Absecon Creek Southeast to the place of beginning.

Containing 5 acres to be the same more or less.

Tract No. 5—Beginning at a white oak stake standing at the Northwesterly corner of Scow Dock or ditch where it empties into Absecon Creek and being the Easterly line of the public road aforesaid and runs thence (1) Down Absecon Creek the several courses thereof to the mouth of a small ditch or creek at the West end of the Long Reach of Absecon Creek; thence (2) South 44½ degrees West up said creek and ditch 5 chains and 62 links to a corner; thence (3) North 77 degrees West 6 chains and 18 links following an old ditch near the Boathouse; thence (4) South 7 degrees West 25 links to a corner; thence (5) North 85 degrees West 1 chain and 32 links to a corner in the public road aforesaid; thence (6) North 31 degrees and 10 minutes East 1 chain and 75 links to the place of beginning.

Containing 6 acres, more or less.

Excepting out of the above described tracts, a lot beginning at the line of lands now owned by Lewis M. Clark in the middle of the said public road and extending along the middle of said road in a Northeasterly direction 200 feet

and in length or depth Northwest about 400 feet to the line of meadows formerly owned by Lewis Reed, the Southerly side line being the division line between Lewis M. Clark and the said Daniel H. Reed and the Northerly side line being parallel thereto and excepting also a lifetime right to Daniel H. Reed to a landing for a boat or boats at the terminus of said public road at Absecon Creek.

12. On March 15, 1929, defendants, Walter C. Sooy and Lida H. Sooy conveyed to Leslie T. Sooy premises, situate, lying and being in the City of Absecon City, County of Atlantic and State of New Jersey, bounded and described as follows:

Beginning at a point in the middle of the Pitney Road, being also a corner of land belonging to Edward A. Wilson, and extending thence (1) Along said Wilson's line North 49 degrees, 30 minutes West 2,138.18 feet to the Sarah Helby line; thence (2) Along the said Helby line North 87 degrees 30 minutes West 465.66 feet; thence (3) Along the line now or formerly of Fleming, and parallel with first course South 49 degrees, 30 minutes East 2,639.81 feet to the middle of the aforesaid Pitney Road; thence (4) Along the middle of said Road North 15 degrees 20 minutes East 316.08 feet to the place of beginning.

Containing 15.72 acres.

Also beginning at a stake standing at the head of Sooy's Creek, also a corner of land formerly of Matthew Sooy, and extending thence (1) Along said Sooy's line, as the magnetic pointed

October, 1905, North 70 degrees, 45 minutes West 570 feet to a stake standing on the Northerly side of a small salt pond; thence (2) Still along said Sooy's line, North 19 degrees, 15 minutes, West 943 feet to the middle of a line ditch in Zadock Showell's line; thence (3) Along said line ditch North 73 degrees West 332 feet to a line ditch between the party of the first part and said Zadock Showell; thence (4) Along said ditch North 20 degrees, 15 minutes East 168 feet; thence (5) North 4 degrees 30 minutes East 128 feet; thence (6) North 38 degrees, 30 minutes East 146 feet to corner of land of said Sooy; thence (7) Along the line of said Sooy's land North 61 degrees West 590 feet; thence (8) Still along the same North 26 degrees 45 minutes East 115.5 feet to a stake; thence (9) Still along the same North 61 degrees West 373 feet to a stake for a corner in line of land of Warren Tilton; thence (10) Along said Tilton's line South 26 degrees and 30 minutes West 922 feet to a corner of land of John Cannon; thence (11) Along said line South 55 degrees East 415 feet to a post for a corner; thence (12) South 30 degrees, 45 minutes West 208 feet to a stone in Warren Tilton's line; thence (13) Along said line South 54 degrees, 187 feet to a stake at the head of a line ditch; thence (14) Along the middle of said line ditch South 31 degrees East 438 feet a pump ditch; thence (15) Along the middle line of said pump ditch South 69 degrees, 15 minutes East 4,874 feet to a stake being the 6th corner of a lot formerly of Felix Leeds; thence (16) Along the line of said Leed's land

North 20 degrees 15 minutes East 872 feet to the middle of Sooy's Creek; thence (17) Up the said Creek the several courses thereof to the place of beginning, said beginning bears South 81 degrees East at the distance of 3,248 feet to the last mentioned corner.

Containing 92 acres more or less.

13. On March 15, 1929, the defendants, Walter C. Sooy and Lida H. Sooy, conveyed to Leslie T. Sooy premises situate, lying and being in the City of Absecon City, County of Atlantic, and State of New Jersey, bounded and described as follows:

#1. Being lots numbered 1, 6 and 11 as shown on "Map of land in the Town of Absecon belonging to Walter C. Sooy and others, as per map furnished by W. C. Sooy, which map is duly filed; said lots being located on the road or lane known as Sooy's Lane on the Southeasterly side of the main shore road leading from Absecon to Leeds Point.

#2. Being lots numbered 2, 7 and 12 as shown on "Map of land in the Town of Absecon belonging to Walter C. Sooy and others, as per map furnished by W. C. Sooy, which said map is duly filed, said lands being located on the road or lane known as "Sooy's Lane" on the Southeasterly side of the main shore road leading from Absecon to Leeds Point.

#3. Being lots numbered four, ten and fifteen as shown on "Map of Land in the Town of Absecon belonging to Walter C. Sooy and others," as per map furnished by W. C. Sooy, which said

map is duly filed in Atlantic County Clerk's Office.

#4. Being lots numbers, 16, 17 and 20 as shown on "Map of land in Absecon City, New Jersey, belonging to Walter C. Sooy and others." Said map prepared from a survey made by Watson Conover, being a correction of maps and deed previously made by the heirs-at-law of Matthew C. Sooy, deceased, a copy of which said map of correction is duly filed. Said lands being located on the road or lane known as "Sooy's Lane" on the Southeasterly side of the County Road leading from Absecon to Oceanville.

#5. Being lots numbered 3, 8, 13, as shown on "Map of land in the Town of Absecon, belonging to Walter C. Sooy and others as per map furnished by W. C. Sooy" which said map is duly filed. Said lands being located on the road or lane known as "Sooy's Lane" on the Southeasterly side of the Main Shore Road leading from Absecon to Leeds Point.

#6. Being lot number 18 as shown on "Map of land in Absecon City, New Jersey, belonging to Walter C. Sooy and others." Said map being prepared from a survey made by Watson Conover, being a correction of maps and deeds previously made by the heirs-at-law of Matthew C. Sooy deceased; a copy of which said map of Correction is duly filed in Atlantic County Clerk's Office. Said land being located on the road or lane known as "Sooy's Lane," on the Southeasterly side of the County Road leading from Absecon to Oceanville.

#7. Being lot number 19 as shown on "Map of land in Absecon City, New Jersey, belonging to Walter C. Sooy and others." Said map being prepared from a survey made by Watson Conover, being a correction of maps and deeds previously made by the heirs-at-law of Matthew C. Sooy, deceased, a copy of which said map of correction is duly filed, said lands being located on the road or lane known as "Sooy's Lane" on the Southeasterly side of the County Road leading from Absecon to Oceanville.

#8. Also lots numbered 9 and 14 as shown on "Map of Lands in the Town of Absecon, Belonging to Walter C. Sooy and others as per map furnished by W. C. Sooy, which said map is duly filed in the Atlantic County Clerk's Office. Said lands being located on the road or lane known as "Sooy's Lane" on the Southeasterly side of the Main Shore Road leading from Absecon to Leed's Point.

#9. Also all that certain lot of brush land contained about 10 acres more or less located in the City of Absecon, Atlantic County, New Jersey, on the Mill Road, said lot being on which John Leeds, the grandfather of Charles H. Sooy died seized intestate.

14. The defendants, Walter C. Sooy and Lida H. Sooy, conveyed the premises hereinbefore mentioned and particularly described in paragraphs 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, to the said Leslie Thomas Sooy without receiving any consideration therefor.

15. At the time of the making of the above conveyances by the defendants to Leslie Thomas Sooy, it was understood by and between the aforesaid Walter C. Sooy and Lida H. Sooy and Leslie Thomas Sooy that the said Leslie Thomas Sooy should hold said property in trust for the said Walter C. Sooy and Lida H. Sooy in order to secure the said property for their own use and benefit, and to protect it from liens of any judgments which might at any time be recovered by creditors of the said Walter C. Sooy and Lida H. Sooy, and to prevent any judgment creditors from collecting their debts.

16. The defendant, Leslie Thomas Sooy, now holds the legal title to the premises mentioned and particularly described in paragraphs 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, in trust for the use of the said Walter C. Sooy and Lida H. Sooy, for the purpose of hindering and delaying their judgment creditors in collecting their judgments.

17. The defendants, Walter C. Sooy and Lida H. Sooy, fraudulently conveyed the premises mentioned and particularly described in paragraphs 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13 of this bill of complaint, to the said Leslie Thomas Sooy, without receiving any consideration therefor with intent to defraud their creditors.

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

1. That Walter C. Sooy, Lida H. Sooy and Leslie

Thomas Sooy may answer this bill of complaint without oath and each statement therein made.

2. That a decree may be made that the defendants, Walter C. Sooy and Lida H. Sooy, or one of them, either pay complainant the sum of $51,916.82, plus interest from July 22, 1929, besides costs of suit, or that the equitable lien of the defendants, Walter C. Sooy and Lida H. Sooy, on the aforesaid property be foreclosed to raise and pay to the complainant, the sum of $51,916.82, plus interest from July 22, 1929, besides costs of procuring the judgment, together with interest and costs of this proceeding.

3. That a writ of subpoena may be issued, commanding said defendants to answer this bill of complaint, and to abide by such decree as this Court may make in the premises.

EMERSON RICHARDS,
JOHN C. REED,
Solicitors for and of Counsel with Complainant.

ANSWER.

(Filed June 23, 1930.)

IN CHANCERY OF NEW JERSEY.
79-240.

Between
CHARLES M. KESSLER,
Complainant,
and
WALTER C. SOOY, *et al.*,
Defendants.

On Bill, &c.
Answer.

Walter C. Sooy, Lida H. Sooy and Leslie Thomas Sooy, severally answering the bill of complaint, say:

1. They admit paragraphs one to thirteen, inclusive.

2. They deny paragraph fourteen.

3. They deny paragraph fifteen.

4. They deny paragraph sixteen.

5. They deny paragraph seventeen.

6. Further answering, they say that the conveyances set forth in the bill from Walter C. Sooy and Lida H. Sooy to Leslie Thomas Sooy were based upon a good and valuable consideration, and included, among other things, the services performed by the said Leslie Thomas Sooy for Walter C. Sooy and Lida H. Sooy, and in the performance of the promise and agreement made by said Walter C. Sooy and Lida H. Sooy to said Leslie Thomas Sooy, that if he would remain as a member of their household and perform services for them until he arrived at the age of twenty-one years, and graduate from a medical society, that they would grant and convey to him the premises described in the bill, and that in keeping with said promise and agreement said Leslie Thomas Sooy did remain with them and perform services for them until he was twenty-one years of age and did graduate from a medical society, and shortly thereafter said conveyances were made.

Further answering said complaint, by way of plea, they say that the judgment procured by the complainant against the defendants, Lida H. Sooy and Walter C. Sooy, was based upon a deficiency judgment, after foreclosure of a mortgage; that, pursuant to the statute in such case made and provided, the said defendants have six months, from the 6th day of March, 1930, the date of the entry of said judgment, in which to redeem the premises, and that, in the meanwhile, there is no right on the part of the complainant to file said bill or to take any other action under said judgment, and that the bill was prematurely filed.

Further answering said bill, defendants say that,

taking to be true all the averments set forth in the bill, that it does not show a cause of action in equity in favor of complainant against them, and that for this reason they will, when the case is called for hearing, move to dismiss.

COLE & COLE,
Solicitors of Defendants and of Counsel.

REPLY AND REPLICATION.

(Filed Nov. 3, 1930.)

IN CHANCERY OF NEW JERSEY.
D-79-240.

Between CHARLES M. KESSLER, *Complainant,* and WALTER C. SOOY, *et als.*, *Defendants.*	On Bill, etc. Reply and Replication.

Charles M. Kessler, by way of reply and replication to the answer of the defendants, says that:

1. The facts set up in paragraph 6 of the answer brought about a condition of insolvency, after said conveyances upon the part of Walter C. Sooy and Lida H. Sooy.

2. Complainant joins issue upon the remainder of the answer.

EMERSON RICHARDS,
Solicitor for and of Counsel with Complainant.

I hereby consent to the entry of the above reply and replication, out of time.

COLE & COLE,
Solicitors for and of Counsel with Defendants.

AMENDED BILL OF COMPLAINT.

(Filed Dec. 26, 1930.)

IN CHANCERY OF NEW JERSEY.

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

The complainant, Charles M. Kessler, of the City of Absecon City, County of Atlantic and State of New Jersey, respectfully shows that:

1. On March 6, 1930, the complainant recovered a judgment in the New Jersey Supreme Court in the suit of Charles M. Kessler against the defendants, Lida H. Sooy and Walter C. Sooy. Said judgment was for the sum of $51,916.82, plus interest from July 22, 1929, besides costs of suit.

2. On April 23, 1930, an execution was issued on said judgment out of the Supreme Court of the State of New Jersey, addressed to the Sheriff of Atlantic County; Sheriff of Atlantic County returned said execution unsatisfied.

3. The defendants do not hold title to any property, either real or personal, upon which a levy can be made, and the complainant's judgment cannot be collected in the courts of law, and the defendants, by their conduct as set forth in the following paragraphs, have been and were insolvent since March 15th, 1929.

4. On March 15, 1929, the defendants, Lida H. Sooy and Walter C. Sooy, conveyed to Leslie Thomas Sooy premises situate, lying and being in the City of Atlantic City, County of Atlantic and State of New Jersey, bounded and described as follows:

> BEGINNING at a point in the Northerly side of Pacific Avenue at a distance of 50 feet Eastwardly of the Northeasterly corner of Pacific and Michigan Avenues and runs thence (1) Northwardly, parallel with Michigan Avenue, 100 feet; thence (2) Eastwardly, parallel with Pacific Avenue, 50 feet; thence (3) Southwardly,

parallel with said Michigan Avenue, 100 feet to the Northerly line of Pacific Avenue; thence (4) Westwardly, in the said line of Pacific Avenue, 50 feet to the place of beginning. Together with the furniture and personal property contained in the dwelling house located on the above-described lot of land.

5. On March 15, 1929, the defendants, Lida H. Sooy and Walter C. Sooy, conveyed to Leslie Thomas Sooy premises situate, lying and being in the City of Atlantic City, County of Atlantic and State of New Jersey, bounded and described as follows:

BEGINNING at a point on the Westerly line of South Carolina Avenue, 377 feet Southwardly from the Southerly line of Pacific Avenue and runs thence (1) Southwardly, along the said line of South Carolina Avenue, 50 feet; thence (2) Westwardly, and parallel with Pacific Avenue, 150 feet; thence (3) Northwardly, and parallel with South Carolina Avenue, 50 fet; thence (4) Eastwardly, and parallel with Pacific Avenue, 150 feet to the place of beginning.

Together with the furniture and personal property contained in building located on the above described land.

6. On March 15, 1929, the defendants, Walter C. Sooy and Lida H. Sooy, conveyed to Leslie Thomas Sooy premises situate, lying and being in the City of Absecon City, County of Atlantic and State of New Jersey, bounded and described as follows:

BEGINNING at an old stone standing near the Southeasterly line of the Main Shore Road leading from Absecon to Oceanville, said stone being the beginning corner described in deed from Memima Steelman, et al, to Wilmer Pedrick and Charles Maurice Kessler, dated January 14, 1909 recorded in Book 397, page 198, and extending thence (1) South 57 degrees 2 minutes West 317 feet to a point by an iron pipe; thence (2) South 38 degrees, 39 minutes East passing over said iron pipe which is set in the line of the old Steelman fence 376.1 feet more or less to another iron pipe; thence (3) South 67 degrees, 41 minutes East 264.9 feet to another iron pipe; thence (4) South 63 degrees 40 minutes East 1895.3 feet to an iron pipe at edge of the meadow near a large cedar tree; thence (5) South 74 degrees 49 minutes East to the shore or Cordery's Bay; thence (6) North along said shore to the seventh corner described in said deed from Jemima Steelman et al, to said Kessler and Pedrick; thence (7) North 77 degrees West reversing the 6th line in said deed, along an old line ditch 1100 feet to the 6th corner described in said deed; thence (8) North 83 degrees, 2 minutes West still along said old line ditch, 2050 feet to the fifth corner in said deed; thence (9) South, 79 degrees, 27 minutes West 500 feet to the fourth corner described in said deed; thence (10) North 71 degrees 13 minutes West 200 feet to the third corner in said deed; thence (11) North 62 degrees, 28 minutes West 500 feet to the second corner in said deed; thence (12) North 65

degrees, 34 minutes West 1575.5 feet to the place of beginning.

Containing 94 acres more or less.

Excepting out of the above-described tract lot described as follows:

BEGINNING at a point in the Southerly line of Shore Road at a distance of 506.27 feet Northeastwardly from the Easterly line of Kessler Avenue, and extends; thence (1) South 64 degrees, 22 minutes, 50 seconds East 174.37 feet in a line now or formerly of Daniel Steelman; thence (2) South 25 degrees 37 minutes 10 seconds West 90 feet to a line of a proposed 60 foot width street; thence (3) North 64 degrees 22 minutes 50 seconds West 172.59 feet along Northeasterly line of said proposed 60 foot street; thence (4) along a curve having a radius of 32.75 feet and a central angle of 123 degrees 05 minutes 40 seconds and length along curve 70.36 feet to a point in the Southerly line of the Shore Road; thence (5) North 58 degrees, 42 minutes, 40 seconds East along said Southerly line of Shore Road, 47 feet to the place of beginning.

7. On March 15, 1929, the defendants, Walter C. Sooy and Lida H. Sooy, conveyed to Leslie T. Sooy premises situate, lying and being in the City of Absecon City, County of Atlantic and State of New Jersey, bounded and described as follows:

#1. BEGINNING at a stone, being the most Easterly corner of lands of William Bowler, and extends thence by magnetic bearings of

1912; thence (1) South, 26 degrees and 52 minutes West 103.9 feet; thence (2) South, 79 degrees, and 3 minutes East 747.5 feet; thence (3) North 10 degrees East 818.1 feet; thence (4) North 88 degrees and 27 minutes West, 537.3 feet to a stone for a corner; thence (5) South, 26 degrees and 29 minutes West, 654.9 feet to the place of beginning.

Containing 11.26 acres.

#2. BEGINNING in the Southeasterly line of the Shore Road at a point distant 263.13 feet Southwestwardly from a stone monument in said line of the Shore Road, and extends thence by magnetic bearings of 1912, thence (1) South 4 degrees and 5 minutes West along the line of lands of Thomas Bowen, 395.9 feet; thence (2) South 10 degrees West along line of lands of Warren P. Tilton and heirs of Israel Blackman, 1,173.2 feet; thence (3) South 9 degrees, and 30 minutes West still along the line of lands of heirs of Israel Blackman, 410.4 feet; thence (4) South, 28 degrees West still along the line of lands of heirs of Israel Blackman, 30.8 feet to the middle of the Faunce's landing Road; thence (5) South 66 degrees and 28 minutes East along the middle of the Faunce's Landing Road 100 feet; thence (6) South 21 degrees and 47 minutes West along the line of lands of Warren P. Tilton, 336.2 feet to the bank of the Absecon River; thence (7) Following down the bank of the Absecon River to a point in the line of lands of Lemuel A. White, said point bearing South 7 degrees and 4 minutes West and is distant 137.5 feet from the last above

described point; thence (8) North 48 degrees and 52 minutes East along the line of lands of Lemuel A. White and crossing the Faunce's Landing Road, 1,278.5 feet to a Holly Tree for a corner; thence (9) North 28 degrees and 17 minutes East still along the line of lands of Lemuel A. White 1,214.7 feet; thence (10) North 24 minutes West still along the line of lands of Lemuel A. White and along the line of lands of heirs of Zadock Showell 690 feet to the line of lands of Edward Brant; thence (11) North 88 degrees and 4 minutes West along the line of lands of Edward Brant, 170.7 feet; thence (12) South 1 degree and 56 minutes West along the line of lands of Warren P. Tilton, 300 feet; thence (13) North 88 degrees and 4 minutes West still along the line of lands of Warren P. Tilton, 578 feet; thence (14) North 22 degrees West still along the line of lands of Warren P. Tilton, 407.9 feet to the Southeasterly line of the Shore Road; thence (15) South, 57 degrees and 47 minutes West along the Southeasterly line of the Shore Road, 483.2 feet to the place of beginning.

Contains 48.44 acres.

#3. BEGINNING at a post standing on the Southeasterly side of the Shore Road being the northernmost corner of the lot where Elizabeth Showell formerly lived, and extends from thence (1) South 2 degrees and a half, East 3 chains and 90 links in the side of said lot; thence (2) North 87 degrees and a half East 1 chain and 26 links; thence (3) North 4 chains and 71 links more or less to the Shore Road;

thence (4) Along said Road South 54 degrees West, 1 chain and 44 links more or less to the place of beginning.

#4. BEGINNING at a stone in the line between Warren P. Tilton and Charles F. Hammel, also corner to land owned by John Frambes, said corner being South 88 degrees and 34 minutes East, in said line at a distance of 167.88 feet from the Southerly line of the Shore Road and extends (1) South 88 degrees and 34 minutes East 175.69 feet to a stone; thence (2) North 3 degrees, and 30 minutes West 237.3 feet to the Southerly line of the Shore Road; thence (3) Along the Southerly line of the Shore Road South 57 degrees and 28 minutes West, 254.84 feet to a stone in the said Frambes line; thence (4) Along said Frambes Line, South 14 degrees and 32 minutes East, 98.59 feet to the place of beginning.

Excepting thereout and from the above described premises, the following lots, tracts or parcels of land and premises heretofore conveyed by the said party of the first part.

Lot 11 Block 152, conveyed unto Lino Fiorelli, said lot being shown on map or plan of lots of Mentone Shores Section C-1 situate in Absecon, New Jersey, Scale 1 inch-100 feet, W. I. Risley, Civil Engineer.

Lot No. 8, Block 152, conveyed unto Peter Cannaliato, shown on above mentioned map or plan.

Lot No. 3, Block 163 conveyed unto William J. and Alma R. Kyte shown on map or plan above mentioned.

Lot No. 6 & 7 Block 147 conveyed unto W. I. Risley, shown on above mentioned plan.

A part of Lot No. 13, Block 152 on the map or plan above mentioned conveyed unto Hans Corte.

A part of Lot No. 12 Block 152 conveyed unto William J. and Alma R. Kyte.

The above map or plan of lots having been duly filed.

Also that certain lot or tract of land and premises conveyed to Harry Miller, situate on the Southeasterly side of the New York Road, being about 70 feet in front or width on said New York Road, adjoining lands of John Gaskill on the Southwest, and other property of said Miller on the Northeast.

8. On March 15, 1929, the defendants, Lida H. Sooy and Walter C. Sooy, conveyed to Leslie T. Sooy premises situate, lying and being in the City of Absecon City, County of Atlantic and State of New Jersey, bounded and described as follows:

BEGINNING at the most Northerly corner of lands conveyed by Lemuel A. White, et ux, to Walter C. Sooy, by deed dated May , 1911 and recorded in Book 461, page 64, commencing at a stake in the centre line of Fourth Street as laid out by Lemuel A. White (100 feet wide) and extends thence by magnetic bearings of 1912; thence (1) North 68 degrees, 23 minutes West along the lands of Sooy and heirs of Zadock Showell 670.6 feet to a point in line of lands of Walter C. Sooy; thence (2) South 24 minutes East along lands of Walter C. Sooy,

171.6 feet; thence (3) Still along land of Walter C. Sooy, South 28 degrees and 17 minutes West 1214.7 feet to a holly tree for a corner; thence (4) Still along land of Walter C. Sooy and crossing Faunce's Landing Road, South 48 degrees and 52 minutes West 1278.5 feet to the bank of the Absecon Creek; thence (5) Following down the bank of the Absecon Creek the several Courses thereof to a stake standing in the centre line of Third Street (50 feet wide) and other lands of Lemuel A. White; thence (6) North 34 degrees and 4 minutes East along centre line of Third Street to the centre line of Absecon and Rivaria Beaches Boulevard (Rivaria Beaches Boulevard being 100 feet wide) 889 feet; thence (7) North 55 degrees and 56 minutes West along the centre line of Absecon and Rivaria Beaches Boulevard to the centre line of Fourth Street, 575 feet; thence (8) North 34 degrees and 4 minutes East along the centre line of Fourth Street, 1720 feet to the place of beginning.

The said Lemuel A. White reserving the right of way of Third Street (50 feet wide) from Absecon Creek to the centre of Absecon and Rivaria Beaches Boulevard and the right of way of Rivaria Beaches Boulevard (100 feet wide) from Third Street to the Westernmost line of said land, being 1,030 feet more or less and the right of way of Fourth Street from the Absecon Creek to the first mentioned point or place of beginning, being 2188 feet and the right of way of Faunce's Landing Road (50 feet wide) from Third Street to the Western-

most side of said land as public highways running through the said property as laid out on the plan plotted by the said Lemuel A. White, for himself, his heirs, executors and assigns.

9. On March 15, 1929, the defendants, Walter C. Sooy and Lida H. Sooy, conveyed to Leslie Thomas Sooy premises situate, lying and being in the City of Absecon City, County of Atlantic and State of New Jersey, bounded and described as follows:

#1. BEGINNING at a point in the middle line of a proposed street known as Fourth Street said point being the Northeasterly corner of Lemuel A. White's land; and extends thence (1) Along the middle line of said Fourth Street South 33 degrees 8 minutes West 1720 feet to the middle of a street known as New York Avenue; thence (2) Along the middle line of said Avenue South 56 degrees, 52 minutes East 564 feet; thence (3) North 33 degrees, 8 minutes East 150.06 feet; thence (4) North 55 degrees 20 minutes 3 seconds West 403.46 feet; thence (5) North 27 degrees 14 minutes 9 seconds East 1566.87 feet to the place of beginning.

Containing 4.913 acres.

#2. BEGINNING at the Southwesterly corner of William Johnson's Plantation and runs first South 58 degrees East 6 chains and 20 links to a corner; thence (2) North 6¾ degrees East 1 chain and 62 links to a corner; thence (3) North 58 degrees West 6 chains and 20 links more or less to the division line between Jacob H. Fans and William Johnson's land;

thence (4) South 26¾ degrees West in said division line 1 chain and 62 links more or less to the place of beginning.

Containing 1 acre more or less.

#3. BEGINNING at the Southwesterly line of said land of Benjamin Johnson and runs; thence (1) In Southerly line of said land, South 55 degrees, 15 minutes East 410 feet to a cedar tree for a corner; thence (2) North 30 degrees East 102.5 feet to a stake for a corner; thence (3) North 55 degrees and 15 minutes West 441 feet to a stake for a corner on the Easterly side of a road running from said Johnson's house to the meadows; thence (4) In the side of said road in a Southwesterly direction 103.5 feet to the place of beginning.

Containing 1 acre of land.

#4. BEGINNING at a corner of Bakley Risley in Daniel Steelman's line and extending thence (1) Along said Steelman line South 68 degrees and 15 minutes East 397 feet; thence (2) South 48 degrees and 30 minutes East 750 feet; thence (3) North 66 degrees and 30 minutes West 315 feet to the corner of land of Walter C. Sooy; thence (4) North 27 degrees East 612 feet to the place of beginning.

#5. ALL THAT certain lot, piece or parcel of land, situate, lying and being in Atlantic County, New Jersey, and bounded and particularly described as follows:—to wit:

Bounded on the East by the Bay on the North by Steelman's Creek and being at or near Long Point, and containing about 14 acres of land, more or less and which is the same piece

and hereby intended to be the same piece or parcel of land given and bequeathed to Elish Sooy by the last will and testament of his father Charles Sooy, deceased, and who died on or about the 14th day of November, 1847 in said County of Atlantic and whose said will was probated in said County, and to which reference is here made for more particular description.

Being the same premises of which Felix Leeds died seized, having first made and published his last will and testament, wherein and whereby he did among other things, direct as follows:—

"I give and bequeath unto My Grandson Henry Martense, son of Henry Martense and Mary, his wife, a lot of salt grass meadow containing 14 acres more or less situate at the shooting point along Absecon Bay, being the property which I purchased of Elisha Sooy."

"It is my will and request that the said meadow shall be in the care and control and use of Capt. Abel Babcock until my Grandson Henry Martense shall attain the age of 21 years after which time Henry Martense shall have full possession and control of said meadow, but if the said Henry Martense shall die before attaining the age of 21 years or having attained that age, shall die without heirs, then the said meadow to be sold and the proceeds divided equally between all of my Grandchildren share and share alike.

The said Henry Martense having departed this life on or about the 25th day of May in the year of our Lord 1892, intestate, unmarried

and without issue, before having arrived at the age of 21 years.

Being the same premises which John R. Steelman, Executor of the last will and testament of Felix Leeds, Lida S. Babcock, Elizabeth Sapp and Joseph B. Sapp, her husband, Lida S. Butler and Arthur T. her husband, Walter Sapp and Ada, his wife, Francis Sapp and Cora, his wife, Charlotte B. Hammel and Ambrose L., her husband, Reuben L. Babcock and Bessie B., his wife, heirs at law of the said Felix Leeds, deceased, conveyed unto the said Walter C. Sooy by deed dated Feb. 6, 1913 and recorded in Book 543 of Deeds, page 61 &c.

Together with all the household furniture, fixtures and utensils contained in the building or buildings on the above described premises.

10. On March 15, 1929, the defendants, Lida H. Sooy and Walter C. Sooy, conveyed to Leslie T. Sooy premises situate, lying and being in the City of Absecon City, County of Atlantic and State of New Jersey, bounded and described as follows:

BEGINNING at a stake for a corner set in the meadow 75 links from the Northerly side of the Salt Works Ditch to the Southward of a fresh water spring by the side of said ditch and extending thence (1) South 42 degrees East to a stake in the head of a small creek called the Boundary between Joseph Ireland and said meadows; thence (2) Down the same by the several courses thereof to the mouth thereof at the side of Shooting Point and Absecon Bay; thence (3) Bounding by low water mark up

the several courses of the meadow crossing a small creeks mouth and the mouth of the Salt Works Ditch to the mouth of a small creek next to the ditch; thence (4) Up the several courses of the said small creek to a stake on the Northerly side of said ditch; thence (5) Along and joining on the said ditch North 75 degrees West 94 chains, 42 links to Joseph Ireland's meadow to a stake for a corner by the said ditch; thence (6) Joining on said Joseph Ireland's meadow crossing said ditch South 16 degrees West 37½ links to a corner; thence (7) South 75 degrees East 37 chains to a corner; thence (8) South 15 degrees West 37½ links to the place of beginning.

Contains 90 acres of salt meadow.

Also all that certain tract of meadow land, Beginning at a corner of 90 acres sold by the Sheriff of Gloucester County unto James Bound and Thomas Latham in 1786 and extending; thence (1) South 42 degrees East to the head of a small creek; thence down the middle of said creek to Absecon Bay by the side of Shooting Point thence West by low water mark adjoining the meadow to the mouth of the first creek to the East of the mouth of Absecon Creek; thence in the division line between the heirs of Samuel and Richard Ireland, the several courses to the Southerly side of the 90 acres; thence North 75 degrees West to the most Westerly line of the 90 acres; thence North 16 degrees West 37½ links to Enoch A. Doughty's corner; thence in his line South 75 degrees East 37 chains to his corner; thence

in his line South 15 degrees West 37½ links to the place of beginning.

Containing 70 acres more or less and includes the Joseph Ireland's 50 acres and meadow bought of William Johnson in 1862.

Also Beginning at a peg for a corner being the corner of Zadock Showell, Matthew Sooy and Daniel Tilton, and extending; thence (1) On a course North 70½ degrees West 10 chains and 5/100 of a chain to a peg for a corner; thence (2) South 4½ degrees East 2 chains and 57/100 of a chain to a peg for a corner; thence (3) South 28 degrees 7 minutes West 18.40 chains thence (4) South 13 degrees East 1.90 chains; thence (5) South 16½ degrees West 8 chains and 80/100 of a chain to Absecon Creek; thence down Absecon Creek by following courses (6) South 40 degrees East 5.30 chains; thence (7) South 12 degrees West 5 chains; thence (8) South 52 degrees East 18 chains; thence (9) North 82 degrees, East 10.50 chains; thence (10) South 9 degrees West 15 chains and 50/100 of a chain to Absecon Bay; thence (11) Binding said Bay North 87 degrees East 3 chains to the mouth of a small creek thence (12) Up said creek North 14½ degrees East 4 chains and 50/100 of a chain; thence (13) Still following said creek North 28 degrees East 5 chains to a stake by the said Creek; thence (14) North 4 chains and 80/100 of a chain to a stake in the line of lot Number 3 of the original division among the heirs-at-law of Amos Ireland, deceased about 1779; thence (15) In the line of lot Number Three North 31 degrees

West 23 chains to a corner stake near the upland; thence (16) North 61½ degrees West 9 chains and 50/100 of a chain; thence (17) North 22½ degrees East 23.25 chains to the place of beginning.

Containing 60 acres, more or less.

Excepting however, from the last above described tract all that certain tract conveyed by Lemuel A. White and Martha, his wife, to Walter C. Sooy, by deed dated May 18, 1911 and recorded in Book 461 of Deeds, page 64 bounded and described as follows:

Beginning in the middle of a proposed street known as Fourth Street said point being the Northeasterly corner of Lemuel A. White's land and extending thence (1) Along the middle line of said Street South 33 degrees, 8 minutes West 1720 feet to the middle of a street known as New York Avenue; thence (2) Along the middle of said Avenue South 56 degrees, 52 minutes East 564 feet; thence (3) North 33 degrees 8 minutes East 150.06 feet; thence (4) North 55 degrees 20 minutes 3 seconds West 403.46 feet; thence (5) North 27 degrees, 14 minutes 9 seconds East 1566.87 feet to the place of beginning.

Containing 4 acres and 913/1000 of an acre.

Also excepting from the last above described tract all that portion of the lands contained within said tract which were conveyed by Lemuel A. White and Martha, his wife, to Lida H. Sooy, by deed dated April 30, 1912 and recorded in Book 481 of deeds, page 400 &c., bounded and described as follows:

Beginning at the most Northerly corner of lands conveyed by Lemuel A. White, et ux, to Walter C. Sooy, by deed dated May, 1911 recorded in Book 461, page 64, commencing at a stake in the centre line of Fourth Street, as laid out by Lemuel A. White (100 feet wide) and extending thence by magnetic bearing of 1912; thence (1) North 68 degrees, 23 minutes West along lands of Sooy and heirs of Zadock Showell 670.6 feet to a point in the line of lands of Walter C. Sooy; thence (2) South 24 minutes East along lands of Walter C. Sooy, 171.6 feet; thence (3) Still along land of Walter C. Sooy, South 28 degrees, 17 minutes West 1214.7 feet to a holly tree for a corner; thence (4) Still along land of Walter C. Sooy, and crossing the Faunce's Landing Road, South 48 degrees, 52 minutes West 1278.5 feet to the bank of the Absecon Creek; thence (5) Following down the bank of the Absecon Creek the several courses thereof to a stake standing in the centre line of Third Street 50 feet wide) and other lands of Lemuel A. White; thence (6) North 34 degrees 4 minutes East along the centre line of Third Street to the centre line of Absecon and Rivaria Beaches Boulevard (Rivaria Beaches Boulevard being 100 feet wide) 889 feet; thence (7) North 55 degrees, 56 minutes West along the centre line of Absecon and Rivaria Beaches Boulevard to the centre line of Fourth Street 575 feet; thence (8) North 34 degrees 4 minutes East along the centre line of Fourth Street, 1720 feet to the place of beginning.

11. On March 15, 1929, the defendants, Lida H. Sooy and Walter C. Sooy, conveyed to Leslie Thomas Sooy premises situate, lying and being in the City of Absecon City, County of Atlantic and State of New Jersey, bounded and described as follows:

All those 5 contiguous Tracts of upland and meadow, situate in the City of Absecon City, Atlantic County, New Jersey, on both sides of the public road leading from the main Shore Road to Samuel Reed's landing and described according to surveys made in 1876 as follows:

BEGINNING at a stake standing in middle of the public road leading from the main Shore Road to Samuel Reed's landing at a distance of 10½ chains on a course of South 33 degrees West from Chamberlain's and Reed's line and South of Samuel Reed's barn and where the line of a fence made by Samuel Reed intersects said road and runs thence (1) South 58¼ degrees East by said fence 12 chains to the meadow; thence (2) North 77½ degrees East 17 chains more or less to Absecon Creek to a stake for a corner landing near the lower end of the Long Reach; thence (3) Up said Creek the several courses thereof to a small creek or ditch in the upper end of the said Long Reach being the division line between Lewis Reed and Daniel Reed; thence South 44½ degrees West 5 chains and 62 links to the line ditch; thence (4) North 77 degrees West 6 chains and 18 links following an old ditch near the Boat House; thence (5) South 7 degrees West 25 links to a corner; thence (6) North

85 degrees West 1 chain and 32 links to a corner in the public road aforesaid; thence (7) South 31 degrees and 10 minutes West 6½ chains to a corner and corner to the first tract set off to Lewis Reed; thence (8) South 33 degrees West 56 links to the place of beginning.

Containing 10 acres be the same more or less.

Tract No. 2. Beginning at a stake set for a corner and being the fifth corner of the first lot set off to Lewis Reed and runs; thence (1) In the division line between Lewis Reed and Daniel H. Reed North 12 degrees and 10 minutes East 3 chains and 20 links to a corner standing in the meadow; thence (2) North 15 minutes West 9 chains and 68 links more or less to Absecon Creek at the mouth of a small gut or Creek putting into the meadow at the Southerly side of Absecon Creek; thence (3) Binding Absecon Creek on a general course of North 54¼ degrees East 6 chains and 25 links to a stake in the edge of said creek; thence (4) Still by the Creek aforesaid South 1 degree and 10 minutes East 6 chains and 90 links to a mouth of a small creek more or less; thence (5) Up said small creek South 78¼ degrees West 1 chain and 38 links to a corner; thence (6) South 9 degrees and 10 minutes East 2 chains and 90 links to a corner and mouth of a ditch; thence (7) South 12 degrees and 10 minutes West 7 chains and 72 links more or less to the line of Lewis Reed's land; thence (8) North 66¾ degrees West 2 chains and 50 links to the place of beginning.

Containing 6 acres be the same more or less.

Tract No. 3. Beginning at a stake standing in the middle of the public road leading from main Shore Road to Samuel Reed's Landing at a distance of 10½ chains on a course of South 33 degrees West from Chamberlain's and Reed line and South of Samuel Reed's barn, and where the line of a fence made by Samuel Reed intersects said Road and thence (1) South 58¼ degrees East by said fence 12 chains to the meadow; thence (2) North 77½ degrees East 17 chains more or less to Absecon Creek to a stake for a corner standing near the lower end of the Long Reach; thence (3) Down Absecon Creek the several courses thereof to the mouth of the line ditch between the property of Samuel Reed, deceased, and William Chamberlain, deceased, now the property of Aaron S. Steelman thence (4) Up said line ditch to the upland; thence (5) Still in the division line between Reed and Chamberlain along a line fence to the middle of the public road aforesaid; thence (6) North 33 degrees East 10 chains and 50 links to the place of beginning.

Containing 9 acres be the same more or less.

Tract No. 4. Beginning at a white oak standing at the Northwesterly corner of Scow Dock or ditch where it empties into Absecon Creek and being the Easterly line of the public road aforesaid and runs; thence (1) South 31 degrees and 10 minutes West 8 chains and 25 links to the fourth corner of the first lot set off to Lewis Reed; thence (2) North 66¾ degrees West 4 chains and 33 links to a stake for

a corner and corner to second lot set off to Daniel H. Reed; thence (3) Binding Daniel H. Reed's line North 12 degrees and 10 minutes East 7 chains and 72 links being an old ditch a part of said distance, to a small creek; thence (4) Along said Creek North 9 degrees and 10 minutes West 2 chains and 90 links to a stake for a corner; thence (5) Still along said Creek North 78¼ degrees East 1 chain and 38 links to Absecon Creek; thence (6) Down Absecon Creek Southeast to the place of beginning.

Containing 5 acres to be the same more or less.

Tract No. 5. Beginning at a white oak stake standing at the Northwesterly corner of Scow Dock or ditch where it empties into Absecon Creek and being the Easterly line of the public road aforesaid and runs thence (1) Down Absecon Creek the several courses thereof to the mouth of a small ditch or creek at the West end of the Long Reach of Absecon Creek; thence (2) South 44½ degrees West up said creek and ditch 5 chains and 62 links to a corner; thence (3) North 77 degrees West 6 chains and 18 links following an old ditch near the Boathouse; thence (4) South 7 degrees West 25 links to a corner; thence (5) North 85 degrees West 1 chain and 32 links to a corner in the public road aforesaid; thence (6) North 31 degrees and 10 minutes East 1 chain and 75 links to the place of beginning.

Containing 6 acres, more or less.

Excepting out of the above described tracts, a lot beginning at the line of lands now owned

by Lewis M. Clark in the middle of the said public road and extending along the middle of said road in a Northeasterly direction 200 feet and in length or depth Northwest about 400 feet to the line of meadows formerly owned by Lewis Reed, the Southerly side line being the division line between Lewis M. Clark and the said Daniel H. Reed and the Northerly side line being parallel thereto and excepting also a lifetime right to Daniel H. Reed to a landing for a boat or boats at the terminus of said public road at Absecon Creek.

12. On March 15, 1929, defendants, Walter C. Sooy and Lida H. Sooy conveyed to Leslie T. Sooy premises, situate, lying and being in the City of Absecon City, County of Atlantic and State of New Jersey, bounded and described as follows:

BEGINNING at a point in the middle of the Pitney Road, being also a corner of land belonging to Edward A. Wilson, and extending thence (1) Along said Wilson's line North 49 degrees, 30 minutes West 2,138.18 feet to the Sarah Helby line; thence (2) Along the said Helby line North 87 degrees 30 minutes West 465.66 feet; thence (3) Along the line now or formerly of Fleming, and parallel with first course South 49 degrees, 30 minutes East 2,639.81 feet to the middle of the aforesaid Pitney Road; thence (4) Along the middle of said Road North 15 degrees 20 minutes East 316.08 feet to the place of beginning.

Containing 15.72 acres.

Also beginning at a stake standing at the head

of Sooy's Creek, also a corner of land formerly of Matthew Sooy, and extending thence (1) Along said Sooy's line, as the magnetic pointed October, 1905, North 70 degrees, 45 minutes West 570 feet to a stake standing on the Northerly side of a small salt pond; thence (2) Still along said Sooy's line, North 19 degrees, 15 minutes, West 943 feet to the middle of a line ditch in Zadock Showell's line; thence (3) Along said line ditch North 73 degrees West 332 feet to a line ditch between the party of the first part and said Zadock Showell; thence (4) Along said ditch North 20 degrees, 15 minutes East 168 feet; thence (5) North 4 degrees 30 minutes East 128 feet; thence (6) North 38 degrees, 30 minutes East 146 feet to corner of land of said Sooy; thence (7) Along the line of said Sooy's land North 61 degrees West 590 feet; thence (8) Still along the same North 26 degrees 45 minutes East 115.5 feet to a stake; thence (9) Still along the same North 61 degrees West 373 feet to a stake for a corner in the line of land of Warren Tilton; thence (10) Along said Tilton's line South 26 degrees and 30 minutes West 922 feet to a corner of land of John Cannon; thence (11) Along said line South 55 degrees East 415 feet to a post for a corner; thence (12) South 30 degrees, 45 minutes West 208 feet to a stone in Warren Tilton's line; thence (13) Along said line South 54 degrees, 187 feet to a stake at the head of a line ditch; thence (14) Along the middle of said line ditch South 31 degrees East 438 feet to pump ditch; thence (15) Along the middle line of said pump ditch

South 69 degrees, 15 minutes East 4,874 feet to a stake being the 6th corner of a lot formerly of Felix Leeds; thence (16) Along the line of said Leed's land North 20 degrees 15 minutes East 872 feet to the middle of Sooy's Creek; thence (17) Up the said Creek the several courses thereof to the place of beginning, said beginning bears South 81 degrees East at the distance of 3,248 feet to the last mentioned corner.

Containing 92 acres more or less.

13. On March 15, 1929, the defendants, Walter C. Sooy and Lida H. Sooy, conveyed to Leslie T. Sooy premises situate, lying and being in the City of Absecon City, County of Atlantic and State of New Jersey, bounded and described as follows:

#1. Being lots numbered 1, 6 and 11 as shown on "Map of land in the Town of Absecon belonging to Walter C. Sooy and others, as per map furnished by W. C. Sooy, which map is duly filed; said lots being located on the road or lane known as Sooy's Lane on the Southeasterly side of the main shore road leading from Absecon to Leeds Point.

#2. Being lots numbered 2, 7 and 12 as shown on "Map of land in the Town of Absecon belonging to Walter C. Sooy and others, as per map furnished by W. C. Sooy, which said map is duly filed, said lands being located on the road or lane known as "Sooy's Lane" on the Southeasterly side of the mainshore road leading from Absecon to Leeds Point.

#3. Being lots numbered four, ten and fif-

teen as shown on "Map of Land in the Town of Absecon belonging to Walter C. Sooy and others," as per map furnished by W. C. Sooy, which said map is duly filed in Atlantic County Clerk's Office.

#4. Being lots numbers, 16, 17 and 20 as shown on "Map of land in Absecon City, New Jersey, belonging to Walter C. Sooy and others." Said map prepared from a survey made by Watson Conover, being a correction of maps and deed previously made by the heirs-at-law of Matthew C. Sooy, deceased, a copy of which said map of correction is duly filed. Said lands being located on the road or lane known as "Sooy's Lane" on the Southeasterly side of the County Road leading from Absecon to Oceanville.

#5. Being lots numbered 3, 8, 13, as shown on "Map of land in the Town of Absecon, belonging to Walter C. Sooy and others as per map furnished by W. C. Sooy" which said map is duly filed. Said lands being located on the road or lane known as "Sooy's Lane" on the Southeasterly side of the Main Shore Road leading from Absecon to Leeds Point.

#6. Being lot number 18 as shown on "Map of land in Absecon City, New Jersey, belonging to Walter C. Sooy and others." Said map being prepared from a survey made by Watson Conover, being a correction of maps and deeds previously made by the heirs-at-law of Matthew C. Sooy deceased; a copy of which said map of Correction is duly filed in Atlantic County Clerk's Office. Said land being located on the

road or lane known as "Sooy's Lane," on the Southeasterly side of the County Road leading from Absecon to Oceanville.

#7. Being lot number 19 as shown on "Map of land in Absecon City, New Jersey, belonging to Walter C. Sooy and others." Said map being prepared from a survey made by Watson Conover, being a correction of maps and deeds previously made by the heirs-at-law of Matthew C. Sooy, deceased, a copy of which said map of correction is duly filed, said lands being located on the road or lane known as "Sooy's Lane" on the Southeasterly side of the County Road leading from Absecon to Oceanville.

#8. Also lots numbered 9 and 14 as shown on "Map of Lands in the Town of Absecon, Belonging to Walter C. Sooy and others as per map furnished by W. C. Sooy, which said map is duly filed in the Atlantic County Clerk's Office. Said lands being located on the road or lane known as "Sooy's Lane" on the Southeasterly side of the Main Shore Road leading from Absecon to Leed's Point.

#9. Also all that certain lot of brush land contained about 10 acres more or less located in the City of Absecon, Atlantic County, New Jersey, on the Mill Road, said lot being on which John Leeds, the grandfather of Charles H. Sooy died seized intestate.

14. The defendants, Walter C. Sooy, and Lida H. Sooy, conveyed the premises hereinbefore mentioned and particularly described in paragraphs 4, 5, 6, 7, 8, 9, 10, 11, 12, and 13, to the said Leslie Thomas

Sooy without receiving a fair consideration therefor.

15. At the time of making the above conveyances by the defendants to Leslie Thomas Sooy, it was understood by and between the aforesaid Walter C. Sooy and Lida H. Sooy that the said Leslie Thomas Sooy did not pay a fair consideration for the lands and premises described in said paragraphs above set forth; and that the said Walter C. Sooy and Lida H. Sooy knew and believed or intended that said conveyances should be made so that their creditors would be unable to collect their debts from the said Walter C. Sooy and Lida H. Sooy as they should mature; and they had knowledge, at the time of said conveyances, of the contingent liability upon the bond and mortgage held by the complainant in this case and said conveyances were made without fair consideration to evade their liability at the time it matured.

16. The defendant, Leslie Thomas Sooy, now holds the legal title to the premises mentioned and particularly described in paragraphs 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, in trust for the use of the said Walter C. Sooy and Lida H. Sooy, for the purpose of hindering and delaying their judgment creditors in collecting their judgments.

17. The defendants, well knowing the contingent liability of the said Walter C. Sooy and Lida H. Sooy upon the bond and mortgage mentioned in this bill of complaint, fraudulently conveyed the premises mentioned and particularly described in paragraphs

4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, of this bill of complaint to the said Leslie Thomas Sooy, with actual intent to hinder, delay or defraud said complainant whose claim had been, at the time of said conveyances, not mature.

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

1. That Walter C. Sooy, Lida H. Sooy and Leslie Thomas Sooy may answer this bill of complaint without oath and each statement therein made.

2. That a decree may be made that the defendants, Walter C. Sooy and Lida H. Sooy, or one of them, either pay complainant the sum of $51,916.82, plus interest from July 22, 1929, besides costs of suit, or that the equitable lien of the defendants, Walter C. Sooy and Lida H. Sooy, on the aforesaid property be foreclosed to raise and pay to the complainant, the sum of $51,916.82, plus interest from July 22, 1929, besides costs of procuring the judgment, together with interest and costs of this proceeding.

3. That a writ of subpoena may be issued, commanding said defendants to answer this bill of complaint, and to abide by such decree as this court may make in the premises.

Emerson Richards,
Solicitor for and of Counsel with Complainant.

[ENDORSED]

Due and Legal Service of the Within Copy of the Amended Bill of Complaint acknowledged this 26th day of December, A. D. 1930.

Cole & Cole,
Solr's for Carrie
S. Sooy.

ANSWER TO PARAGRAPHS AMENDING ORIGINAL BILL.

IN CHANCERY OF NEW JERSEY.
79-240

Between
CHARLES M. KESSLER,
Complainant,
and
WALTER C. SOOY, *et al.,*
Defendants.

On Bill, &c.
Answer to Paragraphs Amending Original Bill.

Defendants, Walter C. Sooy, Lida H. Sooy and Leslie Thomas Sooy, answering the amendments to the original bill, say that:

1. Paragraph 3 as amended is admitted except as denied. It is denied that defendants have been insolvent since March fifteenth, nineteen hundred and twenty-nine.

2. Paragraph 14 is denied.

3. Paragraph 15 is denied.

4. Paragraph 17 is denied.

Cole & Cole,
Solicitors of Defendants.

TESTIMONY.

IN CHANCERY OF NEW JERSEY.

Between
CHARLES M. KESSLER,
Complainant,
and
WALTER C. SOOY, *et als.,*
Defendants.

On Bill, etc.
Final Hearing.

Atlantic City, New Jersey, November 21, 1930.

TESTIMONY.

Before HON. ROBERT H. INGERSOLL, Vice-Chancellor.

APPEARANCES:
For the complainant: EMERSON L. RICHARDS, ESQ., and JOHN C. REED, ESQ.
For the defendants: MESSRS. COLE & COLE.

JAY C. KLINE, sworn.

Direct examination.

By Mr. Richards:

Q. Mr. Kline, what is your business?

A. Title insurance and searches.

Q. Are you connected with a title insurance company?

A. I am.

Q. What is your position?

A. Secretary of the South Jersey Title and Finance Company.

Q. Now, as such, have you a search of the lands that were owned, the title of which were in Walter C. Sooy and Lida H. Sooy?

A. I have.

Q. Prior to March 15th, 1929? How many pieces of property were there standing in the name of Walter C. Sooy or Lida H. Sooy?

Mr. Cole: May I ask the witness a question on cross-examination?

The Court: Yes.

Cross-examination.

By Mr. Cole:

Q. When you say that you made a search, you mean that you personally made it?

A. I have made a search, have caused to be made a search with my assistance.

Q. You mean searched the records at Mays Landing yourself?

A. We have searched our own records in our title plant. We have searched the records of our title plant, which is supposed to be an accurate duplicate of the records at Mays Landing.

Mr. Cole: I object to his testifying.

The Court: There is no question but what the objection must be sustained if it is made.

Mr. Richards: Of course, if your Honor please, I think the objection is well taken. It simply means if he hasn't done that it will be the formality of doing that, and we will get exactly the same place.

The Court: I can't rule upon that, however.

Mr. Richards: Of course, it will also mean an adjournment of this case.

The Court: You will be entitled to an adjournment because it has been customary to use this class of testimony, although, of course, when it is objected to, it is subject to the objection.

The Witness: If you will pardon the interruption, Senator, I would like to correct my statement; about seventy per cent of these records were compiled at Mays Landing right from the record, the

balance of the information was compiled jointly with our title company.

Mr. Richards: If your Honor please, I suppose the witness from his experience knew the necessity of doing this from the records, and as long as your Honor has another case, I will move for an adjournment.

The Court: Yes, you are entitled to a continuance. What length of time will be required? I will hear you on that, Judge Cole.

Mr. Cole: As to the adjournment?

The Court: Yes.

Mr. Cole: Whatever date your Honor fixes, I will have to accommodate myself.

Mr. Reed: Mr. Kline, will you please verify your examination at Mays Landing?

The Court: I am wondering if you are going to be in any better position under that circumstance if it is objected to.

Mr. Cole: Let me say to counsel this is an at-arm's-length case.

The Court: I will sit in Mays Landing on Friday, the 12th of December.

Mr. Cole: That will suit me.

The Court: I think we had better commence at nine-thirty up there.

(Adjournment taken until December 12, 1930, at 9.30 A. M., at Mays Landing Court House, New Jersey.)

Mays Landing, New Jersey, December 12, 1930.

(Trial of the cause resumed at 9.30 A. M.)

CHARLES M. KESSLER, sworn.

Direct examination.

By Mr. Richards:

Q. Did you sell some land to the defendants in this case at any time?

A. I did.

Q. By a contract in writing?

A. Yes.

Q. Is this the contract?

A. Yes, sir.

(Contract offered, received in evidence and marked Exhibit C1.)

Q. Part of the consideration as expressed in this contract would be the execution and delivery of by the defendants to you of a bond in the sum of $50,000. Was such a bond delivered to you?

A. Yes, sir.

Q. I show you a bond dated June 15, 1926, in the sum of $40,000, and another one in the sum of $10,000. Were those two bonds delivered to you as the result of that agreement?

A. Yes, sir.

(Bonds offered, received in evidence and marked Exhibits C2 and C3.)

Q. This agreement says these bonds should be accompanied by a mortgage to secure the bonds. Was that done?

A. Yes, sir.

Q. I show you these two mortgages and ask you if they were executed to secure the bonds that have just been offered?

A. Yes, sir.

(Mortgages offered, received in evidence and marked Exhibits C4 and C5.)

Q. Was there a default in the payment upon the bonds at any time?

A. Yes, sir.

Q. Were the mortgages foreclosed as a result of that default?

A. They were.

Q. And the property named in the mortgage was sold?

A. Yes.

Q. By the sheriff?

A. Yes.

Q. How much did it bring at the sheriff's sale?

A. One hundred dollars; that is my recollection.

Q. Now, I show you—who bought it?

A. I did.

Q. I show you a deed dated the 9th day of October, 1929, from James Cimino, sheriff, to you, and ask you if that is the deed that you received from the sheriff?

A. Yes, sir.

Q. Subsequently did you bring a suit upon the bonds for the deficiency?

A. I did.

Q. And get a judgment?

A. Yes, sir.

Q. Do you know when that was?

A. No, I haven't got the date.

Q. Is there anything on the bond and warrant that refreshes your memory?

Mr. Richards: I think it is admitted we got the judgment the 5th of March, 1930.

Q. Is that correct?

A. Yes, sir.

Q. Has that judgment been paid?

A. No, sir.

Q. Do you know whether or not the sheriff has made a levy on any property of the defendants?

Mr. Cole: I object.

The Court: Sustain the objection.

Q. On or about the 15th of March, 1929, did the Sooys owe you any money?

A. $1,000 interest besides this.

Q. On this bond and mortgage?

A. Yes.

Q. Did you ask payment of it of them?

A. Yes.

Q. From whom did you ask payment?

A. Dr. and Mrs. Sooy.

Q. What did they tell you?

A. They made some small payments, they did make some small payments and promised to pay all they owed.

Q. How much did they pay you at that time?

A. I have a statement here.

Q. If you can't remember it, you can refresh your memory.

A. On December the 15th, 1928, they owed a balance of one thousand dollars, and there were a few checks of $150 each paid after that up until including April the 22nd.

Q. How much did they owe you around March the 15th?

A. I haven't got that figured up. I have a statement in my pocket what they owed on December 15th. That was when this six months' interest was due.

Q. They did owe you money on the 15th of March?

A. Yes, probably about five hundred dollars.

Q. If your statement will refresh your memory you may use it for that purpose.

A. On December the 15th, 1928, there was six months due on $50,000, $1500. On this same date I received a check for $500, leaving a balance of $1,000. The next payment was on January the 26th for $150, February the 8th, $150; February the 14th, $150; March the 5th, $150; March the 28th, $150, and April the 22nd, $150.

Q. Did you have any conversation with the defendants in March when you received these papers?

A. I did.

Q. What was it?

A. When I went to collect my interest, they told

me that they were sorry they could not square it all up, but they intended to pay me every dollar just as soon as possible, that they were going to refinance their properties and pay me off in cash.

Q. When did you have that conversation?

A. On March the 28th, and also prior to that.

Q. Now, did they say anything to you about deeding the properties back to you, anything like that?

A. On October 28th they agreed to sell me the farm next door to mine, adjoining mine, for ten thousand dollars, and three days after this I went over to get the deeds, to have new deeds drawn, and they claimed they had changed their mind and were going to refinance it and pay me off instead of selling me this property on account of the fifty thousand dollar bond.

Q. On the 28th of March, when they told you that they were going to pay you, they tell you anything about having disposed of this and other properties?

A. No.

Q. Now, when you got this last payment in April, did they tell you anything about having disposed of their property?

A. No.

Q. What conversation did you have with him in April, if any?

A. They stated at that time that they were sorry they could not square up the interest, but they had to send Leslie, their son, some money, to help pay his expenses.

Q. Tell you anything at that time about having transferred any of their property to their son?

A. No.

Cross-examination.

By Mr. Cole:

Q. Do you know in which court this judgment is entered in favor of yourself against the Sooys?

A. Which court?

Q. Yes.

A. No, I don't.

Q. These mortgages that you foreclosed were purchase money mortgages, weren't they?

A. Yes, sir.

Q. You had sold the property to the Sooys and took back this mortgage?

A. Yes.

Q. Was this property that you foreclosed included in the property that you say they conveyed to their son, if you know?

A. I don't know, I think ——

Q. You said they said something about refinancing, did they mean refinancing this property that you sold them, is that what they were talking about?

A. My understanding was refinancing all their Absecon property and pay off their debts.

Q. Well, of course, that is the first time you said anything about paying off their debts. What made you think they were talking about refinancing all their property in Absecon?

A. What made me think of it was that they owed me fifty thousand dollars, and I understood they owed Mrs. Dippler fifty thousand, and from what they told me it sounded like they were going to refinance the whole outfit and pay off all these.

Q. Suppose you tell us now just what they said, not your conclusion, just what they said to you about refinancing.

A. When I went over to get the deed for the property that I agreed to buy next adjoining mine, the Pedrick farm, they told me that they had changed their mind and were going to refinance and hold their property, refinance and pay me off.

Q. Now, who was your attorney, whom did you employ to enter the judgments in this case?

A. Judge Warke was handling this foreclosure.

Q. Is he the one who foreclosed the mortgages?

A. Yes.

Q. Who was your attorney for the purpose of having the judgment entered up against the Sooys, whom did you employ to do that?

A. That was in the hands of Mr. Richards, I believe, at that time.

Q. Was he your attorney at the time for the purpose of entering this judgment, or was it Mr. Reed?

A. I didn't hear you.

Q. Was Senator Richards or was Mr. Reed your attorney for the purpose of entering this judgment?

Mr. Richards: If your Honor please, I don't think it makes any difference, but I am going to object to it as immaterial.

The Court: I will permit the question. You may answer.

A. Mr. Richards.

HORACE MILLER, sworn.

Direct examination.

By Mr. Richards:

Q. What is your business, Mr. Miller?
A. Title examiner.
Q. By whom are you employed?
A. South Jersey Title & Finance Company.
Q. Is it your business to examine the titles here in the clerk's office in Mays Landing?
A. Yes, sir.
Q. Here is where you work, is that correct?
A. Yes.
Q. Partly?
A. Partly here and partly at the company.
Q. Have you examined the transfers of titles from the defendants, Lida H. Sooy and Walter C. Sooy, made on or about March 15th, 1929?
A. I have.
Q. Now, did you examine the records to ascertain what properties they owned in this county prior to March 15th, 1929?
A. I did.
Q. Now, will you tell the Court what properties they owned, either singly or jointly, prior to March 15th, 1929, and what of those properties they transferred about that time and to whom they transferred them?

Mr. Cole: Objected to on the ground the witness can't give that testimony; the best evidence is the records themselves.

The Court: If you insist on that, I presume we will have to have the records brought in.

Mr. Richards: If you will tell the clerk what records you want, we will have them brought in, unless your Honor wants to adjourn to the clerk's office.

The Court: No, I think perhaps we better have them brought here.

Mr. Reed: I think all of those conveyances are admitted in the bill and answer.

A. Deed 920, page 410, covers piece of ground on the west side of South Carolina Avenue, 337 feet south of Pacific.

Q. When you say covers that, is that a deed to or from?

A. Deed from Lida H. Sooy and Walter C. Sooy to Leslie Thomas Sooy, dated March the 15th, 1929, recorded May the 16th, 1929, Book 920, page 399, deed made by Walter C. Sooy and Lida H. Sooy, his wife, to Leslie Thomas Sooy, dated March the 15th, 1929, recorded May the 16th, 1929, covering four tracts of land for a four-fifths interest of the parties of the first part. Do you want the descriptions of those four tracts? I can just give the beginning point, if that is satisfactory to the Court.

Q. You better.

A. All four descriptions ——

Q. Where is the land situated?

A. In the City of Absecon and Township of Galloway.

The Court: You say four tracts?

A. Yes, sir.

Q. You say they are in Absecon or Galloway Township?

A. Pardon me, Judge, three tracts; they are in, lying and being in the City of Absecon and Township of Galloway.

Q. Referring to the bill of complaint, which paragraph of the bill of complaint do they refer to?

The Court: Isn't all of this admitted by the answer?

Mr. Reed: Yes, sir.

The Court: Admit paragraphs 1 to 13, inclusive, commencing 4 to 13, inclusive, are the recital of these respective conveyances.

Mr. Richards: I think, your Honor, they are admitted, that on that date they were conveyed. Of course, I suppose what we have got to prove is what, if anything, was left of the properties that they owned at that time. I don't see how I could do that very well except by asking him this, and then asking the other.

The Court: I won't bar you.

Mr. Richards: Of course, a sheer waste of time.

A. I don't find this tract here.

The Court: You don't find these within the bill filed in this case?

A. That is right.

Q. Then you better give us the description of them.

A. First tract is beginning at the northeast corner of the mowing ditch at John Davis's corner, thence extending (1) south 4 degrees and ½ east, 6 chains and a half along said ditch to Paul Scull's corner, thence in his line south 65 degrees east about 29 chains to his lower corner near the mouth of the Halfway Creek, thence (3) down the several courses of the same to the bay, thence by the several courses of the same to said Davis's corner, thence in his line north 65 degrees and a half west 57 chains to beginning. Containing 30 acres more or less.

Tract number 2 ——

Q. Give us the beginning point of tract number 2 and the amount of acreage in it if you have it that way.

A. Beginning at a stake standing in Nehemiah Clark's corner, containing 3 acres be the same more or less.

Q. What else was there there?

A. About 50 links southerly from the small salt pond.

Q. Now then, what is the next?

A. Third tract beginning at a post standing on the south side of Kanute tract, being a corner of Absalom's other lod of meadow.

Q. How much is that?

A. Containing seven and 16-hundredths acres more or less.

Q. What is the other tract?

A. Fourth, all of that certain tract of salt marsh or meadow conveyed by Joseph Johnson to William Hammell, adjoining lands of Edwin Bulletin and Absalom Doughty, Jr., and others, containing four acres more or less.

Q. Now then, proceed to the next set of conveyances.

A. Book 920, page 400, deed made by Walter C. Sooy and Lida H. Sooy, his wife, to Leslie Thomas Sooy, dated March the 15th, 1929, recorded May the 16th, 1929, covering premises beginning at an old stone standing near the southeasterly line of the main shore road leading from Absecon to Oceanville.

Q. Is that the property described in paragraph 6th of the complaint?

A. That is right.

Q. That is 94 acres?

A. Yes, sir, with exceptions.

Q. With the exception of a certain described piece out of that?

A. Yes, sir.

Q. What is the next deed? Are there any more tracts in there?

A. That is all. Book 920, page 402, deed made by Walter C. Sooy and Lida H. Sooy, his wife, to Leslie T. Sooy, dated March the 15th, 1929, recorded May 16th, 1929, covering four tracts of ground, first beginning at a stone in the easterly corner of lands of William Bowler.

Q. Look and see if those are the tracts described in paragraph 7.

A. They are.

Q. Go on to the next deed.

A. Same book, page 408, deed by Walter C. Sooy and Lida H., his wife, to Leslie T. Sooy, dated the 15th day of March, 1929, recorded May the 16th, 1929, covering one tract of ground beginning at a stake for a corner standing in the middle of the road leading from Doughty's mill to James S. Robinson's.

Q. One or more tracts there?

A. One tract.

Q. Robinson property, you say?

A. In the line of Doughty's mill to James S. Robinson.

Q. Is that mentioned in the bill of complaint?

A. Nothing to identify it by.

Q. Then describe that.

A. Beginning at a stake for corner standing in the middle of the road leading from Doughty's mill to James S. Robinson's, at the south corner of a 19-acre tract formerly belonging to Richard Somers and wife.

Q. How much?

A. No acreage given. Extends (1) 73½ degrees west in said road 289 feet to the beginning corner in deed from Walter C. Sooy and wife to Adonijah B. Leeds, bearing date May the 11th, 1923, thence north 12 degrees east 16 chains more or less to the line of Cecelia Cordery (30 south 60 degrees east along Cordery's line 299.67 feet to a corner of the 19 acres first named, thence (4) south 12 degrees west, binding in the line of said 19 acres, 15 chains and 20 links to beginning.

Q. Perhaps it would be just as well before we

get too far, you have read three deeds, haven't you, to date, three or four, which?

A. Four.

Q. You go back and tell us what the consideration was that was expressed in each one of the deeds.

A. Do you want each one; when I mention it I can tell you.

Q. Yes.

A. 920, page 410, is one dollar and other valuable considerations. 399, one dollar and other valuable consideration. Page 400, one dollar and other valuable considerations. 402, one dollar and other valuable considerations.

Q. Now then, go on the next property.

A. Page 405, same book, deed made by Lida H. Sooy and Walter C. Sooy, her husband, to Leslie T. Sooy, dated 15th day of March, 1929, recorded May the 16th, 1929, consideration one dollar and other valuable consideration, covering three tracts with certain exceptions, beginning at a stake in the corner set in the meadows 75 links from the northerly side of the salt marsh ditch.

Q. Is that the property described in paragraph 10 of the complaint?

A. It is.

Q. Go on to the next.

A. Page 411, same book, deed by Lida H. Sooy and Walter C. Sooy, her husband, to Leslie Thomas Sooy, dated 15th day of March, 1929, recorded 16th day of May, 1929, one dollar and other valuable considerations, covering five tracts beginning at a stake standing in the middle of the public road

leading from the main shore road to Samuel Read's landing. The same as number 11.

Q. Of the bill of complaint?

A. Of the bill of complaint.

Q. All right. Next one.

A. Book 921, page 202, deed made by Lida H. Sooy and Walter C. Sooy, her husband, to Leslie Thomas Sooy, dated 15th day of March, 1929, recorded May the 16th, 1929, consideration one dollar and other valuable consideration, covering tracts of ground in Atlantic City, northerly side of Pacific Avenue, 50 feet east of Michigan.

Q. Is that the property described in paragraph number 4?

A. That is the same as number 4.

Q. Next?

A. Page 194, same book, deed by Lida H. Sooy and Walter C. Sooy, her husband, to Leslie T. Sooy, same place, dated 15th day of March, 1929, recorded 16th day of May, 1929, one dollar and other valuable consideration, covering one tract at the northerly corner of land conveyed by Lemuel A. White, et ux., to Walter C. Sooy, the same as paragraph 8.

Q. Same as paragraph 8, bill of complaint?

A. Yes. 908, same book, deed by Walter C. Sooy and Lida H., his wife, to Leslie Thomas Sooy, dated March 15th, 1929, recorded May 16, 1929, one dollar and other valuable consideration, covering five tracts, beginning in the middle of a line of proposed street known as Fourth Street, said point being northeast corner of Lemuel A. White's land, the same as number 9 of the bill.

Q. What is the next one?

A. Page 192, same book, deed by Walter C. Sooy and Lida H., his wife, to Leslie Thomas Sooy, dated March 15th, 1929, recorded May the 16th, 1929, consideration one dollar and other valuable consideration, two tracts of land, the first is bounded on the north by lands of Daniel Bulletin, on the east by lands of Absalom Doughty.

Mr. Reed: Those are not in the bill.

A. On the south and west by lands of Matthew Sooy, which said lot contains 48 acres more or less. Parcel number 2 beginning at a post standing at the mouth of the line ditch between Daniel Steelman and land formerly belonging to Absalom Steelman, which empties into Kanute Creek, runs from thence (1) north 48 degrees and ¾ west, 17 chains and 60 links in said line to a post by the edge of the upland, thence (2) south 56 degrees ½ west 2 chains and 87 links to Charles Sooy's land; thence (3) south 48 degrees and ¾ east 4 chains and 98 links in said Sooy's line to his corner; thence (4) south 39 degrees west 3 chains and 60 links still in said Sooy's land to Absalom Corders northwest corner, thence south 48 degrees and ¾, 78 chains and 1 link in said Cordery's line to Absalom Doughty's corner, thence (6) south 63 degrees ¼ east 4 chains and 36 links in said Doughty's land to a post; thence (7) south 64 degrees ¼ east 29 chains and 48 links, to the southwest corner of the meadow Absalom Doughty purchased of Joseph Johnson; thence (8) north 43 degrees and ¾ east, 9 chains and 75 links in said Doughty's line to his northwest corner in the middle of Gums Creek near

the mouth of the small creek that empties into said Gums Creek; thence (9) by the several courses of said creek and binding thereon, being 8 in number, as follows, north 14 degrees and a half west, 5 chains and 92 links, (2) north 61 degrees west 5 chains and 40 links, (3) south 85 degrees west 11 chains and 32 links, (3) south 42 degrees and ¼ west, four chains and 25 links, (5) south 80 degrees and a quarter west, 3 chains and 90 links, (4) north 69 degrees and one-quarter west 3 chains and 57 links north 46 degrees and three-quarters west 2 chains and 56 links, north 9 degrees and a quarter west 3 chains and 25 links to the place of beginning, containing 35 acres and 52-hundredths of an acre, more or less.

Page 201 of the same book, deed by Walter C. Sooy and Lida H., his wife, to Leslie Thomas Sooy, dated the 15th day of March, 1929, recorded 16th day of May, 1929, consideration one dollar and other valuable consideration, containing two tracts, the first being woodland beginning at an old oak stump, being the upper division corner between the homestead plantation formerly belonging to John Steelman and Edward Doughty, and runs from thence (1) north 28 degrees east 22 chains and 80 links in said Doughty's line to a corner sapling formerly John Frambes and Benjamin Peacock, thence (2) 83 degrees and a half east 22 chains and 26 links by a line of marked trees to an oak sapling corner, thence (3) south 28 degrees west 22 chains and 80 links to the division line as mentioned; thence (4) in the same south 83 degrees and a half west 22 chains and 26 links to beginning.

Number 2, beginning at a locust post for a corner,

being the corner of Enoch Doughty's land, from thence (1) 86½ degrees east 1 chain and 43 links to a corner; thence (2) south 57½ degrees east 3 chains and 43 links to a corner; thence (3) south 31½ degrees west 10 chains and 20 links to a corner in Daniel Bulletin's line; thence (4) south 86 degrees and a half west, five chains and 95 links to a locust post for a corner; thence (5) north 31½ degrees east, 12 chains and 95 links to beginning, containing 5½ acres more or less.

Page 203 of the same book, deed by Walter C. Sooy and Lida H., his wife, to Leslie T. Sooy, dated 15th day of March, 1929, recorded 16th day of May, 1929, consideration one dollar and other valuable consideration, containing two tracts, first beginning at a point in the middle of Pitney Road, being also corner of lands belonging to Edward A. Wilson, extending thence (1) in said Wilson's line north 49 degrees 30 minutes west, 2138.18 feet ——

The Court: Why read this, number 12 in the bill?

Q. It is the same as number 12, then, is that right?

A. Yes, sir.

Q. Next one.

A. Page 195 in the same book, deed by Walter C. Sooy and Lida H., his wife, to Leslie T. Sooy, dated March 15th, 1929, recorded May the 16th, 1929, one dollar and other valuable consideration, 9 tracts.

Q. Is that the same as number 13 in the bill?

A. That is the same as number 13 in the bill.

Q. Let's have the next.

A. Book 917, page 421, deed made by Walter C. Sooy and Lida H., his wife, to Hans Korte, consideration one thousand dollars, tract of ground beginning at a point in the northeast line of Cordova Drive 145.13 feet southeast from the southeast line of Shore Road; thence (1) northeast at right angles with Cordova Drive 90 feet; thence southeast and parallel with Cordova Drive 45 feet; thence southwest at right angles with Cordova Drive 90 feet to the northeast line of Cordova Drive; thence (4) northwest in the northeast line of Cordova Drive 45 feet to beginning, being part of lot 13, block 152, on plan of Mentone Shores, Section C1, Absecon, New Jersey, subject to restrictions, recorded May the 16th, 1929, dated April the 9th, 1929.

Q. What was the date?

A. April the 9th, 1929, recorded May the 16th, 1929, Deed Book 921, page 139, deed made by Walter C. Sooy and Lida H., his wife, to William J. Kyte and Alma R. Kite, his wife, dated May the 1st, 1929, recorded May the 13th, 1929, consideration four thousand dollars, beginning at a point in the northeast line of Cordova Drive 145.13 feet southeast from the southeast line of Shore Road, and runs (1) northeast at right angles to Cordova Drive 90 feet, northwest parallel with Cordova Drive, 35.48 feet to the southeast line of a 15-foot-wide alley, thence southwest along the southeast line of said alley, 90 feet to the northeast line of Cordova Drive, thence southeast along said northeast line of Cordova Drive 40 feet to beginning, being a part of lot number 12, block 152, map of Mentone Shores, Section C1, Absecon.

Sheriff's deeds, also, or only those prior to that time?

Q. Is this the deed subsequent, my question was March the 15th. I think you better briefly describe that sheriff's deed. I want to show the complete clean-up.

A. Deed Book 935, page 392—that is the recent sheriff's deed, you don't want the Zippler deed?

Q. What was that deed?

A. Zippler deed, sheriff to Zippler, after the date.

Q. What was the deed you just read?

A. The sheriff to Zippler, another tract. 931, page 344, deed by James Cimino, sheriff, to Charles M. Kessler.

Q. That deed is in evidence.

The Court: No, it is not in evidence. You never offered it. You identified it, but you never offered it.

Mr. Richards: No, we didn't; that is right, there was objection.

The Court: No objection, but you just didn't offer it, you presented it and Mr. Kessler identified it, and you laid it back on your table and didn't offer it.

Mr. Richards: Then we will offer it.

The Court: Deed October 9th, 1929, Cimino, sheriff.

Mr. Richards: Then we will offer that.

(Deed admitted and marked Exhibit C6.)

Q. I want the deed from Cimino to Zippler.

A. Going back to that, 935, 392, deed made by Daniel D. Conway, sheriff, to Mary E. Zippler, dated January 6th, 1930, recorded January 27th, 1930, covering tracts situated in the Township of Galloway, bounded on the north by lands of Daniel Conover, Charles Hammell, heirs of Micajah Conover, Job and Abel Babcock, Absalom Doughty and others, extends 5 chains into Cordery's Bay at low water mark. (2) on the east by the line of low water mark five chains from the meadow on southerly course of Steelman's line, on the south by lands of Daniel Steelman, Peter Boyce, David Conover and Jeremiah Webb, and (4) on the west by heirs of William Chamberlain, containing 70 acres more or less.

Q. Seized as the lands of whom?

A. Seized as the lands of Lida H. Sooy and Walter C. Sooy, consideration one hundred dollars.

Q. What else have we got?

A. That is all I have.

Q. Now, have you—did you make a search to ascertain whether or not the title to these various lands described here was in Lida Sooy or Walter Sooy?

A. I granteed Walter Sooy and Lida Sooy on the index, taking up all conveyances made to them, and then searched them for conveyances, and that is the result of my search.

Q. Were there any other lands that you found of which they were grantees that were not covered by these conveyances?

A. Nothing that was not covered by these conveyances and the sheriff's sale thereafter.

Mr. Richards: I want to offer in evidence all the deeds we have referred to here in these books.

The Court: No objection, they will be admitted.

Cross-examination.

By Mr. Cole:

Q. Your search was limited to conveyances?
A. Conveyances?
Q. Yes.
A. Yes, sir.
Q. Did not search for mortgages on any of these properties?
A. No, sir.

JOHN D. MCMULLIN, sworn.

Direct examination.

By Mr. Richards:

Q. Mr. McMullin, where do you live?
A. Absecon.
Q. How long have you lived there?
A. With the exception of about fifteen years, all my life, I have lived there this time for eight years.

Q. How long is that?

A. Fifty-six years.

Q. Have you dealt in real estate in and around Absecon?

A. I haven't dealt in real estate. I have sold real estate of my own.

Q. And have you had knowledge of sales and transfers and values of real estate in and around Absecon?

A. Yes.

Q. Now, are you familiar with the property mentioned in paragraph 6 of the bill of complaint?

A. Yes.

Q. Was one dollar a fair consideration for the sale of that property?

A. No, it was not.

Q. Can you tell us what would have been a fair consideration for the sale of that property on or about March the 15th, 1929?

A. I know of no sales of any property of this description made since the collapse of the boom, and I, therefore, could only place a value, if I am asked to place a value, on values as they were beforehand as farm land.

Q. Before the boom?

A. Yes. There has been no sales, so far as I know, of any acreage tract in the last three years.

Q. Was it farm land?

A. Yes, farm land and meadows.

Q. What is this 94-acre tract worth as farm land?

A. I would say a hundred dollars an acre.

Q. Now, taking paragraph number 7, tracts 1, 2, 3 and 4, are you familiar with those tracts?

A. Yes, sir.

Q. Was one dollar a fair consideration for the sale of them March 15th, 1929?

A. No.

Q. What was the fair consideration?

A. Taking in consideration my value placed on the last tract, and using the same basis, I would say $100 an acre.

The Court: How many acres are there?

A. In this tract, in these separate tracts, there are approximately sixty acres.

Q. Are you familiar with the tract, paragraph number 8?

A. Not with that description. It is described by streets I know nothing about.

Q. You say you don't know it by streets?

A. No, I don't know that one.

Q. How about number nine?

A. I can't place that from the description, but that is the out bounds, it is the property which includes the dwelling house which the defendants sometimes occupied, but I don't know the size of it, nor the bounds.

Q. But you do know the property?

A. I know the property.

Q. Was one dollar a fair consideration for it?

A. No.

Q. What is it worth or was it worth March the 15th, 1929?

A. About $12,000.

Q. Property number 11?

A. I know that property.

Q. Was a dollar a fair consideration for it at that date?

A. No.

Q. What was?

A. I hold a mortgage on it of $10,000.

Q. That hardly answers the question.

A. And I would say the equity in 1929 was worth $5,000.

Q. Number 12, do you know that property?

A. I know the first description, the woodland, 15.72 acres. I don't know the salt marsh.

Q. Was a dollar a fair consideration for the woodland?

A. No.

Q. What is it worth?

A. $100 an acre, $100 to $150 an acre.

Q. Number 13?

A. Those are lots shown on the map of Downs. I don't know anything about them.

Q. You yourself remember it?

A. I haven't the information from which to locate that.

Q. Do you know anything about the values of land in Atlantic City?

A. No, sir.

Cross-examination.

By Mr. Cole:

Q. When you said that you owned a mortgage of ten thousand dollars on one of these tracts to which your attention was called, did you mean that you owned it personally?

A. No, I own it as executor of an estate.

Q. That mortgage belongs to the estate of Daniel H. Read, doesn't it?

A. Right.

ALFRED J. KURTZ, sworn.

Direct examination.

By Mr. Richards:

Q. Mr. Kurtz, what is your business?

A. Real estate and insurance.

Q. Whereabouts?

A. Absecon, 107 White Horse Pike.

Q. Are you familiar with real estate values in Absecon?

A. I am.

Q. How long have you been in the real estate business, Mr. Kurtz, in and around Absecon?

A. About eight years.

Q. Are you familiar with the property described in paragraph 6 of this complaint?

A. May I ask to see that map? I haven't been there quite fifty-six years, and I have to look at it. I am familiar with the upland part of it, but not so much the meadow land.

Q. Was a dollar a fair consideration for the sale of that land?

A. No, sir.

Q. What would you say it was worth?

A. Well, I know that there has been no sales that

I know of in the acreage basis, only the lot basis, since the boom, I would say that would be the year of 1927 and latter part of 1926, and I would feel about $150 an acre would be about the limit.

Q. This had originally been subdivided into lots in the boom time?

A. Yes, sir.

Q. And reputed to be worth a great deal more?

A. Thirty-five hundred an acre.

Q. Now, this whittles down to about a hundred and fifty an acre, is that right?

A. Yes.

Q. Take the next piece there, paragraph number 7, are you familiar with that?

A. Yes, sir.

Q. Was one dollar a fair consideration for the sale of that property?

A. No, sir.

Q. On that date, March the 15th, 1929?

A. No, sir.

Q. What would you say that property was reasonably worth at that time?

A. Well, I should figure about a hundred and twenty-five an acre.

Q. Take the next paragraph, paragraph 8? Are you familiar with that land?

A. Yes, sir.

Q. Was one dollar a fair consideration for the sale of that land, March the 15th, 1929?

A. No, sir, it was not.

Q. What was the fair value of that land on that date, fair value?

A. Well, taking an average, that is, on an acreage basis, that 4th Street property would have more

value than the rear, I would say about $200 an acre.

Q. How many acres are there? That doesn't give the acreage.

A. Doesn't give, just gives the frontage there, this is a tract of ground lies along from the bend of the road along Fourth Street 1720 feet to the place of beginning.

Q. Can you give us what would be the fair value for the tract, not from acreage basis, on the whole proposition?

A. Well, I had an airport proposition on it last year and I was working on a basis then of $500 an acre, but, of course, I couldn't purchase it at that due to the fact that we couldn't agree on price.

Q. Who is we?

A. Dr. Sooy and Mrs. Sooy.

Q. Is that whom you negotiated with?

A. Yes, sir.

Q. When was this negotiation?

A. Why, last spring.

Q. You mean spring of 1930?

A. No, that would be the spring of 1929, at the same time I was dealing with Mr. Poucher in Atlantic City on the disposal plant property.

Q. What time in the spring?

A. Well, I couldn't just tell you that. Dr. Sooy could tell you better. I imagine it was along in May, I think, May, or somewheres in that time.

Q. You think it was after March?

A. I wouldn't want to say sure.

Q. Anyhow, in the spring you were trying to make a deal on this property on the basis of $500 an acre?

A. This included considerable other there in that neighborhood, of course, I had to have more acreage.

Q. Did the rest belong to Dr. Sooy or someone else?

A. I was under the understanding I could get more land if I wanted it.

Q. Did the property you are speaking of here belong to Dr. Walter Sooy and his wife or his son which you are talking about? Who did you deal with?

A. I was dealing with Dr. Sooy and Mrs. Sooy in the home on Pacific Avenue is where I was negotiating.

Q. Pacific Avenue, Atlantic City?

A. Yes, sir.

Q. What I am getting at is there are two Dr. Sooys in this case.

A. I mean this Dr. Sooy right here I am looking at.

Q. The defendant sitting here at the counsel table?

A. This is the gentleman right here.

Q. And his wife who is sitting here?

A. Yes, this lady in the middle.

Q. Have you any information about how much was involved in that property on the basis of $500 an acre?

A. It was necessary for me to have around 300 acres and that would have included a piece of property which Mr. Kessler, I believe, formerly owned in back of his house, together with the fields that adjoin 4th Street and ran to the meadow bottom, and then around the meadow bottom to the large house of Dr. Sooy's at the end of Faunce Landing

Road where 4th Street comes into Faunce Landing Road.

Q. What I am getting at, can you give us any approximate idea of the value of this particular property?

A. Well, if I were going to be interested on an acreage basis, that is the only way I would figure it.

Q. All right, but what I am getting at is have you any approximate information how many acres there are there? Give us an estimate on it, worth $500,000 or what?

A. No, I would say under present conditions $200 an acre, regardless of what they wanted for it or sold it for.

Q. Have you any information what the lot is worth in money?

A. Well, I wouldn't want to quote it on a lot basis because they are not selling lots.

Q. I don't mean that.

The Court: Can you tell from the description anything about the acreage of that lot?

A. Well, I could figure it up, of course, square measure, but I just don't know the exact amount of acreage.

Q. Can you give us approximately the acreage in it? You have seen the lot and you know the size of it.

A. If this is the piece that adjoins Mr. Kessler's, which, according to this description, and runs over to the house on the bay side, and the piece which I am sure I was dealing on, there was somewheres

around, I should say, around fifty acres. I was to get 150 acres in that piece, and the total amount of Mr. Kessler's was to amount to somewhere between three and four hundred acres.

Q. That Mr. Kessler was to deliver to you?

A. Well, they said that Mr. Kessler, they could deal with Mr. Kessler.

Q. All right. Go on to the next one. This is paragraph number 9.

A. You want a value?

Q. Yes.

A. I should say $6,000 would be a good price for the land under present conditions.

Q. Was that a fair value for it in March 15th, 1929?

A. Yes, sir.

Q. It was worth more than a dollar?

A. Oh, yes.

Q. Number 10?

A. Yes, I am acquainted with this property, too.

Q. Was the fair value of it more than one dollar in March 15th, 1929?

A. It was worth more than one dollar, yes, sir.

Q. What in your judgment was it worth?

A. Well, the meadow land, I don't value a great lot, and I should say $75 an acre, though they were asking fabulous prices for it in the boom. There is 90 acres of land in that, it goes from Shooting Point to Absecon Creek, up to the meadow bottom.

Q. Is that the property was sold for a million dollars at one time?

A. Five million, I think, with all the rest, I understand Normandy Shores.

Q. Take the next property, number 11.

A. May I see the map again? Some of these names I am not acquainted with, these older names, but if I can just get the starting points on the tax map. This doesn't show it. It is in the other ward. I wouldn't want to base my opinion on that, until I was absolutely certain I was right on the location. I know the various courses there, but I am not certain about the last part of it.

Q. All right, we will pass on to number 12 then.

A. I am familiar with this piece of property.

Q. Was one dollar a fair consideration for it March 15th, 1929?

A. No, sir.

Q. What would you say it was worth, was a fair consideration for it?

A. I should feel $300 an acre was a fair price for that property at that time. They were asking more in the vicinity of that, but there are no sales recently only on a lot basis, that is on the upland, the other side of the New York Road.

Q. Let's pass on to 13.

A. You want on this one 2 and 3, 4 and 5, they are all lots in the same block number.

Q. Tell me what the whole piece is worth if you can?

A. I should say about $250 a lot on the basis the others were sold.

Q. How many lots?

A. You would have 1 to 6, number 11, in number 1, 2 and 7 and number 12 in number 2.

Q. You say 1 to 7?

A. 1 to 6.

Q. That is six lots or seven lots?

A. Yes.

Q. Seven lots there, then second description how many lots?

A. Two—7 and 12.

Q. That is ten all together?

A. They are described there 10 and 15.

Q. 4—14 and 15?

A. 10 and 15.

Q. That makes thirteen?

A. No, number 4, 16, 17 and 20.

Q. That is 16 lots, then?

A. Number 5, 3, 8 and 13.

Q. That is four more, that is twenty.

A. Number 18 in number 6.

Q. That is 22.

A. Lot number 19 in number 7, lots 9 and 14 in number 8.

Q. And ten acres of brush land?

A. And the brush land I would say $150 an acre.

Q. Which is ten acres?

A. Which is the ten-acre piece of land in number 9.

Q. Going back to description number 6 or paragraph number 6, is number 6?

A. This is the large tract.

Q. Tract number 5, is that the property where, that is tract number 5 in paragraph number 9, is that the property where Dr. and Mrs. Sooy lived, if you know?

A. Yes, this is the property at the end of Faunce Landing Road, running up by 4th Street.

Q. What is that property worth, in your judgment?

A. The house and all?

Q. Yes.

A. Well, under present conditions, I would feel that offer at $10,000.

Q. Was a dollar a fair value for it March 15th, 1929?

A. No, sir.

Q. And would $10,000 have been a fair value at that time on March 15th, 1929?

A. Yes, it would have been a fair value.

Q. Now, do you know whether or not Dr. and Mrs. Sooy are living in that house now?

A. I do not.

Q. Do you know anything about real estate values in Atlantic City?

A. Not a whole lot.

Q. Do you know anything about the value of land on South Carolina Avenue in Atlantic City?

A. Well, I have only made one deal there in the course of my real estate business that I do not feel would entitle me to express my opinion.

Q. Now, Mr. Kurtz, here is a property not mentioned in our bill of complaint, description being, situated in Absecon, being the property beginning at a point in the northeasterly line of Cordova Drive. Do you know that property?

A. I do.

Q. Is that worth, was a fair consideration for that property a dollar in 1929?

A. No.

Q. What was it worth?

A. Well, that lot was worth about $400, in my opinion.

Q. The next property is four-fifth undivided interest in land as described, and which begins in the

northeasterly corner of a mowing ditch between Davis's corner, do you know that property?

A. Yes, I do, mouth of Absecon Creek; I think Mr. McMullin owns one-fifth interest.

Q. Was the fair value of that parcel a dollar?

A. No, sir.

Q. What was it worth?

A. I don't believe it was worth near what they quoted it for, but about $4,000 for the creek frontage, and four-fifth interest that was there.

Q. Does that include the second description or just the first?

A. Just this description here.

Q. That is just the first one?

A. Yes, sir.

Q. Look at the second parcel, that is a small piece about three acres.

A. I can't say I am exactly familiar with that piece. I know some of the points that they mention, but I don't know ——

Q. Was it worth more than a dollar?

A. Yes, it was worth more than a dollar.

Q. Now, how about the third parcel, do you happen to know that one?

A. No, sir, I am not familiar with that.

Q. Was it worth more than a dollar?

A. It was. I am sure of that.

Q. How about the fourth description?

A. I am not familiar with that property under those names.

Q. Here is another deed to land beginning at a stake for a corner, situate in the middle of the road, leading from Doughty's mill to James F. Robinson's.

A. I am not familiar with that under those names.

Q. Just a minute, I want to return a minute, I didn't have this $4000 piece, witness was referring to property situated in Galloway Township as described, beginning at the northwesterly corner of the mowing meadow ditch to John Davis's corner, and so forth.

Now, the next one, are you familiar with this one, parcel number 1, north by lands of Daniel Bulletin, and so forth, containing about 48 acres?

A. No, I am not familiar with that piece of land. I know both of these properties by lot and block number, under the tax maps made by our engineers, these older names I am not familiar with. I am sure I could pick out the location all right, and could appraise it.

Q. On the second tract also?

A. No, I am not familiar with that piece.

Q. How about this piece here—wait, it is not necessary to go into that, either. Nor this one. I guess that is all. Have you seen, I think you said you did not know whether Dr. Sooy was living in the Absecon house or not, didn't you?

A. I don't know.

Q. Have you seen or talked to Dr. Sooy since the spring of 1929?

A. Not since the interview that I had with him regarding the airport deal.

Q. At that time he was negotiating with you about this property as the owner of it?

A. That was my understanding.

Mr. Cole: I object to that as a conclusion.

The Court: Sustain the objection.

Q. When was it you saw him on that occasion?
A. When was it I saw him?
Q. Where did you see him?
A. In his home on Pacific Avenue, near Illinois.
Q. In Atlantic City?
A. I guess where he practices, in his office.
Q. In Atlantic City?
A. Yes, sir.

Cross-examination.

By Mr. Cole:

Q. Did you make him any offer at that time?
A. No, I didn't make an offer.
Q. What was it you said about five million dollars?
A. Well, that was only a rumor repeated around Atlantic City, that the property was sold for that amount of money.
Q. What property?
A. All the holdings of Dr. Sooy.
Q. Had been sold for five million dollars?
A. That was the rumor that was around.
Q. From whom did you get the rumor?
A. From the man that was dealing with Dr. Sooy, Andrew Henry.
Q. All of Dr. Sooy's holdings were to be sold for five million dollars?
A. Yes, sir.
Q. And you heard that?
A. Yes, sir. I didn't believe it, but I heard it.

Q. I was about to ask you that. Now then, what do you term the boom period in Absecon?

A. From 1922 until latter part of 1926.

Q. Which was the worst part of it?

A. In my opinion the peak was in about the middle of 1925, and started to die out beginning of 1926.

Q. You testified to values, and I may ask you, are they present values that you have testified about?

A. Present values?

Q. Yes.

A. Well, I feel that the properties are worth that.

Q. I say, you have testified to present values?

A. I feel they are present values.

Q. That is all.

By Mr. Richards:

Q. And that was also their fair value March 15th, 1929?

Mr. Cole: I object as leading.

The Court: Sustain the objection.

HORACE MILLER, recalled.

Direct examination.

By Mr. Richards:

Q. Referring to the property on South Carolina Avenue, which is number 5 in the bill, have you made a search for encumbrances against that property?

A. Going over the search, I made a search there, and I find something in the way of mortgages, that is all, and taxes.

Q. What were the amount of the mortgages on that property on March 15th, 1929?

A. $16,000.

Q. Now, referring to the property on Pacific Avenue near Michigan, number 4 in the complaint, how much were the mortgages on that property?

A. Twelve and thirty-five thousand.

Mr. Cole: What is that figure?

A. Twelve and thirty-five thousand.

(No cross-examination.)

HARRY G. SOMERS, sworn.

Direct examination.

By Mr. Richards:

Q. Mr. Somers, you are connected with the Guarantee Trust Company in Atlantic City?

A. Yes, sir.

Q. You have been served with a subpoena to produce the books of account of that company with relation to the account of Dr. Walter Sooy?

A. Yes, sir.

Q. And Lida Sooy?

A. Yes.

Q. And Leslie Thomas Sooy?

A. Yes.

Q. Have you got them there?

A. I have.

Q. Taking the account of Walter C. Sooy, have you the ledger sheets covering what period?

A. From February the 5th, 1923, to date.

Q. Now, taking them by years, can you give me the average balance each year?

A. I can approximately, I think. 1923 would average about $1,000.

Q. 1924?

A. 1924 about the same.

Q. 1925?

A. '25 about $750.

Q. 1926?

A. 1926 is going to be hard to average that, it

went up pretty high at a certain period, I should say about ten thousand average.

Q. '27?

A. '27, about $2,500.

Q. '28?

A. About one thousand.

Q. '29, give me the average up until about March of that year.

A. About three hundred and fifty.

Q. After March, what happened to the account?

A. After March of '29?

Q. Yes.

A. It runs on just the same.

Q. Until when?

A. Until, starts to fall off in July of 1929.

Q. Then it starts to steadily dwindle?

A. Yes, from July, '29.

Q. Q. Until now it is $10.10, that is December first?

A. Present balance at the close of business last night, $10.10, yes.

Q. Now, when was the account of—this account starts off Walter C. Sooy, M. D., then it is changed some place in here is it not?

A. Yes.

Q. To Walter C. Sooy, M. D., or Lida H. Sooy?

A. Yes, it was made a joint account.

Q. When was that?

A. May 23rd, 1927.

Q. And continues now as a joint account?

A. Yes.

Q. Now, when was it Leslie Thomas Sooy's account opened?

A. July 16th, 1929.

Q. And that has continued on up until the present?

A. That is right.

(No cross-examination.

MALCOLM B. WOODRUFF, sworn.

Direct examination.

By Mr. Richards:

Q. What is your official position in this county?

A. Under-Sheriff.

Q. As such did you have an execution against the property of the defendants here, Walter C. Sooy and Lida H. Sooy?

A. I did.

Q. Will you produce it?

(Execution produced.)

Mr. Richards: I want to offer this.

(Execution admitted in evidence and marked Exhibit C7.)

Q. What did you do in pursuance of that?

A. I made a levy on the property in question.

Q. What property?

A. Well, it is described here, rather long, over in Absecon, and different places.

Q. When did you make that levy, Mr. Woodruff?

A. That was on April the 29th, 1930, several pages of the description.

Q. Have you sold any of it or done anything with it?

A. Sold it?

Q. Yes.

A. I don't think so. That is, I don't sell it, anyhow. I don't hold the sales.

Q. Have you—since the making of this levy, have you received any money on account of this execution?

A. No, sir.

Q. Have any talk with Dr. Sooy at the time you made the levy?

A. Well, I had a talk with him then and since.

Q. What did he say to you on that occasion?

A. At what time?

Q. First time you made the levy.

A. Well, he said that—I don't know just what he did say now, he said he would take it up with his attorney and would be all attended to at the proper time, words to that effect.

Q. What did he say the second time?

A. The second time was November the 10th, I went down to his house and demanded the money.

Q. What did he say to you?

A. He said he hadn't any money to give me, that that would come out all in due course of time, and referred to his attorney.

Q. You say you went down to his house, where did you go?

A. 1921 Pacific Avenue.

Q. Is that on Pacific Avenue near Michigan?

A. Near Michigan, yes.

Q. He living there in the house?

A. Apparently so, him and Mrs. Sooy, were both there.

Cross-examination.

By Mr. Cole:

Q. Your attention was called to a levy about which you said something, is this the levy you made?

A. I think that is only a copy of it.

Q. Is this a copy of it?

A. Yes, that is a copy.

Q. That is the levy you made under this execution?

A. Yes, sir.

(Levy offered, received in evidence and marked Exhibit D1.)

Q. Did you have any instructions from the attorney for Mr. Kessler as to what you were to do under this levy?

A. Why, they described the property and had me to levy on it.

Q. I say did you have any instructions what to do after, from the attorney after you had made this levy?

A. That would come through the office, not me personally.

Q. You don't know anything about it?

A. No, I don't know anything about that.

Q. You the one who made the levy?

A. I am, yes, sir.

Q. You have had no instructions to proceed under it to advertise and sell?

A. That would——

Q. I mean have you?

A. Not me, no. I didn't advertise and I didn't sell it.

Q. Do you know from whom the description came under which you made this levy?

A. I do not.

JAMES O'TOOLE, sworn.

Direct examination.

By Mr. Richards:

Q. Where do you live, Mr. O'Toole?

A. Faunce Landing Road, Absecon.

Q. On what property do you live?

A. Dr. Sooy's.

Q. To whom do you pay the rent?

A. Well, I haven't been paying no rent, but I did pay rent to Dr. Sooy, but the last came to his son.

Q. Have you got a lease on the property?

A. Have I a lease?

Q. Yes.

A. Well, no, I have no lease. I did, I had a lease first, but I moved away from there and this time when I moved back of course I didn't get no lease.

Q. How much rent do you pay?

A. Fifteen.

Q. Dollars a month?

A. Yes, sir.

Q. Who collects the rent?

A. Well, I haven't had any collected for some time because I haven't been doing anything, but Dr. Sooy, he accepts it, but the last years makes receipt out for his son.

Q. He comes and collects the rent when you pay it?

A. Yes, sir.

Q. How long has he been collecting the rent?

A. Well, he only accepted money off of me February the first this last year.

Q. Haven't you paid any rent since then?

A. No, sir.

Q. Prior to February the first of 1930 did he collect the rent?

A. Yes, sir.

Q. How long have you lived there this time?

A. It will be three years March the 19th this coming year, and I have been away from there two months.

Q. During that time has Dr. Sooy always collected the rent?

A. Yes, sir.

Q. When did he give you—did he always give you a receipt for it?

A. Yes, sir, I have a receipt.

Q. Have you got the receipts with you?

A. I have got my rent book, it is here in my coat (producing book).

Q. Is this your rent book?

A. Yes, sir, over here.

Q. There seems to be two receipts in here in April, 1930, now is that the only receipts you have?
A. Yes, sir. Might be others home.
Q. What does this refer to here?
A. That is an old book of mine.
Q. That is the only time you got receipts from Dr. Sooy?
A. I done hauling, you see.

Cross-examination.

By Mr. Cole:

Q. Is this one of the receipts you took for rent?
A. Yes, sir.

(Receipt offered in evidence.)

Mr. Richards: I object.

The Court: Sustain the objection. Mark for identification.

(Receipt marked D2 for identification.)

Q. I show you the receipt to which I just called your attention, as dated March 15, 1930, and show you one dated March 8th, 1930, is that also one you took?
A. Yes, sir.

(Receipt marked D3 for identification.)

Q. Do you say they are the only receipts you have for rent?

A. Yes, sir, unless there are some more home in the drawer.

Q. They are all you have here?

A. Yes, sir.

Q. Were you asked to produce your receipts for rent?

A. Was I asked to?

Q. Were you asked to bring all your receipts here?

A. No, I just said I had that here present.

Q. There are no receipts in this book?

A. No, sir, only this one here.

Q. There are two other receipts, then, that appear in this book, aren't there?

A. Yes, sir, that was taken out for hauling.

Q. These are two other receipts?

A. Yes, sir.

(Marked D4 for identification.)

Mr. Cole: I may want to offer these in evidence, so you will have to let them stay here a little while.

By Mr. Richards:

Q. When did Dr. Sooy begin to sign your rent receipts L. T. Sooy, per Dr. W. C. Sooy?

A. Well, I really never paid attention, and that is the way he signed it.

Q. Have you got any receipts at home that are just signed Dr. W. C. Sooy?

Mr. Cole: I object to his interpreting the receipts.

The Court: Sustain the objection.

A. This is all Greek to me.

Mr. Richards: If your Honor please——

The Court: If he has any other receipts at home is a proper question, but not how signed.

Q. Have you any other receipts at home?
A. Probably I might, I moved back here again.
Q. Who signed them?

Mr. Cole: I object.

The Court: Sustain the objection.

Q. Did you see the receipts signed?
A. Well, I always took them and just put them right in the book.
Q. Did you see the receipts signed?
A. Yes, sir.
Q. They were signed in your presence?
A. Yes, sir.
Q. Who signed them?

Mr. Cole: I object.

The Court: Sustain the objection.

Mr. Richards: On what theory, if your Honor please?

The Court: Receipts are in existence, and the Court will determine who signed them.

Mr. Richards: If your Honor please, couldn't tell from the receipt who signed them.

The Court: That may be, but entitled to have them here, your witness can produce some receipts.

Mr. Richards: If your Honor please, it seems to me the evidence of an act always can be produced in evidence.

The Court: I will decline to have any description of the receipts which are not produced.

Mr. Richards: Of course, that is surprise to mé, I didn't know he had any receipts at all.

The Court: He is your witness.

Mr. Richards: I understand that.

Q. When did you first begin to get receipts from Dr. Sooy?

Mr. Cole: I object to that, whether he got—I suppose if that means a physical production, yes, but I object to any interpretation of them.

The Court: I will permit it as a physical act.

A. Why, I had a rent book when I first rented off of him, and then it seems I could never find the book, like the child would take it, and I always got a receipt off of him for the rent.

Q. You got receipts from Dr. Sooy from the very beginning of this three-year period?

A. Yes.

Mr. Cole: If this is intended to be a statement of the contents of the paper, I object to it.

The Court: Yes.

Q. I am not asking for that purpose, you physically got a receipt from him?

A. Positively.

Q. And that is from the time you went into the property up to the present time?

A. Yes, sir.

By Mr. Cole:

Q. Do you mean to say that you got a receipt for every payment of rent you made?

A. I did.

Q. A written receipt?

A. Yes, sir.

Q. And these are the only receipts that you produce or have with you?

A. Yes, sir.

EDWARD HONE, sworn.

Direct examination.

By Mr. Richards:

Q. Mr. Hone, where do you live?
A. Absecon, 714 New York Road.
Q. Do you rent the property you live in?
A. Yes, sir, off of Dr. Sooy.
Q. How long have you lived in it?
A. Four years 12th of January, I think it is.
Q. Who do you rent the property from?
A. Dr. Sooy.
Q. Who collects the rent for the property?
A. I guess he does. I never pay it. My wife pays it. I never pay it. He always comes for it.

Mr. Cole: I ask the answer be stricken.

The Court: I will permit it to remain.

Q. Have you ever personally paid the rent to him?
A. No, sir, I have not. I have got a couple of receipts here she told me to fetch up if you wanted to see them.
Q. No, it won't help us, I guess, if she isn't here.

MRS. MARY ZIPPLER, sworn.

Direct examination.

By Mr. Richards:

Q. Mrs. Zippler, did you have a bond and mortgage on, given by the defendants, Walter C. Sooy and Lida H. Sooy?

A. I did.

Q. In what sum?

A. Fifty thousand.

Q. Have you got them with you?

A. No, I have not.

Q. You haven't them with you?

A. Mr. Zippler has them there.

Q. Is this the bond and mortgage?

A. Yes.

Q. This bond and mortgage was dated the 3rd day of May, 1929, is that correct?

A. That is correct.

Q. Was it paid?

A. No.

Q. Did you have any talk with either Dr. Sooy or Mrs. Sooy about it?

A. Yes, they were over a couple of times at the house and had a talk with us, they said they couldn't pay it.

Q. Did you enter a judgment on this bond and mortgage subsequently?

A. Yes.

Q. Has the judgment been paid?

A. No.

Mr. Richards: I want to offer these.

(Bond and mortgage admitted in evidence and marked Exhibits C8 and C9.)

(No cross-examination.)

GEORGE ZIPPLER, sworn.

Direct examination.

By Mr. Richards:

Q. Mr. Zippler, you are the husband of the witness who was just on the stand?

A. Yes.

Q. Did you have any conversations with either Dr. Sooy or Mrs. Sooy relative to the payment of this mortgage or the judgment?

A. No conversation regarding the judgment, but a conversation regarding the mortgage and the interests that were past due on the properties.

Q. There was past due interest?

A. Yes.

Q. What interest was due, was past due?

A. From November to May, from November 28th, to May the 28th, the last six months prior to the expiration of the mortgage.

Q. Had any of that been paid?

A. Prior to that had been paid.

Q. But I mean none of the last six months.

A. No.

Q. What conversation did you have with either of them?

A. Well, they came to our home and asked what they deed the property back to us, would save the annoyance of foreclosure, and I tried to prevail on them to hold the property, and even spoke of being lenient regarding the interest on the mortgage, we would extend the time, we did everything we could to prevail on them keeping the property.

Q. Did you have any conversation about any transfer of properties or anything of that kind?

Mr. Cole: I object. I think the witness ought to be allowed to tell what the conversation was.

The Court: Sustain the objection.

Q. What other conversation did you have?

A. Prior to the mortgage coming due, they were at our house and wanted us to take a part of a farm back, the land side of the farm which consisted of a dwelling and outbuildings, and we didn't choose to split up the farm.

Q. You didn't do that? What else was there, what other conversation was there?

A. Only that they wanted us to take the farm back.

Q. Did you have any conversation with Mrs. Sooy?

A. Yes.

Q. What was that conversation and when?

A. I might say at the time they wanted us to take the farm back there was a suggestion regarding the property on South Carolina Avenue, also one on

Pacific Avenue, taking it instead of, they would deed either one of those properties to Mrs. Zippler for the consideration of the mortgage plus the mortgages that were on those properties, existing on those properties at the time, but we were not interested in that.

Q. All right. Now, what other conversation did you have with Mrs. Sooy?

A. At that time there were mentioned a mortgage of, I think it was seventeen thousand, on South Carolina Avenue property, and if we take the property over it would be subject to a second mortgage of thirteen thousand, making a total of thirty thousand encumbrances against the property and I asked, I think it was either Mrs. or Mr. Sooy why the thirteen thousand second mortgage, and they thought that the property was worth that, that would be put on it if we took the property in exchange.

Q. Was there anything said about, did they make any representations to you about what the value of the South Carolina Avenue property was?

A. They mentioned several values, certainly, I suppose they had been talking to people through the boom, and one thing another, I think they at one time said the property was worth a hundred or over a hundred thousand dollars, or they had been offered over a hundred thousand for it, said it had shrunk to around eighty thousand.

Q. When was it you had this conversation the value of South Carolina Avenue property?

A. I couldn't explain the dates but I think it was in the summer of 1929, they were running a hotel there, we were over looking through it several times.

Q. That is what I want to get at. It was after your mortgage became due?

A. Yes.

Q. And you were still trying to collect money on the mortgage, is that right?

A. Yes.

Q. You were over to the property on South Carolina Avenue?

A. Yes.

Q. What is this property?

A. It is a hotel property.

Q. Called the LaBelle Inn, isn't it?

A. LaBelle Inn.

Q. Who was operating it?

A. I think the Sooys themselves. I hadn't heard of them leasing it.

Q. Were they there at the time?

A. Yes, Mrs. Sooy was there one occasion, Mrs. Sooy was there, and the conversation came up about the various properties, and she made the remark of Dr. Sooy transferring the properties, he bought the properties and transferred them to her, and she, in turn, transferred them to the son.

Q. What did you say in reply to that?

A. I asked her whether Judge Cole had advised her to do that.

Q. What did she say?

A. She said no, Judge Cole had not.

Q. What else was said about the transfer of these properties to the son?

A. That was all, because I didn't state much about it, as I say, I went in answer to a telephone call that I called on them.

Q. Have you been down to the South Carolina Avenue property since that time?

A. Not since the fall of that year.

Q. Who was running the property then?

A. Well, I don't know, but Mrs. Sooy was there time and time again, and I saw Dr. Sooy there, but I couldn't say who was running it.

Q. When you went in, you found them there?

A. Yes, I found Mrs. Sooy there several occasions.

Q. Where was she when you saw her?

A. In the exchange.

Q. Is there a desk in the exchange?

A. Yes.

Q. Was she in front of the desk or behind the desk?

A. No, I think when I talked to her was in her own room, in the corner of the front of the building, I never talked to her over the desk.

Q. She was apparently sitting there in the hotel?

A. Well, she was running the house, she said it was too large for her to run, this South Carolina Avenue house, and the Pacific Avenue house, too, and that was one of the reasons why she would like us to take this South Carolina Avenue property, while it was optional whether we took that or the Pacific Avenue property.

Q. Then she was talking about conveying this property to you as late as the fall of 1929, is that what I am to understand?

A. Yes.

Q. Did you know that that property had been conveyed in March to her son?

A. No.

Q. Didn't tell you that?

A. No. In a conversation I asked her, this thirteen thousand second mortgage would be put on the property, and she said that they owed the son's wife's folks, I think, or something of that kind, a loan, that they had gotten from them.

Q. But she didn't say anything about the property belonging——

Mr. Cole: I object.

The Court: Yes.

Mr. Richards: Wait a minute.

The Court: The objection is to the form of the question as leading question, and it is probably confusing, too, and apparently is leading, and I will sustain the objection.

Q. What, if anything, did she say concerning the transfer of the South Carolina Avenue property to her son?

A. She made no specific remark regarding that one property. As I say, she mentioned both properties, Dr. Sooy did, too, the Pacific Avenue property as well as South Carolina, but they didn't say——

Q. On this occasion was Dr. Sooy there?

A. On one or two occasions Dr. Sooy was there.

Q. I mean on the last occasion, was the Doctor there?

A. No, the last time I called on Mrs. Sooy in re-

ply to a telephone call, Mrs. Sooy was the only one there.

Q. When was the last time you saw the doctor?

A. I don't think I had saw the doctor until—or since, probably might have been March or April, before the mortgage was due, at his office.

Q. On that occasion was this proposition made to transfer LaBelle Inn property to you or Mrs. Zippler, by him?

A. Yes.

Q. And then after that time you continued those conversations with Mrs. Sooy, is that correct?

Mr. Cole: I object to that. That is a conclusion and leading.

The Court: Sustain the objection.

Q. With whom did you continue the conversations after the last time you talked with the doctor?

A. I think they were mostly with Mrs. Sooy.

Q. How long did that continue?

A. Up until the fall of that year.

Cross-examination.

By Mr. Cole:

Q. Did you say a moment or two ago that either Mrs. Sooy or Mr. Sooy told you that they had transferred some properties to the son?

A. Mrs. Sooy told me that.

Q. When was it that she told you that?

A. I think it was in the early summer of that year.

Q. What year?

A. I think 1928—1929—, I can't just recall the year now, but I know it was at the time that the mortgage——

Q. Tell us just what she said.

A. She was talking about the properties, of course, I couldn't tell exactly what she said.

Q. What she said about having transferred the properties to the son.

A. She said she had did that, that is the reason I asked her whether she was instructed——

Q. Pardon me, what I want you to do now is to tell what she said about transferring properties to the son.

A. Well, I couldn't exactly tell you what she said any more than that was the remark that she made.

Q. Now, was that before or after you say she suggested to you that you take over one of these properties in Atlantic City for your mortgage?

A. Well, as I say, they were over to our house——

Q. Before or after?

A. It was before and after both.

Q. Did you say that she told you this South Carolina Avenue property was worth a hundred thousand dollars?

A. Yes, at the time of the boom, that they had been offered over a hundred thousand dollars for it.

Q. When she told you that you had—that she had transferred the property to the son, you said that you asked her whether Judge Cole had advised her to do that, is that correct?

A. Yes.

Q. And she said no?

A. Yes.

Q. Was this on 1929 or 1928 that you have just told us she gave you that information?

A. I would have to familiarize myself with the date when the mortgage was due, it was sold in 1926 and the mortgage came due in 1929, that was in the early summer of 1929.

Q. Why did you ask her whether Judge Cole had advised her to transfer the property to her son?

A. I knew that you were her attorney, and I didn't think that you would suggest that she transfer all her properties so as to get clear of this bond that was against that mortgage.

Q. You concluded that is why she did it, didn't you?

A. Yes.

Q. You hadn't any information on the subject, but just concluded that she had made the transfer to defeat your bond?

A. Yes.

Q. That was your conclusion?

A. Yes.

Q. That is why you wanted to know whether I had advised that being done?

A. I didn't want to know, I said, "It wasn't Judge Cole."

Q. I thought you said a moment ago that you asked her whether it was Judge Cole.

A. No, I said "Not Judge Cole," I didn't ask her was it Judge Cole.

Q. What did happen? Tell us.

A. And she simply told me no, it was another lawyer.

Q. Tell you no to what?

A. That you had not suggested that they transfer these properties to her son.

Q. How did my name come to come into it?

A. Because I knew that you were her attorney.

Q. You said a while ago——

A. In fact, I sent them to you, Judge, at one time.

Q. I thank you for that, but what I want to know now is you said a moment ago in answer to counsel for Mr. Kessler that you asked her whether or not I had advised her? Is that correct or not?

A. I says, "Who advised you to transfer these properties to your son, not Judge Cole?" And she said, "No."

Q. And these three or four are—that will be all.

By Mr. Richards:

Q. No, I want all the answer. She said, no, let's have the rest of it.

A. That was all to it, because, as I say, I didn't want the properties, wasn't interested in the properties.

Q. Mr. Zippler, a few minutes ago you amplified that last answer, was the conversation terminated with her saying "Not Judge Cole," and she said "No," or did she say something else in relation to how she came to do it?

A. Well, as I say, I was sent for——

Q. Please give us the rest of the conversation, if there was any.

A. No, I don't suppose there were any conversation any more than I would see about the property and consult Mrs. Zippler about it.

Q. In answer to a question by Judge Cole, you said "Not Judge Cole," and she said "No, it was another lawyer." Now, did she say, "No, it was another lawyer," or didn't she?

A. Yes, that is the remark she made.

Q. Didn't say who the lawyer was?

A. No.

Q. Did she tell you what advice he had given her?

A. No.

Q. Her reply was, when you asked her this question,, "No, it was another lawyer"?

Mr. Cole: I object.

The Court: I will permit that repetition.

A. Yes.

(Recess taken until 1:30 o'clock P. M.)

AFTERNOON SESSION.

(Trial of the cause resumed at 1:30 P. M.

HORACE MILLER, recalled.

Direct examination.

By Mr. Richards:

Q. You searched the titles for all the lands that had been conveyed to Mr. and Mrs. Sooy?

A. Yes, sir.

Q. How far did that search extend?

A. Period of twenty years.

Q. Was the lands covered by these deeds all of the lands that had been during that period conveyed to them?

A. The deeds we called for this morning?

Q. Yes.

A. All the deeds we called for this morning included all the holdings of Dr. and Mrs. Sooy.

Q. That had been conveyed to them in that twenty years?

A. Absolutely.

Q. Which was still in them at the time when they made these conveyances?

A. Absolutely.

Q. So that these conveyances was a conveyance of all of the land in this county of which they were seized on or around the 15th of March?

A. Absolutely.

Q. In going over these grants to them when did these grants begin?

A. From Dr. and Mrs. Sooy?

Q. To Dr. and Mrs. Sooy or either of them.

A. My search starts January 1st, 1910. I don't have the date of every instrument here in to them, but the first instrument into them is Book 398, first grant to them, that is along January 1st, 1910.

Cross-examination.

By Mr. Cole:

Q. When was the last date that you searched for conveyances out of Dr. Sooy and his wife?

A. November 1st, 1930.

Q. Did you say that your search revealed that up to that time they had conveyed all the title that they had?

A. With the exception of the two that were foreclosed by sheriff's sale.

Q. That is all.

SAMUEL E. CROWLEY, sworn.

Direct examination.

By Mr. Richards:

Q. Mr. Crowley, what is your business?

A. Real estate.

Q. How long have you been in the real estate business?

A. Thirty-five years.

Q. Whereabouts?

A. Atlantic City.

Q. Are you familiar with the value of real estate on South Carolina Avenue in Atlantic City?

A. Yes, sir.

Q. Now, are you familiar with the property owned by Dr. and Mrs. Sooy on South Carolina Avenue?

A. Yes, sir.

Q. What is that property?

A. Called the LaBelle Inn. I think the name is, isn't it?

Q. What is the size of that property, do you know?

A. Fifty feet by 150.

Q. It is described here as southerly along the south line of Kentucky Avenue 50 feet, westwardly parallel 150——

A. South Carolina.

Q. I beg pardon, South Carolina Avenue, 150 feet, starts 377 feet southwardly from the southerly line of Pacific Avenue, that is the property?

A. Yes, that is the property.

Q. Was the consideration of—it has been testified here that there was a $12,000 mortgage against that property in March of 1929. Considering that mortgage, was a consideration of one dollar a fair price for the sale of that property?

A. No, sir.

Q. What would you say that property was worth at that time, what would have been a fair, reasonable price for it?

A. Around $80,000.

Q. Do you know who was running the hotel during the summer of 1929?

A. No, sir.

Q. Now, when you say $80,000, do you mean considering the mortgage or——

A. As a total, not including the furniture. I don't know anything about that. I would assume $80,000 without the furniture. I don't know what that was.

Q. Do you know the Pacific Avenue property, that is, the property on the northerly side of Pacific Avenue distant feet eastwardly from the easterly line of Pacific and Michigan Avenue, thence running northwardly parallel with Michigan Avenue 100 feet, then eastwardly parallel with Pacific Avenue 50 feet?

A. Yes, sir, I do.

Q. That property—what would you say that property was worth?

A. Around sixty-five thousand.

Q. Was it worth that much, at least that much on around the 15th of March, 1929?

A. I should say so, yes, sir.

Q. Would you say that—there was against the property two mortgages, one of twelve thousand and one of thirty-five thousand, considering those mortgages, would you say that a consideration of one dollar was a fair and reasonable consideration for that property?

A. No, I would not.

Cross-examination.

By Mr. Cole:

Q. How do you arrive at the value of $80,000 for South Carolina property?

A. Well, I think the land is worth $1200 a foot there in that block.

Q. Tell us how you get the eighty thousand.

A. Well, twenty thousand buildings, buildings should be worth twenty thousand.

Q. Buildings?

A. Buildings, yes.

Q. Now, do you know of any sale in that block of any land for $1200 a foot?

A. Oh, yes, more than that.

Q. Tell me, please, when you know a sale was had at $1,200 a foot?

A. Well, Best paid fifteen for his across the street from it.

Q. Who?

A. Best, for the garage, fifteen hundred.

Q. For the land?

A. Yes, sir.

Q. When was that?

A. About three or four years ago.

Q. What other sale do you know?

A. That is the only one I can recall now, Judge, in that block.

Q. How do you arrive at the $65,000 valuation for Pacific Avenue?

A. I think the ground is worth a thousand dollars a foot, a hundred feet deep there, building should be worth the balance.

Mr. Richards: We were to have another real estate man here at half past one, your Honor please, but he isn't here. We will rest.

COMPLAINANT RESTS.

DEFENDANTS' TESTIMONY.

DR. LESLIE T. SOOY, sworn.

Direct examination.

By Mr. Cole:

Q. When were you born?

A. November 21st, 1906.

Q. Did you live with your father and mother as far back as you can remember, at least up to the time that you were married?

A. Yes, I did.

Q. When were you married?

A. Married June 7th, 1928.

Q. Do you live with your father and mother now?

A. I am living at 1921 Pacific Avenue.

Q. That is one of the properties in question here?

A. One of the properties in question.

Q. Did you ever sing in a choir?

A. I did.

Q. Where?

A. Church of the Ascension, corner Kentucky and Pacific Avenue, Atlantic City.

Q. About when was it that you began to sing there?

A. I was about ten years of age when I began to sing.

Q. How long did you sing?

A. I sang until I was sixteen.

Q. Continuously?

A. Yes, continuously.

Q. Who was it that played the organ and led the music during that period?

A. Mr. A. E. Wheaton.

Q. Now, were you told by Mr. Wheaton during the time that you were singing there that you had a musical future?

Mr. Richards: I object.

A. I was.

The Court: Sustain the objection.

Q. What, if anything, did Mr. Wheaton say to you about your voice?

Mr. Richards: I object to that.

The Court: Sustain the objection.

Q. Did there come a time when you were singing in this choir that you concluded to enter upon a musical career?

Mr. Richards: That is objected to.

The Court: Permitted.

A. There did.

Q. About when was it that you reached that conclusion?

A. At sixteen years of age.

Q. At that time was your father practicing medicine?

A. He was.

Q. What was the condition of his health at that time?

A. He was very ill, his health was progressively becoming worse and he felt that possibly he would not have many more years to live.

Q. Now, at that time was he or your mother or both conducting a hotel or boarding house?

A. They were.

Q. And where?

A. They were conducting at that time two hotels.

Q. Give their numbers?

A. 1921 Pacific Avenue, known as the Mentone, Atlantic City, and the other LaBelle Inn, 126 South Carolina Avenue, same city.

Q. Are they the two properties, among others, that were conveyed to you by your father and mother?

A. They are.

Q. Now, at the time that you determined on a musical career, had you any thought of following in your father's footsteps, so far as profession was concerned?

A. Absolutely not.

Mr. Richards: Objected to.

The Court: I will permit it.

Q. Was an agreement ever made between you and your father and mother concerning the conveyance to you of these properties?

A. There was.

Q. About when was that agreement made?

A. I remember quite clearly.

Q. Give us the date first.

A. I will come to it. February the 14th, 1923.

Q. Where was that agreement made?

A. It was made in the premises 1921 Pacific Avenue.

Q. Tell us what the agreement was and how it came to be made.

Mr. Richards: I object, if your Honor please, it appears that this witness was a minor at that time and could not make an agreement that is binding.

The Court: I will permit it.

Mr. Cole: They can't raise the question.

A. The agreement was as follows: After I, Les-

lie Thomas Sooy, had obtained the age of twenty-one years and was graduating from the Hahnemann Medical College they, Walter C. Sooy and Lida H. Sooy, would convey to me all certain properties then, in 1923, in their possession, any portions of land each, and property, each for the sum of one dollar and for other valuable consideration, said valuable consideration being consisted in two things, one that I must change my intended career from one of music, which I loved, to one of medicine, and further valuable consideration that I must spend all time when not occupied in the study of medicine in their service working for them in one or other of the two hotels, which I agreed to.

Q. Did you agree to that?

A. I agreed to that.

Q. How soon was it after that before you took up your medical education?

A. I took up my medical education in the fall of 1923.

Q. Where did you attend?

A. Hahnemann Medical College, Philadelphia.

Q. How long were you there?

A. I was there six years.

Q. Did you graduate?

A. I graduated.

Q. When did you graduate?

A. In the year 1929, June 6th.

Q. Now, in the meantime, did you assist your father and mother in these hotels?

A. I did.

Q. What did you do and during what period?

A. During the summer months, during week-ends, during vacation periods, at all times that I was not

occupied in the study of medicine I worked for them in the hotels, and I have done everything in the line of work from clerk and manager down to scrub boy.

Q. In these hotels?

A. I did.

Q. I show you a check, Carrie S. Sooy, to the order of Walter Sooy and Lida H. Sooy, for $100. on the Millville National Bank, and ask you who Carrie S. Sooy is.

A. My wife.

Q. Walter C. Sooy and Lida H. Sooy your father and mother?

A. They are.

Q. Whose money was it that paid this check?

A. My wife's money which she obtained from teaching school.

Q. What was this hundred dollars given for?

A. It was to cover the various sums of one dollar and cover other expenses of the transfer, that is all.

Mr. Cole: I want to offer that check.

(Check admitted in evidence and marked Exhibit D5.)

Q. Who has been receiving either the rents or proceeds from the properties that were conveyed to you?

A. The money came to me and was put in my account.

Q. Your bank account?

A. My bank account, Guarantee Trust Company.

Q. Who has been paying the bills for the upkeep, overhead, gas, interest on mortgages and taxes?

A. I have.

Q. From your own bank account?

A. From my own bank account.

Q. I show you what I would call a package of checks, and I think they number ninety-five, and ask you to look at them and see whether they are your checks on your bank account in the Guarantee Trust Company?

A. They are.

Q. Were they all paid out of your bank account?

A. They all were.

Mr. Cole: I want to offer those as one exhibit.

(Checks admitted in evidence and marked Exhibit D6.)

Cross-examination.

By Mr. Richards:

Q. This check of $100 that you gave to your father on this date, why did you give him that check?

A. When or why?

Q. Why?

A. That check was presented——

Q. I ask you why.

A. Just a moment. Because, in order to pay, to cover the sums of one dollar in the separate parcels of property which were conveyed, and the expenses associated with the transfer.

Q. What were the expenses associated with the transfer?

A. I don't recall.

Q. Who charged them?

A. Pardon?

Q. Who charged them? To whom was the expenses due, for what purpose?

A. Well, acknowledgment was made, as I recall it, before Mr. Fred Wyld of Atlantic City.

Q. How much did you pay him?

A. I don't recall.

Q. How many deeds were there?

A. The exact number I don't recall.

Q. Well, was there fifty or a hundred?

A. I said I didn't recall.

Q. You knew you were coming here to testify in this case, didn't you?

A. I did.

Q. Did you have anything to refresh your memory?

A. No, I didn't.

Q. You were sitting here in the courtroom this morning, weren't you?

A. Beg pardon?

(Question repeated.)

A. I was sitting here in the courtroom this morning, yes, sir.

Q. You heard then the title clerk mention by name and date the various deeds, didn't you?

A. I was here and I heard him talk.

Q. You can't tell how many deeds you got now?

A. I didn't undertake to count them up while he was talking.

Q. How much money did you pay Mr. Fell for taking acknowledgments to the deeds?

A. I don't recall.

Q. What other expenses did you have to make up this hundred dollars besides the acknowledgments and the dollar consideration?

A. There was the typist work involved in getting the papers.

Q. Who was that money paid to?

A. I just don't recall.

Q. Don't you know how this hundred dollars was made up at all?

A. I told you I didn't recall.

Q. Were there any mortgages on these properties?

A. Which properties?

Q. The Atlantic City properties.

A. There are.

Q. Who holds the mortgages on them?

A. One mortgage on the property 1921 Pacific, known as the Mentone, for $12,000, held by the Provident Trust Company, Philadelphia.

Q. Then there is another mortgage, how much, or who holds that?

A. That mortgage upon that same property you are speaking of?

Q. Yes.

A. Was placed with the Guarantee Trust Company of Atlantic City, for the sum of $35,000, as collateral for notes.

Q. Whose notes?

A. Notes by Walter C. Sooy, I believe, and Lida H. Sooy.

Q. Did you assume the liability on those notes?

A. I did not.

Q. Your father still paying on those notes?

A. I presume he is.

Q. Who holds the mortgage on the LaBelle Inn property?

A. Camden Fire Insurance Association.

Q. I note a check here among this batch of checks that were introduced, under date of August 15th, Guarantee Trust Company, in the sum of $602; what was that for?

A. I don't recall.

Q. Don't know what it was for at all?

A. I don't recall.

Q. Here is another check of $600, under date of August 19th, to the order of Guarantee Trust Company, do you know what that was for?

A. I don't recall.

Q. Here is another one under date of August 26, Guarantee Trust Company, $300.24, know what that was for?

A. I don't recall.

Q. Here is a check to the order of Morris Robinson for $1,116.29; do you know what that was for?

A. Pardon me?

(Question repeated.)

A. I don't recall.

Q. Here is another check to the order of the Guarantee Trust Company, for the sum of $297.60, under date of September 30, 1929; do you know what that was for?

A. I don't recall. I don't have my check stubs with me, and I wouldn't take it upon myself to guess at any of them.

Q. Far be it from me to want to have you guess anything. October 19th, 1929, Guarantee Trust Company, $298.40; do you know what that is for?

A. I don't recall.

Q. Here is a check to Walter C. Sooy, M. D., for $90; do you know what that is for?

A. I don't recall.

Q. This is your signature, of course, on this check, isn't it?

A. It is.

Q. In whose handwriting is the rest of the check?

A. I believe it is that of Lida H. Sooy.

Q. Your mother?

A. It is.

Q. Here is another check to the Guarantee Trust Company for $496; do you know what that is for?

A. I don't recall.

Q. Whose handwriting is that check?

A. The signature is in my handwriting.

Q. The body of the check?

A. It resembles that of Walter C. Sooy.

Q. Your father, isn't it?

A. Father.

Q. Here is another check to the order of the Guarantee Trust Company, under date of December 16th, $198.82; do you know what that is about?

A. I don't recall. I don't have my check stubs with me.

Q. Here is another check to Daniel Read, in the

sum of $300, dated January 4th, 1930; do you know what that one is about? Recall that?

A. Repeat the question, please.

(Question repeated.)

A. Well, that must have been in payment of interest due Daniel Read twice, annually, on the mortgage, it was upon the Daniel H. Read property, in the sum of ten thousand dollars, when conveyed to me, but which since has been in dispute, and I was under the understanding that it was to have been cancelled at his death.

Q. What property is this you refer to?

A. Daniel H. Read property, situate in the city of Absecon, south side Absecon Creek, Second Ward, City of Absecon.

Q. Is that the property, the homestead property?

A. No, it is not, not my homestead.

Q. I mean where your father lived?

A. No.

Q. Where your father formerly lived?

A. No, it is not.

Q. That is also in your father's handwriting, isn't it?

A. It is.

Q. Except the signature?

A. Excepting the signature, which is mine.

Q. And it is for interest on that mortgage, isn't it?

A. Yes, it is.

Q. On January 30th there is another check to the

Guarantee Trust Company for $196.35; can you tell me what that is for?

A. I don't recall.

Q. Did you conduct the business of, the hotel business yourself?

A. At what time?

Q. Since these properties were conveyed to you?

A. I managed the properties, and my parents, Walter C. Sooy and Lida H. Sooy have assisted me in managing them and have taken care of them in my absence, I have been very busy.

Q. They have been around there all the time?

A. Beg pardon?

Q. They have been around there all the time?

A. They have been around there, to my knowledge, most of the time.

Q. Are you paying them for their services?

A. No, I am not.

Q. How are they making a living?

A. I am allowing them to live on the premises.

Q. How do they obtain their spending money and so forth?

A. By the practice of medicine; my father is in the practice of medicine.

Q. But they are living in the property?

A. They are living on the premises.

Q. And help you manage them?

A. They are.

Q. Have you any—are you practicing medicine?

A. I am.

Q. Where is your office?

A. 1921 Pacific Avenue, Atlantic City.

Q. In that same property?

A. In the same property.

Q. Your father practices medicine from the same place?

A. He is.

Q. Has his office there too?

A. He does.

Q. Pay you any rent for it?

A. He does not.

Q. Have you any other business?

A. Do I?

Q. Yes.

A. Whatever business might arise in the rental of houses in the City of Absecon, and also the two hotels.

Q. Have you had any litigation recently?

A. Have I had any?

Mr. Cole: I object. It is not cross-examination.

The Court: How can that be relevant in this? Sustain the objection.

Mr. Richards: It will be relevant in a second.

The Court: Not cross-examination at the present time.

Q. On February 14th last you paid to Cole and Cole the sum of $200; what was that for?

A. To Cole and Cole? Attorney's fee.

Q. What for? What did they do for you for which you paid them $200?

A. Counsel.

Q. For what? What was the purpose of it?

A. Legal counsel and advice.

Q. I repeat, what litigation did you have that required advice in February of last year, of this year?

A. I don't recall.

Q. You can't tell us what advice you needed or got from the firm of Cole and Cole in February of this year, can you?

A. I don't recall at present.

Q. This check is in your mother's handwriting, isn't it, except your signature?

A. It is not.

Q. Whose is it?

A. My father's.

Q. Your father's?

A. Yes.

Q. February 18th, you paid to Guarantee Trust Company $194; can you tell what that is for?

A. I don't recall.

Q. On April 16th, 1930, you paid the Guarantee Trust Company $199.20; do you know what that was for?

A. I don't recall.

Q. On March 19th, 1930, you paid them $403.80; do you know what that was for?

A. I don't recall.

Q. On May 22nd, you paid Richard Bloom $214.-21; do you know what that was for?

A. I presume it was upon insurance in 1921 Pacific Avenue, because we have insurance in the Bloom company.

Q. That is all you know about it?

A. That is all I recall.

Q. So, all you can tell is that we have insurance on that property; is that right?

A. Have an insurance upon that property with Phillips, Adams and Bloom companies, amounting to about $30,000.

Q. Now, in June 2nd, 1930, you paid the Guarantee Trust Company $123; do you know what that was for?

A. I don't recall.

Q. Do you have any notes in the Guarantee Trust Company?

A. I have none.

Q. In whose handwriting is the body of this check?

A. Walter C. Sooy's, I believe.

Q. On the bottom of that check where it says "for," is the works "$100," and "twenty-three," the word "Int," interest; can you tell me now what that check was for?

A. Couldn't tell you.

Q. Wasn't it to pay a hundred dollars on a note of your father's and renew it?

A. I don't recall.

Q. What would refresh your memory on it?

A. Well, naturally, the stubs of the check book.

Q. Why didn't you bring them?

A. I didn't presume that I would need them.

Q. When you were shown these checks by Judge Cole, you told us that these were all checks for moneys that you had expended on these properties. Now, if you knew that to be true, then why can't you tell me about this check?

Mr. Cole: I don't think he said that, that it was money spent on these properties, came out of his bank account. However, I don't object to it.

(Question repeated.)

A. Because it is not my policy to sign checks that are not going to do me any good.

Q. How can you account for this notation on here about the hundred dollars?

A. It is not in my handwriting.

Q. It is obviously your father's handwriting, isn't it?

A. I wouldn't say. You may judge that.

Q. In whose handwriting do you think it is, your father's or mother's?

A. In my opinion, it is my father's handwriting.

Q. All except the signature?

A. All except the signature.

Q. On June 19th, here is another check, $123, payable to the Guarantee Trust Company; do you know what that was for?

A. I don't recall.

Q. I beg pardon. That is the same check I asked you about a minute ago. On July 2nd, there is another check for $124, payable to Guarantee Trust Company; do you know what that is for?

A. I don't recall.

Q. On July 18th, one for $123.24; do you know what that is for?

A. Made to whom?

Q. Guarantee Trust Company.

A. I don't recall.

Q. One July 21st, Guarantee Trust Company, for $175.43; do you know what that was for?

A. I don't recall.

Q. Another one on August the 4th, for $122.73, to the Guarantee Trust Company; do you know what that is for?

A. I don't recall, because I won't guess at any of these.

Q. I don't want you to guess at them. On August 18th, one for $247.02, to the Guarantee Trust Company; do you know about that one?

A. I don't recall.

Q. August 21st, one for $174.92, payable to the order of the Guarantee Trust Company; do you know what that is for?

A. I don't recall.

Q. Now, Doctor, this check of August 21st, 1930, for $174.92, whose handwriting is that check?

A. Well, it looks like my father's, Walter C. Sooy.

Q. On the side where it says "for," there is the words, "Payment one hundred dollars, interest $74.92." Can you tell me what you paid to the Guarantee Trust Company amounting to $100, and interest amounting to $74?

A. Without my stubs, I wouldn't guess.

Q. You can't tell from the check at all?

A. I don't recall.

Q. Now, this, Doctor, is August 21st of this year, that is less than four months ago, you can't tell us what you paid $174 to the Guarantee Trust Company for on that date?

A. I don't recall.

Q. You can't remember what you gave them a hundred dollars for on that date in payment?

A. I don't recall.

Q. You had no personal notes there, you say, did you?

A. No, I had no personal notes in the Guarantee Trust Company.

Q. The only thing you owed them any money for was interest on one $12,000 mortgage, didn't you?

A. It was not twelve thousand, I beg to correct you.

Q. How much was it?

A. Thirty-five thousand.

Q. You owed them the interest on the $35,000 mortgage, did you pay this hundred dollars on the mortgage?

A. I beg pardon, I didn't say owed that, because I didn't assume liability.

Q. You didn't assume the liability of the $35,000 mortgage?

A. I did not.

Q. Did you undertake to pay them the interest on the $35,000 mortgage?

A. No, I did not.

Q. Now, then, between the 15th of August, 1929, and the 21st of August, 1930, you paid the Guarantee Trust Company alone a total of $4,876.85, according to my colleague's addition, by means of these checks that I have read to you. Can you tell me what you paid it for?

A. I don't recall.

Q. Wasn't it on your father's notes?

A. I don't recall.

Q. Will you say it was not on your father's notes?
A. I don't recall.

Mr. Richards: Your Honor, make him answer the question.

The Court: Yes, you may answer the question.

(Question repeated.)

A. I didn't make that statement, your Honor.
Q. I asked you whether you made these payments on account of your father's notes or the interest on the notes. Did you or didn't you?
A. I don't recall whether I made them or not.

The Court: You mean you don't know or don't recall, or have forgotten? What do you mean by don't recall?

A. I have forgotten.

The Court: Then at some time you did know, but now have forgotten, is that what you mean?

A. Your Honor, I have been very busy.

The Court: That is not the question.

(Question repeated.)

The Court: You may proceed. The witness doesn't answer the question.

Q. I want you to look at all of these checks and want you to tell me whether any one of these checks is in your handwriting with the exception of the signature? Witness is handed checks relating to the payments to the Guarantee Trust Company.

A. No, they are not.

Q. And they are either in the handwriting of your father or your mother, are they not?

A. They are.

Q. All of them?

A. They are.

Q. Now, I show you two checks dated November 14, 1929, and May 15, 1930, payable to the Provident Trust Company of Philadelphia, in the sum of $360 each, I suppose you can tell me what these checks were for, can't you?

A. Yes.

Q. What were they for?

A. Provident Trust Company has a mortgage upon 1921 Pacific Avenue, known as the Mentone, $12,000, and they were payments on interest.

Q. On these mortgages?

A. On this mortgage.

Q. Whose handwriting is the two checks, with the exception of the signature?

A. Walter C. Sooy.

Q. Your father?

A. Yes.

Q. I think you told me the Camden Fire Insurance Company also had a mortgage on one of these properties, the LaBelle Inn, isn't it?

A. LaBelle Inn.

Q. Here is a check November 25, 1929, signed by

you, in the sum of $390, whose handwriting is the check in?

A. Walter C. Sooy. That is interest on the mortgage there.

Q. Now, who paid the taxes on these properties?

A. I did.

Q. Where did you get the money to pay them?

A. The returns from the two hotels.

Q. I find another Camden Fire Insurance Company check for another $390, dated May 26, 1930, whose handwriting is that check in?

A. Walter C. Sooy, except the signature.

Q. How much taxes did you pay on these properties?

A. I don't recall the exact amount on each property.

Q. Any approximate idea?

A. All properties concerned, somewhere in the neighborhood of about seven to eight thousand dollars a year.

Q. How about the Atlantic City properties, can you tell me about how much the taxes are on those?

A. I don't recall my tax bill from Atlantic City on these.

Q. I show you four checks, two of them dated July 23, and August 5, 1929, paid to the order of Lewis L. Mathis, tax collector, one in the sum of $2,065.57, and one in the sum of $1828.50, and ask you if you know what those checks were for?

A. May I see them, please?

Q. Sure.

A. As I recall, on the first $2065 is in payment of LaBelle Inn, and the second, as I recall, $1828, I believe is payment of taxes on 1921 Pacific Avenue.

Q. Was that the taxes for those years?

A. As I recall, yes.

Q. In whose handwriting are the checks?

A. The signature is mine and the handwriting is that of Walter C. Sooy.

Q. Both cases?

A. Both cases.

Q. Now, then, two checks similarly made out to Lewis L. Mathis, tax collector, year 1930, one dated July 18th, and the other August 5th, in the sum of $1821.80 and $1161.35, the signature was yours; now, who made out the checks?

A. Handwriting is that of Walter C. Sooy.

Q. Here is a check of August 14th, 1929, Water Department of Atlantic City, $125, and one February 5th, 1930, Water Department of Atlantic City, $11.59, one August 14th, Water Department, Atlantic City, $133.85, and with the exception of the signatures which are yours, in whose handwriting are the checks?

A. That of Walter C. Sooy.

Q. Did you make any purchases from Sears, Roebuck & Company?

A. Beg pardon?

Q. Did you make any purchases from Sears, Roebuck & Company?

A. Well, once upon a great occasion.

Q. What did you buy from them, do you know?

A. That particular check, to my mind, was paid out as a favor to my sister who is now expecting to give birth to a child soon, and they were for little necessities that she wanted.

Q. That is what you think this check is for, $108.75, to Sears, Roebuck?

A. $108?

Q. Yes.

A. I beg pardon, I didn't hear that amount the first time you spoke.

Q. I didn't tell you the amount. I am telling you the amount now, $108, is that what that was for?

A. I certainly do not recall having paid that amount for that particular purpose.

Q. Now, then, here is another check for $8.50.

A. That looks more like it.

Q. That is the check?

A. That looks more like it.

Q. And that was for some necessities for your sister?

A. Yes, sir.

Q. So now we have got down to one check that you do know something about, don't you, is that right?

A. I wouldn't say I know about only one, I have told you considerable.

Q. We have gotten down to one up to date you do know something about?

A. I know about all those checks which you have brought up paid to the Provident Trust Company.

Q. But here is one that you can remember for $8.50 ——

A. Camden Fire Insurance Association.

Q. ——which is for some necessities which your sister gets towards the event in the family, is that correct?

A. As I recall it, yes, sir.

Q. Has the baby been born yet?

A. Not yet, no. Expected soon.

Q. Now, then, this check is dated September 26, 1929. Baby seems to be slightly delayed, Doctor.

A. Beg pardon, is that the correct date upon that check?

Q. I don't know. It is your check, if it was paid that time, if you don't believe it, look at the perforation.

A. Well, I recall having signed a check that was supposed to go to Sears, Roebuck & Company, in order to cover some of the expenses, that is all, little necessities which I just described my sister intended to purchase but it was not in 1929.

Q. And this check for $108 is also in 1929, so it wasn't that check, either, was it?

A. Doesn't appear to be, no. That other check isn't there.

Q. I haven't found it. I will be very glad to look for it. I am going to look at them all, just a minute, if the Court will bear with me. Now, I show you a series of checks, all bearing dates in 1929 or 1930, and I will try to separate them for you. They cover either coal, gas, electric light or telephone. We will take up the gas company checks first, fourteen separate checks, all apparently signed by yourself, and ask you who filled out the checks?

A. I believe Walter C. Sooy.

Q. Now, then, here is a bunch of seven checks covering the same period, to the order of the Bell Telephone Company, and outside of your signatures, who drew those?

A. I believe Walter C. Sooy's handwriting.

Q. Here is seven checks drawn to the Atlantic City Coal Company, for the same period, who drew those checks?

A. Handwriting of Walter C. Sooy, I believe.

Q. Now, what were these checks for, referring to the gas checks?

A. For expenses upon the two hotels for gas, electric light, water and so forth, various many expenses.

Q. The three I have shown you for telephone, gas and for coal, that is for expenses on the two hotels, is that right?

A. That I believe would be included in running expenses.

Q. Who paid the electric light bills?

A. Well, it so happens that the two houses are equipped with gas, and that electric light bill, I believe, would be that for the stores LaBelle Inn, 122 South South Carolina Avenue.

Q. And those two checks are in whose handwriting, your father's?

A. I believe so, yes.

Q. Who was Morris Robinson?

A. Morris Robinson?

Q. Yes.

A. I don't just recall who he is.

Q. Know anybody by the name of Mary Robinson?

A. Isn't that the gentleman, the tax collector of the City of Absecon, if I recall properly, I believe he is.

Q. I am asking you is that who he is?

A. I believe so, yes.

Q. What is this check for, then?

A. Evidently for taxes upon the land situate in the City of Absecon.

Q. Do you know the tax collector over at Absecon?

A. Haven't personally met him, no.

Q. Well, how did you send him this check, take it over personally, or did you mail it or what?

A. I don't recall just how it was sent.

Q. How did you come to pay this check of $1100, anyhow?

A. It was evidently a check in payment for taxes upon property situate in the City of Absecon.

Q. Your property?

A. My property.

Q. But you don't know how you paid it?

A. By check.

Q. I know, but I mean you don't know whether you mailed the check or delivered it personally or what?

A. I don't recall.

Q. Doctor, what seems to be the trouble with your memory, any at all?

A. I don't know of any trouble.

Q. You can't remember what you gave the check for $1100 for as long ago as September 4th, 1929, or how you paid it?

A. I wouldn't make any statement on the witness stand without being in full knowledge.

Q. You haven't the slightest knowledge of how you got this check over there to Absecon at all, is that right, through the mail or personally, or how?

A. I couldn't tell you.

Q. I am going to show you a series of more checks, and make this brief as possible, here is 24 checks, and I am going to ask you in a minute in whose handwriting these checks are, but before I do that I want to ask you this question, do you have an automobile, Doctor?

A. I do.

Q. Does your father have an automobile?

A. He does.

Q. I show you a check August 13th, 1930, and ask you what that check is for?

A. Made to the McMillan Auto Body Works in payment for repairs, done upon my car, the Pontiac sedan, following an accident which I had.

Q. Then there is nothing on this check about it being a Pontiac car, is there?

A. No, but I could prove it.

Q. All right, what I want to know is how is it that you can recall what this check was for, when you can't recall any of these other checks?

A. Well, I think it would be clear to the Court that if in my position of having been bumped off the road and turned over twice in the automobile, they would recall anything that pertained to that particular incident.

Q. I see, so because you got rolled over a couple of times and hit around quite a bit, that made an impression on you?

A. That made quite an impression.

Q. But this four thousand dollars that the Guarantee Trust Company bumped you for didn't make any impression on you at all, did it?

A. Well, not particularly, no.

Q. By the way, Doctor, did you write this check yourself?

A. No, I didn't. Signed by me.

Q. Now, you look at these other checks and see if there is any of those you wrote yourself?

A. Checks are made out apparently in the handwriting of Walter C. Sooy, and signed by me.

Q. Isn't there even one of them that you wrote, yourself, Doctor?

A. I don't see any there.

Q. I thought maybe this one was, take a look at that one again, is it?

A. It is not.

Q. Could you tell us what that particular check was for, made out to Thomas Draper?

A. For the moment I don't recall.

Q. Here is one for $110, Benjamin Shepard, do you remember that one?

A. I don't recall.

Q. Here is one Atlantic City Press, for $7.20; do you recall what that was about?

A. That was very likely for advertisements, as to rental of houses in Absecon which were for rent.

Q. Pardon me, here is one for $105 to Herman Muller, have any idea what that was about?

A. Herman Miller? I don't recall that one.

Q. Here is one, Joseph S. Farrell, for $85.75; do you remember what that is about?

A. I don't recall.

Q. Here is another one.

A. I don't recall that. That is the same party.

Q. And your memory doesn't even go back to July 18th of this year to tell us what that is about?

A. I didn't say my memory don't go back that far, but I don't recall the purpose of these particular checks.

Q. You are running this hotel?

A. Beg pardon?

Q. You say you are running these hotels, aren't you?

A. Yes.

Q. Actively?

A. Pardon?

Q. Actively?

A. Well, actively only when I can be there.

Q. But you know what is going on around there, get the money and pay it out and so forth, aren't you?

A. I would be in these—now here is thing, I was away on an interneship for some time, and you must take it for granted that I can't be there all the time at these hotels and attend to interne duties at the same time, so I dropped in occasionally when I had occasion.

Q. When were you serving your interneship?

A. June 10th, 1929, to June 10th, 1930.

Q. Whereabouts?

A. West Jersey Homeopathic Hospital, Camden.

Q. This check, however, is July 18th, you were around then, weren't you?

A. July 18th, at what time, 1930?

Q. 1930, yes.

A. July 18th, 1930, yes.

Q. Even after all this time for reflection you have had looking these checks all over, you can't tell me what those checks were for, can you?

A. Couldn't recall, no.

Q. You don't even know that Farrell is a mercantile appraiser and that you paid this for your mercantile tax, do you?

A. I didn't take any particular note of the name Farrell.

Q. You didn't even know that much about the running of hotels, did you, Doctor? Can you answer that, Doctor?

A. I don't say I don't know that much, I said that I didn't take any particular interest in the name of the mercantile appraiser.

Q. But you know you have to have a mercantile license to operate your hotel?

A. Yes, have to have a license to carry on most any kind of business.

Q. You didn't know that you had paid this to Mr. Farrell for that purpose, eh?

A. No, I didn't, I don't recall.

Q. Of course, it is endorsed on the back, "Joseph A. Farrell, mercantile appraiser?"

A. Yes.

Q. So that your memory generally speaking you say is good, is that right?

A. In things that I feel I will be called upon to remember and examinations as to medical subjects and the care of the sick and those things, the various conditions such as the accident which I spoke of, why it usually serves me rather well.

Q. Generally speaking your memory is such that you can remember events and things that you do, quite a number of years back, can't you?

A. Yes.

Q. How it is, then—how do you account for the fact that outside of two or three of these checks that are obviously for mortgage interest to the West Jersey Mortgage Company, and the other small mortgage, that you could not remember anything about any of these checks except the one for the automobile accident, how do you account for that?

A. I personally cannot account for when a human being cannot remember a certain thing.

Q. You can remember, Doctor, an incident that occurred seven years ago quite distinctly, can't you?

A. I can.

Q. But you could not remember an incident that occurred four months ago, is that what we are to understand?

A. Might I ask which incident you are referring to?

Q. I am referring to this $100 or 120 odd dollars that you paid to the Guarantee Trust Company, and you could not remember what you paid them the hundred dollars for?

A. No, I don't remember.

Q. But you could remember that seven years ago you made an agreement with your father that when you were twenty-one years of age, he was to give you all his property?

A. Yes, that is sufficiently important.

Q. When was it that you made this agreement with him?

A. The original verbal agreement was made February the 14th, 1923.

Q. How can you remember that it was the 14th of February?

A. Happened to be Valentine's Day.

Q. And this was a valentine agreement, is that it?

A. Pardon?

Q. I say this was sort of a valentine agreement, was it, or a valentine gift, or what?

A. Hardly.

Q. What makes you remember for seven years that this agreement was made on Valentine's Day?

A. Mere coincidence.

Q. Do you remember any other instance that ever occurred in your life on Valentine's Day?

A. I remember when I was little and I used to get valentines.

Q. Remember from whom you got them?

A. Well, no, I couldn't remember that.

Q. This is the only event that occurred on Valentine's Day that you can recall, isn't it?

A. Yes, to my present recollection.

Q. And you can't recall any other interest in your own life or any public event on that day, can you, or even recent years, that occurred on Valetine's Day?

A. No, nothing was of sufficient interest to warrant my recollection.

Q. This automobile was not upset on the 14th of February, 1923, was it, Doctor?

A. No.

Q. I see. Now, you were seventeen years old then, weren't you?

A. I was not.

Q. How old were you?

A. I was sixteen.

Q. You were born on the 21st of March, 1906?

A. I didn't say the 21st of March, 21st of November.

Q. I beg pardon, my bad writing here, November 21st, 1906?

A. Yes.

Q. And this occurred on the 14th of February, 1923?

A. Yes.

Q. Now, then, were you sixteen or seventeen?

A. Sixteen years of age.

Q. At that time what was this agreement you made with your father?

A. Just what I told you. Shall I repeat the whole thing?

Q. Yes, surely. I like to hear your story again.

A. The following agreement was made on February 14th, 1923, as I said before, that after I, Leslie Thomas Sooy, attained the age of twenty-one years and was graduating from the Hahnemann Medical College, they, Walter C. Sooy and Lida H. Sooy, would convey to me all certain properties then, in 1923, in their possession, these properties to be conveyed each for the sum of one dollar and for the other valuable consideration as follows (1) that I must change my intended career from one of music to one of medicine; (2) that I must spend the time that was not occupied in the study of medicine in their service working in the hotels.

Q. How long were you to continue to work in the hotels?

A. Beg pardon?

Q. How long were you to continue to work in the hotels?

A. Until graduating.

Q. When were you to graduate?

A. Beg pardon?

Q. When were you to graduate?

A. That was to be a matter for the future to decide according to how bright or dumb I was.

Q. But at any event you were to render these services until you graduated, and you were to graduate, that is right, is it?

A. Beg pardon?

Q. That is right, you were to graduate before they gave you these properties?

A. Oh, no, the term was that until I was graduating, and that year I was graduating.

Q. What year are you talking about?

A. 1929.

Q. Now, you graduated in June of 1929, is that right?

A. Yes.

Q. And these properties were conveyed to you in March of 1929, weren't they?

A. That is right, March the 15th.

Q. Did you know in March that you were going to graduate in June?

A. I was quite sure.

Q. Did you know it, Doctor?

A. I was sufficiently egotistical, I had the assurance from my professors that everything was coming along nicely; I had passed all my examinations.

Q. You hadn't passed your final examinations at that time, had you?

A. I had passed some of them.

Q. Not all of them?

A. No.

Q. So you were not sure at all that you were going to graduate in June of that year?

A. Yes, I was.

Q. You were? But the contract you made with your father was that when you graduated from the Hahnemann College, whatever it was, he and his wife was then to convey to you all of their property, now, how do you account for the fact that before you graduated they conveyed all of their property to you?

A. I beg pardon, sir, the term was not that I had to graduate or had graduated, rather, but was when I was graduating, and we both were perfectly satisfied with the terms.

Q. This is what you said to me, Doctor, agreement was that when I had obtained the age of twenty-one years and graduated from Hahnemann.

A. And was graduating.

Q. What?

A. And was graduating.

Q. First time you said "and graduated" was the words you used.

A. I intended to say "was graduating."

Q. Judge Cole remembers why I asked you to repeat that the second time, when you repeated it did you say "was graduating?"

A. "Was graduating" was what I intended to say from the very beginning.

Q. Now, we have got that straightened out haven't we? There never has been a time, has there, Doctor, when you did not remember this contract fully, was there, in all its details?

A. I kept them quite well in mind.

Q. There wasn't any time during the last seven years since this eventful St. Valentine's Day when you could not have rolled off to me this contract in full, was there, just as you have here to us today?

A. No, no such time that I could not have told you the terms of the contract.

Q. And, of course, you could have told the Court this contract any time within these seven years, couldn't you?

A. Beg pardon, didn't hear the question.

(Question repeated.)

A. Absolutely I could.

Q. And I guess you could have told Judge Cole this contract, too, couldn't you, in all its details?

A. Yes.

Q. Did you ever talk to Judge Cole about the contract?

A. I merely agreed, or rather I answered in the affirmative, and he only questioned me as to whether such a contract existed, and then I told him the terms of the contract, according to my recollection.

Q. That is your recollection?

A. Yes.

Q. When was it that you discussed this contract with Judge Cole?

A. I don't recall the exact date.

Q. Approximately, we won't keep you down to the exact date. Maybe I can help you out a little. I suppose it was after this suit was brought, wasn't it?

A. Which suit?

Q. To recover this property by Mr. Kessler for his benefit and the other creditors?

A. As I recall it—I don't remember whether it was before or after just at present.

Q. What occasion had you to talk to him about this contract before this suit was brought?

A. I have seen Judge Cole several times, he being my legal adviser.

Q. And during those occasions you told him about this contract, is that what I am to understand?

A. I have, yes.

Q. And you told him the contract was "When I,

Leslie Sooy, obtain the age of twenty-one years and was graduating?''

A. That is it.

Q. As you now say, from the Hahnemann Hospital, Walter C. Sooy and Lida Sooy were, for a consideration of one dollar, to deed or transfer all of their property to you on condition that you would abandon your musical career and take up the study of medicine, and that in the meantime you would spend your spare time in working in and around the hotels. Now, have I fairly stated?

A. That was not my exact wording.

Q. That fairly states the contract, does it?

A. Yes, I believe it does.

Q. Any alterations or amendments that you want to make to that?

A. I didn't exactly follow every word you said.

(Question repeated.)

A. I didn't say that, the sum of one dollar for the whole works, the sevenal properties which were to be passed to me, each for the sum of one dollar, and for other valuable consideration, that valuable consideration being the two considerations which you mentioned there.

Q. All right, then you were to get several one dollars instead of one dollar, then that is the only amendment you want to make to my statement, but you do stick to the proposition that the other valuable consideration was that you were to abandon your intention to embark upon this musical career and take up the study of medicine, and, secondly,

that during your spare time you were to work around the hotels?

A. That is right.

Q. That is correct?

A. Right.

Q. That you told to the Judge, didn't you?

A. Absolutely.

Q. There is no mistake about that, is there?

A. No, I don't see any mistake in that.

Q. Now, this suit was started against you about May 22nd, 1930, can you recall if after that date you repeated to the Judge your statement about this contract as you have told it to me just now?

A. After what date may I ask?

Q. May 22nd, 1930.

A. I believe I did.

Q. Did you discuss it with anybody else in Judge Cole's office besides Judge Cole?

A. I don't recall who was present in that office unless ——

Q. You did business with Judge Cole and nobody else in the office, did you?

A. I have, yes.

Q. In this case after you were sued, you were a party to the suit, after you were sued did you discuss it with any other lawyer or any other member of the law firm of Cole and Cole outside of Judge Cole?

A. No, absolutely not.

Q. You told him about this contract?

A. I did, Judge Cole.

Q. And you repeated it after you were sued, is that right?

A. Yes.

Q. Now, I am going to read to you the answer that Judge Cole filed for you: "Further answering, they say the conveyances set forth in the bill from Walter C. Sooy and Lida H. Sooy to Leslie Thomas Sooy, were based upon a good and valuable consideration, and included among other things services performed by the said Leslie Thomas Sooy for Walter C. Sooy and Lida H. Sooy, and in the performance of the terms and agreement made by said Walter C. Sooy and Lida H. Sooy, the said Leslie Thomas Sooy if he would remain as a member of their household and perform services for them until he arrived at the age of twenty-one years and graduated from a medical society, that they would grant and convey to him the premises described in the bill, and that in keeping with said promises and agreements said Leslie Thomas Sooy did remain with them and perform services for them until he was twenty-one years of age, and did graduate from the medical society, and shortly thereafter said conveyances were made." Now, then, obviously there is some discrepancy between those statements and what you have just told us on the stand. In the first place you have told me that the proposition was, and you corrected me when I was mistaken, that the conveyances were to be made when you was graduating, now this says when you had graduated. Now, how do you suppose that Judge Cole came to make that mistake?

A. Possibly he didn't hear me just as accurately as might have been done.

Q. This paper here also says that in performance of this agreement that you performed the services until you were twenty-one and did graduate. Now, of course, that was an error, wasn't it?

A. Apparently so.

Q. Because this conveyance was made before you graduated, wasn't it?

A. Yes.

Q. Now, then, it also says that the deal you made with your parents was that you, that is who it says here, you would remain a member of their household and perform services for them, nothing said about the hotels, was there?

A. Doesn't say anything about them in there?

Q. No.

A. My understanding was that I was to work in the hotels and perform services for them.

Q. But that wasn't put in the answer that you filed in this case, was it?

A. Yes, but I didn't sign this particular paper.

Q. I didn't say you did. I am asking you what you told Judge Cole and how it was it didn't get in the paper, is what I am trying to find out now.

A. That, of course, is something I cannot say.

Q. There was nothing said in this paper about your having abandoned your musical career. Now, how do you account for that not getting in here?

A. Really can't account for any of those things.

Q. You told them to the Judge?

A. Told them to him.

Q. But the Judge didn't put it in the paper that was filed here in answer to this suit?

A. It seems apparent.

Q. Quite sure that you didn't forget to tell him about this musical career business, did you, Doctor?

A. If my memory serves me correctly I told him.

By Mr. Cole:

Q. Is your wife living?

A. Yes.

Q. Who was caring for these two properties in Atlantic City during the time you were in the hospital as an interne?

A. Walter C. Sooy and Lida H. Sooy.

Q. Were you interned seven days in the week?

A. I was excepting those times that I would be off duty and be able to get home.

Q. Did you commute daily between Atlantic City and the hospital or did you stay at the hospital over night?

A. I stayed in the hospital part of the time over night and occasionally I would go to my wife's home and occasionally I would come down to Atlantic City.

Q. At the time when these conveyances were made to you, did you know about this $35,000 mortgage on one of the properties, know it was there?

A. I understood that there were mortgages upon the property.

Q. Do you recall whether your attention was called specifically to this $35,000 mortgage?

A. I don't recall that, no.

Q. And that mortgage, you say, is held by the Guarantee Trust Company?

A. Yes.

Q. Do you happen to know whether that mortgage was there on the property at the time the conveyances were made to you?

A. Well, it must have been.

Q. Did you, at the time the conveyances were

made, know anything about the details of that mortgage, that is, for what it was given and what it represented?

A. Of the thirty-five thousand dollar mortgage?

Q. Of the thirty-five thousand, did you know anything about the details, what that mortgage represented?

A. I have since learned ——

Q. No, not what you since learned. What did you know about the details of that mortgage at the time, if you knew anything, at the time you took the conveyances?

A. Well, I understood that there were some notes taken by Walter C. Sooy from the Guarantee Trust Company, and that $35,000 mortgage was there as collateral.

Q. Are these checks, I think ninety-five in number, that you produced here, all the checks that you drew on your bank account in the Guarantee Trust Company upon the earliest date to the last date of the checks?

A. Now, I cannot say.

Q. Can you recall how you happened to produce these particular checks?

A. How I produced these particular checks?

Q. Yes, how did you come to produce these particular checks here today?

A. They were some checks that I had in my desk and I picked them up and took them to you.

Q. Do you know whether they are all the checks that you drew between the first and the last of these dates, I mean?

A. I am not certain.

By Mr. Richards:

Q. Doctor, one matter I overlooked. When you made this bargain with your father and mother back in February 14th, 1923, whereby you were to receive all of their property when you graduated, you know how much property your father and mother had?

A. At that time?

Q. Yes.

A. I was cognizant of the fact that they had two hotels in Atlantic City which I have described, and considerable land in the City of Absecon.

Q. What was the value of these hotels?

A. The value?

Q. Yes.

A. I am certainly unable to say that because of not being of the knowledge of an appraiser.

Q. Didn't you have at the time you made this arrangement some notion of the value of the property you were going to get?

A. As to actual financial or monetary value I was not definitely positive, however, I felt that I was giving more than I was getting out.

Q. What did you think you were getting?

A. Certain properties, land in the City of Absecon and hotels in Atlantic City.

Q. I know you were getting properties, but what I want to know is what you thought you were getting in actual value.

A. I had no definite conception.

Q. Did you think the properties that your father and mother were giving you was worth five thousand dollars or a hundred thousand dollars or a million dollars?

A. I wouldn't say.

Q. What I want to know is, you say that you thought that you were giving more than you were getting, what did you think you were getting?

A. Well, I felt when a man changes his career from something that he has wanted all his life and which he is talented in, educated in, trained in, aspired in, such as I was in music, that I was giving up an awful lot, but, nevertheless, I agreed.

Q. What kind of music was it you thought you were talented in?

A. Vocal music principally.

Q. You figured that in giving up a career as a vocalist you were losing to them what you wanted to do, and I presume the monetary rewards that you expected to get out of it, didn't you?

A. Yes.

Q. Well, now, then, in making this bargain with your father and mother, you certainly figured on what you were going to get in return, didn't you?

A. Well, to the extent that the properties suited my idea to that extent.

Q. In what way did they suit you, suit you from the standard of their income or their value or the fact that they were hotel properties, what do you mean by that?

A. Well, the one part that I always liked the situation of the hotels in the City of Atlantic City, always thought it was and would be a lovely place to take a rest and vacation and possibly a nice place to live at some future date, as to the hotels I felt, and I had reasoned however, at least, that I would be able by dint of hard work to obtain a living from them.

Q. But, Doctor, according to your idea, you were planning to live out of that, weren't you?

A. That was one certain thing.

Q. Then the certainty was that from these hotels you expected to get a living, did you? I wanted your idea of making money out of the hotel. Isn't that the situation?

A. Yes, that is about one end of it and that is one thing that concerned me principally.

Q. If that is true, then you must have figured how much these properties were worth, didn't you?

A. Wasn't really expected to consider.

Q. How did you know you were going to get a living out of them?

A. Well, my father and mother had gotten a living from those properties, and other people had, and I felt I can do what other people can.

Q. I know, but, Doctor, this was back in 1923 when you were seventeen years old, when you were making this deal. At that time, hadn't you any opinion at all whether you were getting a thousand dollars equity in these properties or a million dollars?

A. I really didn't stop to consider that.

Q. Never thought about that before, is that right?

A. At that particular time that wasn't what concerned me.

Q. Did you have any opinion about what the value of these Absecon properties were?

A. Well, I really didn't think them to be worth much, undeveloped land and meadows.

Q. Did there ever come a time when they were worth very much?

A. Well, as to actual value I don't know as they have ever amounted to anything. At the time of

the real estate boom, if I recall correctly, somewhere back in 1906, everything was supposed to be worth a lot more than it really was worth.

Q. You mean 1926, don't you, Doctor?

A. 1926, I beg pardon.

Q. About that time you were heading along towards graduation, weren't you, around 1926?

A. Rather early.

Q. You were then admitted to the medical school and you were studying medicine, weren't you?

A. Yes, but I was nowhere near as sure of getting through as I was in 1929, March the 15th.

Q. Well, you were working pretty hard to get this property, weren't you, that your father and mother were going to give you?

A. Naturally.

Q. That was the object of this whole proceeding, wasn't it, that was your deal?

A. One of the promises of the bargain, yes.

Q. You were not studying medicine because you liked it, because you were studying it to get this property, isn't that right?

A. That is the reason.

Q. It was not something you wanted to do, but it was something you were doing and working at to get a definite objective, which was this property?

A. Remembered my part of the promise.

Q. And you were working on your part of the bargain, weren't you?

A. I was.

Q. Now, then, if this property was becoming very valuable, didn't you think that you had any interest in ascertaining how valuable it was becoming?

A. I was quite busy at that time in the study of

medicine and real estate values didn't make very much of an impression on me.

Q. Did you ever hear that your father had sold any of these properties?

Mr. Cole: I object to this. It is not cross-examination.

The Court: I will admit it.

(Question repeated.)

A. At what time?

Q. In or around the year 1925 or 1926.

A. I don't recall any sale.

Q. You knew what properties that your father had in Absecon at the time you made this bargain with him in 1923?

A. I had some idea, yes.

Q. Of course, you knew the two properties in Atlantic City?

A. I did.

Q. Now, then, did your father ever offer for sale, to your knowledge, or sell any of these properties either in Atlantic City or in Absecon after you made this bargain with him?

A. You say did he offer to sell?

Q. Yes, or sell?

A. As I recall, there was some talk of an agreement of sale.

Q. What properties did he agree to sell?

A. As I recall it, it embraced certain properties in the City of Absecon.

Q. To whom did he offer to sell them?

A. Some syndicate, I believe.

Q. Know the names of the people?

A. I don't recall the names of the syndicate, it was a syndicate who was supposed to make an agreement of sale with Walter C. Sooy and Lida H. Sooy.

Q. Did he discuss with you the question of selling this property to the syndicate?

A. I didn't recall at the time any definite discussion.

Q. Did he tell you that if he sold it he was going to get a certain sum of money for it?

A. I don't remember.

Q. Never discussed the terms of the sale or the consideration with you, did he?

A. No, I don't recall.

Q. Now, was this deal that you had with your father and mother to convey all of the property that they possessed in 1917 or all of the property that they possessed when you fulfilled your part of the contract?

A. All the property they possessed in the year 1923.

The Court: What relevancy is there in the year 1917?

Mr. Richards: I can't quite make out from the contract whether the contract is to convey all of their property as of that time or all of their property as of the time of the conveyance.

Mr. Reed: Agreement was made in 1923.

Mr. Richards: It wouldn't be 1917. 1923.

Q. Was the contract to convey all of the property that your father and mother possessed in 1923, or was it a contract to give all of the property that they possessed when you graduated?

A. In the year 1923.

Q. It was only the property owned in 1923?

A. That they owned in 1923.

Q. Now, getting back again to what we were discussing here, you can't tell us what the consideration was for this property that your father was dickering on selling to the syndicate, can you?

Mr. Cole: Objected to as not being re-cross examination.

The Court: I will permit it.

(Question repeated.)

A. No, I can't tell you.

Q. And you can't either remember the names of the members of the syndicate or any of them, can you?

A. Don't recall.

Q. Remember anybody by the name of Harris connected with it?

A. Harris? That seems to be the name of the syndicate.

Q. My recollection is that the Harris syndicate agreed to pay your father something over a million dollars for this property, didn't he?

A. I really don't recall.

Q. Did you ever hear the name of Henkleman

mentioned in connection with the sale of this same property?

A. I have heard his name mentioned. At present I couldn't recall just what definite connection his name had.

Q. Did you ever hear of a contract that he made to purchase this property for a million and twenty-five thousand dollars?

A. No, I don't recall ——

Q. Never heard of it?

A. ——anything of that sort.

Q. This was going to be your property, wasn't it, Doctor, according to this agreement?

Mr. Cole: Please your Honor, how can he know, we have no agreement to purchase, and there is nothing here to show we are talking about the same property.

The Court: I think the present question is indefinite. Sustain the objection to the present question.

Q. The property that Henkleman agreed to purchase was one of the Absecon properties, wasn't it, Doctor?

A. That who?

Q. That Henkleman agreed to purchase?

A. I told you I don't recall anything about that matter.

Q. Then the properties that Harris, the Harris syndicate agreed to purchase was part of the Absecon property, wasn't it?

A. The syndicate, whatever the name may be, I understand made some sort of an agreement of sale.

Q. Which covered part of the Absecon property?

A. It concerned a portion of the Absecon property.

Q. And that was part of the property that was to be conveyed to you when you graduated?

A. Yes.

Q. Now, then, what I want to know, if there was such an agreement with you, how your father came to sell this or agreed to sell this property to this syndicate.

A. He personally had no objections, he was a sane man, of age, with apparently good business judgment, and the property was in his name at that time, and I only had the agreement with me.

Q. What was he going to do with the money?

Mr. Cole: I am wondering how this witness could know.

The Court: He may say so if he don't know.

Q. What was he going to do with this money he was going to get for the property?

A. What he intended to do with it originally I don't know.

Q. You say that the deal with your father and mother related only to the properties which they then owned in 1923?

A. I do.

Q. Now, then, the property that they bought from Mr. Kessler was not purchased from Kessler until

1926. What was to be done about that property? Were you to get that?

Mr. Cole: I object, please your Honor, nothing to do with this case.

The Court: Sustain the objection. It is not in this case at all. What you term the Kessler property is not any one of the premises from number 4 to 13 inclusive, is it, in the bill?

Mr. Reed: No. We own the Kessler property now.

Q. Can you tell me whether all of the properties that were conveyed to you on or about March 15th, 1925, were owned by your father and mother on the 14th of February, 1923?

A. I beg pardon? They were owned in 1929.

Q. That is right.

(Question repeated as follows: "Can you tell me whether all of the properties that were conveyed to you on or about March 15th, 1929, were owned by your father and mother on the 14th of February, 1923?")

A. They were, according to my knowledge.

Q. Now, one of the properties that was conveyed to you was a property by deed dated February 9, 1926, which the grantors was Annie D. Babcock, et als., to your father and mother, and related to property beginning at the northeast corner of the mowing ditch at John Davis' corner, then, first, south

4½ degrees east, and so forth, and is the same property that is mentioned in Book 920, page 399, that is described where it starts down here about this creek, Kanute ——

The Court: By what deed was it conveyed?

Mr. Richards: Conveyed from Walter Sooy and wife to Lester, was by deed 920, page 399.

The Court: It is not in the bill.

Mr. Richards: That is one of the properties not in the bill.

Q. ——is the same property that was testified to this morning was conveyed to you in this conveyance of the 15th of March, 1929. How did you happen to get that property conveyed to you?

A. I understand this piece of property was known as the Doughty meadows upon which Walter C. Sooy and Lida H. Sooy had been paying taxes for a number of years past, and which they presumed and had all reason to presume that they owned at the time of the verbal agreement made with me, I presume and thought that they owned the Doughty meadows, but later they found that their title is not clear to it, so they immediately proceeded to try to make good to me the property and consequently attempted to purchase same from the Doughty heirs, they purchased about four-fifths and one-fifth is retained by the lawyer on the stand this morning, McMullin, I believe.

Q. And went out and paid $6000 for the property?

A. They did.

Q. Now, then, on May 11th, 1923, your father and mother purchased a property from one Adonijah P. Leeds, and Ida, his wife, property described as a deed (1) north 72½ degrees west middle of the road leading from Doughty's mill to James S. Robinson's close by various courses mentioned in the deed. Now, that property was also conveyed to you, how do you account for that?

The Court: Is that property in the bill? If so, what clause?

Mr. Miller: 920. Page 408.

The Court: Also not in the bill.

Mr. Richards: But in the testimony this morning.

The Court: In the testimony. But you haven't asked to have that set aside.

Mr. Richards: No. I may state to your Honor that the reason we haven't had some of these properties set aside was that they have become practically valueless at the present time.

(Question repeated.)

A. Said property was claimed not to be in the possession of Walter C. Sooy, at that time, 1923.

Q. That is what the deed says, the deed conveying the property to your father is dated after this agreement. Now, then, it is also included in the

properties which were turned over to you. In view of what you have said you were only to get the properties that they had as of February 14, 1923, how did you get this particular property which was not in the agreement?

A. I believe that that was in their possession at that time. That was my thought of the matter.

Q. That is your explanation of that?

A. As near as I can explain it.

Q. Well, the property seems to have been, the deed seems to be much later than February 14th, doesn't it?

A. Yes, sir, the date of the deed.

Q. Now, then, Doctor, there is one other matter I want to take up with you about this contract. As I understand it, your father did not want you to be a singer and wanted you to be a doctor, is that right?

A. He did.

Q. And your mother wanted you to be a doctor?

A. She did.

Q. You knew of their feelings in the matter and their ambition to have you follow your father in the medical profession?

A. They made it quite clear that in view of the fact that my father was not enjoying very good health at that time and thought possibly he had not many more years to live, he wanted me to study medicine to have a medical member of the family and care for my mother and sister in a medical way.

Q. Was there any other son besides yourself?

A. Not living.

Q. So there was nobody to carry on the family medical tradition except yourself, is that right?

A. Well, I am the only male child they had that lived.

Q. Is your sister younger or older than you?

A. My sister is younger than I.

Q. If you were to get all of your father and mother's property, what was to become of your sister; was that discussed?

Mr. Cole: Objected to.

The Court: Sustain the objection.

Q. Was it discussed at this time in the making of this bargain what your father and mother were to do to obtain a living if they gave you all of their property when you were twenty-one or when you graduated?

Mr. Cole: Objected to on the ground it is not relevant, and I do not think it is re-cross examination.

The Court: I will permit it.

A. There was one way father had of making a living and that was through the practice of his medicine.

Q. How old was your father at the time that you made this bargain with him?

A. I certainly couldn't tell you.

Q. Can you tell me approximately?

A. Have to count back; it is my impression that he is about 62 years of age now.

Q. Then he was about 55 then, is that right?

A. Yes, about.

Q. About how old was your mother approximately at the time that you made this bargain?

A. Oh, about fifty-four.

Q. So that when your father was 55 and your mother was 54, you made a deal with them by which they were to give you all of their property a few years subsequent from that time; am I correct in that?

A. They were not the terms definitely of the agreement, the terms had to be fulfilled.

Q. The terms being that you should study medicine, and upon your studying medicine, graduating, doing this work around the hotels, you were going to get all their property. Now, what I am getting at is this, was there any other agreement whereby you were to support them during their old age, or was there any understanding of any kind as to what should happen to the income from this property during the rest of their lives, or was there any discussion or arrangement made about how they were to be supported after they gave you all of their property?

A. They did not need an agreement. I had sufficient honor to care for my own parents.

Q. Then there wasn't any agreement, that is what I am getting at?

A. To actually support, no.

Q. And they were simply trusting to your honor that you would support them after they gave you all of their property, is that right?

A. I don't know what they were considering. My father had his profession.

Q. And was in ill health at the time?

A. In ill health, but practicing at that time.

Q. I am to understand that there was no signed agreement, no reservations at all, you were to get everything they possessed, and you in return made no definite promise that you would take care of them in their old age or when your father was sick or when, if your father should die, that your mother would be taken care of, nothing like that in any agreement at all, was there?

A. Didn't deem it necessary.

Q. Will you please answer my question? There wasn't any such agreement?

A. No.

Q. How old was your sister at the time this agreement was made?

A. Oh, I can't tell you offhand.

Q. Approximately?

A. She is about five years younger than I, I believe.

Q. You were sixteen, and then, of course, she was eleven at the time this agreement was made?

A. Approximately.

Q. And there was no side agreement relating to her upbringing or education or anything of that kind, was there?

A. No.

Q. What?

A. No, there was not, excepting for medical attention.

Q. Of course, this agreement to convey this land to you or properties to you was to go through if you performed your part of it whether your father lived or died, wasnt it?

A. Well, provided I fulfilled my terms of the

agreement, there was no reason why it should not go through.

Q. And it was in fact to go through even though your father's then illness should have terminated fatally, wasn't it, that was still part of the bargain?

A. Oh, yes.

Q. When did you begin to fulfill this bargain?

A. Well, it was the following, shortly thereafter I helped around considerably in the hotels, all the following summer I spent working in the hotels, and the following fall I entered the Hahnemann College of Science, pre-medical.

Q. That was in the fall, then, of ——

A. 1923.

Q. What?

A. 1923.

Q. 1923? You spent the usual four years in college and three in the ——

A. No, I spent two years pre-medical work, Hahnemann College of Science, which was all the necessary pre-medical service required, and the four years in the medical college proper.

Q. Making six years altogether?

A. Making six altogether.

Q. You had previously graduated from high school, I suppose, had a high school education?

A. At the time of the agreement I was in the senior year of my high school.

Q. If your father and mother had refused to give you all their property, had you informed them what you intended to do in the premises?

Mr. Cole: Objected to.

The Court: Sustain the objection.

Q. What I want to know is this, at the time when you made this agreement what conversation did you have with your father and mother that led up to the making of the agreement?

Mr. Cole: Please your Honor, it seems to me we have had that so many times I object to it.

The Court: I am inclined to think we have stated it. The difficulty is, Senator, you have closed your cross-examination one time, and you have now resumed the entire cross-examination. I don't want to limit you, but it seems to me we are going back. It is time to take an adjournment, anyhow. Where would you prefer to sit tomorrow morning, here or Atlantic City?

Mr. Richards: I would prefer to sit in Atlantic City. We are through with these records.

The Court: Are you through with the records?

Mr. Cole: So far as I am concerned.

(Recess taken until 9.30 o'clock A. M., at Chancery Chambers, Atlantic City.)

Atlantic City, New Jersey, November 22, 1930.

(Trial of the cause resumed at 9.30 A. M.)

LESLIE THOMAS SOOY, recalled.

Re-direct examination.

By Mr. Cole:

Q. Have you with you the checkbook from which the checks introduced yesterday were drawn?

A. Yes.

Q. Produce it, please?

(Three checkbooks produced.)

Q. These three?

A. Most recent.

Q. Yes, these are all the checkbooks you had on the Guarantee Trust Company?

A. Yes.

(Check books offered, received in evidence and marked Exhibits D7, 8, 9 and 10.)

Q. You said that a number of the checks introduced yesterday were drawn by your father; that is, I mean the body of the checks?

A. Yes.

Q. Will you explain how that came to be done?

A. That particular part, namely, the drawing of the checks and making out of the body of the checks, was a part of my father's duty in assisting me in managing the place and the hotels when I was away interning and couldn't get there, and since I have been in Philadelphia teaching this year, and I had him make out all of them because I did not want any complications to arise, too many thumbs in the pie might upset things, and I wanted, the knowledge of the check account being in his mind, for him to make out the checks for the different purposes so that there would be no overdrawal.

Q. Since you have been admitted to practice, have you been teaching?

A. I have.

Q. Where?

A. Hahnemann Medical College, Philadelphia.

Q. How long have you been teaching there?

A. Teaching since the first of October approximately.

Q. Of this year?

A. Of this year.

Q. During the period that a number of these checks that were introduced in evidence were drawn by your father, were any of the checks signed in blank by you?

A. They were.

Q. And did your father have those checks at his disposal?

A. He did.

Q. Now, this check book that has been marked Exhibit D7, is that your latest check book?

A. This is my latest check book.

Q. I notice there are a number of checks there that are signed in blank, am I right about that?

A. Surely.

Q. When were they signed in blank?

A. Some days ago.

Q. And why did you sign them in blank?

A. Because I wanted to have them available at the disposal of Walter C. Sooy to meet certain obligations which would soon be due, and in the event that I wasn't there to take care of them.

Q. How much time do you spend in the hospital, teaching, that is, I mean days in the week or hours of the day?

A. I teach in the Hahnemann Medical College five afternoons a week, on Tuesdays and Thursdays I am due there shortly after one P. M. until five P. M.; on Monday, Wednesday and Fridays I am due there shortly after three P. M. until five P. M.

Q. Now, have you sold and conveyed any of the property that you received by these deeds from your father?

A. I have.

Q. Did you get some money for some of them?

A. I did.

Q. What did you do with the money?

A. That was deposited in my account in the Guarantee Trust Company.

Re-cross examination.

By Mr. Richards:

Q. Doctor, did you talk over with your father the testimony you gave yesterday after court adjourned?

A. I don't recall any definite discussion of my testimony now.

Q. Now, before you even left the court-room didn't you discuss with your father the testimony that you had given on the stand?

A. I might have made a passing remark.

Q. Didn't your father make some remarks to you about it?

A. I don't recall.

Q. You don't recall?

A. I don't recall him making remarks to me.

Q. Had you talked to anybody else about your testimony?

A. Well, I had a conference with my attorney.

Q. Did you talk to him about it?

A. There was some points brought up, I believe.

Q. Who was it that suggested to you that you should say here this morning that it was part of your father's duty to draw these checks?

A. No one suggested that to me.

Q. Why didn't you tell us that yesterday?

A. Because I thought that I would have time later to explain, court adjourned, because I thought I had come to that point, I wanted you to get through with the individual checks and were going to say something.

Q. You were asked by me, and were under oath,

why didn't you answer me, and why didn't you tell me that, or tell the Court, rather, that it was part of your father's duty to draw these checks?

A. Was I asked the question?

Q. You were asked to explain those checks.

Mr. Cole: Just a moment, I object to that. It seems to me, as I recall it, he was not called upon to explain why his father drew them. He admitted his father did draw them.

The Court: Counsel asks the question now and states that he asked that question. I don't recall that he did.

Mr. Cole: However, I don't care.

Mr. Richards: I asked him two or three times, if your Honor please, what explanation he had.

The Court: I will admit the question.

A. If the question was asked, I beg to apologize that I did not understand same.

Q. You did not understand the question?

A. If such was asked as such.

Q. I asked you repeatedly if that was the only explanation you had to offer for these checks. Now say you didn't remember to tell us yesterday that it was a part of your father's duty to draw these checks, is that right?

A. I told you the court adjourned before I reached the point where I thought I might bring that up.

Q. Some of these checks were in your mother's handwriting; now, what is your explanation to that?

A. I did not state definitely that I could swear that they were in her handwriting.

Q. Well, obviously some of them were not in your father's handwriting; were they in your mother's handwriting or weren't they?

A. Well, according to the examination of my check stubs that I have made since, none evidently were.

Q. Then you were in error about that, were you, that they were ——

A. If I recall, I stated that it appeared to be in my mother's handwriting.

Q. So it was not any part of your mother's duty to write any of these checks, is that correct?

A. No, it was not. That check in question I believe must have been made by someone else, one of the bank men, I should judge.

Q. I asked you yesterday if you had any note in the Guarantee Trust Company, and you told me you did not. You remember that, don't you?

A. I do.

Q. Now, have you thought that over? You want to stick by that statement or do you want to withdraw it?

A. I told the truth on the witness stand.

Q. You did?

A. Yes.

Q. Now then, the very first stub that I look at here relates to a check for $251.40, apparently dated September 22nd, 1930, to the order of the Guarantee Trust Company, and it says, "For renewal and in-

terest on joint note now $13,300;'' are you on the note or aren't you on the note up there?

A. I personally have not endorsed the note.

Q. What do you mean by joint note?

A. I will explain it as follows, those notes taken out at various times in the name of Walter C. Sooy and Lida H. Sooy in the Guarantee Trust Company, were secured by a mortgage on my property, 1921 Pacific Avenue, as collateral. The income from father's practice for some little time past has not been adequate to meet those notes; consequently, if those notes were not met the mortgage very likely would give me trouble in retaining my property, and I wanted to protect my own property, 1921 Pacific Avenue.

Q. Why didn't you tell us that yesterday when I asked you why you had paid the Guarantee Trust Company over $4,000 in the last year? You said at that time yesterday that you could not recall.

A. Because, my dear sir, I told you I would not guess on the witness stand, and I remembered having given to the Guarantee Trust Company checks for several purposes, one purpose ——

Q. So you couldn't guess what you ——

A. I could guess, but I wouldn't.

Q. How is it you know now what you didn't know yesterday?

A. Didn't say I didn't know it yesterday, I didn't recall the specific purpose yesterday why these checks were paid to the Guarantee Trust.

Q. Yes, but I, after asking you about each check separately, I asked you about the whole bunch of the checks and asked you if you had any explanation to offer about those checks why you had paid them

forty-odd hundred dollars, and you couldn't recall any explanation, now this morning you recall that you were paying off your father's notes, is that right?

A. That was a part, others were paid to Adams, and others were paid to Phillips Company through the Guarantee Trust, that is, to the Guarantee Trust Company because of notes that Adams and Phillips Company had there.

Q. Have you had any litigation in this last year other than this litigation?

Mr. Cole: That is objected to.

The Court: Sustain the objection.

Mr. Richards: If your Honor please, in relation to these same checks.

The Court: You have already asked that same question yesterday.

Mr. Richards: I thought it was fair to ask him again in case he wants to change his testimony.

Q. Do you want to change your testimony of yesterday to the effect that you had no other litigation than ——

A. I was under oath yesterday.

The Court: Answer the question.

A. I don't care to make any change to the testimony except in addition.

Q. What did you pay A. S. Osborne, handwriting expert, $50 for?

A. Paid him a check of $50 to examine some handwriting.

Q. Of yours?

A. Some handwriting, not of mine, but concerning another case.

Q. Of your father's, wasn't it?

A. A case which involved some property of mine.

Q. In which your father was in litigation?

A. Concerning merely a formal agreement, and not through ownership or his ownership of the property.

Q. In which your father was being sued or about to be sued, one or the other, wasn't it?

Mr. Cole: That is not correct, was not about to be sued.

Mr. Richards: Let the witness answer.

The Court: Yes, I will admit the question.

A. That is not correct.

Q. What is correct, now that counsel has prompted you, what was the $50 for? It was to be paid on behalf of your father, wasn't it?

A. It was paid to Osborn, handwriting expert, to examine the handwriting of Daniel H. Reed.

Q. On a mortgage, is that right?

A. The handwriting of Daniel H. Reed on several pieces of paper made at different times.

Q. Which related to either payments of a mort-

gage which Reed held against your father, is that correct?

A. Which related to my property ——

Q. Is that not correct?

A. —— in which I had sufficient interest to pay the handwriting expert for.

Q. But it was your father who was in the litigation, wasn't it?

A. Father was concerned in the litigation.

Q. Now, you explained this morning that because the mortgage was against your property, your father's income not being sufficient, you renewed these notes or put up money to renew these notes at the Guarantee Trust Company, is that the explanation, the correct explanation of it?

A. I furnished the money from the checks to cover the interest and certain portions of the principal and renewal of those notes.

Q. Why were you paying the principal?

A. Well, it behooved me to give Dad a lift.

Q. That is it, is it? So you proceeded to renew and pay off this $13,000 note up there at the Guarantee Trust Company, didn't you?

A. Incidentally I wanted to get rid of the notes as soon as possible because ——

Q. Please answer my question, Doctor, is that what you did? You were paying off both principal and interest of this $13,000 note; is that right?

A. Surely, with the distant purpose of taking the collateral mortgage off my property.

Q. Now, was there another note besides the $13,000 note, was there another one that was about fourteen thousand?

A. As I recall, there was, yes.

Q. You started to pay that one off, too, didn't you?

A. I believe I did, yes.

Q. No obligation to do this on your part, was there?

A. Only to save my own property, which had a collateral mortgage against it, in case those notes were not paid.

Q. You say in answer to Judge Cole's question this morning that you had signed a part of these checks in blank for accounts of bills that were due or about to become due; is that right?

A. I didn't say it in just that way.

Q. Well, you say it in your own way again.

A. In a general way I signed these checks several in advance to meet any possible need for them, money, to meet any money.

Q. What need did you anticipate when you signed these checks in advance that they would be used for?

A. Expenses upon the property and bills that came in.

Q. What expenses against the property did you anticipate your father would have to have your signature to a check that he could not get any day in the week?

A. Well, I was not always home and get my bills, the taxes were to come up, and I would want them to be paid on time.

Q. You live here in the Pacific Avenue house, don't you, with your wife?

A. I do.

Q. When you go to the Hahnemann Hospital to

teach, you go up daily, commute from here, don't you? You don't stay over night as a regular thing?

A. Not in Philadelphia, but I have stayed over night in Dorchester.

Q. Where is Dorchester?

A. Cumberland, New Jersey.

Q. How often have you stayed in Dorchester?

A. Upon occasions.

Q. Upon occasion?

A. Yes.

Q. But practically every night you come home, don't you?

A. Most nights I come home.

Q. So that practically every day of the week you are here in Atlantic City, aren't you?

A. I didn't say that.

Q. Well, I know you didn't, but I am asking you.

A. I am here in Atlantic City most of the days of the week as a rule.

Q. Then why was it that you anticipated some emergency whereby your father would have to have nine checks, at least nine checks signed by you in advance, what was this emergency?

A. Well, in case I didn't happen to be in town, I didn't want to be bothered upon each and every occasion of signing a check, and I wanted the checks to go out on tap.

Q. That is the only explanation you have to offer this morning, is it, Doctor?

A. I had said before that it was part of my father's duty in assisting me in managing to draw out these checks, a part of his work, and took some of the bother off my shoulders.

Q. Was it a bother for you to manage these hotels?

A. Well, if I assumed complete management without any help it would be a decided bother in conjunction with my medical work, teaching, and my professional work.

Q. Your father was also attending to his medical work, wasn't he?

A. I didn't say that.

Q. I didn't say you did, I asked you if he was.

A. I have treated a few of his patients, and he in my absence has treated a few of mine.

Q. Did you treat them because he was so busy managing the hotels that he had not time to take care of the patients, or because he was not available at the moment, which?

A. Because at that moment he was not available.

Q. How many loans did your father have in the Guarantee Trust Company that you are paying off?

A. I don't recall the exact number.

Q. Now, did you mean to tell us that you don't know how much the loans aggregate that are now outstanding upon which you are paying money, is that right, in the Guarantee Trust Company?

A. I believe there are two, that is, one of somewhere around fourteen thousand, and the other was somewhere around thirteen thousand, if I recall. I am not positive of that.

Q. When did you start to make payments off on these loans?

A. I don't recall the exact date. It wasn't so long after the property came in my hands.

Q. I thought not.

A. My interest, of course, was in saving my property.

Q. Do you remember when you made the first payment after these properties were assigned to you on these mortgages ——

A. I told you I didn't recall.

Q. —— on these notes, rather? Do you know whether or not you made a payment of $500 on these notes on August 15th, 1929?

A. I don't recall.

Q. Do you know whether you made a payment of $200 on September 30th, 1929?

A. Who to?

Q. Guarantee Trust Company?

A. I don't recall whether I made one on that exact date.

Q. Do you recall making any $200 payment?

A. I have made payments approximating $200.

Q. On more than one occasion?

A. Yes, I believe I have.

Q. Several occasions, as a matter of fact, haven't you?

A. Yes, about $2,000—about $200, pardon me.

Q. As a matter of fact, you made a payment on October 18th, 1929, of $200, as well, didn't you?

A. I don't recall the exact date. I could refresh my memory by consulting my check stubs, as I told you yesterday.

Q. I am going to give you your check stubs and let you refresh your memory about it. Which ones do you want right away, all of them?

A. If you please.

(Question repeated.)

A. Yes, October 18, 1929.

By the Court:

Q. Do you know you made such a payment, Doctor?

A. I have the record here.

Q. By whom was the record made?

A. By Walter C. Sooy.

Q. How do you know that that check was paid to the Guarantee Trust Company for that purpose?

A. Because the checks have been sent back to the Guarantee Trust Company as passed.

Q. How do you know they were paid for that purpose? As a matter of fact, do you know what they were paid for except what you have been told or what is on your stub? You know that the amount came out of your bank account by reason of the check coming back, but have you any personal knowledge of what they were paid for?

A. I do.

Q. How do you have personal knowledge?

A. Well, knowledge was made to me at the time when ——

Q. By whom?

A. Well, my father was assisting me in managing the affairs and upon occasions when we would come together we would discuss the business.

Q. Then the only knowledge you have is what your father told you and what he entered on that book?

A. Well, the bank would send in notice of, various notices of interest due.

Q. Do you remember that particular case, or are

you now giving your testimony from the stub which was made by your father and of which you at the time had no knowledge, if that statement is correct?

A. I remember that upon the various occasions that the notices that came from the bank were—I read them over.

Q. Do you know of your own knowledge, the answer to the question which is just propounded to you, or are you obtaining that knowledge from the handwriting of your father and what he may have told you?

A. I did know at the time, your Honor.

Q. And you did know at the time what that was?

A. I did.

By Mr. Richards:

Q. Did you pay any money on or around the 25th of November, 1930, on these notes? Just a minute, Doctor. That is only a few days ago. Do you have to look that up to know whether you did or not?

A. The question was on or about November, 1930?

Q. 25th of November, 1930, this is now the 13th of December; can you remember whether you made, paid any money on account of your father's notes?

A. I don't recall any.

Q. Do you remember whether you paid any money at all during the month of November?

A. I couldn't tell you exactly, no.

Q. You couldn't tell me whether you did or whether you did not or what the amount was if you did, can you?

A. Couldn't tell you definitely, no.

Q. If you look in these check books, is that going to refresh your memory?

A. Possibly.

Q. How will it refresh your memory?

A. What I had completely forgotten under the circumstances and consequently, having forgotten, not knowing that I did know, might — —

Q. Now, Doctor, all the memorandas in the check book or in the check stubs were written by your father, weren't they?

A. They were.

Q. So that there was no memorandum there of your own to which you can refer that will refresh your memory, isn't that right?

A. No personal memoranda except through my assistant manager.

Q. So anything on these check books concerning these payments, will it will do will be to inform you whether or not your father did take out of your account moneys and paid on his notes; isn't that the fact?

A. I won't agree to that.

Q. Then what will you agree about that statement, if anything?

A. Consulting these check stubs refreshes my memory of what occurred at the time.

Q. Did your father inform you that he had to have money to renew this note?

A. We have talked matters over upon occasions of discussing the management of the business.

Q. When was the last time your father informed you that he did not have enough money to pay so much as a hundred dollars on either of these notes?

A. I couldn't tell you.

Q. You couldn't tell me that?

A. No.

Q. Could you tell me whether or not on or around the 25th of October he told you that he required a hundred dollars to pay on these notes?

A. October of this year?

Q. Yes.

A. 1930? All I can remember is the fact that my father, Walter C. Sooy, has not been getting for some time past an adequate income from his practice to cover these notes in addition to paying for little necessities that he must have, and consequently I made those payments with the view of protecting my property upon which the mortgage was held, collateral mortgage.

Q. Did the Guarantee Trust Company ever serve notice upon you that unless you paid various sums upon these notes that they would foreclose this mortgage?

A. No, they did not.

Q. What notice or knowledge did you have that your father was not making payments on these notes?

A. He was making payments on the notes up until I started to make them.

Q. And you started to make them in the summer of 1929, didn't you?

A. I said I started to make them shortly after the property was conveyed to me.

Q. And you have made all the payments since that time, haven't you?

A. I won't be definitely positive.

Q. Do you know of any you did not make?

A. I don't know definitely.

Q. Did you pay any other debts of your father's besides these notes?

A. I don't recall having paid any.

Q. Now, Doctor, returning to these nine blank checks, have you any knowledge whatever about what your father was going to use those blank checks for, so far as it related to drafts upon your bank account?

A. For any expenses that should arise in the near future on the property.

Q. Did you have a bank account before you opened this bank account at the Guarantee Trust Company?

A. Oh, I believe a little children's saving account years ago.

Q. Whereabouts was that?

A. Couldn't tell you, when I was going to school, one of these little school banking affairs.

Q. After you graduated, you started to practice, didn't you?

A. After I had finished my interneship and taken my State Board's, and obtained my license, I started to practice medicine.

Q. Did you have any reason for a bank account up until that time?

A. Dating from when until when?

Q. Up to the time you started to practice, I don't know when that was, I presume it was after you graduated, which, as I understand it, was in 1929?

A. Yes; well, from the date of conveyance of the property I naturally had need for a bank account wherein I should deposit the rent from my properties and draw upon this for expenses upon same.

Q. Up until the transfer of the properties to you, you had no bank account, is that right?

A. No—yes, it is right, I had no bank account.

Q. But you opened a bank account on or about July 16th, 1929, shortly after the transfer of the property?

A. Shortly after the conveyance, yes, I believe so, about that time.

Q. Do you know how much your bank account is now?

A. I believe it is several hundred.

Q. What is several hundred?

A. Between three and four hundred, I guess.

Q. What did you expect that bank balance of near three or four hundred dollars to do with these nine blank checks?

Mr. Cole: I object to his expectation.

The Court: I will sustain the objection.

Q. Did your father know the condition of your bank account?

A. I presume he knew, because it was his duty to fill out the checks.

Q. Did you put in this bank account in the Guarantee Trust Company any moneys that you yourself earned from your practice or from other purposes?

A. I did.

Q. Have you any withdrawals to show any moneys which you took out for your own personal wants or requirements out of this bank account?

A. Not that I recall, because I didn't need it.

Q. What moneys that you recall of that you earned yourself went into this account?

A. I earned something like $490 as a salary from my interneship in the West Jersey Hospital, and these payments, as they came to me, some I deposited in the Guarantee Trust Company in my bank account there, other moneys that I needed I spent for my own personal requirements.

Q. Can you show me any checks or any check stubs of moneys that you withdrew for your own personal requirements?

Mr. Cole: He said he didn't.

The Court: He just said he didn't draw any.

Mr. Richards: That is what I thought he said, but I thought he said he did.

(Answer repeated.)

Q. So that the money that you needed for your own personal requirements you did not deposit in this bank account?

A. The money I needed at that time for my current personal requirements I did not get a chance to get to the bank with it, I had to spend it before I could put it to the bank.

Q. Then, so far as this bank account is concerned, all of the moneys that were deposited in your name in the Guarantee Trust Company were used either to pay charges against the properties or were transferred to you or interest or principal upon

your father's notes in the Guarantee Trust Company, is that correct?

A. For the most part.

Q. Do you know of any exceptions?

A. Well, there was one you mentioned before, the payment for that handwriting examination and certain things purchased in the line of installments into the property as a furnace, rather, a coal furnace.

Q. That was on account of the property, wasn't it?

A. Yes.

Q. We haven't a very definite explanation about this $50, but I will remind you of one other payment which you made out on this account, was repairs to your motor car.

A. Yes.

Q. Outside of that repairs to your motor car, can you tell us of any moneys that were used for any other purposes except for in connection with the running or upkeep of these properties, including fixed charges, that were conveyed to you, or in paying your father's debts?

A. I don't recall any.

Q. I notice that in addition to the $35,000 mortgage on the Pacific Avenue property, the Guarantee Trust Company holds other collateral; do you know what that collateral is?

A. I couldn't tell you.

Q. Did you know they had any other collateral?

A. I don't recall being informed.

Q. Did you ever go to the bank to find out just where you stood with this mortgage, how much you owed upon it, and what your liability was?

A. I didn't need to.

Q. Why not?

A. I knew that the mortgage was on my property as collateral for notes and that when the notes came due, if they were not met, very likely proceedings would be made against my property, and my property would be jeopardized, and consequently I took sufficient interest to pay off these notes.

Q. Why didn't you go to the bank to find out if there was any other means of getting this money paid except the foreclosure of the mortgage?

A. Didn't occur to me.

Q. Your father never told you that there was any other collateral up, did he?

A. I don't recall having been informed.

Q. This collateral consists of life insurance policies aggregating $20.000. Who is paying the premium on these life insurance policies?

A. I certainly do not recall paying any myself on those.

Q. Well, I note payments to both Phillips Company and C. J. Adams Company; are either of these payments, they being insurance agents or brokers, are those possibly payments?

A. They are insurance upon the houses, my property.

Q. You don't know who is paying the premium on these insurance policies?

A. Well, that really doesn't interest me.

The Court: That is not the question, Doctor.

(Question repeated.)

A. No, I do not.

Q. Is this the first time this morning that you ever knew or suspected that there was this additional collateral for the payment of these notes?

A. As I recall it now, there was some conversation about life insurance here some little while ago.

Q. You can't tell us the amount of your liability approximately at the present time upon this mortgage, contingent liability?

Mr. Cole: I want to respectfully object that that question has been asked at least two or three times and answered.

The Court: Sustain the objection.

Mr. Richards: I was hoping, if your Honor please, his memory might come back to him.

A. I cannot.

Mr. Richards: You don't have to answer, Doctor. The objection was sustained.

Q. Now, you say it is a part of your father's duty to draw these checks?

A. Yes.

Q. Why is it his duty to draw the checks?

A. Because he is assisting me in managing the properties.

Q. Have you any agreement or contract with him whereby he is to assist you in managing the properties?

A. No, merely a duty assigned to him.

Q. You are assigning the duty to your father?

A. Under the circumstances.

Q. What circumstances?

A. Of my ownership of the property.

Q. When was that assignment first made to him?

A. Assignment first made to him?

Q. Yes, of this duty to manage the properties?

A. If I recall, from the beginning.

Q. Immediately upon his transferring the properties to you, you in turn imposed upon him the duty of managing the properties; is that right?

A. I in turn imposed ——

Q. Is that right, is that the fact?

A. I imposed upon him the duty of assisting me in managing the properties, as I said before.

Q. As near as I can find out, the only thing that you have done in connection with these properties is to sign these checks, isn't it?

A. Oh, no.

Q. What else have you done in the management of the property?

A. Upon occasion I have in these properties and looked around to see what they need and looked things over and conferred with Walter C. Sooy as to the payments of the various bills and examination as to whether any improvements were necessary. I have seen certain roomers, and certain roomers have paid me on time and occasion.

Q. That is exactly the same kind of work you did before he turned the properties over to you, isn't it?

A. Oh, no, I worked a good bit by and far before that.

Q. Before the properties were turned over to you,

you did the work; after the properties were turned over to you your father did the work, is that right?

A. He assisted me in managing the property, but he had a number of people to help him.

Q. It seems the only difference between your father and Lear was that he had assistance?

Mr. Cole: Please your Honor, I want to object on the record to that comment, subject to criticism.

The Court: Yes, it should be stricken.

Q. Can you remember any specific order that you ever gave to your father relative to the management of these properties since they have been turned over to you?

A. I told him here were certain blank checks signed by me, and to pay whatever necessary expenses on the property would arise in the near future.

By Mr. Cole:

Q. Did you sign your name either as maker or an endorser on any of the checks of the Guarantee Trust Company?

The Court: You mean notes or checks?

Mr. Cole: Pardon me, notes.

Q. Notes.

A. I didn't endorse any of the notes in the Guarantee Trust Company.

Q. Were you a party to the proceeding about which you have been examined concerning the Daniel H. Read Estate?

A. In so much as the ——

The Court: That can be answered yes or no.

Q. I mean on the record you were not a party to that suit?

A. No.

Q. Were all the payments that were made by you on account of these properties made by checks on the Guarantee Trust Company?

A. All payments? Yes, through my check account in the Guarantee Trust Company.

By Mr. Richards:

Q. You had no other bank account, did you?

A. I personally had no other bank account at the time excepting that one little savings account I said I had back in school days years ago.

By the Court:

Q. Doctor, in reply to your counsel's question, did you sign either as maker or endorser of notes in the Guarantee Trust Company, you said you did not endorse any, do you mean by that that you were maker on some of them?

A. No, I was not maker or endorser.

By Mr. Richards:

Q. Doctor, you said in answer to Judge Cole's question that you were not a party to the Read suit.

A. On the record I was not a party to the Read suit, to my knowledge.

Q. Then why did you pay or permit your father to fill out a check for you to Cole and Cole in connection with this litigation?

A. That check for $200 was paid because of my indirect in the case, indirect interest being that I understood that the $10,000 mortgage was to be cancelled at the death of Daniel H. Read and ——

Q. Or what?

A. That is all.

Q. And who were the litigants on the record in the Read case?

Mr. Cole: I object, please your Honor. He can't testify to that. He can testify whether he was a party because he would know whether he was served; as to the record, I think it ought to be here.

The Court: Sustain the objection.

Mr. Richards: If your Honor please, if he paid on account, he must know for what reason he paid it.

The Court: I will sustain the objection.

Q. What was your indirect interest?

Mr. Cole: Please your Honor, he answered that.

The Court: I will permit that question.

A. My indirect interest was in regard to the fact the property was in my name, it was my property, and that the $10,000 mortgage which I have just told you I had understood to be cancelled at the death of Daniel H. Reed.

Q. Why was it to be cancelled at the death of Daniel H. Reed?

Mr. Cole: Please your Honor, are we to try that suit?

The Court: Sustain the objection.

Mr. Cole: I want to offer the receipt of O'Toole, which was marked D2 for identification, also D3, also the book D4 for identification.

(Exhibits admitted and marked Exhibits 2, 3 and 4.)

Mr. Richards: It is objected to on the ground we are entitled to have all the receipts, the testimony yesterday was that he had the rest of the receipts, but didn't have them there.

The Court: I will permit this offer.

Mr. Cole: D2: "March 15, 1930. Received of either Mr. or William O'Toole, I am not sure which, $2.50 on account of rent from March 1, to April 1, 1930, L. T. Sooy, M. D., per Dr. W. C. Sooy."

D3: "March 8, 1930. Received of Mr. or Wil-

liam O'Toole, $5 on account of rent from March 1st to April 1st, 1930, L. T. Sooy, M. D., per Dr. W. C. Sooy."

D4: "April 23, 1930. Received of Mr. or William O'Toole, $7.50 balance rent from March 1st, 1930, to April 1st, 1930, Dr. Thomas Sooy, M. D., per Dr. W. C. Sooy."

"April 30, 1930. Received of Mr. or William O'Toole $15 for rent from April 1, 1930, Leslie T. Sooy, M. D., per Dr. W. C. Sooy."

Again, April 23, 1930. Received of Mr. or William O'Toole, $15 for rent from May 1 to June 1, 1930, L. T. Sooy, M. D., per W. C. Sooy.

I will hand these receipts and book to counsel on the other side. They came through them, as I remember.

Mr. Reed: I think Mr. O'Toole produced them.

The Court: He did, but at your call.

Mr. Cole: They were at your call, so I had better turn them back to you.

WALTER C. SOOY, sworn.

Direct examination.

By Mr. Cole:

Q. How old are you now?
A. Sixty-one; in my sixty-second year.

Q. Where do you reside?

A. At the present minute I am 1921 Pacific Avenue, part of the time, the rest 122 South South Carolina Avenue, my office 1921 Pacific Avenue.

Q. Are you native to this county?

A. Beg pardon?

Q. Born in this county?

A. Yes, born in this county.

Q. Lived here ever since?

A. Lived in this county ever since, excepting when I was away to college or something like that.

Q. Now, did you make an agreement with your son, Dr. Leslie Sooy, concerning some real estate you owned?

A. I did.

Q. When was that agreement made?

A. That was made on February 14th, 1923.

Q. Where was it made?

A. That was made at the office, 1921 Pacific Avenue.

Q. What was the agreement that was made with your son?

A. The agreement was that he was to give up a career in music that he desired, and help, and study medicine and help us in the meantime in the hotels, and when he was graduating and had attained the age of twenty-one, graduating or graduated, which ever, I don't know just the words there, but that was the idea, we were to convey, by that I mean Mrs. Sooy and myself were to convey the property that we then had in our possession, all the property.

Q. Now, will you state how it came about, how the subject was broached, how it came to be made?

A. Well, the boy was at the age of sixteen, at six-

teen or about sixteen, that is, he was sixteen that fall, and this was during the winter following, and he had studied music and singing, he had been in Wheaton's choir at the Ascension Church, Ascension Church under Wheaton, I should say, and he had also passed through a conservatory, or study under Mrs. Ireland, he thought he could sing, probably could, anyway he understood that he could by going to New York, he could get big money for his voice, and he had the idea that is what he wanted to do, and that was his say so, and I didn't want him to, I was ill at the time, in fact, had been for some time, and did not expect to stay around here a great while, and hence I didn't want him to get away to the life of New York City, I wanted him to stay with us, and that was why the agreement, I told him if he would stay and study medicine and work with us during the time when he had attained the age of twenty-one and graduating or graduated, I don't know which, about that, that was the gist of it, that we would confer, Mrs. Sooy coincided with me, we would transfer, rather, all property in our possession at that time.

Q. Who were present, if you can recall, when that agreement was made?

A. Mrs. Sooy and myself, well, I should say the other word, Mrs. Sooy and Leslie, I remember Mrs. Kyte was present, and I seem to recall someone else, I seem to recall another party, but I can't state just who was present at the time, simply in the office.

Q. Did your son work for you after that?

A. Yes.

Q. What work did he do?

A. Well, he used to assist us in anything we wanted him to do, mainly in the hotel.

Q. What did he, in fact, do, can you tell us some of the details?

A. Mainly hotel work, he clerked, and also in our absence when we would be away, he would look after the managing; in other words, I suppose you would call it, help around the hotel, anything we wanted at the hotel, room people, or help collect moneys, or anything of that nature, whatever happened to come to hand.

Q. When was the busiest time of the year in the hotel?

A. Summer time busiest time of the year, of course.

Q. Was he around the hotels all the time during the summer?

A. Practically all the time during the summer time, of course, usual vacations.

Q. When did he begin to attend college, medical school?

A. That would be from October 1st, about eight months, sometime late in June, but from about October first to June.

Q. Did he after that agreement give up music after his agreement with you?

A. He gave up that career of going to New York, yes.

Q. Where did he graduate from?

A. Hahnemann Medical College, Philadelphia.

Q. When did he graduate?

A. It was in June, 1929, either the 6th or 7th, I am not just certain, 6th, I think.

Q. Now, at the time that you made this agree-

ment, how many properties, real estate, I mean now, did you own?

A. It is a little hard for me to answer that question, Judge.

Q. Roughly just the number, you needn't be exact.

A. Well, we owned two properties here and several properties in Absecon and Galloway Township at the time.

Q. Did you convey to him by these deeds that have been offered in evidence any property that you did not own in 1923, when you say the agreement was made?

A. One property, the Doughty meadows, it is termed, I thought I owned it, hence I included that in what we was to transfer to him. I had paid taxes on it for the neighborhood of seventeen or eighteen years, tax bill had come to me, and I bought a piece of meadow from the Absalom Cordery estate, and later on they sent that to Absalom Cordery in care of me, and I supposed it was his, Absalom Cordery meadows, and I asked Absalom Cordery's heirs at the time, or Absalom Doughty's heirs, Mr. William Doughty, if he had any interest in that, and he told me no.

Q. I don't care about conversation; you say that you thought that you owned that tract?

A. I thought I owned the tract.

Q. What turned out, did you or didn't you own it?

A. It turned out we didn't own that piece.

Q. Is there any other piece you conveyed to him that you did not own?

A. Hadn't I better finish that up? During 1926 we made an agreement with the Harris Syndicate

for the sale of, agreement of sale, which was never consummated, that that was in that piece, and we had received some money from them, and I paid out of that money, which was the money from this part, that we had attempted to, we intended to transfer to the son, to pay for that meadows.

Q. Talking now about this piece you said you paid taxes on?

A. This piece, yes.

Q. You thought you owned?

A. Yes.

Q. Was there any other piece that you conveyed to your son that you did not own in 1923?

A. No, there was one piece that they mentioned there, I owned that piece, but they had a quitclaim deed, or showed a quitclaim deed yesterday from Adonijah B. Leeds to me, we owned a tract together, the same as Dr. Sooy and John McMullin owns that large piece together at the present time, I had a two-thirds interest in that piece, and Adonijah Leeds had a one-third interest, at this time of which they speak, when they cleared this deed up, we signed the quitclaim deed to each other, I to him for the third, and he to me for the two-thirds interest, but we had it before, we owned it before.

Q. Now, at the time you made the agreement with your son, was the $35,000 mortgage to which reference has been made, in existence?

A. No.

Q. Now, do you know how this amount of $100 represented by the check Carrie S. Sooy to Walter C. Sooy and Lida H. Sooy, was arrived at?

A. That was paid by Dr. Leslie Thomas Sooy's

wife from money in her own private account to us to cover the one dollar on each individual deed, and to in part pay for recording transfer, and so forth.

Q. Can you presently recall just how it came to be made a hundred dollars?

A. What is that?

Q. Can you presently recall just how it came to be made a hundred dollars, just one hundred dollars?

A. Well, we said to give us a hundred dollars and we would pay this other and take care of that, yes, what that didn't pay of course I paid myself.

Q. At the time you made the agreement to convey to your son, were you solvent, were you able to pay your debts?

A. Yes.

Q. What property did you have at the time you made the deeds to your son other than those you deeded to him?

A. Between Mrs. Sooy and myself we had one tract which we had paid a hundred thousand dollars for, another tract which we paid fifty thousand dollars for, and still another which we paid seventy-seven thousand five hundred, that is, that was the value to begin with.

Q. Was the Kessler property one of those properties?

A. One, yes, that was one.

Q. Was the Zippler property one of the properties?

A. That was.

Q. What was the other property?

A. We bought a property we bought of Riley, Bernard, J. Bernard Riley.

Q. What was the total amount of cash that you paid to Mr. Kessler on account of the purchase price of that property?

A. Fifty thousand dollars.

Q. How much cash did you pay to Zippler on account of the purchase price of the property you bought from him?

A. Twenty-seven thousand five hundred.

Mr. Richards: I don't see it is relevant here, and I object.

The Court: Yes, I think I will permit it.

Q. How much money did you pay on account of the purchase of the other property, Riley, that you mentioned?

A. The cash which, and mortgage, which was afterwards paid, $35,000.

Q. If you can recall, tell me whether you had made all those payments at the time that you made the transfer to your son.

A. Yes.

Q. What amount of money approximately did you owe at the time that you made the transfers to your son other than the amount due on the bond to Kessler and to Zippler? Do you understand that question?

A. What I owed inclusive of that?

Q. Those two bonds, yes.

A. I can't recall exactly, but probably not over two or three hundred dollars. I had no debts only just what would be coming in month after month, you know.

Q. Didn't you have mortgages on the——

Mr. Richards: I object.

Q. Did you have mortgages on the Atlantic City properties?

A. That is right, yes, we had a mortgage of twelve thousand on 1921 Pacific Avenue, and also at that time we had thirty-five thousand dollar mortgage to cover a collateral on notes, money we had borrowed in payment of some of the difference, on the different properties that we had. We had a mortgage of thirteen thousand on 122 South South Carolina Avenue, and a mortgage on, given to Daniel Reed, which, as the son said, was to be cancelled at his death, for $10,000.

Q. Did these mortgages cover or carry your bond, your personal bond?

A. Yes.

Q. Are any of the notes now in the Guarantee Trust Company about which testimony has been given, notes that are secured by that $35,000 mortgage?

A. Pardon me, I didn't catch that question, Judge. They are all secured by the $35,000 mortgage.

Q. Now, are you familiar with the check books that have been offered in evidence, know something about them?

A. I am.

Q. And you know something about the checks that have been offered in evidence?

A. I do.

Q. Will you explain to the Court in your own way

how you came to draw checks from this account of your son's?

A. My son was away the greater part of the time, he was interne after graduation, interne at the West Jersey Homeopathic Hospital in Camden, hence he was away practically all the time, and I had charge, I had assisted him, in fact I must say I had charge of that part, the buying, not altogether, Mrs. Sooy would buy things, too, but I had charge, you might say, of paying those things, these checks for convenience.

Q. So far as you know, were any of the checks that you drew on that bank account used for any purpose other than the upkeep of the payment of fixed charges against these properties?

A. Fixed charges against these properties, or something that the son was interested in, one there for his automobile that had been collected, that I knew that, I knew one for the automobile, but anyway, he was interested in.

Q. Now, do you know something of the value of the properties that you owned at the time that you sold to your son and transferred to your son, other than the property you did transfer, know something of the value of the Absecon properties?

A. Well, only——

Q. You may answer yes or no first; do you?

A. Yes.

Q. Had you lived over there in Absecon for some years?

A. Well, we had been there back and forth, lived there part of the time, and part of the time here.

Q. Through the time you have been living in Atlantic County?

A. Yes.

Q. Had you, before you made these purchases from Zippler and Kessler and Riley, bought other property or owned other property over there?

A. Oh, yes.

Q. What, in your opinion, was the value, the fair value of the Kessler property at the time that you made the conveyance to your son?

Mr. Richards: I object.

The Court: How is that admissible at the present time?

Mr. Cole: I thought to meet the question of whether or not, at the time these transfers were made, whether he was insolvent or not, one of the allegations here is insolvency.

The Court: Would that be any proof after the particular property has been sold by the sheriff, when I say the particular property, equity in the property, and showed a deficiency, that there was no equity? It may be you have the right to put the testimony in.

Mr. Cole: I don't think the fact the property was sold for a hundred dollars is conclusive at all in view of the situation everybody has to take notice of in this depression.

Mr. Richards: If your Honor please, courts have said a number of times, and I recall the last case I had this matter up, opinion by Judge Cross,

a good many years ago now, in which he said that the court, at least the Federal Courts would not and could not go beyond the value the property brought at the sheriff's sale.

The Court: Yes, I think that is probably true, but, nevertheless, this question is as of a different time from the sale and I will permit it.

(Question repeated.)

Mr. Richards: At that time he did not own the Kessler property, I don't think, did he?

The Court: Yes, at the time of the conveyances to the son he owned it.

Mr. Richards: Hadn't then been foreclosed, that is right.

A. By comparison with sales that the doctor made after he obtained the possession, he sold some lots—

Q. I don't want your reason, first, I want the answer first, and then the reason can come later. I am asking you what you think was the fair value of that property at the time you conveyed the other properties to your son.

A. Well, that question would be a little bit hard to answer unless I did compare it with other property because——

Q. If you can't answer it in any other way, I can't help it, but I wanted to know whether you had any fair idea of the value of the property.

A. I think the value at that time was equal to what it was when I bought it, you know.

Q. What in your opinion was the fair value of the Zippler property?

Mr. Richards: I think we are entitled to an answer, if your Honor please.

The Court: I think so.

Mr. Richards: I ask that answer be stricken out.

The Court: Yes, I think you are entitled to an answer.

Q. Doctor, can't you answer that question? I am asking you if you know what was the fair value of the Kessler property at the time you conveyed to your son.

A. Well, I feel that there was a value there sufficient to cover all indebtedness against it.

The Court: Can't you give us the amount, Doctor, that you considered the value of that property?

A. I would say a hundred thousand dollars.

Q. What in your opinion was the fair value of the Zippler property at the time you made the conveyances to your son?

A. Seventy-seven thousand five hundred.

Q. What in your opinion was the fair value of the Riley property, was it, at the time you conveyed to your son?

A. Fifty thousand.

Q. Something has been said here about other collateral held by the Guarantee Trust Company for these loans other than the mortgage. What is the fact about that?

A. They hold, the Guarantee Trust Company hold life insurance policies to the amount of $20,000 against my life, insuring my life.

Cross-examination.

By Mr. Richards:

Q. Doctor, who do you say was present when you made this agreement with your son.

A. Beg pardon?

Q. Who do you say was present when you made this agreement with your son?

A. Mrs. Sooy, my wife, Leslie Thomas Sooy, Alma Kyte, Mrs. Kyte, and I think there was another person, and myself.

Q. Who is Mrs. Kyte?

A. Mrs. Kyte, one of the parties present there at the time, Mrs. Alma Kyte.

Q. Who is she, a relative?

A. Yes, a niece.

Q. Was your daughter present?

A. Daughter? No, I don't recall her being present.

Q. At the time you made this agreement, your son was sixteen years old?

A. Yes.

Q. You knew, of course, that you had a right to control his movements, didn't you?

A. Yes.

Q. And that it was within your province as his father to prevent him from going to New York or doing anything you didn't want him to do, didn't you?

A. Supposed to be, not always.

Q. You knew the value of the properties that you were turning, that you were agreeing to turn over to him, didn't you?

A. I did.

Q. What were the values?

A. Well, that question is a little hard to answer to, because there are various values, some are worth a hundred dollars an acre, and some two or three hundred dollars an acre, and some I had paid five dollars an acre for.

Q. Roughly speaking, what did you consider your holdings in and around Absecon to be worth?

A. I had never counted that up, I couldn't tell you exactly.

Q. Have you any notion at all?

A. I would be guessing at it if I said it, because I don't know.

Q. Give us your best guess on the subject.

A. At that time of course the values were considered lower than, much lower than they have been since.

Q. Quite true.

A. And, as I say, or recall that, I couldn't recall the actual value at the time, and I wouldn't attempt to.

Q. You made no estimate of the value?

A. No.

Q. How much was the Atlantic City properties worth?

A. Now, I couldn't tell you that at that time exactly because at that time there were different values placed upon it from what it was afterward and what it has been since.

Q. You are speaking now of the year 1923?

A. That is what I say, I can't recall just exactly the value things were appraised at at that time.

Q. Doctor, at the time that you made this agreement with your son, didn't you make any calculation about how much in value you were proposing to pay your son to stay with you and work for you and to go through medical college?

A. I didn't consider that.

Q. That wasn't——

A. No.

Q. Not even in the picture at all?

A. Not the actual value, no.

Q. Did you have any other property outside of Atlantic County?

A. No.

Q. Your deal with your son was that if he did as he did, you were going to give him all of your property, everything?

A. Yes.

Q. And you intended from that moment on to keep that agreement, if he kept his part of it?

A. I did.

Q. He started in to keep his part of the agreement?

A. Yes.

Q. And gave up his musical career right away, that was over, wasn't it?

A. So far as going to New York, yes.

Q. And he, on the other hand, started in to work in the hotel, and that fall he started in in Hahnemann to prepare himself for his medical career?

A. It was that fall, yes.

Q. And he faithfully kept his part of that bargain right up until June of 1929 when he graduated, didn't he?

A. Yes.

Q. Now, did you keep your part of the agreement?

A. We did.

Q. Let's see. When did you encumber the Pacific Avenue property with this $35,000 mortgage?

A. I don't recall the exact date.

Q. It appears to be on the 9th day of February, 1926, is that about right?

A. I think probably it was.

Q. What right had you to put a $35,000 mortgage on this property which morally, at least, was your son's?

A. Well, the expenses on the property during, we didn't agree that there would be any expense on it.

Q. What expense amounting to $35,000 had occurred on the Pacific Avenue property?

A. Well, ain't all on that one property, other properties.

Q. What were those expenses on these other properties?

A. I can't recall the individual expenses, different expenses accrued, and moneys were borrowed from the bank to help pay those things.

Q. You don't know what those expenses were?

A. I can't recall just what they were, no.

Q. Did you ever undertake to sell any of these properties between the time of making this agreement and the time your son graduated?

A. Yes.

Q. What one?

A. Well, we agreed to sell, or we made an agreement of sale with the Harris Syndicate, Incorporated, I think that was the way, for certain properties north of the Absecon Creek and east of the New York Road in Absecon.

Q. That was part of the Absecon property?

A. That was part of the said property.

Q. Those properties were part of the properties that you had agreed to deed to your son?

A. Yes.

Q. Did your son join in that agreement of sale to the Harris Syndicate?

A. No.

Q. Did you disclose to the Harris Syndicate that you had made this agreement to convey this property to your son?

A. No.

Q. You subsequently made another agreement with Henkleman covering this same property, didn't you?

A. That was on the other properties.

Q. That was other properties?

A. Yes.

Q. That you had obtained subsequent to the 1923 agreement?

A. Yes. There was no——

Q. Did you disclose to Henkleman that you had previously made an agreement to deed these properties to your son?

A. No.

Q. So that in dealing with the properties that were in the 1923 agreement, you did not disclose to anybody that your son had any interest in those properties?

A. No.

Q. Why not?

A. Because I had a little conversation with the boy about it and he said, "If you can sell it, I would rather have the money."

Q. That is your answer to that?

A. That is the answer to that.

Q. He wasn't of age, was he?

A. No, not at that time.

Q. Did you know when he became of age he could affirm or disaffirm that agreement?

A. Yes.

Q. And you didn't disclose that fact to the people with whom you were dealing?

A. No.

Q. This property was part of a tract which this syndicate was buying for development purposes during the boom, wasn't it?

A. Yes.

Q. Consideration paid to you or agreed to be paid to you, rather, was in the neighborhood of a million dollars, wasn't it?

A. So far as that, was none mentioned, according to number of acres.

Q. In the Henkleman agreement it was a million and twenty-five thousand dollars?

A. I beg pardon, I thought you said——

Q. Beg pardon again, it was a million and seventy-five thousand dollars, of which you got fifty thousand dollars in cash, isn't that right?

A. Fifty thousand?

Q. Yes.

A. No, wrong.

Q. What did you get in cash in the Henkleman case?

A. I got twenty-five thousand.

Q. In cash?

A. Yes.

Q. And a note, is that right, for the other twenty-five?

A. The notes that we got on that, at that time, was covering twenty-five thousand.

Q. You only got the twenty-five thousand?

A. Don't recall getting anything but the twenty-five thousand, was other payments to get, but didn't get them.

Q. You got moneys from the Harris Syndicate, how much did you get from the Harris Syndicate?

A. I got twenty thousand and those lots.

Q. That was forty-five thousand dollars all together?

A. No, Henkleman's wasn't on that lot, that was another property.

Q. What did you do with the $20,000 that you got on this land from the Harris Syndicate?

A. Sixteen thousand of it we paid to the owner for the Doughty meadows, and the other was paid

in proper expenses, which I couldn't recall just now, just what it was.

Q. Did you give any of it to your son?

A. Only that way, he had no account at that time.

Q. Did you ever offer to sell any other property that was in the 1923 agreement?

A. Lots.

Q. Sell any?

A. A few.

Q. How much did you get for them?

A. Two properties, two lots we sold for twenty-five hundred, that was used up for engineering purposes on the property, one lot we sold for a thousand, that was to put in sidewalks, concrete sidewalks, cement sidewalks.

Q. Is that all?

A. No, I can't recall them all, no, one lot for a thousand dollars, another lot fifteen hundred dollars, another lot a thousand, house and lot four thousand, which was a mortgage taken back on most of these lots.

Q. Did any of this money that you got in from the properties that were involved in the 1923 agreement ever go to your son?

A. We never came to reach that, put right in the street, across the street, trying to fix up the street, and so forth, building the street, you understand.

Q. Now, Doctor, was there any of the larger properties that you offered to sell?

A. Was there any larger properties?

Q. Of the larger properties, yes, that you had?

A. We were willing to sell if anyone would buy them.

Q. Did you ever offer to sell either of the Atlantic City properties?

A. Yes, but never made any especial effort to sell.

Q. Never made any special effort to sell?

A. No.

Q. Did you ever agree to sell the LaBelle Inn, for instance, to anybody?

A. Yes.

Q. To whom?

A. Well, in the first place, we agreed to sell that to, the agents that were with Press, that is this Conway Syndicate, if it went through, and they were to give us $150,000 deposit, provided the—no, discount, or what do you call it——

The Court: Commission, do you mean?

A. Commission amounted to that much, if it amounted to more they would make it over in cash, or if less than that they must give us a mortgage for the difference.

Q. Was that agreement in writing?

A. That agreement was in writing.

Q. In that agreement did you disclose to these people that this property, that you had agreed to convey this property to your son?

A. No.

Q. I show you a copy, apparently an original that seems to be signed of that agreement, is that the agreement?

A. I think so. It looks like it.

Q. That is your signature there?

A. Yes.

Q. And that of your wife, isn't it?

A. The signature, yes.

Q. In this agreement, you agree to sell to one Stuffer and Toss the LaBelle Inn property for $150,000; that is right, isn't it?

A. Yes.

Q. That was to be paid for by taking the commissions due them, and then giving you back a mortgage for the balance of it, giving you a mortgage for the balance?

A. Yes.

Q. In that agreement nor to them personally did you disclose your son's interest in this property, did you?

Mr. Cole: Objected to. He said that at least twice.

Mr. Richards: I have added something to it, I have added, "to them personally."

(Question repeated.)

A. No.

(Agreement marked C10 for identification.)

Mr. Cole: It may go in evidence, so far as I am concerned.

(Agreement admitted in evidence and marked Exhibit C10.)

Q. By this agreement of 1923, you were going to strip yourself of all of your property, were you not?

A. Yes.

Q. You were at that time fifty-four years of age, were you not?

A. About; between fifty-four and fifty-five.

Q. Nearly, it would have required, taking your son at least six years to have performed his part of the contract, would it not?

A. Six or seven.

Q. So that you would have been at least sixty years old when it came to the performance of this contract?

A. About that.

Q. Now, then, Doctor, you said you were in ill health?

A. Yes.

Q. How did you propose at the age of sixty to make a living if this, if you gave your son all your property?

A. I expected to be able, if I was living at that time, to make it in the practice of medicine.

Q. You were ill then?

A. I was doing some work.

Q. And you said in answer to Judge Cole's question that you did not expect to be around here very long?

A. I did not.

Q. Then what provision were you making for your wife?

A. My wife was a party to the same contract.

Q. You had a daughter, too, hadn't you?

A. Yes.

Q. How old was she then?

A. She was about somewhere in the neighborhood of ten and a half or eleven years.

Q. What provision were you making for her?

A. I hadn't made any provision, no more than the other things that we had.

Q. On the 15th of March, 1929, you performed this agreement?

A. Yes.

Q. And so far as the record shows, all you had in the world on that day was the $100 your son gave you for these properties, is that right?

A. That was all the monetary value.

Q. And you had at that time no other property at all, had you, except what little money you might have had in bank and the equities?

A. When we transferred to the boy?

Q. Yes.

A. We had this other property of which we spoke.

Q. Which other property?

A. The tract of Kessler's we bought, tract of Riley, tract of Zippler.

Q. At that time you were in arrears on the interest on all three of those properties, weren't you?

A. What?

Q. I say at that time you were in arrears in the interest on all three of those properties?

A. I think not. We had paid up until we gave it up that way.

Q. Now, Mr. Zippler said yesterday that you owed him six months' interest.

A. That might be so, I don't recall.

Q. And you owed Mr. Kessler several hundred dollars interest?

A. No, I don't think I did because we had paid Mr. Kessler virtually all, I was under the impression we paid all but from, counting up his, when he made his statement yesterday, I figured $100 that we owed him at the time.

Q. That was all except that you also owed him the principal?

A. I mean interest.

Q. But you owed interest on the, you owed interest on the other mortgage, too, didn't you, the Riley mortgage, or whatever it is?

A. I had paid the Riley, Kessler held a mortgage of fifteen thousand, there was some probably due on that, I don't recall just what.

Q. At the time or prior to the time of this transfer, hadn't you offered the deed to the Zippler property back to the Zipplers if they would leave you off the bond?

A. Prior to that time? No.

Q. When did you make that offer to them?

A. Some time during the early summer or might have been in May or something like that, about the time that other mortgage was due.

Q. Which was within a month or two after you conveyed this property to your son?

A. Yes.

Q. Now, when did you make the same offer to Mr. Kessler?

A. It was some time in June, about two or three days before, that I recall, of course, what might have been conversation before, I don't remember,

but the only thing I recall two days in June, or two days, about two days before, what makes me remember it, two days before we stopped to see Mr. Kessler, and he said he would take $25,000 for the mortgage, and I asked him, I said, "We can't get it right away, will you give us thirty days?" and he said yes, and the next day we received notice of foreclosure, before the mortgage was actually due.

Q. You mean you got the notice?

A. That is why I remember it plainly.

Q. You remember you got a notice of foreclosure before the mortgage was due?

A. We got a notice that was dated before it was due, yes.

Q. Now, Doctor, when did you first propose to Mr. Kessler that you would deed the property back to him if he would leave you off the bond?

A. That is really the first that I remember at all, first I can recall ever speaking to him about it.

Q. That was, according to your recollection, in June of 1929?

A. Yes, a day or two before it was due, and I think it was due the 15th of June.

Q. In answer to Judge Cole's question, you said that this property in your opinion, the Kessler property, was worth a hundred thousand dollars at the time you made the transfer to your son. If it was worth a hundred thousand dollars and you only owed fifty on it, why did you offer to deed it back to Kessler for nothing?

A. To avoid the publicity of foreclosure.

Q. Didn't you make any attempt to realize on

your $50,000 equity? What attempt did you make to realize on your $50,000 equity?

A. There was no sale for property at that time, tried to sell it, of course.

Q. And you couldn't sell it?

A. Nobody wanted to buy.

Q. You couldn't sell it for a nickel over the amount of the mortgage, could you?

A. You couldn't sell it for a nickel at the present time, nobody wants to buy.

Q. Then nor now could you have sold it for one cent over the amount of the mortgage?

A. I will take that back, a nickel, probably might buy it for a nickel, but no one wants to buy it, have no money to buy it.

Q. That is, I say, over the amount of the mortgage, assume the mortgage?

A. Throwing the mortgage away, they wouldn't want to buy, got no money value for the property.

Q. It didn't have, so far as any salable value is concerned, any hundred thousand dollar value at all, did it?

A. The value was equal to what it was when I bought it, just the same.

Q. Please answer my question, Doctor, so far as the ability to raise money upon that property was concerned, it had no hundred thousand dollar value, had it?

A. No, I don't think it has.

Q. Had? I am talking about March 15th, 1929.

A. The value of it was equal, as I say, to the same amount which I gave at that time, and I say it would be worth that much, but no one having any money

wanted to buy anything, didn't invest anything in it, and I guess that wouldn't give the value of the thing or anything of the kind.

Q. So that on March 15th, 1929, the Kessler property had no salable value, is that right?

A. I wouldn't know how to answer that question exactly. Were no purchasers, and I suppose that would be no salable value, that couldn't be proved.

Q. At least it had no salable value over and above the mortgage, had it?

A. Perhaps not.

Q. Will you answer that yes or no, Doctor?

A. I can't. I don't know what the value was over and above the mortgage. There was no one buying at the time, that is the idea, but so far as the value it could be just the same at one time as the other.

Q. In the case of the Zippler mortgage, how much was the mortgage there, Doctor?

A. What is that?

Q. How much was the mortgage to Zippler?

A. Fifty thousand dollars.

Q. Over and above the amount of that mortgage, did the Zippler property have any salable value on March 15th, 1929?

A. I would have to answer the same way.

Q. Won't you please answer yes or no?

A. That I cannot answer by yes or no because when there is no purchasers there is no value, and the value of the property would be just the same whether a purchaser or not.

Q. You say that the fair market value of the Riley property was $50,000?

A. Yes.

Q. How much was the mortgage on the Riley property?

A. Fifteen thousand.

Q. Could you get for the Riley property any money in cash over the amount of the mortgage?

A. Same answer, that there was no purchasers, hence we couldn't tell.

Q. So that these fair values of which you testify are nothing more than what you think the property ought to be worth?

A. Ought to be worth as much as it was when I bought it.

Q. But the fact is that at the time that you made this transfer to your son, they had no value at all so far as being able to raise money on them was concerned?

A. No purchasers.

Q. And the mortgages in both the Zippler case and in the Kessler case were due or about to become due, weren't they?

A. Weren't due not until afterwards, no.

Q. They were about to become due?

A. They were about to become due, yes.

Q. And you knew that fact, didn't you?

A. Certainly.

Q. One was to become due in May and the other one in June, isn't that right?

A. Right.

Q. And you knew that you were liable upon the bonds, didn't you?

A. Yes.

Q. And that you would be responsible on a deficiency judgment on the bonds?

A. What?

Q. And that you would be responsible on a deficiency judgment on the bonds if these properties did not bring so much as the mortgages at the time of the sheriff's sale?

A. Yes.

Q. And you knew that on the 15th of March, 1929, when you made these conveyances to your son?

A. Yes, sir.

Q. At the time you made the 1923 agreements, what moneys did you owe?

A. 1923?

Q. Yes.

A. With Leslie Thomas Sooy?

Q. Yes.

A. I don't recall just what money I owed excepting the mortgages we spoke of.

Q. You were liable on the bonds on those mortgages?

A. Yes.

Q. Then how do you know whether at that time you were solvent or not?

A. I thought I was.

Q. You don't know as a matter of fact that you were, do you?

A. No one knows.

Q. Then in answer to Judge Cole's question, you said at that time you were solvent, I want to know whether or not you want to say as a matter of fact that you were solvent?

A. I was able to pay my bills as they came up.

Q. That is all you know about it?

A. And I considered I was solvent, yes.

Q. You hadn't any statement of your assets and liabilities from which you could conclude positively whether you were solvent or not, could you?

A. No.

Q. At the time that you made the transfer to your son on March 15th, 1929, you were not able to pay the moneys about to become due upon the bonds to Kessler and Zippler, were you?

A. No.

Q. And you knew that at that time?

A. Yes.

Q. Now, since you transferred these properties to your son, you have continued to manage the properties substantially as you did before, isn't that true?

A. Practically the same.

Q. The only difference being that you have taken a part of the income, at least, from these properties and deposited it in the bank account of your son in the Guarantee Trust Company, and then drew the checks upon that account and had them signed by your son, that is all he had to do with it, isn't it?

A. He has been helping around, he has been doing something, we have been helping each other in that way, but that I have had total charge of that.

Q. Who makes the deposits actually physically in the bank?

A. Most of the time I do. He has made some.

Q. That is, to his account?

A. To his account.

Q. You collect the moneys in the hotels or any other income?

A. Yes.

Q. Deposit it in his account?

A. Yes.

Q. You also draw all the checks?

A. I have drawn all the checks.

Q. He signs them either at the time, or checks in blank beforehand?

A. Yes.

Q. Since March, 1929, you have had no substantial bank account of your own, have you, Doctor?

A. No. I have had an account, but not very big.

Q. On March 16, 1929, it appears to have been $608.81, would you think that was about right?

A. I don't know. I can't say about that, if the bank made the statement it is correct.

Q. I show you a ledger sheet of the Guarantee Trust Company and ask you if that seems to be about correct.

A. If it is the Guarantee Trust Company made it, it is correct, without looking at it, that is all right, so far as I am concerned, I am satisfied to take it as correct.

Q. And it runs along during the year '29 and 1930, until it finally dwindled down to $10.10, is that about correct?

A. Somewhere near?

Q. Doctor, in addition to the six hundred odd dollars that you had in bank on or about the 15th of March, 1929, and the properties that you conveyed on that day to your son, what other property did you have?

A. I have stated that before, my wife and I together, a tract we bought of Riley, a tract we bought of Kessler, and tract we bought of Zippler.

Q. Which at that time had no salable value, that is correct?

A. No purchasers at that time.

Q. And you had a probable liability on those bonds of fifty thousand dollars in one case, fifty thousand in the Zippler case, and thirty-five thousand in the Riley case?

Mr. Cole: Objected to, the witness has said so at least once, and it is self-evident.

The Court: The last statement is incorrect, so far as there was no testimony as concerned I think fifteen thousand is what he said.

Mr. Richards: I guess that is right, fifteen thousand in the Riley case.

The Court: I will permit the question.

(Question repeated.)

A. Yes, purchase money mortgages.

Q. And these liabilities were about to mature and come due?

A. Yes.

By Mr. Cole:

Q. Doctor, this Stuffer agreement about which you have testified, did that carry on or did it fail?

A. I didn't get what that was?

Q. The Stuffer agreement that you have been shown?

A. That failed, was no sale.

(Recess taken until December 15th, 1930, at 9:30 o'clock A. M.)

Atlantic City, N. J., December 15, 1930.

(Trial of the cause resumed at 9:30 A. M.)

DR. WALTER C. SOOY, recalled.

Further direct examination.

By Mr. Cole:

Q. Did you ever tell Mr. Kessler that you would or were endeavoring to refinance these properties?
A. Never told him that I would, no.

LIDA H. SOOY, sworn.

Direct examination.

By Mr. Cole:

Q. Do you know whether there was an agreement entered into between you and your husband and your son concerning some real estate?
A. Yes.
Q. Where was that agreement made?
A. In the office, 1921 Pacific, the doctor's office.
Q. That is, you mean your husband's office?

A. Yes.

Q. Now, will you please state, and speak loud enough for his Honor to hear you, and the stenographer, will you state your present recollection of what that agreement was and how it came to be made?

A. Leslie, my son, had a rare voice, and he had been educated in music and wanted to go to New York. I didn't want him to go. He wanted him to enter a career in, have a career in music in New York. I didn't want him to go and I told him if he would stay with us and folllow after his father and graduate or be graduating from the Hahnemann College and practice medicine, I would be willing and would deed all the property I had to him when he became twenty-one and was graduating from medicine if he would stay with us and work in the hotels all that time until he did become a doctor.

Q. Did he work in the hotel?

A. Yes, he did.

Q. What was the character of the work he did?

A. Everything, anything.

Q. Did he go to the Hahnemann College?

A. Yes.

Q. When did he enter?

A. The year after he graduated from High School, I think it was '23.

Q. When did he graduate?

A. In 1929, wasn't it? Yes, I thing it was.

Q. Was he in the college continuously during the college term from the time he began until he ended?

A. Yes.

Q. Why didn't you want him to pursue his musical career?

A. I was afraid of it.

Q. What?

A. I was afraid for him to go to New York.

Cross-examination.

By Mr. Richards:

Q. Your son had been a choir boy in the Ascension choir?

A. Yes.

Q. And I presume like most boys had a soprano voice?

A. Yes.

Q. Was his voice changing at this time?

A. It didn't matter with his singing, but he went right——

Q. Please answer my question, was it changing?

A. I never noticed any difference?

Q. Hadn't changed any?

A. Not musically.

Q. Had his voice changed? Was it still a soprano voice at this time?

A. He sang right through.

Q. Will you answer my question, Mrs. Sooy? I asked you if his voice had changed or was it still a soprano voice?

A. It was still a soprano voice.

Q. At the time you made this?

A. Yes.

Q. At the time you made this agreement?

A. Yes.

Q. Did you know how much property you and your husband had?

A. Yes.

Q. You did?

A. Yes.

Q. Did you know what the value of it was then?

A. Yes.

Q. How much was the value of it?

A. Well, as I knew, it was just the fields and at that time it didn't have so much value, in '23.

Q. What about the hotels?

A. Well, they were not so much at that time, they were something.

Q. How long had you owned the LaBelle Inn?

A. I don't remember.

Q. About how long?

A. We owned it long before that. I can't give you the date here.

Q. Owned it a good many years, hadn't you?

A. Yes.

Q. You had run it a good many years, hadn't you?

A. Yes.

Q. You yourself did practically the work in running that hotel, didn't you?

A. I was around there.

Q. Didn't you do the work?

A. I worked.

Q. Now, with regard to the hotel on Pacific Avenue, how long did you own that?

A. Well, we have owned it a long while, we built it. We built that house soon after we were married.

Q. Had you owned it for at least twenty years prior to the time of this agreement?

A. Yes—well, about that time. I can't tell just when we did now, I know all about it; the dates, I can't remember dates.

Q. I am not trying to confuse you anything concerning this, just trying to get some idea.

A. We owned it a long while, Leslie was born there.

Q. Then you certainly owned it at least twenty years?

A. Yes.

Q. You ran that hotel, too, didn't you?

A. I worked with it, yes.

Q. As a matter of fact, the doctor had his practice, and you looked after the hotels?

A. I tried to, yes.

Q. And you were looking after them at the time that this agreement was made in 1923?

A. Yes.

Q. Did you have any idea as to the value of these hotels at that time?

A. I suppose I did. I don't know now. I didn't think anything about the value of it. They could have been worth twenty times what they were and I would have made this agreement if he had stayed from New York.

Q. Well, was that the only way you thought you could keep your son from going to New York?

A. Yes, that is——

Q. Who suggested the idea that you and your husband give him all of your property?

A. I did.

Q. Did you suggest that you deed him all your property when he became twenty-one or when he graduated from medical school or was the suggestion that your husband will give him all his property?

A. No, give it to him.

Q. Nothing ever suggested about a will?

A. No.

Q. What was to become of you and your husband?

A. I never thought of that. My only thought was one thing.

Q. Of course you knew that your husband and yourself had a legal right to keep this sixteen-year-old boy at home, didn't you?

A. Yes, but they don't always stay if they don't want to.

Q. How did you suppose he was going to get along and pursue a musical career in New York at the age of sixteen?

A. I didn't know.

Q. Didn't consider that, either?

A. I didn't want him to go, that is all, just he must not go.

Q. Did you think it was necessary to strip yourself of every dollar you had in the world to keep him in Atlantic City?

A. I didn't consider that.

Q. Did you consider what was going to happen to the people you owed money to?

A. Everybody always got their money.

Q. How were they going to get it if you gave all your property away?

A. I don't know that I owed any money at that time. It has never bothered us.

Q. So that, so far as you were concerned, you never thought of yourselves or of any person to whom you might have any responsibility, you just made this agreement regardless of that?

A. Yes, I knew that I would always be taken care of, he wouldn't let me go to the poorhouse.

Q. How did you know that?

A. I knew he wouldn't let me never go to the poorhouse.

Q. If he was willing to disregard your wishes concerning the kind of education he should get, what made you believe that he would be any more pliant when it came to taking care of you?

A. I knew he would take care of me.

Q. Then if you knew that, didn't you equally as well know that you didn't have to give him all your property to keep him at home?

A. Well, that was just my offer. I would have given more if I had it.

Q. After all, it was your husband's as well, wasn't it?

A. Yes.

Q. You folks had worked hard for this money, hadn't you, running these two hotels for twenty years or more?

A. It isn't hard work.

Q. Well, you hadn't done very much yourself outside of raise your family and run these hotels for the twenty years prior to this time, had you?

A. No.

Q. Now, when it came to carry out your agree-

ment, you not only gave your son the real estate, but you gave him all your personal property, too, didn't you?

A. I don't know as I had very much personal property, only the furniture and things that all went with it.

Q. The furniture in the hotels?

A. He was to follow after Doctor, Doctor wasn't well, he was to take his place in life.

Q. And, therefore, you turned over all your personal property as well?

A. He was to follow after Doctor, Doctor wasn't well, he was to take his place in life.

Q. The Doctor wasn't so ill in 1927, was he?

A. I don't just remember about that, he was ill at that time.

Q. He was ill in 1923 when you made this arrangement?

A. Yes.

Q. But he was all right in 1927, when you carried it out, wasn't he—1929,—I mean?

A. He was better, I don't know as he has ever been well since that time.

Q. Now, Mrs. Sooy, you executed the bonds in the Kessler mortgage, did you not?

A. Yes.

Q. And also in the Zippler mortgage case?

A. Yes.

Q. And I don't know, did you in the Riley case?

A. No.

Q. Now, at the time that you executed the bonds and the mortgages in these two cases, you knew that you were intending to dispose of all of your prop-

erty with the exception of these three pieces of real estate, didn't you?

A. I suppose that was the way of it. I didn't give it any thought at that time.

Q. Did you ever tell Mr. Kessler or Mr. Zippler or Mrs. Zippler that you had this agreement with your son whereby you were going to strip yourself of all your property?

A. No.

Q. Now, when the mortgage interest came due in 1929, you were not able to pay it all at once, were you?

A. No.

Q. At that time did you tell either Kessler or the Zipplers about this agreement you had with your son?

A. I don't recall that.

Q. After the mortgages became due did you tell them anything about it?

A. Not that I remember.

Q. First they heard of this agreement, I presume, was when they read the answer to the bill in this case?

Mr. Cole: I object.

The Court: Sustain the objection.

Q. Did you ever tell Mr. Kessler anything about this arrangement?

A. Not that I remember.

Q. Do you know when you last paid interest on the mortgage to Mr. Kessler?

A. The Doctor always paid that, I hadn't any—I don't remember when he paid it.

Q. Now, Mrs. Sooy, did you know the state of your financial affairs on or about March 15th, 1929?

A. March 15th? Things were a little slow at that time, I remember, in real estate.

Q. That was the date upon which you transferred to your son all of your properties that you then had with the exception of the Kessler, the Zippler and the Riley properties?

A. That was another agreement, had nothing to do with the first agreement.

Q. What I am asking you is this, if you knew the state of your finances at that time?

A. I knew then that way what was in our agreement, another was another agreement.

Q. Now, you knew that the $50,000 mortgage of Mr. Kessler's was about to come due, didn't you?

A. I think it was.

Q. Did you have the $50,000 with which to pay him?

A. In the land that I held I did.

Q. Did you have it in money?

A. No, I had it in land.

Q. What land?

A. Land I was holding.

Q. What land were you holding?

A. I was holding one piece I paid one hundred thousand for.

Q. What land was it?

A. That was a meadow, and I paid Mr. Kessler one hundred thousand dollars for that, I paid him fifty thousand—and all the expenses up to that date,

I held that, I wouldn't let anybody get his land, and I held a plot I paid fifty thousand on, and I had already paid thirty-five thousand on it, I paid expenses, I held that, I wouldn't let anyone get it. I held all that I bought of Mr. Zippler, I paid $77,500 for it, which I had paid, I think, $27,500, I held all of that. I wouldn't let anyone get it. It was their land.

Q. Did you have a chance to sell it?

A. I had, that is, they were talking about it.

Q. Now, around the 15th of March, 1929, had you any chances to sell it?

A. I was talking with a party, Mrs. Myers wanted it for an airport, she wanted about eight times——

Q. Why didn't you sell it then so you could pay Mr. Zippler?

A. Mrs. Zippler told me to go on and hold, and I understood Mr. Kessler was going to let me hold until things came up and we could sell for this, but I didn't know—she was considering too buying it for her party for three thousand five hundred per acre, now this Mrs. Myers is from Elmwood, and that was the price she was considering, she didn't think it was too much, she didn't bring her party to——

Q. That was March 15, 1929?

A. It was just that time, yes, after Mr. Zippler and I understood Mr. Kessler was going to let me hold on, to go ahead and sell it, until I heard the price from the Aviation Club.

Q. That was all of the property you had, then, was the Zippler and the Kessler property and the Riley?

A. And the Riley property.

Q. And with these mortgages coming due, you had no ready cash with which to pay them, had you?

A. I expected to sell for the airport.

Q. Will you please answer my question, Mrs. Sooy? Did you have any ready cash with which to meet these mortgages?

A. No, but I felt I had the value of them.

Q. Please answer my questions. The answer is no, is that right? You hadn't?

A. I hadn't the money.

Q. You didn't even have the money to pay the interest that was then due, did you?

A. I thought Mr. Kessler was to go——

Q. You can answer that yes or no.

A. The interest was paid to Mr. Kessler, as I thought, until he counted it up the other day, there is $100 short.

Q. You hadn't paid the last six months to Zipplers at all, had you?

A. It wasn't due until three months after.

Q. You hadn't paid the last six months' interest, had you?

A. It was only three, the 15th of March, that was due Mr. Zippler, it wasn't due until three months after.

Q. Had you paid the November interest?

A. As I recall it now everything was paid up until in May to Mr. Zippler, as I recall it. I may be wrong.

Q. There seems to be some disagreement between you and Mr. Zippler about that, it may be just an error in your memory.

A. That is the way I recall it here, I thought he was paid up until in May, this was in March.

Q. Apparently you had about $600 in bank at this time, would you have any other money or any other property at all?

A. Not unless I had thought of selling for this airport, but I didn't know when it would go through.

Q. Did you know at that time how much the La-Belle Inn and the Pacific Avenue Hotel were worth?

A. No, I didn't know, the way values were going in real estate I don't think anybody else knew.

Q. Now——

A. There is no purchasers.

Q. Getting back to your son, who told you that he had an extraordinary voice or voice that was worth singing enough to have cultivated?

Mr. Cole: In the first place, she didn't say he had an extraordinary voice.

Mr. Richards: Had a beautiful voice, I think.

Mr. Cole: I don't think she said that.

Q. That was the words she used, who told you had had a beautiful voice?

A. I heard him sing.

Q. So it was just your own judgment, is that correct?

A. Well, I can't recall just now.

Q. You knew nothing yourself of music or of the value of a voice, did you?

A. A little.

Q. Where did you get your education, your musical education?

A. I didn't have mch. I used to be an organist in a church, but it didn't amount to much, I did all I could.

Q. Now, Mrs. Sooy, that is your only knowledge, then, of what you were giving up in exchange for having for what your son was giving up was your idea of his voice, is that right?

A. He was giving up going to New York, whether he could sing or whether he couldn't, I didn't want him to go to New York.

Q. Who had been his music teacher at that time?

A. Mrs. Arleth.

Q. Is she still alive?

A. I suppose so, I hope so.

Q. Living here in Atlantic City, is she?

A. Yes, her studio is here or was last I heard, you know, Mrs. Arleth. Don't you know Mrs. Arleth?

Q. Quite well, yes.

A. It is her.

Q. She is still teaching music here?

A. I suppose she is.

Q. The choir director under which your son was singing was Mr. A. E. Wheaton?

A. Yes.

Q. Of the Ascension Church?

A. Yes.

Q. He is still the choir director there, isn't he?

A. Yes.

Q. And living here in Atlantic City?

A. Yes.

Q. Did you talk to him about coming here and testifying for you in this case?

A. No, I have a little note he sent to the house, if you care to read it, that he possessed a rare voice——

Q. No, I don't care.

A. —in this, I have it with me if you wish.

The Court: Just answer the question.

By Mr. Cole:

Q. Mrs. Sooy, as I recall, the question to you was whether you had been told by anybody that your son had either an extraordinary voice or beautiful voice, whatever the word may have been. Were you told by anybody that your son did have a musical quality voice?

A. In this writing I have, and then others what heard him sing said he had a rare voice.

Q. Did your son ever tell you what Mr. Wheaton had said about his voice?

A. Yes.

Q. What did your son tell you that Mr. Wheaton had told him?

Mr. Richards: I object to that.

The Court: Sustain the objection.

MRS. ALMA KYTE, sworn.

Direct examination.

By Mr. Cole:

Q. Where do you live?

A. In Absecon.

Q. Do you know Dr. Walter C. Sooy and his wife and the son?

A. Yes.

Q. Are you related in any way?

A. Yes.

Q. How?

A. Dr. Walter C. Sooy is an uncle, he is my uncle, rather.

Q. Where were you living in 1923?

A. On Morris Avenue, this city.

Q. Atlantic City?

A. Yes.

Q. Did you visit during that year the home of Dr. and Mrs. Sooy?

A. Yes, often.

Q. Where were they living at that time?

A. 1921 Pacific.

Q. Atlantic City?

A. Yes.

Q. Did you hear talk among them concerning an agreement?

A. Yes, I did.

Q. Now, will you—by the way, who were present according to your recollection now?

A. Dr. Walter C. Sooy, my aunt, Mrs. Sooy, and son Leslie. There may have been others, but I don't recall.

Q. Will you tell us, please, what you heard between them about an agreement?

A. Yes, his mother and father wanted him to change his musical career for that of medicine and also work in the hotels when he would not be studying, and when he would be twenty-one and graduating from Hahnemann Medical College, they would convey their property to him.

Q. Do you know how that talk came about? What was it introduced the subject, if you can recall?

A. Well, because he wanted to go away to New York and study and they didn't want him to go.

Q. Did you hear him say that?

A. Yes.

Q. You heard him tell his father and mother that?

A. Yes.

Q. Was it during that same talk that this agreement you say was made?

A. Yes.

Cross-examination.

By Mr. Richards:

Q. When was this agreement?

A. February the 14th, 1923.

Q. How do you know it was the 14th of February, 1923?

A. Well, it was Valentine's Day and my aunt, Mrs. Sooy, said, "This is my valentine."

Q. Was this in the daytime or in the evening?
A. In the afternoon.
Q. What were you doing there?
A. Not anything particular. I just happened in.
Q. Where did the conversation take place?
A. In Dr. Walter C. Sooy's office at 21 Pacific.
Q. Were there any patients present?
A. What was that?
Q. Were there any patients present?
A. Not that I recall.
Q. Why can't you recall who else was present?
A. I don't recall that there was. I don't know if there was anyone else.
Q. Well, you say there may have been. Don't you know if there was anybody else present?
A. No.
Q. Did you ever have occasion to recall this conversation again until now?
A. No, not exactly.
Q. Between 1923 and the time of this trial, did you ever talk over this agreement or what you recalled of it with anybody?
A. None particular.
Q. I don't care whether you did in particular or not, did you at all?
A. I may have. I don't remember exactly.
Q. Do you recall any time between those dates when you discussed this agreement with anybody?
A. No.
Q. You are married?
A. Yes.
Q. Were you married in 1923?
A. Yes.

Q. Did you tell your husband about this agreement?

A. I suppose I have.

Q. No, did you?

A. Yes.

Q. When?

A. Oh, I couldn't tell you just exactly when.

Q. Can't recall that?

A. No.

Q. Why are you positive it was 1923?

A. Because he was sixteen years old, that is, Dr. Leslie was, and it was his last year in High School.

Q. That is the way you fix it?

A. Yes.

Q. You are quite sure it could not have been any other February 14th?

A. I am quite sure.

Q. Nor any other day?

A. Than the 14th, it was the 14th, I don't know just what day of the week it was, I couldn't say that.

Q. Now, who did the talking on that occasion?

A. Mrs. Sooy and Dr. Sooy, Dr. Walter Sooy.

Q. What brought up the conversation?

A. I don't recall exactly.

Q. Were you present during all of the time that Dr. Sooy and Mrs. Sooy and their son were in the room?

A. I was present to all of the agreement.

Q. Were you present during all of the time that Dr. Sooy and Mrs. Sooy and their son were in the room?

A. When they made this agreement.

(Question repeated.)

A. That answers that as far as I know.

Mr. Richards: Will your Honor ask the witness to answer the question?

The Court: No, I think the question has been answered.

Mr. Richards: If your Honor please, it doesn't seem to me it has been answered at all.

The Court: It can't be conceived that this woman was in the office at all times these three people had been in there or were there. The question is not limited to any time.

Mr. Richards: If it please the Court, I mean on this 14th of February were you present during all of the conversation between Dr. Sooy, Mrs. Sooy and their son Walter——

A. I was after the agreement, I don't know how much more they had.

(Question repeated.)

A. I wasn't there the whole day, no. I was only there a little while in the afternoon.

Q. What time did you get there in the afternoon?

A. I couldn't say just what time, but it was late in the afternoon.

Q. When you got there where did you go, directly into this office?

A. Into the reception room.

Q. Who was there at that time?

A. My aunt, Mrs. Sooy, and Dr. Walter C. Sooy, and Dr. Leslie, which it is now.

Q. And they were present when you arrived?

A. I think Dr. Leslie came in afterwards.

Q. Were they all there when you left?

A. Yes.

Q. How long did you stay?

A. Not very long. I couldn't tell you because I didn't have any watch.

Q. Do you think it was ten or fifteen minutes or an hour?

A. Oh, it might have been an hour.

Q. During all that time that you were there, was Dr. Sooy, Mrs. Sooy and the son Leslie there?

A. He came in after I came in.

Q. Who came in after you arrived?

A. The boy did.

Q. And stayed until you left?

A. Yes.

Q. You say this was in the late afternoon, how late?

A. I should judge around four or five, between four and five.

Q. Who started the conversation?

A. Oh, I couldn't recall that.

Q. Did Leslie say something to provoke this conversation?

A. Not that I recall.

Q. Did he demand that his father and mother give him this property if he stayed in Atlantic City?

A. Not as far as I know.

Q. Did he make any statement at all concerning his intention?

A. That he wanted to go to New York.

Q. What did he say about New York?

A. That he preferred a musical career and they wished him to take this other career of medicine.

Q. I know, but can't you tell us how he started the conversation?

A. No, I can't.

Q. You don't remember that?

A. No.

Q. Don't you remember what he said?

A. Not the exact words, no.

Q. Did he open the conversation?

A. I said I couldn't remember who did open the conversation.

Q. During the conversation, after it was opened, did he make any demand on his father and mother?

A. No.

Q. He simply said that he preferred to go to New York and study music?

A. And then he accepted their agreement.

Q. Wait a minute, one thing at a time. You answer my questions, please, madam. I ask that be stricken.

The Court: Let that be stricken.

(Question repeated.)

Q. Is that right?
A. That was one of the things he said.
Q. What else did he say?
A. I don't recall.
Q. That is all that you recall he said?
A. Yes.
Q. Now after he made that statement, who spoke next?
A. I don't recall who spoke next.
Q. Dr. Sooy or Mrs. Sooy?
A. I don't recall.
Q. What part did the doctor take in the conversation?
A. I don't know any more than — I couldn't say.
Q. You don't recall?
A. No, I knew that the agreement was made, that is all I know. I can't remember who made the agreement.
Q. Who proposed of the two, Doctor or Mrs. Sooy, who proposed giving their property to their son if he did not go to New York?
A. Well, I guess it was the mother that proposed it first.
Q. Well, you say you guess so; can't you recall?
A. That is the best that I can remember, it was his mother, I remember hearing her speak of it first.
Q. After she made this proposition. did he soon accept it?
A. He accepted it that day.
Q. What, if anything, did Dr. Sooy say?
A. He agreed to the same thing that Mrs. Sooy did.
Q. What did he say?

A. To the same thing, that he would transfer all of his property to his son at the age of twenty-one when he would be graduating from Hahnemann Medical College.

Q. He said all of that, did he?

A. Yes.

Q. Just as you have told it to us?

A. As near as I can remember, I wouldn't say they were his exact words.

Q. Can you recall the exact words he used or even how he used the words?

A. I couldn't give you the exact words, no, they are my words.

Q. Did he say, "Leslie, I will give you all my property when you graduate from the Hahnemann College, if you will stay here," is that what he said?

A. I wouldn't say he said it that way.

Q. Did he repeat what his wife had said?

A. I don't recall.

Q. Did he say anything at all that you can recall?

A. Just what I have told you.

Q. Will you tell that again?

A. That at the age of twenty-one, when he would be graduating from Hahnemann Medical College, that they would convey their property to him if he would work in the hotels when he would not be studying, and give up his musical career for that of medicine.

Q. Dr. Sooy said all of that?

A. Yes.

Q. That is your statement now?

A. Yes, that is my words of what he said. I can't give you his exact words.

Q. But there was a conversation like that that came out of Dr. Sooy's mouth?

A. Yes, and also Mrs. Sooy.

Q. She said substantially the same thing?

A. She means the same thing, might not be her words.

Q. This suggestion came from Mrs. Sooy first?

A. I think it did.

Q. Then after she made this suggestion who spoke next?

A. I said I couldn't recall.

Q. Did Leslie accept it or did his father speak next?

A. I can't recall.

Q. After his father did speak, did Leslie then assent to this arrangement?

A. I suppose he did. I don't remember that.

Q. You don't recall that?

A. No. I don't recall just the term they spoke, that would be a hard thing to remember.

Q. At any time during the making of this agreement, did Leslie threaten to leave home?

A. I couldn't say. I don't know.

Q. You don't remember?

A. I don't know.

Q. Don't you think you would have remembered that if it occurred?

Mr. Cole: Objected to.

The Court: Sustain the objection.

Q. You have no recollection of him saying any-

thing except that he preferred to go to New York and study music?

A. That is all.

Q. That is all you can remember he said on that occasion?

A. That he would accept the agreement then.

Q. Provided they gave him all their property?

A. He didn't ask them to give him no property.

Q. He never asked for that at all?

A. No.

Q. That was a voluntary suggestion on their part?

A. Yes.

Q. He made no demands whatever?

A. Not as far as I know.

Mr. Cole: She said that three times.

The Court: Yes.

Mr. Richards: This is cross-examination.

The Court: Sustain the objection.

Q. You can remember no conversation whatever except his one remark, his acceptance, is that right?

A. That is all.

Q. What words did he use in accepting it?

A. That I can't recall.

Q. Were you present at any other time after this date when Mr. and Mrs. Sooy and their son were also present?

A. Oh, yes.

Mr. Cole: I object to that, being quite indefinite. My examination was directed to this event.

The Court: I will permit it.

Q. Did you ever hear this agreement referred to on any of those occasions?

A. I don't recall.

Q. So that between the 14th of February, 1923, and the time of this case this year, you do not recall ever having heard of this agreement again?

A. I can't recall anything particular that I could answer any questions on.

Q. Did you know that Mr. and Mrs. Sooy transferred their properties to their son?

A. I have heard some talk of it, yes.

Q. When did you hear that talk?

A. I don't know exactly.

Q. You have been in the hotels frequently since March 15th, haven't you?

A. Often, I go two or three times a week.

Q. Mr. and Mrs. Sooy are still there in the hotels?

A. Yes.

Q. Still managing the hotels?

A. Yes.

Q. That is all.

By Mr. Cole:

Q. When were you married?

A. 1916, September 22nd.

Q. Was it after you were married that you heard this talk among these people?

A. Oh, yes.

Q. About how long would you think it was after your marriage that you heard the talk?

A. Well, I was married in 1916 and this took place in 1923. He was only a small boy when I was married.

Q. Where were you married?

A. At my home on 6 South Oxford Avenue, Ventnor.

Q. Ventnor?

A. With my brother, Mr. Curtis T. Risley.

DEFENDANTS REST.

HARRY G. SOMERS, recalled.

Direct examination.

By Mr. Richards:

Q. Have you the records of the Guarantee Trust Company showing the note transactions of Dr. Walter C. Sooy?

A. What year?

Q. For the years 1929 and 1930?

A. 1929 and 1930, yes.

Q. Prior to March 15th, 1929, what notes did Dr. Sooy have discounted at your bank, or what notes had you purchased of his?

A. I haven't got the record previous to 1929.

Q. I said prior to March the 15th, 1929, just prior to that?

A. Just prior to March the 15th, I haven't any record prior to March 15th, complete records. This is only partial.

Q. On this page here, is this a list of the notes?

A. 1927.

Q. In 1927?

A. Yes.

Q. What notes did Dr. Sooy have there in the bank in 1926 and 1927?

A. I can't give you, I haven't got the records.

Q. You have got 1926 here?

A. Yes, but I don't know whether this is complete or not, see.

Q. You were subpoenaed to bring the records of these note transactions here?

A. Of 1929. I have 1929.

Q. All right, then, give us what you have got here now.

A. I can give you the notes as of March 15th, 1929.

Q. Give us that, then.

A. Note of fifteen thousand.

The Court: When did that become due?

A. That came due on March the 19th, 1929. Note of fifty-five hundred, due April the 15th, 1929. Note of five thousand, due May the 28th, 1929, and note of five thousand, due June 18th, 1929.

Q. Now what was done about those notes?

A. They were renewed as they fell due and payments made.

Q. What payments were made?

A. On August 15th, 1929, there was a payment of five hundred. You want a list of all the payments?

Q. Yes.

The Court: Couldn't we understand it better if each note was taken and followed through its course?

A. I haven't got those records with me because we have lumped the notes.

Q. Have you got the full payment of the note of that date?

A. That is interest, you see.

Q. I understand that.

A. That is the payment on the principal.

Q. How much interest was there?

A. I haven't got the record of the interest.

Q. Mr. Somers, we subpoenaed all of those records. I hate to hold up this trial, but I want to trace these notes through.

A. I will have to go back and get the complete record then.

(Witness withdrawn.)

ALFRED J. KURTZ, recalled.

Direct examination.

By Mr. Richards:

Q. Mr. Kurtz, are you familiar with the property sold by Mr. Zippler and Mrs. Zippler to Dr. and Mrs. Sooy?

A. Yes, sir.

Q. What is that property?

A. Well, it runs along the New York Road beginning at the, above Mr. Kessler's property about 75 or 100 feet, and runs north to proposed right of way through Mr. Zippler's large field that runs to the meadow bottom, and joins on some land of Mr. Kessler's in the rear. The exact amount of acreage I don't know, on the opposite side, and then it also extends on the opposite side, with a large farm house, which would be the west side of the road, and runs back a considerable distance there, I don't just know the exact acreage, with some meadow land adjoining the upland.

Q. It is a farm, isn't it?

A. Yes, sir.

Q. Consisting of upland wood land and meadow land?

A. Yes, sir. Mostly cleared.

Q. What would you say that farm was worth on or about March 15th, 1929?

Mr. Cole: Please your Honor, I may be wrong, but I thought this witness on his direct examination

went into all this, and I don't see that it is rebuttal in any case. I don't see what it rebuts.

The Court: Yes, I will permit it. Some testimony concerning the valuation of the property, the title of which was retained in Dr. and Mrs. Sooy at the time of this conveyance. I will permit it.

Mr. Cole: I thought this witness had been examined about that.

The Court: Not about the Kessler, as I recall it, Kessler, Zippler and the Riley property.

Mr. Richards: No examination about any one of those three, because they were not in these conveyances.

The Court: That is my recollection. You may answer the question.

(Question repeated.)

A. Well, I feel sure that $500 an acre I could have got for it, and I feel that that was a fair price because the airport deal was right near that time that I was working on it.

Q. Do you know approximately what the acreage was?

A. No, I couldn't tell you that, quite a large piece, about sixty acres, I should say, in the one lower field there.

Q. Was it worth in excess of fifty thousand dollars?

Mr. Cole: That I object to.

The Court: Sustain the objection.

Q. How about the Zippler property, are you familiar with that?

A. That is what I am talking about.

Q. I mean the Kessler property?

A. Yes, sir.

Q. Familiar with the Kessler property?

A. Yes, sir.

Q. What is the character of that property?

A. Well, that property is a piece which was subdivided and mapped out and ran rear of Mr. Kessler's house to the meadow bottom, and it has about eighteen or twenty acres, I just don't know the frontage on Kessler Avenue, but I should say around 500 foot or 600 foot.

Q. About how much is that worth or was it worth, I mean, March 15th, 1929?

A. Well, about $250 an acre would have been a fair price.

Q. Do you know the Riley piece?

A. Well, I don't know it by that name, if you could give me another name to it. They are old names. I am well acquainted with all that property in that locality, but not under some of the old names.

Cross-examination.

By Mr. Cole:

Q. You fix the value as of March, 1929, do you?

A. Yes, sir.

Q. Was it worth more prior to that?

A. According to boom prices, yes, sir.

Q. What do you mean by boom prices?

A. Well, as I testified, that people were going wild in their ideas of the value of Absecon property, and during the years 1925 and 1926, why, it was very hard to say just what a fellow would offer you for anything there.

Q. Now, Mr. Kessler sold his property to the Sooys in 1926 for $100,000. Was it worth that at that time?

A. I wouldn't have paid that, and I would say no.

Q. I didn't ask you that.

A. I would say no.

Q. How much was it worth in 1926, in March?

A. Well, $25,000 would have been my limit in the possibilities of resale.

Q. Of this property?

A. That is the part of the acreage in the rear.

Q. The part that he sold to Sooy?

A. The part that he sold Sooy, but not the meadow land, he sold Mr. Sooy two pieces.

Q. You know both pieces, don't you?

A. I do.

Q. Well, he agreed to pay $100,000, as I remember, for both pieces. Now my question is whether it was worth $100,000 for both pieces in 1926.

A. I don't think so.

Q. You think it was all worth $25,000, the whole thing?

A. Yes, sir, if I were buying it.

Q. What do you think it is worth in March, 1929, was worth?

A. About two hundred and fifty an acre, I should say.

Q. You have given us the total in 1926, give us the total in 1929.

A. Well, we will multiply 18 acres by 250 and that will give it to you. I can't just do that.

Q. You don't think there is much difference between the value of 1926 and value of 1929, do you?

A. Yes.

Q. Higher or lower?

A. It was lower in 1929.

Q. How much lower?

A. I should say around eighteen or twenty thousand dollars.

Q. Worth less by that much, you mean?

A. Yes, that is, under those market conditions.

Q. What happened to cause the value to decrease between 1926 and 1929?

A. The lack of demand.

Q. Is that all?

A. That is all that I could say.

Q. Nothing else happened during that period, was there, to decrease value?

A. No, only a matter of depression, that is all.

Q. And did that apply as well to the Zippler property?

A. That applies to all property, yes, sir.

Q. All about which you have testified?

A. Yes, sir.

By Mr. Richards:

Q. In 1926, the early part of 1926, this boom was still on?

A. Yes, sir.

Q. Was the properties that Dr. Sooy bought, the Kessler and Zippler properties, immediately offered for resale, do you know?

A. What properties, repeat that?

Q. The Zippler and Kessler properties that Dr. Sooy bought, do you know whether they were offered for resale?

A. Well, they were offered for resale, but just how soon I don't know, to the Bertram Harris Corporation.

Q. They were put together as part of a larger piece of property that was to be developed as a real estate development, were they not?

A. Exactly, yes, sir.

Q. And were associated with other lands that Dr. Sooy owned?

A. Yes, sir.

Q. And the whole tract was then either offered to or actually sold to the Harris Syndicate?

A. Exactly. I was the buyer for them, the first time, not on this property, but on the Harris Syndicate on other property before they came into Absecon.

Q. Do you know how much the Harris Syndicate agreed to pay Dr. Sooy for the whole of the tract?

A. I believe the exact amount was $3333.33 an acre.

Q. And that included the Kessler and the Zippler lands?

A. Yes, sir, my understanding it did

Q. How soon was that agreement made after the purchase?

A. That I don't know.
Q. Was it in the same year?
A. Yes, I would say that it was.
Q. In the year 1926?
A. Yes, sir.

By Mr. Cole:

Q. Tell us, please, your personal knowledge about the proposed sale by Dr. Sooy and his wife of the Zippler and Kessler properties.

A. Well, Mr. Andrew Henry, he came to my house in Absecon at the time that I was on the property committee of the city, and asked me to represent Mr. Burt Harris and the syndicate of men in the purchase of land for the so-called Normandy Shores, and they sent me, taking for a beginning point above the Sea View Golf Club, to purchase all lands between the Brigantine right of way and the Sea View Golf Club, and I purchased under agreement five pieces. I dealt with this syndicate for about four months and I found that they could not live up to what they had really promised to do from a financial standpoint, in discussing it over with the Board of the bank, I was advised to drop out.

Mr. Richards: I object. I ask the last be stricken out.

The Court: Yes.

Mr. Cole: He testified as though he had per-

sonal knkowledge, and I am trying to find out just how much personal knowledge he had.

A. That led to my leaving the purchasing side of the real estate for this syndicate absolutely out, and I didn't go any further. Shortly after that Mr. Henry came to my house again, and then he started to ask me a few questions about various land in and around Absecon, although I had learned that they were negotiating to purchase the lands of Dr. Sooy. Well, I asked Mr. Henry a few questions because I had felt that I had not gotten just the deal that I should, and in talking back and forth he went into detail on the various tracts of land which they intended to purchase to make up this large development, or the so-called Normandy Shores of which Dr. Sooy possessed the largest portion of the lands, that included all the meadow lands from Shooting Point in and various pieces along Absecon Creek, and the properties where the old homestead stands, and he also stated that Dr. Sooy was going to, in my opinion, act as an agent for them, and he was going to go out and buy up all this land to finish up this big development, and then sell it back to them at a certain figure. Now, of course, my information from Mr. Henry's testimony to me or to his conversation to me was that the portion that he would receive between his purchase price and the sale price was up to Dr. Sooy, but he was to keep and it was up to the delivery of these lands which made up the so-called map of which I finally had the chance to go over before it was approved to be subdivided into lots and blocks, due to the fact that

I was then in City Council, and all maps had to come up before the Property Committee, and the largest portions of this land in the City of Absecon, naturally I was interested. The price then of $3333.33 an acre was given to me by this young man Henry, who I did know was very well acquainted and did a great bit, made a lot of deals for this man, Burt Harris. I asked him at the time whether they were going to pay me for my services on that Normandy Shores, but, of course, he couldn't answer that, and from then on it was repeated rumors of the fabulous prices that this land had been purchased at, and what it was being sold at and what they anticipated the figures would stagger any human being, and, of course, that is far as I know of the deal.

Q. That is all you know?

A. That is all.

Q. Just what somebody told you?

A. Just what Mr. Henry told me.

Q. What was this development to be that you heard about?

A. It was to be a residential development, the grounds were high priced, well laid out, it passed the opinion and the approval of the engineer of the city and the Councilman when the map was laid out.

Q. Did Mr. Herman tell you that?

A. Mr. who?

Q. Herman, you said?

A. No, Mr. Andrew Henry.

Q. Did Mr. Henry tell you that Dr. Sooy entered into an agreement to sell his acreage at $3333 an acre?

A. He did.

Q. And that would have made the price over a million dollars, wouldn't it, or thereabouts?

A. It ran into big figures.

Q. Close to a million, wasn't it?

A. I believe more.

By Mr. Richards:

Q. In answer to Judge Cole's question, you said that this land that was involved in this $3000 an acre, did that include the Kessler and the Zippler properties?

A. Yes, sir.

Mr. Richards: If your Honor please, I want to read into the record the papers in evidence so that nothing will happen to them, I want to read a part of Exhibit C10.

The Court: If you are going to read it, you better read it all.

Mr. Richards: "January 12, 1926. Agreement between Lida H. Sooy and Walter C. Sooy, her husband, of the City of Atlantic City, County of Atlantic and State of New Jersey, hereinafter known as the parties of the first part, and O. Allen Stauffer and Charles H. Toes of the City of Atlantic, County of Atlantic and State of New Jersey, hereinafter known as the parties of the second part, witnesseth, that the parties of the first part do hereby agree to sell or transfer to the parties of the second

part certain premises situate at (122) 122 South Carolina Avenue in the City of Atlantic, County of Atlantic and State of New Jersey, said premises known as the LaBelle Inn, for the consideration of the sum of (150,000) One Hundred and Fifty Thousand Dollars, said amount to be paid as follows: The broker's commission on sale of land in Absecon by parties of the first part to the Harris Syndicate through and by agency of the parties of the second part, whatever sum may be, to be applied as cash payment on said hotel, balance if any to be paid by mortgage bearing even date, and interest at (6%) six per cent. per annum payable every six months; said parties of the second part agree to purchase said premises and apply said commission on lands in Absecon sold to the Harris Syndicate by parties of the first part as cash payment, and to pay the balance (if any) by mortgage as set forth above, all of which we do hereby agree.

The rate of commission to be five per cent. (5%) of the total consideration (at the rate of 3,333.33) dollars 3,333.33) per acre whatever said acreage may be after survey and title company are finished, namely commission of One hundred Sixty-six Dollars and Sixty-six cents ($166.66) per acre, or if any less commission be determined by ruling of the New Jersey Real Estate Commission, then the parties of the second part agree to abide by their ruling. If said commission exceeds the purchase price of One Hundred and Twenty-two (122) South Carolina Avenue, the parties of the first part will pay overage in cash to the parties of the second part.

In witness whereof the said parties have hereunto interchangeably set their hands and seals the day and year first above mentioned. A. G. Henry, Witness. Lida H. Sooy, seal. Walter C. Sooy, seal. O. Allen Stauffer, seal. Charles H. Toes, seal.''

There is the acknowledgment in the usual form of Lida H. Sooy and Walter C. Sooy.

The Court: Taken before whom?

Mr. Richards: Taken before A. G. Henry, and the acknowledgment is dated 30th day of June.

Upon reading this, if your Honor please, it is apparently not the acknowledgment of Lida H. Sooy or Walter C. Sooy at all.

The Court: Read it into the record.

Mr. Richards: ''State of New Jersey, County of Atlantic, ss. Be it remembered on this 30th day of June in the Year of Our Lord 1926, before me, the subscriber, a notary public of the State of New Jersey, personally came A. G. Henry of full age, being by me duly sworn, on his oath says that he saw the within named Lida H. Sooy and Walter C. Sooy sign, seal and deliver the within instrument as and for their respective voluntary act and deed, and that the deponent at the same time signed the same as subscribing witness, signed A. G. Henry. Sworn and subscribed before me at Atlantic City, New Jersey, the day and year above written, Charles H.

Tracks, Notary Public. My commission expires January, 1927. And the seal on the back.

Received July 3, 1926, at 9 A. M. and recorded in the Clerk's office, Atlantic County, at Mays Landing, New Jersey, in Book of Deeds 830, page 198 and so forth, William A. Blair, Clerk."

JOHN CHITTENDEN, sworn.

Direct examination.

By Mr. Richards:

Q. You are the assessor of Absecon?

A. First Ward.

Q. Have you the assessments with you on the property originally owned by Mr. Kessler and transferred to Mr. Sooy for the year 1929?

A. I have for the year 1930. That was the first year I took office.

Q. We wanted year 1929. You haven't got that?

A. I have not.

Q. Then you are not much good to us, then.

CHARLES M. KESSLER, recalled.

Direct examination.

By Mr. Richards:

Q. Mr. Kessler, did Dr. Sooy pay any interest to you upon your mortgage after March 15th, 1929?

A. Yes, sir.

Q. When and how much?

A. $150 the latter part of March, and $150, I believe, 22nd of April. I can refresh myself from my bill.

Q. On either one of these times did the doctor tell you that he had transferred this property to his son?

A. No.

Q. I beg pardon?

A. He did not.

Q. Transferred his other properties to his son?

A. No.

Q. Did you pay the taxes on this property that you had sold to the Sooys in 1929?

A. I did.

Q. Are these the tax bills?

A. Yes, sir.

Q. Witness is shown a series of nine tax bills, and they represent the property upon which you had the $50,000 mortgage?

A. No, this is a $15,000 mortgage on the field known as the Riley field.

Q. Who paid the taxes on the Riley field?

A. I did.

Mr. Cole: I object to this as not being rebuttal and being irrelevant.

Mr. Richards: The only purpose for it is I am now going to ask him how much was the total assessment on the Riley field in 1929.

Mr. Cole: I object to that.

The Court: I will sustain the objection.

Mr. Richards: For the purpose of proving value.

The Court: I will sustain the objection on the Riley field.

Mr. Richards: If your Honor please, he paid the taxes on it, the witness.

The Court: Yes.

Q. Did you also pay the taxes on the farm?
A. I did, the field.

Mr. Cole: Objected to for the same reason, it is not rebuttal and it is not relevant.

The Court: I will admit it.

Q. Witness is shown a series of tax bills, and I ask you what the total assessment was upon the farm.
A. Eleven thousand and the decision of Atlantic

County Tax Board reduced it—no, that is what it was reduced to, it was about thirteen thousand, the Atlantic County Tax Board reduced it to eleven thousand.

Q. Do you know who made the appeal?

A. I made the appeal.

Q. And that is on the property upon which you had the $50,000 mortgage?

A. No, that is the field, the fifteen thousand.

Q. This is the field?

A. That is the field.

Q. That is the one you had the $15,000 mortgage on?

A. Yes.

Q. Have you got the tax bills upon the $50,000 property?

A. Yes, sir, over there.

Q. Did you pay the taxes on that, too?

A. I did, 1930.

Q. How about 1929?

A. Yes.

Q. What was the assessments upon that property in 1929?

A. $500.

Mr. Cole: Objected to as not being rebuttal.

The Court: I will permit it, $500?

Q. This is the meadow land?

A. Yes, that is the hundred thousand dollar mortgage—the $50,000 mortgage.

GEORGE ZIPPLER, recalled.

Direct examination.

By Mr. Richards:

Q. Mr. Zippler, did Dr. Sooy pay you any interest after March 15th, 1929, on your mortgage?

A. No.

Q. Did you pay the taxes upon the property in 1929 that you had sold to Dr. Sooy?

A. Yes.

Mr. Cole: Objected to as irrelevant, immaterial and not rebuttal.

The Court: I will permit it.

Q. What was the assessed valuation of that property?

A. I have the tax bill here.

Q. 1929 this is?

A. This is 1929 tax.

Q. What was the assessment?

A. The value of real estate is seventeen hundred, the personal a hundred, value of buildings fifteen hundred, makes a total of thirty-three hundred.

Cross-examination.

By Mr. Cole:

Q. Is that the property that you sold to Sooy?

A. I don't know whether to call it the property or no. I sold the corner, and the way we purchased it 70 acres more or less, this here is 104 acres. I called on the collector and certainly he couldn't change it.

Q. Is the land that you sold to Dr. Sooy included in this description?

A. Yes, and then some more, 104 acres.

Q. That is to say, that the tract you sold to Sooy is a part of the 104 acres, is that right?

A. Part of that 104.

Q. And the whole thing in 1929 was assessed at $3300, including the buildings, is that right?

A. Yes.

Q. Are you sure that bill is correct, $3300?

A. That is what I paid taxes for.

Q. You didn't appear before the Board to have this increased, did you?

A. No.

Q. And at that particular time you held a mortgage against it for how much?

A. Fifty thousand.

MRS. MARY ZIPPLER, recalled.

Direct examination.

By Mr. Richards:

Q. Mrs. Zippler, did the Sooys pay you any money on the interest or principal of your mortgage after March 15, 1929?

A. No.

Q. You had a number of interviews relative to the payment of the interest and principal with Dr. and Mrs. Sooy, didn't you?

A. On several occasions.

Q. After March 15th, 1929?

A. Yes, I think so.

Q. During any of those interviews did either Dr. or Mrs. Sooy tell you that they had transferred their other properties to their son?

Mr. Cole: Please, your Honor, they said they didn't.

The Court: Yes.

Mr. Cole: But Mr. Zippler said that he was told, that was his testimony.

(Question repeated.)

The Court: I think that question was asked of this witness the other day.

Mr. Richards: I don't recall it in that way.

Mr. Cole: Direct examination.

Mr. Richards: I don't recall it, and I wanted to be sure about it. Any objection to it being asked again, but I am sure of it.

The Court: I will sustain the objection. It is not rebuttal now in either instance.

Q. When did you first hear of this transfer, Mrs. Zippler?

Mr. Cole: Objected to as being irrelevant and unimportant when she heard it.

The Court: Sustain the objection.

Fred Ardrey, sworn.

Direct examination.

By Mr. Richards:

Q. Where do you live, Mr. Ardrey?
A. Absecon.
Q. How long have you lived there?
A. Since 1914.
Q. Deal in real estate over there?
A. A little bit.

Q. Were you familiar with real estate values for sales prices of the property such as the Sooy and the Kessler and Zippler properties in 1926 and 1929?

A. I have some idea of the prices, the values.

Q. What was the value per acre of such lands as those in 1926?

A. In 1926 I would say a high price was a thousand dollars an acre for upland and probably a hundred dollars an acre for meadow land.

Q. Now, what was it worth March 15th, 1929?

A. In 1929, March 15th on, I would say that the upland was not worth any more than three hundred an acre, even for some frontage, and the meadow land anything you could get for it.

Q. It was a real estate boom, and it passed; is that right?

A. That is the idea.

Cross-examination.

By Mr. Cole:

Q. Did that change the value of the land?

A. Well, the demand changed the value of the land, I suppose.

Q. You testified to worth you said in 1926, certain upland was worth a thousand dollars an acre, and 1929 it was worth three hundred dollars an acre. What brought about the marked change in the worth during that period?

A. Well, the market in 1926 you sell for a thou-

sand dollars an acre, legitimate sale; in 1929 you may sell for $300 an acre.

Q. In other words, there was no change in the land during that period, was there?

A. Absolutely.

Q. Land was the same?

A. Land was exactly the same.

Q. Simply you could find nobody to buy?

A. It was the demand.

Q. In 1926, did you know of sales of land in that vicinity a thousand dollars an acre?

A. Yes, I did.

Q. Meadow land at how much?

A. At $100 an acre.

Q. Were there many sales?

A. No; very few.

Q. Even at that price?

A. Legitimate sales.

ANDREW G. HENRY, sworn.

Direct examination.

By Mr. Richards:

Q. Mr. Henry, what is your business?

A. Real estate.

Q. Was it that in 1926?

A. Yes.

Q. Did you have some negotiations with Dr. and Mrs. Sooy concerning their property in Absecon in 1926?

A. Yes.

Q. Did that relate to the purchase from them of some lands of theirs in Absecon?

A. Yes.

Q. What lands?

A. Of lands lying east of Absecon Creek, north of Absecon Creek and east of the New York Road.

Q. Which they owned?

A. Yes.

Q. What was the purpose of purchasing that land from them?

A. Real estate development.

Q. What was the name of the development?

A. It was named Normandy Shores.

Q. Now, in that real estate deal, did Dr. Sooy undertake to purchase other lands for you?

A. We agreed that the——

Mr. Cole: Was the agreement in writing about this?

A. What is that?

Mr. Cole: Was it an agreement in writing?

A. About the purchase of this land?

Mr. Cole: That you are going to tell about?

A. Yes.

Mr. Cole: I would like to see the writing, not the witness testifying about the writing.

Q. Have you got the writing with you?

A. No, I have not. There is an agreement on record at Mays Landing.

Q. Do you mean that there was an agreement between Dr. Sooy and yourself about the purchase of lands or the purchase of the Normandy Shore land?

A. It was an agreement ——

Mr. Cole: If the agreement is in writing, we are entitled to have it to see what it was about.

The Court: Yes, I will permit this question, preliminary question, to see what it was about.

A. There was an agreement, one to purchase all lands, as I said, from Dr. and Mrs. Sooy lying east of the Shore Road and north of Absecon Creek, the other agreement was practically a verbal agreement.

Q. That is what I am talking about now.

A. Yes.

Q. Then was there a verbal agreement with Dr. Sooy concerning the purchase by them of other land to be resold under this written agreement?

A. Dr. Sooy's tract ——

The Court: You can answer that yes or no.

Q. You can answer that question yes or no, then we can get to the cause of it.

A. Yes.

Q. What was that verbal agreement?

A. If I may explain a little bit.

The Court: Just answer the question, Mr. Henry.

(Question repeated.)

A. That we would take additional land from him providing he could get it. The reason for that ——

Q. What was the additional land that you were to take?

A. Made no stipulation, only providing that it adjoined the land which we were buying from him.

Q. Do you know whether or not that included the Kessler and the Zippler land?

Mr. Cole: I object to his conclusion. He ought to tell what it is so the Court can conclude.

The Court: Sustain the objection.

Q. You were to purchase then ——

Mr. Cole: I object. The question is leading, what you understand.

The Court: Yes, sustain the objection.

Q. Do you know what land adjoined Dr. Sooy's land, and if so, in what direction?

A. Dr. Sooy and Mrs. Sooy, according to a map that they had, owned all the land ——

Mr. Cole: I object to this. It is not responsive.

The Court: Yes, it is not responsive.

(Question repeated.)

A. There were three tracts adjoining Dr. Sooy's land, and it was all on the northward side.

Q. That is, up the New York road?

A. Northerly side, up towards Sea View Golf Club.

Q. Do you know who the owners of those three tracts were?

By Mr. Cole:

Q. Do you have personal knowledge as to who owned those tracts?

A. Do I have personal knowledge? I had personal knowledge from Dr. Sooy's own words at the time of those tracts.

Q. Any other way do you know it?

A. No, I didn't look it up in the records in any way, shape or form.

Mr. Cole: I object to it.

The Court: Permit it, binding upon Dr. Sooy.

By Mr. Richards:

Q. Tell us what Dr. Sooy told you.

A. We asked him could we get any more ground to straighten out the line, and he said there were additional tracts in there which could possibly be purchased. We asked him, we told him, rather, that we were convinced that he could make a bet-

ter deal there than we could because he knew the people owned the tracts, which he agreed to do.

Q. And did he tell you who the people were?

A. He told us that Kessler owned one piece, and then he said there was another farm up there, I think, that was owned by Siracusa, further up. I am not sure.

Q. Did you ever have any conversation with him about whether or not he had purchased the Kessler farm?

A. I can't say for sure that I did.

(No cross-examination.)

HARRY G. SOMERS, recalled.

Direct examination.

By Mr. Richards:

Q. The question was whether there was a payment made on or around August 15th, 1929, on any of Dr. Sooy's notes.

A. There was a payment of $500 on a note of fifty-five hundred.

Q. How much was the total payment?

A. Total payment was five hundred, and $102.50 interest.

Q. $602.50?

A. That is correct.

Q. Trace that note down, was there any subsequent payments on that note?

A. Payment of $100 on December 16, 1929.
Q. How much interest?
A. $98.82.

Mr. Richards: If your Honor please, in the checks that were marked Exhibit D6 there is a check dated August 15, 1929, Atlantic City, New Jersey, on that date, to the Guarantee Trust Company, Pay to the order of, stamped on it, Guarantee Trust Company, Atlantic City, New Jersey, $602.50, figures 602.50, which was signed Leslie Thomas Sooy, perforated Paid 8/15/29, and check in the same manner dated December 16, 1929, for $198.82.

Q. You say there was $100 paid?
A. On the 16th of December, 1929. A hundred on the principal, $98.82 interest. That brings the note down to $4900. The next payment was $100 on April 16th, 1930.
Q. How much interest?
A. $99.20.
Q. There is a check in similar form dated April 16, 1930, for $199.20. of the same series.
A. You want to follow that note on down?
Q. Yes.
A. That note has now been reduced to $4800, and that note has since been combined with another note.
Q. When was it reduced to forty-eight hundred?
A. April 16, 1930.
Q. That was the reduction?
A. Yes, that was the five and two ones, originally fifty-five hundred, leaves a balance of forty-eight

hundred. That note was combined with a $4500 note.

The Court: You better start that $4500 note at the same time.

A. On August 18th, 1930.
Q. August 18th, 1930?
A. Yes.
Q. Is that the original — you were asked about ——

Mr. Richards: He says combined them.

Q. Go back to the $4500 note.
A. This is forty-eight hundred, combined with a $4500 note.

The Court: We want to find out when the $4500 note was in existence, is that a new note?

A. No, that that has been in existence, $4500 note was originally five thousand, has been payments made on that to bring that down.
Q. Let's get those.
A. The payment of $200 on a note of five thousand on October 18th, 1929.

The Court: How much was the interest?

A. $98.40.

Mr. Richards: There is a check in similar form dated October 18th, 1929, for $298.40.

A. The next payment was $100 February the 18th, 1930.

Q. How much interest?

A. $94.

Q. There is a check dated February 18th, similar form, except this time the words Guarantee Trust Company are written in instead of stamped in, for $194.

A. The next payment was June 19th, 1930, $100.

Q. How much was the interest this time?

A. Interest $23.00.

Q. There is a check similar to the last, June 19, 1930, $123.

The Court: During the original testimony it was testified that there was one, and then stricken out, that you had made a mistake, that that was June 2nd, evidently there are two.

A. Next payment, $100 on the 18th of July, interest $23.25.

Q. There is a check of July 18th similar to the last one for $123.25.

A. Now that brings us down to the period where the two notes were combined, forty-five and forty-eight, for $9300 note.

The Court: The date of that combination, please?

A. August 18th, 1930.

Q. Was a payment made then?

A. Payment made of $200.

Q. Interest was how much?

A. $47.02.

Q. There was a check dated August 18, 1930, this time the words Guarantee Trust Company, Atlantic City, New Jersey, are stamped in after the word "Order," for $247.02. What is this circular stamp on here?

A. That is the window from which it comes, N. T., note teller. Now we have another combination here, we are down to $9100 on that note. Now we take a note for $5000, payment made on September the 30th, 1929, $200 payment, interest $97.60.

Q. There is a check of that date for $297.60.

A. The next payment was January 30th, 1930, $100, interest $96.35.

Q. There is a similar check dated January 30th, 1930, for $196.35.

A. Next payment $100 June 2nd, 1930, interest $23.

The Court: How can that be January 5th, $4800, only $23 interest?

A. I am giving you the renewal interest for one month in advance. This is a monthly note.

Q. From January 30th to June 2nd?

Mr. Richards: June 2nd, how much is that check?

A. $123.

Q, $123, $100 the principal, and 23 interest?

A. Yes.

Q. I have a check similar to the last for $123. What is the next one?

A. Next payment July 2nd, 1930, $100.
Q. And the interest?
A. $24.75.
Q. Similar check for $124.75.
A. Next payment August 4th, 1930, $100.
Q. And the interest?
A. $22.73.
Q. I have a check for $122.73, similar to the last one.
A. Next payment September 4th, 1930, $100.
Q. I don't seem to have that check.

The Court: How much was that interest?

A. $10.03. That brought the note down to $4300. Now we are ready for the combination, 9100, gives a note $13,400.
Q. September 4th, did you say that was?
A. September the 4th, yes.
Q. How much was that check?
A. At the time $110.03.

The Court: We have no check for August 21st, to which attention was called.

Mr. Richards: We have a check stub, September 22nd, 1930, that is in evidence, in one of the check book stubs produced by the other side, there is a stub for check number 98, dated September 4, 1930, in favor of the Guarantee Trust Company, for renewal of note and interest, $110.03.
Q. Is that the correct amount?
A. That is correct.

Q. You say that was combined?

A. That was combined on September the 18th, payment of $100.

Q. How much interest?

A. $70.93.

Q. There is in this same check stub book, there is a stub for check number 100, dated September 18, 1930, in favor of the Guarantee Trust Company, for renewal and interest on note, there are two words there written over small, I can't read them. Doctor, can you read your writing?

Dr. W. C. Sooy: Perhaps I can. Simply there reduced to $13,300.

Q. In the sum of $170.93, is that the amount that was paid?

A. That is correct. Next payment $100 on October 20th.

Q. How much was that, the total payment?

A. $100 on account, $138.60 interest.

Q. I have another check stub for check number 106, this time in another book, stub dated October 20th, to the order of Guarantee Trust Company, interest and renewal, in parentheses, new note thirteen two hundred, and the check is $238.60. These check stub books from which I am reading are those offered in evidence as the check stubs produced by Dr. Leslie Sooy as his books.

A. That runs those notes down to what they stand at present, thirteen thousand two hundred. We have another line here, fifteen thousand, two hundred dollar payment made on this note November 19, 1929.

Q. Is there an original payment back in August, have you got the August payments, or is that something else?

The Court: August 19th.

A. No payments.

The Court: $600 August 19th?

Q. Let's finish that one up, November 19, 1929.
A. $200 payment.
Q. How much was the total?
A. $296 interest, total $496.
Q. I have a check November 19, 1929, for $496.
A. The next payment $100 on March 19, 1930.
Q. How much total?
A. Interest $303.80; total $403.80.
Q. I have a check of that date for that amount, $403.80.
A. Next payment $100, July 21st, 1930.
Q. Total?
A. Interest $75.43, $175.43.
Q. I have a check of that date for $175.43.
A. Next payment $100 August 21st, 1930, interest $74.92. Total $174.92.
Q. I have a check $174.92 of that date.
A. Next payment October 10th, 1930, $100.
Q. October 10th?
A. Yes.
Q. I have no check or stub for that hundred dollar payment.
A. $151.20 interest, $251.20, ought to be check.

Your check may bear a different date because probably this note was in the past dues for a while.

Q. How much then did you say the check is?

A. $251.20.

Q. How much is that now, what is the note, total of that note?

A. Reduced to $14,400.

Q. Seem to have nothing that concerns that note.

A. Next payment September 4th, 1930.

The Court: When was the one before that, the one you are just testing about?

A. November 24th; pardon me. $100.

Q. What is the total of that?

A. $100 payment, $150.15 interest, $250.15.

Q. There is a check stub number 114, November 24th, Guarantee Trust Company, for interest and renewal note, now fourteen thousand three hundred $250.15.

A. That completes that note down to date.

Q. Is that all of the notes now?

A. Yes.

Q. I have a check for $600 here, August 16, 1929, Pay to the order of the Guarantee Trust Company.

A. August 19, 1929, that may be for a note discounted for some one else in payment of, I wouldn't have that here.

Q. There is another one for $300.24; have you got anything to which that relates to, August 26, 1929?

A. No, I have not on this check up with the present notes.

Q. On this check of August 19th and August 26th,

there is stamped the circular stamp on the face of the large N in between a date and then a large T.

A. There is that stamp, note teller's stamp.

Q. What does that indicate?

A. Check came through his work.

Q. From the note teller?

A. Note teller.

Q. So it was a payment on account of a note?

A. It might have been not a payment on, may have been a payment of a note in full.

Q. On or in full?

A. Yes.

Q. On every one of these other checks which you have just seen, there is a similar stamp, does that indicate that they were payments on notes, either principal or interest?

A. Yes, sir, came through the note teller's cage, in his work.

(No cross-examination.)

COMPLAINANT RESTS.

TESTIMONY CLOSED.

EXHIBIT C1.
12/12/30 L.

ARTICLES OF AGREEMENT, made this sixteenth day of February, 1926, BETWEEN CHARLES MAURICE KESSLER AND ANNA KESSLER his wife, of the City of Absecon, County of Atlantic and State of New Jersey, parties of the first part, and LIDA H. SOOY, of the City of Atlantic City, County of Atlantic and State of New Jersey, party of the second part,

WITNESSETH, That the parties of the first part, for and in consideration of the sum of One Hundred Thousand Dollars ($100,000.) lawful money of the United States of America, to be paid and satisfied as hereinafter mentioned, and also in consideration of the covenants and agreements hereinafter mentioned, made and entered into by the party of the second part, do agree to and with the said party of the second part, that they, the said parties of the first part, will well and sufficiently convey to the said party of the second part, her heirs and assigns, by Deed of Special Warranty, at the time hereinafter fixed for settlement,

ALL THAT CERTAIN tract or parcel of meadow land now owned by said Charles Maurice Kessler, and located in the City of Absecon, in the said County and State, as shown on the map or plan attached hereto, which map or plan indicates the approximate boundaries of such tract.

AND the said party of the second part, for herself, her heirs, executors and administrators, does covenant, promise and agree to and with the said

parties of the first part, their heirs, executors, administrators and assigns, that she, the said party of the second part, will pay and satisfy, or cause to be paid and satisfied unto the said parties of the first part, the said sum of One Hundred Thousand Dollars ($100,000.) as and for the purchase money of the foregoing described land and premises in the following manner, that is to say:

Five Thousand Dollars ($5,000.) in cash on the date hereof, the receipt whereof is hereby acknowledged; the sum of Five Thousand Dollars ($5,000.) in cash on March sixteenth, 1926; and the sum of Forty Thousand Dollars ($40,000.) in cash at the time of settlement;

The sum of Fifty Thousand Dollars ($50,000.) by the execution and delivery to the said Charles Maurice Kessler of the bond of the party of the second part, joined in by her husband, Walter C. Sooy, in the principal sum of Fifty Thousand Dollars ($50,000.), which bond shall accompany a mortgage to be executed by the said party of the second part and by Walter C. Sooy, husband of the party of the second part, which mortgage shall be in the like principal sum of Fifty Thousand Dollars ($50,000.) and shall cover the land and premises hereinbefore referred to, and shall be a purchase money mortgage and a first lien thereon.

The said bond and mortgage shall be payable at any time within three years from the date thereof and shall contain the usual thirty days' tax and interest default classes, and be in the usual form in use in Atlantic City, and shall bear interest at the rate of six per cent. per annum, payable semi-annually.

IT IS AGREED that settlement shall be made at the office of the Second National Bank in Atlantic City, on June fifteenth, 1926, at twelve o'clock noon.

IT IS FURTHER AGREED that time is the essence of this agreement, and that at the settlement current taxes shall be apportioned as of the date of settlement; AND IT IS AGREED that the tax year shall be considered to extend from January first, 1926, to December thirty-first, 1926, and that possession shall be delivered to the purchaser at the time of settlement.

IT IS AGREED that if the party of the second part does not make settlement at the time and place fixed herein for such settlement, that this agreement shall be null and void at the option of the said parties of the first part, and if so declared null and void by the said parties of the first part, that in such event the amount or amounts theretofore paid on account of this agreement, shall be retained by the parties of the first part as liquidated damages.

IT IS AGREED that the description to be included in the deed to be delivered at the settlement and in the purchase money mortgage, shall be prepared by some civil engineer to be selected by the parties of the first part, instead of the description as used in this agreement.

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals the day and year first above written.

Charles Maurice Kesler (SEAL)
Anna Kessler (SEAL)
Lida H. Sooy (SEAL)
Walter C. Sooy (SEAL)

SIGNED, SEALED AND DELIVERED
in the presence of
Alma Thomas

[ENDORSED]

AGREEMENT FOR SALE OF
LAND
Between
CHARLES MAURICE KESSLER
and ANNA KESSLER, his wife,
—and—
LIDA H. SOOY
Law Offices
CARLTON GODFREY
317 Guarantee Trust Bldg.
Atlantic City, N. J.

EXHIBIT C2.
12/12/30 L.

KNOW ALL MEN BY THESE PRESENTS, THAT LIDA H. SOOY and WALTER C. SOOY, her husband, both of the City of Atlantic City, County of Atlantic and State of New Jersey, (hereinafter called the Obligors) are held and firmly bound unto CHARLES MAURICE KESSLER, of the City of Absecon, County of Atlantic and State of New Jersey, (hereinafter called the Obligee) in the sum of Eighty Thousand Dollars lawful money

of the United States of America, to be paid to the said Obligee or his certain Attorney, Executors, Administrators or Assigns: to which payment well and truly to be made do hereby bind and oblige themselves, their Heirs, Executors and Administrators firmly by these presents, sealed with their seal. Dated the Fifteenth day of June in the year of our Lord one thousand nine hundred and twenty-six.

THE CONDITION OF THIS OBLIGATION IS SUCH, That if the above bounden Obligors or their Heirs, Executors or Administrators or any of them, shall and do well and truly pay, or cause to be paid to the above named Obligee or his certain Attorney, Executors, Administrators or Assigns, the just sum of FORTY THOUSAND DOLLARS lawful money as aforesaid payable at any time within three years from date hereof, together with interest thereon, payable semi-annually, at the rate of six (6%) per cent. per annum, without any fraud or further delay; then the above Obligation to be void or else to be and remain in full force and virtue: PROVIDED, however, and it is hereby expressly agreed, that if at any time default should be made in payment of interest as aforesaid, for the space of thirty days after any semi-annual payment thereof shall fall due, or should said Obligors, or their Assigns, at any time fail to keep the buildings on the lands described in the accompanying Mortgage, well and sufficiently insured against loss or damage by fire, and the policy or policies of Insurance to an amount not less than Dollars, assigned to, or the loss made payable to the said Obligee, or Assigns, or should the said Obligor or Assigns, at any time

fail to pay any tax assessed upon the lands described in the accompanying mortgage and the buildings and improvements thereon for the period of sixty days after the same is due and collectible by law, then, and in the case of any such failure or default, the whole principal debt aforesaid shall become due and payable immediately and payment of said principal debt, and all interest thereon, may be enforced and recovered at once, anything herein contained to the contrary notwithstanding.

Lida H. Sooy (SEAL)
Walter C. Sooy (SEAL)

SEALED AND DELIVERED
IN THE PRESENCE OF
S. A. Malmsten

TO CARLTON GODFREY, ESQ. Or any other Attorney of any Court of Law in New Jersey or Elsewhere:

This is to authorize you to appear for us, the parties of the first part, in any court of competent jurisdiction, in case of the breach of the condition of the above bond and confess judgment for the penalty therein contained, as of the last or any subsequent term, with cost of suit and release of errors; and this shall be your sufficient warrant.

WITNESS our hands and seals this fifteenth day of June Anno Domini one thousand nine hundred and twenty-six.

Lida H. Sooy (SEAL)
Walter C. Sooy (SEAL)

SEALED AND DELIVERED
IN THE PRESENCE OF
S. A. Malmsten

[ENDORSED]

BOND AND WARRANT
LIDA H. SOOY, et vir.,
To
CHARLES MAURICE KESSLER.
Dated June 15, 1926.
Judgment entered for the sum of $80000. this 5th day of March, A. D. 1930.

John C. Reed
Supreme Court
Commissioner

For $40,000.00
CARLTON GODFREY,
317 Guarantee Trust Bldg.,
Atlantic City, N. J.

IN CHANCERY OF NEW JERSEY.

BETWEEN
CHARLES M. KESLER
COMPLAINANT
AND
LIDA H. SOOY ET ALS
DEFENDANTS

C 1 July 22nd, 1929
Vincent S. Haneman
Master

EXHIBIT C3.
12/12/30 L.

KNOW ALL MEN BY THESE PRESENTS, THAT LIDA H. SOOY and WALTER C. SOOY, her Husband, both of the City of Atlantic City, County of Atlantic, and State of New Jersey, (hereinafter called the Obligors) are held and firmly bound unto CHARLES MAURICE KESSLER, of the City of Absecon, County of Atlantic, and State of New Jersey, (hereinafter called the Obligee) in the sum of Twenty Thousand Dollars—lawful money of the United States of America, to be paid to the said Obligee his certain Attorney, Executors, Administrators or Assigns: to which payment well and truly to be made do hereby bind and oblige themselves, their Heirs, Executors and Administrators firmly by these presents, sealed with their seal. Dated the Fifteenth day of June in the year of our Lord one thousand nine hundred and twenty-six.

THE CONDITION OF THIS OBLIGATION IS SUCH, That if the above bounden Obligors their heirs, Executors or Administrators or any of them, shall and do well and truly pay, or cause to be paid to the above named Obligee his certain Attorney, Executors, Administrators or Assigns, the just sum of —Ten Thousand Dollars—lawful money as aforesaid payable at any time within three years from date hereof, together with interest thereon, payable semi annually, at the rate of Six per cent. per annum, without any fraud or further delay; then the above

Obligation to be void or else to be and remain in full force and virtue: PROVIDED, however, and it is hereby expressly agreed, that if at any time default should be made in payment of interest as aforesaid, for the space of Thirty days after any semi annual payment thereof shall fall due, or should said Obligors or their Assigns, at any time fail to keep the buildings on the lands described in the accompanying Mortgage, well and sufficiently insured against loss or damage by fire, and the policy or policies of Insurance to an amount not less than Dollars assigned to, or the loss made payable to the said Obligee, or his Assigns, or should the said Obligors or their Assigns, at any time fail to pay any tax assessed upon the lands described in the accompanying mortgage and the buildings and improvements thereon for the period of sixty days after the same is due and collectible by law, then, and in the case of any such failure or default, the whole principal debt aforesaid shall become due and payable immediately and payment of said principal debt, and all interest thereon, may be enforced and recovered at once, anything herein contained to the contrary notwithstanding.

Lida H. Sooy (SEAL)
Walter C. Sooy (SEAL)

SEALED AND DELIVERED
IN THE PRESENCE OF
S. A. Malmsten

TO CARLTON GODFREY, ESQ.
Or any other Attorney of any Court of Law in New Jersey or Elsewhere:

This is to authorize you to appear for us, Lida H. Sooy and Walter C. Sooy, in any court of competent jurisdiction, in case of the breach of the condition of the above bond and confess judgment for the penalty therein contained, as of the last or any subsequent term, with cost of suit and release of errors; and this shall be your sufficient warrant.

WITNESS our hands and seals this Fifteenth day of June Anno Domini one thousand nine hundred and twenty-six.

Lida H. Sooy (SEAL)
Walter C. Sooy (SEAL)

SEALED AND DELIVERED
IN THE PRESENCE OF
S. A. Malmsten

BOND AND WARRANT
LIDA H. SOOY, et vir
to
CHARLES MAURICE KESSLER
Dated June 15, 1926
Judgment entered for the sum of $20000. the 5th day of March A. D. 1930.

John C. Reed
Supreme Court
Commissioner

For $10,000.00
CARLTON GODFREY
317 Guarantee Trust Bldg.,
Atlantic City, N. J.

IN CHANCERY OF NEW JERSEY.
BETWEEN
CHARLES M. KESLER
COMPLAINANT
AND
LIDA H. SOOY ET ALS
DEFENDANTS
C 3 July 22nd, 1929
Vincent S. Haneman
Master

EXHIBIT C4.
12/12/30 L.

THIS INDENTURE, Made the Fifteenth day of June in the year of our Lord one thousand nine hundred and Twenty-six.

BETWEEN LIDA H. SOOY and WALTER C. SOOY, her Husband, both of the City of Atlantic City, County of Atlantic, and State of New Jersey, parties of the first part, and CHARLES MAURICE KESSLER, of the City of Absecon, County of Atlantic, and State of New Jersey, party of the second part, WHEREAS, the said parties of the first part, in and by their certain obligation or writing obligatory under their hands and seals duly executed, and bearing even date herewith, stand bound unto the said party of the second part, in the sum of Twenty Thousand Dollars lawful money of the United States of America, conditioned for the payment of the just sum of—TEN THOUSAND DOLLARS—lawful money as aforesaid payable at any

time within three years from date thereof, together with interest thereon, payable semi annually, at the rate of Six per cent. per annum, without any fraud or further delay; PROVIDED, however, and it was thereby expressly agreed, that if at any time default should be made in payment of interest as aforesaid, for the space of Thirty days after any semi annual payment thereof shall fall due, or should said Obligors, or their Assigns, at any time fail to keep the buildings on the lands described in this the accompanying Mortgage, well and sufficiently insured against loss or damage by fire, and the policy or policies of Insurance, to an amount not less than Dollars, assigned to, or the loss made payable to the said Obligee, or his Assigns, or should the said Obligors or their Assigns, at any time fail to pay any tax assessed upon the lands described in this the accompanying mortgage and the buildings and improvements thereon for the period of sixty days after the same is due and collectible by law, then, and in the case of any such failure or default, the whole principal debt aforesaid shall become due and payable immediately and payment of said principal debt, and all interest thereon, may be enforced and recovered at once, anything herein contained to the contrary, notwithstanding.

NOW THIS INDENTURE WITNESSETH, That the said parties of the first part, as well for and in consideration of the aforesaid debt or sum of Ten Thousand Dollars—and for the better securing the payment thereof, unto the said party of the second part, his Executors, Administrators and Assigns, in discharge of the said obligation above re-

cited, as for and in consideration of the further sum of one dollar, in specie, well and truly paid to the said parties of the first part, by the said party of the second part at and before the ensealing and delivery hereof the receipt of which one dollar is hereby acknowledged, have granted, bargained, sold, released and confirmed, and by these presents do grant, bargain, sell, release and confirm, unto the said party of the second part his Heirs and Assigns, all that certain tract or parcel of land and premises hereinafter particularly described, situate in the City of Absecon in the County of Atlantic and State of New Jersey, BEGINNING in the fifth course as mentioned in a certain deed from Wilmer Pedrick to Walter C. Sooy, dated July 10, 1917, and recorded in the Clerk's office of Atlantic County in Book 577 of Deeds, page 350, at a point eighty-nine and one one-hundredths feet south seventy-four degrees forty-nine minutes east from the fifth corner thereof, (the said fifth corner being the fourth corner from the Shore Road in said division line between lands formerly of said Charles M. Kessler and William Pedrick, the first of said four corners being at the intersection of said line and Shore Road), thence (1) South seventy four degrees, forty-nine minutes east, as recited in said deed from Wilmer Pedrick to Walter C. Sooy, dated July 10th, 1917, to the Shore of Cordery's Bay; thence (2) Southwardly along the shore of Cordery's Bay the several courses and distances thereof to the eighth corner, being a line creek as mentioned in a certain deed from Jemima Steelman et al, to Wilmer Pedrick and Charles Maurice Kessler, dated January 14, 1909, and recorded in Book 397

of Deeds, page 198; thence (3) up said line creek the several courses and distances as recited in said last mentioned deed south fifteen minutes west three hundred twenty-five feet; thence (4) north eighty-one degrees fifty-five minutes, west four hundred sixty-five feet; thence (5) north twenty-six degrees one minute west seven hundred forty-seven feet; thence (6) north fifty-four degrees ten minutes west four hundred thirty-two feet; thence (7) north eighty-eight degrees fifty minutes west six hundred forty feet; thence (8) south fifty-seven degrees fifty minutes west four hundred ninety-five feet; thence (9) north seventy-four degrees forty-two minutes west three hundred seventy-six feet; thence (10) north twenty-two degrees forty-two minutes west, two hundred eighty-nine feet to the southeasterly end of a straight ditch; thence (11) north forty-four degrees fifty minutes West, nine hundred thirty-four and fifty one-hundredths feet to a point where a ditch puts off to the southwest; thence (12) south forty-six degrees twenty-nine minutes west, along the middle of the last mentioned ditch one hundred eighty-seven feet; thence (13) partly by another ditch north forty-four degrees, thirty-six minutes west ten and seventy-five one-hundredths feet; thence (14) northeastwardly at right angles to Kessler's Avenue, and crossing said Avenue five hundred ninety-two and nine one-hundredths feet to the place of beginning.

BEING the same premises conveyed from said Charles Maurice Kessler and Anna Kessler, his Wife, unto the said Lida H. Sooy, by Deed bearing even date herewith; and this mortgage is given to

secure a part of the purchase money or consideration named in said deed.

THIS mortgage is second or subsequent in lien upon the premises herein described, to another mortgage made by the same mortgagor to the same mortgagee, and bearing even date herewith, in the principal sum of Fifteen Thousand Dollars ($15,000) due in Thirty (30) days from date thereof.

TOGETHER with all and singular, the buildings, improvements, woods, ways, rights, liberties, privileges, hereditaments, and appurtenances, to the same belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; TO HAVE AND TO HOLD the said hereditaments and premises above granted, or intended so to be, with the appurtenances, unto the said party of the second part, his Heirs and Assigns forever;

PROVIDED, ALWAYS, NEVERTHELESS, that if the said parties of the first part, their Heirs, Executors, Administrators or Assigns, do and shall well and truly pay, or cause to be paid unto the said party of the second part, or to his certain Attorney or Attorneys, Heirs, Executors, Administrators or Assigns, the aforesaid debt or sum of Ten Thousand Dollars on the day and time hereinbefore mentioned and appointed for the payment thereof; together with interest for the same, in like money, in way and manner hereinbefore specified therefor, without any fraud or further delay, and without any deduction, defalcation or abatement to be made, for, or in respect of any taxes, charges, or assessments whatsoever; that then and from thenceforth, as well this present Indenture and the estate

hereby granted, as the said OBLIGATION above recited, shall cease, determine, and become absolutely null and void, to all intents and purposes; anything hereinbefore contained to the contrary thereof in any wise notwithstanding. AND the said parties of the first part, for themselves, their Heirs, Executors and Administrators do covenant and grant to and with the said party of the second part, his Heirs and Assigns, that the said parties of the first part, their Heirs and Assigns, shall not nor will apply for or claim, any deduction by reason of this mortgage, from the taxable value of the said lands and premises; and that the said party of the second part, his Heirs and Assigns, shall and may from time to time, and at all times after default shall be made in the performance of the proviso or condition herein contained, peaceably and quietly enter into, have, hold, use, occupy, possess and enjoy all and singular the above granted and bargained premises, with the appurtenances, without the let, suit, trouble, hindrance or denial of the said parties of the first part their Heirs or Assigns, or of any other person or persons whatsoever: AND it is also further agreed, by and between the parties to these presents, that if the said parties of the first part shall fail to keep the buildings erected and to be erected upon the lands above conveyed, insured against loss or damage by fire, in some safe and responsible Insurance Company or Companies to an amount not less than dollars, and assign the policy and certificate thereof, or have the loss, if any, made payable to the said party of the second part as collateral security for the payment of the principal and interest aforesaid, it shall be lawful

for the said party of the second part to effect such insurance, and the premium and premiums paid for effecting the same shall be a lien on the said mortgaged premises, added to the amount of the said bond or obligation, and secured by these presents, and payable on demand with legal interest.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Lida H. Sooy (SEAL)
Walter C. Sooy (SEAL)

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF
S. A. Malmsten

STATE OF NEW JERSEY }
ATLANTIC COUNTY, } ss.

BE IT REMEMBERED, That on this Fifteenth day of June in the year of our Lord one thousand nine hundred and twenty-six before me A Notary Public of New Jersey, personally appeared Lida H. Sooy and Walter C. Sooy, her husband, who, I am satisfied are the grantors mentioned in the above deed or conveyance, and I having first made known to them the contents thereof, they acknowledged that they signed, sealed and delivered the same as their voluntary act and deed; all of which is hereby certified.

Samuel A. Malmsten
Notary Public of New Jersey

[ENDORSED]

MORTGAGE
LIDA H. SOOY, et vir
to
CHARLES MAURICE KESSLER
Dated June 15, 1926
Received in the Clerk's office of the County of Atlantic on the 16 day of June A. D. 1926, at 3:30 o'clock, in the afternoon, and Recorded in Book #402 of Mortgages for said County, on pages 466 &c.,
William A. Blair, Clerk, AH.
CARLTON GODFREY
317 Guarantee Trust Bldg.,
Atlantic City, N. J.

IN CHANCERY OF NEW. JERSEY
BETWEEN
CHARLES M. KESLER
COMPLAINANT
AND
LIDA H. SOOY ET ALS
DEFENDANTS
C 4
July 22nd, 1929
Vincent S. Haneman
Master

EXHIBIT C5.
12/12/30 L.

THIS INDENTURE, Made the Fifteenth day of June in the year of our Lord one thousand nine hundred and twenty-six.

BETWEEN LIDA H. SOOY and WALTER C. SOOY, her husband, both of the City of Atlantic City, County of Atlantic, and State of New Jersey, parties of the first part, and CHARLES MAURICE KESSLER, of the City of Absecon, County of Atlantic and State of New Jersey, party of the second part, WHEREAS, the said parties of the first part, in and by their certain obligation or writing obligatory under their hands and seals duly executed, and bearing even date herewith, stand bound unto the said party of the second part, in the sum of Eighty Thousand Dollars lawful money of the United States of America, conditioned for the payment of the just sum of FORTY THOUSAND DOLLARS lawful money as aforesaid payable at any time within three years from the date thereof, together with interest thereon, payable semi-annually, at the rate of six (6%) per cent. per annum, without any fraud or further delay; PROVIDED, however, and it was thereby expressly agreed, that if at any time default should be made in payment of interest as aforesaid, for the space of thirty days after any semi-annual payment thereof shall fall due, or should said Obligors, or their Assigns, at any time fail to keep the buildings on the lands described in this the accompanying Mortgage, well and sufficient-

ly insured against loss or damage by fire, and the policy or policies of Insurance to an amount not less than Dollars, assigned to, or the loss made payable to the said Obligee, or Assigns, or should the said Obligors or their Assigns at any time fail to pay any tax assessed upon the lands described in this the accompanying mortgage and the buildings and improvements thereon for the period of sixty days after the same is due and collectible by law, then, and in the case of any such failure or default, the whole principal debt aforesaid shall become due and payable immediately and payment of said principal debt, and all interest thereon, may be enforced and recovered at once, anything herein contained to the contrary, notwithstanding.

NOW THIS INDENTURE WITNESSETH, That the said parties of the first part, as well for and in consideration of the aforesaid debt or sum of Forty Thousand Dollars and for the better securing the payment thereof, unto the said party of the second part, his Executors, Administrators and Assigns, in discharge of the said obligation above recited, as for and in consideration of the further sum of one dollar, in specie, well and truly paid to the said parties of the first part, by the said party of the second part, at and before the ensealing and delivery hereof the receipt of which one dollar is hereby acknowledged, have granted, bargained, sold, released and confirmed, and by these presents do grant, bargain, sell, release and confirm, unto the said party of the second part his Heirs and Assigns, all that certain tract or parcel of land and premises hereinafter particularly described, situate in the

City of Absecon in the County of Atlantic and State of New Jersey, BEGINNING in the fifth course as mentioned in a certain deed from Wilmer Pedrick to Walter C. Sooy, dated July 10, 1917, and recorded in the Clerk's Office of Atlantic County in Book 577 of Deeds, page 350, at a point eighty-nine and one one-hundredths feet south seventy-four degrees forty-nine minutes east from the fifth corner thereof, (the said fifth corner being the fourth corner from the Shore Road in said division line between lands formerly of said Charles M. Kessler and William Pedrick, the first of said four corners being at the intersection of said line and Shore Road), thence (1) South seventy-four degrees, forty-nine minutes east, as recited in said deed from Wilmer Pedrick to Walter C. Sooy, dated July 10th, 1917, to the Shore of Cordery's Bay; thence (2) Southwardly along the shore of Cordery's Bay the several courses and distances thereof to the eighth corner, being a line creek as mentioned in a certain deed from Jemima Steelman et al, to Wilmer Pedrick and Charles Maurice Kessler, dated January 14, 1909, and recorded in Book 397 of Deeds, page 198; thence (3) up said line creek the several courses and distances as recited in said last mentioned deed south fifteen minutes west three hundred twenty-five feet; thence (4) North eighty-one degrees fifty-five minutes, west, four hundred sixty-five feet; thence (5) north twenty-six degrees one minute west seven hundred forty-seven feet; thence (6) North fifty-four dgrees ten minutes west four hundred thirty-two feet; thence (7) North eighty-eight degrees fifty minutes west six hundred forty feet; thence (8) South fifty-seven degrees fifty min-

utes west four hundred ninety-five feet; thence (9) North seventy-four degrees forty-two minutes west three hundred seventy-six feet; thence (10) North twenty-two degrees forty-two minutes west, two hundred eighty nine feet to the southeasterly end of a straight ditch; thence (11) North forty-four degrees fifty minutes West, nine hundred thirty-four and fifty one-hundredths feet to a point where a ditch puts off to the southwest; thence (12) South forty-six degrees twenty-nine minutes west, along the middle of the last mentioned ditch one hundred eighty-seven feet; thence (13) partly by another ditch north forty-four degrees, thirty-six minutes west ten and seventy-five one-hundredths feet; thence (14) Northeastwardly at right angles to Kessler's Avenue, and crossing said Avenue five hundred ninety-two and nine one-hundredths feet to the place of beginning.

BEING the same premises conveyed from said Charles Maurice Kessler and Anna Kessler, his wife, unto the said Lida H. Sooy, by deed bearing even date herewith; and this mortgage is given to secure a part of the purchase money or consideration named in said deed.

This mortgage is third or subsequent in lien upon the premises herein described to two other mortgages made by the same mortgagor to the same mortgagee both bearing even date herewith, one of said two mortgages being in the principal sum of $15,000 and due in thirty days from the date thereof and the other of said two mortgages being in the principal sum of $10,000. and due in three years from the date thereof.

TOGETHER with all and singular, the buildings, improvements, woods, ways, rights, liberties, privileges, hereditaments, and appurtenances, to the same belonging, or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof; TO HAVE AND TO HOLD the said hereditaments and premises above granted, or intended so to be, with the appurtenances, unto the said party of the second part, his Heirs and Assigns forever;

PROVIDED, ALWAYS, NEVERTHELESS, that if the said parties of the first part, their Heirs, Executors, Administrators or Assigns, do and shall well and truly pay, or cause to be paid unto the said party of the second part, or to his certain Attorney or Attorneys, Heirs, Executors, Administrators or Assigns, the aforesaid debt or sum of Forty Thousand Dollars on the day and time hereinbefore mentioned and appointed for the payment thereof; together with interest for the same, in like money, in way and manner hereinbefore specified therefor, without any fraud or further delay, and without any deduction, defalcation or abatement to be made, for, or in respect of any taxes, charges, or assessments whatsoever ; that then and from thenceforth, as well this present Indenture and the estate hereby granted, as the said OBLIGATION above recited, shall cease, determine, and become absolutely null and void, to all intents and purposes; anything hereinbefore contained to the contrary thereof in any wise notwithstanding. AND the said parties of the first part, for themselves, their Heirs, Executors and Administrators do covenant and grant to and

with the said party of the second part, his Heirs and Assigns, that the said parties of the first part, their Heirs and Assigns, shall not nor will apply for or claim, any deduction by reason of this mortgage, from the taxable value of the said lands and premises; and that the said party of the second part, his Heirs and Assigns, shall and may from time to time, and at all times after default shall be made in the performance of the proviso or condition herein contained, peaceably and quietly enter into, have, hold, use, occupy, possess and enjoy all and singular the above granted and bargained premises, with the appurtenances, without the let, suit, trouble, hindrance or denial of the said parties of the first part, their Heirs or Assigns, or of any other person or persons whatsoever: AND it is also further agreed, by and between the parties to these presents, that if the said parties of the first part shall fail to keep the buildings erected and to be erected upon the lands above conveyed, insured against loss by damage by fire, in some safe and responsible Insurance Company or Companies to an amount not less than dollars, and assign the policy and certificate thereof, or have the loss, if any, made payable to the said part of the second part as collateral security for the payment of the principal and interest aforesaid, it shall be lawful for the said part of the second part to effect such insurance, and the premium and premiums paid for effecting the same shall be a lien on the said mortgaged premises, added to the amount of the said bond or obligation, and secured by these presents, and payable on demand with legal interest.

IN WITNESS WHEREOF, the said parties of the first part have hereunto set their hands and seals the day and year first above written.

Lida H. Sooy (SEAL)
Walter C. Sooy (SEAL)

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF
S. A. Malmsten

STATE OF NEW JERSEY }
ATLANTIC COUNTY, } ss.

BE IT REMEMBERED, That on this Fifteenth day of June in the year of our Lord one thousand nine hundred and twenty-six before me personally appeared Lida H. Sooy and Walter C. Sooy, her husband, who, I am satisfied are the grantors mentioned in the above deed or conveyance, and I having first made known to them the contents thereof, they acknowledged that they signed, sealed and delivered the same as their voluntary act and deed; all of which is hereby certified.

Samuel A. Malmsten
Notary Public of New Jersey

[Endorsed]

MORTGAGE
LIDA H. SOOY, et vir.,
To
CHARLES MAURICE KESSLER.
Dated June 15th, 1926.
Received in the Clerk's office of the County of Atlantic on the 16 day of June A. D. 1926, at 3:30 o'clock in the afternoon, and Recorded in Book #402 of Mortgages for said County, on pages 469 &c.,
William A. Blair, Clerk, AH.
CARLTON GODFREY,
317 Guarantee Trust Bldg.,
Atlantic City, N. J.

IN CHANCERY OF NEW JERSEY
BETWEEN
CHARLES M. KESLER
COMPLAINANT
AND
LIDA H. SOOY ET ALS
DEFENDANTS
C 2 July 22nd, 1929
Vincent S. Haneman
Master

CONCLUSIONS.

(Filed Mar. 24, 1931.)

IN CHANCERY OF NEW JERSEY.

Between CHARLES M. KESSLER, *Complainant,* and WALTER C. SOOY, *et als.*, *Defendants.*	On Bill, &c. Conclusions.

MR. EMERSON RICHARDS for complainant and MR. JOHN C. REED, of counsel.
MESSRS. COLE & COLE, for defendants.

INGERSOLL, V. C.:

1. S. and his wife conveyed to their son, without consideration, all of their real estate, or such amount of their real estate as would result in their insolvency. At the time of such conveyances, proceedings were being had, or about to be had, upon the foreclosure of a mortgage upon their property, which resulted in a sale and a deficiency for which deficiency a judgment was obtained.

2. The grantors allege that the considerations for said conveyances were the performance of a contract made by them with the son in 1923, while the son was yet a minor; held,

Testimony found insufficient to prove that such contract was made.

On March 6, 1930, the complainant recovered a judgment against Lida H. Sooy and Walter C. Sooy in the New Jersey Supreme Court in the sum of $51,916.82, together with interest and costs. Said judgment was obtained upon a bond and warrant and was for a deficiency after foreclosure of a certain mortgage made by the said Sooys to Kessler in the sum of $50,000.

On March 15, 1929, the defendants conveyed to Leslie Thomas Sooy, their son, by several deeds of conveyance, lands and premises described therein and in the bill of complaint. The bill alleges that said conveyances were made without consideration and with intent to defraud creditors, and that the said property is now held in trust for the said Walter C. Sooy and Lida H. Sooy.

The defense is that on the 14th day of February, 1923, Dr. Sooy and his wife entered into an agreement with their son, Leslie Thomas Sooy, that if the son would give up his desire to study music and make what he thought would be a "career" in that way, and enter upon the study of medicine, and during his minority help his father and mother in the conduct of two hotels or rooming properties, that when he was graduated (or was graduating) in medicine, and after he had become twenty-one years of age, the father and mother would convey to him all of the property they then owned. The son com-

plied with the terms of the contract, and in accordance with the terms of the agreement, they made the conveyances. He had reached his majority at that time but did not actually graduate and receive his degree as an M. D. until the 29th of June of the same year.

The making of this contract was testified to by Walter C. Sooy, his wife, Lida H. Sooy, the son and Mrs. Alma Kyte, a niece, who were present. Their testimony is clear and, of course, was not and could not be specifically denied. The effect of these witnesses' testimony was very much weakened by the manner of the son upon the witness stand. The son, upon direct examination, in response to the question: "Tell us what the agreement was and how it came to be made?" answered: "The agreement was as follows, after I, Leslie Thomas Sooy, had obtained the age of twenty-one years and was graduating from the Hahnemann Medical College they, Walter C. Sooy and Lida H. Sooy, would convey to me all certain properties then, in 1923, in their possession, any portions of land each, and property, each for the sum of one dollar and for other valuable consideration, said valuable consideration being consisted in two things, one that I must change my intended career from one of music, which I loved, to one of medicine, and further valuable consideration that I must spend all time when not occupied in the study of medicine in their service working for them in one or other of the two hotels, which I agreed to." Upon cross-examination he testified as follows: "The following agreement was made on February fourteenth, 1923, as I said before, that after I, Leslie Thomas Sooy, attained the age of twenty-one years

and was graduating from the Hahnemann Medical College they, Walter C. Sooy and Lida H. Sooy, would convey to me all certain properties then, in 1923, in their possession, these properties to be conveyed each for the sum of one dollar and for other valuable consideration as follows (1) that I must change my intended career from one of music to one of medicine; (2) that I must spend the time that was not occupied in the study of medicine in their service working in the hotels."

It is apparent that he was testifying to what he believed was the result of the conversation with his father and mother and not what actually occurred. Manifestly this is so, as the father and mother state what they claim to have actually occurred, and not the result thereof. The effect of the son's testimony is very much weakened by his manner upon the witness stand and in his oft-repeated insistence that he "could not recall."

The Sooys insist that they were solvent at the time of the conveyances to the son. Their solvency would depend entirely upon the value of the real estate covered by the mortgage held by the complainant, and other tracts likewise mortgaged, several of which mortgages were foreclosed and the land sold and a large deficiency arose in each instance. In the complainant's case the deficiency judgment being greater than the original principal sum, the sale of the land not producing sufficient to pay interest and costs.

The testimony is convincing that although conveyance was made to the son, the father attended to almost all of the details concerning the properties, receiving practically all of the money, depositing it

in the bank in the son's name and drawing it out by checks signed by the son. These checks, in nearly all instances, were signed in blank by the son and later filled in by the father; and in some instances, were used by the father in the payment of his personal debts.

Testimony was taken as to the value of certain tracts of land consisting of what has been called "Hotels" in Atlantic City, and I have no doubt that the fair salable value of their assets at that time were less than the amount that would be required to pay their probable liability on their existing debts as they became absolute and matured, and that, therefore, they were insolvent. *Uniform Fraudulent Conveyance Act,* Clause 1, Section 2, Chapter 213, Laws of 1919; *Cumulative Supplemental to Compiled Statutes,* Vol. 1, p. 647; *Williamson v. Bender,* 105 Eq. 367, Affirmed, 153 Atl. 376.

The conveyances made to the son rendered the Sooys insolvent and are, therefore, fraudulent as to creditors, if such conveyances were made without a fair consideration. *Uniform Conveyance Act, Ibid.* 647.

The judgment of the complainant is bona fide. No claim is made by the defendants' counsel that any equity resulted by reason of the fact that the defendants, the elder Sooys, purchased the land which was foreclosed from the complainant for the sum of $100,000, paying him $50,000 in cash and giving the bond and mortgage in question, with the result that after foreclosure, the complainant is in possession of the land as well as the $50,000 paid him in cash, and whatever he may collect from the judgment in question. This land was purchased by Sooy

from Kessler with the expectation of using it in a contemplated deal which was then in actual progress. Sooy expected to make money by reason of the purchase, and his failure to realize that expectation is not in any way chargeable to Kessler. In fact, it can readily be inferred from the testimony that had not Kessler sold to Sooy he could have found other purchasers at satisfactory figures.

The question then resolves itself, as suggested by counsel for the defendants at the hearing: Was an enforceable contract made between the parents and the child in 1923? I have no hesitancy in believing that Doctor and Mrs. Sooy were very much concerned because of the desire of their son to take up what he considered to be a musical career. It makes no difference whether they feared what the effect of such a career and a life in New York City, without their control and parental guidance, would have upon the young man, or whether it was their need for the services of the boy, growing into manhood, or whether it was a matter of pride and the hope that the son would succeed the father in a professional career as a physician.

I have no doubt that a conversation very much as testified to actually took place, and I have as little doubt that both Doctor and Mrs. Sooy, Sr., feel now that they are justified in saying that a binding contract was made, but the circumstances and the facts which have arisen since convinces me that no such contract was ever made. It is almost beyond the bounds of reason to believe that the mother and father of two children would bind themselves to give to one of the children, upon his reaching his majority, and at a time when the parents would be over

sixty years of age, all of the property that they had, at the time of such agreement, accumulated, making no provision for their old age or sickness, should it fall upon them; and in addition with no consideration or provision whatever for the other child, a daughter still younger than the son. Such contract to be based only upon the consideration that the son, during his minority, would follow the father's desires as to his line of study and would, during such minority, perform such services as the father should call upon him to perform, all of which it was his duty to do.

Having found that no contract was made between the Sooys and their son on February 14th, 1923, the result is that the conveyances made on March 15th, 1929, were without consideration and must be set aside.

A decree will be advised in accordance with these views.

FINAL DECREE SETTING ASIDE CONVEYANCES FRAUDULENT AS AGAINST A SUBSEQUENT CREDITOR.

(Filed Apr. 7, 1931.)

IN CHANCERY OF NEW JERSEY.
D-79-240.

Between CHARLES M. KESSLER, *Complainant,* and WALTER C. SOOY and LIDA H. SOOY, his wife; LESLIE THOMAS SOOY and CARRIE S. SOOY, his wife, *Defendants.*	On Amended Bill, &c. Final Decree Setting Aside Conveyances Fraudulent as Against a Subsequent Creditor.

This cause coming on to be heard in the presence of Emerson L. Richards, Esquire, solicitor of the complainant, and Cole & Cole, Esquires, solicitors of the defendants, and the Court having examined the pleadings, and taken proofs, orally and in open Court, and having heard and considered the arguments of counsel thereon;

And the Court being satisfied that ten certain deeds for the lands and premises hereinafter described, each made by the defendants, Walter C. Sooy and Lida H. Sooy, his wife, to the defendant, Leslie Thomas Sooy, on the 15th day of March, 1929, and recorded on the 16th day of May, 1929, in the Clerk's Office of Atlantic County, respectively, in Book 921 of Deeds for said county, page 202, &c.; in Book 920 of Deeds for said county, page 410, &c.; in Book 920 of Deeds for said county, page 400, &c.; in Book 920 of Deeds for said county, page 402, &c.; in Book 921 of Deeds for said county, page 194, &c.; in Book 921 of Deeds for said county, page 198, &c.; in Book 920 of Deeds for said county, page 405, &c.; in Book 920 of Deeds for said county, page 411, &c.; in Book 921 of Deeds for said county, page 203, &c., and in book 921 of Deeds for said county, page 195, &c., were voluntary conveyances, made without consideration, and with the actual intent on the part of the said Walter C. Sooy and Lida H. Sooy, husband and wife, by means of said deeds, to delay or hinder one Charles M. Kessler, an existing or subsequent creditor having a lawful claim or debt against the said Walter C. Sooy and Lida H. Sooy, husband and wife, and that said conveyances were fraudulent as against the said Charles M. Kessler; that the complainant, on the 6th day of March, nineteen hundred and thirty, recovered a judgment in the New Jersey Supreme Court against the said defendants, Lida H. Sooy and Walter C. Sooy, in the sum of $51,916.82, plus interest from July 22nd, 1929, and costs of suit, on which judgment execution has been issued and returned unsatisfied, and which judgment still re-

mains wholly unpaid and unsatisfied; that the complainant has been and is unable to find any other property of said defendants, Lida H. Sooy and Walter C. Sooy, out of which to satisfy his said judgment, and has exhausted his legal remedy against the said defendants; and that the said conveyances made by the said defendants, Walter C. Sooy and Lida H. Sooy, husband and wife, to the said defendant, Leslie Thomas Sooy, as aforesaid, were fraudulent against the complainant as a creditor of said defendants, Lida H. Sooy and Walter C. Sooy, and should be set aside as against said complainant;

It is, on this 7th day of April, A. D. 1931, ordered, adjudged and decreed that the said ten deeds made by the defendants, Walter C. Sooy and Lida H. Sooy, husband and wife, on the 15th day of March, 1929, and recorded in the Clerk's Office of Atlantic County, in Book 921 of Deeds for said county, page 202, &c.; in Book 920 of Deeds for said county, page 410, &c.; in Book 920 of Deeds for said county, page 400, &c.; in Book 920 of Deeds for said county, page 402, &c.; in Book 921 of Deeds for said county, page 198, &c.; in Book 920 of Deeds for said county, page 405, &c.; in Book 920 of Deeds for said county, page 405, &c.; in Book 920 of Deeds for said county, page 411, &c.; in Book 921 of Deeds for said county, page 203, &c., and in Book 921 of Deeds for said county, page 195, &c., to the defendant, Leslie Thomas Sooy, for all those certain tracts or parcels of lands bounded and described as follows:

TRACT #1.

ALL that certain lot, tract or parcel of lands and premises situate in the City of Atlantic

City, County of Atlantic and State of New Jersey, bounded and described as follows:

BEGINNING at a point in the Northerly side of Pacific Avenue at a distance of 50 feet Eastwardly of the Northeasterly corner of Pacific and Michigan Avenues and runs thence (1) Northwardly, parallel with Michigan Avenue, 100 feet; thence (2) Eastwardly, parallel with Pacific Avenue, 50 feet; thence (3) Southwardly, parallel with said Michigan Avenue, 100 feet to the Northerly line of Pacific Avenue; thence (4) Westwardly, in the said line of Pacific Avenue, 50 feet to the place of beginning.

TOGETHER with the furniture and personal property contained in the dwelling house located on the above described lot of land.

TRACT #2.

ALL that certain lot, tract or parcel of lands and premises situate in the City of Atlantic City, County of Atlantic and State of New Jersey, bounded and described as follows:

BEGINNING at a point on the Westerly line of South Carolina Avenue, 377 feet Southwardly from the Southerly line of Pacific Avenue and runs thence (1) Southwardly, along the said line of South Carolina Avenue, 50 feet; thence (2) Westwardly, and parallel with Pacific Avenue, 150 feet; thence (3) Northwardly, and parallel with South Carolina Avenue, 50 feet; thence (4) Eastwardly, and parallel with Pacific Avenue, 150 feet to the place of beginning.

TOGETHER with the furniture and personal property contained in building located on the above described lot of land.

TRACT #3.

ALL that certain lot, tract or parcel of lands and premises situate in the City of Absecon City, County of Atlantic and State of New Jersey, bounded and described as follows:

BEGINNING at an old stone standing near the Southeasterly line of the Main Shore Road leading from Absecon to Oceanville, said stone being the beginning corner described in deed from Memima Steelman, et al, to Wilmer Pedrick and Charles Maurice Kessler, dated Jan. 14, 1909 recorded in Book 397, page 198, and extending thence (1) South 57 degrees 2 minutes West 317 feet to a point by an iron pipe; thence (2) South 38 degrees, 39 minutes East passing over said iron pipe which is set in the line of the old Steelman fence 376.1 feet more or less to another iron pipe; thence (3) South 67 degrees, 41 minutes East 264.9 feet to another iron pipe; thence (4) South 63 degrees 40 minutes East 1895.3 feet to an iron pipe at edge of the meadow near a large cedar tree; thence (5) South 74 degrees 49 minutes East to the shore or Cordery's Bay; thence (6) North along said shore to the seventh corner described in said deed from Jemima Steelman, et al, to said Kessler and Pedrick; thence (7) North 77 degrees West reversing the 6th line in said deed, along an old line ditch 1,100 feet to the 6th corner described in said deed; thence (8) North 83 degrees, 2 minutes West still along said old line ditch, 2,050 feet to the fifth corner in said deed; thence (9) South 79 de-

grees, 27 minutes West 500 feet to the fourth corner described in said deed; thence (10) North 71 degrees 13 minutes West 200 feet to the third corner in said deed; thence (11) North 62 degrees, 28 minutes West 500 feet to the second corner in said deed; thence (12) North 65 degrees, 34 minutes West 1575.5 feet to the place of beginning. Containing 94 acres more or less.

EXCEPTING out of the above described tract lot described as follows:

BEGINNING at a point in the Southerly line of Shore Road at a distance of 506.27 feet Northeastwardly from the Easterly line of Kessler Avenue, and extends; thence (1) South 64 degrees 22 minutes, 50 seconds East 174.37 feet in a line now or formerly of Daniel Steelman; thence (2) South 25 degrees 37 minutes 10 seconds West 90 feet to a line of a proposed 60 feet width street; thence (3) North 64 degrees, 22 minutes 50 seconds West 172.59 feet along Northeasterly line of said proposed 60 foot street; thence (4) Along a curve having a radius of 32.75 feet and a central angle of 123 degrees 05 minutes 40 seconds and length along curve 70.36 feet to a point in the Southerly line of the Shore Road; thence (5) North 58 degrees, 42 minutes, 40 seconds East along said Southerly line of Shore Road, 47 feet to the place of beginning.

TRACT #4.

ALL that certain lot, tract or parcel of lands and premises situate in the City of Absecon

City, County of Atlantic and State of New Jersey, bounded and described as follows:

1. BEGINNING at a stone, being the most Easterly corner of lands of William Bowler, and extends thence by magnetic bearings of 1912; thence (1) South, 26 degrees and 52 minutes West 103.9 feet; thence (2) South 79 degrees, and 3 minutes East 747.5 feet; thence (3) North 10 degrees East 818.1 feet; thence (4) North 88 degrees and 27 minutes West, 537.3 feet to a stone for a corner; thence (5) South, 26 degrees and 29 minutes West, 654.9 feet to the place of beginning. Containing 11.26 acres.

2. BEGINNING in the Southeasterly line of the Shore Road at a point distant 263.13 feet Southwestwardly from a stone monument in said line of the Shore Road, and extends thence by magnetic bearings of 1912, thence (1) South 4 degrees and 5 minutes West along the line of lands of Thomas Bowen, 395.9 feet; thence (2) South 10 degrees West along line of lands of Warren P. Tilton and heirs of Israel Blackman, 1,173.2 feet; thence (3) South 9 degrees, and 30 minutes West still along the line of lands of heirs of Israel Blackman, 410.4 feet; thence (4) South, 28 degrees West still along the line of lands of heirs of Israel Blackman, 30.8 feet to the middle of the Faunce's Landing Road; thence (5) South 66 degrees and 28 minutes East along the middle of the Faunce's Landing Road 100 feet; thence (6) South 21 degrees and 47 minutes West along the line of lands of Warren P. Tilton, 336.2 feet to the bank of the Ab-

secon River; thence (7) Following down the bank of the Absecon River to a point in the line of lands of Lemuel A. White, said point bearing South 7 degrees and 4 minutes West and is distant 137.5 feet from the last above described point; thence (8) North 48 degrees and 52 minutes East along the line of lands of Lemuel A. White and crossing the Faunce's Landing Road, 1278.5 feet to a Holly Tree for a corner; thence (9) North 28 degrees and 17 minutes East still along the line of lands of Lemuel A. White, 1214.7 feet; thence (10) North 24 minutes West still along the line of lands of Lemuel A. White and along the line of lands of heirs of Zadock Showell 690 feet to the line of lands of Edward Brant; thence (11) North 88 degrees and 4 minutes West along the line of lands of Edward Brant, 170.7 feet; thence (12) South 1 degree and 56 minutes West along the line of lands of Warren P. Tilton, 300 feet; thence (13) North 88 degrees and 4 minutes West still along the line of lands of Warren P. Tilton, 578 feet; thence (14) North 22 degrees West still along the line of lands of Warren P. Tilton, 407.9 feet to the Southeasterly line of the Shore Road; thence (15) South, 57 degrees and 47 minutes West along the Southeasterly line of the Shore Road, 483.2 feet to the place of beginning. Contains 48.44 acres.

3. BEGINNING at a post standing on the Southeasterly side of the Shore Road being the northermost corner of the lot where Elizabeth Showell formerly lived, and extends from

thence (1) South 2 degrees and a half, East 3 chains and 90 links in the side of said lot; thence (2) North 87 degrees and a half East 1 chain and 26 links; thence (3) North 4 chains and 71 links more or less to the Shore Road; thence (4) Along said Road South 54 degrees West, 1 chain and 44 links more or less to the place of beginning.

4. BEGINNING at a stone in the line between Warren P. Tilton and Charles F. Hammel, also corner to land owned by John Frambes, said corner being South 88 degrees and 34 minutes East, in said line at a distance of 167.88 feet from the Southerly line of the Shore Road and extends (1) South 88 degrees and 34 minutes East 175.69 feet to a stone; thence (2) North 3 degrees, and 30 minutes West 237.3 feet to the Southerly line of the Shore Road; thence (3) Along the Southerly line of the Shore Road South 57 degrees and 28 minutes West, 254.84 feet to a stone in the said Frambes line; thence (4) Along said Frambes line, South 14 degrees and 32 minutes East, 98.59 feet to the place of beginning.

EXCEPTING thereout and from the above described premises, the following lots, tracts or parcels of land and premises heretofore conveyed by the said party of the first part. Lot 11 Block 152, conveyed unto Lino Fiorelli, said lot being shown on map or plan of lots of Mentone Shores Section C-1 situate in Absecon, New Jersey, Scale 1 inch-100 feet, W. I. Risley, Civil Engineer. Lot No. 8, Block 152 conveyed unto Peter Cannaliato, shown on above men-

tioned map or plan. Lot No. 3, Block 163 conveyed unto William J. and Alma R. Kyte shown on map or plan above mentioned. Lot No. 6 & 7 Block 147 conveyed unto W. I. Risley, shown on above mentioned plan.

A part of Lot No. 13, Block 152 on the map or plan above mentioned conveyed unto Hans Corte. A part of Lot No. 12 Block 152 conveyed unto William J. and Alma R. Kyte. The above map or plan of lots having been duly filed. Also that certain lot or tract of land and premises conveyed to Harry Miller, situate on the Southeasterly side of the New York Road, being about 70 feet in front or width on said New York Road, adjoining lands of John Gaskill on the Southwest, and other property of said Miller on the Northeast.

TRACT #5.

ALL that certain lot, tract or parcel of lands and premises situate in the City of Absecon City, County of Atlantic and State of New Jersey, bounded and described as follows:

BEGINNING at the most Northerly corner of lands conveyed by Lemuel A. White, et ux to Walter C. Sooy, by deed dated May 1911, and recorded in Book 461, page 64, commencing at a stake in the centre line of Fourth Street as laid out by Lemuel A. White (100 feet wide) and extends thence by magnetic bearings of 1912; thence (1) North 68 degrees, 23 minutes West along the lands of Sooy and heirs of Zadock Showell 670.6 feet to a point in line of lands of Walter C. Sooy; thence (2) South 24 minutes East along lands of Walter C. Sooy,

171.6 feet; thence (3) Still along land of Walter C. Sooy, South 28 degrees and 17 minutes West 1214.7 feet to a holly tree for a corner; thence (4) Still along land of Walter C. Sooy and crossing Faunce's Landing Road, South 48 degrees and 52 minutes West 1278.5 feet to the bank of the Absecon Creek; thence (5) Following down the bank of the Absecon Creek the several Courses thereof to a stake standing in the centre line of Third Street (50 feet wide) and other lands of Lemuel A. White; thence (6) North 34 degrees and 4 minutes East along the centre line of Third Street to the centre line of Absecon and Rivaria Beaches Boulevard (Rivaria Beaches Boulevard being 100 feet wide) 889 feet; thence (7) North 55 degrees and 56 minutes West along the centre line of Absecon and Rivaria Beaches Boulevard to the centre line of Fourth Street, 575 feet; thence (8) North 34 degrees and 4 minutes East along the centre line of Fourth Street, 1720 feet to the place of beginning. The said Lemuel A. White reserving the right of way of Third Street (50 feet wide) from Absecon Creek to the centre of Absecon and Rivaria Beaches Boulevard and the right of way of Rivaria Beaches Boulevard (100 feet wide) from Third Street to the Westernmost line of said land, being 1,030 feet more or less and the right of way of Fourth Street from the Absecon Creek to the first mentioned point or place of beginning, being 2188 feet and the right of way of Faunce's Landing Road (50 feet wide) from Third Street to the Westernmost side of said

land as public highways running through the said property as laid out on the plan plotted by the said Lemuel A. White, for himself, his heirs, executors and assigns.

TRACT #6.

ALL that certain lot, tract or parcel of lands and premises situate in the City of Absecon City, County of Atlantic and State of New Jersey, bounded and described as follows:

#1. BEGINNING at a point in the middle line of a proposed street known as Fourth Street said point being the Northeasterly corner of Lemuel A. White's land; and extends thence (1) Along the middle line of said Fourth Street South 33 degrees 8 minutes West 1720 feet to the middle of a street known as New York Avenue; thence (2) Along the middle line of said Avenue South 56 degrees, 52 minutes East 564 feet; thence (3) North 33 degrees, 8 minutes East 150.06 feet; thence (4) North 55 degrees, 20 minutes 3 seconds West 403.46 feet; thence (5) North 27 degrees 14 minutes 9 seconds East 1566.87 feet to the place of beginning. Containing 4.913 acres.

#2. BEGINNING at the Southwesterly corner of William Johnson's Plantation and runs first South 58 degrees East 6 chains and 20 links to a corner; thence (2) North 6¾ degrees East 1 chain and 62 links to a corner; thence (3) North 58 degrees West 6 chains and 20 links more or less to the division line between Jacob H. Fans and William Johnson's land; thence (4) South 26¾ degrees West in said division line 1 chain and 62 links more or less

to the place of beginning. Containing 1 acre more or less.

#3. BEGINNING at the Southwesterly corner of land of Benjamin Johnson and runs; thence (1) In Southerly line of said land, South 55 degrees, 15 minutes East 410 feet to a cedar tree for a corner; thence (2) North 30 degrees East 102.5 feet to a stake for a corner; thence (3) North 55 degrees and 15 minutes West 441 feet to a stake for a corner on the Easterly side of a road running from said Johnson's house to the meadows; thence (4) In the side of said road in a Southwesterly direction 103.5 feet to the place of beginning. Containing 1 acre of land.

#4. BEGINNING at a corner of Bakley Risley in Daniel Steelman's line and extending thence (1) Along said Steelman line South 68 degrees and 15 minutes East 397 feet; thence (2) South 48 degrees and 30 minutes East 750 feet; thence (3) North 66 degrees and 30 minutes West 315 feet to the corner of land of Walter C. Sooy; thence (4) North 27 degrees East 612 feet to the place of beginning.

#5. All that certain lot, piece or parcel of land, situate, lying and being in Atlantic County, New Jersey and bounded and particularly described as follows: to wit:

BOUNDED on the East by the Bay on the North by Steelman's Creek and being at or near Long Point, and containing about 14 acres of land, more or less and which is the same piece and hereby intended to be the same piece or parcel of land given and bequeathed to Elish

Sooy by the last will and testament of his father Charles Sooy, deceased, and who died on or about the 14th day of November, 1847 in said County of Atlantic and whose said will was probated in said County, and to which reference is here made for more particular description.

BEING the same premises of which Felix Leeds died seized, having first made and published his last will and testament, wherein and whereby he did among other things, direct as follows:—"I give and bequeath unto my Grandson Henry Martense, son of Henry Martense and Mary, his wife, a lot of salt grass meadow containing 14 acres more or less situate at the shooting point along Absecon Bay, being the property which I purchased of Elisha Sooy." "It is my will and request that the said meadow shall be in the care and control and use of Capt. Abel Babcock until my Grandson Henry Martense shall attain the age of 21 years after which time Henry Martense shall have full possession and control of said meadow, but if the said Henry Martense shall die before attaining the age of 21 years or having attained that age, shall die without heirs, then the said meadow to be sold and the proceeds divided equally between all of my Grand children share and share alike. The said Henry Martense having departed this life on or about the 25th day of May in the year of our Lord 1892, intestate, unmarried and without issue, before having arrived at the age of 21 years.

BEING the same premises which John R. Steelman, Executor of the last will and testa-

ment of Felix Leeds, Lida S. Babcock, Elizabeth Sapp and Joseph B. Sapp, her husband, Lida S. Butler and Arthur T., her husband, Walter Sapp and Ada, his wife, Francis Sapp and Cora, his wife, Charlotte B. Hammel and Ambrose L., her husband, Reuben L. Babcock and Bessie B., his wife, heirs at law of the said Felix Leeds, deceased, conveyed unto the said Walter C. Sooy by deed dated Feb. 6, 1913 and recorded in Book 543, of deeds, page 61 &c.

TOGETHER with all the household furniture, fixtures and utensils contained in the building or buildings on the above described premises.

TRACT #7.

ALL that certain lot, tract or parcel of lands and premises situate in the City of Absecon City, County of Atlantic and State of New Jersey, bounded and described as follows:

BEGINNING at a stake for a corner set in the meadow 75 links from the Northerly side of the Salt Works Ditch to the Southward of a fresh water spring by the side of said ditch and extending thence (1) South 42 degrees East to a stake in the head of a small creek called the Boundary between Joseph Ireland and said meadows; thence (2) Down the same by the several courses thereof to the mouth thereof at the side of Shooting Point and Absecon Bay; thence (3) Bounding by low water mark up the several courses of the meadow crossing a small creek's mouth and the mouth of the Salt Works Ditch to the mouth of a small creek next to the ditch; thence (4) Up the several courses of the

said small creek to a stake on the Northerly side of said ditch; thence (5) Along and joining on the said ditch North 75 degrees West 94 chains, 42 links to Joseph Ireland's meadow to a stake for a corner by the said ditch; thence (6) Joining on said Joseph Ireland's meadow crossing said ditch South 16 degrees West 37½ links to a corner; thence (7) South 75 degrees East 37 chains to a corner; thence (8) South 15 degrees West 37½ links to the place of beginning.

Containing 90 acres of salt meadow.

ALSO all that certain tract of meadow land, Beginning at a corner of 90 acres sold by the Sheriff of Gloucester County unto James Bound and Thomas Latham in 1786 and extending thence (1) South 42 degrees East to the head of a small creek; thence down the middle of said creek to Absecon Bay by the side of Shooting Point thence West by low water mark adjoining the meadow to the mouth of the first creek to the East of the mouth of Absecon Creek; thence in the division line between the heirs of Samuel and Richard Ireland, the several courses to the Southerly side of the 90 acres; thence North 75 degrees West to the most Westerly line of the 90 acres; thence North 16 degrees West 37½ links to Enoch A. Doughty's corner; thence in his line South 75 degrees East 37 chains to his corner; thence in his line South 15 degrees West 37½ links to the place of beginning. Containing 70 acres more or less and includes the Joseph Ireland's 50 acres and meadow bought of William Johnson in 1862.

ALSO beginning at a peg for a corner being the corner of Zadock Showell, Matthew Sooy and Daniel Tilton, and extending; thence (1) On a course North 70½ degrees West 10 chains and 5/100 of a chain to a peg for a corner; thence (2) South 4½ degrees East 2 chains and 57/100 of a chain to a peg for a corner; thence (3) South 28 degrees 7 minutes West 18.40 chains thence (4) South 13 degrees East 1.90 chains; thence (5) South 16½ degrees West 8 chains and 80/100 of a chain to Absecon Creek; thence down Absecon Creek by following courses (6) South 40 degrees East 5.30 chains; thence (7) South 12 degrees West 5 chains; thence (8) South 52 degrees East 18 chains; thence (9) North 82 degrees, East 10.50 chains; thence (10) South 9 degrees West 15 chains and 50/100 of a chain to Absecon Bay; thence (11) Binding said Bay North 87 degrees East 3 chains to the mouth of a small creek thence (12) Up said creek North 14½ degrees East 4 chains and 50/100 of a chain; thence (13) Still following said creek North 28 degrees East 5 chains to a stake by the said Creek; thence (14) North 4 chains and 80/100 of a chain to a stake in the line of lot Number 3 of the original division among the heirs-at-law of Amos Ireland, deceased about 1779; thence (15) In the line of lot Number Three North 31 degrees West 23 chains to a corner stake near the upland; thence (16) North 61½ degrees West 9 chains and 50/100 of a chain; thence (17) North 22½ degrees East 23.25 chains to the place of beginning. Containing 60 acres, more or less.

EXCEPTING however, from the last above described tract all that certain tract conveyed by Lemuel A. White and Martha, his wife, to Walter C. Sooy, by deed dated May 18, 1911, and recorded in Book 461 of deeds, page 64, bounded and described as follows:

BEGINNING in the middle of a proposed street known as Fourth Street said point being the Northeasterly corner of Lemuel A. White's land and extending thence (1) Along the middle line of said Street South 33 degrees, 8 minutes West 1720 feet to the middle of a street known as New York Avenue; thence (2) Along the middle of said Avenue South 56 degrees, 52 minutes East 564 feet; thence (3) North 33 degrees 8 minutes East 150.06 feet; thence (4) North 55 degrees 20 minutes 3 seconds West 403.46 feet; thence (5) North 27 degrees, 14 minutes 9 seconds East 1566.87 feet to the place of beginning.

Containing 4 acres and 913/1000 of an acre.

ALSO EXCEPTING from the last above described tract all that portion of the lands contained within said tract which were conveyed by Lemuel A. White and Martha, his wife, to Lida H. Sooy, by deed dated April 30, 1912 and recorded in Book 481 of deeds, page 400 &c., bounded and described as follows:

BEGINNING at the most Northerly corner of lands conveyed by Lemuel A. White, et ux., to Walter C. Sooy, by deed dated May, 1911, recorded in Book 461, page 64, commencing at a stake in the centre line of Fourth Street, as laid out by Lemuel A. White (100 feet wide)

and extending thence by magnetic bearings of 1912; thence (1) North 68 degrees, 23 minutes West along lands of Sooy and heirs of Zadock Showell 670.6 feet to a point in the line of lands of Walter C. Sooy; thence (2) South 24 minutes East along lands of Walter C. Sooy, 171.6 feet; thence (3) Still along land of Walter C. Sooy, South 28 degrees, 17 minutes West 1214.7 feet to a holly tree for a corner; thence (4) Still along land of Walter C. Sooy, and crossing the Faunce's Landing Road, South 48 degrees, 52 minutes West 1278.5 feet to the bank of the Absecon Creek; thence (5) Following down the bank of the Absecon Creek the several courses thereof to a stake standing in the centre line of Third Street (50 feet wide) and other lands of Lemuel A. White; thence (6) North 34 degrees 4 minutes East along the centre line of Third Street to the centre line of Absecon and Rivaria Beaches Boulevard (Rivaria Beaches Boulevard being 100 feet wide) 889 feet; thence (7) North 55 degrees, 56 minutes West along the centre line of Absecon and Rivaria Beaches Boulevard to the centre line of Fourth Street 575 feet; thence (8) North 34 degrees 4 minutes East along the centre line of Fourth Street, 1720 feet to the place of beginning.

TRACT #8.

ALL those five contiguous Tracts of upland and meadow, situate in the City of Absecon City, Atlantic County, New Jersey on both sides of the public road leading from the main Shore Road to Samuel Reed's landing and described according to surveys made in 1876 as follows:

#1. BEGINNING at a stake standing in middle of the public road leading from the main Shore Road to Samuel Reed's landing at a distance of 10½ chains on a course of South 33 degrees West from Chamberlain's and Reed's line and South of Samuel Reed's barn and where the line of a fence made by Samuel Reed intersects said road and runs thence (1) South 58¼ degrees East by said fence 12 chains to the meadow; thence (2) North 77½ degrees East 17 chains more or less to Absecon Creek to a stake for a corner landing near the lower end of the Long Reach; thence (3) Up said Creek the several courses thereof to a small creek or ditch in the upper end of the said Long Reach being the division line between Lewis Reed and Daniel H. Reed; thence South 44½ degrees West 5 chains and 62 links to the line ditch; thence (4) North 77 degrees West 6 chains and 18 links following on old ditch near the Boat House; thence (5) South 7 degrees West 25 links to a corner; thence (6) North 85 degrees West 1 chain and 32 links to a corner in the public road aforesaid; thence (7) South 31 degrees and 10 minutes West 6½ chains to a corner and corner to the first tract set off to Lewis Reed; thence (8) South 33 degrees West 56 links to the place of beginning. Containing 10 acres be the same more or less.

#2. BEGINNING at a stake set for a corner and being the fifth corner of the first lot set off to Lewis Reed and runs; thence (1) In the division line between Lewis Reed and Daniel H. Reed North 12 degrees and 10 minutes East 3

chains and 20 links to a corner standing in the meadow; thence (2) North 15 minutes West 9 chains and 68 links more or less to Absecon Creek at the mouth of a small gut or creek putting into the meadow at the Southerly side of Absecon Creek; thence (3) Binding Absecon Creek on a general course of North 54¼ degrees East 6 chains and 25 links to a stake in the edge of said creek; thence (4) Still by the Creek aforesaid South 1 degree and 10 minutes East 6 chains and 90 links more or less to the mouth of a small creek; thence (5) Up said small creek South 78¼ degrees West 1 chain and 38 links to a corner; thence (6) South 9 degrees and 10 minutes East 2 chains and 90 links to a corner and mouth of a ditch; thence (7) South 12 degrees and 10 minutes West 7 chains and 72 links more or less to the line of Lewis Reed's land; thence (8) North 66¾ degrees West 2 chains and 50 links to the place of beginning. Containing 6 acres be the same more or less.

#3. BEGINNING at a stake standing in the middle of the public road leading from main Shore Road to Samuel Reed's Landing at a distance of 10½ chains on a course of South 33 degrees West from Chamberlain's and Reed's line and South of Samuel Reed's barn, and where the line of a fence made by Samuel Reed intersects said Road and thence (1) South 58¼ degrees East by said fence 12 chains to the meadow; thence (2) North 77½ degrees East 17 chains more or less to Absecon Creek to a stake for a corner standing near the lower end of the

Long Reach; thence (3) Down Absecon Creek the several courses thereof to the mouth of the line ditch between the property of Samuel Reed, deceased and William Chamberlain, deceased, now the property of Aaron S. Steelman; thence (4) Up said line ditch to the upland; thence (5) Still in the division line between Reed and Chamberlain along a line fence to the middle of the public road aforesaid; thence (6) North 33 degrees East 10 chains and 50 links to the place of beginning.

Containing 9 acres be the same more or less.

#4. BEGINNING at a white oak standing at the Northwesterly corner of Scow Dock or ditch where it empties into Absecon Creek and being the Easterly line of the public road aforesaid and runs; thence (1) South 31 degrees and 10 minutes West 8 chains and 25 links to the fourth corner of the first lot set off to Lewis Reed; thence (2) North 66¾ degrees West 4 chains and 33 links to a stake for a corner and corner to second lot set off to Daniel H. Reed; thence (3) Binding Daniel H. Reed's line North 12 degrees and 10 minutes East 7 chains and 72 links being an old ditch a part of said distance, to a small creek; thence (4) Along said Creek North 9 degrees and 10 minutes West 2 chains and 90 links to a stake for a corner; thence (5) Still along said Creek North 78¼ degrees East 1 chain and 38 links to Absecon Creek; thence (6) Down Absecon Creek Southeast to the place of beginning. Containing 5 acres be the same more or less.

#5. BEGINNING at a white oak stake standing at the Northwesterly corner of Scow Dock or ditch where it empties into Absecon Creek and being the Easterly line of the public road aforesaid and runs thence (1) Down Absecon Creek the several courses thereof to the mouth of a small ditch or creek at the west end of the long Reach of Absecon Creek; thence (2) South 44½ degrees West up said creek and ditch 5 chains and 62 links to a corner; thence (3) North 77 degrees West 6 chains and 18 links following an old ditch near the Boathouse; thence (4) South 7 degrees West 25 links to a corner; thence (5) North 85 degrees West 1 chain and 32 links to a corner in the public road aforesaid; thence (6) North 31 degrees and 10 minutes East 1 chain and 75 links to the place of beginning. Containing 6 acres, more or less.

EXCEPTING out of the above described tracts, a lot beginning at the line of lands now owned by Lewis M. Clark in the middle of the said public road and extending along the middle of said road in a Northeasterly direction 200 feet and in length or depth Northwest about 400 feet to the line of meadows formerly owned by Lewis Reed, the Southerly side line being the division line between Lewis M. Clark and the said Daniel H. Reed and the Northerly side line being parallel thereto and excepting also a lifetime right to Daniel H. Reed to a landing for a boat or boats at the terminus of said public road at Absecon Creek.

TRACT #9.

ALL that certain lot, tract or parcel of lands

and premises situate in the City of Absecon City, County of Atlantic and State of New Jersey, bounded and described as follows:

BEGINNING at a point in the middle of the Pitney Road, being also a corner of land belonging to Edward A. Wilson, and extending thence (1) Along said Wilson's line North 49 degrees, 30 minutes West 2,138.18 feet to the Sarah Helby line; thence (2) Along the said Helby line North 87 degrees 30 minutes West 465.66 feet; thence (3) Along the line now or formerly of Fleming, and parallel with first course South 49 degrees, 30 minutes East 2,639.81 feet to the middle of the aforesaid Pitney Road; thence (4) Along the middle of said Road North 15 degrees 20 minutes East 316.08 feet to the place of beginning. Containing 15.72 acres.

ALSO BEGINNING at a stake standing at the head of Sooy's Creek, also a corner of land formerly of Matthew Sooy, and extending thence (1) Along said Sooy's line, as the magnetic pointed October, 1905, North 70 degrees, 45 minutes West 570 feet to a stake standing on the Northerly side of a small salt pond; thence (2) Still along said Sooy's line, North 19 degrees, 15 minutes, West 943 feet to the middle of a line ditch in Zadock Showell's line; thence (3) Along said line ditch North 73 degrees West 332 feet to a line ditch between the party of the first part and said Zadock Showell; thence (4) Along said ditch North 20 degrees, 15 minutes East 168 feet; thence (5) North 4 degrees 30

minutes East 128 feet; thence (6) North 38 degrees, 30 minutes East 146 feet to corner of land of said Sooy; thence (7) Along the line of said Sooy's land North 61 degrees West 590 feet; thence (8) Still along the same North 26 degrees 45 minutes East 115.5 feet to a stake; thence (9) Still along the same North 61 degrees West 373 feet to a stake for a corner in line of land of Warren Tilton; thence (10) Along said Tilton's line South 26 degrees and 30 minutes West 922 feet to a corner of land of John Cannon; thence (11) Along said line South 55 degrees East 415 feet to a post for a corner; thence (12) South 30 degrees, 45 minutes West 208 feet to a stone in Warren Tilton's line; thence (13) Along said line South 54 degrees, 187 feet to a stake at the head of a line ditch; thence (14) Along the middle of said line ditch South 31 degrees East 438 feet to pump ditch; thence (15) Along the middle line of said pump ditch South 69 degrees, 15 minutes East 4,874 feet to a stake being the 6th corner of a lot formerly of Felix Leeds; thence (16) Along the line of said Leed's land North 20 degrees 15 minutes East 872 feet to the middle of Sooy's Creek; thence (17) Up the said Creek the several courses thereof to the place of beginning, said beginning bears South 81 degrees East at the distance of 3,248 feet to the last mentioned corner. Containing 92 acres more or less.

TRACT #10.

ALL those certain lots, tracts or parcels of lands and premises situate in the City of Ab-

secon City, County of Atlantic and State of New Jersey, bounded and described as follows:

#1. BEING lots numbered 1, 6 and 11 as shown on "Map of land in the Town of Absecon belonging to Walter C. Sooy and others, as per map furnished by W. C. Sooy," which map is duly filed, said lots being located on the road or lane known as Sooy's Lane on the Southeasterly side of the main shore road leading from Absecon to Leeds Point.

#2. BEING lots numbered 2, 7 and 12 as shown on "Map of land in the Town of Absecon belonging to Walter C. Sooy and others, as per map furnished by W. C. Sooy," which said map is duly filed, said lands being located on the road or lane known as "Sooy's Lane" on the Southeasterly side of the main shore road leading from Absecon to Leeds Point.

#3. BEING lots numbered four, ten and fifteen as shown on "Map of Land in the Town of Absecon Belonging to Walter C. Sooy and others as per map furnished by W. C. Sooy," which said map is duly filed in Atlantic County Clerk Office.

#4. BEING lots numbers 16, 17 and 20 as shown on "Map of land in Absecon City, New Jersey, belonging to Walter C. Sooy and others." Said map prepared from a survey made by Watson Conover, being a correction of maps and deed previously made by the heirs-at-law of Matthew C. Sooy, deceased, a copy of which said map of correction is duly filed. Said lands being located on the road or lane known as "Sooy's Lane" on the Southeasterly side of

the County Road leading from Absecon to Oceanville.

#5. BEING lots numbered 3, 8, 13 as shown on "Map of land in the Town of Absecon, belonging to Walter C. Sooy and others as per map furnished by W. C. Sooy," which said map is duly filed. Said lands being located on the road or lane known as "Sooy's Lane" on the Southeasterly side of the Main Shore Road leading from Absecon to Leeds Point.

#6. BEING lot number 18 as shown on "Map of land in Absecon City, New Jersey, belonging to Walter C. Sooy and others." Said map being prepared from a survey made by Watson Conover, being a correction of maps and deeds previously made by the heirs-at-law of Matthew C. Sooy, deceased; a copy of which said map of Correction is duly filed in Atlantic County Clerk's Office. Said land being located on the road or lane known as "Sooy's Lane," on the Southeasterly side of the County Road leading from Absecon to Oceanville.

#7. BEING lot number 19 as shown on "Map of land in Absecon City, New Jersey, belonging to Walter C. Sooy and others," said map being prepared from a survey made by Watson Conover, being a correction of maps and deeds previously made by the heirs-at-law of Matthew C. Sooy, deceased, a copy of which said map of correction is duly filed, said lands being located on the road or lane known as "Sooy's Lane" on the Southeasterly side of the County Road leading from Absecon to Oceanville.

#8. ALSO lots numbered 9 and 14 as shown on "map of Lands in the Town of Absecon, Belonging to Walter C. Sooy and others as per map furnished by W. C. Sooy, which said map is duly filed in the Atlantic County Clerk's Office. Said lands being located on the road or lane known as "Sooy's Lane" on the Southeasterly side of the Main Shore Road leading from Absecon to Leeds Point.

#9. ALSO all that certain lot of brush land contained about 10 acres more or less located in the City of Absecon, Atlantic County, New Jersey on the Mill Road, said lot being on which John Leeds, the grandfather of Charles H. Sooy died seized intestate.

Be and the same are hereby set aside and held to be fraudulent and declared null and void and of no effect as against the judgment recovered by the said complainant in the New Jersey Supreme Court on the 6th day of March, 1930, against the said defendants, Lida H. Sooy and Walter C. Sooy, for $51,916.82 damages plus interest from July 22nd, 1929, and costs of suit, as aforesaid, and the execution issued on said judgment to the Sheriff of Atlantic County on the 23rd day of April, 1930, or such alias execution as may issue out of the New Jersey Supreme Court upon said judgment above referred to, against the goods and chattels, lands, tenements, hereditaments and real estate of the said defendants, Lida H. Sooy and Walter C. Sooy, as aforesaid; and that the defendants, Walter C. Sooy and Lida H. Sooy, husband and wife, and Leslie

Thomas Sooy and Carrie S. Sooy, husband and wife, pay to the complainant the costs of suit to be taxed herein, including a counsel fee of two hundred fifty dollars, which is hereby allowed to said complainant.

It is further ordered that unless the said defendants, Walter C. Sooy and Lida H. Sooy, husband and wife, and Leslie Thomas Sooy and Carrie S. Sooy, husband and wife, shall within 15 days after service upon them of true but uncertified copies of this decree and of said taxed bill of costs, pay to the complainant the amount due to him upon his said judgment, together with interest thereon and the said taxed costs, execution issue for said taxed costs against the goods, chattels, lands, tenements, hereditaments and real estate of the said defendants, Walter C. Sooy and Lida H. Sooy, according to the practice of this Court, directed to the Sheriff of the said County of Atlantic, and that the said Sheriff proceed to sell the lands and premises hereinbefore described under and by virtue of said writ of execution and of the writ of execution heretofore directed and delivered to him, dated the 23rd day of April, 1930, or any such alias execution as may issue out of the New Jersey Supreme Court upon said judgment above referred to, as aforesaid, free, clear and discharged of and from the said ten deeds made by the said defendants, Walter C. Sooy and Lida H. Sooy, husband and wife, to the said defendant, Leslie Thomas Sooy, as aforesaid, and of and from all claims of the said defendants, Leslie Thomas Sooy and Carrie S. Sooy, husband and wife, thereunder or by virtue thereof.

And it is further ordered, adjudged and decreed that a copy of this decree be filed in the clerk's office of Atlantic County, at May's Landing, New Jersey.

E. R. WALKER,
C.

Respectfully advised,
R. H. INGERSOLL,
V. C.

NOTICE OF APPEAL.

(Filed Apr. 10, 1931.)

IN CHANCERY OF NEW JERSEY.
79-240

Between CHARLES M. KESSLER, *Complainant,* and WALTER C. SOOY, *et al.,* *Defendants.*	On Bill, &c. Notice of Appeal.

To the Within Named Complainant:

The defendants hereby appeal from the final decree made in the above-entitled cause on April 7th, 1931, made by the Chancellor on the advice of Vice-

Chancellor Ingersoll, and from the whole and every part thereof, to the Court of Errors and Appeals in the Last Resort in all Causes.

Dated April 10th, 1931.

COLE & COLE,
Solicitors for and of Counsel with Defendants.

We conceive there is good cause for appeal in the above-entitled cause.

C. L. COLE,
Of Counsel with Defendants.

PETITION OF APPEAL.

NEW JERSEY COURT OF ERRORS AND APPEALS.

10

Between CHARLES M. KESSLER, *Complainant-Respondent,* and WALTER C. SOOY, *et al.*, *Defendants-Appellants.*	On Appeal from Chancery. Petition of Appeal.

20

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

The petition of Walter C. Sooy, Lida H. Sooy, his wife, Leslie Thomas Sooy and Carrie S. Sooy, his wife, the appellants in the above-entitled cause, respectfully shows that:

30

1. Petitioners find themselves aggrieved by a final decree made in the Court of Chancery by his Honor Edwin Robert Walker, Chancellor of the State of New Jersey, on the advice of his Honor Robert H. Ingersoll, one of the Vice-Chancellors, which order bears date of April 7th, 1931, in a certain cause in

said Court of Chancery wherein the said Charles M. Kessler was complainant and the said Walter C. Sooy, Lida H. Sooy, his wife, Leslie Thomas Sooy and Carrie S. Sooy, his wife, were defendants, in this respect, to wit, that the said decree adjudges that the agreement set up in the answer was not in fact made, and erroneously determined that the complainant was entitled to relief notwithstanding the defense interposed.

And petitioners appeal from the decree of the Chancellor which decrees as aforesaid, upon the ground that the same is erroneous because it adjudges that the agreement set up in the answer was not in fact made, and that the complainant was entitled to relief notwithstanding the defense interposed.

Petitioners therefore pray that the said decree of the said Chancellor may be wholly reversed, set aside and for nothing holden, and that petitioners may have such other relief in the premises as to this Court shall seem proper.

COLE & COLE,
Solicitors for and of Counsel with Appellants.

88 OCT.T.1931

Filed after the Oral Argument by leave of Court.

I. F. Huntzinger Co., *Appellate Printers,* Camden, N. J.

New Jersey Court of Errors and Appeals

Between
CHARLES M. KESSLER,
Complainant-Respondent,

and

WALTER C. SOOY, *et al.,*
Defendants-Appellants.

On Appeal from Chancery.

APPELLANTS' BRIEF.

STATEMENT.

This is a creditor's bill, the purpose of which in substance is to have it decreed that certain real estate conveyed by Walter C. Sooy and his wife to their son, Leslie Sooy, was in fraud of creditors and to subject it to the lien of complainant's judgment. From the decree favorable to the complainant this appeal was taken.

ARGUMENT.

I.

THE COURT ERRED IN FINDING THE ALLEGED CONTRACT BETWEEN THE PARENTS AND SON WAS NOT, IN FACT, MADE.

The answer (page 30), alleges an agreement between parents and child to convey to the child the premises described in the bill and the conveyance pursuant to said agreement. We need not quote in full the terms of the agreement. The learned Vice-Chancellor found as a fact that the alleged agreement was not made, and decreed in favor of the complainant. If he was right in this respect, other points hereinafter discussed may well be dismissed. In dealing with important factual questions the Vice-Chancellor said (page 358):

> "I have no doubt that the conversation very much as testified to actually took place, and I have as little doubt that both Doctor and Mrs. Sooy, Sr., feel now that they are justified in saying that a binding contract was made, but the circumstances and the facts which have arisen since convinces me that no such contract was ever made."

The alleged contract was testified to by Dr. Sooy, Sr., his wife, Dr. Leslie Sooy and Mrs. Alma Kyte. The Vice-Chancellor makes no allusion to the testi-

mony of Mrs. Kyte. He does not charge any of the witnesses with fabricating. All were under oath. No one was directly impeached. The alleged agreement was not so inherently improbable as to justify the Vice-Chancellor repudiating the witnesses and their testimony. But, apart from the question of the legal consideration for the agreement it was by no means an unnatural one. Indeed, we think it a natural one. The Vice-Chancellor seems to have implied this when he said (page 358):

> "I have no hesitancy in believing that Doctor and Mrs. Sooy were very much concerned because of the desire of their son to take up what he considered to be a musical career. It makes no difference whether they feared what the effect of such a career and a life in New York City, without their control and parental guidance, would have upon the young man, or whether it was their need for the services of the boy, growing into manhood, or whether it was a matter of pride and the hope that the son would succeed the father in a professional career as a physician."

Mrs. Kyte (page 277), is asked:

> "Q. Will you tell us, please, what you heard between them (the appellants), about an agreement?
>
> A. Yes, his mother and father wanted him to change his musical career for that of medicine and also work in the hotel when he would not be studying, and when he would be twenty-one and graduating from Hahnemann Medical

College, they would convey their property to him.

Q. Do you know how that talk came about? What was it introduced the subject, if you can recall?

A. Well, because he wanted to go away to New York and study and they didn't want him to go.

Q. Did you hear him say that?

A. Yes.

Q. You heard him tell his father and mother that?

A. Yes.

Q. Was it during that same talk that this agreement you say was made?

A. Yes."

The boy was bent upon pursuing music as his profession and to go to New York to study. The father and mother were fearful of the New York environment and were eager that he should pursue medicine and follow in the footsteps of his father. They also wanted the benefit of his assistance in the home and boarding house run by them. In order to dissuade him from his course they agreed that if he would pursue medicine and graduate from Hahnemann Medical College and work in the hotels while not actually at college, they would, when he arrived at the age of twenty-one years, convey the property to him. On this promise he agreed to follow their wish. Mrs. Sooy (page 262), expresses it as follows:

"Leslie, my son, had a rare voice, and he had been educated in music and wanted to go

to New York. I didn't want him to go. He wanted him to enter a career in, have a career in music in New York. I didn't want him to go and I told him if he would stay with us and follow after his father and graduate or be graduating from the Hahnemann College and practice medicine, I would be willing and would deed all the property I had to him when he became twenty-one and was graduating from medicine if he would stay with us and work in the hotels all that time until he did become a doctor."

* * * * * * *

"Q. Why didn't you want him to pursue his musical career?

A. I was afraid of it.

Q. What?

A. I was afraid for him to go to New York."

In substance, father and son testified to the same thing and the proof is uncontroverted that the son kept his promise, and is certainly morally entitled to have his parents perform on their part.

Commenting upon the alleged agreement (page 355), the Vice-Chancellor states:

"The making of this contract was testified to by Walter C. Sooy, his wife, Lida H. Sooy, the son and Mrs. Alma Kyte, a niece, who were present. Their testimony is clear and, of course, was not and could not be specifically denied. The effect of these witnesses' testimony

> was very much weakened by the manner of the son upon the witness stand."

It is difficult for us to understand how the effect of the testimony of the other witnesses could be weakened by the manner of the son upon the witness stand. The testimony of the others, as the Vice-Chancellor states, was clear, and was not controverted. At page 356, the Vice-Chancellor states:

> "It is apparent that he (meaning the son), was testifying to what he believed was the result of the conversation with his father and mother and not what actually occurred."

If the Vice-Chancellor had found as a fact that he did not believe the witness, it would have been proper for him to have held that the agreement was not made. Nowhere does he challenge their veracity. As we read his conclusions, he concedes that they testified to what they believed, and they believed that the agreement was made when it was not in fact made. To us, his ultimate conclusion cannot be reconciled with his preceding conclusion touching his belief in the belief of the witnesses. The testimony of four unimpeached witnesses should not be completely overthrown unless their testimony can be treated as utterly improbable.

We respectfully submit that the finding of fact was erroneous and that if complainant's right to a decree must stand on that finding of fact, the decree must be reversed.

II.

DID THE ALLEGED AGREEMENT LACK CONSIDERATION?

The Vice-Chancellor did not decide this question. It was contended before him by counsel for complainant that it did lack consideration, and there is an intimation in the opinion that it did. We submit that there was a valid consideration. Possibly the parents may have been able to successfully defend an action which might have been brought by him to enforce the agreement upon the ground that his minority made the agreement unenforceable or that he had a legal duty to remain with them until he was twenty-one years of age, and prepare for a life work in keeping with their desire. But this feature is out of the case because the parents recognized either a legal or moral obligation to perform, and did perform. They could not thereafter challenge the executed agreement, nor can the complainant do so. Conveyances having been made under and in pursuance of the terms of the agreement it does not lie with anyone to challenge them.

III.

THE FINDING OF INSOLVENCY IS NOT JUSTIFIED.

It is not questioned that appellants were solvent in 1923 when the alleged agreement was made. The

bonds were made in June, 1926. The judgments for deficiency were entered in March, 1930. The conveyances to Leslie Sooy were made in March, 1929. The agreement of sale between complainant and Lida H. Sooy, one of the defendants, was made in February, 1926, and the consideration was $100,000, $50,000 of which was paid in cash and $50,000 by a purchase money mortgage out of which the deficiency accrued which ultimated in the judgment in favor of complainant which was the basis for the filing of the bill.

The Fraudulent Conveyance Act, chapter 213 of the Laws of 1919, reads:

> "A person is insolvent when the present fair salable value of his assets is less than the amount that will be required to pay his probable liability or his existing debts as they become absolute and matured."

At the time of the conveyance to Leslie Sooy, appellants owned the land conveyed by the complainant to them. They owned other land. It is our insistence that the fair salable value of the land owned by complainants at the time of the conveyance to the son was greater than the amount that would be required to pay their probable liability.

Alfred J. Kurtz was produced as a witness by respondent. He is in the real estate business and was qualified to testify as to value of real estate. An analysis of his testimony shows solvency at the time of the challenged conveyance in 1929. When asked the value of the property remaining in appellants (page 292), the witness said:

> "Well, I feel sure that $500 an acre I could

have got for it, and I feel that that was a fair price because the airport deal was right near that time that I was working on it."

At page 95 he said:

"Well, I had an airport proposition on it last year and I was working on a basis then of $500 an acre, but, of course, I couldn't purchase it at that due to the fact that we couldn't agree on price."

He fixes the time as the spring of 1929. There were about 300 acres in the tracts owned by the appellants which on the basis of the value set would have made the property worth $150,000 which was in excess of their obligations at that time.

It is respectfully submitted that the decree should be reversed.

COLE & COLE,
Solicitors for Appellants.

MacCrellish & Quigley Co., Printers, Trenton, N. J.

NEW JERSEY

Court of Errors and Appeals

Between

CHARLES M. KESSLER,

Complainant-Respondent,

and

WALTER C. SOOY, *et al.*,

Defendants-Appellants.

On Appeal from Chancery.

RESPONDENT'S BRIEF

Plaintiff held the two bonds of the defendants aggregating the sum of $50,000 secured by two mortgages upon the property of the defendants. The mortgages were foreclosed, leaving a deficiency of $51,916.82 and interest, upon which a judgment was entered in the New Jersey Supreme Court. An execution was returned unsatisfied and the defendants admittedly have no property upon which a levy could be made. A judgment was entered on March 6, 1930.

On March 15, 1929, the defendants, Lida H. Sooy and Walter C. Sooy, her husband, conveyed to their son, Leslie Thomas Sooy, all of their property, consisting of two hotel properties in Atlantic City valued at $145,000, and numerous parcels of upland and meadows in the vicinity

of Absecon, New Jersey. The consideration stated in the conveyances is $100.

At the time of the conveyance they were in default in the payment of interest upon the bonds and mortgages. They were also likewise in default in the payment of interest upon another bond and mortgage in the sum of $50,000 held by Mary Zippler. The bonds and mortgages held by the plaintiff were dated June 15, 1926, and were for three years and became due on June 15, 1929.

After the mortgages became due, but before they were foreclosed and judgment entered upon the deficiency, the defendants made a conveyance of all their property to their son, this conveyance being dated March 15, 1929. Only a bill by the complainant creditor to set aside the conveyance as fraudulent and with intent to hinder, delay and defraud plaintiff, and also as being within the statute (P. L. 213, 1919) and not for a fair consideration, and to evade their liability at the time of the maturing of complainant's obligation.

To this bill the defendants answered and set up an agreement alleged to have been made on February 14, 1923, which alleged agreement was to the effect that if the defendant, Leslie Thomas Sooy, who was then a minor 16 years old, "would remain a member of their household and perform services for them until he arrived at the age of 21 years, *and graduate from a medical society,* that they, the defendants, his father and mother, would grant and convey to him all their property, the premises described in the bill, and that in keeping with said promise and agreement, said Leslie Thomas Sooy did remain with them and perform services for them until he was 21 years of age, *and did graduate* from a medical society, and *shortly thereafter said conveyances were made.*" (Lines 10 to 20, page 30, State of the Case.)

At the hearing the defendants in their testimony substantially altered the terms of this agreement in two important particulars. One, they added a second consideration to the effect that the son was not to go to New York to study music, and two, that he was to give up the study

of music and study medicine. They also altered the time of performance of the contract so that it was to be performed when the son "was graduating from medical school." The latter was necessary because the conveyance was made in March and the son did not graduate until the following June.

ARGUMENT

The Agreement Is Improbable

At the time the agreement is alleged to have been made, the son was 16 years old and his father was 54 and in poor health. The mother was 52. They had a daughter younger than the son. It will therefore be seen that the effect of the contract would have been when both the father and mother were over the age of 60, to have stripped them of every dollar of their property and leave no provision whatever for the younger child. That the properties they proposed to give away were valuable is without question, the two hotels being worth in excess of $100,000. The value of the Absecon property is somewhat indeterminate, but it is admitted that at the time of the real estate boom they agreed to sell it for a million dollars for a real estate development. In as much as the parents had the legal control and custody of their 16-year-old son, and that he was obliged to perform services for them, there could not be the slightest justification or excuse for the making of the contract.

There was no consideration moving from the son to the parents, since he only did what he was obliged to do. Nor can it be said to be a consideration when a child is voluntarily provided with a professional education by his parents. Upon examination, the parents cannot give any excuse for making the alleged contract. Dr. Sooy testified:

P. 240, line 31—

Q. At the time you made this agreement, your son was 16 years old?

Q. Yes.

Q. You knew of course that you had a right to control his movements, didn't you?

A. Yes.

Q. And that it was within your province as his father to prevent him from going to New York or doing any thing else that you didn't want him to do, didn't you?

A. Supposed to be. Not always.

Witness was then questioned concerning the value of the property that he proposed to transfer to his son, and at first was unable to give any values. Finally, on

P. 242, line 12—

Q. Doctor, at the time you made this agreement with your son, didn't you make any calculation about how much in value you were proposing to pay your son to stay with you and work for you and go through medical college?

A. I didn't consider that.

The wife also testified that she had no idea of the value of the property they were proposing to give away. (P. 265.)

On p. 266, line 11, she testifies—

Q. What was to become of you and your husband?

A. I never thought of that. My only thought was one thing.

Q. Of course you know that your husband and yourself had a legal right to keep this 16 year old boy at home, didn't you?

A. Yes, but——

Q. How did you suppose he was going to get along and pursue a musical career in New York at the age of 16?

A. I didn't know.

* * * * * * *

Q. Did you think it was necessary to strip yourself of every dollar in the world to keep him in Atlantic City?

A. I didn't consider that.

Q. Did you consider what was going to happen to the people you owed money to?

A. Everybody always got their money.

The actions of the defendants after the making of the alleged contract negatived every inference that such a contract was made.

Notwithstanding that the contract was alleged to have been made on the 14th of February, 1923, the defendants, Dr. Sooy and his wife, proceeded to deal with the property as if no such contract had been made, and to put it out of their power to have performed the contract, had such a contract actually existed.

These dealings consisted in placing mortgages upon the properties, in offering them for sale, actually selling some of it, making contracts of sale for parts of it, and *even after the conveyance,* to have still continued to manage and operate the properties exactly as they had before, except that a bank account was now established in the name of the son and current bills were paid out of this bank account.

The bank account itself demonstrates that the son was only used as a straw-man to evade the possibility of levy and execution upon the funds that undoubtedly belonged to the Sooy's. This bank account was kept in the Guarantee Trust Company, and of all the transactions, only one related to a personal matter. A reading of the cross-examination of the young man is convincing beyond a shadow of doubt that he was merely a straw-man for his father in the operation of the bank account. This cross-examination begins on page 143 of the State of the Case and extends to page 198, and the re-cross examination from page 201 to 227.

At the conclusion of the son's direct testimony, a series of checks (95 in number) were introduced to show that

he had been paying the current expenses of the two hotels since they had been conveyed to him.

P. 142, line 30; p. 143, lines 1 to 18—

Q. Who has been receiving either the rents or the proceeds from the properties that were conveyed to you?

A. *The money came to me and was put in my account.*

* * * * * * *

Q. Who has been paying the bills for the upkeep, overhead, gas, interest on mortgages and taxes?

A. I have.

Q. From your own bank account?

A. From my own bank account.

Q. I show you what I would call a package of checks, and I think they number ninety-five, and ask you to look at them and see whether they are your checks on your bank account in the Guarantee Trust Company?

A. They are.

Q. Were they all paid out of your bank account?

A. They all were.

Upon cross-examination the son was unable to give any account whatever as to what the checks were for, taking refuge repeatedly in the phrase "I don't recall", but finally was compelled to admit that he signed the checks in blank and that they were filled out by his father. It also developed that with the exception of one check which was paid for the repair of his automobile, every check was for either maintenance of the hotel properties or *payments of interest and principal upon his father's debts.* Illustrations of this testimony follow: Witness was shown check for $100, the consideration paid by the son to the father for the transfer and stated it was for expenses.

P. 143, line 34; p. 144, line 1—

Q. What were the expenses associated with the transfer?

A. I don't recall.

P. 144, line 10—

Q. How much did you pay him?

A. I don't recall.

P. 145, line 9—

A. There was the typist work involved in getting the papers.

Q. Who was that money paid to?

A. I just don't recall.

Witness testified that subsequent to the alleged agreement between his father and himself, his father placed a mortgage of $35,000 upon the Pacific Avenue property to secure the father's notes held by the bank.

P. 145, lines 30 to 35—

A. Was placed with the Guarantee Trust Company of Atlantic City for the sum of $35,000, as collateral for notes.

Q. Whose notes?

A. Notes of Walter C. Sooy, I believe, and Lida H. Sooy.

P. 146, line 1—

Q. Did you assume the liability on those notes?

A. I did not.

Q. Your father still paying on those notes?

A. I presume he is.

This was a downright fabrication, as the other checks showed, and it was admitted that the notes, both principal and interest, were being paid out of the son's bank account.

P. 146, line 10—

Q. I note a check here among this batch of checks that were introduced, under date of August 15th, Guarantee Trust Company, in the sum of $602; what was that for?

A. I don't recall.

Q. Here is another check of $600, under date of August 19th, to the order of Guarantee Trust Company, do you know what that was for?

A. I don't recall.

Q. Here is another one under date of August 26, Guarantee Trust Company, $300.24, know what that was for?

A. I don't recall.

Q. Here is a check to the order of Morris Robinson for $1,116.29; do you know what that was for?

A. I don't recall.

Q. Here is another check to the order of the Guarantee Trust Company in the sum of $297.60, under date of September 30, 1929; do you know what that was for?

A. I don't recall. I don't have my check stubs with me, and I wouldn't take it upon myself to guess at any of them.

The check stubs were subsequently produced, proved to be in the handwriting of the father, and both the stubs and the checks themselves showed in most cases that they were paid for interest and principal payments on the father's notes.

P. 147, lines 4 to 6—

Q. * * * October 19th, 1929, Guarantee Trust Company, $298.40; do you know what that is for?

A. I don't recall.

Line 20—

Q. Here is another check to the Guarantee Trust Company for $496; do you know what that is for?

A. I don't recall.

Q. Whose handwriting is that check?

A. The signature is in my handwriting.

Q. The body of the check?

A. It resembles that of Walter C. Sooy.

Q. Your father, isn't it?

A. Father.

Q. Here is another check to the order of the Guarantee Trust Company, under date of December 16th, $198.82; do you know what that is about?

A. I don't recall.

Page 148, line 35—

Q. On January 30th there is another check to the Guarantee Trust Company for $196.35; can you tell me what that is for?

A. I don't recall.

Page 150, line 30—

Q. On February 14th last you paid to Cole and Cole the sum of $200; what was that for?

* * * * * * *

A. Legal counsel and advice.

P. 151, line 2—

Q. I repeat, what litigation did you have that required advice in February of last year, of this year?

A. I don't recall.

P. 151, line 19—

Q. February 18th, you paid to Guarantee Trust Company $194; can you tell what that was for?

A. I don't recall.

Q. On April 16th, 1930, you paid the Guarantee Trust Company $199.20; do you know what that was for?

A. I don't recall.

Q. On March 19th, 1930, you paid them $403.80; do you know what that was for?

A. I don't recall.

Page 152, line 6—

Q. Now, in June 2nd, 1930, you paid the Guarantee Trust Company $123; do you know what that was for?

A. I don't recall.

Q. Do you have any notes in the Guarantee Trust Company?

A. I have none.

Q. In whose handwriting is the body of this check?

A. Walter C. Sooy's, I believe.

Q. On the bottom of that check where it says "for," is the words "$100," and "twenty-three," the word "Int," interest; can you tell me now what that check was for?

A. Couldn't tell you.

Q. Wasn't it to pay a hundred dollars on a note of you father's and renew it?

A. I don't recall.

Note. The last answer was plainly a prevarication.

P. 153, line 28—

Q. * * * On July 2nd, there is another check for $124, payable to Guarantee Trust Company; do you know what that is for?

A. I don't recall.

Q. On July 18th, one for $123.24; do you know what that is for?

* * * * * * *

A. I don't recall.

P. 154, lines 1 to 18—

Q. On July 21st, Guarantee Trust Company, for $175.43; do you know what that was for?

A. I don't recall.

Q. Another one on August 4th, for $122.73, to the Guarantee Trust Company; do you know what that is for?

A. I don't recall.

Q. * * * On August 18th, one for $247.02, to the Guarantee Trust Company; do you know about that one?

A. I don't recall.

O. On August 21st, one for $174.92, payable to the order of the Guarantee Trust Company; do you know what that is for?

A. I don't recall.

The witness knew very well that all of these checks were for principal and interest on his father's notes. That the witness was not telling the truth regarding these transactions is evident by the next bit of testimony.

P. 154, lines 19 to 35—

Q. Now, Doctor, this check of August 21st, 1930, for $174.92, whose handwriting is that check?

A. Well, it looks like my father's, Walter C. Sooy.

Q. On the side where it says "for," there is the words, "Payment one hundred dollars, interest $74.92." Can you tell me what you paid to the Guarantee Trust Company amounting to $100, and interest amounting to $74?

A. Without my stubs, I wouldn't guess.

Q. You can't tell from the check at all?

A. I don't recall.

Q. *Now, this, Doctor, is August 21st of this year, that is less than four months ago, you can't tell us what you paid $174, to the Guarantee Trust Company for on that date?*

A. *I don't recall.*

P. 155, line 4—

Q. You had no personal notes there, you day, did you?

A. No, I had no personal notes in the Guarantee Trust Company.

* * * * * * *

Q. You owed them the interest on the $35,000 mortgage, did you pay this hundred dollars on the mortgage?

A. I beg pardon, I didn't say owed that, because I didn't assume liability.

Q. You didn't assume the liability of the $35,000 mortgage?

A. I did not.

Q. Did you undertake to pay them the interest on the $35,000 mortgage?

A. No, I did not.

Q. Now, then, between the 15th of August, 1929, and the 21st of August, 1930, you paid the Guarantee Trust Company alone a total of $4,876.85, according to my colleague's addition, by means of these checks that I have read to you. Can you tell me what you paid it for?

A. I don't recall.

Q. *Wasn't it on your father's notes?*

A. *I don't recall.*

Q. Will you say it was not on your father's notes?

A. I don't recall.

Counsel in his brief comments on the Vice Chancellor's reference to the son's testimony: "The effect of these witnesses' testimony was very much weakened by the manner of the son upon the witness stand."

The Court had no more luck than the writer in getting a truthful answer out of the son, as witness the proceedings on p. 156, line 1—

Q. Will you say it was not on your father's notes?

A. I don't recall.

Mr. Richards—Your Honor, make him answer the question.

The Court—Yes, you may answer the question.

A. I didn't make that statement, your Honor.

Q. I asked you whether you made these payments on account of your father's notes or the interest on the notes. Did you or didn't you?

A. I don't recall whether I made them or not.

The Court—You mean you don't know or don't recall, or have forgotten? What do you mean by don't recall?

A. I have forgotten.

The Court—Then at some time you did know, but now have forgotten, is that what you mean?

A. Your Honor, I have been very busy.

The Court—That is not the question.

(Question repeated.)

The Court—You may proceed. The witness doesn't answer the question.

When it was to the witness' interest to remember, he had no difficulty in recalling the facts. Shown two checks payable to the Provident Trust Company of Philadelphia, he was asked:

P. 157, line 18—

Q. * * * I suppose you can tell me what these checks were for, can't you?

A. Yes.

Q. What were they for?

A. Provident Trust Company has a mortgage upon 1921 Pacific Avenue, known as the Mentone, $12,000, and they were payments on interest.

Line 31—

Q. I think you told me the Camden Fire Insurance Company also had a mortgage on one of these properties, the LaBelle Inn, isn't it?

A. LaBelle Inn.

Q. Here is a check November 25, 1929, signed by you, in the sum of $390, whose handwriting is the check in?

A. Walter C. Sooy. *That is interest on the mortgage there.* (P. 158, line 4.)

He also recognized the checks for the payment of taxes. A particularly humorous bit of perjury is contained on pp. 159 and 160.

Line 24—

Q. Did you make any purchases from Sears, Roebuck & Company?

A. Well, once upon a great occasion.

Q. What did you buy from them, do you know?

A. That particular check, to my mind, was paid out as a favor to my sister, who is now expecting to give birth to a child soon, and they were for little necessities that she wanted.

* * * * * * *

Q. Now, then, here is another check for $8.50.

A. That looks more like it.

* * * * * * *

Q. And that was for some necessities for your sister?

A. Yes, sir.

Q. So that now we have got down to one check that you do know something about, don't you, is that right?

A. I wouldn't say that I know about only one.

* * * * * * *

Q. We have gotten down to one up to date you do know something about?

* * * * * * *

Q. —which is for some necessities which your sister gets towards the event in the family, is that correct?

A. As I recall it, yes, sir.

Q. Has the baby been born yet?

A. Not yet, no. Expected soon.

P. 161, line 1—

Q. Now, then, this check is dated September 26, 1929. Baby seems to be slightly delayed, Doctor.

(Note: Date of trial was November 21, 1930.)

A series of gas company checks were admittedly signed by the witness but filled out by his father, Walter C. Sooy (page 161, lines 20 to 30). The same referred to telephone checks and also checks for coal. Of all the checks there was only one that the witness could identify.

P. 164, line 3.

Q. I show you a check August 13th, 1930, and ask you what that check is for?

A. Made to the McMillan Auto Body Works in payment for repairs done upon my car, the Pontiac sedan, following an accident which I had.

Q. Then there is nothing on this check about it being a Pontiac car, is there?

A. No, but I could prove it.

Q. All right, what I want to know is how is it that you can recall what this check was for, when you can't recall any of these other checks?

A. Well, I think it would be clear to the Court that if in my position of having been bumped off the road and turned over twice in the automobile, they would recall anything that pertained to that particular incident.

* * * * * * *

Q. * * * that made an impression you?

A. That made quite an impression.

Q. But this four thousand dollars that the Guarantee Trust Company bumped you for didn't make any impression on you at all, did it?

A. Well, not particularly, no.

* * * * * * *

Q. *Now you look at these other checks and see if there is any of those you wrote yourself?*

A. *Checks are made out apparently in the handwriting of Walter C. Sooy, and signed by me.*

P. 165, line 1—

Q. Isn't there even one of them that you wrote yourself, Doctor?

A. I don't see any there.

Witness knew so little about the hotels that he couldn't recognize the checks for the payment of the hotel licenses (pp. 165 and 166).

The witness had a most remarkable memory.

P. 167, line 27—

Q. How is it, then—how do you account for the fact that outside of two or three of these checks that are obviously for mortgage interest to the West Jersey Mortgage Company, that you could not remember anything about any of these checks except the one for the automobile accident?

A. I personally cannot account for when a human being cannot remember a certain thing.

P. 168, line 1—

Q. You can remember, Doctor, an incident that occurred seven years ago quite distinctly, can't you?

A. I can.

Q. But you could not remember an incident that occurred four months ago, is that what we are to understand?

A. Might I ask which incident you are referring to?

Q. I am referring to this $100 or 120 odd dollars that you paid to the Guarantee Trust Company, and you could not remember what you paid them the hundred dollars for?

A. No, I don't remember.

Q. But you could remember that seven years ago you made an agreement with your father that when you were twenty-one years of age, he was to give you all his property?

A. Yes, that is sufficiently important.

* * * * * * *

Q. How can you remember that it was the 14th of February?

A. Happened to be Valentine's Day.

* * * * * * *

Q. What makes you remember for seven years that this agreement was made on Valentine's Day?

A. Mere coincidence.

P. 169, line 1—

Q. Do you remember any other instance that ever occurred in your life on Valentine's Day?

A. I remember when I was little and I used to get valentines.

Q. Remember from whom you got them?

A. Well, no, I couldn't remember that.

Q. This is the only event that occurred on Valentine's Day that you can recall, isn't it?

A. Yes, to my present recollection.

The witness finally admitted that the checks were signed in blank and used by his father without his knowing what they were for.

P. 199, lines 26 to 32—

Q. During the period that a number of these checks that were introduced in evidence were drawn by your father, were any of the checks signed in blank by you?

A. They were.

Q. And did your father have those checks at his disposal?

A. He did.

The witness had no explanation to offer for this extraordinary conduct when court adjourned for the day. The next morning, however, upon re-direct examination he stated that "the drawing of the checks and making out of the body of the checks was part of my father's duty in assisting me in managing the place and the hotels when I was away interning and couldn't get there, and since I have been in Philadelphia teaching this year, and I had him make out all of them because I didn't want any complications to arise, too many thumbs in the pie might upset things" (p. 199, lines 2 to 11). When questioned about this explanation, the witness fell into difficulties:

P. 204, line 33 —

Q. Yes, but I, after asking you about each check separately, I asked you about the whole bunch of the checks and asked you if you had any explanation to offer about those checks why you had paid them (Guarantee Trust Company) forty-odd hundred dollars, and you couldn't recall any explanation, now this morning you recall that you were paying off your father's notes, is that right?

A. That was a part.

Another flagrant misstatement is as follows:

P. 145, line 30—

A. (Mortgage) was placed with the Guarantee Trust Company of Atlantic City, for the sum of $35,000, as collateral for notes.

Q. Whose notes?

A. Notes of Walter C. Sooy, I believe, and Lida H. Sooy.

P. 146, line 1—

Q. Did you assume the liability on those notes?

A. I did not.

Q. Your father still paying on those notes?

A. I presume he is.

P. 204, line 5—

A. I will explain it as follows: those notes taken out at various times in the name of Walter C. Sooy and Lida H. Sooy in the Guarantee Trust Company were secured by a mortgage on my property, 1921 Pacific Avenue, as collateral. The income from father's practice for some little time past has not been adequate to meet those notes; consequently, if those notes were not met the mortgage very likely would give me trouble in retaining my property, and I wanted to protect my own property, 1921 Pacific Avenue.

Q. Why didn't you tell us that yesterday when I asked you why you had paid the Guarantee Trust Company over $4,000 in the last year? You said at that time yesterday that you could not recall.

A. Because, my dear sir, I told you I would not guess on the witness stand, and I remembered having given to the Guarantee Trust Company checks for several purposes * * *

P. 207, line 18—

A. I furnished the money from the checks to cover the interest and certain portions of the principal and renewal of those notes.

Q. Why were you paying the principal?

A. Well, it behooved me to give Dad a lift.

Obviously the witness had been coached during the recess. The witness explained that it was his father's duty to draw the checks (p. 209, line 32) as an excuse for his not knowing what the checks were about. But he didn't make this explanation when he had been previously asked about the management.

P. 149, line 4—

Q. Did you conduct the business of, the hotel business yourself?

A. At what time?

Q. Since these properties were conveyed to you?

A. I managed the properties, and my parents, Walter C. Sooy and Lida H. Sooy have assisted me in managing them and have taken care of them in my absence; I have been very busy.

P. 221, lines 30 to 35—

Q. Why is it his duty to draw the checks?

A. Because he is assisting me in managing the properties.

Q. Have you any agreement or contract with him whereby he is to assist you in managing the properties?

A. No, merely a duty *assigned* to him.

P. 222, line 1—

Q. You are assigning the duty to your father?

A. *Under the circumstances.*

Q. What circumstances?

A. Of my ownership of the property.

Q. When was that assignment first made to him?

* * * * * * *

A. If I recall, from the beginning.

P. 149, line 19—

Q. Are you paying them for their services?

A. No, I am not.

Q. How are they making a living?

A. I am allowing them to live on the premises.

It will be noted that the witness made no reference at that time to his father having drawn the checks because he was not then confronted with the necessity of an explanation. The witness could not even tell what check payments were made for within two weeks prior to the trial. (P. 213, lines 20 to 30.) He admitted that he had not been called upon by the Guarantee Trust Company to

pay the notes, and that he had paid the interest and principal since the bank account had been opened in his name.

P. 215, lines 19 to 35—

Q. Did the Guarantee Trust Company ever serve notice upon you that unless you paid various sums upon these notes that they would foreclose this mortgage?

A. No, they did not.

Q. What notice or knowledge did you have that your father was not making payments on these notes?

A. He was making payments on the notes up until I started to make them.

Q. And you started to make them in the summer of 1929, didn't you?

A. I said I started to make them shortly after the property was conveyed to me.

Q. And you have made all the payments since that time, haven't you?

A. I won't be definitely positive.

Q. Do you know of any you did not make?

A. I don't know definitely.

P. 217, line 1—

Q. Up until the transfer of the properties to you, you had no bank account, is that right?

A. No—yes, it is right, I had no bank account.

Q. But you opened a bank account on or about July 16th, 1929, shortly after the transfer of the property?

A. Shortly after the conveyance, yes, I believe so, about that time.

P. 218, line 31—

Q. Then, so far as this bank account is concerned, all of the moneys that were deposited in your name in the Guarantee Trust Company were used either to

pay charges against the properties or were transferred to you or interest or principal upon your father's notes in the Guarantee Trust Company, is that correct?

A. For the most part.

On pages 219 and 220 it developed that the bank held other collateral security for the notes. The witness did not know what this was, what it was worth, or whether it had to be exhausted before he was liable on the mortgage.

It will be seen that after the transfer of the property, the actual management continued in the father and mother, just as before. Only the title and the bank account changed, necessary if both were to be secured from levy and sale on complainant's judgment. The father, Walter C. Sooy, testified:

P. 251, line 9—

Q. On the 15th of March, 1929, you performed this agreement?

A. Yes.

Q. And so far as the record shows, all you had in the world on that day was the $100 your son gave you for these properties, is that right?

A. That was all the monetary value.

On p. 259, line 10, he testifies—

Q. Since March, 1929, you have had no substantial bank account of your own, have you, Doctor?

A. No. I have had an account, but not very big.

Q. On March 16, 1929, it appears to have been $608,81, would you think that was about right?

A. I don't know. * * *

Q. I show you a ledger sheet of the Guarantee Trust Company and ask you if that seems to be about correct.

A. If it is the Guarantee Trust Company made it, it is correct. * * *

Q. And it runs along during the year '29 and 1930 until it finally dwindled down to $10.10, is that correct?

A. Somewhere near.

Page 258, line 14—

Q. Now since you transferred these properties to your son, you have continued to manage the properties substantially as you did before, isn't that true?

A. Practically the same.

Q. The only difference being that you have taken a part of the income, at least, from these properties and deposited it in the bank account of your son in the Guarantee Trust Company, and then drew the checks upon that account and had them signed by your son, that is all he had to do with it, isn't it?

A. He has been helping around, he has been doing something, we have been helping each other in that way, but that I have had total charge of that.

Q. Who makes the deposits actually physically in the bank?

A. Most of the time I do. He has made some.

Q. That is, to his account?

A. To his account.

Q. You collect the moneys in the hotels or any other income?

A. Yes.

P. 259, line 1—

Q. Deposit it in his account?

A. Yes.

Q. You also draw all the checks?

A. I have drawn all the checks.

Q. He signs them either at the time or checks in blank beforehand?

A. Yes.

On p. 317 the note clerk of the Guarantee Trust Company was called and it was shown by the bank records that payments on the father's notes had been made by the son from his bank account, and that the checks heretofore discussed corresponded with the payments (pp. 317 to 326), and no effort was made to combat this testimony.

Passing from the bank account, the other dealings of the father and mother with the property are significant to show that they regarded the property as theirs, held it out to the world as theirs, and dealt with it as their own both before and after the transfer to the son, in such manner as to negative the idea of an agreement with the son. Taking the testimony of the father:

P. 242, line 25—

Q. Your deal with your son was that if he did as he did, you were going to give him all of your property, everything?

A. Yes.

Q. And you intended from that moment on to keep that agreement, if he kept his part of it?

A. I did.

Q. He started in to keep his part of the agreement?

A. Yes.

P. 243, line 1—

Q. And gave up his musical career right away, that was over, wasn't it?

A. So far as going to New York, yes.

Q. And he, on the other hand, started in to work in the hotel, and that fall he started in in Hahnemann to prepare himself for his medical career?

A. It was that fall, yes.

Q. And he faithfully kept his part of that bargain right up until June of 1929, when he graduated, didn't he?

A. Yes.

Q. Now, did you keep your part of the agreement?

A. We did.

P. 243, line 22—

Q. What right had you to put a $35,000 mortgage on this property which morally, at least, was your son's?

A. Well, the expenses on the property during, we didn't agree that there would be any expense on it.

P. 244, line 1—

Q. You don't know what those expenses were?

A. I can't recall just what they were, no.

Obviously the father was not telling the truth.

P. 244, line 3—

Q. Did you ever undertake to sell any of these properties between the time of making this agreement and the time your son graduated?

A. Yes.

Q. What one?

A. Well, we agreed to sell, or we made an agreement of sale with the Harris Syndicate, Incorporated, I think that was the way, for certain properties north of the Absecon Creek and east of the New York Road in Absecon.

* * * * * * *

Q. Those properties were part of the properties that you had agreed to deed to your son?

A. Yes.

Q. Did your son join in that agreement of sale to the Harris Syndicate?

A. No.

Q. Did you disclose to the Harris Syndicate that you had made this agreement to convey this property to your son?

A. No.

Q. You subsequently made another agreement with Henkelman covering this same property, didn't you?

A. That was on the other properties.

P. 245, line 1—

Q. Did you disclose to Henkelman that you had previously made an agreement to deed these properties to your son?

A. No.

Q. So that in dealing with the properties that were in the 1923 agreement, you did not disclose to anybody that your son had any interest in those properties?

A. No.

On pp. 246 and 247 it developed that the father had agreed to sell the Absecon properties for over a million dollars and had gotten $45,000 in cash, *none of which went to the son.*

P. 247, line 3—

Q. Did you give any of it to your son?

A. Only that way, he had no account at that time.

P. 248, line 6—

Q. Did you ever agree to sell the LaBelle Inn, for instance, to anybody?

A. Yes.

Q. To whom?

A. Well, in the first place, we agreed to sell that to, the agents that were with Press, that is this Conway Syndicate, if it went through, and they were to give us $150,000 deposit.

* * * * * * *

Q. Was that agreement in writing?

A. That agreement was in writing.

Q. In that agreement did you disclose to these people that this property, that you had agreed to convey this property to your son?

A. No.

Shortly before the mortgage became due, the father and mother offered to transfer the LaBelle Inn property to the Zipplers to obtain a cancellation of the Zippler mortgage.

Zippler testified, p. 127, line 4—

A. I don't think I had saw the doctor until—or since, probably might have been March or April, before the mortgage was due, at his office.

Q. On that occasion was this proposition made to transfer LaBelle Inn property to you or Mrs. Zippler, by him?

A. Yes.

P. 127, line 21—

Q. With whom did you continue the conversations after the last time you talked with the doctor?

A. I think they were mostly with Mrs. Sooy.

Q. How long did that continue?

A Up until the fall of that year.

Zippler also testified, p. 125, line 23—

A. Well, she was running the house, she said it was too large for her to run, this South Carolina

Avenue house, and the Pacific Avenue house, too, and that was one of the reasons why she would like us to take this South Carolina Avenue property, while it was optional whether we took that or the Pacific Avenue property.

Q. Then she was talking about conveying the property to you as late as the fall of 1929, is that what I am to understand?

A. Yes.

Q. Did you know that that property had been conveyed in March to her son?

A. No.

Q. Didn't she tell you that?

A. No.

It is therefore evident that every action of the father and mother both with relation to the properties, the conduct of the business and the management of the bank account, repudiates the idea that they had actually parted with their property, and confirms the position of the complainant that the transfers to the son were fraudulent.

The Alleged Contract

This contract is supposed to have been made on February 14th, 1923. As the learned Vice Chancellor points out, there is no way that the complainant can by direct proof disprove the statements of the defendants. But not only, as we have shown, do the actions of the defendants repudiate their statements, but their testimony concerning the contract also served to show that no such contract was ever made, but is now brought forward in order to afford some consideration for the fraudulent transfer.

The idea evidently did not originate in the minds of the Sooy's, but in that of some lawyer who advised them concerning some method of evading the payment of the bonds and mortgages that were then coming due. George Zippler testified:

P. 124, line 20—

A. Yes, Mrs. Sooy was there one occasion, Mrs. Sooy was there, and the conversation came up about the various properties, and she made the remark of Dr. Sooy transferring the properties, he bought the properties and transferred them to her, and she, in turn, transferred them to the son.

Q. What did you say in reply to that?

A. I asked her whether Judge Cole had advised her to do that.

Q. What did she say?

A. She said no, Judge Cole had not.

And later the witness said:

P. 131, line 1—

Q. In answer to a question by Judge Cole you said "Not Judge Cole," and she said "No, it was another lawyer." Now, did she say, "No, it was another lawyer," or didn't she?

A. Yes, that is the remark she made.

Q. Didn't say who the lawyer was?

A. No.

* * * * * * *

Q. Her reply was, when you asked her this question, "No, it was another lawyer"?

A. Yes.

Upon cross-examination the witness said:

P. 127, line 31—

Q. Did you say a moment or two ago that either Mrs. Sooy or Mr. Sooy told you that they had transferred some properties to the son?

A. Mrs. Sooy told me that.

Q. When was it that she told you that?

P. 128, line 1—

A. I think it was in the early summer of that year.

* * * * * * *

Q. Now, was that before or after you say she suggested to you that you take over one of these properties in Atlantic City for your mortgage?

A. Well, as I say, they were over to our house——

Q. Before or after?

A. It was before and after both.

It will be noted from this witness' testimony on pps. 122 and 123 that these statements occurred while the Sooy's were negotiating with the Zippler's to take back the mortgaged property and to deed an equity in the South Carolina Avenue property as well. It is noteworthy that nowhere is there any statement by the Sooy's to any person concerning the alleged contract.

The son first states the contract on p. 140, line 33, and the language in which it is stated is so utterly absurd and improbable as to, by its very language, demonstrate that it is a pure invention. His testimony reads as follows:

> A. The agreement was as follows: After I, Leslie Thomas Sooy, had obtained the age of twenty-one years and was graduating from the Hahnemann Medical College they, Walter C. Sooy and Lida H. Sooy, would convey to me all certain properties then, in 1923, in their possession, any portions of land each, and property, each for the sum of one dollar and for other valuable consideration, said valuable consideration being consisted in two things, one that I must change my intended career from one of music, which I loved, to one of medicine, and further valuable consideration that I must spend all time when not occupied in the study of medicine in their service working for them in one or other of the two hotels, which I agreed to.

It will be noted that it reads like a quotation from a legal document, and not in the form that ordinary people would use in making a verbal contract. Such phrases as "they, Walter C. Sooy and Lida H. Sooy, would convey to me all certain properties then, in 1923, in their possession," "any portions of land each, and property, each for the sum of one dollar and other valuable consideration," "and further valuable consideration" are strange legal words in the mouth of a young doctor.

On cross-examination the son repeated the alleged contract almost word for word, using the same legal terms with a parrot-like precision which only too clearly indicated that it was carefully rehearsed.

P. 170, line 9—

A. After I, Leslie Thomas Sooy, attained the age of twenty-one years and was graduating from the Hahnemann Medical College, they, Walter C. Sooy and Lida H. Sooy, would convey to me all certain properties then, in 1923, in their possession, these properties to be conveyed each for the sum of one dollar and for the other valuable consideration."

Another curious and, of course, improbable feature of the contract was that the conveyances were to be made when the son was "graduating" and not when he had graduated. This was, of course, necessary because the conveyances had to be made in March, while the son could not graduate until June, which would have been too late to make the scheme effective.

P. 171, line 9—

Q. Now, you graduated in June of 1929, is that right?

A. Yes.

Q. And these properties were conveyed to you in March of 1929, weren't they?

A. That is right, March the 15th.

Q. Did you know in March that you were going to graduate in June?

A. I was quite sure.

Q. Did you know it, Doctor?

A. I was sufficiently egotistical, I had the assurance from my professors that everything was coming along nicely; I had passed *all* my examinations.

Q. You hadn't passed your final examinations at that time, had you?

A. I had passed some of them.

Q. Not all of them?

A. No.

The witness was then committed to the proposition that ever since the time of the making of the agreement he could remember quite clearly all of its details (pp. 172 and 173) and that he had told his counsel at the time of the suit what the contract was. The contract was repeated to the witness in toto (pp. 174 and 175) and he agreed that it had been correctly stated.

P. 175, line 31—

Q. You told him about this contract?

A. I did, Judge Cole.

Q. And you repeated it after you were sued, is that right?

A. Yes.

Witness was then confronted with his answer and the discrepancies between the contract as set out in the answer and his verbal statement of it, as pointed out to him.

P. 176, line 25—

Q. * * * In the first place you have told me that the proposition was, and you corrected me when I was mistaken, that the conveyances were to be made when you was graduating, now this says when you *had* graduated. Now, how do you suppose that Judge Cole came to make that mistake?

A. Possibly he didn't hear me just as accurately as might have been.

Q. This paper here also says that in performance of this agreement that you performed the services until you were twenty-one and *did* graduate. Now, of course, that was an error, wasn't it?

A. Apparently so.

On p. 177, line 5, it was pointed out that the answer said that the son was "to remain a member of their household and perform services for them."

Q. * * * Nothing said about hotels, was there?

A. Doesn't say anything about them in there.

P. 177, line 24—

Q. There was nothing said in this paper about your having abandoned your musical career. Now, how do you account for that not getting in here?

A. Really can't account for any of those things.

Q. You told them to the Judge?

A. Told them to him.

Q. But the Judge didn't put it in the paper that was filed here in answer to this suit?

A. It seems apparent.

Q. Quite sure that you didn't forget to tell him about this musical career business, did you, Doctor?

A. *If my memory serves me correctly I told him.*

Witness admitted that he had no idea of what the property he was to get was worth.

P. 182, line 22—

Q. * * * At that time, hadn't you any opinion at all whether you were getting a thousand dollars equity in these properties or a million dollars?

A. I really didn't stop to consider that.

P. 183, line 22—

Q. You were not studying medicine because you liked it, because you were studying it to get this property, isn't that right?

A. That is the reason.

Witness did not know the value of the Absecon property. Heard his father was going to sell the Absecon property in 1925 or 1926.

P. 184, line 33—

Q. What properties did he agree to sell?

A. As I recall, it embraced certain properties in the City of Absecon.

Q. To whom did he offer to sell them?

P. 185, line 1—

A. Some syndicate, I believe.

* * * * * * *

Q. Did he discuss with you the question of selling these properties to the syndicate?

A. I didn't recall at that time any definite discussion.

Q. Did he tell you that if he sold it he was going to get a certain sum of money for it?

A. I don't remember.

Q. Never discussed the terms of the sale or the consideration with you, did he?

A. No, I don't recall.

(Note. The father said he did discuss it with him.)

P. 245, line 12—

A. Because I had a little conversation with the boy about it and he said, "If you can sell it, I would rather have the money."

The father admitted that he kept the money.

P. 188, line 11—

Q. Now, then, what I want to know, if there was such an agreement with you, how your father came to sell this or agreed to sell this property (the Absecon property for a million dollars) to this syndicate.

A. He personally had no objections, he was a sane man, of age, with apparently good business judgment, and the property was in his name at that time, and I only had the agreement with me.

Q. What was he going to do with this money he was going to get for the property?

A. What he intended to do with it originally I don't know.

On pp. 194 and 195 it was developed that the father was fifty-five, the mother fifty-four and would be sixty-two and sixty-one at the time of the fulfillment of the agreement, and the son was to make no agreement to take care of them in their old age.

P. 194, line 28—

Q. Then there wasn't any agreement, that is what I am getting at?

A. To actually support, no.

* * * * * * *

A. I don't know what they were considering. My father had his profession.

Q. And was in ill health at the time?

P. 195, line 1—

A. In ill health, but practicing at that time.

Q. I am to understand that there was no signed agreement, no reservations at all, you were to get everything they possessed, and you in return made no definite promise that you would take care of them in their old age or when your father was sick or

when, if your father should die, that your mother would be taken care of, nothing like that in any agreement at all, was there?

A. Didn't deem it necessary.

Q. Will you please answer my question? There wasn't any such agreement?

A. No.

His eleven-year-old sister was not taken care of as well. (p. 195.)

The father tells the story of the contract much differently.

P. 229, line 36—

A. Well, the boy was at the age of sixteen—he thought he could sing, probably could, anyway he understood that he could by going to New York, he could get big money for his voice, and he had the idea that is what he wanted to do, and that was his say so, and I didn't want him to, I was ill at the time, in fact, had been for some time, and did not expect to stay around here a great while, and hence I didn't want him to get away to the life of New York City, I wanted him to stay with us, and that was why the agreement, I told him if he would stay and study medicine and work with us during the time when he had attained the age of twenty-one and *graduating or graduated,* I don't know which, about that, that was the gist of it, that we would confer, Mrs. Sooy coincided with me, we would transfer, rather, all property in our possession at that time.

He admitted that he did not consider how much property he was giving his son (p. 242, line 12). He admitted (p. 250, lines 20 to 35, p. 251, lines 1 to 8) that he had made no provision either for himself, his wife, or his daughter.

The wife, in recounting the alleged contract (p. 262, line 9) was vague about the question of graduating.

P. 262, line 13—

A. * * * I told him if he would stay with us and follow after his father and *graduate or be graduating* from the Hahnemann College and practice medicine, I would be willing and would deed all the property I had to him.

She could not tell what the value of the property was, but did say that they had had the two Atlantic City hotels a good many years and that she had run them (pp. 264 and 265).

After the alleged agreement was made, apparently no one outside of the family was ever apprised of it.

P. 269, line 5—

Q. Did you ever tell Mr. Kessler or Mr. Zippler or Mrs. Zippler that you had this agreement with your son, whereby you were going to strip yourself of all your property?

A. No.

Q. Now, when the mortgage interest came due in 1929, you were not able to pay it all at once, were you?

A. No.

Q. At that time did you tell either Kessler or the Zipplers about this agreement you had with your son?

A. I don't recall that.

Q. After the mortgages became due, did you tell them anything about it?

A. Not that I remember.

The only other witness is a relative, Alma Kyte, who claims to have been present at the conversation. Strangely

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A. No.

Q. At that time did you tell either Kessler or the Zipplers about this agreement you had with your son?

A. I don't recall that.

Q. After the mortgages became due, did you tell them anything about it?

A. Not that I remember.

The only other witness is a relative, Alma Kyte, who claims to have been present at the conversation. Strangely

enough, she cannot remember anything concerning the conversation except the contract.

P. 279, line 25—

Q. What brought up the conversation?

A. I don't recall exactly.

P. 281, line 31—

Q. Who started the conversation?

A. Oh, I couldn't recall that.

Q. Did Leslie say something to provoke this conversation?

A. Not that I recall.

P. 282, line 1—

Q. Did he demand that his father and mother give him this property if he stayed in Atlantic City?

A. Not as far as I know.

Q. Did he make any statement at all concerning his intention?

A. That he wanted to go to New York?

Q. What did he say about New York?

A. That he preferred a musical career and they wished him to take this other career of medicine.

Q. I know, but can't you tell us how he started the conversation?

A. No, I can't.

Q. You don't remember that?

A. No.

* * * * * * *

Q. During the conversation, after it was opened, did he make any demand on his father and mother?

A. No.

Q. He simply said that he preferred to go to New York and study music?

Answer was stricken and she then answered:

P. 283, line 2—

A. That was one of the things he said.

Q. What else did he say?

A. I don't recall.

Q. That is all that you recall he said?

A. Yes.

Q. Now after he made that statement, who spoke next?

A. I don't recall who spoke next.

Q. Dr. Sooy or Mrs. Sooy?

A. I don't recall.

Q. What part did the doctor take in the conversation?

A. I don't know any more than—I couldn't say.

Q. You don't recall?

A. No.

The witness became more and more uncertain and confused (pp. 284 and 285).

P. 284, line 12—

Q. Can you recall the exact words he (the father) used or even how he used the words?

A. I couldn't give you the exact words, no, they are my words.

P. 284, line 25—

Q. Will you tell that again?

A. That at the age of twenty-one, when he would be graduating from Hahnemann Medical College, that they would convey their property to him if he would work in the hotels when he would not be studying and give up his musical career for that of medicine.

Q. Dr. Sooy said all of that?

A. Yes.

Q. That is your statement now?

A. Yes, *that is my words of what he said. I can't give you his exact words.*

P. 285, line 1—

Q. But there was a conversation like that that came out of Dr. Sooy's mouth?

A. Yes, and also Mrs. Sooy.

Q. She said substantially the same thing?

A. *She means the same thing, might not be her words.*

* * * * * * *

Q. Did Leslie accept it or did his father speak next?

A. I can't recall.

Q. After his father did speak, did Leslie then assent to this arrangement?

A. *I suppose he did. I don't remember that.*

* * * * * * *

Q. At any time during the making of this agreement, did Leslie threaten to leave home?

A. I couldn't say. I don't know.

* * * * * * *

Q. You have no recollection of him saying anything except that he preferred to go to New York and study music?

A. That is all.

P. 286, line 9—

Q. Provided they gave him all their property?

A. He didn't ask them to give him no property.

Q. He never asked for that at all?

A. No.

Lines 31 and 32—

Q. What words did he use in accepting it?

A. That I can't recall.

Witness was very intimate with the family, visited very frequently.

P. 287, line 8—

Q. Did you ever hear this agreement referred to on any of those occasions?

A. I don't recall.

P. 287, line 21—

Q You have been in the hotels frequently since March 15th, haven't you?

A. Often. I go two or three times a week.

Q. Mr. and Mrs. Sooy are still there in the hotels?

A. Yes.

Q. Still managing the hotels?

A. Yes.

From a reading of this testimony it must be quite evident that the learned Vice Chancellor's view that perhaps a conversation took place, but no contract, would be to draw the mantle of charity over the statements of the witnesses. Nothing that the son said could be believed. The father's testimony on other subjects was manifestly incorrect. The mother's statements were uncertain and vague; while that of the witness Kyte shows that there was no contract at all, merely a conversation, since, when pressed, she finally admits that there was no acceptance on the part of the son, or at least none that she could recall. That they may have talked to the son at some time along the lines that they would provide for him out of their property if he followed his father in the practice of medicine may be entirely within the realms of possibility. But that there was a legal and binding contract to that effect made on the 14th of February, 1923, is unquestionably without foundation. The son was a minor. He could not make a contract. There was no consideration, since the father had a right to control the son's movements, and that the parties did not regard it as a binding contract is most evident from their subsequent

conduct. Unquestionably the whole affair was a device hastily and clumsily concocted to defeat the impending judgments of the complainant and the Zipplers and to put the valuable hotels in Atlantic City beyond the reach of execution.

Were the defendants, Dr. and Mrs. Sooy, insolvent at the time of the transfer, within the meaning of the statute?

Upon this subject we need go no further than to examine their own statements and actions. On the 15th of March, 1929, they had, according to their own admissions, only the hundred dollars paid them by their son, and the title to the two properties that were covered by the mortgages. They knew these properties were not worth the amount of the existing mortgages. In purchasing the properties, Dr. Sooy had simply over-reached himself. He had an agreement with the Harris Syndicate to re-sell the Zippler and Kessler properties for a much higher figure than he purchased them for, and he was expecting to make this profit.

Both Kessler and the Zippler's could have sold their properties direct for as much or more than they received from Dr. Sooy, and his embarrassment arises only out of the fact that the Harris Syndicate did not complete their agreement, due to the collapse of the real estate boom. Therefore, Dr. Sooy has no one to blame for the predicament he is now in but himself.

Mrs. Zippler testifies (p. 120, line 27)—

> Q. Did you have any talk with either Dr. Sooy or Mrs. Sooy about it (payment of interest and principal)?
>
> A. Yes, they were over a couple of times at the house and had a talk with us; they said they couldn't pay it.

George Zippler testified (p. 122, line 1)—

Q. What conversation did you have with either of them?

A. Well, they came to our home and asked that they deed the property back to us, would save the annoyance of foreclosure, and I tried to prevail on them to hold the property, and even spoke of being lenient regarding the interest on the mortgage, we would extend the time; we did everything we could to prevail on them keeping the property.

P. 122, line 33—

Q. What was that conversation and when?

A. I might say at the time they wanted us to take the farm back there was a suggestion regarding the property on South Carolina Avenue, also one on Pacific Avenue, taking it instead of, they would deed either one of those properties to Mrs. Zippler for the consideration of the mortgage plus the mortgages that were on those properties, existing on those properties at the time, but we were not interested in that.

The father, Dr. Walter Sooy, practically admits the insolvency.

P. 252, line 19—

Q. At the time or prior to the time of this transfer, hadn't you offered the deed to the Zippler property back to the Zippler's if they would leave you off the bond?

A. Prior to that time? No.

Q. When did you make that offer to them?

A. Some time during the early summer or might have been in May or something like that, about the time that other mortgage was due.

Q. Which was within a month or two after you conveyed this property to your son?

A. Yes.

Q. Now, when did you make the same offer to Mr. Kessler?

A. It was some time in June, about two or three days before, that I recall, of course, what might have been conversation before, I don't remember, but the only thing I recall two days in June, or two days, about two days before, what makes me remember it, two days before we stopped to see Mr. Kessler, and he said he would take $25,000 for the mortgage, and I asked him, I said, "We cannot get it right away, will you give us thirty days?" and he said yes, and the next day we received notice of foreclosure, before the mortgage was actually due.

P. 253, line 26—

Q. In answer to Judge Cole's question, you said that this property in your opinion, the Kessler property, was worth a hundred thousand dollars at the time you made the transfer to your son. If it was worth a hundred thousand dollars and you only owed fifty on it, why did you offer to deed it back to Kessler for nothing?

A. To avoid the publicity of foreclosure.

Q. Didn't you make any attempt to realize on your $50,000 equity? What attempt did you make to realize on your $50,000 equity?

A. There was no sale for property at that time, tried to sell it, of course.

Q. And you couldn't sell it?

A. Nobody wanted to buy.

Q. You couldn't sell it for a nickel over the amount of the mortgage, could you?

A. You couldn't sell it for a nickel at the present time, nobody wants to buy.

P. 254, line 27—

Q. PLEASE ANSWER MY QUESTION, DOCTOR, SO FAR AS THE ABILITY TO RAISE MONEY UPON THAT PROPERTY WAS CONCERNED, IT HAD NO HUNDRED THOUSAND DOLLAR VALUE, HAD IT?

A. NO, I DON'T THINK IT HAS.

P. 255, line 21—

Q. How much was the mortgage to Zippler?

A. Fifty thousand dollars.

Q. Over and above the amount of that mortgage, did the Zippler property have any salable value on March 15th, 1929?

A. I would have to answer the same way.

Q. Won't you please answer yes or no?

A. That I cannot answer by yes or no because when there is no purchasers there is no value.

P. 256, line 1—

Q. How much was the mortgage on the Riley property?

A. Fifteen thousand.

Q. Could you get for the Riley property any money in cash over the amount of the mortgage?

A. Same answer, that there was no purchasers.

Q. SO THAT THESE FAIR VALUES OF WHICH YOU TESTIFY ARE NOTHING MORE THAN WHAT YOU THINK THE PROPERTY OUGHT TO BE WORTH?

A. OUGHT TO BE WORTH AS MUCH AS IT WAS WHEN I BOUGHT IT.

Q. BUT THE FACT IS THAT AT THE TIME THAT YOU MADE THIS TRANSFER TO YOUR SON, THEY HAD NO VALUE AT ALL SO FAR AS BEING ABLE TO RAISE MONEY ON THEM WAS CONCERNED?

A. NO PURCHASERS.

Q. And the mortgages in both the Zippler case and in the Kessler case were due or about to become due, weren't they?

A. Weren't due, not until afterwards, no.

Q. They were about to become due?

A. They were about to become due, yes.

Q. And you knew that fact, didn't you?

A. Certainly.

* * * * * * *

Q. And you knew that you were liable upon the bonds, didn't you?

A. Yes.

* * * * * *

P. 257, line 2.

Q. And that you would be responsible on a deficiency judgment on the bonds if these properties did not bring so much as the mortgages at the time of the sheriff's sale?

A. Yes.

Q. AND YOU KNEW THAT ON THE 15TH OF MARCH, 1929, WHEN YOU MADE THESE CONVEYANCES TO YOUR SON?

A. YES, SIR.

P. 258, line 1—

Q. YOU HADN'T ANY STATEMENT OF YOUR ASSETS AND LIABILITIES FROM WHICH YOU COULD CONCLUDE POSITIVELY WHETHER YOU WERE SOLVENT OR NOT, COULD YOU?

A. No.

Q. AT THE TIME THAT YOU MADE THE TRANSFER TO YOUR SON ON MARCH 15TH, 1929, YOU WERE NOT ABLE TO PAY THE MONEYS ABOUT TO BECOME DUE UPON THE BONDS OF KESSLER AND ZIPPLER, WERE YOU.

A. No.

Q. AND YOU KNEW THAT AT THAT TIME?

A. YES.

The testimony of Alfred J. Kurtz is not as set out in the appellant's brief. On p. 294 he said, with relation to the Kessler property, that in his opinion it was not worth more than $25,000 at the time of the boom (lines 28 to 32), and on p. 294, line 34—

> Q. What do you think it was worth in March, 1929?
>
> A. About two hundred and fifty an acre, I should say.
>
> Q. You have given us the total in 1926, give us the total in 1929.
>
> A. Well, we will multiply 18 acres by 250 and that will give it to you.

Zippler testified that on their $50,000 property the real estate was assessed at $1,700 in 1929. Ardery, another real estate expert placed the value at about $300 an acre, which, of course, was far under the amount of the mortgages.

The testimony of Miller, the title clerk, is that all of the properties owned by the Sooys were transferred to their son except the Kessler and Zippler properties, upon which the mortgages were about to be foreclosed.

Two real estate experts, John D. McMullin and Alfred J. Kurtz, whose testimony was not attacked, testified that the consideration of $100 was inadequate for the property conveyed in Absecon, and Samuel Crowley testified that the South Carolina Avenue property was worth about $80,000 and the Pacific Avenue property $65,000 at the time of their transfer, March 15th, 1929.

From this testimony it will be seen that the transfer of the Absecon and Atlantic City properties by the doctor and his wife to their son rendered them absolutely insolvent; that the properties transferred were sufficient and probably more than sufficient to satisfy the deficiency upon the mortgages; and that the learned Vice-Chancel-

lor's conclusions that the transfers were fraudulent is substantiated by the evidence.

> "The conveyance made to the son rendered the Sooys insolvent and are therefore fraudulent as to creditors, if such conveyances were made without a fair consideration." (P. 357, lines 20 to 25.)

CONCLUSION

As the Vice-Chancellor suggests in his conclusions (pp. 357 and 358), the Sooys overreached themselves in purchasing the Kessler and Zippler properties, and when the mortgages became due and they realized their inability to pay them except by sacrificing their Atlantic City properties, they concocted this scheme apparently with some legal advice from what they admitted to Zippler, to avoid the consequences of their acts by concocting this story of a previous agreement with the son, and deeded him the properties in pursuance thereof.

No one ever heard of the agreement from the day of its alleged making until it was told to counsel immediately prior to the filing of the answer in this cause, although more than seven years had elapsed, and in the meantime by every act that indicates control and dominion over the property that was the subject of the alleged contract, the father and mother exercised their rights in utter inconsistency with the rights that the son would have had had the contract existed, to which neither he protested nor did they show the slightest recognition of an obligation.

Under the circumstances, how could any Court find that such an agreement existed, or that it should be used to defeat and defraud creditors?

Counsel in commenting upon the Vice-Chancellor's conclusions separates a phrase from its context to the effect, "The effect of these witnesses' testimony was very much weakened by the manner of the son upon the wit-

ness stand." From the many extracts of the son's testimony on the witness stand unquestionably the Court came to the conclusion that he was not telling the truth, because on p. 356, at line 17, the Court again says:

P. 356, at line 17, the Court again says:

> "The effect of the son's testimony is very much weakened by his manner upon the witness stand and in his oft-repeated insistence that he 'could not recall.' "

If the son was not telling the truth concerning the contract it did reflect upon the probability of the stories told by the father and the mother and the niece, so that the Vice Chancellor's observations are not only consistent but do indicate his disbelief in the whole story.

Counsel again picks up the learned Vice Chancellor's remarks on p. 358, lines 26 to 30, without calling attention to the matter to which it related. The Vice Chancellor was discussing the question of whether or not Dr. and Mrs. Sooy were concerned over their son's leaving them and going to New York.

P. 358, lines 11 to 25, he says—

> "I have no hesitancy in believing that Doctor and Mrs. Sooy were very much concerned because of the desire of their son to take up what he considered to be a musical career."

It is to this conversation that the Vice Chancellor refers and as a matter of common sense no one doubts that there were probably many debates in the Sooy family concerning the advisability of the son's continuing his musical career or studying medicine. The learned Vice Chancellor then goes on to say:

P. 358, line 26—

> "I have no doubt that a conversation very much as testified to actually took place."

This statement, however, relates to the son's going to New York and not to the making of a contract, because, continuing, he says:

P. 358, line 30; p. 359, lines 1 to 14—

> " * * * but the circumstances and the facts which have arisen since convinces me that no such contract was ever made. It is almost beyond the bounds of reason to believe that the mother and father of two children would bind themselves to give to one of the children, upon his reaching his majority, and at a time when the parents would be over sixty years of age, all of the property that they had, at the time of such agreement, accumulated, making no provision for their old age or sickness, should it fall upon them; and in addition with no consideration or provision whatever for the other child, a daughter still younger than the son. Such contract to be based only upon the consideration that the son, during his minority, would follow the father's desires as to his line of study and would, during such minority, perform such services as the father should call upon him to perform, all of which it was his duty to do."

THE LAW

Chapter 213, Laws of 1919, p. 500, Section 4, provides: "Every conveyance made and every obligation incurred by a person who is or will be thereby rendered insolvent is fraudulent as to creditors without regard to his actual intent if the conveyance is made or the obligation is incurred without a fair consideration." A creditor is a person having any claim, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent.

"Debt" includes any legal liability, whether matured or unmatured, liquidated or unliquidated, absolute, fixed or contingent. A person is insolvent when the present fair salable value of his assets is less than the amount that will be required to pay his probable liability on his exist-

ing debts as they become absolute and matured. "Fair consideration" is given for property, or obligation, (a) When in exchange for such property, or obligation, as a fair equivalent therefor, and in good faith, property is conveyed or an antecedent debt is satisfied."

From the above, the bonds and mortgages about to become due were within the creditor class and constituted a debt within the definition of the statute. There was no fair consideration since there was no exchange of property or obligation that was equivalent. The son merely agreed to do what he was legally bound to do.

The testimony shows that neither party had any idea of the value of the property to be conveyed at the time the contract was made in 1923. This is the testimony of the father, the mother, and the son. Manifestly, the giving of the Atlantic City property, worth $145,000.00, without considering the value of the Absecon property, in exchange for which the son agreed to give up one professional career and resume another would not and could not be a fair equivalent within the statute.

The case of *Conway* v. *Raphel, 102 N. J. Eq., p. 531,* decided in the Court of Errors interprets the statute and points out the difference between the rule of law prior to the Statute of 1919 and the situation since that time. Since the conveyance is not now fraudulent unless the debtor is thereby rendered insolvent, there must be proof of this insolvency. The proof in this case consists of the fact that under the evidence, on the 15th of March, 1929, according to Dr. Sooy's admission, they had in cash nothing but the $100 paid them by the son as consideration for the conveyances, and the three pieces of property. (See quotation from testimony in brief *supra,* State of the Case, p. 251.) These three properties consisted of the property upon which the Kessler mortgage of $50,000 was placed; the Zippler farm upon which there was another $50,000 mortgage, and the Riley property upon which there was a $15,000 mortgage. As to the value of these properties there was no evidence adduced on the part of the defendants except that of Dr. Sooy himself,

whose testimony in direct examination was that he regarded the Kessler and Zippler properties as still worth $100,000 apiece, as shown on p. 233, lines 19 to 35—

> Q. What property did you have at the time you made the deeds to your son other than those you deeded to him?
>
> A. Between Mrs. Sooy and myself we had one tract which we had paid a hundred thousand dollars for, another tract which we paid fifty thousand dollars for, and still another which we paid seventy-seven thousand five hundred, that is, that was the value to begin with.
>
> Q. Was the Kessler property one of those properties?
>
> A. One, yes, that was one.
>
> Q. Was the Zippler property one of the properties?
>
> A. That was.
>
> Q. What was the other property?
>
> A. We bought a property we bought of Riley, Bernard, J. Bernard Riley.
>
> * * * * * * *

P. 239, lines 1 and 2—

> A. I think the value at that time was equal to what it was when I bought it, you know.

From the above quotations, it is evident that the Doctor really regarded the value as the same as what he had paid for the property at the time of the real estate boom and not what it was worth in 1929. Upon cross-examination, he admitted as before referred to in this brief, that the properties would not bring a nickel above the mortgages. See pp. 253, 254, 255 and 256. Finally winding up with this admission:

P. 256, line 15 to line 19—

Q. But the fact is that at the time that you made this transfer to your son, they (the three properties in question) had no value at all so far as being able to raise money on them was concerned?

A. No purchasers.

Then testified that he knew the mortgages were about to come due, that he was responsible upon the bonds, and certainly the whole issue is settled by his answer on p. 258, lines 5 to 11—

Q. *At the time you made the transfer to your son on March* 15, 1929 *you were not able to pay the moneys about to become due upon the bonds to Kessler and Zippler, were you?*

A. *No.*

To go beyond this testimony seems quite superfluous, but the court's attention is again invited to witness Kurtz, whose testimony was not contradicted, that the value of this land in Absecon was not worth over $250 an acre at the time of the conveyance on March 15, 1929, so far as the upland was concerned, and less so far as the meadow was concerned. There was altogether about three hundred acres so that at the very outside the property was not worth more than $75,000.00, and the debts about to mature aggregated $115,000. These figures related to 1926 and the witness testified that the value was lower in 1929.

P. 295, line 12 to line 16—

A. It was lower in 1929.

Q. How much lower?

A. I should say around eighteen or twenty thousand dollars.

We likewise have the assessed valuations which show that the property was assessed at only a few thousand dollars, so that from all the testimony, irrespective of the doctor's admissions, the value of the property, if it could have been sold at all, was not more than one-half of the indebtedness.

The Vice-Chancellor found as a fact that the defendants were insolvent at p. 357, line 11, "* * * I have no doubt that the fair salable value of their assets at that time were less than the amount that would be required to pay their probable liability on their existing debts as they became absolute and matured, and that, therefore, they were insolvent."

Respectfully submitted,

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