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**NEW JERSEY**  
**Court of Errors and Appeals.**

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GEORGE W. SLACK, et al.,

*Appellants,*

and

ELIZA ELLA REES, et al.,

*Appellees.*

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**BRIEF FOR APPELLANTS.**

George H. Slack, a few hours before he died, conveyed all his real estate to his daughter to the exclusion of his two sons. His personal property was not sufficient to pay his debts. The donor had been living with his daughter for three months. He was very feeble in mind and body and had been dying every day for a year and a half. He had softening of the brain. The brothers were not on good terms with their sister, the donee. Up to the time that the donor went to live with the daughter the pleasantest relations subsisted between him and the sons. This was manifested by his frequent visits to his son George's home. When he returned from his last visit he received a bill for lumber from A.K. Leuckel for \$70. From that time to his death on August 13, 1902, the donee, her husband and daughter say that the donor "frequently" talked with them about it

and that the donor said that George had robbed him of the money which he had given him to pay this bill with, and from that date all the donor's feelings of love for George were converted into implacable hatred. The appellants prove that the donee in November, 1901, had accused George of robbing him in this Leuckel bill, and while the daughter was present, the old man said, yes, yes, to her accusatory harangue, but when she was gone he said, "no, it was not true," and to George's wife he said that nothing could make  
10 him believe that George had wronged him. Furthermore, when Robert was at his sister's house on the Sunday preceding his father's death, and while the dead body of his mother lay there, the daughter again in the father's presence arraigned George on this Leuckel bill. Mr. Leuckel had sent a statement to the donor each month for a year and a half and on several occasions, called personally on him for payment which he promised to make as soon as possible. George had also told Mr. Leuckel to make these demands. The old man was taken sick on August 12th at about noon,  
20 but George was not sent for until between 9 and 12 o'clock at night until after this deed had been executed. Lawyer Phillips was sent for and received instruction to draw this deed, Mrs. Rees being present and taking part in the conversation between the donor and Mr. Phillips. She too was present when the deed was executed. It was impossible for the dying man to have had any private or independent advice from Phillips, for she was always present. On his dying bed his feelings against the son whom he had shortly before visited and promised to make a longer visit to, were  
30 so intensely hostile that he did not want to see him nor would he say good-bye to him as he did to the others present at the bedside. It will be also noted that the donee got a will from the mother who was believed to own the property, the property having been conveyed to the mother by the father to escape some business liability, but the father denounced such a distribution of the property as unjust. On the Sunday preceding his death he told his son Robert that he intended to make an equal distribution of his property among his children. All the evidence goes to show that the  
40 charge against George was false, the father had so pronounced it in November, 1901, on two different occasions, and its revival in July in the virulent form can only ration-

ably be accounted for by the "talks" of the Rees wife, husband and daughter with the old man. With the atmosphere in the Rees home of hatred against the brothers intensified by the hope of getting all the property of the old man's which Rees says he and his wife frequently discussed, can it be doubted that the daughter's presence at the bedside while Phillips was there was moral pressure and intimidation designed to prevent a free talk between the scrivener and the dying man's mind? If there had been a fair discussion as to what might have been his just obligation to his three children, taking his expression of the Sunday before of love for each of them as an exponent of his mind and heart, then we claim that the rule firmly is established in this state and in England that in gifts *inter-vivos* where paramount influence presumably exists, as the vice-chancellor conceded it existed in this case, that the donee can only entitle herself to have the gift by showing that the donor had competent independent advice *in her absence*. We insist that under the conditions of this case, the donee's presence when the dying man in her home and under her control was about to pass judgment on his three children was a flagrant example of taking advantage of her dying father's possible testamentary wishes, which he was too weak to overcome, and that the donee's participation in the giving of instructions to Phillips makes imperative the application of the rule of independent advice in the absence of the donee to prevent the mischief which is here apprehended.

FIRST—Condition of donor's mind.

H. D. Phillips, the pension lawyer and drawer of the deed, said, "In my judgment he had been dying every day for a year and a half," p. 20, line 37. Dr. Leavitt, p. 23, "treated him for 7 or 8 years for softening of the brain": p. 24, "did not think for the last 2 or 3 years he was competent to do business"; p. 28, line 9, "he did not seem to me to be capable of thinking, his mind would be like clay in the hand of the potter.

James E. Wilson, of the firm of Wilson & Stokes, says, "Mr. Slack was hardly able to walk, he was feeble; p. 33, line 10, "He was too feeble to do any kind of business, he could not concentrate his mind on anything."

Andrew Johnson, a life-long friend, visited Mr. Slack a few weeks before his death and testified, p. 103, line 18, "He would not stick to any particular subject, he would talk about something and then he would break away and then come back. He appeared to be very weak and sick at that time. He did not seem to be rational the way he used to be." Alfred R. Leuckel, p. 126, said, "I noticed a gradual decline in his physical condition and he certainly was growing very feeble toward the last."

10 Joseph B. Atchley, his milkman, p. 131, line 36, said, "Mr. Slack would pay me and talk ten or fifteen minutes, then he would ask if he had paid me, he would forget he had paid me and this occurred several different times"; p. 131, "he was very forgetful, his mind was very different."

Hamlet Smith, his grocer, who had known him for 28 years, said, p. 129, "His mental condition was weakening, sometimes you would ask him a question on one subject and he would answer you quite on another subject, a different answer altogether from what you would expect"; p. 130, line 20, "I do not think he was capable of managing his own affairs."

Mrs. Alice Cheatle, p. 137, a neighbor, said Mrs. Rees pointed to her father and said, "Look at that creature," and he sat in the corner as if he never noticed anything much. He appeared to take no notice whatever or to notice anything.

Robert Slack testified, p. 55, "that he came home from Ohio in November, 1901, when he heard his mother had become insane that his father did not know him  
30 although he had been home in July."

George W. Slack says, p. 39, "I would talk with him before I transacted any business. I would get all through with it and then he would ask me, what was that? And then I would go all over it again, I would explain it, and when I got as far as the door he would want me to go all over it again and I would have to do that two or three times. On one occasion he came over to my house on Thursday morning and he said I came over to fix up the pay roll, and I said we do not do that until Saturday, and this is only  
40 Thursday. He would start to talk on one subject and then stop and revert to something else. He was sleepy all the time."

Mrs. Frances Slack said, p. 115, "he would talk to you on a subject and he would ramble right off into another subject and did not seem to know what he was talking about half of the time."

Dr. McKensie says, p. 13, line 10, "he was very weak and had to use crutches the latter part of his life. I should think he could not put his clothes on without assistance."

Dr. Bruere, p. 98, said, "I think he was (on the day he died capable of understanding a business transaction.) I considered his disease both mental and physical, but more 10 physical than mental, of course there was mental weakness."

Q p. 99, Would you regard a person suffering from that disease, as being very easily worked to do a thing that a stronger mind wanted done?

A Yes, sir. I considered that to be the case, that he would be more influenced at least.

#### RELATIONS BETWEEN FATHER AND SON.

Alfred R. Leuckel, p. 124, says, "the relations between 20 George and his father were most cordial."

George W. Slack testified, p. 37, "the father's business was builder and contractor. I carried on his business since 1884 up to three years ago, at a compensation of \$2.25 per day. I figured on jobs. Father could not read or write."

Q What were your relations with your father?

A They were all right.

Q Continuously, all the time?

A Yes, sir.

Q Do you know of any reason for his disliking you? 30

A No, sir.

Page 41—Q What were the relations between you and your sister?

A Not very good.

Q How long had they been not very good?

A Since she tried to put mother in the asylum in 1901.

Mrs. Frances A. Slack, George's wife, testified, p. 110:

Q How frequently would Mr. Slack call at your house? 40

A Very frequently.

Q Up to what period before he died?  
 A Up to about three weeks before he died, that was the last time he came to see us.

Q How long would he stay on these occasions?

A Well, he would spend the afternoon sometimes.

Page 116—Q What did you observe of Mrs. Rees' conduct towards her father and mother?

A Her and her mother never would get along together, they would quarrel and fight and then make up afterward.

10 Q What did your father say?

A Sometimes he would not say anything and at other times he would say that if she could not get along better it would be better for her to go and live by herself,

Q Did your father-in-law ever talk to you about Mrs. Rees?

A Yes. That was the day mother ran away. He said, p. 113, "Frances, this is Ella's fault, I hate her for what she has done to her mother.

20 Mrs. Rachel Yeoman, p. 134, said, "that Mr. Slack said he could hardly stand it when his daughter would abuse her mother and said that if they were not satisfied they could get out."

Q Robert testified when you were present what were relations between George and her.

A They were friendly.

Andrew Johnson, p. 128, testified that the old man said "I haven't seen George for some time, the one I think most of does not come to see."

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#### TESTAMENTARY INTENTION OF DONOR.

Robert testified that on Sunday, August 10, '02, he took his father out driving, p. 56. His father said, can not you boys be friendly with your sister, and I said we could, and he said, I don't have much, and I feel I can not live long. He said he wanted to divide his property equally, then he said he made a mistake, he should never have allowed Ella to live a day with them after he got married.

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Mrs. Slack testified, p. 115, "that he said his wife had willed the homestead to Ella and he said he did not approve of it"; p. 114, line 14, "he said that he had three children.

but that George had taken more interest in him than any of the rest, and if he showed any partiality it would be to him, he said he wanted to do the right thing by them all. He always said that he thought a great deal of George for what he had done for him and worked for him and taken care of his business and looked after him ever since he was old enough."

## THE LEUCKEL BILL.

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George W. Slack testifies, p. 199, that the Leuckel bill was contracted on the Baker job and when they got through there was not money enough to pay all the bills and that his father said he would assume this Leuckel bill and that he told Mr. Leuckel so.

Mr. Leuckel says, p. 125, that he called George W. Slack's attention to this bill and he said it was his father's bill and I went to see the father.

Q What took place?

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A On both occasions Mr. Slack acknowledged the debt and said he would attend to it. The second time he did not recognize me at first, it was necessary to tell him who I was, then he said he would attend to the bill.

Robert Slack testifies, p. 65.

Q During one of your visits of recent date did you at any time hear a discussion of those charges against George between your father and sister?

A Sister said that one bill of a man named Leuckel, that George robbed him out of that. She said he always robbed him and took advantage of him, she would say that right in my presence, she would say it to my father. 30

Q What would your father say to that?

A He would say yes, yes, and when I got a chance to talk to him myself, I would say to him I don't think George would do that father, and he would say no he didn't think he would. This was in November, 1901.

Mrs. Frances Slack, p. 123 testified.

Did you ever hear your father say anything as to George robbing him?

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A Yes, sir; he told me had been told that, but he didn't believe it.

Q State what he said about ?

A Well he told me that Ella had told him or tried to make him believe that George was robbing him. But he said he did not believe it, nobody could make him believe that he robbed him.

Q When did he tell you that ?

A Well, he told me the night mother went away (that is Nov. 1901) and he told me that a great many times.

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### THE EVIDENCE OF UNDUE INFLUENCE.

Robert testifies, p. 66.

Q What did you observe as to the influence of Mrs. Rees over her father ?

A He would agree to anything that she would say.

Q Give the instance ?

A One thing I observed, my father seemed to be a  
20 little afraid of her, when I would be talking to my father and my sister would come in the room he would hold up his hand for me to keep still and caution me ; he seemed as if he was afraid when she came around.

And on page 57.—I asked him how he knew that George had robbed him, and he said "he had been told so ;" and he said, "he had been pretty bad to him ;" and I said, "How about Ella ?" and he said, "She has been bad, too ;" and I said, "Well, George ain't so bad, is he ?" and he  
30 said, "Well, I guess not." He said that Ella told him that George had robbed him. Ella continually told me that George had robbed father every time I saw her.

Mr. Rees, p. 187.

Q How many times, to the best of your recollection, was the Leuckel bill discussed ?

A On three different times. I think he discussed the matter to my wife, from what she told me——

40 Q Your wife told you ?

A Yes, sir.

Q Frequently ?

A Yes, sir; I believe so.

At page 191.—Q How frequently was it discussed between you and your wife, the getting of this property?

A It often came up between her and I.

Q It did?

A Yes, sir; it often came up between her and I.

At p. 177.—He said his father-in-law told him he was going to will the property.

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Mrs. Rees says, p. 94.

Q When did your father first tell you he was going to make you a deed for the property?

A He did not tell me ever.

Q When did you first know he was going to do it?

A When he told Mr. Phillips.

Q Was that the first intimation that you had?

A Yes, sir.

20

Q Did you think you were going to get more than your two brothers?

A No, sir.

Page 86.—I asked him if he wanted to see George and he said no. He said he wanted to die, he had done all he could to be good to those who had been good to him and he wanted to die.

Q How did your father treat him when he came?

A He looked up at him and said, "Who sent for 30 him?" and I said, "I did."

George was not sent for until 10 P. M. Mrs. Slack says not until 12 o'clock.

Mrs. Snook, p. 174, I telephoned for George at 10 o'clock and received no reply.

Mrs. Mahoney says, p. 165, that she telephoned for George between 9 and 10 o'clock.

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Mrs. Frances Slack says, p. 122.

Q What time was the first telephone message received as to your father-in-law's condition?

A At 12 o'clock from Mrs. Snook.

MR. PHILLIPS' FIRST VISIT.

Mr. Phillips said pp. 25, 26 and 27.

Q Who were present, if you remember?

10 A Mrs. Rees was there and either one or two other people who I don't know

Q There were other people there?

A Yes, sir; both then and when the paper was executed.

Q What did Mr. Slack say to you on that occasion?

A He said he wanted to see me about the business he had spoken to me about previously; that he wanted to draw a deed, if I thought that was the better way, of some property that he owned to Mrs. Rees. He asked me if he had  
20 better make a will or a deed and we had some conversation on the subject.

Q What did you say to him?

A I told him that in my opinion he had better make a deed; he then told his daughter to hand him the papers, p. 27.

Mrs. Rees said, p. 134.

Q. What occurred between your father and Mr. Phillips?

30 A Father said, "How do you do, Mr. Phillips," and he said he had come to do some business, *the business he had spoken to him about*. That is the first thing he said when he came. And Mr. Phillips said, "I know all about it." And then he said, "Is it a will you want me draw?" No, it is a deed I want you to draw from my property to my daughter, don't you think that is better, and I want it made fast, if there is anything to make it fast you put it in."

Q What then did Mr. Phillips say?

A He told him he would go and fix them, and would  
40 be back in the morning, and my daughter said, "You had better come back to-night, for if you wait till to-morrow morning, I am afraid you will be too late."

## SECOND INTERVIEW.

Dr. Mackenzie p. 12 testifies.

Q Did you know when you were there that Mr. Phillips was going to be there?

A Yes, sir; I did.

Q Who told you that?

A I don't know exactly, but I think it was probably Mrs. Rees. 10

Q Do you remember where that was told you?

A In the sickroom, while I was there; (p. 13) but I know that I had information given to me what that deed was being made out and I know that I waited for Mr. Phillips to come with the deed. p. 30, I think Mr. Rees or someone informed me that Mr. Slack was making a deed, and that Phillips was comparing it *and that they were waiting for it.*

Mr. Phillips testifies, p. 37. 20

Q Who was there at this second time?

A Mrs. Rees, Mrs. Mahoney and Dr. MacKenzie.

Q What conversation passed between you and Mr. Slack?

A I entered the room, greeted him and told him I had prepared the paper and set down and proceeded to read it to him.

Q Where was Mrs. Rees when you first saw her?

A I know she was in the room when I was talking to Mr. Slack. 30

Q p. 35, Did you have any talk with her on either of the conversations?

A Nothing more than a party to the talk with Mr. Slack, I think on both of these occasions she took part.

Q In the conversation?

A Yes, sir; I do not think there is any doubt about that.

Q What conversation passed between you and Mr. Slack on that occasion?

A Only as I have related as to the execution of the deed. 40

A You simply read the deed and asked him if it was

his voluntary act and deed?

A Yes, sir; as I have said.

Q p. 16, Do you know how many children Mr. Slack has?

A I am not acquainted with his family at all,

Q You never heard him say anything on that occasion or any other on that subject?

A No, sir.

Q And family matters were never discussed between  
10 you?

A I know nothing about that.

MRS. REES HAS NOT SHOWN THAT NO UNDUE  
INFLUENCE WAS USED.

Mrs. Rees is not frank. She says she never but once discussed the Leuckel bill with her father and had no idea that she was going to be given the homestead. Her husband says from December 24th, 1901, she "frequently"  
20 talked with him about it and with her father about the Leuckel bill. Mrs. Rees says she sent for George just as soon as she realized the grave condition of her father, which was about ten o'clock in the evening. Yet when Mr. Phillips was there at 4 or 5 P. M. Mrs. Rees says her daughter told Phillips to come back that evening with the deed "for if you wait until to-morrow morning I am afraid it will be too late." (Page 81, line 20.) Why was the daughter so reluctant to send for Phillips (pp. 84 & 85) if all had been fair on her part? Was that conduct natural, especially as  
30 she did not think her father was going to favor her. (Page 95, line 2.)

Did not the father love George?

Let his visit in July, 1902, to George answer. What reversed the feelings of the old man so suddenly toward George? The Leuckel bill had been sent each month for a year and a half and after that transaction had said he disbelieved George had wronged him. Has Mrs. Rees, who we show by Robert's testimony, was constantly denouncing George to her father and who hated George, satisfied the Court  
40 that her expressed opinions of George were not *unduly* pressed upon her father, who in the grief over his wife was too physically and mentally weak to resist her.

Chancellor McGill says in *Chaffey vs. Ledwith*, 11 Dick., 355: "Nor is this burden borne by showing, that, at some time during the months covered in the process of will-making, the old man echoed the argument of his daughter. It may be that in his enfeebled state argument had been so constantly kept before him as to take possession of him and drive out all other consideration."

Vice Chancellor VanFleet, in *Haydock vs. Haydock*, 6 Stein., 494, considers the denial of the donee that she knew anything about the gifts before its execution as a most suspicious factor.

Vice Chancellor Reed, in *Sicke's case*, 18 Dickinson, 233 at 237, says that declaration of a testator as to undue pressure are not evidential thereof, but if such remarks are otherwise proven to have been made, they are evidential of the serious effect upon the mind of the testator.

That the burden of proof was upon Mrs. Rees to disprove undue influence is settled.

In *Dale vs. Dale*, 11 Stein., 274, it is laid down "that where a mother mentally enfeebled by disease, and in a position where one of her sons could exercise an improper influence over her, made a will, leaving nearly all her property to the son, the burden is upon him to show that such instrument was executed without the exercise of undue influence." In the case at bar every indicium of undue influence including donee's presence at each stage in the process of deed making has its replica in these cases cited.

IF THERE EXISTS A PRESUMPTION OF  
UNDUE INFLUENCE, INDEPENDENT ADVICE IN  
THE ABSENCE OF THE DONEE MUST BE  
SHOWN.

This being a deed, the rules respecting gifts *inter vivos* govern the transaction, although intended as a will.

*Haydock vs. Haydock*, 7 Stein., 570 at 575; *Spark's case*, 18 Dick., 242 at 245.

THIS A DEED *INTER VIVOS*.

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Our Court of Appeals in *Haydock v. Haydock* 7 Stew.

570 at 575 lays down the law. "The influence which is undue in cases of gifts *inter vivos* is very different from that which is required to set aside a will. In testamentary cases undue influence is always defined as coercion or fraud, but *inter vivos*, no such definition is applied. Where parties hold positions in which one is more or less dependent upon the other, courts of equity holds that the weaker party must be protected and they set aside gifts if he had not proper advice independently of the other."

10 In Coffey v. Sullivan, 18 Dick, 296, Judge Vredenburg writing the opinion said, If we are to regard this as a voluntary settlement, the burden was cast upon the donee to establish that the donor fully appreciated what he was doing, or, at all events, in the doing had the benefit of disinterested and competent advice.

See also, Thorp v. Smith, 18 Dick 70 at 90 in which V. C. Pitney says "the condition of the donor's mind and the influences which surrounded him were such that he needed the assistance of an independent business man to  
20 advise him," This case was affirmed at March term 1003 and opinion in Atlantic Reporter April 1903.

Collins v. Collins 18 Dick, 602; Kaskill v. Hillman 8 Dick, 49 at 58 ; Mott v, Mott 4 Dick, 192 at 199.

In none of the cases cited save the last one did there exist a confidential relation.

Vice Chancellor Reed admits that there was a presumption of undue influence in this case, but held that competent independent advice was not necessary because of the technical confidential relation. We submit that the distinguished equity judge erred.  
30

The leading case is Skinner v. Allcard 36 Ch. D 131 was preeminently a case in which no confidential relation existed and the rule there enunciated is as follows at p. 158.

Where the paramount influence presumably exists it casts on the possessor of such influence the burthen of proving that the gift was free and it holds an essential part of such proof to be that the donor had competent independent advice, at p. 181. In this class of cases it has been considered necessary to show that the donor had independent  
40 advice and was removed from the influence of the donee when the gift was made.

See also Hall v. Otterson 7 Dick, pages 528, 529 and

530.

We submit that this rule should be applied and this deed annulled because of the unfair advantage the donee took of her dying father and of her brothers in being present when Mr. Phillips received his instructions.

We submit further that in gifts *inter vivos* where the relationship between donor and donee is that of parent and child and the parent is feeble and dependent upon the donee, the relationship is confidential within the purview of the rule—Hall v. Otterson, *supra*.

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H. C. VALENTINE,  
*Solicitor,*  
AARON V. DAWES,  
*Counsel with Appellants.*

We should like this rule should be applied and this  
best possible because of the main advantage the same  
look of the thing than and of her brother in being present  
when Mr. Fisher received his instructions.

We should further that in this way that when the  
relationship between bonds and does is that of parent and  
child and the parent is hostile and dependent upon the child,  
the relationship is confidential within the purview of the rule.

—HARVARD LAW SCHOOL

H. C. VALENTINE

JARVIS V. DAVIS

Lawyer and Plaintiff

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NEW JERSEY

**Court of Errors and Appeals**

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BETWEEN

GEORGE W. SLACK ET AL.,  
*Appellants,*

*and*

ELIZA ELLA REES ET AL.,  
*Respondents.*

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**Brief of Edwin Robert Walker, of  
Counsel with Respondents.**

The case is this: The testimony showed that George H. Slack, an elderly man, was suffering from locomotor ataxia, but went about up to the time of his death; that upon the day before his death, August 12th, 1902, he fell over in a faint, and when he revived, his first expression was that he desired that a lawyer, namely, Mr. Phillips, be sent for to fix his papers, and that his daughter, Mrs. Rees, who became his donee, instead of obeying her father's request with alacrity, told him to never mind, that it was a physician he wanted, that she desired that he would get well. Her father replied that it was Mr. Phillips he wanted and not a doctor, that he never could die without the papers being signed, as he wanted her to get everything, she had been so good to him. Mr. Phil-

lips was sent for, arrived, received instructions to draw a deed from the father to his daughter, went away, returned afterwards with the deed, which was duly executed. The testimony substantiates these facts. I invite the Court's attention to the following resumé of it before making any application of the law to the facts, and see what the witnesses say upon these points that are apparently crucial:

DR. MACKENZIE testified that he attended Mr. Slack the day he died, August 12th, 1902; that he was suffering from "heart crises." He witnessed the deed (*Case, p. 3*). And Mr. Slack called Mr. Phillips' attention to a mistake in the description when the deed was read. He used the doctor's glasses in signing the deed (*Case, p. 4*). He saw nothing to indicate that Mr. Slack's mind was not as clear as anyone's, as it always was (*Case, p. 5*). He had known Mr. Slack some time, and frequently saw and talked with him (*Case, pp. 2, 5 and 12*). And he never found anything defective in his mind at any time (*Case, p. 5*).

On cross-examination he said that his disease (locomotor ataxia) does not affect the brain, and he found no symptoms of brain trouble in his case (*Case, p. 7*). He was not there for the purpose of being a witness to the deed (*Case, p. 10*).

DR. BRUERE said he had been a practicing physician for fourteen years, and was called to prescribe for Mr. Slack on the 12th of August, 1902; he found him in bed (*Case, p. 96*). Was there from half to three-quarters of an hour; he gave him heart stimulants. (*Case, p. 97*), and he rallied quite considerably. He wanted to know how serious his case was, as he had some uncompleted business with a lawyer, and wanted to send for him (*Case, p. 97*). He thought him perfectly rational, and he was, in the doctor's judgment, capable of understanding a business transaction at that time. This was about 2 P. M., and he did not see him again. He considered that his malady might prove fatal at any time, but that he might rally and live possibly for a week or two (*Case,*

p. 98). In cases of that kind patients continue rational and capable of understanding business up until death, until dissolution actually takes place.

He did say that he considered that his mental faculties were somewhat weakened, and that he recognized softening of the brain; but that while he might be more easily influenced by reason of his condition, he might have strength of mind enough not to agree (*Case, pp. 99, 100.*)

HENRY D. PHILLIPS, the lawyer, said that he knew Mr. Slack about twenty years (*Case, p. 14*); that Mr. Slack executed his pension vouchers before him every three months, besides attending to some other business for him. He saw Mr. Slack on August 4th, 1902 (*Case, p. 14*), and he said to Mr. Phillips that he was all right (*Case, p. 15*), and he said he had some other than pension business to do, and would let Mr. Phillips know when he wanted him. He saw him again on August 12th, 1902 (*Case, p. 15*). He went to his house between three and four o'clock in the afternoon and found him in bed. There were other people there. He said he wanted to see him about some business he had spoken to him about, and wanted him to draw a deed, if he thought that was the better way. He asked if he had better make a deed or a will to Mrs. Rees. He advised him to make a deed. He told his daughter to get his papers, and he handed them to Mr. Phillips. He told Mr. Phillips about a mortgage there was on the property (*Case, p. 16*). Mr. Phillips went back between nine and ten o'clock at night. There were present Mrs. Rees, Mr. Mahoney, Dr. MacKenzie and other people. Mr. Phillips read the deed. He said it was all right (*Case, p. 17*), and signed it without aid.

Mr. Phillips then took his acknowledgment, and, in response to the questions propounded in the formula, he answered "Yes," and he was sane and as much in the possession of his mental faculties as the witness was when testifying (*Case, p. 18*).

Mrs. REES, the defendant, says that when Mr. Slack was taken sick, about one P. M. on August 12th, 1902, he fainted (*Case, p. 79*). When he came to he wanted his papers fixed, and asked for Mr. Phillips, when she offered to send for a doctor. He said he wanted Phillips and not a doctor. She sent for Dr. MacKenzie and Dr. Bruere (*Case, p. 80*).

MAGGIE ROGERS, a very intelligent domestic, who was in the employ of Mrs. Rees at the time of Mr. Slack's death, but not at the time of the trial (*Case, p. 153*), said she heard him say he wished he had his papers signed, and Mrs. Rees said, never mind the paper, you want a doctor, and he said, no, I never could die without those papers being signed, for I want you to get everything, for you have been so good to me (*Case, p. 154*).

LILA PALMER, who washed at Mrs. Rees' on Tuesdays and Wednesdays, from July 1st to October, 1902, and who was not with her at the time of the trial, said that she was there on the day that Mr. Slack was taken sick; when he came to he said he wanted to have his papers fixed up, and he wanted to have Mrs. Rees have everything, for she had been so good and kind to him, and Mrs. Rees wanted to get the doctor, and his mind appeared to be all right as far as she noticed (*Case, pp. 155, 156*).

SARAH B. WILLIAMS, whose husband is a cousin of Mrs. Rees' husband, was at the house, and when Mrs. Rees wanted to get the doctor, she heard him say he didn't want the doctor; what he wanted was a lawyer to fix his papers up (*Case, p. 157*); and Mrs. Rees said, never mind, he must have a doctor first (*Case, p. 158*). She found him very clear in his mind that day and the Sunday before when she visited the house (*Case, p. 145*).

MRS. MAHONEY, Mrs. Rees' daughter, was living at the house when Mr. Slack was taken sick, and when he came to she heard him say, oh, if I could only have my papers fixed; send for Mr. Phillips, and her

mother said, never mind the lawyer, we will get the doctor (*Case, p. 163*).

MR. REES, husband of Ella Rees, the defendant, came in just after he was taken sick, and found him lying in the hall-way upstairs. He said he wanted to have his papers fixed. Mrs. Rees said, never mind about your papers; they would get a doctor, and he said, no, he wanted his papers fixed (*Case, p. 179*).

That makes six witnesses who say, that when the decedent and grantor (donor) came to, his first concern was to fix up his papers, and that Mrs. Rees, the recipient of his bounty, did not further his purpose, but concerned herself with his welfare and comfort.

Mr. Phillips is corroborated as to the entirely volitional act of Mr. Slack in making the deed, by

Dr. McKenzie (*Case, p. 7*).

Mrs. Rees (*Case, p. 82*).

Mrs. Mahoney (*Case, p. 164*).

Mrs. Snook (*Case, p. 170*).

Mr. Rees (*Case, p. 180*).

All heard Mr. Slack call Mr. Phillips' attention to his error in reading the deed. That was an error as to the distance of one line of the property. Mr. Phillips, by the way, said that he did not himself recall it, but he did not deny it, and five witnesses heard it, and testify to it.

To those who saw Mr. Slack frequently, up to the last, his mind appeared perfectly clear. This was testified to by:

Mrs. Rees (*Case, p. 89*), daughter.

Mr. William G. Slack (*Case, p. 147*), brother.

Maggie Rogers (*Case, p. 154*), domestic.

Lila Palmer (*Case, p. 156*), washer-woman.

Mrs. Williams (*Case, p. 157*), husbands being cousins.

Mrs. Mahoney (*Case, p. 165*), granddaughter.

Mrs. Snook (*Case, p. 168*), niece.

Mr. Rees (*Case, p. 176*), son-in-law.

Mrs. Elizabeth J. Slack (*Case*, p. 196), sister-in-law.

George W. Slack, one of the complainants, informed his uncle, Wm. G. Slack, while in the coach going to his father's funeral, that his father was sensible to the very last moment the breath went out of his body (*Case*, p. 148). In the coach were Wm. G. Slack and his wife, and George W. Slack and his wife. Wm. G. Slack's wife corroborates her husband and says (*Case*, p. 195, he [George W. Slack] said his father mind was clear to the very last moment of his life.

Both George W. Slack and Frances A. Slack, his wife, were recalled to the witness-stand just after this evidence was given, and neither of them makes any denial whatever, qualified or unqualified, of the testimony of the uncle and aunt (*Case*, pp. 197-201).

It thus appears that one of the complainants on this solemn occasion, when anything like the fabrication of evidence was naturally far from his thoughts, before he contemplated this law-suit, or at least, in an unguarded moment, he accorded to his father the fullest degree of capacity that Mrs. Rees claims for him still.

Now, it seems to me that this is very significant evidence, and I call the Court's attention to it particularly. Of course, in the course of a trial which is extensive, and where the testimony is long-drawn-out and voluminous, sometimes a witness is recalled for re-examination, and it may be well said, that by reason of inadvertence or oversight, that a particular fact is not denied, by way of rebuttal testimony; but these two witnesses, George W. Slack and his wife, Mrs. Slack, went on the stand, right after the examination of Wm. G. Slack, and their testimony was short in each instance, covering only a few pages, and this declaration of George W. Slack concerning his father's mental capacity, in that coach while going to his father's funeral, was not controverted or denied or qualified by them in any shape or manner; and it seems to me that these declarations of George W. Slack against his own

interest, that his father was in the full possession of his faculties, ought to be conclusive as to what he honestly thought, and thinks, of his father's mental capacity.

And was he not in full possession of his faculties? Did not the doctors say so; did not all the numerous witnesses who surrounded him on his death-bed say so? The other side have not and cannot successfully assail that position.

Mr. Slack made the disposition of his property that he had previously resolved upon.

He told his son-in-law, Albert Rees, on December 24th, 1901, that it would be his home when he was gone, it was Ella's, or it would be Ella's. Mr. Rees replied that there were others to be considered about it, and Mr. Slack said, no, there is no one else to be considered in it at all; I have made up my mind, after I am gone, this is Ella's (*Case, p. 189*).

On July 20th, 1902, he told his brother William, speaking of his property, "That he knew just what he was going to do" (*Case, p. 145*).

On August 11th, 1902, he again told his brother he knew just what he was going to do, and that Ella was his only child (*Case, p. 146*), and his mind was very good (*Case, p. 147*).

Of course, when he said, Ella was his only child, in this connection, he meant that she was the only child that had been good to him, and that he was going to remember her. Why should he not do so, and why should he not so express himself towards her, considering the fact that she was the one who had lived with him and his wife, her mother, the best part of her days, when one son was out in Ohio and the other son was living with his wife in the city of Trenton (*Case, pp. 72-78*).

On the same occasion, on August 11th, 1902, he told his sister-in-law, Mrs. Elizabeth J. Slack, I intend to be good to those who have been good to me, and that is Ella (*Case, p. 195*). He singled out his daughter Ella as the one who had been good to him and the one upon

whom he was going to bestow his bounty, and he had made up his mind to do it.

#### THE QUESTION OF UNDUE INFLUENCE.

I assert that there is not a line of testimony in the whole case to support the charge, not one. Instead of requesting her father to deed his property to her, Mrs. Rees refused to accept it when the father offered it to her as an inducement for her to go and live with him again, she having left because her mother was insane, and with whom she could not for that reason get along (*Case, p. 79*).

It may be said on the other side that the old gentleman said that he was going to give everything to Ella, and he had had some personal property, and that he did not give that to her.

Now, he did give that to her; he gave it to her, *donatio causa mortis*, it appears by Mrs. Rees' testimony (*Case, p. 90*): He gave me everything when he lay on the bed, as the doctor helped him off with his clothes; he gave me everything; he said he wanted me to have everything, and he told me that everything there belonged to me; he gave me his watch and everything he had, and told me that everything there belonged to me.

George W. Slack afterwards applied for and obtained letters of administration, with her consent, and she then turned over all the personal property (*Case, p. 96*). Why? Because there were some debts, and it would have been liable for the debts anyhow.

It is a most remarkable fact that the old gentleman left some \$696.51, and debts a little more than that (*Case, p. 35*). So he knew that practically all he had of value to give was this real estate which was the subject of that deed.

## THE QUESTION OF FRAUD.

There was no fraud practiced upon Mr. Slack by Mrs. Rees by way of representing anything concerning her brother, George W. Slack.

Mrs. Rees testified that her father frequently conversed with George about business before her, and expressed himself as not satisfied with the way George settled things up, and he told George in her presence that he had not paid Leuckel's bill when he gave him the money to pay it (*Case, pp. 92, 93*). She never herself made the charge to her father against George (*Case, p. 93*); and neither George nor Robert, in their testimony, said she did.

As to the Leukel bill: The Court will find from the testimony that Mr. Slack and his son George W. Slack had been engaged in business for many years, and that some three or four years ago, when the old gentleman's mind, to some extent, was not as active as before, when he chose through physical infirmity more, doubtless, than from any other reason, no longer to participate actively in business, he dissolved the partnership, or whatever arrangement he had with his son George, and the son, you will find, testified that the Leuckel bill was an unsettled account, an unsettled matter growing out of their partnership arrangement. So the Court will see that there was a reason for the old gentleman's assertion that he had given his son the money to pay that bill. In other words, it was the son's duty, in the settlement of the matters between them, to pay Mr. Leuckel that bill. The son testifies to that himself, and his testimony shows that there was a fair dispute at worst for us, and best for them—there was a fair dispute between father and son as to whether or not the son had the money and should be charged with that bill, and should pay it, and there is not one line of testimony in this whole case that shows that Mrs. Rees ever denounced her brother George to her father for not paying that bill or for anything else.

## THE QUESTION OF INSANE DELUSIONS.

Mr. Slack was not subject to any insane delusions, and was not controlled by anyone in the making of the deed in controversy.

It is true that he told several people that his son George had robbed him. He told Mrs. Rees so, in connection with the assertion that George had not been square with him in business (*Case, p. 92*). He told his brother that he had given George money to pay his bill to Leuckel and that George had wronged him (*Case, p. 145*).

George testified that he and his father had some business words—little business words—which never amounted to anything (*Case, p. 40*). That is quite an admission for him to make, although he said it didn't amount to anything.

Speaking of the Leuckel bill, George said that they had their business settled up, and all the money they got through a suit was not enough to pay all the bills, and the Leuckel bill was one that was left over (*Case, p. 199*), and, although he said his father was to assume it, nevertheless it is an admission by George that the Leuckel bill did not get paid in the settlement, and the presumption is that the old gentleman had reason to assert, as he did, on all occasions, that his son George ought to have settled that bill, and that he had given him the money to pay it with.

## THE OTHER SIDE.

I have not adverted at length, or at all, to the testimony offered by the other side. Now, what was it? One physician was produced, Dr. Leavitt, who testified that in his judgment the old gentleman had failed to such a degree in mind that he was not capable of understanding the nature of a business transaction for several years past (*Case, p. 23, et seq.*). But besides the testimony of the two doctors, McKenzie and Bruere

(*Case, pp. 2, 96*), who said that he had capacity to do business and make a deed or a testamentary disposition of his property (and he did exactly this thing, he made a deed), and that given by the people who came in contact with him frequently, I submit that the Court's judgment will naturally be, that a man who would send for a lawyer and who said he didn't want a doctor; that he wanted a lawyer; that he wanted to fix up his papers, and when that lawyer comes there, tells him what he wanted him to do, and tells his daughter to go and get the papers, and then tells the lawyer to draw a deed, after asking him which would be best, a deed or a will, and after the deed is written, when being read to him, he tells the lawyer that he has made a mistake in the description, and then acknowledges the deed after having signed it himself with his own hand—I say the Court's opinion will naturally be that that man, at that time, had capacity to make that deed.

What was the testimony of the other witnesses who have spoken of some few eccentric acts and lapses of memory on the part of this grantor, what do they amount to? Nothing more than this: That sometimes he would not recognize old friends on the street that he had not seen for some time. Mr. Johnson, an old friend, visited him in his own house, and he said he did not know him; that he forgot names and dates; that he went from one subject to another, and sometimes repeated things (*Case, p. 101, et seq.*). Well, the cases in this State say that all these things can exist to a considerable degree, and yet a man may possess capacity to transact business, to make a will or to execute a deed.

So I say upon the whole case as it stands, that it does not appear that Mr. Slack lacked capacity at all, but that on the contrary it affirmatively appears that he had abundant capacity; that he was of more than an ordinarily discerning mind, a man of more than ordinary capacity, a man who had been in business for many years, and who by his own industry and frugality had got the property which he gave to his daughter.

## THE LAW OF THE CASE.

The other side, on the hearing below, asserted that the donor was laboring under delusions, not that he was insane generally.

In the case of *Middleditch v. Williams*, 18 *Stew.* 726, Vice-Chancellor Van Fleet said:

“Where a person is induced by false evidence or by false statements to believe a fact to exist which does not exist, or where, in consequence of his faith in evidence which is true, but which is wholly insufficient to prove the truth of what he believes, he believes a fact to exist which in reality has no existence, his belief may show want of discernment, or that he lacks ordinary power of discrimination, and is consequently easily duped; but not that his mind is unsound.”

And a will made by a person who labored under the difficulties described in that syllabus was upheld.

This case is entirely pertinent and controlling with reference to the disputed question of the Leukel bill.

Said Vice-Chancellor Green, in *Mott v. Mott*, 4 *Dick.* 192:

“Conveyances by an aged parent to a child in consideration of the agreement by the latter to support and provide for the former are upheld if the transaction appears to have been free from fraud and the evidence does not show that confidence has been reposed by the infirm in the stronger, but does show that the parties dealt at arms’ length.”

Of course a person can convey property for a consideration or bestow it as a gift. In the case at bar it was donated; but the gift was entirely volitional on the part of the donor; it was a gift to a favorite child—one who had earned the favor of her father—and was made without any fraud or artifice on her part, and by one who sent for his own lawyer, and who acknowledged that he *executed the conveyance as his voluntary act and deed.*

Upon the question of capacity to make a deed, see the remarks of Vice-Chancellor Grey in the case of *Hammill v. Hyatt*, 14 Dick. 179-180. Now, a Mrs. Hammill, in that case, made a deed to a niece. She had a son, who was the natural object of her bounty. She declared that her son had wronged her, when he had not. She said her son had been collecting interest on a government bond when she had no government bond. Also, she said that he had been collecting the rents of a house and had gouged her, when in fact he had not. All these accusations were in fact false, and the deed was set aside. Of course, it was set aside. Three separate and distinct reasons were alleged by her to a lawyer as to why she did not bestow her bounty upon her son—why she withheld it from him and gave her property to a niece, who had no claim upon her bounty, which reasons were false in fact.

Here the only evidence as to misrepresentation, fraud or cozening is that Mr. Slack believed that he had given his son money to pay a seventy-dollar bill with, when, as the son says, he had not in fact, and, as I say, the testimony of the father and son shows that at least there was a basis for that belief, because it was a fair matter of dispute between them, and if you take that out of the case (and it should go out for the reason just stated), then there is absolutely no allegation left in it that there was any fraud whatever, or any delusion in the mind of the donor.

The Court of Errors and Appeals, in *Haydock v. Haydock*, 7 Stew. 570, said:

“When a person whose mind is enfeebled by disease or old age is so placed as to be subjected to the influence of another person, and makes a voluntary disposition of property by gift in favor of such person, the court requires proof of the fact that the donor understood the nature of the act, and that the act was not done through the influence of the donee.”

Assuming, for argument's sake (though the fact is denied), that Mr. Slack was so placed as to be subjected to the influence of his daughter, Mrs. Rees, the requirements of the case of *Haydock v. Haydock*, that the donor understood the nature of the act, and that it was not done through any influence of the donee, are, in the case at bar, fully met and answered, including the more stringent requirement of the second *syllabus* of the case cited, that

“Where it is obvious that a gift made by such person is intended to operate as a will, it presents an additional reason for imposing upon the donee the burden of showing convincingly the validity of the act.”

In *Haydock v. Haydock* there was proof that the conditions mentioned, which came under the ban of judicial censure, were present to a marked degree, and, Reed, J., in delivering the opinion (p. 575), said, that the gifts were undoubtedly intended by the *donee* to operate as a testamentary disposition of the donor's property, while in the case under consideration the donee had nothing to do with the disposition of the property, for it was the *donor* in this case who intended that the gift should operate as a *testamentary* disposition. This he undoubtedly did, for, when he was stricken he expressed his belief in his inability to recover, and stated that he could not die before he fixed his property for his daughter, as she had been so good to him.

Mrs. Rees, in this case, stands where Mrs. Byrnes did in the case of *Le Gendre v. Goodridge*, 1 *Dick.* 419, which latter case is cited with approval by the Court of Errors and Appeals in *Coffey v. Sullivan*, 18 *Dick.* 296, 304.

While the facts in the case of *Le Gendre v. Goodridge* are not on all fours with those of the case at bar, they are sufficiently similar to make the law laid down in the former entirely applicable to the facts of the latter. In that case, said Van Fleet, V.-C.: “There is no

proof that Mrs. Byrnes ever, in any business affair, guided or controlled her mother in the slightest degree, or that she ever attempted to do so." Nor is there in this case any testimony that Mrs. Rees in any way guided or controlled her father or ever attempted to do so. Again, in that case: "The relation between the mother and the daughter are shown to have been tender and affectionate. The daughter was attentive, dutiful and helpful." The proofs disclose the same tender relations in this case. Furthermore, in that cause: "As I view the case, it is utterly empty of everything, in the nature of evidence, giving the slightest support to the charge of undue influence, except that when the grantor made the deed she had reached an unusually advanced age, that the grantee was her daughter, and that she and the grantee had, for several years prior to the execution of the deed, lived together on very affectionate terms." This case is empty of evidence giving the slightest support to the charge of undue influence (for the Leukel bill matter is not even brought home to Mrs. Rees), except that when the grantor made the deed he had reached a moderately old age, and was sick physically; that the grantee was his daughter, and had for years prior (except an interval of about a year and a few months' duration) lived with the grantor on very affectionate terms.

Said Van Fleet, V.-C., in that case (*1 Dick., on p. 419*):

"A voluntary deed, conveying a valuable property, made by a mother, after she had reached an unusually advanced age, to a daughter, who had lived with her mother for several years on very affectionate terms, will not be set aside in the absence of proof of incapacity, fraud or undue influence.

"Without proof of incapacity, fraud or undue influence, a deed which appears to have been executed under all the safeguards provided by law for the protection of the grantor against coercion

and imposition, though supported by no consideration but love and affection, is entitled to stand on its own inherent strength.

“To justify a decree invalidating a deed on the ground of undue influence, a court must be convinced that the free agency of the grantor, at the time he executed the deed, was so far destroyed that he would not have made the deed if left to himself.

“Every citizen, of full age and sound mind, has a right to make such disposition of his property, by will or deed, as he, in the free exercise of his own will and judgment, uninfluenced by fraud or imposition, may see fit.”

Let us pursue further the parallel between the two cases. In that cause, said the Vice-Chancellor: “The proof is clear that the purpose to make the deed was the spontaneous product of the grantor’s mind. It originated entirely with her, without solicitation, hint or suggestion of any kind from the grantee.” It is likewise perfectly clear, upon the proofs of this case, that the purpose to make the deed was the spontaneous product of the grantor’s mind. Nor is there a word of testimony in the case to show that it originated from any solicitation, hint or suggestion of any kind from the grantee. Moreover, in that case: “The deed was prepared in the presence of Mrs. Muloch, by her counsel and under her direction alone. Mrs. Byrnes had nothing to do with its preparation or execution. She was not in the room where it was prepared and executed until after it was ready for delivery. She was then called in and an actual delivery of the deed made to her.” In this case the deed was prepared by Mr. Slack’s own counsel and under his direction alone. Mrs. Rees had nothing to do with its preparation or execution. While she was in the room when it was executed, there were many others present (including Mr. Slack’s lawyer and physician), and there was an actual delivery of the deed made to her by her

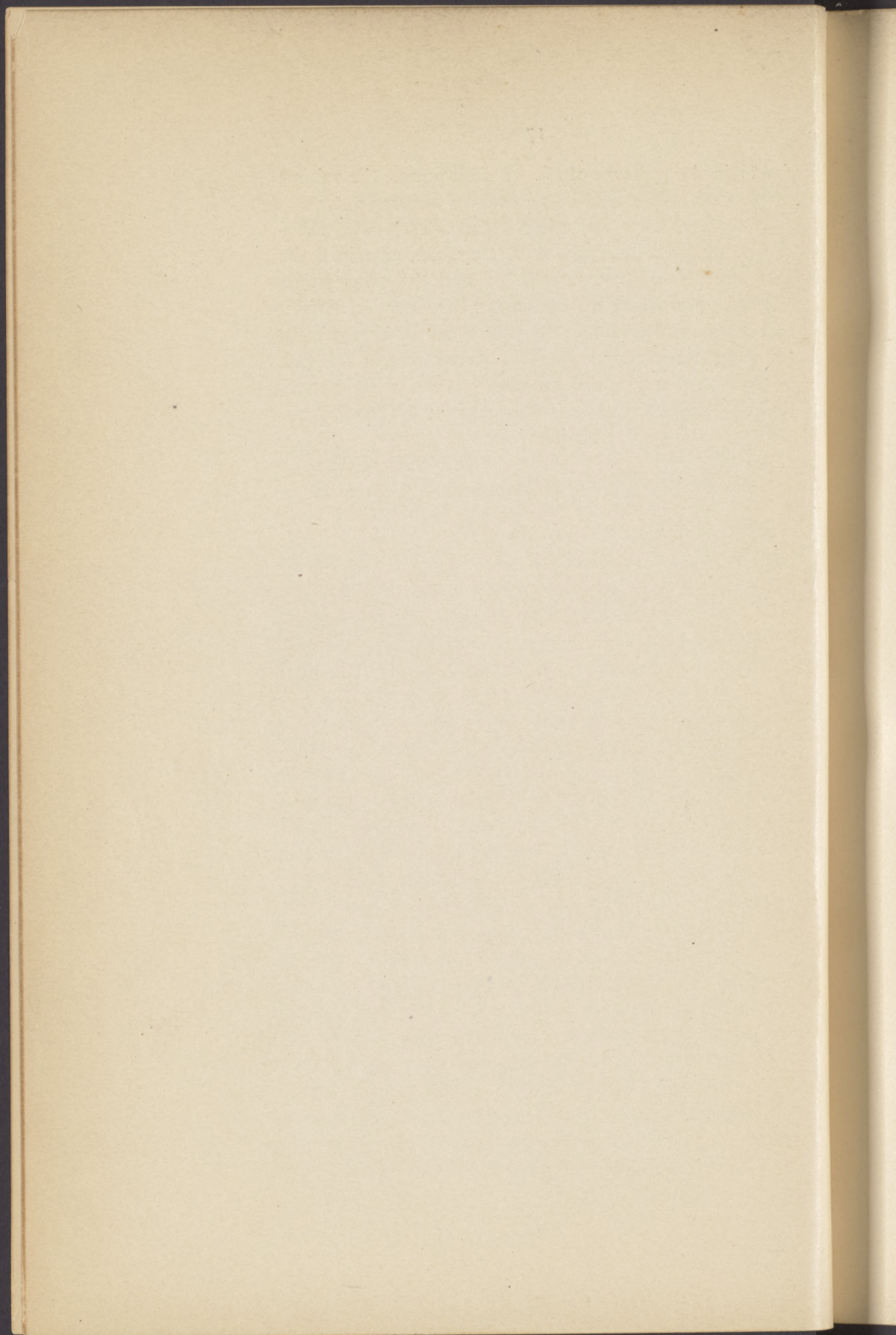
father in the presence of all. I shall pursue the subject no further. It would be a work of supererogation.

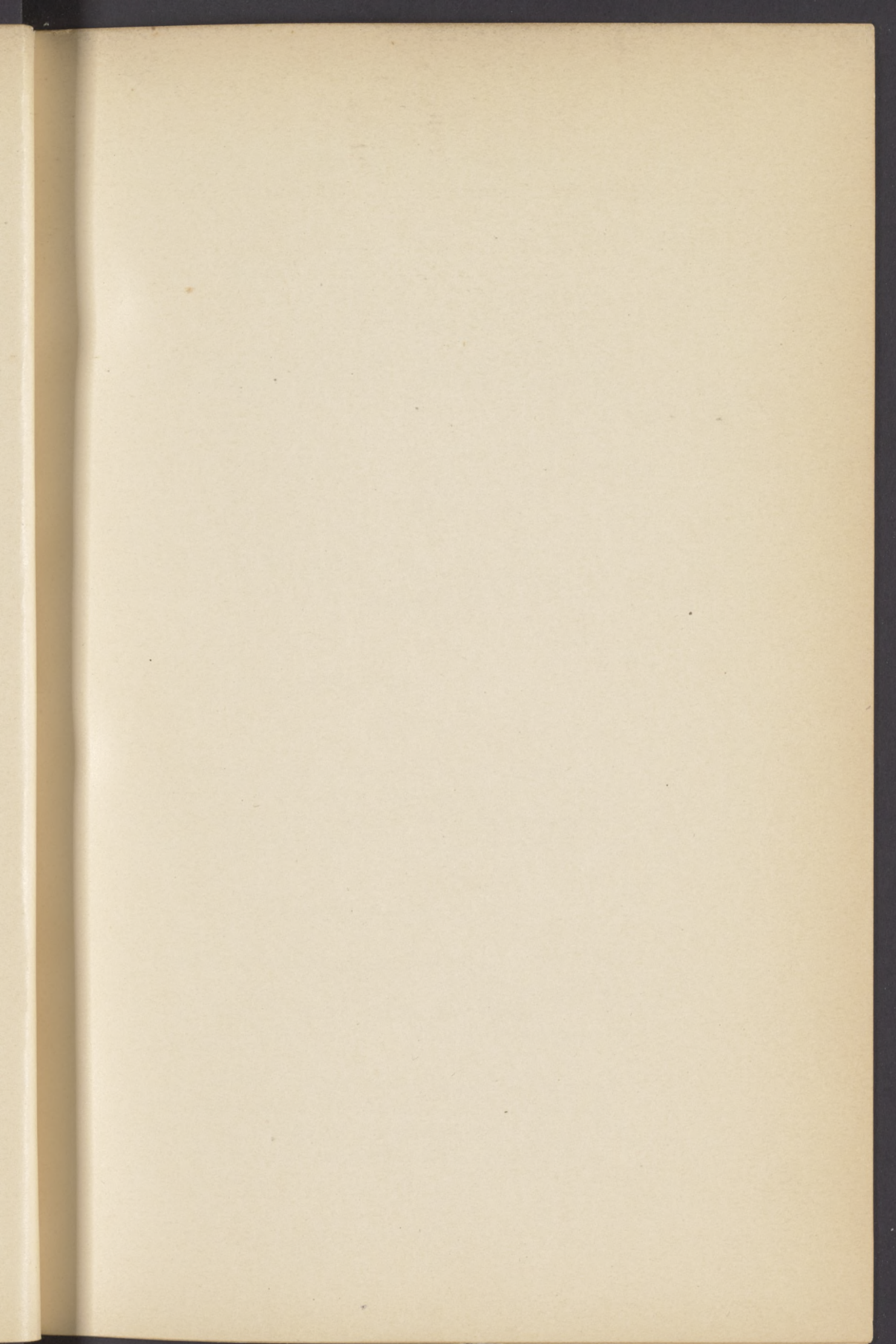
The same Vice-Chancellor (Van Fleet), who overthrew the gifts in *Haydock v. Haydock*, sustained the gift in *Le Gendre v. Goodridge*, and the same Judge (Reed), who wrote the opinion in the Court of Errors and Appeals, sustaining the overthrow of the gifts in the Haydock case, as Vice-Chancellor, upheld the gift in the case at bar; and, I submit, upon the whole matter, that the decision reached in this case should be affirmed.

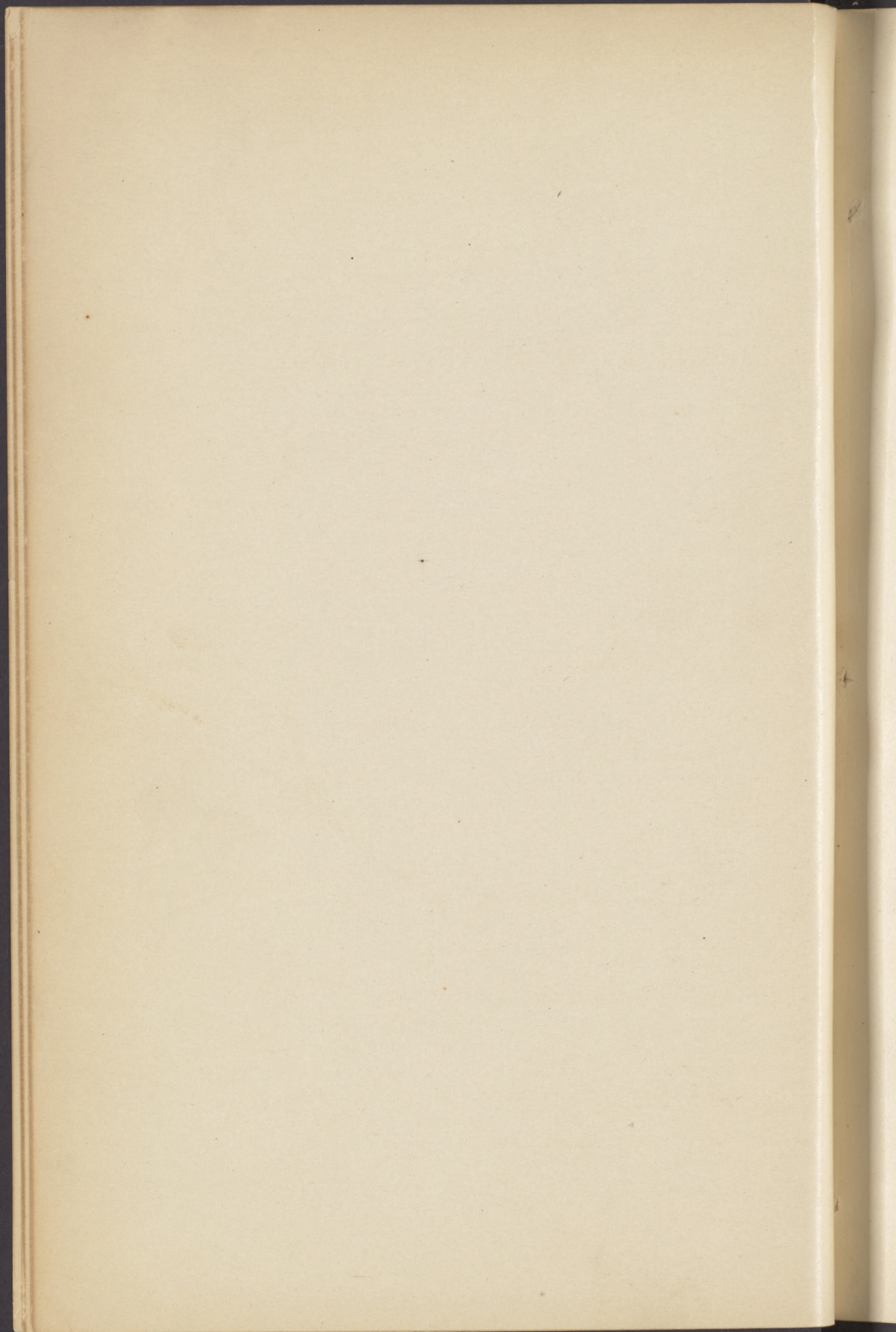
Respectfully,

E. R. WALKER,

*Of Counsel with Respondent.*







# In Chancery of New Jersey.

10

Between

GEORGE W. SLACK, et als.,

*Complainants,*

and

ELIZA ELLA REES, et als.,

*Defendants.*

20

Transcript of stenographer's notes of evidence, taken in the above entitled cause, before his Honor, ALFRED REED, Vice Chancellor, at the Chancery Chambers, State House, Trenton, N. J., March 24th, 1903, at 11 A. M.

30

## APPEARANCES.

*Mr. H. C. Valentine and Mr. A. V. Dawes,*  
for Complainants.

*Mr. Benjamin Godshalk and Mr. E. R. Walker,*  
for the Defendants.

*Mr. Walker:* Dr. McKensie is attending here as witness on the part of the defendants, and I am informed that he is expecting a call every minute, and I request in his behalf that he be called out of order, so as to enable him to get away. 40

*Mr. Valentine:* We have no objection. I will ask your Honor, however, that all the witnesses be excluded from the room.

*Court:* I do not think I will make that order; it is very unusual in civil suits. In criminal suits I can very well see how sometimes it might be well to do that, but in a suit of this character I do not think it can be necessary.

THOMAS H. MACKENZIE, a witness produced in  
10 behalf of the defendants, being duly sworn according to law,  
on his oath saith:

*Examined by Mr. Walker.*

Q Dr., you are a physician and surgeon, practicing  
in the City of Trenton?

A I am.

Q And have practiced your profession how long?

A About thirty years.

20 Q Here in Trenton?

A I have.

Q Did you know George H. Slack in his life time?

A I did.

Q Did you ever attend him professionally?

A I have.

Q When was it you attended him?

A Some three or four years ago; I saw him when he  
first began to be afflicted with the trouble from which he  
finally died. I also saw him more or less from that time up

30 to the time of his death.

Q What was that disease he died from?

A Spynesis of the spinal cord, or locomotor ataxia.

Q Did you attend him in his last illness?

A I did.

Q When did it occur?

A I cannot give you the dates.

Q During that last illness how many visits did you  
pay him?

40 A I think I have seen him professionally, myself;  
with a view to prescribing and treating him, once I think;  
and that was just prior to his death; but I attended his wife  
and had occasion to see him almost every day. I saw him

quite frequently for several weeks before his death when attending his wife, who was ill at their home.

Q Did you visit him on the day of his death?

A I did.

Q And the day before his death?

A I cannot recall whether I did or not, but I remember very well having seen him prior to his death and the day of his death.

Q I show you a paper purporting to be a deed from George H. Slack to Eliza E. Rees, and ask you whose manuscript signature it is appended to it in the lower left hand corner?

A It is mine.

Q You made that signature?

A Yes, sir; I did.

Q Looking at the date of that deed, August 12th, 1902, does that refresh your memory as to the time?

A That is the time.

Q Is that the day upon which you attended Mr. Slack?

A Yes, sir. 20

Q When last before that day did you attend him?

A I have attended him three or four years before that, whether I attended him just before that or not I cannot say, for the reason that it was a kind of case that did not require treatment.

Q How came you to go to see him on that day?

A I was called to see him on that date.

Q What time in the day was it you were called to see him?

A Six or seven o'clock in the evening, or somewhere about that time. 30

Q Where did you find him?

A I found him at his daughter's house on Bellevue avenue.

Q The house of Mrs. Rees?

A Yes, sir.

Q One of the defendants in this cause?

A Yes, sir.

Q In what condition did you find him?

A He was then suffering from an attack of heart crises, as I took it to be the result of his locomotor ataxia, 40

the last stage of the disease in his case.

Q. Was that the time you subscribed your name to this paper?

A. That was the time; yes, sir.

Q. Did that subscription take place then and there, about six o'clock, as you say?

A. The subscription—how?

Q. Subscribing your name to this paper?

A. Yes, sir; it took place then.

10 Q. Who else was present?

A. Mr. Phillips, who drew the deed, he was present; Mrs. Rees, and I think Mr. Rees was present, and his daughter, Mrs. Mahoney.

Q. Mrs. Rees' daughter?

A. Yes, sir.

Q. Did you hear Mr. Slack say anything about this paper that he signed then and there?

A. I cannot recall just now exactly what he did say, but I was in the room—

20 Q. Did you hear Mr. Phillips say anything to him about the paper?

A. I think I heard Mr. Phillips calling his attention to the fact—well, in reading or defining the description of the deed; Mr. Phillips made a mistake, and he corrected him in it.

Q. Who?

A. Mr. Slack.

Q. What did he say?

30 A. He said there was more feet in one of the sides than Mr. Phillips finally gave, and Mr. Phillips said that he had read it wrong, and that it was just exactly as Mr. Slack said it was.

Q. Did Mr. Slack sign the deed?

A. Yes, sir.

Q. Did you see him sign it?

A. Yes, sir; he used my glasses when signing it.

Q. How did he come to use your glasses?

A. Well, his own were not at hand, and I offered him mine.

40 Q. What did he say about the glasses, if you remember.

A. I do not remember.

Q What was the condition of Mr. Slack's mind at the time that you described of your visit there, and the time he signed this deed?

A I saw nothing about his mind that would indicate that he was not as clear as any one's mind, as it always was.

Q Previous to this day, when you saw and conversed with him, what was the condition of his mind?

A I never found anything defective in his mind at any time.

10

*Cross-examination by Mr. Dawes.*

Q You stated that you saw him three or four years ago more or less?

A Yes, sir.

Q Will you state what you mean by that expression?

A I mean just what I said, sir.

Q Did you see him professionally?

A I saw him professionally three or four years ago.

Q For how long a period?

20

A I think I saw him—I cannot tell you the number of visits I made.

Q I know you cannot, but generally, can you say how long you were attending him three or four years ago?

A When I attended him three or four years ago I presume I made two or three visits.

Q Any other physician attending him at that time?

A Not that I know of.

Q Where was he?

A At his home; I think it was on Bayard street.

30

Q What was the disease for which you attended him at that time?

A The same disease from which he died.

Q At what stage?

A Sufficiently advanced to diagnose the case.

Q What stage would you call it?

A The disease is only divided into two stages,

Q What are those two stages?

A He was about at the beginning of the second stage of the disease, when the disease was well defined.

40

Q What were the symptoms that you observed?

A The symptoms I observed were the partial loss of

power of the limbs.

*Q* Is that called paralysis ?

*A* I would not call it paralysis, it was a partial loss of power in the limbs.

*Q* A partial loss of the limbs ?

*A* No, not a partial loss of the limbs, I said a partial loss of power of the limbs ; the reflex actions were gone, the knee jerk was gone, he had ataxia, that is, his co-ordination was not good, he walked unsteadily and with difficulty  
10 walked at all, seemed to swing by latterally on both sides, and he had also other symptoms of the disease—do you want me to go into details ?

*Q* Well, you say at that time those were the symptoms you observed—that is at that time ?

*A* Yes, sir.

*Q* Did these symptoms progress from that time on ?

*A* The disease is a gradual and slow one, it progresses slowly, and he never improved. There were times when he was slightly better than others, but he could never have  
20 gotten well, because these cases do not get well.

*Q* Did he have paralysis ?

*A* No, sir ; never complete paralysis. He lost the power of one limb greater than the other—he had lost the power on one side more than on the other ; it was a partial paralysis you might say.

*Q* That was in his limbs ?

*A* The lower limb, and I think it was his right side, but I am not sure about that.

*Q*. What effect does that have upon the mental qualities of a man ?  
30

*A* This disease is confined to the spine ; it does not affect the brain ; it hadn't any effect upon the brain in his case, and I can say that I found no symptoms of brain trouble in his case.

*Q* Does it not cause the arteries of the brain to become hard ?

*A* Not necessarily, it is not a disease of the arteries ; it is a disease or a hardening of the posterior portion of the spinal cord.

*Q* Is it not in the books that it does affect the brain ?  
40

*A* It does not always, but——

*Q* Is not one of the symptoms of the disease that is

affects the brain ?

A I failed to find it.

Q Do not the medical books lay it down ?

A I never saw it in the medical books.

Q Do you mean to say that a man's mind is just as good by having this disease as if he didn't have it ?

A I think his mind was—well, now, just as good. Well, that is putting it pretty strong. Any man that is sick his mind is not just as good as it is if he were well, but his mind was sufficiently good to be sufficiently intelligent to 10 ordinary thinking.

Q Do you mean to say that a man suffering from this disease is not peculiarly susceptible to the influences around him, and his resisting powers are weakened ?

A I cannot answer that question—I would think not.

Q You would think not ?

A No, sir ; I do not say though that there are not cases where it might be so, but I do not think it was so in this case.

Q Do you mean to say that the books do not lay it 20 down so ?

A I read the books on this subject last night, and I could not find anything pertaining to that—yes, sir.

Q You say you saw him in his last illness ; at what stage had the disease reached then ?

A The second stage—he was just—the last illness, you mean ?

Q Yes.

A I saw him a few moments or a few hours before he died, at that time ; it must have been the last stage of 30 the disease.

Q Was that the time that Mr. Phillips was there ?

A Yes, sir.

Q About two hours before he died ?

A I cannot say the number of hours, but did I say two hours ?

Q I understood you to say two hours before his death ?

*Mr. Walker :* A few hours is what he said.

*Witness :* Several hours.

40

Q You saw him you say—that was the last time you

saw him, when Mr. Phillips was there?

A I saw him after Mr. Phillips left; I remained after Mr. Phillips left.

Q Did you know when you were there that Mr. Phillips was going to be there?

A Yes, sir; I did.

Q Who stated that to you?

A I don't remember which member of the family it was, but they told me that Mr. Phillips was preparing a deed.

Q Who told you that?

A I don't recall that exactly, but I think it was probably Mrs. Rees.

Q Do you remember where that was told you?

A In the sick room, while I was there.

Q In the presence of Mr. Slack?

A I am not sure whether Mr. Slack heard it or not; I am not sure about that.

Q It was told you in his presence?

20 A I won't say that it was.

Q He was in the sick room also?

A He was in the room when it was told to me, but whether he heard it or not, I do not know.

Q It was told in his presence—now, who else was there when this remark was made?

A Now, I did not charge my memory with these things—

Q As near as you can?

30 A I cannot tell exactly whether that was mentioned to me in the sick room or not, but I know I had the information given to me that the deed was being made out, and I know that I remained for Mr. Phillips to come there with the deed.

Q How long did you remain?

A Until he came.

Q How long was Mr. Phillips there when he did come?

A Mr. Phillips was there long enough to read the deed and have it signed.

40 Q When the deed was delivered and brought in, who was present at that time?

A Well, I know one that was present; I was present,

but as for the others, I am not sure who they were.

Q Tax your memory on that point?

A I am afraid my memory might fail me, and I do not want to make mistakes.

Q To the best of your recollection now, Doctor?

A I cannot say: I think Mrs. Rees was in the room, but I am not sure of that even.

Q And there is no one else that you recall?

A I cannot recollect; no, sir; positively, I cannot recall them. 10

Q Can you recall what was said on that occasion by Mr. Phillips to Mr. Slack?

A No, sir; I just simply remember this: I remember Mr. Phillips reading the deed, and, as I said before, he made some mistake as to the number of feet—

Q Do you remember anything else that was said?

A No, sir; I do not. I cannot recollect anything else that was said.

Q Did that comprise, practically, all the conversation that took place? 20

A No, sir; I cannot say that it did; I cannot recall it all.

Q Was there any other conversation?

A I did not burden my memory with the conversations, and I cannot state what they were.

Q Well, who participated in that conversation?

A I don't know that even; I think Mr. Phillips did most of the talking, which is, perhaps, characteristic of the profession.

Q Was there any conversation outside of the reading 30 of the deed?

A I think it all pertained to the reading of the deed at that particular time, although I think there was something else said—I remember one thing—Mr. Slack having said, either when Mr. Phillips was present or after he left, I heard him say to his daughter these words, "Now, all is yourn." Those are the words he used.

Q Did you hear anything said about any other member of the family at that time?

A No, sir; I don't remember if there was anything 40 else said.

Q Did you talk with Mr. Slack to find out what his

mental condition was at that time ?

A Not with that object in view ; no, sir.

Q Doctor, might you not be mistaken as to the hour you were there ; might it not have been later ; might it not have been as late as nine or ten o'clock in the evening ?

A. It is barely possible I might be mistaken as to the time.

Q I call your attention to that—the pleadings state it differently from what you state it ?

10 A I think then, probably, I am mistaken as to the time.

Q And after Mr. Phillips left, how long did you remain ?

A I think I remained about half an hour.

Q Was anything more said about this transaction by you or Mr. Slack or Mrs. Rees ?

A No, sir ; it did not interest me in the least, that transaction did not.

Q You heard nothing more said ?

20 A Not that I recall.

Q How did you come to sign this deed as a witness ?

A I was present and was asked to sign it as a witness, I think it was Mr. Phillips that asked me, but I am not sure about that either.

Q Were you not waiting there for the purpose of signing as a witness to this deed ?

A No, sir ; I was not.

Q At the request of Mrs. Rees ?

30 A No, sir ; I was not ; I was there to administer to the dying man's comfort, if possible.

Q Well, was not that one of the objects you had in remaining ?

A I did not have that object in view at all.

*Court :*

Q Was Mr. Phillips there when you arrived at the house ?

A No, sir ; I was there first.

40 *Mr. Dawes :*

Q And you knew Mr. Phillips was coming for the purpose of having Mr. Slack execute a deed ?

A I learned that by the conversation after I arrived.

Q A conversation with whom?

A I think Mrs. Rees or some one informed me that Mr. Slack was making a deed, and that it had not been prepared yet by Mr. Phillips, and that they were waiting for it.

Q Did Mr. Slack give you that information?

A I cannot say who gave me the information.

*Court:*

Q How long were you there? 10

A I must have been there altogether about two hours.

Q Did you remain after the execution of the deed?

A Yes, sir.

Q Up to his death?

A No, sir; I did not remain until his death.

*Mr. Dawes:*

Q Did you know what time he died?

A I did not, except as I heard afterwards. 20

Q And how long had Mr. Slack been sick before you reached there, violently sick, that is?

A Violently sick?

Q Yes.

A I really cannot say that, but I know they sent for me in a great hurry, and for some reason or another I could not go, and in the mean time they got another physician.

Q Who was that?

A Dr. Bruere.

Q Did you administer any medicine to Mr. Slack? 30

A I think probably I did, but I cannot remember now.

Q What medicines—anything in the nature of opiates?

A No, sir.

Q Anything of that kind?

A No, sir, I do not think I did, as I do not give opiates in those cases.

Q What did you give him?

A Something to stimulate his heart and relieve his 40 suffering; I do not remember now what I did give him.

Q Your attendance three or four years ago, was pro-

professionally for a certain period of time, will you say how long?

A For a few days; I told the family at the time that it was useless for me to attend him as I could not do him any good.

Q Did you attend him professionally afterward?

A I did, but not with the view of prescribing for him.

*Re-direct by Mr. Walker.*

10 Q Did you say you attended his wife or some member of his family shortly before his last illness?

A Yes.

Q Did you see him on those occasions?

A Yes, sir.

Q Did you talk to him?

A Yes, sir.

Q Did you and he converse together on this occasion when you were there the two hours, when the deed was executed?

20 A Well, he was so ill, I did not talk much to him.

Q Did you have some conversation with him?

A Of course I spoke to him, but what the nature of the conversation was, I do not remember.

*Court:*

Q You spoke of heart crises?

A Yes, sir, he had a heart crises.

Q He was in pain then, was he?

30 A Yes, he was in pain, and for a time he was suffering as one does suffer with an attack of angina pectoris, but it was one of the attendant results of his disease, locomotor ataxia.

*Mr. Walker.*

Q This medicine you say you administered was to stimulate his heart's action?

40 A Yes, with a view to giving him relief; I thought if I stimulated the heart, I thought it might relieve the congestion of the lung, a congestion arising from the heart, and that was due to the leison in the spinal column—

Q Does not that stimulant have the opposite effect of opiates?

A I do not think it would affect his mind either way very much.

*Further cross-examination by Mr. Dawes :*

Q Physically he was a wreck, was he not ?

A Physically he was a wreck ?—Yes—well, I don't know what meaning you attach to the word "wreck."

Q What was his physical condition—greatly enfeebled ?

A Greatly enfeebled, yes ; well, he was very weak and 10 he had to use crutches the latter part of his life.

Q Was he able to feed himself without assistance ?

A Yes ; I think so.

Q Was he able to put his clothes on without assistance ?

A I don't know about that.

Q What do you think about it ?

A I should think he could not, but I am not sure that he would be able to use his lower limbs without assistance.

Q Was the upper part of his body affected ? 20

A No ; the upper part of his body was in better condition than his lower limbs.

Q Still it was affected ?

A I think not.

Q His arm was affected, was it not ?

A I think not.

HENRY D. PHILLIPS, a witness also produced out of order in behalf of the defendants, being duly sworn 30 according to law, on his oath saith :

*Examined by Mr. Walker.*

Q You are a member of the bar ?

A Yes, sir.

Q And have been how many years ?

A About twenty.

Q And practicing in the City of Trenton, New Jersey ? 40

A Yes, sir.

Q Did you know George H. Slack in his life-time ?

A Yes, sir.

Q The father of Eliza Ella Rees?

A I do not know that she is his daughter.

Q You did not know the family?

A No, sir.

Q How long have you been acquainted with Mr.

Slack?

A Fifteen or twenty years.

Q Have you had business with him.

10 A Yes.

Q Of what nature?

A Chiefly appertaining to his pension business.

Q He was a pensioner of the United States?

A Yes, sir.

Q Did he have his pension papers executed before you?

A Yes, sir.

Q How often?

20 A Every three months; in addition to that, I attended to the pension business outside of the execution of his voucher.

Q Do you recollect the fourth of August last?

A I do; yes, sir.

Q Was that or not known as "pension-day?"

A Yes, sir.

Q Was that the day pensioners executed their vouchers?

A Chiefly on that day.

Q Did you see Mr. Slack on that day?

30 A It was on that day or the day subsequent.

Q Where?

A I first saw him in the corridor of the Broad Street National Bank in this city, sitting there in, not exactly a chair, but what you might call a settee.

Q What is called a "settle," a wooden settee?

A Yes, sir.

Q Is that the building in which you have your office?

A Yes.

Q Did you have any conversation with him?

40 A Yes.

Q About what?

A He said he was coming up to see me, and I ex-

pressed surprise that he would come to see me in the condition he was in, rather than have me go and see him.

Q What did he say?

A He said that was all right, he could get there; he could get around.

Q Did he say anything about any matter of business?

A He took the elevator and came up to my office and executed his pension voucher, and we talked some about getting an increase of pension; my recollection is that I did, shortly before that, get him an increase, and I was contemplating getting him another increase. Just what the conversation was I do not now remember, but it was something on that line, and before he departed he said he had some other business that he wanted me to transact for him, and would let me know when he wanted me. I thanked him for it, and did his business and he paid me for it, and he left the office. 10

Q When next did you see him?

A On the afternoon of the day of his death. 20

*Court:*

Q When was the interview of which you have just been speaking?

A On the 5th of August.

*Mr. Walker:*

Q Do you recall the afternoon of the day of his death?

A I do.

Q What day of the month was it? 30

A I do not know.

Q I show you a paper, purporting to be a deed from George H. Slack to Eliza E. Rees; look upon that deed and say if you wrote that deed?

A Yes, sir; it is in my handwriting.

Q Does the date at the head of that paper refresh your memory as to the date it was on?

A Yes, sir; the 12th of August.

Q How did you come to see him that day?

A Word came to my office in my absence that Mr. Slack wanted to see me at his house on some business. 40

Q And you went there?

A And I think it came over the telephone once or twice—my recollection is now that he tried to reach me the day previous and could not get me, could not reach me, and this day he did reach me, and I went up there.

Q What time did you arrive?

A Between three and four o'clock in the afternoon.

Q Where did you find him in the house?

A I found him in what I would call the second bedroom in the second story of the house, now the bedroom  
10 in front of the house but directly in the back of the house.

Q In bed or sitting up?

A In bed, I think.

Q Who else were present, if you remember?

A At that time?

Q Yes.

A Mrs. Rees was there, and either one or two other people, whom I do not know.

Q There were other people there?

A Yes, sir; both then and when the paper was exe-  
20 cuted.

Q What did Mr. Slack say to you on that occasion?

A He said he wanted to see me about the business he had spoken to me about previously, that he wanted me to draw a deed, if I thought that was the better way, of some property that he owned here in the City of Trenton, to Mrs. Rees. He asked me if he had better make a will or make a deed, and we had some conversation on the subject.

Q What did you say to him?

A I told him that in my opinion he had better make  
30 a deed. He then told his daughter to hand him his papers; the papers were somewhere in the room in which he was and she got them, and gave them to him; and when he got them, and it appeared to me that he knew all about the property, and he told me what to do, and he gave me the papers.

Q What papers?

A His deed.

Q His title deed?

A The title deed and some other papers with them;  
40 I think this property had a mortgage on it, and he told me about that; and I took these papers to my office and prepared this deed from them.

Q Was anything said about your attending there again?

A I was to come back and execute the deed as soon as I had drawn it.

Q This was what time in the afternoon?

A Between three and four o'clock.

Q What time did you go back with the deed again?

A Between nine and ten o'clock at night.

Q Who was there at that time?

A Mrs. Rees, a young man that I did not know, but I think his name was Mr. Maloney. 10

Q Or Mr. Mahoney?

A Or Mahoney, and Dr. MacKenzie and some other people—these other people may have been three or four people, but there were other people there at the time.

Q What conversation passed between you and Mr. Slack then?

A I entered the room and greeted him and told him I had prepared this paper; I sat down then and proceeded to read it to him, and I did—— 20

Q Did you read it all over, the printed words and all of it?

A Yes, sir.

Q What did he say, either during the reading or at the conclusion of the reading of it?

A He said it was all right.

Q Anything said about the description?

A Not that I recall.

Q What then happened?

A The question arose then whether he could sign his name to this paper, whether he was physically able to sign his name, and I got the pen and ink ready and got a book—I have had considerable experience in having sick people sign papers—and adjusted everything to him or for him to make his effort to sign his name, and he signed his name to that paper in my presence. 30

Q Did he write it?

A Yes, sir; he wrote it.

Q Did you see the subscribing witness sign his name? 40

A I did; I asked Dr. MacKenzie to sign his name as a witness.

Q By what aid, if any at all, did the old gentleman sign his name?

A No aid outside of his own physical strength.

Q Did he or not use glasses?

A I don't remember, sir.

Q What, if anything, did you say to him after he made his signature on the deed?

A I told him that was all right, and gave him the paper and left the house.

10 Q Did you say anything else to him?

A I took his acknowledgment to it after he signed his name.

Q In what formula, what did you say to him?

A I said: "Mr. Slack, you acknowledge that is your hand and seal, and that you signed, sealed and delivered this instrument, as your voluntary act and deed for the uses and purposes therein expressed."

Q And what did he say?

A He said: "Yes."

20 Q Who did you give the deed to?

A I think I gave it to him, I left it on his bed?

Q Did you have any further conversation about that or any other matters at the time?

A I think I said that I hoped he would improve.

Q What did he say?

A I think he said that he thought he would not.

30 Q From what he said to you, and what he did in your presence, both on August 5th and on this day of the 12th of August, what have you to say as to whether or not he was sane or insane?

A He was sane, and a remarkable man on both of these occasions, so much so that I made a remark about it to people in my office when I returned to it.

Q In your judgment, was he or was he not in the full possession of his mental faculties?

A Just as much as I am at this moment.

Q Did he or did he not know what he was doing when he executed that deed?

A Yes, sir.

40 Q Did he or did he not appear to execute the deed as his voluntary act and deed without any fear and compulsion?

A Yes, sir ; he did.

*Cross-examination by Mr. Dawes :*

Q Mr. Phillips, what time did you say you got word on the day that you went there and drew the deed, to go to the house ?

A I say my recollection is that these people had tried to reach me——

Q Were you there when they tried to reach you before ?

10

A Where ?

Q My question is what time you went or what time you got word, you personally got word to go to the Slack house on the day this deed was drawn ?

A I had received word the previous day, twice that day to go there.

Q How was that word conveyed to you ?

A I got word at the house where I lived, and at my office in the Broad Street Bank, and at the office of the Pottery Company.

20

Q All these things, all these messages were delivered to you, the day before you went there, or on the day you went there ?

A Both ; the day before and on the day I went.

Q Now, by what method was this word conveyed to you ?

A Over the 'phone, and somebody called at my house on Prospect street and left word there.

Q Who used the 'phone to call you ?

A I do not know.

30

Q You do not recall the person who was using the 'phone ?

A I did not answer the 'phone, I got word——

Q You say you went there about three or four o'clock in the afternoon ?

A Yes, sir.

Q Now, the answer says it was six or seven o'clock—the answer states as the time you arrived there at the house—are you right about that or is the answer right ?

A I have nothing to do with the answer, I am testify- 40  
ing from my memory——

Q You are sure, then ?

A Yes, sir; I am sure it was between three and four o'clock.

Q Who was the first person you saw on entering the house?

A The first person I saw was the person who opened the door, and I do not remember who that was.

Q Do you remember who you talked with before you saw Mr. Slack?

A I did not talk to anyone before I saw Mr. Slack; I  
10 went right to his room.

Q Do you know who conveyed you to his room?

A No; I said my name is Phillips, and I wanted to see Mr. Slack.

Q Where was Mrs. Rees when you entered the house?

A I do not know.

Q Where was she when you first saw her?

A I won't say that either; I know she was up in the room when I was talking to Mr. Slack.

20 Q Did the word you got tell you that Mr. Slack was dying?

A No, sir; nothing was said about "dying," simply that Mr. Slack wanted to see me, and at first I did not know what Mr. Slack it was——

Q Did you know when you entered the room that Mr. Slack was in a very low condition?

A No, sir; I did not. I only knew what his condition was on the 5th of August.

30 Q I ask you, when you went into the room, whether you knew that he was so ill, as not to be expected to live?

A No, sir.

Q When did you first know that he was so ill that he would not get well; was there anything in his condition which conveyed to you at this first interview the information that he was so ill that his death was likely to occur very soon?

A My judgment was that for a year and a half before he died, that he was dying every day.

40 Q Did you think on this occasion that he was going to die at once or shortly?

A I did not pass my judgment on it.

Q So that when you left the house on the first time,

when the deed was drawn on that day, you did not know or think that he was so ill that he was likely to pass away in a few hours?

A No, sir; I did not think he would.

Q You did not?

A No, sir.

Q Was he lying in bed when you were there?

A Yes, sir; he was.

Q Was he suffering any pain?

A I could not tell. 10

Q From anything that you heard him say or anyone else say on that occasion, would you say he was or was not suffering intense pain?

A I did not think he was suffering intense pain, his case was a remarkable one altogether.

Q Simply answer my question; you say you do not think that he was suffering intense pain when you were there?

A Not from any symptoms that I observed.

Q How long on that occasion were you there? 20

A Possibly fifteen minutes.

Q Was Mr. Slack able to talk on that occasion?

A Yes, sir.

Q Was Mr. Slack a man that you could easily talk to, or was he hard of hearing?

A He was slightly deaf.

Q Was he not very deaf?

A I did not think so.

Q You did not talk very loudly to him?

A I could make myself understood to him. 30

Q You did not talk loud to him I say?

A I raised my voice a little.

Q Who handed you the deed from which you got the description for the deed you drew?

A Mr. Slack handed the deed to me, and Mrs. Rees handed it to him.

Q When you returned at nine or ten o'clock on the same day, what was his condition at that time?

A He was much worse then than in the afternoon when I was there and saw him. 40

Q Was he suffering on that occasion?

A I did not observe any symptoms of his suffering.

his case was one of physical prostration.

*Q* When you left on the first occasion did you see Mrs. Rees from the time you left the bed of Mr. Slack—did you see Mrs. Rees alone after you got—after you had your conversation with Mr. Slack on the first visit?

*A* No, sir; I did not.

*Q* Did you have any talk with her on either one of those occasions?

*A* Nothing more than as a party to the talk with Mr. Slack; I think on both of these occasions she took part.

*Q* In the conversation?

*A* Yes, sir; I do not think there is any doubt about that.

*Q* You say when you got back at nine or ten o'clock his change was greatly for the worse?

*A* It was undoubtedly; yes, sir.

*Q* What conversation passed between you and Mr. Slack on that occasion?

*A* Only what I have related as to the execution of the deed.

*Q* You simply read the deed and asked him if it was his voluntary act and deed?

*A* Yes, sir; as I said.

*Q* And Dr. MacKenzie was present then and Mrs. Rees?

*A* Yes, sir; and some other people.

*Q* You left the deed with whom?

*A* I said I did not remember, but my impression now is that I left it lying on his bed; I wanted to get out, and I got out.

*Q* Do you know how many children Mr. Slack had?

*A* I am not acquainted with his family at all.

*Q* You never heard him say anything on that occasion or any other on that subject?

*A* No, sir.

*Q* Family matters were never discussed between you?

*A* I knew nothing about them.

*Q* Have you ever ascertained since, who it was sent you the message to go to Mr. Slack's house?

*A* I never inquired about it; it was not a matter of concern to me.

LYMAN LEAVITT, a witness produced on behalf of the complainants, being duly sworn according to law, on his oath saith :

*Examined by Mr. Dawes :*

Q You are a practicing physician of the City of Trenton? 10

A Yes, sir.

Q For how many years?

A In Trenton?

Q Yes.

A From 1862 or 1865?

Q Thirty-eight or thirty-nine years?

A Yes, sir; thirty-eight to forty years.

Q Did you know the late George H. Slack?

A I did know him; yes, sir.

Q For how many years? 20

A Probably twenty-five years.

Q Did you ever attend him professionally?

A Yes, sir.

Q How long have you attended him professionally?

A Well, I suppose I was the family physician for many years. I treated him repeatedly during that time for various things, various matters——

Q Come on down to the beginning of the disease locomotor ataxia—did you treat him for that disease?

A Probably seven or eight years ago, he complained 30 of headache, dullness, general dullness and frontal headache, at that time I noticed none of the distinctive symptoms of locomotor ataxia, which is a difficulty in locomotion, that is where it gets its name, “tabes” is the technical name, there was none of that then—there was a dull heaviness, and he was not as light as usual, not his old usual very bright self, as when I first saw him. When I first saw him, he was a contractor, bright, quick, taking a great interest in all matters, sporting matters and all that kind of thing, and all of that seemed to have changed gradually. 40

Q And did you see him after that in the last years of his life?

A I saw him; probably I saw him very many times, his wife was ill and I saw her, and then I would see him; I did not treat him specially for the last few years of his life, especially after this locomotor ataxia, which he certainly had; after that developed I did not treat him, because it was no use treating him; medicine is not of any value, but I saw him, I treated him, and I talked with him, and possibly prescribed for him.

Q Did you notice that the disease was progressive?

10 A It is progressive—it is always progressive, it marches on and on to the end.

Q What effect does that have on the system, what effect does it have on the brain?

A Well, I noticed a sort of dullness, a want of interest in matters. I generally found him lying on a settee, he took no special interest in anything; he had a good appetite, for all I know, but he took no special interest in anything, and those symptoms gradually became more and more marked. I did not see him but once in a while. I  
20 saw him, I think, on the first of January before he died, or some time in January or February, and then I went to see his wife; I did not see him after he moved from Bayard street only once, I think.

Q State to the Court what was the mental condition of Mr. Slack at the times you saw him within the last year of his life?

A There was an aggravation of those symptoms I spoke of, he was less and less mentally quick and alert, he took less and less interest in matters generally; he would, if you  
30 called his attention to any matter, he would talk rationally apparently for awhile and then pass on to something else.

Q In those talks with him did you regard him as competent to do business?

A I did not for the last two or three years of his life; I did not think he was competent for the last two or three years, I certainly did not, and I do not think he attempted to do any.

Q He did not attempt to do any business?

A I do not think he attempted to do any business for  
40 the last two or three years.

Q State what you observed outside of what you have already stated, on which you base that opinion that he was

not competent or fit to do business in the last two or three years of his life?

A Because he apparently took no interest in all or any matter, he was very different from the old, bright alert man that I knew years ago; no one special thing, mind you; I did not treat him specially during the last years, for the reason that my experience and the books all say that it did not do any good to treat that disease.

Q You say you treated Mrs. Slack?

A Yes, sir; I saw her a good many times; I signed 10 the papers with Dr. MacKenzie by which she was permitted to the New Jersey State Asylum.

Q When was the last time you saw Mr. Slack alive?

A That I do not know exactly, but I should say five weeks or so before he died, the day probably that Dr. MacKenzie and I signed the papers to send Mrs. Slack to the asylum; I do not know the date, she was in the asylum for some little time.

Q What was his condition on that occasion?

A Much the same; he did not seem to pay much 20 attention to anything.

Q Did you talk with him on that occasion?

A Yes, sir.

Q Did he talk coherently on that occasion?

A Yes, sir; for a moment or so; I made a very brief visit; we saw her and saw him, and we then signed the papers of commitment, probably it was in July—July, sometime, probably.

Q Did you know Mrs. Rees, the daughter?

A Yes; I have known her for a good many years. 30

Q Did Mrs. Rees ever call upon you for the purpose of having her mother committed to the insane asylum at Trenton as a pauper patient?

A Certainly she did; that was probably in December 1891.

Q 1891 or 1901?

A 1901.

Q Will you state what she wanted done on that occasion?

A She wanted her mother sent to the asylum—— 40

*Mr. Walker:* We object to this as immaterial.

*Court*: I understand it is in the bill set up as a part of the conspiracy—I will take it.

*Q* How many times did she call on you?

*A* I do not know; we talked about it several times, I think; I called there, and finally it went over for some time until probably July, that is July last, 1902.

*Q* Did her husband, Albert Rees, call on you for the same purpose?

10 *A* Possibly, but I do not remember——

*Mr. Walker*. I object to this as immaterial.

*Court*. I will take it.

*A* I think he did, it was talked about, it was a family matter?

*Q* On that information, what Mrs. Rees wanted done, did you convey that to any member of the family of Mr. Slack?

20 *A* No, I did not say anything to the boys about it just at that time.

*Q* Who did you talk to about it?

*A* I talked with Mrs. Rees, and possibly with Mr. Rees, but I do not remember exactly about it. I will correct myself there—one of the boys, Mr. George Slack, did call to see me about it, and there seemed to be a difference of opinion as to whether she had better be sent there or not. I have not thought of that matter for all that time, but I think they both called there at different times——

30 *Q* Did George want her sent there, or what did he say about sending her there?

*Mr. Walker*: I object to that—I object to conversations with George out of the presence of the defendants as incompetent.

*Court*: Who is George?

*Mr. Walker*: One of the complainants.

*Court*: Oh, no; that won't do—objection sustained.

40

*Cross-examination by Mr. Walker*:

*Q* Mr. Slack was not an insane man, was he?

A Not being on the staff at the insane asylum up there, I do not know that I can tell you. Am I required to give a definition of insanity?

Q No, I did not ask you that; I asked you whether Mr. Slack was an insane man or not?

*Mr. Valentine:* In your opinion.

A I do not think that he was latterly of perfectly sound mind. The definition of insanity is mental unsoundness, or something of that kind. I do not think he was and yet he was not violently insane. Now, in insanity, it goes all the way from mere crankiness to violent maniac—

Q Now, insanity is an elastic term, is it not?

A Certainly, it means a good deal.

Q And some people are considered to be insane on one or more things and perfectly sound on other things?

A Well, they are cranks.

Q They are insane all the same—what do you say about that?

20

A Yes, sir; I say that the man was perfectly sane in many things and insane in others.

Q Now, you say Mr. Slack would talk perfectly coherently and intelligently?

A For a time.

Q Yes, he would talk coherently and intelligently for a time?

A Yes, sir.

Q That is, whenever you saw him that was so?

A Yes, sir.

30

Q Including the last time you saw him?

A Yes, although I did not see much of him the last time.

Q Now, you have asserted that you do not believe that Mr. Slack was capable of transacting business within the last two or three years?

A Yes, sir.

Q Do you mean to say that in your judgment Mr. Slack was incompetent to transact an affair of business during the last two or three years, when he had ample time to revolve the subject over in his mind and act deliberately with reference to it?

40

A He did not seem to me, and, as a matter of fact, I knew that he did not do any business——

Q That is not an answer to my question; do you mean to say that in your judgment Mr. Slack was incompetent to transact an affair of business during the last two or three years of his life, when he had ample time to revolve the subject over in his mind, and act deliberately with reference to it?

A He did not seem to me to be capable of thinking,  
10 it seemed to be more impression and then it would pass away; his mind seemed to be like clay in the hands of the potter, the last impression was good until the next one came.

Q You will not say, will you, but that so far as you know, Mr. Slack may have transacted some business matters during the last few years of his life, and transacted them intelligently?

A I cannot say anything about that, I can only say,  
20 so far as my observation goes, and I base my ideas on observation on what I thought on just exactly what happened.—I do not know, of course——

Q Now, having reference to the condition in which you observed him during the last few years, it is a fact, is it not, that he might have intelligently transacted some business matters?

A Oh, yes, sir; he might.

Q He could have done so?

A He might, for all I know.

30 *Re-direct examination by Mr. Valentine.*

Q The last visit you made to the house for the purpose of interviewing or seeing the wife, you saw Mr. Slack?

A Yes, sir.

Q You there saw Mr. Slack?

A Yes, sir; I saw him.

Q And how long was that conversation, of which you spoke a moment ago—you said you had a conversation with him?

A Very brief, indeed. I was there for a special  
40 pose, to see his wife, it was very slight indeed, I do not recall what it was.

Q I do not think you said or you expressed your opinion

as to the condition in which he was at that time as compared with the three or four years previous to that ?

A The trouble, the disease is always progressive ; it was so in his case, and locomotor ataxia is always so.

Q You have known Mr. Slack personally for about how many years ?

A Possibly thirty years, twenty-five years certainly.

Q And you attended him professionally for about how long ?

A Well, I attended him generally all of this time—— 10

*Further cross-examination by Mr. Walker :*

Q Do you recall a visit from Mr. Rees, the husband of Mrs. Rees, in the month of January or February, 1902, at your office ?

A 1902 ?

Q Yes, a year ago last month or so ?

A I think he called there, but I do not know anything about it. This matter of the commitment of Mrs. Slack to the asylum was in abeyance all the time, and the 20 family talked about it, the boys talked about it.

Q Did you or not on the occasion of that visit to you of Mr. Rees say to him, speaking of Mr. and Mr. Slack, "The old man is all right, but the old lady is in bad temper." ?

A I do not think I did, I do not remember it, I do not recall it.

JAMES E. WILSON, a witness produced in behalf of 30 the complainants being duly sworn according to law, on his oath saith ;

*Examined by Mr. Dawes.*

Q Do you live in Trenton ?

A Yes, sir.

Q And you knew George H. Slack in his life time ?

A Yes, sir.

Q How many years have you known him ?

40

A Well, about eight years, I think.

Q What was his business ?

A He was a contractor ?

Q And what was your business ?

A Lumber merchant.

Q Did that bring you in frequent contact with him ?

A Yes, sir.

Q Who was he carrying on business with as contractor ?

A He carried it on in his own name, he had no partners while I knew him.

10 Q Did you know the complainant ?

A That is Mr. George W. Slack ?

Q Yes.

A Yes, sir.

Q Who did the business ?

A For George H. Slack with me ?

20 *Mr. Walker.* I object to this line of evidence, it throws no light upon the controversy, a man may be ever so competent to transact business, and might transact it through another person, that is frequently done. I object to the testimony as incompetent and immaterial.

*Court.* It might in connection with other facts amount to considerable, if the other facts show that it was done by reason of the father's incompetence. I will take the evidence.

Q Who directed the business ?

A George H. Slack.

30 Q With you ?

*Mr. Walker.* I object to the question—a time is not fixed.

Question withdrawn.

Q Well, principally.

*Mr. Walker.* I object to the question—when was it ?

40 *Court.* I will take it.

A In the early stages of our business with Mr. George

H. Slack, he used to come there himself, although his son was acting in the capacity largely of general superintendent, he made up his lists largely same as anyone would who had charge of a contractor's work; but during the last part of our business relations, the last two or three years, he didn't attempt to transact any business whatever.

Q Which son was it did transact the business?

A His son George,

Q Did you see him frequently during the last two or three years of his life?

10

A I would not so frequently, after he was too enfeebled to do business, he used to come to the office there, he would drop in there—

Q What do you say was the business capacity which he displayed in the last two or three years of his life?

A I should consider that he had no capacity to transact business whatever.

Q And whatever business was transacted, was transacted by whom?

A By his son George.

20

Q What was his condition physically, as you observed it?

A He was hardly able to walk at all, although he got along with a cane; he was very feeble indeed.

Q Was he very deaf?

A I don't recall that.

*Cross-examination by Mr. Walker.*

Q When did you first know him in business as a contractor—give the year?

30

A I could not do that; I should say about eight years ago, you can figure it up.

Q No one has to figure that, have they?

A Well, I said eight years ago, and you couldn't figure it when you asked me, evidently.

Q What is that?

A I said it was eight years ago, I could not figure it, and you—

Q He was doing business as a contractor at that time, and—but he and his son went to your place to do business in reference to the purchase of lumber, didn't they?

40

A Yes, sir.

Q And how long was it before he ceased to come to your place of business himself?

A Well, within the last two or three years we didn't see much of the old gentleman, except that he would drop in for awhile, not to do any business, but just to come in—

Q You say about eight years ago you first knew him as a business man—now, how long down did he continue, that is himself, to come to your place of business?

10 A I should say about six years?

Q Was he actively engaged in business up to two years ago?

A Yes, sir; I think so. I cannot give you the exact dates, but that is how my memory serves me at present.

Q Then did his son come to your place with reference to the business after that?

A Yes, sir.

Q Within the last two years?

A Yes, sir.

20 Q And up to what time?

A Up to the time of his death, I think.

Q Was business carried on in his name up to the time of his death?

A I cannot say about that positively.

Q But you do know that he himself went to your place of business for six years, commencing eight years ago and ending two years ago?

A Yes, sir.

30 Q During that time he transacted business at your place, didn't he?

A Yes, sir.

Q And he didn't go there during the last two years?

A He would come there—he didn't do any business.

Q He didn't transact any business with you?

A No, sir; he didn't attempt to do anything at all in the way of business.

Q Well, now, what did he do?

A Well, he would come in there and sit around a few minutes and smoke a cigar.

40 Q He would talk, would he not?

A Yes, sir.

Q On what subjects?

A Well, mostly—I really do not know what he would talk about—he would talk about his failing health, and sit down as a sick man would——

Q Would he talk about his past, his former life ?

A No, sir ; I don't recollect that he did.

Q Do you know how old he was ?

A No, sir ; I do not.

Q Was he an old man in your judgment ?

A I presume he was.

Q Didn't you look upon him as an old man ; he had 10 retired from business ?

A I understood from him that he was unable to transact his business, he was really too enfeebled to do any business, he could not concentrate his mind on anything, he could not figure on a set of plans to save himself——

Q Did his business require figuring ?

A As a contractor ?

Q Yes.

A Oh, yes ; of course.

Q That is to say, figuring the number of feet of 20 lumber—— ?

A Well, making a set of plans, and figuring how much he would build a house for from these plans——

Q That requires a good deal of mental accuracy and exertion, does it not ?

A Yes, sir ; I think so.

Q Well, he just dropped in in a friendly way during the last two years ?

A Yes, sir.

Q That is the way it was ? 30

A Yes, sir.

Q And had a little talk with his old friends ?

A Yes, sir—well, we had done business, and we were rather close to his house, where he lived, and he just dropped in to see us.

Q What he said was rational on these occasions, was it not ?

A Well, he was not an insane man, but he was not able to transact business, that I am positive of.

Q He knew what he talked about, didn't he ? 40

A He knew that it was a nice day, and he knew he was sick, but when he got down to fine points of business, he

could not do it.

Q Did you get down to fine points of business with him during the last two years, when you knew him to be in that condition?

A No, sir; I must say I did not.

GEORGE W. SLACK, being duly sworn according to law on his oath, saith :

10

*Examined by Mr. Dawes.*

Q You are one of the complainants in this case?

A Yes, sir.

Q Your father's name was George H. Slack?

A Yes, sir.

Q And when did he die?

A August 13th, 1902.

Q And how many children did he leave?

20

A Three.

Q State who they are?

A Ella Eliza, Robert M. and George W. Slack, myself.

Q When did your mother die?

A August 7th, 1902.

Q Of the same year?

A Yes, sir; and the same month.

Q When was she buried as to your father's death?

A She was buried on the Monday.

30

Q And when did he die?

A He died on the Wednesday.

Q The following Wednesday?

A Yes, sir.

Q What property did he have at the time of his death?

A Two houses on Bayard street, known as Nos. 46 and 48.

Q They are the two houses mentioned in this bill?

A Yes, sir.

40

Q Any other real estate?

A No, sir.

Q What personal property did he leave?

A He left a bank account.

*Mr. Walker.* I object to this as irrelevant, and not within the issues.

*Court.* I suppose it is always relevant to show that the conveyance includes all of a man's property.

Q What personal property did he leave ?

A He left a bank account.

Q How much—you were the administrator of that 10 estate ?

A Yes, sir.

Q He left a bank account of what, of how much—how much are his assets ?

A He has cash on hand \$681.50.

Q And where was that cash ?

A And he left three shares of Inter-State Fair stock, face value \$20 a share.

Q What did his personalty amount to—what was the amount of his personal estate that he left. 20

A \$696.51, the Inter-State Fair stock is put at \$15.

Q What debts did he owe at the time of his death ?

A Eight hundred and some odd dollars, and more to be got ; it is not all in yet.

Q You are the administrator of the estate, are you not ?

A Yes, sir.

Q Where did your father die ?

A At Bellevue avenue, at my sister's house.

Q At the house of Mrs. Rees ? 30

A Yes, sir.

Q How long had he been there at her house ?

A That I cannot answer.

Q You know it pretty nearly, don't you ?

A I should judge seven or eight weeks.

Q Where did he live before that time ?

A At 46 Bayard street.

Q In one of the houses in question in this suit ?

A Yes, sir.

Q How long had he lived there ? 40

A About thirty-seven years.

Q Where do you live, as to that house ?

A When he died?

Q When he lived at Bayard street?

A 234 Morris avenue.

Q And you are married?

A Yes, sir.

Q And have a wife and how many children?

A Three.

Q How long was it that you had been away from his home at 46 Bayard street, how long had you lived away  
10 from there?

A I had lived away from 46 Bayard street about fourteen years.

Q Your brother Robert lives where?

A At East Liverpool, O.

Q How long has he lived away from 46 Bayard street in the City of Trenton?

A Twenty years or close to twenty years.

Q And most of that time where has he lived?

A At East Liverpool, O., and Peoria, Ill.

Q Where has Ella Eliza Rees lived during the same  
20 period of time?

A She lived at home with father and mother.

Q At 46 Bayard street?

A Yes, sir.

Q Up to what time did she live there?

A About three years ago.

Q Then she had been away from there for about three years?

A Not all of that time, she had been away once and  
30 then moved back again, and was away again——

Q How long had she been away the last time from 46 Bayard street?

A Oh, I don't know; probably seven or eight months or a year, I didn't put the dates down.

Q Your father's household consisted of whom, after your sister left?

A Father and mother.

Q While your sister lived there, who composed the household?

A My father and mother and sister, her husband and  
40 daughter.

Q You mean the daughter of Mrs. Rees?

A Yes, sir; the daughter of Mrs. Rees, Carrie.

Q During the time that you—what business was your father in?

A Contracting.

Q How long had he carried on that business?

A Ever since I can remember.

Q Up to what time did he continue in that business—what time did he give up the business?

A About three years ago.

Q What business do you carry on?

10

A Contractor and builder.

Q In whose employ?

A Well, I carried on his business since 1884.

Q Up to what time?

A Three and a half years ago.

Q And what was your relationship to his business?

A None at all.

Q What was your compensation?

A Two and a quarter dollars a day, same as any other mechanic.

20

Q Who figured on jobs?

A I done it all, father could not read or write.

Q Who made the purchases for the business?

A I made out the lists and done the buying.

Q Who made the contracts?

A I did, and he signed them?

Q For how many years did that continue?

A Fourteen years, I guess.

Q When you first began to work with your father, what was his condition mentally and physically?

30

A Well, he was in pretty fair health, but his education was, of course, against him, and it gave me the power in the business.

Q Did he continue in fair health all the time?

A No, sir.

Q State what the change was in his condition?

A Well, about seven years ago he had a stroke or something of that kind, a sort of paralysis, as Dr. Leavitt pronounced it at that time, and then he got cranky and hard to get along with, and he would go into the stable and flog the horses until the neighbors would interfere and my sister would have to go and stop him, he was drowsy and sleepy.

40

all the time, he would get up in the morning and eat his breakfast, and then would lie down on the sofa and sleep until dinner time, and then get up and take his dinner, and then lie down again until supper time, and then he would get up and eat his supper, and then would go down town and take a walk and when I would take him out, as I would in the wagon, he would be drowsy and sleepy, and he would act in this way all the time, and he used to tell me when I spoke to him about it that he could not help it, and then  
 10 sometimes he would get downhearted and would say your mother, I don't believe she wants me around the house——

*Mr. Walker.* I object to that.

*Court.* I will take it.

*Witness.* That was his mental condition right on, up to the time he died.

*Q* That condition was entirely different from what it was when you first went to work for him?

20 *A* Yes sir, he was thought to be a very bright man at first.

*Q* In the last few years of his life did he carry on any business at all?

*A* No sir.

*Q* In the last few years, you carried on all the business with him—will you state what was his condition as to doing business?

30 *Mr. Walker.* I object to that as calling for a conclusion—let him say what he did.

*Court.* The books permit a layman to give a conclusion in regard to a man's mind.

*Mr. Walker.* But he must first state the facts upon which he founds that conclusion.

*Court.* He has done so, I think—under the rule it is competent. I will take it.

40 *A* Well, I first noticed it mostly in this way. if I took a list of hardware or a list of lumber wanted, or a shop list of hardware or a list of lumber wanted, or a shop list that had to be estimated on, I always talked it over with him, and talked with him always before I transacted any business,

and I noticed after I went all over it. I would get all through with it, and then he would ask me, "What was that." And then I would go over it all again, and I would explain it, and he would then seem to understand it, but when I would get, say as far as the door, then he would want to go over it all again, and then I would have to do that all over two or three times and perhaps he would forget it again, and when I would get to the gate right out he would want to know all about it again, and then from that time he got worse and worse.

10

Q What did he do by way of showing you that he was worse?

A He didn't remember anything. I generally went there every Friday night and made up the pay-rolls and made the check out and he would endorse it for the pay for Saturday, and on one occasion he came over to my house on a Thursday morning, that is when he was pretty well crippled up, and when I saw him coming, I said to my wife, "What is he doing here this morning," and he had so much trouble to walk, and when he came in I said, "What is the matter with you father," and he said, "You never came over to fix the pay-rolls up." And I said, "Well, it is not Saturday, yet, it is only Thursday." And he said, "Well, well, I had it in my mind that it was Saturday," And all such things as that, and that was for the last seven years, and all contracts were read to him, and he signed them all, and I have built houses that he never saw.

20

Q And the last year of his life, did you see him frequently or not?

A No sir, not so very frequently.

30

Q How often did you see him in the last year of his life?

A Some five or six times probably.

Q Describe the occasions in those years when you saw him, how he was?

A He was very feeble, he was flighty, he would start to talk about a thing and would be talking about one subject and then stop and revert to something else about when he was a boy or something like that kind, and you would have to draw him back again to his conversation, and he was sleepy all the time.

40

Q Did he eat much?

A Well, I only know what was told me——

Q Who told you?

A My sister.

Q Mrs. Rees?

A Yes, sir.

Q What did she tell you about that?

A She said he was a glutton, that they fairly had to force him to wash himself, he was so dirty, they could not get him to take a bath, and he would sit at the table and  
10 they would have to carry the things right away from him.

Q What were your relations with your father and mother?

A They were all right.

Q During your life time or theirs?

A All right.

Q Continuously, all the time?

A Yes, sir.

Q You were on good terms with your father?

A Yes, sir.

20 Q Did you ever have any quarrels with him?

A Oh, we might have had little business words with him once in a while, same as anyone else would, but it never amounted to anything.

Q Do you know of any reason for his disliking you?

A No, sir.

Q The answer states that you were at your father's bedside at the time of his death, and that he bid all good-bye but you, and that he ignored you?

A He didn't bid anybody good-bye in my presence, I  
30 had hold of his hand when he died.

Q On that occasion when you were there, what time did you get word that your father was sick?

A About a quarter after one.

Q About a quarter after one, and what day?

A The 13th of August.

Q In the morning, do you say?

A Yes, sir.

Q And how did that word come to you?

A I went home about that time——

40 Q To your own home?

A Yes, sir; and my wife informed me that there had been a telephone message there at twelve o'clock, and a

messenger boy had been sent there at 12:45.

Q And that was the first message you received as far as you were informed?

A Yes, sir.

Q What did you do?

A I got my boy up right away out of bed, and got him to hitch up the horse——

Q And what did you do then?

A I drove up there as fast as we possibly could.

Q What happened when you got there?

10

A Well, I found my father in bed very ill.

Q What were his symptoms as far as you observed?

A Well, I thought he was dying?

Q Was he in pain?

A I went in and asked him if he had any pain, and he said, "No, no pain," but he said, "I am awfully sick, and I won't live," he said, "I cannot get over it." And I said, "Oh, you will be all right in the morning," and I helped him and rallied him up.

Q Did he speak to your son?

20

A Yes, he said, "How is the little Boss?" His name is George Boss, and he called him by his nick-name.

Q Did you remain with him until he died?

A Yes, sir.

Q Who else remained with him?

A My son was there, my sister, Mr. and Mrs. Mahoney, Mrs. Snook, Mrs. Rees and a lady from Philadelphia, I forget her name.

Q What time did he die?

A Ten minutes after four.

30

Q That same morning?

A Yes sir.

Q How long did you remain after that?

A A very few minutes.

Q What were the relations between you and your sister?

A Not very good.

Q How long had they been not very good?

A Since she tried to put mother in an asylum.

Q When was that?

40

A I think it was in 1901.

Q What had been your relations before that time

with her ?

A Good.

Q Was that the first serious breach between you and her ?

A Yes sir.

Q Where did you get the information first ?

A Dr. Leavitt stopped to my house and told my wife he wanted to see me.

Q And did you call there to see him ?

10 A I didn't go right away, I thought it was some little political matter, and they would wait for a day or two, and he sent word again, and my wife and I went over again.

Q Was that the first information you got as to your sister's desire to send your mother to the asylum ?

A Yes sir.

Q Did she ever consult you about that ?

A No sir.

Q And how did you understand that she wanted to send your mother to the asylum ?

20 A I never knew that until I took my mother over to Dr. Lyman Leavitt one evening, I didn't feel like telling her myself.

Q Did you ever talk to Mrs. Rees about it ?

A Not until afterwards.

*Mr. Walker.*

Q What was that ?

A I took mother over to Dr. Lyman Leavitt's after she got better, and he told her.

30

*Mr. Walker.* I object to conversations of witness' mother with Dr. Leavitt.

Objection sustained.

*Mr. Dawes.*

Q I asked you to state what Mrs. Rees told you, state the conversation—you have already stated that you took your mother to Dr. Leavitt's ?

A Yes sir.

40 Q You cannot testify to what conversation took place there between your mother and Dr. Leavitt. You went back to your own home with your mother ?

A Yes sir.

Q Was your sister there?

A Yes sir.

Q Did you ever talk with your sister on that subject?

A Yes sir.

Q When was that talk?

A About two days after, I went over there.

Q Where was it?

A In the sitting-room of the homestead.

Q 46 Bayard street?

10

A Yes sir.

Q And that was while your sister was living there?

A Yes sir.

Q What conversation did you have with Mrs. Rees on that occasion on that subject?

A She came in and said that I told mother that she had tried to put her in an asylum, and I said, no, Dr. Leavitt had told her.

Q What else was said?

A I cannot quite remember, there was an argument, 20 some words?

Q What was her project, what did she tell you she wanted done with her mother?

A What did she tell me she wanted done—

*Mr. Walker.* I object to that question as leading.

*Court.* It suggests a subject matter, it does not suggest what the witness should say.

Question withdrawn.

30

Q Did your sister ever talk with you about sending your mother to the asylum?

A No, sir.

Q You never had any conversation with her at any time or place?

A Not to my knowledge; no, sir.

Q While she was living at Bayard street, you had no talk with her?

A Oh, we had several little talks.

40

Q On your mother's condition?

A Yes, sir; on my mother's condition.

Q Now, I have asked you——

A I don't understand—she never consulted me in regards to it particularly.

Q I didn't ask you about consultations, I asked you if you had had any talk with her on that subject while she was living at 46 Bayard street?

A I think I did, once.

Q Do you remember what that was?

A She asked me if I didn't think she ought to be  
10 sent away, and I said, "No."

Q And was that the extent of that conversation?

A I cannot recall it to recollection what it was exactly.

Q Did you ever talk with your father on that subject?

A Yes, sir.

Q Where?

A On Bellevue avenue.

Q Did you ever talk with him or he with you before you talked with him at Bellevue avenue.

A Yes, sir.

20 Q Where were these talks?

A At 46 Bayard street.

Q Who was present when you had these talks at Bayard street?

A I generally talked to him myself.

Q By himself?

A Yes, sir.

30 *Mr. Walker.* I object to any conversations the witness had with his father, about sending his mother to the asylum, as not being pertinent at all.

*Court.* It would be only pertinent in showing his father's mental condition.

Q Did you have any talk with your father at Bellevue avenue?

A Yes, sir.

Q Who was there at the time?

A No one was sitting around there with us, we were only in the hallway, he sent for me——

40 Q Did you ever have any words with your sister?

A Yes, sir.

Q Where?

A At 46 Bayard street.

Q Will you state what was the cause of that, and what you said, and what she said then?

A When she accused me of telling mother that she tried to put her in an asylum——

Q What was said between you?

A Well, I think I told her that I thought it was a murderous attempt, or something of that kind.

Q You were opposed to sending her there.

A Yes, sir.

10

Q Was anything ever said to you by way of sending your mother to the asylum as a county patient?

A Yes sir, when my father sent for me at Bellevue avenue, he said, "George I don't know what to do with mother." He said, "You know I haven't got much money," and he said, "I think you being in the council you probably could send her up there as a county patient," and he said, that my sister thought that would be the best thing to do, and that she said or told him, that they got just as good care, did the county patients, without paying for it, as 20 if they were paid \$5.00 a week." And I said, "Well, no father, I won't stand for it myself, and you cannot do it as long as you had any property, you cannot do it."

Q Where was Ella Rees when this conversation was taking place?

A Well, I saw her going through the hall two or three times while we were talking.

Q How many times did you call on your father while he was at Bellevue avenue, with your sister?

A Once I believe, that was the only time that he sent 30 for me.

Q When was that as to the time of his death?

A Six or seven weeks before his death.

Q And who was present while you were talking with him.

A No one, only my sister went through the hall two or three times.

Q That was the same time you spoke of before?

A Yes sir.

Q And that was the only time?

40

A Yes sir.

Q Did she stand there on the stairs or pass in and out

only ?

*Mr. Walker.* I object to the question on the ground that it suggests the answer.

Objection sustained.

*Court.*

*Q.* Well, where did she stand ?

*A.* She passed in and out two or three times, I didn't  
10 pay particular notice of her, she was in and out several times while we were talking.

*Q.* The last time you say you saw your father, did you part with him friends or otherwise ?

*Mr. Walker.* I object to that as immaterial.

*Court.* I will take it.

*A.* Yes sir, we parted good friends.

*Q.* Who had been your father's family physician ?

20 *A.* Old Dr. Leavitt treated all of us all our lives, the whole family.

*Q.* Was Dr. MacKenzie ever the family physician of your father and mother ?

*A.* No sir.

*Q.* The business that your father carried on, and which you say you conducted, was that a profitable or unprofitable venture ?

*A.* Profitable.

30 *Q.* Can you tell how much per annum your father was making during the years you were carrying it on for him ?

*Mr. Walker.* I object to that as incompetent, and irrelevant.

Objection sustained.

*Mr. Walker.*

*Q.* Your father only wrote his name, did I understand you to say ?

*A.* Yes, sir ; that is all.

40

*Mr. Dawes.*

*Q.* Did you go back to your sister's house after your

father's death ?

A No, sir ; well, I went back, but I didn't go in to dinner.

Q Did you and your brother go to your sister's house?

A Yes, sir.

Q After the death and before your father was buried ?

A Yes, sir.

Q What was said on that occasion between you and your sister, if anything, or between you three ?

A We went up into the front bed-room.

10

Q Who ?

A My sister, my brother and myself.

Q When was that ?

A That was on August 12th—no, sir—it was the day before he was buried.

Q The date is not material.

A Well, it was the day before he was buried, and there was no one present in the room but us three, and my brother, he was talking to sister, and he said, "Ella, father hadn't much, had he ?" and he said, "I haven't been home much, you know," and he said, "I would like to know how it was all left." And she said, "I won't tell you until after the funeral." And he says, "Why won't you tell us until after the funeral ?" And she said, "I don't want to." And he said, "Don't you know that I can make you tell," and she said, "Well, if you really want it, I will tell you," and he said, "I want you to tell me," and she said, "Well, he left it all to me." And he said, "Well, do you think that was all right ?" And she said, "Well, no, I do not ; I was going to do the right thing, but I heard something, and now I won't." 20 30

Q Did you have any further talk with her ?

A No, sir ; we got up and came out.

Q Had you ever heard your father talk about any disposition he was going to make of his property ?

A Yes, sir.

Q When had you heard him talk on that subject ?

A Lots of times during his life time.

Q When were the last times you heard him talk on that subject ?

40

A I don't know exactly, about four years ago, I guess before he died probably.

Q How came your sister to leave your father's house on Bayard street ?

A It was for her trying to put mother in the asylum.

Q State how she came to leave ?

A Well, they got into a quarrel over it——

Q Who ?

A Sister, father and mother.

*Mr. Walker.*

10 Q Were you present ?

A No, sir.

*Mr. Walker.* I object your Honor, and move to have that stricken out.

*Court.* Unless you were present or heard it from your sister, it must be stricken out.

*Court.*

Q Did Mrs. Rees ever tell you ?

20 A Father told me.

*Cross-examination by Mr. Walker.*

Q Your father wrote his name, didn't he ?

A Yes, sir.

Q And during all the years you and your father were in business you did his work ?

A All the estimating.

Q And told your father the result of it ?

A Yes, sir.

30 Q The result that you arrived at.

A What way do you mean ?

Q You told him what it was ?

A I showed him every bid before they were put in.

Q That is the result of your work I am speaking of ?

A Yes, sir.

Q He couldn't read them himself, could he ?

A No, sir.

Q And you told him what they contained ?

A Yes, sir.

40 Q And you submitted them to him for his approval ?

A Yes, sir.

Q That is right, is it not ?

A Well, lots of bills I put in that he never saw, though.

Q That is both in early times of your business and of late?

A Well, I always had to keep myself straight with him, I had a way of doing business so that he could understand how it was being carried on. He understood it all.

Q Do you mean to say you always did it or you showed him only some portions of it?

A I showed him every bit and every receipt and every- 10  
thing that I had to do about it, it was shown to him, if I did anything I would tell him afterwards what I had done, and all about it.

Q That is what you mean to say?

A Yes, sir.

Q And you continued to do that until he retired from business?

A Yes, sir.

Q And he retired how many years ago?

A Three and one-half years ago. 20

Q And he was living on Bayard street then?

A Yes, sir.

Q You had no business with him afterwards?

A I done a little jobbing and repairing his own house for him afterwards.

Q Did he pay you for it?

A Yes, sir.

Q Did he employ you to do it?

A Yes, sir.

Q And your mother was actually sent to the asylum, 30  
was she not?

A Yes, sir.

Q Do you remember the date when she was sent?

A No, sir.

Q And she was sent upon the certificates of two  
physicians on oath?

A I never saw them.

Q You heard of it, didn't you?

A Yes, sir.

Q And these physicians were Drs. Leavitt and 40  
MacKenzie?

A I heard so.

Q And as a fact your mother's board in the asylum was paid, was it not ?

A Yes, sir.

Q At the rate of \$5.00 a week ?

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

Q Do you know who paid it ?

A Father I suppose, or sister, I do not know.

Q You did not ?

A No, sir.

10 Q Your brother and sister were on good terms always, were they not ?

A Yes sir, as far as I know.

Q And your sister and father were on good terms, also as far as you know ?

A No, sir ; they were always quarreling and fighting.

Q Did you ever see any quarreling and fighting between them ?

A Yes, sir.

Q When ?

20 A Several times. I remember once she went down to the stable when he was beating the horse, and he told her " to get to hell out of there."

Q When he was beating a horse ?

A Yes, sir.

Q And he told her to get to hell out of that ?

A Yes, sir.

Q She went down to remonstrate with him for beating the horse, didn't she ?

30 A She went down to tell him she would have him arrested, if he didn't stop.

Q You regarded that as quarreling ?

A Well, not knowing his condition——

Q Well, what was his condition ?

A Just as I have stated.

Q Not as when he was doing business ?

A No, sir.

Q He had stopped doing business then ?

A Yes, sir.

Q And he walked down to the stable ?

40 A Yes.

Q With a cane ?

A Yes, sir.

- Q And he would beat a horse?
- A Yes, sir.
- Q He knew what he was doing, didn't he?
- A Only to a certain extent.
- Q Didn't he know just as much as you would know if you had been beating a horse?
- A No, sir.
- Q You don't think so?
- A No, sir.
- Q Your brother-in-law and your sister and her 10 daughter moved away from your father's house on Bayard street, how long before his death?
- A I cannot say now.
- Q It was only a few months before, was it not?
- A It was not a year, I don't believe.
- Q And they had been living there with him how long prior to that time?
- A Ever since they were married.
- Q Ever since your sister was married?
- A Yes, sir. 20
- Q In other words, ever since your sister was married, she made her home with her father, and continued to do so, down to a few months before his death?
- A Yes, sir.
- Q And she had a grown-up daughter with her?
- A Yes, sir.
- Q And the daughter lived with her then?
- A Yes, sir.
- Q Was she then married, that is Mrs. Mahoney?
- A Yes, sir; she was married. 30
- Q When she left, she left your father and mother in the house, didn't she?
- A I was not there.
- Q She left them living there, didn't she?
- A Yes, sir.
- Q You were there, and saw them there, didn't you?
- A Yes, sir.
- Q There was no one else in the house, with them?
- A There was neighbors in there quite often.
- Q They lived there all by themselves? 40
- A Yes, sir.
- Q How long?

A Several months.

Q And then your mother went from there to the asylum?

A No, sir.

Q Where from?

A She went from Mrs. Rees' house.

Q Then Mrs. Rees took your father and mother to the house where she moved from Bayard street?

A I understood so.

10 Q How long before your mother was sent to the asylum was that?

A I should judge five or six or perhaps seven or eight weeks.

Q And your father continued to live in Mrs. Rees' house until his death?

A Yes, sir.

Q Did you visit your father at Mrs. Rees' house?

A Only once or twice.

20 Q When you did, you saw your father there, didn't you?

A Yes, sir.

Q And you had talks with him alone?

A Yes, sir.

*Re-direct by Mr. Dawes.*

Q What is the value of the two houses and lots in question?

30 *Mr. Walker.* I object to that, there is no foundation laid to justify the question.

*Mr. Dawes.* He is a builder and contractor.

*Court.* Oh, of course, he is competent, you can ask him the question.

A At a forced sale I should say about \$5,000.

*Mr. Dawes.*

Q Do you know the value of real estate on Bayard street.

40 A Yes, sir.

Q How do you know it?

A I have been a contractor, and have always lived

over in that neighborhood.

Q And by other properties being sold?

A Well, not particularly, no sir.

Q Do you mean that both houses together are worth that sum, or each house?

A Both houses together.

Q You say "at a forced sale"?

A I mean at a forced sale, a foreclosure or something like that.

Q The property was subject to a mortgage, was it 10 not?

A One thousand dollars.

Q And how long had that mortgage been on the property?

A Oh, I don't know, he never took it up in my recollection.

*Further cross-examination by Mr. Walker.*

Q The equity in the property in your judgment is \$4,000?

20

A Yes, sir.

Q \$5,000 less the mortgage?

A Yes, sir.

Q And this property comprises two houses?

A Yes, sir.

Q How large is the lot?

A Fifty feet front.

Q How many feet in the rear?

A One hundred and twelve feet I think, I do not know positively.

30

Q Are they frame houses?

A Yes, sir.

Q How many stories high?

A Two stories and a mansard roof—

ROBERT M. SLACK, a witness produced in behalf of the complainants being duly sworn according to law on his oath saith:

40

*Examined by Mr. Valentine.*

Q You are a son of George H. Slack, deceased?

A Yes, sir.

Q And a brother of George W. Slack, the last witness?

A Yes, sir.

Q And of Mrs. Rees, a defendant in this suit?

A Yes, sir.

Q Where do you live?

A At East Liverpool, O.

Q And what is your business.

10 A China decorator.

Q How long have you lived in East Liverpool?

A I have lived in East Liverpool a little over twelve years.

Q And lived away from Trenton how long?

A It will be twenty years next February.

Q You have visited your parents during that period?

A Yes, sir.

Q How often?

A Oh, I cannot give you the exact number of times.

20 Q Did your parents or Mrs. Rees visit you in East Liverpool, O., during that period?

A My mother paid me one visit about sixteen years ago, I believe, and my sister visited me twice.

Q At what time, about?

A The last visit I think was in 1899, I think she arrived there with her daughter, Carrie Rees, about the 8th of August, 1899.

Q Previous to the death of your mother, what was your last visit to Trenton?

30 A Why, I received a message that my mother was very ill, that she had wandered away into some place, and was found either in the water power or on the river walk or some place, and I came to Trenton—

Q About when was that?

A That was about 1901, in or about November I believe.

Q Did you meet your father at that time?

A Yes, sir.

Q Where?

40 A At 46 Bayard street.

Q Did you meet your mother at that time?

A Yes, sir.

Q Who lived with your father at 46 Bayard street at that time ?

A I don't think there was anyone living there except my mother and father at that time.

Q Where did Mrs. Rees live ?

A At Bellevue avenue.

Q What was your father's condition at that time—what did you observe ?

A Well, he didn't know me when he first saw me.

Q How long had you been away ?

A Well, I don't know how long I had been away then. 10

Q From the visit previous I mean ?

A Well, I had been on there in July I think, the previous July.

Q What was his condition, physically and mentally ?

*Mr. Walker.* I object to the question—this witness has detailed no facts, he is asked just a bald question. 20

*Court.*

Q What did you see ?

A That is my opinion, that he was both mentally and physically a wreck.

*Mr. Walker.* I object to the answer, and ask that it be stricken out.

*Court.* I will take it. 30

A During my sister's visit to East Liverpool and during the visit there, she informed me that father's mind was almost totally gone, she said, " That he does not know enough to know when he has had plenty to eat ; that he would eat as long as anything was left near him after a meal, that she had difficulty in getting him to change his underwear or something of that kind, and she didn't know what was going to become of him."

Q From your personal observation on this visit, what did you observe ? 40

A Why, I found that she was correct in what she had told me.

Q Had you any conversation with your father relative to the condition of your mother at that time?

A Yes, sir.

Q Had you any conversation with your father relative to the condition of his property.

A No, sir.

Q Now, you were present at the funeral of your mother?

A Yes, sir.

10 Q When was that?

A It was on the 10th of August last.

Q And where did that funeral take place, from whose house?

A From my sister's, at Bellevue avenue.

Q Mrs. Rees', the defendant?

A Yes, sir.

Q Did you have any conversation with your father at that time, respecting the treatment he had received, and his property, or as to his physical condition?

20 A No, sir, only he said that he didn't care to live any longer, or something like that.

Q Did you take him out driving on that occasion?

A Yes, sir;—no, sir, I took him out on the Sunday—

Q That was during the time—

A It was the day before mother's funeral.

Q About that time?

A Yes, sir.

Q What happened on that occasion?

30 A Well, of course, from what I had learned about trying to have my mother put in an asylum, it was not by speaking to my sister,—and he asked me, "Cannot you be friends, you boys with your sister," and I said, "We certainly could," and he said, "I don't have much, and I feel that I cannot live very long, I have got nothing to live for," he said, and I wanted to gather out of his conversation—

*Mr. Walker.*

40 Q Was that what he said?

A I don't think it is necessary to mimic him, is it—

*Mr. Valentine.*

*Q* You can give the words as nearly as possible ?

*A* Well, he said I haven't got much, what I have got, I would like you all to be friends, and all be satisfied. And then he would hesitate, and stop, and then probably commence talking about something else entirely foreign to the subject which he wanted to talk to me on. Perhaps he would sit there and not speak for a minute or so, until I would remind him of what he wanted to say, and then he would begin, and talk again. That is about what he wanted 10 to tell me, and my sister when I asked her, she said, she knew that is what he wanted to say to me, when I got back.

*Q* Have you told us all he said with reference to the property there, on this trip, I mean ?

*A* No, sir ; he said he wanted to divide it up equally and do the right thing, that he always thought a great deal of his children, and then he would say he made a mistake in the last twenty-five years of his life, he should never have allowed my sister to live a day with them after she got married. This he repeated over and over again, after he got 20 back to the house, that is about the twenty-five years the mistake of his life——

*Q* What was the explanation of that ?

*A* He said George had robbed him. And I asked him how he knew that George had robbed him. And he said, "Well, he had been told so." And he said, "He had been pretty bad to him." And I said, "Well, how about Ella ?" And he said, "She has been bad too." But he said "We must try and forget these things." And I said, "Well, George ain't so bad, is he ?" And he said, "Well, I 30 guess no." And he said, "Then try and all be friends ; that is what I want you to be." That is about the particulars of the conversation, that he wanted to tell me, but I guess he was about two hours or more before he got that much out.

*Q* Now, you say that on this subject, where he told you that George had robbed him, he replied to your question as to how he knew, "that some one had told him so"—did he say who told him ?

*A* No, sir ; no more than that he said Ella knew it—— and Ella told me that—— 40

*Q* What was that——Ella told you what ?

*A* That George had robbed father, she continually told

me that, every time I saw her.

Q Did you ever hear Mrs. Rees tell that same thing to any other person?

A To any other person?

Q Did you ever hear Mrs. Rees tell that same thing to any other person, that is that George had robbed his father?

A Oh, she told it in my wife's presence.

10 *Mr. Walker.*

Q Were you present at the same time?

A Yes, sir.

*Mr. Valentine.*

Q When and where was it?

A In East Liverpool, O.

Q Any other place or time?

A Yes, sir; she told us right here in Trenton.

Q Where and when?

20 A Why—now, let me see. On Bellevue avenue.

Q When?

A At the time of my mother's death.

Q Who was present at that time, if you remember?

A My wife, and I, and sister.

Q Where was your father at that time, during this conversation?

A He way lying on the lounge under the steps, in the hall-way.

Q In the same house?

30 A Yes, sir.

Q How far from where this conversation took place?

A Oh, not so very far, I cannot tell you how far it was.

Q Well, about how far?

A I cannot tell you where it was at, or what part of the house I was in either, I didn't pay any attention to it at that time.

Q Do you know whether it was within hearing of your father?

40 A Oh, he could not hear it, if you were standing alongside of him.

Q Why?

A He was hard of hearing.

Q Couldn't he hear ordinary conversations ?

A I don't think he could.

Q You made a declaration that he couldn't, and now you say you don't think you could, which do you mean ?

A He could not.

Q Did you have any conversation with your sister, Mrs. Rees, on the occasion of the funeral of your mother, with respect to the time and place of the death of your mother ?

A Yes, sir. 10

Q State that conversation ?

A Why, I asked my sister if there was any member of the family present, when mother died, and she said, "No, that she had an engagement with the dentist, and she didn't want to break it, she had been notified that my mother was dying——"

Q Where did that conversation take place ?

A In my sister's house.

Q Was there any other conversation with respect to 20 that, with your sister, I mean—any further talk about it between you and your sister ?

A No, sir ; I don't think there was.

Q Were you notified of your father's death, and when ?

A When I got back to East Liverpool, a telegram was there waiting for me, that he was dead.

Q And were you at the funeral ?

A At father's funeral ?

Q Yes ? 30

A Yes, sir.

Q And from where did that take place ?

A From my sister's house.

Q Did you at that time have any conversation with your sister with respect to your father's condition, either mentally or physically ?

A Well, she told me that his mind and hearing came back to him just before he died.

Q Did you have any conversation with her respecting the disposition of his property ? 40

A Yes, sir, I asked her, and she at first refused to tell me.

Q When and where was it ?

A Up stairs in her house on Bellevue avenue.

Q When ?

A The day before my father was buried, I think it was the 15th of August.

Q State what was said.

A I asked her if she knew anything of father's affairs, and she said yes. I asked her to tell them, and she said she would not tell them. And I told her that I would make  
10 her tell them, and she said, if that is the case, and we wanted to know that bad, why he left everything to her.

Q Do you know or was there any further conversation at that time ?

A Yes, sir ; I asked her if she thought that was the right thing to do, and she said no, it was not right, and she had intended to do the right thing she said, but she had changed her mind, and had heard something, or something to that effect.

Q Was that all of it ?

20 A There was some talk around, I don't know what else she said, but I told her I would see into the matter.

Q Did you have any conversation with her respecting a watch of your father's ?

A Yes, sir ; she offered me that.

Q What was the conversation ?

A I asked her—I don't know what I asked her, but I remember the watch, she said, "You can have father's watch."

Q What further was said, if anything ?

30 A I cannot remember, I think I went about that time.

Q What were the family relations existing at the time of your father's death ?

#### RECESS.

*Court.*

Q Whether pleasant or unpleasant ?

A Why, we all left friends as far as I know, my sister and myself and brother.

40

*Mr. Valentine.*

Q What had they been previous to that time ?

A Why, we hadn't very good feelings towards my sister.

Q What was the cause of it?

*Mr. Walker.* I object to that as irrelevant.  
Question withdrawn.

*Mr. Valentine.*

Q What do you mean by saying you hadn't very good feelings?

10

A Well, we hadn't been speaking, because we understood she tried to have my mother put in the insane asylum, when she ought not to have consented to it.

Q When did you first learn of this?

A In November, 1901.

Q Up to or previous to that time, had the relationship between your sister and yourself been friendly, and your brother George?

A Yes, sir.

Q During your several visits to your parents' house, 20 from what was told you by Mrs. Rees, and from what you observed, what was the relations existing between your father and brother George, and your brother George and your sister?

A Why, there appeared not to be a very good feeling owing to the talk being exchanged one to the other accusing each other of various things. My father seemed to be afraid of my sister, also my mother, she seemed to be afraid of her, and he cautioned me to be careful of what I say in her presence.

30

Q Who?

A Both my father and my mother.

Q Had you heard your sister, or did your sister in your presence at any time during these visits say anything to your father respecting George's treatment of him, or the conduct generally of the business?

A Yes, sir.

Q State what you heard your sister say in that regard?

A She said George was dishonest and crooked, that 40 he was not doing right, that he was not treating father right, she would tell father that——

Q To what did that refer, if you know?

A I don't know, I don't know, I tried to find out, but I could not. I could not find anything out.

Q Previous to the conversation detailed by you on the occasion of the carriage-ride of yourself and father, had you heard your father express any opinion of George or George's conduct towards him in connection with the business that is?

A Why, no sir, he would only talk about that if some  
10 one else would mention it.

Q What did you observe, if anything, as to the relationship existing between George and your sister, if you observed anything?

A I didn't notice any change, they didn't seem to be mad at each other in any way.

Q Were you present at any of the conversations between them?

A Between George and father?

Q Between George and father?

20 A No, sir; I was not present when they had any business conversation.

Q Or any other conversation?

A Yes, sir.

Q Well, were they friendly or unfriendly?

A Yes, sir; they were friendly, I was at my father's house, and George was with me—

Q Fix the time and then state what occurred?

A This was in November, 1901.

Q And what occurred?

30 A He asked George how he was getting along, he inquired of George's wife and children, that is about all.

Q Was anything said about Mrs. Rees on that occasion by your father?

A Yes, sir.

Q If so, what?

A He said he had ordered her and her family out of his house, and he didn't ever want to see them, or something like that.

Q Did he say when or why?

40 A Yes, sir; the reason was for her trying to get my mother into the asylum.

Q Have you any knowledge, personally of Mrs. Rees

leaving your father's house with her family ?

A Why, yes, I was told they left.

Q By whom ?

A My father, and by George, my brother.

Q That one day—did you have any conversation with Mrs. Rees respecting the reason for her leaving your father's house on Bayard street ?

A Yes, sir.

Q Leaving with her family ?

A Yes, sir.

10

Q State when and what that conversation was ?

A Why, I asked her what her reasons was for trying to have mother put in the asylum, and who this man was that drew this will up in her favor,—previous to her trying to have mother put into the asylum, there was a will drawn in her favor, and I asked her who this man was that drew this will up, in her favor, and she said why, she didn't exactly know his name, but she said the will had been destroyed or something, I believe she said.

Q What will do you refer to now ?

20

A The will that some lawyer drew previous to the time my sister applied to Dr. MacKenzie and Dr. Leavitt to have my mother put in the asylum.

Q A will made by whom ?

A Why, that I could never find out.

Q But who made the will ?

A I don't know—my mother—I asked my sister about it at that time, and she said my mother didn't know what she was doing—

30

*Mr. Walker.* I object to that and move to strike out that evidence—it now appears that the will talked about was the mother's will—that clearly is not relevant testimony.

*Court.* I will take it.

Q. Who was the maker of that will—

*Court.*

Q Did you say your sister said your mother made a 40 will ?

A Yes, sir.

*Mr. Valentine.*

Q. Did your sister tell you who the will was made in favor of?

*Mr. Walker.* I object to that—that is calling for the contents of a written paper not produced, and I object to it also on the ground that it is leading.

*Court.* I will take it.

10 A. She said the will was made to her.

Q. Did she say so?

A. Yes, sir.

Q. State the entire conversation respecting this will with your sister, as near as you can recollect it?

*Mr. Walker.* I object to that and I ask that my objection may go to the whole line of this testimony.

20 *Court.* Certainly, it is taken subject to the objection.

Q. State the entire conversation respecting this will with your sister, as near as you can recollect it?

A. Of course, that is about all of it; it was me that asked her the question, and she answered me; she didn't seem to want to talk about it much.

Q. She told you, you said, the will was destroyed?

A. Yes, sir.

Q. Did she tell you why the will was destroyed?

30 A. No, sir; and I didn't ask her, or I said—she didn't know, she hadn't it—I said that won't be of any worth, and she said then, I believe, that the will was destroyed.

Q. You stated that your sister visited you in East Liverpool, I think, in 1899?

A. Yes, sir.

Q. While on that visit, had you any conversation with your sister respecting the prospective death of your mother and father, and the disposition of the estate, or any portion of it?

40 A. All the conversation—it was, she told me, or began to tell me what she was going to do——

Q. State what she said?

A She told me that my mother had—I don't exactly remember—she had given her this thing and that thing and other trinkets around the house when she died, I don't remember exactly what it was she did say.

Q I don't hear what you say?

A One thing that I clearly remember that she said, she had bought some presents for mother, with the understanding she would get them back when she died.

Q Was there any thing further said by your sister on that occasion respecting the property? 10

A No, sir.

Q Was there anything said on that visit respecting the relations existing between your father and George?

A Yes, sir.

Q State what?

A She said father didn't like George, and didn't want him to come near him, and George had done things, and made father dislike him; she said he had robbed him, &c., and she told me this.

Q Did she say what he had done? 20

A I asked her what George had done, and she said he used to get money to pay bills from father and afterwards the bills were sent to my father.

Q Anything further?

A No, sir.

Q During one of your visits of recent date, did you, at any time, hear a discussion of those charges against George between your father and sister?

A Yes, sir.

Q State what occurred—state all about it? 30

*Mr. Walker.* I object to it on the ground that it has already been asked and answered, and all thoroughly covered by the testimony.

*Court.*

Q State the particulars of the conversation?

A Sister said that one bill of a man named Leuckel, that George robbed him out of that, she said he always robbed him, and took advantage of him, she would say that right in my presence, she would say it to my father. 40

*Mr. Valentine.*

Q What did your father say to that?

A He would say, "yes, yes," and when I got a chance to talk to him myself, I would say to him, "I don't think George would do that father, and he would say, "No, he didn't think he would."

Q When was that conversation as near as you can fix it, about when?

A That was in 1901, in November.

10 Q Now, as to the influence of Mrs. Rees over your father, what did you observe, if anything?

*Mr. Walker.* I object to the question—that is a vital question, and I object to it, because it is asking for a conclusion of law.

*Court.*

Q What did you hear her say to your father, if any-  
20 thing?

A Well, he would agree to anything that she would say, I cannot remember the conversations.

*Mr. Walker.* I object to the answer, and move that it be stricken out as a mere conclusion.

*Court.* I will not strike it out.

*Mr. Valentine.*

Q Give the instances—what were they, what were  
30 the things that you observed?

A One thing I observed, my father seemed to be a little afraid of her.

Q When—what was said?

A When I would be talking to my father, and my sister would come in the room, he would hold up his hand for me to keep still, and caution me, he seemed as if he was afraid when she came around.

Q When and where was that?

A In his house at 46 Bayard street.

40 Q How often did that occur?

A Almost every time she came around in his presence.

*Cross-examination by Mr. Walker.*

Q You have been away from Trenton, practically twenty years you say?

A Yes, sir.

Q And paid how many visits home during all that time?

A I cannot tell you how many times I was home.

Q As near as you can tell?

A I suppose twenty or more.

Q You had come home once a year on the average? 10

A Yes, sir; it would average about once a year—yes, sir; I have been home about twenty times, sometimes I would come home more than one time in one year.

Q Where did you stay?

A 46 Bayard street.

Q With your father?

A Yes, sir.

Q Are you a married man?

A Yes, sir.

Q You would come alone? 20

A I usually came alone, but one time I brought my family with me.

Q And staid at your father's?

A Yes, sir.

Q That time also?

A Yes, sir.

Q How long would you stay at your father's house?

A Sometimes a week, not over a week.

Q You found everything pleasant there didn't you, between your father and the other members of the family, 30 namely, the wife, your mother, and Mrs. Rees and her husband, and daughter?

A I found it pleasant so far as Mrs. Rees and mother and father were concerned.

Q The general relations between your father and sister and your mother and father were pleasant and her family, that is?

A Yes, sir; at first.

Q When first did you begin to notice any difference in this relationship, how long ago did you notice any difference in their conduct, one to another? 40

A Nearly ten years ago.

Q Now, what was that difference?

A They could not get along together.

Q State some incident, something that demonstrated the way in which they could not get along?

A Well, my mother had to work too hard, and she had to wait on these people for one thing, which my father objected to——

Q You don't mean to say that your sister didn't work some in the house?

10 A I mean to say she didn't work.

Q None at all?

A Very little.

Q How about her daughter, didn't she work around the house at all?

A Nothing.

Q None at all?

A No, sir; not that I saw.

Q Then your mother worked for the whole family, for the whole household?

20 A Yes, sir.

Q Did your mother remonstrate with your sister about it?

A Yes, sir.

Q Did your mother remonstrate with her daughter about it?

A Yes, sir.

Q In the presence of Mrs. Rees?

A Yes, sir.

Q And in her hearing?

30 A Yes, sir; I heard her tell Mrs. Rees so.

Q You heard her tell her what?

A That she was working like a nigger for the whole family.

Q What did Mrs. Rees say?

A I cannot give you the word, she told her she couldn't do it, I cannot recall her words.

Q You came home to your mother's funeral?

A Yes, sir.

Q Who notified you of her death?

40 A My brother and my sister both.

Q Mrs. Rees, you mean?

A Yes, sir.

Q She is your only sister?

A Yes, sir.

Q And the funeral was from her house, was it not?

A Yes, sir.

Q You knew your mother had been in the asylum, didn't you?

A Yes, sir.

Q And you knew she had been sent there by the sworn certificates of two physicians, didn't you?

A Yes, sir.

10

Q And do you still say you have any feeling against your sister for putting your mother in the asylum, when she was put in the asylum on the certificates of two physicians?

A Well, no; not when she was put there.

Q What was there concerning yourself with your mother's going to the asylum that made you provoked at it?

A The first time?

Q Yes, any time?

A The circumstances was this way: She had got 20 mother to make this will, and then she wanted her put in the asylum, which there was no doctor in the City of Trenton would sign at that time.

Q How long was that before your mother was actually sent to the asylum?

A That was from November to July.

Q Your mother went to the asylum in July, didn't she?

A I believe so.

Q Was it not earlier than that?

30

A I don't know, sir.

Q It was less than a year before she went that your sister concerned herself about sending her there, was it not?

A No, sir; I will think about that—it was in November she wandered away—

Q Was that the time your sister wanted her sent to the asylum?

A No, sir; it was before that.

Q How long before that; have you any idea?

40

A It must have been a year before that or somewhere along there, I cannot exactly tell you how long it was,

I was not here ?

Q How long did you say about, it was ?

A It was in the neighborhood of a year, I think.

Q Are you sure of that ?

A No, sir ; I am not sure of it.

Q When your mother wandered away, didn't she start to walk to Lambertville, and was found up there near Titusville ?

A I don't know whether she started to walk to Lambertville, but I understood she was found near Rivertown.

Q That is your idea of it, is it ?

A Yes, sir.

Q Don't you know as a fact that your sister and your father and mother lived on perfect terms of peace and good will at all times ?

A I know they did not, and she does too, she knew it.

Q Do you mean to say after your father's death and after the funeral, you and your brother had a conversation with your sister, in which she said that your father had left everything to her ?

A That was the day before he was buried.

Q Well, whenever it was—that your father left everything to her, and that she didn't believe it was right ?

A Yes, sir ; she said that.

Q And she had thought of doing the right thing, but had heard something, and changed her mind ?

A Yes, sir.

Q What was that thing—did she tell you ?

A No, sir.

30 Q Did you ask her ?

A No, sir.

Q Did your brother ask her ?

A I don't think he did.

Q Was it not rather strange that you didn't ask her what that thing was that had changed her mind, so that instead of her dividing up your father's property, according to your assertion—didn't you think it strange ?

A No, I didn't think so at that time.

Q You didn't have any curiosity about it ?

40 A I thought I would find out.

Q Have you found out ?

A No, sir.

Q Have you tried to find out?

A Yes, I am trying to find out now.

Q In this suit?

A Yes, sir; I am trying to find out now, in this suit.

Q Your father himself told you that your brother George had robbed him, as well as your sister—that is right, is it not?

A Yes, sir; he couldn't help but tell me that.

Q Where did your mother die?

A In the insane asylum.

10

Q Did you think there was anything strange that your sister was not there when she died?

A Word was sent that she was dying, and to come at once—

Q How much notice did she have, do you know?

A I don't know, but I understood she had ample time to go and see her.

Q When your sister said that your father's mind and hearing had come back to him before he died, you believed it, didn't you?

20

A Believed it?

Q Yes.

A I had no reason to disbelieve it, but it seemed strange to me.

Q You were out riding with him the Sunday before he died, were you not?

A Yes, sir.

Q Three days before he died, that was?

A Yes, sir.

Q And he was perfectly rational then in talking to you—you understood what he said, and he understood what he was talking about, didn't he?

30

A I think so, but I would have to wait and partly carry on his own conversation for him, in order to get any substance out of what he was trying to tell me.

Q And with his assertion to you about things, and so jumping from one part of the conversation to another, and from what you knew in leading him on, between you, you got a perfectly connected conversation, one that you understood, perfectly well, didn't you?

40

A Yes, sir.

Q And you thought you understood what he was

telling you, didn't you?

A He talked that way.

*Re-direct by Mr. Valentine.*

Q A moment ago you said your father told you that George had robbed him—you answered the question by saying, "Yes, he could not help but tell me that"—do you want to make any further explanation of that?

10 *Mr. Walker.* I object to the question. I don't think he can make any explanation on the answer such as that,—he was asked the question, "your father himself told you that your brother George had robbed him as well as your sister," and he answered that question by saying, "yes, he could not help but tell me that;" I don't see how any explanation of that answer can be proper.

*Court.* I will take it.

20 Q What did you mean by that answer?

A He had been told so much and so often that George had robbed him, that he actually believed it.

*Mr. Walker.*

Q Do you know yourself, whether or not George had robbed him?

A Well, I didn't think that George had robbed him.

30 ELIZA ELLA REES, the defendant, being called out of order, being duly sworn according to law on her oath saith:

*Examined by Mr. Walker.*

Q You are one of the defendants in this suit?

A Yes, sir.

Q And a daughter of George H. Slack, deceased.

A Yes, sir.

Q Where did he live at the time of his death?

40 A At 278 Bellevue avenue.

Q Where did he live prior to his coming to Bellevue avenue to live?

A 46 Bayard street.

Q How long had he lived there?

A At 46 Bayard street?

Q Yes?

A As near as I can tell between thirty-five and thirty-seven years.

Q Where did you live during that time, that thirty-five or thirty-seven years?

A I lived home until about three and a half or four years ago. 10

Q Then where did you go to live?

A I went to live at Tyler street.

Q How long did you live on Tyler street?

A I lived on Tyler street ten months.

Q Where did you go to live then?

A Well, mother and father wanted to come home and live home again, and I didn't want to do that, and I moved up on Bayard street to be near her to aid her in her work; I went to No. 19 Bayard street.

Q Did you go back to the house of your father and mother afterwards? 20

A Yes, sir—then mother and father sent for me again in December of that same year, and persuaded me to go home—

Q How long had you been away from your father and mother's house altogether?

A From the spring before—a year and a few months, I guess.

Q What was the occasion of leaving your father and mother's house to go to Tyler street? 30

A My mother was insane, and I could not get along with her.

Q Who had you in the family while you lived with your mother and father on Bayard street?

A My husband, my daughter, and mother and father and myself.

Q What brothers have you?

A I have two brothers, Robert and George.

Q What was your father's condition of health during the years you lived there at the house? 40

A Well, they were good for the previous years, but his lameness troubled him, and he could not get around very

well.

Q When, about, did that trouble first overtake him?

A About seven years ago, it commenced to come on him at first about seven years ago.

Q Was your mother taken to the asylum at any time?

A Yes, sir; on June 20th.

Q What year?

A Here last year.

10 Q How did it happen she was taken to the asylum?

A Well, my father sent for me in May, I had two telephone messages sent for me to come out, and I went out home, and he sat on the front porch, when I got there, and he said, "Ella, will you take your mother up with you, I cannot get along with her any longer." And he said, "I am perfectly willing to stay here all by myself, but I cannot get along with her any longer." And I said, "Father, I will take you both, you are both welcome at my home," and I called a cab and took them——

20 Q Was that on the 20th of May?

A No, sir; it was the first part of May, I don't think it was the 20th, it was in May sometime.

Q Now, you were living where?

A On Bellevue avenue.

Q When did you move there to Bellevue avenue?

A On the first of April.

Q The first of April, 1901.

A Yes, sir.

30 Q When you left there you lived at 46 Bayard street together?

A Yes, sir.

Q How did you happen to leave your father's and mother's house to go to live on Bayard street?

A They prevailed on me to come there to live, mother could not get along with her work, it was too much for her. I lived on Tyler street, and we moved to Bayard street. And I broke up on Bayard street and moved home, and then my mother carried on so against me that I found I could not stay there, and that is what sent me to Dr.  
40 Leavitt's house, and I asked him what should be done with my mother, whether it would not be better to have her sent to the asylum, and he said he would see my mother, and

he said he could not talk to my father at the home, because he was so deaf that mother would hear him, and that people like my mother, in her condition, their mind was always on the alert, and he asked me, "Couldn't I get my brother to bring her down to my office," and I asked him to do that, and I asked my brother to do that, and instead of doing that he took her carriage riding, and told her that I was going to send her to the asylum, she said that he told her that I was going to send her to the asylum.

Q When was this ?

10

A That was in 1891, in March.

Q What had that to do with your going up on Bellevue avenue ?

A Well, after she knew that, and in her state of mind, she was always making trouble for me, and would not allow me to sit on a chair in the house belonging to her, or anything like that—

Q When was it she actually was taken to the asylum ?

A On the 10th of June.

Q Upon whose certificates.

20

A Dr. Lyman Leavitt and Dr. MacKenzie.

Q And she died in the asylum ?

A Yes, sir.

Q On what date ?

A On the 7th of August.

Q Did you have any notice that she was dying ?

A About 10 o'clock—

Q Morning or night ?

A About 10 o'clock in the morning.

Q On the day she died ?

30

A About ten o'clock in the morning on the day she died, and there was a train about 12 o'clock, and the train had gone before I could get ready, and there was not another one until two o'clock, and I was getting ready for that when it was announced that she was dead.

Q Did you remark to your brother George that you didn't go to your mother's death-bed because you had an engagement with a dentist ?

A No, sir ; I didn't have an engagement with the dentist, my daughter had an engagement with the dentist, 40 that day.

Q Did you tell him that ?

A No, sir ; I did not.

Q What date did you say you took your father and mother to your father's house ?

A I didn't say what date it was—but it was in May I think the 20th of May, if I am not mistaken.

Q What was the condition of your father's health during the time he resided at your house on Bellevue avenue ?

A Outside of his lameness, it was good, he had a good appetite, and he seemed rather to enjoy being up there.

10 Q What, if anything, did he have to do with sending your mother to the asylum ?

A He had all to do with it, he asked the doctors for the papers, and he took them down to Mr. Phillips to have them filled out.

Q It has been mentioned here that your mother is said to have made a will in your favor, what do you know about that ?

A Well, she did make a will, but she hadn't anything to will, that was one of her crazy ideas. My father and I  
20 had tried to get her not to do it, but the only way there was of pacifying her was to let her do it, and we let her make a will.

Q Did you see the will ?

A No, sir.

Q Do you know who was mentioned in it as beneficiaries ?

A I believe we were all alike, she wanted us to have a home and the rest of it she divided between the boys.

Q Had she any home to leave ?

30 A Well, the home——

Q Had she any home to leave of her own ?

A Oh, no, sir.

Q Had she any property ?

A No, sir.

Q Did you see the will at all ?

A No, sir.

Q Was it destroyed ?

A Yes, sir, or at least father said it was.

40 of it ?  
Q Did you have anything to do with the destruction

A No, sir.

Q Upon what terms were you and your father and

mother, while living there together on Bayard street, up to the time some trouble arose between you and your mother, by reason of her insanity?

A On good terms.

Q At all times?

A Yes, sir; at all times. Father never wanted to leave until mother got deranged.

Q Did you ever do any work there at the house, any housework?

A Yes, sir; I did the biggest part of the work. 10

Q Did you let your mother do all the work in the house, and do nothing yourself?

A Why, no, sir.

Q Did your daughter do any work?

A No, sir; she was only a girl going to school, she would help on Saturdays, and the like of that.

Q How old was your mother at the time of her death?

A Sixty years.

Q How old was your father at the time of his death? 20

A Sixty-eight or sixty-nine years.

Q Were either of your brothers frequent visitors on your father while you all lived at Bayard street?

A Not very often—occasionally.

Q How about George—he lived in Trenton?

A Yes, sir; on Morris avenue.

Q Did he often come to your house?

A Not very often, when father was doing business, of course, he came there, but after that he didn't.

Q When did he and your father cease to do business 30 together?

A I think between three and a half and four years ago.

Q Your brother Robert lived in Ohio?

A Yes, sir.

Q Do you recall visits that he made to the house?

A Yes, sir.

Q How often was he there?

A He didn't come every year, but he came occasionally, when he thought he could get away from his business. 40

Q How long would he stay?

A Sometimes a week and at other times only a few

days.

Q Upon what terms were he and your father?

A They were on good terms, father seemed always to be glad to see him?

Q Now, about the terms upon which your brother George and your father were, how about that?

A Father seemed always to be on good terms with him until he said, "He didn't think he'd done the square thing with him in business."

10 Q Your father said that?

A Yes, sir.

Q To you?

A Yes, sir.

Q How many times did he say that?

A I cannot tell you how many times he said it, but he said there was lots of things done that was not right.

Q Was the word "robbed" used?

A Yes, sir; he said he had robbed him, he said he gave him money and it was not used—

20 Q Who said that?

A Father said that.

Q Who did he tell that to?

A He told Mr. Slack, his brother, and Mrs. Williams, he told her, she was a visitor to the house.

Q Who else?

A My daughter heard it and my husband also.

Q Upon what terms did you and your father live while he lived with you at Bellevue avenue, from May, 1902, until his death?

30 A On good terms.

Q What if anything, during that time, did he say to you about his sons?

A Well, he said that his oldest son, had never done anything for him, and his youngest son, had done less, and give him the go-bye.

Q Who was the eldest son?

A Robert.

Q And the younger one?

A George.

40 Q What if anything, did your father say to you at any time, about what disposition he proposed to make of his property—state when first he ever said anything to you

about it,—what is the earliest he ever said anything about it?

A In December, as mother went off in November wandering away by the river, and I went home and staid for six weeks, and cared for her. Then my daughter was taken sick, and I was called home there, that is the day before Christmas, the 24th of December last year. And father said, "When you come back"—he says,—“you will move back home with me again.” And I said, “No father, the way Ma’s mind is no one can get along with her here, she knows she’s boss, and no one can get along with her, and I cannot come back here.” And he said, “If you will come home, I will deed my property to you.” And I said, “No, father, I won’t accept that while they were living, I said I wanted them to live and enjoy all they had.” And he said, “Well, he had a little pension, that would be enough to keep him and mother, to give them all they wanted.” And I told him I would not do it. And when he found he could not prevail on me to come back home there again, he went to my husband—

Q As a fact you didn’t go back there?

A No, sir; I would not accept it and go back, I staid where I was, and I went out there two or three times a week and cleaned up for mother, and father tried to keep her along, and when she got very bad, he found he could not manage her, he sent for me and I went out there and staid with her—

Q When next did he say anything to you about any disposition of the property?

A Not until he was taken sick on the 12th of August. 30

Q What did he say then?

A He called to me—

Q What time of day was it?

A Between twelve and one o’clock.

Q Where was it?

A At 278 Bellevue avenue.

Q And where was he?

A Up stairs in the bath room—and he called “Ella,” and I quickly ran, and I found he was leaning over the bath tub unconscious, and I got him on his back, and I called for help, and we fanned and rubbed him and removed his neck-tie, and bye and bye he came to and when he came

to himself he said, "Ella, dear child, it is more trouble for you, it is more trouble for you." And I said, "No trouble, Pa." And he said, "How will I get my papers fixed, how will I get my papers fixed," and I said, "Never mind, Pa, never mind your papers," and he said, "I cannot die until it is done," and I says, "I will have a doctor and get you well," and he said, "I don't want a doctor, I want Mr. Phillips," and I sent for the Doctor—

Q What Doctor did you send for?

10 A My daughter—I told her to go and get any doctor, and she ran out and called for Dr. MacKenzie, and he was not in or could not come, and he told her I believe to 'phone for Dr. Bruere, because he was nearer—

Q Did she 'phone for Dr. Bruere?

A Yes, sir; and he came.

Q What time did he get there?

A I guess it was between one and two o'clock when he got there.

Q What was then done for your father?

20 A We got him up off the floor, and lifted him in bed, and gave him—the doctor gave him a prescription, and my husband ran out after it and we bathed him and fanned him. And he asked the doctor if he couldn't see a lawyer, and the Doctor said, "Mr. Slack, I would not do much thinking," and he said, "I haven't got to do much thinking, I know what I want done."

Q And the next thing, what was said?

A And he kept wishing and wishing for Mr. Phillips and everyone that came up, he thought was Mr. Phillips, 30 and everyone that came in the room he said to them, "Haven't you sent for Mr. Phillips," he could see from the stair-way anyone coming up, and he would ask and ask them that—

Q Did anyone send for Mr. Phillips?

A I don't knew—the nearest I know that he was sent for was between four and five o'clock, previous to that I didn't know anything about it.

Q Who did send for him?

A I think my daughter sent a 'phone for him, at 40 grand-father's request—

Q Were you present when Mr. Phillips came, to see him?

A I was called for, and came into the room.

Q What occurred between your father and Mr. Phillips?

A Father said, "How do you do, Mr. Phillips," and they passed the time of day. And he said he had sent for him to do some business, the business that he had spoken to him about—that is the first thing he said when he came in. And Mr. Phillips said, "I know all about it." And then he said, "Is it a will you want me to draw?" And he said, "No, I want to draw a deed to my daughter for my property, don't you think it is better than a will," and he said, "Yes," and he said, "I want it to be made fast, if there is anything you can put into it to make it fast, you put it in." And he called to me to go and get his papers out of the large book-case, he had in the hall, and I went and got the papers and handed those papers to him. 10

Q What did Mr. Phillips then say?

A He told him he would go and fix them, and that he didn't think he would be back until the morning, and my daughter said, "You had better come back to-night, for if you wait until to-morrow morning I am afraid you will be too late." 20

Q And what did Mr. Phillips do?

A He came back.

Q What time was this?

A Between five and six o'clock,

Q And what time did Mr. Phillips return?

A Between nine and ten o'clock, I think it was.

Q When he returned did you see him come up into the room where your father was? 30

A I was in the room fanning father when he came in.

Q Who else was in the room?

A Dr. MacKenzie was there and my daughter and my husband, and a cousin of mine, Miss Hattie Snook.

Q Who else?

A That is all, and myself, and her husband.

Q Your daughter was there?

A Yes, sir.

Q And her husband?

A Yes, sir. 40

Q Did you hear the conversation that passed between your father and Mr. Phillips?

A I heard Mr. Phillips say that he had come with the deeds, and that he would read them if he thought he could stand it. And he said, "Yes he could stand it, he wanted them to be read," and then Mr. Phillips read them, and while he was reading it he said something about being 100 feet in depth, and father stopped him and he said that was wrong, that the lot was 125 feet deep on that side of the street, twenty-five feet deeper on that side of the street than on the other side, and Mr. Phillips said, "Yes, that is right,  
10 I have it 125 feet deep in the deed, I made a mistake in reading it——

Q After Mr. Phillips read the deed through, what was done by your father, if anything?

A He signed it.

Q Did you see him sign it?

A Yes, sir; I stood out in the hall while he did it.

Q In what position was he when he signed it?

A Well, we bolstered him up with pillows, and he had a book and he wrote his name——

20 Q Did you see him write his name?

A Yes, sir.

Q Did he or did he not have glasses on?

A He asked me to get him his glasses, and Dr. MacKenzie said, "Try mine," and he fixed his glasses on him, and put them on for father, and he said, "They will do, very well, Doctor"——

Q I show you a deed between George H. Slack and yourself, Eliza Ella Rees—did you ever see that paper before?

30 A Yes, sir.

Q Is that the paper your father signed on that occasion?

A Yes, sir.

Q Did you ever become possessed of that deed yourself?

A No, sir. Well, Mr. Phillips laid it on the bed and father picked it up and then handed it to me, and said, "He wished he had one thousand dollars to give me with it, to pay off the mortgage."

40 Q Do you recall the day before your father's funeral, did you or not have a conversation the day before your father's funeral with your two brothers, George and Robert,

in the house ?

A Yes, sir.

Q Did you on the request of one or either of them refuse to state how your father had left his property.

A They asked me if I knew anything about it, and I told them "yes, all about it, but Pa told me not to say anything until after the funeral." My eldest brother, Robert said, "He would like to know, knowing that he could not stay very long after the funeral," and I said, "Well, if you insist on knowing I will tell you," and I told him that he had 10 left the property to me.

Q What else did you say to him ?

A And he asked me if I thought that was right, and I told him yes, and he wanted to know how I thought it was right. And I told him because I had staid home and sacrificed all my life for them. And he told me then and there that he was going to fight me.

Q Did you say to your brother or either of your brothers then and there after your father had left it all to you, that you knew it was not right ? 20

A No, sir.

Q And that you intended to make it right, but that you had heard something and changed your mind ?

A No, sir.

Q Or words to that effect ?

A No, sir.

Q Do you recall the Sunday before your father's death, and do you recall his having gone from your house to take a carriage ride with your brother from Ohio ?

A Yes, sir. 30

Q Upon his return, that is upon the old gentleman's return, did you have a conversation with him in which he said anything about your brother, and their conversation on the road ?

A He said the boys were trying to "play him," but he had made up his mind what to do, but he hadn't told them. And my brother told me when he came back that he was surprised to find how clear his mind was, that Pa could talk about most anything—

Q That is your brother Robert told you that ? 40

A Yes, sir.

Q Did you ever tell him, your brother Robert, on the

occasion of a visit by you to Ohio, that your father's mind was all gone?

A No, sir; I told him about my mother's mind, that is what my visit there was for, to tell him about mother.

Q Did you ever at any time tell either of your brothers that your father's mind was impaired?

A No, sir.

Q From all you saw your father do, or all you heard him say, what have you to say as to whether or not his mind was at any time impaired?

10 A Well, no, sir; I think his mind was as clear as mine.

*Cross-examination by Mr. Dawes.*

Q On the day that your father died, what time did the first physician arrive there?

A Between one and two o'clock.

Q Between one and two o'clock in the afternoon?

A Yes, sir.

20 Q And that was Dr. Bruere?

A Yes, sir.

Q And did he prescribe for him?

A Yes, sir.

Q How long before that time was it you found your father in the bath-room?

A Between twelve and one o'clock.

Q And then Dr. Bruere arrived shortly after?

A Yes, sir.

Q How long did the doctor remain on that occasion?

30 A I should judge he remained about an hour, he remained to see how the medicine would act.

Q And the next physician to come there was Dr. MacKenzie?

A Yes, sir.

Q What time did he get there?

A I should imagine that it was between three and four o'clock the first time.

Q How many times was Mr. Phillips, the lawyer, sent for on the day that your father died?

40 A I don't know; I did not send for him.

Q Did you know he was sent for at all, of your own knowledge?

A I heard my father ask different ones to send for him.

Q Who?

A He asked me cousin, and he asked my daughter, and he asked Mrs. Snooks, and Mrs. Mahoney, and my husband.

Q Did he ask you?

A Yes, sir.

Q What did you do?

A I told him I was going to send for a doctor, which 10 I did.

Q You didn't take any means then at all, you want it to be understood that you didn't take any means at all in sending for Mr. Phillips?

A No, sir.

Q Did he ask you to send for Mr. Phillips?

A Yes, sir.

Q Did you tell your daughter to send for Mr. Phillips?

A No, sir.

Q And Mr. Phillips you say arrived there between six 20 and seven o'clock?

A Yes, sir.

Q Who ushered him into your father's room?

A I don't know who opened the door for him.

Q Were you in the room when Mr. Phillips came?

A No, sir; I was in the dining-room.

Q How long was it before you came into the room where he was?

A A few minutes.

Q How long did you remain there? 30

A I remained there while Mr. Phillips was there, and longer, I was in and out all the time during his sickness.

Q And did you at that time think your father was dying?

A No, sir; I didn't think he was going to die.

Q You thought he was likely to get well?

A I thought he was likely to recover.

Q When did you first realize that he was going to die?

A Not until between nine and ten o'clock that night. 40

Q Was that before or after Mr. Phillips was there?

A After Mr. Phillips was there, I didn't know until I

ushered Dr. MacKenzie out, and he told me——

Q That was the first information you had?

A Yes, sir.

Q What did you do after getting that information?

A Why, I asked him if there was anything more I could do or anyone else he wanted to see, and I asked him if he wanted to see George.

Q You asked who if he wanted to see George?

A I asked father.

10 Q And what did he say?

A He said, "No."

Q What else did he say?

A He said he wanted to die, he had done all he could to be good to those who had been good to him, and he wanted to die.

Q Did he ask you afterwards to send for George?

A No, sir.

Q Did he ask you not to send for George?

A No, sir.

20 Q When did you send for George?

A About nine o'clock, I 'phoned for him first.

Q Who 'phoned for him?

A I think my daughter 'phoned first and my cousin, Mrs. Snooks, 'phoned for him.

Q How soon after Dr. MacKenzie left?

A Before Dr. MacKenzie left.

Q And what time did George arrive?

A About two o'clock in the morning.

30 Q How did your father treat him when he came there?

A Well, he looked up at him, and said, "Who sent for him?" And I said, "I did."

Q And that is all that he said in respect to George at any time before he died?

A Yes, sir.

Q And who was present in the room when he asked that?

40 A Why, Mrs. Snooks, and I think my daughter and my husband, different ones coming in and out, I cannot just say who were present at the time.

Q Were you ever ordered out of the house at Bayard street by your father?

A I was by brother George.

Q Were you ever ordered out of the house on Bayard street by your father—that is the question?

A No, sir; he said as long as Ma's mind was in the state it was, he said it was best for us to part.

Q Who said that?

A My father, and George said that if me and my husband didn't get out of the house, he would throw us out.

Q Who heard him say that?

A My daughter heard him say that and mother heard 10 him.

Q What was the occasion of that?

A He didn't want me there to take care of them I suppose, I don't know anything else, my father didn't want me to go.

Q Then it was your father made the remark that you have stated?

A It was after that that he offered me——

Q It was then and there that your father said, inas-much as you could not get along with your mother, it was 20 best for you to go?

A No, sir; not then.

Q When did your father say that?

A When she was insane.

Q He told you that it was best for you to go?

A Yes, sir.

Q And it was in consequence of that you left?

A No, sir; I left because I could not get along with my mother.

Q You didn't go until he told you that, did you? 30

A I didn't go until I got a house—I was going any-how——

Q You didn't go until you father told you that?

A No, sir; because I hadn't a house to go to.

Q When was that?

A I cannot just tell you, I think it was in February or March.

Q And how long had you been back when your father made that remark?

A About six weeks. 40

Q And where were your things at that time?

A Stored in my father's house.

Q They hadn't yet been set to rights, had they?

A No, sir; I was looking for a house.

Q At the time that this will you speak of was made, by your mother, was it not supposed by you that she owned one of these houses?

A No, sir; my father told me to the contrary.

Q Was the house to your own knowledge, ever transferred by your father to your mother?

A Well, I thought it was once, I don't remember,  
10 but my father said once it was, but that he destroyed it, it was not filed; I think he said he destroyed the deeds, that they were never filed.

Q He never had filed the deeds, the deeds were destroyed?

A Yes, sir.

Q Do you know when that was?

A No, sir.

Q Did you ever see those deeds?

A No, sir.

20 Q And you never saw them destroyed?

A No, sir.

Q And know nothing about their being destroyed, outside of what your father then told you?

A No, sir.

Q Did he say why he had deeded the property over to his wife?

A He had some business trouble, and thought he was going to lose it, and when he didn't, he destroyed the deeds.

Q And when he found out the trouble had passed  
30 over he destroyed the deeds.

A That is what he said.

Q When was that?

A A good many years ago.

Q How many years ago?

A I cannot say.

Q How long was that before this will your mother made was talked of.

A Oh, ten or twelve, or maybe fifteen years ago.

Q When he told you that the deeds had been des-  
40 troyed?

A Yes, sir.

Q Who supported the family while you lived with the

family there ?

A While he done contracting, me and my husband paid the board for him and myself and my daughter.

Q What board was paid ?

A I think that is a personal matter, do I have to answer it ?

*Mr. Walker.* I will object for you on the ground that it is immaterial.

*Court.* Well, I suppose it may be relevant to 10 show how they were living there.

A Well, I paid eight dollars and sometimes nine dollars a week, and helped to furnish the washing, and if we had a girl I helped pay for that.

Q And you didn't have any steady amount to pay ?

A Well, every week I would pay so much.

Q And is it not true that her grand-mother furnished the biggest part of the clothes for your daughter ?

A No, sir. 20

Q You and your husband did that, did you ?

A Why, yes, sir.

Q Did your mother have any personal property when she died ?

A A few old clothes and a watch.

Q Had she ever had any personal property ?

A Not as I know of.

Q What became of your father's personal property ?

A What do you mean ?

Q I mean personal property which he had at the time 30 of his death ?

A Well, a bank account ?

Q Yes ?

A And his pension money ?

Q Yes ?

A And mother's insurance ?

Q Yes, what became of that ?

A I turned it over to George.

Q What other property did you turn over to George ?

A Some Interstate stock. 40

Q What property did you retain ?

A I don't know, I retained the bed-room suit which

father gave me.

*Q* Anything else ?

*A* His desk and couch and his watch,

*Q* Well, what else ?

*A* That is all there was some clothes, but it didn't amount to much.

*Q* How did you come to turn this personal property over ?

10 *Mr. Walker.*—I object to that as irrelevant.  
Objection sustained.

*Q* Did you not at first claim all the personal property of your father ?

*Mr. Walker.* I object to that as irrelevant.

*Court.* I will take it.

*A* Well, he said he gave me everything, when he laid  
20 on his bed, he had the doctor to help him off with his clothes, and he told me to take his pocket-book, and he gave me his watch, he gave it to me in my hands, and wanted me to have everything, and he told me everything there was there belonged to me.

*Court.*

*Q* And because of that you claimed it.

*A* Yes, sir.

30 *Mr. Dawes,*

*Q* Did your father pay you board while there at your house, the last seven or eight weeks ?

*A* No, sir.

*Q* You supported and kept him ?

*A* Yes, sir,

*Q* Now, do you mean Mrs. Rees to say, that you saw, the last five or six years of your father's life, no decline in his mental faculties at all ?

*A* No, sir.

40 *Q* Do you mean to say that you regarded him as fully competent to transact business, say on the first of August 1902, as he was four years before that time ?

A Yes, sir.

Q What was his physical condition ?

A Well, he was lame, paralyzed.

Q He was very lame, was he not ?

A Yes, sir.

Q It was very difficult for him to get around ?

A Well, he walked with a cane until I brought him to my house, and I went and bought him a pair of crutches, and he could get around better then.

Q Did he go on the porch ?

10

A Yes, sir ; he used to walk around and sometimes he walked down town, and he would sit on the porch and smoke.

Q Did he do any business in the last three or four years ?

A No, he gave up his business.

Q Do you know why he withdrew from business ?

A He said he was a cripple, he said he could not get around, in and out of the buildings, and in and out of the wagons, and he gave it up.

20

Q During the last seven or eight years of his life, who transacted the business for him ?

A My brother George, and I used to help him sometimes, I would go over his books and occasionally write out a check for him.

Q The business was conducted principally by whom ?

A His son.

Q George ?

A Yes, sir.

Q During all that time did you hear of any unpleasant-  
ness between him and his father ?

A Yes, sir.

Q On business matters ?

A Yes, sir.

Q Frequently ?

A Yes, sir.

Q What did you hear ?

A Well, he would not be satisfied, he didn't like the way George did things and settled up things, he said he didn't pay some of the debts that he gave him money to 40 pay on.

Q Did he say that to George ?

A He said he did.

Q What did he say while George was present, anything?

A Yes, sir; he said he hadn't paid the bill of Leuckel, that he gave him the money to pay—he said he had given him the money to pay Leuckel's bill, and he hadn't paid it.

Q How soon did he make that remark before he died, or how long before?

A He got a bill about two weeks before he died——

10 Q And that was the bill that he hadn't paid when he gave him the money he said.

A Yes, sir; that was the bill of Mr. Leuckel's that he hadn't paid when he had given him the money to pay it, and he told other people that too.

Q Any other time?

A No, sir; not that I remember.

Q That is the only specific instance you can give us?

A Yes, sir; because that bill came to my house.

Q Where?

20 A At Bellevue avenue, before he died.

Q Did you ever speak to George about that?

A No, sir; not to my knowledge.

Q And that is the only specific instance that you recall, that your father said George hadn't paid the bill at that time?

A At other times I have heard him say it, but I don't recall them now.

Q He said that to George, didn't he?

A He said he did, I cannot say.

30 Q I asked you what you heard him say to George?

A Well, I heard him tell George once that he was not honest with him.

Q Did he tell him in what respect?

A Yes, sir; in the business.

Q Did he mention anything at all?

A Well, I never made it my business to sit around and listen.

Q Did you ever repeat that charge to anyone?

40 A Only about this Mr. Leuckel bill, after that came to my house, but he told other people about things.

Q Did you tell Robert that, when you visited him in Ohio?

A No, sir ; I didn't because I didn't know about it then. My father told me to tell him that George was not doing what was right, and I told him.

Q Did you tell him that your father told you to tell him ?

A Yes, sir ; I think so.

Q You told him that, you say ?

A Yes, sir.

Q Did you ever make that charge to your father when George was not there ?

10

A No, sir.

Q You never did ?

A No, sir.

Q Did you ever tell your father while Robert was present that George hadn't been honest with him ?

A No, sir.

Q Who else did you tell that George hadn't been honest with his father ?

A I don't know as I ever told anyone.

Q Now, this Leuckel bill, which you say came to 20 your house, did you discuss that with your father ?

A Yes, sir.

Q What did you do by way of discussing it ?

A I read the bill to him, and he said, " I don't owe that, Ella, I gave George the money to pay that."

Q How often did you talk about that with him ?

A Only just the once I believe, he mentioned it to his brother—

Q To Robert ?

A No, sir ; to his own brother Mr. William Slack. 30

Q Were you present when he mentioned it to his own brother ?

A No, sir ; I don't think I was.

Q Did you hear him mention it to anyone else ?

A No, sir.

Q Did you tell anyone that ?

A No, sir ; not as I know of.

Q You never discussed it only that one time ?

A No, sir ; he said he was going to see Mr. Leuckel about it.

40

Q Has that bill been paid yet ?

A Not to my knowledge.

Q How much was the bill ?

A I think it was seventy some odd dollars, I don't just exactly remember.

Q And how long before this time was it you had heard your father making the first charge of that kind against George ?

A Several years, before, I cannot just state when.

Q Had your relations with George been friendly ?

A As far as I was concerned it was.

10 Q I ask you the question whether your relations with George have always been friendly or not ?

A Up to the time my mother was insane.

Q That caused a breach ?

A Yes, sir.

Q And why did that cause a breach ?

A Well, they claimed I was trying to put her in the asylum, which I was not.

Q Did you ever suggest to Dr. Leavitt that she be put in the asylum as a pauper patient ?

20 A No, sir.

Q Did you ever suggest after your mother came to live with you, that she be gotten into the asylum without paying ?

A No, sir ; my father said he wondered if he couldn't get her in for three dollars a week, that he had heard of others who had gotten in the asylum for three dollars a week, and I told him that George might use his influence and see what he could do, and so he consented for me to speak to him, which I did, that is all.

30 Q Mrs. Rees, when did your father first tell you he was going to make you a deed for this property ?

A He didn't tell me ever.

Q When did you first know that he was going to do it ?

A When he told Mr. Phillips.

Q Was that the first intimation that you had ?

A Yes, sir.

Q When your father came back from his ride with Robert on that Sunday, have you repeated the entire conversation ?

40 A As far as I know, I have.

Q Did he tell you what he was going to do with the

property ?

A No, sir.

Q Did what he said suggest to your mind what he was going to do with it ?

A No, sir.

Q Did you think you were going to get more than your two brothers ?

A No, sir.

Q What became of this deed after it was executed ?

A After it was executed my father gave it to me. 10

Q What became of the deed after Mr. Phillips left ?

A My father gave it to me, and told me to have it recorded, and my son-in-law took it and had it done.

Q And that deed was recorded the next morning, was it not ?

A Yes, sir ; I think it was.

Q When you say that you did not know that you were going to get this property until you heard him say so to Mr. Phillips, didn't he tell you that yourself, before that, that he was going to give you that property ? 20

A Only when he offered it to me if I would take care of him when I moved back home, to take care of him and mother.

Q Why did you decline that offer ?

A My brothers seemed to object, and I knew that there was that feeling, and I thought best to decline the offer.

Q And you didn't want the property ?

A No, sir.

Q And that was the only talk of the kind you had up 30 to the time that Mr. Phillips was there ?

A Yes, sir.

Q You knew there was a mortgage on that property, didn't you ?

A Yes, sir.

Q Have you repeated to-day all the conversation that you heard between Mr. Phillips and your father at the first interview ?

A As far as I know.

Q You heard it all, didn't you ? 40

A No, sir ; I was going in and out the room, and I had two little babies up there, and I was helping take care

of them, they were seven weeks old, I heard when Mr. Phillips asked him if he knew what he was doing, and he told him he was a cripple down here, touching his limbs, but he was all right up here, indicating his head.

*Re-direct by Mr. Walker.*

Q After your father died, you applied for letters of administration, on his personal estate, didn't you?

A Yes, sir.

10 Q And you were advised by counsel to let your brother be appointed?

A Yes, sir.

Q And turned over the money and stock to him as administrator, so that the debts would be paid?

A Yes, sir.

ABEL BRUERE, a witness called out of order in behalf of the defendants being duly sworn according to law on  
20 his oath saith:

*Examined by Mr. Walker.*

Q You are a practicing physician in the City of Trenton?

A Yes, sir.

Q And have been how long?

A Fourteen years.

Q About fourteen years?

A Yes, sir.

30 Q Did you know George H. Slack in his lifetime?

A Not until the day I was called to prescribe for him.

Q Do you recall being asked to prescribe for him on the 12th of August last?

A I am not sure what day it was.

Q Where was he when you were called upon to prescribe for him?

A He was in the bed-room.

Q Up in a bed-room?

A Yes, sir.

40 Q In a house, where?

A In Bellevue avenue.

Q Was he in bed?

A I am not sure whether he was lying on the bed or lounge or sofa in the room when I saw him, he was lying down either on the lounge or the bed, but I am not sure which.

Q How old a man would you say he was?

A I should say sixty-five or seventy years old.

Q What was the matter with him?

A He had had a sinking spell, the day I saw him. He was Dr. MacKenzie's patient and it was simply an emergency case for me, and I saw him as a matter of courtesy for Dr. MacKenzie, he had been sent for and it was impossible for him to respond. 10

Q How long were you there?

A I think half an hour or three-quarters, it might possibly be a little longer than that.

Q Did you go a second time that day?

A No, sir.

Q Did you prescribe for him?

A Yes, sir.

Q What did you prescribe? 20

A I gave him a heart stimulant, Aromatic Spirits of Ammonia, and Nitro-glycerine.

Q Were those remedies taken by him while you were there?

A The Aromatic Spirits of Ammonia was taken while I was there, but the Nitro-glycerine I had to send to the drug-store for it.

Q Did those medicines have any effect?

A Yes, sir; he rallied quite considerably while I was there. 30

Q Did you say what you found was the matter with him?

A Yes, sir; I said that he had a sinking spell, that is a heart weakness.

Q Did you have a conversation with him during the time you were there?

A No, sir; no special conversation.

Q Did any words pass between you?

A Yes, he wanted to get some idea from me as to how serious I considered the case, and he also said that he had some uncompleted business with a lawyer, and he wanted to know if I thought it would be safe for him to send 40

for the lawyer, and for him to sign a paper.

Q What did you say to that?

A I said I thought it would be better for him to wait until he had rallied a little more, and until Dr. MacKenzie arrived.

Q What did he say to that?

A I do not know that he made any reply to that.

Q What was your reason for telling him that?

A He was a patient of Dr. MacKenzie's and consequently I preferred he should have the responsibility of having him see his lawyer.

Q From what you said to him and he to you, and what he did in your presence, and from the condition you observed he was in, what have you to say as to his state of mind, as to his mental capacity at that time?

A I thought him perfectly rational.

Q Was he at that time, in your judgment, capable of transacting business?

A Yes, sir.

20 Q Was he, in your judgment, at that time capable of understanding the nature of a business transaction?

A Yes, sir.

Q At what time did you leave him?

A I do not remember, it was early, during the afternoon I was called to see him, it may have been about two o'clock or a little after.

Q And you did not see him again?

A No, sir.

30 Q From his then condition, what have you to say as to the probable duration of his life?

A Well, I considered that his malady might prove fatal at any time, I was hopeful that he might rally and possibly live for a week or two, at the same time I would not have been willing to guarantee his living twenty-four hours.

Q What was the shortest time within which he might have died?

A Well, he might have died in less than an hour.

Q Was his disease mental or physical?

40 A I considered that it was both in a measure, but more physical than mental—of course, there was a mental weakness. I considered there was an arthrodyst condition of the heart, and arthronous, that is fatty degeneration, and

there is always some weakening of the brain in cases of that kind.

Q In cases of that kind how long do patients continue to be rational and capable of understanding business and business transactions before death, up to what time before dissolution?

A Sometimes up until death.

Q Until dissolution actually takes place?

A Yes, sir.

10

*Cross-examination by Mr. Dawes.*

Q His mental faculties were weakened somewhat by this disease?

A Yes, I considered that his mental faculties were somewhat weakened, that is that he would not be capable of any sustained mental effort.

Q Did you diagnose the case as one of softening of the brain, popularly called?

A Well, I did not attempt to make a thorough diagnosis, I considered that I recognized softening of the 20 brain—

Q And is not the second stage of that disease called the dementia state?

A No, sir; not necessarily. You might speak of it as senile, that there might be a weakening of the mind without there being any dementia.

Q Would you not regard a person suffering from that disease, as being very easily worked up to do a thing that a stronger mind wanted done?

30

*Mr. Walker.* I object to the question as being a hypothetical question, not warranted by the proofs in the case.

*Court.* I will take it.

A Yes, sir; I considered that to be the case; that he would be more easily influenced at least.

Q And the last person that talks to a person suffering 40 from that disease would be quite apt to get him to agree with him?

*Mr. Walker.* I object to that question on the same grounds as before.

*Court.* I think it is competent, I will take it.

A No, sir; I cannot say but what there might be an objection, he would be more easily influenced, I will admit that, but he might have strength of mind enough not to agree.

Q Was this man suffering pain on that occasion any?

10 A Yes, sir; well, he was suffering more from oppression in getting his breath than otherwise, not suffering pain—

Q Was that relieved when you left?

A Yes, sir; it was considerably relieved.

Q His condition was such at that time that you thought it was prudent for him to wait, before he attempted to do any business?

A Yes, sir; I advised that as being in my opinion more prudent. I supposed Dr. MacKenzie was likely to  
20 arrive at any moment and take charge of the case.

ROBERT M. SLACK, being recalled in behalf of the complainants, saith:

*Examined by Mr. Dawes.*

Q Mrs. Rees has testified that she told you, on her visit to East Liverpool, O., that her father told her to tell you that George had wronged him in his business?

30 A She never told me that.

Q Did she at any time tell you that her father had told her to convey that information to you?

A She never told me that in her life.

Q And you, I think, testified this morning—didn't you—I am going to ask you—in the last conversation that you had with your father, did he tell you then that he thought George was cheating him?

40 *Mr. Walker.* I object to that as not being re-direct examination, and on the further ground that the question is leading.

Question withdrawn.

No cross-examination.

ANDREW JOHNSON, a witness produced in behalf of the complainants being duly sworn according to law on his oath saith :

*Examined by Mr. Valentine.*

Q Where do you live ?

A 1012 New Willow, Trenton.

10

Q And what is your business ?

A Stone cutter and mason.

Q How long have you lived in Trenton ?

A For forty-nine years.

Q Did you know George H. Slack in his life-time ?

A I did.

Q And do you know his son ?

A Yes, sir.

Q Here present ?

A Yes, sir.

20

Q How long had you known George H. Slack, in his life-time ?

A For nineteen or twenty years.

Q What was his business, if you know ?

A He was a boss carpenter, when I first knew him.

Q Were you at any time in his employ ?

A Well, I done some work for him, some years ago.

Q How often did you see him during the years of your acquaintance, bring it down as late as you can ?

A How often in a year ?

30

Q How often have you met him in the year of your acquaintance with him ?

A Oh, I suppose some thousands of times.

Q Coming on down to the last five or six years, what was his condition as you observed it ?

A Well, he was in very poor health of late years.

Q You mean mentally or physically or how, and what did you observe upon which you base that opinion—what did you notice about him that leads you to that opinion ?

A Well, it seemed to me that he became stupid, he didn't care about anything.

Q How long since you last worked for him is it ?

A I haven't done any business for him for seven or eight years, anyhow?

Q When did you last see him?

A About five weeks, as near as I can think, before he died.

Q How do you know it was five weeks before he died?

A Well, that is as near as I can come to it.

Q How did you know he was dead?

10 A I saw it in the papers.

Q Where did you see him at that time?

A I saw him in Bellevue avenue.

Q Whereabouts?

A I don't know the number, it was the last door on the right hand side of that brick row.

Q Where was he?

A He was sitting under the porch.

Q Did you have any conversation with him at that time?

20 A I did.

Q Was anyone with him at that time?

A His wife sat with him.

Q And did you stay there and talk with him?

A Yes, sir; I stayed there.

Q About how long?

A About an hour and three-quarters, or somewhere in that neighborhood.

Q From what he said to you, and your conversation, what do you say his condition was?

30

*Mr. Walker.* I object to the question unless what was said is first stated.

*Court.* You ought to get first the facts.  
Question withdrawn.

Q State to the Court what took place there, as to how he talked, and so forth.

40 A I could not keep him on any particular subject with me. He started off with one thing and then stopped and started on with another, he was not the same George Slack that he used to be.

Q Did he talk about any particular thing?

A No, sir ; nothing in particular.

Q Did he talk to you about old times ?

A About old times.

Q What did he say to you about old times, and how did he talk generally ?

A He said he was not able to get around any more.

Q How did he appear to you from the manner in which he talked to you ?

A Well, he appeared to me not to be like he was some years ago.

10

Q What do you mean by that ?

A I mean by that that he didn't seem to be rational, the way he used to be.

Q Did he talk about business of any kind.

A No, sir.

Q You understood, or did you not understand him, on any subject he spoke upon.

A No, sir ; you could not understand him on any particular subject. He would not stick to any particular subject, he would talk about something and then he would break away and then come back to the same one again, he would go back and forth from one subject to another.

20

Q Did you see him a few months previous to that, at any place ?

A I think I saw him last in August before that.

Q August of the year previous ?

A In August of the year previous, I called to see him at his own home, in Bayard street.

Q Did you have any conversation with him there ?

A Yes, sir ; him and I talked awhile in the house.

30

Q How did he appear at that time ?

A He appeared to be very sick, and weak at that time.

Q How did he appear mentally ?

*Mr. Walker.* I object to that—that is calling for an expert opinion without any facts upon which to base it.

Question withdrawn.

40

Q What did he say ?

A Well, he was lying on the lounge and when I went

in he got up but he seemed to be sleepy and dull, and didn't care for anything——

Q You had been old cronies for years and years, hadn't you?

A Yes, sir; for years and years we've been friends.

Q And you would go around together?

A Yes, sir.

Q And had been to many a cock-fight together?

A Yes, sir; many a one.

10 Q And did you see him at any other time?

A Yes, sir.

Q Last year?

A Well, I didn't see him from that until I saw him at the Belleve avenue house.

Q Did you see him at the corner of Perry street and North Broad?

A Oh, yes, sir; I saw him there once.

Q When was that, that was a considerable time ago, how long ago—after he moved from Bayard street, was it?

20 A No, sir; I think he lived in Bayard street, then.

Q Did you have any conversation with him at that time?

A No, sir; just talked a few minutes with him, I was working at the time——

Q Did you have any conversation with him in respect to his son George?

A No, sir.

Q Did you see him again during the last seven or eight months of his life?

30 A No, sir; the next time I saw him I called on him to see him in his own house.

Q You say you worked for him eight years ago?

A Yes, sir.

Q Did you work upon buildings that he had contracts for since that time?

A No, sir; he had not been working much for some seven or eight years.

Q Who did the business at the time, who transacted the business actively, at the time you worked for Mr. Slack?

40 A The son George generally done the business for him.

Q Did you have any conversation with Mr. Slack

relative to the conduct of the business by the son within the last three or four years?

A No, sir; I never had any conversation with him about his son, about his business.

*Cross-examination by Mr. Walker.*

Q You were a personal friend of George H. Slack's?

A Yes, sir.

Q This visit you paid him at his house in August— was a year ago last August? 10

A Yes, sir.

Q That was a friendly visit you paid him?

A Yes, sir.

Q And hadn't anything to do with business?

A No, sir.

Q And there was no business talk at all?

A No, sir.

Q He had given up business years before that, hadn't he? 20

A Yes, sir.

Q And you talked on various subjects?

A Yes, sir.

Q Rambling around from one thing to another?

A Yes, sir.

Q But you understood what he said?

A Yes, sir; I understood what he said.

Q And he appeared to understand himself, what he was talking about, didn't he?

A Why, where?

Q At his house up in Bayard street? 30

A He didn't seem to me to know exactly what he talked about for the last three or four years, at times that I talked to him.

Q You understood what he talked about, didn't you?

A Yes, sir.

Q What was there, by what he said that made you think he didn't know what he was talking about?

A Because he was rambling about in his talk from one thing to another.

Q He didn't continue on any one subject very long, 40 is that it?

A Yes, sir; and I knew when he was a very strong

man——

Q But you know he was bodily sick for the last few years of his life, don't you?

A Yes, sir.

Q That his system was weak?

A Yes, sir.

Q And he helped himself around with a cane?

A Yes, sir.

Q And he was a lame man for the last few years?

10

A Yes, sir.

Q Now, what did you talk with him about?

A Nothing in particular.

Q Cannot you mention any subject?

A Just like I merely called to see him, he was an old friend, and I called to see him when he was sick.

Q How long were you in the room with him?

A I suppose half an hour or may be more than that.

Q Is not this the way you came to be in there, that you were passing on the street and Mr. Slack saw you and

20

called to you to come over?

A In Bayard street?

Q Yes?

A No, sir; he was sleeping on the lounge when I went in there.

Q When you talked with him on the porch and talked with him in the Bellevue avenue house, he called to you then as you were passing on the street?

A Yes, sir.

Q You were on the other side of the street?

30

A Yes, sir.

Q And he called to you?

A Yes, sir.

Q How long did you stay there that time?

A An hour or more.

Q What was talked about between you and him at that time?

A Old times.

Q His wife was there, was she not?

A Yes, sir.

Q Can you say anything that he said to you?

40

A No, sir.

Q You cannot say anything that he said to you?

A No, sir; I cannot recollect.

Q And that is true of your visit on Bayard street at the house there, you cannot tell us anything that he said to you?

A No, sir.

Q And the only thing you do recall is that he was rambling in his talk on both occasions?

A Yes, sir; that is all.

10

ROBERT M. SLACK, recalled in rebuttal in behalf of complainants, saith :

*Further examination by Mr. Dawes.*

Q Mrs. Rees testified that she had heard her father say he had deeded this property over to his wife, and that the deeds had subsequently been destroyed—will you state what you know about that transaction?

A My father told me that he had signed everything over to my mother.

20

Q When did he tell you that?

A On one of my visits to Trenton, my mother also told me the same thing.

Q What else did they tell you, what else did your father tell you?

A He told me about the mortgage on the property.

Q Did he tell you what became of those deeds?

A He didn't tell me what became of them, no sir.

Q And you cannot fix the time of that interview.

A No, sir.

30

Q Did he tell you through whom that conveyance was made?

A No, sir; my mother told me that.

Q You need not state what your mother told you—did your mother tell you in the presence of your father?

A Yes, sir.

Q What did your mother tell you in the presence of your father as to that?

A She got Charlie Yeoman to fix them up in some way.

40

Q What else was said about the ownership of the property, if anything?

A My mother said it was her's.

Q What did your father say about that?

A He didn't say anything.

Q Do you know what business transaction it was that caused this property to be put over in your mother?

A No, sir.

*Cross-examination by Mr. Walker.*

10 Q Who was Charlie Yeoman?

A A friend of father's.

Q How old a man was he?

A About eighty years old now.

Q When was this?

A That has been at least ten years ago.

Q Where is Charlie Yeoman now?

A Out in Chambersburg.

Q What was he, a squire?

A I will tell you now how that transaction——

20 Q What was he—a squire?

A No, I don't know what his occupation was, I don't know whether he was a squire or not.

Q Was it not nearer fifteen years than ten years ago?

A It might be, I cannot be sure about that.

Q Then your sister was correct when she said it was between ten and fifteen years ago that this alleged signing over to your mother took place, that is right, is it not?

A She ought to know, she was living there, and I was not living there, I did not know about it.

30

*Re-direct by Mr. Valentine.*

Q What were you going to explain a moment ago?

A The way the transaction was done.

Q Explain it?

A My father deeded this property over to Charlie Yeoman——

*Mr. Walker.* I object to that.

40 *Court.*

Q Who told your?

A He told me.

*Mr. Walker.*

*Q* Who told you?

*A* My father told me.

*Court.*

*Q* Go on, you may explain it?

*A* He was in debt at the time and for a dollar I think he said he transferred it to Mr. Yeoman, and Mr. Yeoman transferred it to my mother, that is how it was done.

10

*Mr. Dawes.*

*Q* Was that told to you in connection with this will your mother made?

*Mr. Walker.* I object to that question as leading.

Objection sustained.

Adjourned to Friday, March twenty-seventh,  
1903, at 10 A. M.

20

FRANCES A. SLACK, a witness produced in behalf of the complainants being duly sworn according to law on her oath, saith :

*Examined by Mr. Dawes.*

- Q You are the wife of George W. Slack ?
- 10 A Yes, sir.
- Q One of the complainants in this suit ?
- A Yes, sir.
- Q And you knew George H. Slack, his father ?
- A Yes, sir.
- Q And how many years did you know him ?
- A About twenty-one years.
- Q And did you know Mrs. Rees ?
- A Yes, sir.
- Q When you first knew your father-in-law, George H.
- 20 Slack, where was he living ?
- A At 46 Bayard street.
- Q And he has continued to live there up to the time he went to live with Mrs. Rees as she testified ?
- A Yes, sir.
- Q Do you know what was the condition of your father during that period of time ?

*Mr. Walker.* I object as calling for a conclusion.

- 30 *Court.* Yes, only give the circumstances, not the conclusion.

*Mr. Dawes.*

- Q How often did you see Mr. Slack in that period of time ?
- A Quite often.
- Q Where would you see him ?
- A At his own home and at my own home.
- Q How frequently would he call at your house ?
- A Very frequently.
- 40 Q Up to what period of time ?
- A Up to about three weeks before he died, that was the last time he came to see us.

Q At that time where was he living?

A At Mrs. Rees', Bellevue avenue.

Q How many times had he been to your house before that time, while living at Mrs. Rees'?

A Not any.

Q And before he went to live at Mrs. Rees', how frequently was he at your home?

A Quite frequently, we had to send for him towards the last, we had to send my son for him, he was so lame, he could not come alone.

10

Q How long did he stay on these occasions.

A Sometimes quite a while and sometimes he would not only stay for a short time.

Q What did you mean by quite a while?

A Well, he would spend the afternoon there sometimes.

Q And how frequently would you be over to his house?

A Well, I was there quite frequently when they were alone and also when Mrs. Rees lived there, the first part of 20 my life with them.

Q What were the relations between you and Mrs. Rees?

A Very good until lately.

Q How recently?

A Until she tried to put her mother in the asylum.

Q Up to that time how were they?

A I never had anything against Mrs. Rees before that time, nothing whatever.

Q When you were at George H. Slack's home, what 30 did you observe as to Mrs. Rees' conduct towards her father and mother?

A Well, sometimes it was pleasant, but more frequently it was not.

Q And will you be a little more particular and state how it was manifested, that is the unkind or unfriendly treatment?

A Well, her and her mother never could get along together, they would quarrel and fight and they would make father mad.

40

Q What did your father say?

A Sometimes he would not say anything and at other

times he would say that if she could not get along better than that with her mother, it would be better for her to go and live by herself in her home.

Q How many times have you heard that?

A Several times, I cannot say how many times.

Q Can you tell about when these times were, I mean by that, were they before or after she attempted to put her mother in the asylum?

A They were before and after also.

10 Q Can you tell how long before that period you heard those remarks made?

A Well, I cannot just tell how long now.

Q What was Mrs. Rees' manner towards them, that is your father and mother?

A Well, she would quarrel and fight with them, she never did use her mother right.

Q What would she was to your father-in-law?

A Well, one word would bring on another, I cannot tell you just exactly what they would say now.

20 Q Was it wrangle back and forth between them?

A Yes, sir; they always were wrangling back and forth, one word would bring on another, and that is the way it was nearly all the time, quarreling and fighting in that way.

Q Did your father-in-law ever talk to you about Mrs. Rees?

A Yes, sir.

Q Will you state what he said?

A Well, he told me—

30

*Mr. Walker.*

Q When?

A When the mother ran away, that was the first time he ever said very much about Mrs. Rees to me.

Q Where was that, that he said that to you?

A In my home at 234 Morris avenue. That was the day she ran away, and he thought she had come to our own house, she told him she was going to our house, but she didn't come to our house, and at one o'clock in the morning  
40 our door bell rang, and my husband got out of bed and looked out the window, and he saw his father—his father stood on the porch, and he asked him what he wanted, and

he said, "George, is your mother here?" and George, he said, "No, she is not here, and she has not been here." And he said, "My God, where has she got to?" and George said, "I don't know, I will come down and let you in, father." And he said, "I wonder if she would take a notion to go to Ella's?" and George said, "I don't know, but I will go and hook up a horse and take you there, we will go down there and see." And well, he went and hooked up the horse and while he was hooking up the horse, he said to me, "Frances, this is Ella's fault, she is my own child, but I hate her for what she has done to her mother." 10

Q Did you hear him make any other remarks about her after that time?

A No, sir; I don't remember any after that time.

Q What was the manner of your father towards your husband, George W. Slack?

A He was very agreeable, until after he went to live at Mrs. Rees' house.

Q And had he ever talked to you anything about your husband? 20

A Yes, sir; often.

Q What did he say?

A Well, he always said that he thought a great deal of him, for what he had done for him, he had always stuck to him, and worked for him and taken care of his business and looked after him ever since he had been old enough—

Q Now, turn your attention to the last visit of your father to your house, did he at that time say anything to you, either about your husband or Ella? 30

A No, sir; he didn't say anything about them, I didn't say anything about them myself and he didn't either, say anything about either one of them. I asked him if he would not come and pay us a visit, and he said he would just as soon as his mind was a little more settled, and he could content himself, he would come and spend a few weeks with us he said.

Q Did he ever say anything to you as to what disposition he wanted to make of his property? 40

*Mr. Walker.* I object to the question as leading.

*Mr. Dawes.* I want the answer, yes or no, only.

*A* Yes, sir; he did.

*Q* Can you fix that time?

*A* No, sir; I cannot fix the time when he said anything about his property.

*Q* As to his death, can you fix it with reference to his death?

10 *A* Well, he——

*Q* Just fix the time, that is all?

*A* Well, he had spoken to me in 1902 about it, that was a year before he died?

*Q* Where was he when he said that to you?

*A* At my home.

*Q* Can you state what he said on that occasion?

*A* Well, he said he had three children, but that George had taken more interest in him than any of the rest and taken care of his business, and if he showed any partiality at all to any of them it would be to him, he said  
20 he wanted to do the right thing by them all.

*Q* What brought that forth?

*A* He was talking about the mother and her condition, and those things, and about George working for him, and that was the main thing that brought it forth.

*Q* Did you know of any unfriendliness between him and George at any time?

*A* I never knew of any unfriendliness between him and George at any time; no, sir—well, not until after he went to  
30 Mrs. Rees' to live; of course, they would have, or did have a little spat about putting my mother in the asylum, that was the only thing at that time that happened between them.

*Q* That was after they went to Mrs. Rees' to live?

*A* Yes, sir; that was after they went to Mrs. Rees' to live?

*Q* Did you hear that?

*A* No, sir.

*Q* You only heard that by being told it?

*A* I was sick at the time in the hospital myself——

40

*Mr. Walker.* I object to that and move to strike out what the witness said, which was hearsay

testimony.

*Witness.* I say I didn't hear it myself.

*Mr. Walker.* You are all right Mrs. Slack, I am not criticising you.

*Court.* It must be stricken out.

*Mr. Dawes.*

*Q* Did you ever hear your father say anything about a will made by his wife? 10

*A* Yes, sir.

*Q* Can you state when you heard him talk about that to you?

*A* Yes, sir.

*Q* When was it?

*A* In February, 1900; I cannot just remember the date.

*Q* What did he say on that occasion?

*A* Well, he said Sarah had made a will.

*Q* Sarah was his wife's name? 20

*A* Yes, sir; and she had willed the old homestead to Ella and everything in it, and he said he did not approve of it, and he said when she got well enough he was going to have the will broke. I don't know whether he ever did or not; that is all I ever heard him say about that.

*Q* And that is the only time?

*A* Yes, sir; that is the only time I ever heard her say anything about that.

*Q* Now, what was your father's condition of health in the last few years of his life? 30

*A* Very poor.

*Q* And how was his mind in the last few years?

*A* That was very poor also.

*Q* Will you state what he did or said that makes you say that?

*A* Well, he would talk to you on a subject and then he would ramble right off into another subject, and he didn't seem to know what he was talking about half the time, and he would be sleepy the biggest part of the time—

*Q* And the last time he visited you, what was his condition of mind then? 40

*A* Well, I don't think there was any—

*Mr. Walker.* I object to the question as calling for a conclusion with the facts to show what his condition of mind was at that time.

*Court.* I will take it. Of course, an opinion amounts to nothing unless the facts are stated to show that there is something to pass the opinion on.

Q What was his condition at that time?

A He was very feeble at that time, we had to go out  
10 to the carriage and help him into the house, I had to fan him when he was in the house and he talked just same as before. If you told him about something, then he would ramble off on to something else, and he would start to cry, and then start off on something else, and he didn't stay very long that day, as he said he felt so bad, he would have to go home again.

Q Did you see him after that?

A No, sir; I never saw him after that, until at the mother's funeral.

20 Q Did you talk to him very much on that occasion?

A No, sir.

Q How did his wife's death affect him?

A He seemed to take it pretty hard.

Q Now, how often did Mrs. Rees visit you?

A Well, Mrs. Rees has not visited me any of the last year.

Q How often before that time did she visit you?

A Well, she visited me quite frequently in 1900 and in the first part of 1901.

30 Q Did she ever talk to you on these occasions about her father and mother?

A Yes, sir.

Q And what did she say about them to you?

A Well, that she went back to the house in 1900, that is when she wanted to put her mother in the asylum, she came to my house quite frequently, she would go to the doctor's and then she would come to my house and try to get me to say that her mother was insane; her mother was not insane then.

40 Q What was it she said?

A She would say, "Didn't I think that mother was insane?" and I said, "No, I didn't think she was insane,"

and she said, "Well, she was, and we would have to put her away, because the doctors said so."

Q Did she say anything to you about her father's condition?

A Yes, sir; she said he was not any better than her mother, only it was in a different form, he was not so violent.

Q Is that all she said about him?

A Yes, sir; all she said about him to me at that time.

Q Did she ever say anything to you about his fitness of doing business? 10

A Yes, sir; she said he was not capable of doing any business at all.

Q When was that?

A I cannot just state when it was she said it, she said it a number of times, I cannot just tell you the dates.

Q Did she ever say anything to you about her mother's will? 20

A No, sir; Mrs. Rees never did; no, sir.

Q Did she ever say anything about the home, the house on Bayard street.

A Well, she told me one day she came to our house, and she said she thought she could get two doctors to my house, and her father and convince him that her mother was not capable of taking care herself, or her home, then she could have it done.

Q What did you say to that?

A I said to her that she could not do that at my home, she had a home of her own, and she ought to do it there and not come to my home to do it. 30

*Court.*

Q She was not living then with her father?

A Yes, sir; she was living there, she hadn't moved away from there yet.

*Mr. Dawes.*

Q Can you fix the time of this last conversation, Mrs. Slack? 40

A I cannot fix the date, it was in 1901, but I cannot

tell the date.

Q Did she tell you anything about Dr. Leavitt on that occasion ?

A Yes, sir ; she told me that Dr. Leavitt had said that her mother was insane, and then she told me that a number of times, in fact every time she came she said she had been to the doctor's.

Q And did she say where he had told her that ?

A Yes, sir ; in his own office.

10 Q And did she tell you how she came to go there ?

A Well, yes, sir ; she told me she went there for that purpose, to ask him.

Q Did Mrs. Rees and her mother ever meet at your house ?

A Yes, sir.

Q Can you state when ?

A I can, yes, sir ; it was in 1901, I cannot tell you the date any nearer than that.

Q How did they come to meet there ?

20 A Well, Mrs. Rees was to my house that day, she had been to the doctor's and she came to my house and she sat right by a side door near the window in the front, and she was talking to me about her mother, and she happened to look up and she saw her mother coming, and she jumped up and ran out and hid herself, until one of my children could take her wraps out to her, and then she went home.

Q And where did she hide ?

A Well, out in the yard somewhere.

30 Q Did she tell you why she didn't want to meet her mother ?

A No, sir ; she didn't tell me why she didn't want to meet her mother.

Q Did her mother see her at that time ?

A No, sir ; her mother didn't see her.

A Did you tell your mother-in-law of Mrs. Rees' coming out when she came ?

*Mr. Walker.* I object to that—what she told her mother.

40 Objection sustained.

*Cross-examination by Mr. Walker.*

Q How long have you been married to George W. Slack?

A Eighteen years.

Q You said your father-in-law paid you frequent visits to your house during all the time you were married up to the time he went to live on Bellevue avenue?

A Yes, sir; but I lived at my father-in-law's house for three years after I was married first.

Q Was Mrs. Rees living there at the same time?

A Yes, sir.

10

Q And do you mean to say that during the three years you lived there, Mrs. Rees didn't get along well with her father and mother?

A No, sir; she didn't get along at all well with her father and mother, not as she ought to.

Q Did you get along with them better than she did?

A Yes, sir.

Q Are you sure of that?

A Yes, sir; I am sure of that?

Q And still she stayed there?

20

A Yes, sir; she stayed there, but it was not very pleasant for them.

Q And she was there when you left?

A Yes.

Q And remained a good many years after you left there?

A Yes, sir.

Q How did you come to leave?

A Oh, I wanted to go to my own home, that was the only reason I left.

30

Q You wanted to go to housekeeping?

A Yes, sir.

Q And you had no other reason?

A No, sir.

Q Your father-in-law never asked you to go, did he?

A No, sir; he never did ask us to go.

Q Or mother either?

A No, sir; I went of my own accord entirely.

Q Now, on this occasion that your father called at your house, at one o'clock in the morning and wanted to know if your mother was there, that was before she was taken to the asylum, was it not?

40

- A Yes, sir.
- Q That was when she wandered off that one time?
- A Yes, sir.
- Q Do you remember where she was found?
- A Yes, sir.
- Q Where?
- A She was found in the river at Washington's Crossing.
- Q Not in the river?
- 10 A Yes, sir.
- Q At Washington's Crossing?
- A Yes, sir.
- Q Was it day-time or night-time?
- A At eight o'clock next morning.
- Q By whom was she found?
- A I don't know the gentleman's name, but he sets traps for muskrats, and he found her there.
- Q Did she wade out in the river?
- A She must have waded out in the river, she was
- 20 found in the river.
- Q And she was brought to Trenton?
- A When found she was taken to a farm house first and her clothing dried, and given something warm to drink, and then she was sent back to Trenton.
- Q How long before she was sent to the asylum was that?
- A Some seven or eight months.
- Q Seven or eight months?
- A Yes, sir; I think it was.
- 30 Q She was insane then, was she not?
- A I think she was a little insane then.
- Q And had been for sometime before that, hadn't she?
- A No, sir; not very long.
- Q Really you don't know anything about it, do you?
- A I know a little bit about her, she came to my house more than she went anywhere else.
- Q Did your husband take his father up to Mrs. Rees' that night?
- 40 A Yes, sir.
- Q To find out what?
- A To find out whether she was there or not.

Q He was living at Bayard street, and she was living at Bellevue avenue at that time, was she not?

A Yes, sir.

Q And your father lived on Bayard street?

A Yes, sir.

Q And you know as a fact your mother was placed in the asylum at the request of your father, don't you?

A No, sir; I do not.

Q You heard it, didn't you?

A Yes, I heard it, but I don't know it as a fact.

10

Q She was placed there upon the certificates of Drs. MacKenzie and Leavitt?

A Yes, sir; that is what I heard.

Q Now, you say your father said when his mind was a little more settled, he would come and see you—when did he make that remark?

A The last time he came to see me.

Q When was that?

A Three or four weeks before he died.

Q His mind was a little unsettled then on account of 20 his wife being unfriendly or insane, and in the asylum?

A No, sir; I don't think so.

Q On what account do you think it was?

A Well, because he was always that way for a number of years before.

Q There was nothing strange about the remark he made, they were perfectly intelligible, were they not?

A Some were and some not.

Q Didn't you regard his actions and remarks, the night that he came to your house at one o'clock, his re- 30 marks as being perfectly natural and free from any kind of dementia or mental trouble?

A Some of them were and some not.

Q Although your father was mentally gone as you say, and went from one thing to another, nevertheless some of the things he said were perfectly well to be understood?

A Well, you understood some few of them.

Q He appeared to understand some of the things he was saying?

A Sometimes.

40

Q You know don't you that when word was received in Trenton that Mrs. Slack, your mother, was found to be at

Washington's Crossing, that Mrs. Rees got dry clothes together and got the wagon and started out to get them to her?

A I don't know it, no sir.

Q You heard that, didn't you?

A I heard people say so, but I didn't know anything about it myself.

Q Where was Mrs. Slack taken when she was brought home from up the river?

10 A To her own home.

Q On Bayard street?

A Yes, sir.

Q Mrs. Rees was living there then, was she not?

A No, sir.

Q She went there and took care of it for some six weeks, didn't she?

A I heard she did——

Q You heard that she went and took care of her for six weeks or more?

20 A Yes, sir.

Q And didn't you visit the house after the old lady was brought back?

A Yes, once.

Q And Mrs. Rees was there, was she not?

A Yes, sir; she was there that Sunday afternoon, yes, sir; she was there.

*Re-direct by Mr. Dawes.*

30 Q On the night that George H. Slack died, were you home that evening at your own home?

A Yes, sir.

Q At what time was the first message received there, as to your father's condition?

A Twelve o'clock.

Q And how was that received?

A By telephone.

Q From whom?

A From Mrs. Snook, I believe.

Q And when was the next message received?

40 A At 12:45.

Q How was it received?

A By telegraph despatch.

Q How received ?

A By a messenger boy.

Q Before that twelve o'clock message—that was the first message ?

A Yes, sir.

Q Did you ever hear your father say anything as to George robbing him ?

A No, sir ; never.

Q Did he ever say he had been told that ?

A Yes, sir ; he told me he had been told that, but he 10 didn't believe it.

Q State what he said about that ?

A Well, he told me that Ella had told him or tried to make him believe a great many times that George was robbing him. But he said he didn't believe it, nobody could make him believe that he robbed him.

Q When did he tell you that ?

A Well, he told me that the night that the mother went away, for one time, and he told me a great many 20 times.

Q When was the last time ?

A That was the last time, the night the mother wandered away.

ALFRED K. LEUCKEL, a witness produced in behalf of the complainants being duly sworn according to law on his oath saith :

*Examined by Mr. Valentine.*

30

Q Where do you live ?

A 316 Hamilton avenue.

Q And you are in business in Trenton ?

A Yes, sir.

Q What is that business ?

A The manufacture and sale of dressed sash and blinds, builders' mill work it is called.

Q Did you know George H. Slack in his life-time ?

A Yes, sir.

Q How long have you known him ?

40

A Ever since I have been in business, I think from 1892 until within a year or so of his death.

Q How frequently did you meet him during that period?

A Not very frequently.

Q How did you become acquainted with him at first?

A Through his coming to my office to obtain estimates on work.

Q Did you do business with him generally?

A I did business mostly with his son, George W. Slack.

10 Q What was Mr. Slack's business?

A Contractor and builder.

Q During the year 1899, 1900 and 1901 how frequently did you see Mr. Slack?

A Well, in the year 1900 I think I must have seen him several times, but after that I can only recall two or three times.

Q Generally speaking where would you see him when you did meet him?

A At my office.

20 Q Recall, if you can, when and where you saw him, and what took place when you did see him during the latter days of his life.

A He came in very seldom during the latter part of his life, as I said before his son transacted the business for him.

Q Which son?

A George W. Slack, he would bring the lists for estimates, and would look after the material being sent to the job, and would finally come with the check in payment  
30 for the account, signed by George H. Slack.

Q By his father, George H. Slack?

A Yes, sir; by his father.

Q Were the bills ever paid in any other way than by check, to your own knowledge?

A No, sir.

Q From your observation, what was the relationship existing between the father and the son, George W. Slack?

A I should say it was most cordial, I did not know anything to the contrary.

40 Q Did you call upon George H. Slack at his home some months before his death?

A Yes, sir; on several occasions.

Q What were the occasions ?

A I went there to ask him about a bill due me, for about the last job that stood in his name.

Q At whose direction did you call upon him ?

A I had called George W. Slack's attention to this bill, knowing that he had transacted his father's business to a certain extent, and he told me that that was his father's bill, and he said, " You know I am in business for myself, from the date of the Perry street job, and that is his bill, and he will pay you," and I went to see him to have it paid. 10

Q What took place then ?

A On both occasions I found him lying down, this was right in the afternoon, probably two or three o'clock in the afternoon, and I saw him and Mr. Slack acknowledged the debt and he said he would attend to it. And the second time I went to see him, he did not recognize me at first, and it was necessary for me to tell him who I was, and what my business was, and what I wanted with him, and then he said he would attend to the bill, but he never did.

Q Did you present that bill on any other occasion ? 20

A Well, I had sent my statement of the account, being a balance, which is our business usage, every month.

Q Had you sent him that bill after he removed from Bayard street ?

A Yes, sir ; I put it in an attorney's hands for collection.

Q And the bill you spoke of, is that the same bill that is still owing and was owing at the time of his death ?

A Yes, sir.

Q And what was the condition of Mr. Slack—— 30

*Court.*

Q What was this bill for ?

A It was the balance of a contract for a house on Barclay avenue, the balance due on the amount of the contract was \$76 and some cents at that time. Immediately afterwards Mr. George W. Slack entered into business for himself, and he has paid his own bills ever since.

Q And this was charged to the old gentleman ?

A All the business was charged to George H. Slack 40 at that time, although it was transacted by George W. Slack principally.

*Mr. Valentine.*

Q And in the usual course of your business I understood you to say you had mailed a bill to the old gentleman every month for some time?

A That is our course of business, yes, sir.

Q And up to the time of his death?

A I don't know that it was done up to the time of his  
10 death, but up to the time we put it into the hands of an attorney to collect.

Q From your knowledge of the man and your observation of the man during these years, what would you say as to his physical and mental condition?

A I noticed a gradual decline in his physical condition, and he certainly was growing very feeble toward the last. He came into my office at one time, after his son, George W. Slack, was doing business in his own name, he came into my office one day for no apparent reason at all,  
20 he had no business with us at all and unless it was a friendly call, but I asked him how his health was, and he said it was better he supposed, and I asked him how he was every time he did come—

Q And what was his reply?

A Well, he said he thought he was getting better, he always said he thought he was getting better, but I noticed that there was a gradual decline, he was not getting any better at all, I thought on the other hand that there was a gradual but decided decline.

30 Q In your opinion was Mr. Slack during his later of his life, say the last two or three years, competent to do any business at all?

A Well, from the fact that he did not do any business with me for the last two years of his life, I would not say that he was.

Q From your observation of his mental and physical condition, would you say that you could safely, as a business man, have transacted business or entered into contracts with him?

40 A Do you mean from a monetary standpoint or not?

Q I mean as to his responsibility for those contracts or for his actions?

*Mr. Walker.* I object to the question as being too ambiguous.

Question withdrawn.

Q Did you notice a gradual decline in his mental condition?

A Well, there was certainly a gradual decline in his physical condition, and I would say also in his mental condition, for the fact that he did not recognize me the last time I went to see me—I only saw him two or three times in the latter part of his life. 10

*Cross-examination by Mr. Walker.*

Q When you last called on him at the house he was lying down, was he not?

A Yes, sir.

Q And the shades were pulled down and the room somewhat darkened?

A I think the light was admitted from a rear door, the window shade was up in the rear but the front part was down, that is true. 20

Q It was not a very bright light in the room?

A He could see who I was, I could see him very distinctly, and I imagine he could see me.

Q Could you see him distinctly enough to recognize his features?

A Oh, yes, sir; because he got up, he got up to the light and changed his position, and sat down at his desk.

Q What time of the day was it?

A I said between two and three o'clock, somewhere between those hours. 30

Q Do you know whether he had just had his dinner or not?

A I cannot say as to that.

Q You don't know whether his stupidity was the result or effect of a hearty meal, or not?

A There was no signs of a meal in the room.

Q You do not know as to that?

A No, sir.

Q The mere fact that he did not do business with you for the last two years of his life, or for two years before his death, did not make you think that he did not have any 40

mental capacity to transact business, did it?

A I did not say that he did not have the mental capacity to transact business in the last two years of his life, but I said he did not transact any business with me for two or three years.

Q A number of men retire from active participation in business in the later years of their life, do they not?

A Yes, sir; and some do not retire at all; I can name some that continued doing business up to the last, S.  
10 K. Wilson, for instance.

ANDREW JOHNSON, being recalled in behalf of complainants, saith:

*Examined by Mr. Valentine.*

Q You said that you met Mr. George H. Slack four, five or six months before his death and had a conversation with him at the street corner?

20 A Yes, sir.

Q I failed to ask you what that conversation was—I ask you now to state to the Court what that conversation was, where it was and how it started?

A We stood and talked a while on the street corner and I asked him when he had seen George and he said, "I haven't seen him for some time, the one I think most of does not come to see me often."

*Cross-examination by Mr. Walker.*

30 Q He said the one that he thought the most of did not come up to see him?

A He said, "I haven't seen George for some time, the one I think most of does not come to see me often"—that is what he said.

HAMLET SMITH, a witness produced in behalf of the complainants being duly sworn according to law on his oath, saith:

40 *Examined by Mr. Valentine.*

Q What is your business?

A A grocer.

Q And where do you carry on that business?

A 528 South Clinton avenue, at the corner of Clinton avenue and Bayard street.

Q Did you know George H. Slack in his life-time?

A I did.

Q How long have you known him?

A I should say for about twenty-eight years.

Q And how long have you been in business at the place you mention?

10

A Ever since 1886.

Q How frequently did you meet Mr. Slack in his life-time?

A Well, I used to see him almost every day passing and repassing.

Q Did you have any business relations with him?

A Not with him; no, sir.

Q Did you talk with him frequently?

A Very frequently; yes, sir.

Q How frequently?

20

A Well, almost every time he passed, when I happened to see him.

Q How frequently would that would—every day or every week or so?

A Every day or two, and perhaps every week or so, sometimes I would not see him and other times I would see him every day.

Q Did you notice his physical condition?

A His physical condition up to within the last few, the last two or three years of his life, seemed as good as the average man's physical condition, it seemed to be all right.

Q What was it up to the last two or three years?

A Failing gradually, increasing lameness, a difficulty in walking about.

Q And what was his mental condition as you observed anything to indicate it?

A Well, for the last year or so it was, in my estimation, weakening.

Q What do you base that upon?

40

A Well, sometimes you would ask him a question on one subject, and he would answer quite on another subject,

a different answer altogether from what you would expect.

Q Did you have any conversation with him respecting his son, George W. Slack?

A No, sir.

Q Or respecting his family affairs?

A No, sir.

Q Did he ever talk with you about his affairs?

A No, sir?

10 *Cross-examination by Mr. Walker.*

Q You say, do you, that in your judgment Mr. Slack's mental condition weakened during the last few years of his life?

A It seemed to me to do so; yes, sir.

Q You do not know to what extent it weakened—you do not know how weak it became?

A Oh, dear, no.

Q You don't know whether it became so impaired as to render him incapable of transacting his business affairs?

20 A Well, in my estimation, I do not think he was hardly capable of managing his own affairs because at night time he comes to the outside of my store—I generally had a seat there—and he would come out there and talk sometimes, and you would talk to him and he would not take any notice of you at all, not the slightest, he appeared to be altogether away, thinking of something else.

Q Then, in your opinion, he was not capable of any sustained mental exertion, that is he could not do business all day long, could he?

30 A No, sir; he certainly could not.

Q You would not say though that he could not transact some little affairs that would take as hort space of time and a few words only?

A Well, possibly he might be able to do that much.

JOSEPH B. ATCHLEY, a witness produced in behalf of the complainants being duly sworn according to law on his oath, saith:

40

*Examined by Mr. Dawes.*

Q Where do you live and what is your business?

A I live at 222 Morris avenue, and I am a milkman.

Q How long have you served milk ?

A Eight years the 13th of next August ?

Q Did you know George H. Slack ?

A Yes, sir.

Q How long had you known him ?

A Eight years the 13th of next August—well, perhaps not eight years—I served a month or six weeks before I knew Mr. Slack.

Q Did you serve him with milk ?

10

A Him and wife.

Q At their home ?

A Yes, sir ; at their home in Bayard street.

Q How long did you serve him with milk ?

A I served him with milk until, perhaps, six or eight months after Mrs. Slack went to the river, I don't know what date that was.

Q How long before he moved away from Bayard street was that ?

A Eight years next August.

20

Q You don't understand my question—how long did you continue to serve him with milk, up to what time ?

A Until he went up to Mrs. Rees'.

Q Did you see him often ?

A Well, the first three to four years I did not, but the last year or year and a half I seen him quite frequently, perhaps once or twice a week.

Q And talked with him on those occasions ?

A Mostly, just a few words.

Q And who paid you for the milk ?

30

A Well, Mrs. Slack paid me until she went up the river, and then when she came back Mr. Slack paid me.

Q Did you notice any peculiarity about him ?

A About Mr. Slack ?

Q Yes ?

A I noticed this : At times Mr. Slack would pay me, never exceeding a dollar but once ; he would give it to me, and talk, perhaps, ten or fifteen minutes, and then he would ask me if he had paid me, he would forget that he had paid me.

40

Q How often would this occur ?

A Well, I cannot say how often it would occur, but

it did occur several different times. One time he paid me with a check that came from the Inter-State Fair Association, \$1.40 or something, and the next morning I went in there and he wanted to know if he had not given me a check for \$14, and I said, "No," and I had the check in my pocket, and I showed it to him.

Q What have you to say as to his mental condition?

A Well, I don't know about his mental condition, but he was very forgetful.

10 Q How was his mind in the last part of his life, as you knew it compared with what you thought it was when you first began to serve him with milk?

A Different altogether.

Q In what way?

A He was much brighter in every way the first part when I began to serve him with milk than he was towards the last.

*Mr. Dawes.*

20 Q Do you know anything about the relationship existing between Mr. Slack and Mrs. Rees?

A The old gentleman and Mrs. Rees?

Q Yes?

A Well, once after they done some repairing, Mrs. Rees was back there, and Mrs. Rees went away, that is she went away and came back again and then she went away again, and then Mr. Slack he said to me one morning, "This business has cost me a lot for repairing, and I would not have done it if she had not come back, and she has  
30 gone away again now."

Q Did you know anything about Mr. Slack saying anything about George?

A Only that Mr. Slack would say, "I will give you some money to-morrow morning, when I get some money from George." That is all I know that he said about George.

No cross-examination.

40

RACHEL M. YEOMAN, a witness produced in behalf of complainants being duly sworn according to law on

her oath, saith

*Examined by Mr. Valentine.*

Q Where do you live?

A Whittaker avenue, No. 721.

Q How long have you lived in Trenton?

A About thirty-two years.

Q Did you know George H. Slack in his life-time?

A Yes, sir; I knew him a good many years, ever  
since we have lived here, in fact.

10

Q How frequently did you see him?

A Well, for the last few years back, I seen him every  
day, and sometimes two or three times, he would come to  
my house to see Mr. Yoeman.

Q Mr. Yoeman and he were great friends?

A They were always great friends.

Q How long has he been a frequent visitor to your  
house?

A Ever since we lived there, or ever since we got  
acquainted.

20

Q How old are you?

A I will be 72 on the 12th of July.

Q Where is your husband?

A He is sick abed.

Q Now?

A Yes, sir; he has been down sick for ten weeks  
last Monday.

Q Do you know Mrs. Rees, the daughter of Mr.  
Slack?

A Yes, sir.

30

Q And do you know his sons, George W. and Robert  
Slack?

A Yes, sir; I know them both.

Q Did you have any conversation with Mr. Slack re-  
specting his family affairs, in recent years?

A No, sir; I did not, because he never talked much  
with me.

Q Did Mr. Slack talk with you respecting any family  
troubles?

A Nothing but once.

40

Q What was that and when was it?

A Really, I cannot tell you just how long it was. It

seems he was lying on the couch sleeping in the dining-room and Mrs. Rees came in and commenced to abuse her mother terribly——

*Mr. Walker.*

Q How do you know?

A Mr. Slack came in and told me, and he said he could hardly stand it, but when her daughter came in and commenced to abuse her he could not stand it——

10 Q What do you mean?

A Why, when she commenced jawing at her mother he said he could not stand it, and he said that if they were not satisfied, or it was suitable there for them, they were to get out, that is what he told me he said, I did not see it or hear it.

*Mr. Valentine.*

Q Did you have any other conversation with Mr. Slack respecting the conduct and relations with his daughter——

20

*Court.* Will you fix the time of this conversation?

*Mr. Valentine.*

Q Can you tell us about when this visit was, when the father ordered the daughter to leave the house?

A Really, I cannot tell you when it was.

Q About a year or two ago?

A Oh, yes, sir.

30

*Court.*

Q Did you hear of her mother going to the asylum?

A Yes, sir.

Q How long before that was it?

A Two or three years.

Q You know of these properties on Bayard street?

A Yes, sir.

*Mr. Valentine.*

40 Q Have you any knowledge of any transfer of this property to Mrs. Slack?

A Nothing more than I have heard people say.

Q I don't want what you heard people say?

A Well, I say they did not say anything to me about it.

Q Do you know whether or not your husband had the title to these properties at any time?

*Mr. Walker.* I object to the question as calling for a question of law, and besides it has been testified here that there were some deeds and the contents of these written instruments cannot be proved 10 in this way.

*Mr. Valentine.* I will put the question in another shape.

Q Do you know whether or not your husband had a deed to the property?

*Mr. Walker.* I object to the question as incompetent.

*Court.* The question is competent, I will take it. 20

A I never seen it if he did.

Q Did you ever sign a deed for this property?

A No, sir.

Q What is your husband's first name?

A Charles.

Q And you have been married how long?

A I have been married fifty-two years on the ninth day of April.

Q Did George H. Slack ever tell you anything concerning the transfer of those properties? 30

A No, sir.

Q And anything you may know concerning any transfers of this property came only from your husband—is that right?

A Only from my husband.

Q You cannot tell that—who did the business, who carried on the business as a fact for George H. Slack—if you know—who carried on the contracting business?

A Why George H. Slack, as far as I know. 40

Q You don't know who did the work?

A No, sir.

Q Do you know anything concerning the relationship existing between George W. Slack and George H. Slack, his father ?

A No, sir ; I never heard Mr. Slack discuss.

Q And he was a frequent visitor at your house ?

A Yes, sir.

Q Is your husband any better to-day ?

A Well, he was not when I came away, he may be a little better when I go home.

10 Q How old is your husband ?

A He will be 75 years old on the first of May.

No cross-examination.

ALICE CHEATLE, a witness produced in behalf of the complainants being duly sworn according to law on her oath, saith :

20 *Examined by Mr. Valentine.*

Q Where do you live ?

A 201 Bayard street.

Q Do you know or did you know George H. Slack in his life-time ?

A Yes, sir.

Q How long did you know him ?

A Well, I have known him I guess 25 years, ever since we lived there.

Q And did you know his wife, Sarah ?

30 A Yes, sir.

Q And do you know Mrs. Rees and the boys ?

A Yes, sir.

Q George W. and Robert Slack ?

A Yes, sir.

Q Did you ever have any conversation with Mr. Slack respecting his family affairs ?

A No, sir.

Q With Mr. Slack ?

A Mr. Slack has spoken to me.

40 Q With respect to what, and when was it ?

*Mr. Walker.* I object to the question as in-

competent and irrelevant.

Question withdrawn.

Q Have you visited the home of the Slacks?

A Yes, sir.

Q How frequently?

A Not very often of late.

Q And who would be there?

A Mrs. Slack.

Q And who else?

10

A Mr. Slack.

Q And who else?

A Ella.

Q What have you observed as to the relationship existing between mother and daughter and father and daughter?

A Well, I never saw very much of it, I did not go very often, but I never saw anything when I was there particularly.

Q Did you have any conversation with Mrs. Rees 20  
respecting her affairs?

A Well, she told me how bad her mother was getting, how crazy she was getting, and how she would never be able to get along with her, and that she would have to be put away.

Q Did she say anything respecting her father?

A Well, she looked over to her father and she said, "Look at the creature," and he sat in the corner as if he never noticed very much—

Q What do you mean by that?

30

A Well, he appeared to take no notice whatever or to know anything and she seemed to pity him for his condition.

Q Because of what?

A Because he was so full of trouble and down-cast, and he did not notice me at all.

Q What have you to say as to his mental condition?

A I should not think his mental condition was very good from the way he acted that day that I was there.

Q And did Mrs. Rees talk to you of his mental con- 40  
dition?

A No, sir; I don't think she did, that day.

Q Did she talk to you of his physical condition ?

A Well, she said he was very bad, and she spoke of several different things, that he could not help himself in the night, and a great deal of trouble she had with him.

Q Did you have any conversation with Mrs. Rees respecting George's treatment of his father in business ?

A No, sir.

Q Did Mrs. Rees ever tell you that George had robbed his father ?

10

*Mr. Walker.* I object to the question; the witness has just said that she had no conversation with Mrs. Rees about George.

Objection sustained.

MARY A. CONOVER, a witness produced in behalf of the complainants, being duly sworn according to law, on her oath, saith :

20

*Examined by Mr. Dawes.*

Q Where do you live ?

A 48 Bayard street.

Q Are you a tenant of one of the houses in question ?

A Yes, sir.

Q How long have you lived there ?

A Three years the 18th of this May.

Q Whom did you rent of ?

A Mr. Slack ?

30

Q Which Mr. Slack ?

A George H. Slack, the father.

Q And you are still living there ?

A Yes, sir.

Q And whom have you paid your rent to, since you lived there ?

A To Mr. Slack.

Q George H. Slack ?

A Yes, sir; when living—the father.

Q And since his death to whom ?

40

A To Mr. Godshalk.

Q Counsel here ?

A Yes, sir.

Q Were you in the Slack home much ?

A No, sir.

Q How often have you been in there ?

A I cannot answer that question, I do not know, I did not keep any account of it ?

Q But you have been there ?

A Yes, sir.

Q And were there in and out ?

A Not very much, no, sir ; I was not in the house very much.

Q Did you ever see Mrs. Rees there ?

A Yes, sir.

Q Did you ever hear any wrangle or quarrels between Mr. Slack and Mrs. Rees ?

A No, sir.

Q While you were there ?

A No, sir.

Q Did you ever hear the old gentleman say anything about—

A No, sir ; I had very little conversation ever with Mr. Slack.

Q Did you ever hear any quarrels in that household while you were living there ?

A No, sir.

Q You say you paid your rent to Mr. George H. Slack while he lived ?

A I paid my rent to Mr. Slack, the gentleman who owned the house.

Q Would he come after it ?

A I took it to him.

Q And did he write receipts ?

A He gave me his personal receipt ; yes, sir.

Q Who wrote the receipts ?

A My daughter wrote the receipts and he signed them.

Q And that was the extent of your business relations with him ?

A Yes, sir.

No cross-examination.

JOHN M. BENDEL, a witness produced in behalf of the complainants being duly sworn according to law on his oath, saith :

*Examined by Mr. Dawes.*

Q Where do you live ?

A 148 Hamilton avenue.

Q What is your business ?

A House furnishing business.

10 Q Did you know George H. Slack in his life-time ?

A Yes, sir.

Q Did you ever have any business relations with him ?

A Yes, sir.

Q What were those relations and when ?

A I stabled in the rear of his property.

Q When was that ?

A Well, for the last four years I guess.

Q And continued so up to the time of his death ?

A Yes, sir.

20 Q How often did you see Mr. Slack in the last four years ?

A Very often.

Q Did you talk with him ?

A Occasionally.

Q And what was his talk, what was the character of his conversation ?

A Well, I cannot hardly say anything, no difference in the way he talked, with the exception that he seemed to act queer once or twice.

30 Q Was he a bright man, or was his mind declining ?

*Mr. Walker.* I object to the question as leading.

Objection sustained.

Q What were your business relations with him ?

A I rented the rear stable of him.

Q How did he conduct himself in that respect with you ?

40 A Well, the first month after I paid him my rent, everything was all right, and when I came to pay the second month's rent, why he raised on me——

Q What do you mean by that?

A He raised the rent. We made an agreement and when I used to go there to pay I was to pay so much, and when I came to pay the second month's rent he snapped me up and said, "Here, I want so much or nothing."

Q Is that all you observed about it, what have you to say about his mind?

A Well, when I laid the money down he said, "Here, this won't do, I want more money"——

Q Why did he say he wanted more money? 10

A He said he wanted two dollars, and I told him he said I could have it for a dollar and a half, and he said it was nothing of the kind.

Q That was the second month?

A Yes, sir; I believe it was.

Q What did he do the third month?

A Well, I paid the rent regularly until the last year and then he wanted to raise it again, the same way.

Q Is that all?

A Yes, sir; that is all. 20

Q Now, you have stated—what did you say was the condition of his mind in the last two years?

A It always seemed all right, until the last six months, when it seemed to be a little different.

Q In what respect?

A He didn't seem to get around the way he used to, and didn't seem to act quite the same.

Q How would he act in the last six months?

A Well, he never had much to say to you, and before that he used to talk quite a little. 30

Q And did you see him after he went up to Mrs. Rees'?

A Yes, sir; on two occasions.

Q Where was he on those occasions?

A Well, one morning he hadn't got up yet——

Q Did you go up to the house?

A Yes, sir; I paid the rent up there.

No cross-examination.

half of the complainants being duly sworn according to law on her oath, saith :

*Examined by Mr. Valentine.*

Q Where do you live ?

A 40 Bayard street, Trenton.

Q Did you know George H. Slack in his life-time ?

A Yes, sir.

Q And his wife, Sarah Slack ?

10 A Yes, sir.

Q And did you know Mrs. Rees, or do you know her ?

A Yes, sir.

Q And his sons, George and Robert ?

A Yes, sir.

Q How long have you known Mr. Slack ?

A About thirty years.

Q Did you frequently see him during the past few years ?

A Yes.

20 Q When ?

A As he walked up and down the street.

Q Was he a visitor to your house ?

A No, sir.

Q Did you have conversations with him ?

A No, sir.

Q What was his physical condition ?

A I thought it was very weak.

Q Had you any conversations with Mrs. Rees ?

A No, sir.

30 Q You say you did not have any conversations with Mr. Slack ?

A No, sir.

Q Did you visit their house ?

A No, sir.

*Mr. Dawes.*

Q You met him on the street sometimes ?

A Yes, sir.

40 *Mr. Walker.* I object to two counsel examining the same witness.

*Mr. Dawes.* That is all.

No cross-examination.

Complainants rest.

ELIZA ELLA REES, recalled in her own behalf,  
saith :

*Examined by Mr. Walker.*

10

Q You saw and heard Mrs. George W. Slack while on the witness stand ?

A Yes, sir.

Q Did you say to her that your father was no better than your mother ?

A No, sir.

Q But in a different form, and that he was not capable of doing any business ?

A No, sir ; I said he was capable, and that it was hard for me to get along.

20

Q Did you say to her that you could have the Bayard street if the doctors would make a certificate that your mother was insane ?

A No, sir.

Q In 1891 did you run out of George W. Slack's house when your mother came in ?

A Yes, sir.

Q Why did you do that ?

A Because after she was insane she followed me around wherever I went, and I didn't want to have any fuss with her, and I simply went out.

30

Q Was your mother insane then ?

A Oh, yes, sir.

Q When first did you notice that she was insane ?

A It was ten years ago when I first noticed it and she used to have those spells quite frequently off and on, that was the time I moved back home, I could not stay there any longer.

Q When you heard your mother had been found in the river what did you do ?

40

A I got up at two o'clock in the morning and walked out to the home of my father and waited there for her and

then I prepared some dry clothing and started up the river to see if we could find her——

Q Did you find her?

A I found her, but I passed her on the way up first, but we found her afterwards.

*Cross-examination by Mr. Valentine.*

Q You walked out home with your father that night when he came out there to your house?

10 A No, sir; with my husband.

Q What time was that?

A Two o'clock in the morning.

Q Do you consider this giving of this property to you by your father, a fair transaction?

*Mr. Walker.* I object to that as irrelevant and incompetent.

Objection sustained.

20

WILLIAM G. SLACK, a witness produced in behalf of the defendants, being duly sworn according to law, on his oath, saith:

*Examined by Mr. Walker.*

Q You were a brother of George H. Slack, deceased?

A Yes, sir.

Q And you know his children, of course?

A Yes, sir.

30 Q Did your brother, George H. Slack, ever have any conversation with you concerning due from him to A. K. Leuckel?

A Yes, sir.

Q When was that?

A It was on the 20th of July.

Q What year?

A 1902.

Q Last July?

A Yes, sir.

40 Q What did he say to you about that bill?

A He said he had paid it, that he gave the money to George.

Q What George?

A My nephew, George; he said he had given his son, George, the money.

Q What else did he say about it?

A He told me he had given him money and he had "wild-catted" him.

Q Did he say anything about that bill to you on more than one occasion?

A Yes, sir.

Q Before that?

10

A Before that—well, just one night I was over there before the 20th of July, but I don't know what night that was.

Q What did he say?

A He said he could swear he gave George the money.

Q Anything else?

A Yes, lots else. He told me that George had always wronged him, and his mother would not have been the way she was if it hadn't been for him.

Q Did your brother ever have any conversation with you as to what disposition he proposed making of his property?

20

A Yes, sir.

Q If so, when and where?

A He told me that on the 20th of July, I was sitting out on the porch with him.

Q What did he say?

A He said he knowed just what he was going to do, and I told my brother, I said, "You know best."

Q What further did he say?

30

A Well, of course, there was not much more said, because I would not enter into no conversation with him about it, I thought it was his own children and I didn't want to mix in with it at all. But later on he said a great-deal more, the last time I was with my brother.

Q When was that?

A That was on the 11th.

Q The 11th of what?

A The 11th of August.

Q Was that the day of his wife's funeral?

40

A Yes, sir.

Q Was this after the funeral or before?

A This was after the funeral of his wife, after we came back to the house.

Q What did he say to you?

A I told him that I was going away, from my business, and I came here to go to the funeral, and he told me that he wanted to see me especially, he said he wanted to fix things, he said he knowed just what he was going to do, and that Ella was the only child—

Q Where was this you had this conversation?

10 A This was right in his own home, sitting right on the lounge with me, he was down-hearted and I went there to try and cheer him up a bit.

Q Where was this home you speak of?

A His home was on Bellevue avenue, that is where he lived, and it was his home, of course; he was living with his daughter at that time.

Q Did you see your brother frequently during the last few years of his life?

A Yes, sir.

20 Q What was his physical condition during the last few years of his life?

A Well, he lost the power of his limbs, but his mind was sensible, and he came down there on the corner once, and I have met him on business day after day, but not so much of late years because he did not get out as much, but when he came down town, he always came to see me.

Q You had frequent conversations with him during the last few years of his life?

30 A Yes, sir; lots of them. I went to see him, whenever I was out that way with the wagon, I would stop into see him at his own home.

Q What would you talk about?

A The business in contracting and one thing and another.

Q After he ceased to be a contractor, what was his conversation about then?

A He told me that he had stopped or given up the business then—he was down town on some little law business he said, I didn't ask him what law business it was.

40 Q Did you converse with him during the last year of his life?

A I did, more after his wife went away, because I

went there to look after him, because I had a home for him if they hadn't, but Mrs. Rees cared for him——

Q What was the condition of his mind in your opinion during the last year of his life?

A His mind was very good, he was a little hard of hearing, but after you got talking with him regularly he could hear you very plain, just as I am talking now, he could hear you very well, and he was very sensible with it.

Q What were the relations between him and his daughter, Mrs. Rees; how did they get along together? 10

*Court.*

Q Were his relations with his daughter pleasant or otherwise?

A They were pleasant, and I never saw them anything else, I always went there and done business with them, with Mr. Rees and George H. Slack, I always done business with them, and they were always very pleasant together when I was there, and he told me that Ella would never have lived with him if it hadn't been for one 20 occasion.

Q Did he say what the occasion was?

A Yes.

Q What did he say about it?

A He said it was jealousy with Mr. George W. Slack.

Q What were the relations, if you know, pleasant or otherwise between Mr. Slack and his two sons?

A That I don't know anything about—I was not quite sure— 30

Q What is it you want to say?

A I wanted to tell you that George W. Slack told me that he was with my brother when he died, now, I was not there——

Q George W. Slack?

A George W. Slack.

Q Said he was with you?

A He told me this: that my brother was sensible to the very last moment the breath went out of his body.

Q What brother are you talking about? 40

A He told me my brother was.

Q That is his father?

A Yes, sir; he told me that his father was sensible to the very last moment that the breath went out of him.

Q When did you have that conversation with George W. Slack?

A In the coach going to his mother's funeral.

Q You mean to say in the coach going to the funeral of his father.

A Yes, sir; in the coach going to the funeral of his mother.

10 Q The funeral of whom?

A His mother.

Q His father was living then, was he not?

A I mean to his father's funeral, I call that back, his father was dead. And another thing Robert told me that it was only jealousy——

Q Who told you that?

A Robert.

Q He told you what?

A He told me that it was only jealousy?

20 Q When did he tell you that?

A On the Sunday after his mother was dead, he came over to my house on the 11th, or I should say the 10th, and told me that.

*Cross-examination by Mr. Dawes.*

Q What did Robert say was only jealousy?

A Between George and Ella.

Q What was only jealousy?

A Well, he was jealous of Ella.

30 Q Jealous of what?

A I suppose of being home.

Q I want to know what he said that George was jealous of?

A He was jealous because Ella was there at home with her father?

Q You rode at the funeral?

A Yes, sir.

Q And who else was in the carriage with you?

A George W. Slack, his wife, and my wife also.

40 Q And on that occasion he simply said his father was sensible and conscious to the last moment?

A Yes, sir; he said that in going to his father's

funeral.

Q Are those the exact words as near as you can give them?

A Those are the words he repeated.

Q How many times did you visit George H. Slack at the Rees house?

A At the Rees house?

Q Yes?

A I should judge while he was there six or seven times or somewhere along there, or maybe more than that, 10 as near as I can tell.

Q How do you fix that date, July 20th, as the date of this conversation?

A Last July?

Q Yes.

A The date for who?

Q Well, when did you have the conversation respecting the Leuckel bill?

A Oh, that was on July 20th.

Q And what were the dates of your other conversations?

A For what?

Q For anything you had with him?

A For going there?

Q Yes; the dates of your going there?

A My going there?

Q Yes?

A On the 11th.

Q You have the 11th—did you make any memorandum of those conversations?

A No, sir; I did not. 30

Q And the only two dates you can fix are July 20th and August 11th?

A Yes, sir; July 20th and August 11th.

Q Can you give any reason why you fixed the date of July 20th?

A Yes, sir; I can.

Q You say you can give a reason?

A Yes, sir.

Q Now, on this July 20th, what time was it you were there?

A It was Sunday afternoon.

Q And who else were there on that occasion?

A Well, there was all, a kind of family gathering.

Q What do you mean?

A My family was there and their family, and Mr. Mahoney's family.

Q Where did this conversation take place?

A On the porch, we were sitting out there smoking.

Q Who were out there?

A My wife, my daughter, Mr. and Mrs. Rees and  
10 Mr. and Mrs. Mahoney and his babies.

Q And what brought up this conversation?

A I couldn't tell you, he talked it up himself, he told me, I did not ask him.

Q And that was the first time that he had told you that he had given George the money?

A No, sir; he told me once before that when I was up there one evening, and he told me about it.

Q Who was present on that occasion that heard this conversation?

20 A We were sitting outside, out there on the portico, there smoking.

Q Who was there?

A They were in the house there, my wife and my daughter, but there was Mr. Mahoney, he was sitting on the porch there, when we were talking about it, on the Sunday afternoon, we were all there, sitting out there smoking.

Q Now, on the 11th of August, 1902, what day of the week was that—was that the date of the funeral?

A I think it was.

30 Q And where did that conversation take place?

A That took place right in the entry on the sofa, after we had eaten our lunch.

Q How many were there on that occasion?

A Well, there was quite a number.

Q Name them?

A I could name my wife, my daughter, Mr. Mahoney, Mr. and Mrs. Rees and several others, I didn't know their names.

40 Q They were all present on this occasion on the 11th of August, 1902?

A Yes, sir; they were there in the house.

Q I didn't ask you if they were there in the house, I

asked you if they were present when this conversation took place?

A My wife was, she would pass back and forth and sat and talked to him once in awhile, and then go on and go back again.

Q And the first time you heard then that George had wronged him was while he was living at the Rees house, but before July 20th?

A The first time?

Q Yes?

A No, sir; he told me once before, I cannot tell you the date of that, it was one evening I walked over there.

Q That was at his house?

A Yes, sir.

10

*Re-direct by Mr. Walker.*

Q You have mentioned certain people as being present on the occasion of three conversations you had with your brother?

A Yes, sir.

20

Q One on the 20th of July, one on the 11th of August and one prior to the 20th of July?

A Yes, sir.

Q What do you mean by stating that they were present, where were they present, were they participating in the conversation?

*Mr. Dawes.* I object to that.

Question withdrawn.

30

Q Where were they present?

A They were on the porch there when I was talking, and Mr. Mahoney was sitting there.

Q What date was that?

A That was on the 20th of July.

Q Where were the other people?

A They were walking up and down and in and out, and smoking, passing the time away, and Mr. Rees also sat there for awhile with us on the porch, and he got up and went in, and we were talking there, and I had done some 40 business for my brother, and he took his little purse out of his pocket, and he was going to pay me—

*Court.*

Q The question is who was there at that time, that was likely to hear this conversation ?

A Mr. Rees and Mr. Mahoney.

Q That was on the 11th of August ?

A No, sir ; that was on the 20th of July.

Q Who was so near, and being present on the 11th of August, that could have heard the conversation.

A My wife was the nearest.

10 Q How far was she away ?

A She came out and did so (indicating), and put her hand on my brother and stroked him down, and then she went on, and, of course, my brother went on afterwards telling me what he was going to do——

Q Was she present and did she hear the particular conversation that you have detailed ?

A That I could not say, but she came by and he was very much down-hearted, and I sat there talking to him, and I told him never mind——

20 Q Who was present and within hearing on the occasion before the 20th of July ?

A I don't know that there was anyone sat out there with us, we sat out there by ourselves.

Q On the porch ?

A Yes, sir ; we sat out there by ourselves on the porch.

*Further cross-examination by Mr. Dawes.*

30 Q Mr. Slack, did you have any conversation with your brother, relative to his feelings towards George W. Slack, his son ?

A He often talked to me about him.

Q Did you tell George W. Slack that your brother had told you that he had conducted his business profitably, and that he didn't know how he would have gotten along without George's assistance, as he could neither read or write ?

A No, sir ; I didn't tell him that, but he told me that George was doing business for him, as far as he could trust  
40 him.

Q When did he tell you that ?

A Well, he told me that quite sometime ago ?

Q Did you repeat that conversation to George W. Slack?

A No, sir.

Q Did you ever tell George W. Slack, as I have just repeated to you, that he couldn't have gotten along without the assistance of George W. Slack, as the father couldn't read or write?

A No, sir.

Q Did you tell that?

A No, sir.

Q Or anything like it?

A No, sir.

10

MAGGIE ROGERS, a witness produced in behalf of the defendants, being duly sworn according to law on her oath, saith:

*Examined by Mr. Walker.*

Q Did you know George H. Slack?

20

A I didn't know him very well, I knew him for about three months.

Q When—just before his death?

A Yes, sir.

Q Where did you live during that three months?

A I lived with Mrs. Rees on Bellevue avenue.

Q In the house?

A Yes, sir.

Q Did you see George H. Slack frequently during that time?

30

A Yes, sir.

Q Did you have talks with him during that time?

A Well, I never talked with him very much.

Q Did you hear him talk to other people?

A Well, I would go in and out of the room, but I was always doing my work, and I didn't pay much attention.

Q Did you hear him talk to members of the family?

A Well, I heard him talking to Mrs. Rees and others, but I didn't pay any attention to what was said.

40

Q Were you there at the time he was taken sick?

A Yes, sir.

Q Did you hear him say anything when he was taken sick?

A Well, I stood on the stairs the day he was taken sick, when Mr. and Mrs. Rees took him out of the bathroom, and the first thing I heard him say was, "Ella, this is more trouble for you," and Mrs. Rees said, "It is no trouble, father, at all." And he said, "I wish I had the papers signed." And she said, "Never mind the papers, you want a doctor first." And he said, "Oh, no; I never  
10 could die without the papers being signed, for I want you to get everything, for you have been so good to me."

Q Where were you?

A I was in the hallway.

Q Did you hear him say anything more?

A No, sir; I went down stairs then.

Q Were you in the room with him when he died?

A No, sir; I was not.

Q How did he appear to you in his mind during the time you worked there?

30 A He seemed very well, he seemed to know everything, his mind seemed all right.

*Cross-examination by Mr. Dawes.*

Q Are you still in the employ of Mrs. Rees?

A No, sir.

Q Where are you living now?

A I am working in a restaurant at Decker street, of Mr. Pritchie.

30 Q How long have you been away from Mrs. Rees'?

A I went away from Mrs. Rees' about the last of August or the first of September.

Q How many times did you hear him talk about what he was going to do with his property?

A I never heard anything about his property at all, only the time that he was taken sick, as I have told you.

Q That was the only occasion?

A Yes, sir.

40 Q You never heard him talk about that before that time?

A No, sir; I never paid any attention to him at any other time.

LILA PALMER, a witness produced in behalf of the defendants being duly sworn according to law on her oath saith :

*Examined by Mr. Walker.*

Q Did you ever work at Mrs. Rees' on Bellevue avenue ?

A Yes, sir,

Q When ?

A I went there to work the first of July.

10

Q The 1st of July last ?

A Yes, sir.

Q How long did you continue to work there ?

A Until the middle of October.

Q Working there every day ?

A No, sir ; only twice a week, Tuesday and Wednesday.

Q What did you do on those days ?

A Wash and iron.

Q You do the washing and ironing for the family on Tuesdays and Wednesdays.

A Yes, sir.

Q Did you see George H. Slack there, Mrs. Rees' father ?

A Yes, sir.

Q Did you hear him talking to people ?

A Yes, sir.

Q To whom ?

A Members of the family.

Q Did he ever talk to you any ?

30

A No, sir.

Q Were you there the day he died ?

A Yes, sir.

Q Were you there when he was taken sick ?

A Yes, sir.

Q Did you hear him say anything when he was taken sick ?

A Yes, sir ; when he came to.

Q What did he say ?

A Why, I went up stairs—of course Mrs. Rees called for help—and I went up stairs to her and he laid there, and when he came to the first thing he said was that he wanted

40

to have his papers fixed up and he said that he wanted Mrs. Rees to have everything for she had been so kind and good to him.

Q What did you hear Mrs. Rees say?

A She said she wanted to get a doctor?

Q Did you hear anything else?

A No, sir; I didn't hear anything else.

Q How did his mind appear to be to you from the conversation you heard?

10 A His mind appeared to be all right as far as I noticed.

*Cross-examination by Mr. Dawes.*

Q Did he suffer much that day?

A He seemed to be suffering a great deal at different times, of course, but I only saw him a few minutes.

Q Did you hear him mention any lawyer's name?

A No, sir; I didn't hear him mention any lawyer.

Q And that is the only time you ever heard him say  
20 anything like that, was it?

A Yes, sir; that is the only time.

SARAH B. WILLIAMS, a witness produced in behalf of the defendants being duly sworn according to law on her oath, saith:

*Examined by Mr. Walker.*

Q Where do you live?

30 A 641 East Gerard avenue, Philadelphia.

Q Do you know Mrs. Ella Rees?

A Yes, sir; I do.

Q Did you know George H. Slack, her father?

A Yes, sir; I did.

Q Are you connected by marriage with Albert Rees, the husband of Mrs. Rees?

A No, sir; but my husband is.

Q What connection?

A Cousin to Albert Rees.

40 Q Were you at Mrs. Rees' house on Bellevue avenue, Trenton, when George H. Slack was taken sick in August last?

A Yes, sir.

Q Had you been there for some time before that day?

A I was there the Sunday before.

Q And then on that day?

A And on that day I was there.

Q Did you see George H. Slack on both of those days?

A I did.

Q Did you have any talk with him on both of those days?

A I did.

Q What did he talk about?

A Well, different things; one thing he spoke about was old times, from the times that I had been visiting them before, I had known them for a number of years before, and often made them visits.

Q What was the condition of his mind, according to your view?

A Very clear; I always found him so.

Q On the last two occasions you visited him?

A On any occasion I ever visited Trenton.

Q Were you in the house, and were you present when he was taken sick?

A I was.

Q What did you see concerning him and what did you hear him say, if anything?

A Well, he called Ella, he called her three times, and we went up stairs and when he got up stairs, we found him in the bath-room leaning over the bath-tub, and we tried to get him out of the bath-room, and into the hall, and we got him on his back, he was unconscious for about five minutes or so, and we bathed and fanned him, and by and by he came to, and the first words he said was, "Oh, Ella, dear, this is more trouble for you, more trouble for you, dear." And she said, "No trouble, pa, at all." And he said—at first Ella said to Mrs. Mahoney, "Run for the doctor, run and telephone for the doctor," and Mrs. Mahoney went to telephone for the doctor, and then she came back, she came in and Ella asked her if she had got the doctor, and she said, "No, I could not get Dr. MacKenzie," and then he spoke up and he said, "Ella, dear, I don't want the doctor, what I want is a lawyer, I want a lawyer to fix my papers

up—”

Q What further was said ?

A Then Mrs. Mahoney went to the telephone again and telephoned again to Dr. MacKenzie and he said to get another doctor, and she telephoned or went I am not sure which, but Dr. Bruere came and attended him.

Q What did Mrs. Rees say when he mentioned about his papers ?

A She said “never mind, Pa,” she said, “you must  
10 have a doctor first.”

Q Afterwards did you hear Mr. Slack say anything more about his papers ?

A Oh, yes sir, he said, “Had we sent for a lawyer yet, had we sent for Mr. Phillips yet ?”

Q When was that ?

A He said that two or three times after that, and he kept watching the door to see if Mr. Phillips was coming.

Q Where was he ?

A He was lying on the bed.

20 Q And were you present when Mr. Phillips did come ?

A Yes, sir.

Q Were you in the room ?

A No, sir.

Q Were you in the room later when Mr. Phillips was there, when he came the second time ?

A No, sir ; I went home.

Q What time did you go home ?

A About ten minutes of eight o'clock.

Q You went to Philadelphia ?

30 A Yes, sir.

*Cross-examination by Mr. Dawes.*

Q Where have you been staying since you were in Trenton to attend this trial.

A At Mrs. Mahoney's residence, 14 South Florence street.

Q Have you seen Mrs. Rees frequently since you have been here ?

A Mrs. Rees is staying with Mrs. Mahoney at the  
40 present time ?

Q What was the condition of Mr. Slack on that day, was he suffering ?

A No, he ate a very good breakfast that morning, and we intended to go carriage riding.

Q And he was taken sick about what time ?

A Between twelve and one o'clock.

Q You say he was taken sick about what time ?

A Between twelve and one o'clock.

Q Did it strike you at that time that he was likely to die, or that his disease was serious ?

A Well, at first he was unconscious for about five minutes, and I thought probably that he had had a stroke, 10 and after we got him on the bed and the Dr. Bruere came, I asked him if he had a stroke, and he said no it was his heart.

Q Did he tell you it was very serious ?

A No, sir; he said he did not think he would die that time. And later on Dr. MacKenzie came and I asked Dr. MacKenzie the same question, and he said no, he was a very sick man, but he thought he would get better of this attack.

Q You heard Mr. Slack ask had a lawyer been sent for ? 20

A Yes, sir.

Q He said that in the bedroom ?

A Yes, sir; and also in the hallway.

Q Was that to you or to Mrs. Rees he said that ?

A Well, he didn't address those words to any particular one.

Q But they were his words as near as you can give them ?

A Yes, sir.

30

CAROLINE MAHONEY, a witness produced in behalf of the defendants being duly sworn according to law on her oath, saith :

*Examined by Mr. Walker.*

Q You are a daughter of Mrs. Eliza Ella Rees ?

A Yes, sir.

Q Your husband is named Edward Mahoney ?

A Yes, sir.

Q Where is your husband ?

A He is sick in St. Francis Hospital.

40

Q And has been for some time ?

A Yes, sir.

Q Do you remember your grandfather, George H. Slack ?

A Yes, sir.

Q Were you born there in the house where he lived on Bayard street ?

A Yes, sir ; I was.

Q Do you remember living there in your early life ?

10 A Yes, sir ; we lived there until four years ago.

Q From the time you were of sufficient age to observe things, what have you to say as to the relationship that existed between your mother and her father, your grandfather, and your mother and your grandmother, her mother ?

A It was always of the very sweetest.

Q What did your mother do about the house ?

A Always helping around the house working with the housework, and, in fact, did a great deal more of the housework than grandmother ever did.

20 Q Were your uncles, George W. and Robert Slack, there at the house at all ?

A Yes, sir ; my uncle, George W. Slack, came down very frequently, and Robert, who lives at East Liverpool, O., came but seldom.

Q Do you recall George W. Slack and his wife having lived at the house at any time ?

30 A No, sir ; I do not, only his children were there at different times staying ; his son George stayed there for quite a long time once, one winter, and grandpa cared for him that winter ?

Q You heard George W. Slack and his wife testify that she and her husband lived there for some time ?

A Yes, sir ; but that was in the earlier years, and I have no recollection of that time.

Q Up to the time you left four years ago, and from what you saw of your grandfather and his conversations to you and others, what have you to say as to his mental condition ?

40 A He was always very bright, and grandpa was always just as I knew him.

Q Did his mind decline at all ?

A No, sir ; it did not.

Q Had he declined physically?

A Oh, yes, sir; he got very lame.

Q Was he hard of hearing?

A Yes, sir; but not very much.

Q Did you ever hear him talk of your mother?

A Yes, sir; he said he was very fond of mamma, and that she was the one and the only one that ever did anything for him, and he said that he had two sons, Robert and George, and that Robert had never done anything for him, and George had done less.

10

Q Did you ever hear him say anything about any business transactions with George?

A Yes, sir; in reference to that Leuckel bill, I heard him say that he had given George the money to pay that bill, and that he had not paid it.

Q When did you hear him say that?

A He told me that while he was at our house once, and he told me that before that, but I cannot just recollect the time.

Q At whose house?

20

A At my mother's house on Bellevue avenue.

Q Did anything happen to your grandmother?

A Yes, sir; for some years past we had noticed that she was getting peculiar, that she was acting very strangely, and at times she would turn even against mother, and I have seen my mother when she was forced to leave her presence in order to get along with her.

Q What, if any occasion, did your mother give her to turn against her?

A She gave her no occasion, whatever; she was 30 always very sweet and dear to her, and she did lots of things for her—

Q Do you remember when your grandmother wandered away?

A Yes, sir.

Q Where were you living at that time?

A At Lambertville.

Q Do you recall, or were you living with your mother and father at the time they left the house on Bayard street?

A Yes, sir; we had moved from Lambertville to 40 Trenton, and we were staying with mother and father then.

Q You were married then?

A Yes, sir.

Q Do you know whether or not your mother visited her father and mother at that time?

A Yes, sir; after the time grandma wandered away, my mother stayed out there until the day before Christmas, and cared for her.

Q Were you at your mother's house on Bellevue avenue the day your grandfather was taken sick last August?

10 A Yes, sir.

Q How long had you been in the house just prior to his being taken sick?

A I had been in the house all day.

Q How long had you been there?

A I had been there since the first part of May.

Q Steadily in the house since the first part of May.

A Yes, sir.

Q And was your husband there, too?

A Yes, sir.

20 Q And you had two small children there, in August, the time your grandfather was taken sick?

A Yes, sir.

Q Did you see your grandfather daily?

A Yes, sir; and he was very fond of the children, and when the children were three weeks old he and I drove to the State Hospital, and he did the driving, and when we arrived at the Hospital and saw my grandmother, he told her all about the children, and talked very intelligently about them.

30 Q The two little children were twins, were they not?

A Yes, sir.

Q How many times did you go up to the State Hospital with your grandfather?

A On three different times.

Q Was your grandfather living at your mother's house on Bellevue avenue when you first went there in May?

A No, sir.

Q How long was it after you went there that he came there?

40 A About the middle of May.

Q And you were in the house when your grandmother was taken to the asylum?

A Yes, sir.

Q Did you know upon whose request she was taken to the asylum?

A Upon grandfather's request, he went down to Mr. Phillip's office, and had him make out the papers and they were signed by Drs. MacKenzie and Leavitt.

Q What have you to say as to her condition?

A Her mental condition was very poor indeed, and at times she was very violent.

Q During the time your grandfather was at your 10 mother's house on Bellevue avenue, what have you to say as to your grandfather's condition of mind?

A His mind was very clear indeed, and I remember very distinctly the night my children were born, he said to my mother, he said, "Ella, are you aware I am a great-grandfather?"

Q You heard him say that?

A Yes, sir.

Q Were you in the house at the time he was taken 20 sick?

A I was.

Q What did you see concerning him, and hear him and others say at that time?

A He called to my mother—you mean the day he was taken sick?

Q Yes?

A He called out for my mother, and we went up stairs to him, and as he was coming to he said "Ella, this is more trouble to you, this is more trouble to you." And mother said, "No, it is no trouble, Pa," and he said, "Oh, if I 30 could only have my papers fixed," and he said, "Send for Mr. Phillips, send for Mr. Phillips." And my mother said, "Never mind the lawyer, we will get a doctor first, and get you well."

Q What further was said?

A Well, I went out again and telephoned for a doctor, and when I returned they had gotten him into the bed-room, and he asked me to go and telephone for Mr. Phillips to come:

Q And what did you do? 40

A I did not at that time, but later I did telephone for Mr. Phillips.

Q Were you in and out of the room during the afternoon and evening?

A Yes, sir; I stayed there all the afternoon.

Q Were you there when Mr. Phillips came there?

A I think not.

Q That is the first time?

A No, sir.

Q Were you there when he came the second time?

A Yes, sir.

10 Q And that was about what time?

A The second time he came?

Q Yes?

A Between nine and ten o'clock.

Q What did you hear pass between Mr. Phillips and your grandfather, and what did you hear each other say?

A I was in the room when Mr. Phillips came the second time, and when he came in the room grandfather said "Good evening" to him, and Mr. Phillips returned it, and he said—grandfather said, "He wanted to have the  
20 papers fixed that he had spoken to him about before." And he said, "I want to deed this property to my daughter, I want her to have everything," and he asked him if a deed was not safer than a will, and Mr. Phillips said it was, and then he said, "If there is any clause you can put into that deed so as to make it firm, I wish you would do so." And he read the deed over to my grandfather, and he made some mistake in the depth of the lot, and he corrected him.

Q Who corrected him?

A Grandfather corrected him.

30 Q What did he say?

A He said the lots on the side of the street he resides on were deeper than the lots on the other side of the street.

Q What did your grandfather do after the deed was read over to him?

A He signed the deed, and then Dr. MacKensie signed the deed.

Q Did he have glasses or not?

A Yes, sir; Dr. MacKensie took his glasses off and  
40 put them on grandfather, and Mr. Slack said they were very good, he could see very well in them.

Q What was the condition of your grandfather's

mind according to your judgment at the time he signed the deed?

A Very clear indeed, because after he had signed the deed he asked me to bring the children to him.

Q What, if anything, did he do with the deed in your presence after it was signed?

A Mr. Phillips laid it on the bed and grandfather raised himself, and picked up the deed and called my mother to his side and he said, "Here take this Ella, and I only wish I had \$1,000 to give you to pay off the incumbrance." 10

Q Was George W. Slack there that night?

A No, sir; he was not there. My mother asked him if she should send for George, and he said no.

Q Asked your grandfather that?

A Yes, sir.

Q Now what time of the day or the night was it?

A About seven o'clock.

Q What did your mother do with reference to the sending for George? 20

A Well, at that time, that is when Dr. MacKenzie came the second time, and she found grandfather was growing worse, she told me to go and telephone to George.

Q What time was that?

A That was between nine and ten o'clock.

Q And what did you do?

A I went and telephoned to George W. Slack's residence, and I could not reach them on the 'phone, and I then telephoned to Hilderbrecht's, thinking that I might find him there, but I could not find him, and then I telephoned 30 to the council—there was a council meeting that night—and I telephoned to the council, and I could not reach him there, and I found I could not reach him at his home, and so about half past ten I sent a messenger out to his home.

Q With anything?

A With the message that his father was very ill and to come right out.

Q How did you give the message?

A I telephoned the message.

Q You said you could not reach him by telephoning 40 to the house?

A Well, they would not answer.

*Cross-examination by Mr. Dawes.*

Q Mrs. Williams, who last testified, has been staying at your house how long?

A Since Sunday evening.

Q And in that time you have discussed this case more or less?

A We have not.

Q You have not discussed this case at all.

10 A Not since she has been there, we have among the family.

Q But not with her or she with you?

A No, sir.

Q And not in her presence?

A It has been discussed, but not very much in her presence.

Q It has been discussed in her presence?

A Yes, sir; but not very much.

Q It has been discussed some in her presence?

20 A Yes, sir.

Q Now, the first conversation you had with your grandfather wherein he said that George had done less than his other children for him, and that Ella was his only child, or words to that effect, where did that conversation take place?

A Out on Bayard street.

Q And when, do you recall?

A About three years ago.

Q And that was the conversation that you spoke about  
30 in your testimony this morning?

A He told me that on two different occasions.

Q When was the second occasion?

A On June 25th we were sitting on the porch at my mother's, and George passed in a carriage and did not speak to his father.

Q And then his father observed him and made that remark about him?

A Yes, sir.

Q Now, when did you hear him say first that he had  
40 given George the money to pay that bill of Leuckel's?

A He told me that on Bayard street, but I cannot recollect the date.

Q How long ago ?

A Well, it was during the time, or after my grandmother had wandered away.

Q How long ago was that ?

A It was in November, that was after that time ?

Q He told you after that time that he had given George the money to pay the bill ?

A Yes, sir.

Q And who was present when he told you that ?

A No one.

10

Q Now, will you please repeat the conversation that you heard take place between Mr. Phillips and your grandfather, at the time this deed was delivered ?

A He said he wanted him to do the business for him, that he had spoken to him about before.

Q Yes, go on ?

A And he said he wanted to deed the property to my mother, and he asked Mr. Phillips if a deed was not firmer than a will, and he said yes, and he said then that if there is any clause that you can put in there to make it firm, I want you to do so, and Mr. Phillips read the deed over, and grandfather corrected him in a mistake he made in regard to the depth of the lots, and he said—

Q Was that all ?

A Yes, sir ; that was the only mistake made, and he said to Mr. Phillips, that " If there was any clause to put in there to make that deed firm, he wanted him to put it in."

Q You are using the language your grandfather used on that occasion, are you ?

A Yes, sir.

30

Q Not your language, but the language of your grandfather ?

A Yes, sir.

EMMALINE M. SNOOKS, a witness produced in behalf of defendants being duly sworn according to law on her oath, saith :

*Examined by Mr. Walker.*

40

Q Where do you live ?

A 256 Spring street.

Q You are a daughter of Mr. William J. Slack ?

A Yes, sir.

Q And a niece of George H. Slack ?

A Yes, sir.

Q Did you see your uncle, George H. Slack, frequently during his life-time ?

A Yes, sir ; in the early part of my life I was there a great deal, and in the last part of his life I was with him a great deal.

10 Q Did you see him during the last few years of his life ?

A Well, up to last May I did not see so much of him for a year or so back, because he was out in Bayard street, and we were on Spring street.

Q Do you say you saw your uncle after May last ?

A Yes, sir ; after he came to Mrs. Rees' house on Bellevue avenue, for we were living on Spring street, I went there more frequently.

Q That was nearer by ?

20 A Yes, sir.

Q How frequently would you see him ?

A I cannot tell you the times, but I would go in and out.

Q How often about ?

A Well, I would go there maybe once a week, or maybe once in two weeks, maybe not every time, and I saw him sometimes on the street, sometimes I met him on the street and would talk to him on the street.

Q Did you see him at the time of his death ?

30 A Yes, sir ; I was there when he died.

Q Now, what in your opinion was the state of his mind from May until the time of his death ?

A Well, he always held very plain conversations with me, I never had any difficulty to understand him or he to understand me.

Q What was the condition of his mind at the time of his last sickness ?

40 A Well, I thought he fully understood everything, because he recognized me always, and he said that he was sorry that he could not pay me for the kindness that I had done to him by sitting by his bed-side, and I said " I needed no pay, that I was only doing what papa wanted me to do."

- Q Were you there when he was taken sick ?  
 A No, sir.
- Q Were you there during his last illness ?  
 A I was there after six o'clock in the evening.
- Q And what time did you go in there ?  
 A About six o'clock.
- Q Did you see your uncle there ?  
 A Yes, sir.
- Q Where was he ?  
 A In the middle room. 10
- Q Were there any doctors there ?  
 A No, sir.
- Q Who else was there ?  
 A When I saw him there, Mrs. Williams was there,  
 Mrs. Mahoney and Mrs. Rees were there.
- Q Was Mr. Mahoney there ?  
 A I do not know that he was there when I first went  
 in, I think he was eating in the dining-room, but I think he  
 was not there when I first went in, although I am not sure  
 about it. 20
- Q Did you hear your uncle ask for anything ?  
 A I heard him ask for a lawyer.
- Q Did you remain there during the evening ?  
 A I did, I went home and maybe I was gone half an  
 hour, and I came back and stayed there all night.
- Q Did you hear George W. Slack's name mentioned  
 by anyone ?  
 A Yes, sir ; I heard Mrs. Rees say to some one she  
 wished we could find George.
- Q What time of the night was that ? 30  
 A I cannot tell you that—it was before the lawyer was  
 there.
- Q Did you hear your uncle say anything about his  
 son George ?  
 A Well, I cannot say I did.
- Q Were you present all the time, in the sick-room ?  
 A No, sir ; I was in and out because I assisted with  
 the babies.
- Q Were you there when Mr. Phillips was there the  
 last time ? 40  
 A Yes, sir ; I was.
- Q What time of the night was that ?

A Well, I judge it was between nine and ten o'clock.

Q Were you up in the sick-room when Mr. Phillips was in there?

A Well, there was several people in there and I was standing in the door-way.

Q Did you see and hear what took place?

A Well, I heard some parts of the conversation, but if the babies would make a noise then I would go back to them, and step back to the door-way again.

Q What did you see and hear while Mr. Phillips was there?

A I heard Mr. Phillips reading the deed, and I heard some alterations in the deed suggested, but what it was I cannot tell you exactly, because I stepped away from the door-way just then.

Q Did you see your uncle do anything with reference to the deed?

A I saw him sign it, and I also saw him sign a check, they came in with his insurance papers.

Q When was that?

A That very night, I should judge an hour before the lawyer was there, maybe longer, I am not positive as to the time.

Q Did he have any glasses when he signed the deed?

A Yes, sir; he asked for his glasses, and Ella could not find them, and Dr. MacKenzie gave them his, or held them on for him, and asked him if he could see with them, and he said, "I can see very well," or something like that.

Q Were you there when Mr. Phillips left?

A Yes, sir; I was not in the room, and I did not see Mr. Phillips leave Uncle George's room.

Q Did you hear or see your Uncle George do anything with reference to the deed, after it had been signed?

A No, sir.

Q Did you hear Mr. Slack, your uncle, say anything after the deed was signed?

A Well, he refused to take his medicine, because he said, "I am satisfied, and ready to die," and Ella persuaded him to take more medicine, and I also stood by and said, "You must take your medicine, and perhaps you won't die," and he said, "I have nothing to live for now."

*Cross-examination by Mr. Valentine.*

Q How far does Mrs. Rees live from where you reside?

A Well, I cannot tell you exactly, you have to go across the railroad, and it is a near cut that way, but I could go by Kelsoren street, they live right back of us.

Q Were you a regular visitor there?

A Yes, sir.

Q How long since have you been a regular visitor 10 there?

A Ever since Mr. and Mrs. Mahoney came back from Lambertville.

Q When was that?

A I guess along about the first of May.

Q The first of last May?

A Yes, sir.

Q When did Mr. Slack come to that house to live?

A Sometime in May, I cannot be positive as to the date. 20

Q How frequently did you visit that house since that time?

A Maybe once a week, I cannot tell you exactly, I do not know exactly.

Q You were there when Mr. Slack died?

A Yes, sir.

Q And you stood by his bedside, and he said that he was sorry he could not pay you for standing by my bed-side?

A He did.

Q Now, when did he say that? 30

A I cannot tell you exactly, his son George was there when he said, "He did not know how he could pay me for my faithfulness," he said that, he said that that night, and his son George was there when he said it, I was fixing his feet in the bed—

Q I asked you what did Mr. Slack say to you just previous to the time when he said I am sorry I cannot pay you for standing by my bedside?

A Well, I don't know.

Q Was there any discussion about paying you? 40

A No, sir; he merely said it.

Q Had he been talking or saying something about

paying you ?

A No, sir ; I suppose he thought I was doing him a service, he didn't mean pay by money, he meant pay by kindness.

Q I asked you what he said, not what he meant—he got there at six o'clock that night, you say ?

A Yes, sir ; it may have not been exactly six o'clock.

Q About six o'clock ?

A Yes, sir.

10 Q Who was there when you got there ?

A Mrs. Williams, Mrs. Mahoney and Mrs. Rees.

Q Were they in the room ?

A Where I was ?

Q At the time he said this ?

A No, sir ; Mrs. Williams was not there, because this was later in the evening when he said this, it was near the time of his death—no, sir ; I am wrong—this was after his son George got there, and his son got there at about two o'clock.

20 Q What time did he die ?

A He died about four o'clock.

Q Was there a conversation took place after his son George arrived ?

A I cannot say because I went down stairs and got him some lemonade and some cold tea.

Q It was after George arrived at two o'clock in the morning that Mr. Slack said to you, " I am sorry I cannot pay you for your faithfulness or for your kindness to him ? "

A Yes, sir.

30 Q So George must have heard what was said there in that room ?

A Well, everyone didn't hear everything that is said in a room.

Q Well, he was standing close by in the room, was he not ?

A Well, he was there in the room, I don't know how close he was when it was said.

40 Q Have you related all the conversation that took place within your hearing between Mr. Slack, the deceased, and Mr. Phillips, the lawyer, at the time the deed was signed ?

A I think so, all I can recollect.

Q And you heard practically everything that was done and said?

A No, sir; I cannot say that I did, because I was in the adjoining room part of the time.

Q You were there after Mr. Phillips left.

A I was.

Q Were you there when Mr. Phillips arrived?

A I was.

Q What was the first thing said on Mr. Phillips' entrance in that room? 10

A I was not in the room when Mr. Phillips arrived.

Q I think you said you were?

A I was in the adjoining room.

Q You were not in the sick room when Mr. Phillips arrived?

A No, sir.

Q What was the first thing you heard when you did enter the room?

A The first thing I heard was about the deed not being right, something about an alteration in the deed, the 20 feet or something, and I stepped back out of the room, the babies were crying and I stepped back.

Q In what condition was Mr. Slack, was he sitting up on the bed—sitting or lying down?

A He was bolstered up.

Q Did you see him in that condition?

A Well, I don't remember.

Q Who was present?

A Dr. MacKenzie was kind of leaning over on the side of the bed, and Mr. Phillips stood on the off-side, and 30 Mrs. Mahoney was on the foot of the bed, but if there was anyone else there I cannot say—Mrs. Rees was there I think.

Q Were you there at the time he fell ill in the bathroom?

A No, sir.

Q When was it you heard him say, "Have you sent for the lawyer, or is it the lawyer?"

A Why when I came in, when I rang the bell.

Q Where were you when you heard that? 40

A Coming up the stairs.

Q To whom was he talking?

A Why, to Ella.

Q Where was this sick room as to the stairs?

A You come up the stairs, they wind round in this way (indicating), and the sick room was right at the head of the stairs, up on the side like that (indicating).

*Re-direct by Mr. Walker.*

Q Did you do any telephoning that night?

A Yes, sir.

10 Q For whom did you telephone?

A I telephoned for George Slack at 10 o'clock, and I received no reply. At 12 o'clock I went back and telephoned, and I got his wife, and I told her that if George did not get there soon he would not see his father alive, and she replied, as I thought rather impudently, as soon as he came she would tell him.

Q What time was that?

A Twelve o'clock.

Q Had anyone telephoned to that house before that?

20 A Yes, sir; I was not with them when they done it, but they went out to telephone.

Q Did you hear Mrs. Rees say anything about telephoning for George?

A Yes, I heard her say they had telephoned.

Q What time was that?

A Well, I cannot tell you that.

ALBERT REES, a witness produced in behalf of the  
30 defendants being duly sworn according to law on his oath, saith:

*Examined by Mr. Walker.*

Q You are the husband of Eliza Ella Rees, are you not?

A Yes, sir; I am.

Q One of the defendants in this suit?

A Yes, sir.

Q Did you know George H. Slack in his life-time?

40 A I did; yes, sir.

Q Did you and your wife live in the same house with him for any length of time?

A Between eighteen and nineteen years.

Q Where was that house?

A 46 Bayard street.

Q Trenton, N. J.?

A Yes, sir.

Q Upon what terms did your wife live with her father during all that time?

A On the very best of terms.

Q What, if anything, did your wife do in the house while you lived there?

A She helped to perform the household duties that was to be done.

Q Your daughter Mrs. Mahoney was born there?

A She was.

Q Did you and your wife leave that house some years ago?

A About three years ago or a little before that probably.

Q What was the occasion of your leaving there?

A Well, we thought possibly we had best go to our own home.

Q What did occur that made that desirable?

A It seemed as though my wife could not get along with her mother, my mother-in-law, very well, her mind came to be so that she got to be troublesome, and rather than have any quarreling or anything of that kind, we thought it best and we went to our own home.

Q Whose mind do you refer to?

A My mother-in-law's.

Q Up to the time you left there, what was the condition of mind and body of your father-in-law, how was his mind and body up to that time?

A Well, his mind was of the very best I always thought, but his body was not so good, he was lame and had difficulty getting around.

Q How as to his hearing?

A A little deaf, not much.

Q Did you have frequent conversations with him?

A Every day.

Q Could you understand what he said?

A Yes, sir.

Q And he would understand what you said?

A Yes, sir.

Q After you and your wife left the house and went to live elsewhere, did you visit him at all.

A Yes, sir.

Q How often?

A Quite often.

Q Well, how often, about?

A Possibly two or three times a day sometimes, and then we would not go there for two or three days, just as it  
10 happened.

Q How did his mind appear to be?

A His mind appeared to be quite clear.

Q Did you have any conversation with him in reference to George, his son?

A Yes, sir; he told me about his son before we left the house, and afterwards also.

Q What did he say?

A He said his son had robbed him and cheated him in business, and failed to pay bills that he had given him the  
20 money to pay them with.

Q Did you ever hear him say anything about the Leuckel bill?

A Yes, sir; he showed it to me when he received it.

Q Where was he then?

A Sitting on the front porch.

Q What did he say to you about it?

A I came in from my work and he was sitting on the porch, and as I came in he called me to him, and he said, "I have just received a bill from Leuckel"—it was for  
30 some sixty or seventy dollars, I don't remember the amount—and he said, "I have given this money to George to pay Leuckel this money long ago, and I don't intend to pay it again."

Q Do you recall an occasion when your uncle was sitting on the porch talking to George H. Slack, that is your uncle, William Slack?

A Yes, sir.

Q When was it?

A I remember one occasion, it was on the 20th of  
40 July, on a Sunday afternoon.

Q Where were you?

A I was sitting on one end of the porch.

Q Did you hear that conversation?

A I did not pay any attention to what was said.

Q But did you hear what was said?

A No, sir; I did not hear at that time.

Q Did you at any other time hear what was said at that time—did you hear it from your father-in-law?

A I had heard about it previous to that.

Q What had you heard?

A I heard him tell Mr. Slack there—at least Mr. Slack told me—

10

Q What Mr. Slack?

A My father-in-law.

Q You heard your father-in-law say what?

A He told me that he told Mr. Slack that afternoon on the porch that he was going to make the property over to Ella, that is my wife.

Q You yourself did not hear the conversation between them?

A No, sir.

Q Did you ever hear your father-in-law say anything about his son Robert?

A I did.

Q When?

A During the years I lived there, that is the later years I lived there, and since I moved away from there also.

Q What did he say about Robert?

A He said Robert had lived away from home all these years, and he didn't think he had ever done anything for him in his life, and he thought that his son George had got all that was coming to him.

30

Q Did you ever hear your father-in-law talk about your wife or his daughter?

A My wife, oh, yes; lots of times.

Q Did you ever hear your father-in-law talk about your wife prior to leaving the Bayard street house?

A Yes, sir; lots of times.

Q What did he say on those occasions?

A What did he say about my wife?

Q Yes?

A He didn't say anything but kindness, he said, 40  
"Ella had been kind to him, living with him as long as we had, and he thought she had sacrificed her life in staying

with him as long as we had," he said that often in the later years of his life.

Q Did you ever hear him say anything after leaving the house and going away from him?

A Yes, sir; he wanted us to come back.

Q Did you go to his house on Bellevue avenue?

A Yes, sir.

Q Did you hear him say anything about your wife after that?

10 A Yes, sir.

Q What did he say?

A He said she had sacrificed her life by staying there and not going to a home of her own.

Q Was your mother-in-law there with you?

A Yes, sir.

Q And your mother-in-law went from there to where?

A To the State Hospital.

Q Upon whose request?

A My father-in-law's.

20 Q And what doctors certified to her mental condition?

A Dr. MacKenzie and Dr. Leavitt.

Q Did you ever hear your father-in-law tell of any disposition he intended to make of his property?

A I did.

Q When?

A Why, he told me about it on the 24th of December, 1891—I mean 1901.

Q Where?

30 A At 46 Bayard street.

Q What did he say?

A We were out there sitting after my mother-in-law came back, and he wanted us to remain there, and I told him that I did not feel like breaking up my home to come back again, and he said he thought it would be better if we could come back, and I told him "I didn't care to break up my home again, that I was just commencing to get my home together, I had been a good many years without one, and I didn't care to break it up again just as we were beginning to get comfortable." And he said, "This is your home, when I am gone this is Ella's," and I then said, "Well, there are others to be considered about this," and he

said, "No, there is no one else to be considered in it at all, I have made up my mind, and after I am gone, this is Ella's."

Q And you did not go back?

A No, sir.

Q After your father-in-law went to live with you on Bellevue avenue, did you hear him say anything what he proposed doing with his property?

A I did.

Q What was that?

10

A He said he intended to make it over to my wife.

Q When did he tell you that?

A At different times, from the time he first came to the house down to the time of his death.

Q Were you present on the afternoon he was taken sick?

A I was not there when he was first taken sick, I came in soon afterwards.

Q Where was he when you first arrived there?

A Lying at the top of the stairs in the hall-way.

20

Q And who was with him?

A My wife, Mrs. Williams and my daughter.

Q Did you hear him say anything?

A I spoke to him and asked him if I could do anything for him, and he asked for a drink, and I asked my wife to get him a drink, and I lifted his head up and helped him drink a glass of water, and he said that "There was only one thing that he wished to have done, he wanted to have his papers fixed." And I told him "to never mind about his papers, I said that we would get a doctor, and there would be plenty of time to fix his papers," and he said, "No, I want the papers fixed, I shall not be here in the morning," and I said, "I guess you will," and he said, "I don't want any doctor"——

30

Q What did you do with the old gentleman then?

A We got him in bed.

Q Did you remain with him then until he died?

A I remained in the house then until he died, and the only times I was absent from the room where he was was when I went to telephone, or when I went to the drug store and when I went for Dr. Bruere.

40

Q You were not in the sick all the time, then?

A I was in the sick room all the time with the exception of the different times that I was out of the room telephoning or going to the drug store or for the doctor.

Q Did you hear anyone say anything about George W. Slack?

A My wife asked him if she should send for George, and he said, "No."

Q Did you know whether she sent for George or not?

A She asked me to telephone for George, and I did so.

10 Q What time did you telephone for him?

A About nine or ten o'clock.

Q Were you there when Mr. Phillips attended him?

A Yes, sir.

Q The first time?

A The first time, I was down in the dining-room when he came in, that is the first time.

Q Were you up in the room at all?

A Not the first time.

20 Q When he returned the second time were you in the room?

A Yes, sir; I was.

Q What time of night was that?

A Between nine and ten o'clock.

Q What did you see and hear transpire between Mr. Phillips and the old gentlemen at that time?

30 A Mr. Phillips said that he had brought the papers back, the deeds for him to sign, and he read them over to him, and he made a mistake in the reading, and my father-in-law called his attention to the fact that the lots on that side of the street were so much deeper than they were on the other side of the street.

Q What did Mr. Phillips say?

A "Excuse me, Mr. Slack, I made an error," or something like that.

Q After the deed was read what was done?

A Mr. Phillips got a book, I think, and gave him a pen and ink, and Dr. MacKenzie gave him his glasses and he then signed his name to the paper.

Q What became of that paper afterward?

40 A Mr. Phillips laid it on the bed and my father-in-law picked it up and handed it to my wife, and said, "I only wish I had \$1,000 to give you to pay off the mortgage."

Q Who did he say that to?

A My wife.

*Cross-examination by Mr. Valentine.*

Q What did your wife say when your father-in-law said he only wished he had \$1,000 to give her to pay off the mortgage?

A She said, "Never mind that, father."

Q Was perfectly content with all he had?

10

*Mr. Walker.* I object to that.

Question withdrawn.

Q When did you leave the Bayard street home?

A A little over three years ago.

Q What was the date as near as you can tell?

A Along about the forepart of November as near as I can get at it, it might have been the first day or the last, but it was in that month.

Q What year?

A 1900 or 1899.

20

Q Where did you move to?

A We first moved to Tyler street.

Q How long were you there?

A Six or eight months.

Q How frequently did you say you visited Mr. Slack at his Bayard street house?

A Sometimes I would see him every day and at other times possibly once or twice a week.

Q How came you to leave there?

30

A Well, I said we thought it best to go to our own home.

Q Did you have any dispute?

A Well, the mother's mind was so deranged we thought it best to go rather than to have any disturbance about it.

Q Was anything said by Mr. Slack?

A He didn't want us to leave.

Q Was anything said by Mr. Slack?

A No, sir.

40

Q You are sure you visited that house every few days after you left there?

A Yes, to the best of my recollection, to the best of my knowledge.

Q You have said that Mr. Slack's mind up to the time of his death was in the very best condition?

A It was.

Q What was his physical condition?

A Well, his physical condition was a little poor.

Q What do you mean by a "little poor?"

A He could not get around very well, he was lame.

10 Q What else?

A That is all as far as his physical condition was concerned.

Q When was it you first had a conversation with Mr. Slack with reference to this Leuckel bill?

A Why the day he received it.

Q When was that?

A In July.

Q What year?

A 1902.

20 Q Where was he then?

A At 278 Bellevue avenue.

Q Are you sure of that?

A I am, I think I rented the property.

Q Are you certain of that?

A Yes, sir; I think so.

Q What was said at the time?

A Why, I came home from work, and he saw me coming up the street, and he called me, he was sitting on the front porch, and he called me to him and he said, "I have  
30 just received a bill from Leuckel," and he handed it to me, I read it and handed it back to him, and he said, "I have given this money to George to pay this bill, and he has failed to do it."

Q When was your father-in-law brought to that house?

A In May.

Q And this was in July?

A I think it was in July, but I cannot be positive as to the date.

40 Q Then do you say you had this conversation in July at the Bellevue avenue house?

A About the bill?

Q Yes?

A Yes, sir.

Q Are you sure you did not have this conversation with Mr. Slack at the Bayard street house?

A That conversation regarding Leuckel's bill was at 278 Bellevue avenue, the day he received it.

Q When did Mr. Slack first say to you that his son George had robbed him?

A Oh, at different intervals, years gone by, and after he came up to my home at 278 Bellevue avenue. 10

Q How did the conversation happen—state how it came to take place?

#### RECESS.

A At that time—why it simply took place when he called me to him when he received the Leuckel bill that afternoon, or that day rather.

Q Who opened the conversation? 20

A Mr. Slack.

Q What did he say?

A I was coming from my work that afternoon, along about five o'clock, and he was sitting out on the front porch, and he called me up, and he said, "Al, I have just received a letter, or bill rather, from Leuckel"—showing it to me, I read it—the amount I don't recollect, but it was some sixty or seven dollars, in that neighborhood—and he says, "I have given the money to George to pay this bill," and he says, "I don't think I will pay this bill again." 30

Q Did he say anything about Mr. Leuckel having called at any time?

A That I cannot say, I cannot recollect.

Q You know whether he said anything or not?

A No, sir; not at that time.

Q When did he say he had given this money?

A To George?

Q Yes?

A When he did?

Q Yes? 40

A He didn't say, he said he had given it to him, but didn't say when.

Q You spoke of Mr. Slack's mind on the night he died—what did you say his mental condition was at that time?

A Well, I think it was in the best of condition, he knew everybody that was round him.

Q How had it been several days or weeks previous to that, during the time that he lived at your house?

A His mind appeared to be perfectly clear to me, he knew what he was talking about, he spoke of different subjects at different times.

Q Perfectly clear to you?

A Yes, sir.

Q You knew him a number of years?

A I have known him twenty-six or twenty-seven years, possibly.

Q Do you mean to say that his mind was as clear then as it was at any time?

A It appeared to be to me at that time; yes, sir.

Q Was there any further conversation with respect to the Leuckel bill between you and Mr. Slack?

A Not at that time, not that day.

Q Was there any other conversation at any other time?

A Indeed, there was; a few days after that.

Q What took place then?

A He told me then about the Leuckel bill.

Q What did he say?

A He said he had thought the matter over quite a good deal since he received the bill, and he didn't see why George didn't pay it after he gave him the money.

Q Where did that conversation take place?

A In the dining-room, at the dining-room table when taking lunch.

Q At what time of day was it?

A In the evening, after supper. he and I were sitting down together at the table.

Q Any other person present?

A My wife was sitting out on the porch.

Q What day of the week was the 12th of August?

A The 12th of August?

Q Yes?

A It was on a Tuesday.

Q That was the day upon which Mr. Slack was taken sick in the bath-room ?

A Yes, sir.

Q Did you work that day ?

A No, sir.

Q Where were you when he was taken sick ?

A At the Riverview Cemetery, or on my way home from the cemetery.

Q What time did you arrive home ?

A I arrived home just about one o'clock or a few 10 minutes after.

Q In the afternoon ?

A In the afternoon.

Q What time was he taken sick, if you know ?

A He was taken sick between the hours of twelve and one.

Q And you got there about one o'clock ?

A I got there about one o'clock or a few minutes after.

Q You were there when he was taken sick ? 20

A He was taken sick between twelve and one, and I arrived at one or a few minutes after.

Q Where was he when you arrived home ?

A He was lying upon the top of the steps on the floor in the hall-way.

Q And you arrived home about one o'clock ?

A About one or a few minutes after.

Q And what time was it that he had fallen in the bath-room ?

A Between twelve and one. 30

Q Can you give it us any nearer than that ?

A I cannot, I can only tell you what the rest of the family told me, I was not there when he fell.

Q What was the first thing you heard him say ?

A He said he wished he had his papers fixed.

Q Where were you when he said that ?

A I was kneeling alongside of him, he was lying on the floor.

Q You must have arrived soon after he was removed from the bath-room, then ? 40

A I did, I arrived soon after he was removed from the bath-room.

- Q Who was present at that time?  
 A My wife was there.  
 Q Who else?  
 A Mrs. Williams.  
 Q Who else?  
 A My daughter.  
 Q Who else?  
 A That is all.  
 Q What was said by any of those present at that  
 10 time?  
 A What was said?  
 Q Yes?  
 A At that time when I arrived?  
 Q That is what I mean, the time you have de-  
 scribed?  
 A My wife asked if I had not better send for the doc-  
 tor, and father-in-law said, "No, send for Mr. Phillips."  
 Q What else was said?  
 A I said, "No, we will have the doctor first."  
 20 Q What else was said?  
 A He said, "No, that he did not want the doctor."  
 Q Anything else said?  
 A I asked him if he didn't want a drink, and he said,  
 "Yes, I wish you would give me a drink of water, Al," and  
 my wife got a drink of water, and I assisted him in drink-  
 ing it, I lifted up his head and helped him to drink the  
 water.  
 Q Anything else?  
 A There might have been several things, but I cannot  
 30 recall any at this time  
 Q Have you told all that took place at that scene?  
 A Then we—after we gave him a drink of water, we  
 assisted him to bed, lifted him up and carried him to bed.  
 Q You say, "we assisted him to bed," who do you  
 mean by "we"?  
 A My wife, Mrs. Williams, myself and daughter.  
 Q At the time of this discussion or conversation with  
 you about the Leuckel bill, when it took place, who was  
 present, if anyone?  
 40 A No one but my father-in-law and myself the first  
 time.  
 Q Well, the second time?

A I don't know whether my wife was present then or not. He told me two or three different times about the Leuckel bill, but the last time was down at the dining-room table when he and I were taking lunch together.

Q Who was present at that time?

A No one.

Q How many times, to the best of your recollection, was the Leuckel bill discussed by him with you or the other members of your family?

A It was discussed to myself on three different times. 10

Q And did you know of any discussion other than that, on that bill?

A I think he discussed the matter to my wife from what she told me.

Q Your wife told you?

A Yes, sir.

Q Frequently?

A Yes, sir; I believe so.

Q Now, you were there when Mr. Phillips arrived, were you not? 20

A I was there when Mr. Phillips arrived.

Q What time was that?

A The first or second time?

Q Begin at the first time?

A The first time he arrived it was a few minutes after six o'clock.

Q And who let him in the house?

A I cannot recall who it was let him in the house, I was back in the dining-room at the time when he came in.

Q Did you accompany him up stairs? 30

A I did not go up stairs at all the first time.

Q Well, how about the second time?

A I was upstairs in the bed-room when he arrived the second time.

Q Did you have any conversation with Mr. Phillips the first time when he arrived?

A No, sir.

Q None whatever?

A No, sir; none whatever.

Q You knew he was coming? 40

A Yes, sir; I knew he was coming.

Q How did you know he was coming?

A I believe some of the family got word saying that he would be there.

Q How do you know ?

A I only know what they told me.

Q Who told you ?

A One of the members of the family.

Q All knew he was coming, didn't they ?

A I don't know whether they all knew he was coming or not.

10 Q The family knew generally that Mr. Phillips was to come ?

A I don't know that the family knew that Mr. Phillips was to come as a general thing.

Q Who was present ?

A My wife possibly, I don't know though.

Q What time did you hear Mr. Phillips was coming ?

A A few minutes after six o'clock.

Q After six o'clock in the evening ?

A Yes, sir.

20 Q You didn't hear of it before that ?

A No, sir.

Q You didn't hear of it before six o'clock ?

A I heard that he wanted him sent for.

Q What time was that ?

A My father-in-law made the request as soon as he was taken, when he came to, from what I am told.

Q And previous to that time you did not know that he had been sent for ?

A I cannot recollect at this time.

30 Q You never heard of Mr. Phillips being sent for until the father-in-law was taken sick in the bath-room, is that right ?

A No, sir ; I cannot recollect that he had been sent for or had been called up to the time he was taken sick.

Q I am speaking now of any time previous to his having been taken sick ?

A Whether Mr. Phillips had been sent for.

Q Whether or not you knew ?

40 A No, sir ; I did not know.

Q When was it that you first say Mr. Slack told you, how he intended leaving his property ?

A When?

Q Yes?

A Why he told me on the 24th of December, 1901.

Q Where was that?

A At 46 Bayard street.

Q What was the conversation at that time?

A Well, my wife and I had been out there, and we were leaving to go back to our own home and he wanted us to remain——

Q Go on?

10

A He wanted us to remain, he wanted us to move back there, and I said, "No, I didn't care to break up my home and go back," and he says, "I want you to come back to this home, this is Ella's," and I told him, "There were others to be considered," and he said, "No, there was not anyone else to be considered at all but my wife," and I left that evening for my own home, and my wife followed me later.

Q That is all that was said that time?

A That is all that was said that evening.

20

Q Who was there then?

A No one but father-in-law.

Q Who else?

A No one—this conversation took place outside with me, when I was leaving to go home to my own home, and he came outside and followed me out and asked me if I would not move back again——

Q Where was Mrs. Rees at that time?

A In the dining-room.

Q She didn't hear this conversation?

30

A No, sir; not that time.

Q Did you enter the house after that?

A No, sir; I was ready to leave for my own home.

Q Did Mrs. Rees accompany you home?

A No, sir; she came the next morning.

Q Did you explain any of this or say anything to your wife of this conversation?

A I did.

Q Your wife, you say, was not present?

A No, sir; she was in the dining-room.

40

Q And this occurred outside the house?

A Yes, sir; this occurred outside.

Q Outside the house ?

A Yes, sir ; outside the house.

Q Was the door closed ?

A Yes, sir ; the door was closed.

Q Now, how do you fix the date ?

A How do I fix the date ?

Q Yes ?

A It was the Friday previous, the 24th of December, I said—well, now, I may be mistaken in that date, I will  
10 recall that.

Q You have spoken repeatedly of the 24th of December, 1901, how do you fix the date ?

A That is right, my wife went to Lambertville to spend Christmas with my daughter.

Q Is that the way you fix the date ?

A Yes, sir ; that is the way I fix the date.

Q On what day did your wife go to Lambertville to spend the Christmas with your daughter ?

A She went that evening, I went away in the morning, and she left in the evening to go to Lambertville to  
20 spend the Christmas with my daughter, that is the way I know the date.

Q How do you know she left in the evening ?

A She telephoned to me and left a note on the table also at my home stating that she had gone.

Q When did your wife return from that trip ?

A Some time the latter part of January.

Q Did you visit Lambertville while she was there ?

A I was up there once.

30 Q Was it on the occasion of your visit to Lambertville or on her return that you told her about this conversation ?

A I told her on the visit to Lambertville.

Q And not before she left ?

A No, sir ; I left in the morning, as she left in the afternoon for Lambertville.

Q And did you visit Lambertville more than once while your wife was there on that occasion ?

A I only visited Lambertville once at that time.

40 Q When was the next conversation with respect to this matter ?

A After she came home.

Q The last of January, 1902.

A Somewheres around that time.

Q When was the next occasion when you and your wife discussed the proposition?

A Soon after that, possibly a week, or possibly two weeks after.

Q When next after that?

A I cannot tell you, I did not keep the time.

Q Frequent conversations did you have?

A Oh, possibly; it might have come to be quite 10 frequent.

Q You say "possibly," what do you mean by that?

A It came up often between her and I.

Q It did?

A Yes, sir; it came up often between her and I.

Q Now, return to the occasion to the second visit of Mr. Phillips, you say you were in the room with he and Mr. Slack—what was the first thing you heard on your entrance into that room?

A I was in the room, I was present when he came in. 20

Q Present where?

A In the bed-room.

Q And Mr. Slack was lying in bed?

A Yes, sir; he was in bed.

Q And what was the first thing you heard?

A Mr. Phillips says, "I brought you the deed, or the papers, Mr. Slack, for you to sign."

Q Who was present?

A My wife, Dr. MacKenzie, and Mrs. Snook stood there at the door and my daughter and myself. 30

Q To that what did Mr. Slack say?

A He said, "All right."

Q What else was said?

A Mr. Phillips asked him if he could sign them, if he could write his name.

Q Yes, what else?

A He says, "He could."

Q Yes, now tell us what was said?

A He gave him the pen and ink and got a book and set the papers right on it, and then he signed his name, Dr. 40 MacKenzie loaned him his glasses.

Q Dr. MacKenzie did what?

A Adjusted his glasses on to him.

Q What else?

A Then he signed his name.

Q What else, what was said and done?

A Mr. Phillips laid the papers on the bed, and my father-in-law picked them up and handed them to my wife, and said, "These are yours." And he said, "I wish I had a thousand dollars to give you, my dear, that you might pay off the mortgage that is on it." My wife said, "Never  
10 mind that, don't worry about that, Pa," and that is all.

Q Anything else?

A Then Mr. Phillips got ready to leave, and bid him good-bye or good-night, I don't know which?

Q Anything else said or done?

A That was all, I think, that was done at that time.

Q Did Mr. Phillips read this deed?

A He did.

Q You haven't told us all that took place, then?

A Yes, sir; he read the deed, and he called his  
20 attention to the fact that he made an error in reading it, that the lots were at a greater depth on the side he lived on than on the other side of the street.

Q Mr. Slack called his attention to that?

A Yes, sir.

Q You were there during the entire time, were you not?

A Yes, sir.

Q And you were there until Mr. Phillips left?

A Yes, sir; I was.

30 Q You were there from the time Mr. Phillips entered the room until he left?

A I was.

Q And the deed was signed and all completed?

A Yes, sir.

Q And have you told us all that was said and done?

A He bid him good-night, I think that is all. He said I think, "this is the last time I will see you Mr. Phillips," and Mr. Phillips said, "Oh, no; oh, no;" he said, "George, I think you will be better in the morning," and he  
40 said, "No, I think this is my last sickness."

Q And have you told us everything that occurred from the time Mr. Phillips entered the room until he left,

making that remark ?

- A I cannot recall anything more.
- Q You are sure that is all ?
- A That is all I can recall.
- Q Who paid Mr. Phillips ?
- A I believe my wife paid him ?
- Q At that time ?
- A Or Mr. Mahoney paid him.
- Q At that time ?
- A No, sir ; later on. 10
- Q How much did you pay him ?
- A I don't know what he was paid.
- Q When was Mr. Phillips paid ?
- A I don't know.
- Q About when ?
- A I cannot tell you.
- Q Have you any idea ?
- A I have no idea.
- Q Was there a receipt given by Mr. Phillips ?
- A I believe so. 20
- Q Where is that, if you know ?
- A I don't know, I never saw it.
- Q How do you know he was paid ?
- A From what I have been told.
- Q By whom ?
- A By my wife ?
- Q Did you see Mr. Phillips after that, after his visit that night, in respect to this matter ?
- A That night ?
- Q Any time ? 30
- A I saw him on the street.
- Q Anything said about his compensation.

*Mr. Walker.* I object to the question as immaterial.

Question withdrawn.

- Q Has Mr. Phillips called at your house after that occasion ?
- A Not to my knowledge. 40
- Q How many times had Mr. Phillips been to your house to your own knowledge, previously ?

*Mr. Walker.* I object to the question as immaterial and as not cross-examination.

Objection sustained.

*Re-direct by Mr. Walker.*

Q You said something about the 24th of December, 1901?

A Yes, sir.

10 Q And your going away?

A Yes, sir.

Q When was it, with reference to the 24th of December, 1901, you went away—when did you go away?

A In the morning?

Q What morning?

A The morning of the 24th of December, that is I left to go to my work.

Q When was it you had the conversation with your father-in-law on the 24th of December—what time of day was it?

A On the 24th—that evening, when I left that evening.

Q Left where?

A Left my father-in-law's homestead, at 46 Bayard street.

Q Where did you go?

A I went to my own residence, 278 Bellevue avenue.

30 ELIZABETH J. SLACK, a witness produced in behalf of the defendants being duly sworn according to law, on her oath saith:

*Examined by Mr. Walker.*

Q You live in Trenton, N. J.?

A Yes, sir.

Q And you are the wife of William J. Slack?

A Yes, sir.

40 Q And were the sister-in-law of George H. Slack, deceased?

A Yes, sir.

Q You knew George H. Slack in his life-time?

A Yes, sir.

Q Do you recall the 11th of August last, past?

A Yes, sir.

Q Did you overhear any part of the conversation that day or evening, between the two brothers, George H. Slack and William Slack?

A Yes, sir.

Q Where was that?

A In the evening when getting ready to go away, Mr. Slack and I were going to Rahway that evening on our 10 summer trip, and we were waiting for the cab, and George Slack he was sitting on the corner of the couch talking to his brother, and I was passing in and out all the time, and as I came out to bid Mr. Slack good-bye, I put my hand on him, and I said, "Good-bye George," and they were talking together, and I said, "George, be careful now," and he said, "I will, and take good care of yourselves," and he said, "I will take good care of myself, and I intend to be good to those that have been good to me, Lizzie, and that is Ella."

Q Anything else you can recall—anything else said 20 at the time that you remember?

A Furthermore than that I don't remember, I was getting ready to go away—

Q Do you recall the death and burial of George H. Slack?

A Yes, sir; I do.

Q Did you attend the funeral?

A I did.

Q With whom did you go to the funeral?

A I rode in the cab with George W. Slack and his 30 wife.

Q Anyone else?

A And my husband.

Q Did George W. Slack say anything about his father during that ride?

A Yes, sir; he did. He said his father's mind was clear to the last moment of his life, and he was surprised, he said.

Q You saw and talked to George H. Slack during the last few years of his life? 40

A Yes.

Q And the last month of his life?

A Yes, sir.

Q And what was the condition of his mind?

A I thought his mind was very good, he was a cripple, but his mind was sound to my belief.

*Cross-examination by Mr. Dawes.*

Q Is this the only conversation you ever heard by George H. Slack respecting what he was going to do with his property?

10 A Yes, sir.

Q And that was on the night of the day that his wife was buried?

A Yes, sir.

Q And what was Mr. Slack's condition of mind at that time?

A I thought very good, except his grief.

Q Was he much grieved over his wife's death?

A Very much, indeed.

Q Greatly broken down?

20 A Not particularly so, no more than any other man would be under the circumstances.

Q He was greatly affected was he?

A I suppose he was, any man would be apt to be that way.

Q I want to know whether you know that he was dejected and broken down by grief?

A Not quite to that extent as to impair his mind any.

Q I want to know whether he was sad or otherwise, and you have answered that—did you visit George H. Slack  
30 frequently, while he lived on Bayard street?

A Not very often.

Q Your visits became more frequent after Mrs. Rees moved to Bellevue avenue?

A Yes, sir.

Q Had your relations with George H. Slack been kindly, had they been friendly at all times?

A Very, and with Mrs. Slack also.

Q And they had also been friendly with Mrs. Rees?

A Yes, sir.

40 Q There had been no breach or anything of that kind?

A Never to my knowledge.

Q Do you mean to say now, that between your family and the family of Mrs. Rees there was not a rupture that caused you to cease visiting there for a number of years?

A Nothing between Mrs. Rees and myself.

Q Well, your family?

*Mr. Walker.* I object to the question as immaterial, and as not being cross-examination.

*Court.* It would be admissible only in certain aspects to show her value as a witness.

10

*Mr. Dawes.* Well, the question is answered.

Question withdrawn.

Q When did you return from Rahway?

A I came from Rahway the day before Mr. Slack was buried, on the Friday in the evening.

Q You attended his funeral the next day?

A Yes, sir; I attended his funeral.

Q You have already testified that you never heard Mr. Slack make any other declaration as to how he intended to leave his property, except on that one particular occasion?

20

A That one occasion, that is all.

Q Have you ever heard him discuss with you or in your presence the feelings that he entertained towards his son, George W. Slack?

A Not to my knowledge.

Q Well, you never have—this was the only time you ever heard him make any declaration on that subject?

A Yes, sir.

30

*Mr. Walker.* We offer in evidence the deed by George H. Slack to Eliza Ella Rees.

With the exception of asking leave, if we should conclude it was necessary to examine Mr. Mahoney, who is sick in the hospital, defendants rest.

40

GEORGE W. SLACK, being recalled, in behalf of the complainants, in rebuttal, saith:

*Examined by Mr. Dawes*

Q Mrs. Mahoney testified that she was sitting on the porch of her house, talking to your father, and that you passed by and did not stop and speak to him—what do you say as to that being true or otherwise?

A I never passed him in my life and saw him, that I did not speak to him.

Q Did you ever see him or pass him, while he was  
10 sitting on the porch, in the month of June, 1902?

A I saw him once or twice sitting there.

Q What did you do as you passed by?

A I waived my hand to him and spoke to him?

Q Did he return it?

A Once he did and once he did not?

Q Did you have a conversation with William G. Slack, respecting what your father had told him about you?

A No, sir; never to me knowledge.

Q Did William G. Slack ever tell you anything about  
20 what your father had said to him about you?

A Several times; I often used to meet him on the corner of Warren street where he stood with his wagon, and he asked how father was getting along, and I told him how he was getting along. And I asked him when he saw him last, and he said once, that father thought a great deal of me, and he said, "You want to stick to him." He said, "That he didn't know how he could get along without me," he told me that several times.

Q Can you fix the time when he told you that?

30 A That was in 1897.

Q It has been testified here that your father said that he had given you the money to pay a bill of A. K. Leuckel, is it true as a fact that your father ever had given you that money to pay Mr. Leuckel?

A No, Sir.

Q Did you have any talk with your father about the Leuckel bill?

A Yes, sir.

Q How many times?

40 A Several times.

Q Where did those conversations take place?

A At his place, at his home.

Q On 46 Bayard street ?

A Yes, sir.

Q And will you state what those conversations were ?

A Well, we got into a little difficulty with a man named Baker——

Q Walter H. Baker ?

A Yes, sir ; and Frank Katzenbach—I put the business in the hands of Frank S. Katzenbach to settle it up, and all the money we got through that suit was not enough to pay all the bills. I paid a portion of them myself, and have 10 the receipts to-day to show for it, even the lawyer's expenses, and this bill was one that was left, there was no money to pay it, no money to pay this bill, and I took it to father and he said he would pay it, and I also told Mr. Leuckel that father would assume that debt ?

Q You say you had several conversations—did you ever talk to your father and tell him that he left that bill outstanding ?

A Yes, sir.

Q What did he say ?

20

A He said he forgot about it. I had one particular conversation with him about it, he came to me to do some work for him, to fix his house up, and put hot water in it, and I told him tha the had better pay Mr. Leuckel's bill instead of doing that work, he had no money to spare.

Q What did he say ?

A He said, "well, sister wanted the house fixed up."

Q In any of these conversations you had with your father, did he ever say anything to you about your not having paid the bill, because he had given you the money to do it ? 30

A No, sir.

Q Did he at any time, ever say to you that he had given you the money to pay the bill ?

A No, sir.

Q And you say as a fact that he never did ?

A I do.

Q What was the amount of that bill ?

A Seventy dollars or in that neighborhood.

Q Mr. Leuckel testified that all bills between him and your father were settled by check ? 40

A Always.

Q And checks prepared by whom ?

*Mr. Walker.* I object to the question as not being rebuttal.

Objection sustained.

Q And signed by your father ?

A Yes, sir.

Q It has been testified to by Mrs. Rees and by several other witnesses on that side of the case that your father said you had wronged him, cheated him, or wild-  
10 catted him, or some other expressions of that kind—state whether or not you were ever charged by your father with doing that ?

A No, sir ; never in his life.

Q The business conducted by you for him, how did you make the settlements with him for that ?

*Mr. Walker.* I object to the question as not being rebuttal.

20 *Court.* I will take it.

A In regard to the bills ?

Q Yes, and what moneys were received and paid out ?

A Contracts were always taken in his name.

Q How were the settlements made ?

A The money was always paid to me.

Q By whom ?

A By the owners, and if it was paid by check to me, I delivered the checks over to him, he done all the banking  
30 business, making deposits and such like, and all the bills were paid by check, and he kept the stub check-book, he would keep a memorandum of it all, so that he knew when these checks came back, and he kept his vouchers, I never kept any checks, he kept them all, so that he could tell or know all the time what was going on.

No cross-examination.

40

FRANCES A. SLACK, recalled in behalf of the complainants, in rebuttal saith :

*Examined by Mr. Dawes :*

Q Mrs. Rees testified that she practically did all the work at the Slack household, what do you say as to that?

*Mr. Walker.* I object to the question as not being rebuttal testimony—Mrs. Rees was on the stand before this witness was put on the stand and has been examined as to all that.

*Court.* No, it is not rebuttal.

Objection sustained.

10

*Mr. Dawes.* We rest with the exception of one witness, we would also like to examine that witness *de bene esse*.

*Mr. Valentine.* Mr. Yeomans and Mrs. Fitzgerald are the witnesses, and I have the certificate of a doctor, C. H. Reed, in respect to Mrs. Fitzgerald's condition.

*Mr. Walker.* It is perfectly apparent as to what Mr. Mahoney's testimony would be, and I think perhaps 20 it is merely cumulative, and to save having the case go over, I will withdraw him as a witness.

*Mr. Valentine.* Our testimony from those witnesses would, I think, be also cumulative, and as the defendant has rested his case, we are satisfied to stand in the same position, and rest our case.

Case closed.

Argument at Trenton, April 21<sup>st</sup>, 1903.

30

IN CHANCERY OF NEW JERSEY.

Between

GEORGE W. SLACK, and  
ROBERT M. SLACK,

10

Complainants,

On Bill, &c.

and

ELIZA ELLA REES, et als.,

Defendants.

BILL OF COMPLAINT.

HARRY C. VALENTINE, *Solicitor*,

20

Baker Building, Trenton, N. J.

*To the Honorable William J. Magie, Chancellor of the State  
of New Jersey:*

Humbly complaining, shows unto your Honor, your  
orators, George W. Slack, of the City of Trenton, in the  
County of Mercer and State of New Jersey, and Robert  
M. Slack, of the City of East Liverpool, Columbiana  
County and State of Ohio, that George H. Slack, the  
30 father of your orators, departed this life at the age of sixty-  
eight years, in the City of Trenton, County of Mercer and  
State of New Jersey, where he had resided for nearly fifty  
years, on the morning of the thirteenth day of August, in  
in the year nineteen hundred and two; that he was a  
widower, his wife, Sarah C., having died on the seventh day  
of August, in the year nineteen hundred and two, six days  
before her said husband's decease.

And your orators further show, that for more than four  
years prior to the death of their father he was in ill health,  
easily excitable, exceedingly nervous, and mentally irre-  
40 sponsible by reason of his said illness; that for several months  
prior to his death he was unable to care for himself, that for  
several weeks prior to his death, as your orators are informed

and believe and charge the fact to be, the said George H. Slack's daughter, Eliza Ella Rees, sought to influence her father to make some disposition of his property, or at least of the lands and premises hereinafter particularly described, in such manner that she, the said Eliza Ella Rees, would be benefitted thereby over and above the benefit that would naturally come to her as an heir at law of the said George H. Slack, should he die intestate.

And your orators further show that several months prior to the death of their father, his said daughter, their sister, 10 Eliza Ella Rees, visited his home at No. 46 Bayard street, in the said city of Trenton; that her mother was ill at the time, and her father learning that his said daughter had procured from her mother a will, by the provisions of which she would be benefitted over and above the benefit that would naturally come to her as an heir at law of her mother, should her father die before his wife, he, the said George H. Slack, ordered the said Eliza Ella Rees from his home, saying: "You leave my house and never set foot in it again; I never want to see you again; I don't even want you to 20 come to my funeral."

And your orators further show that later, on or about the month of June, in the year nineteen hundred and two, the said Eliza Ella Rees, without the knowledge of George W. Slack, one of your orators, their son, and her brother, who resided near his parents, caused their father and mother to be removed from their home at No. 46 Bayard street to her home at No. 278 Bellevue avenue in said city; that one week later she, the said Eliza Ella Rees, caused her mother, who is also the mother of your orators, and who 30 had adjudged a lunatic, to be confined in the Trenton State Hospital for the Insane, and before so doing sought to have her said mother, Sarah C. Slack, committed to such asylum as a county or pauper patient, notwithstanding her father, the husband of Sarah C. Slack, was well able to provide for his said wife, and for the purpose, your orators believe and charge, in furtherance of her scheme to possess herself of all the estate of her parents; that one of your orators, George W. Slack, learning through his father of the attempt of his sister, Eliza Ella Rees, to cause their mother 40 to be committed as a county or pauper patient protested and prevented such commitment of their mother in said

asylum of a county or pauper patient but consented to her confinement therein as a paid patient.

And your orators further show that their mother was buried on the eleventh day of August, nineteen hundred and two, and that on Sunday, the tenth day of August, nineteen hundred and two, their said father, who died three days later, called his son, Robert M. Slack, one of your orators, to him, and referring to the death of their mother and the near approach of his own death, said: "Robert, whatever happens to me, now that your mother is dead, I want to tell you that I intend that you three children shall get an equal share when I am gone."

And your orators further show that their said father was taken violently sick and confined to his bed on the afternoon of the twelfth day of August, nineteen hundred and two, at the home of the said Eliza Ella Rees, in Trenton aforesaid, and that the same afternoon, Tuesday, the twelfth day of August, nineteen hundred and two, the said Eliza Ella Rees procured the services of Mr. Henry D. Phillips, a lawyer of the City of Trenton, and producing before him a certain deed, directed Mr. Phillips to draft a deed conveying all the real estate owned by her father, George H. Slack, to her; that the said Phillips did draft said deed as directed and late the same night returned to the home of the said Eliza Ella Rees, when she secured the execution of said deed by her said father, George H. Slack, which properties were conveyed to her, the said Eliza Ella Rees, for an expressed consideration of "one dollar and affection;" that is to say the said deed purported to convey to the said Eliza Ella Rees, all the lands hereinbefore mentioned and therein described as follows: All those two certain lots of land, situate (formerly) in the Township of Hamilton, in the County of Mercer and State of New Jersey, being lots numbers twenty-three and twenty-four, on the plan of lots laid out by Albert J. Whittaker, said lots being together bounded and described as follows: Beginning at the northerly side of Bayard street at the southwesterly corner of lot number twenty-two, owned by Samuel Gancher, and running (1) westerly along said street fifty feet to lot number twenty-five, owned by Robert Goodwin, thence (2) northwardly along said lot at right angles to said lot one hundred and twenty-five feet to an alley fifteen feet wide; thence

(3) easterly along said alley fifty feet to the Gancher lot aforesaid; and thence (4) southerly along that lot one hundred and twenty-five feet to the place of beginning, together with the free and common use of said alley, being the same premises conveyed to the said George H. Slack, party of the first part by Albert J. Whittaker, by deed dated July fourteenth, A. D. one thousand eight hundred and sixty-five, and recorded in Mercer County Clerk's office in Book of Deeds, Vol. 77, pages 41, &c.

And that the said deed of conveyance was in form a 10  
 general warranty deed, with the usual full covenants of  
 warranty, wherein said lands were declared to be free and  
 clear from all and every encumbrances whatsoever.

And your orators further show that they believe and  
 charge the fact to be, that at the time of the execution of  
 said deed of conveyance their father was not fully informed  
 of the nature thereof, and that he was mentally incapable  
 of performing a voluntary act, his last suffering having pro-  
 duced disorder and disease of the nature of softening of  
 the brain, that the aforesaid deed of conveyance by the father 20  
 of your orators was secured by the use of undue influence  
 by Eliza Ella Rees, his said daughter, over her own father  
 and in fraud of your orators who are entitled to one equal  
 one third part of said lands as the heirs at law of the said  
 George H. Slack; that the said George H. Slack died in a  
 few hours after signing the said deed of conveyance.

And your orators further show that although their said  
 father was rapidly sinking, and that the said Eliza Ella Rees  
 well knew that her brother, George W. Slack, one of your  
 orators, had a telephone in his residence in the City of 30  
 Trenton, and although their said father was dying, no word  
 or message was sent or delivered to the said George W.  
 Slack, your orator, by his sister Eliza Ella Rees until after  
 the signing of said deed of conveyance by their said father,  
 and only a couple of hours before death ensued; that the  
 fact of the signing of the deed of conveyance by their  
 father purporting to convey to the said Eliza Ella Rees the  
 above mentioned lands, was not disclosed by the said Eliza  
 Ella Rees for two days, and only after the said deed had  
 been duly recorded in the office of the clerk of the County 40  
 of Mercer, the same being recorded in said clerk's office a  
 few hours after the death of the said George H. Slack.

And your orators further show that the lands and premises so pretended to have been conveyed by the said George H. Slack to the said Eliza Ella Rees, comprised all the real estate owned by the said George H. Slack at the time of his death, or at the time of said pretended conveyance, and that the said conveyance was in fraud of your orators and without consideration.

And your orators further show that they were advised that the deed of conveyance executed by the said George  
 10 W. Slack to the said Eliza Ella Rees, as hereinbefore set forth was never legally delivered to the said Eliza Ella Rees, that the said George W. Slack never gave up his control over the deed, and never parted with his estate in the lands described in said deed, and that consequently died seized and possessed of an estate in fee in said lands, and that the said lands upon his death descended to and became vested in the three children and heirs at laws of the said George W. Slack, to wit: George W. Slack and Robert M. Slack,  
 20 your orators, and Eliza Ella Rees, and that your orators are each entitled to an undivided one-third interest in said lands and premises.

And your orators further show that the said Eliza Ella Rees is a married woman, and that her husband's name is Albert Rees, and that he claims some right or interest in the lands or premises pretended to be conveyed to Eliza Ella Rees by the deed of conveyance of George H. Slack as hereinbefore set forth.

In tender consideration whereof and for as much as your orators are without inadequate remedy in the courts of  
 30 law, but have full redress only in this honorable court where matters of this nature are conmissible and reliable, and to the end that the said Eliza Ella Rees and Albert Rees, her husband, may without oath, full, true and perfect answer make to each and every of the allegations herein contained, and that the said deed of conveyance executed by George H. Slack to Eliza Ella Rees as aforesaid, as against your orators, be adjudged and declared by a decree of this  
 40 honorable court to be fraudulent, and the same may by such decree be declared to be utterly null and void, and that your orators may each be adjudged and decreed to be seized and possessed as an undivided one-third interest in and to the said lands and premises, notwithstanding the aforesaid con-

veyance and that the said Eliza Ella Rees may be required to deliver up the aforesaid deed of conveyance to the end that the same may be cancelled of record and destroyed, or that she may be required to convey to each of your orators an undivided one-third interest in and to the said lands and premises, and that your orators may have such other and full relief in the premises and the nature of the case may require and as to your orators shall seem equitable and just.

May it please your honor, the premises considered, to grant unto your orators the state's right of subpoena issued out of and under the seal of this honorable court to be directed to the said Eliza Ella Rees and Albert Rees, her husband, commanding them and each of them, by a certain date and under a certain penalty therein to be expressed to be and appear before your honor in this honorable court, then and there to answer all and singularly the said premises and stand to and abide by, and perform such order and decree therein as to your Honor shall seem meet, and as shall be agreeable to equity and good conscience.

And your orators as in duty bound will ever pray, &c.,  
HARRY C. VALENTINE,  
FRANCIS B. LEE, *Solicitor of Complainants.*  
*of Counsel.*

IN CHANCERY OF NEW JERSEY.

Between

GEORGE W. SLACK, and  
ROBERT M. SLACK,

10

*Complainants,*

and

ELIZA ELLA REES, and ALBERT  
REES, her husband,

*Defendants.*

On Bill, &c.  
Answer.

THE ANSWER OF THE DEFENDANTS TO THE  
BILL OF COMPLAINT OF THE  
COMPLAINANTS.

20

These defendants answering say:

1. That it is true as stated in the complainant's bill that George H. Slack, the father of the complainants, departed this life at the age of fifty-eight years, in the City of Trenton, County of Mercer and State of New Jersey, where he had resided for upwards of fifty years, on the morning of the thirteenth of August, 1902; that he was a widower, his wife, Sarah C. Slack, having died on the seventh day of August, in the year last aforesaid, and six  
30 days before her said husband's decease.

2. And these defendants further answering say: that it is true, as stated in complainant's bill, that for more than four years prior to the death of their father, he was in ill health; but it is not true that he was easily excitable, exceedingly nervous, or mentally irresponsible, by reason of the said illness, or otherwise; that it is not true that for months prior to his death he was unable to care for himself, but on the contrary, the said George H. Slack and his said wife, Sarah C. Slack, lived together in their house, No. 46  
40 Bayard street, in the City of Trenton, until the twentieth day of May, 1902, up to which time the said George H. Slack not only cared for himself, but also for his said wife,

who was insane ; that it is not true that for several weeks prior to his death, or at any other time, this defendant, Eliza Ella Rees, sought to influence the said George H. Slack, who was her father, to make some or any disposition of his property, or of the lands and premises particularly described in said bill of complaint, in such manner, that she would be benefitted thereby over and above the benefit that would naturally come to her as an heir at law of the said George H. Slack, should he die intestate—nor otherwise.

3. And these defendants further answering say : that 10  
it is true as stated in the complainant's bill, that for several months prior to the death of their father, this defendant, Eliza Ella Rees, visited his home at No. 46 Bayard street, in the City of Trenton, aforesaid, as was her duty ; that her mother was physically ill for only about three weeks, but that it is not true that this defendant, Eliza Ella Rees, procured from her mother, a will by the provisions of which she would be benefitted over and above the benefit that would naturally come to her as an heir at law of her mother, should her father die before his said wife ; or that 20  
her said father learned that she had so procured her said mother to make a will ; or that for said alleged reason he ordered this defendant, Eliza Ella Rees, from his home, using the language in that behalf stated in said bill of complaint ; but on the contrary these defendants aver the truth to be that the said George H. Slack, having been falsely informed by the complainant, George W. Slack, that this defendant, Eliza Ella Rees, was trying to put her mother in the insane asylum, he, her said father, then and there said that she, this defendant, Eliza Ella Rees, must leave his 30  
house ; whereupon these defendants, who were then and there living with the said George H. Slack, and Sarah C. Slack, his wife, moved away from their said house, No. 46 Bayard street, to their present residence, No. 278 Bellevue avenue, where they have ever since resided.

4. And these defendants further answering say : that on May 20th, 1902, this defendant, Eliza Ella Rees, removed her said father and mother from their home, No. 46 Bayard street, to her home, No. 278 Bellevue avenue, in Trenton aforesaid, at the request of her said father, without 40  
the knowledge of the said complainant, George W. Slack, so far as these defendants know ; that the facts and circum-

stances under which this defendant, Eliza Ella Rees, removed her said father and mother to her said house were as follows: On the afternoon of May 20th, 1902, her said father sent for her to go to his house, No. 46 Bayard street, and upon her arrival there, he said to her, "Will you take mother home with you, I cannot care for her any longer here, her mind has entirely left her, and I will stay here a few days." That her said mother was then and there so far deranged that she did not know this defendant, Eliza  
 10 Ella Rees; that thereupon this defendant procured a cab and took her said father and mother to her home, No. 278 Bellevue avenue, aforesaid; that it is not true as stated in said bill that about one week later, or at any other time, this defendant, Eliza Ella Rees, sought to have her said mother committed to an insane asylum as a county or indigent patient, but on the contrary thereof, the truth is that this defendant's mother was committed to the New Jersey State Hospital at Trenton one month after her removal to these defendants' house, as aforesaid: to wit,  
 20 on June 20th, 1902, by the procurement, and upon the request in writing of this said defendant's father, the husband of the said Sarah C. Slack; and that she, the said Sarah C. Slack, died in the State Hospital, her board therein having been paid at the rate of five dollars (\$5.00) per week.

5. And these defendants further answering say: that on Sunday, August 10th, 1902, the said Robert M. Slack, one of the complainants, called at the house of these defendants and took his father, the father of this defendant,  
 30 Eliza Ella Rees, out riding; that upon his return from said ride, and after the said Robert M. Slack had gone away, the said George H. Slack, her father, said to this defendant, Eliza Ella Rees, that the boys were trying to play him, but that he had made up his mind what he would do with his property, but that he had not told them.

6. And these defendants further answering say: that it is true as stated in said bill, that the said George H. Slack was taken violently sick and confined to his bed on the afternoon of August 12th, 1902, at the home of this  
 40 defendant, Eliza Ella Rees, but that it is not true that on the afternoon of the same day, or at any other time, this defendant, Eliza Ella Rees, procured the services of Henry D.

Phillips, Esquire, a lawyer of the City of Trenton, or produced before him a certain deed, or directed him to draw a deed conveying all the real estate owned by her said father to her; but on the contrary thereof, avers the truth to be that the said Henry D. Phillips, Esquire, on said afternoon, was sent for by the said George H. Slack, and arrived at the house of these defendants, where the said George H. Slack was, about 7 o'clock in the evening, and had an interview with the said George H. Slack, at which interview the said George H. Slack directed the said Henry D. Phillips, Esquire, to draw a deed conveying to this defendant, Eliza Ella Rees, the lands and premises described in the bill of complaint, for an expressed consideration of one dollar and natural affection; that during the interview between the said Henry D. Phillips, Esquire, and the said George H. Slack, there were in the house of these defendants sundry persons, all of whom went in and out of the room where the said Henry D. Phillips, Esquire, and George H. Slack were, viz: these defendants, and Edward J. Mahoney, their son-in-law, Caroline Mahoney his wife, these defendants' daughter, Emmeline Snook, cousin of the complainants and of this defendant, Eliza Ella Rees, and Sarah Williams, of Philadelphia, a cousin of this defendant, Albert Rees, and Maggie Rogers, a domestic employed in the house; that none of the parties then and there present in the house and who went in and out of the sick room of the said George H. Slack, as aforesaid, in any way participated in any of the conversation between the said Henry D. Phillips, Esquire, and the said George H. Slack, or gave any directions to either of them; that the said Henry D. Phillips, Esquire, departed from said house of these defendants about a quarter of an hour after entering it, taking with him a title deed to said property, which was handed to him by the said George H. Slack, he, the said George H. Slack, having requested this defendant, Eliza Ella Rees, while in the said room, to get the said deed for him from a desk of his in the house, which the said defendant did, handing the said deed to her said father, at his request as aforesaid; that the said Henry L. Phillips, Esquire, returned to the house of these defendants, sometime between nine and ten o'clock on the night of August 12th, 1902, with a deed of conveyance that was then and there made, executed

and delivered by the said George H. Slack, to this defendant, Eliza Ella Rees; that Dr. Thomas H. Mackenzie was then and there present at the bedside of the said George H. Slack, upon the return to these defendants' house of the said Henry D. Phillips, Esquire; that the said Henry D. Phillips, Esquire, made known the contents of the said deed to the said George H. Slack, who then and there signed, sealed and delivered the same in the presence of the said Dr. Thomas H. MacKenzie, who thereupon signed his name  
 10 thereto as subscribing witness, and he, the said George H. Slack, thereupon acknowledged the same to be his voluntary act and deed, before the said Henry D. Phillips, Esquire, a Master in Chancery of New Jersey; and these defendants aver the truth to be that at the time of the signing, sealing and delivering of the aforesaid deed of conveyance, the said George H. Slack was *sui juris* and *compos mentis*, and that title to the lands and premises described in said deed, and in the said bill of complaint, passed to this defendant, Eliza Ella Rees, by virtue of said conveyance as  
 20 aforesaid, and that she is now seized of the same in her own right, in fee simple absolute.

7. And these defendants further answering say: that they are not informed as to the debts of the said George H. Slack, or the amount thereof, save that this defendant, Eliza Ella Rees, believes that her father left some few debts, but that it is not true that this defendant, Eliza Ella Rees, has declared that her said father left no personal estate out of which his creditors might be paid.

8. And these defendants further answering say: that  
 30 it is true as stated in said bill, that the said Dr. Thomas H. MacKenzie was requested to and did witness the said deed of conveyance, and that he had not previously treated the deceased, but that it is not true as stated in said bill that the said George H. Slack, at the time, was not in sound or disposing mind, or was mentally incapacitated to make a deed or enter into any contract or business transaction, or did not understand the nature and purport and effect of the deed, so as aforesaid signed by him, or that he was induced, led or procured to sign said deed of  
 40 conveyance by false statements or misrepresentations of this defendant, Eliza Ella Rees, or that he was under the influence and control of the said defendant; or that this de-

fendant, Eliza Ella Rees, said to her said father that his  
 sons had defrauded him, or that his son, George W. Slack,  
 had taken advantage of him in business, or that they, said  
 sons, had refused to care for him, or would not come and  
 see him in his last hours, or that she, this defendant, con-  
 cealed from her said brothers, the critical condition of  
 their said father until after the making of said conveyance;  
 or that the complainants were deprived of the privilege of  
 caring for their said father by any surreptitious act of this  
 defendant, Eliza Ella Rees, in conveying their said parents 10  
 to their home; but on the contrary thereof, these defend-  
 ants aver the truth to be that at the time of the making,  
 executing and delivering of the aforesaid deed  
 of conveyance by the said George H. Slack to this  
 defendant, Eliza Ella Rees, he, the said George  
 H. Slack, was in sound and disposing mind, and  
 was *compos mentis* and understood the nature and purport  
 and effect of the deed signed by him, and that he signed,  
 sealed and delivered the same as his voluntary act and  
 deed, as hereinbefore particularly mentioned, and set forth. 20

9. And these defendants further answering say: that  
 the lands and premises so as aforesaid conveyed by the  
 said George H. Slack to this defendant, Eliza Ella Rees,  
 are correctly mentioned and described in the said bill of  
 complaint.

10. And these defendants further answering say: that  
 it is true as stated in the said bill of complaint, that the  
 said deed of conveyance was in form a general warranty  
 deed, with the usual full covenants of warranty, wherein  
 said lands were declared to be free and clear from all and 30  
 every encumbrance whatsoever; but these defendants aver  
 the truth to be that at the time of the execution of the said  
 deed by the said George H. Slack he remarked that the  
 property conveyed by said deed, was encumbered by a mort-  
 gage of one thousand dollars (\$1,000), and that he only  
 wished he had the thousand dollars to give to this defendant,  
 Eliza Ella Rees.

11. And these defendants further answering say: that  
 it is not true that at the time of the execution of said deed  
 of conveyance, the said George H. Slack was not fully 40  
 informed of the nature thereof, or that he was mentally in-  
 capable of performing a voluntary act, or that his last suf-

ferings produced disorders, and a disease of the nature of softening of the brain, or that the aforesaid deed of conveyance was secured by the use of undue influence by this defendant, Eliza Ella Rees, over her father, and in fraud of the complainants, or that they are each entitled to one equal third part of said lands as heirs at law of the said George H. Slack, deceased, who died about seven hours after the signing of the said deed of conveyance; but on the contrary thereof, these defendants aver the truth to be that the

10 said George H. Slack was fully informed of the nature of said deed by the said Henry D. Phillips, Esquire, as aforesaid, and was mentally capable of performing a voluntary act, and that he did not have disorders, or a disease of the nature of softening of the brain; that the illness from which he suffered was an affection of the heart. That said deed of conveyance was not secured by the use of undue influence by this defendant, Eliza Ella Rees, over her father, and in fraud of the complainants, and that the said complainants are neither of them entitled to any part of said

20 lands as heirs at law of the said George H. Slack, or otherwise.

12. And these defendants further answering say: that it is not true as stated in the said bill of complaint, that the said George W. Slack, one of the complainants, was not sent any word or message concerning his father's dying condition until only a couple of hours before death ensued, but on the contrary thereof, these defendants aver the truth to be that a telephone message was sent by this defendant, Eliza Ella Rees, to the said George W. Slack, at nine

30 o'clock in the evening before the day of the death of the said George H. Slack, and also a message was sent to his house at about 10 o'clock on the same evening, and another telephone message sent about midnight, which was answered by his wife, who said that he was not home, but was out on business; and that the said George W. Slack arrived at the house of these defendants about two o'clock in the morning of August 13th, 1902, and about two hours before the death of his said father; that upon the arrival of the said George W. Slack, his said father, who was still conscious, looked at

40 the said George W. Slack, and said, "Who sent for him?" to which this defendant, Eliza Ella Rees, replied, "I did," to which the said George H. Slack made no reply. That

the said George H. Slack was then and there in a dying condition, and thanked and bid good-bye to others in the room, viz: this defendant, Eliza Ella Rees, these defendants' daughter, Caroline Mahoney; this defendant, Eliza Ella Rees' cousin, Emmeline Snook, calling each by name, and ignoring the said George W. Slack, who stood by his bedside as aforesaid; that the facts concerning the alleged concealment by this defendant, Eliza Ella Rees, for two days after her father's death, and the fact of the conveyance made by him to her as aforesaid, is this: Her said father, after making said deed, told said defendant not to say anything about the deed until after he was buried. 10

13. And these defendants further answering say: that it is true as stated in said bill that the lands and premises conveyed to this defendant, Eliza Ella Rees, comprise all the real estate which was owned by the said George H. Slack, at the time of said conveyance, but that the said conveyance was not made in fraud of the complainants, or without consideration, and that the said George H. Slack was not seized of any lands and premises at the time of his death. 20

15. All which matters and things these defendents are ready to aver, maintain and prove, as this Honorable Court may direct, and humbly pray to be hence dismissed with their reasonable costs and charges in this behalf, most wrongfully sustained.

SOLICITOR OF DEFENDANTS.

IN CHANCERY OF NEW JERSEY.

[CERTIFIED COPY.]

10

PETITION OF APPEAL.

GEORGE W. SLACK, et al.,  
*Appellants,*

and

20

ELIZA ELLA REES,  
*Appellees.*

*To the Honorable the Court of Errors and Appeals in the last resort in all causes:*

The petition of George W. Slack and Robert Slack, the appellants in the above stated cause, respectfully shows that your petitioners find themselves aggrieved by a final decree made in the Court of Chancery, bearing date the  
30 said George W. Slack and Robert Slack were complainants and Ellen Eliza Rees and Albert Rees, her husband, were defendants, in this respect, to wit: that the said decree adjudged that the complainants were not entitled to the relief prayed for in their bill and that their bill of complaint should be dismissed with costs. And your petitioners humbly appeal from the whole and every part of said decree, upon the ground that the same is erroneous, and should have been made in favor of these appellants, instead of in favor of the said respondents, and that the same is in other respects  
40 unjust and inequitable.

Your petitioners, therefore, pray that the said decree of the said Chancellor may be reversed, set aside and for

nothing holden, and that your petitioners may have such other relief in the premises as to this Honorable Court shall seem meet.

HARRY C. VALENTINE,  
*Solicitor of Appellants.*

I conceive there is good cause for appeal.

AARON V. DAWES,  
*Of Counsel with Appellants.*

Endorsed: "Filed, July 9th, 1903.

10

S. D. DICKINSON, CLERK."

STATE OF NEW JERSEY.

DEPARTMENT OF STATE.

I, S. D. Dickinson, Secretary of State of the State of 20  
New Jersey, and ex-officio Clerk of the Court of Errors  
and Appeals in the last resort in all causes, do hereby certi-  
fy that the foregoing is a true copy of petition of Appeal, in  
the above stated cause; as the same is taken from and  
compared with the original, filed July 9th, 1903; now re-  
maining on file in my office.

In testimony whereof, I have hereunto set my hand  
and affixed the official seal of said Court, at Trenton, this  
10th day of July, A. D. 1903.

S. D. DICKINSON, 30  
*Secretary of State.*

{ SEAL }

IN CHANCERY OF NEW JERSEY.

10

GEORGE W. SLACK, et al.,

vs.

On Bill to Set  
Aside a Deed.

20

ELIZA ELLA REES, et al.

MESSRS. H. C. VALENTINE and A. V. DAWES,  
*for Complainants.*

MESSRS. BENJAMIN GODSHALK and E. R.  
WALKER,  
*for Defendants.*

30

REED, V. C.

On August 12th, 1902, George H. Slack executed a deed by which he conveyed to his daughter, Eliza Ella Rees, two lots with the houses thereon, in the City of Trenton. A few hours thereafter he died. The deed covered all the grantor's real estate and his personal property is insufficient to pay his debts. The grantee is his only daughter. He left two sons who are the complainants in this suit. The complaint is that the deed was a gift; that the grantor was mentally weak; that he was unduly influenced by his daughter, the grantee, to execute the deed in her favor, and that he had no independent advice respecting its execution.

The grantor had suffered from locomotor ataxia from the effect of which he dies. The daughter was married and she and her husband had lived with her father, the grantor, and her mother on Bayard street, Trenton, up to about four years ago. At that time the daughter took a house of her own on Tyler street, where she lived about ten months; then moved to a house on Bayard street near her father's, and after a year there, moved back to her father's house.

On April 1st, 1901, they all moved to Bellevue avenue 10 into a house where the grantor died.

On August 4th the grantor had visited the office of Mr. Phillips who had attended to his pension matters, and in a talk with him at that time, said that he had some other matters that he wished Mr. Phillips to transact for him, and that he would let Mr. Phillips know when he wanted him. On August 12th the grantor had a severe attack similar to *angina pectoris*, and when he recovered he expressed great anxiety to have his papers fixed, and desired that Mr. Phillips should be sent for at once. Mr. Phillips 20 was telephoned for, and arrived between three and four o'clock in the afternoon. Mr. Slack said to him that he wished to see him about the business he had already spoken about. Mr. Phillips took his instructions from which he drew a deed—the deed in question. He returned in the evening, when the deed was executed in the presence of Dr. MacKenzie.

From the statement of these bare facts, namely a deed made by an old and sick man to one child, to the exclusion of the remaining children—that child living in his 30 house and in daily conference with him, the rule is undoubted that the burden is upon the grantee to show that the instrument was executed free from any undue influence exercised by the grantee.

I am constrained to the conclusion that this has been shown in the present case. As to the mental condition of Mr. Slack just previous to his death, the testimony convinces me that while age and disease had produced their usual effect in lessening the mental alertness of youth and health, and in making consecutive thinking more painful, it 40 had not in any material degree deprived the grantor of the power of thinking about his affairs in a rational manner and

in exercising a sound judgment upon ordinary matters.

That he had had this disposition of his property in mind for some time, and that he was extremely anxious that it should be settled before his death, is proved beyond doubt. That he had the mental ability to intelligently make this disposition of his property, is to my mind clear.

Nor have I found any satisfactory evidence of the exertion of any undue influence by his daughter. She denies that she ever requested him to make a deed or a will in her favor. There is no evidence that she ever exercised any dominative influence over him, either in business or domestic affairs. Whatever influence she may have acquired by filial devotion to him was entirely legitimate. Nor were his relations with his other children such as to raise a presumption that the favor shown by the father to the daughter must have been the result of her unduly persistent or fraudulent influence.

In respect to the point that she led her father to believe by false and importune representations that George had dealt unfairly with him while they were in business together, I am of the opinion that this position is not sustained by the evidence. She may have talked with her father about the Leuckel bill, but that she put the idea in her father's head that George had received money from his father to pay the bill, and then had failed to do so, is a position that is not proven. It is to be observed that the father knew all about the transaction between himself and George, and that she knew nothing aside from what she heard from her father. It is to be observed again that while the father's pique toward George, if it existed, might have led him to cut off George, it would have afforded no reason for excluding his remaining son.

Regarding the point made that there was absence of independent advice to which the grantor was entitled before executing so important a transaction, it is sufficient to say that such advice is essential only when a confidential or dominant relation is proved to exist between the parties. There is no presumption that a parent who makes a gift to a child, is dominated by the child. Such domination must be proved by facts and such facts, in my judgment, do not appear in this case.

The bill must be dismissed.

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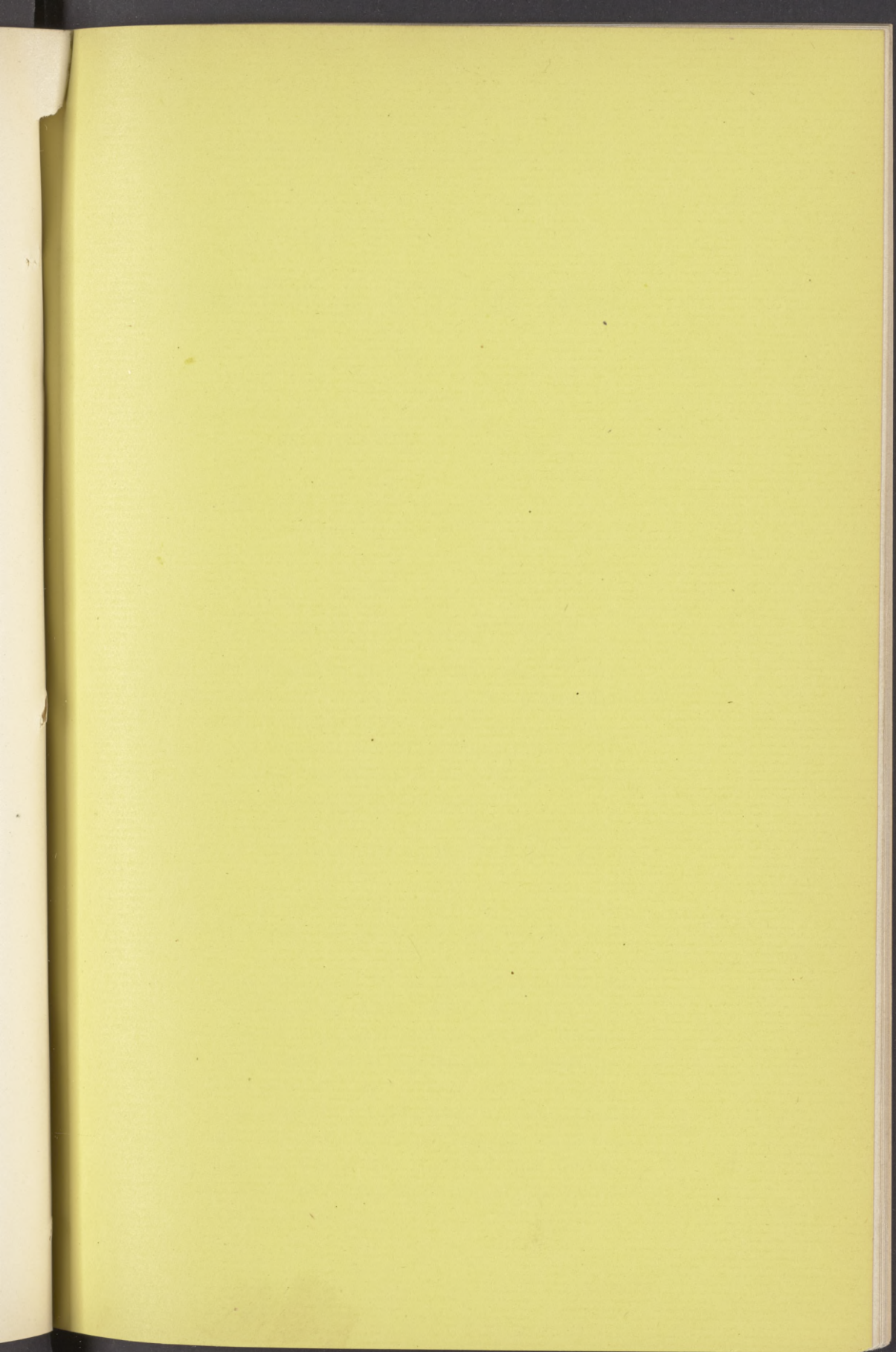
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