

JAMES S. YARD, Printer, Freehold, N. J.

Court of Errors & Appeals
~~In Chancery of New Jersey.~~

Between

Elizabeth Johnston, *Respondent*
Complainant,

and

Levi G. Irwin and Aaron E. Johnston,
Executors of Richard Corlies, de-
ceased, ~~and others,~~ *Appellants*
Defendants.

On ~~Bill~~,
&c. *Appeal*

Brief of Chilion Robbins, of Counsel with the
~~Complainant.~~

Respondent,

I.

The testator, Richard Corlies, lived for many years at Farmingdale, in Monmouth county. Page 3.

He died at that place January 2, 1879, at the age of 82 years. Pages 3, 4.

At the time of his death he was seized and possessed of considerable real and personal property. Page 3.

He was close, almost to parsimony, throughout his life, 10 and by this means accumulated the property he left.

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He had two children—

1. Elizabeth, the complainant.
2. Rebecca. Pages 3, 4.

Elizabeth married James E. Johnston, who is living and one of the defendants, some 30 years ago. Pages 4, 22.

They have several children living. Page 57.

Rebecca married Benjamin Jones, and had children as follows:

- 10 1. Elizabeth (wife of John W. Cottrell).
2. Anna (wife of W. H. Bartow).
3. Eleanor M.
4. Mary J. See pages 3, 4.

Benjamin Jones died August, 1869. Pages 4, 8, 94.

Rebecca Jones died Nov. 22, 1867. Pages 4, 8, 94.

Previous to his decease Benjamin Jones did some little business in New York city. Pages 8, 72.

He made his home a good deal of the time with Richard Corlies.

- 20 He died at the house of the latter, and was buried from there.

He appears to have been a shiftless and improvident man.

And died with a loathsome disease. 172, 173.

His (Jones') wife also died at the house of Richard Corlies, and her death was most lamentable.

The testimony is quite conclusive that she died from disease contracted from her husband. 172, 173.

- 30 Benjamin Jones and his wife before their decease, and their children both before and after, were supported in great part by Richard Corlies. 8, 18, 40, 41, 56, 57, 94, 99, 156, 157, 171, 172.

They may have done some little service in return for maintenance, but not much. 94, 99, 171, 177.

The services of all were clearly not necessary. 42, 43.

The habits of Corlies were plain to an excessive degree. 107, 173, 177.

Besides, he had hired help almost all the time. 43, 46, 157, 171, 175, 181, 183.

Mary Jones brought in a bill of \$900 for work after Corlies' decease. 171, 175.

After her marriage Elizabeth went to the home of her 10 husband and there remained, supported by him. 26, 57.

She received no support from her father.

All she had from him was a building lot worth from \$150 to \$200, \$100 to her credit in bank, and \$130 when she left home. 32, 72, 171, 181.

The relations of Mrs. Johnston to her father were most affectionate.

She did him many kind acts.

Her health was poor (57, 46, 158) and her father was very solicitous about her. 25, 46, 47, 57. 20

He made many visits to her house. 46, 171.

She often visited him. 46, 170.

She ministered to him in sickness. 46, 50, 170, 171.

Comforted him in his old age. 46, 170.

And was in all respects a most dutiful and exemplary daughter.

Mr. Corlies had confidence in Elizabeth's husband, and trusted him in many ways. 101, 104, 141, 140.

He loved her children. 30

Made Aaron one of the executors of his will, and remembered Richard, his namesake, by its provisions.

A knowledge of the above recited family relations will be of great importance in reviewing this case.

II.

In his lifetime Mr. Corlies held two mortgages against the complainant.

1. One of \$1,866.32, made by James E. Johnston to Richard Corlies, dated September 30, 1869, on the first tract of land described in the bill of complaint, containing 114 acres.
- 10 2. One for \$1,000, made by James E. Johnston and wife to Richard Corlies, dated November 14, 1866, covering the second tract described in the bill, containing $\frac{31}{100}$ of an acre.

The complainant claims that Richard Corlies gave or released these mortgages to her before his death.

That he left them with Anna Jones in trust, to be delivered to Mrs. Johnston after his decease.

Richard Corlies left a will with the defendants, Levi G. Irwin and Aaron E. Johnston, his executors.

- 20 These executors hold the \$1,000 mortgage as part of the assets of the estate.

And intend to collect and enforce the same. See answers, Vol. 2, pages 29, 40.

The \$1,866 mortgage is cancelled, and in its place the executors hold a note of \$1,000, and chattel mortgage to secure the same.

These they propose to collect and enforce. See answers, pages 29, 40.

- 30 The \$1,866 mortgage was cancelled, and the \$1,000 note and chattel mortgage were given under mistake and error.

The bill in this case is filed for the following purposes :

1. To compel the executors to deliver up the \$1,000 mortgage to be cancelled.
2. To compel them to deliver up to the complainant the \$1,000 note and chattel mortgage.
3. To declare the cancellation of the \$1866 mortgage effective for the purposes of this case.

III.

Richard Corlies intended to leave the complainant and the family of his deceased daughter equal. 10

All the circumstances show this to be so.

1. He had only two children, Elizabeth and Rebecca.
2. The circumstances as to his family relations, &c., referred to above, show that this was the most natural and likely disposition he could make of his property.
3. By his will, as hereinafter appears, he attempted to make an equal division.
4. After disposing thereby of certain lands and 20 personal property, he directs the sale of the remainder, and the equal division of the proceeds between the complainant and the children of Rebecca.
5. He told James E. Dorsett he had deeded the homestead to the Jones girls, and that Mrs. Johnston would have to take her mortgages. 80, &c.
6. To same effect, see evidence of John L. Corlies. 38, 39.
7. He told George W. Fiedler that he intended "to leave it equal between his grandchildren and 30 daughter." 160.
8. So on different occasions he stated to the same effect.

IV.

He disposed of part of his property before his decease. In this, also, he evidenced his intention to make an equal division of his estate.

1. He gave to the children of Rebecca his homestead farm at Farmingdale. The Jones family also had as follows:

- 10 1. The support to a considerable extent of Mr. and Mrs. Jones in their lifetime. 40, 41, 56, 57, 94, 99, 171, 172.
2. The maintenance of their children, both before and after their decease. See pages above cited.
3. The use of the Scott farm by Elizabeth Cottrell and husband. 57, 116, 117.
4. The personal property left them by the will. See *Exhibit G*.
5. The gold watch, organ, music lessons, and the like. 107.
- 20 6. He paid the debts, doctor's bills and funeral expenses of Mrs. Jones. 107, 173.

The homestead, no doubt, was highly valued by Corlies. There he lived for many years, and died.

He divided it in 4 lots, and conveyed one each to the children of Rebecca.

The deeds to them are all dated August 6, 1872. Pages 2 and 3,

Recorded January 8, 1879; six days after Corlies' death. Pages 2 and 3.

The consideration mentioned in each is \$600; \$2,400
30 in all.

It is admitted and shown that nothing was paid, and that these lots were gifts. 97, 98, 38, 81.

The foregoing are the benefits which the Jones family had, and which must be taken into consideration in ar-

iving at the purpose and intention of the testator as to the mortgages of Mrs. Johnson.

2. He gave to the complainant

1. A building lot valued at \$150 to \$250. 72, 134, 156, 171, 181.

2. \$100 to her credit in bank. 32.

3. \$130 when she was married. 32.

3. The mortgages in question in this suit—by delivering them to Anna Jones, to be handed by her to the complainant after the death of Corlies. 10

The last point is disputed, and forms the subject matter of this suit.

V.

Did Richard Corlies give or release these mortgages, or the debts secured thereby, to the complainant?

1. It was the natural and likely thing for him to do, in view of what he had done for Rebecca and her husband and children.

2. Mrs. Johnson had married, and gone from him over twenty years before, and had never cost him 20 anything after that time. 26, 32, 57.

3. Instead of being a burden, she was his support and comfort in many ways.

4. She was in ill health, and poor.

5. She was in trouble about her debts.

6. She was his nearest relation and only living child.

7. He had no need for the money represented by the mortgage, as he had ample means to live on outside of it. 30

8. He was on the most friendly and affectionate terms with the complainant and her family.

9. Her husband was his most trusted friend.

Now take another chain of circumstances.

1. None of the deeds to the Jones girls were recorded

and none of them (except one, possibly) distributed until after the death of Corlies. Pages 2, 3, 97, 98, 103, 105.

2. Until then, they (except one, possibly) like the mortgages, were held in trust by Annie Jones, and kept by her in her trunk. 101-5.

10 3. The reason for this is plain. They conveyed away the very roof from over Corlies' head, and he did not want them to go on record or into effect till after his death, and, so in effect, he said. 97, 98, 105, 106.

4. If the whole truth could be ascertained, no doubt he said as much to Annie Jones when he entrusted her with the papers.

95. 5. The mortgages were treated the same as the deeds.

1. Both were given to Anna Jones to keep. 105-6.

2. Both were put by her in her trunk. 105-6.

3. Both kept there till after Corlies' decease. 105-6.

20 4. Then both deeds and mortgages were produced by her. 4, 5, 12, 14, 41, 42, 43, 44, 45, 165.

5. No other papers but these deeds and mortgages were kept by her.

6. All other valuable papers of Corlies were kept in the parlor, in the bureau drawer, to an amount of over \$6,000. 141. See also 101, 102, 126, 140, 145.

7. In stating his property over to Irwin, Corlies, treated the deeds and mortgages alike. 136, 137.

30 6. Neither the deeds or mortgages were mentioned in the will. 129, 136, 137, 139.

So, throughout, these deeds and mortgages were separated from the other papers of Corlies, and treated in all respects the same.

But it is said that these mortgages were separated from

the other papers for fear Mr. Johnston would destroy them.

This is an invention—

1. Johnston was entrusted by testator with important affairs up to the time of his decease. 101, 104, 141, 180.

2. He made his son one of his executors.

3. His papers were carefully kept under lock and key, and in a safer place than the trunk of Anna Jones.

4. She was nothing but a young girl, and not as safe a custodian of them as he was.

5. See Vice Chancellor's opinion, Vol. 2, pages 47, 48, for other reasons. ⊗

Considered by the light of the foregoing circumstances, the purpose of Corlies cannot be mistaken.

He meant that Mrs. Johnston should, after his death, have these mortgages, and the daughters of Rebecca Jones each one her deed.

For the reason above stated, the deeds could not go into effect till after his death; and he did not want the complainant to have her mortgages until the girls had their deeds.

Of course, after his death, he could not distribute the papers. It must be done by the hand of another.

So he entrusted them to Anna Jones, who, in course of nature, would most likely survive him, for that purpose.

It was her duty, upon his decease, to deliver the deeds to her sisters, and the mortgages to the complainant.

The intention of Richard Corlies, that the complainant should have these mortgages, further appears by the following evidence.

1. The talk at the garden gate in August, 1876. Read pages 22, 23, 33, 46, 169, 175, 176.

⊗ 6. If her story why did she after death, when the pretended danger permitted them to be with his other papers without a word to either of the executors?

2. The talk in the dining room a few days later, in fall of 1876. Read pages 24, 47, 48, 49, 51, 52, 53, 54, 58, 59.

This conversation was heard by Susan Filey. 24, 47, 48, 49, 50-54.

Also by Lizzie C. Johnston, 75, 76, 77, and by James E. Johnston, 58, 59, 60.

3. To same effect, see 25, 47, 48, 60.

10 4. Mrs. Johnston believed and understood that she was to have the mortgages. 6, 7, 30, 15, 16, 25, 26.

5. See James E. Dorsett's evidence to same effect. 81-84.

6. John L. Corlies, the brother of Richard, was told by Richard that he gave the deeds to the Jones girls to make them equal to Mrs. Johnston, to whom he had given the mortgages. Read 38, 39, 40.

10 7. The evidence of Joseph A. Morton (pages 85, &c.,) shows Corlies speaking of both deeds and mortgages in the same connection, and of both being in possession of Anna Jones.

Evidently Morton does not remember, or fails to tell all Corlies said.

His evidence makes more for the complainant than the defendants.

8. The evidence of Anna Jones (Bartow) is significant.

30 She testifies (page 97), "He said he gave us that *for our mother's share*, as he had given my aunt on the other side of the road;" also, "the deeds were given to us, as she had as *much* on the other side of the road." 103.

These expressions show that Corlies meant *an equal division of property, in value*, at the time of the delivery of the papers to Anna Jones.

The property on the "other side of the road" was a lot 70x150 feet without improvements (181), worth \$150 to \$250. 72, 154, 181.

The homestead was worth \$2,400, as stated in deeds. See, also, page 172.

It would look as if this witness had concealed a part of what Corlies said to her on that occasion.

Another piece of evidence also shows the correctness of the complainant's case, to wit, the \$3,000 loan which was attempted. See 25, 33, 35, 36, 48, 58, 59, 70, 71, 73, 78, 79, 80.

The estate of Richard Davis held a mortgage against Mrs. Johnston's tavern property for \$2,500. See pleadings, &c., 70.

There was also a mortgage to the Chancellor for \$1,404.50 on the New Bargain property. 8, 9.

Both mortgages were pressed for payment. 9, 10, 58.

Foreclosure proceedings were commenced on both (58, 71), and it became necessary to raise \$3,000. 20

Richard Corlies first offered to raise the money by mortgage on a tract of land of his own near Colts Neck, which he intended to, and afterwards did, devise to Mrs. Johnston. 48, 58, 70, 73, 75, 76, 77.

Mrs. Johnston demurred to this. 25, 48, 58, 59, 75.

Then it was proposed to raise it on her New Bargain property, in spring of 1878, and to this Mrs. Johnston consented.

The \$1,866 mortgage of Richard Corlies was in the way, and he offered to cancel it, as a gift and without anything to show for it. 35, 36, 59, 73, 78, 79.

They attempted to procure the loan of Judge McLean and the Freehold Loan Association, but failed. 59, 70, 79, 80.

Read evidence of James T. Burtis on this. 79, 79.

The above shows the willingness of Corlies to deliver up the \$1,866 mortgage at that time.

No interest was ever exacted after the talk at the garden gate in August, 1876. 24, 57, 58, 59, 72, 73, 169.

The date of the deed (*Exhibit A*) from Corlies to the complainant is also significant.

It is dated July 26, 1876, and conveys both parcels of land to Mrs. Johnston.

The conveyance was made through Corlies from James
10 E. Johnston, her husband, to the complainant.

The conversation at the garden gate took place in August, 1876, almost immediately after the title to the mortgaged premises came to the complainant.

While the title was in the husband, of course Corlies would not deliver the papers to the wife, though he might, before that time, have set them apart for her to have after his death.

Anna Jones says the mortgages were given to her in 1874, to keep till her grandfather died, and then to be
20 given to the one who settled up his business.

No one was present at the time, and her evidence stands alone on this point.

She and her family are on bad terms with the Johnstons (108, 113), and it is not improbable she fails to tell all that was said, or to tell accurately what she does tell.

It may well be asked if Corlies said this at all, or if this was all he said.

Her evidence is in direct conflict with all of the declarations and acts of Corlies, with the plain import of
30 all circumstances, and his duty and natural instincts.

She told Aaron E. Johnston after Corlies' death that Corlies said the mortgages were to be delivered to "some one." 5, 12, 18, 19.

If he had said they were to be given to *the one who set-*

ted his business, why did she not tell the executor so then?

It was an easy thing, after the lapse of so many years, to add or alter a word or two.

The reading of the will January 7, 1879, and who were present, will be found on pages 4, 41, 57, 89, 91, 96, 115, 119, 123, 165.

The delivery of the papers to Irwin took place immediately after reading the will.

It is certain that up to that time the deeds and 10 mortgages were separated from Corlies' other papers, and were together in Anna Jones' trunk.

It makes little difference whether she brought the papers all out together or not.

Upon this point the conflict of testimony is very great.

Read Aaron E. Johnston on this. 4, 5, 14, 15, 16.

He is corroborated by Edwin C. Barcalow. 41-45.

It is said Barcalow was not in the room, but he swears he was (165) and so does John Errickson (91). 20

James E. Johnson was also told the same as Aaron E. Johnston states on the day the will was read. 62.

The Joneses, Irwin and others, say that only one envelope was produced, and that Anna Jones said that she was to deliver the mortgages "to the man who settled up the business."

They give this evidence with parrot-like precision. Read 88, 97, 104, 111, 112, 120, 124, 130.

But cannot call to mind many other things more striking and likely to fix the memory, nor anything else that was said. 117, 119, 121, 122, 125, 126.

The Joneses and Cottrells all lived together and were visited by Irwin. They talked over the case frequently, which will explain the suspicious exactness of their evidence. 112, 121, 125.

As evidence of how easily they could be mistaken, they all swear that Perrine Donahay was there, but he was not, all the same. 96, 119, 123, 162, 168.

The talk of February 14, 1880, is important. Read pages 7, 11, 12, 29, 61, 74, 131, 132, 164, 165, 174, 178, 181, 182, 184.

This shows that both envelopes were brought out.

It was fully admitted by Irwin. See pages last above cited.

- 10 His excuse of a deaf ear and broken question is very lame. 132, 141.

Annie Jones also admitted to Aaron E. Johnston that she brought out both deeds and mortgages. 19, 20.

Richard Corlies made a will in 1874. It was drawn by Esquire Pearce, who is dead. 169.

The will cannot be found.

This was the same year that Corlies (as Annie Jones says) handed Annie Jones the mortgages.

- 20 No doubt Corlies was then putting his affairs in order, and intended to dispose of these mortgages and the homestead farm outside of his will.

Which will account for his handing her the mortgages at that time.

Mrs. Johnston claimed the mortgages from the time her father died. 6, 7, 15, 30, &c., 134, 143.

It will be urged that Mrs. Johnson's giving the \$1,000 note and chattel mortgage, and signing the consent are inconsistent with her claim, but to this I reply :

- 30 1. When she did it, she did not know that the mortgages and deeds had been set apart for her and the Joneses.
2. She was not informed of this till near a year after.

As to when she was so informed, see pages 7, 8, 11, 15, 28, 30, 31, 34, 35, 62, 63, 144, 143.

As to why she gave said note, chattel mortgage and consent, see pages 8, 9, 10, 11, 12, 13, 17, 18, 31, 32, 134, 135, 156, 157.

The true state of affairs was concealed from her by her son out of a mistaken sense of duty.

His honesty of purpose was commendable but mistaken.

It greatly endangered his mother's rights. 10

The offer of Irwin to take \$1,000 for the \$1,866 mortgage was a confession that the claim was not valid.

The offer was made at the time Aaron E. Johnson told him what the complainant had said about Corlies giving mortgages to her and that she would not pay them. 6, 7.

Irwin knew the mortgage was not a valid claim, and so tried to get what he could.

Aaron E. Johnson was a mere boy without experience to manage or understand such a matter.

The Blue Ball interview shows that Mrs. Johnson knew 20 what her father intended to do—and without her knowledge had done.

As soon as she was informed that Anna Jones had both the deeds and mortgages she went to see Irwin. 27, 29, 30.

She, no doubt, would have done so at once, after her father's death, but for the belief, which her son helped to foster, that her father had failed in what she knew he had meant to do, to wit, give her the two mortgages.

She told Irwin what her son had told her—29, 30. 30

His actions were equivocal. He said it had a strange look, etc. 30.

Also expressed ignorance of the mortgages 60, 62, 133, 134, 180.

See, also 142, 143.

Deduction of taxes.

1. One reason why Mrs. Johnston did not accept delivery of the mortgages, was because she could not pay the taxes on them 23, 171, 176.

2. Her father tacitly assented to pay and did pay them. 169.

3. This was no more than right, because he was paying the taxes on the land conveyed to the Joneses.

10 4. And they were enjoying those premises and being supported by Corlies.

5. Then she did not know they had been set apart for her. She was misled, and when she did find out that her father had done as he promised, the executors contested her rights. 169, 180.

Of course under these circumstances she would claim deduction.

Figuring interest and taxes, pp. 129, 138.

20 This was, no doubt, to enable Corlies to distribute his property equally by his will, taking into account what he had already done.

It could have been for nothing else.

He made no change or provision in his will as to paying the mortgages, taxes or interest.

There was merely a calculation of interest and some inquiry as to taxes.

And this was made only a day or two before the will was drawn.

If Mrs. Johnson had been called before Mr. Corlies was 30 past speaking, this whole matter would have been made clear. 158, 159, 161, 174, 177.

It was not supposed he was so near his end.

It was Mrs. Johnston's own illness kept her away until she was sent for, too late for him to speak to her.

The following estimate of all Mrs. Johnson has had and is entitled to have from her father and his estate, in-

cluding a note and book account against her husband found in the inventory, and a similar estimate as to the Jones' family, will show how far short the complainant will fall of an equal distribution, even with these mortgages allowed her. See, 149, 150, &c., 187, 188, 189, 190, 191, &c.

Johnston's Estimate.

Mortgages, interest and taxes to Aug. 8, '78, date of will, page 129,	\$4,487 90
Building lot, pages 72, 171, 181,	250 00 10
Money given her when she left home, page 32,	130 00
James E. Johnston's note (see inventory),	98 00
James E. Johnston's book account (see inven- tory),	347 00
Money in bank, page 32,	100 00
Add land devised (Garrison's estimate, pages 149, &c.,)	2,000 00
	<hr/>
	\$7,412 90
Deduct Richard Johnston's legacy (see will),	500 00 20
	<hr/>
	\$6,912 90

Jones' Estimate.

Homestead (valuation in deeds),	\$2,400 00
Land devised by will (Garrison's valuation pages 149, &c.),	4,170 00
Support of three children 11 years, at \$100 per year,	3,300 00
Bill of Trevis, page 173,	100 00
Funeral expenses and doctor's bill, say, page 173,	150 00 30
Use of Scott farm 2 years, pages 57, 116, '17,	200 00
Personal property by will (see inventory),	219 00
	<hr/>
3	\$10,719 80

Deduct support of Mary Jones (see will),	\$1,500 00
	<hr/>
	\$9,219 80
Jones' estimate,	\$9,219 80
Johnston's estimate,	6,912 90
	<hr/>
In favor of Jones,	\$2,306 90

The allowance for the support of Mary Jones is fixed by Mr. Lutz (page 188), and is too high.

10 They settled with her for \$200. See page 187 and *Exhibit S*.

The estimate of the value of the land made by Garrison is the one to be taken.

It was made under his oath as assessor, and even if the rates are low, they give the proper comparative values.

The evidence of Lutz and Vannoté is not based on sufficient experience and examination.

20 They were called specially to rebut the complainant's case on this point.

Irwin was with them when they fixed their values.

Complainant's witnesses on this point are men of experience.

An assessor who took his values from his duplicates.

A real estate agent of large experience.

And a justice of the peace.

But even taking the valuation of the defendants' witnesses, Mrs. Johnston does not receive one-half.

30 There can hardly be a doubt but Richard Corlies intended to give Mrs. Johnston these mortgages.

His declarations.

His acts.

The separation of these mortgages from his other papers, and placing them with the deeds for the homestead.

A fair distribution of his property.

The dictates of paternal justice and affection.

All tend irresistibly to establish the complainant's case.

The court should incline to construe and solve doubtful matters in favor of what is just and equitable.

As to the right of Mrs. Johnston to testify.

1. She testified to disprove so much of the answers of the defendants as was responsive to the allegations of her bill. This was right. See *Rev. 379, sec. 6, and note a.*

2. She also testified to matters which were not transactions with or statements of the testator.

This was right. See *P. L. 1880, page 32.*

3. She was recalled after the executors had been sworn in their own behalf.

4. One of the executors consented that she should be sworn. 20

Under one or the other of these reasons all of her evidence is legal.

The facts alleged and shown constitute a trust in Anna Jones, which she failed to perform; and of which this court will compel a performance on the part of her and the executors of Corlies, who hold the papers.

The facts also show an equitable release of the complainant from these mortgages, which this court will sustain. *Leddel's Executor v. Starr, 5 C. E. Gr., 274, and cases there cited.* 30

~~##~~

I respectfully submit that the decree as made ought to stand.

*# I also contend that Mrs Johnston
entitled to these mortgages as a gift
The delivery of them to Anna Jones
Mrs Johnston was a sufficient title*

It is a very interesting fact that the
the history of the world is a
the history of the world is a

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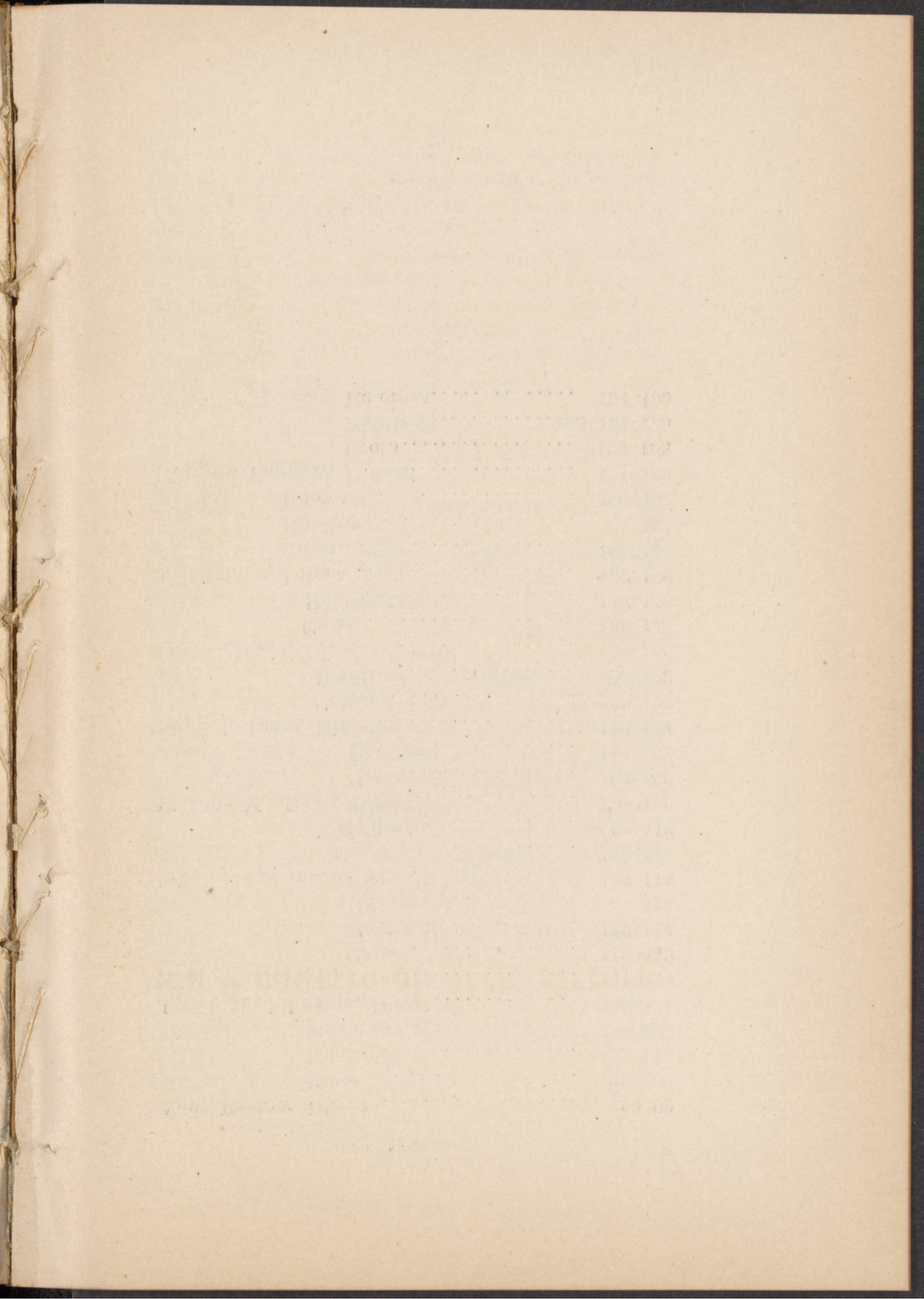
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In Chancery of New Jersey.

Between—

ELIZABETH JOHNSTON,
Complainant,

and

LEVI G. IRWIN, and AARON E. JOHN-
STON, Executors, &c., of RICHARD
CORLIES, dec'd, et al.,
Defendants.

10

On Bill, &c.

Examination of
Witnesses &c.

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Examination of witnesses, &c., in the above stated cause, taken before Joseph McDermott, one of the Masters of the Court of Chancery of New Jersey, at the law office of Robbins & Hartshorne, in the town of Freehold, in the County of Monmouth and State of New Jersey, on Monday, the seventh day of March, A. D. 1881, in the presence of Robbins & Hartshorne, solicitors and of counsel with the complainant; Charles Haight, of counsel with the defendant Levi G. Irwin, one of the executors of Richard Corlies, dec'd, and John J. Ely, of counsel with the defendant Aaron E. Johnston, one of the executors of Richard Corlies, deceased. 30

Counsel for complainant offers deed from Richard Corlies to Elizabeth Johnston, dated July 26, 1876, and recorded in Monmouth County Clerk's office February 10, 1877, in Book 288 of Deeds, page 433, &c. 40

This deed I have marked Exhibit A on the part of the complainant.

Same counsel offers certified copy of mortgage from James E. Johnston and wife to the Chancellor for \$1,404.50, dated December 10, 1866, and recorded in aforesaid clerk's office in Book H² of Mortgages, page 226, &c., December 11, 1866.

This certified copy I have marked Exhibit B on the part of the complainant.

- 10 Same counsel offers a mortgage from James E. Johnston to Richard Corlies for \$1,866.32, dated September 30, 1869, recorded in aforesaid clerk's office in Book R² of Mortgages, page 80, &c, October 30, 1869.

This mortgage I have marked Exhibit C on the part of the complainant. Also the certificate of cancellation written on the same mortgage, dated May 19, 1879.

- 20 Same counsel also offers in evidence the bond accompanying last named mortgage and bearing even date therewith.

This bond I have marked Exhibit D on the part of the complainant.

Same counsel also offers in evidence a mortgage made by James E. Johnston and wife to Richard Corlies for \$1,000, dated November 14, 1866, and recorded in said clerk's office in Book H² of Mortgages, page 165, &c., November 14, 1866.

- 30 This mortgage I have marked Exhibit E on the part of the complainant.

Same counsel also offers the bond accompanying the last above mortgage made by James E. Johnston and bearing even date therewith.

This bond I have marked Exhibit F on the part of the complainant.

Same counsel also offers a certified copy of the will of Richard Corlies, recorded in Book of Wills, page &c., which copy I have marked Exhibit G on the part of the complainant.

- 40 Same counsel also offers in evidence a deed from

Richard Corlies to Anna Jones, dated August 6, 1872, and recorded January 8, 1879, in aforesaid clerk's office in Book 305 of Deeds, page 400, &c., which deed I have marked Exhibit H on the part of the complainant.

Same counsel also offers a deed from Richard Corlies to Mary Jane Jones, dated August 6, 1872; recorded January 8, 1879, in Book 305 of Deeds, page, 398, &c., which deed I have marked Exhibit I on the part of the complainant. 10

Same counsel also offers a deed from Richard Corlies to Elizabeth Cottrell, dated August 6, 1872, and recorded January 8, 1879, in the aforesaid clerk's office in Book 305 of Deeds, page 406, &c.

Which deed I have marked Exhibit J on the part of the complainant.

Same counsel also offers a certified copy of a chattel mortgage from Elizabeth Johnston and husband to Executors of Richard Corlies, dated May 19, 1879, and filed in the aforesaid clerk's office May 20 19, 1879, and numbered 2,393.

Which certified copy I have marked Exhibit K on the part of the complainant.

AARON E. JOHNSTON, a witness produced on the part of the complainant, being duly sworn according to law, on his oath saith :

I am the son of Elizabeth Johnston and James E. Johnson, two of the parties to this suit. I reside with my parents at Farmingdale. I will be 24 years 30 of age in April, 1881. I am one of the executors of Richard Corlies, dec'd. Mr. Levi G. Irwin is my co-executor. We both proved the will and are acting Richard Corlies died January 2, 1879. He resided at Farmingdale, Monmouth County, New Jersey, at the time of his death; he was about 81 or 82 years of age when he died; he lived nearly opposite my mother's house, on his own premises as was always considered; he left both real and personal property quite an estate; he had two children—one, Rebecca 40

Jones, who was the wife of Benjamin Jones in her lifetime, and my mother, Elizabeth Johnston, wife of James E. Johnston. Mrs. Jones died in the lifetime of Richard Corlies, and left Elizabeth Cottrell, who is the wife of John W. Cottrell, Anna Jones, Eleanor M. Jones and Mary Jane Jones; my mother survived him; I remember the occasion of the death of my grandfather; I was home at Farmingdale from college sick at that time, at the house of my
 10 parents; he died on the second of January. 1879, and was buried on the 5th of the same month, which came on Sunday as I remember; his will was read the next day, on Monday, at the place where he died, nearly opposite our house; my father, my two eldest sisters, my brother Richard, John Erickson, four daughters of Rebecca Jones, Elizabeth Cottrell, Anna Jones, Eleanor Jones, and Mary Jane Jones, John W. Cottrell, and Mary Jones, Levi G. Irwin and myself, Edward Barkalow and Job S.
 20 Barkalow were present when the will was read; I was there a half hour or more at that time; some of them went out before I did; I think all the members of my father's family had gone out before I did; I don't remember who else had gone out when I left,

Q. State what if anything occurred while you were there present with reference to the mortgages Exhibits C and E and their accompanying bonds, and the deeds to the children of Rebecca Jones?

A. I sat over along the northwest wall of the room
 30 in which the will was read, and Mr. Irwin, when he read the will, stood near the east corner; after the will was read and my name was mentioned as executor, I got up and went and spoke to Mr. Irwin who was a stranger to me; I talked to him a while; I was on the south side of him, nearly opposite the front door; while we were there Anna Jones came toward us holding two envelopes in her hand in front of her, and came up to us; she held the envelopes right out towards Mr. Irwin, and he took one
 40 and he seemed to hesitate, and she said "they are

our deeds." Mr. Irwin put up his hand towards her and said "take them back." The other envelope, he said, we would put in the drawer, and they will have to be appraised. I don't remember that he said anything more to her at that time. He took the package that he received and put it in the bureau drawer in the parlor; we went to the parlor together; he asked me while there if I had any objections to leaving the papers there; he had the key of that drawer; Anna Jones took the papers she kept back; I don't know where she got them from; I didn't know at that time where my grandfather kept his valuable papers; when I went into the bureau I saw a lot of his papers there in that drawer where the envelope was put; I don't know where he kept his papers, only as I saw a lot of his papers there: Anna Jones afterward told me where she got these papers; she told me in February, 1880; I asked her how she came by these papers, and she said she had had them about three years, ever since she got her new trunk; she said grandfather gave them to her for safe keeping, for fear of fire or something might happen, or he might die sudden, and if he did they were to be given up to some one; Mr. Irwin was present when she told me that; on the day of the appraisal, which was the following Tuesday week, the bundle that I took to be that bundle that Anna Jones handed Mr. Irwin contained mother's mortgages. This was the Tuesday week after the reading of the will. This envelope was in the same bureau drawer where I saw Mr. Irwin put it. The deeds to the children of Rebecca Jones were recorded on the 8th of January, 1879, I think; The same day that the will was read I went to Princeton, and returned the next day or the day following; I saw Mr. Irwin on one of the days of the appraisal which, as I think, was on the Tuesday week following the reading of the will, and told him I would like to see the deeds to the children of Rebecca Jones; we were at the house of Richard Cor-

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lies; he then went away somewhere and when he came back he said they were gone.

A. I think he said they had sent them to Freehold. I don't know that there was anything further passed between Mr. Irwin and myself about those deeds at that time. It was somewhere about that time that I spoke to Mr. Irwin about what my mother had said about these mortgages.

Q. What did you tell him she had said, and what
10 did he say?

(Counsel for Levi G. Irwin, one of the executors, objects to this question, because it is incompetent and irrelevant).

A. I told him she said grandfather had offered to give her those mortgages. He said he knew nothing about it. I remember talking to him again about them, in April, 1879. That was at his house. I went up there to see him on the business of the
20 estate and I asked him to let me see those mortgages.

He said mother hadn't signed one of them and he didn't suppose she would have to pay it. I told him that the mortgage to the chancellor was about to be foreclosed on, and that mother couldn't raise the money to pay the interest on it. I also told him at that time what mother had said about these mortgages that grandfather had said these mortgages would be her's; and that she had said she
30 wouldn't pay them, and that I had told her that we would have to take it out of her part of the estate. I think he said he didn't know anything about it.

(The counsel for the executor, Aaron E. Johnston, excepts to all that part of the above evidence, in the conversation between the executors which relates to what Mrs. Johnston, complainant, told the executor, Aaron E. Johnston, as to what his grandfather told her as to the above mortgages as hearsay, and in-
40 competent.)

I took the mortgages and put them in my pocket and took them home with me, and just before I started off, he said: "Don't you think that mortgage ought be worth a \$1,000? I said I thought it ought to be.

(The mortgage referred to is marked Exhibit C.)

On the same day that I saw Anna Jones, as I have above stated, mother had been at me lots of times; she said we ought to give her up her mortgages. I told her we couldn't; I didn't see how we could do it. 10

On the 14th of February, 1880, Mr. Irwin came down to see me on some business, and father came in the room and broached this subject, and began to talk about those two envelopes which Anna Jones handed Mr. Irwin.

I set down on the table, turned around and looked him right in the face and said: Mr. Irwin, was those the girls' deeds and mother's mortgage that Anna brought out the morning the will was read? He said yes. I said, what was Anna doing with them? He said he didn't know. He didn't stay much longer and then he went over to the house where Richard Corlies died. I waited a little while and I went over there too. Mr. Irwin was there and it was then I had the talk I have detailed with Anna Jones. The talk which took place before we went over there took place at my father's house. 20 30

He came there that day on business of the estate.

Q. When did you first inform your mother of what the two envelopes contained?

A. I informed father a few days before February 14th, 1880, and my mother afterwards wanted me to investigate it for her. She began at me almost right away to find out all about it.

Q. What did she say to you about it, if anything? 40

(Both counsel for defendants, the executors, object to this question, because it is incompetent).

A. She said she wanted me to find out what Anna was doing with the mortgages. That was the substance of what she said, and when father spoke of it that day I did try to find out all I could.

10 Q. She knew about the deeds being handed out before this, but she did not know about the mortgages.

The first I ever told my mother about Anna Jones handing out the mortgages was on the 14th of February, 1880.

Anna Jones, Eleanor M. Jones, Mary Jane Jones, Mary Jones, the aunt to the girls, the father's sister, Richard Bailey, a work boy, and Jimmy Smith, another boy who lived with him, lived with grandfather at the time of his death.

20 I always knew that these children of Rebecca Jones were supported by my grandfather. They had no business or trade that I know of.

Elizabeth Cottrell was married 8 or 9 years ago. I remember when my aunt Rebecca Jones died. It was about 12 or 13 years ago. I think her husband died after she did.

Elizabeth Cottrell lived with Richard Corlies before she was married.

30 After she was married she went and lived up about Jerseyville and then she came back and lived on the Scott farm, one of Richard Corlies' farms.

They lived on the Scott farm at the time of his death.

I don't know how long they have lived there—3 or 4, probably 5 years. Mrs. Jones and her husband lived at Richard Corlies' house before her decease; her husband did business in New York, and was away most of the time; when he was at home he stayed at the house of Richard Corlies, I think; I

40 remember when the Fish mortgage was being fore-

closed on my mother's property ; it was three or four months after the death of my grandfather.

The further examination of the above-stated cause stands adjourned to Monday, March 14, 1881.

On Monday, the 14th day of March, A. D. 1881, the examination of the witnesses in the above-stated cause was resumed in the presence of same counsel.

JOSEPH McDERMOTT,

Master of Chancery
of New Jersey.

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I saw the letters Mr. Fish wrote and knew father was hunting for the money to pay the interest ; that is how I knew about this foreclosure ; Mr. Irwin and I went and looked at the farm, and we estimated it to be worth \$3,000, and the mortgage for \$1,866 to be worth \$1,000 ; this was on May 5th ; I had been to see Mr. Irwin on May 2, 1879, and we talked the matter over, this mortgage business, and he promised to come down in a few days and go look at the farm ; and he did come down and we went and viewed the farm. 20

I had had a conversation with my mother in reference to this foreclosure before I went to see him and that was what led me to go ; I had seen her at a different time about it.

Q. How with reference to the foreclosure did you see her ?

(Counsel for Levi Irwin objects to this question, and all evidence between this witness and his mother in regard to the mortgage marked Exhibit B on the part of the complainant as incompetent.) 30

A. I told her that Mr. Irwin had asked me if the mortgage for \$1,866 was not worth \$1,000 ; I also told her that if the Fish mortgage was foreclosed she would lose the farm and we would lose the \$1,866 40

mortgage; I tried to get the matter settled; to compromise it so as to get the foreclosure stopped.

I did whatever I could to persuade her to have it stopped ; I don't think Mr. Irwin saw her with reference to this same thing ; there was no agreement between she and I before I went to Mr. Irwin, and not until long after the farm was estimated. After the farm was estimated Mr. Irwin and I agreed to take \$1,000 for this mortgage; this was May 5,
10 1879 ; I saw her that same night and told her what had happened between Mr. Irwin and I. I told her we had looked at the farm and had estimated the mortgage and thought it was worth \$1,000. Afterwards, on the 14th of May, Mr. Irwin and I came to Freehold, and I told him what I had said to my mother; then he agreed to come down and take her note for \$1,000 in exchange for the mortgage, and to let her have \$200 on a note—her and my note—to Mr. Irwin as executor. On May 17th he did come
20 down to Farmingdale, and he met me at our house, and he took the note for \$200 and gave a check for \$200. We didn't deliver the mortgage for \$1,866, and take the note for \$1,000 that day. We came to Freehold on the 19th of May. The \$1,000 note was dated May 17, 1879, and we came to Freehold on the 19th to have a chattel mortgage executed by mother to secure this note. We came up that day and filed the chattel mortgage and cancelled the mortgage for \$1,866. D. S. Crater wrote
30 the chattel mortgage, and I took it to Farmingdale, where she signed it.

The \$1,000 note was signed by her on the 19th May, I think.

It was delivered on the 19th. I brought the note to Freehold and delivered to Mr. Irwin, and we went to the record and had the \$1,866 mortgage cancelled, and he gave it to me and I took it home and gave it to my mother. This note produced upon request and offered in evidence. This note I have
40 marked Exhibit L on the part of the complain-

ant. This note has not been paid and is still in Mr. Irwin's hands. Mr. Irwin saw the girls, the four Jones girls, I believe, about it. He brought a paper with their names signed to it assenting, to this arrangement.

There was no meeting of them together, that I know. I took this paper and got my mother to sign it too ; I think I got her to sign this paper about May 17, 1879.

Q. Had you, or not, previous to this time told 10 your mother or father about Anna Jones having these mortgages, as you have stated ?

A. No, sir.

Q. How long after this was it when you did tell your mother or father about it ?

A. About nine months. They had no knowledge of that fact, so far as I know, until I informed them of it. The chattel mortgage to which I refer is the one already offered in evidence.

Q. Then at the time, so far as you know, when 20 your mother signed the \$1,000 note and chattel mortgage, and \$200 note, and accepted and agreed to have cancelled the mortgage of \$1,866, she knew nothing of the fact that these mortgages had been left with Anna Jones, and produced by her as you have stated, and only knew of it some nine months after, and then on your information ?

A. So far as I know, the mortgage which was cancelled is the one which has been offered in evidence. The executors hold another mortgage 30 against the complainant. This is marked Exhibit E in this case. This mortgage did not cover the same premises as the \$1,866 mortgage. This was the other mortgage produced by Anna Jones, and was in the envelope which we found on the day of the appraisal. That mortgage was not affected by the arrangement about the \$1,866 mortgage. That remains uncanceled in the hands of the executors.

Q. You have stated in your examination that you 40

saw Mr. Irwin at one time and asked him if the envelopes produced by Anna Jones contained your mother's mortgages and the girls' deeds, and he replied yes. Was this after you had informed your mother and father about of her producing them?

A. No, sir. It was before I had informed my mother, but after I had told my father. It was about February 14, 1880, that he told me that.

Q. Had your mother anything to do about your
10 going to see Mr. Irwin?

A. He was at our place at Farmingdale, and my father came in and asked about it. I don't know whether she sent him in or not.

Cross-examination by Mr. ELY:

Q. At the time you had the conversation with
20 Anna Jones as to the possession of the \$1,000 mortgage, and the \$1,866 mortgage above referred to in your evidence, did she tell you that Richard Corlies gave them to her to deliver to your mother?

A. No, sir. To give up to some one in case he died.

Q. Did he ever tell you that Richard Corlies gave them to her to deliver to your mother?

A. No, sir.

Q. Did she mention any particular person to
30 whom he said they were to be delivered?

A. No, sir.

Q. At the time of the execution by your mother of the \$1,000 note and the chattel mortgage to secure the same in consideration of the cancelling of the \$1,866 mortgage, did your mother acquiesce as the best for her interests under the circumstances?

A. She said she ought not to do it, that those mortgages ought to be her's, that grandfather had given them to her. She complained a good deal,
40 but she thought she had to do it. She acquiesced

so far as she signed the two notes, consent and chattel mortgage.

Q. Did you think it was best for her interest and did you advise her to do it ?

A. I certainly did. I thought it was best all around.

Cross-examined by Mr. HAIGHT.

10

I assisted in making the inventory of the personal property of Richard Corlies. It amounted to some \$8,000 or \$9,000. These two mortgages for \$1,000 and \$1,866, held by my grandfather against my mother, were included in that inventory. This was made several days after the will was read, and Anna Jones had produced the mortgages and handed them to Mr. Irwin.

(Counsel for executor, Levi Irwin, offers in evidence a certified copy of the inventory of the personal property of Richard Corlies which I have marked Exhibit No. 1, on the part of the defendant, Levi Irwin, executor.)

The will was read on January 6, 1879. It was within ten or fifteen minutes after the will was read that Anna Jones produced these mortgages. I had not noticed her leaving the room. I did not notice her saying any thing to Mr. Irwin before she went and got them. I cannot state who was in the room when she returned and produced the papers. I know that Mr. Irwin, Anna Jones and I were there. I think Mary Jones was there. I can't tell whether John Errickson was there or not. I had been talking to John Errickson five or six minutes before that. I didn't see him go out of the room. I was talking to Mr. Irwin when she came up. I don't know what we were talking about.

40

She had these envelopes in two hands. I didn't notice any endorsement upon the envelopes. I think she delivered the envelope to Mr. Irwin from her right hand. He did not open the envelope and take out any of the contents. I didn't hear her state to him what the envelope contained.

At the time the envelope was delivered to Levi Irwin and placed in the draw I did not know what it contained: So far as I know Irwin did not know.
 10 I do not know what he did know. When the envelope was delivered by Anna Jones to Levi Irwin I did not hear her make any remark. It was done in an open manner, and anyone could have seen it if they had been looking at us.

After she had delivered to Irwin the envelope she held in her right hand, he did not take the envelope she held in her left hand. She handed it out to him. I didn't hear her make any remark when she handed him the envelope from her right nor I
 20 didn't hear him make any remark.

When she handed him the envelope from her left hand I understood her to say they are our deeds. I supposed she meant her and her sisters, deeds. Irwin made a motion with his hand and said, take them back.

I did not ask them what that envelope contained.

Q. Now are you not mistaken about Anna Jones bringing to the room where the will was read, two yellow envelopes, one in her right hand and
 30 one in her left hand, and offering them to Levi Irwin?

A. I am not mistaken in her bringing to him two envelopes. That is my recollection of the thing.

When she handed the second envelope to Mr. Irwin, he said take them back, and that is all I remember hearing him say at that time.

Q. Why did he say, take them back when the envelope concealed what it contained?

A. You must ask him, I can't tell you; I suppose
 40 he understood all about it. I supposed he under-

stood about both envelopes, and I made no inquiries about it for some time. I asked if he knew anything about grandfather giving mother the mortgage, and he said he did not. This was about the time of the appraisalment.

My grandfather never told me anything about giving her the mortgages. All I knew about his giving them to her, she told me. She told me this before the appraisalment, and afterward I did not state to her how these mortgages were produced by 10
Anna Jones.

Q. You knew at the time that these two mortgages held by your grandfather against your father and mother were in the possession of Anna Jones at the day of the reading of the will and before the appraisalment of your grandfather's present property; why did you not state that fact to your mother when she informed you of what she had understood to be the intentions of your grandfather in reference to them? 20

A. I knew it the day it was appraised; then is when I took it to be the one Anna Jones had.

I never supposed that Anna had them in her possession to keep, and I thought that Mr. Irwin knew about it, where she got them from. I thought perhaps she had got them from some part of the house where Richard Corlies had put them, and I thought it wasn't of much importance, yet I wasn't exactly satisfied with that, and I intended if there was anything to find out to find it out before I told her. 30

I kept putting it off, as I didn't think I would find out anything of much importance, and there was another thing, mother was all the time threatening to make us give up those mortgages, and I thought by telling her this, I thought it would precipitate trouble and do her no good. I thought Mr. Irwin knew all about it, and I don't suppose I would have told until I did find out, only I let it slip one night when I told father.

Q. Before the appraisalment your mother had 40

told you of what she had understood to be the intentions of your grandfather in reference to these mortgages?

A. She had told me what grandfather had said to her.

Q. At the time of the appraisement you saw taken from what you thought to be the paper Anna Jones had given to Levi Irwin the two mortgages claimed by your mother, and yet you made no inquiry of Anna Jones or of Levi Irwin in regard to them?

A. I made no inquiry as to who had had them in possession.

Q. What inquiry did you make about them, and of whom?

A. I asked him about the time of the appraisement to let me see the deeds and they were gone, and I tried to find out if he knew what grandfather had promised, and he said he didn't know anything about it.

Q. In February, 1880, when you asked Anna Jones how she came by these papers, who was present?

A. Mr. Irwin, Anna Jones, I think Mary Jones and Ellen Jones, and I don't know who else. Wesley Cottrell might have been there. I have given as near as I can her exact language. I took it down in writing. I was in my mother's house when I put it in writing. I informed my mother and father of the conversation. I told my father and mother about the conversation. This was the first time I had spoken to Anna Jones about it. This was about February 14, 1870.

Q. In the different conversations which in your direct examination have have stated you had with Levi Irwin, your co-executor, with reference to your mother's claim, as to your grandfather's intentions in reference to these two mortgages, Irwin always claimed he knew nothing about it?

A. Yes, sir, that's what he said. I could get

these mortgages whenever I wanted to. This \$1866 mortgage is on the New Bargain farm. I don't know that my mother expressed a desire to me that she wanted to keep this farm, but perhaps she did want to keep it. It was not at the instance of my mother that I went to see Irwin about the foreclosure of the mortgage. My father was not with me the first day I went to see Irwin. He might have been with me on the 2d of May. He was not present when we were talking. It was in 10 April, 1879, that he first spoke to me about if the \$1866 mortgage was not worth \$1,000. I knew that Fish had threatened to foreclose, but I don't know that it was being foreclosed. It was not at my mother's request that I went to see Irwin. He promised at that time to come down in a few days. He came down on the 5th of May. No one went with us to the New Bargain place. We went over the place?

Q. Did you, acting in the interest of your mother, 20 advise Irwin to accept a note, with security, for \$1,000, and release the New Bargain farm from the operation of this \$1,866 mortgage, and stop the foreclosure of the Fish mortgage, which you understood at that time was being foreclosed?

A. No, sir.

Q. Did you, as one of the executors of your grandfather, acting in the interest of his estate, considering it for the best interest of the estate, agree with your co-executor that it would be best to 30 take a note for \$1,000, with security, and let the \$1,866 mortgage against the farm be cancelled?

A. If it would stop the foreclosure I did and do yet. I did not know that the foreclosure had commenced, or not then. He had threatened and said he had put it in a certain attorney's hands. The \$200 note was given so as to enable her to pay the interest on the Fish mortgage—and also the costs. This matter was arranged shortly after our visit to the New Bargain farm.

Q. Was, or was not, all the negotiations for the giving of the \$1,000 note as payment of the \$1,866 mortgage between the estate and your mother carried on by you and your mother?

A. I did most of the talking to her about it, but I didn't do the business when the note was given. I made the arrangement. There was a written consent signed by all of the heirs for this change. It was in writing and was drawn by Mr. Irwin. He
 10 brought it down. I took it to my mother to get it signed. I think this was May 17th. All the heirs of Rebecca Jones, except Mrs. Cottrell, lived with my grandfather at the time of his death. I don't know when my grandmother, about fifty years ago. My mother was married about thirty years ago, I suppose. I understand Rebecca Jones lived with my grandfather from the time of my mother's marriage and up to the time of her death, and kept house for him. I don't know on what terms
 20 Wesley Cottrell, who married Elizabeth Jones, held the place?

Q. Do you know the fact that your grandfather, in his lifetime, delivered to Elizabeth Cottrell, wife of Wesley Cottrell, the deed offered in evidence, marked Exhibit J?

A. No, sir, I did not know it.

Q. Did you ask Anna Jones how she came in possession of the envelope which you say you ascertained contained the deeds from Richard Corlies to her and her sisters?

 30

A. I asked her in this way: I said, Anna, do you remember the morning you brought out your deeds and mother's mortgages? Mother wants to know what you were doing with them, and mother wants to know how you came by them. She then answered about fire, &c., as I have above stated. I brought the \$1,000 note to Mr. Irwin to Freehold. The consent of the heirs had been given at that time.

40 The consent or agreement referred to in the an-

swer of Levi Irwin and in the testimony of this witness by the heirs for the payment of the \$1,866 mortgage by the \$1,000 note and collateral offered in evidence, and marked Exhibit No. 2, on the part of the defendant, Levi Irwin.

The above offer objected to by counsel for complainant as improper and illegal at this time.

Q. This agreement is the same one referred to in my direct examination? 10

A. That is the only written agreement I know of at that time.

THE COURT :

The right to examine the witness on the consent or agreement of the heirs for the payment of the \$1,866 mortgage by the taking of the \$1,000 note and collateral by the executors is reserved for further cross-examination. 20

At the time the \$1,866 mortgage was cancelled the principal and interest amounted to about \$2,600. The estate by that arrangement lost about \$1,600. My mother still owns that farm.

Re-direct examination by Mr. ROBBINS :

I always understood Rebecca Jones and her children were poor after the death of Mr. Jones. They lived with my grandfather, and he supported them. 30

I believe Anna Jones kept the keys of the house and drawers after his decease. She gave the key of the bureau drawer to Mr. Irwin, as I recollect. I asked Anna Jones, about the 15th of February, if all their deeds were in that envelope, and she said yes. I then asked her if mother's mortgage was in the other envelope, and she said yes. I asked her if she knew anything else about it than what she had told, and she said there was nothing else. She came to the door. I stood out doors. I told her 40

my mother was not satisfied, and wanted to know about it. There was nothing more took place then. I have asked her nothing about it since.

Re-cross-examination by Mr. HAIGHT :

There was no one present at our conversation on the 15th of February.

10 Q. Have you stated all the conversations that took place at that time ?

A. Very nearly. There might be a word. She said that the mortgages were to be given up to some one who was to do his business.

Re-direct examination by Mr. ROBBINS :

20 Q. I understand you to say that when you asked her about the contents of these envelopes, you mentioned to her all four of the deeds to the girls, specifying them. Did she say they were contained in either of the envelopes ?

A. She said yes, and said mother's mortgages were in the other envelope—the envelope she had handed Irwin the day the will was read.

The further examination of witnesses in the above stated cause stands adjourned to Friday, March 18, 1881.

30 On Friday, the eighteenth day of March, A. D. 1881, the examination of witnesses in the above stated cause was resumed in the presence of the same counsel.

JOSEPH McDERMOTT,
Master in Chancery
of N. J.

Re-cross examination by Mr. HAIGHT :

Q. You spoke in your direct examination of an agreement or consent, in writing, on the part of the heirs or legal representatives of Richard Corlies, deceased, for the payment of the \$1,866 mortgage by the acceptance, on the part of the executors of said Corlies, of a note of \$1,000 and a chattel mortgage as collateral security. Was that consent or agreement in writing?

A. That is my recollection of it. 10

(Paper marked Exhibit No. 2, on the part of defendant, Levi Irwin, shown witness, and witness is asked if that is the paper to which he referred.)

I believe it is. The first signature to that paper is my mother's. Mr. Irwin brought it signed by the others, and I got her signature to it.

This paper was signed before the business was effected—before the mortgage was cancelled. 20

The witness desires to correct his former examination in reference to the date of his conversations with Anna Jones, and desires to state that they might have taken place two or three days later than he has stated.

AARON E. JOHNSTON.

Sworn before me, March 7, 1881, }
and subscribed before me, }
March 18, 1881. } 30

JOSEPH McDERMOTT,
Master in Chancery of New Jersey.

Counsel for the complainant offers as a witness ELIZABETH JOHNSTON, the complainant. The counsel for the executors object to the complainant being sworn as a witness in this cause, because she is an incompetent witness in the character in which the suit is brought, the suit being and the proceedings 40

instituted being against the representatives of a deceased person.

Aaron E. Johnston, one of the executors, states that he makes no objection to the complainant being sworn as a witness in this case, and counsel for the complainant states that he offers the complainant as a witness to disprove so much of the answer of the defendant, Levi G. Irwin, executor, and of the said Anna E. Johnston, executrix, as may be responsive to the allegations contained in their respective answers to her bill of complaint, also to show transactions occurring since the death of Richard Corlies.

The consent given by Aaron E. Johnston, one of the executors, to the swearing of the complainant as a witness, is done against the advice and consent of his counsel, who objects to her being sworn for the reason above given.

20 ELIZABETH JOHNSTON, the complainant, being duly sworn according to law, on her oath saith:

I live at Farmingdale; I am 53 years of age; I am wife of James E. Johnston; was married to him about 29 years ago; I am a daughter of Richard Corlies; Richard Corlies in his lifetime held mortgages against my property; they were for \$1,866 and \$1,000; the \$1,000 one was on a house and store at Farmingdale, and the other on a farm at New Bargain; there was another mortgage on the farm, the Fish mortgage to the Chancellor; my father had these mortgages held by him at the time of his death.

30 Q. Do you know whether or not it was the intention of your father in his lifetime to deliver you up these mortgages to be cancelled of record. I refer to the \$1,866 and \$1,000 mortgages?

(Counsel for Levi Irwin objects to question as incompetent.)

A. I do; he told me so.

Q. What did he say, and when?

(Same objection by same counsel.)

A. He told me he was going to give me my mortgages and the little girls as much by deeds, on the other side of the road, in 1876, in the month of August—the first of August. This conversation took place right out by our garden gate, at our place at Farmingdale. He lived nearly opposite to us and frequently came to our house. 10

Q. State how this occurred—where you were, where he was, and all about it.

(Same objection as last above by same counsel.)

A. I was standing on the stoop at our house; the girl who lives with me, Susan Farley, was there with me. Father came in one gate from the lane and passed through the yard, and passed the stoop where I was standing, and through another gate that leads to the garden, and said as he passed the gate and stoop, "Elizabeth, come here, I want you." Then I went to where he stood. He stood leaning against the post with one hand. I went and found him there. I thought he was going to the garden to look after my bees, which he had given me. As I met him he said, "Elizabeth, I am going to give you your mortgages, and the little girls as much by deed on the other side of the road." I said, "O! father, we have more taxes than we are able to endure or pay." He said, "Elizabeth, think upon it." There was nothing further passed that day as to giving up the mortgages. He had no further mortgages against me at that time except the \$1,866 and \$1,000 mortgages. He referred to the daughters of my sister, who all lived with him except Mrs. Cottrell. The property across the road that he referred to was the same that he afterwards 40

deeded to them. I made mention to our people of this conversation when I went in the house.

Q. Afterwards did your father have anything to say to you upon the same matter, and if so state what and when?

A. A few days later than that, not as long as a week, he came to our house. I was sitting in the dining-room. Susan Farley was there at that time. He said, after speaking a few words, "Elizabeth,
 10 you must let me do as I wanted to with your mortgages." I don't recollect saying anything back to him. He never exacted any interest after the time he spoke to me at the garden gate, or after the property came into my name. These properties were held formerly by my husband, and were deeded by him to Richard Corlies and from Richard Corlies to me.

(Counsel for Levi Irwin objects to this last answer as not being the best evidence—the record being the best evidence.)
 20

(Exhibit A shown witness.)

This is the deed from Richard Corlies to me conveying these properties.

Q. Had the fact of his not exacting interest of you on these mortgages anything to do with your not taking them when he offered them to you, as you have stated?

A. Yes.
 30 (Counsel for Levi Irwin objects to this question as incompetent.)

A. I would have taken them if I had felt able to pay the taxes on them; but I felt that my father was better able than I was to pay the taxes. He exacted no interest of me, and paid the taxes himself.

Q. Afterwards, did he have anything to say to
 40 you or you to him about his giving you these

mortgages, or of his leaving them for you at his death—if so, state it fully?

(Objected to by Gen. Haight as incompetent.)

A. Several times in the presence of some members of my family he said to me: When I am dead you will have no debts to pay to my estate, and your mortgages are yours. One of these occasions was in 1877; I was sick in bed; my daughter, Elizabeth Johnston was present, and once or twice in 1878 he spoke to the same effect. On one of the occasions, a few months before he died, he spoke of it in the presence of my husband and the girl that lives with me. He was sympathizing with me in some of my troubles and said the same words as before. He was speaking to me, and wanted to raise me \$3000 on a farm that he owned and I objected to his doing so, saying it would make trouble for me after he was dead; it would be 20 debts to pay; I told him I would have debts enough to pay outside after he was dead. He said, "Elizabeth, you will have no debts to pay to my estate and your mortgages are yours when I am dead." I don't remember any other particular occasions except as I have stated. I was not present at the decease of my father; I arrived there when he was breathing his last, but he was past speaking. I don't know why I was not there; I was not sent for; one of the little girls came over when he was 30 past speaking, and said grandpa was dying; then I went over or was taken over by my son. I was not well at the time.

Q. State whether or not you believed and understood that you were to have these mortgages at his death from what he had said to you, as you have stated and relied upon his promises to that effect?

(Objected to by both counsel as incompetent.)

A. I do believe they were intended for me, and I relied on what he had said.

Q. Is it true, as stated in Mr. Irwin's answer, that you continually importuned your father to give you these mortgages or have them cancelled of record?

(Objected to by Mr. Haight as incompetent.)

10 A. Never in my life did I ask my father such a thing or spoke mortgages to him.

Q. Is it true, as stated in the same answer that your father always and persistently refused to give them to you for such purposes?

(Objected to by same counsel for same reason.)

A. Never.

20 Q. It is stated in Mr. Irwin's answer that Richard Corlies in his lifetime laid out and expended large amounts of money for you and your husband, and made advances out of his estate for your benefit. What do you say in respect to this allegation?

(Objected to by Mr. Haight as incompetent.)

30 A. All that my father done for me was in black and white in papers. Those mortgages were what he did for me. These mortgages include all that he did for me. I don't think he did anything for my husband except what went in these mortgages, except what he did for him one time about fourteen years ago—that was, he sold some property and my husband had \$500 of the money and my sister's husband had \$1000 of it. My sister's husband was Benjamin Jones.

40 Q. The defendant, Irwin, in his answer denies that from time to time after the decease of your father you made inquiry as to whether he had carried out his purpose expressed to you as to giving

you the mortgages. What do you say to that allegation?

(Objected to by Mr. Haight as incompetent.)

A. I say that my son went to him several times and spoke to him. I was not present. My son told me that Mr. Irwin said he knew nothing about them. I insisted that my husband should go and he did go to see Mr. Irwin, and I learned 10 nothing by that means. I then went myself. I went to his place with my husband, and Mr. Irwin came to the carriage, and I said "Mr. Irwin, I have come to see you about my mortgages." I then told him what had passed between my father and me in regard to my mortgages. I said, Mr. Irwin, I want to know if you know anything about my mortgages. He said, I did not know that your father had mortgages against you. I then asked him if he knew about the deeds to the Jones. 'I do not,' he said. 20 Then he said, "Stop a moment, Mrs. Johnston, I will tell you what I do know. While writing the old gentleman's will I had made mention of the Blue Ball property and the Peterson and some other lots, when it occurs to my mind, and I said, Mr. Corlies, here is the homestead. He said, that is conveyed away. I didn't ask whether it was to one, two, three or four, or to who." Then I spoke to him about the deeds and mortgages being kept from my knowledge, and then he stepped back and asked 30 me if I meant to hold him for them. He seemed to be impatient. Then he said he had wondered why he had not met me at our place when he had met Aaron there; but he said he supposed I had my son for my counsel, and I said my son said he was not my counsel, but was for his grandfather's estate.

(All the foregoing conversation objected to by Mr. Haight, as incompetent).

This conversation with Irwin took place in February, 1880. I had heard Mr. Irwin say in my place they were the mortgages handed him by Anna Jones the day the will was read.

Q. In the same answer Mr. Irwin denies that you finally came to believe that your father had neglected or failed to carry out his purpose of giving you these mortgages. What do you say to that?

10 (Objected to by Mr. Haight, as incompetent).

A. I never failed to believe it. I always believed that he intended to carry it out.

Q. What effect did these repeated failures to find out about the matter have upon your mind and actions in connection with your signing this consent. the giving of these notes, chattel mortgage and accepting the \$1,866 mortgage for cancellation?

20 (Objected to by both counsel for defendants as incompetent).

A. It had a great effect. I had at times said I would do nothing with them until we were forced to do something on account of foreclosure. We were notified that a foreclosure would be commenced, and my son thought it best that I should sign the note and stop the foreclosure. I never did it willingly.

30 Q. Had you learned at the time you signed this consent and entered in this compromise that your father, in his lifetime, had set apart these mortgages, as has been stated by your son in his evidence, which you have heard.

(Objected to by Mr. Haight, as incompetent).

40 A. No, sir; not until nine months later than that.

Q. When was the first you knew of these mortgages having been set apart as stated in the evidence?

(Objected to by Mr. Haight, as incompetent).

A. Mr. Irwin said in our house that Anna handed them to him the day the will was read; that was in February, 1880. I heard him say this. My daughter and husband and Aaron heard him. Mr. Irwin came in the sitting room to meet my son on some business of the estate, and I heard him talking to and I sent my husband and told him I wanted him to go in the room and ask Aaron and Mr. Irwin together about my mortgages, and he said: "My wife is not very well; she is very much worried about her mortgages. She thinks you may have found out something about them." Then Aaron said: Mr. Irwin, 'was they the girl's deeds and mother's mortgages that were handed to you the day the will was read?' He, Mr. Irwin, said 'yes.' Then my son said: 'What was Anna doing with them?' The conversation ended there, and Mr. Irwin went over to the other house. This was the same occasion that my son has testified about Mr. Irwin being at our house.

(Counsel for Irwin objects to all the foregoing conversation detailed by witness, as occurring between Irwin and others at the house of deponent, as above stated).

Aaron then went over there, at my request, to see what Anna said about my mortgages, as she had brought them out. I only know what occurred there by hearsay. I saw Mr. Irwin a few days after that at his place near Blue Ball, and had the interview which I have above narrated. The interview at our house, and what I had heard about the mort-

gages, caused me to go there. I told Mr. Irwin that Anna had said in the presence of Aaron that she had had the mortgages, and that her grandfather had put them in her care for fear of fire, or he might suddenly die, or something might happen. Then I told Mr. Irwin that Anna had said they were to be given up to some person, or there would be some one to take them, and I was impressed I was the one to take them, and I then told him that—

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(Counsel for Irwin objects to all the foregoing testimony as incompetent.)

(Counsel for Aaron E. Johnston also objects to that part where she told Mr. Irwin what others had said to her.)

20

I learned what I told Mr. Irwin from my son, and what I had heard Mr. Irwin say to him; I also told him that my son went over the next morning again, and he called her to the door, and she made the same statement, with a little difference only; that he had asked her if the envelopes contained my mortgages and the girls' deeds and she said yes, they did; that he told her that mother was not satisfied, and mother wanted to know to whom they were to be given to, and that she said to some one who was to do his business, it has a strange look, I said to him, and he said, it does; I said, Mr. Irwin, what do you think about it; he said, if I should tell my thoughts it might agree with yours; and then we had some more conversation, but it has no reference to this matter.

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(Counsel for Irwin objects to all the above conversation as incompetent.)

The \$200 note was to pay the interest and foreclosure expenses on the Fish mortgage. The money was used for that purpose.

I never consented or agreed to have these mortgages put in the appraisalment of my father's es-

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tate. I did not know they were there at the time they were put there. I was not present at the appraisal, and had nothing to do with it.

I have no recollection of signing the consent, but suppose I must have done so. I do not remember the occurrence of signing it. I was so much opposed to signing the note or completing the arrangements that I hardly recollect what I did sign. Aaron did all the business between Mr. Irwin and I.

10

Q. What did you have to say to your son in reference to giving this \$1,000 note and the other papers of this alleged compromise?

(Objected to by Mr. HAIGHT, as incompetent.)

A. He said that Mr. Irwin had said that one mortgage was not signed by me. After a long while I consented to sign the note and other papers. I was urged to do this by my son. He said that Mr. Irwin said the property would not sell as well as my two-thirds was upon it, and he said I would lose the place if it was sold, and the estate would lose their money, and he thought it was best to stop the foreclosure, and that Mr. Irwin offered \$200 out of the estate to pay the interest on the Fish mortgage and stop the foreclosure. I told my son the mortgage was given by my father to me and it ought to be mine, and I ought not to deal with them. They gave me no rest until I had given my note and they had cancelled the mortgages.

20

30

(Objected to.)

I had no knowledge all this time that these mortgages had been set apart.

(Exhibit C shown witness.) That is the mortgage on the New Bargain place that was cancelled. I have thought since my examination before dinner of some other money which I received from my

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father. When I was married and left my home he gave me \$130.00. Then, after that a few years he deposited in the bank at Freehold \$100., and sent me the bank-book.

Q. If you had known that your father had set apart these mortgages, as you afterwards learned he had done, at the time you gave the \$1,000 note and chattel mortgage and signed the compromise paper and accepted the \$1,866 mortgage under that
10 arrangement, would you have done so?

A. I would not.

Q. Then you were led to do these things through error and mistake in this particular, were you or not?

A. I certainly was.

Cross-examination by Mr. ELY :

I never had possession of the \$1,866 mortgage
20 or the \$1,000 mortgage in the lifetime of Richard Corlies. He never delivered either of them to me. At the time he spoke of giving them to me in his lifetime I did not accept them. He never told me he would deliver these mortgages to Anna Jones to be kept by her to deliver to me. She never delivered them to me. All that I know about his setting them apart is what my son told me that Anna Jones told him.

The day before his death my father was supposed
30 to be as well as in many years. These papers were not delivered to Anna Jones by him in his last sickness, as far as I know. My son told me she said she had had possession of them for some time. My name was not signed to the bond accompanying these mortgages.

The debt was not originally my debt. I did not
40 owe Mr. Corlies at the time of the execution of either of these mortgages. He never to my knowledge executed an assignment to me of these mort-

Cross-examination by MR. HAIGHT :

I don't know how long before his death he parted with the possession of these mortgages, and I do not know what his purpose or intention was in passing them away ; he never told me he was going to have them cancelled of record. When I had the first conversation with him in August, 1876, he did not say that he had made deeds to the little girls ; he did say that he was going to give them as much by deed on the other side of the road ; I did not know that he already had the deeds made to the Jones children, and he did not tell me he had. Susan Farley is at my place at Farmingdale ; I made no memorandum of that conversation ; I have had a great deal to refresh my memory of that conversation since my father's death ; I did not see the bonds and the mortgages with him at the time of that conversation ; he did not state where the mortgages were at that time ; he did not say when he was going to give them to me ; I have had all the rents and emoluments from these two places since that conversation ; I did not deduct these mortgages for taxes because they held them as a debt against me. I didn't consider them as a debt because my father gave them to me. He had not yet given them to me, he said he was going to. When he said to me that I must let him do as he wanted to with the mortgages I made no reply as I remember. My father never executed any paper to me to show that at his death these mortgages were to belong to me.

He did not say what security we were to give him for the \$3,000. It was for me to use. It was not to pay any of these two mortgages, but to pay off another mortgage. I have said that Benjamin Jones received \$1,000 from my father. It was not a bargain made between him and my father that he was to have all the excess over \$1,200 that he should sell a certain farm for. I was not present at all the bargains made by my father with other parties.

Q. Did not your father give to Benjamin Jones the \$1,000 for his services in effecting the sale of a farm of his?

A. Yes, sir; he gave him but not for selling the land. He did not want to part with it. The parties seemed not to want to break from the bargain Benjamin had made with them. He was very much incensed at Benjamin.

Q. And manifested his feelings of disapproval by giving him \$1,000?

A. Well, he gave him \$1,000. That's all I know about it.

Q. You stated in your direct-examination all that took place between Mr. Irwin, your son and you in reference to these mortgages?

A. All that I can remember.

Q. When was the first time and from whom did you hear about Anna Jones bringing in these two envelopes and handing them to Mr. Irwin?

A. The night the will was read.

Q. When and from whom did you first learn that one of those envelopes contained the mortgages of \$1,866 and \$1,000?

A. I was in a pantry in the dining-room and overheard a conversation between my son and his father. It was on the first of February, a year ago. It was a few days before Mr. Irwin was there. I did not go over to Anna Jones to inquire about it. I have no recollection of reading or signing the consent but suppose I did.

Q. How is it that your memory is so deficient in regard to this matter, and you recollect so well as to the other matters and conversations which you have testified to?

A. I had such an objection to dealing in that way is one reason and the only reason that I have.

Q. Are you sure that Mr. Irwin said Mr. Jones handed him two envelopes?

A. I am sure my son asked him and he said yes.

He said one contained the mortgages and the other the deeds when my son asked him.

Redirect-examination by MR. ROBBINS :

Q. You spoke in your direct and cross-examination of your father offering to take up \$3,000 on a place which he owned for you, and that for reasons you gave him it was not done. Did he, in that connection, propose any arrangement by which you should raise the money on the New Bargain farm which involved the cancellation of the \$1,866 mortgage? 10

A. He did; he asked me if he would cancel the \$1,866 and would take up \$3,000 from the Loan Association at Freehold which was to pay off the Fish mortgage and the other debts, so that the Loan could have the first mortgage if I would do it. At that time he offered to cancel the \$1,866 mortgage. This was in the spring of 1878, I think. In addition to what my son told me, Anna Jones had told him about the setting apart of the mortgages; I had also heard before that about her bringing out the two envelopes; the mortgages covered my land at the time my father talked about giving them to me; I did not pay tax on these mortgages while my father held them while the land was in my name. I suppose my father paid it; my husband attended to matters of assessment and taxation for me. When I said he hadn't given the mortgages to me, but was going to, I meant that I hadn't received them in my possession. I didn't consider that he had given the girls into their possession their deeds from what he said. 20 30

Re-cross-examination by Mr. ELY :

I did agree to the cancellation of this \$1,866 mortgage and the borrowing of the \$3,000 on the New 40

Bargain place when my father offered to do it. After I had agreed my husband and father tried to get the money. A gentleman came down and looked at the farm, and the association would not let me have the money. He continued to hold this mortgage after that the same as before. My father made me a deed for all the property. I never paid him any money for it.

10 (Objected to by counsel for complainant as incompetent, and as a matter not opened by the redirect examination.)

Re-cross-examination by Mr. HAIGHT :

The lands covered by these mortgages were formerly owned by my husband, were deeded by him to my father and by him deeded to me.

20 *Re-direct-examination* by Mr. ROBBINS :

My father received as much from me for the property as he paid my husband. I had nothing to do with the consideration that passed between them. The land was no gift to me by my father and he was none the poorer for the transfer.

ELIZABETH JOHNSTON.

30 Sworn and subscribed before me, this 18th day of March, A. D. 1881. }

JOSEPH McDERMOTT,
Master in Chancery of N. J.

The further examination of witnesses in the above stated cause stands adjourned to Friday, the twenty-fifth day of March, A. D. 1881.

40 On Friday, the twenty-fifth day of March, A. D. 1881, the examination of witnesses in the above-

stated cause was resumed, in the presence of the same counsel.

JOSEPH McDERMOTT,
Master in Chancery of N. J.

(The counsel for the defendant, Aaron E. Johnston, one of the executors of Richard Corlies, deceased, asks to have all that part of the evidence of Elizabeth Johnston overruled which relates to any transaction she had with Richard Corlies, the testator, or as to any statement made by Richard Corlies, the testator, to her, as being incompetent.) 10

JOHN L. CORLIES, a witness produced on the part of the complainant, being duly sworn according to law, on his oath saith: I live at Shark River Station, Monmouth county. Am 68 years old next April. I am farming now. I am a brother to Richard Corlies, deceased. Shark River Station is $3\frac{1}{2}$ miles from Farmingdale. I frequently saw Richard Corlies in his lifetime. I formerly lived in Trenton. I left there in November, 1878, and moved to Shark River Station. 20

Q. Did you or not have any conversation with Richard Corlies about any disposition he was going to make of his property in 1878?

A. I did. It was in October, 1878. I think the last of October. I was staying at his house in Farmingdale. I went there in July and remained until November after election, except some one or two weeks, and then I went to Shark River Station. I was living with him at the time of this conversation. 30

Q. State fully this conversation of which you have spoken?

(Objected to by counsel for defendant as incompetent, and not accompanying any act on the part of Richard Corlies, and no part of any *res gestae*.) 40

A. I was riding with him in his wagon coming from his farm, and he wanted to know if I had seen his daughter, Elizabeth Johnston, that morning. She was sick. She is a woman of delicate health. I told him she was very [sick. He says I expect there will be a devil of a time after my death about my property. I expect they will break my Will. I said you can avoid that by giving your grandchildren deeds for the property that you give them.

10 Said he: I have already done that. I have given them deeds to make them equal with Elizabeth's mortgages. I think she ought to be satisfied with giving her the mortgages he said. There was nothing further said about it at that time. I don't know that he said anything to me at any other time about this business.

Cross-examination by Mr. ELY :

20 I think he told me the mortgages were in the neighborhood of \$4,000. He did not say at that time in whose possession the mortgages were. He said so at another time. I understood from him that he had given the mortgages by giving the deeds from what he spoke to me.

Re-direct Examination :

30 Q. You say at another time he spoke about who had possession of these mortgages. State about that ?

(Objected to by counsel for defendants as incompetent.)

A. He said Anna Jones had possession of his papers, or took care of his papers.

Cross-examination by Mr. HAIGHT :

40 I had been living in Trenton for a year and a half

before I went to Shark River. I was not in any business there. Farmingdale is my native place. I went away from there in 1829 and 1830. I was on friendly terms with Richard Corlies for the last ten years of his life. I went there in July and staid there till the second or third day after election. Then I went home and moved my family to where I am living now. I had this conversation with him in the last of October, 1878. I can't give the date. He did not tell me he had made his will at that time, 10 nor how he was going to make his will. He said he had made deeds to the Jones children to make them equal to Lib's mortgages. He did not tell me when he made those deeds or who made them. He did not tell me where the deeds were, nor where the mortgages were, that he held against his daughter Elizabeth, nor that he had delivered the deeds to the Jones children or either of them. We were alone, riding along, at the time of this conversation. The first that I spoke about this conversation was 20 the next day. I was over to Mrs. Johnston's and told her of the conversation between me and her father. I did not speak to any one about it after that until this thing came up. I mean after this suit was commenced. Jim Johnston said he wanted me for witness. I did not tell the same thing to him.

Re-direct Examination by Mr. ROBBINS:

Mr. Corlies sent for me to come and stay there 30 that summer. I had a room and accommodations there. I think I and Anna Jones, in the presence of the children, did have a conversation about what Mr. Corlies said to me, but I am not sure enough to swear to it. I informed Mrs. Johnston of it immediately after it occurred.

Re-cross Examination by Mr. HAIGHT:

Anna was very much afraid they would not have 40

their shares, and I said : "Anna, your grandfather has given you deeds for property to make you equal to your Aunt Lib." This was in October, 1878, shortly after my conversation with Richard Corlies. This or something similar is what took place between Anna Jones and I. I told Anna Jones that Richard had said he had given them deeds. Richard had told me that Anna Jones kept some of his papers. He did not say what papers. I don't know whether
 10 Anna Jones could read or write. I never saw her write or heard her read. The two little girls were present. One is named Ella, and I don't know what the other one's name is.

JOHN L. CORLIES.

Sworn and subscribed before }
 me, this 25th day of March, }
 A.D. 1881.

20 JOSEPH McDERMOTT,
 Master in Chancery
 of New Jersey.

EDWARD C. BARKALOW, a witness produced on the part of the complainant, being duly sworn according to law, on his oath says: I live at Farmingdale. I am about 40 years of age. I lived with Richard Corlies at one time. I went there when I was about 6 years old, and I lived there till I was married. I have been married 14 years. I lived
 30 there 20 years anyhow. I have lived at Farmingdale ever since, near Richard Corlies. I have been to his house once in a while since I was married. While I was there Rebecca Jones, his daughter, lived there with him and Benjamin Jones, her husband. Elizabeth Jones, now Elizabeth Cottrell; Mrs. Jones's daughter, Anna Jones; Elenor M. Jones, and Mary Jones. I remember when Benjamin Jones died. It was a year or two before I left. Mrs. Jones died after I left I should think a year.
 40 The others remained there except Mrs. Cottrell, who

married. I suppose they were supported by Mr. Corlies.

(Counsel for defendants objects to what witness supposes.)

They had no other visible means of support except Mr. Corlies. Mrs. Elizabeth Johnston nor none of her family lived with him. I was present at the reading of Richard Corlies's will a day or two after his death. Mr. Levi G. Irwin read the will. After the will was read I remained. I saw Anna Jones bring out two envelopes that day. Anna E. Johnston, Anna Jones, Mr. Irwin, and I were present when she brought these out, and there might have been others. Part of those who were there when the will was read had gone. 10

She came out of the hall door with an envelope in each hand. She went to Mr. Levi G. Irwin. She says, "Here is our deeds," and handed him the other envelope. Mr. Irwin says, "Take the deeds back, fifteen days will be time enough to transact that business." She gave the other envelope to Mr. Irwin. She kept the envelope he told her to take back. I did not see what Mr. Irwin did with the envelope he received. This was right away after the will was read—ten minutes. I left the house about a half an hour after Anna Jones brought out the papers. I then went over to Mrs. Elizabeth Johnston's. I saw her there. I told her what had taken place there. I did not know what the envelope had in that Mr. Irwin kept—that was not mentioned. 20 30

Q. What information did you give her as to what had taken place there?

(Objected to as incompetent, as being conversation not in the presence of either of the executors.)

A. I told her that there was two large envelopes 40

handed out there by Anna Jones, and that she said one of the envelopes contained their deeds, and the other one I did not know anything about. Mrs. Johnston had further talk about it at this time. Mr. Richard Corlies supported the Jones while they lived there while their father was living.

Cross-examination by Mr. ELY :

- 10 Mr. Corlies was a widower for a long time before he died. The wife died before I went there, before I was old enough to know anything. Mrs. Jones kept house for Richard Corlies after she grew up. I expect so. My mother kept house for him. I don't know up to what time. My mother died about 35 years ago. I can remember some from the time I was six years old. Mrs. Jones was not married when I was six years old. Mrs. Jones has been married 25 years. Mrs. Jones kept house for Richard Corlies for 20 years previous to when she died.
- 20 The children of Mrs. Jones helped about the house as they grew up. I frequently saw them working in the house. I am positive that Anna Jones brought out more than one envelope and handed it to Mr. Irwin. I don't know where she got the papers from, whether from the other papers or not. I think I have had a conversation with Wesley Cottrell about her bringing out those papers. I have had a conversation with Mrs. Johnston and
- 30 her husband about it. We have talked it over. It might be once; may be twice; may be three times, and it might be four times. I was in the room, about eight feet from Mr. Irwin, when Anna Jones brought out these papers. I took particular notice of the envelopes. They were yellow. They were both large envelopes. I did not notice whether they were both of the same size and color. She did not have them both in one hand. I am certain that he took one of the envelopes, and that she took the
- 40 other one back.

Re-direct examination by Mr. Robbins :

Mr. Corlies kept hired help about the house during all the time I was there. He had one, sometimes two. So far as I know he continued to keep hired help in the house after I left. His family, without the Jones, would have consisted of Richard Corlies and me while I was there.

In your judgment was it very necessary for Mr. Corlies alone to have had all the family of Jones to take care of him ? 10

(Objected to by counsel for defendants as a matter of opinion.)

(Counsel for complainant does not insist on an answer.)

Re-cross-Examination by MR. ELY:

Mr. Corlies always had a girl in the house. I suppose she was hired. She did part of the work and part of it was done by members of the family. I don't know that the servant girl mended Richard Corlies' clothes. Since I left there 14 years ago I have been back may be three times a year. Of my own personal knowledge I do not know who did the work in the house since that time. I saw the girls working when I was there—the Jones girls, I mean.

30

Cross-examination by MR. HAIGHT :

I stood about eight feet from Mr. Irwin when Anna Jones brought these envelopes in. I don't remember who I was talking to. She walked right up to where Mr. Irwin and Aaron Johnston stood. They were talking with each other, Johnston and Irwin. I don't recollect that John Errickson was there at this time. He was there while they were reading the will.

40

Q. Aaron Johnston has testified in this case that he was in the room talking with Levi Irwin, and Anna Jones came in with two envelopes, one in each hand; that she handed first one and then the other to Levi Irwin, and that Irwin handed one immediately back to her, and that she made no remark as to the envelopes or what they contained. Is that true or not?

10 (Objected to by counsel for complainant because it misstates the testimony of Aaron E. Johnston in almost every particular, he not having said that Levi Irwin took both of the envelopes, nor that Anna Jones did not say anything at the time she tendered the envelopes to Mr. Irwin, and because the evidence of Aaron E. Johnston is substantially the same as that of Mr. Barkalow.)

20 A. Yes, sir.

(Counsel for complainant protests against last answer being put down, because it is apparent that the witness does not understand the question.)

(The counsel for Levi G. Irwin said that the Master read the question to the witness before he answered it.)

30 Q. Did Anna Jones or not have both envelopes in one hand, or one in each hand, when she came in?

A. One in each hand. I don't know that I can answer from which hand she handed the envelope to Irwin first. She handed only one envelope to him. At the time she handed one envelope to him she said it contains our deeds. She didn't say whose deeds it contained, only our deeds.

Q. Did she say deeds for what?

A. I don't know that she did. Irwin told her to
40 take them back; I don't know where. He did not

ask her what she meant by their deeds, or for what property, as I remember. He did not ask her where she got them from, or how she came in possession of them. She did not say anything when she handed him the other envelope, nor he didn't say anything, as I remember. I told the same day what took place about Anna Jones coming in the room with these envelopes. It made an impression on my mind. I was a little interested. I was there looking for a deed that I supposed belonged to me. 10 I supposed it would be brought out there. I did not inquire of Levi Irwin nor Anna Jones what deeds they were. I knew Anna Jones well. I have no acquaintance with Levi Irwin, but knew him when I saw him. I did not ask Anna Jones what deeds she referred to, or Levi Irwin, nor what the other envelope contained. I talked there among the family there that day about my deed. I can't tell what one of the family.

20

Re-direct Examination by MR. ROBBINS :

Q. What deed did you understand her to refer to when she said our deeds?

A. I don't know that I can answer that.

Q. The question that was asked you by the counsel as to the testimony of Aaron E. Johnston was answered by you, "Yes, sir." Did you or not understand this question when you answered it?

A. No, sir.

Q. Did you or not state truly in your direct ex- 30 amination the occurrences which took place on the occasion of her coming in with the envelopes to where Mr. Irwin was?

A. Yes, sir.

EDWIN C. BARKALOW.

Sworn and subscribed before }
me, this 25th day of March, }
A. D. 1881.

JOSEPH McDERMOTT,
Master in Chancery
of New Jersey.

40

SUSAN FILEY, a witness produced on the part of the complainant, being duly sworn, according to law, on her oath, saith :

I live at Farmingdale. I have lived there 26 years next May. I have lived with Mr. and Mrs. James Johnston and still live with them. I know where Richard Corlies lived. It was right across the street from Mrs. Johnston's. He was often at her house—sometimes twice a day—sometimes three times a day. He lived opposite Mrs. Johnston's twelve years before he died. While he lived opposite Mrs. Johnston I was frequently at his house up to a year and a half before he died. I did not go very often then. Mrs. Johnston has most always, since I was a small girl, been sick. She has been dangerously sick at several different times. She had not been seriously sick for a while before he died—for a year before his death. He would come over often when she was sick ; he would come over in the day and then in the evening, and tell her she must not worry and get sick. He was kind and considerate to her. His trouble was that she would not take more care of herself than she did. Richard Corlies had a servant girl at his house—she came to them the same time I came to Mr. Johnston's, and he had his niece, Sarah Corlies, there. One girl left about a year before we moved to Farmingdale, and the other one about a year afterward. He had other hired female help after that. I remember his coming over and talking to Mrs. Johnston by the garden gate—that was in the summer, I think in August, but couldn't say sure ; it was in 1876.

Q. State what you saw or heard that day as to this matter ?

(Objected to by counsel for defendant as incompetent.)

A. I was standing on the stoop fixing to go to washing, and Mrs. Johnston was standing there.

This was at Mrs. Johnston's at Farmingdale ; and Mr. Corlies came in the front gate and went right around the walk by the stoop to the side gate. He said, "Elizabeth, come here, I want you." Mr. Johnston went off the stoop and he went out of the gate, and they met out by the garden gate and they stood there talking. I did not listen to what they said. They stood there five or ten minutes—a short time. Then Mrs. Johnston came in, and I asked her what made her look so bad. She had 10 fainty turns that summer when she had been in the sun. She went on through in the dining room and sat down and informed me what Mr. Corlies had said.

Q. State what Mr. Johnston said to you ?

(Objected to as incompetent.)

(An answer not insisted on by counsel for complainant.)

20

A. I saw Mr. Corlies there after that when the business of Mrs. Johnston's mortgages was mentioned. That was in the same summer, some four or five days after.

Q. State what occurred then and what was said.

(Objected to as incompetent.)

A. He came from his home across the street to Mrs. Johnston's house—he came in the dining room and sat down ; Mrs. Johnston and I were there. He 30 told her she must let him do as he wanted to with the mortgages, and then they talked about other business and things. When he went out he said again, "Elizabeth, you must let me do as I wanted to with your mortgages." And she said, "Father, you can do just as you please." There was nothing further at that time. I heard him speak to her afterwards about these mortgages. At one time I heard him tell her that the mortgages were hers at his death, and that she would have no debts to pay to his 40

estate. This was in the fall of 1877. He came into Mrs. Johnston's with a large boil on his hand and he wanted Mrs. Johnston to dress it, and I told her not to for it made her faint, and that I would do it. While I was dressing it he was talking to Mrs. Johnston, and told her this. He talked about taking up a mortgage for \$3,000 on the Colt's Neck farm and she objected.

He wanted to mortgage it and take up \$3,000 for
 10 her to relieve her—I suppose he meant to help pay her debts. She told him she would have debts enough to pay after he was dead to his estate. And he said, "Haven't I told you, Elizabeth, that your mortgages are yours and you will have no debts to pay to my estate?" I heard him talk about it again several times. At these times I heard him say to her that the mortgages were hers at his death. At one time I had been away several days, and when I
 20 came home Mr. Corlies had a very sore face, and he came over to get me to dress it. This was in the latter part of July, 1878. It was a running sore on his cheek, and was very painful. I dressed it for two weeks. He said he wanted her to let him take up that mortgage. He was coming to Freehold on business. The business he was coming upon was to get money for her, not on the mortgage on the Colt's Neck farm. He told her, Elizabeth, I have told you, that your mortgages are yours. She was worrying about it. She was troubled
 30 about her indebtedness, and he saw it and he wanted to relieve her. I have heard him talk about having his mortgage on the New Bargain farm cancelled. It was in the winter, in the last of 1877 or first of 1878. He came in and said, "Elizabeth, would you rather throw your old homestead farm at New Bargain in the loan and get \$3,000, and I will cancel his mortgage on that farm." She told him she would rather do that. I heard them talking that they went to see about it
 40 —Mr. Corlies, Mr. and Mrs. Johnston. This was

a day or two afterwards. I did not pay attention, and can't tell what they said. I know they didn't get the money on that farm. The business fell through. I remember no other particular time that he told her about these mortgages. The place at New Bargain was where Mr. and Mrs. Johnston had lived before they came to Farmingdale. I always understood that it was to Mr. Johnston's father's and mother's place.

A general objection to all the above evidence as to declarations and conversations by Richard Corlies is entered by the counsel for defendants as incompetent. 10

It being agreed that a general objection should be entered instead of being made after each answer.

Cross-examination by MR. ELY :

When I was at Richard Corlies' house I frequently saw the Jones girls at work there. In this conversation between Mrs. Johnston and Corlies he told her the mortgages were hers. 20

Q. If he said they were hers, why did he tell her the fact so often ?

A. Because he wanted to take up money and she wouldn't consent to it. He did not want to take up money at every one of these conversations. She was sick, and he thought she was worrying, and he told her to relieve her. He thought she was worrying about her debts. I heard her say she had as many debts as she could pay now, without having any to pay to his estate. He told her she wouldn't have any to pay to his estate. I never heard her say that she was worrying because of these mortgages. I never heard her say anything about it. I don't know whether Richard Corlies was to get part of the money that was to be taken up or not. 30 40

Re-direct Examination by Mr. ROBBINS.

I never heard Mrs. Johnston ask Richard Corlies for these mortgages. I did not mean to say that I had lived at Farmingdale for 26 years; have lived there 15 years and 10 years on the place at New Bargain.

Cross-examination by Mr. HAIGHT :

10 The first time I ever heard any conversation between Mrs. Johnston and Richard Corlies was in the fall of 1877. There had been no reference to the mortgages by Mr. Johnston and Mr. Corlies prior to that time in any conversation that I heard. The second time I heard them talk about it was in the last of July, 1878. Those are two times that I can give the dates. I heard him speak to her several times about it. I suppose I heard him speak to her five or six times about the mortgages.

20 Q. Can you give us some idea when those times were, the year or the month?

A. No. From 1877 up to 1878. The conversations were of about the same effect. Once Mr. Johnston's boy was sick, and Mr. Corlies came in to get the boil on his hand fixed, which Mrs. Johnston couldn't do it, and once because Mr. Corlies had a very sore face, and came in to have me fix it, and he was talking about going to Freehold on business.

30 Q. What association or connection had the boil on the hand or the sore on the face with the dates you have designated?

A. The reason I remember the sore on his face was because I had been away, and I haven't been away to stay since, and I know when I went. The other is because the little boy had been to the cranberry bog and was sick, and I know the day he was there.

40 Q. I suppose the little boy has not been to the cranberry bog since nor hasn't been sick since?

A. He has not been to the cranberry bog since, but he has been sick since a good many times. I had been to Long Branch on a visit to some friends and acquaintances I have there. I have no memorandum to show when I went there, only in my head, in my mind. I have no memorandum of when the little boy went to the cranberry bog and came home sick, except in my mind. I suppose I have a bright, active, retentive mind, if you say so.

Q. Do I understand you to say things because 10
others say so?

A. Not at all. I couldn't always have my mind on these things, and that is why I can't fix the other dates. I was there on purpose to see what was going on these two times.

Q. At whose request were you there to see what was purposely going on?

A. At my own. I made no memorandum of the conversations that took place between Mrs. Johnston and Mr. Corlies. I have none now. I suppose 20
Mr. Corlies was in as good health at these times as you could expect of a man of his age. Not well, of course. He traveled about and looked after his business affairs.

Q. At either of these two occasions which you have designated, or at any other time when you say you heard conversations between Mr. Corlies and Mrs. Johnston in regard to the mortgages held by him against her or her property did Mr. Corlies have the mortgages, or did you see them? 30

A. No, sir.

Q. In your presence did he ever offer to deliver up or give her the mortgage?

A. No more than I have told you.

Q. Did he state in your presence at any of these conversations that he would give her the mortgage?

A. The same as I have told you that the mortgages were hers.

Q. State to me as near as you can what Mr. Corlies said to Mrs. Johnston in each of the conversa- 40

tions to which you have referred, commencing at the first in regard to the mortgages held by him against Mrs. Johnston or her property, giving the date of said conversation, whenever you can fix it.

A. In 1877 he told Mrs. Johnston that her mortgages were hers at the time of his death, and she would have no debts to pay to his estate. In 1878 in the last of July, he told Mrs. Johnston that the mortgages were hers. That is all the two dates I
10 can remember.

Q. Well, if you don't remember the dates of the other conversations that you were witness to between Mr. Corlies and Mrs. Johnston give us the conversations themselves and the number of them.

A. He told Mrs. Johnston at one time she must let him do as he wanted to with her mortgages, and they sat and talked a while, and when he got up to go out he said, 'You must let me do as I want to with your mortgages,' and she said, 'Father, you
20 can do just as you please.'

Q. Is that all the answer you have got to give to the foregoing question?

A. He said at several times that the mortgages were hers, but I can't give a date to them.

Q. What did you understand from the conversation that took place between Mr. Corlies and Mrs. Johnston that Mr. Corlies wanted to do with these mortgages?

30 (Objected to by counsel for complainant as incompetent. The question not insisted upon.)

Q. What did Mr. Corlies say to Mrs. Johnston in these conversations to which you have referred he wanted to do with these mortgages?

A. I have just told you. I have told you three or four times.

40 Q. Will you be so kind and condescending as to tell me again?

(Counsel for complainant objects to question as useless repetition of testimony already in from eight to ten times.)

A. He told Mrs. Johnston that at the time of his death the mortgages were hers, and she would have no debts to pay to his estate.

Q. If that was so then why did Mrs. Johnston worry so much in regard to these mortgages, as you have stated in your direct examination? 10

Q. I didn't state that she was troubled about these mortgages, but about her other debts.

Q. Can you state what other debts she had which she referred to in these conversations with her father that gave her so much trouble?

A. I don't know anything about her other debts. One was concerning Mr. Burtis, the storekeeper at Freehold. He came down to see her. There were several others that I can't mention in particular.

Q. At any of these conversations to which you have already referred or at any other time, did you hear Mrs. Johnston ask or request her father to deliver up these mortgages to her or to hand them over to her. 20

A. I never did.

Q. Did you ever hear Mr. Corlies at any of these times offer to give or deliver up these mortgages to Mrs. Johnston?

A. I heard him tell her once that he would cancel one of them. I never heard him say farther than that. 30

Q. Did you ever hear him say at any of these times where the mortgages were?

A. No, sir. I have been in Mr. Johnston's family 26 years next May. I have always lived with them from a child up. I do a servant's work. I told Aaron Johnston one night what I knew about it, when his mother was sick. They were talking about it and I told him what I knew, and he went and told his mother. Mrs. Johnston never said 40

anything to me about it. I told it of my own free will. She didn't know that I knew it till I told Aaron.

Re-cross-examination by Mr. ELY :

At the time I told Aaron this, there were other members of the family present, but we were talking together.

10 *Redirect-examination*, by Mr. ROBBINS :

It was in 1876 that I first heard him speak to Mrs. Johnston about the mortgages. I made a mistake when I said the first time was in 1877. The first time he mentioned them was a few days after the conversation at the garden gate. The time I was fixing up his sore face, he was coming to see Mr. Burtis at Freehold on some business about raising money to pay a mortgage on Mrs. Johnston's place, with which he (Mr. Burtis) was connected. I heard them talking about it. I think Mr. Burtis was settling up an estate for Mr. Davis, and he was trying to get the money for the heirs.

20 Q. You stated in your cross-examination that on the two occasions when you heard conversations between Mr. Corlies and Mrs. Johnston, of which you have given the times, you were there on purpose to see what was going on. State what you meant by that expression, whether you were there at any one's request and what you meant?

30 A. I was not there on any one's request, because I did not know there would be any trouble. I always went in when they were talking. I was not there on purpose to listen to what he said. I was dressing his hand and his face. I wouldn't have been there if it wasn't for that.

40 Q. In fixing the times of these two conversations between Mrs. Johnston and Mrs. Corlies, you say you fix one by the time you were at Long Branch, and the other by the sickness of her son at the time

he was at the cranberry bog. State how you arrive at dates from these circumstances?

A. I know it was in cranberry time when he was there, and that it was late in October of 1877. He was sick for several days, and has never been there since, and this was while the boy was sick. I went to Long Branch in the second week of July, 1878, on Thursday, and remained there until Monday, then returned home to Farmingdale, and sometime that same week Mr. Corlies came over and I dressed his face and this conversation took place.

SUSAN FILEY.

Sworn and subscribed before me, this 25th day of March, A. D. 1881.

JOSEPH McDERMOTT,
Master in Chancery of New Jersey.

The further examination of witnesses, &c., in the above-stated cause stands adjourned to Monday, March 28, 1881, same time and place.

On Monday, the 28th day of March, A. D. 1881, the examination of witnesses in the above-stated cause was resumed in the presence of the same counsel.

JOSEPH McDERMOTT,
Master in Chancery of N. J.

Counsel for complainant offers as a witness JAMES E. JOHNSTON.

Counsel for Levi G. Irwin objects to the swearing of this witness, as incompetent to testify under the pleadings in the cause, and is otherwise incompetent as a witness, it being admitted that the said James E. Johnston is the husband of the complainant.

JAMES E. JOHNSTON, a witness produced on the part of the complainant, being duly sworn according to law, on his oath saith: I live at Farmingdale, Howell Township, N. J. I have lived there about 14 years. Before that I lived at a place called New Bargain, about one and a half miles from Farmingdale. I lived there on the place which formerly belonged to my father. It was his homestead. The same place covered by the Fish mortgage
 10 and the \$1,866 mortgage. I am the husband of the complainant. I was married to her about 28 or 29 years ago. Farming has been and is now my principal business. When I moved to Farmingdale, we built nearly opposite the house of Richard Corlies, and have lived there ever since.

Exhibit A shown witness, who says:

The third tract described in this deed is the one on which the \$1,000 mortgage is. The fifth tract is
 20 the homestead of my father at New Bargain, on which the Fish mortgage and the \$1,866 mortgage are. Richard Corlies lived opposite to me all the time I lived at Farmingdale up to the time of his death.

His daughter, Rebecca Jones, up to the time of her death, her husband up to the time of his death and their four daughters, Elizabeth Jones, Anna Jones, Mary Jane Jones and Eleanor M. Jones lived with him. Benjamin Jones died about two or three
 30 years after I moved to Farmingdale which was 14 or 15 years ago as near as I can remember. His wife died about two years before he did. She (Rebecca) never left home; she always lived with her father and her husband lived with Richard Corlies when he was at home, their children were born there and lived there as I have stated. Elizabeth Jones married J. Wesley Cottrell some eight or ten years ago. I think they were married at Richard Corlies' house, but I am not sure. I think
 40 I was at the wedding but am not positive. They

moved after they were married to Jerseyville or one of Mr. Cottrell's father's places and lived there I think about two years; then they moved on one of Mr. Corlies' farms, the place called the Scott farm which he left to Elizabeth Cottrell, near Farmingdale. I always understood Mr. Corlies supported the Jones while they were living with him. I have heard their mother say so, that Mr. Jones never did anything to help support them. To the best of my knowledge the oldest of the Jones children is about twenty-five or twenty-six years of age, and the next one two years less and the youngest about sixteen. 10

When I was married I and my wife went on the homestead farm at New Bargain; we moved there about a week or two after we were married, in a very short time. We have never lived with Richard Corlies nor has my wife since we were married. My wife's health has been very poor of late years. Richard Corlies came to our house quite often while we lived at Farmingdale, sometimes two or three times a day when she was sick; he was always kind and good to our family. We have five children, the oldest is I think about twenty-eight years old and the youngest about fifteen years old. 20

I remember the death of Richard Corlies; I was present at the reading of his will; this occurred on Monday; he died on Jan. 2, and this was the Monday following. Levi G. Irwin read the will; Mr. Irwin and Aaron E. Johnston, Executors, the family of Jones, the four girls I think were there, the aunt, Mary Jones, I think was there, myself, my son Richard, my daughter Elizabeth, my daughter Mary, Rebecca Donahay, Job Barkalow, Edward Barkalow, and I think John Errickson were there. There was no mention made of my wife's mortgages or of the deeds to the Jones while I was there. I came out shortly after the will was read and don't know what occurred after that. 30

The last that Richard Corlies demanded interest 40

on the mortgages was several years before he died, never after the property came into my wife's hands by the deed marked Exhibit A.

Q. Did you ever hear Richard Corlies say anything with reference to the giving to your wife the \$1,000 mortgage on tract No. 3 in Exhibit A. or the \$1,866 mortgage on tract No. 5 in same exhibit? If so state what and when it was.

10 (Question objected to by Def'ts Counsel as incompetent.)

A. I did at one time, it was on a Sunday. It was in the fall of 1877. I can fix the date by a collier who was burning coal for me and by Mr. James Burtis coming down to examine Richard Corlies' farm at Colt's Neck, the same as has been mentioned before in this testimony. Mr. Corlies wanted to take up \$3,000 on the Colt's Neck farm and Mr. Burtis came down to examine it. He wanted to take up \$3,000 to relieve my wife of a mortgage that James T. Burtis, as executor of Richard Davis, held against her. This mortgage was \$2,500, and there was interest and costs. It amounted to some \$2,800 at that time. A foreclosure had been commenced on it. This mortgage of Davis's covered Farmingdale property, the Hotel, store and dwelling, I think.

20 Q. What did Richard Corlies have to say about these mortgages of your wife and what did your wife say?
30

(Objected to as incompetent.)

A. I heard the conversation at that time he came in to get his hand dressed; he had a sore hand. He told my wife that he was going to take up \$3,000 on this Colt's Neck farm and pay this Davis mortgage off which Burtis held. My wife said, no, father, you must not do it. I know he insisted on taking this mortgage up and paying off the Davis mortgage.
40

She said, no, father, I will have debts enough to pay after you are dead. He says, Elizabeth, haven't I told you your mortgages were yours, and that you would have no debts to pay to my estate after I am dead. You will be well off after I am dead. That was about all the conversation at that time. The mortgage was not taken up on the Colt's Neck farm.

Q. Was there afterwards any talk by him about raising money on the New Bargain Farm (Tract No. 5) to settle this Davis mortgage? If so, state it 10 particularly.

(Objected to as incompetent.)

A. In January, 1878, I think Richard Corlies came into our house, and says to my wife, Elizabeth, Would you be willing to mortgage the old homestead and take up \$3,000 on that and pay the Fish mortgage off, and I will cancel my \$1,800 mortgage and pay the balance on this Davis mortgage. Her reply was, Yes, that she was perfectly 20 willing to do that; to take it up on her property.

Q. Was Richard Corlies to receive any of this \$3,000 that was proposed to raise on the New Bargain farm?

(Objected to as incompetent.)

A. No, sir.

Q. Was anything said at that or any other time about his having anything to show for this mortgage for \$1,866 which he proposed to have can- 30 celled?

(Objected to as incompetent.)

A. No, sir; we—Richard Corlies and I—came to Freehold a day or two immediately after this; it might have been the same day—came to Freehold, to Mr. Hartshorn's office—the loan office. We came to see if we could raise the \$3,000 on the New Bargain farm. We did not succeed in getting the money. There was an examination made of the 40

farm by George C. Hettel for the Loan Association. Mr. Corlies and I went with him. So that fell through.

Q. Have you at any other times heard Mr. Corlies say anything about her having these mortgages in question?

(Objected to as incompetent.)

A. I have heard him say several times—Elizabeth
 10 is worrying too much; that she would be well off or he would leave her well off after he was dead; that these mortgages were hers after he was dead. I can't specify when these conversations took place. It was during the business of paying off the Davis mortgage, and he was worried because she was. After the death of Mr. Corlies I had some conversation with Mr. Irwin about these mortgages. It was right after reading the will, the next day or the day after that—within two or three days—I went at my
 20 wife's request. It was on the Court House stoop in Freehold that I met Mr. Irwin. I says—Mr. Irwin, my wife wants to know if you know anything about her mortgages that her father had given to her in his lifetime. His reply was,—I don't know anything about them. I did not know that her father had mortgages against her. That was the conversation. I asked him afterwards or heard him asked about them. I went to see Mr. Irwin with my wife. That was in February, 1880. It was the same time
 30 that my wife referred to. We went to his place, near his sawmill, and he came out to the road to the wagon, and my wife told him she had come to see if he knew anything about the mortgages that her father had given her. He said,—Mr. Johnston, I do not. I didn't know that your father had mortgages against you. She asked him if he knew anything about the girls' deeds. He said he did not know there were deeds for the girls, and said,—Stop, Mrs. Johnston, I will tell you what I do know.
 40 He said: in making the old gentleman's will, (refer-

ring to Mr. Corlies), I had mentioned over the Blue Ball property, the Peterson property and some lots; it occurred to my mind that here was the homestead. Mr. Corlies said that was conveyed, and he didn't say whether it was conveyed to one, two, three or four, or who.

(Counsel for Irwin objects to all the foregoing testimony of the witness in regard to what Irwin said to Mrs. Johnson about what was said between Irwin and Richard Corlies at the time of the making or execution of his will.) 10

Previous to this a day or so, Mr. Irwin came to our house to see my son, the other executor, on some business of the estate. I was at the barn or wagon house and my wife sent for me to come in the house. My son Aaron and Mr. Irwin were in the sitting room. She told me she wanted me to go in and ask Mr. Irwin if he knew anything about her mortgages, and I did go in and ask Mr. Irwin that question. That was as far as I got. Then my son spoke up. My son said: Mr. Irwin, was them the girls' deeds and mother's mortgages that Anna handed to you the day the will was read. He said yes. I won't be positive whether I or Aaron asked him if he knew what she was doing with them. He said he did not. He then went across to the Jones house in a few minutes. My son, on the same day, a few minutes after Mr. Irwin left, went across there to the Jones house. My wife insisted on he or my going to see Anna Jones, and if she knew anything about the mortgages, and how she came by them. He went over there and was gone a short time. I think I was there when he came back. When he returned he informed us of what had been said and done over there. The next morning my wife insisted upon his going over there again to make further inquiry. He did go across, and the same morning informed me what was done. This led to 20
30
40

the visit to Mr. Irwin's place on the same or following day.

A. In addition to what you have already stated occurred on your visit to Mr. Irwin at Blue Ball, was anything said about these interviews with Anna Jones? If so, state the conversation in reference to the same?

(Objected to as incompetent.)

10 A. My wife told Mr. Irwin what Anna Jones had told my son Aaron in his presence (Irwin's) the day before; she also told him of the second conversation the next morning; she said she was under the impression that she was the one those mortgages were to be handed to. Mr. Irwin said he did not know. That is about all the conversation, I think. He, Irwin, said that Anna Jones had not told all in the conversation between Aaron and her the first day. My wife said to Mr. Irwin, "I suppose you know
20 what that is?" His answer was, "I don't know anything about it." I have heard about Anna Jones bringing out the two envelopes the day the Will was read and offering them to Mr. Irwin. I was not present when it was done.

Q. State when and from whom you first heard of this occurrence?

(Objected to as incompetent.)

30 A. I heard it the same day after the Will was read at our house by Edward Barkalow, who has been sworn here.

Q. State whether or not you afterwards heard that one of those envelopes contained your wife's mortgages in question in this case?

(Objected to as incompetent.)

A. I did, near a year afterwards. I think in the following February, from Aaron, my son, one of the
40 executors. My wife heard the conversation and she

asked him about it right away. I was in bed and she was in the kitchen when he told me. She spoke to me immediately afterwards. That was the first clue she had to her mortgages.

Q. When after this was it that you and Aaron had the talk at your house with Mr. Irwin, and that Aaron went to see Anna Jones on the two occasions mentioned, and you and Mrs. Johnston visited Mr. Irwin near Blue Ball, as you have above testified?

A. It was very shortly after this—a few days. I heard my wife's testimony about \$500 being paid me on the sale of a farm of Richard Corlies, and also as to \$1,000 being paid Benjamin Jones. He paid me the \$500 because I made the sale—sold the property. The property was called the marl property. A man by the name of Joseph Woods had made a sale of his marl meadow adjoining this. He got my brother-in-law, Benj. Jones, to see Mr. Corlies if he would sell his, and he told him he didn't know but what he would. Jones told this man what Mr. Corlies had said. He had partly sold it, or got a customer. I think Mr. Corlies had set the price about what he would take for it. Mr. Corlies afterwards got me to go see the parties and get him reserved an acre of marl ground. I went and saw the parties and found out that Jones was making \$2,000 off of Mr. Corlies. I went back and told Mr. Corlies, and he then said he wouldn't sell it at all. Mr. Corlies was very much out of humor about Jones making \$2,000 off of him. I went to see the parties a second time. I got him three pits of marl each year as long as he lived. He effected the sale after that with the parties in New York. Mr. Corlies went to New York, and I went with him. I think Jones went also. He gave \$1,000 to Jones and \$500 to me at this sale.

Cross-examination by MR. HAIGHT :

I bought the Homestead Farm, at New Bargain, 40

at commissioner's sale, in 1861, I think; a year and a half before I was married. I am not positive on this date. I am positive on some of the other dates I referred to in my direct examination. I am positive as to all I have stated positively, and I have stated some dates positively. I don't know that I can state positively when I was married. I think I gave some \$2,650 for the New Bargain farm when I bought it. I think I bought it some time in 1850.

10 I was born in 1830, and that was about twenty years afterward. I fix the date of the purchase by the date of my birth. I was about twenty-one years old when I bought. I purchased the New Bargain farm before I was married. I did not pay all for it at the time of my purchase. I think all but about \$600.00.

(The counsel for complainant objects to all testimony heretofore given, or which may be hereafter given as to the purchase price or payment of, or for the New Bargain farm, as not a proper cross-examination.)

20

We moved to Farmingdale some fourteen or fifteen years ago. I think there was about \$600 indebtedness on the New Bargain farm when we moved to Farmingdale. I think that was not paid off. I afterwards paid it off. I don't know exactly where I got the money to build opposite Richard Corlies when I went to Farmingdale. I made a part of

30 it, nearly all of it, farming at New Bargain. The buildings opposite Richard Corlies, where I moved with my family, cost me between \$3,000 and \$4,000. I don't know that I was indebted on them when they were finished. Probably some \$500 or \$600.

Q. At the time that you moved from your farm to Farmingdale, and built the buildings nearly opposite your father-in-law, of whom did you purchase the land upon which they were erected?

40 A. My wife got it of her father.

Q. What, if anything was paid by either you or your wife to Richard Corlies for the land upon which you erected your buildings at that time ?

(Objected to as not being opened in the direct examination.

A. My wife paid him for the property. I couldn't tell you how much. That was their business. I don't remember being present when she paid him anything for it, or when anything was said about it. 10
They done their own business in regard to that lot. There was no deed made by Richard Corlies for that lot at the time I built, not until years afterward. The deed was made to my wife and to her heirs, some eight or ten years ago, for the lot upon which I erected buildings. These buildings cost between \$3,000 and \$4,000. My wife and I furnished the money for the construction of the buildings. We made the money on the New Bargain farm. We made the money before and after we built. There 20
was no encumbrance on this lot when the buildings were completed.

We did not pay them for all when they were completed. I couldn't tell you who or to what amount I owed at the time of the completion of these buildings.

Q. Did you receive any money from Richard Corlies which your wife had arranged for on this lot and buildings ?

A. No, sir. I can't state when I got the money 30
to pay for them when they were completed. I got the store lot of Richard Corlies. I purchased that of Richard Corlies. The store lot is Tract No. 3, in the deed from you and your wife to Richard Corlies, dated _____ and recorded in said Clerk's Office, in book _____ page,

I also purchased the Hotel lot of him. I paid him the purchase money for them after the deed was made, not at the same time.

Q. How long after you purchased the Store lot, 40

known as Tract No. 3, in deed from you and wife to Corlies, did you pay Richard Corlies for it and what amount?

A. It might have been 5 or 6 years; the amount I think was \$150 or \$160 a lot. Mrs. Jones was older than my wife. I married about a year before Jones married his wife. Mrs. Johnston's mother was dead at the time of my marriage. After I was married I took my wife to New Bargain and Mrs. Jones remained at home with her father. She remained with him up to the time of her death.

Q. Benjamin Jones, the husband of Rebecca Jones, was in business in New York at the time of his marriage and visited his wife and family at his father-in-law's in Farmingdale, did he or not?

A. No, sir.

Q. How soon after his marriage did he become engaged in business in New York?

A. Some four or five years, probably longer. He continued engaged in business in New York up to the time of his death from the time he began in business there. He continued to visit his wife and family. Sometimes he would be there once or twice a week, and during the latter part of his time once a month, and sometimes he would stay a week or two.

I suppose Rebecca Jones helped take charge of the house while she was living with her father. She died some 12 or 14 years ago. I don't know the age of her eldest child when she died. I suppose some 12 or 14 years old. Mrs. Cottrell is the oldest child.

Q. What was the consideration of the deed from you and your wife, to Richard Corlies?

(Objected to as not a proper matter for cross examination and immaterial.)

A. The sum of two thousand dollars and subject to all encumbrances on the property.

Q. Was that consideration paid to you by Richard

Corlies at the time of the execution or delivery of the deed from you and wife to Corlies, and if so, in what way?

(Objected to for same reasons last above stated).

A. It was paid to me by note of Richard Corlies for \$2,000, payable in 3 or 6 months. I don't know whether it was in bank or not.

Q. These different tracts described and referred to in the deed from you and your wife to Richard Corlies, belonged to you at the time of the conveyance?

(Objected to for the same reasons).

A. Yes, sir.

Q. And the encumbrances which they were conveyed subject to was your indebtedness, was it not?

(Objected to for same reasons).

A. Yes, sir.

Q. What became of that \$2,000 note which was given to you by Richard Corlies for the consideration, subject to existing encumbrances for the conveyance of the tracts of land described in the deed from you and wife to Corlies?

(Objected to for same reasons).

A. I let my wife have that note for moneys that I had received from her at different times, money that she had made of own.

Q. State what sums or amounts you received from your wife and when?

(Objected to for same reasons).

A. I will say this, for a term of years back, prior to the time the deed was made, I had received from

\$100 to \$200 a year, and at one time, probably 10 or 12 years prior to this, not as long as that probably, I received \$500 from my wife. That was given to my wife by Richard Corlies, to balance \$500 he had given his other daughter, Rebecca Jones. I am not positive as to the time. This was after the sale of the marl farm, some years after.

Q. She gave this egg money and \$500 to you, did she not ?

10 (Objected to for same reason).

A. No ; she didn't give it to me ; she let me have it to pay my debts.

Q. What did you give your wife for this egg and chicken money and this \$500 at the time she gave it to you, to show for it ?

(Objected to for same reasons.)

A. I don't think I gave her anything to show for
20 it. I credited some part of it in my day-book.

Q. What did you use this money for that you got for your wife, as you have stated ?

(Objected to for same reasons.)

A. In paying my debts—debts that I owed—not store bills—debts that I had contracted in building, probably.

Q. What became of this \$200 note that Richard Corlies gave to you for the conveyance to him ?

30 (Objected to for the same reason.)

A. My wife bought the property back off her father with that and other money.

Q. Then your wife passed over this \$2,000 note that Richard Corlies had given to you for your conveyance to him at the time he conveyed back to her the tracts of land described in Exhibit A, did she not ?

40 (Objected to for same reasons.)

A. She did.

Q. The two conveyances—the one from you to Richard Corlies, and from Richard Corlies to your wife were executed and delivered the same day, were they not?

(Objected to for same reasons.)

A. To the best of my recollection there was some three or four months between them, but I can't remember, to any certainty. I don't know that my recollection is as good on this as on any other point. 10

Q. At the time that you made this conveyance to Richard Corlies you were in an embarrassed condition?

(Objected to for same reasons.)

A. Yes, sir, and am yet. I have continued so from the time I made that conveyance up to the present time. 20

Q. Richard Corlies knew of your financial condition, did he not? and your embarrassments at the time of the conveyances and afterwards during his lifetime?

A. Yes, sir

Q. Was it or not owing to your pecuniary embarrassments, which were known to Richard Corlies, that he forebore to demand and insist upon you or your wife's paying interest on the mortgages held by him and against the property you had conveyed to him and he had subsequently conveyed to your wife? 30

A. No, sir. He wanted his interest every year at that time. Before the transfer, I want it understood.

Q. Question repeated.

A. O, yes; certainly it was. He never asked me for interest after the property came in her name, and he never asked her, that I heard. The Tavern 40

property was included in the conveyances from me to Richard Corlies and from him to my wife, and is known as Tract No. 4. At the time of my conveyance to Richard Corlies and by him to my wife there was a mortgage on the Tavern lot known as Tract No. 4 for \$2,500, held by Richard Davis, of Freehold. That was also my debt. At the time that Burtis came down there Richard Davis was dead, and Burtis was his executor. He did not express his dissatisfaction with the loan on the Tavern, but wanted the money—that the heirs were poor, and wanted their money. I could have raised the money on the hotel through Amzi McLean from Peter White.

Q. If you could raise the money on the Tavern property, why did Richard Corlies want to give a mortgage for \$3,000 on the Colt's Neck farm to pay off the mortgage on the Hotel, which, with accrued interest and costs, amounted to \$2,800?

20 A. I went to Mr. McLean prior to this, unbeknown to Richard Corlies. He got me the money, or had it ready for me, from Peter White. He charged me \$140 or \$150. I told my father-in-law, Mr. Corlies, that I had the money, and of the transaction, and what McLean charged me, and he wouldn't let me get it and pay that money.

Q. You have stated in your direct-examination that Richard Corlies, in the fall of 1877, came to your house and stated to your wife that he was going to take up \$3,000 on the Colt's Neck farm and pay off the Davis mortgage, and your wife said no, father, I will have debts enough to pay after you are dead. Will you please explain how that increased her indebtedness any?

A. I don't know that it did. I didn't say it did. She knew that this farm would be hers—he told her it would, and she did not want him to mortgage his own property for her.

Q. By the arrangement proposed by Corlies, if it be true, as you have stated, she was relieving

property that belonged to her and placing it on property that did not belong to her, was she not?

A. She didn't do it. She objected. Susan Farley was also present at the conversation to which I have referred in the fall of 1877. I don't remember who was by at the conversation I have referred to in February, 1878. I rather think that Susan Farley was by, but I won't be positive. The Davis mortgage was not paid at this time—there was a balance of \$1,600 due, I think. The arrangement 10 proposed by Mr. Corlies at that time was to pay the balance due on the Davis mortgage and the Fish mortgage.

Q. At either of these conversations in the fall of 1879, or in January, 1878, or in any other conversation between Richard Corlies and your wife, when you were present, did Corlies have these Bonds and Mortgages with him, or show them to you?

A. I never saw them. I don't remember. He had them at the Law Office. I don't know where 20 these mortgages were at these times.

Q. Did Richard Corlies in any of these conversations between himself and your wife, make any reference to the Jones deeds, and if so, what did he say?

A. Not that I recollect, in my presence.

Q. You say that Richard Corlies spoke to you about your wife's worryment. Was she worrying about the encumbrance of these mortgages?

A. She was worrying about the Davis mortgage 30 then. They had commenced to foreclose.

She did not worry about the mortgages in this suit.

Q. Did you ever hear your wife ask Mr. Corlies to deliver up or surrender these mortgages to her in his life time?

A. No, sir.

Re-direct examination by Mr. ROBBINS :

I am not sure of the date I bought the New Bar- 40

gain farm of the Commissioners—the deed will show.

The value of the lot upon which I built the house at Farmingdale was about \$150. It was about 60 or 70 feet front and about 150 feet deep, and about 80 feet wide in the rear. I afterwards raised money for my purposes by mortgaging my property. All of my property was mortgaged, and is yet, except the house and lot where I live. I did it to build in
 10 Farmingdale. I raised money by a mortgage to James Osborn for \$500 on the store and dwelling; the next one for \$800 on the hotel. After that I raised \$2,500 on the Davis mortgage. With part of this I paid off the \$800 mortgage, and the balance was used for building; then I raised money on the Fish mortgage on the New Bargain farm for \$1,404. I raised \$1,000 by a mortgage to the Building Loan at Freehold. Then the \$1,866 mortgage for building and other purposes, the \$1,000 was for the same;
 20 this was on the store lot. The prices I paid Richard Corlies were the same prices that he sold lots for. They were paid for afterward.

Benjamin Jones voted and had his washing done in Howell Township. He was a carpenter by trade. He went into the country produce business in Washington market in New York.

Richard Corlies kept female help at his house besides the Jones'. He always had one and two girls there.

30 Q. So far as you know was not the reason of Richard Corlies not demanding any interest of your wife on these mortgages after July or August, 1876, because he had set them apart or had given them to her?

(Objected to as incompetent.)

A. That's what I understood.

Q. Do you know what was your wife's under-
 40 standing in the respect indicated by the last ques-

tion as to these mortgages, and why such interest was not demanded after the date named.

(Objected to as incompetent.)

A. I understood through her that the mortgages were her's to offset the deeds.

Richard Corlies did afterwards leave my wife the Colt's Neck farm by his will. My wife wanted me to get the money of McLan. She did not want her father to get it on the Colt's Neck farm. 10

Q. Speaking of the conversation with Richard Corlies about raising money on the New Bargain farm, you said in your cross-examination that the arrangement proposed was to pay the Fish mortgage and the balance of the Davis mortgage with the money raised ; did or did not this arrangement include the cancellation of the \$1,866 mortgage ?

A. It did, sir.

JAMES E. JOHNSTON.

20

Sworn and subscribed before }
me this 28th day of March, }
A. D. 1881.

JOSEPH McDERMOTT,
Master in Chancery
of New Jersey.

The further examination of witnesses, etc., in the above stated cause stands adjourned to Saturday, June 11, 1881, same time and place. 30

On Saturday, the eleventh day of June, A. D. 1881, the examination of witnesses in the above stated cause was resumed in the presence of the same counsel.

JOSEPH McDERMOTT,
Mastery in Chancery
of New Jersey.

40

LIZZIE JOHNSTON, a witness produced on the part of the complainant, being duly sworn, on her oath saith: I live at Farmingdale. I am a daughter of Elizabeth and James E. Johnston. I have met and know Levi G. Irwin. I remember of his being at my mother's house after my grandfather's death. He frequently called there. I remember his being there in February, 1880, and having a conversation with my father and brother Aaron. I was
 10 in the next room to where they were when this took place. Mother was with me. She was in the room with me. I heard the conversation which passed between Mr. Irwin and my father and brother at that time.

Q. State what, if anything, was said between Mr. Irwin and your father and brother at that time with reference to the deeds to the Jones girls and the mortgages of your mother?

A. Father went in the room and said, Mr. Irwin,
 20 "Do you know anything about my wife's mortgages which her father left her." Before he had time to answer, my brother spoke up and said "Yes, Mr. Irwin, were those the little girl's deeds and mother's mortgages that Annie handed out the day the will was read?" He said "yes." My brother also said, "Do you know how she came by them," and he said "I do not. I don't know anything about it." There was nothing else concerning that. I have heard my father, mother and brother
 30 sworn and give their evidence. I presume this is the same conversation to which they referred.

Q. Did you ever hear your grandfather, Richard Corlies, say anything about money being taken up on the Harmony place?

(Objected to by counsel for both defendants.)

A. I did hear him speak of it at different times.

Q. State what you have heard him say with reference to this matter?

40 (Objected to by counsel for defendants.)

*
 A. One morning grandfather was going to Freehold and came in my mother's house. Mama was sick and he wanted her to let him take a mortgage on the Colt's Neck property, and she didn't want to and wouldn't let him do it. She said she had enough debts and would have enough to pay when he was dead, and he said, "Elizabeth, you will have no debts to pay to my estate. Haven't I told you your mortgages are yours." There was nothing further upon that point at that time. He still insisted on her letting him take up the money on the Colt's Neck farm. I think it was \$2,500 or \$3,000 that he wanted to take up. This was in the first part of 1878. There was no one present but mama and grandfather. I rather think father was in, but I am not sure. I never heard any conversation of this kind when Susan Farley was present, to my knowledge. 10

Q. State any other conversation of your grandfather about your mother's affairs in question in this case which you may have heard? 20

(Objected to by counsel for defendants.)

A. I don't know that I can. He told her she would be a rich woman after his death.

Cross-examination by Mr. ELY :

I understood this \$2,500 or \$3,000 was to be used to remove a debt that Mr. Burtis had something to do with. I don't know anything about what the debt was for. I don't know what the debt was on. I was at that time a schoolgirl and took very little interest in the affairs. Grandfather did not tell mother it would be a shifting of the debt from one property to another. He just insisted that she should allow him to take up money on his property. I have heard him speak of leaving her the Colt's Neck farm on which he was going to take up this money. At the time of the conversation when 40

grandfather said the mortgages were hers ; he held the mortgages, but said they were hers, he had always told her so. She said at that time of that conversation that she had enough debts to pay and would have enough when he was dead. When he wanted to take up the money on the Colt's Neck farm she said, "No, father, I object. I have enough debts to pay and will have enough to pay when you are dead." That was said by my mother

10 before my grandfather said, "Your mortgages are yours and you will have no debts to pay to my estate." I don't know what debts she had reference to. She had always understood of late that the mortgages were hers. She had understood this a number of years before his death. I don't know what she had reference to when she said she would have debts enough to pay when he was dead. She had debts on other property. I don't know that my grandfather ever brought these mortgages to my

20 mother and delivered them to her. I was not at home all the time. At the time of this conversation he did not say he would fetch these mortgages to her. I don't know that my mother was dissatisfied because she couldn't get possession of these mortgages. She said they were her's. I never knew of her worrying because she couldn't get possession of them.

Q. She did not mention in that conversation to your grandfather any debts that she would have to

30 pay to his estate besides the mortgages, did she ?

A. She didn't mention the mortgages.

Q. Was there any mention made by either your mother or your grandfather in the conversation in the first part of 1878, of any other debts except the mortgages due from your mother to his estate ?

A. There were no debts spoken of ; grandfather was the only one who spoke of the mortgages.

Q. Didn't you understand that these mortgages were the debts your mother referred to when she

said at that conversation that she would have enough debts to pay when he was dead?

A. She didn't have reference to the mortgages, the mortgages were her's.

Q. What did she have reference to?

A. I suppose she had reference to other debts on property.

Q. What other debts?

A. On other buildings she owned in Farmingdale; I don't know anything about the debts, or what they were. I know that we had been in debt for a number of years. I don't know whether they were my father's debts, or my mother's debts. I don't know that the debts or the Farmingdale property were the same that he wanted to take up by the mortgage on the Colt's Neck farm. 10

Cross-examination by Mr. HAIGHT.

I am 22 years old, June 19th. I understood that grandfather meant the mortgages he held against mother. I don't know what the mortgages were on. I don't know anything about the property she owned, and don't know that she owns any still. 20

LIZZIE C. JOHNSTON.

Sworn and subscribed before me }
this 11th day of June, A. D., }
1881. }

JOSEPH McDERMOTT,

Master in Chancery of N. J. 30

JAMES T. BURTIS, a witness produced on the part of complainant, being duly sworn according to law, on his oath saith :

I reside at Freehold. I am a merchant. I am 45 years old. I knew Richard Corlies in his lifetime. I know James E. Johnston and his wife. I have known Mr. Johnston 15 years. Mrs. Johnston 40

about 3 years, and knew Mr. Corlies 2 or 3 years before his death. In the year of 1877 I owned a mortgage on the Hotel property of Mrs. Elizabeth Johnston, at Farmingdale. I believe it covered a store house and dwelling house in addition to the Hotel. These also belonged to her.

It was necessary for me to have the money to pay to the estate of Richard Davis, deceased. I assigned the mortgage to the Executor of Richard
 10 Davis as a collateral for the payment of a like amount that I owed the estate of Richard Davis. Several times I requested of Mrs. Johnston payment of the mortgage. My counsel did, and I think I did. Foreclosure was commenced and decree obtained for the amount of the mortgage and costs. I am not certain whether a levy was made or not. It was not advertised. Elizabeth Johnston and her husband were continually pleading for an extension of time—didn't want their property sold. I
 20 was as lenient in the matter as I possibly could be. They couldn't seem to make arrangements to pay off this decree. Mr. Richard Corlies came to their relief, made payments on the mortgage, reducing it considerably, and said that he would see the mortgage paid if I would not push the matter any further. He wanted Mrs. Johnston and her husband to raise the money themselves, if they possibly could. To enable them to do so, he said he
 30 would cancel a mortgage which he held on a farm belonging to Mrs. Johnston, near Yellow Brook, to enable them to give a first mortgage on that farm for a sufficient amount to pay off my claim.

He several times repeated that to me, that he would cancel his mortgage on that farm, if it would enable them to raise money enough on it to pay my claim. He said that he would like to do more for Mrs. Johnston, and would do more, were it not that others of his heirs were so dissatisfied. This was
 40 said in connection with the cancellation of that mortgage.

I know application was made to the Freehold Mutual Loan Association for a loan upon the Yellow Brook farm, which the Loan Association refused to grant.

I don't know why of my own knowledge. I don't know of my own knowledge that anyone was sent there to inspect the farm.

Cross-examination by Mr. ELY : 10

Mr. Corlies spoke of the mortgage on the Yellow Brook farm as a mortgage held by him. He said he would cancel it. My recollection of this conversation was in the fall or early winter of 1878. This mortgage which he proposed to cancel was not then cancelled to my knowledge.

JAMES T. BURTIS.

Sworn and subscribed before me, this 11th day of June. A. D. 1881. 20

JOSEPH McDERMOTT,
Master in Chancery,
of New Jersey.

GEORGE C. HULETT, a witness, produced on the part of the complainant, being duly sworn, according to law, on his oath saith :

I am a builder and live in Freehold, N. J. I am 53 years of age. I am one of the Directors of the Freehold Mutual Loan Association, and have been so since it opened 12 years ago this June. I know James E. Johnston. I knew Richard Corlies in his lifetime. I have a recollection of an application for a loan being made to the Association by James E Johnston, but I can't remember the time. 30

It seems to me that they applied to the Association for a loan of \$4,000 ; it might have been more or less. I was selected to look at the property and 40

give my judgment whether it was sufficient security for the loan.

I don't remember whether I was the only one or not that went to look at the property. George W. Vanderveer may have gone with me. I drove to the farm near New Bargain Mill with my own conveyance. I met Mr. Johnston and Mr. Corlies there ; they came soon after I got there.

From Mr. Johnston and Mr. Corlies I got the lines
 10 of the property, and I looked at the dwelling and outbuildings and found them much out of repair. I did not recommend the loan and advised against it, and the loan was not made. I think the Association was to have the first mortgage. I don't remember that Corlies said anything to me about the encumbrances on the property.

G. C. HULETT.

Sword and subscribed be- }
 fore me, this 11th day }
 20 of June, A.D. 1881. }

JOSEPH McDERMOTT,
 Master in Chancery
 of New Jersey.

JAMES E. DORSETT, a witness produced on the part of the complainants, who being duly sworn, according to law, on his oath saith :

30 I live at Farmingdale. I am a carpenter. I am about 40 years of age. I know James E. Johnston and his wife. I knew Richard Corlies in his lifetime. I knew him from my childhood up to his death. I was quite intimate with him previous to his death. I have worked for him quite a good deal. I remember an occasion when I wanted to lease a property at Farmingdale of him. The property was a dwelling-house and a shoemaker shop near where the Post Office now is. I know which
 40 side of the street the lots are that he said he had

deeded to the Jones girls. The house and shop that I wanted to rent was a part of the premises he had deeded to them. That's the way we got in that conversation. I had this talk with him in the summer preceding his death. I wished to lease the property of him for five years or more. He said he couldn't let me have it for more than one year, for he had given all on that side of the road to the little girls. I understood him to refer to the Jones girls. He went on to say he was going to deed it to them or had done so. And then he said he didn't know but that it would be well to cut straws and draw lots and then one couldn't find fault with the others. I told him I thought that was rather a novel method of disposing of one's property. He said he didn't want any fighting over what he left when he was gone. He wanted to make it fast and sure. He said that Elizabeth Johnston would have to take her mortgages. I asked him "what will she do then?" "Why," he said, "she has had hers and she will have to take them for her pay."

10

20

Q. What did he mean by the word "them"?

(Objected to by counsel for defendants as incompetent.)

A. I supposed he meant the mortgages.

Q. You have stated he said Elizabeth Johnston would have to take her mortgages; did he or not say whether this was to balance what he gave the little girls?

30

(Objected to by counsel for defendants as leading and incompetent.)

A. He didn't say it in that way. He said Elizabeth Johnston would have to take her mortgages for her part. I recollect nothing more definite at that time. I think that is the sum and substance of it.

40

And being cross examined by Mr. HAIGHT, further says :

I have not always lived at Farmingdale. I have lived at Point Pleasant and a while in Middlesex county. I was born and brought up at Point Pleasant. I left there when I was about 25 years old. Then I went to Farmingdale. I was there about a year. Then I went to Middlesex county. 10 I lived near Middletown Point, on the road to South River, in Middlesex county. I lived there about four years. I went from there to Farmingdale. I lived there that time about two years. Then I went to Tinton Falls. I lived there about four years. Then I moved to Farmingdale again, and have lived there since. I have lived in Farmingdale altogether six or seven years. I did not lease this house and shop of Mr. Corlies. I can't tell at what time in the summer I had this conversation. I think in 20 July or August. When we had this conversation, part of the time we were in his old kitchen, part of the time in his wagon house chamber, and part of the time looking over the place. I don't recollect that there was any one present to hear this conversation. The woman we called Aunt Mary was in and out of the kitchen when we were there. Some of the rest of the family might have been there. I can't say positively.

Mr. Corlies was not in a more confidential mood 30 than usual that afternoon. I was always intimate with him. My grandfather and father always had their blacksmith work done by him, and I had often stopped there and had work done.

He sent for me at that time, and wished me to start the undertaking business there and to lease me the premises, and that's the way the conversation took place. I was intimate with him for the last four years before his death. I don't suppose he was confidential and communicative with me in 40 regard to his business matters during that time. I

did not make any memorandum of this conversation. I don't think I ever stated it to anybody before as I have here to-day. I first stated it to my wife. I don't recollect that I have stated it as I have to-day to any one. James E. Johnston has questioned me, and I tried to get clear of answering what I could. In that conversation that I had with Richard Corlies he did not tell me he had deeded this property to the girls. I can't say that he said he was going to do so. He did not say he had given 10 these mortgages to Mrs. Johnston.

Q. Did you infer from the conversation which you had with Mr. Corlies in the summer preceding his death that he was undetermined as to what arrangement he would make as to these mortgages and the deeding of these lots to the Jones girls?

A. No; I did not.

Q. Then what did you mean when you stated in your direct examination that Mr. Corlies said that he did not know whether it would not be well to 20 cut straws and draw lots?

A. There was a hall running through the house, and the line run through the middle of the house, and he said one girl would have one side and one the other. I did not understand that he had made the deeds to the Jones girls and delivered them, nor that he had delivered or promised the mortgages to Mrs. Johnston.

Q. From the conversation that took place between you and Mr. Corlies did you or not conclude 30 that Richard Corlies was going to give these mortgages to Mrs. Johnston as a part of her share of his estate?

(Objected to as incompetent, for the reason that conclusions and inferences are of no more validity for one side than the other.)

A. Yes, sir. I thought so at the time from what he said. I don't know what he meant when he said Elizabeth Johnston would have to take her mort- 40 gages for her part.

And being cross examined by Mr. HAIGHT, further says :

I have not always lived at Farmingdale. I have lived at Point Pleasant and a while in Middlesex county. I was born and brought up at Point Pleasant. I left there when I was about 25 years old. Then I went to Farmingdale. I was there about a year. Then I went to Middlesex county. 10 I lived near Middletown Point, on the road to South River, in Middlesex county. I lived there about four years. I went from there to Farmingdale. I lived there that time about two years. Then I went to Tinton Falls. I lived there about four years. Then I moved to Farmingdale again, and have lived there since. I have lived in Farmingdale altogether six or seven years. I did not lease this house and shop of Mr. Corlies. I can't tell at what time in the summer I had this conversation. I think in 20 July or August. When we had this conversation, part of the time we were in his old kitchen, part of the time in his wagon house chamber, and part of the time looking over the place. I don't recollect that there was any one present to hear this conversation. The woman we called Aunt Mary was in and out of the kitchen when we were there. Some of the rest of the family might have been there. I can't say positively.

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(Objected to as incompetent, for the reason that conclusions and inferences are of no more validity for one side than the other.)

A. Yes, sir. I thought so at the time from what he said. I don't know what he meant when he said Elizabeth Johnston would have to take her mort- 40 gages for her part.

Re-direct Examination by Mr. ROBBINS :

Q. When he spoke of her taking these mortgages for her part, and prior to his saying that, was he or not talking about the division of his estate between the Jones girls and Mrs. Johnston, the complainant?

10 (Objected to by defendants as incompetent and leading, and because the answer would be an inference and not giving the facts with which to predicate an opinion.

A. Prior to that we were talking about leasing the property, and that is how the conversation came about. And further answering to the question says : No ; I could not say that he was.

Q. He spoke about giving or having given the Jones girls the premises on that side of the road as you have stated, did he not ?

A. Yes, he said that.

20 Q. And in connection with that and at the same time that Elizabeth would have to take her mortgages for her part as you have stated, did he not ?

A. Yes he said that ; when he said Elizabeth he meant Mrs. Johnston, the complainant.

JAS. E. DORSETT.

Sworn and subscribed before me, }
this 11th day of June, 1881. }

JOSEPH McDERMOTT,
Master in Chancery of N.J.

30 (The Counsel for Complainant offers in evidence a deed from Richard Corlies to Eleanor M. Jones, dated August 6, 1872.)

(Which deed I have marked "Exhibit M" on the part of the complainant.)

The complainant rests.

40 (The further examination of witnesses, &c., in the above stated cause stands adjourned to

Wednesday, the 22d day of June, A. D.
1881, same time and place.

On Wednesday the 22d day of June, A. D. 1881,
the examination of witnesses, &c., in the above
stated cause was resumed in the presence of the
same counsel.

JOSEPH McDERMOTT,
Master in Chancery
of New Jersey. 10

JOSEPH ALLEN MORTON, a witness produced on
the part of the defendants, being duly sworn accord-
ing to law, on his oath saith :

I live at Farmingdale. I was acquainted with
Richard Corlies in his lifetime, and have known him
for 14 or 15 years before his death. I had a conver-
sation with him about Mrs. Johnston's mortgages.

Q. State when and what it was ?

(Objected to as incompetent.) 20

A. The first conversation we had in reference to
the mortgage arrangement and my own mortgage—
he held a mortgage against me for \$300—I told him
I couldn't pay it then. He told me he didn't want
the principal while he lived. He said whoever set-
tled up his estate would collect the money. He said
the mortgages that he had against Mrs. Johnston
he had given to Anna Jones to keep until such time
as he was gone, then to be given to whoever settled
his estate. That is all that was said. He told me
that at my shop and at his own house at different
times. These conversations were within three years
of his death, but not within a year of his death. 30

Cross-examination by Mr. ROBBINS :

I am a harness maker. I am related to the Jones
only through marriage; I don't know what relation
my wife was to them. I married David Herring's 40

daughter. I know my wife was a relation of the Jones. She is now dead, I do not intimate with the Jones; I have not been in their house in six months, probably not in a year. I was intimate with Richard Corlies. I didn't do his business for him only when he wanted harness making done. I helped appraise some corn for him once. My mortgage is paid off; it was paid after Mr. Corlies' death; it was settled with the estate; it had no connection
 10 with the mortgages of Mrs. Johnston. Mr. Corlies was not in the habit of informing me of his private business. I don't remember who I told first about what I have above related; I don't know how it became known to the parties to this suit. I don't think there was anybody by on these occasions when he told me these things. I don't remember any other subject of conversation at that time. I haven't talked with any one very lately about this, not in six months. I was talking with one of Mr.
 20 Stout's sons about it one day. When I said I hadn't talked, I meant to any one outside. Anna Jones—Anna Bartow it is now—and Mrs. Elizabeth Cottrell and her husband, Wesley Cottrell, Mr. Irwin, Gen. Haight, Mr. Ely are, I believe, all I have talked to about it. Richard Corlies and I were not on the "outs" for several years before he died. He got mad at me, and was mad at me since I wouldn't go on an appeal bond in a suit between him and George Brower. I don't say he was mad. He used me
 30 cool. That was not six month before his death.

Re-direct Examination by MR. ELY :

The conversations I have narrated were before the time I had the difficulty with him about the appeal bond; before that I was in the habit of talking with him frequently; I don't remember the number of times he told me about the disposition of Mrs. Johnston's mortgages, some two or three or
 40 four times I think.

Recross-Examination by MR. ROBBINS :

The words I have stated are, as near as I can remember, the very words of Richard Corlies ; that is word for word what he told me to the best of my knowledge ; it was no affair or business of mine in any way ; he also told me he had given the girls, Anna had the piece where the barn stood, the two small girls Ellie and Mary had the piece where the house stood, the homestead, and Elizabeth had at the upper end of the lot where the school stood ; I think he said he had made them deeds for it ; he didn't say whether or not he was dividing up his property ; he didn't say anything about not wanting any trouble about his business when he died ; I don't think he said he had given the deeds to Anna Jones to keep ; I don't remember of his saying anything further about the deeds ; he didn't say why he gave the girls the deeds ; he said that Anna Jones was to give the mortgages to whoever settled his estate, but did not say what they were to do with them.

JOSEPH A. MORTON.

Sworn and subscribed before me, this 22d day of June, A. D. 1881.

JOSEPH McDERMOTT,
Master in Chancery of N. J.

JOHN A. ERRICKSON, a witness, produced on the part of the defendants, who being duly sworn according to law, on his oath saith :

I live at Jersey City ; I formerly lived at Farmingdale. I knew Richard Corlies. I was present after his death at the reading of his Will. I remained there some time after the reading of his Will. At that time after the Will had been read Anna Jones left the room. She returned after a short time with a package of papers. She handed them to Mr. Irwin and she said that her grandfather had given them to her to keep until his death, then to de-

liver them to whoever settled his business, and she said "I suppose you are the one or one of them." I don't remember which. She did not bring out two envelopes at that time. She only brought one package; it was tied up; it was an envelope I think. That was the package she handed Mr. Irwin. She did not offer to give Mr. Irwin any other package except that one. She did not say to him as to any package 'they are our deeds.' Mr. Irwin did not
 10 as to any package put up his hand and say take them back. She did not have one package in one hand and one in the other hand. She had only one package I think. I think she had a key in one hand. She did not bring out two yellow envelopes. Mr. Irwin did not say to her Take the deeds back, fifteen days will be time enough to transact this business. I was as close as ten feet to Mr. Irwin when Anna Jones brought this package to Mr. Irwin. I sat near the window between the stove
 20 and window. I think Mr. Johnston sat between me and Mr. Irwin. Not exactly between us. I saw Anna Jones when she came in the room with this package. She came in in front of me. I saw her when she went up to Mr. Irwin with it. I heard all that she said at that time in that room. There was nothing else said by her at that time except what I have stated. I was seated so as to see her when she talked with Mr. Irwin and so as to see Mr. Irwin. I think I was there by invitation from Anna or some
 30 of the girls. I was there when Mr. Corlies died and helped lay him out. I did not ask permission to be there.

Cross-examination by MR. ROBBINS :

I moved from Farmingdale about a year ago. It was in June my things went. I think it was nearly noon, between 10 and 12 o'clock in the morning, when this affair occurred. I think it was on a Mon-
 40 day.

I don't remember how long I had been there before this occurred. I was down there and then went home and then went down there again. I had been in the house when they commenced reading the Will and prior to that; it might have been a half an hour or three-quarters of an hour. Mr. Irwin read the will. I don't know who was present when this package was handed out. I think Mr. Aaron E. Johnston, Mr. James Johnston, and I think all of his family were there, but I am not positive about them. Mr. Irwin was there when this package was brought out. I am under the impression that most all were there, except one or two; but I am not positive. I think there is good reason why my recollection should not be as good as to who was there as to what was done. There was nobody there smaller than a package of papers, or less noticeable. Mr. Irwin brought the will out of his pocket, or had it in his hand when he read it. I don't remember what he said before he began to read the will. I don't remember that anybody else said anything out loud before he began reading the will. I had been out-doors until about the time the will was to be read. I heard the will all read. I think I can state some of the items of the will.

Q. Give us the various conditions, devises and bequests to the best of your ability.

A. I remember the Jones farm was bequeathed to Anna Jones. I think the lot designated as the Locust lot was given to Richard Johnston. The 3-acre lot was equally divided between Anna, Ellie and Mellie Jones. Mrs. Johnston had a farm on the Colt's Neck road. I don't know the name of it, or how it was designated. Anna Jones had a lot opposite George Brower's property, with a cottage on. I don't know that I can locate the other parcels, or how they were disposed of. I don't know that I have heard this matter of the will talked over only through the town in a general way a day or two after it was read.

I did not remain there very long after the will was read. I went home and got my dinner. I brought the deeds for this property of the Jones girls to Freehold to have them recorded. I am not positive that I called for them afterwards and took them back to them. I called for them once, and if they were ready I took them.

Aaron Johnston was nearer to Mr. Irwin than I was when Anna Jones gave him this package. His opportunity to see was equally as good as mine; no
10 better than mine.

I think this package had a string around it. It was about eight and a half inches long, about three inches wide, and about an inch thick. I think its color was buff. It was an ancient looking roll. I didn't have hold of it, or examine it in any way. Neither Anna Jones nor Mr. Irwin said anything to me at that time in reference to that. I did not know at the time what was in it. Mr. Irwin did not
20 say anything when she handed him the papers. I think he just looked up and took the bundle of papers. I think Mr. Johnston was closest to me when this occurred. I was in the corner, and I don't think there was any one else on that side. Mr. Irwin sat on an angle to me. He faced me partly. Anna Jones came up in front of me. She was facing the same as Mr. Irwin when she handed him the papers. She didn't have to reach around him; she came up alongside of him.

30 There was nothing at that time to call my attention specially to the matter. It was no particular concern or interest of mine—at that time.

Mr. Irwin took these papers with the will. He had them in his hands the last I saw of them. I think he, Mr. Johnston, and Anna went in the parlor before I left, and I think he had them in his hands then. The will was an ordinary legal business paper. I think that was white. I believe it opened
at the end.

40 I can't tell how many papers were in this pack-

age. I didn't see it opened, nor I can't tell how many packages there were in that bundle.

Anna Jones came in from the hall door across from the parlor. I don't know where she came from before she came in the door.

I think I heard something read from the will about Sarah Smith's lot, but I don't remember.

Re-direct Examination :

Q Were the Jones girls in the room at the time the will was read? 10

A. Yes.

Q. Who else was there?

A. Wesley Cottrell and his wife Elizabeth, Mary Jones, Mr. Johnston and his family, or most of them—I guess they were all present—Edward Barkalow—I think he was standing in the kitchen door when the will was being read—and there might have been others.

JOHN A. ERRICKSON. 20

Sworn and subscribed before }
me, this 22d day of June, }
A. D. 1881.

JOSEPH McDERMOTT,
Master in Chancery
of New Jersey.

STEPHEN S. GARRISON, a witness produced on the part of the defendants, who, being duly sworn according to law, on his oath saith : 30

I live in Howell Township. I am the assessor of that township. This is the third year I have been so. Since I have been assessor Mr. Johnston has claimed a deduction of his tax on account of debts due from them to the estate of Richard Corlies. He claimed deduction for \$2,600 for the years 1879 and 1880. I have a memorandum made out by Mr. Johnston and given to me for 1880. I have not the one for 1879. I don't know whose writing this is. 40

Mr. Johnston signed it. I saw him put his name there.

Q. For what amount, if any, upon this memorandum, does he claim the deduction for debts due from his wife to the estate of Richard Corlies, deceased?

(Objected to as not the best evidence and otherwise incompetent.)

10 A. Twenty-six hundred dollars.

Q. Was the deduction for that amount made by you as assessor for that year?

(Objected to for same reasons as last above.)

A. Yes, sir.

Q. Was there a similar memorandum given you for any other year?

20 (Objected to as not the best evidence and incompetent.)

A. In 1879, I think, there was the same.

Q. Was the deduction made by you for the same amount?

(Same objection.)

A. I think so. I think I have memorandum for
30 1879 home among my papers.

(The counsel for defendant offers in evidence the memorandum above referred to, which memorandum I have marked Exhibit No. 3 on the part of the defendant.)

(The last above offer objected to by counsel for complainant as illegal in form and otherwise incompetent.)

40 (All the foregoing testimony of this witness

is objected to as incompetent, and by consent this objection is to be the same as if made to each question and answer.)

Cross-examination by Mr. ROBBINS :

Q. You had no interview with Mrs. Johnston as to these statements or any statement which you have mentioned ?

A. No, sir ; I had no conversation with her about them ; none whatever. 10

Re-direct-examination by Mr. ELY :

Q. Is there any assessment against any property of James E. Johnston in Howell Township ?

(Objected to as calling for evidence not the best.)

A. The assessment is against James E. Johnston and wife. I don't know that the memorandum represents property of Mrs. Johnston. It was put on the duplicate James E. Johnston and wife. 20
Where a wife owns property, or she and husband own it together, I assess it in that way.

Q. Did Mr. Johnston tell you to put it in that way ?

(Objected to as leading.)

A. I ain't positive that he did.

Q. Was it deducted from the property represented on that statement on account of that statement 30
which you saw Johnston sign ?

(Same objection.)

A. It was deducted from that statement.

S. S. GARRISON.

Sworn and subscribed before me this 22d day of June, A. D. 1881. }

JOSEPH McDERMOTT,

Master in Chancery of N. J.

Mrs. ANNA BARROW, a witness produced on the part of the defendants, who, being duly sworn according to law, on her oath saith :

My name was formerly Anna Jones. I was recently married to W. H. Bartow. My mother's name was Rebecca. She was a daughter of Richard Corlies. My father's name was Benjamin Jones. My father and mother are both dead. My mother died fourteen years ago the 22nd
 10 day of November. My father died twelve years ago, in August. I will be twenty-five years old the 1st day of October. My mother lived at the time of her decease at my grandfather's house. She worked there and kept house for him. My sister Elizabeth is older than me. She will be twenty-seven years old in September. After my mother's death I lived with my grandfather up to the time of his death.

Q. After your mother's death what service did
 20 you perform, if any, for your grandfather, Richard Corlies ?

A. I always worked there the same as I would in my own house. Part of the time my grandfather's health was miserable, not so but that he could go round.

Q. What attention, if any, did he require ?—what waiting on ?

A. A good deal of waiting on. Me and my other two sisters did the waiting on him and paid
 30 attention to him. My two sisters' names are Eleanor and Mary J.

Q. Did you ever see these mortgages in question in this controversy, or either of them ? I mean the Johnston mortgages.

A. Not outside of the envelope I didn't. No, sir.

Q. Did you have possession of these mortgages at any time, and if so, under what circumstances ?

A. In the year 1874, the 3d day of October, my
 40 grandfather called me in his room and he says :

Here is the mortgages of your uncle James, and I want you to take them and put them in that trunk which I got for you and lock them up and keep them until my death, and then you take and give them to the man who settles my business. He gave me the papers then, and he says, for if I should leave them in my drawer and I should be taken away sudden, and your uncle James could get in the drawer, he would destroy them by burning them or some other way. That was all at that time. I took the papers and put them in the trunk and locked them up. I had those papers in my possession and custody from that time up till after the time of his death. He had asked me for and he had had the papers a number of times. I always got them for him when he asked me for them. He told me once when he wanted them that he wanted to reckon interest up on them. I think that was in August, before his death. At one time after that he had got a machine of uncle James and he wanted to give him credit for it on them. He did not take these papers from the house at any of these times when he had them. After he got through with them he would call me to get them and would hand them back to me. When he gave me these papers they were in a yellow envelope. They were always kept in the same envelope. 10

Q. Were they, or not, the same papers and the same envelope which you handed to Levi G. Irwin, one of the executors of your grandfather, after his death and after the will was read? 20 30

(Objected to as leading.)

A. Yes, sir, they were. This envelope and these papers were in my custody and possession at the time of my grandfather's death. After the will was read I brought them and gave them to Mr. Irwin as I was told to do.

Q. You have already referred to a conversation 40

which you had with your grandfather in the fall of 1878, in regard to these mortgages? State that conversation?

(Objected to as incompetent.)

10 A. In the fall he came home from my aunt's, Mrs. Johnston's, across the way, and I was in the sitting-room, and he called me out in the kitchen and he said: "Annie, have you ever told anyone that you had those mortgages?" and I said: "No, sir," and he said: "Your aunt Lib told me this afternoon that she heard that I had given them to you to keep and she thought I might just as well let her keep them as you, but," he says, "I never expect to do it. You do as I have told you to do with them." That was all at that time. Mr. Irwin was at our house one day when I was home. It was the day before the will was signed.

20 Q. What did you do on that occasion in reference to those papers?

A. On the Tuesday he called me to get them for him and I did so. Mr. Irwin was there that day. They were handed back to me by grandfather. I put them back in the trunk then where I always kept them. This was in August, but I can't tell the day. I was at grandfather's house the day Mr. Irwin read the will. Mr. Irwin read the will. The will was read in the forenoon, 30 somewhere between ten and twelve o'clock. James Johnston, Aaron Johnston, Mary Rebecca Donahay, Perrine Donahay, Elizabeth Johnston, Richard Johnston, John Errickson, Wesley Cottrell, Ed. Barkalow, Job Barkalow, Elizabeth Cottrell, Mary Jones, Eleanor Jones, Mary J. Jones and myself were present when the will was read. After the will was read, I went out of the room, upstairs, and got the papers from my trunk and came down with them in my hand. They 40 were in the envelope at this time, and I went up to

Mr. Irwin and says, here's some papers that grand-pop gave me to keep until his death and then to give it to the man that settles his business, and I suppose you are the one, and handed them to him. Mr. Irwin, Aaron Johnston, John Errickson, Wesley Cottrell, Elizabeth Cottrell, Eleanor M. Jones, Mary J. Jones and myself were in the room when this occurred. There was no one else in the room. Edward Barkalow was out in the kitchen talking to my aunt. He was on his knees crying. He says to my aunt, Mary, he has left the wide world for you and I to get our living in. Nothing else took place in the room at that time except that I went in the room with Mr. Irwin and Aaron Johnston to show them where the drawer was where he kept his other papers. I did not bring down two papers one in each hand as has been stated here. I brought but one envelope down. I did not have an envelope in each of my hands containing papers. I only had the one, and that envelope I handed to Mr. Irwin. I did not offer any other envelope to Mr. Irwin at that time or that day. I had no other envelope. I did not on that occasion hand to Mr. Irwin a package and say there are our deeds. I did not mention deeds to him. I did not have any talk or conversation with Mr. Irwin in reference to my deeds or any deeds. In the year 1872, the 6th day of August, in the presence of Simon Pyles, grandfather called me in the room where they both were, and said, "Here are four deeds for the homestead and a lot on each side for you four; the house is for the two smaller girls, and the lot where the barn is on is yours, and the shoemaker shop is Lib's, and you put them away and keep them." And in August, 1878, he gave sister Lib her deed and told me to keep the other two for the girls, which I done until his death. He said he gave us that for our mother's share, as he had given my aunt on the other side of the road. At the time he delivered them to me in the presence of Mr. Pyle, he said the deeds were

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ours and that we needn't be in a hurry about having them put on record.

He gave the deed to Elizabeth in August, 1878. He asked me for the deed and I gave it to him. When my grandfather gave me these deeds in 1872 they were not in an envelope. They were not wrapped up at all. They never have been and are not yet in an envelope. They never were put in an envelope of any kind. They were not in a yellow
10 envelope at the time grandfather's will was read. Only three of these deeds were in my possession at the time of grandfather's death. I did not bring either of these deeds down stairs at the time I brought the Johnston papers to Mr. Irwin when the will was read. On the day the will was read I did not show those deeds to Mr. Irwin or speak to him about them. I did not show them to him until we brought them up here, as Mr. Robbins wished us to. I had a conversation with Aaron Johnston
20 some time in the winter after my grandfather's death. He came over there, and Mr. Irwin and Wes. Cottrell and sister Ellie and Mary Jane were there, and Aaron said that his mother was dissatisfied about her mortgages, and thought they were given to me to give to her at grandfather's death, and I said, its no such thing. I said he told me to take them and put them away and keep them until his death, and then give them to the man who was to settle his business, for if he should be taken away
30 sudden they might be destroyed by fire. Those are the words I told him. I did not tell Aaron that my grandfather said if Jim Johnston got ahold of them he would burn them up or destroy them, because I thought it was a family affair and I wouldn't like to hear it of a father of mine. The next morning he came over to the door, and he said his mother was still dissatisfied about her mortgages and thinks they were still given to you to give to her, and I said I have told you once in what way they were
40 given, and I have nothing more to say about them.

Mr. John Corlies never had a conversation with me in the presence of the children about what Richard Corlies said to him. He never told me that my grandfather had told him that he had given us deeds to make us even with my Aunt Lib. I never had a conversation with John Corlies in October, 1878, or at any time about the deeds and business.

And being *cross-examined* further says : 10

I remember my father when he was living. My mother lived with my grandfather while he was living. She always lived there. My father never lived there from the time I remember anything only on Saturdays and stayed till Monday.

That is all the time I can remember of his being there except he was called there by sickness. That is the only time I can remember of his being there. I was born in that house and all my sisters, as far as I know; and all of us lived there up to my grandfather's death except sister Elizabeth, after she was married. She has been married ten years this January. My father supported me as long as he lived as far as clothes is concerned. 20

Q. After your father's death who supported your

A. My grandfather found the things in the house and my younger sisters' clothing. I raised poultry and found my own clothes. I worked both in the house and out doors. I was thirteen years old when my father died. 30

All the knowledge I have of my father's finding our clothing I knew when I was thirteen years of age. He always gave us the money to get them with, that's how I know so well.

He has given us as high as \$15 or \$20 to get things with. He gave us more than that once when we went to New York to get our winter cloaks. He was home just one week before he died. He came home on Friday and died the following week. 40

Q. Did he leave any estate that you are aware of, which afterwards came to you in the way of funds or property ?

A. There was none came to us. There was a place worth \$3,000 and my grandfather had a mortgage for \$1,000 on it, and after my father's death he foreclosed and took the place, so that left us nothing. I was between 11 and 12 years old when this took place.

Q. Were you much of a judge of the value of real
10 property at eleven years old ?

A. I can't tell you how I know anything about it. No, sir ; I wasn't a judge but I can explain.

My grandfather's family after my father's death consisted of my two sisters, my Aunt Mary and me. Aunt Mary was my father's sister. She took care of us children and helped do the work. My grandfather was there and three or four workmen. There were two boys there all the time, and two others were there morning and night, and in summer time
20 there would be more than that. He never kept hired help in the house after my aunt came there. Not for a day when I was home and the rest.

The further examination of witnesses, &c., in the above stated cause stands adjourned to Wednesday, the 29th day of June, A.D. 1881, same time and place.

On Wednesday, the 26th day of June, A. D. 1881,
30 the examination of witnesses, &c., in the above stated cause was resumed in the presence of the same counsel.

JOSEPH McDERMOTT,
Master in Chancery
Of New Jersey.

The *cross examination* being continued :

The witness states, that she wishes to correct her
40 former evidence in reference to hired help being

in the house of Richard Corlies in this particular, that when she and her Aunt Mary went to New York, about once a year, a woman named Miss Parks was then hired for about three days.

My grandfather was in the habit of visiting Mrs. Johnston's. She lived nearly across the road from his house.

The will was read between 10 and 12 o'clock. I don't know what hour Mr. Irwin read the will. I don't know where the will had been kept before it was read. Mr. Irwin took it from his pocket. I fix the date when the mortgages were given to me by the fact that the trunk was given to me when I was 18 years old, and the mortgages were given to me three days after. The trunk was given me as a birthday present on a Saturday. My grandfather gave it to me. The mortgages were in an envelope at the time he gave them to me. I do not know who attended to my grandfather's business—what he didn't do himself. James E. Johnston went with my grandfather a great many times for his own benefit. 10 20

Q. I suppose you knew everything without exception which took place between Mr. Johnston and your grandfather?

A. I only knew as he came home and worried and would say if Jim kept on he would ruin him. That's the only way I knew anything about it. I never knew of his entrusting money matters to my uncle James. I don't know whether he did or not. I never knew of Uncle James interfering with his papers in any way. I had nothing to do with the papers except these mortgages. There was no one by when he gave me these mortgages and told me what I have said he did. I did not make any memorandum of what he said. He did not give me any writing or memorandum at that time of what should be done with the papers. I put the mortgages in my trunk when he gave them to me. I suppose he kept his other valuable papers in the bureau drawer 30 40

in the parlor. He had one there. I know nothing about any of his papers but those mortgages. He kept the drawer in the parlor locked. He had the key up over the top of a window in his lifetime. He put it there, and it was left there till he got it again. He always put it there. I couldn't tell you his idea in putting it there.

Q. To keep the mice from eating it up, I suppose?

A. I don't know what his idea was. I don't know
10 whether my Uncle James knew where it was or not.

Q. Have you any reason to suppose he knew where the key was?

A. I have no reason to suppose he knew or that he didn't know either one. I had those mortgages out probably 25 or 30 times from the time he first gave them to me until I gave them to Mr. Irwin. He often asked for them, and I went and got them. When he asked for them I would give them to him,
20 and he would take them in his possession, and he would go with them and do with them as he pleased. There was no one by when he called me to reckon up the interest on them. I got them at that time and gave them to him. I was not in the room when he reckoned up the interest. I went away after I gave them to him. He was in his room when I gave them to him. This was a room off from the dining-room. It was his sleeping room then. I went out of the room then. I don't know what he did with them after I
30 went out of the room. I can tell you only one date when he asked for these mortgages, and that was in August before his death. This was towards the last of August.

Q. Can you state whether or not his purpose was not to ascertain how near the deeds which he had given you and your sister compared in value with the mortgages of Mrs. Johnston, so that he would not do injustice to Mrs. Johnston in the distribution of his estate?

40 A. I don't understand what you mean there. The

deeds had nothing to do with the mortgages. The deeds were given to us as she had as much on the other side of the road.

Q. Then you don't know why he wanted to calculate the interest, if he did want to?

A. No, sir; I don't know anything about it. The lot he gave Aunt Elizabeth is where the house is on—where she lives. I don't know the size of the lot. I only know he gave it to her by his telling me so. I only know what he said. There was no house on it when he deeded it to her or when he gave it to her. I don't know whether he gave her the deed before or after they built. I don't know whether the lot is as large as the ones he gave us girls or not. It was probably 20 or 25 minutes after the will was read that I got the mortgages for Mr. Irwin. It may be less time, I don't know. No one asked me to get them. I got them from my trunk. I had no other papers in my trunk at that time but our deeds. I had three deeds in the trunk at that time. They were in the same part of my trunk as the mortgages. None of them had been recorded, and were not recorded until after my grandfather's death. I went directly from the place where the will was read to my trunk to get these mortgages. No one went with me. No one knew these mortgages were there except I and my grandfather. My two younger sisters knew I had the deeds. My other sister knew it too. She had hers. I took the envelope and mortgages down stairs. There was no string outside of the envelope. It was a buff envelope, more on the yellow.

The witness says the envelope was about the size of one shown, which is 11 inches by 4 inches, and says that the envelope was a little shorter and wider than the one shown.

I don't know how thick it was. Aaron E. Johnston was in the room at the time I gave them to

Mr. Irwin. I had heard the will read a few moments before that, and knew he was one of the executors of my grandfather. I didn't know about the business or his equal rights with Mr. Irwin. Aaron E. Johnston lived with his father and mother.

Q. Tell me, if you please, why, if Mr. Corlies was so afraid of James E. Johnston destroying these mortgages, he entrusted his business concerning them, after his death, to his son, who lived with him?

A. I don't know nothing about what his idea was. Mrs. Cottrell's deed was given to her in August, before Mr. Corlies' death. I did not give it to her. This was in the first part of August. Grandpop gave it to her, I suppose; he took it from the house and went up there. I do not know why he made the calculation of interest in the last of August, or what was the result of it, or what he did in pursuance of it. When I brought the mortgages to Mr. Irwin I came through the hall door. I walked up to him and said, "Mr. Irwin, here's some papers that grandpop gave me to keep until his death, then to give to the man who settles his business, and I suppose you are the one," and handed them to him. He didn't say anything, and took them in his hand. I did not hear Edward Barkalow say anything about a deed at that time. Aaron went home, and then came back and asked Mr. Irwin about it, and then they went in the room and looked for it. I don't know what Mr. Irwin did with the papers after I gave them to him. I went with him and Aaron in the room, and showed them the drawer and then came out. I gave them the key of drawer. John Errickson took the key from the top of the window the day of the funeral and gave it to me, and I put it up stairs in my box. Our kitchen opens in the room where the will was read. One is in the back part of the house and the other in the front. A person in the kitchen could see in the room where the will was read, and could

hear if the door was open. No one was in the kitchen when the will was read. The door was shut when the will was read. The room where the will was read was the sitting-room. The door was shut while the will was being read, but after that my aunt went in the kitchen, and after I brought the papers down my sisters went out there, and after I had shown Mr. J. Irwin and Aaron the drawer, I went out there. I hardly think the door remained opened all the time after the will was read. My 10 sisters went out in the kitchen to help my aunt get dinner. The door was shut when I brought the papers down. I saw Barkalow in the kitchen after I came out of the room--where I had shown Mr. Irwin and Aaron the drawer. The first I saw of Barkalow in the kitchen was after I had been in the parlor with Mr. Irwin and Aaron E. Johnston. He had plenty of time to go there from the time the papers were handed to Mr. Irwin until I saw him there. My Aunt Mary was not in the room at 20 the time the papers were handed to Mr. Irwin.

Q. You had no better opportunity to see who was there at the time the papers were handed out than Aaron E. Johnston or John A. Errickson?

A. No, sir; I hadn't any better chance. I fix the date when my grandfather gave me the deeds by the time they were made. My age at the time the deeds were given was 16 years. I would have been 16 in October, as they were given me in August. He gave me no writing or memorandum 30 at that time in reference to the deeds. I did not make any memorandum of what was said there, only in my mind. I put these deeds at that time in a box that I had and locked them up.

I did not put them on record because I asked him about it and he said I needn't be in a hurry about it.

He did not tell me when he put them on record. He told me not to be in a hurry about putting them on record, that's all that was said. After I got my 40

trunk I put them in there and afterwards I put the mortgages in there with the deeds. And there they remained until he died, with the exception of Lib's, which was taken out in August.

I did not have any other of his papers there at this time nor any time, nor at the time of his death. It was during the next week after his death that I took the deeds from my trunk. It was on a Tuesday or Wednesday, I don't know which. Mr. Irwin read the will on Monday, and it was on Tuesday or Wednesday following that I first took them out of the trunk. I gave them to John Errickson to bring to Freehold to have them put on record when I took them out.

I did not give him sister Elizabeth's deed at the same time.

I don't know how that deed got to Freehold to be recorded.

Mr. Irwin never saw those deeds until the day I brought them to Mr. McDermott, and then he saw them in General Haight's office. He never asked me to see them. My grandfather never paid my Aunt Mary any wages. She put in a bill after his death which was objected to by Mrs. Johnston. The bill was for either \$700 or \$900. It was for work at his house, while we lived there. Aunt Mary has been there since my mother's death.

My father and Richard Corlies were on friendly terms so far as I know.

Mr. Corlies did not refuse to eat at the same table with him. I don't know whether he was suspicious of my father in business matters or not. My father did not live home there for several months after my mother died. He never did since I remember.

My father was in Washington market, New York, for several years before his death. He was sick for one week before his death. I never heard him complain much before that. I know how my father's board bill in New York was paid. My Aunt Mary gave James Johnston \$3.00 to go to New York and

get his clothes, and when he came back he said he had to pay some money for him, some four or five dollars I think, and he took his chest of tools and sold them for \$15.00, and never gave us a cent of it.

The mortgage on father's farm was for \$1,000, and the interest was some \$200, and I don't think it amounted to over \$1,400 when they foreclosed.

I knew my father only had an undivided interest in that farm.

I don't know that Richard Corlies paid any debts 10
of my mother after her decease. I don't remember of his paying Lewis Trevis a bill of \$100 on her account. I don't know whether he paid her doctor's bill and funeral expenses or not.

The feed for the poultry that I have spoken of came out of my grandfather's crib. I always fed them without I was away, and then my sisters would feed them for me. The hired men of Richard Corlies got their meals at his house. Aaron Johnston worked there one summer and he went home 20
and got his meals. Mr. Corlies bought an organ for us girls. He bought me a gold watch. He gave it to me for putting the sugar cane in the press and stripping it. I was out-doors working for about four weeks.

He paid for music lessons for my youngest sister for one quarter. Mr. Corlies ate at the same table and the same food as his workmen.

He was not very particular as to his food and clothing. 30

In the last two years of his life there was several days that he was sick in bed, Hardly a week but that he would be sick. He had a very sore limb I think two years before his death. He could travel but little all summer. Mrs. Johnston did not come over and help take care of him when he was sick. She would come over and look at him. Once when he was sick a week she came over at night and she and I sat up with him.

He never had a sore face. He had the erysipelas 40

in his nose once, and that only had to be washed with a little sugar of lead. I don't know that at one time he entrusted James E. Johnston with as much as \$13,000. I never heard of it. I and my Aunt Elizabeth's family do not speak to each other. We always did until the other lawsuit. That was a year ago last March.

Q. Do you remember an occasion when Richard Corlies gave Mrs. Johnston a cow?

10 A. I remember the time he drove one over, but I don't say he gave it to her, for he had her charged with it. He didn't tell me he was going to give it to her. This was about two years before his death. I remember they didn't have it long; it died.

Q. Didn't you say upon that occasion, or with reference to it, that you wished the cow had died before it got across the road?

A. No, I didn't. I didn't say it in Mr. Johnston's house. I never said such a thing.

20 The three of us sent for Mrs. Johnston when Mr. Corlies died. The doctor came there at four o'clock in the afternoon, and he came in the room to grand-pop. I was in there bathing his head, and when he came out I asked him if he had not better send for aunt Lib. He said you can suit yourself, but your grandfather is very bad. And then Mellie went right over after her, and then Aaron led her over there through the snow, and she remained there until after his death, about eight o'clock. The doctor was not there when she came over. Mr. Corlies

30 was not past speaking when she got there. She went up by him, and he said, "Well, Elizabeth," and she said, "How do you feel?" and he said, "I feel pretty bad." I don't remember anything else he said, except when I raised him up to give him some egg-nogg, and he said, "Lay me down." He tried to say something just before he died, but we couldn't understand what he said. I did not go in the bureau drawer where Mr. Corlies kept his papers

40 after his death and before the will was read. I did

not see or know of any ready money that he had at the time of his death. I took his pocketbook. It had a twenty-five cent piece in it and maybe a penny or two. John Errickson was sent after Mrs. Johnston the morning the will was read. I don't know who sent him. I did not hear Mr. Irwin say anything about Sarah Smith's deed the day the will was read. I have never seen any deed of Sarah Smith's since Mr. Corlies' death, and know nothing about it. Mr. Irwin did not ask me for the deeds to show to Aaron E. Johnston on the 14th of January, 1879. He never spoke deeds to me. I did not have my grandfather's drawer out on the floor, looking at the papers, in the fall of 1878. 10

Redirect-examination by Mr. ELY :

Mr. Irwin did not say anything, as I remember, before reading the will. I couldn't tell which hand I held the mortgages in when I brought them to Mr. Irwin. I couldn't tell you which hand Mr. Irwin received them with either. I did not say to him at that time as to another package, "These are our deeds." When Mr. Irwin received the mortgages, he was sitting. Aaron E. Johnston was sitting a short distance from Mr. Irwin talking to him. I don't remember of Mr. Irwin saying anything to Mr. Johnston at that time. I went in the parlor into the drawer, and says this is grandpop's drawer. The envelope that the mortgages were in was the same that they had been in all the time. It was not very new or very old; it had been soiled by handling. In the conversation I had with Aaron E. Johnson, in February, 1880, he did not ask me if one package contained our deeds. I did not reply "Yes" to him; I replied just as I have stated before. In the second conversation I had with him in 1880, the next morning, I told him I had told him once, and that was all I had to say. I don't remember that I had a conversation with Mr. Irwin 20
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in February, 1880, after Mr. Johnston left. I told Mr. Irwin after that about his father, and that I didn't tell Aaron out of respect. Mr. Irwin was there when Aaron came. At the time in August when I brought the mortgages to grandfather for him to calculate the interest on, Mr. Irwin was there.

Q. May you not be mistaken about bringing out the mortgages for your grandfather to calculate the interest on when Mr. Irwin was there as to the time you have fixed, as to the last of August?

(Objected to as leading, suggesting an answer, and contradictory to what witness has said twice before.)

A. Yes, sir; I may be mistaken. I can fix the time only from the fact that Mr. Irwin was there.

Cross-examination by Mr. ROBBINS :

Q. On your cross-examination upon this point, you said you knew it was late in August, because it was after the excursion or picnic, which took place on the 16th. What has given you new light since that time?

A. Mr. Ely's speaking about the will.

ANNA BARTOW.

Sworn before me the 22d }
day of June, and sub- }
scribed before me.

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JOSEPH McDERMOTT,
Master in Chancery of New Jersey.

JAMES E. JOHNSTON, a witness produced on the part of the defendants, being duly sworn according to law, on his oath saith:

I have stated that I am the husband of Elizabeth Johnston. I am familiar with her handwriting.

40 Paper shown witness.

The signature to that paper looks like her handwriting. I don't know whether it is her handwriting or not. I don't know but that I may have signed it. I think it is her handwriting.

(The last answer being made after examining paper.)

JAMES E. JOHNSTON.

Sworn and subscribed before }
me this 29th. day of June, } 10
A. D. 1881. }

JOSEPH McDERMOTT,
Master in Chancery
of New Jersey.

ELIZABETH COTTRELL, awitness produced on the part of the defendant, who being duly sworn according to law, on her oath saith:

I am the wife of Wesley Cottrell, the daughter of Benjamin and Rebecca Jones and one of the devisees mentioned in the will of Richard Corlies, deceased. I am living in Howell Township, in the old home now, with my sisters. In 1878, in August, the first Friday, Richard came to the farm were we was living then and gave me a deed, and said it was my deed for a lot in Farmingdale. I have been present during the taking of most of the testimony in this cause. That is one of the deeds mentioned as the girls' deeds, mentioned in the evidence. I was present at the reading of the will of Richard Corlies, deceased, by Mr. Irwin. I remained in the room where the will was read after it was read. After the will was read Mr. Irwin and Aaron E. Johnston stood talking, and Anna Jones left the room; when she came back she had an envelope in one hand; she handed it to Mr. Irwin, and said, Mr. Irwin, here is some papers that Grandpop gave me to keep until his death, and then give them 40

to the man that settles his business, and I suppose you are the one. I don't remember that Mr. Irwin said anything. He took them. I saw Mr. Irwin, Aaron and Anna leave the room.

Cross-examination by MR. ROLLINS:

I am not positive whether Mr. Irwin was sitting or standing when the papers were handed him. Aaron E. Johnston was right by Mr. Irwin when
10 these papers were handed him, talking to him. He was closer than anybody else except sister Anna. I had no especial reason to notice her handing him the papers. I had nothing to do with collecting the papers or settling the estate. My sister came from the door that came out of the entry, the hall door. I don't know that I can say how long it was after the will was read that she brought these papers out; it might have been more or less than twenty-five
20 minutes.

Mr. Irwin and Aaron Johnston were not talking so that you could understand what they said. I did not know what my sister had gone after when she left the room. I did not know what she had only that she had papers. I think the kitchen door was shut when she handed these to Mr. Irwin; I know it was, for I and my sister Ellen went out the first ones after the papers were handed out. I have been living in the old home with my sister since
30 May, 1881, since my other sister was married. Before that I lived near my sister's, up the street a quarter of a mile or so, in the same town. We visited back and forth frequently. We have talked this case over at different times. I have got no hard wishes against the Johnstons and wish them to do right and to get along well.

Q. Then you have the kindest and most friendly feelings and social intercourse with them I suppose?

A. I have heard them say, do good for evil.

40 (Question repeated.)

A. I don't know that I have any hard feelings towards them. We don't speak to them. They won't speak to us.

Examination by the defendant AARON E. JOHNSTON :

I don't know where I was when the papers were handed out. I don't remember whether Mr. Irwin made any remarks just before he read the will or not. I think in the will there was something about a lot that belonged to Sarah Smith. The door that Anna came out of was on the side of the house towards Colt's Neck. It was the entry door. I think you and Mr. Irwin were near the front door somewhere. 10

After Anna handed Mr. Irwin these deeds I don't know what he said to you. I don't think there was a string about these mortgages. I don't think there was anything peculiar about the envelope from other envelopes. I think it was soiled by hands, but I don't think it was torn. I did not have it in my hands to examine. Anna did not say anything else to Mr. Irwin except that there was the key. I don't know how far it is from the hall door to the front door—about 11 or 12 feet. I don't think I ever saw these deeds until they brought them up here. I was down there while you were appraising. I remember the day when Mr. Lutes, Mr. Vannote, Mr. Irwin and you were appraising in grandfather's room. I did not hear Mr. Irwin ask for the deeds that day nor any other day. The stove is nearly opposite the hall door, near the other wall, about four feet nearer the kitchen wall. I don't remember whether you and Mr. Irwin were talking aloud or not when she came up with the papers. I was near the kitchen door. I could not hear what you and Mr. Irwin were saying. Anna talked loud so that I could hear her all over the room. I think John Errickson sat somewhere by 20 30 40

the stove. I did not see any other package of papers brought out.

Cross-examination by Mr. ROBBINS :

I don't know how far I sat from John Errickson. It might have been 8 or 10 feet. I think he was on the other side of the stove. I was sitting against the kitchen wall on the chest. I did sit there when the will was read, and think I was there yet. I
10 think Mr. Irwin's and Aaron's backs were to me until Anna came up, and then I think they faced each other. I think Anna stood with her back to me when she passed the papers to Mr. Irwin.

Examination by the defendant AARON E. JOHNSTON :

I think she faced the front door. I think you had your sides to me. I think you were facing each other. I don't think either of you faced me.
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Redirect Examination by Mr. ELY :

I saw her when she came from the door and when she put out her hand, and heard what she said. When she came out of the hall door she had but one package in her hand. She did not say, these are our deeds. I did not see the package at the time she handed them to Mr. Irwin.

Examination by defendant AARON E. JOHNSTON :

30 The kitchen wall is opposite the front door. I sat on the chest and Anna sat on the lounge when the will was read. Mr. Irwin, when he read the will, was on the side of the house next to the road.

ELIZABETH COTTRELL.

Sworn and subscribed }
before me this 29th day }
of June, A. D. 1881. }

JOSEPH McDERMOTT,

Master in Chancery

of N. J.

The further examination of witnesses, &c., in the above-stated cause stands adjourned until Saturday, July 2, 1881. Same time and place.

On Saturday, the 2d day of July, 1881, the examination of witnesses, &c, in the above-stated cause was resumed in the presence of the same counsel.

JOSEPH McDERMOTT,
Master in Chancery
of New Jersey. 10

WESLEY COTTRELL, a witness produced on the part of the defendants, who, being duly sworn according to law, on his oath saith:

I live at Farmingdale, and I am the husband of Elizabeth Jones formerly. I was married in 1872. After I was married I went with my wife to my father's to live. We never lived with Richard Corlies after we were married: I was present at the reading of the will of Richard Corlies in January, 1879. Levi Irwin read the will. I think Aaron Johnston, John Errickson, Mary Jones, Anna Jones, Eleanor M. Jones, Mary Jane Jones, Elizabeth Cottrell, Edward Barkalow, Job Barkalow and myself were present when the will was read. 20

After the will was read Anna Jones went out of the room; I don't know where she went. She came back with a package in her hand. She says to Mr. Irwin, "Here's some papers that grandfather wished me to give to the man that settled up his business." She then handed the papers to Mr. Irwin. This was about five minutes after the will was read. I think John Errickson, Eleanor Jones, Mary J. Jones, my wife, and Aaron Johnston and myself were in the room when this happened. Anna Jones and Irwin were there. Edward Barkalow was not there at that time; he went out in the kitchen. I didn't notice where he went. Anna Jones, Mr. Irwin and Aaron Johnston went off to- 40

gether in another room after Anna had handed the papers to Mr. Irwin.

I was present at a conversation between Aaron Johnston and Anna Jones about the mortgages. This was along in February, I think, a short time after the will was read. I think Aaron came in. I said his mother was dissatisfied about those mortgages. Then she told him those mortgages were given to her until Mr. Corlies's death, and then to
 10 give them to the man that settled up his business. He said that his mother thought that she was to give them to her at the time of his death. He wanted to know how she came by them mortgages. She said grandfather gave them to her to take care of in case of fire or some other way that they might get destroyed. That's all that I remember that took place there. I lived with my wife on a farm about a mile from Farmingdale at the time of Mr. Corlies' death.

20 My wife showed me a deed that her grandfather gave her in August prior to his death. I was at my house when she showed me this. This deed was from Richard Corlies to Elizabeth Cottrell for a lot in Farmingdale adjoining where he lived when he died.

She kept that deed until after his death; then I brought it here and had it put on record.

30 *Cross-Examination* by Mr. ROBBINS:

I lived with my father very near three years after I was married. Then I moved up to Jerseyville on my father's farm. I afterwards moved on a farm of Richard Corlies'. This was, I think, in 1876. I lived there near four years. I did not pay rent for it. I paid the taxes the first year, and that's all. After that he paid the taxes, and took off whatever he thought we could get along without. He took half of the wheat, half of the corn, and I
 40 don't think he took half of the potatoes. This was

the second year. The third year it was supposed to belong to my wife ; we had all we raised then. We lived on the farm one year since Mr. Corlies' death, and after that we lived in Farmingdale one year, about a quarter of a mile from where my wife's sisters live. At present we are living in the same house with them, and have since the first of May. I was sitting in the room not far from the kitchen door, when Anna Jones brought the papers to Mr. Irwin. I was on the right side of the kitchen door 10 coming in from the kitchen, sitting on a chair. I was not on the chest with my wife ; I was near her. I sat on the right side of the door, and she sat on the left. Mr. Irwin and Mr. Aaron E. Johnston stood near the front door that leads out to the street. I don't know whether they were sitting or standing. Mr. Irwin faced me. I think Aaron was siding to me. Anna Jones came in the hall door ; she stood right in front of Aaron almost when she handed the papers to Irwin. She was not facing the front door ; 20 I should say she was facing south. The front of the house is East, I think. My attention was not called particularly to Anna Jones only as she came out and spoke to Mr. Irwin, and then I noticed her. I did not know what she went out for, nor what she brought in with her, only when she spoke to Mr. Irwin. It was no interest to me whether she had one paper, or three or four. I don't remember a word else that she said on that occasion either before or after that. When Anna Jones came in the 30 hall door her right side was to me. I didn't notice her hands particularly ; she had these papers in her right hand. I couldn't say whether her hand was hanging by her side or not ; I didn't notice it until she spoke to Mr. Irwin. I didn't notice how she carried her left hand any more than I did her right hand when she came. I did not see her have anything in her left hand when she came up to Mr. Irwin. I saw her left hand when she came up there but she had noth- 40

ing in it. I believe I have told all that Anna Jones said on that occasion, as far as I can remember. She might have said other things which I don't remember. I don't recollect that Mr. Irwin said anything when the papers were handed to him. Not a word that I recollect. The three of them just walked off in the parlor.

Mr. Irwin was present at the conversation between Aaron Johnston and Anna Jones that I have told
10 about. This conversation took place in the old homestead where I now live. Mr. Irwin, Ella Jones, and I think Mary J. Jones were present on that occasion. That took place in the sitting-room. Aaron came over there and said his mother was dissatisfied about those mortgages. I think he asked Anna if she wasn't to deliver those mortgages up to his mother at her grandfather's death.

Q. Didn't he claim, at that time, that his mother said that those mortgages were to be given up to
20 her after her father's death?

A. He might have said that she thought they were, or something of that kind; I don't recollect.

Examination by the defendant AARON E. JOHN-
STON :

I don't remember that she said anything to you
30 about your father's stealing the mortgages at that time, she said something about fire and sudden death. After you went out she didn't tell Mr. Irwin about it. She said to me she might have told Aaron but she didn't want to hurt his feelings. I believe I stayed there as long as Mr. Irwin did and for some time after he went away.

I don't recollect what Mr. Irwin said just before he read the will. He might have said something.

There was nothing said that I remember about Sarah Smith's lot. I think there was something in
40 the will about it.

I think John Errickson sat on the east side of the stove when Anna brought the papers out.

At the conversation in February, that I have spoken about, I think you came in and sat down, and said your mother was dissatisfied about her mortgages. I don't recollect that you said anything as you got up to go out. I have never seen the package of deeds only the one that my wife had. I brought my wife's deed to Freehold to be recorded and took it away. 10

J. W. COTTRELL.

Sworn and subscribed before }
me this 2d day of July, }
A. D., 1881, }

JOSEPH McDERMOTT,
Master in Chancery
Of New Jersey.

ELEANOR M. JONES, a witness produced on the 20
part of the defendants, who being duly sworn according to law, on her oath saith :

I am a daughter of Benjamin and Rebecca Jones. I lived with my grandfather up to the time of his decease. I will be 21 years old in February. I was present when my grandfather's will was read. Mr. Irwin read it. It was read on a Monday between 10 and 12 o'clock in 1879. James E. Johnston, Aaron Johnston, Lib. Johnston, Mary Beck Donahay, Perrine Donahay, Ed. Barkalow, Job Barkalow, John Errickson, Richard Johnston, Elizabeth Cottrell, Wesley Cottrell, my Aunt Mary Jones, Anna Jones, Mary L. Jones and myself were present when the will was read. Mr. Irwin was about an hour reading the will; I could not say exactly. 30

After the will was read Anna went out of the room and was gone 20 or 25 minutes, and when she came back she had an envelope in her hands, and 40

she went to Mr. Irwin and said: "Here's some papers that grandpa gave me to keep until his death, and then give to the man that settles his business, and I suppose you are the one." She gave the papers to Mr. Irwin then, and he took them. I saw her when she came in the room. The papers were in a yellow envelope. She had but the one envelope.

Q. When your sister, Anna Jones, came in the room with the envelope containing the papers, as
10 you have stated, had any of the parties who you have stated were in the room when the will was read, left the room, and if so, who were they?

A. James E. Johnston, Richard Johnston, Lib. Johnston, Mary Beck Donahay, Perrine Donahay, Ed. Barkalow, Job Barkalow, and my Aunt, Mary Jones, had gone out.

Ed. Barkalow was not in the room when Anna brought the papers down and handed them to Mr. Irwin. I saw Edward Barkalow leave the room.
20 He went out in the kitchen when he left the room. He left the room before my sister, Anna Jones, came down stairs. I saw him in the kitchen. He was on his knees crying there. I heard him say that grandpa had left him and my aunt the wide world to get their living in. I was present at a conversation between Aaron Johnston and my sister, Anna Jones, in February, 1879.

He came over and said his mother felt dissatisfied about her mortgages, and thought they were given
30 to Anna to give to her at grandpa's death, and Anna said it was no such thing, they were given to her to keep till his death, and then give to the man that settled his business, for if he should die sudden they might be destroyed by fire or some other way. That's what I remember of the conversation.

And being *cross-examined* says:—

I live at the old place at Farmingdale now, with
40 my sisters. We have talked this case over among

ourselves. I don't know that we have talked it over a good deal. We talked it over a little. I knew I would be a witness here after the lawsuit was commenced. My sisters knew they were to be witnesses after the suit was commenced. I don't know whether Mr. Cottrell knew he was to be a witness or not. We have talked it over amongst ourselves about our being witnesses here. I don't know that we said over what we were going to testify about. We might have talked that over. I 10 don't know that we all did, but some of us did. Mr. Irwin did not come down and talk it over with us, as I remember. Mr. Irwin was down to see us yesterday. He was there several hours. He wouldn't have staid so long, but we asked him to stay to dinner.

I sat on the south side of the stove when my sister handed the papers to Mr. Irwin. I was in the corner near the chimney. Aaron Johnston was closer to Mr. Irwin than any one except Anna when 20 she handed him the papers. He was talking to him. Anna wasn't facing me, nor her side wasn't to me exactly when she handed Mr. Irwin the papers. There was nothing exactly between me and my sister Anna when she handed Mr. Irwin the papers. The stove was a little that way.

I did not know what my sister had gone out for. I did not know what papers she had when she came back. I didn't know that it was any matter that 30 interested me.

There was nothing to make me take notice particularly only as she came up to Mr. Irwin and spoke. I noticed that others spoke and talked there that day. My sister Anna said other things. She talked to us. She didn't say anything to us after the will was read until she handed Mr. Irwin the papers. She told Mr. Irwin and Aaron that she would go and show them where the drawer was in the room after she had handed the papers out. I don't remember anything else she said there that 40

day. I don't remember what Mr. Irwin said before he commenced reading the will. I don't remember anything he said after he was done reading it. She didn't say other things when she handed Mr. Irwin the papers. She said she would show them where the drawer was.

Mr. Irwin did not say anything when she gave him the papers.

Mr. Irwin was present at the conversation between Aaron and my sister which I have told.

And being *examined* by the Defendant, Aaron E. Johnston says :

Mr. Irwin and you were in the front part of the room when the papers were handed out. I don't know whether you were standing or sitting. You were in the direction of the front door. You and Mr. Irwin were talking. The will was read between 10 and 12 o'clock in the morning. It was not longer than 25 minutes after the will was read that Anna brought in the papers. It might have been less.

It was a yellow envelope. I don't remember whether there was a string around it or not. I think there wasn't. I saw Ed. Barkalow crying when the package was brought out. I think Mr. Irwin stayed to dinner that day. I don't remember what was talked over at dinner. There was nothing about the mortgages. There was nothing said to Mr. Irwin at dinner or after dinner about the deeds. I don't know whether Mr. Irwin said anything to you or not after Anna brought the package out. I don't remember after the conversation between Anna and you. I think Anna told us what she hadn't told you. I think Mr. Irwin was there.

I don't remember whether I heard you ask Anna how she came by them or not. I do not remember your saying to Anna—"Anna, you remember the morning the will was read, when you brought out

your deeds and mother's mortgages; mother wants to know how you came by them."

You were there that morning about a half an hour or more.

I don't remember that you said anything more that what I have stated. I don't remember as you talked about anything else. I don't know that you said anything when you got up to go out. I have seen the deeds, ours, and I saw Lib's before grandpa gave it to her. I saw them first after grandfather's death—the day that Anna gave them to John Errickson to have them recorded. 10

ELENOR M. JONES.

Sworn and subscribed before me, this 2d day of July, A. D. 1881. }

JOSEPH McDERMOTT,

Master in Chancery of N. J.

20

MARY J. JONES, a witness produced on the part of the defendants, being duly sworn according to law, on her oath saith: I am a daughter of Benjamin and Rebecca Jones. I resided with my grandfather up to the time of his death. I am 18 years old the 18th of July. I remember when my grandfather died. I was present when his will was read by Mr. Irwin. Grandfather died on Thursday and the will was read on Monday, the 6th of January. 30

James Johnston, Aaron Johnston, Richard Johnston, Elizabeth Johnston, Mary Beck Donahay, Perrine Donahay, John Errickson, Ed. Barkalow, Job Barkalow, Wes. Cottrell, Elizabeth Cottrell, Anna Jones, Ella Jones, Mary Jones and myself were present when the will was read. I don't know the exact hour, but it was between 10 and 12 when the will was read. It was probably an hour while the will was being read. I was in the room at the time it was read. After the will was read Anna Jones left 40

the room, and presently returned with a package of papers. She went to Mr. Irwin, with the papers in a yellow envelope, and said: "Mr. Irwin, here are some papers that grandpa gave me to keep until his death, and then to give to the man who settles his business, and I suppose you are the one."

Ed. Barkalow, Job Barkalow, James Johnston, Elizabeth Johnston, Mary Rebecca Donahay, Perrine Donahay, Mary Jones, Richard Johnston had
 10 left the room at this time. I saw Ed. Barkalow go out of the room in the kitchen before my sister returned. I saw my sister Anna when she came in the room with a package in her hand; she did not have more than one envelope. She did not offer more than one envelope containing papers to Mr. Irwin. After she had handed these papers to Mr. Irwin, Anna said she would show them grandpa's
 20 drawer. I saw Aaron, Anna and [Mr. Irwin leave the room. I did not go out in the kitchen at all; I remained in the room. I did not see Edward Barkalow in the kitchen.

I was present at a conversation between Aaron Johnston and my sister Anna, in February, 1879. Aaron came over in the afternoon, I think, and said his mother was dissatisfied about her mortgages. He said she thought they were given to Anna to give to her at his death. She said "it was no such
 30 thing; they were given to her to keep until his death, and then to give to the man who settled his business, for if he should die suddenly they might be destroyed by fire or some other way." I don't remember of anything further that took place between them at that time. This conversation took place at our sitting-room at the homestead; Mr. Irwin, Wes. Cottrell, my sisters Ella and Anna and myself were present at this conversation. Ed. Barkalow was not there. Aaron Johnston went home after this conversation.

And being cross-examined, says :

I live with my sisters at Farmingdale, and have ever since I was born. I have been here every time testimony has been taken on part of the defendants. My sister, Eleanor M. Jones, has been here also. My brother-in-law, Wesley Cottrell, has been here also, except one morning.

My sister, Elizabeth Cottrell, has been here also, except to-day, and we have heard each other testify. We have talked the case over several times at home —not so much. 10

I knew my sisters and myself were to be witnesses in this case ever since the suit commenced, and we have all taken a good deal of interest in the case. I know that the will was read in the morning because it was before dinner. They went after Mr. Irwin, and he did not get there before 10 o'clock.

I was sitting towards the west wall, near the wall that is opposite the front door, when Anna brought the papers. I don't remember whether there was anybody by me at that time or not; my sister Lib was sitting near me on the chest; I don't think I was talking after the will was read, probably the rest were; I staid there probably half an hour after the papers were brought; I don't know which hand she had this package in; I don't remember; when she came into the room she was side to me; I couldn't tell how she carried her hands; I didn't take particular notice; I couldn't see both of her hands when she came into the room; I don't remember whether Mr. Irwin and Aaron were standing or sitting, or whether they were facing me or not; I only saw Anna hand the papers to them; I don't know which hand she used to hand him the papers; I saw her put forth her hand, but I don't know which hand it was; I did not have hold of the papers, nor didn't see them any nearer than where I sat; she didn't hand him but the one envelope; I don't know that I had any particular reason to see 20 30 40

or hear what she did ; I did not know what she went out for, or what the papers were she brought back ; I don't remember anything that Mr. Irwin said before he commenced reading the will. The will was a good deal of interest to me, I suppose. I don't know that I remember anything Mr. Irwin said after he finished reading the will ; I don't think that I can mention anything else that Anna said that day. I don't know that I can tell how
 10 long they were gone when Mr. Irwin, Aaron and Anna left the room. Anna came directly out ; probably she was gone as much as five minutes, not longer than that.

My sister came out of the hall door when she came in with the papers. When they went out they went out of that same door. My grandfather's drawer was in the bureau in the parlor, and in order to reach that you went across the hall.

I have seen in that drawer of my grandfather's
 20 when he was living ; I knew he kept his papers in there ; my sister came down the stairs in the front hall when she brought the papers in ; they were in the same hall that she came from with the papers, and which she went to when she went to show Mr. Irwin and Aaron the drawer ; they are the stairs she would use to go up to her room where her trunk was. Mr. Irwin did not say anything when the papers were handed to him. Job Barkalow did not
 30 stay in the room more than five minutes after the will was read ; he went in the kitchen ; Aunt Mary went out right away after the will was read, to the kitchen.

James Johnston and Elizabeth Johnston did not stay very long after the will was read ; they went out the front door. I don't recollect of anything that Aaran Johnston and Mr. Irwin said together ; they were talking. It was in February after grandfather's death that Aaron Johnston was over to our house talking with Anna about these mortgages ; I
 40 don't think I can remember another word that was

said that day while Aaron was there except as I have stated.

He said his mother was dissatisfied ; I don't think he said his mother sent him ; I didn't see where he came from until he was at the door.

Mr. Irwin was there when he came ; I can't say whether Mr. Irwin had been at Aunt Elizabeth's or not ; I don't know ; I don't think there was any other talk there that day with Aaron ; I don't remember of any other.

10

Examination by Defendant AARON E. JOHNSTON :

Ed Barkalow was either by the chest or on the sofa when the will was read ; he was on that side of the room ; he had gone out of the room when the package was brought out ; I had seen him go out ; I saw the persons go out that I have stated had gone out ; I think Perrine Donahay and his wife 20 went out of the front door ; it might have been 20 or 25 minutes after the will was read that Anna brought these papers out ; Mr. Irwin and you were in the direction of the front door when she brought the papers out.

I can't tell you which way you were facing ; she came in, handed Mr. Irwin the package, and she said she would show you the drawer and you all went out. She came in the room to where you were standing, I don't know how far ; I don't remember 30 that Mr. Irwin turned and said anything to you ; I don't think he did ; the package was an envelope, a large one. There was no string around it.

In the conversation in February, 1879, I don't think you explained why you came over when you started to go out. You said at first that your mother was dissatisfied about her mortgages. You were there probably half an hour ; I don't think there was anything else said. You went out from our house ; I didn't look to see where you went. I 40

don't think I heard you say "Mother wants to know how you came by them."

MARY J. JONES.

Sworn and subscribed be- }
fore me this 2d day of }
July, A. D. 1881. }

JOSEPH McDERMOTT,

Master in Chancery of N. J.

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(The counsel for the defendants offer Levi G. Irwin, one of the executors of Richard Corlies, deceased, chiefly to show what has transpired in reference to the subject matter of this suit since the decease of Richard Corlies.)

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(The counsel for complainant says that the above statement is made without any arrangement or concurrence on his part to affect the legal consequences of placing the witness on the stand in any respect.)

LEVI G. IRWIN, one of the defendants, being duly sworn according to law, on his oath says :

I am one of the executors of Richard Corlies, deceased, and one of the defendants in this suit. I am in my 62d year. I reside in Howell Township, Monmouth County, and have resided there 39 years the 1st of April last.

30

I have held office in that township ; I have been on the township committee and have been justice of the peace ; I have been justice 12 or 13 years.

Q. Have you acted as executor or administrator in the settlement of any estates previous to the estate of Richard Corlies, and if so, how many ?

(Objected to as immaterial.)

A. I have, I think, as executor, administrator or
40 commissioner in some eleven or twelve estates pre-

vious to this. I have no pecuniary interest in the estate of Richard Corlies, deceased. I drew the will of Richard Corlies. The mortgages of Mrs. Johnston and the girls' deeds mentioned in the evidence, were not spoken of in the will.

Q. What was said, if anything, by Richard Corlies to you at the time he gave you directions for drawing his will as to the girls' deeds?

A. After directions for disposing of his property or real estate, he said he believed he had disposed 10 of all his property but the Blue Ball property, and the Peterson lot. I had heard no mention made of the homestead where we were at the time. I told him I had not heard anything about that. He said that he had deeded that to the little girls. He didn't say how many, and asked me if a deed was good if it wasn't recorded. I told him it was if it was delivered. He said they were delivered. The \$1,866 mortgage and the \$1,000 mortgage spoken of as Mrs. Johnston's mortgages, were produced by 20 him before me at that time. The purpose of them was to calculate the interest. I made the calculation there in his presence; I made it on a paper; I have got a memorandum of it.

On the \$1,866 mortgage up to Aug. 1st, 1878, there was \$785.75 of interest. The principal and interest amounted to \$2,652.07.

The interest on the \$1,000 mortgage was \$529.83, and the gross amount was \$1,529.83. The taxes put on amounted to \$316. He said to me, "You 30 have been on the committee all the time these bonds have been running; now what is about the average tax per thousand during that time, as I have paid the taxes on them." I told him I thought it was about \$11 per thousand. He did not say anything about any disposition of these mortgages at that time. At the same time, at his request, I made a calculation of interest due upon other appers.

There was no different directions given in reference to Mrs. Johnston's mortgages only the reckon- 40

ing of the tax. I afterwards read the will of Richard Corlies.

After the reading of the will Aaron E. Johnston came from the part of the room that he occupied to where I was in the room and made my acquaintance, and commenced conversing with me, as I was a stranger to him to that time and he to me. We entered into conversation in regard to matters pertaining to the settlement of the estate. While thus
 10 conversing Anna Jones came in the hall door, advancing towards us, having an envelope of papers in her hand and handed them to me, saying there were papers her grandfather had given her to keep till his death, and then gave them to whoever was there to settle his business, and I suppose you are the proper person, at the same time handing me a key, saying, that was a key of the bureau drawer where grandfather kept his papers. Aaron Johnston, Annie Jones and I then went in to the bureau
 20 drawer in the parlor through the hall. We opened the drawer and looked at some papers, put the envelope she handed me in the drawer. I asked Aaron if he was satisfied to leave the papers there until such time as we were ready to take the inventory or appraisal. He was, and I locked the drawer and put the key in my pocket. At the time of the presentation by Anna Jones, of the package, I saw but the one package. She did not at that time offer me another package and say there
 30 are our deeds. I did not put up my hands towards her and tell her to take that package back. I did not tell her to take the deeds back—fifteen days would be time enough to transact that business.

The further examination of witnesses, &c., in the above stated cause stands adjourned until Thursday the 14th day of July, A. D., 1881, same time and place.

40 On Thursday the 14th day of July, A. D., 1881,

the examination, &c., in the above stated cause was resumed in the presence of the same counsel.

JOSEPH McDERMOTT,
Master in Chancery
of New Jersey.

Examination of LEVI G. IRWIN continued :

The defendants offer in evidence a certified copy of inventory and appraisement of the personal 10 property of Richard Corlies, deceased, together with the proof thereon, as appears of record in the Surrogate's office of the County of Monmouth, in Book O² of Inventories, page 1, under the hand and official seal of Aaron R. Throckmorton, Surrogate of said county.

(Objected to by complainants as immaterial and irrelevant).

Which certified copy of inventory, &c., 20 I have marked Exhibit No. 4, on the part of the defendants.

(This offer and marking an oversight and error, the same document having been offered and marked Ex. No. 1. See page 13).

This inventory contains the \$1,000 mortgage and the \$1,866 mortgage mentioned in this suit. The interest on the \$1,000 is appraised at \$559.22, and on the \$1,866 mortgage at \$849.23. The usual af- 30 fidavit of executors made by Mr. Aaron E. Johnston and myself is attached to this inventory. In February, 1880, I was at Mrs. Johnston's house conversing with Aaron on some matters of business, and James E. Johnston came in the room and said his wife was dissatisfied about her mortgages, and wanted him to ask me if they were her mortgages Anna Jones handed to me the day the will was read, and what she was doing with them or how she came by them. I replied to him, yes, they was, 40

and how she came by them I only knew as she stated. That is about the sum and substance of the conversation. That answer was made to James Johnston's question, and not to anything that Aaron said or might have said. I don't mean to deny that Aaron Johnston asked me if those were his mother's mortgages, and the girls' deeds that Anna Jones brought out the day the will was read. I never answered him to that question. If he had asked such
 10 a question I did not hear or notice it. My attention was not directed to what Aaron E. Johnston said at that time, but to what Mr. James E. Johnston was talking to me.

Q. Did you at that time answer the following question put to you by Aaron E. Johnston, "Were those the girl's deeds and mother's mortgages that Anna brought out the morning the Will was read" ?

A. I never to my recollection answered him such
 20 a question.

Q. Was that question asked you at that time by Aaron E. Johnston ?

A. Not to my knowledge. Mr. Johnston came in and propounded these questions to me and drew my attention from what Aaron was saying. They were both talking at the same time. The thing occurred like this: Mr. Johnston came in and was talking to me and stated that his wife was dissatisfied about her mortgages and wanted to know if them was her
 30 mortgages that Anna Jones handed to me the day that the Will was read, and what she was doing with them or how she came by them. I replied yes, they were, and how she came by them, I only knew by what she said. That answer I gave to Mr. James E. Johnston's questions without reference to anything Aaron said or might have said. I don't know whether Aaron said anything between the question that his father asked and my answer. I didn't understand anything. My powers of hear-
 40 ing in one ear is good and in one it is not. Shortly

after this conversation I left and went to the Jones house. Directly Aaron Johnston came over there and spoke to them about the mortgages. I don't know that I could state exactly the language he used. To the best of my recollection it was in regard to what she was doing with them or who she was to give them up to. My understanding was that in the conversation between Aaron and Annie it was that his mother understood that she was the one they was to be given up to—Anna denied it and 10
said they was to be given up to the one that was to settle his business. That is as near as I recollect the conversation. She also stated that they were given to her for the purpose of keeping and to be given up to whoever settled his business.

Q. After Mr. Aaron E. Johnston left do you remember of Jones stating anything further about the mortgages, and if so, what?

(Objected to as incompetent.)

20

A. I do. She then told me that she hadn't told all that her grandfather said when he gave her the mortgages to keep, the day the Will was read. She said he told her he wanted her to take care of them and lock them up in her trunk, for if anything happened to him suddenly, James Johnston might get them and destroy them and make trouble. That she did not tell me the day the Will was read. She gave it as a reason that she did not tell it the day 30
the Will was read, that it was family matter and she didn't want to tell it before them all.

(The whole of the above since the last question, objected to because it is incompetent.)

I remember afterwards of Elizabeth Johnston and her husband coming to my house about these mortgages. I can't state exactly when it was. I think it was in the latter part of the fall of 1879, or in the winter of 1879-1880; after passing the salutations of 40

the day Mrs. Johnston said she had come to see me on business and wanted to know if I knew where her mortgages were that her father had given her. I told her I did not. And she said that he had given her mortgages. I told her I knew nothing about that. The mortgages we had were appraised and assets in our hands the same as other mortgages, and we could not give them up. If the law gave them to her she would get them, and if it didn't she
 10 wouldn't. I recollect her speaking about the girl's deeds. She said she thought the deeds and her mortgages was given to Anna Jones to be given up at her father's death. I told her I knew nothing about that.

Q. Did you tell Mrs. Johnston at that time that you did not know her father had mortgages against her?

A. I could not have told her so, for those mortgages were already appraised before that—and one of them
 20 had been cancelled by giving a \$1,000 note for it. I believe the first conversation in regard to the \$1,-866 mortgage was at my place, Aaron came over to the house and talked about some business matters and then about this Fish mortgage being about to be closed. And said his father was over in the wagon at the wagon house and we went over there, began talking about the foreclosure of the mortgage. After talking a little while I asked James E. Johnston what he purposed doing in the matter. He said
 30 the whole amount of the indebtedness of the two mortgages was more than the property was worth, and he would have to let it go; that he would like to keep it, but to pay all there was against it he couldn't do it. I asked him if we couldn't settle that mortgage; if he would secure us \$1,000 on it. He said he would talk with his wife about it. I believe that was about the sum of that. After that Aaron reported to me, though I should say previous to this report Aaron and I agreed to go and look at
 40 the place, and done so to see what we thought the

property was worth. After that Aaron reported to me that they would secure the \$1,000 if they had any way of securing, and would like to keep the place. I told him I thought they could secure it, as I supposed there would be funds in our hands belonging to his mother, as she was left by Will one-half of the proceeds of the personal property, and by taking a note and chattel mortgage on personal property we would be safe in doing it, and that we would refer the matter to Mr. Throckmorton, the 10 surrogate. We came to Freehold to see Mr. Throckmorton, and asked him about it. He said that if we were satisfied that there would be funds in our hands we would be safe by taking a note to be paid out of her distributive share. He drew up the note. Aaron E. Johnston took it and brought it back to me, signed by his mother and father. He also brought a chattel mortgage, executed by his mother, on personal property, which was put on record. I never exchanged words with Mrs. Johnston in this matter. 20 Then Aaron told me that there was a difficulty yet; that there was about \$200 interest due on the Fish mortgage, and that they were bothered to get that money just then; and I think he asked me if I knew where they could get that amount of money. I told him we had money belonging to the estate laying in the bank, and I would be willing to let his mother have \$200 on her and his note, and we would be making the interest on the money. He brought me a note afterwards for \$200, with his mother's and 30 his own signature to it, and got a check on the bank for the money. The signing of that article by the heirs authorizing the executors to release Exhibit No. 2, I drew up and presented it to the heirs—all but Mrs. Johnston—for them to sign, if they approved of that action. They signed it. I then gave it to Aaron E. Johnston, and he brought it back to me with his mother's signature to it. I had no conversation with her on that subject. After the execution of the \$1,000 note, the chattel mortgage and 40

the article of agreement, the \$1,866 mortgage was cancelled. Aaron and I brought it to Freehold and had it cancelled. I was acquainted with J. Monroe Wainright. He is dead. He was a Justice of the Peace in our township. I am acquainted with his handwriting. I have frequently seen him write his name. We have been out several times together in pauper cases, and in making out the papers he done the writing and I read off the copy. I have seen him
 10 write, and write his name frequently. That is his signature to the jurat or affidavit now shown me. The words Justice, Peace, are in his handwriting. At the date of this affidavit, June 20, 1878, I believe, he held that office or acted in that capacity. I have seen a note and chattel mortgage acknowledged to be signed by Elizabeth Johnston—the chattel mortgage and the \$1,000 note in question and the \$200 note. I believe this to be her signature from the resemblance to other writing of hers. I am not well
 20 enough acquainted with her writing other ways.

(The affidavit above referred to is offered in evidence on the part of the defendants, and is marked Exhibit No. 5 on the part of the defendants.)

(The evidence in reference to this affidavit and the offer of the same objected to because it is incompetent.)

30 And being *cross-examined* by MR. ROBBINS, further says :

Q. You stated in your direct examination that the mortgages in question in this case, and the girl's deeds were not mentioned in the Will. Had Mr. Corlies at that time any other papers or property not specifically mentioned in the Will?

A. Yes, sir. There were three mortgages against Abram Vandusen, two against Joseph A. Morton,
 40 one against James P. Allaire and wife, one against

James Giberson's property, one against Elizabeth Hampton, one against C. A. Sheidt, and I think there was one against A. Hall. I don't know that I remember any other. I remember some real estate. The Blue Ball property and the Peterson property, and the homestead. I did not see any notes at that time. He did not mention the homestead property until I asked him about it. My remark called forth what he said. He did mention the Peterson property and the Blue Ball property without my making 10 any remark.

Q. Then, so far as any mention of the homestead property and Mrs. Johnston's mortgages were concerned, his conduct on that occasion was precisely the same until your remark as to the homestead property caused him to mention it?

A. His conduct in regard to the homestead and Mrs. Johnston's mortgages was the same as far as anything being said. I don't know that he would have said anything in regard to the homestead farm 20 if I hadn't asked him.

I do not know that it is the law that a deed should be recorded in 15 days after it is executed, and don't know that I ever did.

I had been Justice of the Peace about nine years at that time. I have settled up several estates. I have had Nixon's Digest and Form Book all the time. I have been Commissioner of Deeds; I think my tenth year as such runs out next May. I have done considerable conveyancing. 30

Q. And yet you say you never knew or heard before the death of Richard Corlies, or the day you read his will, what the law was about having deeds recorded within 15 days after their execution. Do you mean that?

A. What I mean to say is that I don't know and didn't know that the law required a deed to be recorded in 15 days. I have heard a great many things talked of.

I did then understand that it ought to be recorded, 40

or that a person kept it at his own risk, but I didn't know about the number of days.

I don't know that I ever heard before that time that a deed ought to be recorded in 15 days. Mr. Corlies did not tell me at that time how he had delivered these deeds to the girls. He did not tell me why he wanted me to calculate the interest on these mortgages of Mrs. Johnston's. He got me to calculate the interest before the day he told me he had
 10 deeded the homestead to the Jones girls. The day before I took the rough draft of his will this calculation was made. He spoke of the deeding of the homestead the same day I took the rough draft of his will.

I did not know I was going to draw his will at the time I made the calculation of interest. I didn't know that he contemplated making his will at that time from anything he had said to me. He came after me to come and make the calculation. He
 20 came after me some days before that, and I fixed that time and went there. I knew from actions afterwards that those calculations were made with a view of making his will; I supposed they were. I don't know what his intentions were. We did not get through with the business the first day, and that is how I came to go the second day. He told me he wanted me to draw his will in the afternoon of the second day that I was there, after getting through the business. We settled book ac-
 30 counts with Abram Van Dusen and Joseph A. Morton; the purpose was to credit them what was due on their mortgages, which was done. He did not say anything about the value of the homestead property which he had divided among the girls.

I don't know that it was his purpose to divide his property about equal between Mrs. Johnston and the children of Rebecca Jones. I only know as he directed me.

He did not tell me then or at any other time
 40 where he kept his papers.

He mentioned the name of Aaron E. Johnston as executor without any mention of him by me. He mentioned him in this way: he said he wanted me and he said, "I would like to put my grandson, Aaron, in with you, if you have no objections to it, as he is a young man and it would be an introduction to him in the transaction of business matters."

He did not tell me at that time that Anna Jones had any papers which should come to me as executor; he made no mention of them whatever. The first knowledge that I had that she had the mortgages was the day the will was read; I had no intimation or knowledge before that time that she had any papers for me as executor. 10

When I first knew what the papers were was the same day they were handed to me, when we took them in the parlor, as I have stated. Anna Jones gave me the key the same time she gave me the papers. Anna Jones had not said anything to me about papers previous to that time. I don't know where she got them from. I think Aaron and I was conversing together when she handed them to me. 20

I don't know that I can say whether we were sitting or standing. My best recollection is that I was sitting on a chair and Aaron was standing with his foot on a chair, with his head resting on his hand. He was as near to me as any other person. I don't know that anybody else was talking to me at the time she handed me the papers. 30

Others besides Anna came up and spoke to me at different times that day.

Anna Jones didn't do or say anything that I know of to especially attract attention. These papers were not sealed up in the envelope. I have not got the envelope they were in. I have no idea where it went. I think I was conversing with Aaron about the business of the estate when she came up. The settlement of the estate was a matter of considera- 40

ble interest to Aaron and I. I think we stopped talking when she came up, and then went immediately in the room. We talked as we went on in the room.

The room where we were when she brought the papers to me is, I should judge, about 16 feet x 18 feet.

I made no memorandum whatever of what was said at that time, and I have no reason to know
10 that my memory is better than Mr. Johnston's or Mr. Barkalow's, speaking generally.

I think I have stated everything that was said by Anna when she handed me them papers, but not all that was said in conversation with Aaron.

I think I have stated everything she said to me at that time, word for word.

Q. It was utterly impossible, then, that Mr. Johnston can be anything else but all wrong and you all right as to what occurred at that moment,
20 in your judgment?

A. I have stated the facts that occurred and the time, and you can place what impossibilities you are a mind to on them.

I have talked the occurrences of that day over with the Jones girls.

I held these papers in my hand when she handed them, and don't think I put them out of my hand until I put them in the bureau-drawer.

Anna Jones went out of the room after she had
30 shown us the bureau-drawer, and Aaron and I remained there a short time. She might have gone up to her room, after leaving us, for all I know. I knew these papers ought to be appraised. I did not say anything about appraising them when they were handed to me. I don't know whether I did or not in the parlor. We were looking over papers there and talking.

I think she said that there was the key of his bureau drawer at the time she handed me the

papers. I don't know whether she invited us to go in the parlor, or whether she went to show us.

Q. How did you know whether she wanted you or not; or what she did want that caused you to go with her, if she didn't say anything more than you have said?

A. I think when she gave me the key and said there was the key of his bureau drawer where he kept his papers in the parlor, and I think I remarked to Aaron that we would go in there. 10

My right ear is the one that is deaf. My deafness interferes with my hearing some. I have never heard that Mr. Johnston or Mr. Barkalow were deaf in either ear. My eyesight is as good as can be expected for a man of my age. I am in my 62d year.

There were papers in the drawer, before we put these in, to the value of over \$6,000, including the interest, as appraised.

They laid so that they could be come at by unlocking the drawer. 20

These papers consisted of bonds and mortgages, and I think one note for ninety some dollars. We put the mortgages of Mrs. Johnston in that drawer until the appraisement, and then I took them home with me. Anna Jones did not caution us not to let James E. Johnston get hold of these papers. She did not say anything about that. I did not have any other papers there that day except these mortgages and the will. I think we looked in the envelope at these papers that day, to see what they were, after we went in the room. I don't know whether Anna Jones knew what these papers were or not. She never told me. 30

I think the first I knew about the girls' deeds after the will was read was, I think, John Errickson said to me that the girls had deeds for the homestead. I think that was about the time of the appraisement. I don't remember whether Aaron Johnston asked me about these deeds while the ap- 40

praisement was going on. I think that Aaron Johnston did ask me something about the deeds, and I told him John Errickson had told me that he had taken them to Freehold to be recorded. The deeds I had never seen.

I remember a conversation with James E. Johnston and Aaron E. Johnston in February, 1880. I suppose it was then; I don't remember the time exactly. That took place in the northwest room in
10 the main house (Mrs. Johnston's), next to the road. Previous to that time the arrangement about the \$1,000 note and chattel mortgage had been made, and the consent had been executed and the \$1,866 mortgage had been cancelled. Aaron E. Johnston had seen these mortgages before this conversation, and they had been appraised. Aaron E. Johnston knew all about this. He had told me before that, that his mother was dissatisfied about her mortgages—more than once, I think.

20 I think I understood it that Mrs. Johnston had been informed the morning the will was read that Anna Jones had given me those mortgages.

Q. Then what was the sense, all these things being so, of Mrs. Johnston sending her husband to ask you to tell her what she knew perfectly well within an hour or two after it took place—that is, whether her mortgages had been handed you by Anna Jones the day the will was read?

30 (Question objected to as a matter of speculation of judgment of her acts and knowledge.)

A. I can't tell what sense there was. I had never understood that Mrs. Johnston had been informed that any deeds were handed me at that time.

Mrs. Johnston and her husband came to see me at my house soon after this conversation took place.

40 I don't recollect that she claimed that the deeds

had been brought out when the mortgages were at that time. She did ask me about the deeds to the Jones girls in the same conversation and in connection with her mortgages, and that was the first I had ever heard her speak of the deeds. I believe that was the first conversation that I had with her after her father's death. She asked me if I knew where her mortgages were that her father had given her. I think she said the deeds were given to the girls for the homestead. I suppose it was her intention to claim that she was entitled to her mortgages under the arrangement that the old gentleman intended to make. 10

At the conversation at Mrs. Johnston's in February, 1880, Aaron Johnston, his father and I were present in the room. Aaron and I had been talking probably half an hour when James E. Johnston came in. I don't know that I can recollect any other language used by James E. Johnston except as I have stated. I think he spoke of his wife being informed of the mortgages being handed over, and that she was dissatisfied. I think that is all I recollect of being said. 20

Q. Did you know that James E. Johnston had been informed a short time before that, by his son Aaron, that two envelopes containing papers had been handed to you by Anna Jones the morning the will was read, and that he had informed Mrs. Johnston, and that she had sent him expressly for the purpose of finding out from you about it at that time? 30

A. No, sir. I say that there was no mention of two envelopes being handed out made by James E. Johnston at that time, to the best of my recollection.

To the best of my belief and knowledge he did not speak to me about two envelopes being handed out. I never have admitted that Anna Jones presented two envelopes to me the day the will was read. She did not. 40

Aaron and I were talking about matters of the estate—about a check of some one's, I think. I don't think I can mention the items we conversed about.

I don't know that I can give you any expression that I used to Aaron that day, nor any language or expression that Aaron used to me. We talked for half an hour, more or less.

10 I do not know when Mrs. Johnston was first informed that Anna Jones handed me two packages the day the will was read, if she ever was informed that.

I don't know whether she had been informed of that before she had the \$1,866 mortgage cancelled and gave the \$1,000 note and the chattel mortgage. I don't know whether or not she was afterwards told about two packages being handed out.

(Exhibit No. 5 shown witness.)

20 Q. At the time this paper was signed by Mrs. Johnston, if it was signed by her, she may have been ignorant, for all you know, of Anna Jones having the Jones girls deeds and her mortgages in her possession, and of her having handed them to you, as has been stated ?

A. This is dated nearly two months before I had anything to do with Richard Corlies' papers, and in his lifetime.

30 Q. Can you inform me who has completed this paper by putting in a pencil date in the jurat ?

Q. I cannot. It is just as I found it in the assessor's papers. The assessor is dead, and I found this among his papers. If the lead pencil date "8" was taken out, I could not tell by the paper when it should be dated.

And being examined by the defendant Aaron E. Johnston further says :

40 I don't know that Anna Jones said anything

about the mortgages when we took them in the room the day the will was read. I believe we went directly to the drawer after she handed them to me. I am sure I looked at the paper. I think I took the ends of them out and saw what they were. You were in the parlor with me at that time. Papers, bonds and mortgages, a pocketbook and several sundry articles were in that drawer. I don't know that I put anything in the drawer besides these mortgages. I don't recollect how Anna's 10 hands were when she brought the mortgages out. I know when she handed them to me. I don't recollect that I took them out from that day until the appraisal. I think we looked at some of the papers in the drawer when I put the mortgages there. I don't remember any particular paper that we looked at. I don't know that I recollect where we were when you asked about the deeds. I think it was about the time we were there at the appraisalment. 20

Q. Was it not in grandfather's room where we were appraising, and did you not go into the sitting room and come back and tell me the deeds were at Freehold?

A. As I have said I don't recollect where we were, but I am confident that I never went in the sitting room and asked about them and then come back and reported to you about them.

Q. At our house in February, 1880, did I not ask you if they were the girls' deeds and mother's 30 mortgages that Annie brought out the morning the will was read, and did you not look right at me and answer yes?

A. I never heard you ask me any such question and I never answered Yes to any such question.

Q. At the same time did I not ask you what Annie was doing with them and did you not answer, still looking at me, 'I do not know'?

A. I answered no questions to you that day in regard to that matter. I answered the questions 40

put to me by your father. I swear that your father asked me if them was his wife's mortgages and how Annie came by them. I answered him Yes, and I didn't know what Annie was doing with them. I think I had been at the Jones house but a very few minutes before you came over.

Q. Did you hear me tell Annie Jones that mother wanted to know what she was doing with them and how she came by them, meaning the papers she had
10 brought out the day the will was read?

A. I can't say what you meant by them or exactly how you worded it, but you said your mother wanted to know how she came by them.

Q. Do you remember meeting me at Freehold a few days after mother had been to see you, and your speaking to me in Sandford's store about what she had said to you?

A. I don't recollect. I have met you here at different times. I think I recollect telling you that
20 there was something else Annie hadn't told you. I don't remember where we were. I think you asked me what it was. I think I did not tell you what it was. I think I told you that I shouldn't tell you. I don't know that I have ever told you what that was until this suit was begun. I told you I would not be a carrier of news in a family.

Q. Didn't you tell me on that occasion that you didn't know what it was?

A. No, I don't think I did. I told you I would
30 not tell you what it was. I can't say when the first conversation took place in reference to the foreclosure. I think it was with you and your father at my place. We were conversing over at the house about some matters that you had come to see me about before that. I don't know what they were. I don't recollect that there was anything said about the John L. Corlies shop and lot. I recollect a conversation in reference to the Corlies shop, but I don't know whether it was at that time or not.
40 I took these mortgages, together with the other

mortgages, and kept them. I think you came up there one time and got them and took them away and brought them back. You might have got them at the time we talked about the foreclosure. You might have asked me to see them and then have told me that the Fish Mortgage was being foreclosed. I told you at one time that your mother had not signed one of the mortgages, but I don't know the time. I think it is likely I asked you that day if that mortgage ought not be worth \$1,000. 10
That was in reference to the \$1,866 mortgage. I am not sure that your father was present when I asked that question, but he was when we spoke to him about it at the wagon-house. I think I asked that question after you had told me of the foreclosure, during the same conversation.

We went to look at the farm a short time after that. I think I asked you if you was willing if she could secure \$1,000 to cancel that mortgage. We spoke to Mr. Throckmorton before we had the 20
note wrote, for he wrote it, a few days before we had the mortgage cancelled. I don't recollect that we spoke to him about the chattel mortgage. I think you brought me the chattel mortgage already executed. I think David S. Crater drew the chattel mortgage, and that you took it and got it executed.

The note was given about the 20th of May, 1879, taking it from the date the check for it was presented at the bank.

Re-direct examination, by Mr. ELY : 30

You said on your cross-examination by Judge Robbins, I think I understood it that Mrs. Johnston had been informed the morning the will was read, that Anna Jones had given me those mortgages. In what manner do you desire to correct that statement?

A. I intended to say that I understood that she was dissatisfied about her mortgages.

Q. In the conversation which you had at the 40

house of Mrs. Johnston, about February 14, 1880, with James E. Johnston, may not Aaron E. Johnston have put to you certain questions at the same time of the conversation between you and his father?

(Objected to as leading, suggestive, and otherwise illegal.)

A. He might.

10 Q. If he did, did you hear or pay any attention to his questions?

(Same objection.)

A. I did not.

Q. Were the answers made by you at that time, made exclusively to the questions of James E. Johnston?

(Same objection.)

20

A. They were.

(Paper shown witness.)

This is the \$200 note mentioned. It is dated May 17, 1879, made to Levi G. Irwin, Exr., &c., of Richard Corlies, and signed by Elizabeth Johnston and Anna E. Johnston.

30 (This note offered in evidence and marked Exhibit No. 6, on the part of the defendants.)

LEVI G. IRWIN.

Sworn before me this day of }
 July, and subscribed before }
 me this 14th day of July, A. }
 D., 1881.

JOSEPH McDERMOTT,
 Master in Chancery of New Jersey.

Defendants rest.

40

The further examination of witnesses, &c., in the above stated cause stands adjourned until Friday, August 26, 1881, same time and place.

On Friday, the twenty-sixth day of August, A. D., 1881, the examination of witnesses, &c., in the above stated cause was resumed in the presence of the same counsel.

JOSEPH McDERMOTT,
Master in Chancery of New Jersey. 10

STEPHEN S. GARRISON, a witness produced on the part of the complainant, who has been heretofore sworn in this case:

I am the same Stephen S. Garrison who was already sworn in this case. I have my duplicate here as Assessor for Howell Township, for the year 1881.

Q. Please produce it, and turn to the assessment of Elizabeth Johnston, the complainant?

A. This is my duplicate, (book produced by witness,) and I have turned to her assessment. I have assessed her for \$1,500, 200 acres. The Bridge house and lot is assessed at \$200. 20

Q. A lot is described in the will of Richard Corlies, as "The lot on the south side of the railroad, called the Locust lot, said lot is south of railroad, and west of main road from Farmingdale to Squankum, and west of a lot deeded by me to Sarah Smith, and east of the new road and Jacob Walters' lot." Is this the lot you have last referred to? 30

A. Yes, sir; this is the lot where Bridge lives. The next assessed to her is the homestead farm.

Q. Have you, on your book any assessment to her of "one lot?"

A. Yes, sir, "one lot." I have assessed that at \$100.

Q. Have you assessed to her another "house and lot?"

A. Yes, sir; that is assessed at \$200. 40

Q. I find in the Will a devise to Mrs. Johnston of "the house and lot adjoining where she now lives, on the north, known as the John L. Corlies' Shop." State whether or not that is the last house and lot you have mentioned?

A. Yes, that is the last one.

Q. I also find in his Will a devise of the following land: "All the land I own adjoining the tavern and store property in Farmingdale, now owned by her, and the new road on the west, the railroad on the south and the main road on the east." Does that describe what you have assessed as above stated as "one lot" at \$100?

A. That lot lays in there, but whether it includes all or not I can't say. I have assessed Wesley Cottrell and wife for the Scott farm, 60 acres, at \$1,800; I have assessed to Anna Jones for the Elisha Jones' place, 24 acres, at \$720; I have assessed to her for the "Share" house and lot \$600; I have also assessed her for one lot for \$50, which lays in back of the barn on the homestead, between there and the main road I think it lays; I have assessed to Eleanor Jones and Mary J. Jones for the Howland place in Farmingdale, 20 acres, at \$50 an acre, and the balance of it, 17 acres, \$340, making \$1,340 for the Howland farm; I have assessed to them \$800 for what is known as the Homestead. I think there was about fifteen acres of out lands, which were assessed last year, which I missed this year; they were assessed at \$70, which was devised by R. Corlies to his granddaughters.

Q. I find in the Will a devise to Anna Jones of "the lot known as the old school house lot, lying on the west side of the highway to Squankum from Farmingdale, near Ketcham's butcher shop, on the south side of said shop. Do you know this lot of land?"

A. Yes, sir; that is assessed to George G. Brower. In my judgment that lot of land was worth \$200 in 1879—it might have been worth more. I have here

my duplicate which I made out for 1880. (Book produced by witness.) I assessed that year the Harmony farm to Mrs. Johnston, the same as this year, \$1,500; the Burdge house and lot same as this year, \$200. The "one lot" at \$100; the John L. Corlies' house and lot at \$200; I assessed the Howland farm to Eleanor and Mary Jones at \$900 in 1880; the Homestead, the Howland farm and out lands was assessed to Ella and Mary Jones at \$1,870 in the year 1880. 10

The Elisha Jones's farm was assessed to Anna Jones at \$600 that year.

The "Shear house and lot" at \$400.

The "one lot" at \$100.

The Scott farm was assessed in 1880 to J. W. Cottrell and wife at \$1,800.

I produce here now my original duplicates for the years 1880 and 1881. (Book produced by witness.) This is the collector's tax duplicate. It is made out for me as assessor, and I gave it to Mr. Donahay, 20 the collector.

(Assessor's duplicate of Howell township of 1880 offered in evidence, which duplicate I have marked Exhibit N on the part of complainants.)

(Assessor's duplicate of Howell township of 1881 offered in evidence, which duplicate I have marked Exhibit O on the part of the complainant.) 30

(The duplicate of Joseph Donahay, collector of Howell township for 1880, offered in evidence, which duplicate I have marked Exhibit P on part of complainant.)

(The above offers objected to as irrelevant, not proper at this time.)

I am a land owner in Howell township, at Lower Squankum; I have been a land owner in that local- 40

ity for twelve or fourteen years ; I bought a piece below Farmingdale a few years ago and have sold that.

I assessed these lands to the best of my judgment at what I thought they were worth—I mean the lands I have above referred to.

And, being *cross-examined*, says :

10 I think the whole of the Harmony farm is in Howell township ; the house and barn is in there.

This 200 acres is mostly out lands ; some cleared land.

I think there is about 40 acres of cleared land on the place. There is a dwelling house and a barn on it. They are poor though. I think I assessed it at its full value. I don't think it would fetch more at a sale.

20 There is a house I should think 16 by 20 feet on the Burdge lot one and a half story high. It is a poor one. I can't tell how large the lot is. I think there is between half an acre and an acre in it. It is located in Farmingdale.

30 That was assessed for all that I would want to give for it. The John L. Corlies house and lot lays just north of the homestead where Mr. Johnston lives. There is a small house on it. I think 16x18, 1½ stories high. I think there is some $\frac{25}{100}$ of an acre in it. I should think that was assessed at its full value. I assessed the Anna Jones property at \$600 for the Elisha Jones farm, \$400 for the Shear house and lot, and \$100 for the one lot in 1880.

Q. Was there anything put upon the property last mentioned to make it more valuable since the assessment of last year ?

A. No, sir. I wanted to raise about \$18,000 more valuation, and wherever there was a piece of land that I thought would bear it, I put it on.

40 There was nothing put upon the property of Eleanor or Mary Jones to make it more valuable.

Q. Then do you change the valuation of property according to the amount you want to raise?

A. Where I think property will bear it I do.

Re-direct examination :

There are no improvements on the Howland farm. On the homestead there is an old house and barn. That is located right in Farmingdale. There is a small house and a small barn on the Elisha Jones farm.

10

There is a house on the Shear lot. There is a house and barn on the Scott farm, about like the ones on the Harmony farm. The buildings may be a little better on the Scott farm. The most of the Scott farm is improved land. There is about sixty acres in it.

S. S. GARRISON.

Subscribed to before me, }
 this 26th day of August, }
 A. D. 1881. }

20

JOSEPH McDERMOTT,

Master in Chancery of New Jersey.

GEORGE G. BROWER, a witness produced on the part of the complainant, being duly sworn according to law, on his oath saith :

I live at Farmingdale. I am 36 years of age. I have lived in Farmingdale all my life. I am the owner of real estate in and about there. I have been engaged in the sale and renting of real estate in the Township of Howell for the last eleven years. In that capacity I have bought some for myself and sold considerable for other people.

30

Counsel of complainant reads from a copy of the will of Richard Corlies a description of the lands therein devised to Elizabeth Johnston, the complainant, and Elizabeth Cottrell, Anna Jones, Eleanor M. Jones, and Mary J. Jones.

40

I am acquainted with all of the properties you have read from this will.

On the first day of January, 1880, the Harmony farm was worth from \$2,000 to \$2,500, I should say. At the time the John L. Corlies house and lot was worth, I should say, \$450. That would be a fair price for it. That includes all the property devised on that side of the road. The lot called the Locust lot was worth at that time, I should think, \$450 to
10 \$500. This Locust lot is the same as is called the Burdge lot in Mr. Garrison's testimony.

Q. What, at that time, was the lot described in the will as "all the land I own adjoining the tavern and store property, now owned by her," &c., worth?

A. I should consider that worth \$400, with the improvements on it. That is northwest from the railroad. It might not bring over \$300 at a public sale. I know the lot where Mrs. Johnston now resides. Without the improvements on it, I should
20 think that \$250 would be a fair price for that lot. It might have brought \$100 more ten years ago, but not any more, in my judgment.

On January 1, 1880, I should think the Scott farm was worth from \$2,000 to \$2,500. The Shear house and lot was worth \$600. I should think that a small price for it. I have a deed for the school-house lot. I hold it by contract. The deed is to be delivered. Two hundred dollars is the price I paid for that lot. The price paid for the whole of that
30 parcel of land, as described in the will, since 1879, is \$300.

I think that was a fair price for the property on January 1, 1880, and yet I think it was a low price.

At that time I think the Elisha Jones farm was worth between \$800 and \$1,000.

The Howland property was worth, at that time, \$1,500.

I should think \$100 was all the woodland—fifteen acres—was worth.

40 The lot on the road from Henry Cottrell's to

Brower's hotel, adjoining Goodenough's land, called three-cornered lot, I should think, at that time, was worth \$100.

The Homestead, in Farmingdale, I should think, at that date, was worth at least \$1,200.

And being cross-examined :

I have heard the testimony of the Assessor of Howell Township given this morning.

I differ from him as to the value of the pieces of property mentioned. I presume his assessment is made pro rata and not as to its intrinsic value. 10

GEORGE G. BROWER.

Sworn and subscribed before me, this 26th day of August, A. D. 1881. }

JOSEPH McDERMOTT,
Master in Chancery
of New Jersey. 20

GEORGE W. FIELDER, a witness produced on the part of the complainant, who being duly sworn according to law, on his oath says :

I live at Farmingdale. I have lived there three years, and at Squankum, about 2½ miles away, about fifteen or twenty years.

I have owned real estate in the township of Howell, but I do not now. 30

I hold the office of Justice of the Peace. I was elected in 1880. I heard you read the descriptions of the lands devised to Elizabeth Johnston and the Jones girls from the will of Richard Corlies.

I have made an estimate of the value of those properties on the 1st of January, 1880. I am acquainted with these various properties. My estimate of the value of the property devised to Elizabeth Johnston, the complainant, in the aggregate, was \$3,200. I also included in my estimate the 40

homestead place deeded to the Jones girls. I estimated the homestead at \$1,000. I estimated the Scott farm \$2,200 ; the Elisha Jones farm at \$1,000. The Howland farm \$1,600. The Shear house and lot at \$600. The school house lot \$300. The 15 acres of outlands, \$200. The three cornered lot at \$200. I did not include in my estimate of Mrs. Johnston's property [the lot where she lives. I should think that lot without the improvements was worth \$250.

10

And being cross-examined says :

In my estimate of Mrs. Johnston's property I valued the

Harmony farm at.....	\$2,000
The Burdge lot.....	300
The John L. Corlies lot.....	300
The lot Northwest of Railroad.....	300
Another part of the Corlies lots.....	300

20

—————
\$3,200

The property where Mrs. Johnston lives with the improvements on it is worth about \$1,500.

GEO. W. FIELDER.

Sworn and subscribed to be- }
fore me, this 26th day of }
August, A. D. 1881. }

JOSEPH McDERMOTT,

30

Master in Chancery
of New Jersey.

JOHN L. CORLIES, a witness heretofore sworn in this case, being recalled, says :

Q. State whether or not you were at your brother Richard Corlies house to any extent during his lifetime, and if so to what extent ?

A. I was there during his lifetime pretty often, every year after I moved away from Monmouth 40 County. I moved away in 1859. I know that he

always kept female help about the house. I boarded there four or five years. This did not include the Jones girls. Mary Jones, the aunt, was part of the help I referred to. He had a girl there by the name of Becky Parks. He had his niece there, a daughter of Benjamin Corlies. He had a girl by the [name of Mount, and had different ones. I heard Richard Corlies say that Benjamin Jones had squandered a great deal of money in New York, and that he had to keep the whole family and pay 10 the doctor bills too. He said that to me when I was down at his place.

And being cross-examined, says :

In 1833 or 1834 I commenced boarding with Richard Corlies and did so for four or five years, except the time that I boarded there. I was not there much until his children were married and then I was there somewhat.

20

Redirect-examination :

About 1868 I commenced to go there more frequently, and had business with him, and went there up to the time of his death.

And being cross-examined, says :

I went there once a year, sometimes twice. After I came back I was there more ; I was there frequently.

30

JOHN L. CORLIES.

Subscribed to before me,)
 this 26th day of Au-)
 gust, A. D. 1881.)

JOSEPH McDERMOTT,
 Master in Chancery
 of New Jersey.

40

STEPHEN M. DISBROW, a witness produced on the part of the complainant, who, being duly sworn, according to law, on his oath says :

I reside at Farmingdale, this county. I am a physician, and have practiced in Monmouth County a little over forty-seven years.

I attended upon Richard Corlies in his last illness. I visited him twice on the day he died.
 10 I don't recollect the time of day that he died. It was between dark and early bed-time. I did not see Mrs. Elizabeth Johnston during that day ; I saw her there in the evening.

I was sent for late in the afternoon of the day he died. I went there in the room and examined his case. I was alone in his room with him at the time. This was not more than from four to six hours before he died. It might not have been as long as that. In going from his room to
 20 the adjoining room, where the family were, I met one of the granddaughters, I think it was, who inquired of me if I thought her grandfather very sick. I stated to her, yes, and be on the alert, for unless he rallies quickly he won't live till midnight. As a matter of course, it produced some excitement in the family. There was nothing, so far as I know, about sending for Mrs. Johnston at that time. I stayed with them for a little while and then went away remarking, 'I will go home and
 30 get my tea, and then return again.' I went home, and before I got through with my tea I was again sent for ; the message was urgent and I went immediately. It might have been two hours since my first visit when I got there. I went there and found Mr. Corlies in a dying condition. I remained there until after his death. I think I was there about a half an hour. Mrs. Johnston was there when I went in, and remained there until he died. She was in a very feeble state of health. I do not know
 40 how long she had been there when I went in. I

was told that she had me sent for the second time. I don't think he was able to speak when I got there the second time, not to talk intelligently. It was with difficulty that I could get medicine down him when I first called. I don't think he articulated at all the last time I was there. I think, at the first call that day, after I roused him, I think he answered me when I asked him how he felt, and such questions as that. It was not very distinct, but so that I understood him. He seemed at that time to be extremely prostrate, and unless he rallied from that state he would not live till midnight, and he didn't. 10

And being *cross-examined*, says :

I have no distinct recollection of one of the girls asking me if they had not better go for their Aunt Lib. It might possibly have been. I did not see her there the first time, but I saw her when I went there the second time. The old gentleman had been more or less complaining for some time before that. I did not inform him on my first visit that day of his condition. I did not think he could comprehend it. 20

Re-direct examination :

He could not comprehend or realize it on account of his extreme prostration of body and mind both. He was in a stupor. He could be aroused to consciousness by agitation and loud calling. 30

S. M. DISBROW.

Sworn and subscribed to, before me, }
this 26th day of August, A. D. 1881. }

JOSEPH McDERMOTT,

Master in Chancery of N. J.

GEORGE W. FIELDER being re-called, further says :

I was one of the witnesses to the last will of Richard Corlies. He called on me to act as a witness. He came to the saw mill where I was at work at Farmingdale.

Q. State fully what he said to you at that time?

(Objected to as incompetent.)

10

A. He told me he wanted me to come up to the house and see him sign his will. I asked him if the will was ready for me to sign, and he told me he had it all ready, as he thought he wanted it. He said he intended to leave it equal between his grandchildren and his daughter. He asked me if I thought he was in his right mind. I told him to go up to the house and I would come up directly. I went and signed the will as a witness. This was the same
20 will which was probated, and I was sworn as a witness to that will before the Surrogate.

And being *cross-examined*, says :

Q. Did he lead you to believe from what he said that he would make them equal by his will?

(Objected to as incompetent.)

A. I was kind of satisfied from what he said that
30 that was his intention.

Re-direct examination :

Q. You have stated what he said and only draw your inference from that, do you not?

A. Yes, sir.

Q. Then when he said he meant to leave it equal
between the parties named, he might just as well
have meant to include what he had already distrib-
40 uted, might he not, so far as you know?

A. I don't know what he might have concluded, I only take my inference from what he said.

GEO. W. FIELDER.

Subscribed to before me, this 26th)
day of August, A. D. 1881. }

JOSEPH McDERMOTT,

Master in Chancery of N. J.

AARON E. JOHNSTON, a witness for the complainant, being recalled, says: The executors of Richard Corlies have been served with a notice not to pay any of Mrs. Johnston's money in the estate on the \$1,000 note and the \$1,000 mortgage. 10

(Paper shown witness.)

That is a copy of that notice. This notice was served about March 23, 1881.

(This copy of notice offered in evidence, 20 and I have marked the same Exhibit Q on the part of the complainant.)

I was at my grandfather's house at the time of his death. I took my mother over there. It might have been two hours before his death that I did this. I went right direct in the room where he was with her.

Q. Anna Bartow has sworn in these words: "Mr. Corlies was not past speaking when she (your 30 mother) got there (referring to the time of his death). She went up by him, and he said, 'Well, Elizabeth?' and she said, 'How do you feel?' and he said, 'I feel pretty bad.'" Did anything of this kind occur at that time?

A. We went over. We went direct to his bedside. She called him "Father" several times, and tried to get him to speak to her. He said nothing, only groaned; kept a continual groaning, a kind of a guttural groaning. He wasn't conscious of any- 40

thing that I could see. I did not hear him utter a word; not the suspicion of a word; never heard that he was conscious in the least. I was there in his room about a half an hour, either in his room or right by his door. Then I went after the doctor. She sent twice for the doctor. Perrine Donahay was not present the day the will was read. He was not at my grandfather's that day, to my knowledge. I know my mother went over to see Richard Corlies
10 when he was sick. I know she would make something, and take it over sometimes.

Q. Mr. Irwin has testified that on the occasion in February, 1880, at your mother's house, and your father came in the room where you were, that he said to him (Irwin) that your mother was dissatisfied about her mortgages, and wanted him to ask Irwin about them, that he didn't hear you ask him any question, as you have stated, about the Jones girls' deeds and her mortgages, and did not answer
20 you as you have stated he did. Did he hear you and answer you? State how it was?

A. It is true that father came in the room and said his wife was worrying about her mortgages, but when I spoke to Mr. Irwin, and asked him if those were the girl's deeds and mother's mortgages that Annie brought out the day the will was read, father was not speaking. Mr. Irwin was looking at me, seemed to listen to what I said, and answered me as I have stated already. His attention did not
30 appear to be distracted, and he was looking right at me and was within two and one-half feet of me.

Q. Mr. Irwin, in speaking of the conversation that occurred at the house of Richard Corlies when you went across to inquire of Anna Jones about the mortgages, says that she then told him after you had left that she hadn't told him all that her grandfather had said when he gave her the mortgages to keep, and that she then told him about his wanting her to lock them up, for fear that your father might
40 get them and destroy them, &c. Did you ever,

prior to the time Mr. Irwin was sworn in this case, ask him what it was Anna said she had not told him; and, if so, when was it and what did he say?

A. I met him in Freehold, a few days after the conversation down there, and we were talking about what Annie had said, between Richardson's Hotel and J. F. Sandford's store. He then told me that Annie said after I left that there was something she hadn't told me. I asked him what it was, and he said that she didn't tell him. 10

I heard the testimony of Stephen S. Garrison, George G. Brower, and George W. Fielder given in this case this morning. I also know the various parcels of land devised by the will. Their testimony covered and included all the land devised by the will. I think there were nearly two hundred acres in the Harmony farm, but I believe there are some 30 acres included in another survey. The room where the will was read was about 20x22 feet; may be 22x24 feet. 20

Q. Mr. Irwin has stated that at a conversation at his house, in regard to the \$1,866 mortgage, at the wagon-house, and you then talked about the foreclosure of the Fish mortgage, and he asked your father what he proposed doing in the matter, and that he said that the whole amount of the indebtedness of the two mortgages was more than the property was worth, and he would have to let it go; that he would like to keep it, but to pay all there was against it he couldn't do it. Did any such conversation take place? 30

I don't remember of any such conversation. The day I told him about the foreclosure I drove there alone. Father was not with me.

And, being *cross-examined*, says:

On the day that my grandfather died mother went over to his house, because Mellie Jones came over after her. I should judge that was from two hours to two and a half before he died. I left my 40

mother in my grandfather's room when I went after Dr. Disbrow. I might have been 15 or 20 minutes gone after the doctor. I was out of my grandfather's room 20 or 25 minutes before the doctor got there.

At the conversation which took place in our house in February, 1881, my father came in and spoke to Mr. Irwin. My father said his wife was worrying about her mortgages and wanted to know
10 about them, or something like that. I spoke up as father ceased speaking, and Mr. Irwin looked at me and answered.

Q. Didn't you intrude your question between what your father said or his question, and before Mr. Irwin answered?

A. Father had ceased speaking when I asked the question; Mr. Irwin was paying no attention to him when he answered me, and couldn't have said Yes to him and made any sense.

20 Q. When you asked your question had Mr. Irwin answered your father?

A. No, he never answered it. I don't know that he asked him any direct question, to the best of my knowledge.

Q. Your father says, in his examination, that your mother wanted him to go in and ask Mr. Irwin if he knew anything about the mortgages, and that he did go in and ask Mr. Irwin that question, and that was as far as he got when you spoke up
30 and said, "Mr. Irwin, was them the girl's deeds and mother's mortgages that Anna handed to you the day the Will was read?" Mr. Irwin replied, "Yes." Did the conversation occur in the way your father has narrated?

A. My recollection is that he said his wife was worrying about her mortgages, and wanted to know if he (Irwin) knew about them.

Q. Did Mr. Irwin have an opportunity to answer your father's question, unless he answered it after
40 your question was put?

A. He seemed to have no inclination and paid no attention to him. Father was in a different direction from him from what I was. He paid no attention to him after I commenced speaking; he could have answered while I was speaking. This 30 acres that is claimed off of the Harmony farm is about of the same value as the rest of the uncleared land. The main value of the farm is in the uncleared land.

I don't remember a conversation between my father and Mr. Irwin in reference to the mortgage.

AARON JOHNSTON.

Subscribed to before me this }
 26th day of August, A.D., }
 1881.

JOSEPH McDERMOTT,
 Master in Chancery of N. J.

EDWARD C. BARKALOW, a witness for the complainant, recalled: 20

Q. Annie Bartow says in her evidence that when these papers were handed by her to Mr. Irwin the day the will was read you were in the kitchen talking to her aunt—is this true or not?

A. No, I was in the room where the will was read and where the papers were handed.

Q. Is it true that you were on your knees crying in the kitchen? 30

A. No, sir.

I did not leave the room after will was read and before Anna Jones came down stairs with the papers. I was in the kitchen after the papers were handed out, talking to her aunt, Mary Jones. It was a few minutes after the papers were handed out, may be half an hour.

I think some of the Jones girls were in the kitchen—I don't know exactly who. I talked with Mary Jones about five minutes and then went out. 40

They were preparing for dinner. I don't remember whether the kitchen door was open or shut when Anna Jones handed the papers to Mr. Irwin. Perrine Donahay was not in the room when the will was read.

And, being *cross-examined*, says :

I supposed Mr. Corlies would leave me something by his will. I was disappointed when I heard the will read. I think I went out in the kitchen and spoke to Mary Jones about it.

I did not tell her that he had left she and I the wide world to get our living in.

I don't remember what I did say. I think I spoke to her about a deed that I expected he would leave.

This disappointment came upon me as soon as I heard the will. It worried me a little at the time. After I heard how I was treated I don't know that I thought more about my business than of the rest. I did not go out right away when the will was read; not until the business was all done.

Re-direct Examination :

After Rebecca Jones died Richard Corlies was in the habit of keeping female help at his house. Sometimes he had two women there. It was a usual thing for him to have female help there outside of the Jones girls. Benjamin Jones was there more or less before he died.

And, being *re-cross examined*, says :

Elizabeth Cottrell and Anna Jones helped a little round. Anna Jones worked out doors—some in the cane—a day or two. I was at the house every week for three or four years before Mr. Corlies' death. I have seen them work a little.

EDWIN C. BARKALOW.

Subscribed to before me, }
this 26th day of August, }
A.D. 1881.

JOSEPH McDERMOTT,

Master in Chancery of New Jersey.

AARON E. JOHNSTON, recalled :

Q. I see by the will of Richard Corlies it is provided that Anna Jones shall provide for her Aunt Mary and pay her funeral expenses, under certain terms mentioned in that will. State whether or not Mary Jones has released her from this provision, and, if so, when and how it was done ?

(Objected to because the papers are the best evidence.) 10

A. She released her on the 23d day of March, 1880. Anna paid her \$200. It was executed before R. Tenbroeck Stout. He was a Commissioner of Deeds, I believe.

I heard the release read and saw it executed. I have looked for it to-day on the records of this county, but could not find it.

AARON E. JOHNSTON.

Subscribed to before me, } 20
 this 26th day of August, }
 A.D. 1881.

JOSEPH McDERMOTT,
 Master in Chancery
 of New Jersey.

The examination of witnesses, &c., in the above cause stands adjourned to Friday, the 16th day of September, A.D. 1881, same time and place. 30

On Friday, the 16th day of September, A.D. 1881, the examination of witnesses, &c., in the above cause was resumed in the presence of the same counsel.

JOSEPH McDERMOTT,
 Master in Chancery
 of New Jersey.

JAMES P. DONAHAY, a witness produced on the part of the complainants, being duly sworn according to law, on his oath saith :

• I live at Jerseyville, in Howell Township, Monmouth County, N. J. I am a son-in-law of Mrs. Johnston, the complainant in this case. I married her daughter—her oldest daughter, Mary Rebecca—in 1871.

10 I usually go by the name of Perrine Donahay. That is my middle name.

Q. Annie Bartow and other witnesses in this case have sworn that you were present at the reading of the will of Richard Corlies, at his house in Farmingdale, by Levi G. Irwin on the day following his funeral, somewhere between 10 and 12 o'clock in the morning. State whether or not this is true ?

20 A. No, sir. I wasn't there. I was not at that house that day. I never heard the will read by Levi G. Irwin. I may have heard a copy of it read by some of the Johnstons. The statements as to my having heard the will read as they say are not so. I was not at the house nor in the room at the time it was read, as they mention.

And, being *cross-examined*, says :

30 I was at Mrs. Johnston's house, on the other side of the road, when the will was read. I did not see the Jones girls or Mr. Irwin that day to speak to them. I was not present in company with them that day at all.

JAMES P. DONAHAY.

Sworn and subscribed before me, this 16th day of September, A.D. 1881. }

JOSEPH McDERMOTT,
Master in Chancery
of New Jersey.

ELIZABETH JOHNSTON, the complainant, being again sworn, on her oath saith: I am the complainant in this case.

Q. Mr. Levi G. Irwin has produced a claim for deduction on taxes, marked Exhibit No. 5, in this case. Please state the reason why this claim was made to the assessor.

A. The reason why I didn't pay the taxes was that I could get no clue to them, and after I did hear where they were they commenced fighting on them. The heirs and executors contended that they belonged to the estate and not to me, and they appraised them in the personal property of my father before I could stop them. I had asked for them. I claimed the deduction before father's death, because I didn't feel able to pay the taxes, and I knew that father was willing and able to do it. He never found any fault with me or requested me not to claim any deduction for them. He never spoke taxes or interest to me after he had said to me what he did. 10

Q. What do you mean by saying to you what he did?

A. That he had given me my mortgages, and the Jones girls as much by deed on the other side of the road. He said that to me in the first of September, or the last of August, 1874.

(The last answer objected as being a repetition of what has been previously testified to. He referred to the \$1,866 mortgage, and the \$1,000 mortgage). 30

It was in 1876 that father said this. I had reference to the time his first will was made, when I said 1874. That was the will which Mr. Pearce drew. This conversation took place out by our garden gate in our yard. He says, as I was standing on the stoop, as he came through the yard, Elizabeth, come here; I want; you. I supposed I would find him in the garden, but I found him at the gate waiting. He 40

said: Elizabeth, I am going to give you your mortgages, and give the little girls as much by deed on the other side of the road.

Q. Now, referring to the claim for deduction, Exhibit No. 5, what did you say to him about taxes at that time, and what did he say?

A. I says, O, father! we have more taxes to pay now than we can bear. Well, he says, Elizabeth, think upon it. And after that he never claimed
10 any taxes or interest against me and I never paid him any. The land on the other side of the road that he spoke about was the same that he did deed to them by the deeds that have been offered in this case.

A few days after that he spoke to me again about this same matter, four or five days afterward.

He said, as we were talking in our dining room, Elizabeth, you must let me do as I wanted to with your mortgages. I have no recollection of making
20 any reply to him about it.

The matter of paying the taxes had all to do with my not taking the mortgages at that time. It prevented my taking them; as we were unable to pay the taxes. Several times he said they were mine, and that I would have no debts to pay to his estate when he was dead.

(All the above evidence, which is a repetition of previous testimony of Mrs. Johnston as to what her father said as to giving her the mortgages, objected to as incompetent on
30 rebuttal).

My father did not require so much attention. The last two years of his life he was quite healthy, but before that he had two severe attacks of sickness.

I was as much of a hand to wait on him at those times as any one. I either sat up with him or some of my family did. During his last two years I gave him attention. I was not at his house so much but
40 he came over to our house.

He was at our house every day or two, sometimes 2 or 3 times a day. I heard Susan Farley testify in this case. I sat near her all the time. I heard her statement as to his sore face and her dressing it. It is true as she stated.

The matter with his face was erysipelas. Annie Bartow might have worked in the cane some, when she was 11 or 12 years old, but never after that.

The Jones girls did whatever they chose about my father's house, sewing or whatever they liked. They always kept help. There was nothing compulsory about their working. 10

I have known them to have two girls at a time to help, and at one time they had three, but they always had one. Their aunt, Mary Jones, was always with them after their mother's death; she did as much as any of them, probably more; she was there before my sister's death and remained there until after Richard Corlies died; she is there yet; she brought in a bill for \$900 against the estate for her services. I know that the father of the Jones girls was there before his death, that that was his home, and that his washing and mending was done there; he died and was buried from there. 20

Q. Mr. Bartow has testified that in the fall of 1878 your father came across the street from your house and asked her if she had ever told any one that she had those mortgages, and that you had told him that afternoon that you had heard that he had given them to her to keep, and that you thought he might just as well let you keep them as her (Annie). Did you say this or anything of this kind to your father then or at any other time? 30

A. Never; no such word ever passed between my father and I. The property that my father let me have on the other side of the road from his house where the house is built, consisted of just a vacant lot, no fencing; I should suppose \$200 was a big price for it; it was about 1867 that he gave it to me. 40

The property he gave to the girls was the old homestead; there was the homestead house, barn and other outbuildings on that; there was another small house and shop on it also which they have since torn down; it was newly fenced just before his death; there was a nice little orchard on it also. He did not put any of the improvements on my lot or pay for them; I have given notice to the executors not to appropriate any of my money in the estate to
 10 pay the note of hand or my mortgages in question in this case. (Exhibit Q shown witness). That is a copy of the notice that was served. The original of that copy was served on Mr. Irwin in March or April, 1880; Annie Jones' father never got her any clothing, nor did her mother; he might have got them some little things but no clothing. She always told me that my father had the poultry, and I know that he clothed her and gave her everything that it was necessary for her to have, and all that she did have;
 20 I never knew that Mr. Jones gave them any money to get clothes with. My father always told me that Jones never got them anything; Mrs. Jones, my sister also told me that he did nothing for the children or for her, that he only got her a cheap calico dress while she was his wife.

(The above evidence as to what was told to Mrs. Johnston objected to as hearsay and incompetent.)

30 My sister's death was caused by a cold; she had been in delicate health for two or three years and caught a cold.

Q. What caused your sister's delicate health?

(Objected to as immaterial and irrelevant.)

A. My sister told me that she might blame her husband, Benjamin Jones, for her suffering and her death—if she died, which she did—because of his
 40 going with bad women where his money was spent.

(This answer also objected to as hearsay.)

I understood from her that she contracted disease from him; she wouldn't let me send for him when she was sick; he didn't see her until after she was dead; he died about a year and nine months after her death. She had this disease that she got from him about two or three years; I think he died from the same disease; he was never well; he was always doctoring in the city when he was there; it was a disgraceful disease, and one that I don't like to speak of. 10

(All the above evidence of the witness as to the disease of her sister or her sister's husband from the effects of which she states they died, objected to as immaterial, irrelevant, hearsay, the witness not being shown to be an expert in diseases of that kind, and not speaking of her personal knowledge from any examination made by her, and not basing it even on the testimony of a competent physician.) 20

The eyesight of Mr. Jones and my sister also was very much affected before their death; she was so much so that she could recognize me when I came in the door only by my voice; there were other appearances that I could speak of but I don't like to. I know of my father having paid bills for Mrs. Jones after her death; one to Lewis Trevis for near \$100; I 30 think he paid a bill at Williams' store, but I can't state the amount. He paid her funeral expenses and physicians' bills.

Father had a family on the farm where the men generally boarded. He had a bound boy, who boarded with him, and occasionally others might eat there.

My father was not very particular, and there were no pains taken with him. He ate with the hired men or with the boy who lived with him. 40

Q. Annie Bartow says, in her evidence, that when you went to your father's house, at the time of his death, that he was not past speaking, and that you went up by him, and he said, "Well, Elizabeth," and you said, "How do you feel?" to which he replied, "I feel pretty bad." State whether or not he was past speaking and whether any such conversation as this took place?

A. There was not a word spoken—his lips and
10 eyes were closed, and he only groaned. I went there that day as soon as I was sent for. I did not know his dangerous condition until I was sent for.

Q. On the time in February, 1880, when Mr. Irwin was at your house and your husband went in and asked him about your mortgage and your son Aaron asked him if they were the girls' deeds and your mortgages that were handed him the day the will was read, to whom did Mr. Irwin make answer, to your husband or your son, as you were able to
20 discern?

A. To my son Aaron. My husband didn't ask him about the deeds.

I have no doubt at all but that he understood it all and answered Aaron.

(Answer objected to as an effort of the witness to gauge another person's understanding.)

30 And, being *cross-examined*, says:

The affidavit, Exhibit No. 5, I can say, was made on June 20, 1878. If it was not made then, I don't know when it was made.

Q. Can you testify that it was made at that time?

A. I can't say that it was or wasn't. It looks like my signature to the affidavit. I can't say whether I recollect making that affidavit at any time. I don't say that my name is forged to that
40 affidavit. I am acquainted with my own signature,

or think I am. I can't swear that it is my signature.

Q. Did you always claim a deduction for taxes on the \$1,866 and the \$1,000 mortgages held by Mr. Corlies?

A. Do you mean before my father's death?

Q. Yes, madam.

A. I did claim a deduction. I didn't pay them.

At the conversation with my father, in 1876, my father said the mortgages are yours, and there will be no debts to pay to my estate when I am dead. 10

Q. Did you understand that those mortgages, from what he said at that time, were to be yours from that time or that they were to be yours when he died?

A. I counted them mine from that time. He never told me where he kept those mortgages. Mr. Corlies enjoyed pretty good health the last two years of his life, except he had sores. He went out every day. When I sat up with him, it was two years before his death. He had a severe attack once each year in each of these years. He was sick about two weeks each of those times. Independent of those two weeks those two times he enjoyed good health for several years. Mary Jones, the aunt of the Jones girls, came to Richard Corlies' house during my sister's sickness. I sent for her. My sister has been dead fourteen years. Mr. Corlies always employed a domestic in addition to her up to the last few years—sometimes they had two. 20

The bulk of the work has been done three or four years by Mary Jones and the Jones girls. Previous to that time he had one or more in addition to Mary Jones. 30

Mary Jones brought in a bill of \$900 against the estate for her services, I suppose.

That bill was settled by the Jones girls. The estate refused to pay it.

Whatever was paid her on this bill has been paid by the Jones girls. I have paid her nothing. 40

My father did not give me the possession of these mortgages, because I spoke to him in the manner in which I did about the taxes. The first time my father told me that the mortgages were mine was in 1876. The first time he spoke to me about giving me the mortgages was in the last of August or first of September, 1876. I suppose he spoke to me about the mortgages being mine a half a dozen times.

10 The last time he spoke to me about it was in the spring of 1878.

I can't say why it was so often repeated that the mortgages were mine, if I understood them to be so from the first time he said so, but it was in speaking of the trouble I had in raising some money on a mortgage, and he knew I was worrying about the debts.

20 The Jones girls did whatever they chose about my father's house ; there was no compulsion ; they did what they wanted to. I can't say how long I had my lot before the Jones girls had their deeds. My deed was made in 1867, I think, and, I think, theirs in 1872. I had the use of mine some five years before they had any title to theirs, but they had the use of theirs too all the time. We put the improvements on our lot. My husband and I did it together. I don't know how much I put in it individually. A thousand dollars perhaps ; I never reckoned up. Mine was not money that my father
30 gave me. We were living on a farm at the time and it was money that we made there. The homestead house was newly built up some years before my father's death. It never was painted. The old part of the house was built before I was in existence, but it has been repaired.

Q. Do you know from your personal knowledge outside of what others have told you, that Benjamin Jones did not furnish clothing for his children ?

A. No, sir ; I know of my sisters telling me and

my father telling, and I have no reason to believe that he did.

There were 2 or 3 different physicians attending my sister when she was sick, Dr. Disbrow, Dr. Goodenough, and she took some medicine herself. Her husband was attended by physicians in the city. He got his medicine from there. I have never made the science of medicine a study particularly. I have taken a good deal of it myself. I have no scientific knowledge of the disease of which they died. I got my knowledge of it from my sister. I think my father was neglected. I don't think he was cared for as much as he should have been, neither his clothing nor his living. 10

Q. Did Mr. Corlies' manner of living and mode of dress result from his own peculiar habits?

A. Well, one might say that my father was very peculiar in his manner of living and dressing, but still it was the duty of them living with him to keep his clothes clean and mended and keep him comfortable. They did not do that. 20

I have done washing and mending for him, also making. I don't know that I did it all myself, but I have had it done in the house. Handkerchiefs and stockings were the most that I washed for him. My father did not speak to me at all on the day he died after I got there. I spoke to him, and called him father, and I thought he tried to raise his eyelids. I do not know the time of day that he was taken suddenly ill. I was sent for near night. I don't know how long it was between the time he was taken suddenly ill and the time I was sent for. I sent for the doctor as soon as I got there. I don't know how long I was there before he died. I was not in the same room with my husband and son and Mr. Irwin at the conversation in February, 1880, but in the next room. I was not looking at the parties, but could hear them. The only question my husband asked was this: he said, my wife is not very well, Mr. Irwin, and she is worrying about her 40

mortgages and wants to know if you know anything about them. And he had not finished when Aaron says yes, Mr. Irwin, was them the little girls deeds and mother's mortgages handed to you by Anna the day after the will was read? He said yes. Aaron says, what was she doing with them or how came she by them? and Mr. Irwin says, I do not know, I don't know anything about them. Mr. Irwin did not have any time to answer my husband's
 10 question before Aaron put his in.

And, being *re-directly examined*, says :

Q. You said, after giving your testimony as to the settlement with Mary Jones, you wished to explain that matter further? Please do so now?

A. The money paid by the girls to Mary Jones, their aunt, was for a release from the will, as Annie was left to keep her by a provision in the will. They
 20 paid the money to release Annie from the obligation imposed by the will. I heard them say that Annie paid her \$200. I don't know how much the others paid her. There was a release made by Mary Jones to Annie from the obligations of the will.

ELIZABETH JOHNSTON.

Sworn and subscribed before }
 me, this 16th day of Sep- }
 tember, A. D. 1881.

JOSEPH McDERMOTT,

30

Master in Chancery of New Jersey.

ELIZABETH C. JOHNSTON, being recalled on the part of the complainant, says :

Q. At the time in February, 1880, relative to which you have before testified, when Mr. Irwin was at your mother's house and your father went in and asked him about your mother's mortgages, and your brother asked him if they were the Jones girls'
 40 deeds and your mother's mortgages that were hand-

ed him the day the will was read, to whom did Mr. Irwin make answer? to your father or your brother?

A. I think he answered Aaron's question. It was not a proper answer to father's question, entirely different from what he asked.

Cross-examination by Mr. ELY:

Q. In your direct examination, you testified as follows: Father went into the room and said: Mr. Irwin, do you know anything about my wife's mortgages which her father left her? Before he had time to answer, my brother spoke up and said, yes. Mr. Irwin, were those the little girls' deeds and mother's mortgages that Annie handed out the day the will was read? He said yes. Is that a true statement of the conversation as it took place?

A. Yes, sir; it is.

LIZZIE C. JOHNSTON.

Sworn and subscribed before)
me, this 16th day of Sep- } 20
tember, A. D. 1881.

JOSEPH McDERMOTT,

Master in Chancery of New Jersey.

JAMES E. JOHNSTON, being recalled on the part of the complainant, says:

Q. State why it was that any deductions of taxes were claimed by either you or your wife after Richard Corlies' death, on account of the mortgages in question in this suit, if you know?

A. The reason that we claimed deduction, was that she couldn't find any clue to where the mortgages were. I made inquiry for the mortgages of Mr. Irwin the day after the will was read. He told me he didn't know that Mr. Corlies had mortgages against her, and didn't know anything about them. And on the Saturday of the week the will was read, me and my son Aaron, went to Mr. Ely's office and made inquiry of him, thinking probably he had

heard Mr. Corlies say something about them, as he was Mr. Corlies' attorney. This was Mr. John J. Ely. We could find out nothing about them. I asked Mr. Irwin about them two or three times, and he said he knew nothing about them. That is the reason the deduction was claimed. We could find out nothing about them.

If they had been brought out and delivered to us, we would have claimed no deduction.

10 After we did find out where they were, we claimed a deduction because they would not give them up, and we claim a deduction in this year's tax for the same reason that she hasn't got them.

Q. Mr. Bartow has told a tale in this case about Richard Corlies being afraid to leave these mortgages in his drawer for fear in case he should be taken away suddenly, you would destroy them by burning them, or some other way. Did Richard Corlies ever show any fear or distrust of you as to
20 his business or papers so far as you ever saw or heard, except from Mrs. Bartow?

A. No, sir.

Q. State as you now recollect any evidence which he has shown you of his trust in your honesty, capacity, and faithfulness?

A. I say that Mr. Corlies always entrusted me to do his business, and at one time he entrusted me with near \$14,000 to deposit in a New York Bank.

I put the money in the Bowery Bank. He was
30 with me, but I had the money. And at all times he entrusted me with money to pay debts for him, and with valuable papers to deliver to parties, such as leases, &c. I have brought deeds and mortgages to Freehold to have recorded for him. I nearly always went with him when he went to do any business, and he always entrusted his business with me. On the day he died, I came to Freehold with money from him to buy provisions, &c., for him.

40 Q. What was this which Mrs. Bartow says that

Richard Corlies gave your wife on the other side of the road from the homestead ?

A. It was a vacant lot about 70 feet front by about 150 feet deep. There was no fence on it when he gave it to her, except an old rail fence which he took away. The house, fences and improvements were put on there after it was deeded to my wife. It was worth about \$200 at that time. He sold other front lots for that.

The property he deeded to the girls was the homestead, and which has been before described in this evidence. 10

Mr. Corlies always kept hired help in the house. Sarah Corlies, Rebecca Parks, Ella Herring, May Jones, Emeline Hunt, a girl I got from Randall's Island.

Q. Mrs. Bartow says that you sold her father's chest of tools for \$15, and infers that you kept some of the money. State the truth about that matter? 20

A. I did sell her father's chest of tools for I think for \$13, to Isaac Herbert, and gave to May Jones the money.

She wished to pay the funeral expenses.

Perrine Donahay was not present when Mr. Irwin read the will, nor in the house. He didn't go over. He is my son-in-law, and is the witness, James P. Donahay, who was sworn here to-day.

Q. In the interview at your house in February, 1880, to whom did Mr. Irwin address his answer 30 to your son Aaron's question about the deeds and mortgages?

A. To my son Aaron.

Q. Mr. Irwin has sworn that in reply to what you said about your wife's mortgages, he said to you and not to Aaron, that they were her mortgages that were handed him by Anna Jones the day the will was read, and how she came by them he only knew as she had stated. Did he say this, or anything of this kind, to you on this occasion? 40

A. He did not. He swore falsely. He looked direct at Aaron when he asked the question.

Q. He says he did not hear or notice Aaron's question, if he asked such a one, as he stated; what do you say about that?

A. I say he did; for he looked at him directly and directed his conversation to Aaron, and not to me at all; furthermore, I did not ask the question about the deeds and mortgages. I never heard of
 10 Mr. Irwin's powers of hearing being impaired until I heard of it the other day here. I never told Levi Irwin that the whole amount of the indebtedness was more than the farm was worth, and that I would have to let it go. I never had any conversation with him about the value of that farm. I never said to him that I would like to keep it, but to pay all there was against it, I could not do it. I heard the examination of Stephen S. Garrison, George W. Frelder and George G. Brower in reference to value
 20 of the properties. Their estimates included all the land devised by the will of Richard Corlies to my wife and the Jones girls.

Q. James T. Burtis, in his testimony, spoke of Richard Corlies making payments on the mortgage he held. State what you know about those payments, and whether or not they were paid back to Richard Corlies, or made an encumbrance on the property which he left your wife?

A. I think it was in 1877 or 1878 that Mr. Corlies
 30 did pay to Charles A Bennett, as solicitor for James T. Burtis, on the Davis mortgage, which Burtis held, about between nine and ten hundred dollars, and he borrowed \$1,200 of Mr. John J. Ely, gave him a mortgage on this same Harmony Hill farm, which he devised to my wife; so that whatever he had to pay or advanced comes out of my wife, and she has it to pay.

And, being *cross-examined*, says:

40 I was at home a part of the time at the home-

stead, at the time of the appraisement of the personal property of Richard Corlies. I think the papers he held against parties were appraised the same as other personal property ; I suppose so, but I was not there. I don't think I saw the inventory and appraisement after it was completed. I know that the inventory, &c., is filed with the Surrogate. I knew then it was customary to do so. I don't know that I knew that the inventory of Richard Corlies was brought to Freehold and filed. I never 10
to my recollection went to the Surrogate's office and inquired of him or any of his deputies as to what that inventory contained.

Q. You say you knew it was customary to file inventories of personal property with the Surrogate of the County, made of the estate of a deceased person? Had you any ground for belief that this would not be filed in accordance with such custom?

A. I didn't suppose to know anything about it. The \$14,000 was taken by me, for Mr. Corlies, to 20
New York, sometime in 1866 or 1868. It was during the time I held my real estate in my own name. My real estate at that time was worth considerable more than the encumbrances. I don't know that Mr. Corlies ever entrusted me with papers he held against my property. He entrusted fifteen or sixteen dollars to me the day he died. Mr. Corlies did nothing toward helping to put the buildings on the lot he gave my wife. One of the hired help that Mr. Corlies had was a bound girl. That was 30
Emeline Hunt. Sarah Corlies was Richard Corlies' niece. Her name is now Sarah Ivins. She was there after Rebecca Jones died for a year or so. Then he hired her husband to work on the farm and she to board the men. Rebecca Parks was there a part of the time. She would go away two or three weeks at a time, and would then come back and work. She was there from before the time Mrs. Jones died to three or four years before Mr. Corlies' death. She was a nurse and would go when 40

called on. She might be called on once or twice a year to nurse. Ella Herring staid there after Rebecca Jones died a year or eighteen months and then married. Emeline Hunt was there before Mrs. Jones died, some two or three years. I saw Perrine Donahay the day the will was read. I didn't see him any time when Mr. Irwin and the Jones' girls were present.

Q. You testified in your direct examination that
 10 your wife told you she wanted you to go in and ask Mr. Irwin if he knew anything about her mortgages, and that you did go in and ask Mr. Irwin that question and that was as far as you got when your son spoke up and said, Mr. Irwin, was them the girls deeds and mother's mortgages that Anna handed to you the day the Will was read. He said yes, and that you would not be positive whether you or Aaron asked him if he knew what she was doing with them, and
 20 he said he did not. Is that true?

A. It is true, part of it. Aaron asked him the question about what she was doing with the mortgages. I never asked that question. The other part is true. I did not ask him if he knew anything about my wife's mortgages. Aaron then asked his question before he had time to answer mine.

Q. Have you any particularly gifted power of discernment by which you can tell what is passing in
 30 another man's mind?

A. No, sir.

Q. How then can you tell that it was Mr. Irwin's intent of mind to answer Aaron's question instead of yours?

A. Because I didn't ask the question. My son asked the question, and got a direct answer from Mr. Irwin.

Q. If he had desired to say yes to your question could he have answered yes before he did?

40 A. No, sir. I heard the valuation put upon the properties by Mr. Brower and others.

Q. In that valuation was there a considerable difference in the value of the property left by Richard Corlies to the Jones girls as between themselves?

A. I think there was. I think I was anxious that the Fish foreclosure should be stopped on my wife's property.

I didn't see Mr. Irwin and ask him if some arrangement could not be made so that the property could be saved.

I went once with Aaron to Mr. Irwin's when Aaron went to see him about it. We might have said something about it going up there. Very likely we did.

I think Mr. Irwin followed Aaron out to the wagon house. I was there in the wagon. They were talking there. I did not hear what they were talking about. They were about thirty or forty yards away.

JAMES E. JOHNSTON. 20

Sworn and subscribed before me, this 16th day of September, A. D. 1881.

JOSEPH McDERMOTT,
Master in Chancery
of N. J.

The examination of witnesses, &c., in the above cause stands adjourned to Monday, the 21st day of November, A. D. 1881, same time and place. 30

On Monday the 21st day of November, A. D. 1881, the examination of witnesses, &c., in the above stated cause, was resumed in the presence of the same counsel.

JOSEPH McDERMOTT,
Master in Chancery of New Jersey.

JOSEPH C. ARROWSMITH, a witness produced on the part of the complainant, being duly sworn according to law, on his oath saith :

I am the sworn deputy clerk in the Monmouth County Clerk's office ; have been a clerk in that office for about thirteen years. We have in our office a book known as the Register of Deeds, Mortgages, &c., and have had such book since I have been in the office, and before that. [Book produced by witness.] This is one of the books I have referred to, a register.

It covers the time from April 8, 1876, to and including part of November 14, 1879.

This book shows everything that goes on record in our office, such as deeds, mortgages, assignments and the like ; also the date they are received for record. It also shows to whom they are delivered, when they are taken from the office, and the date.

Q. Look at page 226 of this book and tell me who took away the deed from Richard Corlies to Elizabeth ?

A. Delivered to John Errickson Jan. [24, 1879. The entry reads, " 1879, Jan. 8, Corlies Richard, to Elizabeth Cottrell. Deed to John Errickson Jan. 24, 1879."

And, being *cross-examined*, says :

The writing showing the delivery is in the handwriting of my brother, James. I don't know that it is right ; I take it from the book.

And, being *re-directly examined*, says :

I have no doubt but that it is right. We depend upon it altogether.

The book above referred to offered in evidence and marked Exhibit R on the part of the complainant.

JO. C. ARROWSMITH.

Sworn and subscribed to before me this 21st day of November, A. D. 1881.

JOSEPH McDERMOTT,
Master in Chancery of N. J.

(The complainant's counsel offers in evidence a deed of quit claim from Mary Jones to Anna Jones of her rights under the will of Richard Corlies, deceased, dated March 23, 1880, for the consideration of two hundred dollars and duly acknowledged. The said paper is offered in evidence by consent and without further proof, and is marked Exhibit S on the part of the compl't, and it is further consented and agreed by counsel for the respective parties to this suit that a true copy of the said deed of quit claim may be marked and used in evidence as if it were the original.) 10

Complainant rests.

JACOB LUTZ, a witness produced on the part of the defendants, being duly sworn, says: I reside at Farmingdale, N. J., and have lived there since 1865. I am a merchant. I have been in the Township Committee of Howell Township for four or five years. Am not a member now. I am acquainted with the values of real estate in Howell Township, as far as my judgment goes. I was made so to some extent by my office as Town Commissioner. I own real estate there myself. I knew the real estate of which Richard Corlies died seized. To the best of my judgment I valued the Harmony farm at \$3,000. The John L. Corlies shop and land attached at \$500. The same adjoining the tavern and store property, \$500. The locust lot at \$500. I believe those are the properties devised by Richard Corlies by his will to Elizabeth Johnston. I valued the Scott farm which he devised to Elizabeth Cottrell at \$2,000. The store lot devised to Annie Jones, I valued at \$500. The school-house lot at \$200. The Jones Farm at \$600. The property devised to Eleanor M. and Mary J. Jones, called the Howland land, I value at \$800. In my judg- 20
30
40

ment the lot on the west of the road from Cottrell's to Brower's, left to Annie Jones, Mary J. Jones and Eleanor M. Jones, I valued at \$50. I knew Mary Jones, the aunt of these granddaughters of Richard Corlies. I have known her ever since I have been there—that is, to see her—some fifteen years. She must be between fifty and sixty; but, of course, I cannot tell. I cannot scrutinize her age very close.

10 Q. What in your judgment is it worth to keep and provide for Mary Jones during the balance of her life, and to see her decently buried and pay all funeral expenses, as specified in the will of Richard Corlies, deceased?

(Objected to as incompetent.)

A. I shouldn't obligate to keep the person for all that has been specified for less than \$1,500, others might do it for less.

20 (The answer objected to as worse than the question.)

Q. Do you think it would be worth for any person to obligate to keep her as specified?

(Objected to as leading and incompetent.)

A. That is my idea.

And, being *cross-examined*, says:

30 I own part of a house and two lots in West Farms. A half share undivided interest. One is a building lot. There is about a quarter of an acre in the two, with a small house on one. That is all the real estate I have ever owned in Howell Township in my name. I have never been a real estate dealer or agent. Never been a farmer. I keep a general country store. Sell dry goods, notions, groceries, &c. My term as township committeeman expired last spring. I was elected each year for four or five years
40 before that. My office as township committeeman

made me assist in the revision of the assessor's duplicate. That is all the way my office was connected with the value of real estate. Stephen S. Garrison was assessor of the township the last two years I was in office. I can't remember whether my valuations here agree with his in the duplicates we revised. I couldn't say that we revised his duplicate as to the valuations of the land that I have mentioned. Sometimes we changed the duplicates. I have no recollection of making any change in Garrison's duplicate of Richard Corlies' land since his death. I cannot say positively that we made any change in the valuations on any of Corlies' land in Garrison's time as assessor. I have never read the will of Richard Corlies, have heard the will read and have read part of it. 10

Q. Have you been over all of this land that you have put the valuation?

A. I have been on the land but not all over it. at different times since I lived in Farmingdale. I just happened to be there. I can't tell on what occasions or for what purpose. Never with the purpose of putting a valuation on it. I decided the valuation that I have given here about a month ago. It must be a month or so ago when Mr. Irwin came to me—Mr. Levi G. Irwin I mean. He told me he was obliged to furnish two men to fix the valuation of this property, and he asked me if I would serve as one, and I told him I would. I have not gone over the lands since or at the time he was there. I made up my valuation right there. Mr. Irwin didn't assist me, but he was there. I gave him my figures, what I thought was right. I believe it was at my store or on the premises that I did this. It didn't take me much more than 15 minutes to make my valuation. Mr. Irwin gave me the various parcels to place my value on. I didn't know exactly how many acres there were in each of these parcels. I didn't know the contents of any piece I valued. Nor I don't know exactly now. I was on the Har- 30 40

mony farm a little over a year before the valuation, since Mr. Fulton lived on it. I was on it at the time Mr. Corlies' personal property was appraised. I was one of the appraisers. I couldn't tell exactly how many times I have been on that farm in the last six years. I might have been there half a dozen times. I was called there occasionally by my business of buying poultry, &c. I never went over the land to inspect it for the purpose of valuation. I
 10 have never been on any of these properties with a view of putting on a valuation. I have never been in the undertaking business. Never buried anybody. Never kept poor house.

I never have supported Mary Jones nor don't know what the expenses of keeping her are. I cannot see in the future to see how long she will live.

And being again *examined* for the defendants, says:

At the time of the appraisalment of Richard Corlies
 20 we went through the woodland of the Harmony farm to appraise the wood that was cut. We were in the barn-yard there, and looked at the cattle, and I think we were in the house.

Q. What did you see then as to the location, size and appearance of the Harmony farm ?

A. I don't know exactly how I can describe that. The buildings looked as if they needed a good deal of repair, and in the winter you can't tell how the land looked. I think it was snowing. I have
 30 driven through the place, the road goes through part of it. It looks to be a pretty large place and pretty good land. At the time I made the valuation of the real estate, Mr. Irwin read me the will of Richard Corlies. I can't be positive about ever raising the value of the Harmony farm while I was committeeman. I think it was at one time raised from \$2,500 to \$3,000, but I am not positive.

Re-cross-examination :

40 Q. Had not the woodland on the Harmony place

when you were there appraising been almost entirely cut or burnt over?

A. I don't recollect. I didn't take much notice. I can't tell what the Harmony farm is called, a fine farm or not,

And being again examined on the behalf of the defendants, says: There is considerable good cleared land on it.

JACOB LUTZ. 10

Sworn and subscribed to before me, }
 this 21st day of November, A. D., }
 1881. }

JOSEPH McDERMOTT,
 Master in Chancery
 of New Jersey.

GRANDIN VANNOTÉ, a witness produced on the part of the defendants, being duly sworn, says: 20

I live at Farmingdale. I have lived there twenty-one years. I am a merchant. Have been engaged in business there twenty years and about eight months. I have been Town Clerk of Howell Township. Was so for ten or twelve years. Held no other office. I have dealt in real estate in that vicinity. I have bought and sold some. I have made probably a dozen sales and exchanges. I am acquainted with the value of real estate in Howell Township to some extent. I knew Richard Corlies in his life 30
 time. I have always known him. I knew him before I lived there. I have read the will of Richard Corlies; that is a copy of it. I am acquainted with the value of the real estate devised by him in his will. I have been upon parts of his property often. The Harmony farm, devised to Elizabeth Johnston, I think, is worth from \$3,000 to \$3,500. The John L. Corlies shop and land attached, \$500. The land adjoining the tavern and store property, also devised to her, I think is worth \$500. The Locust 40

lot, \$500. The Scott farm devised to Elizabeth Cottrell, I think worth \$2,500. The Shaw lot devised to Anna Jones, \$500. The School-house lot, also devised to her, \$200. The Jones farm devised to her, \$800. The Howland land, devised to Eleanor and Mary J. Jones, \$800. The land west of the road from Cottrell's to Brower's, devised to Anna, Mary J., and Eleanor Jones, at \$50. I know Mary Jones, the aunt of Richard Corlies' grandchildren,
 10 and have known her since I lived in Farmingdale. Have seen her occasionally 'as I would' any other neighbor in town. I should think she was about between 55 and 60 years old.

Q. From your knowledge of her apparent physical constitution and age, what, in your judgment, would it be worth to keep and provide for her as long as she lives, and to see her decently buried, and pay all her funeral expenses as provided in the will of Richard Corlies, deceased ?

20 (Objected to as incompetent).

A. I should think any one would not want her for less than a thousand dollars, and I wouldn't want her for that.

And, being *cross-examined*, says :

I put my valuations on these parcels of land this fall, a month or six weeks ago—at the request of Levi G. Irwin. I did it at my house in Farmingdale. I did not go upon any of the properties at
 30 the time. I was about twenty or thirty minutes in making the valuation. Mr. Irwin was with me while I was doing it. I never went upon any of these properties with a view of making a valuation of them.

I have been on all of these properties mentioned. Never owned any of these properties mentioned. I was one of the appraisers of the personal property of Richard Corlies, and that was the only business I
 40 had on the Harmony farm. There was some snow

on it when [I was there—covered with it I think. The buildings were somewhat dilapidated and needed repairs. I didn't know exactly how many acres were in the Howland farm when I made the estimate.

This is Stephen S. Garrison's third year as assessor of Howell Township.

I didn't know exactly the contents of any of these parcels when I made the valuation—I only know from hearsay. I don't know that I have come 10 within 10 years of the age of Mary Jones. I don't know when she will die, nor what her health will be up to the day of her death. For all I know she may be able to earn her living up to the day of her death.

Q. Now, then, if you should understand that this old lady had released all of her rights under the will of Richard Corlies by a writing under her hand and seal for the consideration of two hundred dollars, wouldn't it greatly modify your estimate of Mrs. 20 Bartow's liability to pay out under the terms of the will for that purpose?

(Question objected to, as referring to the present status instead of to the actual fact at the time of making the will.)

A. No, sir.

And being again *examined* by the counsel for de- 30
fendants:

I had a copy of the will of Richard Corlies in my possession for a half an hour or so before the valuation was made, for the purpose of making a valuation. It was two or three weeks before the valuation was made.

Q. How much time did you have to consider the matter before you gave your judgment?

A. Two weeks at least.

I have been on the Harmony farm when there was 40
no snow upon it.

Q. Does not the Harmony farm devised to Mrs. Johnston embrace more land than all the rest of the real estate of Richard Corlies combined ?

A. I should think it did.

And being *re-cross examined* :

This farm is located on the border of the New Jersey pines.

10 Q. As it laid on the first of January, 1880, were there not parts of that farm worth not over one dollar per acre and no bidders ?

A. There is no land on there worth less than a dollar an acre.

There is some of the land on the sand hill there is not worth more than one dollar per acre. Part of the farm, the cleared land, is good loamy land.

20 I was over a good part of the woodland of this farm last winter. I think on the east side the pine wood was all cut and the oak was left, but was nearly all dead. It had been burnt over. All the woodland on the East side had been burnt over before Richard Corlies' death.

The pine timber was cut out and three quarters of the oak standing was dead. It was small size, nothing large enough for timber. The pine was used for charcoal wood. I think it is mostly pine on the west side. I can't tell how much woods there is there.

30 Q. You don't know much about the place any-how, do you ?

A. I know what I valued it at.

Q. That is about all ?

A. I had to know something about it or I couldn't put a valuation on it.

And being again *examined* by the counsel for the defendant, says :

40 I based my valuation of the farm on the rates that other farms were selling at.

There must be seventy acres of cleared land on this place.

This part with the building ought to be worth \$35 an acre.

And being *re-cross examined*, says :

Q. This farm is for sale ; will you pay \$35 per acre for the tillable land on it ?

A. Don't want to buy.

10

And being again *examined* by the counsel for defts. :

If I wanted to buy I don't think I could better myself than to do it.

And being *re-cross examined*, says :

I keep a store, a general country store, dry goods, notions, groceries. I have also farmed and done some other things, but that has been my principal business.

20

And being again *examined* by the counsel for defendants, says :

I have spent somewhat of my time in farming during the last two or three years.

G. VANNOTE.

Sworn and subscribed before
me, this 21st day of November,
A. D. 1881.

JOSEPH McDERMOTT,
Master in Chancery
of New Jersey.

30

[Rest for all.]

There must be some...

...

...

...

...

...

...

...

In Chancery of New Jersey.

Between

Elizabeth Johnston,

Complainant,

and

*Levi G. Irwin and Aaron E. Johnston,
Executors of Richard Corlies, de-
ceased, et als.,*

Defendants.

*On Bill,
&c.*

Bill of Complaint.

*To the Honorable Theodore Runyon, Chancellor of the
State of New Jersey:*

Humbly complaining shows unto your honor your oratrix, Elizabeth Johnston, of the township of Howell, in the county of Monmouth and State of New Jersey, that she is the owner in fee simple in her own right and property, of two certain tracts or parcels of land situate, lying and being in the said township of Howell, bounded and described as follows, viz: All that certain tract or 10 lot of land situate on the northeast side of Manasquan river at New Bargain, in the township of Howell, Mon-

mouth county, New Jersey, beginning at Manasquan river at the end of the two following courses, viz: north sixty-two degrees and fifty-five minutes, west twenty-eight chains; (2) south forty-three degrees and forty-two minutes, west thirteen chains and fifty links from a large white oak tree standing on the south side of the main road leading from Hance Herbert's marl pits to Yellow Brook, said tree being marked on four sides with a blaze and two notches above and one below each blaze, and

10 stands at the — corner of a tract of forty-four acres and forty-five-hundredths of an acre returned to David Mott, April 6, 1790, and recorded in the surveyor-general's office at Perth Amboy, in Book S, 9, page 167; thence, running as the magnetic needle pointed June 25, 1852, from said river, (1) north forty-three degrees and forty-two minutes, east thirteen chains and forty links; (2) south sixty-two degrees and fifty-five minutes, east twenty-eight chains; (3) south forty-nine degrees and fifty-five minutes, east twelve chains and eighty-five links;

20 (4) south four degrees and fifty minutes, west thirteen chains and forty-eight links; (5) south fifty-six degrees and thirty-five minutes, west four chains and thirty links; (6) south eleven degrees and thirty-minutes, east seventy-five chains and fifty-links; (7) north fifty-three degrees and thirty minutes, east one chain and forty links; (8) south sixty-eight degrees and thirty minutes, east one chain and fifty links; (9) south four degrees and forty minutes, west fifteen chains and sixteen links; (10) south five degrees, east sixteen chains to Manasquan river;

30 thence northwesterly up said river, the several courses thereof, to the place of beginning: containing one hundred and fourteen acres more or less. Being the same tract of land conveyed by Robert Allen, Jr., Samuel Conover and Charles Butcher, commissioners, to James E. Johnston, by deed dated June 26, 1852, and recorded in the Monmouth county clerk's office at Freehold, in Book Y5 of Deeds, page 215, &c., from which deed the foregoing description is taken. Your oratrix claims title

to the said premises by virtue of a deed from Richard Corlies to her, dated July 25, 1876, and recorded in the clerk's office of the said county of Monmouth, in Book 288 of Deeds, page 435, &c., to which deed now in her possession, ready to be produced and proved, when and where this court may direct, your oratrix begs leave to refer, if it be necessary so to do.

The second of the said two tracts is bounded and described as follows, to wit: All that certain lot of land situated in the village of Farmingdale, in the township of 10 Howell aforesaid, and on the northerly side of the Raritan and Delaware Bay Railroad, beginning at a stake in the middle of the public road leading through Farmingdale to Squankum, at the northeast corner of a lot containing fifty-hundredths of an acre, known as the hotel lot that Richard Corlies conveyed to the said James E. Johnston by deed dated March 1, 1862, thence running from said beginning stake (1) north twenty-nine degrees west eighty-six feet; thence (2) south fifty-eight degrees and five minutes west one hundred and forty 20 feet; thence (3) south twenty-nine degrees east one hundred and ten feet to a stake in the north line of the hotel lot; thence (4) along the line of the same north forty-nine degrees east one hundred and forty-four feet to the beginning, containing thirty-one-hundredths of an acre strict measure, being the same lot of land that the said Richard Corlies conveyed to the said James E. Johnston by deed dated September 4, 1863, and recorded in the Monmouth county clerk's office in Book 173 of Deeds, page 24, &c., and the same which was afterwards con-30 veyed by the said Corlies (to whom the same had been again conveyed by the said Johnston) to your oratrix, by deed dated July 24, 1876, and recorded in the said clerk's office, in Book 288 of Deeds, page 435, &c., being the same deed above referred to of the same date and place of record.

That the said Richard Corlies was for many years a resident of the said township of Howell, and the owner

of considerable real and personal estate situate therein, and so continued to the day of his death.

That the said Richard Corlies died on or about the second day of January, A. D. eighteen hundred and seventy-nine, at about the age of eighty-two years, at his residence, in the village of Farmingdale, in the said township of Howell, where he had lived for many years, leaving him surviving Elizabeth Cottrell (wife of John W. Cottrell), Annie Jones, Eleanor M. Jones and Mary J. 10 Jones, children of his daughter Rebecca (who was the wife of Benjamin Jones in her lifetime), now deceased, and your oratrix, his daughter, his next of kin and heirs at law ; that your oratrix is a married woman, the name of whose husband is James E. Johnston, the same above mentioned, to whom she has been married about twenty-six years.

That the said Richard Corlies left a will, and thereby, amongst other things, appointed Levi G. Irwin and Aaron E. Johnston, of the said township of Howell, his 20 executors ; that the said will was, after the decease of the said Richard Corlies, to wit, on the sixteenth day of January, eighteen hundred and seventy-nine, duly admitted to probate before the surrogate of the said county of Monmouth, and recorded in the said surrogate's office in Book M of Deeds, page 391, &c., and the said executors thereupon took upon themselves the burthen of administering the same.

That the land and premises above fully set forth and described was at and before the decease of the said Richard 30 Corlies, encumbered as follows: to wit,

The former of said tracts.

First. By a mortgage, made by the said James E. Johnston and your Oratrix, his wife, to the Chancellor of the State of New Jersey, to secure payment of fourteen hundred and four dollars and fifty cents, with legal interest, as follows: That if the said James E. Johnson should pay William S. Fish, one of the defendants in a suit in partition in Chancery between Charles Meirs surviving

executor of John Palmer, deceased, and others, complainants, and Louisa Palmer and others, defendants, the interest on said sum once in each year, from the date of said mortgage, during his, the said William S. Fish's natural life, and at the decease of the said Fish to pay the said principal sum to Lucy Fish and Mary Fish, children of Lydia W. Fish, deceased, late the wife of the said William S. Fish, or their legal representatives, to be distributed between the said Lucy Fish and Mary Fish equally, according to law, according to the condition of a 10 certain bond bearing even date with the said mortgage, and executed by the said James E. Johnston to the said the Chancellor, etc., that the said mortgage bears date the tenth day of December, eighteen hundred and sixty-six, and was recorded in the said Clerk's office, in book H2 of Mortgages, page 226, etc., on the eleventh day of the month last named. To which record or a certified copy thereof your Oratrix begs leave to refer if it be necessary so to do.

Second. By a mortgage made by the said James E. 20 Johnson to the said Richard Corlies to secure payment of eighteen hundred and sixty-six dollars and thirty-two cents in one year after the date thereof, with interest, according to the condition of a certain bond bearing even date therewith, made by the said Johnson to the said Corlies, that the said mortgage bears date the thirtieth day of September, eighteen hundred and sixty-nine, and was on the thirtieth day of October, in the same year, duly recorded in the said Clerk's office, in book R2 of Mortgages, page 80, etc., to which mortgage or the record 30 thereof, your Oratrix begs leave to refer if it be necessary so to do.

The latter of said tracts.

By a mortgage made by the said James E. Johnston and your Oratrix, his wife, to the said Richard Corlies, to secure payment of the sum of one thousand dollars, with interest, in one year from the date thereof with interest according to the condition of a certain bond bear-

ing even date therewith, made by the said James E. Johnson to the said Richard Corlies, which mortgage bears date the fourteenth day of November, eighteen hundred and sixty-six, and was duly recorded in the said Clerk's office on the same day and year last named, in book H2 of Mortgages, page 165, etc. Your Oratrix begs leave to refer to the said record or a certified copy of the same, if it be necessary so to do.

That your oratrix is informed and believes and
 10 charges the truth to be that the said Richard Corlies for several years preceding his decease intended to deliver up the said mortgages secondly and thirdly above named to your oratrix to be cancelled of record, and that he had such intentions from about July, eighteen hundred and seventy-six; that he also purposed and intended, in order to do justice to all of his heirs and next of kin, to deed to the said children of his said daughter Rebecca certain lands situate in the said village of Farmingdale; that on different occasions between the time above stated
 20 and his decease he informed your oratrix of his said purpose and intention, and also stated to your oratrix that upon his decease he informed your oratrix of his said purpose and intention, and also stated to your oratrix that upon his decease the said mortgages would be hers; she also is informed and charges it to be true that he has at different times between the times above specified informed other persons to the same effect above set forth; and further states that from the time of his making her a deed for the said parcels of land as above set forth, her
 30 said father never exacted from or asked of her the payment of any interest or principal whatever on or of the said mortgages, and none whatever of either principal or interest of the same has since that time been paid by her or any one for her, except as hereinafter stated and after his decease.

That upon one occasion, some time in the year eighteen hundred and seventy-seven, to the best of her recollection and belief as to the time, her said father

offered to your oratrix to deliver up to her the said mortgages and to release her and her land from all obligation on account of the same, saying at the same time that he was going to give the said children of his daughter Rebecca, then deceased, as much by deed for land on the other side of the road; that your oratrix, being then in comparatively straitened circumstances, and being with difficulty able to meet such demands as she then had on her means and for payment of taxes on her property, and her father having for a long time before then 10 required payment of neither interest or taxes on the said mortgages, requested him not to do so at that time relying on his promise to do so before his decease, or to his arranging the matter to that effect to take place after his decease, on account of which request, as your oratrix believes and charges to be true, the said mortgages were not delivered to her at that time.

That the said Richard Corlies' residence above mentioned, and in which he departed this life, was located in the said village of Farmingdale, on the same street with 20 that of your oratrix and nearly opposite the same; that there resided with him there at the time of his decease the said children of the said Rebecca Jones, except Elizabeth, who also resided near.

That soon after the decease of the said Richard Corlies, within a few days, the will of the said Richard Corlies was read at his late residence, in the presence of the said executors, some or all of the said children of the said Rebecca, the husband of your oratrix, and others then there. That no mention of the said mortgages or of the 30 premises which the said Richard Corlies had spoken about conveying to the said children, as above stated, was made in the said will, or by any of those present, as your oratrix is informed, believes and charges to be true.

That on the same day of the reading of the said will, and after the departure of most of those present, and all of the members of the family of your oratrix except Aaron E. Johnston, one of the said executors and the

son of your oratrix, the said Annie Jones procured from some part of the said house, and from her trunk, as she is informed and believes, two envelopes, one containing the deeds from the said Richard Corlies to the said children, respectively, of the premises which he had stated, as above set forth, he intended to convey to them, and the other containing the said mortgages of your oratrix, and offered the same to the said Levi G. Irwin, one of the said executors.

10 That the said Irwin received the said mortgages and placed the same with the other papers which were of the said Richard Corlies, deceased, but did not accept the said deeds, and told the said Annie Jones to take the same back, which she did.

That the said deeds and mortgages were not with the other valuable papers of the said Richard Corlies, nor in the same part of the house, but were in the trunk of the said Annie Jones, and kept by her, as your oratrix verily believes and charges to be true, at the request of
20 the said Richard Corlies, for the purpose of delivering, after his decease, the said mortgages to your oratrix, and the said deeds to the said children.

That the said deeds were as follows :

1. From Richard Corlies to Annie Jones, dated the sixth day of August, eighteen hundred and seventy-two, conveys a part of the premises which the said Richard Corlies stated to your oratrix he intended to convey to the said children, as above set forth, and recorded on the eighth day of January, eighteen hundred and seven-
30 ty-nine, in the said clerk's office, in Book 305 of Deeds, page 400, &c.

2. From Richard Corlies to Mary Jane Jones, dated the same day as last above deed, conveys a part of the same premises, and was recorded on the same eighth day of January, in the said clerk's office, in Book 305 of Deeds, page 402, &c.

3. From Richard Corlies to Eleanor M. Jones, dated the same day as the above deeds, conveys a part of the

husband lived on a farm of the said Richard Corlies, in whole or great part free of charge.

That immediately after the decease of the said Richard Corlies, and from time to time thereafter for near the space of one year, your Oratrix made inquiry and endeavored to ascertain if in any way he had carried out his purpose aforesaid, as to the said mortgages, but was unable so to do, and finally came to believe that her said father had failed or neglected to carry out said purpose, 10 and that she did not ascertain for about the time above stated, that the said mortgages had been delivered along with the said deeds to the said Annie Jones for the purpose and under the circumstances above stated. That after the decease of the said Richard Corlies, before she had ascertained the above circumstances as to the said mortgages, the interest on the above mentioned mortgages from your Oratrix and husband to the Chancellor of the State of New Jersey having fallen in arrears, proceedings were commenced, as your Oratrix was informed, 20 and believes, for the foreclosure of the same, and your Oratrix was notified concerning the same.

That she was not able to meet such obligation, and the said foreclosure suit was in danger of proceeding. That the said Executors being conversant of the same, represented to your Oratrix that if said foreclosure should proceed, the mortgaged premises would be sacrificed and would not realize more than enough to pay the said mortgage and costs of suit. That her right of dower, which would remain in anything over and above the 30 said mortgage to the Chancellor (she not having joined in the execution of the said mortgage on the said premises, from her husband to the said Richard Corlies), would also affect the sale, and that in case of such sacrifice and the total loss of the last named mortgage, it would affect her share in the estate of her said father, deceased, and other things going to affect the judgment of your Oratrix in the premises. That the said Executors in connection with the above stated arguments, offered to

deliver up to her to be cancelled, the said mortgage for eighteen hundred and sixty-six dollars and thirty-two cents, if she would execute to them her promissory note secured by chattel mortgage on her personal property, for one thousand dollars, and would also loan her on her promissory note the sum of two hundred dollars, to assist her in paying the arrears of interest on the said mortgage to the said Chancellor.

That being pressed by the said foreclosure, over persuaded by the said executors, having no knowledge of¹⁰ the law and not knowing at that time that the said mortgage for eighteen hundred and sixty-six dollars and thirty-two cents had been given up by the said Richard Corlies before his death, as above stated, she consented to the said plan of the said executors, and made to them her note for two hundred dollars, for money to pay the said interest, and also made and executed to them the said note for one thousand dollars, of which the following is a true copy—

“Farmingdale, N. J., May 17, 1879. 20

“For value received, we, or either of us, promise to pay to Levi G. Irwin and Aaron E. Johnston, executors of Richard Corlies, dec'd, or order, one thousand dollars in six months from the date hereof, with interest from date hereof; and we do agree that the executors of said Richard Corlies, dec'd, may retain out of the residuary share of the estate of said deceased bequeathed by the will of said deceased to Elizabeth Johnston, one of the parties hereto, sufficient to pay this note, if there be so much due to her. 30

“Elizabeth Johnston,

“James E. Johnston,”

and delivered the same to the said executors; that your oratrix and her said husband also made and executed a chattel mortgage to the said executors upon the following goods and chattels, to wit, one carriage, one light one-horse wagon, one light single wagon, one light double farm wagon, one heavy carry all, one sleigh, one

mowing machine, one harrow and three plows, one cow, one set of double harness, one set of double harness, one team of horses; that the same bears date May 19, 1879, and was duly filed in the said clerk's office on the same day, and numbered 2393; to the same, or a certified copy thereof, reference is hereby made, who thereupon delivered to her the said mortgage for \$1,866.32 last named, and the same was taken to the clerk of the county of Monmouth by the said Irwin and cancelled of record in
 10 the said clerk's office on the nineteenth day of May, eighteen hundred and seventy-nine.

That she gave the said note and chattel mortgage and accepted the said mortgage as above stated through mistake and error, and by reason of her not knowing at that time that the said mortgage had already been delivered and given up for her as above stated, and that except for the above error and want of knowledge of the true circumstances of the case she would never have done the same.

20 That the said executors are in possession of the said note, chattel mortgage, and the said mortgage for one thousand dollars, and one of them, the said Irwin, threatens to proceed against your oratrix and her premises and personal property upon the same, and to retain out of any money which may be coming to your oratrix from the estate of the said Richard Corlies the amount of the said note and interest on the same, and your oratrix verily believes that the same will be done unless this honorable court shall interpose and prevent the
 30 same.

That the said Aaron E. Johnston is a young man, and was, at the date of the death of the said Richard Corlies and of the matters and facts above set forth, unaccustomed to business and easily influenced and led by his co-executor, the said Irwin, who is, as your oratrix is informed and believes, wholly or in great part to blame for the placing of your oratrix in the false and erroneous position in which she now stands with reference to the matters

above set forth, and for concealing from her the true circumstances as to the said mortgages.

And your oratrix well hoped that the said Levi G. Irwin and Aaron E. Johnston, executors as aforesaid, would have delivered up to your oratrix the said one thousand dollar mortgage to be cancelled, and the said one thousand dollar note, and the said chattel mortgage, and would have refrained from deducting the amount of the same, with interest, for the share of your oratrix in the estate of the said Richard Corlies, as in equity and 10 justice they ought to have done.

But now so it is, may it please your honor, that the said Levi G. Irwin and Aaron E. Johnston, executors as aforesaid, combining and confederating with other persons unknown to your oratrix, but who, when discovered, she prays may be made parties hereto, with apt and proper words to charge them; and contriving how to injure and aggrieve your oratrix in the premises, pretend and give out that the said Richard Corlies did not intend and propose to give up the said mortgages to your 20 oratrix, either before or at his decease, and did not so deliver them up, that the said note and chattel mortgage were not given, and the said mortgage accepted under and by reason of the error and the circumstances above set forth. The contrary thereof your oratrix charges to be true.

In tender consideration whereof, and forasmuch as your oratrix has not a full and complete remedy at common law, and cannot have adequate relief except in this honorable court;

30

To the end, therefore, that the said Levi G. Irwin and Aaron E. Johnston, executors, as aforesaid, and James E. Johnston, and their confederates, when discovered, may full and true answer make (but without oath or affirmation) to the matters and things hereinbefore set forth, as fully and particularly as if the same were here again repeated, and they thereto particularly interrogated, and that the said Levi G. Irwin and Aaron E.

Johnston, executors, as aforesaid, may be ordered and decreed to deliver up to your oratrix the said one thousand dollar mortgage, the said note of hand and chattel mortgage, to be cancelled, and that the same shall no longer continue as obligations and incumbrances, or apparent obligations and incumbrances against your oratrix and her property, real and personal, and that the cancellation of the said mortgage of eighteen hundred and sixty-six dollars and thirty-two cents, made as above
 10 stated, be decreed to be a good and sufficient cancellation of the same; and that the said executors may be enjoined and restrained from proceeding, either at law or in equity or otherwise, in collecting, foreclosing, or taking any action whatever upon the said mortgages on the said real estate, or upon the said promissory note and chattel mortgage, and from appropriating any money which may be due or coming hereafter from the estate of the said Richard Corlies to your oratrix for the payment of the said mortgages and promissory note, or
 20 any part thereof; and that your oratrix may have such other and further relief as the nature of the case may require, and as shall be agreeable to equity and good conscience.

May it please your Honor, the premises considered, to grant unto your oratrix not only the State's writ of injunction issuing out of and under the seal of this honorable court, to be directed to the said Levi G Irwin and Aaron E. Johnston, executors as aforesaid, restraining them and each of them from pro-
 30 ceeding, either at law, or in equity or otherwise, in collecting, foreclosing, or otherwise taking action upon the said mortgages on the said real estate of your oratrix, or upon the said promissory note and chattel mortgage, and from appropriating any money which may be due or coming hereafter from the estate of the said Richard Corlies, deceased, to your oratrix in payment of the said mortgages and promissory note, or either of them, or any part thereof, but also the State's

writ of subpoena to be directed to the said Levi G. Irwin and Aaron E. Johnston, executors of the estate of the said Richard Corlies, deceased, and James E. Johnston, therein and thereby commanding them and each of them, at a certain day and under a certain penalty therein to be expressed, personally to be and appear before your Honor in this honorable court, then and there to answer the premises, and to stand to, abide and perform such decree as to your Honor shall seem meet, &c.; and your oratrix, as in duty bound, will ever pray, &c. 10

ROBBINS & HARTSHORNE,
Solicitors for and of Counsel with the Complainant.

Answer of Irwin and Johnston, Executors, &c.

The answer of the defendants, Levi G. Irwin and Aaron E. Johnston, executors, &c., to the bill of complaint of the complainant.

These defendants now and at all times hereafter saving and reserving to themselves all and all manner of benefit and advantage of exceptions to the many errors, uncertainties and imperfections in the said bill of complaint contained, for answer thereunto, or unto so much thereof as these defendants are advised is material or necessary for them to make answer unto, answering say—

They admit that the complainant, Elizabeth Johnston, wife of the defendant, James E. Johnston, of the township of Howell, county of Monmouth, and State of New Jersey, is the owner in fee simple in her own right (subject to the interest and right of her husband, James E. Johnston, one of the defendants, therein) of two certain tracts or parcels of land, situate, lying and being in the said township of Howell, county of Monmouth, and 30

State of New Jersey, particularly described and set forth in paragraph number one of the complainant's bill, said description. of said two tracts or parcels of land covering about the first four pages of the complainant's bill.

And these defendants, further answering, admit that Richard Corlies, at the time of his death and for many years prior to his death, was a resident of the township of Howell, in said county and State, and was the owner of real and personal estate situate therein; that said
 10 Richard Corlies died on or about the second day of January, A. D. eighteen hundred and seventy-nine, at about the age of eighty-two years, in the village of Farmingdale, township of Howell, county and State aforesaid, leaving as his heirs at law, surviving him, the complainant, Elizabeth Cottrell (wife of John W. Cottrell), Annie Jones, Eleanor M. Jones and Mary Jane Jones, the four last above named heirs the children of Rebecca Jones, daughter of the said Richard Corlies and wife of Benjamin Jones, deceased; that the complainant was a mar-
 20 ried woman, and the wife of James E. Johnston, one of the defendants; that the said complainant and the defendant, James E. Johnston, have been married for over twenty years; that the said Richard Corlies left a will appointing the defendants, Levi G. Irwin and Aaron E. Johnston, his executors; that said will of Richard Corlies was admitted to probate in the surrogate's office of the county of Monmouth, and such proceedings were had in reference thereto as is truly stated in paragraph two in complainant's said bill.

30 And these defendants, in further answering, admit that the two tracts of land described and set forth in paragraph one of the complainant's bill was at and before the decease of the said Richard Corlies encumbered by two certain mortgages, as set forth in paragraph one of complainant's bill, the first tract by a mortgage of fourteen hundred and four dollars and fifty cents, given by the complainant and her husband, James E. Johnston, to the Chancellor of the State of New Jersey, dated

December the tenth, eighteen hundred and sixty-six, recorded in the Monmouth county clerk's office in Book H2 of Mortgages, page 226, &c., December 11th, A. D. 1866; also, by a mortgage for eighteen hundred and sixty-six dollars and thirty-two cents, made by the said James E. Johnston, the husband of the complainant, to Richard Corlies, dated the thirteenth day of September, eighteen hundred and sixty-nine, and recorded on the same day and year in said clerk's office, in Book R2 of Mortgages, page 80, &c.; upon the second tract described 10 in paragraph one of complainant's bill, a mortgage for one thousand dollars, made by the complainant and her husband, James E. Johnston, to the said Richard Corlies, dated November the fourteenth, eighteen hundred and sixty-six, recorded on the day and year last named, in Book H2 of Mortgages, page 165, &c.

And these defendants in further answering, deny the whole of paragraph number four of complainant's bill—that the said Richard Corlies for several years preceding his decease, intended to deliver up to the complainant, 20 to be cancelled of record, the mortgages secondly and thirdly named in the complainant's bill, or that he had such intention from July, eighteen hundred and seventy-six, or at any other time, or that the said Richard Corlies in his life-time proposed or intended, in order to do justice to all of his heirs and next of kin, to deed to the said children of his said daughter, Rebecca Jones certain lands in the village of Farmingdale, or that on different occasions between the time above stated and his decease, the said Richard Corlies informed the complain- 30 ant of his said purpose and intention, or stated to the complainant that upon his decease the said mortgages secondly and thirdly named in the complainants bill, would be the complainants, or that the said Richard Corlies, in his life-time, at different times between the times above specified, informed other persons to the same effect, or that the said Richard Corlies, from the time of making the complainant a deed for the said parcels

of land mentioned and set forth in complainant's bill—the said Richard Corlies, father of the complainant, never exacted from or asked complainant for the payment of any interest or principal whatever on the said mortgages, but on the contrary these defendants charge the truth to be that the said complainant and her husband, James E. Johnson, were in poor and needy circumstances and unable to meet the interest, and the said Richard Corlies, by reason of the relationship existing between
 10 them, forebore to force the collection of the interest, or press payment of either principal or interest due from the complainant to him.

These defendants admit that none of the principal or interest of said mortgages was paid by the complainant or any one for her during the life-time of the said Richard Corlies, but these defendants deny that upon one occasion, in the year eighteen hundred and seventy-seven, or upon any other occasion or year, the said Richard Corlies, father of the complainant, offered to deliver
 20 up to the complainant the said mortgages, or to release her or her land from all obligations on account of the same, saying at the same time that he was going to give the said children of his daughter, Rebecca, then deceased, as much, by deed for land on the other side of the road, as charged in the bill of complainant.

These defendants admit that the complainant was in straightened circumstances, and was with difficulty able to meet such demands as she then had on her means, and for the payment of taxes on her property; but they deny
 30 that the said Richard Corlies, the father of the complainant, for a long time neither demanded interest or taxes on the said mortgages, or that the complainant requested the said Richard Corlies, her father, not to deliver up to complainant the said mortgages, or to release her land from all obligation on account of the same, relying upon his promise to do so before his decease, or to arrange this matter to that effect, to take place after his decease, or that by reason of or on account of which request, said

mortgages were not delivered up to complainant at that time, but, on the contrary, these defendants charge the truth to be that the complainant was constantly and continually importuning her father, the said Richard Corlies, to give her said mortgages or have the same cancelled of record so that they would not be a lien upon her said land and premises, which the said Richard Corlies, in his life-time, always and persistently refused to do.

And these defendants, in further answering, admit that the said Richard Corlies' residence was in the village of 10 Farmingdale, county and State aforesaid, on the same street with that of the complainant, and nearly opposite—that there resided with the said Richard Corlies, at the time of his decease, the children of Rebecca Jones, except Elizabeth Cottrell, who resided in the same township. That a short time after the decease of the said Richard Corlies, his will was read at his late residence, in the presence of the said executors, the children of the said Rebecca Jones, James E. Johnston, the husband of complainant, and others then there, that no mention of the 20 said mortgages was made in the said will, or by any one present at the time of the reading thereof; but the defendants deny that on the same day of the reading of the said will, and after the departure of most of those present and all of the members of the family of the complainant except Aaron E. Johnston, one of the said executors and the son of the complainant, the said Annie Jones procured from some part of the said house and from her trunk two envelopes, one containing the certain deeds from Richard Corlies to the children of Re-30becca Jones respectively for certain premises in said township of Howell, and the other containing the said mortgages held by the said Richard Corlies against the complainant, and offered the same to the said Levi G. Irwin, one of the said executors; the defendant, Levi G. Irwin, one of the executors of said Richard Corlies, deceased, upon this point charges the truth to be, that after the will was read, and on the same day, while

he was at the house and late residence of said Richard Corlies, deceased, and while the defendant, Irwin, one of the executors aforesaid, was making in going and looking after and into the matters entrusted to his care, the said Annie Jones came to the defendant, Irwin, and told him that she had some papers which had been entrusted to her care and keeping by her grandfather; that at the time her grandfather had delivered to her the papers he said to her after he was
10 gone there would be some one to look after his business; that she must keep the papers carefully, and after his death deliver them to the proper person; that he, the said Richard Corlies, was getting old, feeble and infirm, and might go off suddenly at any time, and he was afraid if he died that the papers that he delivered to the said Annie Jones would be stolen or spirited away by the parties against whom he held the same; that the said Richard Corlies gave to her, the said Annie Jones, an envelope containing some papers, which afterwards
20 turned out to be the mortgages in question in this suit; that the conversation between the said Richard Corlies and his granddaughter, Annie Jones, and the delivery of the envelope containing the mortgages was a long time before the death of said Richard Corlies; that the said Annie Jones only brought to the defendant, Irwin, one envelope containing the mortgages held by the said Richard Corlies in his lifetime against the complainant; that the said Annie Jones did not bring or offer to bring or produce before the defendant, Irwin, one of the exec-
30 utors aforesaid, two envelopes, one containing certain deeds from the said Richard Corlies to the children of Rebecca Jones on the day the will of the said Richard Corlies, deceased, was read, or at any other time; the defendant, Irwin, one of the executors aforesaid, admits that he did receive the said mortgages and place the same with the other papers which were of the said Richard Corlies, deceased, but he distinctly denies that the said deeds from Richard Corlies, deceased, to the child-

ren of Rebecca Jones were ever offered to him, or that he declined to accept said deeds, or told the said Annie Jones, or any one else, to keep the same or to take the same back, which she, the said Annie Jones, did, as is charged in complainant's said bill.

That the said defendant, Irwin, one of the executors aforesaid, did not see the deeds from Richard Corlies to the children of Rebecca Jones on the day the will was read, and never had them in his charge or any control whatever of them; that said deeds which are particu-10 larly described and set forth in the complainant's bill were made, executed and delivered by the said Richard Corlies in his lifetime to the different children of the said Rebecca Jones, and the defendant is informed and believes that he had no right to the same, nor were they any part of the estate of said Richard Corlies; the defendant, Irwin, admits that the deeds and mortgages mentioned in complainant's bill were not with the other papers of the said Richard Corlies, but in what part of the house, or whether in a box or 20 trunk, defendant has no personal knowledge, but the defendant, Irwin, denies that the deeds or the mortgages were in the trunk of the said Annie Jones, and kept by her as at the request of the said Richard Corlies, for the purpose of delivery, after his decease, the said mortgages to the complainant and the said deeds to the said children of Rebecca Jones. The defendant, Irwin, distinctly charges that the deeds from Richard Corlies to the children of Rebecca Jones, were executed by the said Richard Corlies in his lifetime, and delivered to the 30 grantees before his decease. These defendants admit that the recital of the conveyance from Richard Corlies to the different children of Rebecca Jones, the record and consideration therein named to be true as stated in said bill of complaint, but the defendant, Irwin, one of the executors, as aforesaid, denies that they were made in accordance with any statement or understanding between the said Corlies and complainant as charged in

said bill, to the effect that in consideration of the said conveyance of the land and premises conveyed to the children of Rebecca Jones, that the said Corlies would give to the complainant the said mortgages in question. That the defendant, Irwin, has no knowledge what sum, if any sum, was paid by the children of the said Rebecca Jones for the conveyances aforesaid; but he denies that the said conveyances set forth in complainant's bill, and the sum specified in each place therein, were in pursu-
10
ance of the purpose or intention of the said Richard Corlies, as claimed in complainant's bill, or that the said mortgages were delivered by the said Richard Corlies to the said Annie Jones with intent, purpose, or in order that they might be delivered immediately after his decease to the complainant to be cancelled, and that instead of conveying and performing the said purpose of the said Richard Corlies, the said deeds were, on or about the eighth day of January, 18—, recorded.

And the defendant, Irwin, one of the executors afore-
20
said, in further answering, says, that he is informed and believes it to be true, and distinctly charges that the conveyances by the said Richard Corlies to the children of Rebecca Jones, were made with the intent and purpose of making their share of his estate equal to the complainant's. That the complainant and her husband, James E. Johnston, were thriftless and improvident and continually harrassed and embarrassed with debt, and that the said Richard Corlies, in his lifetime, laid out and expended large amounts of money for the complain-
30
ant and her husband, and made advances unto them out of his estate for the benefit of the complainant.

And the defendant, Irwin, executor as aforesaid, in further answering, says, that at the request and solicitation of the said Richard Corlies, on the eighth day of August, eighteen hundred and seventy-eight, he drew the last will and testament of the said Richard Corlies, at his house and residence in the village of Farmingdale; that after making a description of part of his real

estate, defendant called said Corlies' attention to certain real estate belonging to him; and the same real estate conveyed by the said Corlies to the children of Rebecca Jones, set forth in complainant's bill, that said Corlies informed defendant that he had deeded all of that property away, and asked defendant if the conveyances were good if not recorded; defendant replied that they were if the deeds were delivered; he replied he had delivered the deeds to the different grantees.

And the defendant, Irwin, executor as aforesaid, in 10 further answering, says, that the children of Rebecca Jones, and their mother, lived a part of the time with the said (Richard) Corlies, but for how long a time this defendant has no knowledge, or to what extent they or any or either of them were supported by the said Corlies, or what work or labor they performed, or what service they rendered, in return for such support, this defendant has no positive knowledge or information.

The defendant, Irwin, in further answering, denies that immediately after the decease of the said Richard Corlies, 20 and from time to time thereafter, for near the space of one year the complainant made inquiry and endeavored to ascertain if in any way the said Richard Corlies had carried out any pretended purpose in regard to the said mortgages, and was unable to do so, or that the complainant finally came to believe that her father had failed or neglected to carry out such pretended purpose on the part of the complainant, or that she did not ascertain for a long time that the said mortgages had been delivered to the said Annie Jones. This defendant admits that there were 30 proceedings instituted to foreclose a certain mortgage held by the Chancellor of the State of New Jersey, as stated in complainant's bill, and that the complainant was unable to meet the obligation, and the said foreclosure suit was in danger of proceeding, and that the Executors of the said Richard Corlies were aware of the fact, and stated to the complainant, which was the fact, that if said foreclosure should proceed, the mortgaged

premises would bring but little more than enough to pay the said mortgage and costs of suit; that the right of dower of the complainant would affect the sale, and in case the property aforesaid failed to bring the mortgage of Chancellor and the second mortgage, held by the Executors of Richard Corlies, deceased, that the complainant's share in her father's estate would be affected. But the defendant, Irwin, executor, as aforesaid, denies that the executors urged any arguments, or attempted in any
10 way to persuade or influence the complainant to execute to the said Executor a promissory note secured by a chattel mortgage on the personal property of the complainant, for one thousand dollars, and also loaned on a note, to the complainant, the sum of two hundred dollars to pay arrears of interest on the said Chancellor's mortgage. The defendant, Irwin, denies that the complainant, being pressed by the said foreclosure or persuaded by the executors, or through want of knowledge of the law, that the complainant consented to any plan
20 of the executors, and made to them her note for two hundred dollars, to pay the interest in arrears on said Chancellor's mortgage, and also execute to them a note for one thousand dollars. The defendants admit that the complainant and her husband did execute and deliver to them a note to the same effect as stated in complainant's bill, which is now held by them; and these defendants, executors, as aforesaid, admit that the complainant and her husband made and executed to the defendants, executors, as aforesaid, a chattel mortgage as collateral security for said one thousand dollar note, on certain property
30 described in complainant's bill; and upon the execution of said note and chattel mortgage, and the delivery of the same to the defendants, the defendants, executors, as aforesaid, delivered up, to be cancelled, to the complainant the said mortgage for one thousand, eight hundred and sixty-six dollars and thirty-two cents. But the defendant, Irwin, executor, as aforesaid, denies that the complainant gave the said note and chattel mortgage

and accepted the said mortgage of one thousand, eight hundred and sixty-six dollars and thirty-two cents, as before stated, through a mistake and error, and by reason of her not knowing at that time that the said mortgage had already been delivered and given up, or that except for the error or want of knowledge of the case, the complainant would have done the same.

And the defendant, Irwin, one of the executors, as aforesaid, in further answering says that the said Richard Corlies made and executed his will the eighth day of 10 August, A. D. eighteen hundred and seventy-eight, that the said Corlies departed this life on the second day of January, A. D. eighteen hundred and seventy-nine, that a few days after his decease his will was read at his residence in Farmingdale, that his executors aforesaid assumed control of his estate and took charge of his papers; among other papers and assets of said Corlies, the two bonds and mortgages secondly and thirdly mentioned in complainant's bill; that shortly after the will was admitted to probate by the Surrogate of 20 the county of Monmouth, an inventory of the personal property of which the said Corlies died seized and possessor of was filed in said surrogate's office, including a statement of the bonds and mortgages held by the said Corlies against the property of the complainant; that the executors, the defendants, Levi G. Irwin and Aaron E. Johnston, proceeded in the regular way to settle up the estate of the said Corlies; that the said Aaron E. Johnston, one of the executors, is a son of the complain- 30 ant, and has always resided with his mother and father at Farmingdale, and assisted in the preparation of the inventory and statement of the Corlies estate; that the executors had frequent talks and consultations in regard to the bonds and mortgages held by the Corlies estate against the property of the complainant, and no action was taken until on or about the first day of May, A. D. eighteen hundred and seventy-nine; shortly prior to that time, as the defendant, Irwin, is informed and be-

lieves to be true, a mortgage given by Johnston and his wife, the complainant, to the Chancellor of the State of New Jersey, and mentioned in the complainant's bill, had commenced to be foreclosed on account of the non-payment of interest; that on or about the first of May, A. D. (eighteen hundred and seventy-nine) 1879, Aaron E. Johnston, one of the executors aforesaid, and his father, James E. Johnston, came to defendant, Irwin, to consult with him about said foreclosure; after talking
 10 the matter over, it was agreed that it would be best and consistent for the executors to go and see the property and determine how much margin there was in the same after the payment of the first mortgage to the Chancellor and the accrued interest thereon; this was done, and it was decided that the said property was worth about three thousand dollars; it was considered that the Chancellor's mortgage and interest and costs would amount to about two thousand dollars, and that would leave about one thousand dollars for the second mortgage, the mort-
 20 gage held by the executors of the Corlies estate; the executors, Irwin, and Johnston, agreed that if the complainant secured to them the sum of one thousand dollars it would be to the best interest of the estate to accept that sum, properly secured, and surrender up the second mortgage for cancellation; that said Johnston, one of the executors, took upon himself the duty of seeing his mother, the complainant, who seemed to be anxious, and he expressed a desire to hold them to the proposition, as above stated; the proposition was made and accepted,
 30 but before the note for one thousand dollars and the chattel mortgage was given or delivered to the executors, as stated in the complainant's bill, the defendant, Irwin, saw all the heirs at law of said Richard Corlies and obtained from them the following instrument in writing, which includes, also, the complainant:

Farmingdale, May 17, 1879.

This is to certify that we, whose names are hereto annexed, being heirs at law of Richard Corlies, de-

ceased, late of the township of Howell, county of Monmouth, do hereby authorize and empower Levi G. Irwin and Aaron E. Johnston, executors of said Richard Corlies, deceased, to cancel a certain mortgage given by James E. Johnston to said Richard Corlies, dated the thirtieth day of September, 1869, for the sum of one thousand eight hundred and sixty-six dollars and thirty-two cents, on a certain farm situate at New Bargain, in said township of Howell, in consideration of said James E. Johnston securing to said executors the sum of one 10 thousand dollars for the benefit of said estate, and we do hereby covenant and agree to hold the said executors harmless in doing the same, believing it to be our interest as heirs of said estate for them to do so. In witness whereof we have hereto set our hands the day and year first above written.

(Signed)	Elizabeth Johnston,	
"	Elizabeth Cottrell,	
"	Anna Jones,	
"	Eleanor M. Jones,	20
"	Mary J. Jones.	

That after the said writing was signed, the said note for one thousand dollars and the chattel mortgage, were given to the defendants according to the understanding and agreement between the parties, and the said mortgage for \$1,866.32 delivered up to be cancelled; that at the time of the execution and delivery of the note for \$1,000, and the chattel mortgage, there was no claim or pretense that the said mortgage was not a subsisting claim and encumbrance on said property at New Bargain, 30 Howell township, aforesaid.

And the defendant, Irwin, in further answering, says, that the note for two hundred dollars, mentioned in the complainant's said bill, had nothing to do whatever with the giving of said one thousand dollar note and chattel mortgage or the surrendering up of the \$1,866.32 mortgage to be cancelled; that the said note was given to secure a loan by the complainant from the executor of

said Corlies, and has been fully paid and satisfied ; that the said note for one thousand dollars and chattel mortgage were not given by mistake or through error, but to secure the payment of the mortgage for \$1,866.32, a lien and encumbrance on the tract of land aforesaid.

And the defendant, Irwin, executor as aforesaid, in further answering, says, that the compromise of the mortgage held by the executors against the property of the complainant, was done in the interest of the com-
10 plainant and all the beneficiaries under said will of said Corlies ; that at the time that the compromise was effected, as aforesaid, there was no claim, demand, or pretence made by the complainant that the said Richard Corlies, in his lifetime, had agreed or stated to the complainant that he intended to give to her, the said complainant, the said two mortgages secondly and thirdly set forth in complainant's bill ; nor did the defendant, Irwin, hear or learn of any such pretended claim until in or about September, 1879, when the said complainant and her
20 husband, James E. Johnston, came to defendant, Irwin, and stated to him that they had heard that the said Richard Corlies had delivered, in his lifetime, the two bonds and mortgages secondly and thirdly mentioned in complainant's bill to Annie Jones, to be delivered up to the complainant after his decease ; defendant, Irwin, inquired of the complainant for her authority for saying or believing such to be the case ; complainant replied, that she had heard such was the fact, and that was all she knew about it ; defendant, Irwin, informed the com-
30 plainant that such was not the fact, and the matter there ended. That the complainant applied for and had deducted from her tax the amount of the mortgages held by the estate of said Richard Corlies. That the defendant, Irwin, executor as aforesaid, paid the taxes on said mortgages, with the knowledge of the complainant, as part of the assets of the said Richard Corlies. That defendant, Irwin, heard nothing further of the claim or *insistence* of the complainant until on or about the twen-

ty-third day of March, A. D. (eighteen hundred and eighty) 1880; at which time a notice of such pretended claim, as mentioned in the complainant's bill, was served on the defendant, Irwin.

And these defendants, in further answering, admit, that the said executors are in possession of the said note; the chattel mortgage not having been renewed has expired; and the mortgage for one thousand dollars; and it is the intention of the executors to retain out of any money which may be coming to the complainant from 10 the estate of the said Richard Corlies, to the amount of the said note, and interest on the same, unless legally prevented from doing the same.

And the defendant, Irwin, executor as aforesaid, in further answering, admits, that the said Aaron E. Johnston is a young man, and was, at the date of the death of the said Richard Corlies; but the defendant denies that the said Johnston was unaccustomed to business and easily influenced and led by the defendant, Irwin, his co-executor; and the defendant, Irwin, denies that 20 he is wholly or in great part to blame for the placing of the complainant in a false and erroneous position, or that the complainant is in any false or erroneous position, or that he concealed from the complainant the true circumstances concerning the said mortgages.

And these defendants deny all and all manner of unlawful combination and confederacy, wherewith they are by the said bill charged, without that, that any other matter or thing in the said complainant's said bill of complaint contained material or necessary for these defend-30 ants to make answer unto and not herein and hereby well and sufficiently answered, confessed or avoided, traversed or denied, is true to the knowledge or belief of these defendants; and which matters and things these defendants are ready and willing to aver, maintain and prove, as this honorable court shall direct, and humbly

pray to be hence dismissed, with their reasonable costs and charges in this behalf most wrongfully sustained.

CHAS. HAIGHT,

Sol'r for and of Counsel with the Defendants, Irwin and Johnston.

Answer of Aaron E. Johnston, one of the Executors.

The answer of the defendant, Aaron E. Johnston one of the executors of Richard Corlies, deceased, to the bill
10 of complaint of the complainant.

This defendant now and at all times hereafter saving and reserving to himself all and all manner of benefit and advantage of exception to the many errors, uncertainties and imperfections in the said bill of complaint contained, for answer thereunto, or unto so much thereof as this defendant is advised it is material or necessary for him to make answer unto, answering says—

He admits that the complainant, Elizabeth Johnston, wife of the defendant, James E. Johnston, of the town-
20 ship of Howell, in the county of Monmouth, and State of New Jersey, is the owner in fee simple in her own right (subject to the inchoate tenant by the courtesy right of her husband, James E. Johnston, one of the defendants, therein) of two certain tracts or parcels of land situate, lying and being in the township of Howell, in the county of Monmouth and State of New Jersey, particularly set forth and described in the complainant's bill of complaint, the first tract containing one hundred and fourteen acres, more or less, contained in a deed
30 from Richard Corlies to her, dated July 25, 1876, and recorded in the clerk's office of the said county of Mon-

mouth, in Book 288 of Deeds, page 435; the second tract containing thirty-one-hundredths of an acre, strict measure, contained in a deed from Richard Corlies to her, dated July 25, 1876, and recorded in said Monmouth county clerk's office, in Book 288 of Deeds, page 435, &c., as particularly set forth in the complainant's bill of complaint.

And the defendant further admits that the said Richard Corlies resided for many years in the township of Howell aforesaid, and at the time of his death, and for ¹⁰ some time before, was the owner of considerable real and personal estate in said township; that the said Richard Corlies died on or about the second day of January, A. D. eighteen hundred and seventy-nine, at about the age of eighty-two years, at his residence in the village of Farmingdale, in the said township of Howell, leaving him surviving Elizabeth Cottrell (wife of John W. Cottrell), Anna Jones, Eleanor M. Jones and Mary J. Jones, children of his daughter, Rebecca Jones, now deceased, by her husband, Benjamin Jones, now de- ²⁰ ceased, and the complainant, his daughter, his heirs at law and next of kin; and that the complainant is a married woman and the wife of said James E. Johnston, as set forth in the bill of complaint.

And the defendant further admits that the said Richard Corlies left a will, and thereby, amongst other things, appointed Levi G. Irwin and (this defendant) Aaron E. Johnston his executors, and that the said will was duly admitted to probate before the surrogate of the county of Monmouth, on the sixteenth day of January, eighteen ³⁰ hundred and seventy-nine, and recorded in the surrogate's office in Book M of Wills, page 391, &c., and that the said Levi G. Irwin and this defendant took upon themselves the burthen of the administration of the said estate.

And this defendant further admits that the land and premises particularly set forth in the bill of complaint of the complainant and hereinbefore referred to, was,

upon the decease of said Richard Corlies, encumbered as follows: The former of said tracts, first, by a mortgage made by the said James E. Johnston, one of the defendants, and the complainant unto the Chancellor of the State of New Jersey, to secure the payment of fourteen hundred and four dollars and fifty cents, with legal interest, in the manner particularly specified in the complainant's bill of complaint, and that said mortgage bears date the tenth day of December, A. D. eighteen hundred and sixty-six, and is recorded in the clerk's office of the county of Monmouth, in Book H2 of Mortgages, page 226, &c., on the eleventh day of December, A. D. eighteen hundred and sixty-six, as alleged in said bill of complaint; and, second, by a mortgage made by the said defendant, James E. Johnston, to the said Richard Corlies, to secure the payment of eighteen hundred and sixty-six dollars and thirty-two cents in one year after date, with interest, which mortgage bears date the thirtieth day of September, A. D. eighteen hundred and sixty nine, and was recorded in said Monmouth county clerk's office, in Book R2 of Mortgages, page 80, &c., on the thirtieth day of October, A. D. eighteen hundred and sixty-nine, as alleged in the complainant's bill of complaint; and the latter of said tracts by a mortgage made by the said defendant, James E. Johnston, and the complainant to the said Richard Corlies, to secure the payment of the sum of one thousand dollars in one year from the date thereof, with interest, which mortgage bears date the fourteenth day of November, A. D. eighteen hundred and sixty-six, and was recorded at Freehold, in Monmouth county clerk's office, in Book H2 of Mortgages, page 165, on the same day and year last aforesaid mentioned, as alleged in the complainant's bill of complaint.

And this defendant in further answering says, that he is not informed, except by the allegations in said bill of complaint and by hearsay evidence, that the said Richard Corlies, for several years preceding his decease, intended

to deliver up the said mortgages secondly and thirdly above mentioned to the complainant to be cancelled of record, and that he had such intention from about July, eighteen hundred and seventy-six; or that he also intended, in order to do justice to all his heirs and next of kin, to deed to the said children of his said daughter, Rebecca, certain lands, situate in the said village of Farmingdale; or that on different occasions between the time above stated and his decease he informed the complainant of his said purpose and intention; or that he 10 stated to the complainant that upon his decease the said mortgages would be hers; or that he at different times between the times above specified informed other persons to the same effect as above set forth; or that from the time of his making to the complainant a deed of the said parcels of land above set forth, he never exacted from, or asked of her the payment of any interest or principal whatever, of either of the said two mortgages; or that no principal or interest whatever of the said mortgages has since that time been paid by her or any-20 one for her, except as further stated in said bill of complaint; and this defendant prays that all and singular the above allegations, so far as the same are material to the accomplishment of the purpose sought by the complainant in her bill of complaint, may be strictly proved according to the rules and practice of this court.

And this defendant in further answering says, that he is not informed, except by the allegations in the bill of complaint and by hearsay evidence, that the said Richard Corlies on one occasion some time in the year eight-30 een hundred and seventy-seven offered to the complainant to deliver up to her the said mortgages, and to release her and her land from all obligation on account of the same; or that he said at the same time, that he was going to give the said children of his said daughter, Rebecca (then deceased), as much by deed for land on the other side of the road; or that the complainant was then in comparatively straitened circumstances, and with diffi-

culty able to meet such demands as she then had on her means, and for payment of taxes on her property; or that the said Richard Corlies had for a long time before then required payment of neither interest nor taxes on the said mortgages; or that the complainant then requested said Richard Corlies not to deliver said mortgages to her at that time, or relied upon any promise made by him, to do so before his decease, or to arrange his matters to that effect, to take place after his decease; or that the
10 said mortgages were not then delivered by said Richard Corlies to the complainant on account of her said request; and this defendant prays and demands that all and singular the above allegations and statements, so far as they are material to accomplish the purpose of the complainant in this cause, may be strictly proved according to the rules and practice of this court.

And this defendant, in further answering, admits, that the residence of Richard Corlies, in which he departed this life, was located in the village of Farmingdale, on
20 the same street with that of the complainant, and nearly opposite the same, and that there resided with the said Richard Corlies, at the time of his decease, the said children of the said Rebecca Jones, except Elizabeth, who also resided near, as alleged in the bill of complaint.

And this defendant in further answering admits, that on the same day of the reading of the will, after the departure of some of those present, and of all of the members of the family of the complainant except this defendant, the said Annie Jones, brought forth two envelopes
30 and offered the same to Levi G. Irwin, one of the executors, who received one of the envelopes which contained the mortgages aforesaid, and placed the same with the other papers which were of the said Richard Corlies, deceased, but did not receive the other envelope of which the said Anna Jones, then said, "these are our deeds," but told the said Annie Jones to take them back, which she did; that the said deeds and mortgages were not with the other valuable papers of the said Richard Corlies, nor

in the same part of the house, as is substantially alleged in the bill of complaint.

And this defendant in further answering says, that the said Annie Jones, some months after the decease of the said Richard Corlies, told this defendant that the said mortgages were handed to her by Richard Corlies; when she got her new trunk, to put them into it, for safe keeping, for fear of fire or that something might happen or he might die, and in case he died, to be handed to somebody. 10

And this defendant in further answering says, that he is not informed, except by the allegations or claims put forth by the complainant in her bill of complaint and by hearsay evidence, that the said Richard Corlies, gave to said Annie Jones, the said papers, for the purpose of delivering, after his decease, the said mortgages to the complainant, and the said deeds to the children of Rebecca Jones, but asks that the complainant prove the same according to the rules and practice of this court.

And this defendant in further answering admits, that 20
the said Richard Corlies executed a conveyance to Annie Jones of the premises described in a deed, made by him to her, bearing date the sixth day of August, A. D. eighteen hundred and seventy-two, and recorded in Monmouth county clerk's office. in Book 305 of Deeds, page 400, &c., on the eighth day January, A. D. eighteen hundred and seventy-nine; and that the said Richard Corlies, executed a conveyance to Mary Jane Jones of the premises described in a deed made by him to her bearing date the sixth day of August, A. D. eighteen hun- 30
dred and seventy-two, and recorded in said Monmouth county clerk's office in Book 305 of Deeds, page 402, &c., on the said eighth day of January, A. D. eighteen hundred and seventy-nine; and that the said Richard Corlies executed a conveyance to Eleanor M. Jones, of the premises described in a deed made by him to her, bearing date the sixth day of August, A. D. eighteen and seventy-two, and recorded in said Monmouth county

clerk's office in Book 305 of Deeds, page 338, &c., on the said eighth day of January, A. D. eighteen hundred and seventy-nine, and that the said Richard Corlies, executed a conveyance to Elizabeth Cottrell of the premises described in a deed, made by him to her, bearing date the said sixth day of August, A. D. eighteen hundred and seventy-two, and recorded in said Monmouth county clerk's office in Book 305 of Deeds, page 406, &c., on the said eighth day of January, A. D. eighteen hundred and
 10 seventy-nine, that the consideration of each of said deeds is the sum of six hundred dollars, and that no such sum nor any sum was paid by the said grantees, respectively, for the said conveyances, as is alleged in the bill of complaint; but this defendant is not informed that the said deeds were ever delivered by the said Richard Corlies to the said parties, respectively, or to the said Anna Jones, to be delivered to the said parties, respectively, or that the said Richard Corlies ever told the complainant that
 20 respectively, or that it was the intention of the said Richard Corlies that the deeds and mortgages should offset each other, and to effect that purpose were given to the said Annie Jones, to be delivered by her, after his decease, the deeds, to the children of Rebecca Jones, respectively, and the mortgages to the complainant to be cancelled, and prays that the same may be proved according to the rules and practice of this court.

But this defendant admits that the said deeds, after the decease of Richard Corlies, were recorded in Mon-
 30 mouth county clerk's office, and that the said mortgages were delivered to the executors and appraised as part of the estate of Richard Corlies, deceased, as alleged in the bill of complaint.

And this defendant in further answering admits, that the children of Rebecca Jones, (except the said Elizabeth Cottrell) and their mother, in her lifetime, lived with the said Richard Corlies, and that Elizabeth Cottrell lived with him up to the time of her marriage, about eight

years ago, and that a part of the time thereafter she and her husband lived on a farm of said Richard Corlies, and that the children of Rebecca Jones, and their mother, during the time they lived with said Richard Corlies, were supported in whole or in part by him; and that the said Elizabeth Cottrell and her husband, during the time they occupied the farm of Richard Corlies, enjoyed the same, in whole or in part, free of charge.

And this defendant, in further answering, admits that the complainant, soon after the decease of Richard Corlies, and for near the space of one year thereafter, made inquiry of this defendant, one of the executors of Richard Corlies, deceased, as to whether the said Richard Corlies had arranged or made provision in any way for her to have the mortgages aforesaid, and that he did not give her any information concerning the same, and did not, until more than a year after the decease of Richard Corlies, inform her of the circumstance that the mortgages were, at the time of his decease, in the possession of Annie Jones—along with the deeds to the children of Rebecca, and apart from the other papers of Richard Corlies, deceased, and that the first information she received as to the possession of said papers by Annie Jones, was from this defendant, but this defendant is not informed, except by the allegations in said bill of complaint of the belief of the complainant as to the said Richard Corlies failing to carry out his purpose as to the said mortgages.

And this defendant in further answering, admits that before he had informed the complainant of the possession by Anna Jones of the mortgages and deeds aforesaid, on the day of the reading of the will, as hereinbefore stated, the interest on the mortgage executed to the Chancellor of the State of New Jersey became due and in arrear, and proceedings were commenced to foreclose the same, and that the complainant was notified of said foreclosure proceedings, and was unable to meet her obligation, and the foreclosure suit was in danger of pro-

ceeding ; that this defendant, after consulting the other executor, represented to the complainant that if said foreclosure suit should proceed, the mortgaged premises would be sacrificed, and would not realize more than enough to pay the said mortgage and costs of suit, that her right of dower, which would remain in anything over and above the mortgage to the Chancellor, (she not having joined in the execution of the mortgage made by her husband to Richard Corlies) would affect the sale,
 10 and that in case of such sacrifice and the total loss of the last named mortgage, it would affect her share in the estate of Richard Corlies, deceased ; that the said executors offered to deliver up to her, to be cancelled, the said mortgage for eighteen hundred and sixty-six dollars and thirty two cents, if she would execute to them her promissory note secured by chattel mortgage on her personal property, for one thousand dollars, and would also loan her, on her promissory note, the sum of two hundred dollars to assist her in paying the arrears of interest on
 20 the said mortgage to the Chancellor ; that the complainant accepted said offer, made to her by this defendant and the other executor of Richard Corlies, deceased, and executed to them her note for two hundred dollars, for money to pay said interest, and also made and executed to them a note for one thousand dollars, of which the following is a copy :

Farmingdale, N. J., May 17, 1879.

For value received, we or either of us promise to pay to Levi G. Irwin and Aaron E. Johnston, executors of
 30 Richard Corlies, deceased, or order, one thousand dollars in six months from the date hereof, with interest from the date hereof, and we do agree that the executors of said Richard Corlies, deceased, may retain out of the residuary share of the estate of said deceased, bequeathed by the will of said deceased to Elizabeth Johnston, one of the parties hereto, sufficient to pay this note, if there be so much due to her.

Signed, Elizabeth Johnston,
 " James E. Johnston,

and delivered the same to the said executors; and that the said complainant and her husband, James E. Johnston, executed and delivered to the said executors a chattel mortgage to secure said note of the purport and effect as set forth in the bill of complaint; that the said executors thereupon delivered to the said complainant the aforesaid mortgage of one thousand eight hundred and sixty-six dollars and thirty-two cents, and that the said mortgage was taken to the clerk's office of the county of Monmouth by Levi G. Irwin, one of the said execu-10 tors, and cancelled, of record on the nineteenth day of May, A. D. eighteen hundred and seventy-nine, as is alleged in the complainant's bill of complaint.

And this defendant admits, that at the time of the execution and delivery of the said notes and chattel mortgage, and the cancellation of the said mortgage, this defendant had not informed the complainant of the fact of the possession of said mortgage together with the other mortgage of one thousand dollars on the second tract above referred to, as particularly set forth in the bill of 20 complaint, and of the deeds to the children of Rebecca Jones, by the said Anna Jones, separate and apart from the other papers of Richard Corlies, deceased, but this defendant does not know of the state of mind of the complainant, or as to how her judgment was affected thereby; and this defendant distinctly charges, that he, as an executor of Richard Corlies, deceased, at the time of the execution of said notes and chattel mortgage, and the cancellation of said mortgage, believed he was doing what was for the best interest of the estate of Richard 30 Corlies (of which he was one of the representatives) and, also, of the said Elizabeth Johnston, an heir of said estate.

And this defendant admits, that he is but little acquainted with business transactions, and that the settlement of this estate, in conjunction with his co-executor, is the first important business he has undertaken, and that in the settlement thereof he has trusted in a large

measure to the discretion of his co-executor, who has had considerable experience in settling estates; but this defendant is not aware of being improperly influenced by his co-executor, as insinuated in the bill of complaint.

And this defendant admits, that the executors of Richard Corlies, deceased, are in the possession of said one thousand dollar note, and chattel mortgage to secure the same, and of the said mortgage of one thousand dollars, and intend to collect the same out of the property
10 of the said Elizabeth Johnston, unless otherwise decreed by this honorable court.

And this defendant, in further answering, avers, that the answer heretofore put in to the complainant's bill of complaint, by Levi G. Irwin, one of the executors of Richard Corlies, deceased, and purporting to be the answer of both the said Levi G. Irwin, executor, and this defendant, was not read over to this defendant, nor was he consulted in regard to the same, and that he is un-
20 willing to be bound by all the matters and things contained in the said answer, but only so far as it is in harmony with, and to the same effect as this answer of this defendant; and he, therefore, prays that his name may be stricken out of said answer, as an answering defendant, and that he may be placed in a true position before this honorable court, by means of this answer to the bill of complaint of the complainant.

And this defendant denies all and all manner of unlawful combination and confederacy wherewith he is by the said bill charged, without that, that any other matter
30 or thing in the said complainant's said bill of complaint contained, material or necessary for this defendant to make answer unto, and not herein and hereby well and sufficiently answered, confessed or avoided, traversed or denied, is true to the knowledge or belief of this defendant; all which matters and things this defendant is ready and willing to aver, maintain and prove, as this honorable court shall direct, and humbly prays to be hence

dismissed, with his reasonable costs and charges in this behalf most wrongfully sustained.

JOHN J. ELY,

Solicitor for and of Counsel with the Defendant, Aaron E. Johnston, one of the Executors of Richard Corlies, deceased.

Formal replication to both of above answers.

Final Decree.

[Filed June 6, 1882.]

This cause coming on to be heard at the February 10 Term of eighteen hundred and eighty-two of the Court of Chancery, held at the State House, in the city of Trenton, in the presence of Mr. Chilion Robbins, of counsel with the complainant, and Mr. Charles Haight, of counsel with the defendant, Levi G. Irwin, executor as aforesaid, and Mr. John J. Ely, of counsel with defendant, Aaron E. Johnston, executor as aforesaid, the complainant's bill having been heretofore taken as confessed against the defendant, James E. Johnston, and the pleadings and proofs having been read and the arguments of 20 the respective counsel having been heard and considered, and the court having duly considered the said pleadings, proofs and arguments, and it appearing to the court that the complainant is entitled to the relief sought and prayed for by her in her bill of complaint.

It is on this sixth day of June, A. D. eighteen hundred and eighty-two, by Theodore Runyon, Chancellor of the

State of New Jersey, ordered, adjudged and decreed, and the said Chancellor, by virtue of the power and authority of this court doth hereby order, adjudge and decree that, the mortgage made and executed by the said James E. Johnston, and the said complainant, his wife, to the said Richard Corlies, in his lifetime referred to in the bill filed in this cause, bearing date the fourteenth day of November, eighteen hundred and sixty-six, and recorded in the Monmouth county clerk's office, in Book 10 H. 2, of Mortgages, page one hundred and sixty-five, &c., to secure the sum of one thousand dollars in one year from the date thereof with interest, and the mortgage made and executed by the said James E. Johnston to the said Richard Corlies, in his lifetime referred to in the said bill of complaint, bearing date the thirtieth day of September, eighteen hundred and sixty-nine, and recorded in the said clerk's office, in Book R2 of Mortgages, page eighty, &c., to secure the sum of eighteen hundred and sixty-six dollars and thirty-two cents, in one year 20 from date thereof, with interest, and the promissory note referred to and fully set forth in the said bill of complaint, made and executed by the said complainant and her said husband to the said Levi G. Irwin and Aaron E. Johnston, executors as aforesaid, or order, bearing date the seventeenth day of May, eighteen hundred and seventy-nine, to secure payment of the sum of one thousand dollars in six months from the date thereof, with interest, and agreeing that the said executors might retain, out of the residuary share of the estate of the said 30 Richard Corlies, deceased, bequeathed by his will to the complainant, sufficient to pay the said note, if so much should thereby be due her, and also the chattel mortgage made and executed by the said James E. Johnston and the said complainant to the said executors, referred to in the said bill of complaint, bearing date the nineteenth day of May, eighteen hundred and seventy-nine, and filed in the said clerk's office, and numbered two thousand three hundred and ninety-three, as collateral

security for the said note, are each and every one of them null and void and of no force, effect, or validity whatsoever, either as to principal or interest, or otherwise, and are and shall be in all respects the same as if fully paid, satisfied, cancelled and destroyed, as against said complainant or the lands mentioned therein.

And it is further ordered, adjudged and decreed, that the said Levi G. Irwin and Aaron E. Johnston, executed as aforesaid, do, on service of a copy of this decree, deliver up the mortgage first above set forth and the said promissory note, to the said complainant, or her duly authorized agent or attorney, to be cancelled. 10

And it is further ordered, adjudged and decreed, that the cancellation of the said mortgage for eighteen hundred and sixty-six dollars and thirty-two cents, already made as stated in the said bill of complaint, on the nineteenth day of May, eighteen hundred and seventy-nine, be and the same is hereby declared to be a good and sufficient cancellation of the same.

And it is further ordered, adjudged and decreed, that the said mortgages, bonds, promissory note and chattel mortgage be no longer a lien or incumbrance, or apparent lien or encumbrance, upon the premises, bequest, goods and chattels therein respectively described, or against the complainant or her property, real or personal, or any person or persons claiming the same, or any part thereof, by from or under her. And that the said Levi G. Irwin and Aaron E. Johnston, executors as aforesaid, and all persons claiming by from or under them, be perpetually debarred, enjoined and restrained from collecting, foreclosing or taking any action whatever upon the said mortgages, promissory note and chattel mortgage, or either of them, either in law, equity or otherwise, and from appropriating any money which may be now due or coming hereafter from the estate of the said Richard Corlies to the said complainant, by bequest or otherwise, to the payment or satisfaction of the principal and interest of the said mortgages, bonds, pro- 30

missory note and chattel mortgage, or any of them, or any part thereof.

And it is further ordered and decreed, that the defendants, Levi G. Irwin and Aaron E. Johnston, executors as aforesaid, pay to the complainant her costs of this suit to be taxed.

THEODORE RUNYON, C.

Respectfully advised

JOHN T. BIRD, V. C.

10 A true copy
G. S. DURYEE.

Opinion.

[Filed October 28, 1882.]

BIRD, V. C.

In this cause the allegations and the proofs are that complainant was the owner of two tracts of land of 114 acres and $\frac{31}{100}$ acres, respectively; that they are the same tracts conveyed by James E. Johnson, her husband, and herself to Richard Corlies, her father, by deed, dated June 20 26, 1876, and by said Richard Corlies to complainant, by deed, July 26, 1876; that said Corlies died January 2nd, 1879, at the age of 82 years, leaving Elizabeth Cottrell, Anna Jones, Eleanor M. Jones, Mary J. Jones, children of his daughter, Rebecca, deceased, and complainant, his next of kin and heirs at law; that complainant had been married to her said husband about twenty-six years; that Richard Corlies left a will, and appointed Levi G. Irwin and son of complainant, Aaron E. Johnson, executors, which will was admitted to probate, January 16,

1879 ; that said executors proved said will, and administered on the estate of said testator ; that said first tract was encumbered by a mortgage given by said Johnson and complainant to the Chancellor, to secure \$1,404.50 with interest, the interest to be paid W. S. Fish his life-time, and the principal at his death to the children of Lydia Fish, deceased, according to a bond given by said James E. Johnson, dated Dec. 10, 1856, and also by a mortgage made by said Johnston to said Richard Corlies, for \$1866.32 with interest, dated 30th Sept., 1879 ; 10 that the $\frac{31}{100}$ acre tract was encumbered by a mortgage by said Johnston and complainant, to secure \$1000, with interest according to the condition of a bond given by said Johnston ; that said Richard Corlies, from July, 1876, intended to deliver up the said last named two mortgages to complainant, to be cancelled of record ; that in order to make an equal distribution of his estate, he also intended to convey to the said children of his daughter, Rebecca, certain lands in the village of Farmingdale ; that after the year 1876 Richard Corlies repeatedly told complain- 20 ant that said mortgage would be hers, and that he also told the same to others ; that from the time Richard Corlies executed and delivered to said Elizabeth a deed for said tracts of land, he never demanded either principal or interest of her, on said mortgages ; that in 1877 he offered her the mortgage, at the same time saying that he intended to give the children of Rebecca the land on the other side of the street, but that she did not accept the mortgages because she felt unable to pay the taxes, her father being able and willing so to do ; that 30 although thereafter, he made his will, no mention was made of the lands spoken of by him as about to be conveyed to his grand-children (the deeds for which had then actually been executed for some time), nor of said mortgages ; that after his will was read, and on the same day, Anna Jones, one of the children of Rebecca, produced the said two mortgages and delivered them to L. G. Irwin, one of said executors ; that said Anna had kept

said mortgages and deeds for the lands given to her and her sister *separate* from all the papers of Richard Corlies, and that said deeds bear date August 6, 1872; that said Rebecca and her husband, from the time of their marriage, resided with said Richard Corlies until their death, and that three of their children resided with him until his death, and the other one until a short time before, without any expense to any one of them; that after the death of Richard Corlies, the persons interested in

10 the first mortgage threatened to foreclose it, and that soon thereafter the executors of said Richard Corlies urged the complainant to give to them her note for \$1000 with a chattel mortgage on her goods, to secure the payment thereof, in consideration of which they would surrender the said mortgage of \$1866.32 for cancellation; that the complainant not knowing that her father had so separated the said mortgages as aforesaid, and supposing them to be a lien on the land, believed she had no remedy, and consented to the proposed arrangement and

20 gave her note for \$1000, and a chattel mortgage to secure its payment, which was in May, 1879; that afterwards, in 1880, in January, she learned that the deeds conveying the lands to the grand-children, and the said two mortgages on the lands then owned by her, by conveyance from her father, had been separated by her father from his other papers and placed in the hands of said Anna Jones, in whose custody they remained until after his death; that the said note and chattel mortgage were given by mistake and under a misapprehension of

30 the facts.

The complainant asks for an order directing the executors to deliver up the \$1000 mortgage and the said \$1000 note and chattel mortgage, to be cancelled, and that the cancellation of the said mortgage for \$1866.32 be declared effectual, although the answers deny that it was ever the intention of the said Richard Corlies to give said mortgages to complainant or that he ever said he would give them to her, yet it is abundantly proved that

he repeatedly declared that he had offered them to her, and that he said they were hers, and that on his death she would not owe his estate anything.

The complainant insists that her father not only intended to give these mortgages to her, but that he actually set them apart for her by placing them in the hands of Anna Jones, with whom he had intrusted the deeds conveying the lands to the children of Rebecca; while the defendants insist that he had no such purpose in view, but that he declared his real purpose by telling 10 Anna Jones that she must take them and put them in her trunk, and give them to whomsoever settled his estate, for he was afraid if anything should happen, James E. Johnson might get them and destroy them. If this be true it shows a great mistrust, which must have been soon removed. It is said to have occurred in 1874.

In June, 1876, when James E. Johnston had become greatly embarrassed, and was threatened with overthrow, financially, Richard Corlies came to his rescue, and not only took a deed for the said mortgaged premises, but 20 actually gave to said Johnston his promissory note for \$2,000, and entrusted him with it for one month. Now, in view of the insistment on the part of the defendants, that he intended to hold these mortgages against Johnston, and that he had said he was afraid of him, and believed he would stealthily lay hold of them and burn them, it is certainly remarkable that he would take title to the lands covered by his mortgages, calling for more than the lands were worth by at least \$1,500, and at the same time trust Johnston with his note for \$2,000, if he 30 intended the mortgages should survive that transaction for any other purpose than hereinafter indicated. To my mind a consideration of the case from this standpoint greatly weakens the confidence which otherwise might be placed in Anna Jones' statement. For another reason it seems quite incredible that Richard Corlies should have made so broad a statement respecting these papers; clearly had he suspected the integrity of his son-in-law,

he would either never have trusted him with his own note, or he would have enforced payment of his mortgages which had already been due many years, and which embraced lands in no wise increasing in value. By waiting he was suffering loss from the accumulation of unpaid interest, and also from depreciation of the security. And, besides, it is worthy of reflection, since great stress was laid on this branch of the defence, that the holder of the papers only transferred them from his
 10 own custody to the custody of a young girl only about sixteen years old at the time.

But these transactions of June twenty-sixth, and July twenty-sixth, by virtue of which the title to the mortgaged premises were effectually secured in the name of the complainant, throw great light on the subsequent declarations of the father to his daughter and others respecting these mortgages, and the subsequent declarations enable us to understand why the father-in-law did not avail himself of a crisis in the affairs of his son-in-law
 20 to compel payment of his claims. There can be little doubt but that he intended by that proceeding, accepting a deed for the lots, and then in a month conveying them to Elizabeth, to secure the title in her as completely as possible. It is not reasonable to urge that he was looking after the enforcement of his lien, or even the protection of his own interests chiefly; for had it been so, he would have allowed creditors to force a sale, and thus by competition between them, realized more on his bonds; or he would have held the title when it was
 30 conveyed to him by his debtor, and if it be said that he did not surrender the mortgages when he took title, the manifest answer is, that he wisely held them as a protection to himself, and in the light of subsequent declarations as an intended monument of title to his daughter. Mr. Corlies did what a prudent and discerning man would have done; he took the necessary steps to prevent a merger, and to retain his mortgages as a shield in case the title should be attacked.

I believe, from the evidence, that this was part of a family arrangement such as the court delight to favor, especially as against other members of the household who are not unfairly prejudiced thereby. Yet it is objected that there was no technical delivery of the mortgages to complainant; and if such objection be overcome because of the circumstances of the case, that then the land cannot be released from the operation of the lien by parol.

I think both of these objections are met by the case of 10 *Seddele's Executor v. Staar*, 5 C. E. G. 274.

In that case the bond and mortgage were retained by the mortgagee, who died leaving his last will. The court says: "There is a series of decisions in Courts of Equity in England and in this country, which have established the principle that when a creditor has, by written or parol declarations with regard to a debt, or by conduct tantamount thereto, declared or agreed that a debt shall be relinquished or given up, or that it has been so relinquished or given up, a Court of Equity will consider 20 this an equitable release, and will not permit his representatives to enforce it." *Ib.*, 283, 284, and cases there cited.

In the present case, Richard Corlies gave the deeds for the land intended for the children of his daughter Rebecca, to Anna Jones, in the year 1872; in the year 1874, he gave her the bonds and mortgages in question; in June 1876, he took title for the mortgaged premises from the mortgagor; in July the same year, he conveyed the title to his daughter, the complainant, saying in the deed that 30 his mortgages are not to merge; in the ensuing month of August, he said to his daughter, "Elizabeth, I am going to give you your mortgages, and the little girls as much by deed on the other side of the road;" to which she replied, "Oh! father, we have more taxes than we are able to endure or pay."

It should be born in mind that one these mortgages was \$1000, and that although the other one for \$1866,

the executor surrendered it on the payment of \$1000, by the note of complainant and her chattel mortgage, while each parcel deeded to the four grandchildren was valued at \$600, which shows that the old man was endeavoring to deal equally with his child on the one hand, and grandchildren on the other, a few days after the offer above mentioned, the father said in the presence of Susan Fily, "Elizabeth, you must let me do as I wanted to with your mortgages," to which Elizabeth, replied, "Father, 10 you can do as you please." During the year 1877 he said to complainant in the presence of her daughter Elizabeth, "Elizabeth, you will have no debts to pay to my estate, and your mortgages are yours when I am gone." Susan Fily, says, she heard this also in 1877, and in the month of July, 1878. The husband of complainant heard the same. John L. Corlies, a brother of deceased, had a conversation with him in October, 1878, same time after the will was executed. He says, "I was riding with him in his wagon, coming from his farm, 20 and he wanted to know if I had seen his daughter, Elizabeth Johnston, that morning; she was sick; she is a woman of delicate health; I told him she was very sick; he said, I expect there will be a time after my death about my property; I expect they will break my will; I said you can avoid that by giving your grandchildren deeds for the property you give them; he said, "I have already done that;" he said, "I have given them deeds to make them equal with Elizabeth's mortgages; I think she ought to be satisfied with giving her the mortgages; 30 he said the mortgages were about \$4000; he said Anna Jones had possession of them."

These repeated declarations of the father settle the question of intention in favor of the complainant. I will advise a decree directing the surrender of the mortgage for \$1000, and the note and chattel mortgage for \$1000 for cancellation, and declaring that the cancellation of the mortgage for \$1866.32, be and remain in full force and effect.

Notice of Appeal.

[Filed June 19, 1882.]

The defendants, Levi G. Irwin and Aaron E. Johnston, executors of Richard Corlies, deceased, hereby appeal from the final decree made and approved in the above stated cause by Theodore Runyon, chancellor, and advised by John F. Bird, vice chancellor of New Jersey, bearing date the sixth day of June, eighteen hundred and eighty-two, and from the whole and every part thereof, to the Court of Errors and Appeals, in the last resort in all causes.

10

Dated June 19, 1882.

CHAS. HAIGHT,
JOHN J. ELY,

Solicitors and of Counsel with the Executors of Richard Corlies, deceased, Defendants.

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

GEO. C. BEEKMAN,
Counsellor at Law. 20

A true copy.

G. S. DURYEE,
Clk.

Petition of Appeal.

[Filed June 20, 1882.]

NEW JERSEY COURT OF ERRORS AND APPEALS.

Between	Levi G. Irwin and Aaron E. Johnson, executors, &c., of Richard Corlies, de- ceased,	} Appellants,	} Petition of Appeal.
and	Elizabeth Johnson,		
10	Elizabeth Johnson,	} Respondent.	

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

The humble petition of Levi G. Irwin and Aaron E. Johnson, executors of Richard Corlies, deceased, the appellants in the above stated cause, respectfully shows, that your petitioners find themselves aggrieved by a final decree made and approved by Theodore Runyon, Chancellor of New Jersey, and advised by John T. Bird, Vice
 20 Chancellor, bearing date the sixth day of June, A. D. eighteen hundred and eighty-two, wherein the said Elizabeth Johnson, was complainant, and the said Levi G. Irwin and Aaron E. Johnson, executors of Richard Corlies, deceased, et al., were defendants, in this respect, to wit, that the said decree adjudges that the mortgage in said decree mentioned executed by the said complainant, and James E. Johnson to Richard Corlies in his lifetime, dated the fourteenth day of November, eighteen and sixty-six, to secure the sum of one thousand dollars
 30 in one year from the date thereof, with interest, and the promissory note mentioned in the said decree executed

by the said complainant, and James E. Johnson to the said Levi G. Irwin and Aaron E. Johnson, executors, dated the seventeenth day of May, eighteen hundred and seventy-nine, to secure the payment of the sum of one thousand dollars in six months from the date thereof, with interest, and agreeing that the said executors might retain out of the residuary share of the estate of Richard Corlies, deceased, bequeathed by his will to the complainant, sufficient to pay said note, if so much should thereby be due her; and the chattel mortgage, executed by the said 10 complainant and James E. Johnson to the said executors, dated the nineteenth day of May, A. D. eighteen hundred and seventy-nine, as collateral security for the said note, are each and every one of them null and void and of no force, effect or validity whatsoever, either as to principal or in interest, or otherwise, and are and shall be in all respects the same as if fully paid, satisfied, cancelled and destroyed as against said complainant, or the land mentioned therein, and that the said executors do, on service of a copy of this said decree, deliver up the said mort-20 gage and the said promissory note to the complainant; or her duly authorized attorney, to be cancelled; and that the said mortgage, bond, promissory note and chattel mortgage be no longer a lien incumbrances, or apparent lien or incumbrance, upon the premises, bequest, goods and chattels therein respectively described as against the complainant, or her property, real or personal, or any person or persons claiming the same, or any part thereof, by, from, or under her, and that said Levi G. Irwin and Aaron E. Johnston, 30 executors as aforesaid, and all persons claiming by, from, or under them, be perpetually debarred, enjoined and restrained from collecting, foreclosing or taking any action whatever upon the said mortgage, promissory note and chattel mortgage, or either of them, either in law, equity, or otherwise, and from appropriating any money which may be now due, or coming hereafter from the estate of the said Richard Corlies to the said com-

plainant, by bequest or otherwise, to the payment or satisfaction of the principal and interest of the said mortgage bond, promissory note and chattel mortgage, or any of them or any part thereof; and that the mortgage in the said decree mentioned, executed by James E. Johnson to the said Richard Corlies, in his lifetime, bearing date the thirtieth day of September, eighteen hundred and sixty-nine, to secure the sum of eighteen hundred and sixty-six dollars and thirty-two cents, in
 10 one year from the date thereof, with interest, be the same as if null and void and fully paid and satisfied, as against said complainant and the lands mentioned therein (except as made so on settlement by the execution of the above promissory note and collateral chattel mortgage in place thereof).

And your petitioners humbly appeals from that part of the decree of the chancellor which decrees and orders as aforesaid, upon the ground that the same is erroneous and contrary to the evidence, law and equity in the case
 20 aforesaid. Your petitioners, therefore, pray the said decree of the said chancellor, advised by the said vice chancellor, may be wholly reversed, set aside, and for nothing holden. And that your petitioners may have such relief in the premises as to this honorable court shall seem meet.

CHAS. HAIGHT,
 JOHN J. ELY,

Sol'rs and of Counsel with Appellants.

30 State of New Jersey. }
 Department of State. }

I, Henry C. Kelsey, Secretary of State of the State of New Jersey, and ex-officio Clerk of the Court of Errors and Appeals in the last resort in all causes, do hereby certify, 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 June 20, 1882, now remaining on file in my office.

In Testimony Whereof, I have hereunto set my hand and affixed my Official Seal, at Trenton, this seventh day of July, A. D. 1882.

[L. s.]

HENRY C. KELSEY.

Secretary of State.

Service of a copy of the within Petition of Appeal on us is hereby acknowledged, this eleventh day of July, A. D. eighteen hundred and eighty-two.

ROBBINS & HARTSHORNE,

Att'ys of Respondent. 10

Answer to Petition of Appeal.

[Filed July 22, 1882.]

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

This respondent, not acknowledging all or any of the matters which in the said petition of appeal are contained, to be true for answer thereto, nevertheless, says and admits that a decree was, on the sixth day of June, eighteen hundred and eighty-two, made and entered in the Court of Chancery, in the cause for that purpose mentioned in the said petition, as is therein stated, but as to the substance and form thereof, this respondent prays to refer thereto, when the same shall be produced. And this respondent is advised and believes that the said decree is agreeable to equity, and she prays that the same may be affirmed with costs to be adjudged to this respondent.

ROBBINS & HARTSHORNE,

Sol'rs for and of Counsel with Respondent.

