

CHAS. E. ^{S.}SIMPSON,
Of counsel.

New Jersey Court of Errors and Appeals

Between CHARLES GRIMMINGER, Complainant-Appellee, and FRANCES E. GRIMMINGER-GOOD- MAN, Defendant-Appellant.	}	On Appeal from the Court of Chancery.
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BRIEF FOR APPELLANT

Statement

This appeal brings up for review a decree made by the Court of Chancery dated May Seventeenth, 1915 (p. 242) (96 Atl. 80), which adjudged that three certain deeds mentioned in the decree be set aside and annulled and made void against the complainant, and that title to the premises described in the deed decreed to be in the complainant, Charles E. Grimminger. The bill of complaint was filed on an allegation, among others, that the conveyances were made without consideration and were

“conveyances procured by and through the conspiracy existing between the said

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Frances E. Grimmer and the said John Alderton and Alice Alderton, his wife, whereby they took advantage of the weak state of mind of your orator and with knowledge of his mental defects, and took advantage of the trust and confidence which he had in his said wife, and they wilfully and unlawfully and fraudulently procured your orator to make said conveyances above set forth, planning to get rid of your orator and cast him aside as soon as the said Frances E. Grimmer obtained her said divorce from your said orator" (p. 5, l. 38).

The complaint further alleged that when the appellee signed the conveyances he

"was not exercising his own judgment and was not capable of exercising free and independent judgment, but was dominated and controlled by his said wife, who well knowing that the complainant at the said times was not legally capable of conveying his said property, caused the appellee to make the conveyances without consideration and for the purpose of depriving the appellee of his property."

Further than this there is no allegation of fraud or conspiracy. It is the claim of the appellant that immediately after her marriage and while they were on their wedding trip and while at Washington D. C., she observed that he took an epileptic fit (p. 171, ll. 30-40), which was the first intimation she had that he was subject to them. Nowhere in the testimony does it appear that the appellee suffered from any cause other than fits of epilepsy. No medical testimony was

offered on the trial by the appellee as to the effect epileptic fits had upon him, although opportunity was given the appellees to produce such testimony (p. 144, l. 8), and it does not appear in the evidence that at any of the times the deeds were made that it was immediately before or immediately after the appellee had had a fit of epilepsy. The first deed Exhibit C-2 (p. 224) was dated April 26th, 1907; the second deed, Exhibit C-3, (p. 224) was dated the same day; both these deeds were acknowledged before Thomas H. Brown, an Attorney at Law of New Jersey, who was sworn as a witness by the appellant and he gives all the circumstances regarding the execution of the deeds Exhibits C-2 and C-3 (p. 112); Mr. Brown testified to Exhibit C-4, which was a deed made *four years* after Exhibits C-2 and C-3. It was these three deeds which were set aside by the decree appealed from, on the ground, as stated by the *vice*-Chancellor, that they were null and void (p. 266, ll. 16-20). It was the contention of the appellant in the Court below that the execution of deeds C-2 and C-3 was brought about by reason of the fact that the Columbia Building & Loan Association, which held a mortgage on the premises, had threatened to foreclose the mortgage for non-payment of dues and interest, and that the appellant and the appellee being then unable to carry the property in consequence of their lack of ready money, and being unable to pay the taxes or other expenses due and payable, requested the defendants below, John Alderton and Alice Alderton, to take title to the property from the appellee and appellant, and both thereupon agreed that they would made a conveyance of the property to the defendants below, John Alderton and Alice Alderton, the latter to pay all fixed

charges on the property and to pay off the mortgage on the premises, and to pay for the necessary repairs and that when the appellee and appellant were ready to redeem the property the defendants below, Alderton, were to re-convey upon the repayment to the defendants below, Alderton, all moneys expended by them upon the premises under said agreement (p. 15, ll. 30-40) *et seq.* The answer filed contained a tender of the title, and the proofs showed a tender of the title. (See p. 145, ll. 10-40). See also testimony of John Alderton (p. 192, ll. 20-30) also (p. 203, ll. 30-40).

The learned *vice*-Chancellor laid considerable stress upon the testimony of Marshall Van Winkle regarding the attitude of the appellant (p. 253). The testimony of Mr. Van Winkle is denied by the appellant. It developed that these parties were married on October 27th, 1907 (p. 238); that on October 5th, 1906, or more than an entire year before they were married, Mr. Van Winkle on the written authority of the appellee signed a check to Michael Grimminger, the brother of the appellee, for \$7,235.14, it being the balance due complainant upon his share in the proceeds of a certain partition suit in which the appellee had an interest (p. 108); the testimony is that the appellant only knew the appellee four months before the marriage (p. 174, ll. 20-30). On the trial great stress was attempted to be laid upon the mental condition of the appellee at the time of the marriage, and prior thereto, but it does not appear that at the time of the partition suit it was necessary to have a next friend or a guardian appointed for him (p. 111); and his brother Michael did not deem him to be weak mentally when he insisted upon and collected \$1300.00 for board money out of the moneys

which appellee had received from the father's estate (p. 144, ll. 15-20). In explanation of the denial of the appellant's visit to Mr. Van Winkle's office as testified to by him, the appellant insists that she was never in Mr. Van Winkle's office prior to being sent to Mr. Van Winkle's office by her husband after he had received the letter (Exhibit D-2) from Mr. Van Winkle through Thomas H. Brown; Mr. Brown represented the appellee at that time. Over the signature of Mr. VanWinkle it is clearly pointed out in Exhibit D-2 that the moneys therein referred to were for rents &c. (p. 241); the appellant specifically denies ever having been in Mr. Van Winkle's office prior to the time the letter D-2 was written (p. 171, l. 40); notwithstanding the testimony given by the brother Michael in relation to the alleged mental weakness of the appellee the fact remains that this same brother was a party to the marriage, that he came to the wedding and went to the church and gave his brother (appellee) away (p. 171, ll. 20-30); this is not denied.

POINT 1

Although the agreement was not in writing it can be enforced in equity.

The testimony of the appellant and the defendants below Alderton, establish the fact that when the deed C-4 was executed (April 18th, 1911), it was upon an express agreement that the defendants Alderton were to hold the title and pay the necessary expenses of maintaining the property,

and that upon the redemption of the property the Aldertons were to be reimbursed for whatever they had paid for the account of maintaining the property. The appellee corroborates this version; at page 81, l. 30, appears the following testimony:

“Q. You testified, Mr. Grimminger, that they were to pay the gas bills, and repairs and the taxes. A. Yes, I remember that all right.

“Q. When did you tell them that? A. When I turned over the house they said that they would pay all the expenses, pay the gas bills and pay taxes and all expenses.”

On page 82 the following question appears 1-5:

“Q. Did you ever pay any taxes on that property since you were married? A. No, I don't remember of paying them.

“Q. Did you ever pay for any repairs to the property? A. No.

“Q. Did you ever pay for any insurance on the property? A. No.

“Q. Did you ever pay for any water taxes on the property? A. No.

“Q. Did you pay any money of any character for that property from the time you were married? A. Nothing at all. They were to take care of the house.

“Q. And that was what you wanted them to do? A. Yes.”

It further appeared that the appellee was in the house and in occupancy of a portion of it until he was notified by his Solicitor to vacate. At page 33, l. 20, appears the question:

“Q. You didn't leave that house until Mr. Turner told you to, did you? A. No.

“Q. And if Mr. Turner had not told you, you would have remained in it, wouldn't you? A. I would have stayed there.

See *Wood v. Chetwood*, 17 Stew., 64, affirmed *Chetwood v. Wood*, 18 Stew., 369.

POINT 2

The husband, through a third party, having conveyed an interest in lands originally owned by him to his wife, there is a presumption of a gift to the wife.

This case seems to fall within the recently decided case of *Andreas v. Andreas*, 96 Atl., 39.

On the facts developed in this case it is undisputed that this property was conveyed to the appellee prior to his marriage to the appellant. There was also a child born of this marriage (p. 176, ll. 10-20).

Under all the rules on the subject of dower, by the subsequent marriage, nothing could take away from the wife the dower right acquired by her through the marriage, unless it be her adultery or a divorce obtained by her husband against her. There was also a child born of this marriage. Apparently this marriage was satisfactory to the relatives of this appellee (though now questioned), for it is in evidence (p. 171, ll. 20-30) that the brother Michael Grimminger was one of the attending parties. The wife, therefore, was vested with an estate in dower at that time. It appears by the testimony of John Alderton (p. 195, ll. 1-20), Mrs. Alderton (p. 152, ll. 1-20), Mrs. Goodman, (p. 180, ll. 24-30), and the complainant himself, (p. 81, l. 30); that many bills were due against the property, the taxes were unpaid,

Grimminger had no money, he was out of work, and they were threatened with the foreclosure of the mortgage held by the Columbia Building & Loan Association. At this point the parties agreed that they would convey the property to the Aldertons, on the condition that they would pay the necessary charges and would maintain the property and would reconvey when reimbursement was made.

True, no memorandum was given to Grimminger as to the agreement of the parties, and while he may not have been represented by Counsel, it does not appear that either of the other parties to the transaction were represented by Counsel. All that appears is that they concluded to go before Mr. Brown, the Attorney, and instruct him to prepare the necessary deed, to enable them to carry out the plan they had all agreed upon, which in itself was a plan for the preservation of the property, and nothing more.

When this state of affairs was at hand the property had already been conveyed to the husband and the wife; and had been held by them jointly for four years. It is simple argument to vouchsafe the theory that had the wife chosen to defraud Grimminger out of the property she could have done so long before the bill was filed in this cause. The title was out of Grimminger and Mrs. Grimminger, and was in the defendants Alderton. On April 18th, 1911, the deed to Alderton and wife (Exhibit C-4) was made (p. 2285). So that between April 18th, 1911, and the filing of the bill of complaint in this suit, (October 11, 1913,) a period of two years and six months, there was all the opportunity in the world for the appellant Mrs. Goodman and her parents to dispose of the property, had they intended to defraud the appellee.

POINT 3

The wife having a vested estate, as tenant by the entirety, should have her share of the property as tenant in common, the decree of divorce not having destroyed that interest.

In as much as the wife, who had an interest in the property as tenant by the entirety (see deed Exhibit C-3), and merely for the purpose of protecting her interest in that property and protecting the interest of her husband, parted with *her vested right*, there is no reason why she should be deprived of that right after she had obtained a decree of divorce. The cases are that where husband and wife are seized of real estate as tenants by the entirety, in case of a divorce, their ownership becomes that of tenants in common.

The parties, therefore, after the decree of divorce, stood in the same position they would have occupied had the decree of divorce been granted while the property was held by both as tenants by the entirety. For this reason, having parted with her title on the assumption that it was to be returned to her when reimbursement was made, she cannot be deprived of her rights at this time, notwithstanding the decree of divorce. Had no divorce been granted, she would have been in a position to file a bill against her parents asking for a reconveyance upon tender of the moneys here paid by the defendants Aldertons; and, under the agreement, the defendants Alderton would have been compelled to reconvey to both Grimminer *and his wife*. The wife stood in exactly the same position as the husband stood. Her rights

were the same as the husband. What is there in the case or in law or equity, to deprive her of those rights because a decree of divorce has been granted in the meantime? As observed before had the title been continued in the husband and wife at the time of the divorce, under the authorities their interest would have been changed, and they would no longer hold as tenants by the entirety, but would hold as tenants in common. Under the circumstances the decree should have directed a reconveyance to Grimminger and his former wife as tenants in common.

The case of *Buttler vs. Buttler*, (67 N. J. Eq., p. 136), afterwards affirmed by the Court of Errors and Appeals; (67 N. J. Eq., 729) is authority for the proposition, that

“a husband and wife having an estate in lands by the entirety and living separately and having entered into an agreement whereby the husband was to receive all the rents and profits in consideration of his paying the wife a certain sum each month, were divorced from the bonds of matrimony by a competent decree. * * * Held, that the result of the decree of divorce was to change the estate to a tenancy in common, and that the agreement for support was no defence by the divorced wife against a suit by the husband for partition of the premises.”

The Court also holds that

“the general rule is that no vested interest, as between husband and wife, is disturbed by a decree of divorce unless the instrument under which the vesting arose provides therefor.”

At the time of the execution of the deed to the parents (Exhibit C-4) the wife had a *vested interest in the property*. Her interest was that of tenant by the entirety. Before this time she had acquired a dower interest, an interest which Courts of Equity guard with the utmost jealousy. From April 26, 1907, (Exhibit C-3) to April 18, 1911, (Exhibit C-4) or for four years, this property had been held in the joint names of Griminger and his wife.

What was more natural in April, 1907, and before the child was born, than for the husband to seek to provide for not only his wife but his unborn child. The deed (C-3) was then executed. This deed was put on record almost immediately. Undoubtedly there was no thought in the minds of the wife or her parents at the time of making of deed (C-3) to take the property from the husband. Abundant opportunity was presented to them, if he had been the simple minded person pretended *at this time* to have been, and had a fraudulent intent been in the minds of the parties, to wholly divest him of the property and put it beyond his reach, by passing the title to an innocent third party for value. The mere fact that the desertion had taken place prior to the time of the making of the deed (C-4), does not affect the situation. The situation then presented is similar to that which constituted the facts in the case of *Demarest vs. Terhune* (62 N. J. Eq., 663). In that case the parties lived in the same house, although living separate and apart from each other (at p. 669). See also *Rector vs. Rector*, 78 N. J., Eq., 386, and *Raymond v. Raymond* (unreported). There is nothing singular in the fact that while the husband and wife were living separate and apart that

she subsequently charged him with desertion, to raise the question of *bona fides* in her joining in the conveyance. True, as she states, and as the other witnesses state, the whole purpose was to protect the property and save it from the threatened foreclosure by the Columbia Building & Loan Association. She did not voluntarily dispose of her interest in the property. She joined in the deed to protect the property, on the understanding that when the debts were paid the property would be reconveyed to her husband *and herself*. By way of argument it might be said that notwithstanding the husband and wife were then living in a state of separation, it might justly be argued that the husband, before the expiration of the two years of the desertion, might have resolved to return to the wife and resume their married life.

IN CONCLUSION

It is submitted, that the Decree appealed from is erroneous and should have decreed the reconveyance to the appellee *and to the appellant Frances Grimminger-Goodman*, to be held by *them as tenants in common*, she not having parted with her interest in the property voluntarily for almost two years before she applied for a divorce. She was divested of her interest in the property only to protect the property against loss, and there being no reservation in the deed or instrument by which she divested herself of that interest (Exhibit C-4), under the ruling in *Buttler vs. Buttler*, (*supra*) she lost none of her rights in the property.

Respectfully submitted,
 CHAS. E. S. SIMPSON,
 Of Counsel with
 Defendant-Appellant.

New Jersey
Court of Errors and Appeals

Between CHARLES GRIMMINGER, Complainant-Respondent, and FRANCES E. ALDERTON GRIM- MINGER-GOODMAN, <i>et als.</i> , Defendants-Appellants.	}	Case No. 67. Nov. Term, 1915.
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**BRIEF OF COMPLAINANT-RE-
SPONDENT**

FACTS

Complainant is mentally deficient and has been so from childhood. Defendant (Mrs. Goodman) married him in 1906 after ascertaining about his property. She obtained control of all his property and had it placed in the name of her father and mother. She then divorced Grimminger and married Goodman. She now claims she is entitled to one-half of the property of the husband she has divorced, which property at the time of the decree, herein stood in the name of John Alderton and Alice Alderton.

This appeal is prosecuted by only one of the defendants, the former wife of the complainant, who procured a divorce from him on the ground of desertion as set forth in the opinion by Vice-Chancellor Griffin as follows:

“On January thirtieth, Nineteen hundred and thirteen, Frances filed her petition for divorce against the complainant, charging that complainant had deserted her in the month of August, 1910, the petition being for statutory desertion. A decree *nisi* was entered in the suit April 29, 1913. How, on the facts as shown in this case, such a divorce could be obtained, if Frances is truthful is a mystery to me. But in considering this case I may only look into it in so far as it may have a hearing on this controversy. The testimony shows that Frances occupied a room in this house with Mrs. Price from July, 1910 to April, 1913, and during all the time, from the date of their marriage down to April, 1913, the husband and wife lived under the same roof.”

The defendants, John Alderton and Alice Alderton his wife, did not join in the appeal.

The learned Vice-Chancellor, in his opinion, recites the facts (p. 252):

“The bill in this cause is filed to set aside three conveyances made as follows: (a) by the complainant and wife, Frances, to John Alderton; (b) by John Alderton and wife to the complainant and wife, Frances (both made April 26, 1907); (c) by the complainant and his wife, Frances to John Alder-

ton and Alice Alderton, wife (made April 28, 1911).

“At the time these conveyances were made complainant had no other property.

“The complainant and defendant, Frances, were married on October 25th, 1906, after an acquaintanceship of four months. From childhood the complainant had been, and still is, mentally deficient, being, as it is said, an epileptic. The brother of the complainant, upon hearing of the prospective marriage, acquainted Frances of the complainant’s condition, urged her not to marry him, but she replied that she would marry him in spite of his condition. This she denies.

“At the time she became acquainted with him there was pending in Chancery a suit for the partition of the estate of complainant’s father—the complainant and one other brother were represented by Messrs. Vredenburgh, Wall & Van Winkle, the case being in charge of Mr. Van Winkle.

“Prior to the marriage and also to the payment of complainant’s share of the proceeds of sale in partition, and before the complainant purchased the premises in question, Frances sought to obtain from Mr. Van Winkle information as to what complainant would receive from the partition suit.” * * *

“On October 5th, 1906, Mr. Van Winkle on the written authority of the complainant, sent a check to Michael Grimminger, the brother of the complainant, for \$7,235.-14 being the balance due the complainant upon his share in the partition suit, to be by

him deposited in the New Jersey Title Guarantee and Trust Company, as a special deposit in the name of George Grimminger, Trustee. This, Mr. Van Winkle says, was done because he viewed the complainant as a person unfit to handle so large a sum of money.

“Prior to the receipt of these moneys the complainant had entered into a contract for the purchase of the premises in question for \$5000 the deed for which, while dated and acknowledged September, 1906, was not delivered, nor the consideration paid until about October 12th, 1906, the date of record; the purchase price having been paid out of the moneys received in the partition suit; adding to this the sum of about \$1300 paid for his board accrued prior thereto, a small sum remained in his hands out of the moneys received from the suit.

“The complainant and Frances spent their honeymoon in Washington, and while there the complainant had a fit. This, she says, was the first intimation she had that he was so afflicted.

“Immediately after the wedding the complainant and his wife moved into the premises and occupied substantially one-half, at the same time the parents of Frances entered into the occupancy of the other half. Defendants say that the Aldertons, on entering, paid \$11.00, and later \$14.00 a month as rent for the portion occupied by them.”

* * * * *

“To sum up the whole situation, the defendant Frances married the complainant after being fully apprised of his condition.

She did not marry him for love, but to secure the benefits of his property. She first secured the transfer of the property to their joint names, so that it would become hers in the event of his death. Not content with that, some four years afterwards they induced him to make a deed which divested him of all interest in the property of record. Having thus secured everything that this unfortunate young man had, his wife then filed a bill for divorce to rid herself of him, alleging a desertion some seven months prior to a date when she says they occupied the same bed; and, having obtained her divorce, she married Goodman, her present husband, and now seeks to take to her new spouse one-half of the property which the complainant vested in her. It seems to me that Frances, in her marriage to the complainant, and in her conduct towards him since, perpetrated and intended to perpetrate a gross fraud upon him. She did not enter into matrimony with the idea of becoming a loving, faithful spouse."

Law

The learned Vice-Chancellor in his opinion cites the cases of *Haydock vs. Haydock*, 34 N. J. E., 570, *Pearce v. Stines*, 79 N. J. E., 51, *Slack v. Rees*, 66 N. J. E., 447, *Coffee v. Sullivan*, 63 N. J. E., 302 and others, to support his decision and I respectfully urge that for the reasons stated by the Vice-Chancellor his decision should be affirmed.

Appellant was divorced from Respondent before this suit was commenced.

Mrs. Grumminger (now Mrs. Goodman) joined with her husband (Grimminger) in conveying the property to her father and mother. She then divorced Grimminger and married Goodman. Her claim is now in effect, that when Grimminger shall have obtained his property from Mr. and Mrs. Alderton (her father and mother) as the Court of Chancery has decreed in this suit, that she, his divorced wife, who has remarried, shall receive one-half of all of Grimminger's property.

A divorce from the bonds of matrimony affects the property rights of both parties. A divorce of that kind puts an end to any right which either has acquired in the property of the other by marriage. *American Legion of Honor v. Smith*, 45 N. J. E., 470, citing *Barrett v. Failing*, 111 U. S., 523, *Tyler v. Odd Fellows Relief*, 145 Mass., 134.

A divorce *a vinculo* obtained by the wife for the misconduct of the husband takes away her dower right.

Calame v. Calame, 24 N. J. E., 440,

Pullen v. Pullen, 52 N. J. E., 10.

The Court of Chancery found that Frances Grimminger (Goodman), the Appellant, was a party to the scheme to deprive Respondent of his property. If she had not divorced him, she would have the usual rights of a wife in his property. After perpetrating the scheme she divorced him and cut off any right she might otherwise have had.

She claims she should receive the property as a tenant in common with her divorced husband (Grimminger).

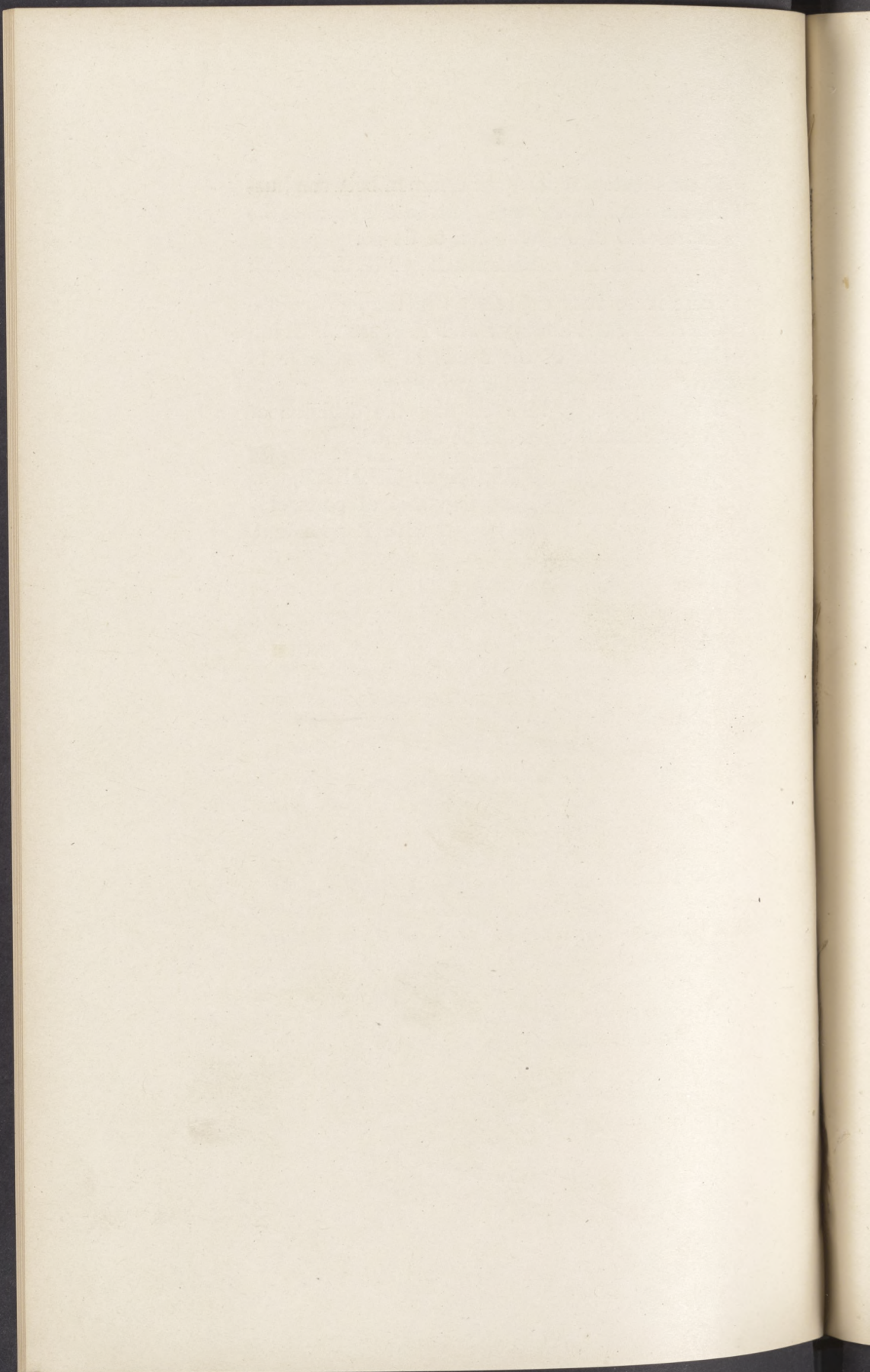
To constitute a tenancy in common between husband and wife, there must, in the conveyance be an expression of an intention to do so.

Buttlar v. Rosenblath, 42 N. J. E., 655.

There is no such expression in the conveyance to Charles E. Grimminger and Frances E. Grimminger (C-3) one of the deeds in the scheme to deprive Grimminger of his property.

It is respectfully insisted that the decision of the Vice-Chancellor should be affirmed.

FRANK G. TURNER,
Attorney and of counsel
with Respondent.



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New Jersey
Court of Errors and Appeals

Bill of Complaint

(Filed, Oct. 11, 1913)

IN CHANCERY OF NEW JERSEY

*To His Honor Edwin R. Walker, Chancellor of
The State of New Jersey:*

Complaining, shows unto your honor, your ora- 20
tor Charles Grimminger of the City of Jersey
City, in the County of Hudson and State of New
Jersey, that your orator is of about the age of
twenty-nine years, and resides at No. 68 Condict
Street, in said city.

That on or about the 25th day of October 1906
your orator was married to Frances E. Alderton
the daughter of John Alderton and Alice Alder-
ton. One child was born of the marriage of your 30
orator and said Frances E, Alerton and is now
dead. That since childhood your orator has been
subject to epileptic fits or epilepsy, and as a result
thereof your orator's brain has been affected in
that his power of thought and reasoning and de-
cision have been dulled, and he has not at the
times hereinafter mentioned been able to exercise

Bill of Complaint

sound judgment, and at such times he was easily misled in his acts and doings as hereinafter set forth.

10 That about the 21st day of September 1906 your orator acquired title in his own name of the following described land and premises being the same premises where your orator now resides, at No. 68 Condict Street, Jersey City.

20 All that certain tract or parcel of land and premises, hereinafter particularly described situate, lying and being in the City of Jersey City in the County of Hudson and State of New Jersey more particularly described as follows: beginning at a point in the northerly line of Condict Street, distant one hundred (100) feet easterly from the intersection of the said northerly line of Condict Street with the Easterly line of Mallory Avenue and thence as a point of beginning running (1) northerly and parallel with said line of Mallory Avenue one hundred (100) feet to a point; thence (2) Easterly and parallel with said line of Condict Street twenty-five (25) feet to a point; thence (3) Southerly and parallel with the first line run One hundred (100) feet to a point in the said northerly line of Condict Street thence (4) westerly and along the said northerly line of Condict Street twenty-five feet to the point or place of beginning.

30

That your orator and his said wife Frances E. Alderton Grimminger resided in the said premises with the said John Alderton and Alice Alderton the father and mother of the wife of your orator.

40 That the said Frances E. Alderton before her marriage to your orator, was informed by members of your orator's family that your orator was

Bill of Complaint

an epileptic, and upon being so informed, she became angry and declared that she would marry your orator for spite.

Your orator fully believes and charges the fact to be that the wife of your orator was at all times without affection for your orator and about the month of April 1907 she entered into a scheme or conspiracy with her father John Alderton and her mother Alice Alderton to defraud your orator of his said property. Your orator at all times believed in and trusted his said wife and followed her advice and instructions implicitly, relying upon her judgment as being superior to his own judgment and without questioning her motives. 10

Following the instructions of his said wife, your orator on the 26th day of April 1907 made a conveyance of his said property, in which the said Frances E. Grimminger joined, to John Alderton the father of his said wife. That no consideration was received for the said conveyance, the deed for which was duly recorded in the Hudson County Register's Office in Liber 983 of Deeds page 123 on May 6th 1907. And on the said 26th day of April 1907 the said John Alderton and wife reconveyed the said property to Charles E. Grimminger and Frances E. Grimminger being your orator and his said wife. This conveyance was without consideration and the deed for the same was duly recorded in Liber 983 of Deeds page 132, in the Hudson County Register's Office on May 6th 1907. 20 30

That the said deed was afterwards re-recorded on November 17, 1908 in the Hudson County Register's Office in Liber of Deeds page

Thereafter and on the 18th day of April 1911 your orator and his said wife, acting under her 40

Bill of Complaint

instructions, and without consideration, attempted to convey the said premises to John Alderton and Alice Alderton his wife, being the father and mother of the wife of your orator. The alleged deed therefor was recorded on April 24, 1911 in the Register's Office of Hudson County in Liber 1090 of deeds page 176. But your orator alleges and charges the fact to be that the said alleged deed is not in fact the deed of your orator and his said wife because the signature thereto purporting to be the signature of the wife of your orator is "Alice E. Grimminger" whereas the wife of your orator is Frances E. Grimminger" and Alice E. Grimminger is not and was not at the date of the said instrument, the wife of your orator.

Your orator alleges and charges the fact to be that the said John Alderton his wife are now and have been since 1907 in possession of the said premises and are in receipt of the rents issues and profits thereof; and your orator is allowed to sleep in the attic of the house and is not allowed to use or occupy other parts of the said house but occupation and control thereof is kept and maintained by the said John Alderton and Alice Alderton.

That the wife of your orator, the said Frances E. Grimminger since the time of the alleged transfer of the said property in 1911 to her father and mother, ignored your orator and refused to have any relations with him and neglected and abused him; and on or about the first day of 1913, the said Frances E. Grimminger went away leaving your orator to reside in the attic of the house so in the possession of the said John Alderton

Bill of Complaint

and his wife as aforesaid. Your orator believes that on February 1st, 1913 the said Frances E. Grimminger brought suit for divorce on the ground of desertion against your orator, alleging that your orator deserted her in August 1910. That a decree *nisi* was made therein on April 29th, 1913. Your orator did not appear in said suit. Your orator alleges that this is a part of the scheme of said Aldertons and the wife of your orator to finally rid themselves of your orator after having obtained his property. 10

Your orator believes that his wife is living at some address in Union Hill, N. J., but has no knowledge thereof.

The said property rightfully belongs to your orator and is free and clear with the exception of taxes for the year and water rents for the year 20

That the said John Alderton and Alice Alderton have never paid any consideration to your orator for the use and occupation of the said premises, and have been in possession of the same since April 1907. That the said premises are reasonably with the sum of \$55.00 per month and the occupation by John Alderton and Alice Alderton during said period was and is reasonably worth said sum per month, and they are now and continue to be in possession of the said premises. 30

Your orator alleges and charges the fact to be that he is the rightful owner of the property described herein, and that he has received no consideration for the transfer of the said property as hereinbefore set forth; he alleges and charges the fact to be that the said conveyances were procured by and through the conspiracy existing between 40

Bill of Complaint

the said Frances E. Grimminger and the said John Alderton and Alice Alderton his wife whereby they took advantage of the weak state of mind of your orator and with knowledge of his mental defects and took advantage of the trust and confidence which he had in his said wife and they wilfully and unlawfully and fraudulently procured your orator to make the said conveyances above set forth, planning to get rid of your orator and cast him aside as soon as the said Frances E. Grimminger obtained her said divorce from your orator. Your orator alleges and believes that the said John Alderton and Alice Alderton by cruelty and abuse are endeavoring to force your orator to leave the attic of the said premises where your orator now resides and where he has resided before and after the time when the said Frances E. Grimminger left your orator and went to Union Hill, New Jersey or to such other place as she went. Your orator does not know the address of said Frances E. Grimminger and has not known it since the time she went away.

And your orator alleges and charges the fact to be that at the time and times when he signed the foregoing conveyances he was not exercising his own judgment and was not capable of exercising free and independent judgment but was dominated and controlled by his said wife who well knowing that your orator at the said times was not legally capable of conveying his said property, nevertheless, caused your orator to make the said conveyances without consideration and for the purpose of depriving your orator of the said property.

And your orator has frequently and in a

Bill of Complaint

friendly manner requested the said defendants John Alderton and Alice Alderton to yield and give up to your orator the said lands and premises and release to your orator all pretence of right or title to the same and your orator well hoped that the said John Alderton and Alice Alderton would accounted for the rents, issues and profits of said premises as your orator has frequently requested them to do. 10

That your orator, after being freed from the influence of his said wife, by reason of her leaving your orator, was able to reason more clearly and to understand that he had been defrauded and he alleges that he is now competent to maintain this suit in his own name.

Your orator prays that he may be adjudged and decreed to be the rightful owner of the said premises; and that the said John Alderton and Alice Alderton his wife may be ordered directed and decreed to execute any and all necessary deeds or conveyances to convey to your orator the legal title of the said premises; and that the said John Alderton and Alice Alderton may be ordered, adjudged directed and decreed to account to and pay to your orator the rents, issues and profits for the said premises from October 15, 1907 to the present time; and that a receiver may be appointed by this Honorable Court to collect and receive the rents, issues and profits of the said premises during the pendency of this suit and that your orator may have such further relief as to your honor shall seem meet. 20 30

May it please your Honor, the premises considered, to grant unto your orator the state's writ or writs of subpoena issuing out of and under the seal of this honorable Court, to be directed to the 40

Answer & Cross Bill of Def't. F. E. Grimminger

said John Alderton, Alice Alderton and Frances
E. Grimminger commanding them, and each of
them, by a certain day and under a certain penalty
therein to be expressed, to be and appear before
your Honor in this honorable Court, then and
there to answer all and singular the said premises,
10 and to stand to abide by, and perform such order
and decree therein as to your Honor shall seem
meet, and shall be agreeable to equity and good
conscience. And your orator, as in duty bound
will ever pray etc.

FRANK G. TURNER,
Sol. of Complt. and of Counsel.

A true copy,
Saml. K. Robbins,
20 Clerk.

**Answer and Cross Bill of Defendant
Frances E. Grimminger**

(Filed December 10, 1913)

IN CHANCERY OF NEW JERSEY

30	Between CHARLES GRIMMINGER, <div style="text-align: right;">Complainant,</div> <div style="text-align: center;">and</div> JOHN ALDERTON and ALICE AL- DERTON, his wife, and FRANCES E. GRIMMINGER, <div style="text-align: right;">Defendants. </div>	}	On Bill etc.
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THE ANSWER OF FRANCES E. GRIMMINGER TO THE
BILL OF COMPLAINT OF THE ABOVE-NAMED COM-
40 PLAINANT:

Answer & Cross Bill of Def't. F. E. Grimminger

1. This defendant admits that the complainant is about Twenty-nine years of age and resides at 68 Condict Street, in Jersey City.

2. This defendant admits that on or about the Twenty-fifth day of October, Nineteen Hundred and Six, complainant was married to this defendant, and that one child which is now dead, was born of the marriage. This defendant denies that since childhood the complainant has been subject to epileptic fits or epilepsy, and denies that the brain of the complaint has been affected or that his power of thought and reasoning have been dull, or that he at any time was not able to exercise sound judgment, and denies that at any time the complainant was easily misled in his acts and doings.

3. This defendant admits the truth of the allegations contained in the third paragraph of the complaint.

4. This defendant admits that complainant and his wife, Frances E. Alderton Grimminger, resided in the said premises.

5. This defendant denies that before her marriage to the complainant she was informed by members of the complainant's family or any other persons, that the complainant herein was an epileptic, and denies that this defendant became angry and declared that she would marry the said complainant for spite upon being informed that the said complainant was an epileptic and states the truth to be that she was never informed before her marriage that the complainant was subject to fits of epilepsy.

Answer & Cross Bill of Def't. F. E. Grimminger

6. This defendant denies that she at any time was without affection for the said complainant and denies that about the month of April Nineteen Hundred and Seven, she entered into a scheme or consipracy with the defendant, John Alderton and the defendant, Alice Alderton, to defraud the complainant of his property or anything else. This defendant has no knowledge or information regarding the truth of the allegation of the bill of complaint that the complainant at all times believed in and trusted his said wife and followed her advice and instructions implicitly, or that he relied upon her judgment as being superior to his own judgment or that he never questioned her motives.

7. This defendant admits that about April Twenty-sixth, Nineteen Hundred and Seven, the complainant made a conveyance of the property above-mentioned, in which this defendant joined, to the defendant John Alderton. This defendant denies that no consideration was received for the said conveyance. This defendant admits that on the Twenty-sixth day of April, Nineteen Hundred and Seven, the defendants, John Alderton and Alice Alderton reconveyed the said property to the complainant and to this defendant, both being at that time husband and wife.

8. This defendant admits that the deed aforesaid was afterwards re-recorded as alleged in the bill of complaint.

9. This defendant denies that on the Eighteenth day of April, Nineteen Hundred and Eleven, the complainant and this defendant without consideration, or while acting under the instructions of

Answer & Cross Bill of Def't. F. E. Grimminger

this defendant, attempted to convey the said premises to the defendants, John Alderton and Alice Alderton, his wife, and states the truth to be that the said complainant and this defendant, did actually for a valid consideration and on the Eighteenth day of April, Nineteen Hundred and Eleven, convey the said premises to the defendants John Alderton and Alice Alderton. This defendant admits that the deed therefore was recorded on April Twenty-fourth, Nineteen Hundred and Eleven in the Register's Office of Hudson County in Liber 1090 page 176 etc. This defendant denies that the said deed is not in fact the deed of the complainant and this defendant, and denies that the deed therefor bears the signature of Alice E. Grimminger, but alleges, maintains and charges that the said deed was signed by this defendant Frances E. Grimminger, and not as Alice E. Grimminger.

10. This defendant admits that the defendants, John Alderton and Alice Alderton have been in possession of said premises since the year Nineteen Hundred and Seven, and denies that the complainant is only allowed to sleep in the attic of the house, and denies that he is not allowed to use or occupy other parts of the said house, and denies that the occupation and control is kept and maintained by the defendants John Alderton and Alice Alderton, and states the truth to be that since the year Nineteen Hundred and Seven, the said complainant has been in actual possession of one-half of the said premises and has used and occupied the same.

11. This defendant denies that this defendant, 40

Answer & Cross Bill of Def't. F. E. Grimminger

since the time of the transfer of the said property in Nineteen Hundred and Eleven, to the defendants, John Alderton and Alice Alderton, has ignored the complainant or refused to have any relations with him and denies that this defendant, the said Frances E. Grimminger, neglected or
 10 abused the said complainant, but states the truth to be that the said Charles Grimminger, the said complainant deserted this defendant, Frances E. Grimminger, and as a result thereof this defendant was obliged to apply to the Court of Chancery of New Jersey for a decree of divorce against the complainant, Charles Grimminger, for his desertion of this defendant, Frances E. Grimminger. That it is true that a decree *nisi* was made in said
 20 suit on or about the Twenty-ninth day of April, Nineteen Hundred and Thirteen, and admits that the said complainant did not appear in said suit. This defendant denies that there was any scheme on the part of the defendants, John Alderton and Alice Alderton and this defendant, Frances E. Grimminger, to finally rid themselves of the complainant after having obtained his property, and denies that said divorce had anything whatever to do with the property aforesaid.

30 12. This defendant denies that the said property rightfully belongs to the complainant.

This defendant denies that the defendants, John Alderton and Alice Alderton, have never paid any consideration to the complainant for the use and occupation of the premises, and denies that the said premises are reasonably worth the sum of Fifty-five Dollars per month.

40 13. This defendant denies that the said com-

Answer & Cross Bill of Def't. F. E. Grimminger

plainant is the rightful owner of the property and denies that he received no consideration for the transfer, and denies that the said conveyances were procured by or through any conspiracy existing between this defendant and the defendants, John Alderton and Alice Alderton, and denies that they in any way took advantage of the weak state of mind of the complainant or with knowledge of his alleged mental defects, or that this defendant or any other person took advantage in any way of the trust and confidence which the complainant had in his said wife, and denies that this defendant wilfully, unlawfully, or fraudulently procured the complainant to make the conveyance above set forth, or that this defendant planned to get rid of the complainant or cast him aside as soon as this defendant obtained her divorce or otherwise. This defendant denies that she has shown any cruelty or abuse to the said complainant and denies that she is endeavoring to force the complainant to leave the said premises.

14. This defendant denies that at the time and times when the complainant signed the foregoing conveyances he was not exercising his own judgment and was not capable of exercising free and independent judgment, and denies that the complainant was dominated and controlled by this defendant, his said wife, and denies that this defendant, the said Frances E. Grimminger, caused the complainant to make the said conveyances without consideration, or for the purpose of depriving the complainant of his said property.

15. This defendant denies that the said com- 40

Answer & Cross Bill of Def't. F. E. Grimminger

plainant requested the defendants or this defendant to yield and give up to the complainant the said lands and premises or release to the complainant all right or title to the same.

16. This defendant denies that the said complainant was at any time under the influence of this defendant, his said wife, and denies that he at any time was freed from the influence of this defendant, his said wife, and denies that he is now able to reason more clearly or to understand that he had been defrauded and states the truth to be that the said complainant at all times was in full possession of his mental powers, and followed employment, and demes that he at any time was under the influence of this defendant, the said Frances E. Grimminger.

Wherefore this defendant prays that she may hence dismissed with her reasonable costs and charges in this behalf most wrongfully sustained.

AND THIS DEFENDANT BY WAY OF CROSS-BILL EXHIBITED AGAINST THE SAID COMPLAINANT ALLEGES:

1. This defendant and the complainant at the times hereinafter mentioned were husband and wife; that on or about the Twenty-sixth day of April, Nineteen Hundred and Seven, the complainant and this defendant made a conveyance of the certain premises mentioned and described in the bill of complaint herein at the solicitation of the said complainant, to the defendants John Alderton and Alice Alderton, the complainant herein at that time being seized of said premises, in fee simple, subject to the right of dower of this de-

Answer & Cross Bill of Def't. F. E. Grimminger

fendant therein; that at the solicitation of the complainant the said John Alderton and Alice Alderton on or about the Twenty-sixth day of April, Nineteen Hundred and Seven, made a conveyance of the certain premises mentioned and described in the bill of complaint herein to the said complainants and to this defendant, which said deed bears the date aforesaid and was recorded May Sixth, Nineteen Hundred and Seven, in Book 893 of Deeds for Hudson County at pages 132 etc; that under and by virtue of said deed the said lands and premises were held by the complainant and this defendant as tenants by the entirety, and the complainant and this defendant held title to said lands and premises as such tenants by the entirety up to the Eighteenth day of April, Nineteen Hundred and Eleven, when at the earnest solicitation of the complainant herein and upon his assurance that this defedant would have her right, title and interest in said premises protected, and that she would lose nothing, the said complainant induced this defendant to sign a deed of said premises, to the defendant John Alderton and Alice Alderton whereby the title thereto was conveyed to the said John Alderton and Alice Alderton, and it was agreed that the said premises would be occupied the one-half part thereof by the complainant and this defendant, and the other half part thereof by the defendants John Alderton and Alice Alderton. That on or about April Eighteenth, Nineteen Hundred and Eleven, the complainant herein and this defendant were without funds and without ready cash, and the Columbia Building and Loan Association of Jersey City, which held a mortgage upon said premises had threatened to fore-

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Answer & Cross Bill of Def't. F. E. Grimminger

close the said mortgage for the non-payment of dues and interest then past due on the said mortgage, and the said complainant and this defendant were then temporarily unable to carry said property in consequence of their lack of ready funds, and were unable to pay the taxes or water rents then due and payable thereon, and the complainant herein requested the defendant John Alderton and Alice Alderton to take title to said property from the said complainant and this defendant, and the said complainant thereupon agreed that the complainant and this defendant, who had title to the said property at that time in their joint names, and who held the title thereto as tenants by the entirety, would make a conveyance of said property to the defendants, John Alderton and Alice Alderton, and the defendants John Alderton and Alice Alderton agreed to pay all fixed charges on said property and to pay off the mortgage on said premises by the payment of the monthly dues, and the interest charges, and the taxes and water rents, and to pay for the necessary repairs to said premises, and that when the complainant and this defendant were ready to redeem the said property the defendants John Alderton and Alice Alderton were to reconvey the said premises to the complainant and this defendant upon the said complainant and this defendant repaying to the defendants John Alderton and Alice Alderton all moneys expended by them upon the said premises, under said agreement; and the said complainant and this defendant promised to repay to the defendants John Alderton and Alice Alderton whatever moneys would then have been paid by the de-

Answer & Cross Bill of Def't. F. E. Grimminger

fendants John Alderton and Alice Alderton for
 the account of the said complainant and this de-
 fendant, for the maintenance and keep of
 said property and that the said complain-
 ant and this defendant would repay to the
 defendants John Alderton and Alice Alder- 10
 ton all of the said moneys. That the de-
 fendants John Alderton and Alice Alder-
 ton thereupon and in pursuance of said agree-
 ment took title to said premises on the Eighteenth
 day of April, Nineteen Hundred and Eleven, and
 since that time have held and now hold the title
 thereto by deed bearing date on that day and re-
 corded in the Register's Office of the County of
 Hudson in Book 1090 of Deeds for Hudson County
 on pages 176 &c., and to which for greater cer- 20
 tainty these defendants beg leave to refer if it be
 necessary so to do. That as this defendant is in-
 formed and believes, in pursuance of said agree-
 ment the defendants John Alderton and Alice Al-
 derton have paid, laid out and expended for the ac-
 count of the said complainant and this defendant
 in taxes, monthly dues, interest, repairs and im-
 provements to said premises large sums of money,
 to wit, the sum of Fifteen Hundred and Sixteen 30
 Dollars and twenty cents, and it was also agreed
 that the said complainant would occupy one-half
 the said premises and the defendants John Alder-
 ton and Alice Alderton would occupy the other
 half of the said premises.

2. That the reasonable rental value of said premises is Thirty Dollars per month.

3. The defendants John Alderton and Alice Alderton and the said complainant have occupied the said premises for upwards of thirty months. 40

Answer & Cross Bill of Def't. F. E. Grimminger

4. That the complainant herein promised and agreed to make such repayment to the defendants John Alderton and Alice Alderton, and also agreed that this defendant would lose none of her rights in the property and that her rights would
 10 be protected by him, and that the property would be redeemed, and she would obtain from the complainant and the defendants John Alderton and Alice Alderton her interest in the said lands and premises.

5. This defendant has been informed and believes it to be true that the said complainant wishes and desires to redeem the said premises and that in doing so the complainant wishes to redeem said premises without the interest
 20 of this defendant being considered or protected, and has given it out that this defendant would receive no interest whatever in the said premises, and this defendant alleges that she is entitled to her right, title and interest in said premises as of the day when the said deed was made by the said complainant and this defendant, when the title to said premises was held by the complainant and this defendant as tenants
 30 by the entirety.

6. That this defendant is entitled to have it decreed that the said lands and premises are subject to her right, title and interest therein upon such transfer or redemption by the complainant, as of the Eighteenth day of April, Nineteen Hundred and Eleven, when the said complainant induced the defendant to join with him in the execution of the said deed to the defendants John Alderton and
 40 Alice Alderton, and that this defendant charges

Answer & Cross Bill of Def't. F. E. Grimminger

the fact to be that the actions on the part of said complainant were committed for the purpose of depriving this defendant of her right, title and interest in the said property as tenant by the entirety and for the purpose of taking over to himself the title to said lands and premises without having the right, title and interest of this defendant secured to her. That the consent of this defendant to the execution of the deed to the defendants John Alderton and Alice Alderton was obtained by the said complainant through the said complainant representing to this defendant that he was without funds to carry the property and to save the said property from foreclosure and sale, and that such representation and acts on the part of the complainant were a fraud practiced upon her by this complainant.

7. And this defendant further shows that she well hoped that the said complainant would redeem the said lands and premises and that this defendant would obtain her rights, in said premises as such tenant by the entirety, but the said complainant endeavors to defeat the rights of this defendant in said premises and gives it out that this defendant will receive nothing whatever from said property.

9. This defendant further shows that in or about the month of October, Nineteen Hundred and Thirteen, she was awarded a final decree from the said complainant by the Court of Chancery of New Jersey, but alleges, maintains, insists and charges that under the aforesaid agreement made when she was induced to execute the deed aforesaid by the said complainant, her right, title and interest

Answer & Cross Bill of Def't. F. E. Griminger

10 in the aforesaid lands and premises were not extinguished, and that she is still entitled to an interest in the said lands and premises as of the Eighteenth day of April, Nineteen Hundred and Eleven, and her interest therein at this time is that of tenant in common with the said complainant, subject to the claims of the defendants John Alderton and Alice Alderton under the aforesaid agreement.

20 IN CONSIDERATION WHEREOF AND TO THE END that the said complainant may without oath (oath being expressly waived), full, true, direct and perfect answer make to all and singular the charges and matters aforesaid, as fully and particularly as if the same were here again repeated and he there-
 30 unto particularly interrogated, and that the said complainant may be decreed to owe the money paid, laid out and expended by the defendants John Alderton and Alice Alderton, and that it may be decreed that the said lands and premises be impressed with the lien of the aforesaid sum of money ascertained and found to be due the defend-
 40 ants John Alderton and Alice Alderton from the said complainant and this defendant upon a reconveyance of the said lands and premises to the complainant and this defendant, and that it be decreed that the said lands and premises are owned by the complainant and this defendant, subject to the claim of the said defendants John Alderton and Alice Alderton, and that the complainant and this defendant own said property as tenants in common, and that this defendant may be awarded such other and further relief as may be necessary or
 just.

Answer and Cross Bill of Aldertons

May it please your Honor to grant unto this defendant the state's writ of subpoena issuing out of and under the seal of this Honorable Court to be directed to the complainant Charles Grimminger, commanding him on 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 by and perform such decree therein as to your Honor shall seem meet and as shall be agreeable to equity and good conscience, and this defendant will ever pray etc. 10

CHAS. E. S. SIMPSON,
Solicitor for and of counsel with defendant, Frances E. Grimminger.

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Answer and Cross Bill of Aldertons*(Filed, Nov. 30, 1913)*

IN CHANCERY OF NEW JERSEY

Between,
CHARLES GRIMMINGER,
Complainant,

and

JOHN ALDERTON and ALICE ALDERTON, his wife, and FRANCES E. ALDERTON,
Defendants.

On Bill etc. 30

THE ANSWER OF JOHN ALDERTON AND ALICE ALDERTON TO THE BILL OF COMPLAINT OF THE ABOVE-NAMED COMPLAINANT: 40

Answer and Cross Bill of Aldertons

1. These defendants admit that the complainant is about Twenty-nine years of age and resides at 68 Condict Street, in Jersey City.

2. These defendants admit that on or about the Twenty-fifth day of October, Nineteen Hundred
10 and Six complainant was married to the defendant, Frances E. Alderton, and that one child, which is now dead, was born of the marriage. These defendants deny that since childhood the complainant has been subject to epileptic fits or epilepsy, and deny that the brain of the complainant has been affected or that his power of thought and reasoning have been dull, or that he
20 at any time was not able to exercise sound judgment, and deny that at any time the complainant was easily misled in his acts and doings.

3. These defendants admit the truth of the third paragraph of the complaint.

4. These defendants admit that complainant and his wife, Frances E. Alderton Grimminger, resided in the said premises.

5. These defendants deny that the said Frances E. Alderton Grimminger before her marriage to
30 the complainant was informed by members of the complainant's family, or any other persons, that the complainant herein was an epileptic and deny on information and belief that the defendant, Frances E. Alderton, became angry and declared that she would marry the said complainant for spite upon being informed that the said complainant was an epileptic.

6. These defendants on information and belief
40 deny that the said Frances E. Alderton Grim-

Answer and Cross Bill of Aldertons

mingler at any time was without affection for the said complainant, and deny that about the month of April, Nineteen Hundred and Seven, she entered into a scheme or conspiracy with the defendant, John Alderton and the defendant, Alice Alderton, to defraud the complainant of his property or anything else. These defendants have no knowledge or information regarding the truth of the allegation of the bill of complaint that the complainant at all times believed in and trusted his said wife and followed her advice and instructions implicitly, or that he relied upon her judgment as being superior to his own judgment or that he ever questioned her motives. 10

7. These defendants admit that about April Twenty-sixth, Nineteen Hundred and Seven, the complainant made a conveyance of the property above-mentioned, in which said Frances E. Grimminger joined, to the defendant John Alderton. These defendants deny that no consideration was received for the said conveyance. These defendants admit that on the Twenty-sixth day of April, Nineteen Hundred and Seven, these defendants reconveyed the said property to the complainant and the said Frances E. Grimminger, being at that time husband and wife. 20 30

8. These defendants admit that the deed aforesaid was afterwards re-recorded as alleged in the bill of complaint.

9. These defendants deny that on the Eighteenth day of April, Nineteen Hundred and Eleven, the complainant and his said wife without consideration, or while acting under the instructions of the said Frances E. Grimminger, 40

Answer and Cross Bill of Aldertons

attempted to convey the said premises to John Alderton and Alice Alderton, his wife, and state the truth to be that the said complainant and the said defendant, Frances E. Grimminger did actually for a valid consideration and on the Eighteenth day of April, Nineteen Hundred and Eleven, conveyed the said premises to these defendants. These defendants admit that the deed therefore was recorded on April Twenty-fourth, Nineteen Hundred and Eleven, in the Register's Office of Hudson County in Liber 1090 page 176 etc. These defendants deny that the said deed is not in fact the deed of the complainant and his said wife, and deny that the deed therefore bears the signature of Alice E. Grimminger, but allege, maintain and charge that the said deed was signed by the defendant, Frances E. Grimminger, and not as Alice E. Grimminger.

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10. These defendants admit that they have been in possession of said premises since the year Nineteen Hundred and Seven, and deny that the complainant is allowed to sleep in the attic of the house, and deny that he is not allowed to use or occupy either parts of the said house, and deny that the occupation and control is kept and maintained by these defendants, and state the truth to be that since the year Nineteen Hundred and Seven, the said complainant has been in actual possession of one-half the said premises and has used and occupied the same.

11. These defendants deny that the said Frances E. Grimminger, since the time of the transfer of the said property in Nineteen Hundred and
40 Eleven, to these defendants, ignored the com-

Answer and Cross Bill of Aldertons

plainant or refused to have any relations with him and deny that the said Frances E. Grimminger neglected or abused the said complainant, but states the truth to be that the said Charles Grimminger, the said complainant deserted the defendant, Frances E. Grimminger, and as a result thereof the said Frances E. Grimminger was obliged to apply to the Court of Chancery of New Jersey for a decree of divorce against the complainant, Charles Grimminger, for his desertion of the defendant, Frances E. Grimminger. That it is true that a decree *nisi* was made in said suit on or about the Twenty-ninth day of April, Nineteen Hundred and Thirteen, and admit that the said complainant did not appear in said suit. These defendants deny that there was any scheme on the part of these defendants and the defendant, Frances E. Grimminger, to finally rid themselves of the complainant after having obtained his property, and deny that said divorce had anything whatever to do with the property aforesaid.

12. These defendants deny that the said property rightfully belongs to the complainant.

These defendants deny that they have never paid any consideration to the complainant for the use and occupation of the premises, and deny that the said premises are reasonably worth the sum of Fifty-five Dollars per month.

13. These defendants deny that the said complainant is the rightful owner of the property and deny that he received no consideration for the transfer, and deny that the said conveyances were procured by or through any conspiracy existing between the said Frances E. Grimminger

Answer and Cross Bill of Aldertons

and these defendants deny that they in any way took advantage of the weak state of mind of the complainant or with knowledge of his alleged mental defects, or that they took advantage in any way on the trust and confidence which the
 10 complainant had in his said wife, and they deny that they wilfully, unlawfully or fraudulently procured the complainant to make the conveyance above set forth, or that they planned to get rid of the complainant or cast him aside as soon as the said Frances E. Griminger obtained her divorce or otherwise. These defendants deny that they have shown any cruelty or abuse to the said complainant and deny that they are endeavoring to force the complainant to leave the said prem-
 20 ises.

14. These defendants deny that at the time and times when the complainant signed the foregoing conveyances he was not exercising his own judgment and was not capable of exercising free and independent judgment, and deny that the complainant was dominated and controlled by his said wife, and deny that the said Frances E. Griminger caused the complainant to make the said
 30 conveyances without consideration, or for the purpose of depriving the complainant of his said property.

15. These defendants deny that the said complainant requested these defendants to yield and give up to the complainant the said lands and premises or release to the complainant all right or title to the same.

16. These defendants deny that the said com-
 40 plainant was at any time under the influence of

Answer and Cross Bill of Aldertons

his said wife, and deny that he at any time was freed from the influence of his said wife and deny that he is now able to reason more clearly and to understand that he had been defrauded and state the truth to be that the said complainant at all times was in full possession of his mental powers, and followed employment, and deny that he at any time was under the influence of the said defendant, Frances E. Grimminger. 10

Wherefore these defendants pray that they may be hence dismissed with their reasonable costs and charges in this behalf most wrongfully sustained.

AND THESE DEFENDANTS, BY WAY OF CROSS BILL EXHIBITED AGAINST THE SAID COMPLAINANT, ALLEGE:

1. These defendants are and at the time hereinafter mentioned were husband and wife, and on and prior to the Eighteenth day of April, Nineteen Hundred and Eleven, the complainant herein was the husband of Frances E. Grimminger; that heretofore and on or about the Twenty-sixth day of April, Nineteen Hundred and Seven, these defendants had made a conveyance of the certain premises mentioned and described in the bill of complaint herein to the complainant herein and the said Frances E. Grimminger, his wife, by deed dated April Twenty-sixth, Nineteen Hundred and Seven, and recorded May Sixth, Nineteen Hundred and Seven, in Book 983 of Deeds for Hudson County, at pages 132 etc.; that from the Twenty-sixth day of April, Nineteen Hundred and Seven, to the Eighteenth day of April, Nineteen Hundred and Eleven, the said premises were owned by the said complainant and the said Frances E. Grimminger under said deed and were occupied the one-half 20 30 40

Answer and Cross Bill of Aldertons

part thereof by the complainant herein and his said wife, and the other one-half part thereof were occupied by these defendants. That on the day aforesaid, to wit, April Eighteenth Nineteen Hundred and Eleven, the complainant herein and his said wife, being then without funds or ready cash, and the Columbia Building and Loan Association which held a mortgage upon said premises having threatened to foreclose the said mortgage for the non-payment of dues and interest then past due on the said mortgage, and the said complainant and his said wife being then unable to carry said property in consequence of their lack of ready funds, and being unable to pay the taxes or water rents then due and payable thereon, requested these defendants to take title to said property, upon an agreement which was then and there made between the complainant and these defendants, that the said complainant and the said Frances E. Grimminger, who had title to the said property at that time in their joint names, and who held the title thereto as tenants by the entirety, would make a conveyance of said property to these defendants, and these defendants agreed to pay all fixed charges on said property and to pay off the mortgage on said premises by the payment of the monthly dues, and the interest charges, and the taxes and water rates, and to pay for the necessary repairs of said premises, and that when the complainant and his said wife were ready to redeem the said property the said defendants would reconvey said premises, upon said complainant and his said wife re-paying all moneys expended by them, to these defendants, and the said complainant and

Answer and Cross Bill of Aldertons

his said wife promised to repay to these defendants whatever moneys would then have been paid by these defendants for the account of said complainant and his said wife, for the maintenance of the said property, and that they would repay to these defendants the said moneys. That these defendants thereupon and in pursuance of said agreement took title to said premises on the Eighteenth day of April, Nineteen Hundred and Eleven, and since that time have held and now hold the title thereto by deed bearing date on that day and recorded in the Register's Office of the County of Hudson in Book 1090 of Deeds for Hudson County, on pages 176, etc., and to which for greater certainty these defendants beg leave to refer if it be necessary so to do. That in pursuance of said agreement these defendants have paid, laid out and expended for the account of the said complainant and his said wife, in taxes, monthly dues, interest, repairs and improvements to said premises large sums of money, to wit, the sum of Fifteen Hundred and Sixteen Dollars and twenty cents (\$1516.20), and it was also agreed that the said complainant would occupy one half the said premises and the complainants would occupy the other half of the premises.

10

20

30

2. That the reasonable rental value of said premises is Thirty Dollars per month.

3. These defendants and the said complainant have occupied said premises for thirty months; that a statement or schedule of the moneys paid, laid out and expended by these defendants for the account of the complainant and the upkeep of said property is hereto annexed marked "Exhibit D-1" and made a part of this cross bill.

40

Answer and Cross Bill of Aldertons

4. That the complainant herein promised and agreed to make such repayment to these defendants, and these defendants held title to said property upon such agreement and understanding.

5. That these defendants have at all times been
10 ready and willing to reconvey said premises to the complainant and his said wife and now tender themselves ready and willing to reconvey said lands and premises to the said complainant and the said Frances E. Grimminger, in pursuance of the agreement and understanding heretofore made between the said complainant and his said wife and these defendants.

6. And these defendants further show that they
20 well hoped that the said complainant and his said wife would repay to them the moneys paid, laid out and expended by these defendants upon said property, but the said complainant and his said wife have refused and still refuse to do so.

IN CONSIDERATION WHEREOF and to the end that the said complainant and his said wife may (without oath) full, true direct and perfect answer make to all and singular the charges and matters aforesaid, as fully and particularly as if the same
30 were here again repeated, and they hereunto particularly interrogated; and that the said complainant and his said wife may be decreed to owe the said money mentioned in said schedule to these defendants, and that the said premises may be impressed with the lien of the aforesaid sum of money upon a reconveyance of the same to these defendants and that it be decreed that these defendants have a lien upon the aforesaid premises
40 for the full amount thereof, and that said lien be

Answer and Cross Bill of Aldertons

decreed to be a valid and subsisting lien, and that these defendants may have such other and further relief as may be necessary or just.

May it please your Honor to grant unto these defendants the State's writ of subpoena to be directed to the complainant, Charles Grimminger, 10 and the defendant, Frances E. Grimminger, commanding 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 by and perform such decree therein as to your Honor shall seem meet and as shall be agreeable to equity and good conscience.

And these defendants will ever pray, etc. 20

CHAS. E. S. SIMPSON,
Solicitor for and counsel with defendants
John Alderton and Alice Alderton

Exhibit A

Expenses from 1911 to date.

(November First, 1913).

10	Taxes	\$ 256.00
	Coal bill, paid for account of Grimminger	20.00
	Payments to Building and Loan Association	146.75
	tion	
	Paid for new gutters and leaders	54.60
	Paid for new extension roof	59.00
	Paid for repairing stoop	5.00
	Paid for repairing hot air furnace	9.00
	Paid for painting and decorating interior	
	of house	90.10
20	Painting and varnishing kitchen	7.10
	Painting outside of house	60.00
	Paid for new screen	1.00
	Paid for cleaning sewer	5.00
	Paid for new lock on door	2.00
	Paid for two window panes	.50
	Paid for tinning extension	3.00
	Paid for cleaning furnace two years @	
	\$2.00	4.00
	Paid gas bill	4.30
30	Paid for lumber for repairs	2.20
	Paid for new boiler	12.00
	Paid insurance premium	18.00
	Paid for repairing toilet	2.00
	Paid for one gas blue standard	.90
	Paid for enamel	.75
40		<hr/> \$ 763.20

Exhibit A

Storage two rooms, use of room, heat and light for Charles Grimminger, including laundry work and use of house, from April 18th, 1911, to date, thirty months @ \$15.00 per month	450.00	
Expenses of property 68 Condict Street, Jersey City, from 1907 to 1911.		10
Fence around lot	\$ 20.00	
Painting house two coats of paint	120.00	
Cleaning furnace once a year for four years @ \$2.00	8.00	
Gutters and leaders repaired	10.00	
Painting and enameling bathroom	4.00	
Painting and varnishing kitchen twice	14.00	
Two new board walks in the alleyway	4.00	20
Cleaning the property 4 1/2 years @ \$.50 per week	117.00	
Painting extension twice	6.00	
Total	\$ 303.00	

RECAPITULATION:

Amount of charges from 1907 to 1911	\$ 303.00	
Amount of charges from 1911 to date	763.20	30
Amount of charges against Charles Grimminger	450.00	
	<u>\$1,516.20</u>	
Credit use and occupation of house for thirty months at Thirty Dollars per month	900.00	
Balance due	\$ 616.20	40

**Replication and Answer to Cross Bill
of Frances E. Grimminger**

Filed, Dec. 29, 1913)

IN CHANCERY OF NEW JERSEY

10

Between,
CHARLES GRIMMINGER,
Complainant,
and
JOHN ALDERTON and ALICE ALD-
ERTON and FRANCES E. GRIM-
MINGER,
Defendants.

On Bill, etc.
Replication

20

Complainant joins issue on so much of the answer of the defendant Frances E. Grimminger, as is not in the nature of a cross bill; and as to that part of the said answer which is in the nature of a cross bill he says:

1. He denies that he and the defendant are husband and wife and says that the defendant has obtained an absolute divorce from him. He denies
30 that the conveyance mentioned in the bill of complaint was made at his solicitation to the defendants John Alderton and Alice Alderton and says that the said conveyance was made as described in the bill of complaint. This complainant claims the benefit herein of all the allegations in the bill of complaint as if the same were here repeated. This complainant denies that he ever assured the
40 defendant that he would have her right, title and interest in the said premises protected and that

Replication, etc., of F. E. Grimminger

she would lose nothing and on the contrary he says that he did not understand what was being done in reference to his property; that he went to a lawyer employed by the defendant and executed papers that he was told by the defendant to execute. He denies that he agreed that the said premises should be occupied one half part by this complainant and the other half part by the defendant John Alderton and Alice Alderton. He says that there was no agreement in reference to the same but that the said defendant said that her parents had to live there and this complainant did not know that he would prevent their doing so. The defendant and her father and mother, John Alderton and Alice Alderton drove this complainant into the garret to live and would not let him live in the rest of the house and the said Frances E. Grimminger did not live in that part of the house with this complainant and did not live with him at all after the said conveyances were made as alleged in the bill of complaint. This complainant denies that on or about April 18, 1911 that he and the defendant were without funds and without ready cash, any more than they had been during the five years previous thereto. The complainant says that he was always unable to earn other than small wages, and his wages were always taken by his wife and her parents so that he did not have any money of his own, the reason being that the said defendant and her father and mother always required him to pay over his wages to them. He says that if the mortgage was put on the said premises it was because the said John Alderton and Alice Alderton and the said Frances E. Grimminger wanted

Replication, etc., of F. E. Grimminger

to get the money to use for their own needs and their own.

10 The said defendants when they took the moneys of complainant said they would attend to everything for him and if the dues and interest were due on the said alleged mortgage it was because the said defendants had not kept their promise to pay the same. This complainant denies that he desired to convey the said premises to John Alderton and Alice Alderton and says that his wife told him that he must make the conveyance to them and he believed her. This complainant says that it was agreed that the defendants would convey the said property to the complainant at any time when he wanted the same but he denies
20 that he promised to repay to the defendants John Alderton and Alice Alderton whatever moneys they might have expended for the said property and he says that the reasonable value of the rent for the property, which is now owing by the said John Alderton and Alice Alderton, is greatly in excess of any moneys that they might have or did spend on the said property. This complainant denies that the said John Alderton and Alice Alderton have spent the sum of \$1,516.20. This complainant says that he does not occupy one half of
30 the said premises, on the contrary, he occupies only the part the garret of the said premises.

2. This complainant says that a reasonable rental value of said premises is not \$30 per month, but is \$50 per month.

3. The complainant denies that John Alderton and Alice Alderton and the said defendants have
40 kept the said premises for upwards of thirty

Replication, etc., of F. E. Grimminger

months; but on the contrary he says that they have occupied the premises for over seven years without paying any rent and he asks that they be compelled to account to him for the rental value of the said premises for the said period of seven years and so long as they have occupied and continue to occupy the same. 10

4. This complainant denies that he agreed to make any repayment to John Alderton and Alice Alderton and he denies that he agreed that the defendant Frances E. Grimminger would lose none of her rights in the property and that her rights would be protected by him, and that the property would be redeemed whereby she would obtain the interest in the said lands and premises. On the contrary he says that the said Frances E. Grimminger by her suit for divorce against him and her final decree therein, has cut herself off from any right of dower or interest of any kind which she should otherwise have in the premises. 20

5. This complainant says that he has frequently asked the said defendants and all of them to convey or have conveyed the said premises to him and the said John Alderton and Alice Alderton have frequently promised to do so but they would not and did not keep their promise. This complainant says that at the present time, after they have filed their answers the cross bill in this suit the said John Alderton and Alice Alderton continued to inform this complainant that they have no interest in the property and they only want to give it back to him and they cannot understand why he wants to have lawyer to fight this suit. They 30 40

Replication, etc., of F. E. Grimminger

say to this complainant that he can have the property right back and when he tells them to come to his lawyers to execute the deed for the property they make excuses and say they will go there in a few days and on one occasion they made a definite appointment to go to this complainants
10 solicitor's office to sign the deed for the property conveyed to this complainant, but they did not keep the appointment.

6. This complainant denies that the complainant Frances E. Grimminger is entitled to have a decree that the said lands and premises are subject to any right, title and interest therein as of the 18th day of April 1911. And he denies that
20 the said Frances E. Grimminger ever had any interest in the said property, except her right of dower, which is cut off by her decree of divorce. This complainant denies that he induced the defendants to join with him in the execution of the said deed to John Alderton and Alice Alderton and denies that his actions were for the purpose of depriving her of any right, title or interest in the said property. And this complainant says
30 that the whole matter of the transaction of conveying the property to the Aldertons was manipulated by the said Frances E. Grimminger and her father and mother who took undue advantage of this complainant and took advantage of his mental weakness. This complainant denies that he represented to the said defendants that he was without funds and he says that the said defendants knew that he had no funds because she and her parents took all of his wages each week. This complainant says that the said defendant
40 has no right or interest in the property and that she is entitled to no part thereof.

Replication and Answer to Cross Bills

This complainant denies that there was any agreement between he and the defendant to the effect that her right, title and interest in the aforesaid lands and premises would not be extinguished by her divorce and he shows that on the contrary her rights in the said lands and premises have been extinguished and that because of her final decree of divorce she no longer has any interest in this suit. 10

This complainant prays that so much of said answer as is in the nature of a cross bill may be dismissed, and that the prayer of complainants bill may be granted and that the defendants may be ordered and decreed to reconvey said property described in the bill of complaint to your orator.

Solr. of Complainant. 20

Replication and Answer to Cross Bills

(Filed, Dec. 29, 1913.)

IN CHANCERY OF NEW JERSEY

Between CHARLES GRIMMINGER, <p style="text-align: center;">Complainant,</p> <p style="text-align: center;">and</p> JOHN ALDERTON and ALICE ALD- ERTON and FRANCES E. GRIM- MINGER, <p style="text-align: center;">Defendants.</p>	}	30 On Bill, etc. Replication.
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Complainant joins issue on so much of the answer of the defendants John Alderton and Alice 40

Replication and Answer to Cross Bills

Alderton as is not in the nature of a cross bill, and as to that part of the said answer which is in the nature of a cross bill, he says:

1. That he denies that the conveyances were otherwise than as alleged in the bill of complaint
10 filed by him in this suit and he claims the benefit of all of the allegations in the bill of complaint the same as though the said bill were set forth herein in detail. He denies that on April 18, 1911 he and his wife were without funds and that the Columbia Building & Loan Association which held the mortgage on said premises had threatened to foreclose the same and he denies that he requested these defendants to take title to said property and he denies that there was an agree-
20 ment that when he and his said wife were ready to redeem the property that the said defendants were to reconvey the said premises.

On the contrary he says that while he was the holder of the title of said property and after the said defendants and Frances E. Grimminger had induced him to enter into the conveyance set forth in the bill of complaint, that each week the said John Alderton and Alice Alderton and Frances E. Grimminger required this complainant to pay to
30 them all of his wages and the said John Alderton and Alice Alderton and Frances E. Grimminger agreed because of the payment of the wages of complainant to them to pay all taxes, water rents, insurance and repairs of the property and to support the complainant and his said wife. Instead of carrying out this agreement, however, they took all of the wages of complainant, and did not pay the taxes or interest, or water rents and
40 other charges, and they drove the complainant to

Replication and Answer to Cross Bills

live in the garret while the wife of the complainant remained down stairs with her parents and went about as she pleased. As a result of these wrongful acts on the part of the defendants this complainant had no knowledge that the said charges were not paid, and he presumed that they were paid and so understood from the defendants. He says that if the dues and interest on the said mortgage were not paid it was the fault of the said defendant who should have paid the same. And he further says that the said mortgage was placed upon the said premises at the instigation of John Alderton and Alice Alderton and Frances E. Grimminger and that they received all of the benefits from any money that was borrowed by getting the mortgage on the said premises. And that this complainant never received any benefit therefrom. This complainant denies that he ever agreed to repay to the defendants any money they expended because they were already indebted to him for rent from the year 1906 at the rental value of \$50 per month. This complainant denies that he is indebted to the defendants in the sum of \$1516.20 or any other sum but on the contrary he says that the said defendants are indebted to him in the sum of about \$4200 for rent for the said premises.

2. This complainant says that the reasonable rental value of the said premises is not \$30 per month but is \$50 per month.

3. This complainant says that the defendants have occupied the said premises for about seven years and he denies that he is indebted to them as set forth in Exhibit D-1 annexed to the said

Replication and Answer to Cross Bills

cross bill but on the contrary he says that the defendants John Alderton and Alice Alderton are indebted to him in the sum of \$4200.

4. This complainant denies that he agreed to make repayment as set forth in the fourth paragraph of the cross bill and he denies that the defendants held title to said premises upon such agreement and on the contrary says that the said defendants agreed to convey the said property back to him whenever he asked them to do so and he has frequently asked them to do so and each time they have promised to do so and failed to keep their said promise. This complainant says that the said defendants after filing their answer and cross bill in this suit have promised to convey the said property back to this complainant and on one occasion they made a definite appointment to go with this complainant to the office of his solicitor so that they could execute the deed back to this complainant, for said property but they did not keep their appointment.

5. This complainant says that his said wife has no interest in the said property, and that he was a party to no agreement in reference to the same with said defendant or anyone on her behalf. The only part she took in the said transaction was to induce this complainant to make the several transfers as set forth in his bill of complaint. This complainant denies that there is any agreement on his part to pay any money whatever to said defendants and he says that he is entitled by the decree of this Honorable Court to have the said lands and premises reconveyed to him and to have the said defendants account to him for the

The Case of the Complainant

THE CASE OF THE COMPLAINANT

Mr. Turner: Has your Honor read the pleadings?

The Vice Chancellor: Yes.

10 Mr. Turner: There are certain facts which are admitted on the pleadings which I think it might be well to put on the record at this time: That the complainant and Frances E. Grimminger, one of the defendants, were married on October 25, 1906, and that one child was born which is now dead. It is also admitted that Frances Grimminger has sued the complainant, Charles Grimminger, for divorce, on the ground of desertion, and a decree *nisi* was made on the 29th day of April, 1913. And
20 it is also admitted that the defendants, John Alderton and Alice Alderton, have been in possession of the property in question since the year 1907.

The Vice Chancellor: Not all of it.

Mr. Turner: In possession of part of it all of the time, and part of it all of the time. Now, I will offer in evidence four deeds.

30 First, deed Henry A. Hall and wife to Charles Grimminger dated the 21st day of September, 1906, and recorded on the 13th day of October, 1906, in Book 968 of Deeds for Hudson County, page 118. Admitted and marked Exhibit C-1.

The Vice Chancellor: At that time was the complainant married?

Mr. Turner: No, sir; not at that time. He was not married on the date of the deed, but he was married before the deed was recorded, apparently. (After inspecting the deed.) It was recorded be-
40 fore his marriage. I also offer in evidence deed

The Case of the Complainant

dated April 26, 1907, made by Charles E. Griminger and Frances E. Griminger, to John Alderton, recorded on the 6th day of May, 1907, in Book 983 of Deeds for Hudson County, page 130; acknowledged on the 26th day of April, 1907, before Thomas H. Brown, an attorney-at-law of the New Jersey Supreme Court. Admitted and marked C-2. 10

Complainant also offers in evidence deed dated April 26, 1907; recorded on the 5th day of May, 1907, in Book 983 of Deeds for Hudson County, pages 132 &c. acknowledged before Thomas H. Brown, an attorney-at-law of the Supreme Court, on the 26th of April, 1907 and re-acknowledged on the 17th day of November, 1908. Admitted and marked C-3. This deed, Exhibit C-3 was recorded on November 17, 1908, in Book 1016 of Deeds for Hudson County, pages 584 &c. 20

Complainant also offers in evidence deed dated April 18, 1911, made by Charles E. Griminger and Frances E. Griminger, his wife, to John Alderton and Alice Alderton, acknowledged on the 18th day of April, 1911, before Thomas H. Brown, master in chancery of New Jersey, and recorded on the 24th day of April, 1911, in Book 1090 of Deeds for Hudson County, page 176 &c. Admitted and marked Exhibit C-4. 30

Mr. Turner: If the Court please, I want to prove the record of a case in the First District Court of Jersey City. One of the constables is here with the original papers and records. It is a court day there and the clerk has not been able to come—that is, he has not been able to come yet. I, of course, should have the clerk, I know, but—

The Vice Chancellor: Is there any objection? 40

The Case of the Complainant

Mr. Simpson: I don't know what the record is, or what judgment it is.

10 Mr. Turner: It is a record and judgment in a case wherein Samuel T. Fairbanks, the receiver to collect the rents appointed by this Court, brought suit against the defendants, John and Alice Alderton, in a landlord and tenant proceeding, and was awarded a judgment in his favor against them, and there is an agreed state of facts on file in that record on which the Court rendered judgment—an agreed state of facts as made between the receiver appointed by this Court to collect the rents and the defendants John Alderton and Alice Alderton. I will call Mr. Livingstone, the constable.

20 Mr. Simpson: I will admit that, if Mr. Turner will also admit that that judgment has gone into the Supreme Court on a writ of certiorari where it is now pending.

Mr. Turner: I will admit that.

The Vice Chancellor: Then put in your record. Have you got a copy of it?

Mr. Turner: Yes, sir.

The Vice Chancellor: Well, show it to Mr. Simpson.

30 (Mr. Turner complied.)

Mr. Simpson: Oh, yes, that is all right.

The Vice Chancellor: Is that the record on certiorari?

Mr. Simpson: Yes, sir.

The Vice Chancellor: Then that contains the record in the District Court.

Mr. Simpson: Yes, sir.

40 The Vice Chancellor: Then just offer it in evidence by consent.

Charles Grimminger—Direct

The record was thereupon offered in evidence by Mr. Turner, admitted by consent, and marked Exhibit C-5.

Mr. Simpson: I would like to ask, if your Honor will permit me, whether there has ever been an answer filed to the cross bill in this case? I have never received a copy of it nor did the clerk notify me that one has been filed. 10

Mr. Turner: They do not usually notify you about that. There is one filed, and it is annexed to the replication.

The Vice Chancellor: There are two replications here, and there is an answer to your cross bill, yes. (Handing the papers to Mr. Simpson for his inspection.)

20

CHARLES GRIMMINGER, sworn:

Direct-examination by Mr. Turner:

Q. Charles, how old are you? A. Twenty-nine.

Q. And where do you live? A. Seventy-two Union Street, Jersey City.

Q. How long have you lived there? A. About three months now.

Q. Where did you live before that? A. In the Boulevard Hotel. 30

Q. And very recently have you been in any hospital? A. Yes, sir.

Q. Which hospital? A. Jersey City.

Q. And from there where did you go? A. To the County Jail.

Q. What did you go to the jail for? A. I couldn't say that. 40

Charles Grimminger—Direct

Q. They sent you there for observation, didn't they? A. They took me out of the hospital and sent me right out to the jail.

Q. No charge was made against you, was there?
A. No, sir.

10 Q. Then your brother came there and got you out? A. Yes, sir.

Mr. Simpson: I object to this line of testimony as being immaterial. I understand that this is something that has happened within the last few weeks.

The Vice Chancellor: I think that is correct, Mr. Turner.

Mr. Turner: Oh, I will have to connect that up.

20 The Vice Chancellor: You will connect it up. With that statement I will allow it to stand.

Q. Now, did you ever live at 68 Condict Street, Jersey City? A. Yes, sir.

Q. When did you first go to live there? A. When I got married.

Q. Did you buy that house there? A. Yes, sir.

Q. Where did you get the money to buy it with?

30 Mr. Simpson: I object to that as immaterial.

The Vice Chancellor: I will overrule the question. He got the house and that serves all your purposes.

Q. How much did you pay for the house? A. \$5,800.

Q. Were there any mortgages on the house? A. I think there were.

Q. Did you pay them off? A. No.

40 Q. Did you pay the entire amount of \$5,800 in

Charles Grimminger—Direct

money? A. Yes, sir; and she was going to pay all that expense.

Q. What expense? A. The gas bills and taxes.

Q. And whom did you buy the house from, do you know? A. I couldn't remember that.

Q. Now then, do you remember what date that was that you bought the house? A. No. 10

Q. Do you remember what year it was? A. I do not remember the year or the date.

Q. Well, how long was it before you were married? A. About six years ago, six or seven.

Q. How long a time was it between the time you bought the house and the time you got married?

A. Well, I bought the house and I bought the furniture and moved right into it.

By the Vice Chancellor: Q. Were you married when you bought the house? A. Yes, sir. 20

Q. You were married when you bought the house? A. I got married and then bought the house and the furniture and moved right into it.

By Mr. Turner: Q. Well now, when you moved into the house who moved in with you? A. Her family.

Q. Who do you mean by "her family"? A. Mrs. Alderton and John Alderton and Will Alderton. 30

Q. Who was Will Alderton? A. Will Alderton.

Q. Who was he? A. That is my wife's brother.

Q. And your wife moved in too at the same time with you? A. Yes.

Q. Now, how much of the house did you furnish?

Mr. Simpson: I think all this about furnishing the house and anything of that kind is immaterial. 40

Charles Grimminger—Direct

The Vice Chancellor: Oh, I will admit it. It shows their mode of life, and the opportunities they had of unduly influencing him.

A. That was part of the suite in the dining room, and the carpet.

10 Q. Did they furnish any part of the house? A. Yes, they had their furniture.

By the Vice Chancellor: Q. In other words, you furnished your part of the house for your own living, and they furnished their part for their living? A. Yes, for theirs.

By Mr. Turner: Q. Now, where did you and your wife live in the house? A. We had the whole house.

20 Q. And where did the Aldertons live in the house? A. They had rooms upstairs, and the kitchen. They could furnish the whole house, just the same as we furnished it.

Q. Oh, you all lived in it together? A. Yes.

Q. Did you all eat at the same table? A. All lived in the same house.

Q. Did you eat meals at the same table with the whole family? A. Yes.

30 Q. And how long did you live this way? A. Well, ever since, until I got out of the house there, when you told me to get out—to get out of the house and let them have the house themselves.

Q. How long did you and your wife live together there as a part of the Alderton family, how many years after 1906? A. That was six or seven years, about seven years.

Q. And during all that time did you and your wife live together? A. Yes.

Q. As man and wife? A. Yes.

40 Q. Now, did you have a baby? A. We had a baby.

Charles Griminger—Direct

Q. And what was its name? A. That was named Frances.

Q. A girl? A. Yes, a girl.

Q. When was the baby born? A. I couldn't say what year that was born in.

Q. How long did it live? A. That lived, I think it was, three or four years. 10

Q. Three or four years? A. Yes.

Q. Now, do you remember what year the baby died? A. No I couldn't say.

Q. Do you know how long the baby has been dead now? A. I don't remember. I don't remember how long ago it died.

Q. Well, during all the time the baby was alive did you and your wife live together as man and wife? A. Yes, sir.

Q. Did you ever stop living in that way? A. No. 20

Q. Never? A. No, we always lived together.

Q. When did you leave 68 Condict Street yourself and go somewhere else to live? A. That was the time they told me to get out of the house.

Q. How long ago was that? A. I don't know how long that was, I don't remember.

Q. That was at the time Mr. Fairbanks started this suit, was it? A. Yes. 30

Q. And up to that time, that is to say, up to this year, you have lived at 68 Condict Street, haven't you? A. Yes, sir.

Q. With John Alderton and his wife? A. Yes.

Q. And did anybody else live there then? A. There was her brother lived there.

Q. Now, did your wife live there at the time you moved away? A. No.

Q. Where was she then? A. I don't know where she went then. 40

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Q. Well, did she go away anywhere? A. She went away, went out of the house.

Q. Do you remember when she went away? A. Why, I don't remember that.

Q. Now, at the time you left there had she been gone a year? A. I believe she was gone a year.

10 Q. Any more than that? A. I don't know; I couldn't remember it.

Q. And up to that time how had you lived there—did your wife and you live together up to that time? A. No.

Q. Where did she stay? A. I don't know where she went to.

Q. No, up to the time she went away, had you and your wife lived together as man and wife?

20 A. She went out and I don't know where she went to.

By the Vice Chancellor: Q. No, but before she went out, did you occupy the same room at night, you and your wife? A. Yes, I had the same room, upstairs.

By Mr. Turner: Q. And did she stay in the same room with you, did she sleep there with you? A. No, she had her own room.

Q. Where did she have her room? A. Upstairs.

30 Q. On the same floor with you? A. Yes.

Q. And when did she cease or stop sleeping in that room? A. I don't know how long it was that she stopped living there.

Q. Well now, from 1906, when you bought this property, did you work after that? A. I was working.

Q. Where did you work? A. In the Riegel Sack Company, Lafayette.

40 Q. How long did you work there? A. I worked there for four months.

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Q. Did you work anywhere else that year? A. In the Eureka Hose Company.

Q. How long did you work there? A. I worked there five months.

Q. What did you do there? A. That was straightening up the hose and sweeping up.

Q. Did you work anywhere after that? A. No, they were the only two places I worked at. 10

Q. Did you have any money to live on that you had gotten from anywhere else, beside what you worked for? A. No.

Q. Did you get any money from your father's estate? A. That was supposed to be all straightened up.

Q. No, did you get any money from your father's estate after the time you bought the house? A. No. 20

Q. Now then, in April, 1907, did you sign this deed, just look at it; I show you Exhibit C-2? A. Yes, sir.

Q. What were the circumstances under which you signed that deed; how did you come to sign that? A. I know I just signed it. I don't know how I come to sign it.

Q. Where were you when you signed it? A. I believe I was in the house then, when I signed that deed. 30

Q. In your house? A. Yes.

Q. On Condict Street? A. Yes.

Q. Well, was there anybody there who took your acknowledgment? A. She was there and seen me sign that deed.

Q. Who was there and saw you sign it? A. My wife.

Q. Was anybody else there that saw you sign it? A. My mother-in-law was there. 40

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Q. Anyone else? A. No, that was all, when I signed that deed.

Q. Wasn't there any lawyer there, or any stranger there? A. I don't think there was any lawyer there when I signed that.

10 Q. Well, did anybody ask you to sign it? A. She asked me to sign that.

Q. Who? A. My wife.

Q. And did she explain to you what you were signing for?

Mr. Simpson: I object, if your Honor please. That is a leading question, in the first place.

Mr. Turner: Well, it is a leading question, but I am trying to save time.

20 The Vice Chancellor: I will permit the question.

A. No, she didn't say anything at all to me; just asked me to sign it.

Q. Did you know what the paper was? A. I didn't know what it was, no.

Q. Well, had anyone beside your wife talked to you about signing that paper? A. No, I don't think there was.

30 Q. And had there been any talk about it before the time when you actually did sign it? A. I don't think so.

Q. Now, did you know that on that same date, April 26th, 1907, John Alderton and his wife made a deed for that same property back to you and your wife—did you know about that? A. I didn't know anything about that.

Q. Did you ever see this deed that I show you, Exhibit C-3, before today? A. No.

40 Q. Now then, on April 18, 1911, or about that

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date, did you sign Exhibit C-4 which I will show you? A. No.

Q. Well, look at it—is that your signature there? A. That is not mine.

Q. Didn't you write your name there? A. That is, "Charles E. Grimminger." 10

Q. Well, is not your name Charles E. Grimminger? A. No.

Q. Well, are you sure about this now, that this is not your signature there? A. I don't think so at all; I would not put that "E" there. That is not mine, "Charles E. Grimminger." That is not mine.

Q. Is there any "E" in your name? A. No.

Q. Have you got a middle name? A. No, sir.

Q. Well, having looked at the name "Charles" there, did you write the name "Charles" on that deed? A. It is not mine; it is not my writing at all. 20

Q. You did not write the "Charles" there? A. No.

Q. You did not write the "E" then? A. No, sir.

Q. Did you write the name "Grimminger"? A. No, sir.

Q. Now, are you positive about that? A. I am pretty near sure. That is not mine at all. 30

Q. Do you remember going to Mr. Brown's office about that time? A. I went to Mr. Brown's office to sign the house over. That is the only time I went there.

Q. Who asked you to go there, if anybody? A. Her mother asked me to go there.

Q. You mean Mrs. Alderton? A. Yes.

Q. And did you know Mr. Brown before that? A. No, sir. 40

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Q. Did you ever meet him before that time? A. No, sir.

Q. Now, at this time when Mrs. Alderton asked you to go there, whom did you go with? A. It was her mother I went there with.

10 Q. And did you sign any paper at that time? A. No, sir.

Q. You did not sign any paper? A. Didn't sign no papers at all there.

Q. Well, did they ask you to sign any paper? A. I don't think they did, no.

Q. Are you positive you did not sign any paper at all at that time? A. I didn't sign no papers at all.

20 Q. Now, was that the only time you ever went to Brown's office? A. That is the only time I went there.

Q. Did Mr. Brown say anything to you at that time? A. I don't remember what Mr. Brown said to me.

Q. Well now, after you got to his office did Mrs. Alderton say anything to you? A. I believe that was the time then that I turned the house over.

30 Q. Well, who asked you to turn it over, if anybody? A. She asked me to sign the paper that turned it over, for one dollar.

Q. Well, did you sign any paper? A. I signed the paper for one dollar.

Q. Is that the paper you signed, Exhibit C-4 (exhibiting the same to the witness)? A. No, I didn't sign that at all.

Q. You are positive about that; but do you think that you did sign some paper? A. I signed a slip; just signed the house over to them people.

40 Q. To whom? A. To my mother-in-law, to her mother.

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Q. And what were the circumstances about that? Did you have any talk about signing the house over to your mother-in-law? A. Well, I wasn't feeling right then, and I got them fainting spells, and they got to talking to me and asked me to sign it over to them.

Q. Did they explain to you why they wanted it signed over? A. No. 10

Q. Is that all the talk you had about it? A. That was all.

Q. Did they pay you any money? A. No.

Q. Did you get any money when you executed the deed, Exhibit C-2, which I will show you?

The Vice Chancellor: I suppose that Exhibit C-2 is merely intended to put the property into the name of husband and wife, and there was probably no consideration passed between them other than love and affection. 20

Mr. Turner: I suppose that is what it amounts to.

Q. Did you get any money at all for the transfers that you made? A. No.

Q. In 1911, on or about the 18th of April, were you and your wife living together in 68 Condict Street? A. No, we wasn't living together then.

Q. Where was she? A. She was living in the house then with her mother. 30

Q. With her mother? A. Yes.

Q. And you were living in that house? A. Yes.

Q. Well now, what do you mean when you say you weren't living together? A. That was the time you told me to get out.

Q. No, this was in April 18, 1911, three years ago and more.

The Vice Chancellor: That is the time the deed was signed is it not? 40

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Mr. Turner: Yes.

The Vice Chancellor: (To the witness.)
That is the time you said you turned the
property over to your mother-in-law.

Q. Now, at that time were you and your wife
10 living together? A. No.

Q. Where was she? A. They were living in the
house 68 Condict Street.

Q. Were you living there? A. I don't remem-
ber if I was or not; no, I don't think I was.

Q. In 1911 were you living there in that house?
A. I don't think so.

Q. Where were you living? A. I think I was
in that Boulevard Hotel then.

Q. How long had you been there? A. I had
20 been there four or five months.

Q. How long did you stay at the Boulevard Ho-
tel? A. That is as long as I stayed there.

Q. Then did you go back to 68 Condict Street?
A. No.

Q. Where did you go then? A. From the
Boulevard Hotel I went over to 72 Union Street.

Q. How long did you stay there? A. I was
there two or three months.

Q. How long have you been away from 68 Con-
dict Street all together, how many months? A.
30 I don't remember how long I was away.

Q. Well, three years ago were you living at
68 Condict Street? A. No.

Q. Were you living there two years ago? A.
No, sir.

Q. Were you living there one year ago? A. No,
sir.

Q. When you brought this suit against the Al-
40 dertons, where were you living then? A. They

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were the only two places I was living, Boulevard Hotel and 72 Union Street.

Q. Outside of those two places have you always lived at 68 Condict Street since 1906? A. Yes.

Q. Now then, you were four months at the Boulevard Hotel? A. Yes.

Q. Three months at 72 Union Street? A. Yes. 10

Q. And that is seven months, is it not? A. Seven months.

Q. Now, outside of the seven months, where have you always lived, prior to that, since 1906?

By the Vice Chancellor: Q. Where are you living now? A. I am living at 72 Union Street.

Q. Where did you live before you lived at 72 Union Street; before you moved to 72 Union Street where did you live? A. I don't remember if I had any other place to go. No, they was the only two places I can think of that I was living in. 20

Q. Well, did you move back to 68 Condict Street? A. No, never went back.

Q. Never went back—then you haven't been in 68 Condict Street in three years, have you? A. Not in three years.

By Mr. Turner: Q. Now, when you first came to me about this suit, where did you live then, where did you sleep? A. I lived in the Boulevard Hotel then. 30

Q. Where did you sleep then? A. Upstairs.

Q. Upstairs where? A. I had my room there.

Q. Where? A. In the Boulevard Hotel. They have got different rooms there.

Q. Well, do you remember the time I advised you to leave 68 Condict Street? A. Yes.

Q. Do you remember that time? A. Yes.

Q. Now, up to that time, have you always lived 40

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there, or had you lived anywhere else? A. Always lived there.

Q. And do you remember how long ago it was that I advised you to leave 68 Condict Street? A. That was the time you told me to get out of the house, 68 Condict Street.

10 Q. Was that about seven months ago? A. I think it was.

Q. Well, up to that time, then, had you ever lived anywhere else beside 68 Condict Street, since you moved into 68? A. No, I never went back there to 68.

Q. Well, you just told his Honor that you hadn't lived in 68 Conduit Street in three years. A. In three years.

20 Q. Well now, is that so? A. In three years.

Q. Well, have you slept there at 68 Condict Street? A. No.

Q. Did you have a room there? A. No.

Q. When did you stop having a room at 68 Condict Street? A. That was the time you told me to get out of there.

Q. And that was seven months ago, wasn't it? A. Yes.

30 Q. Now, up to that time, you had your room at 68 Condict Street, hadn't you? A. Had a room in 68?

Q. Yes, you lived with the Aldertons up to that time, didn't you? A. I think I had a room there.

Q. Well, don't you remember? A. No, I don't remember about that at all.

Q. Do you remember when it was that your wife went out of the house 68 Condict Street? A. Do I remember?

40 Q. Yes. A. No.

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Q. Do you know how long she has been separated from you? A. No, I don't remember now how long she was gone.

Q. Now, have you had any kind of sickness yourself? A. Yes, fainting spells.

Q. How long have you had them? A. Since I was a boy. 10

Q. Since you were a very young boy? A. Yes.

Q. Do you remember things well? A. I don't remember; I have got a bad memory; I can't think of different things, no; it comes into my head, the blood does, and I can't remember nothing.

Q. Have you been to any hospital for treatment? A. No.

Q. Have you been to doctors? A. No, sir. 20

Q. Do you remember when your father died? A. I don't know how long that is now.

Q. Was it very long ago? A. Quite some time ago.

Q. Do you remember when your mother died? A. Oh, that was a long while ago.

Q. Now, how long since you have worked? A. That is about five or six months now that I haven't been doing anything.

Q. How do you live, who supports you? A. Well, I got in with these friends of mine at Seventy-two Union Street, and they knew that I was having the house, and when anything comes to me I will pay it all up, pay it all to them. 30

Q. You are going to pay them back for what they do for you? A. Yes.

Q. And who buys your clothes? A. My brother bought this last suit of mine, George.

Q. And do you get your meals at your other 40

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brother's? A. Michael's, yes, he gives me my meals.

Q. Now, have you got any money except what money you earn? A. No.

10 Q. Now, at the time you went over to Mr. Brown's office, where was your wife then? A. I don't know where she went then.

By the Vice Chancellor: Q. Well, was she with you at Mr. Brown's office; was she at Mr. Brown's office while you were there? A. I think she was there, and her mother, both of them.

By Mr. Turner: Q. Was she living over at Sixty-eight Condict Street at that time? A. Yes, they were living there then.

20 Q. And you were living there? A. No, I wasn't living there then; I don't think I was.

Q. Well, where were you living? A. I was in that Boulevard Hotel.

Q. What is the Boulevard Hotel? A. That is the name of the place, that is on the corner of Montgomery Street; it is just a kind of a furnished room house.

Q. You had a room there? A. I had a room there.

30 By the Vice Chancellor: Q. Montgomery Street and what other street? A. Montgomery Street near Bergen Avenue; it is a place that sets back near the car stables.

By Mr. Turner: Q. Oh, is it back near the car stables? A. Yes.

Q. On the right-hand side as you go down town? A. Yes.

40 Q. Now, do you think you can tell us what year it was you went there to the Boulevard Hotel? A. I don't remember, no.

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Q. Do you know the difference between a month and a year? A. I don't remember what date or what month it was. I think it was in October some time.

Q. What October was that? A. That was this year.

Q. That is when you first went there? A. Yes. 10

Q. Well then, you din't go there three years ago, did you? A. No, I wasn't there three years.

Q. Well now, three years ago where did you live? A. I don't remember three years ago.

By the Vice Chancellor: Q. How long has this Boulevard Hotel been built; is it a new building or an old building? A. It is an old building, it is a furnished room place; it is an old building. It is one of the oldest on the Hill. 20

By Mr. Turner: Q. How long has your health been just the way it is now? A. Well, I get them fainting spells every once in a while; they say it is the heat.

Q. You have them in the winter, too? A. I don't have them very often in the winter time, only in the summer.

Q. Do you know how long they last? A. They last about 10 or 15 minutes.

Q. And how do you feel after the spells? A. I feel all right then, I feel good. 30

Q. Now, the other day when you went to the hospital, did you have a spell then? A. In the hospital?

Q. No, before you went to the hospital? A. No.

The Vice Chancellor: Cannot you prove all this by a medical witness?

Mr. Turner: I think I can; yes, sir; I do not suppose, if your Honor please, that 40

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there is any use in endeavoring to prove any more facts on this line by him.

The Vice Chancellor: Well, I don't know. You have gone pretty far with the witness; you may go as far as you please until objection is made.

10 Q. Did you have any talk with your wife before the time when you went to Mr. Brown's office? A. I don't remember telling her anything.

Q. Did she tell you anything? A. No, I don't think she did; I don't remember that.

By the Vice Chancellor: Q. Did you have a lawyer when you went to Mr. Brown's office? A. No.

Q. Did you have anyone to represent you? A. Nobody at all.

Q. You went there because either your wife or your mother-in-law asked you to go, was that it? A. Yes, I just went there to sign the house over to them; and they told me that they were going to do what was right, and pay the taxes and pay the gas bills—pay all the expenses.

By Mr. Turner: Q. What else did they tell you? A. And I signed it over for one dollar, and I wasn't feeling right then, and I was expecting to
30 get one of them spells any minute again.

Q. Well, why did you expect that—it was in April, wasn't it? A. Well, they are liable to come on me at any time in the summer.

Q. What time of the day was it you went to Mr. Brown's office? A. I don't remember what day it was.

Q. Was it in the morning or afternoon? A. I think it was in the afternoon we went there.

Q. And did you ask Mr. Brown to draw up any
40 papers? A. No.

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By the Vice Chancellor: Q. Did you pay Mr. Brown for drawing any papers? A. No, I didn't pay him nothing at all.

By Mr. Turner: Q. Did you have any money to pay him with? A. No.

Q. Did he ask you for any money? A. I don't remember whether he did or not. 10

Q. Now, at the time you signed Exhibit C-2 did you ask Mr. Brown to draw that paper (showing the witness the exhibit referred to)? A. I don't remember that.

Q. Did you pay him for drawing it? A. I didn't have no money to pay him.

Q. Did he ask you to pay him anything? A. I don't remember whether he did or not.

Q. Now, this Exhibit C-2, did you say that was signed at the house, Sixty-eight Condict Street? A. I believe that was signed at the house there. 20

Q. Well, did you know anyone was going to be there with that paper at that time before you signed it? A. No.

Q. Did anybody talk to you about it, as to whether you should sign it or not? A. The talk was that her mother asked me to sign over the house, that is all I remember about them saying anything about that paper. 30

Q. Well, this was way back in 1907—did you consult a lawyer about the transfer of the house in 1907? A. I don't believe I did.

Q. Did you have a lawyer? A. No.

Q. Don't you remember whether Mr. Brown was present when you signed this paper, C-2? A. If he was present?

Q. Yes, at the house. A. I don't remember that. 40

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Q. Now, what became of your furniture that was in the house? A. I think it is down there yet, if I ain't mistaken—if they didn't take it out.

Q. When you and your wife were living together, on which floor did you have your room?

10 A. I had my room upstairs.

Q. How many flights up? A. It was one flight upstairs.

Q. Where was the room, which room was it?

A. No, I think I had my room up in the top, away up in the top there, a small room.

By the Vice Chancellor: Q. In the attic? A. Yes, in the attic.

By Mr. Turner: Q. How many flights up was that? A. The house is only two flights.

20 Q. Was it two flights up? A. Yes.

By the Vice Chancellor: Q. Where was your wife at that time, how many flights up? A. She had the other room downstairs, and I had mine up in the attic.

By Mr. Turner: Q. Did you ever stop getting your meals at Sixty-eight Condict Street? A. Stopped getting them there, yes.

30 Q. Now, when did you stop getting your meals with the Aldertons? A. I don't remember when I stopped there.

Q. Well, how long ago? A. I don't remember how long ago it was.

Q. Well, after the time you went over to Mr. Brown's office to sign over the house, did you get your meals with the Aldertons after that? A. No.

Q. Before the time you signed over the house did you get your meals with them? A. No, sir. No, I got my meals with my brother Mike.

40 Q. Well, during some period you got your meals

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with the Aldertons didn't you? When you and your wife lived together you ate at the same table with the Aldertons, didn't you? A. Yes.

Q. Now, when did that stop, when did you stop eating at their table? A. I don't remember when it stopped there.

Q. Did that stop before your wife went away or after? A. Before she went away or after? 10

Q. Yes, that you stopped getting your meals at their table. A. It stopped when she went away.

Q. Now, after your wife went away how did her folks treat you, what did they do, if anything? A. What did they do? I don't remember them doing anything.

Q. Well, how did they treat you? A. Well, they didn't do what was right. 20

Q. What did they do? A. Well, they wanted me to get out of the house.

Q. Did they tell you that? What did they say to you? A. Well, they didn't like me to be there, that was all.

Q. Did they say that? A. And they wanted the house for themselves, and wanted me to get out.

Q. Who told you that? A. That was her that said it.

Q. Mrs. Alderton? A. Yes. 30

Q. And was your wife living there then? A. I believe she was there.

Q. How many times did Mrs. Alderton talk to you about your getting out? A. I don't remember how many times she told me.

Q. Did they do anything to your room so that it was not comfortable for you—do anything to your gas or water, or anything of that sort? A. No. 40

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Q. Did they interfere with your coming or going? A. No.

Q. Did they ever lock you out? A. I don't remember of them locking me out, or anything of that kind.

10 Q. Did they ever do anything besides talking to you about your getting out? A. No, they didn't say anything to me.

Q. Now, while they were there did they pay you any rent? A. Pay me any rent?

Q. Yes. A. They didn't pay me nothing.

Q. Did you give them any money while you were there? A. No.

Q. When you and your wife ate at their table, did you give them any money then? A. I don't
20 remember that I did.

Q. What did you do with your wages when you worked? A. With the wages?

Q. (Question repeated.) A. Well, I was only making \$9.

Q. What did you do with it? A. I don't remember what I done with it now.

Q. Did you ever give your wife any money? A. I think I paid her something to get along with.

Q. Now, did you have anything to do with the
30 management of the property, or the repairs to it?
A. No, I didn't have anything to do with that at all.

Q. Did you ever attempt to? A. No.

Q. Did they say anything to you about that?
A. I don't remember that they did or not.

Q. Was the house ever painted, or any part of it?
A. Well, it was painted, why Mr. Alderton
40 would be doing that; he would be repairing
around the place.

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Q. Did he ask you whether he should paint it?

A. No, he didn't ask me.

Q. Do you remember the time when your wife sued you for divorce? A. I don't remember.

Q. Did you have any papers served on you about a divorce suit? A. No, I had no papers.

Q. When did you first find out that your wife had a divorce? A. I think they told me down in the house there; I heard it down in the house. 10

Q. Who told you? A. I think it was Will that said something about it.

Q. That was her brother? A. Yes, it was Will that said something about it.

Q. What did he say? A. Well, he says she was going to get a divorce and get away from me.

Q. Get away from you? A. Get away from me. 20

By the Vice Chancellor: Q. Where were you living when he told you that? A. I don't remember where I was then.

By Mr. Turner: Q. Well, whereabouts were you when he told you that? A. I was in the front of the house, outside.

Q. What were you doing in front of the house?

A. Well, I just went around there to see how the place was getting fixed up.

Q. And did you sleep there then? A. No. 30

Q. Well, was that after the time I had advised you to leave the house? A. It was after?

Q. Yes. A. I don't think it was after.

Q. Well, was that after the time you had left the house? A. Where was I?

Q. No, when Will, her brother, told you that she was going to get a divorce from you, was that after the time when you left the house and didn't live there any more? A. That was after that time. 40

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Q. After you had left the house and didn't live there any more? A. No, I didn't live there any more.

10 Q. Now, up to the time that you did leave the house, and when you left there, did you then know that she was going to sue you for divorce? A. I just heard it from people outside.

Q. You heard it this time Will told you? A. People outside had told me that she was going to get a divorce.

Q. Did your wife ever tell you she was? A. I don't remember when she said anything to me about it.

20 Q. Did you ever have any trouble with your wife? A. All the trouble I had with her is what we are having now.

Q. About this suit, you mean? A. About this suit.

Q. But I mean did you ever have any quarrels with her? A. I had different quarrels with her.

Q. And what were they about? A. I don't remember now any more what they were about.

Q. And when she went away did you know she was going then; did she tell you she was going?

30 A. I think she said she was going—going to go out.

Q. Did she tell you where she was going? A. No, she didn't say anything.

Q. Did she tell you why she was going to leave you? A. Well, because she said I wasn't supporting her right.

Q. And how long ago is that now, do you remember? A. No, I don't remember about that.

40 Q. And after she told you that you were not supporting her right did you ever see her after that? A. I did not see her for some time.

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Q. And then when did you next see her after that? A. I don't remember.

Q. Did you have any talk with her the next time you saw her? A. No. No, I don't remember anything about it.

Q. Well, when did you see her? A. Where did I see her? 10

Q. Yes. A. I don't remember where I seen her.

Q. Were you down at the house, Sixty-eight Condict Street? A. That was the only time I was down there, when Will told me that she was going to get a divorce.

Q. But did you see your wife after Will told you that your wife was going to get a divorce from you? A. Did I see her?

Q. Yes. A. No, I did not. 20

CROSS-EXAMINATION by Mr. Simpson:

Q. Grimminger, do you know me? A. No, sir; I do not.

Q. Did you ever see me before? A. No, sir.

Q. Never? A. No, sir.

Q. You feel sure about that, do you? Do you know the building at 662 Newark Avenue, Jersey City, known as the Jersey City Trust building?

A. The Trust building? 30

Q. The Jersey City Trust building, at the Five Corners. A. I don't remember seeing you.

Q. Do you remember what my name is? A. No, sir.

Q. Are you sure of that? A. Sure of that.

Q. Do you know a lawyer by the name of Charles E. S. Simpson? A. (The witness shook his head in the negative.)

Q. Never heard of him? A. Never heard of him. 40

Charles Grimminger—Cross

Q. Did you ever go to his office at 662 Newark Avenue, Jersey City? A. Newark Avenue? I don't remember.

Q. You had a lawyer by the name of Marshall Van Winkle, hadn't you? A. Yes, sir.

10 Q. Do you remember him? A. I remember him well.

Q. Do you remember when you were sued for divorce? A. When I was sued for divorce?

Q. When you were sued for the divorce? A. I think she was going to sue me for divorce—

Q. Don't you remember the Sheriff, or one of the constables bringing some papers to you? A. I don't remember any papers.

20 Q. Do you remember the Sheriff serving any papers upon you about a divorce? A. No, sir; I do not.

Q. Do you remember going to this lawyer's office at the Five Corners with those papers? A. I don't remember.

Q. Do you remember this lawyer asking you if you had a lawyer? A. No, sir.

Q. And do you remember telling him that your lawyer was Marshall Van Winkle? A. I don't remember at all.

30 Q. Do you remember him telling you that the best thing you could do was to go down to Marshall Van Winkle and take the papers with you and show them to him—do you remember that? A. I don't remember.

Q. Do you remember Mr. Brown, the lawyer, Thomas H. Brown. A. I have heard of him once.

45 Q. Did you ever see him? A. I never seen him.

Charles Grimminger—Cross

Q. You are sure of that? A. I don't know what he looks like now.

Q. Would you know him if you saw him again?
A. No, sir; I would not.

Q. Do you remember going to his office? A. To Brown's office?

Q. Yes. A. I don't remember. 10

Q. Do you remember William J. Dixon—do you know who he was? A. Dixon?

Q. Yes. A. No.

Q. You remember the day you signed your name to that paper C-2 don't you (showing the witness the same)? A. No, sir; I do not remember.

Q. Do you remember your wife signing it at the time you did? A. I don't remember. 20

Q. Do you remember where you were when you signed your name on that? A. I believe I was in the house when I signed that paper.

Q. Was not Mr. Brown there? A. I think Mr. Brown was there.

Q. Well, what kind of a looking man was Mr. Brown, can you tell me? A. I couldn't say what kind of a looking man he is.

Q. A big tall fellow? A. I don't remember.

Q. A short man? A. I don't remember what kind of a looking man he is. 30

Q. Was not Mrs. Alderton and Mr. Alderton there at the same time? A. They were both there.

Q. Did you see those two people sign a deed or a paper at the same time? A. No, I don't remember anybody signing it there.

Q. Now, at that time you wanted the property to be put in your name, and in your wife's name 40

Charles Grimminger—Cross

too, didn't you? A. My wife's name and my name.

Q. Yes, that was what you wanted done, wasn't it, eh? About six months after you were married, didn't you want the property put in your name as well as your wife's name? A. I think it was—
10 I didn't want that done.

Q. You didn't want that done? A. They wanted it in her name.

Q. And you said you would put it in two names and that is what you wanted done too, wasn't it? A. I don't remember anything about that.

Q. You don't remember. Now after that time, when you signed this deed, C-2, you still lived in the house there, didn't you? A. I don't remem-
20 ber about being there.

Q. Did you ever pay Mrs. Alderton or John Alderton, anything for your board? A. I think I paid a little; I don't remember just what I paid.

Q. When was that, do you remember that? A. That was at the time I was eating there.

Q. When did that begin, do you remember that? A. No, I don't remember that.

Q. And who fed your wife during this time? A. Her mother was feeding her then.

30 Q. You knew that, didn't you? A. I knew that.

Q. This Exhibit C-4 this deed (showing the same to witness) did you say that you did not put your name on that? A. I never signed my name as "Charles E. Gimminger."

Q. Well, I am asking you if you remember putting your name to that paper as it is there? A. No.

40 Q. You never did that? A. I don't remember of it.

Charles Grimminger—Cross

Q. Did you see Mr. Brown in 1911? A. Mr. Brown?

Q. Yes, Thomas H. Brown, the lawyer. A. I think that was the first time I seen him.

Q. When this paper was signed? A. When that paper was signed.

Q. That is the first time you saw Mr. Brown? 10
A. Yes.

Q. How do you remember that? A. Well, they told me that they were going to have Mr. Brown there, their lawyer.

Q. And did Mr. Brown come to your house? A. I think he came there.

Q. Or did you go to Mr. Brown's office? A. No, I think we all went up to Mr. Brown's office and signed it in the office. 20

Q. Now where was the office of Mr. Brown at that time? A. That was up to the Five Corners.

Q. At the Five Corners, or opposite the Court House? A. Right across the way from the Court House.

Q. And you went up there with whom? Whom did you go up with when you went up to Mr. Brown's office? A. I went up there with her mother.

Q. Or did you go up alone? A. No, I don't 30 remember going up there alone.

Q. Well, think a moment, and see whether you can tell me positively, whether you went there alone, or whether you went there with somebody else? A. They asked me to be there.

Q. And you went up there, as a fact, didn't you? A. I went up there.

Q. And how did you get up there, do you re- 40

Charles Grimminger—Cross

member whether you walked, or whether you took a car up? A. I walked up there.

Q. Walked from 68 Condict Street up to Mr. Brown's office? A. Yes.

Q. Near what street is Condict Street? A. It is right near the park.

10 Q. It is down near Communipaw Avenue, down in that vicinity, is it not? A. It is right near Duncan Avenue.

Q. Near Clinton Avenue? A. No, near Duncan Avenue.

By the Vice Chancellor: Q. It runs the same as West Side Avenue, doesn't it? A. Yes.

By Mr. Simpson: Q. And this 68 is near Duncan Avenue? A. Sixty-eight is in Condict Street, right near Duncan Avenue.

20 Q. It is 68 Condict Street, but near what street is this particular house—between what two streets on Condict Street? A. Near Duncan Avenue.

Q. And near what other Avenue? A. I don't know what is the name of that street down there; there is another side street there, but I don't remember that name.

30 Q. Well, when you signed this deed on April 18th, 1911, Exhibit C-4, you walked up to Brown's office, didn't you? A. Yes.

Q. And when you got to his office, who did you see there? A. We saw Mr. Brown that was there; that is all I remember seeing.

Q. Well, had your wife got there, or had your wife been there? A. They were there.

Q. They were there? A. They were there.

40 By the Vice Chancellor: Q. Who do you mean by "they"? A. My wife and her mother.

Charles Grimminger—Cross

Q. Well, was the father there? A. I don't remember him being there.

By Mr. Simpson: Q. Then why did you say a moment ago that Mrs. Alderton took you up there? A. No, I think I went up there myself, and they were up there, and were supposed to meet me there. 10

Q. You testified a moment ago that Mrs. Alderton took you up to Brown's office; did you mean that? A. No. I don't think I went up there with them.

Q. No, they asked you to be up to Brown's office, is that right? A. They asked me to be there.

Q. And did they tell you what time to be there? A. They told me the time. 20

Q. What time was it? A. I don't remember the time I was up there now.

Q. And you went up there at that time? A. I was up there.

Q. At the time they told you? A. Yes, sir.

Q. And when you got there Mrs. Alderton and your wife were there, is that right? A. She was there.

Q. And Mr. Brown was there? A. Mr. Brown was there. 30

Q. Now after you reached Mr. Brown's office, had your wife signed the deed, or did they wait for you to sign it before she signed her name? A. I don't remember. I think she signed the same day there.

Q. Well, while you were there? A. While I was there.

Q. You saw your wife sign the deed while you were there? A. Yes. 40

Charles Grimminger—Cross

Q. Now, had you signed the deed before that, or did you sign after she signed it? And this is the deed, C-4, which I show you. Now, when you signed, was your wife's name, "Frances E. Grimminger" on it like that? A. "Frances E. Grimminger"—that is just the way she signed it.

10 Q. Well, when you put your name on it, was her name there, or did she sign after? A. I think she signed the same time that I did.

Q. I see. Now, after the deed was signed, what did you do? A. I didn't do anything then, after that.

Q. Did you stay in Mr. Brown's office? A. No.

Q. What did you do? A. I walked out.

20 Q. And what became of your wife and Mrs. Alderton? A. I don't know what became of them.

Q. You left them in Brown's office, did you? A. I left them there, and I walked out of the place.

Q. Well, Mr. Grimminger, if you signed that deed, why did you say a moment ago that that was not your signature? A. I never write that way. I never write that way.

30 Q. Well, you testified that you went to Mr. Brown's office, that Mrs. Alderton had told you to meet your wife and herself at a certain hour of the day—A. I wouldn't never sign anything "Charles E. Grimminger".

Q. Now, just wait a moment: You testified a moment ago that Mrs. Alderton had asked you to meet her and your wife up at Lawyer Brown's office; that you went up there, and that you
40 walked there, and arrived there at the hour that

Charles Grimminger—Cross

you made the appointment for you to meet your wife and your mother-in-law at Mr. Brown's office? A. Yes.

Q. That then this deed, C-4, was given to you and you signed your name to it, and your wife signed at the same time, and that you then left the house, and left your wife and Mrs. Alderton in Mr. Brown's office when you went away; now, if you testified to that— 10

The Vice Chancellor: He did not. He says he did not sign his name "Charles E. Grimminger" therefore he did not sign that deed, so your premises are wrong.

Mr. Simpson: Well, I ask you to strike it all out and get it right. 20

The Vice Chancellor: I know, but you you cannot ask this witness a question of such length. The witness will not understand it, and it is useless to ask him a question which he cannot answer. It is perfectly clear that this witness cannot answer a question of that length.

Mr. Simpson: Well, I will withdraw it, so there will be no question about it.

Q. Did Mr. Brown ask you to put that "E" in the deed afterward? A. I don't remember him saying anything about that. 30

The Vice Chancellor: That is rather plain on the face of it. The deed is drawn from "Charles E. Grimminger," and probably because it was drawn that way he might have been told to put the "E" in.

Q. Do you remember Mr. Brown telling you that? A. I don't remember. 40

Charles Grimminger—Cross

The Vice Chancellor: It is disputed that he signed that deed?

Mr. Turner: No, sir. The deed was never specially presented to me before, and I assumed that it was properly executed.

10

The Vice Chancellor: Why waste time on that? Why not produce Mr. Brown to testify?

Mr. Simpson: I think that would save a lot of time.

The Vice Chancellor: As far as the witness' testimony goes as to the execution of the instrument it is probably not very material. You can produce the subscribing witness. But all of that man's testimony merely goes to show his capacity to transact a matter of his kind unaided by counsel.

20

Mr. Simpson: That is, at this time?

The Vice Chancellor: At this time.

Mr. Simpson: I think it would save a lot of time to call Mr. Brown. I think he is the subscribing witness on all of these papers. Perhaps if I got him on the telephone he might come right down here.

30

The Vice Chancellor: Now, what other witnesses have you got Mr. Turner?

Mr. Turner: Well, I have three witnesses here now, and I have another brother who is coming down, and I have sent word to the doctor to come down, and that will be practically our case.

The Vice Chancellor: What witness have you to put on now?

40

Charles Grimminger—Cross

Mr. Turner: Well, I have this Mr. Grimminger (referring to William Michael Grimminger here present) now, and Mr. Fairbank who will be right back. I will put them on.

The Vice Chancellor: Well, go right on 10
with your case.

Mr. Simpson: Suppose, in the meantime, I telephone Mr. Brown and ask him if he won't come right down here.

The Vice Chancellor: Have you got enough witnesses to last until one o'clock, Mr. Turner?

Mr. Turner: Well, if the doctor comes I will have enough witnesses to last.

The Vice Chancellor: What time is he 20
to come?

Mr. Turner: Well, I expect him to come down right away; I telephoned him.

The Vice Chancellor: Well, you may put your next witness on the stand, if Mr. Simpson has nothing more with his witness.

Mr. Simpson: Yes, I have considerable to ask him about.

The Vice Chancellor: Well then go right 30
on.

Q. You testified, Mr. Grimminger, that they were to pay the gas bills and repairs and the taxes? A. Yes, I remember that all right.

Q. When did you tell them that? A. When I turned over the house, they said that they would pay all the expenses, pay the gas bills and pay taxes and all expenses.

Q. Is that the time you went to Mr. Brown's 40

Charles Grimminger—Cross

office to sign the deed? A. I don't remember about going there: but when I was in the house they were telling me about all that.

Q. Did you ever pay any taxes on that property since you were married? A. No, I don't remember of paying it.

Q. Did you ever pay for any repairs to the property? A. No.

Q. Did you ever pay for any insurance on the property? A. No.

Q. Did you ever pay for any water taxes on the property? A. No, sir.

Q. Did you pay any money of any character for that property from the time you were married? A. Nothing at all. They were to take care of the house.

Q. And that was what you wanted them to do, wasn't it? A. Yes.

Q. As a fact, didn't you have considerable furniture stored in the house there all this time? A. Yes.

Q. How many rooms did you take up with the storage of furniture? A. The bed rooms and the parlor and the dining room and the carpet.

Q. Well, how many rooms did you stack all of your own furniture in—not the Aldertons, but how many rooms did you take for that? A. How many rooms did I fix up?

Q. No, how many rooms did you take to store all your furniture in? A. There was two rooms there.

Q. Which rooms were they? A. They were upstairs.

Q. Wasn't it the front and back parlor? A. They had their own furniture there.

Charles Grimminger—Cross

Q. Didn't you use the front and back parlor to store all your household furniture in? A. Yes, when we had the whole house all together.

By the Vice Chancellor: Q. You mean that you put your furniture on storage in the front and back parlor? A. I had two or three rooms there, I think it was, for storage, yes, and had the furniture in them, and they had their own furniture. 10

Q. Did you pile the furniture one piece on top of the other in the front room and the parlor?

A. I think that was done, yes.

Q. Now, was it the parlor you selected for a storage room or a bed room? A. I don't remember what room it was; either the dining room or the parlor. 20

By Mr. Simpson: Q. You did not leave that house until Mr. Turner told you to, did you? A. No.

Q. And if Mr. Turner hadn't told you you would have remained in it, wouldn't you? A. I would have stayed there.

Q. What did you do with all the furniture you had stored in it? A. It stayed there, it is the furniture there.

Q. It is still there? A. It is still there. 30

Q. Didn't you sell some of it? A. I don't remember selling any.

Q. Well, did you, or did you not, since Mr. Turner told you to move out, sell any furniture? A. I don't remember selling anything there. It must be there yet.

Q. During the time that you lived at 68 Condict Street you never had a doctor attend you, did you? A. I had a doctor for the baby. 40

Charles Grimminger—Re-direct

Q. No, I mean you—the doctor didn't come and attend you? A. No, not for me.

Q. Where did your parents or your brothers live at that time? A. Michael was living in Clinton Avenue.

10 Q. How far away from where you lived? A. I don't know how far that is away.

Q. What number in Clinton Avenue did your brother live? A. 66 Clinton Avenue.

Q. And also, during the time that you lived at 68 Condict Street, you never had occasion to go to the hospital, did you? A. No.

RE-DIRECT-EXAMINATION by Mr. Turner:

20 Q. At the time when you moved out of the premises did the receiver make any demand on you for rent if you stayed there?

Mr. Simpson: I object to that.

Q. Did Mr. Fairbanks talk to you about paying rent? A. He was supposed to be collecting the rent, he was the receiver.

30 Mr. Simpson: I object that any conversation between this witness and the receiver would not be binding on these defendants. It is immaterial anyway.

Mr. Turner: It is simply to show why he did not.

The Vice Chancellor: Well, what difference does it make?

Mr. Turner: I don't suppose it does make any difference.

Samuel T. Fairbanks—Direct

SAMUEL T. FAIRBANKS, sworn:

Direct-examination by Mr. Turner:

Q. What is your business? A. Real estate and auctioneer.

Q. How long have you been in the real estate business? A. 12 years. 10

Q. In Jersey City? A. Yes, sir.

Q. And were you appointed receiver in this case to collect the rents of the premises in question? A. I was.

Q. Did you examine the premises in question? A. Why, I haven't gone through the interior, I did it from the outside.

Q. Have you been inside at all? A. Just to the front door, that is all. 20

Q. And from the examination you made, what, in your opinion, is the monthly rental value of the premises? A. Well, I had placed a rental of \$35. on it.

By the Vice Chancellor: Q. For the whole house? A. For the whole house.

By Mr. Turner: Q. Is that your opinion, what it is reasonably worth? A. Yes.

Q. Did you have any talk with any of the parties to this suit? A. I did. I talked to Mr. and Mrs. Alderton and Mr. Grimminger. 30

Q. What conversation did you have with Mrs. Alderton, and where did you have it? A. Why, after I was appointed receiver I called on Mrs. Alderton it was late in the afternoon; Mr. Alderton came home while I was standing talking on the stoop; and I explained to them about my appointment, and fixed the rent that I was to charge for the premises; and they said at that 40

Samuel T. Fairbanks—Direct

time that if they had to pay rent Grimminger would have to pay rent. Up until that time I didn't know that Grimminger was in the house. I think, if I remember right, he came downstairs at that time and came out. I did not talk to him and he went away. And I agreed with Mr. and Mrs. Alderton that if Grimminger occupied a part of the premises he would certainly have to pay rent, and of course their rent would be less under those conditions. We were unable to collect anything at that time; they seemed to hang over for possibly a week or two, and I again called, and agreed that I would charge them \$25 and, Grimminger \$10. Grimminger, I believe called at my office shortly after that to see what I was going to do regarding the rent. I told him his rent would be \$10. per month if he occupied one or two rooms in the upper floor, the attic rooms. I don't know how those are arranged. I have not seen them; but I was at that time going up to look them over. He said he couldn't pay the rent, that he had no money. I told him that he would have to move, and I understood that he got out.

Mr. Simpson: I object to this line of examination on the ground that it is not within the issues in this case, and it is immaterial.

The Vice Chancellor: I suppose everything excepting the value of the property is immaterial. Is not the crux of this case what the mental condition of this man was at the time he made these deeds? If he made them without proper consideration,

Samuel T. Fairbanks—Cross

or without independent advice, is not that the whole crux of your case, Mr. Turner?

Mr. Turner: Yes, sir.

The Vice Chancellor: Then why go on with this.

Q. Did you put a valuation on this property as a total, a selling price? A. Well, I consider the property worth in the neighborhood of \$5,000. 10

CROSS-EXAMINATION by Mr. Simpson:

Q. How old a house is it? A. Well, I should judge, I don't know just when it was built, but I should think about ten years old.

Q. What kind of repair is it in? A. Fairly good order.

Q. Does it look as if it was pretty well taken care of? A. Why, it has been well taken care of, yes. 20

Q. Did you go through the house? A. I don't remember that I got any further than just inside of the hall, or something like that. I didn't go further than that.

Q. What was it you based the valuation of \$5,000, on? A. Why, I put a value of \$1,500 on the land, and real estate value of \$3,500, that is, a house value of \$3,500. 30

Q. Why did you fix \$3,500 as the cost of the house? A. Why, it would cost that much to put the house there today.

Q. Why, you didn't examine it, did you? A. No, I didn't have to. I saw enough of it.

Q. You saw the hall? A. The hall and I suppose three rooms on the first floor, although I did not go through them.

Q. What improvements were there? A. Bath, hot and cold water, furnace heat. 40

Samuel T. Fairbanks—Cross

Q. Did you see the bath? A. No, I didn't have to see it; they told me it was there.

Q. Somebody told you, and it was on that that you fixed the value of \$3500 for the building? A. You might put it that way, but for that class of houses I judged it to be that.

10 Q. You did not examine the house to see what improvements were there? A. No.

Q. And you didn't know what improvements were there? A. I didn't have to examine the improvements.

Q. And you did not know about the character of the improvements? A. Well, I was led by what both parties said there was of improvements.

20 Q. You generally place a value on a property by your observation of the condition and the extent of the improvements, do you not? A. Yes.

Q. You didn't do it in this instance? A. What I knew as a fact, that all those houses had improvements; there are none without them.

30 Q. Did Mr. Grimminger tell you about the improvements? A. I don't know that I talked with Grimminger on that subject much at all; I didn't have much talk with him only when he came to my office from time to time, and then I took very little stock in what he had to say.

By Mr. Turner: Q. Who told you about the improvements? A. Mrs. Alderton told me there was all the improvements in the house and, as a matter of fact, all those houses have improvements in that street. They are modern houses.

William Michael Grimminger—Direct

WILLIAM MICHAEL GRIMMINGER, sworn:

Direct-examination by Mr. Turner:

Q. Where do you live? A. Sixty-six Clinton Avenue.

Q. What relation are you to Mr. Charles Grimminger? A. Brother. 10

Q. How old are you? A. Thirty-nine.

Q. How old is Charles? A. Twenty-nine.

Q. How long have you lived in Jersey City? A. All my life.

Q. What is your business? A. Bank clerk at the present time.

Q. And what bank do you work for? A. Merchants' National Bank.

Q. How close have you been to Charles during his lifetime; how often have you seen him? A. Well, I have been very close all my lifetime to him. 20

Q. Taking care of him somewhat? A. Taking care of him.

Q. And when did your father die? A. About ten years ago.

Q. Now, was his estate settled up about May, 1906? A. About that time.

Q. And Charles got his share of it? A. Yes, sir. 30

Q. Do you know what he did with his share? A. Yes, sir.

Q. What did he do? A. Bought this house, and paid cash, \$5000.

Q. And do you know how much of a share he got? A. Close on to between eight and nine thousand dollars.

Q. Do you know when he got his share? A. He got his share the same time as we did.

William Michael Grimminger—Direct

Q. Well, how long before he bought the house did he get his share of the estate? A. Why, he bought it when he got his share of the estate.

Q. Now then, do you know what he did with the balance of the money? A. He took a trip with his wife to Niagara Falls.

10 Q. Did he go anywhere else? A. I don't know where he went to.

Q. And do you know what he did with his money? A. I don't know, outside of paying the \$5000 in cash for his house. He paid cash.

Q. What else did he do with the balance of the \$8000? A. Well, that I don't know. He took this trip.

Q. Do you know what became of this money, this \$3000 balance? A. Outside of that, I don't.

20 Q. Now then, before Frances Alderton married Charles, did you ever have any talk with her? A. I did.

Q. About Charles? A. Yes, sir.

Q. What did you tell her, and what did she say to you? A. I told her that he got these spells, and she ought not to marry him. She said she would in spite.

Q. Did you tell her what kind of spells Charles got? A. Yes.

30 Q. What kind did you tell her? A. I told her he got epileptic fits.

Q. How many years has Charles been subject to epileptic fits? A. Ever since he was a boy.

Q. How often did he have them? A. Well, perhaps once a month, two months; sometimes he would get them twice a month, or there would be three or four months go by and he wouldn't get
40 them. It all just depends.

William Michael Grimminger—Direct

Q. Has your family ever made any efforts to have him cured? A. Oh, yes, spent lots of money; brought him around to different places in New York, when he was a boy.

Q. Were you ever able to improve his condition any? A. Not very much, no.

Q. How does his condition now compare with his condition at the time of his marriage? A. The same way. 10

Q. Was he any better then than he is now? A. No, sir.

By the Vice Chancellor: Q. What was the origin of his trouble? Do you know what caused the trouble? A. What do you mean?

Q. What caused him to have these fits? He did not have them from childhood. A. Oh, he must have had them since childhood. He was taken to different places and different hospitals. 20

Q. Did he have a fall, or anything of that kind? A. Well, it seems he must have had a fall, but they claim they couldn't do much to cure him in seven years time, that seven years would have to elapse, seven, fourteen or twenty-one. It seemed they never done anything.

By Mr. Turner: Q. Now, what was his condition at the time he bought the house in 1906? 30

Mr. Simpson: I object to that question, as this witness is incompetent to testify to that. That requires a medical man to testify to, not a layman.

The Vice Chancellor: Oh, the witness can testify to his general condition. It is a question of the value of the evidence.

Mr. Simpson: He can testify to what he observed. 40

William Michael Griminger—Direct

Q. At the time he bought the house what did you observe as to his condition? A. I observed the same condition that he is in now.

Q. Now, do you remember what his condition was in 1907? A. Why, his condition was always
10 the same.

Q. Was he improved in April, 1907? A. He never had any improvement of any account, that you could notice.

Q. Did you see him all the time? A. All the time, off and on.

Q. Did he eat at your house? A. He did.

Q. Now then, in 1911, what did you observe as to his condition? A. The same as it is now.

Q. Are you able to say positively that there was
20 no change in his condition generally from the time of his marriage up to the present time? A. I am.

Q. Was there any change? A. No change whatever.

Q. Now, after he got his \$8000 do you know what he did with it? A. I do know what he done with \$5000; he bought this house and paid cash, as I was a witness to that.

Q. Did he have anything in the bank that you know of? A. Not as I know of.

Q. Now, do you remember the time in April,
30 1907, when he and his wife conveyed this property to John Alderton? A. No, I didn't know anything about that.

Q. Did you know about it at that time? A. No, sir.

Q. And did you know about the re-conveyance by John Alderton and his wife back to Charles and his wife? A. No, sir.

40 Q. And did you know about the conveyance in

William Michael Grimminger—Direct

1911 by Charles and his wife to John Alderton and his wife? A. I didn't know anything about it.

Q. Did Charles ever tell you anything about it?

A. No, he never told me anything about that.

Q. Did you see him frequently during those times? A. Yes.

Q. Did he ever mention these transfers at all? 10

A. No, the only transfer I knew of was that I noticed the first transfer in the Evening Journal, I saw it in the Evening Journal.

Q. Did you say anything to Charles about it? A. I did speak to him about it.

Mr. Turner: I do not suppose it is proper to ask him for that conversation, although I will ask it.

Mr. Simpson: And I object to it. 20

The Vice Chancellor: Well, if you want to ask that question do so and let it be ruled on.

Q. What was said between you and Charles in reference to this transfer after you saw it in the Evening Journal?

Mr. Simpson: I object to the question as hearsay and not binding on these defendants.

The Vice Chancellor: I will strike it out on the ground that the defendant were not present. The only value that such evidence would have would be to show his mental attitude and his mental condition. 30

Q. When did you first learn about the transfer of 1911? A. That I don't remember.

Q. Did Charles tell you about that? A. I don't remember his saying anything to me about that at all. I believe I saw that in the paper, if I am not 40

William Michael Grimminger—Direct

mistaken. I didn't know anything at all about that transaction.

Q. Now, who was the lawyer for the estate, your father's estate? A. My lawyer, or their lawyer?

10 Q. No, the lawyer for the estate; who settled up the estate? A. Hudspeth & Puster, and Marshall Van Winkle was their lawyer. I had Hudspeth & Puster, and Marshall Van Winkle was their lawyer.

By the Vice Chancellor: Q. Who do you mean by "they"? A. My two brothers, Charles and George.

20 By Mr. Turner: Q. Now, did you have any talk with Frances E. Grimminger at any time after the marriage, in reference to this property? A. Not in reference to the property. I only had one conversation with her, and that was when she came back from her wedding trip; outside of that, never.

Q. Did she say anything then in reference to the property? A. No, sir.

Q. Did she say anything then in reference to Charles' condition? A. Not at that time.

Q. Did she ever afterwards? A. No, no.

Q. Did you know that she had sued for divorce? A. I didn't know anything about it.

30 Q. Did you ever know about it? A. No, sir.

Q. Was any inquiry ever made of you about it? A. No, sir.

Q. Do you know where your brother Charles lived? A. Why, he lived in this Sixty-eight Condict Street house.

Q. How long did he live there? A. Up to the time when the case was started, which was something on an average of seven months ago.

40 Q. Well, from the time he bought the house until

William Michael Grimminger—Cross

seven months ago where did he live all the time?

A. In this Sixty-eight Condict Street.

Q. And had he ever left Sixty-eight Condict Street before that time? A. No, not as I know of.

Q. When you say "the suit was started" do you refer to the landlord and tenant suit by Mr. Fairbanks? A. Yes, sir. 10

Q. Then after Charles left Sixty-eight Condict Street where did he go? A. He went to this Boulevard Hotel, or whatever name the hotel is. He says he has been there a few weeks, how long, I don't know. From there he went to Union Street.

Q. Did he ever live anywhere else? A. Not as I know of. He has been getting his meals at my place all the time; he has only roomed there.

Q. While he was living at Sixty-eight Condict Street did you ever go over there? A. No, sir. 20

Q. Do you know where his wife was living at that time? A. Of late?

Q. No, up to the time he left. A. I don't know anything about that.

CROSS-EXAMINATION by Mr. Simpson:

Q. Did you ever go to Sixty-eight Condict Street to see your brother while he lived there? A. No, sir.

Q. Were you ever in the house at Sixty-eight Condict Street? A. I was when he came back from the wedding trip, shortly afterwards; not since. 30

Q. Since that you have never been there? A. Never had anything to do with them.

Q. Has he come over to your house to visit you at Sixty-six Clinton Avenue? A. Yes.

Q. Do you know what part of the house he occupied at Sixty-eight Condict? A. Only what he tells me—the attic. 40

William Michael Grimminger—Cross

Q. Did you ever see his house furniture over there? A. I have not saw it.

Q. You say there has been no improvement in his condition from the time he was a boy? A. No, no improvement.

10 Q. And that he is the same now as he was when he married in 1906, is that right? A. That is right

Q. When did he get the money from his father's estate? A. About, it must be pretty near ten years ago.

Q. And what was his condition then? A. The same as it is now.

Q. Did he receive the money through an executor, or through an administrator? A. No administrator or no executor; we all got our share. It was divided up. He got his in Marshall Van
20 Winkle's office.

Q. Who was his lawyer then? A. Marshall Van Winkle.

Q. And your lawyers were Hudspeth & Puster? A. Hudspeth & Puster.

Q. Was there any doubt in your mind as to the advisability of letting your brother have his money at that time?

30 Mr. Turner: I object to that as immaterial.

The Vice Chancellor: He may answer the question.

A. There was.

Q. What action did you take to prevent him from getting this money? A. At that time I took no action.

40 Q. Why not? A. Because I thought it was his share, let him do what he wants with it; it would go anyway.

William Michael Grimminger—Cross

Q. Didn't you think he might squander it, or throw it away? A. I did have that idea.

Q. And did you take any steps at all to prevent that? A. I spoke to him, yes; spoke to him time and time again about it, but he would not listen to me.

Q. And notwithstanding you felt that he might squander his money you did not have sufficient interest in it to see that the money was preserved?

A. I had sufficient interest in him but I couldn't make him heed me.

Q. Did you speak to your brother about the advisability of letting him have eight or nine thousand dollars? A. Not at that time.

Q. Did he get it in cash, or by check? A. Cash.

Q. And you saw him leave whose office with eight or nine thousand dollars in cash? A. He did not leave the office with eight or nine thousand dollars in cash; he paid five thousand dollars in that office to the man that he bought the house from, as I saw that myself.

Q. Oh, were you with him when he made the arrangement for purchasing this house in Condict Street? A. I was not with him when he made the arrangement for the purchase of the house; he had already purchased the house and paid a deposit; and at that time I did tell the man that he bought that house from that I didn't think it was worth the money; but he paid the deposit on it, and therefore he had to buy it.

Q. What deposit did he have to pay on it? A. That I don't know.

Q. What price did you think that house was worth? A. Why, I haven't any idea.

Q. It was a brand-new house. A. It was just finished.

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William Michael Griminger—Cross

Q. What did you think was the excess of the value that was being paid on it? A. I haven't any idea.

Q. But you felt convinced in your mind that he was paying too much money for it? A. I did.

10 Q. And you let him carry out that contract too, did you? A. Well, because he would never heed me.

Q. Why didn't you insist on his breaking away from the contract and forfeiting the deposit, if you thought he was being cheated? A. Well, his wife wanted this property the worst way, and you couldn't make him listen to anything else. She wanted it, so he consented to her.

20 Q. That was before they were married, wasn't it? A. Well, yes, before they were married; they got married a week or two afterwards, just how long I don't know.

Q. You are sure that she was there at that time? A. She was not there when the cash was paid to the man that owned the house.

Q. She wasn't anywhere near there? A. No.

30 Q. So that she had no part in the purchase of the property and the actual turning over of the cash to the owner? A. Not in the turning over of the cash part.

Q. Now, you say you first learned of this transaction of 1907 by reading it in the Journal? A. Yes.

Q. You read the Real Estate Transfers in the Journal every night, do you not? A. Not as a rule, I don't; my wife does.

Q. You are sure of that? A. Sure of that.

40 Q. And you saw this transaction of 1911 in the Journal too, didn't you? A. I believe so.

William Michael Grimminger—Cross

Q. And what did you do when you found that the property had been turned over in the manner indicated? A. Why, I had spoken to him about the matter, but you might as well talk to a dog.

Q. Why? A. Because he doesn't take any heed.

Q. In other words, you thought that he was mentally unbalanced, did you? A. I did. 10

Q. And you waited until how long before you took some action to help him? A. Until he wanted me to.

Q. Didn't you wait until after the divorce case was finished and the final decree was entered? A. I have been helping him ever since he was married.

Q. Is it not the fact that you did nothing until after the final decree of divorce was entered? A. No. 20

The Vice Chancellor: What do you mean by that? I don't understand you. He says he has been supporting him, now what else do you mean?

Mr. Simpson: I mean in relation to the property. He testifies that he knew of the transaction in 1911. That was when the property was turned over to John Alderton.

The Vice Chancellor: I know, but what was it he did with relation to the property? 30

Mr. Simpson: That is what I want to know, if he did anything.

The Vice Chancellor: I don't think you have asked him that question.

Mr. Simpson: I will do so, I will clear the atmosphere.

Q. In 1911 the transfer to John Alderton by your brother and his wife was brought to your at- 40

William Michael Grimminger—Cross

tention; is that right? A. It was brought to my attention through the papers.

Q. And did you do anything with relation to that transfer to help your brother? A. I couldn't do anything unless with his consent, and he would never speak to me about that.

10 By the Vice Chancellor: Q. Did you speak to your brother about the transfer after you noticed it in the paper? A. I did.

Q. How long after? A. The first time I met him.

Q. Well, that was about how long? A. Several weeks.

By Mr. Simpson: Q. And what did you say to him at that time? A. I asked him what he done it for.

20 Q. What did he say? A. He did not give me much satisfaction.

Q. Did you speak to him when he made the first transfer in 1907? A. I did.

Q. What did he say to you then? A. He did not give me much satisfaction.

Q. You formed the idea that some imposition was being practiced upon him, did you? A. I did.

Q. Now, did you make any move to help your brother when you discovered the transaction of 1907? A. I did.

30 Q. What did you do? A. He wouldn't heed.

Q. Now, as a fact, this present suit was brought at your instigation, wasn't it? A. Yes.

Q. Why did you not do that in 1907? A. I did want to do it, but he would not heed.

Q. Well, he heeded in 1914, didn't he? A. Yes.

Q. Where did this conversation take place when you told Mrs. Grimminger, before the marriage, that he was subject to epileptic fits? A. At my
40 house, at that time 721-1/2 Grand Street.

William Michael Grimminger—Cross

Q. Who was present at the conversation? A. My wife.

Q. Anybody else? A. I cannot remember that just now.

Q. How did that conversation come about? A. Why, I was told that he said they was going to get married, and I told her she had no right to marry a boy like that, that had such a sickness. 10

Q. When was that? A. Shortly before they were married, when we found out they were to be married.

Q. And what did she say to you? A. She said she would marry him for spite.

By the Vice Chancellor: Q. "Marry him for spite," or "in spite"? A. "In spite of that."

Q. That is, she did not convey the idea that she was going to marry him for spite, but that she was going to marry him notwithstanding the fact that he had this sickness? A. That she understood that he had this sickness, but she was going to marry him in spite of it. 20

Q. Marry him for spite? A. Marry him even though she knew he had that sickness.

Q. I see—that she would marry him in spite of the fact that he had it? A. Yes, she knew all about it.

By Mr. Simpson: Q. Had you known Mrs. Grimminger before this particular time? A. Of her marriage? 30

Q. Yes. A. No, sir.

Q. Did you ask her who her parents were? A. No, I did not.

Q. Did you ask her anything about herself? A. No.

Q. After she told you that she would marry him 40

William Michael Grimminger—Cross

for spite, or in spite of the affliction he had, what did you do? A. I couldn't say anything; I didn't say anything.

Q. Did you ask who her parents were? A. No, sir.

10 Q. Weren't you interested to know who your brother was marrying? A. I was, but I knew he would not heed to me; it wouldn't do me any good.

Q. You wanted to keep him from getting into any trouble, didn't you? A. I did.

Q. And yet you were just willing to rest on his denial, or his refusal, is that right? A. I don't understand you there.

20 Q. Well, you were content with his refusal to do anything at your suggestion, that that would satisfy your conscience that you were doing everything for him? A. I was doing everything for him, but I knew though that all I could preach to him wouldn't do any good.

Q. Why, was he strong headed? A. Strong headed, yes.

Q. Had a mind of his own? A. A mind of his own.

30 Q. I see. Now, there is no question in your mind that he had a mind of his own, and his obstinacy convinced you that he knew what he was doing, is that right? A. No, he didn't know what he was doing.

Q. Well, do you mean to say that you allowed him to fall into all these things feeling that he didn't know what he was doing? A. How could I help that?

Q. That is the best answer you want to make to that? A. Yes, sir.

40 By the Vice Chancellor: Q. And the only answer? A. The only answer I can make to that.

William Michael Grimminger—Cross

By Mr. Turner: Q. Now, you say that you talked to your brother after you found out about the transfer of 1911, and you say he did not give you any satisfaction? A. Yes

Q. What did he say to you? A. He would not say anything.

Q. Would he answer you at all? A. No, as much as told me that it wasn't my business. 10

Q. Did he tell you that? A. No, he didn't tell me anything.

Q. Didn't tell you anything? A. Didn't tell me anything.

Q. And after the transfers in 1907, did he answer you then, or did he tell you anything at all when you spoke to him about the transfer? A. No. 20

Q. Did he make any reply at all? A. No.

Mr. Turner: If the Court please, I am in this situation—the Doctor said he would be right down but he has not arrived yet.

The Vice Chancellor: Suppose we adjourn the case until quarter past one, and then you can have Mr. Brown here and all the witnesses. I suppose you will close this afternoon.

Mr. Simpson: I think so. It won't take me very long. Am I to call Mr. Prown, or is Mr. Turner to? 30

The Vice Chancellor: I don't know; I am not dictating to counsel as to how they will try their case.

Mr. Simpson: (To Mr. Turner) Am I to do it?

Mr. Turner: Well, I do not care to call him. 40

Marshall Van Winkle—Direct

Mr. Simpson: All right, I will bring him here.

Recess until 1:15 o'clock p. m.

10

Afternoon session.

Hearing of the cause resumed at 1:15 o'clock p. m.

MARSHALL VAN WINKLE, Esq., sworn:

Direct-examination by Mr. Turner:

20 Q. Mr. Van Winkle, you are a member of the Bar of New Jersey? A. Attorney and Counsellor at Law.

Q. And are you acquainted with Charles Grimminger, the complainant in this suit? A. Yes.

Q. And how long have you know him? A. We'l, I should think, from the beginning of 1906 down to date.

30 Q. Did you have any connection, as counsel, with the Grimminger Estate? A. Well, not with the Grimminger Estate; but the firm of Vredenburgh, Wall & Van Winkle, conducted a partition suit of real property that had been owned by the father, Michael Grimminger.

40 Q. And did you, or your firm, represent Charles Grimminger at that time? A. Let me look at the papers just a minute. Your message was rather sudden, and the papers are old. We represented I remember, George Grimminger (producing papers and inspecting the same). The partition

Marshall Van Winkle—Direct

suit seems to have been in the name of George Grimminger. I will ascertain if Charles was a party defendant. But whether he was or not, we represented him, too. It is coming back to me now.

Q. Did you have anything to do with the handling of certain moneys which were payable to Charles Grimminger in reference to this partition suit and estate? A. The moneys that became due to Charles Grimminger in the partition proceedings (between seven and eight thousand dollars) passed through my hands, yes. 10

Q. What disposition did he make of them? A. Why, that sum was deposited in the New Jersey Title Guarantee & Trust Company in the name of George Grimminger, Trustee for Charles Grimminger. 20

Q. Will you tell us why you did not turn this money over directly to Charles Grimminger? A. Yes.

Q. Please tell us. A. Well, I viewed Charles Grimminger as a person unfit to handle so large a sum of money.

Q. And have you had occasion to observe the condition of Charles Grimminger at any time? A. I have seen Charles Grimminger in a fit of some sort, where he fell prostrate on the street. 30

Q. Can you tell us about how long ago that was? A. Oh, yes, since 1906; I should think about four years ago.

Q. And did you have any knowledge, either through hearsay or otherwise, concerning his condition in the year 1906? A. I have seen him three or four times a year since 1906, and his condition then was the same as now. 40

Marshall Van Winkle—Direct

Q. Did you know Frances Alderton, who afterwards became the wife of Charles Griraminger?

A. I do not recognize the name; I saw the lady once at my office.

10 Q. And can you tell us whether that was before or after the time Charles Grimminger purchased the property which is the subject of this suit? A. It was before the purchase.

Q. Did you have any conversation with Miss Alderton, who afterwards became Mrs. Grimminger, at that time, at your office? A. Yes.

20 Q. Can you tell us what the conversation was? A. Well, I can only recall the substance of it. The substance of the conversation was a request by her of me to ascertain how much money was coming to Charles Grimminger from his father's estate.

By the Vice Chancellor: Q. Were they married at that time? A. Unmarried, sir. She introduced herself, and I understood from her at that time that she was to marry Charles Grimminger; and I viewed him as a man unfit to marry, because of this condition; and I was very short and peremptory with this lady, and gave her little information.

30 Q. She wanted to know, in adance of the marriage, what property he had? A. It was before the marriage she made the request.

Q. Before the marriage? A. Yes, sir.

By Mr. Turner: Q. Do you recall anything further that you said to her? A. Well, I cannot, Mr. Turner. I have been trying to turn it over in my mind during recess. Mr. Turner just notified me about half an hour ago and wanted me to testify. I was very short with the lady, because I thought,
40 as I repeat, that he was unfit to marry; and, with-

Marshall Van Winkle—Direct

out knowing the circumstances, I thought the case might be one where somebody had designs on his money: I cannot say that she had.

Q. Now, from that time, in 1906, prior to their marriage, until the present time, have you seen Mr. Grimminger at intervals, Charles Grimminger? A. Yes, three or four times a year on the street; and he has been at my office in the last two years possibly half a dozen times 10

Q. During those times have you noticed any change in his mental condition, as evidenced by his actions or his speech? A. I cannot say that I have. When he has been in the office in the last two years he has not been inside the railing of the outside office, because I was usually busy when he called and I did not want to hear his troubles. He came there complaining about his wife, and about this property. His brother, Michael Grimminger, also came during the same period, asking me to bring a suit— 20

Mr. Simpson: I object.

The Vice Chancellor: Strike that out.

Q. But you were requested to bring a suit on their behalf, were you not? A. By Charles Grimminger, and by Michael.

Q. Did you do anything in connection with that matter? A. Well, I was busy, and did not do it, and I suggested Mr. Turner as a man who would attend to the matter thoroughly for these people. 30

Mr. Turner: You may cross-examine.

The Witness: Will you pardon me, Mr. Turner, but to make your examination complete, if the Court will let me, I would like to say what became of the money on deposit. Mr. Simpson will want to know too.

Mr. Turner: Yes. 40

Marshall Van Winkle—Direct

The Witness: The money on deposit, that I before testified about, was, on October 5th, 1906, sent, less the fees and charges against it, to Michael Grimminger, as appears by my books and letter to him of that date. The amount was \$7373-
 10 .88, less a bill for services \$138.74 (reading from memorandum of the witness) "Check to Michael Grimminger October 4; Sent with letter of October 5, 1906, \$7235.14."

By the Vice Chancellor: Q. Is that Charles' share? A. That, apparently, sir, was the net proceeds of the share of Charles in the partition proceedings. He may have drawn out (I don't know) some sums for present uses before the deposit was made, or after it was made.

20 Q. I understood that you deposited the money in the trust company in the name of Michael as Trustee for Charles. A. No, in the name of George, sir, the other brother. It was not done by my check, don't you see?

Q. What was this money that was paid to Michael? A. This is what it was, sir, as the letter shows (referring to letter now produced by the witness), this is a letter to Michael Grimminger of October 5th, 1906: "Michael Grimminger, Esq.
 30 My dear Sir: In accordance with the written authorization of Charles Grimminger, I send you check for \$7235.14, being in full of all moneys collected by me from the New Jersey Title Guarantee & Trust Company for the special deposit, Charles Grimminger fund, in the name of George Grimminger, Trustee, less my bill for all services and other matters to date."

Q. Then, as a matter of fact, the moneys stand-
 40 ing in the name of George Grimminger, Trustee,

Marshall Van Winkle—Cross

were drawn out and turned over to Michael? A. I presume that is so, because the letter shows it, but it may be that before the deposit was made, or after it was made, moneys might have been paid by George, from this fund, for board, and something of that sort; I don't know about that. 10

CROSS-EXAMINATION by Mr Simpson:

Q. Was not this money paid to Charles in cash, Mr. Van Winkle? A. I cannot say it was paid to him in cash, Mr. Simpson. If he handled it he was not allowed to keep it; it was deposited in this Trustee Account because of this condition, known to all the parties.

Q. Well, was there any cash passed to him in your office when his brother Michael was present? 20
A. I do not think any money ever passed to Charles in my office, Mr. Simpson.

Q. At the time he received this money was there any real estate transaction carried through in your office where the property at Sixty-eight Condict Street was purchased? A. Yes.

Q. How did that come about? A. I find here in the papers a receipt signed by the man named William Garras, per F. L. or F. F. Jones, dated September 15, 1906, "Received from Mr. Charles Grimminger the sum of fifty dollars to be applied 30
to purchase of house No. 68" (I think it is 68) "Condict Street, the price of said house to be five thousand dollars, the balance of purchase money to be paid on September 22d in the year 1906. The said balance of purchase money is \$4950 clear of all encumbrance with deed. Received payment, Wilson Garras, per F. L. or F. F. Jones" I also find a contract between Henry H. Hall, by Fred- 40

Marshall Van Winkle—Cross

erick T. Jones (this looks like) signed by Charles Grimminger, the original being here in my hand, being a contract for the purchase by Charles Grimminger from Henry H. Hall, of lands on Condict Street, Jersey City, for \$5000 title to be
 10 passed October 2, 1912. Answering your question, I think that when the title passed Michael was present and paid the \$4950 of consideration.

By the Vice Chancellor: Q. Now, do those two contracts touch the same property? A. Yes, sir.

By Mr. Simpson: Q. You say that second contract was October 2d, 1912? A. No, I shouldn't have said that—the second day of October, 1906, at twelve o'clock noon the title was to pass.

Q. And the deposit on that was only \$50 wasn't it? A. Yes.

Q. You recite in that letter that "pursuant to the written authorization etc."? A. Yes, I can explain that a little more, Mr. Simpson. I think, in a case of this sort, we all want explanations as far as witnesses can make them, I am sure: at the time the partition suit was brought there was a controversy between George and William Michael Grimminger, over matters that had arisen in the bakery their father had owned, and at one time
 30 Charley would be friendly with one brother, then with the other. The partition suit (of course George had a right to bring it) was brought against Michael's wishes, Michael insisting that Charley was better protected with the property unpartitioned, he getting his share of the rents; Charley became very friendly with George, and was with George in the partition suit, then, when the partition suit was concluded, and just before
 40 this house was bought, Charley became more

Marshall Van Winkle—Cross

friendly with Michael than with George, and that is the time the money was taken from this special deposit in George's name and went over to Michael, and Michael then found in front of him this contract and complied with it. That is my recollection of the transaction.

Q. I see. Now, out of these moneys, \$7345.14— is that the amount? A. Seven thousand two hundred and thirty-five dollars and fourteen cents.

Q—did Michael pay himself a bill of \$1300? A. My recollection is he did, for board.

Q. That was for board of Charles up to that time? A. Well, I don't know for what time it was, Mr. Simpson; I did not handle that particularly. Michael, you see, was not my client, and could do what he liked.

Q. On account of his mental condition you did not regard it necessary to have a next friend appointed for him in the partition suit, did you? A. Oh, no.

Q. Or a guardian? A. We represented him, and, so far as the partition was concerned, everybody wanted to get the highest price; and until the money came there was no necessity, I am sure, for any special protection, from my point of view.

Q. Do you know who sent this woman down to see you about what he was to get? A. I am sure I do not.

Mr. Simpson: I will make Mr. Simpson my own witness for this one thing.

Q. Do you remember him coming to you with papers in a divorce suit, Mr. Van Winkle? A. Do you mean Charley?

Q. Yes. A. He may have, Mr. Simpson; I cannot recall it.

Thomas H. Brown—Direct

Q. Well, do you recall it? A. No, I do not recall it.

Q. Did you know the divorce suit was pending against him? A. I must give my impression as saying I did not, although it was talked about, somebody talked about it, or I saw it in the newspapers a year or so ago.

Mr. Turner: Now, if the Court please, if Mr. Simpson wants to put Mr. Brown on in his case, I will suspend my examination of the next witness to save Mr. Brown's time.

Mr. Simpson: I assume that Mr. Brown would like to get away as early as possible, and I might as well put him on now as later.

The Vice Chancellor: Then the testimony on behalf of the complainant is suspended for the purpose of permitting the defendants to swear Mr. Brown.

THOMAS H. BROWN, sworn:

30 Direct-examination by Mr. Simpson:

Q. You are a counselor-at-law of this state, and have been for some years past? A. Yes, sir.

Q. And your office has been at 586 Newark Avenue for several years, and still is there? A. And still is there, yes.

Q. Do you know Charles Grimminger and Frances Grimminger? A. I do.

Q. Do you know John Alderton and Alice Alderton? A. I do; that is the mother of Mrs. Grimminger and the father.

40

Thomas H. Brown—Direct

Q. I show you Exhibit C-2 in this case, and ask you if you recognize the signature as subscribing witness? A. I do.

Q. And I call your attention to the certificate of acknowledgment, and ask you whose signature is affixed to that? A. My signature.

Q. I show you Exhibit C-4 in this case, and ask you to look at the signature of the subscribing witness to that document? A. That is my signature. 10

Q. And I also call your attention to the certificate of acknowledgment, and ask you whose signature is affixed to the certificate? A. Mine.

Q. At the time those instruments were witnesses by you and of their execution, did Charles Grimmer know the contents of them?

Mr. Turner: Well, I object; that is a conclusion. 20

The Vice Chancellor: One moment; the question is improper. He might have explained the contents and still Charles Grimmer might not know the contents. The statute requires that he shall make known the contents.

By the Vice Chancellor: Q. Did you see Mr. and Mrs. Grimmer sign those papers? A. I did, emphatically, yes.

Q. They were signed in your presence? A. Yes, sir. 30

Q. And they acknowledged them before you? A. Yes, sir.

Q. And did you make known the contents of the instruments to the parties? A. I did.

By Mr. Simpson: Q. Did you notice anything in the mental condition of Charles Grimmer when he signed these papers? 40

Thomas H. Brown—Direct

Mr. Turner: That is leading.

The Vice Chancellor: I will permit it.

A. He seemed to be sensible and intelligent; he seemed to be a little slow of thought in expressing himself.

10 Q. Did he give you any instructions on them?

A. Well, he and his wife did.

By the Vice Chancellor: Q. Who asked you to draw the papers? A. I think, originally, as I recall it (of course it was 1911) his wife came to me and told me that her husband had been out of employment, as I recall it, for some time, and that they had been dependent on her mother and father for support, and that her mother wished or she wished a deed to be drawn to her parents and in
20 pursuance of those instructions I prepared the papers, and later on Mr. Grimminger and his wife called upon me, and I had them sign them, and took their acknowledgments.

By Mr. Simpson: Q. Did he, at the time of the execution of either of these deeds, remonstrate in any manner against the execution of them? A. No, sir.

Q. Where was C-2 executed? A. Well, I am not positive, but I have a faint recollection but as I say
30 I would not want to be positive about it, it is so long ago) that this one was executed in 1907, and that it was executed in my house on the Boulevard I won't be positive about that, though.

Q. Whereabouts on the Boulevard was your house at that time? A. Two thousand seven hundred and forty-five—right close to Vice Chancellor Griffin's house.

Q. What cross street? A. Right across Stuyvesant Avenue, near Sip Avenue.
40

Thomas H. Brown—Direct

Q. Do you remember where Exhibit C-4 was executed? A. I think this deed was executed subsequently at my office; I am not positive, though.

Q. Do you remember the circumstances attending the execution of C-4? A. I do not, off-hand, no. You just called me up on the telephone, and I came over, not knowing what I was wanted for, and I have not had a chance to look at my files, or anything; so, off-hand, I could not say. 10

Q. I show you a slip of paper bearing the date "November 17, /08" and ask you if you recall ever seeing that before? A. I think I do; I identify this handwriting on the bottom of it here "Tax, \$61.80," as being in my handwriting.

Q. Does that refresh your memory in any way? A. It does not. 20

Q. I show you a memorandum—

The Vice Chancellor: Are those being marked?

Mr. Simpson: I am just finding out whether he can identify them, or refresh his memory from them.

Q. I show you a memorandum bearing your official card at the top, and ask you if the figures and memoranda on that slip refresh your memory in any way? A. Those figures were written by me, and right off-hand I could not say what they denote other than the fact that they show that Mr. Gordon's fee on the search at the time— 30

Mr. Turner: I object to that, because the testimony is hearsay.

Q. Well, do you know?

The Vice Chancellor: Well, the paper speaks for itself as to what it denotes, unless there is some explanation of the transaction to be made here. 40

Thomas H. Brown—Direct

Mr. Simpson: There is what I am trying to get at.

The Vice Chancellor: I will let the witness answer it.

A. (Resuming)—and that the taxes due on the property, and interest, amounted to \$61.81, and I think it was the Columbia Building Loan \$13.50 was for taking out some shares in the Building and Loan upon which they were getting a mortgage.

By the Vice Chancellor: Q. And what is the date of that paper now? There is no date on it—what time was it? A. This paper was given to them as a memorandum at the time the loan was had by the Aldertons, as I recall it, from the Columbia Building and Loan Association.

Q. Then this would be after the conveyance by Charles to the Aldertons, and after 1911? A. Well, I am not positive as to whether Mr. and Mrs. Grimminger took out the mortgage, or whether Mr. and Mrs. Alderton did; it is so long ago, as I said, and I have not got my files here.

By Mr. Simpson: Q. I show you a paper addressed to Mr. and Mrs. Grimminger, under date of November 17/08, being a bill for \$44.52 of Mr. Gordon's and referred to in this statement, and ask you if that refreshes your memory as to who took out the loan—the Grimminger or the Aldertons? A. I am inclined to believe, as my recollection serves me, now, as you have called my attention to Mr. Gordon's bill now, that the loan was taken out by the Grimmingers.

The Vice Chancellor: Well, if that is so, and that can be made certain, what is the use of guessing at it?

Thomas H. Brown—Cross

Mr. Simpson: I think Mr. Turner can admit that it was the Grimmingers who took out the loan.

Mr. Turner: No, I don't know that. If I did know it, of course I would gladly admit it.

Mr. Simpson: Wouldn't it turn up on your search? 10

Mr. Turner: I haven't seen it, no.

Q. To the best of your knowledge it was the Grimmingers who took out that loan, was it not?

A. To the best of my recollection, yes, sir.

The Vice Chancellor: Well, counsel can find out from the record the truth as to that and offer it later, if it is an important issue.

Mr. Simpson: I will have to bring down the records. 20

The Vice Chancellor: It won't be necessary; I think you and Mr. Turner can agree upon it.

Mr. Turner: I may be able to verify it; if I am I will be glad to admit it.

The Witness: I think Mr. Gordon can tell from his office records, right off the reel.

The Vice Chancellor: You can find out the fact as to that, and offer the evidence later by agreement; that is, you can offer the statement of the record of the mortgage, and this testimony now will be taken as true (that is, that the loan was taken out by the Grimmingers and not the Aldertons) unless you show that it was taken out by someone else. 30

CROSS-EXAMINATION by Mr. Turner:

Q. Did you ever know Mr. Grimminger before 40

Joseph Haley—Direct

the time he came to your office with his wife, after his wife had asked you to prepare the deed?

The Vice-chancellor: What do you refer to, what deed?

Mr. Turner: C-2.

10 A. My recollection is, yes, that I had met Mr. Grimminger in the matter of the settlement of some estate in which he was interested, and in which Marshall Van Winkle represented his brother, who sits right alongside of him now in Court. I have forgotten his brother's first name.

Q. And you took these acknowledgments in the usual way, as far as your recollection goes? A. I took them in the regular statutory form.

Q. As you always do? A. As I always do; yes,
20 sir.

Q. And your recollection about the transaction is refreshed by the record which appears on the instruments? A. Surely.

JOSEPH HALEY, sworn:

Direct-examination by Mr. Turner.

30 Q. Where do you live? A. Seventy-two Union Street.

Q. How long have you known Charles Grimminger? A. Oh, for the last twenty years; went to school with him.

Q. Do you know about his being sick? A. Yes, sir; he has been sick right along.

Q. How long has he been sick? A. Just in the condition he is today.

Q. Has his condition changed any between now
40 and the time when he was a boy? A. No, sir.

Joseph Haley—Cross

Q. Always just the same? A. Just the same.

Q. How often does he have these fits? A. When the warm weather comes; the warm weather generally brings his fits on.

Q. Do you know about how often he has them?

A. No, sir.

Q. Have you seen him frequently of late years? 10

A. Yes, sir.

Q. How frequently do you see him? A. See him sometimes around the house, and I walk around together, once in a while, with him.

Q. Would you see him once a month? A. Sometimes I would.

Q. Oftener than that, at any time? A. Sometimes less than a month.

Q. Has his condition changed during any of 20 these twenty years? A. No, sir.

Q. Same as it is now? A. Yes, sir.

CROSS-EXAMINATION by Mr. Simpson:

Q. Where do you live, Mr. Haley? A. Seventy-two Union Street.

Q. Well, you are the man with whom he lives? A. Yes, sir.

Q. You are boarding him now? A. He just rooms there.

Q. You are rooming him there? A. Yes, sir. 30

Q. And you have not been paid yet for your rooming of him, have you? A. No, sir.

Q. You expect to be paid—

Mr. Turner: I object to that, on the ground that it is not shown that he is to get paid.

The Vice Chancellor: Well, you can show that he is not, if you want to. 40

Joseph Haley—Cross

Q. You expect to be paid out of what is realized from this suit, do you not? A. Not me.

Q. Who? A. My sister.

Q. You have known him about twenty years?

A. Yes, sir.

10 Q. What is your business? A. I work at the Whitlock Cordage Company.

Q. How long have you lived at 72 Union Street?

A. Three months.

Q. Where did he live before that? A. Well, he lived over at the Boulevard Hotel; that is the last place I ever knew him to stop.

Q. How long has he lived in Jersey City? A. I couldn't tell you how long in Jersey City; I have known him for the last twenty years.

20 Q. How long have you lived in Jersey City? A. All my life.

Q. How old are you? A. Thirty-one.

Q. When did you first notice that this man had fits? A. He used to take fits when his mother was alive.

Q. Were you associated with him in any way? A. Just used to pal around with him once in a while; used to go out like a friend with him.

30 Q. What did you go out with him for? A. Just like a friend, you know.

Q. Just like a friend of his? A. Yes.

Q. Did you work together? A. No, sir.

Q. Live together? A. No, sir.

Q. How long have you worked for this Cordage concern? A. Going on six years.

Q. Did you ever go and visit him at 68 Condict Street? A. Yes, I did; once in a while I did; but not lately.

40 Q. When did you stop going there to see him?

Joseph Haley—Cross

A. I used to go down to his house to see him once in a while; he asked me down there.

Q. And you used to go there, down to 68 Condict Street? A. Yes, sir.

Q. When was the last time you saw him in one of these fits? A. Up in 72 Union Street. 10

Q. When? A. Yesterday.

Q. Yesterday? A. Yes, sir.

Q. How long did it last? A. Oh, I think about ten minutes.

Q. Did he have a doctor? A. No, sir.

Q. Did you ever see him in any of these fits at any other time? A. That is the first time I ever saw him, as long as I knew him.

Q. Well, how do you know, then, that he always had fits? A. Well, according to his mother, is the way I found out. 20

Q. But yesterday is the first time you ever saw him in one of these fits? A. Yes, sir; only what I heard, that he always took them.

Q. But you were so closely acquainted with him, yet you never saw him have one only once? A. No, sir.

Q. During the whole twenty years you have known him? A. No, sir.

By Mr. Turner: Q. When was the last time you went to 68 Condict Street? A. I couldn't remember. 30

Q. Well, how many years ago? A. I couldn't tell you how long ago it was.

Q. How long was it before he left there? A. I couldn't answer for that.

Q. Did you see his wife when you went there? A. No, sir.

Q. Did you ever see his wife there? A. I seen 40

Mrs. Margaret Hall—Direct

her there when he first got married, that is all I know.

Q. Did you ever after that? A. No, sir.

10 MRS. MARGARET HALL, sworn:

Direct-examination by Mr. Turner:

Q. You live at 72 Union Street? A. Yes, sir.

Q. And Charles Grimminger rooms at your house? A. Yes, sir.

Q. How long have you known him? A. I knew him all my life.

Q. Does he owe you any board? A. Yes, sir.

20 Q. How much? A. Well, I couldn't really say now.

Q. How many weeks? A. Three months.

Q. Now then, has he paid you anything for the three months? A. Yes, sir.

Q. You say you have known him all his life? A. Yes, sir.

Q. And did you know his family? A. Yes, sir.

Q. How do you know what his condition was when he was a child? A. Yes, sir.

30 Q. What was it? A. He always took them spells from as far as seven years old; I have known that long that he has had them.

Q. Did he act then just as he acts now? A. The very same.

Q. Have you known him all these years since he was a child of seven until now? A. Yes.

Q. Has he changed any in that time? A. No, sir.

40 Q. Did you know him in 1907? A. Yes, sir.

Mrs. Margaret Hall—Cross

Q. Did you know him at the time he was married? A. Well, I hadn't seen him for a couple of years, very steady, since he got married.

Q. Did you know him in 1911? A. Yes, sir.

Q. Was his condition the same in 1907 and 1911 as it is now? A. Yes, sir.

Q. No change since childhood? A. No, sir. 10

CROSS-EXAMINATION by Mr. Simpson:

Q. How many of these spells did you see him take in 1907? A. I haven't seen him take none in 1907.

Q. If you did not, how do you know his condition was the same, just as it is now? A. Because he has taken seven while he has been with me.

Q. Well, he had none in 1907; you don't know anything about 1907, do you? A. Well, he might have had them and I had not seen them. 20

Q. How many did you see him take in 1911? A. I seen him take one.

Q. Where? A. Down at the Junction.

Q. What time of the year was that? A. It was in the summer.

Q. What month in the summer? A. I don't remember.

Q. Was that the only one you saw him take in 1911? A. Yes, sir. 30

Q. And since he has been with you, you have seen him take seven of these spells? A. Yes, sir; he took one no later than yesterday.

Q. Where did he live in 1907? A. I don't know.

Q. Where did he live in 1911? A. He was married then—68 Condict Street.

Q. Are you sure of that? A. Yes, sir.

By the Vice Chancellor: Q. Stop and think. He 40

Mrs. Margaret Hall—Cros

asked you about 1911. Was he married in 1911?

A. He was married in 1906, wasn't he?

By Mr. Simpson: Q. Just tell me, if you can, where he was living in 1911? A. He was living at 68 Condict Street.

10 Q. Whom was he living with? A. His wife.

Q. Anybody else? A. I don't know.

Q. Did you see him in 1906, when he was married? A. No, sir; but I have heard of him.

Q. You had not seen him for two years before that? A. Yes, sir; I have seen him.

Q. With relation to the time he was married, how long a time expired between the time you had seen him and the time of his marriage? A. I saw him quite often, because he used to visit
20 our house.

Q. And did he ever have one of these spells while he was there on a visit? A. No, sir.

Q. He used to converse with you people all right? A. He was there about a week when he took one.

Q. You say you had no trouble conversing with him? A. Well, he don't know his right mind when he comes out of them at all.

Q. I am talking about you people conversing
30 with him; you conversed with him all right, didn't you? A. After he came out of them.

Q. No, in his ordinary periods? A. Yes, sir.

Q. And you understood all he said? A. Yes, sir.

Q. And he understood all you said? A. Yes, sir.

Q. Now, in 1907, after he was married, did the same condition of affairs exist then? A. I hadn't
40 seen him then.

Mrs. Margaret Hall—Re-direct

Q. No, that is right. Now, in 1908 did you see him? A. No, sir.

Q. Did you see him in 1909? A. I don't know; I didn't keep no track of the dates when he came to see us.

Q. Well, you have been rather intimately acquainted with him, haven't you? A. Yes, sir. 10

Q. Do you remember seeing him very often in 1911? A. I have often seen him on the street.

Q. Conversed with him? A. No, sir.

Q. Did he converse with you? A. If he came there to the house. I don't just remember.

Q. He used to visit your house, did he, at 72 Union Street, did he? A. Yes, sir.

Q. And he would stay for a visit of three or four hours? A. Yes, sir. 20

Q. Used to converse with you people? A. Yes, sir.

Q. And you used to talk with him? A. Yes, sir.

Q. Spent the evening with you? A. Yes, sir.

Q. You regarded him as quite an intimate friend then? A. Yes, sir.

Q. And you used to like to have him come down there to see you? A. Why wouldn't we?

Q. Well, did you? A. Well, he was a friend of the family. 30

Q. Yes, and you were very glad to have him come down to visit you, weren't you? A. Yes, sir.

RE-DIRECT-EXAMINATION by Mr. Turner:

Q. Now, when you talk with him, does he tell things as they are? A. Well, at one time he says one thing, and then when you ask him again he don't remember saying it. 40

Mrs. Margaret Hall—Re-cross

Q. Did you hear him testify this morning? A. Yes, sir.

Q. Did you hear him tell how old his baby was when it died? A. Yes, sir.

10 Q. How old did he say? A. He said it was three years old.

Q. How old was the baby when it died? A. Nine months.

Q. When he is at your house visiting does he get things straight, does he tell them truthfully, exactly? A. Well, one time he does, and then another time he don't; especially after them spells; and he don't know himself for two or three days.

Q. How long has his condition been like that? A. Since he was at my house.

20 Q. No, I say you say that sometimes he tells these things and at other times he doesn't remember about them—how long has his condition been that way, when he would do those things? A. Well, for two or three days.

By the Vice Chancellor: Q. No, what period of time, how many years? A. I don't know what you mean.

Q. How many years has he been that way? A. All his life.

30 Q. Even as a child? A. Yes, sir.

RE-CROSS-EXAMINATION by Mr. Simpson:

Q. You expect to be paid for his board out of what is realized from this suit, do you not? A. Well, I expect to.

Q. And he has told you that he would pay you out of this, hasn't he? A. Well, he didn't tell me
40 how he would pay it.

George Grimminger—Direct

Q. Well, didn't he tell you that when this suit was finished you would be paid for his board and lodging? A. No, sir.

Q. What did he tell you? A. He told me if he got any money somewhere else, and could get work, he would pay it.

Q. Did he say anything about this lawsuit? A. Yes, sir. 10

Q. What did he say about that? A. He told me how he signed the papers over to his wife, and he didn't know what he was doing at the time.

Q. Didn't he tell you, in regard to this suit, that you would be paid for boarding him and keeping him? A. Yes, sir.

Q. Because this suit was pending and he was without money on that account? A. He didn't say according to the suit. 20

GEORGE GRIMMINGER, sworn:

Direct-examination by Mr. Turner:

Q. How old are you? A. Thirty-one.

Q. And you are a brother of Charles? A. Yes, sir. 30

Q. Now, how long have you lived in Jersey City? A. All my life.

Q. How long have you been in close relationship with Charles? A. All my life.

Q. How often have you see him during his lifetime? A. Very frequently.

Q. Do you know about his sickness? A. Yes, sir. 40

George Grimminger—Direct

Q. How long has he been afflicted that way? A. All his life.

Q. Do you know about how often he gets these fits or spells? A. Well, to my knowledge, in his younger days, up until 1904, or 1906, and so on, he used to get them two and three times a week.

10 Q. And did you know at the time he got married? A. Yes, sir.

Q. Did you ever talk to his wife before he married her? A. Yes, sir.

Q. Did you ever tell her about his condition? A. Yes, sir.

Q. What did she say? A. Why, she did not want to hear it. She was willing to get a crowd of hoodlums to do me up because I told her about it.

20 Q. And how many times did you talk to her about his condition? A. I talked to her about five or six times. I went and saw her after I spoke to my brother and couldn't get no sense out of him; he didn't seem to understand the meaning of anything; so I went to her; I thought she would have some sense; and she would not listen to me.

30 Mr. Simpson: I move to strike out what this witness thought, on the ground that it is incompetent evidence. He testified that he thought she would have some sense.

The Vice Chancellor: I will strike that part out, I will strike the thought out; I will permit it to stand that he went to see her.

Q. Now, did you ever talk to his wife after they were married? A. Yes, sir.

40 Q. And did you know about these transfers of property made by Charles and his wife to his father-in-law? A. Yes, sir.

George Grimminger—Direct

Q. Did you talk to Charles about those transfers? A. Yes, sir.

Q. I suppose this question is objectionable, but I will ask it: What was the conversation that you had? A. With whom do you mean—with her or with Charles?

Q. Did you talk with her about these transfers? 10
A. No, I talked to Charley about it.

Q. What did you say to Charles, and what did he say to you? A. Charles told me about it, and I told him that he had no right to do these things, and he didn't seem to understand one way or the other what I meant, or anything; he thought that everything was O. K.

Q. Did he tell you that? A. Yes, he said that everything they said was right. 20

Q. And could you influence him at all? A. No, I could not.

Q. Now, did you know about the transfer in 1911? A. Well, I did, I heard about it.

The Vice Chancellor: One moment: Is not that the transfer he is speaking about?

Q. Was it the transfer of 1911 you were talking about? A. Yes, in 1911.

Q. Now, in your conversations with Charles, have you noticed his mental condition as evidenced by his speech? A. Oh, yes. 30

Q. What has been his mental condition during his lifetime, as evidenced by his speech? A. Why, he acted very like a man out of his mind; he didn't seem to be able to comprehend anything you told him.

Q. And what about his memory? A. Very, very poor memory, very poor.

Q. And did you have any difficulty about get- 40

George Grimminger—Cross

ting the truth or the facts from him? A. Oh, yes.

Q. What difficulty? A. Why, he would, in one way, try to tell you such and such a thing, then he would turn around and tell you another thing and we couldn't make head or tail out of any of his conversations at all.

10 Q. Did you know Charles' wife was suing him for divorce? A. Yes, sir.

Q. And did you know that she got a divorce? A. Yes, I heard of it; I wasn't sure, though I heard of it.

Q. Do you know where she was living at the time this suit was brought? A. No, I think she moved from 68 Condict Street at the time the suit was brought.

20 Q. You don't know where she was living? A. I heard Union Hill.

Q. Has his condition changed from childhood up until now? A. Has it changed any? No.

CROSS-EXAMINATION by Mr. Simpson:

Q. You say, Mr. Grimminger, that between 1904 and 1906 he had these spells on an average of three times a week? A. Yes, sir.

30 Q. And he was in a pretty bad condition in those years, was he? A. He was.

Q. Was his memory rendered very bad by these spells? A. It was.

Q. And his mental condition also? A. Yes, sir.

Q. And you were aware of that, you knew it, did you? A. Yes.

Q. Were his father and mother living at that time? A. No, they hadn't been living for some years. Do you mean up to the time—

40 Q. I mean between 1904 and 1906 his parents

George Grimminger—Cross

were dead, weren't they? A. His parents were dead.

Q. What did you do to help him while he was in that condition? A. Why, I did a number of things to help him.

Q. Tell me one thing you did? A. Why, I had 10
him to doctors.

Q. What doctor did you have him to? A. Mr. Muttart.

Q. Where was his place? A. He was on Ocean Avenue at the time.

Q. When did you take him there? A. Well, to my knowledge, in 1905.

Q. In 1905 you took him to Dr. Muttart on Ocean Avenue in Jersey City, is that right? A. Yes. 20

Q. About how many times did you take him to Dr. Muttart? A. Well, he went there himself.

Q. I am asking you what you did. A. Once.

Q. You took him once? A. Yes.

Q. What other doctor did you take him to? A. That was the only doctor I took him to.

Q. Did you ever take him to any hospital? A. No, sir.

Q. With the exception of this one time when you took him to Dr. Muttart, did you ever do any- 30
thing for the boy? A. I helped him along; yes, sir.

Q. How did you help him? A. In money mat-
ters.

Q. What did you give him? A. Money.

Q. Anything else? A. No.

Q. Did you give him money, or did you advance him money? A. I gave him money.

Q. Didn't he pay you back when he got his money? A. No, sir; I never looked for it. 40

George Grimminger—Cross

Q. Did any other member of the family take him to a doctor between 1904 and 1906? A. Not to my knowledge; I couldn't tell you.

Q. Were you following him the whole time to see what was becoming of him? A. I was in his company most of the time.

10 Q. I see, and did any other member of the family take him to a doctor?

The Vice Chancellor: He said not to his knowledge.

Q. Now, you say that five or six times you went to see Mrs. Grimminger; was that before they were married? A. Yes, sir.

Q. Where did you see her? A. I saw her once in the forenoon, and then I saw her three or four

20 times in the afternoon.

Q. Where did you see her, I say? A. At West Side and De Kalb Avenue.

Q. Did she live there then? A. She lived in that vicinity.

Q. You saw her there once? A. I saw her there five times, four or five times.

Q. Corner of De Kalb Avenue and West Side? A. Yes, sir; in that vicinity.

Q. Did you go there looking for her? A. I

30 went looking for her, purposely.

Q. Where did she live at that particular time, do you know? A. I couldn't tell you the particular house, no; I knew she lived in that vicinity.

Q. And did you ever find out where she really lived? A. No, sir.

Q. And each time you went looking for her you found her on the street, did you? A. I found her; yes, sir.

Q. Did you see the transfer of this property in

40 the Evening Journal, too? A. I did.

George Grimminger—Cross

Q. Did you see the transfer in 1907? A. Not to my knowledge.

Q. That is when he and his wife conveyed it to Mrs. Alderton and her husband, and they in turn conveyed it back to your brother and his wife; did you see that one? A. No, sir.

10

Q. Didn't you and your brother have a talk over that? A. No, sir.

Q. Did you and your brother Michael have a talk over it? A. No, sir.

Q. Did you know anything about it? A. I knew about it in the respect that I was just after telling you.

Q. Well, how did you find out about it? A. Through the paper.

Q. What did you do about it? A. I went to Charley, and I asked him about it, and he didn't seem to understand anything; he didn't seem to know what he had done.

20

Q. And you felt convinced that he did not know what he had done and did not understand, did you? A. Yes, sir.

Q. And did you make any move to have his rights restored to him, or given to him? A. Why, no, I didn't, not with him.

Q. How much older are you than he? A. Three years.

30

Q. Did you know about the transfer in 1911? A. Yes, sir.

Q. What did you do about that? A. I didn't do anything; I was waiting for the lawyer; the lawyer had it in hand then, I believe.

Q. What lawyer? A. Well, I couldn't tell you; I understood that Lawyer Van Winkle had taken charge of it.

40

George Grimminger—Cross

Q. Do you remember the mortgage being made by your brother and his wife to the Columbia Building & Loan Association? A. No, sir; I do not.

Q. In 1908? A. No, sir.

10 Q. You didn't know anything about that. And your brother told you that he thought everything was all right, did he? A. One moment he would say that, and the next moment he would cry, cry like a baby. and he didn't know what he had done.

Q. Well, wasn't your mind made up that something was wrong then? A. Yes.

Q. Why didn't you do something for him? A. Well, I thought the counsellor had charge of it, that he was taking care of it.

20 Q. Well, we will take the conveyance of 1907, when you read about that one in the paper you didn't think the counsellor had charge of that, did you? A. Well, I knew he must have had charge of it, otherwise it would not have went through. I understand that Lawyer Brown had charge of it.

Q. You understood that Lawyer Brown had it? A. On her side.

30 Q. And did your brother tell you about Lawyer Brown? A. He did.

Q. At that time, eh? A. Yes.

Q. In 1907 your brother told you about Lawyer Brown; that is right, is it not? A. Well, I couldn't say about 1907; one of the years it was, I don't know what year it was.

Q. And were you present when he was buying this house at 68 Condict Street? A. I was not.

40 Q. Do you remember what became of the money, the difference between the amount he

Michael Haley—Direct

paid for the house, and the amount he received from your father's estate? A. No.

Q. Did you get any of it? A. Any of his money? No, sir.

Q. When did you first learn about his divorce suit, about the suit of his wife against him? A. Oh, well, I couldn't tell you just exactly when that was. 10

Q. But you knew about it, didn't you? A. Yes.

MICHAEL HALEY, sworn:

Direct-examination by Mr. Turner:

Q. Mr. Haley, how long have you known Charles Grimminger? A. I have known him since he was a boy, over 25 years. 20

Q. Did you have a place near where his folks lived? A. Yes, sir; I worked across the street from where his father and mother lived; I waited on them several times; I have known him since he was a boy.

Q. Do you know anything about his sickness? A. Well, he was subject to these fits once in a while. 30

Q. Did you ever see him in those fits? A. Yes, sir.

Q. Did you ever help him when he was in those fits? A. Yes, sir.

Q. Have you seen him frequently since that time? A. Yes, sir; he is living with my daughter for the last three months in the same house.

Q. Have you seen him often since he was a boy? A. Yes, sir. 40

Michael Haley—Cross

Q. Do you know anything about his state of mind, as evidenced by his conversation? A. Well, he is subject to these fits, and he is not responsible for anything he does.

10 Mr. Simpson: I object to that, and move to strike it out as being incompetent testimony.

The Vice Chancellor: The part where he said that he was not responsible for what he does will be stricken out.

Q. Does he tell things the way they are? A. He will talk to you, and in a few minutes after that will talk about something else, in a rambling kind of a way. He is not responsible for himself.

Mr. Simpson: I move to strike that out.

20 The Vice Chancellor: That part "that he is not responsible" will be stricken out.

Q. Did you know his wife? A. No, sir.

Q. Has his condition changed any from the time he was a boy until now? A. Well, he is subject to these fits once in a while, but he is about the same.

Q. I mean about his talk, his rambling talk, and saying things. A. No change or improvement.

Q. Is he always just the same? A. Yes.

30

CROSS-EXAMINATION by Mr. Turner:

Q. You say that he is with your daughter now?

A. Yes, sir.

Q. That is, Mrs. Margaret Hall? A. Mrs. Hall.

Q. And how often did you see him in the year 1914? A. Well, he is rooming with her now, for the last three months, and I seen him several
40 times before he came there.

Michael Haley—Cross

Q. How many times did you see him last year?
A. Oh, I cannot tell that; I didn't keep no track of it.

Q. How many times did you see him in the year 1906? A. I forget.

Q. Did you see him at all in 1907? A. Yes, sir. 10

Q. How many times? A. Well, I happened to meet him going along the street. I did not keep track of the times, but I met him several times; and I have known him, off and on, for the last 25 years, passing him up and down along the street occasionally, once in awhile.

Q. Do you remember when he lived at 68 Condict Street? A. No.

Q. Did you ever see him at his home there? A. See him where? 20

Q. At 68 Condict Street. A. No, sir.

Q. Were you ever so close to him in your friendship that you visited him at his house? A. Yes, I helped him along.

Q. Where was his house? A. Right where he is now, 72 Union Street.

Q. Well, he has only lived there three months, hasn't he? A. Yes.

Q. Well, outside of the three months. A. Outside of that I used to see him only once in awhile. 30

Q. Where would you usually see him outside of those three months. A. I saw him going around, walking at night with a couple of young men.

Q. What street would you see him on? A. Up on Communipaw Avenue some nights, or Monticello, walking along with a couple more young men.

Q. Going on about his own business? A. Yes, sir. 40

Mrs. Louise Tyson—Direct

Q. You never saw anything extraordinary about him, did you? A. No.

Q. Did you see him talk to people? A. Yes.

Q. Did he speak and talk to you? A. Yes.

10 Q. You never saw anything unusual about him, did you? A. No.

Q. Did you ever see him in one of these fits? A. Yes.

Q. When was it? A. Well, a few days ago.

Q. Outside of a few days ago did you ever see him in one? A. Two days ago I seen him in one.

Q. Well, outside of two days ago did you ever see him in one? A. Well, he had one about a month before that, that I heard of, but didn't see it.

20 Q. Well, he was living at 72 Union Street, wasn't he? A. Yes, but I wasn't home then when he got them.

Q. Was that where you lived, too? A. Yes.

Q. Outside of the three months, when he has lived at your house, or your daughter's house, at 72 Union Street, did you ever see him in one of these fits? A. No, not in years. I didn't come across him to see it.

30 By. Mr. Turner: Q. How many years before that did you see him in a fit? A. Well, I heard he used to have these fits, but I haven't seen them.

MRS. LOUISE TYSON, sworn:

Direct-examination by Mr. Turner:

40 Q. Where do you live, Mrs. Tyson? A. One hundred eighty-three Clerk Street.

Mrs. Louise Tyson—Direct

Q. How long have you lived in Jersey City? A. All my life.

Q. How long have you known Charles Grimlinger? A. All his life.

Q. How old are you? A. Thirty-four.

Q. And did you know Charles Grimlinger as a child? A. Yes, sir. 10

Q. Did you know about his sickness? A. Yes, sir.

Q. How long has he been subject to this sickness? They are fits, are they not? A. Yes, sir.

Q. How long has he been subject to them? A. Since I have known him.

Q. How often have you seen him in a fit? A. Well, I saw one about a month ago.

Q. Did you ever see him as a child? A. As a child he lived right next to me; and it was in my father's store that he took this spell. 20

Q. Now, have you observed his conversation? A. Yes, sir.

Q. He has talked to you, has he? A. Well, yes, he talks to me.

Q. Now, when he talked to you does he talk as people ordinarily do, as normal people do? A. Well, no, I ask him questions, and he don't seem to answer me right away. 30

Q. And does he tell you things? Did he ever tell you anything? A. No.

Q. You have had conversations with him, have you? A. Well, no, not many. Well, I haven't seen him now in a few weeks

Q. Have you heard him talk with other people? A. Yes.

Q. Now, does he talk as a normal person talks?

Mr. Simpson: I object, if your Honor please. 40

Mrs. Louise Tyson—Cross

The Vice Chancellor: The objection will be sustained.

Q. Just tell us how he talks? A. Well, I don't know; he don't seem to talk in the right way, I don't think.

10 Q. Does he tell things as they are? A. No.

Q. What have you observed about what he says? A. Well, he told me about him signing these papers, and said he didn't feel in his right mind when he was doing it, he said he felt sick. I asked him why he signed them, and he said, "Well, I didn't feel right when I was signing the papers," that his people told him to do it, his wife's people.

20 Q. Has he ever talked to you about other things? A. No, I don't talk to him very much.

Q. Well, have you heard him talk about other things? A. No.

Q. Now, from the time in his childhood when he had these fits until now, did you observe any change in him? A. No.

CROSS-EXAMINATION by Mr. Simpson:

Q. You do notice a change in him, don't you?

30 A. I don't notice any change. He seems to be the same in his talk and his manner.

Q. How often have you seen him, or did you see him, in 1906? A. I don't remember.

Q. Did you see him at all in 1907? A. I don't think so.

Q. Did you see him at all in 1911? A. Well, I have seen him lots of times on the street.

Q. What was he doing? A. Well, when I would see him he was standing at the Junction.

40 Q. Did you stop and talk to him? A. Just asked him how he felt, and things like that.

Mrs. Louise Tyson—Cross

Q. What did he tell you? A. He didn't seem to say anything, he didn't seem to talk to you much.

Q. When you asked him anything didn't he talk? A. Well, he talked, but he seems to be awfully—

Q. (Interrupting.) Did you ever go to see him when he lived at Sixty-eight Condict Street, when he was married? A. No. 10

Q. You don't know whether he took any of these fits in 1911, do you? A. I don't know when he took them; I know he is subject to them.

Q. Of course you remember when he was a child he had them? A. He had them, yes.

Q. And have you seen him in any of them lately? A. About a month ago I was over there, just happened to drop in, and saw him in one. 20

Q. Are you a friend of Mrs. Haley's? A. Yes.

Q. A friend of Mrs. Hall's, I mean. A. Yes.

Q. And a friend of Michael Haley's? A. Well, that is her father.

Q. You just chanced to drop into Mrs. Hall's about a month ago? A. Well, I always go there, generally stop there.

Q. How long have you known Mrs. Hall? A. Oh, most all of my time.

Q. Did Grimminger ever board with you? A. No. 30

Q. Did you ever know his wife? A. No.

Q. Think back and tell me, outside of this month ago, when you saw him have one of these spells or fits? A. I don't remember when I saw him.

Q. You don't know how long ago? A. Well, I haven't seen him.

Q. Well, is it so long ago that you can't remember when he had a spell? A. I don't see him like 40

Charles Grimminger—Direct

Mrs. Hall does. She has told me that he had these spells.

Q. Who did? A. Mrs. Hall, when I go to see her, she say, "Charley has had another spell."

Q. Did you see him in that spell? A. Not the
10 one yesterday, no.

Q. Well, the one she spoke to you about a month ago? A. I saw him in that myself.

Q. And she told you he had a spell too, did she? A. Not at that time, no.

Q. Now, from the time he was a child, when he had this spell in your father's store, up to the one you saw a month ago, have you seen him in any of these spells yourself—seen them yourself? A. No.

20

 CHARLES GRIMMINGER, re-called:

Direct-examination by Mr. Turner:

Q. Do you know what a mortgage is? A. I don't understand anything about a mortgage.

Q. Well, did you ever sign a paper that was called a mortgage on this house? A. I don't believe I did.
30

Q. Have you any recollection of it? A. No.

Q. Did you get any money from anybody, and sign over the house on account of it.

Q. From nobody at all? A. From nobody at all.

Q. Did you ever get any money from anybody on account of the house? A. No.

By the Vice Chancellor: Q. Did you get any
40 money from a building loan? A. No, sir.

Charles Grimminger—Cross

CROSS-EXAMINATION by Mr. Simpson:

Q. Were you ever in Mr. Gordon's office? Do you know James A. Gordon, the lawyer? A. No, sir; I was never in his office alone.

Q. Do you remember signing a mortgage in his office, before him? A. No.

Q. A \$500 mortgage? A. I don't remember at all. 10

Q. You remember, in 1908, going to Mr. Gordon's office and signing this mortgage? A. No, sir.

Q. Did you know one was being put on the property by you and your wife? A. No, sir.

Q. Didn't know anything about that? A. Don't remember anything about it at all.

Mr. Turner: If the Court please, the Doctor left; they say, two hours ago, and I cannot understand why he is not here. 20

The Vice Chancellor: What doctor was it?

Mr. Turner: It was a doctor from Dr. King's office, who recently examined Mr. Grimminger when he was sent to the jail for observation, from the City Hospital; and I thought that his testimony might be relevant.

The Vice Chancellor: Have you any further testimony? 30

Mr. Turner: No, sir. If the Doctor comes I should like to have an opportunity to examine him.

The Vice Chancellor: What do you want to use this doctor for—as an expert, to show the character of this disease, and its progress, and the way people act with it, 40

Mrs. Alice Alderton—Direct

and the way it affects the mind, and all of that?

Mr. Turner: Yes, sir.

The Vice Chancellor: Well, you can close your case subject to calling the doctor.

10

Mr. Simpson: I should like to recall Michael Grimminger for further cross-examination.

WILLIAM MICHAEL GRIMMINGER, recalled:

Further cross-examination by Mr. Simpson:

20

Q. Mr. Grimminger, at the time that your brother Charles received the money from your father's estate, you had him pay to you \$1,300 did you not? A. Yes, sir.

The case for the defendants.

MRS. ALICE ALDERTON, sworn:

30

Direct-examination by Mr. Simpson:

Q. Mrs. Alderton, you are the wife of John Alderton, are you not? A. Yes, sir.

Q. And you live at Sixty-eight Condict Street, Jersey City? A. Yes, sir.

Q. I show you Exhibit C-4 in this case, and ask you who gave you that deed? A. Well, Charles and Frances E. Grimminger

40

Q. What were the circumstances growing out of

Mrs. Alice Alderton—Direct

the giving of this deed? A. Is this the first deed, Mr. Simpson?

Q. It is the one of April 26, 1907? A. Is this the first one?

Q. Yes. A. Now, you want to know what the cause was of this deed?

Q. Well, I don't care so much about that, but about this one where it was conveyed to you and your husband. A. You want to know the reason it was conveyed to us? 10

Q. Yes, just tell his Honor. A. Well, your Honor, these people were in reduced circumstances; Charles Grimminger was not working, and his wife was not able to work; she has been a very delicate woman since her marriage to Charles Grimminger. Now, they had this loan from the building and loan; it was on a mortgage, you know; and they couldn't keep that up, they couldn't pay the taxes and water rates and other things that was to pay, and they couldn't pay for their meat, and I didn't feel inclined to support those two people and have nothing for it, and I wished to have pay, and the only pay I could get was for them to transfer this place over to my husband and I, until such time as they could pay us our money. We paid these things that was paid out, the taxes and building and loan and all that up to the time stated. 20 30

Q. Are you willing to return this property to Charles Grimminger? A. And his wife—those two we took it from, as it was then.

Q. What did Charles Grimminger tell you at the time you and your husband took the title to it?

A. Well, he told us that he wanted someone to pay these bills, and he hadn't anybody only his 40

Mrs. Alice Alderton—Direct

brother, and he could not trust him, and seeing that we were in the house living with them, he would rather trust us, which he did. We did not ask him for this deed at all.

10 Q. Now, you know what moneys you have paid, you and your husband, on account of this property?

The Vice Chancellor: Well, that would be the subject of the accounting.

Mr. Simpson: Well, all right.

Q. At that time, or in the year 1911 when this deed was executed by Grimminger, where was it executed? A. With Mr. Brown.

Q. At his office? A. Well, I don't know where they went; him and her went.

20 Q. Were you present when Grimminger and his wife signed that? A. No, sir; we were called on afterwards; we were telephoned to to come up the next day, my husband and I.

Q. Have you ever refused to turn this property over to Charles Grimminger and his wife? A. Well, we didn't refuse, only we asked for our money, what we had laid out, our expenses, and then we were quite ready to turn it over to them back again in good condition.

30 Q. What part of the house has he occupied for storage purposes?

The Vice Chancellor: Now, is that material?

Mr. Simpson: Yes, I think I set up in the answer that he partly occupied it, and they seem to deny it, excepting they try to show that it was an attic room.

40 The Vice Chancellor: Well, if you are going to an accounting on this, the Master

Argument

can take testimony as to the space occupied by the defendant and the space occupied by the complainant. Is there any reason in this case why Mrs. Alderton and her husband should not be allowed credit for not only what they paid on account of the upkeep of this property, as well as for the maintenance of the complainant and his wife? There is no question about what they paid for the upkeep of the property, but how about the moneys that they paid for the maintenance of the complainant and his wife while they lived there? 10

Mr. Turner: If the Court please, there is grave question as to whether they have paid anything themselves at all. 20

The Vice Chancellor: I know, but is not that a matter for the accounting?

Mr. Turner: Yes, I think it is.

The Vice Chancellor: Am I not to only settle the principle here as to whether or not they should be allowed for whatever moneys they spent for the maintenance of the complainant and his wife? Now, if they gave them two dollars a week, or three dollars, or four dollars, or whatever it might be to support them, why should not they be allowed that sum on the accounting, before the property is returned. 30

Mr. Turner: Probably they should, sir.

The Vice Chancellor: I am not saying it should be, but I am only asking you to see if there is any objection to that feature of the case.

Mr. Turner: On the mortgage, of course 40

Argument

we contend the moneys went to the Aldertons.

The Vice Chancellor: Well, that is a matter that will be taken into the accounting as well.

10

Mr. Turner: But it seems to me that there is this question which is left: These defendants Alderton were wrongfully in this property; they were not there as a matter of right; and if expenses were incurred, they were incurred by them in their own wrong, so to speak; they were under no obligation to support or to care for anybody. If they chose to advance moneys for the Grimmingers, they were mere volunteers.

20

The Vice Chancellor: What about advances to paint the building &c.?

Mr. Turner: So far as painting the building is concerned, they did that of their own volition; they were purely volunteers, it seems to me.

The Vice Chancellor: I would not say so.

30

Mr. Turner: They would have to show that it was necessary for the preservation of the building.

The Vice Chancellor: I assume that when a man paints a house he does it to preserve the building; but for whatever they did for the preservation or protection of this property (reasonably, I don't say extravagantly) aren't they entitled to a return of, before a written conveyance is made, or the deed returned.

40

Mr. Turner: Well, it seems to me, sir.

Argument

that having gone into this property fraudulently without any right, because they simply moved in with their daughter—

The Vice Chancellor: Well, wouldn't they be charged for rent?

Mr. Turner: I think they are chargeable for rent, beyond question. 10

The Vice Chancellor: Well, that is a matter for the accounting. What I am getting at is this—In the present situation of affairs the defendant, the defendants, the A dertons, say that they have advanced certain moneys on account, first, of the maintenance of the complainant and his wife. They desire to be reimbursed for that. Second, that they have expended moneys in the payment of taxes, water rents and repairs, where the repairs were necessarily made for the protection and preservation of the property, and they want an accounting for that. Now, why are they not, upon the accounting, entitled to be allowed for any moneys they reasonably expended for the support of the complainant and his wife, as well as for repairs and other necessary disbursements on account of the property? 20 30

Mr. Turner: Well, it would seem to me, sir, that being volunteers—

The Vice Chancellor: Where do you get the idea of volunteers? They have got a deed.

Mr. Turner: Yes, but if they advance money for the support of the complainant and his wife, for illustration, they were under no obligation to do that. 40

Argument

10 The Vice Chancellor: No, I am not obliged to loan you money, but suppose I do, am I not entitled to take a return of it? If it is shown that they voluntarily supported the complainant and his wife, and did not do it under the understanding, or with the idea that they were to be repaid, so that it was a mere gift, that is another proposition; but that is all a matter that will come up before the Master.

Mr. Turner: Well, of course, if the Court treats those as questions which should come up before the Master, why, naturally, they are disputed facts, of course, and would have to be settled there.

20 The Vice Chancellor: Well, doesn't every statement of an account almost involve disputed questions of fact, which the Master is to pass upon?

Mr. Turner: Yes, sir; but here is another question I would like to call the Court's attention to, namely, the fact that this witness says she is willing to return the property to Charles, and his wife.

30 The Vice Chancellor: Well, that is a question that would have to be decided here.

Mr. Turner: She is careful enough to say that. Now, of course, Charles has no wife, because she has got a divorce from him.

40 The Vice Chancellor: Well, the title up to the present time stands in the name of the Aldertons; if there is a reconveyance made at the present time, it would go back to the complainant and his former wife. Before

Mrs. Alice Alderton—Direct

that happens it has got to be determined whether or not the conveyance that was made in 1906 was made by a man that was so mentally deficient that he was incapable of making a deed, and that he had no competent independent advice at the time. That is another proposition that I will decide; but what I want to understand is this, whether counsel disputes the right of the defendants, the Aldertons, to be paid what they expended for the support of the complainant and his wife while they were living in that household, they accounting for the use and occupation? 10

Mr. Turner: Well, it seems to me, sir, under all the facts in this case, as the facts stand now, that this complainant was mentally deficient; that Miss Alderton when she married him, had been warned that he was mentally deficient; and that having then brought him into the family, and all of them having moved into his house, they are not entitled to charge against him any moneys that they advanced for the support of himself and his wife. 20

The Vice Chancellor: You may proceed with the case then. 30

Q. At the time you had that deed given to you, did you have any talk with Charles Grimminger about it? A. This last deed?

Q. Yes. A. No, sir.

Q. The deed to you and your husband? A. No, sir; we did it to give them a home; we did it to keep them in a home.

Q. What did he say about that, anything? A. 40

Mrs. Alice Alderton—Cross

Well, he asked us, but my husband said no, positively.

10 Q. What did he say when he asked for this change? A. Well, he asked us, my husband and I, if we would be willing to take this property over if the deed was given to us and until such time as they could take it back. Well, my husband said positively no, that he would have nothing to do with it. And then my husband told Charles Grimminger to go to his brother, and he said no, if he went to his brother, he said, he would do it, but he wouldn't have no home at all and she wouldn't have one very long. Now, we took the place and gave them both a home, and kept them, and that is the truth, sir; and I never had any
20 trouble with Charles Grimminger.

Q. Did Charles Grimminger ever tender you any moneys to reimburse you for what you had expended for his account? A. No, sir.

Q. From the time of his marriage have you noticed anything in his mental condition? A. Nothing to speak about; he would take those spells once in awhile. I did not see him in the first one, I saw him in the second one.

30 Q. Did he follow any employment? A. Well, when he felt like it. That is all the trouble.

Q. What was the trouble? A. Well, he wouldn't work. He is lazy, that is the truth. He can work; he is just as able to work as what my husband was; and it was very comfortable when he would do the thing that was right.

CROSS-EXAMINATION by Mr. Turner:

40 Q. Do you consider him able to work now? A. Well, if he wanted a new suit of clothes he would go to work for it.

Mrs. Alice Alderton—Cross

Q. Do you think he is now able to work, if he wanted a new suit of clothes? A. Well, I haven't seen him from the started after he went away until I met him here today. He came to my house then to get his bed and what was belonging to him there.

Q. When did he leave your house? A. Well, I couldn't just say; it might have been a week or two weeks before Easter. 10

Q. This last Easter? A. Yes.

Q. And up to that time he had always lived there, had he? A. Oh, yes, always lived with us.

Q. And your daughter lived there too? A. Well, up to the time she took proceedings for a divorce.

By the Vice Chancellor: Q. When was that? A. Well, you may say she never left entirely; she was back and forth all the time; but she went and stayed with friends of ours, and she went to work when she was able to. Part of the time she is not able to work. That is what the trouble is. 20

By Mr. Turner: Q. So she was really living at your house when the proceedings were going on? A. Well, she went away, but she came back and forward to see me all the time; I always knew where she was. 30

Q. Where was she? A. She was in North Bergen.

Q. Whereabouts? A. Am I supposed to say just where?

The Vice Chancellor: Yes.

A. Well, she was in North Bergen, in Angelica Street; further than that, the lady did not wish her name handled in the Court. 40

Mrs. Alice Alderton—Cross

Q. Who is the lady—is she a relative of yours?

A. I am not at liberty to use that lady's name—

Mr. Simpson: Just a moment; I object to that as not being cross-examination.

10 The Vice Chancellor: How is that material?

Mr. Turner: Why, if the Court please, I think it is material, in that it will show the plan of the defendants to get rid of this complainant entirely.

The Vice Chancellor: I will permit you to show that she was living in North Bergen; now, you have not shown when these proceedings for divorce were taken.

20 Q. When did your daughter go to North Bergen? A. Well, I don't know whether it was February; I can't say; it might have been later than that; it might have been April, or anything; I couldn't tell you anything about it; you will have to ask her for herself.

Q. Do you know when she started her divorce suit? A. Yes, sir.

Q. When? A. In January, 1913; that is right, Mr. Simpson, is it not?

Q. January, 1913? A. Yes, this is 1913.

30 Q. Was it January this year or last year she started the divorce suit? A. Why, she got it last year.

Q. Now, then, you say that you are willing to return the property? A. When we get our money that is due, coming to us, we will do so on them conditions.

40 Q. You are willing to return the property to Charles Grimminger and his wife, you say? A. Yes; after we have been paid for what we have done and what they us, we will return it.

Mrs. Alice Alderton—Cross

Q. You know his wife has a divorce now, don't you? A. Yes.

Q. And you want to return the property to your daughter who has a divorce from Charles? A. Well, that wasn't so then; she was his wife then.

Q. But now you want to return it to her? A. We will return it back to the two we took it from. I think that is honest. 10

Q. Is your daughter married again? A. Well, she is married—

Mr. Simpson: I object to that.

A. You have no right to ask me those questions.

The Vice Chancellor: One moment, madam; you do not rule on these questions; your counsel will object.

Mr. Simpson: I object to it, on the ground that it is not cross-examination. There was nothing asked this witness about her daughter. 20

The Vice Chancellor: I will permit the question.

A. Yes, sir.

Q. What is her present husband's name? A. William Goodman.

Q. And she lives in Union Hill? A. Yes, now.

Q. Now, then, did the Receiver make a demand upon you for rent? A. No, sir; he came, and he told me that you sent him to see if I would pay him a rental for the house, and I told him— 30

The Vice Chancellor: How is this cross-examination?

Mr. Turner: Well, the witness says that she is willing to turn the property over, and I want to see why she was not willing to pay rent. 40

Mrs. Alice Alderton—Cross

The Vice Chancellor: Why should she pay rent while there is anything owing to her? Perhaps if you pay what is owing to her she will turn the property over without any—

10 Mr. Turner: The point I had in mind was that she has had the property so many years—

The Witness: I have not, sir.

The Vice Chancellor: Now, madam, do not say anything until you are asked.

Mr. Turner: Then, undoubtedly, any claim which she might have had of course would have been extinguished; therefore I want to show what her idea was.

20 The Vice Chancellor: Oh, well, this is an action to set aside this conveyance, and I do not see that that is material.

Q. Now, then, where did Charles Griminger live in that house, Sixty-eight Condict Street, at the time we went away? A. In the attic.

Q. How long had he lived in the attic? A. After his wife left.

Q. Since January 1913 had he lived in the attic?

30 A. Oh, no; in the summer he got like that, that he would like to be alone; he said so; he asked us to let him go upstairs in the two attics by himself, and he had them furnished up there, and he was very comfortable.

By the Vice Chancellor: Q. What time did he go to live in the attic? A. During the summer, last summer.

Q. 1914? A. No, this is 1914, isn't it?

Q. Yes. A. Well, last summer.

40 Q. You mean 1913? A. Yes.

Mrs. Alice Alderton—Cross

Q. Now, was his wife living with him in your house when this deed was delivered to you? A. She has not lived with him—

Q. Answer my question—was his wife living with him in your house, in the house Sixty-eight Condict Street, when this deed was delivered to you? A. Yes. 10

Q. They were living together then? A. Yes.

Q. Was there any quarrel or dispute between them at that time? A. No, no disputes, only about over money matters and work, you know.

Q. But otherwise they were living there harmoniously? A. Yes, just like every man and wife. They had these money troubles all the time.

By Mr. Turner: Q. What was his mental condition then, as you observed it—the same as it is now? A. No, he looks a little worse now, I guess. 20

Q. Would you call him lazy, then? A. Yes, you would, when a man is able to work and won't.

Q. He worked at the Cordage Works, didn't he? A. Well, two or three months, I don't know how long; maybe six weeks.

Q. Nine dollars he got? A. I don't know what he got.

Q. He gave that to you? A. No, sir; I got no money from him; he would not give me a cent of money. 30

Q. Gave it to his wife? A. I don't know anything about his wife.

Q. You don't know whether he gave the money to his wife? A. No; a man and wife has their own business between them; my husband and me has ours.

Q. If he gave that money to his wife, then was there any reason for your supporting him and his wife? A. She didn't get it. 40

Mrs. Alice Alderton—Cross

Q. How do you know? A. Because I know she didn't; he couldn't dress and go on the way he did and give her money to support her, and he did not do so.

10 Q. Couldn't dress the way he did? A. No, he couldn't.

Q. Why, didn't you say he would go to work when he wanted a suit of clothes? A. I didn't say anything of the sort. You are mistaken.

Q. And when did you first learn about his having had fits? A. After he came home with her from Washington.

Q. From Washington? A. Yes, from their wedding trip.

20 Q. Who told you? A. She told me herself when she came home; she said "Mamma, I have got something terrible to tell you;" and when she told me I told her she ought to have telegraphed home right away when he had it; he had it when they were on their honeymoon in Washington.

Q. In Washington? A. Yes, sir.

Q. And did you see him very often before they were married? A. Yes, he came frequently to my house.

30 Q. Did you talk to him? A. Yes, I talked to him.

Q. Did he look then as he does now? A. Well, he looked just like any other man would do; he was all right then.

Q. He looked then as he does now? A. No, he did not; he was brighter, by far; he was all right when he was coming back and forward to our house.

40 Q. And he had a fit at Washington, on his honeymoon? A. So my daughter told me; and that was the first time she knew about it.

Mrs. Alice Alderton—Cross

The Vice Chancellor: Strike that out.

Q. How do you know what she knew? A. Well, how does he know? He has asked me a question that I have got to answer.

Q. Now, when did you first know him to have a fit? A. During the Spring of that year. He had one on a Sunday. 10

Q. On Sunday? A. Yes.

Q. And this was in 1906, was it? A. The year they were married. They were married in 1906, and in the Spring of the next year he had one one Sunday afternoon.

Q. How many fits did he have that year? A. Well, I don't know; he didn't have them so often then. He would have one—

Q. Once a month? A. Oh, no, sir, he didn't have one in two and three months; sometimes he would go six months before he would have one. 20

Q. When was this baby born? A. Well, three years after that—no, let me see, don't let me tell lies; the baby was born two years after they were married, I think.

Q. Two years after they were married? A. I think so, I wouldn't positively say.

Q. Now then, you knew that when they were on their honeymoon he had these fits? A. When they came home, I said. 30

Q. Your daughter told you? A. Yes, sir.

Q. Did you object to their living together as man and wife? A. Well, I said she ought not to have stayed, that she ought to have come home right away.

Q. But they lived with you after that, didn't they? A. No, sir; we lived with them.

Q. Well, you lived with them? A. Yes. 40

Mrs. Alice Alderton—Cross

Q. Did you object to their living together as man and wife after you knew he was subject to these fits? A. Why, I had nothing to do with that; we didn't interfere with him nor them as man and wife; and we were all right together; I hadn't anything to do with that.

10 Q. You didn't say anything? A. I said it was a pity that it was so, but that we would just have to take care of them; and he didn't come to any bad harm; he was all right there.

Q. Now, how old was this child when it died? A. Well, she took sick when she was two months old, and she died with pneumonia.

Q. How old was she? A. Two months old when she took sick.

20 Q. How old was she when she died? A. Six.

Q. Six months old? A. Yes, sir; she died on the fifth of July.

Q. Did you ask that these conveyances be made to yourself and your husband by your daughter and her husband? A. Oh, no, sir, I did not ask for it.

Q. You did not want them made, did you? A. Not in the first place, not at all. He said things to us, how it was, and then we gave our consent to it when we saw how it was going to be with him and her.

By the Vice Chancellor: Q. What do you mean, you gave your consent to it? What do you mean "then we gave our consent when we found out how things were going between him and her"? A. They were so poor, and they didn't have any money, and I was tired of forwarding money to the two of them; and that is how it came to be done. I wanted my money then, and I wanted to

40

Mrs. Alice Alderton—Cross

get away from there altogether, my husband and I both; we did not want to stay there.

By Mr. Turner: Q. What year was it when you saw how things were going there? A. Well, it was three years ago.

Q. In 1911? A. Yes.

Q. But what was the occasion of the transfers in 1907? A. Oh, well, that was that he wanted her to have her name on the deed, as well as his, in case anything should happen to him, that she wouldn't be left without anything to live on. 10

Q. Did he say that? A. Yes, I had nothing to do with that, Mr. Turner.

Q. You had nothing to do with that at all? A. No, sir; I had nothing to do with that at all.

Q. Then you had nothing to do with the transfers until 1911? A. No, sir. 20

Q. And you knew that in 1911 the property stood in your daughter's name as well as his, did you? A. Oh, yes, sir.

Q. Now, you say that in 1907 he wanted his property made over, so that in case anything happened to him she wouldn't be left without anything to live on; was there any reason to expect anything to happen to him? A. No, but you don't know how long you are going to live.

Q. Well, didn't he say he wanted it so— A. (Interrupting.) He said he wanted it so that she would be saved a home. 30

Q. What occasion was there for that? A. Well, I guess he can tell you the occasion there was.

Q. Well, he says he did not want it that way? A. Oh, he tells untruths.

Q. You did not have any talk about it, did you, with him? A. No, sir; not at all; I had nothing to do with that question. 40

Mrs. Alice Alderton—Cross

Q. Well, who first thought about the fact that something might happen to him? A. I don't know.

Q. Didn't it occur to you that he had had these fits, and that something might happen to him? A.

No, sir; I was not interested in that at all. I had my husband to support me.

10 Q. Now then, in 1906, they supported themselves all right, didn't they? A. Well, for about three months.

Q. And in 1907 they supported themselves all right, didn't they? A. No, sir.

Q. What did they do then? A. How are you going to support yourself—

The Vice Chancellor: Do not argue; answer the question.

20 A. I boarded them at my table when they had nothing to eat, sir; that is how they ate with me; because there was times that she did not have anything to eat but a cup of tea and a bit of bread.

Q. Did he have any money in the bank? A. I don't know. He had a little money after they got settled, but I didn't know anything about it.

Q. Do you know how much he had? A. No, sir.

Q. Do you know what he did with it? A. No, sir; I had nothing to do with that at all.

30 Q. Did you have any conversations about the money? A. Mr. Grimminger is a man that wouldn't talk to you.

Q. Wouldn't talk to you? A. No, sir; not about his business.

Q. Wouldn't tell you anything? A. Not about his business; no, sir.

Q. He doesn't talk to you like other people do, does he? A. Why not?

40 Q. Does he? A. I guess he does. To me he did

Mrs. Alice Alderton—Cross

Q. And after the time when this property was transferred, in 1911, to you and your husband, did your daughter and Charles live together as man and wife, ever, after that? A. Well, I couldn't just give dates and facts about that.

Q. But you know when it was transferred to you and your husband, don't you? A. Yes, that is 10
three years ago in April.

Q. Now, did they ever, after that transfer, live together as husband and wife in your house? A. I couldn't say. They ate together and all that; but I couldn't say anything more than that.

Q. Well, did they room together? A. I couldn't tell you that. That is a house where we have our own places; they had their rooms and we had ours.

Q. Did they spend their time together after that? A. Well, I don't know; once in awhile. 20

Q. Did they go out together? A. Well, I couldn't tell you.

Q. Don't you know? A. No, sir; I couldn't really tell you that truthfully.

Q. Well, is it not impressed on your mind, the importance of the time when you got title to this property? A. Well, they were all right when the title was given. 30

Q. Now, they lived together some time after that didn't they, all right? A. Well, in front of me they did.

Q. In front of you they did? A. Yes, in front of me; but further than that, Mr. Turner, I cannot say.

Q. Well, now, in 1912, did they live together all right as man and wife? A. No.

Q. No? A. No, sir. 40

Mrs. Alice Alderton—Cross

Q. When did they stop? A. Well, I guess three years, if not more; I couldn't just say exactly.

By the Vice Chancellor: Q. Did they live together during the summer of 1911? A. I couldn't say positively, sir.

Q. When did your daughter leave your house finally? A. Well, finally she left us before she got her divorce, you know back and forth; she was between here and there.

By Mr. Turner: Q. Well, now, during that period when she went back and forth did she sleep at your house? A. No, sir.

Q. Did she come there in the daytime? A. Yes, when she came; sometimes she came in the evening.

Q. Did she work during that period? A. When she was able to.

Q. Where did she work? A. Well, she worked in—

The Vice Chancellor: What is the use of going into all of that.

Q. Now you have been in the premises since 1907? A. Pardon?

Q. You have occupied these premises since 1907? A. With the Grimmingers, yes.

Q. And you are still there? A. Yes, sir.

Q. And you have taken an appeal in the suit brought against you by Mr. Fairbanks, the receiver?

The Vice Chancellor: Does the record show that?

Mr. Turner: Yes, sir.

The Vice Chancellor: Well, how can she testify better than what the record shows?

Mrs. Alice Alderton—Cross

Q. Who asked you to come there to live? A. To Sixty-eight?

Q. Yes. A. Well, Charles and his wife, because they said the house was too large for them, and I was paying rent on West Side Avenue, and they thought if I came there and gave them my rent that I was paying, that that would help to keep them, and keep the property good, and that is how we went. We did not have to go there. 10

Q. Did you give them your rent, that you had been paying? A. Yes, I positively did.

Q. How much? A. Well, I began first with \$11.00 a month.

Q. \$11.00 a month? A. Yes, I had two attics, the back bedroom and the use of the kitchen; that was my part of the house. 20

Q. How long did you pay that rent? A. Well, I paid it until the deed was conveyed over.

Q. Who did you pay it to? A. I paid it to them both.

Q. No, you didn't; whom did you pay it to? Mr. Simpson: I object to that.

The Vice Chancellor: That is no way to do, to argue with the witness.

By the Vice Chancellor: Q. Whom did you hand the money to? A. Well, I handed it to my daughter. 30

Q. You handed it to your daughter? A. Yes, sir.

By Mr. Turner: Q. Did your daughter give you a receipt? A. Yes, sir.

Q. Have you got them? A. Well, I expect I have; I had them.

Q. Now, you paid your daughter \$11.00 a month, then, for how long? A. Well, up to the last year; and then I gave her \$14.00. 40

Mrs. Alice Alderton—Cross

Q. Up to what last year? A. The 1st year before it was conveyed.

Q. What year do you mean now? A. Well, that would be 1910. It was conveyed in 1911.

10 Q. Up to 1910 you gave your daughter \$11.00 a month? A. Yes, and I paid half of the coal and half of the gas.

Q. And then, after 1910, how much did you pay? A. \$14.00.

Q. Whom did you pay that to? A. My daughter.

Q. Paid it to your daughter? A. Yes.

Q. When did you stop paying the \$14.00 to your daughter? A. When this transaction was begun. Then I left off paying rent.

20 Q. In 1911? A. Yes.

Q. You stopped paying then to your daughter? A. Yes, sir. Wasn't it time?

Q. Now, if it was the fact that your daughter and her husband owed you all this money for board and other bills why did you continue to pay rent up to 1911? A. Well, that girl didn't have any money, only the money I gave her; she didn't have any money to turn around with. Can a woman live without a cent?

30 Q. Well, this \$14.00 a month was given to your daughter, wasn't it? A. Yes.

Q. And she gave you a receipt, did she? A. Yes. I expect I have got the receipt home.

By the Vice Chancellor: Q. By the way, had you any agreement with Mr. Grimminger that you would pay \$11.00 a month and \$14.00 a month? A. Well, when I first went there I told them I was paying that where I was living in West Side Avenue, and I wouldn't pay any more, and they asked
40 me to go there and leave the house I was in.

Mrs. Alice Alderton—Cross

Q. Did you tell that to Mr. Grimminger? A. Yes; I didn't do anything only with him and her together.

By Mr. Turner: Q. Did you always pay the \$11.00 while he was there? A. Well, he maybe was not standing there when I paid it, but I paid my rent when it was due. 10

Q. Now then, after your daughter and her husband ceased to room together, did you continue to pay the money to her? A. I paid the money until the place was conveyed over.

Q. And the receipts were always given to you by her? A. Yes, sir.

Q. Now, when the property stood in Charles' name alone, whom did you pay the rent to? A. It didn't stand, I don't think, but two months or three months in his name until it was reconveyed. 20

Q. Well, during the period that it did stand in his name whom did you pay the rent to? A. I don't know whether he got it or her; they got it together, that is all.

Q. Well, whom did you hand it to? A. Well, you are going to put me a long way back. Who did I hand it to? It might have been they were both there, and she might have been there alone; I couldn't tell you that positively; all I know is I did pay it. 30

Q. And you haven't got any of your receipts here, have you? A. Not here, sir, I haven't.

Q. But your daughter gave you a receipt every time, did she? A. Yes, and she has got the duplicates.

Q. Every month? A. Yes, sir.

Q. When you were paying \$14.00 a month, how much of the house did you have then? A. Not any more, sir. 40

Mrs. Alice Alderton—Cross

Q. No more of the house? A. No, sir.

Q. Why did you increase your rent? A. Well, it is a big house to keep in fire and coal; it rakes a lot of coal, from twelve to fourteen ton of coal a year; and she couldn't pay it out of what I was giving her; so I increased the rent on my own
10 account; I was a little better able to give it to her.

Q. Because your daughter needed more money? A. Well, probably she did, my daughter had a lot of trouble and expense.

Q. What trouble and expense did she have? A. Well, when she was sick and had her baby.

Q. Your daughter didn't ask you to pay more rent, you did that voluntarily? A. No, sir; my
20 daughter told me I would have to pay her more, that she couldn't do with the other.

Q. Did Charles Grimminger tell you you would have to pay more? A. Yes, his brother objected to my getting it for \$11.00.

Q. His brother objected? A. Yes, he said it was too little.

Q. Which one? A. The one sitting beside you.

Q. What did he say you should pay? A. He said I should pay \$15.00.

30 Q. When did you have this conversation with him? A. I did not. He stood in the hall and said it to my daughter and Charles, and I heard it; I stood in the kitchen and heard it.

Q. Can you produce the receipts that you got for the rent? A. Well, I couldn't promise that I can produce all the receipts I had. The duplicates are there, but I cannot produce all the receipts for the rents, how could I?

40 Q. What do you mean by "duplicates"? A.

Mrs. Alice Alderton—Re-direct

Well, when you get a receipt there is always a duplicate left, in the rent book?

By the Vice Chancellor: Q. The stub, you mean? A. Well, the stub, call it so.

Q. Who made out the receipts? A. My daughter.

Q. Your daughter? A. Yes, sir.

10

RE-DIRECT-EXAMINATION by Mr. Simpson:

Q. When was it that Michael Grimminger told you you should pay \$15.00 a month? A. Well, when I first went in he asked what rent I was going to pay, and my daughter told him \$11.00, and he said it was too little, that I ought to pay \$15.00, and I could not at that time, but when I was able to I gave her \$14.00; and that was more than I had been paying.

20

Q. Now, for the three years or so, what part of the house did your daughter occupy? A. The back bedroom.

Q. On what floor? A. The middle floor.

Q. What part of the house did Grimminger occupy? A. Well, the top floor, those attics he talks about.

By the Vice Chancellor: Q. Did you get any part of the money that was raised on bond and mortgage? A. No, sir, that went for her sickness, and her baby and doctor's bills. I got nothing of that, sir; I had nothing to do with that.

30

By Mr. Turner: Q. That was \$500, wasn't it? A. Yes, sir; I hadn't anything to do with that.

Q. Your daughter got it all, didn't she? A. And her husband. My daughter didn't get it all, I guess, when they paid the expenses—

40

Mrs. Frances E. Goodman—Direct

The Vice Chancellor: You have answered the question, you didn't get any part of it.

The Witness: No, sir, I didn't get any part of it.

10 The Vice Chancellor: That is enough.

Q. Did they pay you anything for nursing, or anything of that sort, out of the \$500? A. No, sir; she had another nurse beside me.

Q. Did she pay you anything for board out of that \$500? A. Well, she can give you an account for that.

20 Q. Did she pay her board right along? A. No, sir; she couldn't pay her board when she was not able to work; she couldn't pay her board half the time. When I got any money I got \$3.00, and that did not pay the woman's board; and it was not often I got that.

MRS. FRANCES E. GOODMAN, sworn:

Direct-examination by Mr. Simpson:

30 Q. Mrs. Goodman, where do you live? A. Union Hill.

Q. And you were formerly the wife of Charles Grimminger? A. Yes, sir.

Q. Do you remember marrying him in 1906? A. Yes, sir.

Q. At the time you married him, did you know anything about him being affected or afflicted with epileptic fits? A. No, sir; I did not.

40 Q. What was the first information you ever had that he was suffering from these fits? A. Well,

Mrs. Frances E. Goodman—Direct

his brother George came around and said he would like to see my mother and I said my mother wasn't in. I said, "Will I do?" he said "No, I want to see your mother I said, "What is the trouble?" he said "Nothing, I want to see your mother," So he would not tell me.

Q. Was that before you were married? A. 10
That was before I was married, yes.

Q. Did you ever see George Grimminger prior to this time? A. No, I only seen him once.

Q. Did he say anything to you about it at that time? A. No, that is all he said to me.

Q. Where were you living then? A. 888 West Side Avenue.

Q. That is near where? A. Corner of DeKalb Avenue, West Side. 20

Q. Did you have any conversation with Michael Grimminger before your marriage? A. I did not know him until the night I was married.

Q. And the night you were married? A. He came to the wedding and went to the church and gave his brother away?

Q. And he was party to that marriage, was he? A. He was.

Q. He was the best man? A. No, my brother was the best man, but he gave his brother away. 30

Q. Did you spend your honeymoon at Niagara Falls? A. Washington.

Q. And while you were at Washington did anything extraordinary happen? A. He had a fit on the wedding trip.

Q. Had you, ever before that time, seen him in any of these fits, or did you know that he had them? A. No, sir; I did not.

Q. Did you, before your marriage, go down to. 40

Mrs. Frances E. Goodman—Direct

Mr. Van Winkle's office and see him about his property or his money? A. No, sir; I never was in Van Winkle's office.

Q. Did he ever send you down there for anything? A. No, sir.

10 Q. Do you know anything about the \$1,300 which was paid by your husband to Michael Griminger? A. Well, when he came home and I asked him where the money was, he told me that his brother asked for \$1,300 for board for five years, and he said it was due him and he gave it to him, and I asked him for the bill, and he said he had no bill.

Q. Do you remember, after your marriage, in 1907, you and your husband executing a deed before Mr. Brown? A. Yes, I do.

Q. That was a deed to John Alderton, your father; how did that come to be made? A. That was turned over so as to have my name put on it.

Q. At whose suggestion was that done? A. Well, we talked about it, and I said, "Why don't you have my name on it," and he said, "Well, I will see," and then I guess he thought it over, and after that he came back and said "We will go up to Brown and get Mr. Brown to do it," and that

30 is how we came to do it.

Q. And do you remember this deed being made by your husband and you to your father and mother? A. Yes.

Q. In April, 1911—how did that come about? A. Well, we didn't have any money to keep the place going, and he didn't work, and I couldn't work all the time, and when I did work it wasn't much; so that is why we had to turn it over to my mother and father, so that we could have a home

40 and they keep it.

Mrs. Frances E. Goodman—Direct

Q. Before this time you two had executed a mortgage to the Columbia Building & Loan Association, hadn't you? A. Yes.

Q. Where was that mortgage executed? A. Up in the Building & Loan.

Q. Where was that? A. Up on Tonnele Avenue. 10

Q. And who was it executed before? A. Well, the people in the Building & Loan.

Q. Who was the lawyer, do you know? A. There was Lawyer Brown, and there was Gordon.

Q. James A. Gordon? A. Yes, sir.

Q. (Showing witness a pass book.) And when it was executed this is the book, you got, is it not? A. Yes, that is the book we got, number 4204, for two and a half shares. 20

Q. What was the amount of the loan you got on that? A. \$500.

Mr. Simpson: I offer this building and loan book in evidence.

Mr. Turner: I do not see that it is relevant, but I won't object to it.

The Vice Chancellor: It is only a part of the transaction. I do not imagine it throws any light on it but it may be admitted.

Marked Exhibit D-1.

Q. Have you ever refused to turn this property over to your former husband? A. No, I have nothing to do with it. 30

The Vice Chancellor: What do you mean by that, Mr. Simpson?

Mr. Simpson: I will withdraw the question, and ask to have the answer stricken out.

The Vice Chancellor: I would like to know what you mean. 40

Mrs. Frances E. Goodman—Direct

Mr. Simpson: I have in mind the fact that the title was still in her name. That is what I have in mind. It was a question that I intended to put to the mother.

10 The Vice Chancellor: Well, the answer sets forth that she claims to have an interest in this land; the present witness in her answer, sets forth that she claims an interest in the land.

Mr. Simpson: Yes, as tenant in common.

The Vice Chancellor: Well, that is not the interest you refer to when you ask her if she ever refused to transfer her interest to her husband.

20 Mr. Simpson: No, I say that is a question I intended to put to the mother, but inadvertently, I asked her.

Q. Before you married this man, how long had you known him? A. Well, I had known him four months.

Q. And during that time had you ever seen him in one of these fits? A. No, sir.

Q. At whose request did you make this conveyance from your husband and yourself to your father and mother? A. Well, we both spoke it
30 over, and talked about it at first, but it was not at anybody's request.

Q. Did your husband, at that time, say anything about it? A. No, he was willing to turn it over; that was all.

Q. Did you have any talk with him as to whether your right in the property was to be preserved or lost? A. No, I did not think anything of it.

Q. When the mortgage to the Building and Loan
40 Association was executed, did you both go up to-

Mrs. Frances E. Goodman—Cross

gether to execute it? A. No, he told me to go myself and I went.

Q. Did you meet him up there? A. The people came down to the house, and we met the men there when they came down to the house to see about the loan.

Q. Well, when that mortgage was executed, I mean, did you go up to the building and Loan? A. I forget now. I forget what I done, now; I couldn't remember all that. 10

CROSS-EXAMINATION by Mr. Turner:

Q. What was this money gotten for from the Columbia Building and Loan Association? A. Because I was going to have a baby; he had no money; I wasn't working, and I had to have the money. 20

Q. When was the baby born, what year? A. Well, I was married in 1906; it was born in about 1908, I think it was.

Q. What time in 1908 was the baby born? A. The 4th of January.

Q. The 4th of January, 1908? A. Yes.

Q. You hadn't had the baby at the time you got this money from the Columbia Building and Loan? A. No, I got it for that. 30

Q. For that? A. Yes.

Q. The first date in this book here, D-1, is November, 1908, is it not? A. Not that I am aware of.

Q. Just look at it, and see if it is not. (Showing witness Exhibit D-1.) A. Well, that had to be to take it up, we had to pay back from the time the shares came out; we had to go back to the time they let the shares out, and I had the shares back to that time. 40

Mrs. Frances E. Goodman—Cross

Q. But you had your baby earlier in 1908, hadn't you? You didn't go back, you were going ahead weren't you? Is not that November, 1908?

A. Yes.

Q. Didn't you have the baby before that? A. I had the loan before I had the baby.

10 Q. Well, now, did you have the baby? A. I had the baby in January. Then, it must have been 1909.

Q. Don't you remember what date your baby was born, what year? A. I don't remember, no; I didn't keep track.

Q. That is the only child you ever had, isn't it? A. That is the only one, yes.

Q. Well now, can you tell us when your baby
20 was born? A. The 4th of January.

Q. What year? A. Well, if you say that was 1908, it must have been 1909; it was the next year, because I got the loan afterwards. I got the loan in November.

By the Vice Chancellor: Q. Then that money was borrowed for paying the expenses of having the child? A. Of having the child; also the taxes and everything, I had to pay, as I recall it.

Q. Who handled the \$500? A. Well, I didn't
30 get it all. The building and Loan paid the taxes before I got the money.

Q. Then who got the balance after paying the taxes? A. Then, after that, Lawyer Brown took and gave it to me.

Q. Do you recollect what that amounted to? A. I couldn't tell you.

By Mr. Turner: Q. One year's taxes were paid?
A. I don't know whether there were one or two
10 years' taxes paid; I think it was over \$100; I am not sure.

Mrs. Frances E. Goodman—Cross

Q. Then you got about \$400, did you? A. Well, I couldn't say.

Q. What did you do with the \$400? A. I don't know; I couldn't tell you what I done with it.

Q. Did you give any of it to Charles? A. He certainly got his share.

Q. Did you give any of it to him? A. He got what he wanted, what he asked for. 10

Q. What did he ask for? A. I don't remember, but he got it, because he wasn't working; he never worked at the time I had the baby.

Q. Did you give him any special amount of that money? -A. No, I couldn't tell you; I know he asked me for money for clothes, he wanted a new suit of clothes, and came and asked me for the money and I gave it to him. 20

Q. How much was that? A. I couldn't tell.

Q. Well, that was about \$20.00, wasn't it? A. Well, I don't know. He paid that much for his clothes when I lived with him.

Q. Then, the rest of it you kept? A. Well, I kept it to pay for things what come against me. when he didn't work. I had a sick baby for four months had the doctor all the time.

By the Vice Chancellor: Q. Did you pay any of it to your mother? A. I did not. I didn't give my mother anything. I needed it for myself. 30

Q. Did you put the money in bank after you got it? A. No, I kept it in the house and drew what I needed of it, and kept spending it from time to time, because he didn't work, and I had to live and he had to live too.

By Mr. Turner: Q. And during this time you were getting the rent for your property from your mother too, weren't you? What did you do with 40

Mrs. Frances E. Goodman—Cross

that? A. Everything went into the house, the expenses of the house. I never had nothing.

Q. Did Charles handle that? A. No, he did not.

Q. You handled that money? A. Well, he gave me the privilege to do it.

10 Q. Well, you were better able to do it, weren't you, than he was? A. Well, no, I think he could have done it himself, if he wanted to, but he gave it over to me and told me I could do it.

Q. Did you say that you did not have any talk with Mr. Van Winkle? A. I didn't have any talk with him about the house, if that is what you mean?

Q. Well, did you have a talk with Mr. Van Winkle? A. No.

20 Q. None at all? A. Only one; there was something about when they wanted immediate money; that is the only time. I went down when his two brothers went down.

Q. Then you did go down to Mr. Van Winkle's, didn't you? A. Yes, I went down, to the office.

Q. That was before you were married, wasn't it? A. No, sir; I never met the man before that.

Q. Before the house, was bought, wasn't it? A. I never was down to the man's office.

30 Q. Well, just think now; didn't you go down before the house was bought? A. Well, I couldn't because I didn't know the man.

Q. Well, you did go down there once? A. No, I never was down there before the time I went down—

40 Q. Well, you did go down there once? A. Yes, after I was married, I was down. I wasn't there before I was married.

Mrs. Frances E. Goodman—Cross

Q. When was it that you went down? A. Well, I don't remember, I say.

Q. A good many years ago, wasn't it? A. \. I haven't been married a good many years.

Q. Did you talk with Mr. Van Winkle about Charles' condition? A. No, sir.

Q. Did you talk to Mr. Van Winkle about my money that was coming to Charles? A. No, sir; only some rents due, that was all. 10

Q. Now, the rents were due, before the estate was settled weren't they? A. Well, but I didn't know anything about that.

Q. Now, you say you went down about the rents that were due? A. Yes, but afterwards.

Q. There were not any rents in the time you were married? A. Yes, but it was not the property we are speaking of now. 20

Q. No, it was the estate property, and Charles got his share of the estate didn't he, before that time? A. Yes, he had his.

Q. Certainly he did; but you went down to Mr. Van Winkle's office to ask about rents, now, what rents did you ask about? A. Well, about some rents, about his estate property, and his brother had it.

Q. Coming to Charles? A. Yes, from his brother Mike. 30

Q. And you wanted to know what about the rents? A. Yes.

Q. That was what you asked Mr. Van Winkle about, the rents? A. Well, I was sent down there to ask him, I told you Mr. Grimminger sent me down there to ask.

Q. Tell us what you asked Mr. Van Winkle about the rents? A. Well, I asked him what rents 40

Mrs. Frances E. Goodman—Cross

were coming to Charles Grimminger, that was all, and he explained to me.

Q. What did he explain to you? A. He explained to me that he would have to look over all the papers from all the rents from the other house.

10 Q. Did Mr. Van Winkle give you any information then? A. Well, I couldn't tell, I don't remember.

Q. Did he tell you what rents were coming? A. Well, I don't remember that.

Q. He was short with you, wasn't he? A. Not that I know.

Q. You heard him testify, didn't you? A. No, I wasn't here.

20 Q. Oh, weren't you here? A. No.

Q. Then you did not get any information from Mr. Van Winkle? A. Well, I got a little.

Q. Now, did he say anything to you about your marrying Charles Grimminger? A. No, sir; nothing.

Q. Did that question come up between you? A. No, sir.

Q. Have you got a very clear recollection now about all the events that occurred that day? A.

30 Well, I couldn't say that I have.

Q. What building did you go to, to see Mr. Van Winkle? A. The First National.

Q. Which floor? A. I couldn't tell you.

Q. You don't know? A. I don't remember.

Q. How did you get up to his office? A. Up in the elevator.

Q. And do you know what time of the year it was? A. No, I do not.

40 Q. You do not remember those things? A. No.

Mrs. Frances E. Goodman—Cross

Q. Are you sure now that you have a very clear recollection of all the conversation that took place? A. I couldn't say that.

Q. You could not say that? A. No.

Q. Now then, Charles had a fit when he was on his wedding trip, hadn't he? A. Yes, sir. 10

Q. And when did he have the next fit after that? A. Well, about a week after. It happened on a Sunday.

Q. The week after that? A. Yes.

Q. And when did he have the next fit? A. Well, not for a while afterwards.

Q. How many days after? A. Well, I couldn't say whether it was days or weeks.

Q. Well, within a reasonably short time did he have another fit? A. I couldn't tell you. 20

Q. And how did they run from that time on, how often would he have fits? A. Well, not so bad.

Q. Once a month, once a week? A. No, he didn't have them every week.

Q. But nearly every week? A. No, not every week, he didn't have them.

Q. And when he was in one of these fits, how did he act, what did he do? A. Well, he lay on the floor and laid there.

Q. Speechless? A. Yes. 30

Q. Helpless? A. Yes.

Q. Paralyzed, practically? A. Yes.

Q. Stiff? A. No, he kicked.

Q. Would he say anything? A. No, he never spoke.

Q. Never spoke? A. No.

Q. When he had one of these fits, he always did that same thing, did he? A. Yes.

Q. And this continued as long as you were 40

Mrs. Frances E. Goodman—Cross

married, did it? A. Well no, not all the time; sometimes he wouldn't have one for six months, then would come on again.

Q. Always worse in hot weather? A. As a rule it was in hot weather.

10 Q. And were you afraid he might die as the result of these fits? A. Well, I didn't know what would happen.

Q. Was that the thing, because of the fits, that caused you to have the property made over in your name? A. No, sir.

Q. What was the reason? A. Well, I thought it was right that I should have my name on it.

Q. You thought it was right you should have your name on it? A. Yes.

20 Q. But you knew the property had been bought with his money, didn't you? A. Yes.

Q. Now then, why did you transfer the property to your father and mother, what was the cause of that? A. When was that, the last one?

Q. Yes, 1911. A. Oh, that was because he was not working and we had no money to keep the place going.

30 Q. But you did get the \$14.00 a month, did you? A. I know, but we had to live on that. That was all we had to live on.

Q. And you were getting that every month, weren't you? A. Yes, sir.

Q. And kept that yourself? A. Well we both lived on it.

Q. And you worked too, didn't you? A. Once in awhile.

Q. Where did you work? A. Down at the Jersey City Journal.

40 Q. What did you work on? A. I worked on the telephone books; I worked on the books.

Mrs. Frances E. Goodman—Cross

By the Vice Chancellor: Q. Right there: What did you use the \$14.00 for? A. Well, just for the house, for the table.

Q. Did you eat at your mother's table? A. Sometimes, when I didn't have nothing. When that money was done, that I had to go to my mother's. 10

Q. Did you have a separate table for yourself and your husband? A. Not for a good while we didn't. For a while after we got married we did, then afterwards we went to my mother's.

Q. You say you used the \$14.00 a month for the table? A. Yes.

Q. Was that a table for yourself and your husband? A. Yes.

Q. Then you must have had a separate table? A. Not all the time we hadn't. 20

Q. Well, sometimes? A. Just sometimes.

Q. And the months that you didn't have a separate table, you ate with your father and mother? A. Yes, sir.

Q. Well, did you give them any part of the \$14.00? A. No, sir.

Q. What did you use the money for? A. Well, I don't remember now.

By Mr. Turner: Q. You and Charles lived right in with your father and mother up to the time of the transfer in 1911? Yes. 30

Q. And how much longer after that did you live with them? A. Well, didn't live with him at all.

Q. Did you stop living with him when the transfer was made? A. I stopped before that.

Q. When did you stop? A. I stopped a little while, because he didn't work, and I stopped a little while before. 40

Mrs. Frances E. Goodman—Cross

Q. How long before? A. Just about a week.

Q. A week before the transfer was made you stopped? A. Yes. We were not talking.

Q. You mean you were not talking to him? A. Yes, we were angry at one another.

10 Q. Then what did you do after that? A. Then we got to talking again and got to sleeping again together.

Q. And then the transfer was made after you got talking again? A. We talked the matter over first, and then after we got to speaking right then he said he would turn it over.

20 By the Vice Chancellor: Q. What did you say to him about turning it over? A. Well, the only thing I said to him was I thought it was a good idea if he would turn it over, then we would have a home for ourselves; then we would be sure of a place to live in.

Q. Well, didn't you suggest to him that it ought to be turned over to your father and mother? A. Well, I asked him first, but then he was not willing at first; he went down and asked his brother first; and then he came back and he talked it over again, and he said he was willing to turn it over to my mother and father.

30 Q. And after he turned it over to your father and mother, what were they to do? A. They were going to look after the place and keep the repairs up and everything, and pay the taxes, and keep everything right, and we should have a home.

40 Q. Your father and mother were to give you and your husband a home? A. Yes, when he turned it over. That was the agreement that was made, that they would give us a home, and they were to look after the property and keep it in good repair.

Mrs. Frances E. Goodman—Cross

Q. Was there any agreement put in writing that they should give you and your husband a home?

A. No, sir; it was not drawn up.

Q. But that was the understanding? A. That was the understanding, yes.

Q. And was that told to your husband? A. Yes. 10

Q. Who told him that? A. I told him, and my mother and father told him. We all told him that that would be for a home to live together.

Q. That is, your father and mother would give you and your husband a home if he would turn over the property to them? A. Yes, sir.

By Mr. Turner: Q. Now then, how much longer after that did you live with your husband as man and wife? A. Not long.

Q. Well how many weeks, months or days? 20

A. I don't remember that.

Q. When did you go to North Bergen? A. I went there in April a year ago.

Q. What year? A. Nineteen hundred thirteen.

Q. In April, 1913, you went to North Bergen? A. Yes.

Q. Up to that time you had lived at Sixty-eight Congress Street? A. Yes, sir.

Q. With your husband, as man and wife? A. No, sir. 30

Q. With your husband? A. No, sir.

Q. Well, he was there? A. Yes, he was there, but we were not living together; he had his room and I had mine.

Q. Hadn't you always had separate rooms? A. Yes, we always had separate rooms.

Q. Weren't you living together, and eating at the same table at that time, up to the time you went to North Bergen? A. No, sir. 40

Mrs. Frances E. Goodman—Cross

Q. When did you stop eating at the same table?

A. Well, I couldn't tell you how long it is, I couldn't tell you that.

10 Q. Well, what was it, after you and your husband had made this transfer to your father and mother, that caused you and your husband to stop living together as man and wife? A. Well, we haven't been living together as man and wife in a long time, because he did not maintain me half the time.

Q. Well, he didn't maintain you, but you had the rent, and do you mean to say that you caused him to turn over the house when you were not living together as man and wife? A. No, I didn't say that.

20 Q. Well, were you living together as man and wife when he turned over the house? A. Well yes, we were up to that time.

Q. Yes; now, up to 1911, when you and he deeded the house to your father and mother, you were living together as man and wife? A. Yes.

Q. Now, what was it, after that, that caused you to stop living together as man and wife? A. I don't know.

30 Q. Well, wasn't there some reasons? A. We'll, I don't remember; he used to go his way and I went mine.

Q. Well, wasn't there any circumstances that caused you to stop living together as man and wife? A. No.

Q. Didn't you want to keep on living with him as his wife? A. Well, I don't know; I don't know whether there was any trouble or not; I can't remember.

40 Q. He had a room in the attic then, didn't he?
A. Yes, sir.

Mrs. Frances E. Goodman—Cross

Q. Where was your room? A. On the next floor.

Q. And you cannot tell us any reason why you stopped living together as man and wife? A. No, sir, I cannot.

Q. And then, what was it that caused you to institute divorce proceedings? A. Well, I was tired of living the way I was, and I didn't like the idea of him going one way and me going the other; and he didn't wish to be bothered; he wanted to go out by himself, and I didn't like it—living alone so much; so that is why it was time, I thought, to get a divorce. And he would not work, and I thought it was time—I had been getting tired of it. 10

Q. This had been going on for years, hadn't it? A. Yes, it had been going on for four years, and I was getting tired of it. 20

Q. And that is the reason you brought the divorce suit? A. Yes, sir.

Q. And when you brought this divorce suit, did you then say anything to him, or before you brought it did you say anything to him about turning the property back to him? A. No, sir.

Q. You knew that your father and mother had gotten his property, didn't you? A. Yes, sir. 30

Q. And you were going to sue him for divorce and get rid of him, weren't you? A. Yes.

Q. And was that in accordance with the agreement that you and he were to have a home there forever? A. No, it wasn't in the papers at all.

Q. But the understanding was that you and he were to have a home there, and then you started the divorce suit? A. Yes.

Q. And yet you did not say anything to him 40

Mrs. Frances E. Goodman—Cross

about turning the property back to him, did you?

A. Well, it was in my father and mother's name then.

Q. You thought he could not help himself, then?

A. I didn't think about that when I done it.

10 By the Vice Chancellor: Q. How soon after this deed was made to your father and mother did you consult a lawyer about your divorce? A. Oh, about a year afterwards; I think it was about a year after when I done that.

The Vice Chancellor: That could hardly be? When was this decree *nisi* entered?

Mr. Turner: The decree *nisi* was entered in April, 1913.

20 The Vice Chancellor: In April, 1913—then the desertion must have taken place in April, 1911, and that is the very time this deed was signed. There had to be two years elapse, including the period that it took to try the case. It was a divorce for desertion, wasn't it?

Mr. Simpson: Desertion; yes, sir.

30 Q. Then, evidently, at the very time this agreement was made by your father and mother to support you and your husband, if this deed was conveyed to them, you claimed your husband had actually deserted you and that you were not living together—that is rather an anomalous situation?

Mr. Simpson: I think if we had the dates on those things, it could be straightened out.

40 The Vice Chancellor: I have been watching that from the start; I could not see how this thing could all be done when at that very time there was an action for divorce

Mrs. Frances E. Goodman—Cross

for desertion. What is the correct date of that decree *nisi*?

Mr. Simpson: There is a reference to it in the bill of complaint.

The Vice Chancellor (Inspecting the bill): This bill was filed October 18, 1913. 10

Mr. Simpson: This bill was filed right after the final decree was entered in the cause.

Mr. Turner: The petition in the divorce suit was filed January 30, 1913.

The Vice Chancellor: So there had to be a desertion for two years prior to that date, which would bring it back to January 1911.

Mr. Turner: The affidavit was made 20
January 29, 1913, and the citation was issued on the 1st of February, 1913; the desertion is alleged in the month of August, 1910.

The Vice Chancellor: Well, you may proceed.

Mr. Turner: This is a true copy, if the Court please, certified by the Clerk in Chancery; I think I shall offer it and the citation in evidence. 30

The Vice Chancellor: What is that?

Mr. Turner: The petition for divorce.

The Vice Chancellor: I suppose if anything should go in the whole record should go in.

The citation and petition in the divorce suit were marked respectively Exhibit C-7 and C-8.

By Mr. Simpson: Q. You say that your visit, 40

Mrs. Frances E. Goodman—Cross

to Mr. Van Winkle was made after you were married—is that right? A. Yes, sir.

Q. Now, I show you a letter dated July 13, 1907, signed by Marshall Van Winkle, addressed to Thomas H. Brown, and ask you if you ever saw that before? A. Yes, sir; I did.

Q. Is that the rent that your husband sent you down to see about? A. Yes, sir.

Q. That was where his brother Michael was Receiver of the property of the three of them? A. Yes, sir.

Mr. Simpson: Is there any question about that letter?

Mr. Turner: There is no question about the letter, but I would like to cross-examine her as to how she knows about the rents.

Q. Now, how soon after you went down to see him, Mr. Van Winkle, was this letter brought to your attention? A. Well, I can't remember; I only know we had to get a lawyer of our own so as to see about this—to do the work for us.

Mr. Simpson: Do you want to cross-examine on that?

Mr. Turner: No, sir.

Mr. Simpson: Is there any objection to this letter going in?

Mr. Turner: I am willing it should go in if it is material; I do not think it is material. I do not think it relates to the question.

Mr. Turner: I offer it; I think it is.

The Vice Chancellor: I will admit it.

The letter is marked Exhibit D-2.

At this point the further hearing of the cause was adjourned until Friday, October 2d, 1914, at

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ten o'clock at the Chancery Chambers, Jersey City, N. J.

Chancery Chambers, Friday, Oct. 2, 1914. 10

Hearing of the cause resumed, pursuant to adjournment, at ten o'clock, a. m.

Mr. Simpson: At the last session, if your Honor please, we brought up the question of the date of the making of the mortgage by Grimminger and his wife to the Columbia Building & Loan Association, and we agreed that I would take the particulars from the record and read it into this record here, without producing the record—is that right, Mr. Turner? 20

Mr. Turner: Yes, sir; I think that is correct. I have not examined the record.

Mr. Simpson: The mortgage was made by Charles Grimminger and Frances E. Grimminger and wife to the Columbia Building & Loan Association, dated November 2d, 1908; acknowledged November 2, 1908 before Thomas H. Brown, attorney-at-law of New Jersey; recorded November 18, 1908, 2.26 P. M., in Book 653 of Mortgages on page 474, &c, and covers the premises on the northerly line of Condict Street 100 feet easterly of the intersection of Condict Street and Mallory Avenue. 30

The Vice Chancellor: It is the premises described in the bill?

Mr. Simpson: Yes, sir. 40

John Alderton—Direct

JOHN ALDERTON, sworn:

Direct-examination by Mr. Simpson:

Q. You live at Sixty-eighth Condict Street, Jersey City? A. Yes, sir.

10 Q. And I show you Exhibit C-4 in this case, being a deed from Charles E. Grimminger and wife to yourself and wife, and ask you if you recall the making of that deed?

The Vice Chancellor: Well, I understand, by the answer and the statement of counsel that you are willing to re-convey to Grimminger and his late wife, on being reimbursed for what you have expended on account of the property?

20 Mr. Simpson: Yes, sir; that is our position exactly. We make a tender of the property.

The Vice Chancellor: Why is it necessary, then, to go into anything more than to attempt to prove your expenses, or to refer that to a Master to ascertain it?

Mr. Simpson: That is my idea of it.

The Vice Chancellor: What have you to say to that, Mr. Turner?

30 Mr. Turner: I have this to say: As to any right which the former Mrs. Grimminger might have—

The Vice Chancellor: That is another proposition; that arises under the earlier deed.

Mr. Turner: Yes, sir. I do not know what Mr. Simpson intended to prove by this witness.

40 Mr. Simpson: I was going to prove by

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him the payments on this Building and Loan mortgage from the time he had the title.

The Vice Chancellor: Well, that might be agreed on, or referred to the Master. He probably has collected rents and expended money on account of the property, and all that; but what can this witness prove, or, rather, what can you expect, Mr. Turner, more than a return of the property back to Mrs. Grimminger and her husband, in so far as this witness is concerned? Then the question arises as to how much he has spent on account of the property and how much he has received. On an accounting, then he will be decreed to pay the excess of receipts over disbursements, if there be such, either to Mr. Grimminger (if the deed to Grimminger and his wife be set aside) or in some other manner, according to the determination of the Court as to that particular deed? 10 20

Mr. Turner: Well, sir, I contend that as to Mrs. Grimminger, she is not entitled to any part of the re-conveyance.

The Vice Chancellor: I say that is another question. 30

Mr. Turner: That is another question. It seems to me that, as to the question of an accounting between the parties, the facts in this case show, and will further show when I conclude my testimony, that they are not entitled to any allowance for moneys they have spent because of the fact that they were spending moneys on 40

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10 property where (assuming that they did spend moneys on the property) they knew they were unlawfully in possession of it, and wrongfully in possession of it, and that they were depriving Mr. Grimminger of his possession and his rights in the property.

The Vice Chancellor: Well, do you mean to say that if the conveyance of this property should be set aside Mr. Alderton would not be entitled to be reimbursed for the taxes he paid and the water rents he paid, and the necessary repairs he made to the premises?

20 Mr. Turner: It would seem to me, sir, if he were wrongfully in possession of the property, and knowingly was wrongfully in possession, that he would not be entitled to be reimbursed for any moneys that he spent. That is my view of it.

The Vice Chancellor: And would be compelled to account for the rents?

30 Mr. Turner: Well, I assume a Court of equity would compel him to account for the rents, and probably would not allow him for the moneys he had spent, if they compelled him to account for the rents.

The Vice Chancellor: Then you expect to profit by that transaction to the extent of all the moneys he has paid for the upkeep of this property, including the taxes and water rents?

40 Mr. Turner: It would seem, sir, that having taken possession of the property wrongfully, and having assumed control over it wrongfully—

John Alderton—Direct

The Vice Chancellor: Well: you can go on with the case. Proceed, Mr. Simpson.

Q. At the time that deed was made, Mr. Alderton, did you have any conversation with Grimminger in relation to the manner in which you were to hold that property? A. Well, I didn't want to take the property over. I wanted him to hand it over to his brother, but he declined to do so. 10

Q. And what was said by Grimminger and you, as to how you were to hold the property? A. That we were to turn it back to him on conditions that he met the expenses that we had attached to the place. We were quite willing to do that, and we took it over on them conditions.

Q. You say you wanted him to have his brother take title to it? A. Yes, sir. 20

Q. What did he say to that? A. He did not feel inclined to do that. He said that if he turned it over to his brother no doubt he would never get it back again.

Q. Did he say which brother? A. Yes, his eldest brother.

Q. What was his name? A. Michael.

Q. Now, have you, at any time, refused to turn this property back to Grimminger and his wife? A. No, sir. 30

Q. Has he made a tender, at any time, of any of the expenses you have been called upon to make? A. No, sir.

By the Vice Chancellor: Q. Well, have you handed him a bill of how much your expenses were? A. No, sir; I never did do that.

The Vice Chancellor: Then how could Mr. Grimminger make him a tender.

By Mr. Simpson: Q. Did Mr. Grimminger 40

John Alderton—Cross

ask you at any time to inform him of what the expenditures on the property had been up to any particular time? A. No, sir.

CROSS-EXAMINATION by Mr. Turner:

10 Q. And you never did inform him, did you?
A. No, sir.

Q. And you occupied all the property, didn't you? A. Well, not at the time he lived there. He occupied some of it.

Q. How much did he occupy? A. He had the whole run of the house.

Q. Now, how much did he occupy? A. He occupied as much as what we did.

By the Vice Chancellor: Q. What part did he
20 occupy? A. He had a room upstairs.

Q. On what floor? A. On the second floor.

By Mr. Turner: Q. The attic? A. Yes, the attic.

Q. And you never informed him as to any moneys that you disbursed on this property? A. No, sir.

Q. You never asked him whether you should spend any moneys on the property? A. Well,
30 not during the time that I held possession of the deed.

Q. No, you never consulted him about it, did you? A. No, sir.

Q. When you wanted moneys spent on the property you spent them, didn't you? A. Yes, sir.

Q. And you used your own judgment about that, entirely? A. Yes, sir.

Q. Was his mental condition such that you thought it was necessary to consult with him? A.
40 No, sir.

John Alderton—Cross

The Vice Chancellor: What does that mean?

Q. Did you think that he knew enough to advise with you about the property? A. Yes, sir.

Q. Then why didn't you ask him about it? A. I didn't think I had a right to.

Q. You did not think you had any right to consult with him about the property?

10

The Vice Chancellor: You mean, you did not think you were bound to.

A. No, sir; not after I held the deed.

The Vice Chancellor: What do you mean now, that you hadn't a right to do it, or that you were not bound to ask him?

A. Well, I didn't think it was necessary, sir.

Q. You didn't think it was necessary? Why didn't you think it was necessary? A. Because I thought the property had been kept in repair, and I took a great interest in doing it.

20

Q. Well, he was right there in the house, wasn't he? A. Yes, sir.

Q. All the time, wasn't he? A. Yes, sir.

Q. Up to the year 1914? A. He was, up to the time that you persuaded him to go.

Q. Up to the year 1914? A. Yes, sir.

Q. And you never spoke to him about what you should do? A. No, sir.

30

Q. And you never told him what moneys you spent? A. No, I didn't think I had to.

Q. Now, he bought a piano and some other furniture, didn't he, and put them there in the house? A. I am not aware he bought a piano.

Q. Didn't he bring a piano there? A. There was one come there, but I couldn't say who bought it.

40

John Alderton—Cross

Q. Well, your daughter and Mr. Grimminger had it, didn't they? A. Yes, sir.

Q. Now, when did that leave the house? A. I couldn't say, sir.

Q. Is it there now? A. No, sir.

10 Q. How long has it been gone? A. It might have been gone a year, it might have been gone two years; I couldn't say exactly.

Q. Who took that away? A. I wasn't there when it was taken away.

Q. Do you know who took it away? A. No, sir.

Q. Did your daughter take it away? A. I couldn't say, sir.

20 Q. Did she have it taken away? A. I couldn't answer that question, sir.

Q. There was a parlor suite too, wasn't there? A. I don't know who that belonged to.

Q. But there was a parlor suite? A. There was one.

Q. Is it there now? A. Not that I am aware of, it might be.

Q. Well, don't you know what is in your own house? A. I never took any observations.

30 Q. You mean to tell me that you don't know now whether that parlor suite is in your house? A. Well, I don't think it is, sir.

Q. And how long has it been gone? A. I couldn't say exactly.

Q. Who took it away? A. I was not there when it was taken away.

Q. Do you know who took it away? A. No, sir.

40 Q. Or had it taken away? A. I don't know; no, sir.

John Alderton—Cross

By the Vice Chancellor: Q. Do you know where it is now? A. Well, it might be my daughter may have it; I couldn't say.

Q. Well, have you been to your daughter's house, where she lives now? A. Yes, but I never took any notice of what she had there.

Q. Haven't you been to that house where she lives now? A. Yes, sir. 10

Q. Is that parlor suite in her house now? A. I couldn't say, sir.

Q. Have you seen it there? A. I never seen it there. It might be there for what I know.

Q. Has she a parlor suite where she lives now? A. I believe so.

Q. Is it the same parlor suite that was in your house? A. I couldn't say, sir. 20

Q. Is there a piano where she lives now? A. Yes, sir.

Q. Is it the same piano?

Mr. Simpson: I object to that.

The Vice Chancellor: I will permit the testimony.

Q. Is it the same piano that was in your house? A. I should say so; I don't know; it might be.

Q. Does it look like it? A. Yes, sir.

Q. Don't you know, as a matter of fact, that the same piano and the same parlor suite that were in your house were taken out by your daughter and taken where she lives now? A. I don't know that, sir. I was not there when that business was transacted. 30

Q. Oh, you know they are the same articles, don't you? A. I couldn't swear to that either, sir.

Q. And you haven't got any piano in your 40

John Alderton—Cross

house, have you? A. No, sir; we have got no piano.

Q. How many times have you visited your daughter where she lives now? A. Once.

10 Q. And have you visited your daughter at other times? A. I have only been up in her house, I should say, about three times since she has been living where she is.

Q. What kind of a parlor suite, what color parlor suite was it, you had in the Condict Street house? A. I couldn't say, sir, I never took any notice of the colors; and that is the reason I couldn't swear to anything.

20 Q. What is your business? A. I have no business at all.

Q. Where did you work? A. Worked at Snare & Triest Company.

Q. Whereabouts? A. On the Passaic River.

Q. What do they do? A. They are building contractors. I was helping in that shop.

Q. What kind of work did you do? A. On a drill press, on a saw.

Q. Were you home every night? A. Oh, yes.

30 Q. Who supported the house while you lived there in Condict Street, did you run the house? A. Well, I am running it now, sir.

Q. And you always did run it, did you? A. Yes, sir.

Q. What wages did you make?

Mr. Simpson: I object. It is immaterial.

The Vice Chancellor: How does that bear on the issues?

40 Mr. Turner: Why, it seems to me to

John Alderton—Cross

show this: I think we have shown that certain moneys of Mr. Grimminger went to the support of this family, and the testimony of this witness, if he testifies as I think he will, as to the amount or moneys—

The Vice Chancellor: (Interrupting) I will permit the question. 10

A. Twelve dollars a week.

Q. Is that the same amount that you made right along since 1906? A. Oh, no, sir I have worked for more money than that; that was only the 12 months that I have been making that money.

Q. Before that time where did you work? A. On the Erie Railroad.

Q. What did you make there? A. Sixteen dollars and seventeen a week. 20

Q. And before that time where did you work? A. I worked on the railroad all the time.

Q. And always made the same money? A. Yes sir—sometimes more.

Q. When did your daughter leave your house at Condict Street and live up in North Bergen? A. It might be a year ago.

Q. About a year ago? A. It might have been I couldn't say exactly. 30

Q. With whom did she live in North Bergen? A. I couldn't tell you the people's names.

Q. Would you ever go up there to visit? A. No, sir; I never ascertained the people's names; I never visited her while she was living out in North Bergen.

Q. Do you know where she lived there? A. Oh, yes, sir.

Q. Whereabouts? A. Well, it was mentioned here before, where she was living. 40

John Alderton—Cross

Q. I am asking you. A. Angelique Street, I think it was.

Q. Do you not know the number? A. No, sir; I couldn't tell you the number. I never had no cause to go up there.

10 Mr. Simpson: I had overlooked some direct testimony if your Honor will permit me to go into it.

By Mr. Simpson: Q. Before you took this Deed, C-4, had you made any expenditures on this property? A. Oh, yes, sir, quite a lot.

By the Vice Chancellor: Q. Who drew this deed from Grimminger to you and your wife? A. Thomas Brown.

20 Q. Who retained him to draw it, who employed him to draw it? A. Well, I expect Grimminger's people did; I didn't do it.

Q. Did you and your wife, or either of you, sign any paper agreeing that upon his paying you the money you expended on account of the property, you would return the property to him and his wife? A. Yes, sir.

Q. You signed a paper agreeing to do that? A. We signed a paper in connection with the deed, to that effect, sir.

30 Q. You say you executed a paper, independent of that deed, agreeing to return the property to Grimminger and his wife, when they paid you what you expended on account of the property? A. No, sir, I don't think we did. I think these were the only deeds that were drawn up. I don't know that there was any more papers.

Q. As a matter of fact, you signed no papers? A. No, sir.

40 By Mr. Turner: Q. Did you say you expected

John Alderton—Cross

that Mr. Grimminger's people retained Thomas Brown to convey that property to you? A. Yes, sir.

Q. What made you expect that? A. Well, I didn't go to Mr. Brown to do that business.

Q. Do you mean to say that you think Mr. Grimminger's people induced Mr. Brown to draw the deed to convey the property away from Mr. Grimminger? A. I didn't do it. 10

Q. Well, your folks did it, didn't they? A. No, sir, I wouldn't like to say that, either.

Q. Your wife and daughter did it, didn't they? A. No, sir.

Q. How do you know? A. Well, she would have told me, I should say, if she had any connection with it, or anything to do with it. 20

Q. You didn't want to take the deed for this property, did you? A. No, sir; I did not.

Q. You were very careful to have the thing drawn up so that Mr. Grimminger would get his property back, weren't you? A. I had nothing to do with it at all. He was told about that lots of times.

Q. Who told him about that? A. I told him.

Q. What did you tell him? A. I told him I was willing to take that over, after he bothered me on lots of occasions to take it over, that we would hand the property back to him again, and we are quite willing to do so. 30

Q. Why didn't you sign any paper saying you would turn the property back to him? A. Well, I didn't know as it was necessary; it might have been.

Q. Why didn't you handle the property for him without taking a deed for it? 40

John Alderton—Cross

Mr. Simpson: I submit that is argumentative, if your Honor please. Surely if a man is going to expend money on property, he must be protected in some way.

Mr. Turner: Why, he said he spent money on it before he got the deed.

10 Q. Why did you want this deed drawn up? A. I didn't want them drawn up; it was not my wish that they be drawn up.

Q. You did not want to have a deed for this property? A. No, sir.

Q. Well, who coaxed you to take the deed for it? A. Charles Grimminger.

Q. And did his wife coax you at all? A. She hadn't so much to say about it as what he had.

20 Q. Didn't she have all to say about it? A. No, sir.

Q. Well, now, you said a few minutes ago you thought Mr. Grimminger's folks got Mr. Brown to draw this deed; did you consult with any of Mr. Grimminger's folks yourself about taking this deed for this property? A. No, sir, I did not consult anyone.

30 Q. Well, didn't you think it was up to you to talk with his people about it before you took the deed for this property? A. No, sir; he was quite capable, I should say, of doing his own business; he was old enough.

Q. You think he is still as capable of doing his own business? A. Yes, sir.

By the Vice Chancellor: Q. Were you present when this deed was executed? A. No, sir.

40 Q. Weren't you present when Mr. Brown put the acknowledgment to the deed? A. Well, we went up to Mr. Brown's, I don't know—

John Alderton—Cross

Q. Well, was the deed signed while you were present? A. No, sir.

Q. It was not acknowledged while you were present? A. We went up after, I believe, the deeds was signed.

Q. Well, did you tell Mr. Brown that you were taking over this property for the purpose of caring for it, and whenever Mr. Grimminger paid you back the money that you would expend on the property, that you would give him back the deed of it? A. Yes, sir; we did tell Mr. Brown that. 10

Q. And still, with all that, Mr. Brown drew no paper for you and your wife to sign agreeing to return it? A. No, sir; he did not.

By Mr. Turner: Q. Who paid Mr. Brown? A. I couldn't say who paid him. 20

Q. Did you pay him? A. No, sir; I never paid him.

Q. Well, what did you go to Mr. Brown's office for with your wife? A. Well, we was asked to go up there.

Q. Who asked you to go? A. Mr. Brown.

Q. Mr. Brown asked you? A. Yes, sir. I thought we went up to sign some papers, but whether we did or whether we didn't, I couldn't say now. 30

Q. Did you sign some papers? A. I couldn't say now, sir.

Q. But when you got up there you got this deed, didn't you? A. I believe they was handed over to us; I am not sure whether we got them at Mr. Brown's, or whether he sent them down to the house.

Q. You heard Mr. Brown's testimony, didn't you? A. Yes, sir. 40

John Alderton—Cross

Q. And did you hear Mr. Brown say that Mrs. Griminger first came to him? A. I couldn't catch all he said.

Q. Well, did you hear that? A. No, I don't know as I did.

10 Q. And did you talk to Mr. Brown about anything that day you went there? A. Yes, about this property. We told Mr. Brown of the conditions, that is, we were going to take it over; and why Mr. Brown didn't make the paper up of course I couldn't say.

Q. You didn't hear Mr. Brown testify to anything like that though, did you? A. No, I did not.

The Vice Chancellor: Was Mr. Brown examined as to that?

20 Mr. Turner: He was examined as to what took place.

Mr. Simpson: No.

The Vice Chancellor: I don't believe his attention was called to that.

Mr. Simpson: It was not; not in the slightest degree.

The Witness: It has always been our intention to hand this place back again. We never intended to keep it and we don't intend to keep it. We cannot do anything fairer than that.

30 Q. You are willing to hand it back to Mr. Griminger alone, are you? A. To Charles Griminger and the late Frances Griminger.

Q. You want the wife to be included to the handing back, do you? A. That was the people we took it off of.

40 Q. Did you have anything to do with the first transfer, when it was first transferred to you, and then by you back to Charles Griminger and his wife? A. I couldn't remember now, sir.

John Alderton—Cross

Q. Well, you signed the deed then, didn't you?

A. That might have been the time that I went up to Mr. Brown's office, and signed some deed; I couldn't say when and where it was now.

Q. Then you think it was away back in 1907 that you did that signing? A. It might have been; I don't know; I couldn't recall that now. 10

Q. Now, in 1911 did you do any signing? A. In 1911? I don't know that we did.

Q. In 1907, when this transfer was made from Charles Grimminger, were you consulted about that? A. I did not have anything to do with it particularly; I might have been consulted about it.

Q. And did you advise it to be done? A. No, sir; I never advised nothing.

Q. Did your wife advise it to be done? A. I could not say. 20

Q. In your presence did she say anything about it? A. Not in my presence, she didn't.

Q. Who asked you to go sign the deed, to deed it to Charles Grimminger and his wife? A. It might have been Alice Alderton.

Q. That was your wife? A. Yes.

Q. You think your wife did ask you to go? A. She might have done it; I couldn't recall that now. 30

Q. You do not recollect anybody else doing it except your wife? A. No, sir; I don't believe anybody else would have any interest in it. It might have been her and it might not. I should like to mention one thing, I don't know whether I am allowed to—

The Vice Chancellor: No.

The Vice Chancellor: When was the petition for divorce filed? 40

John Alderton—Cross

Mr. Turner: January 30th, 1913.

The Vice Chancellor: And when was this deed made?

Mr. Turner: The last deed was made in April of 1911.

10

Mr. Simpson: April 18, 1911.

The Vice Chancellor: Then, at the time this deed was made by Grimminger and his wife to the father-in-law, according to your petition, Grimminger had actually deserted his wife, and they were not living together.

Mr. Simpson: They were living separate and apart; yes, sir.

Mr. Turner: The desertion is alleged in August, 1910.

20

The Vice Chancellor: It is rather a strange situation; go ahead.

Mr. Simpson: I would like to re-call George Grimminger for further cross-examination.

Mr. Turner: He is not here. If you want him I will telephone for him. He works for a baker, and it is very hard to get him.

30

Mr. Simpson: All I want him for is this: He testified, on the last hearing, that he took Charles Grimminger to Dr. Muttart, without specifying any particular time; and he said he took him there for treatment. Now, I want to ask him if it was not for the purpose of having him examined by Dr. Muttart on an application to the Prudential Insurance Company for a policy of \$1,000.

40

The Vice Chancellor: Well, you could have subpoenaed Dr. Muttart and had him here.

Mrs. Frances Price—Direct

Mr. Simpson: Well, Dr. Muttart is no longer in this city; he is in New York now.

Mr. Turner: Brooklyn.

Mr. Simpson: Well, Brooklyn.

The Vice Chancellor: Have you any further evidence?

Mr. Simpson: We will rest on that.

10

Defendant closes.

Complainant's Rebuttal Evidence

MRS. FRANCES PRICE, sworn:

Direct-examination by Mr. Turner:

20

Q. Where do you live? A. I live at 129 Bright Street.

Q. In Jersey City? A. Yes, sir.

Q. And you are related to Mrs. Alderton? A. Yes, sir; I am her niece.

Q. You came over to this country from England, did you? A. Yes, sir.

Q. When did you come over? A. July 16, 1910.

Q. Where did you go to live as soon as you arrived in this country? A. With my aunt at 68 Condict Street.

30

Q. And you lived there until when? A. April 23, 1913.

Q. You got married about that time, did you? A. Yes, sir.

Q. Married Mr. Price? A. Yes.

Q. From the time you came to 68 Condict Street up to the time you were married did you room with anybody there? A. With my cousin.

40

Mrs. Frances Price—Direct

Q. Who was that? A. Mrs. Grimminger then.

Q. Mrs. Frances E. Grimminger? A. Yes, sir.

Q. And did you room with her continuously during that period? A. Yes, up to the last.

10 Q. About the month of April, 1913, did Mrs. Grimminger leave the place there and go somewhere else to live? A. Yes. About two weeks before I left—

Mr. Simpson: I object to that; it is a leading question and calls for a yes or no answer.

The Vice Chancellor: You had better reform your question.

Mr. Turner: Yes, sir.

20 Q. Now, during the month of April, 1913, did you room continuously with Mrs. Grimminger during that month? A. Yes.

Q. Did you stop rooming with her during any time in that month? A. Yes, at the beginning of the month, she left about two weeks before I did.

Q. Two weeks before you were married? A. Yes.

Q. Where did she go then? A. I couldn't say.

Q. When she went in April, 1913, did any furniture leave the house too? A. I was informed so.

30 I did not see it go; I was at work.

Q. Well, did you see the fact that it had gone? A. Yes.

Q. What was there that was there before she went that was gone after she went?

Mr. Simpson: I object to that question as being irrelevant, if your Honor please. This issue is on these deeds alone, not as to personal property of any kind.

40 The Vice Chancellor: It may turn on the

Mrs. Frances Price—Direct

question of his mental ability, as well as their attempt to defraud this man by taking his other property. It may be a side light in the case. I will admit it.

Q. (Question repeated.)

Mr. Simpson: I object to the question unless counsel can show that she took it. She may have gone and somebody else may have come in and took the furniture out. 10

The Vice Chancellor: Well, he is proving the condition of the house, and its contents. If they do not prove that she took it, what hurt does it do you?

Mr. Simpson: Merely encumbers the record, that is all.

A. The piano, the parlor suite and a bureau. 20

Q. Did you go around any with Mrs. Grimlinger during this time? A. All the time I was there.

Q. And did you entertain any friends?

Mr. Simpson: I object to that as irrelevant.

The Vice Chancellor: What has all this got to do with it?

Mr. Turner: I am going to show that the abandonment by Mrs. Grimminger of marital relations.

Mr. Simpson: Why didn't you come in and defend the divorce suit then? 30

Mr. Turner: I did not represent Mr. Grimminger in the divorce suit.

Mr. Simpson: If your Honor please, I submit that this question is irrelevant, immaterial and incompetent. If they want to try the divorce case it should have been tried when it was before the Court, and 40

Mrs. Frances Price—Direct

not now. That is a collateral issue and entirely outside of this.

The Vice Chancellor: What is your purpose in offering the testimony?

10 Mr. Turner: My purpose is to show the conditions that existed there in the house at the time when Mr. Grimminger was supposed to be living there, and was supposed to be having the run of the house, and to show the treatment by the defendants of Mr. Grimminger, and to show that the conditions that did exist would indicate the mental condition of the complainant.

20 The Vice Chancellor: That was in 1913. from 1910 to 1913. Nineteen hundred ten, of course, was prior to the conveyance.

Mr. Turner: Up to that time, yes, sir;

Mr. Simpson: This last deed, C-4, was made April 18, 1911.

The Vice Chancellor: I will overrule that question.

Q. Now, prior to 1911, did you observe anything concerning Mr. Grimminger there at the house?

A. I don't know if I get you, exactly.

30 Q. Well, did you ever see him, or hear him, there? A. Yes.

Q. How much did you see of him? A. Well, I used to see him in and out of the house.

Q. Did you ever hear him there? A. Yes.

Q. What did you hear? A. Well, one time I heard him in a fit.

Q. Upstairs? A. Upstairs.

40 Q. Now, did the family ever make any remark about Mr. Grimminger at those times, when you heard him in fits?

Mrs. Frances Price—Direct

Mr. Simpson: I object to that for its indefiniteness.

By the Vice Chancellor: Q. Did you hear any member of the family make any remarks regarding him while he was in these fits? A. Just that he had them.

Q. No, did you hear any member of the family make any remark, the answer is yes or no to that—did you hear any member of the family make any remarks about him while he was in these fits? A. No, only that he had them. 10

Q. Only that he had them? A. Yes.

By Mr. Turner: Q. Did you inquire as to what the noise was? A. Yes.

Q. Who was it that answered you? A. Well, at different times, the mother and the daughter said he had fits. 20

Q. Now, then, did you pay board there at the house? A. Yes, sir.

Q. Were there any other boarders? A. Well, my husband now; he boarded there a while.

Q. Anyone else? A. There was a young man had a room there.

Q. And to whom did they pay their rent for board and for rooms? A. Mrs. Alderton.

Q. Where did they eat? A. Well, my husband ate in the house part of the time; but the other gentleman just had a room. 30

Q. Did you eat there at the Alderton table? A. Yes.

Q. Did you ever see Charles Grimminger there at the table for any meals? A. When I first came there, yes

Q. For how long? A. I couldn't say definitely how long, but for a while. 40

Mrs. Frances Price—Direct

Q. Well, how long? A. About a month, I guess.

Q. Did you ever see him at the table to meals after that? A. No, sir.

Q. Did you ever hear anyone there invite him to meals? A. No.

10 Q. Now, at the times when you say they remarked that he was in a fit, did any one of the family ever go up to him? A. No.

Q. Did they pay any attention to him at all? A. No.

Q. You say Mrs. Grimminger slept in the bedroom with you? A. Yes.

Q. Did she sleep there every night? A. Yes.

Q. When she went away in 1913, did she tell you where she was going? A. No.

20 Q. Did you ask her? A. No, she was gone while I was at work.

Q. And did you know that she started suit for divorce? A. Yes.

Q. How long prior to the time that you left was it that she told you that she started the suit?

Mr. Simpson: I submit that this is wholly irrelevant to the issues before the Court.

The Vice Chancellor: It may go to the question of fraud. I will admit it.

30 A. I could not say whether it was February or March, but it was 1913.

Q. And were you asked to testify in the divorce suit? A. Yes.

Q. And did a question come up there as to Charles Grimminger having left? A. Yes.

Q. And who said anything to you about that, and what did you say in response?

40 The Vice Chancellor: Oh, well, I am not going to try the divorce case.

Mrs. Frances Price—Direct

Q. Did you ever hear Mrs. Grimminger express any affection for her husband from the time you first came there? A. No.

Q. Did she say anything about him? A. No.

Q. Was there anything in her conduct to indicate whether she had any affection for him or not? A. No, only that she did not go out with him. 10

Q. Did she go out with anybody else? A. Well, I went out with her most of the time.

Q. Young gentlemen, I mean?

Mr. Simpson: I object to this.

The Vice Chancellor: I will overrule that question.

Q. Do you know, who, if anybody, cared for Mr. Grimminger's room in the attic? A. No.

Q. Did you know anything about this transfer of the property to Mr. Alderton and his wife? A. No, I was not concerned in it. 20

Q. Did you hear any conversation about it? A. No.

Q. Do you know anything about where the piano went? A. No, I do not.

Q. Whose piano was that?

Mr. Simpson: I object.

The Vice Chancellor: How would she know.

Q. Did anyone make any claim on the piano? A. No. 30

Q. Who used it? A. Well, it was very seldom used, but when it was used her brother used to play it; that was the only one.

Q. Did Mrs. Grimminger play? A. No.

Q. Could she play? A. No.

No cross-examination.

Albert Price—Direct

ALBERT PRICE, sworn:

Direct-examination by Mr. Turner:

Q. You are the husband of the last witness? A. Yes.

10 Q. You have been acquainted with the Alderton family, have you, and Mrs. Grimminger? A. Yes, sir.

Q. How long have you known them? A. Well, since just before I got married, about a year or nine months.

Q. What were the circumstances under which you got acquainted with Mrs. Grimminger? A. Why, when I first went out with Mrs. Grimminger, first kept company with her I would say.

20 Q. At that time did you know she was a married woman? A. Not until a few days afterwards.

Q. And when was that when you first began to keep company with her? A. That was in 1912, the latter end of 1912.

Q. And how long did you keep company with her? A. Oh, I didn't keep steady company; I was out two or three times, was all.

30 Q. And did you go to the house there? A. I think I was in the house twice before I went there to live.

Q. Now, when did you go there to live? A. In 1913, just after New Year's.

Q. And when did you first learn that there was a Mr. Grimminger? A. Why, Mrs. Grimminger told me herself.

Q. Now, when was that? A. Oh, one evening I was out with her.

40 Q. And did you ever meet Mr. Grimminger there at the house? A. I seen him going in and going out when I was living there, that was all.

Albert Price—Direct

Q. Did you ever hear him there? A. I heard him fall out of bed once, in a fit, something like that; that was all.

Q. Did you ever hear a noise upstairs in the attic? A. Somebody kicking the floor.

Q. Did you inquire what it was? A. Well, sometimes I didn't have to inquire; I knew it was Grimminger taking a fit. 10

Q. At that time did you know that was her husband? A. Oh, yes.

By the Vice Chancellor: Q. When you heard him in these fits did you ever go upstairs to him? A. No.

By Mr. Turner: Q. Did anyone go upstairs? A. Not that I saw.

Q. Now then, you came there right after New Years in 1913? A. Yes. 20

Q. And you lived there at the house until when? A. Until about a week before I got married, and I got married on the 24th of May.

By the Vice Chancellor: Q. 1913? A. Yes.

By Mr. Turner: Q. And did Mr. Grimminger ever eat at the table when you were there? A. No.

Q. Did anyone ever pay any attention to him in the house? A. No, sir; not that I know of. They might say "Good morning," or something like that, when they seen him coming in, or say, "Hello." 30

Q. Were you living there when the piano and parlor suite went away? A. No, sir.

Q. Do you remember about that? A. I know it was there, but I don't remember it going away. I was not in the house then.

Q. What was the last date on which it was there? A. That I couldn't tell you. 40

Albert Price—Re-direct

The Vice Chancellor: He says he wasn't there.

Q. I mean that you saw it there. A. Oh, the last week I was there. That was about a week before I got married, that I got out of the house; a week before the 24th.

10 Q. And Charles Grimminger was still there, was he? A. Oh, yes.

Q. When you went away? A. Yes, sir.

Q. And had been there continuously all the time you lived there? A. As far as I know.

Q. You saw him? A. I saw him when I was in the house.

CROSS-EXAMINATION by Mr. Simpson:

20 Q. You say that you kept company with Mrs. Grimminger? A. Well, not exactly company; I went out with her for a few times.

Q. Just out for a walk? A. Yes, sir.

Q. That was two or three times? A. Yes, sir.

Q. You then lived at the house? A. No, I wasn't living at the house then.

Q. When did you go to the house to live? A. New Year's 1913.

30 Q. And when did you begin to keep company with your present wife? A. Just after I went to the house.

Q. Mrs. Grimminger was then living at that house? A. Yes.

RE-DIRECT-EXAMINATION by Mr. Turner:

Q. Who asked you to go to that house to live?

A. Why, we was out one afternoon, and Mrs. Grimminger took me down to the house and in-

40 troduced me to her mother.

Memorandum

Q. And what was said? A. And then they treated me all right, and she just said who I was, and we sat down and talked, and that was all there was to it.

Q. Well, who was it that suggested you should come there to live? A. Why, it was her and I both. I said I would like to go down to the house, and she took me down; that was all. 10

Q. Whom did you make your arrangements with about going down? A. Why, me and Mrs. Grimminger.

Q. To whom did you pay your board? A. Oh, I paid my board to Mrs. Alderton.

Both sides close.

20

Memorandum

Memorandum dictated by Court at close of proofs.

GRIFFIN, V. C.:

I think, as this is largely a question of law, I will let counsel exchange briefs on the law. 30

The facts, as I see them, subject to further statement of particulars, seem to be that this lady married Grimminger, knowing that he was an epileptic. She called to see Mr. Van Winkle, the counsel of Mr. Grimminger, prior to her marriage, to ascertain what property he was possessed of. The condition of Mr. Grimminger, physically and mentally, prior to the marriage, was such that Mr. Van Winkle seemed to think that he was unfit to 40

Memorandum

handle his own property and affairs, and the property was held for him. After the marriage Mrs. Grimminger lived with her husband for a while. They were married in October, 1906. In April, 1907, a deed was made by the husband to the father-in-law, and another deed from the father-in-law back to the husband and wife, the purpose being to put this property in question in the joint names of husband and wife, with all that flows from survivorship.

As I understand the testimony, there was a child born about a year after the marriage; so that at the time that this deed was made Mrs. Grimminger was bearing a child to her husband. It may be that those circumstances indicated that it was a wise thing for the parties, not only for their own protection, but for the protection of their child, to place the property so that the survivor should take it all.

The conduct of Mrs. Grimminger towards her husband (and I think the conduct of the family towards the husband) was that of utter disregard of his existence. He lived in the same house; he was a man who required a good deal of care and attention, and he received none; he was permitted to sleep in an attic, and in his sickness and fits no attention was paid to him. But it is very apparent to my mind that none of the family were the least bit concerned with his existence. And a further fact seems to be very material, and that is that the petition filed for divorce in 1913, after the deed had been procured from the husband and wife to the father-in-law and mother-in-law, alleges that the desertion took place in August, 1910, several months prior to the date when both

Memorandum

parties amicably met and signed a conveyance to the father-in-law and mother-in-law. They (the defendants Alderton) both state that it was their purpose to return this property when certain debts were paid. It does not appear that Mr. Grimmer had independent advice. Nothing was put in writing to protect his interests, and, for aught anyone might know, this property was conveyed to the father-in-law and mother-in-law by an absolute deed irrevocable in every respect; and if Mr. Grimmer had died there would be no question raised probably, as to its being absolute; and probably the Aldertons would not have taken the trouble to re-convey even to the daughter. 10

So far as the last deed is concerned, there is every indication, to my mind, that an advantage was taken of Grimmer. I am satisfied that at the time this deed was made the wife had a notion in her mind of procuring a divorce, and it was probably her purpose to secure this property, take it away from this man, who was mentally feeble, and never return it to him. Those are my present views of the case. 20

The Aldertons say they want to return the property to the husband and wife.

I will hear counsel on two points: First, What is there in the case to justify the Court in ordering a reconveyance of the property to Grimmer alone? Second, what is there in the case to justify the Court in making a decree that the Aldertons reconvey, without reimbursing them for what expenditures they necessarily made in the preservation and protection of the property, including taxes and water rents, interest on mortgage, and such like expenses? 30 40

Exhibit C-1*Deed*

HENRY A. HALL and WIFE,
to
CHARLES GRIMMINGER

Dated September 21, 1906.
Recorded October 13, 1906.
Book 968, page 118.

CONVEYS: All that certain tract or parcel of land and premises, hereinafter particularly described situate, lying and being in the city of Jersey City, in the County of Hudson and State of New Jersey more particularly described as follows: Beginning at a point in the northerly line of Condict Street, distant one hundred (100) feet 20 easterly from the intersection of the said northerly line of Condict Street with the Easterly line of Mallory Avenue and thence as a point of beginning running (1) northerly and parallel with said line of Mallory Avenue one hundred (100) feet to a point; thence (2) Easterly and parallel with said line of Condict Street twenty five (25) feet to a point; thence (3) Southerly and parallel with the first line One hundred (100) feet 30 to a point in the said northerly line of Condict Street thence (4) westerly and along the said northerly line of Condict Street twenty-five feet to the point or place of beginning.

Exhibit C-2*Deed*

10 CHARLES E. GRIMMINGER and
FRANCES E. GRIMMINGER, his
wife,
to
JOHN ALDERTON.

Dated April 26, 1907.
Recorded May 6, 1907.
Book 983, page 130.
Ack. April 26, 1907.

Before THOMAS H. BROWN, Atty. at Law of N. J.
Supreme Court.

20

Exhibit C-3*Deed*

JOHN ALDERTON,
to
CHARLES E. GRIMMINGER and
FRANCES E. GRIMMINGER, his
wife,

Dated April 26, 1907.
Recorded May 5, 1907.
Book 983, pages 132 &c.
Acknowledged April 26,
1907.

30

Before THOMAS H. BROWN Atty. at Law of the Su-
preme Court.

Re-acknowledged Nov. 17,
Re-recorded Nov. 17, 1908
Book 1016, pages 584 &c.

Exhibit C-4*Deed*

CHARLES E. GRIMMINGER and
FRANCES E. GRIMMINGER, his
wife,

To

JOHN ALDERTON and ALICE AL-
DERTON.

Dated April 18, 1911.

Acknowledged April 19, 1911.

Before THOMAS H. BROWN, Master in Chancery.

Recorded April 24, 1911.

Book 1090, page 176 &c.

20

Exhibit C-5

Affidavit upon which Summons was Issued

(Filed, June 20, 1914)

State of New Jersey, {
County of Hudson. } ss:

30

Samuel T. Fairbanks, being duly sworn accord-
ing to law on his oath deposes and says the he is
the receiver of the premises known as No. 68 Con-
dict Street, duly appointed as such in a suit
wherein Charles Grimminger is complainant and
John Alderton and others are defendants by an
order made November 17, 1913, a copy of which

40

Exhibit C-5

said order is annexed hereto and made part hereof.

10 Deponent further says that he duly qualified as such receiver and is now acting as such receiver for said premises with full powers of his office as such. That John Alderton and Alice Alderton, his wife, are now in possession of said premises by virtue of an agreement made between the said John Alderton and Alice Alderton and this deponent on the seventeenth day of November, 1913, whereupon deponent let and rented said premises to the said John Alderton and Alice Alderton for the term of one month from the 17th day of November, 1913, for the sum of \$35, payable in advance; that said John Alderton and Alice Alderton entered into possession of said premises on 20 the said 17th day of November, 1913, and continued in possession thereof up to the present time and are now in possession thereof; that said John Alderton and Alice Alderton are indebted to this deponent in the sum of \$35 due on November 17th, 1914, being the monthly rent payable in advance on each of the said dates, and the said John Alderton and Alice Alderton are now indebted to this deponent in the total sum of \$140.00.

30 Deponent further states that said John Alderton and Alice Alderton having made default in the payment of said rent for each of said months hereinbefore set forth, this deponent demanded the said rent from the said John Alderton and Alice Alderton, requiring the payment of such rent, or the possession of the said premises. And deponent further says that said rent, or any part thereof has not been paid, and that the said John 40 Alderton and Alice Alderton hold over and con-

Exhibit C-5

tinue in possession of said premises without the permission of deponent.

SAMUEL FAIRBANKS.

Subscribed and sworn to before me this
11th day of March, 1914
B. Frances Marron,
Notary Public of New Jersey.

10

Order Appointing Receiver

IN CHANCERY OF NEW JERSEY

Between

CHARLES GRIMMINGER,

Complainant,

and

JOHN ALDERTON, *et als.*,

Defendants.

20

On Bill, &c.

This matter being opened to the Court by Frank G. Turner, Solicitor of Complainant, in the presence of Solicitor of Defendants, and it appearing 30 that a copy of the petition and order to show cause herein was served upon the defendants John Alderton and Alice Alderton on the 20th day of October, 1913, as directed in an order to show cause of that date; and it appearing that the prayer of the said petition should be granted;

It is on this 17th day of November, 1913, ordered that the order to show cause be made absolute; and that Samuel T. Fairbanks, of Jersey 40

Exhibit C-5

10 City, New Jersey, be and he is hereby appointed the receiver in this cause to take charge of the premises in said petition and in the bill of complaint in this suit mentioned, and to manage the same with power to sue for, collect and receive rents, issues and profits thereof, and he is to account for any pay what he shall so receive, as this Court shall direct; to let the said premises or any part thereof, from time to time, and to agree concerning the rents to be paid therefor and to do all things necessary for the proper care and management of said premises.

20 And it is further ordered that before entering upon his duties, he give a bond to the Chancellor for the faithful performance of his duties, in the sum of \$1,000, which bond shall be approved as to sufficiency and form by one of the special masters of this Court; said bond to be filed with the Clerk of this Court.

E. R. WALKER,

Respectfully advised.

Vivian M. Lewis,
V. C.

C.

Exhibit C-5

Summons

State of New Jersey,
 Hudson County, } ss:
 City of New Jersey. }

To the Sergeant-at-arms of the First District 10
Court of the City of Jersey City or to any
Constable of said County:

You are commanded to require John Alderton and Alice Alderton and any person (L.S.) in possession or claiming the possession of Houses No. 68 Condict Street in the City of Jersey City, County of Hudson forthwith to remove from the same, or show cause before the FIRST DISTRICT COURT of the City of 20 Jersey City, in said County, to be held at the City Hall, Corner Grove and Montgomery Streets, in said City, on the seventeenth day of March, One Thousand Nine Hundred and fourteen, at 10 o'clock in the forenoon, why possession of said premises should not be delivered to Samuel T. Fairbanks, Receiver claiming the same.

WITNESS, Charles L. Carrick, Esq., Judge of said First District Court at Jersey City aforesaid, the eleventh day of March in the year One Thou- 30 sand Nine Hundred and fourteen.

JAMES N. BRADEN,
 Clerk.

(*Endorsed*)

No. 89870
 First District Court
 of Jersey City.

Exhibit C-5

Summons in Dispossession

Samuel T. Fairbanks
 Recr.

vs.

10

John Alderton, *et al.*
 68 Condit St.

Demand, 140.00

Court Costs, 2.50

Milage, .20

Returnable, March 17th, A. D.,
 1914 10 o'clock a. m.

NOTICE—By-Laws 1898, Chapter 228:

20 If the tenant or person in possession of demised premises, at any time on or before the return day of this summons, pay to the Clerk of this Court, the rent claimed with costs herein endorsed, all proceedings shall be stopped.

Affidavit of Service

30 The defendants John Alderton and Alice Alderton could not be found and I served the within summons on them the 11th day of March, 1914, by leaving a copy thereof for each of them at their usual place of abode in the presence of their family over the age of fourteen years, whom I informed of the contents thereof.

FRANK MEYER,
 Constable.

Exhibit C-5

*Agreed State of Facts**(Filed, June 20, 1914)*

FIRST DISTRICT COURT OF JERSEY CITY

Between SAMUEL T. FAIRBANKS, Plaintiff, and JOHN ALDERTON and ALICE AL- DERTON, his wife, Defendants.	}	Agreed State of Facts.
---	---	---------------------------

It is hereby stipulated, consented and agreed
 between the parties hereto that the facts herein
 are as follows: 20

That the plaintiff, Samuel T. Fairbanks, is a
 receiver appointed by the Court of Chancery of
 New Jersey, of the premises known as #68 Con-
 duct Street, Jersey City, New Jersey, appointed
 in a suit pending in said Court. One Charles
 Grimminger is the plaintiff and John Alderton
 and Alice Alderton, and another are defendants. 30
 That the said receiver was appointed by an order
 of which the following is a copy:

Exhibit C-5

Order

IN CHANCERY OF NEW JERSEY

10	Between CHARLES GRIMMINGER, and JOHN ALDERTON, <i>et als.</i> ,	Complt. Defts.	} On Bill, &c. Order appoint- ing Receiver.
----	--	---------------------------	--

This matter being opened to the Court by Frank G. Turner, Solicitor of Complainant, in the presence of _____ Solicitor of Defendants, and it appearing that a copy of the petition and order to show cause herein was served upon the defendants John Alderton and Alice Alderton on the 20th day of October, 1913, as directed in an order to show cause of that date; and it appearing that the prayer of the said petition should be granted;

It is on this 17th day of November, 1913, ordered that the order to show cause be made absolute; and that Samuel T. Fairbanks of Jersey City, New Jersey be and he is hereby appointed the receiver in this cause to take charge of the premises in said petition and in the bill of complaint in this suit mentioned, and to manage the same, with power to sue for, collect and receive the rents, issues and profits thereof; and he is to account for and pay what he shall so receive, as this Court shall direct; to let the said premises or any part thereof, from time to time, and to agree concerning the rents to be paid therefor and to

Exhibit C-5

do all things necessary for the proper care and management of said premises.

And it is further ordered that before entering upon his duties he give a bond to the Chancellor for the faithful performance of his duties in the sum of \$1,000, which bond shall be approved as to sufficiency and form by one of the Special Masters of this Court; said bond to be filed with the Clerk of this Court. 10

E. R. WALKER,

Respectfully advised, C.
Vivian M. Lewis, V. C.

That the defendants, John Alderton and Alice Alderton have occupied the said premises #68 Condict Street for several years prior to and (date when receiver was appointed) from the seventeenth day of November, 1913, until the present time and they are still in occupation thereof and they have paid no rent to the said receiver or anyone in his behalf since the said seventeenth day of November, 1913, and they are not paying any rent to the said receiver for the said premises. That the said premises are reasonably worth the sum of \$35 per month rental. 20

Annexed hereto is a copy of the bill of complaint, the answer and cross-bill on replication filed in the Court of Chancery of New Jersey. That the said suit has been duly referred to one of the Vice Chancellors to hear and determine the same and the date for the hearing of said suit has been fixed for September 24, 1914. 30

That upon his appointment the said receiver notified the defendants that he was appointed as such receiver and that they must pay rent to him 40

Exhibit C-5

for the said premises. That the said receiver was duly qualified at all times herein mentioned. That upon his appointment, the said receiver notified the said defendants that unless they paid the rent for the premises, as herein mentioned, to him as such receiver, that they must vacate the premises. 10 That if the Court should find that there was a tenancy, and that the said defendants are indebted to the receiver, then their indebtedness is in the sum of \$35 due on November 17, 1913, \$35, due on December 17, 1913, \$35 due on January 17, 1914, \$35 due on February 17, 1914, \$35 due on March 17, 1914, and \$35 due on April 17, 1914, being the monthly rent payable in advance on each of the said dates. That the said John Alderton and Alice Alderton continued in possession of the 20 said premises after a demand was made for the possession of the same by the said receiver, which demand was made prior to the time of the commencement of this suit.

That when demand was made upon the said defendants, on November 17, 1913, for rent for the said premises or possession thereof, the said defendants or one of them stated to the receiver that they would pay rent for the said premises 30 if they were advised by their attorney that they should pay the same.

FRANK G. TURNER,
Attorney for Plaintiff.

CHARLES E. S. SIMPSON,
Attorney for Defendant.

Exhibit C-5

Record of Judgment

FIRST DISTRICT COURT OF JERSEY CITY

Before CHARLES L. CARRICK, Esquire, Judge.

State of New Jersey, }
 Hudson County, } ss: 10
 City of Jersey City. }

N. 89870.

SAMUEL T. FAIRBANKS, Receiver, Plaintiff,	}	In Dispossession.	
JOHN ALDERTON and ALICE AL- DERTON, his wife, Defendants.			
vs.			
			20

Frank G. Turner, Plff's Attey,
 Charles E. S. Simpson, Def'ts Atty.

Costs	City	AL	
Summons	150		
Service		.60	
Milage		.10	
Trial Fee	1.00		
	2.50	.70	
Warrent	.60	1.10	30

March 11, A. D., 1914, the plaintiff filed an affidavit.

Whereupon on March 11, A. D., 1914, a summons was issued, duly tested at the suit of the plaintiff against the defendants returnable March 17, A. D., 1914, at 10 o'clock in the forenoon. The Constable returned the summons as follows: The defendants John Alderton and 40

Exhibit C-5

10 Alice Alderton could not be found and I served the within summons on them the 11th day of March, A. D., 1914, by leaving a copy thereof for each of them at their usual place of abode in presence of a person of their family over the age of fourteen years whom I informed of the contents thereof. Frank Meyers, Constable.

March 11, A. D., 1914, the cause was called for trial at 10 o'clock in the forenoon, and the plaintiff appearing and the defendant appearing the cause was proceeded with as follows: and by agreement of parties adjourned from time to time to June 3, A. D., 1914.

June 3, A. D., 1914, Agreed State of Facts filed.

20 Whereupon on this June 9, A. D., 1914, no sufficient cause being shown to the contrary and it appearing that the summons has been duly served, it is considered and adjudged that the plaintiff recover of the defendants possession of said premises and Three dollars and twenty cents for the costs and that a warrant issue to put the plaintiff in full, possession of said premises, and to make said costs out of the goods and chattels of said defendant.

30 June 17, 1914, A Warrant for possession was issued.

Warrant of Removal

State of New Jersey,
 County of Hudson, } ss:
 City of Jersey City. }

The State of New Jersey, To any Constable of said County:

40 (L.S.) You are hereby commanded to remove all persons from

Exhibit C-5

of house and premises known and designated as No. 68 Condict Street in the City of Jersey City, in the County of Hudson and State of New Jersey, and to put Samuel T. Fairbanks, Receiver Plaintiff in full possession thereof, to which by the Judgment of The First District Court of Jersey City, rendered on the ninth day of June, 1914, entitled, and to make and levy of goods and chattels of John Alderton and Alice Alderton, Defendant, the sum of Three Dollars ten Cents, costs awarded the said Plaintiff by the said Judgment, and for so doing this shall be your warrant. 10

WITNESS, Charles L. Carrick, Esquire, Judge of said Court at Jersey City, aforesaid, the seventeenth day of June, in the year One Thousand Nine Hundred and fourteen.

JAMES N. BRADEN, 20
Clerk.

(Endorsed)

No. 89870
First District Court of Jersey City

Warrant of Removal

SAMUEL T. FAIRBANKS, Recr. } 30

vs.

JOHN ALDERTON, *et al.* }

68 Condict St.

Costs,	\$3.10	
Warrant,	1.60	
Milage,	.10	

40

Exhibit C-6*Mortgage*

10	CHARLES GRIMMINGER and FRANCES E., his wife, To COLUMBIA BUILDING & LOAN AS- SOCIATION.	}	Dated November 2, 1908. Acknowledged Nov. 2, 1908
----	---	---	--

Before THOMAS H. BROWN, Atty. at Law of N. J.
 Recorded November 18, 1908.
 Book 653 of Mortgages.
 Page 474.

Principal \$500. 5%
 20 Due in monthly payments.

Covers premises 68 Condict Street, Jersey City.

Exhibit C-7

IN CHANCERY OF NEW JERSEY

30 *To his Honor, Edwin Robert Walker, Chancellor
 of the State of New Jersey:*

The petition of Francis E. Grimminger, of the
 City of Jersey City, in the County of Hudson and
 State of New Jersey, respectfully shows:

1. Your petitioner was lawfully joined in the
 bonds of matrimony to her present husband,
 Charles Grimminger, the defendant in this suit,
 on the Twenty-fifth day of October, Nineteen
 40 Hundred and Seven, by Doctor Brush, a Minister

Exhibit C-7

of the Gospel, at the City of Jersey City, in the County of Hudson and State of New Jersey.

2. Defendant deserted petitioner in the month of August, Nineteen Hundred and Ten; ever since which time, and for more than two years last past, said defendant has wilfully, continuedly and obstinately deserted your petitioner. 10

3. Petitioner and defendant have been bona-fide residents of the State of New Jersey continuedly since their marriage, residing at Jersey City, in the County of Hudson aforesaid.

4. Petitioner has no means of support except from her own exertions; one child was born of the marriage aforesaid but is not now living.

5. Petitioner's maiden name was Frances E. Alderton. 20

6. Your petitioner prays, that the marriage between your petitioner and the defendant may be dissolved for the cause aforesaid, according to the statute in such case made and provided; that she may be allowed to resume her maiden name; and that she may have such further relief as may be just.

And your petitioner will ever pray, &c.

FRANCES E. GRIMMINGER,
Petitioner. 30

CHAS. E. S. SIMPSON,
Solicitor for Petitioner.

State of New Jersey, {
County of Hudson. } ss:

Frances E. Grimminger, being duly sworn according to law, upon her oath deposes and says, that she is the petitioner named in the foregoing petition; and that her said petition is not made 40

Exhibit C-8

by any collusion between her and the defendant,
but in truth and good faith, for the cause set forth
in the petition.

FRANCES E. GRIMMINGER.

Subscribed and sworn to before me at Jersey
10 City, N. J., this
29th day of January, A. D. 1913.
Margaret T. Coyne,
Notary Public of New Jersey.

Exhibit C-8

State of New Jersey, ss:

The State of New Jersey to Charles
20 (L.S.) Grimminger, GREETING:

You are hereby cited to be and appear before
our Chancellor in our Court of Chancery, to be
held at Trenton, on the Fifth day of March, next,
to answer to the petition of Frances R. Grim-
minger, exhibited against you, and hereof fail
not.

30 WITNESS, Edwin Robert Walker, Esquire, our
Chancellor at Trenton the First day of February
in the year of our Lord one thousand nine hun-
dred and thirteen.

SAML K. ROBBINS,
Clerk.

Charles E. S. Simpson,
Sol'r.

NOTICE—The defendant is not required to ap-
pear at Trenton IN PERSON, at the return day,
but if he intends to make a defence it is only nec-
essary for him to answer, the petitioner within
the time required by law.

40 SAML K. ROBBINS,
Clerk,

Exhibit D-1

Building and Loan Book.

Dated, July 15, A. D., 1915.

CHARLES E. S. SIMPSON,
Solicitor for Appellant. 10
FRANK G. TURNER,
Solicitor for Respondent.

Exhibit D-2

Telephone 1590

MARSHALL VAN WINKLE
COUNSELLOR AT LAW
No. 1 Exchange Place 20

Jersey City, N. J., July 13th, 1907.

Thomas H. Brown, Esq.,

Dear Sir:

I enclose you check for \$30.55 in settlement of
the amount due Charles Grimminger from Wil-
liam Michael Grimminger as Receiver for rents,
&c. The amount is made up as follows: 30

Balance in hands of William Michael Grimminger, Receiver	\$351.64	
His Commissions allowed by Court	250.	
		<hr/>
	\$101.64	
Less expenses paid Mr. Many on ac- count	10.	
		<hr/>
	\$91.64	40

Final Decree as Amended

10 This amount is divided into three parts. There is due me from Charles Grimminger \$25., amount paid by me for premium on the Guardianship Bond, and I should deduct that from the enclosed check, but in view of the smallness of the amount I do not do so. Please send me a receipt so that I may give the same to the Receiver.

Yours very truly,
MARSHALL VAN WINKLE.

ENC.

Final Decree as Amended

20

(Filed May 19, 1915)

IN CHANCERY OF NEW JERSEY

Between CHARLES GRIMMINGER, <div style="text-align: center;">Complainant,</div> <div style="text-align: center;">and</div> JOHN ALDERTON, <i>et als.</i> , <div style="text-align: center;">Defendants. </div>	}	On Bill &c. Amended Final Decree.
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30

This matter coming on to be heard on bill, answer and cross bill, replication and answer to cross bill, in the presence of Frank G. Turner, of counsel for the complainant, and Charles E. S. Simpson, of counsel for the defendants, and the pleadings having been read and the proofs of the respective witnesses having been heard, and the
 40 argument of the respective counsel having been

Final Decree as Amended

heard and considered, and the Court having duly considered the said pleadings, proofs and arguments, and it appearing to the Chancellor that the allegations in the bill of complaint have been sustained, and that the prayer of the said bill should be granted, and that the several deeds of conveyance in the said bill mentioned and described for the lands and premises therein set forth were obtained by the defendants through undue influence and complete domination by the defendants over complaint and that the said deeds were made and executed with the intent to defraud the complainant and deprive him of his property, and that he is entitled to relief therefrom; and an order of reference having been made herein on the ninth day of March, 1915, to Pierre F. Cook, one of the special masters of this Court to ascertain the fair rental value of the premises and what rent should be charged to the defendants John Alderton and Alice Alderton, his wife, and the expenditure they have made tending to preserve the property, all as set forth in said order, and the said special master having duly presented and filed his report;

IT IS, THEREUPON on this 17th day of May, 1915, on motion of Frank G. Turner, of counsel with the complainant, ordered, adjudged and decreed, and the said Chancellor by virtue of the power and authority of this Court does hereby

ORDER, ADJUDGE AND DECREE that the said report of the said special master be and the same in all things approved and confirmed, except as hereinafter stated, and the parties by their counsel having appeared on the application to confirm said report; and the defendant's counsel having re-

Final Decree as Amended

requested that there be added to the amount allowed
 them by the master, the sum of \$120 for painting
 and \$318 for payments on account of the mortgage
 to be charged off against the rental claim of the
 complainant of \$1400 it is ordered that the said
 10 defendants John Alderton and Alice Alderton, be
 credited with said sums amounting to \$438.00 and
 that the said deeds of conveyance in said bill men-
 tioned and described for the tracts of land re-
 spectively therein set forth, that is to say the deed
 of conveyance made by Charles Grimminger and
 Frances E. Grimminger, his wife, to John Alder-
 ton dated April 26th, 1907, acknowledged April
 26th, 1907, recorded May 6th, 1907, in *Liber 983*
 of Deeds for Hudson County, page 123; deed
 20 made by John Alderton and Alice Alderton his
 wife, dated April 26th, 1907, to Charles E. Grim-
 minger and Frances E. Grimminger, his wife,
 acknowledged April 26th, 1907, and recorded May
 6th, 1907, in *Liber 983* of Deeds for Hudson
 County, page 132; and deed of conveyance made
 by John Alderton and Alice Alderton, his wife to
 Charles E. Grimminger and Frances E. Grim-
 minger, his wife, dated April 26th, 1907,
 acknowledged November 17th, 1908, and re-
 30 corded November 17th, 1908, in *Liber 1016* of
 Deeds for Hudson County, page 584; deed of con-
 veyance made by Charles E. Grimminger and
 Frances E. Grimminger, his wife, to John Alder-
 ton and Alice Alderton, his wife, dated April 18th,
 1911, acknowledged April 18th, 1911, and recorded
 April 24th, 1911, in *Liber 1090* of Deeds for Hud-
 son County, page 176, be set aside, annulled and
 made void against the complainant, and that title
 40 to the said premises be and the same is hereby de-

Final Decree as Amended

creed to be in the said complainant, Charles E. Grimminger, and that the said defendants, do, on service of a copy of this decree upon their solicitor, deliver up the said deeds to the complainant to be cancelled, and that they do also at once deliver up to the said complainant, the possession of the said premises now held by them, together with all deeds, muniments of title and writings in their custody or power, relating to the said premises. And that the said deeds above mentioned, from the time of the execution and delivery of the same be, and they are hereby declared to be null and void and of no force or virtue whatsoever in law or in equity. 10

AND IT APPEARING that from about the year 1906, to August, 1910, the premises were occupied in common by the complainant and the defendants, and during some or all of that period the defendants, Alderton, paid about ten dollars per month to the defendant Frances Alderton Grimminger, which sum was used for her support; and the defendants having moved to open the final decree already entered herein for the purpose of being allowed credit therefor; 20

IT IS ORDERED that such application of the defendants be granted, and that no rent shall be charged against the defendants John Alderton and Alice Alderton for their occupancy of the said premises prior to August 1, 1910, and it is further 30

ORDERED, ADJUDGED AND DECREED that the said defendants, John Alderton and Alice Alderton, do pay to the said complainant, rent for the said premises at the rate of Twenty-five dollars per month, from August, 1910, to April 1st, 1915, 40

Final Decree as Amended

amounting to One thousand four hundred dollars, less the sum of Three hundred eighty-five dollars and forty-three cents allowed in the said master's report, and the additional allowance of \$438 hereinbefore set forth and ordered to be credited to said John Alderton and Alice Alderton, leaving
 10 a balance of Five hundred and seventy-six dollars and fifty-seven cents which the defendants, John Alderton and Alice Alderton shall pay to the complainant; the defendants herein shall pay to the complainant his costs in this caused to be taxed. The complainant shall have execution therefor.

The fees of Pierre F. Cook, special master, amounting to \$49.88 shall be paid by the defendant, John Alderton and Alice Alderton, within ten
 20 days from the date hereof; and upon their failure to pay such fees within said time the same shall be paid by complainant and taxed in his costs against said defendants and he shall have execution therefor against said defendants.

E. R. WALKER,

Respectfully advised.

John Griffin,

V. C.

C.

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A True Copy

ROBERT H. McADAMS,

Clerk.

**Notice of Appeal to Court of Errors
and Appeals**

(Filed May 28, 1915)

IN CHANCERY OF NEW JERSEY

Between CHARLES GRIMMINGER, Complainant, and JOHN ALDERTON, <i>et als.</i> , Defendants.	}	On Bill, etc. Notice of Appeal.	10
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The defendant, Frances E. Grimminger Goodman, herein appeals from the decree made in the above-entitled matter dated May tenth, 1915, and from the whole and every part thereof to the New Jersey Court of Errors and Appeals in the last resort in all causes. 20

CHAS. E. S. SIMPSON,
Solicitor for Defendant.

Chas. E. S. Simpson,
Of Counsel with Defendant.

I conceive there is good cause for appeal in the above stated cause. 30

CHAS. E. S. SIMPSON,
Of Counsel with Defendant.

Petition of Appeal

(Filed, June 30, 1915)

NEW JERSEY COURT OF ERRORS AND
APPEALS

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Between

CHARLES GRIMMINGER,

Complainant,

and

JOHN ALDERTON, *et als.*,

Defendants.

On Appeal.
Petition of Appeal.

20 *To the Honorable The Court of Errors and Appeals, in the last Resort in all causes:*

The petition of Francis E. Grimminger Goodman, the appellant in the above-stated cause, respectfully shows that your petitioner finds herself aggrieved by a decree made in the Court of Chancery by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, bearing date the Seventeenth day of May, Nineteen Hundred and Fifteen, wherein the said Charles E. Grimminger was complainant, and the said
30 Frances E. Grimminger Goodman, and others, were defendants, in this respect, to wit, that the said decree adjudges that the deeds of conveyance in the bill of complaint mentioned and described for the tracts of land respectively therein set forth, that is to say the deed of conveyance made by Charles Grimminger and Frances E. Grimminger, his wife, to John Alderton, dated April 26th, 1907, acknowledged April 26th, 1907, recorded May 6th, 1907, in Liber 983 of Deeds for
40

Petition of Appeal

Hudson County, page 123; deed made by John Alderton and Alice Alderton his wife, dated April 26th, 1907, to Charles E. Grimminger and Frances E. Grimminger, his wife, acknowledged April 26th, 1907, and recorded May 6th, 1907, in Liber 983 of Deeds for Hudson County, page 132; and deed of conveyance made by John Alderton and Alice Alderton, his wife, to Charles E. Grimminger, and Frances E. Grimminger, his wife, dated April 26th, 1907, acknowledged November 17th, 1908, and recorded November 17th, 1908, in Liber 1016 of Deeds for Hudson County, page 584; deed of conveyance made by Charles E. Grimminger and Frances E. Grimminger, his wife, to John Alderton and Alice Alderton, his wife, dated April 18th, 1911, acknowledged April 18th, 1911, and recorded April 24th, 1911, in Liber 1090 of Deeds for Hudson County, page 176, be set aside, annulled and made void against the complainant, and that title to the said premises be and the same is hereby decreed to be in the said complainant, Charles E. Grimminger, and that the said defendants, do, on service of a copy of this decree upon their solicitor deliver up the said deeds to the complainant to be cancelled, and that they do also at once deliver up to the said complainant, the possession of the said premises now held by them, together with all deeds, muniments of title and writings in their custody or power, relating to the said premises. And that the said deeds above mentioned, from the time of the execution and delivery of the same be, and they are hereby declared to be null and void and of no force or virtue whatsoever in law or in equity.

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Petition of Appeal

And your petitioner humbly appeals from that part of the said decree of the Chancellor which decrees as aforesaid, upon the ground that the same is erroneous, for that the said Chancellor should have ordered and adjudged and decreed that the
 10 several and respective deeds above-mentioned and described should have been declared to be null and void and of no force or virtue whatsoever in law or in equity as against the defendants, John Alderton and Alice Alderton only, and should have decreed that the said John Alderton and Alice Alderton should have conveyed the title to the premises described in the complaint herein to Charles E. Grimminger and to the appellant, Frances E. Grimminger Goodman, and should have decreed
 20 that the title to the said premises was and should be decreed to be in the said Charles E. Grimminger and Frances E. Grimminger Goodman, and should be decreed that the several and respective conveyances and deeds above described should not have been void as against the appellant, Frances E. Grimminger Goodman, and should have decreed that the said Charles E. Grimminger, and the appellant, Frances E. Grimminger Goodman were seized of said lands
 30 and premises as tenants in common, and because of said decree is otherwise erroneous and prejudicial to the rights and interests of this appellant.

Your petitioner therefore prays that said decree of said Chancellor may be reversed, set aside and for nothing holden as against this appellant.

And that your petitioner may have such other and further relief in the premises as to this Honorable Court may seem equitable and just.

CHAS. E. S. SIMPSON,

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Solicitor for and of Counsel with Appellant.

Answer to Petition of Appeal

(Filed July 7, 1915)

NEW JERSEY COURT OF ERRORS AND APPEALS

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Between CHARLES GRIMMINGER, Complainant-Respondent, and JOHN ALDERTON, <i>et als.</i> , Defendant-Appellant.	}	Answer to Petition of Appeal.
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The answer of the above named respondent to the petition of appeal of the appellant Frances E. 20 Grimminger Goodman.

The respondent, not acknowledging all or any of the matters which in said petition of appeal are contained to be true, for answer thereto, nevertheless, says and admits that a decree was, on the 10th day of May, 1915, last past, made and entered in the Court of Chancery, in the cause for that purpose mentioned in the said petition, as is therein stated; but as to the substance and form thereof, this respondent prays to refer thereto 30 when the same shall be produced. And this respondent is advised and believes, that the said decree is agreeable to equity, and he prays that the same may be affirmed, with costs to be adjudged to this respondent.

FRANK G. TURNER,
Solicitor and of Counsel with
Complainant-Respondent. 40

THE HISTORY OF

THE UNITED STATES

OF AMERICA

BY

W. H. RAY

NEW YORK

1854

AND

PHILADELPHIA

1854

AND

NEW YORK

1854

AND

PHILADELPHIA

1854

AND

NEW YORK

1854

AND

PHILADELPHIA

1854

Opinion

IN CHANCERY OF NEW JERSEY

Between, CHARLES GRIMMINGER, <div style="text-align: right; padding-right: 20px;">Complainant,</div> <div style="text-align: center; padding: 0 10px;">and</div> JOHN ALDERTON, <i>et al.</i> , <div style="text-align: right; padding-right: 20px;">Defendants. </div>	}	10
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Frank G. Turner, Esq., for Complainant.
 Chas. E. S. Simpson, Esq., for Defendants.

Submitted, October 24, 1914.
 Decided, January 21, 1916. 20

GRIFFIN, V. C.

The bill in this case is filed to set aside three conveyances made as follows: (a) by the complainant and wife, Frances, to John Alderton; (b) by John Alderton and wife to the complainant and wife, Frances (both made April 26, 1907); (c) by the complainant and his wife, Frances, to John Alderton and Alice Alderton, his wife (made April 28, 1911). 30

At the time these conveyances were made complainant had no other property.

The complainant and defendant, Frances, were married on October 25th 1906, after an acquaintanceship of four months. From childhood the complainant had been, and still is, mentally deficient, being, as it is said, an epileptic. The brother of the complainant, upon learning of the 40

Opinion

prospective marriage, acquainted Frances of the complainant's condition, urged her not to marry him, but she replied that she would marry him in spite of his condition. This she denies.

10 At the time she became acquainted with him there was pending in Chancery a suit for the partition of the estate of complainant's father—the complainant and one other brother were represented by Messrs. Vredenburgh, Wall & Van Winkle, the case being in charge of Mr. Van Winkle.

20 Prior to the marriage and also to the payment of complainant's share of the proceeds of sale in partition, and before the complainant purchased the premises in question, Frances sought to obtain from Mr. Van Winkle information as to what complainant would receive from the partition suit. Mr. Van Winkle testified as follows:

“Q. Can you tell what the conversation was? A. Well, I can only recall the substance of it. The substance of the conversation was a request by her of me to ascertain how much money was coming to Charles Grimminger from his father's estate.

30 “By the Vice Chancellor: Q. Were they married at that time? A. Unmarried, sir. She introduced herself, and I understood from her at that time that she was to marry Charles Grimminger; and I viewed him as a man unfit to marry, because of this condition; and I was very short and peremptory with this lady, and gave her little information.”

40 This Frances also denies.

Opinion

On October 5th, 1906, Mr. Van Winkle, on the written authority of the complainant, sent a check to Michael Grimminger, the brother of the complainant, for \$7,235.14, being the balance due the complainant upon his share in the partition suit, to be by him deposited in the New Jersey Title Guarantee and Trust Company as a special deposit in the name of George Grimminger, trustee. This, Mr. VanWinkle says, was done because he viewed the complainant as a person unfit to handle so large a sum of money. 10

Prior to the receipt of these moneys the complainant had entered into a contract for the purchase of the premises in question for \$5000, the deed for which while dated and acknowledged September, 1906, was not delivered, nor the consideration paid until about October 12th, 1906, the date of record; the purchase price having been paid out of the moneys received in the partition suit; adding to this the sum of about \$1300 paid for his board accrued prior thereto, a small sum remained in his hands out of the moneys received from the suit. 20

The complainant and Frances spent their honeymoon in Washington, and while there the complainant had a fit. This, she says, was the first intimation she had that he was so afflicted. 30

Immediately after the wedding the complainant and his wife moved into the premises and occupied substantially one-half, at the same time the parents of Frances entered into the occupancy of the other half. Defendants say that the Aldertons, on entering, paid \$11.00, and later \$14.00 a month as rent for the portion occupied by them.

From October, 1906, until July, 1910, the occu- 40

Opinion

pants of this house were the complainant and defendants and a son of the Aldertons named William, all of whom practically lived together as a single family. During this period no light is shed upon the relations existing between the complainant and defendants, save only such as comes from the defendants—William not being called. Little weight can be given to what the complainant says, because of his mental condition; his stories are contradictory; he is forgetful, has little idea of time, place and circumstances. To illustrate: He says his child (born in 1909) lived three or four years, whereas she lived but six months. He did not remember, until his memory was refreshed, that he occupied the house with the Aldertons until after this suit was commenced, and he was advised by his counsel to leave, but, on the contrary, said he thought he lived at the Boulevard Hotel in 1911, whereas the time was 1913. And in numerous other instances he showed his utter lack of memory and understanding. He spoke freely, without any attempt to dissemble; his manner, personal appearance and speech clearly indicated a weak and disordered mind. His condition also was such as to render him unfit for work, and of this he did very little, and was therefore dependent upon the property in question and the defendants for his livelihood.

Frances, in speaking of the making of the deeds in 1907, on direct-examination, testified as follows:

“Q. At whose suggestion was that done?

A. Well, we talked about it, and I said, ‘Why don’t you have my name on it,’ and he said, ‘Well, I will see,’ and then I guess

Opinion

he thought it over and after that he came back and said 'We will go up to Brown and get Mr. Brown to do it' and that is how we came to do it."

And on cross-examination she said:

"Q. And were you afraid he might die as the result of these fits? A. Well, I didn't know what would happen. 10

"Q. Was that the thing, because of the fits that caused you to have the property made over in your name? A. No, sir.

"Q. What was the reason? A. Well, I thought it was right that I should have my name on it.

"Q. You thought it was right you should have your name on it? A. Yes. 20

"Q. But you know the property had been bought with his money, didn't you? A. Yes."

The testimony of complainant's witnesses demonstrates that the condition of the complainant for years before the filing of the bill and prior to his marriage was the same as on the date they testified, and particularly Mr. Van Winkle, a reputable member of the Hudson County Bar, 30 who knew the complainant since the beginning of 1906, says that his condition remained unchanged.

Mr. Brown, who drew the deeds in 1907, recalls little of the circumstances attending the drawing and acknowledgment of the deeds—he simply states that, pursuing his custom, they were acknowledged in due form.

The condition of this young man in the household from October, 1906, until July, 1910, may be 40

Opinion

inferred from some of the statements of Mrs. Alderton and from what transpired, after July, 1910, when Mrs. Price, a niece of Mrs. Alderton, came to board with the Aldertons. Mrs. Alderton says that there was nothing the matter with the complainant; that he was lazy, and could work just as well as her husband; that he did not work to buy clothes. But this statement of his ability to work is simply absurd. His mental and physical condition was such that he could not work unless moved by some impelling force, in which case it would be difficult to believe that his services would satisfy any employer. I take it, from this, that his failure to work was a matter of frequent discussion in the family; and Mrs. Alderton says that the fact that he would not work, and money matters, were causes of dispute between the complainant and Frances.

On November 2, 1908, complainant and his wife made a mortgage to a building loan association for the sum of \$500 to raise funds, as Frances says, to cover the expenses of her approaching accouchement. There was about one hundred dollars deducted from the sum, and the balance paid by the attorney to Frances, in which transaction the complainant was evidently ignored. All of the rents paid by the Aldertons for the use of the premises were paid to the daughter Frances. According to the Aldertons' stories, about April 8, 1911, there were arrears of taxes, water rents, interest and dues on the building loan mortgage, and the complainant, having no funds to pay the same, it is stated by the defendants that the complainant actually solicited Alderton and his wife to take a deed of the prop-

Opinion

erty in their own names, so that the complainant and his wife would have a home, and that when the complainant reimbursed the Aldertons for their outlay, the property would be reconveyed to the complainant and his wife. The Aldertons say they did not want to take such a deed, but wanted the complainant to have the deed made to one of his brothers. He did not want this. Accordingly, the complainant and his wife made their full covenant warranty deed to John Alderton and Alice Alderton, his wife, conveying the fee simple in said premises. At the time of this conveyance there was no memorandum signed by the Aldertons showing the terms upon which the deed was delivered, and no effort whatever made to protect the interest of the complainant. After the conveyance Alderton made the repairs to the premises, incurred expenses on account thereof, and did so without ever conferring with the complainant or asking his advice or permission to do so; and Alderton says he did not think that it was necessary that he should ask the consent or advice of the complainant in the matter. The whole course of conduct of the defendants toward the complainant clearly indicates that they did not regard him as being worthy of any consideration. They, from the beginning, treated this property as their own, and did as they saw fit with respect thereto. Their treatment of the complainant, and his acquiescence in such treatment, are rather mute evidences of the mental weakness of the complainant and the domination which they exercised over him without protest; and, in fact, this suit would not have been brought were it not for the fact that after his wife obtained a

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Opinion

divorce from him the complainant was led by his brothers to institute this suit.

10 On January 30, 1913, Frances filed her petition for divorce against the complainant, charging that complainant had deserted her in the month of August, 1910, the petition being for statutory desertion. A decree *nisi* was entered in the suit April 29, 1913. How, on the facts as shown in this case, such a divorce could be obtained, if Frances is truthful, is a mystery to me. But in considering this case I may only look into it in so far as it may have a bearing on this controversy. The testimony shows that Frances occupied a room in this house with Mrs. Price from July, 1910, to April, 1913, and during all the time, from the date of their marriage down to April, 20 1913, the husband and wife lived under the same roof. Dealing with the deed given in 1911 by the complainant and his wife to the Aldertons, Frances said that they had stopped living together for about a week before the transfer was made to the father and mother because he did not work, and they were angry at one another. She says,

30 "then we got to talking again, and got to sleeping again together."

Then she proceeds to testify as follows:

"Q. And then the transfer was made after you got talking again? A. We talked the matter over first, and then after we got to speaking right then he said he would turn it over.

40 "By the Vice Chancellor: Q. What did you say to him about turning it over? A.

Opinion

Well, the only thing I said to him was I thought it was a good idea if he would turn it over, then we would have a home for ourselves; then we would be sure of a place to live in.

“Q. Well, didn’t you suggest to him that it ought to be turned over to your father and mother? A. Well, I asked him first, but then he was not willing at first; he went down and asked his brother first; and then he came back and he talked it over again, and he said he was willing to turn it over to my father and mother. 10

“Q. And after he turned it over to your father and mother, what were they to do? A. They were going to look after the place and keep the repairs up and everything, and pay the taxes, and keep everything right, and we should have a home. 20

“Q. Your father and mother were to give you and your husband a home? A. Yes, when we turned it over. That was the agreement that was made, that they would give us a home, and they were to look after the property and keep it in good repair.” 30

Therefore, as the deed was delivered on April 8, 1911, and the petition for divorce was filed on January 30, 1913, the two year period of desertion would not have expired until some time after April 8th, 1913; and taking the case most favorably to the defendant, Frances, the desertion could not have been continued, at the time of her filing the petition, for more than one year and nine months. 40

Opinion

Passing what might be a fraud practiced on the Court in procuring the divorce, the testimony of Frances has a very significant bearing on the means used to obtain the deed in 1911, and as tending to discredit the testimony of the defendants generally, and to show the complete domination that the defendants possessed over this young man.

10 The Aldertons would have the Court believe that they did not want to take this deed; and yet, their daughter, on her own story, patched up the quarrel with the complainant and resumed cohabitation apparently for the purpose of securing the execution of the deed. It may be that this same course was pursued in 1907 to compel him to execute the deed for the purpose of putting the property in their joint names.

20 Having eliminated the complainant from the ownership of the property, the interest of the defendants in the complainant, if any they had before, ceased. He was treated as an utter stranger in the household, permitted to sleep in the attic, and while writhing in these fits no attention was paid to him. If he died in one of them the Aldertons would own the property, and his death apparently would not grieve them. To consummate the transaction the daughter then sued for a divorce while they were all living in the same household. The petition and citation were served upon him there, and he either did not comprehend their contents or gave them no attention.

30 To sum up the whole situation, the defendant Frances married the complainant after being fully apprised of his condition. She did not 40 marry him for love, but to secure the benefits of

Opinion

his property. She first secured the transfer of the property to their joint names, so that it would become hers in the event of his death. Not content with that, some four years afterwards they induced him to make a deed which divested him of all interest in the property of record. Having thus secured everything that this unfortunate young man had, his wife then filed a bill for divorce to rid herself of him, alleging a desertion some seven months prior to a date when she says they occupied the same bed; and, having obtained her divorce, she married Goodman, her present husband, and now seeks to take to her new spouse one-half of the property which complainant vested in her. It seems to me that Frances, in her marriage to the complainant, and in her conduct towards him since, perpetrated and intended to perpetrate a gross fraud upon him. She did not enter into matrimony with the idea of becoming a loving, faithful spouse. 10 20

In so far as the gift to Frances by the deeds of 1907 is concerned the case is much stronger in favor of the complainant than *Haydock vs Haydock*, 34 N. J. Eq., (7 Stew.) 570. There the husband made certain gifts to his wife of a portion of his property. He has become weakened from age and disease. While they lived together, and none but her brothers were about him, without the advice of independent counsel, he made the gifts of which she was the recipient. The Court held that the burden was cast upon the donee to show the fairness of the transaction, saying, 30

“I take the rule to be settled that where a person enfeebled in mind by disease or old age, is so placed as to be likely to be 40

Opinion

10 subjected to the influence of another, and makes a voluntary disposition of property in favor of that person, the Courts require proof of the fact that the donor understood the nature of the act. *Huguenin vs. Bas-ley*, 2 L. C. in Eq. (4th Am. ed.) notes, pp. 1183-1185, American notes, pp. 1192-1194.

20 The presumption against the validity of the gift is not limited to those instances where the relation of parent and child, guardian and ward or husband and wife, exists but in every instance where the relation between the donor and donee is one in which the latter has acquired a dominant position. The parent, by age, may come under the sway of his children. *Highberger v. Stiffler*, 21 Md. 338. And so, as in the present case, the husband may become the dependent of the wife, and their natural position become reversed * * *

30 The influence which is undue in cases of gifts *inter vivos*, is very different from that which is required to set aside a will. In testamentary cases, undue influence is always defined as coercion or fraud, but, *inter vivos*, no such definition is applied. Where parties hold positions in which one is more or less dependent upon the other, Courts of Equity hold that the weaker party must be protected, and they set aside his gifts if he had not proper advice independently of the other. *Huguenin v. Bas-ley*, *supra*, notes p. 1271."

40 In this case the mental condition of the com-plainant was about the same as Haydock's. He

Opinion

lived in a household, surrounded by his wife, father-in-law, mother-in-law and brother-in-law. He was dependent upon them. So situated, he was easily dominated. When the deeds were executed he did not have the benefit of advice independent of the donee and her family. The gift had relation to substantially all the property he was possessed of, and resulted in vesting in the complainant and Frances, husband and wife, the lands in common, each holding one-half during their joint lives, with survivorship as at common law, *Buttler vs. Buttler*, 42 N. J. Eq., (15 Stew.) 651 (657). Before this gift was consummated he might at any time sell the premises, subject to his wife's inchoate right of dower, for a substantial sum; whereas, after the gift, considering his condition of health, it is unlikely that anyone would pay for his right and interest in the lands much more than a nominal sum. Thus he divested himself by gift of all his property, excepting a share of the income, thereby losing the protection his prior estate might in future afford. Such a situation, applying the reasoning Vice Chancellor Stevens in *Pearce vs. Stines*, 79 N. J. Eq., (9 Buch.) 51 (56), seems also to bring the case within the opinion of the Chief Justice in *Slack vs. Rees*, 66 N. J. Eq., (21 Dick.) 447. In *Pearce vs. Stines*, *supra*, the Vice Chancellor, in commenting upon the proportion of the donor's property that must be disposed of by gift in order to bring it within the rule in *Slack vs. Rees*, said

“The principle of the decision as pointed out by Judge Vredenburgh in *Coffee vs. Sullivan*, 63 N. J. Eq., (18 Dick.) 302 is 40

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10 that a man enfeebled by age and disease may not unadvisedly divest himself of his property, at a time when he can no longer work, and then by so doing, he becomes dependent upon the charity of others or of the public. I think the practical rule to be deduced from the cases is that the donor having barely sufficient property to sustain himself for the rest of his life, shall not irrevocably, and without advice, give away so much of it as to leave himself an object of charity.

20 “The law does not go to the length of saying that a donor incapacitated by age and disease from earning his own living, may not even improvidently strip himself of all his property beyond recall, although there are cases which seem almost to go to that extent *Powell v. Powell* (1900) 1 Ch. Div., 246; but it does say that his gift shall not stand, unless he have competent, independent advice, and refuse to act in accordance with it.”

30 While the case clearly is within the rule laid down in *Haydock vs. Haydock, supra*, because I have no confidence in the testimony of the defendants which was offered to show the absence of undue influence, yet if the case was free from the inference of the influence which is condemned, it still is within the rule of *Slack vs. Rees, supra*, if a single fact is proven, namely, the mental weakness of the complainant at the time the gift was made, all the other elements justifying the annulment of the gift plainly appearing.

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Opinion

The complainant's counsel should have offered medical testimony showing the nature of the disease, and its effect on the man, physically and mentally. No such evidence was produced. This omission, however, in the proof is not fatal, because the mental and physical condition of the complainant is so marked and had continued for such a long period without change, that any layman, after a brief experience with him, could reach only one conclusion, *viz.*, that the man was possessed of a very weak mind. 10

I will advise a decree that the deeds given in 1907 to vest the title in the complainant and the defendant Frances be declared null and void.

The Aldertons, in their answer and testimony, set up the trust upon which they took the property, and express a willingness to re-convey to the complainant and their daughter upon being reimbursed. On this branch of the case there will be a reference to a master to ascertain the sums with which the Aldertons should be charged for use and occupation of the premises, and what credits should be allowed them for necessary expenditures for the care and preservation of the property, the payment of taxes, water rents, interest and dues upon the building loan mortgage, etc.—the form and scope of the order to be settled on notice. 20 30

Upon the coming in of the master's report the decree will additionally provide that the Aldertons convey the premises to the complainant upon the payment to them of the amount, if any, so ascertained to be due.

