

New Jersey Court of Errors and Appeals.

Between

CHRISTIAN BUTTLAR,

Respondent,

and

MINA BUTTLAR,

Appellant.

On Bill &c.,

Appellant's
Brief.

Respondent filed his bill in this cause to partition the lands therein described. Appellant filed her answer to said bill wherein she denied respondent's right to partition, because of a certain agreement existing between them, bearing date on the 31st day of January, 1894, (Ex. D, 1 p. 18). She also filed a cross-bill setting up an equitable title to all of said lands, and praying that she might be decreed to be the owner thereof. She also prayed an accounting from respondent for the proceeds and profits of a certain hay, grain and feed business owned by her in the City of Hoboken, conducted in a building on the lands described in the bill, and managed by him, a part of which proceeds he claims went into said lands. Complainant filed a general replication to defendant's answer.

The parties hereto, were formerly husband and wife, and had an estate by the entirety in said lands, but in November, 1900, the respondent,

Christian Buttlar, filed his bill in the Court of Chancery of this State, praying for an absolute divorce from the appellant, Mina Buttlar, on the ground of desertion. She filed an answer and also a cross-bill praying for a divorce from him on the ground of adultery. His bill was dismissed and a decree of divorce was granted to appellant on March 24th, 1902, for the crime of adultery alleged against the respondent in said cross-bill, and shortly thereafter he filed his bill in this cause.

The Court of Chancery made a decree for the partition of said lands, ordered that they should be sold, and dismissed appellant's cross-bill.

It also made an order against appellant for costs, which is set out on page 309, from which decree and order she now appeals.

POINT I.

The decree of divorce did not terminate the agreement of January 31st, 1894.

"The argument that upon granting the decree of divorce there was a failure of consideration to support the agreement is without force."

Galusha v. Galusha, 116 N. Y., 643.

"Held error: That the agreement was at its execution valid and binding; that it was not invalidated by a subsequent violation of the marriage vow on the part of the defendant, nor did the consideration supporting it fail upon the granting of a decree of divorce; that after the making of the contract it was not in the power of either party acting alone and against the will of the other to destroy it."

Ibid.

"Neither did the act of the wife, in availing herself of the husband's wrong to free herself from

matrimonial bonds effect the separation agreement.”

Ibid.

“A deed of separation is no bar to a divorce, nor is a divorce a good defense to the enforcement of the provisions of a separation agreement.”

Kremelbery vs. Kremelbery, 52 Md., 553.

Goalin vs. Clark, 12 C. B. N. S., 681.

The Vice Chancellor in his opinion at page 288 cites Dixon vs. Dixon, 8 C. E. Green, 316, Lister vs. Lister, 8 Stew., 49; to the effect that vested interests are not disturbed by a decree of divorce.

POINT II.

If complainant had a right to rescind the contract in question, the service of (Ex. B, p. 43) did not bring about such a rescision.

1st—Because no rescision was set up in his replication. He did not rely upon the notice of rescision, his contention being that the contract became inoperative by reason of the decree of divorce.

2nd—Because the service of the notice and his subsequent conduct did not effect restitution, but indicate that his offer, if such it may be called, was not made in good faith.

3rd—Because, he was not in a position to restore the consideration.

This Court in *Buttler vs. Buttler* (12 Dick. on p. 656) said that the complainant “could not escape liability on his contract, except by rescision and that could be accomplished, *if at all*, under present conditions only by an offer by way of cross-bill, to restore the consideration.”

He made no such offer in any of his pleadings in

the present case and the only steps taken by him to effect restitution was to cause the notice of rescission to be served.

He did not reassign or offer to reassign to the defendant her share of the leasehold estates nor her reversionary interest in the rented premises. At the time the notice was served, he says (p. 247 ls 32 &c.) that he owed her \$300 or \$400. Appellant (p. 270, 1, 15) says that he owed her nearly \$675. He continued to take full charge of the premises and collect the rents.

This Court *Buttler v. Buttler* (Ibid p. 655) held that such conduct was antagonistic to a rescission.

But the complainant was not in a position to restore the consideration.

The bill (p. 2) sets forth that the First Street property was then subject to a *lease* to one Goelz for the term of five years with a covenant of renewal for a like term of five years and a privilege of purchasing the premises at any time during the continuance of the term for \$6,000. This lease was made without the knowledge or consent of defendant as is alleged in her answer and testified to by her (p. 47, l. 13, &c.). Complainant (p. 219, l. 33) admitted that he did not think it was necessary for his wife to sign the lease.

POINT III.

The separation agreement creates an equitable lien upon the premises in question and being in full force and effect the Court will not compel a partition.

Appellant agreed that the respondent should be entitled to receive during the term of *his natural life*, all the rent, income and profits of the property owned in their joint names (p. 19) in considera-

tion of which he agreed to pay all taxes that might be thereafter levied or assessed against said real estate, interest that might thereafter become due on mortgages held against said property and also all repairs that might thereafter be required, and to pay her the sum of \$75 a month during her natural life which she agreed to accept in full satisfaction for her support and maintenance and all alimony whatever.

By this agreement she relieved herself of the care and anxiety of the management of her real estate and the proceeds thereof for life, in consideration of his promise to manage it for her and pay her the sum of \$75 a month as long as she should live. This was in effect an agreement not to sell the lands during the term of his life.

After the full consideration for said agreement has passed to the respondent, the Court should not compel a partition of the lands, order them sold and thereby sweep from under her feet the security for her support that she intended to create by the transfer of her interest in said property to him.

“To grant a partition and allow Avery’s portion to be set off in severally before the purchase price is paid, while a large portion of the property remains unsold; and before Payne has by his own fault, or otherwise, relieved Avery from his obligation in this respect, would be to deprive Payne of a large portion of the consideration he was to receive from the land. The conveyance was therefore made to Avery under and in pursuance of an agreement which was inconsistent with a present right of partition on his part.”

Avery v. Payne, 12 Mich., 548.

Under the provisions of this contract the ~~respondent~~ ^{appellant} would not be allowed to partition said lands.

“But where property is purchased by two or more persons for specific purposes, and those can be accomplished only by the parties continuing co-tenants and there is sufficient to establish an express or implied agreement that the property shall remain undivided, no Court would compel a partition to be made.”

Freeman C & P., Par. 442.)

This Court held in the case of *Buttler v. Buttler* that the agreement between the parties was in effect a lease and therefore complainant has no present right of partition.

“It is founded upon a valuable consideration passing from the wife to the husband *in the form of a conveyance* or transfer under seal, by her to him, for the term of his natural life of the rents, income and profits, &c.”

Buttler v. Buttler, 12 Dick., 652.

“On the contrary while still holding fast to all the benefits derivable by him from the exclusive possession of *her property granted him by the instrument* he seeks to repudiate the obligation it casts upon him.”

Ibid 655.

“Again under the circumstances *of the transfer of this property to the defendant* and his assumption of the exclusive possession of the joint properties he was bound to use at least ordinary care and diligence in its management.

Ibid 657.

“When in this case instead of terminating the lease at the end of twenty years, the complainants and defendants by mutual consent obtained an appraisal of the premises, it was in effect an agreement that the premises should be held by the lessee ten years longer under the term of the lease and in view of the relation of the parties to the fee and

reversion it was plainly implied that such relation should not be interfered with by partition, without *mutual consent*.

Ebert v. Fischer, 54 Mich.. 200.

“Where a lessee of land becomes a purchaser of an undivided moiety of the rent and reversion, the lease and rent is merged and extinguished as to that portion of the premises and he is not such a tenant in common of the rent and reversion with the owner of the other half thereof as to entitle the latter to a partition of the land during the continuance of the lease.”

Lansing v. Pine, 4 Paige N. Y., 639.

“In one case however the Court refused to decree a partition while two of the tenants in common held an unexpired lease of the entire property from the common ancestor.”

. Cannon v. Loinox, 29 S. C., 369.

POINT IV.

There can be no partition because the consent of the owner of the particular estate is wanting.

Under the agreement in question there can be no doubt but that the complainant had the right to lease the premises described in the bill. Pursuant to such privilege *he granted a lease to Goetz for a term of years which is as yet unexpired*. Goetz was not a party to this suit and never gave his consent to a partition.

Section 27 of “An act concerning partition,” Session Laws 1898, p. 654, provides that the consent of the owner of a particular estate is necessary to effect partition among tenants in common.

This Court in *Smith vs. Gaines*, 12 Stew., p. 548, in considering the statute above cited said that it

is as yet the only legislation which authorizes a tenant in common of a remainder or reversion to apply for partition of lands in which he owns an undivided interest.

Buttlar being also the owner of a particular estate for life under the agreement, cannot ask for partition.

He never gave his consent. Filing his bill in this cause does not amount to a consent nor a waiver of his rights to the particular estate.

"The consent of the particular tenants is wanting, and even if it were obtained, a sale of the remainder only could not be justified. The remaindermen are not obliged to take the risks attending a sale of their uncertain interests; they are entitled to a sale of the entire estate, and a division of the proceeds on equitable principles."

Smith v. Gaines, 12 Stew., p. 549.

"A tenant in common will be estopped to demand partition by his agreement with the other co-tenants to hold the lands in common and to lease them until a period of temporary depression in the value of lands should pass away, where such an agreement has been so far performed as that leases were made to parties who were in possession and their terms not expired when the bill was filed."

Martin vs. Martin, 170 Ill., 630.

POINT V.

The appellant should prevail on her cross-bill.

The complainant is the only witness on his part as to most of the material allegations and we start out with him impeached. He says now that the evidence he gave in the Rosenblath case in 1884 was false (p. 255, l. 26, &c.) He is also contradicted by the documentary evidence offered by him in that

case. He says upon their return from Europe he loaned money to Henry Bishop and took back a bond and mortgage to himself, but the evidence in the Rosenblath case shows (page 322, 39, &c.) that in that case he offered an exemplified copy of the bond and mortgage in evidence and that it was assigned to the appellant. The appellant has offered a certified copy of the mortgage of John Wilds to Henry Bischoff and an assignment to her (Ex. D B & D A, p. 344). His answer to the cross-bill shows that he had no settled idea as to what his answer should be.

If his testimony stood entirely alone and uncontradicted by her, we do not understand how it could convince a fair and unprejudiced mind of one fact he has alleged. On the other hand, the appellant stands unimpeached, her entire testimony regarding the history of the case up to 1884 is corroborated by the complainant and nearly every material detail in all her testimony is further corroborated by documentary evidence.

Respondent admits that a part of the money at least that went to purchase the first bakery business belonged to appellant (p. 172 l's 31, &c.). She swears that in that business they were partners. In the Rosenblath case he swore that they were partners (p. 340 l's 21 &c.).

She says she had about \$550 when she married him and that in 1874 she received \$860 more from home.

In the Rosenblath case (p. 323 l's 32, &c.) she swore she had \$550 when she married the complainant and that about two years afterward (p. 324 l's 4 &c.) she received \$860 from home. In that case (p. 337 l's 14 &c.) he swore to the same thing.

In the first business they cleared about \$1,800; appellant testified to that and respondent swore to the same statement in the Rosenblath case. Where

all this money was kept does not appear from respondent's testimony.

It appears from the bank statements offered by him that (while they were running the first bakery business) they deposited all told \$961 in the German Savings Bank of New York (Ex. A p. 374); \$200 in one account with the German Savings Bank of Brooklyn (p. 376) and \$293.88 in another (p. 377) and \$821 in the Williamsburg Bank (p. 377), all of which was at all times subject to draft. They never had that amount at one time. We only have these four bank statements during that time. It appears that the one account was opened in the German Savings Bank of Brooklyn, on March 31st, 1873 (p. 376 l's 21 &c.); that \$200 was withdrawn therefrom on September 3rd, 1873 (l's 30 &c), and that on September 8th, 1873, an account was opened in the German Savings Bank of New York with a deposit of \$350, part of which was evidently the same money. There was deposited in this account which is referred to above a total of \$961.98. On April 13, 1874, respondent drew out \$600 (p. 375 l 21), which was most likely the money he spent in going to Europe. The balance of \$391.68 was drawn on May 15, 1875 (p. 375, l. 23). He paid \$1,000 for the second bakery, conducted a losing business for six months, and in November, 1875, was so far reduced that he ran away to avoid his creditors. He said in the Rosenblath case (p. 340 l's 29 &c.) he made out badly, and in his answer to the cross-bill admits he "conducted a losing business," there (p. 28 l's 36 &c.). Therefore it is proven not only from his own lips, but also from bank statements that when he arrived in Hoboken, he had nothing, notwithstanding the fact that the Vice Chancellor says (p. 296) that "it is admitted that on the first of January, 1876, they had between them about \$3,000." *There is no such admission.*

Respondent says *he* opened the first bakery busi-

ness in Hoboken and *he* sold it. The business was opened about May 1, 1876, and it appears from the Williamsburg bank statement (Ex. D E, p 343 and 4) that on April 22, 1876, eight days before that business was opened, she drew \$860 from that bank. *He* sold the business, but *she* produces the chattel mortgage given back to her by the purchaser for the balance of the purchase price (Ex. D 4 p. 344). He always ruled her with an iron hand. He used her money to buy a hotel at Trefford, upon which she says nothing was made, and when they returned to Hoboken in September, 1879, he opened an account in the Hoboken Bank for Savings in his own name with her money (Ex. A, p. 378, l's 21, &c.). He says *he* opened the second business in Hoboken, but she produces the lease for the premises (Ex. D 6 p. 344) made by William Wirth with her. *He* sold the business, but she produces the original bill of sale made by her to Susan F. Kisz (Ex. D 7 p. 345). When this business was sold she had about \$5,800 in her own right. Then we come to the purchase of the Clinton Street property on October 12, 1881, and the building of the houses thereon. The money that went into this property came from the bakery business and belonged to the appellant.

It appears that \$3,000 of this money stood in the name of respondent. It was secured by a mortgage made by one Keisewetter and wife to the complainant. He says this was his money, but as he has falsified in everything else why should we believe him? The defendant says that it was her money; that she gave it to him to invest for her, but that he took the security back in his own name. (p. 62, l. 40, &c.)

The deed for the Clinton Street property was taken in the joint names of the parties hereto, through the connivance of complainant. It was deeded back to her in 1883 (p. 69 l's 28 &c.) and

stood in her name alone until the year 1889 (p. 66, l. 20) and (p. 69, l. 31, &c.), when it was sold for \$17,375 (p. 66 l. 34). All this time she collected the rents and acted as janitress of the buildings herself (p. 69 l. 30 to 40). In 1889 after the property was sold she had nearly \$12,000 (p. 69, l. 6, &c.), he having kept the \$500 paid as a deposit (p. 66, l. 35, &c.). This money was hers absolutely. Ten thousand dollars of this she deposited in the First National Bank of Hoboken (Ex. D. 13, p. 350); at this time she also had \$751 in the Hoboken Bank for Savings (Ex. D9, p. 346, &c.).

The whole \$10,000 was checked out of the First National Bank to pay for the land in West Hoboken and the mechanics and material men (p. 250, l. 27, &c.).

Defendant maintains that respondent got the West Hoboken property in their joint names by scheming.

He bought the lots on which the houses in West Hoboken were to be built, paid down \$200, out of the \$500 he had confiscated from the sale of the Clinton Street property and then compelled her through fear of disgrace to pay the balance of \$3,300. He says (p. 206 l. 4 &c.): Q. How did you come to sell the Clinton Street Property? A. I wanted to get the property under my control again after everything was settled; I requested her to put my name in; she would not do it. I requested her to give me one house and she keep one house; she would not do it; so I thought I would have to be a little political.

Q. (By the Court) : Use a little policy, you mean?
A. Yes, sir; use a little policy to get it on my name again.

All through their married life, we find him exercising dominion over her property and assuming

ownership of it. For instance even though the Clinton Street property was in their joint names he leased it to the Rosenblaths without her joining, when the property was sold it was through his instrumentality; after the money was paid over he took the whole of it and endeavored to rob her of it. He sold the feed business for \$2,000, although he did not own one straw of it.

He gave Becker a lease to the land in Hoboken, although he did not own it, and gave Goelz an option to purchase.

POINT VI.

Defendant is not estopped from setting up an equitable title to the lands.

The Vice Chancellor in his opinion says the counsel in his argument pointed out as a complete answer that the defendant still asserting the validity of the contract of Jan. 31, 1894, distinctly ratified and affirmed the complainants title to the lands; and that he might stop right there &c. (p. 288).

We deny that any such construction can be put upon her conduct.

If she were the owner of the entire legal and equitable estate, she might still insist upon receiving her \$75 a month from complainant and the interest, taxes and repairs mentioned in the agreement.

Besides this, defendant says she never knew her rights until this suit started (p. 142 ls. 33 &c.) when she mentioned to her counsel that the consideration for the property all belonged to her.

POINT VII.

The complainant should account to defendant for the proceeds and profits of the feed business.

Complainant says the feed business belonged to him, but defendant swears it was hers. She admits he started a bottling business on June 2nd, 1885, as appears from the account book used in evidence. On that day defendant loaned him \$600 (p. 347, l. 5), but he lost everything (p. 72, l. 32), as he usually did in his business ventures.

Defendant says the feed business was started by her and Elsie Witte. Mrs. Witte swears to the same thing (p. 148, l. 15, &c.).

Defendant says she bought out Elsie Witte on May 11th, 1888 (p. 75, l. 22). The bank statement shows that on that day she drew \$700 from the Hoboken Bank for Savings (p. 347, l. 12). She also produced a receipt from Smith & Mabon, lawyers, for services in dissolving the partnership between her and Mrs. Witte (Ex. D. 14, p. 349) and a bill of sale from Elsie Witt and husband to her for the business (Ex. D. 142, p. 349). The money she put into the business at various times up to 1888 amounted to about \$2,200, in addition to the \$1,200 she paid her partner. Complainant says he sold this business to Becker for \$2,000 (p. 244, l. 17, &c.) and gave the purchaser a lease for 10 years (p. 244, l. 11, &c.). He says that this \$2,000 went into the West Hoboken property. This cannot be so. The West Hoboken property cost about \$22,000—\$10,000 of this was paid by defendant, \$6,000 was raised by mortgage and is still an incumbrance, and the other \$6,000 was paid from the feed business before he sold to Becker. Nothing was put into the West Hoboken property after the mortgage was given (p. 273 l. 35). He also says that after Becker ran the business awhile he took it back without paying for it (p. 245, l. 20). He also admits that he made from \$1,000 to \$1,200 a year profit from the business (p. 244, l. 34, &c.) and never accounted for it, and that after he had run the business from 1888

to 1900 he sold a one-half interest for \$2,000 and that he afterward sold the other half for \$2,700 (p. 158, l. 22, &c.).

Defendant had the legal title to the business, and even if he did manage it for her the proceeds and profits belong to her.

“That the principal of the separate property of a married woman coming into the hands of her husband from her, or others acting for her, after the passage of a Married Women’s act, where its terms are as broad as the Texas act *or our own*, is to be treated as if she were a *feme sole* at the time of its delivery to him, and the law will not presume that such money thus taken by the husband from her, with or without her consent, was a gift to him, and the burden is upon him to establish that it was a gift, and is governed by the same legal rules or liability as if received from a stranger.”

Adone v. Spencer, 17 Dick. 786.

The true principal is stated by Mr. Justice Field, of the United States Supreme Court, in speaking for that court as follows: “We are of opinion that * * * there would be no *presumption*, since the passage of the Married Women’s act, that *she intended to give* to her husband the moneys she placed in his hand any more than a gift would be inferred from a third person, who, in like manner, deposited money with him. * * *

* We think that whenever a husband acquires possession of the separate property of his wife, *whether with or without her consent*, he must be deemed to hold it in trust for her benefit in the absence of any *direct evidence* that she intended to make a gift of it to him.”

In passing upon a like case, the Supreme Court of Michigan says: “The usual rule is that if one gives another money at his request, the law will

imply a promise to repay, and we see no injustice in applying the rule against a husband where there are no circumstances tending to show a different understanding between the parties. This court has frequently held that the presumption of the law is against a gift by the wife to the husband, and the burden of proving it is upon him."

Ibid.

"It can safely be said that with scarcely an exception the Supreme Court of the United States and the courts of last resort of all the states have held that as to the principal of the wife's separate estate, taken into the possession of a husband and used by him, he or his personal representatives is bound to account to her, and that to sustain a refusal to so do, or to relieve from equitable liability to do so, the burden is on him to establish that he received such property as a gift from her."

Ibid.

"It is well settled that, on proof that a husband has received his wife's money, a court of equity will compel him and his representatives to account to her at least for the principal received, and they can only discharge themselves by showing that the husband disposed the money according to the wife's directions, or that it was a gift to him."

Ibid.

We most respectfully submit that the decree of the Court of Chancery should in all things be reversed; that the lands in question should be decreed to belong to the defendant and that complainant should be compelled to account to her for the proceeds of the feed business.

WELLER & LICHTENSTEIN,
Of Counsel with Appellant.

NEW JERSEY
Court of Errors and Appeals.

BETWEEN

CHRISTIAN BUTTLAR,
Respondent,

and

MINA BUTTLAR,
Appellant.

} *On Bill, &c.*

POINTS FOR RESPONDENT.

The respondent filed his bill for partition of certain real property in Hoboken and West Hoboken, which property was conveyed to the parties, as husband and wife, as tenants by the entirety, by three several deeds in 1889 and 1890.

The bill alleges that this estate by the entirety continued until March 24, 1902, when, by reason of the divorce then had between the parties, that estate fell and terminated, and the parties thereupon become tenants in common.

The answer of the appellant admits the truth of this, but sets up, as a defense avoiding partition, a certain written agreement between the parties, dated January 31, 1894.

This agreement is found in full at page 18 of case.

On March 26, 1902, a rescission in writing by the respondent of this agreement was served upon the appellant.

This rescission is found printed in full at page 43-

The appellant also filed a cross-bill, wherein she set up that the entire property described in the bill was her sole property.

The decree directed a sale in partition, and a dismissal of the cross-bill (see decree, p. 305).

After appeal from this decree to this Court, appellant began an action in the New Jersey Supreme Court against the respondent for arrears alleged to be due under the written agreement of 1894.

Thereupon, respondent filed his bill of complaint in Chancery, praying that the action at law on the agreement be restrained until the determination of the appeal to this Court, and also praying for final relief against the said agreement and for its cancellation.

A restraint issued and is now in force against the action at law until the further order of the Court of Chancery.

That the divorce dissolved the estate by the entirety and converted it into a tenancy in common, is beyond question.

See *Stelz v. Schreck* (1891), 13 L. R. A., p. 328, and note to the report of this case.

Bishop, Marriage, D. & S., Ed. of 1891, Sec. 1652.

Harrer v. Wallner, 80 Ill., 197.

And we contend that the agreement of 1894 is no bar to a partition.

The premises of the agreement read as follows:

“Whereas, divers disputes and unhappy differences have arisen between the said party of the first part and his said wife, for which reason they have consented and agreed and hereby do consent and agree to live separate and apart from each other during their natural life, therefore this agreement witnesseth”
 “In consideration of the premises, and in pursuance thereof,” the parties thereupon agree. * * * *

This consideration has failed.

The premises of this agreement show why the agreement was made, and the reasons no longer exist.

The agreement was founded (1), on the existence of the marriage relation between the parties; and (2), on the existence of the estate by the entirety.

Both of these things no longer exist.

When they ceased to exist the agreement based on them ceased to exist likewise.

The agreement provides:

(1). That the wife may live separate from the husband without molestation from him;

(2). And that he will pay to her *for her better support as his wife*, \$75 monthly.

(3). In consideration of which she agrees that he shall be entitled to receive all the rent of the property standing in their joint names.

Now, the wife named in the agreement is a wife

no longer; she may and she must live separate from her husband, by decree of Court, not by virtue of any agreement; the husband named in the agreement is no longer a husband, and he is not under any obligation to support the former wife by paying her \$75, or any other sum.

The agreement provides, "he shall be entitled to receive" the rents.

The definition of entitle is "to bestow a claim or right upon."

He is no longer "entitled" to receive the rents; for the reasons and rights and obligations because of which the right was granted in the agreement and as existing in fact have entirely passed away.

The agreement does not amount to any conveyance of any kind, of any interest or estate in the land itself, which would survive the dissolution of the estate by the entirety.

Moreover, a notice of rescission of the agreement was served by the former husband upon the former wife, giving up any rights, or anything to which the husband was "entitled" under the agreement, if he was entitled to anything, after the destruction of the estate by the entirety and the termination of the marriage relation.

Even though, after the dissolution of the estate by the entirety, the agreement were held to survive, there is nothing in the agreement precluding either of the parties to it from exercising the right of applying for division or partition.

In consideration of the party of the first part paying \$75 monthly to the party of the second part, he was entitled to collect all the rents of the premises. He has now ceased to pay the \$75 monthly, and he is no longer entitled to collect all

the rents, nor does he wish to be so entitled. And the property being held in "joint ownership," it is therefore subject to partition.

At the time of the execution of the agreement the then husband was merely binding himself to render the wife a specific maintenance, namely, \$75 monthly. The agreement provides that he should pay "for and toward the better support and maintenance of his said wife the sum of seventy-five dollars per month, commencing on the first day of February (then) next, and payable on the fifteenth day of each and every month, and which the said party of the second part does hereby agree and take in full satisfaction of her support and maintenance and all alimony whatsoever."

If this agreement was a provision for maintenance, it did not survive the dissolution of the marriage, for, from the time of the entry of the decree of divorce, the man is bound to maintain the woman no longer. She must apply for and obtain a decree for alimony before any alimony is due.

The respondent welcomed the divorce. As the wife would agree to nothing respecting the property, he brought an action for divorce against her, alleging desertion. She then filed a cross-bill against the respondent, alleging adultery with his housekeeper, which the respondent and the housekeeper denied.

Vice Chancellor Stevens rendered an opinion, finding that no case of desertion had been made out; and that the respondent had been guilty.

But the Vice Chancellor said that he "could not reach a conclusion, either way, without doubt."

The opinion has not been filed; but an inspection of it will certainly not hurt the respondent before this Court.

The agreement did not amount to the conveyance of a vested interest by the wife or the husband to the other.

He has vested no right in her by that agreement that remains undisturbed by the divorce.

The agreement conveys nothing that would survive the death of either. The agreement is for his life, but upon her death, without the divorce, mere survivorship would have given him the entire property.

In the cases cited by the Vice-Chancellor (Opinion, p. 288), in support of the general rule that no vested interests are disturbed by a decree of divorce unless the instrument under which the vesting occurred provides therefor, it will be seen that the same are founded on the fact of some conveyance to the wife by the husband, such as an absolute conveyance by the husband to a trustee for the wife, or a conveyance to the wife of property bought with the husband's money, &c., and not on facts at all similar to the facts involved in this case.

The agreement in no way bound the husband not to deed away his interest in the premises during the coverture, namely, the right to receive one-half of the rents, nor, during coverture to deed away his right of survivorship, which would be a conveyance of the fee in case he survived the wife.

Or, a creditor of the wife could, during coverture, through execution and receiver, seize the rents of the wife and ultimately the entire property upon her surviving the husband.

His estate as a tenant in common may now be conveyed or seized in execution. The agreement is no bar.

She can only claim, under the agreement, as for alimony or for maintenance. If for maintenance, she cannot succeed, as she is wife no longer. If

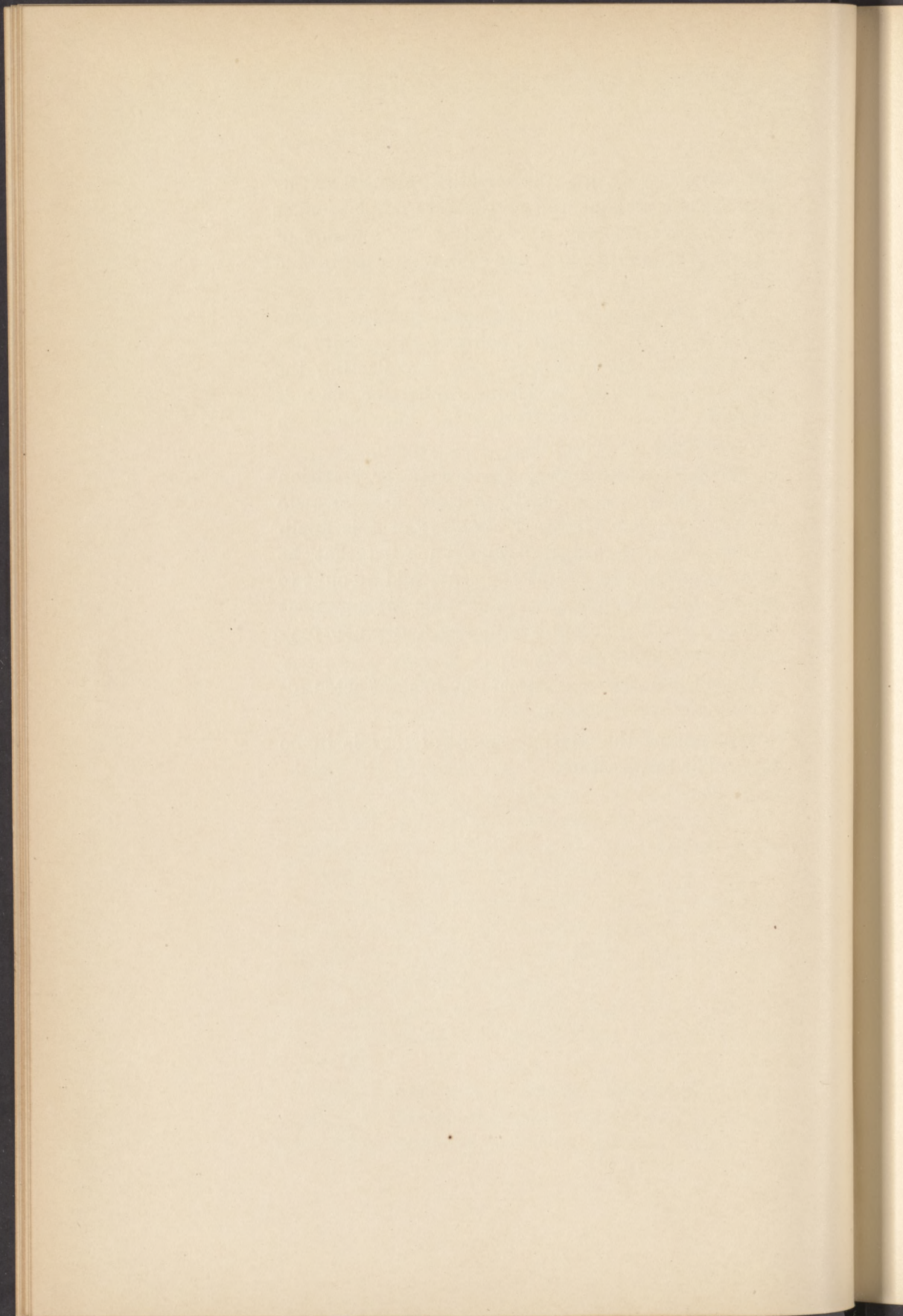
for alimony, as no alimony has been fixed by any decree, and as the case shows ample means and separate property possessed by her (outside of the property in question) she cannot succeed in that claim.

He is not now, nor has he been since the service of the notice of rescission, collecting the rents under the agreement of 1894. He is collecting the rents with liability to account to her for one-half thereof. He is now collecting the rents under an arrangement as follows:

During the pendency of the action for partition an application was made by her for a receiver to collect the rents. Upon the hearing of this application, the parties agreed in open court that he should continue to collect the rents and account to her for one-half thereof. Under this arrangement so made he has accounted to her and made payments thereunder to her.

Since the notice of rescission he has not acted adversely to that rescission.

We contend that the agreement of 1894 is in no way a bar to partition.





POINTS ON CROSS BILL.

The appellant filed a cross bill praying that all the land described in the bill of complaint be decreed to be her sole and separate property. She alleged that the same was bought with her money.

She charged that although the three several deeds were taken in the joint names of herself and husband, yet this was because of his threats and intimidation.

The respondent answered this cross bill in very full detail, showing the exact sources of the moneys with which the different properties were purchased (see p. 22, case).

The property may be described as:

(a) The West Hoboken property, being at the corner of Malone and West streets, valued at about \$18,000, against which there is a mortgage of \$6,000.

This property consists of five frame flat houses on four lots, 25 x 84 about, and the butt lot in the rear on West street, bought to give the houses clearance.

The four lots were conveyed to the parties as husband and wife by deed dated November 29, 1889. The butt lot was conveyed to them in the same way on April 30, 1890.

(b) The First street Hoboken property, valued at about \$4,500, against which there is a mortgage of \$3,000. This property consists of a plot of ground 50 x 100, upon which there is a frame building used for a feed store. This property was conveyed to the parties as husband and wife on November 6, 1889, and has been in their joint names ever since.

The properties thus conveyed to the parties as husband and wife, by the three several deeds, have been in their joint names for about fourteen years.

The Hoboken property had previously stood in the wife's name, and November 6, 1889, it was conveyed to the husband and wife through an intermediary.

The deeds to the complainant and defendant for the West Hoboken lots were made directly to them on the original purchase of those lots, November 29, 1889, and April 30, 1890.

Besides the property involved in this suit, Mrs. Buttler owns three lots adjoining the West Hoboken property and a house thereon valued at about \$6,000. The property stands entirely in her own name.

The complainant has no property other than his interest in the property in suit.

To decide in favor of the defendant on this cross bill is to make the man a pauper.

Even though the decision be in favor of the man, the woman is \$6,000 better off than he on a division of the property which has arisen from their joint labors as husband and wife.

The property in suit and the property now held individually by the wife represents the proceeds of the labor and industry of the man and woman as husband and wife in carrying on bakeries during all their married life. She is now sixty-six years old and he is seven years younger.

He is too old to initiate any new enterprise; he is too old to again go to work as a journeyman baker. By the decision he is either cast on the streets, a beggar, or he gets one-half of the property in suit, in payment of the labor of his lifetime.

But the claims of the woman are absurd and will not bear examination. They are serious only when their possible results are considered.

The respondent contends:

That the money with which the property in suit was purchased arose from the joint labor of himself and the appellant in bakeries; that he was a baker; she was not. That all the facts prove this. That the acts and conduct, and the papers executed by the appellant and the papers received by her and acquiesced in by her prove this.

That the appellant is guilty of laches.

That the appellant is estopped by her acts, her conduct and her signing and receiving benefits under the agreement in writing of 1894, from now setting up any claim to sole ownership.

That the testimony taken not only does not establish her claim, but on the contrary absolutely disproves it.

It is to be noted, first, that the appellant did not herself come into Court raising her claim to sole ownership. She appeared in the Court of Chancery *as a defendant*, and she raised her claim only by way of a cross bill. Apparently, she would never have raised any claim at all, if the respondent had not sought to partition the property, and thus brought her into Court.

Take the paper writings in the case:

1. There are the three deeds for the property. Outside of any evidence these deeds speak for themselves and raise a very violent presumption against the appellant's claim.

The deeds were not taken at one time. They were dated November 6, 1889, November 29, 1889, and April 30, 1890.

This makes the presumption against the wife well nigh conclusive. She might explain why a single deed should be taken in error, or through misapprehension, or through intimidation; but in

attacking three deeds made at different dates she sets before herself a task she cannot accomplish.

It will not do for her to testify that one deed was taken through intimidation, and the others through persuasion and argument. The husband had the right to argue with her, and he had the right to persuade her. He practically admits that he found it necessary to employ argument and persuasion to get his rights.

The testimony shows that the husband had it in his power to have the deeds taken solely in his own name, but he did not do that.

The testimony also shows that when the wife took a deed, although paid for with their joint moneys, she had her name alone put in the deed, and that is the reason why the three lots, worth \$6,000, are alone now owned by her.

In short, it will be found by even a casual glance at the testimony, that the acts and conduct of the man commend themselves to a Court of equity, while the woman's acts and conduct are reprehensible in important and controlling features.

2. Besides the three deeds to the parties we have the agreement of 1894, formally, solemnly signed and sealed by the wife.

In her answer to the bill of complaint she says that this separation agreement "is still in full force and effect." In her answer she stands by this agreement.

That agreement recites that "in consideration of the sum of \$1 to her in hand paid she does hereby agree to and with her husband that he shall be entitled to receive during his natural life all the rent, income and profits of the property *now owned by them in their joint names*, known as Nos. 600, 602, 604 and 608 Malone street and No. 339 West

street, in the town of West Hoboken, and 654 and 656 First street, Hoboken.

In consideration of this, the husband agreed to pay all taxes and to pay the wife \$75 monthly.

This \$75 monthly to be paid by him was then supposed to represent her one-half of the net profits of the property.

This separation agreement was signed at the time when the husband and wife parted; and at that time she had the opportunity and the motive and every reason for establishing a claim to sole ownership in the property, if she had any valid claim. She then raised no claim because she had no claim.

The separation agreement was framed distinctly and entirely on the proposition that the property stood in their joint names, and that they owned it jointly in an estate by the entirety and that each was entitled to one-half of the net profits.

For years she received the benefits under this agreement, without question; and raised no claim of sole ownership.

In fact, the \$75 monthly turned out to be much more than one-half of the net profits.

3. Then, we have the bill of complaint filed by the wife in the Court of Chancery in March, 1896 (see page 353, *et seq.*).

This bill was filed by her against her husband *to enforce the separation agreement*; it contains a prayer asking for for the specific performance of the agreement.

The bill is sworn to by her.

She stood by the agreement and fought for its benefits.

She then thereby formally endorsed, acquiesced in, and consented to the fact of the existence and truth of the estate by the entirety.

In this bill of complaint she declared that she and her husband were "*possessed in fee simple by the entirety*" of the property in question.

V. C. Pitney decided in favor of the husband, holding that the defense of the husband that the agreement was a hard bargain was made out (see p. 366). The Court of Errors reversed the decision, on her appeal.

And thereafter, until the divorce, the husband continued to pay, and *she continued to accept* the \$75 monthly under the agreement.

The acceptance of the deeds for the West Hoboken property bound Mrs. Buttlar, one of the grantees.

Acquiescence in and under the deeds for fourteen years precludes her.

She recognized the estate as a joint one, and for fourteen years has abstained from raising any question against it, or in any way attacking it.

For fourteen years the property has stood in both names on the public records.

He and she both dealt with the property in a way that was inconsistent with sole ownership by her; not only did she not object, but she acquiesced. Her silence and her acts constitute an estoppel.

Herman on Estoppel, Sec. 1061.

Then came the written agreement of 1894.

The character of the estate appears right on the face of the agreement.

She is not now allowed to contradict it.

In the agreement she affirms the existence of the estate by the entirety; and she reaffirms and repeats it in her bill of complaint filed by her in 1896, in the case of *Buttlar v. Buttlar*.

The existence of the joint estate was the very

essence of the agreement of 1894. Without that the agreement would never have been signed.

Indeed, it was because of the existence of the joint estate that the agreement was signed.

The joint estate was the particular fact of the agreement.

She there admitted, under seal, the existence of the estate by the entirety. The fact of the estate is there placed beyond question.

The existence of the estate is what influenced the agreement.

Payments were fixed and amounts thereof settled because of the existence of the joint estate; and for nine years she not only stands by, but acts, by taking and receiving the benefits under the agreement.

The statement in the contract that the property was held by joint ownership, was her statement, for she was a party to the agreement. That fact was the very foundation of and the reason for the making of the agreement.

The matter was then sharply brought up, when the agreement was entered into.

The matter was again sharply brought up in 1896, when he declared himself unable to make the payments specified in the agreement.

She then, under the advice and with the assistance of counsel, went formally into Court to enforce the agreement.

In that case she made no claim of sole ownership.

Where a man in his deed recites particular facts, those facts become conclusive evidence against him, and he is not at liberty to deny the truth of his statement.

The defendant admits that the complainant was

a baker, that she was not; and that the moneys in question came from the carrying on and the profits of bakeries; but not only does she claim all the profits of her own labors, although they arose during the time she was a married woman, but she claims all the profits of his, as well. She wants him to be put in the same position as he was when he came into the world—all his labor and life gone for nothing. She wants to reap the full benefit of *both* lives.

She claims, however, to have had only one financial advantage over him. She claims to have received some money from Germany.

It is impossible to gather from her testimony an accurate statement of this.

It seems to stand in this way:

P 47. She says she had \$500 when she married Buttlar; part in the bank and part loaned out. She does not say what she did with this. Buttlar never heard of it (p. 230) and the accurate proof as to the starting of the business is that only \$102 of her money went into the business. Buttlar swears that is all he knew she had, and that that was all that was used in the business.

P. 49. During the time we ran the Brooklyn store I received \$860.

Buttlar denies this (p. 230).

She says she got this from a man named Kerns.

She does not say what she did with this money. Her bank account, in the Citizens Savings Bank of N. Y., covers a period of six years, and the total is \$362.71, \$50 a year. The money she speaks of never got in that bank account, she never had any such money.

P. 100. She says she had \$850 loaned to a man named Recht, in Williamsburg; later on this same

page she says that loan was only \$600.

P. 100. She says she could not recollect where the other part of the \$850 was.

This loan to Recht is identified by Buttlar at page 225.

“Q. Didn’t Mr. Recht at one time owe your wife some money? A. Not my wife; he owed it to me, and I don’t think we ever had papers for it; they were good people.”

P. 50. Then she got money in 1892—\$144 or \$136. That, however, was after the property in suit had been purchased.

She, therefore, has that money yet, if she ever got it.

This money is not mentioned in her cross-bill.

This is the testimony whereby she attempts to show that she was a capitalist.

Estoppels do not give an estate, nor do they divest another of an estate or interest in lands. They merely bind the interest by a conclusion which precludes the parties between whom it is made to operate from asserting or denying the state of the title.

She is not to be allowed to disprove or contradict any declaration or averment contained in the instrument and essential to its purpose.

A recital or allegation in a deed, which is certain in its terms and relevant to the matter in hand, is conclusive between the parties to the controversy growing out of the instrument itself or the transaction in which it is executed. That no man shall be allowed to dispute his own deed, for it is not only conclusive upon the party executing it as to the very point intended to be effected by the instrument, but also as to the facts recited in it, is a well settled principle of law. No one can be permitted, except on the ground of fraud or deceit, to aver or to prove

anything in contradiction to what he has solemnly and deliberately avowed by deed.

Herman on Estoppel, Sec. 576.

A party cannot occupy inconsistent positions; and where one has an election between several inconsistent courses of action, he will be confined to that which he first adopts.

Any decisive act of the party, done with knowledge of his rights, determines his election and works an estoppel.

Herman on Estoppel, 503.

As she took a beneficial interest under the agreement of 1894, she is now estopped from setting up a claim which is inconsistent therewith.

Watson v. Watson, 128 Mass., 154.

This agreement was her act. She was a party to it. She signed and sealed it.

She, having elected to proceed under the agreement of 1894, she is precluded now from denying its contents.

She procured judgment on the agreement, and in accepting the benefit of the judgment, which was founded upon the agreement, which, in turn, was founded upon joint ownership, she is estopped from denying its validity.

She made her choice between proceeding on the agreement and abandoning that.

She is now estopped from claiming or asserting in contradiction of the agreement, upon which she proceeded.

In 1872, when the parties married, she was 33 years of age, and had been twice married before. She was not an inexperienced young woman; she

brought to her matrimonial union with the complainant more experience and craft than he possessed.

The husband was a journeyman baker, and without him no bakery could be started or run.

All the moneys made by the husband and wife were made in bakeries carried on by him, and not in any other business; the moneys were made in a business to the carrying on of which he was bred and wherein he was indispensable; she was not the whole thing; she was not indispensable; any industrious woman would have done.

If we take the testimony of the wife as to the starting of the first bakery in Brooklyn, we will have a good example of her recklessness in testifying and her entire disregard for the truth, page 90, 91, 92, 93.

She testifies:

P. 47. When we opened the first bakery after our marriage "he had nothing."

P. 48. We commenced bakery "as partners."

P. 97. I put \$500 in the business; I don't know what the business was bought for.

P. 48. There was no sign in the place.

P. 49. Mr. Buttlar took money to the bank and put it in both names, because "I did not have time to go to the bank, on account of the children."

P. 91. He put no money in the business; he borrowed no money from Drewitz when we opened the first bakery.

P. 92. He worked only 4 or 5 hours a day; (she had forgotten that at p. 57 she had testified that he was a "faithful and competent man.")

Mr. Buttlar testifies:

P. 192. She had \$102 when I married her.

See draft from Citizens Savings Bank, account of Mina Heinberg \$102.71, September 30th, 1872 (pt. Ex. A, p. 374-380).

I put \$38 with it and made \$140 and deposited that.

See deposit \$140, account Christian and Mina Buttlar, German Savings Bank, N. Y. (Ex. A, p. 374, l. 30).

P. 173. I paid \$600 for the bakery, \$300 cash and \$300 mortgage.

I borrowed \$150 (from Albert Drewitz).

See draft of \$167.85, closing out account of Christian and Mina Buttlar, German Savings Bank, February 14, 1873 (Ex. A, p. 374, l. 39).

P. 176. There was a sign "Christian Buttlar;" it was on glass; I am sorry it was broke; I had it made for me; it had the coat of arms of my family on.

\$150 of this \$167.85 and the \$150 borrowed from Albert Drewitz made up the \$300 paid in cash.

P. 174. They had a child six weeks old when they opened the bakery.

Albert Drewitz testifies:

P. 152, l. 13. I loaned Buttlar \$150, then he opened the first bakery; he gave me a note.

P. 152. He put the money in the bakery; I worked there as a journeyman; he paid me the money back in one year.

P. 155, l. 15. There was a sign in the first bakery, "Christian Buttlar."

P. 155, l. 21. The bill of sale was made out to "Christian Buttlar."

P. 153-154. This witness tells the way Mr. Buttlar worked in the bakery.

(See this testimony).

Joseph Amrein testifies:

P. 259-260. I worked there as a journeyman baker; we worked on the average 15 hours a day; I bought the bakery from Mr. Buttlar.

P. 260. There was a sign there "Christian Buttlar."

P. 260. I paid \$600 for the bakery—\$300 cash and \$300 on chattel mortgage to Mr. Buttlar.

And so it is all through the testimony; we find the man putting the money in bank in both names; although he had the opportunity to deposit money in his own name he did not do so; as he said, he was willing that she should have half because as his wife she helped to earn the moneys, and that moneys in bank and titles should be in both names, so that if anything happened to him she would get all.

So that she became tenant by the entirety, not through any legal right, but through the act, the grace, and the fairness of the man. He now is driven to a struggle to secure his half. If he had dealt with his wife rigidly, and as the law gave him a right to deal, the titles would be in his name, and she would not be entitled, in strictness, to a half, and she would not be able to even put forward her preposterous claim that she is entitled to all.

Then her story continues; and she is contradicted by the testimony of the husband, and the circumstances, in every important particular.

She says he bought the Ewen street bakery in Brooklyn; he failed there; and that is the reason she disclaims ownership there.

There were some small debts there that were later cleaned up.

She says, *she* opened the bakery in Hoboken.

However, the *money used came from the joint account* in the Brooklyn bank.

In that Hoboken bakery about \$4,300 was made.

She says he worked for her as "a foreman;" that he was worth about \$12 weekly; but that she paid him nothing. She says she could have hired another foreman, but she did not do so, "because he wanted to start another bakery;" (p. 57).

She then had two children, but that made no difference. She could run bakeries and raise children at the same time.

Then they went to Europe and remained two years.

The hotel in Trefort was bought by the husband, she says (p. 59-60). All the money taken to Europe came from the sale of the bakery and the money in bank in both names.

She admits that *he* carried the money to Europe (p. 59-60).

When they came back *he* carried the money.

The Bishop mortgage in New York—no matter whose name it was taken in—was bought with the joint money brought back from Europe. Bishop was the banker in New York with whom they arranged exchange, and when they returned and changed their money, he advised them then and there about that mortgage as an investment.

P. 60. Then she says: "*I* opened a bakery with the money *we* brought back from Europe."

He was a kind of necessary evil; useful in begetting children; useful in standing before the hot ovens, baking bread, fifteen hours or more, daily.

Pp. 114-115:

"Q. Can you tell me why it was not in both names when you were buying it with the money

that came from the hotel in Germany that was in both names? A. I don't know; my husband didn't want his name on."

* * * * *

P. 115:

"Q. Can you explain to us why that store was taken in your name alone, when you say it was bought with the money that came from Germany, the proceeds of the hotel business there, in both your names? A. I don't know why Mr. Buttler didn't want his name on, but he didn't want it on.

"But he wanted to make the folks believe, that is the reason he told me to sign my name as Catharine Buttler.

"By the Court.

"Q. What year was that? A. That was in 1880.

"Q. 1879? A. 1879, because in 1881 we sold and we only had it a year and five months.

"Q. Now, then, you took that store in your name, you say, as a convenience to him? A. I don't know whether it was a convenience to him; he wanted me to do it.

"Q. You took it because he wanted it so? A. He wanted it so; yes, sir.

"By the Court.

"Q. There is a lease here from Werth to Catharina Buttler, dated January 6th, 1880; is that when they commenced business?

"MR. WELLER—That is when they commenced?

"A. That is what I said.

"Q. How much did you give for that store?

"MR. WELLER—How much did you pay Mrs. Werth, anything?

“A. Yes, sir; I thought we only paid \$400; it may be \$500; I may be mistaken, it is so long ago; I won’t exactly dispute about that.

“Q. Did you pay that in cash? A. Yes, sir.

“Q. And at that time did you have the money put in the bank yet, the money you brought back from Germany? A. Yes, sir; it was put out in the bank.

“Q. Where was it? A. I don’t know exactly; in Hoboken Savings Bank.

“Q. Who put it in the bank? A. That is what my husband say he was going to put it; I asked him to put it there in both names; that is where he always wanted it, the bank; if he didn’t want it I can’t exactly tell now.

“Q. At all events, wherever the money was put, he put it in the bank? A. He put it there for me, because I had enough to do with the children, and I attended to the house.

* * * * *

P. 116:

“Q. How is it that you allowed your husband to make deposits in both your names when you ran the business yourself? A. To have peace, for he wouldn’t be satisfied if I wouldn’t give his name; if I had it alone he wanted his name on. There was no peace in the house if I didn’t let him have his name on; because he said everything that the wife earns belongs to the husband and he had a right to have his name on it, and everything I had belonged to the husband.

“Q. And so you consented? A. For to have peace sake I put and let him have his name on.”

Then came the sale to Kitz. “I then had \$5,800,” she says (p. 62).

“He told me where to invest \$3,000” (p. 62, 63).

This \$3,000 was invested in a mortgage from Kieswetter, and the assignment was taken in the husband's name.

"I bought lots in Clinton street, Hoboken (p. 63).

The title, however, was taken in both names.

The Clinton street property cost \$12,000 (p. 65). \$5,800 was paid in cash; \$5,000 was left on mortgage, and a note for \$1,000 was given.

She admits that Mr. Buttlar's name was on the note.

"I can't tell no more exactly" (p. 65).

The bakery there was run in both names.

When he went to Coney Island the Clinton street property stood in both names.

P. 122:

"Q. The question is, the property stood in both names, Clinton street, when he went to Coney Island? A. Yes."

P. 122:

"Q. How did the property, how did the names get to be changed in the deed? A. He wanted it."

"Q. At his request? A. Yes.

"Q. And you consented? A. Yes.

"And was he down at Coney Island yet? A. Yes. sir.

"Q. And was there any proceeding at law threatened against him; any suit? A. Yes, sir.

"Q. You knew about that? A. Yes, sir, I know; I had to be down to Coney Island and attend to business for him so long."

In 1885, after the Coney Island business was settled, Mr. Buttlar wanted the property to be put in both names as before.

P. 125-126:

"He came in to ask me he wanted his name on

again, and I told him I had trouble and expense enough; I don't like to have them again.

“Q. The only reason you wouldn't put his name on was because you didn't want trouble and expense, is that it? A. Trouble and expense for him to lend money on notes again or any other way.

“Q. Lend money on notes? A. On notes, yes.

“Q. What money had he loaned on notes before that?

“THE COURT—Borrowing money on notes.

“A. Borrowing money on notes; if I don't say it right I hope the Court excuse me.

“THE COURT—What I understood to say, she didn't want to be troubled with her husband getting in debt, being sued, giving notes and getting judgments against him.

“A. I had to pay him again if his name was on the property, as I had to do it the other once.

“Q. This note that was sued on was only \$200? A. Yes. The one that was sued on was only \$200.”

P. 133:

“Q. You got the rents right along, didn't you? A. Yes, sir.

“Q. Then Mr. Buttler is the one that arranged the sale of that property? A. Yes, sir.

“Q. And don't you know that he did that business he claimed at that time that he wanted his half of that property and he had the property sold so as to get his half? A. To get his half?”

“*By the Court.*

“Q. He wanted to sell it so as to get his half of the property; didn't he tell you that? A. No, sir.”

P. 134:

“Q. Didn't he steadily claim that half of that property belonged to him? During the time you had it didn't you quarrel about it? A. No, sir; not about that; only quarreled about it—he wanted his name on it. I said he would borrow money again on notes, and there would be too much trouble and expense and cost.

“Q. That was the only reason you wouldn't put his name on the deed? A. *That was the only reason I wouldn't put his name on again.*”

This was her only reason, she would not say that he was not *entitled* to have his name on.

When the title passed the husband claimed the money; he had received \$500 on account. That amount he kept. The balance she put in the banks in her name.

This was in 1889.

In 1882, Buttlar had bought the bathing establishment at Coney Island, and had been deceived.

He had outstanding notes given for the purchase of the place; and that he might not defend the collection of these notes disadvantageously, he listened to bad advice, and that is the reason the Clinton street property was conveyed from the joint names to the wife's sole name; Buttlar refused to pay the costs on the Buttlar judgment, and all the litigation in the Court of Chancery and the Court of Errors and Appeals grew out of a refusal to pay \$30.

The final decree in the case of Rosenblath v. Buttlar was signed in 1887.

The decision of the Court of Errors that the conveyances were fraudulent as against creditors having claims, affected her as well as him. They testified alike.

This Rosenblath case grew out of the attempt to collect one of these Coney Island notes.

However, this Rosenblath case does not apply, because that case determined as to the Clinton street property sold long since.

Then she says she and Mrs. Witte bought the feed business on First street, Hoboken, by assuming a mortgage thereon for \$3,000 (see p. 137; see p. 73).

“My husband wanted something to do so I let him attend to that business” (p. 73, l. 25).

A building was built on this property costing \$1,100 (p. 73).

She collected the rents from the Clinton street property (p. 75).

The money that went in the feed business property she admits came from the rents of the Clinton street property.

Then the Witte share in the feed business was purchased for \$1,200.

Mr. Buttlar managed the feed business and kept his own bank account. She had nothing at all to do with the business, its details, its credits, its collections, or anything of any kind (p. 129).

She saw the bills he made out in his name alone, but she says she “took no notice of them” (p. 130),

When the Witte share was bought out she made no arrangement of any kind respecting any participation by her in the business (p. 132).

This feed store property in First street was then put in both names in 1889, and so it has remained ever since.

Pp. 77-78:

“Q. When was the First street property put in both names? A. He treated me so bad, he came up to me, put his hand against my head and says, ‘I

will knock your brains out; 'I break every bone in your back if you don't sign it,' he says, 'you have to sign over; they will call me a beggar; you have to give my name on that property; I can't do no business, that is the reason you have put so much money in the business,' and one morning he says, 'you have to come down to the feed store today'—didn't tell me what for; I thought, as usual, to attend to the feed store until he gone somewhere else; when I came there Mr. Leicht was there, a lawyer, and he wrote this deed for me and said I had to sign that.

“By Mr. Van Winkle.

“Q. You say Mr. Leicht said you had to sign it?
A. Mr. Buttlar said I had to sign it; he asked would I sign that, I suppose; I don't know exactly what he asked me; then he wrote that for me and so he asked Mr. Butlar to go out of the office; he didn't go out; he said, 'what for?' he said, 'that is the law,' Mr. Leicht said, he said, 'you have to go out' so he went as far as the door but he never went out; he stood with the door in his hands so I was afraid to say anything; I didn't like his name on, or anything; I signed.”

With only such testimony the certificate of acknowledgment is conclusive that she acted freely; Mr. Leicht was traveling south at the time the case was heard and could not be produced; he has always been a wealthy man; and he is a man of high integrity; he has only dealt in real estate matters.

The West Hoboken property was bought in 1889.

Mr. Buttlar bought that, she says; he paid \$200 down, out of the \$500 he kept from the Clinton street sale (p. 78).

“I paid \$3,200 from the bank, from the Clinton street money (p. 78).

The whole cost was \$22,000 (p. 80); \$6,000 was left on mortgage (p. 80).

The extra lot was afterwards bought with money from the feed business (p. 81-82).

Mr. Buttlar sold the feed business to Becker, who ran it for two years.

Buttlar bought it back and sold it to Goelz (p. 83-84).

She never attacked the title of the purchaser.

At page 84 she tells why the West Hoboken property was taken in both names.

P. 84-85:

“Q. Now, I don’t know whether I asked you or not —why was the West Hoboken property taken in the joint names of you and your husband? A. Well, he acted so fierce before and then when he had it bought, well, I say I don’t want it when he had the agreement made and \$200 paid down, I said I don’t want to be up in West Hoboken, I don’t know where it is and I don’t like to be going there and he said you can’t disgrace me now I bought it, and then he begged me so much that never should anything happen to me before and I should forgive him what he done, it never should happen again, and he cried like a child.”

She thus consented to the two names being put in deed.

Only about six weeks intervened between the sale of the Clinton street property and the purchase of the West Hoboken property.

Before the sale of the Clinton street property Buttlar had endeavored to get his name on the deed again; she refused, giving the unsatisfactory and unfair reasons above referred to; not succeeding in getting his name on the deed, he arranged a very advantageous sale; when the title passed, he en-

deavored to secure the money; he failed in that and secured only the \$500 that had been paid as a deposit on the purchase; the balance over (\$10,000) was placed in bank in her name.

Then *he* arranged for the purchase of the West Hoboken property, and the deeds were taken in both names, and they have remained so from that time (1889) down to the present.

Page 135: "He bought it to get his name on."

He was always insisting upon his rights; his persistence proves his case.

Besides the money invested from the sale of the Clinton street property, about \$7,000 was put in from the feed business; this came from Buttlar's own bank account, used in connection with the feed business, and \$2,000 of the \$7,000 represents the amounts received by Buttlar on the sale of the feed business to Becker.

Over that feed business account he had full control; he mingled this money from this account with the money that arose from the sale of the Clinton street property.

He drew and put that money in these West Hoboken houses, only upon the proposition that the property was held by him and his wife jointly.

Page 138. Buttlar arranged to build the houses on the West Hoboken property. He did as he liked about that, she says (p. 139). She kept the amount of \$2,200 from the Clinton street property sale, and with that bought the three lots now standing in her own name.

Page 139:

"Q. Now, then, after you had paid this \$10,000 on account of this property, you had some left; some money in the bank? A. Yes, sir.

"Q. How much? A. \$2,200.

“Q. Why didn't you pay that on account of the property? A. Because I wanted to keep that myself. I always had money; I keep that myself.

“Q. What did you do with the money you kept back? A. I paid for those three lots with it, what Mr. Buttler bought where I was not going to give his name on; when I paid it I would not put his name on, and I paid it for fear I would get in trouble again, because his name was on the property, or I never would have got it.

“Q. So the money that went in the property, the three lots you now hold in West Hoboken, came from the sale of the property you hold in West Hoboken? A. Not from the sale; some few hundred dollars I put in.”

Yet Mr. Buttler is the one who bought the lots and who made the bargain for them.

Then came the separation agreement.

Page 142:

“Q. And you signed this agreement, expecting to get as your share of the income from that property, \$75 a month? A. Yes, sir.

“Q. And for a number of years you got it? A. Yes, sir.”

She never raised any question of ownership at the time of the signing of the separation agreement, or at any time.

Page 143:

“Q. You never raised any claims that you were entitled to all this property until this suit? A. No.”

In the bill of complaint filed by Mrs. Buttler in 1896, she made no claim of sole ownership; she alleged in that bill of complaint that she had contributed \$10,500 towards the purchase of the West Hoboken property, *i. e.*, the money that came from

the Clinton street property; she did not then claim that she had any interest whatever in the feed business from which \$7,000 had been taken from Christian Buttlar's own bank account into the West Hoboken property; she distinctly said in that bill of complaint that Christian Buttlar himself was carrying on the feed business.

The feed business was then very profitable, according to the bill of complaint; it was then making \$2,500 yearly. That was not so, but it was doing very well. She had every motive to claim the business, but she did not do so.

Let us summarize the husband's testimony:

P. 172-173. We put our money together at the beginning; she had \$102 and I had \$38. We bought first bakery for \$600; \$300 cash and \$300 mortgage. Borrowed \$150 from Albert Drewitz.

P. 174. I worked never less than 16 hours a day, baking, carrying out bread to customers, &c.

P. 174. We made about \$2,000 in that bakery at the end of two years.

P. 175. I sold to Joseph Amrein for \$600, \$300 cash and \$300 mortgage.

P. 176. There was a sign in the place, "Christian Buttlar."

P. 175. I spent only \$200 on my trip to Germany.

P. 177. In the next bakery, Ewen street, I got about \$400 or \$500 in debt.

P. 178. Those debts were afterwards all settled in full.

P. 179. I worked as a journeyman in Jersey City. In passing down First street, Hoboken, I saw an empty store.

P. 179-180. I rented that and moved my fixtures from Brooklyn and started to bake. (He had fixtures in Ewen street, where he had failed); she says

he owned that bakery. I ran this bakery about a year and a half. I did the same kind of hard work.

P. 181. I sold to Ph. Bohley for \$600 for part of the purchase price, \$500, I took power of attorney from Bohley to collect from Bohley's inheritance in Germany.

P. 182-183. We went to Europe a week after we sold out. I took about \$4,300 to Europe, including the \$500. I was to get on the power of attorney from Bohley. The money came from moneys in banks in their joint names, and \$900 that I had invested on mortgage in Brooklyn.

P. 184. The draft that I took to Europe was made out in the name of "Christian Buttlar;" she was not along when I collected it; I cashed it in the bank where it was assigned to, the Bank of Saxony.

P. 184. We bought a hotel in the village of Trefort. It was in both names. I never wanted to own anything alone; she helped earn it; so she should have her name on it in case anything should happen to me; she should not suffer after I died. I paid 15,600 marks for the hotel. I made 1,800 marks clear the first year.

P. 185. At the end of the second year I sold the business for 600 marks more than we paid.

P. 186. I was in business two weeks after we came back.

P. 188. I bought the First street bakery, managed it, &c., for two years; it was bought in my own name.

P. 189. I loaned \$3,000 to Keiswetter on bond and mortgage; mortgage was taken in my own name.

P. 191-192. For nine months after we sold out I worked as a journeyman.

P. 192. \$2,200 was paid for the Clinton street property; this money apparently came in part from the collection of the mortgage held in New York. That mortgage was part of the money brought back from Europe.

P. 192-196. The source of the money that went into the Clinton street property is shown.

(See this testimony).

He borrowed \$1,000 on his personal notes to help pay for the property.

P. 193. "How did Mrs. Buttlar's name get in the deed? A. I thought she should be a part owner"

By the Court.

"Q. You were perfectly willing? A. Yes, sir; I want to secure the woman all the time.

"Q. She was not there at all? A. No, sir; she was not.

P. 194. The contracts for the buildings on the Clinton street property were in the name of the man.

P. 196. The store in Clinton street was in his name; his name was on the awning.

P. 198. Then he went to Coney Island; he was deceived by the man who sold him the place; in that way, and (p. 199-200) on the advice of a lawyer, the property got in the wife's name alone.

(Read 199-200).

P. 166. The feed store property was purchased by assuming a mortgage for \$3,000, the deed was made to Witte's wife and my wife; because we were both men who were not clear of our names; the Coney Island business was unsettled.

P. 203:

"Q. Who built the building on the feed store

lots after the mortgage was assumed? A. I and Charles Witte; we had a carpenter; we paid him \$165 for the full contract to build up the whole business, stable, shanty and all, but we were compelled to help as much as we could.

“By the Court.

“Q. You bought materials? A. Yes, sir.

“By the Court.

“Q. The carpenter did the main work, the labor; did you and Witte buy the lumber? A. On the installment plan; lumber came from Charles Schultz; he took it out in feed and we took the heavy lumber from him and small lumber we took from Rudolph H. Meyer in Hoboken street, Hoboken; he took by cash and paid in feed.

“Q. From the business? A. From the business.

“Q. Now, then, the cash that was paid for the lumber that went into the building, came from the business? A. Certainly.

“Q. And you paid nothing for the land, you assumed a mortgage? A. That is right.”

P. 204-205. I arranged for credit; I worked as laborer, buyer, seller, everything.

After Witte was bought out, my name was on the trucks; Witte had previously failed in the feed business, but when Buttlar took hold with him, they made it go.

P. 205. I drew \$12 weekly from the business and gave her \$10 for table expenses.

Meanwhile she was collecting the rents from the Clinton street property.

P. 208. The bill heads in the business were in the name of Christian Buttlar (Ex. C 16, p. 373).

The sales slips given to customers had his name at the top (Ex. C 17, 18, 19, p. 373).

At page 206-207 find how the Clinton street property came to be sold.

“Q. How did you come to sell the Clinton street property? A. I wanted to get the property under my control again after everything was settled; I requested her to put my name in; she would not do it; I requested her to give me one house and she keep one house; she would not do it; so I thought I would have to be a little political.

‘By the Court.

“Q. Use a little policy, you mean? A. Yes, sir; use a little policy to get it in my name again. I saw how they wanted to use me home; they didn’t use me very nice.

“By the Court.

“Q. At that time they began to act as if they were bosses and had control of you? A. I can prove, if the Court please, that she said if it didn’t suit me in the house I can get on the street, where it is good enough for me. I have nothing to do with the house; I can prove it with witnesses.

“Q. Did you have any real trouble with your wife before the time she got the deed in her own name? A. Never, we lived happy, only the money made the trouble between us.

“Q. Now then tell the Court how you arranged for the sale of those houses?

“THE COURT—He made a good bargain, made some money out of it?

“A. I gave it to an agent and arranged that the agent should send down to the feed store, and one day the agent, she sent down to the feed store and says, there is a man wants to buy the property; I came home, left the business in charge of my man; I says, ‘why don’t you go up and sell it;’ no, she

would not have nothing to do with it, so I went with the people and sold it for a certain bargain, certainly I sold it cheap; that was right; I could get more for it, it was worth more.

“By the Court.

“Q. But you made money on it? A. Yes, sir; I made good money.

“By the Court.

“Q. You made a profit on the whole transaction? A. Yes, sir; but I sold it then too cheap; it was my counsel, I went to him and draw an agreement and the man handed me \$500, and she had to come up to sign it; after I had \$500 she commenced to kick; she wanted all that money; I says ‘no, that would not do;’ I took her to the Second National Bank of Mr. Scofield, and I wanted to open account in our both names, and have it so arranged that neither could draw money alone; she was afraid I wanted to take the money and run away; she would not do it; well, I deposited the money in my account; I kept going in the Second National Bank from the first day they opened it; I put \$500 there, and when it came to deliver the deed, well then she testified what happened; it is true what she said, I counted the money.

“By the Court.

“Q. She said you tried to get the money and she would not let you? A. No, sir; she would not.

“By the Court.

“Q. She got the whole? A. She got the whole.

“Q. How long a time was there between the time the Clinton street title passed in Smith’s office and the time you bought the West Hoboken lots?

“THE COURT—The deed shows, about 28 days.”

P. 208. He paid \$203 for a search fee (C. 15).

P. 209. She consented to the West Hoboken property being put in both names.

P. 210. She signed the mortgages on the property.

P. 210:

“Q. Now, then, after the West Hoboken houses were built, how long was it before you bought this extra lot to give you clearance in the back?
A. Right after.

“Q. How did you come to buy that? A. To protect myself so nobody should build a very low, mean house alongside of me.

“Q. Was it bought at auction? A. No; I bought that privately and I gave a check for \$364 and some odd cents, and I had note given to me for feed from Charlie Hoffman; I gave that note with the check, which paid for the lot, \$900, but I put her name in—”

P. 216. When she signed the separation agreement in 1894 she raised no claim of ownership. The agreement was executed in duplicate and she had one copy in her possession from the time it was signed.

P. 244. The \$2,000 for which the feed business was sold to Becker was put into the West Hoboken property.

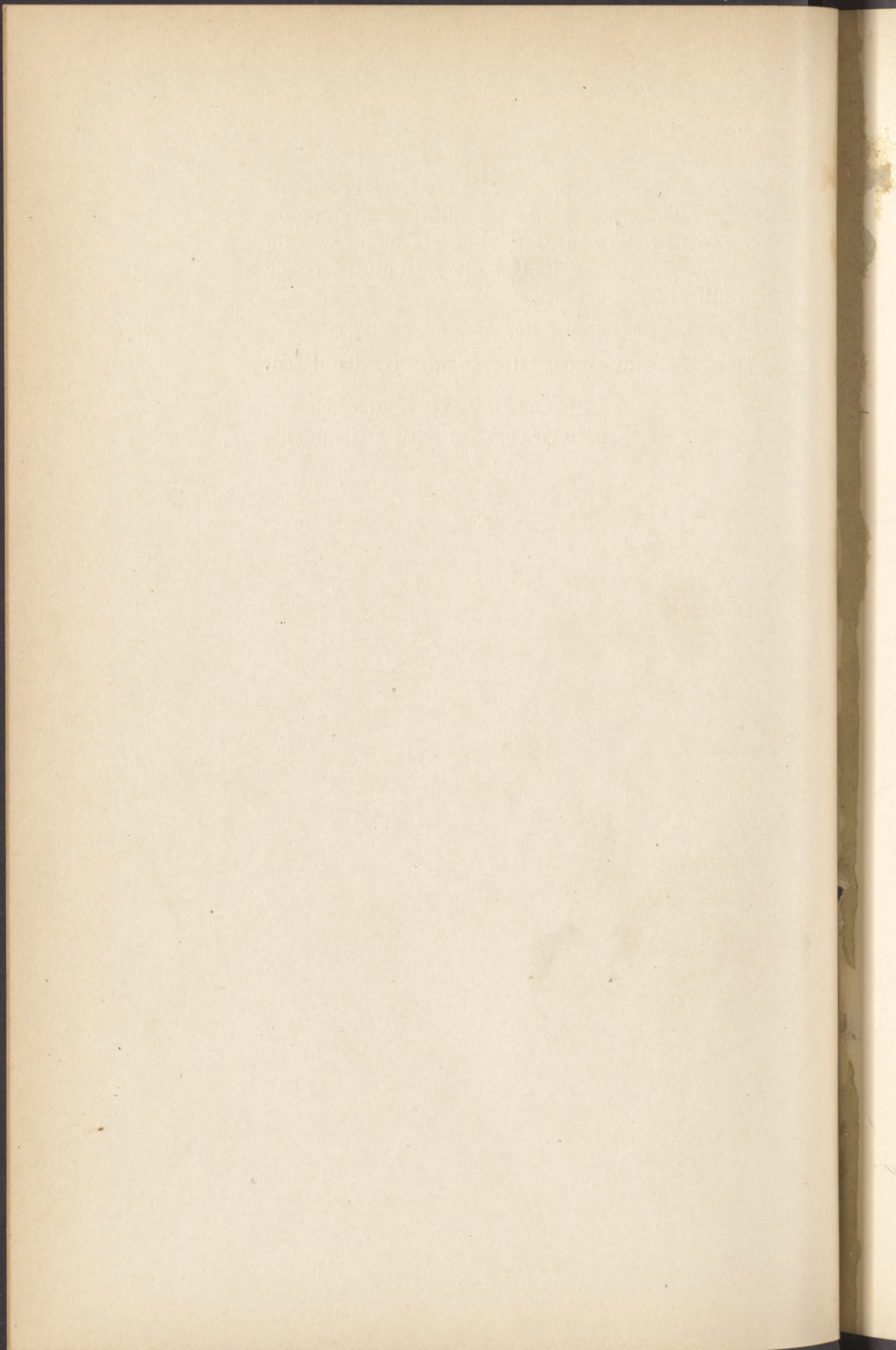
Then we have the affidavits of Henry Dusenberry, flour merchant, as to the feed business (Ex. C, p. 352); Edwin A. Barnes, of the Pavonia Mills and Elevator Company, (Ex E, p. 384), and William R. Skinner, flour merchant, (Ex. B, p. 381), as to same; Henry S. Morgan, member of the late firm of James K. Morgan & Company, flour merchants, as to the bakery carried on by Buttlar during the years 1879 and 1880 in First street,

Hoboken, (Ex. D, p. 383); and the testimony of Henry Wicht, (p. 261), as to selling and shipping goods to Christian Buttlar; that his name was on the wagons; that credit was given to him; that he paid bills, &c.

(See these affidavits, pp. 381, et seq.)

The defendant's cross bill was properly dismissed,

MARSHALL VAN WINKLE,
Of Counsel with Respondent.



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In Chancery of New Jersey.

To his Honor, William J. Magie,

Chancellor of the State of New Jersey:

Complaining, shows unto your Honor, your orator, Christian Buttlar, of the City of Jersey City in the County of Hudson, and State of New Jersey:

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That on or about November sixth, eighteen hundred and eighty-nine, one Charles Riebold, conveyed unto your orator and Minna Buttlar, his wife, all that certain tract or parcel of land and premises situate, lying and being in the City of Hoboken, in the County of Hudson and State of New Jersey, which on a certain map entitled "Map of eighty-one lots situate in the business portion of the City of Hoboken," and duly filed in the office of the Clerk of said county of Hudson, June 10th, eighteen hundred and seventy-three, are known and designated and distinguished as lots numbered thirty-one (31), and thirty-two (32) in block numbered twenty-six (26), all as laid down on said Map, as by reference to said map will more fully appear. Each of said lots is twenty-five feet in front and rear, by one hundred feet deep throughout. Said lots front or face on the northerly side of First St. between Jackson and Harrison Streets.

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Your orator further shows that the said premises above described are subject to a mortgage of three thousand dollars, bearing date September 18th, eighteen hundred and eighty-six, recorded in Book 189 of Mortgages, page 558, in

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the Register's Office, of said county, and now held by one Maria Leicht.

10 And your orator further shows that the said premises last above described are subject to a certain lease executed by your orator to one George M. Goelz, dated June sixth, nineteen hundred, and recorded in Book 752 of Deeds for Hudson County, page 380, &c., for the term of five years with a covenant of renewal for a like term of five years, and also a privilege to the said George M. Goelz, to purchase the said premises at any time during the continuance of the said lease or its renewal, for the sum of six thousand dollars.

20 And your orator further shows that on or about the twenty-ninth day of November, eighteen hundred and eighty-nine, Adam Siefried and Theresa, his wife conveyed to your orator and Minna his wife, All that certain tract or parcel of land and premises situate, lying and being in the Town of West Hoboken, in the County of Hudson and State of New Jersey, which upon a certain map on file in the Office of the said Register of Hudson County, entitled "map of property belonging to Adam Siefried, situate in West Hoboken, Hudson Co., N. J., surveyed and laid out by James Moylan, Civil Engineer and Surveyor, May twenty-eighth, eighteen hundred and thirty 30 eighty-nine," are known and distinguished as lots numbered one (1), two (2), three (3), and four (4), in block numbered ninety-two (92). bounded and described as follows:

40 BEGINNING at a point or corner formed by the inter-section of the westerly line of West Street with the northerly line of Malone Street; thence running along the northerly line of Malone Street, one hundred feet; thence running northerly eighty-three feet and sixty-five hun-

dredths of a foot (83.65 ft.); thence easterly one hundred feet to the westerly side or line of West Street; thence running southerly along the westerly line or side of West street eighty-three feet and eighty-nine hundredths of a foot (83.89 ft.) to the point or place of beginning.

And your orator further shows that on or about the thirtieth day of April, eighteen hundred and ninety, Adam Siegfried and Theresa, his wife, conveyed unto your orator and Minna, his wife, all that certain lot, piece or parcel of land and premises, situate, lying and being in the Town of West Hoboken, in the County of Hudson, and State of New Jersey, which on a certain map entitled "Map of property belonging to Adam Siegfried, situate in West Hoboken, Hudson Co., N. J., surveyed and laid out by James Moylan, Civil Engineer and Surveyor, May twenty-eighth, eighteen hundred and eighty nine." are known and designated as lot number-ed thirty-seven in block ninety-two. 10 20

And your orator further shows that the premises described as lots numbers one, two, three and four, in block ninety-two, have been sub-divided into five lots, and that houses and buildings have been erected thereon, and that the said premises are now encumbered by five several mortgages, which mortgages are now held by one Louis Linnewerth, and upon which mortgages there is now due the sum of six thousand dollars. 30

And your orator further shows that by the deeds above set forth, an estate by the entirety in and to all of the above described property was created in your orator and his wife Minna Buttlar, which estate continued until March twenty-fourth, nineteen hundred and two, when, by reason of a certain decree of absolute divorce, made 40

in this Court, in a certain cause wherein Minna Buttler was defendant, and your orator Christian Buttler was complainant, the said estate fell, ceased and terminated, and your orator and the said Minna Buttler became tenants in common of the said above described premises.

10 And your orator further shows that he is desirous that a partition or division of the said several tracts of land and premises shall be made between your orator and the said Minna Buttler, according to their several and respective rights, estates and interests therein; or, in case that the said tracts of land and premises cannot be divided among the owners thereof, without great prejudice to their interests; then that the same may be sold and the proceeds divided between your orator and the said Minna Buttler, according to their respective right and interests.

20 But your orator is advised that no valid or effectual partition, division or sale of the said premises can be effected without the aid or interposition of some competent Court, and that this Honorable Court has full and complete jurisdiction in the premises.

30 In consideration whereof, and to the end that the said Minna Buttler may, but 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 were here again repeated, and that a fair partition and division of the above described premises may be had, according to the course of this Court (if the same be practicable and consistent with the rights of all the parties therein) between your orator and the said Minna Buttler, according to their respective rights and interests therein; and, in case such partition and division in fact
40 of the said premises shall be found impractica-

ble, or if it should appear that the same cannot be made without great prejudice to the owners of the said premises, that then the said tracts of land and premises may be decreed by this Honorable Court to be sold, and the proceeds thereof, after paying the costs and charges of this suit, divided between your orator and the said Minna Buttlar, according to their respective rights, shares and interest;

May it please your Honor to grant unto your orator the State's writ of subpoena to be directed to the said defendant Minna Buttlar, commanding her, 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 you orator will ever pray, &c.

VREDENBURGH, WALL & VAN WINKLE,
Solicitors and of Counsel with Complainant.

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IN CHANCERY OF NEW JERSEY.

10	Between, CHRISTIAN BUTTLAR, Complainant, and MINA BUTTLAR, Defendant.	On Bill, &c., Answer and Cross Bill.
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The answer of Mina Buttlar, defendant, to the bill of complaint of Christian Buttlar, complainant.

20 This defendant, answering, says:

30 She admits that on or about November sixth, eighteen hundred and eighty-nine, one Charles Riebold, conveyed unto complainant and this defendant, all that certain tract or parcel of land and premises situate, lying and being in the City of Hoboken, in the county of Hudson, and state of New Jersey, which on a certain map entitled "map of eighty-one lots situate in the business portion of the City of Hoboken," and duly

40 filed in the office of the Clerk of the said county of Hudson, June tenth, eighteen hundred and seventy-three, are known and designated as lots numbered thirty-one (31) and thirty-two (32) in block numbered twenty-six (26) all as laid down on said map, as by reference to said map will more fully appear. Each of said lots is twenty-five feet in front and rear, by one hundred feet deep throughout. Said lots front or face on the northerly side of First Street, between Jackson and Harrison Streets.

She further says that the said premises above described are subject to a mortgage for three thousand dollars, bearing date September 18th, eighteen hundred and eighty-six, recorded in Book 189 of Mortgages, page 558 in the Register's office of said Hudson County, and now held by one Maria Leicht.

She admits that the said premises last above described are subject to a certain lease executed by complainant to one George M. Goelz, which bears date June sixth, nineteen hundred, and is recorded in Book 752 of Deeds for Hudson County, page 380, &c., that said lease is for a term of five years with a covenant renewal for a like term, and also a privilege to the said George M. Goelz, to purchase said premises at any time during the continuance of the said lease or its renewal for the sum of six thousand dollars, but says that said lease was executed by the said complainant without the knowledge or consent of this defendant.

She says that she admits that on or about the twenty-ninth day of November, eighteen hundred and eighty-nine, Adam Siegfried and Theresa, his wife, conveyed to complainant, All that certain tract or parcel of land and premises situate, lying and being in the Town of West Hoboken, in the County of Hudson, and State of New Jersey which upon a certain map on file in the office of the said Register of Hudson County, entitled "Map of property belonging to Adam Siegfried situate in West Hoboken, Hudson County, N. J., surveyed and laid out by James Moylan, Civil Engineer and Surveyor, May twenty-eighth, eighteen hundred and eighty-nine," are known and distinguished as lots numbered one (1), two (2), three (3), and four (4) in block numbered ninety-two (92) bounded and described as follows:

Beginning at a point or corner formed by the intersection of the westerly line of West Street, with the northerly line of Malone Street, thence running along the northerly line of Malone St., one hundred feet; thence running northerly eighty-three feet and sixty-five hundredths of a foot (83.65 ft.); thence easterly one hundred feet to the westerly side or line of West Street; thence running southerly along the westerly line or side of West Street eighty-three feet and eighty-nine hundredths of a foot (83.89 ft.) to the point or place of beginning.

10 She admits that on or about the thirtieth day of April, eighteen hundred and ninety, Adam Siegfried and Theresa, his wife, conveyed unto complainant and defendant All that certain lot, piece or parcel of land and premises situate, lying and being in the Town of West Hoboken, in the County of Hudson, and State of New Jersey, which on a certain map entitled "map of property belonging to Adam Siegfried, situate in West Hoboken, Hudson Co., N. J., surveyed and laid out by James Moylan, Civil Engineer and Surveyor, May twenty-eighth, eighteen hundred and eighty-nine," are known and designated as lot number thirty-seven in block ninety-two.

20 She admits that the premises described as lots numbers one, two, three and four, in block ninety-two, have been sub-divided into five lots and that houses and buildings have been erected thereon, and that said premises are now encumbered by a mortgage or mortgages held by Louis Linnewerth, upon which there is now due the sum of six thousand dollars.

30 She admits that by the deeds above set forth an estate by the entirety in law, in and to all of the above described property was created in complainant and defendant, which estate continu-

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ed until March twenty-fourth, nineteen hundred and two, when by reason of a certain decree of absolute divorce made in this Court, in a certain cause wherein Christian Buttlar was complainant and said Mina Buttlar was defendant, the said estate fell, ceased and terminated and that said complainant and defendant became tenants in common of the said above described premises.

She expressly charges that the decree of divorce hereinbefore mentioned was granted to her on the ground of adultery committed by the said complainant.

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She says that on the thirty-first day of January eighteen hundred and ninety-four, the property above set forth and described, then being in the joint names of her and the complainant, they entered into a certain contract wherein and whereby he agreed to pay to her the sum of seventy-five dollars per month for and during her natural life in consideration of which said premises and in the further consideration of one dollar, she sold, assigned, transferred and set over unto him the right to receive during the term of his natural life all the rents, income and profit of the lands and premises hereinabove described in addition to which said seventy-five dollars per month he herein and thereby agreed to pay all the interest that might thereafter become due on the mortgages then held against said property, all taxes and assessments that might thereafter be levied or assessed against said real estate and also to pay for all repairs that might thereafter be required upon said property except certain work which was to be done the following spring, a copy of which agreement is hereto annexed and hereby made a part thereof.

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She expressly avers that said agreement is still in full force and effect between the parties

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hereto and that by reason thereof said lands are not now subject to partition by this Honorable Court.

All which matters and things this defendant is ready to aver, maintain and prove, as this honorable Court shall direct and humbly prays to be hence dismissed with her reasonable costs and charges in this behalf most wrongfully sustained.

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And this defendant, by way of cross-bill exhibited against the said Christian Buttlar, the complainant in this cause, says:

1. That she was married to the said complainant, Christian Buttlar, in the year eighteen hundred and seventy-two, at the City of New York, in the State of New York.

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2. That at the time she married her said husband she possessed in her own right, of five hundred and fifty dollars in money, and that he at that time had nothing.

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3. That in the year eighteen hundred and seventy-three she opened a bakery store in the City of Brooklyn, in partnership with her said husband with her capital which they ran for the period of about two years; that during that time complainant collected the money from said store and put it in the bank in his own name and that when they sold said store in the year eighteen hundred and seventy-five he had eighteen hundred dollars in cash in the bank in his own name besides other money; that in the year eighteen hundred and seventy-four, defendant received eight hundred and sixty dollars in money from her parents; that after selling said store complainant went to Europe and stayed about two months, during which time he used about eight

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hundred dollars of extra money that had been

saved from said business; that when he returned he purchased a bakery store in his name for one thousand dollars, from the money in bank, which he ran for a period of about six months, and failed; that he lost all the money he had and fled from the State of New York to avoid his creditors.

4. That in the latter part of the year eighteen hundred and seventy-five, she moved to Bloomfield street, in the City of Hoboken, in the State of New Jersey, where her husband joined her; that she leased a store and started a bakery business on First Street, between Adams and Jefferson Streets, in said City of Hoboken, where she continued in business for a period of about two years until the month of July, eighteen hundred and seventy-seven, during which time she cleared more than three thousand dollars; that she sold said bakery business to one Bolie, for which she received four hundred and fifty dollars in cash and took back a mortgage for four hundred dollars; that thereafter she went to Europe with her said husband, where they remained for about two years; that during the time they were in Europe her husband opened a roadhouse at Trefford, in which undertaking he lost about two hundred dollars.

5. That after they returned from Europe she purchased another bakery business on First St., in said City of Hoboken, for four hundred dollars, which she conducted for about two years, and that when she sold out said business she had five thousand eight hundred dollars in money in her own right.

6. That she used a part of said money to purchase two lots on Clinton Street, in said City of Hoboken, upon which she erected two four story tenement houses, one of which had a store

on the first floor, and that she also built two rear houses on said lots.

7. That in the year eighteen hundred and eighty-nine she sold said lands and houses in which she had an equity of seventeen thousand five hundred dollars; that when said money was paid over in the office of Abel I. Smith and Mabon, in said City of Hoboken, her said husband attempted to take it from her by force, but failing in that he thereafter compelled her by abuse threats and annoyances to give him five hundred dollars of said money.

8. That in the year eighteen hundred and eighty-six, defendant and one Elsa Witte purchased from William K. Leicht, lots numbers thirty-one and thirty-two in block twenty-six in said City of Hoboken, which said lands are described as follows: All that certain tract, or parcel of land and premise situate, lying and being in the City of Hoboken, in the County of Hudson and State of New Jersey, which on a certain map entitled "Map of eighty-one lots situate in the business portion of the City of Hoboken," and duly filed in the office of the Clerk of the said county of Hudson, June tenth, eighteen hundred and seventy-three, are known and designated and distinguished as lots numbered thirty-one (31) and thirty-two (32) in block numbered twenty-six (26) all as laid down on said map, as by reference to said map will more fully appear. Each of said lots is twenty-five feet in front and rear, by one hundred feet deep throughout. Said lots front or face on the northerly side of First street, between Jackson and Harrison streets; that they paid him no money but assumed a mortgage which was then a lien upon said premises in the sum of three thousand dollars: that this defendant thereafter put a building

upon said premises with her own money and started a hay, grain and feed business therein in the name of herself and said Elsa Witte, and that she put into said business at various times the sum of two thousand two hundred dollars; that thereafter on the first day of May, eighteen hundred and eighty-eight, she bought said Elsa Witte's interest in said business for twelve hundred dollars, making in all thirty-four hundred dollars that she had invested therein.

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9. That in the year eighteen hundred and eighty-nine her said husband scolded, abused, threatened and intimidated her to such an extent that he compelled her to convey said property to one Charles Riebold, who in turn re-conveyed it to defendant and her husband, creating therein an estate by the entirety in law, in accordance with his desire.

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10. That in the year eighteen hundred and eighty-nine she drew from the bank thirty-three hundred dollars and purchased four lots in the Town of West Hoboken, which are described as follows: All that certain tract or parcel of land and premises situate, lying and being in the Town of West Hoboken, in the County of Hudson, and State of New Jersey, which upon a certain map on file in the office of the said Register of Hudson County, entitled "Map of property belonging to Adam Siegfried, situate in West Hoboken, Hudson Co., N. J., surveyed and laid out by James Moylan, Civil Engineer and Surveyor, May twenty-eighth, eighteen hundred and eighty-nine," are known and distinguished as Lots numbers one (1), two (2), three (3), and four (4), in block numbered ninety-two, bounded and described as follows: Beginning at a point or corner formed by the intersection of the westerly line of West street with the northerly line of Ma-

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lone Street; thence running along the northerly line of Malone Street one hundred feet; thence running northerly eighty-three feet and sixty-five hundredths of a foot (83.65 ft.); thence easterly one hundred feet to the westerly side or line of West Street; thence running southerly along the westerly line or side of West Street, eighty-three feet and eighty-nine hundredths of a foot (83.89 ft.) to the point or place of beginning.

10 which said lands he compelled her by threats, abuse and intimidation to have conveyed to them in their joint names, but that they were bought entirely with her money.

11. That thereafter she erected upon said premises five two story frame houses at a cost including the land of about twenty-two thousand dollars; that they mortgaged said land in the sum of six thousand dollars and that the cost of

20 said premises above said mortgage was made up as follows: Namely, thirty-five hundred dollars the cost of said lands, about seven thousand dollars that defendant drew from the bank and six thousand dollars which came from her hay, grain and feed business, in the City of Hoboken.

12. That in the year eighteen hundred and ninety, said complainant sold, or pretended to sell her said feed business, situate on lots thirty-one and thirty-two aforesaid, in the City of Hoboken, without her permission or knowledge, to

30 one Henry Becker, for the sum of two thousand dollars and that during the time between the day of her purchase from said Elsa Witte to the time of the sale of said business, as aforesaid, complainant did without her permission put her money in bank in his own name and also the two thousand dollars realized from the sale of said business to the said Henry Becker.

40 13. That said Becker ran said business for the

period of about two years when he sold it back to the said complainant for about five hundred dollars, which sum he paid from defendant's money, after which he again put her money in bank in his own name and that said six thousand dollars which made up the balance of the cost of said lands and premises came entirely from her business, as aforesaid, and that he gained possession of said business and the proceeds thereof by threats, intimidation and force.

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14. That from the date of the purchase of said business by Henry Becker, as aforesaid, up to the time it was repurchased by her, complainant collected the rents of said premises, and never accounted to her for one cent thereof and that she supported and maintained his family from the time she came to Hoboken, aforesaid, up to the year eighteen hundred and ninety-four; that in the year eighteen hundred and ninety-eight he sold or pretended to sell an interest in this defendant's said business to one George Goelz, for the sum of two thousand, seven hundred dollars, and that he and the said Goelz continued said business in partnership until June, nineteen hundred, when complainant sold or pretended to sell a remaining interest in said business to the said Goelz for fifteen hundred dollars, but that he never accounted to this defendant for one cent of the money so realized by him from said business.

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15. That on the thirtieth day of April, eighteen hundred and ninety, she purchased from Adam Siegfried and Theresa, his wife, All that certain lot, piece or parcel of land and premises situate lying and being in the Town of West Hoboken, in the County of Hudson, and State of New Jersey, which on a certain map entitled "map of property belonging to Adam Siegfried, situate in West Hoboken, Hudson Co., N. J., surveyed

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and laid out by James Moylan, Civil Engineer and Surveyor, May twenty-eighth, eighteen hundred and eighty-nine," are known and designated as lot numbered thirty-seven in block ninety-two which said lands and premises the said complainant did by abuse, threats and intimidation compel this defendant to have conveyed to her and complainant jointly, creating therein an estate by the entirety at law, but defendant says that

10 said lands and premises were purchased wholly with her money.

All which actings, doings and pretenses of the said complainant are contrary to equity and good conscience and tend to the manifest wrong, injury and oppression of the defendant in the premises.

In tender consideration whereof and for-as-much as this defendant is without adequate remedy in the premises at any by the strict rules of the common law, and can only obtain relief in this Honorable Court, where matters of this nature are particularly cognizable and relievable: To the end and thereof that the said complainant may, but without oath, to the best and utmost of his knowledge, remembrance, information and belief full, true and perfect answer make to all and singular the matters aforesaid. as fully and particularly as if the same were here again repeated and complainant particularly interrogated thereto and that the lands so purchased by the moneys of defendant may be decreed to be her sole and separate estate, and that the part so held by him in conjunction with the defendant may be decreed to be held in trust by said complainant for the use and benefit of defendant. and that said complainant, Christian Buttlar, may be compelled by the order and decree of this Honorable Court to reconvey to this defendant

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40 the legal interest in and to all the lands and

premises herein above described, which is now held by him and that said complainant may be ordered and decreed to account to this defendant for all and singular the moneys arising from the conduct and sale of said hay, grain and feed business, and the rents, issues and profits of said lands and premises from the time he sold or pretended to sell the business therein carried on, to one Henry Becker, up to the time it was resold to defendant, and to pay to this defendant all moneys so arising over and above the moneys paid by him out of her said moneys for and towards the purchase of said lands and premises so lying in the Town of West Hoboken, together with legal interest thereon, and that this defendant may have such further and other relief in the premises as to this Honorable Court may seem equitable and just. 10

May it please your Honor, the premises considered, to grant unto this defendant, a writ of subpoena, to be directed to the said Christian Buttlar, therein and thereby requiring him, on 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 the premises, and to stand to and abide and perform such order and decree therein as to your Honor may seem meet. 20

WELLER & LICHTENSTEIN, 30
Solicitors for Defendant.

JOHN I. WELLER.
Of Counsel.

State of New Jersey, }
Hudson County. } ss.

Mina Buttlar, of full age, being duly sworn, 40

deposes and says that she is the defendant in the above entitled cause of action named; that she has heard read the matters and things set forth in the above cross bill and that the same are true. Sworn and subscribed to before me,

this 18th day of June, A. D., 1902.

MINA BUTTLAR.

10 Mattie W. Gibbs,
Notary Public,
of New Jersey.

20 This indenture made this thirty-first day of January, A. D., eighteen hundred and ninety-four, between Christian Buttlar, of the town of West Hoboken in the county of Hudson and State of New Jersey, party of the first part, and Mina Buttlar, of the same place, party of the second part.

30 Whereas divers disputes and unhappy differences have arisen between the said party of the first part and his said wife, for which reason they have consented and agreed and hereby do consent and agree to live separate and apart from each other during their natural life therefore this indenture witnesseth: that the said party of the first part, in consideration of the premises, and in pursuance thereof, hereby covenants, that it shall and may be lawful for her, his said wife, at all times hereafter to live separate and apart from him, and that he shall and will allow and permit her to reside and be in such place or places and such family or families, and with such relations, friends and other persons, and to follow and carry on such trade or business as she may from time to time choose or think fit; and
40 that he shall not nor will at any time sue or suf

fer her to be sued for living separate and apart from him; or compel her to live with him; nor sue, molest, disturb or trouble any other person whomsoever, for receiving, entertaining or harbouring her; nor shall or will at any time hereafter claim or demand any of her money, jewelery, plate, clothing, household goods, furniture (excepting one-half carpet, one bed and bedding complete, one sofa, four chairs and one clock which are to remain the sole property of Christian Buttlar) or stock in trade which she now has in her power, custody or possession, or which she shall or may at any time hereafter have, buy or procure or which shall be devised or given to her, or that she may otherwise acquire, and that she shall and may enjoy an absolute disposition of the same as if she were a feme sole and un-married, except the real estate hereinafter mentioned which is owned by them jointly.

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And further, that the said party of the first part, shall and will, well and truly, pay or cause to be paid for and towards the better support and maintenance of his said wife the sum of seventy-five dollars (\$75) per month, commencing on the first day of February next, and payable on the fifteenth day of each and every month, and which the said party of the second part, does hereby agree and take in full satisfaction of her support and maintenance and all alimony whatever, and the said Mina Buttlar in consideration of the said premises and also for and in consideration of the sum of one dollar to her in hand paid, does hereby agree to and with her said husband, the party of the first part, that he shall be entitled to receive during the term of his natural life all the rent income and profits of the property now owned by them in their joint names, known as Nos. 600, 602, 604, 606 and 608 Malone street, No.

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339 West street, in the town of West Hoboken, and 654 and 656 First street, Hoboken, the said Christian Buttlar, however, to pay all taxes that may hereafter be levied or assessed against said real estate, interest that may hereafter become due or mortgages now held against said property, and also all repairs that may hereafter be required, excepting the painting of the outside of the buildings, to be done the coming spring, the expense of which the parties hereto are to bear jointly, each to pay one-half of the cost thereof, and the said Mina Buttlar further agrees to and with her said husband that she will pay the taxes against said premises for the year eighteen hundred and ninety-three, and also all water rents up to February first, eighteen hundred and ninety-four, and said Christian Buttlar furthermore agrees that his said wife may occupy the first floor in the house known as No. 600 Malone street in the town of West Hoboken, in the county and state aforesaid, until March first, eighteen hundred and ninety-four, she to pay therefor the sum of seventeen dollars (\$17) when she is to vacate the same, it being however understood that should Mina Buttlar not vacate the said premises on or before the first day of March, then and in that case she is to pay the monthly rent of seventeen dollars (\$17) therefor, payable on the first day of each and every month in advance.

And the said Mina Buttlar further covenants and agrees to and with her said husband to indemnify and bear him harmless of and from all her debts contracted or that may hereafter be contracted by her on her account, any and all money or monies which the said Christian Buttlar may be compelled to pay on violation of this last-mentioned covenant shall be deducted from the monthly payments to be made to her for her maintenance and support. And the said Christ-

ian Buttler further agrees to pay all assessments now in arrears against the said premises, to which the said Mina Buttler agrees to contribute sixty-two and fifty one-hundredth dollars (\$62.50) to be paid by her to Christian Buttler on or before May first, next.

In Witness Whereof, we have hereunto set our hands and seals this thirty-first day of January, eighteen hundred and ninety-four.

CHRISTIAN BUTTLAR (Seal)
MINA BUTTLAR (Seal)

Signed, sealed and delivered
in the presence of

WILLIAM S. STUHR.

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and sixty dollars in money from her parents; and this complainant denies that the defendant leased a store and started a bakery business on First street, Hoboken, in the latter part of the year eighteen hundred and seventy-five; and this complainant denies that the defendant purchased another bakery business on First street, Hoboken, after the return of this complainant and defendant from Europe; and this complainant denies that the defendant erected a building on the lots on the northerly side of First street, Hoboken, and denies that the defendant started a hay, grain and feed business in said building; and denies that said defendant put into said business at various times the sum of twenty-two hundred dollars; and this complainant denies that the said defendant erected five two-story frame houses at a cost, including the land, of about twenty-two thousand dollars, on the lots of land in the town of West Hoboken mentioned in the said cross-bill, and denies that the said defendant paid for the said houses with her own money; and this complainant denies that he did, without the permission of the defendant, put defendant's money in bank, in his own name; and this complainant denies that he gained possession of any business of the said defendant by threats, intimidation and force; and this complainant denies that the said defendant supported and maintained the family of this complainant and the said defendant, from the time the said defendant came to Hoboken, up to the year eighteen hundred and ninety-four; and this complainant denies that on the third day of April, eighteen hundred and ninety, the said defendant purchased a lot of land known as Lot 37 in Block 92, on the map of property belonging to Adam Siegfried, situate in West Hoboken, Hudson County, N. J.; and this complainant denies that the said land and premises were purchased wholly with the

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money of the said defendant; and this complainant denies that the land and premises described in the bill of complaint herein and in the said cross-bill, are the sole and separate estate of the said defendant, and this complainant denies that all or any of said lands is held in trust by this complainant for the use and benefit of the said defendant; and this complainant denies that he is under any obligation of any kind, to account to

10 said defendant for any moneys arising from the conduct and sale of the Hay, Grain and Feed business referred to in the said cross-bill.

This complainant, further answering, says:

1. That when this complainant married the said defendant he did so after an acquaintance of only three weeks; that said defendant was a poor washerwoman; that this complainant was twenty-seven years old, and the said defendant was

20 thirty-six years old; that this complainant was a journeyman baker, at 508 Eleventh Street, New York City; that said defendant had no property of any kind, to the knowledge of this complainant, except a small deposit in the City Bank at Canal street and the Bowery, New York City.

2. That, at the time of his said marriage, this complainant had savings of his own deposited in the Fourteenth Street Bank, New York City, earned by this complainant as a journeyman

30 baker, in Sheffield's Grand street, Williamsburg.

3. That, after his said marriage, this complainant worked as a journeyman baker with Jacob Breslar, at Meserole street and Bushwick avenue, Brooklyn, and there worked until the Fall of eighteen hundred and seventy-two, having been married to the defendant in February, eighteen hundred and seventy-two.

40 4. Then at that time this complainant pur-

chased a bakery on Graham avenue, Brooklyn, between Johnston and Montrose streets; that this complainant paid three hundred and fifty dollars for the said bakery, in cash, and the balance of the purchase price remained on mortgage; that to purchase this said bakery, this complainant borrowed one hundred and sixty dollars from Albert Drewitz, who had been an apprentice with this complainant as foreman, and added to that one hundred dollars that this complainant had saved as aforesaid, with one hundred and fourteen dollars that the defendant had saved prior to her marriage with this complainant; that the said defendant, so far as this complainant had or has knowledge, was possessed of only this one hundred and fourteen dollars; that the said defendant did not have, to the knowledge of this complainant, five hundred and fifty dollars at the time of her marriage with this complainant; that this complainant paid to the said Drewitz, within a few months after starting the said bakery, the sum of one hundred and sixty dollars so borrowed as aforesaid, and paid off the mortgage part of the purchase price of the said bakery in installments.

5. That this complainant conducted this bakery about two years, when he sold it for six hundred dollars; that in the meantime complainant made a living for his family, and that, upon the sale of the said bakery, this complainant had about three thousand dollars remaining; that complainant worked eighteen, nineteen, twenty, and twenty-two hours a day, in the said bakery, only having one man working with him; that complainant did all the rest of the work; that complainant and his family lived in the rear of the said store; that complainant had no wagon in his said business, but carried the deliveries from the said bakery to the different customers, on his shoulders.

6. That the said three thousand dollars above mentioned was partly in one account in a bank in the name of the complainant, and partly in an account in a bank, in the names of the complainant and the defendant together, there being two accounts; that there was none of this money from this bakery business in an account in the name of the defendant alone; that this complainant opened the joint account in the names of himself and the said defendant, solely as a kindness to the defendant, and because she had put one hundred and fourteen dollars in the said business.

7. That there never was any trouble of any kind concerning money matters, between this complainant and the defendant until this complainant conveyed the real estate mentioned in the cross-bill, to the defendant, which was about sixteen years after the marriage of this complainant with the defendant.

8. That, during the time that this complainant was conducting this bakery business as aforesaid, the defendant kept a separate bank account, without the knowledge of this complainant, in her own name, depositing therein moneys taken from the said bakery business clandestinely and without the knowledge of this complainant, the exact amount of which this complainant does not know. That this Brooklyn bakery was opened in eighteen hundred and seventy-two, not eighteen hundred and seventy-three, as alleged in the said cross-bill. That the said bakery was conducted solely in the name of this complainant; that the sign over the said store bore the name of this complainant; that during this time this complainant found that the said defendant had a bank account in her own name, with a balance of about seventy-five dollars, this being about one year

after the marriage of this complainant with the said defendant.

9. That, after selling this bakery business, about one-third of the savings and profit from the conduct and sale of the same was deposited in the joint account of the complainant and the defendant, as aforesaid, and the balance in the personal account of this complainant; that both of said accounts represented the earnings and savings of this complainant from the said bakery business; that this complainant made all the deposits in both accounts; that the said defendant never had knowledge of what amounts were being made in the conduct of the said bakery, or what amounts were being deposited therefrom. That when the said joint account in the the name of this complainant and the said defendant was opened, this complainant took the said defendant to the bank to sign her name in connection therewith, so that if anything happened to this complainant, the said defendant could withdraw the money from the said account. That the said bakery business was sold in February, eighteen hundred and seventy-four not in eighteen hundred and seventy-five, as alleged in said cross-bill.

10. That the said defendant, to the knowledge of this complainant, never received eight hundred and sixty dollars from Europe; that she received a little over two hundred dollars from an uncle and nothing from her parents, to the knowledge of this complainant, as alleged in the said cross-bill; that she received one thousand marks from her mother's brother, and that this complainant paid the expense of getting the said money; that the said defendant placed this money so received by her, in bank in Williamsburgh, in her own name, as she stated to this complainant; that this complainant never received the said sum or any part thereof.

11. That after the selling of this said bakery business, this complainant went to Germany and was absent on this visit about ten weeks, spending about six weeks in visiting his family, and intending to bring his sister to this country; that this European trip cost this complainant about two hundred dollars,—this complainant traveling on the steamers to and from Germany, in the steerage, and that this cost of this trip included the price of the ticket for this complainant's sister to this country, and amounts expended by this complainant for presents brought by this complainant to the said defendant.

12. That about six weeks after the return of this complainant from abroad, he bought a bakery business in Ewen street, Brooklyn, between Montrose and Johnston avenues, paying therefor nine hundred dollars complainant took from the moneys in bank; buying the said business from Anton Behle, and paying therefor in cash; that this complainant ran this bakery business in his own name, the sign over the store being in complainant's name; that complainant had but one journeyman there, doing all the rest of the work himself, having no wagon, and working the same long hours, and making his own deliveries to customers, and living with and supporting his family in the rear of the said store.

13. That after drawing from the bank the money with which to buy this last-mentioned bakery business, the balance of money owned and saved by this complainant as aforesaid, was left in the bank; that this last-mentioned business complainant conducted for about eight months, when he found that he was conducting a losing business; that complainant feared to lose all his money earned and saved as aforesaid, in the further conduct of this losing business, and, upon the advice of Mr. Solomon Rice, this complainant con-

veyed the said bakery business to the said defendant; that papers for such conveyance were made out and executed; that the defendant paid this complainant no money upon this transfer.

14. That at this time part of the money of this complainant was in the Williamsburgh Bank and part in the Fourteenth Street Bank, in New York City. That deposits in bank were kept intact, except for the nine hundred dollars with which the last mentioned bakery business was purchased as aforesaid; that all the creditors of complainant in the said business were settled with then or afterwards, in full, and that no creditor lost anything. 10

15. That upon parting with the last-mentioned bakery business, in Brooklyn, this complainant obtained work in Jersey City, at McDonald's Bakery, as a foreman, receiving sixteen dollars a week, and remaining in that position about five months, and in the meantime removing his family to Bloomfield street, Hoboken, between Fourth and Fifth streets—all the while supporting his family and enjoying friendly relations with the said defendant. 20

16. That at this time a store which had been occupied by a bakery business was empty, being located at 542 First street, Hoboken; that thereupon this complainant opened a bakery in said store, in in his own name, the sign being in his own name, and this complainant paying the rent for the said store; that there was no written lease for the said store; that this complainant in the said store had one journeyman baker, and had at first no wagon, and worked the same long hours. That the bakery business in the said store was worked up by ths complainant, and the profits and earnings therfrom were deposited by this complainant in the Fourteenth Street Bank, New 30 40

York City, and that thereafter, during the period of the conduct of this said business, an account was opened in the Hoboken Savings Bank, and that no more money was deposited in the Williamsburgh Bank after this account was opened in the Hoboken Savings Bank; that this complainant made deposits in the said Hoboken Savings Bank; that the said defendant never handled any of the money from the said business; 10 that the Hoboken Savings Bank account was in the joint names of this complainant and the said defendant; that the said defendant never gave any money to this complainant in the meantime, or up to this time. That in this said bakery this complainant cleared three thousand dollars besides paying the living expenses of his family; that for nine years this complainant worked night and day, in the said bakery taking no holidays and spending his time entirely in the work 20 incident to the conduct of the said bakery business.

17. That this last-mentioned bakery business was sold to Philip Bohley, of Hoboken, for the sum of six hundred and fifty dollars, one hundred dollars of which was paid in cash, and the five hundred and fifty dollars balance of which this complainant collected by receiving from the purchase of the said business a power of attorney 30 with which to collect that amount from an inheritance due to the said purchaser in Germany; that no chattel mortgage was given or taken upon the sale of this said business as alleged in the said cross-bill.

18. That this last-mentioned business was profitable, and this complainant earnestly desired to continue the conduct of the same, but the said defendant, the wife of this complainant 40 was sick, and Dr. Kudlich advised a trip to Eu-

rope, entirely on account of the said defendant and for her benefit and help.

19. That this complainant and the said defendant remained abroad about two years, this complainant opening a hotel in Treffort, near his native village; that the first year in the conduct of this hotel this complainant saved eighteen hundred marks, and the second year saved fifteen hundred marks; that this complainant and the defendant lived better the second year, which is the reason why this complainant did not save as much as during the first year; that complainant bought this hotel business in Treffort for sixteen thousand two hundred marks, and sold the same at the end of the period aforesaid, for sixteen thousand, eight hundred marks; that the money taken by this complainant to Europe was taken from the banks where deposits had been made as aforesaid, and amounted to four thousand, eight hundred dollars; that when this complainant and the defendant came back from Europe, in eighteen hundred and seventy-nine, this complainant brought back from Europe five thousand, two hundred dollars; that this complainant desired to remain in Treffort in the hotel business, because the business there was good, and the complainant was building up the best hotel in the place, making it a first-class hotel; and the said hotel being in the centre of the village; that this complainant's father was then alive and entreated this complainant to remain in the said business, but that the said defendant insisted upon coming back to America, and for that reason solely the said business was disposed of as aforesaid, for the sum aforesaid; that during this period the said defendant saved some money taken from the proceeds of the said hotel business.

20. That upon the return of this complainant

10 from abroad, he bought a bakery from William Wirth, for five hundred dollars, not for four hundred dollars, as stated in the said cross-bill; that this complainant conducted this business for about two years, in First street, near Grand street, Hoboken; and made the same a paying business, having a wagon and two or three journeyman bakers, at different times; that the five hundred dollars with which this said store was bought was taken from the money this complainant had brought back from Europe as aforesaid; that this complainant sold this said business for one thousand dollars.

20 21. That at this time this complainant loaned to Mrs. Kieswetter, on bond and mortgage on property on Clinton street near Third street, Hoboken, the sum of three thousand dollars, at six per cent; that this amount was so invested for about two years, when complainant sold this said mortgage to John Bruning, receiving said three thousand dollars back. That this said money was afterwards used in the building of the Clinton street property mentioned in the said cross-bill; that the balance of the money brought back by this complainant from Europe was in the Hoboken Savings Bank in the names of this complainant and the said defendant.

30 22. That thereupon this complainant bought two lots on Clinton street, Hoboken; that complainant made the contracts for the building of the said buildings on the said lots; that the title to this said property was taken in the names of the defendant and this complainant; that this complainant conducted a bakery business on the Clinton street property for about six months, selling the same for about six hundred dollars to one Rosenblath.

40 23. That two hundred and twenty-eight dollars

rent was received monthly from the said Clinton street premises, which money was placed in the Hoboken Savings Bank, in the names of this complainant and the said defendant.

24. That upon the sale of this last-mentioned bakery, this complainant bought a restaurant and bathing place at Coney Island, conducting the same for about two years, paying for the same three hundred dollars and spending about two hundred dollars in and about improving the premises; that the first year at Coney Island this complainant lost about one thousand dollars, and the second year made about four hundred dollars; that in the meantime this complainant supported his family from the said business. 10

25. That during the time this complainant was at Coney Island, he discovered that he had been imposed upon, as he thought, in the purchase of the said business, and was advised by counsel in Hoboken to convey the real estate in Hoboken to the defendant, in order that he might advantageously litigate the dispute concerning the two hundred and twenty-five dollars balance due to the seller of the said business at Coney Island; that during the time that this complainant was conducting the said business at Coney Island, the said defendant constantly ridiculed this complainant, told him that he had been swindled, and said that they (referring to the sellers) would get the best of this complainant; and thereupon, because of the advice of counsel as aforesaid, and because of the ridicule of the said defendant, and at her request, and for the purposes aforesaid, the real estate in Hoboken was deeded by this complainant to the said defendant; that the said defendant never paid anything to this complainant for the said real estate. 20 30

26. That from this time on the said defendant 40

would constantly state to this complainant that he could stay out of the said premises if he didn't like it, saying to this complainant, "The property is mine; you have nothing to say any more"; that because of the defendant's conduct and because this complainant was not satisfied to leave the Hoboken property entirely in the name of the said defendant the said Clinton street property was sold for seventeen thousand, three hundred and fifty dollars, not for seventeen thousand, five hundred dollars, as alleged in the said cross-bill: that against this was a mortgage for six thousand dollars; upon this said sale five hundred dollars was paid on account of the purchase, to this complainant; that the balance of the equity in the said premises, namely, ten thousand, eight hundred and fifty dollars, the said defendant received; that the said defendant would not deliver the deed for the said premises until the money was actually placed in her own hands; that this complainant remonstrated with the said defendant about that, but with no avail. That this five hundred dollars so received by this complainant was deposited in the Second National Bank of Hoboken, where this complainant kept a bank account in connection with the feed business then being carried on by him; that the money received by the said defendant was placed by the said defendant in the First National Bank of Hoboken, in her own name, against the protest of this complainant.

27. That around this time this complainant went in the bottling business and conducted that business for one year, neither gaining nor losing any money therein, but making a living from said business during said period.

28. That the Coney Island litigation still being unsettled, and this complainant desiring to go into the feed business, he made an arrangement

therefor with one Charles Witte, in eighteen hundred and eighty-five, and entered upon said business in First street, near Willow avenue, Hoboken; that no money was paid for the lots upon which the building was afterwards erected for the feed business; that the deed was taken in the name of Witte's wife, as the said Witte, who had previously been in the feed business had failed therein, and also in the name of the said defendant, wife of this complainant, because the said litigation growing out of the Coney Island matter was still unsettled. 10

29. That the said Charles Witte and this complainant built the building for the said feed business on the said lots, and took the money to pay therefor from the said business; this complainant and the said Charles Witte buying the timber and hiring carpenters, and paying for the work in the erection of the said building, partly in cash and partly in feed, and doing a large amount of the work of building, themselves; that this complainant put in the said business eleven hundred and eight dollars, the amount which he had received from the sale of the said bottling business; that the said defendant put no money whatever in this feed business; that thereafter this complainant settled with the said Witte and obtained his share of the said business, paying therefor twelve hundred dollars, seven hundred of which came out of the said business, and the balance being secured by a note for five hundred dollars at one year, which note, however, this complainant paid off five months after giving the same. That this business was conducted two years and six months, during which time this complainant was supporting his family therefrom. 20 30

30. That thereupon the West Hoboken property mentioned in the bill of complaint and the said cross-bill, was purchased, and this complainant 40

insisted upon the deeds being made out in the name of himself as well as of his said wife, the said defendant; that there was about two months' time in between the selling of the Clinton street, Hoboken, property, and the purchase of the lots in West Hoboken; that this complainant bought the West Hoboken property and made the contracts for the building of the houses thereon, mentioned in said cross-bill.

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31. That the said defendant kept back twenty eight hundred dollars from the money which she had received from the sale of the Clinton street property as aforesaid; the balance of the money received from that sale going towards the purchase of the West Hoboken lots as aforesaid; that when all this money had been paid towards the said purchase and the said building of the said buildings, this complainant started to draw

20 money from his said feed business to pay the balance; that this balance amounted to about seven thousand dollars; that this complainant gave his individual note for the last seven hundred dollars of the amount so due, and paid this note out of his said feed business; that part of this seven thousand dollars just referred to was the two thousand dollars for which this complainant had sold the said feed business to one Becker; that

30 said Becker failed and this complainant took the place back again; that during this time this complainant worked as a baker for eleven months and as an insurance agent for about two years, saving five hundred dollars in this way; that thereupon this complainant bought a saloon in company with Mr. Emil Latman, running the same about eight months, and supporting his family from the proceeds of the same; that this saloon was sold by this complainant for six hundred dollars, against the protest of the

40 said defendant, who desired this complainant to

continue in the said saloon business.

32. That thereupon this complainant again embarked in the said feed business, with this six hundred dollars, so continuing until eighteen hundred and ninety-four, when an agreement in writing was signed by this complainant and the said defendant, as referred to in the said cross-bill; that the trouble which resulted in the signing of this said agreement arose because the said defendant was collecting the rents from the said real estate and putting the money in the bank in her own name, and this complainant was obliged to pay bills for expenses in connection with the said real estate.

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33. That Lot 37 referred to in the said cross-bill was bought by this complainant to protect the other property in West Hoboken, located as aforesaid, and so as to give the houses thereon clearance.

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34. That the money realized from the said feed business when the same was sold to Goelz, as referred to in the said cross-bill, was used in paying the debts of the said business.

35. That at this time the defendant, besides being a tenant in common with this complainant, of the premises of which partition is sought by the bill of complaint herein, is seized of three lots with a house thereon, in said West Hoboken the same being worth about seven thousand dollars, and being free from encumbrances; that this property stands in the name of the said defendant alone, although this complainant bought the said property at an auction sale, and did not agree that the said defendant should take title thereto in her own name, and did not know that she has so taken title until this complainant afterwards requested her to exhibit to him the

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deeds, when he found what had been done. That besides being possessed of this real estate, the defendant has money in bank or to her credit, exceeding five thousand dollars, and that she is arranging, as soon as this present litigation is concluded, to build a four-story brick house on these lots in West Hoboken, owned by her as aforesaid; that in July or August, eighteen hundred and ninety-four, the defendant went in the crockery business in Hoboken, with a man named Pape, conducting the store under the name of Buttlar & Company, the said defendant supplying the capital; that this business was carried on for about six months and was so carried on during the time that this complainant was conducting the feed business in Hoboken as aforesaid.

36. That in eighteen hundred and ninety-six the defendant filed a bill in this court, against this complainant, to recover arrears under the written agreement of eighteen hundred and ninety-four, and this complainant filed an answer thereto, claiming that, owing to the unexpected change in rental values, the rents and profits of the said premises were not sufficient to pay the taxes thereon, to keep the premises in repair and insured, nor to keep down the interest on the mortgages, and also to pay the sum agreed to be paid to the defendant; that a decree in favor of this complainant was advised in this court, by Vice-Chancellor Pitney, which decree is reported in 12 Dickinson's Chancery Reports, page 645, etc. and subsequently this decree, on appeal, was reversed by the Court of Errors and Appeals.

37. That subsequently, in nineteen hundred, this complainant filed a bill in this court, against the said defendant, for divorce, alleging desertion on the part of the said defendant; that the defendant thereupon filed a cross-bill against this complainant, praying a divorce from this

complainant, alleging that this complainant had been guilty of adultery with the woman employed to take care of his house and cook his meals; that Vice-Chancellor Stevens granted a decree of divorce against this complainant on the said cross-bill of the said defendant; that a copy of the opinion of Vice-Chancellor Stevens is hereto annexed as Exhibit A. and the same is referred to as though incorporated herein.

38. That this complainant is entirely innocent of any adultery as charged in the said cross-bill; but the said decree of divorce stands unappealed from and in force, because this complainant acquiesces in the same as a method of relieving him from the burden of the agreement of eighteen hundred and ninety-four, which agreement is impossible of reasonable fulfillment by this complainant, the effect of the operation of the same being to entirely impoverish this complainant, which was not contemplated by either this complainant or the defendant, at the time the said agreement was executed, the effect of the said decree for divorce being to dissolve the estate by the entirety subsisting between this complainant and the defendant, in the lands and premises constituting the subject matter of the said agreement of eighteen hundred and ninety-four.

39. That on the twenty-sixth day of March, nineteen hundred and two, this complainant caused to be served upon the defendant a notice in writing, rescinding the said agreement of eighteen hundred and ninety-four, a copy of which said notice is hereto annexed as Exhibit B, and the same is referred to as though incorporated herein.

40. That the said defendant made no reply of any kind to the said notice of rescission, or to the

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offers therein contained, made by this complainant to her.

10 41. That the said defendant, upon the receipt of the said notice, threatened, and thereafter advised her counsel to bring suit against this complainant in a court of law, upon the said agreement of eighteen hundred and ninety-four, to test the said agreement and to endeavor to claim from this complainant alleged arrears under the said agreement, intending to harass this complainant; and in disregard to the rights of this complainant; and thereupon this complainant filed his bill of complaint in this Court, praying for a partition or sale of the lands and premises described in the bill of complaint herein, in accordance with the rights of this complainant.

20 42. That, although the said defendant owns lands and premises in fee, in her own name, to the value and unencumbered as aforesaid, and although she is a tenant in common with this complainant in the land and premises described in the bill herein, and although this complainant has worked laboriously all his life and since his marriage as aforesaid, yet this complainant owns no real estate or property of any amount, except his estate as a tenant in common with the defendant, in the lands and premises for which a partition or sale is prayed in the bill of complainant
30 herein.

All which matters and things this complainant is ready to aver, maintain and prove, as this Honorable Court shall direct and humbly prays to be hence dismissed with his reasonable costs and charges in this behalf most wrongfully sustained.

40 VREDENBURG, WALL & VAN WINKLE,
Solicitors for and of
Counsel with Complainant.

IN CHANCERY OF NEW JERSEY.

EXHIBIT A.

Between,

CHRISTIAN BUTTLAR,
Complainant,

and

MINA BUTTLAR,
Defendant.Final Decree
of Divorce.

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This cause coming on to be heard before the Court in the presence of Marshall Van Winkle, of counsel with the complainant and John I Weller, of counsel with the defendant, and the pleadings and proof having been read, and the evidence of the respective parties having been heard and submitted, and the arguments of the respective counsel having been heard and considered, and it appearing to the satisfaction of the chancellor that the complainant is not entitled to the relief prayed for in his bill of complaint and that the defendant is entitled to the relief prayed for in her cross bill, and that the said complainant has been guilty of adultery as set forth in the defendant's cross bill herein:

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It is thereupon, on this twenty-fourth day of March, nineteen hundred and two, by his Honor, William J. Magie, Chancellor of the State of New Jersey, ORDERED, ADJUDGED and DECREED, and the said Chancellor by virtue of the power and authority of this Court, and of the acts of the Legislature in such case made and provided, doth hereby order, adjudge and decree

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that the said complainant, Christian Buttlar, and the said defendant, Mina Buttlar, be divorced from the bonds of matrimony for the cause of adultery aforesaid, and the marriage between the said complainant and the said defendant is hereby dissolved accordingly, and the said parties and each of them, are and is hereby freed and discharged from the obligations thereof.

10 And it is further Ordered, Adjudged and Decreed that the said complainant do pay to the said defendant her costs of this suit to be taxed and that the said defendant to have execution therefor, according to the practice of this Court.

And it is further ordered that the right of said defendant to apply for permanent alimony in the above cause be and the same is hereby expressly reserved.

W. J. MAGIE,
C.

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Respectfully advised,

Frederick W. Stevens,
V. C.

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(Seal I, Edward C. Stokes, Clerk of the Court of Chancery, of the State of New Jersey, the same being a Court of Record, do hereby certify that the foregoing is a true copy of the Final Decree of Divorce in the cause wherein Christian Buttlar is complainant, and Mina Buttlar is defendant, now on the files of my office.

IN TESTIMONY WHEREOF, I have hereto set my hand and affixed the seal of said Court, at Trenton, this eighteenth day of July, A. D., nineteen hundred and two.

EDWARD C. STOKES,
Clerk.

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EXHIBIT B.

TO MINA BUTTLAR:

I hereby rescind the agreement in writing made by and between us under date of January thirty-first, eighteen hundred and ninety-four, concerning certain real estate known as Nos. 600, 602, 606 and 608 Malone Street, and No. 339 West Stret, in the Town of West Hoboken, and Nos. 654 and 656 First Street, Hoboken, owned by us in our joint names and I offer to put you in the same condition with respect to the said real estate as you were in before the making of the said agreement for the reasons, among others, because the said agreement was made subject to the implied condition that I should pay you the amount mentioned therein only so long as the said real estate should remain in the same condition as it was at the time of the making of the said agreement and should produce the same rentals; and further, because since the making of the said agreement, the said real estate mentioned in the said agreement, had changed and depreciated in condition and in rentals without any fault of mine; and further, because the said agreement was made by and between us while we were husband and wife, and was made because of and in consideration of that relationship between us, and we are no longer husband and wife; and further, because the said agreement in writing is made in consideration of the said real estate being held by us as husband and wife, which particular estate has now been determined and ended.

I am willing to divide the said real estate with you in such equitable proportions as we can agree upon, and I am willing to continue to take charge of the said real estate and to pay you a

fair proportion of the net income arising from the said real estate.

Dated, March 25th, 1902.

CHRISTIAN BUTTLAR.

State of New Jersey, }
County of Hudson. } ss.

- 10 FRANCIS V. MANY, of full age, being duly sworn according to law upon his oath saith that on the twenty-sixth day of March, nineteen hundred and two, he served a true copy of the annexed notice upon the within Mina Buttlar, personally at her residence, No. 347 West street, Hoboken, New Jersey, and at the same time informing her of the contents thereof.

FRANCIS V. MANY.

- 20 Sworn and subscribed to before me this 26th day of March, 1902.

Pierre F. Cook,
Master in Chancery of New Jersey.

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IN CHANCERY OF NEW JERSEY.

 Between,

CHRISTIAN BUTTLAR,

Complainant,

and

MINA BUTTLAR,

Defendant.

 On Bill, &c.
 Order of
 Reference.

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This matter being opened to the Court by Vredenburgh, Wall & Van Winkle, of counsel with the complainant, and it appearing to the Court that due and legal service of a notice of this motion has been acknowledged by Weller & Lichtenstein, Solicitors of the defendant.

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IT IS, on this sixth day of October, nineteen hundred and two, on motion of Vredenburgh, Wall & Van Winkle, Solicitors of the complainant,

ORDERED, that the above stated cause be referred to the Honorable Henry C. Pitney, one of the Vice Chancellors of this Court, to hear the same for the Chancellor and to report thereon to him, and advise what order or decree should be made therein.

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W. J. MAGIE,

C.

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February 10, 1903.

IN CHANCERY OF NEW JERSEY.

10	Between, CHRISTIAN BUTTLAR, Complainant, and MINA BUTTLAR, Defendant.
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20 Transcript of shorthand notes of testimony taken in the above entitled cause, before Honorable Henry C. Pitney, Vice Chancellor, at the Chancery Chambers, Jersey City, New Jersey, on February 10th, 1902, in the presence of Vredenburgh, Wall & Van Winkle, solicitors for complainant, and Weller & Litchenstein, solicitors for defendant.

MINA BUTTLAR, sworn on her own behalf:

30 Direct Examination by Mr. Weller:

Mr. Weller: As to the answer, I want to merely offer the articles of agreement; Mr. Van Winkle has a copy; ours was cut up in printing another book, dated January 31, 1894.

Same marked Exhibit D1. ,

40 The Decree of Divorce is set up in the papers.

MINA BUTTLAR—Direct.

I offer the Decree, same is marked Exhibit D2.

Q. I notice by the answer that the First street property was rented to George M. Goelz, did you join in the lease to George M. Goelz? A. No, sir; I did not know anything about it.

The Court: No pretense in the pleadings that she did. 10

Mr. Weller: I also notice that he was given an option to purchase for \$6,000, did you agree to such an option?

The Court: Nothing in the papers show it.

A. No.

Q. When were you married? A. 1872.

Q. Do you know the date of the month? A. 20 February 17th.

Q. What property had you, if any, when you were married? A. \$500.

Q. (By the Court): Where was it? A. Part in the bank and part loaned out.

The Court: I should like to avoid going into proofs of all these allegations, replication and denial thereof. I don't think we could get through with it in a week. 30

Q. What property had Mr. Buttlar when you married? A. Nothing.

Q. Where had you got the property that you had? A. I had some in the Canal Street Bank.

Q. No, no, where did you get it? Where did you get it from? A. I got it from home; some of it I saved myself.

Q. (By the Court): Were you a widow at that time? A. Yes, sir. 40

MINA BUTTLAR—Direct.

Q. After you married Mr. Buttlar, what did you do? A. Boarded private; then we commenced a bakery in partners.

Q. Where, in Brooklyn? A. In Brooklyn.

Q. With whose money was the bakery opened? A. My money.

10 Q. How was it opened, in your joint names, or in one name alone? A. In joint names.

Q. How long did you continue the business? A. About two years.

Q. Who did the work?

Q. (By the Court): Whose name—was any sign over the door? A. No, sir.

Q. I say who did the work? A. Mr. Buttlar attended the bakery and I attended to the store, selling.

20 Q. He did the work? Mr. Buttlar was in the bakery and baked and I done the selling business and cooking and all else what was to do at home or in the business.

Q. Did you succeed in the business? A. First we didn't succeed, the first month but after we succeeded pretty well. Mr. Buttlar had learned the baking more.

Q. How long did you carry on the business? A. Two years.

30 Q. Then what did you do with it? A. Sold out.

Q. What was done with the money that was taken in while the business was running? A. It was put in the bank.

Q. Who put it in the bank? A. It was put in the bank in both names.

Q. (By the Court): Who put it in, who did it? A. Well, Mr. Buttlar brought it in; I hadn't the time.

40 Q. (By the Court): Who carried it to the bank?

MINA BUTTLAR—Direct.

A. Mr. Buttlar carried it to the bank; I could not get out of the house with the small children.

Q. During the time you ran the Brooklyn bakery, did you receive any money from home? A. Yes, sir.

Q. How much? A. \$860.

Q. (By the Court): Dollars or marks? A. Dollars. 10

Q. (By the Court): How many marks did you receive; it came in marks, didn't it? A. No, sir.

Q. (By the Court): Not in marks? A. A man, Kern paid me it and never gave me any paper for it. He only paid me that money out.

Q. Who was Kern, you speak of? A. The man who had power to draw the money for me. 20

Q. You gave him power of attorney for you? A. Yes, sir.

Q. Where was his place of business? A. 18 First Street, New York.

Q. (By the Court): You heard before you did that how much money was in Europe, didn't you—it came from relatives there? A. Yes, sir.

Q. (By the Court): You knew how much it was before you gave him any power of attorney, didn't you? They wrote you how much it was? A. No, I didn't know exactly how much it was. 30

Q. (By the Court): Well pretty nearly didn't you in marks, when they wrote you about it, they wrote you in marks, didn't they, when they wrote from Germany to you? They didn't talk about dollars, they talked about marks, didn't they? A. No, they didn't talk about marks; we had dollars in Germany. 40

MINA BUTTLAR—Direct.

Q. (By the Court): That is thalers, that is not our dollars at all? A. No, that was paid out.

10 Q. (By the Court): How much did they talk about when they wrote you about it? A. I had to get a thousand but there was some expense on; I don't know exactly. The man gave me a paper, no statement because the man failed and from that, after that he was not there any more; he was gone.

Q. Was that the last money you ever received from Europe? A. No, sir.

Q. What was the last money? A. In 1892.

Q. Have you got the papers here that you got the money in 1892? A. Yes, sir.

20 Q. Who did that come from? A. That came from an uncle, I received it, heard of it before, but they never sent it until 1892.

Q. Have you got the papers here of the money you got from Germany, the last that you got from your uncle? (Handing witness papers.)

The Court: I understand that money you are now talking about is not mentioned in the answer.

30 Mr. Weller: We did this because Mr. Buttlar in his answer to cross-bill, says she received this money long ago. I want to show exactly when it was received.

Q. Now, after you sold the Brooklyn store, what did you husband do? A. He went to Europe.

Q. How much money did he use on the trip? A. About \$800.

Q. (By the Court): How do you know that? A. That is what he said.

40 Q. (By the Court): He told you that he used \$800; he didn't tell you that he used 800 marks?

MINA BUTTLAR—Direct.

A. No, sir; he told me that he was going to take \$800 along.

Q. Did he tell you what he used it for? A. For his trip and for bringing his sister and for to pay a fine out in Europe.

Q. A fine by the militia? A. Yes, sir; by the militia.

Q. When he returned, how much was left? A. I couldn't tell you; he never told me; he never showed me. 10

Q. How much did you make on the first Brooklyn store, about? A. About \$2,800, we didn't make that altogether after it was sold and what we made.

Q. When he came back from Europe what did he do? A. He bought a business, a bakery business in Ewan Street, Brooklyn. 20

Q. Was that in his own name or in joint name? A. It was in his own name.

Q. How long did he run that business? A. About five months.

Q. How did he succeed? A. He lost everything; he failed.

Q. When he failed what did he do? A. He signed the business over to me and then he went away, he left me.

Q. And what was done with the business? A. Well, I ran that a month; I sold all that I could sell that was there, the flour merchant took all the barrels of flour out again he delivered to Mr. Buttlar, and the rest of that that was left, kept the bakery, the help that was there and he baked, and I sell what I could get out of it. 30

Q. Now, had you some money in your joint names in the bank at that time? A. Yes, sir; but I don't know in which bank it was; it was stopped by Mr. Eppert. 40

MINA BUTTLAR—Direct.

Q. What was done with the money in the joint names? A. I signed it over so that Mr. Eppert could draw it, the flour merchant.

Q. Is this the paper you got the last money from Europe with (handing paper to witness)?
A. Yes, sir.

10 The Court: Show it to the other side.

Mr. Van Winkle: It is German, I can't read it; it seems to show a balance of \$136.22.

The Court: It should have been translated before you presented it.

Q. You say the creditors took all the flour in the place?

20 The Court: The flour merchant took back the flour.

A. The flour merchant, Eppert, some flour was left.

Q. Did your husband owe him money besides that flour? A. If he owed any money besides that flour?

Q. To Eppert? A. To Eppert, yes, sir; he had some more money but didn't get all back that he was given in.

30 Q. What year was that bought? A. 1875.

Q. Now, did he leave any debts when he ran away?

Mr. Van Winkle: She didn't say he ran away.

Q. When he went away? A. That is what I said, he left, he ran away, that is what I said.

Q. Did he leave any debts? A. Yes, sir.

40 Q. Who paid those debts afterwards? A. I paid them.

MINA BUTTLAR—Direct.

Q. How much did you pay on the dollar to settle the claim? A. I think I paid 25 per cent.

Q. I show you receipt from Mr. Munshon, (showing paper to witness,) is that the last bill you paid? A. Yes, sir; that is the last bill I paid.

The Court: The bill is \$180; there are credits on the back to the amount of \$45. There is a credit on the face to the amount of \$10; making \$55, and then this written across the face "November 27th, received payment twenty-five dollars"; there are no signs of any 25 cents on the dollar or 50 cents on the dollar at all about it. It says received payment \$25 and \$55, bill would make \$80; but there is nothing to show that it was sold for 50 cents on the dollar.

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Q. It was settled? A. Yes, sir.

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Q. And you paid that money? A. Yes, sir.

Q. (By the Court): Do you mean to say you paid every one of these payments on here (indicating)? A. Yes, sir.

Q. These \$5, \$10 and \$10? A. Yes, sir.

Q. (By the Court): The credit here is 1880, all in 1880, five years afterward? A. Yes, sir.

Q. Now, after your husband went away, did you know where he went? A. I did not right away, but I found out after.

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Q. Where did you go then after your husband went away, what did you do? A. I stayed in the place for a month yet, until January and sold what I could sell and the money I took in. He came home one night at 12 o'clock, back to me and he wanted the money I took in and I ask him where he was and he said "in Paterson."

Q. Paterson, New Jersey? A. Yes, sir.

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MINA BUTTLAR—Direct.

Q. Did you give him the money? A. He took the money I had taken in, I had it in the house.

Q. Where did you move after that? A. I moved to Bethune Street, New York.

Q. How long did you live in New York? A. One month.

10 Q. Then where did you go? A. To Bloomfield Street, Hoboken.

Q. Your husband went with you there? A. Certainly, yes, sir.

Q. What did you do after you got to Hoboken? A. I rented a place and started a bakery again.

Q. Where was that place? A. 164 First street.

Q. Whose money did you use? A. My money.

20 Q. (By the Court): Where did you get it? Where did you have it? A. I had it in bank; it was money I got from home, the \$860 I had in the bank, in the Brooklyn Savings bank, or Williamsburgh Savings Bank, whatever you call it.

Q. (By the Court): Have you got copies of those bank accounts? A. Yes, sir.

Q. Just what time did you open the bakery, can you tell? A. I opened it the first of May, began to get ready about the middle of April, 1876.

30 Q. Is that a statement of the bank when you drew the money? A. Yes, sir.

The Court: Show it to the other side.

(Mr. Weller showed the statement to the other side.)

Mr. Van Winkle: That is admitted, if the Court please, as a statement from the bank.

40 The Court: It appears by this letter

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from the Williamsburgh Savings Bank, signed by the Cashier, which the complainant admits as original proof, that on the 9th of November, 1875, you deposited \$500.

Q. (By the Court): You recollect depositing that money? A. Yes, sir.

Q. (By the Court): What business were you or your husband engaged in at that time? A. At that time me and my husband, my husband was alone in the business; I was not in it at all. 10

Q. (By the Court): He was baking? A. He was in the baking business.

Q. (By the Court): That is the business he failed in? A. Yes, sir.

Q. (By the Court): What part did you take in that business? A. I done most of the house work the housekeeping. 20

Q. (By the Court): Did you collect any money? A. No.

Q. (By the Court): Did you collect any money selling bread, cake or anything? A. Sometimes I did.

Q. (By the Court): I ask you if you sold any and took the money in? A. I took the money in and put it in the drawer. 30

Q. (By the Court): Didn't take any yourself? A. No, sir.

Q. (By the Court): Where did you get this \$500 from? A. Home; the \$500 I had put in the bank.

Q. (By the Court): Yes, sir; that \$500 which you put in the Williamsburgh Savings Bank, 9th November, 1875, where did you get it? A. That 40

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was money I had from home. I loaned it to Mr. Recht, his name was in Brooklyn.

Q. (By the Court): When did you get it from home? A. In 1874.

Q. (By the Court): How much was it? A. \$860.

10 Q. (By the Court): Then on January 5th, 1876, you deposited \$360 more? A. Yes, sir.

Q. (By the Court): Where did you get that? A. I had that loaned out on another party and got it back and put it in the bank.

Q. (By the Court): Is that the money, that you say, this agent of yours, Mr. Kern, got for you? A. Yes, sir.

Statement offered in evidence, marked Exhibit D3.

20 Q. How long did you carry on the bakery store in First Street? A. About a year and three months, I think.

Q. 1876, about the 1st of May? A. 1876, first of May we opened it.

Q. And you carried it on how long? A. And kept it until next year, 1877, in July. It was a year and three months.

30 Q. How much did you clear, if anything? A. About \$4,300 I had then when it was sold out.

Q. What capacity did Mr. Buttlar occupy in the bakery? A. He was in the bake house.

Q. (By the Court): What was he doing; he was not doing anything at this time? A. Yes, sir; he worked by me as foreman in baking.

Q. (By the Court): Worked for you as foreman in the bakery? A. Yes, sir.

40 Q. (By the Court): Was there any sign up over the door? A. No, sir.

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Q. (By the Court): Have you got any of the bills of the goods; you bought goods? A. Yes, sir.

Q. (By the Court): Have you got any of the bills that were made out? A. No, sir; have not seen them, so many years ago. The bills were all destroyed.

Q. (By the Court): That was the time when your husband hadn't paid off his old debts yet, that occurred in Brooklyn, wasn't it? A. Yes, sir; that was the time I paid him off and signed the name off. 10

Q. (By the Court): Now, the old debts in Brooklyn, were they paid off then? A. No, sir.

Q. (By the Court): And your husband didn't dare to own any property at that time, did he? A. I don't know if he did, I don't know whether he owns property or not. 20

Q. You say he was foreman? A. Yes, sir.

Q. Was he competent, faithful man? A. Yes, sir.

Q. What was the wages of foreman at that time? A. About \$12 a week.

Q. (By the Court): You could have hired a man to have done the same work as your husband and taken the same interest as your husband did, for \$12 a week? A. Yes, sir. 30

Q. (By the Court): Why didn't you do it? A. Because my husband wanted to work with me; he wanted to start a bakery.

Q. Had you any children at that time? A. Yes, sir.

Q. How many? A. Two.

Q. (By the Court): By him? A. Yes, sir. 40

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Q. (By the Court): And you were raising children all that time, all the while you were making this money? A. Yes, sir.

Q. What did you do with the business? A. Sold it again.

Q. How much did you get altogether for it? A. \$700, I think.

10 Q. How much altogether did you get? A. \$400.

Q. How was the balance paid? A. In mortgage, chattel mortgage.

Q. Who did you sell the business to? A. To Phillip Bohley.

Q. (By Mr. Van Winkle): Is he dead now? A. Yes, sir.

Q. Is this a certified copy of the mortgage he gave back to you? A. Yes, sir.

20 Certified copy of mortgage offered in evidence marked Exhibit D4.

Mr. Van Winkle: I object to the admission of this in evidence, on the ground that it is not properly proved as a chattel mortgage or copy of chattel mortgage in legal form.

30 The Court: I shall admit it subject to your objection. I don't know that it is within the law at all to give a certified copy that way. I don't know what the statute says about it. If it is not, if the law does not authorize a certified copy, it can't be used, strictly speaking.

Q. During all that time the first store, who supported the family?

40 The Court: The husband didn't do anything to support the family, of course. She

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will swear to that. He will swear just the other way.

Q. What did you do after you closed that business? A. Went to Europe.

Q. How long did you remain there? A. A little over two years.

Q. What did your husband do while there? A. First he done nothing, then he bought a kind of road house. 10

Q. Did he make or lose money? A. He didn't make any; he lost a little from selling and buying.

Q. When you returned from Europe, did you bring any money with you? A. Yes, sir.

Q. How much? A. I couldn't tell how much it was.

Q. What did you do with it? A. I couldn't get out of the house so my husband took it and brought it to the bank; he told me he was going to bring it and I asked him to bring it to the Hoboken Savings Bank; he said he was going to put it in both names. 20

Q. How much had you at that time? A. I could not tell exactly; when the trip went off and everything was paid around here there must have been \$3,500.

Q. When you came back? 30

Q. (By the Court): How much did you take with you to Europe? A. \$300, no, no, \$3,800.

Q. (By the Court): Where did you get that? A. Out of the bakery business.

Q. (By the Court): How much did you sell the bakery business for? A. \$700.

Q. Where did you get the rest of it, when you started for Europe? A. It was in bank.

Q. What bank? A. Hoboken Savings Bank. 40

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Q. (By the Court): You have got a copy of that account here?

Mr. Weller: No, they claim they cannot find the account; that was in the joint names; they have got separate accounts, but they have no money in the joint names.

10 Q. (By the Court): How was it taken over, gold or in draft? A. We changed it here; in German money it was taken over.

Q. (By the Court): What kind of money was it, gold or paper? A. Paper.

Q. (By the Court): Who carried the money? A. My husband carried it because I had the children.

20 Q. (By the Court): And he bought this road house over on the other side? A. Yes, sir.

Q. In whose name was that? A. It was in both names.

Q. And when you came back did you open another business? A. Yes, sir.

Q. Where? A. In 144 First Street.

Q. Whose money did you use to open it? A. I used the money we brought back from Europe.

30 Q. Did you take a lease of the place? A. Yes, sir.

Q. Where is that lease? A. I don't know where it came to.

Q. Is that a certified copy of the lease William Werth to you? A. Yes, sir; William Wirth, we bought from and he gave me a lease for five years.

Q. How long did you run that business?

40 Mr. Van Winkle: This is made to Catherine Buttlar; I don't know who she is.

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The Court: Have you looked at the premises to see what the property is?

Mr. Van Winkle: I have not yet; sir; 144 First Street, I don't know.

The Court: See whether this is the property that is spoken of in answer and in the replication, which was in fact occupied by the parties or either of them to this suit. 10

Mr. Van Winkle: We think those are the premises.

The Court: Catherine should be Christian.

Mr. Van Winkle: Yes, sir.

The Court: The question is to whom is this lease made? The lease here is written Catherine, in stating the party, but the "IN" is underscored. 20

Mr. Van Winkle: Mr. Werth is in court, the maker of the lease and he is here.

The Court: This is admitted in evidence, this copy?

Marked Exhibit D6.

Q. How long did you conduct the second bakery business; that is, this business? 30

The Court: Commenced in 1880.

A. Commenced in 1880 and sold out in 1881, in May.

Q. Whom did you sell it to? A. To Susan Kinz.

Q. How much money had you left at that time, about? A. Well, I had \$2,300 mortgage held on this property in New York. 40

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Q. Is this the bill of sale you gave? A. Yes, sir.

Mr. Weller: If you will admit this I will let the subscribing witness go home; he is not well, I believe.

Mr. Van Winkle: That is the original paper?

10

The Court: This is a bill of sale from Catherine Buttlar, of Hoboken, to Susan Kisz, dated 29th April, 1881, and it is signed Catherine Buttlar in the presence of William F. Rusch, and a list of the articles conveyed, is signed Catherine Buttlar, and it has been signed again by Mrs. Kisz.

The paper marked Exhibit D7.

20

Q. What is your full name? A. Mina Catherine Buttlar, if you don't believe it you can see it in the papers I got from home.

Q. How much money had you at that time when you sold out? A. With what I had on mortgage?

Q. Altogether, how much had you; no, no, when you sold the bakery business, I am speaking of, to Mrs. Kisz? A. I had altogether including the mortgage \$5,800.

Q. What did you do with it?

30

The Court: What mortgage was it?

Mr. Van Winkle: She said a mortgage in New York, they bought from Bishop.

A. From Mr. Bishop, held on his property in New York.

Q. How much did you pay for that mortgage?

A. \$2,300.

Q. Did Mr. Buttlar tell you of a chance to invest any money? Did your husband tell you

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where to invest \$3,000? A. Yes, sir.

Q. Who did he say wanted to borrow it? A. Keiswetter, he said wanted to build.

Q. Did you give him any money to loan to Keiswetter? A. Yes, sir.

Q. How much? A. \$3,000.

Q. Whose name did he put the mortgage? A. He took the mortgage in his own name.

Q. Did you authorize him to do that? A. No, sir; I was very angry over it.

Q. Did you quarrel about that mortgage? A. Yes, sir.

Q. What did he say? A. He said well, I done it now, it is all the same, you can't disgrace me and make it different now and I thought he was my husband; if I disgraced him I disgraced the whole family.

Q. You say the Bishop mortgage was \$2,300? A. Yes, sir.

Q. Did you afterwards draw that money? A. Yes, sir.

Q. (By the Court): That was taken in her name the Bishop mortgage in New York. You drew \$2,300, yourself? A. Yes, sir.

Q. What did you do with it? A. Bought lots.

Q. Where in, I mean the streets? A. In Clinton Street, 34 and 36.

Mr. Van Winkle: To expediate matters, have you any record of the Bishop mortgage?

Mr. Weller: No.

Q. Now, you say the lots are 34 and 36 Clinton Street? A. Yes, sir.

Q. Had they any house on at the time you bought them? A. When we bought them there was a rear house on them.

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Q. How much did you agree to pay for the lots?

A. \$2,300.

Q. And did you pay for them in cash? A. Yes, sir.

Q. How were the deeds taken—how was the deed taken?

10 The Court: The deed will show, won't it?

Q. No? A. I made an agreement in my own name.

The Court: How is the title in this taken?

Mr. Van Winkle: It is correctly stated in the papers.

20 Mr. Weller: It was taken originally in both names. taken jointly.

Q. How did they happen to be taken in both names? A. I don't know how it happened. I gave them an agreement, it was only my name on and I told them to make it out just the same way; when he gave me the deed I seen my husband's name was in, I asked him what that was for and he said Oh, I thought you were married. that you wanted it in both names. I said "no I told you to make it just as the agreement was. He said well, leave it in now because your husband can help you better, it is better for you."

30 Q. Who said this? A. This lawyer that make the agreement, what made the deed.

Q. (By Mr. Van Winkle): What is his name? A. His name I couldn't tell it exactly, I forgot that; he live up in Newark Street, over Harper's office.

40 Q. Did you build anything on these two lots? A. Yes, sir.

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Q. What? A. Two four story houses.

Q. Was there a store under one of them? A. Yes, sir.

Q. What was the total cost of building, houses and lots? A. About \$12,000.

Q. How was the \$12,000 made up? A. \$5,800 I had and \$5,000 was loaned on bond and mortgage and \$1,000 on note.

10

The Court: The \$5,800 you talk about was expended in buying and paying for it.

Q. What was the total cost I mean? A. That is the whole total cost.

Q. (By the Court): You asked what the buildings cost, I understood you? A. \$12,000 altogether.

Q. You gave a mortgage of \$5,000? A. Yes, sir. 20

Q. Who held that, do you remember? A. Dr. Cheeseborough.

Q. Where did you borrow the \$1,000 on note from? A. It was a grocer downtown, I forget his name.

Q. Did you afterwards pay that? A. After the year the note was due it was paid.

Q. How was it paid, where did you get the money to pay it?

30

Q. (By the Court): Who signed the note? Have you got the note?

Mr. Weller: No.

Q. (By the Court): Whose name was at the bottom of the note? A. Mr. Buttlar's name was on that, or both, I can't tell no more exactly.

Q. Where did you get the money to pay the note with? A. Taken in from rent.

40

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Q. (By the Court): How much was that note?
A. \$1,000.

Q. Did you run any business then? A. Bakery business.

Q. Whose name was the bakery business in? A. Both names.

10 Q. (By the Court): Was there a sign up over the door? A. No.

Q. (By the Court): Was not any sign at all? A. No.

Q. How did you succeed? A. Well, did not lose or gain.

Q. How long did you run it? A. About three months, May, June, two or three months, not very long.

20 Q. When did you sell the Clinton Street property, do you remember? A. 1889, I didn't sell it, signed it.

Q. Who made the bargain to sell it? A. Mr. Buttlar.

Q. For how much?

The Court: The whole property or only the bakery business.

Mr. Weller: Whole property.

30 The Court: Land and all.

Mr. Weller: Land and all.

A. Land and all.

Q. He made the bargain, did he? A. Yes, sir.

Q. For how much? A. \$17,375.

Q. Did he receive anything on account when sold it? A. \$500.

Q. Did he ever turn that over to you? A. No, sir.

40 Q. Now, did you want to sign that deed, were

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you willing to sign it? A. Willing to sign it, no. I didn't want to sell it at all.

Q. Tell the Court how you happened to sign it?

The Court: Now, is it competent to go into that?

Mr. Weller: I think it is.

Mr. Van Winkle: We object on the ground that it is a formal instrument and that it speaks for itself. 10

The Court: On the question of title, whether the title passed or not, whether her right passed. Of course if she was here contesting the deed as between her and another party, he had no notion of external descensions, why your point would be good but now she is claiming that her husband by threats of violence or something else—I forgot what she set up in her answer—compelled her to convey away this property in a manner that she could not get it back again, and if I got into it at all, I don't know but what I might go into it and you have your innings on it. 20

Q. What did he do to make you sign the deed?

A. One day he told me he was going to sell the property and a few days after he came and said I had to sign; I said "what sold the property," I says for God's sake what you done now again and he says "come on you have to sign it and that is all. I sold it and you have to sign it and he would not give me time to even put on different clothes; I had to go as I was; he kicked me and pushed me out into the street and I was afraid not to sign it; I cried when I signed it, but I signed it. 30 40

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Q. Where did you sign it? A. Abel I. Smith's office.

Q. There was a mortgage of \$5,000 on that, was there? A. Yes, sir.

Q. How much cash was paid over, do you remember? A. I paid \$12,000. I think there was \$12,000, maybe a couple of thousand dollars over I was out besides. I don't remember any more.

10 Q. Where was it paid over? A. In Abel I. Smith's and Mabon's office.

Q. Just tell us what talk took place at the time the money was paid over? A. Mr. Mabon asked me to go and count the money; I says "I can't count it, I am not able" I am too much frightened because I was shaking for fright and then Mr. Buttler says I want to count it; well, so he went and counted it; he didn't like me to count it, then he took it and put it in his pocket and went to the door and Eppert's lawyer got up and went to the door and would not let Mr. Buttler out, the man Mr. Buttler sold the property to.

Q. Would not let him go with the money? A. No, sir; he says Mr. Buttler where are you going with our money. He says "your money, have you got the deed," he says "no" where is the deed; Mr. Buttler says "your wife has it," I was not going to give the deed before I had the money handed over.

30 Q. Who was there, Mr. Mabon, or Mr. Smith? A. Mr. Mabon was there.

Q. What did Mr. Mabon say? A. I don't remember what he said.

Q. Did Mr. Mabon say anything when Mr. Buttler started? A. No, he said your wife has the deed.

Q. Now, did Buttler give up the money then? A. Buttler gave up the money then, then I gave

40

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Eppert the deed.

Q. Where did you put this money?

Q. (By the Court): You took the whole bunch; you took the whole \$12,000? A. Yes, sir.

Q. And where did you put it? A. I put a couple of hundred dollars in the Hoboken Savings bank and the rest in the First National bank.

Q. In Hoboken? A. Hoboken Savings bank. 10

Q. The First National Bank of Hoboken, you mean? A. The First National Bank of Hoboken.

Q. Now at the time the property was sold to Eppert, in whose name was it, yours alone or yours and Buttlar? A. My name alone.

Q. How did it happen to be in your name? A. Well, the first year it was in both names, Mr. Buttlar did nothing, cursing and swearing and he says you name, if you didn't buy the lots we would not have this property, that is worse than the bakery business. 20

Q. How did it happen to be deeded back again in your name alone? A. Well, Mr. Buttlar wanted it to be deeded over to me; he said he would not have nothing to do with the property any more.

Q. When was that? A. It was after 1882, I think it was.

Q. And you sold in 1889? A. Yes, sir. 30

Q. Then it stood in your own name alone for about seven years, did it? A. Yes, sir; from 1882 to 1889.

Q. During these seven years, who attended to the houses and collected the rent?

Q. (By the Court): Mr. Buttlar didn't do anything at all, I suppose? A. No, in that he did not.

Q. Did Mr. Buttlar have any other business during that time? A. Yes, sir; he started a ped- 40

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dling business.

Q. Didn't he start a business at Coney Island?

A. Yes, sir.

Q. When? A. In 1882.

Q. How much did he give for it? A. He gave \$800 for it and loaned \$200; who paid for the business or how he put it in, I don't know.

10 Q. That was a thousand altogether? A. It was a thousand altogether.

Q. What kind of a business was it your husband had at Coney Island? A. Bathing place.

Q. And what else? A. Restaurant, they call it I guess.

Q. Beer saloon? A. Beer saloon, too.

Q. How long did he run it? A. Couple of months.

20 Q. Did he lose or make money there? A. He lost every bit.

Q. Did he borrow any money when he bought the Coney Island place that you know of? A. Well, after the note came in for \$200 from Rosenblath and a note of \$800 from Mr. Rusch.

Q. Now, did Rosenblath sue him? A. Yes, sir.

Q. And you eventually have to pay that \$200? A. Certainly.

The Court: Why would she have to pay it.

30 Q. Where did they sue him first? A. In Hoboken first, I believe.

Q. In the District Court? A. In the District Court.

Q. And then they filed a Bill in Chancery to set aside the conveyance to you, didn't they? A. Yes, sir.

Q. How much did the case cost you altogether?

40 Mr. Van Winkle: I object. Is it going to be charged up against us.

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The Court: You have got to bring all the record here to substantiate that but it will only show what the other side will claim as the real fact, that this property was in the hands of his wife as a cover for his creditors. I don't see as the other side want to object to it.

Mr. Van Winkle: No, sir. 10

Mr. Weller: I offer the printed book of that case just as far as his and her testimony is concerned.

Marked Exhibit D8.

Mr. Van Winkle: I don't consent to the testimony going in unless it all go in.

The Court: It all goes in.

Q. Did your husband open a business in 1895 in New Jersey? A. Yes, sir. 20

Q. What kind of business? A. Bottling business, beer bottling.

Q. When did he buy the bottling business? A. He opened it.

Q. When did he open it? A. In 1885, in June I think it was.

Q. (By Mr. Van Winkle): What book is it? A. It is the book Buttlar had his man write down; I will look for it; where it is; there it is, (indicating.) 30

Q. (By the Court): What is the date? A. June 2, 1885.

Q. Did you give your husband at that time any money to open this business? A. Yes, sir.

Q. How much?

Mr. Van Winkle: The book don't show that? 40

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Q. How much? A. I gave him \$600 first.

Q. Is this a copy of the slip from the Hoboken bank for Savings (handing witness book)? A. Yes sir.

Mr. Weller: I offer that slip to show the drawing of the \$600 at that time. That is as far as it goes.

10

The Court: Do you admit that in place of the original paper.

Mr. Van Winkle: Yes, sir.

Book marked Exhibit D9.

20

Mr. Van Winkle: I remarked to the Court that the date at the top of the page does not correspond with the date on the bank slip necessarily. I offered the book for the purpose of showing when the business was opened.

The Court: She says it was written in by her husband's direction. I don't know anything about that.

Mr. Van Winkle: Mr. Buttler will be on the stand; that is his book.

30

The Court: All right. Admitted to be Mr. Buttler's book.

Q. How long did he run the bottling business?
A. Couple of months, month or so, or six weeks.

Q. Did he succeed? A. I don't know as he brought any cent out of it

Q. Did he ever give you back the \$600? A. Not a cent, the \$600 or \$800.

Q. Did he have any other business in Hoboken during that time? A. No, sir.

40

Q. Saloon business, did he have a saloon? A. Yes, sir; a saloon.

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Mr. Weller: At the proper time I wish to offer the book to show how much was left when the saloon business was sold.

Q. In the year 1886, did you and Mrs. Witte buy any other business? A. Yes, sir.

Q. What? A. Hay, grain and feed business.

Q. How many lots did you buy? A. Two.

Q. You paid in money for the lots did you? A. 10
No, sir.

Q. But assumed a mortgage for how much? A. \$3,000.

Q. Did you put any money in that business? A. Yes, sir.

Q. How much? A. \$3,400.

Q. Now, how much did you put in at first, do you remember? A. First \$291 I think it was, the first money I put in.

Q. (BY THE COURT) When was that? A. 20
1886.

Q. (BY THE COURT) You attended to that business yourself personally I suppose. A. No, sir, my husband wanted to have something to do and I liked him to have something to do, so I let him attend to that business.

Q. Did you put any building on it? A. Yes, sir.

Q. How much did the building cost? A. It cost about \$1,100. 30

Q. Do the books show when you gave Mr. Buttlar money to put in there, that same book? A. No, sir, it shows, yes, just as I put it in, I didn't give it all at once.

Q. But it shows as you put it in? A. Yes, sir.

Q. Just get the page? A. Here it is (indicating).

Mr. Weller: Page 9 marked for identification.

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Q. (By the Court) What date did you say? A. 1886, I think in April.

Mr. Van Winkle: What do you claim this shows?

Mr. Lichtenstein: It shows the moneys she paid.

10 Mr. Weller: Cash from Buttlar, the money he got from his wife and entered it in that way.

Mr. Van Winkle: There is page after page of that.

A. Page 9, it goes way back; in 1885 he took some money from me and several times before.

Q. Whose handwriting is that account in, the feed account? A. Mr. Buttlar's.

20 Q. (By the Court) This was the partnership business, was it? A. First, yes, sir.

Mr. Weller: That belonged to Mrs. Elsie Witte and Mrs. Buttlar.

The Court: So she says.

Q. How did he enter the money in the book there that he got from you?

30 Objected to as the book speaks for itself; she didn't make the entries.

The Court: The book speaks for itself. There are all the entries there, cash from Buttlar. It was a partnership affair between Mr. Somebody on one side and a woman, said to be on the other side. I suppose she represented her husband; I don't suppose she was there selling feed or handling bags, either of them; but there are entries there from Buttlar; it don't

40

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say man or wife, husband or who; I looked at that. You can argue on that what you are a mind to. The book shows for itself.

Q. During that time the Clinton street property you were collecting the rents for? Certainly; I did everything; he didn't do the least little thing about it; I ask him once to write a note for me:

10

Q. (By the Court) Who was collecting the Clinton street property? A. I did.

Q. It stood in your name? A. It stood in my name.

Q. And was there where the money came from that you put in from time to time in the feed business? A. Certainly, it was rent took in the Clinton street property.

Q. When did you buy out Mrs. Witte? A. 1888. 20

Q. What day? A. May.

Q. May 11th? A. May 11th, yes, sir.

Q. At that time did you draw any money out of the bank to pay Mrs. Witte? A. I did.

Q. How much? A. \$700 out of the bank and the rest I had home, my rent from the Clinton street property.

Q. You paid that in cash? A. Yes, sir. I paid that in cash to Mrs. Witte

Q. The whole \$1,200? A. The whole \$1,200. 30

Mr. Weller: I offer the slip from the Hoboken Bank now to show that she drew \$700 from the Hoboken Bank on that day.

The Court: May 11th, 1888. It is marked already Exhibit D 9 and admitted in evidence.

Q. (By the Court) Where did you get \$1,500 in November, 1889? Can you tell where you ob- 40

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tained \$1,500 on the 1st of November 1889, that is the year after you sold out the property, a year and a half after you bought Mrs. Witte? A. From Clinton street property.

Q. (By the Court) From what? A. From Clinton street property.

10 Q. (By the Court) Where did you get \$1,500 in one sum of money on or about 1st of November, 1889, that would be about 18 months after you bought out Mrs. Witte? A. That was when the property was sold.

The Court: What property?

A. Clinton street property.

20 Mr. Weller: She has testified to that. She got about \$1,200 cash there; she put \$10,000 in the First National Bank and the rest of it in this Hoboken Savings Bank.

Mr. Van Winkle: She said about \$200 she put in the Savings Bank.

A. Several hundred dollars I don't know exactly how much it would be; I may have had some rent; I couldn't say exactly; I know I took some money from that.

30 The Court: I only asked you where you got \$1,500 on that date.

Q. I couldn't right away the date.

Q. Now, the Hoboken property was afterward transferred to Mr. Rebold and put in the joint names, wasn't it, the Hoboken property, the First street property? A. Yes, sir.

Q. When was that, do you remember? A. A. It was in 1899.

40 Q. When did that happen? A. Mr. Buttler

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always wanted his name on the Clinton street property; I wouldn't give it on it, and then he wanted me to sell it and I wouldn't do it, so he sold it and made me sign it.

Q. (By the Court) That property was in the joint names, wasn't it?

Mr. Weller: It wasn't then; she bought it from Mrs. Witte in her own name. 10

The Court: I am speaking of this property that brought \$17,300.

Mr. Van Winkle: It had been in both names.

The Court: Then he put it over, yes I recollect now.

Q. When was the first street property put in both names? 20

A. He treated me so bad, he came up to me, put his hand against my head and says: "I will knock your brains out," "I break every bone in your back if you don't sign it;" he says "you have to sign over; they will call me a beggar; you have to give my name on that property; I can't do no business, that is the reason you have to put so much money in the business," and one morning he says "you have to come down to the feed store to-day,"—didn't tell me what for; I thought, as usual, to attend to the feed store until he gone somewhere else; when I came there Mr. Leicht, was there a lawyer and he wrote this deed for me and said I had to sign that? 30

Q. (By Mr. Van Winkle) You say Mr. Leicht said you had to sign it? A. Mr. Buttlar said I had to sign it. He asked would I sign that, I suppose, I don't know exactly what he asked me. 40

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Then he wrote that for me and so he asked Mr. Buttler to go out of the office; he didn't go out, he said "what for" he said "that is the law" Mr. Leicht said. He said "you have to go out; so he went as far as the door but he never went out. He stood with the door in his hands so I was afraid to say anything, I didn't like his name on or anything; I signed.

10

Q. When was the West Hoboken property bought? A. In 1889.

Q. Who bought it? A. Mr. Buttler bought that.

Q. Now, when he bought the four lots at the corner of Maloné street and West street, West Hoboken, how much did he pay down?

A. He paid down \$200.

20 Q. Where did he get the \$200 from? A. \$500 he got from the Clinton street property.

Q. When the Clinton street property was sold he got a deposit of \$500? A. \$500.

Q. That he never turned over to you? A. No sir.

Q. Now, how much did you pay? A. I paid \$3,200.

Q. Where did you take that from? A. From the bank, from the money I had in the First National Bank of Hoboken.

30

Q. (By the Court) Have you got the checks? A. I had them; where they went I don't know. Mr. Buttler must take them, he took all the paper when he left me in 1894.

Mr. Van Winkle: There is no dispute about a large part of the money that bought this property coming from the bank where it was deposited in her name.

40

The Court: The property you are now talking about?

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Mr. Van Winkle: The property in question—in suit.

Q. You said \$10,000 of the money you got from the Clinton street property you deposited in the First National Bank of Hoboken? A. First National Bank of Hoboken.

Q. The check stubs shows you paid \$3,300.

The Court: It is admitted that all the property here in dispute, as I understand it, in this cause, was mainly bought with money that came out of the bank standing to her credit, is that right? 10

Mr. Van Winkle: Yes, sir; that property in West Hoboken was bought in large part with the money that came from Mrs Buttlar's bank account, which money came from the sale of the Clinton street property, we will say about \$2,800 and the rest she invested there, and the balance from the feed business, about \$700 from the feed business, and balance came from the amount in bank that she had, that she got from the Clinton street property. It was not a long time between the sale and the purchase. 20

Mr. Weller: \$6,000 we claim came from the feed business. 30

Q. You built five two story flats on the lots in West Hoboken? A. Yes, sir.

Q. Whose money went toward the building of them? How was it made up?

The Court: Can you agree on that? Can you agree on where the money came from that went to build the houses.

Mr. Van Winkle: We differ a little 40

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about that. We say \$7000 came from the business; it was in his name: we have got the receipts for the buildings and everything.

The Court: You admit that \$6,000 came out of the feed business?

10 Mr. Weller: About \$6,000.

The Court: And the whole cost was how much?

Mr. Weller: \$22,000.

Mr. Van Winkle: We have the exact receipts here paid to all the people on the building showing the exact cost.

20 Q. About how much do you say that building cost altogether, building, lots and all, that is the four lots? A. \$22,000.

Q. Did you put in all your money, your \$10,000 from the bank? A. Every cent of it and more than that.

Q. More than that? A. Some in the joint name in Bowery Bank, but it came from Clinton street property.

Q. Did you borrow any money? A. Yes, sir.

Q. How much? A. \$6,000.

30 Q. (By the Court) That was bond and mortgage? A. Yes, sir.

Q. That is on the houses yet? A. That is on still.

40 Q. Where did the rest come from? A. The rest came from the feed store and Mr. Buttlar put that in, or it was in the feed store, I don't know what he had taken from the Clinton street property. The \$300. was left; \$200 he paid on the lots or \$300 was left on Clinton street property. had still in his hands yet.

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Q. And the rest came from the feed business?

A. Yes, sir.

Q. (By the Court) Was the feed business profitable, did it make money? A. Not much. I didn't see much of it what it made. He never would give me a chance to find out, but I always had to put money in, that is the reason I think it must not have made much.

10

Mr. Weller: I offer those check stubs subject to being verified by the bank.

Book of check stubs marked Exhibit D11.

The statement of the parties is that the four lots facing on Malone street at the corner of West street, in West Hoboken, with the buildings put thereon cost about \$22,000, and complainant admits that \$10,000 or some part of it, nearly \$10,000 came from money which stood in the name of Mrs. Buttlar in the Hoboken Bank; that \$6,000 was borrowed on bond and mortgage and that about \$7,000, or more or less, was furnished by Mr. Buttlar from the feed business; also his personal note was given for \$700.

20

The Court: Then you do not admit that \$10,000 came out of the bank?

30

Mr. Van Winkle: The exact sum I cannot admit, but a large part of it did.

The Court: Subsequently lot in the rear facing on West street was bought for \$900. Where do you claim that money came from?

Mr. Weller: I don't know. I am going to ask the question.

40

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The Court: Where do you claim?

Mr. Van Winkle: It came from the feed business.

10 The Court: The complainant claimed that the cost of that lot \$900, the title to which was taken in the joint names of the parties, came out of the proceeds, profits or what not, of the feed business and those are the five lots that now stand in joint names of the two and are subject of dispute here. There is very little difference between you gentlemen about that? The complainant claims and defendant substantially admits that the money in the bank which she drew to pay that; was proceeds of the sale of the Clinton street property the title of which when conveyed stood in her name, in the wife's name alone.

20

Q. Now, you and Mrs. Witte bought the feed business, you said? A. Yes, sir.

Q. And you afterwards bought out Mrs. Witte? A. Yes, sir.

The Court: That has all been gone over.

Q. That was all in your name, the feed business? A. Yes, sir.

30 Q. Did you ever sell it to Mr. Buttlar? A. No, sir.

Q. (By the Court) Was there any sign over the door? A. No, sir.

Mr. Van Winkle: We will produce bill heads and testimony about signs and everything; there was no sign over the door at all.

40 Q. How did he get possession of the feed business? A. I bought it from Mrs. Witte.

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Q. How did Buttlar get possession, how did he get it away from you? A. He sold it.

Q. How did he get possession, if it was your business? A. As I said before, he would like to have something to do, and I wished him something to do, so I let him go in the feed business he asked me if he could, if I would give the money to it.

Q. Was it your business or his business?

10

Objected to.

The Court: She says it was her business; she has said it over and over again. I suppose the other side will claim it was his business; she has sworn to it as strong as possible it was her business. She went in first with Mrs. Witte and afterward bought Mrs. Witte out. It was always "I did it; I bought all" that has been the language

20

Q. Did Mr. Buttlar ever account to you for anything taken in the business. A. No, sir.

Q. Did he ever sell the business? A. Yes, sir.

Q. Whom did he sell it to? A. Becker.

Q. Do you know how much he got, did he tell you? A. I don't know.

Q. What did he tell you he got? A. About, I think he told me that time he got \$2,000.

30

Q. Did he give you any part of it? A. No, not a cent.

Q. How long did Becker run the business? A. Going on two years, I believe.

Q. What was done then? A. He bought it back.

Q. Whose money did he use? A. He used money what he had drawn from the feed store as rent, he had some money from the Clinton street property.

40

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Q. How much did he pay when he bought it back, do you know? A. I don't know that— from the Malone street property I meant to say.

Q. From the time you bought, you and Mrs. Witte bought the First street property in Hoboken, up until you made the agreement in 1894, did Mr. Buttlar ever pay you any rent for it? A. No, sir.

10 Q. When it was rented out to Becker, did he pay you any rent for it at all? A. No, sir.

Q. What did he afterwards do with the business? A. He sold it again.

Q. To whom? A. To Goelz.

Q. George Goelz? A. Yes, sir.

20 Q. How much did he get do you know? A. I don't know, I never see, I only heard; I heard he had about \$4,000., over \$4,200, I believe; I didn't see it.

Q. Had he sold it all at first, or sold half? A. No, sir, he sold half first partnership first, then Mr. Goelz bought the rest; first Mr. Goelz, I believe give him \$2,000, then he give him \$2,700. that I was told.

Q. Did he ever account to you for any of the money at all? A. No, sir.

30 Q. That house in West Hoboken, the one in the rear when was that purchased? A. That was 1890, April.

Q. Where did the money come from to buy that? A. That was money he had taken in from the feed business, from the rent and what he had kept from the Clinton street property yet.

40 Q. Now, I don't know whether I asked you or not,—why was the West Hoboken property taken in the joint names of you and your husband? A. Well, he acted so fierce before and then when he had it bought, well, I say I don't want it when he had the agreement made and \$200 paid down

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I said I don't want to be up in West Hoboken, I don't know where it is and I don't like to be going there and he said you can't disgrace me now I bought it and then he begged me so much that never should anything happen to me before and I should forgive him what he done, it never should happen again, and he cried like a child.

Q. When he got it in the two names what did he say? A. After my money was all in, he laughed at me, one day he says, "Oh, that is what you knew to me, so I should run away, he laughed at me, yes, he said that is all I done it for, I wanted it for". 10

Q. Did you mean to give a present of your feed business? A. No, sir. I had the money earned too hard to give him presents to be destroyed.

Q. I don't know whether I got a clear answer or not. The money that bought this one lot, you said that came from the feed business? A. From feed business and \$300 he had yet from the Clinton street property. 20

Q. (By the Court) But you have already stated that he put that in as you supposed before? A. \$200 he put in when he bought the property, only \$200 and kept \$500, so there was \$300 left.

Q. Now, you got some other property up there? A. Yes, sir. 30

Q. How many lots? A. Three lots.

Q. And when did you buy those lots? A. Mr. Buttlar bought them, and then he had no money to buy them and I drew \$2,200 from the bank. and I loaned \$300. to pay the lots off, not being a law suit again, because Mr. Buttlar's name was on the Malone street property, I know I would get in law again because he had bought so long already and nothing done with it, so the agent comes to the house and says, "what is going to be 40

MINA BUTTLAR—Direct.

with this lot he took the bill off, you have bought that already, and never come to do anything, then he says I thought you had that money in the bank; it better be invested here, so I told him I would pay it then but your name will not get on it. I got trouble enough with this property; where did you give your name on it? So I didn't do it—give his name on it.

10 Q. You have got a two-story house on one of those lots now? A. Yes, sir, there is a two-story house on one of those lots.

Q. Who built that? A. My daughter.

Q. How much did it cost? A. \$2,200.

Q. Which daughter? A. Alvina.

Q. She is the school-teacher? A. She is the school teacher.

20 CROSS EXAMINATION BY MR. VAN WINKLE:

Q. What is your age? A. My age is 66.

Q. How old is Mr. Buttlar, do you know? A. He is about seven years younger than I am. I can't take it so quick.

Q. How old were you when you were married to him? A. 34 years.

30 Q. And how old was he? A. He said 27; he said 29, but he told me after he was only 27, so which is true I don't know.

Q. How many times had you been married before you married him? A. Twice.

Q. What was your first marriage name? A. William Sostmann.

Q. Is he dead? A. Yes, sir.

Q. When did he die? A. My God he died a year after we were married.

Q. Where did he die? A. In Cherry street.

40 Q. What was the name of your second husband? A. Heinberg.

MINA BUTTLAR—Cross.

Q. When did you marry him? A. I couldn't tell exactly this minute; I may let you know if you want to have it.

Q. You don't remember? A. Not just this minute, no.

Q. Is he dead? A. Yes.

Q. When did he die? A. He died about a year before I married Mr. Buttlar.

Q. Where did he die? A. On sea

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Q. What part of the sea? A. I can't say the name now, those names are not so acquainted with me; I can't remember them; I can't tell you now in a minute.

Q. (By the Court) Was he a sailor? A. Yes, sir, he was a mate; he was a second mate.

Q. Didn't Mr. Heinberg come to see you after you married Mr. Buttlar? A. Not what I know, never any man like that came to see me.

20

Q. Then somebody told you he was dead and you believed it? A. Captain Seters told me.

Q. Who is he? A. On the ship at the office he sailed.

Q. How long had Heinberg been dead before you married Buttlar? A. About a year.

Q. Where were you living during that year? A. Out in Europe, part of it, and part of it over back in New York again.

30

Q. How long had you been back from Europe when you married Buttlar, before you married Buttlar? A. About three months.

Q. Where had you been living during those three months? A. In 11th street.

Q. What work had you been doing? A. Sewing.

Q. And how much were you making? A. About \$4 to \$6 a week.

40

MINA BUTTLAR—Cross.

Q. And you lived on that of course, didn't you?
A. I paid board.

Q. How much did you pay? Paid \$2.50.

Q. Didn't you take in washing too? A. No, sir.

Q. You never did that? A. No, sir.

10 Q. Were you living out at service at all as a servant girl? A. Used to be before; before I was married to Sostmann, not after.

Q. Where was the first bank account you had in New York City? A. Canal street, I believe, it was corner of Canal and Bowery; I had other accounts long before that, but I don't know that was the account about I had in 1866, I think I opened it.

Q. Now, when you were doing your sewing you worked for Mr. Dryer, didn't you? A. Yes, sir

20 Q. Is he in court? A. I don't know.

Q. Do you see him? A. I don't remember him any more.

Q. How much did he pay you? A. Some time just as much as I earned for the piece.

Q. How much was that on the average a week?
A. It was \$4 to \$6, I think, I can't remember all those things. Mr. Buttlar kept the books. If he didn't destroy them they would be there to show, they are destroyed.

30 Q. You don't remember just how much you put in the bank each month, do you? A. No, sir.

Q. Now, then, when you married Buttlar wasn't he working as a journeyman baker? A. Yes, sir.

Q. You had never been a journeyman baker yourself, had you? A. Journeyman baker?

Q. Had you ever been in the bakery store? A. No, sir.

40 Q. Now, where was he working as a baker? A. By Schaeffer, in Grand street, Brooklyn.

MINA BUTTLAR—Cross.

Q. How did you come to meet him? A. I met him in 11th street.

Q. Whose place was he in there? A. When he came home from Brooklyn he stayed there I think with Dryer; he told me the nights they board in the house where the ladies was and Sundays they slept.

Q. He was working as baker for Dryer, you say? A. No, for Schaeffer in Grand street. 10

Q. There is where you met him, is it? A. No, sir.

Q. Where did you meet him? A. He sent a woman to me and after he came down himself; I lived there on the lower floor and he was boarding upstairs, or whatever they call it; stayed there a couple of nights, two days.

Q. What part of the house did you live in? A. Lower part of the house. 20

Q. Did you have one room or two rooms? A. Two rooms.

Q. How much rent did you pay? A. I couldn't remember no more, I don't know.

Q. \$9, \$10? A. I couldn't tell.

Q. You were living there alone, were you not? A. Living there alone, yes, sir.

Q. Paying your own rent? A. Paying my own rent.

Q. And sewing for a living? A. No, when I lived there I was working in a French printing business. 30

Q. How much a week? A. I think paid me \$6 a week.

Q. When did you marry Buttlar, in February, 1872? A. Yes, sir.

Q. Now how long was it after your marriage before Buttlar started in business? A. More than a year.

Q. What was he doing all that time? A. I guess 40

MINA BUTTLAR—Cross.

working a month in Schaeffer's—a month—

Q. As a journeyman baker? A. As a baker in Schaeffer's in Grand street, where he was when I married him; then he was out of work for about a month; about June he took another place he said he was sick.

10 Q. Where was the place? A. Up in Brooklyn; I can't remember the street, and the man he worked for.

Q. He was a journeyman baker? A. Yes, sir

Q. How long did he stay there? A. He stayed there from June until November, and during that time he worked there as baker, he worked a couple of weeks, then he was sick again, down with fever; then we had a man in place for him.

20 Q. Well, now, did he have any bank account then at all? A. Yes, sir; I suppose he had. He took the money.

Q. Where was his bank account? That I don't know.

Q. Did he ever tell you? A. No.

Q. Did you ever ask him? A. I did.

Q. And he wouldn't tell you? A. He didn't tell me.

Q. Did he say he wouldn't tell you? A. Yes, sir.

Q. Now, then, did you tell him where your bank account was? A. Yes, sir.

30 Q. Where was it? A. In Canal Street, corner of Canal and Bowery.

Q. How much did you have in bank at the time Mr. Buttler married you? A. In bank I had \$102. and some odd cents.

Q. Now, from whom was the first store in Brooklyn bought, who was the man you bought it from?

The Court: The baker, I suppose.

40 Q. The baker? A. I can't remember his name

MINA BUTTLAR—Cross.

now in a minute, there is many names to remember; it is too long ago; if I hear it I know if it is true or not, I can't say it just now.

Q. When you were in Brooklyn in the first bakery, did you have a man named Albert Drewitz (?) working there? A. Yes, sir.

Q. He is in court, isn't he? A. I don't remember him any more.

Q. Did you have a man named Kebaum working there for you? A. Yes, sir.

Q. Is he in court? A. I couldn't tell you don't know him any more, maybe.

Q. How much was the first store bought for? A. Bought for I think it was bought for \$700, \$700 or \$800, I couldn't tell exactly any more.

Q. Why don't you know? A. Because it is so long ago and I had too much trouble in my house and too much to do, because most of the work was for me.

Q. How much money did this man Buttlar put in that business first? A. From his money?

Q. Yes? A. I don't remember he had any.

Q. Did he or did he not put any money in that business? A. No, sir; not from his money.

Q. How much do you say you put in? A. I put in \$500.

Q. And how much of that do you say you got from the bank? A. I had \$102 in the bank.

Q. And the rest you had in your clothes? A. I had about \$100 home, and \$300 I had loaned to Winckler.

Q. Where is Winckler? A. He had his business down in William Street.

Q. Where is Winckler now? A. Dead.

Q. Did you borrow any money from Albert Drewitz at the time you opened that first bakery? A. No, sir.

Q. Some money was borrowed from Albert

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MINA BUTTLAR—Cross.

Drewitz when that first bakery was bought? A. Maybe, I don't know.

Q. Well, if it was, you don't know about it? A. No, if he did borrow any from him, if he used it to the bakery or where he used it for, I can't tell you.

10 Q. Then if Albert Drewitz loaned any money to go into that first bakery he loaned it to your husband and not to you?

The Court: That is enough; she says she don't know anything about it.

A. Certainly, I don't know nothing about it if it was put in the bakery or not. I don't believe it because I know nothing about it; God knows where he used it for.

20 Q. Now you say there was no stock in the first bakery at all? A. No, sir.

Q. What kind of work did Buttlar do in the first bakery? A. In the bake house, worked in the bake house.

Q. How many hours a day? A. At the end he worked about three or four hours.

Q. In the day time, how much? A. In the day time once in a week or twice, he worked a couple of hours in the morning, baking a couple of mixed cakes.

30 Q. Just made mixed cakes? A. That is about all we sold there.

Q. I want to know on the average, if you please how many hours your husband worked in the first bakery? A. A day or a week.

Q. (By the Court): Hours in the day.

Q. Did he work every day?

The Court: Hours day and night.

40 A. Day and night, about four or five hours.

MINA BUTTLAR—Cross.

Q. Altogether? A. Altogether, except one or two days; on Saturdays he had to work longer.

Q. I suppose he spent the rest of the time in Prospect Place, or something? A. No, sir, he spent it in bed sleeping.

Q. How many hours in the day did he sleep?

A. The rest of the time he slept without in the morning maybe it took him an hour and he didn't come before half past eight or eight o'clock; he had a customer, a saloon and two other customers; he served them in the morning; then he come home and eat his breakfast and went to bed.

10

Q. Then he was the man that took all the bread out and things that went out, didn't he? A. No, sir; he only took out for two customers.

Q. Who took the rest? A. The workingman took the rest.

Q. Did you always have a workingman in Brooklyn? A. Yes, sir.

20

Q. Can you name the man you had? A. I can't; Drewitz and the other you named; I can't name them now any more again.

Q. Can you write yourself? A. Indeed I can.

Q. Anything write except your name? A. I can.

Q. Now, did you keep any account of this first store? A. Kept any account? No, sir.

Q. Why not? A. When the money was there, the month was paid, the money was given; it was put in the bank, if he had any the bills were paid.

30

Q. Put in the bank in both names? A. Yes, sir.

Q. Why was it put in both names? A. My God, Mr. Buttlar was not satisfied if it wasn't put in both names in the bank.

Q. You wanted it put in your name, did you? A. Alone.

Q. Yes? A. Never asked for it not at that time no, sir.

40

MINA BUTTLAR—Cross.

Q. During the time you had the first bakery, you never asked to have the money put in your name alone? A. No, sir.

Q. And it was put in both names, why? A. Some of it, not all; he put some of it in his name alone.

10 Q. Did you know he was doing it? A. No, sir; I found it out after that, when the bakery was sold and in Fourteenth street there was only \$900

—
Q. I think you have answered the question. I think you said you didn't know why he did it. Did you on your part have an account of your own in some bank? A. No, sir.

Q. You had no account then at all? A. No, sir.

20 Q. Where did the living expenses for yourself and family come from when he was running that first bakery? A. When we run that first bakery in Brooklyn, from the store.

Q. And what got in the bank was what was left over after you had lived? A. Yes, sir.

Q. (By the Court): How soon after your marriage did you begin to have babies? A. We was married in February and the 21st of December my first baby was born.

30 Q. (By the Court): And when was the next one born? A. Next one one was born twenty-two months after.

Q. (By the Court): The next one was born 22 months after the first one? A. After first one; I can't remember all the dates, but that I can; my oldest child was 22 months old.

Q. How many did you have altogether, how many children? A. Two alive and two dead.

40 Q. When were the two that are dead. when

MINA BUTTLAR—Cross.

were they born? A. I couldn't tell you exactly the date.

Q. (By the Court): You have got two living now; daughters; was there one born in between them that died? A. Yes, sir.

Q. (By the Court): Then there was one born afterwards? A. Afterwards.

10

Q. (By the Court): How long after your youngest daughter, now living, was born, was the one that died, the last one that died, born? A. Levana was born in 1876, and the other was born in 1880; in January; and when we begun Werth's bakery, the same month.

Q. (By the Court): Then while you were in the bakery business in Brooklyn you were having babies? A. Yes, sir.

20

Q. Did you ever have any money outside of what came from these different bakery businesses and the money you got from Europe? A. No.

Q. How much altogether did you get from abroad, from the other side? A. First?

Q. No, altogether? A. \$850 and \$144 and \$500, first, I couldn't reckon it, at first.

Q. Trose three times? A. Three times.

30

Q. (By the Court): I understood only two times? A. I had that from home, \$500; \$300 I brought when I came back three months before I married Mr. Buttlar, and when I came here first I had some saved.

Q. How long after you started the first store was it before your husband went to Europe?

The Court: Which first store, in Brooklyn?

40

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A. The Brooklyn store was two years after.

Q. And was the Brooklyn store closed up then?

A. No, sir; he sold it to—the name you said before, the man that worked

Q. It was sold to George Amryn, wasn't it? A. Yes, sir; I guess that was the name. They generally called him a slang name.

10 Q. How much was it sold to him for? A. I think \$700.

Q. Why don't you know? A. Because I told you before it was so long ago and having so many babies and so much trouble I can't remember everything so particular.

Q. Why did your husband go to Europe? A. He wanted to show off what kind of man he got in America.

20 Q. Did he tell you that or did you only think that? A. He said that he wanted to go and show what he was, what he got in America.

Q. He seemed rather proud how far he had gotten, didn't he? A. (No answer.)

Q. Well, now, did this man go back in the steerage, this man who was showing off? A. I don't know; he said he did; if he did or not, I don't know.

30 Q. So far as you know he travelled in the steerage? A. That is what he said; I don't know any more.

Q. How much did you say he took with him? A. He said at that time that he took about \$800.

Q. Do you know whether or not he took \$800? A. I can tell you; he didn't show it to me; what he took.

Q. How long was he away? A. About 6 weeks or two months; he went away in April and came back in June.

40 Q. And didn't he tell you the time he spent in

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Europe—he spent at his people's place, his folks?

The Court: Visiting his friends?

A. He was visiting his friends and he told me he had to pay fine because he had run away from soldiers when he was there before.

Q. Did he tell you how much the fine was? A. He told me, but I don't remember no more. 10

Q. Was it very much? A. Not so very much, no, I don't think it was.

Q. Did he bring back anything to you that he bought for you that he spent money for? A. He bought a couple of table cloths.

Q. Only two? A. Two table cloths.

Q. He brought you back some linen with some of the money he took away, didn't he? A. No linen, only those two table cloths. 20

Q. What else? A. That is all I remember he brought.

Q. Did he bring his sister back? A. He brought his sister, yes.

Q. And didn't he go over there to bring his sister back? A. I don't know.

Q. What did he tell you? A. No, he didn't tell me that.

Recess. 30

Q. I was asking you about Mr. Buttlar's European trip? Did he bring his sister back with him? A. Yes, sir.

Q. And didn't he go to Europe to bring her back for the purpose of having help in the store, in the business? A. I don't know; she only came along with him and she helped after, when he bought the business she was learning it.

Q. How long a time was there between the time you sold the first bakery in Brooklyn and 40

MINA BUTTLAR—Cross.

the time when the next store was bought? A. What Mr. Buttlar bought, or what I bought?

Q. The next store that was bought by either one? A. Mr. Buttlar bought a store in July.

10 Q. (By the Court): He is asking you how long a time there was between the two—between the time that you sold out the store which you called your own and the time that the next one was bought, either by him or you?

Mr. Weller: The last store in Brooklyn belonged to Mr. Buttlar.

The Court: I don't know how many were bought there.

20 A. The last store in Brooklyn was sold in April and he bought the same year, in 1889, in July, the first of July, in Jones Street, the bakery where he failed.

The Court: Not 1889, 1879 I suppose.

A. 1898.

Mr. Van Winkle: She does not mean that.

A. 1889.

30 Mr. Weller: You came to Hoboken in 1876, in January? A. I am mixed up in the numbers of the years.

Q. Just listen to me. How long a time was there between the time the first store was sold and the time that either you or your husband bought the next store?

40 The Court: How many weeks he is asking you, or months, weeks or months or years, if it was years—how many weeks, and if it was months, how many months?

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A. Four months.

Q. And what did you do during those months?
Where did you live?? A. I lived in—

Q. Did you live in a house?

Q. You had no store? A. No, sir.

Q. And for that four months, that was the four months he was away? No; he wasn't four months away; he was only 6 weeks away.

Q. He was 6 weeks in that four months, wasn't he? A. Yes, sir. 10

Q. Now then, you say he bought the Ewan St. bakery? A. Yes, sir.

Q. Why didn't you buy it? A. He didn't ask me to buy it.

Q. He bought it? A. What will I buy it for then.

Q. He didn't ask you to buy it, did he? A. No, he didn't ask me to buy it and he had all the money in his name, he never asked me to buy either. 20

Q. So then when he got back from Europe he had all the money in his own name? A. He had all the money in his own name except \$300 was in the Fourteenth Street Bank yet, and he took that out when he bought that business.

Q. Now, the money in the Fourteenth Street Bank was that in both names? A. It was in both names but before he went to Europe he draw out \$600 and put it in his own name. 30

Q. (By the Court): Was that all the money you had, either of you at that time? A. Yes, sir.

Q. (By the Court): Just tell how much money you had, and how much money he had? A. There was nine hundred and some odd dollars in the Fourteenth Street Savings Bank.

Q. (By the Court): Yours? A. Both names. 40

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Q. Nine hundred and some odd dollars in both names in the Fourteenth Street Savings Bank?

A. Yes, sir.

Q. How much in his name? A. In the joint name.

10 Q. (By the Court): Did he have any in his name anywhere at that time, at the time he went to Europe, in his name alone, did he have any? A. Certainly, he put all the money in his name.

Q. (By the Court): Did he have at the time the \$900 stood in both names, in some savings bank did he, your husband have any money at the same time standing in his name? A. He must have, because the money was made and he put it in the bank.

EXAMINED BY THE COURT:

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Q. Did you have any? A. No, sir.

Q. You had no money? A. I had no money.

Q. Except the \$900 that stood in your name and your husband's together? A. I had money but not from the business.

Q. I am asking you whether you had it or not? That is the question I asked you? I don't care where it came from? A. I had \$850 by Recht.

30 Q. Where was it? A. By loan in Williamsburg, by a man name Recht, loaned out to a man named Recht.

Q. Had it loaned out to a man named Recht? A. Yes, sir.

Q. \$850? A. No, he hadn't it all.

Q. How much did he have? A. He had \$600.

Q. That is Recht had \$600? A. Yes, sir.

Q. Where was the other money? A. The other money—where?

40 Q. You can't recollect this moment? A. I can't recollect this moment that name, no.

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Q. You had money at that time in the bank, but you had money loaned out to the amount of \$850? A. Yes, sir.

Q. Then there was \$900 to the credit, standing to the credit of both of you in a savings bank, is that right, at the time your husband went to Europe, at the time he sold out the first store in Brooklyn and went to Europe? Now put your mind on this for I want to get it straight. At that time you had money loaned out to the amount of \$850? A. Yes, sir. 10

Q. Then there was \$900 you had standing to the credit of both of you? A. Both of us, yes, sir.

Q. In some savings bank? A. In the Fourteenth Street Savings Bank.

Q. Did your husband have any other monies besides that in his pocket, or standing to his credit in any savings bank? A. He had in some bank money, because I don't think he had it home, the money he made in that business. 20

Q. You don't know how much? A. Well, I don't know exactly how much.

Q. This \$900 was made in that business, wasn't it? A. That was made in that business, yes, sir.

Q. Now, then, that makes about \$1800? A. Before he went to Europe.

Q. Yes; but after you sold out and before he went to Europe at that time that was the amount of money there was between you; that is you had \$850 loaned out and there was \$900 in the Fourteenth Street Savings Bank standing in the name of both of you? A. Yes, sir. 30

Q. That would make pretty nearly \$1800, and you had made some money besides but you didn't know how much, is that right? A. I don't know where he put it.

Q. You think he had some besides? A. He had 40

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some besides; he had the money that came out of the business.

FURTHER CROSS-EXAMINATION:

10 Q. With respect to this \$900 standing in the bank both names, who took that money to the bank and made deposits? A. First money we went both.

Q. This whole \$900? A. When the deposit was opened, we made both, we signed both.

Q. But you didn't go there again after you made the first deposit, did you? A. No, couldn't leave, had to attend to the business and to the children.

Q. Now, then, from whom did your husband buy the Ewing Street Bakery?

The Court: That is in Brooklyn.

20 A. That is in Brooklyn. I can't get it now; I know if I hear it but I can't get it now.

Q. You didn't have anything to do with the buying of that store, did you? A. No, sir.

Q. Now, during the time your husband was running that store, you were living with him? A. Yes.

Q. Continuously? A. Yes.

30 Q. And the living of yourself and family came from that store, didn't it? A. Yes.

Q. Now, how long do you say that store ran all the months and it didn't pay? A. That is what he said.

Q. Did Mr. Buttlar work there baking every day? A. Why certainly.

Q. And what did you do? A. I was attending to the house, to the home.

40 Q. The same as you had before in the other store? A. In the store; he had his sister to attend to it off and on.

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Q. Which store did he have his sister? A. In Ewen Street, what he bought in his name, in the Ewen Street bakery, what you are talking about now.

Q. Now, where did your husband go to from Ewen Street? A. He told me after he went to Paterson, I don't know first where he was, but when he came back that night he told me Paterson. 10

Q. (By the Court): He came back the same night, did he? A. Not the same night.

Q. (By the Court): How long after did he come back? A. About fourteen days after.

Q. Didn't he tell you he was working at McDonald's bakery in Jersey City? A. No, sir.

Q. Did you ever hear of McDonald before? A. No. 20

Q. Never heard that name about a bakery? A. McDonald's?

Q. Anywhere's in Jersey City, did you ever hear of a name McDonald's bakery running in Jersey City? A. Not at that time.

Q. Do you know where he worked in Paterson, Buttlar? A. As much as I knew he didn't work at all; when he came back one night at 12 o'clock and he went before daylight, he went again, he come home and took the money I had taken in. 30

Q. From whom was Mr. Buttlar buying flour at that time in that store? A. I don't know when Mr. Eppert used to live across the way and another flour man I don't know.

Q. Mr. Rice, did you ever hear that name? A. I hear that name but he wasn't no flour merchant.

Q. Don't you know that Mr. Buttlar assigned that store to you on the advice of Mr. Rice, the 40

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flour merchant? A. I don't know if Mr. Rice advised him or who advised him, or he had any advice at all. I can't tell you.

Q. Why did you take the store? A. He wanted me too.

Q. (By the Court): Did you pay him anything for it? A. No, sir.

10 Q. Was there any written paper between you two about the store? A. I think there was.

Q. (By the Court): Paper signed? A. Paper signed, I think there was.

Q. You don't know where it is now, do you? A. No, sir.

Q. Now, then, you ran the bakery and paid some of the debts, did you? A. I didn't run that bakery; I paid the debts after.

20 Q. (By the Court): Did you run the bakery? A. Not in Ewen Street; I run the bakery in Hoboken after.

Q. Was the bakery in Ewen street open after Mr. Buttler went away? A. It wasn't shut at all.

Q. How long did you keep it open? A. A month.

Q. And during that month did you take the money in? A. I took the money in what was sold, yes, sir.

30 Q. And sold the stuff in the store? A. Sold the stuff in the store and the flour in the bakery was baked up.

Q. What did you do with the money you took in? A. As I told you before, one night Mr. Buttler came home at 12 o'clock; he said he came from Paterson, and went away before daylight again, and the money I had took from me; he said he only came for that, to take the money

40 Q. Did you give him the money? A. Yes, sir.

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Q. Why did you give him the money if it didn't belong to him? A. Well, my God, if I didn't do it, I was used to do everything he wanted me to, because if I didn't—

Q. How much did you give him? A. I couldn't tell you no more.

Q. Don't you know that Mr. Buttlar paid all his creditors in full in that store? A. That he paid it? 10

Q. Yes? A. No, sir.

Q. Don't you know that all the creditors were paid in full? A. I know they were paid, but he didn't pay them; I paid them, when I was in Hoboken.

Q. (By the Court): It isn't the question who did pay them, but that they were paid in full? A. They were paid, not in full, not in full amount; Ruschein wasn't paid in full, what was due him, but they were settled with, settled the bills. 20

Q. Now, do you say this Ruschein didn't get paid in full? A. No, sir; he wasn't paid in full; there was only some paid; I can't tell exactly how much there was paid on it, but he wasn't paid in full.

Q. How did you get possession of this bill of Ruschein? A. Mrs. Ruschein came when this last money was paid her and she signed it. 30

Q. You paid to her and she signed it? A. She signed the bill, yes, sir; her husband signed it before she had it, but she handed me the bill in and it was all paid.

Q. Where are the other bills that were paid? A. Didn't have no bills; didn't get no bills from it.

Q. Didn't you get receipts for monies you paid in the Ewen Street store? A. No. 40

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Q. And you didn't pay any except this one, did you? A. I signed there—Eppert come, I had the money out of the bank, mine and my husband's name was on it; I signed that; he could draw it.

Q. How long a time was there between the time the Ewen Street store in Brooklyn was stopped, ended, and the time the bakery in Hoboken was started? A. Five months.

Q. What do you do during these five months? A. Attended to the house.

Q. What was Mr. Buttlar doing? A. Two months he worked up on the hill, but the baker's name I don't know, in Jersey City.

Q. In Jersey City? A. In Jersey City.

Q. And what did he do the other two months? A. Nothing; living from what we had, what I had taken in these last fourteen days.

Q. Well, now, when you came to Hoboken from Brooklyn there was enough money in bank, was there not, to pay these creditors with? A. No, sir; there wasn't enough money in bank to pay them all; Eppert was paid with the money that was in the bank; I signed that, he could draw it out of the bank; there was still some money owing and I signed to that.

Q. Now then, do you say the only reason that you got possession of the Ewen Street store was because Mr. Buttlar was in trouble with his creditors?

The Court: That is what she has sworn to.

Q. Now, then, when you got to Hoboken what place did you go to first? A. Where I started a store or where I went to first?

Q. The first store you started? A. The first store we started was 146 First Street.

Q. Who bought that store? A. Didn't bought

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it; opened it, rent the place from Mrs. Steinburke.

Q. And who did the baking in there? A. My husband did.

Q. Anybody else? A. Yes, we had Eppert's second hand.

Q. Have any wagons? A. No, sir.

Q. Have any sign over the door? A. No, sir.

Q. Didn't you ever have any sign in any of these bakeries? A. In any of these bakeries, not over the door or on the windows; we had on the wagons.

Q. What sign did you have on the wagon—these bakeries? A. It was in words "Bakery"; there was a horse and wagon, that was "C. Buttlar" on the wagon; that was the reason my husband wanted me to buy; Minna C. Buttlar, used "C" on the wagon, to make the folks believe that it was him running the bakery; that is what he told me.

Q. He wanted to make the people believe that he was in business himself, didn't he? A. Yes, sir.

Q. And what is the reason you put the "C" on the wagon? A. That is the reason. He told me to sign my name as "Catherine Buttlar," because it was my second name.

Q. When did he tell you that first? A. He told me that when we bought the business.

Q. Which business? A. When I bought the Werth's business.

Q. Which business? A. First street which I bought from Mr. Werth, where horse and wagon was bought.

Q. How long did you run that bakery in Hoboken, the first one? A. The first one about a year and five months, I guess.

Q. Make any money? A. Yes, sir.

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MINA BUTTLAR—Cross.

Q. And what became of the money you made there? A. What became of that money?

Q. Yes? A. Went to Europe with it; we went to Europe that time.

Q. (By the Court): Can you tell what year you went to Europe in? A. Yes, sir; 1877.

10 Q. How much did you make in the bakery in Hoboken, the first one? A. When we had sold out I had \$4,300.

Q. You say you had? A. I had, yes, sir.

Q. Where did you have it? A. Somewhere in bank, and what we sold, some on the mortgage, some I had in cash, was in the house.

Q. Did you have any in bank in both names? A. Yes, sir, I think it was in both names, I couldn't tell for sure.

20 Q. (By the Court): Do you mean to say you went over to Hoboken in 1876, started a store, and you went to Europe in 1877? A. Yes, sir.

Q. (By the Court): You were in business about a year? A. A year and five months.

Q. (By the Court): And sold out the business? A. Yes, sir.

EXAMINED BY THE COURT:

30 Q. And got \$4,300 for it? A. No, sir; got \$700 for the business.

Mr. Van Winkle: Altogether she says she had \$4,300. I am trying to find out where it came from.

Q. That was in 1877? A. Yes, sir.

Q. Took \$860? What other money did you have besides the \$860, you drew out of the Williamsburg Savings Bank? A. I had no other mo-

40 ney.

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Q. Then you went to Jersey with the \$860? A. Yes, sir.

Q. Then you say you were in business there a year and five months? A. Yes, sir.

Q. And then sold out to whom? A. To Bohley.

Q. Now, how much money did that pay you? A. \$700-\$400 cash; \$400 cash and \$300 mortgage.

Q. Now that \$400 cash, what did you do with that? A. Go to Europe with it, took it to Europe 10

Q. Now, then, you say at that time you owned in some shape about \$4,000, I understand you? A. \$4,300.

Q. Where was it? A. We had it home and somewheres in the bank in both names.

Q. What bank? A. I couldn't tell you; I couldn't find it out there.

Q. But you took \$4,000 to Europe with you? A. Yes, sir; \$4,300. 20

Q. All been made in a year and a half? A, Yes —no.

Q. You had \$860 to start with? A. Yes, sir.

Q. That you say is all you had? A. That is all I had, yes, sir.

Q. And in a year and a half it had amounted to over \$4,000? A. Yes, sir.

The Court: I shall want some pretty strong proof to sustain that.

FURTHER CROSS EXAMINATION: 30

Q. At all events the money that you took to Europe came from the running of these different business in the joint account? A. Different business? No, it came from the Hoboken business.

Q. Hoboken business alone? A. Alone.

Q. And there was no balance left over from the other business at all, the first store? A. Maybe Buttlar had some; I didn't; Buttlar had it; I couldn't tell you; he never give me any of it. 40

MINA BUTTLAR—Cross.

Q. But the \$4,300 you had, you know all about didn't you? A. Yes, sir.

Q. And how did you take that money abroad?

The Court: I asked her about that; you can ask again. She said she took it in gold and bills.

10 Q. And where did you get the currency from to take, what place in New York.

The Court: What bank did you get it?

A. It was in Hoboken.

Q. (By the Court): What bank? A. In Hoboken; it was the place where they exchange money.

20 Q. Didn't you go to Bishop's in New York City and buy the exchange? A. We had some in Hoboken; maybe there was some in Bishop's.

Q. (By the Court): Didn't you take the money abroad in what is called exchange draft, just a piece of paper, a draft from a banker in the United States to a banker in Germany? A. No, sir; took the money.

Q. (By the Court): You took the actual cash?
A. Took the cash.

30 Q. Don't you know that your husband went to Bishop's in New York City and attended to all that himself? A. I did let him attend to it, yes, sir; because I couldn't get out of the house, I couldn't leave the house, because of the children; he done it in my name.

The Court: What does your reply say as to the amount of money they took abroad

Mr. Van Winkle: \$4,300 is about right.

40 Q. Now, when you got to the other side you

MINA BUTTLAR—Cross.

went to the place where Mr. Buttlar came from, the village? A. Yes, sir.

Q. Trefort? A. Trefort.

Q. And did Mr. Buttlar want to close out this bakery in Hoboken before you went? A. If he want to close up?

Q. Did he want to or not?

Mr. Weller: Did he want to sell. 10

A. Yes, sir.

Q. (By the Court): Whose notion was it that it should be sold? A. His notion.

Q. Now, as a matter of fact, didn't you go to Europe with your husband because the doctor advised a trip for you?

Q. Dr. Kudlich? A. I wasn't sick at all.

Q. Dr. Kudlich? A. No, sir, Dr. Kudlich didn't a foot step in our house at that time; we didn't know Dr. Kudlich. 20

Q. What doctor did you have? A. When the boy died we had Dr. Kester.

Q. Weren't you sick and taking medicine all the time? A. No, sir; not at all; I had a sore toe, if that is what you call sickness; I had a corn on that and that was all.

Q. Now, when you got to Trefort was Mr. Buttlar's father living there? A. Yes, sir. 30

Q. And Mr. Buttlar opened a road house, you call it? A. He bought it there.

Q. Why do you call it a road house? A. People coming in there, I don't know how you say it in English.

Q. Everybody welcome? A. Everybody was very welcome, certainly.

Q. Was it in the middle of the village? A. Farmer village.

Q. Small village? A. Small village; all farmers 40

MINA BUTTLAR—Cross.

lived there.

Q. Did you make any money the first year? A. No, sir.

Q. Did you lose any? A. Lost a little, maybe.

Q. You got a living out of it, didn't you? A. Got a living out of it.

10 Q. How about the second year? A. The second year the hotel in the town failed, and that is the reason we had a little something to do; we didn't make any more as the first year. What we made that was the money what we paid for that place.

Q. The second year did you make or lose any thing there in the hotel? A. What we lose altogether was a couple of hundred dollars.

Q. On the two years? A. On the two years.

Q. You had your living the second year did you not? A. Yes sir, certainly.

20 Q. And didn't you live very decently? A. Very poorly.

Q. The second year? A. The second year, and the first year, very poorly.

Q. Now, you say you owned part of that business over there? A. It was bought in the both names.

Q. Was there a bill of sale? A. Sir.

30 Q. Was there a writing, a paper? A. Sure, I guess there was; they always do, there was there two.

Q. Was there? A. Yes, sir.

Q. And your name was in the paper? A. Yes, sir.

Q. Was his name in too? A. Sure.

Q. What was the name of the house?

The Court: What did it go by?

A. Guest House in German, I don't know what they call it in English; road house.

40 Q. It was called the Sun? A. That is right, it

MINA BUTTLAR—Cross.

was called The Sun.

Q. Did you have the children there with you?

A. Certainly.

Q. And when you came back, who brought the money back? A. Both brought it back; my husband carried it.

Q. He carried it? A. He carried it, yes, sir.

Q. What kind of money did you bring back, gold? A. No, sir; bills. 10

Q. European bills?

The Court: German bills?

Q. You don't know, do you? A. Well, I am just thinking; we were talking about changing it there, which was the fact, changing it there, best there or here, where we could do the best at it; it is so long I get mixed up.

Q. He attended to all that; didn't he, your husband? A. My husband attended to it, yes, sir. 20

Q. Now, as a matter of fact, didn't you after running the road house or hotel, whatever it was in Trefort for two years, didn't you bring back more money than you took to Germany? A. No, sir.

Q. How much less did you bring back, about? A. I think it was about \$500 less.

Q. Do you know? A. I know, yes.

Q. How much less was it? A. About \$500, I said. 30

Q. Now, after you got back from Germany, how long was it before you went in business again?

A. Couple of months.

Q. And was Buttlar working these two months? A. No, sir; that was the reason we went in business again, he couldn't work; he couldn't find no work.

Q. He was always strong, able bodied man, wasn't he? A. He was but he didn't like to work 40

MINA BUTTLAR—Cross.

Q. You think he was lazy? A. Lazy.

Q. Was he lazy all your married life? A. Yes, sir.

Q. What place did you buy first when you got back? A. In Brooklyn.

10 Q. (By Mr. Weller): The last time you came back from Europe? A. Mr. Van Winkle said, when we got married.

Q. No. I didn't say that. When you came back from Germany where was the first place you bought? A. 144 First Street, Hoboken.

Q. From whom did you buy that? A. From Werth.

Q. And where did you get the money from to pay him? A. The money was brought back from Europe.

20 Q. Now, was this store that you bought from Werth opened in both names? A. No, sir.

Q. Can you tell me why not when you were buying it with the money that came from the hotel in Germany that was in both names? A. I don't know. My husband didn't want his name on.

Q. (By the Court): Did they buy a mere store, or did they buy the land and all.

30 Mr. Van Winkle: There was \$500 paid for that store.

The Court: Contract for the land.

Mr. Van Winkle: I mean buying the store. When I said the business, good will and trade.

The Court: What kind of store was it.

Mr. Van Winkle: Bakery still.

40 The Court: Whose name was it taken in?

MINA BUTTLAR—Cross.

Mr. Van Winkle: Her name, she says.

Q. Can you explain to us why that store was taken in your name alone, when you say it was bought with the money that came from Germany, the proceeds of the hotel business there, in both your names? A. I don't know why Mr Buttlar didn't want his name on, but he didn't want it on. But he wanted to make folks believe, that is the reason he told me to sign my name Catharine Buttlar. 10

Q. (By the Court): What year was that? A. That was in 1880.

Q. 1879? A. 1879, because in 1881 we sold and we only had it a year and five months.

Q. Now, then, you took that store in your name you say, as a convenience to him? A. I don't know whether it was a convenience to him; he wanted me to do it. 20

Q. You took it because he wanted it so? A. He wanted it so, yes, sir.

Q. (By the Court): There is a lease here from Werth to Catherina Buttlar, dated January 6th, 1880; is that when they commenced business?

Mr. Weller: That is when they commenced. 30

A. That is what I said.

Q. How much did you give for that store?

Mr. Weller: How much did you pay Mrs. Werth, anything?

A. Yes, sir; I thought we only paid \$400; it may be \$500; I may be mistaken it is so long ago, I won't exactly dispute about that.

Q. Did you pay that in cash? A. Yes, sir.

Q. And at that time did you have the money 40

MINA BUTTLAR—Cross.

put in the bank yet, the money you brought back from Germany? A. Yes, sir, it was put in the bank.

Q. Where was it? A. I don't know exactly; in Hoboken Savings Bank.

10 Q. Who put it in the bank? A. That is what my husband say he was going to put it; I asked him to put it there in both names; that is where he always wanted it, the money.

Q. In the Hoboken Savings bank? A. In the Hoboken Savings bank; if he didn't want I can't exactly tell now.

Q. At all events wherever the money was put he put it in the bank? A. He put it there for me, because I had enough to do with the children, and I attended to the house.

20 Q. You always took care of the children and took care of the house? A. And took care of the house and then when we had business, I had to run the business.

Q. Besides? A. Besides, certainly.

Q. What do you mean by running the business? A. Selling, paying, ordering.

Q. How about the cooking the stuff? A. I cooked that too.

30 Q. How about baking the bread? A. That is what my husband did.

Q. And the business of the store was selling bread, wasn't it? A. The business of the store was selling bread, certainly, bread and cake, and all we had out there was sold.

Q. How long did you run that Werth store? A. A year and five months.

Q. Did you make any money? A. We did.

40 Q. How much? A. I couldn't tell you exactly how much; when we left it we sold out; we had \$5,800; how much exactly we made I don't know.

MINA BUTTLAR—Cross.

Q. (By the Court): Who did you sell that to?

Mr. Weller: Who did you sell the last store to?

A. To Kitz, I believe her name was, Mary Kitz or something, Mrs. Kitz.

Q. (By Mr. Weller): How much did you get? A. \$1,000. 10

Q. (By the Court): And you say after you had sold that out, you had how much? A. \$5,800 and some odd dollars.

Q. (By the Court): Where was it? A. I had \$2,300 on mortgage as I said before, on property bought from Bishop.

Q. (By the Court): And what else where else? A. And the rest was in bank in both the names, as Mr. Buttler said he put it. 20

Q. (By the Court): Mortgage of \$2,300? Who gave that mortgage? A. There was no mortgage on Werth's bakery.

Q. (By the Court): You said you had it in a mortgage? A. No, sir.

Mr. Van Winkle: It was a mortgage bought on some property in New York City, on some investment. 30

Q. (By the Court): Who was the man that gave it? A. Wilder.

Q. (By the Court): What else did you have to make up the \$5,000 odd dollars? A. In the bank what we don't have in the house.

Q. (By the Court): \$5,800 did you say? A. \$5,800 yes, sir.

Q. You were talking about this Bishop mort- 40

MINA BUTTLAR—Cross.

gage in New York; was that on some property in Essex Street, New York City? A. I couldn't tell you.

Q. You don't know much about it, do you? A. I think it was; no; I know enough about it all. I can't think of everything; it is too much for me to think of.

10 Q. Was the mortgage assigned in your own name? A. Yes, sir.

Q. Sure of that? A. Yes, I am sure of that.

Q. Did you ever see it? A. I have to sign it before I can get the money; couldn't get the money without I signed it, so I am sure it was in my name alone. I ever see it? Certainly I did.

Q. Was it on record in New York City? A. I guess so.

20 Q. Was that bought through Bishop, the banker, in New York? A. I bought it from Bishop; he hold it on property in Essex street.

Q. How is it that you allowed your husband to make deposits in both your names when you ran the business yourself? A. To have peace, for he wouldn't be satisfied if I wouldn't give his name; if I had it alone, he wanted his name on. There was no peace in the house if I didn't let him have his name on, because he said everything that the wife earns belongs to the husband and he had a right to have his name on it, and everything I had belonged to the husband.

30 Q. And so you consented? A. For to have peacesake I put and let him have his name on.

Q. And you put his name on you say, because he claimed he had a right to have it on? A. That is what he said, and that what belongs to the wife, what the wife earns and has, belongs to the husband.

40 Q. Now you always had peace, didn't you, until you got the Clinton Street property? A. If I

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done just what he wanted me to do and asked me to, he was awfully brusque and I had to do, if I wanted peace, if he didn't wanted to curse and dam me the whole day long and being ugly, being disagreeable, hitting and mistreating the children; I had to do as he like to do, whether right or wrong, and I did do it from peace sake and for not to be disgraced; he says always you done it now, you can't disgrace me. 10

Q. Now, after you sold this first bakery, you had in Hoboken, how long were you out of business? A. Over two years.

Q. What were you doing during those two years? A. Went to Europe.

Q. I mean after you got back from Europe?

The Court: After you got back and bought and then sold to Mrs. Kitz— 20

Q. After you sold to Kitz how long were you out of business? A. Over a year.

Q. What were you doing during that year? A. No business at all; I attend to the house at home.

Q. What was your husband doing? A. Nothin.

Q. Wasn't he working anywheres. A. No. sir.

Q. Hanging around the house? A. Yes, sir; hanging around the saloon down town, restaurant and lager beer saloon, he was hanging around there. 30

Q. Getting drunk, was he? A. He didn't get much drunk, once in a while.

Q. You don't say that, do you? A. No, I don't say he was a drunkard. I don't; he spent his money in other ways.

Q. Now, then, at the end of the year what happened, what business came along then? A. I 40

MINA BUTTLAR—Cross.

bought lots in Clinton street.

Q. I didn't ask you that. What business did you have next? A. No business.

Q. None at all? A. No, sir.

Q. Is that the last business? A. That is the last business that was sold to Kitz.

10 Q. Now, then, didn't you have anything at all do with the Coney Island business? A. No, sir.

Q. That lost money, didn't it? A. It did.

Q. Every time any money was lost in any business, you didn't have anything to do with it, did you? A. No, sir; you seen that in the papers; that man couldn't do no business alone.

Q. No, not without you? Without me or somebody else.

20 Q. Who else did he have? A. When he was in the feed business he had a partner and then he had another partner. I don't know any business where he done business alone, where he was in alone; he can't name one business.

Q. Have you been in business alone yourself without him? A. Not as long as I am married to him, no sir.

Q. Haven't you been in business in Hoboken with some man as partner? A. No, sir.

Q. Called Buttlar and Company. A. Called Buttlar and Company? It wasn't me though.

30 Q. Where was it, the street? A. Washington street.

Q. What kind of a store was it? A. Grocery.

Q. How long did you run that store? A. I didn't run it; it was only helping in.

Q. Did you put any money in that store? A. I did not.

Q. Just let them use your name? A. Didn't use my name at all—my daughter.

40 Mr. Weller: Her daughter.

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Q. You mean your single daughter? A. Yes, sir.

Q. How long ago was that? A. It was I guess 1894.

Q. Was your daughter over age then? A. No, she wasn't over age.

Q. Yet she was in business with somebody in Hoboken as Buttlar and Company? A. Yes, sir.

Q. Who furnished the money? A. My daughter did.

Q. Now you went to Coney Island with your husband, didn't you? A. No, sir.

Q. Did he go down there alone? A. He went alone.

Q. How long before you joined him? A. I didn't join him at all.

Q. You stayed in Hoboken? A. I stayed in Hoboken; visited him from time to time and helped him as much as I could, that is what I did do.

Q. Now, how much did he pay for that business in Coney Island? A. \$800.

Q. And who did he buy it from? A. From Rush.

Q. Did he give Rush notes? A. That is what he said.

Q. And the business didn't pay? A. No.

Q. And at the time he was in Coney Island the Clinton street property stood in your both names, did it? A. When he went there first for one month, yes, for about one month it stood in both names yet.

Q. Now, then, the reason the Clinton street property was changed from your both names was because of the Coney Island business, wasn't it? A. I don't know about that, but the whole year his name was on, he cursed and dammed and was scolding me and damming me that I bought the

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MINA BUTTLAR—Cross.

lots, and if I didn't bought the lots we wouldn't be in that business, it was the worst business as bakery business.

Q. The question is the property stood in both names, Clinton street, when he went to Coney Island? A. Yes.

10 Q. Is it not because of the Coney Island business not turning out well that the property was changed, the names were changed? A. I don't think it was, not as much as I know.

Q. Well, you knew he was losing money in Coney Island, didn't you? A. I didn't know he was losing then or not.

20 The Court: What complainant by his counsel says is that the deed which was the basis of the judgment, which in turn was the basis of the bill filed in the case of Rosenblau against Buttlar arose out of the Coney Island enterprise.

Mr. Van Winkle: I believe that is so, yes, sir.

Q. Now, didn't you go down to Coney Island while he was there and tell him people were making fun of him, that he was losing money? A. No.

30 Q. People were laughing at him? A. No, I didn't know if they were laughing at him or not. I never seen it or heard it.

Q. And didn't you say he would lose his property? A. No, sir.

Q. And didn't you ask him to convey the property in the way it was conveyed? A. No, sir.

Q. How did the property, how did the names get to be changed in the deed? A. He wanted it.

40 Q. At his request? A. Yes.

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Q. And you consented? A. Yes.

Q. And he was down at Coney Island yet? A. Yes, sir.

Q. And was there any proceeding at law threatened against him, any suit? A. Yes, sir.

Q. You knew about that? A. Yes, sir, I know; I had to be down to Coney Island and attend to business for him so long.

Q. And didn't he tell you he had been swindled in buying that business? A. No.

Q. And he wanted a chance to fight those people on those notes, that they had imposed upon him? A. No.

Q. Cheated him? A. No.

Q. Nothing like that? A. No.

Q. Nothing like that? A. Nothing like that.

Q. Did you think he was making money? A. I didn't know what to think; no, I didn't think he was making money. The first time I came down there it was the 4th of July.

Q. Didn't your husband support you with what he was making in Coney Island? A. No, sir.

Q. He didn't? A. No, sir.

Q. You supported yourself from the Clinton street property? A. From the Clinton street property.

Q. Didn't you spend most of your time in Coney Island living there with your children, only coming to Hoboken to collect the rent? A. No, sir; who attend to the property? I went there once in a while and seen Mr. Buttlar and stayed there night, but I didn't stay there whole weeks, stayed there for one or two nights and went home again.

Q. When you got back to Hoboken, when your husband came back to Hoboken from Coney Island, what business did he go in? A. He didn't went in any business until 1885 in the beer bottling business.

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MINA BUTTLAR—Cross.

Q. How did you get his beer bottling book here? A. He left it home. He took all other papers, deeds and everything, but he didn't take that book, for it was left home in 1894.

10 Q. How long was he in the beer bottling business? A. From June, I believe, until May; about that; lager beer saloon, I believe it was. I couldn't tell exactly how many months, it wasn't long.

Q. Didn't he support you and the family with what he made? A. He supporting us? I had to support the man, his help, he hadn't as much as to pay his help; he didn't make that much in the business. He eat home by me.

Q. You had all the property? A. I had the property, certainly I had the property.

20 Q. He got enough to eat, did he? A. He had enough to eat, I should think he did.

Q. Did you get that out of the rent? A. I got that out of the rent, certainly.

Q. And you fed him? A. I fed him, yes, certainly, and his help.

Q. What help did he have? A. His sister lived in my house. Named Gaschoon.

30 By the Court: What was she helping him at? A. Bottling up beer; he bought kegs of beer and filled it in bottles.

Q. Do you mean to say that this man didn't pay you anything out of the bottling business for living expenses? A. No, sir, not a cent.

Q. Did he do anything else besides going in the bottling business? A. Not that I know.

Q. Did he drive car for instance? A. He drive that for a couple of weeks, yes.

40 Q. He worked when he could get work, didn't he? A. When he did work, yes, sir; once in a while; when he had anything like that, he took a

MINA BUTTLAR—Cross.

fit to work for a couple of weeks, but when he had to work or look for work, he was used without work.

Q. While he was driving cars you were getting the rent out of the property? A. I took rent out of the property, certainly.

Q. What kind of property was that—how many stores and rooms above? 10

The Court: What you call the Clinton street property?

A. Two four story double houses.

Q. How much rent a month? A. \$216.

Q. Did you put that in the bank in your own name? A. I did, what I didn't lend to my husband or give him to start in business.

Q. What bank. A. Hoboken Savings Bank.

Q. Now, wasn't your husband always complaining to you that half of that property belonged to him, all that time, wasn't that the trouble between you? A. He didn't complain such a thing at all. 20

Q. You mean to say he said nothing about your owning the property? A. He didn't say nothing about that; he only asked me after 1885; he came in to ask me he wanted his name on again and I told him I had trouble and expense enough, I don't like to have them again. 30

Q. The only reason you wouldn't put his name on was because you didn't want trouble and expense, is that it? A. Trouble and expense for him to lend money on notes again or any other way.

Q. Lend money on notes? A. On notes, yes.

Q. What money had he loaned on notes before that?

The Court: Borrowing money on notes:

A. Borrowing money on notes; if I don't say it 40

MINA BUTTLAR—Cross.

right I hope the court excuse me.

The Court: What I understood to say she didn't want to be troubled with her husband getting in debt, being sued, giving notes and getting judgments against him.

10 A. I had to pay him again if his name was on the property as I had to do it the other once.

Q. This note that was sued on was only \$200?

A. Yes. The one that was sued on was only \$200.

Q. And when you speak about notes and judgments and suits you are speaking about that \$200 note? A. Yes, and \$800 what he had given to Rush; I had to pay that, too, for the business, and \$200 he loaned from Rosenblau for to buy bathing suits.

20 Q. What business? A. Coney Island business.

Q. Rush, then, was the one who sold the Coney Island business? A. To Mr. Buttlar, yes.

Q. And you paid for that finally, didn't you? A. Yes, sir.

Q. Did you pay for that before or after you got the title to this property in your own name? A. After I got title from Mr. Maybaum in my one name, before, it wasn't there yet.

30 Q. (By the Court): After the property was put in your own name you had to pay that Rush note? A. I paid that Rush note in 1884.

Q. When you took the property in your own name did you agree to pay that Rush note? A. No, sir; it wasn't there then yet; it was there yet yes, but I didn't know it, that it was there; there was nothing said about Rush note, I didn't know it not before it was produced.

40 The Court: I suppose what she means to say is she hadn't heard of the Rush note;

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it came along afterwards, the Court decided she had to pay it, and she paid it, I suppose that is what she means to say.

A. Yes, sir.

Q. (By the Court): It was after the decision of the other case; it wasn't worth while to fight it that is it, isn't it, Mr. Weller?

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Mr. Weller: I think so, yes, sir.

The Court: That is just what Mr. Van Winkle said, so there is no dispute about it.

Mr. Van Winkle: Rush procured Mr. Rosenblau to sue.

The Court: Yes, put him forward; he didn't want to have a defense set up to his note on the ground of want of consideration. I can recollect part of this case as I go along, but there is such a mass of it.

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Q. Now, when the First street property, the feed store property, the real estate was bought why was that property taken in your own name?

A. Because it was my money bought it and given in.

Q. What year was that? A. 1886.

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The Court: That is the property now in dispute?

Mr. Van Winkle: That is the property in dispute, First street, Hoboken.

The Court: And not West Hoboken?

Mr. Van Winkle: No, sir.

The Court: That you say the title was taken first in Mr. Witte, then afterwards

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MINA BUTTLAR—Cross.

it was conveyed by Mrs. Witte, her share was conveyed to Mrs. Buttlar?

Mr. Weller: That was in 1888.

The Court: Then subsequently it was conveyed to Mrs. Buttlar by a third and then afterwards jointly to her husband, is that right?

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Mr. Weller: That is right.

Q. Now up to that time you assumed the mortgage on the First street feed store property, had you ever been in the feed business? A. Before? No, sir; not before..

Q. Had your husband? A. No, sir.

Q. Had Mr. Witte? A. Yes, sir.

Q. He had failed, hadn't he? A. He had failed, yes, sir.

Q. Now didn't you know that the reason you set forward and Mrs. Witte set forward and used your name in connection with that sale, is because Witte had failed in business and owed his creditors? A. That may be, I don't know what he done it for; I can't tell what other folks does I don't know what he done it for; I know her name was put there.

Q. Now, then, when that feed business was started who was is it that went to the feed merchants and got credit? A. Mr. Witte done it most.

Q. (By the Court): Witte had failed. The merchant wouldn't sell him anything.

A. On his wife's anything.

Q. Because they hadn't any property? Who was it got the credit? A. They paid cash for it.

Q. Did you go to New York City and see the flour merchant and get credit yourself? A.

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MINA BUTTLAR—Cross.

That isn't a place for a woman to go

Q. (By the Court): Well, did you go?

A. No, sir.

Q. You left all that to Mr. Buttlar? A. I left that to Mr. Buttlar and Mr. Witte.

Q. Did you arrange in the feed store business how much Mr. Buttlar was to get and how much Mr. Witte was to get and how much you were to get? A. We arrange to get half. 10

Q. Who was to get half? A. She get half it was made.

Q. You men you half and she half? A. And she half.

Q. And what this man Buttlar, what would he get? A. Wasn't they supported; did you want me to pay him real wages? There was no wages made out what they should get. 20

Q. (By the Court): No wages mentioned? A. No wages mentioned, no, sir.

Q. (By the Court): She was to support him; he work for his victuals and clothes?

Q. I suppose he was to get his clothes, too? A. He did and he ordered suits for \$40 and I paid them.

Q. I suppose you kept the bank account in your own name, in the business? A. My business. 30

Q. Yes? A. No, sir, there wasn't no bank account in that; had no money.

Q. You say there was no bank account? A. Yes, sir. Had bank account, what there was in it they paid out and what they took in, and I put it in the National Savings Bank.

Q. Did you sign any checks on the Second National Bank in connection with the feed business?

A. No, I didn't. 40

MINA BUTTLAR—Cross.

Q. Did you have any note heads or bill heads printed in the feed store business? A. No, sir.

Q. Did your husband? A. It was done from the company—from the store out, the store paid for it; I get money in to the store—it shows there shows it was paid.

10 Q. I show you a bill head "Hoboken, N. J., 188 Mr. Bought of Chr. Buttlar, Successor to Witte and Company, Flour, Hay, Grain, 230 First street," did you ever see those bill heads before? A. No, sir, I may have seen them but didn't take any notice, I seen them.

20 Q. (By the Court): Then you did see them at that time? A. Why, certainly, I seen them didn't take no notice of them; I may have seen them; I don't know what they were, what they said; in English I can't read, so I never took no tice what they said on.

Q. Then did you ever see these little books, sales books, "Bought grain of Buttlar, dealer in Flour, Feed, Hay, Straw, etc., First street, Hoboken?" A. No, sir.

The Court: Sales memoranda?

Mr. Van Winkle: Yes, sir.

30 The Court: This is what the salesman took orders on?

Mr. Van Winkle: I think those are duplicate slips with the bottom cut off.

Q. Now what did you ever do in the feed store yourself?

The Court: What did you yourself do there?

40 A. Off and on I went there and helped work-

MINA BUTTLAR—Cross.

ing there, so on, feed. When Mr. Buttler wasn't there I attend to it.

Q. What did Witte do in the business? A. So long as Witte wasn't there, I hadn't to go down there, they don't need me.

Q. When Witte was there you didn't go? A. No, sir.

Q. When Witte sold out then you went once and awhile? A. Yes, sir, when he needed, when ne wanted to go somewhere else. 10

Q. (By the Court): When your husband wanted to go away you would go there and look after it? A. Yes, sir.

Q. And sell goods would you? A. Yes, sir.

Q. Bring down Mr. Buttler's dinner sometimes? A. I didn't bring it down for a short while; the children brought it down. 20

Q. He would stay there at the store and his dinner was sent to him from the house? A. Yes, sir, for short while.

Q. Did he have any wagons in that business? A. Yes. If he had them we bought them all that time.

Q. Were there any wagons in that business? A. Yes, sir.

Q. How many? A. Two wagons and three horses. 30

Q. What name was on the wagons? A. Buttler & Witte Company.

Q. Sure about that? A. Yes, sir.

Q. And were those names ever changed on the wagons? A. When Becker bought it.

Q. What was the name then? A. Becker.

Q. And after Becker sold out? A. Mr. Buttler bought it then.

Q. What name was on the wagons then? A. I couldn't tell you. 40

MINA BUTTLAR—Cross.

Q. Was your name? A. C. Buttlar on it.

Q. Was it C. Buttlar or Christian Buttlar? A. I can't tell exactly; I know there was C. Buttlar on.

Q. Now what name was on the feed store? A. C. Buttlar.

10 Q. It wasn't Christian Buttlar? A. I don't think it was; it was C. Buttlar.

Q. Now you say that Mr. Buttlar never gave you an accounting of this business? A. No, sir.

Q. Did you ever ask him? A. Yes, sir.

Q. When? A. I couldn't tell you exactly when; I asked him several times.

20 Q. That was after you had trouble, wasn't it? A. No, sir, it was before we had trouble; I thought I had put money enough in the business that he could get along without always asking me for more and more money to put in.

Q. Were you getting the profit out of the business? A. Profit out of the business? No, sir.

Q. You say you were to get half? A. I were to get half but never got any.

Q. How much were you to get when Witte was bought out? A. I couldn't tell how much I got when he was bought out, I couldn't tell how much, I got to get.

30 Q. Did you make any new arrangement with your husband after Witte left the business? A. No, sir.

Q. Did you make any arrangement with your husband after Becker left the business? A. No, sir.

Q. Did you still expect half of the business? A. Half of the business; I expected him to give account in but he wouldn't do it.

Q. How much a week did he draw? A. He drew \$10 a week.

40 Q. Did he ever draw any more than that? A.

MINA BUTTLAR—Cross.

He may did; the book says yes.

Q. You have got the book, haven't you? A. Yes.

Q. How long have you had the book in your possession? A. Since that time, since 1890.

Q. And the books seems to show doesn't it, he took \$10 a week? A. Yes, sir.

Q. Now, then, when you went to Judge Smith's office, what deed was signed there? A. When do you mean? 10

Q. When you sold the Clinton Street property? A. What deed was signed there?

Q. The deed was sent over to Eppert? A. I gave Eppert a deed for the property, that is all.

Q. You said, I think you didn't want to sell the Clinton Street property? A. No, sir; I didn't want to sell it.

Q. And it was being sold at a profit. was it not? A. Mr. Buttler sold it, yes, and made me sign it. 20

Q. (By the Court): No, no; but made a big profit on it, made about \$5,000 on the transaction, didn't he, from you or some one? A. From the first commencement, but there was great expense on after we commenced; there was sewers put in, the street was paved, other sewers was raised.

Q. You got the rents right along, didn't you? A. Yes, sir. 30

Q. Then Mr. Buttler is the one that arranged the sale of that property? A. Yes, sir.

Q. And don't you know that he did that because he claimed at that time that he wanted his half of that property and he had the property sold as to get his half? A. To get his half.

Q. (By the Court): He wanted to sell it so as to get his half of the property, didn't he tell you 40

MINA BUTTLAR—Cross.

that? A. No, sir.

Q. Didn't he steadily claim that half of that property belonged to him? During the time you had it didn't you quarrel about it? A. No, sir; not about that; only quarreled about it, he wanted his name on it; I said he would borrow money again on notes and there would be too
10 much trouble and expense and cost.

Q. That was the only reason you wouldn't put his name in the deed? A. That was the only reason I wouldn't put his name on again.

Q. Did he arrange this sale entirely without your knowledge? A. Yes, sir.

Q. It didn't please you? A. No.

Q. And you and he were quarreling at that time about the property and about the deeds?

20 The Court: He was claiming to have his name on it and she wouldn't give it; she has already stated that. Your point is this: When he contracted to sell it she fulfilled the contract; then she says when the money was paid he tried to grab the money; she held the deed until she got it back again. She has given a reason for it as about as good for you as you could possibly have it.

30 A. I didn't understand what you said before about quarreling.

Q. In Judge Smith's office the quarrel you had was about the money coming from the sale? A. There was no quarreling, he took it and was going to go off with it and they stopped him.

Q. Didn't you say he took it because he thought they had the deed? A. I don't know what he thought.

40 The Court: He got it by saying he want-

MINA BUTTLAR—Cross.

ed to count it, and Judge Smith come and said "Here is the money" and handed it over and her husband said I want to count that money, and after he counted it he rolled it and put it in his pocket, and they stopped him because he thought they had the deed, but undoubtedly he intended to take the money and go away with it according to her story, and would have succeeded if she had not held on to the deed. That is according to her story. 10

Q. Now, then, how long a time was there between the time you sold the Clinton Street property in Hoboken and the time you bought the West Hoboken property? A. About, not quite, two months.

The Court: That is the time she said she put most of the money in the banks of Jersey City, and that is way I had it figured up here. 20

Q. Now, then how is it that you came so soon to buy the property in West Hoboken? A. Mr. Buttlar bought that.

Q. Buttlar wanted the money to be invested as long as you had it, wasn't that it? A. He bought it to get his name on that money: that is what he bought it for. 30

Q. That is what he told you? A. He didn't tell me that.

Q. How did you find out? A. He told me that after.

Q. Who paid the first deposit? A. Mr. Buttlar did.

Q. How much? A. \$200.

Q. And he paid that you said out of the \$500?

The Court: This is what she says about 40

MINA BUTTLAR—Cross.

10 that—had made already the down payment on the sale of the Clinton Street property \$200 and he owed her that; when he bought the West Hoboken property he paid her back \$200, by paying that much money down on it; but he still owed her \$300, which she swore a while ago she put it in somewhere else but he paid the down money on the purchase of the West Hoboken property, whatever it was.

Mr. Van Winkle: Then I think we agreed as to just about how much went in the West Hoboken property for her account, and how much went in the business.

20 The Court: He claimed that \$6,000 from the feed business and \$6,000 more in round figures; it don't make much difference, but I don't understand where that feed money had been all the time.

Mr. Van Winkle: In the business.

Q. (By the Court): Did he draw it out at just that time?

Mr. Lichenstein: \$10,000 out of the First National bank.

30 The Court: That is the money she had in her name.

Mr. Van Winkle: She says the business was doing pretty well. He was only asking \$10 a week from it.

The Court: Where had the money been all the time, in the bank or where?

40 Mr. Van Winkle: In the bank, in connection with the business so I understand.

MINA BUTTLAR—Cross.

The Court: That is part of it; I have no business to ask you now; it is substantially admitted it come out of that business, but I didn't know where it had been all the while; it hadn't been in her name—in his name or somebody's.

Q. Now, getting back to the feed store, you assumed a mortgage, you and Mrs. Witte? A. 10
Yes, sir.

Q. And there was a building put up there worth about \$1,000? A. Yes, sir.

Q. Who paid for that building? A. It was money Mr. Buttler took down to there that paid for it from the Clinton Street property, what I put in there.

Q. Don't you know that Mr. Buttler and Witte did most of the work on that building; bought the lumber themselves? A. Bought the lumber, I suppose so. 20

Q. Out of the business? A. No, sir; it was the money I put—Mr. Buttler took down there, that was money paid for it.

Q. Did he do any work at all on the building, Buttler? A. I suppose they did; I don't know; I didn't see him, maybe he did, he isn't a carpenter though; he maybe put a nail in or something.

Q. Where were the deeds for the West Hoboken property received; where did you get them from? A. From Leicht, the owner was Mrs. Leicht, whatever her name is. 30

Q. Did you say Mr. Leicht made you put your husband's name in the deed?

The Court: That is the West Hoboken property?

Q. Yes, sir? A. Mr. Leicht? No. Mr. Leicht had nothing to do with the West Hoboken property. 40

MINA BUTTLAR—Cross.

Q. It was in his office that you received the deed? A. Which deed?

Q. For the West Hoboken property? A. No, sir; it was in the feed store.

Q. Where did you receive the deeds for the West Hoboken property?

10 The Court: WHERE were you when the deed was handed to you, if it ever was handed to you?

The Witness: In the feed store.

Q. Who brought you the deed? A. Luxton.

Q. He brought the deeds, did he? A. Yes, sir.

Q. And then your name was in and your husband's name together? A. Yes, sir.

20 Q. Was Mr. Luxton present during all your conversation there in the feed store, about the deeds? A. He was present—no, when Mr. Buttlar bought it he was alone.

Q. Now, after you bought the West Hoboken property who was it that arranged to build the houses there? A. Mr. Buttlar.

Q. And that was all his work, wasn't it? A. I leave him his will as he wanted it.

30 Q. Did you leave him do as he wanted about putting up those houses? A. Yes, sir. I had to, I was going to keep peace and have peace by doing all he wanted; he asked me to do it.

Q. And all the contracts were made in his name for building? A. In both names, I believe.

Q. You don't know about that? A. I don't know exactly, no more, no sir.

Q. And he attended to the payments to the carpenter and to the mason and to the painter. didn't he? A. I attended to; I paid; I attended to it.

40 Q. I mean in making up the payments, he

MINA BUTTLAR—Cross.

made them, didn't he?

The Court: He paid; the cash; handed the cash?

A. Handed the cash? No, I handed check, I paid the checks.

Q. Have you got your checks? A. The check book is there and the stubs are there.

10

Mr. Weller: We have not the checks, but we have the stubs paying all those things.

Q. Now, then after you had paid this \$10,000 on account of this property, you had some left, some money in the bank? A. Yes, sir.

Q. How much? A. \$2,200.

Q. Why didn't you pay that on account of the property? A. Because I wanted to keep that myself. I always had money. I keep that myself.

20

Q. What did you do with the money you kept back? A. I paid those three lots with it, what Mr. Buttler bought where I was not going to give his name on; when I paid it I would not put his name on and I paid it for fear I would get in trouble again, because his name was on the property. Or I never would have got it.

Q. So the money that went in the property, the three lots you now hold in West Hoboken, came from the sale of the property you hold in West Hoboken? A. Not from the sale, some few hundred dollars I put in.

30

The Court: I suppose she refers to this account in the Hoboken Savings Bank in which there are deposits here, showing deposits made on particular days and then on the 1st of November, 1889. there is a deposit of \$1,500; I believe that is the

40

MINA BUTTLAR—Cross.

time when the Clinton Street property was sold.

Mr. Weller: Around that time, yes, sir.

Q. (By the Court): What is the date of the conveyance of the three lots? A. It was in April or May, 1890.

10 Q. (By the Court): This money was drawn out 21st of October, 1890, it didn't come from there then? A. It did come from there. I had no other money.

Mr. Weller: I think the lots were bought at different times, first one and the next two.

20 Q. Were those lots bought at auction? A. No, sir; they wasn't bought at auction. Mr. Buttlar told the man not to bring them at auction, that he was going to take them.

Q. Mr. Buttlar was the one that bought them, isn't he? A. Mr. Buttlar was the one that bought them.

Q. (By the Court): Bargained for them? A. Made the bargain, yes, sir; I didn't know nothing about it until Luxton came.

30 Q. (By the Court): Two of the lots facing on West Street in West Hoboken, the title to which stands in the name of Mrs. Buttlar, were paid for in part or nearly all, by draft on the Hoboken Savings Bank for \$2,207.70, account standing in the name of Mrs. Buttlar.

Mr. Van Winkle: And the source of that account is in the testimony.

40 The Court: No, I don't think it is. It may be. I guess she did but I think it is

MINA BUTTLAR—Cross.

rents principally; \$1,500 came from the sale of the Clinton Street property.

Mr. Van Winkle: And the rest came from rents I think she said.

The Court: She has sworn to that—was rents from the Clinton Street property.

A. Yes, sir.

10

Q. Rents from Clinton Street property and \$1,500; part of the cash you got on that property went into the Hoboken Savings Bank? A. Yes, sir.

Q. That is the property you own now in your own name, these three lots? A. Yes, sir.

Q. When was the house built on those lots; is there only one house on those three lots? A. Yes, sir.

Q. Have you any money in bank now? A. No.

20

Q. Have had recently? A. Couple of dollars, yes, sir.

Q. You put it in Lavina's name? A. No, sir.

Q. How much did that house cost and those lots? A. I think it cost \$2,200, and the lots.

Q. (By the Court): No, the house that is built on that lot, one of those lots facing on West St? A. I think it was \$2,200; I don't know for sure.

Q. (By the Court): And the three lots cost about \$3,000 according to your story, near \$3,000? A. \$2,500.

30

Q. (By the Court): Two cost \$2,500? A. No, three cost \$2,500.

Q. (By the Court): And the house on one cost about \$2,200? A. Yes, sir.

Q. How long a time was it between the time the West Hoboken houses were built and the

40

MINA BUTTLAR—Cross.

time when you signed a separation agreement in 1894? A. That was 1894 and 1890, and commencing in 1889, about four years—three years.

Q. Now then when you signed the separation agreement in 1894, he wanted to get, did he not, your share of the rents? A. I wanted it.

10 Q. Is not that the reason you signed the agreement, to get your share of the rents? A. I know my husband always told me he wanted me to get out, he treated me and the children terrible and fighting, whenever he could pick up a fight, he would fight and I said I should get out; if it didn't suit me, I should get out.

Q. You didn't get out? A. I didn't want to get out before I signed a written agreement.

20 Q. (By the Court): Where were you living? A. With my husband in the same house.

Q. (By the Court): What house?

Mr. Van Winkle: One of these houses, the new house, Malone Street.

The Court: One of the four?

Mr. Weller: Yes, sir.

Q. It was where you lived at the time the separation agreement was signed? A. Yes, sir.

30 Q. And you signed this agreement expecting to get as your share of the income from that property \$75 a month? A. Yes, sir.

Q. And for a number of years you got it? A. Yes, sir.

Q. And are you getting it now? A. I don't get it now—

40 Q. Now at the time you signed that separation agreement why didn't you then bring a proceeding to have this property declared in your name instead of signing to take \$75 for the rent? A.

MINA BUTTLAR—Cross.

If I had knowed I can never get that property back I would sure. I never knowed that I could do it after treatment he gave me when the money was all in.

Q. Who told you you could get it back? A. Told me to get it back?

Q. Yes? A. Now?

Q. Yes? A. Mr. Weller said when he found out he has the money how he had got it from me, he has it all, he said My God, why didn't you tell me long ago; I don't know what he said but that was the meaning of it. 10

Q. (By the Court): Was Mr. Weller your lawyer in the other suit?

Mr. Weller: Which suit?

The Court: The suit before me.

Mr. Weller: Yes, sir; she never told me her story until lately. 20

Q. You never raised any claims that you were entitled to all this property until this suit? A. No.

DIRECT EXAMINATION BY MR. WELLER:

Q. Mr. Buttlar was a widower when you married him, was he not? A. Yes, sir.

Q. What did Mr. Buttlar do excepting what you have spoken of from 1882, when he failed at Coney Island, up until 1889, that is when he was not in the feed business? A. He only was in the bottling business and in that saloon. 30

Q. How long was he in the saloon? A. About a year, I guess.

Q. The rest of the time was he idle? A. Certainly.

Q. (By the Court): When was it he commenced the feed business? A. 1886. 40

MINA BUTTLAR—Direct.

Q. (By the Court): Then he went to Europe before or after that? A. After that.

Mr. Weller: 1887 they went to Europe the last time.

The Court: Both together?

A. Yes, sir.

10 Q. Did you have any money left out of the Bethune Street property in Brooklyn after your husband failed, did you get anything out of that? A. Out of the Bethune Street property, no, sir. Bethune Street bakery you mean?

Q. When you moved to Hoboken, you speak about putting money in the joint names. were you willing to do that? A. When we moved to Hoboken?

20 Q. When you came to Hoboken and opened the bakery were you willing that he should put the money in both names in the bank? A. No, sir; I was not willing.

Q. Why did you allow it? A. He done it; he was going to bring the money to the bank; I could not go and he says I will bring it.

Q. (By the Court): Which bank was that? A. Savings Bank.

30 Q. (By the Court): Which bank did she put it in?

Mr. Weller: We don't know. She says she cannot find it. She has had it hunted for for four or five times and they claim they cannot find no such account.

40 Q. Now you said something about the time the property was changed in the joint names your not being willing to do that but Mr. Buttlar threatened you? What did he tell you he would

MINA BUTTLAR—Direct.

do with you? A. Which property?

Q. First street? A. Certainly, he threatened me, he took his two fists on my head, ground his teeth, he said if I wouldn't do it, put his name on that property, he would break every bone in my body.

Q. Did he ever say anything to you about putting you away anywhere? A. Oh! yes, sir. 10

Q. What did he say? A. He often said I should croak he would make me dead.

Q. Did he ever say anything about putting you in an asylum? A. He was going to put me in a crazy house.

Q. Was the Clinton Street property a paying property? A. Very well paying property, pay 20 per cent.

Q. Now, you asked about the time you bought the lots? Did you borrow any money at that time or your daughter, or about that time? A. 20
Those three lots in West Hoboken?

Q. Yes? A. I borrowed \$300.

Q. That is the time about the time, you got the \$184 from your uncle, was it not? The money from your uncle in Germany? A. That was 1892, that was after.

Q. (By the Court): That was 1892, \$136.32? A. Yes, sir.

Q. This is the first bank account you ever had? 30
Yes, sir.

Q. You opened that in 1866? A. Yes, sir.

The Court: That is in her own name?

Mr. Weller: That is in her own name.

Bank account Marked Exhibit C12.

JOHN S. MABON, sworn:

DIRECT EXAMINATION BY MR. WELLER:

Q. You are an attorney and counsellor at law? 40

JOHN S. MABON—Direct.

A. I am.

Q. And you are in partnership with Judge Abel I. Smith, of Hoboken? A. I am.

Q. Do you remember the time the property was sold on Clinton Street by Mina Buttlar to a man named Effert? A. I remember the time when some property was sold but on what street it was, I don't remember.

10 Q. Where was the money paid over? A. In my office.

Q. Who was there at that time? A. Mr. Buttlar and Mrs. Buttlar, the purchaser, myself and I think another; it was a good many years ago, and I don't remember.

Q. Mr. Effert's attorney, was it? A. Very likely.

20 Q. Whom did you represent? A. I represented Mrs. Buttlar.

Q. Will you kindly tell the Court in your own way what took place in the office at that time? A. I think that I drew a contract previous to the time of passing title and before the time of passing of title Mrs. Buttlar came to me and said she thought her husband would probably try to get the money and wanted me to look out for her interest on the day of passing title; the first thing done was the execution of the deed; I 30 just handed the deed to Mrs. Buttlar who was on my left hand; the purchaser produced the bills, quite a large roll of bills, Mr. Buttlar stepped forward and said he would count the money, which he did; after he counted the money, he rolled it up and was about to put it in his pocket, when I suggested to him that the deed had not been delivered; that made the purchaser anxious and the money was eventually returned and Mrs. Buttlar took it; Mr. Buttlar in the 40 meantime claiming to have some interest in it;

JOHN S. MABON—Direct.

what interest I don't remember; whether it was a half interest or whether it was an interest in all.

Q. Did he start to go out of the office with the money? A. I don't know whether he started to go out with the money or not; my impression is that the purchaser got anxious when he found he had neither money or deed and went to the door to prevent his going out, if he should try to; but it so long ago I can't remember all the details. 10

Q. Did he attempt to give any of the money over to his wife, or did he take it all? A. Took it all.

The Court: Meant to get it all, that is the fight now by him.

Q. Did you observe anything in the conduct or actions or appearance of Mr. Buttlar at that time that would indicate whether or not he had any power over his wife? 20

Objected to.

Q. (By the Court): You took the acknowledgement of the deed? A. I took the acknowledgement of the deed, I think. I think I did take the acknowledgement. I must have taken the acknowledgement because I passed the deed over to Mr. Buttlar. 30

CROSS EXAMINATION:

Q. There is no need of my asking you if you did, it was because you knew she knew what she was doing? A. Yes, sir.

MRS. ELSIE WITTE, sworn.

DIRECT EXAMINATION BY MR. WELLER:

Q. Where do you live? A. 926 Park Avenue, 40

ELSIE WITTE—Direct.

Hoboken.

Q. What is your husband's name? A. Charles H. Witte.

Q. Did you and Mrs. Buttlar buy any business in 1886? A. Yes, sir; we did.

Q. What was it? A. Feed business, feed and grain and flour.

10 Q. (By the Court): Bought it of your husband, I suppose? A. I bought it with my money.

Q. (By the Court): You bought it of your husband, didn't you? A. No, he didn't have any money.

Q. You and Mrs. Buttlar bought it in partnership with one another? A. Yes, sir.

Q. (By the Court): But he owned it first?

20 Q. Whom did you buy it from? A. We opened a store.

Q. (By the Court): Your husband had not been in business before? A. He had been in business before, yes, sir.

Q. (By the Court): In the feed business? A. Yes, sir.

30 Q. (By the Court): In that place? A. No, not in that place.

Q. Whom did you buy the property from? A. From Mr. Leicht.

Q. A lawyer? A. A lawyer, yes, sir.

Q. You paid no money? A. No.

Q. But assumed a mortgage of \$3,000? A. Yes, sir; I believe so.

Q. Now you say you put your own money in, what did you put money in for? A. Because my husband didn't have any money.

40 Q. I know, but what did the money go towards

ELSIE WITTE—Direct.

doing? A. Towards the business, buying stuff with.

Q. Was there any building on it? A. No.

Q. Was there a building put up? A. Yes, sir; a building was put up.

Q. Who else put in money besides you? A. Mrs. Buttlar.

Q. Did Christian Buttlar ever put any money in of your own knowledge? A. Not that I know of, I can't tell, he might, but I don't know. 10

Q. How much did the building cost? A. I believe \$1,100.

Q. And what else did you buy in the way of the business, horses, wagons? A. Yes, sir.

Q. And feed? A. Yes, sir.

Q. How long did you run the business in connection with Mrs. Buttlar? A. Two years.

Q. Then what happened? A. Then Mrs. Buttlar paid me out. 20

Q. How much did she give you? A. \$1,200.

Q. (By the Court): Did she hand you the money herself? A. She handed me the money in Lawyer Smith's office.

Q. And the whole cash was paid to you at that time? A. The whole cash, yes, sir; I believe it was in his office.

Q. Was there any notes or anything passed at that time? A. No, it was all in cash, every cent. 30

CROSS EXAMINATION BY MR. VAN WINKLE:

Q. Had your husband been in the feed business before? A. Yes, sir; he has been in the feed business before.

Q. And had he failed in business? A. Yes, sir; that was my business what he had before. I was 40

ELSIE WITTE—Cross.

a widow and my first husband left me to enter in the business. I put my second husband up in it and he lost every cent in that business.

Q. (By the Court): Where did you get any money to start again? A. I had some money left in the bank.

10 Q. How much did you put in this business with Mrs. Buttlar? A. I put in \$300 because I would not risk so much any more after I lost so much.

Q. (By the Court): You put in \$300 and got back \$1,200? A. Yes, sir.

Q. Did you go down to the feed store yourself? A. I didn't go down very often; my husband attend to it.

20 Q. And did you have any partnership papers of any kind.

The Court: Between you and Mrs. Buttlar?

A. I don't remember exactly; it is so long ago.

Q. Did you keep any books of the business? A. My husband kept them in the store with Mr. Buttlar.

30 Q. Where are his books, do you know? A. I suppose Mr. Buttlar kept them after, no doubt after he bought him out, I believe.

Q. You don't know anything about that, do you, about the books? A. No, I don't know much about it.

Q. (By the Court): You never looked into it? A. I didn't.

Q. (By the Court): You knew you got \$1200? A. I knew I paid the money in and Mrs. Buttlar put the money out.

40 Q. How much money were you to get out of

ELSIE WITTE—Cross.

the business, were you to get a half interest out of the business? A. I don't know, Mrs. Buttlar put in more money than I did so I don't know; I don't expect I can expect half of it.

Q. (By the Court): You don't know what the bargain was? A. No.

Q. (By the Court): Did your husband draw money out every week? A. Draw wages \$10 a week. 10

Q. (By the Court): That is what you lived on? A. So much as I know, yes, sir.

RE-DIRECT EXAMINATION:

Q. Was the business a paying business? A. It paid fairly, nothing extra.

Q. Do you say the building cost \$1,100? A. Yes, sir. 20

The Court: She does not know anything about it except what her husband told her, and that is hearsay, unless Mr. Buttlar told her.

A. I know that my husband told me.

The Court: Now that is not evidence here.

Q. Do you know when they wanted a little money to run on with, if they needed money, where they got it from? A. No, I could not tell you. 30

ALBERT DREWITZ, sworn on behalf of the complainant:

DIRECT EXAMINATION BY MR. VAN WINKLE:

Q. Where do you live? A. Newburgh, New York. 40

ALBERT DREWITZ—Direct.

Q. What is your business? A. Groceryman.

Q. Have you been in the bakery business? A. Yes, sir.

Q. Did you work for Mr. Buttlar in the bakery that he had in Brooklyn, Graham Avenue, the first bakery? A. Yes, sir.

10 Q. And did you know him before his marriage? A. Yes, sir; I know him when he was married the first time; I knowed his first wife.

Q. Did you loan any money to Mr. Buttlar in connection with the purchase of that bakery? A. Yes, sir; \$150.

Q. And where did you get the money from? A. I earned it and saved it, I worked as a baker at that time and saved it.

20 Q. (By the Court): You were a journeyman baker? A. Yes, sir; journeyman baker and I saved that money, and I worked with Mr. Buttlar in 39th Street between 9th and 10th Avenues.

Q. (By the Court): Before you went to Brooklyn? A. Yes, sir; that was the time that he was married to his first wife, when she was living.

Q. (By the Court): Did you work for him over in Brooklyn? A. Yes, sir.

30 Q. And this money that you loaned to Buttlar, when did you loan it, do you remember what month? A. I loaned it to him just when he was about to buy that bakery.

Q. (By the Court): You loaned him the money and he put it in that bakery? A. Yes, sir.

Q. How long was it before he paid you back? A. I think it was nearly a year, I think, I forget, I think so.

40 Q. Did he give you a note for it? A. He paid me cash money, he gave me a note yes, sir.

ALBERT DREWITZ—Direct.

Q. Do you know where the note is now? A. I threw the note away after this.

Q. What kind of work did you see Mr. Buttlar doing in that bakery? A. He worked all night, there in the baker shop with me when I was working there, in the morning maybe he took a little sleep, a little while in bed for an hour, when we was through with our work and sometimes if we was not through he didn't sleep at all, then he attend to his customers and afterwards when he got home from his route, he baked cakes in the meantime. I always kept on working up to noon time. sometimes when we was not very busy in the baker shop. I noticed he was a very industrious man; he worked upstairs in the store, fixed everything nice up so that it looked nice and clean.

10

Q. Did he sell anything but bread and cake? A. Bread, cake and pie.

20

Q. (By the Court): They were all baked there? A. Yes, sir.

Q. (By the Court): Then you had regular bread baking at night for the morning and then you had cake baking and pie baking? A. Yes, sir.

Q. Had no wagons to deliver them? A. No.

Q. (By the Court): Who delivered them? A. He took it out.

30

Q. (By the Court): Great deal of bread sold over the counter? A. Yes, sir, he attend to it, and she attend to it.

Q. (By the Court): Who carried it out? A. He carried it out.

Q. (By the Court): What proportion of the product was carried out? A. Bread and rolls.

Q. (By the Court): What proportion, what 40

ALBERT DREWITZ—Direct.

share? A. Well I seen it take him every morning an hour and a half to two hours to take bread; he took it in a basket on his back and carried it winter and summer.

10 Q. How many hours out of the 24 did he work or attend to the business? A. He attend to the business, we will say, he start up at 7 or 8 o'clock.

Q. (By the Court): Just do the sum in your own head? How many hours out of the 24 hours did he get sleep? A. He slept from 1 o'clock to 7 o'clock in the afternoon.

Q. (By the Court): A little in the morning? A. Maybe an hour and Saturdays we worked later, start, we will say, 7 o'clock Friday evening and work up to 4 or 5 o'clock in the afternoon.

20 Q. (By the Court): Next afternoon? A. Next afternoon.

Q. (By the Court): More work Friday? A. Yes, sir.

Q. (By the Court): How long were you there with him? A. I was there about four months with him.

30 Q. (By the Court): What sort of manager was he? A. I, I think he was first rate of course, otherwise he never would have success.

Q. (By the Court): The business was successful? A. Yes, sir; he paid me my money back; I know he had nothing.

Q. (By the Court): When he started? A. When he started, he had trouble with his family and he lost his children and his first wife.

40 Q. (By the Court): Used up all he had? A. Yes, sir.

ALBERT DREWITZ—Direct.

Q. (By the Court): Sober man? A. He was a sober man, very sober, if he was not such and I thought he was a good man I would not loan him so much money.

Q. (By the Court): You would not loan him \$150 on his face as the saying is? A. That is just what I don't do.

Q. (By the Court): You had faith in him? A. Yes, sir. 10

Q. Was there any sign on that bakery? A. No I forget if any sign was outside; I think there was a sign inside "Christian Buttlar" and I know when we made the deed he had it, I was present at the time.

Q. (By the Court): Bill of sale? A. The bill of sale was made to Christian Buttlar and the money I loaned was to Christian Buttlar. 20

CROSS EXAMINATION BY MR. WELLER:

Q. Whom did he buy the place from? A. Louis Faist, I guess.

Q. (By the Court): You don't recollect his name? A. I forget his name.

Q. (By the Court): There was a bill of sale made? A. Yes, sir. 30

Q. Do you know what he paid for it? A. He paid, his wife got some money; he paid \$300 and what I gave him, him and his wife paid some money.

Q. (By the Court): How did he get \$300? A. \$300 was on mortgage.

Q. (By the Court): Did he pay it all off, do you know? A. I don't know about that, I forget. 40

ALBERT DREWITZ—Cross.

Q. (By the Court): They went ahead while you were there did they? A. Yes, sir; I know I got my money back.

Q. (By the Court): Where was this bill of sale made? A. In some lawyer's office.

10 Q. You don't know what lawyer's? A. I forget the name.

Q. Now you had been a friend of Mr. Buttlar even before he married this present wife? A. Yes sir.

Q. And you had loaned him money before that time? A. I loaned him money before that time, before on one occasion; got it back too.

Q. So that the time he purchased he owed you \$35? Didn't he?

20 The Court: Besides the \$150, did he owe you any more.

A. No, he paid that back and afterwards I loaned him \$150; he paid me \$150 back.

Q. When Buttlar got married he owed you \$35? A. Yes, sir; maybe that is right, I don't know if that was just the time he got married He owed me \$35, maybe he did.

30 Q. He paid you that back after the bake store was opened, didn't he? A. No, I think before he opened the bakery.

Q. What kind of work did the wife do? A. Well, she attend to all household, she attend to the washing, cooking and attend to the store.

Mr. Van Winkle: We want to state that Mrs. Buttlar always worked industriously did her full duty.

Q. How much money did they pay for the store, do you say? A. \$600.

40 The Court: \$300 by mortgage; \$150 Butt-

ALBERT DREWITZ—Cross.

lar borrowed and some other money his wife had but he did not know about.

Q. You don't know who took that mortgage?

A. The man who owned the business before.

Q. (By the Court): The man he bought the property from took a chattel mortgage back for \$300, part of the price? A. Yes, sir.

10

Q. The wife put in some money after he opened, didn't she? A. She put her money in just when the bill of sale was made.

Q. She didn't put in money afterwards to buy flour, etc.? A. I don't know.

Q. Well, you know there was money came from somewhere? A. Very little flour, I think, there was a little stock left.

Q. (By the Court): That she bought? A. That she bought, for the business, that helped them along, and at that time they took in so much money they could buy three or four barrels of flour again.

20

Q. You know they got money from somewhere to buy stock?

The Court: He says he thinks they got it from the sale of bread and stock and bought flour again, sold it over.

30

A. At the store he had very little stock, he bought ten dozen eggs and a tub of butter.

Q. They didn't keep books, anything of that kind? A. No, sir.

Q. How many customers did Mr. Buttlar carry out the things to? A. I can't tell you that. I only know he took from an hour and a half to two hours every day to attend to the customers outside.

40

ALBERT DREWITZ—Cross.

Q. Is it not a matter of fact he had only two people that he carried to? A. I don't know.

Q. Were not they saloon keepers? A. I don't know them people.

Q. You know he had nothing when they commenced? A. I know that.

Adjourned until to-morrow.

10

CHRISTIAN BUTTLAR, the complainant,
sworn on behalf of the defendant.

DIRECT EXAMINATION BY MR. WELLER:

Mr. Weller: I want to say before I commence that one of the daughters, who is a public-school teacher in West Hoboken, on account of the illness of the principal, could not come.

20

Q. You sold a half interest in the feed business on First street to George M. Goelz, did you not? A. So I did.

Q. How much did he give you for that? A. The amount is about right what your client told you yesterday, \$2,700.

Q. That is for the half interest? A. Yes, sir.

30

Q. When you sold the first half what did you get? A. Around \$2,000.

Q. And second half \$2,700? A. Yes, sir.

Q. That made \$4,700 all told? A. About that.

MRS. FLORA GRANDJEAN, sworn on behalf
of the defendant.

DIRECT EXAMINATION BY MR. WELLER:

40

Q. (By the Court): You are whose daughter?

FLORA GRANDJEAN—Direct.

A. A daughter of the two Mr. and Mrs. Buttlar.

Q. (By the Court): How old are you? A. I am 30 now.

Q. And you are a married lady living with your husband? A. Yes, sir.

Q. In the same house in which your mother resides? A. Yes, sir, up stairs. 10

Q. Do you remember when your mother owned the Clinton street house in Hoboken? A. Yes,

Q. Do you remember when your father purchased the saloon and bathing business at Coney Island? A. Yes, sir.

Q. Did you and your mother ever live there with your father? A. Not permanently, no, sir.

Q. What did you do, just tell what you remember about it? A. You mean about living in Coney Island? 20

Q. Yes? A. I was sick at the time with scarlet fever when my father came home and said he was going to go to Coney Island and buy a business; Mama says, how can you buy a business, you have no money", he says, "I don't need money;" I was sick in a room off the kitchen while they were speaking, so how it was bought or not I don't know; then I was sick and after I got better mamma took me down for the air; then we went back and forth sometimes on Friday. You see we had school; then the school ended we children would stay until Saturday, mamma would go home Friday to clean the house. 30

Q. (By the Court): You mean go home from Coney Island? A. Home from Coney Island; then she would clean the Clinton street property and bring back a basket of groceries and different things we need to eat down there Sunday we would go home again. 40

FLORA GRANDJEAN—Direct.

Q. But your mother's home was all the time in Hoboken and your home? A. In Hoboken, yes, sir.

Q. In the Clinton street house? A. Yes, sir.

Q. Now, who took care of the Clinton street house and run that business there? A. Mamma did.

10 Q. Well, just describe what she did. A. Well, she had to take the mats out and shake them; sweep the cloth, the oilcloth, there was oil cloth and over the oil cloth there was matting; some times she asked papa to help her; he said it is your property, see how you get along; he would not help her; she did the best she could. If there was snow on the sidewalk, she shovelled it off; there was always water in the cellar on account of the cellar lying below the sewer, I understood, and she pumped the water out.

20 Q. What would your father be doing when she was pumping water? A. Sitting on a chair next to the piano, feet on a stool and I played the piano for him.

Q. Your mother was always industrious? A. Yes, sir.

Mr. Van Winkle: We don't deny that.

30 Q. How did he treat your mother during that time about the Clinton street property? A. If a child cried in the hall, he was cross to her, said that was a nice way to keep house. She didn't know how to keep house", the tenant's children; if a person walked very heavy on the stairs, there was tin plates on the stairs over the oil cloth, some of them would probably make a little more noise than he thought they ought to and he would scold about that, said she didn't know how to keep tenants.

40 Q. Who supported you all those years, you and your sister? A. Mother.

FLORA GRANDJEAN—Cross.

Q. What did your father say about supporting you? A. He said he would not support his children, they should work he said; he would not support his children.

Q. From 1880 the time you purchased the Clinton street property till 1881, was it not, until 1885, when he opened the bottling business, did he have any business except the Coney Island business? A. Not that I know of. 10

Q. What was he doing all that time? A. Nothing because I know he went out nights playing cards and in the day time he was home.

CROSS EXAMINATION: BY MR. VAN WINKLE:

Q. How old were you when your father went to Coney Island? A. 11 years.

Q. And all you are testifying about now is the time when you were 11 years old? A. From 11 until of course I grew older every year. 20

Q. You have not forgotten anything at all about it, have you? A. No, sir, I remember my father's actions since I am 7 years old.

Q. When did you start to learn the piano? A. In the winter I was 11 and the Winter before, and then I was sick, you see like in the Spring, then I had to stop and begin again.

Q. And you mean to say your father wanted you to play the piano for him when you were just learning it, the same year? A. I was a very apt scholar, yes, sir. 30

Q. You played so well he wanted you to play for him the first year you were learning? A. I could play songs, yes, sir.

Q. You played for him to amuse him didn't you? A. I did, sir.

Q. He didn't make you play for him did he; he didn't beat you? A. He beat me. 40

FLORA GRANDJEAN—Re-Direct.

Q. Where did he beat you? A. Anywhere he could strike me, sometimes he hit me with the horse whip.

Q. With a club and shovel, all those things? A. Anything he could grip in his hands, mostly.

Q. Ever strike you with an axe? A. With an axe, no, sir.

10 RE-DIRECT EXAMINATION:

Q. Did your father during the time your father had that property in Clinton street try to get rid of it? A. Yes, sir, he always wanted to, hard to sell it.

Q. What for? Did he ever want to trade it? A. What he wanted to trade it for?

Q. Yes? A. One time for a chicken farm, I think.

20

Mr. Van Winkle: We admit he wanted to sell it; we admit all that.

Mr. Weller: I would like to recall Mrs. Buttlar for two or three questions I omitted yesterday.

MRS. MINA BUTTLAR recalled for

30 FURTHER DIRECT EXAMINATION BY MR. WELLER:

Q. Did you have any interest whatever in the Coney Island business? A. No, sir.

Q. Did you have any interest in the bottling business? A. No, sir.

Q. How much did you say you loaned him in all? A. \$830 and some odd cents it made altogether.

40

Q. (By the Court): Loaned him?

MINA BUTTLAR—Re-Called, Re-Direct.

Mr. Weller: Loaned him, yes, sir.

Q. When the bottling business was ended did he owe any debts from the bottling business? A. From the bottling business I understood he owed Steuhr.

MRS. MINA BUTTLAR FURTHER RE-DIRECT: 10

Mr. Van Winkle: Have you not got his book there, why don't you use it?

The Court: That is the feed business.

Mr. Van Winkle: He has got the bottling business too, in the front of the book.

A. How much he put in, but never what he took out.

Q. He told you that he owed Steuhr, what Steuhr was that? A. Lawyer's Steuhr's father. 20

Q. Was he ever paid? A. Not that I know of. I heard Mr. Steuhr was going to sue him.

Q. Mr. Steuhr, is he now an old gentleman? A. Mr. Steuhr was going to sue him because he owed him some money and the other Steuhr said his father should let it go.

Q. Yesterday in talking about Clinton street houses you said the husband wanted it on the joint names and you would not let it go there because you did not want to be sued or want him to be sued any more. Was there any other reason why you would not let it go in the joint names? A. Well, it was my own property, I didn't need to do it. 30

Mr. Van Winkle: I object to this re-direct examination over night.

The Court: It has very little effect under the circumstances. 40

MINA BUTTLAR—Re-Called, Re-Direct.

Mr. Weller: I have nothing further, excepting this, Lavinia the other daughter.

10 Mr. Van Winkle: I would like, Mr. Weller, if we can agree, that I can produce here two affidavits of different merchants who sold this man flour during the time he was in business without bringing them here with their books, will you agree to that?

Mr. Weller: I don't think that is hardly fair. I got the statement from the bank. I forgot that, I will offer that statement, the Second National Bank of Hoboken.

Mr. Van Winkle: We have no objection to that.

Statement marked Exhibit D 13.

20 Mr. Weller: We rest with the exception of Lavinia.

Statement of account where the defendant received \$138, offered in evidence and marked Exhibit D 14.

30 CHRISTIAN BUTTLAR, sworn on his own behalf.

DIRECT EXAMINATION BY MR. VAN WINKLE:

Q. What kind of property is this on First street in Hoboken, describe it to the Court? A. There were two empty lots and the place where I started with Charles Witte in First street between Willow and Clinton streets?

40 Q. I don't care about that? A. I only want to describe to the court how I came in possession

CHRISTIAN BUTTLAR—Direct.

of that property.

Q. Now tell the court what kind of property it is, what is built on it? A. Two empty lots with shanty on.

Q. How high is the shanty? A. One story high.

Q. Frame? A. Frame.

Q. (By the Court): Covering both lots, eh? A. One building covering the lot all and the next is only half and the rear of it is stables. **10**

Q. What is the value of that property about? A. It cost us \$1,100 outside of our work.

Q. I mean what is the present value of that property to you?

The Court: What did it cost you in the first place?

A. We paid \$3,000. **20**

Q. (By the Court): For the lots? A. For the lots.

Q. (By the Court): Then you put \$1.100 in shanties on it? A. Yes, sir.

Q. (By the Court): That made \$4,100? A. Yes, sir.

Q. (By the Court): Then he asks you what is its present value? A. I suppose if it come to an auction it would not bring any more; if by friendly deal, it might bring \$5,000. **30**

Q. Any mortgage against that? A. \$3,000 mortgage against it because we never paid one cent since the building was erected, we assumed the mortgage and Mr. Leicht surrendered the deed.

Q. (By the Court): That is, you gave a mortgage and he gave you a deed? A. Yes, sir. **40**

CHRISTIAN BUTTLAR—Direct.

Q. (By the Court): After you put the building on it? A. Yes.

Q. (By the Court): That was his margin? A. Yes, sir.

Q. (By the Court): You paid not a cent? A. No, sir.

10 Q. (By the Court): You say "we", who are "we"? A. Charles Witte and I.

Q. (By the Court): Did he put any money in? A. No, sir.

Q. (By the Court): He had been in the business before? A. Yes, sir.

Q. (By the Court): And what little, what you might call good will. A. Yes, sir, he had.

20 Q. (By the Court): You took him up? A. Because of his knowledge of the business.

Q. (By the Court): And the deed, when it was made, was made to his wife and your wife? A. Because we were both men who were not clear of our names.

Q. (By the Court): At that time? A. Yes, sir.

30 Q. (By the Court): That was in what year? A. 1885.

Q. As far back as 1885? A. In 1886 we erected the building.

Q. (By the Court): You hadn't got clear yet, had you? A. Coney Island business; the Brooklyn business was settled.

Q. (By the Court): The bakery business, those debts were all paid? A. Yes, sir.

40 Q. (By the Court): But you hadn't settled your Coney Island business, had you? A. No, sir.

CHRISTIAN BUTTLAR—Direct.

Q. (By the Court): Witte had failed and run behind? A. He never could make good.

Q. (By the Court): He could not get it? A. No, sir, because his debt was too high.

Q. Now, will you describe to the court the West Hoboken property, how many houses are built on it and its value, carefully? A. That is lot 1, 2, 3 and 4 I believe in block 92 and there is five frame houses erected two story high with bay windows. 10

Q. How many tenants in each house? A. Two.

Q. (By the Court): Upstairs and downstairs? A. Upstairs and downstairs.

Q. (By the Court): Then you bought the lot in the rear? A. To protect myself.

Q. And then to the rear lot are three lots of Mrs. Buttler? A. Which I bought at auction, yes, sir, and I sent my wife down to take the deeds and when she come home at night I told her to let me see those deeds, she said "what you want to see the deeds for", I said "I want to see if they are all right; she set in front of me and I read them, and I see she had the property taken in her own name, I say "how you come to do that, doesn't my name belong in that?" "No", she says she would not give it to me. 20 30

Q. (By the Court): What did the three lots cost? A. \$2,500.

Q. Any house on those three lots? A. I think the house cost more, but I found that the house is cheap; I never thought the house could be built for that price.

Q. (By the Court): She only paid \$2,200 to the contractor? A. I think it was at least \$3,000. 40

CHRISTIAN BUTTLAR—Direct.

Q. What is the value of those three lots and that house, about? A. I should judge \$6,000, the lots are \$1,000 a piece and that house is worth \$3,000.

Q. You have not given us the value of the five houses and vacant lot? A. The original cost of it?

10 Q. The present value? A. The present value, well, I suppose, about \$18,000 or \$19,000.

EXAMINED BY THE COURT:

Q. The whole concern? A. The whole concern.

Q. What does it rent for? A. \$14 and \$15.

Q. That is, \$29 a house for each month? A. Yes, sir.

Q. About \$95? A. \$134 a month.

20 Q. Have you got it all rented and paid for? A. Yes, sir.

Q. That is about \$1,500 a year? A. Around that figure, yes, sir.

Q. And taxes how much? A. This year the taxes is \$218.

Q. And the water rents? A. Well, they vary lately; they are a little more lenient. Lately I only paid from \$10 to \$12.

30 Q. \$10 to \$12 a year for each one? A. Every three months for the whole property.

Q. About \$50 a year? A. Between \$50 and \$60 now, but I have paid between \$75 and \$80; \$60 for the water rent, is \$278.

Q. And insurance? A. About \$15.

Q. That is a little less than \$300? A. Then comes repairs.

Q. How much is repairs? A. You can't go lower than \$150 a year.

40 Q. About \$450? A. The roof cost me last Fall \$118 alone.

CHRISTIAN BUTTLAR—Direct.

Q. \$150, that would be about \$450 a year? A. You don't pull through with \$450, it comes higher than that.

Q. About \$500 a year altogether? A. At the lowest calculation.

Q. And the whole rent is about \$1,500? A. Yes, sir.

Q. You think you got \$1,000 a year net out of it? A. Yes, sir. 10

Q. By attending to it yourself? A. Yes, sir, my own work, you have to do it yourself too.

Q. Then you count the whole concern worth about how much? A. \$18,000 or \$19,000 in a friendly transaction, if it would come to an auction, I don't think it would bring it at the present time.

Q. But it is worth to you to hold—how much is the mortgage for? A. \$6,000. 20

Q. And what rate of interest do you pay? A. Five per cent.

Q. That is \$300. leaving you after paying interest on the mortgage, leaving you about \$400 or \$500 a year? A. We will say \$600 or \$700 by the best management.

DIRECT EXAMINATION:

Q. Have you kept an accurate account of all you have received from that property and all you have paid out, got the bills and everything? A. As long as I have the property in my possession? 30

Q. Yes? A. Yes, sir.

Q. Down to date? A. Down to date, yes, sir.

Q. (By the Court): Some of this was gone into in the other suit before me, wasn't it? A. Yes, sir.

Mr. Van Winkle: Do you admit the service of this notice Mr. Weller upon Mrs. 40

CHRISTIAN BUTTLAR—Direct.

Buttlar?

Mr. Weller: Oh, yes, that notice was served.

10 Mr. Van Winkle: I offer in evidence certain notices, dated March 25th, 1902, signed by Christian Buttlar, addressed to Mina Buttlar and served on her March 26th, 1902, notice of rescision.

Marked Exhibit C-1.

Q. Now, you have got to go back to the beginning your wife did and you must too?

20 The Court: I will say to you subject to what Mr. Weller may say to you hereafter, I think it is your duty to put the evidence in, but according to my notion you don't need to. The impression of the evidence to my mind of Mrs. Buttlar and her side does not at all tend to show that the separation agreement was unfair, or the present holding of the property was unfair between the parties, but still another Court may take a different view.

30 Q. Now before you married Mrs. Buttlar how long had you been a baker? A. I am a baker from my 13 years of age.

Q. Your age now is what? A. I am 58.

Q. Mrs. Butlar's age is what? A. She must be 67.

Q. Now when you married Mrs. Buttlar where were you working? A. I worked that time in Schaffer's in Williamsburgh between 10th and 11th streets, Grand street, the bakery is there to-day.

40 Q. As journeyman baker? A. As foreman in the bakery.

CHRISTIAN BUTTLAR—Direct.

Q. (By the Court): You were a widower at that time? A. Yes, sir.

Q. (By the Court): Without children? A. My wife died when I was working.

Q. (By the Court): At Williamsburgh? A. Yes, sir.

Q. And your children all died? A. I had one girl. I had one child left from the first wife. Schaffer's wanted to take it but I didn't want to 10

Q. (By the Court): What became of the child? A. The child died. I brought it to the infant's home, Lexington avenue and 52nd Street and paid \$14 a month for the child.

Q. (By the Court): It died before you married this woman? A. Yes, sir.

Q. And you paid \$14 a month for it? A. Yes, sir. 20

Q. What wages did you earn as a foreman baker? A. In Schaffer's I had \$13 and board, at that time the bakers got board.

Q. Now then, when you married Mrs. Buttlar did you have any money saved up? A. Well, very little, two weeks wages I had.

Q. Did you have any bank account? A. Well, yes, sir, I had a small bank account in the Germans Savings Bank, corner of 14th Street and Fourth Avenue. 30

Q. And did Mrs. Buttlar tell you what she had? A. No, I didn't ask her; by accident I found a bank book of her's. I had saved up about \$50 and I brought it to the bank and by accident I found a bank book and asked her why didn't we put our little money together and we did.

Q. (By the Court): You say that after you were married you saved \$50 and you found her bank book? A. By accident. 40

CHRISTIAN BUTTLAR—Direct.

Q. (By the Court): And you proposed to put the money together? A. I asked why we didn't put it in one name so if anything happened we could have it, so we drew the money out on Saturday of the Citizen's Bank, I thought my bank better than the Citizens' Bank. I drew it out of the Citizens' Bank and deposited it with my saved up money. I always thought it was \$114, in 14th Street Bank and Fourth Avenue. We took her \$102.71, I always had in mind she had \$114 when I married her.

10

Q. (By the Court): But the bank book shows now it was \$103? A. It was \$102 and I put \$38 of my own money to it to make \$140, and deposited that which the transcript from the bank book will show.

Q. (By the Court): Was that before you bought the place? A. Oh! my yes, sir; I was a journeyman.

20

Q. How long did you stay journeyman before you bought the first bakery after you were married? A. About 23 years.

Q. (By the Court): No, how long after you married before you went into the business? A. When I married this woman and started, one year.

Q. (By the Court): You worked as journeyman after you married her for a year? A. Yes, sir.

30

Q. (By the Court): And saved up something? A. Yes, sir; saved up some little more. We had only \$167.

Q. At the time you bought the bakery? A. Yes, sir.

Q. (By the Court): And you borrowed \$150? A. Yes, sir; I requested him to become a partner, he

40

CHRISTIAN BUTTLAR—Direct.

said, "no, I don't want to become a partner, but I will give you my money. He went to the bank and drew it and gave me the money, and on that sum together we started the bakery.

Q. (By the Court): He went to work for you?

A. Not right away. I kept the man that was in it, and I told that man to get another place and took my friend to work. 10

Q. What did you pay for the bakery? A. \$600.

Q. How much in cash? A. \$300 and \$300 in mortgage.

Q. How long before you paid the mortgage off?

A. About 8 or 9 months.

Q. Out of the earnings of the bakery? A. Yes, sir.

Q. Did you know of Mrs. Buttlar having any money on hand except that? A. No, sir, why the first evening we hadn't enough to buy supper; we had only coffee and bread. All the money was gone. 20

Q. (By the Court): The night you married? A. No, the first day we started in the first business.

Q. (By the Court): There was nothing left at all? A. We done with bread and coffee, and next morning the money we took in over the counter we could buy breakfast; have our milk, I told our workman he must not be particular, that shows how much money we had. 30

Q. (By the Court): Did you know of her having other money then? A. Not a five cent piece.

Q. What kind of work did you do in the bakery? A. As a baker.

Q. What is that? A. Baking bread.

Q. (By the Court): You had to mix the bread? A. 40

CHRISTIAN BUTTLAR—Direct.

I was foreman of my own place; I made my own foreman.

Q. How many hours a day did you work? A. Well 16 or 17, 18 or 19, but never less than 16

10 Q. (By the Court): You had to bake at night, regular bread for the morning, and did fancy baking besides? A. Yes, sir, served bread to customers as it was the fashion at that time.

Q. And who carried out the bread? A. I did.

Q. On your shoulders? A. Yes, sir

Q. How many customers?

Q. (By the Court): Did you have much of a trade? A. Not less than three dozen.

20 Q. Go from house to house with it? A. I tried wherever I could get one, where I could get a customer I was willing to please them and serve them.

Q. How long did that business go on? A. Two years.

Q. Did you make any money? A. Yes, sir, I did.

Q. (By the Court): Pay off your mortgage? A. Yes, sir; I did.

30 Q. (By the Court): What did you have at the end of two years? A. Well, I should judge there was a little over \$2,000.

Q. Made already? A. Yes, sir.

Q. (By the Court): And your living of course came out of the business? A. As a rule.

Q. (By the Court): Your wife had a baby in the meantime? A. Yes, sir; the child was six months old when I bought the first place, six weeks old. The child was six weeks old.

40 Q. Still I suppose your wife was very hard

CHRISTIAN BUTTLAR—Direct.

working and industrious and did her own work?

A. She was a good woman.

Q. To whom did you sell the first business? A. Joseph Amrain.

Q. Amrain was here yesterday, was he not? A. Yes, sir.

Q. How much did you sell the first business for? A. \$600.

Q. And who was the one that bought it? A. Joe Amrain.

Q. Did he pay in cash? A. No, sir; he gave me \$400 cash and \$200 mortgage.

Q. What did you do with the cash you got? A. Well part of it I went to Germany with and the rest of it I put in the bank.

Q. How did you go to Germany? A. What class.

Q. Yes? A. In steerage. I bought a ticket for \$40; come and go, which was cheap at that time; it was only \$25.

Q. (By the Court). Return tickets for \$40? A. \$44.

Q. What time did you spend in Germany? A. All in all ten weeks.

Q. (By the Court): That is all here and back? A. Yes, sir.

Q. You were gone ten weeks? A. Yes, sir.

Q. Did you spend all your time with your people over there? A. Yes, sir; nowhere else.

Q. How much did you spend on that trip coming and going? A. \$200 all told.

Q. Now when you got back how long was it before you went in business? A. Two weeks.

Q. Where was the business? A. In Ewing St.

Q. I forgot to ask you about the first business, was there any sign on the store there at all? A. It was my sign on.

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Q. (By the Court): What was it? A. "Christian Buttlar."

Q. (By the Court): What was it on? Curtain or —? A. It was on glass; I am sorry it was broke; I had it made for me, what you call the coat of arms of my family on.

10 Q. Now then in the Ewing Street bakery, did you run that, too? A. I did.

Q. And did that turn out to pay? A. No, I could not make it pay; I tried my best but it was a Jewish trade and among other things they come and wanted to get stale price already.

Q. (By the Court): There were too many Jews around? A. Nothing but Jews.

20 Q (By the Court): And you could not get back the trade of your old place? A. Well, I went to Joe Amairn, if he had no objection to my going and buying that bakery, he said "no, if you don't buy it some one else will," because I sold him the place only one block away from where I bought; he said "you can't do me no harm down there" so I could not go against his customers, I could not go around and work my old trade to serve them again.

30 Q. (By the Court): Didn't make it go? A. No, I could not, I tried the best.

Q. How long did you run that business? A. From five to six months, I bought it when I got back in April and I tried it there until December.

Q. Did you do your own work?

The Court: What year was this?

A. That was in 1876—must be 1876 or 1875.

40 Q. (By the Court): You were married in 1872?
A. In 1872, in February.

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Q. And you worked a year, that is 1873 and then you—? A. Bought my first place.

Q. (By the Court): And ran that how long? A. Two years, it must be 1875; I was in Ewing St. in 1875.

Q. (By the Court): And in the Spring of 1875, you went to Europe? A. Yes, sir; I went in February and came back in March. 10

Q. Now, then, what became of the Ewing St. bakery? A. Well, I signed it over to my wife; I owed the spice man, Sam. Rice, he was spice man he sold me butter, eggs and spices, etc.

Q. (By the Court): And you owed him? A. I owed him some money, but he encourage, don't be so foolish, and lose all that money; he said sign the property over and don't pay them. 20

Q. (By the Court): Who were you in debt to? A. A man, Frank Ibert, Robert & Collins.

Q. Were they in partnership or different people? A. No, Robert & Collins were one firm and Frank Ibert was another firm.

Q. (By the Court): Two different people you were in debt to, how much, about? A. I should judge about \$400 or \$500.

Q. (By the Court): So you put the property out of your hands? A. One load of flour, they would not give me any more than one load of flour. 30

Q. (By the Court): You owed both of them, did you and this spice man advised you to put the property out of your hands? A. I owed him \$60 or \$70.

Q. Did you owe anybody else? A. I owed Munshine; I owed Moses Greenbaum \$30 for butter and eggs. 40

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Q. (By the Court): How long did you run it in your wife's name? A. Six weeks.

Q. (By the Court): What then? A. Then she gave it up, only wanted to go over the holidays; I was ashamed of myself and I lost courage and ran away; that is true.

10 Q. (By the Court): But at the time with \$2,000 you had you had made \$2,000? A. Well, your Honor, I didn't want to pay, if I know to-day I would pay my debts.

Q. (By the Court): The money was in bank? A. Yes, sir.

Q. (By the Court): You had the money and could have paid right out? A. I would be out so much and took poor advice.

20 Q. (By the Court): Your bad advice was dishonest? A. Yes, sir.

30 Q. Were those men all paid afterwards? A. Yes, sir; they were more than paid because they took the flour out of the shop and they took my paid flour also; there was some money left in the bank and they also—Levi I believe his name was—and they made an agreement, they took half the money that was in that German bank and half they paid over to me; that was the settlement I got and the bill paid in full.

Q. (By the Court): So some of the money in the bank was paid to them afterwards? A. Yes, sir.

Q. (By the Court): Where did you go to then? A. Then I went to work.

40 Q. When you ran away, did you go to Chicago? A. Oh! my no.

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Q. (By the Court): Where did you go? A. I went away to Pennsylvania.

Q. How long did you stay there? A. I came home again.

Q. What did you do then? A. I told her to settle up, I was ashamed to show my face in the neighborhood; then I went to New York with her brother and staid there until she came with the furniture over. 10

Q. (By the Court): Moved over to Hoboken? A. Corner of Bloomfield and Fourth Streets.

Q. (By the Court): In New York? A. Yes, sir; and I had a place here in Halsteads, Monticello Avenue.

Q. Jersey City? A. Yes, sir; I was working there; as soon as I was free I looked for a job. 20

Q. And how long did you work as a journeyman? A. In Halsteads? Well from January up to May or June; and then I passed First Street down when I went to work and saw an empty store.

Q. That is First Street, Hoboken? A. Yes, sir.

Q. (By the Court): You were living with your wife over in New York? A. Only say one week in New York, only say one month. 30

Q. (By the Court): But you saw this place as you were going back and forth from your work to your home, saw the empty place? A. Yes, sir; and I rented it.

Q. What store was that? A. That is 164 First Street, Hoboken.

Q. Well now what did you do after the store was rented? A. I moved my fixtures over from Brooklyn and started to bake. 40

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Q. You had fixtures left? A. I had fixtures left, yes, sir.

Q. How long did you run that bakery? A. About a year and a half.

Q. What kind of work did you do? A. Made my own foreman; I had a man to help.

10 Q. (By the Court): Carried on the same business as you had in Brooklyn? A. Yes, sir.

Q. (By the Court): Was it successful? A. Yes, sir; it was successful.

Q. (By the Court): You had your family over there? A. Yes, sir; had family with me.

20 Q. (By the Court): Your wife had another baby or so? A. Yes, sir; I was very unsuccessful with my family; I lost my boy there; I was successful in money but not in family affairs.

Q. How much did you make in that bakery? A. Well, I made at the lowest calculation \$1,800.

Q. Was there any stock up in that bakery? A. Well, no, not there.

Q. And whom did you sell to? A. Phillip Bohley.

30 Q. Well, now was there not a bill of sale made by you to Bohley? A. I made the bill of sale to Bohley in Mr. Bretzfield's office, the old gentleman was alive at that time, Morris Bretzfield, he made the papers, and to protect the man on account of difficulties, I let my wife sign, when we came home from the lawyer she signed it in the store.

Q. The bill of sale? A. Yes, sir.

Q. (By the Court): How to protect the man? A. Well, on account—

40 Q. (By the Court): Hadn't you settled all of your Brooklyn business yet? A. No, I settled the

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Brooklyn business when I came back from Germany.

Q. (By the Court): The second time? A. Yes, sir. I wanted my good name back.

Q. (By the Court): The mortgage was made by your wife, and the bill of sale was signed by your wife to Bohley? A. That must be, my name in that bill of sale. 10

Q. (By the Court): No? A. Then it is not the original bill of sale.

Q. (By the Court): This is chattel mortgage given by Bohley to your wife, but you signed the original bill of sale? A. Yes, sir.

Q. (By the Court): And took the mortgage back in your wife's name? A. Well, maybe, I won't deny this. 20

Q. Besides taking that chattel mortgage back did you get anything else from Bohley? A. Mr. Bohley gave me \$100 for the business and gave me power of attorney to collect his inheritance in Alsenze, they call it; Bavaria; in the Rhine section, and I went there and Mayor Miller pay me out that money.,

Q. (By the Court): How much? A. \$500.

Q. (By the Court): Then you sold the place for \$600, got cash \$100 and mortgage? A. Power of attorney to collect this inheritance. 30

Q. (By the Court): I know, but here is a mortgage? A. I could not understand that mortgage; maybe it was made.

Q. (By the Court): \$300 the mortgage is for? A. Well, but I got power of attorney for \$500.

Q. (By the Court): Then when you got the \$500 40

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that paid the mortgage? A. I suppose I must have signed him satisfaction piece to cancel the mortgage then.

Q. (By the Court): It don't matter, you say at present you had forgotten the mortgage, what you relied on was the power of attorney? A. Yes, sir.

10 Q. (By the Court): When you went to Europe with your wife and family and staid there two years, you got the \$500? A. I went and collected it from Mayor Miller.

Q. (By the Court): It was while you were living in Europe with your wife? A. Yes, sir.

Q. How was that power of attorney made out? A. In my name.

20 Q. (By the Court): The price was \$600? A. Yes, sir.

Q. (By the Court): The power of attorney was given to you? A. As Christian Buttlar, otherwise the Court would not pay me out.

Q. Why did you go to Europe? A. Well, I could not, I had trouble in regard to health. I lost a boy and my wife was always complaining about her health, she was not quite healthy.

30 Q. (By the Court): Did you go to Europe immediately after you sold this out? A. Yes, sir, right away, the next week.

Q. (By the Court): You had saved money then? A. Yes, sir; I had saved money then.

Q. (By the Court): Amounting to over \$4,000? A. Yes, sir; around that figure.

40 Q. (By the Court): Do you know where that was? A. It was in about five or six different banks.

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Q. (By the Court): Savings Banks? A. Yes, sir; and the little mortgage I had in Brooklyn for \$900 about, but I could not recollect the name no more.

Q. (By the Court): You bought a mortgage over there? A. Yes, sir; it was assigned to me.

Q. (By the Court): You had a mortgage for \$900 and a lot of money earned in the savings banks? A. All kinds, Bowery Bank, Hoboken Bank. 10

Q. (By the Court): The mortgage and all and \$500 Bohley owed you, you had about \$4,200? A. Around that figure.

Q. (By the Court): That included the \$500 that you were to get on the other side? A. Yes, sir.

Q. (By the Court): That was all your possessions? A. That was all my possessions. 20

Q. That money in those banks, whose name or names was that in? A. In our joint names.

Q. How was this money taken to Germany, who took it? A. I did.

Q. (By the Court): What was the shape of it? A. A draft for 10,000 marks, 6,000 marks and balance in German bills, mark bills. 30

Q. (By the Court): Took a draft then for what we would call \$2,500, \$2,400? A. About that.

Q. (By the Court): It would be \$2,380? A. Around that.

Q. (By the Court): And then six thousand marks in German gold? A. Yes, sir.

Q. (By the Court): About \$1,400 or \$1,500 more? A. Yes, sir; and balance in German bills. 40

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Q. (By the Court): Which you bought I suppose at a German bankers in New York? A. They were marks, like our dollar bills.

10 Q. (By the Court): I understand that, but you bought them at some German exchange place? A. I done all my business with Henry Bishop; to my sorrow the book is not there any more; they destroyed the books about a year ago; they kept them for a number of years, if this would happen a year ago I would have all that proof.

The Court: As a mater of fact I know that the keeping of books beyond a certain time is an exception—the bankers, business men can't afford the room.

A. They destroyed over two tons of books.

20 Q. (By the Court): That was Judge Bishop's father, was it not, the banker over there? A. Yes, sir.

Q. Now, then, when you and Mrs. Buttler went to Germany, where did you go? A. Treffort, my home.

30 Q. (By the Court): In whose name was this draft? A. In my name "Christian Buttler" she was not along when I collected it. I cashed it in the bank where it was assigned to, the Bank of Saxony.

Q. And Treffort was your native village? A. About six miles from it.

Q. Was your father living? A. Yes, sir.

Q. And what did you do with the money you had when you got to Treffort? A. I bought a hotel.

40 Q. Was that in your name? A. Yes, sir; my wife's too, both names, I never want to own

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anything alone, she helped earn it, so she should have her name on it in case anything happened to me.

Q. (By the Court): You were willing to have it in the joint names? A. Yes, sir; she should not suffer after I died.

Q. What was the name of the hotel? A. The Sun. 10

Q. And what did you pay for it? A. I paid for it 17,000 marks.

Q. And did Mrs. Buttler live with you there? A. No, not that much, I paid 15,600 marks for it.

Q. Mrs. Buttler living with you there? A. Certainly.

Q. Now, then did you make any money the first year? A. I made 1,800 marks clear.

Q. The first year? A. Yes, sir. 20

Q. And had your living besides? A. Oh! certainly, you have to live, I done a good hotel business.

Q. Did you live pretty well? A. The first year we lived a little scant.

Q. (By the Court): That is you scanted yourselves? A. Want to find out how it goes. I made 1,500 marks, I saw we could afford it and we lived a little better, eat a little more meat and give the family a little more recreation, took a little trip once and a while. 30

Q. How much did you sell the business for? A. For 600 marks more, so that would be 1,600 marks.

Q. (By the Court): 600 marks more than you paid for it? A. Yes, sir.

Q. Why did you sell it? A. She wanted to go back to this country; she had saved up money, 40

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10 she abstracted money from the business whenever she could; had saved a little money and wanted to come back to this country, abstracted money from the business in the hotel; she wanted to leave me and wanted to come back to America; certainly I didn't want to do that, so to satisfy her I sold the hotel and came back to this country.

20 Q. (By the Court): You say she saved money out of it? A. I believe she had \$25, saved up 75 marks, wanted to go back to this country; when I wanted to sell my business my father said: "Why boy, what is the matter with you; you had a living like that," I was a little lord in the city, I enjoyed respect and was a banker also in the city; loaned a little money to the farmers, took their little interest and for that they come and patronize my hotel; had the best paying business in the place.

Q. (By the Court): Doing very well? A. I done fine, I wish I had never sold.

Q. When you came back how long before you got in business again? A. Two weeks.

Q. What business was that? A. I bought William Worth's bakery.

30 Q. (By the Court): That was not the Clinton Street property? A. No, then we had no property there.

40 Q. (By the Court): You brought back then about \$4,500? A. I know I brought a little more, when I came back; I deposited \$2,000 in the 14th Street Bank and deposited \$600 in the Hoboken Bank. I bought Worth's bakery for \$500 and bought a mortgage from Mr. Bishop out of the rest for \$1,600.

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Q. On New York property? A. It was New York property, in Essex Street, near Grand; it was a boarding house but I had nothing to do with the man.

Q. (By the Court): Bishop had the mortgage for sale? A. No, it was in his name; he converted it from his name to mine.

Q. (By the Court): Was it assigned to you personally? A. It was assigned to me personally. We brought back \$4,700; I could not really say for sure how much the mortgage was.

Q. (By the Court): You think it was \$1,600? A. To my recollection it was \$1,600.

Q. And you brought the money back from abroad? A. I did.

Q. (By the Court): What did you bring it in, a draft? A. No, I was always in correspondence with Mr. Bishop and asked him in which shape I should bring the money and he advised me to bring as much as possible in five and ten mark pieces in paper; not gold at all; I gathered as much as I could because they sell them to advantage here before Christmas; I landed here on the night of 28th October, if I am not mistaken, it was 28th October, and the balance I brought in 50, 100 and 500 and 1,000 marks.

Q. (By the Court): Marks, paper? A. Paper marks, and when I came to small paper he took right off my hands and for the big ones I had to wait for a couple of days until he could sell them to advantage; he sent me a postal card and I went over and on the same transaction I bought the mortgage of him; I told him I wanted to put the money to interest as soon as possible.

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Q. Who ran Worth's bakery? A. I did.

Q. What kind of work did you do? A. I made my own foreman.

Q. How long did you run that business? A. To my recollection nearly two years.

10 Q. (By the Court): And was there a sign up?
A. Not then. I put a sign up after I had settled with Munshine and Moses Greenbaum.

Q. What was the sign then? A. "C. Buttlar."

Q. And were you running the business? A. I ran the business.

Q. (By the Court): You managed the business?
A. I managed the business, I bought the flour in my name, I can prove that.

20 Q. Where did you buy the flour from? A. James K. Morgan, 83 Dey Street.

Q. Did you have his man here yesterday? A. I had his foreman here yesterday.

Q. What is his name? A. Henry Wick, and if the Court wants it, I bring the owner young James K. Morgan here. He is living in Brick Church.

Q. You bought the flour? A. I bought the flour; I bought everything.

30 Q. (By the Court): In your own name? A. In my own name; the firm failed and if we can find the books—I was there once in Brick Church, but young James K. Morgan is salesman for Mills now, I try to catch him next Sunday.

Q. Who did you sell the business to? A. To a man by the name of Kitz.

Q. (By the Court): Bill of sale to Kitz? A. Kitz is not the name.

40 Q. Your wife? A. Well that may be because

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the lease was in her name.

The Worth lease was made to your wife and the bill of sale was made to your wife? A. My name is not in the bill of sale.

The Court: That is the original bill of sale signed by Catharine Buttlar and the lease was taken in her name

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A. Yes, sir.

Q. What became of the money that you made in that business? A. During the time I was in that business I loaned \$3,000 to Mrs. Keiswetter, I don't know her first name no more.

Q. (By the Court): Whereabouts was the property? A. Corner of Clinton Street; they were customers of mine and the old lady said "if I only find somebody who lend me money this property brings nothing to me," I says, "Mrs. Keiswetter I lend you money, you are good customers of mine," I loaned her \$3,000, Mr. Rusch made the mortgage; it went all good.

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Q. (By the Court): Who was the mortgage made to? A. Mrs. Keiswetter.

Q. No, the mortgage was made by Mrs. Keiswetter, or Christian Buttlar, Christian Buttlar loaned \$3,000 to Mrs. Keiswetter.

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Mr. Van Winkle: Will you admit without producing the record the Keiswetter mortgage.

Mr. Weller: Oh! yes.

Mr. Van Winkle: It was a mortgage from August Keiswetter to Christian Buttlar, \$3,000.

Q. (By the Court): How much did you get from Kitz? A. \$1,000.

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Q. (By the Court): And you loaned Keiswetter \$3,000 the 1st of August, the same year, 1881? A. Yes, sir.

Q. And November 2nd, 1881 you assigned the mortgage to John Brung? A. Yes, sir.

Q. And got your \$3,000 back? A. Yes, sir; with interest in Mr. Strang's office at that time.

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Mr. Weller: That is the same \$3,000 the wife testified that he told her he had a chance to loan \$3,000, she says. This particular money was in the bank in both names, that she drew it and gave it to him, he and went and brought the mortgage back in his own name.

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The Court: He says plainly he was willing everything should be in the joint names of himself and wife because she helped earn the money and he don't make any difference with this.

Q. Now then how long before you were in business again?

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The Court: This is in 1881, after you sold it to Kitz? A. Then I went to work, I moved out of the bakery; I sold that; that was a gold mine, that bakery, that Kitz's bakery was a gold mine, but she would not stand on her feet any more and servant girls I could not get; I tried hard, I saved her as much as I could.

Q. (By the Court): Why couldn't she stand on her feet? A. The same old sickness, woman trouble, she could not stand on her feet, she worked hard, the woman did.

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Q. (By the Court): What is called female weakly complaint? A. Yes, sir; it was for that trouble I went to Germany.

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Q. (By the Court): Falling of the womb? A. Yes sir.

Q. (By the Court): After that she had trouble all the time? A. All the time, for I could get no servant; I took her own sister in that very business in First Street for a while and when I came in the evenings I know what I am baking, I come to the store and expect to find so much money in the drawer and only find it half. Well, I kept her sister three or four months and then I says: "Anna that won't do any more," and I chased her out. 10

Q. (By the Court): You could not get on because your wife was physically unable to attend to business? A. Yes, sir; she was. I tried it first with servant girls, I could not get it, therefore I sold the business again to Kitz; then I moved to Clinton Street, two months first, then to corner of First and Grand Streets, from the bakery I moved corner of First and Grand Streets. 20

Q. (By the Court): What did you do there? A. I worked as a journeyman baker in McDonald's corner of Communipaw and Montecello avenues as journeyman, baked 40 barrels of flour a week with two men. I had big wages there, that is right.

Q. (By the Court): And your wife was keeping house with the children? A. From there I moved to 29 Clinton Street one flight up and I worked in Communipaw and Montecello avenues with Mr. —the first name I don't know—McDonald I believe—his son is up there yet. 30

Q. (By the Court): How long did you live that way without being engaged in business except as journeyman? A. About nine months.

Q. (By the Court): After you sold out to Kitz? 40

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A. About nine months.

Q. Then what business next? A. Then I build-
ed the houses, these two lots together from Mr.
Ramsay, 29 Clinton Street, I was living one flight
up.

10 Q. (By the Court): In the same building? A.
The same building, he was the landlord; one day
he was filling up two lots, the property was
across the street; I says "what are you doing
there," he says, "I am filling up these two lots,
and tell you the truth I partly have bought them
it with my sisters are very religious people, Pres-
byterian people, very religious, my sister said,
"you ought to think of heaven and not property
and not property no more," and he said "I wish
20 I will take the property off your hands."

Q. (By the Court): That was the property he
had agreed to buy across the way? A. He had
that bought but hadn't taken title to it.

30 Q. (By the Court): And you said you would
"take that off his hands?" A. Yes, sir; and to my
recollection I sent my wife over to see the lawyer
about it, but when it came to taking the deed,
myself went over with money in my pocket and
Mr. Rusch and we squeezed down \$100 on the
loan.

Q. (By the Court): What did you get that for?
A. \$2,200.

Q. (By the Court): Where did you get that mo-
ney? A. That was money from the banks. I drew
the money from the banks.

40 Q. (By the Court): What year was that, what
date?

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Mr. Weller: October 12th, 1881.

Q. That is a deed from Catherine Quidor to Christian Buttlar, and Mina, his wife, dated October 12th, 1881, recorded in Book 360, Page 27, consideration \$2,300? A. If your Honor please, it just struck my head where the money came from. In the morning Rusch went to Hugo Wilt and I had him come to 366 Broad Street and there he paid me over the money. 10

Q. (By the Court): On this mortgage? A. Essex Street mortgage, it just strikes me and he paid me in the morning the money.

Mr. Weller: That is where the wife says it come from, that mortgage.

A. She didn't collect it. I collected it, and if the mortgage had been in her name— 20

Q. (By the Court): Never mind that. The mortgage was paid to you? A. Yes, sir, and then we went and took the deed.

Q. (By the Court): What did you give for the property? A. \$2,200.

Mr. Van Winkle: \$2,300 is the price on the deed.

A. We only paid \$2,200, Mr. Rusch got it off; we went to Mr. Quidor's house, told him we don't want the property and so and so and squeezed down \$100. 30

Q. How did Mrs. Buttlar's name get on the deed? A. I thought she should be part owner.

Q. (By the Court): You were perfectly willing? A. Yes, sir; I want to secure the woman all the time.

Q. She was not there at all? A. No, sir; she was not. 40

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Q. (By the Court): Had nothing to do with the bargain? A. Nothing at all only to find out who the real owners of the property; I believe she went before I took the deed to Mrs. Keiswetter, but when it came to the transaction I was the man.

10 Q. After you got title to the lots how long was it before you started to build? A. Right away.

Q. And who made the contracts? A. Phillip Bromershopf.

Q. And were the contracts in your name? A. Yes, sir.

Mr. Van Winkle: Will you admit Mr. Weller without production that the filed contracts, the building contracts on Clinton Street, were in his name?

20 Mr. Weller: I don't know.

Recess.

Mr. Weller: Mrs. Buttlar called my attention to a paper she gave me to offer in evidence—dissolution of the partnership between Mrs. Witte and her that is the receipt.

30 Paper offered in evidence and marked exhibit D14, receipt signed by Abel I Smith, dated May 19th, 1888.

Q. I was asking you about the contracts for the building of the Clinton street houses? A. Yes, sir.

The Court: He said they were made in his name.

40 Mr. Van Winkle: I wanted Mr. Weller. if he would to admit it.

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Mr. Weller: I admit it.

The Court: Admit that the contract was made in his name?

Mr. Weller: Yes, sir; the one contract you referred to there.

Mr. Van Winkle: The building contract?

Q. What kind of houses were built there? A. 10
Two four story double tenement houses.

Q. (By the Court): Wood or brick? A. Frame; basement brick and four story frame.

Q. How much did they cost? A. All in all it cost near \$12,000.

Q. (By the Court): Did you borrow money to do that? A. Yes, sir.

Q. How much was borrowed? A. To my estimation \$5,000 from Doctor Cheeseborough. 20

Q. (By the Court): There was a mortgage given? A. Yes, sir.

Q. (By the Court): And the rest you paid for? A. Out of the money we had in our possession, and \$1,000 I borrowed from business friends of mine, from Gerhardt Ernest, wholesale grocer, New York, 255 Murray Street, corner of Washington Street. 30

Q. How did you borrow it? A. Three notes.

Q. Signed by who? A. By myself all alone.

Q. (By the Court): How much? A. \$1,000 on three different notes; I ran short of money.

Q. (By the Court): Borrowed \$1,000 in all? A. In all.

Q. (By the Court): On your own note? A. On my own notes. 40

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Q. And were those notes paid off afterwards?
A. Yes, sir.

Q. Where did the rest of the money come from from cash money? from banks? A. From the banks and I sold a mortgage.

10 Q. (By the Court): That was to pay the purchase money? A. No, that was the money that was in the Essex Street property, I recollect that.

20 Q. (By the Court): You sold the mortgage to get the money to pay Mrs. ——? A. With the Essex Street property mortgage I paid Mrs. Quidort and Keiswetter money was taken up to the building and when all our money was used up Mr. Harper paid us out the agent. He furnished us the money from Dr. Cheeseborough and as soon as I got the certificate Dr. Cheeseborough handed us out the money.

Q. (By the Court): You had a mortgage for \$1,600 you think in New York? A. Yes, sir.

Q. (By the Court): And another one for \$3,000?
A. Yes, sir; that is right, and I sold the Essex St. mortgage and produced money for the land.

30 Q. (By the Court): All this went in and then \$6,000 borrowed—about \$12,000, you put in the property? A. Yes, sir; \$5,000 was the mortgage. \$1,000 I borrowed from Gerhardt Ernst.

Q. (By the Court): And about \$6,000 you had in money? A. Yes, sir.

Q. Now did you run a store in part of the house? A. I did, I built it myself, a small bakery.

Q. How long did you run the store? A. About 6 or 8 months, I can't say for sure.

40 Q. What year? A. 1881, and as soon as the pro-

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perty was finished I started to bake right away.

Q. (By the Court): And you run it 6 or 8 months? A. 6 or 8 months, I think it was 6, it may be 8.

Q. Was that store in your name? A. In my name all alone, the bakery; I had one working man.

10

Q. (By the Court): Did you have a sign out? A. Yes, sir; I had a sign in the store and had a sign on the awning.

Q. What sign was it? A. Christian Buttlar.

Q. And to whom did you sell the place? A. Elizabeth Rosenblath.

Q. (By the Court): That was, when you sold it? A. Yes, sir; sold the bakery.

20

Q. And the bill of sale was made to you from her? A. To Elizabeth Rosenblath.

Q. That is dated July 31st, 1882, consideration \$460.

The Court: Where is the original bill of sale?

Mr. Van Winkle: We have not got the original, it is in the printed book.

Paper marked exhibit C2.

30

The Court: Any objection to that?

Mr. Weller: No, the whole book is in.

The Court: The whole point is the bill of sale was by Christian Buttlar

Q. What did you do then? Now then the lease that you made to Elizabeth Rosenblath, when she bought, was signed by you, was it not? A. I signed it alone.

40

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Q. It is lease dated July 31st, 1882, for three years?

Mr. Van Winkle: That is an exhibit in this case and the testimony is Mina Butt lar was put in it after the lease was drawn.

10

The Court: The lease then was by him and his wife originally drawn by him, but afterwards wife joined in it because the title was in the two jointly.

Mr. Van Winkle: The people seemed to want it and they put it in.

Q. Now, then, after you sold to Rosenblath what did you do? A. Well I intended to do nothing, attended to the property myself, made my own housekeeper, I cleaned, swept the house.

20

Q. (By the Court): Be your own janitor? A. I made my own janitor.

Q. Well before that or after that, during the time you owned these houses, did you have a housekeeper? A. Not at that time.

30

Q. Afterwards was it? A. Afterwards we engaged a housekeeper. We engaged a housekeeper when I went to Coney Island, as long as I was home there was no housekeeper

Q. (By the Court): How long did you stay home? A. Not very long, I didn't, I suppose three or four months, then there wasn't enough for meto do.

40

Q. (By the Court): Then what did you go at? A. One day Mr. Steuhr passed the door, Lawyer Steuhr's father. He said "Buttler I have got something for you," I said "what is it?" He was agent for the Williamsburgh Brewing Company.

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he says, "why don't you go in that business; it is a fine business," I tried it.

Q. Bottling business? A. Bottling business.

Mr. Weller: That was 1885?

The Court: That was three or four years after he sold the bakery?

A. That is right. 10

Q. (By the Court): How long did you stay in that? A. About a year.

Q. (By the Court): Did you make or lose? A. I didn't make or I didn't lose.

Q. (By the Court): Came out about even? A. Came out about even. I saw it wasn't no business there was too much drinking doing: then mornings I come out I don't want to dring nothing at all, I came home drunk in the evenings, because when you have to sell beer you have to open bottles. 20

Q. How long did you have it? A. Had it a year, maybe 12 months, I sold out to people named Claus Von der Leith.

Q. Now, how long before you did something else? A. I sold the beer out to commence the feed business; I took that money from the beer out and started the feed business with it. 30

Q. When did you go to Coney Island? You have skipped that you see? A. You are right; I went to Coney Island first.

Q. (By the Court): Before you went in the bottling business? A. Yes, sir.

Q. Tell the Court how you came to go to Coney Island, what you did? A. William F. Rusch, justice of the peace, sent down to me, I says "I like 40

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to make money," he says "I have got something for you." He said he had a place in Coney Island. I would be the man for to run it; I was quite a number of years in this country and never had a foot on Coney Island, so I went down with him and looked the place over; I considered the place cheap and bought the place for \$300. I told him "I ain't got no money," he says "you can scrape up some," I said "I can scrape up some," he said "how much?" I said "about \$75," he said "I take the rest in notes," so I gave him \$75 and three notes, each for \$75; then I bought bathing suits and tried to make the business go, when I came down there everything—There was no rent paid, I was told the rent was all paid; the rent was not paid, so I had to pay off the rent yet and certainly it was a very bad season. I borrowed \$200 from Rosenblath to buy bathing suits and glassware and had to pay the license, also government license and I had no money to do it, so I went to Rosenblath and borrowed \$200 and certainly the season was bad and my wife came out and ridiculed me, my people in Hoboken make fool about me and encourage me that I was mad and got the idea to sign the property to her; I went to a lawyer in Hoboken and I says "what can I do to prevent—"

30 Q. (By the Court): You were in debt? A. I was in debt, yes, sir; I went to the lawyer and asked him what I can do to prevent that; Rusch had not got the money, the other people should get their money.

Q. (By the Court): Rusch only had \$225? A. Yes, sir; for the three notes, but he was the one that should not have the money.

40 Q. (By the Court): He deceived you? A. Yes,

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sir; I thought it was all true; that Rosenblath should have his money all the time, I would not skin those people out of their money.

Q. (By the Court): You bought property all in your wife's name? A. Yes, sir.

Q. (By the Court): Clinton Street property? A. Yes, sir. 10

Q. (By the Court): And broke up down there? A. No, I went down the second year.

Q. (By the Court): Second year? A. Yes, sir; I went down the second year and tried to sell it; I had everything that belongs to the business, and the second year we made a little money; made around \$250 the second year above expenses and all.

Q. (By the Court): What was you doing in the Winter time? A. Abel I. Smith put me on the car. 20

Q. (By the Court): Driving trolley? A. No, one horse car; I am the man that drove the first car through Willow Avenue, when the blue car is here; I came here and I said I have nothing to do, I can't work as baker, I would like to work as baker. Mr. Smith said "what you like to do," I said "I like to go on the car," he gave me a letter of recommendation to Mr. Potter and he put me on the car. 30

Q. After you got back to Hoboken from Coney Island, did you arrange for the sale of the Clinton Street property? A. Oh! that was long after, long after.

Q. (By the Court): You went into the bottling business and into the feed business? A. After the second year. 40

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Q. (By the Court): Two years you went into the feed business? A. I was two years down to Coney Island, in the Winter I drove car; when I came the second time back from Coney Island I went in the beer bottling business.

10 Q. You have told us about the beer bottling business. Now go on and tell us about the feed business, how you went in that and just what you did?

The Court: Tell me the date when you went in the feed business?

A. It was in the Spring time.

Q. (By the Court): What year? A. It must be when I went in the feed business—it must be 1885 or 1886.

20 The Court: Where is that book, the book you put in the other day, Mr. Weller, that shows it, no use of swearing.

A. That book got abstracted from me; I was hunting for it.

30 The Court: (Mr. Weller handing the book to the Court.) This is of no use at all, there are two things in this book, first, which I suppose is the beer bottling; the feed business I guess commenced in 1886.

Q. It was a partnership wasn't it at first? A. Yes, sir.

Q. (By the Court): It is in here April, 1886—it commenced here in April, 1886, the feed business? A. That is right.

40 Q. (By the Court): Probably April, 1886? A. Yes, sir; then I went in the beer business in 1885; feed business in 1886, are you satisfied with that?

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Mr. Van Winkle: Yes, sir.

Mr. Weller: He was describing at the beginning of the examination how the property was bought by assumption of mortgage, and how the building was built.

Q. Who built the building on the feed store lots after the mortgage was assumed? A. I and Charles Witte. We had a carpenter we paid him \$165 for the full contract to build up the whole business, stable, shanty and all, but we were compelled to help as much as we could. 10

Q. (By the Court): You bought materials? A. Yes, sir.

Q. (By the Court): The carpenter did the main work, the labor; did you and Witte buy the lumber? A. On the installment plan; lumber came from Charles Schultz; he took it out in feed and we took the heavy lumber from him and small lumber we took from Rudolph H. Meyer in Hoboken Street, Hoboken; he took by cash and paid in feed. 20

Q. From the business? A. From the business.

Q. Now then the cash that was paid for the lumber that went into the building, came from the business? A. Certainly.

Q. And you paid nothing for the land, you assumed a mortgage? A. That is right. 30

Q. Now, how did it come that Mrs. Buttlar and Mrs. Witte assumed that mortgage?

The Court: He swore to that because he was still under pressure—he had not settled the Coney Island debts then; it is all explained.

Q. Now then was there any arrangement between Mrs. Buttlar and Mrs. Witte that you 40

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know anything about of the partnership? A. No, sir; there was not never only we put the land merely in their hands because we could not keep our names.

Q. Was there any firm name for the business?
A. Witte & Co.

10 Q. (By the Court): Witte & Company? A. Yes, sir.

Q. (By the Court): And the goods were bought in the name of Witte & Company? A. Yes, sir.

Q. Who arranged for getting credit with that concern with the merchants? A. I did.

Q. (By the Court): Who managed the whole business? A. I did. I was the financial man.

20 Q. From whom did you buy feed and hay? A. A. Bonnell & Company, a big concern in New York.

Q. (By the Court): I suppose you got it right off the D. L. & W. train? A. Yes, sir; all over, all the tracks, the grain we bought from A. Bonnell & Company, grain dealers, New York City, pier 6 elevator.

30 Q. (By the Court): New York? A. Yes, sir, Henry Dusenbery & Company.

Q. (By the Court): When you got the goods you didn't go to New York for them? A. No, we had to go at that time to Pier 6, New York for most of them.

Q. (By the Court): You had to keep horses? A. Yes, sir; at that time three.

40 Q. (By the Court): How long was that continued? A. A month less than two years, because the man would not obey my commands.

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Q. (By the Court): Then you bought him out?

A. Yes, sir.

Q. (By the Court): Then you kept on yourself?

A. Yes, sir.

Q. (By the Court): How long? A. Another two years.

Q. (By the Court): Did you make or lose? A. I 10
made good money.

Q. (By the Court): Now then after Witte was bought out who run the business? A. I did in my own name, too, Witte left and the next week was my name on the trucks "Christian Buttlar," I will prove that with witnesses.

Q. (By the Court): Did your wife come up there and work in there? A. Well, occasionally when I went on the route I requested her to take care 20
of the office but otherwise a woman can't work in a feed store; I attended my route.

Q. (By the Court): You didn't have any clerk at all? A. No, only drivers, I worked as common laborer, as buyer and seller, and book-keeper.

Q. (By the Court): Yes, and collector? A. And collector; worked Sundays and all days.

Q. (By the Court): Was your family supported 30
from this business? A. I gave my wife—every Saturday evening, I drew \$12 out of the business and handed \$10 to her.

Q. During this time what was becoming of the rent from the Clinton Street property? A. She collected it and done with it as she pleased.

Q. Where was that money deposited? A. I can't answer that question, I suppose most of it went 40
to the Hoboken Savings Bank.

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The Court: Her account shows receipt of money which naturally come from there \$200 and \$400 at a time.

10 Q. How did you come to sell the Clinton Street property? A. I wanted to get the property under my control again after everything was settled; I requested her to put my name in; she would not do it. I requested her to give me one house and she keep one house; she would not do it; so I thought I would have to be a little political.

By the Court: Use a little policy you mean?

A. Yes, sir; use a little policy to get it on my name again. I saw how they wanted to use me home; they didn't use me very nice.

20 Q. (By the Court): At that time they began to act as if they were bosses and had control of you? A. I can prove if the Court please, that she said if it didn't suit me in the house I can get on the street, where it is good enough for me. I have nothing to do with the house; I can prove it with witnesses.

30 Q. Did you have any real trouble with your wife before the time she got the deed in her own name? A. Never, we lived happy, only the money made the trouble between us.

Q. Now then tell the Court how you arranged for the sale of those houses?

The Court: He made a good bargain, made some money out of it.

40 A. I gave it to an agent and arranged that the agent should send down to the feed store. and one day the agent, she sent down to the feed store and says, there is a man wants to buy

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the property; I came home, left the business in charge of my man; I says "why don't you go up and sell it," no she would not have nothing to do with it, so I went with the people and sold it for a certain bargain, certainly I sold it cheap; that was right; I could get more for it, it was worth more.

Q. (By the Court): But you made money on it? 10
A. Yes, sir; I made good money.

Q. (By the Court): You made a profit on the whole transaction? A. Yes, sir; but I sold it then too cheap; it was my counsel, I went to him and draw an agreement and the man handed me \$500 and she had to come up to sign it; after I had \$500 she commenced to kick; she wanted all that money; I says "no, that would not do"; I took her to the Second National Bank of Hoboken, and I wanted to open account in both our names and have it so arranged that neither could draw money alone she was afraid I wanted to take the money and run away; she would not do it; well, I deposited the money in my account; I kept going in the Second National Bank from the first day they opened it; I put \$500 there and when it came to deliver the deed, well then, she testified what happened; it is true what she said, I counted the money. 20 30

Q. (By the Court): She said you tried to get the money, and she would not let you? A. No, sir; she would not.

Q. (By the Court): She got the whole? A. She got the whole.

Q. How long a time was there between the time the Clinton Street title passed in Smith's office and the time you bought the West Hoboken lots. 40

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The Court: The deed shows about 28 days.

Q. (By the Court): You mean the bargain for those West Hoboken lots? A. Yes, sir.

Q. Who made out the deeds for the West Hoboken lots?

10 The Court: What lawyer drew it?

A. William K. Leicht.

Q. (By the Court): He owned the land? A. No, Otto Seigfried owned the land.

Q. (By the Court): Seigfried owned this property? A. Yes, sir.

20 Q. Now there is a receipt signed by William K. Leicht? A. That is for the amount of search and a certain per cent. of bonus to furnish me the \$6,000 on the property.

Q. It is a receipt for \$203 signed by Leicht, I will offer that in evidence.

A. That is part of it, he made a very good search.

Q. You paid that, did you? A. Yes, sir; I did.

30 "Received of Christian Buttlar, the sum of two hundred and three dollars, being for search of property on the corner of West and Malone Streets, West Hoboken."

Offered in evidence and marked Exhibit C15.

Q. Here is a bill head 188, form of bill head—"Christian Buttlar, 230 First Street." Is that the kind of bill head you had in that feed store business? A. Yes, sir.

40 Marked Exhibit C16.

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Sales books marked Exhibits C17, C18, and C19, printed on the top of each one is the name of Christian Buttler, covering two years.

I have a batch of checks here; those checks were before I sold the feed store to Becker; that is when I settled; there is some checks I paid for hay and grain and some checks I paid when she did not want to surrender no money for the house, I drew on my feed business

Mr. Van Winkle: I offer batch of checks signed by Christian Buttler on the Second National Bank beginning in 1890, some of those checks are checks for the West Hoboken building for the contractors, out of the business.

Q. Now then how long a time was it before you started to build, did you tell us?

The Court: Well, how did you? You gave back a mortgage when you bought the West Hoboken property, didn't you?

A. I took mortgage to build the houses, not for buying the land.

Q. (By the Court): The land cost you how much?
A. \$3,500 or \$3,800.

Q. (By the Court): Where did the money come from for that? A. That was Clinton Street money, I believe it was \$3,500.

Q. (By the Court): And the rest of it your wife paid? A. Yes, sir.

Q. (By the Court): Did she know you were going to take the deed in your joint names? A. She know that.

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Q. (By the Court): Did she know at the time?
A. Yes, certainly.

Q. (By the Court): How come you to do that; did she consent that you should come back again in your joint names? A. Certainly.

10 Q. (By the Court): She paid money for the building too, didn't she? A. The Clinton Street money.

Q. (By the Court): Yes, money that she got for the sale of the Clinton Street property, she put back into this? A. Put back into the Malone St. property.

Q. (By the Court): Then did you borrow some money of them on mortgage? A. Yes, sir, \$6,000

20 Q. (By the Court): She signed that mortgage? A. Yes, sir.

Q. (By the Court): How soon after you took the title, the deed, did you have to give a mortgage? A. The house was pretty near finished before I take the first money.

The Court: The date of the deed and date of the mortgage.

30 Mr. Van Winkle: The deed is dated April 29th, 1889, and the mortgage is dated April 1st, 1890, one mortgage; they are all dated that.

Q. (By the Court): The deed is not recorded, though until later? A. No.

40 Q. (By the Court): Didn't give it to see that the money came out; the deed was prepared and signed and executed probably some time before they got it? A. Because I took the deed you know from her, knowing where she drew the money out I think.

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Q. (By the Court): You had some money all this time in the Hoboken Savings Bank in your own name from time to time? A. Yes, sir.

Q. (By the Court): She drew October 21st, \$2,207 from the Hoboken Savings Bank; that deed was taken—

Mr. Weller: November 29th, 1889, the deed was taken on that date; the stubs show she paid \$3,300, the balance of the purchase money. 10

The Court: \$3,500 was drawn on November 1st, 1889.

Batch of checks offered awhile ago marked Exhibit C20.

A. This \$2,200 she drew when she bought those two lots. 20

Q. (By the Court): December 9th, 1889, she drew \$3,300? A. That is correct; that paid for the land.

Mr. Van Winkle: That is the date of the recording of the deed.

The Court: I made that out this morning.

Mr. Van Winkle: That is right, sir. 30

By the Court: And 21st she drew \$500 and January 15th she drew \$1,000 and February 21st she drew \$1,825 and then away in April she drew \$2,587; I don't know where the money all went to; I suppose it went into the building.

Mr. Weller: It went to the different carpenters, the stubs all show. 40

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The Court: It is very strange that you should have lost all the checks.

10 Mr. Van Winkle: We have not got the account of his feed store; not the bank account; we were agreed yesterday that there was only \$1,000 between us. They said about \$7,000 coming out of the business; we said about \$6,000; no disagreement about that.

A. The property cost near \$23,000, very little less than \$23,000.

Q. (By the Court): Of that she paid about? A. About \$8,000.

20 Q. (By the Court): And you paid about \$6,000 or \$7,000 out of the feed store and the rest was borrowed? A. Yes, sir.

Q. And the rest of the Clinton Street went into Mrs. Buttlar's own property?

The Court: Yes, sir.

Q. Now were the contracts for the building of the West Hoboken houses in your name? A. In my name alone.

30 Mr. Van Winkle: You admit that do you Mr. Weller.

Mr. Weller: I don't know, if that is the fact we will admit it.

Mr. Van Winkle: If that is so you will admit it without proving.

Mr. Weller: I will admit it without bringing them here.

40 Q. Now then I show you batch of receipts, one for \$240, signed by Herman Lucki, all made out to you?

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The Court: Herman Lucki, was the architect.

Mr. Van Winkle: Yes, sir.

The Court: A lot of architects receipts—how many are they—

Mr. Van Winkle: Eleven.

The Court: Eleven receipts. Are those all the receipts for monies paid to the contractors?

10

A. Lots more; that is the boss mason and the cellar.

Q. Have I got the others here? A. Yes, sir, you have got the carpenters there; the plumbers is missing but there is checks where I paid the plumber.

Mr. Van Winkle: Some of these checks are in that same connection; feed store checks.

20

A. Eleven receipts for monies paid to contractors on building the West Hoboken houses offered in evidence and marked Exhibit C-21; seven more receipts, being architects certificates and contractors receipts of the West Hoboken building all in the name of Christian Buttlar for carpenter work and marked Exhibit C22.

30

Q. Now, then, after the West Hoboken houses were built how long was it before you bought this extra lot to give you clearance in the bank? A. Right after.

Q. How did you come to buy that? A. To protect myself so nobody should build a very low mean house along side of me.

Q. Was it bought at auction? A. No, I bought that privately and I gave a check for \$364. and some odd cents and I had note given to me for

40

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feed from Charlie Hoffmann, I gave that note with the check, which paid for the lot, \$900., but I put her name in.

Q. (By the Court): The deed was made to both of you? A. Some cash and note for \$900 and cash to make up the \$900; I paid \$900 for the lot.

10 Q. The Charlie Hoffman note was a note he gave you for feed? A. Yes, sir.

Q. And you turned that over to the man you bought the lot of? A. I turned that note over to Mr. Otto Siegfried.

Q. I forgot to ask you, when you put up the buildings on the West Hoboken lot, besides paying out of the feed store business, did you give any notes yourself? A. When I settled up with the contractors I needed \$700 to settle; there was
20 no more money in my hands; I requested my wife to come down and get the money so I could settle with the contractors and that was the first serious fight we ever had; she refused, she said "no," what she got she will keep in her hands" what could I do, I wanted to settle with my people so I gave them notes and paid them off by degrees.

Q. Your own notes? A. My own notes.

Q. And paid it out of the feed business? A. No:
30 I was not in the feed business then any more; I paid them off from the rents and as soon as I could gather in, I paid them off by degrees.

Q. (By the Court): That, you say was the first real serious dispute between you and your wife? A. Yes, sir, I wanted her to come down and get some money so I could settle with the contractors and she refused to do it.

Q. (By the Court): Stated what money she had
40 she was going to keep? A. Yes, sir.

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Q. Did you have any object at all in buying the three lots Mrs. Buttlar has now? A. Well, I bought them on the auction.

Q. Where was the auction? A. On the land, Mr. Galbraith was the auctioneer; I made an even \$50 on the corner lot.

Q. (By the Court): So you bought them at auction? A. Yes, sir; it was auction for remaining lots and I bought three lots. I made a bid, I didn't think I would get it and I got it, and I bought corner lot. 10

Q. (By the Court): Which corner lot? A. On the same line, the same block; I didn't keep that.

Mr. Van Winkle: He sold that again.

Mr. Weller: I object to burdening the record with that; it has no bearing. 20

Q. (By the Court): And you called on your wife and she would not take it, unless she could have it in her own name? A. I sent her down to get the deeds; I don't know what I was doing at the time.

The Court: Why didn't you know what you were doing?

Mr. Weller: He said he don't remember what he was doing, that is, what business he was in. 30

The Court: What detained you?

The Witness: I worked as a baker, that is right.

Q. (By the Court): And you could not go and take your deed? A. That is right, otherwise I would go along and take the deed. 40

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Q. (By the Court): She got the deed in her own name without your knowledge? A. Yes, sir, I never thought she would do it.

Q. Now, then, after you got in the house in 1894, you and Mrs. Buttler signed this separation agreement? A. Yes, sir.

10 Q. And at the time this agreement was signed, where was it signed? A. In Steuhr's office, Lawyer. Steuhr's office, William S., I believe is his name.

Q. Was there any claim then raised by Mrs. Buttler that she owned all this property? A. Not in the least.

Objected to on the ground that it is immaterial.

20 The Court: I think it is quite material, but it don't make any difference about asking the question. The fact is, she did sign and deliberately, I suppose.

Q. Mrs. Buttler got one copy, one of the paper and you got the other? A. Yes, sir

Q. And this is yours? (Handing witness paper)? A. Yes, sir.

30 The Court: He put in evidence the Rosenblath case?

Mr. Van Winkle: Yes, sir.

The Court: You put in evidence the case of Christian Buttler against Mina Buttler held before Vice-Chancellor Pitney, with the understanding that the copy of the printed book may be used in the case precisely as in the Rosenblath case?

40 Mr. Weller: I would like to object to so much as is immaterial.

CHRISTIAN BUTTLAR—Direct.

The Court: There is nothing but bill, answer and decree that is material under ordinary circumstances. In extraordinary circumstances other proceedings may be. In this case, I suppose, Mr. Van Winkle don't want anything, nor do you in the Ros enblath case but the bill, answer and replication, if there is any and decree? That is all you want? 10

Mr. Van Winkle: That is all I care for.

Q. Did you ever get any answer from Mrs. Buttlar after you served this notice of rescision upon her? A. Never did.

Q. You said you were ready to give an accounting of the property to show how much you have taken in and how much you have spent; it is here in the books; you have got your books in court? 20

A. Yes, sir.

CROSS EXAMINATION BY MR. WELLER:

Q. Did you say that the Witte property, that is the feed store property—? A. That is not Witte property; it never was Witte property.

The Court: He calls it that for the purpose—because the title was in Mrs. Witte and your wife. 30

A. It was Buttlar first and Witte after; you have to call it Buttlar property not Witte property; we only put Witte property out of politeness.

Q. You said it was on the wagon "Witte Company"? A. "Witte & Company" on the wagons. yes, sir, that is right.

Q. When you bought that property you say \$1,100 was paid? A. \$1,100 was paid.

Q. Yes; that is when you started it in 1886? A. For the feed business? 40

CHRISTIAN BUTTLAR—Cross.

Q. Yes? A. Well, for the property.

Q. When you opened business in 1886, you said \$1,100 was paid, didn't you? A. No, you haven't got that right.

Q. What did you say?

The Court: The building cost \$1,100?

10 A. The building cost \$1,100 and that got paid in installments.

Q. How much did Witte pay of that? A. Nothing.

Q. How much did his wife pay? A. Nothing.

Q. How much did you pay? A. To start the feed business?

Q. To put up that building? A. Well, that got taken out of the business.

20 Q. Then that building was put up from the business, was it? A. That is what it was.

Q. That is, you put up the building and paid for it afterwards? A. That is right; we paid in feed and cash also.

Q. Then there was no money put into it right away when it was opened? A. It was not to my knowledge.

30 Q. Will you show me by this book when the business started? A. That is Witte's writing; Mr Witte was the bookkeeper then; that is Witte's writing.

Q. You recognize that as the book you kept at the store at that time? A. That is right.

Q. At that time you were not settled with your creditors? A. No, sir.

Q. You dare not have anything in your own name? A. The business was in my name after Witte left me.

40 Q. I am not talking of after Witte left you, I am talking at the time you opened the business?

CHRISTIAN BUTTLAR—Cross.

A. Yes, sir; here is Buttlar \$200, I took \$200 from home.

Q. And wherever there is "cash from Buttlar" that came from rents from those houses, did it?

A. That is right.

Q. Your wife collected rents of those houses?

A. Yes, sir.

Q. Whenever she gave you money to take down to the feed business from rents of the houses, or otherwise, you would put it in the books, "Cash from Buttlar?" A. Yes, sir. 10

Q. What did you say the property was worth now? A. The First street property?

Q. Yes, sir? A. Well, a good price, well not above \$5,000.

Q. Well, when you made a lease to Mr. Goelz, you made a contract to sell for \$6,000? A. With the expectation if I should become the owner of it in ten years. 20

Q. (By the Court): Who is Mr. Goelz? A. He is my successor.

Q. (By the Court): In the feed business? A. Yes, sir.

Q. He is the tenant now of the property? A. Yes, sir; I expect the property should be worth more in ten years than it is at that time, therefore we put the clause in. 30

Q. And you didn't ask your wife's consent when you put in that clause? A. I didn't think it necessary.

Q. Now, at the time your wife and Mrs. Witte purchased those two lots from Mr. Leicht, your wife and Mrs. Witte assumed that mortgage, did they not? A. For the property.

Q. \$3,000? A. For the property, they signed it

Q. And when your wife bought out Mrs. Witte 40

CHRISTIAN BUTTLAR—Cross.

she still assumed that mortgage? A. Well, it got signed over to her alone.

Q. After that it was signed over to Reibold—and signed back to you and your wife jointly? A. That is the way I wanted it.

10 Q. Still, her name is the only name on that bond now, is it not? A. Oh, no, Oh, no, that is our both names; that is in our both names.

Q. When did you sign the bond? A. The same day the deed was delivered; the same day the property went on our both names.

Q. Are you sure of that? A. Well, I would not say I am positive.

Q. (By the Court): You think so? A. Mr. Leicht ought to have done it that way.

20 Q. In 1887, or when the bond was signed, when you signed to Reibold and back to you and your wife, in 1889, you didn't make any new bond, did you? A. I can't recollect that and if Mr. Leicht overlooked that I can't help it, but I should think he made a new bond.

Q. And at that time you say you and Witte were both—

A. At that time Witte was not there any more.

30 Q. I am speaking of the time you bought the place, you and Witte were neither one clear of your names? A. I was clear as soon as the Coney Island business was settled. Then my name was clear.

Q. In 1886, you and Witte were neither one clear of your names? A. No, sir.

Q. Who did you owe at that time? A. The Rosenblath case was not settled, that is all against me and William F. Rusch.

Q. And were there no other debts? A. No, sir.

40 Q. This Munshine receipt that was offered in evidence—? A. Oh, God, that was forgotten.

CHRISTIAN BUTTLAR—Cross.

Q. That shows that some debts were paid up as late as 1880? A. You make a big mistake. Munshine's was paid off five years previous; I paid Munshine's out of the bakery when I came back from Germany, about January 1st, 1882; I didn't owe one penny to Munshine, to nobody any more; my name was clear then.

Q. What did the Coney Island business cost you? A. \$700 to Rusch. 10

Q. Is it not a fact that you agreed to pay \$1,000? No, sir; never.

Q. Is it not a fact that you borrowed \$200 from Mrs. Rosenblath? A. Indeed, I did.

Q. And also gave a note to Rusch for \$800? A. It is a big mistake, three notes, each \$75.

Q. (By the Court): If you are mistaken about that, you better recollect? A. Absolutely not your honor. 20

Q. Did you afterwards settle that with Rusch? A. I did.

Q. For how much? A. Between \$80 and \$90, not \$90 full he wanted to be a friend of mine again, when everything was settled, he sent a letter around. I should come to his office; he said, "well, Buttlar, I have always been a friend, let us settle this matter," I said "how much do you want," he said, \$150" I said "I would not settle for \$150." 30

Q. The money you got from Rosenblath that went to the Coney Island business and the \$225? A. I had no \$225 from Rusch. It was the purchase money for the place.

Q. That was that much money that you earned yourself to pay? A. Yes, sir, that is right.

Q. Did you put any other money besides that in the Coney Island place; did you put in any other money besides that \$425? A. Yes, sir, I did. 40

CHRISTIAN BUTTLAR—Cross.

Q. How much more all told? A. Maybe \$100 and that was borrowed from a family named Matthews, that's where the land question came in.

Q. And you rented this place at Coney Island? A. I rented it.

10 Q. You paid rent? A. The first year I need not, it was rent by Rusch, at least the man where Rusch bought it from.

Q. You didn't pay rent as you went along? A. Yes, sir, I did pay the second rent, that is where the fight came in, I thought the rent was all paid and 4th of July those people came and wanted to put me out.

Q. That was the second month's rent? A. No, not the second month's rent; you have to pay half the rent when you hire the place and the other half on the fourth of July.

20 Q. How much was the season? A. \$300, so I presume I borrowed \$150 from Matthews, but I can't recollect it for sure whether it was \$100 or \$150.

Q. And \$100 or \$150 a season, you say? A. The rent?

Q. Yes? A. No, \$300.

Q. A season? A. Yes, sir.

Q. Do you claim you were down there two years? A. I went down the second year, yes, sir.

30 Q. You were sworn in the case of Rosenblath against Buttlar? A. Yes, sir.

Q. Did you not in that case swear you were only there two months?

Mr. Van Winkle: If you have got it, I object.

A. That I was only there two months? I was there two full seasons.

40 Q. Now you said that you sold the Hoboken feed business one time to a man named Becker?

CHRISTIAN BUTTLAR—Cross.

A. Yes, sir.

Q. What was his first name? A. Henry .

Q. How much did you get? A. \$1,800 or \$2,000
I am not positive of that; around that figure
\$1,800 or \$2,000.

Q. (By the Court): That included the horses
and everything? A. Everything.

Q. (By the Court): Then he took a lease for the
property? A. Yes, sir.

Q. What did you do with that money? A.
Every dollar went in the West Hoboken proper-
ty.

Q. Then, what did you do after that? A. Well.
I wish you would form your question more to the
point; I don't know what you mean.

Q. What business did you follow? A. What
business I followed, after the Malone street prop-
erty was ready I went to work as a baker jour-
neyman.

Q. Where? A. In Willow avenue, 508, with a
widow, Mrs. Jacobus.

Q. How long did you work there? A. Eleven
months nearly.

Q. How much did you get a month there? A.
Eleven dollars a week; I could get \$14 if I want
ed to, but she was a friend of mine and he was a
lodge brother and country fellow of mine and he
committed suicide and left a widow with three
children behind; people said that time Mrs. But-
tlar drove me out of the house, that is the reason
I had to go and work as baker journeyman, but
that was not the thing.

Q. (By the Court): She didn't drive you out? A.
No, I would not let her drive me out then because
I had my thumb on top of her; we were living to-
gether in West Hoboken; I made a nice home for

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CHRISTIAN BUTTLAR—Cross.

her; I got deed for everything; I bought carpets, chairs, furniture and everything; I thought she could live a little better; I wish you would ask me what I done after that.

10 Q. Now, when you commenced, after you and your wife were married you only had two weeks' wages, is that right? A. That is proper.

Q. And how much was that? A. That was \$25.

Q. And you asked her to put her money with yours? A. Six months, seven months after marriage; April, May, June, July, August, seven months after; I didn't know the woman had one penny when I married her.

20 Q. (By the Court): He said he discovered by accident, found a bank book? A. I always told my counsel it was \$114, I had it in my head it was \$114., but when I got a transcript I found only \$102.

Q. You put your money in the bank together? A. First I had some from the wages saved, I had \$50 there, which the transcript will show, then we put \$140 together, so that was \$102. from the Citizens Savings Bank and \$38. from savings that made \$140.

30 Q. What bank was that in? A. 14th Street Bank

Q. Did your wife not have other money besides that money? A. Not one cent.

Q. Dd you ever know a man by the name of Recht? A. I did, but she did not know him, they were friends of mine.

40 The Court: He was not asked on his direct examination about the \$850 which she said she got from the old country; he was not asked a work about it; there was nothing in his evidence that touched that

CHRISTIAN BUTTLAR—Cross.

at all or denied anything; we heard statement about, about the \$840 or \$850.

Q. You were present in the case of Buttlar against Rosenblath? A. Yes, sir.

Q. You heard your wife swear at that time that she had \$560 when she was married? A. Which was wrong.

Q. You heard her swear to it? A. Yes, sir. 10

Q. You also heard her swear that she got \$860 from home after that, did you not? A. Which was also wrong.

Q. (By the Court): That is the first word that he has said on that subject except the \$500, except he said he knew she had \$102? You are making him your own witness.

Q. You were asked this question: You heard her testimony as to where she got her money from, "Where she got it from," it is here, and how she made the money, is that true or not? You answered "that is all true," did you not? A. Yes, sir, your Honor, if you will allow me. 20

The Court: No, no, now just keep still.

Q. Didn't Mr. Recht at one time owe your wife some money? A. Not my wife, he owed it to me, and I don't think we even had papers for it; they were good people. 30

Q. What year was that money loaned to Mr. Recht? A. Well, I should judge that was in 1874 maybe it was 1875.

Q. (By the Court): Before or after you went to Europe the first trip, just recollect now? A. Before I went to Europe the first trip. I will have the son of Recht here at the next hearing; the old people are dead, but the son knows it thoroughly. 40

CHRISTIAN BUTTLAR—Cross.

Q. You sold the first business to Joseph Amrain? A. To Amrain, yes, sir.

Q. And you got how much? A. \$600.

Q. And you had about \$2,000, is that so besides that? A. Around that sum.

10 Q. (By the Court): Not besides the \$600 you got? A. All in all.

Q. (By the Court) All in all you had about \$2,000? A. All in all I had about \$2,000 all told.

Q. You then went to Europe? A. Yes, sir.

Q. And you at that time paid something to the militia, didn't you or to the government? A. That is what I did.

20 Q. How much was that? A. Thirty marks; I didn't want to pay it but the judge of the village was a particular friend of my father and he called me down on the court. I told the judge I am a citizen of America and I will refer to our Ambassador at Berlin; he said foolish boy, pay it and don't make fuss about it, so I paid 30 marks for not being in the war of 1870.

Q. And you paid your sister's passage back? A. I did.

Q. (By the Court): How much? A. \$25.

30 Q. You were over there ten weeks?

The Court: Ten weeks altogether; he said distinctly; ten weeks away from Brooklyn, that would be about six weeks over there.

A. That is all.

Q. How long did you own the Ewing Street property—you paid how much for it? A. The bakery.

Q. Yes? A. \$900.

40 Q. Then how much money had you left? A.

CHRISTIAN BUTTLAR—Cross.

Well \$1,300 or \$1,400, I could not say that.

Q. You only had \$2,000 in the first place? A. Yes, sir; that may be a little more.

Q. You spent \$200 or \$300 going to Europe? A. I spent \$200, I brought some money back, I only took \$200 along.

Q. You paid \$900 for the bakery? A. Yes, sir.

Q. And you had left the difference only? A. 10
Yes, sir.

Q. That was \$700 or \$800? A. If the Bowery Bank would send a transcript I could figure it out to a penny, but they wont be subpoenaed and I could not get transcript.

Q. Now you ran the business about five months, didn't you? A. Ewing Street bakery.

Q. About five months? A. Well we can figure it out, 9 months, 8 months and one month it ran in her name. 20

Q. How long did it run in her name? A. One month.

Q. Now durng those nine months you made out badly, did you? A. Well, yes, sir; we made out badly; that is right.

Q. What do you mean by that?

The Court: Ewing street, in Hoboken.

A. Ewing street, Williamsburgh, Brooklyn E. D. 30

Q. (By the Court): Back of the old place? A. Yes, sir.

Q. What do you mean by making out "badly", did you lose money? A. I could not meet my bills from my business.

Q. And you had no money to pay them with? A. I had money to pay it but I wouldn't.

Q. How much money had you? A. Well I suppose I was very nearly \$1,000 in the bank, \$900 40

CHRISTIAN BUTTLAR—Cross.

or \$1,000 in the bank.

Q. Where was that in the Bowery? A. Bowery and some German banks.

Q. (By the Court): That was 1874 or 1875? A. 1874.

10 The Court: In the German Savings bank City of New York, the biggest amount they had there at one time was \$2,936.

Q. And that stood in the name of your wife, and you together? A. Yes, sir.

Q. January, 1873, that was the time you bought the place? A. Frst place, yes, sir.

Q. September, 1873, was that the time you went abroad? A. No, I think 1874 I went abroad.

Adjourned to April 9th, 1903.

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April 9th, 1903.

FURTHER CROSS EXAMINATION BY MR. WELLER:

Q. The feed business was bought in 1886? A. There never was any feed business bought.

30 Q. You are positive of that? A. I am positive of that.

Q. And your wife never paid a penny for it? A. Never, she did.

Q. (By the Court): That is of your own money? A. No, sir.

Q. I show you a bill of sale from Witte, the husband to the wife—

Mr. Van Wnkle. Is that the exhibit?

40 Q. That is the exhibit—it has not been offered but will be—it is what I spoke to you about the

CHRISTIAN BUTTLAR—Cross.

other day:

“Received of Mina Buttlar, \$800, being first payment due on the agreement,” that is a fictitious paper altogether, your Honor.

Q. (By the Court): Fictitious? You mean it was made for a mere show? A. I don't know anything about that paper at all your Honor. 10

Q. (By the Court): Didn't you ever see it before? A. Never, it is no use laughing madam.

The Court: Mr. Buttlar you must not make such remarks at all.

Q. You said the other day that there was \$1,100 put in the feed business when it was bought?

A. That is right, \$1,080, near \$1,100.

Q. How could there have been that much put in when it was bought, if it was never bought? A. Charlie Witte was in partnership with a man Simenberg, and they failed. Charlie Witte came to me and asked me if I would not join him in partnership of the feed store; I told him I had a beer bottling business on my hands at that time; he told me he has a man for me to buy out that beer bottling business; I see the man in court here; this man bought my beer bottling business; with this very same money I went with Charlie Witte in the feed business. 20 30

Q. (By the Court): You put money in the feed business? A. That same money came from beer bottling business went into the feed business.

Q. You got \$600 from your wife at the time you went in the bottling business, didn't you? A. No

Mr. Weller: I will pass that for a minute.

Q. Mrs. Witte ran the business in her own name a while, didn't she? A. Never. 40

CHRISTIAN BUTTLAR—Cross.

Q. She put \$300 in this business? A. Never.

Q. Where did she run business before you opened the First Street business? A. She never run a business.

Q. (By the Court): That is to your knowledge?
A. Not to my knowledge.

10 Q. How long did Mr. Becker run the feed business? A. The man that bought me out?

Q. Yes? A. Two years, not quite two years; not full two years, near on to two years.

Q. You said your wife hadn't a five cent piece when she married you? A. I never said so.

20 Q. You didn't say so? A. I never said so; I said she had to my acknowledgment, to my remembrance, she had \$124, when the paper arrived from the bank I found out she had only \$112, but when I married her I didn't know that she had a five cent piece; when the first child was born I found the bank book and I found out she had a couple of dollars—\$112 and some cents.

Q. Now your wife did have \$550 when she was married, didn't she? A. She had \$112.

Q. (By the Court): That is all you know of—put it that way? A. The proof is there, your Honor.

30 Q. She got \$860 from home just afterwards, didn't she? A. That is an untruth, she had \$224 coming from the other side.

Q. You heard her testify in the Rosenblath case, didn't you?

40 The Court: Never mind; I don't like it put that way. That is not the way to put a question to him, what she sworn in the Rosenblath case. You can ask him if he heard her testify but not what she testified.

CHRISTIAN BUTTLAR—Cross.

Q. You heard her testify in that case? A. I heard her, yes, sir.

Q. You sat by and swore that everything she said was true? A. I did.

Q. Yet you knew at that time it was not true, is that what you mean to say? A. That is right; I want to explain to your Honor.

The Court: Your counsel will let you explain directly. 10

Q. You also heard her swear at that time she got \$860 from home in 1874, didn't you? A. Well, I like to explain.

Q. Answer the question; you did? A. I did.

Q. You swore that that was true, didn't you? A. I did, at least I was made to do it.

Q. You said at the last hearing you remained at Coney Island two years and told two seasons how much you made each season; at the last hearing you swore you stayed at Coney Island for two seasons? A. I did. 20

Q. And told how much you made each season, didn't you? A. That is a question I can't comprehend.

Q. (By the Court): He asks you whether you did not state in your previous evidence how much money you made each season at Coney Island? A. I could not recollect that at all; I know I lost money the first season; I made a couple of hundred dollars the second season. 30

Q. This question was asked you in the Rosenblath case, was it not? "Q. How soon did you leave Coney Island?" your answer was "A. In the middle of September." "Q. You were down there, how long?" "A. Three months and some days." You swore to that in the Rosenblath case didn't you? A. That is a mistake altogether. 40

CHRISTIAN BUTTLAR—Cross.

Mr. Van Winkle: Do I understand that this testimony is an exhibit in the case?

Mr. Weller: Sure, we have offered it as an exhibit.

The Court: Has the evidence in the Ros enblath case been put in solido.

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Mr. Van Winkle: Mr. Weller I think strove to put in part, I think I made an objection; I think your Honor's ruling was that it all went in.

Mr. Weller: I offered the whole of her evidence because he swore that all she swore was true—I offered all his evidence.

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Mr. Van Winkle: It is all in, is it not?

Mr. Weller: Yes, all in.

The Court: That is the evidence of both of them?

Mr. Weller: Yes, sir.

Q. When you sold the Ewing Street bakery you were indebted to Eppert, Robert Collins and Munshine? A. Yes, sir; that is right

30 Q. How much did you owe Eppert? A. That I could not recollect.

Q. How much did you owe Collins? A. Neither that I can recollect.

Q. Munshine? A. The bill is there, if you let me see the bill I can answer it; that was the bill that was abstracted from me, I took care of that bill for honor's sake, but the lady abstracted it from me.

40 Q. How much did you owe all told? A. I could not recollect that.

CHRISTIAN BUTTLAR—Cross.

Q. You were doing a losing business there? A. Well we didn't make no money.

Q. How much did you pay for the Ewing Street bakery? A. \$900 cash down.

Q. Cash down? A. Yes, sir.

Q. Did you give back a mortgage for any part of it? A. Not one cent, I bought that bakery from a man named Anton Behlen.

Q. How much had you in the bank after buying that store? A. That is a question that is pretty hard to answer for me.

Q. You have no bank statement showing how much you had at that time? A. I believe the statements are here. I could not recollect all that, it too long gone by.

Mr. Van Winkle: I had all the statements typewritten for the use of the court.

Q. You said the other day you had \$2,000 when you left Brooklyn? A. Very likely we have.

Q. How much had you at that time? A. That was in my name, in both names, it was in both names.

Q. Where had you any money in both names, at that time, what bank? A. The banks will show these papers will show.

Q. You left Brooklyn in January, 1876? A. No, I left—1876—I left Brooklyn at the time of leaving—

Q. What do you mean by leaving? A. I left Brooklyn in 1874 to my recollection; in December, before Christmas.

Q. How long had you been away from Brooklyn when you opened up in Hoboken? A. Five months.

Q. You opened up in Hoboken in May, the first 1876. Now when did you leave Brooklyn? A. Then I must have left Brooklyn in 1875.

Q. What month? A. In December, shortly be-

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CHRISTIAN BUTTLAR—Cross.

fore Christmas.

Q. And you don't know that you had any money in any bank in both names at that time? A. We did have money in both names.

Q. Well, where?

The Court: He says the bank books will show and copies of them are produced.

10

Mr. Weller: The bank books don't show.

The Court: He is swearing to contents of papers and the papers are not in his hands and they have all been put in evidence; I think you ought not examine the witness on a thing of that kind.

Q. How long had you been away from Brooklyn when you went home that night you spoke about? A. How long?

20

Q. Yes? A. Two weeks.

Q. And what time did you leave home the next morning? A. Well, six o'clock.

Q. Didn't you leave before daylight? A. Well, December, it is not daylight before 8 o'clock and I had to take a car and there was no car running before 6.

30

Q. What did you tell Mr. Rice at that time or what did Mr. Rice tell you? A. Mr. Rice managed me—if your Honor will allow me.

The Court: Please answer his question.

Mr. Van Winkle: Tell him the whole thing .He has asked you.

Q. What did you tell Mr. Rice that induced Rice to advise you to assign the business to your wife?

40

Mr. Van Winkle: We have two questions there now. The first one was: "What did Rice tell you?"

CHRISTIAN BUTTLAR—Cross.

The Court: That question was withdrawn. Now he wants to know what he told Rice. I want the idea of counsel who puts the question as to the force of it. Does not that allow this witness to tell the whole story at once? I don't see how he can tell what he told Rice without telling the whole story. I say this because the witness has manifested an anxiety to go beyond the question put and I have restrained him; but in this case I am inclined to think he is entitled to tell the whole story on that question, if you stand by it now. 10

Mr. Weller: I put it in this light. The other day he testified that Rice advised him to assign it to his wife. Now I want to know what he told Rice that induced him to do that. 20

The Court: He is entitled to show the whole relations between him and Rice on that very question and what passed between them and the whole conversation. That is my ruling on that now, Mr. Weller. State it slowly and not so awfully excited. I am listening and you need not be afraid that everything you say won't be heard and appreciated. 30

A. I bought that bakery for \$900 when I came back from Germany; the man is not in court, he will be here in a few minutes; I could not make the place go; I tried my best; I could not make it go and I saw my money dwindling away and Mr. Rice I considered a friend of mine and he said what can I do here.

Q. (By the Court): That is the man you owed? 40

CHRISTIAN BUTTLAR—Cross.

A. The butter and eggs and spices and sugar and he advised me to convey the business to her.

Q. (By the Court): Put the property out of your hands? A. Yes, sir.

Q. (By the Court): Did you state the whole situation to him as you stated it here? A. Yes, sir.

10 Q. (By the Court): And he advised you to put the property out of your hands—very bad advice? A. That is right; I signed it over to the workingman, the workingman signed it to her; we went to a lawyer in New York, Mr. Levi.

Q. Then you told Mr. Rice you were losing all your money and could not stand it any more? A. Yes, sir.

20 Q. That was true? A. That was true, but the people got all their money in full, every creditor all his money in full.

Q. (By the Court): But you were losing what you put in? A. Yes, sir.

Q. That is about the time you left Brooklyn?—You had a \$900 mortgage? A. That was the first bakery before I went to Germany and got my sister.

30 Q. Then you had no mortgage when you left Brooklyn the last time? A. I sold that mortgage.

Q. (By the Court): Did you own any mortgage when you left Brooklyn the last time? A. I did not, your Honor.

Q. You also said that you had a mortgage from Mr. Bishop? A. I did when I came back from Germany, the second time.

Q. Didn't your wife buy that mortgage? A. No, sir.

40 In the case of Rosenblath against Buttlar you

CHRISTIAN BUTTLAR—Cross.

offered an exemplified copy of that mortgage in evidence, didn't you? A. If your Honor please let me explain that Rosenblath case.

Q. (By the Court): If you did just answer whether you did or your lawyer did? A. I didn't understand that question proper.

Q. (By the Court): He asked you whether you didn't offer in evidence a certified copy of a mortgage? A. That comes all in the Rosenblath case. 10

Q. (By the Court): He is asking you in the Rosenblath case? A. I suppose I did.

Q. That mortgage was made by Henry Bishop to your wife, was it not? A. It was made to me; it was by Henry Bishop to Christian Buttler and it can be traced in the Recorder's Office in New York. 20

Q. It appears on Page 37 of the book, that it was offered?

The Court: You can't rely on that it strikes me.

Mr. Van Winkle: I have not read it except very quickly, but it does not convey that meaning to me necessarily.

The Court: You have got to get a sworn copy from the records in New York. 30

Q. When did you arrive here when you came from Europe the last time? A. With the family?

The Court: No, the last time you got here.

Q. Yes, when you came over with the family the last time? A. October 18th or 19th, I could not recollect that date but it was in October. 40

CHRISTIAN BUTTLAR—Cross.

Q. You then offered a bank statement here showing that you opened the bank account in Hoboken in September, I believe?

Mr. Van Winkle: That is argumentative I object, it speaks for itself.

10 Q. You swore at the last hearing that you ran both bakeries in Hoboken? A. I did.

Q. Did you not swear in the Rosenblath case as follows: "Q. The business that was carried on by your wife in Hoboken, did you have any connection with it in any way?" and did you not answer "A. No, sir, I did not."

The Court: You have got that all in evidence.

20 A. Will you please let me answer that whole Rosenblath case?

The Court: You need not answer anything on it, your counsel will read that over and when he has opportunity—it appears he has not a copy of it—and will examine you on it. It is evidence already as I understand it.

30 Mr. Weller: It is offered in evidence but I thought in order to make it binding I should ask him specifically on each question.

The Court: No you don't have to do that at all; it is his counsel's business to look after that.

Q. You say the second bakery was sold to Kitz because your wife could not stand on her feet? A. That is true.

40 Q. What hours did she work? A. Well quite long hours.

CHRISTIAN BUTTLAR—Cross.

Q. Worked how many hours? A. Well never less than 12 and 14 and 16.

Q. Where did you work as a journeyman after you sold the last bakery in Hoboken? A. McDonald's corner of Communipaw and Montecello Avenues, Jersey City.

Q. (By the Court: Way down this way? A. Yes, sir. 10

Q. You also said you kept your wife's sister there for four months as partner and chased her because she stole? A. That is true.

Q. What arrangement had you with her? A. Because we had trouble with servant girls.

Q. What arrangement had you as partner with her? A. She should have half the profits.

Q. Had you written articles of agreement? A. No, sir, never, it was a mutual agreement. 20

Q. Don't you know your wife chased her from that bakery? A. No, sir.

Q. And didn't she chase her away because she caught her in bed with you? A. That is an untruth.

The Court: How is that competent here?

Mr. Weller: He has set up that he and that woman were partners.

The Court: How far are you to be permitted to go with this thing? A. I can't see it myself. 30

Q. She left there at that time, didn't she, the wife's sister?

The Court: How is that competent in this case, that question, whether this partnership woman left and what she left for?

Question withdrawn. 40

CHRISTIAN BUTTLAR—Cross.

Q. As foreman for McDonald how much did you earn? A. \$16 a week.

Q. How was the \$1,000 borrowed on notes to build the Clinton Street house, paid back? A. By rent from the houses.

The Court: Oh! how was it paid back, you didn't put the question that way.

10 Q. You swore the other day that \$1,000 was borrowed on notes when the Clinton Street property was built? A. Yes, sir.

Q. I asked you how that \$1,000 was paid back? That was paid—

Q. Was it paid by rents collected from the houses? A. No, sir, it was paid when I sold the bakery to Rosenblath, I took that money and went to Mr. Ahrens and paid.

20 Q. How much did you get from Rosenblath when you sold the bakery? A. \$600 to my recollection, I think \$600 is right, too.

Q. You also engaged the housekeeper. you said when you went to Coney Island you engaged a housekeeper for the Clinton Street houses? A. Well, to my recollection, Mrs. Buttlar did that.

Q. Oh! she did that? A. Yes, sir.

Q. Then you didn't engage her?

30 The Court: What has that got to do with this?

Mr. Van Winkle: Your Honor understand that we concede Mrs. Buttlar has been a hard working, industrious woman.

The Court: That has not been disputed. I want to see the relevancy of this as it goes along, because Mr. Van Winkle does not seem to be inclined to object and I can see why he don't.

40

CHRISTIAN BUTTLAR—Cross.

Q. How much did Claus Vanderleath give you for the bottling business? A. \$900.

Q. The business was mortgaged at that time for \$600, was it not? to the brewery? A. Not from my side, the brewery paid me out, not from my side, I started that business without one cent debt.

Q. You looked at this book the other day? A. 10
Yes, sir.

Q. That is all in your handwriting? A. That is right.

Q. And it is correct? A. That is right.

Mr. Van Winkle: What exhibit is that?

Mr. Weller: All the exhibits here offered as to the bottling business and the other business.

Q. And you commenced the business at that date, June 2nd, 1885, the bottling business? A. 20
If you will allow me the book I can tell you the date.

Q. (Handing witness book) June, 1885? A. That is not my writing at all.

Q. (By Mr. Van Winkle). What page of the book? A. Three.

Q. (By Mr. Van Winkle): Isn't that your handwriting? A. No, it is not my handwriting, if you allow me a few second— 30

The Court: Examine it as much as you are amind. Hold the answer until you have got it all examined; if you choose you can take each page now and state what is in your handwriting and what is not in your handwriting.

A. That is Witte's, that for the feed business all right; (indicating.) 40

CHRISTIAN BUTTLAR—Cross.

Q. Pages 8 and 9 is Witte's writing? A. Yes, sir; page 3, that is my writing.

EXAMINED BY MR. VAN WINKLE:

Q. Is this whole page 3 in your handwriting? A. No.

10 Q. Page 3 is in your handwriting, the item that shows

The Court: You were not asked about that.

Q. Go on there and tell us which is in your handwriting? A. I see here next Witte's handwriting.

Q. What page? A. 8 and 9, that is feed business all right; that is Charlie Witte's 8 and 9, my writing also.

20 Q. And on page 8 there are some times in your handwriting? A. Yes, sir; "Templeman" that is mine, "stable rent" that is my writing, this is the cash for the feed business.

Q. Now page 10 and 11, are those in your handwriting? A. Part of it; that is Witte's, that is mine; that is mine (indicating different places on the page.)

30 Q. Witness indicates some in Witte's and some in his own. A. That first when we started the feed business.

Q. It does not show the year? A. It does not show the year, I suppose we find it somewhere; no year at all; well, we must have started the feed business in 1886, in 1886, on April 24th.

Q. Go right on back in the book to this other page here, whose handwriting is that, page 13? That is my writing.

Q. On page 76? A. That is my writing.

40 Q. That is your writing, is it? A. Yes, sir, that is my writing, that is from the feed business, that

CHRISTIAN BUTTLAR—Cross.

was feed business when I was alone.

Q. This is a book produced by the defendant?

A. Yes, abstracted from me, I never knew where that book come away.

FURTHER CROSS EXAMINATION:

Q. When you sold the bottling business didn't you owe Mr. Steuhr's father for beer a considerable amount? A. Not one cent for beer. 10

Q. You owed him for rent? A. That is what I did, I didn't owe him one cent for rent, I didn't owe him a cent for rent, our agreement was verbal, if I made out I would pay him rent, and if I don't make out, I don't pay rent.

Q. You didn't pay him any rent? A. Not a cent.

Q. Because you didn't make out in the bottling business? A. That is right, he is the one that put me in the bottling business. 20

Q. Then you lost in the bottling business? A. Yes, sir, I lost a couple of hundred dollars.

Q. How long did you run it? A. That is pretty hard to answer, to my recollection from 9 to 10 or 11 months.

Q. You said the other day you run it two years? A. I never said so.

Mr. Van Winkle: I object to the form of the question. 30

Q. The feed business was commenced in April, 1886? A. That is right according to the books.

Q. And the bottling business was commenced in June, 1885? A. That is right.

Q. Didn't you and Witte run the business before going to First Street before April, 1886? A. No, sir.

Q. How did you happen to sell this business to Becker? A. I wanted to retire.

Q. You wanted to retire? A. Yes, sir. 40

CHRISTIAN BUTTLAR—Cross.

Q. Where did you meet Becker, how did you happen to meet him? A. He was sent to me by Mr. Hanks & Company, here from Henderson and Fifth Street.

Q. (By Mr. Van Winkle): The feed people? A. Yes, sir.

10 Q. What time in 1890 was it that you sold that business? A. To Becker?

Q. Yes? A. Well I think it was in the spring time.

Q. You gave him a lease of the premises at that time, didn't you? A. I did.

Q. That is the lease, is it (handing witness paper)? A. Yes, sir; I gave him a lease, that is right.

Q. You got \$2,000 for the business? A. From Becker?

20 Q. Yes? A. \$1,800.

Mr. Van Winkle: Is that an exhibit?

Mr. Weller: That is an exhibit; I offered that.

Lease just shown witness is dated March 1st, 1890, made by Christian Buttler to Henry Becker for premises 230-232 First Street, Hoboken, for a term of ten years.

30 Q. What did you do with the \$2,000? A. Every cent went in the Malone Street property, West Hoboken; every cent.

Q. How much did you make profit a year in the feed business, when you were running it? A. At that time \$1,000 a year, some times \$1,200, I am not a perfect book-keeper so I could not answer that sharply.

40 Q. After you took it back, how much did you make? A. Well around that amount.

CHRISTIAN BUTTLAR—Cross.

Q. Have you got a book of account of what you made there? A. Well, not to show you, I am not a perfect book-keeper so I could not say that; only when the money was there and the amount of my money; I can show how much was made.

Q. You and your wife had a full settlement? A. In business, when I was in the feed business I had no business to settle with her; she had nothing to say about the feed business at all. 10

Q. Your wife demanded the whole \$2,000 from you when you got it from the feed business didn't she? A. She never did.

Q. Never said anything to you about it? A. No, sir.

Q. When you bought it back from Becker, how much did you pay? A. I never bought it back from Becker.

Q. Just took it back? A. Just took it back. 20

Mr. Weller: Mr. Van Winkle what was the date of those printed bill heads you offered in evidence the other day?

Mr. Van Winkle: I can't tell you, I am afraid I have not got them here.

Q. You always claimed the business from the first time it was opened, didn't you? A. That is what I did. 30

Q. At the time you gave your wife \$10 a week for the board you and your daughter were boarding there, were you not? A. Well, I wish you would put that question different to me.

Q. The other day you testified that you gave your wife \$10 a week when you were running the feed business for the family? A. But I didn't pay my wife no board; I want you to understand that.

Q. For your daughter and yourself? A. I gave 40

CHRISTIAN BUTTLAR—Cross.

my wife \$10 to run the table expenses.

Q. And at that time you and your daughters were living there I say? A. Well that question don't suit me at all.

Q. (By the Court): You were living at home?
A. I was living at home, that is proper question; I was living in my home and I gave my wife \$10 to run the home.

10

Q. And your two daughters were living there?
A. One.

Q. Which one? A. The second one, the teacher; the oldest one left.

Q. Also when you worked on the street cars and as a journeyman baker, you lived at home, and so did your daughters? A. That was before the Malone Street; that was in Clinton Street, down there after the Coney Island; that shows what a lazy man I was.

20

Q. You offered receipts in evidence here the other day, you always took the receipts back in your name even when your wife paid the bills, didn't you? You always took all receipts back in your name even when you paid with your wife's money?

30

Objected to on the ground of the question being too general, unless it be confined to the West Hoboken houses, or some other transaction.

40

The Court: He is here with a mass of documentary evidence that has been put in, that is not before him, and you are asking him general questions whether he did not take receipts in his own name when his wife paid the money. To what do you refer? I think the objection is well taken.

CHRISTIAN BUTTLAR—Cross.

Q. When you sold to George M. Goelz, when you sold him a half interest in the business for \$3,750, what debts did you pay? A. All the debts I had, any with my creditors.

Q. (By the Court): Your general business debts you mean? A. Yes, sir.

Q. Have you got any statement of those debts? A. No, I lost that, that is taken away from me 10

Q. You don't know just how much you paid at that time? A. No, I was in quite heavy debts.

Q. You paid law suit debts then with it? A. Yes sir; and \$75 besides, I only had four tenants in the house and had to pay \$75 a month.

Q. You had Mr. Drewitz here the other day? A. Yes, sir.

Q. A part of the money you borrowed from him was to pay your first wife's funeral bill, was it not? A. That is right, that is true. 20

Q. That was before you moved to Brooklyn that you paid that bill, wasn't it? A. That was in 508 11th Street, I got acquainted with that lady.

Q. (Exhibit C1 shown witness): Now when that notice was served on your wife, you owed her considerable alimony under the old agreement, didn't you, that is the day after the divorce was granted or a few days after? A. Didn't I pay up

The Court: He asks you whether you did not owe her a good deal of money. 30

A. I did, around, well \$300 or \$400.

Q. (By Mr. Van Winkle): Under the agreement? A. Under the agreement.

Q. (By the Court): Under the old agreement? A. Under the old agreement.

Q. (By Mr. Van Winkle): And you were then willing to pay it? A. Yes, sir; yes, I paid it. 40

CHRISTIAN BUTTLAR—Cross.

Q. (By the Court): You have paid it? A. Yes, sir.

Mr. Van Winkle: It was paid since?

Q. It was paid after you started this suit?

The Court: How does he know when the suit was commenced?

10

A. You compelled me to pay it and I paid it.

The Court: You have got the date of payment—What is the use Mr. Weller, I can't permit that kind of thing; you have got the date; he is not presumed on the stand to know when he paid it.

20

Mr. Weller: I have not the date handy. I asked Mr. Van Winkle and not Mr. Buttler the date when the alimony was paid.

Mr. Van Winkle: I can't give you the date.

Q. It was in July, last July? A. July, 1902.

The Court: I will not allow him to answer that; he don't know and he does not presume to know the date. There is a mode of ascertaining it.

30

Q. The bank statements show that that there was \$275 in the Bowery Bank in both names in 1890?

Mr. Van Winkle: Pardon me the Bowery Bank refused to send any statement.

Q. There was that much money in the Bowery Bank, was there not? A. There was more there.

40

The Court: Have you made a general request since?

CHRISTIAN BUTTLAR—Cross.

Mr. Van Winkle: No.

The Court: It seems to me I took some measures about that to have you make joint request.

Mr. Van Winkle: In my request I did say that Mr. Weller was agreeable but they would not send it and then Mr. Weller did not sign the letter. 10

Q. July 22nd, you drew that, that \$275? (Hand-witness paper.)

Mr. Van Winkle: What is that paper?

Q. That is Bowery Bank—that is statement?
A. Well I could not answer that, very likely I did, very likely I did not.

Mr. Van Winkle: That slip is in evidence. 20

Mr. Weller: Yes, sir; that is in evidence; it does not seem to be marked.

Bank Statement from the Bowery bank of savings—It is in the two names of Christian and Mina Buttlar, offered in evidence and marked Exhibit "A," April 9th.

Q. (By Mr. Van Winkle): I have here an affidavit of William R. Skinner and affidavit of Henry S. Dusenbery and affidavit of Henry S. Morgan and one Edwin A. Barnes, and by agreement of Mr. Weller these affidavits are to be the same as original evidence in the case. 30

The Court: The same as though the witness had been sworn, is that right?

Mr. Weller: Yes, sir.

The Court: The evidence will be taken as 40

CHRISTIAN BUTTLAR—Cross.

if the witnesses had been sworn in open court and deposed and they depose therein, in the affidavits.

Mr. Van Winkle: These affidavits are all about the feed business in Hoboken?

10 Mr. Weller: I would like to interpose an objection on the ground that they are immaterial.

The Court: Your objection is that it would be immaterial if they had been produced?

Mr. Weller: That is all.

William R. Skinner affidavit marked exhibit B, April 9th.

20 Henry Dusenbery affidavit marked Exhibit C, April 9th.

Henry S. Morgan affidavit marked exhibit D, April 9th.

Edwin A. Barnes, affidavit marked Exhibit E, April 9th.

30 Q. I show witness check book Exhibit D11, on the part of the defendant It shows that \$3,300 was paid to Adam Siegfried. Siegfried was the man you bought the lots from? A. That is right.

Q. It shows that \$500 was paid to W. Alexander, who was Alexander, the mason? A. Boss mason.

Mr. Van Winkle: There is no contradiction about this.

40 Mr. Weller: I merely want to get this on the record; that is all, there is no contradiction.

CHRISTIAN BUTTLAR—Cross.

Q. And again on January 9th, 1900, he was paid \$500, the boss mason? A. Yes, sir.

On January 15th, J. Swifenbock, \$1,000, he was the carpenter? A. Boss carpenter.

Mr. Van Winkle: I understand Mr. Weller that those bank deposits here you are referring to represent proceed of the Hoboken property.

10

Mr. Weller: Yes, sir.

Mr. Van Winkle: We have agreed to all that.

Mr. Weller: I understand but we want to get it on the record.

Q. Here again February 1st, Alexander \$500? A. Yes, sir.

Q. On February 13th, \$275? A. Yes, sir; we don't deny that.

20

Q. Now February 19th, there is a check to A. Knack, \$500, he was the plumber on those houses was he? A. Boss plumber, yes, sir.

Q. February 21st, W. Wifenbock, \$1,500? A. Yes, sir; he was the boss carpenter.

Q. February 13th, A. Knack, \$400? A. Yes, sir.

Q. March 15th, Alexander, \$800? A. Yes, sir.

Q. Now all those payments were made on account of the houses in West Hoboken? A. All those payments were made out of the money of the proceeds of the Clinton Street property.

30

Q. (By the Court): But he asks you if they were all paid towards the building? A. Towards the Malone Street property.

Mr. Van Winkle: How much do they total?

Mr. Weller: I have it on a piece of paper here somewhere.

40

CHRISTIAN BUTTLAR—Re-Direct.

A. That is right.

Q. (By Mr. Van Winkle): That is about right?

A. Yes, sir; and the balance came from the feed store.

RE-DIRECT EXAMINATION BY MR. VAN WINKLE:

10 Q. Who is Henry Dusenbery and who is Edwin A. Barnes and who is William R. Skinner, the people who make these affidavits, just offered in evidence? A. William R. Skinner is a wholesale commission merchant, hay, grain and feed.

Q. (By the Court): Did you buy stuff of him? A. Yes, sir.

20 Q. (By the Court): And the others? A. Henry Dusenbery is in the same line; Henry S. Morgan is only a flour merchant; from this man I bought before I thought to join in feed business.

Q. (By the Court): You bought flour of him for baking? A. Baking, bakery only; and Edwin A. Barnes he is a salesman for Pavonia Mill and Elevator.

Q. The Pavonia Mills are in Jersey City? A. Yes, sir.

30 Q. Mr. Dusenbery lives in Jersey City? A. Yes, sir; but the office is now in the Electric building; at that time it was 90 West Street.

40 Q. Now respecting the testimony that Mr. Weller has interrogated you about in cross examination, given in the Rosenblath case, concerning the amount of money received by Mrs. Buttler from Germany and concerning the ownership of one or more stores, what have you got to say respecting the testimony that you gave in that case that you were asked about by Mr. Weller? A. In the Rosenblath case?

CHRISTIAN BUTTLAR—Re-Direct.

Q. Yes? A. When it comes to the Rosenblath case, I have to admit that I committed a crime at that time, but my lawyer wanted me because he did not want to lose the case, I didn't do it to defraud anybody out of a cent except William F. Rusch should not have \$225. My lawyer sent me down with his office man, Rosenblath should have his money, I paid him his money on the counter \$200 and \$6 interest for six months. 10

Q. You made tender? A. Yes, sir; my lawyer sent me down to the First National Bank to get the bills in legal tender so they have no objection, but there was \$34 costs and I didn't want to pay the costs and that is what made all the trouble; but when it came to the court of Vice Chancellor Van Fleet I did; myself; if I deserve punishment I am willing to stand by it, but Mr. Weller's client done the same thing as I did. 20

Q. You and your wife told the same story? A. She told the same story.

Q. (By the Court): She knew it was not true? A. She knew it was not true; when I came home she made me a scene, that I didn't lie more. we lost the case.

Q. (By the Court): She said? A. I lied more; so we lose the case, but Rosenblath should have the money all right, but Justice of the Peace Rusch should not have the money and for this all the trouble is to-day; that is God's truth. 30

Mr. Van Winkle: I beg leave to offer the pleadings, being the bill, answer and replication in the case of Mina Buttlar against Christian Buttlar, being the bill filed by Mrs. Buttlar for the performance of the agreement in writing.

The Court: That was the case that was before me. 40

CHRISTIAN BUTTLAR—Re-Direct.

Mr. Van Winkle: Before your Honor some years ago.

The Court: What you want is the bill, answer and replication and decree.

Mr. Van Winkle. Well, I don't care so much about the decree.

10

The Court: You don't offer the evidence.

20

Mr. Van Winkle: No, sir; I think I have no more questions except I would like to make the offer, if the Court please, of the opinion, not decree, in the divorce case brought by Mr. Buttler against Mrs. Buttler. The opinion was filed by Vice Chancellor Stevens—I say filed—we can't find it on the file—he sent a copy to me or Mr. Weller and we exchange it and I think Mr. Weller has got it; I know I have not; and in view of the allegation in the pleadings on the part of the defendant, I thought that opinion was a proper thing to offer.

The Court: It is public property, you don't have to offer it in evidence.

30

Mr. Weller: I object to its going in, it is immaterial and could have no effect.

Mr. Van Winkle: If Mr. Weller will produce the Opinion we can use it.

Mr. Weller: I have not got the papers in that case here.

The Court: I certainly shall not rule it out.

40

Mr. Weller: The receipts taken back in Mr. Buttler's name for the building of

CHRISTIAN BUTTLAR—Re-Direct.

the houses on the West Hoboken property are part of them for monies paid out of Mrs. Buttlar's account, the stubs of which have been put in evidence here.

Mr. Van Winkle: We don't question that the money came from the Clinton Street houses in Hoboken.

10

The Court: And when they were sold the money was deposited in her name.

Mr. Van Winkle: He tried to get the money and she would not have it, and she took it to the bank and in six weeks they bought the property in both names

CROSS EXAMINED BY MR. WELLER:

Q. You offered some receipts in evidence here the other day from the flour, feed, hay and straw etc. business, there is quite a bundle of them, several bundles; I see one of them bears date October 14th, 1895; is that the time they were issued about that time? A. There is no doubt about that Mr. Weller.

20

Q. Now you claim that you committed a crime in the Rosenblath case; you mean to say you swore false in that case? A. Yes, sir; that is right.

Q. You perjured yourself as to almost every detail? A. That is right.

30

Q. Judge Abel I. Smith was your lawyer at that time? A. He was.

Q. And he advised you to perjure yourself; swear false? A. Yes, sir.

The Court: I suppose he advised you if you didn't swear so and so you could not win?

A. That is right.

40

CHRISTIAN BUTTLAR—Cross.

Mr. Van Winkle: That is a little harsh to go that way; I think it ought to be taken from the record for Judge Smith's sake. Mr. Buttlar said that Judge Smith advised him to perjure himself.

The Court: Oh! no, the witness didn't mean that.

10

MRS. ELIZABETH BOHLEY, sworn:
DIRECT EXAMINATION BY MR. VAN WINKLE:

Q. Where do you live? A. 603 First Street, Hoboken.

20

Q. Your husband Phillip Bohley, is he dead?
A. He is dead.

Q. And do you remember the time when your husband had a transaction about a bakery in First Street, Hoboken, with Mr. Buttlar? A. Yes, sir.

Q. What was that, tell the Court?

Q. (By the Court): Do you know, at the time?
A. Yes, sir, I know it.

30

Q. You were present, were you not? A. Sure.
Q. Tell the Court what happened? A. Well, my husband bought a bakery of Mr. Buttlar and he paid, I guess, \$100 on it and Mr. Buttlar got the rest of the money in Germany by his father.

Q. Did your husband give to Mr. Buttlar a power of attorney to collect the rest of the price of the bakery? A. Yes, sir.

Q. From some money due your husband from Germany? A. Yes, sir.

40

Q. Now, do you know how it was that Mrs. But-

ELIZABETH BOHLEY—Cross.

tlar's name got on the bill of sale to that store?

A. Because my husband thought both name was better and so he wanted Mrs. Buttlar to sign it too.

CROSS EXAMINATION BY MR. WELLER:

Q. Have you got the bill of sale?

Mr. Van Winkle: You produced it last time. 10

Mr. Weller: I did not.

A. My husband bought it of Mr. Buttlar.

Q. Was you by when he bought it? A. I was, yes, sir.

Q. And he gave a chattel mortgage back to Mrs. Buttlar, didn't he? A. I can't remember that.

Q. You can't remember? A. No. 20

Q. (By the Court): He got all the money? A. Mr. Buttlar wrote a letter from Germany that he collected the money of his father.

Q. (By the Court): How much did he agree to pay for it? A. \$600 and I guess \$50 at the time paid for the bakery.

Q. (By the Court): And he paid down \$100? A. Yes, sir. 30

Q. (By the Court): And collected the rest from his father in Germany? A. Yes, sir.

Q. The whole of the rest of it, did he? A. Yes, sir.

Q. Then there was no chattel mortgage given back at all, was there? A. I don't know nothing about that; that is all I know.

(By the Court) : You don't have any recollection 40

ELIZABETH BOHLEY—Cross.

of a chattel mortgage? A. No; I know nothing about that.

Q. Now, you are sure of that?

The Court: If you have got a paper there you must show her the paper.

A. That is all I know.

10

Mr. Van Winkle: I objected before to the form of this exhibit; I don't want to renew the objection.

The Court: I don't recollect what it was now. Hand it to me.

Mr. Weller: We agreed to that afterwards.

20

Mr. Van Winkle: I wont go back of any agreement I made.

Mr. Weller: I offered to go up and compare it with the original and you agreed to its going in.

Mr. Van Winkle: If you say I said it. I will stand by it. I have forgotten all about it.

30

Q. (By the Court): Do you recollect what time of the year it was that your husband bought this bakery? A. It is so long ago.

Q. (By the Court): You don't recollect? A. I guess it is 26 years ago.

Q. (By the Court): You don't remember whether it was Summer time or Winter time? A. It was June, I guess, I can't remember it so well, no more.

40

Q. (By the Court): But he didn't pay it all down

ELIZABETH BOHLEY—Cross.

in cash at the time, but collected it afterwards?

A. No, sir.

Mr. Van Winkle: Was it ever cancelled on the record?

Mr. Weller: I don't think it was.

Q. You have not got that bill of sale to your husband? A. I don't think so, I don't know. 10

Q. Don't you know that only Mrs. Buttlar signed that bill of sale? A. I remember he signed it, and then Mrs. Buttlar signed it too because my husband come home and says, "I bought a bakery" and I didn't know the Buttlars at all.

Q. You didn't see the bill of sale then? A. I didn't see it, no, sir, but he said that; all I know is what my husband said to me.

20

JOSEPH AMRHEIN, sworn,

DIRECT EXAMINATION BY MR. VAN WINKLE:

Q. Where do you live? A. Brooklyn.

Q. What business are you in? A. No business.

Q. Retired? A. Yes, sir.

Q. Are you the man that bought the Graham street bakery in Brooklyn from Mr. Buttlar? A. Yes, sir. 30

Q. How many years ago is that? A. About 1875 or 1876, I guess, something like that, I guess it was 1875, something like that.

Q. And before you bought that bakery did you work with him or for him? A. I worked for him.

Q. As a journeyman? A. Yes, sir.

Q. Baker? A. Yes, sir.

Q. And how long did you work for him? A. Not 40

JOSEPH AMRHEIN—Direct.

very long, about six months or so.

Q. What were Mr. Buttler's habits of work, when he was there; how long did he work? A. He started to work with me and he stopped when I stopped; we worked on the average about fifteen hours a day.

10 Q. Now, when you bought the bakery, from whom did you buy it? A. Mr. Buttler.

Q. During the time you were there, was there any sign in or over the bakery? A. Yes, sir.

Q. Where was it, and what was it? A. Right on the first door, the first door when you go in the store, the first door in the back room, he had a sign over the door "Christian Buttler."

Q. Now, when you bought the bakery what did you pay for it? A. \$600.

20 Q. Did you pay in cash? A. \$300 in cash and \$300 on chattel mortgage.

Q. To Mr. Buttler? A. To Mr. Buttler.

CROSS EXAMINATION BY MR. WELLER:

Q. You have not got that mortgage? A. No, I don't know, I may have it. I have got a lot of papers here. I may have it. I am not sure.

Q. Did you ever see Mrs. Buttler around the store? A. Mrs. Buttler was in the store.

30 Q. What did you see her doing there? A. Attending store, the same as any other woman.

Q. How many signs were up, do you say? A. One.

Q. Where was it? A. In the second door, first you go through the store and then the first door enter into the back room, there was sign over the door.

40 Q. Do you know whether Mrs. Buttler and her husband were partners in that business? A. That is more than I can tell you.

HENRY WICHT—Direct.

Q. (By the Court): Did you hear anything of that kind when you were there? A. Never, never, that is more than I knew. I don't know anything about it.

HENRY WICHT, sworn,

DIRECT EXAMINATION BY MR. VAN WINKLE:

10

Q. Where do you live and where do you work?
A. 607 First street, Hoboken, that is where I am living.

Q. And where do you work? A. I am working—I got a place of my own to-day.

Q. And were you with Henry S. Morgan & Company years ago? A. I was; the firm was called J. K. Morgan & Company.

20

Q. What business were they in? A. Flour business.

Q. Where? A. 83 Dye.

Q. Now, during the time you were with them, what did you do for them, were you foreman? A. I was foreman attending to the outside business.

Q. And did you know Mr. Buttlar? A. I did.

Q. Did that firm sell him any flour? A. It did.

Q. And where was the flour delivered that you sold him? A. It was delivered at 144 First street.

30

Q. (By the Court): Where? A. 144 First street.

Q. (By the Court): In Hoboken or New York? A. Hoboken.

Q. Was that a bakery? A. That was a bakery at the time.

Q. And to whom was the flour sent by your firm? A. That was sent to C. Buttlar—Christian Buttlar.

40

HENRY WICHT—Direct.

Q. Whose credit was it sold on? A. It was sold to Christian Buttlar.

Q. (By the Court): Was he the person they looked to for pay? A. He was supposed to be, to my knowledge.

10 Q. Did you ever hear of Mrs. Buttlar running that business at that place? A. No, not to my knowledge.

Q. Do you remember ever seeing his wagons or his signs and what was on them? A. His name was on the wagon "Christian Buttlar" to my knowledge.

Q. (By the Court): How long was that, can you recollect how long that dealing went on? A. How long he dealt with Morgan?

20 Q. (By the Court): Yes, how many years he dealt with the Morgans? A. About a year and a half or something like that, I don't recollect that no more; something like that.

CROSS EXAMINATION BY MR. WELLER:

Q. You say to your knowledgs it was sold on Mr. Buttlar's credit, what do you mean by that?

30 The Court: What do you mean by saying it was sold on Mr. Buttlar's credit to your knowledge; what do you mean by that?

A. As far as I can recollect that it was entered in the ledger, that is more than I can tell you, for I don't know how it was entered in the ledger, but as much as I understood at the time that his name was entered on the ledger as "Christian Buttlar."

40 Q. (By the Court): Those entries were made on the blotter, pencil or something of that kind when the goods were sent out, were they not? A. I was

HENRY WICHT—Cross.

attending to outside work and I had a day book and I had to put all the daily sales in and we sent a good many barrels over by express and I done all the marking; that is, I put on the barrels, it says, "Christian Buttlar."

Q. C. Buttlar? A. Or sometimes "Christian Buttlar; then we had an expressman there that called for them and I had a day book that I let the expressman sign for it in Buttlar's name, or "C. Buttlar's" name, "Christian" whatever I put on the book and I mailed a good many letters that I put in the mail box that was mailed direct to Buttlar, "Christian Buttlar" 141 First street. 10

Q. To the best of your knowledge, it was that way on the ledger? A. To the best of my knowledge, yes, sir.

Q. It may have been "C. Buttlar" on the ledger? A. May have been or it may not, I don't know I would not testify on that. 20

Q. And most or all the flour may have been shipped to "C. Buttlar" for all you remember? A. Yes, sir.

Q. And all the letters may have been written to "C. Buttlar" for all you remember? A. Yes sir, and through my knowledge I didn't know anybody else ran that bakery but Mr. Buttlar himself. 30

Q. You never went over to the place? A. Oh, many times.

Q. Did you ever see his wife? A. I did.

Q. She was there attending to the store? A. She was attending the store at the time, sometime Mr. Buttlar was there himself, also.

Q. Most of the time you saw her there? A. I saw Mr. Buttlar a good many times and he was working in that bake shop, baking in the bake shop. 40

HENRY WICHT—Cross.

Q. (By the Court): It is the usual case of the baker attending to the bakery and his wife selling the goods? A. I have collected my bills there too and Mr. Buttlar always came over to the store and paid the bills.

Q. (By the Court): Himself? A. I never saw his wife at the store to my knowledge.

10 Q. (By the Court): At your store? A. At the place I was working.

Q. (By the Court): And he always ordered the goods? A. Ordered the goods and paid for the goods.

Q. The bills were paid in cash were they? A. The flour bills generally run this way—

Q. Merely paid in cash? A. Not exactly cash.

20 Q. (By the Court): He means cash down? A. Paid in money.

Q. Didn't give notes? A. No, no notes at all; no notes given.

Q. Or no checks given? A. Not to my knowledge.

Q. (By the Court) : Do you know whether checks were given? A. That is more than I can tell.

30 Q. (By the Court): Didn't sell flour on notes much? A. No, sir.

Q. I mean checks? A. He may have some checks, the same as cash in checks, sometimes I pay them out to my man.

CHRISTIAN PARROTT, sworn,

DIRECT EXAMINATION BY MR. VAN WINKLE:

40 Q. What is your business? A. Blacksmith, wag-

CHRISTIAN PARROTT—Direct.

on work.

Q. And you have made wagons how many years? A. Well, it is quite a while; I made a new truck for Mr. Buttlar.

Q. When did you make a truck for him? A. I believe it is in 1886, the bill must be here, I can't remember.

Q. About 1886? A. I believe it was.

Q. And was the truck painted? A. That was the first I made. 10

Q. Was the truck painted? A. The truck was painted.

Q. Did it have any name on it? A. Yes, sir.

Q. What name was on it? A. Christian Buttlar.

Q. Was the truck used in the feed business by him in Hoboken? A. Yes, sir.

Q. Now, then, when did you make another truck for him? A. Well, I could not tell exactly. 20

Q. About how many years ago? A. About five or six years ago, I guess.

Q. And what name was on that? A. I could not tell that whether it was Buttlar, Witte or—but I think it was Christian Buttlar.

Q. The first truck you are clear about; the second you are not? A. No, sir, the second I am not; I made the truck but I don't know exactly what letters was on it. 30

Q. That is, the second truck? A. Yes, sir, the second.

Q. Where is your place in Hoboken? A. Right on Ferry street, near Adam.

Q. Are you in partnership with anybody? A. No, sir.

Q. I show you a bill head, that is one of your bill heads; "To Christian Parrott, truck and wagon maker, Newark street, near Henderson, Hobo- 40

CHRISTIAN PARROTT—Direct.

ken" that is one of your bill heads? A. That is mine.

Q. On this is date July 17th, 1886, is that the time you made the first truck? A. That is the first.

Mr. Van Winkle: This is a duplicate taken from his books; we can't use it.

10 Q. (By the Court): Who paid you for it? A. Mr. Buttler.

CROSS EXAMINATION BY MR. WELLER:

Q. Why didn't you bring your books here? A. Nobody told me anything about it.

Q. He was in the feed business when you made this truck? A. He was in the feed business.

Q. On First street? A. Yes, sir.

20 Q. And this bill is dated July 17th, 1886? A. Yes, sir.

Q. Didn't you know he was in any business alone at that time? A. He was alone.

Q. Don't you know that Witte was partners with him from May 11th, 1886 to 1888? A. Well, yes, sir.

Q. Why would you put "Christian Buttler" on a wagon made for Witte & Company? A. On the truck is "Christian Buttler" on it.

30 Q. Yet Witte & Company were running that business at that time? A. I think so.

Q. Don't you know that there was never "Christian Buttler" on any truck, that it was "C. Buttler" the only letter was on it? A. I can't recollect if it was on the second truck or not, I can't tell.

Q. Yet you mean to say that you knew he and Wite were running the business from April 1886, to May 11th, 1888.

40 A. Well, he was in partners I believe, at that

CHRISTIAN PARROTT—Cross.

time, but the name and he paid me for it, that is all.

Q. (By the Court): You don't know how long they were partners? A. No, I can't tell that.

Q. (By the Court): All you know is, you heard he was in partners with a man named Witte? A. Yes, sir, what I know Witte.

10

Q. (By the Court): But you made the wagon for Mr. Buttler and he paid you for it and you are sure Christian Buttler was painted on the outside? A. That is right, your Honor.

Q. You never saw Witte then?

The Court: He said he knew Witte.

A. Yes, sir.

Q. Did Witte order this wagon, too? A. They was both around.

20

Q. Don't you know that business didn't belong to either Witte or Buttler, but it belonged to Mrs. Buttler?

Objected to.

The Court: What does this witness know about that.

30

CHRISTIAN BUTTLAR RECALLED FOR
FURTHER CROSS EXAMINATION BY MR
WELLER:

Q. The witness was shown feed book and asked to point out where the money was paid to Mr. Parrott for the two wagons and his answer was, that it was paid in installments. Can you show any installments that you paid Parrott here for that truck? A. "Christian Parrott, blacksmith, \$50."

40

CHRISTIAN BUTTLAR—Cross.

Q. (By Mr. Van Winkle): What day and what page? A. July 24th.

Q. (By Mr. Van Winkle): What year? A. That is poor bookkeeping, there is no year there, page 16. Now we will find every cent here. "Parrott \$25. September 18th; Parrott \$25. on the 14th October, next month October 14th, \$25.

10

Q. (By the Court): What year? A. The same year, every cent is in the book.

RE-DIRECT EXAMINATION BY MR. VAN WINKLE:

Q. So as to clear up that matter of the wagon, did you buy any old wagon in the beginning, when you got the business first? A. I went into partnership with Charlie Witte and took an old truck and horse to work, a couple of old torn bags and uncollectible accounts for \$270; that was Mr. Witte's entrance into the partnership with me.

20

Q. When you got this wagon from Parrott that was your first new wagon? A. That old truck would not go, so I went to Chris Parrott and ask him if he was willing to buy the truck and take payments on the installment plan.

30

Q. (By the Court): Sell it you mean? A. He built new truck; built it for our purpose, feed truck.

Q. That was the name you had, Christian Buttlar on it? A. No, no, new truck came in name of Witte & Company.

Q. When did the truck come that had your name on? A. On the dissolution of partnership between Witte and me, two years later.

Q. I show you bill, H. Luettich, June 13th, 1881, carriage and wagon painter, 411 Newark street.
40 Hoboken, to painting and lettering on feed truck,

CHRISTIAN BUTTLAR—Re-Direct.

§20.50, did you pay him that amount and what lettering was put on the truck? A. The full name "Christian Buttler," the man is unable to appear here, otherwise he would appear here, but I thought Mr. Parrott would be sufficient, because the truck came to his shop back for repairs and he saw my name full on the truck.

Q. Then Mr. Parrott was mistaken in supposing he had put it on in the first place; it was put on after you bought Witte out and painted by a painter? A. Yes, sir. **10**

By the Court): And then went to Mr. Parrott for repairs with Christian Buttler on? A. Yes, sir.

Mr. Weller: I move Mr. Parrott's evidence be stricken out.

The Court: It will not be stricken out. **20**

Mr. Van Winkle: Perhaps Mr. Weller will admit without calling the witness that the mortgage made by Augusta Keiswetter in 1881, \$3,000 was made to Christian Buttler.

Mr. Weller: The wife has so sworn; she says she gave him the money to invest for her and he took it back in his own name; I admit the records show that. **30**

Mr. Van Winkle: The record shows Mr. Weller admits also, I think Christian Buttler signed that mortgage J. Brunning, November 2nd, 1881.

Mr. Weller: I do, that is what the record shows.

Mr. Van Winkle: That is our case.

Mr. Weller: I want to ask a few questions in Rébuttal. **40**

MINA BUTTLAR—Direct.

MRS. MINA BUTTLAR RE-CALLED

DIRECT EXAMINATION BY MR. WELLER:

Q. What date did you leave Brooklyn? A. About the 1st or second of January, 1876.

Q. Your husband left there a few days before you did? A. He left weeks before, months before

10 Q. Was your sister ever a partner with your husband in Hoboken? A. My sister was servant when the baby was sick one or two months.

Q. At the time that notice of recision was served on you, how much alimony did your husband owe you? A. Near nine months.

Objected to.

The Court: What is the point of that? He admits he owed her.

20 Q. Did you force your husband in the Rosenblath case to swear false? A. I never did or nobody else either.

Q. Did Judge Smith in that case advise you to swear falsely? A. No, sir; he advised my husband a great deal better, to think over things before he would get headaches over it.

30 Q. Did you make a scene when he went home because he didn't tell more untruths? A. No, sir; he made me a scene, it was my fault I lost the case; I didn't do him; I was near dead when I got home.

Q. At the time the partnership was closed or dissolved between Mrs. Witte and yourself, who did the business for you. A. Mabon.

Q. John S. Mabon? A. Yes, sir.

Q. And he was a partner at that time of Abel I. Smith? A. Yes, sir.

Q. Who paid him for his services? A. I did.

40 Q. Is this the receipt he gave you? A. Yes, sir.

MINA BUTTLAR—Direct.

Q. At that date did you get a bill of sale from Mrs. Witte and her husband? A. Yes, sir.

Q. Is this the bill of sale? A. Yes, sir.

Mr. Van Winkle: That is the same paper shown Mr. Buttler?

Mr. Weller: Yes.

Q. Is this the signature of Mrs. Elsie Witte and Witte? A. Yes, sir. 10

Q. I show you a receipt dated May 11th, 1888, made by Abel I. Smith & Mabon, that is the way it is signed, "To Mrs. Buttler for \$25 for drawing papers in the dissolution of partnership of Witte & Company." I also offer a paper of the same date; whose handwriting is that paper in? A. Mr. Mabon's.

Q. Also in Mr. Mabon's handwriting? A. Yes, sir. 20

Mr. Weller: The consideration is \$1,200 and \$800 of which appears thereby to have been paid on that date. Now so we don't have to go through the book. The other day she swore to certain sums in the book that Mr. Buttler got from her to put in the feed business. Those were the items, we didn't go through the whole of them. The books simply said "Buttler." 30

Mr. Van Winkle: That is compilation from the books.

Mr. Weller: That is all.

Q. This is a copy of the items where the account book shows that Witte & Company got money from Buttler? A. Yes, sir.

Q. And you claim that that money was all gotten from you? A. Why, certainly, Mr. Buttler said so himself. 40

MINA BUTTLAR—Direct.

The Court: Was that taken out of the book.

Mr. Weller: That was taken out of the book; yes, sir.

The Court: Out of the books that have been put in evidence?

10

Mr. Weller: That is all.

Q. Didn't you say this was money from the rent of the Clinton street houses? A. Yes, sir.

Yellow sheet of paper with pencil compilation on marked Exhibit F, February 9th, 1903.

20

Q. When you sold the bakery in Hoboken to Phillip Bohley did your husband sign the bill of sale? A. No, sir.

Q. Whose name was the flour bought in for the bakery, do you know, that is the Hoboken bakeries, the two Hoboken bakeries? A. What do you mean, where the flour was bought from?

Q. Whose name was it bought in, yours or Buttler's? A. It was bought in my name, "C. Buttler."

Q. You were in business under the name of C. Buttler? A. C. Buttler.

30

Q. If he bought it under his name did you know anything about it? A. No, sir.

Q. Did your money pay for the flour? A. Why certainly, he didn't have none.

Q. Now in 1886, In April, and from then on to the time you bought out Witte, was Christian Buttler's name on any of the wagons? A. No, sir. It was Witte & Company on the first wagons.

Q. Witte & Company? A. Yes, sir.

40

Q. After May 11th, 1888, what was put on the wagons? A. C. Buttler first and after he put Christian Buttler on.

MINA BUTTLAR—Direct.

Q. Did he do that by your authority? A. No, sir. I only seen it on the wagon, when I seen the wagon once.

Q. Now we will come to the West Hoboken property, when the Lenniworth mortgage was paid there in West Hoboken, had everything been paid that was ever paid?

Mr. Van Winkle: I don't understand that question. 10

The Court: Who gave the Lenniworth mortgage?

Mr. Weller: The two of them in their joint names gave a mortgage to a man named Lenniworth for \$6,000.

Q. You had bought the property and built the houses? A. Yes, sir. 20

Q. Was everything paid excepting the Lenniworth mortgage; when you took up the Lenniworth mortgage did that pay everything?

Mr. Van Winkle: I understand, you made a mistake in the man.

Q. What is the amount of the mortgage? A. \$6,000.

Mr. Weller: I will leave out all amounts. 30

Q. What I mean, when you raised the money on the Lenniworth mortgage did that pay everything for the land and the buildings? A. Yes, sir; everything paid up.

Q. Nothing has been paid since that time; you have never paid anything on it since that, on that property? A. I could not tell if it was all paid off or if it was not, it was paid up so far as the assessments were due.

Q. I am not asking about taxes and assess- 40

MINA BUTTLAR—Direct.

ments, I mean the buildings were paid for and the land was paid for? A. Yes, sir.

Q. And since that time, since the date of the Lenniworth mortgage you have not made any payment? A. Oh, yes; Lenniworth mortgage went into the building.

10 Q. (By the Court). Was the amount you raised on the Lenniworth mortgage enough to pay everything that was due on the buildings? A. Oh, yes.

Q. You never paid anything on that since that? A. Not since the buildings were done, finished.

Q. That \$275, that was in the joint names in the Bowery Savings Bank, who drew that out? A. Mr. Buttlar.

Q. Did he do it with your permission? A. No, sir, he took the bank book and got it.

20 Q. Was the reason that your husband's name was not on the last three lots bought in West Hoboken because he was working at the time?

The Court: The reason?

Q. The last three lots that were bought out in West Hoboken, he testified that the reason his name did not get on that deed was because he was at work, is that so? A. No, sir.

30 Mr. Van Winkle: Those are lots owned by her alone.

Mr. Weller: Not by her alone; he says he bought them and his name was not put on because he was at work at that time.

40 The Court: That is a very pliant question, if I didn't have some glimpse of it, recollection of it, I would not understand it, but as I understand it now Mr. Buttlar swears to something because he was not

MINA BUTTLAR—Direct.

attending personally to the business, that his name was not put in. He bought that, but by inattention on his part his name was not put in the deeds.

Mr. Van Winkle: Your honor has it right.

The Court: Now the question is so pliant that it does not give the judicial mind any information whatever. Now I think as a counsellor you ought to put your question differently. 10

Q. Would you have made such an investment on your own account? A. I never would have bought the lots if he hadn't bought it.

Q. Just explain how it was bought? A. They was going to attend auction there that day, and as he told me after, that is all I know, what he told me, what he told Mr. Luxton, and he said that he went and told them that they should not sell those three lots for he was going to take them, if they come for such a price; I asked him how he dared to buy them and that is the answer he gave me. 20

Q. Would you allow him—?

The Court: What she would do or what she would not do is of no use to the Court whatever. 30

Question withdrawn.

The Court: The husband says that he bought them and intended to have the title in his own name, or something like that, and told his wife about it. He had to go off somewhere else and had the deed made in her own name. 40

MINA BUTTLAR—Direct.

Mr. Van Winkle: That property is not in suit anyway.

10 The Court: I understand, but he explained why— He claims that that was a gift or you may call it a steal without his consent by his wife; title should have been taken in the joint names—her own name—and he makes oath, and very properly, from your point of view, that this property is properly divided, and his wife has got the better of him on that.

Q. Whose money did pay for that? A. My money.

20 The Court: She calls it all her money, but it don't make it so at all, to ask her that question; she claims it was all hers; she claims that the title was put in her, everything, and she owns everything and all the money that was made was hers.

Q Where did you take the money from to pay for those lots? A. Out of the bank.

Q. What bank? A. Hoboken Savings Bank.

30 The Court: Now you have got the date then and can show where they came out of the bank.

Q. Was it the Clinton street money still in the bank? Made from the Clinton street property?

Q. Yes? A. Yes, sir.

Q. When your husband came from Brooklyn did he have \$2,000? A. Not to my knowledge.

Q. Did he have anything to your knowledge? A. Not at all.

40 Q. You say your husband did not sign the bill of sale to Bohley at all? A. No, sir; he didn't.

MINA BUTTLAR—Direct.

Q. Did your husband to your knowledge ever have a mortgage in Brooklyn for \$900? A. No, sir, never knowed it.

Q. Did your husband make about 1,800 marks by the purchase and sale of the hotel at Trefford? A. No, indeed, he lost that.

Q. How much? A. I could not tell exactly how much was lost. 10

Mr. Van Winkle: I think Mrs. Buttlar covered this in her testimony before the court before.

Q. Did your husband engage a housekeeper for the Clinton street houses? A. No, sir.

Q. After he went to Coney Island? A. No, sir.

Q. Did he run the Coney Island business two years? A. No, sir.

Q. How long? A. For about three months. 20

Mr. Van Winkle: I object, she has gone over this before, there is no question about this part of the testimony. She told all about Coney Island, how long he stayed there.

The Court: Let her answer the question. How can she tell at this time how long a time he was there? She wants to be put in the position of negating everything he has sworn to. 30

Q. How long did your husband drive a horse car? A. Two weeks.

Q. Did you tell your husband while you lived in Clinton street property, after the property had been deeded over to you in 1882, that he could get out in the street? A. Never.

Q. Did you ever tell him anything of that kind? A. What I told him, whatever it was, once Lavinia 40

MINA BUTTLAR—Direct.

had been got confirmed, he whipped her when she come home after the confirmation, after the church, and I just come in and I said, what was this for, and she was crying, she said, "Mamma be still, papa whipped me;" "what for," "Because I rode home in the carriage;" I said, "why didn't you tell him this cost anything," "he would not believe me and said I lied, slapped me in the face" and said "don't go any more and whipped me further."

10

Q. Did you send Henry Becker down to your husband to buy the feed store at the time he bought it? A. Never knowed Henry Becker.

Q. Did you sign the bill of sale that was given to Becker? A. No, sir, never was asked.

Q. And you didn't sign this lease that has been offered here? A. No, sir.

20

Q. When did you first learn that he sold the business to Becker? A. Sometimes he told, I can't tell exactly when when it was.

Q. Was it after the sale? A. After the sale.

Q. How long? A. Well, about a month, I guess, I could not tell exactly.

Q. Did you ever know that the bill heads were made out in his name? A. No, sir.

Q. Did you agree to have them made out in his name? A. He never asked me, never knowed anything about it.

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Q. Is that that you swore to in the Rosenblath case true? A. Certainly it is.

Objected to.

The Court: Can't answer that.

Q. How much money did you bring back from Europe? A. I think, I don't know exactly, about \$3,500.

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Mr. Van Winkle: She has testified to this before fully.

MINA BUTTLAR—Direct.

The Court: She is entitled to testify again if she wants to change her evidence.

A. It must be \$3,500.

Q. When you came back from Europe he opened an account with the Hoboken Bank for Savings. was that part of your money? A. That was money we brought back from Europe and we took away.

Q. Had he any money of his own at that time? 10

The Court: What is the use of asking such a question.

MRS. FLORA GRANDJEAN recalled.

REDIRECT EXAMINATION BY MR. WELLER:

Q. Did your father when he went to Coney Island employ a janitor for the Hoboken houses, the Clinton street houses? A. No, sir. 20

Q. Whose writing is that on page 3 of the—that is the bottling business book? A. Some is Mr. Buttlar's.

Q. Some is Mr. Buttlar's and whose is the rest? A. I think that looks like the driver's writing, he had in that beer bottling business. 30

ALWINE BUTTLAR sworn.

DIRECT EXAMINATION BY MR. WELLER:

Q. How old are you? A. Twenty-six.

Q. Where do you live? A. 347 West street.

Q. You are a daughter to the parties to this suit? A. Yes, sir.

Q. You are a school teacher? A. Yes, sir. 40

ALVINE BUTTLAR—Cross.

Q. You lived at the time with your parents up until the time they parted. A. Yes, sir.

Q. Did your mother control the father or the father the mother?

Objected to.

10 The Court: What is that; in the first place the question is intensely badly framed, and next place it is objected to; I can't see the point here.

Q. How did your father treat your mother?

Mr. Van Winkle: I object unless the time be specified, some year, how many years ago, when, what year?

20 Q. Mention back when you can remember? A. Ever since I can remember, he was never gentle, always rude and always making her do things, if she objected he would always overrule her.

Q. Did your father have a janitor or janitress in the Clinton street houses? A. No, sir.

Q. Who took care of those houses? A. My mother did.

Q. Who collected the rent? A. My mother did.

Q. Who attended to everything? A. My mother did.

30 CROSS EXAMINATION BY MR. VAN WINKLE.

Q. The rent your mother got, she put in the bank, didn't she? A. I could not tell you what she did with that, sir, I know she collected it.

Q. She handled the money that came from the houses? A. Yes, sir.

40 Q. And you got your education until you became a school teacher? A. Through my mother's influence.

EMIL LATTMANN—Direct.

- Q. I didn't ask you that? A. Yes, sir.
 Q. Where did you go school? A. Hoboken.
 Q. In the High School? A. Yes, sir.
 Q. You were graduated from that? A. Yes, sir.

EMIL LATTMANN sworn :

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DIRECT EXAMINATION BY MR. WELLER :

Q. You and Christian Buttler were partners in 1884, about, were you not? A. Yes, sir, 1894

Q. 1884? A. 1894.

Q. Oh, 1892, that is what it was? A. 1892, or 1893 or so.

Q. Well anyhow how did you come to be partners, that is the fact I want to know, did he buy you out or did you buy him out? A. I bought him out.

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Q. You bought half of him? A. He got \$400 invested.

Mr. Van Winkle: I object, Mrs. Buttler does not claim she owned this business, the saloon.

Mr. Weller: I do it to discredit Mr. Buttler.

The Court: You can't discredit him on collateral matter.

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Mr. Weller: It is not collateral for the reason he told what he did with this money, the money he raised from the saloon.

Q. When you bought out Mr. Buttler, you bought him out afterwards? A. Yes, sir.

Q. How much did you pay? A. I gave him \$100, he have to go out of business; he was satisfied and I gave him his money back \$100.

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MINA BUTTLAR—Direct.

MRS. MINA BUTTLAR, recalled :

FURTHER DIRECT EXAMINATION BY MR. WELLER :

Q. You said in your testimony there that Judge Smith advised your husband to be careful before he got headaches over it; what did he advise him?
 10 A. For not to deed the property over to me.

Q. That was before this was deeded away? A. That was before it was deeded away.

Q. That is what you meant back there when you said that? A. Yes, sir.

Mr. Van Winkle: He advised your husband.

Q. He advised my husband not to deed the property to me, that he wanted it.
 20 Q. Who wanted it? A. Mr. Buttlar.

Q. Wanted to deed what? A. Deed the property over to me.

Q. Did you want it too? A. I took it, certainly, why shouldn't I. I had to do the work anyhow and he always made trouble.

Q. That is the time when the trouble was with Rosenblath, do you mean? A. It was before Rosenblath, yes, sir.

Q. That was when you had this conversation about deeding the Clinton street property? A. Yes, sir.
 30

Q. When Judge Smith was giving you advise about the case? A. Judge Smith didn't give advice.

Q. Giving your husband advice? A. Didn't give my husband advice either.

Q. Were you present? A. Yes, sir, my husband sent me there.

40 Q. What did he say? A. About what?

MINA BUTTLAR—Direct.

The Court: About deeding the property over to him.

A. He said to tell my husband not to do it and to think over it before he would get headaches after.

Q. Your husband was not there? A. No, he was in Coney Island.

CASE CLOSED.

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satisfaction of all support and maintenance and all alimony whatsoever.

Buttler, complainant, brought an action against defendant for divorce on the ground of desertion, to which she filed a cross-bill against him for divorce on the ground of adultery, with the result that on March 24, 1902, a decree for divorce on the ground last mentioned was made in favor of the defendant and against the complainant, which contains a reservation of the right of the defendant to apply for permanent alimony. Whereupon on the twenty-fifth day of March, 1902, the complainant served upon defendant a paper in which he declared that he rescinded the contract above mentioned, stating among other things as ground for his rescission that the agreement was made between the parties while they were husband and wife and in consideration of that relationship, and, further, because the agreement was made in consideration of the real estate being held between the parties by the entirety, which particular estate had been determined by the decree of divorce. 10

On May 6, 1902, complainant filed his bill against defendant for a partition of the two pieces of property above mentioned on the ground that the estate of the parties had been changed by the decree of divorce to an ordinary tenancy in common. No mention is made in the bill of the agreement above mentioned, and no relief is prayed against it. 20

The defendant by her answer and cross-bill admits in substance all the facts above stated and that the premises in question are now held between the parties as tenants in common as the result of the divorce. 30

She sets up in defense of the partition the contract of January 31, 1894; alleges that the same 40

is still in force between the parties and that by reason thereof the lands are not now subject to partition between the parties.

10 Thus far the questions raised by the pleadings are almost entirely of law. But the defendant proceeds by her cross-bill to set up what she claims to be an equitable title to all the premises; and for that purpose she goes into the history of the married life of the parties from its inception, in which she sets up facts and circumstances tending to show, and she charges the truth to be, that the property in question was all purchased and paid for with her individual funds, and that complainant having no beneficial interest therein, compelled her by threats to have the title vested in their joint names, and asserts that under the circumstances he holds the title to the equal undivided one-half part thereof, standing in his own name, 20 in trust for her, and prays a decree to that effect.

All the facts upon which this theory is based are denied by the complainant in his replication, and in it he points out and claims that the contract of January 31, 1894, was rendered inoperative and of no binding effect by the decree of divorce and by the notice or rescission thereof.

30 That the effect of the divorce was to destroy the estate by the entirety was admitted not only in the answer of the defendant, but in the argument, and seems reasoning.

The effect of the divorce upon the contract of January 31, 1894, raises a question of more difficult solution.

First, Is it still binding? Second, does it give the wife an equitable lien upon those premises?

40 But laying aside, for the present, the first question, let us look at the next question, whether the

contract of January 31, 1894, gives the defendant any lien, legal or equitable, on the interest of the complainant in the property in question for the monthly payment provided for therein.

The language is that the defendant in consideration of the covenant of the complainant to make to her the monthly payment of seventy-five dollars "does hereby agree to and with her said husband that he shall be entitled to receive, during the term of his natural life, all the rent, income and profits of the property." 10

Now the right which the wife had to give in those premises was settled in the case of *Buttler v. Rosenblath*, reported in 15 *Stewart*, 651, at page 657. The wife has simply a right to one-half of the rents and profits, and those and those only she pledged to her husband.

That right the complainant has deliberately renounced both in the written rescission, to which reference is above made, and also in filing his bill for partition. I am not aware of any authority for the proposition that a tenant in common of an equal undivided share in lands who also holds an encumbrance on the other share cannot prosecute a suit for partition where he waives lien upon the other share. 20

I can find nothing in the agreement of January 31, 1894, which gives the defendant any lien upon complainant's share for the monthly payment provided therefor. I think that the existence of the agreement, even if the complainant has by it a continuing lien upon defendant's share to secure his liability thereunder, furnishes no defense to his suit for partition. He prays no relief against it, nor does he pray in the alternate that if it be held binding upon him that he is entitled to a lien upon defendant's share to protect himself against it. 30 40

This view renders it unnecessary to determine whether the complainant's obligation under that agreement has been discharged by the divorce obtained against him by defendant.

It may be observed, however, that the general rule is that no vested interests are disturbed by a decree of divorce unless the instrument under which the vesting occurred provides therefor.

- 10 Dixon v. Dixon, 8 C. E. Gr. 316, S. C. 9 C. E. Gr., 133;
 Lister v. Lister, 8 Stew, 49;
 Charlesworth v. Holt, L. R. (1873) 9 Excheq., 38;
 2 Bish. M., D. & S. secs. 1654 et seq.

- 20 One ground upon which complainant relied in argument as to the validity of the contract was, that being himself about fifty-nine years old and defendant about sixty-six years old, his right of survivorship arising and that this valuable right was destroyed by the action of defendant.

The principal contest between the parties was that raised by the defendant setting up an equitable title to the whole fee of the premises in question.

- 30 To this counsel for complainant pointed out in argument as a complete answer that the defendant by entering into the contract of January 31, 1894 and now still asserting its validity distinctly ratified and affirmed the title of the complainant in the premises. Perhaps I might rest the case on that point alone, or perhaps I might decide it in favor of the complainant on the merits and give as my reason simply that I had gone through the evidence carefully and had come to the conclusion that the defendant's case wholly failed and say
 40 that while I found both parties to be industrious, thrifty and saving, and to have contributed as such

people under such circumstances usually do in proportion to their several ability to the little fortune accumulated by them, and while the complainant distinctly declared that defendant had been during nearly the whole of their married life a faithful, economical help-meet, and that he was entirely willing that she should have one-half of his property, yet I found, as a matter of fact, that the complainant was an unusually energetic man and possessed of unusually good business judgment in business affairs and was the principal creator of the fortune. 10

Nevertheless, I deem it my duty to state somewhat in detail the result of my study of the evidence.

The parties, who are both natives of Germany, were married in the early part of 1872. Complainant was then a widower about twenty-seven years old, with no children; the defendant was then thirty-four years old, twice a widow, and had no children. 20

Both were laborers; complainant was a journeyman baker, and defendant, as complainant states, was a washerwoman, and defendant states she also did sewing.

Their pecuniary condition is indicated by copies of their several savings bank accounts which are produced. 30

The defendant's commencing in 1866 and ending September 30, 1872, in one savings bank shows divers deposits made by her on different occasions during the intervening years ranging from ten dollars to fifty dollars; and drafts therefrom in sums ranging from ten dollars to a hundred dollars. So that in January, 1872, just before she was married she had about one hundred and fifty dollars to her credit, and on the 15th of that Janu- 40

ary she drew fifty dollars, and on the 30th of September, 1872, she drew \$102.71, her complete balance.

10 The complainant had to his credit at the time he was married \$15.22, which he then drew. Then we have an account in their joint names commencing in July, 1872, by a deposit of fifty dollars, and by a deposit on September 28, 1872, of one hundred dollars, and drafts against it in January and February, 1873, of \$192.85.

20 During the first years of their married life the complainant earned his living as a journeyman baker. Toward the latter part of that year he borrowed of one Drewitz, a co-laborer, one hundred and forty or one hundred and fifty dollars, and joined that with \$102.71 taken from his wife's individual bank account and moneys which he had saved from his wages and purchased a bakery establishment in Brooklyn at the price of six hundred dollars, paying down three hundred dollars and giving a chattel mortgage for the balance.

This business was a success, as their joint savings bank account shows, and as was admitted by the defendant.

30 Complainant repaid Mr. Drewitz the money he had borrowed from him and also paid the chattel mortgage and had money left, all in two years' time. The proof is clear that he, himself, worked very hard, with Drewitz as an assistant, that he spent his nights in baking bread and part of his daytime in baking cake and also in delivering his bread to his customers, carrying it on his back.

40 At the end of about two years he sold out his business for about six hundred dollars, and in March, 1875, took a steerage passage to Germany and back and brought his sister with him at an expense of about two hundred dollars.

Just here comes the first clash of evidence between the parties. The defendant swears that when they were first married she was possessed of about five hundred and fifty dollars, partly in a savings bank and partly loaned out. This is denied by the complainant. I think the documentary evidence of the bank accounts, supported by the evidence of Mr. Drewitz, apparently a reliable witness, supports the statement of the husband and flatly contradicts that of the wife. There is not only nothing in her bank account, to which reference has already been made to indicate the possession by her of any such sum of money, but the contrary. And then we have the undoubted fact that both their savings bank accounts were exhausted and one hundred and fifty dollars borrowed from Drewitz and a chattel mortgage given in part payment for the bakery in order to enable them to make their first start in business.

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Now, as they were then living in perfect accord and both anxious to get on in the world, it seems highly improbable that they would have borrowed money and given a chattel mortgage if the defendant had been possessed of a sum which she now swears she had within easy reach.

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One other claim of the defendant may as well be dealt with at this moment. In addition to the sum of five hundred and fifty dollars which she says she was worth at the time she married the complainant she swears that in the year 1874 she received eight hundred and sixty dollars in two payments of five hundred dollars and three hundred and sixty dollars on the death of a relative in Germany. She gives the name of the person through whom she received it, who cannot now be found, and in support of it she brings a statement from the Williamsburg Savings Bank, received in evidence as if proven, showing that she deposited

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in that bank to her individual credit on November 8th, 1875, five hundred dollars, and on January 5th, 1876, three hundred dollars, making a total of eight hundred and sixty dollars, which amount was drawn out on the 22nd of April, 1876.

The defendant's account of her receipt of this money is as follows: On direct examination she says:

10 "Q. What property had you, if any, when you were married? A. \$500.

Q. (By the Court) Where was it? A. Part in the bank and part loaned out.

Q. Where did you get it from? A. I got it from home; some of it I saved myself; I had some in the Canal street bank.

20 Q. During the time you ran the Brooklyn bakery did you receive any money from home? A. Yes, sir.

Q. How much? A. \$860.

Q. (By the Court) Dollars or marks? A. Dollars. A man named Kern paid me it and never gave me any paper for it. He only paid me that money out."

Further on she says it came from relatives in Germany.

On cross examination:

30 "Q. How much money did you get from the other side? A. First?

Q. No, altogether? A. \$850 and \$144 and \$500, first, I couldn't reckon it at first.

Q. Those three times? A. Three times.

40 Q. (By the Court) I understood only two times? A. I had that from home, \$500; \$300 I brought when I come back three months before I married Mr. Buttlar, and when I came here first I had some saved."

Further on she said, on the subject of this money:

"I had \$850 by Mr. Recht.

Q. Where was it? A. By loan in Williamsburg, by a man name Recht, loaned out to a man named Recht.

Q. Had it loaned out to a man name Recht? A. Yes, sir.

Q. \$850? A. No; he hadn't it all.

Q. How much did he have? A. He had \$600. 10

Q. That is Recht had \$600? A. Yes, sir.

Q. Where was the other money? A. The other money—where?

Q. You can't recollect this moment? A. I can't recollect this moment that name, no.

Q. You had money at that time in the bank, but you had money loaned out to the amount of \$850? A. Yes, sir."

Further on she says again that she had \$850 loaned out. In point of fact she received about \$140 from abroad several years afterwards while living in Hoboken. 20

And in the Rosenblath case, the evidence in which was admitted by consent of the parties for use in the present case, the defendant swore as follows:

"Well, I had some money when I married my husband.

Q. That you got from home, I suppose? A. I had that from home; I had that long before; I always had it, and I had a comfortable home too. 30

Q. How much was that? A. \$550.

Q. Then did you get any money afterwards? A. About two years after I married my husband I had \$860.

Q. When did you marry him? A. In 1872.

Q. And two years afterward you got \$860 more? A. Yes, sir.

Q. Where did that come from? A. That came 40

from my parents at home.

Q. By whom was that paid to you, or through whom? A. By a man who had an office in 18 First Street, Mr. Kern.

Q. New York? A. Yes, sir.

Q. Have you ever been over there to find this man? A. I have.

Q. Lately? A. Yes, sir.

10 Q. What did you find became of him? A. I found that he failed and was not there any more.

Further on, upon cross-examination she swears that she had \$800 which she received from Europe and \$550 which she had when she married her husband; and she swears that that money came from home in 1874, and she swears that the money she got from home she put in the Williamsburgh Savings Bank, and that it was \$860. She further swears that she had at one time \$600 in the 14th
20 Street Savings Bank, which was the one in which she kept her first account which I have mentioned above.

Now, as soon as the parties began to have a little money they kept joint savings bank accounts, one in the name of Christian and Mina Buttlar and one in the name of Christian or Mina Buttlar, so that either could draw it. It appears that an account was kept off and on for several years in the
30 German Savings Bank of the City of New York, and sometimes a small account in the German Savings Bank, of the City of Brooklyn, and part of the time, part of the moneys were in the Williamsburgh Savings Bank

The account in the German Savings Bank of New York commenced on September 8th, 1873, and ended May 15th, 1875 and amounted to \$961.

40 Another in the German Savings Bank of Brooklyn in 1873 while conducting their first bakery in Brooklyn, amounted to \$200.

Another in the same bank in Brooklyn in the year 1875, amounted to \$250. Another concurrent account in the joint names as kept in the Williamsburgh Savings Bank and ran from March, 1874, to January, 1876, and amounted to \$821.

Now, after the complainant returned from Germany in June, 1875, he started another bakery in Brooklyn, and ran it for a few months and then finding he was losing money turned it over to his wife, who subsequently sold it out, sometime in the fall or early winter of 1875. 10

Now, I find there was drawn from the German Savings Bank of the City of New York, on the 15th of May, 1875, \$361.98 from the joint account, and from the joint account in the Williamsburgh Savings Bank on the 15th of May, 1875, \$370.71, both drawn in the spring or summer before the deposit of November 9th, 1875, of \$500 to the credit of the defendant individually in the Williamsburg Savings Bank, and in this connection the complainant swears that he found that his wife was putting money in her individual name in a savings bank about that time. 20

Then we find that on the 5th of January, 1876, there was drawn from the joint account of Christian and Mina Buttlar in the Williamsburgh Savings Bank the sum of \$360.58, and there was credited to her individual account on the same day in the Williamsburgh Savings Bank the sum of \$360, being precisely the sum which she drew on the same day from the joint account of both parties in the same bank. 30

Now, that joint account showed deposits in small sums of from \$100 to \$228, and neither in that or any other of the several savings bank accounts which they kept was there any place where either \$500 or \$360 which she swears she received 40

from Germany during that period, was deposited at any one time, except the \$360 just mentioned, which was a mere transfer from the joint account to the individual account. Hence, I am unable to credit the defendant's statement that she received \$860 from her friends in Germany.

10 Further, she swears that the first bakery that was kept in Brooklyn was conducted in the joint names. Against this is positive proof of third parties that the name on the glass door in the interior of the store was Christian Buttler, and that the business was conducted in his name.

The defendant admits that the second bakery that they had in Brooklyn (June to December, 1875) was conducted in complainant's name, and that he turned it over to her in her own name.

20 It is an admitted fact in the case that at the time that the Brooklyn store was sold out, sometime before the first of January, 1876, they had between them a considerable sum of money, between two and three thousand dollars.

30 The immediate occasion of the change in the Brooklyn store was that the complainant was running behind in his business and was badly advised by a friend to put his property out of his hands in the name of his wife, and about that time the large deposit of five hundred dollars was made in the defendant's individual name in the Williamsburgh Savings Bank. Complainant turned back to the flour merchant all the flour he had on hand, and the debts that he owed were trifling and were afterwards paid in full, dollar for dollar, but the turning over the business to the wife and her selling it out about the time the deposit of \$500 was put to her individual credit in the Williamsburg Bank is significant in connection with the fact that
40 the whole manoeuvre by the husband was for the

purpose of hindering and delaying his creditors.

The parties then, January, 1876, moved to Hoboken, and the complainant worked for awhile as a journeyman baker, and then they purchased a plant and started a bakery about May 1st, 1876, in First Street, Hoboken, which they conducted for over a year with great success, the defendant performing her duties as a wife, and also attending the retail of goods from the shop and rearing her young children, and the complainant, as before, working very hard attending very closely to his duties and managing it with great skill and ability. 10

In 1877 they sold out the store in Jersey City, and it is agreed that they had then accumulated considerable money, a little over four thousand dollars.

They then went with their two children to Europe and lived in the town of Trefort, where the husband engaged in business as a hotel keeper. His wife says they lost money. He declares they made a little money. He took with him over four thousand dollars, including a draft which he carried from the man to whom he sold the Hoboken store upon a relative in Germany who owed him. 20

But the Trefort business was not as profitable as had been the bakery business, and after two years they returned to the United States and in 1880 they started a bakery which they conducted for a little over a year, when on October 12th, 1881, they bought a piece of property known as the Clinton Street property, taking the title in their joint names, it being the same property in question in *Buttlar v. Rosenblath*, 15 Stew., 651. It cost after it had been improved \$12,000, \$5,000 on mortgage and \$6,000 in cash and a promissory note for \$1,000. It consisted of two four story tenements and produced a remunerative rent. 30 40

Afterwards, a year later, the complainant not being engaged in any prosperous business, started a bathing establishment at Coney Island, and for that purpose borrowed two hundred dollars from Mrs. Rosenblath, but bought the plant of another party, one Rusch, giving him a note for it. Being dissatisfied, and charging that he had been cheated by (Mr. Rusch) the vender of the plant, he very foolishly, and I may add wickedly, attempted to
 10 compel the vendor to make an abatement in his price by putting his property out of his hands, and for that purpose conveyed the Clinton Street property through a third person to his wife whereby she became the owner of the complete title.

Mrs. Rosenblath being incited by Mr. Rusch, sued on her note for money loaned, and tested the validity of the transfer to the wife and it was set aside by the Court as made in fraud of creditors.

20 On the trial of that cause the defendant testified very much as she did in this cause as to the details of the origin of the money that bought the property, claimed all the credit for the earnings of the parties, swore as we have seen, to having \$550 when they were first married, putting it in the first Brooklyn bakery, swore to having received \$680 from relatives in Germany in 1874, and that she was the meritorious originator and creator of
 30 their wealth; and the complainant in a general way supported her story, and that support is now set up by the wife against him in this cause.

In now denying the truth of her story as given in the Rosenblath case he is contradicting his own evidence given in that case.

Complainant frankly admits this and that he did not testify to the truth in that case; but he also swears that his wife did not testify to the truth
 40 in that case. Now, so far as the solution of this case

depends on her testimony, the question is not whether he testified falsely on that occasion, but whether she did. If she testified falsely there, she also testified falsely here, and I am satisfied from all the circumstances and documentary evidence in the case that she did testify falsely then as to the origin of this money, and has repeated that falsehood in the present case.

This vesting of the complete title in the defendant was the occasion of the first serious difficulty between these parties. From that time on the defendant seemed to have conceived the idea of keeping the property all to herself and to give complainant nothing. He set himself about recovering the title.

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The few dollars that he owed arising out of the Coney Island investment were all paid.

In September, 1886, he, together with a man named Witte, bought the property known in this case as the First Street property in Hoboken. Title was taken in the name of Mrs. Witte and defendant. Witte was insolvent. Little or no money was paid, but a mortgage for \$3,000 was assumed. Upon that premises complainant and Witte erected a cheapish wooden building for the purpose of carrying on a horse feed store and did together carry it on there. Complainant undertook the management of the business and was successful. After about eighteen months he bought out his partner and the title became vested in the defendant, but she was induced by complainant in November, 1889 to convey the property through one Riebald to the complainant and defendant jointly.

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That business was a success and complainant made considerable money which was expended in the ordinary way for the benefit of his family, and what was not so spent was saved, and used in building on the West Hoboken property.

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The defendant sets up what I may safely say is the preposterous idea that she was the meritorious party in that feed business, and that she furnished the money, and that she hired the complainant as a mere employee to manage it for her.

10 Now, the incapacity of the defendant to manage such a business is apparent. She took little or no part in it, even when the title stood in her name. So far as merit is concerned, her husband was the meritorious creator of all the profits from that store. Besides it abundantly appears that in all the several different enterprises, baking, selling horse feed, &c., in which they were engaged, the goods were purchased on the credit of the complainant.

20 Then about the same time that the title to the First Street property was vested in the two jointly complainant negotiated an advantageous sale of the Clinton Street property for cash and induced his wife to join in the conveyance. The object, as he now avows, was to make use of the opportunity to get in his own hands one-half of the net proceeds and when the deed was delivered he attempted by manual dexterity to accomplish this result and failed, the wife obtaining every dollar of the net proceeds (except about \$500) amounting to about \$12,000, placing \$10,000 of it to her individual credit in the First National Bank of Hoboken on December 7th, 1889, and the balance in her individual name in a savings bank.

30 The complainant then immediately made a bargain for the purchase of the four West Hoboken lots which faced on Malone Street, and induced his wife to pay for the same and have the title taken in their joint names. This she appears to have done and to have drawn for that purpose \$3,300 cash. part of the proceeds of the Clinton Street property.

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The title of this was taken in their joint names and is the principal part of the property here in question.

Complainant immediately entered into a contract with a builder to erect five dwellings on the four lots and they were paid for from time to time between the date last mentioned and the 22nd of April, 1900, partly by the wife out of the proceeds of the Clinton Street property standing to her credit in the bank, partly by the complainant out of the earnings of the feed business which he was still carrying on. The counsel agreed that the total cost of the four lots with the buildings thereon was \$22,000, which was paid as follows: Mortgage \$6,000; feed business, \$6,000, and paid by the defendant out of the proceeds of the Clinton Street property \$10,000.

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Then in April, 1890 complainant purchased a lot adjoining the few first mentioned and facing upon West Street in West Hoboken, from the same party and had the title vested in himself and his wife, and paid for it out of the feed business.

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Subsequently he bid off at auction three other lots facing on West Street and immediately adjoining the one last mentioned, and notified his wife of the purchase and she acceded to it, and by his direction attended at the time and place fixed to accept the deed and pay for the lots. This she did but without his knowledge and consent, had the title made to herself individually. She now owns those three lots and has erected thereon a dwelling house, the whole being of considerable value, nearly \$5,000, all from the proceeds of the sale of the Clinton Street property, and such saving as she was able to make from time to time out of the rents thereof.

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The defendant alleges and swears that she was induced to pay the money for the West Hoboken

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property and have the title vested in the joint names by the threats and coercive conduct of complainant. I have no doubt that complainant did use every artifice and every means that he could think of to induce defendant to reinvest their earnings in their joint names; but I am not satisfied that there were any means used which entitled this defendant now to claim that the whole proceeding was not in effect her voluntary act.

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The original investment of \$3,300 in the West Hoboken property in their joint names was comparatively trifling, but after the complainant had entered into a contract to build thereon she drew moneys from her bank account on divers occasions from time to time extending over a period of several months to pay for that building. Surely she was not under coercion the whole of this time. And then when the fourth lot was purchased and paid for by complainant he voluntarily put the title thereof in their joint names. The fact is that it was but an act of simple justice for her to reinvest complainant with the joint title.

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The net result is that the two properties here in question are held between the parties in equal share, and the defendant has beside her share therein nearly five thousand dollars worth of property *which came from the same source* as the properties here in question, so that she has and must continue to have much more than an equal one-half of their joint earnings.

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The evidence shows clearly three matters First: That the source of the money was three fold. Profits in the bakery business; profits in the horse feed business, and profits on the judicious investments of money in real estate. For all these the complainant is entitled to the principal credit. Second: That from the start up to the time that the Clinton Street property became vested in the name of the

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defendant alone the complainant handled all the money and had every opportunity to place it to his own credit in bank, but voluntarily placed it to the joint credit of himself and defendant. Third. The defendant repeatedly, in the course of her evidence testified that the reason why she resisted, as far as she did resist complainant's entreaties to reinvest the property in their joint names, was that she was afraid that he would run in debt and be sued, and that she would be obliged to pay it, as she had the Rosenblath debt. She no where when off her guard put herself on the ground that she was the meritorious owner of the property. 10

The fact that the property once held by the parties jointly was voluntarily conveyed by the complainant to defendant for the purpose of hindering and delaying complainant's creditors does not prevent a Court of Equity from favoring its return to the original owner. I had occasion to express my views on this subject in the case of Pitney v. Bolton, 18 Stew. 639, at page 643. The language I there used was that "Our innate sense of justice is always gratified when we find the rules of equity as applied to any particular case squaring themselves with what is honorable and just between man and man,"—and I cited as an illustration the case of Davis v. Graves, 29 Barbour, 480, which was this, in brief: A debtor desiring to hinder and delay his creditors conveyed his property to a third party who held it for a considerable time as a fraudulent grantee. Subsequently the fraudulent grantee became himself considerably indebted and in order to prevent his creditors from seizing on the property held in trust by him for the fraudulent grantee reconveyed it to the fraudulent grantor, and the court refused to assist the creditor of the fraudulent grantee in applying the property so conveyed back and forth to the payment of the debt of the fraudulent grantee. The 20 30 40

decision in the case against Bolton was affirmed in the Court of Appeals for the reasons given by me in the Court below. 1st Dick., 610.

My conclusion is that the defendant's cross-bill is without merit and must be dismissed with costs and that the complainant is entitled to a decree for partition. I will advise a decree accordingly.

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IN CHANCERY OF NEW JERSEY.

 Between,

CHRISTIAN BUTTLAR,

Complainant,

and

MINA BUTTLAR,

Defendant.

 On Bill, &c.,
 Decree.

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This cause coming on to be heard at the last regular Term of the Court of Chancery held in the Chancery Chambers in the City of Jersey City, in the presence of Vredenburgh, Wall & Van Winkle, of counsel with the complainant, and John I. Weller, of counsel with the defendant; and the bill, answer, replication, cross bill and answer to cross bill having been read and proofs having been taken and the arguments of the respective counsel having been heard and considered, and the Court having duly considered the said pleadings, proofs and arguments; and it appearing to the Court that the complainant is entitled to the relief sought and prayed for by him in his bill of complaint and that the complainant is entitled to a decree for partition of the lands and premises described in the bill of complainant and that the defendant's cross-bill is without merit and should be dismissed; and that the rights and interests of the parties in the said premises are as hereinafter declared and that the said lands and premises are so situate that a partition thereof cannot be made without great prejudice to the owners of the same.

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IT IS, on this ninth day of February, nineteen hundred and four, by William J. Magie, Chancel-

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lor of the State of New Jersey.

ORDERED, ADJUDGED and DECREED, and the said Chancellor, by virtue of the power and authority of this Court, doth hereby, Order, Adjudge and Decree that the cross-bill of the defendant, Mina Buttlar, be dismissed with costs to the complainant to be taxed.

10 And it is further ordered, adjudged and decreed that the parties to this suit are seized of and entitled to the said lands and premises described in the bill of complaint, with the appurtenances, and that their respective rights and interests therein are and they are ascertained, adjudged and declared to be as follows, to wit:

20 The complainant, Christian Buttlar, is seized of in fee and entitled to an undivided one-half of the said lands and premises, and the said defendant, Mina Buttlar, is seized of in fee and entitled to the remaining undivided half part of the said lands and premises.

And it is further ordered, adjudged and decreed that all and singular the said premises mentioned in the said bill of complaint and therein described as follows:

30 All that certain tract or parcel of land and premises situate, lying and being in the City of Hoboken, in the County of Hudson, and State of New Jersey, which on a certain map entitled "Map of eight one lots situate in the business portion of the City of Hoboken" and duly filed in the office of the Clerk of the said County of Hudson, June 10th, eighteen hundred and seventy-three are known and designated and distinguished as lots numbered thirty-one (31), and thirty-two (32) in Block numbered twenty-six (26), all as laid down on said map as by reference to said
40 map will more fully appear. Each of said lots

is twenty-five feet in front and rear by one hundred feet deep throughout. Said lots front or face on the northerly side of First Street between Jackson and Harrison Streets.

Also, all that certain tract or parcel of land and premises situate, lying and being in the town of West Hoboken, in the County of Hudson and State of New Jersey, which upon a certain map on file in the office of the said Register of Hudson County, entitled "Map of property belonging to Adam Siegfried, situate in West Hoboken, Hudson County, N. J., surveyed and laid out by James Moylan, Civil Engineer and Surveyor, May twenty-eight, eighteen hundred and eighty-nine," are known and distinguished as lot numbers one (1), two (2), three (3) and four (4) in block numbered ninety-two (92), bounded and described as follows:

Beginning at a point or corner formed by the intersection of the westerly line of West Street, with the northerly line of Malone Street; thence running along the northerly line of Malone Street one hundred feet; thence running northerly eighty-three feet and sixty-five hundredths of a foot (83.65 ft.); thence easterly one hundred feet to the westerly side or line of West Street; thence running southerly along the westerly line or side of West Street, eighty-three feet and eighty-nine hundredths of a foot (83.89 ft.) to the point or place of beginning.

Also, All that certain lot, piece or parcel of land and premises situate, lying and being in the Town of West Hoboken, in the county of Hudson and State of New Jersey, which on a certain map entitled "map of property belonging to Adam Siegfried, situate in West Hoboken, Hudson Co., N. J., surveyed and laid out by James Moylan, Civil Engineer and Surveyor, May twenty-eighth,

eighteen hundred and eighty-nine," are known and designated as lot numbered thirty-seven in block ninety-two.

together with all and singular the hereditaments and appurtenances to the said premises belonging or in anywise appertaining be sold at public vendue to the highest bidder, in the presence of and under the direction of

10 , one of the Special Masters of this Court, parties admitting in open court that the premises cannot be divided and that this is a proper case for a sale.

20 And it is further ordered that the said Master sell the same in such portions as to him may seem most for the interests of the parties, and that he give public notice of the time and place of such sale and in all respects conduct the same according to the provisions of the statute in such case made and provided; and that he forthwith, after such sale, make report thereof to this Court and after his report of sale shall have been confirmed by this Court, make and execute to the purchaser or purchasers good and sufficient conveyances in the law for said real estate and upon their complying with the conditions of such sale, that said sale and conveyances, duly executed as aforesaid, be valid and effectual forever and operate as an effectual bar both at law and in equity against the said parties complainant and defendant, and all persons claiming by, from or under them or either of them.

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And it further appearing that there are mortgages on the said lands and premises,

40 It is ordered that the said Master sell said lands and premises by receiving a bid or bids for the same without reference to the said mortgages and afterwards discharging said mortgages out

of the proceeds of said sale.

And it is further ordered that the said parties or either of them be at liberty to apply to this Court for further directions if occasion shall require.

WM. J. MAGIE,
C.

Respectfully advised,

H. C. PITNEY,
V. C.

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IN CHANCERY OF NEW JERSEY.

Between

CHRISTIAN BUTTLAR,

Complainant.

and

MINA BUTTLAR,

Defendant.

On Bill, Etc.
Order.

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IT IS ORDERED that the Clerk of this Court, in taxing costs under the decree herein dismissing the Cross Bill, include in the taxed bill of costs taxed against the defendant and allowed the complainant, the sum of Thirty-three Dollars and Ninety Cents (\$33.90) paid by the said complainant for one-half of the amount paid the stenographer for supplying the Court with a transcript of the testimony taken herein under the cross-bill filed herein.

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February 9, 1904.

Respectfully advised,
H. C. PITNEY,
Vice Chancellor.

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NEW JERSEY COURT OF ERRORS AND AP-
PEALS.

Between

CHRISTIAN BUTTLAR,

Appellee,

and

MINA BUTTLAR,

Appellant.

On Bill, &c.,
Petition of
Appeal.

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To the Honorable, the Court of Errors and Appeals, in the last resort in all causes:

The petition of Mina Buttlar, the appellant in the above-stated cause respectfully shows that your petitioner finds herself aggrieved, by a final decree made in the Court of Chancery by his Honor, William J. Magie, Chancellor of New Jersey, bearing date the ninth day of February, A. D., nineteen hundred and four, wherein the said Christian Buttlar was complainant, and the said Mina Buttlar was defendant, in this respect to wit: That the said decree adjudges that the cross-bill of the defendant Mina Buttlar, be dismissed with costs to the complainant to be taxed and that the parties to this suit are seized of and entitled to the said lands and premises described in the bill of complaint with the appurtenances, and that their respective rights and interests therein are and they are ascertained, adjudged and declared to be as follows, to wit:

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The complainant Christian Buttlar, is seized of in fee and entitled to an undivided one-half of

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said lands and premises, and the said defendant Mina Buttlar, is seized in fee and entitled to the remaining undivided half part of the said lands and premises; and further adjudges that the land mentioned and described in the bill of complaint filed in said cause together with all the hereditaments and appurtenances of the said premises belonging or in any wise appertaining, be sold at public vendue to the highest bidder and also ag-

10 grievied by an order bearing date on the ninth day of February aforesaid, made by said Chancellor, directing your petitioner to pay unto said complainant Christian Buttlar, thirty-three dollars and ninety cents stenographer's fees in said cause. And your petitioner humbly appeals from the said decree of the Chancellor which decrees aforesaid, upon the ground that the same is erroneous, in that the said decree adjudges that

20 the cross-bill of the defendant Mina Buttlar, be dismissed with costs to complainant to be taxed, and that the parties to this suit are seized of and entitled to the said lands and premises described in the bill of complaint with the appurtenances, and that their respective rights and interests therein are and they are ascertained, adjudged and declared to be as follows, to wit:

The complainant, Christian Buttlar is seized of in fee and entitled to an undivided one-half of

30 said lands and premises and the said defendant, Mina Buttlar, is seized of and in fee and entitled to the remaining undivided half part of the said lands and premises, and in that said decree further adjudges that the lands mentioned and described in said bill of complaint together with all the hereditaments and appurtenances of the said premises, belonging or in any wise appertaining, be sold at public vendue to the highest bidder and in that said order directing your pe-

40 titioner to pay said stenographer's fees is errone-

eous and without authority in law or equity.

Your petitioner therefore prays that the said decree of the Chancellor and also said orders, may be in the particulars aforesaid, reversed, set aside and for nothing holden.

And that your petitioner may have such relief in the premises as to this Honorable Court, shall seem meet.

And your petitioner will ever pray, etc.

WELLER & LICHTENSTEIN,
Solicitors of Appellant.

JOHN I. WELLER,
Of Counsel with Appellant.

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ANSWER TO PETITION OF APPEAL IN
COMMON FORM.

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DEFENDANT'S EXHIBITS.

EXHIBIT C2.

MINNA BUTTLAR, a witness produced on the part of the aforesaid defendant, having been duly sworn according to law, deposeseth and saith.

DIRECT EXAMINATION BY MR. SMITH:

10 Q. You are one of the defendants in this case, are you not? A. Yes.

Q. Wife of Christian Buttlar? A. Yes, sir.

Q. This property was purchased on October 12, 1881, wasn't it—that is the time it was purchased—the time you bought it? A. I bought it, I think, on the 12th or 13th.

Q. Who bought it? A. I bought it.

Q. With whose money was this property purchased? A. With my money.

20 (Objected to as immaterial. Objection overruled.)

Q. This property was purchased with your money you say? A. Yes, sir; with my money.

Q. Your own separate money? A. Yes, sir.

Q. The day that you bought the property, \$2300 was paid for it? A. Yes, sir.

Q. Where did the money come from that day that you paid for the property? A. I had it on a mortgage which I held on Mr. Wildis' property.

30 Q. In New Jersey or New York? A. New York.

Q. The mortgage was for how much money? A. \$2300.

Q. When was that mortgage paid in to you? A. On the 13th.

Q. Thirteenth of October, 1881? A. Yes, sir.

Q. And with that money you did what—paid this amount mentioned in this deed to you and your husband? A. Yes, sir; I paid it for the lot.

40 Q. With that money you paid the amount mentioned in the deed? A. Yes, sir; with the twenty-

three hundred dollars I bought the house.

Q. You paid that amount for the house? A. Yes, sir; the same day as I got this mortgage paid off I took it directly and bought land with it.

Q. And received the deed? A. Yes, sir; I received the deed.

Q. Was anything said at the time that you took this property as to whose name you wanted the deed in, and why your husband's name was inserted in it? A. Nothing was said about it at that time. They asked me if I wanted it just as the agreement was, and I said "Yes." 10

Q. What, if anything, was said by you or the parties at the time the conveyance was made, about putting your husband's name in it? A. I didn't say anything about putting his name in the deed; I don't know how he got it; it must have got in by mistake; I don't know; they may have misunderstood me. 20

Q. At the time you took the deed, then, you didn't understand that your husband's name was in? A. When I seen it was in I kicked about it, and I said, "Who told you to put my husband's name in?" and they said, "Well, we thought just as long as you were married you wanted it in—both names." I said, "I didn't tell you so; I made the agreement only in my name, and not my husband's, and nobody else was with me, and I bought it alone without my husband;" and then they said, "No matter about it; your husband can't do anything, he can't own anything, and can't get on to it on account of debt;" and they said, "If you intend to put a house on it your husband is more better able—he can help you better about it." And I thought if that be the case I leave it in; I wasn't smart; I wasn't lawyer; and I believed what they told me then, so I left my husband's name in the deed. 30

Q. And that was the way his name came to be 40

put in the deed? A. Yes, sir.

Q. You bought the property yourself? A. Yes, sir; my husband was not along with me when I made the agreement, and when I bought it.

10 Q. Who told you it made no difference about your husband's name being in the deed? A. This man what made the deed at that time; he told me it was no difference if my husband's name was in; that he could not have any hold on it afterwards, on account of if he made debts. He was a lawyer, and I believed him. So then I said, "As long as it is now in, leave it in, so long as he can help me better if I build the house." They said he would have more power.

20 Q. Then you held the property after the deed had been made to you, until about 1881? A. The building was put on the property that same fall—they began it then—in 1881 they began to build.

Q. The contract for putting up that building? A. Well, they asked me if I wanted so and so; I was there and it was talked over with me as to how I wanted it built.

Q. Between you and whom? A. Between me and the architect.

Q. Who was to prepare the agreement for you? A. Well, the architect made it out, and I think my husband signed to it.

30 Q. Why didn't you sign to it? A. He didn't ask me, so I thought it was not necessary for me to sign it. They didn't ask me to sign it, so I thought it was not necessary. I didn't know anything about these things. I was never in them before, so I didn't say anything.

Q. Afterwards the house was leased. After the house was built the place was leased to Mrs. Ros-enblath; some part of it? A. Yes, sir; but not right off.

40 Q. Who made the lease of the property to her?

A. Well, I signed the lease.

Q. Do you remember when that lease was signed by you? A. Yes, sir.

Q. When? A. It was signed several days after the lease was made.

Q. Just state how soon afterwards and when and where you signed it? A. I signed it in my own room.

Q. Who brought it to you? A. My husband.

Q. How long after the property was leased to them; it is dated on the 31st day of July, 1882, and it is said your name wasn't put in until some time afterwards. Can you tell us the circumstances as to that? A. It was a couple of days afterwards I signed my name. 10

Q. A couple of days after the lease was made you signed your name? A. Yes, sir.

Q. State why you know that to be so? A. Because we moved right afterwards, and my husband brought over into the room where I lived; we had moved up at that time into the other house. 20

Q. You moved into what other house? A. No. 36, and Mrs. Rosenblath leased No. 34, and then when she took possession of the premises No. 34 I moved into No. 36.

Q. You had formerly occupied No. 34 yourself? A. Yes, sir.

Q. You and your husband? A. Yes, sir. 30

Q. And when she leased it you moved into No. 36? A. Yes, sir.

Q. And this lease was signed before you moved into 36? A. No, sir; it was signed after we got into 36; he brought it over to me in No. 36 a couple of days afterwards.

Q. Who brought it over? A. My husband brought it over, because Mrs. Rosenblath wasn't satisfied, and she said that I should sign it; so I did. 40

Q. Who brought it over and said Mrs. Rosenblath was not satisfied? A. My husband; and he said that she wanted me to sign the lease.

Q. And so you signed it? A. Yes, sir; I thought it was no more than right, as long as the property was mine, that I had to sign the lease.

Q. And then your husband took it back? A. Yes, sir; he took it from out of my rooms, and I suppose he gave it back.

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Q. (By the Court): Had your husband signed it before you had? A. Yes, sir; he signed it. I had to stay home and attend to business. I could not go along, and I suppose that was the trouble why I didn't sign it right away; that is the way it came, and then through moving, and all this business it was a couple of days afterwards before I signed it. I know a couple of days before that when I was sitting in my room it was upside down, and I wasn't settled in No. 36, until a couple of days afterwards.

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FURTHER DIRECT:

Q. When was that receipt signed by you, do you remember that, to July 31st, 1882, for the payment of \$100? A. That was signed last summer, in September.

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Q. How did they happen to be signed? A. She said as long as I gave the lease, and I own the property, I ought to sign for this \$100 they gave my husband, and I said, "Yes, I am willing to do that, the money is paid and I will sign it—so that you shall not lose the money I will sign it."

Q. Who asked you to do that, Mr. Rosenblath? A. Yes, sir; Mr. Rosenblath asked my husband and my husband asked me would not I sign it; I said "Yes," so he brought it over to my room and I signed it.

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Q. Who gave the receipts to the tenants? A. Well, I handed them to them usually when they

gave me the money.

Q. Who gave the receipts, you or your husband, to the party who paid the rent? A. I gave the receipts, but I generally had my husband write them for me, because I am not very smart in writing.

Q. He generally wrote the receipts? A. Yes, sir, for me.

Q. Who generally signed them, you or your husband? A. Sometimes I signed them—some times my husband did, when he wrote them; he thought it was no matter about that. I told him to make the receipts out all ready, and so he did; he wrote them out.

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Q. You told him to have the receipts wrote, and to make them out? A. Yes, sir.

Q. And he signed them? A. Yes, sir; first off.

Q. And the money that was received from these tenants—what was done with it? A. I paid the interest and the expenses from it.

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Q. Was it paid to you? A. It was paid always to me.

Q. After your husband collected it, did he pay it to you? A. When he received any he paid it to me. He generally didn't always pay it to me, because I was always home, and they generally paid it to me, but if he did receive any money he always paid it to me.

Q. And you have always managed and controlled this money that was paid in, yourself? A. Yes, sir.

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Q. When did you first know of your husband borrowing two hundred dollars from Mrs. Rosenblath? A. The first I knew of it was the 2d of September.

Q. 1883? A. Yes, sir.

Q. How did you come to know it then? A. Mrs. Rosenblath came in on the 2d of September, in the morning, and she said, "You wonder, I sup-

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pose, that I was not here last night." I said, "Oh, well, it is time enough this morning." "Well," she said, "I haven't got any money, but you can give me the receipt." Says I, "How is that?" "Well," she said, "your husband owes me two hundred dollars on a note, and you take it off of that." "Oh, no," said I, "how can I take it off that? When did he give you a note?" "Oh," she said, "so and so, in June." "Well," said I, "I don't know anything about that, so I can't give you any payment off the rent; I cannot give you a receipt without you pay me the money." So while we were talking she said, "Well, you can believe it; you ask your husband if that is not true." And I said, "No; I have got nothing to do with that; you get that yourself." Then she said, "Well, I have lost the note, but it is true, and when you see your husband you ask him about it." I said, "No, you do that yourself; I have got nothing to do with yours and my husband's business." So then she left the room, and in the afternoon she came in again and threw the money on the table, and she said, "I want a receipt from you." I said, "All right," and I picked up the money and gave her a receipt.

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Q. Is that the first you knew of her money transactions with your husband? A. That was the first I knew of it—I was surprised.

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Q. You heard the testimony of Mrs. Gibson about your coming into her room and what you said? What have you to say about that? A. There is not one word of truth in it. I never did such a thing as that; I never thought of such a thing; I never would have done such a thing.

Q. You never did such a thing or said such a thing to Mrs. Gibson?

By the Court: She said so.

40 Q. Do you remember having any conversation with Mrs. Gibson at all about this note in any

way? A. Not at all. How could I? I never knew anything about it.

Q. State how it was that these conveyances were made by you and your husband to Mr. Bier, and by him and his wife to you. What was the reason of that? A. Well, my husband went to Coney Island, in business, without my knowing about his name being in it; and after while I found that out and then I asked him to take his name out of it, because I didn't like it, and I asked him several times before that to do it. 10

Q. You asked him to take his name out of the deed? A. Yes, sir.

Q. What did he say to that? A. Well, he said that didn't matter. He said, "Of course, I don't own the things."

(Objected to. Objection overruled.)

Q. Go on now, from where you stopped. You said that when you asked him to take his name out of the deed he said the property was yours, and that it made no difference to you? A. He said it made no difference to me; he said, "You own the property," and that he had not much interest in it anyhow, and that I might as well have it in my own name. 20

Q. Who had these conveyances drawn, you or your husband? A. Well, I made my mind up as soon as I found that out. 30

Q. Who drew the deed from your husband to yourself, and from Bier to you? A. I wanted it done and I asked Mrs. Bier would not she buy it of my husband so that I could buy it from her.

Q. Who went and ordered the deeds drawn and had it done? A. I did—excuse me, I didn't understand what all those words mean.

Q. Did your husband go with you to have them made? A. My husband was at Coney Island, and I ordered him to go and sign them when he came 40

home.

Q. You informed your husband to go and sign them? A. Yes, after I had them made.

Q. And you wanted to have his name taken out of the deeds? A. That is just what I wanted; that is just what I done it for.

Q. And you knew nothing at that time of this indebtedness to Rosenblath?

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By the Court: She said so.

Q. At that time, when these conveyances were made, what did you understand from your husband, was the business he was engaged in? A. I understood he was in a bathing saloon over in Coney Island.

Q. Did he say then what profits he expected to make from the business?

(Objected to.)

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Q. After the conveyances were made—after the conveyances were made who then took charge of the property? A. Well, I always had charge of the property, and I had it afterwards as well as I always did.

Q. You always had charge of it? A. Yes, sir.

Q. And after that you took exclusive charge of it, did you? A. Yes, sir; I signed my name to the receipts myself, and paid everything myself, like I used to.

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Q. The mortgage that you speak about was between John Wildis and Henry Bischoff? A. Yes, sir.

Q. And what was done with that mortgage, was it assigned by Bischoff to you? A. I bought it from Henry Bischoff; he held it on Mr. Wildis; the money came from Mr. Wildis, and I gave him a discharge for it when it was paid off.

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Mr. Smith: I offer in evidence exemplified copies of the bond and mortgage ac-

ording to the act of Congress, marked defendant's Exhibit No. 1.

Q. This money you paid to Mr. Bischoff was your money? A. Yes, sir.

Q. Had you at that time any other money of your own? A. Yes, sir; I had some money.

Q. To what amount do you know; can you tell, or have you no idea? A. No, I don't know.

Q. Was it over \$2000? A. Do you mean at the time I got these lots? 10

Q. Yes. A. Certainly I had more money then.

Q. Was it over \$2000 or \$3000? A. I had \$3500 and some odd dollars besides this \$2300, which I bought the lots with.

Q. What became of that money, did it go into these houses? A. Yes, sir; it paid the mason, the carpenter and the painter.

Q. Was any of the money for the house or for the property paid out of money of Mr. Buttlar's? A. No, sir, this was all my money. 20

Q. Was any part of the cost of the lots or the improvements upon them paid out of Mr. Buttlar's money or paid by him? A. No, sir; all the money that went into it was my own; none of my husband's money went into it.

Q. Was he a man of any property or means at all? A. No, sir.

Q. Didn't he have anything? A. I don't know of his having anything. 30

Q. This money that you had, how long had you had it? A. The \$2300.

Q. The whole of the money? A. Well, I had some money when I married my husband.

Q. That you got from home, I suppose? A. I had that from home; I had that long before; I always had it, and I had a comfortable home, too.

Q. How much was that? A. \$550.

Q. Then did you get any money afterwards? A. About two years after I married my husband 40

I had \$860.

Q. When did you marry him? A. In 1872.

Q. And two years afterwards you got \$860 more? A. Yes, sir.

Q. Where did that come from? A. That came from my parents at home.

Q. By whom was that paid to you, or through whom? A. By a man who had an office in 18 First street; Mr. Kern.

10 Q. In New York? A. Yes, sir.

Q. Have you been over there to find this man? A. I have.

Q. Lately? A. Yes, sir.

Q. What did you find out became of him? A. I found out that he failed and wasn't there any more, and I asked if any of his books or anything was there so that I could bring them, and they said no, they could not find anything there any more; there was nothing left behind when he left.

20 Q. Now that other \$1300; what did you do with that \$1300, did you go into any business with it? A. In 1875 I went into business in First street, Hoboken, between Adam and Jefferson streets.

Q. What business? A. The baking business.

Q. Did you buy a business there? A. I started it there.

Q. Did you buy the business? A. No, sir; I leased the place or rented the place, and bought the fixtures and began business.

30 Q. You leased the place? A. Yes, sir.

Q. In whose name? A. In my name.

Q. You carried on business there in your own name? A. Yes, sir.

Q. And it was your name that was used in the business? A. Yes, sir.

Q. How much did you pay for the fixtures? A. \$400.

40 Q. Who did you rent the place from? A. Mrs. Steinberg.

- Q. Was it rented in your name? A. Yes, sir.
- Q. How long did you stay in business there?
- A. I stayed in business there until July of 1878.
- Q. July, 1878? A. No, sir; 1877, in July.
- Q. What did you do with it then? A. I sold it to a man named Bohley.
- Q. Philip Bohley? A. Yes, sir.
- Q. For how much? A. I think for \$450 or \$500; I will not swear to that, it is so long ago.
- Q. And did you sell for cash or was part of it mortgaged? A. Part cash and part mortgage. **10**
- Q. Mortgaged for how much, do you remember?
- A. It was about \$300 or over; I would not say exactly.
- Q. Did you make any money during that time, when you were in business? A. I done a splendid business there.
- Q. How much did you make during that period?
- A. I made about \$3000. **20**
- Q. Clear? A. Yes, sir.
- Q. Made about \$3000 clear? A. I could not say exactly clear, but I know when I left I had \$4300 or about \$4200 or \$4300 when I left there after I sold out.
- Q. After you sold out you had about \$4200 or \$4300? A. Yes, sir; something around \$4200; I don't know exactly to a dollar.
- Q. That you had yourself as your own separate money? A. Yes, sir; that was my own money. **30**
- Q. And you claimed it as your own? A. Yes, sir.
- Q. And had it as your own? A. Yes, sir; I always said that I had that.
- Q. Now, did you go into any other business after that? A. Yes, sir; I did.
- Q. What business? A. Another baker business.
- Q. Where? A. At First street.
- Q. Hoboken? A. Yes, sir; No. 184 First street, Hoboken. **40**

Q. In whose name was that business carried on? A. I bought it from William Worth.

Q. Out of the money you had? A. Yes, sir.

Q. How much did you pay for it? A. I paid for that business \$500.

Q. Did you buy any fixtures? A. Yes, sir.

Q. How much did you pay for those? A. I paid \$300 more for them.

10 Q. How long did you stay in business there? A. I stayed in business there about a year—I commenced in January and stayed until the next May—until a year after that.

Q. Then what did you do? A. I mean I was there a year and five months.

Q. Yes. Then what did you do afterwards? A. I sold that business to a person named Mr. Kiss.

Q. For how much? A. A thousand dollars.

20 Q. Did you make any money during those times? A. I did, sir; I done a splendid business there, but I got too much pulled down, so that I could not stand any more business at all.

Q. It was too hard work? A. Yes, sir.

Q. How much did you make during the time you were there in that business? A. Well, I could not tell you exactly what I made, but I know what I had after I sold out. I know I had \$2300 on mortgage to Mr. Wildis, and after that I had in money \$3000, and some more money which made 5000 and some odd dollars altogether.

30 Q. You had that after you sold this business out to Mr. Kiss? A. Yes, sir.

Q. And that money you kept until you bought this property? A. Yes, sir.

Q. That remained with you? A. That money I had when I bought this property, but part was on mortgage.

40 Q. I think you said when you leased this property that you went into business at the same time—when you leased the property from Mr.

Worth? A. Yes, sir.

Q. Was there a written lease at that time? A. Yes, sir.

Q. Between you and Mr. Worth? A. Yes, sir.

Q. Was that business also carried on in your name? A. Yes, sir.

Q. When Mrs. Rosenblath came to you to borrow the \$10 that she speaks about, was anything said by her at that time about your husband's note? A. Not at all, sir.

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Q. What did she say; was it merely in relation to borrowing the money? A. She asked me if I could loan her \$10.

Q. Where was that? A. That was in her store, and I said "no," that I could not lend her as much as \$10; she said, "I can give it to you back to-morrow;" said I, "If you will give it back to me to-morrow I can lend you as much as \$10;" so she came up in about half an hour afterwards and I lent her a \$10 gold piece as she said, and she told me she wanted it to pay her flour man with because she run short \$10, but she said she would take the money in in the store and give it back to me to-morrow. I said "all right, I will let you have as much as \$10." So I gave her this \$10 gold piece, and the second day after or the day after that I could not tell you exactly any more, she handed me the \$10 gold piece back in my room, and said, "Here is the ten dollar gold piece you gave me, I did not need it."

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Q. Nothing was said about your husband borrowing of her by note? A. No, sir; this was about June; I remember that because my child was quite sick yet.

Q. You have children? A. Yes, sir.

Q. How many? A. Two living and two dead.

Q. And you remember it because it was at the time your child was sick? A. Yes, sir; my oldest girl was sick, and that is the reason I remem-

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ber it.

Q. How much mortgages are on this property?

A. \$5000.

Q. Who holds that mortgage? A. Mr. Cheesborough.

Q. That is all.

10 Q. (By the Court): When did Mrs. Rosenblath come into possession of the property—when did she take possession of and occupy the bakery, or of the rooms in which she conducts her bakery; she lives in your building now—when did she commence living there? A. I think it was the 1st of June—no, July.

Q. The lease says the first day of May—three years from the first day of May, 1883? A. Yes, but she got there before I took possession before.

Q. I don't quite understand you. Did she pay you rent from the first of May? A. Yes, sir.

20 Q. Did she take possession on the 1st of May? A. No, sir; she took possession in August before that; she had it then, but the lease was only made from the next May. She took it in the summer time, but the lease only commenced in the next May afterwards. She took possession in August, 1882.

30 By the Court: Then Mrs. Rosenblath entered into the possession of this property in August, 1882; is that agreed upon, gentlemen?

By both counsels. Yes, sir.

Q. And she remained in possession under a different letting—a distinct letting—from August, 1882, up to the first of May, 1883, her term under this lease commencing on the first of May, 1883? A. Yes, sir.

CROSS EXAMINATION BY MR. HERBERT:

40 Q. You were married to Mr. Buttler in 1872?

A. Yes, sir.

Q. He is your second husband? A. Yes, sir.

Q. Where were you married? A. In New York.

Q. Were you in any business? A. I was not in any business; I was living private.

Q. Never had been in business prior to that, had you? A. No, sir; not before I married Mr Buttlar.

Q. You had never carried on the bakery business to that time? A. No, sir. 10

Q. Your husband is the baker? A. Yes, sir.

Q. Since you married him you began business first where? A. I began my first business in First street, Hoboken, I began business there.

Q. But where did you and your husband first begin business? A. In Graham avenue.

Q. Brooklyn? A. Yes, sir.

Q. You were in business there for how long? A. Not a great while. 20

Q. About three years? A. Yes, sir.

Q. And then you went into business where? A. I went into business in First street, Hoboken.

Q. Did you have but one place of business in Hoboken? A. That is all I had.

Q. Is that all your husband had while he was married to you? A. No, my husband had a business while he was in partnership with me; we had a business together in Graham avenue.

Q. You had a business together? A. Yes, sir; we had a business together. 30

Q. Immediately after that business where did you go into business? A. I got a business then in First street, Hoboken, and commenced business there.

Q. Who was your baker there? A. I had my husband to act as foreman.

Q. When you were in business in Hoboken your husband was in business with you? A. Not with me, it was in my own name, he worked in the 40

shop.

Q. He was doing the business with you? A. He was working for me.

Q. Well, he was doing the business, wasn't he?

A. No, sir; I paid the money and I ordered everything that I wanted and paid for what I owed.

Q. But he attended to the baking? A. Yes, sir; he attended to the bakehouse.

10 Q. And you sold the goods? A. I ran the business; yes, sir.

Q. Did you pay your husband by the month? A. I let him have his spending money and his clothing and money to support the family.

Q. You didn't pay him any steady sum a month?

A. It was not exactly made out what I should pay him a month, but I paid him what he needed.

Q. (By Mr. Smith): And for the support of the family, too? A. Yes, sir.

20 FURTHER CROSS:

Q. The family were supported out of the business? A. Yes, sir.

Q. And you were supported out of the business? A. I supported the family out of the business.

30 Q. And your husband was supported out of the business? A. Well, he had everything he needed, and I gave him clothes and spending money, and all what he needed.

Q. But you didn't pay him any regular sum a month? A. It was not made out exactly how much he should have a month.

Q. When you went into business in Hoboken you said you had a sum of how much? A. Fifteen hundred dollars.

Q. Where did that money come from? A. That was my money that came from my parents, which was money I had.

40 Q. Wasn't it partly what you had made in

Brooklyn? A. No, sir; not any of this fifteen hundred dollars; that was my money; eight hundred dollars was from Europe and five hundred and fifty dollars I had when I married my husband, and a comfortable home, too.

Q. Where did the eight hundred dollars come from? A. From my parents at home—eight hundred and sixty dollars.

Q. And the balance of this money was made by you after you had married Mr. Buttlar, and while you were in business? A. I was married before we went into business. 10

Q. Then all that money was made in the bakery business? A. What money?

Q. The balance that made up the eighty-five hundred dollars. A. There was no balance made up in the business.

By the Court. She said fifty-five hundred dollars. 20

Witness. I had five thousand and fifty dollars.

Q. Five thousand and fifty dollars? A. Five hundred and fifty dollars, I mean.

Q. From home? A. No, sir; I had that when I got married, and the eight hundred and sixty dollars came from home.

Q. That was your capital? A. Yes, sir.

Q. When did you get that money from home? A. In 1874. 30

Q. That was two years after you married Mr. Buttlar? A. Yes, sir.

Q. Prior to that time you had been doing business over in Brooklyn, hadn't you? A. Yes, sir.

Q. Did you make any money there? A. We did.

Q. How much? A. About \$1,800.

Q. And then you came to Hoboken? A. Yes, sir.

Q. While you were in Brooklyn, you said a little while ago, you and your husband were in partnership? A. Yes, sir. 40

Q. Now, this \$1800 was used in buying what? A. I don't understand you.

Q. What did you do with the \$1800 you made in Brooklyn? A. I didn't touch that at all; that was in the bank—what we didn't use of it.

Q. What did you do with that money finally? A. which money?

Q. The \$1800? A. My husband went to Europe and he took some of the money for that.

10 Q. Did you go along with him? A. No, sir; I didn't go along with him at that time.

Q. When was it that he went to Europe. A. After we sold the business that we had there for two years in Brooklyn.

Q. Did he immediately after selling the business in Brooklyn go to Europe? A. Yes, sir.

Q. When he came back how much money did he have? A. I didn't count it—I don't know.

20 Q. How much remained of that \$1800 that you made in Brooklyn? A. I can't tell exactly.

Q. About how much? A. Well, I don't know, I never paid much attention to it.

Q. About a thousand dollars? A. I think so.

Q. A little more? A. I never paid much attention to that money, only to mine.

Q. You used that money in buying that bakery together, you and your husband, didn't you? A. No, sir; I took it from the Brooklyn Savings Bank.

30 Q. Where had your husband kept his money? A. I don't know.

Q. You kept your money in the Williamsburgh Savings Bank? A. Yes, sir; that was the money that I had from Germany.

Q. How much did you have in there? A. \$860.

Q. Is that all? A. That is all I had there.

Q. Did you have any more in any other bank? A. Yes, sir; in the savings bank at Fourteenth Street.

40 Q. How much did you have there? A. I had \$600 there.

Q. Is that all? A. That is all I had in the bank there with interest.

Q. Did you have more in the bank? A. I had some money home, but no more in the bank.

Q. Did you have any more money? A. Yes, sir; in the house, but I always kept that in the house.

Q. That you got from your business? A. No, sir; that is money I earned.

Q. How did you earn it? A. I earned money by finishing pants before my husband knew me. 10

Q. But I mean after your husband married you?

A. And I earned some after I got married.

Q. (Mr. Smith): Your husband went into business afterwards, didn't he? A. Yes, sir; and my husband went to the bank and put money in, but whether he put it in his name or in both names, I don't know.

FURTHER CROSS:

Q. This eighteen hundred dollars—how was that put in? A. I think in his name alone; I don't remember how that was. 20

Q. Half of that belonged to you? A. Well, I don't know whether it does or not, but it ought to.

Q. You considered it so, didn't you? A. Well, I don't never have anything from it.

Q. Your business in Hoboken was attended to in the bakery by your husband, and you did the selling? A. Yes, sir; I done the whole business. 30

Q. You didn't do anything more than sell? A. I seen after the flour supply and everything; I always had to order flour and everything.

Q. Your husband didn't do that. Now, when this property was sold to Mr. Bohley, didn't your husband make a bill of sale of the property first? A. No, sir.

Q. What? A. No, sir; how could he.

Q. Well, didn't Mr. Bohley tell you that he wanted you to make a bill of sale? A. No, sir; I sold it 40

to him, and the bill of sale was made out right away; I gave him the bill of sale.

Q. But did your husband also give him a bill of sale? A. Maybe he put his name into it to satisfy him; I don't remember about those things, but I don't think he did.

10 Q. Don't you know that your husband joined you in making that bill of sale, and that his name was in there, and yours? A. No, sir; I don't remember that his name was in it.

Q. You don't remember? A. No, but I know I made it.

Q. Wasn't your husband's name in it? A. I don't remember any more, but I should not think it was.

Q. Well, you can't swear it was not? A. I would not swear; I don't know perfectly sure.

20 Q. When your husband went into business in Coney Island, didn't you go down there with him? A. I went down to see him a couple of times.

Q. Did you go down and stay? A. Yes, sir; I stayed a couple of days, and then went home to my business again.

Q. Didn't you go down there and stay four weeks at a time? A. Not four weeks, but four days.

Q. How many days? A. Four or five days.

Q. At a time? A. Yes, sir; certainly, I think it was.

30 Q. Now, didn't you assist your husband in the business there? A. I had nothing to do with my husband.

Q. Didn't you assist him—didn't you help him in his business at Coney Island? A. Sometimes I helped him; when he had a great deal to do I helped him; I helped him at something—wringing out the clothes; that is how I helped him.

Q. When he undertook that business you knew that he was going down there in business, didn't you? A. No, sir; I didn't know he was going there.

40 Q. Didn't he say anything to you about it? A.

Not when he bought it, but after he went.

Q. Didn't he tell you that he didn't own money enough to buy it? A. He didn't tell me any such thing about the money.

Q. Didn't he tell you a word about his going down there? A. He didn't say anything about his going into business at Coney Island; no, sir.

Q. You did not know anything about it until after he bought? A. No, sir.

Q. And then you went down and stayed four or five days a week? A. I visited there several times while he was there, and stayed four or five days; I don't know particularly. 10

Q. Where did you suppose your husband got the money from to buy that business? A. I didn't suppose at all.

Q. Well, you knew he had to have money to buy the business, didn't you? A. May be, but he had enough money; I don't know where he got it from.

Q. You knew he had to borrow money to buy it, didn't you? A. What do I know about it, probably he had money; what do I know? 20

Q. Your husband didn't say anything about that, eh? A. He did not.

Q. Why did Mrs. Rosenblath have to borrow that \$10 of you? A. I don't know any more than what she told me—that she was short.

Q. Did she say "I am short because I loaned your husband money?" A. Not at all. 30

Q. You are very positive about that? A. I am sure of that—that she did not say anything.

Q. Now when you sold the business to Bohley, did he pay your husband? A. No, sir; he paid it to me.

Q. How did he pay you? A. Money first and secured the rest by mortgage—I hold the chattel mortgage on this place.

Q. You held the chattel mortgage on his place? A. On his fixtures. 40

Q. How much money did he pay you? A. About one hundred dollars.

Q. Who collected the balance? A. I did.

Q. When? A. When I went out in Germany.

Q. I thought you said that it was secured by a chattel mortgage?. A. I held a chattel mortgage on him until I got some money from Germany, what came from his parents.

10 Q. How much was that? A. That was three hundred odd dollars.

Q. You went over and got that money? A. Yes, sir; we went to Europe at that time.

Q. Was the money paid to you or to your husband? A. It was paid to me.

Q. At the time the money was paid did you sign a receipt for it, or did your husband, or both of you together? A. I signed it.

Q. You alone? A. Yes, sir.

20 Q. In Germany, at the time you gave that receipt, didn't your husband receive the money? A. No, sir.

Q. And didn't he sign the receipt—didn't the officer refuse to pay the money, and say that he would not do so until your husband signed the receipt? A. I know nothing about my husband signing the receipt.

RE-DIRECT:

30 Q. After you and your husband had gone into business—after you were married—you say you made eighteen hundred dollars? A. Yes, sir.

Q. And your husband went to Europe. Now, after he came back was he in any business in his name—did he go into any business? A. Yes, sir; after he came back from Europe.

Q. What business? A. The baker business.

Q. Do you know how much he paid for that business? A. I don't know.

40 Q. How long was he in it? A. About half of the year.

Q. When you went down to Coney Island—when was that, do you remember? A. Yes, in July.

Q. And you went down for what purpose? A. To see my husband. The children were sick when he left me and I went over with the children to see him there with my children—I took them along.

Q. That is all.

CHRISTIAN BUTTLAR, a witness produced on behalf of the defendants, having been duly sworn according to law, deposed and saith:

DIRECT EXAMINATION:

Q. This property was purchased with whose money? A. My wife's money.

Q. You have heard her testimony as to where she got it from, and how she made the money, is that true or not? A. That is all true.

Q. When did you first tell Mrs. Buttler about the loan from Mrs. Rosenblath? A. I did not.

Q. Answer my question; when did you first tell her? A. When she came to Coney Island and asked me.

Q. When was that? A. In the commencement of September she came and asked me if I had money from Mrs. Rosenblath, and I said "Yes, I had \$200."

Q. What did she say? A. She said she didn't know about it, and I said that I would pay her as soon as I had the money.

Q. When you bought this business in Coney Island and what was the business? A. Lager beer saloon and bathing houses.

Q. When you borrowed the money from Mrs. Rosenblath, did you have any idea about not being able to pay it at all?

(Objected to.)

Q. How did you expect to pay it? A. I bought

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the place from Mr. Rush, and he told me I would make a thousand dollars there.

Q. And it was upon that idea you borrowed the money and went into business? A. Yes, sir.

Q. When these conveyances were made, how did they come to be made? Do you remember about that? You heard your wife's testimony as to that? A. My wife came to me, and she said that she didn't want my name any more in the deed, and I told her that if she wanted it she could do it.

10 Q. And upon that you signed this conveyance? A. Yes, sir; I signed the conveyance.

Q. When was that lease signed by Mrs. Buttlar—the Rosenblath lease? A. Well, just after the lease was made Mr. Rosenblath came to me and said, "Mr. Buttlar, your wife didn't sign that lease, and I want her to sign it." I told him she would do it; so I took the lease and asked her to sign it, and she did.

20 Q. Was he dissatisfied because she hadn't signed it, or what did he say was the reason? A. He said I was not the only owner of the property, so he wanted the name of the other owner.

Q. What did you do upon that? A. Well, I took the lease out of Mr. Rosenblath's hands, and went to my room and requested my wife to sign it, and she did, and then I took it back to Mr. Rosenblath.

Q. That was a few days after the lease? A. Well, a week or several days, I could not say any nearer.

30 Q. When the property was just leased before they went in, what were they to pay for the property then? A. Do you mean the Rosenblaths?

Q. Yes, they went in in August? A. Yes, sir.

Q. How much were they to pay a month then? A. \$35.

Q. Who did they lease the place from, you or your wife? A. From me.

40 Q. Was your wife present? A. Yes, sir; she was present.

Q. And afterwards this lease was made, was it?

A. Yes, sir.

Q. After this \$200 was loaned to you from Mrs. Rosenblath—you heard Mrs. Rosenblath's testimony—what did you say, if anything, about owning the premises or anything of that kind? A. Well, will you allow me to state.

Q. State what you said to her at that time? A. Well, if your honor will allow me to explain.

The Court: All counsel asks you for is just what was said.

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A. Mrs. Rosenblath asked me—she said “if you lose that \$200 what will I do,” and I said “Mrs. Rosenblath, you must not think I want to get out of your \$200, I am always man enough to pay you \$200.” That is what I said.

Q. When you went there to get the \$200 what was said between you and Mrs. Rosenblath? A. I went in the morning. I was intending to buy that business in Coney Island, and I asked Mrs. Rosenblath can you let me have \$200, and she said you come in to-night and I will have a talk with my husband. So I went in that night, and then she said “I won't lend you the money for only three months,” and she said “Mr. Buttlar, I will give you the \$200, but you must take it for six months; I can't lose the interest for three months.” Then I told her I would take the money, and if I can pay her the money back in three months I will do so, and I will give her the interest for six months also; but when the three months was up I wasn't able to pay that note which was made out in three months. So when I came back from Coney Island Mrs. Rosenblath came in my room, and asked me about it, and she said the note was lost and I was willing to give them another note.

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Q. The time when you borrowed the money from her, what did she mean when she spoke about perhaps she might lose it? A. Well, I could not give

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you any answer to that; I don't know what she means by it; maybe she knows about the business at Coney Island; I don't know anything about that.

Q. These conveyances that were made to Mr. and Mrs. Bier—you heard what your wife testified as to that. What was the reason—(interrupted).

Objected to as having been testified to before.)

10 Q. The business that was carried on by your wife in Hoboken—did you have any connection with it in any way? A. No, sir; I did not.

Q. It was carried on by her? A. She did the whole business.

Q. Who had the money that was made? A. She had.

Q. You didn't claim any part of it? A. No, sir.

Q. Did you go into business after you were married, yourself? A. I was in business after I came from Europe.

20 Q. At first you went into business together? A. Yes, sir.

Q. And made eighteen hundred dollars? A. Yes, sir.

Q. Then you went to Europe, and when you came back you went into business? A. Yes, sir; in Brooklyn.

Q. At what? A. Baker.

Q. How did you succeed? A. Badly.

30 Q. What did you pay for it? A. A thousand dollars.

Q. How long did you own it? A. Six months.

Q. What did you do then? A. I sold out; I could not make any money.

Q. For how much? A. Four hundred dollars.

Q. Then you lost \$600? A. Yes, sir.

Q. After your wife went into business in Hoboken? A. Yes, sir.

40 Q. Your wife after she had been in business with Mr. Bohley or rather after she bought that and sold

it out again, then she went into business for herself? A. We went to Europe first.

Q. And afterwards when she came back she went into business again? A. Yes, sir.

Q. Was that carried on in her own name? A. Yes, sir.

Q. The money paid then, whose money was that? A. Her money.

Q. At the time this property was purchased and this building erected, whose money was it that did it? A. My wife's money. 10

Q. You didn't claim any part of it? A. No, sir.

CROSS EXAMINATION:

Q. When did you begin business in Coney Island, what time was it? A. The 9th of June.

Q. The same day that you borrowed this money from Mrs. Rosenblath? A. Yes, sir.

Q. And you were in business there for a month and a half almost, before you made the conveyance of this property to your wife? A. Well, not quite a month and a half; a month and some days. 20

Q. What did you do with the money that you made in Brooklyn—the \$1800? A. I went to Europe for the summer, and when I came back I bought that bakery.

Q. And in that bakery your wife was in partnership with you? A. No, sir; she was not in partnership.

Q. She lived with you? A. Yes, sir. 30

Q. And she assisted you? A. She attended to the house.

Q. Didn't she sell goods? A. Well, sometimes; but I had a saleslady there, and my wife went into the store sometimes, like wives do always.

Q. And when you sold out that business you came over to Hoboken? A. Yes, sir.

Q. And went into business—you and your wife—there? A. I didn't; she went into business; I was working up on the Hill. 40

Q. When she was in the bakery business? A. Yes, sir; and then I came down and worked for her then.

Q. Then you began working for her? A. Yes, sir.

Q. Whenever she was in business—wherever she had any business—you were always with her to do the baking? A. Yes, sir.

Q. And she did the selling? A. She done the business; she done more than the selling—she done all the business, and that is more than selling.

10 Q. How soon did you leave Coney Island? A. In the middle of September.

Q. So that you were down there how long? A. Three months and some days.

RE DIRECT:

Q. When did you go to Coney Island? A. The 9th of June or 10th of June.

20 Defendant's counsel offers the lease found in a book of miscellaneous records, page 479, dated January 6th, 1880, between William Worth to Catharine Buttlar. Marked Exhibit No. 1.

MINNA BUTTLAR recalled by defendant's counsel for further direct examination:

30 Q. What is your full name? A. Catharine Minna Buttlar.

Defendant's counsel offers in evidence mortgage from Philip Bohley to Minna Buttlar, dated the 19th of June, 1877. Marked Exhibit No. 2.

CHRISTIAN BUTTLAR recalled for further direct examination:

40 Q. Do you know Dora Herman? A. I can't remember.

Q. Didn't you on or about the first day of April, 1883, before Justice Rush, give bail for one Dora Herman, at which time you swore that this property belonged to you? A. Mr. Rush called me in and asked me if I would give bail for her; "well" I told him "Mr. Rush can I give bail," and he said "oh, that is nothing to us."

Q. Did you give bail for her? A. Well, I gave bail, but I don't know who for it was.

Mr. Smith: I suppose the deed is in evidence. 10

Q. You didn't own any other real property besides your interest in this land? A. No, sir.

RE-DIRECT:

Q. You own this property on Coney Island yet? A. Yes, sir.

Q. How much was that worth? A. Between two and three hundred dollars. 20

Q. That is all.

EXHIBITS D, E.

THE WILLIAMSBURGH SAVINGS BANK,

Incorporated April 9th, 1851.

Broadway & Driggs Ave.

BOROUGH OF BROOKLYN,

30

New York City, Aug. 5, 1902.

MRS. MINA BUTTLAR,
347 West Street,
Hoboken, N. J.

Dear Madam:

In reply to your favor of July 30, we would say that you had no money with us in 1874.

The first deposit was made November 9, 1875— 40

\$500. January 5, 1876, you added \$360, making a total of \$860. This amount you withdrew April 22, 1876, closing the account.

Yours very truly,

WM. F. BURNS,
Cashier.

10

EXHIBIT D 4.

Certified copy of Chattel Mortgage by Philip Bohley to Minna Buttlar, dated June 19, 1877. Covers goods and chattels in bakery at 164 First Street, Hoboken, and is made to secure the payment of \$300.

EXHIBIT D 6.

20

Lease by William Wirth to Catharine Buttlar, dated January 6th, 1880, for premises at 144 First Street, in the City of Hoboken, for five years from the first day of February, 1880.

EXHIBIT D B.

30

Certified copy of Mortgage by John Wilds to Henry Bischoff, dated May 1st, 1880, to secure a bond for \$2,300 of same date.

EXHIBIT D A.

40

Certified copy of Assignment of Bond and Mortgage by Henry Bischoff to Minna Cath. Buttlar, dated Nov. 15, 1880, assigns bond and mortgage made by John Wilds to Henry Bischoff for \$2300 on May 1st, 1880.

EXHIBIT D 7.

Bill of Sale by Catherine Buttlar to Susan F. Kisz, dated April 26, 1881, consideration \$1,000, conveys goods and chattels in bakery at 144 First Street, Hoboken.

EXHIBIT A.

10

THE BOWERY SAVINGS BANK.

The following is a transcript from the ledger, showing account No. 568839 in the name of Christian and Minna Buttlar:

Date.	Drafts.	Deposits and Interest.	
1883.			
Oct. 22		\$250.00	
Dec. 10	\$210.00	20
1884			
Apr. 14		250.00	
1886			
Feb. 8		100.00	
'86, July		25.72	
1886			
Oct. 19	400.00	
1887			
Sept. 21		250.00	
1888			30
Nov. 27		250.00	
1889			
Apr. 11	250.00	
1890			
July 7	275.00	
'90, July		31.42	
		<hr/>	
1890			
		22.14	
Oct. 15	22.14	40

EXHIBIT D 9.

Minna Buttlar in account with Hoboken Bank
for Savings.

	Cr.
1884.	
June 10	285 00
Aug. 9	240 00
Aug. 16	95 00
10 Aug. 23	53 00
Sept. 12	384 00
1885.	
Jan'y. 1, interest	11 85
Mar. 9	200 00
June 30, interest	8 52
1886.	
Jan'y. 1, interest	8 70
March 10	200 00
June 30, interest	9 88
20 1887.	
Jan'y. 1, interest	5 06
June 30, interest	5 18
Sept. 21	125 00
Nov. 11	400 00
1888.	
Jan'y. 1, interest	6 53
Mar. 27	126 00
Apr. 16	265 00
Apr. 17	35 00
30 June 30, interest	10 42
1889.	
Jan'y. 1, interest	10 64
June 30, interest	10 84
July 15	200 00
Nov. 1	1500 00
1890.	
Jan'y. 1, interest	15 06
June 30, interest	39 02
	<hr/>
40	4249 70

Dr.		
1884.		
Oct. 20	\$ 100 00	
Nov. 17	57 00	
1885.		
Jan'y. 6	25 00	
Jan'y. 28.	600 00	
<i>Jan'y. 2</i>	<i>600.00</i>	
1886.		
April 29	100 00	
July 3.....	260 00	10
Nov. 11	100 00	
1888.		
May 11	700 00	
1890.		
Oct. 6	100 00	
Oct. 21.....	2207 70	
	<hr/>	
	\$4249 70	

20

Cr.		
1891.		
Jan'y. 29	30 00	
Mar. 16	40 00	
Apr. 21	25 00	
June 30, interest	70	
July 3	50 00	
Sept. 10	55 00	
Oct. 12	80 00	30
1892.		
Jan'y. 1, interest	3 45	
Jan'y. 4.	35 00	
June 29	90 00	
June 30, interest	6 38	
July 15	10 00	
1893.		
Jan'y. 1, interest	8 40	
June 30, interest	66	
Nov. 3	75 00	40

	1894.	
	Jan'y. 1, interest	68
	June 30, interest	2 20
	1895.	
	Jan'y. 1, interest	2 24
	Mar. 4	417 15
	Mar. 4	50 00
	June 30	10 62
10		<hr/>
		992 48
	Dr.	
	1893.	
	Jan'y. 3	400 00
	1895.	
	Aug. 6	30 00
	Aug. 13	21 00
	Aug. 26	50 00
20	Aug. 31	491 48
		<hr/>
		992 48

EXHIBIT F I.

	1886.	
	Apr. 25	\$ 291 00
	Apr. 30.....	70 00
30	May 6	35 00
	May 11.....	65 00
	June 4	150 00
	June 4	173 00
	July 3	200 00
	Sept. 16	38 83
	Oct. 19	200 00
	Nov. 11	400 00
	1887.	
	Feb. 8	200 00
40	May 1	300 00

1888.	
April	1200 00
Nov. 28	133 19
1889.	
June 23	64 00

EXHIBIT D 14.

10

Abel I. Smith & Mabon,
Counsellors at Law,
Hoboken, N. J.

May 19, '88.

Received of Mrs. Buttlar, check of twenty-five dollars for drawing papers, &c., in matter of dissolution of firm of Witt & Co.

ABEL I. SMITH & MABON.

20

EXHIBIT D 14-2.

\$800.00.

Hoboken, N. J., May 11, '88.

Received of Mina C. Buttlar, eight hundred dollars, being first payment due us under agreement bearing even date herewith for all our right, title and interest of, in and to all the property, real and personal and cash on hand, belonging to the firm of Witt & Co.—etc., the balance four hundred dollars to be paid in one month from the date hereof, subject to the conditions in said agreement mentioned.

30

Rec. \$800.00.

ELISE WITT,
C. H. Witt.

40

EXHIBIT D 13.
MINNA BUTTLAR.

In account with First National Bank, of Ho-
boken, N. J.

Cr.			
1889.			
	Dec. 7.	Cash	\$10,000 00
1890.			
10	Jan. 8.	Cash	175 00
			\$10,175 00
Dr.			
1889.			
	Dec. 7.	Check	\$ 150 00
	Dec. 9.	Check	3300 00
	Dec. 9.	Check	47 40
	Dec. 14.	Check	16 88
	Dec. 31.	Check	500 00
1890.			
20	Jan. 11.	Check	500 00
	Jan. 15.	Check	1000 00
	Feb. 1.	Check	500 00
	Feb. 14.	Check	275 00
	Feb. 19.	Check	500 00
	Feb. 21.	Check	1825 00
	Mch. 13.	Check	400 00
	Mch. 15.	Check	800 00
	Apr. 12.	Check	22 00
30	Apr. 14.	Check	80 00
	Apr. 22.	Check	2587 00
			\$10175 00

EXHIBIT D C.

Lease by Christian Buttlar to Henry Becker,
Dated, March 1st, 1890, of premises at Nos. 230
and 232 First Street, Hoboken for 10 years from
40 date, at the yearly rental of \$570.

EXHIBIT D 14 A.

The
German Society of
the City of New York,
in
New York.

Department—Notary's Office.

No. 3,022.

New York, September 24, 1892. 10

ACCOUNT.

For—Mrs. Anna *Wilhelmina* Catharina Margaretha Buttlar, born Eilermann, No. 85 Malone St., West Hoboken, N. J.

in affairs concerning collection of inheritance.
1892.

Septbr. 22. Through the negotiations of Lawyer Wellenkamp and Klussemann, in Osnabruck, and the Hanover Bank of Hanover, collected. 20

Mks. 615.35 at 23 1-2c. a Mk .. \$144 60
Deducted from this:

July 25. Cost of Power of Attorney,

No. 9837 \$ 3 00

July 27. Consul's attestation or same. 1 80

Septbr. 22. 5 per cent. commission on

\$144.60 7 23

Septbr. 22. For correspondence and 30

postage 1 25

\$13 28

July 25. Deposit already made for

expenses 5 00 8 28

Balance to be received by Mrs. Buttlar.. \$136 32

Signed,

AUG. MERNELRN. 40

COMPLAINANTS EXHIBITS.
EXHIBIT C.
IN CHANCERY OF NEW JERSEY.

	Between				
10	CHRISTIAN BUTTLAR,	Complainant.	}	On Bill for Partition. Affidavit.	
	and				
	MINA BUTTLAR,	Defendant.			

20 State of New York,
City and County of New York. } ss.:

HENRY DUSENBURY, being duly sworn according to law, upon his oath saith:

30 That he is acquainted with Christian Buttlar, the above named complainant; that he had business transactions with the said complainant during the years 1887, 1888, 1889 and 1890, also from the year 1892, up to and including 1898; that during the said years he sold to said Christian Buttlar large quantities of hay, grain, feed, flour, &c., that the said Christian Buttlar was then engaged in the hay, grain and feed business at Nos. 654 and 656 First Street, Hoboken, New Jersey; that said goods and merchandise were sold and delivered to the said Christian Buttlar upon his sole credit; that deponent did not know of or have any dealing with any one else in or about the sale and delivery of said goods and merchandise; that said goods and merchandise were paid for by said Christian

40 Buttlar by his checks; that said goods and mer-

chandise were delivered to said Christian Buttlar; that this was so except for the first two years of the above mentioned period when the said feed business was carried on by Witt & Company composed as this deponent then believed, of said Christian Buttlar and Charles H. Witt.

HENRY DUSENBURY.

Sworn and subscribed before me
this 19th day of February, 1903,
at New York City, New York.

10

Francis V. Many,
Master in Chancery of New Jersey.

EXHIBIT C2.

IN CHANCERY OF NEW JERSEY.

To His Honor, Alexander T. McGill,
Chancellor of the State of New Jersey.

20

Humbly complaining showeth unto your Honor, your oratrix, Minna Buttlar, of the Township of West Hoboken, in the County of Hudson, and State of New Jersey, that she was married on the seventeenth day of February, A. D. 1872, in the City of New York to Christian Buttlar, her present husband; that she is now residing at No. 347 West street, in said Township of West Hoboken, and that said Christian Buttlar is residing at No. 606 Malone street, in said Township of West Hoboken, in the County and State aforesaid; that the parties are *possessed in fee simple by the entirety* of lands and premises valued at about twenty-seven thousand dollars, mortgaged in the sum of seven thousand five hundred dollars, which said lands and premises are described as follows: "All those four certain lots, pieces or parcels of lands and premises situate, lying

30

40

and being in the Town of West Hoboken, in the County of Hudson and State of New Jersey, which on a certain map on file in the office of the Register of the County of Hudson entitled "Map of property belonging to Adam Siegfried, situate in West Hoboken, Hudson County, N. J., surveyed and laid out by James Moylan, civil engineer and surveyor, May 28th, 1889," are known and distinguished as lots numbered one (1), two (2),

10 three (3) and four (4), in Block number ninety-two (92), bounded and described as follows, viz: Beginning at a point or corner formed by the intersection of the westerly line of West street with the northerly line of Malone street; thence running along the northerly line of Malone street one hundred (100) feet, thence running northerly eighty-three (83) feet and sixty-five one hundredths (65-100) of a foot; thence running easterly

20 one hundred (100) feet to the westerly line of West street; thence running southerly along the westerly line or side of West street eighty-three (83) feet and eighty-nine one hundredths (89-100) of a foot to the point or place of beginning. And also lot number thirty-seven (37) in said map, which said lot is twenty-five feet wide in front and rear and one hundred (100) feet deep throughout. And also all those certain lots, tracts, pieces or parcels of land and premises situate, lying and

30 being in the City of Hoboken, in the County of Hudson, and State of New Jersey, which on a map entitled "Map of eighty-one lots situate in the business portion of the City of Hoboken and duly filed in the office of the Clerk (now Register) of said County of Hudson, June 10th, 1873, are known, distinguished and designated as lots number thirty-one (31) and thirty-two (32) in Block number twenty-six (26) all as laid down on said map as by reference to said map will more fully

40 appear, each of said lots is twenty-five feet wide

in the front and rear by one hundred feet deep throughout; said lands front or face on the north-erly side of First street between Jackson and Har-ri-son streets."

And your oratrix further shows that *she paid ten thousand five hundred dollars towards the purchase* of the above described land and premises lying in the Township of West Hoboken out of her separate property as aforesaid.

10

And your oratrix further shows, that on the four lots first above described, there are erected five two story and basement frame dwelling houses, the rental value of which said houses is the sum of about two thousand dollars a year, but that the property in the joint names of your oratrix and the said Christian Buttlar, is mortgaged in the sum of seven thousand five hundred dollars, upon six thousand dollars of which they pay five per cent. interest per annum and that they pay six per cent. on the remaining fifteen hundred dollars.

20

And your oratrix further shows that the total amount of taxes paid upon said lands and premises amounts to the sum of about two hundred dollars per annum.

And your oratrix further shows that said *Chris-tian Buttlar is carrying on a hay and feed business* at Nos. 654 and 656 First street, in said City of Hoboken, from which the net income is about the sum of twenty-five hundred dollars per annum, when the same is properly conducted.

30

And your oratrix further shows that she has re-sided in said City of Hoboken, and in the Town-ship of West Hoboken, separate and apart from her said husband since the first day of March, A. D., 1894, upon an agreement entered into by and between your oratrix and the said Christian Buttlar on the twenty-first day of January, A. D., 1894, which said agreement is in substance as follows:

40

“Whereas divers disputes and unhappy differences have arisen between the said party of the first part and his said wife, for which reason they have consented and agreed to live separate and apart from each other during their natural life, therefore this indenture witnesseth: That the said party of the first part, in consideration of the premises, and in pursuance thereof, hereby consents, promises and agrees to and with his said wife that it shall and may be lawful for her his said wife, at all times hereafter to live separate and apart from him, and that he shall and will allow and permit her to reside and live in such place or places and such family or families, and with such relations, friends and other persons, and to follow and carry on such trade or business as she may from time to time choose or think fit, and that he shall not nor will at any time sue or suffer her to be sued for living separate and apart from him, or compel her to live with him; nor sue, molest, disturb or trouble any other person whomsoever for receiving, entertaining or harboring her; nor shall or will at any time hereafter claim or demand any of her money, jewelry, plate, clothing, household goods, furniture, (excepting one-half carpet, one bed and bedding complete, one safe, four chairs, and one clock which are to remain the sole property of Christian Buttlar) or stock in trade which she now has in her power, custody or possession or which she may or shall at any time hereafter have, buy or procure or which shall be devised or given to her, or that she may otherwise acquire, and that she shall and may enjoy an absolute disposition of the same as if she were a *fem sole* and unmarried, except the real estate hereinafter mentioned which is owned by them jointly.

And further, that the said party of the first part shall and will well and truly pay or cause to be paid for and toward the better support and maintenance of his said wife the sum of seventy-five

dollars (\$75) per month, commencing on the first day of February next, and payable on the fifteenth day of each and every month, and that the said party of the second part does hereby agree and take in full satisfaction of her support and maintenance all alimony whatsoever, and the said Mina Buttlar in consideration of the said premises and also for and in consideration of the sum of one dollar to her in hand paid, does hereby agree to and with her said husband, the party of the first part, that he shall be entitled to receive during the term of his natural life all the rent, income and profits of the property now owned by him in their joint names, known as Nos. 600, 602, 604, 606 and 608 Malone street, No. 339 West Street, in the Town of West Hoboken, and 654 and 656 First Street, Hoboken, the said Christian Buttlar, to pay all taxes that may hereafter be levied or assessed against said real estate, interest that may hereafter become due on mortgages now held against said property, and also all repairs that may hereafter be required, excepting the painting of the outside of the buildings, to be done and coming spring, the expense of which the parties hereto are to bear jointly, each to pay one-half of the costs thereof, and the said Minnie Buttlar further agrees to and with her said husband that she will pay the taxes against said premises for the year eighteen hundred and ninety-three, and also all water rents up to February first, eighteen hundred and ninety-four, and said Christian Buttlar furthermore agrees that his said wife may occupy the first floor in the house known as No. 600 Malone street in the Town of West Hoboken, in the County and State aforesaid, until March 1st, 1894, (she to pay therefore the sum of seventeen dollars (\$17) when she is to vacate the same, it being however understood that should Minna Buttlar not vacate the said premises on or before the first day of March, then and in that case she is to pay the monthly rent of seventeen

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dollars (\$17) therefore, payable on the first day of each and every month in advance.

10 And the said Minnie Buttlar further covenants and agrees to and with her said husband to indemnify and bear him harmless of and from all her debts contracted or that may hereafter be contracted by her or on her account, any and all moneys shall be deducted from the monthly payments to which the said Christian Buttlar may be compelled to pay on violation of this last mentioned covenant shall be deducted from the monthly payments to be made to her for her maintenance and support. And the said Christian Buttlar further agrees to pay all assessments now in arrears against said premises to which said Minna Buttlar agrees to contribute sixty-two and 50-100 dollars (\$62.50) to be paid by her to Christian Buttlar on or before May first next," by which said agreement the said
 20 Christian Buttlar agreed to pay your oratrix the sum of seventy-five dollars on the fifteenth day of each and every month thereafter commencing on the first day of February, A. D., 1894, as aforesaid, and that the amount of money due her by the terms of said agreement from the date thereof to the present time, is the sum of one hundred and twenty-five dollars, balance due from the month of November, and twenty-five dollars from the month of December, A. D., 1895; and twenty-five dollars
 30 balance due from the month of January; twenty-five dollars from the month of February, and twenty-five dollars from the month of March, A. D., 1896.

And your oratrix further shows that the taxes on all of said lands and premises was not paid by the said Christian Buttlar according to the terms and conditions of said agreement that the taxes for the year eighteen hundred and ninety-five on lot from one (1) to four (4) in Block ninety-two (92)
 40 amounting to the sum of one hundred and ninety-

three dollars and five cents has never been paid.

And your oratrix further shows that the taxes on lot thirty-seven (37) in block ninety-two (92) above described has not been paid for three years last past, and now amounts to \$25.74, and that said Christian Buttler has not kept said agreement on his part according to the terms and conditions, and the true intent and meaning thereof, but that she has kept said agreement on her part in every respect. 10

And your oratrix further shows that she fears that unless said taxes be paid within a certain time, said property will be sold by said Township of West Hoboken for taxes and assessments thereon, and that she will lose all the money she has invested therein.

And your oratrix further shows that outside of the allowance her husband agreed to give her, she has no means of support. 20

And your oratrix further shows that she filed a bill in this Court on the sixteenth day of March, A. D., 1895, to compel the specific performance of the above agreement; that at that time said Christian Buttler settled with your oratrix and deducted the amount of taxes for 1893 which your oratrix had agreed to pay, but that she has since discovered that said Christian Buttler never paid said taxes as stated by him at the time said settlement was made. 30

In tender consideration whereof, and inasmuch as your oratrix is without remedy in the premises at and by the strict rules of the common law and can only obtain relief in this Honorable Court, where matters of this nature are particularly conizable and relievable, to the end thereof that the said Christian Buttler may to the best and utmost of his knowledge, information and belief full, true and perfect answer make to all and singular the 40

matters aforesaid and as fully and particularly as
 if the same were here again repeated and he dis-
 tinctly interrogated thereto; that an account may
 be taken by and under the direction and decree of
 this Honorable Court of all the dealings and trans-
 actions of the said Christian Buttlar and your ora-
 trix in reference to the moneys paid, and to be paid
 to your oratrix, pursuant to the terms and condi-
 tions in said agreement, and also of what is still
 10 due and owing by the said Christian Buttlar for
 taxes upon the property hereinbefore described,
 pursuant to said agreement, and that said defend-
 ant may be ordered, adjudged and decreed to pay
 what shall appear thereon to be due to your oratrix
 or to whomsoever the same may be found to be due
 and owing and that said defendant may be further
 ordered, adjudged and decreed in all things to spec-
 ifically perform said articles of agreement upon his
 20 part according to the tenor and effect, the true in-
 tent and meaning thereof, and for such further and
 other relief in the premises as to this Honorable
 Court shall seem equitable and just.

May it please your Honor, the premises consid-
 ered to grant unto your oratrix the State's writ of
 subpoena issuing out of and under the seal of this
 Honorable Court commanding him, the said Chris-
 tian Buttlar, upon a certain day and under a cer-
 tain penalty therein to be expressed to be and ap-
 30 pear before your Honor in this Honorable Court,
 then and there to answer the premises and to stand
 to and abide by and perform such decree therein as
 to your Honor shall seem meet.

And your petitioner will ever pray, &c.

JOHN I. WELLER,
 Solicitor of and of Counsel with Complainant.

State of New Jersey, }
 Hudson County. } ss.:

Mina Buttlar, of full age, being duly sworn, according to law upon her oath, deposes and says that she is the complainant in the above bill of complaint named; that she has read said bill of complaint and knows the contents thereof, and that the matters and things therein set forth are true.

10

Subscribed and sworn to before me this
 21st day of March, A. D., 1896.

Alfred W. Herzog,
 Notary Public,
 New Jersey.

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40

IN CHANCERY OF NEW JERSEY.

	Between	} On Bill, &c. Answer of De- fendant Chris- tian Buttlar.
	CHRISTIAN BUTTLAR, Complainant.	
10	and	
	MINA BUTTLAR, Defendant.	

The answer of Christian Buttlar to the Bill of Complaint of the said complainant Mina Buttlar.

20 This defendant answering says that he admits that he was married on the seventeenth day of February, eighteen hundred and seventy-two, in the City of New York, and that this defendant and this complainant reside at the place mentioned in the Bill of Complaint, and that they are possessed in fee simple by entirety of the land and premises described in said Bill of Complaint, but he denies that said premises are of the value of Twenty-seven thousand dollars, but are of the value of twenty-one thousand dollars; and he denies that they

30 are mortgaged in the sum of seven thousand dollars, but that they are mortgaged for the sum of nine thousand dollars.

And this defendant further answering, says that he denies that his wife contributed ten thousand five hundred dollars towards the purchase of the premises lying in the Town of West Hoboken, and more particularly described in the said Bill of Complaint.

40 And this defendant further answering, says that

he admits that there are erected on said premises five two story and basement frame dwelling houses, but that the entire rental at present received by defendant from said premises is Eleven hundred and fifty-two dollars and not Two thousand dollars as stated in complainant's bill; and that the interest on the mortgage is six per cent. per annum on Three thousand dollars thereof, and five per cent. per annum on the remaining Six thousand dollars.

And this defendant, further ansering says that he admits that he is carrying on a hay and feed business at Nos. 654 and 656 First street, in said City of Hoboken, but that his entire income from said business does not exceed the sum of seven hundred and seventy dollars per annum, and not Twenty-five hundred dollars per annum as stated in complainant's bill.

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And this defendant further answering, says that he admits that he entered into an agreement with the said complainant to live separate and apart from her on the twenty-first day of January, eighteen hundred and ninety-four and that the substance of said agreement is as stated in complainant's said bill of complaint. And that since the first day of March, A. D., eighteen hundred and ninety-four they have lived separate and apart.

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And this defendant, further answering, says that he admits that he did not pay the taxes as mentioned in complainant's bill of complaint for the year eighteen hundred and ninety-five, the reason being that he was unable to do so, but that he exepets to pay same within a few months, and he denies that there are any other arrears of taxes on said property.

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And this defendant further answering says that he has paid his wife the sum of seventy-five dollars per month up to the first day of November, eighteen hundred and ninety-five, and since that time

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- has paid her the sum of fifty dollars per month; that he has not been able to pay her the said sum of seventy-five dollars per month because he did not have sufficient means to do so, the income from his business being hardly sufficient to keep him, and also a large part of the premises in said bill described have been vacant for the last eight months and he has therefore derived very little income from said property, hardly sufficient to pay taxes, water rent, repairs and interest of mortgages above
- 10 described; his entire income from the property amounting to the sum of one thousand six hundred and ninety-two dollars per annum, and his income from his business amounting to seven hundred and seventy dollars, making a total of two thousand and four hundred and sixty-two dollars, out of which he has paid his wife up to November first
- 20 eighteen hundred and ninety-five, the sum of nine hundred dollars per annum, and since that time the sum of six hundred dollars per annum, and the interest of nine thousand dollars amounting to four hundred and eighty dollars per annum, and water rents amounting to the sum of eighty-five dollars per annum, and taxes amounting to the sum of two hundred and fifty dollars per annum and bills for repairs amounting to about two hundred and fifty dollars per annum, making a total of expenditures of about two thousand and twenty-five
- 30 dollars per annum, leaving about five hundred dollars to this defendant for living expenses.

And this defendant, further answering, says that he denies that the complainant has no means of support outside of the allowance made her by her husband, that last fall she erected a house in the Town of West Hoboken, at an expense of thirty-eight hundred dollars in which she now resides, and also derives an income of sixteen dollars per month from said house.

- 40 And this defendant further answering says that

he is willing has offered to convey and give the entire charge, control and income of the West Hoboken house to the complainant in full satisfaction of the allowance mentioned in said articles of separation, but that she has refused to accept the same.

And this defendant, further answering says that he is desirous that the agreement of separation in said bill of complaint set forth be cancelled, and that he has from time to time requested his wife to again resume marriage relations with him, and he is willing that said marriage relations be resumed on his part, and hereby offers that said marriage relations be resumed, but that said complainant has refused and still refuses to live with him. 10

All which matters and things this defendant is willing to aver, maintain and prove, and prays that this bill may be dismissed. 20

WILLIAM S. STUHR,
Solicitor and of Counsel with Defendant.

The complainant joins issue on the answer of the defendant.

JOHN I. WELLER,
Solicitor of Complainant. 30

OPINION.

 MINA BUTTLAR,

vs.

 CHRISTIAN BUTTLAR,

10

Mr. JOHN I. WELLER, for Complainant.

Mr. WILLIAM S. STUHR, for Defendant.

PITNEY, V. C. :

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The bill in this cause is filed by a wife against her husband to recover certain arrears of an annuity secured to her by his personal covenant under seal. This document is dated January 31, 1894, and provided for the payment of \$75 a month commencing with the following month, but not mentioning any period that it should continue. Payments under it were made and all pecuniary matters settled between the parties up to the 1st day of May, 1895, Six more payments, to October, 1895, inclusive, were made in full. In November, 1895, the defendant declined to pay more than \$50 and made that payment each month up to the time of the hearing, in May, 1897. The bill was filed on April 15th, 1896.

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At that time, by the terms of the agreement, there was due \$25 on each of the months of November, December, 1895, January, February and March, 1896, and the prayer is for the arrears thereof shown.

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The agreement is somewhat similar to that which was the foundation of the suit of *Aspinwall v. Aspinwall*, 4 Dick., 302. It recites unhappy differences between the parties, and an agreement to live separate, a covenant on the part of the husband to permit his wife to live separate from him, and

not molest or disturb her, etc., and that she might have all of the property that might come to her thereafter in any wise. Then follows a covenant on the part of the husband to pay the wife the sum of \$75 a month, commencing on the day following the date of the contract, which would be February 1, 1894, payable on the 15th of each month, which the wife accepted in full satisfaction of her support, maintenance and all alimony whatever, but the length of time during which the payment should continue is not mentioned; and in consideration of the premises she agreed with her husband that he should be entitled to receive during the term of his natural life, all the rents, income and profits of the property then owned by them in their joint names, known as Nos. 600, 602, 604, 606 and 608 Malone Street, and No. 399 West street, in the Town of West Hoboken, and Nos. 654 and 656 First Street, Hoboken; and the husband was to pay all taxes that might be thereafter levied or assessed on the real estate, and all interest that might thereafter come due on the mortgages held against the property, and all repairs that might be required, except the painting of the outside of the buildings to be done the then coming spring, the expense of which the parties were to jointly bear. She further covenanted and agreed to indemnify her husband against all her debts contracted, or that might thereafter be contracted, by her, and all money or moneys which her husband might be compelled to pay on her account, and on violation of that covenant such amount so paid by him should be deducted from the monthly payments to be made to her for her maintenance and support. The husband also agreed to pay all assessments (proven in the case to amount to \$484.99) then in arrear against the premises and the wife agreed to contribute \$62.50 toward such payment.

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The defendant took possession of the premises, 40

has collected the rents, kept the premises in repair and kept down the interest, ever since. He has not paid all of the taxes for the reason as he swears, and I think truly, that he has been unable to do so.

10 The defense is that owing to the unexpected change in rental values the bargain turned out to be a hard one for the husband; that the rents and profits have not been sufficient to pay the taxes, keep the premises in repair and insured, keep down the interest on the mortgages, and also to pay the annuity to the wife.

The West Hoboken lots were covered by five tenement houses, each containing two suites of rooms. The Hoboken property was covered by a feed store which was, and has ever since been occupied by Buttlar himself.

20 A fair but full rent for the feed store is \$35 a month, amounting to \$420 a year.

At the date of the agreement the tenement houses were all rented, except the flat which was occupied by the husband, at the rate of \$33 a month for each house—that is, \$17 for the first floor and \$16 for the second floor. At that rate the total income was \$200 a month or \$2,400 a year.

30 The West Hoboken premises were subject to a mortgage of \$6,000 and the Hoboken feed store to one of \$3,000, amounting in the aggregate to \$9,000. The interest on the \$6,000 mortgage was at five per cent., and on the \$3,000 mortgage at six per cent. making \$480 annual interest. The ordinary taxes amount to \$250 a year, and the water rents on all the premises \$75 more; the ordinary repairs to \$200, and the insurance to \$20, making a total fixed charge of \$1,025 a year, or a monthly payment of \$85. If the houses had been occupied steadily by
40 tenants who paid their rent at that rate, the husband would have made a small profit out of the

transaction; for while his fixed charges were about \$1,025 a year, and his wife's payments amounted to \$900, or in all \$1,925, his income including his own rent was \$2,400, leaving him about \$475. But he had a large arrear of assessments—\$485 less \$62.50—to pay; and he had also to meet the inevitable losses arising from tenants failing to pay and moving out and a part of the premises remaining unoccupied and unprofitable.

10

The income from rents began to fall off within a year or two after the contract was made, and in November, 1895, fell off so greatly that he then, as above stated, reduced his payment to his wife from \$75 to \$50 a month. He was obliged to reduce the rent. From November, 1895, to April, 1897, inclusive, a period of eighteen months, the total cash income from the rents was \$1,454, an average of \$81 a month. During some of the months it fell as low as \$35. Adding to this \$15 a month for one of the flats occupied by the husband, and \$35 a month for the rent of the feed store, we have a total of \$131 a month. Deducting from that the fixed charge of \$85 a month leaves a net income of \$46 a month for the eighteen months. In the months of March and April 1897, the rents had risen to \$120 and \$122 a month respectively, besides (as I understand the evidence) the rent of the portion occupied by the husband, which would make it in all about \$175 a month.

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The evidence satisfies me that \$29 a month for each of the five tenement houses or \$145 a month for the whole is a full price, and from that sum must be deducted something for the unavoidable vacancies. I am also satisfied that the loss of rent, occurring principally in the calendar year 1896, was owing to the depression in business, and the falling off of demand for dwellings and not to any fault of the husband.

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If, then, the defence of hard bargain is available to the defendant, I think it is made out. But for the circumstances that the relation of husband and wife exists between the parties, the remedy upon this contract would be an action at law in contract; and the suit is brought in equity simply on account of the technical rule that a husband or wife cannot sue each other at law. The question is whether the suit brought by the wife, by such a necessity, in a Court of Equity, is liable to equitable defences. It was called, but I think not properly, a suit for specific performance. I think it must be considered as a simple action for money due by contract. But having been brought into a Court of Equity, it seems to me that the defendant may avail himself of any equitable defence. He has not resorted to a cross-bill and asked to be relieved entirely from the effect of his covenant, but he does set up in his answer and has proven, that he has offered to resume—and he did offer at the hearing to resume—marital relations with his wife, and he further offered, by his answer, to convey to her the West Hoboken property out and out, if she would relieve him from his covenant.

Each party under protest by the Court, entered into evidence as to which was to blame for the differences between them which led to the separation; but an examination of the evidence fails to show with any certainty which party was to blame. I think the probability is that the husband's statement of the cause is the true one, viz., that his wife insisted on collecting and appropriating to her own use all the rents, leaving him personally liable for taxes, assessments and insurance. The arrears of taxes and assessments due at the date of the agreement indicate this.

The question of the support of infant children did not enter into the contract, the two children of the marriage being grown up and able and willing

to take care of themselves. The wife and the husband appeared equally hale, hearty and able-bodied persons, and the wife as well able to support herself as the husband. The property in question stands in their joint names, the estate being the peculiar one arising out of the conveyance to husband and wife as such, and was the result of the joint labors of each. Taking all the facts and circumstances, and the verbiage of the contract, I am satisfied that the amount of the payment fixed therein was based upon the net income of the property, and not on the earning capacity of the husband, and that it was not understood or expected that the husband was to pay more than he received in rents, but that it was supposed by both that the rents would be ample to pay the wife the whole annuity and leave something over for the husband. Owing to the deprecation in the rental value of the property, not expected or anticipated by either party, the rents have been for a time insufficient to meet the payments. I am satisfied that the husband has done his best to make the payments and also keep down the fixed charges, and has been unable to do so. He exhibited his books of account of his personal business and seemed desirous of making a complete expose of all his affairs.

For these reasons I come to the conclusion, contrary to my first impressions, that the complainant is not entitled to relief, and that her bill should be dismissed without costs, and without prejudice to any future suit based upon non-payments from and after May 1st, 1897.

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IN CHANCERY OF NEW JERSEY.

	Between	}	On Bill, &c. Final Decree.
	MINNA BUTTLAR,		
	Complainant.		
10	and		
	CHRISTIAN BUTTLAR.		
	Defendant.		

20 This cause coming on to be heard before his Honor, the Chancellor, in the presence of John I. Weller, of counsel with the complainant, and of William S. Stuhr, of counsel with the defendant, and the pleadings having been read and the evidence of the respective parties and their witnesses, and the arguments of the respective counsel, having been heard and considered, and the Court having duly considered the said pleadings, evidence and arguments and it appearing to the Chancellor, that the complainant is not entitled to the relief sought and prayed for by her in her bill of complaint, it is on this thirteenth day of September, eighteen hundred and ninety-seven, by Alexander T. McGill

30 Chancellor of the State of New Jersey, ordered, adjudged and decreed, that the complainant's bill be, and the same is hereby dismissed without costs, and without prejudice to any future suit based upon non-payments from and after May 1st, 1897.

ALEX. T. MCGILL.

C.

40 Respectfully ordered,
H. C. Pitney,
V. C.

EXHIBIT C 16.

Hoboken, N. J.....188

M

Bought of CHR. BUTTLAR,
Successor to Witt & Co.

Wholesale and Retail Dealer in

FLOUR, GRAIN, HAY STRAW, SALT, &c., **10**
230 First Street.

SPECIMENS of Exhibits C 17 18 and 19 .

Hoboken, N. J., July 12, 1897.

Mr. Hoffman:

Bought of CHRISTIAN BUTTLAR, **20**
Dealer inFLOUR, FEED, HAY, STRAW, &c.
654 & 656 First Street.

In good order the following goods:

.....	Bbls. Flour		
.....	Bales Hay		
.....	Bales Hay		
.....	Bales Straw		
2	Bags Oats	1 70	30
.....	Bags Oats		
.....	Bags Middlings		
.....	Bags Meal		
.....	Bags Bran		
.....	Bags Corn		
.....	Bags Cr. Corn		
.....	Sacks Salt		
.....	Lbs. Flax Seed		
.....	Lbs. Glauber Salt		
.....	Lbs. Saltpetre		40

EXHIBIT A.

BANK STATEMENTS.

Christian Buttlar in account with
German Savings Bank of the City of New York.
No. of account 61,445.

		Cr.
	1871.	
	August 14, by deposit.....	\$30 00
10	1872.	
	January 1, by interest.....	22
	Total	<u>\$30 22</u>
		Dr.
	1871.	
	October 6, to draft.....	\$5 00
	November 7, to draft.....	10 00
	1872.	
20	February 21, to draft.....	15 22
	Total	<u>\$30 22</u>

Christian and Mina Buttlar in account with
German Savings Bank in the City of New York.
No. of account 68,450.

		Cr.
	1872.	
	July 27, by deposit.....	\$50 00
30	September 28, by deposit.....	140 00
	1873.	
	January 1, by interest.....	2 85
	Total	<u>\$192 85</u>
		Dr.
	1873.	
	January 21, to draft.....	\$25 00
	February 14, to draft.....	167 85
40	Total	<u>\$192 85</u>

Christian and Mina Buttler in account with
German Savings Bank in the City of New York.

Account No. 77,606.

1873.

	Cr.	
September 8, by deposit.....	\$350 00	
September 25, by deposit.....	75 00	
December 29, by deposit.....	75 00	10

1874.

January 1, by interest.....	6 37	
February 9, by deposit.....	100 00	
June 30, by interest.....	18	
August 19, by deposit.....	200 00	
September 14, by deposit.....	150 00	

1875.

January 1, by interest.....	5 43	
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Total	\$961 98	20
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1874.

	Dr.	
April 13, to draft.....	\$600 00	

1875.

May 15, to draft.....	361 98	
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Total	\$961 98	
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Christian and Mina Buttler in account with
German Savings Bank in the City of New York.

Account No. 116,068.

1879.

	Cr.	
November 10, by deposit.....	\$2000 00	

1880.

June 30, by deposit.....	26 00	
August 11, by deposit.....	25 00	40

1881.

January 1, by interest.....	3 02
January 4, by deposit.....	200 00
April 27, by deposit.....	19 00
June 30, by interest.....	7 08

Total\$2280 10
Dr.

1880.

10 January 6, to draft.....	\$700 00
November 15, to draft.....	1200 00

1881.

August 3, to draft.....	380 10
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Total\$2280 10

Christian or Mina Buttler in account with
German Savings Bank of Brooklyn.
20 Account No. 12,026.

Cr.

1873.

March 31, by deposit.....	\$50 00
May 5, by deposit.....	100 00
May 29, by deposit.....	50 00

Total\$200 00
Dr.

1873.

30 September 3, draft.....	\$200 00
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Total\$200 00

Christian or Mina Buttler in account with
German Savings Bank of Brooklyn, N. Y.
Account No. 15,376.

1874.

40 December 17, by deposit.....	\$25 00
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Cr.

1875.		
November 29, by deposit.....	250 90	
Interest	17 98	
	<hr/>	
Total	\$293 88	
	Dr.	
1876.		
October 21, draft.....	\$293 88	
	<hr/>	
Total	\$293 88	10

Christian and Mina Buttler in account with
German Savings Bank of Brooklyn, N. Y.
Account No. 16,269.

		Cr.
1875.		
July 3, deposit.....	\$60 00	
August 3, deposit.....	90 00	20
September 14, deposit.....	100 00	
Interest	90	
	<hr/>	
Total	\$250 90	
	Dr.	
1875.		
November 29, draft.....	\$250 90	
	<hr/>	
Total	\$250 90	30

Christian and Mina Buttler in account with
Williamsburg Savings Bank.
Account No. 71,967.

1874.		
		Cr.
March 25, deposit.....	\$100 00	
Interest	15	40

	October 26, deposit.....	170 00
	December 9, deposit.....	152 00
	Interest	30
	1875.	
	February 4, deposit.....	228 26
	February 18, deposit.....	150 00
	Interest	10 08
	1876.	
	Interest	10 50
10		<hr/>
	Total	\$821 29
		Dr.
	1874.	
	April 14, draft.....	\$90 00
	1875.	
	May 15, draft.....	370 71
	1876.	
	January 5, draft.....	360 58
20		<hr/>
	Total	\$821 29

Christian Buttlar in account with Hoboken Bank
for Savings.

Account No. 20,687.

		Cr.
	1879.	
	November 12, deposit.....	\$600 00
	1880.	
30	June 30, interest.....	11 25
	July 1, deposit.....	135 00
	July 21, deposit.....	70 00
	1881.	
	January 1, interest.....	15 12
	June 30, interest.....	11 02
	July 19, deposit.....	750 00
	1882.	
	January 1, interest.....	4 64
40		<hr/>
	Total	\$1597 63

	Dr.	
1879.		
December 31.....	\$20 00	
1880.		
January 9.....	130 00	
1881.		
May 31.....	130 00	
July 5.....	270 00	
August 6.....	610 00	
October 4.....	200 00	10
1882.		
February 18.....	237 03	
Total	\$1597 63	

Mina Heinburg in account with Citizens' Savings
Bank of New York.

Account No. 16,956.		20
	Cr.	
1866.		
August 6, deposit.....	\$50 00	
1867.		
January, interest.....	75	
January 18, deposit.....	25 00	
June 26, deposit.....	25 00	
July, interest.....	2 25	
1868.		
January, interest.....	3 09	30
July, interest.....	3 18	
1869.		
January, interest.....	1 02	
January 9, deposit.....	51 75	
June 21, deposit.....	30 00	
July, interest.....	2 61	
December 29, deposit.....	25 00	
1870.		
January, interest.....	2 82	
July, interest.....	3 66	40

	1870.		
	August 8, deposit.....	25	00
	September 26, deposit.....	50	00
	1871.		
	January, interest.....	5	03
	February 1, deposit.....	35	00
	February 28, deposit.....	10	00
	July, interest.....	4	23
	1872.		
10	January, interest.....	4	35
	July, interest.....	2	97
	Total	<hr/> \$362 71	
	1868.		
	July 22, draft.....		Dr. \$75 00
	1869.		
	July 19, draft.....	25	00
	1871.		
20	February 20, draft.....	10	00
	April 17, draft.....	100	00
	1872.		
	January 15, draft.....	50	00
	September 30, draft.....	102	71
	Total	<hr/> \$362 71	

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EXHIBIT B.

IN CHANCERY OF NEW JERSEY.

Between

CHRISTIAN BUTTLAR,

Complainant.

and

MINA BUTTLAR,

Defendant.

On Bill for
Partition.
Affidavit.

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State of New York,
City and County of New York. }

ss. :

20

WILLIAM R. SKINNER, being duly sworn according to law, upon his oath saith :

That he is acquainted with Christian Buttler, the above named complainant; that he had business transactions with the said complainant during the years 1886, 1887, 1888, 1889 and 1890; also from the year 1893 up to and including 1900; that during those years he sold to said Christian Buttler large quantities of hay, grain, feed, flour, etc.; that the said Christian Buttler was then engaged in the hay, grain and feed business at Nos. 654 and 656 First street, Hoboken, New Jersey; that said goods and merchandise were sold and delivered to the said Christian Buttler upon his sole credit; that deponent did not know of or have any dealing with anyone else in or about the sale and delivery of said goods and merchandise; that said goods and merchandise were paid for by said Christian Buttler by his checks; that said goods and merchandise

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were delivered to said Christian Buttlar.

WILLIAM R. SKINNER.

Sworn and subscribed to before me this 19th
day of February, A. D. 1903, at New
York City, New York.

Francis V. Many,
Master in Chancery of New Jersey.

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EXHIBIT D.
IN CHANCERY OF NEW JERSEY.

Between

CHRISTIAN BUTTLAR,

Complainant.

and

MINA BUTTLAR,

Defendant.

On Bill, &c.
Affidavit.

10

State of New Jersey, }
County of Essex. } ss.:

HENRY S. MORGAN, being duly sworn according to law, upon his oath saith:

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That he was a member of the late firm of James K. Morgan & Co., flour merchants, at No. 83 Dey street, New York City, and also its bookkeeper; that he is acquainted with Christian Buttlar, the above named complainant; that the late firm of James K. Morgan & Co. sold flour to said Christian Buttlar during the years 1879 and 1880; that the same was bought and paid for by the said Christian Buttlar only; that the accounts for said merchandise so sold and delivered were in the name of Christian Buttlar only; that deponent never heard in any way that Mina Buttlar claimed to own the feed business or any part thereof, which was conducted during said years in Hoboken, New Jersey, by said Christian Buttlar.

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HENRY S. MORGAN.

Sworn and subscribed before me this 4th
day of April, 1903.

Carl H. Stiger, N. P.

(Seal.)

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EXHIBIT E.
IN CHANCERY OF NEW JERSEY.

	<p style="text-align: center;">Between</p> <p style="text-align: center;">CHRISTIAN BUTTLAR, Complainant.</p> <p style="text-align: center;">and</p> <p style="text-align: center;">MINA BUTTLAR, Defendant.</p>	<p style="font-size: 4em;">}</p> <p style="text-align: center;">On Bill, &c. Affidavit.</p>
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State of New Jersey, }
County of Hudson. } ss. :

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EDWIN A. BARNES, being duly sworn according to law, upon his oath saith :

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That he is and has been for ten years bookkeeper for the Pavonia Mills and Elevator Company; that he is acquainted with Christian Buttlar, the above named complainant; that the Pavonia Mills and Elevator Company sold and delivered grain and feed to said Christian Buttlar during the years 1894 to 1898, inclusive; that the said goods and merchandise were sold to Christian Buttlar upon his sole credit, and were paid for by him; that the name on the trucks which took away the said goods and merchandise was Christian Buttlar; that the Pavonia Mills and Elevator Company had no dealings with any other person respecting the said goods and merchandise so sold and delivered; that the said company had no dealings with Mina Buttlar in respect to the goods and merchandise so sold and delivered, and never knew that Mina Buttlar

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had anything to do with or claimed any interest

in the said business; that the checks were all signed Christian Buttlar, and all accounts were paid promptly.

EDWIN A. BARNES.

Sworn and subscribed to before me at
Jersey City this 7th day of April, 1903.

Francis V. Many,
Master in Chancery of New Jersey.

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