

# New Jersey Prerogative Court.

*In re* the Estate

OF

CHARLES E. BIDDELL, deceased, JAMES  
S. BIDDELL,  
Petitioner,

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On Petition, &c.  
Notice.

AND

CLARA L. HORNER, Guardian, &c.,  
Defendant.

James S. Biddell, the petitioner in the above-entitled matter, hereby appeals to the New Jersey Prerogative Court from the order or decree made herein on the twenty-fourth day of March, eighteen hundred and ninety-three, and from each and every part thereof.

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Dated June 21st, 1893.

ROBERT E. VAN HOVENBERG,  
Proctor for and of Counsel  
with the Petitioner.

To THOMAS M. MOORE, Esq.,  
Proctor, &c., of Deft.,  
or whom it may concern.

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Service of a copy of within notice is hereby admitted this 21st day of June, 1893.

THOS. M. MOORE,  
Proctor of Clara L. Horner.

Filed June 22, 1893.

Surrogate.

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To his HONOR ALEXANDER T. MCGILL, Ordinary of the  
State of New Jersey :

The petition of James S. Biddell respectfully shows that your petitioner finds himself aggrieved by an order made by the Orphan's Court of the County of Passaic, bearing date the twenty-fourth day of March, eighteen hundred and ninety-three.

- 10 That your petitioner filed a petition in said Court on the twenty-seventh day of May, eighteen hundred and ninety-two, by which he prayed that a rule to show cause might be granted by the said Court, directed to to Clara L. Horner, and to such other persons as the Court might direct, why the letters testamentary granted to Clara L. Biddell on the 19th day of July, 1891, should not be revoked in accordance with the statute in such case made and provided, and why the petitioner should not be appointed administrator with  
20 the will annexed, of the estate of Charles E. Biddell, deceased, and why the order of said Court, made on the 27th day of November, 1891, directing all persons to show cause why the real estate of the said decedent should not be sold and all proceedings under said order including the order of February 25th, 1892, directing a sale; the decree of March 18, 1892, confirming the sale and the deed executed thereunder, should not be vacated and set aside as fraudulent, null and void, and why your petitioner should not be appointed special guardian of  
30 James S. Biddell, Junior, until he attain the age of fourteen years and shall chose another person to be his guardian.

That your petitioner shows, that the said Clara L. Horner filed her answer to the said petition on the eighth day of December, eighteen hundred and ninety-two, by which she denied the principal allegations of the said petition and prayed that the same should be dismissed.

- 40 That the matter having been heard by the said Passaic County Orphans' Court, the said Court on the

twenty-fourth day of March, 1893, made the following order :

The petition of James S. Biddell and the answer thereto of Clara L. Horner having been read, and the proctors of the parties having consented that the matter be heard on the petition and answer, and the affidavits of James S. Biddell and William Scott, and the letter of Clara L. Horner on file, and the proctors having been heard and the case duly considered ; it is on this twenty-fourth day of March, 1893, ordered 10 that the prayer of the petitioner be and the same is hereby denied ; and it is further ordered that the said Clara L. Horner and her husband Johan Horner have leave within sixty days from this date to file a bond to the Ordinary with sureties to be approved by the Surrogate, in the sum of one thousand dollars, and conditioned in all respects in accordance with the statute in such case made and provided.

And your petitioner appeals from the said order and from each and every part thereof, and prays that 20 the said order may be reversed, set aside and for nothing holden, and that the said Clara L. Horner may appear in this Court, according to the rules and practice thereof, and that a day and place may be appointed for the hearing of the parties hereto upon appeal, and that your petitioner may have such other and further relief as to your Honor shall seem meet.

ROBERT E. VAN HOVENBERG,  
Proctor for and of Counsel  
with the petitioner. 30

## NEW JERSEY PREROGATIVE COURT.

	<i>In re</i> Estate	}	On Appeal.
	OF		
10	CHARLES E. BIDDELL, deceased, JAMES S. BIDDELL,		
	Appellant,		
	AND		
	CLARA L. HORNER,		
	Respondent.		

The answer of Clara L. Horner, respondent, to the petition of appeal of James S. Biddell, appellant.

20 This respondent admits the making or entering by the Passaic Orphan's Court of the order mentioned in said petition, but this respondent says that the said order is not erroneous or illegal, but in all respects just and equitable.

And this respondent admits that sundry proofs were presented, on which said order is founded, and which are in and by said petition of appeal referred to, as to all which this respondent prays leave to refer when the same shall be produced.

30 And this respondent further answering says that the said appeal was not demanded in the manner required by the statute, within the time limited by the statute.

She therefore prays that said petition of appeal may be dismissed with costs.

THOMAS M. MOORE,  
Proctor and Counsel of Respondent.

**Affidavit of Service.**

<p style="text-align: center;">In the Matter</p> <p style="text-align: center;">OF</p> <p style="text-align: center;">Estate of CHARLES E. BIDDELL, deceased.</p>	}
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STATE OF COLORADO, }  
 County of Arapahoe, }

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I do solemnly swear that on the 23d day of June, A. D. 1892, I made personal service on Mrs. Clara L. Horner, at her place of abode in Denver, Arapahoe County, Colorado, by delivering to and leaving with her a true and certified copy of a petition and order issued out of the Orphan's Court of Passaic County, State of New Jersey, said copy being certified to as correct by Charles M. King, Surrogate and Clerk of said Orphan's Court, in the matter of the estate of Charles E. Biddell, deceased. 20

W. K. BURCHINELL, Sheriff,  
 By J. A. HIESTER, Deputy.

Subscribed and sworn to before me, at Denver, Arapahoe County, Colorado, on this 24th day of June, A. D. 1892.

My commission expires January 12th, 1896.

[L. S.]	ROBT. R. DAVIDSON, Notary Public, Arapahoe County, Colorado.	30
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At a Term of the Orphan's Court, of the  
County of Passaic, and State of New  
Jersey, at the Court House in the  
City of Paterson, on the 27th day of  
May, 1892.

Present—HON. JOHN HOPPER,  
HON. ALFRED A. VAN HOVENBERG, JJ.

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In the Matter

OF

The Estate of CHARLES E. BIDDELL, de-  
ceased.

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Upon the annexed petition of James S. Biddell, veri-  
fied May 25th, 1892, and upon all the proceedings  
herein, let Clara L. Biddell (now Clara L. Horner),  
executrix of the last will and testament of Charles E.  
Biddell, deceased, show cause before this Court on the  
first day of July, 1892, at 10 o'clock A. M., at the  
Court House, in the City of Paterson, why the letters  
testamentary granted herein to said Clara L. Biddell,  
on the 19th day of July, 1891, should not be revoked  
in accordance with the statute in such case made and  
provided.

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And why James Biddell, of the City and County of  
Passaic, should not be appointed administrator of said  
estate with the will annexed.

And why the order of this Court, dated November  
27th, 1891, directing all persons, &c., to show cause  
why the real estate of Charles E. Biddell, deceased,  
should not be sold to pay debts and all proceedings under  
such order, and the order of this Court, dated February  
5th, 1892, directing a sale and the decree of March 18th,  
40 1892, confirming such sale and the deed executed

thereunder, should not be vacated and set aside as fraudulent, null and void.

And why James S. Biddell, of the City and County of Passaic, should not be appointed as special guardian of James S. Biddell, Jr., until he attain the age of fourteen years and shall choose another person to be guardian.

And why such other or further order or relief should not be granted as to this Court may seem meet in the premises. 10

And it is further ordered that service of this order and copy of petition be made upon said Clara L. Biddell (now Clara L. Horner), of Cincinnati, Ohio, by serving a certified copy of the same upon her personally or by leaving the same at her usual place of abode fifteen days prior to the first day of July next.

Dated May 27, 1892.

JOHN HOPBER,  
ALFRED A. VAN HOVENBERG,  
Judges. 20

On motion of

ROBERT E. VAN HOVENBERG,  
Proctor of Petitioner.

## TO THE ORPHAN'S COURT OF THE COUNTY OF PASSAIC :

The petition of James S. Biddell, of the City and County of Passaic, State of New Jersey, respectfully shows to this Court, that on the 21st day of May, 1886, one Charles E. Biddell, a son of your petitioner of said City, County and State, made, published and declared his last will and testament, wherein and whereby he gave, devised and bequeathed all his estate, real and personal, to his wife, Clara E. Biddell, her heirs and assigns forever, and nominated and appointed his said wife executrix of said last will and testament.

That at the time of the making of said will, the said Charles E. Biddell had one child, namely, Jessie E.; that thereafter and on or about the 13th day of December, 1889, a second child was born to said Charles E. Biddell, namely, James S. Biddell, Jr., as next friend, and on behalf of whom your petitioner makes this application.

That on the 6th day of July, 1891, the said Charles E. Biddell died, leaving him surviving the said Clara L. Biddell, his widow, and the said Jessie and James S., his only children and heirs at law.

That on or about the 19th day of July, 1891, the said will of the said Charles E. Biddell was duly probated by the Surrogate of the County of Passaic aforesaid, and letters testamentary thereon duly granted by the said Surrogate to Clara L. Biddell, in said will named, who thereupon duly qualified and entered upon the discharge of her duties as such executrix.

And your petitioner further shows that the said Charles E. Biddell left certain personal estate to the value of about \$735, to wit, furniture to the value of \$300; a photographic apparatus and material of the value of \$150; tools and a lathe of the value of \$150; wearing apparel and a watch of the value of \$100; and a wagon and harness of the value of \$35; and the said Charles E. Biddell died seized in fee in

possession of all that certain parcel or piece of land with the dwelling-house thereon, situate in the City of Passaic in the County of Passaic and State of New Jersey, described as follows :

Beginning on the southwesterly side of Grove street at a point distant three hundred and eighty-six feet northwesterly from the westerly corner of Grove street and Bloomfield avenue as now laid out and opened, said beginning point being the northerly corner of the land of the late Mary L. Bonney, and running thence 10  
 (1) northwesterly along the southwesterly side of Grove street fifty feet ; thence (2) southwesterly at right angles to Grove street, one hundred and fourteen and eighty-six hundredths feet more or less to the land of John Jelleme ; thence (3) southeasterly along said line of Jelleme, formerly of Mrs. Monroe, and parallel with Irving Place fifty feet to the land late of said Bonney, and thence (4) northeasterly along the same one hundred and sixteen and three-tenths feet to the beginning ; the said premises being of the value of 20  
 about \$4,000 ; and your petitioner further shows that at the time of the death of the said Charles E. Biddell said premises were free and clear of and from all incumbrances save and except a mortgage to secure the payment of the sum of \$1,800, bearing the date of the 19th day of August, 1886, and recorded in the Clerk's office of the County of Passaic on the third day of September, 1886, in Book D-3 of Mortgages, page 210, said mortgage being made by the said Charles E. Biddell and Clara L., his wife, to Miss Eliza- 30  
 beth H. Rose, and being payable in five years from date, with interest at six per cent. per annum ; and except also taxes and water rents amounting to about \$37.16. And your petitioner further shows that the said Charles E. Biddell died intestate as to all the rights and interests of the said James S. Biddell, Jr., by reason of the birth of the said James S. Biddell, Jr., subsequent to the making of said last will and testament, in accordance with the statute in such cases 40

made and provided, and an undivided half of said premises vested in fee in said James S. Biddell, Jr., upon the death of his said father, subject only to a life interest in one third thereof as the dower right of the said Clara L. Biddell.

10 And your petitioner further shows that on or about the 24th day of September, 1891, the said Clara L. Biddell, executrix as aforesaid, paid the full amount of principal and interest due on said mortgage, and that the said mortgage thereafter and on or about the 21st day of April, 1892, cancelled and satisfied of record.

20 And your petitioner further shows that the said Clara E. Biddell, as executrix, thereafter and on or about the 25th day of November, 1891, presented her petition to this Court in which she alleged that the said Charles E. Biddell died seized of the premises hereinbefore described which she valued at three thousand dollars, and in which she falsely and untruly alleged that the said Charles E. Biddell left no personal estate whatever and left the following debts which were against the estate, to wit :

	Doctor Terhune . . . . .	\$52 83
	P. W. Doremus, undertaker . . . . .	134 75
	Cemetery lot . . . . .	165 00
	City of Passaic . . . . .	25 16
	Water tax . . . . .	12 00
	Mungo Sanders . . . . .	1 60
	W. W. Scott (Bond) . . . . .	650 00
	Clara L. Biddell, paid on account of Bonds	1,200 00
30	Rhoda E. Humphrey (Note) . . . . .	316 66
		<hr/>
	Making a total indebtedness of . . . . .	\$2,538 00

That said petition was verified on said November 25th, 1891, an order entered thereon November 27th, 1891, that all persons interested in the real estate of decedent show cause on February 5th next, why so much of the real estate &c., of the said Biddell, should not be sold to pay his debts.

40 That thereafter, and on the 5th day of February,

1892, an order was made in said proceedings, directing the executrix to sell the said premises of said decedent to pay the said deficiency of \$2,538.00, and to report to this Court for its approval. That thereafter, and on the 14th day of February, 1892, the said Clara L. Biddell, executrix as aforesaid, was married in the City of New York, to one Johan E. Horner, and thereby became, and still is the wife of the said Johan E. Horner. Notwithstanding which marriage, without notification thereof and without complying with the statute in such cases made and provided, the said Clara L. Horner, under the name of Clara L. Biddell, on or about the 11th day of March, 1892, sold the said premises at public sale to Rhoda E. <sup>Humphrey</sup> Murphy, who was the mother of said Clara L. Biddell, for \$2,400, and the report of such sale was filed and a decree confirming the same and directing the said Clara L. Biddell, executrix, to execute a good and sufficient conveyance to the purchaser of said land. was entered herein on the 18th day of March, 1892; that the said Clara L. Biddell, executrix of Charles E. Biddell, deceased, conveyed or purported to convey the said premises under said decree to the said Rhoda E. Humphrey, by deed bearing date the 19th day of March, 1892, and recorded in the Clerk's office of the County of Passaic on the 21st day of March, 1892, in Book U10 of Conveyances, page 376 ff. for the said expressed consideration of \$2,400.

That on the 21st day of March, 1892, the said Rhoda E. Humphrey, widow, conveyed said premises to Clara L. Biddell aforesaid, and said deed was recorded in the Clerk's office of the County of Passaic on the 22nd day of March, 1892, in Book X 10 of Conveyances, page 148 ff. for the expressed consideration of \$2,500.

That shortly thereafter the said Clara L. Horner and her said husband with the minors aforesaid left this State and went to the City of Cincinnati, in the State of Ohio, where they are at present living.

That as appears from the records in the Clerk's

office of the County of Passaic, the said Rhoda E. Humphrey on or about the 9th day of May, 1892, made a bargain and sale deed of the said premises to Clara L. Horner, which deed was recorded in said clerk's office on the 18th day of May, 1892.

And your petitioner further shows that the item of \$52.83 in the list of debts of Charles E. Biddell was not a debt of the estate, but was paid by your petitioner prior to the filing of said petition, and no charge made to the estate; that the item of \$184.75 to P. W. Doremus, undertaker, was partly paid by your petitioner, namely to the amount of \$35.00, prior to the filing of said petition, and not made a charge against the estate; that as your petitioner is informed and believes the item of \$165 for cemetery lot was for a plot of ground purchased by the said Clara L. Biddell individually, and that she has since deeded one-half thereof to other parties; that the item of \$25.16 to the City of Passaic was also paid by your petitioner prior to the filing of said petition, and no charge made to the estate; that the item of \$12.00 in said account to water tax was a water rent which was a lien upon said realty and not a personal liability; that the item of \$650 to W. W. Scott on bond was for moneys borrowed by the said Clara L. Biddell after the death of the said Charles E. Biddell, and was not a debt of said decedent; that the item of \$1,200 claimed to have been paid by the said Clara L. Biddell on account of the bond was for money paid by her after the death of the decedent and to reduce a mortgage upon the said realty, and was not a personal liability of the decedent; that the whole amount of the personal estate was at least \$755; and that the whole amount of personal liabilities was not more than \$418.01, so that in fact there was more than sufficient to pay the debts of said Charles E. Biddell.

And your petitioner alleges and charges that the said proceedings were wrongly instituted by the said Clara L. Biddell for the purpose of obtaining

the sole ownership and control of the said premises, and for the purpose and with the intent of defrauding the said James S. Biddell, Jr., of all his interest and ownership in and to the said premises, which interest was, as your petitioner verily believes, worth at least \$800 over and above the amount of the principal and interest due upon the mortgage and the lien upon the said realty including the dower interest of the said Clara L. Biddell. And your petitioner respectfully submits that the said Clara L. 10  
 Horner is not a proper person to be the guardian of the said minor, who is the grandson of your petitioner.

Wherefore your petitioner respectfully prays that a rule to show cause be granted by this honorable Court to the said Clara L. Horner and to such other person or persons as the Court may direct, to be served and to be made returnable in such manner and at such times as this Court may direct, why the letters testamentary granted 20  
 herein to Clara L. Biddell on the 19th day of July, 1891, should not be revoked in accordance with the statute in such case made and provided, and why your petitioner should not be appointed administrator with the will annexed, and why the said order of this Court of November 27th, 1891, based upon said untrue petition, directing all persons to show cause why the real estate should not be sold, and all proceedings under said order, including the order of February 5th, 1893, directing a sale ; the decree of March 18th, 1892, con- 30  
 firming the sale, and the deed executed thereunder, should not be vacated and set aside as fraudulent, null and void, and why your petitioner should not be appointed as special guardian of said minor until he attain the age of fourteen years and shall choose another person to be guardian. And to that end your petitioner offers George Denholme and John A. Willett as sureties in a bond to be given according to law as this Court may direct. And why such other and further order and relief should not be granted as to this Court 40

may seem meet in the premises, and your petitioner will ever pray, etc.

Dated Passaic, N. J., May 25th, 1892.

JAMES S. BIDDELL,  
Petr.

ROBERT E. VAN HOVENBERG,  
Proctor of Petr.

10 Passaic County, ss. :

JAMES S. BIDDELL, the above-named petitioner, being duly sworn, says that the facts set forth in the foregoing petition are true.

JAMES S. BIDDELL.

Subscribed and sworn to before }  
me this 25th day of May, 1892. }

CHARLES RUST,  
Notary Public of N. J.

Filed May 27th, 1892.

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PASSAIC COUNTY ORPHAN'S COURT.

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*In Re* the estate

OF

CHARLES E. BIDDELL, dec'd.

Order Extend-  
ing time on  
Rule to show  
cause.

It appearing to the Court that on the twenty-seventh day of May, eighteen hundred and ninety-two, an order was made to show cause why the letters testamentary issued to Clara L. Biddell, now Clara L. Horner, in the above matter should not be revoked,

40 It is on this first day of July, eighteen hundred and ninety-two, on motion of Robert E. Van Hovenberg, proctor of the petitioner therein, ordered, that the

time for the return of said rule to show cause be extended to September 30th, 1892.

JOHN HOPPER,  
ALBERT A. VAN HOVENBERG,  
Judges.

Filed September 30, 1892.

PASSAIC COUNTY ORPHAN'S COURT. 10

<p>In the Matter</p> <p>OF</p> <p>The estate of CHARLES E. BIDDELL, deceased.</p>	<p>Decree for removal of Executrix, &amp;c.</p>
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This matter coming on to be heard upon petition and rule, to show cause in the presence of Robert E. Van Hovenberg, proctor for and of counsel with the petitioner, and it appearing to the Court that Clara L. Biddell, the executrix of the last will and testament of Charles E. Biddell, deceased, did, on or about the fourteenth day of February, eighteen hundred and ninety-two, intermarry with one Johan E. Horner, and that her power as such executrix over the estate and property of the said Charles E. Biddell, deceased, ceased and was suspended immediately upon the said marriage, and that the said executrix and her said husband had neglected to give bond to the Ordinary of this State as required by the statute. 20 30

It is, on this thirtieth day of September, A. D. one thousand eight hundred and ninety-two, by the Orphan's Court of the County of Passaic, by virtue of the power and authority of this Court and of the acts of the Legislature in such case made and provided, ordered, adjudged and decreed that all acts done and performed, and proceedings had and taken by the 40

said Clara L. Horner, formerly Clara L. Biddell, as executrix of the said Charles E. Biddell, deceased, since the fourteenth day of February, eighteen hundred and ninety-two, being the date of her marriage to said Johan E. Horner, are illegal, null and void, and that the same are not in manner binding upon the estate of the said Charles E. Biddell, deceased.

And it is further ordered, adjudged and decreed that the said Clara L. Horner, formerly Clara L. Biddell,  
 10 be removed from her office as executrix of the said Charles E. Biddell, deceased, and that the letters testamentary issued to her by the Surrogate of the County of Passaic be and the same hereby are revoked.

And it is further ordered that letters testamentary with the will annexed on the estate of the said Charles E. Biddell, deceased, issue to James S. Biddell, upon his giving bond, with sufficient surety as required by law.

And it is further ordered that the said James S. Biddell,  
 20 be and he hereby is appointed special guardian of said James S. Biddell, Jr., until he attain the age of fourteen years, and shall choose another person to be his guardian, upon his giving proper security.

JOHN HOPPER,  
 JAMES INGLIS, JR. } Judges.  
 ALFRED A. VAN HOVENBERG, }

Filed September 30th, 1892.

## PASSAIC COUNTY ORPHAN'S COURT.

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In the Matter  
OF  
The Estate of CHARLES E. BIDDELL.

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Your petitioner, Clara L. Horner, formerly Clara L. Biddell, executrix of the last will of Charles E. Biddell, deceased, respectfully shows :

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1st.—That by an order of this Court, bearing date the thirtieth day of September, 1892, she was removed from her office as executrix of said will.

2nd.—That the reason for her removal recited in said order, is that your petitioner did, on or about the fourteenth day of February, 1892, intermarry with one Johan E. Horner, and that your petitioner and her said husband have neglected to give bond to the Ordinary as required by statute. 20

3rd.—Your petitioner respectfully asks that the said order be revoked for the following reasons :

First—Because the petition on which the said order was founded was not served upon your petitioner fifteen days prior to the first day of July, 1892, as required by the order of this Court, as will appear by reference to the said order and the affidavit of service thereto annexed. 30

4th.—Because the petition does not allege as a ground for the removal of your petitioner that she had neglected to give a new bond as required by statute.

5th.—Because by statute, section 122, your petitioner was liable to be removed only in case she should fail to comply with an order of this Court fixing the amount of the bond to be given by her and her husband. 40

6th.—Because the said James S. Biddall was a partner with your petitioner's husband at the time of his decease and refuses to account with your petitioner for her husband's share of the profits and assets of said partnership, and denies that he is indebted to said estate, and your petitioner is desirous of bringing a suit against him for an accounting.

7th.—Because the order removing your petitioner was made without notice to her.

10 Wherefore your petitioner prays that said order may be revoked and that your petitioner may be continued as executrix upon her and her husband executing a bond with sureties as required by statute.

CLARA L. HORNER, by  
THOMAS M. MOORE, Proctor.

Filed October 14, 1892.

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PASSAIC COUNTY ORPHAN'S COURT.

In the Matter

OF

The Estate of CHARLES E. BIDDELL.

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On reading the petition of Clara L. Horner for the revocation of the order of this Court bearing date the thirtieth day of September, 1892, directing that letters testamentary with the will annexed on the estate of Charles E. Biddell deceased, be issued to James S. Biddell, and appointing said James S. Biddell special guardian of James S. Biddell, Jr.

40 It is ordered that the said James S. Biddell show cause before this Court on the 28th day of October,

1892, why the relief prayed for in said petition be not granted.

And it is further ordered that a copy of this petition and of this order be served upon the said James S. Biddell or his proctor five days prior to said twenty-eighth day of October, 1892.

JOHN HOPPER,  
 JAMES INGLIS,  
 ALFRED A. VAN HOVENBERG. } Judges.

Filed October 14, 1892.

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At the Orphan's Court of the County of Passaic, held on the eleventh day of November, 1892.

In the Matter  OF  The Estate of CHARLES E. BIDDELL,  deceased.	}	On petition for removal of Clara L. Horner, Executrix, &c.	20
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Thomas M. Moore, proctor of Clara L. Horner, having appeared in the above cause, and asked for time within which to answer the said petition,

It is ordered that the said Clara L. Horner be and she is hereby allowed thirty days from this date 30 within which to answer the said petition.

Nov. 11, 1892.

JOHN HOPPER,  
 JAMES INGLIS, JR.,  
 ALFRED A. VAN HOVENBERG, } Judges.

Filed November 11, 1892.

## PASSAIC COUNTY ORPHAN'S COURT.

In the Matter

OF

The Estate of CHARLES E. BIDDELL,

On Petition  
of  
Clara L. Horner,

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This matter coming on to be heard in the presence of Thomas M. Moore, Proctor for the petitioner Clara L. Horner, and Robert E. Van Hovenberg, Proctor for James S. Biddell, and it appearing by the affidavit of service annexed to the petition of James S. Biddell that said petition and the order of this Court bearing date the twenty-seventh day of May, 1892, annexed thereto directing the said Clara L. Horner to show cause before this Court on the first day of July, 1892,

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were not served upon her for the length of time prior to said first day of July, required by said order of this Court; and that the order of this Court, bearing date on the thirtieth day of September, 1892, founded on said petition of James S. Biddell removing the said Clara L. Horner from her office as executrix of the will of Charles E. Biddell, and appointing James S. Biddell administrator with the will annexed of Charles E. Biddell, deceased, and guardian of James S. Biddell, Junior, was improvidently made.

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It is, on the eleventh day of November, eighteen hundred and ninety-two, ordered that the said order of this Court bearing date the thirtieth day of September, eighteen hundred and ninety-two and the letters testamentary and of guardianship issued in pursuance thereof to the said James S. Biddell, be and the same are hereby revoked and annulled.

JOHN HOPPER,  
JAMES INGLIS, JR.,  
ALFREDA. VAN HOVENBERG, }

Judges.

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Filed November 11, 1892.

## PASSAIC COUNTY ORPHAN'S COURT.

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In the Matter

OF

The Estate of CHARLES E. BIDDELL,  
deceased.

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}  
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The answer of Clara L. Horner to the petition of James S. Biddell:

This defendent admits the allegations in said petition, not hereinafter denied or answered to be true, and further answering, she denies that the said Charles E. Biddell left personal estate to the value of about seven hundred and thirty-five dollars, as alleged in said petition, and says that the entire furniture in her possession at the decease of her husband, did not exceed in value four hundred dollars, and that no other furniture came to her possession, and that the said furniture nearly all belonged to her, some of it having been given to her by relatives and the rest having been purchased by her from her own savings. The portion of the furniture which belonged to her said husband, was not worth more than seventy-five dollars. The photographic apparatus referred to in said petition was not complete, very material parts of the same having been lost, and that said Clara L. Horner considered the same of little, if any, value, but she succeeded in selling the same for seventy dollars.

There was a chest of tools, but it did not come into the possession of said Clara L. Horner, but was in the possession of James S. Biddell, the said petitioner. There were some other tools, but all the tools were not worth more than sixty-five dollars, and there was an old silver watch not worth more than sixty-five dollars. There was a wagon and harness,

for which the said Clara L. Horner realized fifty-three dollars, being all they were worth. The total of all the personal estate did not exceed two hundred dollars in value, and the said Clara L. Horner was advised by her counsel that she, as widow, was entitled to select two hundred dollars of the personal effects of the estate.

10 She has not sold the said watch, lathe or tools, her desire being to keep the same, in order that she may give them to her son, James S. Biddell, Jr., who will esteem them at more than their intrinsic value, because coming from his father

Further answering she says, that it is true that the said Charles E. Biddell died seized of the real estate described in the petition, subject to the mortgage for eighteen hundred dollars and taxes and water rent, as stated in the petition. She denies that the said property was worth four thousand dollars and says, that she made careful inquiry of persons acquainted with  
20 the value of real estate and became satisfied prior to the sale of said real estate, that the same was not worth more than three thousand dollars.

This defendant admits the allegations of the petition as to the date and probate of the will of Charles E. Biddell, and that James S. Biddell, Jr., was born subsequent to the execution of the will, but the said Clara L. Horner, says that at the time that she proved said will, she was not aware that the birth of said child modified the will, but supposed that she, as sole legatee  
30 and devisee, was entitled to the entire estate, and she got the impression from the Surrogate that inasmuch as she was the sole legatee, it was not necessary for her to file an inventory.

And the said defendant further says that after she discovered that by reason of the birth of said child the said will was revoked, so far as his interests were concerned, she asked advice of the said petitioner, James S. Biddell, and he and this defendant both saw William W. Scott, attorney, and after consulting with him the  
40 said petitioner, James S. Biddell, advised this defend-

ant to purchase said mortgage and have the same foreclosed. And the said petitioner, James S. Biddell, also advised this defendant to borrow money and use the same to fit up a bath room and put in a furnace and other improvements in said house, saying that thereby this defendant could get better prices from boarders. Relying upon this advice of the said James S. Biddell this defendant, with her own private money, purchased the said mortgage for eighteen hundred dollars from the said Elizabeth H. Denholm, and had the same assigned to William W. Scott as security for six hundred dollars, which he agreed to loan to this defendant to enable her to fix up said bath room and make the other said improvements. The said assignment from Elizabeth H. Denholm to William W. Scott bears date September 25th, 1891, and was recorded in the Passaic County Clerk's office, October 15, 1891, in book Y of assignments of mortgages, page 222. 10

And this defendant further says that subsequently she was advised by the said James S. Biddell to apply to the Court and have the said real estate sold for the payment of the debts of said Charles E. Biddell, and he offered to become surety on the bond to be given by this defendant. This defendant trusted implicitly the said James S. Biddell at this time and followed his advice in everything, and he and the said William W. Scott advised together, and a petition was prepared for presentation to the Court to sell said real estate, and the said James S. Biddell signed as surety on said bond. 20

And this defendant says it is not true, as alleged in said petition that this defendant presented a petition to this Court on or about the twenty-fifth of November, 1891, in which she alleged that Charles E. Biddell left no personal estate whatever. The fact is that this defendant presented a petition to this Court, bearing date of November 25th, 1891, in which she alleged that she had discovered that the personal estate of the deceased was insufficient to pay his debts, and this defendant filed a statement bearing date on said twenty- 30 40

fifth day of November, 1891, in which she set forth the condition of the estate at that time. There was then no personal estate as the same had been taken by this defendant, and was not sufficient to satisfy the allowance of two hundred dollars, to which she, as widow was entitled by statute.

The following is a copy of said statement, and it was prepared as this defendant, by the said William W. Scott, attorney, and was approved by the said  
 10 James S. Biddell, and is as this defendant verily believes, a true statement, and she thinks the facts hereinafter stated will verify the same.

The account of Clara L. Biddell, executrix of Charles E. Biddell, deceased, of the personal estate and debts of the said deceased.

Amount of estate.

No personal estate.

Amounts of debts.

20	Dr. Terhune,.....	\$52 83
	P. W. Doremus, undertaker, .....	134 75
	Cemetery Lot.....	165 00
	City of Passaic.....	25 16
	Water Company.....	12 00
	Mungo Saunders .....	1 60
	W. W. Scott, bond.....	630 00
	Clara L. Biddell, paid on account of bond..	1,200 00
	Rhoda E. Humphrey, note.....	316 66
		<hr/>
		\$2,538 00

30 New Jersey, ss.:

CLARA L. BIDDELL, executrix of Charles E. Biddell, deceased, deposes and says, that the above is a just and true account of the personal estate and debts of the said Charles E. Biddell, deceased, so far as she can discover the same.

CLARA L. BIDDELL.

Sworn to and subscribed before me, this 25th day of November, 1891.

WILLIAM W. SCOTT,

Master in Chancery of N. J.

In regard to the said several debts this defendant says :

*First.*—As to the debt of Dr. Terhune for \$52.83,— That was a debt owing by said estate, and it was paid to Dr. Terhune by James S. Biddell, under the following circumstances: This defendant's husband, at the time of his decease, was a partner with his father, the said James S. Biddell. Not long before his death her husband informed her that his interest in said firm ought to be worth at least a thousand dollars. Having this in mind this defendant applied to the said James S. Biddell, and asked him if there was not something coming from the partnership of her deceased husband, and said she would like to have some sort of a settlement. He said that he did not think there was anything due his son. Thereupon this defendant reminded him that his son had been in business a long time, and had contracted consumption by close confinement in the store, and that this defendant had expected to receive from the business at least enough to pay the funeral expenses. At this the said James S. Biddell became angry and said that he would not discuss business with this defendant but would talk business with Mr. Scott. Subsequently the said William W. Scott informed this defendant that the said James S. Bidwell would pay this defendant ten dollars a month toward the support of said children, if this defendant would not interfere with said firm business, and this defendant assented, and accordingly the said James S. Biddell did thereafter pay to her ten dollars a month until May 1, 1892, since which date no payments have been made.

Soon after this conversation this defendant received the same bill from Dr. Terhune, with payment receipted thereon, and was informed by Mr. Scott that said Mr. Biddell had paid the bill, and this defendant supposed that the claim was still good against the estate, but belonged to the said James S. Biddell instead of Dr. Terhune.

*Second.*—As to the item “P. W. Doremus, undertaker, \$134.75,” this defendant paid the entire amount by check, a copy of which is hereto annexed, and it is not true as alleged by the petitioner, that he paid thirty-five dollars of the amount.

10 *Third.*—As to the item “Cemetery lot, \$165.00.” It is true that this defendant purchased the same in her own name, but she nevertheless purchased it as a burial plot for her husband, and he was buried therein. In order to enable this defendant to purchase said burial plot, the said petitioner loaned her thirty-five dollars, which sum she repaid him.

*Fourth.*—The next three items, respectively \$25.16, \$12 and \$1.60 were made out against Charles E. Biddell, and this defendant believed them to be just bills. This defendant has no recollection that the said James S. Biddell advanced the money to pay the item of \$25.16.

20 *Fifth.*—The item “W. W. Scott, bond, \$630,” and the item “Clara L. Biddell, \$1,200,” make together the principal and interest of the said mortgage for \$1,800, covering the said real estate.

30 That mortgage and the bond therein referred to were made by Charles E. Biddell, and were a claim entitled to be proved against the estate, and said claim was purchased by this defendant, as hereinbefore stated, and the assignment was made to W. W. Scott, who held the said mortgage to the extent of twelve hundred dollars for the benefit of this defendant, the rest being for his own benefit to reimburse the loan which he made to this defendant.

*Sixth.*—The remaining item, \$316.66, was a just debt, and is not questioned in the said petition.

40 This defendant, therefore, respectfully submits that the debts of the said estate on the said twenty-fifth of November, 1891, did exceed twenty-five hundred dollars, and that there was no personal estate with which to pay the same.

Further answering, this defendant says, that it is true as alleged in said petition, that she applied to this Court for an order to sell the said real estate in order to pay said debts of twenty-five hundred and thirty-eight dollars, and that an order was made directing her to make such sale, and that she made the sale on the eleventh day of March, 1892, to her mother, Rhoda E. Humphrey, for the sum of twenty-four hundred dollars.

And this defendant says that she duly advertised said sale, according to law, and that the said James S. Biddell conversed with her prior to the sale respecting the same, and had full notice of the sale, but did not attend the sale; that the sale was conducted in an open and fair manner; that at the time of the sale she was informed by William W. Scott, her attorney, that it would not be lawful for her to buy at her own sale, so she requested her mother who was one of the creditors, to bid at the sale and purchase the property. It was necessary that the property should be sold in order to raise money to pay the debts, and there being no other bidders present, this defendant was obliged, either to induce her mother to bid, or to abandon the sale. The price bid by her mother seemed reasonable, and the sale was reported to the Court, and confirmed as stated in the said petition, and a deed was given as stated in the petition. 10 20

And this defendant says that after advertising the said sale and prior to the day appointed for the sale, and on the fourteenth day of February, 1892, she was married to her present husband, Johan E. Horner; that she kept the marriage a secret, because she knew that her father-in-law, the said James S. Biddell, would become exceedingly angry and hostile toward her upon learning of the marriage, and for this reason only she kept the marriage temporarily secret. And this defendant says that after said marriage she made the said sale but did not previously execute a new bond with her husband, as required by statute, because she was unaware of the existence of such a law. 30

And it is true, as stated in the petition, 40

that the said Rhoda E. Humphrey, on the twenty-first day of March, 1892, conveyed the said premises to this defendant for the consideration of twenty-five hundred dollars; and it is true also, as stated in the petition, that the said Rhoda E. Humphrey subsequently, on May 9, 1892, executed a bargain and sale deed for the said premises to this defendant.

10 And this defendant denies that the said sale was instituted by her in order to defraud her child, as alleged, in the petition, and says, on the contrary, that the sale was instituted in order to raise money to pay the debts and settle the estate, and thereby enable this defendant to better provide for her children, and if she did any act in the premises that was wrongful, the wrong was on the part of James S. Biddell, whose counsel she followed.

20 And this defendant further says that the said property is worth more now than it was at the decease of her said husband, because this defendant has expended upwards of six hundred dollars of her own money in improving the property. The property is now worth about thirty-five hundred dollars. After deducting therefrom the debts twenty-five hundred dollars, and the six hundred dollars, money expended by this defendant in improving the property, there would remain a surplus of only four hundred dollars, one-half of which would belong to this defendant, by reason of the will, so that  
30 even if the property should be resold, and bring full value, only a small sum would be realized for said child, and sufficient would not be realized to compensate this defendant for the moneys that she has expended, since the death of her husband, from her own funds in the care of said child.

And this defendant says that she is naturally  
deeply interested in said children, and is doing all in her power for their care, and will, in the future, have much more solicitude for their interests than their  
grandfather would; that she fears that the said  
40 children have inherited a tendency to consumption,

and it was a controlling motive in going from Passaic to determine whether it would not be better for the children to bring them up in a more healthful climate; yet neither this defendant nor her husband have as yet concluded to take up their residence permanently away from Passaic; they have settled on no residence elsewhere, and their present purpose is to return to their residence in Passaic in May next, when the lease of the premises expires.

This defendant, further answering, says, that she 10 had fully settled the estate of her late husband before she left New Jersey to visit in the west, and left all the vouchers with her attorney, William W. Scott, with the request that he would prepare and file her final account. She has paid out all the moneys that she has received from said estate in settlement of debts, and the only duty remaining is to file her final account, and she respectfully asks leave to continue as executrix of said estate, and she and her husband tender themselves ready to give a bond, with surety in such sum as 20 this Court may direct.

And this defendant prays also that she may be appointed guardian of her said child, James S. Biddell, Jr., and that the petitioner's petition may be dismissed.

CLARA L. HORNER.

State of Colorado, ss.:

CLARA L. HORNER, upon her oath, says, that the 30 statements of the foregoing answer are true, so far as they relate to her acts, and to the best of her knowledge and belief are true in all respects.

CLARA L. HORNER.

Sworn and subscribed before me, }  
this 3d day of December, 1892. }

[L. S.]

ROSWELL E. GRAW,  
Notary Public.

My commission expires Jan. 27, 1896.

STATE OF NEW JERSEY, }  
 County of Passaic, } ss.:

WILLIAM W. SCOTT, upon his oath, says that he has read the foregoing answer and that the contents thereof are true, to the best of his knowledge and belief; that after the will had been probated, James S. Biddell, called at his house one evening and said that a lawyer had informed him, that the will would not  
 10 apply to James S. Biddell, Jr., who was born after the making of it, consequently the real estate was tied up and could not be sold by Mrs. Biddell. At various times after this Mr. James S. Biddell consulted deponent about the estate. In one of their consultations they concluded it would be best to have the real estate sold to pay debts, and deponent then told Mrs. Biddell that both Mr. Biddell and deponent thought it would be advisable to have the property sold to pay the debts under Orphan's Court proceedings, and Mrs. Biddell  
 20 consented.

Deponent further says that he commenced proceedings, and during the whole course of proceedings consulted Mr. Biddell frequently, and he would call upon deponent to learn the progress of matters. Mr. James S. Biddell was one of the sureties on Mrs. Biddell's bond in the proceedings for sale of the real estate. Deponent advised with him in respect to the sale a few days before it took place, to see if he had any suggestions to make about it, and he said if the price was  
 30 run up high it would be so much the better for Mrs. Biddell. Persons had inquired of deponent respecting the sale, and he thought probably there would be several bidders present. Mr. Biddell did not attend the sale and deponent thinks he told him that he had to go to New York that day.

Deponent further says that he had a conversation with Mr. Henry Myers, a man of means and acquainted with the real estate values about the sale, and deponent told him what the amount of debts were and  
 40 what Mrs. Biddell had expended on improvements,

and he said he did not think the property was worth three thousand dollars.

Mrs. Biddell (now Mrs. Horner) soon after her husband's death, demanded an accounting of the partnership business that had been carried on between her husband and the said James S. Biddell.

To this demand Mr. Biddell objected, and said there was nothing coming to said Charles E. Biddell. Mrs. Biddell told him that she insisted upon an accounting, and that she had instructed said deponent to demand 10 one. Mr. Biddell called upon deponent and told him that she had said she had engaged deponent to demand an accounting. Mr. Biddell said he would not make one, but that he had instructed Mr. Miller, a lawyer from Lake View, to be present at a time to be appointed by deponent, when they, Mr. Biddell, Mr. Miller and deponent would look at the books. Deponent then told Mr. Biddell that he was no accountant, and that an accountant would be needed to go over the books, and deponent said to Mr. Biddell 20 that he was his neighbor, and disliked to be placed in an antagonizing attitude toward him, and suggested that he furnish him with an accounting.

The matter then rested for some time, until Mrs. Biddell (now Mrs. Horner) again asked him for an accounting. He refused to give her any satisfaction but called upon deponent, and said that he had been thinking the matter over, and had come to the conclusion that if she continued to annoy him by demanding an accounting, he would make trouble 30 for her by breaking the will, and have the boy declared to be the owner of one half of the real estate, but if she would not insist upon an accounting, he would interpose no objections to the sale of the real estate to pay her the amount due on her mortgage, and also to pay her what she had spent upon the property, and to pay the debts of the estate. Mr. Biddell said further that he would pay the costs of the proceedings and would pay her ten dollars a month toward the support of her children, and would make her presents in 40

one way and another, so that eventually she would gain more than she would from an accounting. He said that he had paid or intended to pay Dr. Terhune, and would make her a present of it. Deponent reported this interview to her, and she said she would accept his proposition, and deponent told Mr. Biddell so. Subsequently proceedings were taken to have the property sold, and Mr. Biddell acted as one of her bondsmen.

- 10 In another interview with deponent the said James S. Biddell informed deponent that he would secure a loan for Mrs. Biddell upon mortgage upon said real estate at any time she might desire it.

WILLIAM W. SCOTT.

Sworn and subscribed to this }  
8th day of December, 1892, }  
before me a Notary Public. }

WILLIAM R. RYAN,  
Notary Public,  
New Jersey.

- 20 Filed December 8th, 1892.

PASSAIC COUNTY ORPHAN'S COURT.

In the Matter

OF

- 30 The Petition for Revocation of Letters,  
etc. in the Estate of CHARLES E.  
BIDDELL, deceased.

STATE OF NEW JERSEY, }  
County of Passaic. } ss.:

- JAMES S. BIDDELL, being duly sworn, on his oath  
deposes and says that he has read the answer of Clara  
40 L. Horner to the petition herein, and that every

allegation in said answer which charges or purports to charge deponent with the knowledge of the purchase of the mortgage upon the realty of Charles E. Biddell, and of the filing of the petition for the sale of said realty to pay debts and the advice of the deponent that the same should be purchased and the realty so sold, is untrue. That deponent never advised the said Clara L. Horner (formerly Biddell), to purchase said mortgage and have the same foreclosed, nor to sell the property to pay debts, nor was deponent aware that such course had been purposed until a few days prior to his filing the petition herein. That deponent understood that W. W. Scott was acting as the legal adviser of the said Clara L. Horner from the time of the death of Charles E. Biddell, and the said W. W. Scott was not at any time the legal adviser of deponent, nor did deponent ever consult with him as to any of the matters connected therewith. That said W. W. Scott called upon deponent on behalf of said Clara L. Horner with reference to the interest of said decedent in the business of deponent.

That said decedent was not in partnership with deponent, but was intending to become such, and at the time when decedent was taken ill the partnership papers were prepared and ready for execution, but were never executed.

Deponent further says that he never paid said Clara L. Biddell any moneys as coming from the interest of decedent in deponent's business, but that the ten dollars referred to was a voluntary payment toward the support of the children of said Charles E. Biddell (deponent's grandchildren), and that deponent offered to take care of said children, but the offer was refused. That, as deponent is informed and believes, the only indebtedness of the said decedent at the time of his death was the note of \$316.66 held by Mrs. Humphrey, and the bill for medical attendance which deponent paid and never made any claim against the estate for.

That the W. W. Scott bond was for money loaned

the said Clara L. Biddell after the death of said decedent, and the cemetery lot was an individual purchase of the said Clara L. Biddell, in her own name, one-half of which deponent is informed and believes she afterward conveyed. That said decedent, as deponent verily believes, was the owner of all the household furniture except a sewing machine, and that said furniture brought at auction sale over \$300. That the tools left by decedent comprised among other things a

10 lathe worth over \$150, and were altogether worth fully \$400, as deponent is informed by Charles Rhodes, a machinist of Passaic, who examined said tools after the death of said decedent, and also by Mr. M. Saunders, a practical machinist, who had examined said tools. That the photographic outfits were, as deponent is informed by Mr. Charles Hunt, of Paterson, who was an intimate friend of said decedent, and had used said outfits and knew their value, easily worth the sum of \$150.

20 That decedent left over \$100 worth of personal estate besides that already enumerated, and beside his wearing apparel, making in all, as deponent verily believes, over \$800 worth of personal estate.

That the tools referred to in said answer as being in possession of deponent, are in a small box which deponent has never opened, and which was left in deponent's care for the children of said <sup>decedent</sup> deponent.

Deponent respectfully submits that it appears from said answer to be admitted :

30 1.—The said Clara Horner filed a petition which showed no personal estate, and set forth an indebtedness of over \$2,500, made up in large part of items not chargeable against the personal estate, and not debts for which the property could be sold under the statute.

2.—That she filed such petition and procured such sale for the express purpose of cutting off the interest of the said infant James S. Biddell, Jr., in his father's

40 estate.

3.—That she procured a purchaser with the express understanding that she was to take title from such purchaser, because she was advised that she could not purchase directly, and that said sale was had for the express purpose of obtaining title to the property herself, and that she did so take title.

4.—That before such was had, she secretly married, and became, and now is, the wife of one J. E. Horner, such marriage occurring on the 14th of February, 1892. 10

5.—That no bond has ever been filed as required by Revision of N. J., page 779, section 122.

6.—That nearly one year has elapsed and several terms of this Court have been held since such marriage.

7.—That on the 1st day of May, 1892, said Clara L. Horner, having disposed of her property within the State, left the State with her husband and children, and has remained out of the State since said date, and now is in Colorado. 20

Wherefore, deponent prays for the relief sought in said petition heretofore filed by him herein.

J. S. BIDDELL.

Subscribed and sworn to }  
before me this 4th day }  
of January, 1893. }

GEORGE P. RUST,

Master in Chancery of New Jersey. 30

Filed January 6, 1893.

## PASSAIC COUNTY ORPHAN'S COURT.

<p style="text-align: center;">In the Matter</p> <p style="text-align: center;">OF</p> <p style="text-align: center;">The Estate of CHARLES E. BIDDELL, deceased.</p>	}	<p>On Order to show cause.</p>
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The petition of James S. Biddell and the answer thereto of Clara L. Horner having been read, and the proctors of the parties having consented that the matter be heard on the petition and answer, and affidavits of James S. Biddell and William W. Scott, and the letter of Clara L. Horner on file, and the proctors having been heard and the case duly considered, it is, on this twenty-fourth day of March, 1893, ordered that the prayer of the petitioner be, and the same is hereby denied; and it is further ordered, that the said Clara L. Horner and her husband, Johan Horner, have leave within sixty days from this date, to file a bond to the Ordinary, with sureties, to be approved by the Surrogate, in the sum of one thousand dollars, and conditioned in all respects in accordance with the statute in such case made and provided.

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30

JOHN HOPPER,  
JAMES INGLIS, JR.,  
Judges.

Filed March 24, 1893.

DURANGO, Col. Feb. 16, 1893.

MR. T. M. MOORE,

Dear sir :

Your letter of the 10th received last night. We are sorry to hear of your illness, and trust that you will soon be well again. I never imagined that Mr. Biddell would dare to deny that partnership of over nine years.

40

It is news to me that he offered to take care of the children, other than the \$10 per mo.

Was not the mortgage and interest of \$1,854 due Mrs. Denholm Sep. 1891, an indebtedness ?

The following facts may be of use to you in the argument :

The best one of two bedroom suits, center table and silver and glass ware were among wedding gifts and I am informed, belong to the wife. The side board, 10  
easy chairs, table, lamps, hat rack were Christmas and birth day gifts from the decedent to me. The bedding was also given to me by my mother-in-law, mother and grandmother. The carpets and curtains and many other little things I bought out of my savings from a weekly allowance and money earned by sewing shades.

All the furniture sold, including my own and \$65 from tools did not bring \$300. I have the auction book. Mr. B. has the best piece of furniture his son owned, a book case. It was all of the cheapest quality 20  
possible to be respectable. Chas. Rhodes did list the furniture and tools (including lathe) at cost price. The price (value) set by decedent on lathe, was \$75. I went to Mr. Saunders, but he said I "could not get \$40 for it," and offered me 1½ cts. per lb. for all the machinery as old iron. With L. P. Larensius' and P. A. Button's help I vainly tried to sell it all (lathe, etc.) for \$150. The lathe and best tools I am saving for Jamie, but if Mr. B. can realize the sum he says out of them he has my permission to try. 30

He said before his son had been dead a week he would rather" throw the whole lot in the river than do anything about it."

I hope, Mr. Moore, you will not spare his feelings in argument, but defeat such an old fraud.

If the worse should come (but it seems to us Mr. B.'s answer is very poor—not to be compared with our paper), can we occupy the house without his consent ? Can I have no share of the rent ? Mr. Horner has an opening here which we would very much dislike to 40

leave. Mr. Hoffman wrote he was too old to act for me.

I did not write to Mr. Phillips or John Jelleme, thinking you could arrange it better, as I am so far away.

I trust you will not let us lose the case for the lack of a bondsman.

Yours very respectfully,

CLARA L. HORNER.

10 Filed March 24, 1893.

Know all men by these presents, that we, Clara L. Horner, wife of Johann E. Horner, and the said Johann E. Horner, William W. Scott and Thomas M. Moore, are held and firmly bound unto the Ordinary of the State of New Jersey, in the sum of one thousand dollars lawful money of said State, to be paid to said Ordinary, his successors or assigns, for which payment well and truly to be made, we do bind ourselves, our heirs, executors and administrators firmly by these presents.

20 Sealed with our seals, and dated the first day of April, in the year of our Lord one thousand eight hundred and ninety-three.

The condition of this obligation is such, that whereas, Charles E. Biddell, in and by his last will and testament, did appoint his wife, Clara L. Biddell, the executrix thereof, and she did subsequently on the fourteenth day of February, 1892, become married to the said Johann E. Horner.

30 Now, therefore, if the said Clara L. Horner and Johann E. Horner shall faithfully execute the trust reposed in them by reason of said will and the appointment of said Clara L., as executrix as aforesaid, and shall truly pay all moneys of the estate which shall come into the hands of the said Clara L., executrix, before her marriage or which shall be received by her or her said husband since their marriage, and shall well and truly account, when thereunto lawfully required,

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and also faithfully perform the duties of their said office as executrix and executor of said will, and well and faithfully perform all the powers and duties, which, by reason of the premises are vested in the said Clara L. Horner and Johann E. Horner, and to be continued in their names, then this obligation to be void, otherwise to remain in full force.

CLARA L. HORNER, [L. s.]

JOHANN E. HORNER, [L. s.]

THOMAS M. MOORE, [L. s.]

10

WILLIAM W. SCOTT, [L. s.]

Signed, sealed and delivered in the presence of J. C. F. HARRINGTON, as to THOS. M. MOORE & WILLIAM W. SCOTT, HENRIETTA F. WAGNER.

Filed, April 1, 1893.

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Service of two copies of foregoing printed papers on appeal to the Prerogative Court, is hereby acknowledged.

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Dated January 12, 1894

Thos Moore

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Proctor for Respondent





