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BILL FOR SPECIFIC PERFORMANCE.

(Filed June 6, 1927.)

IN CHANCERY OF NEW JERSEY.

To the Honorable Edwin Robert Walker, Chancellor of the State of New Jersey:

The Complainants, Connie J. Dorrian of Ventnor City, N. J., Lloyd W. Fahler of Mahanoy City, Pa., and Williams and Davis, Inc., a corporation of New Jersey, respectfully show that:

1. On June 1, 1927, Defendants Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Company entered into a certain contract in writing whereby said four Defendants covenanted and agreed to deliver, transfer and assign or cause to be delivered, transferred and assigned unto Complainants the Mortgages, securities and other items, including certain cash sums, therein mentioned for the valuable consideration fully in said agreement set forth.

2. A true copy of said contract is hereunto annexed and by this reference thereto made a part hereof as completely as though here repeated in full.

3. Complainants have performed all the undertakings on their part to be performed under said agreement except such items as are therein contracted to be done by Complainants only upon compliance by Defendants Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams

& Company with all the terms of said agreement to be performed by them.

4. Complainants' performance therewith, up to this time, has consisted of the following:

The Release called for in Paragraph No. 13 of said contract has been executed by Complainants and delivered to Father John J. Mellon, in escrow, to be handed to the person or persons entitled thereto upon payment in full to Complainants of $190,000.00, as covenanted in said agreement, which Release (when so delivered) will forever discharge Royden B. Davis, Harold S. Williams, A. Trevor Williams, Gordon Williams and Gordon Williams & Company from the following claims, which with interest added equal more than $190,000.00, to wit:

(a) Claim of Connie J. Dorrian referred to in Order of Supreme Court Commissioner duly made and filed, and remaining of record undisturbed and undismissed, in the New Jersey Supreme Court case of Dorrian v. Williams, *et als.*, which Order adjudged that it was sufficiently proved before said Commissioner that said Dorrian has a cause of action which arose in this State on tort and that the nature of the same and the particulars thereof are as follows: "That the Defendants did through a conspiracy known to and participated in by each, defraud Plaintiff of the sum of $101,111.32 by means of fraudulent transfers through 'straw' names of real estate purchased for Plaintiff as his agent or trustee and with his money previously entrusted to their confidential care or control."

(b) Claim of Lloyd W. Fahler referred to in Order of Supreme Court Commissioner duly made and filed, and remaining of record undisturbed and undismissed, in the Atlantic County Circuit Court

case of Fahler v. Williams, *et als.*, which Order adjudged that it was proved to his satisfaction that said Defendants in said Circuit Court suit did through a conspiracy known to and participated in by each defraud said Fahler of the liquidated sum of $77,111.32 by means of fraudulent transfers through "straw" names of real estate purchased for said Fahler as his agent or trustee and with his money previously entrusted to their confidential care or control and that three of said four parties have left this State and are now non-residents.

5. Complainants have always been ready, willing and able and now hereby tender themselves ready, willing and able to immediately perform completely the remaining items on their part to be performed under the said contract; and, on receiving the said Bonds, Mortgages, securities and other property, with proper and legal Assignments thereof to Complainants, to forthwith carry out the same.

6. Said Defendants, Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Company have partially performed said contract in the following manner, to wit:

(a) By the payment in cash at the time of the execution of said contract the sum of $10,000.00 on account of the $190,000.00 which all four of said Defendants are jointly and severally obligated to pay under the terms of said contract.

(b) By the delivery of three checks to the order of Carlton Godfrey and Wm. I. Garrison, attorneys for Connie J. Dorrian and Lloyd W. Fahler, as follows: (I) check drawn against the Ventnor City National Bank in the sum of $194.96 signed "A. Trevor Williams" and required under subdivision "m" of

Paragraph 4 of said contract; (II) check drawn against Ventnor Trust Company in the sum of $585.11 signed "A. Trevor Williams" and required under subdivision "n" of Paragraph 4 of said contract; (III) check drawn against the Ventnor Trust Company in the sum of $642.99 signed "Harold S. Williams" and required under subdivision "b" of Paragraph 5 of said contract.

(c) By the delivery of certain Bonds, Mortgages and Assignments, briefly enumerated as follows:

$13,500.00—in the form of five Bonds and Mortgages given by Leslie McPherran to Connie J. Dorrian covering lots 10, 11, 12, 13 and 14, respectively, in Block 21, Tax Map of Longport, N. J. accompanied by Assignments from A. Trevor Williams to Connie J. Dorrian and Lloyd W. Fahler. (The intermediate Assignments were not turned over and are yet to be furnished.)

$5,100.00—in the form of three Mortgages given by John W. Speckman to Louis G. Hart covering lots 17, 18 and 19, respectively, in Block 21, Tax Map of Longport, N. J., accompanied by Assignments from A. Trevor Williams to Connie J. Dorrian and Lloyd W. Fahler. (The Bonds and intermediate Assignments were not turned over and are yet to be furnished.)

$5,000.00—in the form of a Mortgage given by Connie J. Dorrian to Helene Wright covering property in Linwood, N. J., accompanied by Assignment from A. Trevor Williams to Connie J. Dorrian and Lloyd W. Fahler. (The Bond and

intermediate Assignment were not turned over and are yet to be furnished.)

$2,500.00—in the form of a Mortgage given by Louis G. Hart to A. Trevor Williams covering lots 46 and 48 in Block 329, Tax Map of Margate City, N. J., accompanied by Assignment from A. Trevor Williams to Connie J. Dorrian and Lloyd W. Fahler. (The Bond was not turned over and is yet to be furnished.)

$2,500.00—in the form of a Mortgage (principal sum $5,000.00) given by Paul D. Endicott to Connie J. Dorrian covering lot 13 in Block 112-B, Tax Map of Margate City, N. J., accompanied by Assignment apparently conveying an undivided one-half interest in said Bond and Mortgage, said Assignment being from A. Trevor Williams to Connie J. Dorrian and Lloyd W. Fahler. (The Bond and intermediate Assignment do not accompany this Mortgage and are yet to be furnished.)

$3,250.00—in the form of a Mortgage (principal sum $6,500.00) given by Paul D. Endicott to Connie J. Dorrian covering lot 14 in Block 112-B, Tax Map of Margate City, N. J., accompanied by Assignment apparently conveying an undivided one-half interest in said Bond and Mortgage, said Assignment being from A. Trevor Williams to Connie J. Dorrian and Lloyd W. Fahler. (The Bond and intermediate Assignment do not accompany this Mortgage and are yet to be furnished.)

$5,550.00—in the form of a Bond and Mortgage principal sum $11,100.00) given by Mary S. McDonnell to Vivian B. Smith covering lots 1 and 2 in Block 11-A, Margate City, N. J., accompanied by Assignment apparently conveying an undivided one-half interest in said Bond and Mortgage, said Assignment being from A. Trevor Williams to Connie J. Dorrian and Lloyd W. Fahler. (The intermediate Assignment was not turned over and is yet to be furnished.)

$3,100.00—in the form of two Mortgages given by Louis Mark to Sadie A. Craigen covering lot 22 in Block 58 and lot 24 in Block 58, Ventnor City, N. J., accompanied by Assignments from A. Trevor Williams to Connie J. Dorrian and Lloyd W. Fahler. (The Bonds and intermediate Assignments were not turned over and are yet to be furnished.)

$4,950.00—in the form of a Bond and Mortgage given by Louis Mackler to Vivian B. Smith covering lots 13, 14 and 15 in Block 226, Margate City, N. J., accompanied by Assignment from A. Trevor Williams to Connie J. Dorrian and Lloyd W. Fahler. (The intermediate Assignment was not turned over and is yet to be furnished.)

$4,000.00—in the form of two Bonds and Mortgages given by Helene Wright to Connie J. Dorrian covering lots 41 and 43, respectively, in Block 124, Margate City, N. J. (No Assignment whatever accompanied these two Mortgages.)

$1,250.00—in the form of an Assignment of Mortgage from Royden B. Davis to Connie J. Dorrian and Lloyd W. Fahler, assigns Mortgage given by John H. Rice, Jr., to Clara S. Hopple covering property in Margate City, N. J., on west side of Thurlow Avenue. (The Bond and Mortgage and the intermediate Assignments were not turned over and are yet to be furnished.)

$1,200.00—in the form of an Assignment of Mortgage from Royden B. Davis to Connie J. Dorrian and Lloyd W. Fahler, assigns Mortgage given by Sadie A. Craigen to Thomas J. Mahoney, Jr., covering lot 7 in Block 618, Map of Granada Gables. (The Bond and Mortgage and the intermediate Assignments were not turned over and are yet to be furnished.)

$13,000.00—in the form of an Assignment of Mortgage from Royden B. Davis to Connie J. Dorrian and Lloyd W. Fahler, assigns Mortgage given by Emma S. Atkinson to Royden B. Davis, covering property in Ventnor City, N. J., on west side of Oakland Avenue. (The Bond and Mortgage were not turned over and are yet to be furnished.)

$1,000.00—in the form of an Assignment of Mortgage from Royden B. Davis to Connie J. Dorrian and Lloyd W. Fahler, assigns Mortgage given by Thomas J. Mahoney, Jr., to Royden B. Davis, covering lot 16 in Block 618, Map of Granada Gables. (The Bond and Mortgage were not turned over and are yet to be furnished.)

$8,500.00—in the form of two Assignments of Mortgages from Royden B. Davis to Connie J. Dorrian and Lloyd W. Fahler, assigns apparently an undivided one-half interest in the two Mortgages (one in the principal sum of $13,000 and the other in the sum of $4,000.) given by Walter H. Bacon, Jr., to Royden B. Davis and Jessie Davis.

(d) Defendants Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Company have also further partially performed said contract by the execution and delivery to Complainants of a general release whereby said Defendants have forever discharged Williams and Davis, Inc., Connie J. Dorrian and Lloyd W. Fahler from every manner of claim except the effect of said contract dated June 1, 1927, and of existing Mortgages and the accompanying Bonds.

(e) And also by the written cancellation of the agency contracts and all other agreements existing prior thereto, between said parties.

7. Defendants Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Company were called upon under the specific written terms of said contract to deliver, transfer and assign or cause to be delivered, transferred and assigned to Connie J. Dorrian and Lloyd W. Fahler all the Mortgages, securities and other items enumerated in Paragraphs Nos. 4 and 6 of said contract on June 1, 1927. The contract requires delivery thereof on said June 1, 1927, with the Bonds, Mortgages, Assignments and declarations of no offset, in proper and legal shape so as to conform with all the conditions thereof.

8. On said June 1, 1927, the items enumerated in Paragraph 6 of this Bill of Complaint were turned over; and at that time the parties requested one day's time within which to produce the remainder of the items set forth in Paragraph No. 4 of the said contract.

9. On the following day, as Defendants Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Company had requested, as aforesaid, Complainants met with certain of said Defendants and with counsel for the rest of the Defendants, by appointment at Room 101, Hotel Vendig, Philadelphia, Pa. Ample opportunity was then given for said parties to deliver the missing securities but none were delivered. Further compliance with said contract was then refused after counsel for Complainants repeatedly demanded that the said Defendants comply therewith.

10. Said Defendants Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Company have repudiated their said contract and propose not to make any more deliveries of money, securities or other property thereunder, as Complainants are informed and verily believe.

11. On the morning of June 2, 1927, one of the counsel for said Defendants stated to one of the counsel for Complainants that no further payments nor delivery of any securities will be made under said contract unless Complainants "go to law" to enforce the same.

12. A substantial number of items which were to have been delivered on June 1, 1927, under said con-

tract, have not been turned over; and no one of the items turned over conforms with the conditions of the contract except the payment of $10,000.00 in cash and the three items of checks, which checks are enumerated in subdivision "b" of Paragraph 6 of this Bill.

13. Said Defendants Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Company having failed to deliver the securities and other items on June 1, 1927, and also having failed to make the said deliveries within the extended time of one day requested, and having repudiated the attached contract—the Complainants hereby elect that the entire performance of the whole contract shall now be enforced.

14. For the sake of brevity, the Bonds and Mortgages and securities agreed to be transferred will not be fully set forth here, reference being made for that purpose to Paragraphs 3, 4, 5 and 6 of said contract. Referring to said Paragraph and their respective subdivisions, Complainants further allege as follows:

The real estate covered by the Mortgages in said Paragraphs 3, 4, 5 and 6 referred to, is the property, respectively, of the following Defendants to this Bill of Complaint, viz.:

Paragraph No. *Owner of the Real Estate.*

3-A—Carl M. Voelker, whose wife's name is Ethel M. Voelker.

3-B—Louis L. Weinberg and Esther S. Weinberg; and in this parcel the Chelsea Safe Deposit and Trust Company is interested by reason of owning a subsequent Mortgage.

3-C—Paul D. Endicott, a single man.

3-D—John W. Speckman.
3-E—John W. Speckman.
3-F—Mary Kaier Fahler.
3-G—Connie J. Dorrian.
3-H—Leslie S. McPherran, whose wife's name is Lily G. McPherran; and in this parcel Thomas P. Endicott is interested by reason of owning a subsequent Mortgage.
3-I—Louis Mark.
3-J—is not real estate.
3-K—is not real estate.
3-L—is not real estate.
3-M—is not real estate.
3-N—is not real estate.
3-N—John W. Speckman.
3-P—John W. Speckman.
3-Q—Leslie S. McPherran, whose wife's name is Lily C. McPherran; and in this parcel Thomas P. Endicott is interested by reason of owning a subsequent mortgage.
4-A—Same as 3-Q.
4-B—Mabel V. Rhodes.
4-C—Louis Mark.
4-D—Same as 3F.
4-E—Paul D. Endicott, a single man.
4-F—Same as 3-G.
4-G—Same as 3-H.
4-H—Jacob S. P. Mackler, whose wife's name is Rose Mackler.
4-I—Louis Mark.
4-J—John W. Speckman.
4-K—John W. Speckman.
4-L—John W. Speckman.
4-M—FULLY COMPLIED WITH.
4-N—FULLY COMPLIED WITH.
4-O—A. Trevor Williams.

4-P—A. Trevor Williams.
4-Q—Almedie J. Williams, whose husband's name is Harold S.
5-A—is not real estate.
5-B—FULLY COMPLIED WITH.
5-C—FULLY COMPLIED WITH.
5-D—is not real estate.
5-E—is not real estate.
6-A—John H. Rice, Jr., Harry B. Faunce and Joseph Christian.
6-B—Gertrude Elizabeth Smith.
6-C—Emma S. Atkinson, whose husband's name is Henry C.
6-D—Walter H. Bacon, Jr.
6-E—Walter H. Bacon, Jr.
6-F—Thomas J. Mahoney, Jr., whose wife's name is Stella J.
6-G—is not real estate.
6-H—is not real estate.
6-I—Leslie S. McPherran.

Complainants further show that the above named owners of said real estate, unless restrained by this Court, have the right and will pay the principal and interest of said Bonds and Mortgages to Defendants, Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Company.

15. In addition to the items already mentioned in this Bill of Complaint, and as a part of the total of $190,000.00 aforesaid, said Defendants, Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Company are obligated to pay to Complainants, under the terms of said contract, the sum of $35,000.00 additional in cash which sum was due and payable under the terms of said contract, as follows, viz: $20,000.00 in cash on June 8,

1927, and $15,000.00 on or before June 20, 1927; but which said sum of $35,000.00 is now collectible in full by reason of the facts, default and repudiation aforesaid.

16. Said contract specifically provides that the attachment suit hereinabove referred to shall proceed to enforce the collection of any items found not to conform to the conditions of said contract and also to recover any unpaid balance due from said Defendants, Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Company under the terms thereof.

17. In said attachment suit a writ of attachment was issued out of the Atlantic County Circuit Court on May 14, 1927.

18. The sum of $57,850.00 out of the $77,111.32 mentioned in said writ of attachment (the latter sum having been fraudulently obtained from one of the Complainants) was used by the said Gordon Williams, A. Trevor Williams, Harold S. Williams, and Royden B. Davis (who are the Defendants in said attachment suit), or one or more of them in the acquisition of the following Bonds and Mortgages, having a total principal sum of $57,850.00, to wit:

$1,800.00—Mortgage; Arduina Ricca and Anthony, her husband, to GORDON WILLIAMS, dated December 30, 1925, recorded January 17, 1926, covering premises in Margate City, Atlantic County, New Jersey, described as follows: Beginning in the easterly line of Benson Avenue, 340 feet South of Ventnor Avenue, and extending thence (1) Eastwardly parallel with

Ventnor Avenue, 108 feet; thence (2) Southwardly, parallel with Benson Avenue, 30 feet; thence (3) Westwardly, parallel with Ventnor Avenue, 108 feet to the easterly line of Benson Avenue; thence (4) Northwardly, along the easterly line of Benson Avenue, 30 feet to the place of beginning. Being Lot 39 in Block 124 on Tax Map of Margate.

$12,000.00—Mortgage: William F. Casey and Helen M., his wife, to GORDON WILLIAMS, dated May 20, 1926, recorded June 26, 1926, covering premises in Ventnor City, Atlantic County, New Jersey, described as follows: Beginning in the easterly line of Sacramento Avenue (50 feet wide) 172 feet North of Ventnor Avenue (80 feet wide) and extending thence (1) Northwardly, along Sacramento Avenue, 33 feet and 4 inches; thence (2) Eastwardly, parallel with Ventnor Avenue, 84 feet; thence (3) Southwardly, parallel with Sacramento Avenue, 33 feet and 4 inches; thence (4) Westwardly, parallel with Ventor Avenue, 84 feet to the place of beginning; and in which parcel Seaside Trust Company has an interest as a subsequent encumbrancer.

$2,250.00—Mortgage: Arthur Parker to Vivian B. Smith and Andrew W. Cunningham, dated November 16, 1925, recorded in Book 370, page 134, and assigned on February 5, 1927, to Julia Coll; and by her assigned to GORDON WILLIAMS, the latter assignment being dated Feb-

ruary 18, 1926, recorded February 23, 1926, covering premises in Margate City, Atlantic County, New Jersey, described as follows: Lot 4 in Block 23-A, Tax Map Margate City.

$2,250.00—Mortgage: Arthur Parker to Vivian B. Smith and Andrew W. Cunningham, dated November 16, 1925, and assigned on February 5, 1926, to Julia Coll; and by her assigned to GORDON WILLIAMS, the latter assignment being dated February 18, 1926, recorded February 23, 1926, covering premises in Margate City, Atlantic County, New Jersey, described as follows: Lot 6 in Block 23-A on Tax Map of Margate City.

$2,250.00—Mortgage: Arthur Parker to Vivian B. Smith and Andrew W. Cunningham, dated November 16, 1925, recorded in Book 370 of Mortgages, page 139; and assigned on February 5, 1926, to Julia Coll; and by her assigned to GORDON WILLIAMS, the latter assignment being dated February 18, 1926, recorded February 23, 1926, covering premises in Margate City, Atlantic County, New Jersey, described as follows: Lot 5 in Block 23-A on Tax Map of Margate City.

$2,000.00—Mortgage: Vivian B. Smith and Andrew W. Cunningham to Helene Wright, dated January 2, 1926, recorded January 28, 1926; and assigned to GORDON WILLIAMS by assignment dated January 22, 1926, recorded January 28, 1926,

covering premises in Margate City, Atlantic County, New Jersey, described as follows: Lot 51 in Block 124 on the Tax Map of Margate City. The real estate covered by this Mortgage is now owned by Chelsea Laundry Co.

$2,000.00—Mortgage: Vivian B. Smith and Andrew W. Cunningham to Helene Wright, dated January 2, 1926, recorded January 28, 1926; and assigned to GORDON WILLIAMS by Assignment dated January 22, 1926, recorded January 28, 1926, covering premises in Margate City, Atlantic County, New Jersey, described as follows: Lot 49 in Block 124 on the Tax Map of Margate City.

$1,000.00—Mortgage: Arduina Ricca and Anthony, her husband to A. TREVOR WILLIAMS, dated December 30, 1926, recorded January 17, 1927, covering premises in Margate City, Atlantic County, New Jersey, described as follows: Beginning in the easterly line of Benson Avenue 370 feet Southwardly of Ventnor Avenue, and extending thence (1) Eastwardly, parallel with Ventnor Avenue, 108 1/3 feet; thence (2) Southwardly, parallel with Benson Avenue, 30 feet; thence (3) Westwardly, parallel with Ventnor Avenue, 108 1/3 feet to the easterly line of Benson Avenue; thence (4) Northwardly, along the easterly line of Benson Avenue, 30 feet to the place of beginning. Being lot 37 in Block 124 on the Tax Map of Margate City.

$3,000.00—Mortgage: Walter H. Bacon, Jr., to Royden B. Davis, dated September 18, 1926, recorded October 21, 1926, covering premises in Ventnor City, Atlantic County, New Jersey, Beginning in the easterly line of Harvard Avenue 170 feet Northwardly from the northeasterly corner of Ocean and Harvard Avenues, and extending thence (1) Northwardly, along the easterly line of Harvard Avenue, fifty feet; thence (2) Eastwardly, parallel with Ocean Avenue, 62½ feet; thence (3) Southwardly, parallel with Harvard Avenue, fifty feet; thence (4) Westwardly, parallel with Ocean Avenue, 62½ feet to the easterly line of Harvard Avenue and place of beginning.

$15,000.00—Mortgage: Philip J. Kelly, single, to Louis G. Hart, dated January 16, 1926, and recorded January 22, 1926, assigned to A. TREVOR WILLIAMS and ROYDEN B. DAVIS by Assignment dated January 25, 1926, recorded April 23, 1926, covering premises in Somers Point, Atlantic County, New Jersey, on the westerly line of Bay Avenue, 55 feet Northeastwardly from the Railroad.

$13,500.00—Five Mortgages: Leslie S. McPherran to Connie J. Dorrian, *et al.*, dated January 5, 1926, recorded in Book 379, pages 258, 269, 262, 265 and 267 respectively on January 12, 1926; assigned on March 18, 1926, to Sadie A. Craigen; and by her assigned to ROYDEN B. DAVIS, by Assignments dated March 18, 1926, and recorded March 22, 1926.

19. None of the Mortgages referred to in Paragraph 18 hereof are included in the agreement annexed hereto but are separate and distinct therefrom.

20. Complainants further show that neither Gordon Williams, A. Trevor Williams, Harold S. Williams nor Royden B. Davis have in their own names real estate of any value above encumbrances, but that the said Gordon Williams, A. Trevor Wliliams, Harold S. Williams, and Royden B. Davis have caused their funds to be invested in said certain Bonds and Mortgages, in which they, or one or more of them, are the mortgagees.

21. Complainants are without information, after due and diligent inquiry, as to the whereabouts of the actual papers, Bonds, Mortgages and intermediate Assignments constituting said securities referred to in Paragraphs No. 6 and No. 18 of this Bill of Complaint except such few incomplete papers as have been turned over to Complainants designated in said Pararaph No. 6 hereof.

22. Complainants' counsel, in the presence of Father John J. Mellon, Connie J. Dorrian, Lloyd W. Fahler and others, personally inquired of Defenddants Roden B. Davis, Harold S. Williams and A. Trevor Williams, at Room 101, Vendig Hotel, Philadelphia, Pennsylvania, on June 1, 1927, as to the whereabouts of said securities and was met with a flat refusal to impart any specific information. During the conference of June 1, 1927, a remark was made, however, by A. Trevor Williams that "my securities are in New York but I will not tell you where in New York." Harold S. Williams stated

at that time, "I think Gordon Williams' securities are in California." Defendant, Royden B. Davis, stated that his securities were in a lock box at the Ventnor Trust Company, Ventnor City, N. J. Other than these indefinite remarks, no specific information could be obtained.

23. Complainants therefore charge, on information and belief, that the said four Defendants have removed their securities, Bonds, Mortgages and intermediate Assignments, as well as a large amount of cash money, six automobiles, and most if not all their household goods out of the jurisdiction of this honorable Court; that Harold S. Williams, A. Trevor Williams and Gordon Williams have established their residence in California; that Royden B. Davis has absented himself from the jurisdiction of the Courts of New Jersey since at least May 14, 1927; that a capias is outstanding for all four of said parties in New Jersey and that the Sheriff of Atlantic County has been unable to apprehend either of said four parties; that when a conference was requested by them with Complainants' counsel, they sent word to Complainant (through Father John J. Mellon) that they would not come into New Jersey.

24. That inquiry of Albert A. F. McGee, Esq., and of William E. Stringer ,Esq., has brought out the information that one or both of these counsellors at law have been instructed to foreclose certain or all of said Mortgages, but that neither of said counsellors have any of said papers in their possession; and have been instructed to commence foreclosures from memorandums of title with the distinct understanding that Gordon Williams, A. Trevor Williams, Harold S. Williams and Royden B. Davis, or one or

more of them, have the papers in their possession to be produced when needed to be marked as Exhibits in said foreclosure suits; and that the records in the Atlantic County Clerks' Office show said Mortgages to still vest in the mortgagees hereinabove enumerated, in each said case being one or more of said four parties, except for said Assignments to Complainants above designated.

25. Complainants further show that said Bonds and Mortgages enumerated in Paragraph No. 18 of this Bill of Complaint and the missing securities referred to in Paragraph No. 6 hereof, can not be attached nor levied upon by virtue of said attachment suit at law by reason of the fact that Complainants are unable to locate the actual physical papers constituting same, and allege that the effect of this is to place the said moneys beyond the reach of said attachment suit at law.

26. Complainants further show that they are informed that it is necessary, in this state of affairs, to invoke the equitable jurisdiction of this honorable Court in aid of said writ of attachment issued, as aforesaid, out of the Atlantic County Circuit Court; and that said Circuit Court is helpless in the premises recited.

27. Complainants further show that said contract provides that in this event, to wit: to collect the balance due under its terms and also to collect the amount due by reason of the securities not conforming to the requirements thereof, as aforesaid, then and in either said event it was specifically in said contract covenanted that Complainants shall proceed by the vehicle of said attachment suit in the said Circuit Court.

28. Complainants have been informed, verily believe and therefore charge, on information and belief, that unless this Court shall restrain them from so doing, the said Gordon Williams, A. Trevor Williams, Harold S. Williams and Royden B. Davis will conceal said Mortgages, Bonds and other securities, dispose of the same, or keep them where they now are, to wit: beyond the reach of said writ of attachment; which said Mortgages and other personal property could only be attached under said writ, Complainants are informed, in the event that the actual physical papers constituting same can be located; and as far as Complainants can ascertain, after due and diligent inquiry (more fully above recited, same are now out of the reach of said attachment.

29. Complainants further show that unless this Court shall restrain the said Defendants, Royden B. Davis, Harold S. Williams, A. Trevor Williams, Gordon Williams, and Gordon Williams & Company, from disposing of and from transferring said Bonds, Mortgages and other personal property so agreed to be assigned and delivered to Complainants as aforesaid, Complainants verily believe that said Royden B. Davis, Harold S. Williams, A. Trevor Williams, Gordon Williams, and Gordon Williams & Company will dispose of the same; and that Complainants will thereby suffer irreparable loss and damage; and further that many of said Mortgages now being due and the principal or interest or both now being collectible thereon, irreparable loss and injury will follow to Complainants unless a Receiver is appointed to preserve same, to collect said principal and interest, and to take such proceedings as may be necessary to so preserve same, and that otherwise

Complainants believe same will be seriously dissipated by Defendants Royden B. Davis, Harold S. Williams, A. Trevor Williams, Gordon Williams and Gordon Williams & Company.

Complainants are without adequate remedy in the Courts of law, and therefore pray:

I. That Royden B. Davis, Jessie Davis, A. Trevor Williams, Harold S. Williams, Gordon Williams, and Gordon Williams & Company, who are Defendants in this suit, may answer this Bill of Complaint and each statement therein made.

II. That Julia Coll, Helene Wright, Sadie A. Craigen, Carl M. Voelker, Ethel M. Voelker, Louis L. Weinberg, Esther S. Weinberg, Chelsea Safe Deposit and Trust Company, Paul D. Endicott, John W. Speckman, Mary Kaier Fahler, Leslie S. McPherran, Lily C. McPherran, Thomas P. Endicott, Louis Mark, Margate Trust Company, Chelsea Title and Guaranty Company, Ventnor City National Bank, Ventnor Trust Company, Mabel V. Rhodes, Jacob S. P. Mackler, Rose Mackler, Almedie J. Williams, John H. Rice, Jr., Harry B. Faunce, Joseph Christian, Gertrude Elizabeth Smith, Emma S. Atkinson, Henry C. Atkinson, Walter H. Bacon, Jr., Thomas J. Mahoney, Jr., Stella J. Mahoney, Arduina Ricca, Anthony Ricca, William F. Casey, Helen M. Casey, Seaside Trust Company, Arthur Parker, Vivian B. Smith, Mrs. Andrew W. Cunningham, Chelsea Laundry Company, Philip J. Kelly, Albert A. F. McGee, William E. Stringer, who are also Defendants in this Suit, may answer this Bill of Complaint and each statement therein made.

III. That this honorable Court, by its decree may enjoin and restrain all the parties named in the first paragraph of this prayer, from assigning, selling, transferring, conveying, mortgaging or otherwise disposing of—except to Complainants—any rights they or any of them may have in the Mortgages and other securities enumerated in this Bill; and from receiving any part or all of the principal or interest thereon or to grow due thereon; and from cancelling or causing to be cancelled any one or more of said Mortgages, unless by specific direction of this Court.

IV. That this Court, by its decree, may enjoin and restrain all the parties named in the second paragraph of this prayer, from paying to Royden B. Davis, Jessie Davis, Harold S. Williams, Gordon Williams, A. Trevor Williams, or Gordon Williams & Company, or to any one else except Complainants, any part or all of the principal or interest thereon; except that payment thereof be made to such Receiver as may be designated by this Court, if a Receiver is appointed in this cause.

V. That pending the determination of this cause this Court allow such appropriate restraint as may seem to it just and proper.

VI. That this Court decree that Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Company specifically perform the remaining covenants on their part to be performed under the attached contract within a short day to be appointed by this Court and under the direction of this Court; and that in default thereof,

this Court make such appropriate decree as will cause the Bonds, Mortgages and securities in said agreement set forth to be decreed to be the property of Complainants.

VII. That an account may be taken of the amount remaining due Complainants on their contract attached hereto.

VIII. That the Defendants, Royden B. Davis, A. Trevor Williams, Harold S. Williams and Gordon Williams & Company, or one or more of them, may be decreed to pay Complainants the amount so found due, with interest and costs, by a short day, to be appointed by this Court; and that in default of such payment, they and each and all of them, be debarred and foreclosed of all equity, right, interest, title and demand in and to the Bonds, Mortgages and other items designated in Paragraph No. 18 above.

IX. That in the meantime and pending the final determination of this cause, this Court appoint a Receiver to prevent the dissipation of such of said securities as have not yet been turned over to Complainants, with power to demand and to take possession of all of said remaining securities, with appropriate directions to sue, if necessary, to obtain said securities and to collect the principal, interest and any and all other income therefrom, under the terms and conditions of said contract and under the direction from time to time of this Court.

X. That your Complainants may have such other and further relief as may seem meet and equitable to this Court.

XI. That a writ of subpeona may issue, commanding said Defendants to answer this Bill of Complaint and to abide by such decree as this Court may make in the premises.

CARLTON GODFREY,
Solicitor for Complainants.
WM. I. GARRISON,
Of Counsel.

AFFIDAVIT.

IN CHANCERY OF NEW JERSEY.

Between CONNIE J. DORRIAN, *et als.*, *Complainants,* and ROYDEN B. DAVIS, *et als.*, *Defendants.*	On Bill for Receiver. Affidavit.

STATE OF NEW JERSEY, }
COUNTY OF ATLANTIC, } *ss.*

CONNIE J. DORRIAN, of full age, being duly sworn according to law, upon his oath deposes and says:

1. I am one of the Complainants in the above entitled cause. I have read the annexed Bill for a Receiver and I know of my own knowledge that the matters and things therein set forth are true and

correct; except as to such matters as are therein alleged to be upon information and belief, and as to this latter class of matters, I verily believe them to be true; and especially is it true that on June 1, 1927, Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Company entered into a certain contract in writing whereby said four parties covenanted and agreed to deliver, transfer and assign or cause to be delivered, transferred and assigned unto me and Lloyd W. Fahler and Williams and Davis, Inc., the Mortgages, securities and other items, including certain cash sums, therein mentioned for the valuable consideration fully in said agreement set forth.

2. A true copy of said contract is hereunto annexed and by this reference thereto made a part hereof as completely as though here repeated in full.

3. Said Lloyd W. Fahler, Williams and Davis, Inc., and myself have performed all the undertakings on our part to be performed under said agreement except such items as are therein contracted to be done by us only upon compliance by said Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Company with all the terms of said agreement to be performed by them.

4. Said Lloyd W. Fahler's, Williams and Davis', Inc., and my performance therewith, up to this time, has consisted of the following:

The Release called for in Paragraph No. 13 of said contract has been executed by said Lloyd W. Fahler, Williams and Davis, Inc., and myself and

delivered to Father John J. Mellon, in escrow, to be handed to the person or persons entitled thereto upon payment in full to us of $190,000.00, as covenanted in said agreement, which Release (when so delivered) will forever discharge Royden B. Davis, Harold S. Williams, A. Trevor Williams, Gordon Williams and Gordon Williams & Company from the following claims, which with interest added equal more than $190,000.00, to wit:

(a) Claim of Connie J. Dorrian referred to in Order of Supreme Court Commissioner duly made and filed, and remaining of record undisturbed and undismissed, in the New Jersey Supreme Court case of Dorrian v. Williams, *et als.*, which Order adjudged that it was sufficiently proved before said Commissioner that said Dorrian has a cause of action which arose in this State on tort and that the nature of the same and the particulars thereof are as follows: "That the Defendants did through a conspiracy known to and participated in by each, defraud Plaintiff of the sum of $101,111.32 by means of fraudulent transfers through 'straw' names of real estate purchased for Plaintiff as his agent or trustee and with his money previously entrusted to their confidential care or control."

(b) Claim of Lloyd W. Fahler referred to in Order of Supreme Court Commissioner duly made and filed ,and remaining of record undisturbed and undismissed, in the Atlantic County Circuit Court case of Fahler v. Williams, *et als.*, which Order adjudged that it was proved to his satisfaction that said Defendants in said Circuit Court suit did through a conspiracy known to and participated in by each defraud said Fahler of the liquidated sum of $77,111.32 by means of fraudulent transfers through "straw" names of real estate purchased

for said Fahler as his agent or trustee and with his money previously entrusted to their confidential care or control and that three of said four parties have left this State and are now non-residents.

5. Said Lloyd W. Fahler, Williams and Davis, Inc., and I have always been ready, willing and able and now hereby tender ourselves ready, willing and able to immediately perform completely the remaining items on our part to be performed under the said contract; and, on receiving the said Bonds, Mortgages, securities and other property, with proper and legal assignments thereof to us, to forthwith carry out the same.

6. Said Royden B. Davis, Harold S. Williams, A. Trevor Williams, and Gordon Williams & Company have partially performed said contract in the following manner, to wit:

(a) By the payment in cash at the time of the execution of said contract of the sum of $10,000.00 on account of the $190,000.00 which all four of said parties are jointly and severally obligated to pay under the terms of said contract.

(b) By the delivery of three checks to the order of Carlton Godfrey and Wm. I. Garrison, attorneys for Connie J. Dorrian and Lloyd W. Fahler, as follows: (I) check drawn against the Ventnor City National Bank in the sum of $194.96 signed "A. Trevor Williams" and required under subdivision "m" of Paragraph 4 of said contract; (II) check drawn against Ventnor Trust Company in the sum of $585.11 signed "Trevor Williams" AND required under subdivision "n" of Paragraph 4 of said contract; (III) check drawn against the Ventnor Trust Company in the sum of $642.99 signed

"Harold S. Williams" and required under subdivision "b" of Paragraph 5 of said contract.

(c) By delivery of certain Bonds, Mortgages and Assignments briefly enumerated in Paragraph 6-C of the Bill for a Receiver annexed hereto.

(d) Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Company has also further partially performed said contract by the execution and delivery to Lloyd W. Fahler, Williams and Davis, Inc., and me of a general release whereby said parties have forever discharged us from every manner of claim except the effect of said contract dated June 1, 1927, and of existing Mortgages and the accompanying Bonds.

(e) And also by the written cancellation of the agency contracts and all other agreements existing prior thereto between said parties.

7. Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Company were called upon under the specific written terms of said contract to deliver, transfer and assign or cause to be delivered, transferred and assigned to me and to Lloyd W. Fahler all the Mortgages, securities and other items enumerated in Paragraphs Nos. 4 and 6 of said contract on June 1, 1927. The contract requires delivery thereof on said June 1, 1927, with the Bonds, Mortgages, Assignments and declarations of no offset, in proper and legal shape so as to conform with all the conditions thereof.

8. On said June 1, 1927, the items enumerated in Paragraph 6 of the annexed Bill of Complaint were turned over; and at that time the parties requested one day's time within which to produce the remainder of the items set forth in Paragraph No. 4 of the said contract.

9. On the following day, as Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Company had requested, as aforesaid, Lloyd W. Fahler and I met with certain of said parties and with counsel for the rest of them, by appointment at Room 101, Hotel Vendig, Philadelphia, Pa. Ample opportunity was then given for said parties to deliver the missing securities but none were delivered. Further compliance with said contract was then refused after my counsel repeatedly demanded that the said parties comply therewith.

10. Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Company have repudiated their said contract and propose not to make any more deliveries of money, securities or other property thereunder, as I am informed and verily believe.

11. On the morning of June 2, 1927, I am told by one of my counsel that one of the counsel for said parties stated that no further payments nor delivery of any securities will be made under said contract unless I and Lloyd W. Fahler and Williams and Davis, Inc., "go to law" to enforce the same.

12. A substantial number of items which were to have been delivered on June 1, 1927, under said contract, have not been turned over; and no one of the items turned over conforms with the conditions of the contract except the payment of $10,000.00 in cash and the three items of checks which checks are enumerated in subdivision "b" of Paragraph 6 of the annexed Bill of Complaint.

13. Said Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Company having failed to deliver the securities and other items on June 1, 1927, and also having failed to make the said deliveries within the extended time of one day requested, and having repudiated the attached contract—I and Lloyd W. Fahler and Williams and Davis, Inc., have elected that the entire performance of the whole contract shall now be enforced.

14. The owners of the real estate covered by said Mortgages, so agreed to be assigned, are enumerated in Paragraph 14 of the annexed Bill of Complaint.

15. In addition to the items already mentioned in this affidavit, and as a part of the total of $190,000.00 aforesaid, said Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Company are obligated to pay to me and to Lloyd W. Fahler and Williams and Davis, Inc., under the terms of said contract, the sum of $35,000.00 additional in cash which sum was due and payable under the terms of said contract as follows: viz: $20,000.00 in cash on June 8, 1927, and $15,000.00 on or before June 20, 1927; but which said sum of $35,000.00 is now collectible in full by reason of the facts, default and repudiation aforesaid.

16. Said contract specifically provides that the attachment suit hereinbefore referred to shall proceed to enforce the collection of any items found not to conform to the conditions of said contract and also to recover any unpaid balance due from said

Defendants, Royden B. Davis, Harold S. Williams, A. Trevor Williams, and Gordon Williams & Company under the terms thereof.

17. In said attachment suit a writ of attachment was issued out of the Atlantic County Circuit Court on May 14, 1927.

18. I am informed and verily believe that the sum of $57,850.00 out of the $77,111.32 mentioned in said writ of attachment (the latter sum having been fraudulently obtained from Lloyd W. Fahler) was used by the said Gordon Williams, A. Trevor Williams, Harold S. Williams and Royden B. Davis (who are the Defendants in said attachment suit), or one or more of them, in the acquisition of the Bonds and Mortgages, having a total principal sum of $57,850.00 enumerated in Paragraph No. 18 of the annexed Bill of Complaint.

19. None of the Mortgages referred to in Paragraph 18 thereof are included in the agreement annexed hereto but are separate and distinct therefrom.

20. I am informed and verily believe that neither Gordon Williams, A. Trevor Williams, Harold S. Williams, nor Royden B. Davis have in their own names real estate of any value above encumbrances, but that the said Gordon Williams, A. Trevor Williams, Harold S. Williams and Royden B. Davis have caused their funds to be invested in said certain Bonds and Mortgages, in which they, or one or more of them, are the mortgagees.

21. I am without information, after due and dili-

gent inquiry, as to the whereabouts of the actual papers, Bonds, Mortgages and intermediate Assignments constituting said securities referred to in Paragraphs No. 6 and No. 18 of the annexed Bill of Complaint except such few incomplete papers as have been turned over to me and to Lloyd W. Fahler designated in said Paragraph No. 6 thereof.

22. My counsel, in the presence of Father John J. Mellon, myself, Lloyd W. Fahler and others, personally inquired of Royden B. Davis, Harold S. Williams and A. Trevor Williams, at Room 101, Vendig Hotel, Philadelphia, Pa., on June 1, 1927, as to the whereabouts of said securities and was met with a flat refusal to impart any specific information. During the conference of June 1, 1927, a remark was made, however, by A. Trevor Williams that "my securities are in New York but I will not tell you where in New York." Harold S. Williams stated at that time, "I think Gordon Williams' securities are in California." Royden B. Davis stated that his securities were in a lock box at the Ventnor Trust Company, Ventnor City, N. J. Other than these indefinite remarks, no specific information could be obtained.

23. I am informed and verily believe that the said four parties have removed their securities, Bonds, Mortgages and intermediate Assignments, as well as a large amount of cash money, six automobiles, and most if not all their household goods out of the jurisdiction of this court; that Harold S. Williams, A. Trevor Williams and Gordon Williams have established their residents in California; that Royden B. Davis has absented himself from the jurisdiction of the Courts of New Jersey since

at least May 14, 1927; that a *capias* is outstanding for all four of said parties in New Jersey and that the Sheriff of Atlantic County has been unable to apprehend either of said four parties; that when a conference was requested by them with my counsel, they sent word to me (through Father John J. Mellon) that they would not come into New Jersey.

24. That inquiry of Albert A. F. McGee and William E. Stringer has brought out the information that one or both of these counsellors at law have been instructed to foreclose certain or all of said Mortgages, but that neither of said Counsellors have any of said papers in their possession; and have been instructed to commence foreclosures from memorandums of title with the distinct understanding that Gordon Williams, A. Trevor Williams, Harold S. Williams and Royden B. Davis, or one or more of them, have the papers in their possession to be produced when needed to be marked as exhibits in said foreclosure suits; and that the records in the Atlantic County Clerk's Office show said Mortgages to still vest in the mortgagees hereinabove enumerated, in each said case being one or said four parties, except for said Assignments above designated to me and to Lloyd W. Fahler.

25. I am informed and verily believe that said Bonds and Mortgages enumerated in Paragraph No. 18 of the annexed Bill of Complaint, and the missing securities referred to in Paragraph No. 6 thereof, can not be attached nor levied upon by virtue of said attachment suit at law by reason of the fact that I am unable to locate the actual physical papers constituting same, and am informed that the effect of this is to place the said moneys beyond the reach of said attachment suit at law.

26. I am informed that it is necessary, in this state of affairs, to invoke the equitable jurisdiction of this Court in aid of said writ of attachment issued, as aforesaid, out of the Atlantic County Circuit Court; and am informed that said Circuit Court is helpless in the premises recited.

27. The said contract provides that in this event, to wit. to collect the balance due under its terms and also to collect the amount due by reason of the securities not conforming to the requirements thereof, as aforesaid, then and in either said event it was specifically in said contract covenanted that I and Lloyd W. Fahler and Williams and Davis, Inc., shall proceed by the vehicle of said attachment suit in the said Circuit Court.

28. I verily believe that unless this Court shall restrain them from so doing, the said Gordon Williams, A. Trevor Williams, Harold S. Williams and Royden B. Davis will conceal said Mortgages, Bonds and other securities, dispose of the same, or keep them where they now are, to wit: beyond the reach of said writ of attachment; which said Mortgages and other personal property could only be attached under said writ, I am informed, in the event that the actual physical papers constituting same can be located; and as far as I can ascertain, after due and diligent inquiry (more fully above recited) same are now out of the reach of said attachment.

29. I verily believe that unless this Court shall restrain the said Royden B. Davis, Harold S. Williams, A. Trevor Williams, Gordon Williams, and Gordon Williams & Company, from disposing of and from transferring said Bonds, Mortgages and

other personal property so agreed to be assigned and delivered to me and to Lloyd W. Fahler, as aforesaid, said Royden B. Davis, Harold S. Williams, A. Trevor Williams, Gordon Williams and Gordon Williams & Company will dispose of the same; and that I will thereby suffer irreparable loss and damage; and further that many of said mortgages now being due and the principal or interest or both now being collectible thereon, irreparable loss and injury will follow to me unless a Receiver is appointed to preserve same, to collect said principal and interest, and to take such proceedings as may be necessary to preserve same, and that otherwise I believe same will be seriously dissipated by Royden B. Davis, Harold S. Williams, A. Trevor Williams, Gordon Williams and Gordon Williams & Company.

CONNIE J. DORRIAN.

Sworn and subscribed to before me this Sixth day of June, A. D. 1927.

PHILIP S. GODFREY,
Notary Public of N. J.

AFFIDAVIT.

IN CHANCERY OF NEW JERSEY.

Between
CONNIE J. DORRIAN,
et. als.,
Complainants,
and
ROYDEN B. DAVIS, *et. als.*,
Defendants.

On Bill for Receiver.
Affidavit.

STATE OF NEW JERSEY,
COUNTY OF ATLANTIC, } *ss.*

LLOYD W. FAHLER, of full age, being duly sworn according to law, upon his oath deposes and says:

1. I am one of the Complainants in the above entitled cause.

2. I have read the annexed Bill for a Receiver and I know of my own knowledge that the matters and things therein set forth are true and correct; except as to such matters as are therein alleged to be upon information and belief, and as to this latter class of matters, I verily believe them to be true.

LLOYD W. FAHLER.

Sworn and subscribed to before me this Sixth day of June, A. D. 1927.

PHILIP S. GODFREY,
Notary Public of N. J.

AFFIDAVIT.

IN CHANCERY OF NEW JERSEY.

Between
CONNIE J. DORRIAN,
et. als.,
Complainants,
and
ROYDEN B. DAVIS, *et. als.*,
Defendants.

On Bill for Receiver.
Affidavit.

STATE OF NEW JERSEY,
COUNTY OF ATLANTIC, } *ss.*

LOUIS G. HART, of full age, being duly sworn according to law, upon his oath deposes and says:

1. I am a Director and Secretary of the Williams and Davis, Inc., which corporation is one of the Complainants in the above entitled cause.

2. For the purpose of this affidavit, I am the duly authorized agent of said corporation.

3. I have read the annexed Bill for a Receiver and I know of my own knowledge that the matters

and things therein set forth are true and correct; except as to such matters as are therein alleged to be upon information and belief, and as to this latter class of matters, I verily believe them to be true.

LOUIS G. HART.

Sworn and subscribed to before me this Sixth day of June, A. D. 1927.

PHILIP S. GODFREY,
Notary Public of N. J.

AGREEMENT made this first day of June, 1927, between WILLIAMS AND DAVIS, INC., a corporation of New Jersey, party of the first part; ROYDEN B. DAVIS, now or formerly of Ventnor City, New Jersey, party of the second part; HAROLD S. WILLIAMS now or formerly of Margate City, N. J., party of the third part; GORDON WILLIAMS, now or formerly of Margate City, New Jersey, party of the fourth part; A. TREVOR WILLIAMS, now or formerly of Margate City, N. J., party of the fifth part; GORDON WILLIAMS & COMPANY, a corporation of New Jersey, party of the sixth part; CONNIE J. DORRIAN of Ventnor City, N. J., party of the seventh part; LLOYD W. FAHLER, of Mahoney City, Pennsylvania, party of the eighth part;

WHEREAS, the said Royden B. Davis, Harold S. Williams and Gordon Williams did become the representatives, brokers or agents of the said Connie J. Dorrian and Lloyd W. Fahler, for the purchase, development and sale of real estate in the State of New Jersey and the State of Florida, under the foregoing agreements or indentures in writing, viz.:

A. Agreement between Connie J. Dorrian (recited in said agreement as Connie J. Dorian) of the first part and Royden B. Davis, Harold S. Williams and Gordon Williams, parties of the second part, dated July 20, 1925, a copy of which agreement is attached hereto.

B. Agency agreement or contract between Connie J. Dorrian and Annie Dorrian, his wife; Lloyd W. Fahler and Mary Kaier Fahler, his wife, grantors, and Gordon Williams & Company, dated December , 1925, a copy of which agreement or contract is attached hereto.

C. Agency agreement or contract between Connie J. Dorrian and Annie D., his wife, and Lloyd W. Fahler and Mary Kaier Fahler, his wife, grantors, and Gordon Williams & Company, dated December , 1925, a copy of which agreement is attached hereto.

D. Agreement between Williams and Davis, Inc., a corporation of New Jersey, party of the first part and Gordon Williams & Co., a corporation of New Jersey, party of the second part, dated January 4, 1926, a copy of which agreement is attached hereto.

AND WHEREAS other agreements or indentures of similar purport may also have been executed between the said Williams and Davis, Inc., Connie J. Dorrian and Lloyd W. Fahler of the one part and the remaining parties hereto or some of them of the other part;

AND WHEREAS the said agreements or indentures or some of them have been in force or operation from the date thereof respectively until on or about May 25, 1927;

AND WHEREAS no real estate was purchased in the State of Florida under the authority of said agreements or any of them;

AND WHEREAS a considerable amount of real estate in New Jersey was purchased and a number of sales were made under the terms of one or more of said agreements;

AND WHEREAS serious differences and disagreements have arisen between the said Williams and Davis, Inc., Connie J. Dorrian and Lloyd W. Fahler, or one or more of them, and the remaining parties hereto or one or more of them;

AND WHEREAS the following suits or actions have been commenced and are now pending in the Courts of New Jersey, viz.:

(A) An action in the New Jersey Supreme Court entitled Connie J. Dorrian, Plaintiff, v. Gordon Williams, Harold S. Williams, A. Trevor Williams, Royden B. Davis, Julia Coll and Sadie A. Craigen, Defendants, which action was commenced on or about May 14, 1927.

(B) An action in the Atlantic County Circuit Court, entitled Lloyd W. Fahler, Plaintiff, v. Gordon Williams, Harold S. Williams, A. Trevor Wiliams and Royden B. Davis, Defendants; which action was commenced on or about May 14, 1927.

(C) An action in the Court of Chancery of New Jersey, entitled Lloyd W. Fahler, Complainant, and Gordon Williams, A. Trevor Williams, Harold S. Williams, Royden B. Davis, Albert F. McGee, William E. Stringer, Arduina Ricca, Anthony Ricca, Carl M. Voelker, Ethel M. Voelker, Louis L. Weinberg, Esther Weinberg, William F. Casey, Helen M. Casey, Almedie J. Williams, Paul D. Endicott, Arthur Parker, Vivian B. Smith, Andrew W. Cunningham, John Speckman, Louis G. Hart, Louis Mark, Mary S. McDonnell, Connie J. Dorrian, Thomas J. Mahoney, Jr., Stella J. Mahoney, Walter H. Bacon, Jr., Emma S. Atkinson, Henry C.

Atkinson, Sadie A. Craigen, Marie Verlevon McEntee, John H. Rice, Jr., Philip J. Kelly, Leslie S. McPherran, Helene Wright, Louis Mackler, Jacob S. P. Mackler, Defendants; which action was commenced on or about May 18, 1927.

AND WHEREAS, the said Connie J. Dorrian and Lloyd W. Fahler and Williams and Davis, Inc., have planned and anticipated commencing other suits or actions against the remaining parties to this agreement, or some of them, and against other parties not herein recited;

AND WHEREAS the parties hereto have agreed to compromise, adjust and settle all of their differences and disagreements herein referred to and all other disagreements and differences between them, except as herein mentioned, upon the terms and conditions herein recited, and to terminate and cancel all of said agreements and contracts and all other contracts and agreements of the same purport which may exist between them, except as herein mentioned, and to release each other from all liability thereunder, subject to the terms and conditions hereof.

NOW, THEREFORE, in consideration of the premises and of the sum of one dollar duly paid by each of the parties hereto to the other party respectively, and of the further sum of one hundred and ninety thousand ($190,000) dollars, paid and to be paid by the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis to the said Williams and Davis, Inc., Connie J. Dorrian and Lloyd W. Fahler at the times and in the manner and form as herein recited, the parties hereto do hereby agree with each other as follows:

1. The agreements, contracts or indentures hereinbefore recited or referred to, and all other agree-

ments, contracts or indentures of similar purport between the said Williams and Davis, Inc., Connie J. Dorrian and Lloyd W. Fahler, and the remaining parties hereto or any of them are hereby terminated and cease to exist as of May 25, 1927, and all rights of the parties hereto or any of them against the other parties hereto or any of them, shall cease to exist as of May 25, 1927.

2. All books, papers, moneys and other documents which belong to said Williams and Davis, Inc., and which may now be in the possession or control of said Gordon Williams & Company, Gordon Williams, A. Trevor Williams, Harold S. Williams, and Royden B. Davis or any one or more of them shall forthwith be delivered to the said Williams and Davis, Inc.

3. As a part of said consideration of one hundred and ninety thousand dollars ($190,000.00), the said Gordon Williams hereby agrees that he will deliver to the said Connie J. Dorrian and Lloyd W. Fahler the following bonds and mortgages and other items and securities, viz.:

(a) Mortgage $600 given by Carl M. Voelker and Ethel M. Voelker, his wife, to Gordon Williams, dated September 18, 1926, and recorded in the Atlantic County Clerk's office on September 23, 1926, covering lands in Ventnor City, N. J. on the south side of Avenue C.

(b) Mortgage and Insurance Policy $8,000.00 given by Louis L. Weinberg and Esther Weinberg, his wife, to Gordon Williams, dated September 15, 1926, and recorded in said Clerk's office on September 16, 1926, covering lands in Ventnor City, N. J., on the east side of Buffalo Avenue.

(c) Mortgage $2,500.00 given by Paul D. Endicott, single, to Vivian B. Smith and Andrew W.

Cunningham, dated November 13, 1925, and recorded in said Clerk's office on November 19, 1925; assigned by Vivian B. Smith and Andrew W. Cunningham to Julia Coll by Assignment dated February 5, 1926, and recorded in said Clerk's office on February 23, 1926; and assigned by Julia Coll to Gordon Williams by Assignment dated February 18, 1926; and recorded in said Clerk's office on February 23, 1926; covering lands in Margate City, N. J., known as Lot 11 in Block 110-B on the Tax Map of Margate.

(d) Mortgage $1,700.00 given by John W. Speckman to Louis G. Hart, dated January 1, 1926, and recorded in said Clerk's office on January 28, 1926; assigned by Louis G. Hart to Gordon Williams by Assignment dated January 25, 1926, and recorded in said Clerk's office on January 28, 1926; covering lands in Longport, N. J., known as lot 15 in block 21 on the Tax Map of Longport.

(e) Mortgage $1,700.00 given by John W. Speckman to Louis G. Hart, dated January 1, 1926; and recorded in said Clerk's office on January 28, 1926; assigned by Louis G. Hart to Gordon Williams by Assignment dated January 25, 1926, and recorded in said Clerk's office on January 28, 1926; covering lands in Longport, N. J., known as Lot 16 in Block 21 on the Tax Map of Longport.

(f) Mortgage $11,100.00 given by Mary S. McDonnel (single) to Vivian B. Smith and Andrew W. Cunningham, dated October 16, 1925, and recorded in said Clerk's office on October 26, 1925; assigned by Vivian B. Smith and Andrew W. Cunningham to A. Trevor Williams and Gordon Williams by Assignment dated July 2, 1926, and recorded in said Clerk's office July 8, 1926; covering lands in Margate City, N. J., known as Lots 1 and

2 in Block 11-A; in which assignment Gordon Williams agrees to furnish the signature of A. Trevor Williams who will join in said Assignment.

(g) Mortgage $5,000.00 given by Connie J. Dorrian to Helene Wright, dated March 16, 1926, and recorded in the said Clerk's office on March 26, 1926; assigned by Helene Wright to A. Trevor Williams and Gordon Williams by Assignment dated March 22, 1926, and recorded in said Clerk's office on April 23, 1926; covering lands in Linwood, N. J., in which Assignment Gordon Williams agrees to furnish the signature of A. Trevor Williams, who will join in said Assignment.

(h) Mortgage $5,000.00 given by Paul D. Endicott (single) to Connie J. Dorrian, dated December 21, 1925, and recorded in the said Clerk's office on January 7, 1926; and assigned by Connie J. Dorrian to Helene Wright by Assignment dated March 16, 1926, and recorded in said Clerk's office on March 26, 1926; and assigned by Helene Wright to A. Trevor Williams and Gordon Williams by Assignment dated April 14, 1926, and recorded in said Clerk's office on April 23, 1926; covering lands in Margate City, N. J., known as Lot 13 in Block 112-B on the Tax Map of Margate City; in which Assignment Gordon Williams agrees to furnish the signature of A. Trevor Williams who will join in said Assignment.

(i) Mortgage $1,550.00 given by Louis Mark to Sadie A. Craigen dated August 9, 1926, and recorded in said Clerk's office on August 12, 1926; assigned by Sadie A. Craigen to Gordon Williams by Assignment dated September 14, 1926, and recorded in said Clerk's office on October 16, 1926; covering property in Ventnor City, N. J., known as lot 21 in block 58 on the Tax Map of Ventnor City.

(j) The following item is to be taken by Assignment from Gordon Williams to Connie J. Dorrian and Lloyd W. Fahler, and the sum of $800.00 allowed as a credit therefor in this settlement; five shares of the capital stock of the Margate Trust Company, a banking corporation of the State of New Jersey having its principal office in Margate City, N. J.

(k) The following item is to be taken by Assignment from Gordon Williams to Connie J. Dorrian and Lloyd W. Fahler, and the sum of $10.00 allowed as a credit therefor in this settlement; ten shares of the capital stock of Williams and Davis, Inc.

(l) The following item is to be taken by Assignment from Gordon Williams to Connie J. Dorrian and Lloyd W. Fahler, and the sum of $2,550.00 allowed as a credit therefor in this settlement; thirty shares of the capital stock of the Chelsea Title and Guaranty Company.

(m) The sum of $117.86 is to be allowed as a credit in this settlement by the payment by a check drawn against the Ventnor City National Bank of Ventnor City, N. J., in that amount.

(n) The sum of $381.80 is to be allowed as a credit in this settlement by the payment by a check drawn against the Ventnor Trust Company of Ventnor City, N. J., in that amount. The two checks referred to in paragraphs "m" and "n" are to be drawn to the order of Carlton Godfrey and Wm. I. Garrison, attorneys for Connie J. Dorrian and Lloyd W. Fahler.

(o) Mortgage $1,700.00 given by John W. Speckman to Louis G. Hart, dated January 1, 1926, and recorded in said Clerk's office on January 28, 1926; assigned by Louis G. Hart to Gordon Williams by

Assignment dated January 25, 1926, and recorded in said Clerk's office on January 28, 1926, covering lands in Longport, N. J., known as Lot 15 in Block 21.

(p) Mortgage $1,700.00 given by John W. Speckman to Louis G. Hart, dated January 1, 1926, and recorded in said Clerk's office on January 28, 1926; assigned by Louis G. Hart to Gordon Williams by Assignment dated January 25, 1926, and recorded in said Clerk's office on January 28, 1926, covering lands in Longport, N. J., known as Lot 16 in Block 21 on the Tax Map of Longport.

(q) Mortgage $6,500.00 given by Paul D. Endicott (single) to Connie J. Dorrian, dated December 21, 1925, and recorded in the said Clerk's office on January 7, 1926; assigned by Connie J. Dorrian to Helene Wright by Assignment dated March 16, 1926, recorded in said Clerk's office on March 26, 1926; and assigned by said Helene Wright to A. Trevor Williams and Gordon Williams by Assignment dated April 14, 1926, and recorded in said Clerk's office on April 23, 1926, and covering premises in Margate City, N. J., known as Block 112-B, Lot 12, in which Assignment Gordon Williams agrees to furnish the signature of A. Trevor Williams, who will join in said Assignment.

4. As a part of said consideration of $190,000.00 the said A. Trevor Williams hereby agrees that he will deliver to the said Connie J. Dorrian and Lloyd W. Fahler the following Bonds and Mortgages and other items and securities, viz.:

(a) Mortgage $6,500.00 given by Paul D. Endicott (single) to Connie J. Dorrian, dated December 21, 1925, and recorded in said Clerk's office on January 7, 1926; assigned by Connie J. Dorrian to Helene Wright by Assignment dated March 16,

1926, and recorded in said Clerk's office on March 26, 1926; and assigned by said Helene Wright to A. Trevor Williams and Gordon Williams by Assignment dated April 14, 1926, and recorded in said Clerk's office on April 23, 1926, and covering premises in Margate City, N. J., known as Lot 12 in Block 112-B, in which Assignment A. Trevor Williams agrees to furnish the signature of Gordon Williams, who will join in said Assignment.

(b) Mortgage $2,500.00 given by Louis G. Hart to A. Trevor Williams, dated January 19, 1926, and recorded in said Clerk's office on March 1, 1926, and covering lands in Margate City, N. J., known as Lots 46 and 48 in block 329 on the Tax Map of Margate City.

(c) Mortgage $1,550.00 given by Louis Mark to Sadie A. Craigen, dated August 9, 1926, and recorded in said Clerk's office on August 12, 1926, assigned by Sadie A. Craigen to A. Trevor Williams by Assignment dated September 19, 1926, and recorded in said Clerk's office on October 6, 1926, covering land in Ventnor City, N. J., known as Lot number 24 in Block 58, on the plan of Ventnor City.

(d) Mortgage $11,100.00 given by Mary S. McDonnell (single) to Vivian B . Smith and Andrew W. Cunningham, dated October 16, 1925, and recorded in said Clerk's office on October 26, 1925, and assigned by Vivian B. Smith and Andrew W. Cunningham to A. Trevor Williams and Gordon Williams by Assignment dated July 2, 1926, and recorded in said Clerk's office on July 8, 1926, and covering premises in Margate City, N. J., known as Lots 1 and 2 in Block 11-A on the Tax Map of Margate City, in which Assignment A. Trevor Williams agrees to furnish the signature of Gordon Williams, who will join in said Assignment.

(e) Mortgage, $6,500.00 given by Paul D. Endicott to Connie J. Dorrian, dated December 21, 1925, and recorded in said Clerk's office January 7, 1926; and assigned by Connie J. Dorrian to Helene Wright by Assignment dated March 16, 1926, and recorded in said Clerk's office on March 26, 1926; and further assigned by Helene Wright to A. Trevor Williams by Assignment dated April 14, 1926, and recorded in said Clerk's office April 23, 1926, and covering premises in Margate City, N. J., known as Lot 14 in Block 112-B on the Tax Map of Margate City.

(f) Mortgage $5,000.00 given by Connie J. Dorrian to Helene Wright, dated March 16, 1926, and recorded in said Clerk's office March 26, 1926; assigned by Helene Wright to A. Trevor Williams and Gordon Williams by Assignment dated March 22, 1926, recorded in said Clerk's office April 23, 1926, covering premises in Linwood, N. J., in which Assignment A. Trevor Williams agrees to furnish the signature of Gordon Williams, who will join in said Assignment.

(g) Mortgage $5,000.00 given by Paul D. Endicott (single) to Connie J. Dorrian, dated December 21, 1925, and recorded in said Clerk's office January 7, 1926; assigned by Connie J. Dorrian to Helene Wright by Assignment dated March 16, 1926, and recorded in said Clerk's office on March 26, 1926; and further assigned by Helene Wright to A. Trevor Williams and Gordon Williams by Assignment dated April 14, 1926, and recorded in said Clerk's office on April 23, 1926, covering lands in Margate City, N. J., in which Assignment A. Trevor Williams agrees to furnish the signature of Gordon Williams, who will join in said Assignment. Being Lot 13 in Block 112-B.

(h) Mortgage $4,950.00 given by Louis Mackler to Vivian B. Smith and Andrew W. Cunningham, dated September 2, 1925, and recorded in said Clerk's office on September 10, 1925; assigned by Vivian B. Smith and Andrew W. Cunningham to Julia Coll by Assignment dated February 5, 1926, and recorded in said Clerk's office on February 23, 1926; and further assigned by Julia Coll to A. Trevor Williams by Assignment dated February 18, 1926, and recorded in said Clerk's office on February 23, 1926, covering premises in Margate City, N. J., known as Lots 13, 14, 15 in Block 226 on Tax Map of Margate.

(i) Mortgage $1,550.00 given by Louis Mark to Sadie A. Craigen, dated August 9, 1926, and recorded in said Clerk's office on August 12, 1926; assigned by Sadie A. Craigen to A. Trevor Williams by Assignment dated September 14, 1926, and recorded in said Clerk's office on October 16, 1926, covering premises situate in Ventnor City, N. J., being Lot 21 in Block 58 on the Tax Map of Ventnor City.

(j) Mortgage $1,700.00 given by John W. Speckman to Louis G. Hart, dated January 1, 1926, and recorded in said Clerk's office on January 28, 1926; assigned by Louis G. Hart to A . Trevor Williams by Assignment dated January 25, 1926, and recorded in said Clerk's office on January 28, 1926, covering premises in Longport, N. J., known as Lot 17 in Block 21.

(k) Mortgage, $1,700.00 given by John W. Speckman to Louis G. Hart, dated January 1, 1926, and recorded in said Clerk's office on January 28, 1926; assigned by Louis G. Hart to A. Trevor Williams by Assignment dated January 25, 1926, and recorded in said Clerk's office on January 28, 1926,

covering premises in Longport, N. J., known as Lot 18 in Block 21.

(l) Mortgage $1,700.00 given by John W. Speckman to Louis G. Hart, dated January 1, 1926, and recorded in said Clerk's office on January 28, 1926; assigned by Louis G. Hart to A. Trevor Williams by Assignment dated January 25, 1926, and recorded in said Clerk's office on January 28, 1926, covering premises in Longport, N. J., known as Lot 19, in Block 21.

(m) The sum of $194.96 is to be allowed as a credit in this settlement by the payment by a check drawn against the Ventnor City National Bank, of Ventnor City, N. J., in that amount.

(n) The sum of $585.11 is to be allowed as a credit in this settlement by the payment by a check drawn against the Ventnor City Trust Company, of Ventnor City, N. J., in that amount. The two checks referred to in paragraphs "m" and "n" are to be drawn to the order of Carlton Godfrey and William I. Garrison, attorneys for Connie J. Dorrian and Lloyd W. Fahler.

(o) The sum of $1,650.00 is to be allowed as a credit in this settlement by the creation of a new Mortgage in that amount for the term of one year to cover Lot number 3 in Block 19 on plan of Margate City as compiled by W. I. Risley, C. E., May, 1924.

(p) The sum of $1,650.00 is to be allowed as a credit in this settlement by the creation of a new Mortgage in that amount for the term of one year to cover Lot number 12 in Block 19 on plan of Margate City as compiled by W. I. Risley, C. E., May 1924. The said Mortgage is to be subject to a prior Mortgage now existing on said premises in the sum of four thousand dollars.

(q) Mortgage $10,000 given by Almedie J. Williams, *et. vir.*, to A. Trevor Williams and Gordon Williams, premises Margate, N. J., Lot 4, Block 17, dated March 26, 1926, recorded April 23, 1926, Assignment to be joined in by Gordon Williams.

5. As a part of the consideration of $190,000.00 the said Harold S. Williams hereby agrees that he will deliver to the said Connie J. Dorrian and Lloyd W. Fahler the following Bonds and Mortgages and other items and securities, viz.:

(a) The sum of $1.00 is to be credited on account of said settlement by a check to be signed by Harold S. Williams in that amount, drawn against the Ventnor City National Bank to the order of Carlton Godfrey and Wm. I. Garrison, attorneys for Connie J. Dorrian and Lloyd W. Fahler.

(b) The sum of $642.99 is to be credited on account of said settlement by a check to be signed by Harold S. Williams in that amount drawn against the Ventnor Trust Company, of Ventnor City, N. J., to the order of Carlton Godfrey and Wm. I. Garrison, attorneys for Connie J. Dorrian and Lloyd W. Fahler.

(c) The sum of $800.00 is to be credited on account of said settlement by the transfer by Harold S. Williams of his Certificate Number 42 for five shares of the capital stock of the Margate Trust Company, a banking corporation of New Jersey, having its principal place of business in Margate City, N. J., said transfer to be to Connie J. Dorrian and Lloyd W. Fahler.

(d) The sum of $10.00 is to be credited in said settlement by the transfer of ten shares, Certificate No. 130, of the capital stock in the Williams and Davis, Inc., standing in the name of Harold S. Williams and to be transferred by him to Connie J. Dorrian and Lloyd W. Fahler.

6. As a part of said consideration of $190,000.00 the said Royden B. Davis, hereby agrees that he will deliver to the said Connie J. Dorrian and Lloyd W. Fahler the following Bonds and Mortgages and other items and securities, viz.:

(a) Mortgage $1,250.00 given by John H. Rice, Harry B. Faunce and Joseph Christian to Clara S. Hopple, dated October 23, 1925, recorded in said Clerk's office on November 14, 1925, and assigned by Clara S. Hopple to Royden B. Davis by Assignment dated January 21, 1926, and recorded in said Clerk's office on August 3, 1926, covering premises in Margate City, N. J., on the westerly side of Thurlow Avenue.

(b) Mortgage $1,200.00 given by Sadie A. Craigen (single) to Thomas J. Mahoney, Jr., dated October 14, 1926, and recorded in the said Clerk's office of Atlantic County on October 19, 1926, and assigned by Thomas J. Mahoney, Jr., to Royden B. Davis by Assignment dated October 20, 1926, and recorded in said Clerk's office on October 22, 1926, covering premises in Margate City, N. J., on the east side of Rumson Avenue.

(c) Mortgage $13,000 given by Emma S. Atkinson and Henry C., her husband, to Royden B. Davis, dated June 16, 1926, and recorded in said Clerk's office on June 29, 1926, covering premises in Ventnor City, N. J., and located on the westerly side of Oakland Avenue.

(d) Mortgage $4,000 given by Walter H. Bacon, Jr., to Royden B. Davis and Jessie, his wife, dated September 18, 1926, and recorded in said Clerk's office on October 21, 1926, covering property in Ventnor City, N. J., on the easterly side of Harvard Avenue, Assignment to be joined by Jessie Davis.

(e) Mortgage $13,000 given by Walter H. Bacon, Jr., to Royden B. Davis and Jessie, his wife, dated September 18, 1926, and recorded in said Clerk's office o nOctober 21, 1926, covering property in Ventnor City, N. J., on the easterly side of Harvard Avenue, assignment to be joined in by Jessie Davis.

(f) Mortgage $1,000 given by Thomas J. Mahoney, Jr., and Stella J., his wife, to Royden B. Davis, dated October 20, 1926, and recorded in said Clerk's office on October 22, 1926, covering premises situate in Margate City, N. J., being Lot 16 in Block 618.

(g) The sum of $10.00 is to be credited in said settlement by the transfer of ten shares of capital stock, Certificate No. 43, in the Williams and Davis, Inc., standing in the name of Royden B. Davis and to be transferred by him to Connie J. Dorrian and Lloyd W. Fahler.

(h) The sum of $598.73 is to be credited on account of said settlement by a check to be signed by Royden B. Davis in that amount, drawn against the Ventnor Trust Company, of Ventnor City, N. J., to the order of Carlton Godfrey and Wm. I. Garrison, attorneys for Connie J. Dorrian and Lloyd W. Fahler.

(i) The sum of $13,500 is to be allowed as a credit in said settlement by the Assignment by A. Trevor Williams of five Mortgages, each given by Leslie S. McPherran and each bearing date January 5, 1926, and each recorded in the Atlantic County Clerk's office on January 12, 1926, and now held and owned by the said A. Trever Williams by mean transfers, each Mortgage being in the sum of $2,700.00 and covering premises in Longport, N. J.

7. The said Harold S. Williams, A. Trevor Wil-

liams, agree that they will pay to said Connie J. Dorrian and Lloyd W. Fahler forthwith, in cash on account of said consideration of one hundred and ninety thousand dollars, the sum of ten thousand ($10,000) dollars, and that they will pay to said Williams and Davis, Inc., Connie J. Dorrian and Lloyd W. Fahler in cash within one week from the date hereof, the further sum of twenty thousand ($20,000) dollars, and a further sum of fifteen thousand ($15,000) dollars on or before June 20, 1927.

8. The said Bonds and Mortgages, items and other securities named in Paragraphs 3, 4, 5 and 6 hereof, together with the Assignments thereof, shall be delivered to said Connie J. Dorrian and Lloyd W. Fahler forthwith, and that said Mortgages, items and other securities named in Paragraphs 3 and 5 hereof, shall be delivered on or before June 20, 1927.

9. In the event that the Bonds and Mortgages, items and other securities, accompanied by said declarations of no setoff, and other requirements herein recited are not delivered as herein set forth, other Bonds and Mortgages, cash or other securities satisfactory in amount and quality to said Williams and Davis, Inc., Connie J. Dorrian and Lloyd W. Fahler, shall be substituted in place of the Mortgages, items and other securities, if any, which are found not to conform to the requirements herein recited.

10. Upon the execution of this agreement and the delivery of the securities herein recited, in compliance with the conditions hereof or satisfactory to the said Connie J. Dorrian and Lloyd W. Fahler, on or before June 20, 1927, the actions or suits herein recited shall be discontinued and the said Connie J. Dorrian and Lloyd W. Fahler agree to execute

and deliver to the said Gordon Williams, A. Trevor Williams, Harold S. Williams and Royden B. Davis, Releases, copies of which are attached hereto, otherwise said suits shall proceed to recover the unpaid balance of the total consideration hereof. During said period until June 20, 1927, no steps shall be taken in said actions. It is agreed that any action taken by the Court in either of said cases shall not in any wise vary or change the effectiveness of this settlement.

11. In the event that any of said Mortgages do not conform to the conditions hereof, and the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis do not substitute cash or other securities in place thereof, the said suits or actions may proceed to enforce the collection of the amount represented by such items.

12. The said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis, in consideration of the premises have hereby remised, released, quit-claimed and forever discharged, and by these presents do for themselves, their heirs, executors and administrators, remise, release, quit-claim and forever discharge the said Williams and Davis, Inc., Connie J. Dorrian and Lloyd W. Fahler, their heirs, executors and administrators of and from all and all manner of action and actions, cause and causes of action, suits, debts, damages, claims and demands whatsoever, in law and equity, which against them, the said Williams and Davis, Inc., Connie J. Dorrian and Lloyd W. Fahler and each of them, the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis or either of them, their heirs, executors and administrators can, shall or may have, for, upon or by reason of any matter, cause or thing

whatsoever. It is understood and agreed that this Release shall not in any wise affect any Mortgage or Mortgages held by any one of the parties to this agreement, nor the Bond or Bonds accompanying any such Mortgage or Mortgages.

IT IS AGREED that upon the payment by said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis, of the said sum of one hundred and ninety thousand ($190,000) dollars in the manner hereinbefore recited, the said Connie J. Dorrian and Annie Dorrian, Lloyd W. Fahler and Mary Kaier Fahler, his wife, and Williams and Davis, Inc., shall execute and deliver the said Gordon Williams, Harold S. Williams, A. Trevor Williams, Royden B. Davis and Gordon Williams & Company, a Release, a copy of which is attached hereto, the original Release shall be executed and delivered to Father John J. Mellon, who is authorized to deliver the same to the person or persons entitled thereto upon payment in full of said sum of One hundred ninety thousand ($190,000) Dollars.

IN WITNESS WHEREOF the said Williams and Davis, Inc., and Gordon Williams & Company have caused these presents to be signed by their respective presidents, their respective corporate seals to be hereto attached, duly attested by their respective secretaries and the said Royden B. Davis, Harold S. Williams, Gordon Williams, A. Trevor Williams, Connie J. Dorrain and Lloyd W. Fahler have set their hands and seals hereto the day and year first above written.

WILLIAMS AND DAVIS, INC.
By JOHN B. SCANLAN,
Vice-President.

Attest:
LOUIS G. HART,
Secretary.
GORDON, WILLIAMS & CO.
By R. B. DAVIS,
Vice-President.
Attest:
HAROLD S. WILLIAMS,
Secretary.
HAROLD S. WILLIAMS (Seal)
A. TREVOR WILLIAMS (Seal)
CONNIE J. DORRIAN (Seal)
LLOYD W. FAHLER (Seal)
ROYDEN B. DAVIS (Seal)
——————— (SEAL)

Signed, Sealed and Delivered in the presence of:
On 15th page words "Royden B. Davis" changed in two places to "A. Trevor Williams" before signing. Witnessed as to signature of Harold S. Williams, A. Trevor Williams, Royden B. Davis, Connie J. Dorrian and Lloyd W. Fahler,
CARLTON GODFREY.

KNOW ALL MEN BY THESE PRESENTS, That we, WILLIAMS AND DAVIS, INC., a corporation of New Jersey, CONNIE J. DORRIAN and ANNIE DORRIAN, his wife, of Ventnor City, New Jersey, and LLOYD W. FAHLER and MARY KAIER FAHLER, his wife, of Mahoney City, State

of Pennsylvania, for and in consideration of the sum of one dollar and such further consideration as is recited in a certain agreement between Williams and Davis, Inc., Connie J. Dorrain, *et. als.*, dated June 1, 1927, lawful money of the United States of America, to them in hand paid by Harold S. Williams, A. Trevor Williams, Gordon Williams, Royden B. Davis and Gordon Williams and Company, have remised, released, quit-claimed and forever discharged, and by these presents do for themselves, their heirs, executors and administrators, remise, release, quit-claim and forever discharge the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis, Gordon Williams & Company, or either or them, their heirs, executors and administrators, of and from all and all manner of action and actions, cause and causes of action, suits, debts, damages, claims and demands whatsoever in law and equity, which against the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis and Gordon Williams & Company, and each of them, we ever had, now have or which they, their heirs, executors or administrators hereafter can, shall or may have, for upon or by reason of any matter, cause or thing whatsoever.

IT IS UNDERSTOOD AND AGREED that this Release shall not in any wise affect any Mortgage or Mortgages held by any one of the parties to the agreement hereinabove recited, nor the Bond or Bonds accompanying any such Mortgage or Mortgages.

IN WITNESS WHEREOF the said Williams and Davis, Inc., has caused this Release to be signed by its president, its corporate seal to be hereto affixed, duly attested by its secretary and the said Connie J. Dorrian, Annie Dorrian, Lloyd W. Fahler

and Mary Kaier Fahler have hereunto set their hands and seals this day of June, nineteen hundred and twenty-seven.

WILLIAMS AND DAVIS, INC.
By
_____,
President.

Attest.
_____,
Secretary.

_____ (SEAL)
_____ (SEAL)
_____ (SEAL)
_____ (SEAL)
_____ (SEAL)

SIGNED, SEALED AND
DELIVERED IN THE
PRESENCE OF

_____

AGREEMENT made this twentieth day of July, 1925, between CONNIE J. DORRIAN, of Ventnor City, New Jersey, and LLOYD W. FAHLER, of Mahoney City, Pa., parties of the first part, and ROYDEN B. DAVIS, HAROLD S. WILLIAMS and GORDON WILLIAMS, all of Ventnor City, New Jersey, parties of the second part;

WHEREAS, the parties of the second part are successful real estate operators and brokers of many years experience in Atlantic City, Ventnor City and Margate City and vicinity in the State of New Jersey, and have also made an especial study of real estate conditions in the State of Florida;

AND WHEREAS, the parties of the first part desire to take an interest in investments and de-

velopments in real estate in the State of Florida, to be parties of the second part or by a corporation to be formed, managed and controlled by the parties of the second part; and whereas the parties of the first part have offered and agreed to provide a fund of ONE HUNDRED THOUSAND DOLLARS in cash capital to be invested and continuously reinvested in the State of Florida in the sole discretion and judgment of the parties of the second part, upon the terms and conditions hereinafter mentioned;

AND WHEREAS, the said parties of the second part have agreed to manage the said investments and developments and to devote their best judgment and energies and sufficient of their time in their judgment to build up, conduct, manage and promote the said business;

NOW THEREFORE, in consideration of the premises and of the mutual covenants herein contained, the parties hereto do agree to and with each other as follows:

1. THE said parties of the first part agree that they will forthwith invest the sum of ONE HUNDRED THOUSAND DOLLARS in cash in the preferred capital stock to be issued by William and Davis, Inc., a corporation organized under the laws of the State of New Jersey at the price of par, said capital stock to consist of one thousand shares having a par value of One Hundred Dollars each. Fifteen hundred shares of no par value common stock shall also be issued, one thousand of which shares shall be issued to the parties of the first part. The said preferred stock shall be divided among the parties of the first part in proportion to their investment therein and the said one thousand shares of no par value common stock shall be divided be-

tween the parties of the first part in the same proportion as the preferred stock is issued. The remaining five hundred shares of no par value common stock shall be issued to the parties of the second part in such proportion as they may agree upon.

2. THE officers and directors of the said corporation shall be as follows:

DIRECTORS: Gordon Williams, Royden B. Davis and Harold S. Williams.

OFFICERS: Gordon Williams, President; Royden B. Davis, Vice-President, and Harold S. Williams, Secretary and Treasurer.

3. THE said corporation shall be admitted to do business in the State of Florida, should its directors deem it advantageous to do so and the directors of said corporation shall have the power to organize a corporation or corporations under the laws of the State of Florida or any other State for the same general purposes for which Williams and Davis, Inc., a corporation of New Jersey, is organized and especially to buy, sell, mortgage, develop and improve real estate and personal property, to borrow money and to execute deeds, agreements of purchase and sale, mortgages and other instruments and to conduct a general real estate development investment and mortgage business. All of the capital stock of said corporation or corporations except the directors' qualifying shares of such additional shares as may be sold to raise additional capital shall be owned by Williams and Davis, Inc., above mentioned, which corporation, if admitted to do business in the State of Florida and such other corporations as may be organized as above recited, shall continue to do business so long as the parties of the second part hereto may decide that said business can be advantageously conducted.

4. IT is understood and agreed that the said sum of ONE HUNDRED THOUSAND DOLLARS is invested by the said parties of the first part with the full understanding that the parties of the second part shall make no financial investment in said enterprise or proposition and that the entire capital to be contributed by the parties of the first part shall be the said sum of ONE HUNDRED THOUSAND DOLLARS invested by the said parties of the first part, except as herein mentioned, and that the profits of this enterprise shall be distributed in dividends as and when declared by the directors, in the proportion as the common capital stock is issued, viz.: One-third to the parties of the second part and their assigns and two-thirds to the parties of the first part and their assigns and that the preferred stock may be purchased and retired whenever the parties of the second part shall deem that course to be for the best interests of the corporation.

5. IT is further understood that in order to do a larger business than otherwise could be done, the said company, Williams and Davis, Inc., or either or any of them, may, in the discretion of the parties of the second part, purchase property, real and personal, clear of mortgage or subject to mortgage or mortgages or deeds of trust and may execute and deliver its Bonds and Mortgages and deeds of trust covering property purchased or owned by said corporation or corporations, upon such terms as the said parties of the second part hereto may approve and may purchase, sell, improve and develop all such property in the unlimited discretion of the said parties of the second part and said parties of the second part shall, under no circumstances, be individually responsible for any errors

of judgment or for any depreciation in values which may happen in such investment, or for expenses of operating and conducting said business. It is further agreed that the agreements for the purchase or sale of lands and improvements thereto may be taken or made in the name of Williams and Davis, Inc., or any other of such corporations or in the name of any one or more of the parties of the second part hereto and that such purchases may be made in any localities in the State of Florida and upon such terms and conditions as may be approved by said parties of the second part hereto.

6. IT is further understood and agreed that FIVE THOUSAND DOLLARS of said ONE HUNDRED THOUSAND DOLLARS is to be immediately paid to the parties of the second part or appropriated from said fund of one hundred thousand dollars to be used by the parties of the second part as an advance on account of their expenses in proceeding to purchase the land contemplated by the parties hereto. All traveling and living expenses of the parties of the second part and their employees and representatives in traveling to and from Florida and while in Florida are authorized to be paid by said corporation as expenses of said business.

7. IT is understood and agreed that the parties of the second part are not to personally take any commission received either from the sale or purchase of the land purchased with the money advanced by the parties of the first part and all such commissions received by the parties of the second part are to be for the benefit of the parties hereto or the corporations to be formed pursuant hereto.

The said parties hereto or said corporations are also to receive the benefits of any commission received by the parties of the second part arising out of any other real estate transactions in Florida so long as this agreement shall be in effect or so long as the parties of the second part shall be connected with the corporation to be formed hereunder.

8. IT is understood and agreed that no salaries shall be paid to the parties of the second part for their services pursuant to this agreement, however, all living expenses in Florida or traveling expenses to or from or in Florida are to be paid by the parties of the first part out of the fund aforesaid or by the corporations to be formed hereunder.

9. THE parties of the second part shall devote their best judgment and energies and such part of their time as in their judgment may be necessary to manage the business to be carried on hereunder.

10. IT is further agreed that the parties of the second part may, at their option, take titles in the name of Harold S. Williams but all of such titles shall be conveyed to one or more of said corporations as soon as practical thereafter.

11. ALL cash capital and all moneys of the corporation shall be kept on deposit in some bank or trust company and so long as is convenient the account shall be placed and continued at the Union National Bank of Atlantic City and books of account shall be kept of all transactions, which books shall be open for the inspection of all stockholders of the Company during business hours, and statements of all transactions and of the condition of affairs of the enterprise shall be mailed to the stockholders periodically.

IN WITNESS WHEREOF the parties hereto

have hereunto set their hands and seals the day and year first above written.

Connie J. Dorrian	(Seal)
Lloyd W. Fahler	(Seal)
Royden B. Davis	(Seal)
Harold S. Williams	(Seal)
Gordon Williams	(Seal)

Signed, Sealed and Delivered
in the presence of:
Arthur Parker,
for all.

KNOW ALL MEN BY THESE PRESENTS, That we, Connie J. Dorrian and Annie Dorrian, his wife, both of Ventnor City, Atlantic County, New Jersey, and Lloyd W. Fahler and Mary Kaier Fahler, his wife, both of Mahanoy City, Pennsylvania, do hereby constitute and appoint Gordon Williams & Company, a corporation incorporated under the laws of the State of New Jersey, our sole and exclusive agent for the sale of the following described land and premises, situate in the City of Somers Point, County of Atlantic and State of New Jersey:

BEGINNING at a point in the center line of the County Road between Mays Landing and Somers Point, said beginning point being 899.55 ft. N. W. from Mon. No. 2, located at the center line of Marks Road; and extending thence (1) S. 35° 54′ W. 381.21′ to a corner; thence (2) N. 78° 45′ W. 97.68′ to a corner; thence (3) S. 37° 41′ W. 184.45′ to a corner; thence (4) S. 45° 36′ 50″ E. along the center line of Chestnut Street 879.47′ to the intersection of the same with the center line of Roberts

Avenue; thence (5) S. 49° 28′ 10″ W. along the center line of Roberts Avenue 1332.25′ to the intersection of the same with the center line of Pine Street; thence (6) N. 40° 31′ 50″ W. along the center line of Pine Street 250.0′ to the intersection of the same with the center line of Marks Road on Atkinson Avenue; thence (7) S. 49° 28′ 10″ W. along the center line of the said Marks Road 577.25′ to an angle in said road; thence (8) S. 36° 46′ 10″ W. along the center line of Marks Road 383.0′ to the high-water line of Drag Channel and Great Egg Harbor Bay; thence (9) in and along the said high-water line of Drag Channel in a general N. W. direction to a point in a line ditch; thence (10) N. 57° 46′ E. 1914.00′ to a point; thence (11) N. 42° 24′ E. 343.20′ to a point; thence (12) N. 35° 36′ W. 196.68′ to a point; thence (13) N. 12° 54′ E. 214.50′ to a point; thence (14) N. 30° 51′ W. 280.50′ to a point; thence (15) N. 54° 09′ E. 165.00′ to a point; thence (16) N. 44° 36′ W. 862.58′ to a point; thence (17) S. 39° 59′ W. 754.33′ to a point in the center line of a line ditch; thence (18) N. 52° 16′ W. still in a center line of said line ditch; 103.37′ to a point in the center line of Rail Creek; thence (19) in and along the center line of said Rail Creek the several courses and distances thereof to the Shore line of Great Egg Harbor Bay; thence (20) in and along the said shore line of Great Egg Harbor Bay, the several courses and distances thereof to a point; thence (21) N. 72° 54′ E. 323.0′ to a point; thence (22) N. 01° 06′ W. 883.08′ to a point; thence (23) N. 57° 24′ E. 990.00′ to a point; thence (24) N. 44° 36′ W. 432.61′ to the intersection of the same with the center line curve of the said County Road; thence (25) by a curve to the right in a general S. E. direction along the center line of said County

Road 164.45′ to Mon. No. 3 in the said center line of said County Road; thence (26) S. 59° 59′ 30″ E. along the center line of said County Road 1829.96′ to a point in the center line of said County Road and the place of beginning. BEING lands situate in the City of Somers Point as survey by Wm. H. Collisson, Jr., delineated on a map prepared by him and entitled "Plan of Premises Situate in the City of Somers Point, Atlantic County, N. J., owned by George W. Roberts, Scale 1″-150′, Wm. H. Collisson, Jr., Civil Engineer."

Exception No. 1.

All the following lots or plots as shown on a plan of lands owned by George W. Roberts and filed in the Clerks' office in Mays Landing, N. J., and being Lots Nos. 16, 17 and 18 in Block No. 2; Lots 1, 2, 3, 4, 5, 6, 13, 14, 15, 16, 17, 18, 19 and 20, Block No. 4; Lots 1, 2, 3, 4, 5, 6, 7, 8, 20 and 11, Block No. 5; Lots Nos. 19, 20, 9, 10 and 11, Block No. 8.

Exception No. 2.

Beginning at the intersection of the N. W. prop. line of Marks Road and the N. E. prop. line of Walnut Street and extending thence (1) N. E. along the said N. W. prop. line of Marks Road 125′ and of that width extending N. W. between parallel lines 100′

Exception No. 3.

Being all that certain Block of ground bounded on the N. E. by Chestnut Street, on the S. E. by Roberts Avenue, on the S. W. by Walnut Street and on the N. W. by Atkinson Avenue.

Exception No. 4.

BEGINNING at a point in the N. W. prop. line of Atkinson Avenue at a distance of 50′ N. E. from the N. E. side of Spruce Street and extending thence (1) N. E. along said N. W. prop. line of At-

kinson Avenue 100′ and of that width extending at right angles N. W. between parallel lines 200′.

Exception No. 5.

Beginning at the intersection of the S. E. prop. line of Atkinson Avenue and the N. E. prop. line of Spruce Street and extending thence (1) N. E. along Atkinson Avenue 125′ and that width extending at right angles S. E. thereto between parallel lines 200′.

Exception No. 6.

Beginning at the intersection of the S. E. line of Atkinson Avenue and the S. E. line of Spruce Street and extending thence (1) S. W. along the said S. E. side of Atkinson Ave. 125′ and of that width extending S. E. at right angles thereto between parallel lines 100′.

Tract No. 2.

Beginning at a point in the center line curve of the County Road from Mays Landing to Somers Point, said beginning point being 164.45′ N. W. from Mon. No. 3 in the center line of said County Road and extending thence (1) N. 88° 24′ W. 1320.00′ to the high water line of Patcong Creek, thence (2) N. W. and N. E. in and along the said high water line of said creek the several courses and distances thereof to a point; thence (3) S. 46° 07′ W. 181.50′ to a point; thence (4) S. 48° 53′ E. 964.92′ to a point; thence (5) S. 74° 07′ W. 336.60′ to the center line of the County Road and the place of beginning.

Said exclusive agency shall remain in force until the entire tract of land described above has been sold, but not to exceed in any case, the term of two years from the date hereof.

We do hereby agree to pay Gordon Williams & Company for its services as agent in procuring a

purchaser who is ready, able and willing to purchase any part of said land, a commission of twenty-five per cent on the purchase price.

Gordon Williams & Company hereby agrees to keep all books of account, draw all necessary papers, and render monthly statements to us for a period of one year from the date hereof, and at the end of one year, to deliver to us, said books of account. Settlement between Gordon Williams & Company and us for moneys received on our account by it, and commissions owing to it from us, shall be made monthly.

This exclusive agency shall remain in full force and effect for a period of two years from the date hereof, and shall not be revocable either by act or death of any or all of us.

IN WITNESS WHEREOF, we have hereunto set our hands and seals, and Gordon Williams & Company has caused these presents to be signed, and executed by its duly authorized officers and its corporate seal to be hereunto affixed this day of December, nineteen hundred and twenty-five.

Connie J. Dorrian (Seal)
Annie Dorrian (Seal)
Lloyd W. Fahler (Seal)
Mary Kaier Fahler (Seal)
GORDON WILLIAMS & COMPANY
By .....

KNOW ALL MEN BY THESE PRESENTS that we, Connie J. Dorrian and Annie Dorrian, his wife, both of Ventnor City, Atlantic County, New Jersey, and Lloyd W. Fahler and Mary Kaier Fah-

ler, his wife, both of Mahanoy City, Pennsylvania, do make, constitute and appoint Gordon Williams & Company, a corporation incorporated under the laws of the State of New Jersey, our true and lawful attorney for us and in our names, place, and stead, to grant, bargain, sell, make, execute, acknowledge, and deliver agreements of sale for all the following described land, situate in the City of Somers Point, County of Atlantic, and State of New Jersey:

BEGINNING at a point in the center line of the County Road between Mays Landing and Somers Point, said beginning point being 899.55 ft. N. W. from Mon. No. 2, located at the center line of Marks Road; and extending thence (1) S. 35° 54′ W. 381.21′ to a corner; thence (2) No. 78° 45′ W. 97.68′ to a thence (4) S. 45° 36′ 50″ E. along the center line of corner; thence (3) S. 37° 41′ W. 184.45′ to a corner; thence (4) S. 45° 36′ 50″ E. along the center line of Chestnut Street 879.47′ to the intersection of the same with the center line of Roberts Avenue; thence (5) S. 49° 28′ 10″ W. along the center line of Roberts Avenue 1332.25′ to the intersection of the same with the center line of Pine Street; thence (6) N. 40° 31′ 50″ W. along the center line of Pine Street 250.0′ to the intersection of the same with the center line of Marks Road on Atkinson Avenue; thence (7) S. 49° 28′ 10″ W. along the center line of the said Marks Road 577.25′ to an angle in said road; thence (8) S. 36° 46′ 10″ W. along the center line of Marks Road 383.0′ to the high water line of Drag Channel and Great Egg Harbor Bay; thence (9) in and along the said high water line of Drag Channel in a general N. W. direction to a point in a line ditch; thence (10) N. 57° 46′ E. 1914.00′ to a point; thence (11) N. 42° 24′ E. 343.20′ to a point; thence (12) N. 35° 36′

W. 196.68′ to a point; thence (13) N. 12° 54′ E. 214.50′ to a point; thence (14) N. 30° 51′ W. 280.50′ to a point; thence (15) N. 54° 09′ E. 165.00′ to a point; thence (16) N. 44° 36′ W. 862.68′ to a point; thence (17) S. 39° 59′ W. 754.33′ to a point in the center line of a ditch; thence (18) N. 52° 16′ W. still in a center line of said line ditch 103.37′ to a point in the center line of Rail Creek; thence (19) in and along the center line of said Rail Creek the several courses and distances thereof to the shore line of Great Egg Harbor Bay; thence (20) in and along the said shore line of Great Egg Harbor Bay, the several courses and distances thereof to a point; thence (21) N. 72° 54′ E. 323.0′ to a point; thence (22) N. 01° 06′ W. 883.08′ to a point; thence (23) N. 57° 24′ E. 990.00′ to a point; thence (24) N. 44° 36′ W. 432.61′ to the intersection of the same with the center line curve of the said County Road; thence (25) by a curve to the right in a general S. E. direction along the center line of said County Road 164.45′ to Mon. No. 3 in the said center line of said County Road; thence (26) S. 59° 59′ 30″ E. along the center line of said County Road 1829.96′ to a point in the center line of said County Road and the place of beginning. BEING lands situate in the City of Somers Point as surveyed by Wm. H. Collisson, Jr., delineated on a map prepared by him and entitled "Plan of Premises Situate in the City of Somers Point, Atlantic County, N. J., owned by George W. Roberts, Scale 1″=150′ Wm. H. Collisson, Jr., Civil Engineer."

Exception No. 1.

All the following lots or plots as shown on a plan of lands owned by Geo. W. Roberts and filed in the Clerk's Office in Mays Landing, N. J., and being lots Nos. 16, 17 and 18 in Block No. 2; lots 1, 2, 3, 4, 5, 6,

13, 14, 15, 16, 17, 18, 19 and 20, Block No. 4; Lots 1, 2, 3, 4, 5, 6, 7, 8, 20 and 11, Block No. 5; Lots No. 19, 20, 9, 10 and 11, Block No. 8.

Exception No. 2.

Beginning at the intersection of the N. W. prop. line of Marks Road and the N. E. prop. line of Walnut Street and extending thence (1) N. E. along the said N. W. prop. line of Marks Road 125′ and of that width extending N. W. between parallel lines 100′.

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Being all that certain Block of Ground bounded on the N. E. by Chestnut Street on the S. E. by Roberts Avenue, on the S. W. by Walnut Street and on the N. W. by Atkinson Avenue.

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Beginning at a point in the center line curve of the County Road from Mays Landing to Somers Point said beginning point being 164.45′ N. W. from Mon. No. 3 in the center line of said County Road and extending thence (1) N. 88″ 24′ W. 1320.00′ to the high water line of Patcong Creek, thence (2) N. W. and N. E. in and along the said high water line of said creek the several courses and distances thereof to a point; thence (3) S. 46″ 07′ W. 181.50′ to a point; thence (4) S. 48° 53′ E. 964.92′ to a point; thence (5) S. 74° 07′ W. 336.60′ to the center line of the County Road and the place of beginning.

or any part thereof, for such price and on such terms as to it shall seem meet, and for us and in our names to make, execute, acknowledge, and deliver good and sufficient deeds and conveyances for the same, either with or without covenants and warranty.

The authority granted to Gordon Williams & Company herein, shall be deemed to be coupled with an interest and irrevocable for a period of two years from date hereof, either by act or death of any or all of us.

IN TESTIMONY WHEREOF, we have hereunto set our hands and seals this day of December, nineteen hundred and twenty-five.

CONNIE J. DORRIAN (SEAL)
ANNIE DORRIAN (SEAL)
LLOYD W. FAHLER (SEAL)
MARY KAIER FAHLER (SEAL)

WITNESSED BY:

STATE OF NEW JERSEY, }
COUNTY OF ATLANTIC, } *ss.*

BE IT REMEMBERED that on this day of December, nineteen hundred and twenty-five, personally appeared before me, the subscriber, Connie J. Dorrian and Annie Dorrian, his wife, Lloyd W. Fahler and Mary Kaier Fahler, his wife, who, I am satisfied are the persons named in the foregoing Power of Attorney, and I having first made known unto them the contents thereof, they acknowledged that they signed, sealed and delivered the same as their voluntary act and deed for the uses and purposes therein expressed, all of which is hereby certified.

.....

STATE OF PENNSYLVANIA, }
COUNTY OF } *ss.*

BE IT REMEMBERED that on this day of December, nineteen hundred and twenty-five, personally appeared before me, the subscriber, Lloyd W. Fahler and Mary Kaier Fahler, his wife, who, I am satisfied are the persons named in the foregoing Power of Attorney, and I having first made known unto them the contents thereof, they acknowledged that they signed, sealed and delivered the same as their voluntary act and deed for the uses and purposes therein expressed, all of which is hereby certified.

.....

THIS AGREEMENT, made this fourth day of January, 1926, between WILLIAMS AND DAVIS, INC., a corporation of New Jersey, sometimes referred to herein as "The Owner," party of the first part, and GORDON WILLIAMS & CO., also a corporation of New Jersey sometimes referred to herein as "The Broker," party of the second part:

WHEREAS the party of the first part has purchased or is about to purchase a tract of land at Somers Point, Atlantic County, New Jersey, which tract is named or designated as Del Rey, and which tract it intends to improve and lay out in lots to be shown upon a map or plan to be made by William H. Collisson, Jr., civil engineer, in anticipation of a profitable sale of such property;

AND WHEREAS said party of the first part may purchase additional land to be added to and become a part of Del Rey, and may purchase other land which may or may not be in the vicinity of the tract known as DEL REY;

AND WHEREAS the said party of the first part has determined that its interests will be best served by the employment of the said party of the second part as its sole and exclusive broker or agent to offer for sale and to sell and dispose of all of the land which it may now own or may hereafter acquire;

AND WHEREAS the said party of the second part has consented to become the broker or agent of the said party of the first part upon the terms and conditions herein recited:

NOW, THEREFORE, in consideration of the premises and of the sum of One Dollar each to the other in hand paid, receipt whereof is hereby acknowledged, the said parties hereto do hereby agree with each other as follows:

1. The said party of the first part does hereby engage and employ the said party of the second part as

its sole and exclusive broker or agent to use its best endeavors to sell and dispose of all of the land and premises now owned by said party of the first part as well as all of the land and premises which has been or may hereafter be purchased by said party of the first part. This contract or agreement of employment shall remain in full force and effect until all of said land and premises has been sold and settlements made therefor.

2. The said party of the second part shall fix the selling price or prices for which each lot in the said tract to be known as Del Rey shall be offered and sold and may change such prices for any or all of said lot or lots from time to time in their discretion.

3. It is understood that the general policy of making sales shall be upon the plan of a payment of ten per cent upon the execution of the agreement, and forty per cent in not exceeding five monthly payments without interest, and the balance of not exceeding fifty per cent by a purchase money first mortgage, payable within two years, with interest payable semi-annually, with the usual thirty day default clauses in case of non-payment of interest or taxes; or five per cent upon the signing of said agreement and forty-five per cent in not exceeding ten monthly payments without interest, and not exceeding fifty per cent upon mortgage as aforesaid. The said party of the second part may vary the payments in its discretion and also may make adjustments with purchasers under agreements in its discretion, so as to reduce the number of lots sold to a buyer and to apply all amounts paid by such buyer upon such purchase so reduced.

4. The form of the agreements of sale to purchasers, herein referred to shall be approved by the said broker, and prepared by it. Said agreements shall obligate the owner to deliver to the purchaser

a good and marketable title, and to improve the said property by filling said tract to the grade fixed by the engineer, and that the driveways of the avenue or avenues in front of said lots so sold shall be built of gravel with concrete curbs and the sidewalks shall be built of gravel and cement, cement strip to be not less than feet in width, and that the usual settlement of taxes and municipal claims shall be made as of the date of settlement, unless some other date is agreed upon by said broker. The form and terms of said agreements may be modified in any case in the discretion of said broker.

5. It is agreed that the compensation of the party of the second part, which compensation shall include such expenditures as it, the broker, shall specifically agree to pay, shall be a commission of twenty-five per cent upon the gross selling price of each and all lots sold in the tract known as Del Rey, as shown upon the said map, and any addition to said tract, and twenty-five per cent of the gross selling price of all other land of the party of the first part which may be sold in lots; and ten per cent of the gross selling price of all land of the party of the first part sold in acreage. In case of default by purchasers under agreements, the amount of compensation to be collected on any single sale shall not exceed the amount collected from the purchaser. The party of the second part is authorized to advertise the said Del Rey in its discretion, but all amounts expended for such advertising shall be paid for by said broker.

6. It is agreed that the said compensation due to the party of the second part shall be considered to be earned when the agreement of sale is executed, but shall be collected by said broker as and when funds are available.

7. The said party of the second part agrees to keep accurate books of account of all amounts col-

lected, which books of account shall be audited semi-monthly be a representative of said owner, and at the expense of said owner. A statement shall be rendered monthly by the said broker to said owner, and all amounts collected by said broker, less commissions retained, shall be paid to said owner semi-monthly by depositing said amounts in bank to the credit of the account of said owner.

8. The said broker agrees to use its best endeavors to make sales and to endeavor to collect as promptly as possible all sums due and to grow due upon all such agreements of sale.

9. The said owner agrees to pay the expenses of the preparation of all deeds made by it and all mortgages taken by it under the authority of this agreement, and all such mortgages so taken shall be delivered to the party of the first part when settlements are made, or as soon thereafter as said mortgages are recorded and returned from record.

10. This agreement shall be binding upon the parties hereto and their successors.

IN WITNESS WHEREOF the parties hereto have caused these presents to be signed by their respective presidents, their respective corporate seals to be hereto affixed, and attested by their respective secretaries, the day and year first above written.

WILLIAMS AND DAVIS, INC.
By R. B. Davis, Vice-President.
Attest:
Harold S. Williams, Secretary.
GORDON WILLIAMS & CO.
By R. B. Davis, Vice-President.
Attest:
Harold S. Williams, Secretary.

SIGNED, SEALED AND DELIVERED
in the presence of
Louis G. Hart.

ORDER TO SHOW CAUSE WHY RECEIVER SHOULD NOT BE APPOINTED.

(Filed June 6, 1927.)

IN CHANCERY OF NEW JERSEY.

Between CONNIE J. DORRIAN, *et als.*, *Complainants*, and ROYDEN B. DAVIS, *et als.*, *Defendants*.	On Bill of Receiver. Order to Show Cause.

This matter having been opened to the Court by Carlton Godfrey, Solicitor of Complainants, and upon reading and filing the verified Bill for Receiver in this Cause:

It is, thereupon, on this Sixth day of June, A. D. 1927, ordered that the Defendants Royden B. Davis, Jessie Davis, A. Trevor Williams, Harold S. Williams, Gordon Williams and Gordon Williams & Company; Julia Coll, Helene Wright, Sadie A. Craigen, Carl M. Voelker, Ethel M. Voelker, Louis L. Weinberg, Esther S. Weinberg, Chelsea Safe Deposit and Trust Company, Paul D. Endicott, John W. Speckman, Mary Kaier Fahler, Leslie S.

McPherran, Lily C. McPherran, Thomas P. Endicott, Louis Mark, Margate Trust Company, Chelsea Title and Guaranty Company, Ventnor City National Bank, Ventnor Trust Company, Mabel V. Rhodes, Jacob S. P. Mackler, Rose Mackler, Almedie J. Williams, John H. Rice, Jr., Harry B. Faunce, Joseph Christian, Gertrude Elizabeth Smith, Emma S. Atkinson, Henry C. Atkinson, Walter H. Bacon, Jr., Thomas J. Mahoney, Jr., Stella J. Mahoney, Arduina Ricca, Anthony Ricca, William F. Casey, Helen M. Casey, Seaside Trust Company, Arthur Parker, Vivian B. Smith, Mrs. Andrew W. Cunningham, Chelsea Laundry Company, Philip J. Kelly, Albert A. F. McGee, William E. Stringer, SHOW CAUSE before the Chancellor at the Chancery Chambers in Atlantic City, N. J., on the 21st day of June, A. D. 1927, at ten o'clock in the forenoon (Daytime Saving Time) or as soon thereafter as Counsel can be heard, WHY the injunction or restraint prayed for in said Bill should not be allowed, and why a Receiver should not be appointed to preserve pending the final determination of this Cause, such of the bonds, mortgages and other securities listed therein as have not heretofore been assigned to Complainants, with power to receive and sue for possession of said securities and to collect principal and interest due and to grow due thereon and otherwise to preserve the same;

And it is further ordered that, in the meantime, and until the further Order of this Court in the premises, each of said defendants above named, and their agents and representatives are hereby enjoined and restrained from collecting any principal or interest due or to grow due upon any security listed in said Bill and not heretofore as-

signed to Complainants; from assigning, transferring or in anywise disposing of any of said remaining securities or any rights therein; and from paying to anyone except complainants any part of the principal or interest due and to grow due thereon; and from cancelling or causing to be cancelled of record any of said mortgages; or in any other wise disturbing the present active standing of the said remaining securities.

And it is further ordered that this Order to Show Cause and the verified Bill for Receiver upon which the same is based shall be served within nine days from the date hereof upon the defendants above named by handing a copy of each of said papers to each of said defendants or their solicitors, which copy may be certified by the solicitor for the complainant to be true copies of the originals on file; service of which may be made either within or without the State of New Jersey.

E. R. WALKER,
C.

Respectfully submitted,
R. H. INGERSOLL,
V. C.

(Copy)

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MEMO.

One June 7, 1927, A. Trevor Williams, *et als.*, filed a Bill for rescission in Chancery, seeking to rescind the same Agreement which was sought to be decreed to be specifically performed by Complainants' Bill in the case of Dorrian v. Davis. This suit was entered under the title of Williams & Dorrian, and was afterwards consolidated with the specific performance suit as will hereinafter appear.

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ORDER TO SHOW CAUSE.

(Filed June 7, 1927.)

IN CHANCERY OF NEW JERSEY.

Between A. TREVOR WILLIAMS and ROYDEN B. DAVIS, *Complainants*, and CONNIE J. DORRIAN, LLOYD W. FAHLER and HAROLD S. WILLIAMS, *Defendants*.	On Bill, &c. Order to Show Cause.

Upon reading and filing the bill of complaint and affidavits filed in the above-stated cause;

It is, on this 7th day of June, 1927, on motion Bourgeois & Coulomb, solicitors for complainants, ordered that defendants Connie J. Dorrian and Lloyd W. Fahler show cause before this Court on the 21st day of June, 1927, at Chancery Chambers, Real Estate and Law Building, Atlantic City, N. J., at ten o'clock in the forenoon (Daylight Saving Time), or as soon thereafter as counsel can be heard, why an injunction should not issue, pursuant to the prayer of said bill; and

It is further ordered that in the meantime and until further order of the Court, that the defendants,

Connie J. Dorrian and Lloyd W. Fahler, their servants and agents, do desist and refrain from disposing of any of the mortgages assigned to them, and from using or deposing of any of the cash moneys paid to them or any of them, or to any person for their use.

It is further ordered that a copy of the bill of complaint, affidavits and of this order be served upon the defendants, Connie J. Dorrian and Lloyd W. Fahler, within three days from the date thereof, if services can be made upon them or any of them within this State, and if service cannot be made upon them or any of them within this State then that service may be made upon Carlton Godfrey or William I. Garrison, Esq., attorneys for Connie J. Dorrian and Lloyd W. Fahler, within five (5) days from the date hereof.

It is further ordered that a copy of the complainant affidavits and this order, certified by the solicitors of record, may be used for service.

E. R. WALKER,
C.

Respectfully advised:
R. H. INGERSOLL,
Vice-Chancellor.

ORDER TO AMEND BILL IN WILLIAMS V. DORRIAN BY ADDING PRAYER FOR RECEIVER.

(Filed June 21, 1927.)

IN CHANCERY OF NEW JERSEY.

Between
A. TREVOR WILLIAMS and
ROYDEN B. DAVIS,
Complainants,
and
CONNIE J. DORRIAN,
LLOYD W. FAHLER and
HAROLD S. WILLIAMS,
Defendants.

On Bill, &c.
Order.

This matter being opened to the Court by Bourgeois & Coulomb, of counsel with complainants, and it appearing that notice of an application to amend the prayer of complainants' bill has been given, returnable on this date;

It is, on this 21st day of June, 1927, ordered that complainants have leave to amend the prayer of said bill by adding a new paragraph, to be numbered 6½, as follows:

"6½. That a receiver be appointed with

power to collect, receive and hold all the bonds, mortgages and cash hereinabove mentioned, as well as all interest, principal, or other moneys arising from said mortgages, or any of them, and to take all necessary steps at law, or otherwise, to collect, receive and possess himself of said bonds and mortgages, moneys, hereinabove mentioned, or which shall become due and payable by reason of said mortgages whether for interest falling due thereon or on account of the principal thereof, until further directed by order of the Court."

E. R. WALKER,
C.

Respectfully advised:
R. H. INGERSOLL,
V. C.

ORDER APPOINTING RECEIVER.

(Filed June 24, 1927.)

IN CHANCERY OF NEW JERSEY.

Between CONNIE J. DORRIAN, *et als.*, *Complainants,* and ROYDEN B. DAVIS, *et als.* *Defendants.*	On Bill, &c. On Order to Show Cause. Order Appointing Receiver.

This matter coming on to be heard on the twenty-first day of June, 1927, in the presence of Robert McCarter and Aug. B. Repetto, solicitors for the complainants, and of George A. Bourgeois, solicitor for Royden B. Davis and A. Trevor Williams, two of the defendants, no one appearing for any of the other defendants duly served—on order to show cause allowed on the 6th day of June, 1927, why an injunction should not lie pursuant to the prayer of the bill of complaint in this cause and why a receiver should not be appointed for the bonds, mortgages, securities and moneys not yet delivered under a certain settlement agreement in the said bill more fully set forth, which said undelivered securities are enumerated or referred to in paragraphs six, fourteen, fifteen and eighteen of said bill;

And the Court having heard and considered the affidavits presented by and the arguments of the respective parties herein, and being satisfied that the

injunction prayed for in said bill should be granted and that a receiver should be appointed to hold and handle said bonds, mortgages, securities and moneys until the final determination of this cause;

And it appearing from the complainants' said bill that Gordon Williams, one of the defendants to this suit, did not execute the settlement agreement of June 1, 1927, therein referred to and sought to be thereby specifically enforced and the Court being of the opinion that therefore no restraint should lie at this time against the said Gordon Williams;

It is, thereupon, on this 24th day of June, 1927, on motion of August B. Repetto and Robert McCarter, solicitors for complainants, ordered that Emerson L. Richards, Esquire, of the City of Atlantic City, in the County of Atlantic and State of New Jersey, be and he is hereby appointed receiver to obtain and take charge of the bonds, mortgages, securities and moneys not yet delivered under said settlement agreement in said bill referred to and enumerated or mor particularly described in paragraphs six, fourteen, fifteen and eighteen thereof, with the exception of the securities therein referred to as standing in the name of Gordon Williams;

That the said receiver do forthwith possess himself of all of said undelivered bonds and mortgages, securities and moneys either with or without legal proceedings;

That defendants A. Trevor Williams, Royden B. Davis, Harold S. Williams and Gordon Williams & Company (all being signers of said settlement agreement) shall forthwith deliver to said receiver all of the said bonds, mortgages, securities and moneys enumerated in or referred to in said bill, with due and legal assignments thereof to the receiver aforesaid from the respective mortgagees or holders thereof;

That the said receiver shall hold the said bonds, mortgages, securities and moneys until the final determination of this cause and the further order of this Court in the premises; and that he be and he is hereby given directions to collect, either with or without legal proceedings, the principal and interest du and to grow due on each of said bonds, mortgages, and securities as the same shall fall due or be collectible;

That the said receiver do file a bond with the clerk of this Court in the sum of twelve thousand five hundred ($12,500) dollars, conditioned for the faithful performance of his duty as such receiver, which bond shall be approved as to form and sufficiency, by A. J. Siracusa, Esq., one of the special masters of the Court, before being filed.

That the said receiver shall notify all of the mortgagors and other persons and corporations from whom the principal or interest of said bonds, mortgages and securities is or shall become due and payable, of his appointment as such receiver.

That all such mortgagors shall pay the principal and interest due and to grow due thereon to such receiver, together with all interest, moneys and installment payments due or grow due thereon, during the term of his receivership; and that the said receiver shall take all necessary and proper proceedings either at law or in equity to possess himself of such principal and interest moneys.

And that the said receiver do from time to time report to this Court of his actions as such receiver and the condition of the property in his custody.

E. R. Walker,
C.

Respectfully advised:
R. H. Ingersoll,
V.-C.

ORDER APPOINTING RECEIVER.

(Filed June 24, 1927.)

IN CHANCERY OF NEW JERSEY.

Between A. TREVOR WILLIAMS and ROYDEN B. DAVIS, *Complainants,* and CONNIE J. DORRIAN, LLOYD W. FAHLER and HAROLD S. WILLIAMS, *Defendants.*	On Bill, &c. On Order to Show Cause. Order.

Order to show cause allowed on the 7th day of June, 1927, in the above-stated cause, coming on to be heard upon the return day thereof, to wit, the 21st day of June, 1927, and being opened to the Court in the presence of August B. Repetto and Robert H. McCarter, Esquires, of counsel with defendants, Connie J. Dorrian and Lloyd W. Fahler, and the Court having heard the argument of the respective parties, and having considered the matter, and being of the opinion that an injunction should issue, pursuant to the prayer of said bill, and that a receiver should be appointed to take possession of the bonds and mortgages and other property assigned to and delivered to Connie J. Dorrian and Lloyd W.

Fahler by A. Trevor Williams and Royden B. Davis, as set forth and enumerated in Schedules C and D of said bill;

It is on this 24th day of June, 1927, ordered, adjudged and decreed that the defendants, their servants and agents, and each of them, are hereby admonished and enjoined to refrain and desist from assigning, transferring or setting over any of the bonds or mortgages assigned to and delivered to Connie J. Dorrian and Lloyd W. Fahler by complainants, A. Trevor Williams and Royden B. Davis, to any person or persons except to the receiver appointed in this cause, until the further order of the Court.

It is further ordered, that the said Connie J. Dorrian and Lloyd W. Fahler do assign, transfer and set over to the said receiver all of the bonds and mortgages so to them assigned by the said A. Trevor Williams and Royden B. Davis, mentioned and set forth in the bill of complaint filed in the above-stated cause.

It is further ordered that Emerson L. Richards be appointed receiver in this cause, and that he do file a bond with the clerk of this Court in the sum of $12,500, said bond to be approved by A. J. Siracusa, one of the special masters, as to form and sufficiency, for the faithful performance of his duties, and that upon the filing of said bond and taking the oath of office, he do take all necessary and proper proceedings, either in law or equity, to possess himself of all the bonds and mortgages assigned to and delivered to Connie J. Dorrian and Lloyd W. Fahler by A. Trevor Williams and Royden B. Davis; and that he do notify all of the mortgagors and other persons from whom the principal or interest of said mortages is due and payable of his appointment as

such receiver; and that they pay to him as such receiver all the interest moneys and installment moneys due or to grow due on account of said mortgages, or any of them, during the term of his receivership; and that he do take all necessary and proper proceedings, either at law or in equity, to possess himself of such moneys; and that he do, from time to time, report to this Court his acts as such receiver, and the condition of the property in his custody.

E. R. WALKER,
C.

Respectfully advised:
R. H. INGERSOLL,
Vice-Chancellor.

ORDER OF CONSOLIDATION.

(Filed July 25, 1927.)

IN CHANCERY OF NEW JERSEY.

Between
CONNIE J. DORRIAN, *et als.*,
Complainants,
and
ROYDEN B. DAVS, *et als.*,
Defendants.

On Bill of Receiver.
Docket 64/379.

Between
A. TREVOR WILLIAMS and
ROYDEN B. DAVIS,
Complainants,
and
CONNIE J. DORRIAN,
LLOYD W. FAHLER and
HAROLD S. WILLIAMS,
Defendants.

On Bill, &c.
Docket 64/380.

This matter being opened to the Court by Bourgeois & Coulomb, solicitors of A. Trevor Williams and Royden B. Davis, complainants, and it appearing that the bills of complaint filed in the above-stated causes both relate to the same set of trans-

actions, and that the later bill was filed within one day of the filing of the former, and before subpoena issued, and that full relief may be had to all parties under bill and counter-claim; and it further appearing that Emerson L. Richards, Esq., has been appointed receiver in each of said causes, and that orderly procedure requires the consolidation of the same, preserving the rights of the parties under each;

It is, on this 25th day of July, 1927, ordered that the said causes be consolidated, and to that end the bill of complaint filed in the case of Connie J. Dorrian, *et al.*, complainants, v. Royden B. Davis, *et al.*, defendants, be considered as the bill of complaint in said cause, and that said cause proceed thereafter by the filing of an answer and counter-claim by A. Trevor Williams and Royden B. Davis to the said bill of complaint of Connie J. Dorrian and Lloyd W. Fahler, within twenty days from the date hereof. And that the bill of complaint already filed in this Court by A. Trevor Williams and Royden B. Davis remain of record; and that nothing herein contained shall affect the orders heretofore made appointing Emerson L. Richards, Esq., receiver, or any further orders or proceedings that may be necessary touching and concerning the administrations of his trust as receiver.

E. R. Walker,
C.

Respectfully advised:
E. B. Leaming,
V.-C.

ANSWER AND COUNTER-CLAIM OF DAVIS, ET ALS.

(Filed August 1, 1927.)

IN CHANCERY OF NEW JERSEY.

Between
CONNIE J. DORRIAN, LLOYD W. FAHLER, and WILLIAMS AND DAVIS, INC., a corporation of New Jersey,
Complainants,
and
ROYDEN B. DAVIS, JESSIE DAVIS, A. TREVOR WILLIAMS, HAROLD S. WILLIAMS, GORDON WILLIAMS, and GORDON WILLIAMS & COMPANY,
Defendants.

Answer and Counter-Claim.

Defendants, Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams Company, severally answering complainants' bill of complaint filed in the above-stated cause, says:

1. These defendants severally admit that on or

about the 1st day of June, 1927, that these defendants executed a paper writing under conditions and circumstances hereinafter alleged, purporting to be a contract between complainants and these defendants, but deny the validity of said contract, and deny the valadity of any consideration therein mentioned.

2. These defendants severally neither admit nor deny the allegations contained in paragraph 2, as they were given no copy of said alleged contract, and leave complainants to prove the same.

3. These defendants severally deny the allegations contained in paragraph 3.

4. These defendants severally neither admit nor deny the allegations contained in the first section of paragraph 4, and leave complainants to prove the same. They severally deny the allegations contained in section (a) of paragraph 4. They severally deny the allegations contained in section (b) of paragraph 4.

5. They severally neither admit nor deny the allegations contained in paragraph 4, and leave complainants to prove the same.

6. Answering paragraph 6, these defendants severally say that they severally admit that the moneys and securities mentioned in said entire paragraph 6 were delivered by these defendants to complainants in connection with said alleged agreement, but deny the validity of said agreement.

7. They severally admit the allegations contained

in paragraph 7, except they deny that said acts were done in conformity to any valid contract.

8. They severally neither admit nor deny the allegations contained in paragraph 8, and leave complainants to prove the same.

9. They severally deny the allegations contained in paragraph 9.

10. They severally admit the allegations contained in paragraph 10.

11. They severally deny the allegations contained in paragraph 11.

12. They severally deny the allegations contained in paragraph 12.

13. They severally neither admit nor deny the allegations contained in paragraph 13, and leave complainants to prove the same.

14. They severally deny the allegations contained in paragraph 14.

15. They severally deny the allegations contained in paragraph 15.

16. They neither admit nor deny the allegations contained in paragraph 16, as they were given no copy of said contract, and leave complainants to prove the same.

17. They severally admit the allegations contained in paragraph 17, and aver that same was

dismissed by the Atlantic County Circuit Court on the 4th day of June, 1927.

18. They severally deny the allegations contained in paragraph 18.

19. They severally neither admit nor deny the allegations contained in paragraph 19, and leave complainants to prove the same.

20. They severally deny the allegations contained in paragraph 20.

21. They severally neither admit nor deny the allegations contained in paragraph 21, and leave complainants to prove the same.

22. They severally deny the allegations contained in paragraph 22.

23. They severally deny the allegations contained in paragraph 23.

24. They severally deny the allegations contained in paragraph 24.

25. They severally deny the allegations contained in paragraph 25.

26. These defendants answering paragraph 26, severally say that the writ of attachment at the time of the filing of said bill had already been dismissed by the Atlantic County Circuit Court.

27. These defendants severally neither admit nor deny the allegations contained in paragraph 27, and leave complainants to prove the same.

28. These defendants severally neither admit nor deny the allegations contained in paragraph 28, and leave complainants to prove the same.

COUNTER-CLAIM.

By way of counter-claim against complainants these defendants, Royden B. Davis, A. Trevor Williams, Harold S. Williams and Gordon Williams Company, severally show:

1. That prior to the 4th day of January, 1926, defendants, Royden B. Davis and Harold S. Williams, together with Gordon Williams, were and since have been stockholders, officers and directors of the Gordon Williams Company, a corporation of the State of New Jersey, engaged in the buying and selling of real estate, and conducted a real estate brokerage business, for the benefit and profit of said Company.

2. That said Gordon Williams Company did a large business, and on and prior to the said 4th day of January, 1926, was in a prosperous condition.

3. That complainants, Connie J. Dorrian and Lloyd W. Fahler, knowing the extensive and profitable business then being transacted by the said Gordon Williams Company, approached the officers of said company with the object of advancing moneys, so that they, Connie J. Dorrian and Lloyd W. Fahler, might in some manner participate in the profits of the business then being conducted by the said Gordon Williams Company.

4. That at that time, the real estate market in and about Atlantic City and Atlantic County was unusually active, and large profits in real estate transactions were constantly being made.

5. That the said Connie J. Dorrian and Lloyd W. Fahler, in order to realize some of the profits then being made in the real estate market at that time, in furtherance of their desire to avail themselves of the standing and efficiency of Gordon Williams Company, and reap the benefit and profit, not only of the standing of the said Gordon Williams Company, but also of its officers, induced Gordon Williams and defendants, Harold S. Williams and Royden B. Davis to incorporate a company for the benefit of the said complainants, Connie J. Dorrian and Lloyd W. Fahler, and still endeavoring to secure the benefit of the standing of said defendants and officers of the Gordon Williams Company, requested that said new company be named Williams-Davis, Inc.

6. That said company was incorporated under the above name, and defendants, Connie J. Dorrian and Lloyd W. Fahler became the owners of all the capital stock issued by said company, excepting only the qualifying shares.

7. That after the incorporation of said Williams-Davis, Inc., said complainants, Connie J. Dorrian and Lloyd W. Fahler, in furtherance of their original design to benefit by the standing of the said Gordon Williams Company, caused Williams-Davis, Inc., with their assent and approval to enter into an agreement with the Gordon Williams Company whereby Gordon Williams Company was constituted

the sole selling agent of all the lands then owned by the Williams-Davis, Inc., as well as all other lands that should be purchased by said Williams-Davis, Inc., and agreed to pay to Gordon Williams Company 25% of the gross selling price as commission on all lands by it, the Gordon Williams Company, sold for Williams-Davis, Inc., a copy of which agreement is herto attached, made a part hereof, and marked "Schedule A."

8. That the said Gordon Williams Company entered upon the execution of said contract, and between the 4th day of January, 1926, and the 1st day of Janaruy, 1927, did sell and dispose of lands of the Williams-Davis, Inc., to the amount of approximately $1,000,000, on which the said Gordon Williams Company received its commission of 25%.

9. That there was no agreement between the Williams-Davis, Inc., nor between complainants, Connie J. Dorrian and Lloyd W. Fahler, constituting Gordon Williams Company, A. Trevor Williams, Harold S. Williams, and Royden B. Davis purchasing agents in the State of New Jersey for said Williams-Davis, Inc., or for complainants, Connie J. Dorrian and Lloyd W. Fahler.

10. That Williams-Davis, Inc., of which complainants, Connie J. Dorrian and Lloyd W. Fahler, owned practically all of the capital stock, was at times used by Connie J. Dorrian and Lloyd W. Fahler, who were in the market for the purchase of real estate, and that on certain occasions the Gordon Williams Company, A. Trevor Williams, Harold S. Williams and Royden B. Davis, or one of them, contracted to sell parcels of real estate, of which they or one of

them was the equitable owner, but the title to which stood in the name of some other person for it, them or one of them, which real estate had been in every instance purchased with the moneys of the said Gordon Williams Company, A. Trevor Williams, Harold S. Williams or Royden B. Davis, to Connie J. Dorrian or Lloyd F. Fahler, who at the time of settlement paid for same with their money, but requested that title thereto be conveyed to Williams-Davis, Inc., in their own interest, or in the interest of Williams-Davis, Inc.

11. That the lands so sold to the said Connie J. Dorrian and Lloyd W. Fahler and conveyed to Williams-Davis, Inc., being the lands of Gordon Williams Company or A. Trevor Williams or Royden B. Davis, were sold at a profit.

12. That the profits made by Gordon Williams Company, a Trevor Williams and Royden B. Davis from the sale of said lands, as well as the profits made by the said Gordon Williams Company acting as broker, were largely invested in real estate mortgages.

13. That the said Williams-Davis, Inc., has unsold lands purchased by it, which are subject to the sales agreement made between Williams-Davis, Inc., and Gordon Williams Company, of a value of approximately $1,000,000, on the sale of which lands Gordon Williams Company is entitled to receive 25% or $250,000.

14. The complainants, Connie J. Dorrian and Lloyd W. Fahler, realizing the considerable profit heretofore made by the said Gordon Williams Com-

pany, A. Trevor Williams and Royden B. Davis under said contract, and foreseeing the immense amount of commission yet to be realized by the Gordon Williams Company thereunder, desired and determined to terminate said contract, and cheat and deprive the Gordon Williams Company and its stockholders and officers of the benefit of the advertising the Gordon Williams Company had done, and the work it had performed in placing said lands before the public, so that the same might be more easily sold, as well as of the profits from the sale of said lands under the terms thereof.

15. That the said complainants, Connie J. Dorrian and Lloyd W. Fahler, for the purpose of breaking said contract, conceived the idea of fraudulently injuring and financially ruining the said Gordon Williams Company, Harold S. Williams, A. Trevor Williams and Royden B. Davis, and of falsely and fraudulently obtaining from the said Gordon Williams Company, Harold S. Williams, A. Trevor Williams and Royden B. Davis, large sums of money, aggregating $200,000, or thereabouts, entered into a corrupt and fraudulent arrangement with Carlton Godfrey and William I. Garrison, Esquires, and Philip S. Godfrey to pretend and allege, and to make a show of enforcing the false claim that the said Gordon Williams Company, Harold S. Williams, A. Trevor Williams and Royden B. Davis had unlawfully obtained money from the complainants, Connie J. Dorrian and Lloyd W. Fahler, and pretend to make an effort to collect the same.

16. That complainants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey, in furtherance of

their desire and determination to free the Williams-Davis, Inc., of the brokerage agreement made with Gordon Williams Company and fraudulently collecting said money, falsely and fraudulently attached the financial standing and honesty and integrity of the said Gordon Williams Company, Harold S. Williams, A. Trevor Williams and Royden B. Davis, and falsely and fraudulently asserted and claimed that the purchases of the lands made by Gordon Williams Company, Harold S. Williams, A. Trevor Williams and Royden B. Davis, which lands stood in the name of the nominee or nominees of the said Gordon Williams Company, Harold S. Williams, A. Trevor Williams and Royden B. Davis, had been purchased with the moneys of the said Williams-Davis, Inc., or complainants, Connie J. Dorrian and Lloyd W. Fahler, and that the lands so alleged to have been purchased were purchased by the said Gordon Williams Company, Harold S. Williams, A. Trevor Williams and Royden B. Davis, in a fiduciary capacity, and that the profits made upon the sale of said lands to the said Connie J. Dorrian, Lloyd W. Fahler and Williams-Davis, Inc., belonged to complainants, Connie J. Dorrian, and Lloyd W. Fahler, and Williams-Davis, Inc.

17. That the said claims so made by the said complainants, Connie J. Dorrian and Lloyd W. Fahler, and Williams-Davis, Inc., were wholly false, fraudulent and untrue and the said complainants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey knew the falsity of said allegations.

18. That Carlton Godfrey, Esquire, was the attorney for said Williams-Davis, Inc., and knew of

the transactions, knew of the falsity of the claim set forth by the said complainants, Connie J. Dorrian and Lloyd W. Fahler, and he, together with his associate, William I. Garrison, Esquire, and his son, Philip S. Godfrey, joined with the said complainants, Connie J. Dorrian and Lloyd W. Fahler, in the endeavor to free the Williams-Davis, Inc., from the brokerage agreement outstanding with the Gordon Williams Company, and collect the moneys aforesaid, by falsely and fraudulently making claims against Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis.

19. That in furtherance of said false and fraudulent claims, the said Lloyd W. Fahler did make a certain false and fraudulent affidavit, which was presented by the said Carlton Godfrey and William I. Garrison, Esquires, or one of them, to a Supreme Court Commissioner, who, on said false and fraudulent affidavit, made an order that an attachment issue against the property of the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis, and the properties of the said parties were attached under a writ issued pursuant to said order; and at the same time, the said Connie J. Dorrian did make a certain other false and fraudulent affidavit against the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis, which said false and fraudulent affidavit was presented to a Supreme Court Commissioner, and on which affidavit the said Supreme Court Commissioner did make an order, directing a capias to be issued against the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis, and fixed the amount of bail at $50,000 each; and that pursuant to said order, a capias was issued against them.

20. That the said Lloyd W. Fahler did cause a Bill of Complaint to be filed in the Court of Chancery of the State of New Jersey, setting forth the making of the affidavit, the issuing of the order and writ of attachment in said Atlantic County Circuit Court suit, and praying that because of the making of said order and issuing said writ that the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis be restrained and enjoined from assigning, transferring or setting over certain mortgages by them, or some of them held, and on the filing of said bill and affidavit thereto annexed, a temporary restraint was issued by the Court of Chancery, preventing the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis from assigning, transferring or setting over any of said mortgages.

21. That by reason of the various suits instituted against the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis, their property was entirely tied up, and it thereupon became impossible for them to secure bail in the amount specified by the said Supreme Court Commissioner, to wit, the sum of $50,000 each.

22. That immediately the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis gave notice of an application before the Atlantic County Circuit Court for an order setting aside the order for attachment and the writ issued thereon; and gave notice of a motion before his Honor, Luther A. Campbell, Supreme Court Justice, for an order setting aside the order for a capias and the writ of capias issued thereon; and gave notice of a motion before the Court of Chancery to vacate said restraint.

23. That immediately after the giving of said notices, the said complainants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey, knowing the illegallity of their various proceedings adopted a course of conduct intended to falsely frighten and intimidate the said Harold S. Williams, A. Trevor Williams and Royden B. Davis, to a point where they, from sheer fear and fright, would make some settlement with the said complainants, Connie J. Dorrian and Lloyd W. Fahler, and did send word to the said Harold S. Williams and Royden B. Davis, which was repeated to them, that they, the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey and William I. Garrison proposed to have them arrested and imprisoned for embezzlement on some unstated charge, and did send word to the said A. Trevor Williams that they would have him imprisoned on the ground of forgery.

24. That said charges were repeated and emphasized and Harold S. Williams, who was then much worried because of the dying condition of his wife, who was in California and to whom the said Harold S. Williams was most anxious to go, all of which was known to the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey and William I. Garrison, by reason thereof, then being in a poor state of health, was seriously affected in his health, and later the said Lloyd W. Fahler and Connie J. Dorrian, Carlton Godfrey, William I. Garrison and Philip S. Godfrey met the said Harold S. Williams, A. Trevor Williams and Royden B. Davis, in the City of Philadelphia, State of Pennsylvania, and asserted that they would imprison the said Harold S. Williams, A. Trevor Williams and Royden B.

Davis unless they transferred to the said complainants, Williams-Davis, Inc., Connie J. Dorrian and Lloyd W. Fahler, $190,000 in cash and securities, and on failure or refusal to do so, threatened that they would be indicted, brought into the State of New Jersey, and imprisoned, and at that time falsely and fraudulently stated to the said Harold S. Williams, A. Trevor Williams and Royden B. Davis that the Justice of the Supreme Court had sustained their affidavit and order for the issuing of the capias in an opinion theretofore filed by said Justice, a copy of which opinion is hereto annexed, made a part hereof, and marked "Schedule B."

25. That by reason of such false and fraudulent statements, and the dire consequences pointed out to the said Harold S. Williams, A. Trevor Williams and Royden B. Davis by the said Carlton Godfrey and William I. Garrison, Esquires, and Philip S. Godfrey, and complainants, Connie J. Dorrian and Lloyd W. Fahler, and said Harold S. Williams suffered two severe heart attacks, collapsed, to such a point that his life was on said two occasions despaired of, and the said Carlton Godfrey and William I. Garrison, Esquires, insisted upon an immediate payment and transfer of securities, and the said Carlton Godfrey, Esquire, at once began the writing of an agreement and assignments of various mortgages to be executed by the said Harold S. Williams and A. Trevor Williams and Royden B. Davis.

26. Thereupon, the said A. Trevor Williams demanded of the said complainants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey, that their attorneys be permitted to be present at said meeting, but

the said Carlton Godfrey and William Garrison, attorneys for Connie J. Dorrian and Lloyd W. Fahler, refused to permit any lawyers representing the said Harold S. Williams, A. Trevor Williams and Royden B. Davis to be present at said meeting.

27. That they, the said Carlton Godfrey and William I. Garrison, Esquires, stated that they would prepare an agreement in rough, which agreement should be submitted by the said Harold S. Williams, A. Trevor Williams and Royden B. Davis to their attorney or attorneys, before signing and upon that pretense, and by reason of the false and fraudulent statements made to them concerning their position of jeopardy, because of their alleged liability of arrest and imprisonment and because of the false and fraudulent statements that said Justice of the Supreme Court has sustained the order for the issuing of the capias, they, the said Harold S. Williams, A. Trevor Williams and Royden B. Davis were dominated physically and mentally by the said complainants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey, greatly frightened and led to believe, and did believe that unless they executed the agreement and assignments and paid over the moneys they would be deprived of their liberty, and being thus imprisoned and deprived of the advice of counsel, upon the completion of said tentative agreement and demand of Carlton Godfrey, Esquire, Harold S. Williams, A. Trevor Williams and Royden B. Davis assented to the demands made upon them by the said complainants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I .Garrison and Philip S. Godfrey.

28. That the said Carlton Godfrey and William I.

Garrison, Esquires, attorneys, prepared an agreement, many pages in length, and after it had been prepared insisted upon an immediate signature, promising to give to the said Harold S. Williams, A. Trevor Williams and Royden B. Davis, a copy thereof the following day; and from fear and fright, the said Harold S. Williams, A. Trevor Williams and Royden B. Davis signed said agreement individually and the said Harold S. Williams and Royden B. Davis executed said agreement on behalf of the Gordon Williams Company, although there had been no meeting of the directors, of said company authorizing the signing thereof. The said agreement was signed by the said Harold S. Williams, A. Trevor Williams and Royden B. Davis, wherein they, believing said false and fraudulent statements, agreed to assign mortgages and pay to the said complainants, Williams-Davis, Inc., Connie J. Dorrian and Lloyd W. Fahler $190,000, which was to be delivered to one John J. Mellon, to be held in escrow, until the provisions of the agreement had been carried into effect.

29. That immediately after the execution of said agreement by the said Harold S. Williams, A. Trevor Williams and Royden B. Davis, the said complainants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey left, and A. Trevor Williams and Royden B. Davis consulted with their attorneys and related all they had done and all the said complainants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey had said to them, and upon learning that the Justice of the Supreme Court had not sustained the order for the issuing of the capias but

had pointed out four fatal defects thereto, and being advised that the claim made by the said Carlton Godfrey and William I. Garrison, Esquires, that the said Harold S. Williams, A. Trevor Williams and Royden B. Davis were in imminent danger of arrest and imprisonment, was without warrant in law, and that they were not liable to lawful arrest, they, immediately repudiated said agreement.

30. That the said Carlton Godfrey and William I. Garrison, Esquires, thereupon insisted upon an immediate assignment of mortgages to the said complainants, Connie J. Dorrian and Lloyd W. Fahler, and under the pressure of such false and fraudulent statements concerning their liability of arrest and imprisonment, believing them to be true, the said A. Trevor Williams did assign to the said complainants, Connie J. Dorrian and Lloyd W. Fahler, or one of them, mortgages, and deliver two checks, amounting to the sum of $61,530.07, a schedule whereof is hereto annexed, made a part hereof and marked "Schedule C"; and the said Royden B. Davis did assign certain mortgages and checks to the said complainants, Connie J. Dorrian and Lloyd W. Fahler, or one of them, amounting to $34,000, a copy of which schedule is hereto annexed, made a part hereof, and marked "Schedule D"; and the said Harold S. Williams did deliver to the said Carlton Godfrey and William I. Garrison, Esquires, the sum of $10,000, and a certain check on the Ventnor City National Bank for $142.99, a copy of which schedule is hereto annexed, made a part hereof, and marked "Schedule E."

31. That the names of Gordon Williams Company was signed to said agreement by the said

Royden B. Davis and Harold S. Williams, without any authority from said Gordon Williams Company, a corporation of the State of New Jersey, and they were never authorized by said Gordon Williams Company, nor was any meeting held at which the authority of said company was sought or given.

32. That on the day following, the said A. Trevor Williams and Royden B. Davis again met Carlton Godfrey and Philip S. Godfrey and the said A. Trevor Williams and Royden B. Davis demanded of them an inspection of the agreement that they had the night before signed, which inspection was denied to them by the said Carlton Godfrey; whereupon they, the said A. Trevor Williams and Royden B. Davis demanded of the said Carlton Godfrey, Esquire, a copy of said agreement, pursuant to the promise made to them at the time they executed it and a copy thereof was likewise refused by the said Carlton Godfrey, Esquire.

33. That by reason of the fraudulent conduct of the said Connie J. Dorrian and Lloyd W. Fahler and their attorneys, Carlton Godfrey and William I. Garrison, and Philip S. Godfrey, and their refusal to permit defendants to have counsel present at said conference, complainants repudiated said agreement and the assignment of said mortgages and demanded a re-delivery and re-assignment of them to defendants.

Wherefore, defendants pray:

1. That a writ of subpœna issue out of this Honorable Court, directed to the said Connie J. Dorrian and Lloyd W. Fahler and Williams-Davis, Inc., re-

quiring them to answer without oath, every allegation in this counter-claim

2. That said agreement so severally signed by defendants to complainants, Connie J. Dorrian and Lloyd W. Fahler, be decreed to be null and void, and for nothing holden as to each defendant; and that the assignments of the mortgages hereinabove mentioned be decreed to be null and void and for nothing holden.

3. That the said Connie J. Dorrian and Lloyd W. Fahler, and each of them, their servants and agents, be decreed to surrender up said agreement so signed by the said Harold S. Williams, A. Trevor Williams and Royden B. Davis and Gordon Williams Company for cancellation, and that in the meantime the said complainants, Connie J. Dorrian and Lloyd W. Fahler be enjoined from disposing of or making any use whatever of said agreement.

4. That the said complainants, Connie J. Dorrian and Lloyd W. Fahler, and each of them, their servants and agents, be enjoined from disposing of any of the mortgages or property hereinabove mentioned.

5. That the said complainants, Connie J. Dorrian and Lloyd W. Fahler, their servants and agents, be directed to surrender, re-assign, transfer and set over unto A. Trevor Williams, Royden B. Davis and Gordon Williams Company the mortgages and interest in mortgages severally assigned by them, hereinbefore mentioned, to the defendants by whom the same was assigned.

6. That the said complainants, Connie J. Dorrian

and Lloyd W. Fahler, their servants and agents, be directed to pay back to the said defendants, A. Trevor Williams, Royden B. Davis and Harold S. Williams, severally, the moneys hereinabove mentioned.

7. That defendants have such further and other relief in the premises as shall be agreeable to equity and good conscience.

BOURGEOIS & COULOMB,
Solicitors for defendants,
C. L. COLE,
Of Counsel.

SCHEDULE A.

THIS AGREEMENT made this fourth day of January, 1926, between Williams and Davis, Inc., a corporation of New Jersey, sometimes referred to herein as "The Owner" party of the first part, and GORDON WILLIAMS & CO., also a corporation of New Jersey, sometimes referred to herein as "The Broker", party of the second part:

WHEREAS the party of the first part has purchased or is about to purchase a tract of land at Somers Point, Atlantic County, New Jersey, which tract is named or designated as Del Rey and which tract it intends to improve and lay out in lots to be shown upon a map or plan to be made by William H. Collisson, Jr., civil engineer, in anticipation of a profitable sale of such property:

AND WHEREAS said party of the first part may purchase additional land to be added to and become a part of Del Rey, and may purchase other land

which may or may not be in the vicinity of the tract known as Del Rey:

AND WHEREAS: the said party of the first part has determined that its interests will be best served by the employment of the said party of the second part as its sole and exclusive broker or agent to offer for sale and to sell and dispose of all of the land which it may now own or may hereafter acquire:

AND WHEREAS the said party of the second part has consented to become the broker or agent of the said party of the first part upon the terms and conditions herein recited:

NOW, THEREFORE, in consideration of the premises and of the sum of One Dollar each to the other in hand paid, receipt whereof is hereby acknowledged the said parties hereto do hereby agree with each other as follows:

1. The said party of the first part does hereby engage and employ the said party of the second part as its sole and exclusive broker or agent to use its best endeavors to sell and dispose of all of the land and premises now owned by said party of the first part as well as all of the land and premises which has been or may hereafter be purchased by said party of the first part. This contract or agreement of employment shall remain in full force and effect until all of said land and premises have been sold and settlements made therefor.

2. The said party of the second part shall fix the selling price or prices for which each lot in the said tract to be known as Del Rey shall be offered and sold and may change such prices for any or all of said lot or lots from time to time in their discretion.

3. It is understood that the general policy of making sales shall be upon the plan of payment of ten

per cent upon the execution of the agreement and forty per cent in not exceeding five monthly payments without interest and the balance of not exceeding fifty per cent by a purchase money first mortgage, payable within two years, with interest payable semi-annually, with the usual thirty day default clauses in case of non-payment of interest or taxes; or five per cent upon the signing of said agreement and forty-five per cent in not exceeding ten monthly payments without interest, and not exceeding fifty per cent upon mortgage as aforesaid. The said party of the second part may vary the payments in its discretion and also may make adjustments with purchasers under agreements in its discretion, so as to reduce the number of lots sold to a buyer and to apply all amounts paid by such buyer upon such purchase so reduced.

4. The form of the agreements of sale to purchasers herein referred to shall be approved by the said broker, and prepared by it. Said Agreements shall obligate the owner to deliver to the purchaser a good and marketable title, and to improve the said property by filling said tract to the grade fixed by the engineer, and that the driveways or the avenue or avenues in front of said lots so sold shall be built of gravel with concrete curbs and the sidewalks shall be built of gravel and cement, cement-strip to be not less than feet in width and that the usual settlement of taxes and municipal claims shall be made as of the date of settlement, unless some other date is agreed upon by said broker. The form and terms of said agreements may be modified in any case in the discretion of said broker.

5. It is agreed that the compensation of the party of the second part which compensation shall include such expenditures as it, the broker, shall specifi-

cally agree to pay, shall be a commission of twenty five per cent upon the gross selling price of each and all lots sold in the tract known as DelRey as shown upon the said map, and any addition to said tract and twenty five per cent of the gross selling price of all other land of the party of the first part, which may be sold in lots; and ten per cent of the gross selling price of all land of the party of the first part sold in acreage. In case of default by purchasers under agreements the amount of compensation to be collected on any single sale shall not exceed the amount collected from the purchaser. The party of the second part is authorized to advertise the said Del Rey in its discretion, but all amounts expended for such advertising shall be paid for by said broker.

6. It is agreed that the said compensation due to the party of the second part shall be considered to be earned when the agreement of sale is executed, but shall be collected by said broker as and when funds are available.

7. The said party of the second part agrees to keep accurate books of account of all amounts collected, which books of account shall be audited semi-annually by a representative of said owner and at the expense of said owner. A statement shall be rendered monthly by the said broker to said owner, and all amounts collected by said broker less commissions retained, shall be paid to said owner semi-monthly by depositing said amounts in bank to the credit of the account of said owner.

8. The said broker agrees to use its best endeavors to make sales and to endeavor to collect as promptly as possible all sums due and to grow due upon all such agreements of sale.

9. The said owner agrees to pay the expenses of

the preparation of all deeds made by it and all mortgages taken by it under the authority of this agreement, and all such mortgages so taken shall be delivered to the party of the first part when settlements are made, or as soon thereafter as said mortgages are recorded and returned from record.

10. This agreement shall be binding upon the parties hereto and their successors.

IN WITNESS WHEREOF the parties hereto have caused these presents to be signed by their respective presidents, their respective corporate seals to be hereto affixed and attested by their respective scretaries the day and year first above written.

Williams and Davis, Inc
by R. B. Davis,
Vice President

Attest: Harold S. Williams,
Secretary.

Gordon Williams & Co.
by R. B. Davis,
President.

Attest: Harold S. Williams,
Secretary.

Signed, Sealed and delivered in the presence of Louis G. Hart.

SCHEDULE B.

NEW JERSEY SUPREME COURT.
ATLANTIC COUNTY.
CONNIE J. DORRIAN
vs.
GORDON WILLIAMS, HAROLD S. WILLIAMS, A. TREVOR WILLIAMS AND ROYDEN B. DAVIS.

Action at Law. On Capias, etc.

For Plaintiff, Carlton Godfrey and William I. Garrison.

For Defendant, C. L. Cole and George A. Bourgeois.

CAMPBELL, J.

by an order of a Commissioner of this Court a capias ad respondendum was authorized and each of the defendants ordered to be held to bail in the sum of $50,000. in an action alleging a conspiracy to defraud the plaintiff through, and by means of which conspiracy he contends that he was damnified and lost moneys to the extent of something over One Hundred Thousand Dollars.

Upon notice the defendants have moved to set aside the order of the Commissioner and quash the writ.

At the outset the defendants are confronted with the contention that their application is premature in that the writ has not been served upon, nor executed, as against any of them.

At the time of the argument I was not impressed with this contention but more careful and deliberate consideration brings me to the conclusion that it is substantial.

At the present time none of the defendants is in Court. Until that happens through the execution

of the writ complained of, he is not nor can he be injured nor have cause of legal complaint. The writ may never be executed.

The present application must therefore fail.

Although this is dispositive of the matter yet I think it wise, in view of the probability that the plaintiff will proceed to execute the writ, to point out defects in the proceedings, which have been raised upon this motion, and which, upon application after execution of the writ would compel me to set aside the order and writ.

The order authorizing the issuance of the writ is dated May 13, 1927. The writ is tested May 14, 1927 and was received by the Sheriff on the same day. The Commissioner's order and the affidavits upon which it is based were not filed until May 18, 1927.

The Supreme Court has held that this is improper and fatal.

Hand vs. Nolan, 1 N. J. Misc. Rep. 428;
Beugless vs. Thomas, Id. 582.

Further, the statute requires that in actions in tort, which this is, except such action be for seduction, outrageous battery or mayhem, or for recovery of damages for misconduct or neglect of a public officer, the writ shall not issue unless the proof establishes special cause as heretofore for holding to bail.

3. Comp. Stats. 4068, Sec 56.

Such Special Cause is non-residence or facts and circumstances establishing that the defendant will be without the jurisdiction of the Court so as not to answer to a judgment if and when rendered.

Hufty vs. Wilson, 78 N. J. L. 241;
Hand vs. Nolan, 1 N. J. Misc. Rep 428.

And this must be established by proof the character

of which is pointed out in, Inglis Vs. Schreiner, 58 N. J. L. 102; Hufty vs. Wilson, supra.

The affidavit upon which the Commissioner acted contains only the following upon this point:—

"Deponent further says that the said Gordon Williams, Harold S. Williams and A. Trevor Williams have removed from this jurisdiction or about to do so, having shipped much if not all of their household goods to California."

Without applying the test as above laid down to this affirmation it is sufficient for present purposes to say that it does not reach to the defendant Royden B. Davis and therefore there was no basis nor authority for directing the issuance of the writ against him nor for holding him to bail.

Although the proceedings may be defective in other directions I deem it necessary at this time to call attention to two others only, which are prominent and stand out clearly; and they are—

First—The cause of action seems to be based upon two distinct classes of transactions one of which is said to have been through and toward a corporation, Williams and Davis, Inc. in which the plaintiff and another were the principal stockholders. From any facts set up in the affidavit it is quite inconceivable how plaintiff could individually have a cause of action against these defendants and therefore such transactions could by no possibility present a legal *m*ground for the Commissioner's Order.

Second—both causes of action, attempted to set up in the affidavit, depend in large measure, if not entirely for practically all the certainty and exactness to be accorded to plaintiff's affirmation to three schedules attached which are south to be made part of the affidavit. This can not be. And I am not considering what is said to be a clearly erroneous

use of the word "agreement" for "Affidavit" appearing in the last sentence in the affidavit. Considering such sentence to read as follows:— "Schedule "A" and "B" hereto attached and agreement also attached made a part of this affidavit" and also considering the following references appearing in the affidavit:—"A true copy of said agreement is annexed hereto and made a part hereof", and "The conspirators made many secrets and fraudulent profits by said transfers of real estate to Williams and Davis, Inc., some of which are itemized on an appended Schedule marked Schedule No. 1" and "Some of which defalcations are itemized up on an appended schedule marked Schedule No. 2", there is no proof by affiant that the matters and facts supposed to be shown thereby are true nor by what means or how affiant possesses such knowledge.

For autht that is shown they may rest entirely upon hearsay or otherwise be incompetent. Further still I find no precedent for the substitution of schedules for direct affirmation and I am satisfied none exists.

If the matters contained in these schedules are untrue can affiant be successfully prosecuted for perjury? It may be noted, in passing, that while there are two references in the affidavit, as quoted, to Schedule No. 1 and Schedule No. 2, there are no such schedules attached but they are designated as Schedule A and Schedule B.

As has been indicated the present motion must be denied because prematurely made.

SCHEDULE C.

Received of A. Trevor Williams check on Ventnor Trust Company for	585.11
A check drawn on Ventnor City National Bank	194.96
5 Bond and mortgages given by Leslie McPherran to Connie J. Dorrian covering lots 10-11-12-13 and 14 in Block 21, each in the amount of $2700.—The intermediate assignments do not accompany these bonds and mortgages.	13,500.00
3 Mortgages given by John Speckman to Louis G. Hart covering lots 17, 18 and 19 in Block 21 for $1700. each; the bonds and intermediate assignments do not accompany these mortgages	5,100.00
The mortgage given by Dorrian to Wright covering property in Linwood in the amount of	5,000.00
The intermediate assignments does not accompany this mtge.	
1 Mortgage given by Hart to Williams covering lots 46 and 48 in Block 321 in the amount of	2,500.00
The bond does not accompany this mortgage.	
1 Mortgage given by Paul Endicott to Dorrian covering lot 13 in Block 112-B in the amount of	5,000.00
the bond and intermediate assignment*d* do not accompany this mortgage.	
1 Mortgage Endicott to Dorrian covering lot 14 in Block 112-B in the amount	6,500.00

the bond and intermediate assignments do not accompany this mortgage.

1 Bond and mortgage McDonnell to Smith covering lots 1 and 2 in Block 11-A in the amount of 11,100.00
the intermediate assignments do not accompany this mortgage

1 Mortgage Louis Mark to Sadie A. Craigen covering lot 22 in Block 58 in the amount of 1,550.00
the bond and intermediate assignments do not accompany this mortgage.

1 Mortgage given by Louis Mark to Sadie A. Craigen covering lot 24 in Block 58 in the amount of 1,550.00
The bond and intermediate assignments do accompany this mortgage.

Brought Forward $52,580.07

1 Bond and mortgage Louis Mackler to Vivian Smith covering lots 13-14-15 in Block 226 in the amount of—The intermediate assignments do not accompany this bond and mortgage 4,950.00

1 Bond and mortgage Wright to Dorrian covering lot 43 in Block 124 in the amount of—the intermediate assignments do not accompany this mortgage and no assignment is delivered for this mortgage from Trevor Williams, the same to be signed to-morrow 2,000.00

1 Bond and mortgage Wright to Dorrian covering lot 41 in Block 124 in the amount of—the intermediate assignments do not accompany this mortgage

and no assignment is delivered for this mortgage from Trevor Williams, the the same to be signed to-morrow.	2,000.00
	$61,530.07

(Signed) CARLTON GODFREY
WILLIAM I. GARRISON
Attorneys for Connie J. Dorrian and Lloyd Fahler.

10

SCHEDULE D.

ASSIGNMENTS BY ROYDEN B. DAVIS

Mortgage of Thomas J. Mahoney and wife	$1,000.00
Mortgage of $13,000 and $4,000 on 7 S. Harvard Avenue, which was the former home of Mr and Mrs Davis	17,000.00
20 The above mortgages were made by one Bacon, of Trenton, and were in the name of Mrs. and Mr. Davis, but were assigned only by Mr. Davis.	
Mortgage made by Atkinson on Oakland Avenue	13,000.00
Mortgage made by Sadie Craigen, which had been assigned by Mahoney to Royden B. Davis	1,200.00
Mortgage made by Rice, Faunce and	
30 Christian	1,250.00
10 shares Williams-Davis?Inc., Stock@ $1	10.00
Check for $589.73 on Ventnor Trust Company	589.73
	$34,058.73

SCHEDULE E.

June 1, 1927.

Received of HAROLD S. WILLIAMS, check on the Ventnor Trust Companh, Ventnor City, N. J. in the amount of ($642.99) Six hundred Forty-tw dollars and ninety-nine cents, in accordance with and on account of agreement bearing even date between Harold S. Williams, et als, on the one side and Connie J. Dorrian and Lloyd W. Fahler on the other side.

(signed) CARLTON GODFREY
(Signed) WILLIAM I. GARRISON
Attorneys for Connie J. Dorrian and Lloyd W. Fahler.

SCHEDULE E.

June 1, 1927.

Received of HAROLD S. WILLIAMS the sum of Ten Thousand ($10,000) dollars in cash in accordance with and on account of agreement bearing even date between Harold S. Williams, et als on the one side, and Connie J. Dorrian and Lloyd W. Fahler on the other side.

(signed) CARLTON GODFREY
(Signed) Wm. I GARRISON
Attorneys for Connie J. Dorrian and Lloyd W. Fahler.

ANSWER OF GORDON WILLIAMS.

(Filed August 20, 1927.)

IN CHANCERY OF NEW JERSEY

64/379

Between CONNIE J. DORRIAN, *et al.*, *Complainants*, and ROYDEN B. DAVIS, *et al.*, *Defendants*.	On Bill, &c. Answer of Gordon Williams.

Defendant, Gordon Williams, answering complainants' bill of complaint in the above-stated cause, says:

1. This defendant neither admits nor denies the allegations contained in paragraph 1 of said bill, as he has no knowledge or information concerning the same.

2. This defendant neither admits nor denies the allegations contained in paragraph 2 of said bill, as he has no knowledge or information concerning the same.

3. This defendant neither admits nor denies the

allegations contained in paragraph 3 of said bill, as he has no knowledge or information concerning the same.

4. This defendant neither admits nor denies the allegations contained in paragraph 4 of said bill, as he has no knowledge or information concerning the same.

5. This defendant neither admits nor denies the allegations contained in paragraph 5 of said bill, as he has no knowledge or information concerning the same.

6. This defendant neither admits nor denies the allegations contained in paragraph 6 of said bill, as he has no knowledge or information concerning the same.

7. This defendant neither admits nor denies the allegations contained in paragraph 7 of said bill, as he has no knowledge or information concerning the same.

8. This defendant neither admits nor denies the allegations contained in paragraph 8 of said bill, as he has no knowledge or information concerning the same.

9. This defendant neither admits nor denies the allegations contained in paragraph 9 of said bill, as he has no knowledge or information concerning the same.

10. This defendant neither admits nor denies the allegations contained in paragraph 10 of said bill, as

he has no knowledge or information concerning the same.

11. This defendant neither admits nor denies the allegations contained in paragraph 11 of said bill, as he has no knowledge or information concerning the same.

12. This defendant neither admits nor denies the allegations contained in paragraph 12 of said bill, as he has no knowledge or information concerning the same.

13. This defendant neither admits nor denies the allegations contained in paragraph 13 of said bill, as he has no knowledge or information concerning the same.

14. This defendant neither admits nor denies the allegations contained in paragraph 14 of said bill, as he has no knowledge or information concerning the same.

15. This defendant neither admits nor denies the allegations contained in paragraph 15 of said bill, as he has no knowledge or information concerning the same.

16. This defendant neither admits nor denies the allegations contained in paragraph 16 of said bill, as he has no knowledge or information concerning the same.

17. This defendant neither admits nor denies the allegations contained in paragraph 17 of said bill, as he has no knowledge or information concerning the same.

18. This defendant denies the allegations contained in paragraph 18.

19. This defendant neither admits nor denies the allegations contained in paragraph 19, and leaves complainants to prove the same.

20. This defendant admits that he has no real estate and admits that he has funds invested in bonds and mortgages.

21. This defendant neither admits nor denies the allegations contained in paragraph 12, and leaves complainants to prove the same.

22. This defendant neither admits nor denies the allegations contained in paragraph 22, and leaves complainants to prove the same.

23. This defendant denies the allegations contained in paragraph 23.

24. This defendant denies the allegations contained in paragraph 24.

25. This defendant neither admits nor denies the allegations contained in paragraph 25, and leaves complainants to prove the same.

26. This defendant neither admits nor denies the allegations contained in paragraph 26, and leaves complainants to prove the same.

27. This defendant neither admits nor denies the allegations contained in paragraph 27, and leaves complainants to prove the same.

28. This defendant neither admits nor denies complainants' belief, as set forth in paragraph 28, but denies that he has any intention of disposing of his property, bonds, mortgages and other securities, or other personal property. He admits that some of this property was in his custody beyond the jurisdiction of this State.

29. This defendant denies the allegations contained in paragraph 29, and says that as to this defendant said bill of complaint is without equity, and prays that it be hence dismissed.

BOURGEOIS & COULOMB,
Solicitors for Defendant
Gordon Williams.

COMPLAINANTS' REPLICATION AND ANSWER TO COUNTER-CLAIM OF DAVIS, ET ALS.

(Filed February 10, 1928.)

IN CHANCERY OF NEW JERSEY

Between CONNIE J. DORRIAN, *et als*, *Complainants*, and ROYDEN B. DAVIS, *et als.*, *Defendants.*	On Bill for Specific Performance. Complainants' Replication to Answer and Counter-Claim heretofore filed by Royden B. Davis, A. Trevor Williams, Harold S. Williams and Gordon Williams and Company.

JOINDER OF ISSUE.

Complainants, Connie J. Dorrain, Lloyd W. Fahler, and Williams and Davis, Inc., join issue upon the answer filed in the above-entitled cause on behalf of defendants, Royden B. Davis, A. Trevor Williams, Harold S. Williams, Gordon Williams and Gordon Williams & Company.

REPLY TO COUNTER-CLAIM.

The above-named complainants replying to the counter-claim annexed to said answer, respectfully say:

1. Paragraph 1 is denied except that complainants admit that Gordon Williams, Royden B. Davis, and Harold S. Williams were officers, stockholders, and directors of Gordon Williams & Co., and that said Gordon Williams & Co. was a corporation of the State of New Jersey.

2. Complainants have no information as to the allegations of paragraph 2 and pray proof.

3. Paragraph 3 is denied.

4. Paragraph 4 is admitted.

5. It is admitted that a corporation under the title of Williams and Davis, Inc., was organized; the remainder of paragraph 5 is denied.

6. Paragraph 6 is admitted.

7. Paragraph 7 is denied, except that the complainants admit that the said Gordon Williams & Co. was to receive a commission of 25% of the gross selling price of lots, and not on all lands sold by it, as the rate of commission on the sale of acreage was 10% instead of 25%.

8. The averments of paragraph 8 are denied, except complainants admit that Gordon Williams

& Co. did sell lots for Williams and Davis, Inc.; but that the amount of $1,000,000, referred to in paragraph 8 of the counter-claim is an overestimate of the amount of lots sold.

9. Paragraph 9 is denied.

10. Paragraph 10 is denied.

11. Paragraph 11 is denied, except that it is admitted that lands sold to Connie J. Dorrian and Lloyd W. Fahler and also certain other lands sold and conveyed to Williams and Davis, Inc., were sold at a profit; and complainants say that said profit rightfully belonged to it, them, or one or more of them because secretly obtained by Royden B. Davis, A. Trevor Williams, Harold S. Williams and Gordon Williams while they were acting as complainants' trusted confidential agents.

12. Paragraph 12 is admitted.

13. Paragraph 13 is denied.

14. Paragraph 14 is denied.

15. Paragraph 15 is denied.

16. Paragraph 16 is denied.

17. Paragraph 17 is denied.

18. Paragraph 18 is denied.

19. The issuance of the writ of attachment and

of the capias is admitted; all the rest of paragraph 19 is denied.

20. Paragraph 20 is admitted.

21. Complainants are without information sufficient to form a belief as to the allegations of paragraph 21, and neither admitting nor denying same, respectfully pray proof.

22. Paragraph 22 is admitted.

23. Paragraph 23 is denied.

24. That Lloyd W. Fahler, Connie J. Dorrian, Carlton Godfrey, William I. Garrison and Philip S. Godfrey met Harold S. Williams, A. Trevor Williams and Royden B. Davis, in Philadelphia, is admitted; all the rest of paragraph 24 is denied.

25. Paragraph 25 is denied.

26. Paragraph 26 is denied.

27. Paragraph 27 is denied.

28. That the agreement in question was signed by Harold S. Williams, A. Trevor Williams and Royden B. Davis, individually, and by Harold S. Williams and Royden B. Davis for Gordon Williams & Co. is admitted; all the rest of paragraph 28 is denied.

29. Complainants admit that the defendants attempted to repudiate the contract. The other averments in paragraph 29 are denied.

30. That A. Trevor Williams assigned to complainants or one or more of them, certain mortgages and that he delivered two checks to them, is admitted; that Royden B. Davis assigned certain mortgages to complainants, is admitted; and that Harold S. Williams did deliver to Carlton Godfrey and William I. Garrison the sum of $10,000. and a check for $642.99 is admitted; all the rest of paragraph 30 is denied.

31. Paragraph 31 is denied.

32. Complainants aver that on June 2, 1927, an inspection of the agreement was offered to the said defendants Royden B. Davis and A. Trevor Williams, who appeared with their counsel, William E. Stringer, but refused to avail themselves of the opportunity. The other averments of paragraph 32 are denied.

33. Paragraph 33 is denied.

CARLTON GODFREY,
Solicitor for Complainants.
ROBERT H. MCCARTER,
Of Counsel.

ORDER OF REFERENCE TO VICE-CHANCELLOR.

(Filed May 8, 1928.)

IN CHANCERY OF NEW JERSEY.

Between CONNIE J. DORRIAN, *et als.*, *Complainants,* and ROYDEN B. DAVIS, *et als.*, *Defendants.*	On Bill, &c. Order of Reference to Vice-Chancellor. 64-379

COUNSEL CONSENTING.

It is, on this 8th day of May, 1928, ordered that the above-entitled cause be and the same is hereby referred to R. H. Ingersoll, one of the Vice-Chancellors of this Court, to hear and determine the same and advise what decree should be made in the premises.

E. R. WALKER,
C.

We consent to the entry of the above order.

CARLTON GODFREY,
Solicitor for Complainants.
BOURGEOIS & COULOMB,
for Williams.
COLE & COLE,
Solicitors for Defendant, Davis.

ORDER OF DESIGNATION.

(Filed May 12, 1928.)

IN CHANCERY OF NEW JERSEY

Between
CONNIE J. DORRIAN, *et als.*, *Complainants*,
and
ROYDEN B. DAVIS, *et als.*, *Defendants*.

On Bill, &c.
Order of Designation
64-374

COUNSEL CONSENTING.

It is, on this 12th day of May, 1928, ordered that the first day of June, 1928, at ten o'clock in the forenoon, D. S. T., at the Chancery Chambers in Atlantic City, N. J., be designated as the time and place for hearing of the above-entitled cause.

R. H. INGERSOLL,
V. C.

We consent to the entry of the above order of designation.

CARLTON GODFREY,
Solicitor for Complainants.
COLE & COLE,
Solicitors for Royden B. Davis and Jessie D. Davis, Dfts.
BOURGEOIS & COULOMB,
Solicitors for Harold S. Williams, Almedie J. Williams, A. Trevor Williams, Gordon Williams.

TESTIMONY.

IN CHANCERY OF NEW JERSEY.

Between
CONNIE J. DORRIAN,
Complainant,
and
ROYDEN B. DAVIS, *et als.,*
Defendants.

On Bill, &c.
Final Hearing

Atlantic City, N. J., June 1, 1928.

TESTIMONY.

Before HON. R. H. INGERSOLL, Vice-Chancellor.

APPEARANCES:

For Complainant, CARLTON GODFREY, ESQ.; A. B. REPETTO, ESQ.; WILLIAM I. GARRISON, ESQ.; ROBERT H. MCCARTER, ESQ.

For Defendant, Davis, C. L. COLE, ESQ.

For Defendants, Trevor Williams and Harold S. Williams, BOURGEOIS & COULOMB.

Mr. McCarter: The making of the contract in question is admitted, the execution of it, and I, therefore offer it in evidence.

(Contract admitted and marked Exhibit C1.)

PHILLIP GODFREY, sworn.

Direct examination.

By Mr. McCarter:

Q. Mr. Godfrey, you are a clerk in the office of Mr. Carlton Godfrey and Mr. William I Garrison?

A. Yes, sir.

Q. Were you in Philadelphia at the time of the execution of the agreement made the first of June, 1927, which has been marked C1 for the complainants as of this date?

A. Yes, sir.

Q. That agreement provides for the execution of a release and the delivery thereof to Father Mellon; do you recall the fact that such a release was executed?

A. It was executed by Mr. Dorrian and Mr. Fahler, yes, sir.

Q. Do you know whether or not the wives of those two respective persons were at hand in the hotel ready to execute, join in the execution?

A. They were, yes, sir.

Q. After it was executed—is there a copy of that release attached to the bill of complaint?

A. It is attached to the agreement and is attached to the bill of complaint, yes, sir.

Q. Was a copy—was that paper as executed handed over to Father Mellon?

A. Yes, sir.

Q. We expected to have had him here at ten, but apparently, he sent word he can't be here until eleven. So far as you know he still has it?

A. Yes, sir.

Q. That is all.

Cross-examination.

By Mr. Bourgeois:

Q. You are quite sure, are you, that that release is a copy of it attached to the agreement?

A. Yes, sir.

Q. And had it been executed at the time it was attached to the agreement?

A. No, sir, the copy attached to the agreement was not executed.

Q. Had the release itself been executed at the time the agreement was signed?

A. I don't know that, sir. Should I explain that?

Mr. McCarter: Just answer the question.

A. I don't know that.

Q. Was the release ever shown to Mr. Williams or to Mr. Davis?

A. Yes, sir; they were present when it was signed and saw it signed.

Q. Did they see it signed?

A. Yes, sir.

Q. That is all.

GEORGE KITCHEN, sworn.

Direct examination.

By Mr. McCarter:

Q. Mr. Kitchen, you are connected with what title company?

A. Chelsea Title and Guaranty Company.

Q. Have you recently, at the request of young Mr. Godfrey, gone to May's Landing and made an examination of the records of mortgages that are recorded there?

A. I have.

Q. In connection with this controversy?

A. Yes, sir.

Q. Were you furnished with any document containing a set of mortgages?

A. I was.

Q. Have you got it here?

A. Yes, sir. (Producing paper.)

Q. You were furnished with this document?

A. Yes, sir.

Mr. McCarter: I will say to the Court and counsel that the document in question that he was furnished with is a copy of the lis pendens that was filed at the commencement of this suit and the only purpose in offering it now is to show what mortgages are referred to therein, they being the same mortgages as are referred to in the bill of complaint.

(Paper received in evidence and Marked Exhibit C2.)

Q. What mortgages did you find of record as of

June first, 1927 other than those described in the paper that has just been marked in the names of either Royden B. Davis or A. Trevor Williams?

A. Can I look at that paper a minute?

Q. Yes.

A. This lis pendens here doesn't contain the full list of mortgages. There is a more fuller list I haven't brought along with me and I can get it in a minute.

Q. In the first place you are supposed to be heard, not mumble. Read my question.

(Question repeated.)

A. I found fifty mortgages of record in the name of these people and there is only about half of them on this lis pendens.

(Question repeated.)

A. Well, I can't give you the list without getting the list of the proper mortgages. I can get it within a couple of minutes, if you can hold it.

Q. Have you with you the list you found, list of mortgages as of June first ——

A. No, I don't believe I have.

Q. —1927, standing in the name either of Royden B. Davis or Trevor Williams?

A. They are all in this search here that I have.

Q. They are all there?

A. They are all here, yes.

(Search offered in evidence.)

Mr. Bourgeois: I object. I don't see the relevancy of this; I don't see what it is for.

Mr. McCarter: The relevancy is this, by section 18 of our bill we seek to hold a list of mortgages described in the following section as the result of proceeds of the improper conduct of the complainants. Now our argument is this: The answer concedes that Royden B. Davis and Trevor Williams invested their earnings under the arrangements, whatever it was, in mortgages and we think from that at least is prima facie proof that if they had mortgages such as are contained in this large sheet here that prima facie at least the proceeds of their misconduct runs to the mortgage in question. The theory is that we compared the list of mortgages in the bill which were assigned—we exclude them and we take such mortgages as stand in the name of either Mr. Davis or Mr. Trevor Williams as of June first, as, at least inferential evidence that the proceeds of their misconduct went into those mortgages inasmuch as they both concede, by their answer to our bill, that they invested their profits in mortgages. That is the object of the offer.

Mr. Bourgeois: If your Honor please, I think that is not relevant. They base this whole assumption upon what they say was an attachment proceeding, writ of attachment issued out of the Atlantic County Circuit Court. Now I submit to your Honor that that attachment proceeding of itself is not part of this bill. In other words, if they have anything that they want to assert they must assert it as an allegation and not say that we have got an attachment and that attachment says something another. The sum of $57,850 out of $77,111 mentioned in said writ of attachment—what have we got to do with the writ of attachment in the Court of Chancery? We don't have to go before the bill of complaint and

refer to some other proceeding in some other court. We don't have to go to that court to find out what the proceedings were. They have got to set it out, and I submit it is not relevant.

The Court: I will overrule the offer, not upon the ground suggested but it certainly is not to be expected of the Court that a witness will say there is a list in this search, expect the Court to delve into what appears to be a search and find out what mortgages are mentioned or what mortgages he should answer to the question. He is asked what mortgages he found. He says, in response, they are all included in this search. Now if they are included in the search, in his memorandum he may answer it, but to expect the Court to take a search and hunt out what mortgages are and what are not included in some other things to save the witness the trouble of doing it, the Court is not included to do it.

Mr. McCarter: I was trying to save time here and what we propose to do, your Honor, to help the Court, would be to say 1, 2, 3, 4, 5, 6, 7, are in the bill of complaint and the lis pendens, 8, 9, 19, 11, 12, 13, 14, are not, and, therefore, the argument will follow. I supposed that the witness would be able to answer my question, but apparently doesn't seem to be able to, therefore, it struck me the only other thing was to put the whole thing in and let us help the Court by segregating the two.

The Court: No, the Court will overrule the offer.

Mr. McCarter: Then I will have to ask the witness to withdraw and to mark on that list that you last offered the list produced those that are in the

bill of complaint or lis pendens and you then will be able to tell the Court what are not in the lis pendens. Will you do that?

A. Yes, sir.

Mr. McCarter: Mr. Bourgeois, while that is being done, can't we go on? That is all of our prima facie case.

DEFENDANTS' TESTIMONY.

JOHN B. SCANLAN, sworn.

Direct examination.

By Mr. Bourgeois:

Q. Mr. Scanlan, you live where?

A. At 6007 Atlantic Avenue.

Q. Who else lives there?

A. Mr. Davis and Mrs. Davis, my wife, Miss McDonald, Mr. McDonald and the Mrs.

Q. Are you related in any manner to either Mr. Davis or Mrs. Davis?

A. Mr. Davis and I married sisters.

Q. Were you present in Philadelphia at one or more meetings between Mr. Dorrian, Mr. Fahler, and Mr. Williams and Mr. Davis?

A. Yes, I was present.

Q. When did you first become interested in that transaction?

A. Well, really it was about the Sunday before the attachment and the capias was issued, that was

issued on Saturday, this was the Sunday preceding that Mr. Dorrian and I were in the Margate office and Mr. Dorrian told me that Mr. Williams' absence, his going to California had caused ——

Mr. McCarter: Mr. Williams' what?

A. Mr. Williams' absence. Mr. Williams had gone to California. In his absence he thought the firm was not run right. He didn't like the way the things were going. He stated Gordon Williams' name would have to come off the window and he had evidence to put the Williams in jail and he had evidence to break the contract between Williams and Davis Company and Gordon Williams Company. So the following Saturday Mr. Williams was to come back on the twenty-fifth, I think; this was around the fourteenth or so, this Saturday, there was a capias issued for Mr. Harold Williams and Mr. Trevor Williams and Mr. Royden B. Davis.

Mr. McCarter: Are you speaking of your own knowledge now?

A. I saw the capias.

Mr. McCarter: When?

A. Saturday.

Mr. McCarter: What date please?

A. The date? I don't recall exactly the date.

Mr. McCarter: Go on.

A. I saw the capias and the attachment. Mr.

Davis' automobiles were attached and I immediately went up to Judge Cole to see what could be done and Judge Cole went to ——

Mr. McCarter: One moment.

The Court: You can't tell us what Judge Cole said.

A. I went up to Judge Cole and Mr. Davis and Mr. Williams had gone away. I understood there was a fifty thousand dollar ——

Mr. McCarter: Never mind what you understood.

Q. When you saw that capias did you see anything else about bail?
A. Not on the capias, no.
Q. Were you told by the officer?
A. Yes, Mr. Wheatley told me the bail was fifty thousand dollars for each one.
Q. Was that information communicated to Mr. Davis and Mr. Williams?
A. Yes, Mr. Davis called up that evening and I told him just ——

Mr. McCarter: Just one moment.

The Court: Sustain the objection.

Q. It was communicated to him; you needn't tell what you told him.
A. Sure.
Q. That was about the fourteenth, was it ——

Mr. McCarter: Please don't lead him.

A. It was about a week previous to the signing of that agreement, whatever date that was, or two weeks.

Q. Now following that information that you had regarding the capias and the bail, amount of bail, what did you do?

A. Why I, of course, couldn't raise that much bail, fifty thousand dollars with everything attached.

Mr. McCarter: One moment.

The Court: Sustain the objection.

Mr. McCarter: Asked what you did, not what you couldn't do.

Mr. Bourgeois: He said he couldn't raise that bail.

The Court: That isn't in response to the question at all.

Q. What did you do?
A. That Saturday?
Q. Did you do anything at all?
A. Well, there is nothing could be done.
Q. I didn't ask you that.
A. I didn't do anything.
Q. Then you didn't do anything?
A. No.
Q. Where was Mrs. Davis at this time?
A. At her home, Cornwall and Atlantic.
Q. How long did she stay at her home?
A. About a week.
Q. Where did she go then? Did she leave?
A. Mrs. Davis stayed home and she was all excited ——

Q. Don't care anything about that.

The Court: Just answer the question.

A. Mrs. Davis went to New York, left for New York, bought a ticket to New York.

Mr. McCarter: I object. Now does he know?

A. She bought a ticket to New York.
Q. Did you see the ticket she bought to New York?
A. Yes.
Q. You know she went that far?
A. Yes.
Q. Did you have any telephone message?
A. Yes.
Q. From whom?
A. From Mrs. Davis.
Q. And where was she then at least as far ——

Mr. McCarter: I object.

Q. ——as far as the telephone message was concerned, where did they say she was, the telephone message?

The Court: Sustain the objection.

Q. Did you have a conversation with her?
A. Yes.
Q. As a result of the conversation you had what did you do?
A. Why Mrs. Davis called me up ——

Mr. McCarter: One moment.

Q. Don't tell what she called you up; tell me what you did?

A. What I did?

Q. What did you do?

A. I went down to see Father Mellon to see if he would ——

Q. Yes, I guess you can tell what you went to see him for, they won't object to that, I don't think. You went down to see Father Mellon?

A. Yes.

Q. Now then did you have some conversation with him?

A. Yes.

Q. What was the result of that conversation?

A. A meeting in Philadelphia.

Q. Who was to be present at that meeting?

A. Father Mellon and Mr. Carlton Godfrey, and Mr. Dorrian and Mr. Fahler, if he was in town.

Q. Do you know if that meeting was held?

A. Yes.

Q. When was it to be held?

A. Held on Decoration Day, a year ago.

Q. That was on what day of the week?

A. Monday.

Q. You say that Monday was Decoration Day?

A. Yes.

Q. Now where was the meeting to be held in Philadelphia?

A. At the Hotel Vendig.

Q. Do you know if it was held?

A. Yes.

Q. How do you know it?

A. I was there.

Q. Who was there? Who was actually there at the meeting?

A. Actually at the meeting?

Q. Yes.

A. Mr. Dorrian, Mr. Fahler, Mr. Carlton God-

frey, Mr. Phillip Godfrey, Mr. Davis, Mr. Harold Williams, Mr. Trevor Williams, Mrs. Davis, Mr. Garrison.

Q. Dr. Mellon?

A. And Dr. Mellon, of course.

Q. Now where was the—they have a conference, did they?

A. Yes, had a conference.

Q. Where was that conference held?

A. At room 101.

Q. Now tell me what took place at that conference, as nearly as you can, as well as you can?

A. At this conference, the conference was called

Mr. McCarter: Won't you answer the question?

A. At the conference Mr. Williams asked to see the charges, the embezzlement charges that were to put him in jail and Trevor Williams asked to see the forgeries, charges on which he was to go to jail for twenty years.

Q. Let me interrupt you just a minute—what was the object of this meeting that you were going to have? What was the object stated between Mr. Mellon and you—you got them together? Now what was the object of the meeting?

A. So that all the charges could be brought forth and, if possible, have a settlement.

Q. And that was the reason you say that they asked to see the charges?

A. Wanted to see the charges, sure.

Q. What was said about the imprisonment for twenty years?

Mr. McCarter: One moment. I object to that

question, perfectly leading, hasn't been a word said about imprisonment twenty years. Can't he tell what occurred?

The Court: Objection sustained.

(Answer repeated.)

Q. Now what led up to that?

A. What led up to it?

Q. Yes, what led up to Trevor wanting to see the charges on which he was to go to jail for twenty years?

A. Mr. Phillip Godfrey said, "The whole amount is $178,000 and we have here all the papers that will show that you fraudulently took $178,000 from Mr. Dorrian and Mr. Fahler." So Trevor asked to see the forgeries that were claimed.

Q. Who claimed the forgeries?

A. Mr. Phillip Godfrey and Mr. Carlton Godfrey.

Q. What did they say?

A. They said that, "We have here these forgeries on which we claim $178,000, forgeries and embezzlement."

Q. Who said that?

A. Mr. Phillip Godfrey.

Q. And what did he have to show for the forgeries?

A. He had a stack of papers; I don't know just what they were.

Q. What was done with the papers?

A. Mr. Godfrey kept them in his possession.

Q. Did he show them to Trevor?

A. He showed Trevor a whole bunch at a time, showing him one right off the top, didn't give him time to read them.

Mr. McCarter: What is that?

A. The papers were pushed in front of Trevor, but he didn't have a chance to read them.

Q. And what was done with regard to Mr. Davis and Mr. Harold Williams?

A. Didn't pay much attention to them at that time.

Q. Now will you go on and tell us what took place there?

A. Well, Mr. Godfrey, Father Mellon ——

Mr. McCarter: Which one?

A. Wait a minute. I will tell you. Wait a minute. At this meeting Father Mellon was the spokesman. He addressed Mr. Williams and told him they had all the charges, that Mr. Phillip Godfrey had all the charges and that they would go over them and Mr. Phillip Godfrey showed Trevor a few—and didn't show Mr. Williams any at that time. Mr. Williams was very nervous and he said, "Well, what is the lump sum of everything? What is it?" So Mr. Phillip Godfrey started to add up forgery five thousand, embezzlement seventy-five hundred or forty-five hundred and made a whole list, this list was given to Trevor and to Harold Williams to add up, he couldn't add it up and gave it to Trevor and then Trevor gave it to me to add up and the whole total of that particular list was $190,000. So ——

Mr. McCarter: One hundred and ninety?

A. One hundred and ninety, yes. So they had a list, Mr. Phillip Godfrey had a list of all the mortgages, all the securities of Mr. Davis and Mr. Harold

Williams and Mr. Gordon Williams—Mr. Trevor Williams—so from these securities they took out just what they would want to make this settlement. In one case Trevor said, "I can't give you those mortgages; they are my brother Gordon's," and Mr. Carlton Godfrey said—Mr. Hart or Mr. Phillip Godfrey said, "Oh, no, they are your mortgages; sign this." Trevor said, "I can't sign that." They said, "We have you for forgery. Sign this," so Trevor signed.

Mr. McCarter:- Who said that?

A. Mr. Phillip Godfrey. So Trevor signed his brother's mortgages. I think they were joint mortgages.

Mr. McCarter: Think they were what?

A. Joint. In both names.

Q. Now you are speaking about embezzlement; what was said about embezzlement?

A. Why, Mr. Carlton Godfrey told Mr. Davis and Mr. Harold Williams, that they would have to settle, that they had them for embezzlement.

Q. In what?

A. They didn't state the case, just said, "I have you for embezzlement," you see, and later Mr. Hart brought up the paper of the two acre tract and had a check showing $7500, I believe, said that Mr. Davis had signed this, so he was guilty of embezzlement, and Mr. Harold Williams had signed this, so he was guilty of embezzlement.

Q. Now Mr. Dorrian and Mr. Fahler seemed to have had their lawyers there. Was there anything said about that fact because the lawyers were there?

A. Mr. Williams said, "I paid ten thousand dollars for attorneys and I want to have them here. He didn't expect this kind of a meeting." And Mr. Carlton Godfrey said, "Oh, that is all right, I will be your attorney, and you will see that I treat you fair." So later Trevor, when Trevor was asked to sign his brother's mortgages, he said, "This meeting is all too legal for me. I want my attorney here," and Mr. Carlton Godfrey said, "I will tell you when to call your attorney."

Q. All right, then what?

A. And then he proceeded to ——

Q. How many meetings did they have?

A. I was present at three meetings.

Q. Three meetings? All right, now they adjourned Monday evening, I suppose?

A. Monday evening, yes.

Mr. McCarter: Please don't lead him.

Q. When did they have the next meeting?

A. The next meeting was Tuesday afternoon.

Q. Who was present at that meeting?

A. Mr. Harold Williams, Mr. Trevor Williams, Mr. Royden Davis, and Mrs. Davis, Mr. Carlton Godfrey, Mr. Garrison, Mr. Phillip Godfrey, Mr. Louis Hart, Mr. Daniel Mulhern, Mr. Besore, and Father Mellon and myself.

Q. What was—I don't expect you to detail each meeting because I don't suppose you can do it, but tell me what was the business transacted at that meeting?

A. At the second meeting Mr. Carlton Godfrey said, "We will draw up an agreement of settlement" and Mr. Harold Williams objected, and he said, "Well, that is all right," Mr. Harold Williams,

said, "I want my attorneys here, if you are going to draw up any agreement," and Mr. Carlton Godfrey said, "I will draw up the agreement in the rough and take all the rough edges off and then you can have your attorneys." So that was agreed to be all right. So during that meeting—let's see what happened—during that meeting Mr. Williams said that the contract, Mr. Godfrey said that the contract would have to be broken and Mr. Williams said, "The Florida contract?" And he said, "Both contracts." He said, "Well, under that Florida Contract you are to receive a third of all the profits you made and that would amount to about forty thousand dollars, that you made about a hundred and twenty thousand dollars speculating in Margate, and in the Florida contract we were to receive a third of that." So Mr. Dorrian said, "Oh, no, I will take you to court on that first." So Mr. Williams said, "Well, that was the contract, if that is the contract you are holding us to," and Mr. Carlton Godfrey said, "Oh, no, we are holding you on embezzlement from the Williams and Davis and Gordon Williams Company contracts, so then it was agreed that the Florida contract was not to hold.

Mr. McCarter: The what?

A. The Florida contract was not to hold, not to be mentioned, and Mr. Williams asked for a certain reduction, claimed a commission on some lots that were sold ——

Q. Which Williams, please?

A. Mr. Harold Williams claimed a commission on some lots that were sold and also claimed some commission due to Gordon Williams and Company under that twenty-five percent contract between Williams

and Davis and Gordon Williams and Company, and Mr. Hart objected and Mr. Godfrey objected and Mr. Hart objected, but Father Mellon said that should be all right, allow those deductions. After this argument Mr. Williams and I went out and got some aromatic spirits of ammonia for Mr. Williams at Father Mellon's suggestion, he was very sick.

Q. Which Williams, please?

A. Mr. Harold Williams.

Q. Won't you give the names?

A. I will, yes.

Q. Now what was done other than what you have mentioned, if you can recall, at that meeting?

A. At that meeting why Mr. Godfrey had his stenographer in the room across the hall, they would come in and take dictation occasionally, and Mr. Williams again demanded his attorneys, said that Mr. Godfrey said that he would tell him.

Mr. McCarter: Won't you say which Williams, please?

A. Mr. Harold Williams. He said, Mr. Godfrey would tell him when to take his attorneys in.

Q. Now what about the next meeting?

A. The last meeting I was to?

Q. The third?

A. Yes.

Q. Who was present at that meeting?

A. Mr. Harold Williams, Mr. Trevor Williams, Mr. Davis, Mrs. Davis, Mr. Carlton Godfrey, Mr. Phillip Godfrey, Mr. Garrison, Mr. Hart, Mr. Mulhern, Mr. Besore, Dr. Mellon and myself.

Q. All right, what did they say at that meeting?

A. At the last meeting a contract or agreement was already drawn up and Mr. Carlton Godfrey

said, "I will read over this agreement and then you can sign it," and Mr. Williams said, "Oh, no, we can't sign any agreement without any attorneys."

The Court: Which Williams?

A. Mr. Harold Williams, and Mr. Godfrey said, "It is too late." Mr. Carlton Godfrey said, "It is too late to call your attorneys now. The time to call them was before all this paper was drawn up," so Mr. Williams just sat down, then Mr. Carlton Godfrey proceeded to read a very lengthy legal agreement, and Trevor said, Trevor Williams said, "This is all too legal. Our attorneys are right in the University Club, and I want to call them," and Mr. Phillip Godfrey and Mr. Carlton Godfrey became excited, and said, "Oh, no, no, it is too late to call your attorneys now." So they proceeded, Mr. Carlton Godfrey got tired reading the agreement, and it was given to Dr. Mellon who finished reading it.

Q. And what did—did Dr. Mellon say anything just before that agreement was signed?

A. Dr. Mellon had been reading his prayer book before that was signed, while they were drawing it up, he didn't pay a whole lot of attention, he read his prayer book.

Mr. McCarter: Why don't you answer the question?

Mr. Bourgeois: You let me take care of the witness.

The Court: Unless you object I can't rule.

Mr. Bourgeois: If he will object to your Honor I don't care.

Mr. McCarter: I object.

The Court: Sustain the objection. Let it be stricken.

(Question repeated and withdrawn.)

Q. You recall if Dr. Mellon was out in the hall just prior to the signing of the agreement?
A. Yes, Dr. Mellon was out in the hall.
Q. Do you remember he came in from the hall just before the agreement was signed?
A. Yes.
Q. Do you remember if he said anything?
A. Oh, Father Mellon went out in conference with Mr. Garrison and Mr. Carlton Godfrey and Mr. Dorrian and came in and said, "The capias has been sustained by the Supreme Court Justice."
Q. Just before the agreement was signed was there anything said about their attorneys again?
A. Mr. Trevor Williams said, "I can't sign without my attorneys."
Q. What answer was given to that?
A. "It is too late to call your attorneys now. We have you for forgery, twenty years in jail."

Mr. McCarter: Who said that, please?

A. Mr. Carlton Godfrey.
Q. Then the agreement was signed?
A. That was signed.
Q. Now did you hear any other conversation during that meeting except that by Mr. Godfrey and Dr. Mellon? Did Mrs. Davis say anything?
A. Oh, Mrs. Davis, "If I have any—if Mr. Davis has any of Connie Dorrian's money he will pay it back with interest."

Q. But was there anything said about the attorneys by Mrs. Davis?

A. Mrs. Davis said that—before Mr. Davis signed the contract Mrs. Davis said, "Don't sign that, Judge Cole is right in the University Club, let me call him," and Mr. Davis just didn't pay much attention, was nervous.

Q. What did Mr. Godfrey or Dr. Mellon do or say?

A. Mr. Carlton Godfrey said, "It is best for you to sign this. I am not here to advise you, but you better sign this. We have your husband for embezzlement."

Q. Now—it was agreed at this meeting ——

Mr. McCarter: One moment.

The Court: There is no question now.

Q. Now before this meeting was finally arranged did Mr. Dorrian say anything to you about it further than you have mentioned?

A. Oh, I talked with Mr. Dorrian in the Ventnor office and he showed me a telegram that Mr. Vernon Williams and Mr. Trevor Williams had sent to Mr. Harold Williams when Mr. Harold Williams was in Florida. This telegram, the contents of it were that ——

Mr. McCarter: One moment. I think the paper better be produced.

A. I didn't hear you, Mr. McCarter.

Q. Go on.

A. Mr. Dorrian showed me the telegram signed by Vernon and Trevor Williams saying to wire D. & F. for a hundred thousand dollars.

Mr. McCarter: Saying what?

A. This telegram said, "Wire D. & F. for a thousand dollars," and Mr. Dorrian said, on the strength of this, and other evidence I can show a conspiracy to defraud me."

Q. Now, do you remember there was some conversation had with relation to putting up the ten thousand dollars when it was to be put up?

A. Mr. Williams had ten thousand dollars in his pocket.

The Court: Which Williams?

A. Mr. Harold Williams, and in the settlement Mr. Carlton Godfrey asked for fifty thousand dollars and Mr. Harold Williams said, "I have only ten thousand dollars," and it was agreed that the ten thousand dollars should be put up with Father Mellon to hold with all other papers.

Q. Now was there any statement made as to when it was to be put up, they say anything about when?

A. Mr. Godfrey said, "Well, put that up now, that will cover you"—Mr. Carlton Godfrey—"put that up now, that will keep you from going to jail."

Q. Did he put it up?

A. He put it up.

Q. Now was there anything said about Washington?

A. Not while I was there.

Q. Not while you were there?

A. No.

Q. Did you hear Dr. Mellon say anything about Trevor and twenty years?

A. When I went down to Dr. Mellon's house he told me that ——

Mr. McCarter: One moment. We object to what Dr. Mellon said there at his house in our absence.

The Court: Sustain the objection.

Q. Now was there anything else said about that capias except what Dr. Mellon said just before the agreement was signed?

A. Mrs. Davis asked each day ——

Mr. McCarter: One moment. All right.

A. Mrs. Davis asked each day if Mr. Davis could come home to the kiddies, and each day Mr. Carlton Godfrey and Mr. Garrison would say, "The capias is still holding and it wouldn't be safe for him to go home."

Q. And then when it came to the statement by Dr. Mellon just before it was signed, who was present when he made that statement, "The Supreme Court has sustained the capias?"

A. Everyone was present.

Q. What did he say? Did he refer to anyone about it?

A. Father Mellon,of course, referred to Mr. Carlton Godfrey, and Mr. Garrison, and Mr. Dorrian, who said, "Yes," asked if that were true, if the capias had been sustained, and they said "Yes."

Q. What did they say about it?

A. Yes.

Q. Now, Mr. Scanlan, you were there during these three meetings. What was the mental attitude of these defandants, this man Davis and the two Williamses—I don't want you to give me your judgment, but tell me what their appearance was and what their actions were?

Mr. McCarter: I object.

The Court: I will permit it.

A. Well, Mr. Harold Williams went over to get his hat on one occasion to get out of the room and I thought he was going to jump out of the window, his eyes were protruding about a half inch out of his head.

Mr. McCarter: I object.

The Court: Yes, the part what he thought will be stricken.

Q. Not what you think, what he did.
A. His eyes were protruding.
Q. What did you do?
A. I got him aromatic spirits of ammonia.
Q. What was the condition of Mr. Williams—I mean Mr. Davis if you know?
A. Mr. Davis was very quiet and very nervous, didn't say anything during the whole meetings.
Q. What was the condition of Trevor?
A. Trevor was very nervous, but whenever he would go to say anything his father would become more nervous, he seemed worried about his father.
Q. Mr. Scanlan do you remember—were you present at some statement made by Dr. Mellon to Trevor on the first morning you met up there?
A. No.
Q. You were not?
A. No.
Q. Now, with respect to Harold Williams' condition further, you say that his eyes protruded on one occasion, you went and got him aromatic spirits of ammonia?

A. Yes.

Q. What was his condition—which day was that, the first or the second?

A. The second day.

Q. What was his condition on the third day?

A. Well, the third day Mr. Williams was very, very nervous and didn't talk very much the third day.

Q. What, if anything, did Dr. Mellon say to you on the night of the second day, touching him?

A. Dr. Mellon told Trevor in my presence, "You had better put your father in bed in the Hotel Vendig and don't take him out."

Q. That was when you ended the meeting?

A. As we ended the meeting, yes.

Mr. McCarter: What day is that?

A. The second meeting.

Q. And what, if anything, was said by him at the end of the third day?

A. At the end of the third day Dr. Mellon suggested that I get the aromatic spirits for Mr. Williams. He was taking aromatic spirits all day long, several times a day, and I got them.

Q. Can you tell me whether or not Mr. Dorrian and Mr. Fahler or Mr. Godfrey or Mr. Hart and Mr. Phillip Godfrey knew who the attorneys were of Davis and Williams?

A. I told Mr. Carlton Godfrey and Mr. Garrison and Mr. Phillip Godfrey that Judge Cole was Mr. Davis' attorney and Bourgeois and Coulomb were the attorneys for Mr. Trevor Williams and Mr. Harold Williams.

Q. When did you tell them that?

A. The first—I told Mr. Carlton Godfrey at Mr. Dorrian's house Sunday before the meeting.

Q. Before the meeting?
A. Yes.
Q. When did you tell Mr. Garrison and Mr. Phillip Godfrey?
A. At the first meeting there.
Q. And the night that the paper was signed did they know who the lawyers were who were waiting to come there?

Mr. McCarter: One moment. How can he say that they knew?

Mr. Bourgeois: I will change that.

Q. Was anything said to them as to who Mr. Davis' and Mr. Williams' lawyers were and where they were?
A. I said "Mr. Bourgeois and Judge Cole are at the University Club waiting to come over here," and Mr. Phillip Godfrey said, "You better talk to father." I told Mr. Carlton Godfrey that Mr. Bourgeois and Judge Cole were at the University Club. He said, "It is too late for attorneys now, too late, too late," and Mrs. Davis became excited, and said, "They are right in this hotel. I want to call them in," and Father Mellon told Mrs. Davis to sit down and keep quiet.

Cross-examination.

By Mr. McCarter:

Q. What is your business, Mr. Scanlan?
A. Real estate broker.
Q. And you and the Davises and your wife all live at the same house?

A. Yes.

Q. Do you still?

A. Yes.

Q. Were you connected in any way with either Gordon Williams and Company or Williams and Davis, Inc.?

A. I was a salesman for Gordon Williams and Company.

Q. How long had you been that?

A. About one year.

Q. So that you—were you connected with their office?

A. The Ventnor office, yes.

Q. Ventnor office? How many offices had they?

A. Four.

Q. Did you have anything to do with Williams and Davis, Inc.?

A. Yes.

Q. You were vice-president of it, weren't you?

A. Yes.

Q. Why didn't you tell us that?

A. That wasn't at the time I was made—let's see ——

Q. What?

A. I was made vice-president of it, yes.

Q. When were you made vice-president?

A. A year ago February, I believe.

Q. So that from February until the following June when this interview in Philadelphia took place you had been vice-president?

A. Yes.

Q. And you executed the agreement as vice-president? Didn't you?

A. What?

Q. What?

A. Yes.

Q. Now, I ask you again, when I asked you if you had any connection with this enterprise why you admitted to speak of the fact that you had been for several months vice-president of the Williams and Davis, Inc. before this meeting?

A. You immediately asked me another question.

Q. That was it, eh?

A. Sure.

Q. Well, what was the first knowledge or intimation that you received of the fact that there was a capias and writ of attachment outstanding against your associates in business and your brother-in-law?

A. Why, on the Saturday that the capias was issued Mr. Bitting in the Ventnor Office told me that Mr. Hart had come in and said they were going to lock the whole three of them up, they had a capias out and the attachment I knew was out because I saw Mr. Davis' house attached and his automobiles attached.

Q. Saw the officer in the act of attachment?

A. Positively.

Q. And that was Saturday?

A. Saturday, yes.

Q. So that the information you received was with reference to the capias from Mr. Hart, and with reference to the attachment the fact that the attachment was being actually executed?

A. Yes.

Q. Hart told you, did he not, at that time, that the capias was issued ——

A. He told Mr. Bitting.

Q. Pardon me?

A. Hart told Mr. Bitting. I didn't see him.

Q. Were you there?

A. No, Mr. Bitting told me.

Q. Oh, Bitting told you?

A. Yes.

Q. The information you received though was that the attachment had actually issued?

A. Sure.

Q. Now, at that time where were Williamses, the Messrs. Williams?

A. At Mr. Davis' house having lunch.

Q. What time are you referring to now?

A. At that time, noontime Saturday.

Q. When you got this information?

A. Sure.

Q. Of the Messrs. Williams?

A. No, Mr. Harold Williams and Mr. Trevor Williams.

Q. Trevor and Harold?

A. Yes.

Q. Were at the Davis house getting lunch?

A. Right.

Q. Were you there?

A. No.

Q. How did you know they were there?

A. I had just left them there before I came up.

Q. And where was Davis?

A. At his own house having lunch.

Q. With these other two?

A. Yes.

Q. The three were taking lunch together?

A. Yes.

Q. Had you lunch with them?

A. No.

Q. At that time had the writ of attachment been served?

A. No.

Q. And at that time, so far as you knew, none of them knew of the issuance of the capias?

A. I don't think so, no.

Q. And this was Saturday the thirty-first—what day?

A. Saturday.

Q. What day of the month, do you remember?

A. The day of the month I don't remember, no.

Q. When did you next see either of the two Messrs. Williams, whom you say were lunch at Mr. Davis' house?

A. The first day of the meeting ——

Q. Or Mr. Davis?

A. The first day of the meeting in Philadelphia.

Q. They at once went away, didn't they?

A. Yes.

Q. All three of them?

A. Yes.

Q. On that Saturday?

A. Yes.

Q. After they had heard of the writ of attachment?

A. Yes.

Q. And the writ of capias?

A. Capias, yes.

Q. They, to use the vernacular, skipped?

A. All right.

Mr. Cole: Vamoosed.

Q. Vamoosed, if you prefer it. I accept the amendment. That is that Saturday afternoon they went away?

A. Yes.

Q. Do you know who informed them?

A. I informed them.

Q. Oh, you informed them?

A. Yes.

Q. Over the phone?

A. Told them.
Q. Did you go back to the house?
A. Yes.
Q. They were still there?
A. Yes.
Q. And you told them and they skipped or vamoosed?
A. Yes, sir.
Q. Now, the next information you had was a talk with Mr. Dorrian?
A. I talked with Mr. Dorrian, yes.
Q. And what day was that, if you recall?
A. I talked to Mr. Davis on the telephone before that.
Q. Beg pardon?
A. I talked to Mr. Davis on the telephone before that.
Q. Will you answer my question?
A. What is it?

(Question repeated.)

A. I don't recall.
Q. Talked with Mr. Dorrian?
A. I don't recall.
Q. You had a talk with Mr. Dorrian before the capias was issued?
A. Yes.
Q. The Sunday before it was issued?
A. Yes, sir.
Q. And at that time he told you that he expected to take proceedings to have the Messrs. Williams arrested?
A. No, just Mr. Harold Williams.
Q. Just Mr. Harold Williams?
A. Yes.

Q. What did he say?

A. Mr. Dorrian said, "We will have to get that name off the window, the name is no good. We will get that name off the window and we can put old man Williams in jail."

Q. "We can put old man Williams in jail"?

A. Sure.

Q. Do you know whether the writ of attachment had issued when that remark was made?

A. I don't know, no.

Q. Now after Davis and the two Williamses had vamoosed, and they were which Messrs. Williams?

A. Mr. Harold Williams and Mr. Trevor Williams.

Q. Father and son?

A. Right.

Q. They all go to Philadelphia?

A. I don't know where they went.

Q. You don't know where they went?

A. No.

Q. Did you hear from them?

A. Had a telephone call from Mr. Davis that evening.

Q. Did you understand they were in Philadelphia?

A. That evening, yes.

Q. That is what I am talking about, that evening.

A. Yes.

Q. Did Davis tell you that he wanted you to see Father Mellon?

A. No, not that evening.

Q. They all remained away a week, didn't they?

A. Yes, sir.

Q. The next week all away?

A. Yes.

Q. Did you hear from them during that week?

A. Yes.

Q. From whom did you hear during that week and when?

A. Why I heard from, the same evening I heard from Mr. Davis, called me up and asked me to get in touch with Judge Cole for him.

Mr. McCarter: Now I move that be stricken out. Won't you try to answer my question?

The Court: It will be stricken.

A. That evening I heard from him.

Q. You mean the Saturday evening?

A. Yes.

Q. When did you next hear from any of the parties after that Saturday evening?

A. I had three or four phone calls in the evening during that week.

Q. From whom?

A. From Mr. Davis and Mr. Harold Williams.

Q. In Philadelphia?

A. I don't know where the calls came from all the time.

Q. Well, pursuant to Mr. Davis' instruction, did you employ Judge Cole?

A. Yes.

Q. When?

A. Went directly to Judge Cole when Mr. Davis called me.

Q. When was that?

A. Saturday.

Q. Saturday? The week after ——

A. The same day the capias was issued.

Q. So that Judge Cole from the day the capias was issued had been retained by Mr. Davis through you to look after their interest, his interest?

A. Yes.

Q. What?

A. Yes.

Q. Now did you get any message from the Messrs. Williams to communicate with Mr. Bourgeois?

A. Yes.

Q. Yes. And when was that?

A. Sunday.

Q. The next day, the very next day?

A. Following day, yes.

Q. Pursuant to that request from the Messrs. Williams you retained in their behalf Mr. Bourgeois?

A. Mr. Stringer and I called up Mr. Bourgeois on Sunday, yes.

Q. You haven't mentioned Mr. Stringer, when did he come in?

A. Just that Sunday.

Q. Well, who employed him?

A. Mr. Stringer knew Mr. Bourgeois very well, and I didn't want to call on Mr. Bourgeois on Sunday, so I asked Mr. Stringer to go down with me so Mr. Bourgeois would be sure and talk with me.

Q. Thought Mr. Bourgeois would be too religious to talk business, is that right?

A. I didn't know Mr. Bourgeois at that time and I hesitated to call him on Sunday.

Q. With Stringer acting as sort of deacon or pastor, you on Sunday, you went and employed on behalf of the Messrs. Williams, Mr. Bourgeois, did you?

A. Yes.

Q. Was Mr. Stringer previously employed?

A. I don't know.

Q. Did you give any instruction to either of these gentlemen on behalf of their clients?

A. Instructions? I explained to Mr. Bourgeois as fully as I knew about the capias so he could look it up and get the legal phase of it.

A. And he was to look after the interests of the Messrs. Williams?

A. Yes.

Q. And Judge Cole was to look after the interest of Mr. Davis?

A. Mr. Davis.

Q. Did you attend any of the hearings that were made either before the Supreme Court Justice Campbell or Circuit Court Judge Sooy?

A. Hearings? No.

Q. You were not in court on any of the motions that were made?

A. I was in court one time in this same building.

Q. What is that?

A. I was in court one time in this same building.

Q. In this building?

A. Yes.

Q. When Mr. Myrose was there?

A. Yes.

Q. The Supreme Court Examiner taking testimony?

A. That is right.

Q. Now, who were the attorneys present on that occasion?

A. Mr. Garrison, Mr. Carlton Godfrey.

Q. Who else?

A. Mr. Bourgeois, Judge Cole.

Q. Then on that occasion Mr. Garrison and Mr. Bourgeois and Mr. Carlton Godfrey both knew that Mr. Bourgeois and Mr. Cole were the attorneys of the respective parties, didn't they?

A. Yes.

Q. So that when they were told, as you say they were later at Philadelphia that they were their attorneys, they were simply told what they already knew?

A. All right.
Q. What?
A. As you please.

The Court: For my information was the hearing before Mr. Myrose prior to this date? I take it from the question it must have been, but there is no testimony before me to show it.

Mr. McCarter: Certainly.

Q. How long before the meeting in June was the hearing before Mr. Myrose?
A. It was a few days before or a week before or so.
Q. Now was it about a week later that you were rang up by someone and told to see Father Mellon?
A. Yes.
Q. Who rang you up?
A. Mrs. Davis.
Q. Mrs. Davis?
A. Yes.
Q. Was she in New York or in Atlantic City?
A. New York.
Q. New York? Was Mr. Davis there?
A. Yes.
Q. And the rest of them?
A. Yes.
Q. All in New York?
A. Yes.
Q. Was that Saturday or Sunday?
A. It was on Sunday, I guess.
Q. Who was Father Mellon?
A. Who was he? I don't understand that question.
Q. Did you know him?

A. Yes, I know him.

Q. He is a Catholic priest, isn't he? Monsignor Mellon?

A. That is right.

Q. You knew him?

A. Yes.

Q. Mrs. Davis knew him?

A. Yes.

Q. Very intimately?

A. Knew him.

Q. What?

A. Mrs. Davis knew him, yes.

Q. And Mr. Davis knew him?

A. Yes.

Q. Are Mr. and Mrs. Davis Roman Catholics?

A. No.

Q. They are not?

A. No.

Q. Is Mrs. Davis a Catholic?

A. Yes.

Q. I will have to keep my wits sharp, Mr. Scanlan. You are too smart for me.

A. You are educating me, Mr. McCarter.

Q. And Mrs. Davis, who is a Roman Catholic, suggested you interesting Father Mellon in this matter, didn't she?

A. Yes.

Q. And told you to see him?

A. Yes.

Q. And to see if he would not act as intermediary?

A. Yes.

Q. And somehow or other bring about an adjustment of the difficulties that were obtaining between these parties?

A. To have a meeting to find out what charges and see if an adjustment could be made.

Q. Didn't you know that the charges were incorporated in the affidavits?

A. I hadn't seen them.

Q. You hadn't seen them?

A. No.

Q. Didn't you know it?

A. No.

Q. You didn't know anything about that?

A. I saw the capias, I saw the attachments. I didn't see the affidavits.

Q. No? But did you know that there were any affidavits forming a basis for the capias and the attachment?

A. I didn't know it.

Q. You didn't know anything about it?

A. No.

Q. So far as you know they just issued without anything behind them?

A. I didn't know anything about that part. I don't understand the legal part of it.

Q. What were you doing before Myrose, just listening to the proceedings?

A. No.

Q. What were you doing?

A. Mr. Bourgeois questioned me as to Mr. Davis' whereabouts.

Q. You were a witness?

A. Yes.

Q. Now when, with reference to the telephone call enlisting or suggesting that you enlist the services of Father Mellon, as you have told us, was the hearing before Myrose?

A. Some days before.

Q. That is the hearing before Myrose was a few day before the telephone call to get Father Mellon, is that right?

A. Yes.

Q. So you went to see Father Mellon?

A. Yes.

Q. What did you tell him?

A. I told Father Mellon that Mrs. Davis had called me up and asked if he would not talk to Connie Dorrian to see if they could not come together, and Father Mellon agreed that he would talk to Connie Dorrian, and that evening Father Mellon and Connie Dorrian came down to the house and asked me to come down to Mr. Dorrian's house. I went down to Mr. Dorrian's house and I asked Mr. Dorrian, "Is Mr. Godfrey going to be here?" He said, "Oh, yes, we have to have the old bull dog here," and Mr. Carlton Godfrey was at this meeting. So at this meeting at Mr. Dorrian's house Mr. Carlton Godfrey asked me if I would guarantee that Mr. Harold Williams, Mr. Trevor Williams and Mr. Davis would be at a meeting in Philadelphia.

Q. What is that?

A. Mr. Carlton Godfrey asked if I would guarantee Mr. Harold Williams, Mr. Trevor Williams and Mr. Davis would be at this meeting in Philadelphia we were planning.

Q. Was that the first thing that was said in your presence?

A. The first thing? That is the first thing, yes, as I remember.

Q. Were you there all the time with Mr. Carlton Godfrey and Mr. Dorrian and Father Mellon were together?

A. No, Mr Connie Dorrian and Father Mellon came up and got me and brought me down. They had been together before.

Q. They had been conferring before so you understood?

A. Sure.
Q. And they came and got you?
A. That is it.
Q. After they had gotten you they asked you if you would guarantee that the parties would meet in Philadelphia?
A. That is right.
Q. What time was this that they saw you in the evening, Sunday evening?
A. About ten o'clock.
Q. Do you know what time, how long they had been together?
A. No.
Q. Did you make the appointment?
A. No, Mr. Dorrian came up and got me.
Q. No, I mean with Father Mellon?
A. Well, they just stopped in and brought me down.
Q. How did Father Mellon get in touch, if you know, with Mr. Godfrey and Mr. Dorrian?
A. Father Mellon? I don't know.
Q. Did he say to you when you suggested it that he would get in touch with them?
A. Yes.
Q. And did you reply that you would guarantee that they would be present.
A. I asked, I said, "What would happen" ——
Q. Won't you answer my question?
A. I wouldn't guarantee, no.
Q. You did guarantee?
A. No.
Q. Was a meeting arranged?
A. Yes, sir.
Q. Then and there?
A. At that same meeting, yes.
Q. Did you ring up the parties?

A. Yes.

Q. Philadelphia or New York?

A. New York.

Q. And they all there, apparently, that is to say Harold and Trevor and Davis and Mrs. Davis?

A. I called up Mrs. Davis and I imagine they were there, I don't know.

Q. And arranged for a conference the next day?

A. Yes.

Q. That was?

A. Decoration Day.

Q. Which I think was Monday?

A. That is right.

Q. And this interview in the evening when you were asked to see if this appointment could be arranged was Sunday evening, wasn't it?

A. Sunday evening, yes.

Q. Now, who asked you to be present at this conference in Philadelphia?

A. I went along with Father Mellon. We drove up together.

Q. You observed you haven't answered my question. Who asked you to be present?

A. Mrs. Davis.

Q. Mrs. Davis? What time did all the parties meet?

A. About one o'clock, Monday afternoon.

Q. At room 101 in the Vendig Hotel, Philadelphia?

A. Yes, sir.

Q. Father Mellon was there?

A. Yes.

Q. Who else was there?

A. Father Mellon and Mr. Carlton Godfrey, Mr. Phillip Godfrey and Mr. Garrison, Mr. Davis, Mr. Trevor Williams, Harold Williams, Mrs. Davis and

Mr. Dorrian, Mr. Fahler and myself and Father Mellon, of course.

Q. How long did that conversation continue?

A. About four hours.

Q. The parties were seated around the table?

A. Yes.

Q. Look at this blue-print and see if, whether your recollection ——

Mr. Bourgeois: Looks like a murder trial.

Mr. McCarter: Yes, does.

A. Like selling some lots.

Q. Does that in a general way represent pictorially the room 101?

A. I believe so.

Q. There was a bath and toilet here?

A. I thought it was this way.

Q. Any way you want.

A. That way suits me better.

Q. All right, very good. There was a bath and toilet in one end?

A. Yes.

Q. There was a long table with a series or series of tables with chairs?

A. Yes.

Q. And the parties were seated on this first day around that table?

A. Yes.

Q. Can you place the parties?

A. I don't know. Partly. Father Mellon sat here.

Q. Put Mellon. He kind of presided, didn't he?

A. Yes.

Q. Go on.

A. Harold Williams sat here.

Q. Next?

A. Trevor.

Q. Who?

A. Trevor. Didn't seem to be that many chairs there.

Q. Go on the best you can.

A. There was a rocking chair here, Dorrian sat in that and there was a big chair here.

Q. What kind?

A. A straight chair and Fahler sat in that. Carlton Godfrey was here.

Q. Carlton? Go on, never mind the second name.

A. And Phillip. Mr. Garrison was, let's see—I am not sure on this.

Q. Best you can. I can't expect you to be absolute. Where did Mr. and Mrs. Davis sit?

A. Sort of over here.

Q. Don't forget yourself.

A. I won't. I sat here, another chair here.

Q. Who sat down, if anybody, at the other end opposite Father Mellon, the presiding officer?

A. I don't think anybody sat there.

Q. The door was over here, wasn't it?

A. That is right.

Q. You spoke of people going out and in, the parties did go in and out?

A. Oh, yes.

Q. Door wasn't locked?

A. Not that I know of.

(Blue-print offered, received in evidence and marked Exhibit C3.)

Q. Did the parties, so far as you can recall, at the date of the next meeting take the same chairs?

A. Practically.
Q. At the first meeting Father Mellon presided?
A. Yes.
Q. Do you remember when you went to see Father Mellon on that first occasion to enlist his services as intermediary that you explained to Father Mellon that a capias was out against ——
A. Yes.
Q. One moment. Let me finish the question—against Mr. Davis and Gordon Williams and Trevor Williams and Harold in behalf of Connie Dorrian and that you said that the Williamses were ready to shoulder the blame and were ready to effect a settlement and wished Father Mellon to act as arbitrator or intermediary between the parties?
A. What was that question again?

(Question repeated.)

Mr. Bourgeois: This is objected to as irrelevant and not binding upon these people.

The Court: I will permit it.

Mr. Bourgeois: Neither cross-examination.

The Court: I will permit it.

Q. Remember that, don't you?
A. I don't remember the exact words. I remember going there.
Q. That was substantially what you said?
A. Partially.
Q. Beg pardon?
A. That is all right, yes.
Q. Who was the principal spokesman at the meet-

ing at the hotel for the side in which you were interested, that is the Williams and Davis crowd?

A. Mr. Harold Williams.

Q. Now possibly the Vice-Chancellor doesn't know the relationship. Harold is the father, isn't he?

A. Yes.

Q. Then the sons of Trevor, and what is the name of the other son?

A. Gordon.

Q. They are the two sons?

A. That is right.

Q. Which of those three were interested in Gordon Williams and Company?

A. Harold Williams and Gordon Williams.

Q. Which of them, if you know, were officers or directors of Williams and Davis, Inc.?

A. Harold Williams and Gordon Williams.

Q. Harold was, held what position?

A. At this time I was vice-president of it and Harold Williams didn't hold any position. Which time do you mean, Mr. McCarter? At this time or previous to this time?

Q. Well, when did you become vice-president, you say in January?

A. February.

Q. Who was president?

A. Mr. Davis was president.

Q. Davis was president, Harold had been vice-president down to that time?

A. Previous to that Harold I think was secretary and treasurer.

Q. What?

A. Previous to my being vice-president Harold Williams was secretary and treasurer.

Q. When you became vice-president what other position, if any, did Harold take?

A. He didn't take any.
Q. He retired, did he?
A. Yes.
Q. That is in 1927?
A. Yes.
Q. You are speaking of?
A. Yes.
Q. Prior to that time he had been secretary and treasurer and director?
A. Yes.
Q. Who were the other directors?
A. Mr. Dorrian, Mr. Fahler, Mrs. Dorrian and Mrs. Fahler. I don't know if they were directors or not.
Q. I know, but prior to the time of the making of the issuance of the writ of attachment who had been the directors?
A. I was a director, yes.
Q. Who had been the directors prior to the issuance of the writ of attachment?
A. Mr. Hart.
Q. Prior to the stockholders' meeting of May 21st, whatever it was?
A. I don't know exactly.
Q. You don't know?
A. No.
Q. Now you say Harold did the most of the talking for the one crowd?
A. Yes.
Q. Carlton Godfrey did the most of the talking for the other crowd?
A. Yes.
Q. Now do you recall the fact that on that first occasion Father Mellon explained the object of the meeting?
A. No, I don't recall that.

Q. Don't you recall that Father Mellon said that these difficulties existed, writ of attachment and writ of capias were out against the defendants, and that they were avoiding the jurisdiction, that he had been asked to see if, inasmuch as the Williamses were ready to shoulder the blame ——

A. I don't recall that.

Q. ——to act as intermediary or arbitrator and he would be glad to have the parties state their respective positions with regard to the matters in difference between them, or words to that effect?

A. Father Mellon said he was ready to act as arbitrator. I remember him saying that, but his wording I don't remember.

Q. You can't remember the exact language?

A. No.

Q. Have I substantially stated what he said that day?

A. I couldn't say. I remember Father Mellon said he was ready to act as arbitrator, that I had gone down to see him.

Q. Did he ask that the parties, Mr. Godfrey on his side should state what their claims were?

A. Yes.

Q. And then did Mr. Philip Godfrey present a memorandum, have a memorandum in his hand which contained the facts upon which the writ of capias had been issued?

A. I didn't see it.

Q. At any rate Phillip Godfrey produced some figures whose aggregate amount was how much?

A. $190,000, I believe.

Q. Didn't it reach $178,000?

A. Mr. Godfrey's figures were, I believe, $190,000.

Q. Which Godfrey?

A. Mr. Phillip Godfrey.

Q. At first?

A. The first figures I remember there, yes, sir.

Q. How long were you there that day?

A. Four hours.

Q. What were you talking about?

A. Talking about? Mr. Phillip Godfrey had prepared assignments of mortgages, the stenographers were coming in and out of the room, the first ——

Q. The stenographers came in and out before anything was arranged?

A. The second day they came in and out.

Q. I am asking now what went on for the four hours?

A. Why just as I have told you, Mr. Williams asked to see the charges.

Q. To see what?

A. Mr. Williams asked to see all the charges and Mr. Phillip Godfrey would show them to Trevor, he had a stack of papers, and he would push them over to Trevor saying, "Here is a forgery, and here is an embezzlement."

Q. What is that?

A. Mr. Phillip Godfrey would push the papers over to Trevor saying, "Here is a forgery, here is an embezzlement, here is another forgery, another forgery," and adding up figures all the time.

Q. Did Mr. Carlton Godfrey request Phillip to read a schedule of the transactions and didn't Phillip from a paper in his possession then read out that the charge was in the capias that on or about the twelfth of May, 1926, Harold S. Williams took a deed from Atlantic County to a two and three-thousandths acre tract at Somers Point in which transaction he represented the conspirators, paying three thousand dollars to the county for said deed, he represented he had paid seventy-five hun-

dred dollars for the same and actually drew that amount by a check, therefore drawing the money prior to purchasing the same, a difference of forty-five hundred dollars was a fraudulent and secret profit converted by the conspirators to their own use. Of this forty-five hundred dollars Connie Dorrian contributed forty-two hundred and fifty and Lloyd Fahler twenty-two hundred and fifty?'' Did he read that?

A. I don't recall his reading it all out like that, no.

Q. He spoke of that matter, didn't he?

A. He spoke of embezzlement.

Q. One moment. Didn't he speak of the Atlantic County deed?

A. I believe he had a check saying $7500 from the two acre tract, something like that.

Q. Didn't he speak of the Atlantic County deed?

A. In that way, yes.

Q. For which Mr. Williams and his associates paid forty-five hundred dollars and charged Mr. Dorrian and Mr. Fahler seventy-five hundred. That was brought out, wasn't it?

A. Yes, brought out in the check, as I remember it.

Q. Well, the statement was made, as I put it?

A. Yes.

Q. Roughly? Generally?

A. I remember it the way I put it. I don't remember it the way you put it.

Q. You don't?

A. No.

Q. Then did he then speak in response to his father's request of another transaction?

A. Yes.

Q. Did you say he produced $7500 check?

A. Yes, sir.

Q. There that day?

A. I believe so, yes.
Q. Now which is it?
A. Yes.
Q. You seem to hesitate?
A. No—yes.
Q. What?
A. Yes, he had the check.
Q. And showed it?
A. Yes.
Q. No doubt about that?
A. I don't doubt it.
Q. What?
A. I think so. I say yes.
Q. Did you see it?
A. I recall the check.
Q. Did you see the check for $7500?
A. No, I saw it the other end of the table. I didn't see it exactly.
Q. Then why did you say, if you didn't see it exactly, he produced the check for $7500?
A. I saw a check, I couldn't read it from the far end of the table.
Q. Then did he further read from the pleadings in the capias suit a claim that on or about the eleventh of February one Julia Coll took a deed from one David D. Smith for a tract in Egg Harbor, and that she in that transaction represented the Messrs. Williams and Mr. Davis, that these gentlemen represented that they had paid, represented to Dorrian and Fahler that they paid $123,000 and odd dollars for this property and actually drew that much money at the time that a deed from Julia Coll was delivered and that there was a difference of some $56,000 which it was claimed was a secret fraudulent profit for which the attachment sought to hold these people responsible. Was that said?

A. As I remember Mr. Phillip Godfrey said that Mrs. Coll had been used as a straw name and that her name had been forged and there was a secret profit there and put that down on the list with the others.

Q. He spoke of a secret profit of $56,000, didn't he?

A. Fifty-six thousand whatever it was, I don't remember.

Q. You say he spoke of a forgery?

A. Yes.

Q. That day, first day?

A. Yes.

Q. What?

A. Yes.

Q. Forgery on what?

A. Forgery of, I believe, of Julia Coll's name.

Q. On what?

A. On an agreement.

Q. On an agreement?

A. Yes.

Q. I want you to tell us all that Phillip told you that first day about an alleged forgery. Go on.

A. Phillip didn't tell me, he told Trevor, "Here is a forgery," and just handed the paper over to him and took it back.

Q. Phillip handed what paper to Trevor?

A. An agreement. I couldn't say what agreement it was.

A. An agreement?

A. Yes.

Q. And Phillip said, "Here is a forgery?"

A. Here is a forgery, yes.

Q. Here is a forgery?

A. Yes.

Q. Phillip sat where with reference to you?

A. Phillip sat over on the other side of the table.

Q. And where was ——

A. Trevor was directly across from Phillip.

Q. How near to you?

A. About three chairs.

Q. And he handed over some paper to Trevor and said, "Here is a forgery?"

A. Yes.

Q. What did Trevor say?

A. Trevor didn't say anything.

Q. He didn't say anything?

A. No.

Q. Was that in connection with this Julia Coll transaction that I spoke of?

A. In connection with Julia Coll, yes.

Q. Then did he go on in request for a specification of the claims and say that this same Julia Coll was a straw person had taken a deed from one George Roberts for two tracts at Somers Point representing Messrs. Williams and Mr. Davis and had paid about eighty-nine thousand dollars, these same gentlemen represented to Dorrian and Fahler that they had paid a hundred and fifty-nine thousand for this tract to Roberts, and actually drew that amount from the funds of the company at the time that the deed to Williams and Davis, Inc., for this tract was made? Remember that?

A. I don't remember reading it all out like that, no.

Q. What do you remember about it?

A. I remember Phillip Godfrey saying, "Here is a forgery, the price paid was" ——

Q. I am asking about this transaction now.

A. That is what I am talking about. He said the price paid was eighty thousand or so and the price sold was a hundred and some thousand, there is the

difference of fifty thousand, and write that down, that is what I remember.

Q. You said a moment ago he said, "Here is a forgery"?

A. Here is a forgery, certainly.

Q. So there were two forgeries?

A. More than that.

Q. More than that?

A. Sure.

Q. Now you will remember that he said there was a difference of some seventy thousand dollars in which they were trying to hold these people responsible, don't you?

A. That is right.

Q. Then you remember that as another specification he said that a deed had been obtained in the name of Sadie Craigen?

A. Yes.

Q. For a tract at Somers Point in which the purchase price was actually ten thousand dollars but that your friends, these gentlemen represented that they had paid twenty-five thousand dollars and actually drew that sum from the Williams and Davis, Inc., to pay for the land for which they in fact paid on about ten thousand dollars, and they had taken the difference over that?

A. I don't remember reading it all out like that, no.

Q. Do you remember that being stated?

A. I remember him stating Sadie Craigen is a straw, illegal to use a straw, and difference so many thousand dollars.

Q. About fifteen thousand dollars?

A. Whatever it was. I don't remember.

Q. Anything said about forgery there?

A. I don't recall.

Q. What?

A. I don't recall.

Q. Now do you then remember that he also spoke of a transaction on which, in January, 1926, these gentlemen, Messrs. Williams and Davis, arranged to convey to a person by the name of Helene Wright certain lots at Margate and represented that the money that they obtained for that purchase was thirty-six thousand dollars or thereabouts, whereas as a matter of fact they had obtained about forty-four thousand dollars and had pocketed the difference of about four thousand dollars. Remember that transaction?

A. I don't recall the Margate lots, no.

Q. Eight thousand, of which four belonged to Fahler and four Dorrian. You remember the Margate lots but don't remember the amount?

A. I don't remember the Margate lots, no.

Q. But you do remember what?

A. I remember the name of Helene Wright being brought up as a straw.

Q. Then do you remember his mentioning a transaction with reference to the same Helene Wright took a deed from a man by the name of Haggerty for a Linwood tract which they represented, that is your friends represented that they paid forty-four thousand dollars and they really had in fact paid only nineteen?

A. I remember mentioning a tract in Linwood.

Q. You don't remember the figures?

A. I don't remember the figures, no.

Q. Then do you remember that he also mentioned that Helene Wright had taken another deed at Margate in which the gentlemen had said that they had paid seventeen thousand five hundred dollars, whereas in fact they had only paid about four thousand five hundred dollars?

A. I don't remember that.

Q. Don't remember that transaction at all?

A. No.

Q. Now how long a time was taken, do you think, by Phillip in presenting whatever he did present?

A. I don't know.

Q. Well, after each item suggested some comments were made by either Mr. Harold Williams or Mr. Davis or somebody, were they not?

A. No.

Q, What?

A. Not after each transaction, no. Not after each item.

Q. What comment did they make with reference to any of these transactions?

A. Why Trevor said that it is legal—Mr. Phillip Godfrey said that is a forgery.

Q. One moment.

A. I am telling you.

Q. I am not asking you what Phillip Godfrey said. I want an answer to my question. I am going to let you assume, I am going to assume now every moment you would like to say something was said about a forgery.

The Court: Repeat the question.

(Question repeated.)

Mr. Bourgeois: It is perfectly legitimate.

A. Why Mr. Phillip Godfrey handed Trevor an agreement ——

Q. I am asking you what comment Davis or Williams made with reference to these transactions that you admit that Mr. Phillip Godfrey read?

Mr. Bourgeois: Your honor please, his question was not related to that at all and I think the witness should be permitted to answer it.

The Court: Unless the previous question is withdrawn.

Mr. McCarter: Think I can, of course ——

The Court: If the previous question is withdrawn the present question may be answered.

Mr. McCarter: I will withdraw the question.

The Court: Unless there is objection to the statement that this witness has admitted that Mr. Phillip Godfrey read these matters. I think in each instance this man says he did not understand they were read that way and he gave his understanding or what was said.

Mr. McCarter: I will withdraw all the questions and put it this way.

Q. After Mr. Phillip had said whatever he did say, what comment did either Harold Williams or any other Williams or Davis make with reference to what Phillip said?

A. Why Trevor said that it is not illegal to use a straw. I used a straw name but that is not illegal, Father Mellon said that is morally wrong. It is wrong to use a straw. That is the comment.

Q. That is all that was said on that?

A. Yes.

Q. Is that all that was said?

A. Yes, that was all that was said.

Q. By or on behalf of the Williams or Mr. Davis, not illegal to use a straw?

A. Yes.

Q. Was that remark that it is not illegal to use a straw made after Phillip Godfrey had finished, or as he progressed?

A. As he progressed.

Q. How long did it take Phillip to read what he did read?

A. I don't know.

Q. Well, he was an hour or two, wasn't he?

A. I really don't know, Mr. McCarter.

Q. You were there four hours?

A. Yes.

Q. Now after Phillip had finished and the comment that you speak of had been made, what next transpired?

A. They proceeded to take mortgages from a long list to decide which mortgages they would take to make up this amount.

Q. What amount?

A. $190,000.

Q. This is the first day now we are speaking of?

A. Well, I am not sure.

Q. I am asking you?

A. I am not sure whether the first day or second day.

Q. One moment, please. If you are not sure then don't undertake to say. I am asking you what transpired during the four hours after Phillip had said what he did say, and after the comment that you say was made by Harold about the straw. What else occurred that day?

A. What else? Mr. Harold Williams said, "I only have ten thousand dollars in my pocket." Mr. Carlton Godfrey had asked for fifty thousand dol-

lars and Mr. Harold Williams said, "I only have ten thousand dollars." Mr. Carlton Godfrey said, "Leave that with us. That will keep you from going to jail."

Q. Then ten thousand—had an agreement been reached?

A. No.

Q. What was this ten thousand dollars to be paid for?

A. The ten thousand Mr. Harold Williams asked for a lump sum.

Q. What?

A. Mr. Harold Williams asked for a lump sum of everything. He couldn't understand it, he said.

Q. Mr. Harold Williams wanted to know how much the claims that Phillip had a schedule amounted to?

A. Wanted a lump sum of everything.

Q. A lump sum?

A. Yes.

Q. What sum was stated?

A. Why then Dr. Mellon and Mr. Dorrian and Mr. Carlton Godfrey and Mr. Garrison and Mr. Phillip Godfrey went out in the hall and talked it over and came back and said they would take $190,000.

Q. This is the first day?

A. As I recall.

Q. Take $190,000 first day?

A. I get mixed up on the days, first day, second day. It is a year ago, Mr. McCarter.

Q. I am only asking you for your recollection. Again I want you to do your best. I realize it is a year ago but I want you to tell us what more transpired to the best of your recollection during those four hours that you were there that first day?

A. I don't remember any more.

Q. What?

A. I don't remember much more.

Q. Don't remember much more?

A. Well, the first day, I get the days mixed up. I can't separate them. I can tell you what happened the three days, but not to separate them.

Q. Well, who added up $190,000?

A. I added it up.

Q. And when was that?

A. First or second day, don't know which.

Q. Don't know which?

A. No.

Q. Well, when the hundred and ninety was aggregated by your addition was Hart present?

A. Yes.

Q. Was Hart present the first day?

A. No.

Q. All right. Now we have got that as being on the second day then?

A. Second day, that is right.

Q. Then you were mistaken in your direct examination when you said the first day, weren't you?

A. Probably.

Q. Very good. What else occurred on the first day during the four hours, can't you remember?

A. Why I got Mr. Harold Williams aromatic spirits of ammonia on a couple of occasions. I know that.

Q. I know, but I mean in the way of talk.

A. I don't remember any more the first day.

Q. Do you remember that on the first day Trevor said that a profit made from the purchase of property belonging to the Somers' estate was legitimate and that Dorrian and Fahler said, "We agree to that," and inasmuch as this transaction was not found in the schedule or paper from which Phillip

read, it was not used in or made a part of the hundred and ninety thousand?

A. Yes, I remember that.

Q. You remember that? Had any agreement as to the amount that should be paid been reached the first day?

A. I don't believe so. No.

Q. Had the sum of one hundred and ninety thousand dollars been mentioned the first day?

A. A hundred and ninety? Yes.

Q. First day?

A. Yes.

Q. By whom?

A. Mr. Phillip Godfrey.

Q. Did the figures that Phillip presented, when you added them up aggregate one hundred and ninety thousand?

A. No, the figures Phillip presented were mortgages that they had taken to make up the amount, you see.

Q. One moment.

A. I will ask the question. No, $195,000 that was.

Q. $195,000?

A. Yes, according to Phillip added up $195,000 and I added up one hundred and ninety, one of us were wrong.

Q. Then the figures that Phillip had which you added up aggregated $190,000?

A. Yes. They were a list of mortgages that I added up, Mr. McCarter. They were not a list of the transactions.

Q. Did Phillip present a list of mortgages that day?

A. He presented a list of mortgages to me but not a list of the transactions, no.

Q. Did Phillip present a list of mortgages that day?

A. Yes.

Q. And that list of mortgages was a list of mortgages that it was suggested they should include to make up the sum of one hundred and ninety thousand?

A. Yes, sir.

Q. He had a lot of green sheets of paper listing these mortgages?

A. Yes.

Q. And did you add up their aggregate?

A. No. I added up the yellow sheet that Phillip handed me.

Q. And this was on the first day?

A. I get the dates mixed. I can't tell you the first day from the second day. Can't do it, Judge.

Q. You adjourned on Decoration Day after four hours, didn't you?

A. Probably, yes.

Q. What time did you meet the next day?

A. In the afternoon, two o'clock, maybe three o'clock.

Q. What was the object of that meeting?

A. Object of that meeting was to get these securities. That is right.

Q. What?

A. Trevor had part of the same securities from over in New York, assignments had to be executed.

Q. Then an agreement had been reached on the first day?

A. I don't get the dates straight. I can't tell you first day from the second day.

Q. You didn't seem to have any difficulty when Mr. Bourgeois was examining you.

A. To tell you the first day.

Mr. Bourgeois: I didn't ask him.

A. Didn't ask me the first day.

Q. Didn't?

A. No.

Q. When was an agreement reached for which mortgages were to be procured?

A. That has to be the second day. I can remember that way.

Q. When was it the paper was started to be drafted?

A. The second day.

Q. The object of adjourning was to enable Trevor to get some mortgages?

A. No, it was late and everybody was tired and weary, and they adjourned the meeting and Mr. Carlton Godfrey said, "We would draw up an agreement, you can have your attorneys in next day, after we take the rough edges off, and have your attorneys in."

Q. As a matter of fact, was it on the first day that you say you informed Mr. Godfrey and Mr. Garrison that Mr. Cole, and Mr. Bourgeois were the attorneys of your side?

A. Oh, yes.

Q. They already knew that, didn't they?

A. They knew that, sure.

Q. Did you tell them that they were then at the University Club?

A. They were not until the third day.

Q. Until the third day?

A. Sure.

Q. Do you know where they were on the first and second days?

A. Atlantic City, I guess.

Q. When was it that Harold said, "We don't want lawyers, I have paid ten thousand dollars for lawyers and don't want to pay any more?" or words to that effect?

Mr. Cole: He didn't say that.

A. I didn't hear Mr. Harold Williams say, "We don't want lawyers."

Mr. Cole: No such testimony as that.

Q. What was it you heard somebody remark, a particular remark?

A. I heard Mr. Harold Williams say, "We paid ten thousand dollars for lawyers," but I didn't hear him say that he paid ten thousand dollars and didn't want them.

Q. How did Harold happen to say, "We paid ten thousand dollars for lawyers?" When did he say it and to whom?

A. Oh, I just believe with Carlton Godfrey and I believe the first day of the meeting.

Q. Just tell us what was said.

A. Mr. Harold Williams said, "We paid ten thousand dollars for lawyers." He was objecting to the ——

Q. I want what transpired.

A. Mr. Harold Williams objected to the kind of meeting, he didn't expect a legal meeting, he expected just Mr. Dorrian, Dr. Mellon, and to just have a meeting to look over the charges. He didn't expect to find ——

Q. Did he say he didn't expect to see any lawyers there?

A. He didn't expect a legal meeting.

Q. He didn't expect a legal meeting, what else did he say?

A. He said, "We paid ten thousand dollars for lawyers, and if it is a legal meeting he wanted his lawyers. "I want my lawyers."

Q. When did he say that, the first day?

A. First day, sure.

Q. What he meant by a legal meeting he didn't explain?

A. No.

Q. Now at the close of the day Mr. Carlton Godfrey said he would prepare a contract over night and that next day their counsel, that is your counsel on your side could be present and go over it, and take off the rough edges, or words to that effect, didn't he?

A. That is right.

Q. That was on the afternoon just before you separated on the first day?

A. I believe that was the second day. I am not positive of the dates.

Q. At any rate, that is what he said?

A. Yes, that is what he said.

Q. Do you remember when the contract was actually completed?

A. The third day.

Q. What transpired then on the second day?

A. The second day I believe was when they took a list of mortgages and decided which mortgages they would take for the amount.

Q. They had agreed that they would pay a hundred and ninety thousand dollars?

A. Mr. Phillip Godfrey had the list.

Q. Will you answer my question?

A. I am answering it.

Q. They had agreed that they would pay a hundred and ninety thousand dollars?

A. One hundred and ninety thousand was agreed upon, yes.

Q. Why didn't you say yes?

A. Yes.

Q. And they said they hadn't the money to pay all, didn't they?

A. Had the money to pay it all?

Q. They said they hadn't the money to pay it all?

A. That is right.

Q. And they would pay some cash and would pay the balance in mortgages, is that right?

A. That is right.

Q. This, of course, before the contract was put in writing?

A. Well, there was stenographers coming in and out, I don't know whether the contract was written up or not. I didn't see it that day.

Q. This was before ——

A. Before I saw it, yes.

Q. ——Carlton said he would draw the contract?

A. That was in the preparing of the contract, and there they had stenographers coming in and dictate a small amount.

Q. And there the statement I mentioned namely, that they would pay $190,000 cash—I mean $190,000, that they had not cash sufficient to pay it all, and that they would make up the balance in mortgages was before Carlton said he would make a rough job of the contract, wasn't it?

A. No.

Q. You mean to say that he started in to draw the contract before there had been any meeting of the minds?

A. He started in, sure, so far as I remember.

Q. All right. When was it that the idea of the list of mortgages was presented, second day?

A. Mr. Phillip Godfrey had the list of mortgages all the time, from the first day.

Q. I know, but what was going to happen with this list of mortgages?

A. Mr. Phillip Godfrey had them with him, and they just took out what they wanted, some mortgages they wouldn't take for reasons best known to themselves.

Q. They wouldn't take mortgages for what purpose?

A. For the amount claimed in the suit.

Q. Then they agreed upon $190,000 and they were going to take mortgages for part of it, that is it, isn't it?

A. Going to take mortgages, yes.

Q. For part of it?

A. Yes.

Q. How much cash did they agree upon?

A. I believe thirty-five or forty-five thousand.

Q. Don't you know?

A. No.

Q. You said Harold had ten thousand in his clothes?

A. Yes.

Q. When did you first know Harold had ten thousand in his clothes?

A. He took it out in cash.

Q. When?

A. At the first day.

Q. He came there then on the very first day with ten thousand dollars in cash?

A. He had ten thousand cash first day, yes.

Q. Why didn't you say yes to that?

A. I said yes.

Q. All right, very good. Now assuming that it was on the end of the second day that Carlton Godfrey said he would draw the contract over night and present in the morning when your lawyers, I mean yours, your friends' lawyers could be present and go over it, did you go there the first day?

A. Yes.
Q. That would be Wednesday?
A. I believe so, yes.
Q. What time did you get there?
A. Don't remember.
Q Pardon me?
A. Don't remember that.
Q. And were they all there that day too?
A. Yes.
Q. In the meantime had any securities been gotten?
A. Yes.
Q. Who had gotten them?
A. Trevor.
Q. Where?
A. New York.
Q. He in the meantime between the meeting the day before and the meeting that day had gone to New York and procured some securities which he had needed to hand over, is that right?
A. Yes.
Q. Well did you see or communicate with Mr. Bourgeois or Judge Cole at the end of the second day?
A. The morning of the third day I talked with Judge Cole, yes.

(Question repeated.)

A. No.
Q. So far as you know no effort was made to get them?
A. I don't know, no.
Q. When did you talk with them as you have just said you did?
A. The morning of the third day I talked with Judge Cole.

Q. Where?
A. In Judge Cole's office.
Q. In Atlantic City?
A. Yes.
Q. Before you went to Philadelphia?
A. Yes.
Q. Did you take him up with you?
A. No.
Q. Why not?
A. Why not?
Q. Yes.
A. Because Mr. Carlton Godfrey had said we will get the contract together, all the rough edges off and your attorneys can come in, so I talked with Judge Cole.
Q. You have given us the reason?
A. Sure.
Q. Did you communicate, did you see Mr. Bourgeois?
A. No.
Q. So you met the next day, met that day later in the same room?
A. Yes.
Q. About the same people there?
A. Yes.
Q. Was Harold there that day?
A. Yes.
Q. He had the day before—on that day did he pay the ten thousand dollars?
A. Yes.
Q. Who paid that, who did he hand it to?
A. Laid it on the table.
Q. Counted it out?
A. Ten one thousand dollar bills, yes, sir.
Q. And he laid it down on the table?
A. Yes.

Q. Where?
A. In Room 101, Vendig Hotel.
Q. In Philadelphia?
A. Right.
Q. On what part of the table did he lay it down?
A. In front of him.
Q. In front of him? Did he ask for a receipt?
A. I don't remember.
Q. What?
A. I didn't hear him.
Q. Didn't hear anything about a receipt?
A. I didn't, no.
Q. Why did you accent I?
A. Because I didn't.
Q. You know there was a receipt given, don't you?
A. No.
Q. You don't? All right. What more was done besides the payment of ten thousand dollars that day?
A. Trevor signed several assignments of mortgages. Mr. Davis signed several assignments.
Q. That is before the contract was complete?
A. Yes, I believe so.
Q. What?
A. Yes.
Q. So that your recollection is that before there was any written contract drawn or signed which you yourself executed as vice-president of Williams and Davis, Inc., that ten thousand dollars was paid and several assignments of securities executed by whom?
A. By Mr. Davis, and Trevor Williams.
Q. That is the second day now?
A. That is the third day you are talking about.
Q. Third day?
A. Yes.

Q. And the contract had been executed or not?

A. It was executed on the third day.

Q. But after these papers had been signed and money delivered?

A. After? No.

Q. You have just told us so.

A. You mean—you see I say the assignments were signed before the contract was drawn up.

Q. That is what you told us.

A. That is right.

Q. All right. Very good. There was finally, on one of these occasions, if you can't distinguish the day, a contract produced, was there not?

A. On the third day I remember.

Q. And that was the day that you had seen Judge Cole down here?

A. Yes.

Q. Mr. Bourgeois didn't go up on the train with you?

A. I went up in a machine.

Q. With whom?

A. I believe with Dr. Mellon. I don't recall the third day.

Q. Didn't you go up every day with Dr. Mellon?

A. Every day? I believe so.

Q. Well, after the contract had been prepared over night it was read paragraph by paragraph, was it not?

A. Yes.

Q. By whom?

A. By Mr. Carlton Godfrey and Dr. Mellon.

Q. It was kind of a long document and Father Mellon relieved Mr. Godfrey from the burden of reading it all?

A. That is right.

Q. Each paragraph was read slowly and deliberately, was it not?

A. All read, yes, sir.

Q. And Father Mellon asked for any comment or expression at the end of each paragraph?

A. Yes.

Q. Objections were made?

A. Yes.

Q. Sometimes those objections prevailed and sometimes Father Mellon said they should not prevail and they remained?

A. Yes.

Q. Each side presented their arguments in favor of or against this particular matter which was then the subject of consideration?

A. Yes.

Q. And after hearing both sides Father Mellon decided whether it should remain and both sides acquiesced in its remaining?

A. Yes.

Q. Beg pardon?

A. Yes.

Q. Then a completed draft of the contract was made?

A. No, it was made then and the objections were written out by the stenographer. I never saw those written out.

Q. Beg pardon?

A. The contract was already drawn and it was read and any objections there were notes made of it and I never saw whether they were inserted or not. I don't know.

Q. But they were, the understanding as you understood it was that they were, all the corrections were made were to be put in the contract?

A. They were to be put in, yes.

Q. You never took the pains to ascertain whether they were or were not?

A. I never saw the contract after that.
Q. When did you sign it?
A. When did I sign it? On the third day.
Q. Do you mean by that that there had been no corrections made before you signed it?
A. The corrections were not made in the part I signed. You see there were several different parts to that contract. I signed only the part of Williams and Davis, Inc.

(Question repeated.)

A. Yes.
Q. Had been no corrections made before you signed it?
A. No.
Q. What?
A. No.
Q. I show you Exhibit C1 signed, "Williams and Davis, Inc. John B. Scanlan, vice-president," Is that your signature?
A. Yes.
Q. You signed that, didn't you?
A. Yes.
Q. You still say there were no alterations before you signed it? Look at it and see.
A. That is the alteration, yes.
Q. Look through the contract too.
A. All through it? There is an alteration, yes.
Q. On page 15 there are alterations noted?
A. Yes.
Q. Go on to page 16, there is an alteration?
A. "And" inserted, yes.
Q. Is there an alteration on page 16?
A. Yes.
Q. And several alterations are noted in the wit-

ness clause previous to the signature of Mr. Carlton Godfrey, the attesting witness, are they not?

A. Yes.

Q. Therefore, you were mistaken when you said that no alterations had been made before you signed?

A. That is right.

Q. It is important and therefore I want again to ask you if you mean to be understood as testifying that the ten thousand dollars were paid and the assignments of mortgages executed previous to that paper being executed?

A. Yes. I don't know whether they were executed. I saw them signed but that is all.

Q. What time was the contract signed on the first day of June?

A. I don't know, it was the first day of June. It was the third meeting day.

Q. You met on the thirtieth of May, Decoration Day?

A. Yes.

Q. You met on the thirty-first of May?

A. Yes.

Q. And it was the third day, which would be the first of June, wouldn't it, that the contract was signed?

A. That is right.

Q. What time?

A. Very late, it was about late afternoon or early evening, I don't recall exactly.

Q. It took a long time to read that long paper, didn't it?

A. Bet your life.

Q. And the comments on it?

A. Yes.

Q. And finally was signed?

A. Yes.

Q. Where were Judge Cole and Mr. Bourgeois so far as you knew during that time?

A. At that time, late afternoon, in the University Club.

Q. That was on the third day?

A. Yes.

Q. How do you know they were there?

A. Judge Cole said he would be there.

Q. That is all you know about it?

A. Always keep his word. Yes.

Q. I don't know whether you are speaking as a Republican or Democrat now?

A. Republican.

Q. The only thing you know about his whereabouts is that when you saw him in the office in Atlantic City that morning he told you he would be at the University Club that afternoon, is that right?

A. Yes.

Q. That is all you know?

A. Yes.

Q. Did you ring up the University Club to see if he was there?

A. I tried ——

Q. Did you ring up the University Club to see if he was there?

A. No.

Q. Why not?

A. Because I told Mr. Williams that Mr. Bourgeois and Judge Cole were at the University Club and wanted to go get them and he was very nervous.

Q. What did he say, leaving out his nerves, what did he say?

A. He said he had a sick wife in California, if he goes to jail it will kill her.

Q. When you told Mr. Williams, Harold Williams

that, as you say, that you understood that Mr. Cole, Judge Cole and Mr. Bourgeois were to be at the University Club, what did he say about getting them?

A. I told you, just told you.

Q. You said that he said he had a sick wife.

A. That is what he told me.

Q. I ask you what did he say about Judge Cole and Mr. Bourgeois?

A. Same as I just answered a minute ago.

Q. Repeat it.

A. All right.

Q. You repeat what he said.

A. He said, I told Mr. Williams that Judge Cole and Mr. Bourgeois were at the University Club and he said, "I have a sick wife in California," and he was very nervous, and he said, "If I go to jail it will kill her," just pushed me away from him.

Q. That is all that was said?

A. That is what he said.

Q. Pushed you away from him?

A. Yes.

Q. Did you tell Davis that you understood that Cole and Bourgeois were to be over at the University Club?

A. Yes.

Q. What did he say, he had a sick wife too?

A. No, his wife was right there. She was very nervous. She was sick, but she was there.

Q. She was sick too, was she?

A. You bet your life.

Q. My gracious.

A. She was.

Q. Regular hospital?

A. Should have been.

Q. What did Davis say?

A. Davis said he would do anything not to go to jail.

Q. He what?

A. He would part with anything not to go to jail.

Q. Was there a telephone in this room, 101?

A. Yes.

Q. To whom else did you speak beside Harold Williams and Mr. Davis in reference to Mr. Cole, Judge Cole—I keep saying Mr. Cole, Judge Cole and Mr. Bourgeois being over to the University Club?

A. I told Phillip Godfrey and he told me to tell Carlton Godfrey. I told Carlton Godfrey and he said, "It is too late for attorneys now. They should have been here before."

Q. That was the third day?

A. Third day.

Q. In whose presence was that remark that you have just stated Carlton made?

A. In whose presence? It was made right in the meeting.

Q. Who heard it, so far as you know?

A. Who heard it? I don't know who heard it.

Q. Said right at the table?

A. It was said right at the table.

Q. Do you remember Mr. Garrison coming in from the corridor and tell Mr. Godfrey that it had been suggested that some lawyers be sent for, possibly Judge Cole and Mr. Bourgeois and that Mr. Godfrey replied, "Why that is perfectly satisfactory, send for them," and Mr. Harold Williams said, "We don't want any lawyers"?

A. No, I didn't hear that.

Q. Didn't hear that?

A. No.

Q. Did you have a talk in the hall that day with Trevor and Mr. Garrison?

A. I don't remember.

Q. Now see if you can't recall being out in the hall and talking with Trevor and with Mr. Garrison and something was said—see if you can't recall this, Mr. Scanlan, just prior to the signing of the document, you and Trevor Williams were out in the corridor and Mr. Garrison came along and you called him over and you said to Garrison, "Mr. Cole and Mr. Bourgeois are dining at the University Club," and Mr. Garrison said to you, "Why don't you bring them over and let them see the agreement which you are about to sign?" and Trevor replied substantially as follows: "My father is opposed to it. He says he has paid enough money out for lawyers." Mr. Garrison said, "I am not willing to have you execute the agreement until I speak with Mr. Godfrey about it." And that you and Trevor and Garrison then went into the conference room and Mr. Garrison said, "Mr. Godfrey, Trevor has something to say to you." Mr. Godfrey replied: "What is it?" Thevor then said to Godfrey that he thought a lawyer ought to be present before the contract was signed but that his father was opposed to it and Mr. Godfrey replied, "By all means, have your lawyers present," whereupon Harold, the father, interrupted and said, "I will not have any more lawyers. I have had enough. They have already cost me ten thousand dollars." Whereupon Mr. Godfrey said, "It is only proper that you should have counsel, if you desire it, but that is a matter for you to determine." Now do you remember substantially that took place?

A. No.

Q. Nothing of it?

A. Don't remember that, no.

Q. Nothing of it took place?

A. No.

Q. Well do you remember greeting Mr. Garrison in the corridor?

A. Several times.

Q. I mean that day just before the contract was signed?

A. I don't know exactly, no.

Q. What?

A. I remember meeting Mr. Garrison in the corridor several times, but just those few minutes I don't remember meeting him there.

Q. Do you remember having any talk with Mr. Garrison about counsel?

A. No.

Q. Do you say you didn't have any such talk?

A. Not with Mr. Garrison in the corridor, no.

Q. Did you have any talk with Mr. Garrison anywhere?

A. At the meeting I told with Mr. Garrison and Mr. Carlton Godfrey and everybody there that Judge Cole and Mr. Bourgeois were at the University Club, told them that.

Q. Told that to Mr. Garrison?

A. Sure.

Q. What did Mr. Garrison say?

A. He didn't say anything to me.

Q. He didn't say anything to you? When was it that you told Mr. Garrison and Mr. Godfrey that Judge Cole and Mr. Bourgeois were at the University Club?

A. The third day.

Q. And when was it Mrs. Davis said they were in the hotel?

A. The same day. Mrs. Davis was mistaken.

Q. How do you know she was mistaken?

A. Because after the meeting I went over to the University Club and Mr. Bourgeois and Judge Cole were at the University Club and they had not been to the Vendig Hotel.

Q. That is they told you they had not?

A. I took their word for it.

Q. What?

A. I took their word for it.

Q. Took their word for it?

A. Sure.

Q. Was Mrs. Davis' remark that they were in the hotel, meaning the Vendig Hotel, before or after your remark that they were at the University Club?

A. I believe that was after.

Q. Did you make any effort to see if they were in the hotel?

A. Did I? No.

Q. Now did you see any papers signed and delivered, assignments by Mr. Trevor and Davis?

A. I saw them signed, yes.

Q. That same day?

A. The second day they signed some and third day they signed some, sure.

Q. On the third day those that they signed, was that before or after the contract was signed?

A. Before.

Q. Before the contract was signed? Now did you see some checks delivered?

A. Yes.

Q. Remember that they delivered three checks?

A. I remember, I don't know just how many checks, I saw some checks.

Q. Who delivered them, who handed them out?

A. Mr. Harold Williams handed the checks.

Q. To whom?

A. To Mr. Godfrey.

Q. And do you remember he handed over some checks of other parties besides their own checks?

A. No.

Q. And do you remember Dorrian and Fahler signed a release?

A. No.

Q. Don't remember that?

A. No.

Q. Now, for what purpose was the meeting to take place on the next day?

A. On the next day? Trevor had to get additional securities in New York.

Q. So he had to go back to New York again?

A. I believe so.

Q. That is it, isn't it?

A. Yes.

Q. And the contract had now been signed by you and the others?

A. Yes.

Q. Who told you to sign it?

A. Who? Why I first didn't want to sign it.

Q. I asked you who told you to sign it?

A. I am going to tell you.

Q. Tell me, don't say what you didn't want to do.

A. Mr. Carlton Godfrey told me it was my duty as an officer of Williams and Davis, Inc., to witness the signatures.

Q. To witness the signatures?

A. Yes, and then I signed it there as vice-president.

Q. That is what you say was witnessing the signatures?

A. No, but I noticed it wasn't.

Q. What?

A. That wasn't witnessing the signatures.

Q. You had heard the contract read, hadn't you?

A. Yes.

Q. You knew that it was a contract between Williams and Davis, Inc., didn't you, among others?

A. Yes, sure.

Q. And you were vice-president?

A. I was.

Q. And you knew that as vice-president you purported to sign on behalf of the company, didn't you? What is your answer to that question?

A. What?

Q. What is your answer to that question?

A. What was the question?

(Question repeated.)

A. I understood that was to witness the signatures and not to sign this.

Q. How old a man are you?

A. Twenty-five.

Q. What?

A. Twenty-five.

Q. Was it twenty-five, is that right?

A. That is right.

Q. How long have you been in business?

A. Years.

Q. Years? You have been vice-president since February, haven't you?

A. Yes.

Q. And you wish Vice-Chancllor Ingersoll to understand that when you signed that document as you say you simply were witnessing the signatures, do you?

A. No, it doesn't appear that way here.

Q. Well, is it changed?

A. No.

Q. Then do you wish now to change your testimony?

A. To what? I signed it.

Q. But you said you thought you were witnessing the signatures?

Mr. Bourgeois: He said Mr. Godfrey asked him to witness it.

Mr. McCarter: One moment.

The Court: If it is objected to I will sustain the objection.

Q. Didn't you say you were witnessing the signature?

A. Yes.

Q. Is that what you did?

A. That is what I did.

Q. Witness the signatures?

A. I didn't witness the signatures, no, not here.

Q. Did you think you did?

A. That is what Mr. Godfrey had told me to sign this as an officer of the company to witness those signatures in this agreement.

Q. You had heard the agreement read, hadn't you?

A. I couldn't understand that agreement.

Q. Couldn't understand it?

A. No, sir.

Q. How long a time was taken in reading it?

A. Lots of time.

Q. Two or three hours?

A. Possibly.

Q. And it turned out that although Trevor had been to New York the night before to get certain

securities and had produced them, he had not gotten what you expected to or were required and so an adjournment was had to enable him to go to New York to get the rest, is that right?

A. Well, the adjournment was late at night, the reason it was adjourned, was late at night and Mr. Carlton Godfrey wanted to make arrangements for Mr. Williams to go out to California to get Gordon's signature because he had said the contract would not be in force until Gordon signed.

Q. One moment. Let me interrupt you. Will you repeat the question.

(Question repeated.)

A. I don't remember exactly if that is right or not, though.

Q. What?

A. I am not sure that is right, though.

Q. Did he go to New York?

A. Third night? No.

Q. Did you tell us a little while ago he did?

A. No.

Q. You didn't?

A. No, sir.

Q. Didn't you tell us he went twice to New York?

A. Yes, sir.

Q. Which nights did he go to New York?

A. First night and second night.

Q. All right.

A. Two.

Q. Well, at any rate it was late and you adjourned to meet next day?

A. Yes.

Q. That was the fourth meeting?

A. Yes.

Q. And you were there the fourth day?
A. No.
Q. So you don't know what transpired?
A. Don't know a thing about it.
Q. Had your interest ceased in the meantime?
A. I took Mr. Williams to California, that is where I was, on the way to California.
Q. You went as far as Kansas City?
A. Further.
Q. How far?
A. Dodge City.
Q. Beg pardon?
A. Dodge City.
Q. Iowa?
A. Dodge City, Kansas.
Q. And he had the contracts with him?
A. No.
Q. He left next day?
A. Yes.
Q. What time did you leave?
A. Around two o'clock.
Q. What was you object in going, just as a kind of a jaunt or pleasant time?
A. No. Both my wife and I went. Mr. Williams was very sick, he could not travel alone.
Q. Who was present president of Williams and Davis, Inc., in June, 1927, Mr. Davis, wasn't he?
A. Mr. Davis resigned, I don't know just what date. I don't know whether he resigned the latter part of May or June or just when, I don't know who was president then.
Q. Don't you now recall that Davis was president, that you were vice-president, and that Harold told you to sign as vice-president because he thought it was better not to have Davis sign as president of the corporation owned by Dorrian and Fahler?
A. No, I don't recall that.

Q. Now, I show you—didn't you and Davis resign at the same time?

A. Yes.

Q. Look at these two papers and see if they are not yours and Davis' resignations? And see if they are not on the ninth of July?

A. That is right.

Q. Then you were vice-president, weren't you?

A. Yes, sir.

Q. And Davis was president, wasn't he?

A. Positively.

(Papers offered, received in evidence and marked Exhibit C4 and five.)

Q. And did you see Judge Cole or Mr. Bourgeois that day or that evening?

A. What day?

Q. Third day?

A. I saw Judge Cole in the morning and I saw Mr. Bourgeois and Judge Cole that evening.

Q. That evening?

A. Yes.

Q. In Atlantic City?

A. In Philadelphia.

Q. Philadelphia? Where?

A. University Club.

Q. And did you go over there immediately after the adjournment?

A. Yes.

Q. And you saw them both there?

A. Yes.

Q. Did you see Mr. Stringer that night?

A. No.

Q. When did you make your arrangements to go west with Mr. Harold Williams that night?

A. Yes.

Q. And did you procure or were accommodations procured that night for your and your wife and him?

A. I believe the next morning.

Q. But it was arranged that night that you were to go?

A. Yes.

Q. That was after you had talked with Mr. Cole and Mr. Bourgeois in the University Club?

A. Yes.

Q. Who went with you there?

A. University Club? Trevor.

Q. Anybody else?

A. Mr. Davis. I went by myself but Davis was there.

Q. Who was there?

A. Trevor was there.

Q. And Davis?

A. Mr. Davis was there.

Q. Mrs. Davis?

A. No. Don't allow women in the University Club.

Q. I beg pardon?

A. They don't allow women in the University Club.

Q. You a member of that club?

A. No.

Q. It was concluded that night to repudiate the contract?

A. I did not remain.

Q. Will you answer my question?

A. What is the question?

Q. It was concluded that night to repudiate the contract?

A. Yes.

(Recess taken until 1:30 o'clock P. M.)

AFTERNOON SESSION

(Trial of the cause resumed at 1:30 P. M.)

JOHN B. SCANLAN, resumed.

Re-direct examination.

By Mr. Bourgeois:

Q. Mr. Scanlan, Attorney General McCarter asked you about Mr. Garrison's conversation in the hall, but you did not remember. Do you recall some conversation that Mr. Garrison had with Mrs. Davis at the time she was remonstrating against her husband signing the agreement?

A. No.

Q. Were there any negotiations about the making up of that agreement? Did the Williamses or Davis have anything to say about it or how was it?

A. No, Mr. Phillip Godfrey had a list of all mortgages and Mr. Carlton Godfrey and Mr. Phillip Godfrey went over them and decided which mortgages they would take, that is all, just take.

Q. That was it?

A. Yes.

Q. They agreed to the whole thing?

A. Yes.

Mr. McCarter: What?

Mr. Bourgeois: They agreed to the whole thing themselves.

Q. You testified that you had no contract on the night the agreement was signed. When you left there did anybody have any contract with them, that is of Williams or Davis have any copy of that contract after it was signed?

A. No, I didn't see any.

Q. You started to say in answer to a question by the Attorney General, that the contract was not to be enforced unless everybody had signed, but you did not finish it. What was that?

Mr. McCarter: I object. One moment. I don't think it is competent to show by any verbal testimony any such statement as that. The contract speaks for itself. They can't add to it or detract from it. It is either a contract in which they are all bound or it is a contract in which each is bound for a certain thing and it is signed and executed and no suggestion is made in the pleadings that any such idea existed. The whole theory of the bill of complaint and the counter-claim, rather, is that were bulldozed into making the contract and there is no issue made from beginning to end of that kind, and we object to this witness' statement of what was said, if anything, on that thing.

The Court: The contract appears not to be signed by the parties mentioned in it. I will permit the question.

(Question repeated.)

A. Carlton Godfrey said that the contract would not be enforced until they had received Gordon Williams' signature in California and arrangements were being made for Carlton Godfrey to go to Cali-

fornia to get Gordon Williams' signature to the contract.

Q. Now, Mr. Scanlan, do you remember an incident wherein Trevor Williams said, "Dr. Mellon, did you hear that?" and another person "Did you hear that?"

A. That was Trevor Williams didn't have all the securities with him and he said some of them are in New York and some of them are in California and Mr. Carlton Godfrey said, "You are a liar," and Trevor says, "No." And he said, "Now, you get those securities and get them in four hours," and Trevor says, "It will be impossible to get them in four hours." He said, "You will get them or I will put you in jail for twenty years." And Trevor says, "Did you hear that, Mr. Davis?" "Did you hear that, Mrs. Davis?" "Did you hear that Dr. Mellon?" "Did you hear that Jack?" And we all answered yes.

By Mr. McCarter:

Q. When was that talk?

A. That was I guess on the second day in the early part of the meeting.

Q. As nearly as you can recall we want to know was that before Trevor had produced any securities?

A. I don't recall whether it was before.

Q. I think we are entitled to know, if we can. You didn't testify to this before recess, did you?

A. To this?

Q. No.

A. No.

Q. All right. Now, I want to know in what stage of the proceedings?

A. The second day, about the second day, I believe.

Q. The second day?

A. Yes.

Q. Had some securities been delivered?

A. I believe a part of the securities, there were some bonds and mortgages.

Q. Will you answer my question? Had some securities been delivered?

A. Yes.

Q. Before that remark was made?

A. Yes.

Q. Had the cash been paid before the remark was made?

A. No, the cash was not accepted. Mr. Williams kept the cash in his pocket. He showed it, but it was not taken, it was not accepted. It was not paid.

Q. Had it been laid on the table before the remark was made?

A. On the first day Mr. Williams ——

Q. Will you answer my question?

A. Yes.

Q. Had the cash, as you described it, been laid on the table before this remark was made?

A. Yes.

Q. It had?

A. Yes.

Q. And some securities had been assigned and Trevor was told he would have to fill up some chinks and make good some missing papers while that was going on you say this remark was made?

A. Yes.

Q. That is correct?

A. Yes.

Q. Now, do you remember when it was that Carl-

ton said the contract would not be enforced until Gordon's signature was obtained?

A. That was on the last day.

Q. The very last day?

A. Yes.

Q. The fourth day?

A. Third day. The last day I was there.

Q. It had all been executed?

A. No, it was not signed, even before then, it was when they were drawing the contract.

Q. When they were drawing the contract?

A. Yes.

CLARENCE L. COLE, sworn.

Direct examination.

By Mr. Bourgeois:

Q. Judge, it has been testified to that you were retained to represent Mr. Davis in this matter and that you with some others were at the University Club on the night of the third meeting, which was the night of June, first. Were you at the University Club?

A. I was.

Q. With whom?

A. I met you first and then later Mr. Trevor Williams came in, Mr. Royden Davis, I think, although I am not entirely clear about that, Mr. Scanlan.

Q. Now, what time of the evening was it when they came in? In other words how long had you been waiting there for them or waiting for someone?

A. Quite a while. My recollection is that I left here on the 4:45 bridge train and I stopped long enough to get a light lunch and then went to the club, and, as I recall it, I got there somewhere near half past six o'clock.

Q. What was your object in going to Philadelphia that night?

Mr. McCarter: I object.

The Court: What is the objection?

Mr. McCarter: Well, the question is what he did, not what his purpose was, or thought.

The Court: I will permit it.

A. The object in going to Philadelphia as I understood Mr. Scanlan ——

Q. What was your object?

A. I was to go there and confer with you at the University Club and meet the folks touching some arrangement for a settlement.

Q. Did you meet them?

A. Those I had mentioned.

Q. Well, I know, any arrangement about settlement?

A. No.

Q. Now, did you know what the conditions of settlement were at the time you did meet Trevor?

A. Except as they told it, not before that.

Q. And that was what?

Mr. McCarter: I object.

The Court: Sustain the objection.

Q. Did you have any occasion to meet them after you met Trevor?

A. No.

Q. Now, did Trevor—who was with Trevor, you say Mr. Davis? Did Trevor and Mr. Davis make a statement to you as to what had happened?

A. Yes.

Q. To the two of us?

A. Yes.

Q. Was some advice given them with regard to their future conduct under the agreement?

A. Yes.

Q. What was it?

Mr. McCarter: I object.

The Court: Sustain the objection.

Q. And in reference to whether they would continue?

Mr. McCarter: I object.

Mr. Bourgeois: That is right.

Q. Now, Judge, after you were retained, or at the time you were retained what was the situation pertaining to these people?

Mr. McCarter: I object. What does that mean?

Q. I mean was there any proceeding out, any writ out against Mr. Davis?

A. I was so told.

Q. And what did you do to ascertain what the situation was?

A. Went to see Mr. Carlton Godfrey.

Mr. McCarter: When was that?

A. Well, my best recollection is that was the same day that Mr. Scanlan retained me to represent Mr. Davis. I went down to Mr. Godfrey's office in the Guarantee Trust Building, and I said to him, Mr. Godfrey, "I represent Mr. Davis and I understand that you have a capias out against him." I said, "Would you mind letting me see your office copy of the affidavit or affidavits which is the basis of the writ?" He said to me, "No." He said, "This is Mr. Garrison's case and he is not here and I can't let you see the affidavits without first talking with him." That was what happened at that meeting.

Q. What next happened?

Mr. McCarter: I move that be stricken out. I can't see what possible influence or effect or relevency that has to the issue here whether or not Mr. Carlton Godfrey permitted this gentleman to inspect a copy of the affidavit upon which the capias was issued. It appears in the case, uncontradicted, that a motion was made to quash the capias and action or inaction taken thereon by the Judge. They evidently got it. Now, it don't make any difference whether Mr. Godfrey refused them a copy or not. It is evidently designed to add some prejudice, and I think it is improper and I move to strike it out.

The Court: I decline to strike it out at this time. You may have the right to make the motion again at some future period if you think necessary.

Q. You may proceed.

A. I think it was on the day following that meeting or the day after that, I am not sure which, I went to the Supreme Court Office in Trenton.

Q. Did you see Mr. Garrison?

A. Yes.

Q. All right.

A. Not that day. I went to the Supreme Court Office, and asked them to let me see the original affidavit on which the capias had issued, and the clerk to whom I spoke went out and brought the files, he says, "There is no affidavit on file."

Q. Now, later than that?

A. Then I went back to Mr. Godfrey's office. I went in and the first person I saw was Mr. Garrison, and I told him I had spoken to Mr. Godfrey and asked him for a copy of the affidavit which was the basis of the writ and he had declined to let me have it because, he, Mr. Garrison, as he, Mr. Godfrey told me, he, Mr. Garrison was the attorney and he would have to talk with him. Mr. Garrison said to me, well he said, "Don't let him fool you," he says, "I am not the attorney in that case. It is his case." So then I walked into the adjoining room and Mr. Godfrey was there and I told him that Mr. Garrison had just told me he was not the attorney in the case, that he, Mr. Godfrey was, and I said to him, "Mr. Godfrey, I have been to the Supreme Court Office to find the original affidavit which was the basis of the writ and he told me it was not there." I said, "You had no right to issue that capias until that affidavit was filed and you ought to know that." I said, "Will you now let me have a copy of that affidavit?" He said, "No." Well I said, "Are you going to file that affidavit?" He said, "Yes, I am going to file it." I said, "When?" He said, "I am going to file it."

Cross-examination.

By Mr. McCarter:

Q. Can you tell us when it was that you say you saw Mr. Garrison?

A. Why, I would say it was three days after I first met Mr. Godfrey because I think there was a day intervening between the day I saw Mr. Godfrey and I went to the Clerk of the Supreme Court.

Q. I am trying to get out the facts, Judge.

A. Yes.

Q. Now, when the attachment, I mean the order for capias seems to have issued the thirteenth of May, 1927. Do you know how long after that it was that you first saw Mr. Godfrey?

A. Now, of course, I don't know that I could tell you now when I understood the capias was issued. Mr. Scanlan told me it had and I think it was the same day that I went to see Mr. Godfrey to get a copy of the affidavit. Of course, I didn't know by any other information that the capias was out except what Mr. Scanlan told me.

Q. You had been told that a capias was out?

A. Yes.

Q. And your client had skipped?

A. I don't remember that, but I will admit that. I don't remember it however.

Q. You knew therefore, there was a capias out as well as you had known anything?

A. And so told Mr. Godfrey I wanted a copy of the affidavit on which it was based.

Q. I want to know what date that was?

A. You mean the day of the month?

Q. Day of the week?

A. Well, I think it was Saturday, I am not certain about that, however.

Q. Now, what day did you go to the Supreme Court Clerk's office?

A. I think it was the following Monday.

Q. What day did you then see Mr. Garrison?

A. The day after.

Q. That would be Tuesday then?

A. I think so.

Mr. McCarter: Now, your Honor, I move again to strike out all this evidence with reference to the visits to the Supreme Court Clerk's office and the office of Mr. Garrison and the office of Mr. Godfrey and what was said as utterly irrelevant and immaterial to this action, nothing to do with it whatever.

Mr. Bourgeois: If your Honor please, the testimony in this case is that the first meeting, and the meeting was arranged for the purpose, so these people could find out what this was about, what the charges were, and this is directly in line with that, corroborates that reason for the meeting, he was trying to find out what it was about, just the same as they were having conference with these people, that was the object of the conference to find out what the charges were.

Mr. McCarter: Your Honor, the motions hadn't been made, as appears from the pleadings, to quash the writs ——

Mr. Bourgeois: No, not then.

Mr. McCarter: One moment. And the claim is made in the Bill of Complaint that during the negotiations in Philadelphia deceit was used as to Judge Campbell's decision upon that motion. How can

there be any doubt at that time what was in the affidavit when they moved to quash it?

The Court: There is no such record before me that they had moved to quash it.

Mr. McCarter: Yes, the pleadings show it, begging your pardon, the pleadings show, and attach—the counter-claim shows that as a ground of complaint, or one of the grounds of complaint against us is the fact that during the negotiations at Philadelphia resulting in the making of this contract, that we misrepresented to them the fact that the capias had been sustained and attached to their counter-claim is a copy of Judge Campbell's decision in which he notes as counsel Mr. Cole and Mr. Bourgeois and the date of the motion to strike that out was on the twenty-first. Now, therefore, it is absurd for counsel to say that because they could not get on the fourteenth—sixteenth, seventeenth and eighteenth, assuming it to be correct, those dates, that Judge Cole called at the office and also went to Trenton, it is absurd to say that has any bearing upon a situation that existed on the thirtieth, thirty-first, and first of June, when the motion had been made, as they say, the opinion had been rendered, which we concealed from them, they say, in which they say that Judge Campbell determined that the writ should be quashed, which, of course, was an error on their part. He didn't say any such thing. Now, therefore, I respectfully insist that any doubt or any inability to find out what was in the affidavit in the four or five days in advance of the meeting at Philadelphia is utterly ridiculous for they had had the affidavit and had moved on the face of it to quash the writ, as the opinion shows, which they make part of their proceeding.

Mr. Bourgeois: If your Honor please, that is not only relevant for the ground I have mentioned at any rate, but it is also relevant as showing the tendency on the part of these people, showing what they were doing. Here was a capias had been issued and the affidavit itself had not been filed at all and in addition to what Judge Cole has said, I went up and saw Mr. Godfrey, and I saw Phillip Godfrey in the hall ——

Mr. McCarter: One moment.

Mr. Bourgeois: What I want to say to your Honor is this, it was not until late in the week of the twenty-first, that is the twenty-first was on Saturday, it was not until the latter part of that week, maybe two days before that, that the notice was given of the motion to quash this writ, that was on the twenty-first, and we did not find out the result of it until the day we were to go up there on the meeting on the first of June. I submit to your Honor ——

The Court: I will decline to strike.

The Court: I will say the file of the Supreme Court has been handed to me by the Clerk who is here and desires to return. I have it in my possession, any action you wish to take concerning it.

HAROLD S. WILLIAMS, sworn.

Direct examination.

By Mr. Bourgeois:

Q. Mr. Williams, you are one of the parties to this suit?
A. Yes, sir.
Q. And you are the Harold Williams that testimony has been given concerning?
A. Yes.
Q. When—where were you on the fourteenth day of May of 1927?
A. Well, I came to Atlantic City with my son Trevor.
A. From where?
A. From California.
Q. How long had you been in California?
A. About three weeks.
Q. For what purpose?

Mr. McCarter: I object.

A. I went to visit my sick wife.

The Court: Sustain the objection.

Mr. Bourgeois: I offer that, if your Honor please, for the purpose of showing what effect it may have on his mental condition.

The Court: Sustain the objection.

Q. You arrived on the fourteenth of May, I understand?

A. Yes, sir.

Q. And where did you stop?

A. Well, we registered at the Ritz, when we arrived in town, and then we came on to the Ventnor office and then we went from the Ventnor office to the Margate office, and went from the Margate office back to the Ventnor office, when we were told that—oh, Mr. Davis met us in Philadelphia—I forgot to tell you that. Mr. Davis and Mr. Scanlan—
10 I think told us that ——

Mr. McCarter: Hold on.

Q. Met you in Philadelphia what way?

A. In an automobile.

Q. Now, then you had gone down and got to the Ventnor office, from the Ventnor office where did you go?

A. We went to Davis'.

20 Q. And while you were at Davis' what if anything did you learn?

A. Why we learned that there was a capias out for us and the property of the boys had been attached.

Q. What effect, if any, did that have upon you?

A. It had a terrible shock on me.

Q. Were you conscious of any ground on which a capias could be isssued for you?

A. No, I was not.

30 Q. What did you do?

A. Why I heard that the bail was fifty thousand dollars apiece and we knew we could not put it up, so we thought we had better go out of town until we could get in touch with our attorneys and see what all the trouble was about.

Q. And that is what you did do?

A. And that is what we did do, yes.
Q. And where did you go?
A. We went to Philadelphia, first.
Q. From Philadelphia you went where?
A. We went to New York.
Q. Either from Philadelphia or from—what did you do with regard to getting in touch with attorneys?
A. Why Mr. Stringer got in touch with us.
Q. Who?
A. Mr. Stringer got in touch with us, we phoned him and he got in touch with the attorneys.
Q. For you and whom?
A. For Davis and I.
Q. Now, what with regard to Mr. Davis?
A. Mr. Davis got in touch with Mr. Cole.
Q. I see. Now, after you got in touch with your attorneys what did you endeavor to do?
A. Why we endeavored to find out what all the trouble was about.
Q. And how well did you succeed?
A. We did not succeed. We could not find out what all the trouble was and we were just laying in the hotel there going to pieces.
Q. What ——

Mr. McCarter: Going to pieces?

A. I mean mentally.
Q. How long did that continue?
A. That kept up for I think two weeks.
Q. And then what happened?
A. Mrs. Davis came over, but Mrs. Davis came over before the two weeks, I think Mrs. Davis came—no, I am not certain about that, I think it was two weeks before Mrs. Davis did come over.

Q. And when she came over then what took place?

A. Why she didn't know what the trouble was all about, and finally she got in touch with Father Mellon.

Q. Now, did you know she was going to get in touch with Father Mellon?

A. No, I didn't know what she was going to do.

Q. She did that on her own hook?

A. Yes.

Q. When was the first you knew that she had been in touch with Father Mellon?

A. Why she was called in the night, and then she told us what it was, that Father Mellon and Mr. Dorrian wanted us ——

Mr. McCarter: What?

A. Father Mellon and Mr. Dorrian, she had arranged a meeting or Scanlan had arranged a meeting for us in Philadelphia.

Q. What was the object, as you understood, of that meeting?

Mr. McCarter: I object.

The Court: I will permit it.

A. It was to find out what all the trouble was about.

Q. How long did you learn of that proposed meeting before you actually went down there, when was it that you learned of it?

A. I think it was two days—I am not certain about that.

Q. And then you went, what did you do?

A. Well, we went to the Vendig Hotel.

Q. That was by arrangement, pre-arrangement?

A. By pre-arrangement.

Q. Who went?

A. My son Trevor, Mr. Davis, Mrs. Davis and myself.

Q. When you went to the Vendig Hotel did you know what the charges were against you?

A. No.

Q. Who were you expecting to meet when you got there?

A. Mr. Dorrian and Father Mellon and Scanlan.

Q. Whom did you meet when you went there?

A. Why we met Mr. Godfrey, Mr. Garrison, Mr. Hart was outside, Mulhern, Scanlan, Mr. Fahler, Phillip Godfrey and Mr. Godfrey.

Q. Now, I am not going to ask you to try and separate the doings of each of these meetings. There were three meetings, as I understand, at which you were present?

A. Yes.

Mr. McCarter: Well, he hasn't said that.

Q. There were three meetings?

A. There were three meetings.

Q. Will you tell me what took place at those meetings the best you can remember and how the people met you?

A. The first party I met was Mr. Fahler outside. I said, "What is the trouble?" He said, "We are out to break that contract." I said, "What is the trouble with the contract?" Well he says, "We are out to break it." That is all he said about it.

Q. Did he say what contract?

A. Well, there was only one contract I knew of and that was the Del Rey contract.

Q. Then when you went inside you met whom?

A. Well, I was inside there with Mrs. Davis and Father Mellon came in and I was introduced to Father Mellon, I had never seen him before and didn't know him, and then Royden Davis came along in the lobby, and Father Mellon went to him, shook him by the hand, and he says, "I am sorry for you, Royden, they have got you and the old man for embezzlement, and Trevor for forgery for twenty years." Well, that knocked me cold, you know.

Q. All right, now then what took place after that?

A. We sat down in the lobby there for some time and I think Mr. Dorrian and Mr. Fahler sat down there beside me, and we were waiting, I don't know what we were waiting for, my memory is very hazy on that.

Q. All right, what did you do finally?

A. They went upstairs.

Q. When you got upstairs what took place?

A. Well, they were sitting around a table, they all sat around a table, Hart, Mulhern were not in in the room, I don't think, not the first day, the rest of them were in the room, and I said to Mr. Godfrey, Mr. Godfrey over there, the senior Mr. Carlton Godfrey, I said, "Why, we are not represented here by attorneys." He says, "I will be your attorney."

Q. He would be your attorney?

A. "I will be your attorney."

Q. And I persisted and he says, "Now it is all right, I will tell you when to call them," and I don't know what they did then, my memory is completely gone on that first day.

Q. Now, then do you recall Phil Godfrey going over something with Trevor?

A. I think that was on the second day. Yes, that was on the second day.

Q. All right, I don't care about the days. Tell me what happened?

A. He went over the very same papers there, they were assignments and bonds, I think they were, and checks, he says, and agreements of sale, two of them, he says, "That is forgery, that is the forgery," and I don't remember ——

Q. Let me ask you this, you went there to find out what those charges were about; did you find out?

A. No, never did.

Q. What did they say about it?

A. We asked them what the trouble was.

Q. Yes?

A. And they said we had been using straws. Well Trevor said, "Well, that is no crime to use straws." And then Carlton Godfrey gave Father Mellon the definition of a straw, if I can remember it—I don't think I can remember it ——

Q. All right, he gave the definition of a straw?

A. Yes.

Q. And what followed that?

A. And Father Mellon said that was dishonest to buy in one name and sell it, if it was not in your own name.

Q. What did Trevor say?

A. And Trevor put up an argument with Father Mellon and said it was not so.

Q. What happened?

A. He explained to Father Mellon.

Q. What happened then?

A. And Father Mellon shut him up.

Q. Shut him up?

A. Told him to keep quiet.

Q. Now, after that what happened?

A. Well, they asked Trevor if he had got all his

bonds and mortgages with him, or assignments of them, I think it was assignments, I am not certain about it, and they gave him four hours to go over to New York to get them, and I said, "That boy is in no condition to go over to New York in four hours." Anyway he didn't go. I don't know what was said afterwards.

Q. Why was he in no condition? Why did you say he was in no condition to go?

A. Because he was breaking up, and I could see it.

Q. What would make him break up?

Mr. McCarter: I object.

The Court: Yes.

Q. What had taken place, Mr. Williams?

A. He hadn't threatened so much.

Q. Threatened?

A. Yes.

Mr. McCarter: I object.

The Court: I sustain the objection.

Q. Tell me what threats had been used.

A. He was told they had him for forgery.

Q. Who told him that?

A. Carlton Godfrey, and also told me that they had me for embezzlement.

Q. There was one time when there was something said to Trevor and he turned and asked some other people if they heard it, do you remember what that was?

A. Why they said to him—I heard them say to

him, "Do you want to go to jail?" "Do you want to go to jail?" That is where I am going to put you." Carlton Godfrey said that.

Q. And what did he say then?

A. I don't remember.

Q. Now, Mr. Williams, what sort of condition were you in? What was your mental state?

A. Why, I was getting worse all the time.

Q. How were you?

A. I was in—my head was going blank and I was in—my heart was bad.

Q. What had produced that effect upon you?

A. Why the threats that I had heard, what they said they had got us for, and the capias that they had out for us, that we didn't know anything about, that they weren't listed, and when I was out in the hall there, I would walk out in the room, I was distracted, I would walk out of the room, sometimes, and go back again, and Carlton Godfrey met me in the hall, and he says, "I understand you have got a very sick wife." This was before the agreement was signed, and I said, "Yes." Well he said, "You had better sign that agreement, if you know what is good for you or you might kill your wife if you go to jail."

Q. If you go to jail?

A. If you go to jail.

Q. That was before the agreement was signed?

A. Yes.

Q. Now, on the second day was there anything said about attorneys?

A. Oh yes, we asked for attorneys. I said, I think it was on the second day, I said that I had paid nearly ten thousand dollars for attorneys, but I wanted them there.

Q. What did they say?

Mr. McCarter: Now, they?

Q. Whoever it was. Tell us who it was, what was said and who said it.

A. Carlton Godfrey said it.

Q. What did he say?

A. He said, "We are drawing the agreement"—this is the second day—"We are drawing this agreement in the rough and when it is ready you can call your attorneys."

Q. Now, was there ever a time when they said you can have your attorneys until the last day just before the signing of the agreement?

A. No.

Q. In other words up to that time you assumed you could have them?

A We assumed we could have them.

Mr. McCarter: I object. I don't think this man ought to be led that way.

The Court: Yes, sustain the objection.

Q. Now, on the third day what did they say?

A. Why they got the agreement prepared, Father Mellon was to hold the securities ——

Mr. McCarter: I object. That is a conclusion. The thing is what they did.

The Court: Yes.

Mr. McCarter: Move that be stricken out.

The Court: Sustain the objection. Let it be stricken.

A. I turned over $10,000.
Q. On the last day?
A. On the last day.
Q. To whom did you turn it over?
A. Carlton Godfrey.
Q. Why did you turn that over?
A. That was all I had.
Q. What was the object? Why did you turn it over at all?

Mr. McCarter: I object.

The Court: I will permit that.

A. I turned it over because I was in fear and my son was going bad, I was in a terrible condition, and I had a sick wife in California.
Q. Well, now when was that turned over with relation to the signing of the agreement?
A. That was turned over just before the—it was on the second day, I think, I know the ten thousand was asked for, and I was told to put it back in my pocket, and bring it the next day.
Q. Now, on the third day when it came up just before the signing of the agreement, what was said, if anything, with relation to attorneys, and what was said, if anything, by Dr. Mellon?
A. Why we were told it was too late for attorneys.
Q. Don't tell that. Tell me how it came about.
A. Well, we asked for our attorneys.

Mr. McCarter: I think that ——

The Court: I will sustain the objection.

Mr. McCarter: I do think, your Honor, that this

witness should be—"we asked for attorneys," who asked?

The Court: He should state who.

A. I—Trevor said that his attorneys were over at the University Club and that he wanted them there and they said it was too late for attorneys now, you sign the agreement.

Q. Then what was said, if anything, or did Dr. Mellon say about that?

A. Dr. Mellon, just before we started the agreement was in the hall, and I walked out in the hall, and I was walking in and out there, and he was talking to Mr. Fahler and Mr. Dorrian, and he came in, and Carlton Godfrey and Garrison, Mr. Garrison and he walked in, Father Mellon sit at the head of the table and said the Supreme Court had sustained the capias.

Q. Then what else did he say?

A. "Isn't that right, gentlemen?" And Carlton Godfrey said yes and Mr. Garrison said yes, and I didn't notice anybody else.

Q. Now, Mr. Williams, during these meetings, any of them, was anything done by any of the people there for your immediate help?

A. Yes, Dr. Mellon, I believe it was, sent Mr. Scanlan out for aromatic spirits of ammonia for me.

Q. And was it brought?

A. Yes, it was brought.

Q. And was it taken?

A. Yes, it was taken.

Q. On how many occasions?

A. Well, I took it two or three times each day.

Q. And was anything said to you or in your presence about where you should stay at night?

A. Yes, Dr. Mellon, we were all standing in the hall, Mrs. Davis was around me, my son, and they were holding me up, my son and Mrs. Davis and Royden Davis, and they said, he said, "You better put that man, you better put your father to bed in the Vendig for the night. He is in no condition to go anywhere else."

Q. Who said that?

A. Dr. Mellon.

Q. Dr. Mellon said?

A. Yes.

Q. That is when you were in the Vendig?

A. That is when we were in the Vendig.

Q. Was anything said on the third night?

A. I believe that was the third night.

Q. Was there anything said on the second night within your hearing?

A. Oh, I heard him say to Trevor, "You go look after your father."

Q. Now, Mr. Williams, do you recall an incident when Trevor—Mr. Godfrey was having some disagreement with Trevor about his securities and Mr. Godfrey spoke about calling the whole thing off?

A. Oh, yes, I do. He said, "I have a good mind to call this off and send you all to jail."

Q. When was that?

A. I don't know whether the second day or the third day.

Q. Now do you recall whether prior to the signing of this agreement there was any statement made by Mr. Godfrey concerning the time that this agreement would become effective?

A. Yes, when Gordon had signed the agreement.

Q. What was the language, what did he say?

A. He said, "Well, that agreement is no good"

Mr. McCarter: Same objection to that as I made before.

The Court: Yes, I will permit it.

A. ——"no good without Gordon's signature," and then in the hallway Godfrey asked me how we could get Gordon's signature. I said I didn't know whether Gordon would sign it. He wanted to make some arrangements to go to California, either his son Philip or himself to go to California.

Q. Now, Mr. Williams, during all the time of these three meetings did you find out what was the basis on which they had issued that capias?

A. No, I did not.

Q. Didn't find out at all?

A. I never even saw my attorney.

Mr. McCarter: I beg your pardon.

A. I never even saw my attorney.

Q. I want to know if you found out what was the ground of the capias?

A. No, I did not.

Q. During these readings did you find out or were you given any indication of anything that you had done that you believed or felt was criminal?

Mr. McCarter: I object. That calls for a conclusion.

The Court: Sustain the objection.

Mr. Bourgeois: If your Honor please, it is his state of mind I am trying to find out.

The Court: I understand.

Q. After all these meetings had been concluded and all the discussion that was had had taken place, were you conscious of having done anything that was illegal?

Mr. McCarter: I object.

Mr. Bourgeois: That calls for his state of mind.

Mr. McCarter: I don't suppose a man who has done wrong is going to admit he is conscious of it.

The Court: I will permit it.

A. No.

Q. Would you have signed that agreement if the threats that had been made against you or if the statements on which the capias had been issued had been stated to you?

Mr. McCarter: I object.

A. No.

The Court: Wait a minute. I will hear you on that, Mr. McCarter.

Mr. McCarter: The answer is to be stricken out until your Honor rules on it?

The Court: Certainly.

Mr. McCarter: You say you will hear me or Mr. Bourgeois?

The Court: I will hear you first.

Mr. McCarter: I don't suppose the fact that this gentleman, whose attorneys knew, Mr. Bourgeois knew all about the capias, and had made a motion which was decided during the proceedings or before the proceedings in Philadelphia commenced. I don't suppose that his personal knowledge of what was the basis of the capias makes any difference. His attorney knew all about it and he was acting through his attorney and if he had not the curiosity to confer with his attorney or his attorney had not the curiosity to confer with him, it didn't make any difference. Now what he would or would not have done is not evidence proper in this case. We never can tell what we would do or would not have done. This gentleman did certain things, and if he was bulldozed or hypnotized into doing it that is one thing, but what he would have done or would not have done is another thing and is not evidence and we object to it.

Mr. Bourgeois: Goes to show he was bulldozed and hypnotized.

The Court: I wish counsel would call my attention to a pleading which shows that this affidavit, that knowledge was had of this affidavit ——

Mr. McCarter: If your Honor will look at the counter-claim in this suit, attached to it is a copy of Judge Campbell's opinion.

The Court: Without any date to it at all.

Mr. McCarter: But the papers indicate, counter-claim itself shows that Judge Campbell had decided, as the opinion shows, and the basis of their con-

tention with reference to that matter is this, they say that Judge Campbell had determined a certain way, and that we knew it and misled them, and claimed that the capias had been sustained when it had not been. Now that is the allegation in the counter-claim and the proof to it by Mr. Scanlan to the effect that there was a statement made by Father Mellon that Judge Campbell had sustained the capias, and turned to Mr. Godfrey and Mr. Garrison and said, "Gentlemen, isn't that so?" And they said, "Yes." That is the evidence in this case today.

The Court: Yes, but there isn't anything to show that he had done so at that time. I can't find anything that gives any date unless you can supply it. It may be it is there but I haven't been able to find it.

Mr. McCarter: If you will look in the counter-claim you will see an allegation, I think I can turn to it in a minute ——

Mr. Bourgeois: If your Honor please, the fraud was ——

Mr. McCarter: Beg pardon?

Mr. Bourgeois: The fraud was that it had been sustained, not that it had not been dismissed, but had been sustained, and Judge Campbell's opinion shows clearly the invalidity of it.

Mr. McCarter: That is for argument, if your Honor please. What I am driving at here is the contention in the counter-claim with reference to it. I am quite sure there is an allegation in the

counter-claim, one of the frauds of the case was the misrepresentation with reference to this decision, whereas we said it was one thing, the fact was it was another thing ——

Mr. Repetto: Paragraph twenty-four.

Mr. McCarter: This is in paragraph twenty-four of the counter-claim: "And that time falsely and fraudulently stated to the said Harold S. Williams, Trevor Williams and Royden B. Davis that the Justice of the Supreme Court had sustained their affidavit and order for the issuing of the capias in an opinion theretofore filed by said Justice, a copy of which opinion is hereto annexed and made a part hereof and marked Schedule B." That is part of their complaint against us, that we misrepresented that situation, and they attach as a part of it a copy of the opinion. Now your Honor has before you, although they have not yet been offered in evidence, but very glad to have you look at it, the opinion, and the order and the affidavit upon which the capias was issued. Now it follows, I think, absolutely from that, that at that time counsel knew all about it and had made their motion on the alleged insufficiency of the affidavit, and Justice Campbell's opinion discusses that and holds that the facts in the affidavit are insufficient to support the capias, but he says it is premature and therefore he did not dismiss it, therefore I say that it is not ridiculous to contend that there was any ignorance on the part of these people of what the situation was with regard to the capias.

Mr. Bourgeois: If your Honor please, this is the situation: these people were there, they went for

the purpose of finding out what these charges were, but they had never been told what they were, didn't know what they were. Instead of them saying to him that the Justice of the Supreme Court had refused to dismiss the capias because they were out of the state, they said the Justice of the Supreme Court has sustained the capias. He did not sustain the capias. He showed in his opinion the invalidity of the capias, in other words, they lied to him.

Mr. McCarter: Now, Mr. Bourgeois, that is not the point.

The Court: That is not the point that is being argued at the present time. The question is whether this man can answer the question concerning his knowledge of this affidavit when manifestly his counsel knew what was in the affidavit.

Mr. Bourgeois: Maybe I am premature on that.

Q. Would you have executed that agreement if the threats that had been made against you that they had you for embezzlement and were going to send you to jail, if that is what it was, had not been made?

Mr. McCarter: I object to the question.

The Court: I will permit the question.

(Question repeated.)

A. No.

Q. Now, Mr. Williams, had you been in contact or

in communication with your attorneys during all these meetings?

A. Yes, we had been in contact with our attorneys.

Q. How?

A. Through Mr. Stringer.

Q. With relation to what was going on to find out?

A. No.

Q. Did you know what the charges were in this whatever?

A. No.

Q. Were you in contact with your attorneys at these meetings while they were having this conference with you?

A. I was not, but Trevor was, I believe.

Q. Now, do you know?

A. Yes.

Q. And where?

A. Through Stringer.

Q. Now was Stringer your attorney or was I your attorney?

A. You were our attorney.

Q. How you been in contact with me?

A. No, I had not been in contact with me.

Q. Now, had Trevor, if you know?

A. Trevor had been in contact with you.

Q. With me?

A. On the fourth day.

Mr. McCarter: Don't you think Trevor had better testify to that?

Mr. Bourgeois: I think maybe Trevor better.

Q. On the fourth day you were on your way to California?

A. I had been away, Mr. Bourgeois.

Q. Now, how was it that you did not have your attorneys there? You say that you asked for them and Mr. Godfrey said that he would be your attorney, and you asked again and he said, "Well, when the agreement is straightened out you will have them come in?"

A. "I will tell you when to call them," he said.

Q. Now did he tell you when to call them?

A. No.

Q. Did he ever tell you when to call them?

A. No, sir.

Q. When the agreement was finally concluded what did you say then about it?

A. I said I had spent ten thousand dollars on attorneys.

Q. And what?

A. And we ought to have them in there. He said, "It is too late now."

Q. Now after he had refused to let you have the attorneys if you would want them, why did you sign the contract?

Mr. McCarter: I object.

The Court: I will permit it.

A. I had a sick wife in California, and my son was charged with forgery and I was charged with embezzlement, and I was so sick myself, and the threats that they had made right during the whole meeting, and I signed the agreement.

Q. Why?

A. For fear.

Q. For fear?

A. Yes.

Q. Fear of what?

A. Fear of going to jail.

Q. Was there anything said during the time about indictments?

A. Yes, there was something said about indictments.

Q. Something said about Washington?

A. Oh, Hart said that.

Q. What was that?

A. "Let's call up Washington and get those papers."

Q. Did you know what papers they meant?

A. I didn't know what papers they meant. I thought it was something he had framed.

Mr. McCarter: I move that be stricken out.

The Court: Yes, let that be stricken out, not responsive.

Cross-examination.

By Mr. McCarter:

Q. Mr. Williams, may I ask your age, please?

A. I am past fifty-seven.

Q. That is your fifty-eighth year?

A. Yes, sir.

Q. When had you gone to California?

A. In the first instance?

Q. You said you got back on the fourteenth, when had you gone to California?

A. I think I went in April, latter part of April.

Q. Did Mrs. Williams go with you?

A. No, Mrs. Williams went ahead of me.

Q. Did you come east by train or auto?

A. I came east by train.
Q. Did you come back on business?
A. Came back here on business?
Q. Yes.
A. Certainly I did. I came back for the business we had here.
Q. Your wife was well enough to permit your coming east on business?
A. My wife was not ——
Q. Will you answer my question, please?
A. Yes.
Q. And you got back here on the fourteenth?
A. Fourteenth of May, I think it was.
Q. You reached Philadelphia that day?
A. Yes, sir.
Q. Mr. Davis met you in Philadelphia?
A. Yes.
Q. And told you that a capias was out against you?
A. No.
Q. When did you learn that?
A. Down here.
Q. At Mr. Davis' house?
A. Yes, sir.
Q. What attorney did you employ then, Mr. Stringer?
A. No, we had had Mr. Stringer doing legal things.
Q. Did you get in touch with Stringer?
A. Yes.
Q. And told him to get counsel, Mr. Bourgeois?
A. Told him to ask if Mr. Bourgeois would take the case.
Q. All right, very good, and was that before you left Philadelphia, I mean left Atlantic City?
A. Yes, I believe it was to the best of my recollection.

Q. And then you left for the reasons you have stated, and you remember what night, that is the night of what day of the week it was that Mrs. Davis told you that she had rung up Father Mellon?

A. No, I don't recollect.

Q. What?

A. I don't remember.

Q. Did you know Father Mellon?

A. No.

Q. Are you a Catholic?

A. No.

Q. Who suggested your meeting at the Vendig Hotel in Philadelphia?

A. I guess that must have been Mrs. Davis and Scanlan.

Q. I don't ask you to guess. I ask you to tell us.

A. That is my best recollection of it.

Q. Mrs. Davis?

A. Mrs. Davis and Mr. Scanlan.

Q. And where was that suggestion made?

A. Must have been made over the phone.

Q. Don't you remember about it?

A. No, I didn't hear it.

Q. Well, how did it happen that you personally went to the Vendig Hotel?

A. Because I was invited there.

Q. By whom?

A. By Mrs. Davis and Davis and Scanlan had phoned that Dr. Mellon and Mr. Dorrian were coming over there to talk things over.

Q. Mrs. Davis simply said that Dorrian and Dr. Mellon were coming over to talk things over, is that all?

A. Now I don't remember exactly what Mrs. Davis said. It is over a year ago.

Q. You don't? I see. What did she say?

A. I don't remember what she said.
Q. What?
A. I don't remember what she said.
Q. Well, who said anything about Dorrian and Father Mellon?
A. Mrs. Davis.
Q. She said that anyway, didn't she?
A. Yes.
Q. What more did she say?
A. I don't remember what more she said.
Q. She did say a lot more, didn't she?
A. Yes, they were doing a lot of talking but I don't remember it.
Q. Yes. Had you ever heard before of Father Mellon?
A. No.
Q. Did she tell you who Father Mellon was?
A. That I don't remember.
Q. Well, what was your reaction with reference to having an entire stranger meet you, and Father Mellon, a Catholic priest to discuss this question?
A. I was meeting Dorrian as well.
Q. What?
A. I was meeting Mr. Dorrian as well.
Q. When had you seen Mr. Dorrian last?
A. He is right over there now.
Q. When had you seen Mr. Dorrian last?
A. When had I seen him last? I hadn't seen him since when I went to California, before I went to California I saw him.
Q. Again you can't recall that anything further was said why this entire stranger was going to meet you and Mr. Davis and Trevor with Dorrian at the hotel?
A. Oh, yes, I can recall why it was, it was to talk it over to see what the trouble was.

Q. You knew you had attorneys, didn't you?

A. Mrs. Davis was very much distressed.

Q. Will you answer my question, please. You knew you had attorneys, didn't you?

A. Yes, but our attorneys couldn't tell us anything.

Q. Did you know any better attorney in Atlantic City than your own?

A. No, but I say he couldn't tell us anything.

Q. He couldn't tell you anything?

A. No, didn't know what the trouble was himself.

Q. When did Mr. Bourgeois tell you that?

A. Why through Mr. Stringer.

Q. What?

A. Through Mr. Stringer he said the capias ——

Q. One moment. I am asking you when Mr. Bourgeois told you?

A. Mr. Bourgeois didn't tell me that because I never saw Mr. Bourgeois.

Q. You never saw him?

A. No.

Q. Were you in Philadelphia all the time?

A. No.

Q. Where were you?

A. New York.

Q. Was the talk that Mrs. Davis had with you with reference to this stranger Father Mellon, in New York?

A. Yes.

A. And the arrangement that was made was that you and they and Trevor were to go to Philadelphia to meet this man?

A. To go to meet Mr. Dorrian.

Q. All right, Mr. Dorrian and this stranger, Father Mellon?

A. Yes.

Q. All the way from New York to Philadelphia?

A. Yes.

Q. And you took the trouble to go all the way from New York to Philadelphia?

A. Yes.

Q. Just for the purpose of finding out what it was all about?

A. Oh, yes.

Q. That is all right, nothing else?

A. Well, to see what was the trouble, of course.

Q. To see what was the trouble?

A. Yes.

Q. Had you seen Mr. Stringer in the meantime between the first day before you—I don't mean this offensively, I call it for brevity—that you skipped —

A. We didn't skip.

Q. Then I will take it back, before you went out of the state, had you seen Mr. Stringer between that time and the meeting in Philadelphia?

A. Yes, I had seen him several times.

Q. Where?

A. At the hotel.

Q. You mean to tell me had you inquired of him as to what it was all about, what this capias was issued for?

A. He couldn't tell me.

Q. What?

A. He couldn't tell me anything about it.

Q. Did you ask him?

A. Certainly I asked him.

Q. What did you ask him?

A. I asked him what the complaint was, and he said it wasn't on file.

Q. How many times did you see him?

A. I don't remember that.

Q. Now when was the last time you saw him?

A. I don't remember how many times I saw him and I don't remember the last time I saw him.

Q. You saw him several times?

A. Yes.

Q. In New York?

A. Yes.

Q. Between the time you went away on Saturday afternoon and the time you went to Philadelphia on the thirty-first of May?

A. Yes.

Q. Thirtieth of May? Now do you mean to tell me that the last that you saw Mr. Stringer that he told you that he couldn't find out what was in the pleadings, you tell me that?

A. To the best of my recollection he said the papers were not on record.

Q. The last time you saw him?

A. I don't remember that is the last time I saw him. I say that is the best of my recollection.

Q. Did Mr. Stringer show you the local papers with a description of the complaint in it?

A. No.

Q. He didn't show you that?

A. No.

Q. All right. Was Trevor with you in New York?

A. Yes.

Q. And Mr. and Mrs. Davis?

A. Mrs. Davis was there part of the time.

Q. Who else?

A. Nobody else.

Q. You all came over together on Decoration Day morning?

A. Yes.

Q. That is right?

A. Yes.

Q. Who told you where to go?
A. Mrs. Davis.
Q. Mrs. Davis is a pretty bright woman, isn't she?
A. She is a real mother. I don't know about being a bright woman.
Q. She is quite a wife, too, isn't she, as well as mother?
A. Yes.
Q. She wasn't under arrest, was she, subject to a capias?
A. No.
Q. Yet she was interesting herself quite a little, wasn't she?
A. She was interesting herself in her husband.
Q. Now when you got to the Hotel Vendig who was there?
A. The first party I saw was Mr. Fahler.
Q. That was downstairs?
A. Yes.
Q. Who had secured the room?
A. I don't know.
Q. Who took you to the room?
A. That I don't know. I don't remember who took me to the room.
Q. How did you find out where the meeting was to be?
A. Somebody said 101.
Q. 101?
A. Yes.
Q. When you talked with Mr. Fahler downstairs, where were Davis, his wife and Trevor?
A. Mrs. Davis was downstairs when I talked—excuse me, I didn't get that question.

(Question repeated.)

A. I don't know where they were at.

Q. You went upstairs?

A. Yes.

Q. Was Mr. Dorrian there?

A. I don't know whether he was in the room when I went up there or not.

Q. Did he come in shortly after if he wasn't?

A. Yes.

Q. He was there ultimately, of course? Carlton Godfrey was there?

A. Yes.

Q. Mr. Garrison was there?

A. Yes.

Q. Mr. Carlton Godfrey was there?

A. Yes.

Q. Mulhern was there?

A. Yes.

Q. Hart was there?

A. Well, I think Hart stood outside. I don't think he was in the room.

Q. He was in the hotel?

A. If he stood outside he would be in the hotel.

Q. Was he in the hotel?

A. I don't know.

Q. You don't know? Didn't you object to Mr. Hart being in the room?

A. That was the third day, second day, second or third day.

Q. Now study and wait a moment. Your counsel purposely refrained from asking you to distinguish between this day, that day and the other day, and I will do the same thing, if I may, because I can understand how it is quite confusing, but I want to know if it is not a fact that when you got there the first time you saw Mr. Hart and objected to his being in the room and he stayed out?

A. I believe I did.
Q. You believe you did?
A. Yes.
Q. And Scanlan was there?
A. Yes.
Q. You didn't object to him?
A. No.
Q. In whose behalf was Scanlan there?
A. He is related to the Davises and he was there.
Q. Did you object to Phillip Godfrey and to Carlton Godfrey and to Mr. Garrison?
A. Well, we protested.
Q. Did you object?
A. No, I didn't object.
Q. All right. Now who is Mulhern?
A. He is a friend of Mr. Dorrian's, I think.
Q. Beg pardon?
A. Friend of Mr. Dorrian's, or relative of Mr. Dorrian's.
Q. Can you tell about what time it was the first time you got together all told?
A. No, I haven't the slightest idea.
Q. Were you introduced to Father Mellon?
A. Yes.
Q. Who introduced you?
A. Mrs. Davis.
Q. Beg pardon?
A. Mrs. Davis.
Q. Father Mellon took a position at the head of the table, did he not?
A. Yes.
Q. Beg pardon?
A. Yes.
Q. So to speak, presided?
A. Yes.
Q. Did he say he had been called in to act as sort

of an arbitrator and to endeavor to adjust the differences that existed between Dorrian and Fahler on the one side and you people on the other side, or words to that effect?

A. He might have done but I don't remember.

Q. Well, now you were there that first day three or four hours, weren't you?

A. I couldn't tell you how long I was there.

Q. A long time?

A. Yes, I was there a long time.

Q. It was dinner time when you got through?

A. I don't know anything about dinner.

Q. You spent that night in Philadelphia?

A. I don't know whether I spent it in Philadelphia or New York.

Q. Can't remember about that?

A. I think I went to New York.

Q. You were not too ill to come over from New York to Philadelphia and go through this conference and to return to Philadelphia that night?

A. No.

Q. Beg pardon?

A. Not that night.

Q. You came back the next day?

A. Yes.

Q. Leaving New York about what time?

A. I don't remember that.

Q. What?

A. I don't remember that.

Q. What time did you congregate, about?

A. I don't remember that, either.

Q. What?

A. I don't remember it at all.

Q. Don't remember whether morning or afternoon?

A. It was in the afternoon sometime but I don't remember.

Q. Now Mr. Scanlan has said that you were together the first day about four hours; can you tell us what occurred during those four hours?

A. No, I couldn't tell.

Q. First day? What?

A. No, I couldn't tell you what occurred.

Q. Couldn't tell?

A. No.

Q. You have no recollection?

A. Very little.

Q. Well, as near as you can? You have told us that your memory, that Father Mellon made some such introduction speech as I have related, and then wasn't it asked what are the complaints, and then didn't Mr. Phillip Godfrey undertake reading from some paper to give the several items that they relied on as shortcomings, on the part of you or your associates?

A. Yes, read some papers, but I don't remember what they were.

Q. Beg pardon?

A. Yes, read some papers but I don't remember what they were.

Q. Do you recall that when the transaction that was alluded to as the Somers Estate matter, that your son Trevor said, "Why, Mr. Godfrey, that was legitimate, that was concerning a transaction where we had owned that property long before we had anything to do with Mr. Dorrian and Mr. Fahler, and bought it with our own money," and they said that is a fact, and we haven't included it, do you remember that conversation?

A. No, I don't remember it.

Q. Who did the most of the talking on your part?

A. I did some.

Q. You did the most of it, didn't you?

A. I don't know who is doing it now, to tell you the truth.

Q. Who talked as much as you?

A. I don't know, I talked some.

Q. You talked some?

A. Yes.

Q. Don't you remember that finally some figures were reached as being a fair amount for you all to pay?

A. I remember that sometime during these negotiations, I remember that I felt like collapsing and saying lump it, lump it ——

Mr. McCarter: I move it be stricken out.

The Court: Let that be stricken.

Q. We will have you collapsing all the time if you want to.

A. No, you won't.

Q. I will ask you to answer the question.

(Question repeated.)

A. I remember there was a figure reached, yes.

Q. Do you remember going out into the corridor and meeting Trevor and Father Mellon and a figure of two hundred and thirteen thousand dollars being mentioned, and finally a statement made that you would agree to pay one hundred and ninety thousand; do you remember that?

A. No.

Q. What?

A. I don't remember going out into the corridor with that.

Q. Whether it was in the corridor or in the room?

A. I remember $190,000 was the figure reached.

Q. Do you remember two hundred and thirteen?

A. No, I don't remember that.

Q. About how long were you there the second day?

A. I don't even know what time we met the second day.

Q. Can't you tell us how long you were there, was it five minutes or three hours?

A. It was more than five minutes and it was more than a couple of hours, I guess.

Q. Do you remember that an agreement was reached and that Mr. Carlton Godfrey said, "I will draw the contract over night"?

A. He would draw it in the rough.

Q. In the rough?

A. And then our attorneys could come in.

Q. Exactly. Why didn't you bring your attorneys the next morning?

A. The next morning? We weren't there the next morning?

Q. What?

A. We weren't there the next morning.

Q. Who wasn't there the next morning?

A. We were there in the afternoon, our attorneys were there.

Q. Why didn't you bring your attorneys with you to the Vendig Hotel the next day when Mr. Carlton Godfrey was to have the contract in the rough so that the attorneys could look at it?

A. Well, he didn't have it in the rough in the morning.

Q. Why didn't you have the attorneys there?

A. They were at the University Club.

Q. I will ask you again, and I propose to keep asking you until you answer it.

A. I am willing to answer you, Mr. McCarter.

Q. Why didn't you have them at the Vendig Hotel?

A. They were waiting for us to call them, I suppose.

Q. Have you confidence in Judge Cole?

A. Yes.

Q. Have you?

A. Yes, certainly.

Q. Did you hear him say he wasn't there until about six-thirty?

A. I said we were not there until the afternoon.

Q. I ask you again why you went there in the afternoon and didn't have Judge Cole with you or Mr. Bourgeois there?

A. Because they were at the University Club waiting for us to call them.

Q. Why didn't you call them?

A. Well, Carlton Godfrey says it is too late to call your attorneys now.

Q. That was after the contract had been executed?

A. No, it was before the contract had been executed.

Q. You told us so in your direct examination.

Mr. Cole: Pardon me, Mr. McCarter. I don't think so.

A. No, I didn't, and he had already said he would tell me when to call the attorneys.

Q. Did you know that Mr. Scanlan had conferred with Judge Cole in Atlantic City, did you know that?

A. Yes.

Q. Did you confer with Stringer during these three days?

A. I think my son did.

Q. When was that?

A. I don't know.

Q. What?

A. I don't remember that.

Q. Why didn't you have Stringer there?

A. Because we wanted Mr. Bourgeois there and Judge Cole.

Q. Did you ever request or did you ever see the attorneys or any of them any evening after Decoration Day or after the thirty-first or after the first of June or on the evening of the first of June?

A. No, I didn't.

Q. There wasn't a time, was there, Mr. Williams, when attorneys, either Mr. Bourgeois or Judge Cole or Mr. Stringer were produced and requested admission to that room?

A. There was not a time?

Q. That you were there when these gentlemen or any of them were produced at the hotel and asked to be admitted to the room?

A. We were waiting for Carlton Godfrey to send the call out.

Q. Will you answer my question?

A. No.

Q. Do I understand you to say that you did not know and were not told, either by Mr. Scanlan or by Mrs. Davis or Mr. Davis that Father Mellon had at their solicitation been brought in to act as arbitrator, and, if possible, settle the differences between you two sets of people?

A. No, I was told that Father Mellon was coming over with Mr. Dorrian. That was all I was told, to talk the thing over.

Q. You weren't told what I said or words to that effect at any time?

A. To the best of my recollection I was not.

Q. Was any reason given for bringing Father Mellon?

A. Well, Mrs. Davis is a Catholic and she has known Father Mellon for some time, I guess, and that was all, that she picked Father Mellon, Father Mellon lived close by, that is as far as I know.

Q. Picked him for what?

A. To come with Mr. Dorrian.

Q. And have Father Mellon tell you what it was all about? How did you know Father Mellon knew what it was all about? You have never heard of him before?

A. No, I had never heard of him. This was Mrs. Davis' doings, not mine.

Q. What information was Father Mellon to give you?

A. He didn't give me any information.

Q. I want to know what you believed Father Mellon was doing in this matter if it wasn't to act as an arbitrator and to endeavor to determine what each side should do in the matter.

A. Well, I suppose there was something of that kind in my mind.

Q. Now when did you get in this condition of fright?

A. When the capias was first given.

Q. One moment, I mean after you got to Philadelphia, first day?

A. What condition of fright do you mean?

Q. What you have described in your testimony.

A. Why when I found capiases were issued against us.

Q. That had been issued some two weeks before.

A. Oh, no.

Q. I beg pardon?

A. I came home on the fourteenth, that was the first time I knew of the capias.

Q. I am talking about Philadelphia now, which is June first and May thirty-first.

A. I was in New York, we were gradually ——

Q. When did you first feel any fright in Philadelphia?

A. I felt it here in Atlantic City first.

Mr. McCarter: I move that be stricken out.

The Court: I can't understand the question. He apparently is endeavoring to say that he first had the condition of fright in Atlantic City and it continued with him at all times. The question is an indication that there is a new occurrence of fright, and I don't think he has testified to anything of that sort.

A. That is just what I meant, Judge.

Q. Well, why did you return the second day?

A. Return where?

Q. Hotel Vendig.

A. Why to settle this thing up.

Q. Settle it up?

A. Yes.

Q. Exactly. You had gotten all the information on the first day, hadn't you?

A. No.

Q. What?

A. I don't remember whether we had or not.

Q. All right, whether you had or had not, you went back the second day, didn't you?

A. Yes, I kind of went back like a sheep.

Q. Sheep before the shearers are dumb? You were not quite dumb, you were talking?

A. I was worse than dumb.

Q. You went back the second day, what did you go back the second day for?

A. Same thing.

Q. You have already told us to get this thing settled, what did you go back the third day for?

A. We thought we were going to have our attorneys in and get the whole thing settled up.

Q. Had any papers been delivered before the contract was signed?

A. Any papers been delivered? Delivered to who?

Q. Had any mortgages or any notes or any release been delivered by your side to the other side before the contract was signed?

A. Yes, I believe there had been. No, I don't know. I don't remember. There were mortgages and papers delivered, but I don't know whether they were delivered before or after.

Q. Well, there was no delivery of anything until after the sum of $190,000 was agreed, was there?

A. I don't know, sir.

Q. What?

A. I say I don't know.

Q. Don't know that?

A. No.

Q. Now you had ten thousand dollars in your pocket, didn't you?

A. Yes.

Q. When did you put that in your pocket?

A. I had that in my pocket when I went to California.

Q. And had kept it there ever since?

A. Kept it there until they got it.

Q. Till what?

A. I had it there until they got it.

Q. You had it ever since when you went to California, while you were, on your way back, and while you were in Philadelphia until you surrendered it, is that right?

A. I believe that is so.

Q. Is it a fact?

A. I believe that is so, that is my answer.

Q. I ask you if it is a fact? You know, don't you?

A. I believe to the best of my knowledge and belief that is so.

Q. Well, when did you surrender that ten thousand dollars to Carlton Godfrey?

A. Well, for good, do you mean? That was the third day.

Q. The third day?

A. Yes.

Q. After the contract was signed, was it not?

A. Yes.

Q. And the third day after the contract was signed Trevor was asked to make complete some deficiencies in the securities that had been produced by him and handed over, was he not?

A. Yes.

Q. And he said he would have to go back to New York or elsewhere and get them?

A. Yes.

Q. And that was one reason why the thing was adjourned until the next, in order that he might get those things?

A. It might have been.

Q. Yes. Now wasn't that the only reason?

A. I don't know.

Q. Can you recall any other reason for adjourning the thing until the next day ——

A. No.

Q. ——that is between the first and second of June, and that is from the third conference to the fourth conference, when I understand you were not present, except that he, Trevor, was to get some in-

termediate assignments, and the papers that were missing?

A. I don't remember that, Mr. McCarter.

Q. When did you arrange to go to California?

A. I didn't arrange at all.

Q. Was it arranged that you should go to California?

A. That I couldn't tell you. The first thing I knew they had put me on the train with Mrs. Scanlan and Mr. Scanlan went with me. I was in pretty bad shape.

Q. You signed the agreement?

A. Yes, I signed that agreement.

Q. You didn't know that a suit had been commenced by Trevor and Royden Davis against Connie and Lloyd Fahler and yourself, did you, until afterwards?

A. Against myself?

Q. Yes.

A. A suit?

Q. Yes.

A. A suit commenced by Trevor against myself?

Q. Yes, that is what I asked, did you know that?

A. No, I didn't know it.

Q. Didn't know that?

A. No.

Q. That suit, I think, was filed on the seventh of June, 1927. You never knew that, eh?

A. Just let's see what suit you are talking about, if you don't mind, Mr. McCarter. I don't know what you are talking about.

Q. July?

A. No, I didn't know that.

Q. You didn't know that?

A. No.

Q. Papers in which seem to have been filed on the seventh of June, 1927?

The Court: Isn't it quite clear that it had not been begun?

Mr. McCarter: I beg pardon?

The Court: Isn't it manifest that they had not been begun?

Mr. McCarter: I asked him if he knew it now?

A. Yes, I knew that. You said I didn't know.
Q. We are at cross purposes. When did you first learn that suit had been commenced?
A. I was written to in California and told me.
Q. Written to in California?
A. Yes.
Q. Now I show you this document dated July 12th, 1927.
A. Yes, I signed that.
Q. On the twelfth?
A. Yes.
Q. Who brought that out to you?
A. It was sent out to me.
Q. Who sent it out to you?
A. Mr. Bourgeois sent it out to me, I believe.

(Paper offered, received in evidence and marked Exhibit C6.)

Q. Look at that paper, which I will read to the court: "To Connie J. Dorrian and Lloyd W. Fahler: By reason of the false and fraudulent statements made by you, your agents and servants to me at and prior to the time of executing the agreement of June 1, 1927, I hereby repudiate and rescind the agreement and demand of you a repayment of the

moneys by payment to you, your agents, and servants. Dated July 12th, 1927, Signed Harold S. Williams.'' You had not, previous to signing this document on the twelfth, repudiated and rescinded the agreement, had you?

A. Yes, I had done that with Trevor, when Trevor saw me off I told him to take action.

Q. You told Trevor when he saw you off to take action?

A. Yes.

Q. That is what you mean when you say you had rescinded?

A. Yes.

Q. Was that on the train at the station?

A. At the station, yes.

Q. Sure about that?

A. To the best of my knowledge and belief.

Q. You started on what day?

A. Started on the first.

Q. Fourth of June?

A. First or second.

Q. Just remember you were in Philadelphia on the first, didn't you start on the second?

A. Only take four days to go to California

Q. I am not saying how many days, I am asking you what day you started.

A. Either the first or second, I don't remember.

Q. You were up there on the first, wern't you, in Philadelphia?

A. I don't even know that.

Q. Well, if you had told Trevor to repudiate this agreement, have you ever asked for an explanation from Trevor why he did not include you in the complaint which he and Mr. Davis filed repudiated this agreement, making you a defendant?

A. No, I never did ask him.

Q. You never, although you say you told him that you never had the curiosity to find out why, when he filed a bill on the seventh of June repudiating this paper, he made you a party defendant?

A. I don't understand that.

Q. You don't understand that?

A. No.

Q. Up until you had this talk with Trevor on the station platform, the morning of the day you started for California, whatever day that was, you had done nothing to repudiate this agreement, had you?

A. Except to tell him. He was going to repudiate it and Davis was going to repudiate it and I said I would do the same thing. That is all that was said.

Q. Up to that time you hadn't done anything before then?

A. Not that I remember.

Q. Have you any personal recollection, Mr. Williams, who first mentioned the sum of $190,000?

A. No, I haven't. I think it was ——

Q. Did you have anything to do with Mr. Stringer going to the hotel on the last day, the fourth day, when you were not present? Did you know Stringer was going to be there?

A. Did I know? No, I didn't know it.

Q. No? What time of day, whatever day it was, did you leave Atlantic City and go back to California?

A. I left Philadelphia, Mr. McCarter, I think it was two o'clock.

Q. Two o'clock?

A. I think it was.

Q. Had you returned from Philadelphia to Atlantic City after the agreement was signed?

A. No, because of the capiases. The capiases were not lifted, so Father Mellon said.

Q. Well, you had not returned?
A. No.
Q. You stayed in Philadelphia that night?
A. Yes, I stayed in Philadelphia that night.
Q. Next day you went to California about two o'clock, as you recall?
A. Yes.
Q. You hadn't seen either Mr. Bourgeois or Judge Cole?
A. No.
Q. Made no effort to see them?
A. I wasn't in a condition to see anybody.

Mr. McCarter: I move that be stricken out.

The Court: It will be stricken.

(Question repeated.)

A. No.
Q. Your wife had been ill for a year or more, hadn't she?
A. She has been ill for two years.
Q. Long before she went to California?
A. Yes.
Q. Is she still living?
A. Yes.
Q. Father Mellon was present each of the three days that you were there?
A. Yes, I believe he was.

Re-direct examination.

By Mr. Bourgeois:

Q. Mr. Williams, you stated to the Attorney-

General that you made no effort to see your lawyers after the meeting. Why not?

A. I was too sick.

Q. Now during these three days that this meeting continued, did you hear any tell of the capiases?

A. You will have to repeat that question.

Q. I want to know whether they said anything about these capiases during these three days when they were having these meetings, except the time when Father Mellon said it was still in force?

Mr. McCarter: He hasn't testified to that, I think.

A. I don't remember.

Q. The Attorney-General asked you whether or not, or stated you didn't object to the lawyers being present, that is to Godfrey and Garrison being present on that first day. You said no you didn't. What did you object to?

A. I objected to the way they were conducting the meeting. I thought it was just going to be talked over what the trouble was, instead of that I find an array of attorneys there and threats had started and I didn't know what to do, to tell you the truth.

Q. What then came up about lawyers?

Mr. McCarter: I think that has all been gone over. I don't think anything has been said that justifies a repetition.

The Court: How is that now admissible?

Mr. Bourgeois: Well maybe not. It is not important. That is all.

MRS. JESSIE D. DAVIS, sworn.

Direct examination.

By Mr. Cole:

Q. Are you the wife of Royden B. Davis, one of the parties to these suits?

A. Yes, Judge Cole, I am.

Q. Where do you live?

A. 6007 Atlantic Avenue.

Q. Atlantic City?

A. Atlantic City, Judge.

Q. Did there come a time when you heard something of a capias or attachment out against your husband?

A. Yes, Judge Cole, on the fourteenth day of May Mr. Harold Williams and Mr. Trevor Williams returned from California and they came down to the house. Jack Scanlan came in and told them there was a capias out for them, also an attachment and Trevor Williams' box, and our box, my box, Jessie D. Davis, and Royden B. Davis' box in the Ventor Trust Company had been attached and the bail for Mr. Davis was fifty thousand dollars.

Q. After you had heard that what did Mr. Davis do?

A. Mr. Davis knew, and I knew ——

Mr. McCarter: One moment.

The Court: No.

Q. The question is what did Mr. Davis do?

A. Mr. Davis left town.

Q. Did you know at the time you were told about the capias what the basis of it was, what the ground of the capias was?

A. No, I did not, Judge Cole. I didn't ——

Q. Had you up to that time had any information from anybody that your husband had committed any crime?

A. I did not.

Q. Now where did your husband go, if you know, when he left Atlantic City?

A. I really didn't know. I think his first stop was Philadelphia, because he called.

Q. When did you hear from him?

A. Oh, even John Scanlan, I think, I am not sure ——

Mr. McCarter: One moment, please. Answer the question. Question is when did you hear from him?

A. I heard from Mr. John B. Scanlan.

Q. How long was it after he had left Atlantic City before you saw him?

A. Not for two weeks.

Q. When you saw him where did you see him?

A. He was then in New York.

Q. Now in the meanwhile during that period had you made an effort to find out what was the basis of the capias?

A. I did, Judge Cole.

Q. What effort did you make?

A. John Scanlan, through John Scanlan, he was in communication with you.

Mr. McCarter: I object to what John Scanlan did.

A. Yes, Mr. McCarter ——

The Court: Just answer the question.

Q. You take your time. Don't be in a hurry. I am going to get from you all the evidence that you know about this case that is legitimate, and if Mr. McCarter objects you wait until the Court rules, so just take your time. I think I know how to do this. Take your time and we will get through with it.

(Question repeated.)

Q. Question is what effort did you make to find out what the charge was against your husband?

A. Personally I didn't do anything. Might I add that I didn't know what to do?

Q. No, you can have that stricken out, I guess. Now did you after a while get in touch with Father Mellon?

A. I did, Judge Cole.

Q. How long had you known him before this occurrence?

A. Since I was a little girl, that is a good many years.

Q. And why did you get in touch with him?

A. Because Father Mellon was, I thought, a friend of mine, also a friend, I knew he was a friend of Mr. Dorrian's.

Q. Now did you get in touch with Father Mellon before or after you knew that your husband was in New York?

A. Before I knew that my husband was in New York, on the Sunday preceding the day on which I learned he was in New York, or the Sunday preceding the Saturday which I think, well, Mr. Williams returned on the fourteenth of May, and this was two weeks after Mr. Davis had been away for

two weeks, and on that Sunday I telephoned to Philadelphia, to Father Mellon, and rang the phone from eleven o'clock in the morning until about five, in between the operator would call me and say that she had not gotten any answer.

Q. Where was Father Mellon during this time in Philadelphia?

A. He was in Philadelphia.

Q. You finally got in touch with him?

A. I finally got in touch with him after I reached New York on the following, I didn't personally get in touch with him but I asked John Scanlan to get in touch with him on the following Sunday, which was the twenty-ninth of May, because the first meeting was the thirtieth.

Q. Did you personally talk with Father Mellon before you met him in Philadelphia?

A. I did not, Judge Cole.

Q. What did you understand you were going to Philadelphia for?

A. I thought ——

Mr. McCarter: One moment. I don't think that is proper, what they did in Philadelphia is one thing.

The Court: Sustain the objection.

Q. Well, did you go to Philadelphia?

A. Yes, Judge Cole, we did go.

Q. On what day?

A. We went to Philadelphia on Decoration Day, in the afternoon.

Q. Who went with you?

A. Mr. Harold Williams, Mr. Trevor Williams and my husband, Mr. Davis.

Q. Did you know where in Philadelphia you were going to after you arrived there?

A. Yes, I knew.

Q. Who had told you?

A. John B. Scanlan had told me on the telephone.

Q. Now then did you go to the hotel?

A. Yes, we went to the hotel.

Q. Was there anyone there to greet you when you arrived?

A. No, I think, I am not quite positive, but I think they had not arrived when we reached there.

Q. Now did Father Mellon arrive after you did?

A. Yes, Father Mellon did arrive after we did.

Q. Tell us what was the first thing that occurred, that you now recollect?

A. First thing that occurred, I met Father Mellon outside of the Vendig Hotel and I said to him, "Father, this is not the kind of a meeting we expected and I object to this man Hart coming in my presence," and Father Mellon, very irritable, and very angrily said to me, "If you lay any rules upon us at this meeting I walk out."

Q. Where was Mr. Hart at that time?

A. Mr. Hart was outside the Vendig Hotel.

Q. Had you seen him when you went in?

A. I had seen him, yes, Judge Cole.

Q. Now when this talk was had was Father Mellon inside or outside?

A. Father Mellon was standing outside with Mr. Dorrian, whom I supposed I had just insulted.

Mr. McCarter: Just insulted?

A. Yes, Father Mellon claimed I had insulted Mr. Dorrian.

Q. Were you present when, that same day, and at about the time you arrived, when Father Mellon said something to your husband?

A. No, Judge Cole, I wasn't there.

Q. Well, now, how soon was it after you arrived before you went to the meeting room?

A. We waited down in the lobby of the hotel and I attempted to tell Father Mellon something about Trevor Williams and Father Mellon told me I didn't need to tell him anything, that he knew all about Trevor Williams.

Q. Well, then, did you go to the room finally?

A. Yes, we went upstairs to the room, and out in the hallway Father Mellon informed me that I had insulted Mr. Davis and he forbade me to enter the meeting room.

Q. You said Mr. Davis?

A. I mean Mr. Dorrian and he forbade me to enter the meeting room. Mr. Garrison told me I could go in on one condition, on the condition that I didn't speak while I was there, when we reached the door

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Q. Just a moment, stop right here. What did Dr. Mellon, or Father Mellon say to you when he said that you had insulted Mr. Dorrian?

A. He said, "It is a fine thing you have done, you have insulted Mr. Dorrian and he refuses to come into the meeting room."

Q. Did he say what you had done to insult him?

A. Yes, I told Mr. Dorrian that he had not only disgraced my children, but he had brought a disgrace on his wife and his children, because everybody knew now he was in the liquor business, and Father Mellon said, "You knew that before." You apologize. He said, "Do you see what you have done to this man?" I said, "Father, if I have done anything to hurt this man I am willing to apologize." And he took me down the hallway and I told him I was sorry I had spoken against his wife and children, because I had

been very fond of them, and Father Mellon said, "You have said enough." I went into the meeting room ——

Q. Just a moment. Did you finally get to the meeting room?

A. Yes, Judge Cole, I did.

Q. What time was it, about?

A. I think, I am not positive, but I think the time was around five o'clock or after, it may have been haf-past five.

Q. Now with whom did you go when you got into the room?

A. There was Mr. Carlton Godfrey, Mr. Phillip Godfrey, Mr. Garrison, Mr. Dorrian, Mr. Fahler, and our party, and Father Mellon, of course, I told you was there.

Q. Now who do you mean by "Our party"?

A. That was Mr. Harold Williams, Mr. Trevor Williams, Mr. Royden B. Davis and myself.

Mr. McCarter: How about John B. Scanlan?

A. And John B. Scanlan.

Mr. Cole: Mr. McCarter, if you don't object ——

Q. Was Mr. Scanlan there?

A. Yes, Mr. John B. Scanlan.

Q. Now, Mrs. Davis, I want to suggest to you that you take your time and give us your best recollection of what took place on the occasion of the first visit to that room. Now keep in mind, if you can, the first visit.

A. In the first place, Mr. Phillip Godfrey picked up some papers and he shuffled them like a pack of cards, saying this was this deal, and this was fraudu-

lent profit, secret profit, and he shuffled them out, calling out the different profits that were made on the different deals. I believe Father Mellon opened that meeting saying that he was there at the invitation of Mrs. Davis. I was forbidden to talk, but there was some talk on the straw, and Father Mellon asked what was a straw. Mr. Carlton Godfrey gave this definition. This I understood was the basis of the entire charges against my husband. He said, Carlton Godfrey said: "Here is a reputable real estate man," pointing to Mr. Williams, and he said, "Along comes a man with a lot to sell, and he says to the reputable real estate man, 'I will sell this lot for eight thousand dollars,' and the reputable real estate man, knowing that this lot was a bargain, he buys it in the name of Brown, and the next day along comes this trusting man, Mr. Dorrian, and he wants to buy this lot, and instead of this real estate man telling the trusting man he had bought the lot the day before in the name of Brown, he sells it to him at a profit, not disclosing that it has been brought in the name of a straw," and—and I went to say something and Mr. Garrison put up his hand and he said, "Not a word, Mrs. Davis." It was such a simple thing to say.

Q. Don't make any comment. Just tell us what was said and who said it. Now then after Mr. Godfrey had made this illuminating explanation of what was meant by a straw, what did Dr. Mellon say?

A. Dr. Mellon said, "That is dishonest," and Trevor Williams attempted to speak to Father Mellon and he said, "Don't tell me anything. I studied four years of law." Am I right, Father?

The Court: Let that be stricken.

Q. Please don't do that. I am asking you to tell

us what was said and done without any comment. Now then tell us what happened after that.

A. And after that Mr. Godfrey, after he read these different deals off, and the different secret profits, and the ——

Mr. McCarter: May I ask what Mr. Godfrey that was?

A. Mr. Phillip Godfrey, and fraudulent profits, secret profits on the different deals, there were no questions asked from either Mr. Williams, Mr. Royden Davis, nor Mr. Trevor Williams, so they agreed that these deals were dishonest, nor any explanation asked if they were wrong, they were simply told that they were wrong, and Mr. Harold Williams asked that day if we hadn't any attorneys, and Mr. Godfrey, Mr. Carlton Godfrey looked at him, and he smiled and said, "I will be your attorney, and you see that I will treat you fair."

Q. Proceed, what happened after that?

A. On that day I didn't ask for the attorneys, on that day, but Trevor Williams did ask for the attorneys on that day, and Mr. ——

Mr. McCarter: Let's hear what Trevor said.

Q. What did Trevor say?

A. Trevor said, "We haven't any attorneys here," and Mr. Godfrey said, "We will tell you when to call them in." That meeting was adjourned, I believe, some one had an official engagement, and the meeting was adjourned, but we were there, I think fully, it must have been two hours and a half or three hours. I know we were late getting out.

Q. Now, Mrs. Davis, have you told us now all that

you can presently recall of what took place at that first meeting?

A. I think I have, Judge Cole, at that first meeting.

Q. Now then was there a second meeting?

A. There was a second meeting on the next day, we were told to return.

Q. Where did you stay that night?

A. That night we went back to New York.

Q. What time of the day was it, the second day you met?

A. On the second day I haven't any recollection the exact time. I know it was in the afternoon.

Q. Who was present at the second meeting?

A. At the second meeting Mr. Carlton Godfrey, Mr. Phillip Godfrey, Mr. Garrison, Mr. Louis Hart, Mr. Mulhern, Mr. Dorrian, Mr. Fahler, and Father Mellon, and, of course, Mr. —— do you wish me to repeat, Mr. Davis?

Q. Yes.

A. Mr. Harold Williams, Mr. Trevor Williams and myself.

Q. Meet in the same room?

A. And on that day ——

Q. Did you met in the same room?

A. In the same room.

Q. Tell us what took place.

A. Please, Judge Cole, on that day Mr. Besore was there, and Mr. Carlton Godfrey's two stenographers came with them, but they were not in the room or during the meeting, but they came.

Q. When you adjourned that first day, what, if anything, was said about the adjournment or as to when you were coming back?

A. Well, we just said, I think they told us to come back the next day. I don't remember who it

was, but I think it was Mr. Carlton Godfrey who said we were to come back and he named the hour.

Q. Were you back on that hour?

A. We were back on that hour.

Q. Now then you got in the room again. Now tell us what took place as near as you can recall. Everything that took place, what was said and who said it.

A. Mr. Phillip Godfrey and Mr. Hart came in the room with another stack of papers. On the day before, I must remember to tell you, Judge Cole, that Phillip Godfrey said it was $178,000 was their claim, and on the second day Mr. Hart came in with a stack of papers and made claims upwards of over two hundred thousand dollars. I don't remember just the figures.

Q. Tell us all that occurred.

A. On that day I asked for the lawyers and Mr. Godfrey said that he would let us know when to bring them in, and we were contented with that because we thought really the lawyers would see everything before anything had gone any further.

Q. Anything more take place on that occasion?

A. Let's see. That was on the second day?

Q. Anything said about an agreement at that time?

A. Yes, Mr. Carlton Godfrey said that he would get up an agreement, and would take off the ragged edges, and then we could submit them to our attorneys.

Q. Recall anything more on the second occasion?

A. On the second day I asked Mr. Carlton Godfrey, and also Mr. Garrison if Mr. Davis could come home, and they both told me ——

Mr. McCarter: I beg pardon.

A. I asked if Mr. Davis could come home and they both told me no, that they couldn't come home on account of the capias, it wouldn't be safe for him to come down, and on the second day—second or third—no, it was the third day, Judge Cole.

Q. Now let us come to the third occasion. What time did you meet then?

A. On the third occasion, I know it was the afternoon, I cannot tell the hour, I know it was the afternoon.

Q. How long were you in session?

A. That session, I think it was longer than the second day.

Q. Who were there?

A. Mr. Hart, Mr. Mulhern, Mr. Carlton Godfrey, Mr. Phillip Godfrey, Mr. Garrison, Mr. Dorrian, Mr. Fahler, Father Mellon, Mr. Royden Davis, John B. Scanlan, Trevor Williams and myself.

Q. Now, give us your best present recollection of what took place at that meeting and what was said and who said it?

A. At that meeting, it was on that day that, I think it was that day that Mr. Hart got up and said, "Call the meeting off and call up Washington and get out those other papers," and he said it loud enough for me to hear so I possibly would transmit the message to the other men, out loud there, so when he said, Mr. Godfrey told me that he had had the stenographers up all night to draw up this agreement. When he passed it—I am ahead of my story—something happened between that, I can't think.

Q. Take your time.

A. It was at that meeting Mr. Carlton Godfrey had an argument with Trevor Williams and he pointed his finger at Trevor and asked him if he

would like to go to jail, because that was where he was going to put him, and Trevor told Mr. Carlton Godfrey that some of his securities were in New York and some in California and Mr. Godfrey called Trevor a liar, and told him that he had told him that they were all in New York because Trevor had brought them all that day. Father Mellon was in and out of the room at some meetings, he read his prayer book through the signing of the agreement.

Q. Before you come to the signing of the agreement, when Mr. Godfrey told Trevor that he would send him to jail or words to that effect, did Trevor make any statement?

A. No, Trevor didn't make any statement, Mr. Phillip Godfrey handed Trevor a lot of securities—papers, assignments, I guess they were. I didn't know the legal or the business end of the thing, but they gave those papers to Trevor to sign and Mr. Hart and Mr. Phillip Godfrey stood over Trevor until they had the boy in such a terrible state ——

Mr. McCarter: I object.

The Court: Sustain the objection.

A. Listen ——

The Court: No.

Q. Just a moment. What did they say to him first?

A. Both Mr. Hart and Phillip Godfrey started to argue with Trevor Williams over the assignment of a mortgage and I asked Dr. Mellon if he were going to permit Mr. Hart to carry on this way, and

he said, "I will attend to him," and he told Mr. Hart he would appreciate if he would lower his voice, and then again Mr. Hart carried on in such a manner towards Trevor ——

Mr. McCarter: I object.

The Court: Yes.

Q. What did he say?
A. Father Mellon told him to leave it to the lawyers.
Q. Now, you said that Trevor was in a bad condition. What was his condition?
A. He was absolutely mentally unfit for that meeting.

Mr. McCarter: I object.

The Court: Sustain the objection.

Mr. McCarter: Move it be stricken out.

The Court: Yes.

Q. How did he act?
A. How did he act? Mr. Carlton Godfrey passed him a paper and asked Trevor to count it up, it was the sum total for these mortgages and securities, which Mr. Phillip Godfrey said he would take. There was no agreement what they would give, it was what they would take, and the things that they wouldn't take, for reasons best known to themselves. Trevor was unable to count it.
Q. What?
A. Trevor was unable to count the sum he said he couldn't do it.

Q. Was he white or how did his face look?

A. His face looked wretched, he had not eaten.

Q. Going back to New York a moment, how long were you in New York?

A. How long I was in New York? I was in New York from Saturday, May 28th until two days after was the meeting with these men in the Vendig Hotel.

Q. Now, do you know how Mr. Trevor Williams acted while he was over in New York?

A. Yes.

Q. Whether he was a well or a sick man?

A. No, Trevor Williams was sick, Trevor Williams had not eaten anything, and Trevor Williams did not sleep and partly the loss of the sleep was because of his father, because we thought that morning Mr. Williams was dead, the second morning of this meeting.

Q. You mean in Philadelphia or New York?

A. This was in New York, when we were back in New York.

Q. Coming a moment to Philadelphia again, bringing Mr. Harold Williams in mind, did he have to have anything to revive him while he was in Philadelphia?

A. Yes.

Q. What?

A. It was suggested at the meeting that Mr. Harold Williams would have aromatic spirits brought to him, and on the second night of the meeting, it was suggested to put Mr. Harold Williams in bed at the Vendig Hotel, his condition was so weakened and he was so distracted.

Q. Who was it made that suggestion?

A. Dr. Mellon made the suggestion down in the lobby of the hotel.

Q. Now, then coming back to the third meeting,

was there anything said on that occasion about the capias?

A. Yes. I asked Mr. Godfrey about Mr. Davis coming home that day and he said the capias had not been raised, that he could not come home, and also Father Mellon made the announcement on the third day, and his very words were, "The capias has been sustained by the Supreme Court."

Q. Did Dr. Mellon or anyone else on that occasion say that Judge Campbell had decided that if any attempt was made to execute that capias he would stop it?

A. They did not. They didn't tell us anything about that.

Q. Now, on any of these occasions when you were in Philadelphia did you hear anybody charge your husband with having committed any crime?

A. The only thing that I had was the capias was still against him, and when I made arrangements for this meeting in Philadelphia with Father Mellon, Father Mellon and Mr. Dorrian, Mr. Dorrian particularly had sent word that ——

Mr. McCarter: One moment now.

Q. The objection is that will be hearsay. Did you get that from Mr. Dorrian or Dr. Mellon yourself?

A. I got that directly from John Scanlan.

Q. What I wanted to know from you is whether on any one of these three occasions you heard anybody charge your husband with having committed any crime?

A. No, I didn't hear the crime. I only heard they were to be arrested on the capias was against them.

Q. Anything said by anybody about your husband having committed embezzlement?

A. No, Judge Cole. They only got him there ——

Mr. McCarter: One moment.

Q. There is no question, Mrs. Davis. When you had the third meeting, what, if anything, was said about having lawyers there?

A. Mr. John B. Scanlan said that the lawyers were in the University Club waiting to be called in. Mr. Godfrey, I think, when Mr. John Scanlan said that, Mr. Godfrey, I think, ignored John B. Scanlan's request there, I am not positive of this answer, but I know they were meeting when the request was made for the lawyers ——

Mr. McCarter: One moment. I think we ought to have what was said.

The Court: Have to have what was said.

Q. Just what was said?

A. What Mr. Carlton Godfrey answered?

Mr. McCarter: One moment. I move the answer as it progresses be stricken out.

The Court: Yes.

(Question repeated.)

Q. First of all did anybody say anything at that third meeting about your husband and Trevor Williams, Harold Williams, having their lawyers there?

A. Yes, Judge Cole, they surely did.

Q. Who did?

A. Trevor Williams asked for the lawyers on the last day and John B. Scanlan asked for the lawyers on the last day, and I asked for the lawyers on that day.

Q. Did anybody make a reply?

A. Yes, Mr. Carlton Godfrey.

Q. What did he say?

A. He said, "The time for you to have had your lawyers was before this agreement was drawn up." That is his own words.

Q. On any one of the three occasions did Mr. Carlton Godfrey or anyone else in that room say that they wanted Mr. Davis' lawyer there, that they requested them to be there?

A. No, the only thing that they ever said was, "I will tell you when you may call them in."

Q. Did they ever say in your presence when to call the lawyers in?

A. Absolutely not.

Q. What time do you think it was when you left?

A. On the last meeting I think it must have been around, the time is very vague, it must have been around seven o'clock, around that time.

Q. Your best recollection. Now, Mrs. Davis, do you remember one time when Mr. Godfrey tapped you on the hand?

A. I certainly do.

Q. What was the occasion for that?

Mr. McCarter: Held her hand?

A. No, he tapped me on the hand, sir. Mr. Davis, they brought out these agreements to be signed, Mr. Carlton Godfrey began to read them, and he became tired, for that was lengthy, and Father Mellon relieved him, and they asked the men to sign them,

Trevor Williams objected, he didn't want to sign, but his father was in such a state of health, he was afraid the father might die.

Mr. McCarter: I object.

The Court: Let that be stricken.

Mr. McCarter: Please confine yourself to the facts.

A. There are reasons, Mr. McCarter, I have to tell the truth.

Q. Trevor Williams objected, he didn't want to sign. Go ahead.

A. I objected to Mr. Davis signing, I told him not to sign, Judge Cole wasn't here, and it all looked too legal. Mr. Carlton Godfrey had left his place at the table, had come down to the end of the table, Dr. Mellon was busy reading over the agreement, Carlton Godfrey leaned over, looking at Mr. Davis, and tapping me on the hand, and he said, "Mr. Davis,"—Mr. Davis wasn't going to sign, and Carlton Godfrey said, "I am not here to advise you, but the quicker you sign the better for you," tapping me on the hand.

Mr. McCarter: One moment, I move that part of the answer which says that Davis was not going to sign be stricken from the record.

The Court: Yes.

Mr. Cole: I object to it being stricken.

The Court: I will permit it being stricken.

Q. Was it you who said Mr. Davis was not going to sign?

A. I said Mr. Davis was not going to sign.

Q. Did you tell Mr. Godfrey that?

A. I told Mr. Godfrey, yes, and Mr. Godfrey stood there listening to the argument.

Q. Did you tell Mr. Godfrey he was not going to sign?

A. I did, yes, yes, Judge Cole.

Q. Was it after that he made the statement?

A. Yes, Judge Cole, and he tapped me on the hand, looking at Mr. Davis, and told Mr. Davis he had better sign, he wasn't there to advise him, but he had better sign, tapped me on the hand and said, "You better sign if you know what is good for you."

Q. During any of these meetings did Mr. Garrison say anything to you?

A. Mr. Garrison told me the second day.

Q. Which meeting was that?

A. The second day of the meeting, when I asked him if Mr. Davis could come home, Mr. Garrison said no, the capias was out, but after the meeting, after Mr. Davis had signed and Mr. Garrison offered to escort Mr. Davis under his personal protection, and to take him home, after they had announced at that meeting that the capias had been sustained by the Supreme Court.

Q. Was there an occasion when Mr. Garrison tapped you on the hand and said something to you?

A. Not Mr. Garrison.

Mr. Garrison: He was more proper.

Q. Do you recall whether, at any one of these meetings there was anything said by anybody about calling off the settlement and calling Washington?

A. Yes, Mr. Hart said that.

Q. How did that come about?

A. There was some debate between Mr. Carlton Godfrey, and, I think, Mr. Phillip Godfrey was in that debate, about Trevor's securities, and Mr. Hart called out, I think, "Let's call this thing off and call up Washington and get out those papers."

Q. Now, at any one of these meetings did anyone say anything about sending your husband and the Williamses to jail?

A. Yes, Mr. Carlton Godfrey said, out in the hallway, first of all, I attempted to appeal to Dr. Mellon to go in the room and save Trevor Williams, that the men in the room were stealing from him, and he said, "Go in, they have Trevor for twenty years."

Q. Dr. Mellon?

A. Dr. Mellon told me that in the hallway.

Q. Did anybody else say anything to you about sending anyone of these people to jail?

A. No, but I heard Mr. Carlton Godfrey tell Trevor Williams that he was going to put him in jail.

Q. Did you stay in Philadelphia over that night?

A. On the last night of the meeting, yes, Judge Cole, we stayed in Philadelphia.

Q. When did Mr. Harold Williams leave for California?

A. Mr. Harold Williams left the next day.

Mr. Cole: That is all I can recall now.

(Recess taken until June 2, 1928 at 9:00 o'clock A. M.)

ATLANTIC CITY, N. J.

June 2, 1928.

(Trial of the cause resumed at 9:00 o'clock A. M.)

MRS. JESSIE D. DAVIS, resumed.

Cross-examination.

By Mr. McCarter:

Q. You have lived at Atlantic City how long?

A. Altogether I think I have lived here about twenty years besides a few years away, you know.

Q. And previous to these happenings about which you testified yesterday, how long had you been a resident of Atlantic City?

A. How long? Well, Mr. McCarter, to answer that I was born in Philadelphia, and after I was married I lived in Chicago a couple of years, and New York, but I really have been in Atlantic City.

Q. Well, you have been identified with Atlantic City for some time?

A. Oh yes, Mr. McCarter.

Q. Previous to this occurrence?

A. Yes, Mr. McCarter.

Q. You were in business here?

A. Yes, Mr. McCarter.

Q. Now, as I recall the evidence, your husband and two of the Messrs. Williams were lunching at your house when information reached you that this capias was outstanding?

A. Yes, Mr. McCarter.

Q. That was on a Saturday?

A. That was on a Saturday.

Q. You seem to have a pretty accurate memory, can you tell me what date that was?

A. Well, that was on the day that Mr. Williams and Mr. Trevor Williams returned from California, which was on May the fourteenth.

Q. Now, when your husband and the two Messrs. Williams, Trevor and Harold left town that afternoon did you go with them?

A. I did not, Mr. McCarter.

Q. You remained here before you joined them how long?

A. About two weeks because I didn't know where Mr. Davis was.

Q. Never mind why, you were here two weeks?

A. Yes, Mr. McCarter.

Q. And you were in communication with your husband from time to time?

A. Yes, I talked to Mr. Davis, after a week's time Mr. Scanlan permitted me to talk to Mr. Davis.

Q. One moment, just answer the question, what, after a week's time?

A. After a week's time.

Q. You talked to Mr. Davis?

A. I talked to Mr. Davis.

Q. And then every day?

A. No, at night, occasionally I talked to him.

Q. About every twenty-four hours?

A. Let me see, towards the second week, I think, the last few days. Long before I went to New York I talked to him every night.

Q. What time did you go to New York as you have just expressed it?

A. I went to New York on, two days before Decoration Day, I think it was May the twenty-eighth.

Q. Had you seen your husband before the twenty-eighth?

A. I had not seen Mr. Davis from the time he left the house on May the fourteenth until Saturday, May the twenty-eighth.

Q. Now, let me make a friendly suggest, Mrs. Davis.

A. Please.

Q. You see you gave me a long sentence then. That all has to be taken down. All adds to the quantity of this stuff and you could easily have said yes or no.

A. Try to do better.

Q. I want to be friendly with you, but I don't want to have unnecessary talk.

A. Sure.

Q. You were aware that counsel had been employed on your husband's behalf?

A. I surely was.

Q. Judge Cole?

A. Judge Cole.

Q. Did you see him during these two weeks?

A. I did not.

Q. Do you read the Daily paper?

A. I do.

Q. I show you a copy of Atlantic City Daily Press issue of the 19th of May, which I understand was some two or three days before you joined your husband, was it?

A. Nineteenth of May?

Q. I call your attention to an article on the front page, with a picture of Mr. Williams, which I do not think is very flattering, "Sleuths hunt Williams Company heads" ——

Mr. Cole: Mr. McCarter, that is also unnecessary talk.

Mr. McCarter: Right.

Q. ——"fraud plot charged." You saw that article, didn't you?

A. Yes—Mr. McCarter, I didn't see that article.

Mr. Bourgeois: I object, if your Honor please. We are not here to meet newspaper articles.

The Court: I will permit the question.

Q. You say you didn't see that article?

A. Mr. McCarter, the newspaper was kept away from me by my sister because ——

Q. One moment, what sister?

A. My sister, Mrs. Scanlan.

Q. How do you know it was kept away by your sister?

A. Because they told me afterwards, after I did see the paper, they told me why they had not shown it to me.

Q. When did you first see the paper?

Mr. Bourgeois: I object as irrelevant and immaterial.

The Court: Unless it is after a period in which she testified that certain acts were done, I don't recall just exactly the time, however, I will sustain the objection in the form ——

(Question repeated.)

The Court: I will permit it.

(Question repeated.)

A. Mr. McCarter, I don't remember.

Q. Your sister saw it, did she?

A. Yes, my sister did see it, all my family saw it.

(Newspaper marked C7 for identification.)

Q. This Atlantic City Daily Press goes regularly to your house, does it not?

A. It is thrown on the lawn or on the porch, yes.

Q. Do you also take the evening paper?

A. No, Mr. McCarter.

Q. You can't tell us when your attention was first directed to this article?

A. No, Mr. McCarter. I knew that it was some time after the first edition of the paper because sister had taken the paper ——

Q. One moment, after the first edition of the paper?

A. After these papers, not any day when the time of this paper that was served.

Q. Well, you had read the paper before you went to New York?

A. Oh yes.

Q. Did you take a copy of it with you?

A. I did not.

Q. You saw your husband in New York, of course?

A. I did.

Q. Stayed with him at the hotel, wherever it was?

A. Yes.

Q. Now, how long did you remain there?

A. In New York? From Saturday evening until Decoration Day.

Q. Decoration Day? You were with your husband two days and then you all came over to Philadelphia on the following Monday?

A. Yes, Mr. McCarter.

Q. Now, you, I think, are a Roman Catholic?

A. I am, Mr. McCarter.

Q. How long had you known Father Mellon?

A. I had known Father Mellon ever since I can remember having a friend, ever since I was a little girl.

Q. Very well?

A. Very well.

Q. He was a warm friend of yours and your family?

A. Very warm friend.

Q. Now, during the interim between the time, the Saturday when your husband left on the fourteenth and the fortnight afterwards when you joined him in New York, I understood you to say that for a considerable space of time you endeavored to get in telephonic touch with Father Mellon?

A. Yes, not many times, Mr. McCarter, on the Sunday preceding the day I went to New York, which was May—well, it was, I went to New York on Saturday, May 28th, and it was the preceding Sunday on which I telephoned Father Mellon.

Q. I understood you to say you spent almost all day trying to reach him?

A. I did, yes.

Q. Where did you try to reach him?

A. I tried to reach him at his parochial residence at 18th and Race.

Q. And you didn't get in touch with him?

A. I did not.

Q. How many times did you call?

A. I put in the call about eleven o'clock and received answers during the day until five from the operators that they could not, there wasn't any answer to Father Mellon's telephone, and Father Mellon tells me he knew I was calling ——

Q. One moment. You observe you are supposed to answer my question. Did you make any other effort on any other day personally?

A. I did not, Mr. McCarter, no. You mean up until—you mean I didn't make an effort or I did make an effort on the Sunday after this occasion?

Q. I simply mean what I say, on Sunday the ninth, or whatever it was, you failed to reach him?

A. I did.

Q. Now, did you make any effort on Monday or Tuesday or Wednesday or Thursday or Friday or Saturday that followed?

A. The following Sunday I did, Mr. McCarter.

Q. The following Sunday? Between Saturday and the following Sunday you had made no effort?

A. I had made no effort, no.

Q. Now, your purpose in trying to reach Father Mellon on that Sunday was to solicit his aid in this matter?

A. To ask him—shall I tell you why?

Q. Will you answer my question?

A. To solicit his aid, yes, Mr. McCarter.

(Question repeated.)

A. Yes, Mr. McCarter.

Q. Was it while you were in New York that you rang up Mr. Scanlan and got him to see Father—to get in touch with Father Mellon?

A. It was, Mr. McCarter.

Q. After you reached New York did you tell your husband of your efforts to get in touch with Father Mellon?

A. I did not.

Q. You concealed that from him?

A. I did, because he didn't think ——

Q. One moment, I didn't ask you why. I asked you whether you did conceal it from him?

A. Pardon me, Mr. McCarter. It seems to me ——

Q. One moment.

The Court: Question is answered, "I did."

Q. Were the Messrs. Williams stopping at the same hotel that your husband and you were in New York?

A. Yes.

Q. Did you have a common parlor or did you each have your own rooms, that is you and your husband your room and Messrs. Williams their room?

A. We had our room and Mr. Williams and Trevor Williams had another room and we had a parlor with them.

Q. A parlor you jointly used?

A. Yes.

Q. There was a telephone in that parlor?

A. Yes, there was.

Q. Is that the telephone that you employed to talk to Scanlan?

A. It was not.

Q. What floor was your room on?

A. I really couldn't tell you the floor, Mr. McCarter. I don't know whether it was the third or fourth.

Q. What telephone did you use?

A. I used the telephone up around 72nd and Broadway, or 75th and Broadway.

Q. A public telephone?

A. A public, with a booth in a drug store.

Q. Where were you stopping?

A. We were stopping at the Hargreave Hotel.

Q. Where is that?

A. That is on, I think, 72nd Street—west 72nd Street.

Q. Did you go out purposely to telephone?

A. Yes, we went out purposely to telephone, to telephone home.

Q. To telephone home? You and your husband?

A. Yes, my husband and I.

Q. Did you have some family home besides your sister and brother-in-law?

A. Yes, I had my children home.

Q. Children home, and naturally you wanted to get in touch with them, and so did your husband?

A. Yes.

Q. So you went out to telephone?

A. Went out to telephone.

Q. Why didn't you telephone from your hotel?

A. Because there was a capias out for Mr. Davis and I didn't know when they would serve it or what they would do to him.

Q. Well, you and your husband went to this public telephone on the corner of 72nd Street and Boardway, or wherever it was?

A. Yes, Mr. McCarter.

Q. And you rang up Mr. Scanlan, or rang up the number?

A. No, I first rang up Philadelphia.

Q. Philadelphia?

A. First let me get this clearly, on that night I first rang up home. I rang up home first.

Q. Whom did you get?

A. I talked to my sister.

Q. Mrs. Scanlan?

A. No, to my other sister, Miss McDonald.

Q. She lives there too?

A. She lives there too.

Q. You talked to her?

A. I talked to her.

Q. Did you say anything to her about Father Mellon?

A. No, I didn't mention Father Mellon then.

Q. When was it that you talked to Scanlan?

A. I didn't talk to Mr. Scanlan until a little while after, another call in between, and I called again home.

Q. Now, the other call in between was to Philadelphia?

A. Was to Philadelphia.

Q. Trying to get Father Mellon?

A. No, Mr. McCarter.

Q. It was not?

A. No, Mr. McCarter.

Q. Who was it?

A. I called up Julia Coll's home.

Q. Julia Coll? Do you know her?

A. Yes, I know Julia Coll, Mr. McCarter.

Q. She an acquaintance of Father Mellon?

A. I think she just barely knows Father Mellon.

Q. A relative of yours?

A. No, she is not a relative of mine.

Q. But a friend?

A. But a friend.

Q. Well, after having—after you had talked to Mrs. Coll, if you did talk to her, at any rate after you had made that call you then re-called your own house in Atlantic City?

A. I re-called my own house.

Q. Your husband hear all the time?

A. My husband, Mr. Williams and Mr. Trevor Williams were outside the drug store waiting for me.

Q. They waited outside?

A. Yes.

Q. While you went inside to telephone?

A. Yes.

Q. Now, you made two calls and you are making a third, and this time you got home?

A. I called up home and I asked for my brother-in-law, John B. Scanlan.

Q. And your purpose was to ——

Mr. Cole: Your Honor, I am going to object to this. It seems to me it is not cross-examination. My recollection is I brought this witness to the hotel, to the Vendig Hotel in Philadelphia and I don't see how this can be cross-examination and I object to it.

The Court: I will permit it.

Q. ——to see if Scanlan could get hold of Father Mellon, was it?

A. Yes, Mr. McCarter.

Q. Did he know Father Mellon?

A. Yes, Mr. Scanlan knew Father Mellon.

Q. And did you get in personal touch with Scanlan on the phone?

A. I did. Wait.

Q. Pardon me.

A. Yes, I did, Mr. McCarter. I was just trying to think if my sister first talked to me.

Q. And you told Scanlan that you wanted him, if possible, to get in touch with Father Mellon and to see if he would not use his good offices to adjust the differences between Mr. Dorrian and his partner, Mr. Fahler, and you people?

A. I did not, Mr. McCarter, word it that way, nor had any intention.

Q. Word it that way?

A. Or had any intention.

Q. I am not a seer or a prophet, nor did I hear the conversation.

Mr. Cole: I object.

The Court: Sustain the objection.

Q. What did you say?

A. I told Mr. Scanlan that I had just called Miss Coll's home and they told me the detective had been there that day and told Julia Coll if she did not come across that they would put in the hands of Senator Pepper, that she had committed a terrible crime by being a straw, and I told Mr. Scanlan to please go to Father Mellon and ask Mr. Dorrian what it was all about, what they were doing, and phone me back, and tell me what they would do about it. That is what I told Mr. Scanlan.

Q. What did Father Mellon know about it?

A. What did Father Mellon know? He was a friend.

Q. What did Father Mellon know about this circumstance?

A. Only what Mr. Dorrian had told him. He had not heard our side of the case at all.

Q. Do you know that Mr. Dorrian had told him anything?

A. Yes, because Father Mellon called at the house Saturday and asked Jack Scanlan to tell him if Connie Dorrian had anything wrong done to him and he had been down to Mr. Scanlan's house.

Q. When was that?

A. That was before I had gone to New York.

Q. Then Father Mellon had gone to your house?

A. Yes, he had come over for a personal call.

Q. Don't talk so much.

A. Mr. McCarter, it gets me so excited, I didn't mean to be rude.

Q. Don't get excited. Father Mellon had been to your house in the meantime?

A. Yes, Father Mellon had called at our house in the meantime.

Q. Did you see him?

A. Yes, I saw Father Mellon.

Q. When was that?

A. It was sometime during the two weeks Mr. Davis was away.

Q. Did you and Father Mellon talk at all about this subject and this visit?

A. No, Father Mellon ——

Q. You say no?

A. No, the only thing—want me to tell you what I said?

Q. No, I asked you if you talked about this matter?

A. I am only telling him Mr. Davis did no wrong.

Q. Did he talk to you about it?

A. And that was about all that was said about it. I didn't know anything about the case.

Q. One moment, please, Mrs. Davis. The difficulty between Dorrian and Fahler on one side and your husband and the Williams on the other side was a subject of comment or talk between Father Mellon and yourself anyway ——

A. No.

Q. One moment please—in that visit that he made at your house?

A. Mr. McCarter, I am just telling the few little remarks that were made. The business part of it wasn't delved into because I didn't understand the business end of it.

Q. What was said?

A. I told you, Mr. McCarter, that I said Mr. Davis had done no wrong, and Father Mellon agreed with me that he had done no wrong.

Q. You had seen the paper at that time?

A. Yes, Mr. McCarter, I had seen the paper.

Q. All you said was that Mr. Davis had done no wrong, and you say that Father Mellon said he knew Mr. Davis had done no wrong?

A. He certainly did, "I know he hasn't."

Q. Without having any explanation made of what he had done?

A. That was all that was said.

Q. Didn't you seek his aid at that time?

A. At that time, I did not.

Q. Now, I think I will ask you once more to repeat what it was that you said to Scanlan over the phone?

A. I told Mr. Scanlan that I had just called up Julia Coll's home and they had told me the detective had been there.

Q. All right, I don't care about that.

A. On Sunday.

Q. One moment. I understand all that talk about Julia Coll, but to come down to what you said about Father Mellon?

A. I asked John Scanlan to go down and ask Father Mellon to go to Mr. Dorrian and ask him what it was all about and what he could do about it.

Q. What he could do about it?

A. Yes.

Q. Is that all you said to Scanlan?

A. That was what I said to Scanlan, I begged him to go and let me know.

Q. What time on Sunday was that?

A. It may have been around seven or eight o'clock, it was after we had had our supper.

Q. Day were pretty long at that time, daylight?

A. Yes, I think it was. I remember that.

Q. Well, did Scanlan comply with your request and let you know?

A. He did, Mr. McCarter.

Q. And did he tell you that he had seen Father Mellon?

A. He did, Mr. McCarter.

Q. Had he seen him or talked to him over the phone?

A. I believe that he saw him, he told me that he saw him.

Q. And that there was to be a meeting that night?

A. A meeting that night, a meeting that same—he called me one o'clock in the morning, Decoration Day, and it was to be that day.

Q. That day?

A. That day.

Q. Where was the meeting to be?

A. I didn't know then.

Q. What was the message that Scanlan delivered to you at one o'clock in the morning?

A. My mind went blank.

Q. Take your time.

A. I was thinking of the next thing that happened.

Q. Take your time.

A. I can't tell. I am just blank—oh, he said that he had seen Father Mellon—I was trying to think what happened the next day at the meeting. He said he had seen Father Mellon and he had seen Mr. Dorrian and that they would meet us the next day, there wasn't any time appointed, I mean any time or any place appointed then.

Q. Did you see Mr. Dorrian?

A. I had told Mr. Scanlan to see Father Mellon, to have Father Mellon to see Mr. Dorrian.

Q. Now, that message, I take it, was received in your bedroom?

A. It was, in bed.

Q. Your husband was there?

A. Yes, Mr. McCarter.

Q. He knew that you received the message?

A. Yes, Mr. McCarter. That was the first they knew there was to be a meeting.

Q. First they knew there was to be a meeting. It wasn't the first they knew that Father Mellon's intervention had been requested?

A. No, I told them when I came from the telephone booth that I had just called John Scanlan and what I had done.

Q. And that you had Tom Scanlan to get hold of Father Mellon if he could?

A. Yes.

Q. And that he, if possible, was to see Mr. Dorrian and find out all about it or words to that effect?

A. Yes, Mr. McCarter.

Q. When you went to New York did you take a copy of the Atlantic City papers or any of them with you?

A. I did not, Mr. McCarter.

Q. Had they been sent, so far as you know?

A. So far as I know, no, Mr. McCarter.

Q. I beg pardon?

A. No, Mr. McCarter, as far as I know, I don't know the men ever saw the papers.

Q. Well, at one o'clock in the morning you were awakened and received this message that Scanlan had seen Father Mellon and Mr. Dorrian and that they would get together when?

A. Sometime the next day and there was no time appointed just then.

Q. Was it also stated that you were to meet them?

A. They didn't say I was to meet them, no, Mr. McCarter.

Q. I mean you, the gentlemen?

A. Yes, Mr. McCarter.

Q. Had you included that idea in your request that Father Mellon besides seeing Mr. Dorrian should see your husband and the Messrs. Williams?

A. Yes, I said ——

Q. Yes? And when did you receive word that the meeting between your husband and Monsignor Mellon and Mr. Dorrian was to take place?

A. The next morning, it was sometime between nine and ten that my sister, Mrs. Scanlan, phoned to me to tell me that the time would be in the Vendig Hotel, and I don't remember if it was four or five o'clock, Mr. McCarter, I don't remember the hour, but I remember ——

Q. All right, it wasn't then until about nine or ten o'clock on the morning of ——

A. Decoration Day.

Q. ——Decoration Day that you were apprised by your sister, Mrs. Scanlan, the hour and place of meeting?

A. Exactly, Mr. McCarter.

Q. And you were waiting for that message?

A. Yes, I was expecting it.

Q. And so were the Williams and so was your husband?

A. Yes, I suppose they were expecting it. I had told them it was going to be.

Q. Well, you came over to Philadelphia?

A. Yes, Mr. McCarter.

Q. Had it been arranged that you were to attend?

A. No, it had not been arranged that I was to at-

tend, but I thought it was going to be a meeting wherein all those ——

Q. I didn't ask you what you thought. You went along?

A. Yes, indeed.

Q. And were any documents taken along?

A. No, Mr. McCarter.

Q. So far as you knew?

A. Not a thing taken along.

Q. What time is it your recollection that the interview on Decoration Day happened in Philadelphia?

A. I think, Mr. McCarter, it was about five o'clock, it was around that hour.

Q. What train did you take from New York?

A. Well, that I can't remember. I tried to think. I think we came down somewheres around one o'clock or two o'clock, I don't really remember the hour we came down.

Q. What time was the appointment set for?

A. Five o'clock in the afternoon I think was the time, really the hours, the only thing you can confuse me on, I think, is the time and hour, I can't remember the hour, five o'clock in the afternoon, I think.

Q. Five o'clock in the afternoon? Just think, an appointment was made, time and place to be fixed later, can't you remember the time that was fixed?

A. I think it was five o'clock in the afternoon.

Q. Five o'clock in the afternoon?

A. I think it was that time, Mr. McCarter, sort of fixes in my mind it was around that time that we met.

Q. That is the best recollection you have about it?

A. Yes, Mr. McCarter, it is really the best, I think it was five o'clock.

Q. Had the other side arrived when you reached the hotel?

A. No, they had not, Mr. McCarter. Pardon me, Mr. McCarter, I think on that last question, I think the time was appointed for earlier Decoration day, but I think something happened to Mr. Dorrian's car, it seems some delay, I know was some little confusion, I was so excited that day.

Q. You were so excited?

A. I was excited, I didn't know what was going to happen next.

Q. Exactly, now I hadn't asked you what time Mr. Dorrian got there, I am asking you what time the appointment was made by two telephones from Atlantic City to New York, was to be had?

A. I cannot tell you exactly.

Q. What time did you get there?

A. I think it was sometime around four or five o'clock, I am trying to tell you exactly as I can.

Q. Who were there when you got there, you went together, you four?

A. Wasn't anybody there when we reached there.

Q. Your husband and the two Williamses and you went together?

A. Went together.

Q. Where is this Vendig Hotel?

A. Why it is on Filbert Street, I don't know whether it is eleventh or twelfth, but you can see it from Broad Street station.

Q. Beg pardon?

A. You can see it from Broad Street station.

Q. And you walked over from Broad Street station?

A. We walked over from Broad Street station.

Q. Well, had Father Mellon arrived?

A. We didn't see Father Mellon.

Q. Whom did you see first?

A. The first person I saw was Mr. Hart, and Mr. Godfrey and ——

Q. And Mr. Godfrey?

A. And Mr. Garrison, and Mr. Dorrian, I saw the entire party.

Q. Then you saw them all?

A. Yes, Mr. McCarter.

Q. They were all there except Dorrian?

A. No, Mr. Dorrian was there outside talking to Mr. Hart when I saw him.

Q. What?

A. He was outside talking to Mr. Hart when I saw him.

Q. Well, you had some talk with Father Mellon outside, didn't you?

A. I first had a talk with Mr. Dorrian outside.

Q. Yes.

A. And then with Father Mellon.

Q. And your talk with Mr. Dorrian included some remarks by you with reference to his being a bootlegger, didn't it?

A. Yes, Mr. McCarter.

Q. Did you think that the meeting had anything to do with the bootlegging business?

A. No, but I thought the case ——

Mr. Cole: I object.

The Court: Sustain the objection.

A. The actions had ——

The Court: Sustain the objection.

Q. You told us that Father Mellon, you told us

with considerable spirit yesterday that Father Mellon told you that you had insulted Mr. Dorrian, didn't you?

A. He did, Mr. McCarter.

Q. And what you referred to was this remark of yours to Mr. Dorrian about bootlegging?

A. Yes, Mr. McCarter, it was the only thing I had said.

Q. Where was that talk had?

A. That was outside the Vendig Hotel.

Q. On the sidewalk?

A. On the sidewalk.

Q. That was the first thing you said to anybody on the other side?

A. Only thing I have said.

Q. You introduced the bootlegging subject?

A. No, that wasn't the first word I said, the bootlegging. I asked Mr. Dorrian how he could do these terrible things.

Q. Had you met Mr. Dorrian before?

A. No, I hadn't seen Mr. Dorrian before.

Q. Although you had—had you never seen Mr. Dorrian before?

A. I was just going to excuse myself, Mr. McCarter. I did see Mr. Dorrian, they had a meeting of some kind, it was to tell the whereabouts of Mr. Davis as I understood it.

Q. Had you seen Mr. Dorrian before that day?

A. At that meeting I had seen him, at this meeting upstairs I told you.

Q. Now, look here, you understand the English language?

A. I certainly do, Mr. McCarter. I hope I do.

Q. Did you know Mr. Dorrian?

A. Yes, I know Mr. Dorrian.

Q. You said you had not seen him before.

A. You didn't ask me if I knew him. You asked me if I had seen him.

Q. How long did you konw Mr. Dorrian?

A. How long did I know Mr. Dorrian? I knew him through his wife. I didn't know him very well, but I knew Mrs. Dorrian and his children.

Q. Your families visited?

A. Yes.

Q. And were socially friendly?

A. Yes, Mr. McCarter.

Q. Do you know who selected room 101?

A. I don't know. It was either Mr. Dorrian or Father Mellon. I don't know which one did it.

Q. When you were having this talk on the sidewalk where was your husband and the Messrs. Williams?

A. They were in the lobby of the hotel.

Q. Did you go out to accost or talk to Dorrian?

A. Yes, purposely I left to go talk to him.

Q. Well, you all reached the room?

A. Yes, Mr. McCarter.

Q. And the chairs were arranged and you took your seat?

A. Yes, Mr. McCarter.

Q. You sat next to your husband?

A. Yes, at the end of the table.

Q. And Father Dorrian—Father Mellon sat at the head of the table?

A. Yes.

Q. Have you a pretty fair recollection of the transactions of the four days distinctly?

A. I do, I remember clearly, Mr. McCarter, I think.

Q. Beg pardon?

A. I do remember clearly.

Q. Yes I thought so. You told us yesterday that

as the party were about to enter the room Father Mellon, I think you said, said that you would have to remain out?

A. He did.

Q. And did he give a reason for that, because of this altercation that you and Dorrian had had out in front?

A. Yes.

Q. And Mr. Garrison said, "Oh no, you can go in, Mrs. Davis, if you will keep quiet," or something of that kind?

A. He did.

Q. So you went in?

A. He did. Mr. McCarter that was ——

Q. One moment now.

A. It was at the elevator, when we came out of the elevator this was all said.

Q. Before you went in the room?

A. Yes.

Q. What time did you say you got in the room?

A. Well, I tell you I am not very clear on that. I think it was somewhere in time around five o'clock, but I really am not clear on that time.

Q. The interview lasted several hours, didn't it?

A. It did.

Q. And then you, your husband and the two Williams returned to New York?

A. Yes, Mr. McCarter, we did.

Q. What train did you take?

A. Gee, I don't even remember that.

Q. What time did you get to your hotel, 71st Street?

A. I don't really know. I know it was late at night.

Q. Was it midnight?

A. It was late at night.

Q. Was it midnight?

A. When it comes to time I don't know whether it matters or not, but I really don't remember the time, I know it was late at night.

Q. I will have to be the judge whether it matters, you will have to answer if you can.

A. The time I don't know.

Q. At any rate the interview lasted three or four hours, didn't it?

A. No, the first day I don't think it lasted that long.

Q. How long would you say?

A. I didn't last any more than three hours if it lasted that long. I don't think it lasted that long.

Q. We will say two or three hours.

A. Yes.

Q. Now, Father Mellon sitting at the head of the table like my good friend Mr. Bourgeois there only square around, he sort of started the ball rolling by making some remarks, didn't he?

A. Yes, he did, Mr. McCarter.

Q. Did Father Mellon explain his presence there?

A. He said his ——

Q. Answer my question.

A. Explain his presence? Yes, I don't remember all he said, Mr. McCarter.

Q. I know, I asked you if he explained his presence there?

A. Explained why he was there.

Q. That he had been asked by you?

A. By Mrs. Davis.

Q. By Mrs. Davis to come there and see if he could not bring about an adjustment of these difficulties?

A. That is what Father Mellon said.

Q. You heard that?

A. I heard that.

Q. You all heard it?

A. Yes.

Q. You all heard it, I suppose?

A. All heard it.

Q. All around the table I suppose?

A. Yes, Mr. McCarter.

Q. That he had been asked to act as arbitrator in the matter and that he had concluded to accept the offer and to do his best to bring the two contending factions together, or words to that effect, didn't he say that?

A. Something on that order.

Q. What?

A. Something on that order.

Q. Yes, exactly. Can you remember it was also stated that in the interview that had occurred in Atlantic City between Mr. Dorrian and Mr. Scanlan and himself when his good offices were solicited that Scanlan had told him that you people, I don't mean you personally—your crowd—I don't mean that offensively either.

A. I understand.

Q. Messrs. Williams and so forth admitted that the wrong had been done and that, therefore, the question was how could the wrong be righted or words to that effect?

A. Absolutely no. There was nothing said like that.

Q. Nothing of that kind said?

A. Nothing at all.

Q. Well, after Father Mellon had gotten through his, what I will call homily—I don't know whether that is a Catholic phrase or not, but it will do, I guess—Mr. Phillip Godfrey started in to read some matters, did he not?

A. He did.

Q. In other words to explain the nature of the claims that the Messrs. Dorrian and Fahler professed to have against your crowd?

A. Mr. Philip Godfrey spoke about secret profits and fraudulent profits, that was the only explanation that I heard, Mr. McCarter.

Q. Mr. Phillip Godfrey undertook to give some expression and explanation of what the claims were on the Dorrian and Fahler side of the controversy, didn't he?

A. He attempted some explanation.

Q. Now, do you remember that he took out a paper and read from it?

A. He took out many papers, Mr. McCarter. I remember many papers, not anyone in particular.

Q. See if you can remember this now—didn't he among other things say that one of the claims was that Harold had taken a deed from Atlantic County for some two acres at Somers Point paying three thousand dollars, that Harold had represented to Dorrian and Fahler that he paid seventy-five hundred dollars and actually drew that amount for the transaction, and that forty-five hundred dollars or the difference between three thousand seventy-five hundred was the secret profit that had been made by the Williams crowd in that matter. Now I may not have stated the very language, do you remember something of that kind being said, don't you?

A. No, I don't remember Phillip Godfrey saying anything about that.

Q. About Atlantic County?

A. I didn't. I only ——

Q. One moment.

A. All right.

Q. How long a time did Mr. Phillip Godfrey take on this particular branch of the case?

A. I thought it was hours, Mr. McCarter.

Q. Well, now do you recall that he said that another occurrence was that Julia Coll had taken a deed from a man by the name of Smith for an Egg Harbor property in which it was represented that sixty-six thousand and odd dollars had been paid—that Julia Coll had sold or taken title to a property for which actually sixty-six thousand dollars had been paid but that the representation that had been made to our people was that one hundred and twenty-three thousand had been paid for this particular property at Egg Harbor, and that the difference or about fifty-six thousand dollars had been appropriated by the Williams crowd?

A. I didn't hear Mr. Phillip Godfrey say any of these deals you have said to me, the only thing made the impression on me was fraudulent and secret profits.

Q. Fraudulent and secret profits?

A. He did read off deals, but what the deals were, only thing I listened to was this.

Q. What?

A. What I was listening to was the way he was going on at that meeting with these deals, and he knew how the men were, he was just like a man on the third degree, going at that them in that meeting, everyone of these deals that he called off, and he knows it, he said, from that, a paper like a pack of cards, Mr. McCarter, pulling the paper off, paper after paper, fraudulent deal, secret profit.

Q. Kind of like a game of cards, kind of like a game of bridge?

A. Worse than bridge that day.

Q. What was trumps?

A. I don't know what you have called were trumps, Godfrey and Garrison, Godfrey and Mr. Phillip.

Q. One moment. You say Phillip stood over you?

A. Not over me. He was at the other side of the table with these papers and the men were in front of him.

Q. Was he opposite you?

A. Opposite me? No, he wasn't opposite me.

Q. Yet his manner was such that you were so frightened, excited, that you couldn't tell what was going on at all?

A. Yes, nothing else but fright.

Q. While he spoke of secret profits and spoke of several transactions you have no recollection of the different specific transactions except you know that he recited a long lingo, so to speak, of alleged transactions in which he alleged secret profits had been made, that is undoubtedly true?

A. Exactly.

Q. And that took some time, didn't it?

A. It did, Mr. McCarter.

Q. And after he got through was the amount of the gross sum of these alleged secret profits spoke of by Phillip?

A. On that day I think Phillip Godfrey said it was something around $178,000. That was the first day.

Q. You heard that, did you?

A. I heard that, yes.

Q. Now, can you remember, after reaching the sum of $178,000, whether you then adjourned or was anything further done?

A. I don't think anything further was done that day, Mr. McCarter.

Q. Now, do you recall the fact that an adjournment was made because it was claimed that there

were some additional sums, the amount of which would be stated the next day?

A. No.

Q. And that the parties then and there adjourned and resumed the next day?

A. Absolutely not.

Q. What did you resume next day for?

A. We came back to hear the rest of the proceedings.

Q. To hear the rest of the proceedings?

A. Yes, surely.

Q. Well, you had $178,000 worth anyway, hadn't you?

A. We had heard that the day before.

Q. There were some more?

A. No, not that we understood there was any more.

Q. You came back to hear them, anyway?

A. We came back to see what was to be done by our friend who was going to make this wonderful agreement between everybody.

Q. You mean Father Mellon?

A. Yes.

Q. Now, I have just a little curiosity to know whether you went back in a parlor car or whether you went back to New York in the ordinary passenger car.

Mr. Bourgeois: Objected to as irrelevant and immaterial.

The Court: Sustain the objection.

Q. Now, I wanted to see how dreadfully sick our friend Harold was. You didn't take a compartment, you didn't go to bed, did he, Harold?

Mr. Bourgeois: I object as irrelevant and immaterial.

The Court: Sustain the objection.

Q. What time did you leave next day, leave New York?

A. I think it was around two o'clock the next day, I am not sure, Mr. McCarter, what time of any day we left or any day we arrived, I only know we went.

Q. What time were you to meet, that was fixed, wasn't it?

A. I think it was around four o'clock the next day.

Q. Four o'clock?

A. Four o'clock, I think the next day. I am not positive, any hours we made.

Q. Well, the four of you again returned, whatever time it was to Philadelphia?

A. We did.

Q. And went to the same room?

A. Same room.

Q. And on this occasion Mr. Hart was present?

A. He was.

Q. He had not been in the room the day before?

A. No.

Q. Did he have a Mr. Besore with him?

A. He did.

Q. An accountant?

A. Yes, Mr. McCarter.

Q. The first thing that transpired, so far as you can recall, on that day after you had gotten seated was the statement of some further claims?

A. Yes, by Mr. Hart.

Q. By Mr. Hart?

A. Yes.

Q. And he collaborated with Mr. Besore in that respect?

A. No, I think—I don't know why he was there, he read something from books, he didn't stand back of Mr. Hart's statements.

Q. At any rate can you now recall the aggregate of the claims of Mr. Hart, if he was the one who did it, presented on the second day?

A. On the second day he said something about the total being two hundred and some odd.

Q. How long a time did that interview last, the second day?

A. On that second day I think that was adjourned early, somebody had an engagement or something and it was adjourned earlier that the night before.

Q. Was a sum reached which it was agreed that your side was to pay?

A. Yes, there was a sum reached that day.

Q. $190,000?

A. $190,000, yes, Mr. McCarter.

Q. That was less than the amount of $178,000 plus the figures that Hart had given that morning, that day?

A. Yes, and more than the suit was filed against the men.

Q. But less than the total amount?

A. Yes, less than the total amount Mr. Godfrey had named or Mr. Hart.

Q. Each item was discussed?

A. Was it discussed? No, it was not discussed at all about payment of this, only Mr. Phillip Godfrey said, when they reached the amount, they had a list drawn up of all the mortgages and all the securities and everything that we possessed, drawn up.

Q. One moment. We will come to that in a moment. Weren't the different items that Hart spoke of on the second day discussed?

A. No, Mr. Hart read off the different things like Mr. Phillip Godfrey did on the first day, but they were not discussed.

Q. How was the sum of $190,000 reached?

A. Mr. Carlton Godfrey and Mr. Garrison and Mr. Phillip Godfrey, and I don't know whether Mr. Hart joined in the meeting or not, and Father Mellon, Mr. Fahler and Mr. Dorrian reached that sum themselves and came into the room and announced that they would accept one hundred and ninety thousand dollars.

Q. Do I understand that the first you heard of that $190,000 was when these gentlemen, whom you have just named, came into the room?

A. Yes, Mr. McCarter, it was the first time that I heard of the sum of $190,000, when it was announced from the opposite side.

Q. And you say that that sum had been fixed in your absence?

A. It was fixed in our absence, because it was announced without any consideration for the men who were with me.

Q. Did Mr. Harold Williams participate in this transaction at all, or did he sit there like a wooden indian?

A. No, Mr. Harold Williams did attempt to talk on several occasions, and asked different ——

Q. Just a moment.

Mr. Cole: Just a moment. I ask that she finish that.

The Court: Yes.

A. —asked about different things, for instance asked Mr. Connie Dorrian about the Florida contract. Mr. Dorrian swore and said he would take him to court before he would hold him to that contract. That was one thing I remember Mr. Williams and I also remember Mr. Williams asking for his attorneys, and I also remember Mr. Williams saying that he had paid ten thousand dollars for attorneys.

Q. Now, do you remember this, that while these different items of claim were being bruited and discussed, that Harold wrote down certain matters on a piece of paper and that he, Harold, and your husband, called Father Mellon out into the hall?

A. No.

Q. What?

A. I don't.

Q. It is not so?

A. It is not so, whether Mr. Williams wrote I cannot say, that is not so, because Mr. Williams was at the other end of the table, but I know Mr. Davis did not call Father Mellon out of that room and offer to make any kind of a settlement.

Q. I didn't say what he called him out of the room for. I asked you whether you don't recall the fact that Mr. Trevor Williams and your husband and Father Mellon went out into the hall?

A. No, I don't remember that, Mr. McCarter.

Q. You won't say it didn't take place, will you?

A. I don't think that it took place.

Q. Don't think it took place? All right. At any rate Father Mellon and some people came back and announced that the sum of $190,000 had been reached as a compromise and would be paid?

A. Yes.

Q. Well, I suppose then the question of how it was to be paid arose, didn't it?

A. There wasn't any question about it, Mr. McCarter, it had all been pre-arranged by either Mr. Garrison, Mr. Godfrey, or Mr. Phillip Godfrey, it was all their arranging.

Q. When the matter of $190,000 was to be paid, wasn't it by this announcement?

A. The announcement was that $190,000 had been reached but they didn't say, "Will you pay it," or "Will you settle?"

Q. Now did any discussion follow with reference to how it should be paid?

A. Yes.

Q. Your answer is yes? And wasn't it said by somebody on your side that, of course, we haven't got a hundred and ninety thousand dollars in cash, the best we can make in cash all told is forty thousand dollars?

A. No.

Q. Forty-five thousand dollars—one moment now —forty-five thousand dollars and we will have to make up the rest in securities?

A. No, Mr. McCarter, that was never said.

Q. Never said?

A. No, Mr. Williams said something about ——

Q. One moment. You recall that it was arranged that part of those payments should be made by the delivery of securities, don't you?

A. It was arranged by Mr. Godfrey and the crowd on that side.

Q. I don't care by whom it was arranged.

A. It was not agreed to, Mr. McCarter, by us at all. It was simply taken there.

Q. Well, after the payment of $190,000 was agreed to and reached and announced ——

A. That is better.

Q. ——what next occurred?

A. Mr. Phillip Godfrey took out a list of different mortgages which he said Mr. Davis and Mr. Harold Williams and Mr. Harold Williams and Mr. Trevor Williams owned, different securities, and they said they would take a second mortgage on our home, they would take second mortgages on every lot we owned, they would take our automobile for $1600, and what they would take, and the things they wouldn't take that, for reasons best known to themselves, refused to take a Casey mortgage for reasons best known to themselves, and Longport mortgages, they refused to take them for reasons best known to themselves. They had everything down just exactly the way they wanted it, and Mr. Phillip Godfrey counted it, and counted for $190,000. The paper was then handed to Trevor Williams to count. Trevor Williams, "I am not able, I cannot see the figures." He handed it to John Scanlan and John Scanlan counted it and he found that Mr. Phillip Godfrey had $195,000 in securities and in mortgages and when he called Mr. Phillip Godfrey's attention, Mr. Phillip Godfrey very generously said to his father, "Father, I find in counting this up I have figured $195,000 in security, and I would like to release the third mortgage on Mr. Williams' home."

Q. You got a petty good recollection of that, haven't you, Mrs. Davis?

A. Yes, Mr. McCarter.

Q. That is implanted on your memory?

A. Because at that time I went out to Father Mellon ——

Q. And you remember distinctly all those details?

A. Every word of it.

Q. And the rest is all blank?

A. Yes, because the excitement, knowing what was going on.

Q. Well, no writing, no written agreement had as yet been prepared, had there?

A. Oh, yes. Was this on the third day you are talking about?

Q. Second day?

A. Second day, no, I don't think any written agreement.

Q. One moment. Do you remember anything being said that day about an inspection of the Ventnor Trust Company box?

A. Yes, I do very clearly.

Q. You remember that, too, don't you?

A. I certainly do.

Q. Or was it stated before you adjourned that day that Mr. Carlton Godfrey during the night would prepare this agreement?

A. Yes, Mr. Godfrey said he would prepare an agreement.

Q. One moment. I am going to come to it.

A. I am going to tell you.

Q. Sure. I am so glad to see your memory was good. And it was arranged that the parties should meet there next morning?

A. No.

Q. Next day?

A. Next afternoon.

Q. Next day? And the evening and the morning would be the third day?

A. That is the third day.

Q. Well now at about the time that Carlton said he would prepare a draft of an agreement someone said they would like to have a lawyer present, didn't they?

A. Yes.

Q. Who was that?

A. Mr. Trevor Williams asked for an attorney,

John B. Scanlan asked for an attorney, and that day I asked ——

Q. I am asking who made the remark at that time?

Mr. Cole: Mr. McCarter, I object to his interrupting when the witness is answering. That is what he did.

Mr. McCarter: She said that day. I am asking about a particular conversation.

Mr. Cole: I object to the interruption of the witness. She had not finished the answer to that question. She is entitled to do it.

The Court: She is entitled to finish the answer.

(Question repeated.)

A. About that time Trevor Williams asked for the lawyer.

Q. That is what I wanted, exactly.

Mr. Cole: If somebody else asked for a lawyer we are entitled to have that.

Mr. McCarter: At that time, we are speaking of this particular time.

Mr. Cole: And that was what she was speaking of.

A. Judge Cole ——

By the Court:

Q. At that time who asked for a lawyer?

Mr. McCarter: She said Trevor Williams.

The Court: I am asking the question myself.

Q. At that time who asked for a lawyer?

A. Trevor Williams, your Honor, just at that time.

By Mr. McCarter:

Q. And Mr. Carlton Godfrey said that attorneys could be present and inspect the draft of the contract when he would present it the next day, or words to that effect, didn't he?

A. Yes, he said, "After the rocky edges, we will get these papers together and after the rocky edges are taken off you may have your attorneys in."

Q. Exactly. Then the party adjourned, didn't it?

A. Let's see if anything else happened that day. I just forget that day.

Q. I beg pardon?

A. I forget everything else happened that day.

Q. Did you adjourn for a certain hour on the third day?

A. Oh, no. The third day? On the second day, you mean? Oh, we left —— on the third day, you mean?

Q. One moment. You adjourned on the second day, which is the day we have been discussing?

A. Yes.

Q. And I ask you if you adjourned to the next day, at a certain hour?

A. I don't remember the hour. We left the hotel and went back to New York.

Q. Now you recall, do you not,—don't remember the hour you were to reconvene?

A. No. But, Mr. McCarter, we didn't have an intermission at that meeting, when we left ——

Q. Mrs. ——

A. You said you didn't know what hour we were to return? We didn't return until the next day.

Q. I asked you at the end of the second day, when you adjourned, if an hour was fixed for meeting the next day?

A. I beg pardon?

Q. Was it?

A. An hour set for the next day, yes, Mr. McCarter.

Q. What was that hour?

A. I can't tell you the hours, next afternoon.

Q. Couldn't tell whether it was ten o'clock in the morning or five o'clock in the afternoon?

A. No, it was in the afternoon but I really couldn't tell you the hours.

Q. Was it two o'clock?

A. I think it was later, Mr. McCarter.

Q. And do you remember that it was also stated that Trevor would in the meantime procure his securities that he was to deliver?

A. Yes, Mr. McCarter.

Q. And do you remember that on this second day Harold had said, "I have got ten thousand dollars," and he produced it and laid it on the table and then put it back in his pocket to show he had ten thousand dollars in cash?

A. I heard Mr. Williams say that he had ten thousand dollars but I didn't see Mr. Williams put it on the table.

Q. All right; very good. Now did you go with Trevor in New York to get the securities?

A. I did not, Mr. McCarter.

Q. Do you know when he procured them?

A. I do not.

Q. You didn't go home that night? You didn't go to New York that night, did you?

A. Oh, yes, I returned to New York on the second night.

Q. And you met again according to appointment on the third day?

A. Yes, Mr. McCarter.

Q. And everybody was there as before?

A. Everybody was there as before excepting Mr. Besore; I don't think he was there that last day; two stenographers were there.

Q. Did Mr. Carlton Godfrey produce the draft of the contract?

A. He did.

Q. Some time was spent in going over that?

A. Yes, Mr. Godfrey read part of it and Father Mellon read part of it.

Q. Some pages were re-written?

A. No, I don't remember any pages being re-written, excepting Mr. Carlton Godfrey sat at the end of the table writing a sheet, which, after had been signed he handed to the ——

Q. Before the signature, now?

A. Yes, but, Mr. McCarter, this is a part that was never seen until after the men signed.

Q. Sure, but I want to know before any signing came up if corrections were not made and new pages injected containing the corrections?

A. No, not that I remember. The only thing I remember was something about me, about Mr. Davis and I asked about it, and Mr. Carlton said, "That is only a legal term."

Q. Well, I ask you again if you recall the fact that during the reading of the draft, corrections and changes were made and new pages containing those

corrections or changes were prepared and inserted in the draft?

A. No, I don't remember that, Mr. McCarter.

Q. Don't you recall that you, yourself, suggested some changes?

A. No, I didn't suggest any changes in the agreement. I suggested the changes in the mortgages that Mr. Carlton and Mr. Phillip Godfrey had placed upon my home and upon the lots that we owned and taking the automobile for sixteen hundred dollars.

Q. Do you find any mention of automobiles in the agreement?

A. It was spoken of that day. No, but I remembered ——

Q. I am talking about the written agreement, now I ask you if you didn't and if Harold and Trevor and your husband didn't each make changes and suggest changes in the draft of the agreement?

A. No, Mr. McCarter.

Q. None of it?

A. Mr. Davis never spoke during that meeting.

Q. Never opened his head?

A. No, not at all; I spoke.

Q. You were doing the talking?

A. Yes, I remember.

Q. Well, I can rather imagine that is so. About what time was it when this reading of this document was complete?

A. It must have been, Mr. McCarter, the reading was about six o'clock, I know we didn't leave the meeting that night until very late.

Q. Took a long time to read it, didn't it?

A. Yes, it was endless.

Q. Now was it signed that day?

A. It was signed that day, yes, Mr. McCarter.

Q. Was any cash handed out that day?

A. Yes, Mr. Williams laid out ten thousand dollars cash that day.

Q. And Trevor produced his securities?

A. Yes.

Q. That he brought from New York?

A. Yes, Trevor gave some securities and Mr. Phillip Godfrey ——

Q. One moment ——

A. Well, I must tell you that he gave us ——

Q. One moment; you must answer my question and that alone.

A. ——some securities.

Q. Trevor produced some securities which he had brought from New York?

A. Yes, Mr. McCarter.

Q. And he claimed that some others were in California, didn't he?

A. Not on that day. I think it was—it may have been that day; I just don't remember but I know he said more ——

Q. I am asking you about this California business.

A. I only remember Mr. Carlton Godfrey saying to Trevor that he had said—I didn't hear Trevor say it but I heard Mr. Carlton Godfrey say to Trevor, "You said that some of your securities were in New York and some in California."

Q. And what did Trevor say?

A. I just don't remember what Trevor answered. I know there was an argument from that, Mr. McCarter, and that is when Mr. ——

Q. All right. Very good. Were the securities that Trevor produced examined?

A. I suppose Mr. Godfrey examined them. He passed them over to—Father Mellon was supposed to have held them but ——

Q. I am asking you if anybody on our side of the fence examined the Trevor securities?

A. Oh, yes, Mr. Hart and Mr. ——

Q. Why didn't you say so? Yes?

A. Yes.

Q. Wasn't each one examined carefully by Trevor and then handed over and examined just as carefully by Phillip or somebody on our side?

A. I am not so sure they were carefully examined by Trevor but they were very carefully examined by Phillip Godfrey and Mr. Hart.

Q. Trevor admitted that day, without looking at them at all, and we looked at them very carefully?

A. No, Trevor made blank assignments that day without being witnessed and passed over securities that Phillip Godfrey instructed and demanded.

Q. You say that Trevor made blank assignments?

A. Yes, they were papers that he had to sign and fill out, weren't they blank assignments? They were assignments.

Q. You used the word "blank." I am adopting your phrase. Do I understand you to say that Trevor signed that day blank assignments?

A. They gave him papers to sign, these assignments of mortgages, and in one instance they had him sign a paper—I don't understand this part of it, Mr. McCarter, but I know there was a terrific argument between Mr. Hart and Mr. Phillip Godfrey and Trevor over the assigning of one mortgage which Trevor contended belonged to Gordon and which Mr. Hart and Phillip Godfrey said that they knew better, that it belonged to Trevor.

Q. All right; very good. Why did you use the word "blank assignment"?

A. I knew Trevor had to fill out a paper, you know.

Q. What?

A. I thought he had to fill out a paper, you know, and that wasn't his own.

Q. Oh, yes; I understand. Now was it stated, after these assignments had been examined, that they were incomplete and further papers would have to be secured?

A. Yes.

Q. Phillip make that statement or who?

A. Yes.

Q. And Trevor agreed to get them?

A. Yes, Trevor said he would bring them over.

Q. Bring them over the next day?

A. Yes, Mr. McCarter.

Q. Now the documents have all been signed, hadn't they?

A. Trevor Williams had signed his assignment.

Q. I say the documents, these agreements?

A. These agreements? Yes, they were signed.

Q. They had been signed before any securities or any cash were delivered?

A. No, I think Trevor himself assigned mortgages and things before the documents were signed.

Q. You think so, eh? Look at the agreement. You recognize that paper and did you see all the parties sit down one after the other and sign the successive signatures?

A. I did not. I saw Royden B. Davis sign, against my wishes, and the threats of Mr. Carlton Godfrey.

Q. Now is your husband in court?

A. My husband is in court.

Q. Where is this poor fellow?

A. Right there. It is easy to make a joke, Mr. McCarter, but it is serious.

Q. How many times did Royden sign?

A. Royden B. Davis? I know he signed that first agreement; after the first agreement he signed I left the room.

Q. You left the room?

A. I left the room with Trevor Williams.

Q. Had Trevor already signed?

A. Trevor had signed.

Q. Well, look at the exhibit which is the contract and tell me how often your husband signed it, that copy?

A. I see one signature here, Mr. McCarter.

Q. What?

A. I see one signature here.

Q. Gordon Williams and Company by whom?

A. I saw one signature and I left the room because I was furious because he signed.

Q. One moment; I am asking you how many signatures you see of your husband?

A. This is one, Mr. McCarter, Lewis Hart, Royden B. Davis, Harold S. Williams—who is this?—Trevor Williams—two.

Q. There are two, aren't there?

A. Mr. Davis' signature.

Q. So he apparently signed first as vice-president of Gordon Williams and Company and he also signed as an individual?

A. Yes.

Q. And had he signed before you left the room?

A. He was beginning to sign the one paper.

Q. When you left the room.

A. Yes.

Q. His signature is ——

A. R. B. Davis.

Q. —the, first, precedes Harold's and Trevor and his individual signature and the Dorrian and Fahler, doesn't it?

A. Yes, but Mr. Davis didn't sign first, Mr. McCarter.

Q. Who did sign first?

A. I think Mr. Harold Williams and he left the room after he signed.

Q. Now were some receipts given?

A. I didn't see any receipts given.

Mr. McCarter: Gentlemen, will you produce the receipts, please?

A. If they were given, Mr. McCarter ——

Q. One moment.

Mr. McCarter: Will you produce the receipts that are attached to your bill of complaint that were given that day?

Mr. Bourgeois: Yes.

Mr. McCarter: Can we use the copies that are attached to your bill?

Mr. Bourgeois: Sure.

Mr. McCarter: I would like to have the originals.

Q. You say you didn't see any receipts?

A. I didn't see any receipts.

Q. Your husband made several assignments that day, did he not?

A. Yes, he did. He assigned my house.

Q. You know what he assigned?

A. I only know that he assigned 7 South Harvard Avenue, and that was one reason why I left the room, because Mr. Carlton Godfrey said it was in my name, too, and I must sign.

Q. Have you ever seen the papers that he assigned?

A. No, I haven't, Mr. McCarter. I knew there were some assignments made.

Q. You weren't in the room when he did the assigning?

A. I don't remember whether I was in the room; I think I was in the room when he was assigning some things.

Q. Didn't he in fact assign a mortgage made by one Mahoney?

A. Yes, he did assign that.

Q. Didn't he in fact assign a mortgage made on Harvard Avenue?

A. That is the house of which I spoke.

Q. That had been once your home?

A. Yes, Mr. McCarter.

Q. Wasn't your home at the time?

A. No, Mr. McCarter.

Q. Why did you say it was?

A. Because I bought that house myself.

Q. Sure? Why did you say it was your home? Did you want the Vice-Chancellor to think that they were taking your very home from under you?

A. No, I explained to Vice-Chancellor the second mortgage put on our home and I objected to that.

Q. Did he assign a mortgage made by one Dickinson on Oakland Avenue property?

A. He did.

Q. You knew that?

A. Yes, and I had an argument about that.

Q. Did he assign a mortgage made by Sadie Cragan?

A. He did.

Q. Did he assign a mortgage made by Rice, Faunce and Christian?

A. If he assigned it he did, Mr. McCarter; I don't remember that one.

Q. Do you recall the fact that he assigned ten shares of the Williams and Davis stock that stood in his name?

A. Yes.

Q. And do you remember that he gave a check for $598?

A. He did not give a check for $598.

Q. Sure about that?

A. Positive.

Q. How do you know he didn't?

A. Because I told Mr. Godfrey that I would pay that money.

Q. You gave the check?

A. Yes—no, I didn't give the check. I told them not to draw that money out of the bank.

Q. Well, did our people receive in amount $598.73 either by check or cash as a contribution by your husband Royden B. Davis?

A. No, they didn't, not until the receiver, Mr. Richards, only after his Honor, Judge Ingersoll, had passed it.

Q. Well ——

(Receipts produced by Mr. Bourgeois.)

Mr. McCarter: These are not all, are they?

Mr. Bourgeois: All I know. They are all.

Mr. McCarter: They are all.

Mr. Bourgeois: I think so. They are all I know of.

Q. I show you a receipt produced by counsel dated June first, 1927, reading: "Received of Har-

old S. Williams check on the Ventnor Trust Company, Ventnor City, New Jersey, in the amount of $642.99 in accordance with and on account of agreement bearing even date between Harold S. Williams and others of the one side and Connie J. Dorrian and Lloyd W. Fahler on the other side," purporting to be signed by Carlton Godfrey and William I. Garrison, attorneys for Connie J. Dorrian and Lloyd W. Fahler. Did you see that receipt?

A. I did not see that receipt.

Q. Did you know it had been given?

A. I didn't know a receipt of any kind had been given at any of these meetings.

Q. You weren't in the room all the time then?

A. Yes, indeed, I was.

Q. I thought you told us you left and went out in the hall in disgust?

A. I was out in the hall in disgust.

Q. Then you weren't in the room all the time?

A. No, but I should have thought I would have seen those agreements.

Q. On June 1, 1927, did you see this other receipt produced by counsel, "Received of Harold S. Williams, sum of ten thousand dollars in cash in accordance with and on account of agreement bearing even date between Harold S. Williams, et als., of the one side and Connie Dorrian and Lloyd Fahler on the other."

A. I didn't see it.

Q. Signed by Carlton and Garrison.

A. I didn't see it.

Q. Didn't know they were given?

A. Honestly I didn't know they were given. Didn't know anything about the receipts.

(Receipts offered, received in evidence and marked Exhibits C8 and 9.)

Mr. McCarter: If your Honor please, I have just learned from Mr. Garrison that your Honor expects to adjourn at half-past twelve and that that adjournment will be until Monday and it is impossible for Father Mellon, owing to his professional engagements, to be here Monday and I am wondering if we could arrange to pause here with Mrs. Davis and call Dr. Mellon? You can understand how a busy priest ——

The Court: I take it there will be no objection to that, but I am confronted with this proposition, are you going to be able to complete on Monday? I have given you Saturday and Monday so I can complete this case. If we can't complete it on Monday it seems to me needless for me to disarrange all my other engagements to sit on Monday unless you are going to complete.

Mr. Cole: There is another situation. Evidently we are not going to complete it on Monday or Tuesday, the way we are going. Of course, if this is an index what is to follow, looks to me like a week. I have a case before Judge Sooy and a jury continued over from Thursday, unconcluded, and I think possibly I might in some way arrange for that if we had to go on Monday, but it seems to me it is perfectly idle for me to lose and have other clients inconvenienced unless this case is to be concluded on Monday.

The Court: I have other serious engagements for Monday, if we are not going to gain any real advantage by continuing.

Mr. Bourgeois: If your Honor please, why can't we finish on Monday? I personally don't want this case hanging around half tried for three or four months or any time. It is to the interest of all the parties. It should be concluded and personally I am ready to sit on Monday and I will come back Monday night, I will come back on Tuesday afternoon after motions are on, or whatever day you can give us. Let's go on and finish much as we can and get it cleaned up as quickly as we can. So far as we are concerned, if they want to put one of their witnesses on we will let Mrs. Davis step aside.

Mr. McCarter: That was the important thing.

The Court: As long as I mentioned about coming back on Monday, I thought I had better make that suggestion. I am perfectly willing to give you all the time that can be, but, if we are not going to obtain the advantage, I thought by coming on Monday——

Mr. Bourgeois: Let's come back on Monday, let's sit Monday night, if necessary and finish the thing up.

(Witness withdrawn.)

JOHN J. MELLON, sworn.

Direct examination.

By Mr. McCarter:

Q. You live where, Monsignor?
A. 3813 Spring Garden Street, Philadelphia.
Q. You are a priest in the Catholic Church?
A. Yes, sir.
Q. How long have you known Mrs. Royden B. Davis?
A. About thirty years.
Q. Father, I suggest you put that paper in your pocket and we will get along better without it. How intimately did you know her?
A. Very intimately, been close friends all that time.
Q. Had she ever been one of your parishioners?
A. No, but she lived in the same Parish when we were children together.
Q. You knew her sister, Mrs. Scanlan?
A. Yes.
Q. And her other sister?
A. Mary, yes.
Q. Did you know Mrs. Davis well enough to call her by her first name?
A. Oh, yes.
Q. In the summer of 1927 were you stopping in Atlantic City?
A. Yes, sir.
Q. At the house of your sisters?
A. Yes, sir.
Q. Where was that house?
A. 100 South Stratford Avenue in Ventnor.

Q. How long had you known, if you at all knew, Mr. Fahler?

A. I never saw Mr. Fahler until the meetings in Philadelphia.

Q. How long had you known Connie Dorrian?

A. About two or three years.

Q. How intimate was your acquaintance with him?

A. It wasn't intimate at all until he asked me one time about a piece of property he was interested in at his old home and asked me if the Cardinal was interested in buying it.

Q. When was that, Father?

A. That was some time last year.

Q. Before your injection into this matter?

A. Yes.

Q. He had asked you about some property and asked you if the Cardinal might be interested in buying it?

A. Yes.

Q. Had you had any practical relations previous to that transaction, prior?

A. None.

Q. A mere casual acquaintance?

A. That is all.

Q. What was your introduction into the matters between these contending parties in this suit?

A. On Sunday, the night, the twenty-ninth of May of last year, I received a telephone call from Mrs. Jack Scanlan asking me if I would see her husband. I said yes.

Q. You in Atlantic City at the time?

A. Yes, sir.

Q. Go on?

A. So he came to our house and he told me about this difficulty over properties.

Q. Can you recall what he told you?
A. Very distinctly.
Q. Please do so.

Mr. Bourgeois: I object. If your Honor please, that is hearsay, certainly, so far as my clients are concerned. Jack Scanlan wasn't any agent for them. They knew nothing about it. I think it is hearsay so far as Mr. Davis is concerned.

Mr. McCarter: Whatever be the fact with reference to Mr. Bourgeois' clients, he certainly was agent for Davis and as such competent as to Davis.

Mr. Cole: We say he was not agent for Mr. Davis at all.

The Court: Sustain the objection.

Q. As a result—you understand his Honor won't let you say what the conversation was—as a result of the conversation between Scanlan and you, what next occurred?

A. I went down to Mr. Dorrian's house a few doors away from our house.
Q. With whom?
A. Myself.
Q. Alone?
A. Alone.
Q. And you saw Mr. Dorrian?
A. Saw Mr. Dorrian.
Q. I assume what transpired there will not be admitted. What next transpired after you talked with Mr. Dorrian at his house?

A. I was putting my automobile in the garage opposite his house and he came over and said, "Mr.

Godfrey is in my house and would like to talk to you,'' and Mr. Godfrey asked me of this conversation.

Mr. Bourgeois: I object.

The Court: You can't give us the conversation at that time.

Q. You went in the house?
A. Yes, sir.
Q. And you saw Mr. Godfrey and Dorrian?
A. And Mr. Dorrian.
Q. Was anybody else there?
A. No, there were not.
Q. Scanlan wasn't there?
A. No.
Q. They won't let us recite what took place by way of conversation at that interview. As a result what next occurred?
A. Mr. Dorrian took me in his machine up to Davis' house to see if there was a light burning and I found the light burning and brought Mr. Scanlan down to Connie Dorrian's.
Q. A meeting then occurred or followed between Scanlan, Dorrian, yourself and Carlton Godfrey?
A. Yes, sir.
Q. How long did that meeting last?
A. I would say about a half an hour.
Q. What was discussed?

Mr. Bourgeois: I object.

The Court: Sustain the objection.

Q. About what time was this in the evening?

A. This was half-past eleven.
Q. Sunday night?
A. Sunday night.
Q. Was any appointment made?
A. Yes, sir.
Q. For what hour and where?
A. Some time next morning Mr. Scanlan was to come and tell me the result of a telephone conversation with Mrs. Davis.
Q. Did he come?
A. He came.
Q. What did he tell you?

Mr. Bourgeois: I object. That is hearsay. Of course, if he wants to show there was a meeting as the result of it, I have no objection to that.

The Court: So far as Mr. Williams was concerned it is inadmissible. I am not so sure.

Mr. Cole: Nothing here to show Mr. Davis ever gave anybody the authority to commit him.

The Court: I will permit it so far as Mr. Davis is concerned.

Q. What did Scanlan say this time after he telephoned to New York?
A. Scanlan said the arrangements were satisfactory and the parties would meet in Philadelphia.
Q. Was any place and time designated?
A. I called up the manager of the Vendig Hotel —I knew him very well—and asked him if he could furnish us with a room and he said he would have everything prepared.
Q. Can you tell about what time you reached the Vendig on Monday?

A. I can tell if I may look at my paper—about five o'clock I think.

Q. You recall you had room 101?

A. Yes, sir.

Q. How did you go to Philadelphia from Atlantic City that day?

A. Mr. Scanlan brought me up in his machine.

Q. To save time—do you recall the fact—had you known previous to that date Carlton Godfrey?

A. I never saw him until the evening previous at Connie Dorrian's.

Q. Had you ever seen, previous to the conference at the hotel on May thirty-first, Phillip Godfrey?

A. No, sir.

Q. Did you know Mr. Garrison before that?

A. No, sir.

Q. Were you acquainted with any of the Williamses?

A. No, sir.

Q. So they all were there? Were you introduced to them, those you didn't know?

A. Yes, sir.

Q. And you met Mr. Fahler for the first time?

A. Yes, sir.

Q. After you reached the room and the table was there with chairs and the parties remained seated, did you make any remarks?

A. I told them the subject of the conversation I had with Mr. Scanlan.

Q. Please tell us just what you told them as well as you can recall?

A. I said, "Mr. Scanlan came to my house last night in response to a telephone call from his wife and told me that the Williamses were ready to acknowledge their guilt in the matter with Mr. Dorrian and further wished to exonerate Royden Davis,

and asked me if I would transmit this message to Mr. Dorrian, which I did. Mr. Dorrian said he would make no move without consulting his attorneys and he got in touch with Mr. Godfrey and when I was putting my automobile away Mr. Dorrian asked me to come to his house and meet Mr. Godfrey, Sr. I repeated this conversation to Mr. Godfrey and he said that he was most anxious for a settlement. That is what he wanted, but he said, 'They will settle on our terms,' and he said that he would like to see Mr. Scanlan. So Mr. Dorrian and I got in the machine and went up to Davis' house, found the light burning and felt they were not in bed yet, and Mr. Scanlan came down and repeated to Mr. Godfrey and Mr. Dorrian and me what he told me the night previous in my own home and Mr. Godfrey told him the terms of the settlement, he said, 'If those are satisfactory you can inform Mrs. Davis by telephone,' and he said that he was representing and could speak for Mr. Davis and he said, 'You can let us know tomorrow morning if those terms are acceptable to Mr. Davis and the Williams' and he came back to my house in the morning and told me that they were.''

Mr. Bourgeois: Is this all you told them up there at that meeting, is that the idea?

A. Yes. Then we arranged the meeting at the Hotel Vendig. I told them also that Mr. Godfrey asked me to sit in as an arbitrator and that was acceptable to me and Scanlan represented Davis and Williams and I told them that was the purpose of my presence in that room at this meeting that day. May I add something, Mr. McCarter?

Q. Go on, tell us anything you said there.

Mr. Bourgeois: I object, no question pending.

The Court: If there was anything further said.

A. No, there was nothing further said.

Q. Do you recall the fact that after you had made this introductory statement that the parties proceeded to a statement of the several claims that were made and that Mr. Phillip Godfrey, this young man here, read from some paper several matters?

Mr. Bourgeois: I object as leading.

The Court: Sustain the objection.

Q. Can you recall—I don't know whether you can or not—what was stated the claims were?

A. I can't recall, Mr. McCarter.

Q. Was there a long session that day?

A. That session lasted two or three hours.

Q. Was there any discussion between the parties?

A. Yes, there was open discussion.

Q. Who participated in that discussion?

A. Everybody in the room.

Q. Did Mr. Harold Williams participate in it?

A. Yes, sir.

Q. Mr. Davis?

A. Not very much; Mrs. Davis.

Q. I am rather surprised to hear you say Mrs. Davis did any talking; did she talk?

A. Yes, sir.

Q. Mr. Trevor Williams say anything?

A. Yes, he said a great deal.

Q. Can you, without going into the details, tell us from your recollection what was this subject of discussion?

A. The subject was these properties ——

Mr. Cole: I object, may it please your Honor, if he is going into it he ought to go into details, no right to be limited to a mere conclusion.

The Court: Sustain the objection.

Mr. Cole: Let him tell everything took place.

Q. Tell us, as far as you can recall, what was said by anybody, I don't mean the exact language, but what they were talking about?

A. My memory of that day is that Mr. Phillip Godfrey had a lot of documents pertaining to properties, lots, and the like and he read those off and had Connie Dorrian and Fahler, his father and Davis join in to see whether what he said was correct about the amounts, about signatures, and the mortgages, deeds and the like. That is about all I remember definitely that transpired during the two hours.

Q. Were any matters during the negotiations and discussion that day submitted to you for arbitration or determination?

A. I think the question of straw came up that day.

Q. Can you recall what was said about that?

A. Yes, I remember it distinctly because I didn't know what a straw was and I think it was Mr. Carlton Godfrey who gave me the legal explanation and I told him that while I didn't study law, I had studied cannon law and moral theology for four years and there was a tract in moral theology that dealt with the question of justice and right and if anybody had told me that he had gone through with a transaction of that kind I would say that he was dishonest and would have to refund.

Q. A transaction of what kind?

A. Straw.

Q. What was the explanation?

A. The explanation?

Q. What was the definition or explanation of Mr. Carlton Godfrey made of a straw?

A. I couldn't recall it just now, Mr. McCarter.

Q. Can't recall that?

A. No.

Q. Now do you recall that the meeting adjourned that day?

A. Yes, sir.

Q. Now do you remember what time you were reconvened the next day?

A. It was late afternoon, I think about four o'clock.

Q. Do you recall who, in addition to the parties, who had been there the day before appeared on the second day?

A. Mr. Hart came that day and an accountant, I don't know his name.

Q. An accountant?

A. Yes.

Q. And Mr. Hart beside?

A. Yes.

Q. Neither of them had been in the room the day before, had they?

A. No, sir.

Q. How long did that meeting last the second day?

A. That meeting lasted about four hours.

Q. Were figures reached that day, the second day, amounts to be paid?

A. Yes, there was some kind of a figure reached that day.

Q. Well, I won't try to embarrass you by differentiating the several days. The parties met again the third day; do you recall that?

A. Third day, yes.

Q. Now during those negotiations and discussions that occurred on those three days, do you recall a discussion as to the amount that should be paid by the Williamses and Mr. Davis?

A. The amount discussed was $190,000.

Q. Do you recall where that $190,000 was finally reached, what place, whether it was in the room or in the hall?

A. It was in the room.

Q. What—had Mr. Hart, on the second day, produced some additional items over those that Mr. Phillip Godfrey had specified the first day?

A. Yes, sir.

Q. Do you recall whether the additional items made the total sum more than the $190,000 that was finally reached?

A. Made it $213,000.

Q. Do you recall how or what occurred previous to $190,000 being finally agreed upon?

A. I recall Mr. Williams telling me that the most of this was Greek to him.

Q. Was what?

A. Greek, he said that the boys have been putting things over on me and I am not aware of them.

Q. That is Harold said that?

A. Harold, yes.

Q. Well, was anything said, that you can recall, that if this agreement for $190,000 was consummated about the fact that no further claims against the Williamses or Mr. Davis were to be taken up?

A. I recall that distinctly.

Q. Did you return the third day?

A. Yes, sir.

Q. Had a contract, in the meantime, been prepared, if you can recall?

A. Yes, sir.

Q. By Mr. Carlton Godfrey?

A. Yes, sir.

Q. What was done by that contract, I mean how was it brought before the people?

A. Everyone in the room was given a copy.

Q. There were six duplicates, were there?

A. Six copies.

Q. Was it read also?

A. It was read paragraph by paragraph.

Q. By whom, if you recall?

A. By Phillip and after each paragraph he stopped and there was a free open, amicable discussion of every paragraph of the contract.

Q. Have you any recollection of relieving Phillip from some of the reading?

A. The one copy, of course, was the original copy. The others were carbon and Mr. Carlton Godfrey was reading and he had difficulty with his, a carbon copy, so we transferred copies, I took the carbon and he took the original copy and was able to read easier from that.

Q. I show you one of those agreements. Please look at it and see if in it there are any corrections or annotations in your own handwriting?

A. Yes, there is some of my writing on this last page 18.

Q. Look at the numbering of the pages and see if you can recognize there your own figures. Look at page 15, is there any correction in your handwriting?

A. Not in my handwriting, Mr. McCarter.

Q. Is the numbering in your handwriting? I see, yes.

A. I don't think that is the copy I held. This must have been the one that was given to me.

Q. Just change and I will give you this copy. Look at page 15 in the copy you now have and see if you see any corrections there in your own handwriting?

A. Yes, these are my corrections.

Q. And they are in your own handwriting?

A. And they are in my own handwriting.

Q. How about the numbering of the pages on this particular copy?

A. These are already numbered in type; beginning with page four that is my numbering.

Q. Go on through the balance and see if you can find any more beside the number of your particular personal work?

A. On page 18 I find a reference to page 15.

Q. As in your own handwriting?

A. As in my own handwriting.

Q. In other words, all of the manuscript in the attestation clause, as we lawyers call it, previous to the signature of Carlton Godfrey, is in your handwriting on this copy?

A. Yes.

(Copy of contract offered, received in evidence and marked Exhibit C10.)

Q. Do you remember any discussion following the alterations and changes that were made, Father Mellon, any discussion between the parties?

A. There was open discussion about all these alterations and they weren't made until everybody was satisfied.

Q. Now, during the proceedings and after a figure of $190,000 had been reached, do you recall a talk you had with Mrs. Davis touching the Davis share of that amount?

A. Very distinctly.

Q. Tell us what was said?

A. She brought me into the corridor and handed me a piece of paper with the figures thirty-four thousand and some hundred dollars. She said, "We are involved to this extent and we want to pay back"——

Mr. Bourgeois: That is objected to as hearsay, if your Honor please. I think it has not appeared that Mrs. Davis was Mr. Davis' agent for that purpose.

The Court: I will permit it. It may not be binding. I am not ruling on that now, but I will permit the testimony.

A. This piece of paper contained the amount of thirty-four thousand and some hundred dollars and she stated that was the amount to which they were involved in this matter with Dorrian and Fahler and she said, "We want to pay this back with interest, but," she says, "according to this agreement, as far as I understand it, Royden will be obligated to one-fourth of $190,000 and we are not involved to that extent." I said, "That is a matter that you can settle with the Williamses afterwards," and she said, "I want it settled here." Well, I said, "You have already signed this agreement and you can collect the difference from the Williamses between the amount that you say you owe and the amount that you say Royden will be obligated to." And she said she didn't like to trust the Williamses to that extent.

Q. After the thing was completed did you have any talk or did Mr. Harold have any talk with you touching your participation in the matter?

Mr. Bourgeois: That is objected to as irrelevant and immaterial; after it was completed that is all of it.

The Court: I will permit it.

A. You will permit me to say?

Q. Yes.

A. He congratulated me upon my fairness.

Q. When was that, if you can recall?

A. After the agreement had been signed; and several days previous to that he mentioned it.

Q. He did it on more than one occasion?

A. Yes, sir.

Q. Did anybody else of the party make any remark to you touching your attitude as arbitrator in the matter?

A. Trevor was very well satisfied. Mrs. Davis was delighted that I had gotten into it and the Godfreys and Mr. Garrison said that he never knew a Catholic priest could participate in anything like this. I told him the Catholic priest is not allowed to participate in any affair of this kind but I did it because it was suggested to me that Royden Davis was innocent and he was a friend of mine and I wanted to clear him in the matter.

Q. Now do you remember, after the agreement was read paragraph by paragraph and corrections made and all that that the parties signed?

A. Yes, sir.

Q. And do you remember that certain securities were handed over by Trevor Williams?

A. Yes, sir.

Q. Do you remember some receipts being given?

A. Yes, sir.

Q. Do you remember that Harold Williams requested a receipt or don't you recall that?

A. I don't recall that, Mr. McCarter.

Q. Have you a recollection of the details of what particular papers were handed over or don't you recall that, Monsignor?

A. I don't recall that, Mr. McCarter.

Q. Now there was a provision in the contract for the execution by Dorrian and Fahler of a release and the giving of that release to you. Was such a paper executed and given to you?

A. Yes, sir.

(Paper produced by the witness.)

Q. Was Mr. Scanlan present, if you can recall, when this document that you now produce was executed and given to you?

A. He signed it.

Mr. McCarter: He said it wasn't given, your Honor, yesterday, that is to his knowledge.

(Release offered, received in evidence and marked Exhibit C11.)

Q. You have had that ever since?

A. Yes, sir.

Q. Do you know whether Mrs. Fahler and Mrs. Dorrian were at hand in that hotel that day ready to execute this paper?

A. They were, Mr. McCarter.

Q. Do you recall Mr. Davis making any statement, after the amount had been reached of $190,000, with reference to the desire of himself and his wife as to what they desired to do in the matter?

A. Except what I told you that they were anxious to restore the amount in which they were involved with interest.

Mr. Cole: That was Mrs. Davis said that.

Mr. McCarter: One moment.

Mr. Cole: That is what he said, I think.

Q. Did Mr. Davis say anything?
A. Mr. Davis said the same thing.
Q. When Mrs. Davis said it Mr. Davis was present, wasn't he?
A. Yes, he was present.
Q. Now, Monsignor, do you recall the fact that there was an incompleteness of certain of the papers that Trevor had produced and that an adjournment was made until the fourth day for some purpose?
A. Yes, sir.
Q. And did the parties re-assemble on the fourth day?
A. They re-assembled on the fourth day.
Q. That I think would be the second of June?
A. Second of June.
Q. Was Harold there that day? I think he testified he was not?
A. No.
Q. Was Mr. Stringer there, the gentleman, good-looking man that sits right here?
A. Yes, Mr. Stringer came there.
Q. Was Trevor there?
A. Trevor was there.
Q. Mr. and Mrs. Davis?
A. Yes.
Q. Mr. Godfrey, of course, and Mr. Garrison and Phillip?
A. Yes, sir.
Q. Now can you recall what took place, if anything, on that fourth day?

A. That fourth day was the day that Trevor asked for his attorney and Mr. Godfrey told him to admit him, so Mr. Stringer came in and asked for a copy of this agreement and it was refused him. Mr. Godfrey said that he would let me read or anybody read the agreement but he wouldn't give Trevor physical possession of the agreement and I asked Mr. Godfrey why. He said, "I am afraid he will destroy it." Well, I said, "You have five other copies." He said, "Yes, but I want six." So there was a bathroom conference between Mr. Davis, Trevor and Mr. Stringer and they emerged and Mr. Stringer announced that he had been discharged as their attorney, and then Mr. Stringer invited me out into the corridor of the hotel and asked me to let him see this copy of the agreement which I had in my hand. I said, "I didn't see how that interested him because he was no longer the attorney for these gentlemen." Well, he said, "Won't you read me the first paragraph?" I said "No," and then he tried stealthily to read it himself and when he found he wasn't getting anywhere we went back to the room. There was another bathroom conference and the result of that was that he was reengaged as the attorney for these gentlemen.

Q. That is he announced he was?

A. Yes, sir.

Q. You were not in the bathroom?

A. No, sir.

Q. Who was in the bathroom?

A. Trevor, Royden and Mr. Stringer.

Q. Then what occurred after he announced his reengagement?

A. Then the merry war was on. You are asking me just what happened that afternoon?

Q. Yes?

A. I stood up that afternoon and said that on the night previous, about quarter after eleven, Mr. Jack Scanlan called me on the telephone and asked me if I had the copies of the agreement and the ten thousand dollars turned over by Mr. Harold Williams and the mortgages and other things turned over that afternoon in my possession and I told him no, and I said, "Is there anything else?" He said, "No, that is all," and he hung up the telephone. So this afternoon I prefaced my remarks by saying that I felt that I had been insulted by this telephone call. I considered it a questioning of my integrity and honesty and character and I resented it and Mrs. Davis stood up and apologized and I accepted her apology and reminded her that the sting still remained. They said that under the agreement made

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Mr. Bourgeois: Who is "they"?

A. Mrs. Davis—she always spoke for Mr. Davis.

Q. We want to know who it was speaking.

A. Mrs. Davis said that when they agreed to settlement it was upon the condition that I would accept the money that was turned over and whatever other collateral was turned over and keep it in my possession until everything was settled. There was no such agreement made with me.

Q. During these four days or three days—four days—that transpired did you hear any threats made by Mr. Carlton Godfrey or Phillip Godfrey or Hart or Garrison or yourself?

A. Not by anybody.

Q. Did you make any threats or threaten anybody?

A. No, sir.

Q. Do you remember anything being said on the third day about an attorney?

A. Trevor said he wanted his attorney and I said, "Why do you need your attorney?" Well, he said, "Father, if I was sick I would get a doctor," and he said, "I am legally sick now and I feel that I ought to have legal aid," and it was that day that Mr. Stringer appeared in the room.

Q. That was the fourth day?

A. Fourth day, was it?

Q. Yes.

Mr. Bourgeois: Now who is testifying, you or the doctor?

Mr. Cole: McCarter is testifying.

Q. Which day was it Mr. Stringer appeared? At any rate the conversation you have just alluded to was on the day in which Mr. Stringer appeared?

A. Yes, sir. There was another conversation on the third day, I think. Trevor asked for lawyers and Mr. Williams stated that he had given ten thousand dollars already and he didn't intend to give any more.

Q. Which Williams was that?

A. Harold.

Q. Now did you hear a request by Trevor for attorneys in reply to which it is claimed by some witness that Mr. Carlton Godfrey said, "We will tell you when to call the attorneys in?"

A. I didn't hear that.

Q. Did you hear Mrs. Davis ask for lawyers and did you hear Carlton Godfrey say, "We will tell you when to bring them in?"

A. No, sir.

Q. In your presence, except as you have already stated, did Trevor, Scanlan and Mrs. Davis ask for lawyers?

A. No, sir.

Q. Do you remember that among other persons who signed that document was, of course, Mr. Davis? You remember that he signed?

A. Yes, sir.

Q. Did you tell Mrs. Davis to sit down when she had made some demand for lawyers?

A. No, sir.

Q. Did Carlton Godfrey, at the time that Davis was signing, say, "You better sign; we have your husband for embezzlement?"

A. No, sir.

Q. Did you hear the word "embezzlement" uttered during these four days?

A. I don't remember that I did.

Q. Do you recall making some remark with reference to the decision of the Supreme Court in the capias proceedings?

A. Yes, sir.

Q. Had the contract been signed before—was that remark made before or after the contract had been signed?

A. After.

Q. Will you give the details of that matter with reference to that decision and what announcement was made? The contract was now signed you say?

A. Was now signed.

Q. Go on.

A. And I said I was very glad that everything had gone on so amicably and had been settled so peacefully and I said, "Now I feel rather free to say that the capias had not been lifted."

Q. Who had informed you of that?

A. It was Mr. Garrison.

Q. Do you remember when that information reached you?

A. I think the day previous.

Q. Did anyone, in your presence in the hall, corridor, say, "We have Trevor for twenty years and we are going to put Trevor in jail," or words to that effect?

A. Nobody said that to me. I probably used that expression about having Trevor for twenty years.

Q. You probably used that?

A. I probably used that because of what little knowledge I had of sentences attached to these misdemeanors of forgery and so on, I felt that it would amount to that term of time.

Q. Do you remember when, if at all, you said that?

A. I think I said that to Mrs. Davis in the corridor.

The Court: Gentlemen, I notice the phrase has been used several times, "After this agreement was executed." I take it that it is meant in all occasions after it was executed by the parties there present. I take it that the agreement has never been fully executed by the parties to the agreement. I take that from the pleading and I simply call attention to it so the record may not express something upon which there may be some question.

Mr. McCarter: Of course, there is no dispute that Gordon didn't sign the paper and when I speak of it being executed I mean by the parties who did sign it, whose names appear as parties signatory.

The Court: I simply call attention to that now so there will be no question on the printed record.

Q. Did you hear anyone say, during the negotiations, or at any time, that the contract would not be enforced until Gordon signed?

A. No, sir.

Q. In fact, assignments had been delivered, and securities delivered, cash delivered and receipts taken, had there not?

A. Yes, sir.

Q. Did Carlton Godfrey tell Harold or anyone that they had Trevor for forgery and had Harold for embezzlement?

A. Not in my hearing.

Q. Did Carlton tell Harold substantially as follows: "Do you want to go to jail? What is more, I am going to put you in jail?"

A. He asked him if he wanted to go to jail.

Q. When was that?

A. That was at the breaking up of the party.

Q. On the ——

A. The last day.

Q. The last day?

Mr. Bourgeois: Who was that who asked Harold?

A. Godfrey asked Trevor.

(Former question and answer repeated.)

A. I must correct that. He said that to Trevor.

Q. You referring now to the occasion of the fourth day when the "merry war" broke out?

A. Yes, sir.

Q. Did Phillip say, during the negotiations, that they had charges of forgery and embezzlement against these people?

A. Not in my hearing, Mr. McCarter.

Q. Did Mr. Hart say substantially as follows: "We have you for forgery?"

A. Not in my hearing.

Q. Did Carlton say, during the negotiations, "You will have to settle; we have you for embezzlement?"

A. No, sir.

Q. Did they request attorneys present and did Carlton say, "It is too late for attorneys to be present?"

A. Carlton said he wanted no more of attorneys, he had already spent ten thousand dollars ——

Q. Carlton?

A. I mean Harold.

Q. The question I put to you is did Carlton say, in response to some request for attorneys, that "It is now too late for attorneys?"

A. He did not.

Q. Now when, Monsignor Mellon, was there the first manifestation of anything but peace and harmony, what day?

Mr. Bourgeois: Hasn't appeared there was any peace and harmony in it so far.

The Court: Permit the question.

Q. Was there any unfriendliness or disharmony prior to the fourth day?

A. Prior to the first meeting.

Q. I mean now, confining your ——

A. I am giving you before the first day.

Q. Calling your attention to the first day, second day, third day, fourth day, having those four days in hand?

A. At the meetings, no, except the time that I told you that Mr. Carlton lost his temper and asked

Trevor if he wanted to go to jail after Trevor had called him a liar.

Q. That was on the fourth day?

A. That was on the fourth day.

Q. You say Trevor on the fourth day called Carlton a liar?

A. Yes, sir.

Q. Had any announcement been made on the fourth day when Mr. Stringer appeared that you heard that the parties on the evening before had determined to rescind this contract?

A. No, sir,

Cross-examination.

By Mr. Bourgeois:

Q. Doctor ——

A. My name is Monsignor, please.

Q. Beg pardon?

A. Monsignor is my title.

Q. Will you look at the agreement that is before you (C10) and tell me how many pages of that agreement were inserted after the agreement was first submitted at the meeting?

A. How many pages were inserted after?

Q. Yes, after the agreement was first submitted at the meeting?

A. I couldn't tell you that.

Q. Cannot tell me?

A. I can tell you that there were no insertions after I marked these pages.

Q. And when did you mark the pages?

A. As we went along and discussed every paragraph on every page.

Q. I notice that the first three pages are paged on the typewriting machine?

A. Yes, that, our attention was called to that and that is why we marked these in our own handwriting because the girls overlooked that.

Q. You have said that there were six copies of that agreement and that Trevor wanted a copy of it before they broke up on the fourth day and Mr. Godfrey refused to give it to him; why was that refusal made, if you know?

A. Mr. Godfrey said that he was afraid Trevor would destroy it.

Q. But what difference would that make if Mr. Godfrey was going to keep the other five?

A. That is what I asked Mr. Godfrey.

Q. What did Mr. Godfrey say?

A. He said, "I don't want five. I want six copies."

Q. Why did he want six?

A. You will have to ask him. There were six signatures.

Q. In other words, your participation in that matter for four days led you to think that these men who had signed this $190,000 worth of agreement were entitled to have a copy of it, is that right?

Mr. McCarter: I object. I don't think that is material.

The Court: I will permit it.

A. You think that my participation in those four days led me to the opinion that they should have a copy of it?

(Question repeated.)

A. Yes, I felt they should have a copy of it.

Q. But you were sitting there as an arbitrator, as I understand?

A. Yes, sir.

Q. Did you take any part or do anything to see that these other people got a copy of it?

A. Yes, sir.

Q. What did you do?

A. I said to Mr. Godfrey, "Why don't you give him the copy."

Q. Was that all?

A. Yes, that was all.

Q. In other words you felt, as an arbitrator, after they had secured the agreement to be signed for $190,000 and six copies that your duties had ended when you suggested to Mr. Godfrey he ought to give a copy of it to them?

A. Yes, sir.

Q. Now, you said that you were told of the signing, I mean of the capias, on the last day and in your testimony you said, "I said the capias had been" and then you stopped and said, "had not been lifted." Now, why did you start out to say, "the capias had" what did you intend to say when you said, "the capias had been"?

A. Sustained.

Q. That was what your recollection was that you were going to say and then afterwards you said it had not been lifted?

A. Yes.

Q. Let me ask you, did any of the attorneys call your attention to the distinction between those two expressions?

A. No, sir.

Q. Then you didn't say, "had been sustained" as the other witnesses have testified for what reason?

A. Because the word didn't come to me quickly

enough and I changed the construction of my sentence.

Q. "Sustained" was the word you had in mind?

A. Yes, sir.

Q. The word you wanted to say?

A. Yes, sir.

Q. And that was the word you did use at that time, wasn't it?

A. Yes, sir.

Q. "The capias has been sustained?"

A. Yes, sir.

Q. Now, you were sitting there as an arbitrator and you say that Harold Williams said that he had paid ten thousand dollars for attorneys already; did it appear to you it would be strange if he had paid ten thousand dollars for attorneys that he should not want them present at all?

A. That wasn't any of my business.

Q. I didn't ask you that whether your business or not.

(Question repeated.)

A. I don't know how it appeared.

Q. You don't recall?

A. No.

Q. It seemed to you strange a man would pay that money and then not want them there?

A. No.

Q. Now, Monsignor, do I understand you to say that these statements made by Mrs. Williams and these other witnesses that their attorneys were called for were not in fact made or that you didn't hear them?

A. Mrs. Williams?

Q. Mrs. Davis.

A. Mrs. Davis? I could say they were not made.

Q. You say they were not made?

A. Yes.

Q. But you did hear, or you yourself did make a statement that Trevor was likely to go up for twenty years?

A. Yes.

Q. For what?

A. Well, I thought for forging names.

Q. What made you think for forging names?

A. Of straws.

Q. Well, when did you say it, you said that to him?

A. I didn't say that to him.

Q. Who did you say it to?

A. To Mrs. Davis.

Q. When did you say it to Mrs. Davis?

A. When she was pleading because of Trevor, because he was an orphan, that he was an honest boy.

Q. Before or after the meetings were begun?

A. After the meetings were begun.

Q. Why did you think he would go to jail for twenty years for using the straw?

A. I don't know.

Q. And without knowing why you thought it you just told her he was likely to go up for twenty years?

A. We all say lots of things.

Q. Let me ask you what impression did you intend to convey to Mrs. Davis in this matter when you said Trevor was likely to go up for twenty years?

Mr. McCarter: I object, what impression he intended to convey; what he said.

The Court: Yes, sustain the objection. What he said.

Mr. Cole: Except, may it please your Honor, that he was there as an arbitrator and being an arbitrator ——

The Court: If his language is ambiguous it might be explainable.

Q. Did you have in mind the thought, when you made that statement to Mrs. Davis, of controlling Mrs. Davis' mentality?

A. No, sir.

Q. Controlling her actions, her mind?

A. No, sir.

Q. Did you have in mind the thought that inasmuch as three of these people were all associated together, that is Mr. Davis and the two Williamses, that if you threatened or told what might happen to Trevor in going to jail, that she would be the more likely to have Mr. Davis enter into this proposed agreement?

A. No.

Q. Had you been told by Mr. Dorrian or by Mr. Godfrey the nature of the agreement they were going to propose?

A. No, sir.

Q. Had not?

A. No, sir.

Q. But you say that Mr. Godfrey said they would have to settle on their terms?

A. Exactly.

Q. What was the object or use of negotiations after Mr. Godfrey had said, "They have got to settle on our terms?"

A. What was the use of negotiations?

Q. Yes, if they had to settle on Mr. Godfrey's terms, what was the use to negotiate about it?

A. Well, the settlement was sought by the Davis-Williams concern and, therefore, I felt that Mr. Godfrey had a right to make the terms of the settlement.

Q. Now, Mrs. Davis says that Mr. Godfrey did dictate the terms and there was no negotiation; what do you say about it?

A. I say that is not true.

Q. You say that is not true? You say that Godfrey said that they would have to settle on their terms and then he went in and negotiated with them about terms?

A. Yes.

Mr. McCarter: That was Sunday night Godfrey said that?

A. Yes.

Mr. Bourgeois: The doctor and I cannot distinguish days.

Mr. McCarter: Sunday you don't know very much about?

Mr. Bourgeois: I know very little about Sunday.

Q. I notice, Doctor, you could not remember at all what happened on Monday, Tuesday or Wednesday, Mr. McCarter had to sort of suggest it to you.

A. You are mistaken. I do remember.

Q. But you have a clear recollection about the fourth day. Will you tell us how it was you couldn't

remember what happened in detail on Monday, Tuesday and Wednesday but could give us all the details about the next day, Thursday?

A. Well, I was so terribly shocked that this matter ended the way it did, that is why the fourth day is indelibly impressed on my mind.

Q. You were so shocked you didn't comprehend what was going on until after three days had passed by?

A. I didn't say that.

Q. Was that the result of it?

A. No.

Q. You do recall what took place on the fourth day?

A. Exactly and every other day, if you wish to ask me about it.

Q. Then you didn't mean to infer that you could not remember what took place on those days?

A. I don't remember sizes of mortgages and dates and lots and all that kind of thing, no; I don't remember those particular items by name, but I remember that those things were discussed.

Q. But do you remember whether or not you suggested that somebody go out and get aromatic spirits of ammonia for Mr. Williams?

A. I don't remember whether I made the suggestion or not, but I know that somebody went out and got aromatic spirits.

Q. Do you remember whether or not on one or the other of those days you suggested that they put Mr. Williams to bed in the Vendig Hotel?

A. I never made that suggestion.

Q. Never made that suggestion?

A. No, sir.

Q. Was it made in your presence?

A. No, sir.

Q. Not at all?

A. No.

Q. Do you recall whether you suggested to Trevor to take his father outside of the building and give him the air on one or more occasions?

A. Maybe I did.

Q. What did you do it for?

A. Because he was complaining of a headache.

Q. What was his appearance?

A. His appearance was of a man who had a headache.

Q. And what sort of an appearance has a man who has a headache?

A. Well, he is dopey and his brow is furrowed and he looks as if he might be in pain.

Q. Looks as if he is in distress?

A. Yes.

Q. What day was that, the first day?

A. No, it wasn't the first day.

Q. The second day?

A. The second day when he told me that those boys were putting things over on him about which he knew nothing.

Q. Now, that was kind of him, wasn't it?

A. You will have to ask him.

Q. I thought you had formed an opinion about that in view of the fact or situation they were in for him to say the boys were putting something over on him? Was he still in distress?

A. Yes.

Q. Mentally as well as physically?

A. I don't know anything about his mental. I could see I guess the physical expression.

Q. You couldn't observe from his language whether he was in mental distress or not?

A. No, you couldn't. He was just as active as anybody in that room.

Q. And then, after spending three days there and having aromatic spirits of ammonia and being suggested he go out and get the air and having separated himself for the ten thousand dollars, he congratulated you for putting it over, is that right?

A. I didn't say that.

Q. What did you say about congratulated?

A. I said he congratulated me upon my fairness.

Q. Oh, I thought it was on the completion of the contract. What did you have to be fair about or unfair? You weren't a party to this agreement?

A. No.

Q. What was there for you to be fair about?

A. When argument arose on either side.

Q. How is that?

A. When argument arose on either side and my opinion was asked that opinion must be fair.

Q. Was your opinion asked on any occasion except with regard to the straw use?

A. Yes.

Q. What other opinion were you asked for and gave?

A. If I may consult a paper I will tell you about three definite items.

Q. I object unless you want to let us examine the paper.

A. You may have the paper.

Q. Let me look at it first. I won't do that. I will withdraw the question. You can't tell me without examining your paper?

A. No, because there are three separate items in the matter and I don't remember just exactly what they were.

Q. Who made the paper for you?

A. A stenographer in Philadelphia.

Q. I see it is a typewritten paper?
A. Yes.
Q. Who dictated it?
A. I did.
Q. To whom?
A. To this stenographer.
Q. When?
A. About a week after all this occurred.
Q. I don't think I will bother about it, to have your memory from that.
A. I didn't think you would.
Q. When did the question come up about procuring Gordon's signature to the agreement?
A. It came up while the others were signing.
Q. What was said about the agreement at that time?
A. And Harold said, "I will guarantee Gordon's signature."
Q. What was said by Mr. Godfrey?
A. Mr. Godfrey said that Gordon's signature would have to be on these documents.
Q. And what else did he say besides would have to be on the documents?
A. Well, he said nothing after Mr. Harold guaranteed the signature of Gordon.
Q. What did he say before Harold guaranteed the signature about it?
A. He said, "Shall we send these papers to Gordon?" And Mr. Harold said he would see that the papers were signed and he again would guarantee his signature.
Q. Did Mr. Godfrey say, when he made the first statement, these papers all will have to be signed by Harold before they will be of any use?
A. No, sir.
Q. Was it then that Mr. Williams said he would guarantee the signature?

A. No, sir.

The Court: You didn't mean that question.

A. I meant Gordon; he said Harold.

The Court: You said Harold; you meant Gordon.

Q. Gordon, yes. Did you hear Mr. Godfrey say to Trevor, "Do you want to go to jail?" and then did Trevor appeal to you and to Mrs. Davis and some of the others asking if you heard that and you said yes you heard it?

A. No, sir.

Q. Will you tell me—you have stated that you thought that Mr. Godfrey should have given Trevor a copy of that agreement; you also testified that Mr. Stringer came out into the hall or corridor and asked you to let him read the agreement that you had?

A. Yes, sir.

Q. Why didn't you do that if you thought he ought to have it, you knew he was there with Trevor?

A. That is a different matter.

Q. I beg pardon?

A. Trevor asked for the copy in the room.

Q. That was refused to him?

A. And it was refused.

Q. But you thought they ought to be given to him?

A. Yes.

Mr. McCarter: Let him go on.

A. Let me go on now. Then the bathroom conference took place and Mr. Stringer was discharged

as attorney and then Mr. Stringer invited me out to the corridor and asked me for this copy of the agreement. I said, "Of what interest is that to you? You are not their attorney." Well, he said, "Just read the first paragraph of the first page." I said, "No, I won't" and then he tried to read it from where he was standing and where I held the copy.

Q. Now, if the agreement was all right why did you refuse to let Mr. Stringer read it?

A. I didn't think it was any of his business since he wasn't the attorney.

Q. After Mr. Stringer was reengaged did you then let him read it?

A. He didn't ask.

Q. Did he need to ask after you had refused?

A. Yes.

Q. You thought you were justified, did you?

A. Yes, sir.

Q. In refusing to let him read that agreement?

A. Yes, sir.

Q. And not afterwards handing it to him and letting him read it all?

A. Yes, sir.

Q. And at that meeting did Mr. Stringer have any opportunity at all reading the agreement?

A. Yes.

Q. Where?

A. Mr. Godfrey made the offer of having me read the agreement or himself read the agreement and everybody had a copy in their hands.

Q. When ——

A. That was the day it was signed. That day the copies were in Mr. Godfrey's possession and Mr. Stringer wouldn't listen to it being read. He wanted it.

Q. He wanted to see it?

A. Yes.

Q. Why was it refused to him, do you know?

A. He wasn't their attorney.

Q. But after ——

A. He was discharged.

Q. When he was their attorney?

A. He didn't ask for it; Trevor asked for it.

Q. Well, why—the reason they wouldn't let Mr. Trevor have it they thought he was going to destroy it?

A. Yes, sir.

Q. And thought they were going to destroy the agreement, would have destroyed one of the copies?

A. I don't know what they thought.

Q. Nevertheless on that fourth day neither Trevor nor Mr. Stringer had any opportunity of seeing that agreement, it wasn't given to them?

A. They saw it physically, saw it if that is an examination.

Q. Yes, I don't mean that. I mean to have it in their hands and go over it and examine it?

A. No.

Q. Now, did you hear Mr. Stringer ask for a carbon copy of the agreement and Carlton Godfrey tell him he couldn't have it?

A. No.

Q. At that fourth day?

A. No.

Q. Did you hear him ask more than once for it?

A. I heard him ask Mr. Davis and Mrs. Davis and Trevor if they heard him make the request from Mr. Godfrey to let Trevor have the copy.

Q. Yes, you heard that?

A. I heard that.

Q. And did you hear Phillip say afterwards to Stringer, "You heard my father say they couldn't have it," did you hear that?

A. If he said it I heard it, but I don't remember him saying it.

Q. You say there was no antagonism during the meeting between these parties; was there any antagonistic feeling between them before the first meeting?

A. Mrs. Davis arrived in Philadelphia and saw Mr. Dorrian standing on the curbstone of the Hotel Vendig and she said, "I will not allow my children to go with your children and I know a lot of ladies that won't allow their children to travel with yours because you are a bootlegger" and he said, "Well, no child of mine will ever have cast up to them that their father was a thief." So Connie came to me in high dudgeon and he says, "I am not going to start any meetings with these people." I said, "Why?" "Why," he said, "this is what Mrs. Davis has said to me." I said, "Don't mind that." I said, "She is probably overwrought and she doesn't mean all that she says," and then I said to Mrs. Davis, I said, "You have made a mistake. You have sought this settlement. Now you begin by insulting Mr. Dorrian and I think you ought to apologize to him."

Q. And she apologized?

A. And she apologized.

Q. For calling him a bootlegger?

A. No, for saying that her children wouldn't be allowed to go with his children.

Q. For what he says—after you had suggested to Mrs. Davis that she ought to apologize to Mr. Dorrian did you suggest to Mr. Dorrian that he ought to apologize to Mrs. Davis for having called her husband a thief?

A. I told Connie to forget about it.

Q. Told him to forget about it?

A. Yes.

Q. You told Mrs. Davis to apologize and Connie to forget?

A. Yes.

Cross-examination.

By Mr. Cole:

Q. What was the "merry war" about?

A. The merry war on the last day?

Q. That was the only day there was a merry war, wasn't it?

A. Yes.

Q. That is the one you are referring to?

A. The merry war was about the breaking of this agreement or the parties that had signed it saying ——

Q. Tell us what was said?

A. I don't remember the meaning of this thing, but I sensed from ——

Q. No, I don't care about your sensing; what was said?

A. Mr. Stringer asked for or Trevor asked for a copy of the agreement and Mr. Godfrey told him he couldn't have it and then Mr. Stringer asked for a copy of the agreement and Mr. Godfrey said that he would allow anybody to read it and that is what the merry war started over.

Q. When you spoke of the merry war you meant what you have just testified to?

A. I meant that that was the first day there was any disagreement or arguments.

Q. Now, you knew when these requests were made for a copy of the agreement that these men had obligated themselves to the amount of $190,000, didn't you?

A. Yes, sir.

Q. And you knew that agreement contained more than twenty pages, didn't you?

A. I don't remember the exact number now.

The Court: Let me ask the question—I haven't had an opportunity to study this agreement attached to the bill, but is there any place in this bill that these men obligated themselves to the extent of $190,000?

Mr. Cole: Seems to be assumed there is.

Mr. McCarter: I think there is.

The Court: I would like my attention to be called to it, but it seems to me the agreement says $190,000 shall be paid in a certain manner, of which, according to the wording of the agreement, Gordon Williams was to agree and apparently, in the tenth section says, "upon the execution of this agreement and the delivery of the securities herein recited," then Dorrian and Fahler was to do certain things on or before a certain day, but I would like to have my attention called to where there is anything in this agreement which makes it an enforcible agreement at the present time. Everybody has apparently assumed that these men agreed to pay $190,000, men who signed.

Mr. McCarter: The point you make is that there is no obligation to pay $190,000?

The Court: By the parties who signed this agreement, yes, and no duty upon the part of Fahler, the other side, and Dorrian, to do anything until the

$190,000 was paid after the execution of the agreement and that there is no obligation on the part of the signers to this agreement to pay $190,000?

Mr. McCarter: Well, I call your Honor's attention on page 21 of the printed bill, middle of the page, these words: "Now, therefore, in consideration of the sum of $190,000 paid and to be paid by Gordon, Harold, Trevor, Royden to Williams and Davis, Inc., Connie and Lloyd Fahler at the times and in the manner and form herein recited, the parties hereto do hereby agree with each other as follows:"——

The Court: Exactly, and immediately thereafter or following is the payment by Gordon Williams of about or over twenty-five per cent of the $190,000.

Mr. McCarter: This is the second point, on page 23 of the printed bill, paragraph 4 of the agreement reads as follows: "As a part of said consideration of $190,000 Trevor hereby agrees to and will deliver to Connie and Lloyd the following bonds and mortgages as a part of the $190,000."

The Court: Yes, as a part of the $190,000 which shall be paid as therein mentioned.

Mr. McCarter: Third point on page 24— etc ——

Q. Was it your understanding that these parties had obligated themselves to pay $190,000?

Mr. McCarter: I object. I don't see how his understanding—he is not here to construe any document.

Mr. Cole: He is here under cross-examination.

Mr. McCarter: I know, but he hasn't construed it under direct examination. He wasn't asked to construe it.

The Court: I will sustain the objection. No testimony.

Q. Who told you the capias had been sustained?

A. Mr. Garrison.

Q. How did he come to make that statement?

A. I don't remember, Judge, except that Mrs. Davis was asking that her husband be allowed to come home to Atlantic City and I said to Mr. Garrison and Mr. Godfrey, "Why don't you let him go to Atlantic City tonight" and they said then that the capias had been sustained.

Q. Where were you when that was stated?

A. When that statement was made, in the vestibule.

Q. Who were present?

A. Mr. Garrison and Mr. Godfrey, and Mrs. Davis had made that request about her husband in the vestibule to me.

Q. Give us the language that Mr. Garrison used?

A. He said it wouldn't be safe for him to go down there.

Q. I mean the language he used with respect to the capias being sustained?

A. That is the language he used.

Q. Is that all he said?

A. Yes, that is all.

Q. Did he tell you that Mr. Justice Campbell, in his opinion, had said that the capias had been unlawfully issued?

A. No, he didn't tell me that.

Q. Did he tell you that Mr. Justice Campbell, in the opinion, stated that if they undertook to enforce that capias that he would thwart it?

Mr. McCarter: One moment, where did Mr. Justice Campbell say that?

Mr. Cole: I am cross-examining the witness.

Mr. McCarter: You are putting false—I don't mean knowingly false—I think you are mistaken with reference to what Justice Campbell said in that regard. You made that same assertion yesterday and I read over the opinion last night and I couldn't find it.

Mr. Cole: My interpretation of that is that is exactly what he said. He may not have used that language.

The Court: Permit the question.

(Question repeated.)

A. No.

Q. And you believed, did you not, when Mr. Garrison told you it had been sustained that the charges had also been sustained?

Mr. McCarter: As to what he believed is not material. The statement was made to him and he made a statement to the other side with reference to it and that is the extent of the matter.

The Court: I will permit the question.

A. I believed that the charges must have been sustained when the capias was sustained.

Q. So that when you—which day was that?

A. That was the third day.

Q. The third day that Mr. Garrison told you this?

A. Yes.

Q. And that was in the corridor?

A. Yes, sir.

Q. And before the papers had been signed, that he told you I mean?

A. No, it was after the papers had been signed.

Q. That he told you that?

A. Yes, sir.

Q. And even after the papers had been signed in which you supposed everything had been settled, is that correct?

A. Yes, sir.

Q. And you were requesting that Mr. Davis be allowed to return home?

A. His wife requested that.

Q. His wife requested and told Mr. Garrison that?

A. Yes, sir.

Q. Notwithstanding that Mr. Garrison still said it wouldn't be safe for Mr. Davis to go home because the Court had sustained the capias?

A. Yes, sir.

Q. Now, who was it that said that Mr. Davis was exonerated or should be exonerated?

A. Jack Scanlan said that was the message that Mrs. Davis had phoned to him.

Q. Who had said that Mr. Davis was to be exonerated or did he say was exonerated?

A. The Williamses.

Q. Did the Williamses make that statement at any of these conferences?

A. No, sir.

Q. What Harold Williams did say at one of the conferences and before the contract was signed was that the whole thing was Greek to him, is that right?

A. Not the whole thing.

Q. What did he say was Greek to him?

A. Most of it was Greek to him.

Q. Most of it was Greek to him and that the boys had put something over on him?

A. Yes, sir.

Q. Did anybody ask him what he meant when he said that the thing was most of it was Greek to him?

A. No, he said that aside to me; nobody heard that but me.

Q. Did you tell Mr. Godfrey or any of these gentlemen who were representing the other side, that Mr. Williams had just told you that this thing was all Greek to him?

A. No, sir.

Q. Of course, you approached this whole subject with a mind wholly unbiased, didn't you?

A. Yes, sir.

Q. You thought you were sitting judicially?

A. Yes, sir.

Q. Now, if you did and one of the parties you asked to sign this paper involving $190,000 one way or another, he told you the whole thing was Greek to him, did it occur to you that you ought to have told the people who were contending for this money and asked them to explain that to him?

A. It was all explained, Judge, all these items were being discussed.

Q. Why didn't you tell them that Mr. Harold Williams had stated that the whole thing was Greek to him?

A. I felt he didn't want me to say that to them because he whispered it to me.

Q. Did he tell you he didn't want you to do it?

A. No, he didn't.

Q. Now, when did you first hear of the capias being issued?

A. When Mrs. Davis made her request about Royden being allowed to come home and I said, "Why isn't he allowed to go to Atlantic City?" It was then I heard about the capias.

Q. That was the first intimation you had of a capias?

A. Yes, sir.

Q. That was the fourth day I understand?

A. That was after everything had been signed.

Q. Now, how many times had Mr. Dorrian talked with you about this matter before that fourth day?

A. I didn't see him between meetings.

Q. When was the first time he talked with you about it?

A. When I went down to his house to give him the telephone message from Mrs. Davis.

Q. Did he then charge that Mr. Davis, Mr. Harold Williams, Mr. Gordon Williams and Mr. Trevor Williams had committed a crime?

A. No, sir.

Q. Made no such charge?

A. No.

Q. Did he make any complaint against him?

A. He said he would make no move in the matter until he had legal advice.

Q. Did he ever, before any of the conferences, make any charge to you against these people?

A. I wasn't intimate enough to discuss such a subject with him.

Q. I didn't ask you that.

A. No.

Q. When, for the first time, did you hear of the charges made against these people?

A. I don't remember.

Q. Did you, before you went into the first conference?

A. Well, I heard about it; I heard it from Mrs. Davis, there was some difficulty; I don't remember exactly.

Q. No one else?

A. I heard people in Atlantic City talking about it. I don't know who they are.

Q. Before the first conference?

A. Yes.

Q. And what did you hear them say about it?

A. Well, they said there was some difficulty between the Gordon Williams concern and Connie Dorrian and Mr. Fahler.

Q. Didn't they tell you what it was?

A. No, they didn't seem to know.

Q. Had you read the newspapers?

A. Not the Atlantic City papers.

Q. So that your statement about it is that when you first went to the first meeting you didn't know the nature of the complaints or charges being made by Mr. Dorrian against these people?

A. Yes, I did.

Q. What?

A. I did.

Q. Where did you get the information?

A. From different people around.

Q. What information did you get?

A. I got information that the firm of Gordon Williams concern had difficulties with Connie Dorrian.

Q. What did they say it was? What was the nature of it?

A. Over lots that is all I know about it.

Q. Did you get any specific charge against them?

A. No.

Q. Then I come back, when you attended the first meeting in Philadelphia you didn't have any specific charge or complaint against these men for anything that they had done, had you?

A. No.

Q. So that you were there with an open mind on the whole subject?

A. Yes, sir.

Q. I understood that Mr. Godfrey's complaint seemed to be that these people had used straws, is that right?

A. Didn't seem to be; it was evident.

Q. That is what he told you?

A. Yes, sir.

Q. What was there about his statement about a straw that led you to conclude that what had been done here was morally dishonest?

A. Mr. Harold Williams acknowledged that was a straw, and this was a straw, and that was a straw, and "I don't remember whether that is a straw or not." Then, I asked for a definition of a straw and, as far as I can recollect, they said that a straw was the name of a person used for the sale of property without that person's knowledge, the knowledge of the straw, or some such thing of that kind.

Q. Now, when Mr. McCarter asked you to tell what Mr. Godfrey had said the straw was you couldn't remember, is that correct?

A. No, I have been thinking about it since.

Q. And the definition he gave you was that this person whose name was used as a straw was used without the knowledge of the other party?

A. Without the knowledge of the straw.

Q. I mean without the knowledge of the straw?

A. Yes.

Q. And was that the thing you thought was morally dishonest?

A. Yes.

Q. And the only thing?

A. No, I thought that back of that was a reason for putting a person's name on paper without consulting that person.

Q. In these particular cases did you have the reason?

A. In this particular case?

Q. Yes.

A. No, sir.

Q. So that with nothing more than Mr. Godfrey's statement that a straw was one whose name was used without his knowledge, and suspecting there was a reason back of it, without knowing what the reason was, you decided this transaction is bad, dishonest, didn't you?

A. I said I would adjudge them as dishonest.

Q. You approached then the consideration of this matter as an arbitrator and judicially with that thought in your mind, didn't you?

A. Yes.

Q. That these defendants were all guilty of moral dishonesty, is that right?

A. I wasn't prejudiced in my judgment against them at all.

Q. Now, did you say in answer to Mr. McCarter's question that you didn't think these people needed a lawyer?

A. I didn't think they needed a lawyer? I don't remember saying that, Judge.

Q. At any time during these conferences was a lawyer asked for?

A. Yes.

Q. Which conference, the first?

A. Second or third conference.

Q. Who asked for a lawyer at the second conference?

A. I think it was Trevor.

Q. What did he say?

A. He said, "We ought to have a lawyer" and his father said, "I paid ten thousand dollars and I don't want to be bothered with them any more."

Q. Did Trevor say why he thought they ought to have a lawyer?

A. No, sir.

Q. Did you suggest that they ought to have a lawyer?

A. No, sir.

Q. You knew that Mr. Phillip Godfrey and Mr. Carlton Godfrey and Mr. Garrison were lawyers for the other side, didn't you?

A. Yes, sir.

Q. Did you think that they needed a lawyer?

A. The terms of needing ——

Q. Did you think that the other side needed a lawyer, that is my question?

Mr. McCarter: What he thought is immaterial on that point and I object to the question.

The Court: I will permit the question.

Mr. Cole: He is the Judge, Mr. McCarter.

The Court: I have permitted the question.

(Question repeated.)

A. I didn't know whether I thought about that or not.

Q. That didn't occur to you?

A. No, sir.

Q. But knowing these men were charged with at least a moral offense and knowing that the other side had two or three lawyers there and knowing that Mr. Trevor Williams had pleaded for a lawyer, it didn't occur to you, did it, that they ought to have a lawyer to sit in this conference?

A. No, sir.

Q. So that whenever the appeal was made for the lawyer it made no impression on you at all, did it?

A. Because they agreed to the terms of the settlement.

Q. My question is did it make any impression on you, not the reason?

A. No, sir.

Q. Well, now, you knew, of course, no agreement had been delivered to these parties at any time before the execution, didn't you?

A. I knew that.

Q. You knew that none were delivered after the execution, didn't you?

A. Yes, sir.

Mr. McCarter: I object to that. That is a legal conclusion, calls for a legal conclusion.

The Court: Question is physically delivered.

Q. You knew there had been no physical delivery of a copy of the agreement to either one of these parties, didn't you?

A. Yes, sir.

Q. And the next day, when the merry war was on, there was a request made, wasn't there?

A. Yes, sir.

Q. You thought they ought to have it?

A. They had physical possession of it while they were reading the paragraphs and signing the documents.

Q. I am thinking about whether they took it away with them or not?

A. No.

Q. Mr. Godfrey kept them all?

A. Yes.

Q. If you approached this matter from a wholly unbiased standpoint and if you felt you were sitting there judicially you certainly thought that they ought to have a copy of the agreement that they had signed, didn't you, involving $190,000?

A. At first I did, yes.

Q. What do you mean by that?

A. Until Mr. Godfrey told me that he was afraid Trevor would destroy the copy.

Q. Did you think Trevor would?

A. I didn't know anything about Trevor.

Q. Was it the statement Mr. Godfrey made that he was afraid Trevor would destroy it that induced you to think maybe he better not have it?

A. Yes.

Q. Then you must have thought he would destroy it, didn't you?

A. I guess I did.

Q. Why didn't you say that at first? Why didn't you say that the first time? Will you answer that? Why didn't you give that answer the first time?

A. Because I couldn't come to any conclusion in the matter.

Q. What made you think that Trevor would destroy that agreement?

A. I don't know what made me think that, Judge.

Q. You certainly had some reason for it, Father, didn't you, Monsignor?

A. Yes.

Q. Had some reason for it?

A. That was the only reason because the suggestion was put in my mind by Mr. Godfrey.

Q. You had never known Mr. Godfrey before, had you?

A. No.

Q. Never met him before?

A. No.

Q. Never even heard about him?

A. No.

Q. So that statement coming from a mere stranger to you about Trevor Williams, whom you didn't know, that he would destroy that agreement, you took Mr. Godfrey's word for it, didn't you?

A. I didn't know Trevor until that meeting, but I heard enough about him.

Q. What had you heard about him before that meeting?

A. From his own father.

Q. I didn't ask you who from; what did you hear about him?

A. That "these boys were putting these things over on me."

Q. In what respect did he say put it over on him?

A. That he didn't know the deals that they were making.

Q. Did that have any effect on your mind?

A. Because of the straws.

Q. You mean that you thought that he ought not to have a copy of this agreement, he might destroy it because of the straws?

A. If he would use that and when the father blamed these boys for these deals, putting these deals over on him because of them having used the straws and that, to my mind, was dishonest.

Q. Now, wasn't that in your mind and didn't that influence you in following the suggestion of Mr. Godfrey that he should not have a copy of this agreement?

A. Certainly it did.

Q. Why didn't you say that before?

A. I don't know.

Q. Which was it, one or the combination, that led you to agree with Mr. Godfrey that he, Trevor, might destroy this agreement?

A. The combination.

Q. Why didn't you say that before?

A. I don't know.

Q. What?

A. I don't know.

Q. What did you actually arbitrate? You said you were there as an arbitrator, what did you arbitrate?

A. I feel I arbitrated ——

Q. No.

A. I arbitrated the amount of $190,000.

Q. Now, when Mrs. Davis said that Mr. Connie Dorrian was a bootlegger, did he deny it?

Mr. McCarter: I object.

The Court: Sustain the objection.

Q. Well, you felt offended, didn't you, because she had called him a bootlegger?

Mr. McCarter: I object to that.

The Court: I will permit that.

Q. Didn't you?

A. No, I didn't.

Q. Why did you ask her to apologize?

A. She said that she wouldn't allow her children to associate with his children.

Q. That was the thing you objected to?

A. I did.

Q. Did she say why she wouldn't?

A. Because he was a bootlegger.

Q. Exactly, was it the charge of being a bootlegger that was offiensive to you or the fact that she wouldn't allow her children to associate with Connie Dorrian?

Mr. McCarter: I object to the question. I don't think that has anything to do with the case, your Honor.

The Court: Sustain the objection.

Q. You say that Mr. Dorrian stated in reply that at least he would leave to this world without his children having to hear that he had been a thief, is that right?

A. Yes.

Q. And you didn't ask Mr. Dorrian to apologize for that, did you?

A. No, I didn't. I thought the best way out of it ——

Q. Which do you regard as the most offensive, being a bootlegger or a thief?

Mr. McCarter: I object to that.

The Court: I will permit that.

Q. Which do you regard as the most offensive, being a bootlegger or a thief?

A. I regard a thief.
Q. You defend bootlegging?

Mr. McCarter: I object.

The Court: Sustain the objection.

Mr. McCarter: We are not in a saloon just now, Judge.

Mr. Cole: I know, but I am trying to get the attitude of mind of this Judge, which I have a perfect right to do.

The Court: Strike from the record both comments of counsel on each side.

Q. Now, coming back a moment, you were down to Dorrian's house with Mr. Godfrey, weren't you?
A. Sunday night.
Q. What went on there on this Sunday night?

Mr. McCarter: That is what you objected to; go on, however.

Mr. Cole: I know, but I am cross-examining him now.

Q. Did you see some papers there?
A. Yes, sir; Mr. Godfrey had some papers.
Q. Some checks, didn't he?
A. I don't remember the checks.
Q. You looked at them?
A. No.
Q. At nothing?
A. No.

Q. What did he do with them?
A. He had them in his hand.
Q. Talk to you about them?
A. No.
Q. Just had them in his hand?
A. That is all.
Q. Nothing was said at all?
A. He said something about these referred to the case, I think he said that.
Q. What was the object of his being there, if you know?

Mr. McCarter: I object.

The Court: Sustain the objection.

Q. At all events Mr. Godfrey did tell you on that occasion—by the way at that time did you know you were to be the arbitrator?
A. Did I know what?
Q. Did you know you were to be an arbitrator at that time?
A. No, Judge.
Q. That came afterward?
A. Yes.
Q. But already you had been told by Mr. Godfrey, who represented Mr. Dorrian, and was stated in Mr. Dorrian's presence, any settlement was made would have to be their settlement?
A. Yes.
Q. Now, in that situation did you feel that you were not going to stand in a very happy position as an arbitrator?
A. I wasn't keen to do it.
Q. You weren't keen about it?
A. I had friends on both sides.

Q. Now, you have stated that Mrs. Davis always talked for Mr. Davis; how do you know that?

A. I was present there when she did it.

Q. How do you know she was talking for him?

A. She always answered when his name was called.

Q. Would his name be called?

A. He would be asked different things and she would answer for him.

Q. Didn't he answer at all?

A. Very rarely.

Q. Tell us anything he said?

A. The exact words I don't know. I remember him talking one day about the transaction of some mortgages.

Q. Anything said at any one of these meetings that Mr. Davis wasn't guilty of anything?

A. That he wasn't what?

Q. Anything said at any one of these meetings that Mr. Davis wasn't guilty of any misconduct?

A. That he wasn't guilty?

Q. Yes.

A. No, Judge.

Q. But you had been told by Mr. Scanlan that he had been exonerated, hadn't you?

A. Yes.

Q. When the question was raised, as I understand by your testimony, that Mr. Davis had signed a paper ——

A. Mr. who?

Q. Mr. Davis had signed this paper, to do more than he ought to have done, that is more than the one-fourth share, and your suggestion was that could be taken up with Mr. Williams, with the Williamses?

A. Yes.

Q. Had any suggestion of that sort been made before the agreement was signed?

A. No, because the amount of money that was acknowledged by Mrs. Davis as being owed by them, herself and her husband, wasn't agreed upon or arrived at until the time that she mentioned it to me.

Q. Well, now, if the amount that they were to pay, was not arrived at until the time that she made this objection, signing that agreement and you were sitting there to see that justice was done to her, why didn't you suggest to Mr. Godfrey that the paper ought to be so drawn and not leave that to subsequent adjustment between the parties?

A. Because I felt that when she invited me out to the corridor that it was a matter of confidence and that if she wanted Mr. Godfrey to know that or wanted me to tell Mr. Godfrey she would have suggested that openly in the meeting.

Q. Who was it said, "Davis is innocent and I want to clear him?"

A. The Williamses are quoted by Jack Scanlan as having said that.

Q. And you were simply repeating hearsay at that time?

A. Yes.

Q. And you didn't feel very kindly disposed toward Mrs. Davis, did you?

A. Yes, I did.

Q. What did you mean by saying that you accepted the apology but the sting remained?

A. I was very much hurt that she would question my honesty.

Q. How did she question your honesty?

A. By Scanlan calling me up on the telephone the night before.

Q. What did he say?

A. He called me on the telephone and asked me if I had the copies of the agreement and the money and checks and other collateral that was turned over at the time.

Q. What was there about that that challenged your honesty and integrity?

A. Why should I be asked to carry those things through the city streets at that hour of the night?

Q. But, if Mr. Scanlan thought that you had those papers and he asked you, was there anything offiensive about that?

A. Well, it developed the next day why they asked me.

Q. No, but you were out of patience that very night, weren't you, when he asked you over the telephone?

A. No, I had been out of patience that night because I couldn't understand the nature of why I got this call.

Q. What did you learn about it?

A. I learned the next day why the call was made.

Q. From whom did you learn it?

A. I learned it from Mrs. Davis. She said that those agreements were in the possession of Mr. Godfrey and they could be changed over night and I considered that a questioning of my honesty and integrity to allow a change because a change couldn't be made the way those pages were numbered and corrected.

Q. Wasn't it true the reason that Mr. Scanlan asked as to whether you had these papers was because he felt if Mr. Godfrey had them that they might be changed and not that you would change them?

A. No.

Q. Why did you draw the implication you were going to change them rather than Mr. Godfrey?

A. I didn't draw the implication I would change them but ——

Q. Were you offended?

A. I was offended to think they felt I would allow Godfrey or anybody else to change the agreement that they had executed.

Q. How would you have any control over them if you didn't have them?

A. Because these pages were numbered and these corrections were on the pages and they couldn't be changed without my knowledge.

Q. You mean they couldn't be without being caught, don't you? You don't mean that they couldn't be changed?

A. They couldn't be changed without my knowledge, that is what I mean.

Q. You didn't have the agreements?

A. I had the agreement the next day.

Q. What would have stopped anybody who had these agreements from changing them if they wanted to?

A. Well, they could have changed them, but I would have discovered that.

Q. Exactly, but what I mean to say they couldn't be changed though without being caught?

A. Exactly.

Q. Why didn't you say that?

A. I could have explained it but I didn't want to use the language you used, caught.

Q. You used it finally, didn't you?

A. Yes.

Q. Was it good enough for you to use after I used it?

A. When you explained your meaning, yes.

Q. You say you never heard the word "embezzlement" used, is that right?

A. No, I didn't.

Q. Heard the word, "forgery" used?

A. Heard the word, "forgery" used in connection with straws.

Q. Tell us who used it and what was said and what meeting was that used?

A. That was used on the second day when they were going over the different mortgages and deeds, the mortgages would be turned over to Mr. Harold Williams, "Is that a straw? Is that a straw? Is that a straw?" used in that connection.

Q. Who charged anybody with committing forgery?

A. There was no charge of forgery made, but there was simply questioning the use of straws.

Q. Didn't you just say somebody did charge somebody with forgery?

A. Didn't they charge them? Oh, they asked them if that was a forged name, is that a straw?

Q. Who asked if it was a forged name?

A. Godfrey, Carlton, my recollection.

Q. Anybody else? Who did he ask if that was a forged name?

A. Harold.

Q. Anyone else?

A. Trevor.

Q. Anyone else?

A. No.

Q. And what did they say in reply to Mr. Godfrey's inquiry as to whether those names were forged?

A. Why I remember Mr. Harold said one time that, "it looks like it."

Q. What did Trevor say?

A. I don't remember what Trevor said.

Q. Did either of them admit that they had forged anybody's name?

A. That was the admission that I thought they made, when "it looks like it."

Q. What did they say that made you think they admitted it?

A. "It looks like it."

Q. Did they say they had forged it?

A. No, did not.

Q. Then you were sitting there on the second day with a feeling that these men, somebody, Harold had admitted that he committed forgery, didn't you?

A. I thought there was something crooked, yes.

Q. And it grew out of a question by Mr. Carlton Godfrey as to whether a straw name was a forgery?

A. Yes.

Q. Did you make any further inquiry from these people to find whether that was true or not?

A. I considered that a sufficient acknowledgment.

Q. So that you were sitting there then after that time with a consciousness that somebody among these people had committed forgery?

A. Yes.

Q. Now, where did you get the idea—anything said about stealing money?

A. About what?

Q. About stealing money?

A. No, Judge.

Q. Anything said about misappropriating money?

A. No, Judge.

Q. The only thing you heard on that occasion was straw and forgery?

A. Yes.

Q. No question of the diversion of the money improperly?

A. No.

Q. Wasn't discussed in your presence at all?

A. No.

Q. And you had no idea of any offense having been committed or anything was said by anybody except forgery and the use of a straw name?

A. Yes.

Q. That is quite clear to you, isn't it?

A. Yes, Judge.

Q. Where did you get the idea that you communicated to Mrs. Davis or somebody that they would like to go to jail for twenty years?

A. That was my wrong opinion of forgery. I don't know why I said twenty years. I don't know why I didn't say a hundred.

Q. Anyhow, when you said that Trevor had to go to jail for twenty years or might go you had forgery in your mind?

A. Yes.

Q. Who did you tell that to?

A. Mrs. Davis.

Q. At what stage of this proceeding was that?

A. That was about the third day when she was pleading for Trevor, being an orphan.

Mr. McCarter: Being what?

A. About being an orphan.

Mr. McCarter: An orphan?

A. An orphan, without a mother, a delicate mother.

Q. Now, you say that Mr. Godfrey asked who whether he wanted to go to jail?

A. Asked Trevor.

Q. How did he come to ask him that?

A. Trevor refused to go on with the agreement that he had signed the day before.

Mr. McCarter: This is the fourth day, isn't it, Monsignor?

A. Yes.

Mr. McCarter: Go on.

A. "Do you want to go to jail?" and I forget what happened.

Q. Wait a minute. You heard Godfrey ask him whether he wanted to go to jail?

A. Yes.

Q. Did Trevor reply?

A. Trevor, if I remember rightly, I don't want to say because I don't.

Q. You remember what Godfrey said all right, can't you remember what Trevor said?

A. Trevor said, "Well, you will go too."

Q. Did he tell Godfrey why he would go too?

A. No, he didn't.

Q. Did you ask him?

A. No.

Q. Monsignor, you didn't tell that on direct examination, did you? Just recall it now since I have cross-examined you?

A. Don't remember that is exactly what happened or not, but I know they called each other "liars."

Q. Yes, I am coming to that in a moment. Mr. Godfrey told him he was going to put him in jail, didn't he?

A. He said, "Do you want to go to jail?"

Q. Didn't he say, "I am going to put you in jail?"

A. No.

Q. Didn't you testify to that?

A. No.

Q. That is my note. Did he say he was going to put him in jail?

A. No.

Q. All right, now who was it first used the word, "liar," Mr. Godfrey or Mr. Williams?

A. "Want to go to jail; you will go to jail."

Q. "Liar"?

A. Mr. Godfrey.

Q. He used the word, "liar" first?

A. Yes.

Q. In your direct examination you had Trevor using it first.

A. Maybe he did. I am confused as to exactly what happened.

Q. I will ask you the same question Mr. McCarter asked, is your recollection perfectly clear about this "liar" now?

A. Because this quarrel was going on, I don't remember which side was quarrelling.

Q. Now, do you remember who first used that word "liar"?

A. I think I would say now, when Mr. Carlton asked Trevor if he wanted to go to jail and he said, "You go to jail too" then Mr. Carlton said, "You are a liar" and Trevor said, "You are a liar too."

Q. So they were both going to jail and both liars, that is the way they left it?

A. Yes.

Q. Did Trevor tell why he didn't want this transaction to go through on the fourth day, any reason given for it?

A. No, there wasn't any reason.

Q. No reason at all?

A. Except that he wasn't given a copy of the agreement.

Q. He came in there and repudiated the whole thing without assigning any reason except he didn't have a copy of the contract?

A. Yes.

Q. And nobody else assigned any reason?

A. No.

Re-direct examination.

By Mr. McCarter:

Q. Do you recall that on the fourth day, when the merry war took place, that is before this exchange of pleasantries that has been alluded to between Trevor and Carlton occurred, that they had announced that they had determined to repudiate this agreement, that it was all off and they wouldn't deliver any more securities, etc.?

A. I don't remember that, Mr. McCarter.

Q. Do you remember that no announcement was made that day at all, the fourth day now, to that effect that they were done?

A. Well, I began the argument by objecting to this phone call ——

Mr. Cole: I object to it, not re-direct.

The Court: Sustain the objection, not re-direct.

Mr. McCarter: Why, your Honor, the fact that this exchange of pleasantries occurred was not referred to on the direct examination.

Mr. Cole: Yes, I cross-examined him on it.

Mr. McCarter: On my direct examination—it was brought out on cross and I have a right, I think, to find out exactly when it took place and if there had been on that day, not while the Father was there, repudiation by Trevor or by Mr. Stringer in Trevor's presence of the agreement.

Mr. Cole: That is not re-direct.

The Court: Sustain the objection. I don't think it is re-direct.

(Recess taken to Monday, June 4, 1928, 9:00 A. M.)

Atlantic City, N. J., June 4, 1928.

(Trial of the cause resumed at 9:00 o'clock A. M.)

Mrs. Jessie D. Davis, resumed.

Cross-examination (resumed.)

By Mr. McCarter:

Q. Do you recall being there the fourth day, that is the day of the break?

A. Yes.

Q. Did you attend the conference on the evening before the fourth day at which it was decided to repudiate the agreement?

A. No.

Q. You had heard they had so decided before you went there the fourth day, I suppose?

A. Yes.

Q. Who told you that?

A. Trevor Williams.

Q. Where did you see Trevor?

A. I saw Trevor before I went to the meeting.

Q. I beg pardon?

A. Before I went to the meeting.

Q. Before the meeting?

A. Yes.

Q. That was in front of the hotel?

A. Oh, no.

Q. Where?

A. I saw Trevor—I went in the meeting with Trevor.

Q. I am trying to find out where you learned what they had concluded the night before to repudiate the contract?

A. You see, Mr. McCarter ——

Q. Look at me, don't look over there all the time. Can't you tell us where it was?

A. Yes, surely.

Q. Is that a hard question?

A. I just don't remember.

Q. You don't remember?

A. No.

Q. Where did you spend the third night?

A. In West Philadelphia.

Q. Did your husband remain with you all the time after the adjournment of the meeting on this third day, or did you and he separate?

A. We separated.

Q. And he went to the University Club?

A. Yes.

Q. And you went to West Philadelphia?

A. Yes.

Q. And then he came back and spent the night with you?

A. Yes.

Q. And told you what they had concluded at the University Club conference?

A. Yes.

Q. What object had you in attending—I will be glad if you will watch me.

A. I am, Mr. McCarter. I am not watching anybody special.

Q. What object had you in attending the conference at the next day if everything was off?

A. What object had I? We made an appointment with Father Mellon with these men to be there the next day.

Q. So you wanted to keep the appointment, notwithstanding the fact it was all off?

A. Yes.

Q. And that appointment was for the purpose of Trevor getting the missing papers and the securities that he had delivered and to hand them over, wasn't it?

A. That was the purpose of the appointment.

Q. Next day?

A. Yes, I think that was.

Q. Had Trevor in the meantime gone to New York to get those papers?

A. No.

Q. So he did not even go to New York to get the remaining papers, did he?

A. No.

Q. Do you know whether he had any remaining papers with him?

A. I don't know, Mr. McCarter.

Q. Did you or your husband write out a little memorandum which specified what you and your husband thought was at least the sole responsibility of Mr. Davis?

A. I wrote it.

Q. You did?

A. Yes, Mr. McCarter.

Q. That amounted to some $34,000?

A. Yes.

Q. Can you remember the exact figure?

A. No, I can't.

Q. Between thirty-four and thirty-five thousand?

A. I don't really remember, Mr. McCarter, somewhere thirty-four something, it was thirty-four thousand, I think it was, exactly thirty-four thousand.

Q. About thirty-four thousand?

A. Yes.

Q. And you prepared that?

A. I simply wrote it down on a sheet of paper.

Q. What?

A. I wrote it down on a slip of paper.

Q. That means you prepared it? What?

A. Yes, I suppose.

Q. Anything mystic about the word, "prepare"?

A. Well, I should think a preparation takes careful thought, doesn't it, and careful figuring.

Q. You wrote down some figures, a memorandum of several figures whose aggregate was about $34,000, didn't you?

A. Yes.

Q. Where did you get the figures which you wrote down?

A. Where did I get the figures? From Mr. Davis.

Q. And those were the figures that Mr. Davis gave you of what he set down as his share of these

transactions about which the parties were complaining, were they not?

A. Yes.

Q. And that he had had that and only that?

A. Yes.

Q. No more? Beg pardon?

A. Yes.

Q. That is right? And you went out in the hall with that memorandum and spoke to Father Mellon, did you not?

A. No.

Q. Well, did you speak to Father Mellon about that memorandum at all?

A. Only in the room, in the presence ——

Q. In the room? All right, very good. And you said substantially this to Father Mellon, did you not, that the Davis share of these receipts did not exceed the amount, the sum of the items as specified in the memorandum?

A. Yes.

Q. And as you and your husband understood the agreement you were binding yourselves, that is the Davis end were to pay over according to the agreement at least one-quarter of one hundred and ninety thousand dollars?

A. No.

Q. What?

A. You say I understood that he was doing that? Pardon me, Mr. McCarter.

Q. Let me finish the sentence—and that you did not think it was right or proper, inasmuch as the Davis crowd—I don't mean that disrespectfully,—Mr. Davis had only received about $34,000, that he should bind himself to pay at least one-quarter of the $190,000? Didn't you have a conference to that effect with Father Mellon?

A. No, Mr. McCarter.

Q. You didn't speak to him at all about it?

A. At the room I spoke to everybody about it.

Q. Oh, I don't care where it was ——

A. Mr. McCarter ——

Q. The more important point is whether you spoke to Father Mellon, whether in the room, in the hall or anywhere else, Mrs. Davis?

A. Mr. McCarter, I didn't address Father Mellon directly. I am trying to explain to you I said out loud in the room.

Q. You said what I said then out loud in the room?

A. Yes, Mr. McCarter.

Q. Rather than apart with Father Mellon alone?

A. Yes, Mr. McCarter.

Q. An didn't Father Mellon, in reply to your remark of that character, tell you, well you could get the thing back from the—the excess back from the Williamses?

A. No.

Q. Nothing of the kind?

A. No.

Q. When had your husband given you the figures which you wrote down which aggregated $34,000?

A. After the night of the second day.

Q. Where?

A. In New York.

Q. In New York?

A. Yes.

Q. So that in New York on the night of the second day your husband and you went over the subject, your husband calculating the amount of these so-called secret profits that he had made, and he told you that they amounted to so and so, and so and so and you put them down and added them up and they made thirty-four thousand dollars?

A. No.

Q. Well, what was it?

A. No, Mr. Davis said the money made on speculations with him was $34,000 and I said, "Give everything back, and give him your commissions and your interest back. We didn't want any of this money."

Q. Have you got that memorandum?

A. No, I just scribbled on a little piece of an envelope.

Q. You say you haven't?

A. No, Mr. McCarter.

Q. What became of it?

A. I didn't have anything, scribbled on a little piece of paper.

Q. What became of it?

A. I rolled it up, it may have been left on the table, I don't know where it was.

Q. You carried it to Philadelphia?

A. Yes, I carried it to Philadelphia.

Q. Were the Messrs. Williams in the room with you when that calculation was made in New York?

A. No, Mr. Williams was in bed.

Q. Mr. Harold Williams.

Q. Where was Trevor?

A. I don't know where Trevor was. He wasn't in the room with us.

Q. Was this in your own bedroom or in the parlor?

A. In our own bedroom.

Q. That must have been pretty late?

A. It was pretty late.

Q. What time was it?

A. It must have been after midnight. It was late when I returned to the hotel.

Q. You did remark, at some stage of the proceed-

ings in Philadelphia, in the conference, that any money that your husband had received that was improper you wanted him to return with interest?

A. Mr. McCarter, I didn't say any money. I said, "If Mr. Davis ——" emphasis on the "if."

Q. What?

A. I said, "If Mr. Davis has any of Mr. Dorrian's money we wish to return it with interest."

Q. And the $34,000 was what you and your husband concluded was Mr. Dorrian's money?

A. No.

Q. What?

A. No.

Q. What was it?

A. Because, Mr. McCarter ——

Q. What was it?

A. What was it? It was money that Mr. Davis made on speculations, and perfectly honest speculations. He bought with his own money and paid with his own money, deals that he had.

Q. Well you know, do you not, that your husband received one-quarter of the difference between what was realized from the transfer of the county land to Williams and Davis, Inc., from what had been paid by Gordon Williams or the Messrs. Williams and your husband got, didn't you? You know that?

A. No, Mr. McCarter, I really didn't know anything about the deals.

Q. You didn't know that your husband had one-quarter of it?

A. Quarter of it? No, I didn't know.

Q. Were you at Toms River when the examination took place?

A. I was.

Q. Did you hear your husband's testimony there?

A. My husband did not testify that he received

one-quarter on any deal. I think on one deal he did, Mr. McCarter. Yes, I remember that.

Q. You heard your husband's testimony?

A. One deal I remember, Mr. McCarter.

Q. See if I can't refresh your recollection at Toms River. Do I understand you to say that you never, up to this moment, understood that in the so-called Smith and Russell, Ryan, County and the Roberts transactions, the property had recently been obtained at a certain figure and by means of straw names, apparently purchased by Williams and Davis at a higher figures? You hadn't heard that?

A. I knew that was your claim.

Q. Yes, but you hadn't heard that the profit that was made from the original purchase and the amount with which the properties were turned in to the Williams and Davis, Inc., were divided into quarters and that your husband conceded that he had had a part of that property?

A. No, I never heard it.

Q. Never heard it?

A. I heard you say it.

Q. I mean you never heard it from your husband?

A. Never.

Q. And the $34,000 did not represent what your husband said he had had in that money?

A. Mr. McCarter ——

Q. What?

A. That is not a quarter of the profit that you claim Mr. Davis received.

Q. Don't argue with me. The $34,000 was not a part of those proceeds?

A. I said it was the money that Mr. Davis made on speculation.

Q. Will you answer my question?

A. Yes, Mr. McCarter.

(Question repeated.)

A. Yes.
Q. They were? I think that is all.

Re-direct examination.

By Mr. Cole:

Q. Mrs. Davis, Mr. McCarter has had you say, as I remember, that your husband paid or agreed to pay thirty-four thousand dollars as his share of the secret profits that were made in certain transactions, and I ask you whether there was any conversation about secret profits that your husband received?
A. No, Judge Cole.

Mr. McCarter: I think I have said, Clarence, so-called secret profits. I was trying to classify.

Mr. Cole: I don't think you said so-called.

Mr. McCarter: I thought I did.

The Court: I don't want to question the arguments between counsel, but I take it we lose a good deal of time and perhaps considerable record in colloquies between counsel. We did it Saturday.

Mr. McCarter: I think your Honor is quite right so far as I am concerned.

Mr. Cole: You see, Vice-Chancellor, I didn't start that, either.

The Court: You kept it going, which is just as responsive.

Mr. Cole: I can't help keeping it going if somebody starts it.

A. Trevor Williams, sworn.

Direct examination.

By Mr. Bourgeois:

Q. Mr. Williams, you live where?

A. I live at the Sea Foam Apartments, Ventnor City, Buffalo Avenue.

Q. How long have you lived in Ventnor?

A. I have lived in Ventnor for the last twelve or thirteen years.

Q. How old are you?

A. I am just twenty-five.

Q. Attend school in Ventnor?

A. Yes, I went to public school in Ventnor and high school in Atlantic City.

Q. You were in the real estate business in 1925?

A. Yes, I was.

Q. 1924?

A. 1924.

Q. 1926?

A. And 1926.

Q. Were you a member of any concern, any firm, corporation?

A. I was never a member of Gordon Williams and Company but I was a real estate salesman for Gordon Williams and Company.

Q. Ever a member or agent for the Williams and Davis Company?

A. Never.

Q. For how long a period were you agent—you say you were agent or salesman, you say?

A. Just a salesman, real estate salesman.

Q. Real estate salesman?

A. Yes.

Q. What do you mean when you say you were real estate salesman for Gordon Williams and Company?

A. I was associated with Gordon Williams and Company when I was just licensed as a salesman with them, but I could go out and speculate, and buy and sell property, just whatever I saw fit in the form of commission.

Q. Now, as a real estate agent can you secure a license unless you do it through some broker?

A. No.

Q. Gordon Williams and Company was the broker, is that the idea?

A. Gordon Williams and Company was the broker.

Q. Then you secured your license as a salesman by being associated with Gordon Williams and Company, as a broker?

A. That is right, yes.

Q. Did you do any business independent of Gordon Williams and Company?

A. Yes, I did.

Q. Do you recall returning from California sometime in the spring of 1927?

A. I recall returning from California with my father who had just left my mother who was very ill out in California and we arrived here on the 14th of May.

Q. 1927?

A. 1927.

Q. And where did you leave the train on that return trip?

A. I left the train at North Philadelphia and met Mr. Davis and Mr. Scanlan who drove us to Atlantic City.

Q. What time did you return to Atlantic City?

A. Reached Atlantic City about, I believe, before lunch time.

Q. Where did you go to have your lunch?

A. To Mrs., the residence of Mrs. Davis.

Q. And while you were there did you learn anything that was disquieting to you?

Mr. McCarter: I think you might leave off the "surprise."

Mr. Bourgeois: I didn't say anything about surprise, disquieting.

A. I learned at that time from Mrs. Scanlan that that was a capias out for my father, Mr. Davis and myself, and all of my property and my mortgages were attached, and that there was a fifty thousand dollar bond, that I would have to put up, a fifty thousand dollars bond in order to stay in the town, and I was unable to do that, so I left.

Q. What was the bond for, bail, you mean?

A. Bail, fifty thousand bail.

Q. What did you do?

A. I left town with Mr. Davis and my father, and I didn't have any counsel at that time, I didn't know what was wrong ——

Mr. McCarter: One moment. We don't want homolies here about don't know this.

The Court: Sustain the objection. Will you just state what took place and the occasion for it, so far as you can?

A. Well, when I learned that there was a fifty thousand dollar—that there was a capias out for me requiring me to put up fifty thousand dollars in bail, and my mortgages were attached, and my real estate was attached and that I hadn't any possible way of raising fifty thousand dollars in bail, I left town with my father and Mr. Davis.

Mr. McCarter: You have already told us all that.

Mr. Bourgeois: Won't you let him alone?

The Court: Yes, I think so.

Mr. Bourgeois: If your Honor please, I am trying to let him tell his story himself, not lead him along as he did the doctor, the Monsignor.

The Court: Proceed.

A. I then went up to Philadelphia, but just before I left I asked Mr. Scanlan to get in touch with Mr. Bourgeois and Judge Cole to find out what the trouble was, I went to Philadelphia, and from Philadelphia I went to New York.

Q. Did you ascertain, or did you learn what the trouble was?

A. I never did.

Q. Now how long did you stay in New York?

A. I stayed in New York about, I believe, in the neighborhood of two weeks.

Q. And while you were there did you have some

explanation or some message delivered to you about the matter?

A. I never did only that you and Judge Cole were trying to ascertain what the trouble was.

Q. Now, while you were in New York did some other person, did Mrs. Davis get in touch with you?

A. Yes, Mrs. Davis came over, I believe the Saturday before Decoration Day.

Q. While she was there what transpired?

A. Why she came over there on a Saturday, and she was very much concerned over Mr. Davis ——

Mr. McCarter: I object.

The Court: Yes, let it be stricken.

Q. She came over on Saturday, as the result of her coming over there what next happened, so far as you were concerned?

A. I understood—Mr. Scanlan called Mrs. Davis ——

Q. Just tell what Mrs. Davis did, not how she came to know about it. What did Mrs. Davis do so far as you were concerned?

A. Nothing to my recollection.

Q. What was said to you about on Sunday night or on Monday morning by Mrs. Davis?

Mr. McCarter: I don't think that is competent unless I go into it. I don't think he can say what Mrs. Davis told him.

The Court: Sustain the objection.

Q. Did Mrs. Davis have some conversation with you on that Sunday night that she was there?

A. Yes, she did.

Q. What time of the night?

A. About one o'clock.

Q. And as a result of that conversation did you do anything?

A. I went over to Philadelphia to a meeting with Mr. Davis.

Q. What was the object of that meeting as it was divulged to you?

Mr. McCarter: I object.

Mr. Bourgeois: If your Honor please, I don't care about the conversation, but he has a right to say what he was going for, so far as his part of it was concerned, what was the object of it.

The Court: That is not the question. Sustain the objection.

Q. What did you understand you were going over there for?

A. I understood I was going over to find out what the charges were that were brought against us.

Q. And who was going over?

A. Father Mellon and Mr. Dorrian.

Q. I didn't mean that. Who was going from New York?

A. My father, Mr. Davis, Mrs. Davis and myself.

Q. Whom were you going to meet?

A. Father Mellon and Mr. Dorrian.

Q. When you got there where were you to go?

A. The Vendig Hotel.

Q. And did you go there?

A. Yes.

Q. When you reached the Vendig Hotel whom did you see?

A. I saw Carlton Godfrey, Mr. Garrison, Mr. Hart, Mr. Mulhern, Father Mellon, Mr. Phillip Godfrey. That is all I can remember I saw.

Q. Now did you have any conversation with any of them or any of them with you or with anybody in your presence?

A. Well, when I met Father Mellon, my father was with me and Mr. Davis, and Father Mellon addressed Mr. Davis by saying, "I am sorry for you, Royden. They have got you and Mr. Williams for embezzlement and they have that young man for forgery for twenty years."

Q. Where was this conversation?

A. This conversation was just before going up in the room 101 Vendig Hotel.

Q. In the corridor?

A. In the corridor.

Q. Was it a corridor or a lobby, what was it?

A. Lobby. Down in the lobby.

Q. After that did you go up into the room?

A. Yes, went up into the room.

Q. Was anything said about your forgery consisted of at that time?

Mr. McCarter: One moment. Let him tell what it was.

The Court: Yes, sustain the objection.

A. Nothing was said at all.

Mr. McCarter: I think the conversation—well, I won't object to what Father Mellon said when he went around.

Q. And then you went up into the room?

A. Went up into the room, yes.

Q. When you got in the room who was there?

A. Carlton Godfrey, Phillip Godfrey, Mr. Garrison, Mr. Hart—no, Mr. Hart wasn't there the first day—Father Mellon, my father, Mr. Davis, Mrs. Davis and myself.

Q. Now, Mr. Williams, tell me, as well as you can, what took place at the various meetings, but, if you can't tell the particular meeting, why state the fact with regard to whether it is the first, second, third, or whatever meeting it was.

A. On the first day when Mr. Phillip Godfrey and Mr. Carlton Godfrey came in they had a bunch of papers with them.

Mr. McCarter: Speak a little louder.

A. And Phillip Godfrey took a paper out, took first one paper, it seems as though he was going through them quickly, took one of them out, and he said, "Secret profits, straw deals, forgeries."

Q. Where was Phillip at that time?

A. He was directly opposite me, and he was pushing them over and pulling them back. I never actually saw what they were. I believe they were settlement sheets, but I never saw what they were, and I objected to all this. I said, "This is too legal for us. We haven't our attorneys here. We haven't Mr. Bourgeois or Judge Cole here to represent us. This isn't the kind of a meeting that we expected," and Carlton Godfrey leaned over to me and he said, "You better keep quiet. We have you for twenty years for forgery," and I didn't say anything more, and Carlton Godfrey looked over to my father and he said, "What is the matter with me?"

Mr. McCarter: What?

A. He said, "What is the matter with me? I will be your attorney and you will see I will treat you fair." And my father said, "We have paid ten thousand dollars for lawyers and we must have them here." And he said, "I will tell you when to call your attorneys," and they went through all of these transactions, just reading off amounts, no names. As they were doing that, he said, "Secret profits, straw deals, forgeries." That was Phillip was saying most of that.

Mr. McCarter: Beg pardon?

A. Phillip Godfrey was saying most of that. And they arrived at an amount of around $190,000.

Q. How did they arrive at the amount, who was making the figures?

A. Phillip Godfrey was totalling them up. He passed them over to me but I couldn't count them up, I was too excited, too wrought up and scared to death. And they arrived at this amount and told us that Father Mellon, or somebody had an appointment for us to come back the next day, and when we came back the next day Mr. Hart and Mr. Mulhern came in, and Mr. Hart had a bundle of papers just like Phillip Godfrey, and he and Phillip Godfrey went through these papers and said practically the same thing, "Secret profits, straw deals, forgeries," and Mr. Hart looked over to my father and said, "What is this embezzlement, what is this check?" He didn't show him the check. He taken the check out, and pulled it back and I said, "This is all too legal for me. That is all too legal for me. I must have my attorney here," and Carlton Godfrey leaned over to me and says, "I will tell you when to call your attorneys." And they got this amount,

and they arrived at a total of around two hundred and thirteen thousand dollars. (Witness pauses.) And then Carlton Godfrey says, "I will prepare the agreement in rough, and take off the ragged edges, and then you can submit it to your attorneys, and if everything is all right, you can sign."

Q. That was the second day?

A. That was the second day, yes, and we were told to come back——but on that day Carlton Godfrey asked me where my securities were, and I said part of them were in New York and part of them were in California, and he wanted me to go over right away to New York and get them, but I wasn't able to go over and get them, I was too weak. I hadn't slept for about seventy-two hours, and I couldn't even hold milk on my stomach. I couldn't even drink anything, I was so sick, and he wanted to send a detective over with me, and then my father objected to that and he said I wasn't able to go over. He said, "Well then you bring over your mortgages tomorrow and I will have this agreement ready." On the following day ——

Q. Now when you said your securities were in New York and California, what did he say about that?

A. He didn't say anything that day. The next day. The next day, going into the meeting, they asked me if I had my mortgages and securities there.

Q. Who asked you that?

A. Carlton Godfrey, and I handed over to him what I had brought over from New York.

Mr. McCarter: Beg pardon?

A. I handed over to Carlton Godfrey what I had brought over from New York, and they both went

through them and Phillip Godfrey, after a little pow-wow with his father, told his father something, whatever it was, and his father came over to me and he said, "You told me that you had all of your securities over in New York." I said, "No, I only said I had part of them in New York and part of them in California." He said, "You are a liar." He said, "I have a good mind to call this whole thing off and take you all to jail," and Father Mellon was out of the room at that time, if I recall correctly, and I walked out and I told Father Mellon what Carlton Godfrey had said, and he went into the room, and came out in a few minutes over to me, that is Father Mellon did, and Father Mellon said to me, "You better go in there, they have got you for twenty years for forgery, you better go in and keep quiet." So I went into the room, and they went over this agreement, and as they were going over this agreement I said, "This is all too legal for me. I don't understand it at all, and I must have my attorneys here. They are over in the University Club, Mr. Bourgeois and Judge Cole are over in the University Club." And he said, Carlton Godfrey said, "It is too late now. You should have had them here before, and why didn't you say so before?" And Mrs. Davis jumped up and she said that Judge Cole and Mr. Bourgeois were right in the building, won't you please let us bring them in, and Mr. Garrison said to me, "You are too young a man to go to jail. You better sign this agreement and we won't prosecute you any more."

Mr. McCarter: Won't what?

A. Won't prosecute you. Carlton Godfrey, as Mrs. Davis was objecting to the way they were

handling us and the fact that they were going to submit the papers to our lawyers before we signed, and trying to hold them to their promise, and I also trying to hold them to their promise, he leaned over to Mrs. Davis, and tapped her on the hand ——

Q. Who did?

A. Carlton Godfrey did, leaned over and tapped her on the hand, and he said, "I am not here to advise you." He was looking at us all, "I am not here to advise you, but I advise you to sign, and the quicker you sign the paper the better for you." And right at that time Carlton Godfrey asked my father for ten thousand dollars that he had asked him previous to that as to what money, there was an arrangement as to what money they wanted, my father said, "All I have is ten thousand dollars," and he had it in his clothes, and he produced it there on Tuesday, and he told my father to put the money back in his pocket, to bring it the next day, on the Wednesday, and on the Wednesday he asked him again about the ten thousand dollars, and he said, "You better turn over that ten thousand dollars now to keep you out of jail."

Q. What did your father do?

A. He turned it over quickly.When we were still objecting about having our lawyers come in, Father Mellon walked into the room, he had gone out of the room just prior to that with Mr. Garrison, Mr. Dorrian, and Mr. Fahler, and Mr. — no, Mr. Godfrey was, if I remember correctly, was still in the room —I am not positive on that, but at any rate they all came in the room and Father Mellon stood at the head of the table and he said, "The Supreme Court Justice has sustained the capias," and with all the detectives around there and everything else, why I signed it.

Mr. McCarter: All what?

A. The detectives.

Q. What do you mean by the detectives?

A. They had the Pinkerton detectives following us all the time and they wanted to send a Pinkerton detective over to New York with me to get my securities.

Q. Did you see the detective they showed to you?

A. He was standing right outside the door, if I recall correctly.

Q. Did they point him out to you or anything of that sort? Did you know he was a detective?

A. Mr. Hart, if I recall correctly, was talking to him, and Mr. Davis went over to him ——

Mr. McCarter: One moment.

A. I was right alongside of Mr. Hart, and he was talking to this man, and Mr. Davis, I believe was—you see—Mrs. Davis came over with Father Mellon, and they were talking about calling off the detectives that were ——

Mr. McCarter: What?

A. Calling off the detectives that were trailing us.

Mr. McCarter: Tell us what was said.

A. She was asking Father Mellon to have these men call off the detectives that were trying to put Julia Coll in jail in Philadelphia.

Q. And what did Father Mellon say?

A. Father Mellon went over to Mr. Hart and asked him to call off the detectives.

Q. And what did Mr. Hart say, if you know?

A. Mr. Hart, if I recall, told this man to go down and call up the Pinkerton office in Philadelphia.

Q. Then after you had asked for your attorney and after Father Mellon had said that the Supreme Court had sustained the capias, what was done with the agreement?

A. Why, they took all the agreements.

Q. Was it then signed?

Mr. McCarter: I object.

(Question withdrawn.)

Q. When was the agreement signed?

A. Right after Father Mellon said the Supreme Court or the Supreme Court Justice had sustained the capiases.

Q. How many of them were signed?

A. I don't remember. I believe there were six.

Q. More than one?

A. Oh, there was about six or seven.

Q. Signed by each of you?

A. Signed by each of us.

Q. What became of those agreements?

A. Oh, they took them. I never saw them after that.

Q. Was any request made for them by any of you people?

A. They were to give us a copy of them.

Mr. McCarter: One moment.

The Court: Repeat the question.

(Question repeated.)

A. Yes.

Q. Who made the request?

A. I made the request.

Q. Did you get the copy?

A. I did not get the copy.

Q. What did they say about it?

A. They told me to come over the next day with the balance of my securities and they would give me a copy then.

Q. Now was anything said about the agreement not having been signed by all of them?

A. Just before the signing of all of the agreements the question of Gordon's signature was brought up but Carlton Godfrey said that you know this agreement isn't any good without Gordon signs, and he wanted ——

Mr. McCarter: I make the same objection to that evidence that I made to the other, to verbal evidence.

The Court: I will permit it. Answer.

A. ——and he discussed with my father about going out to California with him.

Q. What discussion?

A. He asked my father if it would be all right for him and Mr. Hart to go out to California with him and my father said, "No, certainly not, he wouldn't go out to California with him."

Q. There was something in that agreement about its being completed on the twentieth of June, I think it was, why, if you know, was that twentieth of June fixed?

A. That was the space of time which they were to allow in order to get Gordon's signature, they were

to go out to California during that space of time to get Gordon's signature.

Q. Was that the time that was originally talked about, or was that made shorter or longer than first spoken about?

A. I don't understand that question.

(Question repeated.)

A. Oh, that was made longer to give them plenty of time to go out and come back.

Q. What was the time first spoken of?

A. Oh, they wanted to give us about a week to produce the rest of the cash.

Q. Yes, but—I see—now, Mr. Williams, when you said to them that it was all too legal for you, what, if anything, did your father say?

A. My father, as Mr. Hart was going through these papers, picking out, saying, "Embezzlement, secret profits, straw deals, and forgeries," he said, "This is all Greek to me, I don't understand it."

Q. Did your father say that in connection with that, "It is all Greek to me, I don't understand it," did he say that his sons had been putting him in a hole or something of that sort?

A. He didn't say anything of the kind.

Q. I forget the exact expression the Reverend gentleman used, but something about he didn't know what his sons had been doing, they had been putting things over on him, was anything like that said?

A. Nothing like that was said because his sons had not put anything over on him.

Q. I don't care anything about that. I want to know if he said it? Now during the second or third day was anything said about Washington?

A. Well, on the third day, just before the sign-

ing of these agreements, Mr. Hart over here said, while we were asking for our attorneys, to be brought in, and objecting to their methods around there ——

Mr. McCarter: One moment. I don't think that is right "objecting to their methods."

The Court: No, what was said, not your conclusions.

A. He said, Mr. Hart said, "Shall we call off this settlement and get out those papers down in Washington?"

Q. Had you any knowledge of what the papers in Washington were?

A. I didn't know.

Q. Now do you recall if Mr. Garrison said anything to you about going through with this settlement and making some reference to Mr. Hart?

A. Oh, Mr. Garrison did say that, "You better go in and sign, as this man Hart is a firebrand, and I don't trust him."

Q. Now, Mr. Williams, what effect upon you did these threats of forgery and twenty years and embezzlement and secret profits and so on have?

Mr. McCarter: I object.

The Court: I will permit it.

A. I was so frightened I couldn't sleep nor eat, and I never did sleep nor eat, and I couldn't even, I was so scared I didn't know what was going to happen the next minute. I thought they were going to pick me up and take me down to jail, I didn't know what was going to happen.

Q. Now when you spoke about having your attorneys, and you didn't get them, why did you go on with the meeting, or why did you not insist on having them come in there?

A. I don't understand that question, Mr. Bourgeois.

(Question repeated.)

A. Why Mr. Carlton Godfrey said that he was going to get this agreement in the rough and take off all the ragged edges, and then he was going to submit to the lawyers before we signed.

Q. And when did you know for the first time that you were not going to be permitted to submit it to your lawyers before signing?

A. The last day.

Q. And that was the time when he told you it was too late?

A. Yes.

Q. Now you went over there for the purpose of finding out what the charges were against you?

Mr. McCarter: I object.

Q. You have testified to that.

Mr. McCarter: What is the use of saying it again, then?

The Court: Sustain the objection.

Mr. Bourgeois: I haven't finished the question yet. Strike that out and put a new one.

Q. You testified that you went over to Philadel-

phia at that meeting for the purpose of finding out what the charges were against you. Did you find out what those charges were?

A. Only thing that I found out was that Phillip Godfrey said, "This is a secret profit, this is a straw deal, this is a forgery, this is an embezzlement," that is the only thing. I never heard any names mentioned, just amounts were put down and totalled up.

Q. Now do you recall when the question of straw came up there was some discussion about it?

A. Yes.

Q. What was that?

A. Father Mellon asked what a straw was, and Carlton Godfrey gave him a definition of a straw.

Q. And after he gave him the definition of a straw did you attempt to do anything?

A. Yes, I attempted to tell Father Mellon that it was not dishonest to use straws, that everybody used straws.

Q. What was said to you and by whom?

A. Father Mellon told me to keep quiet, I didn't know what I was talking about.

Q. Now during this conference was anything said about this capias that was out against you?

A. Mrs. Davis and I were always asking about

Mr. McCarter: One moment.

The Court: No.

Mr. Bourgeois: What is it?

Mr. McCarter: Always asking.

The Court: Always asking, that is not the testimony.

Mr. McCarter: All the time.

Mr. Bourgeis: I think it would be so much better if he would just object than to make these side remarks for the purpose of disconcerting the witness, is all.

Mr. McCarter: I want the witness to testify as a witness. He is a pretty intelligent young man and he knows and you know.

The Court: There is no objection before the Court now. I have sustained the objection.

Q. You say Mrs. Davis and you?
A. Yes.
Q. What?
A. Were asking, we asked Mr. Garrison and Mr. Godfrey about the capiases, and she was asking Mr. Godfrey and Mr. Garrison about allowing Mr. Davis to come down to Atlantic City and they said no, "We can't allow him to go down to Atlantic City just yet."
Q. Now what was said about when he could go down? How was it going to be arranged? What was it?
A. Oh, Mr. Garrison, Mr. Carlton Godfrey wouldn't let Mr. Davis go down to Atlantic City, then after he had signed, when Mr. Garrison said, "It will be all right for Mr. Davis to go down providing he goes down with me. The sheriff is a personal friend of mine."
Q. Did Mr. Godfrey say when Mr. Davis or the others of you were going to be free to come down?
A. No, they didn't say.
Q. The agreement provided for that, I think.

Mr. McCarter: Agreement will speak for itself.

Q. Now, Mr. Williams, there has been some testimony here I think by Father Mellon about negotiations. Were there any negotiations in arriving at that agreement?

A. There were not any negotiations. They arrived at that amount themselves, $190,000.

Q. How did they arrive at it?

A. They went out in the hall and discussed it and came back and said they would take $190,000.

Q. In any of the other negotiations, the other conferences, was there any negotiations between you as to what you would do or what you wouldn't do or did they fix it?

A. They fixed everything, didn't have a chance.

Q. What did Dr. or Father Mellon arbitrate, if anything?

A. I can't recall that he arbitrated anything.

Q. What did he do while he was there?

A. Why he was reading his prayer book quite a bit of the time, and walking in and out of the room, talking to Mr. Dorrian and Mr. Fahler out in the hallway.

Q. Was any reference made by Mr. Godfrey or any of the others to Father Mellon about disturbing him reading his prayer book?

A. Oh, Phillip Godfrey leaned over to Father Mellon and said, "Doctor, are we disturbing you?" He said, "No," Father Mellon said, "No," he said, "nothing disturbs me while I read my prayer book."

Q. Mr. Williams, you testified something about a statement Mr. Garrison made about being too young a man to go to jail. What else did he say about that, if you recall?

A. Oh, he said that I had better sign, if I did sign they wouldn't prosecute me.

Q. And that you were too young a man to go to jail?

A. Yes, I was too young a man to go to jail.

Q. If these threats of jail had not been made to you would you have signed this agreement?

Mr. McCarter: I object to the question.

The Court: I will sustain the objection.

Q. Tell us what your mental condition was on the day you signed that agreement. Were you in fear or not in fear?

A. I was greatly in fear.

Q. And of what were you in fear?

A. I was in fear of them taking me and putting me in jail.

Q. Were you conscious of having done anything that was immoral that could send you to jail, should send you to jail?

A. I was not.

Q. Were you given any statement by them of the exact thing for which they were going to send you to jail?

A. I was not.

Q. Were you conscious of having done anything wrong that would form the basis of this capias that was out against you?

A. No, I was not.

Q. Did you understand why or how the capias was procured as against you?

A. No, I never did.

Q. Now there was a fourth day or rather after the third day where did you go after the meeting adjourned that broke up, that night of the third day, where did you go?

A. I stayed in Philadelphia.

Q. I know, but where did you go immediately after the meeting?

A. I went over to see you and Judge Cole.

Q. Where?

A. At the University Club.

Q. Who came with you?

A. Mr. Davis and Mrs. Davis came along but she was outside, they wouldn't allow her in.

Q. When you came there what took place?

Mr. McCarter: I object.

Q. I don't mean for you to tell what was said, but I want you to tell what took place?

A. Why ——

The Court: He can say he had an interview.

Mr. Bourgeois: That is what I mean, whether he related it?

A. I found out that the capias had not been sustained.

Q. Wait a minute. I didn't mean that. Did you have an interview with anybody?

A. Yes, I had an interview with you and Judge Cole.

Q. And did you relate to us what had taken place, the substance of it?

A. I did, yes.

Mr. McCarter: I don't think they ought to go into that conversation.

The Court: No.

Mr. Bourgeois: I am not going into any conversation.

The Court: I thought you already had.

Mr. Bourgeois: No, he says he related to us.

Q. Upon that were you given some advice?
A. Yes.
Q. As a result of that advice did you act upon it?
A. I did.
Q. When?
A. Immediately.
Q. What about—did the result of that advice have any effect upon your conduct for the next day's meeting?
A. Yes.
Q. You went to the meeting the next day?
A. I went to the meeting the next day.
Q. And what was done at that meeting—but were you advised you as to whether or not to go back to New York to get any further securities?
A. Yes.

Mr. McCarter: I object to that question.

The Court: I will permit whether he was advised but not what the advice was.

Q. Did you go back to New York?
A. No.
Q. Now tell me what took place at the next meeting, the fourth day?
A. The fourth day I went in that meeting and Carlton Godfrey was there, Phillip Godfrey, Mr. Dorrian, Mr. Fahler, Mr. Hart, Mr. Mulhern, and if

I recall correctly Mr. Mulhern, I am not positive Mr. Mulhern was there.

Q. Who is Mr. Mulhern?

The Court: Mr. Williams if you will only speak louder it will save me a great deal of strain. I have difficulty in hearing you. Your back is to me much of the time.

A. I will try to, your Honor. I went into that meeting the next day, as I said before, those people were there, Mr. Davis, Mrs. Davis, and myself, and Father Mellon, and I went in to make a request for a copy of the agreement, which they had agreed to give to me, and Carlton Godfrey said, "Where are the rest of the securities?" I said, "Mr. Godfrey, I would like to see a copy of that agreement." He said, he didn't answer me, he said, "Where are the rest of your securities? Have you brought them over from New York?" I said, "I want a copy of that agreement which you agreed to give me," and they again asked about my securities, had I brought them over, and I made that request again, and Carlton Godfrey turned around to me, and he said, "Do you want to go to jail?" He said, "Well, that is where I am going to put you." I turned around to Father Mellon, and said, "Did you hear that, Father Mellon?"

Q. This is the fourth day?

A. It was also the fourth day.

Q. Was Father Mellon there the fourth day?

A. Father Mellon was there on the fourth day. It was said on the third day and the fourth day. I said, "Did you hear that, Mr. Davis? Did you hear that, Mrs. Davis?" and they all said yes, and I walked out of the room and went downstairs, and I

had arranged to get a copy of that agreement, which they had promised to give me, to give to Mr. Stringer, and Mr. Stringer was downstairs and I told him ——

Mr. McCarter: I object.

The Court: Yes.

Q. What did you do?

A. I brought Mr. Stringer up and Father Mellon was out in the hall and I said, "Father Mellon, when I am sick I need a doctor, when I am legally sick I need a lawyer," and he said—"I want Mr. Stringer to come in here now and get this copy of the agreement," and he said, "No, we don't want Mr. Stringer in here now, you can't have Mr. Stringer in here now," and while I was talking with Father Mellon, Mr. Stringer went right into the room, and I walked in right after with Father Mellon.

Q. Now did you get the copy of the agreement?

A. I never got a copy of the agreement, no.

Q. Did Mr. Stringer get a copy of it for you?

A. Mr. Stringer went in and said he represented me and he asked Carlton Godfrey to hand over a copy of the agreement and Carlton Godfrey kept refusing and Mr. Stringer kept demanding that he turn over a copy of the agreement to me, and Mr. Stringer said to Carlton Godfrey, "If everything was open and above board you would give me a copy of the agreement," and all Carlton Godfrey would say, "I will not, I will not," and Phillip Godfrey said to Mr. Stringer, "You heard what my father said, you heard what my father said," and Mr. Stringer said to Phillip Godfrey, "Are you here act-

ing in a legal capacity, Mr. Phillip Godfrey?" and the father said to him, "Don't answer him, Phil, don't answer him."

Q. Now there was something said about your having discharged Mr. Stringer while you were there.

A. When Mr. Stringer went into the room as my attorney asking and demanding for a copy of the agreement, and they refused to give it to him, we went into a little room off the main room, down at the foot, or whatever it was, the bathroom, and he told me to dismiss him as my attorney, and I went out and dismissed Mr. Stringer as my attorney, and he asked for a copy, asked to see a copy of the agreement, and then Carlton Godfrey said to Father Mellon, "I will let you see a copy of the agreement, but I won't let Mr. Stringer see a copy of the agreement," and Mr. Stringer went out into the hallway with Father Mellon, and they came back and Mr. Stringer asked me if I would re-engage him again as my attorney, which I did, and he again demanded that Carlton Godfrey turn over to him a copy of that agreement, and Carlton Godfrey again refused, and Mr. Stringer said, if he said it once, he said it about ten times, and all Carlton Godfrey would say, "How about the rest of those securities? Are you going to turn them, or are you not going to turn over the rest of those securities?" And shortly after that they got up and left.

Q. What was it that was said about your having discharged Mr. Stringer as your attorney while you were in there?

A. What was said?

Mr. McCarter: He has stated it and then re-employed him.

The Court: He said he dismissed Stringer.

Cross-examination.

By Mr. McCarter:

Q. How soon, Mr. Trevor, after your graduation from the Atlantic City High School did you commence in the real estate business?

A. I never graduated from the Atlantic City High School, but I went into the real estate business in about, I believe around 1922.

Q. In association with Gordon Williams and Company?

A. Oh, no, I went to—I was first employed by Pedrick and Son, and then I went from there with Mr. Carroll.

Q. And when did you become employed by Gordon Williams and Company?

Mr. Bourgeois: If the Court please, there is no evidence he ever was employed by Gordon Williams.

Mr. McCarter: He said salesman, selling lots for them, selling lots for them.

Mr. Bourgeois: There is no evidence he was.

The Court: I will permit the question. He was not employed by salary, he was a salesman for them, according to the testimony, don't know what the facts were.

Q. You said you were a salesman for Gordon Williams and Company?

A. That is correct, yes.

Q. Did you do that for love?

A. No, I did it for what commissions I could make.

Q. Did you sell some of the Rel Rey property?

A. Yes.

Q. And received a commission for it?

A. Yes.

Q. How long a time did you act in the capacity of selling property and receiving a commission, selling property for Gordon Williams and Company and receiving a commission?

A. How long?

(Question repeated.)

A. I believe was about three or four years.

Q. Commencing as nearly as you can recall?

A. 1924 I think I went to work for Gordon Williams and Company.

Q. And they at that time, of course, had not become interested in Del Rey?

A. 1924? No, they were selling Granada Gables.

Q. Beg pardon?

A. They were selling Granada Gables then.

Q. Keep your voice up. When did you, to your knowledge, when did they first become interested in the sale of property at Del Rey?

A. Oh, it was along about January or February, if I recall correctly, 1926.

Q. You knew of the so-called exclusive agency contract?

A. I went down to get ——

Q. Will you answer my question?

A. Yes, I did.

Q. You did?

A. Yes.

Q. And after that you sold Del Rey lots?

A. Yes.

Q. And you knew generally that the firm, that is

Gordon Williams and Company, either through yourself or through some agents or through their own agents, sold a considerable quantity of this Del Rey property, didn't you?

A. Yes.

Q. Aggregating in purchase price a million dollars?

A. Yes, I believe they said they sold around a million dollars' worth.

Q. Now were you engaged in selling property for any other ——

Mr. Bourgeois: This is not cross-examination of anything.

Mr. McCarter: I haven't finished my question.

The Court: I will have to hear the question.

Q. Were you engaged in selling property for any other concern between 1924 until the end of 1926 except Gordon Williams and Company?

A. I don't say to my best recollection, I don't believe so, I think it was around that time.

Q. Now your father and your brother were officers and actively engaged in prosecuting the business of Gordon Williams and Company, and particularly the so-called exclusive agency contract, were they not?

A. I knew that my father and Mr. Davis and Gordon were interested in selling that development.

Q. And they had an office and were at that office, and were transacting business in connection with that matter?

Mr. Bourgeois: That is objected to as irrelevant and not cross-examination.

(Question repeated.)

A. Yes.

Q. Are you hard of hearing?

A. No.

Q. Now with whom, connected with the firm or the company of Gordon Williams and Company, had you arranged that while you were their agent to sell you could also personally speculate?

A. Who had I arranged? I had arranged with my father, father and my brother Gordon.

Q. When did you make that arrangement?

A. Before I went with them.

Q. When you went with them, how old were you?

A. I must have been around twenty-one, twenty-one or twenty-two.

Q. Can't you tell us?

A. I just don't recall, around twenty-one.

Q. Had you at that time any capital?

A. Yes, I did.

Q. How much?

A. Oh, I had about seven or eight thousand dollars.

Q. Of your own?

A. Of my own.

Q. That you had made or inherited?

A. That I had made.

Q. In speculating?

A. Speculating.

Q. In real estate?

A. In real estate.

Q. Before twenty-one?

A. Before I was twenty-one.

Q. Beg pardon?

A. Yes, before I went to work with Gordon Williams and Company I had about that much money, around seven thousand dollars.

Q. All right, let's get this in. When did you go to work for Gordon Williams and Company, don't let's have any doubts about it?

A. I am trying to recall, Mr. McCarter, I think it is around 1924.

Q. Now you are a year later than you were a moment ago. Let's see if you can't tell us when you went to work for Gordon Williams and Company?

A. I said I think it was around 1924.

Q. Can't you give us more definite than that?

A. I really couldn't say. I think it was about three or four years that I went to work for Gordon Williams.

Q. Was it a matter of any importance to you to have a contract with Gordon Williams and Company who were selling property that within a year or so I think they sold a million dollars' worth? To have a contract with them, was that of any importance?

Mr. Bourgeois: There is no evidence he has a contract.

The Court: Sustain the objection.

A. Oh, I never had any contract.

Mr. Bourgeois: Never mind.

Q. Didn't you have an arrangement to get a commission?

A. No.

Q. What?

A. I had an arrangement to get commissions.

Q. Not a contract?

A. A contract? I was supposed to get ——

Q. What commission did you get?

A. I got fifty per cent of the commission that they got when I sold property.

Q. Exactly. When did you make that arrangement that you should get fifty per cent of the commission that they made for sales of Del Rey lots?

A. I didn't make that arrangement, Mr. McCarter. They made that arrangement.

Q. You agreed to it?

A. Yes.

Q. When was it done?

A. When I went to work for them.

Q. When was that?

A. I tell you my best recollection it was in 1924 I went to work for them.

Q. What month?

A. I believe it was in the fall of 1924.

Q. How old were you at that time?

A. I guess I was around twenty-one.

Q. Do you remember when you were born?

A. Yes, 1903.

Q. You were born in 1903?

A. Yes.

Q. So that you were twenty-one?

A. Yes.

Q. Now at that time when you were just twenty-one you had already accumulated from your own efforts seven thousand dollars?

A. Yes.

Q. Well, where were you living?

A. When, Mr. McCarter?

Q. At the time you were doing what I have just described?

A. I was living at home.

Q. At home?

A. Yes.

Q. And where was that home?

A. 5 North Sacramento Avenue, Ventnor.
Q. Did your father and mother live there?
A. Yes.
Q. Very nice home?
A. Yes.
Q. Who lived there besides you?
A. Brother Gordon, another brother Vernon.
Q. Another brother Vernon?
A. Yes, my mother and father.
Q. Now you spoke of having returned from California, when had you gone to California?
A. I had gone to California the middle of March.
Q. And you returned the fourteenth of May?
A. Yes, with my father.
Q. Had your brother Gordon gone to California?

Mr. Bourgeois: I object as not cross-examination.

Mr. McCarter: What?

Mr. Bourgeois: It is not cross-examination.

The Court: I will permit it.

Q. Had your brother Gordon gone to California?
A. Yes, my brother Gordon had gone.
Q. Had your father gone to California?
A. Yes.
Q. Had your mother gone to California?
A. Yes, for her health.
Q. Yes, don't forget the health.
A. I couldn't forget it, Mr. McCarter.
Q. Had the furniture from the house been moved to California?
A. My mother ——
Q. Had the furniture from the house?

A. Yes.

Q. Had the house been closed up?

A. Yes.

Q. Had all the automobiles that you all had in Atlantic City been moved to California?

Mr. Bourgeois: I object as not cross-examination.

The Court: Sustain the objection.

Q. Well now you came back on the fourteenth you said with your father?

A. Fourteenth of May, yes, Mr. McCarter.

Q. Had you heard from Mr. Davis shortly before coming back?

A. I had not heard from Mr. Davis, no.

Q. Had your father heard from Mr. Davis shortly before coming back?

A. Yes.

Q. By telephone or by telegraph?

A. Mr. Davis called my father on the phone.

Q. Do you remember when that was?

A. Before coming back from California.

Q. I know, how long before?

A. I really couldn't say.

Q. What?

A. I don't remember.

Q. You don't remember?

A. I don't remember, Mr. McCarter.

Q. Mr. Davis called your father on the long-distance telephone from Atlantic City to Los Angeles, California, before you came back with your father?

A. Yes, he called him on the phone.

(Question repeated.)

Q. And told your father he had better come east, didn't he?

A. I don't know what he said to my father.
Q. What?
A. Yes.
Q. Instead of coming back on the twenty-fifth from California, left enough earlier to have arrived here on the fourteenth?
A. I don't know what the result of that was. I knew that I was coming back to Altantic City.
Q. Never mind what you knew you were going to do. I am asking if you will just answer the question I have put to you.

The Court: Just repeat the question.

(Question repeated.)

A. No.
Q. You don't know that?
A. No.
Q. When had it been arranged that Davis and Scanlan should meet you at North Philadelphia with an automobile?
A. Father ——
Q. When had it been arranged?
A. In Chicago.
Q. By telephone?
A. Father sent Mr. Davis a telegram.
Q. By telephone?
A. Telegram.
Q. Sent you a telegram?
A. He sent Davis.
Q. A telegram?
A. Yes.
Q. Were telephones exchanged between Davis and your party en route from California?
A. I don't know.

Q. What?

A. I don't know.

Q. And coming down from North Philadelphia to Mr. Davis' house I suppose you talked?

A. Oh, yes.

Q. Mr. Davis tell you coming down that Mr. Smith had said, told Dorrian of the profit that had been made on the so-called Smith deal?

A. No.

Q. Not a word?

A. Not a word.

Q. What?

A. Not a word.

Q. Look at me. You say he never said a word about that?

A. I say he never said a word about that.

Q. Did Davis tell you that during your absence he had been in consultation with Mr. Carlton Godfrey?

A. No, Mr. Davis ——

Q. One moment—for the purpose, if possible, of bringing to an end the so-called agency contract because of the absence of you all?

A. No.

Q. Nothing of the kind?

A. Nothing at all.

Q. Nothing?

A. Nothing.

Q. Didn't tell you anything of that kind?

A. Nothing.

Q. Was the fact that Davis had telephoned to Los Angeles mentioned coming down?

A. Why he had phoned?

Q. Yes.

A. Nothing was said to me why he had phoned.

Q. I didn't say whether it was said to you, was that fact spoken of on this trip down?

A. If it was spoken I never heard it.
Q. What sort of an automobile was this?
A. A Cadillac, seven passenger.
Q. Seven passenger Cadillac?
A. Yes.
Q. How were you fixed in the car?
A. I was sitting in the back and my father was sitting up front with Mr. Davis.
Q. Who sat with you?
A. Mr. Scanlan.

Mr. Bourgeois: Closed car?

A. Yes, closed car.
Q. Who was driving?
A. Mr. Davis.
Q. Was the fact that your father and Mr. Davis had been served in California with a notice of the stockholders' meeting—was the fact that your father——

Mr. Bourgeois: That is not cross-examination.

The Court: I will hear it.

Mr. McCarter: Scratch out the question.

Q. Was the fact that your father had been served in California with a notice of a meeting of the stockholders of Williams and Davis, Inc., spoken of on this trip?

Mr. Bourgeois: I object. That is not cross-examination.

The Court: I will permit it.

A. I didn't know that my father was served with any papers at all.

The Court: That is not the question.

(Question repeated.)

A. No.

Q. It was not mentioned?

A. No.

Q. By the way, what business were you engaged in in California?

A. I wasn't engaged in any business. I was visiting my mother.

Q. You had no business whatever?

A. No business whatever.

Q. What business was Gordon engaged in?

Mr. Bourgeois: Objected to as not cross-examination.

The Court: I will sustain the objection.

Q. Well, you reached Mr. Davis' house and were taking lunch with him?

A. Yes, sir.

Q. Now, Mr. Trevor, I want to ask you solemnly and I want an intelligent, thoughtful reply, if you mean to say that before Scanlan spoke of an attachment, that so far as you were concerned you were utterly ignorant of any investigation that was going on or complaint that was being made or any questionings that were in the air by either Davis or by Connie Dorrian in connection with the management of this business?

A. I was entirely ignorant of it.

Q. Entirely ignorant?

A. Entirely ignorant of it.

Q. You came all the way east with your father, didn't you?

A. Yes.

Q. Nobody else in the party?

A. Just my father and myself.

Q. Now did you go to New York that Saturday night, or did you stay elsewhere?

A. I went to Philadelphia that Saturday night.

Q. When did you go to New York?

A. The next day.

Q. Did you personally communicate, yourself, with anybody in Atlantic City for the fortnight that you were in New York?

A. No.

Q. Not a soul?

A. Not a soul.

Q. Was it because you were afraid your whereabouts would be ascertained that you did not?

A. Yes.

Q. You had a telephone in your apartment there, did you not, at the hotel?

A. Yes.

Q. Do you remember on one occasion, I think it was a Sunday night, that your father and Mr. and Mrs. Davis going to some drug store and Mrs. Davis telephoning Atlantic City?

A. I think Mrs. Davis was mistaken about me being present.

Q. I ask you if you remember?

A. I don't recall being there.

Q. When did you first learn that your lawyers had made a motion to quash the capias?

A. When Mr. Stringer came over to New York and told me.

Q. That is what I am getting at. What did he tell you?

A. Mr. Stringer told me that they could not find out what the charges were, that they were trying to ascertain what the charges were.

Q. And he told you that they had commenced proceedings to quash them?

A. He told me that they had been in court but I don't understand any of that at all.

Q. He told you that a motion had been made to quash the writ because the lawyers did not think that the proceedings were sufficient, or words to that effect, didn't he?

A. Mr. Stringer never told me anything about that.

Q. Beg pardon?

A. What he told me was that they had tried to ascertain what the charges were and that they were unable to do so.

Q. Why did you tell me a moment ago that you first learned that your lawyers had made a motion to quash the indictment when Mr. Stringer came to New York?

A. I didn't tell you that.

Q. You didn't?

A. I told you that he said they had been in court.

Q. Well, the record will speak for itself on that. They had been in court.

A. Yes.

Q. Did he say where?

A. No.

Q. Say before whom?

A. No.

Q. How did Stringer learn where you were?

A. Mr. Scanlan told him.

Q. How did she know?

A. Mr. Scanlan told him.
Q. Told her?
A. I say Mr. Scanlan told Mr. Stringer.
Q. How did he know, Scanlan?
A. I believe Mrs. Davis told him.
Q. How often was Stringer in New York?
A. On two or three occasions.
Q. That was between what dates?
A. Just prior to this particular going over to Philadelphia to meet him.
Q. You know he didn't come on two or three occasions just the last two or three days, did he?
A. Yes.
Q. He was there the occasion that you spoke of when you went to Philadelphia there Decoration Day, May thirtieth, and you knew on late Sunday night on May twenty-ninth that you were to go over to Philadelphia, now how long before that was Stringer's last visit to New York? He wasn't there Sunday, was he?
A. My best recollection about a week.
Q. About a week?
A. About a week.
Q. Wasn't it on that occasion that he told you that the lawyers had the matter in court?
A. He told me, yes, he told me they had been in court.
Q. Now how long before that occasion had Stringer been over?
A. They came over in about two days prior to that.
Q. Two days prior to that? How long before that?
A. His visits were all close together.
Q. I know, but how long?
A. I think it was the day before.

Q. The day before?

A. Yes.

Q. He came on each occasion all the way from Atlantic City?

A. Yes, that is what he said.

Q. To 71st Street, New York?

A. Yes, that is what he said.

Q. What?

A. That is what he said, came from Atlantic City.

Q. Well, talk of business?

A. He asked ——

Q. Did you talk any business?

A. I asked him what the trouble was.

Q. I didn't ask you what you asked him. I asked you if you talked business with Stringer on any of those occasions?

A. No.

Q. Nothing at all?

A. I asked what the trouble was and he couldn't find out what the trouble was.

Q. Didn't Stringer tell you that a motion, notice of a motion had been made to get rid of the capias because it was improperly granted, being there wasn't sufficient facts in the affidavit on which to issue it?

A. No.

Q. Simply told you there had been some court motion?

A. He told me that Mr. Bourgeois and Judge Cole had been in court.

Q. In reference to this matter?

A. Oh, yes.

Q. It wasn't about some other matter?

A. No.

Q. They had been in court on this matter?

A. This matter.

Q. Well, did he remain with you the full day on each occasions?

A. Mr. Stringer came over in the evening, on one occasion he came back to Atlantic City and the other two occasions I think he stayed all night.

Q. Now at this time when you went away to California was your own automobile taken?

Mr. Bourgeois: Objected to as irrelevant and immaterial.

The Court: I will permit it.

A. Yes.

Q. Did you bring it back with you?

A. Yes.

Q. When?

A. That car was shipped either the same day that I left, or the day before, right in that neighborhood, either two or three days before or the day afterwards.

Q. When did it reach here?

A. It did not reach Atlantic City.

Q. Where did it reach?

A. New York.

Q. New York?

A. Yes. I had it diverted to New York.

Q. When did you have it diverted to New York?

A. When I was over in New York.

Q. Now what time was it that you personally learned of your projected trip to Philadelphia at the Vendig Hotel on Decoration Day?

A. When Mrs. Davis told me about one in the morning.

Q. I am asking you when that was.

A. About one o'clock in the morning.

Q. Were you in bed?
A. Yes.
Q. She woke you up?
A. She didn't wake me up. I couldn't sleep.
Q. You couldn't sleep at all?
A. No, I wasn't sleeping.
Q. I think you said you didn't sleep for 72 hours?
A. Seventy-two hours is right.
Q. You didn't sleep?
A. I didn't sleep.
Q. When did that sleeplessness commence?
A. Well, it was after I had seen Mr. Bourgeois and Judge Cole—I was able to sleep after I had seen them—it commenced more or less after I found out the capiases and the attachment suits were out against me.
Q. Well, you have spoken of sleeplessness for 72 hours, when did the sleeplessness, not more or less, but absolute lack of sleep commence?
A. At the time of these meetings.
Q. Then you were able to sleep in New York?
A. I wasn't able to sleep.
Q. Beg pardon?
A. No, I was sleeping, but I wasn't sleeping very much.
Q. For two weeks you didn't sleep?
A. I slept, but I didn't sleep very much.
Q. Won't you tell me what the definition is between sleeping and not sleeping very much?
A. Sleeping spasmodically.
Q. Did you eat anything during those two weeks?
A. I ate very little.
Q. You were worried?
A. Yes, I lost 15 pounds.
Q. Ever recover it?
A. Not quite. I am still ten pounds the loser.

Q. Well, you have told us that you were entirely innocent, hadn't any idea what it was all about, that you were quite unconscious of having done anything wrong. Won't you tell me what you were unable to sleep, why you were unable to sleep, why you were unable to eat?

A. Morally I knew I hadn't done anything wrong, but I wanted to find out what was wrong.

Q. Do you think that answers my question?

A. I don't know whether it does or not.

(Previous question repeated.)

A. Because I was under threat of arrest.

Q. Well, was your father lying awake in the same room with you that Sunday night, or did he have another room?

A. Father was in the same room with me.

Q. Did you wake him up?

A. No, I didn't wake him up. He was up.

Q. He was up?

A. Yes.

Q. He was up at one o'clock?

A. Yes, sir.

Q. Well, was it he that told you or Mrs. Davis told you that you were to go over the next day?

A. Mrs. Davis.

Q. She came in the room?

A. No, we heard the phone ring.

Q. Beg pardon?

A. I say we heard the phone ring. The phone was in Mrs. Davis' room.

Q. I understand, you were in bed?

A. Yes.

Q. I am trying to get at the procedure by which this information was conveyed to you and your

father, as you say, for the first time about this performance?

A. We heard the phone ring, I went in to see what the phone should be ringing for around one o'clock in the morning.

Q. In her room?

A. Yes.

Q. You went in?

A. I went in.

Q. You said that before.

A. And my father.

Q. Were you in your night clothes?

A. Yes.

Q. And because you heard the phone ring in Mr. and Mrs. Davis' bedroom you in your night clothes went into Mr. and Mrs. Davis' bedroom to find out what on earth the telephone was ringing for?

A. That is right.

Q. Is that right?

A. Yes.

Q. Hadn't any idea?

A. No, I didn't.

Q. You weren't expecting any message?

A. I was not.

Q. And your father went, too?

A. Oh, yes.

Q. Was he in his night clothes?

A. He was in his pajamas, yes.

Q. And Mr. and Mrs. Davis undressed?

A. They were in their night clothes.

Q. And they let you in?

A. I rapped and went in.

Q. Pardon me?

A. I went in.

Q. Did your father go in?

A. Yes.

Q. That was about one o'clock?

A. About one o'clock.

Q. What did Mrs. Davis tell you?

A. She told me that Mr. Scanlan had called and said that we were to meet Father Mellon and Mr. Dorrian over in Philadelphia at the Vendig Hotel the next day to find out what the charges were against us, and that Mr. Scanlan had said if we didn't come over they were going to indict us and bring us back.

Q. Did you know Father Mellon?

A. No.

Q. You knew Mr. Dorrian?

A. Yes.

Q. You knew his relations to Gordon Williams and Company and to the Williams and Davis, Inc.?

A. Yes.

Q. You were familiar with the fact that whatever cash capital had been or was being employed by Williams and Davis, Inc., was supplied by Dorrian and Fahler, did you not?

Mr. Bourgeois: Objected to as not cross-examination.

The Court: I don't think it is cross-examination. Sustain the objection.

Q. Well, did you—were you surprised to hear that Mr. Dorrian was going to meet you?

A. I was.

Q. And what did you think Father Mellon had to do with it?

A. I didn't know what he had to do with it. I never knew him.

Q. Didn't know what he had to do with it?

A. I never knew him.

Q. Had you ever heard of him?

A. No, never heard of him.

Q. Never heard of him?

A. Never heard of him.

Q. That was all the information that was vouchsafed to you?

A. That was all.

Q. Did your father tell you that he had been Davis and his wife at a drug store that afternoon, and that Mrs. Davis had gone in and telephoned to Scanlan or someone about Father Mellon?

A. No, they told me that they had been to a phone and had called Mr. Scanlan and asked him if he had any news for them.

Q. Your answer to my question is no then, is that right?

A. No.

Q. What?

A. Repeat the question. No.

Q. If you said no, why did you lean over and ask for the question?

(Question repeated.)

A. No.

Q. He didn't tell you that?

A. No.

Q. Did Mrs. Davis tell you that she had spent the better part of the day on the phone with directions to have Father Mellon call as soon as he came in or words to that effect?

A. No.

Q. Didn't say a word?

A. No.

Q. So that at this midnight conference, what may

be called, if I may so frame it, a pajama party, you having gotten the information that you have disclosed, then and there determined to go to Philadelphia the next day with your father to see Father Mellon and Mr. Dorrian?

A. Yes.

Q. Without any further explanation?

A. Yes.

Q. And you went over?

A. Yes, I went over.

Q. Did Davis go with you?

A. Mr. Davis and Mrs. Davis and my father and myself.

Q. Nothing was said on the way over as to how Father Mellon had gotten into this thing?

A. No.

Q. Not a word?

A. Not to me.

Q. Well, in your presence?

A. Not in my presence.

Q. You had no curiosity to ask?

A. I never sat with Mr. Davis or Mrs. Davis on the train. I sat with my father.

Q. Did you separate?

A. Going over?

Q. Yes.

A. They were sitting ahead of us.

Q. Beg pardon?

A. We were all together but they were sitting ahead of us.

Q. Seat in front of you?

A. Yes.

Q. You talked?

A. Oh, yes.

Q. Never had curiosity to inquire who Father Mellon was and why you were going to see him?

A. Only Mrs. Davis said that Father Mellon was a friend of hers.

Q. Did she tell you he was a Catholic priest in Philadelphia?

A. Yes.

Q. Connected with the Cathedral?

A. No.

Q. Old friend of hers?

A. She said that she had known Father Mellon all her life.

Q. Did she tell you that he was a Catholic priest in Philadelphia?

A. Yes.

Q. Did it occur to you to be somewhat strange that a Catholic priest in Philadelphia would be able to give you information as to what was going on down here in court on a capias?

A. It did.

Q. It did?

A. Yes.

Q. And you never inquired about it?

A. No.

Q. What?

A. I thought he was a friend of Mr. Dorrian's.

Q. Mrs. Davis had already told you that he was a very intimate friend of hers and known her from childhood?

A. Mrs. Davis told me that she had known him all her life, I believe.

Q. And notwithstanding that you thought that this man was coming as a friend of Dorrian's?

A. Coming as the friend of Dorrian's.

Q. Of Dorrian's?

A. That was my understanding of it.

Q. Who told you that?

A. Mrs. Davis told me that he was coming with Mr. Dorrian.

Q. You just said that Mrs. Davis told you that he was coming as a friend of Dorrian's?

A. Yes.

Q. Did she tell you that?

A. Yes.

Q. When did she tell you that?

A. Oh, I don't know when, might have been on the train.

Q. Then you did discuss it on the train?

A. Discussed Father Mellon, yes, because, as I said before, he had known her all of his life.

Q. Very good. Well, now you didn't see Mr. Bourgeois, I believe, until the evening of the third day?

A. That is right.

Q. That is correct, isn't it?

A. Yes.

Q. Had you ever been to the Vendig Hotel before?

A. Never.

Q. Did you know where it was?

A. No.

Q. Did the midnight telephone at the pajama party ——

The Court: I think that—let that be stricken out.

Q. ——at the bedroom of Mr. and Mrs. Davis describe where the Vendig was?

Mr. Bourgeois: If it is stricken out, how much is in?

The Court: Just the pajamas party.

A. Oh, I think there was a discussion about where

the Vendig Hotel was and nobody really seemed to know where the Vendig Hotel was, other than it was close to Broad Street station.

Q. When you got there at the Vendig, you met Father Mellon downstairs?

A. Yes.

Q. Who introduced you to him?

A. I don't recall—Mrs. Davis, I don't recall, Mrs. Davis or Mr. Davis. Mrs. Davis I think it was.

Q. Mrs. Davis?

A. Yes.

Q. Who was present at that time?

A. Father and Mr. Davis and Mrs. Davis and myself.

Q. Was that meeting in the hotel or on the sidewalk?

A. It was in the lobby of the hotel.

Q. In the lobby?

A. Yes.

Q. And it was then, that is before you had met any of the other parties at all, wasn't it?

A. No.

Q. What?

A. No, the parties had arrived, Father Mellon had come later.

Q. Where were the others at the time we are now speaking of, when Mr. Williams, your father, and Mr. and Mrs. Davis and Father Mellon had a conversation, where were the rest of them?

A. Some of them were outside and some were in the lobby.

Q. But you four were apart?

A. Yes.

Q. And it was while that situation existed that Father Mellon made the remark, "I am sorry for you, Royden, they have"—something or other

against you about embezzlement, forgery, something of that kind, was that the time he said it?

A. Yes.

Q. Now, do you recall at that interview Father Mellon made a preliminary statement ——

A. Yes.

Q. ——Of his, concerning his presence there and all that kind of business?

A. Yes.

Q. And was that the first time that you learned the facts as he recited them?

A. He didn't recite any facts.

Q. He didn't say how he happened to get into this thing?

A. Yes.

Q. And he didn't say that because of his being, his services being enlisted he had concluded to come and see if he could settle this matter or arbitrate it or words to that effect?

A. Something to that effect.

Q. Something of that kind?

A. Yes.

Q. So that you knew, you now say, that you knew before any meeting was commenced that Father Mellon was there with the purpose or object, if possible, of arbitrating the differences that existed between the Dorrian and Fahler on the one side and your side on the other?

A. Something to that effect.

Q. And you knew it?

A. Yes.

Q. Well, having said, whatever he did say, didn't he turn to one of the Messrs. Godfrey and ask what their complaints were?

A. No, he didn't do that.

Q. He didn't?

A. No.

Q. But at any rate, Phillip Godfrey, the young man, undertook to recite certain grievances or charges, did he not?

A. No.

Q. Did he mention the question at all?

A. No.

Q. Did he mention it? Sure about that?

A. He didn't mention any deals.

Q. Then Mr. Scanlan was quite mistaken about the matter, was he, in his testimony?

A. Mr. Scanlan might have heard him say something about secret profits, straw deals and forgeries, and about amounts.

Q. One moment. Answer my question. Mr. Scanlan then was mistaken?

Mr. Bourgeois: I object.

The Court: Sustain the objection.

Q. Do I understand you to say that Mr. Phillip Godfrey did not mention the so-called Somers Point transaction in which it was claimed that $4500 secret profit had been made by you, your father, and Gordon and Mr. Davis?

A. No, he didn't mention it.

Q. Nothing of the kind?

A. Nothing of the kind.

Q. Did Mr. Phillip Godfrey mention some figures?

A. Oh, yes.

Q. And he just said certain figures without saying what they were, or what they represented, or what was behind them, just this figure and that figure, and the other figures, and they make so much, that was all Phillip did?

A. He went over his settlement sheets, which it appeared to be, and that is the way he arrived at those amounts.

Q. Well, do you recall that he at first had made a calculation of the result of the amount of those figures, and he handed over to you the figures for your verification?

A. He handed me some figures to add up, but I wasn't fit to add them up, and he told Mr. Scanlan to add them up.

Q. One moment. How long a column of figures was that that you were not able to add up?

A. Oh, it was a column about that long, a whole sheet.

Q. What?

A. A long sheet.

Q. Are you pretty good at figures?

A. What?

Q. Are you pretty good at figures?

A. Fairly good.

Q. Didn't undertake to add it up?

A. I wasn't able to add it up.

Q. You didn't undertake to add it up?

A. No, I didn't.

Q. You handed it to Scanlan?

A. I didn't hand it to Scanlan. He handed it to Scanlan.

Q. He handed it to Scanlan?

A. Yes.

Q. After you declined to add it up he handed it to Scanlan?

A. I didn't decline to add it up.

Q. What did you do?

A. I said I wasn't able to add it up.

Q. Mind wouldn't work?

A. That is the way it was, my mind wouldn't work.

Q. And that condition was brought about by what?

A. By the threats that they were going to put me in jail.

Q. Wasn't brought about at all by the consciousness that you had learned, that they had told you and the others that morning of these four transactions, namely the Roberts, the Smith and Russell, the Ryon and the County matters?

A. No, because they hadn't told us that.

Q. Never mind because. You knew of the Roberts transaction, that is you knew that a man by the name of Roberts had made an agreement to sell, which had resulted in the purchase by Williams and Davis of a contract known as the Roberts contract, didn't you? You knew that?

A. I knew that I had bought a piece of property belonging to Roberts.

Q. Then you knew what the Roberts transaction was?

A. That name wasn't mentioned.

Q. Then you knew what the Roberts transaction was?

A. I knew what a Roberts contract was, yes.

Q. You knew what the Smith and Russell transaction was?

A. Yes.

Q. You knew what the Ryon transaction was?

A. Yes.

Q. You knew what the County transaction was?

A. Yes.

Q. You knew, as a matter of fact, that Williams and Davis, Inc., had paid the county three thousand dollars, I mean the county had been paid three thousand dollars for the county tract, and that a check had been drawn by Williams for $7500, didn't you?

A. I did not.
Q. You didn't know that?
A. I did not.
Q. And you didn't know that you and Davis and your father and Gordon had divided the difference between three thousand and seventy-five hundred?
A. I knew I hadn't any interest in that.

The Court: Repeat the question.

A. My answer is no.
Q. You hadn't any interest in that?
A. No.
Q. You knew that?
A. Yes.
Q. And you hadn't ever received a quarter of the difference of three thousand and seventy-five hundred?
A. No.
Q. Never?
A. No.
Q. Sure about that?
A. I am positive.
Q. Well, in the Ryon matter, did you have any interest in that?
A. Yes.

Mr. Bourgeois: I object. That is not cross-examination, if your Honor please.

The Court: I will permit it.

Q. What interest had you in that?
A. I bought that Ryon piece.
Q. You bought it?
A. Yes.

Q. Personally?

A. Yes.

Q. When did you buy it?

A. I bought that in May, if I recall correctly, 1926.

Q. What year?

A. 1926.

Q. 1926?

A. Yes.

Q. Of Mr. Ryon?

A. Yes, of Mr. Ryon.

Q. And you paid Ryon ten thousand dollars?

A. That is right.

Q. Your own money?

A. I have been trying ever since to find out ——

Q. I ask you whether your own money?

A. I can't recall whether I paid cash or check for it. I haven't been able to find my check for it.

Q. Your own money?

A. My own money, yes.

Q. You turned to Mr. Bourgeois and heard him say something, and you now say it is your own money?

A. Yes.

Q. How is it you have been trying ever since this matter has come up to remember about that and didn't remember until you heard what Mr. Bourgeois said just then, and then you suddenly remembered it was your money?

Mr. Bourgeois: Now, he didn't say that, not after he had been to see me.

The Court: I will sustain the objection.

Mr. Bourgeois: He hasn't said he has been trying ever since to remember that.

Q. Did you try to find the check?
A. Indeed I did.
Q. You can't find it?
A. No.
Q. Do you keep your checks?
A. Yes, I keep a great portion of them, but I keep them loosely around.
Q. Williams and Davis paid twenty-five thousand dollars for that property, didn't they?
A. Yes.
Q. And you got a quarter of the difference?
A. I got all of it.
Q. You got all of it?
A. Indeed I did.
Q. Beg pardon?
A. Yes.
Q. And didn't you divide the difference between yourself and the three other gentlemen?
A. I did not.
Q. Never?
A. Never.
Q. None of them ever received a cent of it?
A. None of them ever received a penny of it except a commission of $500.
Q. Did you read the answer and counter-claim in this case before it was filed?
A. I read some of the papers.

(Question repeated.)

A. Before it was filed? I read the answer and counter-claim, I don't know whether it was filed or was not filed.
Q. Did you read this paragraph in the counter-claim: "That Williams and Davis, Inc., of which the complainant, Connie J. Dorrian and Lloyd W.

Fahler owned practically all the capital stock, was at times used by Connie J. Dorrian and Lloyd W. Fahler, who were in the market for the purchase of real estate, and that on certain occasions the Gordon Williams and Company, A. Trevor Williams, Harold S. Williams, and Royden B. Davis, or one of them, contracted and sold parcels of land of which they or one of them was the equitable owner, but the title to which stood in the name of some other person for it, them or one of them, which real estate had been in every instance purchased with the moneys of said Gordon Williams and Company, A. Trevor Williams, Harold S. Williams or Royden B. Davis, to Connie J. Dorrian, or Lloyd W. Fahler, who at the time of settlement paid for the same with their money, but requested that title was to be conveyed to Williams and Davis, Inc., in their own interest or in the interest of Williams and Davis, Inc.

11. That the land was sold to the said Connie J. Dorrian and Lloyd W. Fahler and conveyed to Williams and Davis, Inc., being the lands of Gordon Williams and Company, or A. Trevor Williams or Royden B. Davis, were sold at a profit.

12. That the profits made by Gordon Williams Company, A. Trevor Williams, and Royden B. Davis from the sale of said lands, as well as the profits made by the said Gordon Williams Company, acting as broker, were largely invested in real estate mortgages.''

A. Yes, I read that.

Q. That is all right?

A. Yes.

Q. That is right?

A. So far as I know it is right.

Q. Well, are you in fear and trembling, and are you sleepness and afraid ——

Mr. Bourgeois: I object.

The Court: Sustain the objection.

Q. You understand what I read?
A. Yes.
Q. Is it correctly stated?

Mr. Bourgeois: He has said as far as he knows; that answer is not only his answer, but the other peoples' too, and I submit that his answer is conclusive so far as he knows, he says.

A. That is as far as I know.
Q. You believe that to be the actual statement, do you not?
A. As far as I know, yes.
Q. You conferred with your counsel before this paper was filed?
A. I conferred with him before it was filed? Yes.
Q. You conferred with Mr. Bourgeois before the original bill was filed upon which an application for a receiver was made where the same allegation occurs?
A. Yes.
Q. Well, did any of these other gentlemen share in any of the profits in the Ryon transaction?
A. No.
Q. What transaction did they share in, Russell and Roberts, confining your answer to those two now?
A. Smith and Russell and Roberts, they shared in, and I don't know any others.
Q. Smith and Russell and Roberts?
A. Yes.
Q. You shared in them?

A. In the same, Russell and Roberts.
Q. One-quarter?
A. One quarter.
Q. Trevor got a quarter?
A. Yes.
Q. Gordon got a quarter?
A. Yes, that is right.
Q. And your father got a quarter?
A. Yes.
Q. And the same thing is true of Smith and Russell?
A. Yes.
Q. By that I mean, of course, as you seem to comprehend, referring to the difference between the amount that was paid to the then owners of the property, Smith and Russell and Roberts, and the amount that the Williams and Davis paid for the same property, the difference between those two sums, were these two transactions divided between the four of you?
A. The difference between what we bought them for and what we sold them for.
Q. You can put it that way if you want.
A. That is my understanding of it. I understand it better that way.
Q. Did you negotiate the Ryon transaction?

Mr. Bourgeois: If your Honor please, I want to raise an objection. Yesterday, or rather when we took this matter up on Friday, I thought we were going to try this whole thing at this time, this morning, the Gordon Williams case, and go into all these transactions. The attorney general objected to that on the ground it was a different case entirely, in other words, different question in view. Now he goes into exactly the same things that are in the

Gordon Williams case, and I, for myself do not see how these figures or these different deals are cross-examination as to what took place at these four meetings as to whether there was a fraud or whether there was not a fraud.

The Court: I think it is proper cross-examination upon the point whether or not this man was mentally aware of any fraud on his part.

Mr. McCarter: That is the object, exactly.

The Court: I have admitted it solely upon that ground. He said he had no personal thought of anything wrong on his part.

Q. Now, do I understand you to say neither the Roberts, or Smith and Russell or Ryon or the Atlantic County transactions were a matter of comment or statement by Phillip Godfrey that morning?

A. That is right.

Q. Pardon me.

A. You are right, yes.

Q. They were not mentioned?

A. Were not mentioned.

Q. Nor the differences, which, for the sake of identification, and only that, I will call secret profits, were not mentioned?

A. No secret profits were mentioned, that is Phillip Godfrey was saying secret profits, fraud deals, straw deals, and forgeries, and he had settlement sheets out for it, and he would take off amounts but he never mentioned any means, to my recollection.

Q. All right. You mean to say also that on that occasion one transaction was not referred to?

Wasn't the fact that $70,000 or thereabouts was made in the manner indicated by me between the price you paid and the price paid by Williams and Davis, Inc.?

A. No names were mentioned, Mr. McCarter.

Q. One moment, you mean to say that a transaction in which about $70,000 had been thus made was not mentioned?

A. I don't recall the amount.

Q. Don't recall the amount?

A. No.

Q. And wasn't that $70,000 of enough importance to lead you to inquire what it was about?

A. I don't recall.

Q. What?

A. I told you, Mr. McCarter, I didn't recall any of the amounts.

Q. And wasn't it these amounts in these transactions that were put down on the sheet of paper and added up and handed over to you for the purpose of your confirming the addition and you were so—you didn't add them up and Scanlan did, now wasn't it those figures that were added up?

A. These transactions were not mentioned, Mr. McCarter.

Q. Will you answer my question?

(Question repeated.)

Mr. Bourgeois: If your Honor please, what does he mean by transactions?

Mr. McCarter: Figures in these transactions. He understands what I mean. You do too.

Mr. Bourgeois: If he would limit the question to

the figures he may be able to answer. He says no transactions mentioned.

The Court: If he can't answer he may say so.

A. I can't answer that.

(Question repeated and withdrawn.)

Q. And wasn't it these amounts, namely about $70,000, and about $56,000, and about $4500, and about $25,000 involved in transactions which you say he didn't name, were the subject of this column of figures?

A. I don't know the amount, no.

Q. What did you understand those figures on that piece of paper that you were asked to add up were?

A. I never had any understanding of them at all.

Q. You didn't know anything about them?

A. I knew they were putting down amounts and reading off of settlement sheets.

Q. You had gone all the way from New York to Philadelphia to get information, were you getting it?

A. Only that Mr. Dorrian had some claim against me.

Q. And you didn't suppose these were the claims?

A. I surmised it was the claims.

Q. Oh, you surmised it was?

A. Sure.

Q. Then you did find out what the trouble was, didn't you?

A. I didn't find out what the claims were.

Q. Do you recall what the sums amounted to in the two transactions that you admit were divided up in four shares, amounted to?

A. Do I recall it? No, I don't recall that.

Q. Never mind looking at Bourgeois.

A. I am not looking at Mr. Bourgeois. I am looking at you.

Q. You can't tell us at all?

A. I don't know what it is.

Q. Do you mean to tell us now that after all these years and all this turmoil that you haven't the slightest idea what those sums in this Smith and Russell and Roberts transactions were?

Mr. Bourgeois: I object to the question.

Mr. McCarter: One moment, let me finish.

Q. ——amounted to?

Mr. Bourgeois: That wasn't the question as I understood. My thought was based if he didn't know it at that time, not at the present time. The whole trend of that shows that you were directing your attention to the time that that meeting was.

Mr. McCarter: Do you recall?

Mr. Bourgeois: Near the end of it he asks whether he recalls the amount that was mentioned then. I wasn't mistaken.

(Question repeated.)

A. I have an idea.

Q. What did they amount to?

A. I got about $30,000.

Q. The sum originally that was divided up in which transaction?

A. The Smith and Russell and Roberts transaction, I got about $30,000 out of it.

Q. How much?

A. $30,000.

Q. A quarter of one hundred and twenty?

A. Yes.

Q. In those two transactions?

A. Yes.

Q. Why did you tell us a moment ago you couldn't remember?

A. I said I had an idea. I don't recall definitely.

Q. You say there were detectives at the hotel?

A. Yes.

Q. In the room?

A. Beg pardon?

Q. In the room?

A. No, not in the room.

Q. What time, four days or three days?

A. My recollection was only one day. I only saw them one day.

Q. What day was that?

A. I don't remember the day.

Q. You stated on direct examination that there were detectives around when you signed. Do you change that now?

A. Did I say there were detectives around when I signed?

Q. Yes.

A. That was the day just before we signed.

Q. How do you know he was a detective?

A. Mr. Hart talked to him and Father Mellon and Mrs. Davis came over, Mrs. Davis was talking about it.

Q. Didn't Mrs. Davis ask that the detectives that were pursuing Mrs. Coll be called off?

A. Father Mellon said that.

Mr. Bourgeois: What was that question?

Q. Didn't Mrs. Davis request that the dectectives who were pursuing Mrs. Coll, who wasn't there at all, but were out after her, as Mrs. Davis claimed, be pulled off?

A. Yes.

Q. Was that the only reference to detectives?

A. No.

Q. You knew Julia Coll?

A. Yes.

Q. When had you brought over some securities?

A. I brought them over, I believe, if I recall correctly, was on Tuesday and Wednesday, the second and third day.

Q. The same securities or others?

A. Others.

Q. Those that you brought over on the second day were brought over for the purpose of delivering as arranged, were they not?

A. Yes.

Q. And after you had gotten back to New York and before you came back to Philadelphia, you went somewhere and got them?

A. In Philadelphia? No.

Q. In New York?

A. Yes, I went to New York to get them.

Q. Were they in your trunk or were they in a safe deposit box?

A. In my trunk.

Q. In your trunk?

A. Yes.

Q. Did you bring all that you had on Tuesday?

A. I brought everything that I thought I had on Tuesday, but I found out I was lacking some other mortgages and some assignments.

Q. And it was the fact, that because some of your papers were incomplete that the matter was adjourned after the contract was signed, wasn't it, that you might get them?

A. No, I was told to bring over the balance of my securities on the next day.

Q. The contract had been signed?

A. Yes.

Q. And that contract, of course, contained a schedule of the securities that you were to sign and deliver?

A. Yes, it did.

Q. And when you came to go over those and you were prepared to assign and deliver, they were found to be incomplete and insufficient, and so an adjournment was had until the next day when you went back to New York and got some more papers, didn't you?

A. Yes.

Q. And you brought them over the next day?

A. I was told to bring them over the next day.

Q. Did you bring them over?

A. Yes, I brought them over the next day.

Q. Found them in your trunk too?

A. Yes.

Mr. Bourgeois: Which day is that he is speaking about?

Q. The first day that you brought over securities was June 1st, wasn't it?

A. No, the day before June first.

Q. That is May thirty-first, yes, to my best recollection, Mr. McCarter.

Q. What day did you sign the contract?

A. June first.

Q. Then you had securities there before the contract was signed?

A. I was asked to bring over my securities.

Mr. Bourgeois: Answer the question.

A. Yes.

Q. Do you remember Mr. Harold Williams handing over ten thousand dollars?

A. I remember Carlton Godfrey asking him —

Q. Will you answer my question?

A. Yes.

Q. Do you remember Harold Williams handing over ten thousand dollars?

A. Yes.

Q. The contract was then signed?

A. That was at the time of the signing of the contract. I don't recall whether it was signed.

Q. What?

A. I don't recall whether it was signed at that time or was not signed.

Q. You took a receipt for the documents you handed over?

A. I took a receipt? I was given a receipt.

Q. Well, you took it, didn't you?

A. Yes.

Q. And the others, Harold took a receipt, your father, for the cash he delivered?

A. I never saw him given any receipt.

Q. Never saw that? Look at this document and see if you recognize it as the receipt that you took for the document that you handed over?

A. Yes, that is mine.

(Receipt offered, received in evidence and marked Exhibit C12.)

Q. Now, at the time that you procured or received that document, you had signed the contract, hadn't you?

A. Yes.

Q. And it was after you had secured this receipt that you were still to get some other papers?

A. Yes.

Q. You went to New York to get the other papers and brought some other papers back with you?

A. No, I didn't go to New York.

Q. Oh, I see? Yes. Instead of going to New York you went to the University Club?

A. That is right.

Q. Before you went to the University Club you had been requested to get some more papers to complete the transfer in accordance with the contract and you had agreed to do so, but changed your mind afterwards?

A. That is right.

Q. I show you Exhibit C8 and C9 which are two receipts to your father, which please look at. In looking at them do you now say, now repeat the statement that you did not know that they had been given?

Mr. Bourgeois: I object.

A. I knew that they had been given, Mr. McCarter. I didn't see him get them.

Q. When did you know they had been given?

A. He gave them to me just before I put him on the train for California.

Q. Your father did?

A. Yes, sir.

Q. That is the first you knew they had been given?

A. First I knew he had any receipt, never thought to ask him.

Q. And he gave you these as he stepped on the train to go to California?

A. He gave me them just before he got on the train.

Q. What day did you say the contract was signed?

A. June first.

Q. What day of the week was that?

A. If I recall correctly that was on Wednesday.

Q. Did you know your father paid ten thousand dollars?

A. Yes.

Q. On June first? You saw him?

A. Yes.

Q. Did you know that Davis had signed a large list of mortgages?

A. I saw Davis signing something.

Q. What?

A. I saw Davis assigning something, but I didn't know what he was assigning.

Q. You didn't know what he was assigning?

A. I didn't know what he was assigning.

Q. At the time that you requested, on the third day, which of course, was the first of June, the day the contract was signed, at the time that you requested a copy of the contract it was all signed and completed, wasn't it?

A. Gordon's signature wasn't on it.

Q. Read the question.

Mr. Bourgeois: He answered that.

The Court: Yes.

Q. But it was signed by everybody else?

A. I don't know.

Q. What?

A. I put my signature down. I don't know who else signed.

Q. I understand you to say you don't know whether anybody else signed that contract?

A. I saw other people sign, Mr. McCarter, but I didn't notice who. I know my father and Mr. Davis signed.

Mr. Bourgeois: The question was, if your Honor please, that they had all signed.

The Court: Yes, that was the question.

Q. I show you the copy of the contract that is marked C10, is your signature there?

A. Yes, Mr. McCarter, it is right here.

Q. Did you sign it first?

A. No, I did not.

Q. You signed it in the order that your name appears?

A. I signed it as it was ——

Q. Answer my question?

A. I was handed, I am trying to, Mr. McCarter, I was handed that agreement and told where to sign.

Q. You signed it in the order of signatories as appears on the contract?

A. Yes.

Q. And you signed six times?

A. Yes.

Q. And the others that are above you had all signed before?

A. I don't know.

Q. You don't know?

A. I don't know.

Q. You don't know?

A. I don't think they did.

Q. And you didn't know who had signed that contract except yourself, eh? Do you wish to say that?

A. I wish to say this, that I was handed a contract and told where to sign, it was pointed out to me.

(Question repeated.)

A. I knew my father and Mr. Davis was signing.

Q. Yes, and Scanlan on behalf of some company?

A. I never saw Mr. Scanlan sign that contract.

Q. Did you see—who did you say you knew had signed it?

A. I say I knew my father and Mr. Davis had signed it.

Q. Well, what prompted you to ask for a copy of the contract on the third?

A. I was supposed to get a copy of the contract.

Q. Had you delivered your securities yet complete?

A. There was a few assignments and a few bonds missing.

Q. Didn't they say that those contracts were not to be handed over until the deliveries were complete?

A. No.

Q. No statement to that effect?

A. No.

Q. You knew also that a certain cash payment in addition to the ten thousand dollars was to be made, didn't you?

A. Yes.

Q. I understood you to say that the day for that cash payment was deferred long enough to permit of the contracts going out to California for Gordon to sign them?

A. That is right.

Q. Is that correct?
A. That is correct.
Q. How long does it take to go to California and back and transact business?
A. Three days and four nights.
Q. What?
A. Three days and four nights.
Q. We will call it four days, practically.
A. You can if you want to.
Q. What?
A. I say you can if you want to, four days.
Q. Four days back again?
A. Yes.
Q. Did Gordon know anything about this matter at all?
A. No.
Q. How did you know he didn't?
A. I hadn't told him anything about it.
Q. Didn't you know your father, Harold, communicated with him?
A. Father wasn't in communication with California to my knowledge.
Q. To your knowledge, then you don't know it?
A. No, I don't know.
Q. So the matter was deferred by the contract until the twentieth to admit of the contract being sent to California, is that right?
A. Yes.
Q. What?
A. Yes.
Q. There is no doubt about that, is there? What is your answer, don't shake your head.
A. No.
Q. No question about that?
A. No question.
Q. Your reason for deferring the payment of the

balance of the cash was to let the papers go to California, be signed by Gordon and come back?

A. Yes.

Mr. Bourgeois: That is another question.

(Question repeated.)

Q. Don't you know that you are mistaken in that, and section 7 of the contract provided that Harold S. Williams, A Trevor Williams agree that they will pay to Connie J. Dorrian and Lloyd Fahler forthwith in cash on account of said consideration of $190,000, the sum of $10,000, and that they will pay to Williams and Davis, Inc., Connie J. Dorrian and Lloyd W. Fahler in cash, within a week from the date hereof the further sum of $20,000, and a further sum of $15,000 on or before June 20th, 1927?

A. No, I didn't know that.

Q. Didn't know that?

A. No.

Q. Well, now that you have had your attention called to it, do you want to modify at all your testimony given both on direct and cross that the payment of the remainder of the cash was postponed until the 20th of June in order that the papers might go out for Gordon to sign?

A. No.

Q. What?

A. No.

Q. Don't want to modify it at all?

A. No, I don't.

Q. What do you say about the provision that $20,000 was to be paid in a week?

A. I say that was not so, as far as my understanding of it was.

Q. In other words that was injected by Carlton over night, was that it?

A. I wouldn't use such a word for the world.

Q. What?

A. I don't know.

Q. You did say he altered it over night, didn't you?

A. I said it?

Q. Yes.

A. I don't know. I didn't say it, no.

Q. Sure about that?

A. I am quite sure.

Q. Coming now to the fourth day. I am a little ahead of my game, but it seems to me an appropriate time. Don't you remember that on the morning of the fourth day you personally gave as an explanation of your desire to see that contract that you believed that Carlton might have altered it over night and you wanted a chance to see it?

A. No, I didn't.

Q. You didn't?

A. No.

Q. Do you recall the fact, Mr. Williams, that this contract contains a schedule of securities that you were to hand over and a schedule of securities Mr. Davis was to hand over?

A. Yes, I do.

Q. And do you recall during the discussion it transpired that one of the securities that was scheduled to be handed over by Mr. Davis was found to be erroneous and that in fact, it belonged to you and that, therefore, an alteration was made in the contract as drawn?

A. Oh, I couldn't recall about that, Mr. McCarter.

Q. Now, I refer you to one of the duplicate contracts, sub-division 1 under paragraph five, and call

your attention to the following: "The sum of $13,500 is to be allowed as a credit in said settlement by the assignment by"—(in typewriting)—"Royden B. Davis of five mortgages each given by Leslie S. McPheran and each bearing date and so forth, and each recorded and so forth, held and owned by said Royden B. Davis" and that above the name, "Royden B. Davis" where it twice appears in that paragraph is your name and the words, "Royden B. Davis" are erased. You remember that being done?

A. Yes, I do.

Q. How did that come about?

A. Why, Mrs. Davis said something about some mortgages, she didn't want them to take away Mr. Davis' mortgages, and Phillip Godfrey, if I recall correctly, suggested that they take my mortgages.

Q. Did you give the explanation of that? You recall the incident?

A. Yes, I do.

Q. So that you were not too sleepless and to hungry to remember that, were you?

A. I remember that particularly, and remember the way they took it.

Q. Now, you said that no such statement was made by your father as that the boys had been pulling it over him or words to that effect, the boys had never done anything of the kind, eh?

A. Yes.

Q. That was an untrue statement and your father never had any such idea?

A. That certainly was untrue.

Q. What?

A. That was untrue.

Q. Was the Williams family sojourning at the Cliffwood Apartment at 1843 Cherokee Avenue, Hollywood, California, while you were out there?

A. Yes.

Q. Taking an apartment?

A. Yes.

Q. I show you a letter dated Cliffwood Apartments, 1843 Cherokee Avenue, Hollywood, California, April 25th: look at it, read it, if you want to, and see if that is your father's handwriting, signed, "Harold," addressed to Mr. Hart? Can you recognize the writing as your father's writing?

A. Yes, that is my father's writing.

Q. And the envelope which I show you is in your father's handwriting?

A. Yes, sir.

(Letter and envelope offered, received in evidence and marked Exhibit C13 and C14.)

Mr. Bourgeois: What is the date, Mr. McCarter?

Mr. McCarter: I will give you the post mark, letter says April 25th—1927 is the time, but you will have to draw your own conclusion about that.

Q. Now, at the meeting in June you deny that any such remark as the fact that the boys had been putting it over him and that there was no such thoughts in your father's mind, and they had not been true. See if this sentence in this letter, written on the 25th of April, 1927, changes your view at all about that matter?

Mr. Bourgeois: I object, if your Honor please, to reading the letter or any sentence from it. The letter was not offered in evidence, as I understand it, only offered for identification.

Mr. McCarter: Offered in evidence.

Mr. Bourgeois: He can't offer a letter in evidence on our case.

The Court: He can if you make no objection to it.

Mr. Bourgeois: I didn't understand it was so. I understood it was for identification only, but if it is going to be examined on I am entitled to see it, but I thought it was simply for identification.

(Mr. Bourgeois reads letter and letter is admitted by consent.)

Q. I notice that this letter says as follows, and I will ask you if, after hearing this extract from it, you still retain the view that you expressed with reference to the fact that your father had such great confidence in you and your brothers that he could not have said any such thing as Father Mellon said he said on the day in Philadelphia: "Vernon, Trevor and Royden" ——

Mr. Bourgeois: I object to his reading just a part of it. The whole letter should be read together so as to get the sense of it.

The Court: Entitled to have the whole letter read.

Mr. McCarter: "Cliffwood Apartments, 1843 Cherokee Avenue, Hollywood, California, April 25th, My dear Lou:" Addressed to Mr. Louis G. Hart, 107 North Cambridge Avenue, Ventnor City. "My dear Lou:

I hear Mary McDonald and Mrs. Dorrian drove

up to the house when the furniture was being removed. I hear pretty nearly everything. What do you think of the Jersey snipe now? Well, old dear, Gordon has no venture except in Margate. I am telling you that straight. The other boys will locate here permanently I think and take positions, not in the real estate game, but that is as dead as Atlantic City, and Gordon told me that a week after he arrived. All Gordon is doing is having a great time and he said, 'What the hell is the use of going back until things turn. He can't sell houses because of his deformity. The other boys wanted someone to do the work and they collect the dough. To tell you the truth it would be a great relief to me if they stay and get off my hands. My wife plans to stay one year to recover her health. Her condition nearly drove me insane and I think it will be for the best as long as my mind is easy over her, I will be a different man all around. You know more of my troubles than anybody outside of my family, and even they don't know what I went through with some of them, for I don't want to turn one against the other, for when I am gone I want them to stick together. I cannot do business with this load slung around my neck for it was first the one and then the other. Vernon, Trevor and Roy will not be connected in business with me any more, only Gordon. What with Killian and his family, and the wife, many times I thought of taking my own life, not so much good doing that. I want you to look after my interest while I am away. My plans now are to return to Atlantic on the twenty-fifth of May. I carried a terrible load for four years and it was getting me fast and I know it. The furniture is shipped and the wife is taking a house for a year. I expect to spend between seasons with her and a

year soon passes. I will leave her my car, and, if necessary, buy one in Atlantic to run around with and leave it in the garage when I make a trip. I wish you would keep your eye on the house and have the lawn cut and watered, when my wife returns I wouldn't live in that large place. It costs too much, and too near the ocean for her. Four bedrooms and two baths will be ample. I never received a copy of the ad. Love to Mrs. H. from Mrs. W., Harold.

Postscript: Wife worried so much about her furniture I had it shipped and she can take it all to bed with her."

Q. After listening to that letter, all of which I have read to you, in your father's handwriting, do you wish to change your mind with reference to what you knew his attitude was toward you individually to be?

A. If my father had any thought about that ——

Q. Will you answer my question?

A. I don't want to change my testimony now.

Q. Do not want to change it at all?

A. I wasn't informed of that.

Q. Does that recall to your mind the fact that your father expected to leave on the 25th?

A. I don't know that it does recall it to my mind.

Q. After hearing this letter read don't you now remember that your father did not expect to come east until the 25th and that for some reason or other, whatever it was, he suddenly decided to go early enough to get here on the fourteenth?

A. I know he suddenly decided to come back with me. I was coming back alone.

Q. Then you do know that he suddenly decided to go earlier?

A. I said that before, Mr. McCarter.

Q. Did you? But you didn't know why?
A. That is right.
Q. What?
A. That is right.
Q. And that sudden decision was made after the receipt of that long distance telephone from Davis, wasn't it?
A. Yes.
Q. Was it true that you intended to stay in California?
A. If I could have found anything out there to do I would have stayed there.
Q. Was it true that Gordon had had enough and he intended to stay there?

Mr. Bourgeois: I object.

The Court: Sustain the objection.

Q. And when your father made the remark, if he did make the remark that it was all Greek to him, didn't he refer to these transactions with reference to call, for identity only ——

Mr. Bourgeois: I object to that, if your Honor please. How does he know what his father referred to? I object as not cross-examination.

Q. Whether he referred to these secret profit transactions?
A. There weren't any secret profit transactions.
Q. What?
A. They weren't read off, as I said before, these settlement sheets and a few other things.

(Question repeated.)

A. I don't know what my father referred to.

Q. He didn't say that these matters and these figures that Phillip had referred to were not known to him and were Greek to him?

A. He did not.

Q. He did not? All right. Now, you said that Father Mellon did not arbitrate, didn't you?

A. Yes.

Q. What?

A. Yes, he never acted—he was biased toward us.

Mr. McCarter: Move that be stricken.

The Court: Yes, it is not responsive.

Q. The act of arbitration, not what his feeling was.

A. No, he didn't arbitrate.

Q. Didn't arbitrate at all?

A. No.

Q. Sure about that?

A. Yes.

Q. Understand what I mean? There were not some matters about which there was a difference, one side claiming one thing and the other side claiming the other, and he arbitrated between the two conventions, and his decision was agreed to?

A. No.

Q. Do you remember the fact, that commissions were claimed as a credit on deals where agreements had been signed but settlements not yet completed in Del Rey?

A. Yes, I do.

Q. And that they amounted to fourteen thousand dollars and there was a dispute between the facts, one side claiming that they were entitled to that

credit and the other side claiming that you weren't, and Father Mellon allowed your view?

A. I remember it was disputed over something like that, but I don't know.

Q. And didn't he allow the claim over the objection of Dorrian and Fahler?

A. I don't know that Father Mellon had anything to say about that.

Q. Will you answer my question?

A. That is my answer.

Q. Do you remember the dispute?

A. I remember the dispute, yes.

Q. And don't you remember that the dispute in the agreement was carried your way?

A. I don't understand that question. Will you repeat it?

(Question repeated.)

A. I don't know.

Q. You don't know?

A. No.

Q. Will you say he did not?

A. I won't say he didn't. I didn't hear him.

Q. You didn't hear him?

A. No.

Q. Do you remember another dispute in relation to a note in the bank which had been charged up by the bank against Gordon Williams and Company, and which the Williams crowd, your side, said it should have been paid by Williams and Davis, Inc., and that Father Mellon took your position about that and allowed your claim against the objection of Dorrian and Fahler for three thousand dollars?

A. I recall something being said about some note, but I don't recall what it was about.

Q. Don't you remember that there was a dispute between you, one side claiming credit and the other not and that Father Mellon decided in your favor on that?

A. No.

Q. What?

A. No.

Q. Will you say he didn't?

A. I didn't hear it.

Q. Now, I will ask you if there wasn't another dispute over a sum of three thousand dollars for a commission which you said was earned by Gordon Williams and Company from the sale of a piece of property belonging to Dorrian and Fahler?

A. The fact was developed during the discussion that a five thousand dollar deposit had been put up by the prospective purchaser and had been forfeited and the deal called off, and that Father Mellon after a dispute upon that subject, allowed a credit of $2500, being half of the deposit?

A. No.

Q. Don't remember that?

A. No.

Q. Don't remember the subject being adverted to?

A. No, not me. I never brought up a subject of $3000.

Q. What?

A. I never brought up any subject of $3000.

Q. Well, did someone bring up the subject?

A. I don't know as they did. I never heard it.

Q. You never heard it?

A. No.

Q. You don't say it was not done, will you?

A. I never heard it, I say, Mr. McCarter.

Q. All right, very good. Now, do you remember another dispute which Father Mellon arbitrated with

reference to the Somers Estate deal? Do you remember the Somers Estate deal?

A. Yes.

Q. Now, did you say and claim, with reference to that at Philadelphia, that while that Somers Estate had been bought in the name of a straw, Sadie Craigen, that transaction was entirely legitimate because in that deal you had used your own money or the money of Gordon Williams and Company to buy it and had actually made settlement before selling to Dorrian and Fahler and Dorrian and Fahler had at once agreed that that was a legitimate contract outside of the claim, and it was given up, and Father Mellon saying that was right?

A. I recall the transaction of that, but that wasn't what was said.

Q. Well, wasn't that the result of it?

A. No, Mr. Phillip Godfrey said that that claim was legitimate and he would not take if off us.

Q. Wouldn't what?

A. He wouldn't take it off us.

Q. Wouldn't take it off you?

A. Yes.

Q. In other words that you did not have to return it?

A. Yes.

Q. Because it was legitimate?

A. Yes.

Q. Hadn't you made any suggestions about it?

A. No. They made the suggestions.

Q. Didn't you bring it up yourself?

A. No, I never brought the question up.

Q. You mean to say he volunteered all this?

A. He did.

Q. Isn't it a fact, that each one of these four items was brought up and discussed and the discussion promoted by your side of the controversy?

A. No.

Q. No? All right. How well do you know Julia Coll?

A. She was a friend of Mrs. Davis. I just knew her.

Q. How often had you seen her?

A. Oh, quite often.

Q. Where?

A. I have seen her in Philadelphia and here in Atlantic City.

Q. However, she wasn't a friend of yours, she was a friend of Mrs. Davis'?

A. She was a friend of mine, yes, and a friend of Mrs. Davis too.

Q. Was she married or single?

A. Single.

Q. And her name was used as a straw on several of these occasions, wasn't it?

A. Yes.

Q. I show you a photostatic copy of a check dated 2/8/26 to the order of Julia Coll, purporting to be for the following piece of property, Shore Road and Somers Avenue, signed Floyd S. Sumner and something else, which I can't make out, and endorsed, "Julia Coll." You stated in your examination that you were quite unconscious of having done anything wrong in Philadelphia in June, 1927. Will you look at the photostatic copy of that check to which I have alluded and tell me if the endorsement that there appears by Julia Coll was not made by you?

A. Yes, it was.

Q. It was?

A. Yes.

Q. Can you produce any authority from Julia Coll to sign her name on the back of that check?

A. None other than her word.

Q. Beg pardon?

A. I have no other authority than her word.

Q. You didn't sign by yourself as attorney or agent, did you?

A. No.

Q. You signed, "Julia Coll"?

A. That is right.

Q. And when did she give you verbal authority and where?

A. When she went into these straw transactions.

Q. When was that?

A. When the first purchases were made she was not available most of the time, she lived in Philadelphia.

Q. I am asking when it was that she gave you authority, and what she did and where it was and who was present, to use her name and sign her name the way that you signed it on that check?

A. I believe that was in the early part of—well, about the middle of 1925, I don't recall the direct conversation, what was said.

Q. Don't recall the direct conversations?

A. Other than it was discussed about straws and she said she would give me authority to use her name.

Q. Where is Julia Coll now?

A. I couldn't say where she is.

Q. You don't know?

A. No.

(Photostatic copy of check offered and received in evidence and marked Exhibit C15.)

Q. Isn't this also true, Mr. Williams, that before the interview in Philadelphia you as notary public

had certified to acknowledgments of deeds purporting to be made by Julia Coll, which deeds you yourself had signed in the name of Julia Coll?

A. Not to my recollection.

Q. Beg pardon?

A. Not to my recollection.

Q. Now, wait just a minute and think.

A. That is the best of my recollection, Mr. McCarter.

Q. Now, how soon after the parties adjourned on the third day did you go to the University Club and see Judge Cole and Mr. Bourgeois?

A. Right afterwards.

Q. About what time was that?

A. That was in the evening.

Q. Did you take dinner over there?

A. No, indeed.

Q. You had dinner before you went?

A. I didn't have dinner.

Q. Didn't have dinner?

A. No indeed.

Q. Beg pardon?

A. I say I didn't have dinner.

Q. Mr. Bourgeois and Judge Cole had not been, so far as you knew, in Philadelphia on the thirtieth of May, Decoration Day, or on the thirty-first or during the forenoon of June first, had they?

A. That is right, yes.

Q. What?

A. As far as I knew they had not been there.

Q. Did you know of a visit to Judge Cole by Mr. Stringer—by Mr. Scanlan on the morning of the third day in Atlantic City?

A. Yes.

Q. What?

A. Yes.

Q. Did you know that he had made an engagement to meet Judge Cole in Philadelphia that evening?

A. I knew that he was to bring up Mr. Bourgeois and Judge Cole.

Q. Will you answer my question?

A. Yes.

Q. And he was to take Judge Cole where with him in the morning?

A. Yes—in the morning? No.

Q. He was in Philadelphia, wasn't he, Scanlan?

A. In the afternoon.

Q. Why did you say he was to take Judge Cole up?

A. He was to take him up. They were to be brought up.

Q. Both of them?

A. Yes, they were to come up together.

Q. Who were?

A. Judge Cole and Mr. Bourgeois.

Q. In the evening?

A. In the afternoon.

Q. In the afternoon? Did you participate in that arrangement?

A. No.

Q. When were you told that?

A. The night before, if I recall correctly.

Q. The night before?

A. Yes.

Q. Was it arranged—where was it arranged that night before that Judge Cole and Mr. Bourgeois, if possible, would be at the University Club on the afternoon or evening of the third day?

Mr. Bourgeois: Third day you mean?

Mr. McCarter: No, the fourth day.

A. You are talking about the fourth day now?
Q. I beg pardon, you are right, third day?
A. The night before the third day.
Q. Where?
A. It was arranged before we went over to New York, before we went back to New York.
Q. Where?
A. Before we got on the train in Broad Street station, if I recall correctly.
Q. Arrangements with whom?
A. Mr. Scanlan, that he should bring up Judge Cole and Mr. Bourgeois.
Q. That he was to see Mr. Bourgeois and to see Judge Cole, and, if possible, have them in Philadelphia when?
A. On the third day.
Q. At what time?
A. In the afternoon.
Q. Was there any hour set?
A. In the afternoon? No definite hour set.
Q. What?
A. No definite hour set.
Q. Why didn't you arrange to have them at the Vendig Hotel?
A. I don't know.
Q. Don't know?
A. No.
Q. Well, did you know that Judge Cole did not arrive until the arrival of the train that I think leaves Atlantic City at 4:45?
A. No, I didn't know that at that time.
Q. Didn't know that?
A. No.
Q. When was it Mrs. Davis announced that Judge Cole and Mr. Bourgeois were in the Hotel Vendig?
A. She announced just before the agreement was signed.

Q. That you knew to be untrue, didn't you?

A. I didn't know it at all, whether it was true or not.

Q. What?

A. I didn't know whether it was true or untrue, but she said it.

Q. What time was the agreement signed?

A. I don't know what time it was signed, I think it was around six-thirty or seven o'clock.

Q. Late as that?

A. Yes.

Q. When you left the Vendig on the third day it had been arranged that you were to bring over some further securities, hadn't it?

A. Yes.

Q. And you said you would and expected to do so?

A. I was told to bring them over and I told them I would bring them over.

Q. You were telling the truth when you said that?

A. Yes.

Q. So that at that time you expected to make complete the acts whereby by the agreement you were called upon to do?

A. I was very anxious to do it, so that they would not prosecute me.

Q. So what?

A. So that they would not prosecute me.

Q. Who suggested leaving in that spirit that you should go and see Judge Cole and Mr. Bourgeois at the University Club?

A. Who suggested I should go? They were waiting there for us to call them.

Q. Then the purpose of their being there was for you to call upon them?

A. The purpose was that it was arranged that

they should be brought into the meeting before we signed anything.

Q. I thought you just said now that it had been arranged that they should be there so that you could call upon them, were you right or wrong when you said that?

A. I didn't say that I should call upon them.

Q. Read it.

(Former answer repeated as follows: "Who suggested that I should go? They were waiting there for us to call them.")

Q. Now, do you recall that before the contracts were actually signed and while some finishing touches were being put upon them that all hands went out and got something to eat for dinner?

A. No.

Q. And this about six o'clock?

A. No.

Q. What is the answer?

A. No.

Q. Do you say that it is not true that Mr. Godfrey, Mr. Garrison, Phillip Godfrey and Mr. Dorrian and Mr. Fahler on our side went out to get a bite to eat about six o'clock on the evening of the third day before the contract was signed, and that as many of your party as wanted to go out went out for the same purpose?

A. I do say it is untrue.

Q. Untrue?

A. Yes.

Q. Was there some intermission while the finishing touches were being put to the contract?

A. Oh, no, no intermission at all.

Q. Why didn't you telephone to the University

Club and ask Mr. Bourgeois and Judge Cole to come over?

A. Because Mr. Garrison told me that if I didn't sign and sign quickly that he was going to put me in jail and Mr. Godfrey also.

Q. So that was the reason for not telephoning your counsel to come over?

A. That was the reason, yes, sir.

Q. What?

A. Yes, sir, and fright and fear.

Q. Well, when you went over to the University Club and Davis went along, Mrs. Davis stood outside, and you had a conference with Mr. Cole, with Judge Cole, and Mr. Bourgeois, didn't you?

A. Yes.

Q. That was after the paper was signed?

A. Beg pardon?

Q. That was after the paper was signed?

A. That is right, yes, sir.

Q. And after you had requested a copy of it?

A. Yes, sir.

Q. How long were you at the University Club?

A. Oh, about an hour and a half, something like that.

Q. Was Mr. Stringer there?

A. Yes.

Q. He was there too?

A. Yes.

Q. Where had he turned up, in Philadelphia?

A. I don't know, he was there.

Q. He was there too?

A. Yes.

Q. Was Scanlan there?

A. Yes.

Q. Was Mr. Harold there?

A. No, he was in bed.

Q. Where was he in bed?
A. At Miss Coll's residence.
Q. What?
A. At Miss Coll's residence.
Q. Were you around there?
A. Was I around there?
Q. Yes.
A. I was at the University Club.
Q. I asked you then how you say that Mr. Harold was in bed?
A. I left him in bed.
Q. You left him there?
A. Yes.
Q. I asked you if you had been around there and you said no, you were at the University Club.
A. He wasn't at the University Club, I think, Mr. McCarter.
Q. Did you make an affidavit in the, what I would call the counter-suit that you commenced immediately after our suit was commenced in which you sought to repudiate the contract and procured an assignment for the appointment of the receiver, do you remember that?
A. Yes, sir.
Q. Look at a copy of the proceedings and see if you recognize that as being a copy of the affidavit that you made in those proceedings in that case?
A. I believe this is so, yes.
Q. I notice that on the ninth page of that affidavit you say that immediately thereafter "the said Harold S. Williams, Royden B. Davis, and deponent consulted with their attorneys and related all they had done and all that the said Connie J. Dorrian and Lloyd W. Fahler, Carlton Godfrey and so forth had done;" is it true that Harold went there as you said in that affidavit?

A. It is untrue, yes.

Q. That is erroneous?

A. Yes. That was a mistake.

Q. Well, the result of the conference was that you decided, upon the advice of the lawyers present, to repudiate the contract, didn't you?

A. Yes.

Q. Then and there?

A. Then and there.

Q. The jig was up?

A. I don't know what you mean by the jig was up.

Q. All right, withdraw it. But you, instead of going to New York to get the papers, remained in Philadelphia?

A. I didn't go to New York to get the papers.

Q. Your answer is yes?

A. Read that question. I didn't understand that.

(Question repeated.)

A. That is right.

Q. But you mentioned, met Stringer next morning in the Vendig?

A. Yes.

Q. For what purpose?

A. For the purpose of giving him a copy of the contract to take down to Mr. Bourgeois.

Q. To commence litigation?

A. Yes.

Q. You told the gentlemen whom you met at the Vendig that the contract was off?

A. I didn't tell them that. I told them what had taken place.

Q. Told them what had taken place?

A. Yes.

Q. What did you tell them?

A. I told them the threats that they had made about putting me in jail.

Q. You thought they had to be told about that, did you?

A. I didn't think. I wasn't able to think.

Q. You didn't think, weren't able to think?

A. No.

Q. Well, did you conceal from them that you had intended to repudiate this contract?

A. Did I conceal? I didn't understand that. Will you repeat that?

(Question repeated.)

A. No, I told them.

Q. Told them? That is what I thought. A moment ago you said you didn't.

A. I never said that.

Q. You told them that morning when you got there that you intended to repudiate that contract and you went through a long list of things that you thought and claimed justified that course of conduct, didn't you?

A. I did that after they told me that I was in threat of arrest.

Q. Oh, of course. But you told them all that?

A. Yes.

Q. Didn't you immediately, upon entering the room on the morning of the fourth day with Mr. Stringer announce the fact that you had repudiated the contract and undertook to give a reason why?

A. No. I didn't.

Q. What?

A. Mr. Stringer didn't enter the room with me.

Q. Leave Stringer out then. Isn't it a fact that almost immediately upon your meeting the party as

per appointment in the room that you announced your conclusion to repudiate the contract?

A. No. I made a request for the contract.

Q. One moment, please, and undertook to give your reasons for it?

A. No.

Q. You told us a little while ago you did not conceal it from us when you told it?

A. I went in and made a request ——

Q. In other words told it in session immediately?

A. I didn't say it at all. I never said anything. All I did was ask for a copy of the contract which was refused me.

Q. Now you say you didn't say anything of the kind?

A. No.

Q. Are you aware that within five minutes you have told us that you did repudiate it?

A. No, I am not aware of the fact.

Q. Aware of the fact?

A. That I said anything to you, that was what your question was?

Q. Am I bulldozing you now, is that what you mean?

A. No, you are not bulldozing me.

Q. Are you aware of what you are saying?

A. Quite.

Q. Do you now say that you did not say within ten minutes that you did announce the fact that you repudiated the contract ——

A. No, I didn't say ——

Q. ——and gave your reasons for it?

A. No, I did not.

Mr. Bourgeois: This means that he asked Mr. Williams that, they, not only Mr. Williams but Mr.

Stringer. I was confused. I didn't know what you were driving at.

Mr. McCarter: I am sorry.

The Court: The Court was likewise. I think the question will have to be reformed.

Mr. McCarter: I would be very glad to know when the Court was confused.

The Court: I was confused when you said "they," I thought you meant Judge Cole and Mr. Bourgeois, and I think the witness meant the same thing when he answered. The Court took the question that way, and I found by the next question that the Court was wrong.

Q. To whom did you think I alluded when I asked you if you concealed from them the fact that you had determined to repudiate the contract?

The Court: The Court will now say that is not the question the Court was confused on, so that there will be no disturbance.

Mr. McCarter: I am asking the witness. There may be a confusion. I don't want any confusion. I am asking the witness that question.

Q. To whom did you think Mr. McCarter referred when he asked you the question: "Did you conceal from them the fact that you had determined to repudiate the contract?"

A. I thought you meant that Mr. Dorrian and Mr. Fahler and Mr. Godfrey and Mr. Garrison.

Q. And you said you had not concealed from them?

A. I said that I did not say anything to the —— I said that I made a request for a copy of the agreement and I never said anything about repudiating anything else.

Q. Didn't you tell us this morning, within a half an hour, probably less, that instead of concealing from these gentlemen the fact that you were determined to repudiate the contract, you had denounced to them your determination and undertook to give your reasons for the conclusion that you had reached and announced?

A. No.

Q. Didn't say that?

A. No.

Q. Well the record will speak for itself. How early after you entered the room was it that Mr. Carlton Godfrey asked you if you had brought over the securities?

A. Immediately from my entering the room.

Q. What reply did you make?

A. I said, "I would like to see a copy of the agreement and will you hand me a copy of the agreement?"

Q. You didn't say whether you had or had not brought them?

A. I didn't say.

Q. Made no answer?

A. Made no answer other than to continue to request a copy of the agreement.

Q. Did you infer by that statement that you now make that you were purposely concealing from Dorrian and Fahler and their friends and associates and lawyers that you had determined to repudiate?

A. I was not concealing anything, all I went in

there to do was to make a request for a copy of the agreement.

Q. Did you tell them that you wanted a copy to commence litigation?

A. No.

Q. You concealed that from them?

A. Didn't mention anything other than what I told you.

Q. All right, very good. When Mr. Carlton Godfrey asked you if you brought the papers from New York, what did you say?

A. I said, "Will you give me a copy of the agreement?"

Q. You didn't answer?

A. That is all I said.

Q. You didn't make any reply?

A. No reply other than that.

Q. You think that was a reply?

A. That was what I said.

(Recess taken until 1:45 o'clock P. M.)

AFTERNOON SESSION.

(Trial of the cause resumed at 1:45 P. M.)

A. Trevor Williams, resumed.

Cross-examination. (Resumed.)

By Mr. McCarter:

Q. Did Mr. Stringer, in the bathroom conference or elsewhere that morning, the fourth day, explain why he wanted to be discharged?

A. No, he just said for me to come out and dismiss him as my attorney.

Q. He said what?

A. He just said for me to come out and dismiss him as my attorney.

Q. And you did it like a little man?

A. Yes, that is right.

Q. Without knowing why or anything else?

A. Yes.

Q. He had gone there as your attorney?

A. Yes.

Q. He had been with you at the University Club as your attorney?

A. The evening before.

Q. He had been with you at the University Club as your attorney?

A. Yes.

Q. But you had no curiosity to know what he was driving at in requesting temporarily to be discharged?

A. When—no, I didn't have any idea what he was driving at.

Q. And then did he request to be reinstated again?

A. Yes.

Q. And did he give any reason then ——

A. No.

Q. ——for that action?

A. No.

Q. Now I understood you to say, Mr. Williams, that you had never signed a deed purporting to be made, or a mortgage purporting to be made by Julia Coll for Julia Coll and then taking the acknowledgment as a notary public of the alleged Julia Coll, is that correct?

A. I might have done that, but not to my recollection, I don't remember it.

Q. Now you positively said a little while ago this morning you didn't do it. Are you going to hesitate about it?

A. I didn't say that. I said to the best of my recollection I did not.

Q. I show you a mortgage dated the eleventh of February, 1926, from Smith and Russell, being the one part of the Smith and Russell transaction to which we have so often alluded, recorded in Book 386 of Mortgages, page 195. Look at that paper and tell us if you acknowledged it as a notary public?

A. I did.

Q. And you signed Julia Coll's name, didn't you?

A. No, I did not.

Q. Sure?

A. I am positive.

Q. Is that her signature?

A. I couldn't say whether it was her signature or was not her signature.

Q. Where did you see her when you took her acknowledgment?

A. I took her acknowledgment over the phone.

Q. Did you see her when you took her acknowledgment?

A. No, I didn't see her.

Q. Where was she when you took her acknowledgment over the phone?

A. In Philadelphia.

Q. And where were you?

A. Atlantic City.

Q. I show you a bond dated the eleventh of February for which evidently the mortgage I have just shown you was given to secure; did you witness the warrant of attorney attached to that bond?

A. Yes.

Q. Did you sign the name "Julia Coll"?

A. I did not.

Q. Who did?

A. I couldn't say.

Q. What?

A. I couldn't say. Julia Coll, I presume.

Q. Beg pardon?

A. Julia Coll, I presume.

Q. You presume?

A. Yes.

Q. I show you the bond itself, purports to be signed by Julia Coll, does it not?

A. Yes, does.

Q. In your presence?

A. Yes.

Q. Did Julia Coll sign it in your presence?

A. I didn't see her sign, Mr. McCarter.

Q. Didn't see her sign notwithstanding the fact that you certified you did, you didn't see her sign, did you?

A. No.

Q. Do you know who did sign?

A. No.
Q. You do not?
A. No.

(Bond and mortgage offered, received in evidence and marked respectively Exhibits C16 and C17.)

Q. Now when was the acknowledgment over the phone taken?
A. I don't know, Mr. McCarter.
Q. Look at the paper.
A. I can't tell from the paper.
Q. What does it say?
A. Says the eleventh of February.
Q. Read it.
A. Eleventh of February, 1926.
Q. Read the acknowledgment, read the document there that your name is affixed to as a notary public.
A. "Be it remembered on this eleventh day of February, in the year of our Lord one thousand nine hundred and twenty-sixth, before me, the subscriber, a notary public of New Jersey, personally appeared"——
Q. Personally appeared?
A. ——"Julia Coll, single, who I am satisfied is the grantor mentioned in the above deed of conveyance, and I having first made known to her the contents thereof, she acknowledged that she signed, sealed and delivered the same as her voluntary act and deed. All of which is hereby certified."
Q. And signed?
A. Signed "A. Trevor Williams."
Q. What else?
A. "Notary Public of New Jersey."
Q. And she didn't, you concede, personally appear before you?

A. No, she did not personally appear before me.

Q. And you don't know as a matter of fact that she ever signed the document?

A. No.

Q. Looking at the documents C16 and C17, being the mortgage and bond, I ask you who drew them?

A. I couldn't say.

Q. Now look and see.

A. I don't know. I guess the title company drew them.

Q. Well the date of the document is in manuscript, is it not?

A. Written out, yes.

Q. You know what manuscript is?

A. No.

Q. You don't know?

A. No.

Q. Is it because you are so excited you don't know what manuscript means?

A. I am not excited, Mr. McCarter. If you will tell me I will try and answer the question.

Q. Is the date that is written in there in that mortgage, eleventh of February, whose handwriting is that?

A. That is not my handwriting, Mr. McCarter.

Q. It is not?

A. No.

Q. Whose is it?

A. I don't know. Might be somebody in the title company, if that will help you.

Q. Well, your best recollection is that the papers were prepared in the title company's office?

A. I don't know where the papers were prepared, Mr. McCarter. I say I guess they were made in the title company. They made most of Gordon Williams Company's papers.

Q. Were you—this is one of the deals that you personally, that you have conceded that you were personally interested in, isn't it?

A. Yes.

Q. Were you present when the deed was passed and the mortgage given?

A. That I don't recall.

Q. Now just try and think.

A. I will.

Q. Just a minute now. Now just try and think. You remember this Roberts deal very well, Smith and Roberts deal?

A. I recall the deal, Mr. McCarter.

Q. There was nearly $70,000 difference in the amount between the two events which you understand, what I mean between the amount that was originally paid to the former vendor and the amount that Williams and Davis finally paid, difference of about $70,000?

A. There was a profit of about $70,000 made by the four.

Q. All right, call it that if you want it, I don't care what you call it, so it was a pretty important transaction and you got a quarter of that profit, didn't you?

A. Yes.

Q. A quarter of seventy, about sixteen, seventeen or eighteen thousand dollars?

A. I guess it is.

Q. Quite a little fund for a young fellow who is twenty-two or twenty-three years of age?

A. Yes, that is right.

Q. Be a lot to me. Now weren't you in at the death?

A. I don't know what you mean, Mr. McCarter.

Q. It was a killing, wasn't it?

A. Killing?

Q. Yes, in the language of the street, a big operation?

A. I am not familiar with that, Mr. McCarter.

Q. Not familiar with it? All right. Were you present when it was closed?

A. I don't recall whether I was or was not, Mr. McCarter.

Q. Don't you know that you were present?

A. As a matter of fact I don't know that I was present.

Q. All right, very good. As any rate the mortgage purports to be signed and acknowledged in Atlantic City, does it not?

A. Yes, purports to be, yes.

Q. And Julia Coll wasn't in Atlantic City, was she? You had to telephone her at Philadelphia?

A. I never telephoned her.

Q. What?

A. Oh, no, she telephoned me.

Q. She telephoned you?

A. Yes.

Q. I mean the acknowledgment I am talking about?

A. Yes, that is it, about the acknowledgment.

Q. Well, where were you when you were having a telephonic communication with Julia Coll with reference to this Smith and Roberts transaction?

A. Well, I took many acknowledgments over the phone.

Q. Never mind.

A. I don't know where I was, Mr. McCarter, don't know, don't remember.

Q. Don't remember a transaction which was making for you sixteen or seventeen thousand dollars, you have no recollection where you were when you telephoned Mrs. Coll?

A. Not nearly three years ago, Mr. McCarter.

Q. Oh, yes, sure.

A. Three years ago.

Q. How do you know you telephoned?

A. Because I taken her acknowledgment that way over the phone.

Q. Before?

A. Yes.

Q. You have no specific recollection of having taken this particular acknowledgment over the phone, have you?

A. No, I don't have any.

Q. And when you have stated here in the presence of the Vice-Chancellor and the rest of us that that acknowledgment was taken over the phone, you simply mean that you had sometimes taken her acknowledgment over the phone and that you assumed that in this case you did?

A. That is right.

Q. Now what did you mean a moment ago when you said she telephoned you?

A. She has telephoned me, that is what I mean.

Q. She has on some occasions telephoned you?

A. Yes, sir.

Q. Did she ever meet Mr. Smith, to your knowledge?

A. That I couldn't say.

Q. Did she know anything about this transaction to your knowledge until this alleged telephone took place?

A. Yes.

Q. How do you know she did?

A. Because she was taken over and shown the tract.

Q. By whom?

A. Oh, I took her over, I believe, and Mr. and Mrs. Davis took her over.

Q. When did you take her over?

A. Before the tract was purchased.

Q. How long before the date that the deal was closed?

A. Oh, I don't recall, Mr. McCarter.

Q. Well, as near as you can?

A. Oh, probably two weeks.

Q. Was that before the contract was signed that you took her over there?

A. Yes.

Q. Look at this paper and see if that is the contract you have just referred to?

A. Yes.

Q. Looking pretty hard at the signature, aren't you?

A. I am looking at the ——

Q. Well, now is that Julia Coll's signature?

A. I presume it is. I didn't witness it, Mr. McCarter.

Q. No, but you think that is her signature?

A. Yes.

(Paper offered, received in evidence and marked Exhibit C18.)

Mr. McCarter: May I ask the Vice-Chancellor to step up and see these?

The Court: I will do so.

Q. Referring to the last exhibit, which is C18, which is the agreement for the sale of this property, and to the signature "Julia Coll" there on, which you say is her genuine signature ——

A. I didn't say that was her genuine signature. I said I thought it was.

Q. Well, thought it was, all right. I ask you now to look at the bond and mortgage and see if you think they are her genuine signatures?

Mr. Bourgeois: I object.

The Court: Sustain the objection.

Q. Now I show you a photostatic copy of a check dated 2/13/1926, to the order of Julia Coll, balance due seller 102.979 acres in Scullville, signed by J. Floyd S. Sumner, and somebody else, and purporting to be endorsed Julia Coll, is that her signature?

A. I couldn't say, Mr. McCarter.

Q. Did you sign that?

A. No.

Q. Endorse that?

A. I did not.

Q. You think that is her signature, don't you?

A. I don't know.

Mr. Bourgeois: I object.

(Photostatic copy of check offered in evidence.)

The Court: It may be marked.

Mr. Bourgeois: Marked for identification?

Mr. McCarter: In evidence.

Mr. Bourgeois: Let me see if I want to object to it. If your Honor pleases, I do not think this is relevant, but since your Honor said it might be marked ——

The Court: If you have no objection it will be

marked as evidence at this time. If not it will be marked for identification. Appears to be no objection.

(Photostatic copy of check admitted in evidence and marked Exhibit C19.)

Q. Now this check, "Balance due seller 102.979 acres in Scullville"—whatever it is, is this so-called Smith and Roberts transaction, isn't it?

A. Smith and Russell.

Q. Smith and Russell, I mean, Smith and Russell transaction?

A. That is right.

Q. I think that is all, sir.

Re-direct examination.

By Mr. Bourgeois:

Q. Mr. Williams, did your authority to use Julia Coll's name as a straw extend to signing of her name, if she needed to do it, in connection with any such agreement?

Mr. McCarter: I object.

A. Yes, it did.

Mr. McCarter: I ask the answer be stricken out until I have an opportunity to be heard.

The Court: Certainly.

Mr. McCarter: I do not think counsel can ask a question of that kind and have him as a conclusion

state what it is. I think if he is going into that question of authority he should ask the witness just what the authority was, and what language it was, if in writing produce it, if not state exactly the facts and not say if it did not include so and so and so.

Mr. Bourgeois: If your Honor please, I think that is true, but I think I have the right to ask the direct question first and then ask him what the authorities were, what the questions were and what the language was.

The Court: I will sustain the objection.

Mr. Bourgeois: Your Honor will recall this is cross-examination because this testimony was brought out, I didn't bring it out on my direct examination, brought out on cross-examination.

Q. What language was used by you and Julia Coll with relation to your organization to use her as a straw?

A. It was discussed with her about her not being available in Atlantic City, she was living in Philadelphia, and I asked her for authority to attend the necessary settlements, and sign the necessary papers to make settlements, and endorse checks and cash them, whatever it would require me to sign the necessary papers, she gave me her full authority to do that.

Q. Now something I overlooked to ask you. During those three days, of the second and third day—the first and second day—second and third day, what was your father's condition so far as you could observe from his outward appearance?

A. He was taking aromatic spirits of ammonia.

He was very weak, he had to be held up, and Father Mellon suggested that he be put to bed in the Vendig Hotel on account of his weak condition, and he was, he looked terrible, his eyes were sticking out of his head, and he was jumping all over.

Q. Did Father Mellon suggest that he be put to bed in the Vendig Hotel more than once?

A. Only on one occasion. Another occasion he wanted Mr. Scanlan to take him outside, to take him out on the street and give him some air.

Q. Now, Mr. Williams, the agreement that has been shown you called for the payment of $10,000 in cash, $20,000 in seven days and the balance in twenty days, as I count, from what they read. Did either you or your father have any means of getting $20,000, more than that the $10,000 paid within ten days from that date?

A. Not any means at all.

Q. Where was this $35,000 to have come from, if you know, where was it supposed to have come from?

A. From Gordon.

Q. And Gordon was where?

A. In California.

Q. And you couldn't get to Gordon and back again in seven days?

A. No.

By Mr. McCarter:

Q. When was this talk that you have related between Julia Coll and yourself?

A. When she first entered into these transactions.

Q. When was that?

A. At the first purchases.

Q. Do you think that gives us any information?

A. If I recall correctly it was in the summer of 1925.

Q. Summer or December?
A. Summer.
Q. Summer, 1925, where?
A. It was in Atlantic City here.
Q. And she said that you might do as you recited?
A. Yes.
Q. Was that the extent of the authority that was bestowed, as you recited it?
A. I believe that was.
Q. Was anybody else than you thus authorized?
A. Anybody else? That I couldn't say.
Q. Then, if the signatures attached to the bond and mortgage which were shown you are not the signatures of Julia Coll, they are either your signatures or somebody who acted without any authority?

Mr. Bourgeois: I object.

A. They are not.

The Court: Sustain the objection.

Q. Did anybody else that you know of connected with your mother have any authority from her to sign her name?
A. I couldn't say that.
Q. You felt it important to have what you called straws?
A. Thought it necessary.
Q. Why did you choose somebody in Philadelphia, why didn't you choose somebody in Atlantic City?
A. I don't know.
Q. What?
A. I don't know why.
Q. You said that you had a very slight acquaintance with Julia Coll?

A. I knew Julia Coll, yes.

Q. When you saw her you chose her as a straw, living up in Philadelphia, that you might have, apparently, a third person interested in the future transactions?

A. I suppose because she was available at the time.

Q. Who suggested that she be used?

A. That I don't remember.

Q. What?

A. I don't remember. Her name just happened to come up.

Q. Just happened to come up? Who brought it up?

A. I don't remember.

Q. Had you ever seen her before it was brought up?

A. I met her at that time.

Q. You met her at the time it was brought up?

A. Yes.

Q. And you never had seen her before?

A. No, never seen her before.

Q. And at that time she authorized you as you have recited?

A. Yes.

Q. You, a perfect stranger?

A. It wasn't right at that time, it was shortly after that time.

Q. You just said it was, when was it?

A. It was shortly after that time, when it was discussed, Mr. McCarter.

Q. I understood you to say that this authorization was made at the time that you first saw her, was that right?

A. Yes.

Q. So far as you then knew or are now aware she had never heard of you before, had she?

A. I couldn't say that.
Q. Where was this transaction?
A. It was in Atlantic City here.
Q. Where?
A. Oh, down at Mrs. Davis' residence.
Q. Mrs. Davis'?
A. Yes.
Q. Was Mrs. Davis present?
A. I believe she was.
Q. Anybody else?
A. Oh, there were several people there.
Q. Mr. Davis there?
A. He might have been there.
Q. Was he?
A. I don't know, I don't remember, Mr. McCarter.
Q. Well, this is rather an unusual transaction, Mr. Williams, an entire stranger, you say endowed you with authority to endorse checks and sign deeds and all that in her name on the very first time she meets you, and you can't remember who were there?
A. No, I just can't remember who was there.
Q. What?
A. I just can't remember who was there, and I don't know that it is unusual.
Q. You think not, eh?
A. I don't think it is unusual.
Q. You can't remember anybody else was there besides Mrs. Davis?
A. I say there were several people there but I don't recall just exactly who they were.
Q. When was this?
A. This was just at the time.
Q. At what time?
A. Well, just before the purchase of these tracts.
Q. Which tracts?

A. Over in Somers Point.

Q. Well, that would be when?

A. In the summer, 1925, Mr. McCarter, to the best of my recollection.

Q. Before or after your trip to Florida?

A. I never went to Florida. That is, I have been in Florida, but I never went to Florida around that time.

Q. You didn't go south with your father in 1925?

A. No.

Q. Was it before or after your father returned from Florida?

A. After my father returned.

Q. Well, he didn't get back until about the middle of August, did he?

A. I don't know just when he did get back, it was in the summer-time when he got back.

Q. Now was the date of the giving of this authority, as you have delineated, as you have described it, the date of this contract which is marked C18?

A. Before that time.

Q. How many times previous to the date of C18, which is the contract in connection with the Smith and Russell transaction, had you used Julia Coll as a straw?

Mr. Bourgeois: What is that date?

Mr. McCarter: October third.

Mr. Bourgeois: 1925?

Mr. McCarter: 1925.

A. How many times? I don't know, Mr. McCarter.

Q. I understood you to say that, so far as you

know, your father or you had had no communication with Gordon with reference to the matters that were being discussed on the fourth—three days at Philadelphia?

A. That is right.

Q. And yet you stated that it was understood that Gordon was to supply the remaining thirty thousand dollars?

A. I didn't say that, Mr. McCarter.

Q. Didn't you?

A. No.

Q. Didn't you say that nobody else had it and that it was understood that Gordon was to supply the remaining thirty thousand dollars?

A. No, I didn't say that, Mr. McCarter.

Q. What did you say?

A. I said my father and I did not have any moneys other than what my father put up, and that Mr. Carlton Godfrey was going out to California to get Gordon's signature to that agreement.

Q. I am not talking about that, I am talking about what you told you told your counsel, Mr. Bourgeois, that while the agreement provided that twenty thousand should be paid within a week from the first of June and the remaining fifteen thousand to be paid on or before June twentieth, that, nevertheless, inasmuch as Gordon was to pay the whole sum of that amount, that the sum was not to be paid until Gordon could be reached and supply the money. Now I ask you how you know Gordon was to supply the sum?

A. They told us.

Q. Who told you?

A. That is Mr. Godfrey told me.

Q. Mr. Godfrey told you?

A. Yes.

Q. It was Mr. Godfrey that was responsible for the idea that Gordon should supply the balance of the cash?

A. That was the way they put it.

Q. I am not asking you the way they put it. They put it in a certain way, which I will direct your attention to in a minute, but I am asking you if it was Mr. Godfrey's suggest that the balance of the cash should be supplied by Gordon?

A. His suggestion in the first place was that it should be put up by my father and myself, and we didn't have it.

Q. And your father suggested that Gordon would, didn't he?

A. We suggested, we told him we didn't have the money.

Q. Then you and your father suggested that Gordon would put up the balance, didn't you?

A. No, we didn't suggest that, Mr. McCarter.

Q. You didn't?

A. No.

Q. Who did?

A. Mr. Godfrey.

Q. You say that you did not draw the deed and the bond and mortgage in the Smith and Russell matter?

A. I don't know who drew it, Mr. McCarter.

Q. You say you don't?

A. I don't know who drew it.

Q. I show you settlement sheet from the title company which seems to be for this matter. Look at it and see if you recognize it?

A. Looks like the settlement sheet, Mr. McCarter.

Q. Now I observe that on that settlement sheet among the deductions opposite the word "drawing deed" "Paid Trevor Williams $15.00"; does that

recall the fact that you were, made a claim for the drawing of the deed and the bond and mortgage and were allowed fifteen dollars?

Mr. Bourgeois: Appears to only be five dollars.

A. Shows internal revenue stamps on deed, Mr. McCarter.

Q. Just answer my question. Paper will show for itself what it says. Is that $15.00 or $5.00?

A. Looks like five dollars, the one is scratched out.

Q. Then did you or did you not at that time claim and were allowed for drawing deed five dollars?

A. I don't remember, Mr. McCarter.

Q. Well, it seems to be on there, don't it?

A. It seems to be on there, yes.

Q. Now with that being called to your recollection, will you not now say that the deed and the bond and mortgage were prepared by you and under your direction?

A. No, I wouldn't say that.

Q. What?

A. I wouldn't say that.

Q. Can you imagine any reason why you should draw the deed and somebody else should draw the bond and mortgage when it was all one transaction?

A. No, I couldn't imagine any reason.

Mr. McCarter: May I have that offered in evidence as an exhibit?

(Settlement sheet offered, received and marked Exhibit C20.)

Mr. McCarter: I should like to preserve the right to present to this witness the orginal sheets

of settlement which I think will give more information with reference to the allowance that was made for drawing the bond and mortgage and deed, and also the check that was passed at the time. With that exception I am done.

Mr. Bourgeois: I want, if your Honor please, to offer in evidence the file in this case in the Supreme Court in the capias suit of Dorrian against Gordon Williams, et als., including the petition and including the affidavit of Mr. Fahler.

First I have in mind the affidavit of Connie Dorrian sworn to before Herbert R. Voorhees, on the thirteenth day of May, 1927, including Schedule A and Schedule B, annexed to it, also the notice of motion to set aside the capias bearing date May 21, 1927, and the Order of Justice Campbell bearing date the eight day of June, that is the date the order was made.

Mr. McCarter: Will you read that order out loud? It is very short, the order you have just referred to.

Mr. Bourgeois: But I want to also offer in evidence—I guess that is annexed to the bill, the opinion of the Judge.

The order was as follows, the order was dated the eighth of June, after everything had been closed: "A motion having been made in the above styled action to dismiss an order made in the above entitled cause before Supreme Court Commissioner Voorhees to hold in bond in the sum of fifty thousand dollars, and being of the opinion that the motion to dismiss must be denied because made prior to the execution of the writ issued thereunder,

It is, on this eighth day of June, 1927, on motion

of Carlton Godfrey and William I. Garrison, attorneys for plaintiff, ordered that the said motion to discharge the capias and hold to bail be and the same is hereby denied, because prematurely made," and then stricken out are these words, stricken out by the Judge, I assume, "And the capias and Order to hold in Bail as aforesaid remain in full force. Let the above order be entered in the minutes. Luther A. Campbell, Supreme Court Justice."

I also want to offer in evidence, if your Honor please, the opinion of the Judge in this same matter. I think it is annexed to the counter-claim.

The Court: Isn't it in the file?

Mr. Bourgeois: No, that is not in the file. I don't think it is in the file. I don't see it.

The Court: The messenger from the Supreme Court announced to me these were the only papers that were on file.

Mr. McCarter: What he told me.

ROYDEN B. DAVIS, sworn.

Direct examination.

By Mr. Bourgeois:

Q. Mr. Davis, you live where?
A. In Ventnor.
Q. How long have you lived in Ventnor?
A. Two or three years, I don't know exactly.

Q. How long have you lived in Atlantic County?

A. Probably about six years.

Q. In what business were you engaged during the summer of 1925?

A. Real estate business.

Q. With whom?

A. With Harold Williams and Gordon Williams.

Q. Under what—in what concern?

A. Gordon Williams and Company.

Q. When did you first become associated with the Gordon Williams and Company?

A. I think it was September tenth, 1923.

Q. Do you remember the summer and spring of 1927?

A. Yes.

Q. Do you recall when Harold Williams and Trevor Williams went west?

A. Yes, about the time they went west.

Q. Do you remember when they came back?

A. Well, as near I can remember they came back on May the fourteenth.

Q. When they came back you met them where?

A. Philadelphia.

Q. They came down with you in your car?

A. They did.

Q. Did they take lunch with you on the day that you arrived back on the fourteenth?

A. Yes, on the fourteenth.

Q. Now at that time what, if anything, that was disquieting come to your attention?

A. Why Mr. Scanlan came in and told us there was a capias and out for us with fifty thousand dollars bail or bond, or something like that.

Q. What was the attachment bond, if you knew?

A. Well, I didn't know exactly how far it extended except the capias and the attachment.

Q. Now as a result of that information that you received, what did you do?

A. Went out and got in the automobile and drove away.

Q. Where did you go?

A. Well, we went ot Philadelphia.

Q. From Philadelphia you went where?

A. New York.

Q. What, if anything, did you do towards securing somebody to represent you in this capias and attachment matter?

A. Well, I got in touch with Mr. Scanlan and told him to communicate with Judge Cole.

Q. After that what did you do?

A. Well, we went over to New York.

Q. Do you know whether the attachment was set aside?

A. No.

Q. You don't know?

A. No, not at that time.

Q. I mean later was it set aside by the Judge, or don't you know?

A. Yes, it was set aside, I think, later.

Q. After you were in New York did your wife get in communication with you?

A. Well, she talked over the phone two or three evenings, after I had been there ten days or something like that, I don't remember just when it started.

Q. Did she come to New York, do you know?

A. Yes, she finally came over.

Q. Did she meet you there?

A. Yes.

Q. On what day did she meet you in New York?

A. I think it was the 28th of May, two weeks after we left here.

Q. What day of the week, do you recall?

A. On Saturday.

Q. Do you remember if she received a telephone communication during the next night, Sunday night?

A. She did.

Q. Did you learn what it was or did she tell you what it was?

A. Well, she jumped out of bed and answered the phone and she sort of exclaimed, screamed, something, and she said that she had been in communication with Scanlan and he had been in communication with Father Mellon and they were making arrangements to meet in Philadelphia and talk the situation over.

Q. Had you known anything about it prior to that time, about this proposed meeting?

A. Well, she mentioned that she had called sometime during that evening, we went out on a call.

Q. When did she mention that?

A. While we were, we went up the street to make the call.

Q. Did you know whether she was going to make the call at the time she made it?

A. I did not when she made it.

Q. She said an arrangement made to meet the next morning, next day?

A. She stated that—yes, there would be arrangements made by—but the time wasn't set, it seems to me that they were going to call up later in the day and tell us.

Q. Was there anyhing said as to why or what you were going to meet about?

A. Well, as I understood it, we were going over to meet Father Mellon and Mr. Dorrian and talk the situation over in regard to this capias and attachment.

Q. And did you go over?

A. Yes, we went over.

Q. At what time did you learn you were to go to the Vendig Hotel, I suppose, didn't you?

A. Sometime during the morning we got a message telling us to be at the Vendig Hotel in Philadelphia at a certain hour.

Q. What hour was that, if you recall?

A. Really I don't know, it seems to me around three o'clock in the afternoon we were supposed to be there.

Q. And you went?

A. I went, yes.

Q. Were the other people there at the time you got there?

A. No.

Q. How long did you wait before Mr. Dorrian and Father Mellon came?

A. Mr. Dorrian and Mr. Fahler, as I remember it, came in before Father Mellon, a short time.

Q. Did you have any conversation with either Dorrian or Fahler when they came up, when they came there?

A. I think bid the time of day to them, I don't remember much any other conversations.

Q. Was there some conversation between Mr. Fahler and you about a contract?

A. No.

Q. Then did Father Mellon come?

A. Father Mellon came.

Q. Have a conversation with him?

A. Father Mellon met me and I said, "Hello, Father," and he said ——

Q. Who was there?

A. Well, Mr. Williams, Harold Williams and Trevor Williams and Mrs. Davis, I think. Mr. Dor-

rian and Fahler scattered around the lobby, I understand, and they were all together.

Q. You spoke to Father Mellon and what then happened?

A. He said, "Hello, Royden, I am sorry for you." He said, "They have got Trevor for twenty years and they got you and the old man for embezzlement."

Q. And where was that?

A. That was down in the lobby, right in front of the elevator, right beside the elevator.

Q. After that time what was done?

A. Shortly after that we went upstairs to the room.

Q. And went into a conference?

A. And went into a conference, yes.

Q. What was done at that conference? Who was there?

A. Well, Father Mellon and Mr. Carlton Godfrey, Phillip Godfrey, Trevor Williams, my wife and myself, and Jack Scanlan, and Mr. Dorrian and Fahler.

Q. And Dr. Mellon?

A. And Dr. Mellon, yes, I seen him first.

Q. Now tell me what was done at that conference.

A. Dr. Mellon took the head of the table and stated that he had been called there on a phone call from Mrs. Davis in regard to this trouble, difficulties, as he called it. I don't remember exactly what was said after that. I know he started in, and that is about all I can remember regard Mellon at that time.

Q. Then what did they do?

A. Well, as I remember it, Phillip Godfrey started to go over some papers, he had quite a bunch of papers there, and Mr. Harold Williams spoke up and he said, "This isn't the kind of a meeting we expected. We should have attorneys here," and Mr.

Carlton Godfrey said, "I will be your attorney and you will see that I will treat you right." So things started going along and Phillip Godfrey started pulling out these papers, calling "secret profits" and, transactions so and so, and Jack says——

Mr. McCarter: One moment, I don't think he ought to conclude, he ought to tell what occurred.

A. That is what was kept up, secret profits, then these straw deals here and there, and they were making figures on the sheet, on a pad, and Trevor Williams says, "This thing looks too legal, we should have our attorneys here," and Mr. Godfrey said, "Well, you better keep still and go on with this settlement. We will tell you when you can have your attorneys here," so just starting around that time I didn't hear, I suppose, all that was going on.

Q. What is that?

A. I didn't hear, I suppose, all that was going on. I got bewildered myself.

Q. How long did that session continue and what broke it up?

A. Well, that lasted probably about two and a half or three hours, I imagine, as I remember it, Dr. Mellon had some other business to attend to or something on that line.

Q. Then you were to return when?

A. We were to return the next day. The next afternoon, I remember them saying we try and be there a little earlier than we had arrived today.

Q. Did you come back the next day?

A. Came back the next day, yes.

Q. The first day was there anything said about Trevor's securities, or was that the second day?

A. Well, the first day he was asked where his se-

curities were, and Trevor said part in New York and part in California, and Mr. Godfrey told him to bring over the securities that he had in New York, in fact I believe it started off by asking him how quickly he could get them. They were trying to give him four hours to go over and back, and anyway it wound up by bringing them over the next day.

Q. Now the next day when you all came back what took place then?

A. Well, they were working these papers around into forms and figures so that they could get the total amount, I suppose. Mr. Godfrey asked, as I remember, about the first thing when we came in the morning—no, it wasn't the first thing—but he asked for the securities and papers of Trevor, which Trevor was to bring over, they were cleared up, and some of the papers seemed to be missing and Mr. Godfrey asked Trevor why he hadn't brought them over, and he said that he thought that he had brought them all over that he had in New York, and Mr. Godfrey said, well anyway there is a dispute, and Mr. Godfrey called Trevor a liar, and told him he had a good mind to call the meeting off and send us all to jail.

Q. Then to go on, what Trevor say?

A. Well, as I remember it, Trevor said, "You can use your own judgment about that."

Q. Did he say that or call Godfrey a liar?

A. He did, yes.

Q. And he called Godfrey a liar.

Mr. McCarter: I think your witness better testify.

Q. After he called Godfrey a liar what was said to Trevor by either Dr. Mellon or Mr. Garrison or Mr. Godfrey?

A. Well, I don't remember anything particular at

that time was said to him, excited and bewildered myself, in a condition where I couldn't hardly take all that in.

Q. Now that day was there anything said that day about having lawyers when they were preparing that agreement?

A. Yes, when they started to get this in the form of an agreement we said we should have our attorneys.

Q. Who said that?

A. I think it was Trevor said that.

Q. What about Mrs. Davis?

A. I don't recall whether she said it or not at that time, but she said it later, but at this particular time ——

Q. What was said in response to that?

A. Mr. Godfrey said, "We will draw up the contract in the rough, and we will cut off the ragged edges, and then you can call your attorney in to look it over."

Q. Did you understand then that you were to have an opportunity of having attorney—

Mr. McCarter: I object.

The Court: Sustain the objection.

Q. What impression did you gain from what Mr. Godfrey said about that, draw up in the rough and you can bring your attorneys here?

Mr. McCarter: I don't think that is competent.

The Court: Sustain the objection. I think it is plain enough, the meaning of the language.

Q. Well, what happened during that day, how was

the agreement being drawn in the room, what was going on there?

A. Well, papers were being handed out, secret profits, here is forgeries, same thing, secret profits, same day there, mentioning amounts, and putting them on it, putting, juggling the figures around, and comparing the figures on the settlement sheets, and I don't know what all, what was much going on.

Q. During that time in what physical condition was Harold Williams?

A. Well, he was in very bad condition, in a very weakened condition. Father Mellon asked Jack Scanlan to go out and get him some aromatic spirits of ammonia, and he took that from time to time.

Q. When the session was over in the evening did Father Mellon make any suggestions?

A. When we got downstairs at the elevator Father Mellon came over and said, "You better put Harold Williams to bed here in the Vendig tonight, I don't think he ought to go back to New York."

Q. He went back to New York?

A. He went back to New York, yes.

Q. Did he go with you or ahead of you?

A. He went with Trevor.

Q. Ahead of you?

A. Ahead of us.

Q. When you got over there did you see him?

A. Yes, he was in bed, and I thought he was dead, he looked it.

Q. You say you thought he was dead, what made you think he was dead?

A. Well, he sort of propped up in bed with his eyes sticking out, and apparently didn't seem to be breathing.

Q. Now did you come back again the next day?

A. Yes, the third day.

Q. Who was there then?

A. The third day Mr. Hart, Carlton Godfrey, Phillip Godfrey, Trevor Williams, myself, and Mr. Harold Williams, Mrs. Davis, and Mr. Scanlan, Mr. Fahler and Mr. Dorrian, and Mr. Mulhern, and Besore.

Q. And stenographers?

A. Well, they brought the stenographers up the second day and they were there.

Q. Were they in the room where you folks were or in another room?

A. They were in another room, they were in and out, of course.

Q. Now what was done that day?

A. Well, this was the day that they were settling down to an amount, and reckoning these figures up. The second day Mr. Hart came in with an additional amount of figures which brought the total up around two hundred and some odd thousand dollars, two hundred and twelve or thirteen thousand, as I remember was the third day, the thing was still going on, and there was some mention of fixing the figure and have it all over with, and I think Mr. Godfrey, Mr. Phillip Godfrey and Mr. Dorrian and Mr. Fahler, I believe, went out into the hall, and had a little conference, and they came back and announced they would make a figure of $190,000.

Q. Was there any negotiations between you parties as to the amount that was going to be paid, and what the settlement was going to be?

A. There was in regard to some adjustments, I believe, that is all.

Q. Now when the agreement had been prepared, typewritten, and was in shape where it might be signed, what, if anything, was said by any of you people before signing?

A. Well, Mr. Trevor Williams said, "This thing is getting all too legal for him," and he demanded his attorneys come in, and he was told to keep quiet, he would be told when he could bring them in.

Q. Then later before it was signed was something else said?

A. They said it was too late to bring them in, they should have been in earlier.

Q. Who said it was too late?

A. Mr. Carlton Godfrey.

Q. Who told them he would tell him when he could bring them in?

A. Mr. Carlton Godfrey.

Q. Now did Dr. Mellon say anything about that time?

A. Well, Dr. Mellon came in and announced that the capias had been sustained.

Q. The capias had been sustained?

A. Yes, and as I remember another thing, Mr. Garrison came out into the hall and told us—he came out into the hall and told us we had better go in and settle, settle the matter because this man Hart was a firebrand.

Q. Now did Dr. or Father Mellon appeal to anybody for corroboration of his statement that it had been sustained, the capias had been sustained?

A. Yes, he turned around and asked, "That is right, isn't it, gentlemen?"

Q. Who answered?

A. Mr. Godfrey, in fact all of them answered.

Q. Was it signed?

A. My wife ——

Mr. McCarter: Your Honor sees the point, of course.

The Court: Sustain the objection.

Mr. McCarter: Every time Mr. Bourgeois refers to that transaction he always incorporates in his question a leading essential point, there hasn't been a single question ——

Mr. Bourgeois: Your Honor please, I take things up in the chronological order, that is the reason I do it.

Q. What did you do after that, and after Mr. Godfrey had said it was too late to have your attorneys and Dr. Mellon had said that the capias was sustained and this motion had been dismissed, had not been sustained what did you then do?

The Court: Is there any testimony that the other people did corroborate it? The question was asked and it is answered in a way which said that nobody corroborated.

Q. I asked you whether there was any corroboration, you said he appealed to them, what did he say and who said it?

A. He said, "The capias has been sustained by the Supreme Court, isn't that so, gentlemen?" And Mr. Carlton Godfrey said so, Mr. Phillip Godfrey, and I think Mr. Garrison.

Q. Now then what was said?

A. Why Mrs. Davis said, kept demanding lawyers, should have our lawyers, and she begged me not to sign this thing, she said it was too legal, and Mr. Carlton Godfrey leaned over and tapped her on the hand and said, "I am not here to advise you, but you had better sign if you know what is good for you."

Q. Then what?

A. Well, with the capias being sustained and everything against me, I just signed.

Q. What did the others do?
A. Well, they signed, so far as I know.

Mr. McCarter: Others signed so far as you know?

Q. What was your physical condition at that time?
A. Well, I would have, with the thought of jail hanging over me, or something, and feeling that I had not done anything morally wrong, I would have signed anything.
Q. I know, but what was your physical condition at the time, had you taken on weight during the last few days?
A. I lost about fifteen pounds in the four or five days connected with that.
Q. And you say you thought you had done no wrong?
A. Yes.
Q. But you signed?
A. I signed. I would have signed anything.
Q. Were you complacent in your mind or were you in fear?
A. In fear.
Q. Now do you remember if there was some reference made to Washington?
A. Mr. Hart made a reference to Washington, he said, "Let's get those papers out in Washington."
Q. What did he say before he said, "Get the papers out in Washington?" Do you recall?
A. I don't recall.
Q. Now, what was said, if anything, during these days about the capias that was out against you, or what did Mrs. Davis say about it and what did they say about it?
A. Well, they said the capias had been sustained by law, and Mrs. Davis asked, on several occasions

asked Mr. Godfrey and Mr. Garrison if I couldn't home and they said I couldn't while that capias was hanging out, although Mr. Godfrey did say—or Mr. Garrison said that I could go down under his protection.

Q. Under his protection?

A. Yes.

Q. Now, Mr. Davis, do you remember anything being said about the agreement after those of you who were there had signed it, anything being said about the agreement as it then stood?

A. Well, the agreement ——

Mr. McCarter: Same objection as before.

The Court: I will permit it.

A. The agreement was not to be good until it was signed by Gordon, and my recollection of that is that it was dated several days ahead, that is the completion of it to get time to get Gordon's signature.

Cross-examination.

By Mr. McCarter:

Q. When did you first learn the nature of the claims or some of them that were included in the capias or the attachment?

A. I think in Philadelphia.

Q. At this conference?

A. At the conference.

Q. You are quite sure about that?

A. Yes.

Q. You were personally aware of the fact, were you not, Mr. Davis, connected with the county, the

Ryon, the Smith and Russell and the Roberts transactions by which, whether it was right or wrong, but by which Williams and Davis, Inc., paid a great deal more for the land acquired by these four purchases than had been paid to the owners?

Mr. Bourgeois: I object. If your Honor please, that question was asked before and your Honor admitted it on the theory it might go to his impression about morals, but the attorney-general has put that out of it this time, he says whether right or wrong.

The Court: Sustain the objection.

Mr. McCarter: Do I understand your Honor to rule I can't ask him if he didn't know of these transactions?

The Court: Yes, that was the ruling as then made. Overrule that question.

Q. You knew of the so-called Smith and Russell transaction?
A. Yes, I knew the Smith and Russell transaction.
Q. You knew of the Roberts transaction?
A. Yes.
Q. You knew of the Ryon transaction?
A. No.
Q. Didn't know of that?
A. No.
Q. Did you know of the county transaction?
A. Yes.
Q. And you knew of all of them previous to Mr. Harold Williams going away, did you not?
A. Yes.

Q. Now, after Mr. Harold Williams had gone away you visited, in connection with Mr. Hart, Mr. Carlton Godfrey for the purpose of taking advice with reference to disassociating yourself with Gordon Williams and Company and the gentlemen that were connected with you in that?

Mr. Bourgeois: I object as not cross-examination.

The Court: I will permit it.

A. Can I qualify the answer?
Q. Give an answer.
A. I did. I went up with Mr. Hart but ——
Q. Now, that was ——

Mr. Bourgeois: Your Honor please ——

The Court: Yes, he is entitled to finish his answer. He said "but."

Q. What was the answer?
A. But when this thing was ——

The Court: No, the question is whether you went up for that specific purpose, you said you went up but.

A. But at the instigation of Mr. Hart who insisted on me going along as I was an officer of the corporation and as a protection to the stockholders I should go.

Q. Now, Mr. Davis, you turned your mouth and faced the Vice-Chancellor, very properly, but you said something I couldn't hear.

(Answer repeated.)

Q. Which corporation do you refer to?

A. Williams and Davis.

Q. And the transaction in question was what?

A. Williams and Davis and these deals that you have just mentioned against Gordon Williams and Company, as I remember it.

Q. I understand you to say that your first visit to Carlton Godfrey's office after Mr. Harold Williams and the other Williamses had all left was in reference to the so-called county, Ryon, Smith and Russell and Roberts transactions?

A. No, it was in regard to breaking the contract on the Del Rey, selling the Del Rey.

Q. Did you suggest that Hart should go or did Hart suggest that you should go?

A. Hart suggested that I should go.

Q. And you felt that there was a ground for breaking this contract, so to speak?

Mr. Bourgeois: I object. I don't understand where this is cross-examination at all.

Mr. McCarter: I want to see what he knew.

The Court: Is the question completed?

Q. You felt that there was a ground for breaking this contract, did you not?

Mr. Bourgeois: I object as not cross-examination.

The Court: Sustain the objection.

Q. Well, you went there for the purpose of hav-

ing litigation commenced against the Williamses, did you not?

Mr. Bourgeois: I object as not cross-examination.

The Court: Sustain the objection.

Q. Did you go more than once to Carlton Godfrey's office?

A. I think on two occasions.

Q. And about the time of these visits to Mr. Carlton Godfrey, Harold and Trevor and Gordon had all gone to California, hadn't they?

A. They were in California.

Q. Were you aware they had taken their furniture away?

A. At what time?

Q. After they had taken it away?

A. Sure, after they had taken it, yes.

Q. What?

A. Yes, after they had taken it.

Q. Then weren't you aware at the time that you were going to Mr. Carlton Godfrey's office?

A. I can't say positively.

Q. What say?

A. No.

Q. Do you recall, either the latter part of April or very early in May that you telephoned Mr. Hart that it was important that you and he should meet at once, and that, pursuant to that message, you met Hart at the Ventnor office, and you told Hart that Dave Smith had met Dorrian and had told Dorrian how he, Dorrian, had been done by the Williamses, or words to that effect?

A. No, I did not.

Q. I beg pardon?

A. I did not. I remember telling Mr. Hart about that transaction, but I don't remember of ever calling him up and going into all this detail.

Q. When did you tell Hart that you had learned that Smith had met Dorrian and had told Dorrian how he, Dorrian, had been done by Williams?

A. I don't remember.

Q. Well, it was early in May, or the latter part of April, wasn't it?

A. It was probably the latter part of April.

Q. How had you hear that?

A. I think Mr. Smith had talked to me in front of the Ventnor office one day about it.

Q. Smith told you about it?

A. I think so.

Q. What did he say?

A. He said that Mr. Dorrian had been around to see him about it, been in there ——

Q. Been what?

A. Been around to see him about the agreement on that tract that he had sold.

Q. Well, is that all he told you?

A. I don't recollect much about it excepting that

——

Q. Now ——

A. ——wait a minute.

Q. What?

A. Excepting that he said that he had paid, Dorrian said he had paid more for it than he had gotten out of it.

Q. Did he say how much more or less?

A. No, I don't think so.

Q. And at this interview that took place between Hart and yourself, after you had learned this from Smith, you told Hart, did you not, that you thought you had better telephone Harold in California?

A. I don't recollect that.
Q. What?
A. I don't recollect that.
Q. Darn quick?
A. No, I would say no.
Q. And didn't Hart at first try to dissuade you from so doing, and then didn't you say to Hart in substance as follows: "This is serious as Smith told Dorrian that he, Dorrian, had been swindled out of over $50,000?"
A. No.
Q. What?
A. No, sir.
Q. Nothing of the kind?
A. I didn't say that.
Q. Nothing of that kind?
A. No.
Q. What did you say?
A. I didn't say anything.
Q. What?
A. I didn't say anything.
Q. You didn't say anything?
A. No, sir.
Q. Did you say anything about telephoning Mr. Harold Williams?
A. I have no recollection of ever saying it.
Q. Have no recollection?
A. No, sir.
Q. As a matter of fact you did telephone him, didn't you?
A. Not at that time.
Q. What do you mean by not at that time?
A. Well, I telephoned to him, or attempted to, I didn't get a very good message, attempted to telephone to him about probably a week before he came back or ten days, I would say, maybe.

Q. You knew he was expected back, expected to leave about the twenty-fifth?

A. He was expected back the twenty-fifth of May.

Q. Expected back the twenty-fifth of May?

A. He said he would be back May twenty-fifth.

Q. How did you learn that?

A. Because he told both Mr. Hart and myself in the office the day he left.

Q. That he would be back on the twenty-fifth?

A. Yes, and he said to Mr. Hart and I ——

Q. Never mind. He said he would be back on the twenty-fifth?

A. Yes.

Q. Very good. Now, you telephone that day to Mr. Harold Williams, didn't you?

Mr. Bourgeois: What day?

Mr. McCarter: The day that you had the talk with Hart?

A. I don't think that I did.

Q. Was it the next day?

A. I don't know what day it was. I told you it was maybe a week or ten days we will say before the fourteenth.

Q. A week or ten days before the fourteenth?

A. That would be probably the fourth.

Q. What did you tell him?

A. Mr. Williams?

Q. Yes.

A. As I think of it now I didn't telephone to him, he telephoned to me and asked me what the trouble was over there.

Q. Then you replied?

A. And I had written to him in the meantime.

Q. Oh, you had written to him?

A. Yes, sir.

Q. Was your wife mistaken this morning when she said that you did—was Trevor mistaken this morning when he said that his father did receive a telephonic message from you?

Mr. Bourgeois: I object, if your Honor please. That is not relevant. How does he know whether Trevor was mistaken or not?

The Court: I will sustain the objection.

Q. You now say you did not telephone Mr. Williams, Harold Williams?

A. I am trying to recall. I thought I did put in a call from the Margate office but I never had it completed, in other words it was completed by Williams coming back to me.

Q. And Williams came back to you, was received at your house, wasn't it?

A. Yes.

Q. And the information that you received from Mr. Harold Williams at your house by phone was in response to or after the receipt by Mr. Williams of your letter that you had written him?

A. Yes.

Q. What?

A. Well, I started the call from the Margate office, and it was late in the afternoon when he called me at home, I had ——

Q. You had written?

A. Yes, I had written.

Q. A week or so before?

A. Yes, I judge it was.

Q. About the Dave Smith matter?

A. I didn't mention Dan Smith matter, as I remember.

Q. What?

A. I recollect him telling me about what was happening in general, I told him, best thing to do was to come home, to come back.

Q. What did you write him about? Like to have that letter, if you have got it, gentlemen.

Mr. Bourgeois: I have never seen it, haven't got it.

Mr. McCarter: You have no such letter?

Mr. Bourgeois: Never heard tell of it before.

Mr. McCarter: I would like to have Mr. Williams produce that letter if he has it in the case here.

The Court: He may do so.

Q. Mr. Davis, please tell us to the best of your recollection what you said in that letter.

A. I told him that on account of him and the rest of the family going to the coast, also taking their furniture had caused a lot of talk around town and there was talk on every corner, and people getting excited, and I said the best thing for him to do would be to come back at his earliest convenience. That is the sum and substance of it.

Q. Can you tell us about when that letter was sent?

A. Probably the latter part of April.

Q. At any rate it was after your talk about the Dave Smith transaction?

A. I wouldn't say that.

Q. What?

A. I wouldn't say that.

Q. Didn't you say so a little while ago? Didn't you say so?

A. I don't recollect saying so.

Q. Well, in the phone call did David say he would take your advice and come back later, or Harold, I mean?

A. He said he, yes, he said he would come right back.

Q. Right away?

A. Come soon, I don't remember just exactly the wording.

Q. And what position did you hold in Gordon Williams and Company?

A. Vice-President.

Q. What position did you hold in Williams and Davis, Inc.?

A. Vice-President.

Q. Where were the papers in connection with the Del Rey deals kept originally?

A. In the safe.

Q. What safe, at what office?

A. At the Margate office.

Q. Did you remove those papers from the safe of the Margate office before the return of Mr. Harold Williams?

A. Yes.

Q. You did?

A. Yes.

Q. You were subpoenaed to produce them, were you not?

A. Yes.

Q. Have you done so?

A. I removed them, but I haven't got them now.

Q. The question now is have you produced them?
A. No.
Q. Why haven't you produced them?
A. I haven't got them.
Q. What did you do with them?
A. I brought them up to Mr. Bourgeois' office.
Q. When?
A. Well, at about the time that, to the best of my recollection shortly after we got back here before ——
Q. That is after Philadelphia, is that what you mean?
A. Yes, after the hearing which was held, I don't just recollect the date.
Q. Did you bring them to Mr.—give them to Mr. Bourgeois before the hearing we had down here when I made an argument that was forty hours long, as Mr. Bourgeois intimated? You remember that argument, that wonderful argument?
A. Well, I wasn't in here, but I remember waiting on the outside.
Q. Was it before that?
A. No.
Q. After that?
A. After that.
Q. Now, when had you taken those papers from the safe? Can't you answer?
A. I was trying to think, I would like to have it somewheres near definite. I don't recall whether I took them the first day that Mr. Williams arrived or whether I took them the first day that I came back from down here on this, what was that, Mr. Bourgeois, long session?

Mr. Bourgeois: I don't know. Too many motions for me to keep track of them.

A. I am not positive which time.

Q. Now, don't you know you took them earlier than either of those occasions?

A. No.

Q. I am asking you when you took the papers from the safe?

A. I cannot give you a definite date.

Q. Well, you had taken them from the safe before the argument that you have alluded to here, hadn't you?

A. No.

Q. What?

A. They were locked up in the small deposit in the safe.

Q. You had removed them from their regular place and put them under lock and key in an inside safe, is that what you mean?

A. No, they were in there for some time. That was the regulation place for them.

Q. Mr. Davis, you told us sometime ago that you had removed those papers from the safe.

A. I had, yes, removed them from the safe, told you I couldn't give you a definite date.

Q. You couldn't?

A. That is what I said.

Q. Before you delivered them to Mr. Bourgeois what did you do with them?

A. I just brought the big envelope up. I gave it to Trevor Williams, that is what I did.

Q. Gave them to Trevor Williams?

A. Yes, sir.

Q. What was the apartment or place in the safe where these papers therefore had been?

A. In the lock box.

Q. In the lock box?

A. Yes, with a lot of other papers.

Q. Who had access to that box?
A. I did.
Q. Anybody else?
A. Mr. Harold Williams.
Q. Anybody else?
A. I don't know—I think Mr. Hart did
Q. Now, what papers did you take from this lock box and give to Trevor Williams?
A. I never looked them over particularly—a bundle of papers out of there, all that was left, and took them up here, give them to Trevor to bring up.
Q. Had Trevor requested you to take them out?
A. No, I did it myself.
Q. What papers do you think that you took out?
A. Well, there was a lot of envelopes with settlements, different settlements.
Q. Yes, the county matter?
A. I don't think so, in fact I don't know, really what was in there, Mr. McCarter.
Q. Don't know what was in there?
A. No, sir.
Q. It affected that Del Rey property, didn't it?
A. Well, some of it did, I suppose.
Q. What?
A. Some of it did.
Q. Was it not a fact that the Del Rey papers had down to the time that Harold Williams went to California been kept in a drawer in the safe and not under a lock box?
A. They may have been there part of the time.
Q. And didn't you change their position from the drawer to the lock box?
A. I said I did, yes.
Q. When was that?
A. I don't remember the date.
Q. Now, as near as you can recall, please.

A. I haven't any real idea when they were put in there.

Q. Well, they were the Del Rey papers, weren't they?

A. Well, there was a lot ——

Q. They were the Del Rey papers, weren't they?

A. Del Rey papers were in there, yes.

Q. Very good. And Harold wasn't home yet?

A. No.

Q. But you had heard about the Dave Smith matter?

A. Yes.

Q. And how soon after hearing about the Dave Smith matter did you go to the safe in the office and transport the Del Rey papers from the drawer to the lock box?

A. I think they were in there sometime before that.

Q. Before what?

A. Before this Smith matter was commenced.

Q. Then you change your evidence? You told us a moment ago that it was after your talk about Smith; you wish to change your evidence now?

A. No, I didn't say that, I don't think.

Q. You didn't?

A. I don't think so.

Q. Now, do you now say that you had not heard about the Dave Smith matter before you changed that location?

A. Really I can't say, Mr. McCarter.

Q. You can't tell?

A. No, sir.

Q. Now, how long did they remain in the lock box before, at Trevor Williams' request, you took them out and gave them to Mr. Bourgeois or before you gave them to Trevor Williams?

Mr. Bourgeois: Objected to. At his request? What is the question?

(Question withdrawn.)

Q. How long did they remain in the lock box before you gave them to Trevor Williams?

A. I gave them to Trevor Williams after we came back in June a year ago, that is my best recollection.

Q. Then they had remained in the lock box in the safe down until your return from Philadelphia?

A. Yes.

Q. Is that right?

A. That is right so far as I know.

Q. They had been put under lock and key at the time that the telephone conversation between you and Harold took place?

A. No, sir.

Q. Sir?

A. You mean as a result of the telephone call?

(Question repeated.)

A. Really I couldn't tell you, Mr. McCarter.

Q. You can't tell?

A. No, sir.

Q. Well, you won't say that it wasn't after that conversation that you changed them, will you?

A. No.

Q. Well, Harold determined to come home right away. Did he telegraph you when he was leaving and when he would get home?

A. He telegraphed me from Chicago.

Q. Was that the first information you received as to when he was leaving?

A. I think it was. He said on the phone he would leave immediately and then when he got to Chicago he wired me, my best recollection.

Q. Have you the wire?

A. No.

Q. What did you do with that?

A. I suppose I threw it out in the gutter some place.

Q. Threw it out in the gutter? When was that?

A. I suppose almost immediately, I am not in the habit of keeping telegrams.

Q. What?

A. I am not in the habit of keeping telegrams.

Q. I am not asking you what you suppose, if you have any recollection.

A. No recollection.

Q. No recollection at all?

Q. Did you receive that wire at the office?

A. I don't recall, Mr. McCarter.

Q. I am speaking now of the Chicago wire?

A. I know.

Q. But at any rate that wire told you to meet Harold in Philadelphia, didn't it?

A. It did.

Q. Had Harold been to and returned from California before since your association with him?

A. Previous to that time?

Q. Yes.

A. Yes, he was.

Q. Had you met him out of the State before that?

A. I think I did. I think I met him and Gordon at one time, that is my recollection of it.

Q. Beg pardon?

A. That is my recollection of it.

Q. Well, who went up in the car to meet Harold and Trevor?

A. Myself and Mr. Scanlan.

Q. And Mr. Scanlan? Was the subject of Smith and Russell or the Dave Smith matter spoken of at all on that hour and a half's trip down in the car from North Philadelphia to Atlantic City?

A. I couldn't say definitely that it was.

Q. Indefinitely?

A. Well, indefinitely I would say that possibly it was mentioned.

Q. Did you refer definitely or indefinitely to the fact that you had put the papers under lock and key?

A. I never mentioned the papers.

Q. So your answer to my question is you didn't mention that?

A. No, sir, I know that.

Q. And did you tell Harold that Dave Smith had gotten in touch with Dorrian and disclosed to Connie the fact that over $50,000 had been paid by Williams and Davis, Inc., for property in excess of the amount that the Smith and Russell people had received?

A. I don't believe that I did, Mr. McCarter.

Q. Beg pardon?

A. I don't believe that I did.

Q. Don't believe that you did?

A. No, sir.

Q. Well, you had written Harold to come home, hadn't you?

A. Yes, sir.

Q. And he had left a week or ten days earlier than he anticipated?

A. Yes, sir.

Q. And was the subject of why you had written him and why he had come home earlier adverted to in this ride?

A. Sure.

Q. What did you talk about coming down?

A. Well, talked about the things that led up to it, that is—in other words, moving of the furniture and him leaving town, and the talk about the thing around town had started different people to coming into the office, and one thing another of that kind, everything was talking over in general.

Q. Beg pardon?

A. Things were talking over in general.

Q. And while you talked about his moving the furniture, and talking about things in general, and the people were inquiring, of course, you must have said something or other about the fact that Connie was on the rampage because he had learned from Dave Smith that there had been $50,000 difference in that deal between you?

A. I admitted we talked things over in general and I probably did.

Q. Probably did?

A. I don't know anything definitely that was stated.

Q. In your talk with Smith—you did have a talk with Smith, didn't you?

A. Yes, a short talk.

Q. He is in the room, isn't he?

A. Yes, he is here.

Q. That talk took place in front of your office?

A. In front of the Ventnor office, yes.

Q. After Smith had told you about Connie having learned this, didn't you say to Mr. Smith then and there for him to keep his damned mouth shut, that he had gotten his price, something to that effect?

A. I didn't put on the damn, I may have said the rest.

Q. You left that out?

A. Yes, long as he got his price I thought he had

nothing more to say, he got what he asked, so far as I knew.

Q. And did you tell Mr. Harold Williams coming down in that hour's ride that you told Smith to keep his mouth shut?

A. I couldn't say definitely I did. I probably did.

Q. And did you tell him that you had put the papers in the lock box?

A. I did not.

Q. What?

A. I did not.

Q. How did that happen you didn't tell him that?

A. I don't know, Mr. McCarter.

Q. Well, now, Mr. Davis, in view of the fact that your talk with Smith, in view of the fact of your familiarity with the other transactions in connection with Del Rey besides Smith and Russell, in view of the fact that you had taken the Del Rey papers and put them in the lock box, in view of the fact that you learned on that fateful Saturday that an attachment and capias were out against you and the others, you want Vice-Chancellor Ingersoll to understand that you hadn't the slightest conception of what it was about?

Mr. Bourgeois: If your Honor please, he hasn't said he knew it at that time. Mr. Godfrey didn't publish the fact he was going to issue an atachment against these people or capias.

Mr. McCarter: My question is all right.

The Court: Permit the question.

(Question repeated.)

Mr. Bourgeois: Conception, what was it about?

Mr. McCarter: Attachment and capias.

A. I don't seem to grasp that yet.
Q. What is that?
A. I don't seem to grasp that question yet.
Q. Have the question read?
A. Yes.

(Question repeated.)

Mr. Bourgeois: I object, that question is not complete, what is on the paper, there is something left out there.

Mr. McCarter: The attachment and capias.

Mr. Bourgeois: If your Honor please, he didn't know about the attachment nor the capias at that time.

The Court: The question says that he did, says on that Saturday when he had that information.

Mr. McCarter: I am asking if he did not suspect what it was about.

The Court: Permit the question.

A. No.
Q. You didn't suspect either?
A. I don't want the Vice-Chancellor to think that I didn't have an inkling what was going on.
Q. That is what I am trying to find out.
A. That is the question, the way I figure takes about a half a dozen answers.
Q. I will make it shorter. That is a very good

criticism. When you heard that this attachment and this capias had issued on that Saturday, you surmised what it was about, they were about, didn't you?

A. Well, yes, I will say yes.

Q. And you believed, of course, you had not seen the papers but you believed that Dorrian and Fahler had taken proceedings because of the discovery of the Smith and Russell matter and possibly the other Del Rey matters?

A. Yes.

Q. And you had in mind on that Saturday the fact that each of these larger figures had been taken as well in the county, the Ryon and the Roberts transactions as well as the Smith and Russell transaction, in other words you had the whole Del Rey matter in mind?

A. Well, I had things in general in mind, only things I didn't know specifically.

Q. And didn't you talk with Williams, Harold and Trevor about it that day when you heard of the attachment?

A. Certainly, but we didn't have anything definite.

Q. But you told them that you guessed it was ——

A. You mean coming down or after we started to move out of here on the attachment?

Q. After you heard of the attachment and the capias from Mr. Scanlan you and the Williams talked of the fact that they were probably based upon these transactions in connection with Del Rey, didn't you?

A. No, not exactly along that line. We talked wondering but what it might be connected with, that the connection would be.

Q. What?

A. We talked along the lines of what it might be.

Q. Might be those matters?

A. Might be those matters, might be this or something.

Q. What else was there?

A. I don't know.

Q. What?

A. I don't know.

Q. Well, you knew of these transactions and you spoke, and all of you said it might be these matters, didn't you?

A. Talked along that line.

Q. What?

A. It was talked over along those lines, yes.

Q. Had you heard that Mr. Dorrian and Mr. Hart had been to see Julia Coll?

A. Yes.

Q. You had heard that before the attachment and news of the attachment and the capias was brought to you?

A. Yes, I think so.

Q. And you also knew, did you not, that Julia Coll had been a straw only in connection with Del Rey, didn't you?

A. Yes.

Q. And that she had been a straw in the Roberts matter? You knew that?

A. I think so.

Q. And in the Smith and Russell matter?

A. I think so.

Q. So didn't the fact that you learned that these two gentlemen had seen Julia Coll add to the force of your inference that the matter of the attachment and the capias were in connection with these Del Rey transactions?

A. Yes.

Q. They did, didn't they?

A. Naturally.

Q. How had you heard that they had been to see Julia Coll?

A. I think Julia Coll had been in town.

Q. Beg pardon?

A. I think Julia Coll was in town, her and her sister called us saying that they had been out there to see her.

Q. When was that, Mr. Davis?

A. Sometime the first part of May, I don't recollect the date. To the best of my recollection.

Q. Well, now don't you recall the fact that when you were, previous to this return of Harold and Trevor, in conference with Mr. Carlton Godfrey, that Mr. Godfrey asked you to bring Julia Coll to his office?

A. Yes, sir.

Q. She was in town at that time, wasn't she?

A. She was.

Q. At your house?

A. At my house, yes.

Q. Did you produce her?

A. No, I did not.

Q. You never went to Godfrey's office again, did you?

A. I did not.

Q. You left voluntarily after conferring with Mr. Godfrey about certain matters, for the purpose, as Mr. Godfrey requested, of producing Julia Coll, who was at your house, and you not only did not produce Julia Coll, but you never went back to Godfrey's office, is that right?

A. That is right, he asked me to go down and bring her up, but she refused to go. I couldn't pick her up bodily and take her up there.

Q. But did you report to Mr. Godfrey that she would not go?

A. No, sir, I went down to see Judge Cole.

Q. Did you report to Mr. Godfrey that she would not come?

A. I did not.

Q. Instead of that you went and employed your own counsel, Judge Cole?

A. I did.

Q. The very same day?

A. Yes, sir.

Q. And you never consulted with Mr. Godfrey again?

A. Over the telephone I did. I told him if he had anything further to say to talk to Judge Cole.

Q. Now, had you also, previous to this time, when the gentlemen were lunching at your house, after returning from California, learned that they, namely Dorrian and Hart, or one or both of them, had been on the tracks of Sadie Craigen, who was the straw in the Ryon matter?

A. I don't recall, Mr. McCarter.

Q. What?

A. I don't recall that.

Q. You knew Sadie had been the straw in that matter, didn't you?

A. She had acted as the straw, yes.

Q. Did you overhear any telephone from your residence or in this vicinity by Harold to Sadie Craigen, after Harold's return?

A. I did not.

Q. You did not?

A. No.

Q. Did you learn from Harold that he had either wired or telephoned Sadie Craigen?

A. No.

Q. On his way back from California?

A. No.

Q. After you had this talk at your house, taking luncheon, you all drove up to Philadelphia and you spent the night there. Did your brother-in-law go along?

A. No.

Q. I beg pardon, what is your answer?

A. No.

Q. The three of you went off?

A. Three, yes.

Q. In whose car?

A. In my car.

Q. And you remained associated together, you three, you, and Trevor and Harold, either in Philadelphia or New York until your wife arrived, and after your wife arrived down to the evening of the third day of the Philadelphia conference?

A. I think that is right.

Q. What?

A. I think that is right.

Q. During that fortnight or more was the question of the probability that the matters in issue in these two proceedings, the attachment and capias, were the Del Rey matters again discussed?

A. There was discussion, I couldn't say exactly what was discussed. That is a year ago. All those things are not clear.

Q. But you did talk about it, didn't you?

A. I certainly did.

(Further testimony adjourned until Friday, June 8th, 1927, at 9 o'clock A. M.)

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VOLUME 2

Atlantic City, N. J., June 8, 1928.

(Trial of the cause resumed at 9 o'clock A. M.)

ROYDEN B. DAVIS, resumed.

Cross-examination. (Resumed.)

By Mr. McCarter:

Q. When did you first learn that your wife had been seeking to get in touch with Father Mellon?

Mr. Bourgeois: That was all gone over last week.

The Court: I will permit it.

A. After the telephone call in New York on Saturday night previous to the going down.

Q. Previous to what?

A. To going down to Philadelphia. Let's see, it was Saturday or Sunday, whenever she telephoned.

Q. Well, you and the two Messrs. Williams and she went out and some telephones were sent from a drug store?

A. That is right.

Q. At that time had you heard that she had on a previous Sunday vainly endeavored to get in telephonic communication with Father Mellon?

A. I don't recollect whether she said anything about that, Mr. McCarter.

Q. Well, you knew she was telephoning to Father Mellon?

A. I did not.

Q. In front of the drug store?

A. No, sir.

Q. But after she had communicated with Mr. Scanlan, did she tell you that she had instructed Scanlan to get in touch with him?

A. She did.

Q. Right then and there?

A. After she came out of the drug store, yes.

Q. And you were all anxiously awaiting news from Scanlan?

A. I said to her, I said, "What did you do" ——

Q. Will you answer my question?

Mr. Bourgeois: I object, if your Honor please. It is not cross-examination. Anxiously waiting there, he says, was nothing said about waiting anxiously, or anything about it.

The Court: Technically that is true.

Mr. McCarter: I don't know the very words.

The Court: I will permit it.

Q. Were you anxiously waiting? You have heard the hint, now I suppose you will say no.

A. No.

Q. You were waiting, however, the information that was expected to be received from Scanlan?

A. Not then.

Q. After then?

A. Well, in the morning.

Q. After you had been to the drug store and after she had reported that she had communicated with Mr. Scanlan, and instructed him to get in touch with Father Mellon you were awaiting information, weren't you?

A. Yes.

Q. And that information did not come until you were abed?

A. That is right.

Q. Now, you remember at the conference at Philadelphia the first day, after Father Mellon had made his preliminary speech and the causes of complaint were asked for, that Phillip read from a paper several items including the Smith and Ryon and the county and these other transactions? You remember that, and spoke of the secret profits that had been obtained by one or more of your side, and mentioned what they amounted to?

Mr. Bourgeois: Wait a moment.

(Question repeated.)

Mr. Bourgeois: There are two questions in one and I object.

The Court: That is true, two questions there.

Mr. McCarter: Withdraw the question.

Q. You remember, as you have already testified, that Father Mellon made that preliminary statement?

A. Yes, I do.

Q. What?

A. I remember Father Mellon making something.

Q. You have already told us what that was. Now, after that do you recall that Phillip, from a paper in his hand, in reply to an inquiry as to what the grounds of complaint were, read the statement concerning the purchase from the County of Atlantic, a statement concerning the purchase from David D. Smith and purchase from Roberts, and another matter of purchase from one Ryon, executor; do you remember that?

A. I don't remember him reading the paper.

Q. Well, do you remember his referring to these four matters and giving the amount of what he called secret profits that had been obtained and pocketed by what I will call your side, I mean you and the Messrs. Williams in connection with these matters, whether he read from a paper or didn't read from a paper—never mind looking over there, look at me.

Mr. Bourgeois: He wasn't looking anywhere.

Mr. McCarter: Wasn't he? All right.

The Court: Let's proceed.

Q. Answer my question?

A. He made some mention of some of these items. I don't recollect exactly what they were.

Q. Well, weren't you curious to know what the ground of complaint was?

A. I mentioned ——

Q. Weren't you curious to know what the ground of complaint was?

A. Yes.

Q. And he spoke in each of these instances that

he gave of a certain amount of profits, what he called secret profits that had been obtained by the gentlemen who constitute what I call your side, did he not?

A. I believe that is it.

Q. Now, Judge Cole was your attorney at this time?

A. Yes.

Q. Had you communicated with him and asked him to be present that first day?

A. Well, we tried to ——

Q. One moment, answer my question, had you communicated with Judge Cole and asked him to be present that day?

A. No.

Q. Had you communicated with Judge Cole and asked him to be present the second day?

A. No.

Q. Now, you knew, did you not, that Mr. Trevor Williams had brought over with him a batch of securities on the second day?

A. Yes.

Q. And on the third day Mr.—on the second day Mr. Hart had brought in some additional items of complaint, hadn't he?

A. I believe he did.

Q. What?

A. I believe he did.

Q. Well, do you know he had?

A. Yes.

Q. You heard what he said?

A. Well, I probably heard part of it. I wasn't in condition to hear much of it.

Q. Were not in condition?

A. That is right.

Q. Were you taking aromatic spirits of ammonia?

A. No, sir.
Q. What?
A. I needed something better than that.
Q. Didn't get it up there, eh?
A. No.
Q. And do you remember the amount of the claims ——
A. No.
Q. ——one moment——that Phillip had presented plus the amount of the claims that Mr. Hart presented on the second day, about $213,000, wasn't it?
A. I believe that is right, yes.
Q. Did you take any notice of the particulars of the several amounts that went to constitute those two sums?
A. I can't say that I did, Mr. McCarter.
Q. Can't say that you did?
A. No.
Q. Didn't know what they were at all?
A. Some of them I did, some I did not.
Q. Now, as a matter of fact you and your wife made up a statement of what you thought you should return?
A. My wife turned in a slip, yes.
Q. And that fund amounted to about thirty-four thousand and odd dollars?
A. Something like that, I think.
Q. Six hundred and forty odd?
A. I don't know the exact figures, around thirty-four thousand dollars, yes.
Q. Now, your wife turned in a slip, had you seen that slip before she turned it in?
A. I don't recall whether I did or not.
Q. You did not?
A. That is right, I don't recall whether I did or not.

Q. Don't you know that that slip, after it was prepared, was taken to New York by either your wife or yourself and brought back the next day?

A. No.

Q. What?

A. No.

Q. You don't know that?

A. No.

Q. And do you know what the constituent items of that thirty-four thousand were?

A. Well, I told her ——

Q. Won't you answer my question?

A. Well ——

Q. You do, don't you?

A. Figured on the hundred and three acres, hundred and thirteen and the pit, that is the Roberts

——

Q. You drop your voice. Well, you shared in the fifty-six thousand six hundred and thirty-eight transaction, didn't you?

A. No.

Q. Haven't you already told us that you did, and in the seventy thousand case?

A. Oh, I see what you are reading.

Q. What?

A. I understand what you are reading now.

Q. Well, you did, didn't you? And you got one-quarter of each of those amounts?

A. I got one-quarter from the Scullville tract.

Q. Speak of them in the language which you are accustomed to call them, which was the Scullville tract, which transaction?

A. Smith and Russell.

Q. How much was made on that, about fifty-six thousand was made on that, wasn't it?

A. I don't recall the exact figures, somewheres in that neighborhood, probably, yes.

Q. All right, you figured in that, didn't you?

A. And you figured on the other transaction in which about seventy thousand was involved?

A. Which one was that?

Q. On the Roberts transaction?

A. A hundred and thirteen acres there.

Q. You figured on that?

A. Yes, a hundred and thirteen acres.

Q. Now, didn't you add fifty-six plus in the first on these and the seventy plus in the second on these ——

Mr. Bourgeois: I object.

Q. ——and divide that by four and reach a figure of about $31,681 that constituted a part of your thirty-four thousand?

Mr. Bourgeois: I object, if your Honor please. That is not cross-examination and it is not according to facts. He said he figured in the profit of one hundred and thirteen acres and they figure a profit, I suppose, on the hundred and thirty-three acres.

Mr. McCarter: I am asking if he did not do this.

The Court: Permit the question.

Q. Isn't that a fact?

A. Well, I didn't have the exact figures, but I quartered it, yes.

Q. You quartered it? Yes. All right. Now, you spoke a little while ago about the pit, that was the county transaction, wasn't it?

A. Yes.

Q. And of that you got one thousand dollars, didn't you?

A. That is right.

Q. And you added the thousand to the figures resulting from a quarter of the other two sums?

A. Yes.

Q. Very good. Did you add any interest?

A. No, I just approximated that in my own mind.

Q. Did you add any interest?

A. I did not.

Q. Did you add any commission?

A. No.

Q. Do you remember your wife say, don't you, that you and she wanted to pay back any money to Mr. Dorrian that you had had improperly with interest?

A. She said if we owed ——

Q. All right, but she said interest, didn't she?

A. She did.

Q. All right, very good. Now, I have given, so far as I have been able, some of the items that went to make up the, as far as they went, the $34,000, haven't I?

A. Yes.

Q. Now, you had intelligence enough, and knowledge of what was going on, to at least ratify the preparation of that statement, didn't you?

A. I didn't say anything.

Q. I didn't ask you what you said. I asked you if you didn't.

(Question repeated.)

A. I can't say that I did.

Q. Beg pardon?

A. I can't say that I did, at that time.

Q. You can't say that you did?

A. No.

Q. Was your wife a member of Gordon Williams and Company?

A. No, sir.

Q. Was she a stockholder in Williams and Davis., Inc.?

A. No, sir.

Q. Do you remember her taking that statement out and showing it to Father Mellon in the hall?

A. I didn't see her give Father Mellon ——

Q. Did you see her go out with Father Mellon?

A. I don't recall that either.

Q. Do you remember when that statement had been prepared, Mrs. Davis openly, before everybody present said, "If we pay that sum, thirty-four thousand, whatever it was, six hundred and seventy, we will want a separate release?"

A. I think there was something of that kind said.

Q. And do you remember that they said they would not give the Davis end of it a separate release?

A. Well, we didn't get it, anyway, so evidently they said it.

(Question repeated.)

A. No, I don't remember it.

Q. You don't remember that? Well, you asked for it.

A. I didn't ask for it.

Q. Your wife did?

A. Yes.

Q. Where was it she asked for it?

A. I don't know that.

Q. What?

A. I don't know that. I judge at the meeting, but I didn't hear it.

Q. You didn't hear it?

A. No, sir.

Q. Why you have just told us you did.

A. No, sir.

Q. How did you know she asked for it if you didn't hear it?

A. You said she did.

Q. Then the answer that you gave a moment ago to that particular phase of the matter was because I had said she did it, was that it, is that what you want to say?

A. What question was that?

Q. What?

A. What are you referring to?

Q. About asking for the release?

A. Yes.

Q. Now, if you knew all of the elements which went to make up the memorandum showing $34,000 plus, and you were willing to refund that, it was because you realized that in taking that you had wronged Dorrian and Fahler, don't you?

A. No.

Q. What?

A. No.

Q. Well, won't you please explain to me why it was that you were willing to pay back thirty-four thousand and plus dollars to Dorrian and Fahler which you had received, if you did not think that in such receipt you wronged them?

A. Why, that was about the amount that we figured, or I figured I was involved in.

Q. What?

A. That I was involved in in speculation.

Q. In what?

A. In speculating, in speculating and that capias and attachments, and apparently the way I look at it, jail facing me, I would have signed anything.

Q. When you say you were involved in it, you mean by that, that in the Smith and Russell and the Roberts and the county transaction you had received a quarter of the gross excess which amounted roughly to $32,000, that is what you mean, don't you? That is what you mean by being involved?

A. Yes.

Q. What?

A. Yes.

Q. Well, you had not shared in the other transactions?

A. No.

Q. And, therefore, did not consider that you were involved in them?

A. No.

Q. But where you had shared you felt willing to pay back with interest?

A. If I owed them the money, yes.

Q. If what?

A. If they were entitled to the money, yes.

Q. And if they were entitled to the money that meant that you had done wrong, didn't it, in taking it?

A. If they were entitled to it, yes.

Q. And, therefore, you must have been mistaken in your direct examination when you said that you were not conscious of having done any wrong?

A. I am not yet.

Q. You are not yet?

A. No.

Q. When was it, if you can recall, that Mrs. Davis asked the gentlemen there if you could go home after the contract had been signed and the

securities turned over by Trevor, and the money paid over by Harold, and you had signed certain assignments, was it then that she asked if you could go home?

A. I think it was on Tuesday night, previous to that.

Q. What?

A. Ou Tuesday night, I think it was, previous.

Q. Previous to what?

A. To the signing of the agreement and also after signing the agreement, twice.

Q. If she asked before the papers were signed, the contracts were signed, and before the delivery of the securities occurred, of course, they told you that the capias was still in effect, didn't they, that you couldn't go home?

A. Yes.

Q. Now, after the contracts had been signed, and the securities delivered, as they were delivered, and the price paid as it was paid, then the application for you to go home was renewed, wasn't it?

A. Yes.

Q. And you and she felt that there was no longer any reason for you not to go home?

A. Why, I didn't think much about it.

Q. Didn't think much about it? You were not anxious to get home?

A. I was anxious to get home, yes.

Q. Was Mr. Stringer in New York on more than one occasion during these two weeks before the meeting in June?

A. I believe that he was, yes.

Q. Several times, wasn't he?

A. Several times, I judge.

Q. Was the subject of the difficulties between Dorrian and Fahler and you and your associates dis-

cussed between you and Stringer or between any of you and Stringer?

A. Well, he didn't have any ——

Q. I didn't ask you what you had. I asked you if it was discussed?

A. Yes, it was discussed.

Q. Did Mr. Stringer tell you that he had attended a meeting of the stockholders and directors of the company held on the twenty-first of May?

A. I don't recall that, Mr. McCarter.

Q. Now try and think. You knew there was to be a meeting?

A. Yes, I had notice of a meeting but I don't recall whether Stringer mentioned it or not.

Q. You can't recall? You knew that the purpose of that meeting was to take the control from the then board of directors, didn't you?

A. Yes, I believe that is what it specified.

Q. And you knew that Stringer had attended that meeting and you were over in New York?

A. I don't recall him saying anything about it.

Q. Do you mean to tell me you had no curiosity to know what had occurred at the meeting?

A. Well, I was in such a state of mind I didn't have any curiosity about anything.

Q. No curiosity about anything? Now, you have told us of the fact that you left, changing the subject, left Mr. Godfrey's office for the ostensible purpose of bringing Julia Coll up there and that you did not get her?

A. She wouldn't go.

Q. Although she was at your house, and then you went immediately and retained Judge Cole, remember that?

A. Yes.

Q. What?

A. Yes.

Q. What did you retain Judge Cole for?

A. Because I wanted a little personal protection. I went to find out what—I don't know, I went up there to tell them ——

Q. Don't know what you went up there for?

A. I went up there.

Q. About what date was this? This was before Harold and Trevor had returned, wasn't it?

A. Yes.

Q. What did you retain Judge Cole for?

A. Well, Mr. Hart was insisting that I should attend these meetings to protect the stockholders, and I wanted to know my position.

Q. Wanted to know your position?

A. Yes.

Q. The suggestion that Julia Coll who had been the straw in these transactions in which you were interested, had nothing to do with it—the suggestion of bringing Julia Coll to Mr. Godfrey's office and your later talk with her had nothing to do with your going to see an independent counsel?

A. That was part of it, I suppose.

Q. That was part of it? Do you recall the fact that during the discussion at the hotel in Philadelphia three or four matters of difference of view arose which Father Mellon arbitrated?

A. There was one or two matters, yes.

Q. For instance, one of these matters was a claim on your part, I mean you and your associates, that you were entitled to a commission of fourteen thousand dollars and twenty-five hundred dollars for sales of lots in Del Rey, and it was claimed by Mr. Hart and some of the other side that you were not entitled to all of that commission and a discussion ensued with reference to it, each side pre-

senting its claim, and that someone on your side called Father Mellon's attention to the phraseology of the agency contract which provided that Gordon Williams and Company were to get their full commission out of the first payment, if possible, and that, when his attention was called to that, he allowed your contention; now do you remember that?

A. Yes.

Q. What?

A. I think so.

Q. That is one matter he took up and settled, wasn't it?

A. Yes, he did.

Q. Now, that related to two claims, fourteen thousand and twenty-five hundred dollars, separate claims for commissions?

A. I think those were the amounts, something near that, anyway.

Q. Now, do you remember another matter or difference that was discussed between the two factions with reference to a sum of about six thousand dollars representing payments by purchasers of lots in Del Rey, and those payments had been given by promissory notes which aggregated about six thousand dollars, and it was contended by our people that you should not have that, and your side contended you should, and the result of it was that Father Mellon split the difference and allowed you three thousand dollars. Do you remember that?

A. I have a recollection of something of that kind.

Q. You have?

A. Yes.

Q. Do you remember any other item, Mr. Davis, that he arbitrated?

A. No, I don't.

Q. When you told us that you took a quarter in

your memorandum, you, so to speak, charged yourself with a quarter of the proceeds of the Smith and Roberts and the transactions, the other three-quarters had been taken by Harold, Trevor and Gordon, hadn't they?

Mr. Bourgeois: I object as not cross-examination, if your Honor please.

The Court: I will permit it.

A. Well, I don't know.

Q. What?

A. I never saw them get anything.

Q. You mean to say you don't know what became of the other three-quarters?

A. No, sir.

Q. What?

A. I didn't handle the deal.

Q. Who was associated with you in these deals that you participated in, Smith and Russell and Roberts and the county?

A. Well, I suppose that Harold, Gordon and Trevor were in it.

Q. Well, you know, don't you?

A. I suppose they were, Mr. McCarter. I didn't see them get anything out of it.

Q. Do you remember giving some testimony on this at Toms River?

A. Yes.

Q. Was your recelleetion better then than it is now?

A. I don't think so.

Q. And you remember—unfortunately the evidence is not here, I have to wait until it comes—do you remember being told by Vice-Chancellor Berry

to answer some questions and you did answer them with reference to this very matter?

A. I believe that he did mention something of that kind.

Q. Now, having your recollection refreshed by that incident, do you still say you had no knowledge of the fact that Harold and Gordon and Trevor shared with you in the proceeds of the Smith, Roberts and county transactions?

Mr. Bourgeois: I object. If your Honor please, that is not cross-examination and the questions pertaining to him were admitted on the theory whether or not he was conscious of any wrong. Now, whether they shared or not has nothing whatever to do with that phase of it and I submit to your Honor that question is not cross-examination.

The Court: I will sustain your objection to the question.

Q. Well, Harold—who were the officers of Gordon Williams and Co.?

A. Gordon, Harold and myself.

Q. You were the directors?

A. Yes.

Q. What position did you respectively hold?

A. Gordon was president, I was vice-president and Harold was secretary and treasurer.

Q. Who were the directors up to the meeting of May 21st of Williams and Davis, Inc.?

A. Harold, Gordon and myself, Mr. Dorrian and Mr. Fahler.

Q. Whe were the officers?

A. Harold, Gordon and myself.

Q. Holding?

A. Gordon was president, I think, I was vice-president, and Harold was secretary and treasurer.

Q. Do you remember being in the office of one of these companies, the Ventnor office, when Mr. Hart brought to the office about $71,000 in cash and about $56,000 in cash, the proceeds of the Smith and Russell and the Roberts transactions?

A. No, sir.

Q. You don't.

A. No, sir.

Q. And wasn't the amount divided between you all in cash?

A. I didn't see that amount of money, Mr. McCarter. I know that I got what was supposed to be one-quarter.

Q. Who gave you that?

A. I think Harold Williams gave it to me.

Q. Harold Williams?

A. Yes.

Q. Gave it to you in cash?

A. Most of it, I believe.

Q. Did he give it all to you in cash?

A. Yes, I think he did.

Q. And you were not in the office when those two large sums of money—I don't pretend to give the exact amount, but in the neighborhood of seventy-one thousand and fifty-six thousand were brought from the bank?

A. No, sir.

Q. Was Mr. Scanlan a stockholder of Williams and Davis, Inc.?

A. Not until after the meeting sometime in January, and that was just one share of stock.

Q. That was to qualify him?

A. So as to qualify him, yes.

Q. You mean January, 1927?

A. I think it was, yes.

Q. Beg pardon?

A. I think it was, yes.

Q. He attended the meeting on May 21st, didn't he?

A. I don't know.

Q. Never heard from him anything about that meeting?

A. I don't recall it, Mr. McCarter.

Q. Will you say you didn't?

A. I wouldn't say I didn't, no. I just don't recall it.

Q. Did you see Scanlan between the fourteenth of May and thirtieth, Decoration Day?

A. No.

Q. He was not over to New York?

A. No.

Q. Did you have any telephonic communication from Scanlan?

A. I believe I did, yes.

Q. How often?

A. Well, I don't just recall whether it was occasionally or every other night, just as it happened.

Q. Quite frequently during that time you heard by phone from Scanlan, didn't you?

A. Yes.

Q. Both before and after the meeting of May 21st?

A. Yes.

Q. What?

A. Yes.

Q. And didn't you learn from him what had transpired at that meeting?

A. No, sir.

Q. Didn't you inquire whether he attended the meeting?

A. I don't recall that I did, Mr. McCarter.

Q. What was he talking about over the phone?

A. Well, he mentioned that Mr. Dorrian was going to take out indictments and put us in jail, I don't know, a lot of stuff that tended to frighten us further.

Q. Do you know the toll from Atlantic City to New York?

A. Toll charges?

Q. Yes, telephone toll?

A. I do not.

Q. Well, it is fifty or sixty cents, isn't it?

A. I judge it is around that.

Q. Now, you remember anything more than what you have told us as to what Scanlan was telephoning right along about?

A. Well, he told us that the lawyers had not been able to get any information.

Q. Oh, yes. Go on. Did he tell you that the lawyers had naturally gotten information and on the twenty-first given notice of a motion to quash because of the alleged insufficiency of the papers, tell you that?

A. I don't recall just those words, he probably said something along that line.

Q. You knew the progress of events, didn't you, you were kept posted?

A. No, not exactly posted.

Q. Well, you knew that a motion was made to quash the writ?

A. I would not say positively that I did.

Q. Oh, you don't?

A. No, sir.

Q. Now, do you remember testifying before Vice-Chancellor Berry in the contempt proceedings against Harold ——

A. I was there, yes.
Q. You were there? You testified, didn't you?
A. Yes.
Q. Why didn't you say so?

(Witness smiles.)

Q. Were you asked in that proceeding, page 103 of the evidence as follows: "Do you know what Mr. Williams received in the so-called Roberts transaction? A. No, I don't. Q. You know he got something? A. I know he got something." Did you testify that way?
A. I believe I did.
Q. Then you do know? And were you asked: "You say you received something out of it?" And did you reply: "I don't know as a matter of dollars and cents."
A. I think so.
Q. And then were you asked: "Approximately what was it?" And did you answer, "Probably around sixty thousand, I don't remember the figures," And then were you asked: "Wasn't it seventy-five?" and didn't you say, "I cannot say," and then were you asked "It was in the neighborhood of sixty thousand?" and did you reply: "Somewheres in that neighborhood?"
A. I guess I did.
Q. Is that true?
A. Yes.
Q. Then you did know then he got somewhere in the neighborhood of sixty thousand dollars in this Roberts transaction?
A. That was a mistake because he didn't get sixty thousand.
Q. Well, you said you knew?

A. That shows that I did not know.

Q. Your remarks now was that he did not get sixty thousand. How much did he get? How much did he get? That is very funny, we are having a good laugh over that, but I will ask you to answer it now if you know he did not get sixty, how much did he get?

A. As I told you I suppose he got one-quarter.

Q. One-quarter of what?

A. Of whatever the amount should be.

Q. And you suppose that Trevor and Gordon got the other half between themselves, don't you?

A. Yes.

Q. And you remember on that day at Toms River that Mr. Bourgeois, on behalf of Harold, admitted that Harold got thirty-seven hundred and fifty—thirty-five hundred dollars on the county deal?

A. Yes.

Q. And you got the balance, you got a thousand?

A. I got a thousand dollars.

Re-direct examination.

By Mr. Bourgeois:

Q. Mr. Davis, was the money in the Roberts and the Smith and Russell transactions handed to you by Harold Williams or by Trevor, the money that you got in cash?

A. I think it was Harold Williams.

Q. Now, you testify that you placed—took some papers from the top of the safe and put them inside the safe, why did you do that?

A. I put them in there so that I could find them when I wanted them because some of the papers were disappearing around the office and so we could have them for the attorneys if we needed them.

Q. They were disappearing?

A. They were disappearing, yes, sir.

Q. Who had access to these papers at that time besides yourself?

A. Mr. Hart and Mr. Harold Williams and myself.

Q. Was Harold Williams at home then?

A. No.

Q. And then later you gave them to Trevor. Why were they given to Trevor?

A. So he could bring them up to your office.

Q. In connection with these cases?

A. Yes.

By Mr. Cole:

Q. Mr. Davis, you said, in answer to Mr. McCarter, that you had not tried to get Mr. Cole either on the first or second day of the conference in Philadelphia. I ask you whether you know whether anyone for you did try to get in touch with me at either of these meetings before the third meeting?

Mr. McCarter: If you know?

Q. That is what I said, If you know?

A. Mr. Scanlan, Jack Scanlan.

Q. Did you ever personally try to get in touch with me even after the third meeting, or was that done through Mr. Scanlan?

A. It was all done through Mr. Scanlan. I asked him.

Q. You were asked about some conversation when you were in Mr. Godfrey's office in trying to find out something?

A. Yes.

Q. I ask you whether on that occasion Mr. Godfrey mentioned the name of Julia Coll?

A. He did.

Q. What did he say about her or what he was going to do or whatever he did say, if he said anything, if you recall?

A. Well, he said he was going to get out a writ and have her brought right up there.

Q. What?

A. He said he was going to get out a writ and bring her right up there.

Q. That is all.

By Mr. McCarter:

Q. You say Scanlan made an effort to see Judge Cole?

A. Yes.

Q. You were not present when he made any effort?

A. No.

Q. You heard him testify here, did you not, that effort was made on the morning of the third day, did you not?

A. Yes.

Q. Is that the effort you refer to?

A. Yes.

Q. Where did you say you changed, from where to where did you change the location of these Del Rey papers? You have testified on your direct examination that you took them from a pigeon-hole or what-not in the safe and put them in a locked compartment in the safe, is that right?

A. That is right.

Q. Now, did you say that Mr. Hart had a key to that compartment?

Mr. Bourgeois: No, he didn't say that. I beg pardon.

Mr. McCarter: He did say so.

Q. Didn't you say so?
A. I think I did, but I was mistaken. He did not.
Q. You were mistaken?
A. Yes.
Q. Now, at the time that you changed the location of those papers, you were still in progress on your matters with Mr. Godfrey, weren't you, you had not ceased going to Godfrey's then?
A. I don't recall the exact time that I changed those papers.

WILLIAM J. GELLER, sworn.

Direct examination.

By Mr. Bourgeois:

Q. Mr. Geller, you live where?
A. 2 South Baltimore Avenue, Ventnor.
Q. And you are an expert accountant?
A. I am a certified public accountant of New Jersey.
Q. Have you gone over the records and papers of the Gordon Williams Company to ascertain how much moneys are due in commissions to them or to that company from the Del Rey proposition and Williams and Davis Company?
A. I have.

Mr. McCarter: I object to it as immaterial.

Mr. Bourgeois: If your Honor please, in the counter-claim there is a counter-claim that we are entitled to those commissions. Now, I don't know whether your Honor will go into that on this transaction or not. If you will I am ready to do it. If you are not, I want a record made so that they can plead it res adjudicata at some future time.

The Court: It is in the cross-bill?

Mr. Bourgeois: In the counter-claim, yes.

Mr. McCarter: I don't find any such claim.

Mr. Bourgeois: I guess there isn't either. I don't find it. I will withdraw this witness.

(Witness withdrawn.)

DEFENDANTS REST.

Mr. McCarter: While Mr. Godfrey is getting his papers together, we have subpoenaed the production of the so-called Del Rey papers. Have you got those?

Mr. Bourgeois: What is it you want? We don't know what you mean by Del Rey papers. Tell us what you want and we will get them to you.

Mr. McCarter: Your Honor will recall on Saturday a considerable time was spent in proving an envelope containing the Del Rey papers were taken out of the safe and put in a lock box and afterwards

they were delivered by Mr. Davis to Trevor who redelivered them to Mr. Bourgeois and that Davis said from that time on he didn't see them, and he supposed that Mr. Bourgeois still had them. Now, we gave them notice to produce that, and we have subpoenaed Davis and I think Trevor and Mr. Bourgeois to produce those papers and I would like to have them.

Mr. Bourgeois: If your Honor please, if you will tell us what they are we will be glad to give them.

Mr. McCarter: We don't know what they are, but the papers, Mr. Bourgeois, that your witness Davis testified about and which were put in your hands, whatever they were.

Mr. Bourgeois: We don't know what they are either. If you want what are in my hands, they are the agreements we have gone into, if that is what you want, we have them.

The Court: There certainly should be no difficulty over that point. The witness has testified that a certain specific envelope was taken from the safe and delivered by Davis to Mr. Williams and by Mr. Williams to Mr. Bourgeois. There certainly should be no trouble to reply to that.

Mr. Bourgeois: That never came to my possession. I will answer that.

The Court: It may have to be traced back beyond that point, but that is the testimony before us now, a specific envelope.

Mr. Bourgeois: Now, that never came to my possession.

Mr. McCarter: While you are looking for those papers I would just like to recall Mr. Davis for one question further.

ROYDEN B. DAVIS, recalled.

Further cross-examination.

By Mr. McCarter:

Q. Do you recall verifying a bill of complaint brought by Trevor Williams and yourself against Connie Dorrian, Lloyd Fahler and Harold S. Williams upon which the application for a receiver of the securities that had been handed over was based?

A. Yes.

Q. And you swore to the affidavit attached to that bill?

A. I think I did, yes.

Q. And you were familiar with the contents of that affidavit?

A. Yes.

Q. What?

A. I was at that time, yes.

Mr. Bourgeois: Now, if your Honor please, I produce, pursuant to that call, a check dated ——

Mr. McCarter: This is a request for you to take the stand. I don't want to change this into something else. We had asked you if you have produced the papers you were subpoenaed to produce.

GEORGE A. BOURGEOIS, sworn.

Direct examination.

By Mr. McCarter:

A. I don't know whether I have or not.

Q. Have you the subpoena that was served on you?

A. No, but I have a copy of it here, which is the same thing. It is down in the office.

Q. Now, have you produced the papers that are mentioned in that subpoena?

A. I don't know.

Q. Will you look and see, please?

A. I beg pardon?

Q. Will you look and see, please?

A. I can't tell. Yes, I am willing to look and see. It says I am required to produce all deeds, mortgages, agreements, and settlement sheets, title policies, checks, receipts and all other papers in the nature thereof and relating thereto, concerning the conveyances from George W. Roberts to Julia Coll. I know I haven't produced any mortgages and I haven't produced any deeds as I know of.

The Court: If that is the subpoena ——

A. There is more than that, Vice-Chancellor, "and from Julia Coll to Williams and Davis, Inc.," I haven't produced them. I haven't got the deed. "And also the conveyance from John F. Ryon, Executor of the Ireland Estate to Sadie Craigen, from Sadie Craigen to Williams and Davis, Inc., also the papers from David E. Smith and George W. Russell

to Julia Coll, and Julia Coll to Williams and Davis, Inc., also the conveyance from the County of Atlantic to Harold S. Williams, and from Harold S. Williams and others to Williams and Davis, Inc. Also the conveyance from Connie Dorrian and Lloyd Fahler to Helene Wright, and from Helene Wright to Vivian Smith and Andrew Cunningham for lots 41, 43, 45, 47, 49, 50, 51, 53, and 55 in block 124, Margate City, New Jersey, also the conveyance from George W. Haggerty to Helene Wright, and from Helene Wright to Connie J. Dorrian concerning the tract in Linwood." I know I haven't produced them because I haven't them and never had them.

Q. Did you read all the subpoena?

A. Excepting where it says, "And fail not under penalty of law."

Q. Isn't there a clause there about a package?

A. Package? No, "And all other papers in the nature thereof." There is nothing about any package.

The Court: If that is so, the Court will have to withdraw the comment it made a few moments ago about this subpoena, because it apparently does not call for that which counsel stated it called for specifically.

Q. Your subpoena seems to include this clause: "You are required to produce, whether in your hands or anyone else's hands for you or either of you, the package of papers which Royden B. Davis testified in the above entitled cause that he removed from the safe of Gordon Williams and Company and handed either to George A. Bourgeois or to A. Trevor Williams, or one or both of them,

which package contained a number of papers, relating to the development known as Del Rey at Somers Point, New Jersey.''

The Court: If that is in the subpoena I will again have to let my remark stand.

Q. That is in the subpoena. Mr. Bourgeois was mistaken.

A. My answer to that is that I never saw the package, if it came in the office I didn't see it. It may have gone into the safe, but I never saw the package at all.

Q. Well, did Mr. Trevor Williams, shortly after the transactions at Philadelphia, produce some documents to you, his counsel, and leave those documents concerning Del Rey with you?

A. Well, I am told by a clerk in the office that some papers came there and were placed in the safe. I didn't see them, but there were certain papers that were produced to me, and those papers I have here.

Q. Have you looked in the safe, Mr. Bourgeois, for the papers that you are told were produced by Trevor and put in the safe?

A. No, I haven't looked in the safe because they are not in the safe now.

Q. Will you do so at recess or some other time?

A. Certainly, but I am sure they are not there at the present time, at least the papers are not there at the present time.

Q. Did you ever see the papers that were put in the safe during your absence?

A. I saw some of them. The papers ——

Q. One moment. What became of them after you saw some of them?

A. The papers that I had were produced to me by Mr. Williams, presumably from the papers ——

Q. Never mind presumably. I am asking you the papers that Mr. Trevor Williams gave you.

A. He gave me the papers to use in this case I have had, and I gave them back to him and he put them somewhere.

Q. You gave them back to Trevor?

A. Certainly I did, after we were through with them.

Q. When was that?

A. Well, that is various times within the past year, whenever these different cases have come up, either for receivership or the contempt proceedings.

Q. Now, what papers in response to this subpoena do you produce?

A. Well, the papers that I had were the papers pertaining ——

Q. No, answer the question.

(Question repeated.)

A. Well, I am attempting to produce—I haven't got them now, they are handed to me, but I am intending to produce to you the papers pertaining to the county two acre tract that has been designated here, the Smith and Russell tract, the Roberts tract, and the Ryon tract. Now, they are all the papers that came to my possession anywhere within the past year.

Q. Have you produced them?

A. I have produced them. They are all here. I started to hand part of them to you.

Q. Will you just designate what you produce in response to the subpoena?

A. Yes, that is what I started to say. I produce

to you the check dated May 14, of Gordon Williams Company for $2400 payable to Enoch L. Johnson, treasurer. I produce to you a check dated April 3, 1926, of Gordon Williams and Company payable to cash for two thousand dollars and endorsed Harold Williams. I produce a letter from Judge E. A. Higbee, dated April 3, 1926, acknowledging the receipt of six hundred dollars. I produce a deed from Harold Williams, et ux to Williams and Davis, Inc., bearing date the nineteenth of May, 1926, for what is designated as the county tract. I produce a deed bearing date the twelfth of May, 1926, from the County of Atlantic to Harold Williams for the same tract. Now, those pertain to that transaction.

Q. Is that all you produce in response to the subpoena?

A. That is all I produce so far. I produce an agreement of sale from George W. Roberts to Julia Coll for a twenty acre tract, also a settlement sheet, copy of a settlement sheet of the Chelsea Title Company pertaining to that same tract, also articles of agreement of sale from Julia Coll to Connie J. Dorrian for the same tract, and the settlement sheet in that same transaction of the Chelsea Title Company.

Q. Deed there?

A. No, I have no deed. I have a deed from George W. Roberts and wife to Julia Coll for the two tracts together.

Q. Which two?

A. That is the twenty acre and hundred and thirteen, making a hundred and thirty-three acres. That deed was dated the first day of February, 1926. Also a deed from Julia Coll to Williams and Davis, dated the second of February, 1926, for the same tract.

Q. Fasten those together, please.
A. I beg pardon?
Q. Fasten those together, please.
A. I am going to do that with all of them.
Q. Good for you.
A. I am trying to make it clear so you won't lose track of them and we won't either. I also have in the same connection an article of agreement between George W. Roberts and Julia Coll for the hundred and thirteen acre tract and also a settlement certificate, copy of the settlement sheet for that. Suppose we put this with the others. We have this statement. I also have articles of agreement between Julia Coll and Connie Dorrian for a hundred and thirty-three acre tract and a copy of the settlement sheet. I had them separate. Put them all together.
Q. Any more?
A. Oh, yes, got some more. If your Honor please, I have here a couple of papers I never saw, but they may as well go in with them. The first is settlement sheet in each instance for the twenty acre and hundred and thirteen acre of the Chelsea Title Company. I also produce an agreement of sale from David D. Smith and wife and George Russell to Julia Coll for the hundred and three acre tract bearing date the thirtieth day of September, 1925, also an agreement of sale bearing date the third of October, 1925, from Julia Coll to Connie Dorrian and Lloyd Fahler for the same tract. Also a check—this is a settlement—also a copy of settlement sheet with the Chelsea Title Company for the same tract dated the eleventh of February, 1926; also settlement between different parties, one between Coll and Smith, and the other between Coll and Dorrian for the settlement in the same matter.

Also a check of Gordon Williams and Company to the Chelsea Title Company for $73,966.00. Also a deed from David Smith and others to Julia Coll, dated the eleventh of February, 1926. Also a deed. That is all we have on the Smith and Russell.

Q. How about the deed from Coll to somebody?

A. Now, that would be in the Williams and Davis Company. That went from ——

Q. That must have been in the package.

A. I beg pardon?

Q. I should have thought that would have been in the package?

A. I never saw it if it was. It didn't come to me. I imagine the Williams and Davis Company has possession of some of their papers. I have an agreement of sale bearing date the tenth of May, 1926, from the estate of John Ryon, executor to Sadie Craigen and also copy of the settlement certificate of Chelsea Title Company for that same property to Sadie Craigen, also a deed of conveyance from John Ryon to Sadie Craigen, bearing date the ninth of July, 1926, for the same property; also settlement certificate between Sadie Craigen and Williams and Davis, Inc., or a copy of it, bearing date the ninth of July, 1926; also a deed of conveyance from Sadie Craigen to Williams and Davis Company, bearing date the ninth of July, 1926. They are all that I have had that I know anything about.

Q. Now, put them all together and I will offer them in evidence.

A. There is one check, if your Honor please, maybe ought to go in.

Mr. McCarter: I don't think counsel should determine whether he would produce this or produce

that. We have asked him to produce all, and we want them all. I don't think he should say something else ought to go in, and leave out something that is not in. Let's have them all.

Mr. Bourgeois: If your Honor please, I am not sure this should go in. I am not sure these were in the subpoena, but rather than have any question about it I want to produce them. This check I think is—I hadn't seen this. Check dated second of January, 1926, from Gordon Williams Company to Chelsea Title and Guaranty Company for seventy thousand seven hundred eighty-seven dollars and fifty cents. That belongs in one of these larger tracts. If you will that in there where it belongs. The other is a check of Trevor Williams to George W. Roberts dated October ninth, 1925, for $500.

Mr. McCarter: Now, if they will be all bunched together.

A. Trevor Williams, recalled.

Direct examination.

By Mr. McCarter:

Q. Did you receive from Mr. Davis a package of papers in connection with the Del Rey matter?

A. I believe I did, yes.

Q. You are familiar with the papers that have been produced in obedience to the subpoena by Mr. Bourgeois?

A. Yes.

Q. Were all those papers in that package?

A. I couldn't say, Mr. McCarter. I received a bundle of papers and sorted them out and I believe, that is all that I know.

Q. What?

A. I say I sorted the papers out and I believe everything Mr. Bourgeois turned over is all I ever had, was ever in that bundle.

Q. Did you examine what was in that package?

A. I sorted them out, Mr. McCarter.

Q. When?

A. Oh, shortly after I got them.

Q. When did you get them?

A. I think it was after I came back to Atlantic City, but around the first of July, of last year, if I recall.

Q. From Philadelphia?

A. Yes, when I came back from Philadelphia.

Q. And you sorted them out?

A. Yes.

Q. Did you separate any of them?

A. Yes.

Q. And gave all to Bourgeois, or only some?

A. I might have shown some to Mr. Bourgeois, but I don't recall giving any to Mr. Bourgeois.

Q. What became of them?

A. They are all here, Mr. McCarter, all that I have.

Q. In the meantime what became of the papers that were in the envelope from which you selected a few and gave to Mr. Bourgeois, or left at his office? What became of the balance of the papers?

A. I kept them in my possession.

Q. What?

A. I kept them in my possession.

Q. Now, you were subpoenaed to produce this same package of papers.

A. Yes.

Q. Mr. Bourgeois tells us, and I rely on what he says, that he has produced all that he had any connection with. In response to the subpoena I ask you if you have produced all that you had in your possession in connection with this Del Rey matter?

A. Yes, sir.

Q. Are there not several papers in connection with the Somers estate that are not produced?

A. Doesn't mention that in the subpoena, Mr. McCarter.

Q. They were in the envelope, weren't they?

A. Yes, sir.

Q. All right, have you got them?

A. Now wait a minute, they were not in the envelope. They were separate.

Q. They were what?

A. They were not in the envelope. Those papers were not. They were in my possession.

Q. Did you take them west with you?

A. No.

Q. What papers were in the envelope?

A. I believe these are all the papers. There was a couple of check books, if I recall correctly, and I have something else here, a couple of agreements.

Q. Let's have them.

A. I was about to turn them over.

Mr. Bourgeois: Witness produces an agreement dated the twenty-third of October, 1925, between Helene Wright and Vivian Smith and Andrew Cunningham and the copy of a settlement certificate from the Chelsea Title Company bearing date January 2nd, 1926, also produces an agreement between Louis Hart bearing date the twenty-fourth of August, 1925, between Louis G. Hart and Connie J.

Dorrian for lots 41, 43, 45, 47, 49, 51, 53, 55 in block 124, and copy of settlement certificate of Chelsea Title Company pertaining to that settlement. Settlement certificate between George W. Haggerty and Helene Wright the sixteenth of March, 1926, for property in Linwood; also a check of Gordon Williams, by Trevor Williams, Special, for $39,181.00 bearing date March 16, 1926, and another check of Gordon Williams, by A. Trevor Williams, Special, bearing date January 12, 1926, for one thousand dollars.

Q. Now, have you produced everything that you can recall was in the package?

A. Yes, sir.

Q. Where is the check book?

A. Gordon Williams' check books. They are downstairs. I can get those.

Q. Were those in the package?

A. I believe they were, yes. There were some check books.

Q. You haven't produced them, have you, now?

A. I can get right hold of them.

Q. Why did you tell us you had produced everything?

A. I didn't think at all. I thought I had the check books. I can get hold of those right away, in a minute for you.

Q. All right, very good. Now, you have produced the check for $500 to the order of George W. Roberts and signed by yourself specified, "Deposit account twenty acre tract for Julia Coll." Do you remember that check?

A. Yes, indeed.

Q. Well, more than five hundred dollars was deposited on account of the Robert's agreement, was there not?

A. On the twenty acre tract, no, just five hundred dollars.

Q. How about the hundred and fifteen acre tract?

A. Hundred and thirteen acre tract? Five thousand dollars if I recall correctly.

Q. Where is that check?

A. I don't have that. It wasn't my check, Mr. McCarter.

Q. It was whose check?

A. I don't know whose check it was. It wasn't my check, Mr. McCarter.

Q. Whose check was it?

A. I say I don't know.

Q. Was that check that was deposited on account of the hundred and thirteen acre tract in the Del Rey envelope?

A. No. All the papers that I had, Mr. McCarter, are right here.

Q. Will you answer my question?

A. I have answered your question, Mr. McCarter. I say all the papers I have turned over to you were in that envelope except the check books, and I could get them for you in a minute.

Q. Was that check in the envelope, the check that was deposited on account of the Robert's tract of a hundred and thirteen acres?

A. I don't know that a check was put up, Mr. McCarter, and I didn't see any check.

Q. There was a deposit made, wasn't there?

A. Yes indeed, surely.

Q. Was it in cash or check?

A. That I couldn't say because I didn't put my check up.

Q. Well, do you know whether a check or checks for five thousand dollars deposit on account of the hundred and thirteen acre Roberts' tract was in the box, in the package?

A. No, I don't know, Mr. McCarter.

Q. You don't know?

A. No.

Q. Don't know whether it was or don't know whether it was not?

A. If it was it would have come to my attention and I haven't seen it.

Q. Then would you say it wasn't there?

A. I say if it was there it would have come to my attention and I don't believe it was there.

Q. Dd you make a list of what was in the package?

A. No, I didn't.

Q. Where have those papers been in the meantime?

A. In my possession.

Q. When did you get them back?

A. I always had them in my possession since the time Mr. Davis gave them to me.

Mr. Cole: May I inquire if this is cross-examination or your witness?

Mr. McCarter: Whatever it is I am doing it.

Mr. Cole: It might make a difference what I might want to do.

The Court: Absolutely nothing before the court.

Q. Mr. Williams, did you hand over any papers to Mr. Bourgeois?

A. I showed Mr. Bourgeois papers ——

Q. Mr. Williams, did you hand over any papers to Mr. Bourgeois?

A. To my recollection, no. I don't believe Mr.

Bourgeois had any papers in his possession. I showed them and took them back again. I kept them in my possession.

Q. You didn't leave them in the safe here?

A. Not to my recollection, no. I may have left my father's naturalization papers in the safe but that is about the only papers I left in the safe to my recollection.

Q. Were your father's naturalization papers in the Del Rey envelope?

A. No.

Q. I am speaking of the papers that were in the envelope?

A. I don't recall.

Q. Beg pardon?

A. I say I don't recall.

Q. Now, there is one thing that has not been produced in the papers that you have produced today and that are contained in that large package, and that is the check for the deposit of five hundred dollars on account of the Roberts' one hundred and thirteen acre tract. You are aware of that, aren't you?

A. So you have informed me. You just told me that. I know that it is not here.

Q. Did you have anything to do with that transaction?

A. Oh, yes, I had a quarter interest in that.

Q. And do you know who physically paid the deposit?

A. If I recall correctly was my father. I gave him my portion.

Q. Were you present?

A. When he put that up? When he put up his money? I don't understand you, Mr. McCarter.

Q. Were you present when the deposit was put up?

Mr. Bourgeois: If your Honor please, I am at the point where I don't understand now and I am objecting to this, if he wants to make him his witness on the main question, or whatever he is trying to do I have no objection, but he is called at the present time for the purpose of producing documents. Now, I submit if the documents are not produced that is the end of that transaction. If he wants to go into the main case and make him his witness then I have no objection.

Mr. McCarter: I am not in the main case at all. I am finding out why we don't get the documents.

The Court: The difficulty seems to be, as the Court sees it, that Mr. McCarter insists that there was a check of five thousand dollars and there is no testimony there was a check of five thousand dollars at all in this transaction. This is a payment which this witness says he don't know whether it was made in cash or by check.

Mr. McCarter: Your Honor will see I was just leading to that.

The Court: Yes, but your last question was that check here, or words to that effect.

Mr. McCarter: I will withdraw that question.

Q. Were you present when the deposit was made?
A. I was present, yes.
Q. Now, say yes or no.
A. Yes.
Q. You were?
A. Yes.

Q. Was it paid in check or cash?

A. That I don't recall, Mr. McCarter.

Q. You mean to say that you have no recollection of whether that was paid in check or cash?

A. That was in the middle of a boom, Mr. McCarter, when cash or checks ——

The Court: Answer yes or no.

A. No, I don't have any recollection, Mr. McCarter.

Q. All right, very good.

Mr. McCarter: I will ask counsel if the minute book of Gordon Williams and Company has been produced.

(Minute book produced by Mr. Bourgeois.)

Mr. McCarter: Have you any telephone bills, pursuant to the subpoena for the months of April, May and June, 1927?

Mr. Bourgeois: That wasn't directed to me. Who is it directed to? We have none of those telephone bills, if your Honor please.

Mr. McCarter: I understand that upon Gordon Williams and Company and also Mr. Davis a subpoena that they produce all telephone bills for either Gordon Williams and Company or Gordon Williams and Company for either of their offices for the months of April, May and June, 1927, and the slips accompanying the same, and that was served both upon Gordon Williams and Company and Royden B. Davis. I am asking if they are produced?

Mr. Bourgeois: No, that was served last night at nine o'clock, and I asked them ——

Mr. McCarter: You say you don't produce them?

Mr. Bourgeois: No. They say they haven't got them. If you want to put Mr. Davis on the stand he can testify to it.

Mr. McCarter: Offer in evidence the papers that were produced and testified by Mr. Bourgeois as being produced pursuant to the subpoena as one exhibit, all of them fastened together.

Mr. Bourgeois: They are objected to as irrelevant, and immaterial.

The Court: I will permit them to be marked at this time for identification.

(Bundle of papers produced, heretofore specified, marked Exhibit S21 for identification.)

Mr. McCarter: Also the minute book.

Mr. Bourgeois: I object to the minutes of Gordon Williams going in as irrelevant and immaterial.

The Court: I will permit them to be marked for identification only at this time.

(Minute book marked S22 for identification.)

(Three check books produced.)

By Mr. McCarter:

Q. They were in this envelope, you say, there were some checks?

A. I believe they were, Mr. McCarter. I don't know whether they were the check books or not.

Q. Mr. Williams, will you please tell me whether these check books that you now produce, the three check books were all in this envelope?

A. My best recollection, I said there was some check books in there but those are the only check books they have so I believe that is all was in there.

Q. Which book was in this envelope?

A. Oh, about the size of these check books, about that big.

Q. And it purported to cover, included the matters in connection with Del Rey?

A. Most of it, yes.

Q. Envelope?

A. Yes, sir.

Q. Those check books, are they confined to Del Rey?

A. I don't know. That is what was in the package, Mr. McCarter.

Mr. McCarter: All right, offer it in evidence.

Mr. Bourgeois: I object.

(Three check books marked for identification S23, 24, 25 for identification.)

Q. Were there not some papers in connection with the Somers estate in the envelope?

A. I don't believe there were, Mr. McCarter. I have some papers of the Somers estate, but I don't think they were in that envelope.

Q. Are you sure they were in the envelope?

A. I am quite sure they were not.

Q. The Somers estate was part of the Del Rey, wasn't it?

A. That is part of Del Rey, yes.

Q. Why weren't the Somers estate papers in that envelope?

A. They were in my possession, Mr. McCarter. They were not in that envelope.

Q. The deed?

A. I have the papers, if you want the papers, but they were not in that envelope.

Q. All right, let's have them.

A. You didn't subpoena them, Mr. McCarter. You didn't ask for them.

The Court: He does ask for them now.

A. Surely, I will get them.

Mr. Bourgeois: I produce an agreement dated the nineteenth of February, 1926, made by J. Howard Somers and others to Louis G. Hart, for a tract of land, and also produce a check of Trevor Williams bearing date March 2, 1926, for $1500, another check of Trevor Williams, bearing date April 19, 1926, for $50 to Carlton Godfrey, also check of Trevor Williams to Chelsea Title Company bearing date April 19, 1926, for $22, also check of Gordon Williams Company to Somers dated March 2, 1926, for fifteen hundred dollars, also check from Gordon Williams and Company to Chelsea Title Company, dated April 19, 1926, for $9,000. I produce another agreement from Sadie Craigen to Connie Dorrian, bearing date the sixth of March, 1926, for the same property, an agreement to purchase. Also deed from Louis G. Hart to Sadie Craigen for the same property, bearing date the twenty-fourth of April, 1926. Deed from Somers to Louis Hart, dated April 14th, 1926, a copy of settlement sheet from the Som-

ers estate to Louis G. Hart, copy of the settlement sheet from Sadie Graigen to Dorrian, also title policy of the Chelsea Title Company for the same property.

Mr. McCarter: Let them be marked.

(Papers marked S26 for identification.)

The Court: As I understand it, all papers which have been produced by Mr. Bourgeois or his clients have been marked for identification?

Mr. McCarter: Yes, sir.

Q. Now, do I understand that the deed to Williams and Davis in the Smith and Russell transaction was in your personal possession?

A. Yes, it was.

Q. You were not an officer or a director of Williams and Davis, Inc., were you?

A. No.

Q. How did that happen to be in your possession?

A. They were in that bundle of papers, Mr. McCarter.

Q. What?

A. They were in that bundle of papers.

Q. Well, is it here today?

A. Yes, I turned it over.

Q. What was the deed or what were the papers that you testified a moment ago were in your possession as distinguished from the possession of the company?

A. I say all the papers that I ——

Q. One moment.

A. I don't understand his question.

Q. Do you remember replying that some papers were not in the envelope because they were in your possession?

A. Oh, the forty-two acre tract.

Q. What?

A. The forty-two acre tract were in my possession.

Q. That is the Somers estate?

A. Yes.

Q. And they are those you now produce?

A. Yes.

Q. That is all.

PHILIP S. GODFREY, recalled.

Direct examination.

By Mr. McCarter:

Q. You are the Philip Godfrey who was so often referred to in this hearing?

A. Yes, sir.

Q. And were and are a clerk in the office of Carlton Godfrey?

A. Yes, sir.

Q. Did you attend the meetings at the Vendig Hotel in Philadelphia?

A. Yes, sir.

Q. Were you there throughout?

A. Yes, sir.

Q. What papers had you provided yourself with before going to that conference?

A. I had provided myself with some green sheets which represented the search that the Chelsea Title

Company had made showing the various securities standing in the name of Trevor Williams, of Royden Davis and of Gordon Williams. I had also provided myself with copies of the attachment and capias papers.

Q. Have you those green sheets here?

A. Yes, sir.

Q. Will you produce them?

(Green sheets produced.)

Q. When had you procured those green sheets?

A. Shortly prior to—I had procured the green sheets shortly prior to commencing the attachment suit.

Q. They had not been procured purposely for the Philadelphia interview?

A. No, sir.

Q. When were you first apprised of the proposed meeting in Philadelphia?

A. On the morning of Monday.

Q. What time did the meeting get together?

A. Approximately two-thirty.

Q. Who were present the first day?

A. Father Mellon, Harold S. Williams, A. Trevor Williams, Jack Scanlan, Royden Davis, Mrs. Davis, Mr. Fahler, Mr. Dorrian, Carlton Godfrey, Mr. Garrison, myself—I think that is all.

Q. Father Mellon there?

A. I started with Father Mellon.

Q. Did you participate in or have any acquaintance at the time that occurred with any conversations that occurred on the sidewalk?

A. No, sir.

Q. Did you ever hear any conversations that occurred or are said to have occurred in the lobby before going upstairs?

A. No, sir.

Q. Then directing your attention to the transactions in the room 101, please state, if you can, the relative positions of the parties that day.

A. At the head of the table sat Father Mellon. To his right sat Harold S. Williams, and going around the table in that direction, Trevor Williams

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The Court: Just one moment, Mr. Godfrey. You say at the head of the table, you mean the nearest the main entrance or opposite to the main entrance?

A. The nearest the only entrance, the only door from the hall into the room, the only other door led into the bathroom.

Q. Now, we have got Father Mellon sitting there?

A. Yes, sir.

Q. Who came next?

A. Harold Williams.

Q. On his right?

A. On Father Mellon's right.

Q. Go on.

A. Then Trevor Williams, Jack Scanlan, Royden Davis, Mrs. Davis, on that side of the table.

Q. Yes.

A. Then at the other end of the table sometimes sat Mr. Fahler, who also sat in a chair away from the table at that corner, part of the time. Then on the other side of the table, continuing around the same direction was myself, Mr. Garrison and my father, and Mr. Dorrian.

Q. Now, what first occurred in the way of remarks or statements after the party got seated, the first day?

A. Father Mellon made some remarks as to how the meeting came to be called together.

Q. Can you recall what he said?

A. Why, as nearly as I can recall, he said that on the night before he had been called up by Mrs. Scanlan who had requested him, he said, to see Mr. Scanlan, and he had said that he would. Mr. Scanlan had come to his house and had told him that the Williamses were ready to shoulder the blame of the transactions and wished to exonerate Mr. Davis, and wished that he would convey that message to Mr. Dorrian. He stated that he had done so and that Mr. Dorrian was—and stated he would prefer to have his counsel present if he was going to talk about the case, and he had sent for Carlton Godfrey, his counsel, my father, and that in Mr. Scanlan's presence, and in the presence of my father, Father Mellon had recited what had taken place and then, as a result of that he had, Mr. Scanlan had arranged this conference.

Q. Did Father Mellon, if you recall, review what had transpired after Mr. Carlton Godfrey and Scanlan and he and Dorrian got together?

A. Well, he said that Mr. Scanlan had left that conference and had stated that he would get in touch with the Williamses and Mrs. Davis and would let us know, or would let my father know when the meeting would be held, and where, and that he had himself suggested the Vendig Hotel because he knew the manager and that, on the morning of the conference, which was Monday, that Mr. Scanlan had telephoned him to the effect that they would be there at two o'clock, or two-thirty, and then had gotten in touch, that Mr. Scanlan had gotten in touch with my father to that effect.

Q. Did Father Mellon say anything about in what capacity he was asked to act, and how he came to be there?

A. He said that Mr. Scanlan had requested, stating that he was going there at the request of Mrs. Davis, to act as intermediary or arbitrator, to try to get together the differences between these parties.

Q. After making the remark that he made, what next transpired?

A. Harold Williams said to my father, "Well, now, what are these transactions that constitute the differences between us?" And my father turned to me and he said, "Philip, will you read the schedule that is annexed to the capias and attachment suits," which I did.

Q. Have you got with you the paper from which you read?

A. Yes.

Q. Please look at it and now tell us, refreshing your recollection from the document, exactly what you did in response to the request of your father.

A. I first read the heading of schedule A and then I read paragraph one which relates to the county transaction, and what I did—that answers ——

Q. Just repeat what you did.

A. Then that matter was discussed.

Q. One moment.

A. Pardon me?

Q. You are now to repeat what you then did.

A. I then read the schedule, as my father had directed me.

Q. Read it.

A. "Properties purchased by the conspirators, with money of Connie J. Dorrian and Lloyd M. Fahler, and deeded by their direction to Williams and Davis, Inc. 1. On April 12th, 1926, Harold S. Williams took a deed from Atlantic County to 2.003 acres tract at Somers Point in which transaction

he represented the conspirators, paying $3,000 to the county for said deed. He represented that he had paid $7500 for the same and actually drew that amount by a check therefor, drawing such money prior to purchasing same. The difference of forty-five hundred dollars was a fraudulent, secret profit, converted by the conspirators to their own use. Of this forty-five hundred dollars Connie J. Dorrian contributed $2250 and Lloyd W. Fahler $2250."

Q. Now, after you had read that what then occurred with reference to that matter?

A. The transaction of the county tract was discussed and my father turned to Harold Williams and says, "Is that true, Mr. Williams?" and Mr. Williams said that it was, and that is what occurred in connection with it.

Q. What next occurred?

A. Then I read paragraph two. Should I read it?

Q. Read it just as you read it then.

A. "On February 11, 1926, Julia Coll took a deed from David D. Smith, et ux, et al, for a tract in Egg Harbor Township, N. J. in which transaction she represented the conspirators, paying $66,936.15 to the grantors for said deed. The conspirators represented that they had paid $123,574.80 for the same, and actually drew that amount therefor upon deliverying to Williams and Davis, Inc. a deed from Julia Coll for the same. The difference of $56,-638.65 was a fraudulent, secret profit, converted by the conspirators to their own use. Of this $56,638.65. Connie J. Dorrian contributed $28,319.32 and Lloyd W. Fahler $28,319.32."

Q. Does that complete that transaction?

A. Yes, sir.

Q. After you had read that in that manner, what next occurred?

A. Mr. Harold Williams said, "What is the point in that transaction?" And my father explained to him that the point of it that our charge was that the Williams and Davis, having control or use of our moneys, had all the moneys of Dorrian and Fahler, and Williams and Davis, Inc. had purchased with our moneys, speaking of his client, this transaction, this property, and then had conveyed it in the manner indicated by the reading, through a straw name, and that the profit or difference made by the straw name was really made by the conspirators.

Q. What did Mr. Williams say, if anything, after your father's explanation?

A. My father then inquired of him and said, "Isn't that the way it happened, Mr. Williams?" And he said it was.

Q. Now, during this reading were all the parties sitting around the table just as you have described?

A. Yes, sir.

Q. And were apparently listening to what was going on?

A. Yes, sir.

Q. What next occurred?

A. Then I read paragraph three.

Q. Tell us what you read.

A. Which reads: "On February 1, 1926, Julia Coll took a deed from George W. Roberts for two tracts in the City of Somers Point, N. J. in which transaction she represented the conspirators paying $89,900.00 for the same. The conspirators representing that they had paid $159,984.00 and actually drew that amount therefor, upon the delivering to Williams and Davis, Inc. a deed from Julia Coll for the same. The difference of $70,084.00 was a fraudulent, secret profit converted by the conspirators to their own use. Of this $70,084.00 Connie J.

Dorrian contributed $35,042.00 and Lloyd W. Fahler $35,042.00."

Q. Now, after you had thus read that what accurred?

A. My father turned to Mr. Williams and said, "Is that correct, Mr. Williams?" and he said, "Is that the same kind of a secret profit?" and Mr. Williams said that it was, Harold Williams.

Q. What next occurred?

A. I then read paragraph four which reads: "On July 9, 1926, Sadie A. Craigen took a deed from John F. Ryon, executor for a tract of land in Somers Point, N. J. in which transaction she represented the conspirators, paying ten thousand dollars to the grantors for said deed, and conspirators represented that they had paid $25,000 for the same and actually drew that amount therefor, upon delivering to Williams and Davis, Inc. a deed from Sadie A. Craigen for the same. The difference of fifteen thousand dollars was a fraudulent, secret profit, converted by the conspirators to their own use. Of this fifteen thousand dollars, Connie J. Dorrian contributed $7500 and Lloyd W. Fahler $7500."

Q. After you had recited that transaction, what then occurred?

A. Mr. Davis interrupted and said, "I never heard of that transaction," and Mr. Williams said, "Well, it occurred."

Q. Then what occurred?

A. Then I read schedule B, the schedule of which I read and which reads as follows: "Properties purchased by the conspirators with the moneys of Connie J. Dorrian and Lloyd W. Fahler and deeded direct to them." Then I read the first paragraph of that schedule reading: "On January 22, 1926,

the conspirators connived with said Dorrian and Fahler to deed to Helene Wright lots 41, 43, 45, 47, 49, 51, 53 and 55 in block 124, Margate City, N. J. representing that the price obtained was $36,000, when, as a matter of fact, Helene Wright, acting for the conspiracy, received from Vivian B. Smith and Andrew W. Cunningham $44,000 therefor, whereby said Dorrian and Fahler were each defrauded of four thousand dollars."

Q. After you had completed that statement what occurred?

A. Mr. Williams said, "Now, I don't quite understand that, Mr. Godfrey. What was that?" And father said, "Well, in this transaction, instead of buying the properties through straw parties, as the others were up to this time, we charge that you sold the property for Mr. Dorrian but sold it through a straw party, knowing at the time that a purchaser was obtained for $44,000 when you only had the straw party give Mr. Dorrian or Mr. Fahler $36,000, the difference being a secret profit that was divided between the conspirators.

Q. After that explanation had been made what occurred?

A. Trevor Williams said, "Yes, I remember that."

Q. Go on.

A. Then I read paragraph two, which reads: "On March 16, 1927, Helene Wright took a deed from George W. Haggerty, et ux, for a tract in Linwood, N. J., in which transaction she represented the conspirators, paying $25,000 for the same. The conspirators represented that they had paid $44,000 and actually drew that amount therefor upon delivering to Connie J. Dorrian a deed from Helene Wright for the same. The difference of $19,000

was a fraudulent, secret profit converted by the conspirators to their own use."

Q. After you had thus explained or read that matter what next occurred?

A. They were asked if that was true.

Q. Who were asked?

A. My father asked Mr. Wililams if that was correct and he said that it was.

Q. Go on.

A. Then I read paragraph three which reads "On or about November 5, 1925, Helene Wright took a deed for lots 23, 24, 25, 26, and 27 in block 326, Margate City, N. J., in which transaction she represented the conspirators, paying $12,500 for the same. The conspirators represented that they had paid $17,500 and actually drew that amount therefor, upon delivering to Connie J. Dorrian the deed from Helene Wright for the same. The difference of five thousand dollars was a fraudulent, secret profit converted by the conspirators to their own use."

Q. Having read that, what occurred?

A. Father said at that point that the last two that had been read, the five thousand dollars difference and the nineteen thousand dollars difference was entirely a transaction with Mr. Dorrian, separate, and that Mr. Fahler nor the Williams and Davis, Inc. had no interest in that, and Mr. Williams, after consulting with Trevor at that point, said that was correct.

Q. Go on with the next occurrence, that completed the transaction?

A. That completed the transaction that I had to do with.

Q. Now, what next occurred?

A. While I was reading that last one, and came

to the transaction involved, John F. Ryon, executor, and the Ireland estate transaction, Trevor said, that reminds me, he said, "The Somers estate transaction was not a fraudulent proposition and should not be included in your schedule," and I looked through the schedule and I said, "Well, I don't find it, Trevor, unless this John F. Ryon executor transaction." He said, "No, that is a different one. But he said, "This is the Somers estate I refer to." I said, "I don't find it here," and then I spoke with Mr. Dorrian and Mr. Dorrian said yes, the Somers estate transaction was a legitimate proposition, and my father asked if he explained what Trevor had in mind. And Trevor said that the Somers estate transaction was a transaction bought through a straw name but they had actually bought it with their own moneys and had made settlement and then had sold it, owning it in the name of a straw name, to our people, and that that proposition was legitimate. And father said, "Then in the other transactions that have been read,"—three or four having been read previous to that—"you didn't buy with your own money?" Well, he said, "We had the moneys of Dorrian and Fahler at that time." And that closed the Somers tract transaction.

Q. What next occurred, if you recall?

A. That took me a long time reading the transaction and these transactions, and then Harold Williams said, "But we are deserving of having some credits off of these transactions." He said, "We are willing to return the profits on the transactions you have read, but we are entitled to some credits off." And further said, "Well, what do those transactions total up to, Philip?" and I answered that they totalled up approximately $178,000, and father said, "What credits do you claim, Mr. Williams?

We will discuss them." He said, "Well, the first of them that we are entitled to a credit for commissions on some transactions at Del Rey where lots were sold on agreements, first payments were received and we are entitled to our commissions on on those." The matter was there discussed between us and father said that that was something new to him. He was not familiar with the commission at Del Rey, or the matter of the bookkeeping nor the exact transactions, but he would have to table that until the next day in order that over night he might look up and see what those transactions were, and Father Mellon said that it seemed to him that that was a good thing to do, but that it should be held open for discussion the next day.

Q. How? What?

A. Pardon me?

Q. I didn't hear what you say.

A. That that proposition should be held open for discussion the next day. Harold Williams was asked how much he thought those commissions amounted to and he spoke with Trevor Williams and then said he thought they amounted to around $14,000 and I made some note of that on some memorandums I had to look up that night. Then Harold Williams said, "Well, Mr. Dorrian, Gordon Williams and Company sold a property for you and they didn't get any commission on it," and the property was discussed, some individual property that Mr. Dorrian had owned individually. I didn't know, I don't recall what the property was, except that the commission that Mr. Harold Williams claimed Gordon Williams and Company were entitled to, amounted to $3,000. Father Mellon said, "Well, what happened to the deals?" and Harold Williams said, "Well, Mr. Dorrian got a five thou-

sand dollar deposit and kept it, and Mr. Dorrian admitted that he had got the $5,000 deposit on the agreement to sell this property and that it had been forfeited by the purchaser who had not made settlement, and he had the five thousand dollars. He also stated that he had not paid Gordon Williams and Company a commission on it. Father Mellon asked a couple of questions, which I don't recall, and then said, "Well, it seems to me fair that you should split that five thousand dollars with Gordon Williams and Company," and Mr. Dorrian said, "Well, Father Mellon, if you think that is fair I will do it, but they didn't earn the commission, and I don't think I ought to do it, but, if you think it is fair I will do it," and with that I made a notation that they were to have a credit of $2500. Then Harold Williams said, there was a note or perhaps two notes, I don't recall about that, totalling some six thousand dollars which had been given in connection with or as installments upon some agreement at Del Rey, they had been given to Gordon Williams and Company and had been discounted by Gordon Williams and Company, and were in the bank, and that, upon not being paid by the makers of the note or notes, they had been charged against the account of Gordon Williams and Company, and Mr. Williams took the position and said that he thought that Williams and Davis, Inc., should bear that loss on those notes, because they were on account of agreements on the Del Rey lots, and Mr. Dorrian said, "Well, we didn't tell you to take notes for lots. We never authorized the taking of those lots," and Harold Williams said, "Well they were taken, and we had gotton their agreement, and they are agreements on Del Rey, and I think we are entitled to reimbursement for those notes," and the matter was submitted by both

Harold Williams and our side to Father Mellon and he took the notes in hand and said that each side should pay three thousand dollars, and I made a notation that they were to have a credit of three thousand dollars.

Q. Now, what next occurred?

A. At that point it reached about the hour of six or seven o'clock, and there was a sort of a lull in the proceedings, and Father Mellon said that he had an engagement connected with his church work that took him away at that time, and he wanted to know if it wasn't an appropriate time to adjourn. Everyone seemed to be agreeable that it was, and an adjournment was taken until the next day.

Q. Was there any hour fixed?

A. My recollection is the hour was fixed for two o'clock.

Q. Well, now over night did you make some investigations upon the matter that was reserved?

A. Yes, over night we consulted Mr. Besore, who was an accountant or bookkeeper or something connected with Gordon Williams and Company's books, so they told me, and we told Mr. Besore to bring

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Mr. Bourgeois: I object.

The Court: Yes.

Q. Never mind what you told him. Mr. Besore appeared the next day, did he not?

A. Yes, sir.

Q. Did you assemble about the time agreed upon on the second day?

A. Yes, sir.

Q. I wish you would take up there, was anybody

present in the conference there on the second day that had not been there the first day?

A. Yes, sir.

Q. Who?

A. Mr. Hart and Mr. Mulhern and Mr. Besore.

Q. Was there any change in the location of those, location around the table of those who had been there the first day or did they have the same seat?

A. Mr. Besore took the seat directly opposite Father Mellon at the other end of the table that had occasionally been occupied by Mr. Fahler on the first day, and Mr. Fahler took the chair that was over in the corner, I think it was an arm chair or rocker.

Q. Where did Mr. Hart sit?

A. Mr. Hart sat between my father and I on our side of the table.

Q. Now, just take up there and go on and tell us, as far as you can recall, all that transpired that day, the second day?

A. Well, the meeting was opened on the second day by my father stating that Mr. Besore had been brought there in order that he might investigate together with the parties sitting on this side of the table the matters of claiming the commission, and Mr. Besore had with him a number of cards which he said were the records of Williams and Davis, Inc. We also had with us, which we had brought, books of Williams and Davis, Inc., and he began reading the purchase cards.

Q. Who did?

A. Mr. Besore, certain transactions. These transactions seemed to be extremely numerous and the amounts of the deposits on each were very small and my father, who saw that it was taking up time

Q. Never mind.

A. My father asked Mr. Besore, if he would not, if he had computed it, if he wouldn't give the amount of the commissions as shown by the books on the transactions where Gordon Williams and Company had not been paid a commission. Mr. Besore said they amounted to approximately fourteen thousand dollars. Mr. Hart said, at this point that the money. fourteen thousand dollars, had not yet been earned, in fact a very small sum of it had been earned because he said that they were not entitled to commission except on the amounts of the deposits, in other words, percentage of the amount actually paid. Harold Williams said, "Oh, no, that is not correct." He said, "We are entitled to our full commission as soon as the agreement of sale is signed." Father Mellon said, "How do you figure that, Mr. Besore?" Mr. Williams said, "That is the agreement in writing," so then Father produced what is called the Del Rey agency agreement for the sale of lots in Del Rey, and looked at it and handed it—wait a moment ——

Q. Can you—I am referring to the printed copy of the bill of complaint in this cause—point to the Vice Chancellor the clause that your father's attention was directed to. It is the last contract attached to the ——

A. Printed bill, clause five, page 39 of the printed bill. Shall I read it?

Q. Yes, read it. This was the clause that was read there?

A. It wasn't read, Mr. McCarter ——

Q. It wasn't read?

A. —— but what happened was that they referred us to this clause and pointed it out to us and Mr. Garrison, who was sitting there by my father said,

"Let me see that clause," and he took the clause and read it to himself, at least he said he read it.

Q. Now, won't you read that clause out loud?

A. "It is agreed that the commission of the party of the second part, which commission shall include the ——"

The Court: The fifth word is "compensation," not commission.

A. Did I read commission?

Q. Yes.

A. Pardon me, sir, it is compensation. "It is agreed that the compensation of the party of the second part, which compensation shall include such expenses as it, the broker, shall specifically agree to pay, shall be a commission of twenty-five percent upon the gross selling price of each and all lots sold in the tract known as Del Rey, as shown upon the said map, and any addition to said map and twenty-five percent ——"

The Court: That is not what it says.

Q. Can't you read?

The Court: Any addition to said tract, not map.

A. "—— any addition to said tract"—pardon me, sir—"and twenty-five percent of the gross selling price of all other land of the party of the first part, which may be sold in lots, and ten percent of the gross selling price of all land of the party of the first part sold in acreage. In case of default by purchasers under agreements, the amount of compensation to be collected on any single sale shall

not exceed the amount collected from the purchaser. The party of the second part is authorized to advertise the said Del Rey in its discretion, but all the amounts expended for such advertising shall be paid for by said broker.''

Q. Now, then the fact that the clause as thus read, the difference between the two claims was what, as is projected? What was our theory about the commission and what was their theory?

A. Our theory the amount represented by our theory was not computed, it would have been very small.

Q. Now, what was the basis of the theory?

A. Our theory was that they were only entitled to twenty-five percent of the amount paid.

Q. Installment paid?

A. Yes, sir.

Q. Their theory was that they were entitled to twenty-five percent of the gross selling price?

A. Yes, sir.

Q. And what prevailed after Mr. Garrison had read the clause?

A. Father Mellon said, ''Well, the clause reads as Harold Williams says it does, and I think they are entitled to this commission.''

Q. The result then was what?

A. Mr. Dorrian said, ''Father Mellon, if you think they are entitled to that commission we shall allow it.'' And it was allowed.

Q. Now, please proceed, as far as you can recall in the sequence of events?

A. Then Mr. Hart, who was present, and had not been present on the first day, brought out some other transactions, stating that these were also straw deals, where secret profits had been made in the same manner. These transactions were read off one by one.

Q. By whom?

A. By Mr. Hart, and in between each transaction they were discussed, Harold Williams stating, in response to a question of my father, my father saying, "Is that true, Mr. Williams?" And Mr. Williams saying, "Yes, that is true. That is a straw deal. We made that profit." And all the time we added the amounts as given by Mr. Hart, added the total of, taking the amounts represented by these transactions that Mr. Hart had mentioned, added to the amounts which we found, added to the amounts which had been computed the day before, which I had read, being $178,000, we then subtracted the three items that Father Mellon had arbitrated, and the result was approximately the sum of $213,000. At that point there was sort of a lull, and a whispered conference between the Williamses and Mr. and Mrs. Davis, and then Harold Williams got up and he said, "Trevor, I want to speak to you, and they walked out into the hall.

Q. Who did?

A. Harold Williams and Trevor Williams. As they were going out of the door, Trevor said something to his father, that I didn't hear, and then his father said, "Oh, yes, Mr. Davis, you come with us," and Mr. Davis arose and Mrs. Davis arose and they went out into the hall, the four of them. They stood near the door. I couldn't hear what they were saying, but I could see one or more of them, and I could see that they were grouped about in the hall. They conferred there for some minutes, and we talked among ourselves, and then Harold Williams came to the door and said, "Father Mellon, would you come here a moment," and Father Mellon said, "Naturally," and Father Mellon went out and discussed something or other with them which I

couldn't hear. Then Father Mellon and the four people came into the room again and Mr. Williams turned to my father, Mr. Godfrey, and said, "Mr. Godfrey, may I speak to you a moment," and Father went to the door, and had a conversation with them which I couldn't hear. At any rate he came back.

Q. Who did?

A. My father, alone, and said, as he entered the door, "Well, I will have to submit that to my client." With that he called Mr. Dorrian and had some words with Mr. Dorrian, and I couldn't hear, and Mr. Dorrian says I would like to speak to Mr. Fahler about that, and Mr. Fahler and my father and Mr. Dorrian spoke, and as they were talking Father Mellon came over and spoke with them, and then Harold Williams and Trevor Williams joined them, and they talked together, as I say, in the hall, near the door. After some few minutes they came in and Harold Williams said, "Well, it is $190,000 you will have to settle it." And Father Mellon said, "Yes, this matter has been adjusted amicably between the parties for $190,000." I made a notation of the $190,000 and said to my father, "Is that correct, Father," and he said, "Yes, they are going to pay one hundred and ninety thousand dollars." Then Father turned to Harold Williams and said, "Mr. Williams, how do you propose to pay that money?" Mr. Williams said, "Well, all the money that I can pay on account of that in cash is $45,000, that I can pay in cash, and that is the money we can pay in cash," and Trevor says, "Well, you got our bank accounts all attached," and Harold Williams said, "We can have all the amounts that are in the attached bank accounts," and asked how much they were, and I turned to the attachment writ that I

had with me from the sheriff, which showed what things had been attached, and among them were four bank accounts, the amounts of which were called off and they were noted. It then stood that they could pay $45,000 in cash plus the amount in these four bank accounts. Harold Williams then said the balance of the money could be on note or be in mortgages, and I said, "Well, I have here the searches that I have obtained from the Chelsea Title Company, and which I used in connection with the attachment suit, and if you would like to, I will tell you what they are," and he said, "Well, that is as good a way to arrive at it, why not put those in," and I picked up the green sheet, which I checked.

Q. Now, just produce them.

(Green sheets produced.)

Q. Do you know whether or not those green sheets are in the same sequence or order that they were at that time?

A. Yes, sir, they are. They were numbered and they are still in the numerical order.

Q. Numerical order?

A. Yes, sir.

Q. Commencing at one?

A. Yes, sir.

Q. And going through?

A. Yes, sir.

Q. Now, has anything been added to those green sheets which was not on them at the time you were in Philadelphia?

A. Yes, sir.

Q. Just tell us what they are, so there won't be any misunderstanding about them.

A. There is a continuation of the search noted on each green sheet, which continuation is in blue ink and was not on the sheets at the time they were there. The ink which was on the sheets at that time was black ink and red ink. The black ink indicating deeds and conveyances, and the red ink indicating mortgages.

Q. The stuff in blue ink, which is noted in there as the continuation of the respective questions, was not there at that time?

A. No, sir.

Q. Been put on since?

A. Yes, sir.

Q. Now, bearing in mind, what was the first sheet that you referred to?

A. The first sheet I referred to was a mortgage Arduina Ricca and Anthony Ricca, her husband, to Gordon Williams.

Q. To Gordon Williams?

A. Yes, sir.

Q. You read that out, did you?

A. Yes, sir.

Q. Then what occurred?

A. I said, "Well, we can't take that because of the fact that Gordon is not here, and Harold then spoke up and said, "Well, I have talked to Gordon, and he has told me to make this settlement, and that he will do whatever I arrange to do at this settlement."

Q. Go on.

A. Father said, "Well, if we take any mortgages belonging to Gordon we will have to put a clause in the contract providing that if the mortgages are not delivered that you will substitute cash or other mortgages to take their places." And Harold says, "You don't have to bother about Gordon, Gordon

will sign it after I have made the arrangement, and you put the clause in if you want to."

Q. Was the clause to that effect, as you understand it, inserted in the contract?

A. Yes, sir.

Q. Can you refer to it?

A. I think so.

The Court: Page 27?

A. Vice-Chancellor, I haven't a printed bill, clause nine.

Mr. Bourgeois: What page?

The Court: 27 of the printed bill.

A. Clause 9 was inserted and read: "In the event that the mortgages, items and other securities, accompanied by said declarations of no off-set and other requirements herein recited are not delivered as herein set forth, other bonds and mortgages, cash or other securities satisfactory in amount and quality to suit Williams and Davis, Inc., Connie J. Dorrian and Lloyd W. Fahler shall be substituted in place of the mortgages, items, and other securities, if any, which are found not to conform to the requirements herein recited."

Q. Now, after the conversation you have just recited occurred, after the first mortgage, which happened to be in Gordon's name, what next occurred?

A. I made a memorandum that that mortgage, as to whether that mortgage was to be included in the agreement or not. I can't recall now whether it was, that particular mortgage was included or not.

Q. Now, I want to ask you to go through in detail every one of the mortgages. Did you in fact go through the list?

A. Yes, sir, all the way through.

Q. All the way through?

A. Yes, sir.

Q. As you went through the list what would occur, what was said?

A. Well, Mr. Hart, who was there sitting next to me, would say, "Well, that mortgage, we don't want," or, "That is a good mortgage, and that one would be all right." When he said that that mortgage would be all right, if the mortgage stood in either Trevor Williams' or Gordon Williams' name, Harold Williams would say, "Well, put it in," or "if it stood in Royden Davis' name, Mrs. Davis would say whether she wished it put in or not.

Q. Go on.

A. When it ——

Q. Were some exclusions, therefore, in the matters suggested, at the solicitations of either Messrs. Williams or Mrs. Davis made of the proposed mortgages?

A. Yes, sir.

Q. How long a time do you think was taken, was involved on that second day in your going through this list and having discussed before you were through?

A. Well, to answer that question I will have to ask something.

Q. Go ahead.

A. When I finished reading this list, I said that there were some other securities that were not mortgages, were not on these three sheets, which, if it was agreeable, could be included, and Harold Williams said, "What are they?" I said, "Well, in

the attachment suit we attached certain bank stock," and I referred to the sheriff's writ and I noticed and called out, "Chelsea Title and Guarantee Company's stock, so many shares, thirty shares, Margate Trust Company stock so many shares," several items of that type, and it was discussed whether to take them or not. Those things were preferred because it was thought that they were more readily marketable by Mr. Hart, and where we were told to I put those down.

Q. What?

A. Where we were told to I put those down, and in connection with that transaction insisted as to how much the Chelsea Title and Guaranty Company's stock, for instance, should be credited in the settlement, because, in discussing the mortgages they said ——

Q. Who said?

A. Harold Williams said, "Now, the mortgages are to be put in at par," and Mr. Hart says, "Well, some of them are second mortgages, Mr. Williams, we shouldn't take those at par." He said, "You can't have them unless you take them at par, if you are going to take mortgages, you must take them at the full par as marked on your mortgage, as called for, to credit the full amount of the par on account of the transaction, so when we came to the Chelsea Title Company's stock, it was said by Mr. Hart that the money value of that stock was different than the par amount, and Harold Williams said, "Yes, it is a good deal different," and we had a discussion as to how much was the value of Chelsea Title Company's stock, and quite lengthy between Harold Williams and Mr. Hart. It was—they came to some conclusion about it, and Father Mellon says, "Well, put it in at that amount." I can't recall

how much it was, but it was put in at that amount, so that when I had completed the green sheets which included the real estate mortgages and properties standing in their names, and when I had completed the separate itemized list of securities, I put those things down in a row on a piece of paper, and I added them up, and I don't recall exactly what they came to, but they came to less than $190,000. I said, "Mr. Williams, they don't reach one hundred and ninety thousand dollars." He said, "Well, I have another house on Quincy Avenue, and you could create a mortgage on that house for five thousand dollars," and that was discussed. At first Mr. Dorrian said that he didn't want that for the reason that he already owned a mortgage on the Quincy Avenue house, didn't want another one, but Mr. Hart said that the value of the property would stand another mortgage, and I was told by Mr. Williams, who made the statement, to put in the list a mortgage to be created by Harold Williams and his wife for five thousand dollars on Quincy Avenue. Then I added that on and that didn't reach $190,000, and Trevor Williams says, "Well, I have two lots on which I could give two little mortgages," and we discussed the value of these two lots, and the value of the lots were thought by Mr. Hart to be about $3300 a piece, and Mr. Hart says, "Well, if you want to, you could create two mortgages of $1550 each on those two lots, and Trevor told me to put in the list two mortgages to be created by him on two lots that he owned. Then I added up the list and it seemed to come to $190,000, but I wasn't satisfied that the additions were correct, and I turned to Mr. Scanlan, and I said, "Jack"—I having known him in high school—I said, "Jack, will you please add this up for me," and he added them up and he

turned to me and says, "Phil, there are $195,000." I said, "Jack, if they are, it is entirely a mistake of my own, and I didn't intend to do it," He said, "I didn't say you intended to do it, but I want you to take something off for that $5,000," and Harold Williams then spoke up and he says, "I have been thinking about this mortgage that was to be created on Quincy Avenue and you know I hate to ask Mrs. Williams to sign that, and if you can get along without that I would rather you would take that off." And Mr. Dorrian said, "Yes, I think we better take that off," so I crossed off the five thousand dollars and took Mr. Scanlan's additions as being correct, and we had $190,000.

Q. One moment, some testimony has been given in this case that you handed that list to Trevor to add up and that Trevor said he couldn't do it. You handed it over to Scanlan, is that correct?

A. Yes, sir, I handed it direct to Scanlan.

Q. You have given us all that occurred as you recall it?

A. Yes, sir.

Q. Now, what next occurred?

A. Well, at that point Father Mellon said, "Now, there will have to be an agreement drawn up in connection with this," and my father said, "Yes, suppose we adjourn and I will draw up the agreement, if you will meet here in the morning, we will submit it to you," and Hart then said, "Well," he said, "I am not satisfied that they are putting up as much cash as they could put up." He said, "I think they got more than $45,000 and some of these mortgages could be excluded, because I question about it, and it seems to me ——"

Mr. Bourgeois: Now, if the Court please, in the

presence of these other people? All right, go on then.

A. In the presence of the other people at the conference.

Q. You are not giving us anything except at what was open talk before the whole crowd?

A. Yes, sir. My father said, "Mr. Hart, what makes you think they got more money than that? They say they haven't," and Hart says, "Well, there are three boxes down at the Ventnor Trust Company and I think, to show good faith, that they should show us the contents of those boxes so if they have other securities in those boxes we will know whether they have told us straight when they say they haven't any other cash, so far as we are able to find out," and Harold Williams says, "Well, there is nothing in my box," and Trevor says, "There certainly is nothing in my box," and Mr. Davis, "Well, there is something in my box, some mortgages which you have got on that list are in that box, and there are some other things in there, but I can't tell you exactly what, but there is no cash in there belongs to me." Well my father said, "Well, now, gentlemen, I don't question your word, but I think that Mr. Hart and Mr. Dorrian and Mr. Fahler would feel better if you let us examine these boxes." They said they had no objection whatever to examining the boxes and suggested that a letter be drawn to the Ventnor Trust Company to let us see the boxes, and Father said, "Well, now, why," he said, "Father Mellon is making this adjustment, I suggest that Father Mellon examine these boxes and report to us as to what is in them." Mr. Harold Williams says, "All right with me," and Mr. Davis says, "All right with me," and Trevor says, "All

right with me," so a letter was drawn to the Ventnor Trust Company directing the Ventnor Trust Company to exhibit the contents of these boxes to the bearer, and the letter was handed to Father Mellon. Then my father said, "Well, is the Ventnor Trust Company going to let us see those boxes without the keys?" and Harold says, "I never thought of that." He says, "I haven't got my key with me." and Trevor said, "I haven't got my key with me," and Royden says, "Well, I have got mine," so Father said, "Well, Trevor and Harold have stated that they haven't anything in their boxes, suppose we take their statements as true, and just examine Mr. Davis' box." That was stated by Mr. Davis to be satisfactory to him and he gave the key to Father Mellon, and signed the letter directing the Ventnor Trust Company to exhibit the contents of that box to Father Mellon, and then the meeting was adjourned with an appointment to meet the next day around three o'clock, that hour being, it being discussed as to what hour, and Father Mellon says, "Well, if I am to go down to Atlantic City in the morning and inspect that box, you can't meet quite as early tomorrow as you did today. I will have to have time to get down and back again." Father says, "Now, well, that is right," and the letter was handed over.

Q. And the meeting then was adjourned?

A. The meeting then adjourned, yes, sir.

Q. Were there any stenographers around during the first and second days?

A. There were stenographers around on the second day, but not on the first day. On the second day, however, the stenographers did not take during the conference any dictation, and they sat outside of the room, were not in the room at all, to the best of my recollection, the second day.

Q. Well, after the meeting adjourned, did your father and you take up the work of preparing the contract?

A. After the meeting adjourned, father and Mr. Garrison and I went to dinner and after dinner Mr. Garrison left us and we returned to room 101, and commenced work upon this agreement. We had stenographers with us and they were there in the evening. My part of it was to take this list that I had written down during the day before of the securities that were to be included, and by reference to my green sheets and my written sheriff's writ, and make up a description of each of these securities that was to be included under each name. Now, those securities ——

Q. Stay in there?

A. Yes.

Q. Well, how late that night was it when you came to the dictation and preparation of the contract?

A. That I don't know, for the reason that I left my father at about eleven o'clock, I had practically completed the list and my father was working upon the other clauses, and I left, went to bed, and the young ladies left and went to another hotel, and my father continued work, but how long they continued to work, I don't know.

Q. Well ——

A. He continued to work.

Q. ——was there anything arranged during the day before the adjournment with reference to Trevor producing securities, or was that the next day?

A. Pardon me?

(Question repeated.)

A. No, on the second day, while we were discuss-

ing the securities that were to be delivered, at the end of the discussion of the green sheets, Trevor said, "My securities are in New York in a trunk, in New York, and I shall have to go over and get them," and my father said, "Well, when will you do that?" He said, "I will do that this evening and return with them tomorrow." My father said that would be all right.

Q. Now, what time did you get together the third day?

A. On the third day we got together about three o'clock.

Q. Do you recall hearing on the second day, after the preparation of the contract, proposed preparation of the contract in writing had been suggested by your father anything being said about lawyers being present?

A. No, sir.

Q. You re-assembled on the third day about what hour?

A. Your questioning reminds me of something that happened on the second day.

Q. Yes.

A. On the second day, while we were computing the amounts by each party, Mrs. Davis said, "We want to—Father Mellon we want to return, Royden and I, every cent to Mr. Dorrian and Fahler with interest that we have of their money in these transactions."

Q. Did you see any memorandum that had been prepared?

A. No, sir.

Q. You didn't see that?

A. No, sir.

Q. Was any sum named by Mrs. Davis that day or at any other time in your hearing as to the amount that they were willing to return?

A. On the next day.

Q. On the next day?

A. Yes, sir, but not on the second day.

Q. All right now, you are talking again on the third day?

A. Yes, sir.

Q. Just take up the third.

A. On the third day the meeting was appointed by Father Mellon saying that he wished to report of his visit to Ventnor Trust Company, in pursuance to this letter that had been given the day before. He stated that he had gone to the Ventnor Trust Company and that a list had been made in his presence of the securities found in Royden Davis' box. He produced that list. It contained among other things a package of cash money, I don't recall the amount, but it was a substantial sum. As that was read on the list Mrs. Davis says, "But that is my personal money," and Father Mellon stated that he had some private personal information that made him sure that that was Mrs. Davis' personal funds, and with that explanation we took no further notice of the cash money.

Q. In Mr. Davis' box?

A. In Mr. Davis' box.

Q. Go on.

A. Then Father Mellon turned to my father, Mr. Godfrey, and said, "Mr. Godfrey, did you draw the agreement last night?" He said, "Yes, Father Mellon, I have it here," and he had six copies, typewritten copies of a completed agreement, but they were not fastened together, they were loose sheets, but they were a completed agreement, and the typing of those agreements, to my personal knowledge, as I was present, was completed prior to this meeting on the third day in the morning. My

father and I and the two young ladies met in the room and worked all morning in completing that agreement. It was submitted to each of the parties, the six copies being passed around the room, as nearly as I can recall Harold Williams held one copy, or else Trevor, they held a copy between them, and I don't know who actually held it, Mr. and Mrs. Davis had a copy, my father, Mr. Godfrey had a copy, Father Mellon had, I think the best copy, and I think I had a copy, and there was another copy, a sixth copy that I don't recall who had, but there were six copies, each distributed about the room, and they were loose papers, only fastened together by a temporary little clip such as these clips. My father said, "Gentlemen, shall I read this agreement?" And there being no suggestion to the contrary, my father started to read it, and read out each paragraph, right along, and at the end of a paragraph, sometimes in the middle of a paragraph he would pause and would explain what that paragraph meant. This pausing was caused sometimes by Harold Williams saying, "What does that mean, Mr. Godfrey?" And my father would explain the meaning. It would then be discussed, and in, I should say at least twenty instances, either Harold Williams, Trevor Williams or Mrs. Davis said, "That doesn't suit us," and father either would say, "Why doesn't it suit you?" And there would be a discussion of why it didn't suit them, then one of the two young ladies would be called in and father would dictate, in the presence of everyone a new paragraph to take the place of the one that did not suit, and in the course of that dictation suggestions were made, either by Mr. Hart, Harold Williams, Trevor Williams or Mrs. Davis saying very little, except, "Well, that is all right," or

"What do you think of that, Jessie" or something of that sort. In that way the agreement was read right through, paragraph by paragraph, and discussed and corrected and that reading, with the notations that occurred, and the corrections, retyping of the pages took about three hours.

Q. Now, in the case of modifications in any one page being made and agreed to, in the manner you have indicated, what would occur to that page?

A. The correction would be dictated to one or the other of the two young laides, and they would leave the room, as a matter of fact, to my personal knowledge, they were across the hall, where they had their two typewriters, and they would retypewrite that entire page, including the corrected paragraph, and they would return and hand my father six copies, he would then hand around the six pages, to the parties, and ask that they insert them in their copies, and while doing that he would read the corrected page all the way through, including the old part and the new part, and perhaps he would keep,—right then—and I remember three or four instances where again the entire page was rewritten, although it had been rewritten once, and that is the way the corrections were made, with one exception to that manner of corrections, the exception to that is that after it got about five o'clock, or quarter after, we thought we had the agreement entirely complete, and we were reading over one of the pages there, and there was a correction made, or had been a correction made by the rewritting of the page, so it was a clean page without any correction at the time of this writing, and there was in that page a group of mortgages belonging to Royden Davis, and covering property in Longport. Mrs. Davis said, "Now, here with those mortgages it includes more than

our share that we are involved in these moneys," and with that she produced a piece of paper, which I did not inspect, and I don't know what was on it, but she handed it up the table to Father Mellon, and Father Mellon said, "Well, what do you think your part of these transactions was, Jessie?" and she said, "Well, Father, they amount to thirty-four thousand, some hundred dollars, and this amount we are involved in these things, that is the amount that we ought to return to Mr. Dorrian and Mr. Fahler, but we want to return every cent we have of their money, with interest, and we have put the securities in the schedule of securities which stood in the name of Royden Davis, and we found that they did come to considerably more than thirty-four thousand dollars," and there was quite a discussion between Mr. and Mrs. Davis and Mr. Harold Williams and Trevor Williams on that point, which was to the effect that it was all right to Harold Williams and Trevor Williams wanted Royden Davis to put in these securities. They said, "Go ahead, Royden, put them in, we want to get this thing over with," and he said, "No, my wife don't think I ought to put those particular things in. The rest of it is all right, but I don't want to put in the Longport mortgages." While that discussion was going on Mr. Hart said, "Well, Trevor Williams has some Longport mortgages exactly similar to the ones that Royden Davis is now talking about, of the same denomination, same number of mortgages, and it totals the same amount," and Trevor had a discussion, that I didn't hear, with his father, after which he said, "Substitute mine for Royden Davis'. I want to get this thing over with." And it got late in the afternoon, my father said, "Suppose we make this correction right on the papers and not

have the page rewritten, because it is a page that would take sometime to rewrite.'' Father Mellon says, ''That is all right if we note it at the bottom,'' and my father said it could be noted at the bottom, and that was a good suggestion.

Q. Now, have you the original agreement with you?

A. I have a signed copy of the original agreement.

Q. A signed copy with the correction appearing on the face?

A. Yes, sir.

Q. On the page of the original typewritten paper?

A. Original paper, typewriter.

Q. Yes.

A. Page fifteen.

Q. Have you got one of the duplicates of that you can show the Vice Chancellor where the alteration will appear?

A. The alteration does not appear, Mr. McCarter, in the printed bill.

Q. I know, but I asked you if you had one of the originals?

A. No, sir, not in my hands, I just have this one, I will hand it up to the Vice Chancellor, if you wish.

Q. Just step around by the Vice Chancellor and point out to him what you have just alluded to.

The Court: I see it, page fifteen is marked in ink, words, ''Royden B. Davis,'' striken out and name, ''A. Trevor Williams'' inserted in two places in sub-section ''1.''

Q. Now, do you remember at any time during this discussion a suggestion being made by either Mr. or Mrs. Davis with reference to a separate release to them?

A. Yes, sir.

Q. Tell us what that was.

A. At the time of this discussion about substituting Trevor's mortgages for Royden Davis' mortgages, Mrs. Davis said, "Well, we ought to have a separate settlement anyway in this thing. Suppose we put up $34,000, will you both give us a separate release and make an entirely separate settlement with us?" My father said, "We will not." Mrs. Davis, "Why not, Mr. Godfrey? It seems to me that is fair." Father said, " We can't do that, Mrs. Davis, for the reason that each person is to be liable for the entire $190,000 and if we made a separate settlement with you your liability would be limited to the separate settlement," and she says, "I know it would and that is what I want," and father said, "No, we won't settle that way," and Mrs. Davis conferred with Mr. Davis a minute, and he said, she said, "All right, then let it go as you have it."

Q. Well, now, after the agreement had thus been read and the alteration, final alteration made as appears on the original drafts, what next occurred?

A. The papers were then signed, the manner of their signing being that before their signing this correction was made on page 15 that I have mentioned, and a notation was indicated on the bottom of the paper on page 18 of the typewritten one concerning the alteration.

Q. Do you recall how they were signed, that is to say in what sequence?

(Recess taken until 1:30 oclock P. M.)

AFTERNOON SESSION.

(Trial of the cause resumed at 1:30 P. M.)

PHILIP S. GODFREY, resumed.

Direct examination (resumed.)

By Mr. McCarter:

Q. You were just about, I think, closing your evidence with reference to the conversation touching this separate release that it was proposed should be given to Mr. and Mrs. Davis. Do you remember in that connection anything being said, and if so, tell us what was said, touching a release to be signed by Mr. and Mrs. Dorrian and Mr. and Mrs. Fahler?

A. After the conversation that I have already spoken of, in reference to Mrs. Davis' release, Harold Williams said, "Mr. Godfrey, we want a release too, as well as Mr. Davis," and father said, "Why certainly you are entitled to a release, but we will have one release for the entire $190,000."

Q. To be signed, was it specified in the conversation by whom that release would be signed?

A. Trevor Williams at that point said, "I want Mrs. Fahler and Mrs. Dorrian to sign that release," and my father said, "Why should Mrs. Fahler and Mrs. Dorrian sign it? They are not a party to this conference." He said, "Well, there may be some other deals that we haven't spoken of now, that take in Mrs. Fahler and Mrs. Dorrian and we want

this thing to be an end of all controversies between us. We want Mrs. Fahler and Mrs. Dorrian on this release.''

Q. Was there anything said about Williams and Davis, Inc., being included in that as releasor?

A. At that time there wasn't but ——

Q. When did that come along?

A. —— when the release was drawn it was drawn first without Williams and Davis, Inc., as a party to the release, but when we read the release to the meeting, one of the Williamses, either Harold or Trevor, I don't remember which, said that your corporation, speaking to father, speaking of Williams and Davis, Inc., should be a party to that release, and father said, absolutely, he said, ''That is my oversight, the corporation must be a party to this release.''

Q. And was a release prepared in fact?

A. A release was prepared, was corrected in the manner I have indicated, and it was signed.

Q. By whom?

A. By Mr. Dorrian and Mr. Fahler and the Williams and Davis, Inc.

Q. It already appears that Mrs. Fahler and Mrs. Dorrian were in the building the next day for the purpose of signing it.

A. They were there, but I didn't talk to them.

Q. Now, what was said about delivering that release?

A. The release, when we were discussing the release at the time, we were discussing Royden Davis' securities, and a separate settlement to Royden Davis, they wanted a release immediately upon the signing of the agreement, they said that they signed and it should put an end to it, and they should have their release immediately, and father said, ''No,

you shall have your release when you have paid the $190,000," and they said, "Well, we are going to pay it any way in a few days, going to finish it up, and we ought to know, Father, that Mr. Dorrian and Mr. Fahler are going to sign. They might change their minds," and father said, "Well, that is all right, suppose we sign today and leave it with Father Mellon to be delivered to you when you have paid the balance of the money?" and that was done.

The Court: I might say now I am in possession of that release which was marked as Exhibit C11, having been sent to me by Father Mellon by mail this morning.

Q. Now, I call your attention to a clause in the contract, being number seven, "Harold and Trevor agree that they will pay to Connie and Lloyd forthwith in cash on account of the consideration of $190-000, the sum of ten thousand dollars, and that they will pay to Williams and Davis, Inc., and Connie and Lloyd in cash within one week from the date hereof, the further sum of twenty thousand dollars, and the further sum of fifteen thousand dollars on or before June 20th, 1927." Please tell us before the contract was finally signed, during the discussion, what was said about the payment of cash moneys?

A. Well, as originally drawn, in the original draft of the agreement, by direction of Mr. Harold Williams, my father had put a clause in there that, and which is a corrected paragraph providing for the payment of the balance of the thirty-five thousand dollars at the end of one week. When it came to reading it over, when we came to that clause, Harold Williams said, "Now, it is going to be a little inconvenient to me to get part of that money in a week." He said, "I could telegraph out to California and have it telegraphed on, but," he said,

"I would prefer to get it myself personally, for business reasons," and Mr. Garrison said, "Mr. Williams, you say you would prefer to get it yourself personally?" and Mr. Williams said, "Yes, he would." Well he said, "When would it be convenient for you to get it?" and he said he could get it in about three weeks, and we then discussed the exact date and fixed it upon, I think the twentieth of the month, it is approximately three weeks from the date of the signing.

Q. Yes, but I call your attention to the fact the twenty thousand was to be paid within a week.

A. Is it twenty thousand? May I look at that? My recollection was fifteen thousand.

Q. "Williams and Davis, Inc., Connie Dorrian and Lloyd Fahler, cash within a week from the date hereof, and a further sum of $20,000, and a further sum of $15,000 on or before June 20th."

A. The way the agreement was originally drafted the entire balance sum was to be paid within a week and Mr. Davis explained—Mr. Williams explained that part of that money he would have to get from California, that he couldn't conveniently get it all in one week, and Mr. Garrison asked him when it would be convenient for him to get the balance and how much that balance is, and he explained that he could get the fifteen thousand dollars in about three weeks.

Q. Have you endeavored to reek out all that you can remember of the discussion that ensued between the parties down to the time of the execution of the papers?

A. Yes, sir.

Q. Then the paper was signed, was it?

A. Yes, sir.

Q. About what time?

A. It was signed about seven o'clock.

Q. On what day?

A. On the third day, which is the first day of June. In connection with that, prior to, just prior to the signing, my father had dictated some three or four different corrections, entire pages that had to be redrawn, and that was around quarter after five, I should judge, and we adjourned and went and had some dinner, in the meantime, and then came back and then the agreement was signed after dinner.

Q. Do you remember any remark being made by Father Mellon with reference to the capias?

A. There was no remark made by Father Mellon in reference to the capias until after the agreement was signed.

Q. Are you sure of that?

A. Positive.

Q. And what was said?

A. Well, after the agreement was signed Father Mellon simply said that he had been informed that the capias had not been dismissed.

Q. And did he say anything further, did he appeal to anybody, or was that all that was said that you can recall?

A. That is all that was said.

Q. Now, after the agreement was signed on the day that it was signed, or the evening it was signed, was anything done towards performing the contract?

A. Yes, sir.

Q. What?

A. After the agreement was signed Trevor Williams took out a package, opened the package in which were a number of bonds and papers in relation to those bonds and mortgages, and we took those

papers and checked them over with a list contained in the agreement, and we found that there were certain intermediate assignments and certain bonds missing, when the mortgages would be there, and that there were no title policies, no declarations of no off-set, and my father asked him where the rest of the papers were, and he said that he thought that he had brought all of his papers, but if there were some missing he would make a list of what they were and he would return to New York and obtain the papers and deliver them to us, and wanted us to meet him again for the purpose of delivery of whatever papers were missing.

Q. Now, what was done that day after the contract was signed in the way of delivery of anything pursuant to the obligations of the contract?

A. Assignments, separate individual assignments had been drawn by the young ladies for each of the mortgages which were to be assigned, according to the terms of the contract, and those assignments were presented to Trevor Williams and Royden Davis and they were talked over very, very carefully, and then each one was signed. There was quite a volume of that, individual assignments for each paper.

Q. Are the assignments that were so executed correctly discribed in the bill of complaint in this cause?

A. They are correctly described in the bill of complaint. There was a discussion, in reference to one of those assignments. Should I mention that?

Q. Go on.

A. We came to a mortgage, in checking over the securities on the day the agreement was signed, for $6500 and it appeared in Trevor Williams' group

of securities to be assigned, and Trevor Williams turned to my father and he said, "Mr. Godfrey," he said, "I am surprised in checking this up to notice that particular mortgage, because I thought that mortgage belonged to Gordon," and father asked me to look at my green sheets that I had the day before and had prepared the list from, and I looked at the green sheets and I found that, according to the sheets, the $6500 mortgage stood in the name of both Gordon and Trevor, and I so informed him that the title company had reported to me to that effect. He said, "Well, the title companies make mistakes sometimes, and I still think that I don't own that." He said, "I think Mr. Hart can bear me out on that." And I turned to Mr. Hart and I said, "Mr. Hart, what is your recollection of that?" He said, "What is it?" And I turned and showed him the lot and block number and how the mortgage came about and he said, "I am surprised myself that stands in two names. I thought that was Gordon's mortgage," and Gordon said, "Well ——,"

Q. Who said?

A. Trevor said, "Well, Mr. Godfrey, do you think I ought to assign a mortgage that I think belongs to Gordon even though the title company does it report it to be in the two names? I haven't the mortgage here to check it up," and father said, "You can assign that mortgage, which assignment will carry whatever interest you have in that mortgage. If it appears upon the check-up that you have not any interest in that mortgage, the clause in the contract providing for a substitution of cash if the mortgages were not correct will permit you to substitute cash or another mortgage for that on a later date.

Q. It was left that day?

A. It was left that day and Trevor signed the assignment.

Q. Now, you said that the securities mentioned in the assignments that were drawn were checked up, checked up by whom?

A. Mr. Hart, myself and Mr. Trevor Williams.

Q. Was anything said during the discussion previous to the execution of the contract with reference to the abandonment or cancellation of the agency contract?

A. Yes, sir.

Q. What was that?

A. At the very beginning at the reading of the agreements, they started off by a preamble or recitation of the previous agreements that had been made between the parties, and Harold Williams said, "You are reciting those pretty much in full, Mr. Godfrey?" And father said, "Yes, the purpose of the agreement, of course, is to put an end to any agreements, any differences, any arrangements, any agencies, everything that may be between the two parties, the two groups, and that is the purpose of that," and Mr. Williams says, "Well, I am certainly glad to do it. I don't want to have anything more to do with Mr. Dorrian and Mr. Fahler."

Q. Which Williams?

A. Harold.

Q. And that accounts for the clause in the contract to that effect?

A. Yes, sir.

Q. Now, in addition to the mortgages what was paid in cash after the execution of the contract?

A. Harold Williams took out of his pocket ten thousand dollar bills, ten thousand dollars, ten one thousand dollar bills, and he counted it out first

slowly, one, two, three, four, five, six, seven, eight, nine, ten, and laid the ten thousand dollar bills down on the table and he said to me, "Now, before I hand that to you, Philip, I want a receipt for it," and I said, "Well, you are certainly entitled to a receipt for it, Mr. Williams," and I called one of the young ladies and my father started to dictate a receipt and he dictated, "Received of Harold and Trevor ten thousand dollars," and Mr. Williams said, "No, that is not right, Mr. Godfrey. I don't want it that way. I am paying this ten thousand dollars and I want the receipt to so read." Father said, "As you like," and told the young lady to strike out Trevor's name, so the receipt was drawn, and she went out and typewrote it and brought it back, it was signed by my father and Mr. Garrison personally.

Q. As attorneys?

A. It was made as attorneys for Mr. Dorrian and Mr. Fahler, was handed to Mr. Williams and he handed the money over.

Q. And that receipt, I think, is in evidence?

A. Yes, sir. In addition to that there were three small checks made out, I made them out my own self.

Q. Have you got those papers with you?

A. No, I haven't the small checks. You see the three small checks were given to us, and my father and Mr. Garrison, as attorneys for Mr. Dorrian and Mr. Fahler, and they were deposited to my father's account, and naturally we haven't those checks.

Q. What were those checks?

A. Those checks were for three items, representing the amounts that were respectively in the bank.

Q. That you have alluded to?

A. That we have already referred to. In addition to that ——

Q. Those checks were signed by whom?

A. My father and Mr. Garrison.

Q. The checks?

A. The checks were signed, two of the checks were signed by Trevor Williams and one of the checks were signed by Harold Williams.

Q. How was their amount ascertained?

A. From the amount was ascertained, from the sheriff's return to the writ of attachment, being the amount the sheriff had attached.

Q. How did you know on what bank to draw those checks?

A. The writ of attachment indicated where the money had been found by the sheriff, for instance, it said in Harold Williams' name in the Ventnor Trust Company, six hundred and some odd dollars had been attached.

Q. Now, in addition to those checks of the parties themselves, were there some third party checks delivered?

A. Yes, sir.

Q. All on the same day this was?

A. Yes, sir, on the third day, the day the agreements were signed.

Q. After the contract was signed?

A. After the contract was signed.

Q. Tell us about that.

A. Mr. Scanlan said, "We have received a check drawn to Gordon Williams and Company on account of a lot, with one of the installment contracts, and that money belongs to Williams and Davis, Inc., and we would like to pay it over, and he took the check out and showed it to my father. I have the check, but not in my hand.

Q. Get it.

A. There were two checks, I don't know which of the checks it was, that Mr. Scanlan handed over, and which I shall refer to, but anyway Mr. Scanlan handed over a small check drawn on account of a contract at Del Rey, and it was drawn to the order of Gordon Williams and Company, and there was a clause in the contract which provided for Gordon Williams and Company to deliver to our people any moneys or papers belonging to us in their possession, and Scanlan said that this distinctly belonged to us, and under that clause in the contract ought to be delivered, and he handed it over, and he said, "What do you think, Mr. Godfrey?" Father said, "I think so too." He said, "Why don't you folks endorse that over to us?" and Harold says, "That is all right, I will do that," and he takes the check and endorses it, "Gordon Williams and Company, Harold S. Williams, secretary."

Q. Let's see, is that check there?

A. I have the two checks but I don't know which is which.

Q. Go on and tell what more occurred.

A. So during that conversation, Mr. Hart said, "Well, I have a similar check, too, that has come to me, drawn in the same kind of a manner, and also belongs to Williams and Davis, Inc., and I think it should be endorsed over," and Harold Williams said, "Why, of course," and he took the two checks, endorsed the two of them, one was drawn Gordon Williams Co., and he endorsed it, "Gordon Williams Co.," and then underneath "Gordon Williams and Co., Harold S. Williams, secretary," And the other was drawn "Gordon Williams and Co." and he endorsed it "Gordon Williams and Co., Harold S. Williams, secretary," and the two checks were accepted by us in that manner.

Q. Now, how does it happen that one of these checks is returned protested, if you know?

A. I don't know.

Q. It came back?

A. That is the maker didn't pay it.

Q. And the other check that you have here?

A. The other check was paid in due course and we have obtained it from the maker to exhibit it here.

Q. Minette A. Mast?

A. Yes.

Mr. McCarter: I offer these two checks with the letter addressed to Gordon Williams and Co., from the sender and the notice of protest in evidence and ask that they be marked.

Mr. Bourgeois: We object that they are irrelevant and immaterial, not cross-examination and not part of this transaction.

The Court: It is not cross-examination.

Mr. Bourgeois: I don't mean cross-examination. I mean no part of this transaction.

The Court: I will permit it.

(Check received in evidence and marked Exhibit C27)

Q. Do you recall anything else being done on the third day after the contract was signed before you adjourned?

A. I don't know whether there was or not. Mr. Davis and Mrs. Davis checked over some assign-

ments that had been drawn for Mr. Davis to sign, and Mr. Davis said, "Well, I haven't the mortgages here. I am willing to execute the assignments but I haven't the bonds and mortgages here. You know they are down in the Ventnor Trust Company," and I said, "Well, you can sign the assignments and you can deliver the actual bonds and mortgages to us at a later date," and he said, "I shall do it," and before signing the assignments Mrs. Davis and Mr. Davis and I checked them over, each of the assignments to be sure that they checked up with the papers in the agreement, and they did, they signed them, that is Mr. Davis did and delivered them.

Q. And they are correctly scheduled in the bill of complaint filed in this cause?

A. Yes, sir.

Q. Was anything further done or did the meeting then adjourn? You have told us that Trevor was to produce some more papers the next day?

A. I don't recall anything further at the moment, Mr. McCarter. It was stated, however, just before

---

Mr. Bourgeois: I object.

The Court: Yes.

Q. Before the adjournment was any statement made?

Mr. Bourgeois: I object unless it is by whom.

Q. By any of the persons present and that was whom?

The Court: Permit it.

Mr. Bourgeois: If the Court please, how are we going to know whether that is relevant or not, if that is the proper thing?

The Court: I will permit it.

A. Just before we broke up Trevor had a conference or conversation with me about delivering the remainder of the securities, and Father Mellon said, "Suppose I meet with you tomorrow when Trevor delivers the rest of the securities," and that was agreed to by Mr. Dorrian and Mr. Fahler and by all those present, by my father saying that that was agreeable to him, and by Harold Williams stating that that was agreeable to him, and we broke up at that time.

Q. Now, was any time fixed for the meeting the next day at which Trevor was to produce the balance of his securities?

A. I don't recall whether a time was fixed or not.

Q. Now, up to the time that adjournment was had on the evening of the third day, had there been any ill feeling or manifestation of ill feeling by anybody present?

A. There had been no expression of any ill feeling between our side and the other side. The only suggestion of any ill feeling that occurred during the first three days was between Royden Davis and Mrs. Davis and Mr. Williams and Trevor Williams over the delivery of the Longport mortgages, they stating that they wanted him to do it, and he stating Mrs. Davis stating that they would prefer not to, after some discussion of that kind, Trevor saying, "Well, I will put mine in."

Q. That was the only evidence or manifestation of any ill feeling by anybody?

A. Yes, sir.

Q. Everything perfectly friendly?

A. Yes, sir.

Q. Now, during these three days when these transactions were occurring that you have described, did you hear anybody present make any threats to the Williamses or Mr. Davis?

A. No, sir.

Q. Did you threaten anyone?

A. No, sir.

Q. Was there anything said about an attorney being requested?

A. No, sir.

Q. Did you or your father or anybody present accuse these people of forgery or embezzlement during the progress of these papers?

A. No, sir.

Q. Now, on page 18 of the stenographic report of the record in this case Mr. Scanlan, speaking of Philip and Carlton Godfrey was asked, "What did they say?" and replied, "They said, 'We have these forgeries on which we claim $178,000, forgeries and embezzlement.' " Did you or your father make any such remark as that?

A. No, sir.

Q. On page 19 Mr. Scanlan says, at the bottom: "So Mr. Philip Godfrey started to add up forgery five thousand, embezzlement $7500, $4500, and made a whole list which he said aggregated $190,000." Did you use the word "forgery" or "embezzlement" in adding up your figures?

A. No, sir.

Q. On page 21 Mr. Scanlan, speaking of your father, testified: "They didn't state the case, just said I will have you for embezzlement, you see, and later Mr. Hart brought up a paper of the two acre

tract, and had a check showing $7500, I believe, and said that Davis had signed so he was guilty of embezzlement, and Mr. Harold Williams had signed this so he was guilty of embezzlement." Did that take place?

A. It did not.

Q. On page 23 Mr. Scanlan says: "So Mr. Williams said, 'Well, that was the contract, if that is the contract you are holding us to,' and Mr. Carlton Godfray said, 'Oh, no, we are holding you on embezzlement from the Williams and Davis and Gordon Williams Company contracts, so then it was agreed that the Florida contract was not to hold.' " Did your father make any such remark about holding on an embezzlement from the Williams and Davis and Gordon Williams and Company contracts?

A. No, sir.

Q. On page 25 ——

The Court: I take it you want to correct that question, Mr. McCarter?

Mr. McCarter: I beg pardon?

The Court: I take it you want to correct that question, Mr. McCarter, question was whether the father was holding this witness for embezzlement, that was the question.

Mr. McCarter: Did I say "you"?

(Question repeated.)

Q. Pardon me. I am reading the quotation from the evidence, your Honor, which does read that way.

Did your father, speaking to Mr. Williams, say: "We are holding you on an embezzlement from the Williams and Davis and Gordon Williams and Company contracts?"

A. No, sir.

Q. On page 25 Mr. Scanlan says: "At the last meeting a contract or agreement was already drawn up and Mr. Carlton Godfrey said, 'I will read over this agreement and then you can sign it,' and Mr. Williams said, 'Oh, no, we can't sign any agreement without any attorneys.'" Was that remark made by Mr. Williams?

A. Oh, no.

Q. And Mr. Godfrey said: "It is too late." Was that remark made?

A. No, sir.

Q. Mr. Scanlan further testifies on page 27, in reply to a question: "Just before the agreement was signed was there anything said about their attorneys again and Mr. Trevor Williams said, 'I can't sign without my attorneys?'" Was any such remark made by Mr. Trevor Williams?

A. No, sir.

Q. He further testifies, at the bottom of page 27, and page 28, in reply the inquiry, "What did Mr. Godfrey or Dr. Mellon do or say?" "Mr. Carlton Godfrey said, 'It is best for you to sign this. I am not here to advise you, but you better sign this. We have your husband for embezzlement.'" Any such remark as that take place?

A. He didn't say all of that.

Q. What did he say?

A. He said, "I am not here to advise you," that is all.

Q. That remark was to Mrs. Davis?

A. Yes, sir.

Q. On page 29 Mr. Scanlan was asked, "Now was there any statement made as to when it was to be put up, they say anything about when?" referring to the money, and he testifies, "Mr. Godfrey said, 'Well, put that up now, that will cover you'—Mr. Carlton Godfrey—'put that up now, that will keep you from going to jail.'" Was that remark made?

A. No, sir.

Q. Mr. Scanlan further says, on page 34, in reply to the inquiry: "Was anything said to them as to who Mr. Davis' and Mr. Williams' lawyers were and where they were?" to which he replied: "I said, 'Mr. Bourgeois and Judge Cole are at the University Club waiting to come over here,' and Mr. Philip Godfrey said, 'You better talk to father.' I told Mr. Carlton Godfrey that Mr. Bourgeois and Judge Cole were at the University Club. He said, 'It is too late for attorneys now, too late, too late,' and Mrs. Davis became excited and said, 'They are right in this hotel. I want to call them in,' and Father Mellon told Mrs. Davis to sit down and keep quiet." Did any such thing as that take place?

A. That is not entire true.

Q. What did occur?

A. What occurred is this, Mr. Garrison came in the room ——

Q. At what stage of the game was this, what stage?

A. This was prior to the signing, on the day that the agreement was signed, perhaps a half an hour before it was signed, Mr. Garrison came in the room with Mr. Scanlan, and Trevor Williams, and Mr. Garrison said, "Mr. Godfrey," speaking to my father, "Trevor has something to say to you," and father said, "Well, what is it, Trevor?" And Trevor said, "Mr. Godfrey, our lawyers are over at

the University Club and I would like to have them here," and father said, "Why, by all means, get them here. The agreement is complete and they can go over it," and Harold Williams sprung up and in an extremely emphatic manner said, "We paid ten thousand dollars for lawyers already, and I don't want any more lawyers." After that, and except for that one thing, the name of lawyers or the word lawyers was not mentioned in any of the conferences prior to the signing of the agreement.

Q. Now, on page 63, Mr. Scanlan, on cross-examination, was asked and stated as follows: "Mr. Williams asked to see all the charges, and Mr. Philip Godfrey would show them to Trevor, he had a stack of papers, and he would push them over to Trevor, saying, 'Here is a forgery, and here is an embezzlement.' " Is that true?

A. I never said, "Here is a forgery, or here is an embezzlement," nor did I use the words "forgery" or "embezzlement." I did have a stack of papers.

Q. Did you show the papers to Trevor or did you not show them?

A. Yes, I showed the papers to Trevor that I had.

Q. On page 67 Mr. Scanlan was asked, "Philip handed what papers to Trevor?" And he replied, "An agreement. I couldn't say what agreement it was. Q. An agreement? A. Yes. Q. And Philip said, 'Here is a forgery?' " And his reply is, 'Here is a forgery, yes Q. Here is a forgery? A. Yes." Did that occur?

A. No, sir, I never had any agreement there at Philadelphia, I only had my capias and attachment papers, the schedules and my green sheets. I had no agreements. I didn't show any agreements. I had no signatures. I didn't exhibit any signatures. I didn't say, "Here is a forgery."

Q. Mr. Scanlan further testifies, on page 75: "Mr. Godfrey had asked for fifty thousand dollars and Mr. Harold Williams said, "I have only ten thousand dollars." Mr. Godfrey said, "Leave that with us, that will keep you from going to jail." Was any such remark made?

A. No, sir.

Q. On page 82 Mr. Scanlan testifies: "Mr. Harold Williams objected to the kind of a meeting. He didn't expect a legal meeting. He expected just Mr. Dorrian and Dr. Mellon and he just had the meeting to look over the charges. He didn't expect to find"—did he say he didn't expect to see any lawyers there? "A. He didn't expect a legal meeting. He didn't expect a legal meeting. Q. What else did he say? A. He said, 'We paid ten thousand dollars for lawyers and if it is a legal meeting he wanted his lawyers, I want my lawyers.'" Did that occur?

A. No, sir. He did say he had paid ten thousand dollars for lawyers but he said, "I won't pay any more, and I don't want any more lawyers."

Q. Mr. Scanlan testifies, "I keep saying"—on page 98—"I keep saying Mr. Cole, Judge Cole and Mr. Bourgeois being over to the University Club." "A. I told Philip Godfrey and he told me to tell Carlton Godfrey. I told Carlton Godfrey, and he said, 'It is too late for attorneys now. They should have been here before.'" Did your father make any such remark as that?

A. No, sir.

Q. On page 114 Mr. Scanlan says, "Carlton Godfrey said that the contract would not be enforced until they had received Gordon Williams' signature in California, and arrangements were being made for Carlton Godfrey to go to California to get Gor-

don Williams' signature to the contract." That being his testimony, I ask you if your father or anyone else said that the contract would not be enforced or was not to be in force until they had received Gordon Williams' signature in California?

A. No, sir.

Q. Now that leads me to ask you this, after the contract had been signed, what occurred with reference to procuring Gordon's signature?

A. Mr. Williams got up from the table, after the contracts had been signed, and he walked towards the door, as he got to the door he turned and he said, "Mr. Godfrey, might I speak with you a moment?"

Q. Meaning your father?

A. Yes, sir, and father said, "Certainly," and he arose from the table and walked to the door, and walked out of the door into the hall with Harold Williams, and with no one else but Harold Williams and himself. What happened out in the hall I don't know, but they returned and Mr. Williams said, "I have arranged with Mr. Godfrey to go with me to California so that he might witness Gordon's signature."

Q. Is that all that was said?

A. Yes, sir.

Q. About that matter, I mean?

A. All in my hearing.

Q. I mean in your hearing?

A. Yes, sir.

Q. On page 134 Mr. Harold Williams says, "Well, they were sitting around the table, they all sat around the table, Hart and Mulhern were not in the room, the rest of them were in the room, and I said to Mr. Godfrey, Mr. Godfrey over there, the senior, Mr. Carlton Godfrey, I said, 'Why we are not represented here by attorneys,' and he said, 'I will be

your attorney.' Q. He would be your attorney? A. I will be your attorney. And I persisted, and he said, 'Now it is all right, I will tell you went to call them.' '' Did that take place?

A. No, sir.

Q. Mr. Williams said, on the next page, referring to Philip Godfrey: ''He went over the very same papers there. They were assignments and bonds, I think they were, and checks, and he says, and agreements of sale, two of them, he says, 'That is a forgery, that is a forgery.' '' Did you make any such remark as that?

A. No, sir. I had no checks there. I had no bonds. I had no agreements, and I never used the words ''forgeries.''

Q. In reply to this question on page 137, Mr. Harold Williams testified: ''Tell me what threats had been used? A. He was told they had him for forgery. Q. Who told him that? A. Carlton Godfrey, and also told me they had me for embezzlement.'' Did that occur?

A. No, sir.

Q. Now on the same page he further testifies: ''Why they said to him—I heard them say to him, 'Do you want to go to jail? Do you want to go to jail? That is where I am going to put you.' Mr. Carlton Godfrey said that.'' Did that occur?

A. No, sir.

Q. And on page 138 Mr. Williams further says of Mr. Carlton Godfrey: ''Well, he said, 'you had better sign that agreement if you know what is good for you, or you might kill your wife if you go to jail.' '' Any such remark as that made by your father?

A. No, sir.

Q. On page 141 Mr. Williams testified that Trevor

said that his attorneys were over at the University Club and that he wanted them there and they said it was too late for attorneys now, you sign that agreement. Did that occur?

A. Trevor said that his attorneys were over at the University Club, yes, sir.

Q. When was that?

A. Just about half an hour before the agreement was signed.

Q. What more occurred?

A. The rest of the answer that you have read me is untrue, what occurred is what I recited a few minutes ago.

Q. When Harold broke up?

A. He said, "We give ten thousand dollars for attorneys, and I don't want any more attorneys."

Q. On page 143 Mr. Harold Williams testifies: "Now, Mr. Williams, do you recall an incident when Trevor—Mr. Godfrey was having some disagreement with Trevor about his securities and Mr. Godfrey spoke about calling the whole thing off?" and Mr. Williams replied, "Oh, yes, I do. He said, 'I have a good mind to call this off and send you all to jail.'" Did that occur?

A. No, sir.

Q. You have already testified you didn't say it was too late to have attorneys there, so I won't repeat that. On page 153 Harold was asked: "Was there something said about indictments? A. Oh, Hart said that. Q. What was that? A. Let's call up Washington and get those papers." Did you hear Mr. Hart say anything about indictments?

A. No, sir.

Q. Did you hear Mr. Hart say, "Let's call up Washington and get those papers?"

A. No, sir.

Q. On page 195 Mrs. Davis testified: "Mr. Philip Godfrey and fraudulent profits, secret profits on the different deals, there were no questions asked of either Mr. Williams, Mr. Royden Davis, or Mr. Trevor Williams, so they agreed that these deals were dishonest, nor any explanation asked if they were wrong. They were simply told that they were wrong, and Mr. Harold Williams asked that day if we hadn't any attorneys, and Mr. Godfrey, Mr. Carlton Godfrey looked at him and he smiled, and he said, 'I will be your attorney and you see that I will treat you fair.' " Did that occur?

A. That did not occur, except where it says in reference to where it says fraudulent, secret profits and those words were used by me in reading the schedules, that I read this morning, and were not used in any other connection by me.

Q. Was anything said by your father about his being your attorney?

A. No, sir.

Q. On page 200 it is testified to by Mrs. Davis: "It was at that meeting Mr Carlton Godfrey had an argument with Trevor, and he pointed his finger at Trevor and asked him if he would like to go to jail." I think you have already told us no such remark as that was made?

A. No, sir.

Q. On page 206 Mrs. Davis said: "Trevor Williams asked for the lawyers on the last day, and John B. Scanlan asked for the lawyers on the last day and I asked for the lawyers on the last." Did that occur?

A. Trevor said: "Our lawyers are over at the University Club and I would like to have them here," and the rest I have already testified to. The rest of the quotation that you give is wrong and did

not occur, in other words, Mr. Scanlan never asked for lawyers, nor did Mrs. Davis.

Q. And the evidence further continues: "Did anybody make a reply? A. Yes, Mr. Carlton Godfrey. Q. What did he say? A. He said the time for you to have had your lawyers was before this agreement was drawn up. That is his own words." Was any such remark made by your father?

A. No, sir.

Q. Mrs. Davis testifies on page 208: "I objected to Mr. Davis signing and told him not to sign, Judge Cole wasn't there, and it all looked too legal. Mr. Carlton Godfrey had left his place at the table and came down to the end of the table, Dr. Mellon was busy reading over the agreement. Carlton Godfrey leaned over, looking at Mr. Davis, and tapping me on the hand, and he said, 'Mr. Davis'—Mr. Davis wasn't going to sign—and Carlton Godfrey said, 'I am not here to advise you, but the quicker you sign the better for you,' tapping me on the hand." Did that incident occur?

A. The incident didn't occur, but I think I did hear my father say that he was not there to legally advise them.

Q. What?

A. I did hear my father say that he was not there to legally advise them, but the rest of the incident did not occur. I never saw my father tap her on the hand, I never saw him go over, lean over and look at Mr. Davis or anything of that kind.

Q. Now this is the last, on page 210 Mrs. Davis also says: "Did anybody else say anything to you about sending any one of these people to jail? A. No, but I heard Mr. Carlton Godfrey tell Trevor Williams that he was going to put him in jail." Did you hear any such remark?

A. No, sir.

Q. One of the witnesses, perhaps I have included this, if not I will refer to it, one of the witnesses, I have forgotten which one, I think Mrs. Davis, testified that Mr. Hart and you stood opposite and over Trevor and shook your fingers at him and threatened him if he did not sign the paper. Did any such incident occur?

A. No, sir.

Q. After the paper was finally prepared and corrected and ready for execution was there any hesitancy on the part of any one of the signers to execute it?

A. No, sir.

Q. I beg pardon?

A. No, sir.

Cross-examination.

By Mr. Cole:

Q. How old are you?

A. I was born in 1901 and I will be 27 on my next birthday.

Q. Who prepared the papers from which you read at the meeting in Philadelphia?

A. My father and I together.

Q. Where was it prepared?

A. In my father's office, 317 Guarantee Trust Building, Atlantic City.

Q. When was it prepared?

A. On the evening of May 13th, 1927.

Q. For what purpose was it prepared?

A. It was prepared for the purpose of having it annexed to the capias and attachment suits.

Q. Was it?

A. Was it annexed? Yes, sir.
Q. The exact copy of what you read from?
A. Yes, sir.
Q. You took that to Philadelphia, did you?
A. Yes, sir. Because my father told me that we were going up there for the purpose of settling the disputes in the capias and attachment suits.
Q. Why did you take the capias with you?
A. Because my father told me to.
Q. You and your father had prepared the paper?
A. Yes, sir.
Q. Whom did you regard as the conspirators?

Mr. McCarter: I object.

The Court: I think I will permit that, used the term "conspirators" a number of times.

A. Trevor Williams, Royden Davis, Gordon Williams and Harold S. Williams.
Q. When did you reach the conclusion that they were conspirators?

Mr. McCarter: I object.

The Court: Sustain the objection.

Q. You, while you were reading that paper, thought they were conspirators, didn't you?
A. Yes, sir.
Q. What did you think the conspiracy was?

Mr. McCarter: I object.

The Court: Permitted.

A. I thought it was a scheme on the part of these

four people to use the money of Mr. Dorrian and Mr. Fahler in the purchase of tracts of land at one price which would be conveyed to them at a higher price, the first purchase being with the funds of Dorrian and Fahler as well as the final settlement.

Q. In other words a conspiracy to defraud?

A. Yes.

Q. Did you think they had committed a crime?

Mr. McCarter: I object.

The Court: Sustain the objection.

Q. Did you or your father or anyone in any way caution any of these parties against an admission of the offense that you were reading out of that paper?

A. No, sir.

Q. You are a student in law?

A. Yes, sir.

Q. How long have you been such?

Mr. McCarter: I object.

The Court: Sustain the objection.

Q. Was there any talk between you and your father or among those on your side that in view of the importance of the transaction and the amount involved that these people ought to have an attorney?

A. Not with me, sir.

Q. Did you hear any such talk?

A. No, sir.

Q. When did you first learn that Mr. Bourgeois represented the Williamses?

A. A few days after the obtaining of the writ of capias and the order of attachment when Mr. Bourgeois or someone from his office served upon my father a paper, and notice of an application before some justice of the Supreme Court of a motion to strike out the capias.

Q. When did you first learn that Mr. Cole represented Mr. Davis?

A. I learned that prior to the taking out of the capias and attachment writs, about the time that— well, about two weeks prior to that.

Q. Did you understand that during the period of this conference in Philadelphia Mr. Bourgeois still represented the Williamses?

A. Yes, sir.

Q. And that Mr. Cole still represented Davis?

A. Yes, sir.

Q. Who told you that Mr. Bourgeois and Mr. Cole were in Philadelphia at the University Club?

A. Trevor Williams came into the room with Mr. Garrison and stated that his attorneys were over at the University Club. I don't think he named them.

Q. So that you and your father and Mr. Garrison all knew before the signing of the papers that Mr. Bourgeois and Judge Cole were reachable at the University Club, didn't you?

A. We didn't know it, but Trevor said so. We had no personal knowledge.

Q. Did you have any doubt about it?

A. No, I didn't think one way or the other.

Mr. McCarter: Some occasion for doubt when Mrs. Davis said they were in the hotel.

Mr. Cole: I suggest the remark of counsel be stricken.

The Court: It may be stricken. Let's proceed.

Q. Well, did you think that they were at the University Club after Williams had told you?

A. I didn't think one way or the other, sir.

Q. Were you anxious to have them there?

Mr. McCarter: I object.

The Court: I will permit that.

A. Didn't make any difference to me whether they were there or not.

Q. Did you think their appearance there might interfere with the execution of the contract?

A. No, sir.

Q. Now if you thought they were there and thought that their being at the conference would not interfere with the execution of the contract, why didn't you get in communication with them?

A. Because Mr. Harold Williams said, "I have paid ten thousand dollars for lawyers and I don't want any more."

Q. Was that the only reason?

A. Yes, sir.

Q. Did you think he was speaking for all the parties?

A. Well, after——

Q. As Mr. McCarter would say, will you please answer that question?

A. May I have the question?

(Question repeated.)

A. Yes, sir.

Q. What information, personal information did

you have on the night in Philadelphia when you read this paper that these men had been guilty of conspiracy?

Mr. McCarter: I object.

The Court: I will permit it.

Mr. McCarter: I want to call your Honor's attention to one thing, if you will pardon me, the counter-claim alleges paragraph after paragraph that this young man and his father and Mr. Garrison framed a conspiracy to injure the Williamses and Mr. Davis and that they made false accusations, and knew them to be false in the attachment and in the capias proceedings. Now I respectfully suggest to your Honor that this is an effort on the cross-examination of the witness to prove that portion of their case and it is not cross-examination of what this witness has testified to, whether this man thought, as early as six months ago, that there was a conspiracy here or not, can't affect the question at issue in this case, as to whether or not, by fraud and bulldozing and hypnotic influence the agreement at Philadelphia was wrested from them. That is the case they are trying on cross-examination, of what this young man has testifiefid to, as having occurred in Philadelphia, and to bring in and attempt to prove what they set up in their counter-claim I respectfully urge is not cross-examination.

The Court: This witness has testified, that he, in reading to the Williamses and Davis the charges that he had, or claimed that he had against them, used the term "conspirators" at least twenty times. I think the cross-examination upon what that word

meant and what he meant it to mean is admissible regardless of whether or not it should happen to or should happen not to affect the counter-claim. I will admit the question.

(Question repeated.)

A. Mr. Dorrian and Mr. Fahler had stated to my father in my presence that they had put up the money that bought these deals, and had given us the facts upon which that schedule was made up. In addition to that we had before us at that time settlement sheets of the title company, settlement sheets, copies of some agreements and papers dealing with figures in the settlements, the dates of the settlements, the fact that the purchase and sale agreements were the same day, and the fact that Mr. Dorrian and Mr. Fahler had paid to the folks on the other side, or one of them, fifty thousand dollars prior to the purchase of these transactions from the original vendors, and they said that that money had not been reimbursed to them, but had been used in the purchase of these tracts at Del Rey, and wherever else they are, and that is approximately the information from which the capias and attachments were prepared, and the schedule that I read at the Philadelphia meeting was the schedule annexed to the capias and attachment.

Q. Have you told us all the information that you had personally on which you based this charge of conspiracy?

A. Well, I had no——

Q. Personal information?

A. Personal information? Other than told to me by other people, such as Mr. Dorrian and Mr. Fahler and Mr. Hart, coupled with the various things

that I have enumerated, I had no personal information.

Q. Now your father or rather you read from this paper?

A. Yes, sir.

Q. In which you charge all of these people with fraudulent conduct, didn't you, and conspiracy to commit a fraud?

Mr. McCarter: Paper speaks for itself. I object to his conclusion as to what he charged.

The Court: I will sustain the objection.

Q. And as you read each item your father turned to Harold Williams and asked him whether the charge of conspiracy that he had read was true and Williams said yes.

Mr. McCarter: He didn't say anything of the kind.

The Court: Answer the question. No objection made to it.

Mr. McCarter: I object to it. It assumes an assertion that has not been made.

The Court: Sustain the objection.

Q. What did your father say to Mr. Williams as you read each of these charges?

A. Well, as I finished, for instance the first one, which is the county transaction, he turned to Mr. Williams and he said, "Is that true, Mr. Williams?" and Mr. Harold Williams said, "Yes." I remember that distinctly.

Q. Did he ask—each time he asked Mr. Harold Williams, didn't he?

A. Each time he asked Mr. Harold Williams in the presence of the others, and in between the reading of the various transactions for a considerable time there was a discussion of each transaction.

Q. Did your father offer any suggestion to them that they did not have to answer the question if they thought it would incriminate them?

A. No, sir.

Q. Did you?

A. No, sir.

Q. During that time, as you read, you thought they were guilty of conspiracy to defraud, didn't you?

A. Yes, sir.

Q. And your father had assisted in the preparation of the paper making that charge, is that right?

A. Yes, sir.

Q. And both of you at that time knew that these people had counsel, is that right?

A. You will have to identify the time, Judge Cole, at that time, you say; at which time?

Q. At the time you were reading this paper?

A. Yes, sir; we knew it before, yes, sir.

Q. When were the indictments found against them?

Mr. McCarter: I object. Doesn't appear any indictments.

The Court: Sustain the objection.

Q. Now there was a time when Mr. Harold Williams did not understand this agreement, wasn't there, that you read to him?

A. If he did he didn't indicate to me any misunderstanding of it. He said at several times during the reading of the agreement, "What does that mean?" "What is the purpose of that clause?"

Q. He says, "Well, what does that mean, Mr. Godfrey"?

A. Yes, sir.

Q. Did you then suggest that he ought to have a lawyer?

A. No, sir.

Q. Did you say that your father insisted that Mr. Davis should incur an obligation of $190,000 when you knew that his obligation was only thirty-four and a fraction?

A. I didn't do that——

Q. Did he say that or not?

(Question repeated.)

A. I have to answer that in two ways. First is my father did not insist upon his obligating himself for any amount, and in the second place his obligation was one hundred and ninety, as he told us, and not thirty-four, the thirty-four was, he said that he was involved in the proceeds of the alleged conspiracy to the extent of thirty-four thousand and some odd hundred.

Q. In other words it was your position at that time that he did owe the full $190,000, is that correct?

A. Our position was that each of the four people owed, all that they had taken as a conspiracy from our clients, yes, sir.

Q. In other words each of them was severally liable to pay $190,000?

A. Our position was that they were severally——

Q. Was that your position?

A. Not exactly that.

Q. What was your position?

A. Our position was that they were severally liable to pay a great deal more than $190,000.

Q. Do you know how it came about that Father Mellon spoke of the capias?

A. May I ask whether you mean at the time, did I know then or did I know now?

Q. Did you know then?

A. No, sir.

Q. Well, you say he said that he said the capias has not been dismissed?

A. Yes, sir.

Q. That is your recollection of the language used?

A. Yes, sir.

Q. You knew at that time, didn't you, what had actually happened, what the opinion of Judge Campbell was?

A. I had read the opinion, yes, sir.

Q. Your father had read it?

A. I don't know that.

Q. What?

A. I don't know whether he had or not.

Q. Did you tell him what the opinion said after you read it?

A. No, sir.

Q. What is your answer?

A. No, sir; I didn't tell him. That is my answer.

Q. Do you know whether he did know on that night when Father made the statement what the opinion said?

Mr. McCarter: Whom are you referring to? The last person you referred to was Carlton Godfrey, whether he knew or not.

Mr. Cole: I will withdraw that question.

Q. Do you know, Mr. Philip Godfrey, on the night when Father Mellon made the statement that the capias had not been dismissed, that your father, Carlton Godfrey, knew the contents of the opinion of Mr. Justice Campbell?

Mr. McCarter: Already said twice he didn't know it.

A. I didn't know whether he knew the contents of the opinion.

Q. At all events neither you nor your father made any correction of the statement made by Father Mellon, did you?

A. No, sir; there was nothing further said.

Cross-examination.

By Mr. Bourgeois:

Q. Mr. Godfrey, at the time of this agreement in Philadelphia, did you know that Mr. Dorrian or Mr. Fahler or both of them had entered into a written agreement to purchase Roberts' property in their own name?

A. I don't remember whether I did or not.

Q. At that time did you know that when the day for settlement came Mr. Dorrian and Mr. Fahler asked that that property be deeded to the Williams and Davis Corporation and that the Williams and Davis Co. had issued preferred stock to them in payment of the purchase price?

A. I don't recall whether I did or not.

Q. At the time of the agreement did you know

that Dorrian or Fahler had agreed to purchase, by an agreement in writing, in their own name, the property that was purchased from Smith and Russell?

A. I don't recall whether I saw that agreement or not.

Q. And did you know that they had requested that the deed to that property be made not to them but direct to the Williams and Davis corporation, Co., and that they had been issued preferred stock of that company to pay for the purchase price?

A. I understood that the deed had been taken in the name of Williams and Davis, Inc., I don't know as a matter of my own knowledge at that time as to the preferred stock.

Q. And did you know that the amount of preferred stock that they had taken from the company was the amount of the purchase price to them?

A. You are speaking of at that time?

Q. Yes.

A. I didn't know it at that time, no, sir.

Q. In either case, in the Roberts case nor the Smith and Russell case?

A. I don't think so, no, sir.

Q. Did you know at that time that the consideration money for the Ryon tract had been furnished by Trevor Williams?

A. No, sir.

Q. Did you know that the consideration money for the county tract had not been provided for by Dorrian and Fahler or the Williams, Inc., or Davis and Williams, Inc.?

A. I was informed that the consideration for the county tract had been furnished by a check out of Williams and Davis, Inc., prior to the meetings in Philadelphia.

Q. You don't get just what I want, that is the purchase by Williams and Davis Company of that land, but I want to know whether you knew at the time of the meeting in Philadelphia that the consideration money paid to the county for what is called the county tract had not been paid by moneys, any of the moneys of Williams and Davis, or I mean of Williams and Davis, Inc., or of Dorrian or of Fahler?

A. I answered that in this way, that I was informed exactly to the contrary of what you say.

Q. Who gave you that information?

A. Either Mr. Hart or Mr. Dorrian or Mr. Fahler, or perhaps all three.

Q. Now what did Mr. Hart have to do in this transaction?

A. Mr. Hart was at that time, and still is, an officer of Williams and Davis, Inc.

Q. Well, I notice in your previous testimony you said that Hart said with relation to Mrs. Davis and the Williamses showing their boxes, and Davis' box down here, safe deposit box, you said Hart said "To show good faith they should show us their deposit boxes." Now what had Hart to do with having to show good faith, how was he interested in it?

A. He was an officer of Williams and Davis, Inc., who were one of the parties to the settlement agreement.

Q. Well was it a party to the settlement agreement at that time?

Mr. McCarter: Who?

A. At that time?

Q. At the time when that settlement was made, when he said to show good faith they should let them go and see that box.

A. Mr. Hart was an officer of the company at that time.

Q. And that is your only answer?

A. No, pardon me, I haven't finished, Mr. Bourgeois, and the corporation was a party to the negotiations at that time, no agreement had been reached.

Q. Well, again you say at the beginning of it, the second day, Hart would say, "That mortgage, we don't want it, or that mortgage is all right." Well now what did Hart have to do with determining what mortgages you didn't want and what was all right?

A. May I explain that, Mr. Bourgeois? Mr. Dorrian and Mr. Fahler are out of town gentlemen and they were relying upon Mr. Hart's idea of the value of real estate, not whether to take certain mortgages or not.

Q. Then Mr. Hart was their agent, was he, at that time?

A. Their agent?

Q. The agent of Dorrian and Fahler at that time?

A. No, I didn't say that.

Q. Well, what did you mean when you said that they were relying on him to determine the value?

A. He was a real estate broker or real estate dealer and knew values in this neighborhood.

Q. Is that all his interest, is that the extent of his interest?

A. Other than that he was an officer and director of Williams and Davis, Inc.

Q. Is that all the interest he has in it to your knowledge?

A. To my knowledge.

Q. That is all he has in it?

A. Yes.

Q. As an officer of Williams and Davis Company, and a real estate broker, that accounts for his presence here and in all these previous court proceedings, does it?

A. His presence here is not as a real estate expert. It was at the conference in Philadelphia, that is what I was testifying to.

Q. Would you mind tell us, if you can, what his presence here is?

A. He is an officer and director and stockholder of Williams and Davis, Inc.

Q. Were you here in court at the time that he was examined in one of these contempt proceedings?

A. Yes, sir.

Q. Do you remember him admitting that he had taken checks and other papers from the safe of Gordon Williams and Company and turned them over to Mr. Dorrian?

Mr. McCarter: I object as not cross-examination.

The Court: How is that admissible at the present time?

Mr. Bourgeois: Maybe it isn't.

Q. And you say you heard your father say that he was not there to legally advise them. You remember that, don't you?

A. Yes, sir.

Q. Now what occasion did your father have for telling them that he wasn't there to legally advise them?

A. I think that occurred at the time that Trevor Williams stated that he wished his attorneys.

Q. What?

A. I think that occurred at the time that Trevor Williams said that he wished his attorneys and Mr. Harold Williams stated that he had paid ten thousand dollars for attorneys and wanted no more of them.

Q. Why did that call forth an expression from your father that he was not there to legally advise them? What was the discussion?

A. Well, Trevor Williams had mentioned that he wished his attorneys there and I suppose you are asking me for my supposition, I know what was said.

Q. You made the statement, and I want to know the fact. Do you know, I ask you, why it was, what caused that expression?

A. If I answered that it would be strictly my own supposition, nothing was said. I am willing to give you my supposition if you want to, nothing was said.

Q. I don't want your supposition if nothing was said. Then without saying anything at all your father said he wasn't there to legally advise them?

A. I didn't say without saying anything at all, but I said nothing was said as to the reason why he said that.

Q. What was said immediately before or immediately afterwards?

A. Immediately before Trevor came in the room with Mr. Garrison and said, Mr. Garrison said, "Mr. Godfrey," speaking to my father, "Trevor has something he wishes to say to you," and Trevor said, "My attorneys are over at the University Club, and I would like to have them here."

Q. Now did that call forth a statement from your father in which statements he said that he was not there to advise them?

A. I should think it would. That is my judgment. I don't know.

Q. You didn't think at that time that Trevor wanted his own lawyers to advise with you, did you?

A. You are asking me what I thought?

Q. Yes, I am asking you what you thought at that time.

A. Oh, are you? I thought it was his own business whether he had his attorney there or not.

Q. Then that didn't call forth any expression from your father that he wasn't there to legally advise them, did it?

A. It didn't until Trevor said, "I want my attorneys here."

Q. When Trevor said, "I want my attorneys here," what occasion was there for your father saying, "I am not here to legally advise you?" They didn't ask your father for legal advice, did they?

A. No, sir.

Q. What occassion was there for your father to make that expression, wasn't any, was there then?

A. Other than we could do, I don't know how else to frame the condition.

Q. That is all there was took place so far as you know that would have called forth an expression from your father that he was not there to legally advise them?

A. Yes, sir.

Q. That is all.

By Mr. McCarter:

Q. You were asked whether you had any opinion with reference to the question as to whose money had paid for the original acquisition of the land

from the county. I show you a check dated 4/6/1926, to the order of cash for $7500, being a check of Williams and Davis, Inc., signed R. B. Davis, vice president, Harold S. Williams, secretary and treasurer, and on the side having the words "settlement for two acres Del Rey, Somers Point, N. J." Had you seen that check?

Mr. Bourgeois: I object. If your Honor please that wasn't the question I asked him. The question I asked him was whose money paid for the county, for the land.

The Court: I will permit the question.

A. I had seen the check, yes.

Q. When did you first see that check, if you can recall?

A. I don't recall when I first saw that check.

(Check offered, received in evidence and marked Exhibit C28.)

Q. Do you know the date of the sale by the county to the Williams and Davis, Inc., of this particular piece of property?

A. I haven't the dates in my mind, Mr. McCarter. I can give you the various standing of the dates as related to some things connected with the county transaction.

Q. Well, what information did you have with reference to the relation between this check, which is marked C28, being the check I have just described, and the transaction in connection with the acquisition of the property for Williams and Davis, Inc.?

A. It is a little long, but I will explain it to you

just as you asked me. I was shown the minute book of Williams and Davis, Inc., in which there is a meeting ——

Mr. Bourgeois: I object to that, if your Honor pleases. That is a report in writing, that is the thing would be the most evidence.

Mr. McCarter: All right, we will show it to you.

A. I don't know where I was testifying. I will start over again. In the minute book of Williams and Davis, Inc.——

Q. Which you were shown?

A. That I was shown, I found a meeting recorded on April 3, 1926, at eleven o'clock in the forenoon, at which time a resolution was passed reading as follows: "The secretary called attention to the fact that a tract of land of about two acres at Del Rey could be purchased for the price of $7500 and known as the Krum property, the consideration being cash. The value of this property and the prospects of profits arising from its probable development and sale was then fully discussed. The following resolution was then offered and unanimously adopted: Resolved said tract of land be purchased by this company, if it can be bought at the price of $7500, and be it further resolved upon the purchase of said property the same be developed and sold in such manner and for such price and costs as in their discretion shall be most advantageous." Now I was then shown——

Mr. Bourgeois: Won't you tell me who was present at that meeting?

A. Gordon Williams, Harold S. Williams and

Royden B. Davis. And each of those three people signed a statement at the bottom of that meeting, or the bottom of the record of that meeting, reading, skipping a portion of it, as follows: "We have read and do approve the minutes of the following meetings"—and number eight is directors' meeting of April 3, 1926, and it is signed Gordon Williams, Royden B. Davis and Harold S. Williams, and I was then shown a copy of correspondence from the office of Enoch Higbee, the county solicitor, Judge Higbee, which indicated——

Mr. Bourgeois: I object.

The Court: Sustain the objection.

A. I saw then correspondence from Judge Higbee's office. I was informed by my father, Carlton Godfrey, that a public sale had been held by Judge Higbee on behalf of the county after the date and hour of the meeting from which I have quoted the resolution, and that at that meeting Mr. Harold S. Williams was in attendance and had previously negotiated with the county or with Judge Higbee for the county in connection with buying this two acre tract. That at that public sale he did bid the sum of $3,000 for the tract and that sale was held after the date of the, and hour of the meeting from which I have quoted. That on the fourth, month of April, sixth, three days later, after this meeting and sale, the check marked C28 was drawn and signed by R. B. Davis and Harold S. Williams and endorsed by R. B. Davis. That subsequent thereto Harold Williams made settlement with the county for a total consideration of three thousand dollars, took a deed in his own name, and shortly thereafter, if

not immediately thereafter, drew a deed by himself, and Almedie Williams, his wife, to Williams and Davis, Inc. I was also informed——

Mr. Bourgeois: By whom?

A. By Mr. Hart, that prior to this meeting, prior to the sale which occurred after the meeting, that one Collisson had been employed or engaged by someone to draw a deed, draw a plan of the development known as Del Rey. That on this development he marked out, prior to the date of this meeting, and the date of this sale, the indication or lines for the streets and the development included the two acre tract of the county, and being informed of those facts I felt that—I was also informed of another thing in connection with that, being that Collisson had been employed to lay out the Del Rey tract, or map it out by the four people or some of them that we designate as the conspirators, and being informed of these facts, I felt that it was plain that prior to this meeting they intended to use that two acre tract as a part of Del Rey, that the meeting had been held authorizing the purchase of the tract for $7500 prior to the public sale of the county, that at the public sale from the county held thereafter it had been bought at a figure less than the $7500, and that the conspirators or some of them were the directors and officers, directors and officers at that time of Williams and Davis, Inc., I thought that that was conclusively a scheme to sell this property at an advanced rate of $4500. In addition to that Mr. Dorrian and Mr. Fahler had informed me that they had put up one-half of the $7500. Does that answer your question?

Q. I think so.

Mr. McCarter: Now this is a convenient time, it seems to me, your Honor, to offer in evidence two other documents that have already been marked for identification. The documents are first the original deed from the County of Atlantic to Harold S. Williams, and a certified copy of the deed from Harold S. Williams and wife to Williams and Davis, Inc., of this very property.

Mr. Bourgeois: That is objected to. This is nothing except the basis for his conclusion, of this testimony of Mr. Godfrey's for the purposes of his conclusion that they were conspirators.

Mr. McCarter: Now that these papers have reached, shall I say, an innuendo, which entitles them to be offered in evidence rather than merely marked for identification, in view of the evidence that has been now alleged in connection with this particular transaction——

The Court: I will decline to admit them in evidence.

Re-cross examination.

By Mr. Cole:

Q. Mr. Godfrey, did Trevor Williams say that his lawyers were at the University Club and that he wanted some advice from them before signing this agreement?

A. Well, his words——

Q. Answer that yes or no, as Mr. McCarter would say.

A. Part of that I would answer yes and part I would answer no.

Q. Which part would you answer yes?

A. He said his lawyers were at the University Club. He didn't say he wished their advice before signing the agreement, he didn't say that part.

Q. He said "My lawyers are there?"

A. Yes, sir.

Q. Remember all right?

A. Yes, sir.

Q. And with nothing more being said, your father said what?

A. No, right after that was what Mr. Harold Williams said.

Q. I am not concerned now about that. I am concerned about—all right, go ahead.

A. Harold Williams said right then, without sequence or interruption, I think he interrupted Trevor, he said, "I have paid already ten thousand dollars for lawyers, and I don't want any more of them."

Q. Now you were a part of this effort to put this through, weren't you?

Mr. McCarter: One moment, I object.

The Court: Yes, I will sustain the objection.

Mr. Cole: Being the form of the question?

Mr. McCarter: Part of the thing to put this thing through, he is participating in it.

Q. Were you there assisting your father to have a contract with these people to pay money?

A. Well, I can only answer that by saying why I was there.

Q. Tell us why you were there.

A. My father stated to me before we went up in the morning of the same day, he said, "Philip, I wish you would go along in order to compute the figures and aid me in the clerical work in connection with this if an agreement is reached."

Q. That is all you did?

A. That is all I did, yes, sir; other than I have testified to.

Q. Did your father ask Trevor Williams why he wanted lawyers?

A. Well, Mr. Harold Williams said right off——

Q. Did your father ask Trevor Williams why he wanted the lawyers whom he knew were at the University Club there to represent him, your father ask him?

A. My answer is no.

Q. Now do you know who prepared the minute that you read?

A. No, sir.

Q. Do you know anything about that at all, about that minute except that it is there in the book?

A. No, sir.

Q. Who showed you the copy of those minutes?

A. I think Mr. Hart showed me the original.

Q. Did he tell you that Gordon Williams was in California on the day that purports to have been made?

A. No, sir.

Q. He did not?

A. No, sir.

Q. Did he tell you who prepared this minute?

A. No, sir.

Q. In your investigation that you made about this two acre tract did you learn that Mr. Harold Williams' check paid the initial payment, or cash, rather, cash made the initial payment?

A. I think I learned at the time of the sale, the public sale with the county that there was a deposit paid to Judge Higbee, my recollection is that it was six hundred dollars, and that that deposit was made in cash——

Q. By whom?

A. Might I finish?

Q. Yes.

A. —which checked up with the facts, as I understood them from the reimbursement by the check that has been offered in evidence. Your next question is by whom?

Q. Yes.

A. I was informed that the actual cash money was handed by Harold Williams to Judge Higbee.

Q. Did you overlook that part of this story in answer to Mr. McCarter's question?

A. No, sir.

Q. Why didn't you tell it?

A. I didn't think of it.

Q. What?

A. I didn't think of it, sir.

Q. You mean you didn't think of it or didn't think that was important?

A. It just didn't occur to me, the situation——

Mr. McCarter: Go on and finish.

A. The situation that you have brought out there of the deposit checked up with the fact that I had been informed of the reimbursement by that check.

By Mr. McCarter:

Q. When you were told that Harold Williams in cash deposited $600 or thereabouts to bind the bar-

gain, were you also informed where Harold got the $600?

A. No, sir; except that prior to that—except that I was informed that prior to that public sale, or whatever it was, that Judge Higbee held, the purchase of the two acre tract had been authorized by the board of directors and that about two days afterwards Harold received or a check was drawn, at least, for $7500 in accordance with that resolution.

By Mr. Bourgeois:

Q. Mr. Godfrey, you say that you learned on the day of the sale that Mr. Williams had paid $600 in cash?

A. I didn't say I learned it on the day of the sale.

Q. I understood you to say you did?

A. I said that I learned that he had paid $600 on the day of the sale.

Q. I thought you said you learned that on the day of the sale?

A. I didn't mean to say that, sir, if I did. I don't think I said it.

Q. Did you learn that the $600 had been paid in cash on the day of the sale?

A. To make myself plain, and I understand your question, you mean did I learn it on the day of the sale or was this $600 paid?

Q. Did you learn of it before you made up your mind that these people were guilty of conspiracy, that the $600, the first payment had been made in cash on the day of the sale, which is the third day of April, 1926?

A. Yes, sir.

Q. And the check is dated on the sixth day of April, 1926?

A. Yes, sir.

Q. Now tell me how the payment of six hundred dollars in cash on the third day of April as a distribution checked up with the check made three days later.

A. Because they had been authorized to buy it prior to the sale.

Q. Whose money was it that paid the $600?

A. Well, my conclusion, it is strictly my conclusion but my conclusions are that having been authorized to buy it prior to the sale, and they being the officers of the company, that if they put up the $600 and two days later got it back from the company, that it would be really a transfer by their authority to.

Q. Then without regard whatever, from where the first moneys came from, you conclude that they were conspirators, because three days after the first payments were made a check was given by the company for a larger sum?

A. No, the reason——

Mr. McCarter: Let him answer.

A. The reason, pardon me, Mr. Bourgeois, but that has to be qualified with the fact that I was informed that a board meeting had been held prior to the sale at which time the officers of the company, including Harold Williams have been directed to buy this property.

Q. And you say at that time you did not know that Gordon Williams was in California, you didn't know that, you were not told that, were you?

A. You mean I wasn't told he was in California at the time of this meeting? I hadn't heard that until you suggested it.

Q. Had you known he was in California at that time would you still have concluded there was a conspiracy, or would you have doubted the authenticity of that minute?

Mr. McCarter: I object. With a very great deference I still want to again urge to your Honor the idea that the issue here is not whether before the attachment issued this set of lawyers were derelict or not in forming a conclusion with reference to the existence of a conspiracy. He testifies that he read at the meeting in Philadelphia a statement in which he spoke of these people as conspirators, the statement being a part of the proceedings that antedated the issuance of the capias which had been outstanding for two weeks. The issue we are now trying, as I understand it, is whether the agreement made in Philadelphia a fortnight afterwards, was or was not superinduced by fraud and that is all to which this gentleman's testimony has been directed except the fact that at that meeting he spoke, reading from a paper, he spoke of these people as conspirators. Now, as I have before remarked, they are endeavoring to show that that was a false conclusion, that they were not conspirators, and that at least Gordon Williams could not be a conspirator because they say that Gordon Williams was in California. There is no proof that he was in California, and the specific question which provokes my objection is this, if you had known that he was in California would you have concluded that he was guilty of conspiracy? Now he didn't know he was in California, there is no proof that he was in California, and therefore I think the objection is specifically, the question is specifically objectionable, and also that the line of questioning is improper and I, therefore, respectfully object to it.

Mr. Bourgeois: If your Honor please, I asked him some questions and he answered them, then the attorney-general brought out the question of why he considered these people were conspirators, and had this resolution read and the check identified, and so on. Now I am simply cross-examining him along the line of the questioning that was directed to him by Attorney-General McCarter. I want to find out whether the man is prejudiced or not in his conclusions they were conspirators.

The Court: I will admit the line of testimony, as I have previously admitted, but I will overrule this question because you are stating premises with no proof of their existence or non-existence.

Q. Did Mr. Hart tell you where, under what circumstances and by whom that minute was presented to Gordon Williams for his signature?

A. No, sir.

Q. Did he tell you by whom, when or where it was presented for the signature of Mr. Davis and Mr. Williams, that statement on the bottom of it?

A. No, sir.

Q. Didn't tell you about it?

A. No.

Q. Did you make any inquiry to find out?

A. I had no cause to question the minute.

Q. You just accepted it as he presented it to you?

A. No one suggested contrary.

Q. And it is upon that statement of that minute you form your judgment that they were conspirators, is that right?

A. Combined with the information we obtained from Judge Higbee's office.

Q. Did you make any inquiry to find out if the information you got was true?

A. We made inquiry from Judge Higbee's office.

Q. If you did you knew that he was paid the six hundred dollars on the third of April?

A. Yes, sir.

Q. And you knew this check was dated on the sixth of April?

A. Yes, sir.

Q. Now did that raise any question in your mind as to whether or not the original payment was the money of Dorrian and Fahler or Williams Company, or if it was the money of Williams?

A. Well, the resolution being prior to the holding of the sale, I didn't go into that phase of it.

Q. Well, did you make any inquiry to find out if the resolution was prior to the sale?

A. Well, it states that it is.

Q. Well, if you saw the resolution dated prior to the sale and you saw the check for $7500 dated three days after the sale, and you had learned that six hundred dollars had been paid in cash, was there enough there to put you on inquiry, to make some inquiry to find out before concluding they were conspirators?

A. No, because they signed the approval annexed to the minutes. The minutes are dated, they apparently did not object to the day or hour or anything. They approved them, and the sale by the county was afterwards.

Q. Notwithstanding that inconsistency in the transaction, you passed it over?

A. I didn't think it was inconsistent.

Q. And don't you think it inconsistent yet? Do you think it shows a conspiracy?

A. Yes, sir.

Q. Even though the fact is the first initial payment was made three days before the check was given?

A. Yes, sir.

Q. Who told you about Collisson map, Mr. Hart?

A. I think so, yes, sir.

Q. And did he tell you that when the first map was made Mr. Collisson did not know that that tract was outstanding?

A. Yes, he did.

Q. He told you that?

A. Yes.

Q. And then you thought the fact that Mr. Hart made the streets run over it, although he was ignorant of the fact, and Davis was, indicated a conspiracy on these people's part, didn't you?

A. Not one but other maps.

Q. Did Mr. Hart tell you the second map that was drawn up Mr. Collisson found out, he brought out every other map, did he tell you that?

A. It is indicated.

Q. What is it?

A. It is indicated, the streets go right through it.

Q. Indicated it is not their property?

A. No, it is not indicated it is not their property.

Q. What is indicated there?

A. It is indicated it is intended to be part of the development, streets running right through it.

Q. Were you present when Mr. Collisson testified in this matter before the Real Estate Board?

A. I was present when he testified before the Real Estate Commission.

Q. Did he testify then that the first map was made, and didn't know until he made the second?

Mr. McCarter: I object.

The Court: Sustain the objection.

Q. At any rate with that information you had

concluded in your own mind that these folks were guilty of conspiracy?

A. Yes, sir.

Q. And you were not backward about telling them so, and charging them with it, when you were up there?

Mr. McCarter: Dont appear he did so. He read from a paper.

The Court: Which he testifies he assisted in preparing. I will permit the question.

Mr. McCarter: I respectfully urge it is a very improper question, and no foundation for it at all, simply read from a paper.

The Court: I will permit the question.

A. The answer to that——

Q. You may answer yes or no.

A. I can't answer yes or no.

Q. Can't you?

A. No, sir; I can't answer yes or no.

(Question repeated.)

A. Am I to answer that other than yes or no?

The Court: I don't see how it can be answered yes or no.

A. No, I was not backward.

The Court: I just ruled that it was not a question that could be answered yes or no and evidently the witness misunderstood me.

A. I thought you said it was not a question that could be otherwise answered.

The Court: You may answer the question, if Mr. Bourgeois wants it answered. I have ruled it can't be answered by either yes or no.

Mr. Bourgeois: I don't care anything about insisting on it.

(Recess taken until Saturday morning, June ninth, 1928, at 9 o'clock A. M)

Atlantic City, N. J., June 9, 1928.

(Trial of the cause resumed at 9 o'clock A. M.)

PHILIP S. GODFREY, recalled.

Further direct examination.

By Mr. McCarter:

Mr. McCarter: I want to state to Court and counsel that I directly forgot yesterday to speak, in my direct examination of this witness, of the fourth day, directly escaped my mind. I want to take that up, not re-direct in that respect.

The Court: You may do so.

Q. Now, Mr. Godfrey, did you attend on the fourth or last day at the hotel?

A. Yes, sir.

Q. About what time did you assemble?

A. I don't recall the hour on the fourth day.

Q. Was anybody absent from the regular crowd?

A. Mr. Harold Williams was absent, Mr. Scanlan was absent, Mr. Besore was absent, I think that is all. Other than that I think were the same people who attended on the second day. Should I name them?

Q. I shouldn't think—well, who else were there?

A. A new person was there in the shape of Mr. Stringer who sat in Harold Williams' chair, or in the chair that Harold Williams had been sitting in the other three days, then Father Mellon, who sat at the head of the table, as before, Royden Davis, Trevor Williams, Mrs. Davis, Mr. Fahler, and Mr. Dorrian, my father, Mr. Hart, Mr. Mulhern and myself. Mr. Garrison wasn't there.

Q. Now was anything said by anyone early that morning about the contract?

A. Well, we came in and sat around the table, our people occupying the same side as before and Trevor said to my father, "Mr. Godfrey, let me have a copy of the contract that was signed yesterday."

Q. Now previous to that had any announcement been made by Mr. Stringer?

A. Not previous to that.

Q. Go on. All right.

A. My father said, "Trevor, are you going to deliver the things that were missing yesterday?" At that point Mr. Stringer said, "Mr. Godfrey, there will be no further deliveries under this contract." Then Trevor repeated his request for a copy of the agreement and said that he wished a copy to take away with him. Father stated that

he might see a copy or read it, but that he could not take it away with him because the only copies that we had with us were the six signed copies which my father said had been arranged with Harold Williams, who was not present on the fourth day, to be taken by him and Mr. Williams west, so that Gordon might sign them. He said, however, that Trevor or anyone else could see a copy or read it, but that he wished the copies back for that reason. Father Mellon asked Trevor why he wanted to take a copy away with him and Trevor said, "Well, I wanted to examine it away because Mr. Godfrey might have changed it over night." At that point my father sort of lost his patience and stated in a rather emphatic manner that he would give a copy to Father Mellon but would hold Father Mellon responsible to have it returned to him, the signed copy. He said that an unsigned copy could be obtained at any time, as soon as we had time to make unsigned copies, but that the signed copies must remain in his hands until it had been arranged and Gordon had signed, then they would be distributed around to the different various people. With that father handed a copy to Father Mellon and said, "Father Mellon, you take this copy and show it to whomever you please, take as long as you like, let them read it, but return it to me, or you read it yourself to them or I will read it to them. There is no objection to anyone seeing the agreement or reading it." And Father Mellon took the copy and said, "Trevor, would you like to look at this?" And Trevor sort of looked at Mr. Stringer and Mr. Stringer said, "No, we don't want to look at it, we want to take it away with us." Father Mellon said, "Well, would you like me to read it aloud to you?" And they said, "No, we want to

take it away with us." Father then repeated his offer to read the contract, if they wished to have it read again, and at that point Mr. Stringer called Trevor into the little adjoining room, which was the bath room, adjoining room 101. What went on inside of that room I don't know. They closed the door. Royden Davis was in that conference also, I assume, for he went in the bathroom, and as they came out Mr. Stringer said that he had been dismissed as the attorney for Trevor Williams, and with that he walked down the back of the room, up behind the chairs, and as he walked out of the door, as he was going through the door he called Father Mellon, and he said, "Would you please come out in the hall, Father Mellon?" Father Mellon went out in the hall and what happened in the hall I don't know of my personal knowledge, I didn't hear it, but Father Mellon returned and I heard Father Mellon say to Mr. Stringer, as they were returning, "Well, if you don't represent anybody here now, there is no reason for you to even see the agreement," and the two of them walked into the room, 101, and Mr. Stringer and Trevor had another conference in the bathroom, lasting perhaps three or four or five minutes and then Stringer came out and stated that he had been re-employed as the attorney for Trevor Williams, and that he wished to make a demand for a copy of the signed paper, copy of the agreement to take away with him. A signed copy was not handed to him and there were some words passed between Trevor and my father.

Q. You are now referring to what has been testified to about one calling the other a liar, and all that?

A. Yes, and the meeting broke up and we went home.

Cross-examination.

By Mr. Bourgeois:

Q. Mr. Godfrey, those copies had been signed by all of the parties to the agreement who were present, hadn't they?

A. Yes, sir.

Q. Now how many copies had been signed, six?

A. Yes, sir.

Q. Six copies had been signed?

A. Yes, sir.

Q. And there were interested in it Dorrian, Fahler, Williams, and Davis, that is four people were interested in it, four parties?

A. No, there were six parties interested in it.

Q. Who were they?

A. Might I name them, let's see, there was Mr. Dorrian, Mr. Fahler, Harold Williams, A. Trevor Williams, Williams and Davis, Inc., and Gordon Williams and Company.

Q. They all realized, these parties there had realized apparently that the contracts were not yet complete because they did not have Gordon Williams' signature?

Mr. McCarter: I object.

The Court: Sustain the objection.

Q. Why did your father want to retain all those six copies?

Mr. McCarter: What he said is all you can say.

The Court: Yes.

Mr. McCarter: He can't tell what was in his father's mind.

A. I was just going to say I would have to give my impression of it, if you want me to.

Q. Did your father say why he wanted to retain all those copies?

A. Not other than I have testified to, to wit, that he had arranged with Harold, who was not present on the fourth day, to take a trip with him in connection with these agreements, and that Mr. Williams was not present to change that arrangement.

Q. Did that make any difference? Wasn't Trevor entitled to a copy of that agreement since he had signed it?

Mr. McCarter: I object.

The Court: Sustain the objection.

Mr. McCarter: This gentleman is not here to argue the situation.

Q. Did your father assign that reason when Trevor demanded that copy, that is the reason that he had arranged with Harold?

A. Well, the reason that he assigned ——

Q. I didn't ask you that. I asked you if he assigned that reason, the one you have mentioned, that he had arranged with Harold to go out to California to get Gordon's signature?

A. No, he did not.

Q. Now ——

A. I will tell you what he did say, if you wish.

Q. Did he claim to have any more right to these copies than Trevor had to them?

A. He didn't make a statement of that kind.

Q. Did he claim that he was more entitled to have the copies with Trevor's signature, more entitled to it, than Trevor was to have a copy with Dorrian and Fahler's signature?

A. He didn't make a statement of that kind.

Q. Simply refused to let him have it?

A. After they stated that there would be no more compliances with it he refused to let him have it, that is right.

Q. If you know why wasn't the copy, the unsigned copy handed to Trevor instead of telling he would make him a copy?

A. We had no unsigned copies.

Q. I thought you had one unsigned copy?

A. No, sir, I didn't say that. I said we had six signed copies. That is all the copies we had. We actually did make, I don't know whether this is responsive to your question, but upon our return we actually did make some other copies.

Q. Did you give any to the Williamses?

A. We annexed them to our bill. We made them for the purpose of giving them to Williamses.

Q. You didn't give them a copy at all, did you? You have got all the signed copies, with their signatures at the present time, haven't you?

A. Yes, sir.

Q. And have had them all the time?

A. Yes. We have had them up to this trial. I assume one of the copies you have now.

Q. No, I haven't.

A. Because I only have the five in my envelope. One is marked in evidence.

Q. We have it.

A. Well, that is all right now. We have had them up to this time.

The Court: C10 appears to be a copy.

A. In connection with that, your Honor, the exhibits annexed to that are unsigned, but I think the agreement itself is signed.

The Court: Yes, I have C10 is the signed copy, is in evidence.

A. That accounts for the sixth copy.

Mr. Bourgeois: I know we didn't have it.

Q. When you made the copies and after you annexed them to the bill, that is all you did, you never served any copies, any signed copies upon either Mr. Davis or Mr. Williams, did you?

A. May I repeat that to be sure I understand your question? I never, we never served any signed copies on Mr. Davis or Mr. Williams?

Q. Yes.

A. That is correct.

Q. No signed copy was ever delivered to them?

A. That is right. No, that is not right, no signed copy was ever delivered to them after the fourth meeting. There was deliveries of signed copies on the third meeting.

Q. Delivered to them after they were signed?

A. Oh, yes.

Q. Who was the last person that signed?

A. I don't know that, because they didn't sign each copy in the same order.

Q. Now wasn't Mr. Fahler the last person to sign those copies?

A. Well, which particular copies do you mean? In other words a question of information.

Q. Any one, according to the copies?

A. He may have been the last person to sign one copy, but he was not the last person to sign each of the six copies.

Q. Was any of those copies delivered to Mr. Davis or either of the Williamses after they had been signed by Mr. Dorrian or Mr. Fahler?

Mr. Bourgeois: One moment. The word "Delivered" there is ——

The Court: I take it in the present case he means personal delivery.

Mr. Bourgeois: Personal delivery.

A. Oh, surely. May I explain it?

Q. What happened to it? Did they retain it?

A. No, they did not retain it. What happened is this ——

Q. What happened to it?

A. I will tell you exactly. The copies were handed around and they were signed and each copy lay on the table in front of the party that signed it, having been delivered to that, that is phyically delivered to that party that signed, that—should I wait until Mr. McCarter returns—then at that point, while the copies were lying on the table in front of each person that had signed, if you understand me, after, we will say, making the rounds, in other words the copies went around the table, and finally a copy lay in front of each person, fully signed, and then Mr. Harold Williams called my father into the hall, as I have testified yesterday, and they had some conversation that I did not overhear, and upon returning into the room Mr. Williams said that ——

Q. I didn't ask you for all that. I simply asked

if there was a delivery. You gave me a page or a book.

A. What I was coming to was this ——

Mr. McCarter: Never mind.

Q. He is coming to it, so go on.

A. What I was coming to was after Mr. Harold Williams stated that Mr. Carlton Godfrey had agreed to go with him to California, so that he might witness Gordon Williams' signature, then each of the parties passed up their copies to my father and my father took them and put them in the envelope, in fact handed them to me and I put them away.

By the Court:

Q. When did your father's name, as a witness, appear upon these respective papers?

A. As they pased around the room.

Q. Well, after the last one had signed?

A. Oh, yes, indeed.

Q. Then how did the papers get one in the possession of each one if your father's signature was the last one on it?

A. Well, they were laid down on the table in front of each party and the agreement was that each party had an agreement.

Q. And your father walked around and signed them then?

A. No, they were passed down to my father, he signed them and passed them back.

Q. Kept on passing them after your father signed?

A. Yes, indeed.

By Mr. Bourgeois:

Q. From what you have testified about delivery, you mean that a paper, these papers were delivered to each of these parties when they were handed to them for their signature, that is what you mean by delivery?

A. Well, they were delivered at that time, and then after my father witnessed it, see.

Q. Were they delivered back to them after your father witnessed?

A. They were in the sense that they were laid down in front of each party on the table.

Q. Who laid them down in front of each party?

A. My father, afterwards, they were put up, my father signed it and handed it right back.

Q. Then what happened?

A. Then there was an interim and my father had this conversation in the hall.

Q. What was done with the copies after that?

A And after my father returned into the room and it was announced that he was to go to California, with Mr. Williams, then the copies were passed up to him.

Q. Then you didn't hear the conversation about going to California with Mr. Williams?

A. No, sir.

Q. That was out in the hall with whom, just your father and Williams?

A. That was out of my sight, I don't know who was present, but my impression is ——

Q. I don't want your impression.

A. All right, that is the answer.

Q. Don't bother about impressions. Takes too long.

A. Very good.

Cross-examination.

By Mr. Cole:

Q. Mr. Godfrey, who in that party on your side assumed to control these agreements? I am talking about the physical control of them, if you know?

Mr. McCarter: I object.

The Court: I will permit it. The word "assumed" is a poor word, perhaps.

Q. If he knows. If he don't know he may say so.

(Question repeated.)

Mr. McCarter: How can this witness undertake to say?

The Court: Technically it is a conclusion on his part. Give me the facts and let me assume that.

Mr. Cole: The question, Vice-Chancellor here, whether there was a delivery, somebody must have assumed to be the boss of that situation. Now I want to know who it was, if he knows.

Mr. McCarter: I suppose he can tell what occurred.

The Court: Yes, I will sustain the objection.

Q. Now did anyone in your presence say to either the Williamses or Mr. and Mrs. Davis after the agreements had been signed, in the way you say, that they might take a copy away with them?

A. They did not.

Q. Did anyone suggest that they ought to have a copy to take away with them and see—answer that yes or no, please, did they?

A. I will have to ask when do you mean? Do you mean immediately to take away with them, immediately?

Q. I mean after they were signed did anybody suggest that they ought to take a copy away with them?

A. Immediately? To take away with them immediately?

Q. Yes, right there and then?

A. They did not. There were no other copies.

Q. Well, they were the originals they had signed, weren't they?

A. Yes, sir.

Q. Did anybody suggest each party ought to take one away with them?

A. No, sir.

Q. Now you have told us, have you, all the reasons that your father assigned to Mr. Trevor Williams and Mr. Stringer, as to why he would not deliver one of the signed copies to either of them?

A. No, I haven't. I started to and Mr. Bourgeois shut me off.

Q. What other reason did he assign?

A. That they had said there would be no deliveries under them.

Q. Is that all?

A. Yes, sir, in addition to what I told Mr. Bourgeois.

Q. Any other reason?

A. No, sir.

Q. Now you are sure about that?

A. Yes, sir.

Q. Your recollection of this matter is very clear,

isn't it? You have told it with remarkable detail and apparently with a very delicious memory. I am asking you now whether you have told all the reasons that your father assigned for not delivering these agreements?

A. Well, to be sure, I have, suppose I repeat the reasons. I can't recall exactly what my testimony was.

Q. I don't want you to repeat them. I am asking you whether you have given us all the reasons your father assigned why you would not deliver the agreements?

A. I think I have but I will repeat them to be sure, if you want me to.

Q. Did he say he would not because he was afraid Trevor Williams would destroy it?

A. Yes——

Q. Did he or didn't he?

A. That remark was made——

Q. Pardon me, sir.

(Question repeated.)

A. Yes, he said that.

Q. Why didn't you tell us that?

A. That didn't come to my mind.

Q. What?

A. It didn't come to my mind.

By Mr. Bourgeois:

Q. Mr. Godfrey, after Mr. Stringer had said that there would be no further proceedings, that they repudiated that agreement, or whatever they did, they didn't say that, did they?

A. Not in those words.

Q. What did they say?

A. They said there would be no further deliveries under it.

Q. After they told your father there would be no further deliveries under that agreement, then why wasn't a copy of it delivered to them at their request?

Mr. McCarter: How can he tell?

Q. If you know?

The Court: If he knows he can answer. If you don't know say so.

A. I would have to repeat what I have already testified to.

Q. Do you know or don't you know?

A. Only from what was said. I can tell you what was said.

Q. Now was there anything said after that time about it, except what you have just said to Judge Cole about he was afraid Trevor would destroy it?

A. The entire conversation on the fourth day was after that remark.

Mr. McCarter: After what?

A. After that remark.

Mr. McCarter: By whom?

A. By Mr. Trevor.

Q. Let me ask you this, was any reason assigned why it would not make any difference if Trevor did destroy one, if you had the other five?

A. No.

Q. Your father wouldn't deliver it to him for fear he would destroy it, although your father kept the other five, is that right?

Mr. McCarter: He isn't here to argue the case, Your Honor, I object.

The Court: Sustain the objection.

WILLIAM J. GELLER, recalled.

Direct examination.

By Mr. McCarter:

Q. You are the accountant employed by the other side in this case?

A. I am.

Q. Did you say to me yesterday that you would look for and produce this morning the check book of Gordon Williams & Company?

A. I didn't say I would produce it. I said I would look for it.

Q. You didn't say you would produce it?

A. No.

Q. Did I ask you this morning if you produced it and you said you couldn't find it?

A. That is correct.

Q. Where did you look?

A. I looked down in Mr. Bourgeois' office among the papers there.

Q. Looked in Mr. Bourgeois' office among the papers?

A. Yes.

Q. Is that all where you looked?

A. That is all.

Q. Have you told us where you looked?

A. Yes, sir.

Q. At all?

A. I looked among the papers which were here yesterday afternoon, there were some check stubs here, and I looked down on the table in Mr. Bourgeois' library, and I didn't find it.

Q. You didn't look in Mr. Stringer's office, did you?

A. I believe Mr. Trevor ——

Q. Did you look in Mr. Stringer's office?

A. No, I did not. Mr. Trevor Williams looked for it there, but he told me he did.

Q. What?

A. Mr. Trevor Williams told me he looked for it there.

Q. Did you go to the company's office?

A. No, sir.

Q. Have you been there?

A. Where, at the company's office?

Q. Yes.

A. Where is the company's office? There are two offices, there was one 5300 Atlantic Avenue, I have never been there.

Q. That will do, Mr. Geller.

Cross-examination.

By Mr. Bourgeois:

Q. Were there any papers anywhere that you knew of that you didn't look?

A. None that I knew of, no, Mr. Bourgeois.

Q. Do you have access to Gordon Williams and Company's office?

A. No, sir.

Q. That is all.

MRS. META F. MCHALE, sworn.

Direct examination.

By Mr. McCarter:

Q. Mrs. McHale, are you a stenographer in the office of Carlton Godfrey?

A. I am.

Q. And were you one of the two stenographers that were at the Vendig Hotel early in June, 1927?

A. I am.

Q. Have to speak a little louder.

A. I say I am.

Q. When did you first appear on the scene?

A. I think it was the thirty-first of May.

Q. Did the stenographers have another room than 101?

A. Yes, one across the hall.

Q. Do you—can you generally—I don't want you to go into details—describe what work you and the stenographers were doing the first day you were there.

A. Well, after dinner of the first day—we didn't do anything until after we had our dinner in the evening, and then we went up and Mr. Godfrey dictated an agreement, part to me and part to Miss Keeper.

Q. And were you at work late at night?

A. Very late.

Q. Well, did you—was the paper completed that night?

A. No, sir, next morning.

Q. About what time the next morning was it completed?

A. Before noon.

Q. Then did the parties assemble, that is the ladies and gentlemen, in room 101 later?

A. Yes, in the afternoon.

Q. Now were you in and out of the room on the day that the parties had re-assembled and after the completion of the contract you described?

A. Yes.

Q. What occasion had you to go in and out of the room after they had assembled and the reading of the contract had commenced?

A. We were sent for to take dictation.

Q. Take dictation?

A. Yes.

Q. Did you take dictation?

A. Yes.

Q. From time to time?

A. Yes.

Q. Would transcribe the dictation?

A. Yes.

Q. Into what?

A. Well, the dictation that we took was changes in the contract.

Q. In the contract?

A. Yes, different paragraphs.

Q. How were the sheets in the contract as drawn that night and morning fastened together?

A. With just a Gem clip.

Q. And what became of the sheets which were corrected in the manner you have indicated, the old sheets?

A. Why they were destroyed and the new ones put into the contract.

Q. Now about how many of those kind of proceedings occurred, in other words, how many new sheets during the progress of the reading of that document, give us your best recollection, after having been changed were inserted in place as sheets for which they were substitutes?

A. Well, there were a great many, but I wrote over some three or four and even five times, some one pages.

Q. And finally the work ceased?

A. Yes.

Q. Where did the dictation of these corrections take place?

A. Right in the room with all the people.

Q. While the dictation was going on was there any interruption of it by anyone, statement or correction made?

A. Mr. Godfrey was doing the dictating, and when he would finish Mr. Harold Williams would say, "Well, Mr. Godfrey, don't you think so and so," and then he would change it, lots of times to suit Mr. Williams, then I would go in and write the whole page over and come back and it would be changed again, many times.

Q. So that Mr. Harold Williams would suggest changes, to the changes?

A. Yes.

Q. Now do you remember the party going out to dinner and leaving the stenographers present?

A. Yes, sir.

Q. What was done by you while they were out?

A. We finished the dictation and corrections we were making and separated the pages and put them all together where they belonged.

Q. When the corrected pages were brought back were they read?

A. Yes, sir.

Q. In the presence of everybody?

A. Yes, sir.

Q. By whom?

A. Mr. Godfrey.

Cross-examination.

By Mr. Bourgeois:

Q Were you present when they were re-read?

A. Yes, sir.

Q. How many times did you write some of these pages during that first night when Mr. Godfrey was dictating them to you?

A. Well, that would be hard to say, Mr. Bourgeois. He dictated right on through in the notebook, and Miss Keeper took some of it, and so did I, and then we went over them.

Q. Who inserted the re-written, did you or Mr. Godfrey or someone in the room?

A. I think I inserted, and if Mr. Godfrey had the copies he did, he inserted the new ones he had.

Q. That went all the way through?

A. Yes, sir.

Q. Did you know when it was signed, did you see them sign it?

A. The only man I saw sign was Harold Williams. I came in just as he was signing.

Q. You don't know whether anybody else signed or not?

A. No, sir.

Q. Now after that time did you make any corrections?

A. No, sir.
Q. None whatever.
A. No.
Q. Why weren't these pages repaged?

Mr. McCarter: Repaged?

Mr. Bourgeois: Repaged, yes, on the typewriting machine.

The Court: You mean renumbered? I think paged is the proper word but numbered is the one they usually use.

Q. Renumbered, if you want? You notice the first three pages are numbered on the typewriting machine.
A. I think probably it was because Miss Keeper was working on part and I was working on part.
Q. That means all of it was re-written except the first three pages, does it? That is all of the agreement, they seem not to have any paging on any of it after the first three pages.
A. I don't really remember that.
Q. You don't remember?
A. No.
Q. Do you remember having any part pages, or did you have a full page?

Mr. McCarter: When?

Q. When you were rewriting it?
A. Well, that is a part of a page, it isn't full.
Q. That is a part of a page? Yes. Was it re-written just page at a time, or was the whole thing rewritten and would you write several pages at a time?

A. Well, now, for instance, Mr. Godfrey would call us in on one page and call me in on one page, and he would dictate the new correction and I would write it, then probably the next time Miss Keeper would go in and she would take the next one, and then I would come in next.

Q. Those pages, I suppose, would not always just coincide with the previous page?

A. Probably wouldn't come out just even.

Q. If they took more than a page, what did you do, rewrite the next page, or just put the next page in?

A. Yes. No, we would re-write the page, there was some pages where put an "and" in above with a carat.

Q. You are sure there were no rewritten pages after you saw Harold Williams sign?

A. No.

Q. That is all.

LOUIS G. HART, sworn.

Direct examination.

By Mr. McCarter:

Q. How long have you lived in Atlantic City?

A. Since September, 1925.

Q. By whom were you then employed?

A. Gordon Williams and Company.

Q. You thereby became, of course, acquainted with all the gentlemen concerned in this controversy?

A. Yes, sir.

Q. Do you recall the fact that in, I think it was January, 1926, that the Messrs. Williams, Trevor and Harold resigned from the Board of Directors of Williams and Davis, Inc.?

A. That was in January, 1927, Harold Williams and Gordon Williams resigned. Mr. Davis remained in the Board.

Q. Harold and Gordon?

A. Yes.

Q. 1927? That is right. Did—who was substituted?

A. Mr. John B. Scanlan and myself.

Q. As directors?

A. As directors and officers.

Q. And after that the officers of the company became who?

A. Mr. Davis was president, Mr. Scanlan vice-president, and myself was secretary and treasurer.

Q. How soon after that was it, if you can recall, that the three Messrs. Williams left Atlantic City?

A. Gordon Williams left on February 12th, Harold Williams left on April the 11th.

Q. And Trevor?

A. Trevor left along shortly after the middle of March. You want the other brothers?

Q. Well, were there other brothers in the family?

A. Yes, sir.

Q. And were they—had they any connection with either Gordon Williams and Company or Williams and Davis, Inc.?

A. Vernon Williams was a salesman and he left a few days before Trevor, and Roy Williams, who was also a salesman, left on April 20th.

Q. Had any of them expressed to you, I mean any of the Messrs. Williams who are connected in this controversy, leaving out Vernon and Roy, an inten-

tion to return, or to remain away forever, or what did they say, if anything, to you about their departure?

A. Gordon went to look for a place for his mother and was to return as soon as that was done. Harold left to see how things were and he was to return in about six weeks. Trevor, I didn't know anything about. He was supposed to go to New York to take care of Vernon.

Q. To go what?

A. To New York to take care of Vernon, straighten Vernon up.

Q. Before Harold went away you say he said he would return in about six weeks. Was the date that he would probably return specified any more definitely than about six weeks?

A. May 25th.

Q. Where had the Williams family resided previous to this, to use an old testament term, hegira of the family?

A. Up to about June, 1926, they resided at North Sacramento Avenue, and then they moved to 107 South Quincy Avenue, Margate.

Q. That was the house that had been bought in the name of Mrs. Harold ——

Mr. Bourgeois: I object as leading in the first place.

Q. That became their home?

A. Yes.

Q. After they had gone, as you have described, did anything happen to the furniture in that house?

A. It was moved out.

Q. About when was that?

A. April 13th.

Q. Now, Mr. Davis remained here and he was elected president of the company?

A. Of the Williams and Davis, yes, sir.

Q. Did Mr. Davis and you make any professional calls upon Carlton Godfrey?

A. We did.

Q. At whose suggestion?

A. Mr. Davis.

Q. Will you tell us what Davis said resulting in your making these calls upon Carlton Godfrey and when the calls first commenced?

Mr. Bourgeois: I object on behalf of Williams, that is hearsay.

The Court: It will be admitted so far as Davis is concerned.

(Question repeated.)

A. Do I understand I can't tell what led up to these visits?

The Court: You are asked what Davis said to you about them.

Q. What Davis said that resulted in the calls?

A. Let's go and see Carlton Godfrey.

Q. And what—say to go or what?

A. That is what I asked you, if I could get that in. Mr. Dorrian ——

Mr. Bourgeois: If your Honor please, my objection goes to all of this.

Mr. Cole: I object to that, too.

The Court: Sustain the objection.

A. It was in regard to ——

Q. What did Davis say to you that resulted in your going to see Mr. Godfrey, you and he going, just tell us that?

A. We had to do something about Del Rey ——

Mr. Bourgeois: I object.

The Court: Sustain the objection.

A. This is what he said.

Mr. Bourgeois: I ask it be stricken out.

The Court: Let it be stricken. You can tell us what he said.

Q. Can't you tell us the conversation that you had which resulted?

A. I am giving it to you.

Q. Then give it.

A. He said, "We have got to do something about this Del Rey development."

Q. Go on.

A. "It appears that, and I am satisfied that they have skipped. We have got to take this matter up seriously, and I think we had better go up and see Carlton Godfrey."

Q. I think you have given the date of your first visit upon Mr. Godfrey.

A. I didn't give the date, but it is the latter part of March—of April, 1927.

Q. How many visits did you and Davis make upon Carlton Godfrey together?

A. Two in Mr. Godfrey's office, one in the Ventnor office of Gordon Williams and Company and one visit when Mr. Davis came in himself in Mr. Godfrey's office.

Q. So that you, Davis and Carlton Godfrey were together at least four times?

A. Yes, sir.

Q. And on one of the occasions had Mr. Carlton Godfrey come down to the office of the company?

A. Yes, sir. I believe that was on May fourth.

Q. Do you recall during your conferences with Carlton Godfrey anything being said about Julia Coll?

A. Yes, sir, that was the last conference.

Q. Now during this time—I will come to that again in a minute—during that time had Mr. Davis said anything to you with reference to Smith?

A. He did.

Q. Can you tell us, as near as you can, about when this talk that you are now going to detail was?

Mr. Bourgeois: I object, so far as Williams was concerned.

The Court: Admitted so far as Davis is concerned.

Q. About when was it?

A. May first.

Q. What did Mr. Davis say in connection with Smith?

A. We met as the result of a conversation over the 'phone in the Ventnor office.

Q. Who?

Mr. Bourgeois: I ask that be stricken.

The Court: Let it be stricken.

Q. Between whom was the conversation?

A. Mr. Davis and myself.

Q. What did he say over the 'phone?

A. He told me he wanted to meet me as soon as possible, that something had come up that was very important for him to talk to me about, and I met him shortly after one o'clock.

Q. At the office?

A. At the Ventnor office.

Q. What did he then say?

A. He told me that Dave Smith had called up the office and had asked for Mr. Dorrian and he asked Smith what he wanted of Mr. Dorrian, and Mr. Smith had told him that he had met Mr. Dorrian and asked him if he knew that he had been fleeced in the purchase of the land that Smith sold Gordon Williams and Company. That is not all—and he said, he told me, he asked Smith where he was, Smith told him at Little Rock Avenue, and he told me that he went up and saw Smith and gave Smith hell and told him to mind his own business, and shut his damn mouth, that he got the price he asked for the property and it was of his business what was done.

Q. Now what transaction—you are familiar with the several purchases that had been so often referred to in this litigation; what one of these transactions, if any, was Smith concerned in, the so-called what?

A. That is the 103 acres in Scullville.

Q. Known in this transaction as the Smith and Russell?

A. Yes, sir.

Q. Now by whom was the title, by what company was the title to that Scullville 103 acres acquired?

A. Williams and Davis.

Q. You called it Gordon Williams and Company a moment ago, that is the reason I asked you.

A. No, that was the one Dave Smith told Mr. Davis.

Q. All right, very good. Well, what next occurred with Davis and you, if anything, with reference to this information that he just disclosed to you?

A. At that same conference he said to me, he said, "This is serious, and I think I should telephone to Harold to come back immediately." I said, "Well, don't be a darned fool, let him stay where he is." And he said, "No, you don't understand this." Well, I said, "Maybe I don't but," I said, "I don't see why you want to bring him back here when we are working along different lines now." He said, "No, this is in bad shape." I said, "What do you mean?" "Why," he said, "Trevor has signed papers in people's names who don't exist." Well, I said, "That is his case, but what is Harold going to do, coming back here? How can he help that situation?" I said, "What names do you mean?" Well, he says, "These straw names." Well, I said, "That is serious, but I don't see what it is going to do to get Harold Williams back here." Well, he says, "I am going to 'phone Harold Williams."

Q. Before you pass on, were any names of the straw names mentioned at this interview?

A. Helene Wright.

Q. Helene Wright?

A. Yes, sir.

Q. And that was the only one that was then mentioned?

A. As being not in the being.

Q. Were there any other straw names mentioned?

A. Julia Coll was mentioned, but he said but there is a Julia Coll.

Q. Yes, very good. Now he said he was going to telephone?

A. Yes, sir.

Q. Did anything later occur that day in connection with the telephone?

A. Yes, sir.

Q. What?

A. That evening Mr. Dorrian came to the office with Mr. Smith and asked me ——

Mr. Bourgeois: I object.

Q. Never mind, they won't let you tell what that conversation was.

A. I am telling what I did.

Q. Never mind what they said.

A. I went to Somers Point with Mr. Dorrian and Mr. Smith and when I came back I stopped in the Margate office to get my overcoat. The 'phone was ringing and I was told it was Los ——

Mr. Bourgeois: I object.

Q. You learned that that was a call?

A. It was a call, long-distance call.

Q. Long-distance call from whom?

A. From Los Angeles.

Q. For whom?

A. They didn't ask for anybody.

Q. And what direction did you give?

A. Told them to connect or to transfer the call to Mr. Davis' home.

Q. Did Mr. Davis thereafter advert to a telephone call from Los Angeles that he had received, to you?

A. No, he never spoke to me about that.

Q. He never spoke about that.

A. No.

Q. Did you after that incident again meet at the office of Carlton Godfrey with Mr. Davis?

A. I did.

Q. Was any suggestion made there with reference to Julia Coll?

Mr. Bourgeois: I object as to the Williamses' hearsay.

The Court: Yes, only binding as to Davis.

A. On May seventh.

Q. What was the suggestion?

A. Mr. Godfrey asked Mr. Davis who Julia Coli was and he said, "Well, she lives in Philadelphia" "Where?" he said. "Well, I don't know just where she is up there, somewheres." He said, "Why, who is she?" Why, he says, "She is the telephone operator." Mr. Godfrey said, "Well, how well do you know her?" Oh, he says, "I know her." Mr. Godfrey said, "Well, is she a relative of yours?" And he said, "No, she is a relative of Mrs. Scanlan's." Mr. Godfrey suggested Mr. Davis 'phone her and ask her to—no, he asked, he said, "Well, can you get her on the 'phone in Philadelphia?" Mr. Davis says, "No, she is down in this city now." Mr. Godfrey says, "Well, suppose you go down and bring her up to my office and we will have a talk about these matters in which she acted as the straw."

Q. Was it stated where in this city she was?

A. Yes, sir.

Q. Where?

A. Mr. Scanlan's home.

Q. Mr. Scanlan's home?

A. Yes. Mr. Davis said he didn't know whether he could get her up or not, but that he would try, and he left the office.

Q. What was the next thing that occurred?

A. I don't know except what I was told by Mr. Godfrey.

Q. Now up to that time—previous to that time had you received the letter which has been marked in this case C14?

A. I did.

Q. Was any word received by you from Harold prior to May 14th notifying you of the change of the date of his proposed arrival from the 25th mentioned in this letter?

A. Yes, sir.

Q. When had you received such word?

A. I think it is about May 10th I received a telegram, "Am leaving today. Feel fit and fine. Don't worry."

Q. I don't think that telegram has been produced before. Is this the one to which you have just alluded?

A. That is the telegram.

(Telegram offered, received in evidence and marked Exhibit C29.)

Mr. McCarter: "Los Angeles, California, 10.52 C. 5.25C"—whatever that means—"Louis G. Hart, 107 N. Cambridge Avenue, Atlantic City, N. J. Just leaving. Feel fit and ready. Don't worry. Williams."

Q. Meantime had proceedings been taken to hold a meeting of the stockholders of Williams and Davis, Inc.?

A. Yes, sir.
Q. And notices were sent out and all that?
A. Yes, sir.
Q. And was such a meeting held?
A. Yes, on the 21st day of May.
Q. 21st of May?
A. In the Ventnor office.
Q. Meantime what steps had you taken in connection—in association with Mr. Dorrian to pursue the subject of which Smith had spoken to Davis and Davis had passed on to you?

Mr. Bourgeois: I object, if your Honor please. That is irrelevant and immaterial, it is hearsay.

The Court: I don't know. I will permit it.

Mr. McCarter: What steps he had taken is hearsay?

Q. What steps had you taken?

Mr. Bourgeois: I think he said what steps had been taken.

Mr. McCarter: He had talked with Dorrian, on behalf of Dorrian.

Mr. Bourgeois: I object as irrelevant and immaterial, what he did and hearsay.

The Court: I will permit it.

A. I communicated with Sadie Craigen in Washington.
Q. What part, if any, did you learn, from examination of the papers, that Sadie Craigen had taken in any of these transactions?

A. She had acted as a straw in the Ireland Estate.
Q. What other efforts?
A. I went to Philadelphia to talk to Julia Coll.
Q. Did you see her or talk with her?
A. I did not. I spoke to her sister.

Mr. Bourgeois: I object.

A. I learned that she was in Atlantic.

Mr. Bourgeois: I object. I think your Honor ruled against that.

The Court: Yes, sustain the objection.

Q. She wasn't there?
A. No, sir.
Q. Did you pursue an investigation by examination of the papers, minutes and so forth?
A. I did.
Q. As a result in connection with Mr. Dorrian and Mr. Fahler was Mr. Carlton Godfrey employed to take such proceedings as ——

Mr. Bourgeois: I object as leading.

Mr. McCarter: One moment, please.

Mr. Bourgeois: No use suggesting it to him.

Q. Was Mr. Carlton Godfrey employed?
A. He was.
Q. Later the attachment and the capias were taken out?
A. Yes, sir.
Q. Now did you see either Trevor or Harold upon their short return to Atlantic City?

A. No, sir.

Q. Had you heard from either of them since receiving the telegram C29?

A. No, sir.

Q. Was the meeting of the company, of the stockholders of the Williams and Davis, Inc., held?

A. It was.

Q. Pursuant to notice?

A. Yes, sir.

Q. On what day?

A. May twenty-first.

Q. Who was present at that meeting?

A. Mr. and Mrs. Dorrian, Mrs. Dorrian, Mr. Mulhern, Jack Scanlan, Mr. Stringer, as attorney for Mr. Scanlan, Mr. Dug. Besore, Mr. T. J. Mahoney, Jr., came in after the meeting started, I believe, but they were not stockholders, the last two, neither was Stringer.

Q. Neither was what?

A. Neither was Stringer a stockholder.

Q. In what capacity did Stringer say he was there?

A. He came there to represent Mr. Scanlan.

Q. Scanlan was a stockholder?

A. Mr. Godfrey—Carlton Godfrey was there also. Scanlan was a stockholder.

Q. He was present?

A. Yes, sir.

Q. Were you there?

A. Surely.

Q. Now what was stated at that meeting?

Mr. Bourgeois: I object as irrelevant and immaterial.

Mr. McCarter: I want to show that at that meeting at which Scanlan and Stringer were both pres-

ent, the details of these several transactions were gone into with the greatest fullness.

Mr. Bourgeois: Also that it is hearsay.

The Court: Sustain the objection.

Mr. McCarter: Mr. Stringer, your Honor remembers, is shown to have been the counsel of Mr. Williams at this time.

The Court: No testimony though, he was counsel for Mr. Scanlan at this time.

Mr. McCarter: No, I mean it appears in the case, I think, at this time and for some time before Stringer had been the counsel for Williams.

The Court: I don't think there is any testimony showing that he was counsel for Williams at that time.

Mr. Cole: It wouldn't bind Mr. Davis, moreover, suppose he were, did he have any authority to bind him with statements made at that meeting?

The Court: Sustain the objection. It may be the testimony will show that he had been for some time, but nothing to show that he was qualified.

Mr. McCarter: Scanlan has testified, your Honor, that he knew nothing of this matter, was trying to get information and could not get any, hunting for the papers and couldn't find them, and knew nothing about it, and was visiting and telephoning constantly to the Messrs. Williams and Mr. Davis who were in New York. Now I want to show that at this meeting on the 21st Scanlan heard the whole story.

The Court: If it is simply for the purpose of contradicting Scanlan ——

Mr. McCarter: Contradicting Scanlan.

The Court: I will permit it if it is to that purpose.

Q. Well, if anything, at that meeting?

Mr. Bourgeois: If your Honor please, I object to that. If they want to contradict Mr. Scanlan they should have called his attention to what they proposed to show, not simply cross-examine him generally, and then attempt to contradict him.

The Court: I don't think the rule goes to that extent, a man says he has no information, now to show that he was told by somebody prior to that time these facts I think is the contradiction within the usual rule, I think. I will permit it.

Q. What occurred at that meeting in the presence of Scanlan with reference to any or all of the so-called—all the transactions lying at the basis of this controversy?

The Court: Now I don't think that ——

Mr. Cole: May it please your Honor, what Mr. Scanlan said was he was seeking information as to the basis for the capias and attachment, that is what he said.

The Court: The previous question was such as would probably cover it. The question as now limited is not admissible.

Mr. Cole: His attention was not called to some-

thing he obtained down there, the capias and attachment he was seeking to know about.

The Court: I sustain the objection. It is not a proper question.

Q. Was anything said on that day as to the basis of the attachment and capias that were already outstanding? If so, what?

Mr. Bourgeois: That is objected to as to Williams on the ground it is immaterial, irrelevant and hearsay.

The Court: Admitted entirely for the purpose of contradicting Mr. Scanlan and for that purpose only.

A. I brought it to the attention of the meeting ——

Mr. Bourgeois: I object to that.

The Court: Sustain the objection.

Q. Just say what you said, what you said and what was said in their presence?

Mr. Cole: About the capias and attachment, Mr. Hart, please.

Mr. McCarter: Now, gentlemen.

The Court: I have ruled that it must be limited to the basis of the attachment and capias.

Mr. McCarter: Certainly.

A. Well, there is a capias, been issued for ——

Mr. Bourgeois: I object to that.

The Court: Yes. Is this what you said or a statement of fact?

A. This is what I said, yes. "There has been a capias issued in which Mr. Davis is charged with appropriating the company's moneys to the extent of $4500 through buying a tract of land for three thousand dollars and charging the company $7500. Together with Mr. Davis, who is one of our directors, Gordon Williams and Harold Williams are charged with the same offense." I said that in another instance they had charged $1200 an acre for another piece of property that they had bought with the company's money for $700 an acre. In another instance they charged about $1200 an acre for a piece of property that they had bought with the company's money for $600. And another instance where they had bought a piece of property for ten thousand dollars and sold it to the company for fifteen thousand, and in each instance they used a straw in doing this. And I suggested that a resolution or a motion be offered to rescind the contract between Gordon Williams and Company ——

Mr. Bourgeois: That is objected to, if your Honor please. That is not within the limits fixed by your Honor.

The Court: Sustain the objection.

Q. Very good. We won't pursue that, then.
A. At that time I showed ——

Mr. Bourgeois: I object to that.

Q. Did you show any paper?
A. I showed ——

Mr. Bourgeois: I object to that, if your Honor please.

The Court: I will permit it.

A. At that meeting I showed the check of Williams and Company, Inc., drawn to the order of cash for $7500 for the purchase of two acres in Del Rey.
Q. Being the check that was shown yesterday to Mr. Philip Godfrey and marked in this case Exhibit C28?
A. Yes, sir.
Q. Did Mr. Scanlan see that check that day?
A. Yes, sir.
Q. Now, when did you first receive word to attend the proposed gathering at Philadelphia?
A. About midnight on the Sunday.
Q. And were you there on Monday morning?
A. Monday afternoon.
Q. Monday afternoon, I mean?
A. Yes, sir.
Q. You did not go into the conference that day?
A. No, sir.
Q. Was the reason—did you know why you didn't go in, was anything told to you?
A. My recollection is that I, somebody said something about, brought up the question of going in and I said, "It is possibly better to leave me out."
Q. Have you any recollection of being notified that the Messrs. Williams or Mr. Davis or Mrs. Davis objected to your presence?
A. Yes, sir.
Q. At any rate you didn't attend the first day's conference?

A. No, sir.

Q. Did you see either Mr. Godfrey or Philip or Mr. Garrison after that conference ended?

A. I did.

Q. Did you arrange for Mr. Besore to be present the next day?

A. I did.

Q. That was made through you, that arrangement?

A. Yes, sir.

Q. And did you collect some other data?

Mr. Bourgeois: I object, if your Honor please.

The Court: Sustain the objection.

Q. Did you appear the second day?

A. I did.

Q. And were you in the meeting?

A. Yes, sir.

Q. Now, please can you recall who were there?

A. Father Mellon, Mr. Carlton Godfrey, Phil Godfrey, Mr. Garrison, Mr. Dorrian, Fahler, Mr. Mulhern, Besore, Harold Williams, Trevor Williams, Royden Davis, Mrs. Davis, Jack Scanlan. I think that covers it.

Q. Do you recall what first transpired?

A. The questions of commissions on some matter that Mr. Dorrian had received a deposit on and I objected to that allowance. Father Mellon said that that had been settled yesterday and there would be no further discussion on that today. I then took up the question of the allowance claimed for notes in bank, and I contended that there should be no allowance on that. At that time Father Mellon said, "Mr. Hart, will you please lower your voice." Father Mellon ruled on that point, the

same as he did with regard to the commission on the lots, said he decided that yesterday and he would not go into it. Then the question of commissions due Gordon Williams on the sale of Del Rey lots was brought up and I contended that they were not entitled to commissions until the people had made their payments. There was a doubt as to the amount due, but Mr. Williams thought it was about fourteen thousand dollars and Mr. Besore was asked to give his opinion as to how the accounts stood and if they were entitled to commissions as claimed. While that was going on Mr. Harold Williams interrupted the proceedings and said, "Under the contract we are entitled to the commissions when the contract is signed, and we don't have to wait until the people make their monthly payments." Mr. Garrison asked for a copy of the contract and read it and he says, "I think Mr. Williams is right."

Q. You mean the agency contract between ——

A. January fourth contract.

Q. Between?

A. The Williams and Davis Company and Gordon Williams and Company.

Q. The one that is attached to the bill of complaint?

A. Yes, sir.

Q. Go on.

A. Mr. Garrison then showed the contract to Father Mellon and he told him that he believed under that contract they were entitled to the commissions and the amount was agreed upon at fourteen thousand dollars. Now, you want me to go on?

Q. Go right on.

A. I then brought a list of other deals in which Mr. Dorrian and Mr. Fahler had been charged excess amounts through frauds, and as each item was read Father Mellon asked the Williams crowd, who

sat all in a row on one side of the table, if they admitted that that was a fraud. Mr. Harold Williams at the beginning tried to fence and say, "Well, it looks like one," and Father Mellon said, "Well, is it?" He finally says, "Yes, we made that money."

Q. We made what?

A. We made that much money.

Q. Yes.

A. And all down through the list it was submitted to them and they admitted that they had made those profits.

Q. Now, the list that you refer to is the list that Philip read?

A. No, sir, that is the additional list that I read.

Q. Well, you haven't told us anything about that. You had a list too, did you?

A. I brought in a list and Mr. Godfrey announced that I had some further claims and after that was agreed on and admitted Mr. Williams said, "Well, I want this thing over. Let's get a lump sum." And when Godfrey started to figure the totals and after he got the totals up to I think it was some two hundred and thirteen thousand dollars Harold Williams called his son out in the hall.

Q. Trevor?

A. Yes, sir. Davis followed in a few minutes, Harold Williams called Father Mellon, and they stood on the threshold of the door and at that time Mr. Carlton Godfrey was called out. Then Mr. Dorrian was called out and then Mr. Fahler, and after some time it was announced that they had agreed on $190,000.

Q. Do you recall who made that announcement?

A. Mr. Williams, Harold Williams.

Q. Then the question of paying $190,000 was taken up?

A. Phil Godfrey went through this list of searches

that he had, and the question came up in regard to a mortgage, and at that time I was sitting in one of the easy chairs, and they asked me about it. Trevor Williams said to Hart, "I can't tell you about that." Now, on a sorting of the mortgages that took place—I am one step ahead of my story. We went through the list of mortgages to select what ones we wanted and what we didn't want. After that was done why then Philip and the Williams crowd got together, drawing assignments and arranging for that, and this question of ownership of this mortgage came up and Trevor said, "Why Hart can tell you about that." The question was whether Trevor Williams owned or had a part in a certain mortgage. Trevor said he didn't. I said, "I think I will agree with Trevor. My recollection is that Gordon owns that mortgage." Mr. Godfrey says, "Well, that may be true, but I have got to go by this search." I said, "Let me see the search." I looked at the search and I found that it showed that the mortgage was in the joint name. I still insisted I thought Trevor was right. Mr. Godfrey says, "Well, you can make the assignments, if you don't own it, it don't do any harm, we can adjust all those things later, if those things do creep in." I believe there was another question of the same character came up in regard to a Louis Mark mortgage, Louis Mark to Sadie Craigen, where the title company had made a mistake and it was agreed that Trevor would sign, whether he owned it or not, inasmuch as the title company's search had called it. After we got through with that, Mr. Williams says, "Now, as long as we have settled this matter, I have ten thousand dollars here, I want to get rid of it, and turn it over, now," and he took it out of his pocket and laid it on the table in front of Mr. Carlton Godfrey, and Mr. Godfrey says, "No, Mr. Williams, I

won't take any money until the agreement is fixed up and signed." So Harold said, "Well, I know you well enough, Mr. Godfrey, you can keep it." Mr. Godfrey says, "No, I won't do that." With that Mr. Williams put the money in his pocket and I think that about answers all that was done at that meeting. Now, I might say that during the time of the delay ——

Mr. Bourgeois: I object, if your Honor please, no question pending.

The Court: Sustain the objection.

Q. Do you recall anything further that occurred that day?

A. Yes, sir, Father Mellon read his prayer book part of the time.

Q. Now, during that day did you hear any threats made by either Father Mellon or Mr. Carlton Godfrey or Philip Godfrey or Garrison or yourself?

A. I did not.

Q. Was any mention or statement made that any of these people had been guilty of crime?

A. No, sir.

Q. Or forgery or embezzlement?

A. No, sir.

Q. Did Harold appear sick?

A. No, sir.

Q. Did you hear any remark about his being put to bed that night in the hotel?

A. Not a word.

Q. Did you hear any remark that day, I am speaking of this day you have just described, and I think that is the second one, about the meeting being too legal and that they wanted their lawyers present, the other side?

A. No, sir, there was nothing like that said.
Q. Well, the meeting adjourned?
A. Yes, sir.
Q. The next day did you resume, did you attend at the hotel?
A. Yes, sir.
Q. Was everybody there that had been there the day before or who stayed away?
A. Mr. Besore was absent.
Q. The rest were all there?
A. Yes, sir.
Q. Now, I wish you would attempt to recall ——
A. I might go back there on that second day, I just recall ——

Mr. Cole: I object, unless Mr. McCarter takes him back.

The Court: Yes.

Mr. McCarter: I asked the witness, they want to tell what occurred. He can't remember.

The Court: Yes, he said he has told everything. Now, in answer to another question concerning an additional day he asks to go back.

Q. Do you recall now anything that occurred on the first day that you were there that you have not spoken of?
A. Yes, sir.
Q. What was it?
A. After the list of mortgages were gotten up by Mr. Godfrey, he handed it to Mr. Scanlan and asked him to total it. Mr. Scanlan found that it was $195,000 total. Mr. Godfrey then asked Mr. Besore to total it and discovered that there was five thous-

and dollars too much in totals, and then Mr. Harold Williams suggested taking out the item of creating a mortgage on the Quincy Avenue house which amounted to five thousand dollars and that was done.

Q. That was the homestead?

A. That was the homestead.

Q. That was done?

A. Yes, sir.

Q. All right. Now, we are over into the third day, the second day that you were there. Tell us, as far as you can recall, what transpired that day.

A. The agreement was being prepared when I first got there, and in a short time it was read and they assembled and sat practically the same places again, and Father Mellon had made a report on what he had found in Mr. Davis' box in the Ventnor Trust Company. Among those items was, I think, $4600 in cash and I insisted that that cash be turned over instead of some second or third mortgage. Mrs. Davis stated that that was her money. I said, "Well, if it is in Mr. Davis' box"— Father Mellon says, "Mr. Hart, I know that is Mrs. Davis' money," so the matter dropped. We got down to the reading of the agreement.

Q. Now, what transpired with reference to that?

A. Mr. Godfrey said, "I will read the agreement and if there is anything you don't understand or if there is anything you want corrected, anything don't suit you, stop us and we will fix it up.

Q. Was he the only one that had the agreement before him?

A. No, he passed one to Father Mellon, Harold Williams, one to Trevor Williams, and he kept one himself, Mr. and Mrs. Davis and Jack Scanlan had the same copy, or the last copy. And each paragraph was read. And after each paragraph was

read Mr. Godfrey would say, "Is that all right?" If it wasn't all right, they would suggest what they thought should go in it and in that way the entire agreement was read paragraph after paragraph.

Q. Do you recall Mrs. McHale being brought in and dictations being made of corrections that were afterwards inserted in the body of the contract before it was signed?

A. I do.

Q. What is the best of your recollection as to the number of times that was done?

A. I would say that between fifteen and twenty cases.

Q. Were changed?

A. Were changed, and it got so tiresome that they finally made a couple of corrections on the paper itself.

Q. Did anybody relieve Mr. Carlton Godfrey in the reading out loud of the contract?

A. There was a change but I don't recall who did that, who took up the reading.

Q. Well, it was finally read and corrected and fastened together, was it?

A. Yes, sir.

Q. And signed?

A. Yes, sir.

Q. After it was signed by everybody did Harold speak about the cash?

A. He took ten thousand, ten one thousand dollar bills from his pocket, and handed to Mr. Godfrey, and says, "Well, I would like to have a receipt for it."

Q. Did you see the receipt prepared and signed, that is in evidence?

A. I heard it dictated.

Q. What, if anything, did Trevor do after the contract was signed in the way of delivering papers?

A. Trevor and Phil Godfrey got together on the question of assigning mortgages.

Q. Go on.

A. When it came to assigning that Endicott mortgage, which I spoke about before, why he again spoke about it, that he didn't think he ought to do that, and finally he, after talking it over, he decided he would sign it.

Q. What did Davis do?

A. Well, Davis didn't really do very much except he did sign some assignments. When it came to a question of signing a check for the money in the bank which he had agreed to do, Mrs. Davis objected to that and said she would pay that in cash, and that was agreed to, that she would do it.

Q. Was anything stated with reference to Trevor's producing further documents or papers?

A. There was.

Q. What was that?

A. While he and Phil were sorting out these mortgages it developed that in one case there would be a mortgage short, another case there would be a bond short, another case there would be an intermediate assignment short, and so on, and it was agreed that Trevor would bring these over from New York in the morning, and on Tuesday, and let us adjourn until tomorrow morning and we will bring those over.

Q. Now, was anything stated, either before or after the signing of the contract, by these persons to the effect that the contract would not be binding until Gordon signed?

A. No, sir.

Q. Was there anything said to the effect or that the papers were to be temporarily all delivered and held—delivered to and held by Father Mellon?

A. No, sir.

Q. Do you recall any conversation with reference to a release?

A. There was talk about a release. Godfrey was looking for a release and he couldn't fiind it just at the moment, and then finally, I believe, he dictated a new one, and it was understood that that release was to be signed by all parties, held by Father Mellon until the $190,000 was paid.

Q. During that day do you recall anything being said touching a separate settlement with the Davises and touching any memorandum that he, Davis, had prepared?

A. No, sir.

Q. You don't recall that?

A. I don't remember a thing about that.

Q. Now, what, if anything, was said before the parties separated that day with reference to the papers being taken to California for Gordon to sign?

A. Mr. Williams announced that he had arranged with Mr. Carlton Godfrey to call California and arrange for Gordon to sign the papers.

Q. Now, on this third day, your second day, did you hear any threats?

A. Not a one.

Q. Did you hear anybody accuse anyone of any crime?

A. No, sir.

Q. Did you hear anyone accuse anyone else of having committed forgery or embezzlement?

A. No, sir.

Q. Was anything stated the third day by the other side touching a desire to have lawyers present?

A. Yes, sir.

Q. What was that?

A. Before the agreements was signed Mr. Garrison, Trevor Williams and Jack Scanlan came into

the room and Mr. Garrison announced that Trevor Williams had something to say and Mr. Godfrey says, "What is it?" Well he said, "My attorneys are in the University Club, and I think it would be a good thing to have them over here." Mr. Godfrey says, "Well, I haven't any objection. They are welcome if you want them," and Harold Williams then stood up and said, "There will be no attorneys here. I have paid ten thousand dollars already to lawyers and I don't intend to pay any more. We don't need attorneys here." Then Mr. Scanlan got up and said, "Mrs. Davis tells me that her attorney is right here in this hotel." Mr. Harold Williams turned to Scanlan and says, "Eh, you come here," called him out, and when they came back there wasn't a word said about attorneys.

Q. Now, other than the conversations you have just related was anything said that day or any other day about attorneys being present?

A. No, sir.

Q. Did you attend the next day?

A. The fourth day?

Q. The last day?

A. Yes, sir.

Q. Was an hour fixed for the assemblage?

A. Yes, sir.

Q. Did Trevor say that he would do anything or produce anything at the assemblage the next day?

A. He had promised to bring over these missing papers, such as bonds and mortgages and assignments. You want me to go on with the next meeting?

Q. Yes.

A. When I got to the room ——

Q. Hold on, you say that Trevor had found in going over the assignments, papers, the day before, that some papers were missing, what announcement had he made with reference to the missing papers?

A. I said, that he would bring them over the next morning.

Q. All right, very good. Now, we are there the next day. Can you remember what time the assamblage occurred the next day?

A. No, I can't.

Q. Who were present?

A. The fourth day?

Q. Your third.

A. Mr. Garrison, Harold Williams, Jack Scanlan, I think that is all.

Q. Now, I forgot to ask you one thing, after the contract was signed, before the break-up of the meeting on the third day, your second, did you hear either Trevor or Mr. and Mrs. Davis or Mr. Harold Williams say anything to Father Mellon with reference to his conduct in the matter? There has been evidence in the case that he was congratulated. I want to know whether you heard that or not?

A. I didn't hear that.

Q. Didn't hear that at all?

A. I heard one conversation that Mrs. Davis made after the contract was signed.

Q. In the presence of whom?

A. Everybody.

Q. What did she say?

A. She asked Father Mellon to direct me to stop putting these terrible articles in the newspapers.

Q. What did she say? Did she say what papers or was that just the remark?

A. That is the general remark.

Q. All right. Now, we are present on the fourth day. I wish you would endeavor to recall all that transpired that day.

A. When I went into the room there seemed to be a heated argument between Trevor Williams and Mr. Stringer and Carlton Godfrey. The first I heard

was Trevor Williams asking for a copy of the agreement. Mr. Godfrey in answer said, "Have you got the rest of those papers you promised to deliver?" And kept going back and forth possibly two or three times and then Mr. Stringer ——

Q. Did Trevor answer that inquiry?

A. No, sir, he just every time simply said, "I want a copy of the agreement," and Mr. Stringer got into the argument, and one of them would want a copy of it, and one would want to take it and read it, and Mr. Godfrey refused to give a copy to either one, and he finally turned to Father Mellon, and handed him a copy and said to him, "I am giving you this copy, but I want you to see that it is returned to me. You can let them see it, you can read it to them, or I will read it, any way you want, but they cannot have the copy." And at that time why I heard—I saw Mr. Trevor, also heard him say about being, fired him and so forth, also heard him

——

Q. Do you recall any remark being made by Trevor in connection with the possibility of Mr. Carlton Godfrey changing the paper over night?

A. Yes.

Q. Having changed the paper over night?

A. Yes, sir.

Q. What was said?

A. I think Mr. Godfrey said or told Trevor that he would not allow him to have the copy in his hands as it couldn't be disturbed, everything had to be just as it was, and Trevor said, "Well, you are the man who has probably changed that over night," and they both called each other liars. He says,—and following that Mr. Stringer turned to Phil Godfrey and said, "Are you a lawyer?" and he then addressed Mr. Fahler and said, "Do you intend to send these men to jail unless they sign these papers?" Everybody laughed at him.

Mr. Bourgeois: But nobody answered?

Mr. McCarter: One moment. You will have a chance.

A. Mr. Fahler said, "Ask my lawyer."
Q. Fahler said, "Ask my lawyer?"
A. Yes.
Q. Now, can you describe the ceremony or exactly how the actual signing took place of these six documents, I don't mean to have you say who signed first or signed second, and what not, but here was a long table and here was six documents and here were certain signatures, now I would be glad if you would, as well as you can, just describe how that process was accomplished.
A. My recollection is that Harold Williams signed first and then Trevor, the papers came down the ——
Q. That is it, there was one copy you think was handed to Harold?
A. They all had copies.
Q. One moment.
A. They had them, not handed to them.
Q. Each had a copy?
A. Yes, sir.
Q. And then go on now, just describe in your own way.
A. And they all signed that copy and it is my recollection that as they went around, when it came to signing Gordon, Williams and Company, the question came up by Mr. Harold Williams that he did not think Davis should sign that inasmuch as Davis had signed as vice-president of Gordon Williams and Company, he thought it would be better if ——
Q. One moment.

(Answer repeated.)

A. Mr. Scanlan should sign for Williams and Davis, and that was about the only thing that took place in the signing. They went all around and everybody signed.

Q. Do you recall whether or not after each person signed number one, we will call it, whatever it was, that Mr. Carlton Godfrey witnessed number one, and then each signed number two and then Carlton signed that?

Mr. Bourgeois: I object to that as leading.

The Court: Sustain the objection.

Q. How did Carlton sign, if you recall?

A. My recollection is he would sign it, when it got back, after they had all signed, he would sign one copy.

Q. Yes.

A. And they kept going around.

Q. Yes. Do you recall Mr. Harold Williams and Mr. Godfrey, Carlton, going out in the hall about that time after the papers were signed?

A. Yes, sir.

Q. I think you have told us what occurred when they came back. Did that about end the occurrences that day, Mr. Hart?

A. No, sir.

Q. Go on.

A. The sorting out of the mortgages and attaching the assignments of them took place, and the signing of them.

Q. You are speaking now of the fourth day?

A. Third day, oh, the fourth day, yes, that ended abruptly.

Q. You misunderstood me.

Cross-examination.

By Mr. Cole:

Q. What was your business?

Mr. McCarter: When?

Mr. Cole: Well, if I ask him what is his business, what do you suppose, last year or now?

Mr. McCarter: I thought you said, "What was your business?"

The Court: That is what I understood.

Mr. Cole: I tried to say, "What is your business?"

Q. What is your business?
A. Real estate broker and secretary and treasurer of Williams and Davis, Inc.
Q. What is—have you any interest in this litigation?
A. As an officer of the company, yes.
Q. Any other?
A. No, sir.
Q. How many shares of stock have you?
A. One.
Q. You came here, you say in 1925?
A. Yes, sir.
Q. Did you go to work for the Gordon Williams Company?
A. Yes, sir.
Q. That your first employment?
A. Down here, yes.

Q. That is what I mean, down here?

A. Yes.

Q. And you continued in the employ of that company until when?

A. May 7, 1928—1927.

Q. Who employed you to work for the company?

A. Harold.

Q. You had known him before you had come to Atlantic City?

A. Yes, sir.

Q. How long before?

A. About 1910.

Q. Been close friends?

A. No, sir.

Q. Had been intimate?

A. No, sir.

Q. Were you working for that company on a salary or commission?

A. Both.

Q. Both?

A. That is the first employment, I was on a salary until I got my license.

Q. You say that Mr. Davis told you that he was satisfied the Williamses had skipped.

A. I don't think I used the word, "satisfied." He was under that impression—well, satisfied will do, yes, that is about it.

Q. Didn't you say ——

A. Possibly I did.

Q. "Mr. Davis said, 'I am satisfied they have skipped?'"

A. Probably I did.

Q. How did he come to tell you that?

A. Why the condition of the office and the whole city, people calling up on the phone.

Q. Did he tell you that?

A. Why certainly.

Q. I am asking how he came to tell you that he was satisfied they had skipped?

A. In talking over conditions and the fact that the furniture had been moved at midnight.

Q. He told you that?

A. We were told that together.

Q. Did he tell you that the furniture had been moved at midnight?

A. No, he did not.

Q. That is what I want to know.

A. No.

Q. Now, is your interest in this case at this time solely as an officer of this company or stockholder?

A. Yes, as an officer.

Q. Are you salaried?

A. As an officer, not as a stockholder.

Q. Not interested as a stockholder?

A. No.

Q. Just an officer?

A. My stockholding is nothing.

Q. Are you salaried?

A. Yes, sir.

Q. What is your salary?

A. A hundred dollars a week.

Q. How long have you been getting that?

A. Since around the first of June of last year.

Q. Who fixed your salary?

A. Mr. Dorrian and Mr. Fahler.

Q. They are the only other interested parties in the corporation?

A. Not according to the books.

Q. Well, according to your understanding and knowledge, what is it?

A. My guess is that they are the only owners, yes.

Q. What are your duties?

A. Taking care of the development, taking care

of drawing the papers and anything that may arise in the company's business.

Q. Have you been active in the prosecution of these claims against the Williamses and Davis?

A. I have.

Q. You have given information to Mr. Godfrey, all you could get, haven't you?

A. Yes, sir.

Q. And you assisted him in the preparation of the affidavits and the capias?

A. No.

Q. Didn't you have any connection with that at all?

A. Except furnishing the information.

Q. Furnish information?

A. That is all.

Q. Have you an understanding with Mr. Dorrian or Mr. Fahler as to any compensation other than your salary as an officer?

A. Not one bit.

Q. None at all?

A. Not at all.

Q. Now, did you think it was wrong for these people to use straws in these transactions?

Mr. McCarter: I object. I don't think his thought of what was wrong has anything to do with this case.

Mr. Bourgeois: If your Honor please, he stated that on his direct examination.

The Court: Stated what?

Mr. Bourgeois: One of the things they had done wrong was to use straws.

Mr. McCarter: He stated that they had done that, not whether right or wrong.

The Court: He stated a number of things that they had done wrong, I don't recall that statement, if there was such a statement.

Q. Did you have anything to do with making up the minutes of the Gordon Williams Company?
A. I think I dictated one meeting.
Q. Which was that?
A. That was the meeting in which I was elected assistant secretary of the corporation.
Q. Do you know when that was?
A. That was about, to my best recollection, in January, 1927.
Q. Did you have anything to do with the minute of April 3, 1927?
A. You have got the wrong minutes.
Q. Perhaps I have. Did you have anything to do with the making of the Williams and Davis Company?
A. Some.
Q. Anything to do with the minute of April 3, 1926?
A. Not a thing.
Q. What?
A. Not a thing.
Q. I show you the minute of April 3, 1926, Williams and Davis, Inc., and ask you to look at it and see whether you ever saw these minutes before, first?
A. I have seen this, yes.

Mr. McCarter: Before today, you mean?

Mr. Cole: Yes, before today. It would have to be, I suppose.

Q. You had nothing whatever to do with the making of it?

A. I did not.

Q. When did you first see this minute?

A. Possibly around August, August or September, 1926.

Q. Where was the book at that time?

A. In the Margate office of Gordon Williams and Company.

Q. Who was, who had the possession of it at that time, when you saw it?

A. In the safe, Gordon Williams and Company's safe.

Q. Did you take it out of the safe?

A. No.

Q. Did you read it that day while it was in the safe?

A. Couldn't read it in the safe, probably something came up to be done and Mr. Williams would, probably took it out to dictate some meeting or something.

Q. Well, do you remember that it was read to you or in your presence, that you did read it on that day?

A. You mean April third?

Q. Yes.

A. No, I didn't discover that until along in May, 1927.

Q. How did you come to discover it?

A. Why the question of the purchase of the county lot came up, Mr. Dorrian told me that it cost $7500 and I said, "$7500?" I said, "Williams told me he expected to get that for a few hundred." Well, he says, "That cost $7500." So ——

Q. Which Williams did you say told you that?

A. Harold.

Q. Then from that did you make the investigation of the minutes?

A. It was during the investigation, just prior to the capias, that that book, I read that book.

Q. Then where was it at that time?

A. In Mr. Godfrey's office.

Q. Do you know how it got to his office?

A. Yes, sir.

Q. How?

A. I brought it there.

Q. From where did you take it?

A. Gordon Williams and Company's office.

Q. Out of this safe?

A. Yes.

Q. At that time were you a director of the Gordon Williams Company?

A. Yes, sir.

Q. A stockholder?

A. Yes, sir.

Q. Now, you say that on the second day there was some request made to Father Mellon or somebody present to reopen certain items that had been discussed the day before?

A. I didn't say that.

Q. What did you say about that?

A. I said that I took up these items and Father Mellon decided that he had ruled on those the day previous and he would not open it up today.

Q. You said that Mr. Harold Williams tried to fence, what did you mean by that?

A. He didn't give a direct answer at first.

Q. Tell us what question was asked him that he did not give a direct answer.

A. "Is that a straw deal?"

Q. Which was he referring to?

A. One of these deals I was reading.

Q. Which one?

A. That I can't tell.

Q. Who asked him if it was a straw deal?

A. Father Mellon.

Q. What did Mr. Williams say?

A. At the beginning he said, "Well, it looks that way," and then as it went along the list, why after Father Mellon said, "Don't you know?" then toward the end he said, "Yes, that is a straw deal, and we got the profit."

Q. That is what you meant when you said he tried to fence?

A. Yes.

Q. You also said that he admitted profits, just what did he say?

A. "We made that much money," as these particular deals were read he admitted making the difference in the buying and selling prices.

Q. Were you at the meeting that Mr. Philip Godfrey read this indictment?

Mr. McCarter: I beg pardon, one moment. Mr. Philip Godfrey did not read any indictment.

The Court: Sustain the objection.

Q. Were you there when he read the paper about conspirators?

A. No, sir.

Q. When you arrived on the second day did you know he had read it?

A. Not the paper, I was told that he had read the list of our claims. I didn't know what he read.

Q. Were you told that he had charged these people with being conspirators?

Mr. McCarter: I don't think that is the fact.

Mr. Cole: What?

Mr. McCarter: That he had charged them with being conspirators. He hadn't charged them with being conspirators.

The Court: I will permit the question.

(Question repeated.)

A. No, sir.

Q. Were you told he had charged them with doing anything?

A. No. I was simply told that he had read the claims and that they had admitted the amounts.

Q. Were you told that he had charged them with having unlawfully appropriated the company's money?

A. No.

Q. Were you told that he made any charge against them of any kind that was improper?

A. No, sir.

Q. Now, did you hear Mr. Harold Williams say, during the course of the reading of the contract, before it was signed, that it was all Greek to him?

A. That was in relation to one clause.

Q. I don't care.

A. No, not all, he never said that.

Q. He never said that?

A. It was all Greek to him.

Q. That was the question I asked you.

(Previous question repeated.)

A. Referring to one paragraph.

Q. Your answer is, "no"?

A. No. He did say that particular paragraph, when he stopped after each paragraph, why he did say, after the reading of that particular paragraph,

"That is all Greek to me, what does it mean?" and it was explained to him.

Q. What paragraph was that?

A. I couldn't tell you.

Q. Now, who were present when Mr. Stringer said, "Do you intend to send these men to jail?"

A. Trevor Williams, Mr. and Mrs. Davis, Father Mellon, Mr. Fahler, Mr. Dorrian, Mulhern and myself.

Q. Do you know what provoked that question?

A. I do not.

Q. You said when he asked that question everybody laughed?

A. Yes, sir.

Q. Did you laugh?

A. I don't remember. It was a general laugh.

Q. You were in the everybody, weren't you?

A. Yes. It was a general laugh.

Q. Did you laugh?

A. I might have.

Q. You don't remember?

A. No. I can remember more about the others than I can myself.

Q. If you didn't laugh, then everybody didn't laugh.

A. I said I probably did, but I don't recall it at this moment.

Q. Did you see Mrs. Davis laugh?

A. I heard the laugh.

Q. Did you see Mrs. Davis laugh?

A. No, I didn't see anybody. I heard it.

Q. Did you see Harold Williams laugh?

A. He was on his way to California.

Q. Did you see Trevor Williams laugh?

A. No, I don't think I did.

Q. Did you see Mr. Davis laugh?

A. Yes, I think he did laugh.

Q. Was Father Mellon there?
A. Father Mellon was right at my right.
Q. Did he laugh?
A. That I couldn't tell you. I was watching Stringer.
Q. What did you intend to convey when you said that everybody laughed after he asked it?
A. I heard it. I heard the laugh.
Q. Everybody?
A. Well, I won't say everybody.
Q. Well, but you did say everybody.
A. Well, that is a mistake.
Q. That is what I wanted to get you to say, that was a mistake, wasn't it?
A. That I meant everybody.
Q. Was it a mistake? Let's get that understood, was that a mistake or not?
A. I will say that I heard a laugh, which I believed everybody participated in except Stringer and Trevor Williams.
Q. Well, do you want the record to stand that you gave an answer to the question, or perhaps you volunteered, that Mr. Stringer asked the question and everybody laughed? Do you want that corrected or not?
A. I want that to stand as I just repeated the last answer.
Q. Nobody answered?
A. Yes, sir.
Q. Who answered?
A. Mr. Fahler.
Q. What did he say?
A. "Ask my lawyer."
Q. Did anybody ask the lawyer?
A. No, sir.
Q. The lawyer make any reply?

A. Wasn't any question asked. I said no to that question.

Q. I asked whether the lawyer made any statement or reply?

A. You asked me if the lawyer made any reply.

The Court: Answer the present question.

A. The lawyer did not make any reply because there was no question asked him.

Q. Independent of whether a question was asked him or not, Mr. Fahler said, "Ask my lawyer." Now, did the lawyer make any statement?

A. No, sir.

Q. Now, you say that Mr. Harold Williams did not appear to be ill?

A. Why he was the only one had an appetite and he ate a meal right in the room.

Q. Did you ever know a sick man to eat?

A. Yes.

Q. Then will you answer my question, please.

A. He did not appear sick.

Q. Why couldn't you have said that before?

A. I could have.

Q. Why didn't you?

A. Because I wanted to tell you how sick he was when he could eat.

Q. Did you hear anybody say anything about aromantic spirits of ammonia?

A. I didn't hear anything about it, but there was aromantic spirits of ammonia in that room, I don't know anything about who went for it, how it got there, or anything else.

Q. Who was using it?

A. That I couldn't tell.

Q. You don't know who it was there for?

A. No, sir.

Q. Now, Mr. Davis had suggested to you that you ought to send for Harold Williams, didn't he?

A. No, sir.

Q. Anything said about his coming back, anything said about Harold Williams coming back?

A. Yes, sir.

Q. How did that come about?

A. He said that he thought he should telephone to Harold Williams to come back immediately.

Q. What did you say?

A. "Why do that? Don't be a damn fool, let him stay out there as long as he wants. We can accomplish more here without him."

Q. Well, when Davis told you that he wanted Williams back, he told you why?

A. Yes.

Q. What did he say to you?

A. He told me it was serious.

Q. What was serious?

A. The fact that Dave Smith had told him that he had told Dorrian that the Williams crowd had fleeced him out of more than fifty thousand dollars on the land purchased from him.

Q. Did you understand ——

A. And that Trevor had used a name of a person not in existence.

Q. Did you understand that Harold was included in that charge?

A. In the fifty thousand?

Q. Yes.

A. Oh, yes.

Q. Did you think, from what Mr. Davis had told you, that Harold had done something that was wrong?

Mr. McCarter: I object.

The Court: Sustain the objection.

Mr. Cole: I am trying to get this witness' attitude of mind towards Mr. Williams and also his interest in this matter.

The Court: Sustain the objection.

Q. At all events, after what Mr. Davis had told you, and he thinking that you ought to have Mr. Harold Williams back, and charged that somebody had fifty thousand dollars illegally, you said, "Don't be a darn fool, let him stay out there?" Is that correct?

A. That is correct.

Cross-examination.

By Mr. Bourgeois:

Q. Mr. Hart, when was it that you told Mr. Davis not to be a damn fool but let Mr. Williams stay out there?

A. About May first.

Q. You wrote him on April twentieth, I think?

A. That is correct.

Q. At that time you were friendly with him, weren't you?

A. I won't say friendly. There was a little feeling in my mind that things weren't going just the way they should, and I so told him in that letter that you have there.

Q. Now, this letter will show what your feeling was, won't it?

Mr. McCarter: One moment. What letter are you referring to?

Mr. Bourgeois: I am referring to a letter he says

I have in my hand, he apparently knows what it is. It is a letter of April 20, 1927.

Mr. McCarter: Let it be identified in some way and shown to the witness so we know what we are talking about.

Mr. Bourgeois: He apparently knows what it is, what he has referred to.

Mr. McCarter: I object to the use of the letter.

The Court: Sustain the objection.

Q. I show you a letter dated April 20, 1927, signed by you and Mr. Davis, and ask you if that was your letter?

A. It was our letter.

Q. Yours and his?

A. Yes, sir.

Q. You described all that it contained, didn't you?

A. Yes, sir.

(Letter offered, received in evidence and marked Exhibit D1.)

Mr. Bourgeois: "April 20, 1927. Mr. Harold S. Williams, Cliffwood Apartments, 1843 Cherokee Street, Hollywood, California. Dear Harold: We received your telegram and letter O. K. Everything is going along nicely and the Ventnor office does not need any pepping up from us. They are all pretty busy here getting inquiries daily as the result of the advertisement in the Sunday paper. Things look very good and I think the advertisement will bring good results. The fill at Del Rey has reached the bulkhead, and another week it will

be up to grade around the bridge. You no sooner had left than all kinds of rumors started, not only in barber shops but hairdressing parlors, restaurants, and everywhere else. There were many variations such as you had moved your furniture, as well as the automobile to California. These have practically died down with the exception of the one that Gordon had left to open an office, and after he had done that all the rest moved down to help him in the new venture. This coupled with the rumor on this trip to the coast the three boys had taken their cars with them as they intended to stay. Mr. Dorrian, Fahler and Parker came in Sunday afternoon and everything was very pleasant. Mr. Dorrian paid the interest on the Linwood property, but before doing so he asked that we put in writing our taking it over if not sold within six months. And he hasn't got anything from us, we have several prospects, and it looks as if it may be sold before long. Please ask Gordon what kind of a contract he made with Collisson and whether it was in writing or verbal. These rumors have practically died away and we believe the best thing is to forget it and enjoy your trip. If anything does come up that looks serious we will wire you at once. Hoping your wife is fully recovered and with kind regards, we beg to remain, Yours truly, Lou,—Davis."

Q. Now, Mr. Hart, when you wrote that letter you were on friendly terms with Mr. Williams, weren't you?

A. A little strained, though.

Q. A little strained?

A. Yes, sir.

Q. Why didn't you let him know that it was a little strained? Why didn't you put something in there to let him know something wasn't altogether right?

A. That reference to not only in barber shops but in hairdressing establishments, restaurants and everything else, he could read those words.

Q. Well, suppose he did, you said that practically died down and best thing to do was to forget it and you were not his friend, why did you give him that sort of advice?

A. I wasn't giving him advice. He don't need any advice.

Q. What did you call this, when you said ——

A. That says to forget it. That is not advice.

Q. "The best thing is to forget it and enjoy your trip."

A. Yes, that is not advice.

Q. Is that the language of a man who is not a friend?

Mr. McCarter: I object to the question.

The Court: Sustain the objection.

Q. When did the time come when you ceased to be friends, not a little strained, but when you were not his friend?

A. I never said I was his friend. You are mistaken on that?

Q. What?

A. I was a friend of his?

Q. You never said you were a friend of his?

A. I never said I was a friend of his.

Q. Were you ever a friend of his?

A. No, sir.

Q. You were not?

A. No, sir.

Q. Then you were always his enemy, were you?

A. No.

Q. What were you if you were not an enemy?

A. An acquaintance.

Q. That is all?

A. Absolutely.

Q. Never any friendship at all?

A. Absolutely. I have never been to his house and he has never been to my house.

Q. Then if you were not a friend, why did you so sign your name, "Lou," do you sign your name "Louis" to acquaintances?

A. Certainly, I call people by their first names, not friend of mine.

Q. When did you first take an active step against Mr. Williams?

A. About May second.

Q. And that was by going before the grand jury May the second, 1927? Did you go before the May term grand jury?

A. No, sir.

Q. Did not?

A. No, sir.

Q. Didn't you go before the May term of the Atlantic county grand jury and present a claim against Mr. Williams?

A. I said three times no.

Q. And were all three times true?

A. Yes, sir.

Q. When did you go?

A. About October, 1927.

Q. Did you go before the grand jury and complain against him as a friend or just an acquaintance?

Mr. McCarter: I object.

The Court: Sustain the objection.

Q. What was your object in going before the grand jury at that time?

Mr. McCarter: I object to that.

The Court: Sustain the objection.

Q. Did you receive—you did receive the letter that is marked C13, didn't you?

A. Yes, sir.

Q. Now, when he spoke in that letter of "Vernon, Trevor and Roy will not be connected in business with me any more," and then later where he said that he wanted to get them off his hands, and again where he said that he didn't want them, one of them pitted against the other, did you understand from that reading that he intended to tell you that these young men did not get along well together in business?

A. I know they didn't.

Q. You knew they didn't?

A. Yes, sir.

Q. And you knew the reference in this letter had regard to that situation, didn't you, where he said, "I cannot do business with this load slung on my neck, for it was first one and then the other. Vernon, Trevor and Roy will not be connected in business with me any more, only Gordon. What with Killean and his family, and wife, many times I thought of taking my life, not so much good doing that. I want you to look after my things while I am away. My plans now are to return to Atlantic on the 25th of May. I have carried a terrible load for four years and it was getting me fast, and I know it. The furniture is shipped and the wife is taking a house for a year. I expect to spend between seasons with her. I will leave my car and, if necessary buy one in Atlantic City to run around in and leave it in the garage when I go back." Wait just a second, and I will find the other part—at the end

here, "You know more of my troubles than anybody outside of my family, and then they don't know what I went through with some of them, for I didn't want to turn one against the other." Now, you knew, understood, did you not, that that all had reference to their conduct with each other, their inability to agree with one another?

A. No, more than that.

Q. What more than that?

A. Stealing from each other.

Q. Stealing from each other?

A. Yes.

Q. Why do you say stealing from each other?

A. Because that is the fact.

Q. Do you know it?

A. Except what Harold told me and what Vernon told me.

Q. Who?

A. Vernon.

Q. That they stole from one another?

A. Yes, absolutely.

Q. And Harold told you that his sons stole from one another?

A. Yes, sir.

Q. And Vernon told you he stole from them, is that right?

A. No, Vernon didn't say he stole from them.

Q. What did he say?

A. Vernon said they all stole from him.

Q. Vernon said they stole from him?

A. He was the outcast.

Q. They had reference not only to the fact that they could not agree with one another—this had—but Harold had told you that the boys stole from one another?

Mr. McCarter: One moment, his conclusion. He

didn't know what it had reference to, and I suppose what he supposed it had reference to is objectionable.

Q. Tell me just what Harold said to you that led you to think that the boys had stole from one another, what did he say to you?

A. Harold told me that he wanted me to be particularly careful in anything of Gordon's because the other boys would steal his right eye if they got the chance.

Q. That is what he told you?

A. Yes, sir. Now, when Gordon went to California on one trip ——

Q. Did he tell you?

A. This is what he told me and showed me the proof.

Q. All right, what he told you.

A. When Gordon came back from California he received a bill for hundreds of gallons of gasoline in his car, and Gordon told his father that somebody had been using his car and charging the gasoline to him, but he couldn't find out who did.

Q. What has that got to do with these other boys?

A. They were stealing that stuff, that is all, got to do with the other boys.

Q. You didn't say that, you said something different from that.

A. The boys were using his car.

Q. Now, Mr. Hart, when Mr. Williams received this letter from you on April 20th, and then he wrote back to you on April 25th, did you understand from his letter that he considered you his friend, a confidential friend?

A. No.

Q. You did not?

A. No.

Q. You didn't understand when he said, "I hear Mary McDonald and Mrs. Dorrian drove up to the house when the furniture was being removed. I hear pretty nearly everything. What do you think of the Jersey snipe now? Well, Old dear, Gordon has no venture except in Margate, as I am telling you that straight." What did you think his feeling was when he addressed you as "Old Dear"?

A. A lot of bunk.

Q. "The other boys will locate here permanently and take positions, but not in the real estate game. That is as dead as Atlantic City and Gordon told me that a week after he arrived. All Gordon is doing is having a great time, and said that what the hell is the use of going back until things turn? He can't sell houses because of his deformity. The other boys wanted someone to do the work and they collect the dough. To tell you the truth it would be a great relief to me if they settled and got off my hands. My wife plans to stay one year to recover her health. Her condition nearly drove me insane and I think it will be for the best, so long as my mind is easy over her, I will be a different man all around. You know more of my troubles than anybody outside of my family and even they do." Now, what did you think at that time, did you think he regarded you as his friend?

Mr. McCarter: I object.

The Court: I will permit that.

A. No, I wouldn't call that friendship, simply writing me to see that the lawn is taken care of.

Q. I haven't come to that.

A. You left that out.

Q. I am asking you: "You know more of my

troubles than anybody else outside of my family and even they do.''

A. I guess that is probably a fact.

Q. You knew more of his troubles?

A. Well, I won't say I knew more of them. I knew quite a number of his troubles, but not only I knew it, the whole world knew it, so it wasn't confidential.

Q. I am asking you whether you understood ——

A. That doesn't mean friendship.

Q. —— Mr. Williams regarded you as a close confidential friend?

A. No, he did not.

Q. He did not?

A. No, sir.

Q. Now, you told Judge Cole that you had no interest in this matter except as an officer, I think, did you not?

A. I did.

Q. Now, it would be an officer of what company, I didn't get that, and I want to know, an officer of Gordon Williams Company or Williams and Davis Company?

A. Williams and Davis Company.

Q. Now, why, if you were an officer in the Gordon Williams Company, an officer of the Williams Davis Company, and those two interests conflicted, if they did, why did you remain in both of them?

A. Because I wasn't getting paid as an officer of Gordon Williams and Company. I was being paid as an officer of Williams and Davis Company.

Q. And your loyalty then went with the company for which you got paid?

A. Naturally, as an officer.

Q. Now, then, as an officer of the Williams and Davis Company you went to the office of the Gordon Williams and Company and made it possible for

Mr. Dorrian to take the checks and papers of the Gordon Williams Company away to Godfrey's office, didn't you?

A. Well, I won't—I can't answer that in the question as put.

Q. Well, let me ask you some questions, as previously put. Did you go to the Gordon Williams Company's office and get some checks from the office?

Mr. McCarter: When?

Mr. Bourgeois: I don't know when.

Mr. McCarter: I think it is important when.

Q. Did you get them?

A. I went to the Margate office and did check some checks but ——

Q. Did you take the checks?

A. Williams and Davis ——

Q. Did you take the checks?

A. You asked me a question and I am answering ——

The Court: You have answered.

Mr. Bourgeois: I asked him if he took the checks and he said he did. That is all there is to that.

A. I didn't say yes, I did take those checks. I hadn't finished.

The Court: What is the answer?

(Previous answer repeated.)

Q. Now, when did you do that?

A. That was about May 9th.
Q. May 9th, 1927?
A. No, about May 2nd, a week before that.
Q. May the second?
A. Yes.
Q. And what did you do with those checks?
A. Gave them to Mr. Dorrian.
Q. And what did Mr. Dorrian do with them?
A. That I don't know.
Q. Well, didn't you accompany him with them, didn't you tell me before that you went with him when he gave them to Mr. Godfrey?
A. No, I say I saw them in Mr. Godfrey's office and I presume Mr. Dorrian took them there.
Q. Where were those checks?
A. In the back closet.
Q. In where?
A. The closet in the back room.
Q. How many of them were there?
A. I would say about a dozen.
Q. On what accounts were they, if you remember?
A. Gordon Williams and Company.
Q. Did Mr. Dorrian take them all?
A. You mean the dozen?
Q. Yes, all that were there?
A. Oh, no, I selected certain checks.
Q. Then you, as an officer of the Gordon Williams Company, selected certain checks of Gordon Williams and Company and turned them over to Mr. Dorrian as an officer of the Williams and Davis Company, is that right?
A. Yes, sir.
Q. Mr. Dorrian did what with those checks?
A. I believe he took them to Mr. Godfrey's office.
Q. Well, did you know that he wanted to take them?

A. I can't answer that.

Q. What became of the other checks?

A. I left them there.

Q. Now you left them there, what else did you show to Mr. Dorrian besides the checks?

A. Some letters, or a letter.

Q. Did you take the letters?

A. I took them out and let Mr. Dorrian read them.

Q. Took them out from where?

A. That was in a bundle in Mr. Harold Williams' desk.

Q. And where was that bundle, in the safe?

A. No, in the drawer of Mr. Harold Williams' desk?

Q. Where?

A. In the drawer of Mr. Harold Williams' desk.

Q. In the drawer of Mr. Harold Williams' desk, and what sort of papers were they?

A. They seemed to relate to the trip to Florida, nothing else.

Q. Was any record made of them or did you just take them out and hand them over?

A. Took what I thought was the useful and handed them over to Mr. Dorrian.

Q. Useful for what purpose, Mr. Hart? You thought they were useful for what purpose?

A. To—in this coming litigation.

Q. You then knew you were going to have some litigation, did you?

A. Oh, that was after my talk with Davis.

Q. But it wasn't after you were writing to Mr. Williams, was it? That was on May second, and you were writing to Mr. Williams on May 7th, or communicating with him, weren't you?

A. No.

Q. Weren't you?

A. No, no, no. April 20th.

Mr. McCarter: April 20th. Don't mislead on that.

Q. What were those dates, May seventh and May 10th, you got a telegram May 10th, didn't you, from Mr. Williams?

A. Yes, but that is not my communicating with him.

Q. No. Now what was it about May 7th, I have some memorandum.

A. May 7th is when Mr. Davis was—went out of Mr. Godfrey's office to bring Julia Coll to the office.

Q. And before that time you had taken the checks and the papers out of Mr. Williams' safe and handed them over to Mr. Dorrian?

A. Yes. I don't say I took all of those things at one time, some of them might have been taken prior to and some subsequent to May 7th. I can't say definitely.

Q. At that time you were not Mr. Williams' friend, but you were his enemy, weren't you?

A. I won't say I was his enemy. I would say I was not his enemy, and I won't say—I don't have enemies.

Q. You don't have any enemies?

A. No.

Q. How many trips did you take to that office for the purpose of securing papers to deliver to Mr. Dorrian or Mr. Godfrey?

A. I couldn't tell you.

Q. You can give me some estimate, can't you?

A. I would say a dozen.

Q. A dozen trips, and covering what period of time?

A. I started to take papers about May 2nd, I think.

Q. And continued it until when?

A. That I couldn't say.

Q. And were you surprised when you found that the bundle of papers or the envelope of papers had been removed out of your possession, I mean out of where you could have access to them, beyond your access?

A. I was not surprised, I was astonished, and that was what started the rumpus, that was on May 2nd.

Q. May second?

A. Yes, sir.

Q. It was because they had removed the papers from your presence, that is where you could have access to them, that started you against them, was it? Was that it?

A. No, that wasn't what started it.

Q. What started you?

A. The fact that Davis had told me about this Smith deal wherein they had bought this property with the company's money and turned it into the company at a profit, the fact that he said that Helene Wright was, there was no such person as Helene Wright, and coupled with the fact that the folders containing the company's papers had been removed from the usual place, I took my step.

Q. That astonished your moral sensibility, didn't it?

A. I didn't have any moral sensibility.

Q. You didn't have any moral sensibility?

A. No.

Q. That accounts for you going in, as director of Gordon Williams and Company, and securing their papers and turning them over to Dorrian, doesn't it?

A. I didn't go in as director of Gordon Williams and Company. I went in there, without either thinking I was a director or anything else of Gordon Williams and Company. I did it.

Q. Yes, you did it. Now I am trying to find out in what capacity you did it. Did you do it as a director of Williams and Davis Company or as a vandal might go in there?

A. I don't know as a vandal would go in there. I don't want to make comparisons.

Q. What?

A. No.

Q. Do you think comparisons between vandalism and representative or director of Williams and Davis Company would be odd?

A. It might be.

Q. Which one do you think would be injured by it?

Mr. McCarter: No.

The Court: Yes, we are wasting time.

Mr. McCarter: Trying to get through with this case.

Mr. Bourgeois: Yes, I am glad you think about it at least.

Q. Now what became of all the papers that you took from that office?

A. They finally got to Mr. Godfrey's office.

Q. And he still has them?

A. Yes, sir.

Q. And he, having the papers—do you know if he served a subpœna on the other side to produce all those papers and checks?

A. I heard it here in court.

Q. And at the time those subpœnas were served he had part of those checks and papers in his own possession, didn't he?

A. He did not.
Q. Where were they then?
A. In your possession.
Q. The checks that you took out of the office?
A. He didn't subpœna those.
Q. Didn't he?
A. No.
Q. Why didn't he?
A. I don't know. We didn't subpœna any checks of Gordon Williams and Company whatever.
Q. You didn't?
A. No, sir.
Q. And you didn't get any checks except Gordon Williams?
A. Gordon Williams checks and company only.
Q. Why, if you didn't subpœna any of them, why did you take the checks of Gordon Williams and Company, why was it?
A. To prove the handwriting on those checks, so that a handwriting expert could examine them.
Q. That is all you took them for?
A. No, and to show the transactions of Julia Coll and so forth.
Q. Then didn't the subpœna require us to produce the checks and papers touching that case?

Mr. McCarter: I object. He is not responsible for that subpœna.

Mr. Bourgeois: Yes, I will withdraw that.

Q. Have you any record of the papers you took from that office, papers and checks?
A. I have got a record of the checks and the papers. I can tell without any hesitation what I took. There is a few telegrams and a letter were the only documents I took.

Q. Now, Mr. Hart, did you take some folders out of that office?

A. Yes, sir.

Q. I see. How many folders did you take?

A. They are there.

The Court: Answer the question, please.

A. I can't answer, it is about ——

Q. How many are there?

A. I don't know, twenty-five or thirty.

Q. Twenty-five or thirty? What did they contain?

A. Mr. Dorrian's and Fahler's agreements of sales, and papers relating to purchase and sales of Dorrian and Fahler.

Q. And out of the office of Gordon Williams and Company?

The Court: Just one minute; will you state whether or not you mean to say that the papers themselves, were they copies of the papers which should have been in Dorrian and Fahler's possession, or were they copies in Gordon Williams and Company's possession of the transactions?

A. They should have, they belonged to Mr. Dorrian, but they kept all of Mr. Dorrian's papers.

Q. Now, think, Mr. Hart, weren't they the papers that came to Gordon Williams and Company as brokers for the property that they sold?

A. No, sir.

Q. What?

A. No, sir. They sold these properties, yes, but they didn't belong lawfully to Gordon Williams and Company, title policies belong to the purchaser.

Mr. Bourgeois: I am going to offer them all in

evidence. I am not willing to accept his conclusion on the question of law.

Mr. McCarter: You asked him and he answered it.

A. Wait a minute, these things here don't belong in there, just take those out. (Taking out two white sheets from amongst the bundle of folders.)

(The following folders were then offered, received in evidence and marked as follows):

Folder between Mary S. McDonnell and Connie J. Dorrian, marked Exhibit D2.

Folder between Mary Nolan and Louis G. Hart, Louis G. Hart and Ruth A. Stees, Ruth A. Stees and John Scanlan, John Scanlan, et ux, and Paul Endicott, marked Exhibit D3.

Folder between John Jolley and Annette Novatshek, marked Exhibit D4.

Folder between Emilie V. Dorfner, et vir, and Connie J. Dorrian, marked Exhibit D5.

Folder between Eugene G. Schwinghammer, et ux, and Connie J. Dorrian, marked Exhibit D6.

Folder between Connie J. Dorrian, et ux, and Paul D. Endicott, marked Exhibit D7.

Folder between Adolph Jafolla, et als., and Connie J. Dorrian, marked Exhibit D8.

Folder between Connie J. Dorrian, et ux, and Laura J. Benner, et al., marked Exhibit D9.

Folder between Helene Wright and Connie J. Dorrian, marked Exhibit D10.

Folder between Albert L. Coryell and Vivian B. Smith, assigned to Helene Wright, Helene Wright to Connie J. Dorrian, marked Exhibit D11.

Folder between Connie J. Dorrian, et ux, and Charles Lurker, marked Exhibit D12.

Folder between Annette Novatshek and Connie J. Dorrian, marked Exhibit D13.

Folder between Charles S. Moore and Connie J. Dorrian, marked Exhibit D14.

Folder between Harold S. Williams, et ux, and Connie J. Dorrian, marked Exhibit D15.

Folder between Sadie A. Craigen and Louis Mark, marked Exhibit D16.

Contract between Regina I. O'Neill and Mary S. McDonnell, two copies, marked Exhibit D17.

Folder between Annette Novatshek and Connie J. Dorrian, marked Exhibit D18.

Receipt from George W. Roberts to Gordon Williams Company, marked Exhibit D19.

Folder between Lloyd W. Fahler, et ux, and Nellie Daily, marked Exhibit D20.

Folder between Frederick Schwarz and Annette Novatshek marked Exhibit D20½.

Folder between John Stinson and Lloyd W. Fahler, marked Exhibit D21.

Folder between Dora Ireland and Mary S. McDonnell, and Frank W. and Catherine W. Covert, marked Exhibit D23.

Folder Ruth A. Stees, marked Exhibit D22.

Folder between John P. Early and Mary S. McDonnell, marked Exhibit D24.

Folder between Connie J. Dorrian, et ux, et als., and Helene Wright, marked Exhibit D25.

Folder between Helene Wright and Lloyd W. Fahler, marked Exhibit D26.

Folder between Connie Dorrian, et ux, and H. Kendall Read, marked Exhibit D27.

Folder between Frederick Schwarz and Connie J. Dorrian, et als., marked Exhibit D28.

Folder between Philip J. Kelly and Connie J. Dorrian, marked Exhibit D29.

Folder between Mary S. McDonnell and Mary Kier Fahler, marked Exhibit D30.

Folder between Lloyd W. Fahler, et ux, and Louis Mark, marked Exhibit D31.

Folder between John J. Jones, et ux, and Lloyd W. Fahler, marked Exhibit D32.

Folder between Lloyd W. Fahler, et ux, and Newton W. Cadwell, et al (crossed out). and Paul Cadwell inserted in pencil, marked Exhibit D33.

Folder between Lloyd W. Fahler, et ux, and May B. Reisser, marked Exhibit D34.

Folder between Helene Wright and Chelsea Laundry Company, marked Exhibit D35.

Folder between Maurice Y. Cole, et ux, and Connie J. Dorrian, marked Exhibit D36.

Folder between Arthur J. McGee, et ux, and Annette Novatshek, marked Exhibit D37.

Folder between Annette Novatshek and Connie J. Dorrian, marked Exhibit D38.

Folder between Annette Novatshek and Connie J. Dorrian, marked Exhibit D39.

Folder between Mary Allan Elwood, et vir, and Connie J. Dorrian, marked Exhibit D40.

Folder between W. G. Zapzosodi, et als., and Louis J. Gart, marked Exhibit D41.

Folder between Louis G. Hart and Connie J. Dorrian, marked Exhibit D42.

Folder between W. G. Zapzasodi, et ux., et als., and Louis G. Hart, marked Exhibit D43.

Folder between Connie J. Dorrian, et als., and Leslie S. McPherran, marked Exhibit D44.

Folder between Adolph Jafolla and Connie J. Dorrian, marked Exhibit D45.

Folder between Connie J. Dorrian and A. Conrad Ekholm, marked Exhibit D46.

Folder between Adolph Jafolla and Connie J. Dorrian, marked Exhibit D47.

Folder between Carl T. Roesch and Connie J. Dorrian, marked Exhibit D48.

Folder between Anton Dorfner, et ux, and Connie J. Dorrian, marked Exhibit D49.

Folder between Louis G. Hart, et ux, and Lloyd W. Fahler, marked Exhibit D50.

(Two statements, one Ruth F. Chapman, et vir, and Connie J. Dorrian, and the second, Annette Novatshek and Connie J. Dorrian, marked Exhibit D51.)

Q. Mr. Hart, in your direct examination about the record you testified as follows: You testified that there was a sale and purchase of property for five hundred dollars an acre, sold at twelve hundred, a purchase of property six hundred dollars an acre sold at twelve hundred, purchase of property for ten thousand dollars and sold for twenty-five thousand dollars through a straw?

A. You have got a mistake in one figure.

Q. What was it?

A. Seven hundred dollars instead of five hundred, seven hundred and fifty instead of five hundred.

Q. You said five, I am quite sure of that. I don't care anything about that, and used a straw. Now I ask you did you consider it to be immoral or illegal to use a straw?

Mr. McCarter: I object to the question.

The Court: I think I will permit that question now.

A. To use a straw, I don't, but in the way this

was done, it was.

Q. Was this done any different than what was done in the Somers case that came up yesterday where you were the straw?

A. A great deal of difference.

Q. A great deal of difference?

A. A great deal.

Q. Just so I want to see if you feel there is a difference between them.

A. Oh, yes.

Q. Did you say that you understood there was no such person as Helene Wright?

A. I said that.

Q. And you don't know now that there is, or do you know now that there is?

A. I said it was told me that, but I knew—there isn't any Helene Wright, no, sir.

Q. Is there a Helen Wright?

A. There is a Helen M. Wright.

Q. Did you know her?

A. Not at that time.

Q. But you do since?

A. I do, and she says she never signed or authorized anybody to sign papers, too.

Mr. Cole: I wonder if that may not be stricken. The gentleman is inclined to volunteer.

The Court: Yes.

Q. Now, Mr. Hart, you say you received no compensation out of this thing except a hundred dollars a week which began just after your activities began last year?

A. Two weeks.

Q. Two or three weeks afterwards?

A. That is right.

Q. I suppose that a hundred dollars a week was given you as compensation for what you were doing in this Williams matter?

A. Well, I was doing other work besides.

Q. What other work had you done except this?

A. I had attended to the Del Rey development.

Q. That took you a lot of time, I suppose, didn't it, these times?

A. Yes, sir. I went to Trenton. I have been over to the engineer's office I guess forty or fifty times, and I was taking care of the dredge work.

Q. Let me ask you a few questions: The first is, have you been promised by Dorrian and Fahler, or either of them, twenty-five thousand dollars if you are successful in winning these suits against Davis and Williams?

A. No, not even twenty-five cents.

Q. Have you received part of the moneys from Mr. Repetto that he has received from Mr. Fahler for his compensation, that is compensation for you?

A. What is that?

(Question repeated.)

A. I don't know that Mr. Repetto ——

Q. I didn't ask you that.

A. I never received any moneys at all from Repetto.

Cross-examination.

By Mr. Cole:

Q. Why were you in the transaction that Mr. Bougeois asked you about?

A. The Somers estate?

Q. That is the only one you have been asked about.

A. Mr. Trevor Williams brought the contract to me and said, "Lou, buying this property, and we are going to take it in your name."

Q. Did you think that was right?

A. Certainly.

Mr. McCarter: I object.

The Court: I will permit that.

Q. Paid for it?

A. Sir?

Q. Were you paid to be a straw?

A. No, sir.

Q. Nothing at all?

A. No, sir.

Q. Not twenty-five dollars?

A. No, sir.

Q. Sure about that?

A. Absolutely.

Q. Now when you went in the office of Gordon Williams and took therefrom its property, acting as president of the Williams and Davis Company, did you think you were doing right?

A. Yes, sir.

Q. Now at that time what was your relation to the Gordon Williams Company?

A. I was a director and stockholder.

Q. And you admit, as I understand, that you went there to get those papers, and to get whatever information you could to aid Mr. Dorrian and the Williams and Davis Company in prosecuting these claims?

A. Yes, sir.

Q. Now when do you say it was that you had the meeting at which Mr. Scanlan was present and you talked about the capias?

A. May twenty-first and May twenty-third.

Q. Now you also said a moment ago, in answer to Mr. Bourgeois, concerning some difference between members of the family, the Williams family, that the whole world knew that situation. Do you mean that?

A. I didn't say so.

(Former answer repeated as follows: "Well, I won't say I knew more of them. I knew quite a number of his troubles but not only I knew it, the whole world knew it, so it was not confidential.")

Q. Now do you stand by that?

A. Yes.

Q. Did you know as much concerning the alleged illegal transactions at the time of the capias as you did when you went to the October Grand Jury?

Mr. McCarter: I object to the question.

The Court: Sustain the objection.

Mr. Bourgeois: I want to ask him one question.

Mr. McCarter: Is there any end?

The Court: There should be, but counsel says he has overlooked a question ——

Mr. Bourgeois: I have overlooked it. I didn't know it at the time.

Re-cross examination.

By Mr. Bourgeois:

Q. Mr. Hart, you say that you are an acquaintance of Harold Williams?
A. Yes, sir.
Q. Were you a friend of Gordon Williams?
A. No, sir.
Q. Did Gordon Williams give you an automobile?
A. He did not.

Mr. Bourgeois: I want to make a demand, if your Honor please, on Mr. Godfrey, or Mr. McCarter, or somebody for those checks of the Gordon Williams Company. I think they belong to us and not to you folks.

Mr. McCarter: Are you keeping them?

Mr. Bourgeois: Yes, for keeps.

Mr. McCarter: I don't know that this is a proper use of a subpœna to get papers.

The Court: The witness testifies that he abstracted from the files or the place of another company, of which he is a director, and delivered to you, or to representatives, certain papers which he says now did not belong to anybody else except that company. Certainly this court is justified in either taking possession of those papers and impounding them in the court or in delivering them to the people to whom it is admitted they belong.

Mr. McCarter: Perfectly willing they should be

impounded. I don't think a subpœna can be used as a write of replevin.

The Court: That may be done.

Mr. Bourgeois: I am going to ask these others be impounded also, these exhibits I put in there.

The Court: Those exhibits will not be impounded unless counsel agree as to each item. The Court will not be responsible for possession of exhibits which are offered in bulk, be responsible for any exhibit which is itemized.

Mr. Bourgeois: Those have been offered separately and these checks are:

("Check of Gordon Williams Company dated December 9, 1925, for $206.48 to Julia Coll.

Check Gordon Williams and Company dated November 30, 1925, for $5,000, to Julia Coll.

Check Gordon Williams and Company, dated November 28, 1925, for $1,000, to Julia Coll.

Check Gordon Williams and Company dated October 23, 1925, to Julia Coll for $161.62.

Check of Gordon Williams and Company, dated December 29, 1925, for $1,879.46, to Helene Wright.

Check of Gordon Williams and Company, dated September 8, 1926, for $15,720, to Sadie A. Craigen.

Check dated November 9, 1925, for $2,000, to Julia Coll.

Check of Gordon Williams and Company, dated October 25, 1925, for $900, to Helene Wright.

Check dated October 26, 1925, for $2500, to Helene Wright.

Check of Gordon Williams and Company, dated August 4, 1926, for $500, to Gordon Williams.

Check of Gordon Williams and Company, dated September 4, 1926, for $1,000, to Sadie A. Craigen.

Check of Harold S. Williams, dated April 12, 1926, for $2,908.80, to Gordon Williams.

Check of Harold S. Williams, dated October 1, 1925, for $2.00, to Thomas Youngman.

Check of Harold S. Williams, dated January 12, 1926, to Nicholas S. Rausohoff for $65.00.

Check of Harold S. Williams, dated December 2nd, 1925, for $2.00, to Thomas Youngman.

Check of Harold S. Williams, dated January 6, 1926, to Dr. J. C. White for $15.00.

Check of Harold S. Williams, dated February 5, 1926, to Thomas Youngman for $19.00.

Check dated November 5, 1925, of Harold S. Williams to Thomas Youngman for $4.00.

Check of Harold S. Williams, dated November 11, 1925, to Homer I. Silvers for $16.00.

Check of Harold S. Williams, daetd December 25, 1925, to Homer I. Silvers for $9.00.

Check of Harold S. Williams dated January 4, 1926, to Thomas Youngman for $35.00.

Check of Harold S. Williams, dated February 5, 1926, to John Pennington for $20.00.

Check of Harold S. Williams, dated June 3, 1926, to Thomas Youngman for $2.00.

Check of Harold S. Williams, dated April 24th, 1926, to Dr. John Pennington for $15.00.

Check of Harold S. Williams, dated July 3, 1925, to Thomas Youngman for $15.00.

Check of Harold S. Williams, dated September 21, 1925, to Philadelphia General Hospital for $15.00.

Check of Harold S. Williams, dated May 3, 1926, to Thomas Youngman for $2.00.

Check of Harold S. Williams, dated May 3, 1926, to C. Coulter Charlton for $15.00.

Check of Harold S. Williams, dated October 14, 1925, to Charles J. McAnulty for $3.00.

Check of Harold S. Williams, dated June 3, 1926, to C. Coulter Charlton for $25.00.

Check of Harold S. Williams, dated August 8, 1925, to John Humphries for $100.00.

Check of Harold S. Williams, dated February 13, 1926, to Harold S. Williams for $10,000.

Check of Harold S. Williams, without date, to Newell and Besore, for $87.50)

The Court: I want to call attention to the fact that the only testimony of checks was checks of Gordon Williams Company.

Mr. Bourgeois: I know that is true.

The Court: In the pile that is produced a large number of checks now, there has been no reference made ——

Mr. McCarter: An explanation has been made to me. They subpœnaed us to produce all checks of every kind, not binding it to Gordon Williams and Company, and all checks, if your Honor please, were separated and put in that envelope. Now they cover, as your Honor has seen already, a great many checks that had nothing to do with the subject matter of what was taken from the office. A great many of those checks were delivered to us by the bank, at Toms River, that are in there, and I don't want your Honor to have the impression that all those checks were checks that Mr. Hart has testified were taken by him from the office. It is a mistake. It is an error. I think they better be segregated so there won't be any misunderstanding. They are in the

language of the subpœna, and when we were asked to produce checks covered by the subpoena, we produced them all. Now counsel would give your Honor the impression that they are all of the character suggested.

Mr. Bourgeois: What right do you folks have to have our checks anyway? I ask, if your Honor please, they be impounded.

The Court: Yes, they may be impounded. You were asked, Mr. McCarter, to produce checks to which reference had just been made by this witness.

Mr. McCarter: I think, your Honor is mistaken about that. He said, "Gentlemen, you were subpœnaed to produce some checks."

Mr. Bourgeois: We didn't use any subpoena. We gave a notice. Where is the notice?

The Court: They will be impounded anyway for the present.

(Checks previously enumerated are offered, received in evidence and marked as one Exhibit D50A.)

Mr. Cole: There are one or two other questions that I would like to ask this witness. I am sorry to have to ask your Honor's indulgence.

The Court: I will permit it.

Re-cross examination.

By Mr. Cole:

Q. Have you a feeling of hostility toward Trevor Williams, Harold Williams, and Gordon Williams?
A. I won't call it hostility. I haven't a friendly feeling toward them.
Q. Is it your practice, when you learn that somebody has done what you think is wrong, to play the part of a detective, in trying to right the wrong?

Mr. McCarter: I object.

The Court: Sustain the objection.

Q. I show you a letter under date of March 29, 1928, addressed to the Breakfast Club, Hollywood, California, signed "Louis G. Hart" and ask you whether that is your letter?
A. Yes, sir.
Q. I show you one under date of March 29, to the Hollywood Athletic Club and ask you if that is your letter?
A. It is.

(Two letters just referred to offered in evidence.)

Mr. McCarter: I object to the letters as irrelevant.

Mr. Cole: I would like your Honor to see them. (Handing letters to the Court.)

The Court: I will admit them. No objection to the time of introduction I take it?

Mr. McCarter: No.

(Letters referred to, received in evidence and marked Exhibits D51 and D52.)

Mr. Cole: On the letterhead of Louis G. Hart: "March 29, 1928. Hollywood Athletic Club, Hollywood, California, Gentlemen: I understand one or more of the following named persons joined your club within the last year:

Vernon R. Williams
Gerald Royden Williams
Gordon Williams
Arthur Trevor Williams.

If this is a fact, you will see from the enclosed clipping that the facts stated therein were admitted by the father, Harold S. Williams, under oath; he admitted that his real name was Baldwin and that for twenty-five years he has been using the name of Williams, and knowingly sent his children to school and permitted them to marry under the alias Williams.

I thought you would like to have these facts and not have a member, of your club, associating with other members, using an assumed name.

Yours very truly,
(Signed) Louis G. Hart."

The second letter: "March 29, 1928, Breakfast Club, Hollywood, California. Gentlemen:

Last year a man by the name of Gordon Williams joined your club. It has just been found out that his real name is Harold Gordon Baldwin, and his father, for some reason not yet known assumed the name of Williams.

His son Gordon, or Harold Gordon, must have known something about this, for as far as I can

learn he has never attempted to vote and he must have been told by his father not to do so.

I thought that you would like to have these facts and not have a member of your club, associating with other members, using an assumed name.

I enclose a clipping from one of the newspapers of this city.

Yours very truly,
(Signed) Louis G. Hart.")

Both letters are all in typewriting except the signature which is pen, and at the end of the letter I have just read:

P. S. (in ink)
Also A. Trevor Williams,
Vernon R. "
Gerald Roy " "

By the Court:

Q. When was it that you told Davis not to be a damn fool about sending for Harold Williams?

A. In the Ventnor office of Gordon Williams and Company.

Q. On what day?

A. About May first.

Q. And you gave as your reason for that that you thought you could accomplish more without his presence?

A. Yes, sir.

Q. Now did you mean you could accomplish more for his benefit or for his disadvantage in his absence?

A. I didn't consider that. I was considering the advantage of the Williams and Davis Company because Davis was working with me at that time to take this development out of a rut and put it somewheres. I didn't consider Harold's matter of interest in there.

Re-direct examination.

By Mr. McCarter:

Q. What was the date, if you can recall, of your being first informed of the Smith transaction which, I understand, was the first of the transactions you learned of?

A. May first.

Q. You knew nothing of any of these transactions on April 20th when you wrote the letter to Harold at California?

A. No, sir.

Q. Do you remember the date you received Harold's reply (C14)?

A. No, I couldn't except going, judging from the postmark.

Q. At the time—will the Court pass to the witness the checks—can you from them select those that were taken by you from the office of Gordon Williams and Company?

A. I can.

Q. Do so.

(Witness complies.)

Q. How many do you select?

A. Eleven.

Q. Do you know anything about the other checks that were in the envelope that are now held in your hand?

A. I do not.

Q. Now what was the date, so near as you can recall, when you discovered the removal of the envelope or envelopes containing the Del Rey papers?

A. May second.

Q. Had your attention to that envelope shortly theretofore been directed?

A. Yes, sir.

Q. When?

A. The day before, Monday, I put those files back in the safe, in the regular place for them.

Q. What had you had them out for, or had they been out for previous to that?

A. Mr. Fahler had asked for a statement of his account and I took the files out of the safe so Mr. Besore could make up that, that is get some data from those files for Fahler's account.

Q. Now this place that you are speaking of as the office of Gordon Williams and Company was where; where was it located?

A. The Margate office was at 8300 Atlantic Avenue, Margate.

Q. Was this the office you are referring to?

A. Where the papers were kept, yes, sir.

Q. Is that the office from which these checks were taken?

A. Yes, sir.

Q. Was any business of Williams and Davis transacted at that office?

A. Yes, sir.

Q. That is what I am trying to get at. Was it not in fact a joint office?

A. It was.

Q. Was the safe used by both companies?

A. Yes, sir.

Q. Now in what kind of a holder were these Del Rey papers that you had seen out of the safe, and had been used in connection with Mr. Fahler's request at that time?

A. Similar to these (indicating folders marked Exhibits D2 to D50 inclusive.)

Q. Similar to what?

A. To these folders here.

Q. Were they any larger than the folders that are before the stenographer which have been produced and offered in evidence?

A. Thy were a little wider, but that type.

Q. But have you got anything here—would they have held the check books that were produced yesterday by Trevor Williams as being, or by Mr. Davis as being contained in the envelope?

A. No, they were not more than a half inch larger than these, in every respect.

Q. Did you have a key to the lockbox in the safe?

A. No, sir.

Mr. Cole: May it please your Honor, he comes along, and I suppose your Honor wants to know it all before we get through.

By Mr. Cole:

Q. I show you a check of Trevor Williams, drawn on the Ventnor Trust Company, dated April 19, 1926, to the order of Louis G. Hart for $50 and says, "For Somers Estate," and it seems to have the name of "Louis G. Hart" on the back and been cashed. I will ask you if you know what that fifty dollars was for?

Mr. McCarter: I object as irrelevant and immaterial.

The Court: I will permit it. He just said he had received no money, or a certain specific amount for acting as a straw in this matter.

A. I will say that I did not receive that money

for the Somers estate and I will say that every indication looks as if that "Somers Estate" has been added to that since.

Q. Can you tell us what that check was for?

A. No I can't, for this reason. Want the reason?

Q. Yes, surely I do.

A. At that time I had no bank account down here and I always had cash in my pocket. I was the banker for everybody around that office, if they wanted a check cashed.

Q. Do you know when this transaction was closed?

Mr. McCarter: Which transaction?

Mr. Cole: Somers transaction.

A. Well there were two closings of that.

Q. I show you a check of the Gordon Williams Company dated April 19, 1926, the same date of the check I have shown you, drawn to the Chelsea Title Company, and a notation, "Settlement Somers Estate, to Louis G. Hart," and ask you whether that check, if you know if that check was given in settlement of this transaction?

A. I don't know, that thing is made out in Trevor's handwriting, nothing there to indicate.

Q. Isn't this check of April 19, for $50 in his handwriting?

A. Yes, but there is nothing to show I had any connection with that settlement.

Q. Your suggestion is that that notation is made after?

A. I do.

(Check offered, received in evidence and marked Exhibit D53.)

Q. Why do you say that?

A. The ink looks different and the handwriting is different.

Q. Is that the reason, or because you would like it to be that way?

Mr. McCarter: I object to that question.

The Court: Sustain the objection.

By Mr. McCarter:

Q. You have stated that there was a great difference in the straws that were referred to on the cross-examination, I think of Mr. Bourgeois, between the two instances that he called your attention to. What was that difference?

A. In the Somers estate, in which I acted as a straw, they bought and paid for that property with their money and had a deed for it before they had sold it. In the other transaction they had ——

Q. Which is the other transaction?

A. In the Smith and Russell transaction they took the company's money and paid that money as the deposit on the agreement between Smith and Russell and Julia Coll.

Q. Are you familiar with the handwriting of Trevor?

A. Yes, sir.

Q. I show you Exhibit D53, being the check that Judge Cole just confronted you with, that I will ask if all of the manuscript upon that check is in Trevor's handwriting?

A. I am in doubt about that "Somers Estate."

Q. What part of it do you recognize as Trevor's handwriting?

A. The date, my name, the amount in the body of the check and the figures and his signature.

Q. Then on the left-hand side of the check after the word, printed word "For" appears what?

A. "Somers Estate."

Q. In whose handwriting is that?

A. I don't know.

Q. Doesn't appear to you to be Trevor's handwriting?

A. No, sir.

By Mr. Cole:

Q. Did you keep books April 19, 1926?

A. No, sir.

Q. Have you no record at all as to what that check was for?

A. No, sir.

Q. Did you make up an income tax return for 1926?

A. I did not.

Q. How could you tell, if you didn't keep books, as to whether you were required to do it or not?

A. I knew ——

Mr. McCarter: I object to that.

The Court: I will permit it.

A. I could tell from the books of Gordon Williams and Company what my income was. I did have a check book, a checking account in New York, but I had nothing to do with keeping the books which runs that checking account.

Q. I am not talking about somebody else's books. I am talking about yours.

A. I am talking about my books, too.

Q. But you have no record to show what this fifty-dollar check was for, is that right?

A. I haven't anything about it, I don't know anything about that check, nothing to show what it is for, or what it is not for.

By Mr. Bourgeois:

Q. In answer to a question by Attorney-General McCarter, you said that the moneys that paid for the Smith and Roberts deal, or land, and for the—I mean Smith and Russell and the Roberts, were the moneys of Dorrian and Fahler?

A. I didn't say any such thing, Mr. Bourgeois.

Q. What did you say about that?

A. I said the difference between the straw in the Somers estate was that they bought that property with their money and owned it. In the Smith and Russell deal they put the money up on the original agreements of sale between Smith and Russell and Julia Coll, they put company's money up.

Q. Now why do you say that?

A. Because it is a fact.

Q. I am asking you why you say it, what do you know about it?

A. The check that was given to Smith and Russell, also that ——.

Q. Have you got that check?

A. That is the Harold Williams Special, that is your check.

Q. Where is the check?

A. I don't know where that is.

Q. You didn't get that check out?

A. I never took a Harold S. Williams Special check anywheres.

Q. Suppose that is true, how do you know whose money that was—assuming what you say is true, how do you know whose money it was?

A. Only what the general talk and inference around the office was that that special account was corporation moneys.

Q. Just general talk?

A. That is all.

By Mr. McCarter:

Q. Was there an account known as the Harold Williams Special account?

A. There was.

Q. And your information around the office was that that was kept in that name but was money supplied by Dorrian and Fahler?

A. Yes, sir.

(Recess taken until Monday morning, June 11th, at 9:15 A. M.

Atlantic City, N. J., June 11, 1928.

(Trial of the cause resumed at 9:15 A. M.)

WILLIAM I. GARRISON, sworn.

Direct-examination.

By Mr. McCarter:

Q. Mr. Garrison, of course you are an attorney-at-law? Were you at the Philadelphia conferences?

A. Three days.

Q. Which days?

A. First, second day and third day.

Q. Will you, as briefly and as accurately as you can, recall what occurred the first day after you all got seated. You needn't go though who was there and all that.

A. On the first day we met in the afternoon. I don't know the hour, I forget it. After we were all seated, Dr. Mellon made a statement.

Q. Remember what he said?

A. He stated that he had been invited to act as arbitrator between the parties, and that he was there for that purpose and if they were ready he was ready, and Mrs. Davis said, "We are ready. Whatever we have taken we want to return with interest." I don't know that anyone else said anything in reply to what he said. Then the next step was that the items were gone over, which it was alleged they had taken.

Q. By Philip?

A. I didn't hear you.

Q. By Philip, gone over by Philip?

A. Philip read the items. The items that were read, as I recollect them, was the Smith and Russell deal, wherein it was alleged that a profit had been made of some fifty odd thousand dollars, the exact figures I don't remember. Then another deal where there had been an excess charged to Dorrian and Fahler of over seventy thousand dollars, I don't just remember the name of that party now. Then there was another item wherein property had been purchased from the county for three thousand dollars, and the charge made to Dorrain and Fahler of seventy-five hundred dollars. Then there was another item of lands purchased from the Ryon estate, I think it was, and the profit in that, if I recollect that, was either ten or fifteen thousand dollars, I forget which. Then there was another one, a deal with a man by the name of Haggerty, over in the country, the amount of that I don't recollect, but after they had all been gone over they amounted to $178,000 or thereabouts. Someone suggested, I think it was Father Mellon, was that all the claims, and then Mr. Hart or someone for him, I don't know who it was now, said no, there were other items yet that wasn't included, and the meeting was adjourned until the next day to bring in those other items. The next day the other items were brought in.

Q. Do you remember who presented those other items?

A. I think Mr. Hart presented those other items. They were brought in and on the first day there was but little discussion. There was a little discussion, not over the amount due from these various purchases and re-sales, but there was some discussion

over some profits made out of the Somers estate, that was afterwards found out that that item was not included at all. And then there was a claim made on that day of upwards of fourteen thousand dollars that Mr. Williams or his son or Mr. Davis, I don't know which, claimed that they were entitled to credit. The next day we came back, sometime in the afternoon again and these other items were presented. I don't remember these other items, but they amounted altogether with interest to two hundred and thirty some thousand dollars.

Q. The aggregate of them?

A. The aggregate of them. Then they were reduced by dickering eventually down to $190,000.

Q. And that was agreed to be the amount that they fixed?

A. That was the agreed amount, and then after that amount had been agreed, then the next step was to have a contract drawn. I didn't help draw the contract. I looked over it carefully from time to time, but that was drawn at night, I think by Mr. Godfrey. The next day we went back and there seemed to be no—or the second day, though, there was a discussion about how they could pay this $190,000, and there was some dickering over the amount of cash that could be paid. I think that Mr. Godfrey said that Mr. Fahler and Mr. Dorrian wanted $50,000 in cash. He said they couldn't raise it. He said that they could raise $45,000, and I think Mr. Williams said he had ten thousand with him or could get it, and that it would take him a few days to get the $35,000. Now the most of that day was spent in arranging the various mortgages and assignments and so forth that would be accepted by Mr. Dorrian and Mr. Fahler to clean the $190,000. The third day we met and the agreement had been

roughly prepared and it was gone over. There were a number of changes suggested by, I think, both sides. Finally the paper was prepared and during the meantime there was an arrangement made, not an arrangement, I don't mean, but they went over these various mortgages and it was discovered that some were not acceptable and some they could not give assignments for, and that went over until the next day. The next day they prepared, that is the defendants prepared and signed a number of assignments. What they were I don't know. I did know at the time but I don't remember now. And everything ready to sign the agreement. I went across the hall. Now where these meetings were held was in a large room, but just across the hall there was another room had been provided for the stenographers. I went across there, or was in the act of going across there, when Mr. Scanlan called me, Mr. Scanlan and Mr.—that boy's name I forget, one of the defendants, what is his name?

Mr. Bourgeois: Trevor.

A. Trailer, yes. What was that, Mr. Bourgeois?
Q. Trevor.
A. Trevor, that is right. Mr. Scanlan called me. They were standing probably fifteen or twenty feet down the hall and I went over to where they were standing. Mr. Scanlan said, "Mr. Garrison, Fahler says that"—I don't know whether he said Mr. Bourgeois or Mr. Cole, he may have said both ——

Mr. Bourgeois: Who said that?

A. Mr. Scanlan.

Mr. Bourgeois: Said that Trevor said? You said Fahler, I think.

A. Yes, he said Trevor said—did I say Fahler? Trevor I meant—he said that either Mr. Cole or Mr. Bourgeois or both of them were over dining at the University Club. I said, "Why don't you have them come over here? Now is the time, you are about ready to sign this agreement." Trevor says, "Father is opposed to it." He says he has had—he said he was opposed to it, I don't know what he said at that time, I don't recollect. Well, I said, "If your lawyers are in town, you ought to bring them here," and I said, "You come on in." I took, I led the way, I took Mr. Trevor Williams and Scanlan followed me, and I went in and I said, "Mr. Godfrey, I think Mr. Trevor Williams has something to say to you." "All right," he says, "what is it?" And now I don't know whether Trevor said it or Scanlan, but one or the other of them said, "Well, our lawyers are over at the University Club." Mr. Godfrey said, "Send for them. They are welcome. By all means send for them," and Mr. Williams said, that is Mr. Harold Williams said, "I have had lawyers enough. I don't want any more. I want to clean this thing up now or not at all." Now Mrs. Williams then said something to Father Dorrian

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Q. Mrs. Davis?

A. Or Father Mellon—Mrs. Williams ——

Q. Who said?

A. Mrs. Williams said something to Father Mellon.

Q. Mrs. Williams?

A. Mrs. ——

Q. Davis?

A. Davis, that is right. Mrs. Davis said something to Father Mellon about attorneys.

Mr. Bourgeois: About what?

A. About attorneys, and Father Mellon said all right, of course she says, "Father, you are not a lawyer." "No, sir," he says, "I am not a lawyer," but he says, "I studied law. It is one of our duties in preparing for the priesthood to study law." Well then Mr. Harold Williams—Mr. Scanlan then undertook to say something, I don't know what it was he intended to say, for he didn't get it out, before Mr. Harold Williams called him, and they went out into the hall. I don't know what for, couldn't tell you that, but they came back and Mr. Harold Williams said, "We are ready now to execute these papers." Now the papers were executed.

Q. Do you remember what—how they were executed, what the process was of execution?

A. I think they were distributed around, and they went on down the line, as one signed the other signed, and then they were afterwards witnessed by Mr. Godfrey.

Q. Did you notice whether they all used the same pen or whether there were different pens, or don't you remember about that?

A. I couldn't tell you about that.

Q. Up to that time had anything been said by anybody with reference to the pending capias up to the time of the execution of the documents?

A. I never heard the attachment or capias mentioned before the instrument was signed.

Q. Now after it was signed, was anything said about the capias, and, if so, tell us what.

A. Yes, after everything had been concluded and

finished and cleaned up, Father Mellon then stated that the capias had not been dismissed, and that is all he said about it, that I recollect.

Q. Do you recall anything being said before the parties separated that day with reference to Trevor producing some more securities the next day?

A. Yes, the securities were incomplete in some instances there was a mortgage but no bond, in another instance there was a bond but no mortgage, and my recollection is that they had not quite enough securities, and next day he promised to go to New York and bring them over.

Q. I want to know if you were there the fourth day?

A. I was not.

Q. I also desire to know whether you heard, during the three days that you were there, any threats of any kind used by anybody on our side of the fence?

A. There was no occasion for it. There weren't any threats.

Q. Did you hear any mention of forgery or of embezzlement?

A. I did not. I heard this, I heard during the conversation, the talk about taking money through straw deals that didn't belong to them. I remember three instances, two instances, while they were going over these different straw deals, Trevor said, "Well, there is nothing wrong in a straw deal," and Father Mellon says, "If you use the straw deal to get money out of somebody else it may not be illegal, but it is dishonest," and the only reference was made wasn't forgery, if there was any forgery, I didn't hear it, but they were accused of buying practically at one price, with Fahler and Dorrian's money, and using a straw name to raise the price, and they didn't deny it.

Q. And they didn't what?

A. And they didn't deny it.

Q. Now it has been sworn to by one or two witnesses that it was stated that the contract was not to be binding until Gordon signed. Was any such statement made?

A. No, sir.

Q. What was said, if anything, that you can recall with reference, and how did that come in?

A. After the contract was signed and delivered to Mr. Godfrey, Mr. Harold Williams said to Mr. Godfrey, "Will you go with me to California and get Gordon's" and after some little time Mr. Godfrey said, "Well, I think I can arrange it and I will go with you."

Q. So long as you were there, that is to say during the three days, was there any unfriendliness or friction?

A. There was no friction, there was no unfriendliness. They seemed to know each item as it was presented. It was not questioned, and there was no discussion about it, and they seemed to me to be anxious to get this matter disposed of and get rid of it.

Q. Some testimony has been given to the effect that the papers, the documents that were signed, and the money, the ten thousand that was paid over, and all that were to be given to Father Mellon and be held by him for some indefinite period. Did you hear any such plan as that?

A. That is not true, nor there wasn't a suggestion of the thing made.

Q. Now did you hear anyone, and particularly Harold, during the progress of the three days that you were there at any time say that the proceedings were too legal and they had not expected that kind of a thing and he wanted his lawyers?

A. No, wasn't anything like it said.

Q. Did you observe Harold and Trevor, I mean look at them, see them?

A. Right there.

Q. Did you see any indication of illness on the part of either?

A. No, I didn't think they acted like sick people.

Q. Did you hear Father Mellon say that they ought to put Harold to bed right there in the hotel that night rather than to have him go home?

A. I didn't hear it. I know I met Harold Williams down in the dining room, saw him different times at the table, and we all dined right in that same place.

Q. Did you hear Carlton Godfrey say, in response to some question or remark about lawyers, words to this effect: "I will be your lawyer. You don't need any other attorney, I will be your lawyer," or words to that effect?

A. No, sir, he did not.

Q. Did you hear Carlton Godfrey say at any time "It is too late now for your lawyers to be here," or words to that effect?

A. I didn't hear it.

Q. Did you hear anyone say that they had Trevor for twenty years and were going to put Trevor in jail?

A. I did not.

Cross-examination.

By Mr. Cole:

Q. Mr. Garrison, during the period of these conferences, were you engaged in the trial of a case in Woodbury?

A. Yes, sir—no, I won't say that.

Q. You did say it.

A. I tried to be engaged in one. I went to Woodbury in the morning and my client did not show up. The other side didn't know it and I made a settlement with them, and I took a bus and went on to Philadelphia and got there before the meeting started.

Q. Were you at each of these conferences from the time it opened until they closed?

A. I wouldn't say that because there were times when I left the room and went out.

Q. So that ——

A. I don't think anybody was there all the time.

Q. So that some of the things that you have been asked about as to whether they were said or not of course might have been said when you were not there, you are only referring to the time when you were present, is that correct?

A. That is all I am referring to.

Q. And you admit that there were times when you were not there?

A. Yes, all had to go out occasionally.

Mr. McCarter: Where?

Mr. Cole: At the conferences, we are talking about the conferences.

Q. Now you say, do you, that these people all seemed to be anxious to get the $190,000 paid and out of the way, did you?

A. They said so.

Q. All very friendly?

A. There wasn't any quarrelling or fussing of any kind, Judge.

Q. Now you say that when they were charged with

having illegally taken money belonging to someone else that they did not deny it. Did they admit it?

A. Yes, they admitted it. Mr. Harold Williams on each occasion or Mr. Trevor says, "That is right, we got that money."

Q. Who was it said it?

A. What is that?

Q. Who was it said it?

A. Either Trevor or Mr. Harold, I don't know which, but there wasn't any dispute about it.

Q. Do you mean by that that you don't remember which one it was that said it?

A. No, I don't. I can't remember everything, wouldn't undertake to.

Q. That is all I care to question.

Mr. Bourgeois: I have no questions.

By Mr. McCarter:

Q. I suppose a good deal of time was spent in going over the list of securities, was there not?

Mr. Cole: I object. That is very leading and we are not interested in what Mr. McCarter supposes.

The Court: Technically, the objection is sustained.

Q. Were the negotiations going on the entire three days that you were there?

A. They were not.

Q. When you say you were not present all the time, do you mean that you went out into the hall or into the toilet?

Mr. Cole: I object. Let him state what he meant by it.

The Court: Sustain the objection.

Q. What did you mean?

A. There were times when I had to go out and there were other times that I went across, oh, probably took a paper or something to the stenographers.

Q. That is all.

Mr. Bourgeois: Mr. McCarter, may I ask Mr. Hart a couple of questions on cross-examination that I overlooked?

Mr. McCarter: Yes.

Louis G. Hart, recalled.

Cross-examination.

By Mr. Bourgeois:

Q. Mr. Hart, I show you what purports to be an assignment of mortgage from Helene Wright to A. Trevor Williams, bearing date the fourteenth of April, 1926, and ask you if the witnessing signature is your signature?

A. Yes, sir.

(Assignment offered, received in evidence and marked Exhibit D54.)

Q. I show you another assignment ——

Mr. McCarter: I think this is not cross-examination and I object to it. I don't know anything was asked this man on direct-examination that justifies his being asked on cross-examination now whether he witnessed some signatures of Helene Wright and then introducing those documents in evidence. Anything that was said by this witness about Helene Wright was said on cross-examination as I recall it, and I can't see how it is proper further cross-examination to present these documents and offer them in evidence and I object to it.

The Court: This witness has testified that there was no such person as Helene Wright. It may have been on cross-examination, but I will permit him to be confronted with the signatures.

Q. I also show you another assignment from Helene Wright to Trevor Williams and Gordon Williams, bearing date the 22nd day of March, 1926, purporting to be signed by her, and ask you if the witnessing signature is yours?

A. It is.

(Assignment offered, received in evidence and marked Exhibit D55.)

Q. I show you another assignment purporting to be from Helene Wright to Gordon Williams, bearing date 14th of April, 1926, purporting to be signed by Helene Wright, and ask you if the witnessing signature to that is your signature?

A. It is.

Q. I called your attention to the acknowledgment to that assignment, bearing date the 14th of April, 1926, and ask you if the signature to that assignment is your signature?

A. It is.

The Court: Signature to what?

Mr. Bourgeois: The acknowledgment is your signature?

A. It is.

(Assignment offered, received in evidence and marked Exhibit D56.)

Mr. Bourgeois: The acknowledgment reads: "State of New Jersey, Atlantic County. Be it remembered on this 14th day of April, in the year of our Lord one thousand nine hundred and twenty-six, before me, the subscriber, a Notary Public in and for the State of New Jersey, personally appeared Helene Wright, who I am satisfied is or are the grantor or grantors mentioned in the above deed of assignment or assignments, and I having first made known to him, her or them, the contents thereof, he, she or they acknowledged that he, she or they signed, sealed and delivered the same as his, her, or their voluntary act and deed. All of which is hereby certified.

Louis G. Hart," with a stamp "Notary Public of New Jersey." My commission expires February 26, 1931."

Re-direct examination.

By Mr. McCarter

Q. Who brought the person purporting to sign the name of "Helene Wright" to the office where these papers were witnessed?

A. Trevor Williams.

Q. Beg pardon?

A. Trevor Williams.

Q. Did he introduce you to her in any way?

A. Yes, sir, he said, "Mr. Hart, this is Mrs Wright, will you take her acknowledgment?"

Q. At the time did you believe that it was Mrs. Wright?

A. I did.

Q. I notice one of these papers bears date the twenty-second of March, 1926, the second the 14th of April, 1926, and I don't know the date of the one the Court has.

The Court: Fourteenth of April, 1926.

Q. Have you ever seen the person who was thus introduced to you since?

A. No, sir.

Q. Now did you receive any information from any of the defendants here with reference to Helene Wright?

A. I did.

Mr. Cole: I object so far as my client is concerned.

The Court: I will permit it.

A. I did.

Q. From whom?

A. Trevor Williams told me that she was a relative of Mrs. Davis.

Q. Did you get any information from Mr. Davis with reference to Helene Wright?

A. No, I can't recall that Mr. Davis mentioned

anything about her except that there was no such person.

Q. What information did you later receive from anybody as to the existence or non-existence of Helene Wright?

Mr. Bourgeois: I object. That was gone into before.

The Court: Permit it now.

A. I spoke to Mrs. Helen M. Wright around Sixty-third Street in Philadelphia and she stated that she had no interest in any real estate transactions in Atlantic City and had never authorized anybody to sign her name, that she had a friend Royden Davis in the real estate business, but that she never had any business dealings with him.

Q. How did you get in touch with her?

A. I went to her house.

Q. How did you find out where she lived?

A. I called up all the Helen Wrights, or several Helen Wrights in Philadelphia and finally located this one, had a son by the name of Gordon Wright, and I had been informed that this relative of Mr. Davis had a son by the name of Gordon.

Q. This information that you derived in Philadelphia in the interview that you had with Helen M. Wright and not Helene Wright, was before or after the—when was that, when was that interview?

A. On June 8th, 1927.

Q. Did you ever have any talk with Mr. Davis concerning Helen M. Wright or Helene Wright?

A. No, sir.

Q. Do you recall, in the conversation that you had at the office when Mr. Davis disclosed to you the

fact that Smith had made known the fact that he had received less money than had been paid in the Smith and Russell deal for the property, that Davis said anything about Helene Wright?

A. He did.

Q. That is what I have been trying to have you say. What was said?

A. He said that the seriousness of the situation was that Trevor Williams had signed Helene Wright and there was no such person.

Q. That is all. Do you know Julia Coll by sight?

A. Yes, sir.

Q. Did you ever—of course in the interview you had with Miss—was this Helen M. Wright a widow or unmarried or married?

A. She was a widow.

Q. The interview you had with Mrs. Helen M. Wright, you became acquainted with her appearance?

A. Yes, sir.

Q. Now did you ever see any of the defendants in company with Julia Coll and Helen M. Wright?

A. I did.

Q. When and where?

A. About the middle of June, 1927, in Philadelphia, I don't recall the building. It is the building in which a lawyer by the name of Rhodes has his office.

Q. Now did you see ——

A. I saw ——

Q And in what part of this building?

Mr. Bourgeois: If your Honor please, what is the object of that? I object as not cross-examination, not relevant and not material. I don't know what the object is. If you will tell us maybe I will change my mind.

Mr. McCarter: The object is to show that this same person, Helen M. Wright, who he interviewed, was seen in the middle of June, or whenever it was, with Julia Coll and one of the defendants, going to indicate that the Helen M. Wright was the person who was reputed to have signed some papers.

Mr. Bourgeois: Which of the defendants?

Mr. McCarter: I am going to ask that very question.

Mr. Bourgeois: Is that the question you want to find out?

Q. Which one of the defendants did you see these two women with?

A. Royden Davis and Trevor Williams.

Q. In what part of that building?

A. Downstairs on the ground floor, I saw the four people together. Prior to that I saw the two women in Mr. Rhodes' office.

Q. Who was with you at the time?

A. A man from the Pinkerton detective agency, who served ——

Q. Never mind anybody else.

A. And Mr. Phil Godfrey.

Q I think that is all.

DOUGLAS DE BESORE, sworn.

Direct examination.

By Mr. McCarter:

Q. Mr. Besore, what is your business?

A. I am a certified public accountant of New Jersey.

Q. Are you located here in Atlantic City?

A. I am.

Q. Did you have any professional relations with the two concerns, Gordon Williams and Company and Williams and Davis, Inc.?

A. Yes, sir, I was their auditor.

Q. Did you, in fact, keep their books?

A. I did.

Q. From what period to what period?

A. I was first engaged by Gordon Williams Company in the early part of 1925, I think it was March, just prior to income tax time, and I acted as their auditor until about the end of April, 1927. My last report was for April, 1927, which work was done in the early part of May. Since that time I haven't done any work for Gordon Williams Company. Williams and Davis, I have acted as their auditor from the time the first business transactions, as far as the accounts go began, which was in the early part, I think it was, January, 1926, and I am still doing whatever work is necessary as auditor for that company.

Q. Did I understand you to say that whatever books were kept during your term for either of these organizations, were kept by you?

A. I kept the general ledger of both companies.

The stenographers in the office entered the cash receipts as they were received and I posted the cash books and posted to the general ledger at the end of each month.

Q. Did you or did you not have any familiarity with the books of the concerns?

A. I was familiar with them, yes, sir.

Q. Do you remember being requested to go to the Vendig Hotel on or about the thirty-first of May, 1927?

A. Yes, sir.

Q. Did you see the several people there that are interested in this matter that day?

A. I did.

Q. Did you know Father Mellon before that day?

A. No, sir, I had never seen him before that time, to my knowledge.

Q. How long did you remain that day?

A. I was there from about one o'clock in the afternoon until late in the evening. I don't know just what time it was I did go home, but it was after dinner in the evening.

Q. Did the party break up when you left?

A. The meeting had broken up but Mr. Godfrey, Carlton Godfrey and his son remained to draw the agreement. I don't know who else stayed.

Q. Now I would be glad if you will endeavor to recite all that occurred that day that you were there?

A. I received a telephone call from Mr. Hart ——

Q. We have got you at the hotel. Never mind about that.

A. All right. We proceeded to a room, a large room where there was a long table and were seated around the table, there being present Father Mellon at the head of the table, Harold Williams to his right, Trevor Williams, Royden Davis, Mrs. Davis,

and on the other side of the table, Mr. Dorrian, Mr Fahler, Carlton Godfrey, Philip Godfrey, Louis Hart, Jack Scanlan, Mr. Mulhern and myself. I sat at the, sort of at the foot of the table. Father Mellon asked who I was and what I was doing there, and I stated that I was asked to be present as auditor for the companies.

Mr. Bourgeois: As what?

A. As auditor for the companies.

Mr. Bourgeois: Two companies?

A. There was at that time, as far as I knew. I had never been discharged.

Q. You needn't enter into a long discussion.

Mr. Bourgeois: I want to know whether singular or plural?

Mr. McCarter: Plural. He has already testified he was there.

Q. Go on.

A. The reason I was there was to explain, if I could, the situation with respect to commissions due Gordon Williams and Company on sales of Del Rey lots.

Q. Now won't you describe right in that connection, what, from your knowledge, had been the practice with reference to writing up commissions received and how therefore you knew about that, exactly what detail, give us the process, for instance, we will say, to give you an example, that somebody connected with Gordon Williams and Company sells

five lots in Del Rey, now go on, what would happen?

A. Upon the signing the agreement of sale and the ——

Mr. Bourgeois: Whose agreement of sale, from the company to some other outside party?

Mr. McCarter: That is what we are speaking of.

A. Yes, the company signed the agreement of sale and the deposit being received, the deposit was entered on the cash receipts, deposited in the bank, and when I went down, I went down twice a month, once the middle of the month and once at the end of the month, and prepared the statement of the receipts for the bank, the preceding two weeks for the owners and for the company. As each amount was received it was shown on the statement as received on account of, account number so and so, whatever the account, all accounts were numbered, would be no names given on the statement. The lot and block number was shown and the amount received. That amount then was split between the company and the owners, that is, equally, fifty per cent to each one, until such time as Gordon Williams Company had received their full twenty-five per cent commission. After that time, of course, all the amounts received were turned over to or were shown as due the owners, which was Williams and Davis.

Q. Now, you thereby entered the whole system of bookkeeping with reference to commissions?

A. I did, yes, sir.

Q. Now, who had suggested that you appear this second day at this meeting in the hotel?

A. Mr. Hart called me up.

Q. Now, we are back again at the hotel, and you

were just about to start to say that you were asked to say something about commissions. What was said that day about these commissions?

A. Mr. Harold Williams had some kind of a memorandum, which I didn't see, showing certain sales on which he claimed a commission due Gordon Williams Company. As these sales were called off I had the record of them in a card file, which record showed the amount of the sale, the amount that had been received thereon, and the amount of commissions and payments to the owners. At that time I do not believe there were any, to the best of my recollection, there were any commissions on collections that had not been paid, if so, it was a very small amount. I started to look these records up, and I was interrupted.

Q. Did you have the records with you?

A. I had a card file of every sale that had been made at Del Rey. As I say, I was reading from these cards, Mr. Williams had asked, I think was Harold Williams, asked about one transaction, certain transaction, and I would look it up, and after I did that, after a while, I hadn't got any result to report, yet, Mr. Williams stated, that, according to his understanding of the agency contract, it didn't make any difference whether the collections were in full from the purchasers or not, that they were entitled to their commissions and that is what they were basing their claim on, and that that claim was, I think, was fourteen thousand dollars. Then I think it was Father Mellon asked to see the contract, the agency contract, and the clause, the commission clause was pointed out to him, and after he had read it, he stated that he thought the commissions should be allowed, and that is all I had to do with that.

Q. Were they allowed?

A. They were allowed, yes, sir.

Q. Now, just go on—your functions then really ceased at that time?

A. I just was a listener, that is all, after that time.

Q. Now, I understand you continued until the party broke up?

A. Yes, sir.

Q. Just go on and tell, as near as you can recall, what transpired. This is the second day, the only day you were there.

A. There was a couple of other questions came up about notes which had been received by Gordon Williams Company and discounted on these Del Rey lots, and Mr. Hart, I believe, raised the question as to the amount that was to be allowed or not to be allowed on those notes, and Father Mellon stated that that had been taken up the previous day and had been settled, that that was all there was to that. Then Mr. Hart had some additional transactions which he read off, each transaction as he read it was commented on by Mr. Williams, Harold Williams and Trevor, as to whether or not they knew about what he was talking about. After all of those transactions had been read they were added on to the previous day's ——

Q. Excuse me right there a moment. After Mr. Hart—while Mr. Hart was reading these additional transactions, you said that Harold or Trevor would comment on them, do you recall the nature of the comments, what they said?

A. I don't recall the exact words, but the sense of the thing was that they knew what they were.

Mr. Cole: Who?

A. Harold Williams, and Trevor Williams and

Mr. Davis. I can say the whole three, because they were all sitting opposite to Mr. Hart.

Q. Did they deny?

A. They didn't deny anything, no, sir.

Q. You say something, the sense, while you couldn't remember the language, you were saying something about the sense.

A. When Mr. Hart would say, "What is this? Do you know what this is?" and they would say, "Yes." "Did you receive this profit?" And they would say, "Yes," or something to that effect.

Q. Now, go right on. After Mr. Hart finished his list.

A. The sum of these transactions was added to the previous day's, which had been read the day before, and totalled something over two hundred thousand dollars, I think it was two hundred and thirteen thousand, as I heard the testimony to that effect. At that time Mrs. Davis stood up and stated that she and her husband desired to return every cent that had been taken as their part of these transactions. That, to my recollection, is right then Harold Williams called his son and they went out in the hall with Mr. Davis. What went on out there I can't say. Then Father Mellon was asked to come out in the hall. He stayed out a little while and then Mr. Dorrian and Mr. Fahler were also asked out and Carlton Godfrey. A short time later they returned to the room and it was announced that the Williamses people on one side had agreed to pay $190,000 and Mr. Dorrian and Mr. Fahler had agreed to receive the sum in full settlement of all claims. Then the question arose as to how that settlement was to be effected. Phil Godfrey had some papers, gray sheets from which he read some mortgages. There was some discussion about a few of these

mortgages that I don't recall just what it was. After he had read off what he had there, these securities were totalled and then I believe the meeting was quite late in the afternoon then, and, as far as I can recall, that was about the end of the meeting. Some of the people in the room had luncheon served in the room, some of them went downstairs to the dining room.

Q. Did you hear any remark made by Mr. Godfrey to the effect that he would prepare a contract overnight?

A. I believe there was a remark to that effect, yes, sir, he said he would make a contract.

Q. Now, during that time that you were there, did you observe any indication of illness on the part of Harold Williams?

A. No, sir.

Q. Was there anything about his demeanor or appearance or conduct that differed from his ordinary demeanor or conduct or appearance as you have known him ever since you have been employed?

A. No. I can't say so.

Q. How about Trevor, did he seem to be sick?

A. No.

Q. Did you hear any threats made by any people on the side of Dorrian and Fahler that day?

A. I did not.

Q. Did you hear anybody say anything about forgery or embezzlement?

A. No, sir.

Q. Did you hear anything said about a request for lawyers?

A. No.

Q. That is all on this branch of the case that I desire to examine this witness. I may recall him on another branch later.

Cross-examination.

By Mr. Bourgeois:

Q. Mr. Besore, what days were you there?
A. I was there the second day only.
Q. Only the second day?
A. Yes.
Q. Now, about these notes that you have spoken of, what was to become of those notes when they were paid, or what was to become of them, were they to be delivered to the Williams and Davis Company, or to Dorrian or Fahler, or what was to become of them?
A. I don't recall that that was mentioned at all.
Q. Well, how could they discuss what was to be done with them if they didn't determine what was going to be the end of them?
A. There wasn't any discussion, Mr. Bourgeois, simply brought up and Father Mellon stated it had been settled the previous day. I didn't pay any attention.
Q. You don't know that they had decided they were to be divided?
A. I didn't know anything about it. I don't yet, as a matter of fact.
Q. When was it that you ceased to represent the Gordon Williams Company?
A. My last work was in April, 1927.
Q. Were you ever discharged or did you quit them?
A. No, sir.
Q. Then you are representing them still?
A. I don't know. I have done no further work and had no request to do any further work, I have received no further compensation, so I presume I am not connected.

Q. You don't get compensation except for the work you do, do you?

A. That is all, yes, sir.

Q. You do still represent the Williams and Davis Company?

A. So far as I know.

Q. During the period that you were actively engaged for both of these companies, that was up until April the first, I understand, of 1927, did you observe anything that appeared to be improper in the charge by one company against the other?

Mr. McCarter: I object.

The Court: I will permit it.

Mr. McCarter: Your Honor, is he a judge of what is proper and improper and whether the charges ——

The Court: He is a public accountant and it is only as to the accounts, as I understand the question.

Mr. McCarter: We are not here adjudicating, or they are not here defending the keeping of the accounts. It is a question as to whether or not certain of these transactions occurred. Now, this young man is not the judge of the propriety of that, and I don't see how the method of conduct of business by Gordon Williams and Company can be, by cross-examination of this witness, proper.

Mr. Bourgeois: I am only asking about ——

The Court: I will permit it.

(Question repeated.)

A. Up until that time, up until May, I won't say April first, but up until about May first, there had been no charges made on either side.

Q. Since when?

A. Well, from the time that I had any connection with them that I know anything about. It is possible they may, but I wasn't there only at certain times during the month.

Q. Was there ever any charges made against them then?

A. No, sir.

Mr. McCarter: I object.

The Court: The difficulty is you have entered into it yourself. What was the method of these accounts between them? I am permitting cross-examination on that.

A. May I add something to that, Mr. Bourgeois?

Mr. McCarter: Answer the question. I don't understand whether the witness understands what he means by charges. Do you mean any charges?

Mr. Bourgeois: Sure, any charges.

Q. Any charges by one of these companies against the other?

Mr. McCarter: Any charges?

Mr. Bourgeois: Certainly.

A. I saw no charges in writing or anything else. I was only familiar with the accounts.

Q. What did you say? I didn't hear.

A. I was only familiar with the accounting end of it.

Cross-examination.

By Mr. Cole:

Q. Mr. Besore, what is the last day in which you have done work for the Williams and Davis Company?

A. December thirty-first.

Mr. McCarter: What year?

A. 1927. That is the last time I worked on the books.

Q. Now, you stated something about some claim or charges made against one or more or all of these defendants at the meeting which you attended, which you say was the second meeting. Now, will you please state who made the claim or charge and who, if anybody, replied, and what the claim or charge was?

A. I don't recall having said that there was any charge made.

Q. Didn't you say that they did not deny, somebody did not deny something that was said?

A. I did say that Mr. Hart read off these transactions and he ——

Q. Tell us, please, Mr. Hart, from what did he read?

A. He had some papers on the desk. I didn't see them.

Q. What did he read?

A. He read, "Did you"—I don't know that I can see that, Mr. Cole.

Q. You mean you don't recall what he read?

A. All I know is he read some of these same transactions, that is, the same kind of transactions, showing the purchases of lands in which there was a straw used, and as he read them he would ask, "Is that correct? Did you receive any profit out of this deal?" and the answer was "Yes."

Q. You don't recall from what he read?

A. He had some yellow papers, memorandums, I suppose they were, or something, I don't know.

Q. Was it at that meeting that Mr. Philip Godfrey read this long paper about conspirators?

A. No, sir.

Q. Now, is that all that took place with respect to these illegal transactions, the reading by Mr. Hart and what you claim were admissions by Harold Williams, is that all?

A. They were totalled up.

Q. I am talking about the transaction itself, never mind about the totals. Was there anything else said about the transactions other than the fact that Mr. Hart read, and wanted to know whether they made that profit?

A. I don't believe there was anything else said.

Q. Did Mr. Hart or anyone else—any one of these defendants say where the money came from with which these purchases were made?

A. I don't recall.

By Mr. Bourgeois:

Q. Mr. Besore, did Mrs. Davis say that they desired to return all that they had received in these transactions, or did she say, "If we have any moneys of Mr. Dorrian or Mr. Fahler, we want to return it with interest?"

A. No, sir, she said that, "We want to return every cent that we have received from these transactions, with interest."

Q. Without regard to whether it belonged to Dorrian and Fahler or the company or whom?

Mr. McCarter: I object.

A. I didn't say that.

The Court: Sustain the objection.

Q. That was all that was said.

A. That is all was said.

Mr. McCarter: Now, if your Honor please, you will recall that on Saturday we asked the other side if they had produced, obedient to the subpoena, the books that had been subpoenaed, and after some trouble the papers, purporting to be the papers that Mr. Davis took from the office, and handed to Trevor Williams, being papers of Williams and Davis, Inc., were produced, but not all of them. Your Honor, very properly, has seen fit to impound the papers that Mr. Hart took from the office, and I ask that the papers that were taken by Mr. Davis belonging to Williams and Davis, Inc., and placed in the hands of Trevor Williams, who had at the time no connection with Williams and Davis, Inc., be likewise impounded.

Mr. Bourgeois: If we have any papers of that kind I have no objection to it, so far as I am concerned, but I don't know of any papers that we have belonging to the Williams and Davis Company. We have papers belonging ——

Mr. McCarter: The Del Rey papers certainly belong to Williams and Davis Company.

Mr. Bourgeois: No, they belong to Gordon Williams Company because they were the brokers and they were the people to produce them, and had them prepared and everything.

Mr. McCarter: I wonder if the title policies and the deeds and agreements and the title settlement sheets of property that is conveyed to Williams and Davis, Inc., belongs to Gordon Williams and Company?

The Court: I think those papers should be impounded.

Mr. McCarter: So do I. I would like to have those papers, we haven't been able to get them yet, but I think we are entitled to them, and entitled to have them impounded.

The Court: Entitled to it. I have no method by which I can obtain them for you.

Mr. McCarter: They were here the other day, some of them were. Where are they?

Mr. Bourgeois: I don't know whether they are here or downstairs, or where they are, but they are marked in evidence and you may have them.

Mr. McCarter: Marked for identification.

Mr. Bourgeois: We will put them in.

Mr. McCarter: I ask you now, Mr. Bourgeois, to

produce those papers as soon as possible, all of them.

Mr. Bourgeois: If you want them as soon as possible, I will have to go down and get them, if you want me to produce them at noon-time I will get them then.

Mr. McCarter: All right, very good. At the same time the parties were subpoenaed to produce the check book for Gordon Williams and Company on the Ventnor Trust Company and all the checks of the account of Gordon Williams and Company. They have purported to produce certain of those documents, but the check book, which is the particular one we want, on the Ventnor Trust Company, giving checks numbers 1 to 900 odd is not produced, and we ask for the production of that book.

Mr. Bourgeois: If your Honor please, in reply to that I would say that we have produced all the books we have, but, in view of the fact that Mr. Hart and Mr. Dorrian visited the office of the company down there and removed some of the papers, we don't know what papers were taken, and they are trying to put on us what may not be—well, what may be their own fault. We don't know where that book is. We haven't got it and we can't find it.

Mr. McCarter: I think there should be evidence to that effect.

Mr. Bourgeois: Ask for it.

Mr. McCarter: I asked for it now.

Mr. Bourgeois: It appears now it is a book that

seems to be of some importance in this case. We haven't got it. They have got it. I don't say they have got it, but it isn't here.

Mr. McCarter: Of course it isn't here. That is the book Mr. Geller promised to bring here the other morning, and said he looked down in the attorney's office.

The Court: He denies he promised to bring it, on the witness stand. He said he would look for it.

Mr. McCarter: We ask for the production of that book and we are not satisfied that Mr. Bourgeois says it is lost. I have no doubt he is told ——

The Court: Who did you subpoena for it?

Mr. McCarter: I beg pardon?

The Court: To whom was the subpœna issued?

Mr. McCarter: This subpoena was served on Gordon Williams personally at 8:30 A. M. Law Building, for Gordon Williams and Company, on June 11, 1928, and it was also served on Mr. Stringer personal at 9:00 A. M. on June 11, 1928.

The Court: That is this morning.

Mr. McCarter: Stringer being the attorney and in whose office these books are supposed to be. I don't know what more we can do.

The Court: The only thing you can do, as I see, is call the witnesses whom you have subpoenaed.

Mr. Bourgeois. You want to examine Gordon about it? I will have him to come up here, and Mr. Stringer is right here.

Mr. McCarter: I will examine Mr. Stringer.

WILLIAM E. STRINGER, sworn.

Direct examination.

By Mr. McCarter:

Q. You are the attorney for the Messrs. Williams and the Gordon Williams Company, Mr. Stringer?

A. I am one of them.

Q. Have you a key to the lock-box in the safe at the office of Gordon Williams and Company?

A. There is no safe in the office of Gordon Williams and Company.

Q. Is there a safe in your office?

A. There is.

Q. Are any of the books or documents formerly connected with Gordon Williams and Company in your office?

A. There are.

Q. Whose safe is that?

A. Belongs to Gordon Williams and Company.

Q. When was it brought there?

A. I don't recall the date, sometime ago.

Q. About when?

A. Well, perhaps two months ago, perhaps three months ago, perhaps four months ago.

Q. There is a lock-box in that safe?

A. There is.

Q. Have you a key to it?

A. I have.

Q. You were subpoenaed to produce, among other things, the check book of Gordon Williams and Company on the Ventnor Trust Company?

A. I was, a couple of minutes before court opened this morning.

Q. I beg pardon?

A. I was, a couple of minutes before court opened this morning.

Q. Have you produced it?

A. I produced the Ventnor ——

Q. Have you produced?

A. Here it is.

Q. You produced that, where did you get that?

A. It was handed to me this morning and came out of the safe.

Q. Who handed it to you?

A. Trevor Williams.

Q. Was he there at the time when the other papers or books that you produced were brought together?

A. This morning, do you mean?

Q. Yes.

A. He handed all those books to me.

Q. He handed all those books to you?

A. Yes.

Q. Of course he has a key to that lock-box, has he not?

A. He is using my key.

Q. I beg pardon?

A. I don't know whether he has or not. I know he was using my key.

Q. Or you were using his, which is the more difficult?

A. He is using my key.

Q. Was that lock-box opened this morning?

A. It was.

Q. Did you look into it?

A. I looked in it yesterday.

Q. Did you look into it this morning?

A. I did not.

Q. What occasion had you to look in it yesterday, if this subpoena was only served this morning, what occasion had you to look into it yesterday?

A. I keep some of my personal papers in there. Rather Saturday it was, not yesterday, Mr. McCarter.

Q. And you looked in there Saturday to get some personal papers in the lock-box?

A. Yes, in the lock-box.

Q. Of the Gordon Williams Company safe?

A. Yes.

Q. Have you a safe of your own?

A. I have not.

Q. What personal papers were you looking for?

A. Well, I keep some deeds for, in there, on the garage which we own.

Q. That was in the lock-box?

A. That was in the lock-box, yes.

Q. They are original holders, aren't they?

A. Yes.

Q. Now, the Gordon Williams and Company books were in the lock-box, weren't they?

A. No, they were not.

Q. None of them?

A. No.

Q. Check books?

A. No.

Q. What were in there?

A. Just some papers. Now, there is practically nothing but my own papers in there, personal ——

Q. I ask you what were they?

A. Sometime ago there was some papers which I had been working on.

Q. Have you ever seen the check book of the Ventnor Trust Company, being the check book that accompanied the opening of the account in the Ventnor Trust Company and being checks and containing stubs of checks numbers 1 to 900?

A. I don't recall. I had no occasion to consult any check books.

Q. I didn't ask you whether you had an occasion. I ask you whether you have seen that check book?

A. Not that I recall.

Q. You say you haven't.

A. I say not that I recall.

Q. Who else has had access to that safe besides you and Trevor?

A. Well, I permitted Mr. Geller to go in there.

Q. You permitted?

A. Yes.

Q. You are in charge of the safe?

A. At the present time, yes. Any of the Williamses have a perfect right to go in there.

A. Any of the Williamses. If anybody else goes in there than the Williamses or Mr. Davis I want to know about it.

Q. Then all the Williamses and Mr. Davis and Mr. Geller, the certified accountant, all have access to that safe?

A. They have, yes.

Q. And they have been using it from time to time?

A. They go in there from time to time.

Q. Mr. Geller didn't go through the books?

A. He has gone through the books, yes.

Q. And he has been engaged in making up some statements, hasn't he?

A. I didn't say so.

Q. You didn't say he did?

A. Well, he has been working on the books.

Q. Now, did you ever open any of the check books of Gordon Williams and Company?

A. I think I did at Toms River.

Q. Where is the check book ——

A. The contempt proceeding you had against Mr. Harold Williams.

Q. Where is the check book of the Ventnor Trust Company which accompanied the opening of the account of Gordon Williams and Company in that trust company, which check book numbers from one to nine hundred?

A. It may be Mr. Hart has it.

Mr. Bourgeois: Do you know?

A. I don't know.

Q. You don't know?

A. No.

Q. Have you ever seen it?

A. I told you I don't recall having seen it.

Q. Did Mr. Geller call your attention that that check book was missing?

A. He did not.

Q. You never have seen it?

A. I say not that I recall.

Q. Have you ever seen the other check book later than that?

A. I just handed you one this morning. You [illegible] that is not the one.

Q. Will you just kindly answer my questions. Have you seen later check books than that?

A. I will tell you in a minute if you allow me to look at this one, whether this is later than you claim to be the one, I guess this is later, 999, date, 1926.

Q. Have you seen that before?

A. I don't recall having seen it. I guess so, because a few check books I have seen, but I never had occasion to go into them to see what they were.

Q. You knew there was more than one check book on the Ventnor Trust Company, didn't you?

A. No, I didn't.

Q. You didn't?

A. I did not.

Q. You didn't know that the only check book that was around was the check book that commenced at 900?

A. No, I had no occasion to look at check books, as I said before, Mr. McCarter.

Q. Do you say now, as far as you know, you have never seen that check book and don't know where it is?

A. I don't know where it is and I don't recall ever having seen it.

Q. That is all.

GORDON WILLIAMS, sworn.

Direct examination.

By Mr. McCarter:

Q. Mr. Gordon Williams, do you recall the fact that Gordon Williams and Company opened an account, bank account, in the Ventnor Trust Company?

A. I do.

Q. And I think reference was made to it in the minutes, you recall that?

A. It may be, I don't just recall what the minutes say.

Q. Did they receive a check book?
A. Did we receive a check book when we opened? I didn't get your question.

(Question repeated.)

A. I believe so.
Q. Can you describe that check book?
A. No.
Q. No?
A. No.
Q. Did you ever see that check book?
A. I presume so, yes.
Q. Well, what kind—what size book was it, the first check book?
A. I couldn't even tell you that, Mr. McCarter.
Q. Couldn't even tell us that?
A. No.
Q. Was it a check book like this one I hold in my hand which starts at check number 999?
A. Now, I recall, looked something like that.
Q. Wasn't it practically exactly like it?
A. Well, I couldn't say.
Q. With the words "Gordon Williams and Company, Real Estate, Southwest Corner Iroquois and Atlantic Avenue, Margate City" on it?
A. That is the form check we used.
Q. From the start?
A. Well, I couldn't say from the start, Mr. McCarter, because I very rarely handled the check books, because that was done by the stenographer.
Q. Somebody signed them, you used to sign them?
A. Sure, I signed them.
Q. And the account was opened, can't you tell about when the account was opened with the Ventnor Trust Company?

A. I couldn't say.

Q. Now, checks were used from the time that that account was opened down to August, 1926, weren't they?

A. I don't know the date of the opening of the account, Mr. McCarter.

Q. Well, where else did the Gordon Williams Company have a bank account besides at the Ventnor Trust Company?

A. The Union National Bank.

Q. Which was opened earlier?

A. I couldn't say.

Q. Well, do you mean to say that the check book that I now show you is the first check book of the Ventnor Trust Company?

A. I couldn't say, Mr. McCarter. I don't know.

Q. Look at it, check number 999, 8/9/26, do you mean ——

A. We were in business before 8/19/26. There are prior check books to that.

Q. Of the Ventnor Trust Company?

A. I couldn't say what company they were on. We did business with two banks.

Q. Ventnor Trust Company and the other one, now look at that check book and tell us if you were not satisfied there was a previous check book?

A. I am satisfied there was a previous check book.

Q. Where is it?

A. I don't know.

Q. When did you see it last?

A. I don't remember seeing it last.

Q. Well, where was it kept?

A. Gordon Williams and Company.

Q. Pardon?

A. At the office, Margate office, of Gordon Williams and Company.

Q. When was the safe of Gordon Williams and Company removed to the office of Mr. Stringer?

A. Oh, I don't know, might have been two or three or four months ago, I couldn't say.

Q. And were all the books of Gordon Williams and Company, books of account, removed at the same time?

A. I don't know what was in the safe.

Q. I didn't ask you that.

A. I don't know.

Q. You don't know whether all the books ——

A. No.

Q. You have been here for the last two or three months, haven't you, Mr. Williams?

A. Yes.

Q. Been very active in the preparation for the litigation that is going on between Dorrian and Fahler and other interests on your side of the controversy?

A. Well, that has not been handled by me.

Q. Beg pardon?

A. Not so active, no.

Q. Were any of the books removed anywhere else beside Mr. Stringer's office?

A. I couldn't say, Mr. McCarter.

Q. Is Gordon Williams and Company still in existence?

A. It is.

Q. What position do you hold in it?

A. President.

Q. I am asking you now where its books are?

A. Well, I presume they are here or Mr. Bourgeois.

Q. What?

A. I presume what are left of them are here or in Mr. Bourgeois' office or here on the table, or Mr. Stringer, I don't know.

Q. What are left of them, what do you mean by that?

A. Well, I don't know anything about them.

Q. You don't know anything about them?

A. No.

Q. Don't you know that you recently employed a certified accountant, Mr. Geller, to go over the books?

A. I didn't employ the accountant.

Q. That he has been employed?

A. I presume he is. I know Mr. Geller has been doing some work, but what he has been doing I don't know.

Q. You don't know?

A. No.

Q. You have been in and out of Mr. Stringer's office quite occasionally?

A. I have been in his office occasionally, yes.

Q. And Mr. Bourgeois' office?

A. I have.

Q. I ask you if you have ever seen the check book, number one, which opened the account in the Ventnor Trust Company, that ran down from number one until a good deal later, ever seen it?

A. Well, that is a peculiar question.

Q. Is it?

A. It is. I may have seen it but I don't recall it.

Q. When did you last see it, if you have any recollection?

A. I don't recall.

Q. Don't recall?

A. No, sir.

Q. Have you made any search in either Mr. Stringer's office or Mr. Bourgeois' office or Mr. Scanlan's office in Camden for it?

A. I got a subpoena this morning to produce a

check book. I got the subpoena about around quarter to nine, I think it was, to produce a check book on the Ventnor Trust Company and I looked in a bundle of papers and check books that I saw in Mr. Bourgeois' office, and I then turned the subpoena over to my brother, Trevor, and asked him about them, and all I could see was some check books there, some old check books included, I can't even recall what they are.

Q. Did you see this one that I hold in my hand?

A. No.

Q. You didn't see that?

A. No.

Q. Where are the old check books you did see?

A. These are what I saw there.

Q. They on the Ventnor Trust Company?

A. I told you I couldn't recall what bank they are on.

Q. So you say you know nothing with reference to the account, the check book that was opened with the Ventnor Trust Company by Gordon Williams and Company, of which you were president?

A. No.

Q. Yet, as president, you signed many checks?

A. I did.

Cross-examination.

By Mr. Bourgeois:

Q. Mr. Williams, in your method of doing business, when you were asked to sign a check, the check was brought to you for you to sign, was the check book brought with it?

A. No, was always a check given to me.

Q. Who drew the checks?

A. Well, most of the cases they were drawn by the stenographer in the office.

Q. And if a check book was used up and another was brought, another was gotten, would you attend to that or somebody else?

A. No.

Q. Have anything to do with it?

A. No. I might have sometime maybe given information to the bank we wanted a check book, something like that, but as far as getting it, I don't recall ever getting any.

Q. Do you remember or do you know—well, that is all, never mind ——

Mr. Bourgeois: Mr. McCarter, I suspect Trevor Williams knows more about these things than Gordon Williams by far, if you want to examine him he is here. He don't know where the check book is, but I am willing you should examine him if you want to find out.

A. Trevor Williams, recalled.

Direct examination.

By Mr. McCarter:

Q. Your counsel, Mr. Bourgeois, said that you probably know more about the check book of Gordon Williams and Company than anybody; who signed checks on the Ventnor Trust Company on behalf of Gordon Williams and Company?

A. I couldn't say, other than that my father, either my father, Mr. Davis or Gordon signed them, and Mr. Hart, too.

Q. Two signatures were required?

A. I always saw two signatures on any checks I ever got from them.

Q. You didn't sign them?

A. No.

Q. Do you know about when the account was opened with Gordon Williams and Company, I mean at the Ventnor Trust Company?

A. No, not at all.

Mr. Bourgeois: If your Honor please, I said he probably knew more about the books, not about the dates. What I meant was he has been here ever since this trouble started and he is the one that has had access to these books during that time. I don't know as he knew anything about the truth of its transactions.

Q. Did you see the original of the first check book that Gordon Williams and Company had with the Ventnor Trust Company?

A. Do you mean any check books ——

Q. Will you answer my question?

A. I couldn't say, Mr. McCarter, if it isn't here I couldn't say whether I saw it or not.

Q. Couldn't say whether you have seen the check books?

A. I have seen plenty of check books. Here are all the check books I ever saw or ever had in my possession.

Q. Will you let me finish my question?

A. I sure will.

Q. Have you ever seen a check book on the Ventnor Trust Company belonging to Gordon Williams and Company in which Gordon Williams and Company's name would be printed on the checks accom-

panying the check book, which accompanied the opening of the account of Gordon Williams and Company in that bank and being practically check number 1 to check 998?

A. No, I have never seen that, Mr. McCarter.

Q. Never saw that. That is all.

LLOYD W. FAHLER, sworn.

Direct examination.

By Mr. McCarter;

Q. You are the Fahler of the two, Dorrian and Fahler, that we have heard so much about in this case, Mr. Fahler?

A. I am.

Q. Where do you live?

A. Mahanoy City, Pennsylvania.

Q. Did you contribute in or about the month of July, any moneys to be handed over to, any money, check or otherwise, any money to be handed over to Gordon Williams and Company?

A. I did.

Q. How much?

A. Twenty-five thousand dollars.

Q. To whom did you give that?

A. It was given to Harold Williams.

Q. To whom did you give it, Mr. Williams?

A. To Mr. Harold Williams.

Q. Can you tell us about when that was?

A. It was—I can't tell you the exact day, it was about within a day or two of the incorporation.

Q. Of the company?

A. Of the company, Williams, Davis Company.

Mr. McCarter: Now, at this stage of the proceedings, I would like, if I may, to offer in evidence the minute book that has been so often referred to, and which contains the charter, I think the date of the charter is quite important.

Mr. Bourgeois: If your Honor please, I don't see the relevancy. I thought Mr. McCarter will suggest the object, so we can know what he has in mind.

Mr. McCarter: I want to show, in the first place, the date of the charter, and the second place, the recital of all the transactions that is in the book with reference to the matters lying at the bottom of this controversy. The minutes are in all cases signed by some of the defendants in this action.

Mr. Bourgeois: If your Honor please, I don't yet quite understand Mr. McCarter's object. We went into—we asked our witnesses, I think, each of them, whether or not they were conscious of any wrong-doing, and having done anything for which they might be held to account, and upon that theory, and because they had answered in the negative, your Honor permitted examination to go into certain of these transactions, and on that view, it seems to me, this is not relevant. I don't see how it can be relevant. The question is whether they are to specifically perform a contract or not. The contract speaks for itself and it doesn't seem to me this is relevant at all.

The Court: I will permit it. By whom is this book produced?

Mr. McCarter: This book is in the possession of our client, the corporation, Williams and Davis, Inc., of which it purports to be the minutes.

The Court: I understood you to offer the minute book of Gordon Williams and Company?

Mr. McCarter: No, Williams and Davis.

The Court: My error. I will permit the book to be offered in evidence.

(Minute book of Williams and Davis Company received in evidence and marked Exhibit C30.)

Q. I see, by referring to this minute book, that the certificate of incorporation was filed July 18, 1925. Now, this payment by you of $25,000 to Harold Williams was within a day or two of that time?

A. As near as I can recall.

Q. Have you ever had that $25,000 back?

A. No, sir.

Q. What position did Mr. Harold Williams hold in the Williams and Davis, Inc.?

A. He was secretary and treasurer.

Q. Treasurer?

A. Secretary and treasurer.

Q. Now, as treasurer of the company, did you make that payment to him?

A. I—the money was paid to Harold Williams at his direction, sometimes I have cash.

Q. I am talking about this particular payment, why did you make it to Harold Williams?

A. Because he told me to give it to him.

Q. And did he have the position of treasurer?

A. Secretary and treasurer.

Q. Of the Williams and Davis, Inc., didn't he?
A. There was never a payment ——
Q. Kindly answer my question, Mr. Fahler.
A. Will you repeat that?

Mr. Bourgeois: If your Honor please, that question was leading, I think it ought not to be put exactly in the man's mouth.

The Court: Sustain the objection.

Q. I think you have already stated that Mr. Harold Williams was both secretary and treasurer of Williams and Davis, Inc.?
A. That is right.
Q. Did you, after that original contribution of $25,000, make any further payments into the treasury of Williams and Davis, Inc.?

Mr. Bourgeois: I object. Doesn't appear he made any payments into the treasury of Williams and Davis Company.

The Court: Sustain the objection.

Q. To whom did you make the first contribution of $25,000?
A. To Harold Williams.

Mr. Cole: He said three times to Harold Williams.

The Court: He has again repeated it.

Mr. Cole: I object to its being repeated.

Q. And for what purpose did you make the payment?

A. Mr. Dorrian and myself pledged ourselves to a $100,000 fund, and the $25,000 that I put up then was part of the $100,000 fund, drawing account.

Q. Drawing account of what company?

A. Of Williams and Davis Company.

Mr. Bourgeois: Hasn't appeared any company at all, if your Honor please.

Mr. McCarter: What?

Mr. Bourgeois: Don't appear any company at all. It wasn't paid to any company, as a matter of fact, and you well know it.

Mr. McCarter: I think that is an insult, I said a lie, it isn't so, and he knows it isn't so.

The Court: Nothing before the Court, objection wasn't made.

Mr. McCarter: I resent such statements as that.

The Court: Strike out the colloquy.

Q. Did you, after putting up the first $25,000, from time to time advance any more money for the purpose and to the treasury of Williams and Davis, Inc.?

A. Yes, sir.

Mr. Cole: I make the objection on the ground that the witness ought to be allowed to state when.

The Court: Sustain the objection.

Mr. Bourgeois: Ask the answer be stricken out.

The Court: Yes, it will be stricken. He hasn't as yet at any time said that the first contribution of $25,000 was made to Williams and Davis. Your questions each time have said either more or further contributions to that company, and that is the only reason I am striking out the word "more" or "further."

Q. I will ask you when you made your first contribution of $25,000, was that contributed to any company?

Mr. Bourgeois: I object to that, if your Honor please. He made his first $25,000 contribution to Mr. Dorrian, he didn't pay Harold Williams at all or any company at all.

The Court: He says he paid it to Harold Williams.

Mr. Cole: May it please your Honor, counsel is putting a conclusion in the mouth of the witness, that is the thing I object to.

The Court: I will sustain the objection.

Mr. McCarter: Your Honor, if I want to pay to the bank here, I can't pay to the bank, I have got to pay to some man in the bank, got to be a payment to a man, and I asked him, and I think I am entitled to ask him, with great respect to the Court, for what purpose he made the contribution, what it was in payment of.

Mr. Cole: Let him make the statement to the Court and we will draw the conclusion.

Mr. McCarter: Thank you very much.

The Court: Yes, he has already said for what purpose, he started in, and has replied to that question at least once, or some other question two or three times. I will sustain the objection.

Q. Did you, after the time that you have named, later make any contributions to the Williams and Davis, Inc.?

Mr. Bourgeois: That is objected to as leading.

The Court: I will permit it.

A. I had, through Harold S. Williams, as secretary and treasurer of the Williams and Davis Company.

Q. Are you able to say to what extent?

A. The exact amount or the approximate amount?

Q. Approximate amount.

A. As near as I can judge, about, I would think, about a hundred and twenty thousand dollars, or a hundred and ten, or a hundred and twenty thousand dollars.

Q. Did you keep any account of it?

A. I did not.

Q. Did you, at any time, receive stock from the Williams and Davis, Inc., certificates of stock?

A. Yes.

Q. And for what purpose were those, what consideration was received by the company for the stock which you thus received?

A. The stock in the Williams and Davis corporation?

Q. I ask you what the company received as consideration for the stock which you got?

A. Money.
Q. The money that you referred to?
A. The money that I referred to.
Q. Did you receive stock in the Williams and Davis, Inc., for the first $25,000 that you had alluded to?
A. I did not.
Q. Do you recall going to the Vendig Hotel about the thirtieth of May, 1927?
A. Yes, sir.
Q. How did you happen to go there?
A. Sunday prior to May 30th, Mr. Dorrian called me at the Warwick Hotel, where Mrs. Fahler and myself were staying, about twelve o'clock, midnight. He stated that he had been approached by Father Mellon, that Mr. ——

Mr. Cole: All this objected to, the conversation.

Mr. McCarter: Object to it then.

The Court: Sustain the objection.

Q. The question is, if you went to the hotel?
A. Yes.
Q. By whose solicitation?
A. Will you repeat that?
Q. By whose solicitation?
A. Mr. Dorrian called me.
Q. Mr. Dorrian?

The Court: That answers it.

Q. At that time, did you know Father Mellon?
A. I did not.
Q. Did you meet the parties that have been named as arriving there at that hotel that morning?

A. That afternoon.

Q. That afternoon?

A. Yes.

Q. And did you continue there throughout the meeting that day?

A. I did.

Q. And the three days that followed?

A. I did.

Q. Will you please, as well as you can, bearing on your memory, recite what occurred after the parties assembled, sat around the table, on the first day?

A. I got to the hotel, I would judge about two o'clock. I was standing on the pavement, and, as I recall, I was the first one there.

Q. Well, leave out the details. We are anxious to get ahead. I ask you to tell us what occurred after the parties sat around the table.

A. We were called upstairs and we went into room 101, which was a large room with a long table. After we assembled Father Mellon arose and he stated the purpose of the meeting. He told them how the previous day he had been called on the telephone by Mrs. Scanlan. She asked whether her husband, Jack, could interview him. So Jack, apparently, came over to the house and told him that he had been in touch with Mrs. Davis, or, rather, Mrs. Davis had called him up and asked whether he would see him, and bring, and try to bring about a settlement of the differences. So he says, "Well," he said, I then went to see Mr. Dorrian and Mr. Dorrian said, "I will not do anything until I see my lawyers," and after he had seen the lawyers, he said we made arrangements—this is as close as I could get to it. I can't recite the exact details.

Q. Exactly.

A. They made arrangements to meet there that afternoon and that was the purpose of the meeting.

Q. What next occurred, if you can recall?

A. Harold Williams then, Harold Williams asked what is the items were involved. I wasn't at the table. I was sitting over in the corner and Mr. Dorrian was sitting in the opposite corner, and I recall Philip Godfrey reading these items, and after every item, just what the items were then, of course, I didn't know myself. I wasn't sure of the different parcels. Then Mr. Godfrey or Father Mellon would invariably ask: "Is that right? Was there a secret hidden profit in that?" Either Mr. Harold Williams or Trevor assented by either yes or nodding their head. Every item that was read was discussed separately. The length of time I don't just recall. I don't just recall how long it took, but we were there about two hours that afternoon.

Q. After either Father Mellon or Mr. Godfrey would ask, make an inquiry touching the several items what reply was made by anybody on the Williams side?

A. Either the nod of the head or "yes" in assent.

Q. Go right on.

A. So there was another argument raised by—point, rather, raised by Mr. Harold Williams as to commissions, and I remember that Father Mellon joined in that. That was about all that was done that afternoon that I can recall, Father Mellon made the statement that he had an important engagement that night, and he adjourned the meeting.

Q. Now, during that day, do you recall Mr. Philip Godfrey producing some green sheets and going through them?

A. No, I don't recall that, I don't know whether they are green or white, because I was away from the table. I was over in the corner, in fact.

Q. Did you hear what transpired, was it audible?

A. Oh, yes, indeed.

Q. Were you in the room during the negotiation?

A. I was in the room.

Q. Did you hear any threats of any kind that day?

A. I did not.

Q. Did you hear Harold Williams say: "This meeting is too legal for me and I want my lawyers present?"

A. I did not.

Q. Beg pardon?

A. I did not.

Q. Did you hear anything about forgery, or embezzlement or any claim that they could arrest anybody that day?

A. I did not.

Q. Now, Father Mellon had some engagement, was the meeting adjourned?

A. That was the first day.

Q. Now, can you recall the second day?

A. The second morning Mr. Besore was there and he adjudicated several accounts there.

Q. Who did?

A. Father Mellon, which, I was disinterested in because I left everything, so far as I was concerned, to Mr. Godfrey, Mr. Garrison and the Williamses, and I know that they were granted that that morning.

Q. Who was granted that?

A. The Williams, whatever the differences were.

Q. Now, did you hear Mr. Hart do anything that morning?

A. Well, after that was over Mr. Hart had, Mr. Hart stated that he had some more items, when he was through with his items, then I recall they totalled the account.

Q. Was any statement made or discussion had by any one on the Williams side of this controversy, touching the items that Mr. Hart produced?

A. None other than as Mr. Hart read them they said that those items were right.

Q. Now, was a total made of the items that had been produced by Philip and assented to the day before and the items that Mr. Hart produced on the second day?

A. That is the items on the first day had amounted to approximately $175,000, or one hundred and eighty thousand dollars, and the items the following day that Mr. Hart produced raised the amount to $213,000. I know—yes, as near as I can recall it was around $213,000.

Q. Do you recall what occurred after the figure in the neighborhood of $213,000 was reached?

A. I remember Harold Williams leaving the table and beckoned to Trevor, and Trevor followed him and as they went out the door he beckoned to Mr. Davis and Mr. Davis went out, so they were out quite a while. Of course, I didn't know what the purpose of it was and then they called Mr. Godfrey and he went out. No, Father Mellon went out and then Mr. Godfrey, and in the meantime Mr. Dorrian and I were in the room. In just a little while after Mr. Godfrey came back and Father Mellon called Mr. Dorrian. They had been out quite a while and Mr. Dorrian called me out.

Q. After you got out there, what occurred out there?

A. We were standing right at the door when Mr. Dorrian says, he says, "They want to settle for $180,000."

Q. A hundred and how much?

A. A hundred and eighty thousand. I said,

"No." I said, "No, we ought to have $200,000." I said, "There is a total here as near as I can understand, of $213,000, with interest," and I said, "With the credits that they got," I says, "We are entitled to $200,000." He agreed with me and thought that was a fair settlement, also, so Father Mellon and he and myself were talking it over, anyhow, the compromise came about, I don't know whether Harold Williams suggested $190,000 or whether Mr. Dorrian, or whether I suggested the $190,000, anyhow, that was the price agreed on, $190,000.

Q. Well, you were still apart by the door in the hall ——

A. We were right at the door.

Q. Then you came back?

A. We came back and they announced the fact that there had been a settlement made for $190,000.

Q. After that settlement was announced did the question of how it was to be paid arise?

A. Yes, sir, they then went into how they were to pay this money. Harold Williams stated that he could pay so much in cash, and the difference in securities, he stating that he could raise $45,000 in cash. The suggestion came from them entirely as to the cash.

A. And the balance over and above the cash, how did they suggest that would be paid?

A. In mortgages.

Q. I don't suppose you remember the details of the selection of the mortgages?

A. I do not. I sat back in the corner and I didn't pay a bit of attention to it.

Q. Considerable time was spent in going through lists of mortgages and things of that kind?

A. Yes, all, practically the remainder of that evening, when we adjourned about eight or nine o'clock that night.

Q. Was anything said by Mr. Carlton Godfrey with reference to preparing the contract?

A. Mr. Harold Williams, just after we had reached an agreement on the amount, he said, well he says, "Now that we have come to an agreement," he says, "I will want to make a deposit." He got a roll of bills out of his pocket, it was flattened, it wasn't rolled, it was flat. He laid it on the table, and he told Mr. Godfrey, he says, "Here is ten thousand dollars on account. Anybody can count it." Mr. Godfrey turned to him, he says, "No," he says, "I don't want anything on account of this," he says, "Until you read the agreement and are absolutely satisfied to it." He says, "In the meantime," he says, "I will draw the agreement tonight and try and have it ready for you by tomorrow afternoon," and we adjourned to the following day.

Q. Now the next afternoon you got together. Can you recall when?

A. Yes, we were called up, that is, I was, I was told that the agreement was ready, and that the party was going upstairs. I went upstairs and I sat back in the corner. Mr. Dorrian was over in the other corner. At times I would sit at the head of the table opposite Father Mellon. Other times I was back in the corner. The second day I was not at the head of the table because Mr. Besore had my seat. There were six copies, and the six copies were distributed. I didn't have any, and I don't know whether Mr. Dorrian had or not, and the agreement was read, every paragraph was read and discussed.

Q. Any corrections made?

A. First paragraph was read and discussed, and there arose objections to this and that and the corrections were made. Mr. Godfrey would send out for a stenographer and right in the room there give dictation, the stenographer going out and correcting the sheet as far as I know.

Q. Well, after a while the thing was complete. Now describe the ceremony of signing.

A. I was at the table opposite Father Mellon, next to, I don't know, I think Royden Davis, I am not certain, but Royden had been sitting up there once in a while, and I sat there during the signing, and never left that seat during all of the signing.

Q. Well, did you sign?

A. I did.

Q. What kind of a pen did you sign with?

A. I used my fountain pen.

Q. Did everybody use that fountain pen?

A. No.

Q. Did anybody else, to your recollection, use a fountain pen in signing?

A. I don't know.

Q. How many ink stands were there on the table?

A. Two or three that I can recall.

Q. And was the same ink and the same ink stand used by the signers that did not use a fountain pen?

A. I don't think so.

Q. After the first person signed, the first copy, what became of that first copy to which the first signature had been affixed?

A. It was passed along.

Q. Signed by the next person?

A. Signed by the next person.

Q. And so on to the entire six?

A. So on through the entire six. I was ——

Q. When, if you can recall, did Mr. Carlton Godfrey witness the first completed paper?

A. After all the signatures were on that.

Q. That was passed on?

A. And that was passed on.

Q. At the end of the signing of the entire six, where were the six copies, as thus completely signed, actually located?

A. Lying right on the table in front of the individual.

Q. Was any statement made to the effect that that agreement was not to be binding until Gordon Williams signed?

A. No, there was nothing said to that effect, not that I heard.

Q. After the signing what occurred about the delivery of anything?

A. As I remember, as I recall it, I don't know whether it was discussed in the room, if it was I didn't hear it, or whether it was settled on the outside.

Q. No, I will come to that in a moment. I am asking you now after the papers were signed, did Mr. Harold Williams do anything with this money?

A. Oh, yes, he counted out, which I thought was the money that was there the day previous, he counted out ten one thousand dollar bills and he handed it to Mr. Godfrey.

Q. What about these papers to be signed by Trevor and by Davis?

A. They then went into the other securities, or the other mortgages that they were to put up to make the difference of ——

Q. And were some assignments and papers signed by Trevor and by Davis?

A. There were papers signed, what they were I don't know.

Q. That was after the execution of the contract?

A. Absolutely.

Q. Now previous to the execution of the contract had you heard anything said by anybody with reference to the capias and its being dismissed or sustained or anything else?

A. No.

Q. Do you recall anything being said by anybody

after the execution of the contract with reference to that?

A. After all these details had apparently been settled I heard them discuss the fact that there were some few things missing, I presume they were bonds and several things like that, and Father Mellon said that they would have to convene again the following day for Trevor to bring the missing articles, and just, that was the understanding just before adjournment, after everything had been settled that afternoon, we were all standing, I was standing the opposite end of the room, Father Mellon made the announcement, he said, "Now I can tell you," he says, "that the capias has not been dismissed."

Q. Now what did you hear, if anything, and when did you first hear it, in the way of the event that has reference to Gordon Williams' name being procured, signature being procured?

A. After the signing, first I had heard of it was, I don't know who told me, or how it got to my ears, that Mr. Godfrey was going to accompany Mr. Williams to California.

Q. Now did you reconvene the next day after the documents were signed and the papers delivered?

A. Yes.

Q. And that would be the fourth day?

A. Fourth day, Thursday.

Q. Harold was there, was he?

A. Mr. Harold Williams wasn't there, and Mr. Garrison wasn't there.

Q. Now can you recall what occurred that day?

A. We were waiting, I remember I was in the room, and waited for a few moments and Trevor Williams and this gentleman here came in.

Q. Mr. Stringer?

A. Yes, Mr. Stringer and Mr. Godfrey stated the fact that we were ready, that he was ready to re-

ceive the differences in the mortgages, and Mr. Trevor Williams asked for a copy of the agreement, and I recall that Mr. Godfrey said, "Have you got the balance of the securities," and that was pro and con for a little while there, and Mr. Stringer said, "There will not be any more securities delivered."

Q. Do you recall two or three of the gentlemen going into the bathroom with Stringer and some announcement being made?

A. Yes, Mr. Stringer, Mr. Trevor Williams and Royden Davis went into the bathroom.

Q. And after they came out what was said about Mr. Stringer?

A. He said, "I have been discharged as Trevor's lawyer," and then he said, "Can I see a paper now? Can I have a paper now?"

Q. Was any subsequent announcement made by Mr. Stringer touching his re-employment?

A. No, he went out in the hall in the meantime, and then he came back, and he said he was re-employed, rehired by Trevor, and he then asked for an agreement, and Carlton Godfrey then turned to Father Mellon and he handed him one agreement, and he says, "You can"—he says, "I hand this to you, Father," and he says, "You can read it or I will read it, you can keep it as long as you like, you can do with it whatever you like, but I want you to return it to me."

Q. Mr. Stringer said there wouldn't be any more securities?

A. He said, "There won't be any more securities turned over."

Q. Did he say anything more than, did he tell you that a meeting had been held the night before at the University Club and they determined to rescind or repudiate the contract?

A. He did not.

Q. He didn't speak of that?

A. No.

Q. There was a considerable display of temper by both Trevor's part and Mr. Godfrey's part that day?

A. Yes, there was.

Q. Now on the three days that preceded this particular occasion, was there anything unfriendly or any jar?

A. Not in my judgment. They were very, apparently everybody was friendly. I had been, to show you the friendly feeling, I was sitting downstairs on the sofa talking to Mr. Harold Williams, just what I don't recall, I think we were joshing each other about his home.

Q. You mean after the adjournment of the conference?

A. No, during the intervening, during the days of the conference, just what particular day I don't know.

Q. Sitting where?

A. Downstairs in the lobby.

Q. Did you go out during the conference with Harold and sit downstairs?

A. This was during an adjournment, probably during meal time or before meeting.

Q. Did you hear any statement made on any of the three days before the contract was signed or after the contract was signed requesting a lawyer present?

A. The only time that was mentioned was just prior to ——

Mr. Bourgeois: I object. Well, that is all right. I don't object.

A. Prior to the signing.

Q. What was said?

A. Mr. Garrison and Trevor and Jack Scanlan came into the room, Mr. Garrison made the statement to Mr. Godfrey, "Trevor has something to say to you," Mr. Godfrey said, "Well, what is?" and Trevor says, "Our lawyers are over at the University Club," and Mr. Godfrey says, "Well," he says, "bring them over." He says, "I have no objection." Whereupon Mr. Harold Williams arose and he says, "I will have no more lawyers." He says, "I paid ten thousand dollars already and," he said, "I want this over with." Jack Scanlan was down at the other end of the table, apparently said something, what he said I don't know, Harold Williams arose from the table and he said, "Here, you," he says, "I want to talk to you," and he took him out into the hall. Shortly after they came back and signed and no more dispute.

Q. Did, at that time, or any other time, Mr. Carlton Godfrey say, "I will be your lawyer, you don't need any other lawyer?"

A. I didn't hear that.

Q. At that time or any other time did Mr. Carlton Godfrey say, "It is too late to have lawyers present?"

A. Not that I heard.

Q. You would have heard it, wouldn't you, you were right there?

A. I was in the room, apparently heard it if he had said it.

Q. Now during these proceedings did you notice that Harold was sick?

A. It wasn't evident that I would think he was sick.

Q. Did you see any indication that he was sick?

A. I wouldn't say so, talking, he entered in the conversation. The third day, the third day he had lunch in the room, the only one of them had any lunch in the room, had his tea in there.

Q. Did you see any indication that Trevor was not in possession of his normal faculties and health and everything else, Trevor?

A. No, I wouldn't judge so.

Q. Did you hear Father Mellon say that they ought to put Harold to bed that night in the hotel rather than go to New York?

A. No, sir.

Q. Did you hear any charge of forgery or embezzlement made?

A. I did not.

Q. Did you hear anyone say that the Williamses or Davis or any of them had committed any crime?

A. Not in my hearing it wasn't mentioned.

Q. You were there all the time?

A. I was there all the time with the exception of once or twice going out of the room.

Q. To the toilet, just for a time?

A. Yes.

Q. Do you remember Mrs. Davis making any statement about some thirty-four thousand dollars?

A. Mrs. Davis addressed herself to Father Mellon and she did make the statement that she wanted to pay back to Mr. Dorrian and Mr. Fahler every penny they owed them with interest. What brought the remark on, I don't know, but that is the statement she made.

Q. Did you see her hand a little paper to Father Mellon or anybody else?

A. No, I didn't.

Q. Was anything, during these proceedings, said to the effect that the money and the documents that were handed out and delivered to Mr. Godfrey were to be delivered to Father Mellon and held by him for any purpose?

A. No, sir, there was nothing handed to Father Mellon but the release.

Q. Now what, if anything, was said about that? Do you remember signing the release?

A. I signed that release.

Q. Was Mrs. Fahler there in the hotel for some purpose?

A. Not that day.

Q. The next day?

A. Mrs. Fahler and Mrs. Dorrian were there the following afternoon for that purpose.

Q. And the only thing that was said, what was said about the release being handed to Father Mellon?

A. The only thing that I can recall when the release was drawn up and signed, it was handed to Father Mellon to keep until the amounts involved had been paid.

Cross-examination.

By Mr. Bourgeois:

Q. Mr. Fahler, prior to the time when you and Mr. Dorrian agreed to contribute the $100,000, had you known Mr. Williams?

A. Yes, sir.

Q. How long prior to that time?

A. That I can't just—it was during that year.

Q. Had you also known Mr. Dorrian prior to that time?

A. Oh, yes.

Q. How long had you known Mr. Dorrian?

A. Four or five years.

Q. Do you know whether or not Mr. Dorrian had known Mr. Williams prior to that time?

A. Yes, Mr. Dorrian told me that he had done business with Mr. Williams.

Q. In other words, you had dealt with Mr. Wil-

liams in real estate matters prior to the time when you finally agreed to contribute $100,000?

A. I personally had a few things, not very many.

Q. And you and Mr. Dorrian were anxious to participate in the real estate business, weren't you, with the Williamses?

A. Not particularly anxious. I thought it was a good investment.

Q. Well, I mean an investment, yes.

A. Yes.

Q. And you sought them out?

A. I didn't seek them out.

Q. Didn't you think they were good real estate people?

A. I didn't know. I was influenced, not influenced by, approached by Mr. Dorrian to make such investments in Atlantic City.

Q. In Atlantic City?

A. And he in turn introduced me to the Williams crowd.

Q. Then after you had been introduced to the Williams and you and Mr. Dorrian and the Williamses have some discussion, and Mr. Davis have some discussion about investing in Florida?

A. Yes, sir.

Q. And did you finally come to some sort of an agreement between the five of you, Gordon Williams, Harold Williams, and Mr. Davis, you and Mr. Dorrian?

A. We did.

Q. You were going to turn over to them a certain sum of money, weren't you, to invest in Florida?

Mr. McCarter: That agreement was in writing.

Mr. Bourgeois: I am cross-examining your client.

Mr. McCarter: I know, but I didn't say anything about an agreement in writing in Florida.

Mr. Bourgeois: I submit this is proper cross-examination, may it please the Court.

The Court: Permit it.

Mr. McCarter: I respectfully object to verbal evidence of a contract that is in writing.

The Court: I will permit this question.

(Question repeated.)

A. To the Williams and Davis, Incorporation.
Q. Are you quite sure about that now?
A. Absolutely.
Q. You are sure it was through the Williams and Davis Corporation, was the first money paid over to them, to the Williams and Davis Corporation?
A. It was paid to the secretary of Williams and Davis Corporation.
Q. Who was the secretary of the Williams and Davis Corporation?
A. Harold Williams.
Q. Was it paid to him as a member of the corporation, as an officer of the corporation?
A. Absolutely.
Q. Now, don't you know—did you pay it to him?
A. Well, I don't know whether I handed it to him, it was given to him at his direction.
Q. I know that, but you yourself did not pay it, did you?
A. I don't know whether I gave him a certified check or whether I gave him cash.

Q. You gave the money to Mr. Dorrian, did you not, the $25,000 or whatever sum you gave?

A. Well, I can't see how I could have given Mr. Dorrian $25,000.

Q. Did you give it to him? You didn't give to Harold Williams $25,000, did you, you gave it to Mr. Dorrian and Mr. Dorrian made the payment to Mr. Williams, isn't that true?

A. I don't think so.

Q. Do you have any recollection of having handed to Mr. Williams $25,000 either in cash or by check?

A. He either got a certified check or cash, Mr. Williams.

Q. I didn't ask you, I asked you whether you personally paid it to him, personally?

A. I don't recall whether I gave it to him.

Q. Now don't you know that you did not? Don't you recall that you did not pay it to Mr. Williams?

A. I don't recall.

Q. That money that was paid, that first amount was $50,000, was it?

A. Fifty thousand dollars.

Q. That was the first amount that was paid on account of an investment, or whatever it was, wasn't it?

A. That is the first money paid into the Williams and Davis Corporation.

Q. Well, you say the Williams and Davis Corporation, I am saying that it was handed to Mr. Williams, Mr. Harold Williams.

A. If it was handed to him it was handed to him as secretary and treasurer of Williams and Davis.

Q. I can't help that, we will find out about that later, but I want to know if that was the first money that you paid to him, or was paid to him on account of the proposed investment?

A. That is right.

Q. And those proposed investments were not to be in New Jersey at all, were they?

A. The understanding was ——

Q. Not the understanding, but they were to be in New Jersey, if that was the conference?

A. New Jersey or Florida.

Q. Now, I show you an agreement dated the 20th day of July, 1925, I ask you if that is your signature to it?

A. Yes, sir.

Q. I read to you, Mr. Fahler, for the purpose of refreshing your memory, to assist the cross-examination, two or three paragraphs ——

Mr. McCarter: Have you offered it in evidence?

Mr. Bourgeois: I am cross-examining. I am going to offer it in evidence.

Mr. McCarter: I object to your cross-examination unless the paper is marked.

Mr. Bourgeois: I will offer it in evidence. It is attached to the complaint.

The Court: This agreement attached to the bill of complaint?

Mr. Bourgeois: Yes, July 20th, 1925.

(Agreement received in evidence and marked Exhibit D57.)

Q. Now the first paragraph reads: "Agreement made this 20th day of July, 1925, between Connie J. Dorrian of Ventnor City, N. J., and Lloyd W. Fahler of Mahanoy City, Pennsylvania, parties of

the first part, and Royden B. Davis, Harold S. Williams, and Gordon Williams, of Ventnor City, N. J., parties of the second part.'' Now they were all a party to it, weren't they?

Mr. McCarter: The paper speaks for itself.

Q. Do you remember whether there were any other parties to it or not?

A. I don't remember the paper.

Q. Don't remember the paper?

A. I signed it, evidently.

Q. I thought not. Just see if there are any other parties than I have read to you.

Mr. McCarter: The paper will speak for itself.

Mr. Bourgeois: I am inquiring of him whether he is conscious of it.

Mr. McCarter: I object.

The Court: I will permit it.

Q. There, is that the first part, Mr. Fahler?

A. No.

Q. They are the only parties, aren't they?

A. Yes, that is right.

Q. Now do you remember in that agreement that it said: ''Whereas the parties of the second part are successful real estate operators and brokers for many years experience in Atlantic City, Ventnor City, Margate City and Longport, and have also made a special study of real estate conditions in the state of Florida'' —— Do you remember anything about that being talked about?

A. Yes.

Q. "And whereas, the parties of the first part desire to take an interest in investments and developments in real estate in the State of Florida, to be purchased, managed, sold and controlled exclusively by the parties of the second part or by a corporation to be formed, managed and controlled by parties of the second part,

And whereas the parties of the first part have offered and agreed to provide a fund of $100,000 in cash capital to be invested and continuously reinvested in the State of Florida in the sole discretion and judgment of the parties of the second part upon the terms and conditions hereinafter mentioned"—do you remember that being discussed and talked about?

A. Yes.

Q. Was the $50,000 that was handed to Harold Williams by somebody a part of that $100,000?

A. The $50,000 was paid into the Williams and Davis Corporation.

Q. I didn't ask you that.

Mr. Bourgeois: I ask that be stricken out.

The Court: Yes.

(Question repeated.)

Q. I ask you to answer this question.

A. That they took to Florida.

Q. I want to know whether or not the $50,000 you have spoken about was a part of the $100,000 mentioned in this agreement of July 20th?

A. That I don't know.

Q. You don't know?

A. I don't know whether that was the same $50,000.

Q. Well, did you have any other arrangement, did you have an arrangement? You said in your direct examination that you were going to raise $100,000, now were you to raise a hundred thousand dollars and contribute it for the Florida transaction, and another hundred thousand dollars for New Jersey?

A. No.

Q. Or one hundred thousand dollars to cover it all?

A. The one hundred thousand dollars, as I recall, was that they could draw on in Florida.

Q. That is what I understood, they were to draw on, draw on you to the extent of a hundred thousand dollars, for the Florida transaction?

A. Yes.

Q. And they got on that $100,000 fifty thousand dollars before they went to Florida, didn't they, or don't you know if they went to Florida?

A. They went to Florida, we gave them a five thousand dollar drawing account.

Q. When did you give them the five thousand dollar drawing account?

A. That I don't know.

Q. The agreement provides they are to be given or taken out of the hundred thousand dollars, now which did you do, did you give it to them or did they take it out of the hundred thousand dollars?

A. No, we gave them five thousand dollars.

Q. Are you sure about that?

A. Yes, sir.

Q. How was it given to them?

A. That I don't recall.

Q. Don't know whether given in check or cash?

A. I don't know.

Q. You don't know when it was given to them?

A. No, I don't.

Q. This provides in here about that: "It is further understood and agreed that five thousand dollars of the said hundred thousand dollars is to be immediately paid to the parties of the second part or appropriated from the said sum of one hundred thousand dollars to be used by the parties of the second part as advance on account of their expenses in the purchase of real estate and so forth, traveling, living expenses and so on." Now I ask you again whether the five thousand dollars was handed to the fifty thousand dollars or was it taken out of the fifty thousand dollars as a part of the fifty thousand dollars?

A. They had fifty-five thousand dollars altogether.

Q. How did they get fifty-five thousand dollars altogether?

A. Mr. Dorrian taken twenty-five hundred and I taken twenty-five hundred dollars to the expense account.

Q. And when was that done?

A. The date I can't tell you.

Q. You are quite sure, however, that you each contributed $2500 to make up the $5000 fund for their expense account?

A. That is right.

Q. Are you certain about that?

A. As near as I can recall.

Q. Do you recall? We are after facts now. We want to get the facts. Do you have any recollection of having paid to them $5,000 in addition to the $50,000?

A. That is on my mind just that way.

Q. If you have, where was it paid to them, to whom was it paid?

A. Harold Williams.

Q. And where?

A. In Margate.

Q. And when?

A. During the time we were incorporated.

Q. When did you incorporate?

A. July 18, 1925.

Q. Now did you incorporate on July 18, 1925, did you have a meeting then?

A. We were not the incorporators. They were the incorporators, the officers.

Q. Then you don't know whether during the time you incorporated, or not, do you?

Mr. McCarter: Minutes speak for themselves, I suppose.

Mr. Bourgeois: Do they?

Mr. McCarter: I think they do.

Mr. Bourgeois: I think they don't.

Q. You don't know whether it was ever incorporated or not?

A. The minute books.

Q. That is all you know about that, simply what you have seen in the minute books?

A. Yes.

Q. Now do you know that there was not any meeting on July 18, and that the minutes were written up in Mr. Godfrey's office and sent down to Florida after the people went down there and received them down there, do you know that?

A. No, I don't.

Q. Were you present at this presumed meeting?

A. No, I wasn't an officer, I wasn't a director, I had no right there.

Q. I suppose you are conscious of the fact that there is nothing on the minutes after July 18th, and

the second one January following, or don't you know that?

A. No, I don't know that.

Q. You testified on your direct examination that you contributed $25,000 to the Gordon Williams Company. Did you mean that?

A. I contributed $25,000 to Harold S. Williams as secretary and treasurer of the Williams and Davis, Inc., that was the purpose of it.

Q. For the purpose of?

A. That was the purpose of it.

Q. It was not done for the trip down to Florida to buy land with?

A. We had incorporated for Florida and Jersey.

Q. Oh, you incorporated for Florida?

A. No, but all we needed to do, as I understood it, the way it was plained to me ——

Q. What I am trying to find out, Mr. Fahler, if I can, you say you had contributed a hundred thousand dollars, or half of it?

A. As I recall that agreement, it was a separate agreement to give them a share of the profits of anything that was made down there.

Q. What I want to find out is this, you say that you contributed $50,000 or were to contribute $50,000 for preferred stock of the Williams and Davis Company, $50,000, your share of the $100,000, that was what you testified to, wasn't it?

A. Yes.

Q. In this signed agreement here you say that "The parties of the first part desire to take an interest in investments and developments in real estate in the State of Florida to be purchased, managed, sold and controlled exclusively by the parties of the second part, or by a corporation to be formed, managed and controlled by the parties of the second part, and whereas the parties of the first part have

offered and agreed to provide a fund of $100,000 in cash to be invested and continuously reinvested in the State of Florida." What I want to know is whether that contribution of $100,000 was for preferred stock of the Williams and Davis Incorporation, as you say, or if it was for the purpose of investment in Florida real estate, as you have said in this agreement. Which was it?

Mr. McCarter: He hasn't said he didn't get stock.

Mr. Bourgeois: I beg pardon?

Mr. McCarter: He simply said he didn't get stock.

Mr. Bourgeois: He also said it was for that purpose, he didn't get stock.

Mr. McCarter: He didn't say it was for the purpose of getting stock.

The Court: If you read the agreement, the preliminary statement, as has been read, and then the agreement is that they will furnish, presumably the same hundred thousand dollars as capital stock to be used for the purpose as stated in the preamble.

Mr. Bourgeois: That is what I want to find out.

The Court: I have permitted it because you are cross-examining the witness, but the agreement seems to indicate that it was to be used for both purposes, to be used for the purpose of investment and to be evidenced by capital stock.

Q. Did you get capital stock?

A. About five or six months after the corporation we did.

Q. You got the capital stock for what?

A. For our interest in the Williams and Davis, Inc.

Q. Didn't you get the capital stock for property that you had purchased from Trevor Williams or from Sadie Craigen or Julia Coll, did you not direct them to make the conveyances of the land direct to the Williams and Davis Company, and you got capital stock for that and capital stock for it, isn't that true?

A. No.

Q. Are you sure about that?

A. That wasn't the intent at all.

Q. Did you make an affidavit in the Atlantic County Circuit Court, attachment proceedings against the Williamses, Gordon Williams, Harold Williams, Trevor Williams, on the thirteenth of May, 1927, before Herbert R. Voorhees?

A. Yes, sir.

Q. In that did you say, in Schedule A, "Properties purchased by the conspirators with money of Connie Dorrian and Lloyd Fahler and deeded by their direction to the Williams and Davis Company?"

A. That is right.

Q. Then you did buy from the Williamses, some of them, property by money of yours and by Dorrian?

Mr. McCarter: Will you tell me what you are reading from?

Mr. Bourgeois: I am reading from a copy of the

affidavit made by Fahler in the attachment proceedings.

Mr. McCarter: This is the affidavit and there is no such affidavit in it.

Mr. Bourgeois: Look at Schedule 1.

Mr. McCarter: You said the affidavit.

Mr. Bourgeois: That is a part of the affidavit.

Mr. McCarter: No. You ought not to say you are reading from the affidavit unless you are reading from the affidavit.

Mr. Bourgeois: I think I am reading from the affidavit.

Mr. McCarter: Will you look at the affidavit?

Mr. Bourgeois: I am looking at it now.

Mr. McCarter: Let's be accurate and fair.

Q. This is a part of the affidavit: "The conspirators aforesaid made many secret and fraudulent profits by transfer of real estate previously financed by deponent to Williams and Davis, Inc., some of which are itemized on appended list marked Schedule A." Does that become a part of it?

Mr. McCarter: You were not reading from the affidavit.

Mr. Bourgeois: Yes, I was reading from Schedule A, because that is a part of that affidavit. I guess

he has had time enough to gather himself together. Will you repeat the question to him?

(Question repeated.)

Q. That was true, wasn't it?

A. Yes.

Q. In other words, these properties that you bought here, that you have mentioned in here, were bought with your individual money and with Dorrian's individual money, and not with money of the corporation?

A. Money of the corporation.

Q. How is it money of the corporation if it was your money and Mr. Dorrian's money?

A. Because we paid it over to the corporation.

Q. Well, you say here that ——

Mr. McCarter: He doesn't say it, your Honor, there is ——

The Court: I haven't seen it.

Mr. McCarter: Very glad to show your Honor copies. The affidavit says: "The conspirators aforesaid made many secret and fraudulent profits by transfers of real estate previously financed by deponent to Williams and Davis, Inc., some of which are itemized on an appended list marked 'Schedule A.'" Now here are the items of Schedule A. At the head of Schedule A is what Mr. Bourgeois says this man said. That is a title affixed at the top of the sheet by somebody, not this man.

The Court: He attaches it, however, to his affidavit, has it marked Schedule A and this heading is under the words "Schedule A." Does he not

make Schedule A a part of his affidavit by so doing and all its contents?

Mr. McCarter: No, sir, I don't think he makes, he says certain real estate was bought, parts of which are specified in Schedule A. Now, then, he goes on and specifies in five or six different items real estate was bought. I don't think that incorporates as part of his affidavit anything that is said on the document by somebody else. I am told, moreover, that Justice Campbell's opinion recently held the schedule was not part of the affidavit. That was one of its troubles.

Mr. Bourgeois: I am not reading from Justice Campbell's opinion. This didn't come before Justice Campbell.

The Court: This is the attachment and not the capias.

Mr. Bourgeois: This is the attachment, not the capias. This came before Judge Sooy.

Mr. McCarter: The point I am making is that there isn't anything to show that this witness has stated and referred to the schedule.

The Court: I think that is true.

Q. Let me read, Mr. Fahler, from the affidavit itself: "The conspirators aforesaid made many secret and fraudulent profits by transfers of real estate previously financed by deponent to Williams and Davis, Inc." That meant the transfer of the real estate to Williams and Davis, Inc., that had been previously financed by you. You meant you in your

individual capacity, did you not, when you said "deponent"?

A. No.

Q. What did you mean?

A. Our money that we advanced to the Williamses, paid into the Williams and Davis, Inc.

Q. Why did you say, then, if that is true, if that is the caption, why did you say the properties were purchased by them with the money of Connie Dorrian and Lloyd Fahler, that didn't remain your property, did it?

Mr. McCarter: He didn't say that in the quotation.

The Court: Objection sustained.

Q. Did the money that was used, and which you say the moneys of Connie Dorrian and Lloyd Fahler, purchase these properties, the four properties here, one being the county property, was that still your money?

Mr. McCarter: I object as a conclusion.

The Court: I will permit that.

A. That was the corporation money.

Q. Then when you said in your affidavit that it was money of yours, Lloyd Fahler, you didn't mean it, or was it untrue?

A. If I tried to make my case as clear as I could to my lawyers, if it isn't clear that is not my fault.

Q. Then the mistake is in your lawyer, isn't it?

A. If there is a mistake, it is not my mistake.

Q. Who was your lawyer?

A. Mr. Godfrey.

Q. Now we have got that located. How much money did you contribute to this transaction in all?

A. To the Williams and Davis, Inc.?

Q. No, toward this $100,000 to be invested in Florida, if that is where it was to be invested?

Mr. McCarter: Now that is a question as to perhaps what contribution, I think, total contribution.

Q. How much did you actually advance of the hundred thousand dollars to be contributed under the agreement of July 20, 1925, and to be invested, as the agreement says, in Florida?

Mr. McCarter: I object to the question.

The Court: Sustain the objection.

Q. Was any property ever purchased by Williams or Williamses and Davis in Florida?

A. No.

Q. Did you ever pay to them the five thousand dollars or any part of the five thousand dollars that was required to pay their expenses while in Florida?

A. I did, sir.

Q. That was paying $2500 you say you paid?

A. Yes.

Q. And Dorrian paid $2500?

A. Yes, sir.

Q. How soon—this agreement provides to be paid immediately or deducted from the fund—how soon or when was the five thousand dollars paid? How soon after the making of the agreement or when?

A. I don't recall that.

Q. Well, was it a week afterwards?

A. I can't tell.

Q. Was it before they went to Florida or after they came back?

A. Before they went to Florida we gave them the drawing account.

Q. Gave them the drawing account before they went to Florida?

A. Yes, sir.

Q. You are sure about that, are you?

A. Yes, sir.

Q. Are you sure about that?

A. Yes, sir.

Cross-examination.

By Mr. Cole:

Q. In 1925 when you say you passed $25,000 to Mr. Williams, did you keep a written record of your financial transactions?

A. Unfortunately, I haven't, Mr. Cole.

Q. I don't care anything about unfortunately. Repeat the question.

(Question repeated.)

A. I have no record.

(Question repeated.)

A. I did not.

Q. At no time during that year?

A. I have no ——

Q. At no time during that year?

A. At no time at all during that year.

Q. Did you pay this $25,000 by check or in cash?

A. I don't remember.

Q. If you paid it by certified check as you suggested you might have done, where is that check?

A. I judge it is in the bank at home.

Q. Can you produce that?

A. If it is there.

Q. I want you to look for that check and check book and any written evidence that you have of the payment of $25,000 that you said you made. Now, you can't remember whether you paid the $25,000 in cash or by check?

A. I am not certain.

Q. Well, do you so frequently make such payments that, in size, by cash, you can't recall which it was?

A. I have done that, yes, sir.

Q. During 1925?

A. I don't know—do you mean to Williams and Davis, Inc.?

Q. What?

A. Or to any individual?

Q. I am talking about your personal connections in the Williams and Davis Company?

A. Yes, I did handle amounts to that extent.

Q. Paid in cash?

A. In cash.

Q. And during that time how many bank accounts had you?

A. One.

Q. Where?

A. Mahanoy City.

Q. What?

A. Mahanoy City.

Q. How long have you lived there?

A. Twenty-two years.

Q. Why would you pay twenty-five thousand dollars in cash when you had a bank account?

Mr. McCarter: He hasn't said he did.

Mr. Cole: Oh, yes, he said he did.

Q. Did you have a bank account in 1925?

Mr. McCarter: He hasn't said he paid it in cash. He says he doesn't remember.

Q. All right, I am assuming now, if you did pay it in cash, why did you pay it in cash when you had a bank account?

A. Because I didn't draw it out of my account, if I paid it in cash.

Q. If you paid it in cash where did you have the cash?

A. Mrs. Fahler gave it to me.

Q. Mrs. Fahler.

A. Yes.

Q. Was it her money?

A. Absolutely her money. I handled it.

Q. What did you give her as evidence of the fact that she had given you $25,000?

A. Nothing.

Q. Where did she get $25,000 to give you to pay to Harold Williams?

A. Mrs. Fahler always has cash.

Q. Where did she get it?

A. Earned it.

Q. In what way?

A. Mrs. Fahler has been in business since '98.

Q. 1898?

A. She took hold of her father's business when he died.

Q. What was that business?

A. She had two theatres, she had a water com-

pany, still has, she had an ice company, she has a brewery, she had a light, heat and power company.

Q. Did she lend you that money?

A. Yes, sir.

Q. For this purpose?

A. Yes, sir.

Q. Do you know whether she has any record of this transaction or not?

A. She has not.

Q. Now do you owe her that twenty-five thousand dollars?

A. I certainly do, and a lot on top of that.

Q. Never paid any part of it?

A. I couldn't.

Q. What was your business in 1925?

A. I help her, assist her in the management.

Q. Got any other business?

A. In the management of the plant. I am a director in the Union National Bank.

Q. How do you manage to, or did you in 1925, to properly account to the Federal Government, if you didn't keep any books of account?

A. The earnings were in 1925 and 26, I got from the books of the Gordon Williams Company, my earnings from that, outside of that personally I didn't have many earnings, Mrs. Fahler and I make a joint account.

Q. Does she keep books of record?

A. She has a bookkeeper.

Q. Her books, then, will show, will they not, this loan of $25,000?

A. No, that was her personal money.

Q. Why didn't you get a check, rather than cash?

A. Because she always has a big cash balance, she has to have.

Q. You mean cash on hand?

A. Yes, sir.

Q. Do you know where she got this cash from?
A. I don't know anything about it.
Q. Handed you $25,000 in cash, did she?
A. She has handed me more than $25,000.
Q. I am talking about this $25,000, did she?
A. I don't know whether she gave me that in cash, if it is a certified check she gave me the $25,000 to deposit to that check.
Q. All right then, I am going to ask you now, Mr. Fahler, to examine your bank books and produce them here so we may know whether or not it was a certified check and when the money was deposited on which that was drawn. I think we have a right to know and I ask you to give us that information. Now was anything said at any of these conferences as to how or when this agreement was to become effective?
A. Which agreement are you talking about?
Q. Talking about the agreement now on which this suit was based?

Mr. McCarter: You mean conferences at the hotel?

Mr. Cole: Yes.

A. Repeat that, please.

(Question repeated.)

A. When signed.
Q. By all the parties?
A. No.
Q. Who said it was to become effective when signed?
A. That was the understanding.
Q. Who said it?

A. I don't really just recall that any individual said it.

Q. Why do you say it was to become effective when signed, because that was the understanding, pardon me, you said in answer to my question that it was to become effective when signed. I ask you who said it, and you said you don't remember.

A. Mr. Harold Williams volunteered the statement he would guarantee Gordon's signature.

Q. I repeat my question, who was it that said that that agreement was to become effective when signed?

A. I don't know that anybody made the statement.

Q. Somebody you say guaranteed that Mr. Gordon Williams' signature would be procured?

A. Yes.

Q. Who guaranteed that?

A. Harold Williams.

Q. Who asked for that guarantee?

A. That I don't know.

Q. Somebody did, didn't they?

A. I suppose it came up through Mr. ——

Mr. McCarter: Don't suppose anything about it.

Mr. Cole: I beg your pardon, Mr. McCarter. He is under cross-examination.

Mr. McCarter: I know, but I don't want him to suppose.

Mr. Cole: I have a right to have him suppose on cross-examination.

The Court: On cross-examination, he shouldn't receive advice from counsel on cross-examination.

Mr. McCarter: I object to the question answered as based on supposition.

The Court: That is a different proposition. I sustain the objection.

Q. Did anybody ask for that guarantee?
A. They must have because it was volunteered by Harold Williams.
Q. Now was it somebody, to use the expression of my beloved friend, Mr. McCarter, somebody on your side of the fence?
A. I would judge it came from Mr. Godfrey.

Mr. McCarter: I object to what you judge. I move it be stricken out.

Mr. Cole: May it please your Honor, I certainly have a right to have that.

The Court: Counsel has a right to have that answer stand. He doesn't ask the question asking for supposition, but the witness replies on cross-examination, and he is entitled to the reply.

Q. You keep no books of account between you and your wife, do you?
A. Between who?
Q. You and your wife?
A. No, sir.
Q. Now how many times have you talked your testimony over with your counsel before today?
A. My testimony?
Q. Yes.
A. With my counsel?
Q. Yes.
A. I don't know that I have talked it over at all with Mr. Godfrey.
Q. Who have you talked it over with?
A. Mr. Dorrian several times.

Q. Who else?

A. I don't recall anybody, my testimony that I have given today, that has been a direct line of conversation.

Q. When did Mr. Godfrey begin to represent you in these matters?

A. As near as I can recall a week or two after Mr. Williams left for California.

Q. Now showing the agreement of the twentieth of July, 1925, between yourself and Fahler and Davis and others, I ask you whether he represented you at the time that was drawn?

A. No.

Q. Do you know who drew that agreement?

A. No, I don't. I didn't know Mr. Godfrey then.

Q. I notice that the backing says, "Law Offices Carlton Godfrey, Guarantee Trust Building, Atlantic City, N. J." Did he represent you in drawing that agreement?

A. No, he represented Williams and Davis.

Q. And the Williamses?

A. And the Williamses.

Q. At that time he represented them, did he? That is your understanding?

A. I cannot recollect that.

Q. You know, of course, it is quite important that this money which you say you paid should have been paid to Williams and Davis, Inc.?

A. Yes.

Q. Who told you that?

A. That it be paid to Williams and Davis?

Q. Yes.

A. That was the understanding of the incorporation, that we were to finance the corporation.

Q. Had the corporation been formed when you passed this $25,000?

A. That I don't know.

Q. Now, coming to the $250 that you say you paid ——

A. $2500.

Q. $2500, pardon me, how was that paid?

A. I don't know whether that was paid in cash or whether it was paid by check.

Q. Will you hunt for that check?

A. I will try to.

Q. Where did you get that money?

A. Any moneys that I advanced I got from Mrs. Fahler. I had no money.

Q. Then it was her money, was it?

A. Absolutely, my wife's money.

Q. Still her money?

A. Still her money.

Q. That is all..

By Mr. Bourgeois:

Q. Mr. Fahler ——

Mr. McCarter: Are we to have this see-saw business again?

The Court: I think it should be limited, gentlemen.

Mr. Bourgeois: It should be, but I didn't have these agreements of sale at that time.

Mr. Cole: May it please your Honor, I represent Mr. Davis in this matter.

The Court: Each counsel has one examination, but not the second and third tack.

Q. Mr. Fahler, I call your attention to paragraph

two of the schedule "A" which pertains to "on February 11th, 1926, Julia Coll took a deed from David Smith and others for a tract in Egg Harbor Township" and you say they converted the property at a profit of $66,000.00. I show you an agreement dated the third day of October between Julia Coll and Connie Dorrian and Lloyd W. Fahler for the property in Egg Harbor Township. That is the same property. And I ask you if that agreement for purchase, if the signature to that of Lloyd Fahler is your signature?

A. Yes, sir.

(Agreement offered, received in evidence and marked Exhibit D58.)

Q. Now I call your attention to ——

Mr. McCarter: Have you the deed for that?

Mr. Bourgeois: I don't know whether we have or not. You mean a deed from Coll to Dorrian? We haven't that. You have that.

Mr. McCarter: I want the deed from Coll to Williams and Davis, Inc. Mr. Bourgeois, you know perfectly well what I want.

Mr. Bourgeois: We haven't it. You have that, I suppose.

Mr. McCarter: I ask you if you have that deed.

Mr. Bourgeois: So far as I know we haven't, but if we have it would be one of the papers here, going to produce to your Honor for impounding today. I don't know that we have it. If we have it, I don't know it.

Q. Now, I call your attention to paragraph three of the contract or agreement of Julia Coll, and I ask you, I mean where you say Julia Coll received a deed for it, and deeded it, I show you an agreement dated October 3, 1925, between Julia Coll and Connie Dorrian and Lloyd Fahler for the purchase of a portion of the Roberts tract, the smaller portion, and call your attention to the last signature and ask you if that is your signature, Lloyd Fahler?

A. Yes, sir.

Q. Who is that apparently witnessed it, Charles what?

A. Charles Bonson.

Q. Where does he live?

A. He is our bookkeeper.

Q. Your bookkeeper where, in Atlantic City?

A. Mahanoy City.

Q. Mahanoy City?

A. Yes.

(Agreement offered in evidence.)

Q. Excuse me, Mr. Fahler, I got the wrong one. This is the one dated the sixteenth of October, 1925, from Julia Coll to Connie Dorrian and Lloyd Fahler for a portion of the Roberts tract and ask you if that signature is your signature?

A. Yes, sir.

Q. The last signature down?

A. Yes, sir.

(Agreement offered, received in evidence and marked Exhibit D59.)

Mr. Bourgeois: If your Honor please, I have only a certified copy of the affidavit.

Mr. McCarter: What is the object of offering the affidavit?

Mr. Bourgeois: I want to offer it.

Mr. McCarter: No objection to the certified copy being used.

The Court: I will permit it.

(Certified copy of affidavit offered, received in evidence and marked Exhibit D60.)

(Recess taken until 1:15 o'clock P. M.)

AFTERNOON SESSION.

(Trial of the cause resumed at 1:15 P. M.)

LLOYD W. FAHLER, resumed.

Re-direct examination.

By Mr. McCarter:

Q. I think you have testified, Mr. Fahler, that no land was bought in Florida by the Messrs. Williams on your account?

A. No, sir.

Q. Or on account of Williams and Davis, Inc.?

A. No, sir.

Q. Do you remember about when they went to Florida with reference to the incorporation of the company, that date being the 18th day of July, about how soon after that they went to Florida?

A. As near as I can recall, I was up in the office on a Sunday, I was in town on a Sunday, and I believe the following day or two days after. The exact date I don't know.

Q. Was it in July or August, do you think? Do you think about two days after the ——

A. I think it was in July. They came back early in August.

Q. Now do you remember about how long they remained down there?

A. As near as I can recall about three weeks.

Q. Then they returned?

A. Then they returned.

Q. Who went to Florida?

A. Harold and Trevor.

Q. Did Davis go?

A. I really don't know now who was in Florida, to be certain.

Q. Did Gordon go, if you know? If you don't know, say so.

A. No, I don't. I don't want to guess. I wasn't here much at that time.

Q. Did you ever receive back any of the money that you handed to Harold before they went to Florida?

A. No.

Q. Did you keep any record of the subsequent moneys handed by you to Harold?

A. I did not.

Q. But you say it must have aggregated how much?

A. As near as I can guess, as near as I can recall, it was around $120,000, $110,000 or $120,000.

Q. Including the original $25,000?

A. Including that twenty-five.

Q. When were the—what would precede the subsequent payments, requests from Harold for money?

A. Harold would in some way, either here or get in communication with me at Mahanoy City, and tell me that he needed so much money, and I would remit somehow, I don't know, sometimes we would be here, and I would give him cash, other times it must have been checks.

Q. And was the source of the money that you subsequently put up from time to time as requested the same as you have described for the $25,000.

Mr. Bourgeois: If the Court please, every question Mr. McCarter asks is leading and I object to this one.

Mr. Cole: I object to it on the ground it is not re-direct.

The Court: It is leading and I will sustain the objection.

Q. You later became an owner of several shares of stock in the Williams and Davis, Inc.?

A. Yes, sir.

Q Are you able, without referring to the stock book, to say how many shares you own?

A. I don't know.

Q. Well, who does own the stock that appears by the stock book which I will momentarily offer in evidence, in your name, who owns?

Mr. Bourgeois: Objected to as not re-direct.

The Court: I will permit it.

(Question repeated.)

A. I own it.

Mr. McCarter: I would like at this time to offer in evidence the stock book of Williams and Davis, Inc.

(Stock book received in evidence and marked Exhibit C31.)

Mr. McCarter: I also offer in evidence the stock book of Williams and Davis, Inc., common stock.

(Common stock book received in evidence and marked Exhibit C32.)

Mr. McCarter: One of these books is the preferred stock book and the other is the common stock.

The Court: Yes, first there was the common stock.

Mr. McCarter: One you have before, your Honor, is the preferred stock.

The Court: Yes, the first was offered was preferred.

Q. Now, Mr. Fahler, have you any distinct recollection of when or how you made these later payments than the $25,000?

A. Only, no other than what I have stated, that it would be either in cash or check, handed to Harold S. Williams as treasurer of Williams and Davis.

Q. You kept no record?

A. I have no record. I never questioned the veracity of Williams and Davis, Inc.

Q. You had entire confidence?

A. Absolute.

Q. Now turning to the transactions at the hotel, in reply to a question by, I think Judge Cole, you were asked when the settlement agreement was to take effect and you said when it was signed. I ask you signed by whom?

Mr. Bourgeois: Objected to, answer speaks for itself.

The Court: I will permit it.

A. Signed by those there that was evidenced by the fact that ——

Mr. Cole: I object. That is an argument.

The Court: Yes.

Q. After it was signed by those that were there, what was done by those who had signed with reference to delivering the cash and securities?

A They turned over ten thousand dollars in cash and certain mortgages to Mr. Godfrey.

Q. And do you recall that before it was signed Mr. Harold Davis—Harold Williams offered to pay over his ten thousand and that Mr. Carlton Godfrey said no, not until ——

Mr. Bourgeois: That is objected to as leading.

The Court: I will permit that.

A. I think I answered that question this morning, didn't I?

Q. Perhaps you did.

A. Will you repeat it?

(Question repeated.)

Q. —— that paper is signed?

A. No.

Mr. Cole: Wait a moment. I don't object. Proceed.

A. On Tuesday afternoon, after the amount was agreed on, Mr. Harold Williams proffered Mr. Godfrey a package of money, stating the fact that there was ten thousand dollars there, laid it on the table. Mr. Godfrey answered with the statement that he

did not want it, he said, "I don't want it." He says, "I won't take anything now until the contract has been discussed and agreed on and signed."

Q. Now do you remember, after the return of the Messrs. Williams from Florida, that the subject of the purchase of any local land, that is local in New Jersey, was broached by them to you or to Mr. Dorrian and you?

Mr. Cole: That is objected to as not being re-direct.

The Court: I will permit it.

A. I wasn't here immediately after they came back. My first visit down here, I don't just recall, I think it was in the early part of September or latter part of August. They didn't talk to me directly. I think they suggested to Mr. Dorrian, because Mr. ——

Mr. Bourgeois: I object.

The Court: Yes.

Q. They didn't talk with you about that subject?

A. Only in one point, after it had been mentioned, Trevor Williams stood out on the corner, that is all I recall about it.

Q. Trevor Williams what?

A. Trevor Williams was on the corner of the office and we were talking then about Somers Point land.

Q. What was said about Somers Point?

A. I don't recall what was said. We were discussing land in Somers Point, it was brought to my attention, right on the outside, on the pavement.

By Mr. Cole:

Q. How did you come to be the owner of the stock in the Williams and Davis, Incorporation?

A. Through money that I borrowed from Mrs. Fahler.

Q. How did you pay for it?

A. I haven't paid for it.

Q. What?

A. I haven't paid for it. I still owe it.

Q. How much did you agree to pay for it?

A. I agreed to pay Mrs. Fahler for it?

Q. No, Williams and Davis, Inc.?

A. Oh, there was no stipulated amount that I can recall, it was whatever the corporation needed, as as far as I know.

Q. You mean then that you claim to own this stock without yet having paid anything for it?

A. I paid for the stock.

Q. How did you pay for it?

A. In money.

Q. How much money?

A. What I advanced, what I put into Williams and Davis Corporation, as close as I can figure, around one hundred and twenty thousand dollars.

Q. Then you think, do you, that you have paid for this stock in the Williams and Davis Company with a part of the money you turned over to Mr. Williams, is that correct or not?

A. That was paid into the Williams and Davis Company.

Q. And that money you say paid for this stock?

Mr. McCarter: What money?

Mr. Cole: Now, Mr. McCarter, I object to your interrupting.

The Court: Yes.

Mr. McCarter: I think we are entitled to know, your Honor, I don't understand the question, does he refer to the first twenty-five thousand or does he refer to the later payments?

Mr. Cole: Let the witness inquire if he doesn't understand.

Mr. McCarter: I want to understand. I am entitled to understand.

The Court: If the witness doesn't understand he may say so.

Mr. McCarter: Can't say if I like to understand the question, am I entitled to comprehend the question?

The Court: I don't think you are entitled to interpose the fact that you do not understand the question unless the witness does not understand it.

Mr. McCarter: Your Honor, I have always understood one of the functions of counsel was to understand what was going on. If that is not true in Atlantic County I want to know it.

The Court: Undoubtedly so. There is no question about that.

A. I don't understand that question.

(Question repeated.)

Q. Now did any part of the hundred and some odd thousand dollars which you say that you passed to Mr. Williams pay for that stock?

A. It went into Williams and Davis, Inc., and I got stock in return.

(Question repeated.)

The Court: The question is answered.

Q. How much of that sum went to pay for the stock?

A. The first twenty-five thousand?

Q. I don't care whether the first twenty-five or the last twenty-five. I want to know how much of your money went to pay for that stock.

A. All that I advanced for the incorporation.

Q. You mean, do you, by that, that all the money you paid for the first $25,000 went for the purchase of that stock, is that right?

A. All the money that I advanced? No, Gordon Williams had several deals.

Q. I am talking about the stock that you claim now to own in the Williams and Davis, Inc., don't you understand just what I am examining you about? If not, I will tell you, that is what I am examining you about, and I am asking you again how much of the money which you say you passed to Harold Williams went to pay for the stock you claim to own?

A. About one hundred and twenty thousand dollars, as near as I can guess.

Q. How much did you advance Mr. Williams altogether?

A. For Williams and Davis?

Q. I don't care. I didn't put that in the question.

I am asking you how much you advanced to Mr. Williams altogether?

A. I can't give you the exact amount other than what I have stated.

Q. Have you any evidence, except your own word, to show how much money you did advance or pass to Mr. Williams?

A. No, none other than the accounts of the Williams and Davis Corporation that gives me that credit.

Q. You have no checks you can produce now, have you?

A. Not right now.

Q. You have no receipts you can produce now?

A. No, I didn't ask them for a receipt.

Q. Pardon me, just answer that yes or no. Have you any written record that you can produce?

A. None other than ——

Q. Now ——

The Court: He is entitled to finish.

Q. I thought he had. Proceed.

A. None other than the few checks that I may be able to locate.

Q. Now of the hundred and twenty thousand dollars that you say you passed to Mr. Williams, how much of it do you presently think was passed by check?

A. I can't tell you that.

Q. Have you no idea?

A. No. It would be a guess.

Q. Well, I will take your guess. What do you guess you passed by check or checks?

A. Well, as near as I can recall about, I should judge fifty thousand dollars.

Q. Have you those checks?
A. The cashier's checks would be in Mahanoy City.
Q. Have you them?
A. I haven't got them, no.
Q. Where are they?
A. In Mahanoy City.
Q. I understand that, but are they under your control?
A. They are in the Union National Bank.
Q. And will you produce them later?
A. I will get them if it is possible to get them.
Q. Now whose money was it that made these advances or payments ——

Mr. McCarter: That has all been gone into.

Mr. Cole: Only up to the twenty-five thousand dollars.

The Court: Let me hear the objection.

Mr. McCarter: The witness has stated that with reference to the payments that were made later, as well as the payments that were made before of the twenty-five thousand dollars, he obtained all money by borrowing from his wife, he said that.

The Court: That is my understanding of the testimony.

Mr. Cole: Exactly. He said that in the re-direct, but the cross-examination was confined to the twenty-five thousand dollars as I remember it, may it please your Honor.

The Court: Sustain the objection to this question.

Q. Now have you talked with your counsel during recess period?

A. Yes, sir.

Q. About your testimony that you gave before recess?

A. No, we were discussing ——

Q. Pardon me, sir.

(Question repeated.)

A. Not about the testimony, I didn't enter into it. I was sitting there and Mr. McCarter and Mr. Godfrey and Mr. Hart, and I think Mr. Repetto were sitting there, and they were discussing ——

Q. Were they discussing in your presence the testimony you gave before recess?

A. Not to me.

Q. I said in your presence?

A. No. They were in conversation among themselves.

Q. Did you hear it?

A. No, I couldn't tell you anything that they particularly discussed.

Q. They didn't say anything to you at all during recess period of the testimony you had given before recess, did they?

A. Not in reference to my testimony, a correction.

Q. Now you were asked whether you had received back any of the money that you paid to Mr. Williams. Did you mean, when you said you did not, that you did not receive anything from the corporation, or did not receive anything directly from Mr. Williams?

A. Stock from the Williams and Davis Corporation.

Q. Did you never have any dividends?
A. No.
Q. No profifits on any of your real estate transactions?
A. Not Williams and Davis.
Q. Out of this money I am talking about that you say you passed?
A. Gordon Williams made some profits for me, but not Williams and Davis.
Q. You didn't get any?
A. I didn't get it, I got a credit from Gordon Williams for several profits that they made for me.
Q. I think that is all.

By Mr. McCarter:

Q. You spoke of credits that appear on the books in your favor. Mr. Besore kept the books and made monthly or stated reports, did he not?
A. No, I didn't get a monthly statement, exery once in a while I would get them.
Q. Stated, I corrected that, stated reports?
A. Repeat that question?

(Question repeated as follows: "Mr. Besore kept the books and made stated reports, did he not?")

A. I am not talking about Williams and Davis in that. Gordon Williams is the only company that made me any profit, if that is what you mean.
Q. Did you ever receive any reports put together by Besore of Williams and Davis matters?
A. Yes, we got statements.
Q. How often were they rendered?
A. I think every month or twice, every once or twice a month, I am not certain whether it was semi-monthly.

Q. Do you know—we will bring the reports later —we will bring the books of Williams and Davis, but I am asking you whether you know whether or not the books of Williams and Davis contain any statements of amounts contributed by you?

A. Yes.

Q. They do?

A. Yes.

Q. During the period that Messrs. Williams, Harold Williams, and Gordon Williams and Davis were directors and officials of the company that was true, wasn't it?

A. That I got these statements?

Q. Yes.

A. Yes, sir.

Q. Did you hire Besore or did somebody else?

Mr. Cole: How is this re-direct.

The Court: I doubt if it is.

Mr. McCarter: They asked him how much he advanced, he hadn't any record, he said in reply to a question by Judge Cole.

Mr. Cole: The records you say you have, let them be produced.

Mr. McCarter: He didn't keep the records. I propose to call Mr. Besore. We can't prove everything at once.

The Court: Sustain the objection to this question.

Q. Were those reports read in the presence of the Messrs. Williams at any time, reports of Besore?

A. Oh, I don't know. I never attended a Williams and Davis Company meeting.

Q. That is all.

DANIEL A. MULHERN, sworn.

Direct examination.

By Mr. McCarter:

Q. Are you the Mr. Mulhern that has been referred to quite frequently as having been at the hotel in Philadelphia?

A. Yes, sir.

Q. Are you a stockholder in Williams and Davis, Inc.?

A. Yes, sir.

Q. Were you a stockholder at the time of the meetings in Philadelphia?

A. Yes, sir.

Q. Which of those meetings did you attend, Mr. Mulhern?

A. I attended all the meetings with the exception of the first.

Q. Are you also a friend of either Mr. Dorrian or Mr. Fahler?

A. Yes, sir, of both.

Q. Please, as well as you can, recall the incidents after the parties got around the table on the first day?

A. The first day?

Q. You were not there?

A. I wasn't there the first day.

Q. Second day.

A. Second day.

Q. First day you were there.

A. Second day they met, the commission was brought up first, and Besore was called in too, Besore being present, figured out the commission and decided that they were not entitled to the commissions, but a contract was ——

Q. Who decided that they were not entitled to the commissions?

A. Besore decided that. Contract was produced and the contract showed that Gordon Williams and Company were to get their commission immediately upon each payment, not waiting until any certain portion of each payment, but as it came in.

Q. Do you recall who produced that contract?

A. I believe Harold S. Williams produced that.

Q. Well, now after the commissions were out of the way what else came up?

Mr. Bourgeois: Your Honor, I move that answer be stricken out. It was not answered. He said he believed something. He doesn't say it was so.

The Court: I will permit it to remain.

A. After that there was some adjustment made on notes. Mr. Williams maintained that Williams and Davis Company had benefited from notes which had been given for the purchase—for the sale of property. Williams maintained that Williams and Davis had received some of that money. The matter was put up to arbitration and Father Mellon rather, arbitrated the matter, and decided that the Williams and Davis had benefitted, after looking over the books, Williams and Davis had benefited and they were allowed a credit of three thousand dollars

on that item. Another dispute arose about a five thousand dollar deposit which Mr. Dorrian had received on a deal and that the deal fell through and Mr. Dorrian was allowed full credit at the time and Mr. Williams claimed that they were entitled to their commission on that, which had never been deducted from the five thousand. The claim was adjusted and they were allowed $2500 of that by Father Mellon. After that Mr. Hart read some deals and as each item was read off, Williams said, "That is right," in reply to a question whether there is a straw or whether a profit had been made there.

Q. Which Williams was that?

A. Harold S.

Q. Very good.

A. These deals, I don't know the exact total of them, but however, after deducting the allowances and everything, a total was reached of $213,000. After reaching that total, Mr. Dorrian and Mr. Fahler were called into the hall by Mr. Godfrey or Father Mellon, I am not sure which. They finally came in and Father Mellon announced that a settlement had been reached for $190,000. After that ——

Q. Do you remember who else went out in the hall besides those men you mentioned?

A. Dorrian, Fahler, and the other side, that has been referred to as the other side. After that Harold S. Williams came in, they all came in, rather, and Harold Williams had ten thousand—Mr. Godfrey asked how this was to be paid and Harold Williams said he had ten thousand dollars in cash and wanted Mr. Godfrey to take it. Mr. Godfrey said no, he wouldn't take it until the papers had been prepared, and a certain agreement drawn up. Then the other items were brought up, such as bonds and mortgages and a total taken, and a total reached of

$190,000 by Philip, and Jack Scanlan, I believe called him and said there was $195,000 total, so Philip deducted one item. After that was totalled Mrs. Davis said that they were only responsible for $34,000, that is all they wanted to pay. Mr. Godfrey in reply said, "We are not interested in what your equal shares are. You will have to settle that between yourselves." Shortly after that the meeting closed, to reconvene the next day.

Q. Now during that day did you hear any request or demand by any of the other side for a lawyer?

A. Absolutely not.

Q. During that day did you hear anything said by Carlton Godfrey to the effect that he would be their lawyer?

A. Nothing like that.

Q. During that day did you hear any threats made by anybody?

A. There were no threats made at all.

Q. During that day did you hear anything, anybody say anything about forgery or embezzlement or crimes?

A. Nothing like that.

Q. Was there any unpleasantness or disagreeable feeling manifested anywhere that day?

A. No, the meeting was very pleasant, and they were not under tension or nervous strain or anything.

Q. Now when the party separated that night, was it arranged that Mr. Carlton Godfrey was to prepare a draft?

A. Yes, sir, I stated that, I think.

Q. Now, we will go on to the next day, you were there?

A. Next day, yes, sir. That next day we came to

the hotel and the papers were not quite ready, finally somebody announced that they were ready, that we should go up to the room. We went up to the room and the papers were all ready, and each person was given a copy, that is, I won't say each person, Harold Williams had one copy, Trevor Williams had a copy, Mr. and Mrs. Davis had a copy between them, Father Mellon had a copy, and Mr. Godfrey had a copy.

Q. Then what occurred?

A. The agreement was read and any time that anybody did not understand, they were instructed by Father Mellon, to do, if they did not understand it, they were to object and tell them what they didn't understand, and it would be explained to them. There were numerous pauses for explanation and corrections. Corrections were made by the stenographer, Mr. Godfrey called the stenographer in and dictated the corrections in front of everybody and while he was dictating, that is publicly, several times he was interrupted by the other side and made the corrections right there in his dictation. After everything had been ironed out, all the corrections made that they wished, the agreements were prepared for signature, everybody signing the papers, going around in a circle, right around the table, as it passed each one of the concerned parties, they signed it.

Q. Did you notice whether any of the persons who signed used stylographic pens?

A. Stylographic? You mean the ordinary pens?

Q. I beg pardon?

A. You mean a plain pen, what sort of a pen did you say?

Q. I said stylographic. I don't know whether that is the proper phrase—fountain pens.

A. Yes, there were numerous fountain pens, there were at least three fountain pens that I can account for.

Q. Do you know whether there was only one bottle of ink or more than one bottle of ink?

A. There were several bottles of ink on the table.

Q. Which were used?

A. By those signing?

Q. By those who did not have fountain pens?

A. Yes, sir.

Q. After—who was the last to append the signature after the parties themselves had signed?

A. The last in the line would be Carlton Godfrey.

Q. And after he had put his name on as a witness, and before he put his name on the other one, what did he do with the one that he had fastened his name to?

A. He passed it on again to see if there were any more signatures on it.

Q. After the ceremony had been completed, how were the copies disposed of?

A. They were about the table, in front of the interested parties.

Q. Now, after the documents had been signed, as you have explained, what did Mr. Harold Williams do with reference to the money?

A. Mr. Harold Williams turned the money over to Mr. Godfrey and asked for a receipt. Mr. Godfrey started to dictate the receipt, but first, before dictating the receipt, handed the money to Father Mellon to count, Father Mellon turned it back to Mr. Godfrey and said, "There is ten thousand dollars there." Mr. Godfrey started to dictate the receipt and Mr. Williams, included both the Williamses' names in the receipt, and Mr. Williams, Harold Williams, Sr., said, "No, I want that to read that I paid the ten thousand dollars."

Q. Did you read the receipt which is in evidence? I don't know whether you read it or not?

A. No, I didn't read it.

Q. Now, after the cash had been passed and receipted for, what happened by anybody else in the way of transfer, or signing of papers?

A. There was a release to be given to the Williamses, to those who had signed, and that release was to be deposited with Father Mellon in escrow until the $190,000 had been paid in.

Q. And did anybody execute the release that day?

A. Yes, Mr. Dorrian and Mr. Fahler signed it.

Q. What did they do with it after they had signed it, do you know?

A. Gave it to Father Mellon.

Q. Did Mr. Davis sign some papers?

A. Yes, Davis signed some papers.

Q. Who took them?

A. He signed—that was the agreement.

Q. I mean some assignment of mortgages or securities, something of that kind?

A. Yes, he signed some assignment of mortgages.

Q. What did he do with the assignments after he had executed them?

A. Gave them to Mr. Godfrey.

Q. Now, Trevor the same?

A. Yes, sir, Trevor had quite a few assignments.

Q. Do you remember any question arising as to the completeness of Trevor's securities?

A. Yes, I remember that there were some intermediate assignments missing and in some cases the bond was missing and other cases ——

Q. What did Trevor say about that?

A. He said that he would supply them.

Q. Did he state any time that he would supply them?

A. He said that some of them was in New York and he would bring it over the following day.

Q. Do you know whether receipts were given to either Trevor or Davis?

A. No, I don't know whether there were any receipts given, you mean for the assignments they turned over?

Q. Whether any receipts were given to Trevor or Royden Davis?

A. I don't know.

Q. You don't know about that?

A. I don't know.

Q. Now, did you hear anything said to the effect that these papers—this agreement was not to be binding or to be effectual or to be carried into operation until it was signed by Gordon?

A. No, sir.

Q. Did you hear any statement or suggestion made by anyone that these documents and this cash were to be turned over to Father Mellon to be held by him until something happened or anything happened?

A. No, sir.

Q. What seemed to be the condition of Harold during those two days?

A. Harold seemed to be in natural condition.

Q. Did you notice he was ill?

A. No, I couldn't notice it.

Q. Did you hear anything about Father Mellon telling him he ought to be put to bed that night in the hotel?

A. No, sir, I didn't hear that.

Q. Was he walking around participating in the matters?

A. Walking around, had lunch up in the conference room.

Q. Had what?

A. Had his lunch up in the conference room.

Q. Was anything said during these two days with reference to either or any of the Williamses or Mr. Davis having committed a crime?

A. No reference to that at all. That was not mentioned.

Q. Or were the crimes of forgery or embezzlement mentioned?

A. No, sir.

Q. Do you recall anything on the second day before the contract was signed or at any other time being said by anybody with reference to having a lawyer present?

A. Yes, I do recall.

Q. What was said?

A. Mr. Garrison came in the room with Mr. Scanlan and Mr. Trevor Williams and announced that Trevor Williams had something to say, and they waited for Trevor to speak, and Trevor said, "That our lawyers are at the University Club and we would like to have them here." And Mr. Godfrey replied, "By all means, they will be welcome." And then Harold Williams jumped up and said, "I have paid ten thousand dollars for lawyers already, and I don't want any more of them." That is all Harold said about it. Mr. Scanlan said, "Mrs. Davis tells me that our lawyer is right here in the building," and Harold Williams jumped up and said, "Come here, you," and took Scanlan outside the room, and Scanlan, they both came back, and no further mention was made of lawyers.

Q. Do you recall anything being said by either one of the Davises with reference to a separate release to them?

A. No, sir, I don't.

Q. Were you there on the fourth day?

A. On the fourth day, yes, sir.

Q. What occurred then?

A. Well, Mr. Stringer was there, and I came in the room, he was demanding the agreement from Mr. Godfrey, he asked for it several times and Mr. Godfrey told him he wouldn't give him a copy of it, he said, "I will give a copy to Father Mellon and let Father Mellon do with it as he wishes, providing he promises to return it to me." Father Mellon— Mr. Godfrey handed Father Mellon a copy and Mr. Stringer did not seem satisfied at that, they had a conference in the bathroom and coming out of the bathroom Mr. Stringer announced that Mr. Williams had discharged him as his lawyer. He went out in the hall with Father Mellon. He came in and another bathroom conference was held and Mr. Stringer came in and announced that he had been re-engaged as Mr. Williams' attorney.

Q. Do you remember Trevor saying anything with reference to the possibility of the agreement being altered over night?

A. I don't recall that.

Q. Do you remember any inquiry being made by Mr. Carlton Godfrey of Trevor as to whether he produced the balance of the securities?

A. Yes, I remember.

Q. And what did Trevor say?

A. Trevor said no, and Mr. Stringer announced there would be no further securities delivered.

Cross-examination.

By Mr. Bourgeois:

Q. Mr. Mulhern, you say you are a friend of Mr. Dorrian's. Are you also a relative of his?

A. Yes, sir.

Q. What is the relationship?

A. Cousin.

Q. Now, what was—you spoke about these notes, what was said with regard to the payment of them? Had they been paid or were they to be paid or what?

A. The notes were in bank, they were notes that were given by purchasers of lots to Gordon Williams and Company.

Q. And the notes had been credited on the account of purchase of so much cash, I suppose?

A. The notes had been discounted.

Q. And had been credited on account of the purchase in place of so much cash?

A. Yes, sir.

Q. What was the ultimate result with regard to them, what was done with them?

A. An allowance or credit was given of three thousand dollars.

Q. Who was to have the money when the notes were paid?

A. Who was to have the money when the notes were paid?

Q. Yes.

A. I think it was taken for granted the notes would be in default or were in default, I am not sure which. Gordon Williams and Company would get the money if it were paid, and Gordon Williams and Company were to be responsible if the notes were in default.

Q. In other words, if the notes were in default they were to get one-half of the money, and if the notes were not in default they were to get all the money and a half more?

A. A credit had been allowed anyway if the notes were in default, the credit that had been given to us was return to Gordon Williams and Company, returned to Gordon Williams Company.

Q. And the credit had been given to us?

A. Credit of three thousand dollars we gave them.

Q. I understand that, but I don't understand how the thing was going to be closed up, how many lots were bought?

A. I can't tell you that without the books.

Q. Five thousand dollars was given on account of the purchase price in notes, on account of the purchase price in notes?

A. That question I can't tell you. I told you three thousand dollar credit was allowed.

Q. Who got the proceeds from those notes if they were discounted?

A. Gordon Williams and Company took their commissions out of it, and credited to Williams and Davis, Inc.

Q. How much?

A. The balance after the commission was taken out, the commission was 25 per cent, and I don't know what the percentage, whether it was just a first payment on the lots or a half-payment.

Q. If the notes were not paid, who was to pay back the bank money?

A. Gordon Williams and Company.

Q. After they had allowed you a credit on them they were to pay it back?

A. Yes, because we had returned the credit that

we originally got from them when the purchase was made.

Q. What did you return?

A. We returned the credit.

Q. I understood three thousand dollars.

A. We returned the credit we had a claim against them for a certain amount and we allowed them a credit for three thousand dollars on notes.

Q. What was your credit for?

A. The credit was for three thousand dollars.

Q. Who sold those lots?

A. I don't know who sold them, Gordon Williams and Company were the only exclusive selling agents.

Q. Now, you said before this agreement was signed finally that Trevor came into the room and Mr. Garrison said Trevor wanted his lawyer there and Trevor said his lawyers were at the University Club?

A. I didn't say that.

Q. What did you say?

A. Read the testimony on that.

The Court: No.

Q. Can't you tell me without going back to the testimony?

A. Yes. I told you that Trevor came into the room or that Trevor and Mr. Garrison, Mr. Garrison said that, "Trevor has something to say," and he then said he wanted his lawyers.

Q. And what did Mr.—who did he say that to, Mr. Godfrey?

A. Addressed it to the general meeting.

Q. And what did Mr. Godfrey say?

A. Mr. Godfrey said, "By all means."

Q. What happened then, Mr. Harold Williams

said he had paid ten thousand dollars for lawyers and didn't want them?

A. That's right, didn't want any more.

Q. Didn't offer any explanation?

Mr. McCarter: Let him finish.

A. He didn't want any more.

Q. Did he offer any explanation why he would pay ten thousand dollars for lawyers and then not use them, or what?

A. No, I don't think there was any necessity for him to say that.

Q. And he didn't say anything, made no explanation at all?

A. Made no explanation at all.

Q. He said he didn't want any more lawyers after Trevor had made a request for them. Did Trevor to get the lawyers?

A. He didn't ask for them after his father said that.

Q. I didn't ask you, I ask you if he got them.

Mr. McCarter: I don't think that is the correct answer, no lawyers came.

Mr. Bourgeois: If you think my language was not plain enough for him, I will accept yours.

Q. Did Trevor have any lawyers come?

A. There were no lawyers there.

Q. Weren't there?

A. Representing the Williams.

Q. And none came?

A. None came.

Q. Mr. Dorrian had his lawyers there, though, didn't he?

Mr. McCarter: Of course, all three of them were there, a hundred of them.

Q. Didn't he?
A. Yes.

Cross-examination.

By Mr. Cole:

Q. When did you become a stockholder of Williams and Davis Company?
A. I think in the early part of May sometime.
Q. What year?
A. 1927.

The Court: May 3rd, to be exact, according to the books.

Q. How many shares do you own?
A. One share.
Q. What did you pay for it?
A. I didn't pay anything. It was given to me as a gift.
Q. From whom?
A. From Mr. Dorrian.
Q. Who?
A. From Mr. Dorrian.
Q. Now, at any time while you were in attendance upon this conference, was anything said to the effect that either Royden Davis, or Trevor Williams, or Harold Williams, or Gordon Williams, had done anything wrong?
A. Nothing said while I was there, nothing.
Q. Nothing said about being conspirators?
A. Nothing.

Q. Nothing said about having defrauded the Williams and Davis Company by the use of straw names?

A. Nothing.

Q. So that, so far as you were concerned, from anything you heard, these gentlemen were spotless, is that right?

Mr. McCarter: I object to that.

The Court: Sustain the objection.

Q. Well, you got no impression from anything that was said at any of these conferences, that these men had done any wrong, is that so?

A. There was nothing said. Impressions. I draw my own impressions and conclusions.

Q. Will you repeat what Mr. Godfrey said about the $190,000 and the release?

A. Just this, that the Williamses asked for a release, a release be written up and be signed by, they said Mr. Dorrian and Mr. Fahler, both Mrs. Dorrian and Mrs. Fahler. It was agreed that a release was to be delivered to Father ——

Q. I am asking you what was said, don't say it was agreed, give us the language as you presently recall it.

A. I can't give you the exact language, except this, that Mr. Godfrey agreed to give the release to Father Mellon until the $190,000 had been paid in and the release would be delivered then.

Q. Did Mr. or Mrs. Davis ask for a release?

A. I can't remember that.

Q. Do you recall that Mrs. Davis asked for a separate release and Mr. Godfrey said he would not give any separate releases?

A. No, sir.

Q. You say that did not happen?

A. I don't say it didn't happen, if you recall I wasn't there the first day, when it was testified that happened.

Q. And you didn't hear Mrs. Davis ask Mr. Godfrey for a separate release?

A. No, sir.

Q. You didn't hear him say they would not give any separate releases?

A. No, sir.

Q. Now, you said that happened at the first meeting, why do you say that?

A. I said it was testified here at the hearing.

Q. Who testified that happened at the first meeting?

A. I heard the testimony here in court.

Q. Have you been sitting here throughout this trial?

A. Yes, sir.

Q. You say, now, do you, somebody testified that at the first meeting, Mrs. Davis asked for a separate release for her husband?

A. Yes.

Q. Who testified to that?

A. I can't recall. My impression, it has been testified, that is the case.

HORACE FRAMBES, sworn.

Direct examination.

By Mr. McCarter:

Q. Are you connected with the Ventnor Trust Company?

A. Yes, sir.

Q. In what capacity?

A. Treasurer.

Q. Have you, or did you have, in that company, an account opened on or about the fourteenth of July, 1925, in the name of Harold S. Williams, Special?

A. Yes, sir.

Q. Will you produce it?

A. Yes, I have a transcript of it.

Q. Will you produce it?

A. I have a transcript of it.

Q. What is the paper, is that the original or the copy?

A. Copy.

Q. Have you got the original here?

A. No, sir.

Q. When was that account opened?

A. July 14, 1925.

Q. By whom?

A. I can't answer that question. I wasn't there when the account was opened.

Mr. McCarter: I would like to, if there is no objection to the copy being used, I would like to offer the copy in evidence.

Mr. Bourgeois: I have no objection to the copy.

The Court: The copy may be used.

(Copy of account offered, received in evidence and marked Exhibit C33.)

Q. Referring to the special account that has just been offered in evidence, under date of September 10, 1925, do you find a credit of a deposit of $45,000?

A. Yes.

Q. What, personally, do you know about that?

A. That deposit, when he came in our teller was busy, it was in cash, and I took the deposit in myself. Mr. Dorrian and Mr. Williams were personally present, Mr. Dorrian produced the money and I proved the cash.

Q. In this amount?

A. In this amount.

Q. Was that on or about the date, September 10th, that is mentioned in the account?

A. Yes, sir.

Q. 1925?

A. Yes, sir.

HAROLD S. WILLIAMS, recalled.

Direct examination.

By Mr. McCarter:

Q. Mr. Williams, on this transcript of the account, Harold Williams Special, or concerning this account, Exhibit C33, Harold Williams Special, do you remember opening that account?

A. Yes, I remember opening a special account.

Q. I find under date of July 20th, within five or six days after it was opened, a deposit of $50,000. Where did you get that $50,000?

A. Mr. Dorrian gave it to me.

Q. Under date of—well, I will let you look at this ——

A. I don't understand these things.

Q. I think if we look at it a little together we can make it out. Do you remember when you went to Florida?

A. I don't remember the date.

Q. About when?

A. July sometime.

Q. Shortly after the deposit of this $50,000?

A. Yes.

Q. And were you paid anything for expenses?

A. I don't recall that.

Q. I beg pardon?

A. I don't recall that.

Q. I call your attention to the items, first items in the account of the deposits under date of July 14th and July 17th, respectively ——

A. I don't recall.

Q. ——that make the—I haven't finished yet—two deposits, one $1,750 and the other $3,250, of a credit of five thousand dollars. Do you not recall that they represent the payments made to you by Dorrian or Dorrian and Fahler for you and your associates' expenses in Florida?

A. No, I don't.

Q. Did you have another account in your own name in the Ventnor Trust Company?

A. Yes, sir.

Q. How many? More than one?

A. No.

Q. Just Harold S. Williams?

A. Yes, that is my best recollection.
Q. Pardon me?
A. That is my best recollection.
Q. Do you have an individual account, Harold S. Williams, in the Ventnor City National Bank?
A. I don't know whether it was at that time or not.
Q. Well, you did have one at one time?
A. I did have one at one time.

By Mr. Cole:

Q. Was that money that was given to you by Mr. Dorrian given to you in cash or by check?
A. Cash.

By Mr. McCarter:

Q. Which money do you mean?
A. $50,000.

By Mr. Bourgeois:

Q. Did Mr. Fahler give you any part of that?
A. No.

By Mr. McCarter:

Q. I show you what purports to be a photostatic copy of account standing in the name of Harold S. Williams in the Ventnor City National Bank. Please look at it and see if you don't have your memory refreshed from that that you had an account in your own name in that bank from 1922 down?

Mr. Cole: I am going to object to it, if counsel says it is offered in evidence.

Mr. McCarter: No, not yet.

Mr. Cole: I object to it.

The Court: What is the objection?

Mr. Cole: He says a photostatic copy, no proof. I want to see the original or some proof that is a photostatic copy.

The Court: Sustain the objection.

Mr. McCarter: All right.

Douglass De Besore, recalled.

Direct examination.

By Mr. McCarter:

Q. Where were the books of account of the Davis and Williams and Gordon Williams Company kept?

A. They were kept in a safe in the office of Gordon Williams Company, 8300 Atlantic Avenue.

Q. What place was that known as? The Margate?

A. Margate office.

Q. As I understood your evidence this morning, you were the regular auditor of both of those sets of books?

A. That is correct.

Q. Can you relate the history, from the books and from the stock books of Williams and Davis, Inc., of the stock issues, to whom they were issued and what cash, and at what times?

A. Can I have the books?

Q. What is the book you have in your hand?

A. This is the journal.

Q. And that contains the entries which were prepared by you from figures obtained where, or submitted to whom?

A. The first entries in this journal were made from the minute book of the corporation of Williams and Davis. The first entry that appears is dated January 2, 1926, charging or debiting land account with $159,984, crediting mortgages payable with $62,490.00, preferred stock $97,494, the explanation being, "To enter the purchase of one hundred and thirty-three acres of ground called Del Rey at cost and mortgages assumed, together with preferred stock issued for equity to Messrs. Dorrian and Fahler, authorized by board of directors, first, second, 1926."

Q. First of January, 1926?

A. Yes, sir.

Q. First, second, that is second of January, 1926? Now, will you look at the preferred stock book which I think is before you and see if you find any entry there with reference to additional or preferred stock to Dorrian and Fahler corresponding to that journal entry?

A. The first certificate #101 was for 50 shares was cancelled and certificate #102 issued in its place.

Q. Was there more—no journal entry, I beg pardon?

A. That is for 50 shares to Connie J. Dorrian, who receipted for the same on January 2nd, 1926.

Q. Does that have any relevancy to the journal entry that you have already read or not?

A. Yes, sir, this is a part of the equity mentioned

in this explanation of this journal entry. Shall I go on?

Q. Go right on.

A. The next entry was February 15, 1926, debiting land account $123,574.80, crediting mortgages payable $40,000, preferred stock $83,506.00, accounts payable $68.80, the individual account payable being Dorrian and Fahler $68.80. An explanation of that entry, "to enter the purchase of 103 acres of ground adjourning Del Rey at cost and mortgages assumed together with preferred stock issued for the equity to Messrs. Dorrian and Fahler, purchase there is 2/15/1926.

Q. Go right on.

A. The next entry being ——

Q. Was there any preferred stock issued for that?

A. Yes, that is part of the stock.

Q. Part of that same certificate? To whom is that certificate issued?

A. There is also a certificate to Lloyd Fahler, 50 shares, same date, signed by him on January 2, 1926.

Q. Were those issued, for how many shares preferred stock?

A. Fifty shares each.

Q. Go on.

A. The next entry is March first, 1926 ——

The Court: Is there any preferred stock issued for those items, February 15?

A. This was all bulked, your Honor, and the stock issued after we arrived at the amounts to be issued.

Q. Then there was none issued on February 15th or about that time?

A. No, sir, there is no stock issued February 15th.

By Mr. McCarter:

Q. Do you know whether or not the issue to which you have alluded includes the first journal entry that you speak of?

A. Yes, sir, these entires are all bulked into one total.

Q. That is to say two entries with reference to the Del Rey and the other land adjourning?

A. There is one more entry, which is included in the bulk.

Q. Go ahead.

A. On March 1st the charge was land account $85,000, credit mortgages payable $30,900, preferred stock $39,000, accounts payable $15,100. That $15,100 was the balance due at the time of settlement on this particular piece, the explanation being, "Entered to purchase of 42 acres of ground adjourning Del Rey at cost and the mortgages assumed, together with $39,000 equity paid cash and mortgages by Dorrian and Fahler. The balance of purchase price to be paid in cash by the company authorized March 1, 1926."

Q. How much difference—beg pardon.

A. To explain the issuance of the stock I will have to refer to my working papers.

Q. All right.

A. When this stock was issued Mr. Williams, Harold Williams, Royden Davis and myself were in the back office down there in the Margate Trust and discussed the question of issuing this stock. There wasn't any stock issued as each tract of ground, but the stock was all issued at one time after these three tracts had been purchased by the company, taken over by the company. I have a memorandum here which I used at the time that was discussed, show-

ing the total land purchased of $368,558.80 against which the credits were mortgages payable, which were the existing mortgages against these tracts, $133,390.00, preferred stock $220,068.80. Now, you will note that I stated a little while ago that there was accounts payable $68.80 due Dorrian and Fahler. That represents the balance of the—between the total amount of preferred stock representing their equity and the $220,000 issued for that equity.

Q. Now, you spoke of a conversation between other gentlemen, who were they?

A. Harold Williams and Royden Davis, as I recall it.

Q. What occurred at that conference?

A. Well, I was a little in doubt as just how these things should be set up and I had seen, I don't had seen at that time any agreements of sale or anything, and the minute book showed the authorization for the purchase of the lands by Williams and Davis and the mortgages to be assumed, and I asked about the issuance of the stock, and this is the way we worked it out.

Q. Was the stock issued then for $20,000?

A. Yes, sir.

Q. Half and half to Dorrian and Fahler respectively?

The Court: It seems to me these compilations ought to be done outside of the witness stand.

A. I would say the stock was issued, Mr. McCarter, I can't tell you right offhand how it was issued.

Q. You are familiar, of course, with the books?

A. Yes, sir.

Q. Can you tell how much cash, if any, was contributed to the treasury of Williams and Davis, Inc.,

by either Gordon or Harold Williams or Royden B. Davis?

A. Each one of the three, Gordon, Harold and Davis purchased ten shares of common stock at a dollar per share, and paid for it in cash, that is the common stock.

Q. That represents all the money that they contributed to the stock of the company?

A. Yes, sir.

Q. Now, I show you this minute book which is in evidence and marked Exhibit C30. Turn to page 14, above the word, "secretary" is the signature purporting to be Harold S. Williams, with the seal of the company attached, is that the seal of the Williams and Davis, Inc., and is that the impression of the seal?

A. That is the impression of a seal, but I don't know whether that is the right seal or not. I didn't have it in my possession.

Q. Whose signature is above that word, "secretary"?

A. I would say it was Harold S. Williams.

Q. Any doubt about it?

A. No, sir.

Q. Page 16 is the signature of Harold S. Williams to an affidavit to promote his duties as secretary. Is that his signature to the best of your judgment?

A. Best of my belief, it is.

Q. And bottom of the same page, same thing?

A. Yes, sir.

Q. All right, attest the minutes previous to that date at that time?

A. Yes, sir.

Q. Now, on page 19 signature Harold S. Williams, secretary, is that Mr. Williams' writing?

A. I would say so.

Q. On page 19, is signature Harold S. Williams, secretary, is that Mr. Williams' writing?

A. I would say so.

Q. On page 20, the same?

A. Yes, sir.

Q. On page 28, the same?

A. Yes, sir.

Q. On page 29, the same?

A. Yes, sir.

Q. On page 32, the same purporting to be the minutes of March 1, 1926?

A. Yes, sir.

Q. Now, next we come to the meeting of April 3, 1926, Mr. Williams' signature as secretary on that meeting, on page 24, his signature?

A. I would say so.

Q. Now, at the bottom of that, below the signature of Mr. Williams, is, appears the following, "We have read and do approve the minutes of the following meetings:

1. Stockholders' meeting of July 18, 1925.
2. Directors' meeting of July 18, 1925.
3. Directors' meeting of January 2, 1926.
4. Stockholders' meeting of January 2, 1926.
5. Adjourned directors' meeting of January 2, 1926.
6. Directors' meeting of February 14, 1926.
7. Directors' meeting of March 1, 1926.
8. Directors' meeting of April 3, 1926." Whose signatures follow that statement?

A. I would say say that the signatures are as follows: Gordon Williams, Royden B. Davis, Harold S. Williams, Connie J. Dorrian and Lloyd W. Fahler.

Q. Do you think those are their genuine signatures?

A. Of my opinion they would be the signatures.

Q. Look at the signature of the meeting of July 6, 1926, on page 35, is that Mr. Williams' signature as secretary?

A. I would say so.

Q. On page 36, meeting held on July 16, 1926, his signature?

A. I would say so.

Q. On page 38, appearing at the bottom, meeting July 30, 1926, is that Mr. Williams' signature?

A. I think so.

Q. That appearing at the bottom of 37, meeting of July 31st, 1926, Mr. Williams' signature?

A. Yes, sir.

Q. On page 39, meeting August 18, 1926, Harold's writing?

A. Yes, sir.

Q. Meeting page 41, September 4, 1926, whose signatures are there?

A. Connie J. Dorrian, Lloyd W. Fahler, Royden B. Davis.

Q. May 19, 1926, page 43?

A. Yes, sir.

Q. Mr. Williams?

A. Looks like his signature to me.

Q. On page 45, minutes of meeting of October 25, 1926, is that Mr. Williams' signature?

A. Yes, I would say so.

Q. "Following motion was offered by Harold S. Williams, that the sum of $15,000 be withdrawn from the account of the First National Bank of Somers Point and for business reasons deposited in a new checking account of the Ventnor Trust Company, in Ventnor City, New Jersey, the sum of five thousand dollars be deposited, and the balance of ten thousand dollars to be deposited within thirty days. The

motion was seconded and passed." On page 46, meeting held October 25, 1926, is that attested by Mr. Williams as secretary?

A. I think so.

Q. On the next page, page 47, meeting November 10, 1926?

A. Yes, sir.

Q. On December 6, 1926, the minutes of which are attested on page 49?

A. Yes, sir.

Q. December 1, 1926, page 51?

A. Yes, sir.

Q. On page 54 attest the minutes of the meeting of stockholders 10 A. M., January 8, 1927?

A. Yes, sir.

Q. Signature is Mr. Williams, on page 55, his signature?

A. Yes, sir.

Q. It appears from evidence already in, Mr. Besore, that in a so-called account, Harold S. Williams Special, opened on or about the 14th of July, 1925, two items, one under date of July 20, for $50,000 and one under date of September 10th, 1925 for $45,000 were deposits that came from Connie Dorrian. Did you ever have any talk with Mr. Harold S. Williams in which he made any statement to you in reference to how or where the moneys that he was from time to time receiving from Dorrian and Fahler was deposited?

Mr. Cole: They called Mr. Williams as their witness, going to impeach him?

Mr. McCarter: Not at all.

The Court: I will permit the question.

A. I know Mr. Williams had a special account.

Mr. Bourgeois: You know it?

A. He had told me so, and as those transactions were made, purchases of this Somers Point ——

Mr. Bourgeois: If your Honor please, I don't understand whether something he told him or his own knowledge?

A. This is my own knowledge.

Mr. Bourgeois: I object then.

The Court: Sustain the objection.

(Question repeated.)

A. That is what I am trying to explain now.
Q. What did he say?
A. I had occasion to ask Mr. Williams to tell me the moneys which he deposited to the credit of Gordon Williams and Company at various times for these transactions at Somers Point, whose money it was, and he stated to me that it was Dorrian and Fahler's money.

Mr. Cole: I object.

The Court: Sustain the objection.

Mr. Cole: This is Harold Williams' special account.

The Court: He says the money which was de-

posited to Gordon Williams, or credited to Gordon Williams, not the items you are referring to at all, from his answer.

(Question repeated.)

A. I knew that he had a special account and that the moneys were ——

Mr. Bourgeois: I object, if your Honor please.

The Court: Sustain the objection. It is not the question. It is not the question what you knew. It is a question what he told you. The question was conversation.

A. He told me that he had a special account and that Mr. Dorrian and Mr. Fahler's money were kept in that account.

Mr. McCarter: That is what I want.

A. That is what I have been trying to say all along.

The Court: That is not what you have been trying to say all along. You have been trying to say a lot of other things.

A. I beg pardon.

Q. Now, Mr. Besore, in keeping the books did you have occasion to ascertain any relation between items standing in the name of Gordon Williams and Company and drafts or deposits in the account of Harold S. Williams, Special?

A. I am afraid I can't answer that.

Q. Can you refer to the account of Gordon Williams and Company, which I understand you audited, and find any item, particularly an item say of $18,000 that is entered and find any similar item or any related item to it in the special account?

A. If you have the books I can.

Q. Get the books.

A. They are not here, Mr. McCarter.

Q. What books?

A. The Gordon Williams and Company's books.

Mr. McCarter: We asked for them.

Mr. Trevor Williams: I will get them for you, sir.

Mr. McCarter: While we are waiting, can I ask that those papers that were to be impounded be produced?

Mr. Bourgeois: Your Honor please, all we have here are three deeds that belong to them, and so far as I am concerned they can have them and not impound them at all.

Mr. McCarter: Is that all you produce?

Mr. Bourgeois: All the papers we have, so far as I know of that belong to you people. You needn't have those impounded, you can have them.

Mr. McCarter: I understand your Honor said the papers that were produced yesterday, being the papers taken by Royden B. Davis be impounded. Now, they are producing what was never ——

The Court: What I said.

Mr. Bourgeois: Papers produced yesterday were partly our own.

The Court: All of those produced yesterday which you said were taken by Davis.

Mr. Bourgeois: They are our own.

The Court: No one has suggested whose they are.

Mr. Bourgeois: I understood you to say those

The Court: No.

(Question repeated.)

Q. Under date of the 29th of January, 1926?

A. I find a check of January 29, 1926, Number 2147, Union National Bank, $18,000, to the order of Chelsea Title Company, with explanation, "second tract Somers Point."

Q. Is that part of this Del Rey purchase?

A. Yes, sir.

Q. Now turning to the special account are you able to find any check therefrom?

A. Received from the special account, you mean?

Q. Haven't you got a yellow sheet that is a transcript of the account?

A. Yes, sir, I have that. I haven't seen these books for so long I am lost to find anything.

Q. Just refer to the yellow sheet. What is the yellow sheet which you have before you?

A. This is an analysis of an account on Gordon Williams Company's books called "deposits in escrow," which account represents the money re-

ceived by that company and held by that company for a space of time for the account of their clients after which it was disbursed.

Q. How did you make that statement on yellow pieces of paper?

A. Each month after I had completed my audit I made an analysis of this account to show the transactions for the month.

Q. What did you do with the analysis after you had made it each month?

A. I kept it in my working papers. I don't recall that I gave it to them in every report. I know I did in some of the reports.

Q. Now by referring to that, not taking time to hunt up the original item in the book, as required, can you find on or about January 29, 1926, any entry of a check from the Harold Williams' special account of $18,000?

Mr. Bourgeois: I object, if your Honor please. We are entitled to have the original and not have the analysis.

The Court: Yes.

Mr. McCarter: All right, we will take the time to find out.

A. I find three receipts on January 11, 1926, recorded on the cash receipt book as coming from Harold S. Williams, the account of $8898, $3,000, $34,500. There is a small explanation written in there "For C. J. Dorrian." That is the three items were credited, deposited in escrow account, which is the account I have just explained, the explanation on the $8898 item, "one-half share ten lots Long-

port," and the other two items "Settlement Somers Point Tract."

Q. Settlement, what?

A. Somers Point tract, that is $3,000 and $34,500, receipts, "full settlement Somers Point Tract." This is Miss Peterson's writing.

Q. Will you look under date of the 11th of February, 1926, and see if you find anything further down?

A. I have another item here in January.

Q. Go ahead.

A. January 29, received from Harold S. Williams, in short, it is marked Special, $24,443.49, which is also credited to deposit in escrow account, marked "Fahler's account." What was that last date?

Q. The eleventh of February, 1926, special reference to an item of $73,615.

A. Feburary 18th there is an entry showing a receipt from—that has nothing to do with Harold Williams. I don't see anything under that date, Mr. McCarter.

Cross-examination.

By Mr. Bourgeois:

Q. Mr. Besore, won't you tell me exactly what these transactions mean, that Harold S. Williams item, the first one you mentioned on page 100, I think it is. Just what does that mean, that Harold S. Williams had paid the Gordon Williams Company those moneys?

A. Yes, sir.

Q. And the Gordon Williams Company had paid them out, is that the idea?

A. This is the record of the receipt, the payment out is another transaction entirely.

Q. That is anoher one?

A. Yes.

Q. What is there on that?

A. Three amounts, $8898, $3,000, $34,500.

Q. Below that was another item of Fahler's under the same date of $35,000, wasn't there?

A. That is later on.

Q. How much later?

A. That is January 29th.

Q. Is it possible, or might the Gordon Williams Company have taken those moneys that Harold Williams deposited with them and made settlement for the lots that Dorrian and Fahler were buying of Julia Coll?

A. Yes, it is possible. He asked me if it was possible.

Q. Yes.

A. Yes. It is possible.

Q. Won't you look at this memorandum from which you have testified and read into the record just what your memorandum recites?

Mr. McCarter: I object. Counsel wouldn't let him use the memorandum.

The Court: Sustain the objection. You objected to the use of the memorandum and he was not permitted to use it.

Mr. Bourgeois: I beg pardon?

The Court: Absolutely, you said you insisted on having the books, and I have so ruled, and we have taken considerable time.

Mr. Bourgeois: Your Honor please, he read right from this.

Q. Did you read from that memorandum?
A. There are two memorandums here, Mr. Bourgeois.
Q. Look at the first one. You are confused, I think.
A. I read from the journal.
Q. You read from this one?
A. That isn't the journal.

The Court: You objected to the use of it at once and it was overruled. Mr. McCarter made the suggestion. Wasting time about the same matter.

Mr. Bourgeois: If your Honor please, I objected to his using this one, but this is the memorandum he testified from right at the beginning when he first went on the stand to testify.

The Court: You are not referring to this one?

Mr. Bourgeois: Not that at all.

The Court: This is objected to and I sustain the objection, regardless whether he did read from it or not.

Q. Now, Mr. Besore, did you read from a memorandum concerning the Roberts' 133 acre tract of land, the sum of $159,984.00, mortgage $62,490.00, preferred stock $97,494.00?
A. No, sir.
Q. What did you get that from?
A. From the journal, right here. I read the de-

tails from that page, they are merely those three totals.

Q. Now I will ask you to read what makes up those totals, I want just exactly what you have got there that makes up those totals.

A. Land 133 acres, Roberts, $159,984.00, mortgage $62,490.00, preferred stock $97,494.00.

The Court: Did you read that before from that paper?

A. No, sir, I did not.

The Court: It is now overruled. I have ruled on it twice or three times.

Mr. Bourgeois: He read the totals I was trying to get what made up the totals.

Q. Will you give me the date of that $18,000 item that you testified to?

The Court: January 29, 1926, check 2147.

A. January 29, 1926.

Q. I show you the minutes of the Williams and Davis, Inc., that you have been examined about, and ask you if you know who prepared the minutes of February 15, 1926?

A. I don't know.

Q. Of March 1, 1926?

A. I don't know.

Q. Of April 3, 1926?

A. I don't know.

Q. Of July 16, 1926?

A. I don't know.

Q. Of July 31, 1926?
A. I don't know.
Q. Don't know who prepared any of them?
A. No, sir.

By Mr. Cole:

Q. Is that what you call a loose-leaf minute book?
A. No, sir.
Q. What do you call it?
A. I call it a stock minute book, corporation minute book.
Q. Where did you first see that minute book?
A. In the office of Gordon Williams and Company, Margate office.
Q. When?
A. To the best of my recollection early part of 1926, January, or somewhere along in there.
Q. Under what circumstances?
A. In order to set up the entries of these transactions.
Q. Was it then in the same condition it is now?
A. No. All the meetings had not been held.

Mr. McCarter: The question is whether the book

A. That is so far as I know it is.
Q. Did you read all the minutes that were then incorporated therein?
A. Yes.

By the Court:

Q. Mr. Besore, do you mean to say that is not a removable leaf minute book?

A. No, sir, I don't say that.

Q. What is the difference between a loose-leaf minute book and a removable leaf, the question that was just asked you?

A. There isn't any difference, your Honor. I didn't have the book. I can't look at it if I don't have it.

Q. But you answered the question and said it wasn't.

By Mr. Cole:

Q. You had it before you when I asked the question, didn't you?

A. I am sorry I made a mistake.

Q. Let me ask you something, are you disinterested in this suit?

A. Yes, sir.

Q. Have any interest in the outcome at all, have you?

A. No.

Q. You don't care how it goes?

A. I wouldn't say that.

Q. Do you care how it goes?

A. I wouldn't say that.

Q. Why?

A. I am not interested either way, so far.

Q. Up to what date that the minutes recorded in this book when you first saw it?

A. I don't know the exact date.

Q. That is all.

By Mr. McCarter:

Q. You spoke of some use of the minutes in the presence of one or two of the Messrs. Williams, when was that, Mr. Besore, made?

A. In the early part of 1926, in January or February, along in there, some time, and I used it from which to get the information to make the entries on the journal setting up these properties.

Q. What entries in the journal did you make that were the produce of an investigation by you of the minutes that had already been written up?

A. The first three entries that I read a little while ago, setting up the 133 acres, the 103 acres and the 42 acre tracts.

Q. On page?

A. Page two of this journal.

Q. Was any participation in that transaction had by either of the Messrs. Williams, or were they with you while it was being done, or did they see what you were doing?

A. I don't know that they were with me when I read the minutes, but they were there when we decided about issuing the stock.

Q. Who decided?

A. When Mr. Williams and Mr. Davis and myself sat back in the back office and worked out the transaction.

Q. Do you know when after that, if at all, you ever saw the minutes?

A. I couldn't say. I have seen them since then, but I don't know just what time.

Q. At the time that you refer to, namely in the early part of 1926, did either of the Messrs. Williams with whom you were, say anything as to the minutes at that time not being genuine?

A. No, sir.

Q. Any suggestion that they were not genuine?

A. I never heard any such thing.

Q. Is the cash book of Gordon Williams and Company there, Mr. Besore?

A. Yes, sir.

Q. Will you look under date of April 3, 1926, and see whether at that time Gordon Williams and Company were in funds of money or cash that belonged to Williams and Davis, Inc., and if so to what extent?

The Court: Can that be ascertained from the cash book?

Mr. McCarter: I beg pardon?

The Court: Can that be ascertained from the cash book without going over the entire item?

Q. Can it be or will you have to make a computation? We, of course, haven't seen these books before, your Honor. If Mr. Besore is given an opportunity I don't want to take the Court's time to have him do it. Have you any memorandum that would show that?

By the Court:

Q. Is there a ledger account between these parties?

A. Yes, sir, but it would only show at the end of the month. I think I could show it very quickly, your Honor. I suppose he means inclusive, the cash receipt book of Gordon Williams Company shows receipts from April 1, to April 30th inclusive of $7474.00 from the sale of Del Rey lots, or paid on the sale of Del Rey lots.

Q. Perhaps I don't understand the question, but that doesn't seem to me to answer it at all.

Mr. Cole: I don't think so, but on that perhaps I was dull this morning.

The Court: The witness says that is what they received during the month of April, April first is what?

By Mr. McCarter:

Q. How much money,if any, belonged to Williams and Davis, Inc., on the third of April, 1926, which Gordon Williams and Company had, according to their books?

A. One-half of $7474 or $3737, being their commission on those collections.

Q. What is the commission?

A. Commission is their compensation on the sale of these lots.

Q. Now, Mr. Besore, can you answer my question, how much cash did Gordon Williams and Company have in its possession, regardless of commissions now, that belonged to Williams and Davis, Inc.?

A. I will answer that this way, that they had received $7474, and had that on hand, out of which they were to pay Gordon Williams Company their commission.

Q. That would be half of how much, or twenty-five percent?

A. Depending on the amount of commissions received on the sales at prior times, up to twenty-five percent.

Q. It wouldn't be more than half, at least, would it?

A. No.

Q. At least on that date the Gordon Williams and Company had on hand cash of Williams and Davis, Inc., aggregating the half of that sum?

A. Yes, sir.

Q. What would that amount to?

A. $3737.

By the Court:

Q. Now, on the first of April do the books show either company owing the other money, having money belonging to the other company?

A. First of April? The first of April, 1926 the account of Gordon Williams and Company with Williams and Davis, which was called Del Rey, owners showed a credit balance of $1755.75.

By Mr. McCarter:

Q. In favor of whom?

A. That was April first, did you say, your Honor?

The Court: Yes.

A. Then that is wrong, $3538.50, that is the March 31st balance, the opening balance April first in favor of Williams and Davis, the Del Rey owners, as I call it.

By the Court :

Q. Is that item carried over and included in the item you have just given us?

A. That is carried forward into April amounts.

Q. And is it included in the amount you have just given us?

A. Yes, $1755, end of the month.

By Mr. McCarter:

Q. Now, when was the first payment to Williams and Davis, Inc., after March 31st, 1926?

A. After March 31st you said? On April 3rd, $3538.50.

Q. Now, isn't that the sum that was found due on the first of April, on the thirty-first of March?

A. Yes, sir.

Q. Is that included in the three items that you refer to as due on the third of April, it isn't, is it, the $7,000 item?

A. No.

Q. That is especially what the Vice Chancellor wanted to know, as I understood it. It wasn't included in that?

A. No.

Q. So that over above the balance due on the thirty-first of March, do I understand, which I understand was settled by a check on the third of April from Gordon Williams to Williams and Davis Inc., third of April, 1926, Williams and Davis at least had a half of seven thousand and odd dollars belonging to Gordon Williams and Company, is that right?

A. That is correct.

Q. Williams and Davis, Inc.?

A. That is right, yes, sir.

The Court: Let me see the cash book, the one you are testifying to, the ones you audited too.

(Book produced.)

Q. The $3500 is not included in it, you say?

A. No, sir.

Mr. McCarter: I would like to have Mr. Besore afforded an opportunity in court to quietly make some other investigation of these books so as not to lose any more time and then I will recall him to get the result of his examination. Your Honor knows

that we haven't had a chance to get these books at all.

Mr. Bourgeois: Going to recall him, sure? If you are, why not let the cross-examination go until then?

Mr. McCarter: I can't say, depends upon what he finds.

Cross-examination.

By Mr. Bourgeois:

Q. Mr. Besore, according to that statement on the third of April, there was $3737 there belonging to Gordon Williams, was there not?

Mr. Carter: He hasn't said so. He said at least half of the $7500, whatever the sum was, belonged to Williams and Davis, Inc., or Gordon Williams Company were entitled to a sum sufficient out of that, and those commissions would not amount to more than half. He has not undertaken to say what the commissions amounted to.

Mr. Bourgeois: He can only remember the part he wants to. The first statement was $7700 and half of that belonged to Gordon Williams and Company, commissions.

Mr. McCarter: We will have the commissions computed, if you want it, he hasn't undertaken to testify as to what it is.

A. Yes, there is $3337 of the amount received represents Gordon Williams Company's commission.

Q. Can you tell from the cash book or any other books that you have in your possession of Gordon Williams and Company how much cash money they had on hand at that time?

A. No, I cannot.

Cross-examination.

By Mr. Cole:

Q. Mr. Besore, will you look at the books of the Williams and Davis Company and see whether on April third, or fourth or fifth or sixth, or first or second, anywhere from the first to the sixth a check drawn for $600?

A. Williams and Davis?

Q. Or any payment made by that company of that amount to Atlantic County or anybody else?

A. There is no check for $600.

Q. That is all.

By Mr. McCarter:

Q. Was there a check for $7500?

A. Yes, sir, on April 6th there is number 7 on the Union National Bank paid out for $7500.

Q. Does the record show anything more about it?

A. It shows that it was paid out for 2 acres of land and charged to land accounts, $7500.

Q. That is all the entry?

A. That is the whole entry. I didn't say—that was drawn to the order of cash.

Q. And does that correspond with this entry in the check book of Williams and Davis, Inc., under date of 4/6/1926, order of cash for settlement two acres in Del Rey, Somers Point, New Jersey, $7500?

A. Yes, sir.

GEORGE KITCHEN, recalled.

Direct examination.

By Mr. McCarter:

Q. Mr. Kitchen, you were here the first day and we couldn't understand one another?

A. Yes.

Q. Have you examined the description of the property in the notice of lis pendens filed, a copy of which was given to you by Mr. Philip Godfrey?

A. I have.

Q. Have you also at Mr. Godfrey's suggestion gone out to Mays Landing and made an inspection of the mortgages that are there recorded in the name of Royden B. Davis and A. Trevor Williams?

A. I did.

Q. Are there any other mortgages standing in the names of either of those gentlemen on the second of June, 1927; than that which are included in the lis pendens?

A. No, there are not.

Q. That is all.

(No cross-examination.)

CONNIE J. DORRIAN, sworn.

Direct examination.

By Mr. McCarter:

Q. Mr. Dorrian, it has been proven in this case ——

Mr. Bourgeois: I object, if your Honor please. I think that is a question for your Honor.

The Court: Sustain the objection.

Mr. McCarter: Am I excluded from referring to any evidence?

The Court: Not at all, sir.

Q. It has been testified to in this case that $50,000 ——

Mr. Bourgeois: I object, if your Honor please. That is leading. If he wants to put a question for the purpose of contradicting our witness such as he is putting, I have no objection.

Mr. McCarter: May I finish my question?

Mr. Bourgeois: Looks to me as though it is going to be leading.

Q. That appears in the special account which is in evidence of Harold S. Williams was given by you to him in cash on or about the 20th of July,

1925. Did Mr. Fahler contribute any part of that $50,000?

A. $25,000.

Q. Have you received back any portion of that $50,000?

A. Not a cent.

Q. When the Messrs. Williams returned from Florida did they return any part of the $50,000?

A. Not any part, no.

Q. Beg pardon?

A. Not any part, no.

Q. Were they or any of them, in addition to the $50,000, given anything for their expenses?

A. $5,000.

Q. Was that part of the $50,000 or in addition to the $50,000?

A. No, it was in addition to the $50,000.

Q. Do you recall when they went to Florida?

A. Sometime about the middle of July, sometime around the middle of July, the 20th, or somewhere around there.

Q. How long before they left for Florida were the $5,000 paid to them for their expenses to Florida?

Mr. Bourgeois: I object, that is leading, if your Honor please. Doesn't appear at all it was paid before, you know, and that is the question in this case.

Mr. McCarter: Sure it is. I certainly don't want to ——

Mr. Bourgeois: Mr. Fahler stated in his testimony, he is the only one testified about it.

Mr. McCarter: This gentleman said they had

$5,000 for their expenses before they went to Florida.

The Court: I didn't understand that was the testimony. They were given $5,000 as addition for their expenses.

Q. Was that given before or after?

A. Just a couple of days before they left, just a day or two before they left.

Q. Who gave that to them?

A. Myself and Mr. Fahler.

Q. Equal parts?

A. Equal parts, yes.

Q. Can you recall when and where that was given?

A. I think it was given in the bank, the Ventnor Trust Company bank, as near as I can recall.

Q. What was the first information or message that came to you with reference to what afterwards transpired at the Hotel Vendig, in Philadelphia?

A. Why Father Mellon came to my house one Sunday evening.

Q. What evening?

A. He came to my house one Sunday evening, the 29th of May.

Q. And he gave you some information?

A. Gave me some information, yes, sir.

Q. And what did he say to you?

A. I told him I would call my attorney.

Q. What did he say to you?

A. What did he say to me? He said the Williamses admitted their guilt and they are going to clear Royden, they want to clear Royden, that is what he told me.

Q. What did he afterwards suggest?

A. So then I told him that I would see my lawyer,

so I brought him out to the house, Carlton Godfrey, and got Father Mellon over here.

Q. I didn't hear what you said.

A. I got Carlton Godfrey up to my house.

Q. On Sunday night?

A. On Sunday night, yes, and Father Mellon came back, and they, and Father Mellon and I drove down in my machine to see if there was any light in Davis' house, to get in touch with Jack Scanlan, I think he stayed there at the time, so we did, we got Jack Scanlan, and he came back and told us just what Mrs. Davis had told him on the telephone, that they wanted to arrange ——

Q. Jack Scanlan said something then, did he?

A. Yes.

Q. In the presence of Mr. Godfrey?

A. Yes, in the presence of Mr. Godfrey.

Q. And of Father Mellon?

A. Father Mellon.

Q. And you?

A. Yes.

Q. At your house?

A. My house.

Q. What did Mr. Scanlan say?

A. He said they wanted to meet us tomorrow.

Q. I want to know what he said?

A. He told us what Mrs. Davis had told him.

Q. Well, what was that?

A. That they wanted to clear Royden, that the Williamses admitted their guilt and they wanted to clear Royden and were satisfied to make a settlement, so it was left to Father Mellon to arrange the meeting and all that, so he called Mrs. Davis back, I don't know, sometime during the night, and they came to my place the next morning and the meeting place was arranged for in Philadelphia, and then I got hold of Mr. Fahler.

Q. You in the meantime notified Mr. Fahler?

A. I had called him late that night and told him what happened up to date.

Q. Was he in Atlantic City?

A. No, he was in Philadelphia, the Warwick Hotel. Then I called him, the next morning and told him to meet us after I heard about the meeting, told him to meet us at noon or sometime in the afternoon at the Vendig Hotel.

Q. Well, you all met there?

A. We all met there, yes.

Q. After the crowd sat around the table did Father Mellon open the poll, so to speak?

A. He opened the meeting up, and told us how he got into it, and what the meeting was called for.

Q. What did he say the meeting was for?

A. Well, for the purpose of returning the moneys that were taken from us.

Q. Did he say in what capacity he was sitting?

A. Yes, as an arbitrator I guess he called himself.

Q. Well, what next occurred?

A. Then the next thing Philip Godfrey read off the items.

Q. Did what?

A. Philip Godfrey read off the items from some sheets there.

Q. As you heard Philip's testimony in the case?

A. No, I wasn't here the day Philip testified.

Q. You weren't here?

A. No, I wasn't here. I was out.

Q. As those items were read off was any comment made upon them by the Williamses or Mr. Davis or Mrs. Davis?

A. No, they seemed to be satisfied with them. Father Mellon asked Mr. Williams if that was right,

and he says, "Yes," and then Mr. Williams, he claimed some commissions, and some commissions from Del Rey, also from myself, $2500 from myself. They allowed him $2500 and there was some checks in bank, notes and stuff like that, I didn't know just how that was handled.

Q. Well, after Philip had gotten through reading these items they turned out to aggregate about how much?

A. Oh, $178,000 or seventy some thousand, the first day, yes.

Q. Did the meeting adjourn shortly after that?

A. No, Mr. Williams, as I told you before, claimed this commission, and we were in doubts about that, and somebody said, "Well, bring in the accountant that handled the books for both parties," so we brought him in the next day.

Q. That is Mr. Besore?

A. Mr. Besore, yes.

Q. You knew Mr. Besore?

A. Yes, I met him a couple of times.

Q. By the way, after the organization of Williams and Davis, Inc., and after the acquisition of the so-called Del Rey tracts, did the Gordon Williams and Company start at once to sell lots?

A. Did they start what?

(Question repeated.)

A. They started to sell lots in February, I believe.

Q. In February?

A. February, 1926.

Q. And from time to time did you receive reports from Mr. Besore about the different transactions and different sales?

A. No, just the report of the tract.

Q. Of what?

A. Yes, we used to get a monthly statement, monthly report, after they started selling, got a monthly report.

Q. When did you first learn that—if I may use the expression—the swag or profit had been divided between Messrs. Williams and Mr. Davis in the acquisition and sale of the four purchases, to wit, the Roberts, the Smith and Russell, the County, and the John J. Ryon estate?

A. Oh, I judge around the first of May, the early part of May, early in May, I am not so sure.

Q. What year?

A. 1927.

Q. How did that information reach you and what did you learn at that time?

A. It was through my chauffeur I first got it.

Q. Beg your pardon.

A. It was through my chauffeur, he came to me and he said ——

Mr. Bourgeois: I object.

The Court: He said through his chauffeur. They object to what your chauffeur told you.

A. It came from old man Smith.

Q. Mr. Smith?

A. Yes, owned 103 acres, the Smith and Russell.

Mr. Bourgeois: I object to what Mr. Smith told him.

Q. Did you have any talk with Mr. Davis about the matter?

A. Yes, not about that matter, no, about cancelling the contract, after these people had left here.

Q. I am asking about the information that you acquired from Smith?

A. No, I didn't talk to Mr. Davis about that. I talked to Mr. Smith myself.

Q. Can you tell us, as near as you can, when you first received, through your chauffeur, or through Smith, the information that led to what you later discovered?

A. It was early in May, I am pretty sure.

Q. Don't know the date?

A. Couldn't tell you the date. I couldn't tell you the exact date, in May, I believe.

Q. Did you cause an investigation to be made thereafter?

A. Yes.

Q. Who did you use for that purpose beside any effort you made yourself?

A. Myself and Mr. Hart.

Q. What personally did you do in the way of hunting up any of these straw ladies?

A. Well, I didn't do so awfully much in that line.

Q. What?

A. I didn't do so awfully much myself.

Q. Did you do anything?

A. Not hunting the girls up.

Q. What?

A. Not hunting the girls up, I didn't do so much myself.

Q. Did you go to see either Julia Coll?

A. No, I never saw her.

Q. Or Miss Sadie Craigen?

A. No, I went down to see Sadie Craigen. I didn't see her, though. Mr. Hart and I drove down to see her.

Q. You did go to try to see her?

A. We tried to see her, yes, but we didn't see her.

Q. But you didn't succeed in seeing her?

A. No.

Q. Couldn't you find her or what?

A. She was to meet us at the Hotel Washington, in Washington. We called at her office where she worked and she was to meet us there at noon, but in the meantime I think she wired California.

Q. Never mind what you think.

A. Why ——

Q. Did she meet you?

A. No, she didn't meet us, didn't meet us. We didn't see her. Mr. Hart talked to her on the telephone and later on we went to her apartment.

Q. Talk to her there?

A. And Mr. Hart talked to her there.

Q. Did she let you in?

A. No, she wouldn't let him in. I didn't see her. I wasn't out of the machine there.

Q. Now, do you recall what it was that Philip Godfrey alluded to and spoke of in the recital that he made the morning of the first day after Father Mellon had made his little speech?

Mr. Bourgeois: I understood him to say he wasn't there. Was I mistaken in that? I understood him to say he wasn't in the room at that time.

A. Oh, yes, we had the four meetings, in and out, I wasn't there all the time.

The Court: Answer the question.

Mr. McCarter: He said he wasn't here when Philip Godfrey was testifying.

A. I wasn't here the day Philip testified.

Q. You were there in the Vendig Hotel, room 101 during Mr. Philip Godfrey's recital, were you not?

A. Well, he called these claims all off.

Q. Were you there, Mr. Dorrian?

A. Yes, I was there.

Q. You heard him, did you?

A. Yes, I heard him.

Q. Did he speak of these four claims?

A. Yes, he spoke of them four claims, yes.

Q. Can you tell us what he said about them?

A. While he was calling them off, I think it was Trevor Williams said that he left that Somers deal out, he said that is an honoset deal, he said that deal is all right, we owned that outright, and Philip Godfrey looked over his sheets and he said, "We haven't got that in there, he said that is not in the schedule."

Mr. Bourgeois: These are all the papers, so far as I know. The checks were not in the package. The checks are not Gordon Williams Company's, part of them Trevor Williams, quite a number of them Trevor Williams. Those checks were not in the package.

Mr. McCarter: They were those checks that were produced yesterday.

Mr. Bourgeois: If your Honor please, the checks were produced in response to a subpoena to produce them.

The Court: I think they better be marked and we can take that up later.

Mr. McCarter: We may be permitted to inspect

these documents in the presence of the sergeant-at-arms?

The Court: Certainly.

(Recess taken until Wednesday, June 13, 1928, at ten o'clock A. M.)

Atlantic City, N. J., June 13, 1928.

Trial of the cause resumed at 10 o'clock A. M.

CONNIE J. DORRIAN, resumed.

Direct examination. (Resumed).

By Mr. McCarter:

Q. I think, when we adjourned the other day, Mr. Dorrian, we had reached the stage in the first day's proceedings at the Vendig Hotel when we were speaking of Mr. Philip Godfrey's recital, and the last answer that you seem to have made, according to the record, is while he, Philip, was calling them off, I think it was Trevor Williams said that, "Leave that Somers deal out," he said, "that is an honest deal", he said, "that deal is all right. We owned that outright." And Philip Godfrey looked over his sheets and said, "We haven't got that in there." He said, "That is not in the schedule." Now will you go on from that point, as near as you can recall, and tell us all that occurred that you can remember that morning, the first day, from that point on?

A. Mr. Williams spoke up and said there was some commissions coming to him from Del Rey and, of course, we didn't know how to get to the bottom of that or find out for sure whether there were, so we agreed there to have the accountant come in to handle the books.

Mr. Bourgeois: I object, "we agreed", who agreed?

The Court: What was said?

Q. It was arranged the accountant was to come in?

A. It was arranged the accountant was to come in the next day. He handled the books for both companies, Williams and Davis and Williams Company.

Q. Do you remember about how long a time it took Philip to recite the matters that he did, what would you say?

A. Oh, it took him some time.

Q. What did he speak of in his recital?

A. Why they were explained as he went along, I believe.

Q. And what do you recall, all the matters he referred to?

A. Yes, oh, just wait until I see, I am not so—— Smith and Russell I think was the first.

Q. And after speaking of that was their any comments made by Mr. Willims or Mr. or Mrs. Davis?

A. Well, they seemed to be satisfied.

Mr. Bourgeois: I object to that. I ask that be stricken out.

The Court: Yes.

Q. Don't say what seemed. I asked you if any comment was made that you recall?

A. I just don't recall the words.

Q. Beside the Smith and Russell matter what other matter, if you can recall, did Philip refer to?

A. I don't remember.

Q. Don't remember?

A. No, I just can't recall.

Q. Now during that first day and up to the time when they arranged to have an accountant present the next day, were any threats uttered in your presence?

A. No threats whatever.

Q. Did you hear on that day the words "Forgery" or "embezzlement" or "crimes" used?

A. No, there was nothing like that.

Q. Did you hear anybody, either Trevor or Harold Williams request a lawyer to be present that day?

A. No.

Q. Did you hear anyone remark, "This is too legal a meeting for us," or words to that effect?

A. Never heard anything of the kind.

Q. ——"we ought to have lawyers present?"

A. Never heard anything of the kind.

Q. You were there all the time?

A. Yes, most of the time, in and out. I never heard it in my presence. I never heard it.

Q. Do you recall the next day when Mr. Besore did appear?

A. Why, before you get to that I do remember another incident. Mrs. Davis called me to her chair at the table, on the first day.

Q. Go on.

A. And she asked me if we wouldn't give Royden a separate settlement and she would return the

money that Royden got with interest. I said, "That is up to my attorney. I have nothing to do with that." Mrs. Davis, sitting alongside of her husband and Jack Scanlan at the table. She asked me twice that day.

Q. Did she mention any sum of money?

A. Oh, yes, she said that they had figured out thirty-four thousand and some hundred, and she said, "We will pay you men the interest."

Q. Now just pass on to the next day, which is the day when Mr. Besore, the accountant was there. See if you can recall what occurred on that day?

A. Well, I don't remember so much. Mr. Besore came in, the meeting was called again. Really I don't know what took place in the little details of the meeting.

Q. Did you hear any figures spoken of?

A. Oh, yes, Mr. Hart had brought some, the second day Mr. Hart had brought in some figures, some new claims and they were read off and Father Mellon asked Mr. Williams, he said, "Were they dishonest?"——now just a minute——he said, he asked Mr. Williams about those deals.

Q. What deals?

A. About those deals that Mr. Hart brought in.

Q. Yes.

A. And that is the time this straw stuff came up?

Q. This what?

A. This straw business. Father Mellon asked somebody to explain what a straw was, and so forth, see. He said, "they were not honest deals?" he said that to Mr. Williams and Mr. Williams shook his head at the table.

Q. Shook his head how?

A. That they were dishonest deals.

Q. Well, do you remember the sums, or rather the

amount that was stated to which these deals reached?

A. Yes, I remember, one hundred and thirty some thousand, I guess.

Q. I beg pardon?

A. I ran to two hundred and thirty-one thousand dollars.

Q. Now the agreement provides for $190,000. What do you recall was said or done about that $190,000?

A. Well the way that was arrived at, they deducted Mr. Williams' commissions from the two hundred and thirty some and they brought it down to two hundred and thirteen or two hundred and some, and Mr. Williams, I am not positive whether Trevor went with him——

Q. Went where?

A. Out in the hall. Standing outside of the door, and he called Father Mellon out, and then Mr. Godfrey and then Father Mellon called me out, and he said, "These people want to give you people one hundred and eighty thousand." I says, "I can't do anything without Mr. Fahler," and I got Mr. Fahler out and he said no, he said, "Make it two hundred thousand," so Father Mellon said, "I think one hundred and eighty thousand is a good settlement." That is what Father Mellon told me. And he advised me to take that, and Mr. Fahler came out and he said, "Make it two hundred thousand." And then I talked to them, they were altogether, Mr. Godfrey and Mr. Williams, and Father Mellon, myself and Fahler, right at the door. The door was open, and he put the proposition up to Mr. Williams. He said, "No, they won't give you $200,000," Father Mellon told me this, and Mr. Williams said to me, "Make it one hundred and ninety and

let it go at that." He said, "We want to get it cleaned up." That is what was said right at the door.

Q. Mr. Harold Williams?

A. Harold S. Williams, yes, sir.

Q. What did you do when he said finally, "Make it one hundred and ninety thousand?"

A. I didn't do anything after that. I was satisfied that the deal was closed.

Q. You were satisfied? All right, very good.

A. And everything was all over. What took place after that was the lawyers, drawing up the contract, clauses started then, talked on that.

Q. Do you remember dispersing that day and breaking up and going away for the contract to be drawn up?

A. I think we went to the dining room, all at a big table and had dinner.

Q. Now I want to ask you whether on either of the two days you have just referred to you noticed that Harold Williams was sick?

A. He had Aromatic spirits on the telephone desk, I saw a little bottle, I think, and so far as him being sick, I didn't think he was any sicker than I ever saw him.

Q. Did you notice anything wrong with the condition, physical condition of Trevor?

A. No, I didn't. He was doing all the talking.

Q. Who was?

A. Mr. Williams.

Q. Which Williams?

A. Harold S. Williams. He did most of the talking there.

Q. During the second day did you see Harold produce any money and put it back again?

A. Well I can't say that I did.

Q. You didn't see that?

A. No, I didn't see that. I may have been out at the time. Later on I saw ten thousand.

Q. I understand that.

A. Later on, but just at that time I didn't.

Q. Now on the second day did you hear any request for a lawyer?

A. No.

Q. Was anything said that day by anybody about having a lawyer present on the second day?

A. Well, I don't know what day it was, don't know whether the second day. I know Mr. Scanlan came in, whether that was the second or the third day I don't know.

Q. What did you hear said, whether it was the second or third day?

A. Mr. Scanlon and Mr. Williams came in—wait until I see—at one time Jack Scanlan spoke of a lawyer and Mr. Williams called him, he said, "Come here, you, come here." He called him out and Mr. Garrison came in and he called Mr. Godfrey out, or talked to Mr. Godfrey and said, there was something spoke of a lawyer and Mr. Godfrey was satisfied.

Q. He what?

A. He didn't object to it, I know that, the words he said I don't recall, but I know he did not object to any lawyer.

Q. Did you hear Mr. Harold Williams say anything when the question of having a lawyer present was said to Harold?

A. Yes, he said, "I have got my fill of lawyers now. They have cost me ten thousand dollars already." That he did say. I heard that. And then later on Jack Scanlan said something and he said, "Hey, you, come over here," called him out in the hall, and Jack spoke about a lawyer.

Q. Now do you remember the fact of a draft of the contract being presented on the next day by Mr. Carlton Godfrey?

A. On the third day, you mean?

Q. Yes.

A. Yes, on the afternoon, sometime, I guess late in the afternoon.

Q. After that draft was presented what was done with it?

A. Well, I think they read paragraph after paragraph.

Q. Read paragraph by paragraph?

A. Yes, and a whole lot of changes made, each one was explained to Mr. Williams.

Q. Did Mr. Godfrey only have the copy, or did anybody else have what appeared to be copies?

A. There was six, all had copies.

Q. After these corrections were made and the contract was in shape, it was signed, was it?

A. Signed the next day, yes.

Q. Now do you recall, after it was executed, everything being produced by either Mr. Harold Williams or Mr. Davis?

A. Why yes, Harold, that is the day he paid ten thousand dollars, and there was some mortgages delivered there. I didn't bother much about that. I didn't see that. They had a package there the second day, second day they brought a package over, what was in it I don't know. I think they had the same package the next day.

Q. Did you hear anything said about Trevor producing more securities from New York the next day?

A. There was something about it, he was to bring on some things the next day.

Q. Did you hear Father Mellon say at any time that——

Mr. Bourgeois: I object, if your Honor please. All these questions are leading. The witness has not been attempted to be exhausted.

The Court: I think it is leading, before being completed.

Mr. McCarter: I don't want to do anything wrong. What I had in mind, your Honor, was to contradict a certain statement that they had made that Father Mellon said.

The Court: All right, if that is the purpose, finish your question.

Q. Did you hear Father Mellon say that Mr. Trevor Williams was so sick——Mr. Harold Williams was sick and that they ought to put him in bed in the hotel rather than let him go back to New York that night?

A. No, I didn't hear that.

Q. During any of these three days prior or after the signing of the contract did you hear the words "forgery" or "embezzlement" or "crimes" spoken of or said or referred to?

A. No, I can't recall anything like that.

Q. Beg pardon?

A. I can't recall anything like that.

Q. Did you hear anything said prior to the dispersion on the third day, that is the day the contract was signed, about the agreement not being binding until Gordon had signed?

A. No, I heard nothing of the kind.

Q. I didn't hear that. I have got to hear what you say.

A. I heard nothing of the kind, wasn't even thought of at the meeting.

Q. Did you hear anything about the delivery to Father Mellon of all the papers to be held by him until something happened?

A. No, sir, I did not. The release was to be held by him.

Q. That is provided in the contract. He had the release.

Cross-examination.

By Mr. Bourgeois:

Q. Mr. Dorrian, do you remember going down to the office of Gordon Williams and Company in company with Mr. Hart on one occasion?

Mr. McCarter: I object, no cross-examination.

A. I don't know what particular time.

Mr. McCarter: One moment.

The Court: How is this cross-examination?

Mr. Bourgeois: He is one of the parties to the suit, and I am not limited, as I understand, to strict cross-examination. I have a right to examine him on the whole subject, a party to the suit.

Mr. Cole: Deals with his interest also, I think, Vice-Chancellor.

The Court: I will permit it.

(Question repeated).

A. I don't know what particular occasion.

Q. Do you remember going there once?

A. Oh, I remember more than once with Mr. Hart.

Q. How many times did you go there with Mr. Hart after the attachment proceedings or the capias proceedings were issued?

Mr. McCarter: I respectfully object.

A. I can't recall.

Mr. McCarter: One moment. Mr. Dorrian, won't you please pay attention, when an objection is introduced. I respectfully object to an inquiry as to the number of times he went to the office of Gordon Williams and Company, or the other concern, Williams and Davis, Inc., either before or after the execution of the writs. I can't see that it is in any way cross examination of what this witness has been examined about.

The Court: I will permit it.

(Question repeated).

A. I don't recall whether I went there after that or not, I just can't recall.

Q. How many times did you go to the offices of Gordon Williams and Company after the time that Harold Williams and Gordon Williams had left for California?

Mr. McCarter: I object.

A. I can't recall how often.

The Court: I will permit it.

Q. You can't recall how often?
A. No, I can't recall.
Q. Give me a guess how often.

Mr. McCarter: I object to a guess.

The Court: Sustain the objection.

Q. How many times, as near as you can state, did you go there?
A. I can't just remember.
Q. Was it as many as a dozen times?
A. Oh, I don't think it was.
Q. I beg pardon?
A. Oh, I don't think it was.
Q. Was it as many as six times?
A. That I couldn't recall.
Q. What did you do when you went there on those occasions? What was the object of the occasion and what did you do when you went there?

Mr. McCarter: I object.

The Court: I will admit it. I may strike it out later.

A. What did I do when I went there?
Q. Yes.
A. Well, I went with Mr. Hart as an officer of that company.
Q. For what purpose?
A. Why, after I found out from Mr. Smith that they had robbed us, then I went down and asked for information from Mr. Hart, I wanted all my

papers out of there that belonged to me, that they held on me.

Q. Did you get them?

A. I got them, yes, still got them.

Q. You got some other papers, what other papers did you get besides those that belonged to you?

A. Why we got some checks.

Q. Yes.

A. And we got some telegrams.

Q. Yes.

A. In an envelope, in Mr. Williams' drawer, or on his desk, I just can't recall.

Q. Can you tell me why you took the checks and telegrams of Gordon Williams and Company out of the office of Gordon Williams and Company?

A. It wasn't Gordon Williams and Company's telegram, it was Harold S. Williams' telegram that was sent to him while he was in Florida.

Mr. McCarter: I ask the witness be allowed to finish the answer.

The Court: Finish the answer.

A. You asked me about telegrams, I took the telegrams. They were not Gordon Williams and Company's telegrams. They were telegrams that were sent by Trevor and Vernon and from Mrs. Davis to Royden and Harold and Gordon when they were in Florida. They were personal telegrams, Mr. Williams'.

Q. Whosever telegrams they were, they were not yours, were they?

A. They were sent about me, everything in the telegrams.

Q. They were not yours, were they?

A. No, they were not ours.

Q. And they came out of the desk drawer in that office, didn't they?

A. I don't know whether they came out of the desk drawer, I won't say that. I didn't see them come out of a desk.

Q. Didn't you say a few minutes ago——

A. Either on the desk or out of the desk, I don't know whether they came out of the drawer. I didn't see them come out of the drawer.

Q. You saw some of the papers you took, out of the desk drawer?

A. Well, I won't say that I saw them come out of the, that envelope those telegrams were in.

Q. I didn't ask you that, I asked you if you saw some of the papers that you took come out of the desk drawer?

A. I won't say that I did.

Q. Well, will you say you didn't?

A. I looked at them on the desk, whether they came out of the desk, I didn't take them out of the desk, or out of the drawer, I mean.

Q. Who took them out of the drawer?

A. I don't know. I didn't see anybody take them out.

Mr. McCarter: Your Honor, think this is cross examination?

The Court: Yes, I will permit it.

Q. Didn't you say Mr. Hart took them out of the drawer?

A. I didn't see him take them out, no.

Q. Didn't Mr. Hart lay them out on the table for you?

A. I didn't see him take them out.
Q. I didn't ask you that.
A. They were on the desk.

(Former question repeated).

A. I didn't see him do it.
Q. I didn't ask you that. I want to know if he did it.
A. I didn't see him do it.
Q. I didn't ask you if you saw it. I asked you

The Court: How can a man tell if he didn't see him do it?

Mr. Bourgeois: He may know without seeing him do it. I will tell you, if Mr. Hart was there and Mr. Dorrian was there, and saw the desk table clear and Mr. Hart was doing something, and a couple of minutes afterwards he saw the papers on the table, and Mr. Dorrian didn't put them there, he would know Hart did put them there.

Mr. McCarter: No, he wouldn't.

Mr. Bourgeois: Wouldn't he?

Mr. McCarter: No.

Mr. Bourgeois: How would they get there, by magic?

Mr. McCarter: I don't know.

The Court: He answered the question. He didn't see it.

Q. Did you see Mr. Hart take some papers out of the safe and put on the table?

A. No, I didn't. I didn't see him.

Q. I beg pardon?

A. I didn't see him.

Q. Do you know if he did?

Mr. McCarter: I object.

The Court: I will permit it. If he don't know he can say so.

A. I got papers, but I don't know where he got them from, checks——

Q. From those papers you took what? What did you take away from that office?

A. I took stuff that belonged to me, my folders that belonged to me, with all my papers in them, agreements and so forth, that I never got from them people, never had a paper from them from the first time I ever talked with them, they kept them all.

Q. How many checks did you take away?

A. I don't recall how many checks.

Q. Can't you give me any notion?

A. No, I personally didn't take any, but Mr. Hart went through the checks, and went through the checks pertaining to these different deals, and swindles, and he got all them checks that he could, that he thought he had, I guess.

Q. In your presence?

A. Yes, in my presence.

Q. What was done with those checks?

A. What was done with them?

Q. Yes.

A. Well, we took them to our lawyer.

Q. Mr. Godfrey?

A. Took some to the handwriting expert with mortgages and deeds and bonds and other things.

Q. Now what became of those that you took to the handwriting expert?

A. Well, I guess they are in court here now, I don't know. I don't know what became of them.

Q. What became of those that you took to Mr. Godfrey?

A. We showed them to Mr. Godfrey.

Q. What, bonds and mortgages, and so on, did you take?

A. No, I can't recall that. I can't recall.

Q. Got them out of the office there?

A. Out of what?

Q. Did you get them out of Gordon Williams and Company office?

A. Yes, my folder pertaining to these deals.

Q. Are you sure they came out of your folders?

A. Williams and Davis, Inc., all that stuff we could get hold of.

Q. Are you sure they came out of your folders?

A. I took my folders along.

Q. I didn't ask you that. I want to know whether you are sure those bonds and mortgages you talked about and papers came out of your folders?

A. That I don't know.

Q. You don't know whether they came out of the safe?

A. I know the folders I got had my name on.

Q. I didn't ask you that. You don't know that the bonds and mortgages that you took out of there came out of the safe, don't you know that?

A. No, I don't.

Q. You don't know that?

A. No, I don't.

Q. Now did you take any check books along with you?

A. No check books, no indeed.

Q. Sure about that?

A. Positive.

Q. Sure you didn't?

A. Positive.

Q. I beg pardon?

A. Positive.

Q. Sure you didn't get a check book of Gordon Williams and Company?

A. Positive, I guess you still have them.

Q. Covering this same transaction period?

A. No, sir.

Q. Now you say that Trevor or Scanlan made a request for a lawyer at that meeting?

A. Yes, there was something said.

Q. Something like it?

A. Jack Scanlan, yes, sir, talked about a lawyer.

Q. Did Mrs. Davis say anything about a lawyer?

A. I can't recall, yes, I think her and Jack Scanlan talked first and then Mr. Williams must have heard the name "lawyer" and he said, "Come here, you," calling him outside.

Q. Did Trevor first talk about the lawyer and Mr. Godfrey say, "Well, you can have him in?"

A. Why they came in together, Trevor and Mr. Garrison and Jack Scanlan, what they said outside I don't know.

Q. Who was it first made the statement about the lawyer?

A. I can't say that.

Q. Was it Trevor or was it Mr. Garrison?

A. I think Mr. Garrison said something.

Q. Said that Trevor wanted a lawyer?

A. Yes.

Q. And then Jack Scanlan said something about a lawyer, is that right?

A. Yes, I think he did.

Q. And then Mrs. Davis said something about a lawyer, was that right?

A. Well there was some talk about a lawyer between Mrs. Davis and Jack Scanlan.

Q. Did they say that their lawyers were at the University Club?

A. Yes, that was mentioned. I heard that.

Q. Did Mrs. Davis say the lawyers were there in the hotel and she wanted them?

A. I didn't hear her say that. I heard somebody say the lawyers were in the hotel. I heard that, but not from Mrs. Davis.

Q. You had had your lawyers with you all the time, hadn't you?

A. Yes, sir.

Q. When the requests were made for lawyers did you, as a party to the proceedings, say anything about having lawyers?

A. No, nothing at all. I didn't butt in at all, didn't say a thing.

Q. Having had your own lawyers you were satisfied?

A. They were representing me.

Q. You didn't care whether the others had a representative or not?

A. Well, that was understood and agreed, I guess, that Father Mellon was supposed to be looking after their interest up there.

Q. Father Mellon then was looking after their interest?

A. Yes, he was.

Q. And he was selected by Mr. Godfrey?

A. Oh, no.

Mr. McCarter: Who, Father Mellon?

Mr. Bourgeois: He said he was asked by Mr. Godfrey to act as arbitrator.

The Court: I don't recall such testimony at all, asked by Mr. Scanlan.

Mr. McCarter: That is a new idea to me, Mr. Godfrey.

Mr. Bourgeois: I had a recollection of that kind, Mr. McCarter. I don't know, I may be mistaken.

A. Selected by the other side.
Q. I beg pardon?
A. Selected by the other side.
Q. Who was he selected by?
A. Mrs. Davis and the Williams, I guess, all together.
Q. He came down to your house, did he not?
A. He came to my house.
Q. And met you and Mr. Godfrey?
A. No, he came to my house first.
Q. Later did he come there and meet you and Mr. Godfrey?
A. Yes, he came to my house.
Q. How many conferences did you and Mr. Godfrey and Father Mellon have before you went up to Philadelphia?
A. Two.
Q. At your house?
A. One at my home and one in Father Mellon's home the next day with Jack Scanlan.
Q. Now you say you were in and out all the time, what part of the time, if you can tell, were you in the room?

A. I just can't recall that, just what time, I was in and out, my attorneys looking after my interest, I couldn't do anything there anyhow.

Q. Was the time that you have mentioned about Scanlan speaking about the lawyers the only time that there was any mention of lawyers during that meeting on those three days in your presence?

A. Well, on the fourth day.

Q. Not the fourth, but the first, second or third day?

A. First, second and third, I think that is about the only time, my recollection, that there was any mention about lawyers.

Q. That is the only time?

A. That is when Mr. Williams jumped on Scanlan.

Q. Wasn't there a mention of lawyers made on the first day?

A. The first day? I don't recall that, if there was.

Q. Wasn't there a mention of lawyers made on the second day?

Mr. Bourgeois: If your Honor please, the answer of Dr. Mellon, not Dr. Mellon, but Monsignor Mellon was: "A. Then we arranged the meeting at the Hotel Vendig and told them also that Mr. Godfrey asked me to sit in as an arbitrator, and that was acceptable to me and Mr. Scanlan represented Davis and Williamses, and told them that he presumed that the purpose of my presence in that room at the meeting that day. May I add something, Mr. McCarter?" So he did say he was asked by Mr. Godfrey to sit in as an arbitrator.

Q. You didn't hear him say that?

A. No, I just don't remember that I did. Mr. Godfrey never met him until that night.

Q. And other than Dr. Mellon, who was asked to sit in there as an arbitrator, by Mr. Godfrey, these people had no representative there, had they, that is the other side?

Mr. McCarter: We concede they didn't.

Mr. Bourgeois: Why that is fine. I was cross examining this witness, however, to find out what he thought about it.

A. He was called in by the other side.

Q. Who was?

A. Father Mellon.

Q. We have gotten beyond that. What I want to know is whether on not you thought it was incumbent on you to see that they had a lawyer, the other side?

A. Well, I just don't remember, but I know he was called in by the other side.

Mr. McCarter: Mr. Dorrian, I can't hear you.

A. He was called in by the other side, that is all I know.

Q. Now what matters were taken up the first day, what was done that first day?

A. Oh, Father Mellon called the meeting, Father Mellon called the meeting and told us just how he got into it, told us all about this telephone conversation between himself and Mrs. Scanlan, and Mr. Scanlan, and Mr. Davis and so forth, and just how he got into the thing, and then the next thing was Philip Godfrey, I think, old man Williams asked

just what was what, and he said, "What is in the schedule?" or something about what was in the charges.

Q. Now you say that——

A. He read the schedule off.

Q. ——it took Philip a considerable length of time to read this statement?

A. Yes, it did.

Q. When asked about what statements he read off you said about the Smith and Russell was all you could remember.

A. Well, I wasn't paying much attention.

Q. Then you don't know very much what went on, do you?

A. No, I don't, in reading off the schedule.

Q. It might have been these requests for lawyers were made if you didn't notice it, didn't grasp it, mightn't it?

A. It might, yes, but I know I haven't heard it.

Q. Also might have been there were statements made of embezzlement, forgery, and you didn't grasp it, mightn't there? Isn't that true?

A. Well, I wasn't in there every minutes, you know.

Q. Did you hear Dr. or Father Mellon say to Trevor that he was in for twenty years?

A. I didn't hear that, no.

Q. Sure you didn't hear that?

A. No. I didn't hear that, or I didn't even hear it in any of the testimony here.

Q. Didn't hear who?

A. That he was in for twenty years.

Q. Didn't you?

A. I understood in some of the testimony that was given here that he said it in private somewheres, or to Mrs. Davis somewheres, but I don't think that was said in the meeting.

Q. Did you hear Father Mellon say that they had Trevor for Forgery?

A. No, I didn't hear that. No, I didn't.

Q. I suppose that might have been said also and you not hear it?

Mr. McCarter: It was said in the hall.

Mr. Bourgeois: I am asking if it might not have been said and he not heard it.

Q. What did your lawyer say when Mrs. Davis asked for a separate release by you and you said, "It is up to my attorney?" What did your attorney say about it?

A. I don't think he said anything. I don't recall what he said. I told her that it was up to my attorneys and I had nothing to do with it, but after that——excuse me——

Q. And the only person who objected to a lawyer coming in for the other side was Mr. Williams who said he had paid ten thousand dollars for lawyers, that is right, is it?

A. Yes, he did say that.

Q. Mrs. Davis didn't object to lawyers coming in after she had requested it?

A. That I don't know.

Q. Trevor didn't——

A. Mr. Davis didn't say nothing.

Q. And Trevor didn't say anything about lawyers not coming in after he had requested it?

A. Trevor didn't say nothing after that, after he requested lawyers. I don't recall that he did.

Q. Mr. Dorrian, did you, in front of the boxing club in Atlantic City——the exact date I don't remember——say, in the presence of Ed Scanlan, and Leo Heal——

A. I don't know Leo Heal.

Q. Maybe not, but you may recall the incident ——that Godfrey was going to put Trevor in jail?

Mr. McCarter: I object to the question unless the time is fixed.

The Court: Yes, should be sometime.

Mr. Bourgeois: We don't know the time. I am asking any time.

Mr. McCarter: We object to it.

The Court: There must be some limit as to time, before or after.

Q. Well, did you make such a statement the Tuesday night before the agreement was signed?
A. Did I make this statement?
Q. Yes.
A. What statement?
Q. The statement I have just asked you, that Godfrey, I mean the statement that Godfrey was going to put Trevor in jail?

Mr. McCarter: I am asking to whom?

Mr. Bourgeois: To Scanlan and this man Heal.

Mr. McCarter: I want to have the question. The question is charged two or three time, in order to contradict this man he has got to lay the way for it.

The Court: Repeat the question.

Q. Did you make a statement in front of the boxing club on the Tuesday night prior to going into these agreements at all, these negotiations at all, in the presence of Ed Scanlan and Leo Heal that Mr. Godfrey was going to put Trevor in jail?

A. I spoke to Ed Scanlan at the boxing match, but I don't recall ever talking about putting anybody in jail.

Q. I am asking you if you did tell him that?

A. I don't recall it.

Q. When did you speak to Ed Scanlan about it?

Mr. McCarter: About what?

Mr. Bourgeois: About this matter he speaks of. He said he remembered speaking to him about it.

Mr. McCarter: He said of the boxing match.

A. I remember talking to Ed Scanlan after this meeting had broke up in Philadelphia, sometime after.

Q. What did you tell him?

A. I don't recall what I said. We talked about the meeting.

Q. Did you tell him that Mr. Godfrey was going to put Trevor in jail?

Mr. McCarter: I object. One moment.

The Court: Permit it.

Mr. McCarter: Your Honor, if it were made after the meeting had all broken up, this was ended, and therefore no effect upon this case, immaterial. This is after the Philadelphia dispersing, now, your Honor, after they had rescinded the contract and how can then a statement that this man is elected to have made be relevant to this issue that the contract at Philadelphia was superinduced by declarations of that kind?

The Court: I will permit it.

(Question repeated).

A. I don't recall ever saying anything of the kind but I remember after this meeting had broke, sometime after he meeting had broke up in Philadelphia, Ed and some other fellow, I don't know whether Mr. Hart was along with me or not, was talking about the outcome of the meeting, and he said he thinks they are a lot of dumb folks, and so forth, for not going through with it. This was after the meeting.

Q. Do you deny that you said it to him.

A. I don't recall about saying Mr. Godfrey said he would put him to jail.

Q. Mr. Dorrian, do you deny that you did say he would put him in jail?

A. Yes, I deny that.

Cross-examination.

By Mr. Cole:

Q. You stated that you never got any papers from Mr. Williams, Gordon Williams and Company, is that correct?

Mr. McCarter: I object to second counsel cross-examining this witness about these proceedings in the office of Davis and Williams, Gordon Williams and Company.

The Court: I will sustain the objection to this question. He is now cross-examining him upon the cross examination.

Mr. Cole: I have, may it please your Honor, the privilege of examining this witness on behalf of Mr. Davis.

The Court: You have that permission, but the question that is objectionable is that you are now cross-examining him and stating what he answered upon the previous cross examination.

Q. Did you ever get any of your papers from Mr. Williams or the Gordon Williams Company before those that you say you removed from the office?

A. Never got any that I remember, not any papers of any importance.

Q. Did you ever ask for any before that time?

A. I don't think I ever did.

Q. Were you ever refused any papers?

A. Never refused, no, never asked for them.

Q. When did you first learn that they, meaning I suppose these defendants, robbed you?

A. Around the first of May, I think it was, the date I don't, very early in May.

Q. Before you began the capias and attachment proceedings?

A. Oh, yes.

Q. You believed that, didn't you?

A. I had proof for it.

Q. I say you believed it?

A. I believed it, yes.

Q. And when you were at the meeting in Philadelphia you believed they had robbed you, didn't you?

A. They admitted——

(Question repeated).

A. Yes, they admitted it themselves.

Mr. Cole: I ask that the admission be stricken and the "yes' remain.

The Court: Yes, you may have that.

Q. Now were you there when Mr. Philip Godfrey was making some statements or charges against these men?

A. Oh, he was reading off the items of this claim, I remember that. It was right after the opening of the meeting.

Q. What did he say about the conspiracy, if anything?

A. I don't recall him saying a thing.

Q. What do you recall that he read?

A. Well, I know he read off these different items, memorandums that we had, and the capias.

Q. Was there anything said at that time by anybody that these men had committed a fraud on you?

A. No such thing was brought out as fraud, a very peaceful meeting.

Mr. Cole: I ask that peaceful be stricken.

The Court: Yes, it is not responsive.

Q. Do you now say that at the first meeting there was no suggestion or claim made by you or anybody representing you that these Williamses and Davis had committed a fraud on you?

A. No, that wasn't necessary.

Mr. Cole: I didn't ask you that.

Q. Now, Mr. Dorrian, if you will answer my questions, please.

(Question repeated).

A. I didn't hear anything of the kind.

Q. I ask you whether, a little while after the meeting in Philadelphia, you said to Ed Scanlan, in the presence of someone else, that at the meeting held in Philadelphia had said that he intended to send that Trevor Williams to jail?

Mr. McCarter: I object to the question, what was said after the Philadelphia matter was over cannot be used in proof of the issue in this case and to undertake to contradict what this witness either affirms or denies that he said at that occasion is collateral and cannot be contradicted.

The Court: This witness has testified that at the meeting he never heard those words used. The question now is did he not say to some individual, after the meeting, that he heard Mr. Godfrey say it at the meeting, in substance. I will admit it.

(Question repeated).

Mr. McCarter: Did you understand the question?

A. Yes, I spoke to Ed Scanlan, I think I did answer the question.

Mr. McCarter: One moment.

Mr. Cole: I object to counsel——

The Court: Yes, if there is an objection to be made.

Mr. Cole: I object to counsel interrupting while the witness is answering the question.

Mr. McCarter: I want to be sure the witness understands the question.

The Court: If the witness wants to answer the question he may do it. If the question is unintelligible you may object and have it ruled upon at that point, but if the witness starts to answer the question, certainly counsel has no right to interject.

Mr. McCarter: I have an instinct that the witness does not understand the question. Can I have it read?

The Court: Yes, and the court has ordered it read, and the witness doesn't wait to hear it read, starts to answer.

(Question repeated).

A. No, I don't recall that.

Q. Did you make a statement in substance of that character?

Mr. McCarter: Same objection.

The Court: I will permit it.

A. We talked about the Philadelphia meeting.

Mr. McCarter: Won't you answer the question.

A. What is the question?

(Question repeated).

A. No, I didn't.

Q. Did you say so Scanlan, on the occasion you have in mind, after the conference in Philadelphia, that Mr. Godfrey had said anything at that meeting.

A. I don't recall as Mr. Godfrey's name came up.

Q. What did you tell him about the Philadelphia meeting?

Mr. McCarter: I object.

The Court: Sustain the objection.

Q. When was it you saw spirits of ammonia at the meeting, which meeting?

A. I don't remember, I think——

Q. Did you see it?

A. I saw a little——

Q. Where was it?

A. I saw a little glass, I can't say that I saw it.

Q. Where was it?

A. On the telephone stand.

Q. Who was using it?

A. Mr. Williams took a little bit of it.

Q. Harold Williams?

A. Yes.

Q. You didn't think he was sick?

A. No.

Q. Do you know what it is for?

Mr. McCarter: I object.

The Court: I will permit it.

Mr. Cole: The witness said he wasn't sick.

Q. Do you know what that is for?

A. No, I don't.
Q. Never heard?
A. Oh, I——
Q. Ever heard it was for heart trouble?
A. I have heart trouble myself.
Q. Did you ever hear it was a stimulant to the heart?
A. No, I didn't know, I thought they smelled it for a headache, or something, used it for smelling salts.
Q. Who suggested that you go to the Gordon Williams office for papers?
A. I just don't remember, myself and Mr. Hart between us.

(Question repeated).

The Court: I think that question is fully answered.

Q. How long were you there?
A. Oh, I don't remember. I can't recall that.
Q. Were you hunting for evidence of the wrongdoing of Williams and Davis?

Mr. McCarter: I object.

The Court: Permit it.

A. Well, I wanted to get my papers out of there.

(Question repeated).

A. Why yes.
Q. Now do you personally know where the papers are that you and Mr. Fahler or either of you removed from that office?

The Court: There is some mistake.

Q. ——I mean Hart.

A. I think they are all in court.

Q. Did you make a memorandum of the things you took away?

A. No, I didn't, no.

Q. Did Mr. Hart?

A. I kept my own folders.

Q. Did Mr. Hart?

A. I guess he did, I am not sure of that.

Q. Why do you say you guess he did?

A. Well I am not sure.

Q. Did you see him make any memorandas?

A. No.

Q. Now on this day——at this first meeting in Philadelphia, what did you hear said about Gordon Williams?

A. Why, in reading off, the first name came up, is when Mr. Philip Godfrey laid this bundle of green sheets down, and called his name off, and him and Trevor discussed something about Gordon.

Q. I am asking you, sir, please, what was said that first meeting about Gordon Williams?

A. Well his papers, list of his mortgages and stuff was on the top and I believe, joint mortgages or something of the kind, I just don't recall that. That is the only——

Q. Have you told us all that you heard about Gordon Williams at the first meeting?

A. Why only meeting Mr.——

Q. I am talking about, please, about the first meeting. Keep your mind on the first meeting and tell us all that you heard about Gordon Williams at that particular meeting.

A. I can't tell you any more.

Q. What did you hear about Gordon Williams at the second meeting?

A. At the second meeting? Sort of mixed up in the meetings.

Q. Are you mixed up about anything else except that?

A. The second meeting? Old man Williams said that he was in touch with Gordon about something.

Q. Pardon me, that may be an answer, all right, go ahead.

A. He said he was in constant touch with Gordon and he guaranteed that Gordon would deliver his securities or something of the kind. There was something came up about that.

Q. What meeting?

A. I don't know what meeting, I just can't recall that.

Q. Well, what else did you hear about Gordon Williams at any meeting?

A. I don't know as I heard anything else.

Q. How did it come about that Harold Williams said that he would guarantee that Gordon would deliver certain papers?

A. I don't know how that came about.

Q. What was said, if anything, about Gordon signing the contract?

A. Well I don't know much about that, either, in fact I left that——

Q. I didn't ask you how much you knew about it. I asked you what was said about it?

A. I left that to my lawyer.

Q. I don't care what you left to your lawyers. I want to know what was said about it?

A. I don't remember what was said.

Q. How did they arrive at the amount that Gordon was to pay?

A. I never heard——his name didn't come up in the settlement.

Q. Gordon's didn't?

A. No, not that I——I don't think they arrived at any amount.

Q. Did anybody suggest, with this important contract, involving $190,000, to which Gordon was to become a party, ought to be there and have somebody to represent him?

A. No, we were called there to settle——

(Question repeated).

A. Well, that I don't know.

Q. What was said about Mr. Godfrey going to California to get Gordon's signature?

A. The only thing I heard about that was Mr. Williams talked to Mr. Godfrey in the doorway, right in the hall, and I heard Mr.——I was in around there, and Mr. Williams said, "Mr. Godfrey, I will go to California with you," but he said, "not with Mr. Hart." That I heard, because we laughed about it.

Q. Did you hear why Mr. Godfrey was to go to California?

A. No.

Q. Did you inquire?

A. No, I didn't inquire, in fact I thought the case was all settled.

Q. Well, so far as you were concerned, did you believe, when you met in Philadelphia at the first conference that these men had committed a crime?

Mr. McCarter: I object.

(Question repeated).

The Court: I will permit it. You may answer.

A. Why yes, I was satisfied.
Q. When did you reach that conclusion?

Mr. McCarter: I object to that as immaterial.

The Court: Sustain the objection.

Q. When did you make the first payment to Gordon Williams Company?
A. Gordon Williams Company?
Q. Yes, or anybody else on account of this transaction?
A. Oh, I made some payments to Mr. Williams prior to the time this company was organized for individual purchases.
Q. Did you make a $25,000——
A. What?
Q. Make a $25,000 payment?
A. Oh, that is when he went to Florida, when he organized the company.
Q. Did you make a $25,000 payment?
A. Yes, I did.
Q. When did you make that?
A. Why a day or two before they went to Florida.

Mr. McCarter: Is it important? It is conceded by Harold Williams that these men gave him $50,000. Now is it important to find out when that was from this witness?

The Court: I don't know, and counsel is entitled to.

Mr. Cole: I represent Royden Davis.

The Court: Yes, you are permitted.

Q. Now when did they go to Florida, if you know?
A. On the 21st, I think, 20th or 21st, I think, somewheres in around there. I just don't know exactly.

Mr. McCarter. Twenty-first of what?

A. July, 1925.
Q. To whom did you give the money?

Mr. McCarter: I object to the question as utterly immaterial and irrelevent.

The Court: I will permit it.

A. Harold S. Williams.
Q. Did you give him more than $25,000?
A. Yes, Mr. Fahler and I, I believe in the Ventnor Trust, so far as I can recall, we paid him.
Q. Was Mr. Fahler present?
A. I think he was, either that or he had his money, Mr. Williams, I am not just so positive.
Q. Was the $25,000 in cash?
A. It was.
Q. Whose money was it?

Mr. McCarter: I object.

The Court: Permit it.

Mr. McCarter: Do you mean which $25,000, I suppose we are entitled to know whether he means his own money or anybody else's money?

(Question repeated).

Mr. Cole: Talking about the $25,000 he says he paid.

A. Why it was my money at that time.
Q. Where did you get it?

Mr. McCarter: I object.

The Court: I think, in view of his last answer, that is admissible, he said, "It was my money at that time," and I therefore will permit it.

Q. Where did you get it?
A. Oh, I have been in business all my life.
Q. What is your business?

Mr. McCarter: I object.

The Court: Permit it.

Q. What is your business?
A. Why, was wholesale liquor and beer business up until 1920.
Q. After that?
A. I am an investor since.
Q. What?
A. Investor.
Q. Since 1920?
A. Yes.
Q. Investor in what?
A. Bonds, stocks——

Mr. McCarter: I object.

A. ——and real estate.

The Court: I think I will sustain the objection.

Q. Why did you pay $20,000 in cash rather than drawing a check?
A. You say $20,000?
Q. $25,000, rather than signing a check?
A. I sold securities around that time.
Q. Have a bank account?
A. Yes, I have a bank account.
Q. Where had you this $25,000 before you gave it to Mr. Davis——Mr. Williams?

Mr. McCarter: Is it conceded by Mr. Harold Williams that this gentleman and Mr. Fahler gave him $50,000 which he put into the special account. Can it make any difference to this controversy at all, and isn't it only designed to do something that is not at least proper in a court of justice, as I look at it, to seek these inquiries as to where the money came from, what bank it came from and what not. If there was any dispute about the fact of the payment that thing would be different, but Mr. Trevor Williams admits he got the money. Now how does it affect this question where this money came from?

Mr. Bourgeois: If your Honor please, that wasn't admitted. I represent Mr. Harold Williams and Harold Williams did not admit Fahler gave him $25,000. He said Dorrian gave him $50,000. Fahler had given Dorrian $25,000, and he had given him the whole $50,000.

Mr. McCarter: The question is now where this money, this man gave him, came from.

The Court: I will hear you, Mr. Cole.

Mr. Cole: Now, may it please your Honor, if it be a fact that the money which Mr. Dorrian claims that he put into this deal or these deals either wasn't his money at the time or wasn't his money when he filed this bill, I suppose he would have no standing here, and I think that, as your Honor suggested, in view of the answer he volunteered, which has remained on the record, that we have a right to know whether he has a standing here, and if, unfortunately perhaps, it should be disclosed that my friend says something might be revealed that ought not to be revealed in a court of justice, it is his misfortune in having volunteered something. Now we have a right to know whether he is in this court in an effort to get back his own money, or whether he is here trying to get back the money of somebody else.

Mr. McCarter: Your Honor bears in mind that the other side contends that the original purchase money for all of these tracts was paid by them.

Mr. Cole: That is all right. That is another aspect of the case. That doesn't preclude this examination.

The Court: If it were not for the fact that this witness has made a statement, which indicates some doubt or at least qualifies some doubt as to the fact, qualifies his answer to the question before, I would exclude it, but I think, in view of the fact that this man has given that qualification to the answer, that he may be cross examined upon that point, and it is only because of the fact that he has made such qualification that I admit it.

(Question repeated).

A. Why I guess in the safe deposit box at that time.
Q. Whose safe deposit box?

Mr. McCarter: I object.

A. My brother-in-law's.
Q. What is his name?

Mr. McCarter: I object.

A. Hugh J. Campbell.
Q. What is his business?

Mr. McCarter: I object.

The Court: Sustain the objection.

A. He is a contractor.

The Court: Let it be stricken.

Q. Was it his money?

Mr. McCarter: I object.

The Court: I will permit it.

Q. Was it his money?
A. No, my money.
Q. You have a key to his box?

Mr. McCarter: I object.

A. I did, yes.

The Court: Sustain the objection.

Q. When did you take that money out of the box?

Mr. McCarter: I object.

The Court: Sustain the objection.

Q. Did you keep a record of your financial transactions for 1925?

A. Yes.

Q. Can you produce them?

A. My accountant can, yes.

Mr. Bourgeois: If your Honor please, they called on us for some of our exhibits and I am willing they should have them, but I don't think they should take them out of the court room.

The Court: No, not justified in taking them out of the court room.

Mr. McCarter: I would like to ask an opportunity for an expert in handwriting to examine these papers. It can be done in the Sergeant-at-arms room, or your Honor's room or here.

The Court: If Mr. McCarter will be personally responsible for the return of those exhibits I will permit it.

Mr. Bourgeois: If your Honor please, we want to have the right to have somebody there and they can do it at recess period or some other time.

The Court: If Mr. McCarter will become personally responsible for the exhibits I will permit him to use them.

Q. Where are they now?
A. Well, I can't——my accountant can produce.
Q. Where are written records of your financial transactions in 1925?

Mr. McCarter: I object to it as utterly immaterial and not cross examination.

Mr. Cole: I am pursuing this for the purpose of showing that money was not his.

The Court: I will permit it for that purpose.

(Question repeated).

A. Well, my profits, he has a record of all the lots and all the properties I bought.
Q. Repeat the question. You have not answered it yet, Mr. Dorrian. I call your attention to that.

(Question repeated).

A. Well, I had this attorney or this accountant look after my sales and my profits.
Q. Do you know where your written records are for your financial tranactions for 1925?
A. Some, he has a lot of them, I guess.
Q. Who?
A. Mr. Besore.
Q. The gentleman who was on the witness stand?
A. Yes.
Q. Do you know where he has them now?
A. I guess he has, yes.
Q. Well, he is in court.
A. Yes, he is.
Q. I ask you to produce your written record of

financial transactions in 1925 with relation to this item of $25,000.

Mr. McCarter: I respectfully protest against any such request. It is conceded by the other side.

Mr. Cole: I didn't concede it for Mr. Davis.

Mr. McCarter: Your witness has said so.

The Court: No, Mr. McCarter, that has not been conceded by Judge Cole's side. It may have been conceded by the other counsel.

Mr. McCarter: When the man got the money, he says he got it. Is there any question about it?

The Court: It may be. I don't know.

Mr. McCarter: Pardon me.

The Court: I don't know whether there is or not. Counsel seems to think there may be.

Mr. McCarter: Now I do respectfully protest against the bar room methods with which my acquaintance and friend on the other side is so familiar ought to be tolerated in a court of justice, particularly the Court of Chancery, and I do not think that this opportunity should be availed of to just be disagreeable, that is all it is being done for, and we have no record that I know of of any payment of $25,000 by this man. We don't know. It was paid in cash, or paid in a check. This man is a careless man about his affairs, and I therefore state——

Mr. Cole: I therefore object to my friend testifying unless I can cross examine him.

Mr. McCarter: I therefore say I think it is improper to call Mr. Besore and everybody else to produce this man's private papers.

The Court: Do you contend, Mr. McCarter, that if this man made no payment to these people of his own money but was acting perhaps as a medium of conveyance from someone else that this suit is properly in his name? That seems to be the purpose for which Judge Cole is now cross-examining him to show that this man had no interest in the moneys which he handed to Mr. Williams.

Mr. McCarter: I haven't so understood it. I think the purpose is to just be disagreeable to the witness. That is my judgment.

Mr. Cole: I want to say to my friend I never was more agreeable in my life than I am just now, never felt better, and that was the wrong suggestion, I am not disagreeable at all. I feel good this morning.

The Court: I think there is nothing really before the court at this time. He asked if Mr. Besore was in court.

Mr. Cole: You see the difficulty seems to be, may it please your Honor, my friend seems to know something about this that I don't know about. That is what seems to be worrying him, apparently.

(Question repeated as follows: "I ask you to

produce your written record of financial transactions for 1925 with relation to this item of $25,000'')

A. I can't do that.

Q. Why not?

A. I have to go to Pennsylvania, or the bonding house in Philadelphia to get that record, they sold securities for me.

Q. What bonding house do you mean?

A. There are several.

Q. Which do you mean? What do you mean by bonding house?

A. A bonding house, securities and bonds.

Q. Do you know which particular house has it?

A. Yes.

Q. It is under your control, isn't it?

A. Yes.

Q. Any reason why you can't get it?

A. I can get it.

Q. How long would it take you to get it?

A. In the course of 24 hours.

Q. Will you do it?

A. I can. Yes, I will do it.

Q. Will you?

A. Yes, I will do it.

Q. You will produce that record showing the $25,000?

A. Brown Brothers where I sold securities to get that money.

Q. Will you produce this record to the court showing this $25,000 transaction?

A. I can't do that, any written record. I can get a statement from Brown Brothers where they have sold securities and bonds for me at that time, bonds.

Q. Now——

A. You asked me where I got the money.

Q. Did you pay $2500 in cash in addition to the $25,000?

A. I paid—yes, Mr. Fahler and myself gave $5,000.

Q. Did that $2500 come from the same source the $25,000 did?

A. Yes, about the same source, only a little earlier, a few days earlier.

Q. You stated that at your home today, I presume you mean these defendants, admitted their guilt, please state the talk that was had?

A. At my home?

Mr. McCarter: No.

Q. At my house they admitted their guilt.'' That is my notes. If I am wrong about that, correct me.

A. Father Mellon.

Q. Tell us the talk, not your conclusion.

A. Father Mellon told me they admitted their guilt and want to seek a settlement and want to clear Royden B. Davis.

Q. Father Mellon told you that?

A. Yes.

Q. That was while Mr. Godfrey was there?

A. And Mr. Scanlan.

CARLTON GODFREY, sworn.

Direct examination.

By Mr. McCarter:

Q. Mr. Godfrey, how long have you been a member of the bar?

A. Over thirty-five years.

Q. Have you practiced here in Atlantic City all of that time that you did practice, or did you practice elsewhere than Atlantic City?

A. I practiced here during that period.

Q. Do you recall being confronted in the month of April by Mr. Davis and Mr. Hart concerning Gordon Williams and Company matters?

A. I do.

Q. Previous to that occasion on the first conference between Davis and Hart and you, what acquaintance did you have with either Davis or Hart?

A. I had met Mr. Hart and I think Mr. Davis in relation to one or two matters in connection with the Williams and Davis, Inc.

Q. Did you incorporate Williams and Davis, Inc.?

A. I did.

Q. I notice that in the minute book your signature is appended to some of the proceedings, I think the organization meeting, were they conducted under your supervision?

A. The organization meeting was conducted under my knowledge and advice.

Q. Do you recall who employed you for the purpose of preparing the charter of Williams and Davis, Inc.?

A. The persons named in it.

Q. Do you recall at one of the interviews between Mr. Davis, Mr. Hart and yourself the subject of Julia Coll came up?

A. Yes, I remember such an occasion.

Q. Can you tell us what occurred when her name was presented?

A. I asked Mr. Davis if he would have Julia Coll call at the office.

Q. And what did he say?

A. He said he would endeavor to do so.

Q. Did he produce her?

A. He did not.

Q. Did you hear from him again?

A. He called me by telephone soon afterward and said that any further information that I might want that I was to consult Judge Cole, his counsel.

Q. Had you been told by Mr. Davis where Julia Coll was?

A. He told me that she was at Mr. Scanlan's house, as I recollect it.

Q. Now what was the first information you had of a desire on the part of anyone to have a meeting in Philadelphia or elsewhere?

A. On Sunday, early Sunday evening preceding June first I was called by telephone by Mr. Dorrian.

Q. About what time?

A. I should think about seven or seven-thirty o'clock.

Q. In the evening?

A. In the evening.

Q. As a result of that call what did you do?

A. I accompanied Mr. Dorrian to his residence.

Q. Whom did you meet there?

A. I met there Dr. Mellon and later John Scanlan.

Q. At that time were you an acquaintance of Father Mellon's?

A. I had never met Father Mellon previous to that time.

Q. What was said at Mr. Dorrian's house in the presence of Father Mellon?

A. Father Mellon said that Mrs. Davis and he had had a conversation concerning the settlement of the dispute in this case and that she had asked him to take the matter up with Mr. Scanlan.

Q. Go right on.

A. And that he had agreed to do that with an endeavor to get such a settlement, and Mr. Scanlan said he was authorized to speak for Mrs. Davis, that Mrs. Davis had instructed him to see Father Mellon in an endeavor to cause such a settlement to be made. And further that the Williamses had agreed to return all the money that they had taken from Dorrian and Fahler and that he understood that they wished to exonerate Mr. Davis and wished a conference to carry that plan into effect, and Dr. Mellon asked if I would be present at such a conference, if he could arrange it.

Q. And what did you say?

A. I said that I would do so, if he requested it.

Q. I think Monsignor Mellon testified that you said you would be present but the settlement must be on your terms. What was said about that?

A. The comment upon that was that any settlement must be agreed to by myself for my clients.

Q. Was anything more said, if you can recall, on that occasion, or how was the matter left?

A. The matter was left for Dr. Mellon to arrange such time and place for such a conference.

Q. Did you then separate?

A. We did.

Q. What was the next information you had?

A. The next morning, which was Monday morn-

ing, I received word if I would call again at Dr. Mellon's house, and I did go there and was told that he had arranged for a conference at Philadelphia that afternoon.

Q. State the place?

A. Yes, Hotel Vendig.

Q. Well, did you attend that conference?

A. I did attend that conference.

Q. Now can you recall, after the parties sat down, that Father Mellon made an introductory statement?

A. He did.

Q. Can you recall what he said?

A. He said substantially, as he had told me on the evening before, he said that he had been requested by Mrs. Davis to act for her in causing a settlement to be made of this controversy and that he had taken the matter up with me and arranged this conference with that object in view, and that he had arranged this conference after consulting with the persons interested.

Q. Was there anything said by him before the party at the hotel in reciting what had occurred at the interview of the Sunday evening with reference to any assertions having been made by anybody?

A. He said on this opening statement further that the Williamses and Davis acknowledged their guilt, they were the words he used, and desired to make a settlement and return the money which they had paid.

Q. Was any dissent from that statement made either by Trevor, Harold or Mr. Davis?

A. There was none.

Q. Now can you recall what next occurred?

A. Mr. Williams, Senior, asked the amount of the claims against them, and I requested my son Philip

to read the list, or inventory attached to the capias suit and attachment suit for the purpose of furnishing the information asked for.

Q. Did Philip comply with your request?

A. He read the schedule in full.

Q. Was there any pause between the reading of the several items of those schedules, of that schedule?

A. As each paragraph was read it was discussed and the question was asked of the other side whether it was correct, and some or all of them said that it was, in each instance.

Q. Was there a discussion after each of the items was read?

A. There was.

Q. Do you recall anything that was said either in favor of or against the propriety of any of these claims that Philip read by any of the people on the other side?

A. During the discussion Mrs. Davis said that she and her husband desired to return all of the money which they had taken.

Q. Did she name any amount?

A. My recollection is that it was something more than thirty-two thousand dollars as alleged by her.

Q. After Philip finished reading his schedule, can you tell what next occurred?

A. What next occurred following the discussion of the last item? Yes, there was an addition of the items composing these various sums, they were added up by my son and some other person on the other side, I think it was Scanlan, I think so. It might have been Williams, Junior, also, but it was added up by two or more persons.

Q. By Williams, Junior, do you mean Trevor?

A. Yes, sir.

Q. Go on.

A. It was added by two or more persons.

Q. Do you recall an aggregate being announced?

A. $168,000, as I recollect it.

Q. Well, was anything said about further items?

A. Yes, there was statements made on both sides of that. There was statements made that there were further items and also the Williamses said that they were entitled to certain credits which had not been given in these additions, because no credits yet had not arrived at a time when credit should be given.

Q. Go right on.

A. They said that there were certain commissions to which they were entitled which should be deducted from the total charges. The amount of these commissions, there seemed to be no way of determining at that time positively what they were, and they finally agreed that that subject should be laid over until the next morning when the auditor of the company should be present and furnish the information as to that item. There were two or three other items of credits which were taken up and disposed of. One was the matter of notes and the other was another item, I think there were two items of credit that was taken up and decided by Dr. Mellon with the consent of all the parties.

Q. Well, about that time did the meeting adjourn?

A. Yes, after, there was some further discussion as to additional items and Dr. Mellon said that he had an appointment which would require his presence at another point and the meeting adjourned until the next day, next afternoon.

Q. Now, who appeared the next morning, or next

afternoon, rather, in addition to those that had been there the day before who had not appeared on that first day?

A. Mr. Hart and the auditor.

Q. Go on, if you can, and recall with as much minutia as you are able all that occurred on that second day.

A. On the second day the acts of the meeting consisted first of taking up the items which had not been included in the $168,000. Mr. Hart brought in a considerable number of items and those were discussed at quite considerable length.

Q. By whom?

A. By all the parties.

Q. Go right on.

A. The aggregate of the items, taking the $168,000 and adding the items which Mr. Hart had brought, as I recollect, they aggregated about a hundred and thirty odd thousand dollars.

Q. How much?

A. One hundred and thirty some or one thirty or one hundred and thirty-two thousand dollars.

Q. One moment. Listen to your answer there.

A. But deducting——

Q. One moment. I want you to listen to the answer that is to be read, I think you have made an error, and if you will listen you will see the error.

(Answer repeated).

A. I see the error, two hundred and thirty some thousand dollars aggregate. Deducting therefrom the items for which a credit had been given and which credits were then discussed, Dr. Mellon, holding that he had disposed of two of the three items, the day before, and disposing of the other items,

reduced the credit due from the Williams and Davis to about $115,000 or $113,000.

Q. How much?

A. $215,000 or $213,000. At that point Mr. *Davis* Senior called his associates, that is his son——Mr. Williams, Senior called his associates, his son and Mr. Davis out in the hall and he then called out Dr. Mellon and they were out there for some minutes, I should say ten. Some one of them, I think Dr. Mellon called me out and said to me in their presence that they had been discussing a lump sum for settlement, which Mr. Williams, Sr., had insisted should be made. I replied that I would desire my client present at such a discussion and I called out Mr. Dorrian and Mr. Fahler. Then the discussion continued as to what the amount should be if such settlement were made. Mr. Williams, Sr., suggested $180,000. He said they would pay that much. My clients insisted on having $200,000, and finally, through the intervention of Dr. Mellon they agreed to give and take $190,000, and when that matter was disposed of and agreed to by all the parties, verbally, they came back in the room and announced at the meeting to all persons, that they had settled the matter upon the payment and that the amount of the settlement was $190,000.

Q. Do you recall who made that announcement, it don't make any difference.

A. Well, it was made in the presence of all——I am not sure wether it was made by Dr. Mellon or if it was made by Williams, Sr.

By the Court:

Q. To whom was it announced, Mr. Godfrey?

A. To the conference.

Q. Was the entire conference out in the hall?

A. Most of them were. Most of them were but it was again announced in the meeting when they took their seats again.

By Mr. McCarter:

Q. Was Mr. Davis in the hall?

A. Yes.

Q. Was Mrs. Davis in the hall?

A. Yes.

Q. Beg pardon?

A. Yes.

Q. Now after the announcement had been made and the seats resumed, can you recall what next occurred?

A. The question then came up as to how that amount should be paid.

Q. Go right on.

A. That was a matter that took up quite a good deal of time. About that time Mr. Williams, Sr., offered to pay ten thousand dollars in cash but I took the position that it could not be done, that is he offered to pay it to me, representing my clients, until an agreement had been signed and the matter reduced to writing, and executed. The matter—— Williams, Sr. said that they could raise no more than $45,000, as I recollect it, and the balance was to be paid by securities. So the question of what securities should be accepted was gone into and took up a good deal of time in arriving at results, as there was somewhat of a discussion concerning a number of the securities. The list of securities that the records showed stood in the names of these various persons was shown by searches made by the Chelsea Title Company, the sheets having been

made up before. They were produced by Philip Godfrey and the list made up was taken largely from these sheets, but the question of whether certain items should be accepted was discussed and decided by, largely, I think, by Mr. Hart, representing Dorrian and Fahler.

Q. After that had been completed, what next occurred about drawing the contract?

A. After that had been done then the question came up about drawing the contract.

Q. Yes.

A. And I agreed to draw the contract which, of course, could not be done that day. That was put off until the next day and the meeting was again adjourned.

Q. Did you prepare a draft of the contract that night and the next morning?

A. That night and the next morning I prepared a draft of an agreement.

Q. Had you observed whether or not Trevor on the second day had with him any securities or package of documents?

A. He had some papers which I assumed to be securities.

Q. Now you congregated on the third day?

A. We did.

Q. After the meeting opened what occurred about the contract?

A. A copy of the contract was given to each of the parties and it was read paragraph by paragraph and discussed and objections made to certain of the paragraphs and the paragraphs when objected to were discussed fully and many of them conceded, and paragraphs redrawn and redictated in the room, in the presence of all parties, until the paragraphs became satisfactory to both parties.

Q. Finally the preparation was complete?

A. It was.

Q. Do you recall the ceremony of signing the contracts?

A. When completed the agreements were passed to each person around the table. Each had a copy and he would sign, each person would sign the copies then before him, and passed on to the next one, and the copy on the other side coming to him would be signed and passed on. They passed around to me, and I, after everyone had signed who was there to sign, I signed as a witness and again passed them on.

Q. Now previous to the execution of that contract had anything been said about lawyers?

A. Just a short time before the agreements were signed, I would say about a half an hour, Mr. Garrison came into the room and said, I don't know whether he said that Jack Scanlan or Williams, Jr., one or the other, had something he wished to show to Mr. Godfrey. And he said that their lawyers were at the University Club, as I recollect it, and he wished them present. I said, "By all means, they ought to be present. No reason why they shouldn't. I have no objection to them being present." Williams, Sr., got up and in a very firm voice said that he objected to any further delay, he wanted the matter closed up and he had paid a large sum, I think he named ten thousand dollars in lawyers' fees, and didn't want to pay any more. He didn't want any further lawyers present. There were some remarks made by someone else, my recollection is that it was Williams, Jr., again, about the matter, and the father said, "Here you, come out here," and he took him out in the hall, and they returned in a few minutes, and nothing more was said about lawyers.

Q. The papers were then signed?

A. Yes, sir.

Q. Did you give us any estimate of the hour, about what time the contract was in fact signed? I don't know if you can, but possibly you can tell us.

A. I couldn't tell you with a degree of accuracy, but my judgment would be that it was around seven o'clock, probably, slightly later.

Q. Now did you hear any announcement made by Monsignor Mellon with reference to the action of the court in connection with the capias?

A. After the agreement had been signed by those present Dr. Mellon said that he had just been informed that the motion to dismiss the capias had been denied.

Q. What was said touching taking the papers to California and when was that subject first broached?

A. After the signature on the papers, and while each one had his copy in front of him upon the table, the question was mentioned by Williams, Sr., as to how they should be signed by Harold——by Gordon Williams. He said that Gordon was in California and could not come east at that time, I think he said he was sick. It had been suggested ——it was then suggested by someone that Mr. Hart accompany him to California for the purpose of obtaining and having added to the agreement Gordon's signature. Harold Williams called me aside and said to me that he objected to Mr. Hart going but he said, "I will be glad for you to go, and I would be glad to go with you together." Finally, after some hesitation I agreed to go to California for that purpose.

Q. Now after the contract had been signed what was done by Harold with the ten thousand dollars?

A. He again took out the ten thousand dollars and handed the money to me and asked for a receipt. The receipt was prepared and given to him.

Q. And that is in evidence, I believe?

A. I believe so.

Q. What else occurred?

A. Then the question of assigning the various mortgages and securities came up and the assignments were prepared and executed.

Q. A separate assignment for each particular mortgage?

A. Yes.

Q. That took some time?

A. Yes.

Q. Do you remember any discussion with reference to whether or not the papers that Trevor produced and assigned were complete, or complied with the schedule completely?

A. It was found that they did not fully comply with the agreement, and I asked him where the papers were. He said that he thought he had brought them all, but he must have left some of them in New York and it was agreed that he would produce those papers, the missing papers the next morning.

Q. Now did the meeting then adjourn or anything else occur?

A. Prior to the adjournment of the meeting each person who had his agreement handed the agreements to me in order that I might take them to California to be executed.

Q. Now, Mr. Godfrey, save for the conversation that you have detailed, during the three days that you have testified about, had anything else been said about a lawyer being present?

A. Nothing else was said about a lawyer being present except on this occasion I have spoken of.

Q. Did you hear anybody in the room during those three days at any time charge or accuse any of the Williamses or Mr. Davis of having committed forgery?

A. I didn't hear it and it did not occur.

Q. Or some reference to the crime of embezzlement?

A. Absolutely.

Q. Was any threat made by you or anybody in your presence in those rooms that day or Tuesday, so far as you know?

A. I made no threats nor did I hear of any.

Q. Did you hear either Trevor or Harold or Mr. or Mrs. Davis say that the proceedings looked too legal and they wanted a lawyer present?

A. I did not hear any such statement nor was there such a statement made.

Q. Did you hear Father Mellon say that somebody ought to put Harold to bed in that hotel rather than have him return to New York that night?

A. I didn't hear any such statement.

Q. Did you see any indication that Harold was ill?

A. I did not.

Q. Did you hear anything said to the effect that all of these papers and money that had been set over after the contract was signed were to be put in the possession of Father Mellon and to be held by him until some fact having occurred?

A. I did not make any such statement nor was there any such statement made.

Q. Did you hear anything said by anyone or did anyone say it during the time that you have already alluded to that the agreement was not to become operative or effectual or to be executed or performed until Gordon's signature was obtained?

A. No such statement was made.

Q. In response to some request there for a lawyer or otherwise did you say, "I will be your lawyer. You can trust me?"

A. I did not.

Q. Did you say before or after the papers were signed, "You will have to settle or we will have you arrested?"

A. I did not.

Q. Did you say or hear anyone say during these proceedings that you had or there was evidence of a forged name in a straw, referring to Trevor?

A. I did not.

Q. Was there any manifestions of ill feeling or unpleasantness during those first three days?

A. There was not, I thought——

Mr. Bourgeois: Objected to.

The Court: Yes.

Q. Did you say before Mr. Davis signed: "You had better sign"——say to Mrs. Davis, "He had better sign, we have your husband for embezzlement?"

A. I did not.

Q. Do you remember that Mr. Fahler and Mr. Dorrian signed the release that had been prepared?

A. Yes, I remember that a release was prepared and was executed by them.

Q. What was done with it?

A. It was handed to Dr. Mellon.

Q. Pursuant to the terms of the contract?

A. Right.

Q. Who took the assignments and securities that had been handed over that night?

A. They were handed over to me representing my clients and I handed them to my son Philip.

Q. Where were they kept over night, do you know?

A. They were in our possession. I don't remember exactly where they were.

Q. Brought them to Atlantic City, did you, or don't you know?

A. Well, I don't remember at this time.

Q. Don't remember? All right.

A. Probably correct, but I don't remember it.

Q. Now did you assemble on the fourth day?

A. Yes, we again went to the same place the next day.

Q. I believe it appears Mr. Garrison wasn't there that day?

A. He wasn't there that day.

Q. Was Harold there that day?

A. My recollection is that he was not.

Q. Mr. Stringer, I think, appeared?

A. Mr. Stringer was there.

Q. Any objection to his coming in?

A. Not at all.

Q. Now please recite what occurred on the fourth day?

A. I asked Mr. Williams, Jr. if he was prepared to hand over the missing papers. He asked for a copy of the agreement. There was a slight tension or contact with him, and Mr. Stringer gave us the information that no papers would be handed over.

Q. Go right on and tell us after that.

A. Mr. Williams, Jr., I asked him what he wanted the papers for and he said it might have been changed over night. Such a suggestion did not sit well upon me, and no doubt I became more or less angry and he did too. No further papers were

turned over and I retained the papers and copies of the agreement in order to carry out the understanding had with each person to those agreements. They were that they should be taken to California.

Q. Now do you recall handing one of the copies that morning to Monsignor Mellon?

A. Yes, I handed a copy of the agreement to him and said to him that he could read it to any person he wanted to, could read a part of it, do what he pleased with it, so that finally it should be handed back to be dealt with as agreed upon by me.

Q. Do you remember the incident of Mr. Stringer being announced as discharged and then as re-employed again?

A. I do.

Q. Was there any explanation given of that affair?

A. There was not.

Q. Shortly after that did the interview close?

A. Yes.

Q. And then the bill was filed by you which is now before his Honor?

A. Yes, that is right.

Recess taken until 1 o'clock P. M.

AFTERNOON SESSION.

Trial of the cause resumed at 1 o'clock P. M.

CARLTON GODFREY, resumed.

Cross-examination.

By Mr. Bourgeois:

Q. Mr. Godfrey, you testified you incorporated the Williams and Davis, Inc. Did you also conduct the first meeting of that company? I show you the minute book.

A. I prepared the minutes for the meeting of July 18, 1925, the by-laws as set out in that meeting, prepared the minutes of the first meeting of the Board of Directors held July 18, 1925, and took the oath of office of the secretary.

Q. Now will you examine the minutes of the——

Mr. McCarter: Well, is he finished?

Mr. Bourgeois: I thought he had finished.

Q. ——of the next meeting, January 2nd?

A. I will tell you about that. I later prepared the proceedings for an amendment to the charter increasing the amount of the capital stock.

Q. By that you mean the resolution in the minutes?

A. The proceedings to increase the amount of the capital stock.

Q. What I mean by the proceedings, Mr. Godfrey, what are the proceedings, do you mean the minutes and resolution appearing in the minute book?

A. The copies of minutes and proceedings appearing in the office of Secretary of State. I have no recollection of placing those minutes in this minute book. The proceedings that I prepared were the proceedings at which the necessary steps in increasing the capital stock which are always filed in the office of the Secretary of State.

Q. That would be the copy of the proposed amendment and the resolution and the copy, I presume, is that correct?

A. Whatever they are, it is on file there and the necessary proceedings to accomplish that result.

Q. Did you also draw the proceedings in the company meeting leading up to the adoption of the resolution?

A. I was not present at any, at the meeting of the company which passed these resolutions. I prepared the draft of the minutes——of the proceedings and saw that those proceedings were properly filed in the office of the Secretary of State.

Q. Now I call your attention to a resolution appearing in the minutes of January 2, 1926, at the bottom of page 25 and pertaining to the opening of the bank account. Did you prepare that resolution?

A. I had prepared a draft for the resolution.

Q. I also call your attention to a resolution at the bottom of page 26 pertaining to a contract between Gordon Williams and Company and the Williams and Davis, Inc., and ask you if you prepared that minute?

A. I have no recollection of preparing that minute. It is possible that I may have prepared it——

Q. Did you prepare the contract that that refers to?

A. I would prefer to see the contract before I answer that question.

(Paper shown to witness).

Q. Witness is shown contract of January 4, 1926, annexed to and made a part of the bill of complaint.

The Court: Isn't there any testimony about this question? Ask him if a certain agreement which you attached to your bill of complaint was prepared by you. It isn't a new agreement that is presented to you.

A. There was two or three agreements prepared. I prepared, my recollection is that I prepared one agreement, I think Higbee and Higbee, the law firm of Higbee and Higbee prepared one and another law office another agreement, and I cannot at this time identify the agreement which I prepared, and I have been careful in looking over it to see if I could notice anything in it which would cause me to identify it.

The Court: Isn't the original here? Hasn't it been offered in evidence? Hasn't the original been offered in evidence?

Mr. Bourgeois: I don't think it has, has it, the original?

Mr. McCarter: We haven't offered it. I thought you had it in your hand. I don't mean now but earlier in the case.

Mr. Bourgeois: No, I haven't got it. If you have it I would like to have it to help the witness.

Mr. McCarter: Very glad to produce it if we have. I don't think we have.

The Court: You have attached it to the bill of complaint.

Mr. Bourgeois: I have a copy of it.

Q. I show you a copy of the original or a duplicate of the original of the same agreement, and ask you if you prepared that?

A. The agreement is contained in a cover bearing my name, printed name, and I am of the impression that I prepared that agreement.

Q. That is signed by the parties and witnessed by Mr. Hart?

A. This agreement is witnessed by Louis G. Hart.

(Agreement offered, received in evidence and marked Exhibit D60).

Mr. McCarter: I don't think counsel did it on purpose, but that paper is not signed by our people at all.

Mr. Bourgeois: I didn't say it was signed by your people.

The Court: The agreement referred to is between the Williams and Davis, Inc., and Gordon Williams and Company by their respective officers.

Mr. Bourgeois: It appears to be so signed, if your Honor please, if I understand signatures.

The Court: That is as per the copy attached to the bill and the original agreement would be the same.

Q. Now, Mr. Godfrey, I want to find the resolution for the amendment of the corporation, I don't know whether you can find it more quickly than I can or not?

Mr. McCarter: Page 17, is that what you mean, January 2nd?

Q. At the bottom of page 17, that is the resolution for the increase of the capital stock, I mean the preferred stock, I take it, is that correct, Mr. Godfrey?

A. I cannot answer that question. I prepared the forms and filed the necessary proceedings in the office of the Secretary of State. I don't know, I don't have any personal knowledge as to whether these resolutions were properly, I mean were correctly copied in this minute book.

Q. This minute I offer, the resolution appears under date of January 2, 1926, on page 17 in the minute book, doesn't it, January 2nd, on page 17?

A. On page 17 of the minutes of January 2, 1926, appears a record of what purports to be a record of a resolution dealing with this subject.

Q. And the other resolution to which I called your attention a moment ago, that is the resolution about opening the bank account and the resolution about entering into the contract between Gordon Williams and Company and Williams and Davis

Company, all appear in the minutes of January 2nd, 1926, don't they?

A. Yes.

Mr. McCarter: The minutes show for themselves.

Mr. Bourgeois: I just wanted to get the witness' understanding of it. Is that correct?

A. The minute book shows what purports to be resolutions therein recorded.

Q. Now, Mr. Godfrey, you have stated the part of these minutes that you prepared. Did you prepare any other parts of the minutes that are there, for instance, look at April 3rd, which immendiately follows that of March first, glance over that and see if you prepared any part of that?

A. All of the minutes which I prepared were what is known as the organization minutes and the proceedings to increase the capital which I have just referred to.

Q. Do you know by whom the minutes in this book were prepared, other than those you have mentioned?

A. I do not.

Q. How soon after the preparation of these minutes authorizing the increase in the capital stock, preferred stock, were the proceedings taken, if you recall?

A. I don't recall.

Mr. Bourgeois: I offer in evidence the certified copy of the proceedings for the amendment of the corporation.

Mr. McCarter: You mean from the Secretary of State's office?

Mr. Bourgeois: Yes.

Mr. McCarter: Let's look at it, after you have marked it.

Mr. Bourgeois: That shows that they were filed on the twenty-second of March, 1926.

(Certified copy received in evidence and marked Exhibit D61).

Q. I show you a letter addressed to Williams and Davis, Inc., under date of March 25, 1926, and ask you if that is your signature?

A. That is my signature.

Q. Do you know if they followed your advice and secured a new stock certificate book or if you procured it for them?

A. New stock books should have been obtained in accordance with this letter, and I presume they were, but I have no present knowledge on the subject.

(Letter offered, received in evidence and marked Exhibit D62).

Mr. Bourgeois: It reads as follows:

"March 25, 1926.

"Williams and Davis, Inc.
c/o Gordon Williams & Company,
Margate City, N. J.

"Gentlemen:

"I am writing to say that the amendment to the Charter of Williams and Davis, Inc., was filed in the office of the Secretary of State of New Jersey, at Trenton on March 22, 1926, and was effective and in full force from that date.

"The usual course in case of such amendments is to prepare new books of certificates of capital stock showing the increase of capital, and exchange the certificates already issued for such new certificates. The new certificates will cost approximately thirty dollars. If you desire to save this additional expense you can have a rubber stamp made containing the following words:

'The charter of this Company was amended in 1926 by increasing the amount of preferred stock authorized to be issued from $100,000 to $400,00.'

"If you do this, you should stamp each certificate outstanding with these words, and also stamp each unused form of certificate in your stock books. All outstanding certificates and unused certificates, whether for common stock or preferred stock, should be so stamped. The better way, of course, is to obtain the new stock books, so that there could be no outstanding certificates not recognizing the change of capital.

"I enclose bill for our services and expenses in the matter of the increase of capital. You understand, of course, that if new stock books are required, that the actual cost will be paid for by you.

Yours very truly,

CARLTON GODFREY."

"Enclosure."

Q. I show you the preferred stock book and ask you to refer to it particularly to the amount of the stock, and tell me whether or not that is the new book?

Mr. McCarter: I don't think this is cross examination of this witness, your Honor.

Mr. Bourgeois: He said he attended to the incorporation and so on.

Mr. McCarter: I know. I examined this witness with reference to the meetings, that he had incorporated the company and had witnessed the minutes of the incorporation. I then passed from that subject to some meetings that were held between him, Davis and Hart, away down in 1927, and after that was disposed of I passed over to the Philadelphia affair. Now how does that open the door to his being cross examined on a new stock certificate book or stock certificate book that was apparently, as they claim, made necessary that he wrote on March 25, 1926? It isn't cross examination of anything this witness testified about.

The Court: On direct testimony this witness testified as to the minutes of the incorporation of this company. On being cross examined in addition to the actual incorporation, he testifiies that he attended the resolution and proceedings for increasing the capital stock which is probably a continuation, at least of the incorporation. I will permit cross examination upon any matter in reference to that amendment, and I think the preparation of a stock certificate book is permissible. You may answer the question.

(Question repeated).

A. This book is the book of stock certificates and the wording upon the certificate in this book shows that the common stock is 1500 shares without nominal or par value, and that the preferred stock is $400,000, shares $100 each.

Q. Then that is a new book?

Mr. McCarter: By new you mean since the amendment, is that what you mean?

Mr. Bourgeois: I mean it is a different book from that originally, as I understood the first book had $100,000 preferred stock, and this says $400,000, so this must have been a reprinted book?

A. I haven't examined or compared the amount of authorized stock in this book with the amount of authorized stock in the original incorporation, so I can not knowingly answer that question.

Q. I hand you the minute book so you may examine the original certificate, also the copy of the resolution to amend.

A. The book in my hands, purporting to be the minute book, shows a copy of a stock certificate showing preferred capital stock not exceeding $100,000 and 1500 shares of capital stock without any nominal par value, which certificate is dated July 17, 1925.

Q. Now I show you another letter and ask you if that is your signature?

A. That is my signature.

(Letter offered, received in evidence and marked Exhibit D63).

Mr. Bourgeois: Reads as follows:

"May 1, 1926. Harold S. Williams, Williams and Davis, Inc., 8300 Atlantic Avenue, Margate City, N. J. Dear Sir: I enclose you copy of the resolution authorizing the opening of the bank

account for your company. This copy should probably be sent to the Union National Bank. Yours very truly, Carlton Godfrey."
Postscript signed "C. G."
Q. Is that your signature to the postscript?
A. That apparently is.

Mr. Bourgeois: "Postscript: The contract will be completed later today. C. G."

Q. Mr. Godfrey, tell me why you didn't give Trevor a copy of that contract of June first when he asked for it?

A. The contracts belonged to the various persons who executed them and Trevor had in the meantime refused to turn over the securities and ignored the agreement, abandoned it. Beside that his actions had been such as to, in my mind, entirely discredit him as a responsible person to deal with. That was my reasons at the time.

Q. And his actions, you refer to Hart's statement that some change might have been made in it over night?

A. I didn't say that.

Q. What did you mean when you said that his actions had been such as to discredit him?

A. His actions in refusing to carry out his promises together with the statement made by you and other actions of his.

Q. Won't you tell us what they were?

A. I now cannot distinctly remember, but they were sufficient to convince me at that time that I took the proper course.

Q. Let's take those up and see just where we will land with it. In the first place you say you did not turn it over to him because he had refused to carry

out the agreement, and a few moments ago you properly stated that the contract belonged to those who signed it. Now was his refusal, or did his refusal to carry out the agreement destroy his right, his ownership in the contract?

A. The agreements were delivered to me by each person who signed them for a distinct purpose.

Q. Now what was that purpose?

A. For each of them, to take them to California, so that they might be signed by Gordon Williams. My judgment at that time was that in view of what had already happened, that the papers should remain in my hands. That was my judgment of that.

Q. Now, Mr. Godfrey, do I understand you to say that Trevor had constituted you his agent to carry this contract out to Gordon to have it signed?

A. Certainly.

Q. Now was that an irrevocable agency?

Mr. McCarter: I object.

Q. Was there anything irrevocable about it? Why wasn't he entitled to have it if that is the only ground?

A. I merely say that is my judgment at that time, that I did the right thing.

Q. As to the second one, if he said something that made you think he had forfeited his right to the contract, that reflected on you, why didn't you give him a copy of it so as to allow him to assure himself that he was wrong?

A. I simply told you that at that time my judgment was that I should take that course.

Q. Then why did you turn it over to Father Mellon and tell him he could do with it whatever he pleased?

A. That was not my statement to Father Mellon.

Q. What was your statement to Father Mellon? That is what I understood you to say.

A. No.

Q. What did you say?

A. That he could do with it what he pleased provided he returned that contract to me so that I might carry out the purpose for which the paper was delivered to me.

Q. Have you any other explanation for not having delivered that to Trevor except that you have already made?

A. At this time I cannot give any other reason than that which I have recited, but I cannot say that that was——that there were not other reasons in my mind at that time.

Cross-examination.

By Mr. Cole:

Q. Showing you the minute book of the Williams and Davis Company, I ask you the date of the last minute prepared by you.

A. I prepared the original organization minutes which bear date July 18, 1925, and I prepared the draft of certain minutes, certain proceedings aiming to increase the capital stock. I have no recollection of myself preparing or putting these minutes in this minute book.

Q. Now, is it your testimony, then, that the only minutes that appears in this book that you can say you prepared is the minute of the incorporative meeting, organization meeting?

A. I don't quite understand your question. In other words, see if I do understand it. Does your

question ask whether I prepared a draft of minutes or whether does it aim to place——

Q. Withdraw the question. Did you prepare the minute of July 18, 1925, that appears in this book?

A. My recollection is that I prepared the original minutes of the meeting of the original incorporation dated July 18, 1925.

Q. Is that typewritten on a machine in your office?

A. I assume that it is.

Q. Calling your attention to the minute of January 2nd, 1926, I ask you did you prepare that minute?

A. The only recollection I have of the preparation of the minutes as shown in the minute book is that I did prepare the proceedings to increase the capital stock which proceedings has reference to in the minute in this book.

Q. Calling your attention to the minute of January 2nd, 1926, at page 20, I ask you whether you prepared that minute?

A. That minute of January 2nd, 1926, is a part of, refers to a part of the proceedings in the proceedings to increase the capital stock, and I prepared those proceedings as filed in the office of the Secretary of State, but whether that minute was placed in this book I cannot, I have no recollection of that.

Q. Do you know whether or not that minute as typewritten was typewritten from your machine?

A. I do not.

Q. Calling your attention to the minute of January 2nd, 1926, on page 21, I ask you whether you prepared that minute?

A. The portion of the minutes shown on page 21, 22, 23, 24 and the upper half of 25, is governed by

the same statement that I made concerning the prior minute, namely that I prepared the proceedings, but I have no recollection of putting the proceedings in this book.

Q. You took Mr. Harold Williams's affidavit, did you not, according to the book?

A. I think I took his affidavit, as shown by the proceedings.

Q. Will you say whether or not the typewriting is from your machine?

A. I don't know.

Q. Calling your attention to the minute of February 15, 1926, I ask you whether you prepared that minute?

A. It is very clear to me that I did not prepare that minute.

Q. And it was not written on your typewriter?

A. Not to my knowledge.

Q. Do you say the same with relation to the minute of March 1st, 1926?

A. That is my recollection.

Q. And the same as to April 3rd, 1926?

A. It is clear to me at present that I did not prepare that minute.

Q. Calling your attention specifically to the concluding part of the minute of April 3rd, 1926, which questions we have read during part of the minutes of the following meetings, did you prepare that?

A. No, I think not.

Q. At one of the meetings in Philadelphia, did you hear Trevor Williams say that when he was sick he wanted a doctor and that now he was legally sick and wanted a lawyer, or words to that effect?

A. I did not.

Q. Did you say that at one of the conferences

they, referring to the defendants, admitted their guilt? Say yes or no first to that, Mr. Godfrey, did you say that in substance?

(Question repeated).

Mr. McCarter: You mean to say today, was it, on the stand?

Mr. Cole: Yes.

Mr. McCarter: He means here.

Q. In answer to some questions asked by Mr. McCarter, didn't you say in substance that they, meaning these defendants, had admitted their guilt or did admit their guilt?

A. If you will turn to my testimony I think we can quote it more accurately.

Q. Maybe we can save some time. Did they admit their guilt at any of the conferences in Philadelphia?

A. Yes.

Q. Now, tell us what was said that provoked that? Give us your best recollection of the language used?

A. When the statement was read to them on the first day, by statements I mean the schedule attached to the capias proceedings and attachment proceedings, as each paragraph was read, they were asked whether they were correct and they said they were, and that they got the money.

Q. Is that all they said?

A. No, I wouldn't say that that was all they said because there were more or less comments and discussions.

Q. Did Harold Williams say that?
A. Yes.
Q. Did Trevor Williams say that?
A. Yes.
Q. Did Royden Davis say that?
A. Gordon Davis.
Q. Did Royden Davis say that?
A. Royden Davis? Mrs. Davis——
Q. Did Royden Davis say that?
A. I will tell you what happened.

Mr. Cole: No, I object. You are under cross examination.

The Court: Yes.

Q. You are under a cross-examination, and I ask you again, did Royden Davis say that?
A. Royden Davis told us how much money he got.

Mr. Cole: I ask, please your Honor, that he answer that yes or no.

The Court: Yes, answer yes or no.

A. What is the question?

(Question repeated).

A. You asked what Royden Davis said?
Q. Go back to the first question. You said the other three said it. Now, did he say it? You said that you read these charges or statements and they each said, "That is correct." I asked you whether Trevor Williams said it, you said, "Yes". I asked you whether Harold Williams said it, and you said

"Yes". Now I ask you whether Royden Davis said it.

A. Royden Davis?

Q. I ask you to answer that question, yes or no.

The Court: This can be answered yes or no.

A. This question cannot be answered yes or no because——

Q. That is all.

The Court: That is the answer.

Q. The thing that was being read at the time you say they said, "That is correct", was that from the affidavit or the capias?

A. That was from the paper attached to the capias and attachment proceedings and forming a part of it.

Q. What paper?

A. If you will show me the attachment proceeding I will tell you what paper it was, I don't have it.

Q. All right, let's have it for a moment.

Mr. Cole: The original capias is in your hands, I understand?

The Court: No, the original capias is not in my hands, or in anyone's hands, as far as I know. If it is among the exhibits impounded I will get it for you. I will get you the file from the Supreme Court in just a moment.

Mr. McCarter: My recollection is that the capias is not in there.

The Court: The capias is not on file with the proceedings of the Supreme Court.

Mr. Bourgeois: Nor the opinion of the Court, I think.

Mr. Cole: I think the capias is still in the hands of the Sheriff, isn't it?

The Court: I presume so.

Q. Now apparently, Mr. Godfrey, counsel does not produce the paper to which you refer. I show you the original affidavit on file in the Supreme Court in the capias action, and ask you to look at that and say whether you can tell from what it was that the reading was being made.

Mr. McCarter: I think your Honor has the paper that Mr. Philip Godfrey read from.

The Court: I have a copy of the paper which is now being presented.

Mr. McCarter: Yes, sir.

The Court: Which is marked "An incomplete copy", although it is marked certified by the Clerk as a true copy, in lead pencil it is marked "Incomplete copy". This is on the attachment, however, not the capias.

A. The paper in my hands is the capias affidavit to which is attached Schedule A and Schedule B, which schedules were read at that time.

Q. Are they the things that were being read when you say these parties said, "That is correct"?

A. As each paragraph was read it was discussed and the question was asked whether the statements

were correct, and they said they were, and that they got the money.

Q. Who discussed these paragraphs?

A. Williams, Senior, Williams Junior, and Davis.

Q. Now, it is true, is it, that there was no statement made by anybody on that day that any one of these four persons had committed fraud or embezzlement or forgery?

A. I am testifying as to what happened and the events which I recited happened.

Q. Well, is that all the answer I am to get?

A. If you wish any further answers, ask them, and I will do my best to answer them.

Q. I have asked you one and you haven't answered.

A. What is it?

(Question repeated).

A. Except as contained in the items which were read, that is true.

Q. Then when you answered that there were no such charges made, did you have these schedules in mind?

Mr. McCarter: He wasn't asked, and he hasn't said there was no use of the word "fraud". He said there was no use of the word "crime", "embezzlement" and "forgery".

The Court: Those were the three words used.

Q. Now, eliminating the word "fraud", which counsel says were not used directly, repeat the question to him.

(Question repeated as follows: "Now it is true,

is it, that there was no statement made by anybody on that day that any one of these four persons had committed embezzlement or forgery?")

Mr. McCarter: That is not the question. I asked him if he heard or said himself, that they had been guilty of embezzlement or forgery or crime.

(Question repeated as follows: "Now, it is true, is it, that there was no statement made by anybody on that day that any one of these four persons had committed embezzlement or forgery?")

Q. Or crime?

The Court: Permit it.

A. That is correct.

Q. Well, when you made, when you gave that answer, did you give it having the schedules in mind which have been read, or did you give it eliminating from consideration what had been read from the schedules?

A. I stated——

Q. Won't you answer that?

A. I will answer as fully as I know how. I have stated that these schedules were read in full.

Mr. Cole: I think that is a plain question.

The Court: Repeat the question.

(Question repeated).

A. I gave it knowing that the schedules had been read.

The Court: I think it is in evidence. Anyhow let it be in evidence.

Mr. Cole: I don't know whether this file of the Supreme Court is in evidence.

Mr. Bourgeois: And that will include a copy of the opinion.

The Court: Yes.

Q. When this agreement had been signed, as you have indicated, did you expect it to be signed by Gordon?

A. Mr.——

Q. Now, Mr. Godfrey, that answer, that question calls for a yes or no answer, a very simple question.

A. I don't think it does. I don't know that I can answer that by a yes-or-no answer.

Q. All right, if you can't do it. After this agreement had been signed by those who did sign, how did you expect to get Gordon's signature?

A. Mr. Williams had announced that he had been in contact with Gordon, and that Gordon was agreeable to the proceedings as they were carried out, and he said he would guarantee that Gordon would sign them.

Q. Did you rely upon that statement as being correct?

A. We did not rely upon it.

Q. We, I am talking about you. Did you rely upon that statement as being correct?

A. We did not entirely rely upon it, but we proceeded to make our settlement——

Mr. Cole: I ask that be stricken.

The Court: Yes, and call your attention to the fact the question has not been answered as yet.

(Question repeated).

A. We believed we had no reason, no disbelief

Mr. Cole: He can answer yes or no whether he did or did not.

The Court: My comment is that the previous question has not been answered.

(Answer repeated as follows: "Mr. Williams had announced that he had been in contact with Gordon, and that Gordon was agreeable to the proceedings as they were carried out, and he said he would guarantee that Gordon would sign them.")

The Court: The question is how did you expect to get the signature?

A. An arrangement was made with Williams, Senior, and myself, to go to California and get that signature.

Q. Now, before Williams, Senior, made any suggestion about getting the signature of Gordon, how did you expect you were going to get it?

A. Up to that moment to me it did not appear important whether we got it at all or not.

Mr. Cole: I ask he answer the question, and strike the answer.

The Court: Yes, strike the answer.

(Question repeated).

A. I had given no consideration to that.

Q. You didn't care whether Gordon signed it or not, did you?

A. I didn't say that.

Q. Well, I ask you, did you?

A. Of course we preferred——

Q. You didn't care whether Gordon signed or not, did you.

A. I did care. I would prefer he signed it.

Q. The answer is yes, then?

A. I would prefer that he signed it.

Q. But you expected to have him sign it, didn't you?

A. We proposed to have him sign it.

Q. Did you expect to have him sign it?

A. We supposed that he would sign it.

(Question repeated).

The Court: I think that is answered.

Mr. Cole: Your Honor accepts that answer?

The Court: Yes.

Q. How did you suppose you were going to get the $60,000 of bonds of Gordon's if he did not sign this contract?

A. The agreement itself covers exactly what we expected, and I had no other——

Q. Is that your answer?

A. ——understanding not contained in that agreement.

Q. Then didn't you expect to get Gordon's signature?

A. I have already told you that we expected that he would sign it.

Q. Did you prepare the joint release?

A. My recollection is that I did.

Q. Have you any doubt about that?

A. I have not.

Mr. McCarter: You mean the release by——

Q. I mean the release that was to be signed by Davis and your men, you prepared that, didn't you?

A. That is my recollection.

Q. Why did you prepare a separate release for Dorrian and Fahler?

A. If I had the papers before me I could testify concerning them more intelligently.

Mr. McCarter: I will give you my copy of the printed papers. Any objection to that?

Q. Now, of course, you knew this was a $190,000 transaction, didn't you, that was being discussed in Philadelphia, approximately?

A. They agreed to settle this proposition, agreed to pay $190,000.

Q. I didn't ask you that. I said whether you weren't conscious of the fact this was a $190,000 transaction?

Mr. McCarter: More than that? Approximately we will call it $213,000.

Q. Were you conscious of the fact this was a $213,000 transaction that was being discussed in Philadelphia?

A. I was conscious of the fact it was a large transaction, involving——

Q. How large were you conscious it was?
A. Involving approximately those figures.
Q. And you knew that the paper which young Philip Godfrey read, called these defendants conspirators, didn't you?
A. The paper speaks for itself.
Q. I have a right to have an aswer to the question.

The Court: Certainly, you may answer it.

Q. I suggest, Mr. Godfrey, you are not above the law, either. Just answer the question unless the Court says you shouldn't.

(Question repeated).

A. I knew what was in that paper which he read.
Q. Did you at that time believe that these men had committed a crime?

Mr. McCarter: I object to the question.

The Court: I will permit it.

A. The question as to whether they had committed a crime had not been considered by me, to the best of my present recollection.
Q. At that time the capias and attachment were both had, weren't they?
A. Yes, sir.
Q. The affidavit was prepared by you, wasn't it?
A. Yes, sir.
Q. And you charge in that affidavit that these people had conspired, did you not, to defraud your clients out of money?

Mr. McCarter: I object to that question, for two reasons, in the first place it is immaterial, and the second place, the paper will speak for itself.

Mr. Cole: I think it is material. I think we don't have to confine ourselves to the paper. He is under cross-examination.

Mr. McCarter: I haven't referred a word to the capias proceedings, not a ward.

Mr. Cole: Yes, you have talked about Father Mellon.

The Court: I will hear one to a time, please.

Mr. McCarter: I repeat, I have considerable confidence that I did not refer on my direct examination to the capias proceedings. As I before stated, I examined Mr. Godfrey touching his work in connection with the minute book, and then proceeded to the interviews between Davis, Hart and himself, with no particular reference to Harry Coll and what followed that, and I then went, as I said before, the proceedings at Philadelphia and what occurred there. Now, if I may, before I cease, again call your Honor's attention to the fact that I deem this another effort on the part of the defendants to undertake to substantiate their allegations which are in their bill, their counter-claim, although your Honor may not have noticed it, that this whole thing was a conspiracy on the part of not only Dorrian and Fahler, but Carlton Godfrey and Mr. Garrison and Philip Godfrey and possible Hart, I am not sure whether he is mentioned or not, and that is the basis of their counterclaim and

upon the foundation of which they say the interviews were merely a sequence of events. Now, whether he drew the capias, whether he believed the capias, anything of that kind, may be germane to their theory of their counterclaim against which we have answered, but it is not cross-examination of our case, and I do not think they can undertake to prove their case by cross-examining our witnesses on the subject about which they were not interrogated.

The Court: I agree thoroughly with the proposition of law which is presented, but this witness has been examined on direct as to what occurred on these conferences in Philadelphia. One of the occurrences, as testified, was the reading by Mr. Philip Godfrey of the schedule attached to an attachment or to a capias, apparently they are both the same. I have glanced at them. Now, he may be cross-examined upon what was in those papers and that which was read.

Mr. McCarter: This is about the affidavit, your Honor.

The Court: Yes, I know, but the schedule is a part of the affidavit. Now, in explaining, or in explaining his knowledge of what is in that schedule, I think the entire paper, of which the schedule is a part, may be cross-examined upon. I will permit it.

(Question repeated).

Mr. McCarter: I again repeat the paper ought to be produced.

The Court: Yes, the paper should be produced.

Mr. Cole: I assumed the witness is familiar with the paper. He has not asked for it. I will show it to him.

The Court: That what is marked as "incomplete copy," but certified to by the Clerk of the Supreme Court, as a true copy.

Mr. McCarter: The affidavit was not read. They are talking about the affidavit.

The Court: They are talking about the affidavit to which the schedule was attached and was made a part of it.

Mr. McCarter: I say the affidavit in the Supreme Court is not involved.

The Court: I say that was not read. The paper which we have, as the original file, I can't conceive Mr. Philip Godfrey had the original file with him in Philadelphia.

Mr. Cole: Mr. Godfrey, have you the paper from which you read?

Mr. Philip Godfrey: The Court has it.

(Copy produced from the Court's desk).

Q. I show you what Philip Godfrey says is the paper from which he read, which he said was in the hands of the Court, and the Court has produced it, and I ask you whether that, according to

your best recollection, is the paper from which he read.

The Court: That can be answered yes or no.

A. Philip Godfrey——

The Court: It can be answered yes or no.

(Question repeated).

A. Yes.
Q. You heard him read it, didn't you?
A. I heard him read it, yes.
Q. And you were familiar with all the facts even before reading it, weren't you?
A. I was sufficiently familiar with the facts to convince me that that was a proper paper to prepare and file.
Q. And from the reading, did you believe that one or more of these defendants had committed a crime?

Mr. McCarter: I object to that question.

The Court: Permit it.

A. Before answering that question, I would like to read this paper to remind me of the facts.

The Court: Gentlemen, we will take a recess for five minutes.

(After recess, question repeated).

A. I did.

Q. Did you caution them against making any admissions of the commission of a crime?

Mr. McCarter: I object to that question.

The Court: I sustain the objection.

Q. Had you seen the opinion of Mr. Justice Campbell in the capias case at the time that Dr. Mellon, Father Mellon, stated that the motion to dismiss the capias had been denied?

A. I am not sure whether I did or not.

Q. Had you heard the result?

A. I had been told that the result was the same as the Doctor announced it.

Q. Who told you?

A. I think Mr. Garrison.

Q. Did he read the opinion to you?

A. No, he didn't read it to me.

Q. Did you ever see the opinion?

Mr. McCarter: You mean when, since then or before?

Mr. Cole: Any time.

Q. Did you ever see the opinion of Mr. Justice Campbell in the capias matter?

A. Yes, I have seen it.

Q. Had you seen it before Father Mellon made the announcement?

A. No, not to the best of my recollection.

Q. Do you know how Father Mellon got the opinion?

A. Except my best judgment.

Q. What is it, what is your best judgment?

A. That Mr. Garrison told him.

Q. Did you state anything to Father Mellon after he had made that statement, that is, I mean concerning the capias?

A. No. You mean about that matter?

Q. Yes.

A. No.

Q. Now, did you feel on the occasion when something was said about having a lawyer that anyone of these defendants should have a lawyer?

A. Not against their own wishes.

Q. What?

A. Not against their own wishes.

Q. Now, independent of their own wishes, I repeat the question, did you feel on that occasion that any one or more of these defendants ought to have had a lawyer?

A. I know of no necessity for it.

Q. That is all I want to ask.

Mr. McCarter: Now, I offer in evidence the record, that is to say, the bill of complaint filed by A. Trevor Williams and Royden B. Davis, complainants, against Connie J. Dorrian, Lloyd W. Fahler, and Harold S. Williams, which is filed June 7, 1927, being the bill upon which your Honor on their application granted the rule to show cause why a receiver should not be appointed. I have my office copy here. I imagine the original file is here.

The Court: I think the original file is here.

Mr. McCarter: If so, I offer in evidence, don't care about it being marked.

The Court: Now, there is a mixture of several files in this one package through some error.

Mr. Bourgeois: If your Honor please, in that case those two cases were merged into one, so it is here anyway.

Mr. McCarter: Now, I next offer in evidence a paper that is not on file, although being copy served upon us, that is, Connie J. Dorrian and Lloyd W. Fahler, of a proposed amendment to the bill of complaint that has just been referred to, which amendment Vice-Chancellor Leaming—your Honor being away—declined to file, but directed that the two matters be consolidated, which resulted in the filing of the counterclaim and answer that are now before your Honor, the object of which offer being to indicate—being the paper drawn by counsel for the complainant here, that is, two of them, and showing their conception of the situation as it existed at that time and the situation of the plaintiffs on whose behalf the paper was produced to be filed.

Mr. Bourgeois: That is objected to, if your Honor please. That is no part of the record at all. It was not admitted, was declined to be filed and it isn't anything, it isn't even an admission until it is filed, it is nothing.

Mr. McCarter: I don't think so.

The Court: I will permit it to be marked, and I won't at this time decide its probative effect.

Mr. Cole: I also object without saying it. I don't see how it can bind Mr. Davis.

The Court: Mr. Davis is not a party as I understand it.

Mr. McCarter: Yes, he is a party complainant, A. Trevor Williams, Royden B. Davis and Gordon Williams Company are the parties complainant to this bill.

Mr. Cole: I am talking about this supplemental bill. He is not a party to that, is he?

Mr. McCarter: This is the proposed amended bill that is offered to be filed, and we were notified of an application to have it filed and Vice-Chancellor Leaming objected to it and directed the case to be consolidated and they incorporate in their answer a counterclaim setting up what is in here, and I want to show what the parties claimed at that time.

The Court: I have admitted it but declined to comment on its probative force at the present time.

(Notice and amended bill received in evidence and marked Exhibit C34.)

DOUGLASS BESORE, recalled:

Direct examination.

By Mr. McCarter:

Q. Have you had an opportunity since you were on the stand to examine the cash books or other

books of account of Gordon Williams and Company?

A. I have.

Q. Are you able from such examination to tell us how much money that cash book shows that the firm of Gordon Williams and Company received from either Dorrian or Fahler before the 4th of January, 1926, and the 20th of February of the same year? Are you able?

A. Yes, I believe so.

Q. How much, give us the gross number first, and then give us the particulars.

A. The books show receipts of $168,215.78.

Q. Now, have you finished your answer?

A. Including a balance of Dorrian and Fahler's account as of January 5th, resultant from former deals.

Q. How much?

A. $350.75.

Q. Now, are you able from the same source to give us the disbursements by Gordon Williams and Company between the 2nd of January, 1926, and the 17th of February, 1926, to pay for the Delrae property, so-called?

Mr. Bourgeois: Wait a minute, I object to that.

(Objection withdrawn.)

A. The books show——

The Court: May I ask one question. Why is the date February 20th, one date, and February 17th in the other?

Mr. McCarter: Because the account comes down

to that date. I don't know why that one date is selected. Be very glad to have you ask the witness that.

By the Court:

Q. Why do you say the receipts from January 4, 1926, to February 20th, and with reference to the disbursements from January 2nd, 1926, to February 17, 1926?

A. There weren't any other disbursements after the 17th.

Q. Then why can't you say up to the 20th, then, to cover the same matter?

Mr. McCarter: He may.

By Mr. McCarter:

Q. Make the disbursements down to the same day that you gave us the receipts, namely the 20th of February, 1926.

A. The books show disbursements from January 2nd, 1926, to and including February 20, 1926, of $165,376.73.

Q. How much of that $165,376.73 do the books show were applied to the purchase of any of this DelRey property?

A. $162,753.65.

Q. Are you able to give us the items of the receipts?

A. Yes, sir.

Q. Will you please do so?

A. The books show receipts of Gordon Williams & Company from——I will give you the page, do you want the page on it?

Q. Please go on and answer the question.
A. From Lloyd W. Fahler, October 21st, 1925, of $8,000. The explanation of that receipt being——

Mr. Bourgeois: I object to the explanation.

The Court: Yes.

Q. Just what the books show.
A. Yes, sir.
Q. What date are you giving?
A. October 21st, 1925.
Q. It is necessary to go back to that?
A. Yes, sir.
Q. Go on.
A. October 23, 1925, from Lloyd W. Fahler, $14,250. October 26, Helene Wright, $2500.

Mr. Bourgeois: Why is that put in there with the Gordon Williams matter? Are you giving the total disbursements?

A. I wanted to give you the explanation, but you won't let me.

The Court: You were asked to give the items of receipts from Fahler. Now you announce there is an item of $2500 from Helene Wright. You were not asked about that.

A. That item was included in making up this balance that I showed as of January 5th, this Dorrian and Fahler account.

Mr. Bourgeois: That would indicate the balance is wrong.

Mr. McCarter: One moment. Are you giving the items that go to make up the principal amount of $168,215.78?

A. I am giving the items that make up the balance of $350.75, included in that balance of $168,-215.78.

Q. Have you an extra copy or two extra copies of the figures?

A. I have two more copies, yes.

Q. Give one, just the figures, without any explanation, to the Judge, and also to counsel.

Mr. McCarter: I don't care to have them see the comments.

Mr. Bourgeois: I submit, if your Honor please, we have a right to see the comments. They haven't any right to show your Honor anything that they don't show to counsel.

The Court: No. I have already turned that over so that they can't be seen by the Court.

Mr. McCarter: Now tear off the comments and give Mr. Bourgeois the figures.

The Court: I might call attention to the fact there is nothing on these sheets that has anything to do with the items he is testifying to except the balance of $350.75, now testifying to things prior to that time which he says were making up that $350.75. Are we seriously interested in that? That seems to be called Longport settlements.

Mr. McCarter: I think we can cut it short, your Honor.

Q. I notice on the statement which counsel the Court have there is an item of $350.75. You have included that in the sum of $168,215.78?

A. I have.

Q. That is opposite the words: "Balance open account, Dorrian and Fahler, left from Longport settlements $350.75." Are you able briefly to show why you attribute $350.75 the balance open account, Dorrian and Fahler, left from Longport settlement, in this column? Had there been some previous transactions?

A. There had been other deals in which Mr. Dorrian and Mr. Fahler were interested, in which Williams Company received and disbursed moneys, leaving a balance of $350.75.

Q. Very good. And that balance was there, as of January 15th, 1926?

A. That is correct.

Q. All right. That explains that. You needn't go into any more details on that item. Now go on and give the other part.

A. January 4th the books show a receipt from Lloyd Fahler of $31,500, January 11th they show a receipt from Harold S. Williams, and in small writing following that is "For C. J. Dorrian, $8,898. January 11th, Harold S. Williams, $3000.

Mr. Bourgeois: Where is that, January 11th?

A. January 11th.

Mr. Bourgeois: How many dollars?

A. $3,000.

Mr. Bourgeois: Eight thousand?

A. $8,898 was the preceding item. The next two items will make up the $37,500.

The Court: Then your memorandum is not in accordance with the books? You said you had an item of $3000. No such item appears here.

Mr. McCarter: Your Honor——

The Court: For his own convenience he adds them up.

Q. How do you make up the sum of $37,500?
A. By including two items, Harold Williams, $3,000, and $34,500 received January 11th.
Q. Received from whom?
A. The books show from Harold S. Williams.
Q. What basis have you for attributing that receipt or those receipts from Fahler and Dorrian?
A. The books also show that this money, there is a memorandum on the books, saying, "Settlement, Somers Point Tract."

The Court: What is there on the books to connect this with Dorrian and Fahler? I would like to see the books.

Mr. McCarter: I understood the witness just said.

The Court: Somers Point Tract, yes, but what is there in that to connect?

Q. What was the Somers Point Tract?
A. The Somers Point Tract was the land which was being purchased for Williams and Davis, as I understand it.

Q. Do you know whether the Somers Point Tract and the DelRey Tract are one and the same?
A. I know it, yes, they are the same.

The Court: Let me understand. By what you are now testifying from the books, by what authority does this witness say that money came from Dorrian? From the books?

Q. Referred to the item in the books that you have alluded to.

Mr. McCarter: I understood, your Honor, he said there was an item of balance or something another from Somers Point Tract.

The Court: Yes. Well, that is all true, suppose he does say that, does that show us the money from Dorrian?

Mr. McCarter: We will have to argue about that.

A. The books record an entry on January 11th, 1926, Harold S. Williams, $3,000, and credited, "Deposit in escrow account." Another item on the same date of $34,500, credited to the "Deposit in escrow account," with an explanation in lead pencil, and bracket around it, "Settlement, Somers Point Tract."

Mr. Bourgeois: The other part of it is in ink except that memorandum in pencil?

Mr. McCarter: One moment.

Q. What is the next item, January 29th?

A. January 29th, Harold S. Williams, followed by the word "Special," $24,443.49.

Q. How is that connected in any way on the books with Dorrian and Fahler?

A. That is marked "Fahler's account."

Q. Now, the 3rd of February?

A. February 3rd, Fahler to Daily on page 105, February 3rd, $1242.35. That is marked "Credit to Fahler's account, lots 15 and 16, Block 121."

Mr. Bourgeois: Part of that is in pencil marks?

Mr. McCarter: The books are there.

Mr. Bourgeois: I know, but he ought to designate.

Mr. McCarter: Let him take the book.

Mr. Bourgeois: He is entitled to the books. We haven't got them.

Mr. McCarter: The witness can have the books on the stand.

Mr. Bourgeois: He can have the books, as a matter of fact you wanted him to testify from his memorandum.

Mr. McCarter: You are asking the question, involved him looking at the book.

Mr. Bourgeois: I wanted him to get his testimony right is all.

A. The words "Credit Fahler's Account, Lots 15 and 16, Block 121," are in lead pencil.

Q. Do you know in whose handwriting?

A. To my best recollection it was Miss Peterson's, the stenographer's handwriting.

Q. She was the bookkeeper?

A. She kept the cash books.

Q. Under date of February 8th?

A. February 8th——

Q. No, February 6th.

A. February 6th there is an item credited, received, rather, from the Chelsea Title Company, $55.02, credited to deposits in escrow, with the words "Credit to Fahler Account" in lead pencil.

Q. February 8th?

A. February 8th the books show a receipt from Connie J. Dorrian of $39,000.29. In lead pencil appears the words "Final settlement on second tract, Somers Point."

Q. February 9th.

A. February 16th the books show a receipt from Connie J. Dorrian of $1,000, being credited to deposit in escrow, and the lead pencil words following: "Settlement Somers Point, second tract."

Q. February 13th.

A. February 13th, the books show receipt from Gordon Williams, $5,000, credited deposit in escrow marked "Somers Point, settlement second tract," in lead pencil.

Q. 16th.

A. February 16th the books shoy a receipt from Gordon Williams and Company of $13,000, credited deposit in escrow account, in lead pencil, "Refunded on settlement of Somers Point second tract."

Q. February 20th?

A. February 20th received from Lloyd W. Fahler of $6225.88, credited to deposits in escrow,

$6225.88, in lead pencil, "Reimbursing G. W. & Co."

Q. Do you know what "escrow" means in connection with these entries you have read?

A. Held for the account of a certain person until the carrying out of a certain thing.

Q. Now, give us the disbursements and of what particulars are they made up?

A. The books show a disbursement on January 2nd, 1926, of a check on the Union National Bank, No. 2057, to the order of the Chelsea Title Company, charged to deposits in escrow, of $70,787.50, with an explanation in ink, "Coll to Dorrian and Fahler, S. Point."

Q. Now January 29th?

A. January 29th, a check on the Union National Bank No. 2147, to the order of the Chelsea Title Company, for $18,000, charged to the deposits in escrow account, marked "Second tract Somers Point."

Q. Aggregating eighteen thousand?

A. $18,000.

Q. Now take the 11th of February, 1926.

A. Second month, eleventh, the books show a check of Gordon Williams and Company to the order of the Chelsea Title Company, No. 2186, on the Union National Bank in the amount of $73,-956.15, being charged to deposits in escrow account, and marked "Somers Point second tract."

Q. Under date of February 17th.

A. February 17th shows a check to the order of Connie J. Dorrian, No. 2194, on the Union National Bank, $2623.08, charged to the deposits in escrow, marked "Somers Point refund."

Q. Now the difference between the receipts and the disbursements is how much?

A. $2839.05.

Q. Is there any entry in the book with reference to that item?

A. On page 2 of the Journal, under date of February 28th, the following entry appears, a debit to deposits in escrow of $2893.55, a credit to the recording fees of $54.50, and a credit to sales commission account of $2839.05, with an explanation, "To close Fahler Dorrian account, sales commission and adjustment of deposits in escrow, second/28/26."

Cross-examination.

By Mr. Bourgeois:

Q. Mr. Besore, all that testimony that you have given simply means an account in the books of Gordon Williams and Company of the moneys and expenditures made by them in purchasing land for Dorrian and Fahler, does it not?

Mr. McCarter: I object.

Mr. Bourgeois: This is cross-examination.

Mr. McCarter: I don't think he can characterize what it means.

The Court: That was the point which the Court was questioning him on, and which counsel seemed to think perhaps was improper. He has from the very beginning of his testimony characterized what the items meant. He has explained some of them.

Mr. McCarter: Your Honor, I think what the

witness has said is this, that on the cash book and the other book showing the disbursements are certain entries which he has put down and which aggregate a certain amount, and on the same set of books are the disbursements with the items referable thereto, and the only one to which he has given any explanation is the $350.75, which he says is the residue left to the credit of the Dorrian and Fahler receipts after certain previous transactions were disposed of. Now I do not think he can be asked on cross-examination what that all is intended to or does mean. It means what it says, I take it, and that is the entire question. It isn't for him to contribute to it. These are the company's books and they show certain receipts, a series of receipts, and they show certain disbursements, couple of disbursements, and they show a balance paid to commission. Now what more can he do, he examines the books, or can say, I don't know. I don't think he can be given a theory about it on Mr. Bourgeois's part and asked to say whether that theory is correct or not.

Mr. Cole: He defined "escrow."

Mr. McCarter: I asked him if he knew what the word "escrow" meant, and he has given that, and cross-examination upon that is perfectly right, of course, but to show the sum, for instance, is so and so, and so and so, I don't think is right.

The Court: In his direct examination, using the sheet which has been furnished me by the witness, is an item "H. S. Williams, Second Tract, Somers Point, $37,500." This witness explained how that was connected with this account.

Mr. Cole: DelRey.

The Court: And yet upon the sheet that he gives us, there is nothing at all to connect it in any way. I will permit the question.

(Question repeated).

Mr. McCarter: That is a conclusion. How can he say, purchase of land?

The Court: Yes, I will sustain the objection.

Mr. McCarter: How can he say? Trying to slip in something there.

Q. As a matter of bookkeeping, what is the different transactions that you have read transferred to and including the notations and explanations, you call it, show, what does it indicate? I don't mean dollars and cents, what is the transaction?

A. They show that certain moneys were received by Gordon Williams and Company and spent.

Q. Does it show for what purpose?

A. As the explanations were given on the books.

Q. And what is that?

A. I didn't keep the cash books, and I can't say that.

Q. I say, what the explanations are.

A. I have given you each one of them as it was called off.

Q. What does this last item you testified to mean, where it says to what it calls Fahler and Dorrian's commission account, $2839.05?

A. With particular reference to that item I recall distinctly that when I made that entry I asked

about it, of an officer of the company, what was to be done with the balance, and I was told to close it to sales and commissions account.

Q. Sales and commissions account?

A. Yes, sir.

Q. Did Dorrian and Fahler pay Gordon Williams and Company commission on the sales, purchase or sales?

A. Yes, sales and purchases.

Q. In sales or purchases?

A. Yes, sir.

Q. They did?

A. Yes, sir.

Q. Gordon Williams and Company were the sales agents, I think, for Mr. Dorrian and Mr. Fahler, were they not?

Mr. McCarter: I object to that. That is a conclusion.

The Court: Yes, I will sustain the objection.

Mr. Bourgeois: I would like to ask Mr. Besore a question or two in connection with his previous examination that I did not then ask.

By Mr. McCarter:

Q. Do you remember who that officer was that you just referred to?

A. To my best recollection it was Harold S. Williams.

By Mr. Bourgeois:

Q. I want to ask you about the issuing of the

common and preferred stock. You testified to it the other day, I think. Will you tell me when the first of the preferred stock was issued? I will show you your report sheet if you want.

A. I have a copy of it.

Q. You have a copy of it?

A. That is Gordon Williams and Company?

Q. No, of the Williams and Davis Company.

A. Williams and Davis?

Q. Yes.

A. What is the date of the report?

Q. The one I have is April 30th, I think that is the first you made.

A. 1926, you mean?

Q. Yes, 1926. I want to know the date when the first of the preferred stock was issued?

A. My report does not show that.

Q. Was there any report of the Williams and Davis, Inc., prior to the report of May 10th, which included up to April 30th?

A. I believe this was the first report made.

Q. I beg pardon?

A. I believe this was the first report made.

Q. Now that included up to the end of April of 1926, did it not?

A. Yes, sir.

Q. Now, I ask you how much common stock had been issued at that time.

A. The report shows 70 shares.

Q. At that time?

A. April 30th I have in there, trial balance, as of the general ledger as of April 30th, close of business April 30th, shows 70 shares there, no par stock.

Q. Of no par stock. Now do you know when that stock was issued? I show you your next report and that shows common stock issued?

A. Yes.
Q. Of how much?
A. $70.
Q. Now——
A. That is a dollar a share.
Q. I now show you some checks for the purpose of showing, if I can, when the stock was issued. First is a check of May 11th, 1926.

Mr. McCarter: I certainly do not think this is cross-examination of this witness. I asked him about certain issues of preferred stock, and common stock, which he testified to. Now they are trying to get out of this witness on cross-examination some recognition of checks with reference to earlier issues. That seems to me to be improper, not cross-examination. If they want to prove it, they can prove it, but it is not cross-examination of anything this witness testified to.

Mr. Bourgeois: My object was to find out about his statement, he has one entry on one month 70 shares preferred stock issued, next month 70 shares preferred stock, $70. Now I want to find out whether or not that was issued, or whether simply an entry, didn't amount to anything.

The Court: Sustain the objection as not being cross-examination.

L. Webster Melcher, sworn.

Mr. Cole: While they seem to be gathering something up, I would like to inquire from counsel what they expect to show by this witness? I recognize him as a handwriting expert.

Mr. McCarter: Expect to show something with reference to a signature with reference to Trevor Williams.

Mr. Cole: Of course I am not interested in him, but I am wondering how it is relevant.

Mr. McCarter: We think it is relevant.

The Court: I will rule upon it as it is presented.

Direct examination.

By Mr. McCarter:

Q. Mr. Melcher, what is your profession?

A. I am a member of the Philadelphia Bar and for the past sixteen years I have been making a special study of the identification of disputed handwritings. During that time I have been associated in this work with my father, Webster A. Melcher, and since 1919 I have been testifying as an expert on this subject. I have examined a great many disputed documents, signatures and other writings, and testified as an expert on handwriting in a number of different counties in the State of Pennsylvania and also in this State. I have been engaged by the District Attorneys of——

Mr. Bourgeois: If the Court pleases, he was asked what is his occupation, not what it was.

Mr. McCarter: What his experience was.

Mr. Bourgeois: You didn't ask him for his experience.

Q. I will ask you now for your experience. Go right on.

A. I have been engaged as a handwriting expert and made investigations and testified for I think half of the prosecuting officers of the State of Pennsylvania and in several counties in this state, for the State Police of Pennsylvania, the United States Attorney at Philadelphia, the Pennsylvania Railroad, the Philadelphia & Reading Railroad, and a number of insurance companies and surety companies, banks and trust companies, and a great many other corporations and individuals.

Q. I show you Exhibit C16 and Exhibit C17. I also show you——

Mr. McCarter: By some inadvertence the original of this check which the witness has inspected, which is in the title company, is not here momentarily. I wonder if I may use the photostatic copy until it comes. My recollection is that it was that photostatic copy that Mr. Williams admitted he endorsed.

Mr. Bourgeois: All right, he says he did.

Q. I show you also a photostatic copy—we will produce the original very shortly—dated 2/8/1926, to the order of Julia Coll, "Balance due seller,

Shore Road and Somers Avenue," signed Floyd S. Sumner, and somebody, Fox Lawrence, Jr., I think, endorsed "Julia Coll." And it is conceded that the endorsement thereon is made by Trevor Williams.

The Court: Do I understand you that it is conceded that the name of Julia Coll was made by Trevor Williams.

Mr. Bourgeois: He testified he had the right to sign it and did do it.

Q. I now show you paper marked Exhibit C18, which is an agreement for the sale of land, Julia Coll to Connie J. Dorrian——

Mr. Bourgeois: What about these exhibits he did have, 16 and 17, are they withdrawn or out or what?

Mr. McCarter: They are here.

Mr. Bourgeois: Are they to serve any purpose? The witness was shown those two exhibits, and I suppose there was a question going to follow. Is that all?

Mr. McCarter: I will follow that question in a moment.

Q. I show you, if I may be permitted to finish my question, Exhibit C18, purporting to be signed by Julia Coll. Using the photostatic copy of the check and Exhibits C17 and C16, which on their backs contained the conceded signatures, "A. Trevor Williams"——

Mr. Bourgeois: He asks a question about one and hands the witness another.

The Court: He says C16 and C17, which contain concededly——

Q. Signatures of A. Trevor Williams, will you please tell me who in your opinion wrote the name and purported signature of Julia Coll on C18?

Mr. Cole: On behalf of Mr. Davis I object, first I think it is not relevant, and secondly, it can't bind him. I don't see the relevancy of it in this case.

Mr. Bourgeois: I object, if your Honor please, because they have never had Julia Coll's signature and, your Honor, and if they want to dispute her signature they have got to produce the testimony or evidence of what her signature was, I should think.

The Court: Permit the question.

A. I found that the name Julia Coll was signed to Exhibit C18——

Mr. Bourgeois: I object.

Mr. McCarter: One moment.

Mr. Bourgeois: He was asked his opinion, and the witness is telling what he found. It is not responsive.

The Court: Sustain the objection.

(Question repeated.)

A. The same person, yes.

Mr. Bourgeois: I object to that, because he is asked for his opinion.

The Court: I will permit that.

A. The same person who signed "A. Trevor Williams, Commission expires January 31, 1928" on Exhibits C16 and C17.

Mr. Bourgeois: Indicate which one that signature is on, whether on C16 or 17.

Mr. McCarter: Have I got this witness or who?

Mr. Bourgeois: I object.

The Court: Admitted.

Mr. McCarter: Mr. Bourgeois, if you will just sit down.

Mr. Bourgeois: If your Honor please, he says showing the signature on two exhibits, they are not two exhibits.

The Court: They are two exhibits, C16 and C17.

Mr. Bourgeois: He says the signature, and reads from the signature on Exhibit C16.

Mr. McCarter: Read from both. If your Honor please, the acknowledgment on each——

The Court: I have admitted it.

(Answer repeated.)

Q. Go on.

The Court: I think that answers the question.

Mr. McCarter: No, sir.

The Court: Why not?

Mr. McCarter: Yes, I think it does.

Q. I call your attention now to the photostatic copy of a check 2/8/1926, endorsed, purporting to be endorsed "Julia Coll," which Mr. Williams admitted he wrote, and I show you the original of that check and ask you if you have, in reaching the conclusion you have just given, also included these as standards?

A. No, sir.

Q. Have you used either as a standard?

A. No, sir.

Q. I show you Exhibit C19, being check dated 2/13/1926, to the order of Julia Coll, and purporting to be signed, "Floyd S. Sumner, Fox Sumner, Jr."; I also show you the original of that photostatic copy, marked as an exhibit. Will you please look at the endorsement of the name "Julia Coll," both from the photostatic copy and the original and tell us in whose handwriting that is?

A. I found that this——

Mr. Bourgeois: I object.

The Court: Sustain the objection.

Q. If you answer the question and then give the basis, they object to the use of the word "found."

The Court: As an answer to the question.

Q. You were starting out in reply to a query as to whose signature that is, if you were able to tell, and over their objection you were proposing to say something you found. They say that is not responsive. Assuming it is not so, if you can answer my question without bringing in the saying what I found.

A. In my opinion this "Julia Coll" endorsement on this check——

Mr. Bourgeois: I object to that. It is not responsive.

The Court: Yes, I will permit that.

A. ——was written by the same person who signed the name "A. Trevor Williams" to the previous two exhibits which were submitted to me as standard writings of A. Trevor Williams.

Q. You mean C16 and C17 a little while ago?

A. Yes.

Cross-examination.

By Mr. Bourgeois:

Q. Mr. Melcher, are you still practicing law?

A. No, I haven't practiced law for some time.

Q. How long?

A. I don't just know, it has been several years.

Q. Then, in so far as your qualification is concerned you are a handwriting expert, as a lawyer you are sort of a has-been?

Mr. McCarter: I don't think a lawyer has any qualifications——

Mr. Bourgeois: I wondered what his qualification was as a lawyer and as a handwriting expert.

The Court: Let's don't waste time.

(Original of photostatic copy of C19 offered as an exhibit and marked Exhibit C35.)

The Court: I think there were two checks taken from the impounded list which have not been returned.

(Checks returned to the Court.)

Mr. Bourgeois: May I say to you that Mr. Williams says this check——

Mr. McCarter: No, I don't care what Mr. Williams says. Let him say it on the stand.

Mr. Bourgeois: He is going to. I don't care anything about it.

COMPLAINANTS REST.

DEFENDANTS' SUR REBUTTAL.

WILLIAM GELLER, recalled.

Direct examination.

By Mr. Bourgeois:

Q. Mr. Geller, you are an expert accountant?
A. Certified public accountant of New Jersey.
Q. Have you examined the books of Gordon Williams and Company?
A. I have.
Q. To ascertain how much cash that company had on hand on the third of April, 1926?
A. I have.
Q. How much did it have?
A. They had a total cash balance on deposit there of April 26, of $42,392.79.

Cross-examination.

By Mr. McCarter:

Q. Have you anyway of saying how much of that was due to or represented the interest of Williams and Davis, Inc.?
A. There was $3737 due Williams and Davis, Inc. account of DelRey collections.
Q. You mean after deducting commissions of Gordon Williams and Company?
A. After deducting the commissions as shown on the cash book.
Q. That is April 3, 1926, isn't it?
A. Yes, sir.

Q. Now did you find on the 6th of April, 1926, an entry of a loan from Williams and Davis, Inc. to Gordon Williams and Company of $4400?

A. I will have to refer to the cash book.

Q. Help yourself.

A. There is a record under April sixth on page 6 of the cash book of Williams and Davis, Inc. of $4400., a receipt, credited to loans.

Q. To what?

A. Credited to loans.

Q. Now on April 3, 1926, do you find a check drawn to cash by Gordon Williams and Company for $2,000, and will you, Mr. Bourgeois, produce the $2,000 check which you produced the other day in connection with the county deal?

A. On page 18 of the cash disbursement records under date of April 3, this entry appears: "To cash, check No. 772, $2,000" and explanation "loan" to Williams and Davis, Inc. $2,000."

Q. Explanation what?

A. Loan to Williams and Davis, Inc. $2,000.

Q. Do you find on the fourteenth of May, 1926, an entry of a check to E. L. Johnson, treasurer, for $2400?

A. On May 14, cash disbursement records, page 22, there is an entry "E. L. Johnson, check No. 826, $2400." charged to "loans, Williams and Davis account."

Q. Don't those two checks, namely the one of April 3rd for two thousand and the one on May 14th for $2400 wipe out the balance of the so-called loan or deposit of $4400. that you have already spoken of under date of April sixth?

A. Yes, sir.

Mr. McCarter: May I see these two checks?

(Checks produced by Mr. Bourgeois.)

Q. Please look at this check I show you dated April 3, 1926, and produced from the papers impounded with the court, purporting to be signed "Gordon Williams and Company by R. B. Davis and Harold S. Williams," and see if that is the check corresponding to the item under date of April 3rd, to which I have already directed your attention?

A. Yes, sir.

(Check offered, received in evidence and marked C36.)

Q. I now show you another check dated May 14, 1926, which bears the same signatures, to the order of E. L. Johnson, County Treasurer, for $2400. Will you look at that and see if that corresponds to the entry that you have already testified about under date of May 14, 1926?

A. Yes.

(Check offered, received in evidence and marked Exhibit C37.)

Q. There seems to be some confusion, Mr. Geller, with reference to the actual date of this cash balance of $42,392.79. Will you, so as to prevent any misunderstanding about that, again repeat as of what date that balance you found?

A. That was as of April 3, 1926.

Q. Third.

A. Yes, sir.

Q. Does that include any escrow deposits?

A. That would be the total cash balance, Mr.

McCarter, including everything which went into the cash.

Q. I know, but does that mean cash balance in bank?

A. Yes, on deposit.

Q. You mean, does it include money that belongs to Gordon Williams and Company or to other people as well?

A. That would include all the cash on deposit in the name of Gordon Williams and Company.

Q. I understand that, but you know very well that they had an escrow account, don't you?

A. If there was any cash on deposit in escrow it would include that too.

Q. Well, wasn't there?

A. I will have to look at the records and see.

Q. What?

A. I will have to look at the books and see.

Q. All right. How long will it take you?

A. A few minutes.

Q. Could you do that overnight? That would be better, wouldn't it?

A. I suppose so, yes, sir.

Mr. McCarter: Is there any objection to taking that book?

The Court: No objection.

Mr. McCarter: If there is no objection we will let him make that calculation overnight. To hurry it up I won't ask him to do it.

By Mr. Bourgeois:

Q. Mr. Geller, did the Williams and Davis Com-

pany have any loan account in Gordon Williams and Company?

A. You mean on the books of Williams and Davis, Inc.?

Q. On the books of Williams and Davis, Inc., on those there?

A. The only information I would have of that would come from Mr. Besore's reports which don't show any loan with Gordon Williams and Company.

Q. Was there anything on Gordon Williams and Company, a loan account?

A. There is a loan account, yes, sir, in Gordon Williams and Company.

Q. What about this transaction, whose handwriting are explanations in?

A. I don't know, Mr. Bourgeois.

Q. May I see the two of them?

A. Yes, sir.

Q. There are two entries?

A. The receipt.

Q. Now, I ask you, Mr. Geller, you pointed out to me the item of $2400.

A. $4400.

Q. $4400. I ask you to tell me whether or not that is an erasure?

A. An erasure at about that place on the books.

Q. And what name was written over that erasure?

Q. Wiliams and Davis, Inc.

Mr. McCarter: You think we took those books? Are we responsible for that ledger?

By Mr. McCarter:

Q. As an accountant if on April 3rd the Gordon

Williams and Company had on hand of its own money $42,392.79 can you imagine any reason for their borrowing $4400 on April sixth three days afterwards, from Williams and Davis, Inc.?

A. No, sir.

Q. Have you followed out the books, you spoke of some erasure there, have you followed out the books to find out, in view of some erasure that you spoke of, from whom that $4400 did come?

A. No, sir. I followed it through to the ledger, that is all.

Q. You haven't been able to find any origin of the $4400 other than the one that appears in the entry you read, have you?

A. No, sir.

Q. Is there any erasure on the ledger account?

A. I would have to look. I don't recall. No, sir, don't appear to be any erasure on the ledger account.

By Mr. Bourgeois:

Q. Look at that ledger account and tell me something about it. That shows what they call a loan account, $4400?

A. What do you mean, that shows what?

Q. The dates, what is this, right hand side of the account show $4400?

A. That would represent the liability of Gordon Williams and Company to Williams and Davis, Inc.

Q. That would be the amount of money that they would borrow from them, is that the idea?

A. Yes, sir.

Q. And then on the left side, the debit side is April 3, $2,000, that would indicate that that $2,000 happened before they borrowed that money, wouldn't it?

A. Yes, sir.

Q. Then how would the $2,000 have been a loan account?

A. Well this $2,000, which is charged in the loan account appears to be a loan in the first instance of Gordon Williams and Company to Williams and Davis, Inc., this charge to the debit of loan account.

Q. And then the other side is a loan from Williams and Davis Company to Gordon Williams Company $4400, is that the idea?

A. Would appear that way.

Q. On the opposite side of the ledger, May 14, or 12th?

A. May 14th.

Q. $2400 would be payment to Williams and Davis, Inc.?

A. Yes, sir.

LLOYD W. FAHLER, recalled.

Direct examination.

By Mr. Cole:

Q. You said, I think, that you would look among your papers in Philadelphia to ascertain, I mean Mahonoy City to ascertain whether the $25,000 you said you paid was certified check? Have you looked?

A. I got some checks yesterday or this morning in the mail.

Q. Will you answer my question first?

A. No, I couldn't find the $25,000, is in money.

Q. Did you hunt for any record of this $25,000?

A. Well the only——

Q. Did you hunt for any record of the $25,000?

A. Yes, sir, I got in communication with the bank. This is what they sent.

Q. Did you go to the bank?

A. I couldn't go to Mahonoy City, that is 200 mile from here.

Q. Well, you are not able to produce any record of the $25,000 check or the $25,000?

A. It must have been cash.

Q. What?

A. It was cash.

Q. And you can't produce any record that you made of that cash you paid to these people? Answer yes or no.

A. I can't answer it that way.

Q. Why can't you?

A. I can get the source where I borrowed it from.

Q. What have you done to comply or perform the promise that you made on the witness stand the other day?

Mr. McCarter: What have you done? Result of what have you done?

A. I called up the bank and asked them for the records and that is what they sent, I think there is one that is not even there.

Q. How long does it take to go to Mahonoy City?

A. About eight hours.

Q. When were you on the witness stand before you were on today?

A. I don't know what time I got off.

Q. Wasn't it Monday?

A. Today is Wednesday, yes, sir.

Q. Couldn't you have gotten to Mahonoy City and back by today?

A. I thought this was quicker.

Q. Couldn't you have got to Mahonoy City and back by today?

A. Yes.

Q. Why didn't you do it?

A. I couldn't get any more than these.

A. Trevor Williams, recalled.

Direct examination.

By Mr. Cole:

Q. Do you recall the $50 check of yours to Mr. Hart's order?

A. I do.

Q. What was that $50 check for?

Mr. McCarter: I object to that. Your Honor will recall that Mr. Hart was on the stand and gave his testimony with reference to the preliminary interviews with Mr. Davis and followed up with these with Mr. Carlton Godfrey, the telephone conversations by telephoning to Mr. Williams, by Mr. Davis, and his advice thereon, and then passed on to the fact, after these people had all gone away, of his going to the hotel. Now he was asked on cross examination by one of the counsel whether he had not been paid for acting as a straw, which had absolutely nothing to do with the direct examination or the matters in issue here, and was purely collateral, absolutely collateral matter. If it was

designed to give your Honor a bad impression concerning Mr. Hart, which I suppose it was designed for, then it was permitted to be answered, but being a collateral question, not touched upon except, not touched upon in the direct examination, the question of whether he had acted as a straw or been paid as a straw, or anything about a straw in his opinion was not spoken of. I say that the law is perfectly well settled that asking a man on cross examination upon a collateral question, collateral matter, the interrogator is bound by the answer, and cannot contradict him. I would be very glad to refer your Honor to several authorities by the Court of Errors in this state to that effect, if your Honor has any doubt about it.

The Court: What have you to say, Judge Cole?

Mr. Cole: May it please your Honor, in addition to that the witness volunteered that the words "Somers Estate" had been inserted on that check after it was signed.

Mr. McCarter: No.

Mr. Cole: Yes, and after it had been cashed, in other words charging this witness with practically an unlawful act, and it seems to me we certainly have a right to show the fact about it from his standpoint.

Mr. McCarter: Your Honor evidently remembers the authorities, I haven't one here. I say the matter is purely collateral. He was asked, entirely a collateral matter, whether or not he was not paid for acting as a straw. That question was objected

to and your Honor permitted it. He said, "I was not." Then Mr. Bourgeois took up the thing again and while Mr. Bourgeois was at it somebody ran out and brought in some papers and then Mr. Cole took the matter up again and said, "You were not paid for a straw, I show you a paper showing the date of the Somers transaction, January 23rd, whatever it was, and I now show you a check and ask you if you did not receive that as a straw in that matter" and he said, 'I did not.' That looks to me as if it had been put on by somebody else, the words Somers Transaction, or whatever it was." Now I say that was an answer elicited on cross examination upon a collateral matter and under the well settled rule of the Court of Errors, in this court and in the Supreme Court of this state it cannot be contradicted.

Mr. Cole: My purpose is to show that when this witness, Mr. Hart, said that that had been put on by somebody that is not true and I want to show it was put on at the same time the check was written, by the same person that wrote the check. If they don't want that contradiction, and if your Honor doesn't care for it, I simply want the record to show we made an effort to clear that implication or statement.

The Court: Objection sustained.

Mr. Bourgeois: If the Court please, at the beginning of this case and before the beginning of it, I made a demand on the other side to produce all books, papers, and documents pertaining to this

trial. I would like to look at the checks Mr. Fahler just handed to the Attorney General and that he handed back to him.

Mr. McCarter: Do you want to offer them as evidence?

Mr. Bourgeois: I don't know whether I am or not.

Mr. McCarter: I object to your seeing them. You can't use a mere searching expedition. Mr. Fahler produced at the request of your counsel some checks which he offered to hand to your counsel and he declined to look at them and handed them to me. Now you can't take those checks and look at them and not offer them, when you offered all checks.

The Court: The witness was asked on the witness stand to produce certain evidence and apparently he declined to hand them to counsel who was examining him, he reached over the table and handed them to his counsel.

Mr. McCarter: I am perfectly willing Mr. Cole could have them if he wants them.

Mr. Cole: He said he hadn't any record of the $25,000, that was the inquiry, of course, I made of it. If, on the other hand, these checks do have to do with the transaction and a call was made for them, I don't see why we are not entitled to have them.

The Court: You are entitled to have the papers

called for and they evidently are some of the papers called for.

Mr. McCarter: I understand the rule of law to be perfectly well settled that when counsel calls for checks under notice to produce he can't look at them and monkey with them and glance over them.

The Court: They must be offered in evidence, if they are presented.

Mr. Bourgeois: I am not going to monkey with them at all.

Mr. McCarter: I don't mean change them.

(Checks produced.)

Mr. Bourgeois: I am going to offer them in evidence. First is a check dated April 14, 1926 for $7150. made payable to Gordon Williams & Company, signed by Charles P. Post, Cashier.

(Check admitted and marked Exhibit D64.)

Next October 20, 1925, payable to Gordon Williams & Company for $8000 signed by J. E. Ferguson.

(Check admitted and marked Exhibit D65.)

Next October 15, 1925, dated, $26,300 payable to Gordon Williams & Company, signed by J. E. Ferguson.

(Check admitted and marked Exhibit D65.)

Next a check of January second, 1926, for $31,-500 payable to Gordon Williams and Company, signed by J. E. Ferguson.

(Check admitted and marked Exhibit D67.)

Next check of February 18, 1926, for $6225, to Gordon Williams and Company, signed by George Q. Kline, Jr., for Cashier.

(Check admitted and marked Exhibit D68.)

DOUGLASS BESORE, recalled.

Direct examination.

By Mr. Bourgeois:

Q. I show you the writing over what appears to be an erasure on the sixth of April, 1926, and ask you in whose handwriting is "Williams and Davis, Inc."?

A. That is my writing.

By Mr. McCarter:

Q. Who told you to put it there or what information?

Mr. Bourgeois: I object. I am not asking about the information. I want to know whose handwriting it was. I brought him back just for the purpose of showing whose handwriting it was.

Mr. McCarter: Only inference is that he made it up.

Mr. Burgeois: No inference at all.

The Court: I will permit it.

Q. Upon what instruction did you insert that in there in your handwriting?

Mr. Bourgeois: I object as not cross-examination.

The Court: I will permit it.

A. I don't recall.

Mr. McCarter: I would like to have that $7500 check. It is in evidence.

Mr. Bourgeois: It is impounded.

Q. Do you recall that on the same day to which Mr. Bourgeois has directed your attention, Exhibit C28, was drawn?

Mr. Bourgeois: That is not cross-examination, if your Honor please.

The Court: I will permit it.

A. Yes.
Q. For $7500?
A. Yes, sir.
Q. To the order of cash, stating on the face "settlement for 2 acres DelRey, Somers Point, New

Jersey,'' and endorsed R. B. Davis? When did you have last any access to the books, including the one to which Mr. Bourgeois just directed your attention?

A. About the tenth or so, the early part of May 1927.

By Mr. Bourgeois:

Q. Mr. Besore, do you have any knowledge whatever about this Exhibit C28 which is the check for $7500 excepting what appears on the check itself?

A. Only what appears on the books in addition to the check.

Q. Now, Mr. Besore, I want to call your attention to the word ''loans'' just over the $4400 and ask you in whose handwriting is that?

A. That is mine.

Q. And you made these books up twice a month, I think, or once a month, which?

A. Once a month.

By Mr. McCarter:

Q. After you made the books up, did you make a report?

A. I did, sir.

Q. And the books were kept in the office down there?

A. Gordon Williams and Company, Margate.

Q. Your acquaintance with the books was what every fortnight, or every what?

A. I made a statement up for the owners of the Granada Gables Tract and DelRey twice a month, made an audit report once a month.

By the Court:

Q. When was this word "loans" entered on there?

A. To the best of my recollection I would say at the close of the month when I made the audit.

Q. It is in the column "Deposits in Escrow?"

A. Yes, sir.

Q. Was it ever put in that account in the ledger?

A. No. I can explain why that was, if your Honor will permit.

Q. That is what I want to hear.

A. When the first check for $2,000 was charged to loans, the loan account was opened up and when this entry was made, the best of my recollection, I asked to whose credit that $4400 was to be placed. I didn't make the original entry. That was made by Miss Peterson, I believe, and when I asked about this $4400 I was told to place it to the credit of Williams & Davis, Incorporated and my report for April thirtieth shows the following comment on this account——

Mr. Bourgeois: I object to that.

The Court: Sustain the objection to his comment at that time.

Mr. McCarter: Report made to the defendant.

The Court: Yes.

By Mr. Bourgeois:

Q. Who told you about that loan account, the bookkeeper?

A. I was the bookkeeper.

Q. Well, the stenographer?

A. Mr. Harold Williams, the best of my recollection, told me. I always asked him any questions I had.

Q. Have you any recollection about it?

A. I have a recollection about it, yes.

Q. That he told you?

A. Yes, sir.

By Mr. McCarter:

Q. Are you able to say whether there is any entry in the books of Williams & Davis, Incorporated, that they made a loan of $4400 to Gordon Williams and Company?

A. No, sir; there is no transaction revealed on their books to that effect.

Mr. Bourgeois: Did you keep the books of both concerns?

A. Yes, sir.

HAROLD S. WILLIAMS, recalled.

Direct examination.

By Mr. Bourgeois:

Q. Mr. Williams, did you have anything to do with the keeping of the books of the Gordon Williams Company?

A. No, nothing at all.

Q. Mr. Besore, says that in this account of Williams & Davis, Company, for $4400 that is marked "loans" in here that you told him to mark that as a loan, the $4400 item in this book?
A. No, I did not.

Mr. McCarter: Have you looked at it?

A. Yes, there it is right there.

Cross-examination.

By Mr. McCarter:

Q. Who asked you to come upstairs?
A. My son.
Q. He tell you about this thing coming up, didn't he?
A. No; he said I was wanted upstairs.
Q. That is all he said?
A. That is all he said.
Q. You never talked with Besore about the books?
A. About the books? I never had anything to do with the books.
Q. You never talked with Besore about the books?
A. Not that I can recall.
Q. What?
A. I don't recall ever talking about the books.
Q. Did you ever look at the books?
A. I don't think I ever did.

Mr. Bourgeois: If your Honor please, is this cross-examination over the question of that loan?

The Court: I don't know. I haven't heard the question.

Q. Now, Mr. Besore was employed by Gordon Williams and Company to audit the books when?

A. I don't know; I don't remember.

Q. He was so employed, wasn't he?

A. Yes.

Q. Did you employ him personally?

A. I don't remember who employed him now.

Q. You knew that he was also employed to perform a similar service for Williams and Davis, Incorporated?

Mr. Bourgeois: I object as not cross-examination.

Mr. McCarter: I want to show his confidence in Mr. Besore, your Honor.

The Court: Objection sustained.

The Court: It has not been questions.

Q. How long had Mr. Besore been the auditor of your company?

A. That I couldn't tell you.

Q. You couldn't tell?

A. No.

Q. Well, he was the auditor down to the time that you went west, wasn't he?

A. Yes, I believe he was.

Q. And he was paid——

Mr. Bourgeois: I object.

Q. ——for the individual work that he did once or twice a month, wasn't that the way he was paid?

Mr. Bourgeois: I object as not cross-examination.

The Court: Sustain the objection.

Mr. McCarter: That is all.

TESTIMONY CLOSED.

Argument continued until Monday, June 18, 1928, 10.00 A. M.

VICE-CHANCELLOR INGERSOLL'S CONCLUSIONS.

IN CHANCERY OF NEW JERSEY.

Between
CONNIE J. DORRIAN, *et als.*,
Complainants,
and
ROYDEN B. DAVIS, *et als.*,
Defendants.

On Bill, &c.
Final Hearing.
Conclusions (Oral).

INGERSOLL, V. C.:

Gentlemen, the facts of this case are as clear in my mind as they can ever be and I do not see that there is any serious dispute as to the law in the case, and I think that I will express my opinions now orally, of course, withholding the right to correct such memorandum if I see fit so to do.

It is possible that some question might be raised in this case as to Dorrian and Fahler being or not being proper parties to this suit, whether their interests in the matters at issue are personal or whether they are simply as stockholders in Williams and Davis Company, because there is testimony that the amount that they advanced was contribution to stock to the extent of $168,000. It is needless, however, to decide that at the present time. I simply comment upon it.

A capias was issued against Gordon Williams, Harold Williams, Trevor Williams and Royden Davis, upon which bail was fixed at the sum of fifty thousand dollars for each person. A writ of attachment was issued out of the law Court by virtue of which most, if not all, of the property of these defendants was attached. Upon the discovery of the fact that the capias had been issued, as well as the writ of attachment, Harold Williams, Trevor Williams and Royden Davis left the State of New Jersey, first going to Philadelphia and then to New York, where they remained in a greater or lesser degree of hiding for some time.

Mrs. Davis and her brother-in-law, Scanlan, apparently formed the idea that this matter could be adjusted through the good offices of Monsignor Mellon, who Scanlan saw and had some talk with, as the result of which Dorrian and Father Mellon met. At this point it might well be said that Father Mellon was not an unbiased arbitrator in this matter. That is not said in a manner of criticism, but is said from the view-point that a layman might take, as he did, as distinguished from a judicial view-point.

Father Mellon accepted, as a statement of fact and as an admission upon the part of the Williamses, a statement that Scanlan had made to him to the effect that the Williamses confessed their guilt and desired to exonerate Davis. There is no testimony whatever that Scanlan was authorized by the Williamses to make such a statement, but Father Mellon accepted that and went into all his meetings with the thought upon his mind that the Williamses had confessed their guilt. In addition to that, he had been advised by Godfrey that a settlement could be made but only upon the terms which he, Godfrey,

as counsel for Fahler and Dorrian, would name. That statement, in connection with the statement which, as I say, Father Mellon accepted, that the Williamses had confessed their guilt, at least, left Father Mellon under the conviction that the Williamses were guilty and that, perhaps, so far as they were concerned, there was little to arbitrate.

The capias and the attachment were based upon what has been called, here, secret profits made in certain real estate deals. Some, if not all, of those transactions which we will, for this purpose, designate as secret profits, were admitted as such by Harold Williams, by Trevor Williams and by Davis, if not specifically, by common consent at the interview. I do not think there is any doubt but that they all knew substantially what they were charged with and I think all occurrences at these respective meetings were had with the knowledge on their part that they were charged with having taken unlawful profits in the manner which had been suggested and with the feeling of guilt upon their minds, that, to some extent at least, these secret profits had been taken. On the other hand, the counsel of Dorrian and Fahler continually, I think, added fuel to that flame. The reading of the schedule upon which either the affidavit or capias was based—and both of those, I think, are substantially the same—by Philip Godfrey recited more than twenty times the charge that these individuals were conspirators and I have no doubt that that term was very distinctly used in these statements and I have no doubt that, to a greater or less degree, the fact that the Williams and Davis were liable to go to jail, not necessarily by reason of a charge of crime in the criminal Court but by reason of the fact that they, knowing themselves to be unable to furnish fifty thousand dollars

bail, they would face custody immediately upon arrest.

I cannot find that there was duress on the part of Mr. Godfrey, Mr. Garrison and the others. I think it is most evident that both Fahler and Dorrian insisted that they should be represented by counsel, as they were, in fact, in response to what one or the other would do, they stated either at or about the time of the hearing that, "You must see my lawyer, Mr. Godfrey or Mr. Garrison," and, under ordinary circumstances, it would be certainly the usual course in a matter as momentous and as serious as this that both sides should be represented by counsel. But here were these men, free to go back and forth from Philadelphia to New York, having three or four separate and distinct interviews, having an opportunity of consulting their counsel, either by telephone or through their agent, as apparently was done, because it seems that Scanlan, perhaps, acted as their agent in that matter, at least towards securing a representation of counsel. They do not call their counsel in and, if no step had been taken toward having counsel there, as was done on the third or fourth day, I might have a different view-point in the matter, but here the gentlemen interested in this matter request their counsel to appear in Philadelphia and remain somewhere else rather than at the meeting place. Now, if they could have had their counsel in Philadelphia they could at least have had their counsel appear and present themselves at the place of meeting, and it don't look to me as though they were particularly desirous of having their counsel there during the negotiation. I do not know why they took that viewpoint. I can't quite understand that situation, but it is such that they preferred to go ahead, and

whether or not they were told by Mr. Godfrey he would represent them, whether they were told it was too late or not, still they did not exercise that action which, if they wanted counsel to be present, they certainly would have taken.

Now, I have stated that I do not find duress there. But, if it was necessary, if it should become necessary so to do, the surroundings of the several consultations, those present, the fact that lawyers were present on one side, the fact that lawyers drew this agreement and presented it to no one except the laymen themselves for correction, alterations or amendment, would perhaps have some considerable weight in the construction of the terms of an agreement so prepared.

Whether or not there was anything said as to whether this agreement would take effect only upon the signing of Gordon Williams is another matter which I do not think it is necessary for me to decide. I think the question for me to determine now is whether, upon the reading of the agreement in question, it does or does not show upon the face of it whether it was or was not to take effect until the signing by Gordon Williams, and for this purpose I am going to take several items in seriatum as I have set them down.

It will be noticed, first, that this is not a usual agreement between the party of the first part and party of the second part, but it is an agreement which particularly specifies the different ones as parties of the first part, second, third and fourth part, &c. After recitals of agreements between the parties, this is the first clause of enforcement: "Now, therefore, in consideration of the premises and the sum of one dollar duly paid by each of the parties hereto to the other party respectively and

of the further sum of one hundred and ninety thousand dollars paid and to be paid by the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis to the said Williams and Davis, Incorporated, Connie J. Dorrian and Lloyd W. Fahler, at the times and in the manner and form as herein recited, the parties do hereby agree with each other as follows:"—then certain details:

2. "All books and papers to be delivered."

3. "As a part of said consideration of one hundred and ninety thousand dollars, the said Gordon Williams hereby agrees that he will deliver to the said Connie J. Dorrian and Lloyd W. Fahler the following bonds and mortgages and other items and securities, viz:"—from A to Q, making the amounts approximately fifty thousand dollars. I don't know about the addition exactly.

4. "As a part of said consideration of $190,000 the said A. Trevor Williams hereby agrees that he will deliver to the said Connie J. Dorrian and Lloyd W. Fahler the following bonds and mortgages and other items and securities, viz:"—and from A to Q there are items amounting to approximately fifty-four thousand dollars, and in his case there are items amounting to $13,500, which were added by ink in the last clause and changed on the face. I will advert to that later.

5. "As a part of the consideration of $190,000 the said Harold S. Williams hereby agrees that he will deliver to the said Connie J. Dorrian and Lloyd W. Fahler the following bonds and mortgages and other items and securities, viz:"—four items which I think only amount to about fourteen hundred and fifty dollars.

6. "As a part of said consideration of $190,000 the said Royden B. Davis hereby agrees that he

will deliver to the said Connie J. Dorrian and Lloyd W. Fahler the following bonds and mortgages and other items and securities, viz:"—which, in this agreement, apparently runs from A to I, but the correction, changing of the name from Royden B. Davis to A. Trevor Williams, on the original, was made in "I," which added $13,500.

7. "The said Harold S. Williams, A. Trevor Williams agree that they will pay to the said Connie J. Dorrian and Lloyd W. Fahler forthwith, in cash on account of said consideration of one hundred and ninety thousand dollars, the sum of ten thousand dollars, and that they will pay to Williams and Davis, Inc. in cash"—I don't know whether Williams and Davis being left out of the first part of seven is an error or intention—"Connie J. Dorrian and Lloyd W. Fahler in cash within one week from the date hereof, the further sum of twenty thousand dollars, and a further sum of fifteen thousand dollars on or before June 20, 1927."

9. "In the event that the bonds and mortgages, items and other securities, accompanied by said Declarations of no set-off, and other requirements herein recited are not delivered as herein set forth, other bonds and mortgages, cash or other securities satisfactory in amount and quality to said Williams and Davis, Inc., Connie J. Dorrian and Lloyd W. Fahler, shall be substituted in place of the mortgages, items and other securities if any, which are found not to conform to the requirements herein recited."

10. "Upon the execution of this agreement and the delivery of the securities herein recited, in compliance with the conditions hereof or satisfactory to the said Connie J. Dorrian and Lloyd W. Fahler, on or before June 20, 1927, the actions or suits herein recited shall be discontinued" ——

11. "In the event that any of said mortgages do not conform to the conditions hereof, and the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis do not substitute cash or other securities in place thereof, the said suits or actions may proceed to enforce the collection of the amount represented by such items."

So far it seems clear to me that the agreement was divided into sections; Gordon was to pay so much; Harold was to pay so much; A. Trevor Williams was to pay so much, and Royden B. Davis was to pay so much in a certain manner, and that, if any of them failed to produce the specified articles named in their list, that one of them would then have the privilege of substituting others satisfactory to him, Dorrian.

The final clause, I think, substantiates that entirely:

"It is agreed that upon the payment by the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis of said sum of $190,000 in the manner hereinbefore recited"—that is, Gordon Williams so much, Harold Williams so much, A. Trevor Williams so much, and Royden B. Davis so much—then the release, the original of which has been executed and delivered to Father Mellon, should be delivered to the person or persons entitled thereto upon the payment in full of said sum of $190,000.

The result, in my mind, is clear that each of the Williamses and Davis agreed to pay their proportion of the $190,000 and that when the entire amount was paid, and then only, each was entitled to a release and that, until such time as it was a binding agreement upon all, it was not a binding agreement upon any one.

Now, the conduct of the parties, without going into the testimony, was such as to confirm this view in my mind. I cannot conceive of any reason for Mr. Godfrey being willing to take a trip to California unless it was for the purpose of completing and making this contract valid as against all. Of course, Gordon Williams' interest was sufficient for a man to go out to get his signature, even if it didn't bind the rest, but it seems to me, from the facts as presented, that it is clear that was the intent. I think it is also indicated by the fact that Mr. Godfrey refused to deliver possession of a copy of this agreement to A. Trevor Williams when he demanded it of him, that it was not complete and had not yet been completed, and, as Mr. Godfrey expressed it, as the agent of all others, Harold Williams was not present.

Now, gentlemen, that is my view as to the facts as presented. Now, as to what effect this finding of fact will have in the present status of the pleadings and the present situation of the securities, which are in the hands of the trustees, I will have to either give further consideration or have counsel take the matter up. Perhaps it better be upon the form of a decree to be advised.

Mr. Cole: Your Honor please, my understanding of the result is that you refuse to enforce a specific performance of the contract?

The Court: I refuse to enforce the specific performance of the contract, yes, provided that can be in view of your pleading.

Mr. Cole: Of course, I don't want to take any

more time arguing, but the clear effect of the decisions is that the proofs control rather than the pleadings.

The Court: I will hear you at any time, gentlemen, as to the form of decree.

FINAL DECREE.

(Filed July 6, 1928.)

IN CHANCERY OF NEW JERSEY.

64/379.

Between

CONNIE J. DORRIAN, LLOYD W. FAHLER and WILLIAMS & DAVIS, INC., *Complainants,*

and

ROYDEN B. DAVIS, HAROLD S. WILLIAMS, A. TREVOR WILLIAMS and GORDON WILLIAMS & Co., *Defendants.*

On Bill, &c.
Final Decree.

Complainants, above named, having on or about the sixth day of June, 1927, filed their original bill of complaint in this Court against Royden B. Davis,

A. Trevor Williams, Jessie Davis, Harold S. Williams, Gordon Williams, and Gordon Williams & Company, praying the specific performance of a contract dated June 1st, 1927, and entered into by and between the complainants and certain of said defendants, and the appointment of a receiver to take charge of and preserve certain moneys and securities in the hands of the defendants, and in the bill of complaint described; and on or about the 7th day of June, 1927, A. Trevor Williams and Royden B. Davis, for and on their behalf having filed a bill of complaint in this Court against Connie J. Dorrian, Lloyd W. Fahler and Harold S. Williams, alleging that the said contract, specific performance of which was sought by the bill of complaint hereinabove referred to, was the result of a fraudulent scheme and had been executed by the complainants in said last-mentioned suit by fraudulent practice, and praying that said contract be set aside, and that the said Connie J. Dorrian and Lloyd W. Fahler be required to restore to the complainants the property and securities that had been delivered to them under and by virtue of said contract, and also praying for the appointment of a receiver of the securities and property so delivered; and orders to show cause why a receiver or receivers should not be appointed having issued in both the causes, and upon the hearing thereof, the Court having concluded to appoint a receiver of the securities mentioned and described in both bills of complaint, and by an order dated June 21st, 1927, Emerson L. Richards, Esquire, was appointed such receiver, to whom some of the securities and property referred to and described in said bills of complaint have been subsequently delivered, and by whom they are now held, to abide the further order of this Court; and the

Court, by an order dated July 25th, 1927, having directed the consolidation of said causes; and the said A. Trevor Williams, Royden B. Davis, Gordon Williams and Gordon Williams & Company having filed, pursuant to the terms of said order of consolidation, their answer and counter-claim; and the said cause coming on to be heard before the Honorable Robert H. Ingersoll, the Vice-Chancellor to whom the same was in due course referred by the Chancellor to hear and determine the same, and to advise what order or decree should be entered therein; and the Court having heard and considered the evidence and arguments of counsel, and being of the opinion that the agreement aforesaid was not to take effect until it was signed by Gordon Williams; and it appearing that said agreement was not and has not been signed by the said Gordon Williams; and the Court being of the opinion that said agreement of June 1st, 1927, did not take effect, and that said agreement was and is void:

It is, therefore, on this sixth day of July, 1928, on motion of George A. Bourgeois, Esquire, and Clarence L. Cole, Esquire, of counsel with defendants in said consolidated cause, ordered, adjudged and decreed, and the Chancellor doth by virtue of his power and authority, hereby order, adjudge and decree, that the prayer of the bill of complaint be denied and said bill be dismissed; and the Chancellor, by virtue of the power and authority aforesaid, doth further order, adjudge and decree, that the defendants are entitled to the relief prayed for in their counter-claim, with costs to be taxed.

It is further ordered, adjudged and decreed, that the mortgages mentioned in the bill of complaint, assigned by the said A. Trevor Williams and Royden B. Davis to Connie J. Dorrian and Lloyd W. Fahler, and by the said Connie J. Dorrian and Lloyd

W. Fahler assigned to Emerson L. Richards, receiver, as well as the mortgage assigned by A. Trevor Williams to the said Emerson L. Richards, receiver, and the mortgages assigned by Royden B. Davis to the said Emerson L. Richards, receiver, be re-assigned and delivered by the said Emerson L. Richards, receiver, to the said A. Trevor Williams and Royden B. Davis, as their interest may appear; and that the said Emerson L. Richards, receiver, do deliver to the said A. Trevor Williams and Royden B. Davis all their properties delivered by the said Connie J. Dorrian and Lloyd W. Fahler, A. Trevor Williams, Harold S. Williams and Royden B. Davis to the said A. Trevor Williams, Harold S. Williams and Royden B. Davis, as their interest may appear.

It is further ordered, adjudged and decreed, that the said Emerson L. Richards, receiver, do forthwith account to this Court for the securities, properties and moneys that he has received from either the complainants or defendants in connection with said receivership, and that upon the confirmation of said account and the delivery by him as hereinabove directed of the securities and properties of the respective parties, he be discharged from all further duties or responsibility as such receiver. The allowance of fees to the said receiver and to his counsel is reserved until the coming in of his said report.

It is further ordered, adjudged and decreed, that all further equities are reserved until the discharge of said receiver, and either side shall have leave to apply to this Court for further directions or relief, as occasion shall require.

E. R. Walker,
Chancellor.

Respectfully advised:
R. H. Ingersoll,
Vice-Chancellor.

NOTICE OF APPEAL FROM FINAL DECREE.

(Filed July 11, 1928.)

IN CHANCERY OF NEW JERSEY.

Between CONNIE J. DORRIAN, *et als.*, *Complainants,* and ROYDEN B. DAVIS, *et als.*, *Defendants.*	On Bill, &c. Notice of Appeal from Final Decree. 64/379.

The complainants, Connie J. Dorrian, Lloyd W. Fahler and Williams and Davis, Inc., hereby appeal from the final decree made in the above-entitled cause on the sixth day of July, nineteen hundred and twenty-eight, and from the whole and every part thereof, to the Court of Errors and Appeals in the last report in all causes, said decree having been advised by Vice-Chancellor Ingersoll.

Dated: July 10, 1928.

CARLTON GODFREY,
Solicitor for Complainant.
WILLIAM I. GARRISON,
Of Counsel with Complainants.

I conceive there is a good cause for appeal in the above-entitled cause.

WILLIAM I. GARRISON,
Of Counsel with Complainants.

PETITION OF APPEAL.

NEW JERSEY COURT OF ERRORS AND APPEALS.

Between Connie J. Dorrian, Lloyd W. Fahler and Williams & Davis, Inc., *Complainants-Appellants,* and Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Co., *Defendants-Respondents.*	On Appeal from Chancery. Petition of Appeal.

To the Honorable, the Court of Errors and Appeals in the Last Resort in All Causes:

The petition of Connie J. Dorrian, Lloyd W. Fahler and Williams & Davis, Inc., the appellants in the above-stated cause, respectfully shows that your petitioners find themselves aggrieved by a final decree made in the Court of Chancery by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, advised by Robert H. Ingersoll, one of the Vice-Chancellors, bearing date the 6th day of July, 1928, wherein the said Connie J. Dorrian, Lloyd W. Fah-

ler and Williams & Davis, Inc., were complainants and Royden B. Davis, Harold S. Williams, A. Trevor Williams and Gordon Williams & Co. and Gordon Williams, *et als.*, were defendants, in this respect, to wit: that the said decree adjudges that the prayer of the bill of complaint in said cause be denied, and the said bill be dismissed, and does likewise order, adjudge and decree that the defendants in said suit are entitled to the relief prayed for in their counterclaim attached to their answer in said cause, with costs to be taxed, and in that said decree also adjudges that the mortgages mentioned in the bill of complaint, assigned by the said A. Trevor Williams and Royden B. Davis to Connie J. Dorrian and Lloyd W. Fahler, and by the said Connie J. Dorrian and Lloyd W. Fahler assigned to Emerson L. Richards, receiver, as well as the mortgages assigned by A. Trevor Williams to the said Emerson L. Richards, receiver, and the mortgages assigned by Royden B. Davis to the said Emerson L. Richards, receiver, be re-assigned and delivered by the said Emerson L. Richards, receiver, to the said A. Trevor Williams and Royden B. Davis, as their interest may appear; and that the said Emerson L. Richards, receiver, do deliver to the said A. Trevor Williams and Royden B. Davis all their properties delivered by the said Connie J. Dorrian and Lloyd W. Fahler, A. Trevor Williams, Harold S. Williams and Royden B. Davis to the said A. Trevor Williams, Harold S. Williams and Royden B. Davis, as their interest may appear; that the said Emerson L. Richards, receiver, do forthwith account to this Court for the securities, properties and moneys that he has received from either the complainants or defendants in connection with said receivership, and that upon the confirmation of said account and the delivery by him as here-

inabove directed of the securities and properties of the respective parties, he be discharged from all further duties or responsibility as such receiver. The allowance of fees to the said receiver and to his counsel is reserved until the coming in of his said report.

And your petitioners humbly appeal from that part of the said final decree of the Chancellor which orders, adjudges and decrees as aforesaid, upon the ground that the same is erroneous for that the said decree should have ordered, adjudged and decreed that the prayers of the bill of complaint should be granted, and that the counter-claim should have been dismissed and the prayers of said counter-claim should have been denied, and the complainants should have been adjudged to be entitled to the securities and moneys by the bill of complaint sought to be secured and obtained from the defendants, or some of them, in the bill of complaint named, and Emerson L. Richards, Esquire, receiver, should have been directed and ordered by the said decree, after having accounted for the securities, properties and moneys that he had received from the defendants in said cause in connection with the receivership, to deliver to the complainants, after the payment of his fee and expenses, so many of the securities, properties and moneys referred to and described in the bill of complaint and thereby sought to be secured, as he had received from the defendants in said cause by virtue of previous orders of the Court of Chancery entered therein. And said receiver should likewise have been ordered and decreed to deliver to the complainants the mortgages, moneys and property assigned and delivered to him by the said Connie J. Dorrian and Lloyd W. Fahler, after having accounted as before stated, pur-

suant to orders heretofore entered in said cause, directing the delivery thereof to said Emerson L. Richards, as receiver, by the said Connie J. Dorrian and Lloyd W. Fahler, and that the said complainants should have been adjudged to be entitled to a counsel fee and to their costs to be taxed.

Your petitioners, therefore, pray that the said decree of the said Chancellor may be, in the particulars aforesaid, reversed, set aside and for nothing holden, and that your petitioners may have such relief in the premises as to this Honorable Court shall seem meet.

CARLTON GODFREY,
Solicitor for Complainants-Appellants.
ROBERT H. MCCARTER,
Of Counsel.

DAVIS' ANSWER TO PETITION OF APPEAL.

NEW JERSEY COURT OF ERRORS AND APPEALS.

Between

CONNIE J. DORRIAN, *et als.*,
Complainants-Appellants,

and

ROYDEN B. DAVIS, *et als.*,
Defendants-Respondents.

On Bill, &c.
Answer of Royden B. Davis to Petition of Appeal.

The answer of Royden B. Davis, one of the above-named respondents, to the petition of appeal of Connie J. Dorrian, and others, above-named appellants.

This respondent, not admitting the truth of all or any of the matters in the said petition of appeal contained, for answer thereto nevertheless admits that a decree was, on July 6, 1928, made and entered in the Court of Chancery of New Jersey, in the above-entitled cause, for the purposes in said petition mentioned and as therein set forth; but as to the substance and form of said decree this respendent begs leave to refer thereto when the same shall be produced.

This respondent is advised and believes that the said decree is agreeable to equity; and he prays that the same may be affirmed with costs to be taxed in favor of this respondent.

COLE & COLE,
Solicitors for and of Counsel with Royden B. Davis.

WILLIAMS' ANSWER TO PETITION OF APPEAL.

(Filed August 9, 1928.)

NEW JERSEY COURT OF ERRORS AND APPEALS.

Between

CONNIE J. DORRIAN, LLOYD W. FAHLER and WILLIAMS & DAVIS, INC., *Complainants-Appellants,*

and

ROYDEN B. DAVIS, HAROLD S. WILLIAMS, A. TREVOR WILLIAMS and GORDON WILLIAMS & Co., *Defendants-Respondents.*

On Appeal.
Answer.

The answer of the above-named respondents, Harold S. Williams, A. Trevor Williams and Gordon Williams & Co., to the petition of appeal of the above-named appellants:

These respondents, not acknowledging all or any of the matters which in the said petition of appeal are contained to be true, for answer thereto nevertheless say and admit that a decree was, on the sixth

day of July, 1928, made and entered in the Court of Chancery in the cause, for the purpose mentioned in said petition, as is therein stated, but as to the substance and form thereof, these respondents pray to refer thereto when the same shall be produced; and these respondents are advised and believe that the said decree is agreeable to equity, and pray that the same may be affirmed, with costs to be adjudged to these respondents.

10 BOURGEOIS & COULOMB,
Solicitors for and of Counsel with Respondents, Harold S. Williams, A. Trevor Williams and Gordon Williams & Co.

20

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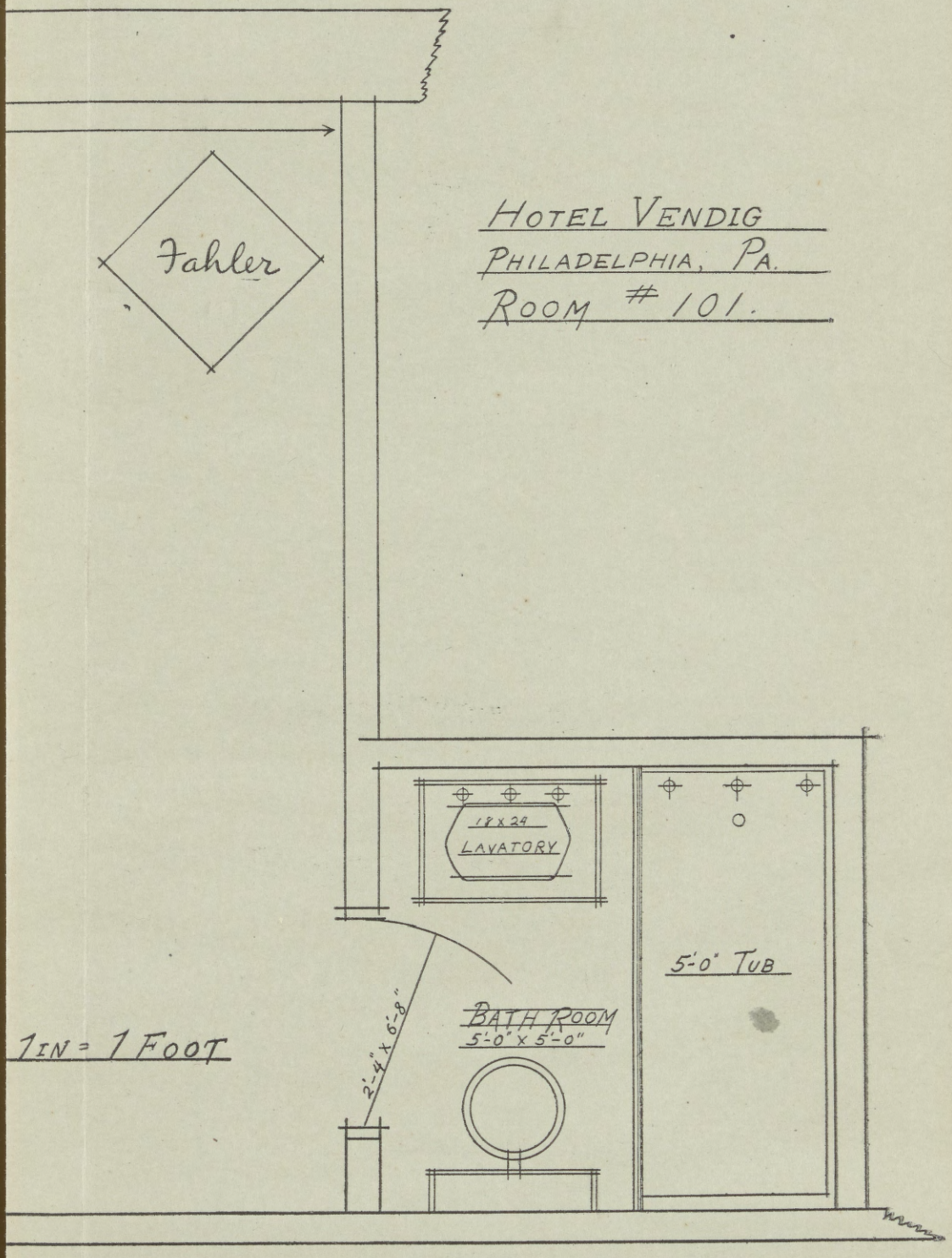
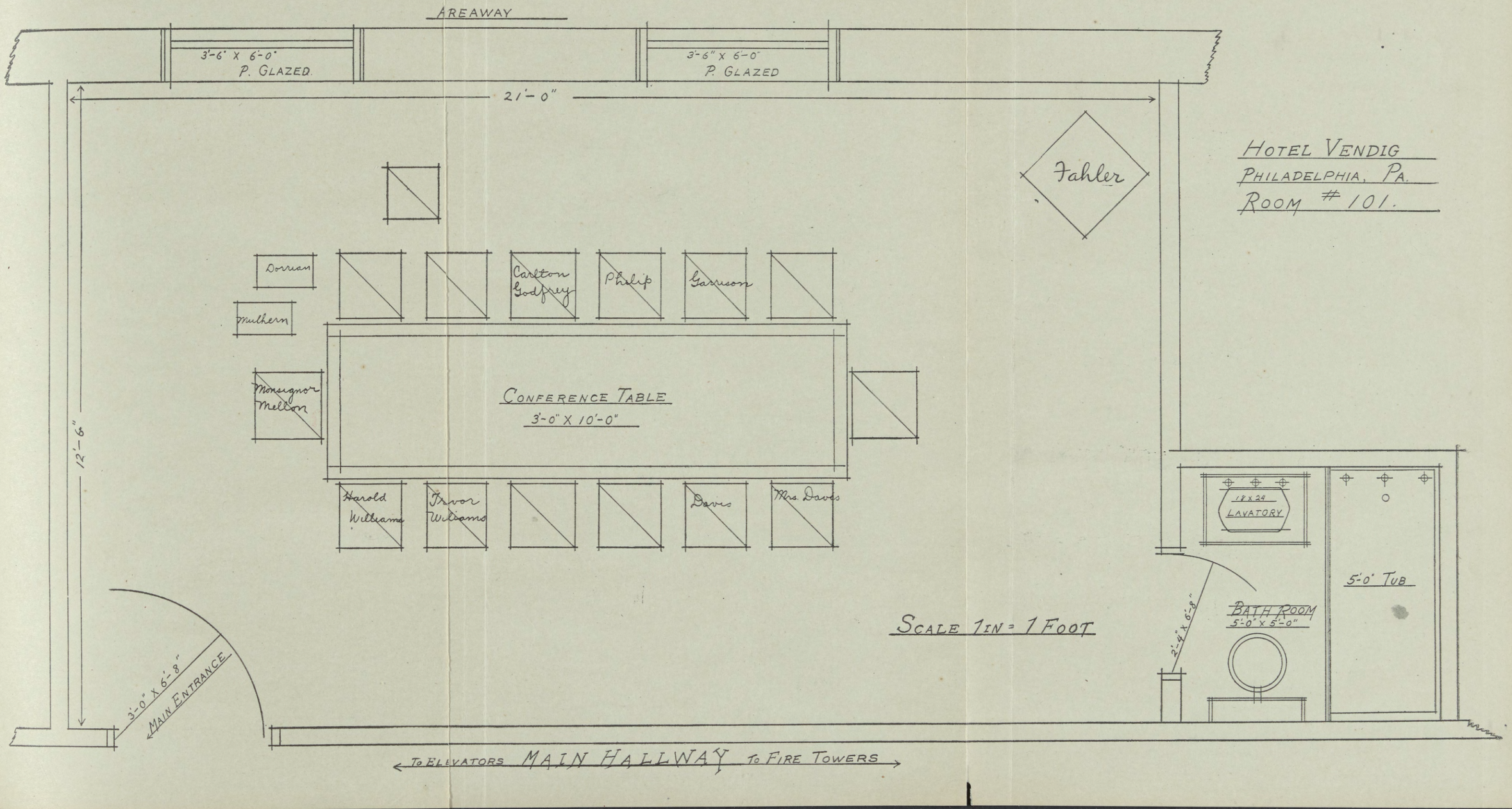
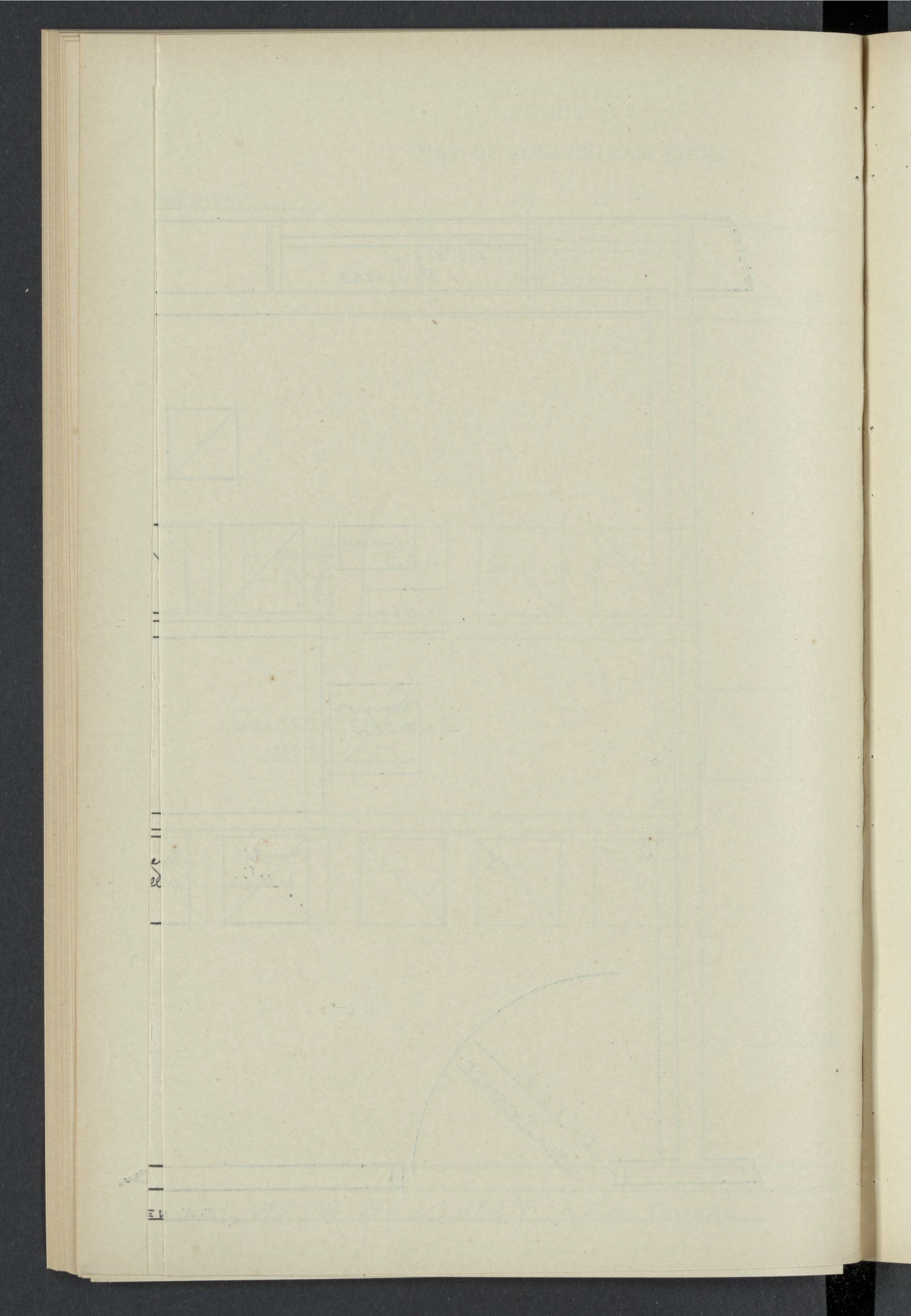

Fahler
HOTEL VENDIG
PHILADELPHIA, PA.
ROOM # 101.
18 X 24
LAVATORY
5'-0" TUB
BATH ROOM
5'-0" X 5'-0"
2'-4" X 6'-8"
1 IN = 1 FOOT

EXHIBIT "C3."

MAP OF CONFERENCE ROOM.





VOLUME 3 --- EXHIBITS

EXHIBIT "C4."

RESIGNATION OF J. B. SCANLAN.

TO: THE OFFICERS AND DIRECTORS OF WILLIAMS-DAVIS, INC.

I HEREBY RESIGN as Vice-President and Director of Williams-Davis, Inc.

John B. Scanlan.

Dated: July 9th. 1927.

EXHIBIT "C5."

RESIGNATION OF R. B. DAVIS.

TO: THE OFFICERS AND DIRECTORS OF WILLIAMS-DAVIS, INC.

I HEREBY RESIGN as President and Director of Williams-Davis, Inc.

Royden B. Davis.

Dated: July 9th, 1927.

EXHIBIT "C6."

REPUDIATION BY HAROLD S. WILLIAMS.

TO: CONNIE J. DORRIAN
and
LLOYD W. FAHLER.

By reason of the false and fraudulent statements made by you, your agents and servants, to me at and prior to the time of executing the agreement of June 1st, 1927, I hereby repudiate and rescind said agreement, and demand of you a re-payment of the moneys paid by me to you, your agents and servants.

Harold S. Williams.

Dated: July 12th, 1927.

EXHIBIT "C7."

NEWSPAPER ARTICLE.

From Atlantic City Daily Press of May 19, 1927.

SLEUTHS HUNT WILLIAMS CO. HEADS; FRAUD PLOT CHARGED

$178,000 Involved in Claims by Alleged Victims of Gordon Williams, Harold Williams and Royden Davis—Stockholders to Probe Case Saturday

---

While county authorities armed with capias writs charging the principals of Gordon Williams and company and Williams and Davis, Inc., extensive realty operators, with fraud and conspiracy, yesterday continued their search for the principals, a group of leading stockholders of the latter concern

last night held an informal meeting and laid plans for a meeting of all stockholders and investors of Williams and Davis, Inc. The meeting is to take place on Saturday at the offices of the company, 5303 Atlantic Av.

The three principals sought by the authorities are Gordon Williams, Harold S. Williams and Royden B. Davis. They are charged in the capias papers issued by Supreme Court Commissioner Voorhees with having conspired and defrauded Connie J. Dorrian, of Ventnor, of "upwards of $101,111.32" in alleged deceitful transfer through "straw names."

$170,000 Involved

At the same time a writ of attachment to the extent of $77,111 was obtained against the alleged conspirators by Lloyd W. Fahler, of this city, who claims to have been similarly victimized. A total of over $178,000 is involved.

Louis G. Hart, secretary of the Williams and Davis, Inc., in announcing the calling of the meeting of the stockholders for Saturday, declared that the matter would be gone over thoroughly and new directors appointed to protect the interests of the investors. The question of cancelling the contract of the three officers sought will also be brought up in an open and legal way, he added.

Attaches Property

Deputy Sheriff Howard Cloud and other attaches of the Sheriff's offices have succeeded in levying upon small personal accounts of the accused in two Ventnor banks. It was also learned last night that a sheriff's attachment had been placed against an automobile, an expensive yacht, several lots in Margate, a house at Cornwall and Atlantic Avenues, Ventnor, and safe deposit boxes as well as bank accounts of Royden B. Davis.

Meantime efforts to serve the defendants with papers in both actions deputy sheriff is convinced they have left the jurisdiction.

In an affidavit submitted to Commissioner Voorhees, Dorrian names Julia Coll, Sadie A. Craigen and Helen Wright as parties to the alleged conspiracy, but declares them to be non-existant and fictitious, and contends they were "straw name" used in making fraudulent transfers of property.

Explains Methods

Dorrian further charges that these names were the "fraud aliases of some of the conspirators, one of whom was a notary public and attested to the signatures." The affidavit sets forth two methods used in the transaction. One, it charges, was through the instrumentality of Williams & Davis, Inc., and the other "by wickedly making secret and fraudulent profits through purchase and sale of real estate in the interests of the deponent."

The case goes back to 1924, when, according to the affidavit, Dorrian and Fahler acquired practically all the stock in the William & Davis corporation, with the William & Davis corporation, with the exception of qualifying shares held by the alleged conspirators, Fahler did not join in the Dorrian affidavit and is proceeding against the defendants on his own account.

Dorrian charges that in spite of this division of stock the defendants exercised full control although minority holders.

On January 4, 1926, the Dorrian affidavit continues, an agreement was entered into permitting Gordon Williams and company, "a corporation then existing of three of said conspirators," to virtually handle assets of Williams and Davis, Inc., in its own discretion.

Handled Large Sums

Under this authorization, Dorrian charges the defendants, as his confidential agents or constituted trustees, handled large sums of money constituting trust funds held by him and made available to them for investment. Dorrian further charges that they often deposited this money to their personal bank accounts, and in addition charged him commissions for alleged mythical transfers.

The deponent avows the three Williamses "have removed from their jurisdiction, or are about to, having shipped much of all of their household goods to California."

A schedule of the property deals in which Dorrian claims to have been trimmed accompanied the affidavit and listed developments in Somers Point, Egg Harbor Township, Margate, and Linwood.

EXHIBIT C11.

AGREEMENT

KNOW ALL MEN BY THESE PRESENTS, that we, WILLIAMS AND DAVIS, INC., a corporation of New Jersey, CONNIE J. DORRIAN AND ANNIE DORRIAN, his wife, of Ventnor City, New Jersey, and LLOYD W. FAHLER and MARY KAIER FAHLER, his wife, of Mahonoy City, State of Pennsylvania, for and in consideration of the sum of one dollar and such further consideration as is recited in a certain agreement between Williams & Davis, Inc., Connie J. Dorrian, et als., dated June 1st, 1927, lawful money of the United States of America, to them in hand paid by Harold

S. Williams, A. Trevor Williams,, Gordon Williams, Royden B. Davis, and Gordon Williams and Company, have remised, released, quit-claimed and forever discharged, and by these presents do for themselves, their heirs, executors and administrators, remise, release, quit-claim and forever discharge the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis, Gordon Williams & Company, or either of them, their heirs, executors and administrators, of and from all and all manner of action and actions, cause and causes of action, suits, debts, damages, claims and demands whatsoever in law and equity, which against the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis and Gordon Williams and Company, and each of them, we ever had, now have or which they, their heirs, executors or administrators hereafter can, shall or may have, for upon or by reason of any matter, cause or thing whatsoever.

IT IS UNDERSTOOD AND AGREED that this release shall not in any wise affect any mortgage or mortgages held by any one of the parties to the agreement hereinabove recited, nor the bond or bonds accompanying any such mortgage or mortgages.

IN WITNESS WHEREOF the said Williams and Davis Inc., has caused this release to be signed by its president, its corporate seal to be affixed, duly attested by its secretary and the said Connie J. Dorrian, Lloyd W. Fahler and Mary Kaier Fahler have hereunto set their hands and seals this first day of June, nineteen hundred and twenty-seven.

WILLIAMS AND DAVIS, INC.
BY
John B. Scanlan
Vice President

Attest:
Louis G. Hart
Secretary
Connie J. Dorrian (SEAL)
Lloyd W. Fahler (SEAL)
..... (SEAL)
..... (SEAL)

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF

EXHIBIT "C13."

LETTER WRITTEN BY WILLIAMS TO HART.

The wife worried about her furniture so much I had it shipped & she can take it all to bed with her ——

Cliffwood Apts
1843 Cherokee Ave
Hollywood
Cal. April 25th

My dear Lou

I hear Mary McDonald & Mrs. Dorrian drove up to the house when the furniture was being removed & I hear very nearly everything. What do you think of the Jersey snipe now? Well old dear Gordon has no venture except in Margate I am telling you that straight.

The other boys will locate here permanently I think & take positions not in the Real Estate game that is as dead as Atlantic City & Gordon told me that a week after he arrived all Gordon is doing is having a great time & he saids what the Hell is the use of going back until things turn he cant sell houses be-

cause of his deformity. The other boys wanted some one to do the work & they collect the Dough.
To tell you the truth it would be a great relief to me if they stay & get off my hands my wife plans to stay one year to recover her health her condition nearly drove me insane & I think it will be for the best as long as my mind is easy over her I will be a different man all round
You know more of my troubles than anybody outside of my family & even they do not know what I went through with some of them for I did not want to turn one against the other for when I am gone I want them to stick together.
I cannot do business with this load slung round my neck for it was first one then the other.
Vernon Trevor & Roy will not be connected in business with me any more only Gordon. What with Keelen them this family & the wife, many times I thought of taking my own life, not so much good doing that. I want you to look after my interests while I am away my plans now are to return to Atlantic by the 25th of May.
I carried a terrible load for 4 years & it was getting me fast & I know it. The furniture is shipped & wife is taking a house for a year I expect to spend between seasons with her & a year soon passes.
I will leave her my car & if necessary buy one in Atlantic to run around in & leave it in a garage when I make a trip I wish you would keep your eye on the house & have the Lawn cut & watered when my wife returns I would not live in that large place it costs too much & too near the ocean for her 4 Bedrooms & two baths will be ample.
I never received a copy of the add
Love to Mrs. H. from Mrs. W.

Sincerely
Harold

EXHIBIT "C14."

ENVELOPE.

Postmarked Los Angeles, Calif., Arcade Sta.
Apr 25 8:30 P.M.
Louis G. Hart Esq
107 North Cambridge Ave
Ventnor City
Via Atlantic City N. J.
N. J.

EXHIBIT "C18."

AGREEMENT—COLL TO DORRIAN

ARTICLES OF AGREEMENT, MADE THIS third day of October in the year of our Lord one thousand nine hundred and twenty-five BETWEEN Julia Coll, of the City and County of Philadelphia and State of Pennsylvania, party of the first part, and Connie J. Dorrian and Lloyd W. Fahler, the aforesaid mentioned party of the City of Summit Hill, Carbon County, Pennsylvania and the latter mentioned party of Mahanoy City, Pennsylvania, party of the second part; WITNESSETH, that the said party of the first part, for and in consideration of the sum hereinafter stipulated, to be paid and satisfied as hereinafter mentioned and also in consideration of the covenants and agreements hereinafter mentioned, made and entered into by and between the parties hereto, do agree to and with the said party of the second part, that the said party

of the first part, will well and sufficiently convey or, in the event that the party of the first part is not at the date of expiration of this agreement then vested with the fee simple title to the herein described property under a now existing agreement by deed of conveyance delivered to him, her, it or them at or them at or before said date, said party of the first part may be proceedings for specific performance had and by or before said date instituted, and within a reasonable time after the termination hereof concluded (to permit of a reasonable time for the prosecution and termination of such suit for specific performance begun as aforesaid) or otherwise, cause to be conveyed to the said party of the second part, his, her, its, or their successors, heirs and assigns, by Deed of Special Warranty, a fee simple title to the within described property free from all incumbrance, zoning conditions excepted, if any, and further excepting as may be hereinafter mentioned, on or before the day and hour hereinafter mentioned for settlement, all that or those lots, tracts, or parcels of land and premises hereinafter particularly described, situate, lying and being in the City, Borough or Town of Township of Egg Harbor in the County of Atlantic and State of New Jersey, bounded and described as follows: BEGINNING at a stone set in the ground for a corner twenty-five links Westerly of an old road leading from the main road to Samuel Somers, said stone stands in Samuel Somers line and runs from thence (1) South twenty-four degrees and fifty-three minutes East, in his line, eighteen chains and thirty links to a stone set for a corner, six feet Eastward of an old pear tree stump; thence (2) South twenty-eight degrees and fifteen minutes East, still in said Samuel Somers line, in part by and old hedge row,

and part by a line fence and ditch, fifty-nine chains to a cove at the mouth of Cedar Swamp Creek; thence (3) South sixty-six degrees and fifteen minutes East, six chains to Cedar Swamp Creek; thence (4) up said creek and binding thereon the several courses and distances thereof to the mouth of Sammy's Creek (so called); thence (5) up said Creek the several courses and distances thereof to the mouth of a small Creek or gut, on the Southwesterly side thereof and a line to Constant Smith's lands; thence (6) up the center of said small Creek or gut about two chains to a line ditch; thence (7) South Eighty degrees and thirty minutes West, in the center of said ditch three chains and sixty-five links to an angle in said ditch and a corner to said Smith's lands; thence (8) North thirty-one degrees and fifteen minutes West, in said Smith's line, twenty-four chains and twenty links to a stone for a corner; thence (9) South eighty degrees and thirty minutes West, nine chains and ninety links to the place of beginning. Containing one hundred and twenty acres, more or less.

EXCEPTING THEREOUT the Homestead of David D. Smith, with twenty-six acres of land adjacent.

SUBJECT TO A LEASE between George S. Russell and David D. Smith, and David Robinson, parties of the first and second part respectively, dated August 24th, 1923, covering premises in Scullville, N. J.

In case of the inability of the party of the first part of this contract to deliver a good and marketable title at time and place of settlement, it is expressly understood and agreed that the amount paid by the parties of the second part to the party of the first part shall be refunded to them and the agreement hereby become null and void.

AND the said party of the second part, for himself, herself, itself or themselves, his, her, its or their successors, heirs, executors and administrators, doth covenant, promise and agree to and with the said party of the first part, his, her, its or their successors, heirs, executors, administrators and assigns, that the said party of the second part, will pay and satisfy or cause to be paid and satisfied unto the said party of the first part the sum of ONE HUNDRED TWENTY THOUSAND DOLLARS ($120,000.00) (said price being figured at $1200.00 per acres, for 100 acres, more or less) as and for the purchase money of the foregoing described and land and premises, in the following manner, that is to say:

$ 10,000.00—(Ten thousand dollars) in cash upon the signing of this agreement, the receipt of which is hereby acknowledged;

5,000.00—(Five thousand dollars)in cash within sixty days;

65,000.00—(Sixty-five thousand dollars) in cash within one hundred twenty days (120), the date of final settlement;

40,000.00—(Forty thousand dollars) to be represented by the assumption of a mortgage in that amount, payable at any time within five years from date thereof, to bear interest at the rate of six per cent per annum, payable semi-annually;

———————

$120,000.00—TOTAL

Possession at time of final settlement, within 120 days.

This Agreement expires 3 P. M. day of A. D. 19

Adjustments of taxes, water rents, sewer rents,

insurance premiums, interest, rents, building and loan stock, dues, interest and premiums, and all other carrying charges to be made and prorated and to be charged to and allowed to the parties hereto respectively as of date of settlement unless herein otherwise stipulated; the tax year to be considered to run from January First to December Thirty-first of the current year.

Settlement to be made at the office of and title to the within described property to be insured by the Chelsea Title and Guarantee Company, and the title to said property to be good and marketable and such as will be insured by it as its regular rates of insurance.

AND IT IS FURTHER AGREED, by the parties to these presents, that the said party of the second part, his, her, its or their successors, heirs and assigns, may enter into and upon the said land and premises on the day of settlement, if not herein otherwise stipulated, and from thence take the rents, issues and profits to his, her, its and their use forever.

AND IT IS FURTHER UNDERSTOOD AND AGREED, subject as aforesaid, that time is to be considered as of the essence of this agreement.

AND for the performance of all and singular the covenants and agreements aforesaid, the said parties do bind themselves and their respective successors, heirs, executors and administrators, and they hereby respectively agree to pay upon failure to perform the same, the sum of

which they hereby fix and settle as liquidated damages thereof, provided, however, that if proceeding for specific performance is begun as is hereinbefore provided, a reasonable time be allowed for its termination.

IT IS UNDERSTOOD AND AGREED by and between the parties hereto that this agreement and all provisions hereof bind and extend to the heirs, executors, administrators, successors and assigns of the parties hereto respectively.

IN WITNESS WHEREOF, the said parties have hereunto interchangeably set their hands and seals and any corporation parties hereto have caused their corporate seals to be affixed hereto duly attested the day and year first above mentioned.

SIGNED, SEALED
AND DELIVERED

in the presence of	Julia Coll	(SEAL)
R. B. Davis	Connie J. Dorrian	(SEAL)
Chas. A. Dornson	Lloyd W. Fahler	(SEAL)

EXHIBIT "C19."

PHOTOSTATIC COPY OF CHECK TO COLL

CHELSEA TITLE AND GUARANTY COMPANY

No. 26913
No. 5272
App. No. 8129-B Atlantic City, N. J. 2-13- 1926
Pay to the
order of Julia Coll $71,527.65
.....71,527and65cts..... 100 Dollars
(payable only when receipted by payee on reverse side and void if altered in any manner)
Bal. due seller 71,527:65
102.979 Acres in Scullville
To THE CHELSEA NATIONAL BANK
55-144 ATLANTIC CITY, N. J.
Floyd S. Sumner
Wm Lawrence Jr Secretary

(Back of check)

Receipt and Endorsement

Received of CHELSEA TITLE AND GUARANTY COMPANY, the within mentioned amount in settlement of account as stated.

Julia Coll

EXHIBIT "C-20."

TWO SETTLEMENT SHEETS.

CHELSEA TITLE AND GUARANTY COMPANY

CHELSEA TITLE AND GUARANTY COMPANY BUILDING

ATLANTIC CITY, N. J.

STATEMENT OF SETTLEMENT

Between David D. Smith and George S. Russell (Grantor-Mortgagor) and Julia Coll (Grantee-Mortgagee) as of 2-11, 1926 Under app. 8129-a Block Premises Somers Point—102.979 acres.

Consideration			$66,936.15
Taxes	per yr. pd. to		
Water Rent	per yr. pd. to		
Sewer Rent	per yr. pd. to		
Interest on	at % from		
Rents			
Insurance			
			$66,936.15
Paid on account		$7000.00	
Purchase money mortgage		40000.00	
Mortgage			
Mortgage interest from			
Mortgage			

	Mortgage interest from		
	Taxes per yr. from		
	Water 65.69		
	per yr. from 1-1-26	6.15	
	Sewer per yr. from		
	Rents		
			47,006.15
	Balance of consideration	$	$19,930.00
10	Premium on title policy		
	Drawing bond and mortgage		
	Recording deed		
	Recording mortgage		3.50
	Internal revenue stamps on bond		3.50
			20.00
			$19,957.00
20	Amount due from purchaser		$
	Balance of consideration as above		$
	Drawing deed	$	
	Internal revenue stamps on deed Pay Trevor Williams	5.00	
	Cancelling recognizance	67.00	
	Cancelling mortgages	1.00	
	Taxes for year 1925 and int. to date	70.00	
	Pay off mtg. Security B. & L.		
30	Ass'n.	4169.26	
			4,312.26
	Balance due seller		$15,617.74

CHELSEA TITLE AND GUARANTY COMPANY

CHELSEA TITLE AND GUARANTY COMPANY BUILDING

ATLANTIC CITY, N. J.

STATEMENT OF SETTLEMENT

Between Julia Coll (Grantor-Mortgagor) and Connie J. Dorrian and Lloyd W. Fahler (Grantee-Mortgagee) as of 2-11-26, 192 Under app. 8129-b Block Premises 102.979 acres, Somers Point.

Consideration			$123,574.80
Taxes	per yr. pd. to		
Water Rent	per yr. pd. to		
Sewer Rent	per yr. pd. to		
Interest on	at % from		
Rents			
Insurance			
			$123,574.80
Paid on account		$10,000.00	
Purchase money mortgage			
Mortgage		40,000.00	
Mortgage interest from			
Mortgage			
Mortgage interest from			
Taxes 65-69			
per yr. from 1-1-26		6.15	
Water per yr. from			
Sewer per yr. from			
Rents			
			50,006.15
Balance of consideration		$	$73,568.65
Premium on title policy 84,000 owner's			394.00
Drawing bond and mortgage			
Recording deed			

Recording mortgage		3.50
Internal revenue stamps on bond		
Amount due from purchaser		$73,966.15
Balance of consideration as above		$73,568.65
Drawing deed	$	
Internal revenue stamps on deed	84.00	
Cancelling recognizance		
Cancelling mortgages		
Taxes for year		
Transfer to 8129-a	1967.00	
		2,041.00
Balance due seller		$71,527.65

EXHIBIT C21.

RECEIPT.

COUNTY OF ATLANTIC

Department of Law

Enoch A. Higbee
County Counsel
Enoch A. Hibgee, Jr.
Assistant

April 3rd, 1926.

RECEIVED of Harold S. Williams Six Hundred Dollars ($600.00) on account of purchase price of property sold by the COUNTY OF ATLANTIC described in deed from William Krumm, et ux. to the Board of Chosen Freeholders of the COUNTY OF ATLANTIC, balance of Twenty-four Hundred Dollars ($2400.00) to be paid when deed is delivered, the purchase price being Three Thousand Dollars ($3,000.00)

E. A. Higbee
COUNTY SOLICITOR.

EXHIBIT "C27."

LETTER, CHECKS AND PROTEST.

220 South 51st Street
Philadelphia, Penna.
May 17, 1927.

Gordon Williams Company
5303 Atlantic Avenue
Atlantic City, New Jersey

Gentlemen:

Enclosed please find my check for $20.00 to apply on account on lots #4 and 5, block #15, at Del-Ray, purchased in the name of Marie L. Bloom.

Very truly yours,
J. Edw Fitz Gerald
B

JEF*B
Encl.

EXHIBIT "C28."

CHECK

55-142
DEL REY

WILLIAMS & DAVIS INC. NUMBER
5303 Atlantic Avenue XXXXX
Ventnor City, N. J.

Atlantic City, N. J., 4/6 1926

PAY
TO THE
ORDER OF Cash $7500.00/xx
Seventy-five hundred 00/xx DOLLARS

UNION NATIONAL BANK
Atlantic City, N. J.,

R. B. Davis
Vice-Pres.
Harold S. Williams
Secy. & Treas.

(Appearing on Left-Hand Side of Check in Stub Form.)

This Check is in Settlement of the Following Invoices

Date Amount

Settlement for 2 Acres—Del Rey, Somers Point, N. J.

Total of Invoices
Less % Discount
Less Freight
Total Deductions
Amount of Check

If Incorrect Please Return
No Receipt Necessary
(On Back of Check.)

R. B. Davis
(All Prior Endorsements Guaranteed)
Pay Any Bank, Banker or Trust Company.
OR ORDER,
APR 7 1926
VENTNOR TRUST COMPANY
55-521 Ventnor City, N. J.—55-521
H. K. Frambes, Secy-Treas.

Perforated
PAID
-4-7-26
55-142

NEW YORK, May 18, 1927. A No. 386
CHATHAM PHENIX NATIONAL BANK AND TRUST COMPANY 1-30
148 Broadway
Pay to the
Order of Gordon Williams & Co., $38.25/100
Thirty-eight and 25/100 Dollars
Kay Minette A. Nast
(Back of Check):
Gordon Williams & Co.
Harold S. Williams
City
386

No. 7048 Philadelphia May 16 1927
REPUBLIC TRUST COMPANY 3-118
1429 Chestnut Street
00
Pay to the
Order of Gordon Williams Co. $20.—
xx
Twenty and 00/100 100 Dollars
Banking hours Aug 10 1927
9 A. M. to 10 P. M. Phila., Pa. J Edw FitzGerald
Back of check:
Gordon Williams Co.
Gordon Williams & Co
Harold S Williams
Secty
FOR DEPOSIT ONLY
To the Credit of
WILLIAMS AND DAVIS, Inc.
(Various bank endorsements, and marked across the face: "Payment Stopped.")

UNITED STATES OF AMERICA

No. 7048 Philadelphia, May 16 1927 Republic Trust Company
Pay to the order of Gordon Williams Co. $20 00/XX
Twenty and 00/100 Dollars (signed) J. Edw. Fitz-Gerald
(endorsed) Gordon Williams Co.
Gordon Williams & Co. Harold S. Williams, Secty.
Williams and Davis Inc.
Ventnor Trust Company, Ventnor City, N. J. H. K. Franbes, Secy. Treas.

BE IT KNOWN. That on the day of the date thereof, at the request of the First National Bank of Philadelphia the holder of the original check of which a true copy is above written, I, THE UNDERSIGNED; Notary Public for the Commonwealth of Pennsylvania, by lawful authority duly commissioned and sworn, residing in the City of Philadelphia, during the usual hours of business for such purposes, PRESENTED THE SAME AT THE Republic Trust Company, to a proper clerk there duly acting and attending, and competent to give answers, and demanded the payment thereof which was refused, and answer made "Payment stopped."

WHEREUPON, I, the said Notary, at the request of aforesaid, HAVE PROTESTED AND DO hereby solemnly PROTEST against all persons, and every party concerned therein, whether as Maker, Drawer, Drawee, Acceptor, Payer, Endorser, Guarantee, Surety or otherwise howsoever against whom it is proper to protest for all Exchange, Re-Exchange, Cost, Damages and Interest, suffered and to be suffered for want of payment thereof: Of all of which I duly notified the drawer and endorsers.

Thus done and protested at the City of Philadelphia, aforesaid, the tenth day of August 1927.

John J. Rutherford
Notary Public

(SEAL) Notarial Fee, $2.40

I hereby certify that I am not a Stockholder, Director or Clerk in the Corporation for which I hereby act as a Notary Public.

My Commission Expires
Jan. 22nd, 1931.

EXHIBIT "C29."

TELEGRAM—WILLIAMS TO HART.

WESTERN UNION

RECEIVED AT 1336 Atlantic Ave., Atlantic City, N. J.

1927 May 10 P. M. 8 51

LOS ANGELES CALIF 10 525P

LOUIS G HART
107 NORTH CAMBRIDGE AVE ATLANTIC CITY N. J.

JUST LEAVING FEEL FIT AND READY DONT WORRY

WILLIAMS.

EXHIBIT "C35."

ORIGINAL CHECK TO COLL.

No. 26913 CHELSEA TITLE AND GUARANTY COMPANY

NO. 8129-B Atlantic City, N. J. 2-13- 1926

Pay to the
Order of Julia Coll $71,527.65
.....$71,527and65cts..... 100 Dollars
(Payable only when receipted by payee on reverse side and void if altered in any manner)
Bal. due seller 71,527:65
102.979 Acres in Scullville
To THE CHELSEA NATIONAL BANK
Floyd S. Sumner
55-144 Atlantic City, N. J. Wm Lawrence Jr
Secretary

(Receipt and Endorsement)

Received of CHELSEA TITLE AND GUARANTY COMPANY, the Within Mentioned Amount in Settlement of account as stated. Julia Coll

EXHIBIT "C36."

CHECK

GORDON WILLIAMS & COMPANY
REAL ESTATE No. 772
S. W. CORNER IROQUOIS AND ATLANTIC AVENUES
Ventnor City, N. J.
April 3, 1926

00
Cash $2000 —
100
00
Two Thousand —
100 Dollars

GORDON WILLIAMS & COMPANY
R. B. Davis
Vice President
Harold S. Williams
Secy & Treas Vice-President
To The
VENTNOR TRUST COMPANY
55-221 Ventnor City, N. J.

(Back endorsed:)
Harold S. Williams

EXHIBIT "C37."

CHECK

GORDON WILLIAMS & COMPANY
Real Estate No. 826
S. W. Corner Iroquois and Atlantic Avenues
Margate City
Ventnor City, N. J. May 14, 1926

Full settlement gravel pit, Somers Point

00

E. L. Johnson, County Treasurer $2400 —

100

00

Twenty four hundred — Dollars

100

GORDON WILLIAMS & COMPANY
R. B. Davis
Vice President
Harold S. Williams
Secy & Treas ~~Vice-President~~

To The
VENTNOR TRUST COMPANY
Ventnor City, N. J.

For Deposit Only to the credit of
E. L. JOHNSON
Co. Treas.

(Endorsement of Second National Bank of Atlantic City, N. J. May 28, 1926)

EXHIBIT "D1."

LETTER WRITTEN BY HART AND DAVIS TO WILLIAMS.

Mr. Harold S. Williams,
Clifford Apts.,
1843 Cherokee St.,
Hollywood, Calif.

Dear Harold:

We received your telegram and letter O. K. Everything is going along nicely and the Ventnor Office does not need any pepping up from us. They are all very busy and are getting inquiries daily as the result of the advertisement in Sunday's paper. Things look very good and no doubt the advertisement will bring good results. The fill at Del Rey has reached the bulkhead and in another week it will be up to grade around the bridge.

You no sooner had left that all kinds of rumors started, not only in barber shops but in hair dressing parlors, restaurants and everywhere else. There were many variations such as that you had moved your furniture as well as all the automobiles to California. These have practically died down with the exception of the one "that Gordon had left to open an office and after he had done that all the rest moved down to help him in the new venture." This coupled with the rumor that there is a boom on the coast and that the boys had taken their cars with them as they intended to stay.

Mr. Dorrian, Fahler and Parker came in Sunday afernoon, and everything was very pleasant. Mr. Dorrian paid the interest on the Linwood property but before doint so he asked that we put in writing

about taking it over if not sold within six months. Kane has not heard anything from his client, but we have several prospects and it looks as if it may be sold before long.

Please ask Gordon what kind of a contract he made with Collison and whether it was in writing or verbal.

There rumors have practically died away, and we believe the best thing is to forget it and enjoy your trip. If anything does come up that looks serious, we will wire you at once.

Hoping your wife is fully recovered and with kind regards, we beg to remain,

Sincerely yours,

Lou—Davis

EXHIBIT "D51."

LETTER

Phone Neptune 3638

LOUIS G. HART
Del Rey
Real Estate Broker
8200 Atlantic Avenue Atlantic City, N. J.

March 29, 1928.

Hollywood Athletic Club,
Hollywood,
California.

Gentlemen:

I understand one or more of the following named persons joined your Club within the last year:

Vernon R. Williams
Gerald Royden Williams
Gordon Williams
Arthur Trevor Williams

If this is a fact you will see from the enclosed clipping that the facts stated therein were admitted by the father, Harold S. Williams, under oath; he admitted that his real name was Baldwin and that for twenty-five years he has been using the name of Williams, and knowingly sent his children to school and permitted them to marry under the alias Williams.

I thought you would like to have these facts and not have a member, of your Club associating with other members, using an assumed name.

Yours very truly,

Louis G. Hart

LGH HAP
Enc.

EXHIBIT D52.

LETTER.

Phone Neptune 3638

LOUIS G. HART
Del Rey
Real Estate Broker

8200 Atlantic Avenue Atlantic City, N. J.

March 29, 1928.

Breakfast Club,
Hollywood,
California.

Gentlemen:

Last year a man by the name of Gordon Williams joined your Club. It has just been found out that his real name is Harold Gordon Baldwin, and his father, for some reason not yet known, assumed the name of Williams.

His son Gordon, or Harold Gordon, must have known something about this for as far as I can learn he has never attempted to vote and he must have been told by his father not to do so.

I thought that you would like to have these facts and not have a member of your Club, associating with other members, using an assumed name.

I enclose a clipping from one of the newspapers of this city.

Yours very truly,
Louis G. Hart

LGH HAP
Enc.
P. S. Also A. Trevor Williams
Vernon R "
Gerald Roy "

EXHIBIT D54.

KNOW ALL MEN BY THESE PRESENTS, THAT I, Helene Wright (widow) of the City (1) and County of Philadelphia and State of Pennsylvania, hereinafter called the Assignor for and in consideration of the sum of ONE DOLLAR ($1.00) and other good and valua- (2) ble consideration, lawful money of the United States of America, to said Assignor in hand paid by A. Trevor Williams AND Gordon Williams, both of the City of Ventnor City, (3) County of Atlantic and State of New Jersey, hereinafter called the Assignee at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath or have granted, bargained, sold, assigned, transferred and

set over, and by these presents do or doth grant, bargain, sell, assign, transfer and set over unto the said Assignee, his, her, their, its heirs, executors, administrators, successors and assigns All That or Those Indenture or Indentures of Mortgage, described as follows, to wit: MADE and executed by Paul D. Endicott to Connie J. Dorrian, dated December 21, 1925, given to secure the payment of FIVE THOUSAND DOLLARS ($5,000.00), (4) payable at anytime within two years from date thereof, and recorded in Book 373 of Mortgages, pages 484 &c., and secured on that certain lot or parcel of land and premises, situate, lying and being in the City of Margate City, County of Atlantic and State of New Jersey, described and bounded as follows:

BEGINNING at a point in the Southerly line of Ventnor Avenue, distant Forty-two feet East of the Easterly line of Kenyon Avenue and extending thence:

(1) East, along said Southerly line of Ventnor Avenue Forty-one feet; thence

(2) South, parallel with Kenyon Avenue Eighty feet; thence

(3) West, parallel with Ventnor Avenue Forty-one feet; thence

(4) North, parallel with Kenyon Avenue Eighty feet to the place of beginning. BEING further known and designated as lot 13 in Block 112B on plan of Margate City, N. J., and Tax Map.

Together with the Hereditaments and Premises in and by the said Indenture or Indentures of Mortgage particularly described and granted, or mentioned and intended so to be, with appurtenances. And Together with the Bond, or Bonds or Obligations in said Indenture or Indentures of Mortgage

mentioned, and thereby intended to be secured, and all moneys due and to grow due thereon, and the Warrant or Warrants of Attorney to confess judgment thereto annexed; and all said Assignor's estate, right, title, interest, property, claim and demand in and to the same.

To have and to hold the same unto the said Assignee, his, her, their, its heirs, executors, administrators, successors and assigns, to and for their proper use, benefit and behoof forever, subject nevertheless to the equity of redemption of said Mortgagor or Mortgagors in the said Indenture or Indentures or Mortgage named his, her, their, its heirs, successors and assigns therein.

In Witness Whereof the individual Assignors to these presents has or have hereunto set his, her or their hands and seals, and the corporate Assignors have caused its or their common or corporate seal or seals to be affixed and set hereto duly attested by their proper and authorized officers thereof affixing their signatures hereto, in attestation of their due execution and delivery, this fourteenth day of April, A. D. 1926.

HELENE WRIGHT SEAL

Signed, sealed and delivered }
in the presence of }
LOUIS G. HART

STATE OF NEW JERSEY }
ATLANTIC COUNTY } ss.

BE IT REMEMBERED, that on this fourteenth day of April in the year of our Lord one thousand nine hundred and twenty-six before me, the undersigned subscriber, a Notary Public in and for the State of New Jersey, personally appeared Helene Wright (Widow) who, I am satisfied is or are the grantor or grantors mentioned in the above Deed or

Assignment, and I having first made known to him, her or them the contents thereof, he, she or they acknowledged that he, she or they signed, sealed and delivered the same as his, her or their voluntary act and deed. All of which is hereby certified.

LOUIS G. HART
SEAL Notary Public of New Jersey
My Commission Expires Feb. 26, 1931
RETURNED
MAY 13 1926
WM. A. BLAIR
CLERK

5575 4/23/26 9- 2.00 .
(4½) chg.
Application No.
Assignment of Mortgage
D 54
6/11/28
Helene Wright (Widow)
To
A. Trevor Williams et al
373
Dated April 14th, 1926
Received in the Clerks office of the County of Atlantic on the 23 day of April A. D. 1926 at 9 o'clock in the forenoon, and recorded in Book #80 of Assignment of Mortgages for said County, on pages 444 &c.
WILLIAM A. BLAIR
Clerk A. C.
RETURN TO:—
GORDON WILLIAMS & CO.,
5303 Atlantic Ave., Ventnor, N. J.

EXHIBIT D55.

KNOW ALL MEN BY THESE PRESENTS, THAT I, Helene Wright (widow) of the City (1) and County of Philadelphia and State of Pennsylvania, hereinafter called the Assignor for and in consideration of the sum of ONE DOLLAR ($1.00) and other good and valuable (2) consideration, lawful money of the United States of America, to said Assignor in hand paid by A. Trevor Williams AND Gordon Williams, both of the City of Ventnor City, County (3) of Atlantic and State of New Jersey, hereinafter called the Assignee at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath or have granted, bargained, sold, assigned, transferred and set over, and by these presents do or doth grant, bargain, sell, assign, transfer and set over unto the said Assignee, his, her, their, its heirs, executors, administrators, successors and assigns All That or Those Indenture or Indentures of Mortgage, described as follows, to wit: made and executed by CONNIE J. DORRIAN of the City of Ventnor City, County of Atlantic and State of New Jersey, to HELENE WRIGHT (Widow) of the City (4) and County of Philadelphia, and State of Pennsylvania, dated March 16th, 1926, given to secure the payment of FIVE THOUSAND DOLLARS, payable at anytime within one year from the date thereof, and Recorded in Book of Mortgages, pages , and secured on a certain parcel of ground consisting of twelve acres, as conveyed in Deed from HELENE WRIGHT (Widow) to

CONNIE J. DORRIAN, dated March 16th, 1926, situated fronting on the Shore Road in Linwood, Atlantic County and State of New Jersey; and being formerly owned by George W. Hagerthey, and Effie, his wife, both of the Borough of Linwood, County of Atlantic and State of New Jersey and conveyed unto the present assignor hereto, by Deed dated March 16th, 1926, and said Deeds intended to be forthwith recorded.

Together with the Hereditaments and Premises in and by the said Indenture or Indentures of Mortgage particularly described and granted, or mentioned and intended so to be, with appurtenances. And Together with the Bond, or Bonds or Obligations in said Indenture or Indentures of Mortgage mentioned, and thereby intended to be secured, and all moneys due and to grow due thereon, and the Warrant or Warrants of Attorney to confess judgment thereto annexed; and all said Assignor's estate, right, title, interest, property, claim and demand in and to the same.

To have and to hold the same unto the said Assignee, his, her, their, its heirs, executors, administrators, successors and assigns, to and for their proper use, benefit and behoof forever, subject nevertheless to the equity of redemption of said Mortgagor or Mortgagors in the said Indenture or Indentures or Mortgage named his, her, their, its heirs, successors and assigns therein.

In Witness Whereof the individual Assignors to these presents has or have hereunto set his, her or their hands and seals, and the corporate Assignors have caused its or their common or corporate seal or seals to be affixed and set hereto duly attested by their proper and authorized officers thereof affixing their signatures hereto, in attestation of their due

execution and delivery, this twenty-second day of March A. D. 1926.

HELENE WRIGHT SEAL

Signed, sealed and delivered in the presence of
LOUIS G. HART

STATE OF NEW JERSEY
ATLANTIC COUNTY } ss.

BE IT REMEMBERED, that on this twenty-second day of March in the year of our Lord one thousand nine hundred and twenty-six before me, the undersigned subscriber, a Notary Public in and for the State of New Jersey, personally appeared HELENE WRIGHT (Widow), who, I am satisfied is or are the grantor or grantors mentioned in the above Deed or Assignment, and I having first made known to him, her or them the contents thereof, he, she or they acknowledged that he, she or they signed, sealed and delivered the same as his, her or their voluntary act and deed. All of which is hereby certified.

LOUIS G. HART
Notary Public of New Jersey
(SEAL)
My Commission Expires Feb. 26, 1931

May 14 1926
WM. A. BLAIR
CLERK

5576 4/23/26 9- 2.00 chg.

Application No.
Assignment of Mortgage
D 55
6/11/28 L.
Helene Wright (widow)
To
A. Trevor Williams et al
390-459

Dated March 22nd, 1926
Received in the Clerks office of the County of Atlantic on the 23 day of April A. D. 1926 at 9 o'clock in the forenoon, and recorded in Book #80 of Assignment of Mortgages for said County, on pages 445 &c.

WILLIAM A. BLAIR,
Clerk, A. C.

GORDON WILLIAMS & CO.,
5303 Atlantic Avenue, Ventnor, N. J.

EXHIBIT D56.

KNOW ALL MEN BY THESE PRESENTS, THAT I, Helene Wright (widow) of the City (1) and County of Philadelphia and State of Pennsylvania, hereinafter called the Assignor for and in consideration of the sum of ONE DOLLAR ($1.00) and other good and valua- (2) ble consideration, lawful money of the United States of America, to said Assignor in hand paid by Gordon Williams of the City of Ventnor City, County of Atlantic and State of New Jersey, hereinafter called the Assignee at or before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath or have granted, bargained, sold, assigned, transferred and set over and by these presents do or doth grant, bargain, sell, assign, transfer and set over unto the said Assignee his, her, their, its heirs, executors, administrators, successors and assigns All That or Those Indenture or Indentures of Mortgage, described as follows, to wit: Made and

executed by Paul D. Endicott to Connie J. Dorrian, dated December 21, 1925, given to secure the payment of SIXTY FIVE HUNDRED DOLLARS ($6500.00), payable at anytime within two (4) years from the date thereof, and Recorded in Book 373 of Mortgages, pages 482 &c., and secured on premises, situate, lying and being in the City of Margate, County of Atlantic and State of New Jersey, bounded and described as follows:

BEGINNING at a point in the intersection of the Southerly line of Ventnor and the Easterly line of Kenyon Avenues and extending thence:

(1) East, along said Southerly line of Ventnor Avenue Forty-two feet; thence

(2) South, parallel with Kenyon Avenue Eighty feet; thence

(3) West, parallel with Ventnor Avenue Forty-two feet to the East line of Kenyon Avenue; thence

(4) North, along the said East line of Kenyon Avenue Eighty feet to the Place of beginning.

BEING further known and designated as lot 12 in Block 112B on Tax Map of Margate City, New Jersey.

Together with the Hereditaments and Premises in and by the said Indenture or Indentures of Mortgage particularly described and granted, or mentioned and intended so to be, with appurtenances. And Together with the Bond, or Bonds or Obligations in said Indenture or Indentures of Mortgage mentioned, and thereby intended to be secured, and all moneys due and to grow due thereon, and the Warrant or Warrants of Attorney to confess judgment thereto annexed; and all said Assignor's estate, right title, interest, property, claim and demand in and to the same.

To have and to hold the same unto the said As-

signee, his, her, their, its heirs, executors, administrators, successors and assigns, to and for their proper use, benefit and behoof forever, subject nevertheless to the equity of redemption of said Mortgagor or Mortgagors in the said Indenture or Indentures or Mortgage named his, her, their, its heirs, successors and assigns therein.

In Witness Whereof the individual Assignors to these presents has or have hereunto set his, her or their hands and seals, and the corporate Assignors have caused its or their common or corporate seal or seals to be affixed and set hereto duly attested by their proper and authorized officers thereof affixing their signatures hereto, in attestation of their due execution and delivery, this fourteenth day of April, A. D. 1926.

HELENE WRIGHT SEAL

Signed, sealed and delivered in the presence of

LOUIS G. HART

STATE OF NEW JERSEY, ATLANTIC COUNTY ss.

BE IT REMEMBERED, that on this fourteenth day of April in the year of our Lord one thousand nie hundred and twenty-six before me, the undersigned subscriber, a Notary Public in and for the State of New Jersey personally appeared Helene Wright (Widow) who, I am satisfied is or are the grantor or grantors mentioned in the above Deed or Assignment, and I having first made known to him, her or them the contents thereof, he, she or they acknowledged that he, she or they signed, sealed and delivered the same as his, her or their voluntary act and deed. All of which is hereby certified.

LOUIS G. HART

(SEAL) Notary Public of New Jersey

My Commission Expires Feb. 26, 1931

RETURNED
MAY 13 1926
WM. A. BLAIR CLERK

5578 4/23/26 9- 2.00 chg.

C 5

Application No. 3/20/28 L
Assignment of Mortgage

D 56
6/11/28 L.
Helene Wright (widow)
To (8)
Gordon Williams
373

Lot 12 Block 112B
Dated April 14th, 1926
Received in the Clerks office of the County of Atlantic on the 23 day of April A. D. 1926 at 9 o'clock in the forenoon, and recorded in Book #80 of Assignment of Mortgages for said County, on pages 448 &c.

WILLIAM A. BLAIR
Clerk, A. C.

RETURN TO:—
Gordon Williams & Co.,
5303 Atlantic Ave., Ventnor, N. J.

EXHIBIT D58.

AGREEMENT.

ARTICLES OF AGREEMENT, made this third day of October in the year of our Lord one thousand nine hundred and twenty-five BETWEEN Julia Coll, of the City and County of Philadelphia and State of Pennsylvania, party of the first part, and Connie J. Dorrian and Lloyd W. Fahler, the aforesaid mentioned party of the City of Summit Hill, Carbon County, Pennsylvania and the latter mentioned party of Mahanoy City, Pennsylvania, party of the second part; WITNESSETH, that the said party of the first part, for and in consideration of the sum hereinafter stipulated to be paid and satisfied as hereinafter mentioned and also in consideration of the covenants and agreements hereinafter mentioned, made and entered into by and between the parties hereto, do agree to and with the said party of the second part, that the said party of the first part, will well and sufficiently convey or, in the event that the party of the first part is not at the date of expiration of this agreement then vested with the fee simple title to the herein described property under a now existing agreement by deed of conveyance delivered to him, her, it or them at or before said date, said party of the first part may by proceedings for specific performance had and by or before said date instituted, and within a reasonable time after the termination hereof concluded (to permit of a reasonable time for the time for the prosecution and termination of such suit for specific performance begun as aforesaid or otherwise, cause to be conveyed to the said party of the second part, his, her, its or their successors, heirs and assigns, by

Deed of Special Warranty, a fee simple title to the within described property free from all incumbrance, zoning conditions excepted, if any, and further excepted, if any, and further excepting as may be hereinafter mentioned, on or before the day and hour hereinafter mentioned for settlement, all that or those lots, tracts, or parcels of land and premises hereinafter particularly described, situate, lying and being in the City, Borough or Town of Township of Egg Harbor and in the County of Atlantic and State of New Jersey, bounded and described as follows:

BEGINNING at a stone set in the ground for a corner twenty-five links Westerly of an old road leading from the main road to Samuel Somers, said stone stands in Samuel Somers line and runs from thence (1) South twenty-four degrees and fifty-three minutes East, in his line, eighteen chains and thirty links to a stone set for a corner, six feet Eastward of an old pear tree stump; thence (2) South twenty-eight degrees and fifteen minutes East, still in said Samuel Somers line, in part by and old hedge row, and part by a line fence and ditch, fifty-nine chains to a cove at the mouth of Cedar Swamp Creek; thence (3) South sixty-six degrees and fifteen minutes East, six chains to Cedar Swamp Creek; thence (4) up said creek and binding thereon the several courses and distances thereof to the mouth of Sammy's Creek (so called); thence (5) up said Creek the several courses and distances thereof to the mouth of a small Creek or gut, on the Southwesterly side thereof and a line to Constant Smith's lands; thence (6) up the center of said small Creek or gut about two chains to a line ditch; thence (7) South Eighty degrees and thirty minutes West, in the center of said ditch three chains and sixty-five links to an angle in said

ditch and a corner to said Smith's land; thence (8) North thirty-one degrees and fifteen minutes West, in Said Smith's line, twenty-four chains and twenty links to a stone for a corner; thence (9) South eighty degrees and thirty minutes West, nine chains and ninety links to the place of beginning.

Containing one hundred and twenty acres, more or less.

EXCEPTING THEREOUT the Homestead of David D. Smith, with twenty-six acres of land adjacent.

SUBJECT TO A LEASE between George S. Russell and David D. Smith, and David Robinson, parties of the first and second part respectively, dated August 24th, 1923, covering premises in Scullville, N. J.

In case of the inability of the party of the first part of this contract to deliver a good and marketable title at time and place of settlement, it is expressly understood and agreed that the amount paid by the parties of the second part to the party of the first part shall be refunded to them and the agreement hereby become null and void.

AND the said party of the second part, for himself, herself, itself or themselves, his, her, its or their successors, heirs, executors and administrators, doth covenant, promise and agree to and with the said party of the first part, his, her, its or their successors, heirs, executors, administrators and assigns, that the said party of the second part, will pay and satisfy or cause to be paid and satisfied unto the said party of the first part, the sum of ONE HUNDRED TWENTY THOUSAND DOLLARS ($120,000.00) (said price being figured at $1200.00 per acre, for 100 acres, more or less) as and for the purchase money of the foregoing described land and premises, in the following manner, that is to say:

$10,000.00—(Ten thousand dollars) in cash upon the signing of this agreement, the receipt of which is hereby acknowledged;

5,000.00—(Five thousand dollars) in cash within sixty days;

65,000.00—(Sixty-five thousand dollars) in cash within one hundred twenty days (120), the date of final settlement;

40,000.00—(Forty thousand dollars) to be represented by the assumption of a mortgage in that amount, payable at any time within five years from date thereof, to bear interest at the rate of six per cent per annum, payable semi-annually;

$120,000.00—Total.

Possession at time of final settlement, within 120 days.

This Agreement expires 3 P. M. day of A. D. 19

Adjustments of taxes, water rents, sewer rents, insurance premiums, interest, rents, building and loan stock, dues, interest and premiums, and all other carrying charges to be made and pro-rated and to be charged to and allowed to the parties hereto respectively as of date of settlement unless herein otherwise stipulated; the tax year to be considered to run from January First to December Thirty-first of the current year.

Settlement to be made at the office of and title to the within described property to be insured by the Chelsea Title and Guaranty Company, and the title to said property to be good and marketable and such as will be insured by it at its regular rates of insurance.

AND IT IS FURTHER AGREED, by the parties to these presents, that the said party of the second

part, his, her, its or their successors, heirs and assigns, may enter into and upon the said land and premises on the day of settlement, if not herein otherwise stipulated, and from thence take the rents, issues and profits to his, her, its and their use forever.

AND IT IS FURTHER UNDERSTOOD AND AGREED, subject as aforesaid, that time is to be considered as of the essence of this agreement AND for the performance of all and singular the covenants and agreements aforesaid, the said parties do bind themselves and their respective successors, heirs, executors and administrators, and they hereby respectively agree to pay upon failure to perform the same, the sum of

which they hereby fix and settle as liquidated damages thereof, provided, however, that if proceeding for specific performance is begun as is hereinbefore provided, a reasonable time be allowed for its termination.

IT IS UNDERSTOOD AND AGREED by and between the parties hereto that this agreement and all provisions hereof bind and entend to the heirs, executors, administrators, successors and assigns of the parties hereto respectively.

IN WITNESS WHEREOF, the said parties have hereunto interchangeably set their hands and seals and any corporation parties hereto have caused their corporate seals to be affixed hereto duly attested the day and year first above mentioned.

Julia Coll Seal
Comine J. Dorrian Seal
Lloyde Fahler

Signed, sealed and delivered
in the presence of
R. B. Davis
Chas. A. Dorrian

EXHIBIT D59.

AGREEMENT.

ARTICLES OF AGREEMENT, MADE THIS sixteenth day of October in the year of Our Lord one thousand nine hundred and twenty-five (1925) Between JULIA COLL, of the City and County of Philadelphia and State of Pennsylvania party of the first part, and Connie J. Dorrian, of Summit Hill, State of Pennsylvania; and Lloyd W. Fahler, of Mahanoy City, State of Pennsylvania; party of the second part;

WITNESSETH, that the said party of the first part, for and in consideration of the sum hereinafter stipulated, to be paid and satisfied as hereinafter mentioned and also in consideration of the covenants and agreements hereinafter mentioned, made and entered into by and between the parties hereto, do agree to and with the said party of the second part, that the said party of the first part, will well and sufficiently convey or, in the event that the party of the first part is not at the date of expiration of this agreement then vested with the fee simple title to the herein described property under a now existing agreement by deed of conveyance delivered to him, her, it or them at or before said date, said party of the first part may by proceedings for specific performance had and by or before said date instituted, and withing a reasonable time after the termination hereof concluded (to permit of a reasonable time for the prosecution and termination of such suit for specific performance begun as aforesaid) or otherwise, cause to be conveyed to the said party of the second part, his, her, its, or their suc-

cessors, heirs and assigns, by Deed of Special Warranty, a fee simple title to the within described property free from all incumbrance, zoning conditions excepted, if any, and further excepting as may be hereinafter mentioned, on or before the day and hour hereinafter mentioned for settlement, all that or those lots, tracts, or parcels of land and premises hereinafter particularly described, situate, lying and being in the City, Borough or Town of Somers Point in the County of Atlantic, and State of New Jersey, bounded and described as follows: Twenty acres of Meadowland bounded by Patcong Creek and George W. Roberts' property; said described tract being known as the William Crumm property.

AND the said party of the second part, for himself, herself, itself or themselves, his, her, its or their successors, heirs, executors and administrators, do covenant, promise and agree to and with the said party of the first part, his, her, its or their successors, heirs, executors, administrators and assigns, that the said party of the second part, will pay and satisfy or cause to be paid and satisfied unto the said party of the first part, the sum of Twenty-four thousand dollars ($24,000) as and for the purchase money of the foregoing described land and premises, in the following manner, that is to say:

$ 2,000.—(Two thousand dollars) in cash upon the signing of this agreement, the receipt of which is hereby acknowledged;

$ 3,000.—(Three thousand dollars) by the assumption of an existing mortgage in that amount now on said premises;

$19,000.—(Nineteen thousand dollars) to be paid in cash at time of final settlement;

$24,000.—

It is understood and agreed by and between the parties hereto that in case of the inability of the party of the first part to deliver a good and marketable title at the time of settlement, the amount paid to the parties of the second part shall be refunded to them at that time, and the agreement hereby, to become null and void.

Possession at time of final settlement.

This Agreement expires 3 P. M. second day of January A. D. 1926.

Adjustments of taxes, water rents, sewer rents, insurance premiums, interest, rents, building and loan stock, dues, interest and premiums, and all other carrying charges to be made and prorated and to be charged to and allowed to the parties here respectively as of date of settlement unless herein otherwise stipulated; the tax year to be considered to run from January First to December Thirty-nrst of the current year.

Settlement to be made at the office of and title to the within described property to be insured by the Chelsea Title and Guaranty Company, and the title to said property to be good and marketable and such as will be insured by it at its regular rates of insurance.

AND IT IS FURTHER AGREED, by the parties to these presents, that the said party of the second part, his, her, its or their successors, heirs and assigns, may enter into and upon the said land and premises on the day of settlement, if not herein otherwise stipulated, and from thence take the rents, issues and profits to his, her, its and their use forever.

AND IT IS FURTHER UNDERSTOOD AND AGREED, subject as aforesaid, that the time is to be considered as of the essence of this agreement. AND for the performance of all and singular the

covenants and agreements aforesaid, the said parties do bind themselves and their respective successors, heirs, executors and administrators, and they hereby respectively agree to pay upon failure to perform the same, the sum of..... which they hereby fix and settle as liquidated damages thereof, provided, however, that if proceeding for specific performance is begun as is hereinbefore provided, a reasonable time be allowed for its termination.

IT IS UNDERSTOOD AND AGREED by and between the parties hereto that this agreement and all provisions hereof bind and extend to the heirs, executors, administrators, successors and assigns of the parties hereto respectively.

IN WITNESS WHEREOF, the said parties have hereunto interchangeable set their hands and seals and any corporation parties hereto have caused their corporate seals to be affixed hereto duly attested the day and year first above mentioned.

Julia Coll (Seal)
Comine J. Dorrian (Seal)
Lloyde Fahler (Seal)

Signed, Sealed and Delivered
in the presence of

EXHIBIT D60.
6/13/28 L. L.

THIS AGREEMENT, made this fourth day of January, 1926 between WILLIAMS AND DAVIS, INC., a corporation of New Jersey, sometimes referred to herein as "The Owner," party of the first part, and GORDON WILLIAMS & CO., also a corporation of New Jersey sometimes referred to

herein as "The Broker," party of the second part:

WHEREAS the party of the first part has purchased or is about to purchase a tract of land at Somers Point, Atlantic County, New Jersey, which tract is named or designated as Del Rey, and which tract it intends to improve and lay out in lots to be shown upon a map or plan to be made by William H. Collisson Jr., civil engineer, in anticipation of a profitable sale of such property;

AND WHEREAS said part of the first part may purchase additional land to be added to and become a part of Del Rey, and may purchase other land which may or may not be in the vicinity of the tract known as DEL REY;

AND WHEREAS the said party of the first part has determined that its interests will be best served by the employment of the said party of the second part as its sole and exclusive broker or agent to offer for sale and to sell and dispose of all of the land which it may now own or may hereafter acquire;

AND WHEREAS the said party of the second part has consented to become the broker or agent of the said party of the first part upon the terms and conditions herein recited:

NOW, THEREFORE, in consideration of the premises and of the sum of One Dollar each to the other in hand paid, receipt whereof is hereby acknowledged, the said parties hereto do hereby agree with each other as follows:

1. The said party of the first part does hereby engage and employ the said party of the second part as its sole and exclusive broker or agent to use its best endeavors to sell and dispose of all of the land and premises now owned by said party of the first part as well as all of the land and premises which has been or may hereafter be purchased by said

party of the first part. This contract or agreement of employment shall remain in full force and effect until all of said land and premises has been sold and settlement made therefor.

2. The said party of the second part shall fix the selling price or prices for which each lot in the said tract to be known as Del Rey shall be offered and sold and may change such prices for any or all of said lot or lots from time to time in their discretion.

3. It is understood that the general policy of making sales shall be upon the plan of a payment of ten percent upon the execution of the agreement, and forty percent in not exceeding five monthly payments without interest, and the balance of not exceeding fifty percent by a purchase money first mortgage, payable within two years, with interest payable semi-annually, with the usual thirty day default clauses in case of non-payment of interest or taxes; or five percent upon the signing of said agreement and forty-five percent in not exceeding ten monthly payments without interest, and not exceeding fifty percent upon mortgage as aforesaid. The said party of the second part may vary the payments in its discretion and also may make adjustments with purchasers under agreements in its discretion, so as to reduce the number of lots sold to a buyer and to apply all amounts paid by such buyer upon such purchase so reduced.

4. The form of the agreements of sale to purchasers herein referred to shall be approved by the said broker, and prepared by it. Said agreements shall obligate the owner to deliver to the purchaser a good and marketable title, and to improve the said property by filling said tract to the grade fixed by the engineer, and that the driveways of the avenue or avenues in front of said lots so sold shall be built of gravel with concrete curbs and the sidewalks

shall be built of gravel and cement, cement strip to be not less than————————feet in width, and that the usual settlement of taxes and municipal claims shall be made as of the date of settlement, unless some other date is agreed upon by said broker. The form and terms of said agreements may be modified in any case in the discretion of said broker.

5. It is agreed that the compensation of the party of the second part, which compensation shall include such expenditures as it, the broker, shall specifically agree to pay, shall be a commission of twenty-five percent upon the gross selling price of each and all lots sold in the tract known as Del Rey, as shown upon the said map, and any addition to said tract, and twenty-five percent of the gross selling price of all other land of the party of the first part which may be sold in lots; and ten percent of the gross selling price of all land of the party of the first part sold in acreage. In case of default by purchasers under agreements, the amount of compensation to be collected on any single sale shall not exceed the amount collected from the purchaser. The party of the second part is authorized to advertise the said Del Rey in its discretion, but all amounts expended for such advertising shall be paid for by said broker.

6. It is agreed that the said compensation due to the party of the second part shall be considered to be earned when the agreement of sale is executed, but shall be collected by said broker as and when funds are available.

7. The said party of the second part agrees to keep accurate books of account of all amounts collected, which books of account shall be audited semi-monthly by a representative of said owner, and at the expense of said owner. A statement shall be rendered monthly by the said broker to said owner, and all amounts collected by said broker, less com-

missions retained, shall be paid to said owner semi-monthly by depositing said amounts in bank to the credit of the account of said owner.

8. The said broker agrees to use its best endeavors to make sales and to endeavor to collect as promptly as possible all sums due and to grow due upon all such agreements of sale.

9. The said owner agrees to pay the expenses of the preparation of all deeds made by it and all mortgages taken by it under the authority of this agreement, and all such mortgages so taken shall be delivered to the party of the first part when settlements are made, or as soon thereafter as said mortgages are recorded and returned from record.

10. This agreement shall be binding upon the parties hereto and their successors.

IN WITNESS WHEREOF the parties hereto have caused these presents to be signed by their respective presidents, their respective corporate seals to be hereto affixed, and attested by their respective secretaries, the day and year first above written.

WILLIAMS AND DAVIS, INC.
BY R. B. DAVIS (Signed)
Vice-President.
Attest: HAROLD S. WILLIAMS
(Signed)
Secretary.

GORDON WILLIAMS & CO.
BY R. B. DAVIS (Signed)
Vice-President.
Attest: HAROLD S. WILLIAMS
(Signed)
Secretary.

(Seal)

SIGNED, SEALED AND DELIVERED
in the presence of
(Signed) LOUIS G. HART

(Seal)

EXHIBIT D61.
6/13/28.

CERTIFICATE OF AMENDMENT
—of—
WILLIAMS AND DAVIS, INC.

THE LOCATION of the principal office in this State is at No. 5303 Atlantic Avenue, Ventnor City, N. J.

THE NAME of the agent therein and in charge thereof, upon whom process against this corporation may be served, is HAROLD S. WILLIAMS.

RESOLUTION OF DIRECTORS

"THE BOARD of Directors of the WILLIAMS AND DAVIS, INC., a corporation of New Jersey, on this second day of January A. D. 1926, do hereby resolve and declare that it is advisable to increase the authorized capital stock of the corporation from fifteen hundred shares without any nominal or par value and $100,000. of Preferred Capital Stock having a par value of $100. per share, to fifteen hundred shares without any nominal or par value and $400,000. of Preferred Capital Stock having a par value of $100. per share; and for that purpose, to amend Article "Fourth" of the Certificate of Incorporation to read as follows:

"FOURTH. This corporation is authorized to issue not exceeding fifteen hundred shares of capital stock without any nominal or par value.

"THIS corporation is also authorized to issue preferred capital stock not exceeding the sum of Four hundred thousand dollars ($400,000.00). The holders of such preferred capital stock shall not be entitled to any dividends thereon. The preferred stock shall be subject to redemption at the price of One hundred dollars per share. In case of dissolution, this corporation shall pay to the holders of

the preferred stock the full par value of all shares of such preferred stock outstanding before any distribution is made among the holders of the shares of common stock. The total amount of shares of preferred capital stock authorized to be issued is four thousand shares each having a par value of One hundred dollars."

AND do hereby call a meeting of the stockholders, to be held at the Company's Office, in the City of Ventnor City, on the second day of January, 1926, at twelve o'clock noon, to take action upon the above resolution."

CERTIFICATE OF CHANGE.

WILLIAMS AND DAVIS, INC., a corporation of New Jersey, doth hereby certify that the increase of the capital stock of this Company from fifteen hundred shares without any nominal or par value and $100,000. of Preferred Capital Stock having a par value of $100. per share, to fifteen hundred shares without any nominal or par value and $400,000. of Preferred Capital Stock having a par value of $100. per share, having been declared by resolution of the Board of Directors of said corporation (above recited) to be advisable, and having been duly and regularly assented to by the vote of two-thirds in interest of each class of stockholders having voting powers, at a meeting duly called by the Board of Directors for that purpose; and the written assent of said stockholders is hereto appended.

IN WITNESS WHEREOF, said corporation has caused this Certificate to be signed by its President and Secretary, and its corporate seal to be hereto affixed, the second day of January, A. D. 1926.

Gordon Williams, President.
Harold S. Williams, Secretary.

(Cor. Seal)

State of New Jersey }
County of Atlantic } ss.

BE IT REMEMBERED, That on this second day of January, A. D. 1926, before me, the subscriber, a Master in Chancery of New Jersey, personally appeared Harold S. Williams, Secretary of WILLIAM AND DAVIS, INC., the corporation mentioned in and which executed the foregoing Certificate, who, being by me duly sworn, on his oath says he is such secretary, and that the seal affixed to said certificate is the corporate seal of said corporation, the same being well known to him; that Gordon Williams is president of said corporation, and signed said certificate and affixed said seal thereto, and delivered said certificate by authority of the Board of Directors and with the assent of at least two-thirds in interest of each class of the stockholders of said corporation having voting powers as and for his voluntary act and deed, and the voluntary act and deed of said corporation, in presence of deponent, who thereupon subscribed his name thereto as witness.

And he further says that the assent hereto appended is signed by at least two-thirds in interest of each class of stockholders of said corporation having voting powers, either in person or by their several duly constituted attorneys in fact, thereunto luly authorized in writing.

Harold S. Williams

Sworn and subscribed to before me this second day of January, A. D. 1926.

Carlton Godfrey
M. C. C. of N. J.

STOCKHOLDERS' ASSENT TO CHANGE.

We, the subscribers, being at least two-thirds in interest of each class of the stockholders of WILLIAM AND DAVIS, INC., having voting powers, having, at a meeting regularly called for the purpose, voted in favor of the increase of the capital stock of this Company from fifteen hundred shares without any nominal or par value and $100,000. of Preferred Capital Stock having a par value of $100. per share, to fifteen hundred shares without any nominal or par value and $400,000. of Preferred Capital Stock having a par value of $100. per share, do now, pursuant to the statute, hereby give our written assent to said change.

WITNESS our hands this second day of January, A. D. 1926.

Stockholders	*No. of shares*
Gordon Williams	50 Shares Preferred
	10 Shares Common
Harold S. Williams	50 Shares Preferred
	10 Shares Common
Royden B. Davis	10 Shares Common
	50 Shares Preferred

ENDORSED:
"FILED AND RECORDED
Mar 22 1926
Thomas F. Martin
Secretary of State."

STATE OF NEW JERSEY
DEPARTMENT OF STATE.

I, THOMAS F. MARTIN, Secretary of State of the State of New Jersey, do hereby Certify that the

foregoing is a true copy of Certificate of Amendment of the Certificate of Incorporation of WILLIAMS AND DAVIS, INC., and the endorsements thereon, as the same is taken from and compared with the original filed in my office on the Twenty-second day of March, A. D. 1926, and now remaining on file and of record therein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal at Trenton, this Twenty-second day of March, A. D. 1926.

Thomas F. Martin
Secretary of State

(Seal)

CERTIFIED COPY OF
Certificate of Amendment of the Certificate of Incorporation of WILLIAMS AND DAVIS, INC.

State of New Jersey }
County of Atlantic } ss.

LLOYD W. FAHLER, of full age, being duly sworn according to law upon his oath deposes and says:

1. That Gordon Williams, Harold S. Williams and A. Trevor Williams have moved most if not all of their household goods, automobiles and personal effects to California; and are not, to deponent's knowledge or belief, residents at this time in the State of New Jersey, and that summons can not be served upon them and that they owe to deponent the liquidated sum of Seventy seven thousand and one hundred eleven dollars and thirty two cents ($71,111.32) as nearly as deponent can ascertain.

2. In addition to said parties being non-residents as aforesaid, deponent believes that a writ of Attachment should issue because the debt aforesaid is

founded on fraud, unlawful conversion, forgery and other highly dishonest conduct as hereinafter more fully recited.

3. That the said three parties named above, together with Royden B. Davis, did conspire to defraud deponent. Said parties defrauded deponent of the money referred to above, by means of fraudulent transfers of real estate purchased through "straw" persons with the funds of deponent previously deposited with and held by them or one or more of them by appointment with the remainder of said conspirators, when acting as deponent's confidential agents or trustees.

5. That said loss was caused deponent by two fraudulent methods: (a) through the dishonest handling of deals through Williams and Davis, Inc., and (b) by the misapplication of trust funds belonging to deponent.

(a) In re: Williams and Davis, Inc. deals.

In the year 1925 Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis caused to be incorporated Williams and Davis, Inc., to form the foundation of the conspiracy to defraud herein mentioned.

In order to allay suspicion from their unscrupulous scheme, the said four conspirators permitted deponent and one Connie J. Dorrian (who does not join in this application for an attachment) to hold practically all the stock of said corporation except qualifying shares.

Nevertheless, the said four conspirators were in full control of said corporation when the grievances herein mentioned took place (notwithstanding that they held but a minority of the stock). Their control was thoroughly effective and was evidenced by a written agreement dated January 4, 1926, which

permitted Gordon Williams & Co. (a corporation owned by or representing solely said four conspirators, at that time) to virtually handle the assets of said Williams and Davis, Inc., in their own joint discretion.

A true copy of said agreement is annexed hereto and made a part hereof. Under the color of authority afforded by said agreement the conspirators purchased a number of parcels of real estate with the funds of deponent previously deposited with them and by deponent's direction placed the titles thereto in the name of said Williams and Davis, Inc., as a holding company for deponent. In this they were the confidential agents or constructive trustees of deponent, representing to deponent who financed same, that each of said properties were being bought at the lowest prices available.

The conspirators aforesaid made many secret and fraudulent profits by transfers of real estate, previously financed by deponent to Williams and Davis, Inc., some of which are itemized on an appended list marked "Schedule A" the said dishonest profits being so illegally converted to their own use by means of "straw" names used in making the conveyances, in each case the "straw" party representing the said four conspirators who received and divided the spoils among themselves in fractional parts unknown to deponent.

Deponent verily believes that to collect some of said fraudulent profits so stolen from deponent (who was in the position of a cestuique trust) some one or more of said conspirators within the guilty knowledge of all four, on several occasions, forged the signatures of the "straw" parties (notably Sadie A. Craigen and Julia Coll) and cashed checks after the endorsements had been so forged, pocketed the

proceeds to their own personal use without giving the payees named in said checks any part thereof, which wholesale forgeries were a part of the scheme of said fraudulent conspiracy to rob deponent and were intended to hide from deponent the dishonest conversions and secret profits, aforesaid, as deponent believes.

Through these deals referred to in the attached Schedule A, Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis defrauded deponent of at least $73,111.32.

(b) In re: Sales direct to Deponent.

Having implicit trust and confidence in Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis, deponent handed to them large sums of money at various times between July, 1925 and April, 1927, for investment in their joint discretion: said moneys were sometimes deposited to their personal accounts in banks or to the account of one or more of them, appointed by the four conspirators; other times said moneys were placed in a safe or other receptacle belonging personally to said parties; all of which were trust funds belonging to deponent entrusted to the care or control of said four conspirators; and said conspirators received either personally or through their brokerage house (Gordon Williams & Co.) a commission for the handling of deponent's said funds as his trusted representatives, pretending to deponent that the properties purchased with said trust funds were bought at the lowest prices available.

Using deponent's said trust funds so previously deposited with said conspirators, they defrauded deponent of at least $4,000.00 by unconscionable conduct in the purchase of real estate, by means of "straw" names for the fraudulent benefit of said four con-

spirators. Some of these defalcations are itemized on an appended list marked "Schedule B".

5. Deponent verily believes that a cause of action has arisen in his behalf against Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis, by reason of the facts aforesaid, and that they are indebted to him in the liquidated sum of Seventy seven thousand one hundred eleven dollars and thirty two cents ($77,111.32) as nearly as deponent can ascertain.

Word "December" on page 4 changed to "July" before execution. Schedules "A" & "B" and agreement hereto attached made a part of this affidavit.

Lloyd W. Fahler

Sworn and subscribed to before me this 13th day of May, A. D. 1927.

Herbert R. Voorhees

N. J. Supreme Court Commissioner.

SCHEDULE A

Properties purchased by the conspirators with the moneys of Connie J. Dorrian and Lloyd W. Fahler and deed by their direction to Williams and Davis, Inc.

1. On May 12, 1926, Harold S. Williams took a deed from Atlantic County to a 2.003 acres tract at Somers Point, in which transaction he represented the conspirators, paying $3,000. to the County for said Deed He represented that he had paid $7,500. for the same and actually drew that amount by a check therefor, drawing said money prior to purchasing same. The difference of $4,500. was a fraudulent secret profit converted by the conspirators to their own use. Of this $4,500. Connie J. Dorrian contributed $2,250; and Lloyd W. Fahler $2,250.

2. On February 11, 1926 Julia Coll took a deed from David D. Smith et ux et al, for a tract in Egg Harbor Township, N. J. in which transaction she represented the conspirators, paying $66,936.15 to the grantors for said deed. The conspirators represented that they had paid $123,574.80 for the same and actually drew that amount therefor upon delivering to William and Davis, Inc., a deed from Julia Coll for the same. The difference of $56,638.65 was fraudulent secret profit converted by the conspirators to their own use. Of this $56,638.65 Connie J. Dorrian contributed $28,319.32: and Lloyd W. Fahler $28,319.32.

3. On February 1, 1926, Julia Coll took a deed from George W. Roberts for two tracts in the city of Somers Point, N. J. in which transaction she represented the conspirators, paying $89,900. for the same. The conspirators represented that they had paid $159,984 and actually drew that amount therefor upon delivering to Williams and Davis, Inc. a deed from Julia Coll for the same. The difference of $70,084. was a fraudulent secret profit converted by the conspirators to their own use. Of this $70,084. Connie J. Dorrian contributed $35,042; and Lloyd W. Fahler $35,042.

4. On July 9, 1926 Sadie A. Craigen took a deed from John F. Ryon Executor, for a tract of land in Somers Point, N. J., in which transaction she represented the conspirators, paying $10,000. to the grantor for said deed. The conspirators represented that they had paid $25,000. for the same and actually drew that amount therefor upon delivering to Williams and Davis, Inc., a deed from Sadie A. Craigen for the same. The difference of $15,000. was a fraudulent secret profit converted by the conspirators to their own use. Of this $15,000. Connie

J. Dorrian contributed $7,500.00; and Lloyd W. Fahler $7,500.00.

SUMMARY OF SCHEDULE A.

	Dorrian defrauded of	Fahler defrauded of
Parcel No. 1	$ 2,250.00	$ 2,250.00
Parcel No. 2	28,319.32	28,319.32
Parcel No. 3	35,042.00	35,042.00
Parcel No. 4	7,500.00	7,500.00
Totals	$73,111.32	$73,111.32

H. R. Voorhees,
N. J. Com.

SCHEDULE B.

Properties purchased by the conspirators with the moneys of Connie J. Dorrian and Lloyd W. Fahler and deeded direct to them.

1. On January 22, 1926 the conspirators connived with said Dorrian and Fahler to deed to Helene Wright lots No. 41, 43, 45, 47, 49, 51, 53 and 55 in Block No. 124 Margate City, N. J. representing that the price obtained was $36,000. when as a matter of fact Helene Wright, acting for the conspiracy, received from V. B. Smith and A. W. Cunningham $44,000. therefore: whereby said Dorrian and Fahler were each defrauded of $4,000.

2. On March 16, 1926 Helene Wright took a deed from George W. Hagerthey, et ux for a tract in Linwood, N. J. in which transaction she represented the conspirators, paying $25,000. for the same. The conspirators represented that they had paid $44,000. and actually drew that amount therefor upon delivering to Connie J. Dorrian a deed from Helene Wright for the same.

The difference of $19,000. was a fraudulent secret profit converted by the conspirators to their own use.

3. On or about November 5, 1925 Helene Wright took a deed for lots 23, 24, 25, 26 and 27 in Block 226, Margate City N. J., in which transaction she represented the conspirators, paying $12,500. for the same. The conspirators represented that they had paid $17,500. and actually drew that amount therefor upon delivering to Connie J. Dorrian a deed from Helene Wright for the same. The difference of $5,000. was a fraudulent secret profit converted by the conspirators to their own use.

SUMMARY OF SCHEDULE B.

	Dorrian defrauded of	Fahler defrauded of
Parcel No. 1	$ 4,000.00	$ 4,000.00
Parcel No. 2	19,000.00	—
Parcel No. 3	5,000.00	—
Totals	$28,000.00	$ 4,000.00

H. R. Voorhees,
N. J. Sup. Court Com.

THIS AGREEMENT made this fourth day of January, 1926, between Williams and Davis, Inc., a corporation of New Jersey, sometimes referred to herein as "The Owner", party of the first part, and Gordon Williams, & Co., also a corporation of New Jersey, sometimes referred to herein as "The Broker", party of the second part:

WHEREAS the party of the first part has purchased or is about to purchase a tract of land at Somers Point, Atlantic County, New Jersey, which tract is named or designated as Del Rey, and which tract it intends to improve and lay out in lots to be shown upon a map or plan to be made by William H. Collisson, Jr. civil engineer, in anticipation of a profitable sale of such property:

AND WHEREAS said party of the first part may

purchase additional land to be added to and become a part of Del Rey, and may purchase other land which may or may not be in the vicinity of the tract known as Del Rey:

AND WHEREAS the said party of the first part has determined that its interests will be best served by the employment of the said party of the second part as its sole and exclusive broker or agent to offer for sale and to sell and dispose of all of the land which it may now own or may hereafter acquire:

AND WHEREAS the said party of the second part has consented to become the broker or agent of the said party of the first part upon the terms and conditions herein recited:

NOW THEREFORE, in consideration of the premises and of the sum of One dollar each to the other in hand paid, receipt whereof is hereby acknowledged the said parties hereto do hereby agree with each other as follows:

1. The said party of the first part does hereby engage and employ the said party of the second part as its sole and exclusive broker or agent to use its best endeavors to sell and dispose of all of the land and premises now owned by said party of the first part as well as all of the land and premises which has been or may hereafter be purchased by said party of the first part. This contract or agreement of employment shall remain in full force and effect until all of said land and premises has been sold and settlements made therefor.

2. The said party of the second part shall fix the selling price or prices for which each lot in the said tract to be known as Del Rey shall be offered and sold and may change such prices for any or all of said lot or lots from time to time in their discretion.

3. It is understood that the general policy of making

sales shall be upon the plan of payment of ten per cent upon the execution of the agreement and forty per cent in not exceeding five monthly payments without interest and the balance of not exceeding fifty per cent by a purchase money first mortgage, payable within two years, with interest payable semi-annually, with the usual thirty day default clauses in case of non-payment of interest or taxes; or five per cent upon the signing of said agreement and forty five per cent in not exceeding ten monthly payments without interest, and not exceeding fifty per cent upon mortgage as aforesaid. The said party of the second part may vary the payments in its discretion and also may make adjustments with purchasers under agreements in its discretion, so as to reduce the number of lots sold to a buyer and to apply all amounts paid by such buyer upon such purchase so reduced.

4. The form of the agreements of sale to purchasers herein referred to shall be approved by the said broker, and prepared by it. Said agreements shall obligate the owner to deliver to the purchaser a good and marketable title, and to improve the said property by filling said tract to the grade fixed by the engineer, and that the driveways of the avenue or avenues in front of said lots so sold shall be built of gravel with concrete curbs and the sidewalks shall be built of gravel and cement, cement strip to be not less than — feet in width and that the usual settlement of taxes and municipal claims shall be made as of the date of settlement, unless some other data is agreed upon by said broker. The form and terms of said agreements may be modified in any case in the discretion of said broker.

5. It is agreed that the compensation of the party of the second part which compensation shall include

such expenditures as it, the broker, shall specifically agree to pay, shall be a commission of twenty five per cent upon the gross selling price of each and all lots sold in the tract known as Del Rey, as shown upon the said map, and any addition to said tract and twenty five per cent of the gross selling price of all other land of the party of the first part, which may be sold in lots; and ten per cent of the gross selling price of all land of the party of the first part sold in acreage. In case of default by purchasers under agreements the amount of compensation to be collected on any single sale shall not exceed the amount collected from the purchaser. The party of the second part is authorized to advertise the said Del Rey in its discretion, but all amounts expended for such advertising shall be paid for by said broker.

6. It is agreed that the said compensation due to the party of the second part shall be considered to be earned when the agreement of sale is executed, but shall be collected by said broker as and when funds are available.

7. The said party of the second part agrees to keep accurate books of account of all amounts collected, which books of account shall be audited semi-monthly by a representative of said owner and at the expense of said owner. A statement shall be rendered monthly by the said broker to said owner, and all amounts collected by said broker, less commissions retained, shall be paid to said owner semi-monthly by depositing said amounts in bank to the credit of the account of said owner.

8. The said broker agrees to use its best endeavors to make sales and to endeavor to collect as promptly as possible all sums due and to grow due upon all such agreements of sale.

9. The said owner agrees to pay the expenses of the

preparation of all deeds made by it and all mortgages taken by it under the authority of this agreement, and all such mortgages so taken shall be delivered to the party of the first part when settlements are made, or as soon thereafter as said mortgages are recorded and returned from record.

10. This agreement shall be binding upon the parties hereto and their successors.

IN WITNESS WHEREOF the parties hereto have caused these presents to be signed by their respective presidents, their respective corporate seals to be hereto affixed and attested by their respective secretaries the day and year first above written.

Williams and Davis, Inc.
By R. B. Davis,
Vice President.
Attest: Harold S. Williams,
Secretary.
Gordon Williams & Co.
By R. B. Davis,
President.
Attest: Harold S. Williams
Secretary.

Signed, sealed and delivered in the presence of
Louis G. Hart
H. R. Voorhees
N. J. Sup. Court Comr.

Filed May 13th, 1927. Herbert R. Voorhees, N. J. Sup Court Commissioner.

Filed May 14, 1927 at 9 A. M. William A. Blair, Clerk.

STATE OF NEW JERSEY
COUNTY OF ATLANTIC

I, William A. Blair, Clerk of the County of Atlantic, and also Clerk of the Circuit, &c. Court holden therein, said court being a court of record,

having a common seal do hereby Certify, That the foregoing is a true copy of a certain affidavit—Lloyd W. Fahler, pltff. vs. Gordon Williams, Harold S. Williams, Trevor Williams and Royden B. Davis, Defts, as the same is filed in my said office.

In testimony whereof, I have hereunto set my hand and affixed my Official Seal at May's Landing, N. J., this 18th day of May, A. D. 1927.

Wm. A. Blair,
Clerk

(Seal)

[Endorsed]

CERTIFIED COPY
OF
AFFIDAVIT.
Lloyd W. Fahler, Plaintiff.
vs
Gordon Williams, Harold S. Williams, Trevor Williams and Royden B. Davis, Defendants.

EXHIBIT "D62."
6/13/28 L

Law Offices
CARLTON GODFREY
Guarantee Trust Bldg.
Atlantic City, New Jersey.

March 25th, 1926.

Williams and Davis, Inc.,
c/o Gordon Williams & Company,
Margate City, N. J.

Gentlemen:

I am writing to say that the amendment to the Charter of Williams and Davis, Inc., was filed in the Office of the Secretary of State of New Jersey, at Trenton on March 22, 1926, and was effective and in full force from that date.

The usual course in case of such amendments is to prepare new books of certificates of capital stock showing the increase of capital, and exchange the certificates already issued for such new certificates. The new certificates will cost approximately thirty dollars. If you desire to save this additional expense you can have a rubber stamp made containing the following words:

> "The charter of this Company was amended in 1926 by increasing the amount of preferred stock authorized to be issued from $100,000 to $400,000."

If you do this, you should stamp each certificate outstanding with these words, and also stamp each unused form of certificate in your stock books. All outstanding certificates and unused certificates, whether for common stock or preferred stock, should be so stamped. The better way, of course, is to ob-

tain the new stock books, so that there could be no outstanding certificates not recognizing the change of capital.

I enclose bill for our services and expenses in the matter of the increase of capital. You understand, of course, that if new stock books are required, that the actual cost will be paid for by you.

Yours very truly,
CARLTON GODFREY

CG-B
Enclosure

EXHIBIT "D63."
6/13/28 L

Law Offices
CARLTON GODFREY
Guarantee Trust Bldg.
Atlantic City, New Jersey

May 1, 1926.

Mr. Harold S. Williams, Secretary,
Williams and Davis, Inc.,
8300 Atlantic Ave.,
Margate City, N. J.

Dear Sir:

I enclose copy of the resolution authorizing the opening of the bank account for your company. This copy should probably be sent to the Union National Bank.

Very truly yours,
CARLTON GODFREY

CG/M
Enc.

The Contract will be completed later today. C. G.

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VOLUME 4

EXHIBIT ——.

STATE OF NEW JERSEY }
COUNTY OF ATLANTIC } SS:

CONNIE J. DORRIAN, of full age, being duly sworn according to law, upon his oath deposes and says:

1. I am about to commence an action at law against Gordon Williams, Harold S. Williams, A. Trevor Williams, Royden B. Davis, Julia Coll and Sadie A. Craigen, and that the grounds of said action are as hereinafter stated:

2. That said six persons named above have defrauded deponent of upwards of One hundred and one thousand one hundred eleven dollars and thirty-two cents ($101,111.32) by means of fraudulent transfers of real estate through "straw" parties.

3. That deponent was defrauded through a dishonest conspiracy formed between the parties named, the leaders and main beneficiaries of which conspiracy were Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis; the other two parties knowingly assisting in said conspiracy as "Straw" parties whenever asked by the said leaders thereof.

4. Another "straw" name used in said conspiracy was "Helen Wright" sometimes spelled "Helene Wright" but deponent does not at this time intend to sue said party for her part in said defalcation for the reason that deponent does not believe that any party by that name exists in the flesh of this transaction, believing that the signatures of

that name appearing in some of the papers hereinafter mentioned are fraudulent aliases for some one of the other conspirators above named; and also believing that more than one person used said Wright name in the conduct of the conspiracy and more than one person signed same to papers, some of which were fraudulent acknowledged by one of the other conspirators who is a Notary Public.

5. There were two methods used in said conspiracy to defraud deponent (a) through the instrumentality of the Williams and Davis, Inc. deal; and (b) by wickedly making secret and fraudulent profits through the purchase and sale of real estate, and interests therein, direct to or for deponent. Following is a more detailed expose of these two methods and the workings of each.

A. Williams and Davis, Inc., deal.

In the year 1925 Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis incorporated Williams and Davis, Inc., to form the foundation of the conspiracy to defraud herein mentioned. In order to allay suspicion of their scheme, the conspirators permitted deponent and one Lloyd W. Fahler (who was also a victim of said fraud but who does not join in this application for capias) to hold practically all the stock of said corporation except qualifying shares which were held or controlled by the conspirators. But, nevertheless, the conspirators were in full control of said corporation (notwithstanding that they held but a minority of the stock). This control actually and effective was evidenced by a written agreement dated January 4, 1926 which permitted Gordon Williams & Co., (a corporation consisting at that time of three of said conspirators) to virtually handle the assets of said corporation in their own discretion. A true copy of

said agreement is annexed hereto and made a part hereof. Under the color of authority afforded by this agreement, said conspirators purchased a number of parcels of real estate, as confidential agents or constructive trustees of your deponent, which real estate was deed to William and Davis, Inc., by direction of deponent. The conspirators made many secret and fraudulent profits by said transfers of real estate to Williams and Davis, Inc., some of which are itemized on an appended Schedule marked "Schedule No. 1." Through these deals Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis, (as the leaders of the conspiracy) aided by Sadie A. Craigen and Julia Coll (as tools of said leaders), defrauded deponent of at least $73,111.32.

B. Sales direct to deponent.

Having implicit trust and confidence in Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis, deponent handed to them large sums of money at various times between July 1925 and April, 1927, for investment in their discretion; said moneys was sometimes deposited to their personal accounts in banks; other times, said moneys were placed in a safe or other receptacle belonging personally to said parties; and all of which were trust funds belonging to deponent; and the parties named received either personally or through their brokerage house (Gordon Williams & Co.) a commission for the handling of deponent's said funds, as his trusted representatives. In the purchase of real estate from these funds, deponent was defrauded of at least $28,000. by unconscionable conduct in the use of "straw" names, for the fraudulent benefit of said conspirators. Some of which defalcations are itemized on an appended Schedule marked Schedule "No. 2."

Deponent further says that the said Gordon Williams, Harold S. Williams, and A. Trevor Williams have removed from this jurisdiction or are about to do so, having shipped much if not all of their household goods to California.

Deponent verily believes that a cause of action has arisen in his behalf against Gordon Williams, Harold S. Williams, A. Trevor Williams, Royden B. Davis, Sadie A. Craigen and Julia Coll, and that they are individually or collectively indebted to him, by reason of knowingly being a party to said fraud, by which deponent was defrauded of at least $101,-111.32, and deponent is about to commence an action to recover from them either collectively or in the alternative such individuals thereof as may be adjudicated responsible, the said sum of $101,111.32, so wickedly, fraudulently and knowingly procured from deponent, by the vehicles of the frauds aforesaid.

Schedule "A" and "B" hereto attached and agreement also attached made a part of this agreement.

CONNIE J. DORRIAN.

Sworn and subscribed to
before me this 13th day
of May, A. D., 1927.
Herbert R. Voorhees,
N. J. Supreme Court
Com.

SCHEDULE A.

PROPERTIES PURCHASED BY THE CONSPIRATORS WITH THE MONEYS OF CONNIE J. DORRIAN AND LLOYD W. FAHLER AND DEED BY THEIR DIRECTION TO WILLIAMS AND DAVIS, INC.,

1. On May 12, 1926, Harold S. Williams took a deed from Atlantic County to a 2.003 acres tract at Somers Point, in which transaction he represented the conspirators, paying $3,000. to the County for said Deed. He represented that he had paid $7,500. for the same and actually drew that amount by a check therefor, drawing said money prior to purchasing same. The difference of $4,500 was a fraudulent secret profit converted by the conspirators to their own use. Of this $4,500 Connie J. Dorrian contributed $2,250; and Lloyd W. Fahler $2,250.

2. On February 11, 1926, Julia Coll took a deed from David D. Smith, et ux., et al., for a tract in Egg Harbor Township, N. J., in which transaction she represented the conspirators, paying $66,936.15 to the grantors for said Deed. The conspirators represented that they had paid $123,574.80 for the same and actually drew that amount therefor upon delivering to William and Davis, Inc., a deed from Julia Coll for the same. The difference of $56,638.65 was a fraudulent secret profit converted by the conspirators to their own use. Of this $56,638.65 Connie J. Dorrian contributed $28,319.32; and Lloyd W. Fahler $28,319.32.

3. On February 1, 1926, Julia Coll took a deed from George W. Roberts for two tracts in the City of Somers Point, N. J. in which transaction she represented the conspirators, paying $89,900. for the

same. The conspirators represented that they had paid $159,984 and actually drew that amount therefor upon delivering to Williams and Davis, Inc., a deed from Julia Coll for the same. The difference of $70,084. was a fraudulent secret profit converted by the conspirators to their own use. Of this $70,084. Connie J. Dorrian contributed $35,042; and Lloyd W. Fahler $35,042.

4. On July 9, 1926, Sadie A. Craigen took a Deed from John F. Ryon, Executor, for a tract of land in Somers Point, N. J. in which transaction she represented the conspirators, paying $10,000. to the grantor for said Deed. The conspirators represented that they had paid $25,000. for the same and actually drew that amount therefor upon delivering to Williams and Davis, Inc., a deed from Sadie A. Craigen for the same. The difference of $15,000. was a fraudulent secret profit converted by the conspirators to their own use. Of this $15,000. Connie J. Dorrian contributed $7,500.00; and Lloyd W. Fahler $7,500.00.

SUMMARY OF SCHEDULE A.

	Dorrian defrauded of	Fahler defrauded of
Parcel No. 1	$2,250.00	$2,250.00
Parcel No. 2	28,319.32	28,319.32
Parcel No. 3	35,042.00	35,042.00
Parcel No. 4	7,500.00	7,500.00
Totals	$73,111.32	$73,111.32

SCHEDULE B.

PROPERTIES PURCHASED BY THE CONSPIRATORS WITH THE MONEYS OF CONNIE J. DORRIAN AND LLOYD W. FAHLER AND DEEDED DIRECT TO THEM.

1. On January 22, 1926 the conspirators connived with said Dorrian and Fahler to deed to Helene Wright lots No. 41, 43, 45, 47, 49, 51, 53 and 55 in Block No. 124 Margate City, N. J. representing that the price obtained was $36,000. when as a matter of fact Helene Wright, acting for the conspiracy, received from V. B. Smith and A. W. Cunningham $44,000. therefor; whereby said Dorrian and Fahler were each defrauded of $4,000.

2. On March 16, 1926, Helene Wright took a deed from George W. Hagerthey, et ux, for a tract in Linwood, N. J., in which transaction she represented the conspirators, paying $25,000 for the same. The conspirators represented that they had paid $44,000. and actually drew that amount therefor upon delivering to Connie J. Dorrian a deed from Helene Wright for the same. The difference of $19,000. was a fraudulent secret profit converted by the conspirators to their own use.

3. On or about November 5, 1925, Helene Wright took a deed for Lots 23, 24, 25, 26 and 27 in Block 226, Margate City, N. J. in which transaction she represented the conspirators, paying $12,500 for the same. The conspirators represented that they had paid $17,500 and actually drew that amount therefor upon delivering to Connie J. Dorrian a deed from Helene Wright for the same. The difference of $5,000. was a fraudulent secret profit converted by the conspirators to their own use.

SUMMARY OF SCHEDULE B.

	Dorrian defrauded of	Fahler defrauded of
Parcel No. 1	$4,000.00	$4,000.00
Parcel No. 2	19,000.00	.....
Parcel No. 3	5,000.00	.....
Totals	$28,000.00	$4,000.00

THIS AGREEMENT, made this fourth day of January, 1926 between WILLIAMS AND DAVIS, INC., a corporation of New Jersey, sometimes referred to herein as "The Owner," party of the first part, and GORDON WILLIAMS & CO., also a corporation of New Jersey sometimes referred herein as "The Broker," part of the second part:

WHEREAS the party of the first part has purchased or is about to purchase a tract of land at Somers Point, Atlantic County, New Jersey, which tract is named or designated as Del Rey, and which tract it intends to improve and lay out in lots to be shown upon a map or plan to be made by William H. Collisson, Jr., Civil engineer, in anticipation of a profitable sale of such property;

AND WHEREAS said party of the first part may purchase additional land to be added to and become a part of Del Rey, and may purchase other land which may or may not be in the vicinity of the tract known as DEL REY;

AND WHEREAS the said party of the first part has determined that its interests will be best served by the employment of the said party of the second part as its sole and exclusive broker or agent to offer for sale and to sell and dispose of all of the land which it may now own or may hereafter acquire;

AND WHEREAS the said party of the second part has consented to become the broker or agent of

the said party of the first part upon the terms and conditions herein recited;

NOW, THEREFORE, in consideration of the premises and of the sum of One Dollar each to the other in hand paid, receipt whereof is hereby acknowledged, the said parties hereto do hereby agree with each other as follows:

1. The said party of the first part does hereby engage and employ the said party of the second part as its sole and exclusive broker or agent to use its best endeavors to sell and dispose of all of the land and premises now owned by said party of the first part as well as all of the land and premises which has been or may hereafter be purchased by said party of the first part. This contract or agreement of employment shall remain in full force and effect until all of said land and premises has been sold and settlements made therefor.

2. The said party of the second part shall fix the selling price or prices for which each lot in the said tract to be known as Del Rey shall be offered and sold and may change such prices for any or all of said lot or lots from time to time in their discretion.

3. It is understood that the general policy of making sales shall be upon the plan of payment of ten percent upon the execution of the agreement, and forty percent in not exceeding five monthly payments without interest, and the balance of not exceeding fifty percent by a purchase money first mortgage, payable within two years, with interest payable semi-annually, with the usual thirty day default clauses in case of non-payment of interest or taxes; or five percent upon the signing of said agreement and forty-five percent in not exceeding ten monthly payments without interest, and not exceeding fifty percent upon mortgage as afore-

said. The said party of the second part may vary the payments in its discretion and also may make adjustments with purchasers under agreements in its discretion, so as to reduce the number of lots sold to a buyer and to apply all amounts paid by such buyer upon such purchase so reduced.

4. The form of the agreements of sale to purchasers herein referred to shall be approved by the said broker, and prepared by it. Said agreements shall obligate the owner to deliver to the purchaser a good and marketable title, and to improve the said property by filling said tract to the grade fixed by the engineer, and that the driveways of the avenue or avenues in front of said lots so sold shall be built of gravel with concrete curbs and the sidewalks shall be built of gravel and cement, cement strip to be not less than feet in width, and that the usual settlement of taxes and municipal claims shall be made as of the date of settlement, unless some other date is agreed upon by said broker. The form and terms of said agreements may be modified in any case in the discretion of said broker.

5. It is agreed that the compensation of the party of the second part, which compensation shall include such expenditures as it, the broker, shall specifically agree to pay, shall be a commission of twenty-five percent upon the gross selling price of each and all lots sold in the tract known as Del Rey, as shown upon the said map, and any addition to said tract, and twenty-five percent of the gross selling price of all other land of the party of the first part which may be sold in lots; and ten percent of the gross selling price of all land of the party of the first part sold in acreage. In case of default by purchasers under agreements, the

amount of compensation to be collected on any single sale shall not exceed the amount collected from the purchaser. The party of the second part is authorized to advertise the said Del Rey in its discretion, but all amounts expended for such advertising shall be paid for by said broker.

6. It is agreed that the said compensation due to the party of the second part shall be considered to be earned when the agreement of sale is executed, but shall be collected by said broker as and when funds are available.

7. The said party of the second part agrees to keep accurate books of account of all amounts collected, which books of account shall be audited semi-monthly by a representative of said owner, and at the expense of said owner. A statement shall be rendered monthly by the said broker to said owner, and all amounts collected by said broker, less commissions retained, shall be paid to said owner semi-monthly by depositing said amount in bank to the credit of the account of said owner.

8. The said broker agrees to use its best endeavors to make sales and to endeavor to collect as promptly as possible all sums due and to grow due upon all such agreements of sale.

9. The said owner agrees to pay the expenses of the preparation of all deeds made by it and all mortgages taken by it under the authority of this agreement, and all such mortgages so taken shall be delivered to the party of the first part when settlements are made, or as soon thereafter as said mortgages are recorded and returned from record.

10. This agreement shall be binding upon the parties hereto and their successors.

IN WITNESS WHEREOF the parties hereto

have caused these presents to be signed by their respective presidents, their respective corporate seals to be hereto affixed, and attested by their respective secretaries, the day and year first above written.

BY R. B. DAVIS,
VICE PRESIDENT.
ATTEST:
HAROLD S. WILLIAMS,
SECRETARY.
GORDON WILLIAMS & CO.
BY R. B. DAVIS,
PRESIDENT.
ATTEST:
HAROLD S. WILLIAMS,
SECRETARY.

Signed, sealed and
delivered in
presence of
LOUIS G. HART.
A true copy
Edward J. Kelleher,
Clerk.

ORDER.

NEW JERSEY SUPREME COURT.
ATLANTIC COUNTY.

CONNIE J. DORRIAN, *Plaintiff,* v. GORDON WILLIAMS, HAROLD WILLIAMS, A. TREVOR WILLIAMS and ROYDEN B. DAVIS, *Defendants.*	Action at Law. On Capias, &c. Order.

I, HERBERT R. VOORHEES, Esq., a Supreme Court Commissioner of the State of New Jersey, having read the affidavit of Connie J. Dorrian and having considered the same do adjudge and decide that by the said affidavit it is sufficiently proved before me that the above named Plaintiff, has a cause of action which arose in this State, on tort, and that the nature of the cause of action and the particulars thereof are as follows: to wit:

That the four defendants above named did through a conspiracy known to and participated in by each, defraud plaintiff of the sum of $101,111.32 by means of fraudulent transfers through "straw" names of real estate purchased for plaintiff as his agent or trustee and with his money previously entrusted to their confidential care or control;

AND, therefore, I do hereby ORDER that the said above named defendants each be held to bail in the sum of Fifty Thousand ($50,000) Dollars to answer unto the said Plaintiff in an action at law.

Witness my hand and seal this 13th day of May, 1927.

HERBERT R. VOORHEES,
N. J. SUPREME COURT
COMMISSIONER,
(SEAL)

A TRUE COPY
EDWARD J. KELLEHER,
Clerk.

EXHIBIT ——.

NEW JERSEY SUPREME COURT.
ATLANTIC COUNTY.

CONNIE J. DORRIAN,
v.
GORDON WILLIAMS, HAROLD S. WILLIAMS, A. TREVOR WILLIAMS and ROYDEN B. DAVIS.

Action at Law. On Capias, etc.

For plaintiff, Carlton Godfrey and William J. Garrison.

For defendants, C. L. Cole and George A. Bourgeois.

CAMPBELL, J.

By an order of a Commissioner of this Court a capias ad respondendum was authorized and each

ORDER DENYING MOTION TO SET ASIDE CAPIAS.

NEW JERSEY SUPREME COURT.

CONNIE J. DORRIAN, *Plaintiff*, v. GORDON WILLIAMS, *et als.*, *Defendants.*	Action at Law. Order denying Motion to set aside Capias.

A motion having been made in the above-styled action to dismiss an order theretofore entered in said action by a Supreme Court Commissioner that the defendants be held to bail in the sum of fifty thousand dollars each;

And the Court having heard and considered the arguments of counsel for the respective parties, and being of the opinion that said motion to dismiss must be denied because made prior to the execution of the writ issued thereunder;

It is thereupon on this Eighth day of June, A. D. 1927, on motion of Carlton Godfrey and William I. Garrison, attorneys for plaintiff, ordered that said motion to discharge the capias and order to hold to bail be and the same is hereby denied, because prematurely made.

Let the above order be entered in the minutes.

LUTHER A. CAMPBELL,
Supreme Court Justice.

Entered: June 9, 1927.

On motion of
CARLTON GODFREY, &
WILLIAM I. GARRISON,
Attorneys for Plaintiff.

of the defendants ordered to be held to bail in the sum of $50,000. in an action alleging a conspiracy to defraud the plaintiff through, and by means of, which conspiracy he contends that he was damnified and lost moneys to the extent of something over One Hundred Thousand Dollars.

Upon notice the defendants have moved to set aside the order of the Commissioner and quash the writ.

At the outset the defendants are confronted with the contention that their application is premature in that the writ has not been served upon, nor executed, as against, any of them.

At the time of the argument I was not impressed with this contention but more careful and deliberate consideration brings me to the conclusion that it is substantial.

At the present time none of the defendants is in court. Until that happens, through the execution of the writ complained of, he is not nor can he be injured nor have cause of legal complaint. The writ may never be executed.

The present application must therefore fail.

Although this is dispositive of the matter yet I think it wise, in view of the probability that the plaintiff will proceed to execute the writ, to point out defects in the proceedings, which have been raised upon this motion, and which, upon application after execution of the writ would compel me to set aside the order and writ.

The order authorizing the issuance of the writ is dated May 13, 1927. The writ is tested May 14, 1927 and was received by the Sheriff on the same day. The commissioner's order and the affidavits upon which it is based were not filed until May 18, 1927.

The Supreme Court has held that this is improper and fatal.

Hand vs. Nolan, 1 N. J. Misc. Rep. 428

Beugless vs. Thomas, Id. 582.

Further, the statute requires that in actions in tort, which this is, except such action be for seduction, outrageous battery or mayhem, or for recovery of damages for misconduct or neglect of a public officer, the writ shall not issue unless the proof establishes special cause as heretofore for holding to bail.

3 Comp. Stats. 4068, Sec. 56.

Such special cause is non-residence or facts and circumstances establishing that the defendant will be without the jurisdiction of the Court so as not to answer to a judgment if and when rendered.

Hufty vs. Wilson, 78 N. J. L. 241.

Hand vs. Nolan, 1 N. J. Misc. Rep. 428. And this must be established by proof the character of which is pointed out in, Inglis vs. Schreiner, 58 N. J. L. 102; Hufty vs. Wilson, Supra.

The affidavit upon which the Commissioner acted contains only the following upon this point:

"Deponent further says that the said Gordon Williams, Harold S. Williams and A. Trevor Williams have removed from this jurisdiction or are about to do so, having shipped much if not all of their household goods to California."

Without applying the test as above laid down to this affirmation it is sufficient for present purposes to say that it does not reach to the defendant Royden B. Davis and therefore there was no basis nor authority for directing the issuance of the writ against him nor for holding him to bail.

Although the proceedings may be defective in other directions I deem it necessary at this time to

call attention to two others only, which are prominent and stand out clearly; and they are—

First—The cause of action seems to be based upon two distinct classes of transactions one of which is said to have been through and toward a corporation, Williams and Davis, Inc., in which the plaintiff and another were the principal stockholders. From any facts set up in the affidavit it is quite inconceivable how plaintiff could individually have a cause of action against these defendants and therefore such transactions could by no possibility present a legal ground for the Commissioner's order.

Second—both causes of action, attempted to be set up in the affidavit, depend in large measure, if not entirely, for practically all the certainty and exactness to be accorded to plaintiff's affirmation to three schedules attached which are sought to be made part of the affidavit. This cannot be. And I am not considering what is said to be a clearly erroneous use of the word "agreement" for "affidavit" appearing in the last sentence in the affidavit. Considering such sentence to read as follows:—"Schedule "A" and "B" hereto attached and agreement also attached made a part of this affidavit" and also considering the following references appearing in the affidavit:—"A true copy of said agreement is annexed hereto and made a part hereof," and "The conspirators made many secret and fraudulent profits by said transfers of real estate to Williams and Davis, Inc. some of which are itemized on an appended schedule marked Schedule No. 1" and "Some of which defalcations are itemized upon an appended schedule marked Schedule No. 2," there is no proof by affiant that the matters and facts supposed to be shown thereby are true nor by what means or how affiant possesses such knowledge.

For aught that is shown they may rest entirely upon hearsay or otherwise be incompetent. Further still I find no precedent for the substitution of schedules for direct affirmation and I am satisfied none exists.

If the matters contained in these schedules are untrue can affiant be successfully prosecuted for perjury? It may be noted, in passing, that while there are two references in the affidavit, as quoted, to Schedule No. 1 and Schedule No. 2 there are no such schedules attached but they are designated as Schedule A and Schedule B.

As has been indicated the present motion must be denied because prematurely made.

EXHIBIT D60.

STATE OF NEW JERSEY }
COUNTY OF ATLANTIC } ss.

LLOYD W. FAHLER, of full age, being duly sworn according to law upon his oath deposes and says:

1. That Gordon Williams, Harold S. Williams and A. Trevor Williams have moved most if not all of their household goods, automobiles and personal effects to California; and are not, to deponent's knowledge or belief, residents at this time in the State of New Jersey, and that summons cannot be served upon them and that they owe to deponent the liquidated sum of Seventy seven thousand and one hundred eleven dollars and thirty two cents ($77111.32) as nearly as deponent can ascertain.

2. In addition to said parties being non-residents as aforesaid, deponent believes that a writ of At-

tachment should issue because the debt aforesaid is founded on fraud, unlawful conversion, forgery and other highly dishonest conduct as hereinafter more fully recited.

3. That the said three parties named above, together with Royden B. Davis, did conspire to defraud deponent. Said parties defrauded deponent of the money referred to above, by means of fraudulent transfers of real estate purchased through "straw" persons with the funds of deponent previously deposited with and held by them or one or more of them by appointment with the remainder of said conspirators, when acting as deponent's confidential agents or trustees.

5. That said loss was caused deponent by two fraudulent methods: (a) through dishonest handling of deals through Williams and Davis, Inc., and (b) by the misapplication of trust funds belonging to deponent.

(a) In re: Williams and Davis, Inc. deals.

In the year 1925 Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis caused to be incorporated Williams and Davis, Inc., to form the foundation of the conspiracy to defraud herein mentioned.

In order to allay suspicion from their unscrupulous scheme, the said four conspirators permitted deponent and one Connie J. Dorrian (who does not join in this application for an attachment) to hold practically all the stock of said corporation except qualifying shares.

Nevertheless, the said four conspirators were in full control of said corporation when the grievances herein mentioned took place (notwithstanding that they held but a minority of the stock).

Their control was thoroughly effective and was

evidenced by a written agreement dated January 4, 1926, which permitted Gordon Williams & Co., (a corporation owned by or representing solely said four conspirators, at that time) to virtually handle the assets of said Williams and Davis, Inc., in their own joint discretion.

A true copy of said agreement is annexed hereto and made a part hereof. Under the color of authority afforded by said agreement the conspirators purchased a number of parcels of real estate with the funds of deponent previously deposited with them and by deponent's direction placed the titles thereto in the name of said Williams and Davis, Inc., as a holding company for deponent. In this they were the confidential agents or constructive trustees of deponent, representing to deponent who financed the same, that each of said properties were being bought at the lowest prices available.

The conspirators aforesaid made many secret and fraudulent profits by transfers of real estate, previously financed by deponent to Williams and Davis, Inc., some of which are itemized on an appended list marked "Schedule A," the said dishonest profits being so illegally converted to their own use by means of "straw" names used in making the conveyances, in each case the "straw" party representing the said four conspirators who received and divided the spoils among themselves in fractional part unknown to deponent.

Deponent verily believes that to collect some of said fraudulent profits so stolen from deponent (who was in the position of a cestuique trust) some one or more of said conspirators within the guilty knowledge of all four, on several occasions, forged the signatures of the "straw" parties (notably Sadie A. Craigen and Julia Coll) and cashed checks after

the endorsements had been so forged, pocketed the proceeds to their own personal use without giving the payees named in said checks any part thereof, which wholesale forgeries were a part of the scheme of said fraudulent conspiracy to rob deponent and were intended to hide from deponent the dishonest conversations and secret profits, aforesaid, as deponent believes.

Through these deals referred to in the attached Schedule A, Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis defrauded deponent of at least $73,111.32.

(b) In re: Sales direct to Deponent.

Having implicit trust and confidence in Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis, deponent handed to them large sums of money at various times between July, 1925, and April, 1927, for investment in their joint discretion; said moneys were sometimes deposited to their personal accounts in banks or to the account of one or more of them, appointed by the four conspirators; other times said moneys were placed in a safe or other receptacle belonging personally to said parties; all of which were trust funds belonging to deponent entrusted to the care or control of said four conspirators; and said conspirators received either personally or through their brokerage house (Gordon Williams & Co.) a commission for the handling of deponent's said funds as his trusted representatives, pretending to deponent that the properties purchased with said trust funds were bought at the lowest prices available.

Using deponent's said trust funds so previously deposited with said conspirators, they defrauded deponent of at least $4,000.00 by unconscionable conduct in the purchase of real estate, by means of

"straw' names for the fraudulent benefit of said four conspirators. Some of these defalcations are itemized on an appended list marked "Schedule B."

5. Deponent verily believes that a cause of action has arisen in his behalf against Gordan Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis, by reason of the facts aforesaid, and that they are indebted to him in the liquidated sum of Seventy seven thousand one hundred eleven dollars and thirty two cents ($77,111.32) as nearly as deponent can ascertain.

Word "December" on page 4 changed to "July" before execution. Schedules "A" and "B" and agreement hereto attached made a part of this affidavit.

Lloyd W. Fahler.

Sworn and Subscribed to before me
this 13th day of May, A. D., 1927.
Herbert R. Voorhees
N. J. Supreme Court Commissioner.

SCHEDULE A.

Properties purchased by the conspirators with the moneys of Connie J. Dorrian and Lloyd W. Fahler and deed by their direction to Williams and Davis, Inc.

1. On May 12, 1926, Harold S. Williams took a deed from Atlantic County to a 2.003 acres tract at Somers Point, in which transaction he represented the conspirators, paying $3,000. to the County for said Deed. He represented that he had paid $7,500. for the same and actually drew that amount by a check therefor, drawing said money prior to pur-

chasing same. The difference of $4,500 was a fraudulent secret profit converted by the conspirators to their own use. Of this $4,500. Connie J. Dorrian contributed $2,250; and Lloyd W. Fahler $2,250.

2. On February 11, 1926, Julia Coll took a deed from David D. Smith et ux et al, for a tract in Egg Harbor Township, N. J., in which transaction she represented the conspirators, paying $66,936.15 to the grantors for said deed. The conspirators represented that they had paid $123,574.80 for the same and actually drew that amount therefor upon delivering to William and Davis, Inc., a deed from Julia Coll for the same. The difference of $56,638.65 was fraudulent secret profit converted by the conspirators to their own use. Of this $56,638.65 Connie J. Dorrian contributed $28,319.32 and Lloyd W. Fahler $28,319.32.

3. On February 1, 1926, Julia Coll took a deed from George W. Roberts for two tracts in the City of Somers Point, N. J., in which transaction she represented the conspirators, paying $89,900. for the same. The conspirators represented that they had paid $159,984 and actually drew that amount therefor upon delivering to Williams and Davis, Inc., a deed from Julia Coll for the same. The difference of $70,084. was a fraudulent secret profit converted by the conspirators to their own use. Of this $70,084. Connie J. Dorrian contributed $35,042; and Lloyd W. Fahler $35,042.

4. On July 9, 1926, Sadie A. Craigen took a deed from John F. Ryon Executor, for a tract of land in Somers Point, N. J., in which transaction she represented the conspirators, paying $10,000 to the grantor for said deed. The conspirators represented that they had paid $25,000. for the same and actually drew that amount therefor upon delivering to Williams and Davis, Inc., a deed from Sadie A.

Craigen for the same. The difference of $15,000. was a fraudulent secret profit converted by the conspirators to their own use. Of this $15,000. Connie J. Dorrian contributed $7,500.00; and Lloyd W. Fahler $7,500.00.

SUMMARY OF SCHEDULE A.

	Dorrian defrauded of	Fahler defrauded of
Parcel No. 1	$2,250.00	$2,250.00
Parcel No. 2	28,319.32	28,319.32
Parcel No. 3	35,042.00	35,042.00
Parcel No. 4	7,500.00	7,500.00

SCHEDULE B.

Properties purchased by the conspirators with the moneys of Connie J. Dorrian and Lloyd W. Fahler and deeded direct to them.

1. On January 22, 1926, the conspirators connived with said Dorrian and Fahler to deed to Helene Wright lots No. 41, 43, 45, 47, 49, 51, 53 and 55 in Block No. 124 Margate City, N. J. representing that the price obtained was $36,000. when as a matter of fact Helene Wright, acting for the conspiracy, received from V. B. Smith and A. W. Cunningham $44,000. therefor: whereby said Dorrian and Fahler were each defrauded of $4,000.

2. On March 16, 1926, Helene Wright took a deed from George W. Hagerthey, et ux for a tract in Linwood, N. J., in which transaction she represented the conspirators, paying $25,000. for the same. The conspirators represented that they had paid $44,000. and actually drew that amount therefor upon delivering to Connie J. Dorrian a deed from Helene Wright for the same.

The difference of $19,000. was a fraudulent secret profit converted by the conspirators to their own use.

3. On or about November 5, 1925, Helene Wright took a deed for lots 23, 24, 25, 26, and 27 in Block 226, Margate City, N. J., in which transaction she represented the conspirators, paying $12,500 for the same. The conspirators represented that they had paid $17,500. and actually drew that amount therefor upon delivering to Connie J. Dorrian a deed from Helene Wright for the same. The difference of $5,000 was a fraudulent secret profit converted by the conspirators to their own use.

SUMMARY OF SCHEDULE B.

	Dorrian defrauded of	Fahler defrauded of
Parcel No. 1	$4,000.00	$4,000.00
Parcel No. 2	19,000.00	.....
Parcel No. 3	5,000.00	.....
Totals	$28,000.00	$4,000.00

H. R. Voorhees
N. J. Sup. Court Com.

THIS AGREEMENT made this fourth day of January, 1926, between Williams and Davis, Inc., a corporation of New Jersey, sometimes referred to herein as "The Owner," party of the first part, and Gordon Williams & Co., also a corporation of New Jersey, sometimes referred to herein as "The Broker," party of the second part.

WHEREAS the party of the first part has purchased or is about to purchase a tract of land at Somers Point, Atlantic County, New Jersey, which tract is named or designated as Del Rey, and which tract it intends to improve and lay out in lots to be shown upon a map or plan to be made by William H.

Collisson, Jr. civil engineer, in anticipation of a profitable sale of such property:

AND WHEREAS said party of the first part may purchase additional land to be added to and become a part of Del Rey, and may purchase other land which may or may not be in the vicinity of the tract known as Del Rey:

AND WHEREAS the said party of the first part has determined that its interests will be best served by the employment of the said party of the second part as its sole and exclusive broker or agent to offer for sale and to sell and dispose of all of the land which it may now own or may hereafter acquire;

AND WHEREAS the said party of the second part has consented to become the broker or agent of the said party of the first part upon the terms and conditions herein recited:

NOW, THEREFORE, in consideration of the premises and of the sum of One dollar each to the other in hand paid, receipt whereof is hereby acknowledged the said parties hereto do hereby agree with each other as follows:

1. The said party of the first part does hereby engage and employ the said party of the second part as its sole and exclusive broker or agent to use its best endeavors to sell and dispose of all of the land and premises now owned by said party of the first part as well as all of the land and premises which has been or may hereafter be purchased by said party of the first part. This contract or agreement of employment shall remain in full force and effect until all of said land and premises has been sold and settlements made therefor.

2. The said party of the second part shall fix the selling price or prices for which each lot in the said

tract to be known as Del Rey shall be offered and sold and may change such prices for any or all of said lot or lots from time to time in their discretion.

3. It is understood that the general policy of making sales shall be upon the plan of payment of ten per cent upon the execution of the agreement and forty per cent in not exceeding five monthly payments without interest and the balance of not exceeding fifty per cent by a purchase money first mortgage, payable within two years, which interest payable semi-annually, with the usual thirty day default clauses in case of non-payment of interest or taxes; or five per cent upon the signing of said agreement and forty five per cent in not exceeding ten monthly payments without interest, and not exceeding fifty per cent upon mortgage as aforesaid. The said party of the second part may vary the payments in its discretion and also may make adjustments with purchasers under agreements in its discretion, so as to reduce the number of lots sold to a buyer and to apply all amounts paid by such buyer upon such purchase so reduced.

4. The form of the agreements of sale to purchasers herein referred to shall be approved by the said broker, and prepared by it. Said agreements shall obligate the owner to deliver to the purchaser a good and marketable title, and to improve the said property by filling said tract to the grade fixed by the engineer, and that the driveways of the avenue or avenues in front of said lots so sold shall be built of gravel with concrete curbs and the sidewalks shall be built of gravel and cement, cement strip to be less than.....feet in width and that the usual settlement of taxes and municipal claims shall be made as of the date of settlement, unless some other date is agreed upon by said broker. The form and terms

of said agreements may be modified in any case in the discretion of said broker.

5. It is agreed that the compensation of the party of the second part which compensation shall include such expenditures as it, the broker, shall specifically agree to pay, shall be a commission of twenty five per cent upon the gross selling price of each and all lots sold in the tract known as Del Rey, as shown upon the said map, and any addition to said tract and twenty five per cent of the gross selling price of all other land of the party of the first part sold in acreage. In case of default by purchasers under agreements the amount of compensation to be collected on any single sale shall not exceed the amount collected from the purchaser. The party of the second part is authorized to advertise the said Del Rey in its discretion, but all amount expended for such advertising shall be paid for by said broker.

6. It is agreed that the said compensation due to the party of the second part shall be considered to be earned when the agreement of sale is executed, but shall be collected by said broker as and when funds are available.

7. The said party of the second part agrees to keep accurate books of account of all amounts collected, which books of account shall be audited semi-monthly by a representative of said owner and at the expense of said owner. A statement shall be rendered monthly by the said broker to said owner, and all amounts collected by said broker, less commissions retained, shall be paid to said owner semi-monthly by deposition said amounts in bank to the credit of the account of said owner.

8. The said broker agrees to use its best endeavors to make sales and to endeavor to collect as promptly as possible all sums due and to grow due upon all such agreements of sale.

9. The said owner agrees to pay the expenses of the preparation of all deeds made by it and all mortgages taken by it under the authority of this agreement, and all such mortgages so taken shall be delivered to the party of the first part when settlements are made, or as soon thereafter as said mortgages are recorded and returned from record.

10. This agreement shall be binding upon the parties hereto and their successors.

IN WITNESS WHEREOF the parties hereto have caused these presents to be signed by their respective presidents, their respective corporate seals to be hereto affixed and attested by their respective secretaries the day and year first above written.

Williams and Davis, Inc.
By R. B. Davis,
Vice-President.
Attest: Harold S. Williams,
Secretary.
Gordon Williams & Co.
By R. B. Davis,
President.
Attest: Harold S. Williams,
Secretary.

Signed, Sealed and delivered
in the presence of
Louis G. Hart
H. R. Vorhees
N. J. Sup. Court Comr.

Filed May 13th, 1927. Herbert R. Vorhees, N. J. Sup. Court Commissioner.

Filed May 14, 1927, at 9 A. M. William A. Blair, Clerk.

STATE OF NEW JERSEY
COUNTY OF ATLANTIC

I, WILLIAM A. BLAIR, Clerk of the County of Atlantic, and also Clerk of the Circuit, &c. Court holden therein, said court being a court of record, having a common seal, do hereby Certify, That the foregoing is a true copy of a certain affidavit—Lloyd W. Fahler, pltff. vs. Gordon Williams, Harold S. Williams, Trevor Williams and Royden B. Davis, Defts, as the same is filed in my said office.

(SEAL) In Testimony Whereof, I have hereunto set my hand and affixed my Official Seal at May's Landing, N. J., this 18th day of May, A. D., 1927.

WM. A. BLAIR,
Clerk.

by
Deputy Clerk.

EXHIBIT "C30."

MINUTE BOOK OF WILLIAMS AND DAVIS, INC.

(Page 1 of Minute Book.)

Ventnor City, N. J.
July 18, 1925.

Pursuant to mutual agreement all of the parties interested in the organization of the WILLIAMS AND DAVIS, INC. met at 5303 Atlantic Avenue, Ventnor City, N. J. at 10 o'clock in the forenoon.

Mr. Gordon Williams was chosen chairman and Mr. Harold S. Williams secretary of the meeting. It was stated that the purpose of the meeting was to organize the WILLIAMS and DAVIS, INC.

The following waiver of notice of the time, place and purpose of the first meeting of the stockholders, signed by all the parties mentioned in the Certificate of Incorporation was presented and read to the meeting and ordered spread upon the minutes.

> We, the subscribers, being all of the parties named in the Certificate of Incorporation of Williams and Davis, Inc. hereby waive notice of the time, place and purpose of the first meeting of said Company and do fix the eighteenth day of July, 1925, at ten o'clock in the forenoon as the time and 5303 Atlantic Avenue, Ventnor City, N. J. as the place of the first meeting of said company.
>
> Dated:
> July 18, 1925.
>
> Harold S. Williams

(Page 2 of Minute Book.)

The Certificate of Incorporation was then read and upon motion ordered spread upon the minutes.

CERTIFICATE OF INCORPORATION
of
WILLIAMS AND DAVIS, INC.

THIS is to certify that we, Gordon Williams, Royden B. Davis and Harold S. Williams, do hereby associate ourselves, into a corporation under and by virtue of the provisions of an Act of the Legislature of the State of New Jersey, entitled "An Act concerning corporations (Revision of 1896)" approved April 21, 1896, and the Acts amendatory thereof and supplemental thereto, for the purposes hereinafter mentioned, and to that end we do by this our Certificate set forth:—

FIRST: The name of such corporation is

WILLIAMS AND DAVIS, INC.

SECOND: The location of its principal office in the State of New Jersey is No. 5303 Atlantic Avenue, Ventnor City. The name of the agent therein and in charge thereof and upon whom process against the

(Page 3 of Minute Book.)

corporation may be served is Harold S. Williams. Said office is to be the registered office of the Corporation.

THIRD: The objects for which and for each of which the corporation is formed are, to the same extent as natural persons might or could do to purchase, lease or otherwise acquire, to hold, own, develop, sell, lease, convey, mortgage, or otherwise dispose of, without limit as to amount within or without the State of New Jersey, real estate and personal property and any interests or rights therein; to erect, construct, purchase or otherwise acquire and to conduct and operate hotels, boarding houses and apartment houses and other premises for such uses, and to manage, sell, lease or otherwise dispose of the same; to manufacture, purchase or otherwise acquire, hold, own, mortgage, sell, assign, and transfer, invest trade in and deal with goods, wares, merchandise and personal property of every class and description and to acquire the good will, rights, property and assets of all kinds from any person or corporation; to buy, sell and trade in shares of stock, bonds and other evidences of indebtedness created by other corporations; to act as a broker, agent or salesman or individuals and corporations for the purchase, sale and exchange of property,

(Page 4 of Minute Book.)

real and personal, and for the placing of fire insurance and to contract for, collect and receive for such services, commissions and other compensations; and to enter into, make, perform and carry out contracts of any and every kind; to borrow money and to execute bonds, mortgages, notes and other obligations in the course of its business and to have and enjoy such other rights, powers and privileges as may be conferred upon it by the laws of the State of New Jersey to establish offices and to conduct its business at any places in the State of New Jersey and other States in the United States of America and in foreign countries.

FOURTH: This corporation is authorized to issue not exceeding fifteen hundred shares of capital stock without any nominal or par value.

THIS corporation is also authorized to issue preferred capital stock not exceeding the sum of One hundred Thousand Dollars. The holders of such preferred capital stock shall not be entitled to any in-dividends thereon. The preferred stock shall be subject to redemption at the price of One Hundred Dollars per share. In case of dissolution, this corporation shall pay to the holders of the preferred stock the full par value of all shares of such preferred stock

(Page 5 of Minute Book.)

outstanding before any distribution is made among the holders of the shares of common stock. The total amount of shares of preferred capital stock authorized to be issued is one thousand shares each having a par value of one hundred dollars.

FIFTH: The names and post office addresses of the incorporators and the number of shares of stock subscribed for by each with which the company will commence business are as follows:—

Name	ADDRESS	NO. OF SHARES
Gordon Williams,	Ventnor City, N. J.	50 shares preferred stock
Gordon Williams,	Ventnor City, N. J.	10 shares no par common stock
Royden B. Davis,	Ventnor City, N. J.	50 shares preferred stock
Royden B. Davis,	Ventnor City, N. J.	10 shares no par common stock
Harold S. Williams,	Ventnor City, N. J.	50 shares preferred stock
Harold S. Williams,	Ventnor City, N. J.	10 shares no par common stock

SIXTH: The duration of the Company shall be unlimited.

The Directors of this Company shall have power to determine and from time to time to fix the amounts to be reserved from the profits as a working capital before the distribution as a dividend of the remaining

(Page 6 of Minute Book.)

accumulated profits among the stockholders.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this seventeenth day of July, nineteen hundred and twenty-five.

GORDON WILLIAMS (SEAL)
HAROLD S. WILLIAMS (SEAL)
ROYDEN B. DAVIS (SEAL)

Signed, sealed and delivered :
in the presence of :
PHILIP S. GODFREY :

STATE OF NEW JERSEY:
ss
ATLANTIC COUNTY :

BE IT REMEMBERED THAT on this seventeenth day of July in the year of our Lord one thousand nine hundred and twenty-five, before me, the subscriber, a notary public of New Jersey, personally appeared Gordon Williams, Royden B. Davis, and Harold S. Williams, who, I am satisfied are the persons mentioned in and who executed the within Certificate of Incorporation and I having first made known to them the contents thereof they acknowledged that they signed, sealed and delivered the same as their voluntary act and deed. All of which is hereby certified.

PHILIP S. GODFREY,
Notary Public of N. J.

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Endorsed:

"Received July 17, 1925 at 1 P. M., and RECORDED in the Clerk's Office of Atlantic County at May's Landing, N. J.

WM. A. BLAIR,
Clerk."

"FILED AND RECORDED
July 18, 1925,
Thomas F. Martin,
Secretary of State."

. . . . . .

STATE OF NEW JERSEY
DEPARTMENT OF STATE

I, THOMAS F. MARTIN, Secretary of State of the State of New Jersey, do hereby certify that the foregoing is a true copy of the Certificate of Incorporation of WILLIAMS AND DAVIS, INC., and the endorsements thereon, as the same is taken from and compared with the original filed in my office on the Eighteenth day of July, A. D. 1925 and now remaining on file and of record therein.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official

(SEAL)

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Seal at Trenton, this eighteenth day of July, A. D. 1925.

THOMAS F. MARTIN
Secretary of State."

The following by-laws were then presented and upon motion were unanimously adopted and ordered spread upon the minutes.

BY-LAWS OF WILLIAMS AND DAVIS, INC.

ARTICLE I. — Stockholders.

Section 1. THE Annual Meeting of the stockholders of the WILLIAMS AND DAVIS. INC. shall be held at the principal office of the Company in New Jersey on the second Saturday of January of each year beginning January 8th, 1927 at 10 O'clock in the forenoon for the purpose of the election of directors and the transaction of such other business as may lawfully come before the meeting and Notice of such annual meeting shall be given to each Stockholder of record appearing upon the books of the Company by sending through the post office to their addresses appearing upon the books at least ten days prior to such meeting, a written or printed Notice signed by the

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Secretary stating the time and place of the holding of such meeting.

Section 2. Special Meetings of the stockholders other than those provided for or regulated by the Statutes may be called by the Board of Directors or the President and Notice thereof shall be given in the same manner as is provided with respect to the annual meetings, and shall state the objects for which such meetings are called.

ARTICLE II — BOARD OF DIRECTORS.

Section 1. A Board of Directors consisting of three stockholders shall be elected immediately after the adoption of these By-laws, and annually thereafter at the annual meeting. The Board of Directors may from time to time fill any one or more vacancies in said Board caused by an increase in the number of Directors or occurring from any other cause, the persons so elected to hold office until the next annual meeting of the stockholders.

Section 2. A stated meeting of the Board of Directors shall be held at the principal office of the Company in New Jersey or at such other office of the Company in New Jersey or in any other state as the Board of Directors may from time to time decide, on the first Friday of each month at ten o'clock in the forenoon,

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or at such other place, time and hour as the Board may from time to time provide. Special meetings of the Board of Directors may be called at any time by the President or by a majority of the Board. At meetings of the Board of Directors a majority in number of the Board shall be a quorum for the transaction of business.

Section 3. All of the corporate powers shall be and are hereby vested in and shall be exercised by the Board of Directors. Express power and authority are hereby conferred upon the Board of Directors from time to time to borrow on the credit and responsibility of the company such sums of money as they may deem necessary or proper for the purposes and interests of the Company in such form and for such time as they may deem proper and to pledge or mortgage any or all stocks, bonds, securities or other estate, real or personal, belonging to the company as security for the payment of loans and advances.

ARTICLE III — OFFICERS.

Section 1. The officers of the Company shall consist of a President, Vice President, Secretary and Treasurer. An Assistant Secretary and Assistant Treasurer may also be elected from time to time. All of the officers shall be elected by the Board of Directors by the majority of the whole numbers of Directors present. The first election shall

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be held
immediately after the organization of the Board of Directors, and the officers then elected shall continue in office until their successors are elected and duly qualified. Subsequent elections shall be held annually on the day of the regular meeting of the Board of Directors next ensuing the annual election of the Board of Directors by the stockholders.

Section 2. In case of the death, resignation or removal of any officers, the Board of Directors shall elect their successors who shall hold office by like tenure for the unexpired term.

Section 3. It shall be the duty of the President to preside at all the meetings of the stockholders and of the directors.

Section 4. In the event of the death, absence or other inability to act of the President, his duties shall devolve upon and be exercised by the Vice-President.

Section 5. The Secretary shall keep a record in due form of the proceedings of the meetings of the stockholders and the Directors. And he shall perform such other duties as the Board of Directors shall require.

The Assistant Secretary may perform such of the duties of the Secretary as the secretary or the Board of Directors may designate.

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Section 6. The Treasurer shall sign all certificates of stock of the Company. He shall also keep a correct record of all moneys received and paid out and all vouchers and receipts therefor. He shall perform such other duties as are incident by law to the office of treasurer and as may be required by the Board of Directors.

ARTICLE IV. — CERTIFICATES OF STOCK.

Section 1. Certificates of the capital stock of the Company shall be numbered and registered as they are issued. They shall exhibit the holder's name and the number of shares and shall be signed by the President or Vice-President and countersigned by the Treasurer or an Assistant Treasurer and shall bear the corporate seal. Transfers of stock can only be made on the books of the company in the presence of the Treasurer or other authorized person, and may be made by attorney, and the possession of a certificate of stock as between the holder and this company shall not be regarded as vesting any ownership in the same in any person other than the registered owner, until the transfer thereof is duly made on the books of the Company.

ARTICLE V. — AMENDMENTS.

Section 1. These by-laws may be altered or amended by the stockholders or Board of Directors at any regular meeting thereof or any special meeting called for

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that purpose.

. . . . . .

The motion that this meeting now proceed to the nomination and election of directors to serve until the next annual meeting of the stockholders and the election and qualification of their successors, was carried.

The following gentlemen were placed in nomination for directors, viz:

GORDON WILLIAMS
ROYDEN B. DAVIS
HAROLD S. WILLIAMS.

No other names were placed in nomination.

The said nominees, Gordon Williams, Royden B. Davis, and Harold S. Williams were then unanimously elected as directors for the ensuing corporate year and until the election and qualification of their successors.

The following resolution was then offered and upon motion was unanimously carried.

RESOLVED that the Directors of this Company be authorized to issue at such price not less than par such number of the par value shares of the preferred capital

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stock of this company from time to time as they may determine to be for the best interests of the company; and that the shares of the no par value common stock shall be sold at the price of one dollars ($1.00) for each share until the price shall be changed by the further action of the stockholders, but no actual sales of such no par value common stock nor of such preferred stock shall be made unless such sales are approved by the Board of Directors.

There being no further business, on motion the meeting then adjourned.

Harold S. Williams
SECRETARY.

(Corporate seal
of Williams and
Davis, Inc.)

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Ventnor City, N. J.
July 18, 1925.

The first meeting of the Board of Directors of Williams and Davis, Inc., was held this day at the office of the Company, No. 5303 Atlantic Avenue, Ventnor City, at eleven o'clock in the forenoon.

Present were: Gordon Williams, Harold S. Williams and Royden B. Davis.

Mr. Gordon Williams called the meeting to order, and upon motion, was chosen temporary chairman of the meeting, and Harold S. Williams was chosen temporary secretary.

The motion to proceed to the election of permanent officers was unanimously carried. The following officers were then elected by the unanimous vote of all the Directors, to serve during the ensuing corporate year.

President	Gordon Williams
Vice-President	Royden B. Davis
Treasurer	Harold S. Williams
Secretary	Harold S. Williams.

The following oath of office was then taken by the Secretary:

State of New Jersey :
SS
Atlantic County :

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Harold S. Williams, being by me duly sworn according to law, upon his oath, deposes and says that he will faithfully discharge the duties of Secretary of Williams and Davis, Inc., a corporation of New Jersey, to the best of his skill and ability.

Harold S. Williams

Sworn and subscribed to : before me this Eighteenth : day of July, 1926. :

Carlton Godfrey
M. C. C of N. J.

On motion, the Secretary was instructed to procure the minute books, stock books and necessary books and stationery for the use of the Company.

The following Resolution was offered and unanimously adopted:

RESOLVED, That a corporate seal for this Company be adopted, and that such seal be in such form and contain such words as are shown by the impression of such seal stamped upon this page.

The motion that Harold S. Williams be appointed as the statutory agent of this Company was unanimously carried.

On motion, the meeting then adjourned.

(Corporate Seal of Williams and Davis, Inc.)

Harold S. Williams
Secretary

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Ventnor City, N. J.
January 2nd, 1926.

A special meeting of the Board of Directors of Williams and Davis, Inc., was held this day at the office of the Company, No. 5303 Atlantic Avenue, Ventnor City, New Jersey, at eleven o'clock in the forenoon.

Present were: Gordon Williams, Harold S. Williams and Royden B. Davis, being all of the members of the Board of Directors.

The Board of Directors then discussed the prospects for substantial profits which might result from the purchase, development and sale of larger tracts of land, and it was the unanimous opinion of the directors that this Company should have available larger sums for that purpose, and that such sums could best be obtained by increasing the authorized issue of preferred capital stock.

The following resolution was then offered and unanimously adopted;

THE BOARD OF DIRECTORS of the WILLIAMS AND DAVIS, INC., a corporation of New Jersey, on this second day of January, A. D. 1926, do hereby resolve and declare that it is advisable to increase the authorized capital stock of

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the corporation from fifteen hundred shares without any nominal or par value and $100,000 of preferred capital stock having a par value of $100 per share, to fifteen hundred shares without any nominal or par value and $400,000 of preferred Capital Stock having a par value of $100 per share; and for that purpose, to amend Article "Fourth" of the Certificate of Incorporation to read as follows:

"FOURTH: This corporation is authorized to issue not exceeding fifteen hundred shares of capital stock without any nominal or par value.

"THIS corporation is also authorized to issue preferred capital stock not exceeding the sum of Four hundred thousand dollars ($400,000.00). The holders of such preferred capital stock shall not be entitled to any dividends thereon. The preferred stock shall be subject to redemption at the price of one hundred dollars per share. In case of dissolution, this corporation shall pay to the holders of the preferred stock the full par value of all shares of such preferred stock outstanding before any distribution is made among the holders of the shares of common stock. The total amount of shares of preferred capital stock authorized to be issued is four thousand shares each having a par value of one hundred dollars."

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AND do hereby call a meeting of the stockholders, to be held at the Company's office, in the City of Ventnor City, on the second day of January, 1926, at twelve o'clock noon, to take action upon the above resolution."

On motion the meeting then adjourned until January 2, 1926, at 12.30 o'clock in the afternoon.

Harold S. Williams
Secretary.
(Corporate Seal
of Williams and
Davis, Inc.)

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Ventnor City, N. J.
January 2nd, 1926.

A special meeting of the Stockholders of the Williams and Davis, Inc. duly called by the president, met at No. 5303 Atlantic Avenue, Ventnor City, N. J. at 12:00 o'clock noon.

Present were: Gordon Williams, Harold S. Williams and Royden B. Davis, being all of the stockholders of the company.

Gordon Williams acted as chairman of the meeting and Harold S. Williams as Secretary.

The president stated that the object of the meeting was to consider the subject of giving the assent of the stockholders to the adoption of an amendment to the charter of the company by increasing the authorized preferred capital stock from $100,000 to $400,000.

The following resolution was then offered and unanimously adopted:

RESOLVED that the stockholders in meeting assent to the increase of the preferred capital stock of the company from $100,000 to $400.000.

On motion the meeting then adjourned.

Harold S. Williams
Secretary

(Corporate Seal
of Williams and
Davis, Inc.)

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Ventnor City, N. J.
January 2, 1926.

An adjourned meeting of the Board of Directors of WILLIAMS AND DAVIS, INC. was held this day at the office of the company, No. 5303 Atlantic Avenue, Ventnor City, N. J. at 12.30 o'clock in the afternoon, the meeting having been adjourned from this day at eleven o'clock in the forenoon.

PRESENT were: Gordon Williams, Harold S. Williams and Royden B. Davis, being all of the Board of Directors.

Gordon Williams acted as Chairman and Harold S. Williams as Secretary.

The President reported that at a meeting held this day the stockholders of this company had given their assent as provided by statute, to the amendment of the charter of the company, so as to increase the authorized preferred capital stock from $100,000 to $400.000.

The secretary presented the written assent of all the stockholders in writing to said amendment or change and on motion the written assent of the stockholders was ordered to be included in the minutes

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of

this meeting and said assent reads as follows:

"STOCKHOLDERS' ASSENT TO CHANGE.

We, the subscribers, being at least two-thirds in interest of each class of the stockholders of WILLIAMS AND DAVIS, INC., having voting powers, having at a meeting regularly called for the purpose, voted in favor of the increase of the capital stock of this company from fifteen hundred shares without any nominal or par value and $100,000 of Preferred Capital Stock having a par value of $100 per share, to fifteen hundred shares without any nominal or par value and $400,000, of Preferred Capital Stock having a par value of $100. per share, do now, pursuant to the statute, hereby give our written assent to said change.

WITNESS our hands this second day of January, A. D. 1926.

Stockholders	No. of shares.
Gordon Williams,	50 shares preferred
	10 shares common
Harold S. Williams	50 shares preferred
	10 shares common
Royden B. Davis	50 shares preferred
	10 shares common."

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On motion that the officers of this company execute the usual certificate of said amendment of the charter and that the proceedings to amend the charter be filed at the office of the Secretary of State as promptly as possible.

The certificate of change or amendment and the affidavit of the secretary thereto reads as follows:

"CERTIFICATE OF CHANGE

WILLIAMS AND DAVIS, INC., a corporation of New Jersey, doth hereby certify that the increase of the capital stock of this Company from fifteen hundred shares without any nominal or par value and $100,000 of Preferred Capital Stock having a par value of $100 per share, to fifteen hundred shares without any nominal or par value and $400,000 of Preferred Capital Stock having a par value of $100 per share, having been declared by resolution of the Board of Directors of said corporation (above recited) to be advisable, and having been duly and regularly assented to by the vote of two-thirds in interest of each class of stockholders having voting powers, at a meeting duly called by the Board of Directors for that purpose; and the written assent of said stockholders is hereto appended.

IN WITNESS WHEREOF, said corporation has caused

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this Certificate to be signed by its President and Secretary, and its corporate seal to be hereto affixed, the second day of January, A. D. 1926

(Cor Seal) Gordon Williams, President.

Harold S. Williams, Secretary."

STATE OF NEW JERSEY :

SS.

COUNTY OF ATLANTIC :

BE IT REMEMBERED, that on this second day of January, A. D. 1926, before me, the subscriber, a Master in Chancery of New Jersey, personally appeared Harold S. Williams, Secretary of WILLIAMS and DAVIS, INC., the corporation mentioned in and which executed the foregoing certificate, who, being by me duly sworn, on his oath says that he is such secretary, and that the seal affixed to said certificate is the corporate seal of said corporation, the same being well known to him; that Gordon Williams is president of said corporation, and signed said certificate and affixed said seal thereto, and delivered said certificate by authority of the Board of Directors and with the assent of at least two-thirds in interest of each class of the stockholders of said corporation having voting powers as and for his voluntary act and deed, and the voluntary act and deed of said corporation, in presence of deponent, who thereupon subscribed his name thereto as witness.

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And he further says that the assent hereto appended is signed by at least two-thirds in interest of each class of stockholders of said corporation having voting powers, either in person or by their several duly constituted attorneys in fact, thereunto duly authorized in writing.

Harold S. Williams."

Sworn and Subscribed :
to before me this second :
day of January, A. D. 1926. :
Carlton Godfrey,
M. C. C. of N. J.

The following Resolution was offered by Harold S. Williams and unanimously adopted:

"RESOLVED, that this company open an account with the Union National Bank of Atlantic City, New Jersey, and that said bank be authorized and directed to pay checks drawn upon or against said bank when such checks are signed by any two of the following three officers, viz: Gordon Williams, President, Royden B. Davis, Vice-President, Harold S. Williams, Treasurer, and to charge such checks so signed against the said account; and that the authority of said bank to pay said checks and to charge the same

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against said account shall continue until notice has been received by said bank from this Company, of the repeal or modification of this resolution."

The motion that this Company lease from Philip J. Kelly the property at Bay Avenue and the Shore Fast Line Station at Somers Point, New Jersey, known as the "Winner Property," for one year, at the rental of Eight Hundred Dollars ($800) per year, payable monthly, was unanimously carried, and furniture be purchased therefore.

The following Preamble and Resolution was then offered and unanimously adopted:

"WHEREAS, this Company will engage in the business of purchasing, developing and selling tracts of land and other real estate and will require the services of a firm or corporation of experience in handling similar enterprises:

THEREFORE, BE IT RESOLVED, that this Company does hereby employ Gordon Williams & Co. by written contract as its exclusive selling agents or brokers; such employment to continue until all of the land now or hereafter purchased or held by it shall be sold;

AND BE IT FURTHER RESOLVED, that the compensation of Gordon Williams and Co. as its selling agents or brokers, shall be a commission of twenty-five per cent (25%) of the

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gross sales of all property now or hereafter owned or held by this Company, said commission to be paid from the proceeds of sales as the funds are available.

The contract in writing with Gordon Williams & Co. as brokers was then read and the motion that the contract be approved by this company and that the officers be directed to execute said contract, was unanimously carried.

The question of acquiring the premises located at Somers Point, Atlantic County, New Jersey, known as "Del Ray" was considered, and the value of the property and the prospects for its profitable development was then thoroughly discussed.

The following Resolution was then offered and unanimously adopted:

"RESOLVED, that this Company purchase and take title to the property located at Somers Point, Atlantic County, and known as "Del Rey" composed of about 133 acres, for the price of One hundred fifty-nine thousand, nine hundred eighty-four dollars ($159,984.00) to be paid for by mortgages aggregating Sixty two thousand four hundred ninety dollars ($62,490.00), and the balance of the purchase price raised by the issue of preferred capital stock of the company to be issued at par $100 per share.

AND BE IT FURTHER RESOLVED, that the officers of

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this Company be authorized to arrange the details of the purchase and to make full settlement in their discretion.

The question of the development of this property when purchased was then discussed and the following resolution was offered and unanimously adopted:

"RESOLVED, that the President of this Company be and he is hereby authorized and directed to make and carry out plans in his discretion, for the development and sale of the said property known as "Del Ray", and all other property purchased and to be purchased by this company, the cost of said work of development and sale to be paid for by this company.

On motion the meeting then adjourned.

Harold S. Williams
Secretary.

(Corporate Seal
of Williams and
Davis, Inc.)

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Ventnor City, N. J.
February 15, 1926.

A special meeting of the Board of Directors of WILLIAMS AND DAVIS, INC., was held on this date at the office of the Company, 5303 Atlantic Avenue, Ventnor City, N. J. at 11 o'clock in the forenoon.

Present were; Gordon Williams, Harold S. Williams and Royden B. Davis, being all of the directors of the Company.

Gordon Williams acted as chairman and Harold S. Williams as secretary of the meeting.

The secretary called attention to the fact that a tract of land of about 103 acres adjoining Del Rey on the northwesterly side could be purchased for the price of One hundred twenty three thousand five hundred seventy-four dollars and eighty cents ($123,574.80), and that said property was subject to a mortgage of Forty thousand dollars ($40,000). The balance of the purchase price would need to be provided for.

The value of this property and the prospects of profits arising from its probable development and sale was then fully discussed.

The following resolution was then offered and

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unanimously adopted:

RESOLVED that the said tract of land be purchased by this Company if it can be bought at the price quoted, viz. $123,574.80.

AND BE IT FURTHER RESOLVED that the officers be authorized to sell sufficient of the unissued preferred stock of this company to make settlement for the purchase and development of said property.

AND BE IT FURTHER RESOLVED that upon the purchase of said property that the same be developed and sold in such manner and at such prices and costs as in their discretion shall be most advantageous.

On motion the meeting then adjourned.

Harold S. Williams
Secretary.

(Corporate seal
of Williams and
Davis, Inc.)

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Ventnor City, N. J.
March 1, 1926.

A special meeting of the Board of Directors of WILLIAMS AND DAVIS, INC. was held on this date at the office of the company, 5303 Atlantic Avenue, Ventnor City, N. J. at 11 o'clock in the forenoon.

PRESENT were: Gordon Williams, Harold S. Williams and Royden B. Davis, being all of the directors of the Company.

Gordon Williams acted as Chairman and Harold S. Williams as secretary of the meeting.

The secretary called attention to the fact that a tract of land of about 42 acres at Del Ray could be purchased for the price of Eighty-five thousand dollars ($85,000), and that said property was subject to mortgages of Thirty thousand nine hundred dollars ($30,900). The balance of the purchase price would need to be provided for.

The value of this property and the prospects of profits arising from its probable development and sale was then fully discussed.

The following resolution was then offered and

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unanimously adopted.

RESOLVED that the said tract of land be purchased by this company if it can be bought at the price quoted, $85,000.

AND BE IT FURTHER RESOLVED that the officers be authorized to sell sufficient of the unissued preferred stock of this company to make settlement for the purchase and development of said property, should there be insufficient funds on deposit at that date.

AND BE IT FURTHER RESOLVED that upon the purchase of said property that the same be developed and sold in such manner and at such prices and costs as in their discretion shall be most advantageous.

On motion the meeting then adjourned.

Harold S. Williams
Secretary

(Corporate seal
of Williams and
Davis, Inc.)

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Ventnor City, N. J.
April 3, 1926.

A special meeting of the board of directors of WILLIAMS AND DAVIS, INC. was held on this date at the office of the Company, 5303 Atlantic Avenue, Ventnor City, N. J. at 11 o'clock in the forenoon.

PRESENT were: Gordon Williams, Harold S. Williams, and Royden B. Davis, being all of the directors of the Company.

Gordon Williams acted as Chairman and Harold S. Williams as secretary of the meeting.

The secretary called attention to the fact that a tract of land of about two acres of Del Rey could be purchased for the price of Seventy-five hundred dollars ($7500) and known as the Krum property, the consideration being cash.

The value of this property and the prospects of profits arising from its probable development and sale was then fully discussed.

The following resolution was then offered and unanimously adopted.

RESOLVED that the said tract of land be purchased by this Company if it can be bought at the price quoted,

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$7500.

AND BE IT FURTHER RESOLVED that upon the purchase of said property that the same be developed and sold in such manner and at such prices and costs as in their discretion shall be most advantageous.

On motion the meeting then adjourned.

Harold S. Williams
Secretary.

(Corporate seal
of Williams and
Davis, Inc.)

We have read and do approve the minutes of the following meetings:

1. Stockholders meeting of July 18, 1925.
2. Directors meeting of July 18, 1925.
3. Directors meeting of January 2, 1926.
4. Stockholders Meeting of January 2, 1926.
5. Adjourned directors meeting of January 2, 1926.
6. Directors meeting of February 15, 1926.
7. Directors meeting of March 1, 1926.
8. Directors meeting of April 3, 1926.

Gordon Williams
Royden B. Davis
Harold S. Williams
Connie J. Dorrian
Lloyd W. Fahler

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A special meeting of the board of directors of the Williams & Davis, Inc., was held in the Company's office at 5303 Atlantic Ave., at 10 A. M., July 6, 1926. There were present, Gordon Williams, president; Royden B. Davis, vice president; and Harold S. Williams, secretary and treasurer. Mr. Gordon Williams acted as chairman, and Mr. Harold S. Williams acted as secretary.

The following motion was offered by Harold S. Williams: That the sum of Fifteen Thousand Dollars, ($15,000.00), be withdrawn from the account at the Union National Bank of Atlantic City, and deposited in a new checking account in the First National Bank of Somers Point. The motion was seconded and passed.

There being no further business to come before the meeting, upon motion same was adjourned.

Harold S. Williams
Secretary.
(Corporate seal
of Williams and
Davis, Inc.)

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A special meeting of the Board of Directors of Williams and Davis, Inc. was held at the Company's office at 5303 Atlantic Ave., Ventnor City, New Jersey, at 11 A. M., July 16, 1926. There were present:

Mr. Gordon Williams, President
Mr. Harold S. Williams, Secretary & Treas.
Mr. Royden B. Davis, Vice President.

Mr. Gordon Williams was in the chair and Mr. Harold S. Williams acted as Secretary.

Upon motion of Mr. Harold S. Williams, seconded by Mr. Gordon Williams, the action of the officers in employing Mr. Gerald R. Williams as superintendent at the tract, at a compensation of forty dollars per week salary, three dollars per week auto expense, and ten dollars per month garage rent is approved, dating from February 1, 1926. The motion was carried.

There being no further business to come before the meeting, same was adjourned.

Harold S. Williams
Secretary

(Corporate seal
of Williams and
Davis, Inc.)

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A special meeting of the board of directors of the Williams & Davis, Inc., was held in the Company's office at 5303 Atlantic Ave., at 10 A. M., July 30, 1926. There were present, Gordon Williams, president; Royden B. Davis, vice president; and Harold S. Williams, secretary and treasurer. Mr. Gordon Williams acted as chairman, and Mr. Harold S. Williams acted as secretary.

The following motion was offered by Harold S. Williams: That the sum of Fifteen Thousand Dollars, ($15,000.00), be withdrawn from the account at the Union National Bank of Atlantic City, and deposited in a new checking account in the First National Bank of Ocean City. The motion was seconded and passed.

There being no further business to come before the meeting, upon motion same was adjourned.

Harold S. Williams
Secretary.
(Corporate Seal
of Williams and
Davis, Inc.)

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Ventnor City, N. J.
July 31, 1926.

At a special meeting of the Board of Directors of the Williams and Davis, Inc., held in the Company's office on Friday, July 31, 1926, at 10:30 A. M., there were present, Gordon Williams, President; Royden B. Davis, Vice President; and Harold S. Williams, Secretary and Treasurer.

The meeting was called for the purpose of discussing the sale of lots 4 and 5, Block 79, Del Rey. It was pointed out that these lots were sold to Peter Gallagher under an agreement of sale dated July 12, 1926, which said agreement also contained lots 12, 13, 14, 15, and 16, Block 24, Del Rey.

In checking up the agreements it was ascertained that these lots had already been sold. After discussing the matter the following resolution was adopted.

That the contract with Peter Gallagher be carried and the difference in the amount specified in the contract with said Peter Gallagher and the original purchaser be paid to the original purchaser as payments are made by said Peter Gallagher.

There being no further business, upon motion, duly seconded, the meeting was adjourned.

Harold S. Williams
Secretary

(Corporate seal
of Williams and
Davis, Inc.)

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A special meeting of the Board of Directors was called for twelve o'clock P. M., Monday, August 16, 1926, at the office of the Company.

There were present: Gordon Williams, President, Royden B. Davis, Vice-President, and Harold S. Williams, Secretary and Treasurer. Mr. Gordon Williams occupied the chair. Mr. Harold S. Williams served in the capacity of Secretary for the meeting.

The following motion by Mr. Harold S. Williams was regularly seconded and passed:

> "That the officers of the Company are directed to enter into an agreement with the Delaware & Atlantic Tel. & Tel. Co. and the Atlantic City Electric Co. to erect and maintain the necessary poles and wires to furnish Electric service on property situate in the City of Somers Point, N. J., known as Del Rey."

There being no further business to come before the meeting same was adjourned.

Harold S. Williams
Secretary.
(Corporate Seal
of Williams and
Davis, Inc.)

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A special meeting of the Board of Directors was called for eight-thirty P. M. on Saturday, September 4th, 1926, at the office of the company.

There were present;

Gordon Williams, President.
Royden B. Davis, Vice-President.
Harold S. Williams, Secretary & Treasurer

Mr. Gordon Williams occupied the chair.

Mr. Harold S. Williams served in the capacity of Secretary for the meeting.

The following motion by Mr. Harold S. Williams was regularly seconded and passed.

That a dividend of $400.00 per share on the common stock of the company be declared, payable on September 7th, 1926.

There being no further business to come before the meeting, same was adjourned.

_____
Secretary.

Approved by
Connie J. Dorrian
Lloyd W. Fahler
Royden B. Davis

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Ventnor City, N. J.
May 19, 1926.

A special meeting of the Board of Directors of Williams and Davis, Inc., was held on this date at the office of the Company, 5303 Atlantic Ave., Ventnor City, New Jersey, at 11:00 A. M.

Present were: Gordon Williams, Harold S. Williams, and Royden B. Davis, being all the directors of the Company, Gordon Williams acted as Chairman and Harold S. Williams as Secretary of the meeting.

The Secretary called attention to the fact that a tract of land of about ten acres adjoining Del Rey could be purchased for the price of Twenty-Five Thousand Dollars ($25,000.00), and that said property was subject to an existing first mortgage of Five Thousand Dollars ($5,000.). The balance of the purchase price would need to be provided for.

The value of this property, and the prospects of profits arising from its probable development and sale were then fully discussed.

The following resolution was offered by the Secretary and unanimously adopted:

RESOLVED that the said tract of land be purchased by this Company if it can be bought at the quoted price of Twenty-Five Thousand Dollars ($25,000.).

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AND BE IT FURTHER RESOLVED that the officers of the Company be authorized to make a first deposit of Five Thousand Dollars ($5,000.00) to bind the agreement, and that the Company assume and pay the balance of the obligation remaining unpaid at the time of settlement.

AND BE IT FURTHER RESOLVED that upon the purchase of said property that the same be developed and sold in such manner and at such prices and costs as, in their discretion, shall be most advantageous.

On a motion the meeting was adjourned.

Harold S. Williams
Secretary.
(Corporate Seal
of Williams and
Davis, Inc.)

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A special meeting of the board of directors of the Williams and Davis, Inc., was held in the Company's office at 5303 Atlantic Ave., at 10 A. M., October 25, 1926. There were present, Gordon Williams, president; Royden B. Davis, vice president; and Harold S. Williams, Secretary and treasurer. Mr. Gordon Williams acted as chairman, and Mr. Harold S. Williams acted as Secretary.

The following motion was offered by Harold S. Williams; That the sum of Fifteen Thousand Dollars ($15,000.00), be withdrawn from the account at the First National Bank of Somers Point, New Jersey, and for business reasons deposited in a new checking account in the Ventnor Trust Company of Ventnor City, New Jersey. The sum of Five Thousand Dollars ($5,000.00) to be deposited today, and the balance of Ten Thousand Dollars ($10,000.) to be deposited within thirty days. The motion was seconded and passed. There being no further business, upon motion the meeting was adjourned.

Harold S. Williams
Secty.
(Corporate Seal
of Williams and
Davis, Inc.)

(Page 46 of Minute Book.)

A special meeting of the board of directors of the Williams and Davis, Inc., was held in the Company's office at 5303 Atlantic Ave., at 10 A. M., October 25, 1926. There were present, Gordon Williams, president; Royden B. Davis, vice president; and Harold S. Williams, Secretary and treasurer. Mr. Gordon Williams acted as chairman, and Mr. Harold S. Williams acted as Secretary.

The following motion was offered by Harold S. Williams; That the sum of Two Thousand Dollars ($2,000.) be withdrawn from the account at the First National Bank of Ocean City, New Jersey, and deposited in a new checking account in the Ventnor Trust Company of Ventnor City, New Jersey. The motion was seconded and passed.

There being no further business, upon motion the meeting was adjourned.

Harold S. Williams
Secretary.

(Corporate Seal
of Williams and
Davis, Inc.)

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Ventnor City, N. J.
November 10, 1926.

A special meeting of the board of directors of the Williams and Davis, Inc., was held in the company's office at 5303 Atlantic Ave., at 10 A. M., November 10, 1926. There were present, Gordon Williams, president; Royden B. Davis, Vice President; and Harold S. Williams, Secretary and Treasurer. Mr. Gordon Williams acted as chairman and Mr. Harold S. Williams acted as Secretary.

The following motion was offered by Harold S. Williams: That the accounts of Gordon Williams & Co. and Williams and Davis, Inc., in the Union National Bank, be closed and the moneys transferred to the Ventnor Trust Company; also that the account of Williams and Davis, Inc., in the First National Bank of Somers Point, New Jersey, be closed and the money transferred to the Ventnor Trust Company, Ventnor City, New Jersey. The motion was seconded and passed.

There being no further business, upon motion the meeting was adjourned.

Harold S. Williams
Secretary
(Corporate Seal
of Williams and
Davis, Inc.)

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Ventnor City, N. J.
December 6, 1926.

A special meeting of the stockholders of the Williams and Davis, Inc., was held at 3 P. M. December 6, 1926, at the office of the Company. There were present, Messrs. Harold S. Williams, Royden B. Davis, Connie J. Dorrian, Lloyd W. Fahler, and Douglass D. Besore, auditor for the Company.

Mr. Harold S. Williams acted as chairman of the meeting and appointed Mr. Douglass D. Besore to act as Secretary, Pro-Tem.

After a general discussion of the sales, improvements, and other matters in connection with the tract, the report of Messrs. Newell & Besore, Public Accountants, covering the eleven months period, ended November 30, 1926, was gone over and explained by Mr. Besore, and accepted.

In discussing the improvements it was found that the original estimate of $300,000.00 would be insufficient to cover the improvements contemplated in view of the fact that when the original estimate was made it covered only that ground owned (about 100 acres) at the time, and fifty-two additional acres were purchased afterwards, necessitating a further expenditure for improvements. Upon motion of Mr. Lloyd W. Fahler, seconded by Mr. Royden B. Davis, it was adopted to add $350,000.00 to the original es-

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timate, making a total of $650,000.00 to be expended for improvements.

The contract with Mr. Wescoat covering the dredging and filling of the tract was read by the chairman and endorsed by those present. The action of the officers in purchasing a large Diesel Engine for the dredge at the price of $14,000.00, to be paid for according to the contract with the Standard Motor Construction Company, was endorsed by those present, as also their action in purchasing the Riparian Rights to the water front lots, where necessary, at a cost of $5,308.55.

The resignations of the present Board of Directors consisting of Messrs. Gordon Williams, Harold S. Williams, and Royden B. Davis, were read at this time and upon motion of Lloyd W. Fahler, seconded by Mr. Connie J. Dorrian, were accepted to take effect January 8, 1927, when the annual meeting of the stockholders will be held and the new election take place.

There being no further business, upon motion, the meeting was adjourned.

Harold S. Williams
Secretary
(Corporate Seal
of Williams and
Davis, Inc.)

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Ventnor City, N. J.
December 6, 1926.

A special meeting of the Board of Directors of the Williams and Davis, Inc., was held at 5 P. M., December 6, 1926. The resignations of Messrs. Gordon Williams, President, Royden B. Davis, Vice President, and Harold S. Williams, Secretary and Treasurer, were presented to the meeting, and upon motion were accepted to take effect at the next annual meeting, January 8, 1927, or until their successors are appointed.

Upon motion of Mr. Harold S. Williams, duly seconded and adopted, the Secretary was instructed to issue one share of common stock to each of the following gentlemen; for services rendered: Mr. Louis G. Hart, and Mr. John B. Scanlan.

There being no further business the meeting was adjourned, subject to call of the president.

Harold S. Williams
Secretary.
(Corporate Seal
of Williams and
Davis, Inc.)

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Ventnor City, New Jersey,
January 8, 1927.

The annual meeting of the stockholders of the Williams and Davis, Inc., was held at the office of the Company at 10 A. M. January 8, 1927. There were present Gordon Williams, Royden B. Davis, Harold S. Williams, John B. Scanlan, and Louis G. Hart. Mr. Gordon Williams occupied the chair, and Mr. Harold S. Williams served in the capacity of Secretary.

A waiver signed by all stockholders waiving notice of this meeting was presented and ordered spread on the minutes.

The resignation of Mr. Gordon Williams, as president and director was presented and on motion duly made and seconded it was unanimously accepted. The name of Mr. John B. Scanlan was nominated as a director in place of Mr. Gordon Williams. Upon motion duly made and seconded, Mr. Scanlan was elected.

The resignation of Mr. Harold S. Williams, as secretary and treasurer also as a director was presented and accepted. Mr. Louis G. Hart was then nominated as a director and elected in place of Mr. Harold S. Williams.

Motion was made, seconded and carried to endorse the action of the officers of the Company in accept-

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ing a mortgage amounting to $2,000.00 from Paul N. Cadwell on account of payment by lots purchased by Mr. Cadwell; the said mortgage was made by Myer Magil to Paul N. Cadwell and assigned by Mr. Cadwell to the Company under date of September 11, 1926.

Upon motion being duly made, seconded and carried the action of the officers in employing counsel to foreclose the mortgage assigned by Paul N. Cadwell was approved.

Motion was duly made, seconded and carried as to endorsing the action of the officers to employ counsel in the matter of the sale of lots to Edna R. Healy, and to take care of any litigation that might arise from said sale.

Motion duly made, seconded and carried that the action of the officers in cancelling the sale of certain lots in Del Rey sold to Andrew F. McElroy, and the reimbursement to him of all monies paid on same is approved. This cancellation was instituted in view of the fact that Mr. McElroy demanded a deed upon final payment of said lots and having made said final payment and the company not being in a position to deliver a deed, it was necessary to return him the money paid in to the Company on said lots.

Motion was made, seconded and carried that the action of the officers of the Company employing counsel to draw the resolution in proper form to secure the vacation of certain streets in Del Rey tract by the city council of Somers Point was approved.

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Motion duly made, seconded and carried that clerical salaries paid to employees of the Gordon Williams & Co. are to be apportioned at the rate of 50% each between Gordon Williams & Co. and Williams and Davis, Inc., dating from February 1, 1926, and the rental of the Somers Point office is to be charged to Williams and Davis, Inc. in its entirety.

A motion was made, seconded and carried that the lease from Philip J. Kelly, to the Company at Somers Point, known as the Winner property be renewed for one year at the rental of $800.00 per annum payable monthly.

There being no further business, upon motion, duly made seconded and carried the meeting was adjourned.

Harold S. Williams
Secretary

(Corporate Seal
of Williams and
Davis, Inc.)

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Ventnor City, N. J.,
December 31, 1926.

WE, the subscribers, being all of the stockholders of Williams and Davis, Inc., hereby waive notice of the time, place and purpose of the annual meeting of said Company, and do fix the Eighth day of January, 1927, at 10 o'clock in the forenoon as the time, and 5303 Atlantic Avenue, Ventnor City, New Jersey, as the place of the meeting of said Company.

Lloyd W. Fahler
Gordon Williams
Connie J. Dorrian
Royden B. Davis
Harold S. Williams
Secty.

(Corporate Seal
of Williams and
Davis, Inc.)

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Ventnor City, N. J.
January 8, 1927.

A meeting of the Board of Directors of Williams and Davis, Inc. was held at the office of the Company at 12 M., January 8, 1927. There were present Royden B. Davis, John B. Scanlan, and Louis G. Hart. Mr. Louis G. Hart acted as secretary of the meeting until the officers were elected.

The following nominations were made for the offices opposite their names, duly seconded and elected:

President: Royden B. Davis
Vice President: John B. Scanlan
Secretary & Treasurer: Louis G. Hart

The secretary then declared the above named gentlemen unanimously elected to serve until January 8, 1928 or until their successors are appointed.

Louis G. Hart, being by me duly sworn according to law, upon his oath, deposes and says that he will faithfully discharge the duties of Secretary of Williams and Davis, Inc., a corporation of New Jersey, to the best of his skill and ability.

Louis G. Hart

Sworn and subscribed to)
before me this 8th
day of January, 1927.)
Douglass D. Besore)
Notary Public, N. J.
My Comm. expires 8/31/30)

The following resolution was offered: "Resolved that the Ventnor Trust Company be authorized and directed to pay all checks drawn upon or against said bank when such checks are signed by any two

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of the three following officers, viz.: Royden B. Davis, President; John B. Scanlan, Vice President; and Louis G. Hart, Secretary and Treasurer; and to charge such checks so signed against the said account. And that the authority of said bank to pay said checks, and to charge the same against said account shall continue until notice has been received by said bank from this Company to the repeal or modification of this resolution."

"Also resolved that the authority of the following named officers to sign checks for this company is hereby withdrawn and the Ventnor Trust Company is hereby instructed not to honor any checks with their signatures as officers: Gordon Williams, President; Royden B. Davis, Vice President; and Harold S. Williams, Secretary and treasurer."

There being no further business to come before the meeting, upon motion same was adjourned.

Louis G. Hart
Secretary

(Corporate Seal
of Williams and
Davis, Inc.)

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Ventnor City, N. J.
February 4, 1927.

The monthly meeting of the Board of Directors of Williams and Davis, Inc. was held at 12 M. on February 4, 1927. There were present Royden B. Davis, John B. Scanlan, and Louis G. Hart. Mr. Davis Occupied the chair, and Mr. Hart acted as Secretary of the meeting.

A motion was made, seconded and carried that the Company purchase the house located at Del Rey, Somers Point, New Jersey for the purpose of keeping the equipment, etc. therein, at a price of $400.00.

There being no further business, upon motion duly made and seconded, the meeting was adjourned.

Louis G. Hart
Secretary.
(Corporate Seal
of Williams and
Davis, Inc.)

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Ventnor City, N. J.
March 4, 1927.

A regular meeting of the Board of Directors of the Williams and Davis, Inc. was held in the Company's office on Friday, March 4, 1927. Those present were Royden B. Davis, President; John B. Scanlan, Vice President; and Louis G. Hart, Secretary and Treasurer.

An offer was presented at this meeting by the original purchaser of lots 4 and 5, Block 79, Del Rey, and subsequently sold to Peter Gallagher, that he would sell and assign all his right, title and interest to the claim of surplus monies due him, amounting to $510.00 for $400.00.

Motion was made and carried that the secretary be empowered to draw a check for the amount of $400.00 to purchase said claim.

There being no further business, upon motion, duly seconded, the meeting was adjourned.

Louis G. Hart
Secretary
(Corporate Seal
of Williams and
Davis, Inc.)

BILL OF COMPLAINT.
(In Williams v. Dorrian.)

IN CHANCERY OF NEW JERSEY.

TO HIS HONOR, EDWIN ROBERT WALKER, CHANCELLOR OF THE STATE OF NEW JERSEY:

Complainants, A. Trevor Williams and Royden B. Davis, show unto your honor:

1. That prior to the 4th day of January, 1926, Complainant Royden B. Davis, together with Harold S. Williams and Gordon Williams, were and since have been stockholders, officers and directors of the Gordon Williams Company, a corporation of the State of New Jersey, engaged in the buying and selling of real estate, and real estate brokerage business, for the benefit and profit of said Company.

2. That said Company did a large business, and on and prior to said 4th day of January, 1926, was in a prosperous condition.

3. That defendants, Connie J. Dorrian and Lloyd W. Fahler, knowing the extensive and profitable business then being transacted by the said Gordon Williams Company, approached the officers of said Company with the object of advancing moneys, so that they, Connie J. Dorrian and Lloyd W. Fahler, might in some manner participate in the profits of the business then being conducted by the said Gordon Williams Company.

4. That at that time, the real estate market in and about Atlantic City and Atlantic County was unusually active, and large profits in real estate transactions were constantly being made.

5. That the said Connie J. Dorrian and Lloyd W. Fahler, in order to realize some of the profits then being made in the real estate market at that time, in furtherance of their desire to avail themselves of the standing and efficiency of Gordon Williams Company, and reap the benefit and profit, not only of the standing of the said Gordon Williams Company, but also of its officers, induced Gordon Williams, Harold S. Williams and Complainant Royden B. Davis to incorporate a Company for the benefit of the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and still endeavoring to secure the benefit of the standing of said Complainants and officers of the Gordon Williams Company, requested that said new Company be named Williams-Davis, Inc.

6. That such Company was incorporated under the above name, and defendants, Connie J. Dorrian and Lloyd W. Fahler, became the owners of all the Capital Stock issued by said Company, excepting only the qualifying shares.

7. That after the incorporation of said Williams-Davis, Inc., said defendants, Connie J. Dorrian and Lloyd W. Fahler, in furtherance of their original design to benefit by the standing of the said Gordon Williams Company, caused Williams-Davis, Inc., with their assent and approval, to enter into an agreement with the Gordon Williams Company, whereby Gordon Williams Company was constituted the sole selling agent of all the lands then owned by the Williams-Davis, Inc., as well as all other lands that should be purchased by said Williams-Davis, Inc., and agreed to pay to Gordon Williams Company 25% of the gross selling price as commission on all lands by it, the Gordon Williams Company, sold for Williams-Davis, Inc., a copy of which agreement is hereto attached, made a part hereof, and marked "Schedule A."

8. That the said Gordon Williams Company entered upon the execution of said contract, and between the 4th day of January, 1926, and the 1st day of January, 1927, did sell and dispose of lands of the Williams-Davis, Inc. to the amount of approximately $1,000,000, on which the said Gordon Williams Company received its commission of 25%.

9. That there was no agreement between the Williams-Davis, Inc., nor between defendants, Connie J. Dorrian and Lloyd W. Fahler, constituting Gordon Williams Company, Harold S. Williams, Gordon Williams or Complainants, A. Trevor Williams and Royden B. Davis, purchasing agents in the State of New Jersey for said Williams-Davis, Inc., or for defendants, Connie J. Dorrian and Lloyd W. Fahler.

10. That Williams-Davis, Inc. and defendants, Connie J. Dorrian and Lloyd W. Fahler, in the interest of the said Williams-Davis, Inc., of which they owned practically all the stock, were in the market for the purchase of real estate, and that on a number of occasions the Gordon Williams Company, Gordon Williams, Harold S. Williams, and Complainants, A. Trevor Williams and Royden B. Davis, offered parcels of real estate, of which they or one of them was the equitable owner, but the title to which stood in the name of some other person for it, them or one of them, and which real estate had been in every instance purchased with the moneys of the Gordon Williams Company, or Gordon Williams, or Harold S. Williams, or Complainants, A. Trevor Williams or Royden B. Davis, several of which parcels the said Williams-Davis, Inc., or defendants, Connie J. Dorrian or Lloyd W. Fahler, in behalf of said Williams-Davis, Inc., purchased.

11. That said lands so sold to the said Williams-Davis, Inc., being the lands of the Gordon Wil-

liams Company or Gordon Williams, Harold S. Williams, Complainant A. Trevor Williams or Complainant Royden B. Davis, were sold at a profit.

12. That the profits made by Gordon Williams Company, Gordon Williams, Harold S. Williams, and Complainants A. Trevor Williams and Royden B. Davis, from the sale of said lands, as well as the profits made by the said Gordon Williams Company, acting as a broker, were largely invested in real estate mortgages.

13. That the said Williams-Davis, Inc., has unsold lands purchased by it, which are subject to the sales agreement made between Williams-Davis, Inc. and Gordon Williams Company, of a value of approximately $1,000,000, on the sale of which lands Gordon Williams Company is entitled to receive 25%, or $250,000.

14. That defendants, Connie J. Dorrian and Lloyd W. Fahler, realizing the considerable profit heretofore made by the said Gordon Williams Company, Gordon Williams, Harold S. Williams and Complainants, A. Trevor Williams and Royden B. Davis under said contract, and foreseeing the immense amount of commission yet to be realized by the Gordon Williams Company thereunder, desired and determined to terminate said contract, and cheat and deprive the Gordon Williams Company and its stockholders and officers of the benefit of the advertising the Gordon Williams Company had done, and the work it had performed in placing said lands before the public, so that the same might be more easily sold, as well as of the profits from the sale of said lands under the terms thereof.

15. That the said defendants, Connie J. Dorrian and Lloyd W. Fahler, for the purpose of breaking said contract, conceived the idea of fraudulently in-

juring and financially ruining the said Gordon Williams Company, Gordon Williams, Harold S. Williams and Complainants, A. Trevor Williams and Royden B. Davis, and of falsely and fraudulently obtaining from the said Gordon Williams, Harold S. Williams, and Complainants, A. Trevor Williams and Royden B. Davis, large sums of money, aggregating $200,000, or thereabouts, entered into a corrupt and fraudulent arrangement with Carlton Godfrey and William I. Garrison, Esquires, and Philip S. Godfrey to pretend and allege, and to make a show of enforcing the false claim that the said Gordon Williams, Harold S. Williams and Complainants, A. Trevor Williams and Royden B. Davis, had unlawfully obtained money from the defendants, Connie J. Dorrian and Lloyd W. Fahler, and pretend to make an effort to collect the same.

16. That defendants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey, in furtherance of their desire and determination to free the Williams-Davis, Inc. of the brokerage agreement made with Gordon Williams Company, and fraudulently collecting said money, falsely and fraudulently attacked the financial standing and honesty and integrity of the said Gordon Williams Company, Gordon Williams, Harold S. Williams, and Complainants, A. Trevor Williams and Royden B. Davis, and falsely and fraudulently asserted and claimed that the purchases of the lands made by Gordon Williams Company, Gordon Williams, Harold S. Williams and Complainants, A. Trevor Williams and Royden B. Davis, which lands stood in the name of the nominee or nominees of the said Gordon Williams Company, Gordon Williams, Harold S. Williams and Complainants, A. Trevor Williams and Royden B. Davis,

had been purchased with the moneys of the said Williams-Davis, Inc., or defendants, Connie J. Dorrian and Lloyd W. Fahler, and that the lands so alleged to have been purchased were purchased by the said Gordon Williams Company, Gordon Williams, Harold S. Williams, and Complainants, A. Trevor Williams and Royden B. Davis, in a fiduciary capacity, and that the profits made upon the sale of said lands to the said Williams-Davis, Inc., belonged to defendants, Connie J. Dorrian and Lloyd W. Fahler.

17. That said claims so made by the said defendants, Connie J. Dorrian and Lloyd W. Fahler, were wholly false, fraudulent and untrue, and the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey knew the falsity of said allegations.

18. That Carlton Godfrey, Esquire, was the attorney for said Williams-Davis, Inc., and knew of the transactions, knew of the falsity of the claim set forth by the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and he, together with his associate, William I. Garrison, Esquire, and his son, Philip S. Godfrey, joined with the said defendants, Connie J. Dorrian and Lloyd W. Fahler in the endeavor to free the Williams-Davis, Inc. from the brokerage agreement outstanding with Gordon Williams Company, and collect the moneys aforesaid, by falsely and fraudulently making claims against Gordon Williams, Harold S. Williams, and Complainants, A. Trevor Williams and Royden B. Davis.

19. That in furtherance of said false and fraudulent claims, the said Lloyd W. Fahler did make a certain false and fraudulent affidavit, which was presented by the said Carlton Godfrey and William I. Garrison, Esquires, or one of them, to a Supreme Court Commissioner, who, on said false and fraudu-

lent affidavit, made an Order that an attachment issue against the property of the said Gordon Williams, Harold S. Williams and Complainants, A. Trevor Williams and Royden B. Davis, and the properties of the said parties were attached under a writ issued pursuant to said Order; and at the same time, the said Connie J. Dorrian did make a certain other false and fraudulent affidavit against the said Gordon Williams, Harold S. Williams and Complainants, A. Trevor Williams and Royden B. Davis, which said false and fraudulent affidavit was presented to a Supreme Court Commissioner, and on which affidavit the said Supreme Court Commissioner did make an Order, directing a capias to be issued against the said Gordon Williams, Harold S. Williams and Complainants, A. Trevor Williams and Royden B. Davis, and fixed the amount of bail at $50,000 each; and that pursuant to said Order, a capias was issued against them.

20. That the said Lloyd W. Fahler did cause a Bill of Complaint to be filed in the Court of Chancery of the State of New Jersey, setting forth the making of the affidavit, the issuing of the Order and writ of attachment in said Atlantic County Circuit Court suit, and praying that because of the making of said Order and issuing said writ that the said Gordon Williams, Harold S. Williams, and Complainants, A. Trevor Williams and Royden B. Davis, be restrained and enjoined from assigning, transferring or setting over certain mortgages by them, or some of them held, and on the filing of said Bill and affidavit thereto annexed, a temporary restraint was issued by the Court of Chancery, preventing the said Gordon Williams, Harold S. Williams, and Complainants, A. Trevor Williams and Royden B. Davis, from assigning, transferring or setting over any of said mortgages.

21. That by reason of the various suits instituted against the said Gordon Williams, Harold S. Williams, and Complainants, A. Trevor Williams and Royden B. Davis, their property was entirely tied up, and it thereupon became impossible for them to secure bail in the amount specified by said Supreme Court Commissioner, to-wit, the sum of $50,000 each.

22. That immediately the said Gordon Williams, Harold S. Williams, and Complainants, A. Trevor Williams and Royden B. Davis, gave notice of an application before the Atlantic County Circuit Court for an Order setting aside the Order for attachment and the writ issued thereon; and gave notice of a motion before his Honor, Luther A. Campbell, Supreme Court Justice, for an Order setting aside the Order for a capias and the writ of capias issued thereon; and gave notice of a motion before the Court of Chancery to vacate said restraint.

23. That immediately after the giving of said notices, the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey, knowing the illegality of their various proceedings, adopted a course of conduct intended to falsely frighten and intimidate the said Harold S. Williams and Complainants, A. Trevor Williams and Royden B. Davis, to a point where they, from sheer fear and fright, would make some settlement with the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and did send word to the said Harold S. Williams and Royden B. Davis, which was repeated to them, that they, the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey and William I. Garrison proposed to have them arrested and imprisoned for embezzlement on some unstated charge, and did send word to the said A. Trevor Williams that they would have him imprisoned on the ground of forgery.

24. That said charges were repeated and emphasized and Harold S. Williams, who was then much worried because of the dying condition of his wife who was in California, and to whom the said Harold S. Williams was most anxious to go, all of which was known to the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey and William I. Garrison, by reason thereof, then being in a poor state of health, was seriously affected in his health, and later the said Lloyd W. Fahler and Connie J. Dorrian, Carlton Godfrey, William I. Garrison and Philip S. Godfrey met the said Harold S. Williams, and complainants, A. Trevor Williams and Royden B. Davis, in the City of Philadelphia, State of Pennsylvania, and asserted that they would imprison the said Harold S. Williams and Complainants A. Trevor Williams and Royden B. Davis, unless they transferred to the said defendants, Connie J. Dorrian and Lloyd W. Fahler, $190,000 in cash and securities, and on failure or refusal to do so, threatened that they would be indicted, brought into the State of New Jersey, and imprisoned, and at that time falsely and fraudulently stated to the said Harold S. Williams and Complainants, A. Trevor Williams and Royden B. Davis, that the Justice of the Supreme Court had sustained their affidavit and order for the issuing of the capias in an opinion theretofore filed by said Justice, a copy of which opinion is hereto annexed, made a part hereof, and marked "Schedule B."

25. That by reason of such false and fraudulent statements, and the dire consequences pointed out to the said Harold S. Williams and Complainants, A. Trevor Williams and Royden B. Davis, by the said Carlton Godfrey and William I. Garrison, Esquires, and Philip S. Godfrey, and defendants,

Connie J. Dorrian and Lloyd W. Fahler, the said Harold S. Williams suffered two severe heart attacks, collapsed, to such a point that his life was on said two occasions despaired of, and the said Carlton Godfrey and William I. Garrison, Esqs., insisted upon an immediate payment and transfer of securities, and the said Carlton Godfrey, Esquire, at once begun the writing of an agreement and assignments of various mortgages to be executed by the said Harold S. Williams and Complainants, A. Trevor Williams and Royden B. Davis.

26. Thereupon, the said Complainant, A. Trevor Williams, demanded of the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey, that their attorneys be permitted to be present at said meeting, but the said Carlton Godfrey and William I. Garrison, Attorneys for Connie J. Dorrian and Lloyd W. Fahler, refused to permit any lawyers representing the said Harold S. Williams and Complainants, A. Trevor Williams and Royden B. Davis, to be present at said meeting.

27. That they, the said Carlton Godfrey and William I. Garrison, Esquires, stated that they would prepare an agreement in rough, which agreement should be submitted by the said Harold S. Williams and Complainants, A. Trevor Williams and Royden B. Davis, to their attorney or attorneys before signing, and upon that pretense, and by reason of the false and fraudulent statements made to them concerning their position of jeopardy, because of their alleged liability of arrest and imprisonment, and because of the false and fraudulent statements that said Justice of the Supreme Court had sustained the Order for the issuing of the capias, they, the said Harold S. Williams and Complainants, A. Trevor

Williams and Royden B. Davis, were dominated physically and mentally by the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey, greatly frightened and led to believe, and did believe that unless they executed the agreement and assignments and paid over the moneys, they would be deprived of their liberty, and being thus imprisoned and deprived of the advice of counsel, assented to the demands made upon them by the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey.

28. That the said Carlton Godfrey and William I. Garrison, Attorneys, prepared an agreement, many pages in length, and after it had been prepared insisted upon an immediate signature, promising to give to the said Harold S. Williams and Complainants, A. Trevor Williams and Royden B. Davis, a copy thereof the following day. Whereupon, the said agreement was signed by the said Harold S. Williams and Complainants, A. Trevor Williams and Royden B. Davis, wherein they, believing said false and fraudulent statements, agreed to assign mortgages and pay to the said defendants, Connie J. Dorrian and Lloyd W. Fahler, $190,000, which was to be delivered to one John J. Mellon, to be held in escrow until the provisions of the agreement had been carried into effect.

29. That immediately after the execution of said agreement by the said Harold S. Williams and Complainants, A. Trevor Williams and Royden B. Davis, the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey left, and Complainants, A. Trevor Williams and Royden B. Davis, consulted

with their attorneys, and related all they had done, and all the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey had said to them, and upon learning that the Justice of the Supreme Court had not sustained the order for the issuing of the capias, but had pointed out four fatal defects thereto, and being advised that the claim made by the said Carlton Godfrey and William I. Garrison, Esquires, that the said Harold S. Williams and Complainants, A. Trevor Williams and Royden B. Davis, were in imminent danger of arrest and imprisonment, was without warrant in law, and that they were not liable to lawful arrest, they immediately repudiated said agreement, and file this Bill of Complaint, making Harold S. Williams a party defendant, because he is unable at this time to join in this Complaint.

30. That the said Carlton Godfrey and William I. Garrison, Esquires, thereupon insisted upon an immediate assignment of mortgages to the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and under the pressure of such false and fraudulent statements, concerning their liability of arrest and imprisonment, believing them to be true, the said Complainant, A. Trevor Williams, did assign to the said defendants, Connie J. Dorrian and Lloyd W. Fahler, or one of them, mortgages, and deliver two checks, amounting to the sum of $61,530.07, a schedule whereof is hereto annexed, made a part hereof, and marked "Schedule C"; and the said Complainant, Royden B. Davis, did assign certain mortgages and checks to the said defendants, Connie J. Dorrian and Lloyd W. Fahler, or one of them, amounting to $34,000, a copy of which schedule is hereto annexed, made a part hereof, and marked "Schedule

D''; and the said Harold S. Williams did deliver to the said Carlton Godfrey and William I. Garrison, Esquires, the sum of $10,000, and a certain check on the Ventnor City National Bank for $642.99, a copy of which schedule is hereto annexed, made a part hereof, and marked ''Schedule E.''

31. That on the day following, the Complainants, A. Trevor Williams and Royden B. Davis again met Carlton Godfrey and Philip S. Godfrey, and Complainants demanded of them an inspection of the agreement that they had the night before signed, which inspection was denied to them by the said Carlton Godfrey; whereupon they, the said Complainants, A. Trevor Williams and Royden B. Davis, demanded of the said Carlton Godfrey, Esq., a copy of said agreement, pursuant to the promise made to them at the time they executed it, and a copy thereof was likewise refused by the said Carlton Godfrey.

32. That by reason of the fraudulent conduct of the said Connie J. Dorrian and Lloyd W. Fahler, and their attorneys, Carlton Godfrey and William I. Garrison, and Philip S. Godfrey, and their refusal to permit Complainants to have counsel present at said conference, complainants repudiated said agreement, and the assignment of said mortgages, and demanded a re-delivery and re-assignment of them to complainants.

Wherefore, Complainants pray:

1. That a writ of subpoena issue out of this honorable Court, directed to the said Connie J. Dorrian and Lloyd W. Fahler, and Harold S. Williams, requiring them to answer, without oath, every allegation in this Bill.

2. That said agreement so signed by complainants to defendants, Connie J. Dorrian and Lloyd W. Fahler, be decreed to be null and void, and for noth-

ing holden; and that the assignments of the mortgages hereinabove mentioned be decreed to be null and void, and for nothing holden.

3. That the said Connie J. Dorrian and Lloyd W. Fahler, and each of them, their servants and agents, be decreed to surrender up said agreement so signed by the said Harold S. Williams, and Complainants, A. Trevor Williams and Royden B. Davis, for cancellation, and that in the meantime the said defendants, Connie J. Dorrian and Lloyd W. Fahler, be enjoined from disposing of or making any use whatever of said agreement.

4. That the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and each of them, their servants and agents, be enjoined from disposing of any of the mortgages or property hereinabove mentioned.

5. That the said defendants, Connie J. Dorrian and Lloyd W. Fahler, their servants and agents, be directed to surrender up, re-assign, transfer and set over unto the said Complainants, A. Trevor Williams and Royden B. Davis, the mortgages and interest in mortgages hereinabove mentioned.

6. That the said defendants, Connie J. Dorrian and Lloyd W. Fahler, their servants and agents, be directed to pay back to the said Complainants, A. Trevor Williams and Royden B. Davis, and to Harold S. Williams, the moneys hereinabove mentioned.

6. That Complainants, A. Trevor Williams and Royden B. Davis, have such further and other relief in the premises as shall be agreeable to equity and good conscience.

Bourgeois & Coulomb,
Solictors for Complainants.
C. L. Cole,
Of Counsel.

SCHEDULE A.

THIS AGREEMENT made this fourth day of January, 1926, between Williams and Davis, Inc., a corporation of New Jersey, sometimes referred to herein as "The Owner," party of the first part, and Gordon Williams & Co., also a corporation of New Jersey, sometimes referred to herein as "The Broker," party of the second part: WHEREAS the party of the first part has purchased or is about to purchase a tract of land at Somers Point, Atlantic County, New Jersey, which tract is named or designated as Del Rey, and which tract it intends to improve and lay out in lots to be shown upon a map or plan to be made by William H. Collisson, Jr., civil engineer, in anticipation of a profitable sale of such property:

AND WHEREAS said party of the first part may purchase additional land to be added to and become a part of Del Rey, and may purchase other land which may or may not be in the vicinity of the tract known as Del Rey:

AND WHEREAS the said party of the first part has determined that its interests will be best served by the employment of the said party of the second part as its sole and exclusive broker or agent to offer for sale and to sell and dispose of all of the land which it may now own or may hereafter acquire:

AND WHEREAS the said party of the second part has consented to become the broker or agent of the said party of the first part upon the terms and conditions herein recited:

NOW THEREFORE, in consideration of the

premises and of the sum of One dollar each to the other in hand paid, receipt whereof is hereby acknowledged the said parties hereto do hereby agree with each other as follows:

1. The said party of the first part does hereby engage and employ the said party of the second part as its sole and exclusive broker or agent to use its best endeavors to sell and dispose of all of the land and premises now owned by said party of the first part as well as all of the land and premises which has been or may hereafter be purchased by said party of the first part. This contract or agreement of employment shall remain in full force and effect until all of said land and premises has been sold and settlements made therefor.

2. The said party of the second part shall fix the selling price or prices for which each lot in the said tract to be known as Del Rey shall be offered and sold and may change such prices for any or all of said lot or lots from time to time in their discretion.

3. It is understood that the general policy of making sales shall be upon the plan of payment of ten per cent upon the execution of the agreement and forty per cent in not exceeding five monthly payments without interest and the balance of not exceeding fifty per cent by a purchase money first mortgage, payable within two years, with interest payable semi-annually, with the usual thirty day default clauses in case of non-payment of interest or taxes; or five per cent upon the signing of said agreement and forty five per cent in not exceeding ten monthly payments without interest, and not exceeding fifty per cent upon mortgage as aforesaid. The said party of the second part may vary the payments in its discretion and also may make adjustments with purchasers under agreements in its dis-

cretion, so as to reduce the number of lots sold to a buyer and to apply all amounts paid by such buyer upon such purchase so reduced.

4. The form of the agreements of sale to purchasers herein referred to shall be approved by the said broker, and prepared by it. Said agreements shall obligate the owner to deliver to the purchaser a good and marketable title, and to improve the said property by filling said tract to the grade fixed by the engineer, and that the driveways of the avenue or avenues in front of said lots so sold shall be built of gravel with concrete curbs and the sidewalks shall be built of gravel and cement, cement strip to be not less than.....feet in width and that the usual settlement of taxes and municipal claims shall be made as of the date of settlement, unless some other date is agreed upon by said broker. The form and terms of said agreements may be modified in any case in the discretion of said broker.

5. It is agreed that the compensation of the party of the second part which compensation shall include such expenditures as it, the broker, shall specifically agree to pay, shall be a commission of twenty five per cent upon the gross selling price of each and all lots sold in the tract known as Del Rey, as shown upon the said map, and any addition to said tract and twenty five per cent of the gross selling price of all other land of the party of the first part, which may be sold in lots; and ten per cent of the gross selling price of all land of the party of the first part sold in acreage. In case of default by purchasers under agreements the amount of compensation to be collected on any single sale shall not exceed the amount collected from the purchaser. The party of the second part is authorized to advertise

the said Del Rey in its discretion, but all amounts expended for such advertising shall be paid for by said broker.

6. It is agreed that the said compensation due to the party of the second part shall be considered to be earned when the agreement of sale is executed, but shall be collected by said broker as and when funds are available.

7. The said party of the second part agrees to keep accurate books of account of all amounts collected, which books of account shall be audited semi-monthly by a representative of said owner and at the expense of said owner. A statement shall be rendered monthly by the said broker to said owner, and all amounts collected by said broker less commissions retained, shall be paid to said owner semi-monthly by depositing said amounts in bank to the credit of the account of said owner.

8. The said broker agrees to use its best endeavors to make sales and to endeavor to collect as promptly as possible all sums due and to grow due upon all such agreements of sale.

9. The said owner agrees to pay the expenses of the preparation of all deeds made by it and all mortgages taken by it under the authority of this agreement, and all such mortgages so taken shall be delivered to the party of the first part when settlements are made, or as soon thereafter as said mortgages are recorded and returned from record.

10. This agreement shall be binding upon the parties hereto and their successors.

IN WITNESS WHEREOF the parties hereto have caused these presents to be signed by their respective presidents, their respective corporate seals

to be hereto affixed and attested by their respective secretaries the day and year first above written.

Williams and Davis, Inc.
By R. B. Davis,
Vice President.
Attest: Harold S. Williams,
Secretary.
Gordon Williams & Co.
By R. B. Davis,
President.
Attest: Harold S. Williams,
Secretary.

Signed, sealed and delivered
in the presence of
Louis G. Hart

SCHEDULE B.

NEW JERSEY SUPREME COURT.
ATLANTIC COUNTY.

CONNIE J. DORRIAN,
v.
GORDON WILLIAMS, HAROLD S. WILLIAMS, A. TREVOR WILLIAMS and ROYDEN B. DAVIS.

Action at La. On Capias, etc.
For Plaintiff, Carlton Godfrey and William I. Garrison.
For Defendant, C. L. Cole and George A. Bourgeois.
CAMPBELL, J.

By an order of a Commissioner of this Court a capias ad respondendum was authorized and each of

the defendants ordered to be held to bail in the sum of $50,000. in an action alleging a conspiracy to defraud the plaintiff through, and by means of, which conspiracy he contends that he was damnified and lost moneys to the extent of something over One Hundred Thousand dollars.

Upon notice the defendants have moved to set aside the order of the Commissioner and quash the writ.

At the outset the defendants are confronted with the contention that their application is premature in that the writ has not been served upon, nor executed, as against, any of them.

At the time of the argument I was not impressed with the contention but more careful and deliberate consideration brings me to the conclusion that it is substantial.

At the present time none of the defendants is in court. Until that happens, through the execution of the writ complained of, he is not nor can he be injured nor have cause of legal complaint. The writ may never be executed.

The present application must therefore fail.

Although this is dispositive of the matter yet I think it wise, in view of the probability that the plaintiff will proceed to execute the writ, to point out defects in the proceedings, which have been raised upon this motion, and which, upon application after execution of the writ would compel me to set aside the order and writ.

The order authorizing the issuance of the writ is dated May 13, 1927. The writ is tested May 14, 1927 and was received by the Sheriff on the same day. The commissioner's order and the affidavits upon which it is based were not filed until May 18, 1927.

The Supreme Court has held that this is improper and fatal.

Hand vs. Nolan, 1 N. J. Misc. Rep. 428.

Beugless vs. Thomas, Id. 582.

Further, the statute requires that in actions in tort, which this is, except such action be for seduction, outrageous battery or mayhem, or for recovery of damages for misconduct or neglect of a public officer, the writ shall not issue unless the proof establishes special cause as heretofore for holding to bail.

3 Comp. Stats. 4068, Sec. 56.

Such Special cause is non-residence or facts and circumstances establishing that the defendant will be without the jurisdiction of the Court so as not to answer to a judgment if and when rendered.

Hufty vs. Wilson, 78 N. J. L. 241.

Hand vs. Nolan, 1 N. J. Misc. Rep. 428.

And this must be established by proof the character of which is pointed out in, Inglis vs. Schreiner, 58 N. J. L. 102; Hufty vs. Wilson, Supra.

The affidavit upon which the Commissioner acted contains only the following upon this point:—

"Deponent further says that the said Gordon Williams, Harold S. Williams and A. Trevor Williams have removed from this jurisdiction or are about to do so, having shipped much if not all of their household goods to California."

Without applying the test as above laid down to this affirmation it is sufficient for present purposes to say that it does not reach to the defendant Royden B. Davis and therefore there was no basis nor authority for directing the issuance of the writ against him nor for holding him to bail.

Although the proceedings may be defective in other directions I deem it necessary at this time to

call attention to two others only, which are prominent and stand out clearly; and they are—

First—The cause of action seems to be based upon two distinct classes of transactions one of which is said to have been through and toward a corporation, Williams and Davis, Inc., in which the plaintiff and another were the principal stockholders. From any facts set up in the affidavit it is quite inconceivable how plaintiff could individually have a cause of action against these defendants and therefore such transactions could by no possibility present a legal ground for the Commissioner's order.

Second—both causes of action, attempted to be set up in the affidavit, depend in large measure, if not entirely, for practically all the certainty and exactness to be accorded to plaintiff's affirmation to three schedules attached which are sought to be made part of the affidavit. This cannot be. And I am not considering what is said to be a clearly erroneous use of the word "agreement" for "affidavit" appearing in the last sentence in the affidavit. Considering such sentence to read as follows:—"Schedule "A" and "B" hereto attached and agreement also attached made a part of this affidavit" and also considering the following references appearing in the affidavit:—"A true copy of said agreement is annexed hereto and made a part hereof," and "The conspirators made many secret and fraudulent profits by said transfers of real estate to Williams and Davis, Inc. some of which are itemized on an appended schedule marked Schedule No. 1" and "Some of which defalcations are itemized upon an appended schedule marked Schedule No. 2," there is no proof by affiant that the matters and facts supposed to be shown thereby are true nor

by what means or how affiant possesses such knowledge.

For aught that is shown they may rest entirely upon hearsay or otherwise be incompetent. Further still I find no precedent for the substitution of schedules for direct affirmation and I am satisfied none exists.

If the matters contained in these schedules are untrue can affiant be successfully prosecuted for perjury? It may be noted, in passing, that while there are two references in the affidavit, as quoted, to Schedule No. 1 and Schedule No. 2 there are no such schedules attached but they are designated as Schedule A and Schedule B.

As has been indicated the present motion must be denied because prematurely made.

SCHEDULE C.

Received of A. Trevor Williams check on Ventnor Trust Company for.....	$ 585.11
A check drawn on Ventnor City National Bank	194.96
5 Bonds and mortgages given by Leslie McPherran to Connie J. Dorrian covering lots 10-11-12-13 and 14 in Block 21, each in the amount of $2700.	$13,500.00
The Intermediate assignments do not accompany these bonds and mortgages.	
3 Mortgages given by John Speckman to Louis G. Hart covering lots 17, 18 and 19 in Block 21 for $1700. each; the bonds and intermediate assignments do not accompany these mortgages.....	5,100.00

The mortgage given by Dorrian to Wright covering property in Linwood in the amount of.....	5,000.00
The intermediate assignment does not accompany this mtg.	
1 Mortgage given by Hart to Williams covering lots 46 and 48 in Block 321 in the amount of.....	2,500.00
The bond does not accompany this mortgage.	
1 Mortgage given by Paul Endicott to Dorrian covering lot 13 in Block 112-B in the amount of.....	5,000.00
The bond and intermediate assignments do not accompany this mortgage.	
1 Mortgage Endicott to Dorrian covering lot 14 in Block 112-B in the amount of	6,500.00
The bond and intermediate assignments do not accompany this mortgage.	
1 Bond and Mortgage McDonnell to Smith covering lots 1 and 2 in Block 11-A in the amount of.....	11,100.00
The intermediate assignments do not accompany this mortgage.	
1 Mortgage Louis Mark to Sadie A. Craigen covering lot 22 in Block 58 in the amount of	1,550.00
The bond and intermediate assignments do not accompany this mortgage.	
1 Mortgage given by Louis Mark to Sadie A. Craigen covering lot 24 in Block 58 in the amount of.....	1,550.00
The bond and intermediate assignments do not accompany this mortgage.	
Brought Forward	$52,580.07

1 Bond and mortgage Louis Mackler to Vivian Smith covering lots 13-14-15 in Block 226 in the amount of—The intermediate assignments do not accompany this bond and mortgage.....	4,950.00
1 Bond and mortgage Wright to Dorrian covering lot 43 in Block 124 in the amount of—the intermediate assignments do not accompany this mortgage and no assignment is delivered for this mortgage from Trevor Williams, the same to be signed to-morrow.	2,000.00
1 Bond and Mortgage Wright to Dorrian covering lot 41 in Block 124 in the amount of—the intermediate assignments do not accompany this mortgage and no assignment is delivered for this mortgage from Trevor Williams, the same is to be signed to-morrow.	2,000.00
	$61,530.07

(signed) CARLTON GODFREY
WM. I. GARRISON
Attorneys for Connie J. Dorrian and Lloyd Fahler.

SCHEDULE D.

Assignments by Royden B. Davis.

Mortgage of Thomas J. Mahoney and wife	$1,000.00
Mortgage of $13,000 and $4,000 on 7 S. Harvard Avenue, which was the former home of Mr. and Mrs. Davis	17,000.00
The above mortgages were made by one Bacon, of Trenton, and were in the name of Mrs. and Mr. Davis, but were assigned only by Mr. Davis.	
Mortgage made by Atkinson on Oakland Avenue	13,000.00
Mortgage made by Sadie Craigen, which had been assigned by Mahoney to Royden B. Davis	1,200.00
Mortgage made by Rice, Faunce and Christian	1,250.00
10 Shares Williams-Davis, Inc. stock @ $1	10.00
Check for $598.73 on Ventnor Trust Company	598.73
	$34,058.73

SCHEDULE E.

June 1, 1927.

Received of HAROLD S. WILLIAMS check on the Ventnor Trust Company, Ventnor City, N. J. in the amount of ($642.99) Six hundred forty-two dollars and ninety nine cents, in accordance with and on account of agreement bearing even date between Harold S. Williams, et als, on the one side and Connie J. Dorrian and Lloyd W. Fahler on the other side.

(signed) CARLTON GODFREY
(signed) WILLIAM I. GARRISON
Attorneys for Connie J. Dorrian and Lloyd W. Fahler.

SCHEDULE E.

June 1, 1927.

Received of HAROLD S. WILLIAMS the sum of Ten thousand ($10,000) dollars in cash in accordance with and on account of agreement bearing even date between Harold S. Williams, et als, on the one side, and Connie J. Dorrian and Lloyd W. Fahler on the other side.

(signed) CARLTON GODFREY
(signed) WM. I. GARRISON
Attorneys for Connie J. Dorrian and Lloyd W. Fahler.

STATE OF NEW JERSEY }
CAMDEN COUNTY } ss.

A. TREVOR WILLIAMS, of full age, being duly sworn according to law, on his oath says:

I have read the foregoing Complaint, and the

statements therein made are true, and especially is it true that prior to the 4th day of January, 1926, Complainant Royden B. Davis, Harold S. Williams and Gordon Williams were and since have been stockholders, officers and directors of the Gordon Williams Company, engaged in the buying and selling of real estate, and real estate brokerage business, and did a large business, and on and prior to said 4th day of January, 1926, was in a prosperous condition;

That Connie J. Dorrian and Lloyd W. Fahler approached the officers of said Company, with the object of advancing moneys, so that they, Connie J. Dorrian and Lloyd W. Fahler, might in some manner participate in the profits of the business then being conducted by the said Gordon Williams Company, and induced Complainant Royden B. Davis, Harold S. Williams and Gordon Williams to incorporate a Company for the benefit of the said Connie J. Dorrian and Lloyd W. Fahler, which Company was incorporated under the name of Williams-Davis, Inc., the said Connie J. Dorrian and Lloyd W. Fahler becoming the owners of all the Capital Stock issued by said Company, excepting only the qualifying shares.

That after said incorporation, the said Connie J. Dorrian and Lloyd W. Fahler caused Williams-Davis, Inc., with their assent and approval, to enter into an agreement with the Gordon Williams Company, whereby Gordon Williams Company was constituted the sole selling agent of all the lands then owned by the Williams-Davis, Inc., as well as all other lands that should be purchased by the said Williams-Davis, Inc., and agreed to pay to Gordon Williams Company 25% of the gross selling price as commission on all lands by it, the Gordon Wil-

liams Company, sold for Williams-Davis, Inc., as appears from the copy of the agreement attached to the foregoing Complaint, marked "Schedule A."

That the said Gordon Williams Company entered upon the execution of said agreement, and between the 4th day of January, 1926, and the 1st day of January, 1927, did sell and dispose of lands of the Williams-Davis, Inc., to the amount of approximately $1,000,000, on which the said Gordon Williams Company received its commission of 25%.

That there was no agreement between the Williams-Davis, Inc., nor between Connie J. Dorrian and Lloyd W. Fahler, constituting Gordon Williams Company, Harold S. Williams, Gordon Williams, Royden B. Davis, or deponent purchasing agents in the State of New Jersey for the said Williams-Davis, Inc., or for Connie J. Dorrian and Lloyd W. Fahler, or either of them.

That on a number of occasions, the Gordon Williams Company, Gordon Williams, Harold S. Williams, Royden B. Davis and deponent offered parcels of real estate, of which they or one of them was the equitable owner, but the title to which stood in the name of some other person for it, them or one of them, and which real estate had been in every instance purchased with the moneys of Gordon Williams Company, or Gordon Williams, or Harold S. Williams, or Royden B. Davis, or deponent, several parcels of which the said Williams-Davis, Inc., or Connie J. Dorrian or Lloyd W. Fahler, in behalf of said Williams-Davis, Inc., purchased.

That the profits made by Gordon Williams Company, Gordon Williams, Harold S. Williams, Royden B. Davis, or deponent from the sale of said lands, as well as the profits made by the said Gordon Williams Company, acting as broker, were largely invested in real estate mortgages.

That the said Williams-Davis, Inc. has unsold lands purchased by it, which are subject to the sales agreement, made between Williams-Davis, Inc. and Gordon Williams Company, of a value of approximately $1,000,000, on the sale of which lands Gordon Williams Company is entitled to receive 25%, or $250,000.

That Connie J. Dorrian and Lloyd W. Fahler entered into a corrupt and fraudulent arrangement with Carlton Godfrey and William I. Garrison, Esquires, and Philip S. Godfrey, to pretend and allege, and to make a show of enforcing the false claim that the said Gordon Williams, Harold S. Williams, Complainant Royden B. Davis and deponent had unlawfully obtained money from the defendants, Connie J. Dorrian and Lloyd W. Fahler, and pretended to make an effort to collect the same; deponent believing that it was the desire and determination of the said Connie J. Dorrian and Lloyd W. Fahler to terminate said contract with Gordon Williams Company, and thereby cheat and deprive the said Gordon Williams Company and its stockholders and officers of the benefit of the advertising the Gordon Williams Company had done, and the work it had performed in placing said lands before the public, so that the same might be more easily sold, as well as of the profits from the sale of said lands under the terms of said agreement.

That the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey, thereupon falsely and fraudulently attacked the financial standing, honesty and integrity of the said Gordon Williams Company, Gordon Williams, Harold S. Williams, Royden B. Davis, and deponent, and falsely and fraudulently asserted and claimed that the purchases of the lands made by

Gordon Williams Company, Gordon Williams, Harold S. Williams, Royden B. Davis and deponent, which lands stood in the name of the nominee or nominees of the said Gordon Williams Company, Gordon Williams, Harold S. Williams, Royden B. Davis and deponent, had been purchased with the moneys of the said Williams-Davis, Inc., or Connie J. Dorrian and Lloyd W. Fahler; and that the lands so alleged to have been purchased were purchased by the said Gordon Williams Company, Gordon Williams, Harold S. Williams, Royden B. Davis and deponent in a fiduciary capacity, and that the profits made upon the sale of said lands to the said Williams-Davis, Inc., belonged to Connie J. Dorrian and Lloyd W. Fahler.

That the said claims so made were wholly false, fraudulent and untrue.

That Carlton Godfrey, Esquire, was the attorney for the said Williams-Davis, Inc., and knew of the transactions, knew of the falsity of the claim set forth by the said Connie J. Dorrian and Lloyd W. Fahler, and he, together with his associate, William I. Garrison, Esquire, and his son, Philip S. Godfrey, joined with the said Connie J. Dorrian and Lloyd W. Fahler in the endeavor to free the Williams-Davis, Inc. from the brokerage agreement outstanding with Gordon Williams Company, and collect the moneys aforesaid by falsely and fraudulently making claims against Gordon Williams, Harold S. Williams, Royden B. Davis, and deponent.

That in furtherance of said false and fraudulent claims, the said Lloyd W. Fahler did make a certain false and fraudulent affidavit, which was presented by the said Carlton Godfrey and William I. Garrison, Esquires, or one of them, to a Supreme Court Commissioner, who, on said false and fraudulent

affidavit made an Order that an attachment issue against the property of the said Gordon Williams, Harold S. Williams, Royden B. Davis and deponent, and the properties of the said parties were attached under a writ issued pursuant to said Order.

That at the same time, the said Connie J. Dorrian did make a certain other false and fraudulent affidavit against the said Gordon Williams, Harold S. Williams, Royden B. Davis and deponent, which said false and fraudulent affidavit was presented to a Supreme Court Commissioner, and on which affidavit the said Supreme Court Commissioner did make an Order, directing a capias to be issued against the said Gordon Williams, Harold S. Williams, Royden B. Davis and deponent, and fixed the amount of bail at $50.00 each, and that pursuant to said Order a capias was issued against Gordon Williams, Harold S. Williams, Royden B. Davis and deponent.

That thereupon the said Lloyd W. Fahler did cause a Bill of Complaint to be filed in the Court of Chancery of the State of New Jersey, setting forth the making of the affidavit, the issuing of the Order and writ of attachment in said Atlantic County Circuit Court suit, and praying that because of the making of said Order and issuing said writ that the said Gordon Williams, Harold S. Williams, Royden B. Davis and deponent be restrained and enjoined from assigning, transferring or setting over certain mortgages by them, or some of them held, and on the filing of said Bill and affidavit thereto annexed, a temporary restraint was issued by the Court of Chancery, preventing the said Gordon Williams, Harold S. Williams, Royden B. Davis and deponent from assigning, transferring or setting over any of said mortgages.

That by reason of the various suits instituted against the said Gordon Williams, Harold S. Williams, Royden B. Davis and deponent, their property was entirely tied up, and it thereupon became impossible for them to secure bail in the amount specified by the said Supreme Court Commissioner, to-wit, the sum of $50,000 each.

That immediately, the said Gordon Williams, Harold S. Williams, Royden B. Davis and deponent gave notice of an application before the Atlantic County Circuit Court for an Order setting aside the Order for attachment and the writ issued thereon; and gave notice of a motion before his Honor, Luther A. Campbell, Supreme Court Justice, for an Order setting aside the Order for a capias and the writ of capias issued thereon; and gave notice of a motion before the Court of Chancery to vacate said restraint.

That thereupon, the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey adopted a course of conduct intended to falsely frighten and intimidate the said Gordon Williams, Harold S. Williams, Royden B. Davis and deponent to a point where they would, from sheer fear and fright, make some settlement with the said Connie J. Dorrian and Lloyd W. Fahler, and sent word to the said Harold S. Williams and Royden B. Davis, which was repeated to them, that they, the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey, proposed to have them arrested and imprisoned for embezzlement on some unstated charge, and sent word to this deponent that they, the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey, would have him imprisoned on the ground of forgery.

That the wife of the said Harold S. Williams is in California, and is in a dying condition, and the said Harold S. Williams was most anxious to return to California to be with his wife, and this anxiety was known to the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey.

That the above-stated charges were repeated and emphasized to the said Harold S. Williams, who is in a poor state of health, and, later, the said Lloyd W. Fahler, Connie J. Dorrian, Carlton Godfrey, William I. Garrison and Philip S. Godfrey met the said Harold S. Williams, Royden B. Davis and deponent in the City of Philadelphia, State of Pennsylvania, and stated that they would imprison the said Harold S. Williams, Royden B. Davis and deponent unless they transferred to the said Connie J. Dorrian and Lloyd W. Fahler $190,000 in cash and securities, and stated that on failure or refusal to do so, they, the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey would have the said Harold S. Williams, Royden B. Davis and deponent indicted, brought into the State of New Jersey, and imprisoned, and at that time falsely and fraudulently stated to the said Harold S. Williams, Royden B. Davis and deponent that the Justice of the Supreme Court had sustained their affidavit and order for ussing of the capias in an opinion theretofore filed by said Justice, a copy of which opinion is annexed to the foregoing Bill of Complaint, and marked "Schedule B."

That thereupon the said Harold S. Williams suffered two severe heart attacks, collapsed to such a point that his life was on said two occasions despaired of, and fearing death from further agita-

tion, agreed to sign any agreement to be free of them, Connie J. Dorrian and Lloyd W. Fahler, and the said Carlton Godfrey and William I. Garrison.

That deponent then demanded of the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey, that the attorneys of the said Harold S. Williams, Royden B. Davis and deponent be permitted to be present at said meeting, but the said Carlton Godfrey and William I. Garrison, Attorneys for Lloyd W. Fahler and Connie J. Dorrian, refused to permit any lawyers representing the said Harold S. Williams, Royden B. Davis and deponent to be present at said meeting.

That they, the said Carlton Godfrey and William I. Garrison stated that they would prepare an agreement in rough, which agreement should be submitted by the said Harold S. Williams, Royden B. Davis and deponent to their attorney or attorneys before signing, and upon that pretense, and by reason of the false and fraudulent statements made to them concerning their position of jeopardy, because of their alleged liability of arrest and imprisonment, and because of the false and fraudulent statement that said Justice of the Supreme Court had sustained the Order for the issuing of the capias, they, the said Harold S. Williams, Royden B. Davis and deponent were dominated physically and mentally by the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey, frightened, and led to believe and did believe that unless they executed the agreement and assignments and paid over the moneys, they would be deprived of their liberty, and, being thus imprisoned and deprived of the advice of counsel, assented to the demands made upon them by the said Connie

J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey.

That thereupon the said Carlton Godfrey and William I. Garrison, Attorneys, prepared an agreement, many pages in length, and after it had been prepared, insisted upon an immediate signature, promising to give to the said Harold S. Williams and Royden B. Davis and deponent a copy thereof the following day. Whereupon, the said agreement was signed by the said Harold S. Williams, Royden B. Davis and deponent, wherein they, believing said false and fraudulent statements of the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey, agreed to assign mortgages and pay to the said defendants, Connie J. Dorrian and Lloyd W. Fahler $190,000, which was to be delivered to one John J. Mellon, to be held in escrow until the provisions of the agreement had been carried into effect.

That immediately thereafter, the said Harold S. Williams, Royden B. Davis and deponent consulted with their attorneys, and related all they had done and all that the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey had said to them, and learned that the Justice of the Supreme Court had not sustained the Order for the issuing of the capias, but had pointed out four fatal defects thereto, and were advised by their attorneys that the claim made by the said Carlton Godfrey and William I. Garrison, Esquires, that the said Harold S. Williams and Royden B. Davis and deponent were in imminent danger of arrest and imprisonment was without warrant in law, and that they were not liable to lawful arrest.

Whereupon, they, the said Harold S. Williams, Royden B. Davis and deponent immediately repudiated said agreement.

However, before being enlightened by their attorneys as to the false and fraudulent statements made by the said Carlton Godfrey, William I. Garrison, Philip S. Godfrey, Connie J. Dorrian and Lloyd W. Fahler, the said Harold S. Williams, Royden B. Davis and deponent assigned mortgages, paid moneys and checks to the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey in the sum of $97,-281.79, as will appear from Schedules C. D. and E. attached to the foregoing Bill of Complaint.

That on the following day, the said Royden B. Davis and deponent again met Carlton Godfrey and Philip S. Godfrey, and demanded of them an inspection of the agreement that they had the night before signed, which inspection was denied to them by the said Carlton Godfrey.

Whereupon, the said deponent and Royden B. Davis demanded of the said Carlton Godfrey, Esq., a copy of said agreement, pursuant to the promise made to them at the time they executed it, and a copy thereof was likewise refused to them by the said Carlton Godfrey, Esq.

A. Trevor Williams.

Sworn and subscribed
before me this 4th day
of June, 1927.
Mary A. D. Wallace
Notary Public of N. J.
My commission expires
Aug. 11, 1931.

STATE OF NEW JERSEY }
CAMDEN COUNTY } ss.

ROYDEN B. DAVIS, of full age, being duly sworn according to law, on his oath says:

I have read the foregoing Complaint, and the

statements therein made are true, and especially is it true that prior to the 4th day of January, 1926, Complainant, A. Trevor Williams, Harold S. Williams and Gordon Williams were and since have been stockholders, officers and directors of the Gordon Williams Company, engaged in the buying and selling of real estate, and real estate brokerage business, and did a large business, and on and prior to said 4th day of January, 1926, was in a prosperous condition;

That Connie J. Dorrian and Lloyd W. Fahler approached the officers of said Company, with the object of advancing moneys, so that they, Connie J. Dorrian and Lloyd W. Fahler, might in some manner participate in the profits of the business then being conducted by the said Gordon Williams Company and induced Complainant A. Trevor Williams, Harold S. Williams and Gordon Williams to incorporate a Company for the benefit of the said Connie J. Dorrian and Lloyd W. Fahler, which Company was incorporated under the name of Williams-Davis, Inc., the said Connie J. Dorrian and Lloyd W. Fahler becoming the owners of all the Capital Stock issued by said Company, excepting only the qualifying shares.

That after said incorporation, the said Connie J. Dorrian and Lloyd W. Fahler caused Williams-Davis, Inc., with their assent and approval, to enter into an agreement with the Gordon Williams Company, whereby Gordon Williams Company was constituted the sole selling agent of all the lands then owned by the Williams-Davis, Inc., as well as all other lands that should be purchased by the said Williams-Davis, Inc., and agreed to pay to Gordon Williams Company 25% of the gross selling price as commission on all lands by it, the Gordon Wil-

liams Company, sold for Williams-Davis, Inc., as appears from the copy of the agreement attached to the foregoing complaint, marked "Schedule A."

That the said Gordon Williams Company entered upon the execution of said agreement, and between the 4th day of January, 1926, and the 1st day of January, 1927, did sell and dispose of lands of the Williams-Davis, Inc., to the amount of approximately $1,000,000, on which the said Gordon Williams Company received its commission of 25%.

That there was no agreement between the Williams-Davis, Inc., nor between Connie J. Dorrian and Lloyd W. Fahler, constituting Gordon Williams Company, Harold S. Williams, Gordon Williams, A. Trevor Williams, or deponent purchasing agents in the State of New Jersey for the said Williams-Davis Inc., or for Connie J. Dorrian and Lloyd W. Fahler, or either of them.

That on a number of occasions, the Gordon Williams Company, Gordon Williams, Harold S. Williams, A. Trevor Williams and deponent offered parcels of real estate, of which they or one of them was the equitable owner, but the title to which stood in the name of some other person for it, them or one of them, and which real estate had been in every instance purchased with the moneys of Gordon Williams Company, or Gordon Williams, or Harold S. Williams, or A. Trevor Williams, or deponent, several parcels of which the said Williams-Davis, Inc., or Connie J. Dorrian or Lloyd W. Fahler, in behalf of said Williams-Davis, Inc., purchased.

That the profits made by Gordon Williams Company, Gordon Williams, Harold S. Williams, A. Trevor Williams, or deponent from the sale of said lands, as well as the profits made by the said Gordon Williams Company, acting as broker, were largely invested in real estate mortgages.

That the said Williams-Davis, Inc., has unsold lands purchased by it, which are subject to the sales agreement, made between Williams-Davis, Inc., and Gordon Williams Company, of a value of approximately $1,000,000, on the sale of which lands Gordon Williams Company is entitled to receive 25%, or $250,000.

That Connie J. Dorrian and Lloyd W. Fahler entered into a corrupt and fraudulent arrangement with Carlton Godfrey and William I. Garrison, Esquires, and Philip S. Godfrey, to pretend and allege, and to make a show of enforcing the false claim that the said Gordon Williams, Harold S. Williams, Complainant A. Trevor Williams and deponent had unlawfully obtained money from the defendants, Connie J. Dorrian and Lloyd W. Fahler, and pretended to make an effort to collect the same; deponent believing that it was the desire and determination of the said Connie J. Dorrian and Lloyd W. Fahler to terminate said contract with Gordon Williams Company, and thereby cheat and deprive the said Gordon Williams Company and its stockholders and officers of the benefit of the advertising the Gordon Williams Company had done, and the work it had performed in placing said lands before the public, so that the same might be more easily sold, as well as of the profits from the sale of said lands under the terms of said agreement.

That the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey, thereupon falsely and fraudulently attacked the financial standing, honesty and integrity of the said Gordon Williams Company, Gordon Williams, Harold S. Williams, A. Trevor Williams, and deponent, and falsely and fraudulently asserted and claimed that the purchases of

the lands made by Gordon Williams Company, Gordon Williams, Harold S. Williams, A. Trevor Williams and deponent, which lands stood in the name of the nominee or nominees of the said Gordon Williams Company, Gordon Williams, Harold S. Williams, A. Trevor Williams and deponent, had been purchased with the moneys of the said Williams-Davis, Inc., or Connie J. Dorrian and Lloyd W. Fahler; and that the lands so alleged to have been purchased were purchased by the said Gordon Williams Company, Gordon Williams, Harold S. Williams, A. Trevor Williams and deponent in a fiduciary capacity, and that the profits made upon the sale of said lands to the said Williams-Davis, Inc., belonged to Connie J. Dorrian and Lloyd W. Fahler.

That the said claims so made were wholly false, fraudulent and untrue.

That Carlton Godfrey, Esquire, was the attorney for the said Williams-Davis, Inc., and knew of the transactions, knew of the falsity of the claim set forth by the said Connie J. Dorrian and Lloyd W. Fahler, and he, together with his associate, William I. Garrison, Esquire, and his son, Philip S. Godfrey, joined with the said Connie J. Dorrian and Lloyd W. Fahler in the endeavor to free the Williams-Davis, Inc., from the brokerage agreement outstanding with Gordon Williams Company, and collect the moneys aforesaid by falsely and fraudulently making claims against Gordon Williams, Harold S. Williams, A. Trevor Williams, and deponent.

That in furtherance of said false and fraudulent claims, the said Lloyd W. Fahler did make a certain false and fraudulent affidavit, which was presented by the said Carlton Godfrey and William I. Garrison, Esquires, or one of them, to a Supreme Court

Commissioner, who, on said false and fraudulent affidavit made an Order that an attachment issue against the property of the said Gordon Williams, Harold S. Williams, A. Trevor Williams and deponent, and the properties of the said parties were attached under a writ issued pursuant to said Order.

That at the same time, the said Connie J. Dorrian did make a certain false and fraudulent affidavit against the said Gordon Williams, Harold S. Williams, A. Trevor Williams and deponent, which said false and fraudulent affidavit was presented to a Supreme Court Commissioner, and on which affidavit the said Supreme Court Commissioner did make an Order, directing a capias to be issued against the said Gordon Williams, Harold S. Williams, A. Trevor Williams and deponent.

That thereupon the said Lloyd W. Fahler did cause a Bill of Complaint to be filed in the Court of Chancery of the State of New Jersey, setting forth the making of the affidavit, the issuing of the Order and writ of attachment in said Atlantic County Circuit Court suit, and praying that because of the making of said Order and issuing said writ that the said Gordon Williams, Harold S. Williams, A. Trevor Williams and deponent be restrained and enjoined from assigning, transferring or setting over certain mortgages by them, or some of them held, and on the filing of said Bill and affidavit thereto annexed, a temporary restraint was issued by the Court of Chancery, preventing the said Gordon Williams, Harold S. Williams, A. Trevor Williams and deponent from assigning, transferring or setting over any of said mortgages.

That by reason of the various suits instituted against the said Gordon Williams, Harold S. Williams, A. Trevor Williams and deponent, their prop-

erty was entirely tied up, and it thereupon became impossible for them to secure bail in the amount specified by the said Supreme Court Commissioner, to wit, the sum of $50,000 each.

That immediately, the said Gordon Williams, Harold S. Williams, A. Trevor Williams and deponent gave notice of an application before the Atlantic County Circuit Court for an Order setting aside the Order for attachment and the writ issued thereon; and gave notice of a motion before his Honor, Luther A. Campbell, Supreme Court Justice, for an Order setting aside the Order for a capias and the writ of capias issued thereon; and gave notice of a motion before the Court of Chancery to vacate said restraint.

That thereupon, the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey adopted a course of conduct intended to falsely frighten and intimidate the said Gordon Williams, Harold S. Williams, A. Trevor Williams and deponent to a point where they would, from sheer fear and fright, make some settlement with the said Connie J. Dorrian and Lloyd W. Fahler, and sent word to the said Harold S. Williams and deponent, which was repeated to them, that they, the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey, proposed to have them arrested and imprisoned for embezzlement on some unstated charge, and sent word to A. Trevor Williams that they, the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey, would have him imprisoned on the ground of forgery.

That the wife of the said Harold S. Williams is in California, and is in a dying condition, and the said

Harold S. Williams was most anxious to return to California to be with his wife, and this anxiety was known to the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey.

That the above-stated charges were repeated and emphasized to the said Harold S. Williams, who is in a poor state of health, and, later, the said Lloyd W. Fahler, Connie J. Dorrian, Carlton Godfrey, William I. Garrison and Philip S. Godfrey met the said Harold S. Williams, A. Trevor Williams and deponent in the City of Philadelphia, State of Pennsylvania, and stated that they would imprison the said Harold S. Williams, A. Trevor Williams and deponent unless they transferred to the said Connie J. Dorrian and Lloyd W. Fahler $190,000 in cash and securities, and stated that on failure or refusal to do so, they, the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey would have the said Harold S. Williams, A. Trevor Williams and deponent indicted, brought into the State of New Jersey, and imprisoned, and at that time falsely and fraudulently stated to the said Harold S. Williams, A. Trevor Williams and deponent that the Justice of the Supreme Court had sustained their affidavit and order for issuing of the capias in an opinion theretofore filed by said Justice, a copy of which opinion is annexed to the foregoing Bill of Complaint, and marked "Schedule B."

That thereupon the said Harold S. Williams suffered two severe heart attacks, collapsed to such a point that his life was on said two occasions despaired of, and fearing death from further agitation, agreed to sign any agreement to be free of them, Connie J. Dorrian and Lloyd W. Fahler, and the said Carlton Godfrey and William I. Garrison.

That A. Trevor Williams then demanded of the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey, that the attorneys of the said Harold S. Williams, A. Trevor Williams and deponent be permitted to be present at said meeting, but the said Carlton Godfrey and William I. Garrison, Attorneys for Lloyd W. Fahler and Connie J. Dorrian, refused to permit any lawyers representing the said Harold S. Williams, A. Trevor Williams and deponent to be present at said meeting.

That they, the said Carlton Godfrey and William I. Garrison stated that they would prepare an agreement in rough, which agreement should be submitted by the said Harold S. Williams, A. Trevor Williams and deponent to their attorney or attorneys before signing, and upon that pretense, and by reason of the false and fraudulent statements made to them concerning their position of jeopardy, because of their alleged liability of arrest and imprisonment, and because of the false and fraudulent statement that said Justice of the Supreme Court had sustained the Order for the issuing of the capias, they, the said Harold S. Williams, A. Trevor Williams and deponent were dominated physically and mentally by the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey, frightened, and led to believe and did believe that unless they executed the agreement and assignments and paid over the moneys, they would be deprived of their liberty, and, being thus, imprisoned and deprived of the advice of counsel, assented to the demands made upon them by the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey.

That thereupon the said Carlton Godfrey and William I. Garrison, Attorneys, prepared an agreement, many pages in length, and after it had been prepared, insisted upon an immediate signature, promising to give to the said Harold S. Williams and deponent and A. Trevor Williams a copy thereof the following day. Whereupon, the said agreement was signed by the said Harold S. Williams, A. Trevor Williams and deponent, wherein they, believing said false and fraudulent statements of the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey, agreed to assign mortgages and pay to the said defendants, Connie J. Dorrian and Lloyd W. Fahler $190,000, which was to be delivered to one John J. Mellon, to be held in escrow until the provisions of the agreement had been carried into effect.

That immediately thereafter, the said Harold S. Williams, A. Trevor Williams and deponent consulted with their attorneys, and related all they had done and all that the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey had said to them, and learned that the Justice of the Supreme Court had not sustained the Order for the issuing of the capias, but had pointed out four fatal defects thereto, and were advised by their attorneys that the claim made by the said Carlton Godfrey and William I. Garrison, Esquires, that the said Harold S. Williams and A. Trevor Williams and deponent were in imminent danger of arrest and imprisonment was without warrant in law, and that they were not liable to lawful arrest.

Whereupon, they, the said Harold S. Williams, A. Trevor Williams and deponent immediately repudiated said agreement.

However, before being enlightened by their attorneys as to the false and fraudulent statements made by the said Carlton Godfrey, William I. Garrison, Philip S. Godfrey, Connie J. Dorrian and Lloyd W. Fahler, the said Harold S. Williams, A. Trevor Williams and deponent assigned mortgages, paid moneys and checks to the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey, William I. Garrison and Philip S. Godfrey in the sum of $97,281.79, as will appear from Schedules C., D., and E., attached to the foregoing Bill of Complaint.

That on the following day, the said A. Trevor Williams and deponent again met Carlton Godfrey and Philip S. Godfrey, and demanded of them an inspection of the agreement that they had the night before signed, which inspection was denied to them by the said Carlton Godfrey.

Whereupon, the said deponent and A. Trevor Williams demanded of the said Carlton Godfrey, Esq., a copy of said agreement, pursuant to the promise made to them at the time they executed it, and a copy thereof was likewise refused to them by the said Carlton Godfrey, Esq.

Royden B. Davis.

Sworn and subscribed
before me this 4th day
of June, 1927.
(Seal)
Mary A. D. Wallace
Notary Public of New Jersey
My commission expires
Aug. 11, 1931.

PROPOSED AMENDED BILL
(In Williams vs. Dorrian.)

IN CHANCERY OF NEW JERSEY.

TO HIS HONOR, EDWIN ROBERT WALKER, CHANCELLOR OF THE STATE OF NEW JERSEY:

Complainants, A. Trevor Williams, Royden B. Davis and Gordon Williams Company, severally show unto your Honor:

1. That prior to the 4th day of January, 1926, Complainant, Royden B. Davis, together with Harold S. Williams and Gordon Williams, were and since have been stockholders, officers and directors of the Gordon Williams Company, a corporation of the State of New Jersey, engaged in the buying and selling of real estate, and conducted a real estate brokerage business, for the benefit and profit of said Company.

2. That the said Gordon Williams Company did a large business, and on and prior to the said 4th day of January, 1926, was in a prosperous condition.

3. That defendants, Connie J. Dorrian and Lloyd W. Fahler knowing the extensive and profitable business then being transacted by the said Gordon Williams Company, approached the officers of said Company with the object of advancing moneys, so that they, Connie J. Dorrian and Lloyd W. Fahler, might in some manner participate in the profits of the business then being conducted by the said Gordon Williams Company.

4. That at that time, the real estate market in and about Atlantic City and Atlantic County was unusually active, and large profits in real estate transactions were constantly being made.

5. That the said Connie J. Dorrian and Lloyd W. Fahler, in order to realize some of the profits then being made in the real estate market at the time, in furtherance of their desire to avail themselves of the standing and efficiency of Gordon Williams Company, and reap the benefit and profit not only of the standing of the said Gordon Williams Company, but also of its officers, induced Gordon Williams, Harold S. Williams and Complainant Royden B. Davis to incorporate a Company for the benefit of the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and still endeavoring to secure the benefit of the standing of said Complainants and officers of the Gordon Williams Company, requested that said new Company be named Williams-Davis Inc.

6. That such Company was incorporated under the above name, and defendants, Connie J. Dorrian and Lloyd W. Fahler, became the owners of all the Capital Stock issued by said Company, excepting only the qualifying shares.

7. That after the incorporation of said Williams-Davis, Inc., said defendants, Connie J. Dorrian and Lloyd W. Fahler, in furtherance of their original design to benefit by the standing of the said Gordon Williams Company, caused Williams-Davis, Inc., with their assent and approval, to enter into an agreement with the Gordon Williams Company, whereby Gordon Williams Company was constituted the sole selling agent of all the lands then owned by the Williams-Davis, Inc., as well as all other lands that should be purchased by said Williams-Davis,

Inc., and agreed to pay to Gordon Williams Company 25% of the gross selling price as commission on all lands by it, the Gordon Williams Company, sold for Williams-Davis, Inc., a copy of which agreement is hereto attached, made a part hereof, and marked "Schedule A."

8. That the said Gordon Williams Company entered upon the execution of said contract, and between the 4th day of January, 1926, and the 1st day of January, 1927, did sell and dispose of lands of the Williams-Davis, Inc. to the amount of approximately $1,000,000 on which the said Gordon Williams Company received its commission of 25%.

9. That there was no agreement between the Williams-Davis, Inc., nor between defendants, Connie J. Dorrian and Lloyd W. Fahler, constituting Gordon Williams Company, A. Trevor Williams and Royden B. Davis purchasing agtents in the State of New Jersey for said Williams-Davis, Inc., or for defendants, Connie J. Dorrian and Lloyd W. Fahler.

10. That Williams-Davis, Inc., of which defendants Connie J. Dorrian and Lloyd W. Fahler owned practically all of the capital stock, was at times used by Connie J. Dorrian and Lloyd W. Fahler, who were in the market for the purchase of real estate, and that on certain occasions the Gordon Williams Company, A. Trevor Williams and Royden B. Davis, or one of them, contracted to sell parcels of real estate, of which they or one of them was the equitable owner, but the title to which stood in the name of some other person for it, them or one of them, which real estate had been in every instance purchased with the moneys of the said Gordon Williams Company, A. Trevor Williams or Royden B. Davis, to Connie J. Dorrian or Lloyd W. Fahler, who at the

time of settlement paid for same with their money, but requested that title thereto be conveyed to Williams-Davis, Inc., to their own interest, or in the interest of Williams-Davis, Inc.

11. That the lands so sold to the said Connie J. Dorrian and Lloyd W. Fahler and conveyed to Williams-Davis, Inc., being the lands of Gordon Williams Company or A. Trevor Williams or Royden B. Davis, were sold at a profit.

12. That the profits made by Gordon Williams Company, A. Trevor Williams and Royden B. Davis from the sale of said lands, as well as the profits made by the said Gordon Williams Company acting as broker, were largely invested in real estate mortgages.

13. That the said Williams-Davis, Inc. has unsold lands purchased by it, which are subject to the sales agreement made between Williams-Davis, Inc. and Gordon Williams Company, of a value of approximately $1,000,000, on the sale of which lands Gordon Williams Company is entitled to receive 25%, or $250,000.

14. That defendants, Connie J. Dorrian and Lloyd W. Fahler, realizing the considerable profit heretofore made by the said Gordon Williams Company, A. Trevor Williams and Royden B. Davis under said contract, and foreseeing the immense amount of commission yet to be realized by the Gordon Williams Company thereunder, desired and determined to terminate said contract, and cheat and deprive the Gordon Williams Company and its stockholders and officers of the benefit of the advertising the Gordon Williams Company had done, and the work it had performed in placing said lands before the public, so that the same might be more easily sold,

as well as of the profits from the sale of said lands under the terms thereof.

15. That the said defendants, Connie J. Dorrian and Lloyd W. Fahler, for the purpose of breaking said contract, conceived the idea of fraudulently injuring and financially ruining the said Gordon Williams Company, Harold S. Williams, A. Trevor Williams and Royden B. Davis, and of falsely and fraudulently obtaining from the said Gordon Williams Company, Harold S. Williams, A. Trevor Williams and Royden B. Davis, large sums of money, aggregating $200,000, or thereabouts, entered into a corrupt and fraudulent arrangement with Carlton Godfrey and William I. Garrison, Esquires, and Philip S. Godfrey to pretend and allege, and to make a show of enforcing the false claim that the said Gordon Williams Company, Harold S. Williams, A. Trevor Williams and Royden B. Davis had unlawfully obtained money from the defendants, Connie J. Dorrian and Lloyd W. Fahler, and pretend to make an effort to collect the same.

16. That defendants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey, in furtherance of their desire and determination to free the Williams-Davis, Inc. of the brokerage agreement made with Gordon Williams Company, and fraudulently collecting said money, falsely and fraudulently attacked the financial standing and honesty and integrity of the said Gordon Williams Company, Harold S. Williams, A. Trevor Williams and Royden B. Davis, and falsely and fraudulently asserted and claimed that the purchases of the lands made by Gordon Williams Company, Harold S. Williams, A. Trevor Williams and Royden B. Davis, which lands

stood in the name of the nominee or nominees of the said Gordon Williams Company, Harold S. Williams, A. Trevor Williams and Royden B. Davis, had been purchased with the moneys of the said Williams-Davis, Inc., or defendants, Connie J. Dorrian and Lloyd W. Fahler, and that the lands so alleged to have been purchased were purchased by the said Gordon Williams Company, Harold S. Williams, A. Trevor Williams and Royden B. Davis, in a fiduciary capacity, and that the profits made upon the sale of said lands to the said Connie J. Dorrian, Lloyd W. Fahler and Williams-Davis, Inc., belonged to defendants, Connie J. Dorrian and Lloyd W. Fahler, and Williams-Davis, Inc.

17. That the said claims so made by the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and Williams-Davis, Inc., were wholly false, fraudulent and untrue, and the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey knew the falsity of said allegations.

18. That Carlton Godfrey, Esquire, was the attorney for said Williams-Davis, Inc., and knew of the transactions, knew of the falsity of the claim set forth by the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and he, together with his associate, William I. Garrison, Esquire, and his son, Philip S. Godfrey, joined with the said defendants, Connie J. Dorrian and Lloyd W. Fahler in the endeavor to free the Williams-Davis, Inc. from the brokerage agreement outstanding with Gordon Williams Company, and collect the moneys aforesaid, by falsely and fraudulently making claims against Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis.

19. That in furtherance of said false and fraudulent claims, the said Lloyd W. Fahler did make a certain false and fraudulent affidavit, which was presented by the said Carlton Godfrey and William I. Garrison, Esquires, or one of them, to a Supreme Court Commissioner, who, on said false and fraudulent affidavit, made an Order that an attachment issue against the property of the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis, and the properties of the said parties were attached under a writ issued pursuant to said Order; and at the same time, the said Connie J. Dorrian did make a certain other false and fraudulent affidavit against the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis, which said false and fraudulent affidavit was presented to a Supreme Court Commissioner, and on which affidavit the said Supreme Court Commissioner did make an Order, directing a capias to be issued against the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis, and fixed the amount of bail at $50,000 each; and that pursuant to said Order, a capias was issued against them.

20. That the said Lloyd W. Fahler did cause a Bill of Complaint to be filed in the Court of Chancery of the State of New Jersey, setting forth the making of the affidavit, the issuing of the Order and Writ of attachment in said Atlantic County Circuit Court suit, and praying that because of the making of said Order and issuing said writ that the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis be restrained and enjoined from assigning, transferring or setting over certain mortgages by them, or some of them held,

and on the filing of said Bill and affidavit thereto annexed, a temporary restraint was issued by the Court of Chancery, preventing the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis from assigning, transferring or setting over any of said mortgages.

21. That by reason of the various suits instituted against the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis, their property was entirely tied up, and it thereupon became impossible for them to secure bail in the amount specified by the said Supreme Court Commissioner, to wit, the sum of $50,000 each.

22. That immediately the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis gave notice of an application before the Atlantic County Circuit Court for an Order setting aside the Order for attachment and the writ issued thereon; and gave notice of a motion before his Honor, Luther A. Campbell, Supreme Court Justice, for an Order setting aside the Order for a capias, and the writ of capias issued thereon; and gave notice of a motion before the Court of Chancery to vacate said restraint.

23. That immediately after the giving of said notices, the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey, knowing the illegality of their various proceedings, adopted a course of conduct intended to falsely frighten and intimidate the said Harold S. Williams, A. Trevor Williams and Royden B. Davis, to a point where they, from sheer fear and fright, would make some settlement with the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and did send word to

the said Harold S. Williams and Royden B. Davis, which was repeated to them, that they, the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey and William I. Garrison proposed to have them arrested and imprisoned for embezzlement on some unstated charge, and did send word to the said A. Trevor Williams that they would have him imprisoned on the ground of forgery.

24. That said charges were repeated and emphasized and Harold S. Williams, who was then much worried because of the dying condition of his wife, who was in California, and to whom the said Harold S. Williams was most anxious to go, all of which was known to the said Connie J. Dorrian, Lloyd W. Fahler, Carlton Godfrey and William I. Garrison, by reason thereof, then being in a poor state of health, was seriously affected in his health, and later the said Lloyd W. Fahler and Connie J. Dorrian, Carlton Godfrey, William I. Garrison and Philip S. Godfrey met the said Harold S. Williams, A. Trevor Williams and Royden B. Davis, in the City of Philadelphia, State of Pennsylvania, and asserted that they would imprison the said Harold S. Williams, A. Trevor Williams and Royden B. Davis unless they transferred to the said defendants, Williams-Davis, Inc., Connie J. Dorrian and Lloyd W. Fahler, $190,000 in cash and securities, and on failure or refusal to do so, threatened that they would be indicted, brought into the State of New Jersey, and imprisoned, and at that time falsely and fraudulently stated to the said Harold S. Williams, A. Trevor Williams and Royden B. Davis that the Justice of the Supreme Court had sustained their affidavit and order for the issuing of the capias in an opinion theretofore filed by said Justice, a copy of

which opinion is hereto annexed, made a part hereof, and marked "Schedule B."

25. That by reason of such false and fraudulent statements, and the dire consequences pointed out to the said Harold S. Williams, A. Trevor Williams and Royden B. Davis, by the said Carlton Godfrey and William I. Garrison, Esquires, and Philip S. Godfrey, and defendants, Connie J. Dorrian and Lloyd W. Fahler, the said Harold S. Williams suffered two severe heart attacks, collapsed, to such a point that his life was on said two occasions despaired of, and the said Carlton Godfrey and William I. Garrison, Esquires, insisted upon an immediate payment and transfer of securities, and the said Carlton Godfrey, Esquire, at once begun the writing of an agreement and assignments of various mortgages to be executed by the said Harold S. Williams and A. Trevor Williams and Royden B. Davis.

26. Thereupon, the said A. Trevor Williams demanded of the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey, that their attorneys be permitted to be present at said meeting, but the said Carlton Godfrey and William I. Garrison, Attorneys for Connie J. Dorrian and Lloyd W. Fahler, refused to permit any lawyers representing the said Harold S. Williams, A. Trevor Williams and Royden B. Davis to be present at said meeting.

27. That they, the said Carlton Godfrey and William I. Garrison, Esquires, stated that they would prepare an agreement in rough, which agreement should be submitted by the said Harold S. Williams, A. Trevor Williams and Royden B. Davis, to their attorney or attorneys, before signing, and upon that

pretense, and by reason of the false and fraudulent statements made to them concerning their position of jeopardy, because of their alleged liability of arrest and imprisonment, and because of the false and fraudulent statements that said Justice of the Supreme Court had sustained the Order for the issuing of the capias, they, the said Harold S. Williams, A. Trevor Williams and Royden B. Davis, were dominated physically and mentally by the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey, greatly frightened and led to believe, and did believe that unless they executed the agreement and assignments and paid over the moneys, they would be deprived of their liberty, and being thus imprisoned and deprived of the advice of counsel, upon the completion of said tentative agreement and demand of Carlton Godfrey, Esquire, Harold S. Williams, A. Trevor Williams and Royden B. Davis assented to the demands made upon them by the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey.

28. That the said Carlton Godfrey and William I. Garrison, Esquires, Attorneys, prepared an agreement, many pages in length, and after it had been prepared insisted upon an immediate signature, promising to give to the said Harold S. Williams, A. Trevor Williams and Royden B. Davis a copy thereof the following day; and from fear and fright the said Harold S. Williams, A. Trevor Williams and Royden B. Davis signed said agreement individually, and the said Harold S. Williams and Royden B. Davis executed said agreement on behalf of the Gordon Williams Company, although there had

been no meeting of the Directors of said Company authorizing the signing thereof. The said agreement was signed by the said Harold S. Williams, A. Trevor Williams and Royden B. Davis, wherein they, believing said false and fraudulent statements, agreed to assign mortgages and pay to the said defendants, Williams-Davis, Inc., Connie J. Dorrian and Lloyd W. Fahler, $190,000, which was to be delivered to one John J. Mellon, to be held in escrow until the provisions of the agreement had been carried into effect.

29. That immediately after the execution of said agreement by the said Harold S. Williams, A. Trevor Williams and Royden B. Davis, the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey left, and A. Trevor Williams and Royden B. Davis consulted with their attorneys, and related all they had done, and all the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and Carlton Godfrey, William I. Garrison and Philip S. Godfrey had said to them, and upon learning that the Justice of the Supreme Court had not sustained the order for the issuing of the capias, but had pointed out four fatal defects thereto, and being advised that the claim made by the said Carlton Godfrey and William I. Garrison, Esquires, that the said Harold S. Williams, A. Trevor Williams and Royden B. Davis were in imminent danger of arrest and imprisonment, was without warrant in law, and that they were not liable to lawful arrest, they immediately repudiated said agreement.

30. That the said Carlton Godfrey and William I. Garrison, Esquires, thereupon insisted upon an immediate assignment of mortgages to the said defen-

dants, Connie J. Dorrian and Lloyd W. Fahler, and under the pressure of such false and fraudulent statements concerning their liability of arrest and imprisonment, believing them to be true, the said A. Trevor Williams did assign to the said defendants, Connie J. Dorrian and Lloyd W. Fahler, or one of them, mortgages, and deliver two checks, amounting to the sum of $61,330.07, a schedule whereof is hereto annexed, made a part hereof, and marked "Schedule C"; and the said Royden B. Davis did assign certain mortgages and checks to the said defendants, Connie J. Dorrian and Lloyd W. Fahler, or one of them, amounting to $34,000, a copy of which schedule is hereto annexed, made a part hereof, and marked "Schedule D"; and the said Harold S. Williams did deliver to the said Carlton Godfrey and William I. Garrison, Esquires, the sum of $10,000, and a certain check on the Ventnor City National Bank for $642.99, a copy of which schedule is hereto annexed, made a part hereof, and marked "Schedule E."

31. That the name of Gordon Williams Company was signed to said agreement by the said Royden B. Davis and Harold S. Williams, without any authority from said Gordon Williams Company, a corporation of the State of New Jersey, and they were never authorized by said Gordon Williams Company, nor was any meeting held at which the authority of said Company was sought or given.

32. That on the day following, the said A. Trevor Williams and Royden B. Davis again met Carlton Godfrey and Philip S. Godfrey, and the said A. Trevor Williams and Royden B. Davis demanded of them an inspection of the agreement that they had the night before signed, which inspection was de-

nied to them by the said Carlton Godfrey; whereupon they, the said A. Trevor Williams and Royden B. Davis, demanded of the said Carlton Godfrey, Esquire, a copy of said agreement, pursuant to the promise made to them at the time they executed it, and a copy thereof was likewise refused by the said Carlton Godfrey, Esquire.

33. That by reason of the fraudulent conduct of the said Connie J. Dorrian and Lloyd W. Fahler, and their attorneys, Carlton Godfrey and William I. Garrison, and Philip S. Godfrey, and their refusal to permit Complainants to have counsel present at said conference, complainants repudiated said agreement, and the assignment of said mortgages, and demanded a re-delivery and re-assignment of them to Complainants.

Wherefore, Complainants pray:

1. That a writ of subpoena issue out of this honorable Court, directed to the said Connie J. Dorrian and Lloyd W. Fahler, requiring them to answer, without oath, every allegation in this Bill.

2. That said agreement so severally signed by complainants to defendants, Connie J. Dorrian and Lloyd W. Fahler, be decreed to be null and void, and for nothing holden as to each complainant; and that the assignments of the mortgages hereinabove mentioned be decreed to be null and void, and for nothing holden.

3. That the said Connie J. Dorrian and Lloyd W. Fahler, and each of them, their servants and agents, be decreed to surrender up said agreement so signed by the said Harold S. Williams, A. Trevor Williams and Royden B. Davis and Gordon Williams Company for cancellation, and that in the meantime the said defendants, Connie J. Dorrian

and Lloyd W. Fahler be enjoined from disposing of or making any use whatever of said agreement.

4. That the said defendants, Connie J. Dorrian and Lloyd W. Fahler, and each of them, their servants and agents, be enjoined from disposing of any of the mortgages or property hereinabove mentioned.

5. That the said defendants, Connie J. Dorrian and Lloyd W. Fahler, their servants and agents, be directed to surrender, re-assign, transfer and set over unto A. Trevor Williams, Royden B. Davis and Gordon Williams Company, the mortgages and interest in mortgages severally assigned by them, hereinbefore mentioned, to the Complainants by whom the same were assigned.

6. That the said defendants, Connie J. Dorrian and Lloyd W. Fahler, their servants and agents, be directed to pay back to the said Complainants, A. Trevor Williams, Royden B. Davis, severally, the moneys hereinabove mentioned.

7. That complainants have such further and other relief in the premises as shall be agreeable to equity and good conscience.

....., Solictors for Complainants.

....., Of Counsel.

SCHEDULE A.

THIS AGREEMENT made this fourth day of January, 1926, between Williams and Davis, Inc., a corporation of New Jersey, sometimes referred to

herein as "The Owner," party of the first part, and GORDON WILLIAMS & CO., also a corporation of New Jersey, sometimes referred to herein as "The Broker," party of the second part:

WHEREAS the party of the first part has purchased or is about to purchase a tract of land at Somers Point, Atlantic County, New Jersey, which tract is named or designated as Del Rey, and which tract it intends to improve and lay out in lots to be shown upon a map or plan to be made by William H. Collisson, Jr., civil engineer, in anticipation of a profitable sale of such property:

AND WHEREAS said party of the first part may purchase additional land to be added to and become a part of Del Rey, and may purchase other land which may or may not be in the vicinity of the tract known as Del Rey:

AND WHEREAS the said party of the first part has determined that its interests will be best served by the employment of the said party of the second part as its sole and exclusive broker or agent to offer for sale and to sell and dispose of all of the land which it may now own or may hereafter acquire:

AND WHEREAS the said party of the second part has consented to become the broker or agent of the said party of the first part upon the terms and conditions herein recited:

NOW, THEREFORE, in consideration of the premises and of the sum of One dollar each to the other in hand paid, receipt whereof is hereby acknowledged the said parties hereto do hereby agree with each other as follows:

1. The said party of the first part does hereby engage and employ the said party of the second

part as its sole and exclusive broker or agent to use its best endeavors to sell and dispose of all of the land and premises now owned by said party of the first part as well as all of the land and premises which has been or may hereafter be purchased by said party of the first part. This contract or agreement of employment shall remain in full force and effect until all of said land and premises have been sold and settlements made therefor.

2. The said party of the second part shall fix the selling price or prices for which each lot in the said tract to be known as Del Rey shall be offered and sold and may change such prices for any or all of said lot or lots from time to time in their discretion.

3. It is understood that the general policy of making sales shall be upon the plan of payment of ten per cent upon the execution of the agreement and forty per cent in not exceeding five monthly payments without interest and the balance of not exceeding fifty per cent by a purchase money first mortgage, payable within two years, with interest payable semi-annually, with the usual thirty day default clauses in case of non-payment of interest or taxes; or five per cent upon the signing of said agreement and forty-five per cent in not exceeding ten monthly payments without interest, and not exceeding fifty per cent upon mortgage as aforesaid. The said party of the second part may vary the payments in its discretion and also may make adjustments with purchasers under agreements in its discretion, so as to reduce the number of lots sold to a buyer and to apply all amounts paid by such buyer upon such purchase so reduced.

4. The form of the agreements of sale to purchasers herein referred to shall be approved by the

said broker, and prepared by it. Said agreements shall obligate the owner to deliver to the purchaser a good and marketable title, and to improve the said property by filling said tract to the grade fixed by the engineer, and that the driveways of the avenue or avenues in front of said lots so sold shall be built of gravel with concrete curbs and the sidewalks shall be built of gravel and cement, cement strip to be not less than.....feet in width and that the usual settlement of taxes and municipal claims shall be made as of the date of settlement, unless some other date is agreed upon by said broker. The form and terms of said agreements may be modified in any case in the discretion of said broker.

5. It is agreed that the compensation of the party of the second part which compensation shall include such expenditures as it, the broker shall specifically agree to pay, shall be a commission of twenty five per cent upon the gross selling price of each and all lots sold in the tract known as Del Rey, as shown upon the said map, and any addition to said tract and twenty five per cent of the gross selling price of all other land of the party of the first part, which may be sold in lots; and ten per cent of the gross selling price of all land of the party of the first part sold in acreage. In case of default by purchasers under agreements the amount of compensation to be collected on any single sale shall not exceed the amount collected from the purchaser. The party of the second part is authorized to advertise the said Del Rey in its discretion, but all amounts expended for such advertising shall be paid for by said broker.

6. It is agreed that the said compensation due to the party of the second part shall be considered to

be earned when the agreement of sale is executed, but shall be collected by said broker as and when funds are available.

7. The said party of the second part agrees to keep accurate books of accounts of all amounts collected, which books of account shall be audited semi-monthly by a representative of said owner and at the expense of said owner. A statement shall be rendered monthly by the said broker to said owner, and all amounts collected by said broker less commissions retained, shall be paid to said owner semi-monthly by depositing said amounts in bank to the credit of the account of said owner.

8. The said broker agrees to use its best endeavors to make sales and to endeavor to collect as promptly as possible all sums due and to grow due upon all such agreements of sale.

9. The said owner agrees to pay the expenses of the preparation of all deeds made by it and all mortgages taken by it under the authority of this agreement, and all such mortgages, so taken shall be delivered to the party of the first part when settlements are made, or as soon thereafter as said mortgages are recorded and returned from record.

10. This agreement shall be binding upon the parties hereto and their successors.

IN WITNESS WHEREOF the parties hereto have caused these presents to be signed by their respective presidents, their respective corporate seals to be hereto affixed and attested by their respective secretaries the day and year first above written.

Williams and Davis, Inc.,
By R. B. Davis,
Vice President.

Attest: Harold S. Williams,
Secretary.
Gordon Williams & Co.
By R. B. Davis,
President.
Attest: Harold S. Williams,
Secretary.

Signed, sealed and delivered
in the presence of
Louis G. Hart.

SCHEDULE B.

NEW JERSEY SUPREME COURT.
ATLANTIC COUNTY.

CONNIE J. DORRIAN
v.
GORDON WILLIAMS, HAROLD S. WILLIAMS, A. TREVOR WILLIAMS and ROYDEN B. DAVIS.

Action at Law. On Capias, etc.

For Plaintiff, Carlton Godfrey and William I. Garrison.

For Defendant, C. L. Cole and George A. Bourgeois.

CAMPBELL, J.

By an order of a Commissioner of this Court a capias ad respondum was authorized and each of the

defendants ordered to be held to bail in the sum of $50,000. in an action alleging a conspiracy to defraud the plaintiff through, and by means of, which conspiracy he contends that he was damnified and lost moneys to the extent of something over One Hundred Thousand Dollars.

Upon notice the defendants have moved to set aside the order of the Commissioner and quash the writ.

At the outset the defendants are confronted with the contention that their application is premature in that the writ has not been served upon, nor executed, as against, any of them.

At the time of the argument I was not impressed with this contention but more careful and deliberate consideration brings me to the conclusion that it is substantial.

At the present time none of the defendants is in court. Until that happens, through the execution of the writ complained of, he is not nor can he be injured nor have cause of legal complaint. The writ may never be executed.

The present application must therefore fail.

Although this is dispositive of the matter yet I think it wise, in view of the probability that the plaintiff will proceed to execute the writ, to point out defects in the proceedings, which have been raised upon this motion, and which, upon application after execution of the writ would compel me to set aside the order and writ.

The order authorizing the issuance of the writ is dated May 13, 1927. The writ is tested May 14, 1927 and was received by the Sheriff on the same day. The commissioner's order and the affidavits upon which it is based were not filed until May 18, 1927.

The Supreme Court has held that this is improper and fatal.

Hand vs. Nolan, 1 N. J. Misc. Rep. 428.

Bougless vs. Thomas, Id. 582.

Further, the statute requires that in actions in tort, which this is, except such action be for seduction, outrageous battery or mayhem, or for recovery of damages for misconduct or neglect of a public officer, the writ shall not issue unless the proof establishes special cause as heretofore for holding to bail.

3 Comp. Stats. 4068, Sec. 56.

Such Special cause is non-residence or facts and circumstances establishing that the defendant will be without the jurisdiction of the Court so as not to answer to a judgment if and when rendered.

Rufty vs. Wilson, 778 N. J. L. 241.

Hand vs. Nolan, 1 N. J. Misc. Rep. 428.

And this must be established by proof the character of which is pointed out in, Inglis vs. Schreiner, 58 N. J. L. 102; Rufty vs. Wilson, Supra.

The affidavit upon which the Commissioner acted contains only the following upon this point:—

"Deponent further says that the said Gordon Williams, Harold S. Williams and A. Trevor Williams have removed from this jurisdiction or are about to do so, having shipped much if not all of their household goods to California."

Without applying the test as above laid down to this affirmation it is sufficient for present purposes to say that it does not reach to the defendant Royden B. Davis and therefore there was no basis nor authority for directing the issuance of the writ against him nor for holding him to bail.

Although the proceedings may be defective in

other directions I deem it necessary at this time to call attention to two others only, which are prominent and stand out clearly; and they are—

First—The cause of action seems to be based upon two distinct classes of transactions one of which is said to have been through and toward a corporation, Williams and Davis, Inc., in which the plaintiff and another were the principal stockholders. From any facts set up in the affidavit it is quite inconceivable how plaintiff could individually have a cause of action against these defendants and therefore such transactions could by no possibility present a legal ground for the Commissioner's order.

Second—both causes of action, attempted to be set up in the affidavit, depend in large measure, if not entirely, for practically all the certainty and exactness to be accorded to plaintiff's affirmation to three schedules attached which are sought to be made part of the affidavit. This can not be. And I am not considering what is said to be a clearly erroneous use of the word "agreement" for "Affidavit" appearing in the last sentence in the affidavit. Considering such sentence to read as follows:—"Schedule "A" and "B" hereto attached and agreement also attached made a part of this affidavit" and also considering the following references appearing in the affidavit:—"A true copy of said agreement is annexed hereto and made a part hereof," and "The conspirators made many secret and fraudulent profits by said transfers of real estate to Williams and Davis, Inc., some of which are itemized on an appended schedule marked Schedule No. 1" and "Some of which defalcations are itemized upon an appended schedule marked

Schedule No. 2,'' there is no proof by affiant that the matters and facts supposed to be shown thereby are true nor by what means or how affiant possesses such knowledge.

For aught that is shown they may rest entirely upon hearsay or otherwise be incompetent. Further still I find no precedent for the substitution of schedules for direct affirmation and I am satisfied none exists.

If the matters contained in these schedules are untrue can affiant be successfully prosecuted for perjury? It may be noted, in passing, that while there are two references in the affidavit, as quoted, to Schedule No. 1 and Schedule No. 2 there are no such schedules attached but they are designated as Schedule A and Schedule B.

As has been indicated the present motion must be denied because prematurely made.

SCHEDULE C.

Received of A. Trevor Williams check on Ventnor Trust Company for.....	$ 585.11
A check drawn on Ventnor City National Bank	194.96
5 Bond and mortgages given by Leslie McPherran to Connie J. Dorrian covering lots 10-11-12-13 and 14 in Block 21, each in the amount of $2700.....	13,500.00
The intermediate assignments do not accompany these bonds and mortgages.	
3 Mortgages given by John Speckman to Louis G. Hart covering lots 17, 18	

and 19 in Block 21 for $1700. each; the bonds and intermediate assignments do not accompany these mortgages..... 5,100.00

The mortgage given by Dorrian to Wright covering property in Linwood in the amount of 5,000.00

The intermediate assignment does not accompany this mtge.

1 Mortgage given by Hart to Williams covering lots 46 and 48 in Block 321 in the amount of 2,500.00

The bond does not accompany this mortgage.

1 Mortgage given by Paul Endicott to Dorrian covering lot 13 in Block 112-B in the amount of 5,000.00

The bond and intermediate assignments do not accompany this mortgage.

1 Mortgage Endicott to Dorrian covering lot 14 in Block 112-B in the amount 6,500.00

The bond and intermediate assignments do not accompany this mortgage.

1 Bond and mortgage McDonnell to Smith covering lots 1 and 2 in Block 11-A in the amount of—the intermediate assignments do not accompany this mortgage 11,100.00

1 Mortgage Louis Mark to Sadie A. Craigen covering lot 22 in Block 58 in the amount of 1,550.00

The bond and intermediate assignments do not accompany this mortgage.

1 Mortgage given by Louis Mark to Sadie A. Craigen covering lot 24 in Block 58 in the amount of..... 1,550.00

The bond and intermediate assignments do not accompany this mortgage.

Brought Forward	$52,580.07
1 Bond and mortgage Louis Mackler to Vivian Smith covering lots 13-14-15 in Block 226 in the amount of—The intermediate assignments do not accompany this bond and mortgage.....	4,950.00
1 Bond and mortgage Wright to Dorrian covering lot 43 in Block 124 in the amount of—the intermediate assignments do not accompany this mortgage and no assignment is delivered for this mortgage from Trevor Williams, the same to be signed to-morrow	2,000.00
1 Bond and mortgage Wright to Dorrian covering lot 41 in Block 124 in the amount of—the intermediate assignments do not accompany this mortgage and no assignment is delivered for this mortgage from Trevor Williams, the same is to be signed to-morrow	2,000.00
	$61,530.07

(signed) CARLTON GODFREY
WILLIAM I. GARRISON
Attorneys for Connie J. Dorrian and Lloyd Fahler.

SCHEDULE D.

Assignments by Royden B. Davis.

Mortgage of Thomas J. Mahoney and wife	$1,000.00
Mortgage of $13,000 and $4,000 on 7 S. Harvard Avenue, which was the former home of Mr. and Mrs. Davis	17,000.00
The above mortgages were made by one Bacon, of Trenton, and were in the name of Mrs. and Mr. Davis, but were assigned only by Mr. Davis.	
Mortgage made by Atkinson on Oakland Avenue	13,000.00
Mortgage made by Sadie Craigen, which had been assigned by Mahoney to Royden B. Davis	1,200.00
Mortgage made by Rice, Faunce and Christian	1,250.00
10 Shares William-Davis, Inc. stock @ $1	10.00
Check for $598.73 on Ventnor Trust Company	598.73
	$34,058.73

SCHEDULE E.

June 1, 1927.

Received of HAROLD S. WILLIAMS check on the Ventnor Trust Company, Ventnor City, N. J. in the amount of ($642.99) Six hundred forty-two dollars and ninety nine cents, in accordance with and on account of agreement bearing even date between Harold S. Williams, et als, on the one side and Connie J. Dorrian and Lloyd W. Fahler on the other side.

(signed) CARLTON GODFREY
(signed) WILLIAM I. GARRISON
Attorneys for Connie J. Dorrian and Lloyd W. Fahler.

SCHEDULE E.

JUNE 1, 1927.

Received of Harold S. Williams the sum of Ten Thousand ($10,000) dollars in cash in accordance with and on account of agreement bearing even date between Harold S. Williams, et als., on the one side, and Connie J. Dorrian and Lloyd W. Fahler on the other side.

(signed) CARLTON GODFREY
(signed) WILLIAM I. GARRISON
Attorneys for Connie J. Dorrian and Lloyd W. Fahler.

EXHIBIT C5.
3/20/28 L.
A

ARTICLES OF AGREEMENT, Made This Twenty-first day of September in the year of our Lord one thousand nine hundred and twenty-five (1925)

BETWEEN GEORGE W. ROBERTS and LIZZIE ROBERTS, his wife, of the City of Somers Point, County of Atlantic and State of New Jersey, party of the first part, and JULIA COLL, of the City and County of Philadelphia, and State of Pennsylvania, party of the second part; WITNESSETH, that the said party of the first part, for and in consideration of the sum hereinafter stipulated, to be paid and satisfied as hereinafter mentioned and also in consideration of the covenants and agreements hereinafter mentioned, made and entered into by and between the parties hereto, do agree to and with the said party of the second part, that the said party of the first part, will well and sufficiently convey or, in the event that the party of the first part is not at the date of expiration of this agreement then vested with the fee simple title to the herein described property under a now existing agreement by deed of conveyance delivered to him, her, it, or them at or before said date, said party of the first part may by proceedings for specific performance had and by or before said date instituted, and within a reasonable time after the termination hereof concluded (to permit of a reasonable time for the prosecution and termination of such suit for specific performance begun as aforesaid) or otherwise, cause to be conveyed to the said party of the second part, his, her,

its, or their successors, heirs and assigns, by Deed of General Warranty, a fee simple title to the within described property free from all incumbrance, zoning conditions excepted, if any, and further excepting as may be hereinafter mentioned on or before the day and hour hereinafter mentioned for settlement, all that or those lots, tracts, or parcels of land and premises hereinafter particularly described, lying and being in the City, Borough or Town of City of Somers Point, in the County of Atlantic and State of New Jersey, bounded and described as follows:

NO. 1—Beginning at a stake in the Old Bank on the East side of what is called the Bush Island, and in the line of land formerly belonging to Mark Somers, and runs from thence 1st. North fifty-three degrees West, in said line, and in the line of Washington Somers, deceased, twenty-four chains and thirty links to the corner of said Washington Somers wood land; (2) North eighty-four degrees West three chains; thence (3) North sixty-four degrees West four chains; thence (4) North fifty and a half degrees West still in said Washington's line, along the woods, two and a half chains to lands belonging to the heirs of David B. Somers, deceased; thence (5) South forty-eight and a quarter of a degree West in said line, two and a half chains; thence (6) South thirty-six degrees and forty-five minutes East, four and one quarter chains along the fence; thence (7) South seven degrees West along the fence, three chains and twenty-five links; thence (8) South forty-one and a half degrees East, two chains and ninety-eight links to the corner of the lower field; thence (9) South thirty-six and a half degrees West along the fence five chains and twenty links to another corner of the field; thence (10) South fifty-one and

a half degrees West twenty-nine chains to the edge of the Bay; thence (11) binding the shore thereof South forty-five degrees east ten and a half chains; thence (12) North forty-six degrees East four chains, nineteen links; thence (13) South binding said Bay eighty-two degrees East, seventeen chains and a half; thence (14) South thirty-nine degrees East, thirteen chains; thence (15) binding the Bay, North fifty-five degrees East thirteen chains and a half to the mouth of the creek; thence (16) North forty-three degrees West twenty chains; thence (17) North thirty-nine and three quarters of a degree east eight chains and seventy-seven links; thence (18) South eighty-five degrees East twelve chains and a half; thence (19) North twenty-six and a half degrees East, one and a half chains to the stake first named and place of beginning. Containing one hundred and thirty acres be the same more or less.

Excepting therefrom the following; No. 1—a certain tract of land the present grantor, Moses D. Atkinson, et ux, conveyed to Benjamin R. Lashley by deed dated the 21st day of August, A. D., 1886, containing nine acres, more or less.

No. 2—Excepting a lot twenty-five feet in front by one hundred feet in depth; situate on the Easterly side of Atkinson Avenue (to be laid out fifty feet wide) conveyed by the present grantor, Moses D. Atkinson, et ux, to one Charles T. Meagher by deed dated the 2nd day of March, A. D., 1899.

No. 3—Excepting a lot fifty feet in front by one hundred feet in depth adjoining the last described lot on the Northerly side thereof and conveyed by the present grantor, Moses D. Atkinson, et ux to Allen L. Atkinson by deed dated the 21st day of June, A. D., 1899.

by deed dated the 21st day of August, A. D., 1886, containing nine acres, more or less.

No. 2—Excepting a lot twenty-five feet in front by one hundred feet in depth; situate on the Easterly side of Atkinson Avenue (to be laid out fifty feet wide) conveyed by the present grantor, Moses D. Atkinson, et ux to one Charles T. Meagher by deed dated the 2nd day of March, A. D., 1899.

No. 3.—Excepting a lot fifty feet in front by one hundred feet in depth adjoining the last described lot on the Northerly side thereof and conveyed by the present grantor, Moses D. Atkinson, et ux to Allen L. Atkinson by deed dated the 21st day of June, A. D., 1899.

No. 4—Excepting a lot fifty feet in front by one hundred in depth, situate on the Westerly side of Atkinson Avenue and conveyed by the present grantor, Moses D. Atkinson, et ux, to Dr. Asa Alonzo Smith by deed dated the 29th day of November, A. D. 1905 and by a reference to the deeds above referred to will more fully appear.

ALSO EXCEPTING the following tracts and lots as shown on Plan of lots belonging to George W. Roberts, filed in the Atlantic County Clerk's Office;

No. 1—Block of land bounded on the Southeast by Roberts Avenue (formerly Johnson); on the Southwest by Walnut Street; on the Northwest by Atkinson Avenue; and on the Northeast by Chestnut Street;

No. 2—Beginning at the intersection of the Northeast line of Walnut Street with the Northwest line of Atkinson Avenue, and extending thence (1) Northeastwardly along Atkinson Avenue, one hundred and twenty-five feet to Lot 22; thence (2) along Lot 22, Northwestwardly one hundred feet, more or less, to corner of Lot 8; (3) Southwestwardly parallel with Moore Avenue one hundred and twenty-five feet to Walnut Street; thence (4) Southeastwardly

along same, one hundred feet to the place of beginning.

No. 3—Beginning at the intersection of the Northeast line of Spruce Street with the Southeast line of Atkinson Avenue, and extending thence (1) Southeastwardly along Atkinson Avenue, two hundred feet to Roberts Avenue (formerly Johnson); thence (2) Northeastwardly along same one hundred and twenty-five feet, more or less, to Lot 22; thence (3) Northwestwardly along Lots 22 and 11, two hundred feet to Atkinson Avenue; thence (4) Southwestwardly along same, one hundred and twenty-five feet to the place of beginning.

No. 4—Beginning in the Northwest line of Atkinson Avenue, fifty feet Northeast of Spruce Street, and extending thence (1) Northwestwardly parallel with Spruce Street two hundred feet to Moore Avenue; thence (2) Northeastwardly along same one hundred feet, more or less, to Lot 10; thence (3) Southeastwardly parallel with Spruce Street two hundred feet to Atkinson Avenue; thence (4) Southwestwardly along same one hundred feet to the place of beginning;

No. 5—Beginning in the intersection of the Southwest line of Spruce Street with the Southeast line of Atkinson Avenue, and extending thence (1) Southeast along Spruce Street one hundred feet; thence (2) Southwest parallel with Atkinson Avenue one hundred and twenty-five feet to Lot 6; thence (3) Northwestwardly along Lot 6, one hundred feet to Atkinson Avenue; thence (4) Northeastwardly along same one hundred and twenty-five feet to the place of beginning;

No. 6—Also excepting the following lots as shown on the aforesaid Map; Lots 16-17-18, Block 2; Lots 1-2-3-4-5-6-7-8-11-20 in Block 5; Lots 1-2-3-4-5-6-13-

14-15-16-17-18-19-20 in Block 4; Lots 9-10-19-20 in an unnumbered Block bounded by Pine Street, Atkinson Avenue, Spruce Street and Roberts Avenue.

No. 2—BEGINNING at a stake corner to Joseph Somers Lot 10, and extending thence (1) South thirty degrees West four and ten one-hundredths chains to a corner by the meadow edge; thence (2) by the meadow, North eighty-four and one-half degrees West, three chains to a corner; thence (3) binding the meadow, North sixty-four degrees West, four chains; thence (4) North, forty and one-half degrees West, twenty-three and eighty-two hundredths chains to a corner (5) Southeastwardly following the center line of said Road, twenty chains, more or less, to where the said center line intersects the sixth course in deed from Sarah M. Broadhead to George W. Roberts dated Aug. 4, 1902 and recorded in Book 294, page 106, of which the within described land is a part; thence (6) following the sixth course in the aforesaid deed, South fifty-five degrees East, six hundred feet, more or less, to place of beginning. Containing fourteen acres, more or less.

No. 3—(a)—BEGINNING at a stake standing in Washington Somers' line (in 1851 at the edge of the meadows and upland, at the head of an old ditch and near an old well, and runs from said stake South twelve degrees, forty-five minutes West in the center of said old ditch, eleven and thirty-one-hundredths chains to an angle in said ditch; thence South eighty-three degrees, forty-five minutes West in the center of said ditch, one and fifty hundredths chains to the center of Rail Creek; thence South in the center of said Creek, one and seventy-two hundredths chains to the North corner of Japhet I. Frambes' lot (in 1862); thence South sixty-six degrees west in his

line, eight and fifty hundredths chains to his corner standing in the line of Lewis S. Frambes' lot (in 1862) thence North eight degrees West in his line, seven and fifty-eight hundredths chains to his corner, also a corner to Richard I. Frambes and Marke Lake's land (in 1862); thence North fifty degrees, thirty minutes East in said Lake's line fifteen chains to his corner standing in the line of the said Washington Somers; thence South fifty-one degrees, thirty minutes East in said line one and fifty hundredths chains to place of beginning. Containing ten and seventy-five hundredths acres, more or less.

NO. 3—(b)—BEGINNING at the moutn of Rail Creek where the same empties into the Bay and runs from thence North along said Bay, five and eighty hundredths chains, more or less, to a stake for a corner; to Lewis S. Frambes' lot (in 1862); thence North sixty-six degrees East, four and forty-four hundredths chains to his corner; thence North eight degrees West in his line five and eighty hundredths chains to a stake for a corner; also a corner to Mahlon C. Frambes' lot; thence North sixty-six degrees East in his line eight and fifty hundredths chains, more or less, to the center of Rail Creek; thence down the center of said Creek, the several courses and distances, thereof to the place of beginning. Containing ten acres, more or less.

NO. 3—(c)—BEGINNING at the corner of Japhet I. Frambes' lot and extending thence North eight degrees West, thirteen and seventy hundredths chains to corner of Mark Lake, Mahlon C. Frambes and Richard I. Frambes' lot; thence South eighty-two degrees West, five and forty hundredths chains to the Bay; thence along the Bay, to corner of Japhet I. Frambes' lot; thence North sixty-six degrees East four and forty-four hundredths chains to place of beginning. Containing ten acres, three roods, 22 Ps.

NO. 4—BEGINNING at a stake in the Northwest corner of Wood lot of Washington Somers, being a corner to said Wood lot lands of Constantine Somers and wood lot of Joseph Somers, and extending thence (1) binding line of Constantine Somers and David B. Somers, North fifty-five degrees West, fourteen and sixty-two hundredths chains to an old Bank; thence (2) by the Bank North forty degrees, two chains and seventy-five links; thence (3) North eighty-nine and one-half degrees West, thirteen and fifty hundredths chains; thence (4) following Cedar Swamp Creek South seventy and one-half degrees West, three and forty-four hundredths chains; thence (5) still by the Creek South sixteen and one-quarter degrees West, five chains and eighty-six links; thence (6) still by the said Creek South ten degrees East, three and fifty hundredths chains; thence (7) still by the Creek South forty-one and one-half degrees East, six and twelve hundredths chains to a stake being a corner to Constantine Somers; thence (8) North eighty-five and one-half degrees East, twenty chains to an old tree marked for a corner in line of Washington Somers' woodland; thence (9) binding wood line of said Washington Somers, to the place of beginning. Containing twenty-six acres, more or less.

NO. 5—BEGINNING in the center of the County Road from Somers Point to Mays Landing at a point distant twelve hundred fifty-eight and twenty-five hundredths feet Southeast from a monument in the center of said road, which monument is marked No. 3 on the County Map of said Road, and which monument is twenty-seven hundred twenty-nine and twenty-five hundredths feet Northwest from monument #2 of said Road located on the center line of Marks Road and from thence extending (1) South-

wardly sixty degrees, twenty-eight minutes East along the center line of said road five hundred seventy-one and seventy hundredths feet to the fourth course as mentioned in a deed from Jonathan R. Doughty to Joseph E. Giberson, dated 5/5/1921 and recorded in Book 655, page 199; thence (2) Southwardly thirty five degrees, twenty-five minutes, thirty seconds West along the fourth course of said deed, one hundred ten and sixty-one hundredths feet to beginning corner thereof; thence (3) North forty-nine degrees, twenty-one minutes, thirty seconds West along the first course of said deed, five hundred seventy-one and five hundredths feet to place of beginning.

EXCEPTING thereout Description No. 3-C. above shown. Also all land heretofore conveyed by party of the first part.

AND the said party of the second part, for himself, herself, itself or themselves, his, her, its or their successors, heirs, executors and administrators, do covenant, promise and agree to and with the said party of the first part, his, her, its or their successors, heirs, executors, administrators and assigns, that the said party of the second part, will pay and satisfy or cause to be paid and satisfied unto the said party of the first part, the sum of One hundred one thousand, two hundred and fifty dollars ($101,-250.00) as and for the purchase money of the foregoing described land and premises, the said purchase price to be on the basis of seven hundred and fifty dollars ($750) per acre, and it is represented by the party of the first part that there are approximately one hundred and thirty-five (135) acres in the tracts to be so conveyed. If it appears that more acreage is included, the additional lands will be paid for at the same rate, and if less acreage is included

in the tracts, then a deduction at the same rate shall be made; the said monies to be paid in the following manner, that is to say: Five thousand dollars ($5000) upon the signing of this agreement, the receipt of which is hereby acknowledged; The balance, less Five thousand dollars deducted of thirty per cent. of the principal sum to be paid in cash at time of final settlement; A purchase money mortgage to be given back by the party of the second part to the party of the first part for seventy per cent (70) of the full purchase price of the premises; said purchase money mortgage to bear the date as of the date of settlement and to be payable at any time within five (5) years from date thereof; to bear interest at the rate of six per cent. per annum, payable semi-annually; said mortgage to contain a release clause whereby, at the party of the second part's expense for preparation and recording of papers, the party of the first part will release any of said lands upon payment at the rate of $750.00 per acre for the lands so to be released;

Adjustments of taxes, water rents, sewer rents, insurance premiums, interest, rents, building and loan stock, dues, interest and premiums, and all other carrying charges to be made and pro-rated and to be charged to and allowed to the parties hereto respectively as of date of settlement unless herein otherwise stipulated; the tax year to be considered to run from January First to December thirty-first of the current year. Settlement to be made at the office of the Chelsea Title & Guaranty Co. as soon as the said Company expresses itself ready to report upon the title, or within 10 days thereafter; and title to the within described property to be insured by the Chelsea Title and Guaranty Company, and the title to said property to be good and marketable

and such as will be insured by it at its regular rates of insurance.

AND IT IS FURTHER AGREED, by the parties to these presents, that the said party of the second part, his, her, its, or their successors, heirs and assigns, may enter into and upon the said land and premises on the day of settlement, if not herein otherwise stipulated, and from thence take the rents, issues and profits to his, her, its and their use forever.

IT IS UNDERSTOOD AND AGREED by and between the parties hereto that this agreement and all provisions hereof bind and extend to the heirs, executors, administrators, successors and assigns of the parties hereto respectively.

IN WITNESS WHEREOF, the said parties have hereunto interchangeably set their hands and seals and any corporation parties hereto have caused their corporate seals to be affixed hereto duly attested the day and year first above mentioned.

(signed) GEORGE W. ROBERT (SEAL)
(signed) LIZZIE ROBERTS (SEAL)
(signed) JULIA COLL (SEAL)

SIGNED, SEALED AND DELIVERED)
In the presence of)
(signed)
A. TREVOR WILLIAMS)

STATE OF NEW JERSEY)
ss.
ATLANTIC COUNTY)

BE IT REMEMBERED, That on this 21st day of September in the year of our Lord one thousand nine hundred and twenty-five before me A Notary Public in and for the State of New Jersey personally appeared GEORGE W. ROBERTS AND LIZZIE, his wife, who, I am satisfied, is or are the vendors men-

tioned in the above agreement, deed or conveyance, and I having first made known to him, her or them the contents thereof, he, she, or they acknowledged that he, she or they signed, sealed and delivered the same as his, her or their voluntary act and deed, to the end that the same may be recorded as such. All of which is hereby certified.

(signed) A. TREVOR WILLIAMS
Commission Expires
Jan. 21st 1928

EXHIBIT "B."

ARTICLES OF AGREEMENT, MADE THIS twenty-third day of September in the year of our Lord one thousand nine hundred and twenty-five (1925) BETWEEN JULIA COLL, single, of the City of Atlantic City, County of Atlantic and State of New Jersey, party of the first part, and CONNIE J. DORRIAN, of Summit Hill, Carbon County, State of Pennsylvania, party of the second part; WITNESSETH, that the said party of the first part, for and in consideration of the sum hereinafter stipulated, to be paid and satisfied as hereinafter mentioned and also in consideration of the covenants and agreements hereinafter mentioned, made and entered into by and between the parties hereto, do agree to and with the said party of the second part, that the said party of the first part, will well and sufficiently convey or, in the event that the party of the first part is not at the date of expiration of this agreement then vested with the fee simple title to the herein described property under a now existing agreement by deed of conveyance delivered to him,

her, it or them at or before said date, said party of the first part may by proceedings for specific performance had and by or before said date instituted, and within a reasonable time after the termination hereof concluded (to permit of a reasonable time for the prosecution and termination of such suit for specific performance begun as aforesaid) or otherwise, cause to be conveyed to the said party of the second part, his, her, its, or their successors, heirs and assigns, by Deed of General Warranty, a fee simple title to the within described property free from all incumbrance, zoning conditions excepted, if any, and further excepting as may be hereinafter mentioned, on or before the day and hour hereinafter mentioned for settlement, all that or those lots, tracts, or parcels of land and premises hereinafter particularly described, situate, lying and being in the City, Borough or Town of City of Somers Point in the County of Atlantic and State of New Jersey, bounded and described as follows:

No. 1—BEGINNING at a stake in the Old Bank, on the east side of what is called the Bush Island, and in the line of land formerly belonging to Mark Somers, and runs from thence (1) North fifty-three degrees West, in said line, and in the line of Washington Somers, deceased, twenty-four chains and thirty links, to the corner of said Washington Somers wood land; (2) North eighty-four degrees West three chains; (3) North sixty-four degrees West four chains; (4) North fifty and a half degrees West still in said Washington's line, along the woods, two and a half chains to lands belonging to the heirs of David B. Somers deceased; (5) South forty-eight and a quarter of a degree West in said line, two and a half chains; (6) South thirty-six degrees and forty-five minutes East, four and one-

quarter chains, along the fence; (7) South seven degrees West along the fence, three chains and twenty-five links; (8) South forty-one and a half degrees East two chains and ninety-eight links to the corner of the lower field; (9) South thirty-six and a half degrees West along the fence five chains and twenty links to another corner of the field; thence (10) South fifty-one and a half degrees West twenty-nine chains to the edge of the Bay; (11) binding the shore thereof South forty-five degrees East ten and a half chains; (12) North forty-six degrees East four chains, nineteen links; (13) South binding said Bay eighty-two degrees East seventeen chains and a half; (14) South thirty-nine degrees East thirteen chains; (15) binding the Bay North fifty-five degrees East, thirteen chains and a half to the mouth of the creek; (16) North forty-three degrees West twenty chains; (17) North thirty-nine and three-quarters of a degree East eight chains and seventy-seven links; (18) South eighty-five degrees East twelve chains and a half; (19) North twenty-six and a half degrees East one and a half chains to the stake first named and place of beginning. Containing one hundred and thirty acres, be the same more or less.

Excepting therefrom the following: No. 1—A certain tract of land the present grantor, Moses D. Atkinson, conveyed to Benjamin R. Lashley by deed dated the 21st day of August A. D. 1886 containing nine acres, more or less.

No. 2—Excepting a lot twenty-five feet in front by one hundred feet in depth; situate on the Easterly side of Atkinson Avenue (to be laid out fifty feet wide) conveyed by the present grantor, Moses D. Atkinson, et ux, to one Charles T. Meagher by deed dated the 2nd day of March, A. D. 1899;

No. 3—Excepting a lot fifty feet in front by one

hundred feet in depth adjoining the last described lot on the Northerly side thereof and conveyed by the present grantor, Moses D. Atkinson, et ux, to Allen L. Atkinson by deed dated the 21st day of June, A. D. 1899.

No. 4—Excepting a lot fifty feet in front by one hundred feet in depth, situate on the Westerly side of Atkinson Avenue and conveyed by the present grantor, Moses D. Atkinson, et ux. to Dr. Asa Alonzo Smith by deed dated the 29th day of November, A. D. 1905 and by a reference to the deeds above referred to will more fully appear.

ALSO EXCEPTING THE FOLLOWING Tracts and lots as shown on Plan of Lots belonging to George W. Roberts, filed in the Atlantic County Clerk's Office:

1—Block of land bounded on the Southeast by Roberts Avenue (formerly Johnson); on the Southwest by Walnut Street; on the Northwest by Atkinson Avenue; and on the Northeast by Chestnut Street;

2—Beginning at the intersection of the Northeast line of Walnut Street with the Northwest line of Atkinson Avenue, and extending thence (1) Northeastwardly along Atkinson Avenue one hundred and twenty-five feet to Lot 22, thence (2) along Lot 22 Northwestwardly, one hundred feet, more or less, to corner of Lot 8; thence (3) Southwestwardly parallel with Moore Avenue one hundred and twenty-five feet to Walnut Street; thence (4) Southeastwardly along same one hundred feet, more or less, to the place of beginning.

3—Beginning at the intersection of the Northeast line of Spruce Street with the Southeast line of Atkinson Avenue, and extending thence (1) Southeastwardly along Atkinson Avenue two hundred feet to

Roberts Avenue (formerly Johnson); thence (2) Northeastwardly along same, one hundred and twenty-five feet, more or less, to Lot 22; thence (3) Northwestwardly along Lots 22 and 11, two hundred feet to Atkinson Avenue; thence (4) Southwestwardly along same one hundred and twenty-five feet to the place of beginning.

4—Beginning in the Northwest line of Atkinson Avenue fifty feet Northeastwardly of Spruce Street, and extending thence (1) Northwestwardly parallel with Spruce Street two hundred feet to Moore Avenue; thence (2) Northeastwardly along same one hundred feet, more or less, to Lot 10; thence (3) Southeastwardly parallel with Spruce Street two hundred feet to Atkinson Avenue; thence (4) Southwestwardly along same, one hundred feet to place of beginning.

5—Beginning at the intersection of the Southwest line of Spruce Street with the Southeast line of Atkinson Avenue, and extending thence (1) Southeastwardly along Spruce Street one hundred feet; thence (2) Southwestwardly parallel with Atkinson Avenue one hundred and twenty-five feet to Lot 6; thence (3) Northwestwardly along Lot 6, one hundred feet to Atkinson Avenue; thence (4) Northeastwardly along same, one hundred and twenty-five feet to place of beginning.

6—Also excepting the following lots as shown on the aforesaid Map: Lots 16-17-18, Block 2; Lots 1-2-3-4-5-6-7-8-11-20, Block 5; Lots 1-2-3-4-5-6-13-14-15-16-17-18-19-20, Block 4; Lots 9-10-19-20 in an unnumbered Block bounded by Pine Street, Atkinson Avenue, Spruce Street and Roberts Avenue.

No. 2—BEGINNING at a stake corner to Joseph Somers Lot 10, and extending thence (1) Southwardly thirty degrees West, four and ten hundredths

chains to a corner by the meadow edge; thence (2) by the meadow Northwardly eighty-four and one-half degrees West, three chains to a corner; thence (3) binding the meadow, Northwardly sixty-four degrees West, four chains; thence (4) Northwardly forty and one-half degrees West, twenty-three and eighty-two hundredths chains to a corner in the center line of the Somers Point-May's Landing Road; thence (5) Southeastwardly following the center line of said Road, twenty chains, more or less, to where the said center line of intersection of the sixth course in deed from Sarah M. Broadhead to George W. Roberts, dated Aug. 4, 1902 and recorded in Book 294, page 106, of which the within described land is a part; thence (6) following the sixth course in the aforesaid deed, Southwardly fifty-five degrees, East, six hundred feet, more or less, to place of beginning. Containing fourteen acres, more or less.

No. 3—(a)—BEGINNING at a stake standing in Washington Somers' line (in 1851) at the edge of the meadows and upland, at the head of an old ditch and near an old well, and runs from said stake (1) Southwardly twelve degrees, forty-five minutes West in the center of said old ditch, eleven and thirty hundredths chains to an angle in said ditch; thence (2) Southwardly eighty-three degrees, forty-five minutes West in the center of said ditch, one and fifty hundredths chains to the center of Rail Creek; thence (3) Southwardly in the center of said Creek, one and seventy-two hundredths chains to the North corner of Japhet I. Frambes' lot (in 1862); thence (4) Southwardly sixty-six degrees West in his line eight and fifty hundredths chains to his corner standing in the line of Lewis S. Frambes' lot (in 1862); thence (5) Northwardly eight degrees West in his line, seven and fifty-eight hundredths

chains to his corner; also a corner to Richard I. Frambes and Mark Lake's land (in 1862); thence (6) Northwardly fifty degrees, thirty minutes East in said Lake's line, fifteen chains to his corner standing in the line of the said Washington Somers; thence (7) Southwardly fifty-one degrees, thirty minutes East in said line one and fifty hundredths chains to place of beginning. Containing ten and seventy-five hundredths acres, more or less.

No. 3—(b)—BEGINNING at the mouth of Rail Creek where the same empties into the Bay, and runs from thence (1) Northwardly along said Bay, five and eighty hundredths chains, more or less, to a stake for a corner to Lewis S. Frambes' lot (in 1862); thence (2) Southwardly eighty-two degrees West, five and forty hundredths chains to the Bay; thence (3) along the Bay to corner of Japhet I. Frambes' lot; thence (4) Northwardly sixty-six degrees East, four and forty-four hundredths chains to place of beginning. Containing ten acres, three Roods, 22 Ps.

No. 4—BEGINNING at a stake in the Northwest corner of wood lot of Washington Somers being a corner to said wood lot lands of Constantine Somers and wood lot of Joseph Somers, and extending thence (1) binding the line of Constantine Somers and David B. Somers, Northwardly fifty-five degrees West, fourteen and sixty-two hundredths chains to an old Bank; thence (2) by the Bank Northwardly forty degrees, - 2 chains and seventy-five links; thence (3) Northwardly eighty-nine and one-half degrees West, thirteen and fifty hundredths chains; thence (3) following Cedar Swamp Creek Southwardly seventy and one-half degrees West, three and forty-four hundredths chains; thence (4) still by the Creek Southwardly sixteen and one-

quarter degrees West, five chains and eighty-six links; thence (5) still by the said Creek Southwardly ten degrees East, three and fifty hundredths chains; thence (6) still by the Creek Southwardly forty-one and one-half degrees East, six and twelve hundredths chains to a stake, being a corner to Constantine Somers; thence (7) Northwardly eighty-five and one-half degrees East, twenty chains to an old tree marked for a corner in line of Washington Somers' woodland; thence (8) binding wood line of said Washington Somers to place of beginning. Containing twenty-six acres, more or less.

No. 5—BEGINNING in the center of the County Road from Somers Point to May's Landing, at a point distant twelve hundred fifty-eight and twenty-five hundredths feet Southeastwardly from a monument in the center of said road, which monument is marked #3 on the County Map of said Road, and which monument is twenty-seven hundred twenty-nine and twenty-five hundredths feet Northwestwardly from monument #2 of said road located on the center line of Marks Road, and from thence extends (1) Southwardly sixty degrees, twenty-eight minutes East along the center line of said road five hundred seventy-one and seventy hundredths feet to the fourth course as mentioned in a deed from Jonathan R. Doughty to Joseph E. Giberson, dated May 5, 1921 and recorded in Book 655, page 199; thence (2) Southwardly thirty-five degrees, twenty-five minutes, thirty seconds West along the fourth course of said deed, one hundred ten and sixty-one hundredths feet to the beginning corner thereof; thence (3) Northwardly forty-nine degrees, twenty-one minutes, thirty seconds West along the first course of said deed, five hundred seventy-one and five hundredths feet to place of beginning.

AND the said party of the second part, for himself, herself, itself or themselves, his, her, its or their successors, heirs, executors and administrators, do covenant, promise and agree to and with the said party of the first part, his, her, its or their successors, heirs, executors, administrators and assigns, that the said party of the second part, will pay and satisfy or cause to be paid and satisfied unto the said party of the first part, the sum of One hundred and sixty-two thousand dollars ($162,000) as and for the purchase money of the foregoing described land and premises, in the following manner, that is to say:

Twenty-five thousand dollars ($25,000) in cash upon the signing of this agreement, the receipt of which is hereby acknowledged;

The assumption by the party of the second part of a blanket mortgage covering the premises herein described, in the sum of Seventy thousand, eight hundred and seventy-five dollars ($70,875) representing 135 acres at $525.00 per acre; it being understood and agreed that should the land conveyed consist of more than 135 acres, that the sum of $70,875. shall be increased at the rate of $525.00 per acre, and in the event that the land conveyed consists of less than 135 acres, the sum of $70,875. shall be reduced at the rate of $525.00 per acre;

It is further understood and agreed between the parties hereto that the land to be conveyed by the party of the first part, as hereinabove described, is believed to contain 135 acres and the consideration herein mentioned is based upon that assumption at the rate of $1200.00 per acre;

It is further understood and agreed between the parties hereto that should the premises hereinabove described constitute more than 135 acres, the pur-

chase price herein mentioned shall be increased at the rate of $1200. per acre, and if the land conveyed shall constitute less than 135 acres, the purchase price shall be diminished at the rate of $1200. per acre; Sixty-six thousand, one hundred and twenty-five dollars ($66,125.00), subject to the contingencies hereinabove recited in respect to the quantity of ground conveyed, shall be paid in cash at time of final settlement.

Adjustments of taxes, water rents, sewer rents, insurance premiums, interest, rents, building and loan stock, dues, interest and premiums, and all other carrying charges to be made and pro-rated and to be charged to and allowed to the parties hereto respectively as of date of settlement unless herein otherwise stipulated; the tax year to be considered to run from January First to December Thirty-first of the current year.

Settlement to be made at the office of the Chelsea Title & Guaranty Co. as soon as the said Company expresses itself ready to report upon the title, or within 10 days thereafter; and title to the within described property to be insured by the Chelsea Title and Guaranty Company, and the title to said property to be good and marketable and such as will be insured by it at its regular rates of insurance.

AND IT IS FURTHER AGREED, by the parties to these presents, that the said party of the second part, his, her, its or their successors, heirs and assigns, may enter into and upon the said land and premises on the day of settlement, if not herein otherwise stipulated, and from thence take the rents, issues and profits to his, her, its and their use forever.

IT IS UNDERSTOOD AND AGREED by and between the parties hereto that this agreement and all

provisions hereof bind and extend to the heirs, executors, administrators, successors and assigns of the parties hereto respectively.

IN WITNESS WHEREOF, the said parties have hereunto interchangeably set their hands and seals and any corporation parties hereto have caused their corporate seals to be affixed hereto duly attested the day and year first above mentioned.

JULIA COLL (SEAL)
CONNIE J. DORRIAN (SEAL)
(SEAL)

SIGNED, SEALED AND DELIVERED
in the presence of
R. B. DAVIS

STATE OF NEW JERSEY, }
ATLANTIC COUNTY, } ss.

BE IT REMEMBERED, That on this day of in the year of our Lord one thousand nine hundred and twenty-five before me personally appeared JULIA COLL, single, who, I am satisfied, is or are the vendor mentioned in the above agreement, deed or conveyance, and I having first made known to him, her or them the contents thereof, he, she or they acknowledged that he, she or they signed, sealed and delivered the same as his, her, or their voluntary act and deed, to the end that the same may be recorded as such. All of which is hereby certified.

For value received the undersigned do hereby grant, bargain, sell, assign, transfer, and set over unto .....

His, her, its, or their heirs, executors, administrators, successors and assigns, all right, title, and interest of the undersigned of, in and to the within instrument.

Witness our hands and seals this.....day of.....
A. D. 19

.....Seal

Witness:

.....

.....

For value received the undersigned do hereby grant, bargain, sell, assign, transfer, and set over unto .....

His, her, its, or their heirs, executors, administrators, successors and assigns, all right, title, and interest of the undersigned, of, in and to the within instrument.

Witness our hands and seals this.....day of..... A. D. 19

.....Seal

Witness:

.....

.....

App. No. .....

AGREEMENT
FOR SALE OF LAND

Dated.....192

Received .....192...., and

Recorded in the .....

Office of ..... County

at .....

in Book ..... of .....

Folio .....

STATE OF NEW JERSEY }
ATLANTIC COUNTY, } ss.

BE IT KNOWN, That on this day of one thousand nine hundred and twenty before me, the subscriber, a personally appeared the undersigned deponent who, being by me duly sworn according to law, did on his oath say that he is the Secretary of the the grantor mentioned in the fore-

going indenture; that he knows the seal of said Corporation; that the seal affixed to the said Indenture is the common seal of the said Corporation; that is the President of said Corporation and did by its order sign, seal and deliver the said Indenture as its voluntary act and deed, in the presence of said deponent, pursuant to a resolution of the Board of Directors of said Corporation; and that the said deponent did, at the execution thereof, subscribe his name as a witness thereto.

Sworn and subscribed before me }
the day and year aforesaid. }

EXHIBIT C2.
3/20/28L.
C

THIS AGREEMENT, Made the Third day of October, A. D. 1925

BETWEEN George W. Roberts of the City of Somers Point, county of Atlantic and State of New Jersey of the first part, hereinafter called the "SELLER," and Julia Coll, of the City of Philadelphia, state of Pennsylvania of the second part, hereinafter called the "BUYER."

WITNESSETH, That the "SELLER" agrees to sell and convey and the "BUYER" agrees to buy all a certain lot, tract or parcel of land and premises situate in the City of Somers Point, County of Atlantic and State of New Jersey, more particularly described as follows:

Twenty Acres of Meadowland, bounded by Patcong Creek, and the George W. Roberts property,

The above described tract being under agreement of sale between William Krumm of Linwood, N. J., and George W. Roberts, and settlement to be made on or before the first day of November, 1925. for the price or sum of Five thousand ($5000.) Dollars, under and subject to the following terms and conditions:

1. A first payment of Five Hundred ($500.) Dollars, receipt of which is hereby acknowledged by the "SELLER."

2. The balance of the purchase price shall be paid in the following manner:

Fifteen Hundred dollars ($1500.) cash on or before the Second day of January, 1926.

Balance: Three thousand Dollars purchase money Mortgage to be created, payable anytime within Three (3) years from date of settlement.
at the time of final settlement, which shall be made at .....
on or before January 2, 1926, or the deposit.....
.....made herewith, at the option of the "SELLER," maye be applied on account of the purchase price or to be forfeited as liquidated damages to the "SELLER," and not as a penalty, provided that the necessary title searches can be obtained from any first-class New Jersey title company by that date. Should there be any delay, not the fault of the "BUYER" in the procuring of such searches, the time for the final settlement shall extend until such searches can be obtained.

3. The title to the premises shall be free and clear of all incumbrances, including municipal liens and assessments, except municipal improvements in the course of construction and not assessed, obvious easements, usual restrictions running with the land .....and shall be a marketable title, and the "SELLER" shall tender a General war-

ranty deed conveying such title at the time of the final settlement, or in the event that such title cannot as above, then this deposit shall be returned to the "BUYER."

4. All adjustments shall be made as of date of settlement and possession shall be given the "BUYER" at that time.

5. The "BUYER" shall pay for searches and all other expenses, excepting the preparation of the deed and the necessary revenue stamps attached thereto, which shall be paid for by the "SELLER."

6. This agreement shall extend to and be binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

7. Time is the essence of this agreement.

8. This contract includes all fixtures and appurtenances permanently attached to the building or buildings on the land herein described and also specifically the following items:

It is understood and agreed that should the said William Krumm deliver a good and marketable Title to the said George W. Roberts this agreement between George W. Roberts and Julia Coll shall become effective and binding to both parties.

IN WITNESS WHEREOF, The parties hereto have set their hands and seals the day and year first above written.

(signed) GEORGE W. ROBERTS (L. S.)
(signed) LIZZIE ROBERTS (L. S.)
(signed) JULIA COLL (L. S.)

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF
(signed) CHARLES KENNETH ROBERTS.

EXHIBIT E.

Documentary Stamps.

THIS INDENTURE, made the Second day of February in the year of our Lord one thousand nine hundred and twenty-six.

BETWEEN JULIA COLL, single, of the City and County of Philadelphia, State of Pennsylvania, hereinafter called the party of the first part, and WILLIAMS and DAVIS, INC., a corporation of the State of New Jersey, hereinafter called the party of the second part:

WITNESSETH, that the said party of the first part, for and in consideration of the sum of One thousand dollars and other good and valuable consideration lawful money of the United States of America, well and truly paid by the said party of the second part to the said party of the first part, at and before the ensealing and delivering of these presents, the receipt whereof is hereby acknowledged, has or have granted, bargained, sold, aliened, enfeoffed, released, conveyed, assigned, transferred, ratified, approved and confirmed, and by these presents does or do grant, bargain, sell, alien, enfeoff, release, convey, assign, transfer, ratify, approve and confirm unto the said party of the second part, his, her, their, its, heirs, successors and assigns ALL that certain lot, tract or parcel of land and premises situate, lying and being in the City of Somers Point, County of Atlantic and State of New Jersey, bounded and described as follows:

BEGINNING at a point in the center of the Mays Landing-Somers Point County Road, where intersected by the fifth course of the Tract numbered 2 in

the deed from Sarah M. Broadhead to George W. Roberts, dated August 4th, 1902, and recorded in Book 294, page 106, etc., said point being twenty-eight hundred and ninety-four and thirty-six hundredths feet Northwest of the County monument set in the center lines of the said County Road and Atkinson Avenue, when measured along the said center line of said County Road, and extending thence (1) Eastwardly, along the center line of the said County Road, one hundred and sixty-four and forty-five hundredths feet measured along the curve; thence (2) Still along the said center line of said County Road, South fifty-nine degrees, fifty-nine minutes and thirty seconds East eighteen hundred and twenty-nine and ninety-six hundredths feet to the Easterly line of the Giberson parcel conveyed to George W. Roberts; thence (3) Along said Roberts tracts conveyed to him by Giberson and Broadhead, South thirty-five degrees, fifty-four minutes West three hundred and eighty-one and twenty-one hundredths feet to corner of lands now or formerly owned by Benjamin R. Lashley; thence (4) Binding Lashley, North seventy-eight degrees, forty-five minutes West ninety-seven and sixty-eight hundredths feet to a corner; thence (5) Still binding said Lashley, South thirty-seven degrees, forty-one minutes West one hundred and eighty-four and forty-five hundredths feet to the center line of Chestnut Street; thence (6) South, forty-five degrees, thirty-six minutes, fifty seconds East, along the said center line, eight hundred and seventy-nine and forty-seven hundredths feet to the center line of Roberts Avenue; thence (7) South, forty-nine degrees, twenty-eight minutes, ten seconds West, along said center line of Roberts Avenue, thirteen hundred and thirty-two and twenty-five hundredths

feet to the center line of Pine Street; thence (8) North, forty degrees, thirty-one minutes, fifty seconds West, along the center line of Pine Street, two hundred and fifty feet to the center of Atkinson Avenue; thence (9) Along the line of Atkinson Avenue, South forty-nine degrees, twenty-eight minutes, ten seconds West five hundred and seventy-seven and twenty-five hundredths feet to angle in Atkinson Avenue; thence (10) South, thirty-six degrees, forty-six minutes, ten seconds West, along the center line of Atkinson Avenue, three hundred and eighty-three feet to the high water line of Great Egg Harbor Bay; thence (11) Northwestwardly, along the said high water line of said Bay approximately eleven hundred and seventy feet to a line ditch being the Southeasterly line of a tract of land owned by the somers Heirs (?); thence (12) North, fifty-seven degrees, forty-six minutes, East, up said line ditch and line nineteen hundred and fourteen feet to a corner of said lands; thence (13) North, forty-two degrees, twenty-four minutes East still binding the same, three hundred and forty-three and twenty-hundredths feet to another corner of the said lands; thence (14) North, thirty-five degrees, thirty-six minutes, West, still along said lands one hundred and ninety-six and sixty-eight hundredths feet to another corner of the same; thence (15) North, twelve degrees, fifty-four minutes East, still along the same, two hundred and fourteen and fifty-hundredths feet to another corner of the same tract; thence (16) North, thirty degrees, fifty-one minutes West, along the same, two hundred and eighty and five-tenths feet to another corner; thence (17) North, fifty-four degrees, nine hundredths minutes East, still along the same, one hundred and sixty-five feet to the Westerly line of the first tract sold by Broadhead to

Roberts; thence (18) North, forty-four degrees, thirty-six minutes West, along the same, eight hundred and sixty-two and fifty-eight hundredths feet to corner in the line between Somers heirs and Mahlon Frambes; thence (19) South, thirty-nine degrees, fifty-nine minutes West, along the division line between Frambes and Somers, seven hundred and fifty-four and thirty-three hundredths feet to a turn in a line ditch; thence (20) North, fifty-two degrees, sixteen minutes West, along said ditch, one hundred and three and thirty-seven hundredths feet to the forks in said ditch or creek; thence (21) in a general Southerly course following the various courses of said ditch and Rail Creek to the mouth thereof where it empties into the Bay; thence (22) Thence in a general Northerly direction along the high water line of the Bay to the division line between Japhit L. Frambes and
an approximate distance of five hundred and thirty feet, more or less; thence (23) North, seventy-two degrees, fifty-four minutes East along the said division line, three hundred and twenty-three feet to a corner of said Frambes and the beginning corner of a ten acre tract owned by ;
thence (24) North, one degree, six minutes West along said Japhet and Mahlon Frambes lands, eight hundred and eighty-three and eight hundredths feet to the Northwesterly corner of said Mahlon Frambes plot; thence (25) By the old course, South eighty-two degrees, West three hundred and fifty-six and four-tenths feet to the high water line of Great Egg Harbor Bay or Patcong Creek; thence (26) Northwardly, along the said high water line, ten hundred and eighty feet, more or less to the Southerly corner of the second tract conveyed by Sarah Broadhead to George W. Roberts; thence (27) Along the

said Broadhead Tract and the high water line of said Patcong Creek, North twenty-eight degrees, fifty-seven minutes West four hundred and twenty-six and ninety-five hundredths feet to a corner; thence (30) North, seventy-six degrees, thirty-seven minutes East two hundred and twenty-seven and four hundredths feet to another corner; thence (31) South, eighty-three degrees, twenty-three minutes East eight hundred and ninety-one feet to another course; thence (32) Leaving the creek, South forty-six degrees, seven minutes West one hundred and eighty-one and fifty hundredths feet to a corner; thence (33) South, forty-eight degrees, fifty-three minutes East nine hundred and sixty-four and ninety-two hundredths feet to lands conveyed by George W. Roberts to Joseph E. Giberson; thence (34) South, seventy-four degrees and seven minutes West three hundred and thirty-six and sixty hundredths feet to the place of beginning.

CONTAINING Acres.

EXCEPTING therefrom 2.003 Acres conveyed to the Board of Chosen Freeholders of Atlantic County, N. J., from William Krumm, et ux., also all that block bounded by Chestnut Street, Walnut Street, Atkinson Avenue and Roberts Avenue, a tract in Block 2 on Atkinson Avenue having a frontage of 125 feet and a depth of 100 feet; a tract on Atkinson Avenue having a frontage of 100 feet and a depth of 200 feet in Block 4; a tract in Block 5 having a frontage on Atkinson Avenue of 125 feet and a depth of 200 feet; and also a tract in Block 8 having a frontage on Atkinson Avenue of 125 feet and a depth of 100 feet; also Lots 16, 17, 18, in Block 2; Lots 1, 2, 3, 4, 5, 6, 13, 14, 15, 16, 17, 18, 19, 20, in Block 4; Lots 1, 2, 3, 4, 5, 6, 7, 8, 11, 20, in Block 5; Lots 9, 10, 11, 19 and 20 in Block 8, as shown on

the map of Lots at Hickory Point, Somers Point, N. J., filed by George W. Roberts.

ALSO County Road and Streets, plotted and filed.

BEING the same premises conveyed to Julia Coll, single, by deed from George W. Roberts and Lizzie Roberts, his wife, dated February 1, 1926, and intended to be forthwith recorded in the Clerk's Office of Atlantic County, at May's Landing, N. J., in Book of Deeds, page .

TOGETHER with all and singular the lands, buildings, improvements, waters, water courses, water rights (riparian and pier rights granted or to be granted if the within conveyed property is tangent to, touches upon or embraces water front or fronts to which they would or may attach or be entitled), mineral rights and deposits, woods, streets, alleys, passages, ways, rights, liberties, privileges, hereditaments, incidents, appendants and appurtenances in the line of title and to the same belonging, granted, or in any wise appertaining with the full right to and use of the same that may have been granted heretofore to these or the prior owners hereof or to which they were, may or will be in any way entitled, and the reversion and reversions, remainder and remainders, rents, issues, benefits and the profits thereof, and of every part and parcel thereof:

AND ALSO, all the estate, rights, title, interest, property, privileges, possession, claim and demand whatsoever, both in law and equity, of the said party of the first part, of, in and to the said premises, with the appurtenances, appendants, incidents and hereditaments now vested in the party of the first part or that may hereafter be vested in the party of the first part in fulfillment and in perfection by estoppel of the title hereto both as to the quantity and quality of the same intended and pur-

ported to be granted and conveyed by this deed, if there is ascertained to be in any manner any deficiency of title either as to the quantity or quality thereof or both.

TO HAVE AND TO HOLD the said premises, with all and singular the buildings, appurtenances, appendants, incidents and hereditaments thereunto belonging as aforesaid unto the said party of the second part, his, her, their, its, heirs, successors and assigns, to the only proper use, benefit and behoof of the said party of the second part, his, her, their, its, heirs, successors and assigns.

AND the said party of the first part for himself, herself, themselves, itself, his, her, their, its, heirs, executors, administrators, successors, DO or DOTH by these presents covenant, grant and agree to and with the said party of the second part, his, her, their, its heirs, successors and assigns, that the said party of the first part, his, her, their, its heirs, successors, all and singular the hereditaments, appurtenances, appendants, incidents and premises herein above described and granted, or mentioned and intended to be so, unto the said party of the second part, his, her, their, its, heirs, successors and assigns, against the said party of the first part, his, her, their, its heirs, successors and against all and every other person or persons whomsoever lawfully claiming or to claim the same, or any part thereof, by, from, through, or under him, her, them, it or any of them, SHALL and WILL, subject to the above mentioned encumbrances, conditions, exceptions and reservations, if any, WARRANT and forever DEFEND.

IN WITNESS WHEREOF the individual parties of the first part to these presents has or have hereunto set his, her or their hands and seals, and the corporate parties hereto have caused its or their

common or corporate seal or seals to be affixed and set hereto duly attested by their proper and authorized officers thereof affixing their signatures hereto, in attestation of their due execution and delivery, the day and year first above written.

JULIA COLL (Seal)

Signed, sealed and delivered
in the presence of
Note: Page 4, line 33,
"also" written over an
erasure before execution.
A. Trevor Williams.

STATE OF NEW JERSEY }
COUNTY OF ATLANTIC } *ss.*

BE IT REMEMBERED, that on this
day of in the year of our Lord
one thousand nine hundred and
before me, the undersigned subscriber
personally
appeared the undersigned deponent who being duly sworn, on his oath made due proof, to my satisfaction, that
is President, and deponent is
Secretary (Cashier) of the the corporation grantor in the within Deed named; that deponent well knows the common seal of said corporation; that the seal affixed to said Deed is the common seal of said corporation, and was so affixed thereto, and said Deed was signed and delivered by
said President in the presence of deponent, as the voluntary act and deed of said corporation, pursuant to resolution of the Directors thereof, and that deponent thereupon signed his name thereto as a witness thereof.

In compliance with the statute I have presented an abstract of the

within to the collector of the taxing district therein mentioned.

WILLIAM A. BLAIR,
Clerk.

Sworn and subscribed to before me the day and year aforesaid. All of which I do hereby certify.

STATE OF NEW JERSEY }
ATLANTIC COUNTY } *ss.*

BE IT REMEMBERED, that on this 2nd day of February in the year of our Lord one thousand nine hundred and twenty-six (26) before me, the undersigned subscriber, a Notary Public of New Jersey personally appeared Julia Coll, single, who, I am satisfied is or are the grantor or grantors mentioned in the above Deed or Conveyance, and I having first made known to him, her or them the contents thereof, he, she or they acknowledged that he, she or they signed, sealed and delivered the same as his, her or their voluntary act and deed. All of which is hereby certified.

A. TREVOR WILLIAMS
Notary Public of N. J.
My Commission Expires
Jan. 31, 1928.

(SEAL)

RETURNED
Mar 17, 1926
WM. A. BLAIR
Clerk

(COVER)

7399 2/18/26 1—
12— 4.25
chg

App. No. 7826 Chelsea Title & Guaranty Co.

App. No. .....

E

DEED
JULIA COLL, single,
INSURED
to
WILLIAMS And DAVIS, INC.
Dated 19
Received in the Clerk's office of the County of Atlantic on the 18th day of February A. D. 1926 at 12 o'clock in the.....noon, and recorded in Book 796 of DEEDS for said County, on pages 355 &c.
William A. Blair, Clerk,
D. M. T.
747

EXHIBIT C3.
3/20/28L.

G.

ARTICLES OF AGREEMENT, Made this thirtieth day of September in the year of our Lord one thousand nine hundred and twenty-five (1925) BETWEEN DAVID D. SMITH and SALLIE B. SMITH, his wife, of the City of Atlantic City, County of Atlantic and State of New Jersey; and GEORGE S. RUSSELL and ELIZABETH RUSSELL, his wife, of the City and County of Philadelphia, and State of Pennsylvania, party of the first part, and JULIA COLL, of the City and County of Philadelphia, and State of Pennsylvania, party of the second part;

WITNESSETH, that the said party of the first part, for and in consideration of the sum herein-

after stipulated, to be paid and satisfied as hereinafter mentioned and also in consideration of the covenants and agreements hereinafter mentioned, made and entered into by and between the parties hereto, do agree to and with the said party of the second part, that the said party of the first part, will well and sufficiently convey or, in the event that the party of the first part is not at the date of expiration of this agreement then vested with the fee simple title to the herein described property under a now-existing agreement by deed of conveyance delivered to him, her, it or them at or before said date, said party of the first part may by proceedings for specific performance had and by or before said date instituted, and within a reasonable time after the termination hereof concluded (to permit of a reasonable time for the prosecution and termination of such suit for specific performance begun as aforesaid) or otherwise, cause to be conveyed to the said party of the second part, his, her, its, or their successors, heirs and assigns, by Deed of Special Warranty, a fee simple title to the within described property free from all incumbrance, zoning conditions excepted, if any, and further excepting as may be hereinafter mentioned, on or before the day and hour hereinafter mentioned for settlement, all that or those lots, tracts, or parcels of land and premises hereinafter particularly described, situate, lying and being in the City, Borough or Town or Township of Egg Harbor, in the County of Atlantic and State of New Jersey, bounded and described as follows: BEGINNING at a stone set in the ground for a corner twenty-five links Westerly of an old road leading from the main road to Samuel Somers, said stone stands in said Samuel Somers line and runs from thence (1) South twenty-four degrees and fifty-three minutes East, in his line, eighteen chains

and thirty links to a stone set for a corner, six feet Eastward of an old pear tree stump; thence (2) South twenty-eight degrees and fifteen minutes East, still in said Samuel Somers line, in part by an old hedge row, and part by a line fence and ditch, fifty-nine chains to a cove at the mouth of Cedar Swamp Creek; thence (3) South sixty-six degrees and fifteen minutes East, six chains to Cedar Swamp Creek; thence (4) up said Creek and binding thereon the several courses and distances thereof to the mouth of Sammy's Creek (so called); thence (5) up said Creek the several courses and distances thereof to the mouth of a small Creek or gut, on the Southwesterly s de thereof and a line to Constant Smith's lands; thence (6) up the center of said small creek or gut about two chains to a line ditch; thence (7) South eighty degrees and thirty minutes West, in the center of said ditch three chains and sixty-five links to an angle in said ditch and a corner to said Smith's lands; thence (8) North thirty one degrees and fifteen minutes West, in said Smith's line, twenty-four chains and twenty links to a stone for a corner; thence (9) South eighty degrees and thirty minutes West, nine chains and ninety links to the place of beginning. Containing one hundred and twenty acres, more or less.

EXCEPTING THEREOUT the Homestead of David D. Smith, with twenty-six acres of land adjacent.

SUBJECT TO A LEASE between George S. Russell and David D. Smith, party of the first part, and David Robinson, party of the second part, dated August 24th, 1923, covering premises in Scullville, N. J.

AND the said party of the second part, for himself, herself, itself or themselves, his, her, its or

their successors, heirs, executors and administrators, do covenant, promise and agree to and with the said party of the first part, his, her, its or their successors, heirs, executors, administrators and assigns, that the said party of the second part, will pay and satisfy or cause to be paid and satisfied unto the said party of the first part, the sum of SIXTY-FIVE THOUSAND DOLLARS ($65,000) (said price being figured at $650.00 Per acre, for 100 acres, more or less) as and for the purchase money of the foregoing described land and premises, in the following manner, that is to say:

$ 5,000—(Five thousand dollars) in cash upon the signing of this agreement, the receipt of which is hereby acknowledged;

$ 2,000—(Two thousand Dollars) in cash within sixty days;

$18,000—(Eighteen thousand dollars) in cash within 120 days, the date of final settlement;

$40,000—(Forty thousand dollars) to be represented by the creation of a purchase money mortgage in that amount, made by the party of the second part to the party of the first part, payable anytime within five (5) years from date thereof; to bear interest at the rate of six per cent. per annum, payable semi-annually;

$65,000—

Possession at time of final settlement. This Agreement expires 3 P. M. within 120 days of A. D., 19 . Adjustments of taxes, water rents, sewer rents, insurance premiums, interest, rents, building and loan stock, dues, interest and premiums, and all other carrying charges to be made and pro-rated and to be charged to and allowed to the parties hereto respectively as of date

of settlement unless herein otherwise stipulated; the tax year to be considered to run from January first to December Thirty-first of the current year.

Settlement to be made at the office of and title to the within described property to be insured by the Chelsea Title and Guaranty Company, and the title to said property to be good and marketable and such as will be insured by it at its regular rates of insurance.

AND IT IS FURTHER AGREED, by the parties to these presents, that the said party of the second part, his, her, its or their successors, heirs and assigns, may enter into and upon the said land and premises on the day of settlement, if not herein otherwise stipulated, and from thence take the rents, issues and profits to his, her, its and their use forever.

AND IT IS FURTHER UNDERSTOOD AND AGREED, subject as aforesaid, that time is to be cosidered as of the essence of this agreement.

AND for the performance of all and singular the covenants and agreements aforesaid, the said parties do bind themselves and their respective successors, heirs, executors and administrators, and they hereby respectively agree to pay upon failure to perform the same, the sum of
which they hereby fix and settle as liquidated damages thereof, provided, however, that if proceeding for specific performance is begun as is hereinbefore provided, a reasonable time be allowed for its termination.

IT IS UNDERSTOOD AND AGREED by and between the parties hereto that this agreement and all provisions hereof bind and extend to the heirs, executors, administrators, successors and assigns of the parties hereto respectively.

IN WITNESS WHEREOF, the said parties have

hereunto interchangeably set their hands and seals and any corporation parties hereto have caused their corporate seals to be affixed hereto duly attested the day and year first above mentioned.

DAVID D. SMITH (SEAL)
SALLIE B. SMITH (SEAL)
GEORGE S. RUSSELL (SEAL)
ELIZABETH L. RUSSELL (SEAL)
JULIA COLL

SIGNED, SEALED AND DELIVERED IN THE PRESENCE OF
A. TREVOR WILLIAMS
LOUIS G. HART.

STATE OF NEW JERSEY } ss.
ATLANTIC COUNTY }

BE IT REMEMBERED, That on this 30th day of September in the year of our Lord one thousand nine hundred and twenty-five before me A Notary Public in and for the State of New Jersey personally appeared DAVID D. SMITH and SALLIE B. SMITH, his wife, and GEORGE S. RUSSELL and ELIZABETH, his wife, who I am satisfied, is or are the vendors mentioned in the above agreement, deed or conveyance, and I having first made known to him, her or them the contents thereof, he, she, or they acknowledged that he, she or they signed, sealed and delivered the same as his, her or their voluntary act and deed, to the end that the same may be recorded as such. All of which is hereby certified.

A. TREVOR WILLIAMS.
Commission Expires Jan. 31, 1928.

EXHIBIT G1.

THIS INDENTURE, made the Eleventh day of February, in the year of our Lord one thousand nine hundred and twenty-six.

BETWEEN DAVID D. SMITH, and SALLIE B. SMITH, his wife, of the City of Atlantic City, County of Atlantic, and State of New Jersey, AND GEORGE S. RUSSELL and ELIZABETH RUSSELL, his wife, of the City and County of Philadelphia and State of Pennsylvania, hereinafter called the party of the first part, and JULIA COLL of the City and County of Philadelphia, and State of Pennsylvania, hereinafter called the party of the second part:

WITNESSETH, that the said party of the first part, for and in consideration of the sum of FIVE THOUSAND DOLLARS and other good and valuable consideration, lawful money of the United States of America, well and truly paid by the said party of the second part to the said party of the first part, at and before the ensealing and delivering of these presents, the receipt whereof is hereby acknowledged, has or have granted, bargained, sold, aliened, enfeoffed, released, conveyed, assigned, transferred, ratified, approved and confirmed, and by these presents does or do grant, bargain, sell, alien, enfeoff, release, convey, assign, transfer, ratify, approve and confirm unto the said party of the second part, his, her, their, its, heirs, successors and assigns ALL that certain lot, tract or parcel of land and premises situate, lying and being in the Township of Egg Harbor, County of Atlantic, and State of New Jersey, bounded and described as follows:

BEGINNING at an angle in the center line of

Somers Avenue where same is intersected by the division line between lands formerly belonging to Jacob Somers, and land formerly of Chatten Somers, established by deed from Jacob to Chatten, dated February 13, 1847, and recorded in Book F, page 277, and extending thence: (1) following the said division line South 25 degrees, five minutes East, thirty-five hundred thirty-seven and eighty-five hundredths feet to Patcong Creek thence: (2) North and Northeast following the various courses of Patcong Creek to Sammys Creek; thence: (3) up same to mouth of a small creek and Constant Smith's line; thence: (4) up center of small creek, two chains to line ditch; thence: (5) South eighty degrees, thirty minutes West in center of said ditch, three and sixty-five hundredths chains to angle in ditch and corner of said Smith; thence: (6) North, twenty-seven degrees, thirty-four minutes, thirty-five seconds West along said Smith's line, eleven hundred eight and eighty hundredths feet, more or less to the center line of the County Road from Somers Point to Mays Landing; thence: (7) following the center line of said Road, Southeast, nine hundred ninety-five and thirty hundredths feet; thence: (8) South, sixty-four degrees, fifty-five minutes West, three hundred ninety-two and sixty hundredths feet, more or less, to the place of beginning.

BEING the same premises granted and conveyed unto David D. Smith and George S. Russell, by deed from Abel W. Smith, widower, et als, dated May 31, 1923, and recorded September 11, 1923, in the Office of the Clerk of Atlantic County at May's Landing, New Jersey, in Book #725, page #117.

TOGETHER with all and singular the lands, buildings, improvements, waters, water courses, water rights (riparian and pier rights granted or to be

granted if the within conveyed property is tangent to, touches upon or embraces water front or fronts to which they would or may attach or be entitled), mineral rights and deposits, woods, streets, alleys, passages, ways, rights, liberties, privileges, hereditaments, incidents, appendants and appurtenances in the line of title and to the same belonging, granted, or in any wise appertaining with the full right to and use of the same that may have been granted heretofore to these or the prior owners hereof or to which they were, may or will be in any way entitled, and the reversion and reversions, remainder and remainders, rents, issues, benefits and the profits thereof, and of every part and parcel thereof:

AND ALSO, all the estate, rights, title, interest, property, privileges, possession, claim and demand whatsoever, both in law and equity, of the said party of the first part, of, in and to the said premises, with the appurtenances, appendants, incidents and hereditaments now vested in the party of the first part or that may hereafter be vested in the party of the first part in fulfillment and in perfection by estoppel of the title hereto both as to the quantity and quality of the same intended and purported to be granted and conveyed by this deed, if there is ascertained to be in any manner any deficiency of title either as to the quantity or quality thereof or both.

TO HAVE AND TO HOLD the said premises, with all and singular the buildings, appurtenances, appendants, incidents and hereditaments thereunto belonging as aforesaid unto the said party of the second part, his, her, their, its, heirs, successors and assigns, to the only proper use, benefit and behoof of the said party of the second part, his, her, their, its, heirs, successors and assigns.

AND the said party of the first part for himself, herself, themselves, itself, his, her, their, its, heirs,

executors, administrators, successors, DO or DOTH by these presents covenant, grant and agree to and with the said party of the second part, his, her, their, its, heirs, successors, and assigns, that the said party of the first part, his, her, their, its heirs, successors, all and singular the hereditaments, appurtenances, appendants, incidents and premises herein above described and granted, or mentioned and intended to be so, unto the said party of the second part, his, her, their, its, heirs, successors and against all and every other person or persons whomsoever lawfully claiming or to claim the same, or any part thereof, by, from, through, or under him, her, them, it or any of them, SHALL and WILL, subject to the above mentioned encumbrances, conditions, exceptions and reservations, if any, WARRANT and forever DEFEND.

IN WITNESS WHEREOF the individual parties of the first part to these presents has or have hereunto set his, her or their hands and seals, and the corporate parties hereto have caused its or their commmon or corporate seal or seals to be affixed and set hereto duly attested by their proper and authorized officers thereof affixing their signatures hereto, in attestation of their due execution and delivery, the day and year first above written.

David D. Smith (SEAL)
Sallie B. Smith (SEAL)
George S. Russell (SEAL)
Elizabeth Russell

Signed, sealed and delivered in the presence of
Floyd S. Sumner

STATE OF NEW JERSEY } ss.
COUNTY OF ATLANTIC }

BE IT REMEMBERED, that on this day

of in the year of our Lord one thousand nine hundred and before me, the undersigned subscriber personally appeared the undersigned deponent who being duly sworn, on his oath made due proof, to my satisfaction, that is President, and deponent is Secretary (Cashier) of the the corporation grantor in the within Deed named; that deponent well knows the common seal of said corporation; that the seal affixed to said Deed is the common seal of said corporation, and was so affixed thereto, and said Deed was signed and delivered by said President in the presence of deponent, as the voluntary act and deed of said corporation, pursuant to resolution of the Directors thereof, and that deponent thereupon signed his name thereto as a witness thereof.

Sworn and subscribed to before me the day and year aforesaid. All of which I do hereby certify.

In compliance with the statute I have presented an abstract of the within to the collector of the taxing district therein mentioned.

WILLIAM A. BLAIR,
Clerk.

7200 2/17/26 11- 2.90 chg

App. 8129 Chelsea Title & Guaranty Co.
App. No. 8129
DEED
DAVID D. SMITH, et ux et als
to
JULIA COLL.

Dated 1926
Received in the Clerk's office of the County of Atlantic on the 17th day of February A. D. 1926 at 11 o'clock in the forenoon, and recorded in Book 812 of DEEDS for said County, on pages 402, &c.

William A. Blair, Clerk MP

746

STATE OF NEW JERSEY }
ATLANTIC COUNTY } ss.

BE IT REMEMBERED, that on this 11th day of February in the year of our Lord one thousand nine hundred and twenty-six. before me the undersigned subscriber, Notary Public of N. J. personally appeared DAVID D. SMITH, and SALLIE B., his wife; GEORGE S. RUSSELL, and ELIZABETH, his wife, who, I am satisfied is or are the grantor or grantors mentioned in the above Deed or Conveyance, and I having first made known to him, her or them the contents thereof, he, she or they acknowledged that he, she or they signed, sealed and delivered the same as his, her or their voluntary act and deed. All of which is hereby certified.

FLOYD S. SUMNER
Notary Public of N. J.
My Commission Expires June 4, 1930

Returned
Mar 17 1926
Wm. A. Blair,
Clerk

EXHIBIT H.

(Documentary Seals)

THIS INDENTURE, Made The Thirteenth (13th) day of February in the year of our Lord one thousand nine hundred and twenty-six

BETWEEN JULIA COLL, single, of the City and County of Philadelphia, State of Pennsylvania, party of the first part, and WILLIAMS AND DAVIS, INC., a Corporation under and and by virtue of the laws of the State of New Jersey, party of the second part,

WITNESSETH, that the said party of the first part, for and in consideration of the sum of FIVE THOUSAND DOLLARS ($5000.00) and other good and valuable consideration lawful money of the United States of America, well and truly paid by the said party of the second part, to the said party of the first part, at and before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged hath granted, bargained, sold, aliened, enfeoffed, released, conveyed, and confirmed, and by these presents doth grant, bargain, sell, alien, enfeoff, release and convey and confirm unto the party of the second part, its successors and Assigns, ALL those certain tracts or tract of land, situate, lying and being in the Township of Egg Harbor, County of Atlantic and State of New Jersey, bounded and described as follows:

BEGINNING at an angle in the center line of Somers Avenue where same is intersected by the division line between lands formerly belonging to Jacob Somers, and land formerly of Chatten Somers, established by Deed from Jacob to Chatten, dated

February 13, 1847, and recorded in Book F, page 277, and extending thence (1) following the said line of division South twenty-five degrees five minutes East three thousand five hundred thirty-seven and eighty-five hundredths feet to Patcong Creek; thence (2) North and Northeast following the various courses of Patcong Creek to Sammy's Creek; thence (3) up same to the Mouth of a small creek and Constant Smith's line; thence (4) up center of small creek, two chains to line ditch; thence (5) South eighty degrees and thirty minutes West in center of said ditch three and sixty-five hundredths chains to angle in ditch and corner of said Smith; thence (6) North twenty-seven degrees thirty-four minutes thirty-five seconds West along said Smith's line one thousand one hundred eight and eighty hundredths feet more or less to the center line of the County Road from Somers Point to Mays Landing; thence (7) following the center line of said Road, Southeast Nine hundred ninety-five and thirty hundredths feet; thence (8) South sixty-four degrees fifty-five minutes West, three hundred ninety-two and sixty hundredths feet more or less to beginning. BEING the same premises conveyed to Julia Coll, by deed dated February 11, 1926, from David D. Smith, et ux., et al., said deed intended to be forthwith recorded in the Clerk's Office of Atlantic County, at May's Landing, N. J., in Deed Book , page .

TOGETHER with all and singular, the buildings, improvements, woods, ways, rights, liberties, privileges, hereditaments, and appurtenances, to the same belonging, or in any wise appertaining, and the reversion or reversions, remainder and remainders, rents, issues and profits thereof, and of every part and parcel thereof: AND ALSO all the estate,

right, title, interest, property, possession, claim and demand whatsoever, both in law and equity, of the said party of the first part, of, in and to the premises, with the appurtenances

SUBJECT, however, to the operation of a certain Indenture of Mortgage in the sum of FORTY THOUSAND DOLLARS ($40,000.00) now existing on this property and on record in the County Clerk's Office at Mays Landing, New Jersey.

TO HAVE AND TO HOLD the said premises, with all and singular the appurtenances, unto the party of the second part, its successors and Assigns, to the only proper use, benefit and behoof of the said party of the second part, its successors and Assigns, forever.

AND the said party of the first part, for herself, her does by these presents covenant, grant and agree to and with the said party of the second part, its successors and Assigns, that she the said party of the first part, her heirs, all and singular the hereditaments and premises herein above described and granted, or mentioned and intended to be so, with the appurtenances unto the said party of the second part, its successors and Assigns, against her the said party of the first part, her heirs and against all and every other person or persons whomsover lawfully claiming or to claim the same or any part thereof by, from, through, or under him, her, its, them, or any of them, SHALL and WILL subject as aforesaid WARRANT and forever defend

IN WITNESS WHEREOF, the said party of the first part hath hereunto set her hand and seal the day and year first written above.

JULIA COLL (SEAL)

SIGNED, SEALED and DELIVERED
in the presence of
A. TREVOR WILLIAMS

STATE OF)
: ss.
COUNTY)

BE IT KNOWN that on this day of nineteen hundred and before me, the subscriber, a personally appeared who, being by me duly sworn according to law, did on his oath say that he is the Secretary of the the grantor mentioned in the foregoing indenture; that he knows the seal of this corporation; that the seal affixed to the said indenture is the common seal of the said corporation; that is the President of said Corporation and did by its order sign, seal and deliver the said indenture as its voluntary act and deed in the presence of said deponent; and that the said deponent did, at the execution thereof subscribe his name as a witness thereto.

In compliance with the statute I have presented an abstract of the within to the collector of the taxing district therein mentioned.

WILLIAM A. BLAIR,
Clerk.

7204

App. No. 8129 Chelsea Title & Guaranty Co.

CORPORATION
DEED
JULIA COLL (Single)
to
WILLIAMS and DAVIS, INC.
INSured

Dated: February 1926.
Received Feb. 17th, 1926, at 11 A. M. and Recorded in the Clerk's Office of

Atlantic County, at Mays Landing, N. J. in Book 814 of Deeds, Folio 69, &c.
WILLIAM A. BLAIR,
Clerk,
H. W.

STATE OF NEW JERSEY }
ATLANTIC COUNTY } ss.

BE IT REMEMBERED, that on this 13th day of February in the year of our Lord one thousand nine hundred and twenty-six before me a Notary Public in and for the State of New Jersey personally appeared Julia Coll, single who, I am satisfied, is the grantor mentioned in the above deed or conveyance, and I having first made known to her the contents thereof, she acknowledged that she signed, sealed and delivered the same as her voluntary act and deed. All of which is hereby certified.

A. TREVOR WILLIAMS,
Commission Expires Jan. 31st, 1928,
NOTARY PUBLIC OF NEW JERSEY.

RETURNED
Mar. 15, 1926
WM. A. BLAIR,
Clerk.

EXHIBIT C4.
3/20/28L.
I.

ARTICLES OF AGREEMENT, Made this Tenth day of May in the year of our Lord one thousand nine hundred and twenty-six (1926).

BETWEEN Estate of James S. Ireland, JOHN F. RYON, Executor, of the City of Pleasantville, County of Atlantic, State of New Jersey, of the first part, and SADIE A. CRAIGEN, of Washington, D. C., of the second part;

WITNESSETH, that the said party of the first part, for and in consideration of the sum of TEN THOUSAND ($10,000.00) DOLLARS ..... to be paid and satisfied as hereinafter mentioned and also in consideration of the covenants and agreements hereinafter mentioned, made and entered into by the said party of the second part, does agree to and with the said party of the second part, that he the said party of the first part, will well and sufficiently convey to the said party of the second part, her heirs and assigns, by Deed free from all incumbrance except as hereinafter set forth, on or before the Ninth day of July, 1926 all lot, tract or parcel of land and premises hereinafter particularly described, situate, lying and being in the City of Somers Point in the County of Atlantic and State of New Jersey, bounded and described as follows:—

BEGINNING in the corner to Japhet I. Frambes Lot, and extending thence (1) North, eight degrees West, Thirteen and seventy hundredths chains to corner of Mark Lake's Manlon C. and Richard I. Frambes Lot; thence (2) South, eighty-two degrees West five and fourty-hundredths chains to the Bay; thence (3) along the Bay, to corner of Japhet I. Frambes lot; thence (4) North, sixty-six degrees East, four and forty-four hundredths chains to beginning.

CONTAINING 10 Acres, 3 Rods, 22 Poles.

BEING the same premises conveyed by Robert J. Winsmore et ux to Amelia G. Ireland by deed dated August 16, 1886 and recorded in Book 133 page 241.

AND the said party of the second part, for herself, her heirs, executors and administrators, does covenant, promise and agree to and with the said party of the first part, assigns, that she the said party of the second part, will pay and satisfy or cause to be paid and satisfied unto the said party of the first part, the said sum of TEN THOUSAND ($10,000.00) DOLLARS, as and for the purchase money of the foregoing described land and premises, in the following manner, that is to say:

$ 1,000.00—One Thousand dollars on the signing of this agreement, receipt of which is hereby acknowledged.

4,000.00—Four thousand dollars to be paid in cash on day of final settlement.

5,000.00—Five thousand dollars by the execution and delivery of a purchase money bond and mortgage in like amount, to be payable at anytime within

$10,000.00—three years from its date, with interest at 6%, payable semi-annually, the said mortgage to contain release privilege of $150. per lot, and not less than four lots to be released at anytime.

All adjustments to be made as of day of final settlement.

Settlement to be made at the offices of the Chelsea Title and Guaranty Company, Atlantic City, New Jersey, on or before the 9th day of July, 1926.

It is expressly understood and agreed that the above described premises is to be conveyed free and clear of encumbrances except heretofore mentioned.

It is understood and agreed that in case of the inability of the party of the first part to deliver good and marketable title at the time and place of settlement, the amount paid by the party of the second part shall be refunded to her at that time.

Time is the essence of this contract.

AND IT IS FURTHER AGREED, by the parties to these presents, that the said party of the second part, her heirs and assigns, may enter into and upon the said land and premises on the day of and from thence take the rents, issues and profits to and their use

AND for the performance of all and singular the covenants and agreements aforesaid, the said parties do bind themselves and their respective heirs, executors and administrators, and they hereby agree to pay, upon failure to perform the same, the sum of which they hereby fix and settle as liquidated damages thereof.

IN WITNESS WHEREOF, the said parties have hereunto interchangeably set their hands and seals the day and year first above mentioned.

JOHN F. RYON (SEAL)
Executor of the Estate of
James S. Ireland.

(SEAL)

SIGNED, SEALED AND
DELIVERED in the pre-
sence of
GORDON WILLIAMS.

EXHIBIT J.

THIS INDENTURE, made the Ninth (9th) day of July in the year of our Lord one thousand nine hundred and twenty-six

BETWEEN SADIE A. CRAIGEN, single, of Washington, D. C. hereinafter called the party of the first part, and WILLIAMS and DAVIS, INC., a corpora-

tion of the State of New Jersey, hereinafter called the party of the second part:

WITNESSETH, that the said party of the first part, for and in consideration of the sum of ONE THOUSAND DOLLARS and other good and valuable consideration, lawful money of the United States of America, well and truly paid by the said party of the second part to the said party of the first part, at and before the ensealing and delivering of these presents, the receipt whereof is hereby acknowledged, has or have granted, bargained, sold, aliened, enfeoffed, released, conveyed, assigned, transferred, ratified, approved and confirmed, and by these presents does or do grant, bargain, sell, alien, enfeoff, release, convey, assign, transfer, ratify, approve and confirm unto the said party of the second part, his, her, their, its, their, its, heirs, successors and assigns ALL that certain lot, tract or parcel of land and premises situate, lying and being in the City of Somers Point, County of Atlantic and State of New Jersey, bounded and described as follows:

BEGINNING at a point in the corner of Japhet I. Frambes lot, and extending thence (1) North eight degrees West thirteen and seventy hundredths chains to corner of Mark Lakes, Mahlon C. and Richard I. Frambes; thence (2) South eighty-two degrees West five and forty hundredths chains to the Bay; thence (3) Along the Bay to corner of Japhet I. Frambes lot; thence (4) North sixty-six degrees East four and forty-four hundredths chains to the place of the beginning.

CONTAINING ten acres, three roods and twenty-two poles.

Being the same premises granted and conveyed to Sadie A. Craigen by deed from John F. Ryon,

Executor, dated July 9, 1926 and intended to be forthwith recorded.

TOGETHER with all and singular the lands, buildings, improvements, waters, water courses, water rights (riparian and pier rights granted or to be granted if the within conveyed property is tangent to, touches upon or embraces water front or fronts to which they would or may attach or be entitled), mineral rights and deposits, woods, streets, alleys, passages, ways, rights, liberties, privileges, hereditaments, incidents, appendants and appurtenances in the line of title and to the same belonging, granted, or in any wise appertaining with the full right to and use of the same that may have been granted heretofore to these or the prior owners hereof or to which they were, may or will be in any way entitled, and the reversion and reversions, remainder and remainders, rents, issues, benefits and the profits thereof, and of every part and parcel thereof:

AND ALSO, all the estate, rights, title, interest, property, privileges, possession, claim and demand whatsoever, both in law and equity, of the said party of the first part, of, in and to the said premises, with the appurtenances, appendants, incidents, and hereditaments now vested in the party of the first part or that may hereafter be vested in the party of the first part in fulfillment and in perfection by estoppel of the title hereto both as to the quantity and quality of the same intended and purported to be granted and conveyed by this deed, if there is ascertained to be in any manner any deficiency of title either as to the quantity or quality thereof or both.

TO HAVE AND TO HOLD the said premises, with all and singular the buildings, appurtenances, appendants, incidents and hereditaments thereunto belonging as aforesaid unto the said party of the second part, his, her, their, its, heirs, successors and

assigns, to the only proper use, benefit and behoof of the said party of the second part, his, her, their, its, heirs, successors and assigns.

Subject to a mortgage in the sum of Five Thousand Dollars made by Sadie A. Craigen to John F. Ryon, Executor, bearing even date herewith.

AND the said party of the first part for himself, herself, themselves, itself, his, her, their, its, heirs, executors, administrators, successors, DO or DOTH by these presents covenant, grant and agree to and with the said party of the second part, his, her, their, its heirs, successors and assigns, that the said party of the first part, his, her, their, its heirs, successors, all and singular the hereditaments, appurtenances, appendants, incidents and premises herein above described and granted, or mentioned and intended to be so, unto the said party of the second part, his, her, their, its, heirs, successors and assigns, against the said party of the first part, his, her, their, its heirs, successors and against all and every other person or persons whomsoever lawfully claiming or to claim the same, or any part thereof, by, from, through, or under him, her, them, it or any of them, SHALL and WILL, subject to the above mentioned encumbrances, conditions, exceptions and reservations, if any, WARRANT and forever DEFEND.

IN WITNESS WHEREOF the individual parties of the first part to these presents has or have hereunto set his, her or their hands and seals, and the corporate parties hereto have caused its or their common or corporate seal or seals to be affixed and set hereto duly attested by their proper and authorized officers thereof affixing their signatures hereto, in attestation of their due execution and delivery, the day and year first above written.

SADIE A. CRAIGEN (SEAL)

(SEAL)

Signed, sealed and delivered
in the presence of
A. TREVOR WILLIAMS
STATE OF NEW JERSEY }
COUNTY OF ATLANTIC } ss.
BE IT REMEMBERED, that on this day of in the year of our Lord one thousand nine hundred and before me, the undersigned subscriber personally appeared the undersigned deponent who being duly sworn, on his oath made due proof, to my satisfaction, that is President, and deponent is Secretary (Cashier) of the the corporation grantor in the within Deed named; that deponent well knows the common seal of said corporation; that the seal affixed to said Deed is the common seal of said corporation, and was so affixed thereto, and said Deed was signed and delivered by said President in the presence of deponent, as the voluntary act and deed of said corporation, pursuant to resolution of the Directors thereof, and that deponent thereupon signed his name thereto as a witness thereof.

Sworn and subscribed to before me the day and year aforesaid. All of which I do hereby certify. }

7505 7/20/26 11-2.40 5
Chg.

App. No. 9484 Chelsea Title & Guaranty Co.

App. No. .....

DEED

INSURED

SADIE A. CRAIGEN, single
to
WILLIAMS and DAVIS, INC.

Dated 19

Received in the Clerk's office of the

County of Atlantic on the 20th day of July A. D. 1926 at 11 o'clock in the forenoon, and recorded in Book 834 of DEEDS for said County, on pages 294 &c.

William A. Blair, Clerk M. P.

877

STATE OF NEW JERSEY }
ATLANTIC COUNTY } ss.

BE IT REMEMBERED, that on this 9th day of July in the year of our Lord one thousand nine hundred and twenty-six before me, the undersigned subscriber, a Notary Public for N. J. personally appeared Sadie A. Craigen, single who, I am satisfied is or are the grantor or grantors mentioned in the above Deed or Conveyance, and I having first made known to him, her or them the contents thereof, he, she or they acknowledged that he, she or they signed, sealed and delivered the same as his, her or their voluntary act and deed. All of which is hereby certified.

A. TREVOR WILLIAMS
Notary Public for New Jersey.
Commission expires Jan. 31, 1928.

In compliance with the statute I have presented an abstract of the within to the collector of the taxing district therein mentioned.

William A. Blair, Clk.

RETURNED
Aug. 7, 1926
WILLIAM A. BLAIR, CLERK.

EXHIBIT K.

THIS INDENTURE, MADE THE Nineteenth day of May in the year of our Lord one thousand nine hundred and twenty-six.

BETWEEN Harold S. Williams and Almedie J. Williams, his wife, of the City of Ventnor City, County of Atlantic and State of New Jersey, parties of the first part, and Williams and Davis, Inc., a corporation of the State of New Jersey, party of the second part:

WITNESSETH, That the said party of the first part, for and in consideration of the sum of One Thousand Dollars and other good and valuable consideration lawful money of the United States of America, well and truly paid by the said party of the second part to the said party of the first part, at and before the ensealing and delivery of these presents, the receipt whereof is hereby acknowledged have granted, bargained, sold, aliened, enfeoffed, released, conveyed and confirmed and by these presents do grant, bargain, sell, alien, enfeoff, release, convey and confirm, unto the said party of the second part, its successors and assigns, ALL that certain lot, tract or parcel of land and premises, situate, lying and being in the City of Somers Point, County of Atlantic and State of New Jersey, bounded and described as follows:

BEGINNING at a point in a line parallel to and eight feet distant, in a Northerly direction from the centre line of the Somers Point—May's Landing Road, at a distance of One thousand three hundred and ninety-six feet, Eastwardly from the fact of the Easterly Bulkhead of the Patcong Creek Bridge;

extending thence South fifty-one degrees East one hundred and fifty-five and forty-three one-hundredths feet parallel with, and distant twelve feet Southwestwardly from the Krumm line to a corner of the property intended to be conveyed herewith; and extending thence (1) South, fifty-five degrees fifty-one minutes West three hundred and five and three-one-hundredths feet to a stake; thence (2) South, forty-nine degrees twenty-five minutes East two hundred and sixty-three and thirty-nine one-hundredths feet to a stake; thence (3) North, sixty-three degrees twenty minutes East three hundred and thirty feet to a stake located twelve feet distant from, measured Southwestwardly at right angles to, the Krumm line; thence (4) North, fifty-one degrees fifty-one minutes West three hundred and seventeen and fifty-seven one-hundredths feet to the above mentioned "corner of the property intended to be conveyed herewith."

Containing 2.003 acres.

BEING the same premises which the County of Atlantic by its Board of Chosen Freeholders, granted and conveyed unto Harold S. Williams, by deed dated May 12, 1926, and intended to be forthwith recorded. Said premises having been previously conveyed unto the Board of Chosen Freeholders of the County of Atlantic by William Krumm and Sophie Krumm, his wife, by deed recorded in book 553, page 383.

TOGETHER with all and singular the improvements, woods, ways, rights, liberties, privileges, hereditaments and appurtenances to the same belonging or in any wise appertaining, and the reversion and reversions, remainder and remainders, rents, issues, and profits thereof, and of every part and parcel thereof; AND ALSO all the estate, right,

title, interest, property, possession, claim and demand whatsoever, both in law and equity, of the said party of the first part, of, in and to the said premises, and every part thereof, with the appurtenances: TO HAVE AND TO HOLD the said premises above described, with all and singular the hereditaments and appurtenances, unto the said party of the second part, its successors and assigns, to the only proper use, benefit and behoof of the said party of the second part its successors and assigns forever. AND the said party of the first part, for themselves, their heirs, executors, administrators and assigns do by these presents covenant, grant and agree, to and with the said party of the second part, its successors and assigns, that they the said party of the first part, their heirs, executors, administrators and assigns all and singular the hereditaments and premises above described and granted, or mentioned and intended so to be, with the appurtenances, unto the said party of the second part, its successors and assigns, against them the said party of the first part, their heirs, executors, administrators and assigns and against all and every person or persons whomsoever lawfully claiming or to claim the same, or any part thereof, shall and will warrant and forever defend.

IN WITNESS WHEREOF, the said party of the first part to these presents hath hereunto set their hands and seals the day and year first above written.

HAROLD S. WILLIAMS (SEAL)
ALMEDIE J. WILLIAMS (SEAL)

SIGNED, SEALED AND DELIVERED
IN THE PRESENCE OF
LOUIS G. HART

STATE OF NEW JERSEY }
ATLANTIC COUNTY, } ss.

BE IT REMEMBERED, That on this 19th day of May in the year of our Lord one thousand nine hundred and twenty-six before me, A Notary Public for the State of New Jersey personally appeared Harold S. Williams and Almedie J. Williams, his wife who, I am satisfied are the grantors mentioned in the above deed or conveyance, and I having first made known to them the contents thereof they acknowledged that they signed, sealed and delivered the same as their voluntary act and deed;

Louis G. Hart,
(SEAL) Notary Public of New Jersey.

My Commission expires Feb. 26, 1931.

being of full age, on a private examination apart from said husband before me acknowledged that signed, sealed and delivered the same as voluntary act and deed, freely, without any fear, threats or compulsion of said husband. All of which is hereby certified.

RETURNED
June-8-1926
Wm. A. Blair, Clerk.

STATE OF }
COUNTY, } ss.

BE IT REMEMBERED, that on this day of in the year of our Lord one thousand nine hundred and before me personally appeared who being by me duly sworn, on his oath saith, that he is the of

the grantor within named, and that is the President; that dependent knows the common or corporate seal of said grantor and that the seal annexed to the within Deed or Conveyance is such common or corporate seal; that the said Deed or Conveyance was signed by the said President and the seal of said grantor affixed thereto in the presence of deponent; that said Deed or Conveyance was signed, sealed and delivered as and for the voluntary act and deed of said grantor for the uses and purposes therein expressed, pursuant to a resolution of the Board of Directors of said grantor; and at the execution thereof this deponent subscribed his name thereto as witness.

Sworn and Subscribed the
day and year aforesaid.

DEED
HAROLD S. WILLIAMS,
et ux.,
TO
WILLIAMS AND DAVIS,
Inc.

Dated 19

Received May 20, at 9 A. M. 1926 and recorded in the Clerk's Office of Atlantic County, at May's Landing
In Book 826 of Deeds, Folio 227 &c.,
WILLIAM A. BLAIR, Clerk.
HVB.

(SEAL)

Law Offices
Bourgeois & Coulomb
Atlantic City, N. J.
25-28 Law Building

NEW JERSEY COURT OF ERRORS AND APPEALS.

Between
CONNIE J. DORRIAN, *et al.*,
Complainants-Appellants,
and
ROYDEN B. DAVIS, *et al.*,
Defendants-Respondents.

ON APPEAL FROM DECREE IN CHANCERY.

BRIEF FOR APPELLANTS.

This is an appeal from the final decree advised by Vice-Chancellor Ingersoll (p. 1183), dismissing the bill of complaint and adjudging that the defendants to said bill (respondents herein) are entitled to the relief prayed for in their counter-claim, with costs; and, among other things, directing the return to the respondents of certain securities that had theretofore been delivered by the respondents to the complainants, or some of them, and which in due course had been by an additional order placed in the hands of a receiver. The history of the litigation is of importance, and is as follows:

On the 6th of June, 1927, the appellants, Dorrian and Fahler, and Williams & Davis, Inc., a New Jer-

sey corporation, filed their original bill of complaint in this cause, alleging that on the 1st of June, 1927, a contract had been entered into, whereby the respondents had agreed to deliver unto the appellants, certain mortgages, securities and other items, including cash sums; that the respondents had duly delivered to the complainants certain of the securities and part of the cash by said agreement required to be delivered, but had refused to deliver the balance; that the securities so undelivered were beyond the reach of attachment or other process, and that it was feared the defendants proposed to dispose thereof in violation of their duty under said contract. The bill prayed, among other things, for an injunction that the defendants be directed specifically to perform the remaining covenants in said contract, and to deliver the balance of said securities, and that a receiver, pending the final determination of the cause, be appointed to prevent the dissipation of such securities as had not yet been turned over, with power to take possession thereof.

Upon the filing of this bill, an order issued directing the defendants therein named to show cause on a certain day why a receiver should not be appointed as prayed for.

On June 7, 1927, the day after the filing of the bill just referred to, Trevor Williams and Royden B. Davis, two of the respondents, filed their bill alleging that the said agreement, specific performance of which was desired by the complainants in the bill first mentioned, had been made and entered into under duress, and praying that the securities which had been delivered in partial performance of said agreement, be directed to be restored to the parties, and that said agreement, because of the duress, be set aside. Later this bill was amended by praying the appointment of a receiver of the

securities so delivered. Upon the filing of this bill, an order issued directing the defendants therein, who were the complainants in the first bill, to show cause why the desired relief should not be accorded. Both orders to show cause came on before Vice-Chancellor Ingersoll, and were heard together, with the result that on the 21st of June, 1927, an order (p. 88) was made, appointing a receiver for both sets of securities, namely those delivered to the complainants in partial performance of the agreement, and those remaining undelivered and in possession of the defendants or some of them, with the direction that the same when obtained by the receiver shall be held "until the final determination of this cause and the further order of this Court in the premises."

On the 25th of July, 1927, an order was made (p. 94) directing the consolidation of the said two causes, and that the bill of complaint of Dorrian and Fahler, first hereinabove referred to, be considered the bill of complaint in the consolidated cause,

> "And that said cause proceed thereafter by the filing of an answer and counter-claim by A. Trevor Williams and Royden B. Davis to the said bill of complaint, * * * and that said bill of complaint already filed in this cause by A. Trevor Williams and Royden B. Davis remain of record."

Pursuant to this order, on the first of August, 1927, an answer and counter-claim (p. 96) was filed by Royden B. Davis, Jessie Davis, A. Trevor Williams, Harold S. Williams, Gordon Williams and Gordon Williams & Co.

This paper was followed by the filing, on August 20, 1927 (p. 128), of a separate answer by Gordon Williams.

The consolidated case came on for hearing before the Vice-Chancellor, who, at the close of the argument announced his conclusions (p. 1174), in which (p. 1177) he said:

> "I cannot find that there was duress on the part of Mr. Godfrey, Mr. Garrison and the others."

He then passes to a consideration of

> "the question for me to determine now is whether, upon the reading of the agreement in question, it does or does not show upon the face of it whether it was or was not to take effect until the signing by Gordon Williams, and for this purpose I am going to take several items in seriatum as I have set them down."

He then analyzes the contract, and concludes, in view of its terms, and of the failure of Gordon Williams to have signed it, that

> "until such time as it was a binding agreement upon all, it was not a binding agreement upon anyone" (p. 1181, l. 35).

He concludes by saying (p. 1182, l. 20):

> "Now, as to what effect this finding of fact will have in the present status of the pleadings and the present situation of the securities, which are in the hands of the trustees, I will have to either give further consideration or have counsel take the matter up. Perhaps it better be upon the form of a decree to be advised."

In due course, counsel on both sides appeared before the Court, the one presenting a decree simply dismissing the bill of complaint, altogether ignor-

ing the counter-claim, and directing the handing over by the receiver of all the securities in his possession to the defendants; the other directing a dismissal of the bill and of the counter-claim, as well as the return to the complainants of the securities handed to the receiver by them pursuant to the Court's order, and the return to the defendants of the securities they had, pursuant to the order, delivered to the receiver. The Court, after listening to the arguments of counsel, took the papers and itself prepared and signed the decree (p. 1183), which, after reciting the filing of the two bills of complaint, the appointment of the receiver, the order of consolidation, and the reference to the Vice-Chancellor, proceeds (p. 1185, l. 10):

> "And the Court having considered and heard the evidence and arguments of counsel, and being of the opinion that the agreement aforesaid was not to take effect until it was signed by Gordon Williams; and it appearing that said agreement was not and has not been signed by said Gordon Williams; and the Court being of the opinion that said agreement of June 1st, 1927, did not take effect and that said agreement was and is void * * *
>
> And the Chancellor doth by virtue of his power and authority hereby order, adjudge and decree that the prayer of the bill of complaint be denied and said bill be dismissed; and the Chancellor, by virtue of the power and authority aforesaid, doth further order, adjudge and decree, that the defendants are entitled to the relief prayed for in their counter-claim, with costs to be taxed."

The decree then proceeds to direct the surrender by the receiver of all of the securities he had thus

received to the defendants "as their interest may appear."

The appeal is from both features of the decree. It will be observed that notwithstanding the Vice-Chancellor found as a matter of fact in his conclusion that the claim of duress in the execution of the contract, which was the sole ground alleged in the counter-claim as the basis for its prayer, nevertheless directs that the defendants are entitled to the relief prayed for in the counter-claim, with costs, and as a consequence thereof requires the receiver to turn over to the defendants the securities they had, at the time of the signing of the agreement, delivered to the complainants.

A proper understanding of the case requires a brief statement of the facts antecedent to the making of the contract.

In 1925, a corporation known as Gordon Williams & Co., in which Harold Williams, his son Gordon and Royden B. Davis were interested, were real estate agents and brokers in Atlantic County in this State, and A. Trevor Williams, also a son of Harold, was employed by that company as a salesman. There was a boom in the real estate market both in Florida and in Atlantic County, and Messrs. Dorrian and Fahler, two of the complainants—appellants herein—having capital at their command, entered into three written contracts, which are found printed on pages 60 to 74, inclusive.

The first of these is dated July 20, 1925. Two days before the making of this agreement the certificate of incorporation of Williams & Davis, Inc., was filed in the office of the Secretary of State. The objects for the formation of this company are stated in the said certificate as follows:

"To the same extent as natural persons

might or could do to purchase, lease or otherwise acquire, to hold, own, develop, sell, lease, convey, mortgage, or otherwise dispose of, without limit as to amount within or without the State of New Jersey, real estate and personal property and any interests or rights therein; to erect, construct, purchase or otherwise acquire and to conduct and operate hotels, boarding houses and apartment houses and other premises for such uses, and to manage, sell, lease or otherwise dispose of the same; to manufacture, purchase or otherwise acquire, hold, own, mortgage, sell, assign and transfer, invest, trade in and deal with goods, wares, merchandise and personal property of every class and description; and to acquire the good-will, rights, property and assets of all kinds from any person or corporation; to buy, sell and trade in shares of stock, bonds and other evidences of indebtedness created by other corporations; to act as a broker, agent or salesman for individuals and corporations for the purchase, sale and exchange of property, real and personal, and for the placing of fire insurance, and to contract for, collect and receive for such services, commissions or other compensations; and to enter into, make, perform and carry out contracts of any and every kind; to borrow money and to execute bonds, mortgages, notes and other obligations in the course of its business and to have and enjoy such other rights, powers and privileges as may be conferred upon it by the laws of the State of New Jersey, to establish offices and to conduct its business at any place in the State of New Jersey and other States in the United States of America and in foreign countries."

The incorporators of the company were the said Gordon Williams, Royden B. Davis and Harold S. Williams.

A fourth agreement (p. 76) was, on the 4th of January, 1926, made between Williams & Davis, Inc., and Gordon Williams & Co. Gordon and Harold Williams and Royden B. Davis were the sole directors and officers of Williams & Davis, Inc. (See minute book, pp. 1311-1313-1315), Gordon Williams being president, Royden B. Davis, vice-president and Harold S. Williams being secretary and treasurer. Their stockholding interest therein was purely nominal, each one of the three having simply purchased 10 shares of common stock at $1 per share (p. 997). The rest of the stock, paid for either in cash or property, was owned entirely by Messrs. Dorrian and Fahler.

The first of the foregoing agreements (p. 60; offered in evidence, p. 93) was between Dorrian and Fahler of the one part and Messrs. Davis, Harold and Gordon Williams of the other part. It provided for the advance by Dorrian and Fahler of $100,000, plus $5,000 to cover expenses for Davis' and Harold and Gordon Williams' trip to Florida for the purpose of investing the $100,000 there on behalf of Dorrian and Fahler, in property in that State. It obligated Dorrian and Fahler to invest the $100,000 in the stock of Williams & Davis, Inc., and in the third section gave general authority to do business, either by Williams & Davis, Inc., or some other corporation with similiar powers to that corporation "especially to buy, sell, mortgage, develop and improve real estate and personal property * * * and to conduct a general real estate development investment and mortgage business."

It further provided that all the capital stock of Williams & Davis, Inc., except qualifying shares,

should be owned by Dorrian and Fahler. It authorized Williams & Davis, Inc., to purchase property, real and personal, clear of mortgage or subject to mortgage, and deliver its bonds and mortgages therefor. In its seventh clause, it provided specifically that Davis and the two Williamses were not personally to take any commissions received either from the sale or purchase of the land purchased with the money advanced by Dorrian and Fahler.

Fahler (p. 957) and Dorrian (p. 1020) state that early in July, 1925, they each contributed $25,000 to Williams & Davis, Inc., giving the same to the treasurer, Harold S. Williams. Williams (p. 990) concedes that $50,000, which was deposited by him under date of July 20, 1925, was given to him by Dorrian, and by him deposited in a so-called "special account" on that date, in the Ventnor Trust Company, the treasurer of which, Mr. Frambes (p. 989) testifies to a later deposit on September 10, 1925, of $45,000 in the same "special account" having been made by Dorrian and Fahler. This "special account" was opened and credited in the name of "Harold S. Williams, Special," but consisted of moneys supplied by Dorrian and Fahler (pp. 1000, 1002).

After the deposit of the $50,000, and on the 21st of July, Davis and Williams went to Florida (pp. 1067, 957), returning early in August (p. 957). No investment was made in Florida lands. On September 10, 1925, a further deposit of $45,000 was, as we have seen, made in the "special account," Williams at the time of the deposit being accompanied by Dorrian, and the latter testifying (p.) that Fahler and he together contributed that sum, in equal shares.

Meantime, the project of acquiring a large tract from a man by the name of Roberts at Somer's

Point in Atlantic County, was bruited, and the second of the agreements above referred to (p. 66) was made in December, 1925, by which Dorrian and Fahler, with their respective wives, appointed Gordon Williams & Co., exclusive agents to sell this property, which agency was to continue until the entire tract, as described in the agreement, was sold, at a commission of twenty-five per cent on the purchase price.

About the same time the third of the above agreements (p. 70) was made by Dorrian and Fahler, with their respective wives, constituting Gordon Williams & Co. their attorneys to grant, bargain, sell, make, execute, acknowledge and deliver, agreements of sale for the same property.

On January 2, 1926, the directors of Williams & Davis, Inc., passed a resolution reciting that the company expects to purchase, develop and sell properties, and authorized an increase in its capital stock.

It is conceded that the agreement for the acquisition from Roberts of the Somer's Point property, was made with one Julia Coll, who (p. 658) on February 1, 1926, took a deed for this tract and another tract similarly acquired from Smith and Russell, adjoining the so-called Roberts Tract, and together with it constituted the Del Rey property.

The negotiations for the purchase of both of these tracts were solely conducted by Williams & Davis, and title finally taken by deed from Coll to Williams & Davis, Inc. Mr. Besore, the auditor of both Williams & Davis, Inc., and Gordon Williams & Co., which companies occupied the same office, testifies (p. 993 to p. 996), from the entries in the books of Gordon Williams & Co., and from the minutes of Williams & Davis, Inc., the latter being signed by all of its directors, and the former made with the

knowledge of all the officers and directors of Gordon Williams & Co. The journal of ~~Gordon Williams & Co~~ Williams & Davis Co. shows an entry dated January 2, 1926, charging the land account with $159,984, and crediting the same with mortgages payable $62,490 and preferred stock $97,494. The explanation there appearing:

> "To enter the purchase of one hundred and thirty-three acres of ground called Del Rey at cost, and mortgages assumed, together with preferred stock issued for equity to Messrs. Dorrian and Fahler, authorized by board of directors, first, second 1926."

The stock book shows certificates of stock issued therefor.

The journal of ~~Gordon Williams & Co~~ Williams & Davis Co., under date of February 15, 1926, charges land account $123,574.80, credits it with mortgages $40,000, and preferred stock $83,506, with the explanation:

> "To enter the purchase of 103 acres of ground adjoining Del Rey at cost and mortgages assumed together with preferred stock issued for the equity to Messrs. Dorrian and Fahler, purchased 2/15/26."

Certificates of stock of Williams & Davis, Inc., were issued for this amount.

The third entry appears on page 995, and Mr. Besore on that page, at line 28, says:

> "When this stock was issued, Mr. Williams, Harold Williams, Royden Davis and myself were in the back office down there and discussed the question of issuing this stock. There wasn't any stock issued as each tract of ground, but the stock was all issued at one time after these

> three tracts had been purchased by the company. I have a memorandum here which I used at the time that was discussed, showing the total land purchased of $368,558.80 against which the credits were mortgages payable, which were the existing mortgages against these tracts, $133,390.00 and preferred stock $220,068.80."

These transactions indicate that the parties, as authorized by the charter of Williams & Davis, Inc., transferred their field of operations from Florida, as originally intended, to New Jersey. (See also p. 931, l. 5; p. 937, l. 15.)

By virtue of the two foregoing transactions, property was acquired by Williams & Davis, Inc., through the medium of Julia Coll, a mere straw, from Roberts and Smith & Russell in January and February, 1926, at a cost to the company in the Roberts case of $159,984, whereas Roberts only received $89,000; and in the Smith & Russell case at a cost to the company of $123,574.30, whereas Smith & Russell only received $66,936.15. There was a similar transaction for ten acres adjoining the Del Rey property, wherein John T. Ryan agreed to sell to one Craigen (another straw) for $10,000, and Craigen in turn passed the property over to Williams & Davis, Inc., for $25,000, in which a profit of $15,000 was made by the Williamses and Davis, or some of them.

The minutes of Williams & Davis, Inc., have important entries concerning these three purchases. At a meeting under date of January 2, 1926, the following resolution was passed (p. 1325):

> "The question of acquiring the premises located at Somers Point, Atlantic County, New Jersey, known as 'Del Rey' was considered and

the value of the property and the prospects for its profitable development was then thoroughly discussed.

The following resolution was then offered and unanimously adopted:

'Resolved, that this Company purchase and take title to the property located at Somers Point, Atlantic County, and known as "Del Rey" composed of about 133 acres, for the price of One hundred fifty-nine thousand, nine hundred eighty-four dollars ($159,984.00) to be paid for by mortgages aggregating Sixty-two thousand four hundred ninety dollars ($62,490.00) and the balance of the purchase price raised by the issue of preferred capital stock of the Company to be issued at par $100 per share.

And be it further resolved, that the officers of this company be authorized to arrange the details of the purchase and to make full settlement in their discretion.' "

The minutes of the meeting of February 15, 1926, include the following (p. 1327):

"A special meeting of the Board of Directors of Williams and Davis, Inc., was held on this date at the office of the Company, 5303 Atlantic Avenue, Ventnor City, N. J. at 11 o'clock in the forenoon.

Present were: Gordon Williams, Harold S. Williams and Royden B. Davis, being all of the directors of the Company.

Gordon Williams acted as chairman and Harold S. Williams as secretary of the meeting.

The secretary called attention to the fact that a tract of land of about 103 acres adjoining Del Rey on the northwesterly side could be pur-

chased for the price of One hundred twenty three thousand five hundred and seventy-four dollars and eighty cents ($123,574.80), and that said property was subject to a mortgage of Forty thousand dollars ($40,000). The balance of the purchase price would need to be provided for.

The value of this property and the prospects of profits arising from its probable development and sale was then fully discussed.

The following resolution was then offered and unanimously adopted:

Resolved that the said tract of land be purchased by this Company if it can be bought at the price quoted, viz. $123,574.80.

And be it further Resolved that the officers be authorized to sell sufficient of the unissued preferred stock of this company to make settlement for the purchase and development of said property.

And be it further resolved that upon the purchase of said property that the same be developed and sold in such manner and at such prices and costs as in their discretion shall be most advantageous.

On motion the meeting then adjourned.

Harold S. Williams,
Secretary."

The minutes of the meeting held May 19, 1926, read as follows (p. 1339):

"Ventnor City, N. J.,
May 19, 1926.

A special meeting of the Board of Directors of Williams and Davis, Inc., was held on this date at the office of the Company, 5303 Atlantic Avenue, Ventnor City, New Jersey, at 11:00 A. M.

Present were: Gordon Williams, Harold S. Williams, and Royden B. Davis, being all the directors of the Company. Gordon Williams acted as chairman and Harold S. Williams as secretary of the meeting.

The Secretary called attention to the fact that a tract of land of about ten acres adjoining Del Rey could be purchased for the price of Twenty-Five Thousand Dollars ($25,000), and that said property was subject to an existing first mortgage of Five thousand Dollars ($5,000). The balance of the purchase price would need to be provided for.

The value of this property, and the prospects of profits arising from its probable development and sale were then fully discussed.

The following resolution was offered by the Secretary and unanimously adopted:

Resolved that the said tract of land be purchased by this Company if it can be bought at the quoted price of Twenty-five Thousand Dollars ($25,000).

And be it further resolved that the officers of the Company be authorized to make a first deposit of Five Thousand Dollars ($5,000.00) to bind the agreement, and that the Company assume and pay the balance of the obligation remaining unpaid at the time of settlement.

And be it further resolved that upon the purchase of said property that the same be developed and sold in such manner and at such prices and costs as, in their discretion, shall be most advantageous.

On a motion the meeting was adjourned.

Harold S. Williams,
Secretary."

It is conceded that all this profit was made in the acquisition of these tracts, but it is claimed in Section 10 of the counter-claim (p. 102) that:

> "on certain occasions the Gordon Williams Company, A. Trevor Williams, Harold S. Williams and Royden B. Davis, or one of them contracted to sell parcels of real estate, of which they, or one of them, was the equitable owner, but the title to which stood in the name of some other person for it, them or one of them, which real estate had been in every instance purchased with the moneys of the said Gordon Williams Company, A. Trevor Williams, Harold S. Williams or Royden B. Davis to Connie J. Dorrian or Lloyd W. Fahler, who at the time of settlement paid for same with their money, but requested that title thereto be conveyed to Williams & Davis, Inc."

The proof of the foregoing allegation in the counter-claim completely fell down. Not only does it appear that the preferred stock of Williams & Davis, Inc., was issued to Messrs. Dorrian and Fahler for the amounts contributed by them to make up the excess over the mortgages paid by Williams & Davis, Inc., when it acquired title, through the straws, to these properties, but when the entries thereof as hereinabove recited were made, Mr. Williams and Mr. Davis went over the figures and participated in the making of the entries in the journal (p. 102).

It further appears (p. 1014) that on the books of Gordon Williams & Co., it, on the 3rd of April, 1926, owed Williams & Davis, Inc., $3737. There is not one word of proof that the money with which these properties were acquired was paid by either of the Williamses or Davis, and on pages 910, 929, 939, 943,

952 and 1467, we have positive evidence by both Messrs. Fahler and Dorrian that they each paid into the treasury of Williams & Davis, Inc., from $110,000 to $120,000.

At a meeting in the latter part of May, 1927, after the discovery of these facts, which resulted in the making of an agreement for the adjustment of the differences at issue in this suit, Philip Godfrey (p. 658) recites one of the transactions as follows:

> "On February 1, 1926, Julia Coll took a deed from George W. Roberts for two tracts in the City of Somers Point, N. J. in which transaction she represented the conspirators paying $89,-900.00 for the same. The conspirators representing that they had paid $159,984.00 and actually drew that amount therefor, upon the delivering to Williams and Davis, Inc., a deed from Julia Coll for the same. The difference of $70,-084.00 was a fraudulent, secret profit converted by the conspirators to their own use. Of this $70,084.00, Connie J. Dorrian contributed $35,-042.00 and Lloyd W. Fahler $35,042.00.
>
> Q. Now, after you had thus read that, what occurred?
>
> A. My father turned to Mr. Williams and said, 'Is that correct, Mr. Williams?' and he said, 'Is that the same kind of a secret profit?' and Mr. Williams said that it was, Harold Williams."

He then testified as follows:

> "I then read paragraph four, which reads:
>
> 'On July 9, 1926, Sadie A. Craigen took a deed from John F. Ryon, executor for the tract of land in Somers Point, N. J., in which transaction she represented the conspirators, paying

ten thousand dollars to the grantors for said deed, and conspirators represented that they had paid $25,000 for the same and actually drew that amount therefor, upon delivering to Williams and Davis, Inc., a deed from Sadie A. Craigen for the same. The difference of fifteen thousand dollars was a fraudulent, secret profit converted by the conspirators to their own use. Of this fifteen thousand dollars, Connie J. Dorrian contributed $7500 and Lloyd W. Fahler $7500.'

Q. After you had recited that transaction, what then occurred?

A. Mr. Davis interrupted and said, 'I never heard of that transaction,' and Mr. Williams said, 'Well, it occurred.' ''

On page 865, on direct examination, Mr. Garrison, line 1, says that after Philip made this recital the other side did not deny it. On cross-examination, on page 868, when asked if they admitted it, they said:

''Yes, they admitted. Mr. Harold Williams on occasion or Mr. Trevor says, 'That is right, we got that money.' ''

On page 915, Mr. Fahler, who was not at the table around which the other parties sat, testified with reference to the reading of the items claimed to be due by Philip Godfrey, as above recited, as follows:

''then Mr. Godfrey or Father Mellon would invariably ask: 'Is that right? Was there a secret hidden profit in that?' Either Mr. Harold Williams or Trevor assented by either yes or nodding their head.''

Carlton Godfrey (p. 1081) states that at the opening of the interview on the day in question, Father Mellon, who, as we shall see, was brought there as an arbitrator or mediator, stated that the Williamses and Davis acknowledged their guilt, and desired to make a settlement and return the money, and that no dissent was made by any of them to that statement.

No one of the defendants contradicts a word of this testimony.

Another of the transactions was with reference to a tract acquired from the County of Atlantic. On April 3rd, 1926, the minutes of Williams & Davis, Inc., show the passage of the following resolution:

"Ventnor City, N. J.,
April 3, 1926.

A special meeting of the Board of Directors of Williams and Davis, Inc., was held on this date at the office of the company, 5303 Atlantic Avenue, Ventnor City, N. J. at 11 o'clock in the forenoon.

Present were: Gordon Williams, Harold S. Williams, and Royden B. Davis, being all of the directors of the Company.

Gordon Williams acted as Chairman and Harold S. Williams as secretary of the meeting.

The secretary called attention to the fact that a tract of land of about two acres at Del Rey could be purchased for the price of Seventy-five hundred dollars ($7500) and known as the Krum property, the consideration being cash.

The value of this property and the prospects of profits arising from its probable development and sale was then fully discussed.

The following resolution was then offered and unanimously adopted:

Resolved that the said tract of land be purchased by this company if it can be bought at the price quoted, $7500.

And be it further resolved that upon the purchase of said property that the same be developed and sold in such manner and at such prices and costs as in their discretion shall be most advantageous.

On motion the meeting then adjourned.

Harold S. Williams,
Secretary."

On ~~April~~ May 12, 1926, a deed was taken by Harold S. Williams, from Atlantic County, for something over two acres of land at Somers Point, he paying $3,000 to the county for the land. The matter was reported to the company, and a check of Williams & Davis, Inc. drawn (Exhibit C28, p. 1215) signed by Royden B. Davis, vice-president, and Harold S. Williams as treasurer, to the order of cash for $7500, on the stub of which appears the following:

"Settlement for two acres Del Rey Somers Point, N. J."

It is not disputed that the difference between the amount of this check and the $3,000 paid the county was received by some of the defendants, less perhaps $600 down money.

Of course, Messrs. Dorrian and Fahler were at the time these transactions were going on entirely innocent of these facts. Mr. Fahler lived in Mahanoy City, Pennsylvania, and was only infrequently in Atlantic City; and Mr. Dorrian paid little attention to the matter.

Meantime, a lull in the real estate movement occurred, and (p. 770) in January of 1927, Harold

and Gordon Williams both resigned as officers and directors of Williams & Davis, Inc., and Messrs. Davis and Scanlan, a brother-in-law of Davis, succeeded them. On April 11, 1927, Harold left for California, expecting to return on the 25th of May (pp. 770, 771), an expectation that he affirmed in his letter to Hart of April 25th. On the 13th of April, his residence was closed and the furniture moved to California. On April 20, 1927, Hart, who had been an employe of Gordon Williams & Co., and who, as we have seen, with Scanlan, succeeded Harold and Gordon Williams on the board of Williams & Davis, Inc., wrote a letter to Harold (p. 817) in which he said:

> "You no sooner had left than all kinds of rumors started, not only in barber shops but hairdressing parlors, restaurants, and everywhere else. There were many variations, such as you had moved your furniture as well as the automobile to California. These have practically died down, with the exception of the one that Gordon had left to open an office, and after he had done that all the rest moved down to help him in the new venture. This, coupled with the rumor on this trip to the coast, the three boys had taken their cars with them as they intended to stay. * * * These rumors have practically died away and we believe the best thing is to forget it and enjoy your trip. If anything does come up that looks serious we will wire you at once. * * * "

Meantime, Davis and Hart had conferred with Carlton Godfrey touching the affairs of the company. On May 1st (p. 775) Davis informed Hart of a most important interview he had had with Mr.

Smith, one of the grantors in the Smith & Russell conveyance of the part of the Del Rey tract hereinabove referred to. Hart swears concerning this (p. 775, l. 12), he, Davis, told him

> "that Dave Smith had called up the office and had asked for Mr. Dorrian and he asked Smith what he wanted of Mr. Dorrian and Mr. Smith had told him that he had met Mr. Dorrian and asked him if he knew that he had been fleeced in the purchase of the land that Smith sold Gordon Williams and Company. That is not all—and he said he told me, he asked Smith where he was, Smith told him at Little Rock Avenue, and he told me that he went up and saw Smith and gave Smith hell and told him to mind his own business, and shut his damn mouth, that he got the price he asked for the property and it was none of his business what was done."

At the same conference he said to me:

> "This is serious, and I think I should telephone to Harold to come back immediately. I said, 'Well, don't be a darned fool, let him stay where he is.' And he said, 'No, you don't understand this.' 'Well,' I said, 'maybe I don't, but,' I said, 'I don't see why you want to bring him back here when we are working along different lines now.' He said, 'No, this is in bad shape.' I said, 'What do you mean?' 'Why,' he said, 'Trevor has signed papers in people's names who don't exist.' 'Well,' I said, 'that is his case, but what is Harold going to do, coming back here? How can he help that situation?' I said, 'What names do you mean?' Well, he says, 'These straw names.' Well, I said, 'That is serious, but I don't see what it is

going to do to get Harold Williams back here.' Well, he says, 'I am going to 'phone Harold Williams.' ''

Upon cross-examination, Hart further testified:

"Well, when Davis told you that he wanted Williams back, he told you why?

A. Yes.

Q. What did he say to you?

A. He told me it was serious.

Q. What was serious?

A. The fact that Dave Smith had told him that he had told Dorrian that the Williams crowd had fleeced him out of more than fifty thousand dollars on the land purchased from him."

On page 581, Davis admits that Smith had made this disclosure to him, and that he, Davis, had told Smith to keep his mouth shut, and had reported the interview to Hart.

Hart seems to have imparted this information to Dorrian, who at once, with Hart, busied himself to ascertain the facts, and endeavored to get in touch with Julia Coll and the other straws (p. 830), and about that time (p. 598) Davis learned of Dorrian's call on and attempted interview with Julia Coll. On May 2, Hart discovered the removal of all the title papers in connection with the above-mentioned real estate transactions (p. 851). Davis concedes (pp. 586, 589) that he had removed the papers from an open compartment in the safe to a private compartment therein, for which Hart had no key (p. 628). Davis at once communicated by telephone with Harold (p. 584) and while Davis claims (p. 588) he did not tell Harold of the disclosure of

Dave Smith, he told him "what was happening in general, and that he, Harold, had better come right home."

On May 7th, Davis and Hart were at Godfrey's office and conferred about these disclosures, when Mr. Godfrey requested Davis to bring Julia Coll to the office, and Davis left to bring her (she was at his house) but never returned, and instead of returning, retained Judge Cole, who in turn announced to Mr. Godfrey that he would represent Davis (p. 778).

On May 10th, Harold telegraphs from California:

> "Just leaving. Feel fit and ready. Don't worry" (p. 779),

thereby anticipating his expected return by a fortnight.

On May 13th, writs of *capias* and attachment, at the suits of Dorrian and Fahler, issued against the parties, all of whom except Davis, were out of the State, seeking the recovery of the moneys that had been thus appropriated by the defendants. On May 14th, Harold and Trevor returned to Atlantic City having from Chicago wired Davis to meet them in an automobile at Philadelphia (pp. 473 and 592). He did so, accompanied by Scanlan, and the four drove in the car that day from Philadelphia to Atlantic City. Trevor insists (p. 474) that the subject of these disclosures was not mentioned on this automobile ride. Davis (p. 593) says:

> "I cannot say definitely that the Dave Smith matter was talked of while driving home, but indefinitely I would say that possibly it was."

(P. 594) probably he did say that Dorrian was on the rampage, and probably told Harold of his inter-

view with Smith. Trevor insists that not a word was said on this two hours' ride of these matters, which in the face of the admissions of Davis, shows how utterly unreliable Trevor's testimony is.

The entire party of four drove to Davis' house in Atlantic City, and while taking lunch were apprised that the attachment and *capias* were outstanding; whereupon, Davis, Harold and Trevor Williams immediately motored to Philadelphia where they stayed a short time, and later went to a little-known hotel in New York City, keeping their whereabouts concealed from everyone except Scanlan and Mrs. Davis, who later joined them in New York. They remained hiding in New York nearly a fortnight, visited now and then by Mr. Stringer, a lawyer, who, in the meantime, had been employed to represent the Williams family, and who had retained Mr. Bourgeois as counsel. The capiases issued on the 13th of May, and the affidavit, order, etc., were filed at Trenton on the 18th of May (p. 1283). On the 19th of May, the Atlantic City Daily Press contained an article (Exhibit C7, p. 1198) fully describing the nature of the claims of Dorrian and Fahler, and the basis of the capiases. Mrs. Davis (p. 313) admits she read this article before she joined her husband and the others in New York. How absurd is their present claim they went to Philadelphia to ascertain the nature of our claim! About the same time, motions were made to vacate the attachment before Judge Sooy, and to discharge the order to hold to bail before Justice Campbell.

Meantime, a special meeting of the stockholders of Williams & Davis, Inc., had been called for, and was held, on April 14th. Scanlan attended this meeting, and a full disclosure was made there by Hart, of the facts in connection with these transactions, and that litigation had been commenced

against Davis and the Williamses (p. 786). Scanlan visited the hiding defendants at their retreat in New York, both before and after this meeting, as well as Stringer.

While Mrs. Davis was with the defendants in New York, she (p. 291) spent all one Sunday trying to reach one Monsignor Mellon, a prominent Catholic priest of Philadelphia, a friend of hers, on the 'phone. Mrs. Davis says that her purpose in this effort was to solicit Father Mellon's aid (p. 315). She finally got in touch (p. 320) with her brother-in-law, Scanlan, by means of a public telephone in a drug store in New York, and she thus describes what she told Scanlan (p. 320):

> "I told Mr. Scanlan that I had just called Miss Coll's home and they told me the detective had been there that day, and told Julia Coll if she did not come across that they would put it in the hands of Senator Pepper, that she had committed a terrible crime by being a straw, and I told Mr. Scanlan to please go to Father Mellon and ask Mr. Dorrian what it was all about, what they were doing, and 'phone me back and tell me what they would do about it. That is what I told Mr. Scanlan."

The witness further says that after the newspaper disclosure, Father Mellon had called at her home, and at that interview she had told him that Mr. Davis had done no wrong, but that at that time she had not sought his aid (p. 332).

At one o'clock in the morning of the day following this telephonic request, Mrs. Davis (p. 324, l. 31) was aroused from her sleep by a 'phone call from Scanlan to the effect that he had seen Father Mellon, and that he and Dorrian would get together

the next day. She admits (p. 325) that she had included in her request to Scanlan the suggestion that an interview should be arranged between Dorrian, Father Mellon and the parties sojourning in New York. Harold and Trevor Williams, together, occupied an adjoining room to Mr. and Mrs. Davis. Trevor was asleep when, hearing the telephone ring in Mrs. Davis' room, he and his father, in their night clothes, at once went to Mrs. Davis' room and listened in order that they might be apprised of the result of Scanlan's efforts (pp. 483-5). This was on the 29th of May. The following morning, about ten o'clock, word came that a meeting was to be had at the Vendig Hotel, in Philadelphia, with Dorrian and Father Mellon; and so, on Decoration Day, Harold, Trevor and Mr. and Mrs. Davis took the train from New York to attend that meeting. Harold, Trevor and Mr. and Mrs. Davis all swore, on the stand, that their only purpose in making this trip was to ascertain the nature of the claims of Dorrian and Fahler! Harold, however, prudently took $10,000 in cash with him.

The scene now shifts to Atlantic City. On page 178, Scanlan, an enthusiastic witness for the defense, testifies that Mrs. Davis, over the 'phone, asked him to see Father Mellon and to arrange a meeting to find out what the charges were and *see if an adjustment could be made;* that (p. 180) he saw Father Mellon and told him Mrs. Davis had asked him to see Dorrian and see if they could not get together; that he (p. 185) had seen Father Mellon and told him a capias had issued and that *the Williamses were ready to shoulder the blame and were ready to make a settlement,* and wished Father Mellon to act as arbitrator or intermediary between the parties. Father Mellon (p. 362) undertook to recite what Scanlan had told him, but under

objection from the defense was not allowed to state, but a meeting followed between Scanlan, Dorrian and Carlton Godfrey (p. 363) at about half-past eleven on Sunday night, when the proposed meeting in Philadelphia the next morning was arranged for. Father Mellon was not a friend of either Dorrian or Fahler. On page 1080, Carlton Godfrey describes what occurred at that interview, to the effect that Father Mellon stated he had been requested by Mrs. Davis to see Scanlan concerning a settlement. Scanlan said he was authorized to speak for Mrs. Davis, who had instructed him to see Father Mellon in an endeavor to effect a settlement; that the Williamses had agreed to return all the money that they had taken from Dorrian and Fahler, and he understood that they wished to exonerate Mr. Davis, and wished a conference to carry that plan into effect, whereupon Father Mellon asked him if he would be present at such a conference. He agreed to do so, stating that any settlement would have to receive his sanction on behalf of his clients.

Practically the same evidence is given by Mr. Dorrian on page 1023.

The meeting took place, as thus arranged, at the Hotel Vendig, in Philadelphia, at about two o'clock in the afternoon of May 30th, 1927—a holiday. Before the parties assembled in a room selected for the purpose, Father Mellon had an interview on the sidewalk with Mrs. Davis, in which it is conceded that Father Mellon told Mrs. Davis that he was afraid that her husband might be charged with forgery. It is not pretended that any of the complainants, or their counsel, overheard or participated in this remark. Later, in the lobby, Mrs. Davis had a heated interview with Mr. Dorrian, in the presence of Father Mellon, in which she accused him, Dorrian, of being a bootlegger, and said that their chil-

dren could no longer associate with each other. Father Mellon rebuked her for this remark (pp. 293, 329).

The parties assembled in a room, and the testimony discloses that Father Mellon sat at one end of the table, around which were the Williamses, Mr. and Mrs. Davis, Mr. Philip Godfrey, Mr. Carlton Godfrey and Mr. Garrison, the latter two counsel for the complainants. Dorrian and Fahler sat in chairs in the same room, but not around the table. Father Mellon opened the discussion by making a preliminary statement to the effect that his services in the matter had been solicited by Mr. Scanlan, purporting to act on behalf of both of the Williamses and Mr. and Mrs. Davis, for the purpose of bringing about an adjustment of the differences and a settlement, and *that Mr. Davis and the Williamses,* as he understood it, *were willing to make restitution to Dorrian and Fahler of the moneys that they had taken from them in the transactions referred to.* See the evidence of Mrs. Davis, pages 332, 337; Philip Godfrey, page 655; Fahler, page 914; Dorrian, page 1051, and Mr. Godfrey, page 1081.

There is no denial that Father Mellon made this preliminary statement, nor do any of the defendants pretend to have made, at the time of his utterance, any dissent from the statements he made touching their willingness to adjust and refund.

After Father Mellon had finished his introductory statement, Harold Williams (p. 656, l. 8) said:

> "Well, now, what are these transactions that constitute the difference between us?"

whereupon, Philip Godfrey read the statements already quoted (p. 656) with reference to the several specific transactions alluded to, each of which, as

we have already seen, was expressly assented to as correct by one or more of the defendants, and no one dissented therefrom. Trevor, who takes the ridiculous position (p. 503) that while he went all the way to Philadelphia to get information touching the claims of the complainants, he never understood what the figures of Philip were. He finally concedes, however, that he "surmised" it was these claims.

After these items had been thus particularly specified, Harold Williams (p. 662, l. 29) says:

> "We are deserving of having some credits off of these transactions."

On page 663 the credits he speaks of are referred to, particularly with reference to some commissions Gordon Williams & Company claimed to have earned in the sale of Del Rey lots, and so an adjournment was proposed until the next day when this matter could be investigated.

All of the defendants testify as to the discussion with reference to these claims for credits, and to an allowance for some of them by Father Mellon. The meeting adjourned at about six or seven o'clock, having been in session four or five hours, to meet the next day after the complainants had had an opportunity to examine some further claims for credits. The New York party returned to New York, and next day, according to arrangements, they all re-assembled at the hotel, the party being increased by the presence of Mr. Hart, an employee of both companies, Mr. Besore, the bookkeeper, an auditor of both companies, and Mr. Mulhern, a small shareholder in Williams & Davis, Inc. The amount of the commissions was carefully gone over by Mr. Besore, and some additional transactions in which it was claimed that the defendants had been unfaithful,

were scheduled by Mr. Hart. *The claims of Mr. Hart with reference to the same fraud in connection with these additional transactions were also admitted by the defendants* (pp. 790, 810, 882 and 917), ~~two~~ one of the defendants deny this. A protracted discussion was had touching the claim of a credit for commissions on the sales of the Del Rey lots, the defendants contending that by the terms of the written agreement they were entitled to their full commissions the moment an installment was paid whereas the complainants contended that full commissions could not be credited until the property had been entirely paid for. The contract was produced and examined, and a decision given by Father Mellon that the defendants' claim was correct, and so among the credits was the full amount of commissions earned on such sales as if the full purchase money had been paid. After the matter of the credits had been thus at length discussed, the original charges acceded to the day before, plus the additional ones produced by Hart on the second day, less the credits allowed by Father Mellon, made a gross sum due the complainants from the defendants, in round figures, of $213,000. A private conference was then held in the hall between Harold and Trevor Williams and Mr. and Mrs. Davis, to which later Father Mellon, and then Dorrian and then Fahler were called, with the result that the defendants finally agreed to pay, and Dorrian and Fahler agreed to accept $190,000 as a compromise, and an announcement to that effect was made by Harold Williams in the room after the return from the hall. There is no dispute about this. It is testified to fully by Philip Godfrey, p. 671, 677; Hart, p. 790; Besore, p. 882; Dorrian, p. 1034; Fahler, p. 918, Mulhern, p. 973 and Father Mellon, p. 370. No denial is made thereof. Father Mellon (p. 671) then turned to Mr. Williams and asked:

"How do you propose to pay that money?" ($190.000.)

Mr. Williams replied:

"Well, all the money that I can pay on account of that in cash is $45,000, that I can pay in cash."

After some discussion with reference to the amount of cash they could raise after the attachments were released, moneys procured from their banks and otherwise, Harold Williams (p. 672, l. 8) said:

"The balance of the money could be on note or be in mortgages."

Philip Godfrey had with him certain sheets from the Chelsea Title Company descriptive of the mortgages held by all of the Williamses, including Gordon, and Mr. Davis, and a long time was spent in going over these sheets and selecting such mortgages as the defendants were willing to assign and the complainants were willing to accept, whose par amount would equal the difference between $45,000 cash to be paid, and the compromise amount of $190,000. A question arose during this long discussion with reference to the truth of the contention of Mr. and Mrs. Davis that Royden Davis had no money in his safe deposit box at Atlantic City, and it was arranged that over night, and before the meeting on the third day, Father Mellon should inspect this box and verify Davis' statement. The key to the box was given to him for that purpose. Father Mellon (p. 678, l. 25) also suggested that there would have to be an agreement drawn up, and so an adjournment was had, Mr. Godfrey undertaking, during the night, to

prepare a written agreement, and Father Mellon agreeing to examine the strong box of Mr. Davis. A draft of the agreement was prepared by Mr. Godfrey, with the assistance of Philip, during the night, and Father Mellon examined the strong box at Atlantic City, and while he found some cash there, was satisfied that that belonged to Mrs. Davis, and so reported at the next meeting. The New York party returned that evening to New York, and all hands reassembled the next day. Before the parties separated, however, Harold Williams said (p. 791, l. 32):

> "Now, as long as we have settled this matter, I have ten thousand dollars here, I want to get rid of,"

and he proposed to pay that then and there, but Mr. Godfrey refused to accept it in advance of the drawing and execution of the proposed agreement. The testimony of the following witnesses at the following pages is in entire accord upon this subject, *and there is no denial of any of it by any of the defendants,* Hart, p. 790, Garrison, pp. 860, 867, Besore, p. 882, Fahler, p. 918, Mulhern, p. 974, Dorrian, p. 1054, Carlton Godfrey, pp. 1086, 1087.

During the discussion with reference to the mortgages that would be accepted, Mr. and Mrs. Davis presented a statement to Father Mellon showing the aggregate of Davis' claimed responsibility to be $34,000, to which amount they claimed their obligation should be confined; and they suggested that a release be executed to them upon the payment by them of that amount, but Carlton Godfrey refused to accede to that proposition, saying (p. 688, l. 15):

> "We can't do that, Mrs. Davis, for the reason that each person is to be liable for the entire

> $190,000, and if we made a separate settlement with you, your liability would be limited to the separate settlement," and she says, "I know it would and that is what I want," and Father (Carlton Godfrey) said, "No, we won't settle that way," and Mrs. Davis conferred with Mr. Davis a minute and she said, "All right, then let it go as you have it."

Upon cross-examination, Philip Godfrey (p. 723, l. 30) says:

> "Our position was that each of the four people owed, all that they had taken as a conspiracy from our clients * * * Our position was that they were severally liable to pay a great deal more then $190,000."

The parties re-assembled in the same room on the third day, June 1st, 1927. A draft of an agreement had been prepared over night in six parts, the separate pages of each copy being held together by a clip. Trevor Williams brought with him from New York a number of mortgages to be delivered pursuant to the arrangement. Copies of this agreement were distributed among Mr. and Mrs. Davis, Trevor Williams, Harold Williams and Father Mellon (see p. 684), and the agreement was read out loud by Carlton Godfrey, paragraph by paragraph, a pause being made at the close of each paragraph. Sometimes corrections were made, whereupon the stenographer was called in and the corrections dictated, and a new sheet prepared covering the point, until finally the whole agreement was carefully read over and assented to, the new pages containing the corrections being substituted for the old pages upon which the corrections had been made. Six copies of the agreement were then fastened together and exe-

cuted in turn by each of the parties, each copy being witnessed by Carlton Godfrey. After it had been signed by all the parties present, the copies remained in front of Dorrian and Fahler, Harold Williams, Trevor Williams and Mr. Davis on the table. The parties signatory were Williams & Davis, Inc., by John B. Scanlan, vice-president, Louis G. Hart, secretary; Gordon Williams & Company by R. B. Davis, vice-president, Harold S. Williams, secretary, Harold S. Williams, A. Trevor Williams, Connie J. Dorrian, Lloyd W. Fahler and Royden B. Davis. (See the evidence of Hart, p. 802, Garrison, p. 863, Fahler, p. 920, Godfrey, p. 1089, and Mulhern, p. 976.)

After the papers had been thus signed, each of the parties expressed himself as entirely satisfied, and Father Mellon was congratulated by Harold and Trevor Williams and Mrs. Davis for the fair way he had acted. A release of the defendants by Dorrian and Fahler and their respective wives had been demanded during the negotiations, and provided for in paragraph 12 of the contract (p. 56 and p. 57), and after execution it was delivered to Father Mellon in escrow. The $10,000 in cash was then delivered to Carlton Godfrey by Harold Williams and a receipt therefor (p. 127) was signed by Carlton Godfrey and Garrison, as attorneys for Dorrian and Fahler, and delivered to Harold Williams. It read:

> "Received of Harold S. Williams the sum of $10,000 in cash in accordance with, and on account of agreement bearing even date, between Harold S. Williams, *et als* on the one side and Connie J. Dorrian and Lloyd W. Fahler on the other side."

A check for an additional sum of $642.99 was also delivered by Harold, and a similar receipt given (p. 127).

Trevor Williams handed over two checks for small amounts, and assigned several bonds and mortgages, whose par amount, together with the amount of the checks, aggregated $61,530.07, and a receipt therefor, signed by Carlton Godfrey and William I Garrison, as attorneys, was given to and accepted by Trevor (p. 124). The papers in connection with these mortgages were not entirely complete, nor was the full quantity that Trevor by the agreement had agreed to assign, included, and so he ~~appeared~~ agreed to return to New York for the purpose of supplying the missing documents.

Davis assigned mortgages scheduled on page 126. Practically all of that day was spent in the perusal and correction of the contract, the preparation and signing of the assignments, and the giving of the receipts, and the parties adjourned to have some of them re-assembled the next morning, the fourth day, for the purpose of receiving the balance of the securities which Trevor had agreed to procure in New York. The next morning, Father Mellon, Dorrian, Fahler, Trevor Williams, Mulhern, Carlton Godfrey, Philip Godfrey and Mr. Stringer, counsel for the defendants, appeared. Harold did not appear, nor did Mr. Garrison, who assumed everything was settled.

Meantime, and after the adjournment of the meeting on the third day, Trevor Williams, Scanlan and Davis went to the University Club in Philadelphia to confer with Judge Cole and Mr. Bourgeois, who were there, and concluded to abandon the settlement and repudiate the contract. See the evidence of Mrs. Davis, pp. 429, 430, Trevor, p. 461, 535. Harold left early the next day for California, and before going learned of the change in the program and the determination to rescind the contract (p. 285). He later signed a notice of his rescission, which was in turn served upon the complainants.

The morning of the fourth day, the complainants' party, except Mr. Garrison, together with Father Mellon, re-assembled at the hotel; Harold having gone to California, did not appear. Trevor and his counsel, Mr. Stringer appeared, Mr. Stringer saying:

> "There will be no further deliveries under this contract." (pp. 748, 759.)

Trevor admits (p. 536) he told the complainants they intended to repudiate the contract. See also Fahler, p. 923, l. 6, Mulhern, p. 980, l. 30, Carlton Godfrey, p. 1093, l. 28. A request for one of the copies of the agreement as signed was then made by Trevor Williams. Trevor (pp. 452 & 461) admits that they had agreed to deliver him a copy on the fourth day; and that promise was not kept, only after the announcement of the defendants' determination to repudiate. This fact was overlooked by the Vice-Chancellor when he adverts to Mr. Godfrey's retention of the six copies as evidence of the fact that the signature of Gordon was a *sine qua non*. He concedes (p. 535) that his purpose in requesting such a copy was to take it to Mr. Bourgeois for the purpose of commencing suit. Mr. Godfrey, who had retained the six copies for reasons that will appear, declined to surrender one of them, but offered either himself to read it to Stringer, or to hand a copy to Father Mellon, provided he guaranteed to return it. See Philip's evidence (p. 749), Hart (p. 800), Fahler (p. 923), Carlton Godfrey (p. 1093, l. 22) as follows:

> "Q. Now, please recite what occurred on the fourth day?
>
> A. I asked Mr. Williams, Jr., if he was prepared to hand over the missing papers. He

asked for a copy of the agreement. There was a slight tension or contact with him, and Mr. Stringer gave us the information that no papers would be handed over.

Q. Go right on and tell us after that.

A. Mr. Williams, Jr., I asked him what he wanted the papers for and he said it might have been changed over night. Such a suggestion did not sit well upon me, and no doubt I became more or less angry and he did too. No further papers were turned over and I retained the papers and copies of the agreement in order to carry out the understanding had with each person to those agreements. They were that they should be taken to California.

Q. Now, do you recall handing one of the copies that morning to Monsignor Mellon?

A. Yes, I handed a copy of the agreement to him and said to him that he could read it to any person he wanted to, could read a part of it, do what he pleased with it, so that finally it should be handed back to be dealt with as agreed upon by me."

It was the transactions at this meeting that Father Mellon described as "a merry war" (p. 377).

The important and significant fact is that not only had the defendants previous to this fourth meeting determined to repudiate the contract, *but they had so announced on the morning of the fourth day before any question arose about securing a copy of the contract.*

The litigation hereinabove referred to, almost immediately followed.

ARGUMENT.

I.

THE VICE-CHANCELLOR ERRED IN DIRECTING THAT THE PRAYER OF THE COUNTER-CLAIM BE SUSTAINED AND THE SECURITIES THAT HAD BEEN DELIVERED TO THE COMPLAINANTS, AFTER THE MAKING OF THE CONTRACT, BE RETURNED TO THEM.

We have seen that the basis of the counter-claim was the alleged fact that the conduct of the parties at the Philadelphia interviews, leading up to the execution of the contract, amounted to fraud or duress, which it was claimed gave the defendants the right to insist that they were justified in rescinding the contract and having the Court so decide and direct a return to them of the securities they had previously delivered under and by virtue of the contract.

The counter-claim, after setting up the establishment of the relations between the complainants and the defendants respectively, alleges that the complainants conspired with Messrs. Carlton Godfrey, Philip Godfrey and Garrison to be relieved to the agency contracts, and to that end falsely and improperly filed the capias and attachment proceedings against the defendants seeking their arrest, and tying up so much of their property as was left in New Jersey; that notices to discharge the order for the capias and writ of attachment were served, and that thereupon the complainants and their counsel,

"knowing the illegality of their various proceedings adopted a course of conduct intended to falsely frighten and intimidate the said Harold S. Williams, A. Trevor Williams and Royden B. Davis, to a point where they, from sheer fear and fright, would make some set-

tlement with the said complainants" (p. 108) that Harold S. Williams was in a state of anxiety and alarm, because of the sickness of his wife in California, and that the complainants and their counsel asserted that they would imprison the defendants unless they transferred $190,000 in cash and securities, and on failure or refusal so to do, threatened that they would be indicted and imprisoned, and falsely and fraudulently stated that the Justice of the Supreme Court had sustained their affidavit and order for the issuing of the capias; that as a consequence, the said Harold S. Williams suffered two severe heart attacks and collapsed; that they demanded that their attorney be present at the meeting, but Messrs. Godfrey and Garrison stated that they would prepare an agreement in rough, which should be submitted to the attorneys of the Williamses and Davis, but because of their alleged liability to arrest and imprisonment, and because of the false and fraudulent statement that the Justice of the Supreme Court had sustained the order for the capias, the said Harold Williams, A. Trevor Williams and Royden B. Davis:

"were dominated physically and mentally by"

the complainants and their counsel, and were

"greatly frightened and led to believe, and did believe that unless they executed the agreement and assignments and paid over the

> moneys, they would be deprived of their liberty, and being thus imprisoned and deprived of the advice of counsel, upon the completion of said tentative agreement''

the defendants assented to the demands made upon them, and signed the contract; that from fear and fright, Harold Williams, A. Trevor Williams and Royden B. Davis signed said agreement individually, and Harold Williams and Royden B. Davis executed the same on behalf of the Gordon Williams Company, although there had been no meeting of the directors authorizing the signing thereof; that immediately after the execution of the agreement, A. Trevor Williams and Royden B. Davis consulted with their attorneys, and upon learning that the Justice of the Supreme Court had not sustained the order for the issuing of the capias, and being advised that the claims of counsel for the complainants that the said Harold Williams, A. Trevor Williams and Royden B. Davis were in imminent danger of arrest and imprisonment, were without warrant in law, they immediately repudiated the said agreement; that the complainants' counsel insisted upon an immediate assignment of the mortgages to the complainants, and under the pressure of such false and fraudulent statements concerning their liability to arrest and imprisonment, the assignments were made; that on the following day a demand was made for an inspection and copy of the agreement that they had signed the night before, which was denied, and that by reason of the fraudulent conduct as aforesaid of the complainants and their counsel, and their refusal to permit the defendants to have counsel present at the conference, defendants repudiated the agreement.

The foregoing will be found, upon examination, to be an accurate paraphrase of the allegations of paragraphs 23 to 33, inclusive, of the counter-claim (pp. 108 to 113) and the sole basis for the relief therein sought to be obtained, which was that the agreement be directed to be null and void, as well as the assignments made thereunder; that the complainants be directed to surrender up the said agreement for cancellation, and in the meantime be enjoined from making any use whatever thereof, and likewise be enjoined from disposing of any of the mortgages so delivered to them.

A vast amount of evidence was taken before the Vice-Chancellor upon this question of fact, namely the fraudulent conduct of the complainants in procuring from the defendants a contract under circumstances amounting to duress, and the Vice-Chancellor decided that issue adversely to the claim of the defendants. His conclusions upon this branch of the case are as follows (p. 1177):

> "I cannot find that there was duress on the part of Mr. Godfrey, Mr. Garrison and the others. I think it is most evident that both Fahler and Dorrian insisted that they should be represented by counsel, as they were, in fact, in response to what one or the other would do, they stated either at or about the time of the hearing that, 'You must see my lawyer, Mr. Godfrey or Mr. Garrison,' and under ordinary circumsances, it would be certainly the usual course in a matter as momentous and as serious as this that both sides should be represented by counsel. But here were these men, free to go back and forth from Philadelphia to New York, having three or four separate and distinct interviews, having an oppor-

tunity of consulting their counsel, either by telephone or through their agent, as apparently was done, because it seems that Scanlan, perhaps, acted as their agent in that matter, at least towards securing a representation of counsel. They do not call their counsel in and, if no step had been taken toward having counsel there, as was done on the third or fourth day, I might have a different view-point in the matter, but here the gentlemen interested in this matter requested their counsel to appear in Philadelphia and remain somewhere else rather than at the meeting place. Now, if they could have had their counsel in Philadelphia, they could at least have had their counsel appear and present themselves at the place of meeting, and it don't look to me as though they were particularly desirous of having their counsel there during the negotiation. I do not know why they took that view-point. I can't quite understand that situation, but it is such that they preferred to go ahead, and whether or not they were told by Mr. Godfrey he would represent them, whether they were told it was too late or not, still they did not exercise that action which, if they wanted counsel to be present, they certainly would have taken."

He then adds:

"Now, I have stated that I do not find duress there. But, if it was necessary, if it should become necessary so to do, the surroundings of the several consultations, those present, the fact that lawyers were present on one side, the fact that lawyers drew this agreement and presented it to no one except the laymen them-

selves for correction, alterations or amendment, *would perhaps have some considerable weight in the construction of the terms of an agreement so prepared.*"

The Vice-Chancellor then took up the question which was one entirely of law, and determined that the contract, not having been signed by Gordon Williams, was incomplete and not binding upon those who did sign. After giving his reasons for this conclusion, confined entirely to a reading of the contract, he concludes:

> "The result, in my mind, is clear that each of the Williamses and Davis agreed to pay their proportion of the $190,000 and that when the entire amount was paid, and then only, each was entitled to a release and that, until such time as it was a binding agreement upon all, it was not a binding agreement upon any one."

He then adds:

> "Now, gentlemen, that is my view as to the facts as presented. Now, as to what effect this finding of fact will have in the present status of the pleadings and the present situation of the securities, which are in the hands of the trustees, I will have to either give further consideration or have counsel take the matter up. Perhaps it better be upon the form of a decree to be advised."

Notwithstanding this conclusion, as has already been pointed out, he advised a decree that the counter-claim be sustained and the securities previously delivered be returned to the defendants.

In other words, his decree is in this respect di-

rectly contrary to his finding of fact upon the sole issue raised in the counter-claim.

The very recent case of *Trainor v. LeBeck,* decided by this Court on October 17, 1927, and reported only as yet in 5 N. J. Advance Reports 1353, seems to be directly in point. There a bill was filed in the Court of Chancery for an injunction to enforce a covenant that

> "no building or buildings shall be erected upon the above described premises, except a single dwelling house, to be devoted exclusively to private dwelling house purposes."

The bill charged that the defendant in conducting and maintaining the premises as a boarding or lodging house was conducting and maintaining, upon the premises, a boarding or lodging house, wherein boarders and lodgers are accepted at stipulated prices, and using the premises for boarding or lodging house purposes. The prayer of the bill was for an injunction to restrain the defendants from conducting upon their premises a boarding or lodging house, and to restrain them from the violation of the restriction in the above respects. The opinion of this Court said:

> "The Vice-Chancellor before whom the case was heard, in a résumé of the testimony said, 'Therefore it comes right down to one point in my mind—does the use of a house in the manner indicated, etc., constitute that house a boarding house?' Then at the conclusion of the findings further said, 'I find that the defendants are not operating an inn or tavern, nor are they conducting a boarding house; but I am convinced that the use of the premises as made by them is a violation of the restric-

tive covenants.' The question, therefore may he properly asked—in what way as a fact are the defendants violating the restrictive covenants if they are not keeping a boarding house —the only issue made by the pleadings and the proofs. The decree provides, 'That the defendants be and they are hereby enjoined and restrained from the use of the premises described in the bill of complaint except exclusively for private dwelling house purposes.'

"The record shows the decree is not supported by the findings of the learned Vice-Chancellor. It is elementary and settled beyond discussion, a decree must be based upon the *findings of fact,* as made by the Court, and without such findings the decree cannot stand. The decree must conform to the case made *by the pleadings as well as the proofs.* Wood v. Cox, 92 N. J. Eq. 307; Black v. Keiley, 23 N. J. Eq. 358; 6 N. J. Dig. Ann. 4786 #335 A; 8 Ibid. 842.

"The decree will for these reasons be reversed."

II.

THE VICE-CHANCELLOR'S FINDING THAT THERE WAS IN FACT NO DURESS, WAS CORRECT AND SHOULD BE SUSTAINED.

Before considering the evidence upon this particular point, we direct the Court's attention to the well settled principle of law, that when it is sought to avoid a contract signed by certain parties, upon

the ground of fraud or duress, the burden is on the party so seeking to establish the duress, by strong and convincing evidence. *Guever v. Stafford,* 96 N. J. Law 280; *Mulgram v. Truppi,* 2 Misc. Reports 452.

It is well in passing to direct the Court's attention to Section 14, *et seq.* of the counter-claim (p. 103), which forms the basis of its prayer, to the effect that all the proceedings taken by Dorrian and Fahler, after the discovery of the perfidy of the defendants, were taken for the purpose, not of holding the defendants responsible for their illegal transactions, but to relieve the complainants from the agency contract (p. 66) with the defendants by which they were entitled to a commission of twenty-five per cent on all sales made; and to this end the capias and attachment proceedings were commended, the negotiations in the hotel at Philadelphia were prosecuted, and the contract in suit wrested from the defendants.

The facts, of course, are that the attachment and *capias* were solely issued for the purpose of endeavoring to collect from the defendants, all but one of whom had left the State of New Jersey, also moving their belongings; and the meetings at Philadelphia were initiated wholly by the defendants, and the good offices of Father Mellon at their instigation were enlisted for the purpose of settling the matter.

Let us now consider the facts with reference to the alleged *duress.* The conduct of the defendants during the two weeks following their return from California, is only consistent with a consciousness on their part of liability to indictment. They, of

course, could have successfully avoided the service of a capias in the civil suit, by remaining in Philadelphia. Their flight to an unknown and secreted place in New York City, manifested fear of criminal process, and Davis on page 623 at line 3, admits that while they were in New York, and before the hotel interviews commenced, Scanlan mentioned on one of his visits to New York, that

> "Mr. Dorrian was going to take out indictments and put us in jail."

While the evidence of some of the defendants includes the statement that during the course of these three days' negotiations, the complainants, or some of them, threatened them with forgery and embezzlement in the loosest and most unsatisfactory way, the accusation is specifically denied by Philip, Garrison, Hart, Besore, Mulhern, Dorrian, Fahler, Carlton Godfrey and Father Mellon. The latter, on pages 422, 423, concedes that it is his recollection that Carlton Godfrey asked Harold and Trevor if one of the straw signatures to one of the deeds was forged, and Harold replied,

> "It looks like it."

With that exception, the nine witnesses, including Father Mellon, one of whom, Mr. Besore, is entirely disinterested, and two of whom, Messrs. Carlton Godfrey and Garrison are respected officers of this Court, positively and unequivocally deny that any suggestion, accusation or claim that the defendants, or any of them, had been guilty of embezzlement, forgery or any crime, was made during the negotiations.

It is true that some time during the three days of conference, Father Mellon and Mrs. Davis, not

one of the defendants, had an interview in the hall, at which nobody else was present, in which, as Mrs. Davis testifies (p. 308),

> "I attempted to appeal to Dr. Mellon to go in the room and save Trevor Williams; that the men in the room were stealing from him and he said, 'Go in, they have Trevor for twenty years.' "

Father Mellon on page 388, concedes this interview, and that he had the idea that Trevor had been guilty of forging a straw name to a deed (a fact that Mr. Melcer, an handwriting expert, swears to on page 1145, *et seq.*, namely that the signature of Julia Coll attached to one of the deeds was written by Trevor Williams, and Julia Coll is not called to deny this.) See also p. 490, l. 35.

It is important to remember that Mrs. Davis, herself, on page 303 concedes that she heard no mention of a crime on her husband's part, and as was said by Chief Justice Gummere in *Mullin v. Leamy,* 84 N. J. Law 484:

> "Duress to be available as a defense must have been exercised upon him who sets it up as a defense, by him who claims the benefit of the contract, or by some one acting in his behalf or with his knowledge."

Father Mellon was not the agent of the complainants. He was selected by the defendants, and undertook to act as arbitrator.

See also *Travis v. Unkart,* 89 N. J. Law 571, where this Court sustained the defense of duress set up by the daughter, but declined to sustain such a defense set up by the mother, although the mother had been informed by the daughter of the threats

which constituted the duress. Chief Justice Gummere, speaking for this Court said:

> "The judgment against the estate of the deceased mother stands on a different footing. Duress to be available as a defense in an action upon a contract, must have been exercised upon him or her who sets it up as a defense, by him who claims the benefit of the contract, or by some one acting in his behalf or with his knowledge. Mullin v. Leamy, 80 N. J. Law 484."

Again assuming that accusations of the character claimed had been made during the negotiations by the defendants, it is perfectly well settled that it is not duress to threaten to enforce the criminal law to compel one to do what he is legally required to do. *Hart v. Lamborn,* 3 Advance Reports 1737. Here the complainant executed a bond and mortgage on her home, and sought to have them set aside on the ground that they were procured by false or artificial consideration and by duress. Vice-Chancellor Backes, after directing attention to the great burden and responsibility cast upon a party setting up such a claim, said:

> "Lamborn's demand upon him and her were just. They had his wife's money and they refused to give the security. I know of no rule that makes it oppression to threaten criminal action to compel one to do what he is lawfully obliged to do."

This Court unanimously affirmed the decree in this cause on the opinion of Vice-Chancellor Backes. See also *Mullen v. Leamy,* 80 N. J. Law 484; *Byron v. Byron,* 98 Id. 127 (E. & A.); *Bodine v. Morgan,*

37 N. J. Equity 426; *Clark v. Trumbull,* 47 N. J. Law 265.

NEXT, THE CLAIM WITH REFERENCE TO THE ACTION OF THE SUPREME COURT ON THE CAPIAS.

The claim is that at some time during the negotiations, Father Mellon in the presence of the defendants and some of their counsel, announced that the capias had been sustained; that such was not the fact, and that in the condition in which the defendants were at the time, they were also induced to sign the agreement, by virtue of that statement.

The fact is, that on May 25, 1927 a notice of a motion was made before Justice Campbell, to discharge the order for bail in the capias suit, and his opinion announcing his conclusion, was filed on June 3, 1927 A copy of it is printed on page 120, from which it appears that because none of the defendants were in Court, the conclusion Justice Campbell reached was (p. 121):

> "The present application must therefore fail."

He then proceeded to add the following:

> "Although this is dispositive of the matter yet I think it wise, in view of the probability that the plaintiff will proceed to execute the writ, to point out defects in the proceedings, which have been raised upon this motion, and which, upon application after execution of the writ would compel me to set aside the order and writ."

After discussing certain legal necessities in proceedings of that character, he concludes his opinion (p. 123, l. 30):

> "As has been indicated the present motion must be denied because prematurely made."

No order was entered thereon until June 9th, when (p. 282) an order was entered denying the motion.

Now, it is stated by two or three of the defendants and their witnesses that Father Mellon made a statement that the capias had been sustained; and after the defendants had learned from the testimony of Father Mellon, which was taken out of order and in the very early stages of the hearing, that this remark was made by him *after the contract had been signed*, leading questions were put to the other witnesses for the defense to the effect that the statement was made before the contract was signed. The true facts with reference to the matter are as follows:

Father Mellon testifies (p. 380):

> "Q. Do you recall making some remark with reference to the decision of the Supreme Court in the capias proceedings?
>
> A. Yes, sir.
>
> Q. Had the contract been signed before—was that remark made before or after the contract had been signed?
>
> A. After.
>
> Q. Will you give the details of that matter with reference to that decision and what announcement was made? The contract was now signed by you?
>
> A. Was now signed.
>
> Q. Go on.

A. And I said I was very glad that everything had gone on so amicably and had been settled so peacefully and I said, 'Now, I feel rather free to say that the capias had not been lifted.'

Q. Who had informed you of that?

A. It was Mr. Garrison.

Q. Do you remember when that information reached you?

A. I think the day previous.''

He further testifies on page 402:

''Q. Who told you the capias had been sustained?

A. Mr. Garrison.

Q. How did he come to make that statement?

A. I don't remember, Judge, except that Mrs. Davis was asking that her husband be allowed to come home to Atlantic City and I said to Mr. Garrison and Mr. Godfrey, 'Why don't you let him go to Atlantic City tonight,' and they said then that the capias had been sustained.

Q. Where were you when that was stated?

A. When that statement was made, in the vestibule.

Q. Who were present?

A. Mr. Garrison and Mr. Godfrey, and Mrs. Davis had made that request about her husband in the vestibule to me.

Q. Give us the language that Mr. Garrison used?

A. He said it wouldn't be safe for him to go down there.

Q. I mean the language he used with respect to the capias being sustained?

A. That is the language he used.
Q. Is that all he said?
A. Yes, that is all."

Mr. Garrison on page 863, Mr. Godfrey on page 1089 and Mr. Fahler, page 921, all unite in the statement that the only reference made to the *capias* was after the contract had been signed, as Father Mellon had testified. Surely here is no basis for the claim, either that the statement was untrue, or that it could have had any influence upon the parties in executing the contract.

AGAIN, IT IS CLAIMED THAT THE HEALTH OF THE DEFENDANTS WAS SO IMPAIRED THAT THEY REALLY DID NOT KNOW WHAT THEY WERE DOING. It is true that a bottle of aromatic spirits of ammonia was now and again used by Harold Williams. It is claimed by some of the witnesses that Father Mellon thought Harold should be put to bed, but Father Mellon and the complainants all deny this. Trevor claims he had not slept for seventy-two hours previous to the meeting and had lost pounds of weight. Mr. Davis also claims to have lost considerable weight. Trevor testifies on page 532:

"Father's eyes were sticking out of his head and he was jumping all over."

The loss of weight that these people suffered in the fortnight between the return from California and the meetings in Philadelphia must have been due to a consciousness of evil doing, and a fear of the consequences. They had the physical strength and mental energy to go to and from New York daily for three days, to attend long conferences at the hotel; to make claims for credits on the com-

missions due; to offer a sum in compromise; to sign an agreement after careful perusal; to assign securities, many in number; to pay cash and arrange for later payments, and we cannot but believe that the statements of all of the witnesses for the complainants that their health and physical condition was perfectly normal, is correct.

THE CLAIM WITH REFERENCE TO THE ABSENCE OF COUNSEL FOR THE DEFENDANTS.

The following facts are undisputed. Messrs. Stringer, Bourgeois and Cole had long before the Philadelphia meeting been retained as counsel for the defendants. Notwithstanding that fact, it is conceded, as Mr. Scanlan the brother-in-law of Mr. Davis, concedes (p. 203), the attorneys were not even at Philadelphia until the third day, and then they were at the University Club (p. 215) and not at the hotel. Mr. Scanlan tells us (p. 215, l. 30) his explanation of why they did not ring up the University Club to get the attorneys, "Because I told Mr. Williams that Mr. Bourgeois and Judge Cole were at the University Club, and wanted to go get them and he was very nervous."

"Q. What did he say, leaving out his nerves, what did he say?

A. He said he had a sick wife in California, if he goes to jail it will kill her.

Q. When you told Mr. Williams, Harold Williams that, as you say, that you understood that Mr. Cole, Judge Cole and Mr. Bourgeois were to be at the University Club, what did he say about getting them?

A. I told you, just told you.
Q. You said that he said he had a sick wife.
A. That is what he told me."

He again repeats that that was all Mr. Williams said with reference to the fact that Messrs. Bourgeois and Cole were on the third day at the University Club. When asked if he told Davis about Cole and Bourgeois being at the club, he replied he did (p. 216, l. 30) and Davis replied he would do anything not to go to jail.

Judge Cole testified that he left Atlantic City at the request of Mr. Scanlan on the train at 4:45 P. M. the third day, and went direct to the University Club, where he was joined by Mr. Bourgeois. It thus appears that the negotiations for the two days had been completed without the defendants having any lawyers at hand, and that about six o'clock on the evening of the third day, the day the contract was signed, Messrs. Cole and Bourgeois were in another building in Philadelphia, but no effort was made to bring them over to the hotel, although Trevor on pages 260 and 277 concedes he was in phone contact with the attorneys during the three days' conference.

Nevertheless, as a ground of relief it is urged as part of the duress that the defendants desired the presence and assistance of counsel, which was refused. On page 276, at line 10, Harold is asked:

"Q. I ask you again why you went there in the afternoon and didn't have Judge Cole with you or Mr. Bourgeois there?
A. Because they were at the University Club waiting for us to call them."

On page 277 Harold concedes that there never was a time during the three days when either Mr.

Bourgeois or Judge Cole or Mr. Stringer were produced at the hotel and requested admission to the room. On page 248 Harold admits that he assumed until the third day, that he could have attorneys.

On page 261, Harold finally takes the position that on the third day he asked that his attorneys might be present, and that Mr. Godfrey said,

> "Well, when the agreement is straightened out you will have them come in,"

and that he "never told us to call them." This is absolutely denied both by Philip on page 709 and by Carlton Godfrey.

Mrs. Davis (p. 305), claims that both she, Trevor and Scanlan asked that their lawyers might be present on the third day, but that Mr. Carlton Godfrey replied:

> "The time for you to have had your lawyers was before this agreement was drawn up."

This also is positively denied by all of our witnesses.

Mrs. Davis' contention (p. 296) that a request for the presence of an attorney was made on the first day, which is denied by Father Mellon (pp. 380, 388) is of no moment in view of the fact that concededly they had no attorneys in Philadelphia until the evening of the third day.

The evidence on behalf of the defendants upon this subject is briefly as follows:

Mr. Garrison, speaking of the third day, testified (p. 862) as follows:

> "A. Yes, he said Trevor said—did I say Fahler? Trevor I meant—he said that either Mr. Cole or Mr. Bourgeois or both of them were over dining at the University Club. I said,

'Why don't you have them come over here? Now is the time, you are about ready to sign this agreement.' Trevor says, 'Father is opposed to it.' He says he has had—he said he was opposed to it, I don't know what he said at the time, I don't recollect. Well, I said, 'If your lawyers are in town, you ought to bring them here,' and I said, 'You come on in.' I took, I led the way, I took Mr. Trevor Williams and Scanlan followed me, and I went in and I said, 'Mr. Godfrey, I think Mr. Trevor Williams has something to say to you.' 'All right,' he says, 'what is it?' And now I don't know whether Trevor said it or Scanlon, but one or the other of them said, 'Well, our lawyers are over at the University Club.' Mr. Godfrey said, 'Send for them. They are welcome. By all means send for them,' and Mr. Williams said, that is Mr. Harold Williams said, 'I have had lawyers enough. I don't want any more. I want to clean this thing up now or not at all.' Now Mrs. Williams then said something to Father Dorrian.

Q. Mrs. Davis?

A. Or Father Mellon—Mrs. Williams ——

Q. Who said?

A. Mrs. Williams said something to Father Mellon.

Q. Mrs. Williams?

A. Mrs. ——

Q. Davis?

A. Davis, that is right. Mrs. Davis said something to Father Mellon about attorneys.

Mr. Bourgeois: About what?

A. About attorneys, and Father Mellon said all right, of course she says, 'Father, you are

not a lawyer.' 'No, sir,' he says, 'I am not a lawyer,' but he says, 'I studied law. It is one of our duties in preparing for the priesthood to study law.' Well then Mr. Harold Williams—Mr. Scanlon then undertook to say something, I don't know what it was he intended to say, for he didn't get it out, before Mr. Harold Williams called him, and they went out into the hall. I don't know what for, couldn't tell you that, but they came back and Mr. Harold Williams said, 'We are ready now to execute these papers.' Now the papers were executed."

Philip Godfrey on pages 706, 707 and 708 testifies to the same effect.

On page 1088, Carlton Godfrey testifies as follows:

"Now previous to the execution of that contract had anything been said about lawyers?

A. Just a short time before the agreements were signed, I would say about a half an hour, Mr. Garrison came into the room and said, I don't know whether he said that Jack Scanlan or Williams, Jr., one or the other, had something he wished to show to Mr. Godfrey. And he said that their lawyers were at the University Club, as I recollect it, and he wished them present. I said, 'By all means, they ought to be present. No reason why they shouldn't. I have no objection to them being present.' Williams, Sr., got up and in a very firm voice said that he objected to any further delay, he wanted the matter closed up and he had paid a large sum, I think he named ten thousand dollars in lawyers' fees, and didn't want to pay any more. He didn't want any further lawyers present.

> There were some remarks made by someone else, my recollection is that it was Williams, Jr., again about the matter, and the father said, 'Here you, come out here,' and he took him out in the hall, and they returned in a few minutes, and nothing more was said about lawyers."

Philip says on page 718 that he was deterred from himself sending for the lawyers by Harold's remark he did not want any more attorneys present.

Mr. Hart (pp. 797, 798), gives the same description of what actually occurred with reference to the lawyers.

This specific description in the mouths of so many of the defendants' witnesses as to Harold's unwillingness to have anything more to do with lawyers, is corroborated by Davis' evidence already quoted, to the effect that when he told Harold the lawyers were at the University Club, Harold made no reply except that his wife was very ill in California. The Vice-Chancellor in his conclusion, after saying:

> "Under ordinary circumstances, it would be certainly the usual course in a matter as momentous and as serious as this that both sides should be represented by counsel."

Added:

> "But here were these men, free to go back and forth from Philadelphia to New York, having three or four separate and distinct interviews, having an opportunity of consulting their counsel, either by telephone or through their agent, as apparently was done, because it seems that Scanlan, perhaps, acted as their agent in that matter, at least towards securing a representa-

tion of counsel. They do not call their counsel in and, if no step had been taken toward having counsel there, as was done on the third or fourth day, I might have a different view-point in the matter, but here the gentlemen interested in this matter requested their counsel to appear in Philadelphia and remain somewhere else rather than at the meeting place. Now, if they could have had their counsel in Philadelphia, they could at least have had their counsel appear and present themselves at the place of meeting, and it don't look to me as though they were particularly desirous of having their counsel there during the negotiation. I do not know why they took that view-point. I can't quite understand that situation, but it is such that they preferred to go ahead, and whether or not they were told by Mr. Godfrey he would represent them, whether they were told it was too late or not, still they did not exercise that action which, if they wanted counsel to be present, they certainly would have taken."

We do not see how any other conclusion is possible. When, at the close of the third day, Messrs. Bourgeois and Cole were brought to Philadelphia, why did they not bring them to the Vendig Hotel? When, on the fourth day Stringer appeared, not the slightest objection was made to his presence and, of course, none would have been made had he, or the other counsel, been brought to the hotel on any of the three days.

What is there in the agreement that would not have been there if the lawyers had been present? It compromises an admitted claim by agreeing to pay much less, and provided for mutual releases.

Father Mellon says (p. 413) that Harold, speaking of his sons during the recital of their shortcomings, said to him,

> "These boys were putting these things over on me;"

that he did not know the deals they were making, and on page 405, the whole thing was Greek to him.

After a careful review of the whole transaction, we cannot but conclude that the views of the Vice-Chancellor were quite correct that there was no duress exercised at the three days' meetings resulting in the execution of the contract, and that the efforts of the defendants to set that contract aside upon that ground must fail.

III.

THE AGREEMENT OF JUNE 1ST, 1927, WAS BINDING UPON THOSE WHO SIGNED IT, AND THE VICE-CHANCELLOR'S CONCLUSION TO THE CONTRARY WAS INCORRECT.

It will be remembered that Mr. and Mrs. Davis, Trevor and Harold were in New York and brought about the meetings at the Hotel Vendig for the purpose, if possible, of making a settlement. The efforts of Trevor to pretend that his only object in attending the meetings was to learn the nature of the claims against him, is too ridiculous to be seriously considered. Scanlan, who arranged the interview, on page 178 says that Mrs. Davis asked him over the phone to see Mellon and to have a meeting to find out what the charges were, and *to see if an adjustment could be made;* and (p. 180) that he told Mel-

lon that Mrs. Davis wanted him to talk with Dorrian and see if they could not come together, and (p. 185) that the Williamses were ready to shoulder the blame, and were ready to effect a settlement, and that they wished Mellon to act as an arbitrator and intermediary between the parties. Judge Cole on page 233, having been requested in the forenoon of the third day to go to Philadelphia, by Mr. Scanlan, says he went to the University Club "to meet the folks *touching some arrangement for a settlement.*"

When our parties went to the hotel, they did not know whom they were to meet, and who were proposing to make the settlement. The fact (unknown to them) that Gordon Williams was not present but was in California, made no difference, and there was nothing in the way of an entire settlement being adjusted between those who actually did meet. Gordon's name does not seem to have been mentioned by any one until after the compromise sum of $190,000 was agreed to, and Harold's statement that the limit of cash that he would be able to produce on account of the $190,000 was $45,000.

Philip Godfrey says (p. 672, l. 5):

> "Harold Williams then said the balance of the money could be on note or paid in mortgages."

Philip then (*ibid*) referred to some title sheets he had procured from a title company at the time of issuing the attachment, which were in numerical order, and turning to the first one he found that it was a mortgage held by Gordon Williams, whereupon he remarked (p. 673, l. 25):

> "A. I said, 'Well, we can't take that because of the fact that Gordon is not here,' and Harold then spoke up and said, 'Well, I have talked

to Gordon, and he has told me to make this settlement, and that he will do whatever I arrange to do at this settlement.'

Q. Go on.

A. Father said, 'Well, if we take any mortgages belonging to Gordon we will have to put a clause in the contract providing that if the mortgages are not delivered that you will substitute cash or other mortgages to take their places.' And Harold says, 'You don't have to bother about Gordon, Gordon will sign it after I have made the arrangement, and you put the clause in if you want to.'

Q. Was the clause to that effect, as you understand it, inserted in the contract?

A. Yes, sir.

Q. Can you refer to it?

A. I think so.

Clause 9 was inserted and read: 'In the event that the mortgages, items and other securities, accompanied by said declarations of no off-set and other requirements herein recited are not delivered as herein set forth, other bonds and mortgages, cash or other securities satisfactory in amount and quality to suit Williams and Davis, Inc., Connie J. Dorrian and Lloyd W. Fahler shall be substituted in place of the mortgages, items and other securities, if any, which are found not to conform to the requirements herein recited.' ''

Dorrian confirms this on page 1064. Without further comment, the several mortgages they were proposing to be assigned and accepted in settlement, were selected, including several others standing in Gordon's name, and the parties separated, Carlton

Godfrey to draw an agreement, and Trevor Williams to go to New York to complete the securities he was to assign. The agreement was drawn with Gordon's name as a party, and the following evidence by Father Mellon (p. 394, l. 12) is uncontradicted:

"Q. When did the question come up about procuring Gordon's signature to the agreement?

A. It came up while the others were signing.

Q. What was said about the agreement at that time?

A. And Harold said, 'I will guarantee Gordon's signature.'

Q. What was said by Mr. Godfrey?

A. Mr. Godfrey said that Gordon's signature would have to be on these documents.

Q. And what else did he say besides would have to be on the documents?

A. Well, he said nothing after Mr. Harold guaranteed the signature of Gordon.

Q. What did he say before Harold guaranteed the signature about it?

A. He said, 'Shall we send these papers to Gordon?' And Mr. Harold said he would see that the papers were signed and he again would guarantee his signature.

Q. Did Mr. Godfrey say, when he made the first statement, these papers all will have to be signed by Harold before they will be of any use?

A. No, sir.

Q. Was it then that Mr. Williams said he would guarantee the signature?

A. No, sir.

The Court: You didn't mean that question.

A. I meant Gordon; he said Harold.

The Court: You said Harold; you meant Gordon."

The parties present then signed six copies of the agreement in rotation, passing them on finally to Mr. Godfrey to sign as witness, who in turn passed on the copy he had signed to one of the signers, so that at the end of the ceremony, a copy laid on the table in front of each party signatory (pp. 755, 757, 759).

What next occurred is, without contradiction, testified to by Carlton Godfrey, as follows:

> "After the signature on the papers, and while each one had his copy in front of him upon the table, the question was mentioned by Williams, Sr., as to how they should be signed by Harold—by Gordon Williams. He said that Gordon was in California and could not come east at that time, I think he said he was sick. It had been suggested—it was then suggested by someone that Mr. Hart accompany him to California for the purpose of obtaining and having added to the agreement Gordon's signature. Harold Williams called me aside and said to me that he objected to Mr. Hart going but he said, 'I will be glad for you to go, and I would be glad to go with you together.' Finally, after some hesitation I agreed to go to California for that purpose."

See also Philip's testimony (p. 757).

The parties then proceeded to execute the contract, Harold saying (p. 791):

> "I have $10,000 here I want to get rid of and turn it over now."

And did so, taking a receipt therefor. The several assignments were executed by Trevor and Davis and delivered, in addition to some small checks and certificates of stock, and it was arranged that Trevor should return to New York and complete the papers he was to transfer.

The Vice-Chancellor, as we have seen, concluded from an examination of the contract that it was plain on its face that it was not intended to be binding on any of the parties until it was signed by Gordon, and hence dismissed the complainants' bill for the specific performance of the contract. We think in this he was plainly wrong. In his conclusions he points to certain provisions of the contract that he thought sufficient to justify his conclusion. He first adverts to the fact that Gordon's name is one of the parties to the agreement. He further points to the fact that the third paragraph (p. 43, l. 15) commences:

> "As a part of said consideration of one hundred and ninety thousand dollars ($190,000.00), the said Gordon Williams hereby agrees that he will deliver to the said Connie J. Dorrian and Lloyd W. Fahler, the following bonds and mortgages" etc.

And then to a similar clause with reference to Trevor, Harold and Davis. He also points to the seventh clause, which provides that Harold and Trevor will make certain cash payments, and after referring to some other clauses he concludes:

> "So far it seems clear to me that the arrangement was divided into sections; Gordon was to pay so much; Harold was to pay so much; A. Trevor Williams was to pay so much, and Royden B. Davis was to pay so much in a

certain manner, and that, if any of them failed to produce the specified articles named in their list, that one of them would then have the privilege of substituting others satisfactory to him, Dorrian.''

He then adds:

'' 'It is agreed that upon the payment by the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis of said sum of $190,000 in the manner hereinbefore recited'—that is, Gordon Williams so much, Harold Williams so much, A. Trevor Williams so much, and Royden B. Davis so much—then the release, the original of which has been executed and delivered to Father Mellon, should be delivered to the person or persons entitled thereto upon the payment in full of said sum of $190,000,''

and concludes that each of the Williamses and Davis agreed to pay their proportion of $190,000, and that when the entire amount was paid, and then only, each was entitled to a release, and that until such time as it was a binding agreement on all, it was not a binding agreement upon any of them. This is regardless of the testimony of Scanlan (p. 205), that those present agreed they would pay $190,000.

Before passing to an expression of the law applicable, we ourselves point to the following provisions of the contract as indicating an intention contrary to that reached by the Vice-Chancellor. On page 42, at line 22, is the provision:

''Now therefore, in consideration of * * * and of the further sum of $190,000 paid and to be paid,''

by Gordon, Harold, Trevor and Davis, at the times and in the manner and form therein decided. The expression is not in consideration of so much to be paid by one party, and so much to be paid by another, but rather $190,000 to be paid by the group.

Again, paragraphs 3, 4, 5 and 6 of the contract, pages 43 to 53 (referring to the part to be played by each of the four persons) read:

"As a part of said consideration of $190,000" each of the parties agree to "deliver the following bonds and mortgages." The language is not as *his* part of the $190,000, but as *a* part thereof.

So by paragraph 7 of the contract (p. 54) Harold and Trevor agree that they will pay in cash on account of said consideration of $190,000.

Paragraph 9 on page 555 provides for the substitution of cash or other securities satisfactory to the complainants if any of the securities provided for are not delivered. The only significance this clause can have was that it was inserted for just such a situation as exists, namely, that if the securities enumerated in the agreement as the property of Gordon, or anybody else, were missing, in such event the intention was that Davis, Harold and Trevor should put up cash or other securities sufficient to make up for the deficiency.

Paragraph 10 of the agreement (p. 55) provides that unless the agreement is lived up to, the attachment and capias suits

> "shall proceed to recover the unpaid balance of the total consideration thereof."

Paragraph 11 (p. 56) provides that in the event that any of the mortgages do not conform to the required conditions, and Gordon, Harold, Trevor or Royden do not substitute cash or other securities,

the capias and attachments actions may proceed to enforce the collection of the amount represented thereby. It will be remembered that in these two common law actions, Gordon, as well as Davis, Trevor and Harold, is a party defendant. The last clause of the twelfth paragraph of the agreement (p. 57), provides for the execution of a release to Gordon, Harold, Trevor and Davis, signed by the complainants and their respective wives, and to be delivered to Father Mellon to be held until the full $190,000 are paid, when he was to deliver the same

> "*to the person or persons entitled thereto upon payment in full of said sum of* $190,000,"

so that if any one of the four should, either in cash or securities, make up the full $190,000, then the release to all, until that time held in escrow by Father Mellon, was to be delivered.

Turn now to the authorities. The rule seems to be perfectly well settled that the mere fact that a contract purporting to be made between two or more persons is in fact signed by less than all of them, does not relieve those who signed it from the obligation to perform it, unless it was plainly understood and agreed between all concerned that the document would be ineffectual and not binding until signed by all.

In *Parker v. Bradley,* 2 Hill (N. Y.) 584, it was held:

> "Where, in the body of an instrument, a principal and several sureties were named as parties, but it was signed only by the latter, and there was nothing in the nature of it to prevent its operating without the signature of the principal: Held, that the execution must be deemed *prima facie* complete.

Ordinary v Hatcher 41 hy L 401
Elwood v Quick 6 hy Obs. Rep 211

It was drawn with the name of Gilmore inserted in the body as one of the obligors; and he not having signed, this is alleged as evincing an incomplete execution of the instrument—an intent that it should not be considered as executed till his name was added. It is entirely clear, however, that the objection is by no means conclusive. The other promissors might all have intended to be bound without him; and there is nothing in the form of the instrument to prevent its having effect without his name. The circumstances of the case, as derivable from Gilmore's evidence, were sufficient to have warranted the jury, in case the question had been submitted to them, in believing that such an effect was intended.

Indeed, it has, I see, been holden in a late case that a signer cannot insist on a contrary intent as qualifying the execution, unless it appear he declared at the time of signing that he would not be bound without the signatures of others named in the bond. If he execute it generally without such declaration, he shall be holden though he stand alone. (*Haskins v. Lombard,* 4 Shepl. 140.) About the same distinction had been before held in *Cutter v. Whittemore* (10 Mass. Rep. 442), and *Scott v. Whipple* (5 Greenl. 336.). See *Johnson v. Baker* (4 Barn. & Ald. 440), and *Leaf v. Gibbs* (4 Carr. & Payne, 466) (a)."

See *Keator v. Brown, et al.*, 57 N. J. Equity 600, at page 601:

"Stevens, V. C.:

I think, on the proofs, the complainant is en-

titled to a decree for specific performance against Rebecca Brown.

The case is this: Rebecca and her sister Lida were tenants in common of a house and lot in Asbury Park. Rebecca, in her sister's absence, entered into a written agreement to sell, with the assignor of the complainant. She signed, without authority, her own and her sister's name, supposing that her sister would ratify her act. This her sister refused to do.

The case appears to come within the rule of law stated in Young v. Paul, 2 Stock, 401, and Lounsbery v. Locander, 10 C. E. Gr. 554. In the latter case Mr. Justice Depue says: 'The general doctrine in equity is that * * * on a bill by the purchaser a vendor will be required to allow compensation in case he is able to make title for a part but not for the whole, if the purchaser consents to accept part performance with such compensation.'

I can see no good reason for refusing to apply this rule to the present case. There is no doubt as to what interest Rebecca has and as to how much of the purchase money she is entitled to. Each of the sisters owns an undivided half and each is entitled to one-half of the price. The rule is of much easier application to the case in hand than to many of the decided cases."

The same doctrine is announced by this Court in *Milmoe v. Murphy,* 65 N. J. Equity 767, and *Campbell v. Hough,* 73 N. J. Equity 601.

In *Dillon v. Anderson,* 43 New York 231, a contract was executed between two parties, and in the body thereof there was named a third person as a party, who did not join in the execution of it.

Upon the suit of one of the parties against the other, the plaintiff proved that the contract was in fact made between him and the defendant alone; that the third party's name had been inserted for the purpose of having him sign, but he never had signed. Plaintiff proved that the defendant had a clause inserted in the contract that the plaintiff should proceed under it immediately, and the plaintiff at once caused the work to be commenced. The Court held the contract was binding upon the individual defendant, Folger, J., saying:

> "The motion for a non-suit was properly denied. The action was upon a contract in writing. It was signed by the plaintiff and defendant, and by no one else. It was signed in duplicate, and delivery made by each to the other. It showed them the only contracting parties. The fact that in the body of the instrument Hasbrouch, who did not execute it, was named as a joint contractor with Anderson, did not prevent it from having effect against Anderson. (*Parker v. Bradley,* 2 Hill 584.) *Prima facie,* it was the contract of Dillon and Anderson. And the onus was on Anderson, to show that he was not bound as the party of the second part, by his execution of it, until it was also executed by Hasbrouck. The testimony that was given to that end was not so positive as to warrant the Judge at the circuit in taking the question from the jury. It was shown that Anderson assisted in the drafting of it; that he inserted in it the material clause binding Dillon to proceed immediately with the work; that he made delivery of it to Dillon; that when the execution of it by Hasbrouck also was mentioned, Dillon expressed himself satisfied with it as it was, and

that he did not care for Hasbrouck's signature, from which Anderson made no dissent; that the presence of Hasbrouck was expected at the place where the contract was executed, and that it was not executed until it was known that he would not be there; that Anderson affixed no condition or qualification to his delivery of the contract, and no effort is shown to have been subsequently made to procure the execution of the contract by Hasbrouck. There was no testimony sufficient to so completely outweigh the *prima facie* effect of the instrument, and that above detailed, as to make it a question of law for the Judge on undisputed or clearly proven facts. And he made no error against the defendant in submitting it to the jury, as he did, to find whether the defendant made the contract in question with the plaintiff, intending to, and actually making himself individually liable to the plaintiff for the work. Indeed, if Anderson meant not to be bound by the contract, he should have accompanied the delivery of it with an expression of such intention. If he executed it generally, without such declaration, he was holden though he stood alone." (2 Hill, *supra.*)

In *Mattoon v. Barnes,* 112 Mass. 463, the same question arose in a case where a contract lacked the signature of one of the parties named in it. The Court said:

"There is a class of cases in which it has been held that where an instrument has been executed only by a part of the parties between whom it purports to be made, it is not binding upon those who have executed it. *Bean v. Parker,* 17 Mass. 591. *Wood v. Washburn,* 2 Pick.

24. *Howe v. Peabody,* 2 Gray 556. *Russell v. Annable,* 109 Mass. 72. Most; if not all, of the cases of this class, are cases where the parties executing the instrument would have a remedy, by way of indemnity or contribution, against the other parties named, which remedy is lost by the failure of such other parties to execute the instrument. The reasons for holding the instrument void are that it was intended that all the parties should execute it, that each executes it upon the implied condition that it is to be executed by the others, and therefore that until executed by all it is inchoate and incomplete, and never takes effect as a valid contract.

On the other hand, where these reasons do not apply, it is held that a party who signs and delivers an instrument is bound by the obligations he therein assumes, although it is not executed by all the parties named in it. *Cutter v. Whittemore,* 10 Mass. 442. *Adams v. Bean,* 12 Mass. 137. *Warring v. Williams,* 8 Pick. 322. *Herrick v. Johnson,* 11 Met. 26. *Yale v. Wheelock,* 109 Mass. 502. In the case at bar, the estate of Barnes does not lose any right or remedy against Phelps by reason of the fact that he did not sign the agreement. He admits that he is jointly liable for the amount named in it, and the estate of Barnes has the same remedy for a contribution against him as if he had signed the agreement in form. Upon this point the case of *Herrick v. Johnson* goes farther than the case at bar."

In *Deputy v. Hastings* (Del.), 123 Atlantic 33, it was held that when a contract is reduced to writing, and not all the parties named therein sign it, the

question whether those who have signed are bound, is determined by the intention of the parties at the time of execution. In the absence of positive testimony showing that execution by all of the parties named in the contract was intended, or some other reason calling for joint execution, the signatures actually named bind those, although others are named therein and have not signed. Citing *Matoon v. Barnes* and *Dillon v. Anderson, supra.*

In *Richards v. Whitaker* (Pa.), 19 Atl. 501, the bond which set forth the names of the members of a firm as sureties, was signed by one of the firm who intended to bind the firm by signing the firm name, but was told that the members must sign their individual names. It was held that he was bound, although his co-partner failed to sign, where he did not make the latter's signature a condition of delivery of the bond. The opinion says:

> "In Fertig v. Bucher, 3 Pa. St. 308, the party who executed the bond expressly stipulated that it should not be delivered until 12 names had been obtained to it, and the agents of the obligee so promised. It was held that the bond remained in the hands of the agent as an escrow, and until the condition was performed there could not be a valid delivery of it. In Keyser v. Keen, 17 Pa. St. 327, the bond was prepared for six persons to sign, but was executed by five only. It was found in the possession of the obligee, and it was held that it was not to be implied that it was incomplete, and not binding on those who executed it. Grim v. School Directors, 51 Pa. St. 219, was the case of a joint and several bond prepared for signatures by four persons named, but signed by three only. The absence of the signature of the third was

held not to be a defense against payment by the three. To the same point is Simpson v. Bovard, 74 Pa. St. 354; Warfel v. Frantz, 76 Pa. St. 88, and Keener v. Crage, 81* Pa. St. 166, are upon all fours with Fertig v. Bucher, *supra*. There was an express stipulation that the bond was not to be delivered until all had signed.

The evidence shows that it was the intention of Watson to bind his firm as sureties when he went to execute the bond. He expected to sign the firm name for that purpose, but was told that the members of the firm must sign their individual names. As the bond was under seal, his signature would have bound himself, but not his firm. He signed his own name, with the expectation that his partner would also sign. For some reason he omitted to do so. Does the fact that Watson expected his partner to execute the bond, and that the firm should thus be held, relieve him from liability? We think not. He made no real stipulation or condition at the time. He might have done so, and thus have protected himself, under the authority of Fertig v. Bucher, and the other cases cited. When a man signs the firm name to an instrument under seal, he always expects to bind his firm. But he does not do so. He binds only himself. The fact that he intended and expected that his partners should be bound equally with himself has never been held to relieve him from individual liability. In what respect does this case differ in principle? And is not Watson in the precise condition as if he had signed the firm name to this bond intending to bind his firm, yet only binding himself? The argument of the learned counsel for the plaintiffs in error, while ingen-

ious and plausible, has failed to satisfy us that the Court below committed error either in admitting the bond in evidence or in the answers to points.

Judgment affirmed."

To the same effect *Goodman v. Regent Laundry Co.* (Mo.), 190 Southwestern Reporter, page 951, where the rule in Missouri is stated to be:

"The rule applicable to such cases is that a party who signs and delivers an instrument is bound by the obligations he therein assumes although it is not signed by all the parties named in it unless it appears that the parties signing mutually intended that it should be inchoate and incomplete and not take effect as a contract until signed by all the parties named. State *ex rel.* v. Sandusky, 46 Mo. 377; Donnell Mfg. Co. v. Repass, 75 Mo. App. 420; Gay v. Murphy, 134 Mo. 98 (34 S. W. 1091, 56 Am. St. Rep. 496); Mattoon v. Barnes, 112 Mass. 463; Dillon v. Anderson, 43 N. Y. 231; Grafeman Dairy Co. v. St. Louis Dairy Co., 96 Mo. App. 495 (70 S. W. 390); Naylor v. Stone (96 Minn. 57), 104 N. W. 685; Edwards v. Gildemeister, 61 Kan. 141 (59 Pac. 259); American Pub. Co. v. Walker, 87 Mo. App. 503. And the burden is on the party attacking the contract to show that when he signed it was agreed that the contract should not take effect until signed by all the parties. Authorities *supra*."

In *Wilkes v. Holmes* (Minn.), 150 N. W. Reporter, at page 1099, the same question arose, and the opinion says:

"The trial Court instructed in harmony with

the law of this State. 'And any one who executes a contract may protect himself from liability thereon by affirmatively showing an express agreement that there should be no delivery until others executed it.' Naylor v. Stene, 96 Minn. 57, 104 N. W. 685. But in this case there is an utter absence of any testimony that the contract should take effect *only* upon Lloyd signing it. Undoubtedly there was a delivery of the contract as between defendant and A. C. Wilkes. Not a word was at that time said about any other signature. Nor do either A. C. Wilkes or Lloyd claim that the subject was thereafter mentioned. The duplicate given to defendant contained no place for Lloyd's signature. Lloyd knew about the trade, read the contract Saturday, made no objection thereto, turned over the car to defendant without any expressed condition or reservation, and testified that he approved what trade his father made. Secret intentions of the plaintiffs as regards the signatures to the contract, or the delivery thereof, or of the car, cannot now avail them. What is more, the admitted acts of plaintiffs disprove the claims that the contract was not to be deemed complete until Lloyd's signature, and that the deal was to be closed in the bank on Monday, for Lloyd did not come to Minneapolis either Monday or Tuesday, his name was never signed to the duplicate A. C. Wilkes had, nor was a $4,500 promissory note bearing Lloyd's signature brought down. Without Lloyd's presence and without his signature to duplicate contract and a note there was no possible way of closing the deal, on plaintiffs' theory, when A. C. Wilkes came to Minneapolis on Monday.

> In the face of this evidence, and without considering at all defendants, we are of opinion that the instrument does not furnish sufficient evidence of incompleteness in itself 'to sustain a finding that there was an understanding or agreement that the contract was not to take effect until it was signed by Lloyd Wilkes.'" *Dillon v. Anderson* and other cases cited.

In *Naylor v. Stene* (Minn.), 104 Northwestern, page 685, it was held:

> "Jaggard, J. The defendant and appellant, Stene, the owner of an undivided half interest in a tract of land, had orally agreed with the owner of the other undivided half, Lund, to buy the latter's interest for $2,500. Thereafter, on September 1, 1903, the defendant, Stene, signed a contract agreeing to convey the whole of the premises for $5,150 to the plaintiff. Of this sum $100 was earnest money, $20 of which was paid when the contract was signed. In that contract the grantors were referred to in the plural number as 'we' and 'us.' Their names were not specifically mentioned. A space for the signature was left blank under the signature of the defendant, Stene. The plaintiff also signed the contract and became bound by its terms. The agreement was then left with the attorney at law who drew it, to be delivered by him to the plaintiff upon the payment of $80. When the contract was read over to the parties, the plaintiff was informed that it would require the signature of the other part owner of said land, Lund. The defendant, Stene, then promised and agreed to procure such signature by the time plaintiff should forward to the said attorney the

$80 balance of earnest money. Subsequently to the execution of the contract the defendant, Stene, notified the attorney that the owner of the other half, Lund, refused to entertain the deal, and directed such attorney to so advise plaintiff and to return the earnest money to plaintiff and the contract to him (Stene). On the 4th of September the defendant Stene procured a deed to the premises from Lund. On the same day the plaintiff offered to pay $80 to the attorney and demanded the contract. The attorney refused to deliver. On September 7th the defendant conveyed the premises by warranty deed to other defendants for $5,720. The premises were, at the time of the execution of plaintiff's contract with the defendant, according to the Court's findings, worth the sum of $5,600. The Court found that the defendant, by his repudiation of his contract with the plaintiff, damaged the plaintiff to the extent of $450. Judgment was accordingly entered for the plaintiff in that sum.

The contract so deposited with the attorney operated as an escrow. 3 Words & Phrases 2464; Sheppard's Touchstone (7th Ed.) 59; Bowker v. Burdekin, 11 M. & W. 128, 147; Millership v. Brookes, 5 H. & N. 797; Wheelan v. Palmer, 58 L. T. Rep. (N. S.) 937, 39 Ch. Div. 648. Upon the performance of the stipulated condition it became of full force and effect, and was complete and executed, although not in fact delivered to the grantee therein named. The defendant, Stene, became bound by it, and the plaintiff became entitled to his legal remedies in accordance with its terms. Davis v. Clark (Kan.), 44 Cent. L. J. 452. And see note on

page 455; 28 Sol. J. & R. 453; 28 Am. Law Reg. (N. S.) 108, §§ 15, 16 and 17 of note to Cherry v. Herring. The trial Court in this case found that the delivery of the contract was conditioned only upon the payment of the $80 and not upon the procuring of the signature of the owner of the other undivided half to the contract. It was abundantly justified in so finding. *Inter alia,* the plaintiff and the attorney with whom the instrument was left so testified.

The ingenious contention of the counsel for the defendant, Stene, rests upon the inference to be drawn from the use of the words 'we' and 'us' throughout the contract, and from the failure of the owner of the other undivided half to sign the contract, in connection with the testimony as to the disclosure of the necessity of obtaining that signature. Bishop on Cont. § 171. It is undoubtedly true that the condition upon which an instrument left in escrow becomes operative may be express or implied (see Park. B., in Bowker v. Burdekin, 11 N. & W. 128), and that the implication to be drawn from the presence of names of parties in the body of a contract and from the absence of their signatures thereto, in connection with the testimony of the person seeking to enforce that instrument against those who signed it, that it was not to be delivered until it was signed by all whose names appeared in it, may be that the contract was not completed (Whitford v. Laidler, 94 N. Y. 145, 152, 46 Am. Rep. 131). And any one who executes a contract may protect himself from liability thereon by affirmatively showing an express agreement that there should be no delivery until others executed it. Dillon v. Anderson, 43 N. Y. 231. And see Chouteau

v. Suydam, 21 N. Y. 179. There is also a class of cases where the parties executing the instrument would have a remedy by way of indemnity or contribution against the other parties named, which remedy is lost by the failure of such other parties to execute the instrument, in which it has been held that each executed the instrument upon the implied condition that it was to be executed by the others, and therefore that until executed by all it was inchoate and incomplete and never took effect as a valid contract. Morton, J., in Mattoon v. Barnes, 112 Mass. 463, 466. In the case at bar there is no such testimony, agreement or reason based on remedy, or other consideration, because of which this Court should refuse to apply the general rule that a party who signs and delivers an instrument is bound by the obligation he therein assumes, although it is not executed by all the parties for whose signatures it was prepared. Mattoon v. Barnes, *supra;* Dillon v. Anderson, *supra;* Richards v. Whitaker, 134 Pa. 191, 19 Atl. 501, 7 L. R. A. 749, 19 Am. St. Rep. 684; Russell v. Freer, 56 N. Y. 67; Hurd v. Kelly, 78 N. Y. 588, 34 Am. Rep. 567; Adams v. Bean, 12 Mass. 136, 7 Am. Dec. 44; Goodyear, etc., Co. v. Bacon, 151 Mass. 460, 24 N. E. 404, 8 L. R. A. 426; Underhill v. Harwood, 10 Vws. Jr. 212; Sidney Road Co. v. Holmes, 16 Up. Can. Q. B. 268; Elliott v. Davis, 2 B. & P. 338. Accordingly, in this case, the Court properly held that the obligation of the contract was not inchoate, and awarded plaintiff relief."

Rubendall v. Tarbox, 208 Ill. App. 376:

"Where a written contract named several

persons as parties thereto, but was not signed by one of them, and all parties knew she had not signed it, and the contract was carried out by the parties signing same, and was by stipulation of such parties in an action based thereon introduced in evidence as such contract between them without denial of joint liability because she had not signed it, or instruction asked no such effect, held that such contract would be treated as the contract of those who signed it."

Herrick v. Johnson, 11 Metc. 26 is an important case, and reference with approval is therein made to *Cutter v. Whittemore,* 10 Mass. 442, where an indenture purporting to be made jointly and severally by three on the one side and one on the other, by which a demand by one against the three for damage done by flowing his land was submitted to arbitration, and it was executed by only two of the three. The two appeared before the arbitrators without objection and submitted the demand made against them, and the arbitrators made an award. On suit brought against the two, an objection was taken that it purported to be made by three and that two only signed, but it was answered and held that the two were bound, first because they had executed it and bound themselves to the other party jointly and severally, and second, because it was a demand for which each was liable in full, and third, because they might well bind themselves to perform an award against themselves and another, and under the circumstances had done so, and fourth, by going before the arbitrators *knowing that two only of their number had signed the indenture, they had waived their objection, and acted upon the instrument as the obligation of two.*

In *State v. Regent Laundry Co.* (Mo.), 190 S. W. Rep. 951, the rule as announced in the foregoing cases is stated with approval, with the following addendum:

> "But in the case before us the written instrument, upon which the counter-claim is predicated, was not only delivered without Mrs. Cahn's signature, but was treated by these plaintiffs and defendant, Wilson, as a valid, subsisting contract between them. The evidence shows that without waiting to procure the signature of Mrs. Cahn, who was unable to be present on account of sickness, plaintiffs, defendant, Wilson, and Cahn proceeded at once to consummate the transaction, Cahn having in his possession his wife's stock indorsed in blank. Defendant, Wilson, fully performed the contract on his part. Relying thereupon he paid to plaintiffs the full consideration to be paid them for their stock, and paid as well the other consideration mentioned."

In *13 Corpus Juris,* 305, after referring to cases holding that where an instrument has been executed by only a portion of the parties between whom it purports to be made, it is not binding on those who have executed it, there is added the following:

> "The cases so holding are usually those in which the parties executing the instrument would have a remedy by way of indemnity or contribution against the other parties named, which remedy is lost by the failure of such other parties to execute the instrument. The reason for holding the instrument void is that it was intended that all the parties should execute it and that each executes it on the implied condition that it is to be executed by the others,

> and, therefore, that until executed by all, it is inchoate and incomplete and never takes effect as a valid contract, and this is especially true where the agreement expressly provides, or its manifest intent is, that it is not to be binding until signed. Where these reasons do not apply, it is held that a party who signs and delivers an instrument is bound by the obligations therein assumed, although it is not executed by all the parties named in it. Further, it is competent for the parties to adopt it as their contract without signing it, provided their intention to do so is clear."

Of course, we are not at this time concerned with the well-settled principle that where, as a matter of fact, it is claimed that a paper signed by some of the parties thereto having expressly stated that it shall not be binding upon the parties signing until all others have signed, then the partial execution of the document is ineffectual (*Shrader v. Porter* (Ky.), 276 S. W. Rep. 115). Those cases have no place here because the decision of the Vice-Chancellor is based wholly upon the terms of the contract, and especially excludes, and is without regard to the evidence to which reference will shortly be made, to the effect that there was such an express condition made by one or two of the defendants at the time they signed the paper (p. 1178, l. 25). The case of *Alpaugh v. Wood,* 53 N. J. Law 638, has no application. That case dealt simply with the question of joint and several liability of parties signatory to a contract. If the matter of joint and several liability were here involved, we contend that under the doctrine of this Court, in the later case of *Trenton Potteries Co. v. Oliphant,* 58 N. J. Equity 507,

512, the facts and circumstances arising at the time of the contract's execution, as well as the form of the contract itself would make the several as well as a joint liability.

We, therefore, think that looking at terms of the contract, alone, *in connection with the action of the parties thereunder in delivering securities and cash, and expressly adjourning for the purpose of getting more securities to be delivered,* the conclusion of the Vice-Chancellor was erroneous.

IV.

THE CONTENTION THAT IT WAS EXPRESSLY AGREED THAT THE CONTRACT SHOULD NOT BE BINDING UNTIL GORDON SIGNED, IS WITHOUT MERIT.

On pages 229, at line 31, and 232, at line 8, Scanlan, an enthusiastic witness for the defendants, stated that Carlton Godfrey on the third day, before the agreement was signed, and while it was being drafted, remarked that the contract would not be enforced until they had received Gordon's signature in California, and arrangements were being made for him to go to California to get Gordon's signature. Trevor, on page 452, says that just before the agreement was signed, the question of Gordon's signature was brought up, and Carlton Godfrey said that this agreement was no good without Gordon's signature. Davis (p. 576, l. 8) was asked:

> "Now, Mr. Davis, do you remember anything being said about the agreement after those of you who were there had signed it, anything being said about the agreement as it then stood?

A. Well, the agreement ——

Mr. McCarter: Same objection as before.

The Court: I will permit it.

A. The agreement was not to be good until it was signed by Gordon, and my recollection of that is that it was dated several days ahead, that is, the completion of it, to get time to get Gordon's signature."

This is all the evidence offered upon this point by the defendants.

On page 708, Philip specifically denies that any such statement was made. On page 796, Hart makes the same denial. On page 865, Mr. Garrison makes the same denial. On page 949, Fahler was asked, on cross-examination:

"Now, was anything said at any of these conferences as to how or when this agreement was to become effective,"

and he answered:

"When signed.

Q. By all the parties?

A. No.

Q. Who said it was to become effective when signed?

A. I don't really just recall that any individual said it.

Q. Why do you say it was to become effective when signed, because that was the understanding, pardon me, you said in answer to my question that it was to become effective when signed. I ask you who said it, and you said you don't remember.

A. Mr. Harold Williams volunteered the statement he would guarantee Gordon's signature.

Q. I repeat my question, who was it that said that that agreement was to become effective when signed?

A. I don't know that anybody made the statement.''

On page 960, Fahler was asked:

''Q. Now, turning to the transactions at the hotel, in reply to a question by, I think Judge Cole, you were asked when the settlement agreement was to take effect and you said when it was signed. I ask you, signed by whom?

Mr. Bourgeois: Objected to, answer speaks for itself.

The Court: I will permit it.

A. Signed by those there, that was evidenced by the fact that ——''

On page 961, Fahler further testifies:

''A. On Tuesday afternoon, after the amount was agreed on, Mr. Harold Williams proffered Mr. Godfrey a package of money, stating the fact that there was ten thousand dollars there, laid it on the table. Mr. Godfrey answered with the statement that he did not want it; he said, 'I don't want it.' He says, 'I won't take anything now until the contract has been discussed and agreed on and signed.' ''

Mulhern denies it (p. 978), Dorrian on p. 1038, and Carlton Godfrey on page 1091. Surely, in the face of this mass of evidence, there is no basis for the contention of any such statement having been made, and, indeed, the conduct of the parties is entirely opposed to any such idea. Before the contract was signed, Harold Williams, after figures had

been reached, offered to pay the $10,000, but Mr. Godfrey refused to take it, saying he would not take it until the papers had been prepared and the agreement drawn up (p. 973, l. 30).

We cannot wonder, therefore, that the Vice-Chancellor refused to regard this contention.

Equally untenable is the contention made by one of the defendants' witnesses that it was understood that the papers and documents were to be delivered to Father Mellon in escrow, to be held by him until Gordon's signature was obtained (p. 452). This is specifically denied by all of the complainants and their witnesses, and is quite inconsistent with the provisions of the contract, Section 12 of which made an express provision for an escrow delivery to Father Mellon of the complainants' release. Surely, in view of the care and caution with which this contract was prepared, read and corrected, if so important a provision as this had been suggested, it would have been inserted in the contract, and, moreover, the $10,000 and the several assignments, instead of being handed by Harold to Carlton Godfrey and receipted for by him, would have been handed to Father Mellon as the release was.

Indeed, this theory of a conditional execution of the contract is an entire afterthought. Not only did Harold pay to Godfrey and Garrison the $10,000 and take their receipt, but he handed over to them his individual check for $642.79, and took their receipt therefor. He handed over the check of a third person to the order of Gordon Williams & Company and endorsed by Gordon Williams & Company. He handed over the check of J. Edward Fitzgerald to the order of Gordon Williams & Company, which was similarly endorsed. Trevor handed over all the items mentioned in the schedule on p. 124 and took our receipt therefor, and promised to pro-

duce more the next day. Davis assigned all his mortgages to us, and delivered it to us. It is impossible to reconcile such conduct with the theory that the parties only intended the deliveries to be conditional, or in escrow. On June 7th, two days thereafter, the original bill was filed by Trevor and Davis, accompanied by two long affidavits, and not a word was said therein with reference to any such alleged condition. On the contrary, the contract in that bill, as well as in the answer and counter-claim, is spoken of as executed. The word "execution" is defined in Webster's International Dictionary as:

> "In law—the act of signing, sealing and delivering a legal instrument or giving it the forms required to render it valid, as the execution of a deed or a will."

Harold, a few days later, signs a notice of repudiation (p. 1198) stating:

> "By reason of the false and fraudulent statements made by you, your agents and servants to me, at and prior to the time of executing the agreement of June 1st, 1927, I hereby repudiate and rescind said agreement, and demand of you a re-payment of the moneys paid by me to you, your agents and servants."

On July 13, notice was given of filing a proposed amended bill (p. 1402) in which not a word is said with reference to any condition of this character, and on August 1st, 1927, the answer and counter-claim is filed, which is similarly devoid of any reference to any such claim. Can it be possible that if this contention were true, that subject would not have been the first thing adverted to by the parties to counsel, and that counsel would not have averred

it and based their bill upon it? The contract itself, in two of its sections, is absolutely inconsistent with any such idea. Section 7 (p. 55) provides for the immediate payment which was made of $10,000 to the complainants, and two further payments to them at later dates. The eighth section provides that the securities named in Section 3 of the contract—being those to be delivered by Gordon—and the items mentioned in Section 5—being certain securities—shall be delivered on or before June 20, 1927.

We, therefore, assert that the conclusion is inevitable that there is no basis for the contention that the contract was not, as a matter of fact, delivered between the parties, and that it was fully binding upon those who did, in fact, sign it and performed their parts thereof in whole or in part.

The Vice-Chancellor seemed to think that the arrangement for Mr. Godfrey to accompany Harold Williams to California to secure Gordon's signature, was inconsistent with the idea that the agreement was previously binding upon the others than Gordon. It was quite natural that someone representing the complainants should accompany Harold to California, as the Vice-Chancellor said:

> "Of course, Gordon Williams' interest was sufficient for a man to go out to get his signature."

The proposition that Mr. Hart should go (p. 1089) was objectionable to the defendants. Hart was *persona non grata,* and so, as we have seen, it was arranged that Carlton Godfrey should go. The fact that a representative of the complainants should accompany Harold to California to secure Gordon's signature, indicated that the paper was incomplete so far as those who had already signed is concerned, is illogical. It is suggested in the evidence (p. 512)

that the payment of the balance of the cash in excess of the $10,000, was postponed long enough to admit of going to California and bringing it back. It is true that the seventh clause of the agreement did provide for the final payment of $15,000 on or before June 20, 1927, at which time it is likely that the contract could have been returned from California, but it must not be overlooked that by the same paragraph, $20,000 additional was to be paid in a week from the first of June, at which time, of course, such return would have been utterly impossible.

We, therefore, conclude that the decree was erroneous in refusing the complainants their desired decree for the specific performance by the parties who did sign the contract.

V.

THE DECREE, IN ANY EVENT, WAS ERRONEOUS IN DIRECTING THE RETURN TO THE DEFENDANTS OF THE SECURITIES DELIVERED BY THEM UNDER THE CONTRACT.

It will be remembered by the Court that some of the securities at the time the bill for specific performance was filed, were in the hands of the complainants, and they sought by their bill the procurement of the balance of the securities. The defendants sought, by their bill, and later by their counter-claim, to have the whole contract set aside as fraudulently induced by duress. The defendants failed in their contention, and the complainants also. In other words, in the complainants' bill for specific performance, the conclusion was that they were not

entitled to their relief; on the defendants' claim of duress the conclusion was that they were not entitled to their relief. How, and where did the Court obtain the right in such a situation to direct a return to the defendants of the securities the complainants had received, and which, *pendente lite,* were in the hands of the receiver? We contend that at the best, all that the defendants on the bill for specific performance were entitled to, was a decree of dismissal, leaving the defendants to their remedy at law for further dealing with the securities that had been transferred in partial performance of the contract. The defendants had failed in their counter-claim, and that was the foundation upon which the Court below directed the receiver to take possession of these securities. Having failed in that, the natural and only possible result was a direction that the securities which they sought by the counter-claim to reach, be re-delivered by the receiver to the complainants.

The mere fact that the Court of Chancery declined specifically to enforce the contract, did not involve a direction that its part performance be undone. The inevitable effect of a decree refusing specific performance, is to leave the parties in *statu quo,* and to relegate to a court of law the question whether, under all the circumstances, any further relief should be accorded touching the property. We know of no case where possession has been given under an illegal or unbinding contract for the sale of land, and the Court, in refusing to decree specific performance, goes further and ejects the vendee in possession.

The case of *Brewer v. Wilson,* 17 N. J. Equity 180, is directly in point. There, the evidence as to the final making of the contract for the sale of land, specific performance of which contract was sought,

being in direct conflict, the Court concluded that it would not decree specific performance, saying:

> "If it be reasonably doubtful whether the contract was finally concluded, equity will not interfere by decreeing a specific performance, *but will leave the parties to their remedy at law.* Huddleston v. Briscoe, 11 Vesey 591; Stratford v. Bosworth, 2 Ves. & B. 341; Fry on Specific Performance, Section 164."

This Court, in the recent case of *Knickerbocker Hotel & Realty Company v. Clabby,* 94 N. J. Equity 173, cited *Brewer v. Wilson,* with approval, saying:

> "Equity will not decree specific performance of a contract where it is reasonably doubtful whether the contract was finally concluded, *but will leave the parties to their remedy at law.*"

Mr. Justice Kalisch, expressing the views of this Court, in the same case, further said:

> "There is no rule in equity more clearly established than that upon an application for a specific performance of a contract, the Court must be satisfied that the claim is fair, reasonable and just, and the contract equal in all its parts. If these points are not established by the complainant, *he will be left to his remedy at law.* To the same effect is *Worth v. Watts,* 76 N. J. Eq. 299. Mr. Justice Parker speaking for this Court (on p. 304)."

The following cases are direct authority in support of the view that a Court of equity has no jurisdiction to grant purely legal relief under a general prayer, when the party fails to establish his claim to equitable relief:

Welsh v. Bayaud, 21 N. J. Equity 186;
Logan v. Flattau, 73 N. J. Equity 222;
Public Service Corporation v. Hackensack Meadow Company, 72 N. J. Equity 285;
Jewett v. Bowman, 29 N. J. Equity 174;
Collier v. Collier, 33 Atlantic 193;
Hubatka v. Maierhoefer, 65 Atlantic 102;
Brower v. Laughlin (Ill.), 85 N. E. Reporter 282.

In such an action, the right to ultimate recovery of property delivered pursuant to an enforceable contract, will depend entirely upon circumstances. In *39 Cyc.* 2019, it is said:

> "Where the purposed contract is never actually entered into, as where the parties fail to agree, where the contract is unenforceable, or where the contract is void either for the want of power to make it by either party, or because the manner of contracting is not the mode pointed out by the statute, or for any other legal reason, the party receiving benefits from such attempted contract will be required, in a proper action therefor, to account to the party from whom such benefits have been received, including, of course, the purchase money paid as part of the purchase price; although *mala fides* on the part of the intending purchaser with full knowledge of all the facts may defeat his recovery."

In such an action, the conduct of the party seeking to recover the deposit or property delivered, will be subjected to severe scrutiny, and if it appears upon the whole case that the refusal to endeavor to obtain the missing signature is wilful,

and without *bone fide* effort, no recovery will be allowed. This was distinctly held in *Keystone Corporation v. Tague* (N. Y. Court of Appeals, 1927), 153 N. E. Reporter 27, where on an agreement for sale, the matter was left open for adjustment of details, and the agreement therefore held incomplete and unenforceable. The Court of Appeals said:

> "* * *We are not to be understood, however, as holding that the failure of the defendant to establish such an agreement will require judgment in favor of the plaintiff for the return of the deposit. When a part payment is made under a binder such as the one in suit, the party making the payment, the vendee, may not recover it thereafter if he has wilfully refused to make any genuine effort to reach an agreement as to the details left open for subsequent adjustment. Such refusal will indeed be effective to thwart specific performance at the suit of the vendor. It will not confer a cause of action for money had and received, a cause of action rooted in principles of equity."

The principle of this case is directly applicable in the instant case. The defendants did not contradict the evidence already quoted that Harold Williams, during the negotiations, guaranteed that Gordon would sign, and arranged to go to California with Mr. Godfrey for the purpose of obtaining such signature, as well as to see his sick wife. Before he left, however, he was informed of the conclusion reached at the University Club the evening before, to repudiate (p. 284) and acquiesced therein, and a few days later signed his notice of repudiation.

It doesn't appear in the cause that the slightest effort was made to procure the signature of Gordon. In fact, his separate answer (p. 128) boasts of ignorance of the entire situation.

Moreover, it has been determined by the finding of facts by the Vice-Chancellor, that there was no duress, and hence the effort of the defendants in an independent action to recover back the securities—on the assumption that the contract lacking Gordon's signature was not binding upon them—would be inevitably met with the claim that property voluntarily delivered cannot be paid back.

New Jersey Brick Co. v. Krantz Co., 94 N. J. Law 255;
Schaedel v. Liberty Trust Co., 99 Id. 380;
Loesser v. Schmid, 100 Id. 123;
Bellisfield v. Holcombe, 6 N. J. Adv. Rep. 1.

In *30 Cyc.* p. 1303, at 1311, the rule is stated that duress must have been illegal, unjust and oppressive. For instance, one cannot recover back money paid under compulsion if it is just what he ought to have paid voluntarily. In other words, the money paid cannot be recovered back, unless it is against conscience for the defendant to retain it. This Court has frequently sustained this idea—most recently in *Hart v. Lamborn*, 98 N. J. Equity 707, *McCrory Stores Corporation v. Braunstein*, 99 N. J. Law 166, *Deshler v. Holmes*, 44 N. J. Equity 581; *Whitcomb v. Brandt*, 90 N. J. Law 245.

VI.

MOREOVER, THE DEFENDANTS ARE MET WITH THE DOCTRINE OF UNCLEAN HANDS.

We have already pointed out the fact that the defendants, throughout the proceedings at the hotel in Philadelphia, admitted their violation of trust to the complainants in the several transactions. It is shown that moneys of Williams & Davis, Inc. were used to pay for the property of the county, and about $5,000 of the money drawn from the treasury for that purpose, but were divided between some, if not all, of the defendants. There can be no question from the proofs that the defendants, as officers and directors of Williams & Davis, Inc., and as trustees for Dorrian and Fahler, their stockholders, in the transactions in question, made a secret profit to which they are not entitled, and for which they are now under indictment (p. 820). In other words, in the transactions out of which this controversy arises, the hands of the defendants are soiled, and the familiar principle brings the defendants directly within the recent case of *Neubeck v. Newbeck,* 94 N. J. Equity 167 and *Gluck v. Rynda Development Co.,* 99 Id. 788, affirmed 100 Id. 554. This doctrine will be availed of by the Court independent of its announcement not being found in the pleadings. *21 Corpus Juris* 186. In the *Gluck v. Rynda Development Co.* case, affirmed by this Court 100 N. J. Equity 554, Vice-Chancellor Berry (99 N. J. Equity 788) said:

> "The Court must consider it (unclean hands, etc.), not because it is a matter of defense to the defendants, but because it is against public

> policy to hear the case if the charge be established. The Court acts for its own protection rather than for the protection of the defendant. When fraud or illegality is disclosed in a case public policy requires a court to refuse its aid irrespective of the state of the pleadings and regardless of the fact that with fraud and illegality absent the plaintiff might appear entitled to relief."

It is respectfully contended that the decree was erroneous, and should be reversed.

October Term, 1928.

ROBERT H. McCARTER,
Of Counsel for Appellants.

SUPPLEMENTAL MEMORANDUM.

(Filed .)

IN CHANCERY OF NEW JERSEY.

Between
CONNIE J. DORRIAN, *et al.*, *Complainants*,
and
ROYDEN B. DAVIS, *et al.*, *Defendants*.

On Bill, &c.
Supplemental
Memorandum

(This memorandum is not to be published in the official or unofficial reports.)

MR. CARLTON GODFREY, for the complainants.
MESSRS. BOURGEOIS & COULOMB, for the defendants.

INGERSOLL, V. C.:

My attention has been called to the fact that the memorandum filed in this case did not specifically state what facts were found to authorize a decree that the counter-claim be sustained.

I found, as a fact, that the contract between the parties in question was not a binding agreement upon any of the parties therein mentioned; and, therefore, advised a decree that the securities and

cash which had been delivered and paid by reason of the terms of said contract, which at the time was expected to be signed by all parties, should be returned to the parties who had delivered the securities and paid the money, and thereupon advised a decree in accordance with that view.

NEW JERSEY COURT OF ERRORS AND APPEALS.

Between
CONNIE J. DORRIAN, *et al.*,
Complainants-Appellants,
and
ROYDEN B. DAVIS, *et al.*,
Defendants-Respondents.

ON APPEAL.

BRIEF OF BOURGEOIS & COULOMB, SOLICITORS FOR DEFENDANTS-RESPONDENTS.

STATEMENT.

For some years prior to 1925, Gordon Williams & Co. had been successfully engaged in the real estate business in Ventnor City and Margate City, in Atlantic County, New Jersey, and during that year of 1925, Connie J. Dorrian and Lloyd W. Fahler became desirous of speculating in real estate, and sought out Gordon Williams & Co., for the purpose of making some arrangement with them, so that

they, Connie J. Dorrian and Lloyd W. Fahler, might have the benefit of the Williams' name in real estate transactions.

At that time, real estate was at its height in the State of Florida, and Connie J. Dorrian and Lloyd W. Fahler, desiring to speculate therein, entered into an agreement with Gordon Williams, Harold S. Williams and Royden B. Davis to go to Florida, with the object of investing moneys there for them, if there was a satisfactory market—Gordon Williams, Harold S. Williams and Royden B. Davis to receive a commission of 33 1/3%, and later a corporation known as "Williams & Davis, Inc." was to be formed, to take over such land as they might purchase, of which corporation Connie J. Dorrian and Lloyd W. Fahler were to be the principal stockholders, and Gordon Williams, Harold S. Williams and Royden B. Davis were each to have ten (10) shares of the capital stock as qualifying shares, the last three to be the officers and directors of said corporation, as follows:

Gordon Williams—President.

Royden B. Davis—Vice-President.

Harold S. Williams—Secretary and Treasurer.

The parties went to Florida, looked the field over, concluded there was no opportunity for safe investment, and returned, about three or four months before the boom collapsed in that State, without investing any money and that transaction was closed.

During September and October, Dorrian and Fahler purchased four or more tracts of land from Trevor Williams which he had under agreement of purchase in the name of Julia Coll and Sadie Craigen. It is over the purchase of some of these tracts that this dispute arose.

The following December, Dorrian and Fahler

offered to enter into two contracts with Gordon Williams Company, constituting that company sales agent for lands purchased by Dorrian and Fahler (Vol. 1, pp. 66 and 79), which they signed but which respondents did not sign, but on January 4, 1926, Williams and Davis, Inc., entered into a sales contract with Gordon Williams Company providing for sales agency at 25% commission until all of Del-Rey lands were sold (Vol. 1, p. 76).

Gordon Williams Company was a corporation, of which the directors, stockholders and officers were:

Gordon Williams—President.

Royden B. Davis—Vice-President.

Harold S. Williams—Secretary and Treasurer.

They had a broker's real estate license, transacted a large business, and a number of salesmen were licensed under their broker's authority, among whom was A. Trevor Williams, who had previously been engaged as a salesman under the broker's license of Pedrick & Son, later under William H. Carroll, and finally under Gordon Williams Company.

A. Trevor Williams, at the time of taking out a salesman's license under the brokerage of Gordon Williams & Co., was about twenty-one or twenty-two years of age, and had accumulated, under his salesman's license with Pedrick and Carroll, about $7,000 (Vol. 1, p. 468). When he became a salesman under Gordon Williams & Co., it was agreed that he should be privileged to speculate on his own account, rendering to Gordon Williams & Co., however, commission on purchases or sales made by him (Vol. 1, p. 439).

While thus engaged, he at different times became the purchaser of several tracts of land, two known as the Robrts Tract, another known as the Smith & Russell Tract, and another known as the Ryon

Tract, another known as the 42-acre Somer's Tract, in each of which instances, he, individually, became the purchaser of the land. The agreements for the purchase of these tracts in each case provided for the giving back of a bond to secure a purchase-money mortgage, for a part of the purchase price, and to avoid personal liability under such bond, he caused the title to be taken in the name of a third person—a "straw."

These tracts of land, two of which adjoined or lay in the vicinity of lands owned by Dorrian and Fahler, the other lay miles away, all were sold to Connie J. Dorrian or Connie J. Dorrian and Lloyd W. Fahler, as individuals, and the agreements of sale were so drawn. When it came time for settlement, Connie J. Dorrian and Lloyd W. Fahler, for the purpose of avoiding personal income tax on the profits, or for some other reason sufficient to them, requested that the title deeds be made, not to them as individuals, but to Williams & Davis, Inc., which was done, and upon the execution of such deeds to Williams & Davis, Inc., Connie J. Dorrian and Lloyd W. Fahler paid the purchase moneys, and Williams & Davis, Inc., issued to Connie J. Dorrian and Lloyd W. Fahler preferred stock to the amount of moneys by them expended in payment for the property. No complaint was made touching any of these transactions until the boom collapsed and real estate sales practically ceased, and the Williams family had gone to California. Then, charges of unfair dealing were made by Connie J. Dorrian and Lloyd W. Fahler, and the attachment and capias were issued.

A vast amount of property was sold by Gordon Williams & Co. for Williams and Davis, Inc., at a commission of 25%, before the real estate boom col-

lapsed in the winter of 1926-1927, and Dorrian and Fahler's first intent was to get rid of that sales agreement.

Harold S. Williams' wife had been in ill health for a long time, and in the fall of 1926, her son, Gordon, took her to California for her health, where he made arrangements for her to remain until restored to health, and where she has since remained.

In the spring of 1927, Harold S. Williams, the husband, made two trips to California to visit her, the last trip being intended for a longer stay than the first, because of the slackness of the real estate business at that time in this vicinity.

In March of 1927, A. Trevor Williams, one of the sons, went to California, to visit his mother, taking his automobile with him, intending to return in two months. While he was there, his father, Harold S. Williams, made the second and last trip before this trouble arose. While they were both in California, Harold S. Williams was advised by Royden B. Davis of some brewing trouble, and hastened his return, coming east with his son, A. Trevor Williams, at the time when A. Trevor Williams had intended to return, but about ten days or two weeks earlier than Harold S. Williams had expected to leave California. They arrived in Atlantic City on the 14th day of May, 1927, and went to the home of Royden B. Davis, and while at lunch and only a few hours after their return, they were informed that Lloyd W. Fahler had caused to be executed an attachment against all their property, including the property of Royden B. Davis, for an alleged indebtedness of something like $77,000, and at the same time learned that Connie J. Dorrian had caused to be issued a capias for their arrest, including Royden B. Davis, for an alleged fraudulent in-

debtedness of about $77,000, and that the bail had been fixed at $50,000 each. They at once realized that with all their property attached and bail fixed at $50,000 each, they could not escape jail if they remained in Atlantic City, and at once went to Philadelphia, and later to New York.

Within a week thereafter, motion was made to set aside the attachment, because unlawfully issued, and to set aside the capias, because it likewise had been unlawfully issued.

The attachment was set aside. The motion for the setting aside of the capias came on before Justice Campbell, and he, in his opinion, pointed out four particulars in which the capias had been unlawfully issued, but because the defendants were out of the jurisdiction of the Court, decided that he could not set aside the capias. In the meantime, a meeting between the parties had been arranged for the 30th day of May, 1928, and respondents went to Philadelphia on that date to learn what the charges against them were, and attempt to adjust the affair, and for that purpose returned to Philadelphia the next day and the third day, which meetings were attended by Connie J. Dorrian, Lloyd W. Fahler, their attorneys, Carlton Godfrey, Esq., and William I. Garrison, Esq., Philip Godfrey, a clerk in the office of Carlton Godfrey, Louis G. Hart, Rev. John J. Mellon, a Catholic priest, and Harold S. Williams, A. Trevor Williams, Royden B. Davis and Mrs. Royden B. Davis, and John Scanlan. At these meetings, the first object of appellants was to set aside the sales agreement with Gordon Williams Company, and, second, to secure for themselves moneys respondents had made during the boom. The respondents were charged with forgery, embezzlement, and threatened with jail on numerous oc-

casions, and when they demanded that they have their attorneys present, they were first told that Carlton Godfrey, Esq., would act as their attorney, and treat them right, and, later, when a dispute arose over some matter, and again they asked for their attorneys, they were told that Carlton Godfrey, Esq., would tell them when to call their attorneys in, and relying upon the promise that their attorneys would be called in sometime during the meetings, they continued from day to day, and later, when A. Trevor Williams disputed some question that arose he was asked if he wanted to go to jail; and later they were told that Carlton Godfrey, Esq., would draw the agreement, take off the rough edges, and then the respondents might have their attorneys, and when they still demanded their attorneys they were told Mr. Godfrey would tell them when to call them, and later when the agreement was completed and ready for signatures they again demanded their attorneys and were told it was too late then to call their attorneys, although they were at the University Club in Philadelphia waiting to be called, and when they objected to signing, they were told that the capias had been sustained, and Trevor Williams was asked by Carlton Godfrey, "Do you want to go to jail?" and Carlton Godfrey, looking at Royden B. Davis, tapped Mrs. Davis on the hand with his fingers, and said: "I am not here to advise you, but I advise you to sign, and the quicker you sign, the better for you." Thereafter the agreement was signed.

This litigation arises out of the result and conduct of the parties during that meeting. Harold S. Williams, A. Trevor Williams and Royden B. Davis claim they were induced to sign the agreement by threats of arrest and jail, intimidation, and false

promises and statements in the absence of their attorneys, of whose advice they had been fraudulently deprived, therein, agreeing to pay and assign in all $190,000.00 in cash securities to Connie J. Dorrian and Lloyd W. Fahler, and then and there paying more than $10,000.00 in cash and assigning about $120,000.00 of securities, while, in fact, there was no indebtedness owing from them to Dorrian or Fahler.

After this agreement had been signed, A. Trevor Williams and Royden B. Davis went immediately from the Vendig Hotel, in Philadelphia, where the meeting had been held, to the University Club, in Philadelphia, and met their attorneys, C. L. Cole, Esq., and George A. Bourgeois, Esq., who had gone to Philadelphia to attend the meeting, and were waiting to be called to it, and after a conference with them, Mr. Davis and A. Trevor Williams the next day met the other parties, and then and there repudiated the signing of the agreement, on the ground of fraud and threats practiced upon them.

Immediately following that repudiation, Connie J. Dorrian and Lloyd W. Fahler filed a bill for specific performance of the signed agreement. The following day, in ignorance of the filing of the bill by appellants, a bill was filed on behalf of A. Trevor Williams and Royden B. Davis, to set aside the agreement, on the ground of invalidity, fraud and intimidation. Later, these two bills were consolidated, and the second bill, to wit, that of A. Trevor Williams and Royden B. Davis, were converted into an answer and counter-claim. A decree was asked in favor of the respondents dismissing appellants' bill and praying a return to the respondents of all of the securities, cash, etc., delivered to the appellants at the time of the signing of the agreement,

and under the pleadings thus molded, the case went to trial, the appellants contending that the agreement should be specifically performed, and the respondents contending that it was invalid and that they had been fraudulently imposed upon and intimidated, and because of that fraud, the agreement was void, and that the same should be set aside and the securities delivered by them to appellants should be returned to them. A decree went in favor of the respondents from which decree this appeal is taken.

The agreement purported to be between Connie J. Dorrian and Lloyd W. Fahler, and Williams and Davis, Inc., parties of the first part, and Harold S. Williams, A. Trevor Williams, Gordon Williams, Williams and Davis, Inc., parties of the second part. The contract was not to become effective until the signing of the agreement by Gordon Williams, who was then in California. Gordon Williams did not sign.

There were six copies of the agreement made, and while all the parties, with the exception of Gordon Williams, signed the same, all of the copies were retained by Carlton Godfrey, and none of the copies were delivered to any of the Williamses or Davises. When, on the morning after the signing of the contract, the respondents repudiated and rescinded the agreement, Godfrey refused to let them even have a copy of it for the purpose of showing it to their attorneys.

It is contended that the contract is void:

1. Because it was not signed by all of the parties thereto.

2. Because signing was induced by fraud, intimidation and duress practised by the appellants and their counsel.

3. Because of false promises, threats and intimidation practised by the appellants and their counsel, respondents were deprived of the aid, assistance and advice of their own counsel in the transactions resulting in the signing of said contract.

At the time of the trial, a suit was pending, by the same parties, against Gordon Williams, to recover alleged secret profits growing out of the purchase and sale of the same parcels of land known as the "Roberts Tract," "Smith & Russell Tract," "Ryon Tract," and "County 2-Acre Tract."

INDEBTEDNESS.

Appellants have devoted considerable space in an effort to bring this case within the rule laid down in the case of *Hart v. Lamborne* (98 Eq., p. 707), in which case there was an admitted indebtedness of $24,500 due from Hart to Lamborne.

But in this case there is no foundation for applying the principle of that case.

In considering the case at hand, the Court will bear in mind:

(1) That indebtedness to Connie J. Dorrian and Lloyd W. Fahler by respondents was not admitted but is denied.

Royden B. Davis did not admit owing $34,000, but Mrs. Davis, his wife, stated that if they owed Connie J. Dorrian any money, they would pay it, with interest (pp. 435 and 614).

Harold S. Williams and A. Trevor Williams admitted making profit out of these deals (p. 500), but nowhere did they admit that these profits belonged to Connie J. Dorrian or Lloyd W. Fahler

or Williams & Davis, Inc., or that they were unlawful.

(2) That the question of indebtedness was not in issue in this cause, and respondents offered no testimony in defense thereof.

(3) The testimony touching this matter was admitted on cross-examination (p. 500, l.30):

"Q. Did you negotiate the Ryon transaction?

Mr. Bourgeois: If your Honor please, I want to raise an objection. Yesterday, or rather when we took this matter up on Friday, I thought we were going to try this whole thing at this time, this morning, the Gordon Williams case, and go into all these transactions. The attorney general objected to that on the ground it was a different case entirely; in other words, different question in view. Now he goes into exactly the same things that are in the Gordon Williams case, and I, for myself, do not see how these figures or these different deals are cross-examination as to what took place at these four meetings as to whether there was a fraud or whether there was not a fraud.

The Court: I think it is a proper cross-examination upon the point whether or not this man was mentally aware of any fraud on his part.

Mr. McCarter: That is the object, exactly.

The Court: I have admitted it solely upon that ground. He said he had no personal thought of anything wrong on his part."

At p. 459, l. 18, A. Trevor Williams had testified:

"Q. Were you conscious of having done any-

thing that was immoral that could send you to jail, should send you to jail?

A. I was not."

At p. 576, l. 35, and p. 577, l. 12, a similar question, but not bearing up the bona fides of the witness' statement, was overruled. To the same effect, the question at p. 620, l. 5, was overruled.

The testimony admitted was not admitted for the purpose of establishing an indebtedness.

(4) There was no fiduciary relation existing between A. Trevor Williams, who bought these properties (and took the agreement in the straw names of Julia Coll and Sadie Craigen), and Connie J. Dorrian and Lloyd W. Fahler or Williams & Davis, Inc., or any of them.

(5) There was no agreement of purchase or sale touching New Jersey property existing between Connie J. Dorrian and Lloyd W. Fahler or Williams & Davis, Inc., and A. Trevor Williams or Harold S. Williams or Royden B. Davis or Gordon Williams or Gordon Williams Co., or any of them, at the time these properties were purchased and sold to Connie J. Dorrian and Lloyd W. Fahler.

There were five pieces of property purchased by A. Trevor Williams and sold either to Connie J. Dorrian, individually, or to Connie J. Dorrian and Lloyd W. Fahler, as individuals, three of which, the two Roberts tracts and one Ryon tract, constitute what is known as "Del-Rey." The various steps in the transition of title were as follows:

Roberts Tracts #1 and # 2:

Tract #1.

(1) September 21st, 1925, purchase by A. Trevor Williams (Vol. 1, pp. 494, 499 and 500), agreement of sale, Roberts to Julia Coll (Vol. 5, Exhibit C5, p. 1431).

(2) September 23rd, 1925, agreement of sale, Julia Coll to Connie J. Dorrian (Vol. 5, Exhibit B, p. 1442).

(3) Agreement called for settlement January 2, 1926.

Tract #2. (Settlement with Tract #1.)

(4) October 3, 1925, agreement of sale, Geo. W. Roberts to Julia Coll (Exhibit C2, Vol. 5, p. 1454).

(5) October 16, 1925, agreement of sale, Julia Coll to Connie J. Dorrian and Lloyd W. Fahler (Exhibit D59, Vol. 3, p. 1242).

(6) Demand from Connie J. Dorrian and Lloyd W. Fahler to convey title to Williams and Davis, Inc. (Vol. 3, pp. 1254-8, and Vol. 4, pp. 1269-1273).

(7) Deed from Julia Coll to Williams and Davis, Inc. (Vol. 5, Exhibit E, p. 1457).

(8) $97,494 preferred stock of Williams and Davis, Inc., issued to Connie J. Dorrian and Lloyd W. Fahler, January 2, 1926 (Vol. 2, p. 993, l. 10); with notation "Stock issued for equity of Dorrian and Fahler."

Smith & Russell Tract:

(1) September 30, 1925, agreement of purchase from Smith and Russell to Julia Coll for 120 acres (Exhibit C3, Vol. 5, Document G, p. 1466).

(2) October 3, 1925, agreement from Julia Coll to Connie J. Dorrian and Lloyd W. Fahler (Exhibit D58, Vol. 3, p. 1237).

(3) February 11, 1926, deed, Smith and Russell to Julia Coll (Exhibit G1, Vol. 5, p. 1472).

(4) Demand by Connie J. Dorrian and Lloyd W. Fahler that deed be made to Williams & Davis, Inc. (Vol. 3, pp. 1254-8, and Vol. 4, pp. 1268-1273).

(5) February 13, 1926, deed, Julia Coll to Williams & Davis, Inc. Exhibit H. Vol. 5, p. 1478).

(6) February 15, 1926, $83,506 preferred stock of Williams & Davis, Inc., issued to Connie J. Dorrian and Lloyd W. Fahler (Vol. 2, p. 994, l. 10), with notation "Stock issued for equity of Dorrian and Fahler."

It will be noted that the last agreement of sale to Connie J. Dorrian and Lloyd W. Fahler was on October 16th, 1926. At this time, there was not a semblance of agreement touching New Jersey lands between Connie J. Dorrian and Lloyd W. Fahler and A. Trevor Williams or Harold S. Williams or Gordon Williams or Royden B. Davis, and not until a month later was any such agreement broached (Vol. 1, pp. 66-70). During the month of December, 1925, Connie J. Dorrian and Lloyd W. Fahler executed two powers of attorney, constituting Gordon

Williams Company, agents for sale of Roberts tracts. Neither, however, was acknowledged, and neither was delivered, and the one that called for the signature of Gordon Williams Company was not executed by Gordon Williams Company. In both these powers of attorney, Connie J. Dorrian and Lloyd W. Fahler treat the lands agreed to be purchased by them as their individual property, and Gordon Williams Company were to remit to them individually and not to Williams & Davis, Inc.,— in fact, at that time, Williams and Davis, Inc., was not functioning. It did not begin to function until January 4th, 1926, and on that date an agreement was entered into between Williams & Davis, Inc., and Gordon Williams Company, constituting Gordon Williams Company its sole agent on a commission of 25%.

The next step was the purchase of the Ryon tract. (See testimony of A. Trevor Williams, pp. 495 and 496.)

Ryon Tract: (Purchased by A. Trevor Williams, Vol. 1, p. 499.)

(1) May 10th, 1926, agreement John F. Ryon, executor to Sadie A. Craigen (Exhibit C4, Vol. 5, p. 1482).

(2) Sold to Connie J. Dorrian and Lloyd W. Fahler. Deed by their direction to Williams and Davis, Inc. (Vol. 3, pp. 1254-8, and Vol. 4, p. 1273).

(3) July 9th, 1926, deed Sadie Craigen to Williams and Davis, Inc. (Vol. 5, p. 1485, Exhibit J).

County Tract:

This was a purchase of two acres of land made by Harold S. Williams from Atlantic County, and by him sold to Connie J. Dorrian and Lloyd W. Fahler, with deed made to Williams and Davis, Inc., direct.

The first step was the cashing of a check of Gordon Williams Company by Harold S. Williams on April 3, 1926. Copy of said check follows:

This check is in full payment of the following Bills:
No receipt Necessary
Date Amount
Total
Discount
Net Amount

To The
VENTNOR TRUST COMPANY
55-521 VENTNOR CITY, N. J.

Endorsed:
HAROLD S. WILLIAMS PAID
4-4-26
55-521.

C 36 6/13/28 L. No. 772

GORDON WILLIAMS & COMPANY
Real Estate
SW Corner Iroquois & Atlantic Avenues
Margate City.

Ventnor City, N. J., April 3, 1926

PAY TO THE ORDER OF

CASH $2000 00/100

TWO THOUSAND .....00/100 Dollars

GORDON WILLIAMS & COMPANY
R. B. DAVIS, Vice-President
HAROLD S. WILLIAMS
Secy. & Treas. Vice-President.

The next step is a receipt, dated April 3, 1926, for $600, first payment on account of the county tract, purchase price being $3,000. Copy of said receipt follows:

COUNTY OF ATLANTIC
Department of Law
Suite, 711 Guarantee Trust Building,
ATLANTIC CITY, N. J.

Enoch A. Higbee, County Counsel.
Enoch A. Higbee, Jr., Assistant. April 3rd, 1926.

RECEIVED of Harold S. Williams Six Hundred Dollars ($600.00) on account of purchase price of property sold by the County of Atlantic described in deed from William Krumm, et ux., to the Board of Chosen Freeholders of the County of Atlantic, balance of Twenty-four Hundred Dollars ($2400.00) to be paid when deed is delivered, the purchase price being Three Thousand Dollars. ($3,000.00)
S 21 ID. E A. HIGBEE, COUNTY SOLICITOR.
6/8/28 L.

The next step was a check of Gordon Williams Company, dated May 14, 1926, payable to the order of E. L. Johnson, County Treasurer, for $2,400, making the balance of the purchase moneys of said tract. Copy of said check follows:

This check is in full payment of the following bills:

No Receipt Necessary
Date Amount
Full Settlement,
Gravel Pit,
Somers Point
Total
Discount
Net Amount

To The
VENTNOR TRUST COMPANY
Ventnor City, N. J.

55-521
Certified on face thereof, as follows:

Certified May 14, 1926
At the request of Maker
Good for $2400
When properly endorsed

VENTNOR TRUST COMPANY
VENTNOR CITY
Spurgeon Cross, Treas.

C37 6/13/28 L. No. 826.

GORDON WILLIAMS & COMPANY
Real Estate
SW Corner Iroquois & Atlantic Aves.
Margate City
Ventnor City, N. J., May 14, 1926

PAY TO THE ORDER OF
E. L. Johnson, County Treasurer

00
$2400——
100

TWENTY-FOUR HUNDRED ....00/100 Dollars

GORDON WILLIAMS & COMPANY,
R. B. Davis, Vice-President.
Harold S. Williams,
Secy. & Treas. Vice-President.

Endorsed as follows:
For Deposit Only
To the credit of
E. L. Johnson, Co. Treas.
Pay to the order of
Any Bank, Banker or Trust Co.
Prior Endorsements Guaranteed
May 28, 1926.
Second National Bank
Atlantic City, N. J.
55-141. Oliver C. Core, Cashier.
PAID
6-1-26
55-521

The next step is a deed, by direction of Connie J. Dorrian and Lloyd W. Fahler (Vol. 3, pp. 1254-8, and Vol. 4, p. 1273) from Harold S. Williams and wife to Williams and Davis, Inc. (Exhibit K. Vol. 5, p. 1491).

Appellants contend that Exhibits C28 (Vol. 3, p. 1215), which is a check of Williams and Davis, Inc., bearing date April 6, 1926, for $7,500, and which has a notation in the stub that it is for the 2-acre Del-Rey, is the moneys with which the tract was purchased by Harold S. Williams, disregarding the first payment for the lands having been made by Harold S. Williams from moneys from Gordon Williams Company, received and paid on the third of April, and disregarding the last payment on account of the property, made by check of Gordon Williams Company for $2,400.

If the property had been purchased from Harold S. Williams by Williams and Davis, Inc., and not by Connie J. Dorrian and Lloyd W. Fahler, they would not have sworn in their affidavits that the deed was made to Williams and Davis, Inc., by their direction.

By reference to certain minutes, they argue that the property was paid for by Williams and Davis, Inc., ignoring the fact that the check of Williams and Davis, Inc., was not given until three days after the first payment was made; and ignore the further fact that these minutes of Williams and Davis, Inc., were kept in a loose-leaf book, which had for months previous been in the possession of Louis G. Hart. Neither Harold S. Williams nor Royden B. Davis admitted the truth of any of those minutes, and the testimony shows that before Harold S. Williams returned from California, that this Louis G. Hart, accompanied by Connie J. Dorrian, entered the real estate office of Gordon Williams Company, opened the Gordon Williams Company's safe, took from it checks, papers and other documents, turned them over to Connie J. Dorrian, for his examination and perusal, and permitted Connie J. Dorrian to take such of them as he desired away from the office, and, finally, either Connie J. Dorrian or Louis G. Hart delivered them to Carlton Godfrey, Esq. (Vol. 2, pp. 825-831, pp. 1041-1042-1043 and 1045).

In the case of *New England Mfg. Co. v. VanDyke* (9 Eq. 498), at p. 499, Chancellor Williamson held that the minutes of the Company are not evidence against third parties unless made by the parties or their agents, at their request.

It is submitted that it would be hazardous to rely on those minutes in a case in which Connie J. Dorrian was a party.

Further touching the ledger account, it appeared that on that day, April 3, 1926, there was due to Williams & Davis, Inc., from Gordon Williams Company the sum of $3,737, and that Gordon Williams Company on that day had in bank $42,392.79.

There is no evidence in this case that any trust

funds were used by respondents, or any of them, in the purchase of the properties involved in the four transactions, and no evidence that Gordon Williams Company had in its possession moneys of Williams and Davis, Inc., other than the $3,737, at which time they had in their own bank account $42,392.79.

In the case of *Standish v. Babcock* (52 Eq. 628), Vice-Chancellor Van Fleet held that:

> "When a trustee mingles his own funds with trust funds in an indistinguishable mass, and then takes from the mass a part for his own use, the part taken will be presumed to have been his own, and not that which he held as trustee."

It will be borne in mind that the respondents have not attempted to present their side of this transaction, and that the argument that has been made above is based upon testimony and documents brought out or introduced by the appellants.

42-Acre Tract:

There is one further transaction that should be noted, and that is the purchase by Trevor Williams and sale of the 42-acre tract. The steps in this transaction are:

(1) February 19th, 1926, agreement J. Howard Somers to Louis G. Hart (Vol. 2, p. 650).

(2) April 14th, 1926, deed from Somers to Sadie A. Craigen (Vol. 2, p. 650).

(3) April 24th, 1926 (?), agreement from Louis G. Hart to Sadie A. Craigen (Vol. 2, p. 650).

(4) March 6th, 1926, agreement from Sadie A. Craigen to Connie J. Dorrian (Vol. 2, p. 650).

(5) Demand by Dorrian and Fahler that deed be made to Williams & Davis, Inc. (Vol. 4, p. 1269, and Vol. 4, p. 1273).

(6) Deed Sadie Craigen to Williams & Davis, Inc., at request of Connie J. Dorrian and Lloyd W. Fahler.

(7) March 1st, 1926, $39,000.00 preferred stock for equity of Dorrian and Fahler in land.

Connie J. Dorrian and Lloyd W. Fahler, in their attachment and capias proceedings, included this tract of land as one in which they allege unlawful dealings by respondents. Upon the trial of this case, however, they admit that they have no claim growing out of it. At page 525, l. 3, the testimony of A. Trevor Williams is as follows:

> "Q. Now, did you say and claim, with reference to that at Philadelphia, that while that Somers Estate had been bought in the name of a straw, Sadie Craigen, that transaction was entirely legitimate because in that deal you had used your own money or the money of Gordon Williams and Company to buy it and had actually made settlement before selling to Dorrian and Fahler and Dorrian and Fahler had at once agreed that that was a legitimate contract outside of the claim, and it was given up, and Father Mellon saying that was right?
>
> A. I recall the transaction of that, but that wasn't what was said.
>
> Q. Well, wasn't that the result of it?
>
> A. No, Mr. Phillip Godfrey said that that

claim was legitimate and he would not take it off us."

That transaction was precisely the same kind of transaction and went through the same steps as did the Somers and Smith & Russell tracts. In this last 42-acre tract, Connie J. Dorrian and Lloyd W. Fahler purchased the property and directed the title should be made to Williams & Davis, Inc., and on p. 995, it will be found that they had $39,000.00 worth of preferred stock of Williams and Davis, Inc., issued to them for their equity in the property, just as they had preferred stock issued to them for their equity in the Smith & Russell properties.

The boom collapsed, and thereupon Connie J. Dorrian and Lloyd W. Fahler demand the return of the moneys they paid Trevor Williams for the land they, Dorrian and Fahler, purchased. They make no mention of the stock that they received in payment when they sold the land to Williams & Davis, Inc., and which they still hold, but want A. Trevor Williams to pay them back the price they paid for the equities. There was no fiduciary relation between A. Trevor Williams and them, and they have no more claim on him for these moneys that they paid for the land than does John Doe, or any other third party. It will be borne in mind that this has nothing to do with the Florida contract dated July 20th, 1925, and that contract was not considered in connection with the real estate purchases now complained of by appellants.

At page 158, l. 20, in speaking about the Florida contract, Carlton Godfrey, Esq., said:

"Oh, no, we are holding you on embezzlement from the Williams and Davis and Gordon Williams Company contract, so then it was

agreed that the Florida contract was not to hold. The Florida contract was not to hold, not to be mentioned, and Mr. Williams asked for a certain reduction."

FRAUD, INTIMIDATION, DURESS.

During the real estate boom in Atlantic County, Gordon Williams Company had an exclusive sales agency contract for "Del-Rey" property, with Connie J. Dorrian's and Lloyd W. Fahler's corporation, Williams & Davis, Inc. That agency, during the boom, had been very lucrative, and when the boom collapsed, there was about $1,000,000.00 worth of this property still unsold, and after the Williamses had gone to California in the spring of 1927, and Louis G. Hart had gone into the employ of Connie J. Dorrian and Lloyd W. Fahler about April of that year, they, Connie J. Dorrian and Lloyd W. Fahler, determined to break the sales contract, and to recover, if possible, the moneys they had paid for the "Del-Rey" property, and apparently concluded the most likely method of succeeding in this effort would be by claiming that the seller to them had been their agent, and on this basis build up a case against the Williamses and Royden B. Davis, or some of them, and by threats, intimidation and fraudulent practices and procedure, place them in a position where their liberty would be in jeopardy, and they would be forced either to perform or go to jail.

The four or five transactions where A. Trevor Williams had sold lands either to Connie J. Dorrian, individually, or Connie J. Dorrian and Lloyd W. Fahler, were to form the basis of this attack,

and Louis G. Hart knew that Harold S. Williams was coming back on May 25th, and he also knew that Royden B. Davis had requested that he, Harold S. Williams, come back earlier, and that he, Louis G. Hart, in anticipation, had furnished to Connie J. Dorrian such papers against them as he could find in Gordon Williams Company's safe, and which Connie J. Dorrian took to Carlton Godfrey, Esquire, and a scheme was then devised by which the moneys that had gone into the purchase of these various properties as to joint enterprise on the part of Connie J. Dorrian and Lloyd W. Fahler were in theory separated, and Lloyd W. Fahler, without the slightest evidence in the world of having ever engaged A. Trevor Williams to buy land for him, and without ever having had any agreement with Gordon Williams, Harold S. Williams and Royden B. Davis to buy lands for him in the State of New Jersey, made an affidavit that they were indebted to him in the sum of $77,000, and caused an attachment to be issued for that sum, attaching all of the real estate and mortgages of A. Trevor Williams, Gordon Williams, Harold S. Williams and Royden B. Davis; and Connie J. Dorrian, although he had never engaged A. Trevor Williams to buy or sell a particle of land for him, and had no agreement with Harold S. Williams, Gordon Williams or Royden B. Davis to purchase lands for him as his agent in the State of New Jersey, apparently following similar advice as given Lloyd W. Fahler, made an affidavit that A. Trevor Williams, Harold S. Williams, Gordon Williams and Royden B. Davis were indebted to him in the sum of $77,000, and caused a capias to be issued for each of them, and the bail fixed at $50,000 each.

So that, when Harold S. Williams and A. Trevor

Williams arrived from the west, everything was all set, and Louis G. Hart and Connie J. Dorrian and Lloyd W. Fahler were prepared for them. The attachment had been levied and they only needed to get their hands upon A. Trevor Williams, Harold S. Williams and Royden B. Davis to "Apply the screws," and squeeze out of them, as they thought, the moneys that they had paid for the property, and wring from them a revocation of the "Del-Rey" sales contract.

Their conduct was fraudulent from its very inception. They had never claimed to A. Trevor Williams, Harold S. Williams, Royden B. Davis or Gordon Williams that they or any of them owed them a cent. No demand had ever been made upon them, or any of them. It was a case where they were to be stuck up by fraudulent application of legal process.

Upon learning that the capias had been issued and their properties had been attached, for the purpose of avoiding arrest, A. Trevor Williams, Harold S. Williams and Royden B. Davis went to New York, until they might learn what the trouble was about. Connie J. Dorrian and Lloyd W. Fahler, however, desired to keep their charges secret, and for the purpose of better covering up the fraudulent effort, Carlton Godfrey, Esquire, not only refused to permit Judge Cole to examine the affidavit on which the capias was issued, but held the affidavit off of record after Judge Cole's statement to him that he had no right to thus hold it.

If the capias proceedings were being honestly prosecuted, what reason could there have been for withholding the affidavit from record, and refusing to permit the attorney for one of the interested parties charged in it from learning its contents? How-

ever, they saw that that capias continued to stare the Williamses and Davis in the face until the signatures of A. Trevor Williams, Harold S. Williams and Royden B. Davis were actually affixed to the agreement that they drew, setting aside the sales contract, and obligating A. Trevor Williams, Harold S. Williams and Royden B. Davis to the payment of $190,000.

While the parties were in New York, an arrangement was made for the meeting between the parties in Philadelphia. When the Williamses and Royden B. Davis arrived at this meeting, they were surprised to find present not only the parties whom they had expected, but also Carlton Godfrey, Esq., and William I. Garrison, Esq., with Philip Godfrey and Louis G. Hart, and even before going inside of the hotel where the meeting was to be held, Lloyd W. Fahler met Harold S. Williams on the outside, and Mr. Williams said to him, "What is the trouble?" and Lloyd W. Fahler replied, "We're out to break that contract," and Mr. Williams said, "What is the trouble with the contract?" and Lloyd W. Fahler replied, "We're out to break it," and upon going into the hotel, he met Father Mellon, who was, in fact speaking for Connie J. Dorrian and Lloyd W. Fahler, as will later appear. Mr. Harold S. Williams relates the meeting as follows (p. 246, l. 1):

> "A. Well, I was inside there, with Mrs. Davis, and Father Mellon came in, and I was introduced to Father Mellon. I had never seen him before, and didn't know him, and then Royden Davis came along in the lobby, and Father Mellon went up to him, took him by the hand, and said: 'I am sorry for you, Royden, they have got you and the old man (meaning Harold S. Williams) for embezzlement and Trevor for forgery for twenty years.' "

With that prelude, they entered upon this meeting, which lasted three days.

After they had been in session a short time, questions of legal import arose, and A. Trevor Williams was charged with embezzlement and forgery and demanded his attorneys, stating to them, "This meeting is too legal for me—I want my attorneys," and Carlton Godfrey, Esq., replied, that he would be their attorney and would treat them right, which was fair enough upon its face, and for the time being satisfied them. So, they proceeded with the meeting, and, later, when they were again charged with forgery or embezzlement, again Harold S. Williams demanded his attorneys, stating that he had paid $10,000 for his attorneys, and he wanted them present, and Carlton Godfrey, Esquire, told him that he would prepare an agreement in the rough. and that after that had been done, then they might have their attorneys, which again seemed to appease them, and it was not long before A. Trevor Williams was threatened with jail and charged with forgery, and again he demanded the presence of their attorneys, and Carlton Godfrey, Esq., said that he would tell them when it was time to call their attorneys, and, again, they seemed to be appeased.

And thus it continued during the first two days of that meeting. These parties would be charged with forgery or embezzlement, or threatened with jail, and immediately upon their making a demand for their attorneys, they would be mollified, and continue. This procedure happened a number of times during the first two days, and they were led to believe that when the agreement had been prepared in rough, that they would have their attorneys present to advise them.

On the third day, charges of forgery, embezzle-

ment and jail were renewed against them. The effort that day seemed to be to frighten them into signing the agreement. They were on that date told that Connie J. Dorrian and Lloyd W. Fahler claimed $178,000 forgeries and embezzlement, and Carlton Godfrey, Esq., told them that they would have to settle—that they had them for embezzlement.

Later, when A. Trevor Williams demanded their attorneys, he told that they had him for forgery—twenty years in jail—and they told Mrs. Davis that the capias was still holding, and it would not be safe for her husband to go home.

When it came to the signing of the agreement and A. Trevor Williams held back, Carlton Godfrey, Esq., said to him, "Do you want to go to jail? That's where I am going to send you." When Harold S. Williams said, "I paid $10,000 for attorneys and want them here," Carlton Godfrey, Esquire, said, "It is too late to call your attorneys, now;" and when A. Trevor Williams didn't hand over all the securities that they thought he should, Carlton Godfrey, Esq., said, "I have a good mind to call this off and send you all to jail."

The agreement was practically completed, and A. Trevor Williams demanded the presence of his attorneys, stating that they were in the University Club, in the City of Philadelphia; and Mrs. Davis likewise joined in that demand for Mr. Davis, and Carlton Godfrey, Esq., said to Harold S. Williams, "I understand you have got a sick wife, a very sick wife," and he answered, "Yes," and then Mr. Godfrey said, "You had better sign that agreement, if you know what is good for you, or you might kill your wife, if you go to jail." They were then told that it was too late to bring in their attorneys at that time.

While they were all resisting signing the agreement, Father Mellon went out into the hall, and came back again, and said to them that the capias had been sustained.

When it was time to sign the agreement, A. Trevor Williams said, "This is too legal for me, I must have my attorneys, here. They are at the University Club." Carlton Godfrey said, "It is too late, now, you should have had them here before." Mr. Garrison said to A. Trevor Williams, "You are too young to go to jail. You had better sign this agreement, and we won't prosecute you any more."

Royden B. Davis still hesitated, and Carlton Godfrey, Esq., stepped beside him, looking at Royden B. Davis, but tapping Mrs. Davis on the hand with his fingers, said, "I am not here to advise you, but my advice is for you to sign that agreement, and at once," and it was signed.

When Harold S. Williams was asked by counsel why he signed in the absence of his attorneys, after they had refused to have them there, he said, "I had a sick wife in California, and our son was charged with forgery, and I was charged with embezzlement, and I was sick myself, and the threats that they had made right during the whole meeting—and I signed the agreement." Asked "Why?" he said, "For fear." Asked for fear of what, he said, "Of going to jail."

Royden B. Davis said that Father Mellon said the capias had been sustained, and appealed to Mr. Godfrey, who said that that was so, and "That the capias being sustained, and everything against me, I just signed."

In reply to what was your physical condition at that time, he said, "Well, I would have, with the thought of jail hanging over me, and something, and

feeling that I had not done anything morally wrong, I would have signed anything."

A. Trevor Williams, in answer to the question, "What effect upon you did these threats of forgery and twenty years and embezzlement and secret profits, and so on, have?" answered, "I was so frightened I couldn't sleep or eat, and I never did sleep or eat, and I couldn't even—I was so scared, I didn't know what was going to happen the next minute. I thought they were going to pick me up and take me down to jail—I didn't know what was going to happen."

BREAKING OF SALES CONTRACT.

One of the objects which the appellants were determined to accomplish at the meeting was the breaking of the sales agreement, bearing date the 4th of January, 1926, between Williams & Davis, Inc., and Gordon Williams Company, referring throughout the body of it to the "Del-Rey" tract. In this contract, Gordon Williams Company is given an exclusive sales agency ~~for the period of two years~~, at a commission of 25% of the selling price of the lands sold.

Of the lands then sold by Gordon Williams Company, amounting to a very considerable sum, Gordon Williams Company had received 25% and Connie J. Dorrian and Lloyd W. Fahler became convinced that the commission was too high, and that that contract was not a good one for them, and they were determined to get clear of it. The testimony touching it is found, first, on p. 147, l. 33, John B. Scanlan testified:

> "Q. When did you first become interested in that transaction?

A. Well, really it was about the Sunday before the attachment and the capias was issued, that was issued on Saturday, this was the Sunday preceding that Mr. Dorrian and I were in the Margate Office and Mr. Dorrian told me that Mr. Williams' absence, his going to California had caused ——

A. Mr. Williams' absence. Mr. Williams had gone to California. In his absence he thought that the firm was not run right. He didn't like the way the things were going. He stated Gordon Williams' name would have to come off the window and he had evidence to put the Williamses in jail and he had evidence to break the contract between Williams and Davis Company and Gordon Williams Company. So the following Saturday Mr. Williams was to come back on the twenty-fifth, I think; this was around the fourteenth or so, this Saturday, there was a capias issued for Mr. Harold Williams and Mr. Trevor Williams and Mr. Royden B. Davis.''

Harold S. Williams (p. 245, l. 25), testifying about meeting Mr. Fahler before the meeting in the Hotel Vendig, said:

''A. The first party I met was Mr. Fahler outside. I said, 'What is the trouble?' He said, 'We are out to break that contract.' I said, 'What is the trouble with the contract?' 'Well,' he says, 'We are out to break it.' That is all he said about it.

Q. Did he say what contract?

A. Well, there was only one contract I knew of and that was the 'Del-Rey' contract.''

Royden B. Davis testified (Vol. 1, p. 579, l. 10), as follows:

"Q. I understand you to say your first visit to Carlton Godfrey's office after Mr. Harold Williams and the other Williamses had all left was in reference to the so-called County, Ryon, Smith & Russell transactions?

A. No. It was in regard to breaking the contract on the 'Del-Rey,' selling the 'Del-Rey.'

Q. Did you suggest that Hart should go, or did Hart suggest that you should go?

A. Hart suggested that I should go."

Louis G. Hart testified (Vol. 2, p. 782), concerning a meeting of the Williams and Davis, Inc. (l. 13), as follows:

"Q. Who was present at that meeting?

A. Mr. and Mrs. Dorrian, Mrs. Dorrian, Mr. Mulhern, Jack Scanlan, Mr. Stringer, as attorney for Mr. Scanlan, Mr. Dug. Besore, Mr. T. J. Mahoney, Jr., came in after the meeting started, I believe, but they were not stockholders, the last two, neither was Stringer."

At l. 30, he was asked:

"Q. Now, what was stated at that meeting?

* * * * * * *

A. (p. 785, l. 19): I brought it to the attention of the meeting.

* * * * * * *

A. (p. 786, l. 1): Well, there is a capias, been issued for ——

* * * * * * *

A. (p. 786, l. 8): This is what I said, yes. 'There has been a capias issued' * * * * * And I suggested that a resolution or motion be

offered to rescind the contract between Gordon Williams and Company ——"

That appellants considered the existence of this contract an important matter to them may be evidenced by the fact that when they drew the agreement of June 1st, 1927, the matters first covered were the abrogation of these several contracts. That agreement is found in Vol. 1, p. 39, and at p. 30, it provides:

"WHEREAS, the said Royden B. Davis, Harold S. Williams and Gordon Williams did become the representatives, brokers or agents of the said Connie J. Dorrian and Lloyd W. Fahler, for the purchase, development and sale of real estate in the State of New Jersey and the State of Florida, under the foregoing agreements or indentures in writing, viz.:

A. Agreement between Connie J. Dorrian (recited in said agreement as Connie J. Dorrian) of the first part and Royden B. Davis, Harold S. Williams and Gordon Williams, parties of the second part, dated July 20, 1925, a copy of which agreement is attached hereto.

B. Agency agreement or contract between Connie J. Dorrian and Annie Dorrian, his wife; Lloyd W. Fahler and Mary Kaier Fahler, his wife, grantors, and Gordon Williams & Company, dated December , 1925, a copy of which agreement or contract is attached hereto.

C. Agency agreement or contract between Connie J. Dorrian and Annie D., his wife, and Lloyd W. Fahler and Mary Kaier Fahler, his wife, grantors, and Gordon Williams & Company, dated December , 1925, a copy of which agreement is attached hereto.

D. Agreement between Williams and Davis, Inc., a corporation of New Jersey, party of the

first part and Gordon Williams & Co., a corporation of New Jersey, party of the second part, dated January 4, 1926, a copy of which agreement is attached hereto.

* * * * * * *

(p. 42, l. 23): NOW, THEREFORE, in consideration of the premises and of the sum of one dollar duly paid by each of the parties hereto to the other party respectively, and of the further sum of one hundred and ninety thousand ($190,000) dollars, paid and to be paid by the said Gordon Williams, Harold S. Williams, A. Trevor Williams and Royden B. Davis to the said Williams and Davis, Inc., Connie J. Dorrian and Lloyd W. Fahler at the times and in the manner and form as herein recited, the parties hereto do hereby agree with each other as follows:

1. The agreements, contracts or indentures hereinbefore recited or referred to, and all other agreements, contracts or indentures of similar purport between the said Williams and Davis, Inc., Connie J. Dorrian and Lloyd W. Fahler, and the remaining parties hereto or any of them are hereby terminated and cease to exist as of May 25, 1927, and all rights of the parties hereto or any of them against the other parties hereto or any of them, shall cease to exist as of May 26, 1927.''

This testimony is nowhere contradicted, and the case of *Hart v. Lamborne* (98 Eq. 707), has no application to it, and it is submitted that the decree setting aside the agreement of June 1st, 1927, was a just and equitable decree and properly entered.

In 3 *Williston on Contracts,* p. 2835, Sec. 1607, the writer states the rule as follows:

> "Means in themselves lawful must not be so oppressively used as to amount to an abuse of legal remedies. Though attachment is in itself lawful, if an attachment is excessive, or of perishable property, or is made under circumstances which make it difficult for the defendant to avoid yielding to any demands, the use of the attachment for the purpose of enforcing extortionate or collateral demands is abusive, and transactions coerced by such means are voidable."

In the case of *Chandler v. Sanger* (114 Mass. 364), the Supreme Court held:

> "A payment by a person to free his goods from an attachment put on for the purpose of extorting money by one who knows that he has no cause of action, is a payment under duress, and the money can be recovered back in an action for money had and received, without proof of the determination of the suit in which the attachment was made."

In the case of *Spaids v. Barrett* (57 Ill. 289), the Supreme Court of Illinois held:

> "Where goods requiring special care, and of a perishable nature, were wrongfully taken and kept from the owner thereof by means of a writ of attachment fraudulently obtained, and were rapidly going to destruction, and the party in possession refused to surrender the goods on payment of the sum actually due, demanding more than twice that amount, and, in addition thereto, a release from all damage for his wrongful acts, and the defendant in the attachment, to obtain possession of his property, paid the sum demanded and executed the release, it

was *held,* in an action on the case for wrongfully suing out the attachment, a release executed under such circumstances could be avoided on the grounds of duress."

The meeting between the parties was arranged through Mr. Scanlan, and the object of the meeting, as understood by Mr. Harold S. Williams was as follows (p. 244, l. 21):

"Q. What was the object, as you understood, of that meeting?

A. It was to find out what all the trouble was about."

At p. 441, l. 35, A. Trevor Williams testified as follows:

"Q. And while you were there (New York) did you have some explanation or some message delivered to you about the matter?

A. I never did, only that you and Judge Cole were trying to ascertain what the trouble was."

At p. 443, l. 7, he testified as follows:

"A. I went over to Philadelphia to a meeting with Mr. Davis."

At l. 20, he testified:

"Q. What did you understand you were going over there for?

A. I understood I was going over to find out what the charges were that were brought against us."

Royden B. Davis, on p. 565, l. 30, testified as follows:

"Q. Was there anything said as to why or what you were going to meet about?

A. Well, as I understood it, we were going over to meet Father Mellon and Mr. Dorrian and talk the situation over in regard to this capias and attachment."

METHODS USED TO INTIMIDATE THEN TO MOLLIFY RESPONDENTS.

The parties met at the Hotel Vendig on the 30th of May, 1927, and before entering into the meeting, Harold S. Williams met Mr. Fahler and was introduced to Father Mellon. He testified as follows (p. 245, l. 28):

"A. The first party I met was Mr. Fahler outside. I said, 'What is the trouble?' He said, 'We are out to break that contract.' I said, 'What is the trouble with the contract?' 'Well,' he says, 'We are out to break it.' That is all he said about it."

At p. 246, l. 2, he testified as follows:

"A. Well, I was inside there with Mrs. Davis and Father Mellon came in and I was introduced to Father Mellon, I had never seen him before and didn't know him, and then Royden Davis came along in the lobby, and Father Mellon went to him, shook him by the hand, and he says, 'I am sorry for you, Royden, they have got you and the old man (meaning Harold S. Williams) for embezzlement, and Trevor for forgery for twenty years.'"

A. Trevor Williams, at p. 444, l. 7, testified as follows:

"A. Well, when I met Father Mellon, my father was with me and Mr. Davis, and Father

Mellon addressed Mr. Davis by saying, 'I am sorry for you, Royden. They have got you and Mr. Williams for embezzlement and they have that young man for forgery for twenty years.' "

Royden B. Davis, at p. 567, l. 3, testified as follows:

"Q. You spoke to Father Mellon and what then happened?

A. He said, 'Hello, Royden, I am sorry for you.' He said, 'They have got Trevor for twenty years and they got you and the old man for embezzlement.' "

Mr. Scanlan, who had been instrumental in arranging the meeting, and who was present, testified fully concerning that meeting. After explaining how he brought the parties together, he testified (p. 153, l. 16), as follows:

"A. At the conference Mr. Williams asked to see the charges, the embezzlement charges that were to put him in jail and Trevor Williams asked to see the forgeries, charges on which he was to go to jail for twenty years.

Q. Let me interrupt you just a minute—what was the object of this meeting that you were going to have? What was the object stated between Mr. Mellon and you—you got them together? Now, what was the object of the meeting?

A. So that all the charges could be brought forth and, if possible, have a settlement.

Q. And that was the reason you say that they asked to see the charges?

A. Wanted to see the charges, sure."

At p. 154, l. 10, he testified as follows:

"Q. Yes, what led up to Trevor wanting to see the charges on which he was to go to jail for twenty years?

A. Mr. Philip Godfrey said, 'The whole amount is $178,000 and we have here all the papers that will show that you fraudulently took $178,000 from Mr. Dorrian and Mr. Fahler.' So Trevor asked to see the forgeries that were claimed.

Q. Who claimed the forgeries?

A. Mr. Philip Godfrey and Mr. Carlton Godfrey.

Q. What did they say?

A. They said that, 'We have here these forgeries on which we claim $178,000, forgeries and embezzlement.'

Q. Who said that?

A. Mr. Philip Godfrey."

At p. 156, l. 20, he testified as follows:

"Q. Now, you are speaking about embezzlement; what was said about embezzlement?

A. Why, Mr. Carlton Godfrey told Mr. Davis and Mr. Harold Williams, that they would have to settle, that they had them for embezzlement.

Q. In what?

A. They didn't state the case, just said, 'I have you for embezzlement,' you see, and later Mr. Hart brought up the paper of the two acre tract and had a check showing $7500, I believe, said that Mr. Davis had signed this, so he was guilty of embezzlement, and Mr. Harold Williams had signed this, so he was guilty of embezzlement.

Q. Now, Mr. Dorrian and Mr. Fahler seemed to have had their lawyers there. Was there

anything said about that fact because the lawyers were there?

A. Mr. Williams said, 'I paid ten thousand dollars for attorneys and I want to have them here. He didn't expect this kind of a meeting.' And Mr. Carlton Godfrey said, 'Oh, that is all right, I will be your attorney, and you will see that I treat you fair.' So later, Trevor, when Trevor was asked to sign his brother's mortgages, he said, 'This meeting is too legal for me. I want my attorney here,' and Mr. Carlton Godfrey said, 'I will tell you when to call your attorney.' ''

At p. 157, l. 33, he testified as follows:

''A. At the second meeting Mr. Carlton Godfrey said, 'We will draw up an agreement of settlement' and Mr. Harold Williams objected, and he said, 'Well, that is all right,' Mr. Harold Williams said, 'I want my attorneys here, if you are going to draw up any agreement,' and Mr. Carlton Godfrey said, 'I will draw up the agreement in the rough and take all the rough edges off and then you can have your attorneys.' So that was agreed to be all right. So during that meeting—let's see what happened—during that meeting Mr. Williams said that the contract, Mr. Godfrey said that the contract would have to be broken and Mr. Williams said, 'The Florida contract?' And he said, 'Both contracts.' He said, 'Well, under that Florida contract you are to receive a third of all the profits you made and that would amount to about forty thousand dollars, that you made about a hundred and twenty thousand dollars speculating in Margate, and in the Florida contract we were to receive a third of that.' So

Mr. Dorrian said, 'Oh, no, I will take you to court on that first.' So Mr. Williams said, 'Well, that was the contract, if that is the contract you are holding us to,' and Mr. Carlton Godfrey said, 'Oh, no, we are holding you on embezzlement from the Williams and Davis and Gordon Williams Company contract, so that it was agreed that the Florida contract was not to hold.' "

At p. 159, l. 4, he testified as follows:

"A. After this argument, Mr. Williams and I went out and got some aromatic spirits of ammonia for Mr. Williams at Father Mellon's suggestion, he was very sick.

Q. Which Williams, please?

A. Mr. Harold Williams.

Q. Won't you give the names?

A. I will, yes."

At p. 159, l. 35, he testified as follows:

"Q. All right, what did they say at that meeting?

A. At the last meeting a contract or agreement was already drawn up and Mr. Carlton Godfrey said, 'I will read over this agreement and then you can sign it,' and Mr. Williams said, 'Oh, no, we can't sign any agreement without any attorneys.'

The Court: Which Williams?

A. Mr. Harold Williams, and Mr. Godfrey said, 'It is too late.' Mr. Carlton Godfrey said, 'It is too late to call your attorneys now. The time to call them was before all this paper was drawn up,' so Mr. Williams just sat down, then Mr. Carlton Godfrey proceeded to read a very lengthy legal agreement, and Trevor said, Tre-

vor Williams said, 'This is all too legal. Our attorneys are right in the University Club, and I want to call them,' and Mr. Philip Godfrey and Mr. Carlton Godfrey became excited, and said, 'Oh, no, no, it is too late to call your attorneys now.' So they proceeded, Mr. Carlton Godfrey got tired reading the agreement, and it was given to Dr. Mellon who finished reading it.''

At p. 161, l. 7, he testified as follows:

''Q. You recall if Dr. Mellon was out in the hall just prior to the signing of the agreement?

A. Yes, Dr. Mellon was out in the hall.

Q. Do you remember he came in from the hall just before the agreement was signed?

A. Yes.

Q. Do you remember if he said anything?

A. Oh, Father Mellon went out in conference with Mr. Garrison and Mr. Carlton Godfrey and Mr. Dorrian and came in and said, 'The capias has been sustained by the Supreme Court Justice.'

Q. Just before the agreement was signed was there anything said about their attorneys again?

A. Mr. Trevor Williams said, 'I can't sign without my attorneys.'

Q. What answer was given to that?

A. 'It is too late to call your attorneys now. We have you for forgery, twenty years in jail.'

Mr. McCarter: Who said that, please?

A. Mr. Carlton Godfrey.

Q. Then the agreement was signed?

A. That was signed.''

At p. 162, l. 1, he testified as follows:

"Q. But was there anything said about the attorneys by Mrs. Davis?

A. Mrs. Davis said that—before Mr. Davis signed the contract Mrs. Davis said, 'Don't sign that, Judge Cole is right in the University Club, let me call him,' and Mr. Davis just didn't pay much attention, was nervous.

Q. What did Mr. Godfrey or Mr. Mellon do or say?

A. Mr. Carlton Godfrey said, 'It is best for you to sign this. I am not here to advise you, but you better sign this. We have your husband for embezzlement.' "

At p. 163, l. 20, he testified as follows:

"Q. Now, was there any statement made as to when it was to be put up, they say anything about when?

A. Mr. Godfrey said, 'Well, put that up now, that will cover you,'—Mr. Carlton Godfrey—'—put that up now, that will keep you from going to jail.' "

At p. 164, l. 12, he testified as follows:

"A. Mrs. Davis asked each day if Mr. Davis could come home to the kiddies, and each day Mr. Carlton Godfrey and Mr. Garrison would say, 'The capias is still holding and it wouldn't be safe for him to go home.'

Q. And then when it came to the statement by Dr. Mellon just before it was signed, who was present when he made that statement, 'The Supreme Court has sustained the capias?'

A. Everyone was present.

Q. What did he say? Did he refer to anyone about it?

A. Father Mellon, of course, referred to Mr. Carlton Godfrey, and Mr. Garrison, and Mr. Dorrian, who said, 'Yes,' asked if that were true, if the capias had been sustained, and they said, 'Yes.' ''

At p. 165, l. 20, he testified as follows:

''Q. What was the condition of Mr. Williams —I mean Mr. Davis, if you know?

A. Mr. Davis was very quiet and very nervous, didn't say anything during the whole meetings.

Q. What was the condition of Trevor?

A. Trevor was very nervous, but whenever he would go to say anything his father would become more nervous, he seemed worried about his father.''

At p. 166, l. 2, he testified as follows:

''Q. What was his (Harold S. Williams') condition—which day was that, the first or the second?

A. The second day.

Q. What was his condition on the third day?

A. Well, the third day Mr. Williams was very, very nervous and didn't talk very much the third day.

Q. What, if anything, did Dr. Mellon say to you on the night of the second day, touching him?

A. Dr. Mellon told Trevor in my presence, 'You had better put your father in bed in the Hotel Vendig and don't take him out.' ''

At p. 166, l. 25, he testified as follows:

''Q. Can you tell me whether or not Mr. Dorrian and Mr. Fahler or Mr. Godfrey or Mr.

Hart and Mr. Philip Godfrey knew who the attorneys were of Davis and Williams?

A. I told Mr. Carlton Godfrey and Mr. Garrison and Mr. Philip Godfrey that Judge Cole was Mr. Davis' attorney and Bourgeois and Coulomb were the attorneys for Mr. Trevor Williams and Mr. Harold Williams.

Q. When did you tell them that?

A. The first—I told Mr. Carlton Godfrey at Mr. Dorrian's house Sunday before the meeting.

Q. Before the meeting?

A. Yes.

Q. When did you tell Mr. Garrison and Mr. Philip Godfrey?

A. At the first meeting there.

Q. And the night that the paper was signed did they know who the lawyers were who were waiting to come there?

Mr. McCarter: One moment. How can he say that they knew?

Mr. Bourgeois: I will change that.

Q. Was anything said to them as to who Mr. Davis, and Mr. Williams' lawyers were and where they were?

A. I said, 'Mr. Bourgeois and Judge Cole are at the University Club waiting to come over here,' and Mr. Philip Godfrey said, 'You better talk to father.' I told Mr. Carlton Godfrey that Mr. Bourgeois and Judge Cole were at the University Club. He said, 'It is too late for attorneys now, too late, too late,' and Mrs. Davis became excited and said, 'They are right in this hotel. I want to call them in,' and Father Mellon told Mrs. Davis to sit down and keep quiet.''

At p. 174, l. 22, he testified as follows:

"Q. Well, pursuant to Mr. Davis' instruction, did you employ Judge Cole?

A. Yes.

Q. When?

A. Went directly to Judge Cole when Mr. Davis called me.

Q. When was that?

A. Saturday.

Q. Saturday? The week after ——

A. The same day the capias was issued.

Q. So, that Judge Cole from the day the capias was issued had been retained by Mr. Davis through you to look after their interest, his interest?

A. Yes.

Q. What?

A. Yes.

Q. Now, did you get any message from the Messrs. Williams to communicate with Mr. Bourgeois?

A. Yes.

Q. Yes. And when was that?

A. Sunday.

Q. The next day, the very next day?

A. Following day, yes."

At p. 176, l. 23, he testified as follows:

"Q. Now, who were the attorneys present on that occasion?

A. Mr. Garrison, Mr. Carlton Godfrey.

Q. Who else?

A. Mr. Bourgeois, Judge Cole.

Q. Then on that occasion Mr. Garrison and Mr. Bourgeois and Mr. Carlton Godfrey both knew that Mr. Bourgeois and Mr. Cole were the attorneys of the respective parties, didn't they?

A. Yes."

At p. 178, l. 25, he testified as follows:

"Q. And Mrs. Davis, who is a Roman Catholic, suggested you interesting Father Mellon in this matter, didn't she?

A. Yes.

Q. And told you to see him?

A. Yes.

Q. And to see if he would not act as intermediary?

A. Yes.

Q. And somehow or other bring about an adjustment of the difficulties that were obtaining between these parties?

A. To have a meeting to find out what charges and see if an adjustment could be made."

At p. 180, l. 2, he testified as follows:

"Q. So you went to see Father Mellon?

A. Yes.

Q. What did you tell him?

A. I told Father Mellon that Mrs. Davis had called me up and asked if he would not talk to Connie Dorrian to see if they could not come together, and Father Mellon agreed that he would talk to Connie Dorrian, and that evening Father Mellon and Connie Dorrian came down to the house and asked me to come down to Mr. Dorrian's house. I went down to Mr. Dorrian's house and I asked Mr. Dorrian, 'Is Mr. Godfrey going to be here?' He said, 'Oh, yes, we have to have the old bull dog here,' and Mr. Carlton Godfrey was at this meeting. So at this meeting at Mr. Dorrian's house Mr. Carlton Godfrey asked me if I would guaran-

tee that Mr. Harold Williams, Mr. Trevor Williams and Mr. Davis would be at a meeting in Philadelphia.

Q. What is that?

A. Mr. Carlton Godfrey asked if I would guarantee Mr. Harold Williams, Mr. Trevor Williams and Mr. Davis would be at this meeting in Philadelphia we were planning.

Q. Was that the first thing that was said in your presence?

A. The first thing? That is the first thing, yes, as I remember.

Q. Were you there all the time with Mr. Carlton Godfrey and Mr. Dorrian and Father Mellon were together?

A. No, Mr. Connie Dorrian and Father Mellon came up and got me and brought me down. They had been together before."

At p. 204, l. 22, he testified as follows:

"Q. I want what transpired.

A. Mr. Harold Williams objected to the kind of meeting, he didn't expect a legal meeting, he expected just Mr. Dorrian, Dr. Mellon, and to just have a meeting to look over the charges. He didn't expect to find ——

Q. Did he say he didn't expect to see any lawyers there?

A. He didn't expect a legal meeting.

Q. He didn't expect a legal meeting, what else did he say?

A. He said, 'We paid ten thousand dollars for lawyers,' and if it is a legal meeting he wanted his lawyers. 'I want my lawyers.' "

At p. 208, l. 34, he testified as follows:

"A. The morning of the third day I talked with Judge Cole.

Q. Where?
A. In Judge Cole's office.
Q. In Atlantic City?
A. Yes.
Q. Before you went to Philadelphia?
A. Yes.
Q. Did you take him up with you?
A. No.
Q. Why not?
A. Why not?
Q. Yes.
A. Because Mr. Carlton Godfrey had said we will get the contract together, all the rough edges off and your attorneys can come in, so I talked with Judge Cole.
Q. You have given us the reason?
A. Sure.
Q. Did you communicate, did you see Mr. Bourgeois?
A. No."

At p. 215, l. 1, he testified as follows:

"A. Yes.
Q. Where were Judge Cole and Mr. Bourgeois so far as you knew during that time?
A. At that time, late afternoon, in the University Club.
Q. That was on the third day?
A. Yes."

At p. 216, l. 14, he testified as follows:

"Q. You repeat what he said.
A. He said, 'I told Mr. Williams that Judge Cole and Mr. Bourgeois were at the University Club,' and he said, 'I have a sick wife in California,' and he was very nervous, and he said,

'If I go to jail it will kill her,' just pushed me away from him.

Q. That is all that was said?

A. That is what he said."

At p. 217, l. 1, he further testified as follows:

"Q. What did Davis say?

A. Davis said he would do anything not to go to jail.

Q. He what?

A. He would part with anything not to go to jail.

Q. Was there a telephone in this room, 101?

A. Yes.

Q. To whom else did you speak beside Harold Williams and Mr. Davis in reference to Mr. Cole, Judge Cole—I keep saying Mr. Cole, Judge Cole and Mr. Bourgeois being over to the University Club?

A. I told Philip Godfrey and he told me to tell Carlton Godfrey. I told Carlton Godfrey and he said, 'It is too late for attorneys now. They should have been here before.'

Q. That was the third day?

A. Third day.

Q. In whose presence was that remark that you have just stated Carlton made?

A. In whose presence? It was made right in the meeting.

Q. Who heard it, so far as you know?

A. Who heard it? I don't know who heard it.

Q. Said right at the table?

A. It was said right at the table.

Q. Do you remember Mr. Garrison coming in from the corridor and tell Mr. Godfrey that it had been suggested that some lawyers be sent

for, possibly Judge Cole and Mr. Bourgeois and that Mr. Godfrey replied, 'Why that is perfectly satisfactory, send for them,' and Mr. Harold Williams said, 'We don't want any lawyers'?

A. No, I didn't hear that.

Q. Didn't hear that?

A. No."

At p. 219, l. 19, he testified as follows:

"Q. Did you have any talk with Mr. Garrison anywhere?

A. At the meeting I talked with Mr. Garrison and Mr. Carlton Godfrey and everybody there that Judge Cole and Mr. Bourgeois were at the University Club, told them that.

Q. Told that to Mr. Garrison?

A. Sure.

Q. What did Mr. Garrison say?

A. He didn't say anything to me.

Q. He didn't say anything to you? When was it that you told Mr. Garrison and Mr. Godfrey that Judge Cole and Mr. Bourgeois were at the University Club?

A. The third day."

At p. 230, l. 3, he further testified:

"Q. Now, Mr. Scanlan, do you remember an incident wherein Trevor Williams said, 'Dr. Mellon, did you hear that?' and another person, 'Did you hear that?'

A. That was Trevor Williams didn't have all the securities with him and he said some of them are in New York and some of them are in California and Mr. Carlton Godfrey said, 'You are a liar,' and Trevor says, 'No.' And he said, 'Now, you get those securities and get

them in four hours,' and Trevor says, 'It will be impossible to get them in four hours.' He said, 'You will get them or I will put you in jail for twenty years.' And Trevor says, 'Did you hear that, Mr. Davis?' 'Did you hear that, Mrs. Davis?' 'Did you hear that Dr. Mellon?' 'Did you hear that, Jack?' And we all answered, 'Yes.' ''

At p. 245, l. 25, Harold S. Williams testified as follows:

''Q. Will you tell me what took place at those meetings the best you can remember and how the people met you?

A. The first party I met was Mr. Fahler outside. I said, ''What is the trouble?' He said, 'We are out to break that contract.' I said, 'What is the trouble with the contract?' Well he says, 'We are out to break it.' That is all he said about it.

Q. Did he say what contract?

A. Well, there was only one contract I knew of and that was the ''Del-Rey'' contract.

Q. Then when you went inside you met whom?

A. Well, I was inside there with Mrs Davis and Father Mellon came in and I was introduced to Father Mellon, I had never seen him before and didn't know him, and then Royden Davis came along in the lobby, and Father Mellon went to him, shook him by the hand, and he says, 'I am sorry for you, Royden, they have got you and the old man for embezzlement, and Trevor for forgery for twenty years.' Well, that knocked me cold, you know.''

On p. 246, l. 19, he further testified:

"Q. When you got up-stairs what took place?

A. Well, they were sitting around a table, they all sat around a table, Hart, Mulhern were not in the room, I don't think, not the first day, the rest of them were in the room, and I said to Mr. Godfrey, Mr. Godfrey over there, the senior Mr. Carlton Godfrey, I said, 'Why, we are not represented here by attorneys.' He says, 'I will be your attorney.'

Q. He would be your attorney?

A. 'I will be your attorney.'

A. And I persisted and he says, 'Now, it is all right, I will tell you when to call them,' and I don't know what they did then, my memory is completely gone on that first day.

Q. Now, then do you recall Phil Godfrey going over something with Trevor?

A. I think that was on the second day. Yes, that was on the second day.

Q. All right, I don't care about the days. Tell me what happened.

A. He went over the very same papers there, they were assignments and bonds, I think they were, and checks, he says, and agreements of sale, two of them, he says, 'That is forgery, that is the forgery,' and I don't remember ——

Q. Let me ask you this, you went there to find out what those charges were about; did you find out?

A. No, never did.

Q. What did they say about it?

A. We asked them what the trouble was.

Q. Yes.

A. And they said we had been using straws. Well, Trevor said, 'Well, that is no crime to use straws.' And then Carlton Godfrey gave

Father Mellon the definition of a straw, if I can remember it—I don't think I can remember it——

Q. All right, he gave the definition of a straw?

A. Yes.

Q. And what followed that?

A. And Father Mellon said that was dishonest to buy in one name and sell it, if it was not in your own name.

Q. What did Trevor say?

A. And Trevor put up an argument with Father Mellon and said it was not so."

At p. 248, l. 18, he further testified as follows:

"Q. What had taken place, Mr. Williams?

A. He hadn't threatened so much.

Q. Threatened?

A. Yes.

Mr. McCarter: I object.

The Court: I sustain the objection.

Q. Tell me what threats had been used.

A. He was told they had him for forgery.

Q. Who told him that?

A. Carlton Godfrey, and also told me that they had me for embezzlement.

Q. There was one time when there was something said to Trevor and he turned and asked some other people if they heard it, do you remember what that was?

A. Why, they said to him—I heard them say to him, 'Do you want to go to jail?' 'Do you want to go to jail?' 'That is where I am going to put you.' Carlton Godfrey said that."

At p. 249, l. 10, he further testified:

"Q. What had produced that effect upon you?

A. Why the threats that I had heard, what they said they had got us for, and the capias that they had out for us, that we didn't know anything about, that they weren't listed, and when I was out in the hall there, I would walk out in the room, I was distracted, I would walk out of the room, sometimes, and go back again, and Carlton Godfrey met me in the hall, and he says, 'I understand you have got a very sick wife.' This was before the agreement was signed, and I said, 'Yes.' Well, he said, 'You had better sign that agreement, if you know what is good for you or you might kill you wife if you go to jail.'

Q. If you go to jail?

A. If you go to jail.

Q. That was before the agreement was signed?

A. Yes.

Q. Now, on the second day was there anything said about attorneys?

A. Oh, yes, we asked for attorneys. I said, I think it was on the second day, I said that I had paid nearly ten thousand dollars for attorneys, but I wanted them here.

Q. What did they say?

Mr. McCarter: Now, they?

Q. Whoever it was. Tell us who it was, what was said and who said it.

A. Carlton Godfrey said it.

Q. What did he say?

A. He said, 'We are drawing the agreement' —this is the second day—'We are drawing this agreement in the rough and when it is ready you can call your attorneys.'

Q. Now, was there ever a time when they

said you can have your attorneys until the last day just before the signing of the agreement?

A. No.

Q. In other words up to that time you assumed you could have them?

A. We assumed we could have them."

At p. 251, l. 23, he further testified:

"Q. Now, on the third day when it came up just before the signing of the agreement. what was said, if anything, with relation to attorneys, and what was said, if anything, by Dr. Mellon?

A. Why, we were told it was too late for attorneys.

Q. Don't tell that. Tell me how it came about.

A. Well, we asked for our attorneys."

At p. 252, l. 5, he testified as follows:

"A. I—Trevor said that his attorneys were over at the University Club and that he wanted them there and they said it was too late for attorneys now, you sign the agreement.

Q. Then what was said, if anything, or did Dr. Mellon say about that?

A. Dr. Mellon, just before we started the agreement was in the hall, and I walked out in the hall, and I was walking in and out there, and he was talking to Mr. Fahler and Mr. Dorrian, and he came in, and Carlton Godfrey and Garrison, Mr. Garrison and he walked in, Father Mellon sit at the head of the table and said the Supreme Court had sustained the capias.

Q. Then what else did he say?

A. 'Isn't that right, gentlemen?' And Carl-

ton Godfrey said yes and Mr. Garrison said yes, and I didn't notice anybody else."

At p. 253, l. 20, he testified as follows:

"Q. Now, Mr. Williams, do you recall an incident when Trevor—Mr. Godfrey was having some disagreement with Trevor about his securities and Mr. Godfrey spoke about calling the whole thing off?

A. Oh, yes, I do. He said, 'I have a good mind to call this off and send you all to jail.' "

At p. 255, l. 1, he testified as follows:

"Q. After all these meetings had been concluded and all the discussion that was had had taken place, were you conscious of having done anything that was illegal?

A. No.

Q. Would you have signed that agreement if the threats that had been made against you or if the statements on which the capias had been issued had been stated to you?

Mr. McCarter: I object.

A. No."

At p. 259, l. 22, he testified:

"Q. Would you have executed that agreement if the threats that had been made against you that they had you for embezzlement and were going to send you to jail, if that is what it was, had not been made?

Mr. McCarter: I object to the question.

The Court: I will permit the question.

(Question repeated.)

A. No."

At p. 261, l. 2, he testified as follows:

"Q. Now, how was it that you did not have your attorneys there? You say that you asked for them and Mr. Godfrey said that he would be your attorney, and you asked again and he said, 'Well, when the agreement is straightened out you will have them come in?'

A. 'I will tell you when to call them,' he said.

Q. Now, did he tell you when to call them?

A. No.

Q. Did he ever tell you when to call them?

A. No, sir.

Q. When the agreement was finally concluded what did you say then about it?

A. I said I had spent ten thousand dollars on attorneys.

Q. And what?

A. And we ought to have them in there. He said, 'It is too late now.'

Q. Now, after he had refused to let you have the attorneys if you would want them, why did you sign the contract?

Mr. McCarter: I object.

The Court: I will permit it.

A. I had a sick wife in California, and my son was charged with forgery and I was charged with embezzlement, and I was so sick myself, and the threats that they had made right during the whole meeting, and I signed the agreement.

Q. Why?

A. For fear.

Q. For fear?

A. Yes.

Q. Fear for what?

A. Fear of going to jail."

At p. 275, l. 12, he testified as follows:

"Q. Do you remember that an agreement was reached and that Mr. Carlton Godfrey said, 'I will draw the contract over night?'

A. He would draw it in the rough.

Q. In the rough?

A. And then our attorneys could come in.

Q. Exactly. Why didn't you bring your attorneys the next morning?

A. The next morning? We weren't there the next morning.

Q. What?

A. We weren't there the next morning.

Q. Who weren't there the next morning?

A. We were there in the afternoon, our attorneys were there.

Q. Why didn't you bring your attorneys with you to the Vendig Hotel the next day when Mr. Carlton Godfrey was to have the contract in the rough so that the attorneys could look at it?

A. Well, he didn't have it in the rough in the morning.

Q. Why didn't you have the attorneys there?

A. They were at the University Club.

Q. I will ask you again, and I propose to keep asking you until you answer it.

A. I am willing to answer you, Mr. McCarter.

Q. Why didn't you have them at the Vendig Hotel?

A. They were waiting for us to call them, I suppose.

Q. Have you confidence in Judge Cole?

A. Yes.

Q. Did you hear him say he wasn't there until about six-thirty?

A. I said we were not there until the afternoon.

Q. I ask you again why you went there in the afternoon and didn't have Judge Cole with you or Mr. Bourgeois there?

A. Because they were at the University Club waiting for us to call them.

Q. Why didn't you call them?

A. Well, Carlton Godfrey says it is too late to call your attorneys now.

Q. That was after the contract had been exexcuted?

A. No, it was before the contract had been executed.

Q. You told us so in your direct examination.

Mr. Cole: Pardon me, Mr. McCarter. I don't think so.

A. No, I didn't, and he had already said he would tell me when to call the attorneys."

At p. 277, l. 18, he testified as follows:

"Q. That you were there when these gentlemen or any of them were produced at the hotel and asked to be admitted to the room?

A. We were waiting for Carlton Godfrey to send the call out."

At p. 287, l. 14, he testified as follows:

"Q, The Attorney General asked you whether or not, or stated you didn't object to the lawyers being present, that is to Godfrey and Garrison being present on that first day? You said no you didn't. What did you object to?

A. I objected to the way them were conducting the meeting. I thought it was just going to be talked over what the trouble was, instead of

that I find an array of attorneys there and threats had started and I didn't know what to do, to tell you the truth."

Touching the cause of the respondents leaving Atlantic City on the 14th of May, Mrs. Jessie D. Davis testified as follows (p. 288, l. 15):

"Q. Did there come a time when you heard something of a capias or attachment out against your husband?

A. Yes, Judge Cole, on the fourteenth day of May, Mr. Harold Williams and Mr. Trevor Williams returned from California and they came down to the house. Jack Scanlan came in and told them there was a capias out for them, also an attachment and Trevor Williams' box, and our box, my box, Jessie D. Davis, and Royden B. Davis' box in the Ventnor Trust Company had been attached and the bail for Mr. Davis was fifty thousand dollars."

At p. 293, l. 9, she further testified:

"Q. Well, then, did you go to the room finally?

A. Yes, we went up-stairs to the room, and out in the hallway, Father Mellon informed me that I had insulted Mr. Davis and he forbade me to enter the meeting room.

Q. You said Mr. Davis?

A. I mean Mr. Dorrian and he forbade me to enter the meeting room. Mr. Garrison told me I could go in on one condition, on the condition that I didn't speak while I was there, when we reached the door ——

Q. Just a moment, stop right here. What did Dr. Mellon, or Father Mellon say to you when he said that you had insulted Mr. Dorrian?

A. He said, 'It is a fine thing you have done, you have insulted Mr. Dorrian and he refuses to come into the meeting room.'

Q. Did he say what you had done to insult him?

A. Yes, I told Mr. Dorrian that he had not only disgraced my children, but he had brought a disgrace on his wife and his children, because everybody knew now he was in the liquor business, and Father Mellon said, 'You knew that before.' You apologize. He said, 'Do you see what you have done to this man?' I said, 'Father, if I have done anything to hurt this man I am willing to apologize.' And he took me down the hallway and I told him I was sorry I had spoken against his wife and children, because I had been very fond of them, and Father Mellon said, 'You have said enough.' I went into the meeting room.''

At p. 294, l. 28, she further testified:

"Q. Now, Mrs. Davis, I want to suggest to you that you take your time and give us your best recollection of what took place on the occasion of the first visit to that room. Now, keep in mind, if you can, the first visit.

A. In the first place, Mr. Philip Godfrey picked up some papers and he shuffled them like a pack of cards, saying this was this deal and this was fraudulent profit, secret profit, and he shuffled them out, calling out the different profits that were made on the different deals. I believe Father Mellon opened the meeting saying that he was there at the invitation of Mrs. Davis. I was forbidden to talk, but there was some talk on the straw, and Father Mellon asked what

was a straw. Mr. Carlton Godfrey gave this definition. This I understood was the basis of the entire charges against my husband. He said, Carlton Godfrey said, 'Here is a reputable real estate man,' pointing to Mr. Williams, and he said, 'Along comes a man with a lot to sell, and he says to the reputable real estate man, "I will sell this lot for eight thousand dollars," and the reputable real estate man, knowing that this lot was a bargain, he buys it in the name of Brown, and the next day along comes this trusting man, Mr. Dorrian, and he wants to buy this lot, and instead of this real estate man telling the trusting man he had bought the lot the day before in the name of Brown, he sells it to him at a profit, not disclosing that it has been bought in the name of a straw,' and—and I went to say something and Mr. Garrison put up his hand and he said, 'Not a word, Mrs. Davis.' it was such a simple thing to say.

Q. Don't make any comment. Just tell us what was said and who said it. Now, then, after Mr. Godfrey had made this illuminating explanation of what was meant by a straw, what did Dr. Mellon say?

A. Dr. Mellon said, 'That is dishonest,' and Trevor Williams attempted to speak to Father Mellon and he said, 'Don't tell me anything. I studied four years of law.' Am I right, Father?"

At p. 296, l. 10, she testified as follows:

"A. Mr. Philip Godfrey, and fraudulent profits, secret profits on the different deals, there were no questions asked from either Mr. Williams, Mr. Royden Davis, nor Mr. Trevor Wil-

liams, so they agreed that these deals were dishonest, nor any explanation asked if they were wrong, they were simply told that they were wrong, and Mr. Harold Williams asked that day if we hadn't any attorneys, and Mr. Godfrey, Mr. Carlton Godffrey looked at him, and he smiled and said, 'I will be your attorney, and you see that I will treat you fair.'

Q. Proceed, what happened after that?

A. On that day I didn't ask for the attorneys, on that day, but Trevor Williams did ask for the attorneys on that day, and Mr. ——

Mr. McCarter: Let's hear what Trevor said.

Q. What did Trevor say?

A. Trevor said, 'We haven't any attorneys here,' and Mr. Godfrey said, 'We will tell you when to call them in.' That meeting was adjourned, I believe, someone had an official engagement, and the meeting was adjourned, but we were there, I think, fully, it must have been two hours and a half or three hours. I know we were late getting out."

At p. 298, l. 16, she further testified:

"Q. Tell us all that occurred.

A. On that day, I asked for the lawyers, and Mr. Godfrey said that he would let us know when to bring them in, and we were contented with that because we thought really the lawyers would see everything before anything had gone any further.

Q. Anything more take place on that occasion?

A. Let's see. That was on the second day?

Q. Anything said about an agreement at that time?

A. Yes, Mr. Carlton Godfrey said that he

would get up an agreement, and would take off the ragged edges, and then we could submit them to our attorneys.

Q. Recall anything more on the second occasion?

A. On the second day, I asked Mr. Carlton Godfrey and also Mr. Garrison if Mr. Davis could come home, and they both told me ——"

At p. 299, l. 1, she testified as follows:

"A. I asked if Mr. Davis could come home and they both told me no, that they couldn't come home on account of the capias, it wouldn't be safe for him to come down, and on the second day—second or third—no, it was the third day, Judge Cole."

At p. 299, l. 18, she further testified:

"Q. Now, give us your best present recollection of what took place at that meeting and what was said and who said it?

A. At that meeting, it was on that day that, I think it was that day, that Mr. Hart got up and said, 'Call the meeting off and call up Washington and get out those other papers,' and he said it loud enough for me to hear so I possibly would transmit the message to the other men, out loud there, so when he said, Mr. Godfrey told me that he had had the stenographers up all night to draw up this agreement. When he passed it—I am ahead of my story—something happened between that, I can't think.

Q. Take your time.

A. It was at that meeting Mr. Carlton Godfrey had an argument with Trevor Williams, and he pointed his finger at Trevor and asked

him if he would like to go to jail, because that was where he was going to put him, and Trevor told Mr. Carlton Godfrey that some of his securities were in New York and some in California, and Mr. Godfrey called Trevor a liar, and told him that he had told him that they were all in New York because Trevor had brought them all that day. Father Mellon was in and out of the room at some meetings, he read his prayer book through the signing of the agreement.

Q. Before you come to the signing of the agreement, when Mr. Godfrey told Trevor that he would send him to jail or words to that effect, did Trevor make any statement?

A. No, Trevor didn't make any statement, Mr. Philip Godfrey handed Trevor a lot of securities—papers, assignments, I guess they were. I didn't know the legal or the business end of the thing, but they gave those papers to Trevor to sign and Mr. Hart and Mr. Philip Godfrey stood over Trevor until they had the boy in such a terrible state ——"

At l. 30, same page, she further testified:

"Q. Just a moment. What did they say to him first?

A. Both Mr. Hart and Philip Godfrey started to argue with Trevor Williams over the assignment of a mortgage and I asked Dr. Mellon if he were going to permit Mr. Hart to carry on this way, and he said, 'I will attend to him,' and he told Mr. Hart he would appreciate if he would lower his voice, and then again Mr. Hart carried on in such a manner towards Trevor ——"

At p. 302, l. 8, she testified as follows:

"Q. Now, do you know how Mr. Trevor Williams acted while he was over in New York?

A. Yes.

Q. Whether he was a well or a sick man?

A. No, Trevor Williams was sick, Trevor Williams had not eaten anything, and Trevor Williams did not sleep and partly the loss of the sleep was because of his father, because we thought that morning Mr. Williams was dead, the second morning of this meeting.

Q. You mean in Philadelphia or New York?

A. This was in New York, when we were back in New York.

Q. Coming a moment to Philadelphia again, bringing Mr. Harold Williams in mind, did he have to have anything to revive him while he was in Philadelphia?

A. Yes.

Q. What?

A. It was suggested at the meeting that Mr. Harold Williams would have aromatic spirits brought to him, and on the second night of the meeting, it was suggested to put Mr. Harold Williams in bed at the Vendig Hotel, his condition was so weakened and he was so distracted.

Q. Who was it made that suggestion?

A. Dr. Mellon made the suggestion down in the lobby of the hotel.

Q. Now, then, coming back to the third meeting, was there anything said on that occasion about the capias?

A. Yes. I asked Mr. Godfrey about Mr. Davis coming home that day and he said the capias had not been raised, that he could not come home, and, also, Father Mellon made the announcement on the third day, and his very

words were, 'The capias has been sustained by the Supreme Court.'

Q. Did Dr. Mellon or anyone else on that occasion say that Judge Campbell had decided that if any attempt was made to execute that capias he would stop it?

A. They did not. They didn't tell us anything about that.

Q. Now, on any of these occasions when you were in Philadelphia, did you hear anybody charge your husband with having committed any crime?

A. The only thing that I had was the capias was still against him, and when I made arrangements for this meeting in Philadelphia with Father Mellon, Father Mellon and Mr. Dorrian, Mr. Dorrian particularly had sent word that ——"

At p. 304, l. 5, she further testified:

"Q. There is no question, Mrs. Davis. When you had the third meeting, what, if anything, was said about having lawyers there?

A. Mr. John B. Scanlan said that the lawyers were in the University Club waiting to be called in. Mr. Godfrey, I think, when Mr. John Scanlan said that, Mr. Godfrey, I think, ignored John B. Scanlan's request there, I am not positive of this answer, but I know they were meeting when the request was made for the lawyers, ——"

At l. 30, same page, she further testified:

"Q. First of all, did anybody say anything at that third meeting about your husband and Trevor Williams, Harold Williams. having their lawyers there?

A. Yes, Judge Cole, they surely did.

Q. Who did?

A. Trevor Williams asked for the lawyers on the last day and John B. Scanlan asked for the lawyers on the last day, and I asked for the lawyers on that day.

Q. Did anybody make a reply?

A. Yes, Mr. Carlton Godfrey.

Q. What did he say?

A. He said, 'The time for you to have had your lawyers was before this agreement was drawn up.' That is his own words.

Q. On any one of the three occasions, did Mr. Carlton Godfrey or anyone else in that room say that they wanted Mr. Davis' lawyer there, that they requested them to be there?

A. No, the only thing that they ever said was, 'I will tell you when you may call them in.'

Q. Did they ever say in your presence when to call the lawyers in?

A. Absolutely not.

Q. What time do you think it was when you left?

A. On the last meeting, I think it must have been around, the time is very vague, it must have been around seven o'clock, around that time.

Q. Your best recollection. Now, Mrs. Davis, do you remember one time when Mr. Godfrey tapped you on the hand?

A. I certainly do.

Q. What was the occasion for that?

Mr. McCarter: Held her hand?

A. No, he tapped me on the hand, sir. Mr. Davis, they brought out these agreements to be signed, Mr. Carlton Godfrey began to read them, and he became tired, for that was lengthy,

and Father Mellon relieved him, and they asked the men to sign them, Trevor Williams objected, he didn't want to sign, but his father was in such a state of health, he was afraid the father might die.

Mr. McCarter: I object.

The Court: Let that be stricken.

Mr. McCarter: Please confine yourself to the facts.

A. There are reasons, Mr. McCarter, I have to tell the truth.

Q. Trevor Williams objected, he didn't want to sign. Go ahead.

A. I objected to Mr. Davis signing, I told him not to sign, Judge Cole wasn't here, and it all looked too legal. Mr. Carlton Godfrey had left his place at the table, and had come down to the end of the table, Dr. Mellon was busy reading over the agreement, Carlton Godfrey leaned over, looking at Mr. Davis, and tapping me on the hand, and he said, 'Mr. Davis'—Mr. Davis wasn't going to sign, and Carlton Godfrey said, 'I am not here to advise you, but the quicker you sign the better for you,' tapping me on the hand.''

At p. 307, l. 1, she testified as follows:

''Q. Was it you who said Mr. Davis was not going to sign?

A. I said Mr. Davis was not going to sign.

Q. Did you tell Mr. Godfrey that?

A. I told Mr. Godfrey, yes, and Mr. Godfrey stood there listening to the argument.

Q. Did you tell Mr. Godfrey he was not going to sign?

A. I did, yes, yes, Judge Cole.

Q. Was it after that he made the statement?

A. Yes, Judge Cole, and he tapped me on the hand, looking at Mr. Davis, and told Mr. Davis he had better sign, he wasn't there to advise him, but he had better sign, tapped me on the hand said, 'You better sign if you know what is good for you.'

Q. During any of these meetings, did Mr. Garrison say anything to you?

A. Mr. Garrison told me the second day.

Q. Which meeting was that?

A. The second day of the meeting, when I asked him if Mr. Davis could come home, Mr. Garrison said no, the capias was out, but after the meeting, after Mr. Davis had signed and Mr. Garrison offered to escort Mr. Davis under his personal protection, and to take him home, after they had announced at that meeting that the capias had been sustained by the Supreme Court.''

At p. 308, l. 8, she further testified as follows:

''Q. Now, at any one of these meetings, did anyone say anything about sending your husband and the Williamses to jail?

A. Yes, Mr. Carlton Godfrey said, out in the hallway, first of all, I attempted to appeal to Dr. Mellon to go in the room and save Trevor Williams, that the men in the room were stealing from him, and he said, 'Go in, they have Trevor for twenty years.'

Q. Dr. Mellon?

A. Dr. Mellon told me that in the hallway.

Q. Did anybody else say anything to you about sending anyone of these people to jail?

A. No, but I heard Mr. Carlton Godfrey tell Trevor Williams that he was going to put him in jail.''

At p. 333, l. 23, she testified further, as follows:

"Q. Messrs. Williams and so forth admitted that the wrong had been done and that, therefore, the question was, how could the wrong be righted, or words to that effect?

A. Absolutely no. There was nothing said like that.

Q. Nothing of that kind said?

A. Nothing at all."

At p. 335, l. 17, she testified:

"A. I didn't hear Mr. Philip Godfrey say any of these deals you have said to me, the only thing made the impression on me was fraudulent and secret profits.

Q. Fraudulent and secret profits?

A. He did read off deals, but what the deals were, only thing I listened to was this.

Q. What?

A. What I was listening to was the way he was going on at that meeting with these deals, and he knew how the men were, he was just like a man on the third degree, going at that them in that meeting, everyone of these deals that he called off, and he knows it, he said, from that, a paper like a pack of cards, Mr. McCarter, pulling the paper off, paper after paper, fraudulent deal, secret profit."

At p. 344, l. 30, she further testified:

"Q. Well, now, at about the time that Carlton said he would prepare a draft of an agreement, someone said they would like to have a lawyer present, didn't they?

A. Yes.

Q. Who was that?

A. Mr. Trevor Williams asked for an attor-

ney, John B. Scanlan asked for an attorney, and that day I asked ——

Q. I am asking who made the remark at that time?

A. About that time Trevor Williams asked for the lawyer."

At p. 346, l. 5, she testified as follows:

"Q. At that time, who asked for a lawyer?

A. Trevor Williams, your Honor, just at that time."

At l. 14, same page, she further testified:

"A. Yes, he said, 'After the rocky edges, we will get these papers together and after the rocky edges are taken off you may have your attorneys in.' "

At p. 434, l. 36, she testified further, as follows:

"Q. You did remark, at some stage of the proceedings in Philadelphia, in the conference, that any money that your husband had received that was improper you wanted him to return with interest?

A. Mr. McCarter, I didn't say any money. I said, 'If Mr. Davis —' emphasis on the 'if.'

Q. What?

A. I said, 'If Mr. Davis has any of Mr. Dorrian's money, we wish to return it with interest.'

Q. And the $34,000 was what you and your husband concluded was Mr. Dorrian's money?

A. No.

Q. What?

A. No."

At p. 437, l. 10, she testified as follows:

"Q. Mrs. Davis, Mr. McCarter has had you say, as I remember, that your husband paid or agreed to pay, thirty-four thousand dollars as his share of the secret profits that were made in certain transactions, and I ask you whether there was any conversation about secret profits that your husband received?

A. No, Judge Cole."

A. Trevor Williams testified (p. 438, l. 34) as follows:

"A. I was never a member of Gordon Williams and Company, but I was a real estate salesman for Gordon Williams and Company.

Q. Ever a member or agent for the Williams and Davis Company?

A. Never.

Q. For how long a period were you agent—you say you were agent or salesman, you say?

A. Just a salesman, real estate salesman.

Q. Real estate salesman?

A. Yes."

At l. 28, same page, he further testified:

"Q. Did you do any business independent of Gordon Williams and Company?

A. Yes, I did."

At p. 445, l. 22, he testified as follows:

"Q. Where was Philip at that time?

A. He was directly opposite me, and he was pushing them over and pulling them back. I never actually saw what they were. I believe they were settlement sheets, but I never saw what they were, and I objected to all this. I said, 'This is too legal for us. We haven't our

attorneys here. We haven't Mr. Bourgeois or Judge Cole here to represent us. This isn't the kind of a meeting that we expected,' and Carlton Godfrey leaned over to me and he said, 'You better keep quiet. We have you for twenty years for forgery,' and I didn't say anything more, and Carlton Godfrey looked over to my father and he said, 'What is the matter with me?'

Mr. McCarter: What?

A. He said, 'What is the matter with me? I will be your attorney and you will see I will treat you fair.' And my father said, 'We have paid ten thousand dollars for lawyers and we must have them here.' And he said, 'I will tell you when to call your attorneys,' and they went through all of these transactions, just reading off amounts, no names. As they were doing that, he said, 'Secret profits, straw deals, forgeries.' That was Philip was saying most of that.''

At p. 446, l. 18, he testified further, as follows:

''A. Philip Godfrey was totalling them up. He passed them over to me but I couldn't count them up, I was too excited, too wrought up and scared to death. And they arrived at this amount and told us that Father Mellon, or somebody had an appointment for us to come back the next day, and when we came back the next day Mr. Hart and Mr. Mulhern came in, and Mr. Hart had a bundle of papers just like Philip Godfrey, and he and Philip Godfrey went through these papers and said practically the same thing, 'Secret profits, straw deals, forgeries,' and Mr. Hart looked over to my father and said, 'What is this embezzlement,

what is this check?' He didn't show him the check. He taken the check out, and pulled it back and I said, 'This is all too legal for me. That is all too legal for me. I must have my attorney here,' and Carlton Godfrey leaned over to me and says, 'I will tell you when to call your attorneys.' And they got this amount, and they arrived at a total of around two hundred and thirteen thousand dollars. (Witness pauses.) And then Carlton Godfrey says, 'I will prepare the agreement in rough, and take off the ragged edges, and then you can submit it to your attorneys, and if everything is all right, you can sign.' ''

At p. 447, l. 35, he testified as follows:

''A. I handed over to Carlton Godfrey what I had brought over from New York, and they both went through them and Philip Godfrey, after a little pow-wow with his father, told his father something, whatever it was, and his father came over to me and he said, 'You told me that you had all of your securities over in New York.' I said, 'No, I only said I had part of them in New York and part of them in California.' He said, 'You are a liar.' He said, 'I have a good mind to call this whole thing off and take you all to jail,' and Father Mellon was out of the room at that time, if I recall correctly, and I walked out and I told Father Mellon what Carlton Godfrey had said, and he went into the room, and came out in a few minutes over to me, that is, Father Mellon did, and Father Mellon said to me, 'You better go in there, they have got you for twenty years for forgery, you better go in and keep quiet.' So I went into the room, and they went over this agreement, and

as they were going over this agreement, I said, 'This is all too legal for me. I don't understand it at all, and I must have my attorneys here. They are over in the University Club, Mr. Bourgeois and Judge Cole are over in the University Club.' And he said, Carlton Godfrey said, 'It is too late now. You should have had them here before, and why didn't you say so before?' And Mrs. Davis jumped up and she said that Judge Cole and Mr. Bourgeois were right in the building, won't you please let us bring them in, and Mr. Garrison said to me, 'You are too young a man to go to jail. You better sign this agreement, and we won't prosecute you any more.'

Mr. McCarter: Won't what?

A. Won't prosecute you. Carlton Godfrey, as Mrs. Davis was objecting to the way they were handling us and the fact that they were going to submit the papers to our lawyers before we signed, and trying to hold them to their promise, and I also trying to hold them to their promise, he leaned over to Mrs. Davis, and tapped her on the hand ——

Q. Who did?

A. Carlton Godfrey did, leaned over and tapped her on the hand, and he said, 'I am not here to advise you.' He was looking at us all, 'I am not here to advise you, but I advise you to sign, and the quicker you sign the paper the better for you.' And right at that time Carlton Godfrey asked my father for ten thousand dollars that he had asked him previous to that as to what money, there was an arrangement as to what money they wanted, my father said, 'All I have is ten thousand dollars,' and he had it in his clothes, and he produced it there on Tues-

day, and he told my father to put the money back in his pocket, to bring it the next day, on the Wednesday, and on the Wednesday he asked him again about the ten thousand dollars, and he said, 'You better turn over that ten thousand dollars now to keep you out of jail.'

Q. What did your father do?

A. He turned it over quickly. When we were still objecting about having our lawyers come in, Father Mellon walked into the room, he had gone out of the room just prior to that with Mr. Garrison, Mr. Dorrian and Mr. Fahler, and Mr.—no, Mr. Godfrey was, if I remember correctly, was still in the room—I am not positive on that, but, at any rate, they all came in the room and Father Mellon stood at the head of the table, and he said, 'The Supreme Court Justice has sustained the capias,' and with all the detectives around there and everything else, why, I signed it.''

At p. 451, l. 14, he testified as follows:

''Q. When was the agreement signed?

A. Right after Father Mellon said the Supreme Court or the Supreme Court Justice had sustained the capias.

Q. How many of them were signed?

A. I don't remember. I believe there were six.

Q. More than one?

A. Oh, there was about six or seven.

Q. Signed by each of you?

A. Signed by each of us.

Q. What became of those agreements?

A. Oh, they took them. I never saw them after that.

Q. Was any request made for them by any of you people?

A. They were to give us a copy of them."

At p. 453, l. 14, he further testified:

"Q. Yes, but—I see—now, Mr. Williams, when you said to them that it was all too legal for you, what, if anything, did your father say?

A. My father, as Mr. Hart was going through these papers, picking out, saying, 'Embezzlement, secret profits, straw deals and forgeries,' he said, 'This is all Greek to me. I don't understand it.'

Q. Did your father say that in connection with that, 'It is all Greek to me, I don't understand it,' did he say that his sons had been putting him in a hole or something of that sort?

A. He didn't say anything of the kind."

At p. 454, l. 26, he testified as follows:

"Q. Now, do you recall if Mr. Garrison said anything to you about going through with this settlement and making some reference to Mr. Hart?

A. Oh, Mr. Garrison did say that, 'You better go in and sign, as this man Hart is a firebrand, and I don't trust him.'

Q. Now, Mr. Williams, what effect upon you did these threats of forgery and twenty years and embezzlement and secret profits and so on, have?

Mr. McCarter: I object.

The Court: I will permit it.

A. I was so frightened I couldn't sleep nor eat, and I never did sleep nor eat, and I couldn't even, I was so scared I didn't know what was going to happen the next minute. I thought

they were going to pick me up and take me down to jail, I didn't know what was going to happen.

Q. Now, when you spoke about having your attorneys, and you didn't get them, why did you go on with the meeting, or why did you not insist on having them come in there?

A. I don't understand that question, Mr. Bourgeois.

(Question repeated.)

A. Why, Mr. Carlton Godfrey said that he was going to get this agreement in the rough and take off all the ragged edges, and then he was going to submit to the lawyers before we signed.

Q. And when did you know for the first time that you were not going to be permitted to submit it to your lawyers before signing?

A. The last day.

Q. And that was the time when he told you it was too late?

A. Yes."

At p. 455, l. 36, he testified further, as follows:

"Q. You testified that you went over to Philadelphia at that meeting for the purpose of finding out what the charges were against you. Did you find out what those charges were?

A. Only thing that I found out was that Philip Godfrey said, 'This is a secret profit, this is a straw deal, this is a forgery, this is an embezzlement,' that is the only thing. I never heard any names mentioned, just amounts were put down and totalled up."

At p. 457, l. 23, he testified further:

"Q. Now, what was said about when he could go down? How was it going to be arranged? What was it?

A. Oh, Mr. Garrison, Mr. Carlton Godfrey wouldn't let Mr. Davis go down to Atlantic City, then, after he had signed, when Mr. Garrison said, 'It will be all right for Mr. Davis to go down providing he goes down with me. The sheriff is a personal friend of mine.' "

At p. 458, l. 31, he testified as follows:

"Q. Mr. Williams, you testified something about a statement Mr. Garrison made about being too young a man to go to jail. What else did he say about that, if you recall?

A. Oh, he said that I had better sign, if I did sign they wouldn't prosecute me.

Q. And that you were too young a man to go to jail?

A. Yes, I was too young a man to go to jail."

At p. 460, l. 22, he testified as follows:

"A. I found out that the capias had not been sustained.

Q. Wait a minute. I didn't mean that. Did you have an interview with anybody?

A. Yes, I had an interview with you and Judge Cole.

Q. And did you relate to us what had taken place, the substance of it?

A. I did, yes."

At p. 462, l. 10, he further testified:

"A. I will try to, your Honor. I went into that meeting the next day, as I said before, those people were there, Mr. Davis, Mrs. Davis,

and myself, and Father Mellon, and I went in to make a request for a copy of the agreement which they had agreed to give to me, and Carlton Godfrey said, 'Where are the rest of the securities?' I said, 'Mr. Godfrey, I would like to see a copy of that agreement.' He said, he didn't answer me, he said, 'Where are the rest of your securities? Have you brought them over from New York?' I said, 'I want a copy of that agreement which you agreed to give me,' and they again asked about my securities, had I brought them over, and I made that request again, and Carlton Godfrey turned around to me, and he said, 'Do you want to go to jail?' He said, 'Well, that is where I am going to put you.' I turned around to Father Mellon, and said, 'Did you hear that, Father Mellon?' ''

At p. 463, l. 9, he testified further, as follows:

''Q. What did you do?

A. I brought Mr. Stringer up and Father Mellon was out in the hall and I said, 'Father Mellon, when I am sick I need a doctor, when I am legally sick I need a lawyer,' and he said—'I want Mr. Stringer to come in here now and get this copy of the agreement,' and he said, 'No, we don't want Mr. Stringer in here now, you can't have Mr. Stringer in here now,' and while I was talking with Father Mellon, Mr. Stringer went right into the room, and I walked in right after with Father Mellon.

Q. Now, did you get the copy of the agreement?

A. I never got a copy of the agreement, no.

Q. Did Mr. Stringer get a copy of it for you?

A. Mr. Stringer went in and said he represented me and he asked Carlton Godfrey to

hand over a copy of the agreement and Carlton Godfrey kept refusing and Mr. Stringer kept demanding that he turn over a copy of the agreement to me, and Mr. Stringer said to Carlton Godfrey, 'If everything was open and aboveboard you would give me a copy of the agreement,' and all Carlton Godfrey would say, 'I will not, I will not,' and Philip Godfrey said to Mr. Stringer, 'You heard what my father said, you heard what my father said,' and Mr. Stringer said to Philip Godfrey, 'Are you here acting in a legal capacity, Mr. Philip Godfrey?' and the father said to him, 'Don't answer him, Phil, don't answer him.'

Q. Now, there was something said about your having discharged Mr. Stringer while you were there.

A. When Mr. Stringer went into the room as my attorney asking and demanding for a copy of the agreement, and they refused to give it to him, we went into a little room off the main room, down at the foot, or whatever it was, the bathroom, and he told me to dismiss him as my attorney, and I went out and dismissed Mr. Stringer as my attorney, and he asked for a copy, asked to see a copy of the agreement, and then Carlton Godfrey said to Father Mellon, 'I will let you see a copy of the agreement, but I won't let Mr. Stringer see a copy of the agreement,' and Mr. Stringer went out into the hallway with Father Mellon, and they came back and Mr. Stringer asked me if I would re-engage him again as my attorney, which I did, and he again demanded that Carlton Godfrey turn over to him a copy of that agreement, and Carlton Godfrey again refused, and Mr. Stringer said, if he said it once, he said it about

ten times, and all Carlton Godfrey would say, 'How about the rest of those securities? Are you going to turn them, or are you not going to turn over the rest of those securities?' And shortly after that they got up and left."

At p. 468, l. 18, he testified as follows:

"Q. Had you, at that time, any capital?

A. Yes, I did.

Q. How much?

A. Oh, I had about seven or eight thousand dollars.

Q. Of your own?

A. Of my own."

At p. 476, l. 26, he testified as follows:

"Q. Now, Mr. Trevor, I want to ask you solemnly and I want an intelligent, thoughtful reply, if you mean to say that before Scanlan spoke of an attachment, that so far as you were concerned you were utterly ignorant of any investigation that was going on or complaint that was being made or any questionings that were in the air by either Davis or by Connie Dorrian in connection with the management of this business?

A. I was entirely ignorant of it.

Q. Entirely ignorant?

A. Entirely ignorant of it."

At p. 477, l. 32, he further testified:

"Q. When did you first learn that your lawyers had made a motion to quash the capias?

A. When Mr. Stringer came over to New York and told me.

Q. That is what I am getting at. What did he tell you?

A. Mr. Stringer told me that he could not find out what the charges were, that they were trying to ascertain what the charges were.

Q. And he told you that they had commenced proceedings to quash them?

A. He told me that they had been in court but I don't understand any of that at all."

At p. 482, l. 18, he testified further:

"Q. Well, you have spoken of sleeplessness for 72 hours, when did the sleeplessness, not more or less, but absolute lack of sleep, commence?

A. At the time of these meetings.

Q. Then you were able to sleep in New York?

A. I wasn't able to sleep.

Q. Beg pardon?

A. No, I was sleeping, but I wasn't sleeping very much.

Q. For two weeks you didn't sleep?

A. I slept, but I didn't sleep very much.

Q. Won't you tell me what the definition is between sleeping and not sleeping very much?

A. Sleeping spasmodically.

Q. Did you eat anything during those two weeks?

A. I ate very little.

Q. You were worried?

A. Yes, I lost 15 pounds.

Q. Ever recover it?

A. Not quite. I am stil ten pounds the loser.

Q. Well, you have told us that you were entirely innocent, hadn't any idea what it was all about, that you were quite unconscious of having done anything wrong. Won't you tell me why you were unable to sleep, why you were unable to sleep, why you were unable to eat?

A. Morally, I knew I hadn't done anything wrong, but I wanted to find out what was wrong.

Q. Do you think that answers my question?

A. I don't know whether it does or not.

(Previous question repeated.)

A. Because I was under threat of arrest."

At p. 491, l. 22, he testified further, as follows:

"Q. So that you knew, you now say, that you knew before any meeting was commenced, that Father Mellon was there with the purpose or object, if possible, of arbitrating the differences that existed between the Dorrian and Fahler on the one side and your side on the other?

A. Something to that effect.

Q. And you knew it?

A. Yes."

At p. 494, l. 10, he testified as follows:

"Q. Never mind because. You knew of the Roberts transaction, that is, you knew that a man by the name of Roberts had made an agreement to sell, which had resulted in the purchase by Williams and Davis of a contract known as the Roberts contract, didn't you? You knew that?

A. I knew that I had bought a piece of property belonging to Roberts.

Q. Then you knew what the Roberts transaction was?

A. That name wasn't mentioned.

Q. Then you knew what the Roberts transaction was?

A. I knew what a Roberts contract was, yes.

Q. You know what the Smith and Russell transaction was?

A. Yes.
Q. You knew what the Ryon transaction was?
A. Yes.
Q. You knew what the County transaction was?
A. Yes.
Q. You knew, as a matter of fact, that Williams and Davis, Inc., had paid the county three thousand dollars. I mean the county had been paid three thousand dollars for the county tract, and that a check had been drawn by Williams for $7,500, didn't you?
A. I did not.
Q. You didn't know that?
A. I did not."

At p. 495, l. 23, he further testified:
"Q. Well, in the Ryon matter, did you have any interest in that?
A. Yes."

At l. 32, same page, he testified further:
"Q. What interest had you in that?
A. I bought that Ryon piece.
Q. You bought it?
A. Yes.
Q. Personally?
A. Yes.
Q. When did you buy it?
A. I bought that in May, if I recall correctly, 1926.
Q. What year?
A. 1926.
Q. 1926?
A. Yes.
Q. Of Mr. Ryon?
A. Yes, of Mr. Ryon.

Q. And you paid Ryon ten thousand dollars?
A. That is right.
Q. Your own money?
A. I have been trying ever since to find out

Q. I ask you whether your own money?
A. I can't recall whether I paid cash or check for it. I haven't been able to find my check for it.
Q. Your own money?
A. My own money, yes."

At p. 531, l. 18, he testified as follows:

"A. I was told to bring them over and I told them I would bring them over.
Q. You were telling the truth when you said that?
A. Yes.
Q. So that at that time you expected to make complete the acts whereby by the agreement you were called upon to do.
A. I was very anxious to do it, so that they would not prosecute me.
Q. So what?
A. So that they would not prosecute me.
Q. Who suggested leaving in that spirit that you should go and see Judge Cole and Mr. Bourgeois at the University Club?
A. Who suggested I should go? They were waiting there for us to call them.
Q. Then the purpose of their being there was for you to call upon them?
A. The purpose was that it was arranged that they should be brought into the meeting before we signed anything.
Q. I thought you just said now that it had been arranged that they should be there so that

you could call upon them, were you right or wrong when you said that?

A. I didn't say that I should call upon them.

Q. Read it.

(Former answer repeated as follows: 'Who suggested that I should go? They were waiting there for us to call them.')"

At p. 532, l. 36, he testified as follows:

"Q. Why didn't you telephone to the University Club and ask Mr. Bourgeois and Judge Cole to come over?

A. Because Mr. Garrison told me that if I didn't sign and sign quickly that he was going to put me in jail, and Mr. Godfrey also.

Q. So that was the reason for not telephoning your counsel to come over?

A. That was the reason, yes, sir.

Q. What?

A. Yes, sir, and fright and fear."

At p. 642, l. 28, he testified further, as follows:

"Q. All right, very good. Now, you have produced the check for $500 to the order of George W. Roberts and signed by yourself specified, 'Deposit account twenty acre tract for Julia Coll' Do you remember that check?

A. Yes, indeed.

Q. Well, more than five hundred dollars was deposited on account of the Roberts agreement, was there not?

A. On the twenty acre tract, no, just five hundred dollars."

Royden B. Davis testified (p. 657, l. 2) as follows:

"Q. You spoke to Father Mellon and what then happened?

A. He said, 'Hello, Royden, I am sorry for you.' He said, 'They have got Trevor for twenty years and they got you and the old man for embezzlement.'

Q. And where was that?

A. That was down in the lobby, right in front of the elevator, right beside the elevator."

At l. 30, same page, he further testified:

"Q. Then, what did they do?

A. Well, as I remember it, Philip Godfrey started to go over some papers, he had quite a bunch of papers there, and Mr. Harold Williams spoke up and he said, 'This isn't the kind of a meeting we expected. We should have attorneys here,' and Mr. Carlton Godfrey said, 'I will be your attorney and you will see that I will treat you right.' So things started going along and Philip Godfrey started pulling out these papers, calling 'secret profits' and, transactions so and so, and Jack says ——

Mr. McCarter: One moment, I don't think he ought to conclude, he ought to tell what occurred.

A. That is what was kept up, secret profits, then these straw deals here and there, and they were making figures on the sheet, on a pad, and Trevor Williams says, 'This thing looks too legal, we should have our attorneys here,' and Mr. Godfrey said, 'Well, you better keep still and go on with this settlement. We will tell you when you can have your attorneys here,' so just starting around that time I didn't hear, I suppose, all that was going on."

At p. 569, l. 8, he testified as follows:

"Q. Now, the next day when you all came back, what took place then?

A. Well, they were working these papers around into forms and figures so that they could get the total amount, I suppose. Mr. Godfrey asked, as I remember, about the first thing when we came in the morning—no, it wasn't the first thing—but he asked for the securities and papers of Trevor, which Trevor was to bring over, they were cleared up and some of the papers seemed to be missing, and Mr. Godfrey asked Trevor why he hadn't brought them over, and he said that he thought that he had brought them all over that he had in New York, and Mr. Godfrey said, well, anyway, there is a dispute, and Mr. Godfrey called Trevor a liar, and told him he had a good mind to call the meeting off and send us all to jail."

At p. 570, l. 36, he testified as follows:

"Q. Well, what happened during that day, how was the agreement being drawn in the room, what was going on there?

A. Well, papers were being handed out, secret profits, here is forgeries, same thing, secret profits, same day there, mentioning amounts, and putting them on it, putting, juggling the figures around, and comparing the figures on the settlement sheets, and I don't know what all, what was much going on.

Q. During that time, in what physical condition was Harold Williams?

A. Well, he was in very bad condition, in a very weakened condition. Father Mellon asked Jack Scanlan to go out and get him some aromatic spirits of ammonia, and he took that from time to time.

Q. When the session was over in the evening, did Father Mellon make any suggestions?

A. When we got downstairs at the elevator, Father Mellon came over and said, 'You better put Harold Williams to bed here in the Vendig tonight, I don't think he ought to go back to New York.'

Q. He went back to New York?

A. He went back to New York, yes.

Q. Did he go with you or ahead of you?

A. He went with Trevor.

Q. Ahead of you?

A. Ahead of us.

Q. When you got over there, did you see him?

A. Yes, he was in bed, and I thought he was dead, he looked it.

Q. You say you thought he was dead, what made you think he was dead?

A. Well, he sort of propped up in bed with his eyes sticking out, and apparently didn't seem to be breathing.''

At page 572, l. 33, he further testified:

''Q. Now, when the agreement had been prepared, typewritten, and was in shape where it might be signed, what, if anything, was said by any of you people before signing?

A. Well, Mr. Trevor Williams said, 'This thing is getting all too legal for him,' and he demanded his attorneys come in, and he was told to keep quiet, he would be told when he could bring them in.

Q. Then, later, before it was signed, was something else said?

A. They said it was too late to bring them in, they should have been in earlier.

Q. Who said it was too late?

A. Mr. Carlton Godfrey.

Q. Who told them he would tell him when he could bring them in?

A. Mr. Carlton Godfrey.

Q. Now, did Dr. Mellon say anything about that time?

A. Well, Dr. Mellon came in and announced that the capias had been sustained.

Q. The capias had been sustained?

A. Yes, and, as I remember, another thing, Mr. Garrison came out into the hall and told us —he came out into the hall and told us we had better go in and settle, settle the matter because this man Hart was a firebrand.

Q. Now, did Dr. or Father Mellon appeal to anybody for corroboration of his statement that it had been sustained, the capias had been sustained?

A. Yes, he turned around and asked, 'That is right, isn't it, gentlemen?'

Q. Who answered?

A. Mr. Godfrey, in fact, all of them answered.''

At p. 574, l. 20, he further testified:

''Q. I asked you whether there was any corroboration, you said he appealed to them, what did he say and who said it?

A. He said, 'The capias has been sustained by the Supreme Court, isn't that so, gentlemen?' And Mr. Carlton Godfrey said so, Mr. Philip Godfrey and, I think, Mr. Garrison.

Q. Now, then, what was said?

A. Why, Mrs. Davis said, kept demanding lawyers, should have our lawyers, and she begged me not to sign this thing, she said it was too legal, and Mr. Carlton Godfrey leaned over and tapped her on the hand, and said, 'I am not

here to advise you, but you had better sign if you know what is good for you.'

Q. Then what?

A. Well, with the capias being sustained and everything against me, I just signed.''

At p. 575, l. 5, he testified further, as follows:

''Q. What was your physical condition at that time?

A. Well, I would have, with the thought of jail hanging over me, or something, and feeling that I had not done anything morally wrong, I would have signed anything.

Q. I know, but what was your physical condition at the time, had you taken on weight during the last few days?

A. I lost about fifteen pounds in the four or five days connected with that.

Q. And you say you thought you had done no wrong?

A. Yes.

Q. But you signed?

A. I signed. I would have signed anything.

Q. Were you complacent in your mind or were you in fear?

A. In fear.''

At p. 579, l. 9, he testified as follows:

''Q. I understand you to say that your first visit to Carlton Godfrey's office after Mr. Harold Williams and the other Williamses had all left, was in reference to the so-called county, Ryon, Smith and Russell, and Roberts transactions?

A. No, it was in regard to breaking the contract on the Del Rey, selling the Del Rey.''

At p. 613, l. 26, he testified further, as follows:

"Q. Well, won't you please explain to me why it was that you were willing to pay back thirty-four thousand and plus dollars to Dorrian and Fahler which you had received, if you did not think that in such receipt you wronged them?

A. Why, that was about the amount that we figured, or I figured, I was involved in.

Q. What?

A. That I was involved in, in speculation.

Q. In what?

A. In speculating, in speculating and that capias and attachments, and apparently the way I look at it, jail facing me, I would have signed anything.

Q. When you say you were involved in it, you mean by that, that in the Smith and Russell and the Roberts and the county transaction you had received a quarter of the gross excess which amounted roughly to $32,000, that is what you mean, don't you? That is what you mean by being involved?

A. Yes.

Q. What?

A. Yes.

Q. Well, you had not shared in the other transactions?

A. No.

Q. And, therefore, did not consider that you were involved in them?

A. No.

Q. But where you had shared you felt willing to pay back with interest?

A. If I owed them the money, yes."

At p. 614, l. 34, he testified as follows:

"Q. When was it, if you can recall, that Mrs. Davis asked the gentlemen there if you could go home after the contract had been signed and the securities turned over by Trevor, and the money paid over by Harold, and you had signed certain assignments, was it then she asked if you could go home?

A. I think it was on Tuesday night, previous to that.

Q. What?

A. On Tuesday night, I think it was, previous.

Q. Previous to what?

A. To the signing of the agreement and also after signing the agreement, twice.

Q. If she asked before the papers were signed, the contracts were signed, and before the delivery of the securities occurred, of course, they told you that the capias was still in effect, didn't they, that you couldn't go home?

A. Yes."

Concerning the officers of Williams & Davis, Inc., he, Royden B. Davis testified, p. 621, l. 1, as follows:

"A. Gordon was president, I think, I was vice-president, and Harold was secretary and treasurer."

At p. 625, l. 30, he further testified:

"Q. Now, you testify that you placed—took some papers from the top of the safe and put them inside the safe, why did you do that?

A. I put them in there so that I could find them when I wanted them because some of the

papers were disappearing around the office and so we could have them for the attorneys if we needed them.

Q. They were disappearing?

A. They were disappearing, yes, sir.

Q. Who had access to these papers at that time besides yourself?

A. Mr. Hart and Mr. Harold Williams and myself.

Q. Was Harold Williams at home then?

A. No."

From this testimony, we submit that it is clear that these appellants intimidated and intended to accomplish their purpose by intimidation and duress.

During the first two days, they would charge forgery and embezzlement, and threaten jail, and when the respondents would call for their attorneys, they would placate them by promises and statements leading respondents to believe they should have the benefit of their attorneys' advice in due season, appellants from time to time keeping before them these charges of forgery, embezzlement and jail, without doubt for the purpose of keeping them in fear, and yet placating them until the end.

During the second day, it was the same thing—first embezzlement, then forgery, then jail, and when respondents would demand their attorneys, the same tactics were used as had been used the day before, to wit: to placate them, to lead them to understand and believe that they would have their attorneys before they were called upon to act, but all the time breaking down their moral courage.

On the third day, after the agreement had been prepared, different tactics were used—then the attitude of appellants was one of demand—demand

that they sign the agreement, and that day when respondents demanded their attorneys, appellants ceased to placate, and then told them it was too late; and when A. Trevor Williams held back, he was asked if he wanted to go to jail, and when Harold S. Williams demanded his attorneys, he was told that it was too late, and that he might kill his wife if he had to go to jail; and when Royden B. Davis hesitated, he was told by Mr. Godfrey that he did not want to advise him, but that his advice was for him to sign, and at once. Just at that time, Father Mellon went into the hallway, then came back, and in the presence of Carlton Godfrey, Esq., and William I. Garrison, Esq., stated: "The capias has been sustained by the Supreme Court," referred to them and said, "Isn't that so?" and both Mr. Godfrey and Mr. Garrison said, "Yes," although they both knew that such was not a fact.

It is difficult to conceive of a more deliberate instance of duress than this case presents, nor of more deliberate determination of imposition than was carried into effect in this case from the issuing of the attachment and capias until the agreement was signed, and never was the capias and its power to produce fear on the respondents ever for a moment lost sight of—it was appellants' chief weapon conceived by their cunning and constantly wielded until their purpose was accomplished.

DURESS.

In the case of *Peabody v. Tenney* (30 Atl., Mass. 456), at p. 457, Tillinghast, Justice, said:

> "Duress exists when one by the unlawful act of another is induced to perform some act under circumstances which deprive him of the

exercise of free will." Citing the case of *Hackley v. Headley* (45 Mich. 569.).

In the case at hand, this arrest, which they threatened under the capias on the day of this third meeting, they knew to be an unlawful act, as at that time they had Justice Campbell's conclusion, in which he pointed out four reasons why the capias was unlawful.

Not only was there duress practiced upon these respondents on the third day, but there was likewise fraud practiced upon them.

In the case of *Pierce v. Brown* (7 Wallace 205, 19 L. ed. 134), at p. 137, the United States Supreme Court said:

> "Where there is an arrest for an improper purpose, without just cause, or where there is an arrest for a just cause, but without lawful authority or for a just cause, but for an unlawful purpose, even though under proper process, it may be construed as duress or imprisonment, and if the person arrested execute a contract or pay money for his release, he may avoid the contract as one procured by duress, or he may recover back the money in an action for money had and received."

In the case of *Hackley v. Headley* (45 Mich. 569), at p. 574, the Supreme Court, by Cooley, Judge, held:

> "Duress exists when one by the unlawful act of another is induced to make a contract or perform some act under circumstances which deprive him of the exercise of free will. * * * Duress of the person is either by imprisonment or by threats or by an exhibition of force which apparently cannot be resisted."

In the case of *Wolf v. Troxell* (94 Mich. 573), at p. 576, the Court held:

> "Duress implies a constraint which overcomes the will of the person constrained and this constraint may be the result of imprisonment or threat of immediate imprisonment."

FRAUD.

In the case of *Noble v. Enos* (19 Indiana 72), at p. 77, their Supreme Court, said:

> "Fraud means that some deceit, trick, deception or artifice was perpetrated upon one's credulity."

That this was true in the case at hand, is perfectly clear. There can be no doubt but that the appellants and their attorneys practiced a deceit upon the respondents about securing the presence of their lawyers, by making one excuse or another, and then by postponing the time to a future date, and when that date came, and the evening when they might have gotten in touch with their attorneys had passed, they finally refused to permit them.

In the case of *Swift v. Rounds* (35 Atl. 45, Rhode Island), at p. 45, the Court held:

> "It was a fraud to make a promise influencing the conduct of another, with intent not to perform it * * * To profess an intent to do or not to do when a party intends the contrary is as clear a case of misrepresentation and of fraud as could be made. * * * But when a promise is made, with no intention of performance, and for the very purpose of accomplishing a fraud, it is a most apt and effectual means to

that end, and the victim has a remedy by action or defence."

Touching the capias, it is submitted that a perusal of the testimony of appellants' witnesses will convince the Court that their testimony was purposely perverted to meet the language used by Father Mellon, to wit: "The capias has been sustained."

Philip Godfrey, for the complainant, (p. 693, l. 10); testified as follows:

"Q. Do you remember any remark being made by Father Mellon with reference to the capias?

A. There was no remark made by Father Mellon in reference to the capias until after the agreement was signed.

Q. Are you sure of that?

A. Positive.

Q. And what was said?

A. Well, after the agreement was signed, Father Mellon simply said that he had been informed, 'That the capias had not been dismissed.' "

William I. Garrison, for complainants (p. 863, l. 32); testified as follows:

"A. I never heard the attachment or capias mentioned before the instrument was signed.

Q. Now, after it was signed, was anything said about the capias, and, if so, tell us what.

A. Yes, after everything had been concluded and finished and cleaned up, Father Mellon then stated, 'That the capias had not been dismissed,' and that is all he said about it, that I recollect."

Lloyd W. Fahler, one of the appellants, testified (p. 922, l. 3); as follows:

> "A. After all these details had apparently been settled I heard them discuss the fact that there were some few things missing, I presume they were bonds and several things like that, and Father Mellon said that they would have to convene again the following day for Trevor to bring the missing articles, and just, that was the understanding just before adjournment, after everything had been settled that afternoon, we were all standing, I was standing the opposite end of the room, Father Mellon made the announcement, he said, 'Now, I can tell you,' he says, 'That the capias has not been dismissed.' "

Father Mellon, who had been sworn out of turn and during the respondents' case and before the appellants' witnesses were put on (p. 380, l. 32); testified as follows:

> "A. And I said I was very glad that everything had gone on so amicably and had been settled so peacefully and I said, 'Now, I feel rather free to say, "That the capias had not been lifted." ' "

Father Mellon did not start out to say, "The capias has not been lifted," but said, "The capias has b—" half pronouncing the word, "been," then corrected, and said, "Has not been lifted." On cross-examination, he was asked (p. 386, l. 18):

> "Q. Now, you said that you were told of the signing, I mean of the capias, on the last day and in your testimony you said, 'I said the capias had been' and then you stopped and said, 'Had not been lifted.' Now, why did you

start out to say, 'The capias had' what did you intend to say when you said, 'The capias had been'?

A. Sustained.

Q. That was what your recollection was that you were going to say and then afterwards you said it had not been lifted?

A. Yes.

Q. Let me ask you, did any of the attorneys call your attention to the distinction between those two expressions?

A. No, sir.

Q. Then you didn't say, 'Had been sustained' as the other witnesses have testified for what reason?

A. Because the word didn't come to me quickly enough and I changed the construction of my sentence.

Q. 'Sustained' was the word you had in mind?

A. Yes, sir.

Q. The word you wanted to say?

A. Yes, sir.

Q. And that was the word you did use at that time, wasn't it?

A. Yes, sir.

Q. 'The capias had been sustained'?

A. Yes, sir.''

So, that it is submitted that respondents' testimony concerning the use of the word, ''sustained'' is proven, and that the escape from the effect of that statement, which the appellants sought to effect by a change of the language, has failed and if they are mistaken or their testimony is false in that important particular it cannot be relied on in any other.

At p. 682, l. 12, Philip Godfrey, testified:

"Q. Do you recall hearing on the second day, after the preparation of the contract, proposed preparation of the contract in writing had been suggested by your father anything being said about lawyers being present?

A. No, sir."

At p. 703, l. 10, he further testified:

"Q. Was there anything said about an attorney being requested?

A. No, sir."

At p. 705, l. 17, he testified as follows:

"Q. Mr. Scanlan further testifies on p. 27, in reply to a question, 'Just before the agreement was signed was there anything said about their attorneys again and Mr. Trevor Williams said, "I can't sign without my attorneys?"' Was any such remark made by Mr. Trevor Williams?

A. No, sir."

And notwithstanding the three flat denials that any mention was made of attorneys, on p. 706, l. 29, he testified:

"A. This was prior to the signing, on the day that the agreement was signed, perhaps a half an hour before it was signed, Mr. Garrison came in the room with Mr. Scanlan, and Trevor Williams, and Mr. Garrison said, 'Mr. Godfrey,' speaking to my father, 'Trevor has something to say to you,' and father said, 'Well, what is it, Trevor?' And Trevor said, 'Mr. Godfrey, our lawyers are over at the University Club and I would like to have them here,' and father said, 'Why, by all means, get

> them here. The agreement is complete and they can go over it,' and Harold Williams sprung up and in an extremely emphatic manner said, 'We paid ten thousand dollars for lawyers already, and I don't want any more lawyers.' After that, and except for that one thing, the name of lawyers or the word lawyers was not mentioned in any of the conferences prior to the signing of the agreement."

Just what force is to be given to the testimony of a witness who flatly denies on three different occasions that any mention was ever made of attorneys during any of the meetings, and who then turns around and states that a request was made for the attorneys, and that Carlton Godfrey said, "By all means, bring them," and the reason they did not come was because of an alleged statement that Harold Williams said he had already paid $10,000 for attorneys and didn't want any more of them, we don't know. But, the testimony in the case shows that although respondents' attorneys had been engaged, they had never been in conference with their clients, and Harold Williams testified that he had said that he paid $10,000 for the attorneys and he wanted them.

Applying ordinary common sense to the proposition, it would seem as though Mr. Godfrey must be mistaken or false in his testimony, and that Harold Williams told the truth. It can scarcely be imagined why a man with a capias out against him, with bail of $50,000, and out of the State and afraid to come back again, and who had retained attorneys to set aside the capias and the attachment against his property, and who had paid the fees for the attorneys' services, as is alleged in this case, would not want the advice of his attorneys in the then

pressing, important situation. The proposition that he would not is inconsistent with human conduct, and it is submitted that the statement that Mr. Williams did not want his attorneys present is not worthy of belief. Not only did Philip Godfrey allege that as the disposition of the question of attorneys, but on this same subject, Louis G. Hart, appellants' witness, at p. 792, l. 33, testified:

> "Q. Did you hear any remark that day, I am speaking of this day you have just described, and I think that is the second one, about the meeting being too legal and that they wanted their lawyers present, the other side?
>
> A. No, sir, there was nothing like that said."

and Mr. Hart, notwithstanding the negative testimony previously given by him, on p. 797, l. 35, testified as follows:

> "A. Before the agreement was signed, Mr. Garrison, Trevor Williams and Jack Scanlan came into the room and Mr. Garrison announced that Trevor Williams had something to say and Mr. Godfrey says, 'What is it?' 'Well,' he said, 'My attorneys are in the University Club, and I think it would be a good thing to have them over here.' Mr. Godfrey says, 'Well, I haven't any objection. They are welcome if you want them,' and Harold Williams then stood up and said, 'There will be no attorneys here. I have paid ten thousand dollars already to lawyers and I don't intend to pay any more. We don't need attorneys here.' Then Mr. Scanlan got up and said, 'Mrs. Davis tells me her attorney is right here in this hotel.' Mr. Harold Williams turned to Scanlan and says, 'Eh, you come here,' called him out, and when

they came back there wasn't a word said about attorneys."

Lloyd W. Fahler, one of the appellants, at p. 925, l. 1, testified as follows:

"A. Mr. Garrison and Trevor and Jack Scanlan came into the room, Mr. Garrison made the statement to Mr. Godfrey, 'Trevor has something to say to you,' Mr. Godfrey said, 'Well, what is?' and Trevor says, 'Our lawyers are over at the University Club,' and Mr. Godfrey says, 'Well,' he says, 'bring them over.' He said, 'I have no objection.' Whereupon Mr. Harold Williams arose and he says, 'I will have no more lawyers.' He says, 'I paid ten thousand dollars already and,' he said, 'I want this over with.' Jack Scanlan was down at the other end of the table, apparently said something, what he said I don't know, Harold Williams arose from the table and he said, 'Here, you,' he says, 'I want to talk to you,' and he took him out into the hall. Shortly after they came back and signed and no more dispute.

Q. Did, at that time, or any other time, Mr. Carlton Godfrey say, 'I will be your lawyer, you don't need any other lawyer.'

A. I didn't hear that.

Q. At that time or any other time, did Mr. Carlton Godfrey say, 'It is too late to have lawyers present.'

A. Not that I heard."

Connie J. Dorrian, one of the appellants, at p. 1032, l. 17, testified as follows:

"Q. Did you hear anybody, either Trevor or Harold Williams request a lawyer to be present that day?

A. No.''

At p. 1036, testifying on the same subject, at l. 9, he testified as follows:

''Q. Was anything said that day by anybody about having a lawyer present on the second day?

A. Well, I don't know what day it was, don't know whether the second day. I know Mr. Scanlan came in, whether that was the second or the third day I don't know.

Q. What did you hear said, whether it was the second or third day?

A. Mr. Scanlan and Mr. Williams came in—wait until I see—at one time Jack Scanlan spoke of a lawyer and Mr. Williams called him, he said, 'Come here, you, come here.' He called him out and Mr. Garrison came in and he called Mr. Godfrey out, or talked to Mr. Godfrey and said, there was something spoke of a lawyer and Mr. Godfrey was satisfied.

Q. He what?

A. He didn't object to it, I know that, the words he said I don't recall, but I know he did not object to any lawyer.

Q. Did you hear Mr. Harold Williams say anything when the question of having a lawyer present was said to Harold?

A. Yes, he said, 'I have got my fill of lawyers now. They have cost me ten thousand dollars already.' That he did say. I heard that. And then later on Jack Scanlan said something and he said, 'Hey, you, come over here,' called him out in the hall, and Jack spoke about a lawyer.''

At p. 1047, l. 15, he testified as follows:

"Q. Now, you say that Trevor or Scanlan made a request for a lawyer at that meeting?

A. Yes, there was something said."

At l. 30, same page, he further testified:

"Q. Who was it first made the statement about the lawyer?

A. I can't say that.

Q. Was it Trevor or was it Mr. Garrison?

A. I think Mr. Garrison said something.

Q. Said that Trevor wanted a lawyer?

A. Yes.

Q. And then Jack Scanlan said something about a lawyer, is that right?

A. Yes, I think he did.

Q. And then Mrs. Davis said something about a lawyer, was that right?

A. Well, there was some talk about a lawyer between Mrs. Davis and Jack Scanlan.

Q. Did they say that their lawyers were at the University Club?

A. Yes, that was mentioned. I heard that.

Q. Did Mrs. Davis say the lawyers were there in the hotel and she wanted them?

A. I didn't hear her say that. I heard somebody say the lawyers were in the hotel. I heard that, but not from Mrs. Davis.

Q. You had had your lawyers with you all the time, hadn't you?

A. Yes, sir.

Q. When the requests were made for lawyers did you, as a party to the proceedings, say anything about having lawyers?

A. No, nothing at all. I didn't butt in at all, didn't say a thing.

Q. Having had your own lawyers, you were satisfied?

A. They were representing me.

Q. You didn't care whether the others had a representative or not?

A. Well, that was understood and agreed, I guess, that Father Mellon was supposed to be looking after their interest up there.

Q. Father Mellon then was looking after their interest?

A. Yes, he was."

At p. 1126, l. 8, Carlton Godfrey testified as follows:

"Q. Now, did you feel on the occasion when something was said about having a lawyer that anyone of these defendants should have a lawyer?

A. Not against their own wishes.

Q. What?

A. Not against their own wishes.

Q. Now, independent of their own wishes, I repeat the question, did you feel on that occasion that any one or more of these defendants ought to have had a lawyer?

A. I know of no necessity for it.

Q. That is all I want to ask."

At p. 1088, l. 15, he testified as follows:

"A. Just a short time before the agreements were signed, I would say about half an hour, Mr. Garrison came into the room and said, I don't know whether he said that Jack Scanlan or Williams, Jr., one or the other, had something he wished to say to Mr. Godfrey. And he said that their lawyers were at the University

Club, as I recollect it, and he wished them present. I said, 'By all means, they ought to be present. No reason why they shouldn't. I have no objections to them being present.' Williams, Sr., got up, and in a very firm voice said that he objected to any further delay, he wanted the matter closed up and he had paid a large sum, I think he named ten thousand dollars in lawyers' fees, and didn't want to pay any more. He didn't want any further lawyers present. There were some remarks made by someone else, my recollection is that it was Williams, Jr., again, about the matter, and the father said, 'Here you, come out here,' and he took him in the hall, and they returned in a few minutes, and nothing more was said about lawyers.''

Touching the question of arbitration and attorneys, Father Mellon (p. 366, l. 5) testified as follows:

''I was putting my automobile away. Mr. Dorrian asked me to come to his house and meet Mr. Godfrey, Sr. I repeated this conversation to Mr. Godfrey and he said that he was most anxious for a settlement. That is what he wanted, but he said, 'They will settle on our terms.' ''

At p. 366, l. 30, he further testified:

''A. Yes. Then we arranged the meeting at the Hotel Vendig. I told them also that Mr. Godfrey asked me to sit in as an arbitrator and that was acceptable to me and Scanlan represented Davis and Williams, and I told them that was the purpose of my presence in that room at this meeting that day.''

At p. 379, l. 1, he testified:

"Q. Do you remember anything being said on the third day about an attorney?

A. Trevor said he wanted his attorney, and I said, 'Why do you need your attorney?' Well, he said, 'Father, if I was sick I would get a doctor,' and he said, 'I am legally sick now, and I feel that I ought to have legal aid.' "

At l. 17, same page, he further testified:

"Q. Which day was it Mr. Stringer appeared? At any rate the conversation you have just alluded to was on that day in which Mr. Stringer appeared?

A. Yes, sir. There was another conversation on the third day, I think. Trevor asked for lawyers and Mr. Williams stated that he had given ten thousand dollars already and he didn't intend to give any more."

At p. 381, l. 5, he testified as follows:

"Q. Did anyone, in your presence in the hall, corridor, say, 'We have Trevor for twenty years and we are going to put Trevor in jail,' or words to that effect?

A. Nobody said that to me. I probably used that expression about having Trevor for twenty years."

At l. 18, he testified further:

"Q. Do you remember when, if at all, you said that?

A. I think I said that to Mrs. Davis in the corridor."

At p. 382, l. 12, he testified:

"Q. Did Carlton tell Harold substantially as follows: 'Do you want to go to jail? What is more, I am going to put you in jail?'

A. He asked him if he wanted to go to jail.

Q. When was that?

A. That was at the breaking up of the party.

Q. On the ——

A. The last day.

Q. The last day?

Mr. Bourgeois: Who was that who asked Harold?

A. Godfrey asked Trevor."

At p. 388, l. 5, he testified as follows:

"Q. But you did hear, or you yourself did make a statement that Trevor was likely to go up for twenty years?

A. Yes.

Q. For what?

A. Well, I thought for forging names.

Q. What made you think of forging names?

A. Of straws."

At p. 388, l. 20, he testified:

"Q. Before or after the meetings were begun?

A. After the meetings were begun."

At p. 389, l. 30, he testified as follows:

"Q. But you say that Mr. Godfrey said they would have to settle on their terms?

A. Exactly."

At p. 390, l. 2, he testified:

"Q. Yes, if they had to settle on Mr. God-

frey's terms, what was the use to negotiate about it?

A. Well, the settlement was sought by the Davis-Williams concern, and, therefore, I felt that Mr. Godfrey had a right to make the terms of the settlement."

At p. 392, l. 3, he further testified:

"Q. Do you recall whether you suggested to Trevor to take his father outside of the building and give him the air on one or more occasions?

A. Maybe I did.

Q. What did you do it for?

A. Because he was complaining of a headache.

Q. What was his appearance?

A. His appearance was of a man who had a headache."

At p. 402, l. 10, he testified as follows:

"Q. Who told you the capias had been sustained?

A. Mr. Garrison.

Q. How did he come to make that statement?

A. I don't remember, Judge, except that Mrs. Davis was asking that her husband be allowed to come home to Atlantic City and I said to Mr. Garrison and Mr. Godfrey, 'Why don't you let him go to Atlantic City to-night?', and they said then that the capias had been sustained.

Q. Where were you when that was stated?

A. When that statement was made, in the vestibule.

Q. Who was present?

A. Mr. Garrison and Mr. Godfrey, and Mrs. Davis had made that request about her husband in the vestibule to me.

Q. Give us the language that Mr. Garrison used?

A. He said it wouldn't be safe for him to go down there.

Q. I mean the language he used with respect to the capias being sustained?

A. That is the language he used."

At p. 405, l. 1, he testified as follows:

"Q. What Harold Williams did say at one of the conferences and before the contract was signed was that the whole thing was Greek to him, is that right?

A. Not the whole thing.

Q. What did he say was Greek to him?

A. Most of it was Greek to him."

At p. 409, l. 10, he further testified:

"Q. So that with nothing more than Mr. Godfrey's statement that a straw was one whose name was used without his knowledge, and suspecting there was a reason back of it, without knowing what the reason was, you decided this transaction is bad, dishonest, didn't you?

A. I said I would adjudge them as dishonest.

Q. You approached then the consideration of this matter as an arbitrator and judicially with that thought in your mind, didn't you?

A. Yes.

Q. That these defendants were all guilty of moral dishonesty, is that right?

A. I wasn't prejudiced in my judgment against them at all.

Q. Now, did you say in answer to Mr. McCarter's question that you didn't think these people needed a lawyer?

A. I didn't think they needed a lawyer? I don't remember saying that, Judge.

Q. At any time during these conferences was a lawyer asked for?

A. Yes.

Q. Which conference, the first?

A. Second or third conference.

Q. Who asked for a lawyer at the second conference?

A. I think it was Trevor.

Q. What did he say?

A. He said, 'We ought to have a lawyer,' and his father said, 'I paid ten thousand dollars and I don't want to be bothered with them any more.' "

At p. 422, l. 18, he testified as follows:

"Q. Didn't you just say somebody did charge somebody with forgery?

A. Didn't they charge them? Oh, they asked them if that was a forged name, is that a straw?

Q. Who asked if it was a forged name?

A. Godfrey, Carlton, my recollection.

Q. Anybody else? Who did he ask if that was a forged name?

A. Harold.

Q. Anyone else?

A. Trevor.

Q. Anyone else?

A. No."

At p. 423, l. 10, he testified further as follows:

"Q. Then you were sitting there on the sec-

ond day with a feeling that these men, somebody, Harold had admitted that he committed forgery, didn't you?

A. I thought there was something crooked, yes.

Q. And it grew out of a question by Mr. Carlton Godfrey as to whether a straw name was a forgery?

A. Yes.

Q. Did you make any further inquiry from these people to find whether that was true or not?

A. I considered that a sufficient acknowledgment.

Q. So that you were sitting there then after that time with a consciousness that somebody among these people had committed forgery?

A. Yes.

Q. Now, where did you get the idea—anything said about stealing money?

A. About what?

Q. About stealing money?

A. No, Judge.

Q. Anything said about misappropriating money?

A. No, Judge.

Q. The only thing you heard on that occasion was straw and forgery?

A. Yes."

At p. 424, l. 1, he testified as follows:

"A. No.

Q. Wasn't discussed in your presence at all?

A. No.

Q. And you had no idea of any offense having been committed or anything was said by any-

body except forgery and the use of a straw name?

A. Yes.

Q. That is quite clear to you, isn't it?

A. Yes, Judge.

Q. Where did you get the idea that you communicated to Mrs. Davis or somebody that they would like to go to jail for twenty years?

A. That was my wrong opinion of forgery. I don't know why I said twenty years. I don't know why I didn't say a hundred.

Q. Anyhow, when you said that Trevor had to go to jail for twenty years or might go you had forgery in your mind?

A. Yes.

Q. Who did you tell that to?

A. Mrs. Davis.

Q. At what stage of this proceeding was that?

A. That was about the third day when she was pleading for Trevor, being an orphan."

At l. 33, same page, he testified:

"Q. Now, you say that Mr. Godfrey asked who, whether he wanted to go to jail?

A. Asked Trevor.

Q. How did he come to ask him that?

A. Trevor refused to go on with the agreement that he had signed the day before."

At p. 425, l. 11, he further testified:

"A. 'Do you want to go to jail?' and I forget what happened.

Q. Wait a minute. You heard Godfrey ask him whether he wanted to go to jail?

A. Yes."

At p. 426, l. 6, he testified as follows:

"Q. All right, now who was it first used the word 'liar', Mr. Godfrey or Mr. Williams?

A. 'Want to go to jail; you will go to jail.'

Q. 'Liar'?

A. Mr. Godfrey.

Q. He used the word, 'liar' first?

A. Yes."

A. Trevor Williams testified (p. 458, l. 32) as follows:

"Q. Mr. Williams, you testified something about a statement Mr. Garrison made about being too young a man to go to jail. What else did he say about that, if you recall?

A. Oh, he said that I had better sign, if I did sign, they would not prosecute me."

This testimony was uncontradicted, and stands as a proven fact.

From the foregoing testimony, there are two widely variant pictures presented,—that by the respondents is, that upon learning of the attachment and capias issued against their property and them, they left the State and immediately selected attorneys to fight for them; that the attachment was set aside and the capias was held by the Supreme Court Justice to be insufficient to warrant arrest; that the respondents were not advised as to these results before the meeting was had; that the appellants as soon as they went into the meeting and learned the nature of it, and they were charged time and again with embezzlement, forgery and conspiracy, they demanded their attorneys present to advise them, but they were placated and put off from day to day, first, by a statement that Mr. Godfrey would act as

their attorney and treat them right, later, when the demand was renewed, they were told that Mr. Godfrey would prepare an agreement, take the rough edges off of it, and before it was signed, their attorneys should come in; and thus mollified they continued to attend the meeting and when something arose during the further meeting, when something was brought forth that called for advice, they demanded their attorneys, but were told by Mr. Godfrey that he would tell them when it was time to call their attorneys; again, lulled into a sense of security, they continued, all the while relying upon Mr. Godfrey's promise that their attorneys should be called before signing, and, finally, when the agreement had been prepared and ready for signature, and the culmination of this most important proceeding was at hand, and they were called upon to determine the course to pursue in this most important matter, which they felt meant liberty or imprisonment, they again demanded their attorneys, and were told that it was too late, and immediately after they were told that the capias outstanding against them had been sustained, and were further told that if they did not sign they would go to jail.

It is submitted that this picture is sustained by the testimony in the case, and that it rationally and logically and closely portrays, step by step, the course pursued to lead the respondents up to the execution of the agreement.

The picture presented by the appellants is that although they all knew that the attachment had been issued, and that the capias was out against the respondents, and they had been trying to effect their arrest, the meeting was wholly amicable; that the respondents, who had retained lawyers to fight the attachment and capias proceedings, and with whom

the respondents had not had any personal interview went into this important negotiation without the aid of lawyers, and without any request for their lawyers, notwithstanding the appellants were present with their attorneys, and those attorneys were directing a proposed settlement and drawing an agreement which involved practically $200,000 concerning it, and although the appellants knew that the respondents had retained attorneys in this very matter, that about half an hour before the agreement was executed, A. Trevor Williams made a demand for his attorneys, and Mrs. Davis made a demand for attorneys, and that Harold S. Williams then stated that he had paid $10,000 for attorneys and didn't want any more of them; and that the statement made by Father Mellon that the capias had been sustained was not made until after the agreement had been signed.

It is submitted that that picture is so irrational and so unnatural that it is unworthy of belief; that the respondents did want attorneys, and that they realized the importance of them is evidenced by the fact that they had paid $10,000 attorneys' fees, so that they might be represented, and the fact that they procured their attorneys to be present at the University Club on the third night goes to prove the fact that they did want their attorneys; and it is inconceivable that parties who are about to enter into an agreement of the importance and magnitude of this agreement, and who had already paid attorneys' fees, would willingly proceed with no one present to advise them. It is submitted that the testimony of the respondents overwhelmingly predominated the testimony of the appellants.

As to the latter part of their picture, the question naturally arises: "What object could there have

been in Father Mellon notifying them, after the agreement had been signed, that the capias had been sustained?" They were of the belief that the capias was still outstanding against them, and what purpose did he hope to accomplish by reiterating to them that it was still against them? Whereas, if he made the statement beforehand, then his object was in keeping with the respondents' testimony, that he was endeavoring to convince them that they should sign.

Connie J. Dorrian, in his testimony (p. 1024, ll. 10, 20), testified that he had his attorneys there, and that Father Mellon represented the respondents, but Father Mellon testified (p. 366, ll. 11, 24), that he had been selected arbitrator by Mr. Godfrey, and that Mr. Godfrey had said to him that the settlement would have to be according to his notion.

It is submitted that the Vice-Chancellor erred in failing to find duress from this testimony. His theory was that these parties were free each of the two nights before the day of signing, and could have gotten in touch with their attorneys at that time had they desired. It is plain that there was no duress on the first day or the second. What the respondents claim is that on the first and second days, when matters arose demanding the attention of their attorneys, they were placated and mollified by the appellants' attorneys, and they went through those two days with a feeling of security that when the agreement was completed, and before signing, they would have the presence and advice of their attorneys concerning it, and when that time came, although they did provide for the presence of their attorneys, who were then waiting for a call, they were told that it was too late to bring the attorneys in; and almost immediately following that, a state-

ment was made by Father Mellon, in the presence of Mr. Godfrey and Mr. Garrison, attorneys of appellants, that the capias had been sustained by the Justice of the Supreme Court, thus depriving them of the hope they had maintained up to that time that the capias would be vacated, and immediately following that, they were told if they did not sign they would go to jail. Under this theory, which at all times has been respondents' theory of duress in this case, which duress was not applied until the third day, and then not until the agreement was ready for signature, and when they had no opportunity of communicating with their attorneys, with every hope of freedom they had entertained banished by the false statement of the appellants, and, as they felt, jail staring them in the face, there was only one of two courses open to them—sign or jail—and they signed.

That the appellants were guilty of fraud, intimidation and duress is clearly apparent.

In the case of *Koons v. Vauconsant* (129 Mich. 260, 95 Amer. St. Reports 438), where a father and his son had in 1892 signed a promissory note in the purchase of stocks, but the father had not signed the note, after that time and in 1896, a note was presented to the father, by the holder of the note, and his attorney, and when exhibited to the father, the father denied that the signature was his, and stated that he did not sign the note since 1892, the note then being outlawed as to the father, the attorney stated that the signature of the father must have been written by the son, and the testimony of the father and his wife was that they threatened the son with imprisonment for forgery, as a result of which the father and mother executed a mortgage for the amount of the note, and then filed a bill to set aside the mortgage on the ground of duress,

and the Supreme Court of Michigan, by Chief Justice Hooker held that they were entitled to have the mortgage set aside. The language of the Court, at p. 440 of the American State Reports, was:

> "If the minds of these parties met upon the consideration, it was that there should be no prosecution for a crime which both understood defendant's representatives to assert. There is some confusion on the subject of duress, and it may be due in part to the unnecessary attempt to invalidate such contracts as this upon the ground of duress. * * * Yet the law punishes those who compound a felony. As a consideration for an undertaking, a promise not to prosecute a felony is illegal and void. No other consideration appears here. The moral obligation would, perhaps, support a promise, if it entered into the transaction. There is not only no evidence that it did, but the clearest evidence that it did not. It is right that men should pay their debts, and not culpable for creditors to collect by ligitimate means and methods; but making merchandise of the criminal law is not a lawful method."

In the case at hand, there was no consideration whatever for the making of the agreement of June 1st, 1927. The appellants, by that agreement, freed themselves of the sales contract, they obtained to themselves securities and cash amounting to about $120,000, and gave to the respondents nothing but a promise that if the total consideration of $190,000 was paid, they would execute a release to the respondents from certain lawsuits, including the capias, and give them a general release. There was a present consideration moving to the appellants,

with no present and no certain future consideration ever moving to the respondents.

In the case of *Slater v. Gittleman* (N. J. Adv. Rep. Vol. 6, #25, at p. 1161), Vice-Chancellor Berry held that a mortgage executed by a father and mother, under a threat of their son being sent to jail for embezzlement, was executed under duress, and decreed that the mortgage was void and should be set aside. Citing the case of *Ball v. Ward* (76 N. J. Eq., 8, Affirmed 79 Eq., 170).

In the case of *Ballantine v. Stadler* (99 Eq., 404), at p. 407, this Court defined duress as follows:

> "Duress is defined to be that degree of constraint or danger, either actually inflicted or threatened and impending, which is sufficient in severity or in apprehension to overcome the mind of a person of ordinary firmness."

In the case of *Koewing v. West Orange* (89 L., 531), at p. 541, this Court again defined duress as follows:

> "The duress for which a person may avoid any contract or conveyance made or recover back any money paid under its influence, exists where one by an unlawful act of the beneficiary, or his authorized agent, or by the act of some person with his knowledge, is constrained under circumstances which deprive him of the exercise of free will, to agree to or perform the act sought to be avoided."

There can be no reasonable doubt but that in the case at hand, these respondents were so completely under the influence of the appellants and their attorneys, that they were deprived of the exercise of their free will.

In the case of *Lomerson v. Johnson* (44 Eq., 93), which case was affirmed (47 Eq., 312), it was held:

> "Where the creditors of the husband induced his wife to join with her husband in giving a mortgage on her real estate to secure his debt, by telling her that her husband had been guilty of the crime of embezzlement, and could be imprisoned for it, and that another, who was interested, had just said he would see him in jail before he would do anything to relieve him, and it appears that such statements created fear or just apprehension, the reasonable conclusion is that the free agency of the wife was overcome; that the execution of the mortgage was obtained by undue pressure, and that it cannot be enforced against the wife's real estate."

The same principle was applied in *Ball v. Ward* (76 Eq., 9).

In the case of *Haydock v. Haydock* (33 Eq., 494), it was held that:

> "Whatever destroys free agency and constrains a person to do what is against his will and what he would not do if left to himself, is undue influence, and whether the control be exercised by physical force, threats, importunity or any other species of mental or physical coercion."

FATHER MELLON'S TESTIMONY.

Instead of Father Mellon's testimony being impartial, as appellants suggested, it was not only partial, but he, knowing the facts, had no right to attempt to preside as arbitrator.

Father Mellon, who acted as arbitrator, testified as follows (p. 366, l. 15):

> "I was putting my automobile away, Mr. Dorrian asked me to come to his house and meet Mr. Godfrey, Sr. I repeated this conversation to Mr. Godfrey and he said that he was most anxious for a settlement. That is what he wanted, but he said, 'They will settle on our terms.' "

At p. 366, l. 30, he further testified as follows:

> "A. Yes. Then we arranged the meeting at the Hotel Vendig. I told them also that Mr. Godfrey asked me to sit in as an arbitrator and that was acceptable to me and Scanlan represented Davis and Williams and I told them that was the purpose of my presence in that room at this meeting that day."

At p. 379, l. 1, he testified:

> "Q. Do you remember anything being said on the third day about an attorney?
>
> A. Trevor said he wanted his attorney and I said, 'Why do you need your attorney?' Well, he said, 'Father, if I was sick I would get a doctor,' and he said, 'I am legally sick now and I feel that I ought to have legal aid.' "

At l. 17, same page, he further testified:

> "Q. Which day was it Mr. Stringer appeared? At any rate the conversation you have just alluded to was on that day in which Mr. Stringer appeared?
>
> A. Yes, sir. There was another conversation on the third day, I think. Trevor asked for lawyers and Mr. Williams stated that he

had given ten thousand dollars already and he didn't intend to give any more."

At p. 381, l. 5, he testified as follows:

"Q. Did anyone, in your presence in the hall, corridor, say, 'We have Trevor for twenty years and we are going to put Trevor in jail,' or words to that effect?

A. Nobody said that to me. I probably used that expression about having Trevor for twenty years."

At l. 18, he testified further:

"Q. Do you remember when, if at all, you said that?

A. I think I said that to Mrs. Davis in the corridor."

At p. 382, l. 12, he testified:

"Q. Did Carlton tell Harold substantially as follows: 'Do you want to go to jail? What is more, I am going to put you in jail?'

A. He asked him if he wanted to go to jail?

Q. When was that?

A. That was at the breaking up of the party.

Q. On the ——

A. The last day.

Q. The last day?

Mr. Bourgeois: Who was that who asked Harold?

A. Godfrey asked Trevor."

At p. 388, l. 5, he testified as follows:

"Q. But you did hear, or you yourself did make a statement that Trevor was likely to go up for twenty years?

A. Yes.

Q. For what?

A. Well, I thought for forging names.
Q. What made you think of forging names?
A. Of straws."

At p. 388, l. 20, he testified:

"Q. Before or after the meetings were begun?
A. After the meetings were begun."

At p. 389, l. 30, he testified as follows:

"Q. But you say that Mr. Godfrey said they would have to settle on their terms?
A. Exactly."

At p. 390, l. 2, he testified:

"Q. Yes, if they had to settle on Mr. Godfrey's terms, what was the use to negotiate about it?
A. Well, the settlement was sought by the Davis-Williams concern, and, therefore, I felt that Mr. Godfrey had a right to make the terms of the settlement."

At p. 392, l. 3, he further testified:

"Q. Do you recall whether you suggested to Trevor to take his father outside of the building and give him the air on one or more occasions?
A. Maybe I did.
Q. What did you do it for?
A. Because he was complaining of a headache.
Q. What was his appearance?
A. His appearance was of a man who had a headache."

At p. 402, l. 10, he testified as follows:

"Q. Who told you the capias had been sustained?

A. Mr. Garrison.

Q. How did he come to make that statement?

A. I don't remember, Judge, except that Mrs. Davis was asking that her husband be allowed to come home to Atlantic City and I said to Mr. Garrison and Mr. Godfrey, 'Why don't you let him go to Atlantic City tonight,' any they said then that the capias had been sustained.

Q. Where were you when that was stated?

A. When that statement was made, in the vestibule.

Q. Who was present?

A. Mr. Garrison and Mr. Godfrey, and Mrs. Davis had made that request about her husband in the vestibule to me.

Q. Give us the language that Mr. Garrison used?

A. He said it wouldn't be safe for him to go down there.

Q. I mean the language he used with respect to the capias being sustained?

A. That is the language he used."

At p. 405, l. 1, he testified as follows:

"Q. What Harold Williams did say at one of the conferences and before the contract was signed, was that the whole thing was Greek to him, is that right?

A. Not the whole thing.

Q. What did he say was Greek to him?

A. Most of it was Greek to him."

At p. 409, l. 10, he further testified:

"Q. So that with nothing more than Mr. Godfrey's statement that a straw was one whose name was used without his knowledge, and suspecting there was a reason back of it, without knowing what the reason was, you decided this transaction is bad, dishonest, didn't you?

A. I said I would adjudge them as dishonest.

Q. You approached then the consideration of this matter as an arbitrator and judicially with that thought in your mind, didn't you?

A. Yes.

Q. That these defendants were all guilty of moral dishonesty, is that right?

A. I wasn't prejudiced in my judgment against them at all.

Q. Now, did you say in answer to Mr. McCarter's question that you didn't think these people needed a lawyer?

A. I didn't think they needed a lawyer? I don't remember saying that, Judge.

Q. At any time during these conferences was a lawyer asked for?

A. Yes.

Q. Which conference, the first?

A. Second or third conference.

Q. Who asked for a lawyer at the second conference?

A. I think it was Trevor.

Q. What did he say?

A. He said, 'We ought to have a lawyer,' and his father said, 'I paid ten thousand dollars and I don't want to be bothered with them any more.' "

At p. 422, l. 18, he testified as follows:

"Q. Didn't you just say somebody did charge somebody with forgery?

A. Didn't they charge them? Oh, they asked them if that was a forged name, is that a straw?

Q. Who asked if it was a forged name?

A. Godfrey, Carlton, my recollection.

Q. Anybody else? Who did he ask if that was a forged name?

A. Harold.

Q. Anyone else?

A. Trevor.

Q. Anyone else?

A. No."

At p. 423, l. 10, he testified further, as follows:

"Q. Then you were sitting there on the second day with a feeling that these men, somebody, Harold had admitted that he committed forgery, didn't you?

A. I thought there was something crooked, yes.

Q. And it grew out of a question by Mr. Carlton Godfrey as to whether a straw name was a forgery?

A. Yes.

Q. Did you make any further inquiry from these people to find whether that was true or not?

A. I considered that a sufficient acknowledgment.

Q. So, that you were sitting there then after that time with a consciousness that somebody among these people had committed forgery?

A. Yes.

Q. Now, where did you get the idea—anything said about stealing money?

A. About what?

Q. About stealing money?

A. No, Judge.

Q. Anything said about misappropriating money?

A. No, Judge.

Q. The only thing you heard on that occasion was straw and forgery?

A. Yes."

At p. 424, l. 4, he testified as follows:

"Q. And you had no idea of any offense having been committed or anything was said by anybody except forgery and the use of a straw name?

A. Yes.

Q. That is quite clear to you, isn't it?

A. Yes, Judge.

Q. Where did you get the idea that you communicated to Mrs. Davis or somebody that they would like to go to jail for twenty years?

A. That was my wrong opinion of forgery. I don't know why I said twenty years. I don't know why I didn't say a hundred.

Q. Anyhow, when you said that Trevor had to go to jail for twenty years or might go you had forgery in your mind?

A. Yes.

Q. Who did you tell that to?

A. Mrs. Davis.

Q. At what stage of this proceeding was that?

A. That was about the third day when she was pleading for Trevor, being an orphan."

At l. 33, same page, he testified:

"Q. Now, you say that Mr. Godfrey asked who whether he wanted to go to jail?

A. Asked Trevor.
Q. How did he come to ask him that?
A. Trevor refused to go on with the agreement that he had signed the day before."

At p. 425, l. 11, he further testified:
"A. 'Do you want to go to jail?' and I forget what happened.
Q. Wait a minute. You heard Godfrey ask him whether he wanted to go to jail?
A. Yes."

At p. 426, l. 6, he testified as follows:
"Q. All right, now, who was it first used the word 'liar,' Mr. Godfrey or Mr. Williams?
A. 'Want to go to jail; you will go to jail.'
Q. 'Liar'?
A. Mr. Godfrey.
Q. He used the word, 'Liar' first?
A. Yes."

3. BECAUSE THE AGREEMENT WAS NOT ENFORCIBLE BECAUSE NOT SIGNED BY ALL OF THE PARTIES.

The proof touching this question is found first in the agreement of June 1st, 1927, annexed to the copy of the bill of complaint (State of Case p. 39), which shows that Gordon Williams was one of the parties to the agreement, which was given to secure a single sum of $190,000, and that pursuant to the terms of said agreement, he was to assign and set over securities amounting to upwards of $50,000.

At p. 229, l. 30, Mr. Scanlan testified as follows:
"A. Carlton Godfrey said that the contract would not be enforced until they had received

Gordon Williams' signature in California and arrangements were being made for Carlton Godfrey to go to California to get Gordon Williams' signature to the contract.

At p. 253, l. 32, Harold S. Williams testified as follows:

"Q. What was the language, what did he say?

A. He said, 'Well, that agreement is no good.'

A. —— 'no good without Gordon's signature,' and then in the hallway Godfrey asked me how we could get Gordon's signature. I said I didn't know whether Gordon would sign it. He wanted to make some arrangements to go to California, either his son Philip or himself to go to California."

At p. 452, l. 10, A. Trevor Williams testified as follows:

"Q. Now, was anything said about the agreement not having been signed by all of them?

A. Just before the signing of all the agreements the question of Gordon's signature was brought up, but Carlton Godfrey said that you know this agreement isn't any good without Gordon signs, and he wanted ——

Mr. McCarter: I make the same objection to that evidence that I made to the other, to verbal evidence.

The Court: I will permit it. Answer.

A. —— and he discussed with my father about going out to California with him.

Q. What discussion?

A. He asked my father if it would be all right for him and Mr. Hart to go out to California

with him and my father said, 'No, certainly not, he wouldn't go out to California with him.'

Q. There was something in that agreement about its being completed on the twentieth of June, I think it was, why, if you know, was that twentieth of June fixed?

A. That was the space of time which they were to allow in order to get Gordon's signature, they were to go out to California during that space of time to get Gordon's signature.

Q. Was that the time that was originally talked about, or was that made shorter or longer than first spoken about?

A. I don't understand that question.

(Question repeated.)

A. Oh, that was made longer to give them plenty of time to go out and come back.

Q. What was the time first spoken of?

A. Oh, they wanted to give us about a week to produce the rest of the cash."

Royden B. Davis, testified (p. 576, l. 8), as follows:

"Q. Now, Mr. Davis, do you remember anything being said about the agreement after those of you who were there had signed it, anything being said about the agreement as it then stood?

A. Well, the agreement ——

Mr. McCarter: Same objection as before.

The Court: I will permit it.

A. The agreement was not to be good until it was signed by Gordon, and my recollection of that is that it was dated several days ahead, that is the completion of it to get time to get Gordon's signature."

Father Mellon (p. 394, l. 17), testified as follows:

"A. And Harold said, 'I will guarantee Gordon's signature.'

Q. What was said by Mr. Godfrey?

A. Mr. Godfrey said that Gordon's signature would have to be on these documents."

At p. 400, l. 14, the Court said:

"The Court: I would like my attention to be called to it, but it seems to me the agreement says $190,000 shall be paid in a certain manner, of which, according to the wording of the agreement, Gordon Williams was to agree and apparently, in the tenth section says, 'upon the execution of this agreement and the delivery of the securities herein recited,' then Dorrian and Fahler was to do certain things on or before a certain day, but I would like to have my atttention called to where there is anything in this agreement which makes it an enforcible agreement at the present time. Everybody has apparently assumed that these men agreed to pay $190,000, men who signed."

This testimony was well denied by the appellants, but the Vice-Chancellor, who had the parties before him in giving their testimony and an opportunity of observing their conduct, as well as the intonation of their voices, in giving the testimony, believed the respondents, and the following cases support the Vice-Chancellor's conclusions and the decree made in this cause. The appellants' testimony throughout is so inconsistent, so unnatural and out of the ordinary that it fails to carry conviction.

The intention of the parties undoubtedly was that

there should be no liability under the contract until all the parties had signed it.

In the case of *Water Commissioners of Jersey City v. Brown* (32 L. 504), this Court held:

> "A contract does not become complete and binding until reduced to writing and signed, if it appears that such was the intention of the parties."

In the case of *Ambler v. Whipple* (20 Wallace 546, 22 L. Ed., 402), the United States Supreme Court held:

> "Where both parties intended to have a written instrument signed by each as the evidence of any contract they might make, no contract is concluded until it is fully executed by both parties."

The same principle is recognized by this Court in the case of *Alpaugh v. Wood* (53 N. J. L. 638).

In the case of *Wharton v. Stoutenbourgh* (35 Eq. 266), this Court held:

> "The fact that parties negotiating a contract contemplated that a formal agreement should be prepared and signed, is some evidence that they did not intend to bind themselves until the agreement was reduced to writing and was signed."

In the case of *Willard F. Deputy Co. v. Hastings* (123 Atl. 33), the Superior Court of Delaware held:

> "Where a contract is reduced to writing and not all the parties named therein sign it, the question whether those who have signed are bound, is determined by the intention of the parties at the time of execution."

In the case at hand, the Vice-Chancellor, in addition to the intention gathered from the instrument, itself, had the parties before him, and being able to observe their demeanor at the time of testifying, arrived at the conclusion that the intention was that the parties should not be bound until the contract had been signed by all, and, therefore, the contract was not complete.

In the case of *Burch v. Schaeffer* (235 Pa. St. Rep. 590), the Court held:

> "Where a joint contract in writing shows on its face that it is to be signed by two persons as parties of the first part, and one person as party of the second part, and one of the parties of the first part refuses to sign, after the other two persons had signed, the instrument is ineffective and all the parties are discharged."

In the case of *Russell v. Annable* (109 Mass. 72), the Supreme Court of Massachusetts held:

> "That a bond given for the purpose of obtaining a dissolution of an attachment of partnership property, and executed in the name of the firm by only one of the two partners named as principals therein, cannot be enfroced against a surety without evidence of assent of the other partner to its execution."

In the case of *Emery v. Neighbour* (7 N. J. L. 142), at p. 149, 1824, our Supreme Court held:

> "An indenture purporting to be made in tripartite, but executed by only two of the parties, is incomplete and binds nobody."

In the case of *Herrick v. Johnson* (52 Mass. 26), at p. 36, which was a suit against a surety on a guaranty, the Court said:

> "So, if a bond purporting to be made or intended to be made by a principal and two sureties, is executed by the principal and one surety only, such surety would not be liable on the bond because he would not have any remedy against the other surety."

In the case of *Howe v. Peabody* (68 Mass. 556), there was a bond executed by a principal and two sureties, and afterwards the bond was charged by the principal, without the consent of the sureties, and, as changed, it was signed by two other sureties. In a suit on the bond, the Cout held that the principal was bound but all the sureties were free, the first two because the bond had been changed without their consent, and the second two because they had relief upon the joint indebtedness with the first two sureties."

In the case of *Wood v. Washburn* (19 Mass. 24), was an administration bond, not executed by the administrator, but by the sureties, and it was held that the sureties were not bound.

In the case of *Bean v. Parker* (17 Mass. 591), at p. 605, the Court, in a suit on a bond, said:

> "We are satisfied that in this country and in our courts a bond purporting to be a bail bond and reciting the debtor as a principal and the others as sureties, is not valid, unless it is actually executed by the principal, as well as the sureties."

In the case of *First National Bank v. Illinois* (101 U. S. 11 Otto, 43, 51, 25 L. Ed. 822), at p. 825, touching a misunderstanding as to the terms of a contract, the U. S. Supreme Court said:

> "Where there is a misunderstanding as to the terms of a contract, neither party is liable in law or equity." Citing the case of *Baldwin*

v. Mildeberger (2 Hall 176) and *Utley v. Donaldson* (94 U. S. 29), and further said, "Where a contract is a unit, and left uncertain in one particular, the whole will be regarded as only inchoate, because the parties have not been *ad idem,* and, therefore, neither is bound." Citing *Appleby v. Johnson* (L. R. 9 C. P. 158).

In the case of *Goodyear v. Bacon, Mass.* (8 Lawyers Reports Anno. 486), it was held that a surety is not liable on a bond signed by him alone but purporting to be signed by the principal, also where he did not consent to a delivery of the bond without the principal's signature.

In the case at hand, Gordon Williams purported to be one of the principals, and there was no consent to the delivery of the agreement without his signature, which delivery, if valid, would place upon those who did sign the burden of carrying into effect the obligation of Gordon Williams, amounting to thousands of dollars, which they never intended to assume.

It is therefore respectively submitted that the decree entered in the above-stated cause should be affirmed not only because the contract was not signed by all of the parties to it, but also because of the fraud and duress in securing execution of it.

Respectfully submitted,
BOURGEOIS & COULOMB,
Sols. for and of Counsel with Defendants-Respondents, A. Trevor Williams, Harold S. Williams and Gordon Williams.
COLE & COLE,
Sols. for and of Counsel with Defendant-Respondent, Royden B. Davis.

NEW JERSEY COURT OF ERRORS AND APPEALS.

Between

CONNIE J. DORRIAN, *et al.*,
Complainants-Appellants,
and
ROYDEN B. DAVIS, *et al.*,
Defendants-Respondents.

ON APPEAL.

INACCURACIES IN APPELLANTS' BRIEF.

It is submitted that the statements of fact in appellants' brief are so inaccurate as to render it of little or no value in arriving at the truth, and the following will point out a part of the inaccuracies contained therein:

On p. 6, at about the third line of appellants' brief, it is alleged that duress in execution of the contract was the sole ground prayed for in respondents' counter-claim, notwithstanding that the counter-claim (Vol. 1, p. 100) set up a fraudulent effort to break the sales contract of January 4th, 1926, between Williams and Davis, Inc., and Gordon Williams Company, wherein Gordon Williams Com-

pany had been made the sole selling agents of a large tract of land, at a 25% commission, and notwithstanding the fact that the counter-claim set up the imposition and fraud practiced upon respondents in depriving them of the benefit of the advice of counsel before the agreement of June 1st, 1927, was signed.

On p. 9, l. 10 of the appellants' brief, wherein they stated that Connie J. Dorrian and Lloyd W. Fahler each contributed $25,000 to Williams and Davis, Inc., giving the same to the treasurer, Harold S. Williams. That statement is inaccurate and untrue. Connie J. Dorrian gave to Harold S. Williams $50,000, which was deposited in a special account. Lloyd W. Fahler claims to have given Connie J. Dorrian half of that amount, but did not give it to Harold S. Williams, as both Connie J. Dorrian and Harold S. Williams so testified, and the money was not given to Harold S. Williams, as treasurer of Williams and Davis, Inc., because that company did not function until January 4th, 1926; but that the money was given to him to hold in a special account to be used for the purchase of lands under the Florida agreement (Vol. 1, p. 60), which on p. 62 provides for the future formation of the company and for the officers and directors thereof.

Immediately below, the brief states that Connie J. Dorrian and Lloyd W. Fahler accompanied Harold S. Williams to the Ventnor Trust Company to make a deposit of $45,000 in this special account. The testimony of Harold S. Williams and Mr. Frambes, appellants' witness, is that Connie J. Dorrian and Harold S. Williams went there, but not Lloyd W. Fahler. (Vol. 2, p. 989.)

The brief, p. 9, l. 25, states that the special account was opened with moneys supplied by Connie

J. Dorrian and Lloyd W. Fahler, and refers to two pages in the printed book. Nowhere is there any evidence in this case that the moneys which opened the special account were the moneys of Connie J. Dorrian and Lloyd W. Fahler.

At the bottom of p. 9 of the brief, there is a false statement to the effect that the project of acquiring a large tract of land from a man by the name of Roberts had been bruited prior to December, 1925, the statement carrying with it an inference of wrong dealing on the part of respondents, when, as the proof will show, as early as the 23rd day of September, 1925, Connie J. Dorrian, individually, had entered into an agreement with Julia Coll, "straw" for A. Trevor Williams, for the purchase of the land mentioned in said agreement. There is no evidence in the case to support appellants' statement. The only truth there is in that statement is that during the month of December, two sales agreements were signed by Connie J. Dorrian and wife, and Lloyd W. Fahler and wife, but not by Gordon Williams Company, constituting Gordon Williams Company sole sales agent for certain lands; but in them there was no reference to Williams and Davis, Inc., whatever. (pp. 66 and 70, Vol. 1.)

At the bottom of p. 10 of the brief, a statement is made that negotiations for the purchase of both these tracts were solely conducted by Williams and Davis, Inc., and title finally taken by deed from Julia Coll to Williams and Davis, Inc. This statement is false, because the testimony (Vol. 1, p. 494, l. 15) and the exhibits (numbered Vol. 5, Document A) show that A. Trevor Williams negotiated for and agreed to purchase the tracts of land, and had the agreement signed in the name of Julia Coll, and,

afterward, sold the land, one piece to Connie J. Dorrian and another to Connie J. Dorrian and Lloyd W. Fahler. There is on evidence that Julia Coll had anything, whatever, to do with the negotiations, and no evidence that Williams and Davis, Inc., ever had anything, whatever, to do with these negotiations, unless the minutes of Williams and Davis, Inc., which will be hereafter discussed, constitutes evidence. Williams and Davis, Inc., did not begin until the 4th of January, 1926, and the date of settlement between Julia Coll and Connie J. Dorrian for the property was set for January 2nd, 1926.

Again, at the bottom of p. 10 and top of p. 11, there is a statement that from entries in the books of Gordon Williams Company there appeared a charge for land of $159,984.00, and credited with mortgages payable for $62,490.00 and preferred stock $97,494.00; and immediately below (p. 11), a further statement that the journal of Gordon Williams Company, under date of February 15th, 1926, charges land account with $123,574.80 and credits with mortgages for $40,000 and preferred stock $83,506.00. The intent apparent is that they desire this Court to be impressed with the motion that these accounts, being in the books of the sales agent, Gordon Williams Company, are admissions against it and against the respondents. Whereas, the fact is that those entries appear not in the books of account of Gordon Williams Company, at all, but in the journal of Williams and Davis, Inc., as plainly appears from the testimony. (Vol. 2, pp. 993-994.) And the second transaction concerned a 42-acre tract which was not in this suit, at all. In that transaction, Hart was the "straw," and they admitted that transaction was O. K., although it was precisely similar to the ones they condemn. (Vol. 2, p. 995.)

At p. 12, l. 12, they say that by virtue of the two foregoing transactions, property was acquired by Williams and Davis, Inc., through the medium of Julia Coll, a mere "straw," from Roberts, and Smith and Russell, whereas, the fact is, as the exhibits show, that the Roberts tract and the Smith and Russell tract were both bought by A. Trevor Williams, the agreement taken in the name of Julia Coll, sold by A. Trevor Williams to Connie J. Dorrian and Lloyd W. Fahler, in one case in the name of Connie J. Dorrian, individually, and in the other in the names of Connie J. Dorrian and Lloyd W. Fahler, and the title at the direction of Connie J. Dorrian and Lloyd W. Fahler was put in the name of Williams and Davis, Inc., and Connie J. Dorrian, Lloyd W. Fahler took preferred stock in payment for the property conveyed to Williams and Davis, Inc., as appears from Exhibits D59 (Vol. 3, p. 1242) and Documents "A," "B" and "C." (Vol. 5, pp. 1431, 1442 and 1454, respectively.)

At the top of p. 12, l. 1, the brief states: "Three tracts had been purchased by the company." The testimony is: "Three tracts had been purchased by the company, taken over by the company," showing that the witness did not know which was the case.

Appellants have not even quoted the counter-claim accurately. On p. 16, they presume to quote paragraph 10 of the counter-claim found in Vol. 1, pp. 102-103, and the closing of that paragraph is:

> "which real estate had been in every instance purchased with the moneys of the said Gordon Williams Company, A. Trevor Williams, Harold S. Williams or Royden B. Davis, to Connie J. Dorrian or Lloyd F. Fahler, who at the time of settlement paid for same with their money, but requested that title thereto be conveyed to

> Williams-Davis, Inc., in their own interest, or in the interest of Williams-Davis, Inc."

The words: "In their own interest, or in the interest of Williams-Davis, Inc.," are left out in appellants' brief.

At the bottom of p. 16 of the brief, is a statement that there was due from Gordon Williams Company to Williams and Davis, Inc., on the 3rd of April, 1926, $3,737, and an argument that there is no proof that that $3,737 came from Connie J. Dorrian and Lloyd W. Fahler. This is the date of the purchase of the 2-acre tract from the county, and there is proof (Vol. 2, p. 1153) that at that time Gordon Williams Company had in bank $42,392.79, and there is not a scintilla of proof and no claim during the trial made that any of that money came from Connie J. Dorrian or Lloyd W. Fahler. It was offered to show that with that money in bank, there was no necessity of them borrowing any money from Williams and Davis, Inc.

At the bottom of p. 16, appellant's brief states that "Mr. Williams and Mr. Davis went over the figures and participated in making the entries in the journal. (p. 102.)" There is no such evidence.

At p. 18, l. 20, it is stated that Harold S. Williams said: "We got the money." It was not anywhere denied but that they did get a profit, but it was at all times denied that it was an unlawful profit.

At the top of p. 19, there is a sentence in italics: "No one of the defendants contradicts a word of this testimony." That testimony referred to the making of these deals and receiving profits therein. A. Trevor Williams, at p. 494, had testified that he put up his own money, bought the properties and negotiated all those purchases, excepting the 2-acre

tract. It is assumed that after testifying that he bought the properties and in at least two instances said with his own money, that it would not be necessary to contradict Philip Godfrey's statement to the contrary.

At p. 21, appellants have attempted to copy a letter, but have only copied a part of it, and that part distorts the meaning of the letter when taken as a whole. (Vol. 2, p. 817.)

On p. 23, it is said that: "On page 581, Davis admits that Smith had made this disclosure to him, and that he, Davis, had told Smith to keep his mouth shut, and had reported the interview to Hart." There is no such testimony.

On p. 23, l. 20, the appellants' brief says that: "On May 2, Hart discovered the removal of all the title papers in connection with the above-mentioned real estate transactions." The fact was that Hart removed the papers himself, in company with Mr. Dorrian, from the safe of Gordon Williams Company.

Later, p. 23, their brief says: "Davis concedes (pp. 586, 589) that he had removed the papers from an open compartment in the safe to a private compartment therein, for which Hart had no key (p. 628.)" Davis' testimony shows that the time he removed them was after he returned from New York, which was on the 21st day of June, and Hart had removed the papers from the safe before the Williamses returned from New York on the 14th of May.

On p. 24, l. 10, the appellants' brief says that Julia Coll was at Davis' house. The testimony shows that she was at Scanlan's house.

At the top of page 25, the brief says: "Trevor insists that not a word was said on this two hours' ride of these matters, which in the face of the admis-

sions of Davis, shows how utterly unreliable Trevor's testimony is." In the first place, there is no evidence that they were two hours on the ride, and in the second place the testimony shows that Mr. Davis and Mr. Williams were sitting in the front seat and Trevor and Mr. Scanlan in the back seat of the car, and Trevor's testimony was not that not a word was said, but that he did not hear any conversation regarding the matters that were asked him.

On p. 25, there is a statement that Mr. Stringer had been employed to represent the Williams family. There was no such testimony in the case.

At the top of p. 26, there is a statement: "Scanlan visited the hiding defendants at their retreat in New York." That statement is untrue, and there is no such testimony in the case, anywhere.

At the bottom of p. 27, they have quoted Mr. Scanlan in italics as saying: "The Williamses were ready to shoulder the blame and were ready to make a settlement." The testimony shows (p. 185) that when that question was involved in a rather long one, the witness answered: "I don't remember the exact words. I remember going there," and then the question was, "That was substantially what you said?" answered: "Partially," and then the question: "Beg pardon?" answered: "That is all right, yes."

On p. 29, l. 15 of appellants' brief, they quote Father Mellon, in italics, as saying: "That Mr. Davis and the Williamses, as he understood it, were willing to make restitution to Dorrian and Fahler of the moneys that they had taken from them in the transactions referred to." The testimony of Father Mellon (p. 365) is: "Mr. Scanlan came to my house last night in response to a telephone call from his wife and told me that the Williamses were ready to

acknowledge their guilt in the matter with Mr. Dorrian and further wished to exonerate Royden Davis." Below, the brief says that there was no denial that Father Mellon made that preliminary statement. The statement that they quote had not been made until the brief was written, and the respondents had no opportunity of denying it.

On p. 29, there is a statement that Harold S. Williams said: "Well, now, what are these transactions that constitute the difference between us?" That was the testimony of Philip Godfrey and not Harold S. Williams.

At the top of p. 30, there is a statement that Harold S. Williams said: "We are deserving of having some credits off of these transactions." That was the testimony of Philip Godfrey, and not Harold S. Williams.

At p. 31, the brief reads: "The claims of Mr. Hart with reference to the same fraud in connection with these additional transactions were also admitted by the defendants." The testimony (p. 790) was:

> "A. * * * 'Yes, we made that money.'
> Q. We made what?
> A. We made that much money.
> Q. Yes.
> A. And all down through the list it was submitted to them and they admitted that they had made those profits."

but the respondents nowhere admitted that Connie J. Dorrian or Lloyd W. Fahler had any interest in those profits.

At p. 32, they allege that Mr. Williams replied: "Well, all the money that I can pay on account of that in cash is $45,000, that I can pay in cash."

Harold S. Williams made no such statement. There is no such testimony in the book by him.

Below, they say that Harold S. Williams said: "The balance of the money could be on note or be in mortgages." Harold S. Williams gave no such testimony. Philip Godfrey testified that Harold S. Williams had said that, but Williams, himself, gave no such testimony.

Again, on p. 33, they have a statement that Harold S. Williams said: "Now, as long as we have settled this matter, I have ten thousand dollars here, I want to get rid of." There is no such testimony as that by Harold S. Williams. That was the testimony of Philip Godfrey, and not of Harold S. Williams.

At p. 37, near the top, is a statement: "Trevor and his counsel, Mr. Stringer appeared, Mr. Stringer saying: 'There will be no further deliveries under this contract.' " That appears as the testimony of Mr. Stringer, whereas the fact is it was the testimony of Philip Godfrey.

NEW JERSEY COURT OF ERRORS
AND APPEALS.

Between

CONNIE J. DORRIAN, *et als.*,
Complainants-Appellants,

and

ROYDEN B. DAVIS, *et als.*,
Defendants-Respondents.

ON APPEAL FROM CHANCERY.

APPELLANTS' REPLY TO RESPONDENTS' LEAFLET ENTITLED "INACCURACIES."

Appellants read with interest the leaflet filed in this cause by respondents entitled "Inaccuracies in Appellants' Brief."

While we knew our brief was accurate, we have, nevertheless, checked the same, and find that in every important instance the alleged "inaccuracies" were in fact accurate; the alleged errors were actually not errors at all.

Appellants respectfully submit to your Honors that every single statement of fact, every little quotation of testimony and every inference drawn by

our brief from the evidence, is not only as accurate as human language can record the same, but also amply supported by the clear and convincing testimony heard from the mouths of the appellant's witnesses in this case.

We have, therefore, compiled this reply to respondents' careless charges aimed at the accuracy of our brief and will show conclusively, we think, that *our brief is both accurate and truthful in every particular.*

I.

Starting on page 1 of the "inaccuracies" leaflet, respondents try to make the point that our brief alleges that duress in the execution of the contract was the sole ground for the prayer of respondents' counter-claim, "notwithstanding that the counter-claim set up a fraudulent effort to break the sales contracts." It is true that our brief does allege on page 6 that duress in the execution of the contract was the sole ground for the counter-claim as the basis for its prayer. The fact is that the counter-claim does set out, in giving the history of the transactions, that Dorrian and Fahler were anxious to rid themselves of the agency contracts. The sole basis of the prayer for relief is, however, exactly as stated in our brief, and may be found in the thirty-third section of the counter-claim, page 113 of the State of the Case, which is wholly confined to the conference at the Hotel Vendig when the agreement of June 1, 1927, was signed. Alleged duress at this conference was the basis for the prayer of the counter-claim.

II.

On page 2 of the "inaccuracies" leaflet, respondents seem to infer the money contributed by Dorrian and Fahler to Harold S. Williams was not given to him as an officer of Williams and Davis, Inc., as we had stated in our brief. On pages 908, 909, 910, 912 and 929 of the State of the Case, Mr. Fahler testified that his $25,000 was paid to Harold S. Williams as secretary and treasurer of Williams and Davis, Inc., and especially on page 929 of the State of the Case, in his cross-examination, Mr. Fahler testified that he paid the money "to the Williams and Davis Incorporation" and further on the same page, testified that it was paid to Harold Williams as "an officer of the corporation."

III.

Again on page 2 of the "inaccuracies" leaflet, respondents state "that company (Williams and Davis, Inc.) did not function until January 4, 1926." The certificate of incorporation of this company is dated July 17, 1925 (page 1304 of the State of the Case), was recorded in the county clerk's office on July 17, 1925 (page 1305), and was filed in the office of the Secretary of State on July 18, 1925 (page 1306). The organization meeting, at which the corporation formally commenced to function, was held on July 18, 1925 (page 1299). The so-called Florida agreement, in which Dorrian and Fahler agreed to use the Williams and Davis, Inc., and which provided that Royden B. Davis, Harold S. Williams and

Gordon Williams should be its officers &c., was made on July 20, 1925 (page 60). So the company did function long before January 4, 1926.

IV.

At the bottom of page 2 of the "inaccuracies" leaflet, respondents print the statement: "nowhere is there any evidence in this case that the moneys which opened the special account were the moneys of Connie J. Dorrian and Lloyd W. Fahler." Starting on line 19, page 1000 (of the State of the Case), and ending with line 19 on page 1002, is ample proof that Harold Williams told Douglas Besore that Mr. Dorrian and Mr. Fahler's money was kept in this special account.

V.

In reply to the criticism of our statement that the project of acquiring a large tract of land from a man by the name of Roberts had been bruited prior to December, 1925, the fact is that this was not only bruited prior to December, but actually consummated by the making of the agreement of purchase in October, 1925, see Exhibit "C5A" on page 1431 of the State of the Case; and see testimony on page 856 where Hart says that "they put the company's money up" on the original agreements of sale between Smith & Russell and Julia Coll. See also page 830, line 16, where Hart testifies "Davis told me about the Smith deal wherein they had bought this property with the company's money and turned it in to the company at a profit."

VI.

Our brief, on page 10, does not claim that Williams & Davis, Inc., conducted the negotiations for the purchase—as respondents untruthfully state that it does. What our brief says is that the negotiations were conducted by Williams and Davis (as individuals), and that the title was finally taken by deed from Coll to Williams and Davis, Inc., of which the Messrs. Williams and Davis were directors.

With reference to the minutes of Williams and Davis, Inc., these minutes do, of course, constitute evidence, particularly because the correctness of them is individually attested to by defendants, Harold S. Williams, Royden B. Davis and Gordon Williams.

To show the inaccuracy of the last sentence in the paragraph at the top of page 4 of the "inaccuracies" leaflet, see pages 1315 and 1325 of the State of the Case where it appears that at a meeting held January 2, 1926, a provision was made for increasing the stock for the express purpose of buying this and other properties.

VII.

Where our brief refers to the journal entries of Gordon Williams & Co., on page 4 of the "inaccuracies" leaflet, a correction has been made in the briefs filed with the Court to read, "Journal Entries of Williams & Davis, Inc."

With reference to the last sentence at the bottom of page 4, see in support of our brief: page 854, lines 11 to 25; and 856, lines 10 to 25.

VIII.

In answer to the allegations on page 5 of the "inaccuracies" leaflet, see State of the Case, page 854, lines 11 to 25; 856, lines 10 to 25; minutes, pages 1325, 1328 and 1331 wherein resolutions are contained to "purchase." "The balance of the purchase price would need to be provided for." Balance of purchase price to be raised by issue of preferred stock, &c.

IX.

Replying to page 6 of the "inaccuracies" leaflet, the proofs show that Gordon Williams & Co. (page 1153, line 27), had on the third day of April, 1926, $3,737.00 belonging to Williams and Davis, Inc., and further show that on that day Gordon Williams & Co. drew their check for $2,000 to the order of "cash" which is charged as a loan to Williams and Davis, Inc. On April 6th, this $2,000 (page 1154, line 11) is returned to Gordon Williams & Co. and is entered in their books, together with $2,400 (page 1154, line 29) and charged "Loan from Williams and Davis, Inc.," and on this latter day the directors drew a check on Williams and Davis, Inc., for $7,500 to the order of "cash" which check was cashed by Davis (page 1215).

With reference to participation of Davis and Williams in making up the figures, see pages 995 and 996. Note: the words "page 102" should be erased.

The reference at the top of page 7 of the "inaccuracies" leaflet, is itself in error because our brief does not refer to "Philip Godfrey's statement" but

rather to Carlton Godfrey's statement, see page 19 of our brief; and on page 1081 of the State of the Case, on line 25, is Carlton Godfrey's clear testimony so referred to.

X.

On page 7 of the "inaccuracies" leaflet, appears criticism of our copying only part of a letter. On page 817 of the State of the Case, the letter in question is copied in full. The same letter is copied again in full on page 1223 of the State of the Case. Sufficient is re-printed on page 21 of our brief to make the point desired.

XI.

Again on page 7 of the "inaccuracies" leaflet is a statement that Davis' testimony there quoted was never given. (It is true the citation to page 581 is in error.) The testimony quoted does appear, however, on pages 594 and 595.

XII.

In support of the statements in our brief in relation to the removal of the papers from the safe, see pages 586, 590 and 591 of the State of the Case.

XIII.

In support of the statement in our brief that Julia

Coll was at Davis' house, see page 599 of the State of the Case.

XIV.

Referring to page 8 of the "inaccuracies" leaflet, the ride from Philadelphia to Atlantic City, in a two seated closed sedan, in about 1½ hours, is clearly testified to on pages 893, 475 and 593 of the State of the Case.

XV.

Again on page 8 of the "inaccuracy" leaflet, is some criticism of our statement in our brief that Mr. Stringer had been employed to represent the Williams family. Proof of this fact is given over and over again: See pages 276, 267, 263, 243, 893, 533, 535, 541, 563 and 477, of the State of the Case.

XVI.

If Scanlan did not visit the hiding defendants at their retreat in New York, he certainly was in touch with them continually by telephone and knew where they were. See pages 182, 185, 172, 478, 479, 782, 786 of the State of the Case.

XVII.

On the question of restitution, in addition to the

criticised references given in our brief, see pages 185, 1080 and 1081 of the State of the Case.

XVIII.

On page 9 of the "inaccuracies" leaflet, our brief at the places there referred to, is citing the uncontradicted evidence of Philip Godfrey that Harold S. Williams made those statements at the Philadelphia conference.

XIX.

The same comment could be made as to the criticism on page 10 of the "inaccuracies" leaflet: that our reference is to Philip Godfrey's testimony and not to the testimony of Mr. Williams. See also pages 671, 789 and 790 of the State of the Case.

In this way, we believe we have met statement by statement, the criticism which our opponents levelled at our brief—they said it was inaccurate, and we find it accurate; they said it was untruthful, and we find it truthful.

There are two or three clerical errors in our brief, as pointed out above; errors of page numbers only. We respectfully submit that *our quotations are accurate.*

Respectfully submitted,
ROBERT M. McCARTER,
Of Counsel with Appellants.

New Jersey Court of Errors and Appeals

Between

CONNIE J. DORRIAN, *et al.*,
Complainants-Appellants,

and

ROYDEN B. DAVIS, *et al.*,
Defendants-Respondents.

ON APPEAL FROM CHANCERY.

BRIEF FOR ROYDEN B. DAVIS.

STATEMENT.

The brief of counsel for appellants and Bourgeois & Coulomb, of counsel for all respondents save Royden B. Davis, sufficiently state the essential facts and need not be repeated by us.

ARGUMENT.

I.

THE AGREEMENT SOUGHT TO BE ENFORCED IS NOT ENFORCEABLE UNTIL SIGNED BY ALL THE PARTIES NAMED THEREIN.

The Vice-Chancellor concluded that taking the agreement at its face value it was not binding on any of the respondents until signed by Gordon Williams. He also concluded that as a matter of fact it was not intended to be binding on any of the respondents until signed by Gordon Williams. We think he was right in both respects. On its face it purports to be between the respondents and Gordon Williams on the one hand, and the appellants on the other hand. It is a single agreement. On the whole it is apparent that neither the appellants nor the respondents intended it to have value or enforceability until signed by Gordon Williams who was not only a party to the alleged irregular transactions but was to assume the payment of the obligation recited.

Moreover, counsel for appellants who drew the agreement and represented all the appellants placed a contemporaneous interpretation to the effect that he treated the agreement as one not binding on appellants or respondents until signed by Gordon Williams. His insistence upon having the agreement signed by Gordon Williams and his refusal to deliver a copy to anyone of the respondents until so signed manifests that he thought the transaction

could not be regarded as concluded until all the named parties had signed. See the cross-examination of Mr. Godfrey on this phase of the case.

II.

IN THE CIRCUMSTANCES SPECIFIC PERFORMANCE SHOULD NOT BE DECREED.

In view of the very liberal quotation of the evidence upon the subject of fraud and duress on the part of the appellants in the brief of Bourgeois & Coulomb, we feel we are not justified in burdening this brief with further quotations. We contend that both legal duress and fraud have been established. But, should the Court conclude that this is not so, still appellants ought not to have a decree for specific performance. They appeal to equity. Specific performance is not a matter of strict equitable right. They should be obliged to seek redress, if any they are entitled to have, in a court of law. As has been pointed out fully in the brief of Bourgeois & Coulomb, all of the transactions save one were between Trevor Williams and Dorrian and Fahler. They were at all times at arms' length. There was never any relation between them that called upon Trevor Williams to make any disclosures. The remaining transaction known as the Somers Point tract is adequately treated in the brief of Bourgeois & Coulomb and shows that there was no obligation on the part of Royden B. Davis to either Dorrian or Fahler or Williams & Davis, Inc. There was no legal justification for the attachment or capias and the conduct of the appellants and their counsel both with respect to these proceedings, their refusal to disclose

to counsel for Davis the nature of the claim; their failure to file the affidavit and order with the clerk of the Supreme Court before issuing a capias, and their action in Philadelphia in procuring signatures under the circumstances disclosed by the evidence, made it inequitable for them to seek to enforce specific performance. No fair mind can read the testimony and conclude that there was not a determined purpose on the part of counsel for the appellants to hold the sword of Damocles over the respondents and deprive them of the benefit of counsel until after their signatures had been procured. In view of the amount involved and the seriousness of the charges made against them and the deceit touching the decision concerning the capias they should have been warned against the execution of the agreement until after full opportunity had been afforded to disclose to their counsel what had happened at the several meetings.

Failure to pursue this course should disentitle the appellants to appeal to a court of conscience. This is especially true with respect to Davis whom appellants, impliedly at least conceded had no wrongful motive.

The decree should be affirmed.

Respectfully submitted,

COLE & COLE,
Solicitors for and of Counsel with Royden B. Davis.