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*State of New Jersey,
To Our Supreme Court,*

(SEAL)

Greeting:

10 Because in the record and proceedings and also
in the giving of the judgment upon a certain indict-
ment before you between the State of New Jersey,
defendant in error, and Francis Gregory, plaintiff in
error, on a writ of error issued out of our Supreme
Court to the Judges of the Oyer and Terminer Court,
constituting the Court of General Quarter Sessions, in
and for the County of Essex, such manifest error
hath intervened to the great damage of the said
Francis Gregory, as from his complaint we have re-
20 ceived information, we being willing in this behalf
to correct the error in due manner, if any there shall
be, and that speedy justice be done to him, the said
Francis Gregory, do command you that if judgment
be thereupon given then you send distinctly and
openly, under your seal, the entire record, proceed-
ings and indictment aforesaid, with all things touch-
ing and concerning the same to our Court of Errors
and Appeals before the Judges thereof, on the 28th
30 day of December, 1918, and this writ. And that the
records and proceedings aforesaid being inspected
we may cause to be further done thereupon what of
right and according to law ought to be done.

WITNESS, his Honor, Edwin Robert Walker, our
Chancellor and President Judge of our said Court of
Errors and Appeals, at Trenton, aforesaid, the Ninth
day of December, A. D., 1918.

THOS. F. MARTIN,

Clerk.

40

HOWE & DAVIS,
Attorneys.

(Endorsement on Writ of Error)

10

NEW JERSEY SUPREME COURT

STATE OF NEW JERSEY,

Defendant-in-Error.

vs.

FRANCIS GREGORY,

Plaintiff-in-Error.

WRIT OF ERROR TO SUPREME COURT

20

Returnable December 28, 1918.

HOWE & DAVIS, Attorneys for
Plaintiff-in-Error.

252 Main Street, Orange, N. J.

The answer of the Justices of the Supreme Court of the State of New Jersey within named. The record and proceedings whereof mention is within made, with all things touching and concerning the same, we do certify to the Court of Errors and Appeals of said State, in a certain schedule to this writ annexed, as within we are commanded:

30

WM. S. GUMMERE, C. J.

Filed Jan. 6, 1919.

THOS. F. MARTIN, *Clerk*

40

New Jersey Supreme Court

10 THE STATE OF NEW JERSEY,
Defendant in Error.
 VS.
 FRANCIS GREGORY,
Plaintiff in Error. } *On Error,
 Remittitur.*

The above stated cause having been duly submitted at the June Term, Nineteen Hundred and Eighteen, in the New Jersey Supreme Court, by J. H. Harrison and John A. Bernhard, for the plaintiff in error, and the Court having considered the matter and finding no error in the record and proceedings in the Essex County Court of Quarter Sessions:

20 It is thereupon ordered and adjudged that the judgment of the Essex County Court of Quarter Sessions, removed by the writ of error in this cause, be affirmed in all things with costs; and that the record be remitted to the Essex County Court of Quarter Sessions to be proceeded with according to law and the practice of said Court.

Entered Nov. 16, 1918.

30 On motion of
 J. H. HARRISON,
 Prosecutor of the Pleas,
Attorney of Defendant in Error.

I, Enoch L. Johnson, Clerk of the Supreme Court of the State of New Jersey, do certify that the foregoing is a true copy of a rule entered in the minutes of the Court in the above stated cause.

40 (SEAL) In testimony whereof I have set my hand and the seal of said Court at Trenton, this twenty-seventh day of December, A. D. nineteen hundred and eighteen.

ENOCH L. JOHNSON,
Clerk.

Writ of Error

New Jersey Supreme Court

NEW JERSEY, ss.

(SEAL) The State of New Jersey, to our Court
of Oyer and Terminer, of the County
of Essex, constituting the Court of
General Quarter Sessions, in and for
said County, GREETING: Because in 10
the indictment and in the record and proceedings,
and also in giving of judgment upon a certain indict-
ment against Francis Gregory and others, of the
City of Newark, County of Essex, for unlawfully
conspiring to cheat and defraud one Charles M. Kase
of divers large sums of money, and after giving to
one Charles Peaker a portion thereof, to divide the
remainder of said moneys amongst the said Francis
Gregory and others named in said indictment, where-
of before he, the said Francis Gregory, hath been 20
indicted and is thereof convicted by a certain jury
of the County, taken between the State of New Jer-
sey and the said Francis Gregory, as it is said, mani-
fest error hath intervened to the great damage of
said Francis Gregory, as from his complaint we have
received information, we being willing in that behalf
to correct the error in due manner, if any there shall
be, and that speedy justice be done to him, the said
Francis Gregory, do command you that if judgment
be thereupon given that then you do send the indict- 30
ment, entire record and proceedings aforesaid to-
gether with all things touching and concerning the
same, to us under your seal, distinctly and openly,
and this writ, so that we may have them before our
Supreme Court of Judicature, at Trenton, on the
thirteenth day of April, next, that inspecting the
indictment, records and proceedings aforesaid, we
may further do thereupon for correcting the error
that which of right and according to law shall be
fit to be done.

Writ of Error

WITNESS, his Honor, William S. Gummere, Chief Justice of our said Supreme Court, at Trenton, the twenty-fifth day of March, in the year of our Lord nineteen hundred and eighteen.

ENOCH L. JOHNSON,
Clerk.

HOWE & DAVIS,
Attorneys.

10

(Endorsement on Writ of Error)

NEW JERSEY SUPREME COURT

STATE OF NEW JERSEY,
Defendant-in-Error,

VS.

FRANCIS GREGORY,
Plaintiff-in-Error.

20

WRIT OF ERROR

HOWE & DAVIS, Attorneys for
Plaintiff-in-Error.
252 Main Street, Orange, N. J.

RETURNABLE APRIL 13, 1918

30

Presented in open court the
25th day of March, 1918.

H. V. OSBORNE,
J.

Bail, \$10,000.

H. V. O.,
J.

40

Indictment

STATE OF NEW JERSEY, }
 COUNTY OF ESSEX, } ss.:

Be it remembered, that at a Court of Oyer and Terminer, holden at Newark, in and for the County of Essex on the first Tuesday of September, in the year of Our Lord one thousand nine hundred and sixteen, by the Honorable William S. Gummere, Chief Justice of the Supreme Court of Judicature, of the State of New Jersey, and holding the said Court of Oyer and Terminer, in and for the County of Essex, New Jersey, by the oath of Edward Winslow, Charles E. Thomas, Edward L. Curtis, Louis Lippman, William C. Krueger, John A. McKenna, Stephen H. Billington, William F. Kearney, Harry P. Jones, Adolph N. Eisele, John C. Weiler, Frank P. Young, A. Gould Harrison, W. Frank Hopping, Thomas P. Alworth, Thomas H. Hoover, William G. Sharwell, August G. Birkenmeier, Joseph T. Castles, Ernest A. Dreher, Arthur C. Hensler, George P. Williams, William G. Trautwein, good and lawful men of the said County of Essex, duly commissioned and then and there duly sworn and charged to enquire in behalf of the State of New Jersey, in and for the said County of Essex, it is presented in manner and form following, to wit:

ESSEX OYER AND TERMINER

September Term, A. D. 1916

ESSEX COUNTY, to wit: The Grand Jurors of the State of New Jersey, in and for the body of the County of Essex, upon their oath present, that Simon Hahn, John Gregory and Francis Gregory, late of the City of Newark, in the County of Essex aforesaid, on the twenty-second day of December, in the year of our Lord one thousand nine hundred and thirteen, with force and arms, at the City aforesaid, in the County aforesaid, and within the jurisdiction of this Court, being evil disposed and dishonest persons,

Indictment

and wickedly devising, contriving and intending knowingly, corruptly and unlawfully to cheat and defraud one Charles M. Kase, of the City and County aforesaid, of the moneys of the said Charles M. Kase aforesaid, and after giving to one Charles Peaker a portion thereof, to divide the remainder of said moneys amongst themselves, did, on the day and year aforesaid at the City and County aforesaid, wickedly, falsely, fraudulently, deceitfully and unlawfully combine, unite, confederate, conspire and bind themselves together to cheat and defraud said Charles M. Kase of divers large sums of money, and after giving to said Charles Peaker a portion thereof, to divide the remainder of said moneys amongst themselves.

And the Grand Jurors aforesaid, upon their oath aforesaid, do further present, that at the City of Newark, in said County of Essex and within the jurisdiction of this Court, on the thirtieth day of December, nineteen hundred and thirteen, Simon Hahn, then and there being an attorney at law and solicitor in Chancery of the State of New Jersey, in execution of and to effect the object thereof, and in pursuance of said wicked, unlawful and malicious combination and conspiracy, then and there not only representing himself, but also the said John Gregory and Francis Gregory, did represent to the said Charles M. Kase, that he, the said Simon Hahn, had been retained by one Charles Peaker to institute and commence an action for the alienation of the affections of his wife, Bertha Peaker, by the said Charles M. Kase, against the said Charles M. Kase, on behalf of the said Charles Peaker, and an action for divorce in the Court of Chancery of this State on behalf of said Charles Peaker against his wife, Bertha Peaker, for adultery committed between the said Bertha Peaker and said Charles M. Kase, and that he, the said Simon Hahn, had prepared the necessary papers for the commencement and institution of such action or actions, wherein the said Charles M. Kase was charged with having committed adultery with said

Indictment

Bertha Peaker, and did then and there, in order to procure and induce the said Charles M. Kase to pay to said Simon Hahn the sum of twenty-five thousand dollars, falsely, knowingly, wickedly and maliciously, and with the intent to defraud and deceive the said Charles M. Kase, represent to said Charles M. Kase that the said Charles Peaker demanded the sum of twenty-five thousand dollars, as and for a consideration or recompense to him, the said Charles Peaker, for compromising and suppressing said actions and giving up the further prosecution thereof, and that unless he, the said Charles M. Kase, should pay to him, the said Simon Hahn, said sum of twenty-five thousand dollars he, the said Simon Hahn, would cause said actions to be instituted and the necessary papers for the commencement and institution of the same to be filed forthwith, thereby putting the said Charles M. Kase in fear of public infamy and disgrace, and that by reason of said representations, all of which were, to the knowledge of the said Simon Hahn, John Gregory and Francis Gregory, absolutely, falsely and wickedly devised and intended by the said Simon Hahn, John Gregory and Francis Gregory, for the purpose of cheating and defrauding the said Charles M. Kase of the said sum of twenty-five thousand dollars, and procuring said sum of money for the purpose of dividing the same as aforesaid, the said Charles M. Kase did, then and there, and at the time and place aforesaid, pay to the said Simon Hahn the said sum of twenty-five thousand dollars, so as aforesaid demanded by the said Simon Hahn, then and there representing, not only himself but the said John Gregory and Francis Gregory, to be paid by said Charles M. Kase, and the said Charles M. Kase was then and there cheated and defrauded by the said Simon Hahn, John Gregory and Francis Gregory of the said sum of twenty-five thousand dollars, and they procured the same for the purpose of division as aforesaid.

And so the Grand Jurors aforesaid, upon their

Indictment

oaths aforesaid, do further present that on the thirtieth day of December, nineteen hundred and thirteen, in the City of Newark aforesaid, in the County aforesaid, and within the jurisdiction of this Court, in execution of and to effect the object thereof, and in pursuance of said wicked, malicious and unlawful combination and agreement, so as aforesaid made between the said Simon Hahn, John Gregory and Francis Gregory, the said Simon Hahn, John Gregory and Francis Gregory, from the said sum of twenty-five thousand dollars, so procured as aforesaid from the said Charles M. Kase, did pay and turn over to the said Charles Peaker the sum of two thousand dollars, and at the same time and place the said Simon Hahn, from the moneys aforesaid procured from the said Charles M. Kase as aforesaid, did then and there retain the sum of fourteen thousand dollars; and the said Simon Hahn, from the moneys procured from the said Charles M. Kase, as aforesaid, did then and there pay and turn over to the said John Gregory, for the use of the said John Gregory, the sum of forty-five hundred dollars. And the said Simon Hahn, from the moneys aforesaid procured from the said Charles M. Kase as aforesaid, did then and there pay and turn over to the said Francis Gregory, for his own use, the sum of forty-five hundred dollars; and the said John Gregory and Francis Gregory then and there received said sums of money as aforesaid, knowing the same to have been procured as aforesaid from the said Charles M. Kase.

And the Grand Jurors aforesaid, upon their oath aforesaid, do further present that on the fourth day of January, nineteen hundred and fifteen, in the City and County aforesaid, and within the jurisdiction of this Court, in execution of and to effect the object thereof, and in pursuance of such wicked, malicious and unlawful combination and agreement so as aforesaid made by and between the said Simon Hahn, John Gregory and Francis Gregory, said Simon

Indictment

Hahn from said moneys received as aforesaid from said Charles M. Kase, did pay and turn over to the said Francis Gregory the sum of twelve hundred and fifty dollars for the use of the said Francis Gregory and John Gregory, which said sum of twelve hundred and fifty dollars was a further division of the moneys received and procured from the said Charles M. Kase, as aforesaid, and the said Francis Gregory then and there received said sum of money as aforesaid, knowing the same to have been procured as aforesaid from said Charles M. Kase. 10

And the Grand Jurors aforesaid, upon their oath aforesaid, do further present that on the fifth day of January, nineteen hundred and fifteen, in the City and County aforesaid, and within the jurisdiction of this Court, in execution of and to effect the object thereof, and in pursuance of such wicked, malicious and unlawful combination and agreement so as aforesaid made by and between the said Simon Hahn, John Gregory and Francis Gregory, said Francis Gregory did pay and turn over to John Gregory the sum of six hundred and twenty-five dollars, both knowing the same to be part and parcel of the said sum of twelve hundred and fifty dollars received and procured from the said Charles M. Kase as aforesaid contrary to the form of the statute in such case made and provided, and against the peace of this State, the government and dignity of the same. 20

SECOND COUNT

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And the Grand Jurors of the State of New Jersey, in and for the body of the County of Essex, upon their oath aforesaid, do further present that the said Simon Hahn, John Gregory and Francis Gregory, late of the City of Newark, in the County of Essex aforesaid, on the twenty-second day of December, in the year of our Lord one thousand nine hundred and thirteen, with force and arms at the City aforesaid, in the County aforesaid, and within the jurisdiction 40

Indictment

of this Court, being evil disposed and dishonest persons, and wickedly devising, contriving and intending knowingly, corruptly and unlawfully to cheat and defraud one Charles M. Kase, of the City and County aforesaid, of the moneys of the said Charles M. Kase, aforesaid, and after giving to one Charles Peaker a portion thereof, to divide the remainder of said moneys amongst themselves, did, on the day and year aforesaid, at the City and County aforesaid, wickedly, 10
falsely, fraudulently, deceitfully and unlawfully combine, unite, confederate, conspire, and bind themselves together to cheat and defraud said Charles M. Kase of divers large sums of money, and after giving to said Charles Peaker a portion thereof, to divide the remainder of said moneys amongst themselves, by putting the said Charles M. Kase in fear of public infamy and disgrace by representing to him through the said Simon Hahn that he, the said Simon Hahn, has been retained by one Charles Peaker to institute 20
and commence an action for the alienation of the affections of his wife, Bertha Peaker, by the said Charles M. Kase, against the said Charles M. Kase on behalf of Charles Peaker, and an action for divorce in the Court of Chancery in this State, on behalf of Charles Peaker against said Charles M. Kase for adultery committed between Bertha Peaker and said Charles M. Kase, and that he, the said Simon Hahn, had prepared the necessary papers, being an attorney at law and solicitor in Chancery of this 30
State, for the commencement and institution of such action or actions, and that he, the said Charles Peaker, demanded the sum of twenty-five thousand dollars as a consideration or recompense to him the said Charles Peaker, for compromising and suppressing said actions and giving up the further prosecution thereof, and having procured said moneys falsely and fraudulently as aforesaid, to give the said Charles Peaker a portion and to divide the balance amongst themselves.

40 And the Grand Jurors aforesaid, upon their oath

Indictment

aforesaid, do further present, that at the City of Newark, in the said County of Essex, and within the jurisdiction of this Court, on the thirtieth day of December, nineteen hundred and thirteen, Simon Hahn, then and there being an attorney at law and solicitor in Chancery of the State of New Jersey, in execution of and to effect the object thereof and in pursuance of said wicked, unlawful and malicious combination and conspiracy, then and there not only representing himself, but also the said John Gregory and Francis Gregory, did represent to the said Charles M. Kase that he, the said Simon Hahn had been retained by one Charles Peaker to institute and commence an action for the alienation of the affections of his wife, Bertha Peaker, by the said Charles M. Kase, against the said Charles M. Kase on behalf of the said Charles Peaker and an action for divorce in the Court of Chancery of this State on behalf of said Charles Peaker, against his wife, Bertha Peaker, for adultery committed between the said Bertha Peaker and said Charles M. Kase, and that he, the said Simon Hahn, had prepared the necessary papers for the commencement and institution of such action or actions, wherein the said Charles M. Kase, was charged with having committed adultery with said Bertha Peaker, and did then and there, in order to procure and induce the said Charles M. Kase, to pay to said Simon Hahn the sum of twenty-five thousand dollars, falsely, knowingly, wickedly and maliciously, and with the intent to defraud and deceive the said Charles M. Kase, represent to said Charles M. Kase that the said Charles Peaker demanded the sum of twenty-five thousand dollars as and for a consideration or recompense to him, the said Charles Peaker, for compromising and suppressing said actions and giving up the further prosecution thereof, and that unless he, the said Charles M. Kase, should pay to him, the said Simon Hahn, said sum of twenty-five thousand dollars he, the said Simon Hahn, would cause said actions to be instituted and the necessary

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Indictment

papers for the commencement and institution of the same to be filed forthwith, thereby putting the said Charles M. Kase, in fear of public infamy and disgrace, and that by reason of said representations, all of which were, to the knowledge of the said Simon Hahn, John Gregory and Francis Gregory absolutely, falsely and wickedly devised and intended by the said Simon Hahn, John Gregory and Francis Gregory, for the purpose of cheating and defrauding the said Charles M. Kase of the said sum of twenty-five thousand dollars, and procuring said sum of money for the purpose of dividing the same as aforesaid, the said Charles M. Kase did then and there, and at the time and place aforesaid, pay to the said Simon Hahn the said sum of twenty-five thousand dollars, so as aforesaid demanded by the said Simon Hahn, then and there representing, not only himself but the said John Gregory and Francis Gregory, to be paid by said Charles M. Kase, and the said Charles M. Kase, was then and there cheated and defrauded by the said Simon Hahn, John Gregory and Francis Gregory, of the said sum of twenty-five thousand dollars, and they procured the same for the purpose of division as aforesaid.

And so the Grand Jurors aforesaid, upon their oath aforesaid, do further present that on the thirtieth day of December, nineteen hundred and thirteen, in the City of Newark aforesaid, in the County aforesaid, and within the jurisdiction of this Court, in execution of and to effect the object thereof, and in pursuance of said wicked, malicious and unlawful combination and agreement, so as aforesaid made between the said Simon Hahn, John Gregory and Francis Gregory, the said Simon Hahn, John Gregory and Francis Gregory, from the said sum of twenty-five thousand dollars, so procured as aforesaid from the said Charles M. Kase, did pay and turn over to the said Charles Peaker the sum of two thousand dollars, and at the same time and place the said Simon Hahn, from the moneys aforesaid procured

Indictment

from the said Charles M. Kase, the aforesaid, did then and there retain the sum of fourteen thousand dollars, and the said Simon Hahn, from the moneys procured from the said Charles M. Kase, as aforesaid, did then and there pay and turn over to the said John Gregory, for the use of the said John Gregory, the sum of forty-five hundred dollars, and the said Simon Hahn, from the moneys aforesaid, procured from the said Charles M. Kase, as aforesaid, did then and there pay and turn over to the said Francis Gregory, for his own use, the sum of forty-five hundred dollars, and the said John Gregory and Francis Gregory then and there received said sums of money as aforesaid, knowing the same to have been procured as aforesaid from the said Charles M. Kase. 10

And the Grand Jurors aforesaid, upon their oath aforesaid, do further present that on the fourth day of January, nineteen hundred and fifteen, in the City and County aforesaid, and within the jurisdiction of this Court, in execution of and to effect the object thereof, and in pursuance of such wicked, malicious and unlawful combination and agreement so as aforesaid made by and between the said Simon Hahn, John Gregory and Francis Gregory, said Simon Hahn, from said moneys received as aforesaid from said Charles M. Kase, did pay and turn over to the said Francis Gregory the sum of twelve hundred and fifty dollars for the use of the said Francis Gregory and John Gregory, which said sum of twelve hundred and fifty dollars was a further division of the moneys received and procured from the said Charles M. Kase, as aforesaid, and the said Francis Gregory then and there received said sum of money as aforesaid knowing the same to have been procured as aforesaid from said Charles M. Kase. 20 30

And the Grand Jurors aforesaid, upon their oath aforesaid, do further present that on the fifth day of January nineteen hundred and fifteen, in the City and County aforesaid, and within the jurisdiction of 40

Court Minutes

10 this Court, in execution of and to effect the object thereof, and in pursuance of such wicked, malicious and unlawful combination and agreement so as aforesaid made by and between the said Simon Hahn, John Gregory and Francis Gregory, said Francis Gregory did pay and turn over to John Gregory the sum of six hundred and twenty-five dollars, both knowing the same to be part and parcel of the said sum of twelve hundred and fifty dollars received from the said Charles M. Kase as aforesaid, contrary to the form and statute in such case made and provided, and against the peace of this State, the government and dignity of the same.

JACOB L. NEWMAN,

Prosecutor of the Pleas.

20 On the ninth day of December, A. D. nineteen hundred and sixteen, on which day the said indictment was presented by the Grand Jury aforesaid, to the said Court of Oyer and Terminer, and the said Justice did then and there order the said indictment to be handed down to the Court of General Quarter Sessions, and to be delivered to the Clerk of the Court of General Quarter Sessions, in and for said County of Essex, and then and there the said indictment was duly delivered and duly filed by the Clerk of said Court and an entry of such order and delivery and filing was there and then made in the minutes of said
30 Court at the same time pursuant to the statute in such case made and provided.

And afterwards, that is to say on the eighteenth day of January, A. D. nineteen hundred and seventeen, at a Court of General Quarter Sessions, holden at Newark, in and for the County of Essex, before the Honorable Harry V. Osborne, Presiding Judge of the Court of Common Pleas, John Gregory and Francis Gregory, in the custody of John F. Monahan, Sheriff of the County of Essex aforesaid, and the said
40 John Gregory and Francis Gregory being brought

Court Minutes

before the bar in their own proper persons and forthwith being demanded of and concerning the premises in the above indictment specified and charged upon them, how they would acquit themselves thereof, say they are Not Guilty thereof, and therefore for good and evil they put themselves upon the country, etc., and J. Henry Harrison, Prosecutor of the Pleas of said State for said County of Essex, in this behalf doth the like.

Therefore, let a jury thereupon come before the Court of General Quarter Sessions, to be holden at Newark, in and for the County of Essex, on the thirteenth day of February, A. D. nineteen hundred and seventeen, then next ensuing, twelve free and lawful men, each of whom shall be a citizen of this State and resident within the County of Essex aforesaid, above the age of twenty-one years and under age of sixty-five years, by whom the truth of the matter may be better known, and who are not of kin to the said John Gregory and Francis Gregory, to recognize upon their oath whether the said John Gregory or Francis Gregory are Guilty of the premises in the said indictment specified or Not Guilty because the said J. Henry Harrison, Esquire, Prosecutor, etc., as the said John Gregory and Francis Gregory put themselves upon the jury and the same time is given to the parties at the same place. 10 20

And afterwards, that is to say, this case upon the indictment was taken and certified to the Supreme Court on a Writ of Certiorari which was returned on November nineteenth, A. D. nineteen hundred and seventeen. 30

And afterwards, that is to say, the thirteenth day of February, A. D. nineteen hundred and seventeen, then next ensuing, twelve free and lawful men each of whom shall be a citizen of this State and resident within the County of Essex aforesaid, above the age of twenty-one years and under the age of sixty-five years, by whom the truth of the matter may be better known and who are not of kin to the said Francis 40

Court Minutes

Gregory, to recognize upon their oath whether the said Francis Gregory is guilty of the premises in the said indictment specified or not guilty because the said J. H. Harrison, Esquire, Prosecutor, etc., as the said Francis Gregory puts himself upon the jury and the same time is given to the parties aforesaid at the same place.

10 On the fourth day of February, A. D. nineteen hundred and eighteen, Thomas A. Davis, Attorney for the Defendant Francis Gregory, appeared before the Court and moved to allow the defendant Francis Gregory to withdraw his plea of Not Guilty for the purpose of making a motion to quash the indictment, the defendant withdrew his plea, and Thomas A. Davis, his counsel, moved to quash the indictment, which motion was denied by the Court and the defendant's counsel asked for an exception which was granted by the Court, and the defendant was again set to the bar to plead to the said indictment, where-
20 upon he pleaded Not Guilty.

And afterwards, that is to say, the fourth day of February, A. D. nineteen hundred and eighteen, to which day the trial of aforesaid indictment was postponed, at the same Court of General Quarter Sessions holden before the Honorable Harry V. Osborne, Judge of the Court of Common Pleas, comes the said J. H. Harrison, who prosecutes as aforesaid, and the said Francis Gregory, and the jury of whom mention is before made, and by Ralph B. Schmidt, Sheriff of the
30 County of Essex, for this purpose empanelled and returned to wit: Peter Clarke, Louis Fischer, William Bristow, Raymond S. Williams, Grover D. Smith, William T. Conklin, Frank E. Ransom, Gerhard H. Grapel, Edward E. Livingston, Edward Jaenecke, F. J. Minor, Andrew F. Haufler, being called, were sworn upon that jury who to speak the truth of and concerning the premises and thereupon the trial of said issue was commenced and continued when the jury returned into Court in charge of the
40 officer sworn to attend them, and then and there in

Court Minutes

the presence of the Prosecutor, defendant and Court do say upon their oath, they cannot agree upon their verdict, whereupon they were discharged by Order of the Court.

And afterwards, that is to say, the fourth day of February, nineteen hundred and eighteen, on motion of the said J. H. Harrison, Prosecutor of the Pleas of Essex County, New Jersey, the Court granted a severance of the trial on the indictment as to Francis Gregory and the case as to John Gregory was put off without a day fixed for trial. 10

On the sixth day of March, A. D. nineteen hundred and eighteen, which day was fixed by the Court as the day for the re-trial of the said indictment as to Francis Gregory, appeared in open Court Thomas A. Davis, counsel for the defendant Francis Gregory, and requested the Court to allow him to make a motion to allow the defendant to withdraw his plea of Not Guilty for the purpose of making a motion to quash the indictment, which motion was allowed by the Court and the defendant Francis Gregory withdrew his plea of Not Guilty and his counsel Thomas A. Davis moved to quash the indictment, which motion was denied by the Court and an exception taken by his counsel, Thomas A. Davis, which was granted by the Court, and the defendant was again set to the bar to plead to said indictment, whereupon he pleaded Not Guilty. 20

And afterwards, that is to say, the sixth day of March, A. D. nineteen hundred and eighteen, which was the day the Court fixed as the day for the re-trial of said indictment as to Francis Gregory at the same Court of Quarter Sessions, holden before the Honorable Harry V. Osborne, Judge of the Court of Common Pleas, comes the said J. H. Harrison, who prosecutes as aforesaid, and the said Francis Gregory and the jury of whom mention is before made, by John R. Flavell, Sheriff of the County of Essex, for this purpose empanelled and returned to wit: Albert W. Eppler, E. Van Zee, Robert E. Willis, W. 30 40

Verdict

J. McAvoy, Albert Brunner, Charles L. Drake, Frank W. Roberts, C. E. Odgers, Thomas F. Tumberlake, Bernard J. Radigan, Charles A. Phelps, Harvey Robertson being called, after the following were challenged, by the State six, by the defendant eight, by consent one, were sworn upon that jury who to speak the truth of and concerning the premises and thereupon the trial of said issue was commenced and continued till the seventh day of March, A. D. nineteen hundred and eighteen, when the jury returned into Court in charge of the officer sworn to attend them, and then and there in the presence of the Prosecutor, defendant and Court do say upon their oath, they find the said defendant Francis Gregory Guilty, and so they say all.

Judgment signed
March 25, 1918.
20 HARRY V. OSBORNE,
Judge.

Whereupon all and singular, the premises being seen and by the Court now here fully understood, it is on this twenty-fifth day of March, A. D. nineteen hundred and eighteen, ORDERED

and adjudged that the said Francis Gregory be committed to the State Prison for a term of not less than one year and not more than three years and to pay costs, and stand committed until such costs are paid, which costs are taxed by the Clerk at the sum of ninety-three dollars and seventy-two cents.

30

40

Order

New Jersey Supreme Court

THE STATE OF NEW JERSEY,
Plaintiff-Respondent,

VS.

FRANCIS GREGORY,
Defendant-Appellant.

*On Writ of
Error.
Order.*

10

On good cause shown it is on this 12th day of April, 1918, ordered that the time for filing the return on the writ of error in the above stated cause be and the same hereby is extended ten days.

WM. S. GUMMERE.

C. J.

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Motion to Quash

Essex County Court of Quarter Sessions

WEDNESDAY, MARCH 6, 1918.

STATE
FRANCIS GREGORY.

VS.

*Indictment No. 100,
December Term, 1917.
Conspiracy.*

10 Before Hon. Harry V. Osborne, Judge, and a Jury.
For the State appears Andrew Van Blarcom, Esq.
For the Defendant appears Thomas A. Davis, Esq.

MR. DAVIS: If your honor please, in this case I would like to get on the record a motion to quash the indictment, and for that reason I would ask permission, for the purpose of making the motion, to withdraw the plea. I move your Honor that the indictment in this case be quashed for the following reasons: First, if any offense is set out in the indictment it was committed two years before the indictment was found and is barred by the statute of limitations; and, secondly, the indictment does not set out any offense committed within two years before the finding of the indictment. I don't think it is necessary to make any argument on this because I understand that the Supreme Court has already passed on the indictment on those grounds.

30 THE COURT: The motion will be denied as the Supreme Court has decided the matter.

Defendant's counsel prays an exception to this ruling of the Court, and the same is allowed and signed and sealed accordingly.

H. V. OSBORNE,
Judge.

MR. DAVIS: The defendant renews his plea of Not Guilty.

40 (Jury called and sworn.)

Charles S. Peaker, direct

CHARLES S. PEAKER sworn in behalf of State.

Direct Examination by Mr. Van Blarcom.

Q. Where do you live at present, Mr. Peaker?

A. Washington, New Jersey.

Q. How long have you lived there? A. About four years the first of this coming April.

Q. And by whom were you employed? A. Senator Cornish. 10

Q. Are you married? A. I am married, yes, sir; I am not living with my wife.

Q. And how long have you been married? A. Oh, I have been married seven or eight years.

Q. You formerly live in Newark, didn't you? A. I did, yes, sir.

Q. And how long did you live in Newark before you went up to Washington? A. Twenty-six or twenty-seven years.

Q. What did you do in Newark? A. I worked 20 for W. T. Sayre, the druggist.

Q. What kind of work did you do? A. I did different kinds of work, but I did carriage trimming by trade.

Q. Did you know Francis Gregory the defendant here, and his father John Gregory? A. I did.

Q. How long have you known them? A. About twenty-five years, I guess.

Q. What was their business? A. They ran a detective agency. 30

Q. And did you know where their office was? A. I did.

Q. Ever go in there? A. Yes, sir; used to go in there very often.

Q. And did you ever have any conversation with either of those gentlemen concerning your wife? A. I did, with the father.

Q. When was that spoken of first? A. That was some time around October, I guess around the latter part of October or November. 40

Charles S. Peaker, direct

Q. Do you remember what year it was? A. 1913.

Q. And did you talk to both of these gentlemen or one of them? A. No, sir; I talked to one of them.

Q. Which one did you talk to? A. I talked to the father.

Q. What did you say to him? A. I told him how I had caught my wife coming down the street and where I saw her coming from, what direction, and told her I asked her where she had been and she had told me.

Q. Did you tell Mr. Gregory where she had been? A. I told Mr. Gregory where she had been—

Mr. Davis. I object. At the last trial I was given the privilege of an exception to all of the testimony which was introduced in the case, consisting of conversations with persons not in the presence of the defendant, and your Honor allowed the testimony, with the statement that unless it was connected up you would strike it out. I do not want to interfere with the expedition of the case by objecting every time it comes in, but if it is understood that I have an exception to the conversations which the witnesses may give other than those given in the presence of Francis Gregory, I will not interpose an objection every time that is done.

The Court. It is understood that the testimony is introduced on the theory that the proof of the conspiracy would make it competent, and upon the failure of the State to prove conspiracy, a motion will be in order to strike out that testimony.

Mr. Davis. In the meantime, I may have an exception?

The Court. Certainly.

Exception allowed; let it be sealed, and it is signed and sealed accordingly,

(Signed)

Charles S. Peaker, direct

Q. Go ahead. A. And I stated the case to him.

Q. Give us, as near as you can remember, what you said to him—if you can remember? A. I told him the wife had told me that she had been going up there to see Mr. Kase. I asked her how she came to meet him.

Q. Don't tell us your conversation between you and your wife, but tell us what you told Mr. Gregory, Senior? A. I told him that my wife had told me that she was going up there to meet Mr. Kase and that he was giving her more money than I could give her, and therefore she concluded not to live with me any more, and I asked him if there was grounds strong enough to secure a divorce on, and he said he didn't know but what there were, but he said "Better have him shadow her for a while, make the evidence more stronger." 10

Q. What else? Anything more said when you began the case with the Gregorys? A. Not at that time. 20

Q. Did you talk with either one or both of them after that occasion? A. No, sir; I never talked with both of them; I only talked with the father about the case.

Q. What was the next thing? A. I didn't hear any more about the case until they sent me up to see Judge Hahn. I went up to see Judge Hahn.

Q. Before we come to that. Was there anything said by Mr. Gregory, Senior, about your paying for their services? A. I told him I didn't have the money just then, but I said "I will give it to you in a matter of a couple of weeks." And he said, "That is all right, I won't worry about that." 30

Q. Was anything said about how much you were to give? A. No, sir.

Q. Did you ever go with Francis Gregory up to Mr. Kase's office or nearby? A. Nearby I did.

Q. Was that before you went to see Judge Hahn? A. No, sir; that was after. 40

Charles S. Peaker, direct

Q. Well, then, that comes afterwards. Tell us who took you up to Judge Hahn? A. Francis.

Q. That is the gentleman sitting back here [indicating]? A. Yes, sir.

Q. That is the defendant? A. Yes, sir.

Q. How long before you first spoke to Mr. Gregory was that, that is, Mr. Gregory, Senior? A. I couldn't say exactly, but it was several weeks after that.

10 Q. Tell us what happened when you went up and met Hahn. A. Well, I went in to see Mr. Hahn and I stated the case to him, as I had stated it to Mr. Gregory, and he said yes, that the evidence was all right. He said, "The only thing we can do," he said, "I will have to get her down here and get a confession from her;" he said, "If she will admit to me the same as she has to you, why, everything will be all right;" and he said, "How will you get her down here?" And I said, "I don't know how." He said,
20 "I will tell you what to do, write her a letter and get her to meet you and then bring her up here to me."

Q. Did you do that? A. So I wrote the letter and had her meet me at the Central station, met her at the Central station and went to Judge Hahn's office.

Q. At all events, you went up to Judge Hahn's office with her? A. Yes, sir.

Q. And did you stay in the office or not? A. Yes, sir.

30 Q. And what happened there? A. Well, Judge Hahn told her I was going to bring suit for a divorce and wanted to know if she was ready to make a statement to him, and she said she was.

Q. Did she make a statement? A. She made a statement; yes, sir.

Q. What was said between you and Judge Hahn as to what kind of suit was going to be brought?

A. I asked him if this evidence was strong enough to secure a divorce on and he said yes. I said, "If
40 it isn't, all right, don't you bother with it." And he

Charles S. Peaker, direct

said, "This evidence is all right, it is as good and as strong as anything I ever had."

Q. Was there anything ever said about a suit for alienation of affections? A. No, sir.

Q. [Showing witness a paper.] I show you a letter which is dated December 25, 1913, and bears the signature "Charles Peaker." Is that the letter which you wrote to your wife? A. Yes, sir.

[Letter referred to is offered in evidence and marked Ex. S1, Mch. 6, 1918.] 10

[Mr. Van Blarcom reads the letter referred to to the jury.]

Q. How long were you at Judge Hahn's office, that is, with Mrs. Peaker? A. Oh, I suppose—I couldn't say exactly—fifteen or twenty minutes, I guess; probably a little longer than that.

Mr. Van Blarcom. At this point I will offer in evidence the statement made by Mrs. Peaker to Judge Hahn. 20

[Marked Ex. S2, Mch. 6, 1918.]

[Mr. Van Blarcom reads the statement referred to to the jury.]

Q. This statement was written down by Judge Hahn' wasn't it? A. Yes, sir.

Q. After you were there that day with your wife what was the next thing you heard about the case? 30

A. Well, I was down-town one day and I stopped into Gregory's office and while I was there the 'phone rang and Francis went out and said he was going up to Judge Hahn's office, and after he had been up there awhile he called me up.

Q. Just what did he say to you when he started up to Hahn's office? A. Oh, he said, "You wait here until I come back, I am going up to see Judge Hahn."

Q. Did you wait there? A. Yes, sir. 40

Charles S. Peaker, direct

Q. What happened after that? A. Well, I stayed around there awhile and they called me up and told me Judge Hahn wanted to see me. I went up to see Judge Hahn. I got up the stairs, inside, and Mr. Gregory came in, so Judge Hahn said to me—

Q. You mean what Mr. Gregory? A. Chief Gregory, Francis's father.

10 Q. So then both of the Gregorys, Judge Hahn and you were there? A. Yes, sir.

Q. State what happened? A. Judge Hahn says, "Peaker" he said, "I have settled your case." And I said, "You have?" And he said, "Yes." And he said, "I have settled your case and I have got \$2000 for you." "Well, I said, "that don't get me rid of the woman." "Well," he said, "that is all right, you take the money, you can get rid of her, you won't have any bother with her." So I said, "All right," and so I took the money and went
20 downstairs.

Q. And what was the next that happened in the matter? By the way, who remained there in Hahn's office? A. Mr. Gregory and Francis Gregory.

Q. And Hahn also? A. And Hahn.

Q. What was the next thing that occurred in the matter? A. Well, I was downtown one day; I didn't hear anything of it at all for about a year afterwards, I guess, and I was downtown one day
30 and I heard that Hahn had received a large sum of money in this case, so then I saw a lawyer—he is in the Prudential building there—lawyer—he is the lawyer that handled this case when it first started in the Prudential building.

Q. Handled what? A. Had something to do when this case first started in the Prudential building.

Q. If you don't remember his name, go ahead.
A. I asked his name, and I said to him—

0 Q. You can't state what you said to him, but

Charles S. Peaker, direct

what did you do? Did you see either Hahn or Gregory after that? A. Yes, I did.

Q. Which one did you see first? A. I saw Hahn.

Q. And what was said between you and him? A. I went down to his office and he was in, and I said, "Mr. Hahn, I understood you received a large amount of money from that divorce case of mine." And he said, "Yes." And I said, "I don't want any argument or trouble over the thing, but if you received as much as I heard you did don't you think I was entitled to more than \$2000?" And he said, "Yes, Peaker, you really are, and I am going to give you more;" and he said, "You come down here at two o'clock and I will give you \$2500 more." So I went down there at two o'clock and he said, "Well, now, wait a minute, I am going to call Francis Gregory up, I am going to show him I am going to give the money to the man it belongs to." So I don't know whether Francis was there or not when he wrote the check, but he wrote the check and took me across to the bank and cashed it.

Q. I show you a check dated January 4, 1915, bearing the indorsement, "Charles S. Peaker." Is that the check that you refer to? Is that your signature on the back? A. That is.

Mr. Van Blarcom. I offer a check drawn on the Fidelity Trust Company, dated January 4, 1915, for \$2500, signed "Simon Hahn," marked "Cash" on it.

[Marked Ex. S3, Mch. 6, 1918.]

Q. Did you see Francis Gregory that day? A. Yes, sir.

Q. Before you got the check cashed or afterwards? A. It was before.

Q. And what was said then? A. Well, he came into the Judge's office and the Judge said, "Francis," he said, "I am going to give Peaker more

Charles S. Peaker, cross

money," he says, "he is entitled to it and I want you to be here and see that I give it to him."

Q. What did Francis say, if anything? A. I can't recall just what he said, but he and the Judge had some words and Francis went out, got angry.

10 Q. If you had placed this case with Hahn for a divorce why did you take the money? A. Hahn told me I had a right to take it and I asked him first if I had, and he said yes, and I asked—of course, this was after I had taken the money—I was talking to lawyer Gottlieb about the case one day and asked him if I had a right to take the money and he said yes.

Mr. Davis. I object to that and ask that it be stricken out.

The Court. Strike it out.

Cross examination by Mr. Davis.

20 Q. When were you married, Mr. Peaker? A. I don't remember the exact date; I think it was—

Q. How many years ago is it? A. Seven or eight years ago, I guess.

Q. Is your wife here? A. Yes, sir.

Q. This lady up there in the back of the room? A. Yes, sir.

Q. How long have you been separated from her? A. Oh, four or five years; in the neighborhood of that.

30 Q. When was it you separated? A. Some time in 1913.

Q. What month? A. Well, around September, I guess, or October, somewheres around there; it was in the fall, anyway.

Q. That was the same year you found out she was going to Kase's office? A. Yes, sir.

Q. Wasn't it earlier in the year that you separated than September or October? A. No, sir; I don't think so.

40 Q. You testified on this matter before in the

Charles S. Peaker, cross

Court of Chancery, didn't you? A. Yes, sir.

Q. Did you arrange to have her watched before or after you separated from her? A. After.

Q. How long after? A. Why, right away, as soon as we had separated—I can't say right away, but a short time afterwards; I don't remember just how long it was afterwards.

Q. Didn't you say in your testimony in the Court of Chancery that you had her watched some time between the month of June and September, 1913? 10

A. I don't remember. It was fresher in my mind, and if I said that, it must be the truth, because it was more fresh in my mind then than it is now.

Q. Then if you did say that in the Court of Chancery you are mistaken now in saying it was September or October? A. It may be; I couldn't say positively; I said thereabouts, but I couldn't say positively.

Q. What is the best of your recollection? A. I have given you the best of my recollection. I 20 really couldn't say.

Q. Why can't you remember? This is the fourth time you have testified on the matter. A. I guess it is.

Q. Why is it you don't remember today? A. Well, it has been over a year since I testified the last time.

Q. Can't you remember a year back? A. No, I can't; no, sir; it is quite awhile to remember a thing you are not thinking of at all. 30

Q. Then it may have been before June, 1913, that you separated from her; is that so? A. No, I don't think it was before June; I wouldn't say that.

Q. You testified in the Court of Chancery that you had her watched between June and October, and if that was true, how long before June was it then that you separated from her? A. I didn't say I separated from her before June, I don't think, in the Court of Chancery.

Q. How long before you started to have her 40

Charles S. Peaker, cross

watched was it that you separated from her? A. How long before was it that I separated?

Q. You heard it correctly. A. I said I don't remember exactly.

Q. A month or two months? A. I can't remember; I can't say.

Q. Why can't you say? A. I haven't the slightest idea. If I knew, I would tell you.

10 Q. Then you can't say whether it was a month or a year? A. Oh, yes, I know it was not a year.

Q. Then it was more than a month and less than a year that you had her watched? A. I guess so. It was considerably less than a year.

Q. What is that? A. It was nothing like a year.

Q. When was it that you first went to the Gregorys? A. To see about this case?

Q. Yes. A. Well, I think it was—well, it was the latter part of December, shortly before the holidays, I guess, a day or so before the holidays.

20 Q. You don't mean that, that you first went to them in the early part of December? A. Oh, to see about this case, do you mean?

Q. Yes. A. Oh, no.

Q. Then my question is, when did you first go to the Gregorys to see them about this case? A. Oh, I couldn't recall exactly, but it was some time around September or October, I guess.

Q. You knew the Gregorys a great many years? 30 A. Yes, sir.

Q. You had done work for them occasionally? A. I had.

Q. And you knew the chief, John Gregory, the old man, the father? A. I did.

Q. And you knew the son Francis? A. Yes, sir.

Q. And when you first went you talked with the Chief only, the father? A. I did.

Q. And you told him that your wife was running up to the office of Charles M. Kase, a rich man, 40 didn't you? A. No, sir.

Charles S. Peaker, cross

Q. Well, now, what did you tell him? A. I told him where she was going.

Q. One minute. Just repeat the words that you told him. A. I told him that she was going to see a man by the name of Kase and he asked me where his office was, and I told him up on Broad street, I didn't know just where, but I gave him an idea where I had seen her coming out of. I guess that was all.

Q. Did you ask him to have her watched or shadowed? A. He suggested that. 10

Q. He suggested that? A. Yes, sir.

Q. What did you go to the Gregory place for? A. I went there to see if I could secure a divorce.

Q. At Gregorys? A. To get information, yes, sir.

Q. Did you not go to Gregorys for the purpose of getting their help to shadow your wife? A. Exactly.

Q. Then you asked them to shadow your wife? A. I did, yes, sir. 20

Q. And then Chief Gregory didn't suggest it, did he? A. He did, yes.

Q. He did? A. I went there to ask him if the evidence—if the evidence that I had secured myself was strong enough to secure the divorce on, that is what I asked him. I thought he knew—

Q. Never mind what you thought. What did he say when you asked him if the evidence was strong enough? A. He said "Well, I guess it is, but you had better have her shadowed for awhile." 30

Q. And Francis wasn't there? A. He wasn't there.

Q. And you think that it was in September or October, 1914, that you went there? A. Well, thereabouts.

Q. Didn't you tell the Prosecutor just a minute ago that it was in September or October? A. Probably I did.

Q. Did you? A. I guess I did.

Q. Is there any doubt about it? You say you 40

Charles S. Peaker, cross

guess you did. Is it true that it was September or October that you went there? A. I told you before I don't remember the exact date, but it was late in the fall.

Q. Didn't you tell Mr. Van Blarcom before that it was either in September or October? A. I don't remember.

10 Q. Don't you remember that? A. I don't recall whether I did or not. If I did I would say so. Probably I did.

Q. When did you go there again? A. Well, not until—Oh, I don't know—I guess it was on the 29th.

Q. I am asking about the Gregorys. When did you go to the Gregorys again? A. After I had stated the facts in this case to them?

Q. Yes. A. I didn't go there until one day I was downtown and I stopped in there some time, I suppose it was—Oh, I don't know exactly.

20 Q. Well, how long after the first visit was it that you made the second visit? A. Well, it was over a month or more anyway.

Q. Who did you see at that time? A. Saw Mr. Gregory.

Q. That is, the defendant? A. Yes, sir.

Q. Francis? A. Yes, sir.

Q. When was it that you brought Francis up to Kase's building and showed Francis Kase's building?

30 A. I have forgotten now just when it was, but it was long after I had—it was after I had stated the case to his father.

Q. How long after? A. I couldn't say.

Q. Was it a month? A. No, a few days afterwards; that was all; I couldn't say how long.

Q. A few days? A. Yes, sir.

Q. And you understood that the Gregorys were shadowing your wife for you, didn't you? A. Yes, sir.

40 Q. And was there anything spoken at that time about how you were going to pay them? A. No,

Charles S. Peaker, cross

sir, not at that time. I had spoken to the father about it only.

Q. And what did he say? A. He said, "It is all right, Peaker, I know you will."

Q. Did he say he would do it for you for old time's sake or something like that? A. No, he didn't say that; I said I can pay him in a couple of weeks and he said, "We won't worry about that."

Q. What were you working at at that time? A. 10
I was carriage trimming at that time, but I wasn't working much. I had five jobs where I was working for piecework.

Q. Where was this office of Gregorys? A. On Broad street, near the Central depot.

Q. That is next to the church or near the church?
A. Near to the church.

Q. You went to them again when the question of a lawyer was spoken about, didn't you? A. No, I think that was spoken about, if I remember right— 20
well, I can't say just when that was spoken about now.

Q. Why can't you say? A. Because I don't remember just when it was.

Q. Did there come a time when you called at the Gregorys office and either the Chief or Francis told you that they thought you had enough evidence. A. Yes, sir.

Q. When was that? A. I can't recall.

Q. How long was it before you went to see Judge Hahn? A. Not a great while. 30

Q. What do you mean by— A. Probably two or three days, I suppose.

Q. Will you relate the conversation that you had either with Chief Gregory or with his son, either or both, on this occasion, two or three days before you went to see Judge Hahn? A. I don't believe I could; I don't know as I had any conversation with him at all.

Q. Well, now, I refer to the time that you and the Gregorys had talked about the selection of a 40

Charles S. Peaker, cross

lawyer. A. The Gregorys and I didn't have any talk; it was the father and I that talked about the lawyer.

Q. How long was that before you went to see Judge Hahn? A. That was when we got through shadowing her.

Q. How long was it before you went to see Judge Hahn? A. As I said before, I guess it was two or
10 three days.

Q. Will you relate the conversation that you and the father and John Gregory had about the selection of a lawyer? A. Well, I don't know now exactly. I tried to tell you that before, but it runs in my mind that it was like this: I think I said, "How about this man Gottlieb? and I think, if I remember right-ly, that Mr. Gregory said, "I think Judge Hahn would be the best man in this case."

Q. You have testified four times in this matter, haven't you? A. I don't know.
20

Q. Did you ever make that statement before in all the four times you have testified? A. I don't know whether I did or not. I am saying that is the way it came about; I don't think that I said that I knew Mr. Hahn.

Q. Well, are you sure that you didn't say that? A. Well, I am quite positive.

Q. You testified in the Court of Chancery about this very conversation, didn't you? A. Yes, sir.

Q. And the matter was fresher in your mind then
30 than it is today? A. Considerably.

Q. That hearing in the Court of Chancery took place in the early part of 1915, nearly three years ago, didn't it? A. I couldn't say whether it was fourteen or fifteen.

Q. Didn't you say in the Court of Chancery, when you were asked the question, page 27 of the printed book, "How did you come to go there to see Mr. Hahn?" and you answered—listen to this, this is your answer—"After Mr. Gregory had shadowed my
40 wife and told me what he had discovered why he

Charles S. Peaker, cross

said, 'you better see a lawyer in regard to this case, but' he said, 'I think the evidence is all right.' So I said, "Well, I hear a great deal about this man Hahn," that is the way I spoke; he said, 'Well, I guess he's about as good as anybody,' so he says, 'I will send Francis up there with you to him. Do you know where his office is?' I said, 'No,' so his son Francis and I went up to him." Now, is that what you said in the Court of Chancery as to how you came to go to Hahn? A. If that is down there that is what I must have said; I can't remember, it is so long ago. 10

Q. Have you any doubt it is down there? A. No, not after you have read it.

Mr. Van Blarcom. That is, it was down in the book that you were reading from?

Mr. Davis. Yes.

Q. Now, that same day or a day or two afterwards Mr. Gregory took you up to Judge Hahn's office, didn't he? A. He took me up there, yes, sir. 20

Q. And his office at that time was at 800 Broad street, corner of Mechanic? A. I believe it was.

Q. And when you went in you met Judge Hahn in the corridor? A. Yes, sir; I believe so.

Q. And either you or Francis Gregory explained to him about your case? A. Yes, sir.

Q. And he told you to come back at two o'clock, didn't he? A. I believe so, something like that.

Q. And then you went back at two o'clock, didn't you, and saw Judge Hahn; isn't that right? A. I think that is right. 30

Q. When you went back at two o'clock to see Judge Hahn how long did that session last? A. Why, I suppose fifteen or twenty minutes; probably a little longer.

Q. And at any time, either in the corridor or in the interview at two o'clock at Judge Hahn's office, on either occasion, did Judge Hahn speak to you or did you speak to him about how much his services were to cost? A. I think, if I remember rightly, 40

Charles S. Peaker, cross

that I asked Judge Hahn how much he was going to charge me, and he said, "I will see about that later." When I want to see you I will send for you."

Q. On what occasion was that that he made that statement? A. It was the day that my wife made the affidavit.

10 Q. Then you say that when you and Francis Gregory met the Judge in the corridor and when you met him at two o'clock in his office that the matter as to what you were going to pay him was not spoken of? A. The Day Francis and I met him?

Q. Yes. A. No, sir.

Q. When you had that interview with Judge Hahn that afternoon about two o'clock you told him that your wife had confessed to you, didn't you? A. Yes, sir.

Q. And then he told you to try to get your wife to come down and confess to him in writing, did he? A. Yes, sir.

20 Q. And you wrote a letter to your wife? A. Yes, sir.

Q. Which is offered in evidence, Exhibit S1? A. Yes, sir.

Q. Where did you write that letter, Mr. Peaker? A. I think I wrote it up to the house.

Q. Did you write it the same day you were in Judge Hahn's office? A. Yes, I wrote it at his suggestion. He told me to write her a letter and come down there.

30 Q. The letter is dated December 25th, that is Christmas day. Did you write it on Christmas day?

A. I must have.

Q. Where was your wife living at that time? A. In Maplewood.

Q. And you were living in Newark? A. Yes, sir.

Q. And when had you seen your wife before you wrote this letter? A. Oh, probably—I don't know; it had been sometime; I hadn't seen her in a good while.

40 Q. Did you see her since the time you met her

Charles S. Peaker, cross

coming out of Kase's building and she told you about having gone in to see Kase? A. No, sir.

Q. Then you hadn't seen her for some four or five months? A. I can't say; it was some time.

Q. And you kept on good terms with her? A. I didn't see her, so how could I keep on good terms with her?

Q. When you wrote her this letter you told her to keep quiet about this thing? A. I did.

Q. What was the object of that? A. That is what Judge Hahn told me, "There need not be any disturbance about this. We can do it in a quiet way."

Q. You knew that she was going to see Kase up at his building, did you? A. Well, I only knew from what she said.

Q. Where was Mr. Kase's building, where was his office? A. This is near Broad street, on the corner of Market and Broad; I think you would call it the northeast—the northwest corner.

Q. How far from the Fireman's building? A. Three or four doors; something like that; I don't know exactly. The east corner, was it?

Q. Kase's building is between Market and Clinton street, isn't it? A. Somewhere along there.

Q. And, of course, the Central Railroad is down the other direction? A. Yes, sir.

Q. And you told your wife in this letter that you wrote her that you wanted to meet her at the Central depot so there wouldn't be any danger of the boss seeing you together, didn't you, as it might hurt her standing with him. Who do you mean by the boss? A. Mr. Carr, the man she worked for.

Q. You didn't mean Mr. Kase? A. Why, no.

Q. Mr. Carr was up in Maplewood, wasn't he? A. I don't know. He worked here in Newark, I guess.

Q. In business here in Newark. Don't you know that Mr. Carr is here in Newark? A. Yes, sir.

Q. Don't you know that his bank is the City Trust Company up in Roseville? A. I know, yes, sir.

Charles S. Peaker, cross

Q. What danger would there be of Mr. Carr seeing you down at the Central depot? A. Nothing to prevent him being here in Newark.

Q. Don't you mean by hurting herself with the boss, Mr. Kase? A. No, sir.

Q. Well, your wife came down and met you in response to that letter? A. Yes, sir.

Q. And she met you the Monday after Christmas? A. Yes, sir.

10 Q. You asked her to come on Monday? A. I don't think the letter says there.

Q. Your letter says that you wanted her to come on Monday and let you know by Saturday, "so if you can meet me Monday afternoon let me know and then answer me by Saturday," and the letter is dated the 25th. Now your wife met you the Monday after Christmas, didn't she? A. I wouldn't say what day it was, but whatever day she asked me to meet her she met me.

20 Q. And she met you at the depot? A. Yes, sir.

Q. And she met you Monday afternoon? A. Yes, sir.

Q. And then you brought your wife to Judge Hahn's office, didn't you? A. Yes, sir.

Q. And you and your wife and Judge Hahn were the only ones there during that whole interview, were you not? A. I guess we were.

Q. And you and Judge Hahn talked about her relations with Mr. Kase? A. I didn't talk to her.

30 Q. Didn't you? A. No, sir.

Q. And at that time Judge Hahn drew up in his own handwriting this affidavit that your wife signed, which Mr. Van Blarcom has offered in evidence; is that right? A. Yes, he did.

Q. Do you recollect four pages of legal cap of writing in Judge Hahn's handwriting? Can you say how long you were there at that interview, how long your wife was there? A. Well, we wasn't there a great while.

40 Q. Half an hour? A. It might have been half an

Charles S. Peaker, cross

hour, something like that, fifteen or twenty minutes, probably a little longer; I couldn't say now; I couldn't remember.

Q. Before Judge Hahn began to write at all he talked with your wife to get her story out of her, didn't he? A. Yes, sir.

Q. And then after he got her story out of her he wrote that story down? A. Yes, sir.

Q. In writing? A. Yes, sir.

Q. Do you mean to say that all that was done in half an hour? Q. When he took the statement from my wife he did; it was all on one sheet of paper—two sheets of paper. 10

Q. The statement alone that he took occupied two sheets of paper? A. One or two; I don't think he used the second sheet of paper.

Q. Then he took notes on that? A. I couldn't say.

Q. You saw him write four pages of foolscap? A. I didn't see him write four pages. 20

Q. Look at this statement written by Judge Hahn in your presence. A. Yes, sir.

Q. See if there are four pages there. Just count them. A. Yes, there are four pages there.

Q. You did see him write the four pages, didn't you? A. I saw him write; I wouldn't say how many pages he wrote; I saw him write the statement down.

Q. Did you see him write all that? A. Well, I suppose I did.

Q. You were there and—— A. I don't know that he took it down that way just at that time; he may have rewritten it; he may have made a note of it and rewritten it; I couldn't say. 30

Q. You say at first he made notes of her statement? A. I don't say that he did make notes; I said he may have.

Q. What did you mean when you said a minute ago that he wrote on two sheets of paper? A. I don't think the writing he did would use up that much paper; I don't think he did. 40

Charles S. Peaker, cross

Q. You were there from the time your wife entered Judge Hahn's office, you were there all the time she told her story, you were there when Judge Hahn wrote that story and you were there when she signed it and you went away with her? A. No, sir; I didn't go away with her. She went ahead of me, she went up the street, and I went down.

Q. You left Judge Hahn's office with her? A. No, sir; I did not. She went uptown and I went down-
10 town.

Q. From the time she came until the time she signed that paper you were in Judge Hahn's office with her, were you not? A. Not with her; I was in the office.

Q. Were you not in the same room with her and Judge Hahn? A. Yes, all the same room.

Q. And you heard everything that transpired and you saw everything that transpired? A. Between—

Q. Between Judge Hahn and her and you? A.
20 Yes.

Q. And at no time on that occasion, from the time you entered Judge Hahn's office until you left it, Francis Gregory was there, was he? A. No, he wasn't; I don't think that he was.

Q. And when you wrote that letter to your wife asking her to come down, Francis Gregory wasn't there, was he? A. No, he wasn't there.

Q. And when Judge Hahn told you to write that letter to your wife to get her to come down Francis
30 Gregory wasn't there, was he? A. No, sir; he wasn't.

Q. Now, Mr. Peaker, the next thing that was done after your wife's statement was procured by Judge Hahn was the telephone message that you got, was it; is that right? A. Yes, sir.

Q. And how long after your wife called there—
A. As near as I can remember it—

Q. — was it that you got this telephone mes-
sage to come up there? A. I can't recall it.

40 Q. Ten days? A. No, it wasn't.

Charles S. Peaker, cross

Q. A week? A. I can't say that.

Q. Why not? A. Because I can't remember.

Q. It wasn't a great while? A. No, I don't think so.

Q. You got a telephone message to come up to Judge Hahn's office and Judge Hahn gave you \$2,000? A. Yes, sir.

Q. And you told Judge Hahn you didn't care how much he got as long as you got \$2,000? A. No, sir; I never thought of such a thing. 10

Q. Nothing of that kind was said? A. Nothing of that kind was said and all he did, he counted out the \$2,000 and I went downstairs.

Q. You knew that the \$2,000 that you got Judge Hahn had collected for you from Mr. Kase? A. That is what he said; he had settled the divorce case—he had settled the case for me and he had \$2,000 for me; that is the words he used.

Q. Didn't he tell you he got the money from Mr. Kase? A. He didn't tell me anything about it. 20

Q. Where did you suppose the money came from? A. I suppose it came from him, but he didn't tell me.

Q. When you got the money you supposed that it came from Mr. Kase, didn't you? A. Yes, sir.

Q. You had told Judge Hahn that you wanted him to sue Kase for damages, didn't you? A. No, sir.

Q. No? A. No. I entered a plea for a divorce, nothing else.

Q. Where did you suppose, or how did you suppose, that this money came from Kase if you were going to start a divorce suit only against your wife and not a suit for damages against Kase? A. Well, because Hahn had told me he had settled this matter out of court; he said Mr. Kase didn't want to go to court. 30

Q. Then he was going to bring Kase to court, wasn't he? A. Well, according to his statement he must have been.

Q. You knew that, didn't you? A. Knew what?

Q. That he was going to bring Kase to court? A. 40

Charles S. Peaker, cross

No, I knew I had instituted suit for divorce. I didn't know anything about any other suit.

Q. When this money was paid you he told you that Kase paid you the money rather than go to court, didn't he? A. That is the words he used, something like that.

Q. Then you took \$2,000 and gave a receipt for it?

A. Yes, I gave a receipt; he wrote something there; he asked me to sign it; I didn't see it, and signed it.

Q. You never saw it when you signed it? A. No, he wrote something on a paper and folded it over and I signed it.

Q. You can read and write? A. Yes, sir.

Q. You wrote that letter to your wife? A. Yes, sir. He said it was a receipt and I signed it.

Q. And you saw it when he signed it? A. No; he folded it over; there is a few lines vacant there; "You can sign it there; it is just a receipt that I paid you \$2,000."

Q. Did you find out it was a receipt for \$2,000?

A. What I found out here in the court, I guess it was a release.

Q. A release? A. I guess that is what they call it.

Q. Was it signed at the time you got the \$2,000?

A. Yes, I thing so—sure.

Q. Don't you know, Mr. Peaker, that you signed a release before you got the \$2,000— A. No, I don't—

Q. Now, listen. Don't begin to talk until I finish my question. Don't you know that you signed a release before you got the \$2,000? A. No, sir.

Q. And it was on your release that the money was collected? A. No, I don't know that, no.

Q. I show you a paper which is a general release from Charles S. Peaker to Charles M. Kase, dated December 30, 1913. Isn't that your name signed to that release? A. Yes, but I didn't get any money on that.

Charles S. Peaker, cross

Q. Is that your name signed to the release? A. That is Charles Peaker.

Q. I ask you if that isn't your name signed to that? A. Yes, sir; I wrote my name there.

Q. And it was the release that you signed for Judge Hahn in order to have him collect the money from Mr. Kase, wasn't it? A. No, nothing of that kind, because, as I say, I didn't sign anything until I had gotten the money and after I had received the money he said, "This is simply a receipt," and I wrote my name on it. I didn't see it at all. 10

Q. You think Mr. Kase gave up this money before you got this release or before you signed it? A. Exactly.

Q. Didn't he tell you at any time that he wanted you to sign a release to Kase? A. No, sir; never mentioned it.

Q. Will you just show how that paper was folded? A. I can't show you exactly. I didn't see any writing on it at all. 20

Q. You don't know what I am going to ask you yet. Will you please show how that paper was folded when you signed it? A. I can show you. I didn't see any writing on it because the paper came in the form something like that (illustrating), no writing on it. Judge Hahn's name was not even on the bottom when I signed it.

Q. Now you have folded it the way you think it was folded when you signed your name; is that right? A. This was folded so I didn't see any writing on it; there was no writing on it; he just handed it to me. 30

Q. Will you please answer my question. A. I am answering it as near as I can.

The Court. You do not wait until counsel has finished his question and therefore your answers are irresponsive for the reason that you do not listen to the question. This is a matter of some importance.

Witness. Exactly. 40

Charles S. Peaker, cross

Q. You have folded that paper "Release" the way it was folded at the time you signed it? A. Well, I couldn't say that exactly, but, as I say, it was folded in the manner which I didn't see any writing on it. Hahn said, "Here is a receipt which shows that I paid you \$2,000 and you sign your name to it," and that is what I did. I didn't see any writing at all.

10 Q. It is very clear that the way you folded that paper was not the way it was folded when you signed your name, is it? Just look at it? You see how your name goes over the crease. A. I see.

Q. You will testify that it wasn't folded that way when you signed the paper? A. I couldn't say about that; it was folded in that manner, when I saw that I couldn't see any writing on it.

20 Q. Mr. Peaker, will you please examine your signature on that paper and tell the Court and jury if you are not sure when you signed your name to that paper it wasn't folded the way you have folded it? A. I wouldn't say positively it was folded that way, but it was folded in a manner I couldn't see the writing.

Q. Look at your signature and see if your signature does not overlap the crease? A. It does.

Q. Therefore you didn't sign your name on that paper folded in that way? A. It may have been folded further down or further up.

30 Q. The paper was certainly open to that extent, wasn't it? A. I couldn't say; I know I didn't read what was on it and Mr. Hahn told me it was a receipt and I signed it.

Q. If you didn't see it how do you know it was the paper you signed at that time? A. I don't know. I can only rectify it by my writing.

Q. How many papers did you sign for Judge Hahn? A. I don't know if I signed any more or not.

40 Q. Don't you know you signed a receipt in addition to this release? A. I wasn't supposed to sign anything but a release; he didn't say all through to

Charles M. Kase, direct

be about a release, he told me that it was a receipt; I signed it supposing it was a receipt.

Q. When you get through talking I will start my question. Didn't he tell you that before he could collect any money from Mr. Kase you would have to give Mr. Kase a signed release? A. No, sir.

Q. He didn't? A. No, sir.

Q. The only thing that he asked you for was a receipt for the \$2,000 that he paid you? A. He didn't ask me for that. I didn't sign anything until after I got my money. 10

Q. He asked you to sign that receipt for the \$2,000? A. Not until he had given me the money.

Q. I don't want to argue with you; I am only asking you a plain question. Answer it. A. I am answering it plain and square.

Q. Then the next you heard was a year or so after when you came in and got \$2,500 more. A. Yes.

Q. Did you ever go to see Mr. Kase yourself. A. No, sir. 20

Q. Never talked with him at all? A. No, sir.

Redirect Examination by Mr. Van Blarcom.

Q. A year later, when you got the \$2,500, did you sign a receipt? A. I believe I did.

Q. Look and see. Here is a paper dated January 4, 1915. Is that your signature on that? A. Yes, sir. He says, "I have got a receipt here; "now," he says, "you sign this receipt and I will go over to the bank and have the check cashed." 30

(The paper above referred to is offered in evidence and marked Ex. S4.)

CHARLES M. KASE sworn in behalf of State.

Direct Examination by Mr. Van Blarcom.

Q. You live in Newark? A. I do, yes, sir.

Q. How long have you lived in Newark? A. Sixty or seventy years. 40

Charles M. Kase, direct

Q. How old are you? A. Seventy years in six months.

Q. What is your business? A. Retired.

Q. Where is your office? A. 772 Broad street.

Q. How many years have you been there? A. I can't tell you exactly; twenty or more.

Q. When did you meet Mr. Hahn first in this matter? A. He came to my office about three or four or five years ago—I forget exactly which.

10 Q. You gave him some money? A. He asked for some money.

Q. Was that the first time he came? A. The first time he came it was in connection with that. He telephoned me first to come to his office, he had very particular information to give me.

Q. Did you go to his office? A. Oh, yes.

20 Q. What did he say? A. He says that he had a client who wanted to get a divorce, his wife, and in order to get that divorce money would have to be paid, and it was either to be paid right out that way or a suit would be brought. After he explained it to me and told me who the party was then he said that he insisted on having a certain amount of money, if it was paid that would prevent any further trouble, that it would go no further, wouldn't become public property. I told him that I would—well, previous to that he was showing me a lot of papers on his desk, that if I didn't pay that money then he would send those papers on to Trenton that night and then it would be a case. I told him I would go back to my office and think it over and see. I did so. Whether he came back or whether I went to him again I don't remember, but at any rate he knew from what I said that I would pay the money.

30

Mr. Davis. I ask that that be stricken out, the last part.

Mr. Van Blarcom. All right.

40 *The Court.* I suppose, technically speaking, that motion is well taken, but it is quite apparent

Charles M. Kase, direct

that what the witness means is that either he said something to Hahn or Hahn said something to him that he would pay the money. I will grant your motion to strike it out.

Mr. Van Blarcom. Just the last few words.

The Court. Yes, as to what Hahn knew. He must state the source of his knowledge.

Q. What did you say to Hahn that let him know 10
that you were going to pay the money?

(Question withdrawn.)

Q. What happened next after your interview with Hahn about the money? A. His want immediately was for the cash.

Q. What amount did he ask you for? A. The amount that he said Mr. Peaker had asked him that he would take for a compromise or whatever he called it, \$25,000.

Q. What happened next? A. I don't get that 20
part at all.

Q. When did you next see Hahn? A. Well, that same day.

Q. What happened? A. He wanted the money right away and whether I had drawn the check, so I said I would go back and draw them—I don't remember that—but at any rate the checks were drawn and I think he came to my office and I gave them to him.

Q. Are these the checks (showing witness 30
paper)? A. Both of them.

Mr. Van Blarcom. I offer them in evidence. First, there is a check dated December 30, 1913, drawn on the Fidelity Trust Company to the order of cash, signed Charles M. Kase, "Special," for \$20,000.

(Marked Ex. S5, Mch. 6, 1918.)

Mr. Van Blarcom. The other check is dated the same date, drawn on the Union National 40

Charles M. Kase, cross

Bank, to the order of cash, for \$5,000, signed Charles M. Kase.

(Marked Ex. S6, Mch. 6, 1918.)

Q. Did you go with Mr. Hahn to the Fidelity Trust Company? A. I went with him that evening. I told him we would have to hurry, it was very late, or we wouldn't get it. He was quite anxious that he should have the money. I went to the Fidelity and
10 made a request—they were closed up—made a request for that amount of money, the one check, and they said they thought maybe they could, although it wasn't customary. Well, they did. Mr. Hahn took the money after it was counted out, put it in his vest pocket, I believe, and that is the last I ever saw of him.

Q. What papers did Hahn show you down to his office? A. At his office?

Q. Yes. A. Papers for a suit, customary for a
20 suit, the detectives' papers, too, costs, all that business, as a matter of right, I suppose.

Q. Did he show you any statement made by Mrs. Peaker, the colored woman? A. Yes; he showed me a statement; I remember something about that.

Q. Why did you pay this money? A. To escape publicity, as he told me.

Q. Did you ever have intercourse with this colored woman? A. I deny that I ever had. She says she did. May I be permitted to tell you how that
30 intercourse, what she calls, happened?

Q. Yes, you can make a statement. A. Well, the first time she came in my office she went up in the corner alongside of a chair, and completely stripped herself from head to foot, then approached me in an endeavor to do that same stripping from me and I refused to have it; I didn't have it.

Cross Examination by Mr. Davis.

Q. How old did you say you were, Mr. Kase? A.
40 I am past seventy.

Charles M. Kase, cross

Q. Married man? A. Yes, have been married a number of years.

Q. How many years have you been married? A. Forty-two or three.

Q. Have you any children? A. One son.

Q. How old is he? A. A young man, thirty something, thirty-one or two.

Q. How long have you lived in Newark? A. I guess between sixty and seventy years; I don't know how many years I lived in Newark, when my father and mother came. We came from Easton, Pennsylvania. 10

Q. What business are you in? A. I am in business only taking care of myself.

Q. And your property? A. And my property, and whatever investments I may have.

Q. Have you ever been in business. A. Only with my father.

Q. And what business was that? A. Drygoods, and I was the bookkeeper. 20

Q. Were you not also connected with the insurance company that your father was connected with? A. Not as an officer or a clerk.

Q. Your father, how long is he dead? A. I think he died in '95.

Q. And this money and this property came from him, didn't it? A. Yes, sir.

Mr. Van Blarcom. I object.

Witness. By inheritance. 30

Mr. Van Blarcom. I move to strike that answer out when the time comes.

The Court. What has that to do with this case?

Mr. Davis. It has this to do with it, that he gave as his business, that he was looking after his own property, and I think that I am entitled to ascertain not only what the property is, but 40

Charles M. Kase, cross

where it came from, whether he worked for it himself or whether he got it by gift.

The Court. That has absolutely nothing to do with the merits of this case. Objection sustained.

Defendant's counsel prays an exception to this ruling of the Court and the same is allowed and signed and sealed accordingly.

10

H. V. OSBORNE, (L. S.)

Judge.

The Court. Whether he is looking after it, you may cross-examine him on that. That goes to his credibility, but as to where he got it or how he got it or what it consists of I do not think is material.

Q. You are looking after this property yourself?

A. I always have.

20 Q. And you looked after it since your father's death? A. Previous, when he was an officer of the institution.

Q. And up to the time of his death it wasn't yours—it was his?

Mr. Van Blarcom. I object. What is the use of using that method of getting it in?

30 *Mr. Davis.* This witness has just testified that he looked after this property, not only since his father's death, but before his father's death, and then I inquire whether before his father's death it is his or his father's.

The Court. You think because the Prosecutor failed to object to one or two incompetent questions that you can get testimony in which otherwise would be ruled out?

40 *Mr. Davis.* I submit to the court that the testimony that I brought out was entirely competent in the line of what his business was and how long he had been engaged in that business.

Charles M. Kase, cross

He says he is engaged in the business of looking after property and investments, and that he has been engaged in that business since before his father's death, and then I ascertain whether he was looking after his own or his father's affairs.

The Court. Will you state the materiality of this evidence, why you think it is competent, what effect it can have on this case?

Mr. Davis. I think it is entirely competent. I have got the right, when the witness gets on the witness-stand, to find out not only who he is, but what his business is, and he already testified on the examination, as I recall it, by Mr. Van Blarcom, that he was retired, or words to that effect. I submit that I have the right to go into the line of business that this man is carrying on.

The Court. He says he is looking after his own property, and you can controvert that, but you want to find out what it consisted of and how he got it, and if you can indicate to me that it has any effect except the mere purpose, possibly, of justification in the minds of a class of people in the community that because a man got something he didn't work for somebody else has a right to take it away from him, I will be glad to hear you.

Mr. Davis. Regardless of what the effect may be, I submit that the questions are proper as to inquiring what this man's business is and how long he has been in it.

The Court. You have not been restricted as to that.

Mr. Davis. The effort is now to restrict me. (Question read.)

The Court. How is that in the line of the testimony which you contend you are entitled to

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Charles M. Kase, cross

interrogate the witness? The objection will be sustained.

Defendant's counsel prays an exception to this ruling of the Court, and the same is allowed and signed and sealed accordingly.

H. V. OSBORNE, (L. S.)

Judge.

Q. Mr. Kase, you never saw the Gregorys in relation to this matter at all until a year or two after, did you? A. Well, I don't know how long. It was after this case.

Q. Well, it was certainly a year after you gave the money to Judge Hahn when you saw the Gregorys? A. Every bit of that, I should think.

Q. What time of the day was it that Judge Hahn telephoned you to come to his office? A. In the afternoon.

Q. What time, about? A. Well, somewhere between—I can't tell you exactly—between three and half-past four.

Q. Well, did you go? A. Yes.

Q. How long did you stay there? A. Well, I should think fifteen or twenty minutes the first time. I don't recall exactly.

Q. While you were in his office he showed you a paper that was signed by Bertha Peaker, didn't he, this paper here (indicating)? A. I think I saw that paper then, or some time about that time.

30 Q. And did you read it over? A. Yes, sir.

Q. And then he told you that he was going to begin a suit against you on account of the matters that were stated in that paper, didn't he? A. Excuse me a moment. I have no doubt I have seen that paper before, but I don't recall it exactly.

Q. You remember Judge Hahn showing you a paper in his office that was signed by Bertha Peaker, don't you? You saw such a paper in Judge Hahn's office, didn't you? A. I believe so, yes.

40 Q. And you read it? A. I think so, at the time.

Charles M. Kase, cross

Q. And then the Judge told you that he was the lawyer for the husband and he was going to bring a suit against you for alienation of affections of his wife, didn't he? A. Well, I don't know what—something of that nature.

Q. Didn't you say at the time of the last trial that he told you that he was going to bring a suit for alienation of affections? A. If I said so originally it was true.

Q. Well, what do you say now? A. Well, I don't know whether it was for alienations of affection. He told me it was a divorce. 10

Q. Didn't he tell you it was for alienation of affections by stealing her love away? A. I don't recall it being that way. I understand that Peaker said that.

Q. You testified in the Chancery case, didn't you, before the Chancellor? A. Yes.

Q. Didn't you say there before the Chancellor that the suits were to be for stealing love away and divorce, didn't you say that to the Chancellor? A. I don't recall it. If I had my own paper I would swear to it. 20

Q. If you had what? A. My papers.

Q. Well, you understood from Judge Hahn that he was going to bring a suit against you, didn't you? A. Yes, sir.

Q. And he asked you for \$25,000 to settle that suit? A. Yes, and he said that Peaker named that sum of money to clean up the whole business. Peaker said he never named a penny. 30

Q. Peaker told you that? A. Told it to my man, not me; he has never spoken to me, Peaker hasn't.

Mr. Davis. I ask that that be stricken out.

The Court. Strike it out.

Q. Then you left Hahn's office and went back to your own office, didn't you? A. Yes.

Q. And your own office was about two or three minutes from Hahn's office? A. Well, the difference 40

Charles M. Kase, cross

between Mechanic street and the third door from Market.

Q. Your number is what, Mr. Kase? A. 772.

Q. When you went back to your office who did you find there? A. I don't remember who was there.

Q. Well, Fletcher was there, wasn't he? A. Fletcher, I guess, was there, yes.

Q. He was your man? A. Yes.

Q. How long were you there before Judge Hahn came? A. Not very long. He came away pretty quickly from his office.

Q. You were satisfied to pay the \$25,000 rather than to have the suit brought, were you not? A. Under certain circumstances, yes.

Q. And you didn't think it necessary to go and consult your own lawyer about that case, did you? A. Not at all.

Q. You decided that you were fully capable of deciding that for yourself. A. I thought I was.

20 Q. Well, you still think so, don't you? A. Yes.

Q. And when Hahn came up to your office did you have the check all ready? A. I did, or very soon after he got there. They were made in his presence, I believe.

Q. And you went with him over to the Fidelity? A. Yes.

Q. And you drew \$20,000? A. Yes.

Q. And you gave it to him, did you? A. Well, the bank clerks gave it to him. I gave it to the bank.

30 Q. And then you went back to your office, did you? A. Yes.

Q. And he went away and that was the last you saw of Judge Hahn for quite awhile, wasn't it? A. Judge Hahn at that same time, that same night, expected to be able to get \$5,000 more, but the bank was closed at that time; that couldn't be done.

Q. The \$5,000 check was on what bank? A. It was on the following day.

Q. No, what bank was it drawn on, Mr. Kase? 40 A. Union.

Charles M. Kase, cross

Q. And you couldn't get the \$5,000 out of the Union because it was closed? A. It was closed.

Q. When Judge Hahn got from you the checks for \$25,000 he gave you this release, didn't he? A. It looks like it. I believe that to be the same release. I wonder why it don't belong to me now.

Q. You know what releases are? A. I have had some.

Q. And you knew that this release released you from all claims which Peaker had against you for alienating the affections of his wife Bertha? A. Yes. 10

Q. And for your having committed illicit intercourse with her, that is stated in the release, isn't it? A. I believe that is it.

Q. And you knew that and you saw that when you accepted the release, didn't you? A. I think I did.

Q. How many times did Bertha come to your office? A. Twice, to my recollection.

Q. Don't you remember testifying at the last trial in this case that she came five or six times? A. I don't think I ever made that testimony. 20

Q. How many times did you give her money? A. Twice, to my knowledge.

Q. How much did you give her the first time? A. Well, three or five dollars; I don't know exactly.

Q. Was that the day she stripped? A. Yes.

Q. What did you give her the \$3 for? A. She said she hadn't had anything to eat because he husband had not any money, wouldn't give her any. 30

Q. And when she stripped the first time she was alone with you in your room, wasn't she? A. Yes,

Q. And you were sitting at your desk? A. Not very far from her; somewheres in that neighborhood.

Q. How long was she in your office with you before she started to strip? A. It was when she first came in the room, maybe five, seven or eight minutes.

Q. You think she was five, seven or eight minutes in your room before she began to strip? A. No. 40

Charles M. Kase, cross

Q. And that was the first time you had ever met her? A. I don't know whether it was the first time I ever met her or not.

Q. How did she come to be allowed to go into your private room? A. I think she sent word to me that she had called for a purpose.

Q. What purpose? A. To get a position.

Q. What kind of a position? A. In the house.

10 Q. In your house? A. Not at my house.

Q. In whose house? A. My son has a house.

Q. Then she came to see you on another occasion following the day that she had stripped, didn't she?

A. On another occasion?

Q. Yes, she came to see you the second time at your office? A. And she stripped both times?

Q. No. I have not said that. A. No. Stripping the one time.

20 Q. How long after the first time was it that she came that she made the second call? A. It might have been a week or ten days maybe.

Q. How long did she stay that time? A. Not very long.

Q. How long? A. The exact amount I can't tell you, the time.

Q. Was she in your room, your private room? A. My private office.

30 Q. What did you do and what was she doing? A. Talking about the affair of her trying to get a position.

Q. And how long did you talk? A. I can't tell. It was some years ago.

Q. And that day you gave her \$5? A. I don't know whether it was five or three.

Q. You remember giving her five on one occasion? A. I told you yes, five.

40 Q. When was the next time she came after that second visit? A. I don't remember if she came at all or not. I have no recollection of that.

Charles M. Kase, cross

Q. You don't know whether she did or not? A.
No.

Q. On any of the occasions that you talked with Judge Hahn neither Francis Gregory nor his father, Chief Gregory, was present, is that right? A. They were not there.

Q. When was the first time you saw Francis Gregory, this man sitting there? A. I know him.

Q. When was the first time you saw him? A. 10
He came up to me and spoke to me on the street one day.

Q. What did he say? A. He said, "How do you do?" I believe, the first thing, quite cool.

Q. Well, what else was said? A. Well, about what time is all this?

Q. I mean about a year or so after you gave Hahn the money? A. The first thing he wanted to know how much—he came up to me and wanted to know how much I had given Hahn. 20

Q. And that was a year after you had given it, wasn't it? A. I think so.

Q. He came up to your office? A. Yes.

Q. What did you say? A. I didn't hesitate to say a moment what sum of money was given him.

Q. You told him how much was given him? A. Yes, sir, and would I give it the way it was made. I didn't hesitate on that.

Q. You pulled out a revolver, too, didn't you, thinking he was going to ask for some money? A. 30
Who?

Q. Gregory. A. Ask me?

Q. When he came in to ask how much Hahn got didn't you pull out a revolver? A. I don't think so. I keep one in my desk, but I don't think I pulled it out.

Q. Didn't you pull it out that day? A. Against Gregory?

Q. Yes. A. I don't recall that.

Q. And didn't he tell you that day that he didn't 40

Charles M. Kase, redirect

come to ask for any money, but to ask how much Hahn got? A. He was talking with me then.

Q. Did he tell you that? A. He may have done so; I don't recall that. I didn't hesitate to tell him, so he got it very easily.

Q. You paid this money, you say, to escape publicity; is that right? A. Yes, at the request of Judge Hahn.

10 Q. And you were satisfied to pay \$25,000 in order not to have this suit brought against you, were you not? A. I never admitted that I was satisfied that I had been guilty to have paid the money.

Q. You were not guilty to have paid the money, were you? A. In a way. Publicity is worth something.

Redirect examination by Mr. Van Blarcom.

20 Q. Did you know Mr. Gregory before this happened? A. Before what?

Q. Before you paid the money to Hahn? A. I haven't known Mr. Gregory very long.

Q. Did you know him before you paid the money? A. That I can't tell.

Q. Did this woman strip the first time she came or the second? A. I think likely I had known him because he was acting for Hahn as detective against me and I must have known him.

30 Q. Did this woman strip the first time she came or the second time? A. I think it was the first time.

Q. What do you recollect her coming in for the second time? A. I don't know whether I was there or not, I don't recall that, when she got in.

Q. Well, you say she stripped the first time, you think? A. Yes.

Q. Why did you talk with her the second time? A. Why, the business she was after. I didn't know there was anything wrong about that or I wouldn't
0 have talked.

Albert C. Fletcher, direct

Q. What were you talking with her about? A. A position she was trying to get in order to make her own living in order to get something to eat and drink.

ALBERT C. FLETCHER sworn in behalf of State.

Direct examination by Mr. Van Blarcom.

Q. You work for Mr. Kase, don't you? A. Yes, sir. 10

Q. And have for how many years? A. Twenty odd years.

Q. Do you know Mr. Gregory, the defendant?

A. I do.

Q. How long have you known him? A. I have known him fifteen or twenty years.

Q. Did he know where you worked, do you know?

A. Well, he knew that I worked in that neighborhood, I guess.

Q. Did you know Mr. Peaker? A. Yes, sir. 20

Q. How long did you know him? A. I think I have known him ever since he has been in Newark; I guess that is in the neighborhood of fifteen or twenty years.

Q. Did you know his wife? A. Yes, sir.

Q. How long have you known her? A. About six or seven years.

Q. Do you remember Judge Hahn coming to Mr. Kase's office? A. Yes, sir.

Q. How are the rooms arranged there? A. Four 30 and five.

Q. How many rooms have you? A. Two.

Q. Could you hear what was said between Judge Hahn and Mr. Kase when he first came? A. I did in the first interview.

Q. What was said that you can remember? A. Judge Hahn presented the claim of Mr. Peaker in a matter regarding his wife and asked Mr. Kase to consider it and that he would come back. That was about the sum and substance, if not the words used. 40

Albert C. Fletcher, cross

Q. Did he come back? Did you hear any amount discussed? A. Yes.

Q. How much? A. Money you mean?

Q. Yes. A. \$25,000.

Q. How long after that did Hahn come back?

A. He came back in the afternoon. He 'phoned me about two o'clock and came back later, between three and four.

10 Q. Did Mrs. Peaker come to the office there? A. Yes.

Q. Do you know how she happened to come? A. Yes, she came through my invitation, not to the office directly. She was in Newark from Maplewood on one morning soliciting work and chanced to meet me as I was coming out of the bank, and asked me if I knew anything, and I said no, and at that time I was busy on an errand, if she would call later perhaps I might be able to locate her, and she did call; 20 the day she called I was out, and she went to the office, and the second time I saw her I had in mind of getting her a position with Mr. Kase's son who was at Allenhurst at that time, and he had married, and was the father of a boy of about eighteen months and he wrote his father, the son, asking me to get him a nurse, and he wanted a light girl, and Mrs. Peaker was one that I had in mind until I got later information, and I changed my mind with reference to the appointment.

30 Q. How long before this Hahn occurrence had she come there? A. It wasn't very long.

Q. Do you know how many times she had come, to your personal knowledge? A. Well, she saw me twice, and I don't know just how many visits she made to the office.

Cross examination by Mr. Davis.

Q. Mr. Fletcher, this office of Mr. Kase's is on what floor of 772 Broad street? A. Second.

40 Q. Is it in the front or back of the building? A. Back.

Albert C. Fletcher, cross

Q. And how many rooms are there? A. Two.

Q. Does Mr. Kase occupy the front of those two or the rear room? A. The rear room.

Q. And your place is in front of the two? A. Yes, sir.

Q. What is there between the two rooms? A. Partitions.

Q. What kind? A. Wood and glass.

Q. From the floor to the ceiling? A. Yes, sir.

Q. About how high up is it wood? A. About 10 2½ feet.

Q. And the rest is glass, is it? A. Yes, sir.

Q. Is it ground glass or painted glass, or what? A. Yes, ground.

Q. And you don't have any difficulty hearing what is going on in Mr. Kase's room when you are in the outer office, do you? A. Provided the door is open, where the conversation is above audible tone, I wouldn't have any.

Q. Is it possible to carry on a conversation with Mr. Kase other than talking to him in a loud tone? 20

A. Yes; the door can be closed and it is his custom sometimes to write.

Q. But excepting when the conversation is carried on in writing you have no difficulty in hearing what people are saying to Mr. Kase? A. No.

Q. And you say that Judge Hahn first telephoned and then came to Mr. Kase's office? A. Yes, sir.

Q. Did you hear what Mr. Kase had to say when Judge Hahn telephoned and Mr. Kase went to Judge Hahn's office? A. When Judge Hahn 'phoned Mr. Kase wasn't in. The first 'phone he wasn't in. Mr. Kase doesn't use the 'phone at all, and I delivered the message to Mr. Kase when he came in stating that Mr. Hahn would like to have an interview with him and Judge Hahn came and had the interview and part of that conversation I heard. 30

Q. Isn't it so, Mr. Fletcher, that what Mr. Kase has said was true, namely, that after Judge Hahn had telephoned, that Mr. Kase went to Judge Hahn's 40

Albert C. Fletcher, cross

office? A. Yes, Mr. Kase was in error and that statement is partly true, but he got his message from me.

Q. Then he got his message from you. I don't say that Mr. Kase answered the 'phone, but you delivered the message about Judge Hahn's telephone, and is it not so that Mr. Kase went to Judge Hahn's office then instead of Judge Hahn coming to Mr. Kase's office? A. No. I think in my statement in
10 the Chancery Court—

Q. Never mind the Chancery Court now. I am asking you now. A. I am trying to recall. I think in the absence of Mr. Kase, after the 'phone message, that Mr. Hahn came in and had a talk with Mr. Kase and left Mr. Kase's office to think the matter over and then returned.

Q. You don't think Mr. Kase went to Judge Hahn's office? A. No, I don't say that Mr. Kase did, no.

20 Q. When was it that Mr. Kase went to Judge Hahn's office? A. After Judge Hahn had made his visit for Mr. Kase to consider, and it was after consideration that Mr. Kase reported to Mr. Hahn's office.

Q. Then you think Mr. Kase is mistaken in the testimony? A. Yes, I think he is error in that.

Q. Then what time of the day was it that you say Judge Hahn telephoned? A. About two o'clock.

30 Q. And what time of the day was it that you say Judge Hahn came to Mr. Kase's office? A. Well, within an hour, I suppose.

Q. Beg pardon. A. Within an hour.

Q. Then you think it was between two and three? A. Yes.

Q. And how long did he stay there? A. Well, I think the interview lasted, I guess, about ten or fifteen minutes, if I am not mistaken. It is four years ago.

40 Q. And then Judge Hahn went away? A. Yes, went back to his office.

Albert C. Fletcher, cross

Q. Did he telephone again after that? A. No, I think the further relations were verbal.

Q. How long after Judge Hahn left Mr. Kase's office was it that Mr. Kase went from his office down to Judge Hahn's? A. Well, I couldn't specify the time, but after Mr. Kase had considered Judge Hahn's message or statement, why, he went to the office. I don't know how long.

Q. About how long a time elapsed? A. I couldn't really specify. 10

Q. About an hour? A. I couldn't tell.

Q. Give as nearly as you can. A. Some time, a short time, if you can decide what that is. I wouldn't specify because I don't know, but it was some time after Mr. Kase had considered. You have in mind how much time could be used in the consideration of a proposition, then that is just about the time he allowed him.

Q. You were there? A. I am giving you the best of my thought. 20

Q. Do you think, as far as you recall, that Mr. Kase waited as much as an hour before he went to Judge Hahn's office? A. Oh, not that long.

Q. Half an hour? A. Are you not repeating again?

Q. Don't argue with me. I am asking you a question. A. I have given you the best—

The Court. Answer the questions unless they are objected to. 30

Witness. I have given you my best thought as to time.

Q. You say you are positive that it was less than an hour after Judge Hahn left Mr. Kase's office that Mr. Kase went to Judge Hahn's office? A. Yes.

Q. And you are not prepared to say whether it was as short a time as half an hour? A. No, I am not. 40

Albert C. Fletcher, cross

Q. You heard all that Judge Hahn said to Mr. Kase, didn't you? A. No, I did not.

Q. Why? A. I don't know that I could tell you why.

Q. What difficulty was there? Judge Hahn talked very loud, didn't he? A. I didn't hear all he said.

Q. What did you hear, Mr. Fletcher? A. I heard him ask Mr. Kase—I heard him state to Mr. Kase that Mr. Peaker wanted \$25,000 to settle a matter with which he was concerned, to save him from public disgrace.

Q. What else? A. That is about all I heard that was important bearing on that subject.

Q. Was that the first you heard Judge Hahn say to Mr. Kase, were those the first words he said to him? A. You are speaking about the first occasion, his first coming there, are you not?

Q. That is the only time we have gotten to yet.
20 A. That is just what I am talking about.

Q. What else did you hear? A. Well, I think I did hear the Judge say that if Mr. Kase paid the money that there would be no further trouble and that Mr. Peaker was going to California the following morning, and that I think that he would deliver the paper to Trenton at five o'clock, I think, that night, and then the following morning I saw Mr. Peaker in the post-office, but I think Judge Hahn said that Mr. Peaker would be on his way to California, west, that
30 night, he was to take the seven o'clock train, I think it was—that is my memory and that is the thought that I had with reference to it—and that he would start west out to California at seven o'clock that night, and the following morning I saw Mr. Peaker at the Newark post-office.

Q. What did Judge Hahn say as to what Peaker charged Mr. Kase with doing? A. It was a divorce proceeding, divorce case.

Q. I don't want your conclusion. What did you
40 hear Judge Hahn say to Mr. Kase as to what he

Albert C. Fletcher, cross

wanted this money from Kase for? A. For the divorce suit.

Q. Tell us all that you heard. A. That is all I heard.

Q. This was a lengthy conversation, wasn't it? A. Yes, sir.

Q. Between Judge Hahn and Mr. Kase? A. Well, I don't—if you mean they were talking some time, is that the idea? 10

By the Court.

Q. What do you understand a question to mean that is put in this form, This was a lengthy conversation. You understand English, don't you? A. Yes, sir.

Q. Then why do you ask counsel what he means? His question cannot be any plainer. A. You mean the conversation—

Q. The conversation you are testifying to. A. I told him all I knew. 20

Q. And he has asked you whether it was lengthy or not.

By Mr. Davis.

Q. How long did it take? A. I think about fifteen minutes, I guess.

At one o'clock P. M., the court took a recess of one hour.

AFTER RECESS

ALBERT C. FLETCHER resumes the stand. 30

Cross examination (continued) by Mr. Davis.

Q. Now, Mr. Fletcher, you have said that after you received the telephone message from Judge Hahn that Judge Hahn came to Mr. Kase's office and that Mr. Kase didn't go to Judge Hahn's office? A. No, I didn't say that.

Q. Didn't you? Well, what was it you said? A. I said that Mr. Kase went to Judge Hahn's office and Judge Hahn came back to Mr. Kase's office. 40

Albert C. Fletcher, cross

10 Q. Well, then after the telephone message was received Mr. Kase did go to Judge Hahn's office before Judge Hahn came to his office? A. No, I think I stated that after receiving the telephone message Mr. Kase was absent. I gave Judge Hahn's message to Mr. Kase when he came in, and I think in the intervening time Judge Hahn came to the office, after having 'phoned and had an interview with Mr. Kase and then left the statement—left Mr. Kase considering his statement, then after which Mr. Kase called on Judge Hahn. I think that is the way I stated it.

Q. Are you sure that is the way the thing happened? A. I think, if my memory serves me—that is the best I can recall.

Q. You testified differently from that in the Chancery case, didn't you? A. Well, I don't know.

20 Q. Didn't you say in Chancery case when this question was asked you: "How soon after that message came"—that is the telephone message—"from Mr. Hahn's office did Mr. Kase leave his office?" and your answer was, "Within ten or fifteen minutes." Did you say that in the Chancery case? A. If it is there I must have said it.

Q. What is that? A. I said if it is there I must have said it.

30 Q. Then if you did say it in the Chancery case, which is correct, that Mr. Kase went first to Judge Hahn's office or that Judge Hahn came to Mr. Kase's office before Mr. Kase went to his office? A. Just as I have previously stated, my impression is that after the 'phone message Mr. Kase was out, and when Mr. Kase returned I gave to him Judge Hahn's message, and I think before Mr. Kase left his office Judge Hahn called on him.

40 Q. Then if you did testify in the Chancery case that it was ten or fifteen minutes after you got this message that Mr. Kase left his office, do you think you were mistaken if you said that in the Chancery

Albert C. Fletcher, cross

case? A. No, if I said that in the Chancery case, my memory is better than it is now.

Q. Then if you said that in the Chancery case you are mistaken now? A. Positively, yes.

Q. Judge Hahn did call during the afternoon at Mr. Kase's office, didn't he? A. Yes, sir.

Q. And when he did call and was ushered into Mr. Kase's room it was room 5, wasn't it? A. Room 4.

Q. Room 4. You were there also, were you not? 10
A. I was in the adjoining room.

Q. Were you not in the same room with Judge Hahn and Mr. Kase, when the Judge came in? A. No, I was in the office that I occupied, the room that I occupied.

Q. Didn't the Judge say that he wanted to see Mr. Kase privately and then didn't you walk out of room 5 into room 4? A. No, sir.

Q. Did you say you did? A. No, the Judge—

Q. One minute. Didn't you say in the Chancery 20
case this: "The Judge said he wanted to see Mr. Kase private and I walked out of room 5 into room 4 and left the door open." That is on page 102. Didn't you say that? A. I said that, but it wasn't his first—it wasn't when he first came to see Mr. Kase.

Q. When was that? A. Well, his first call was that he didn't wait to be ushered in; he walked right by me into Mr. Kase's private office.

Q. Mr. Fletcher, wasn't it on the occasion of 30
Judge Hahn's first call that he had this conversation with Mr. Kase that you have repeated? A. Yes, sir.

Q. And didn't you say in the Chancery case that when the Judge came there the first time that you walked out of room 5 into room 4 and left the door open? Didn't you say that? A. No, sir.

Q. And then didn't you say that you remained in room 4 during the entire time that Mr. Hahn was in room 5 with Mr. Kase? A. I did. 40

Albert C. Fletcher, cross

Q. You said that? A. Yes, sir.

Q. While this conversation was going on was the door between Mr. Kase's room and yours open or closed? A. Judge Hahn closed the door.

Q. And you were able to hear everything that was said? A. No, I was not.

Q. Didn't you hear the conversation, you sitting in room 4, that took place in room 5? A. Part of it.

10 Q. Couldn't you hear it all? A. No, sir; part of the time he was whispering.

Q. Who was whispering? A. Judge Hahn.

Q. Whispering to whom? A. Mr. Kase.

Q. Do you mean that, Mr. Fletcher? A. I positively do.

Q. You mean that some part of the time Judge Hahn carried on a conversation with Mr. Kase by Judge Hahn whispering to Mr. Kase? A. Yes, sir.

Q. And during that time you couldn't hear what was said? A. No, sir.

20 Q. If you couldn't hear how do you know he whispered? A. I heard Mr. Kase reply he couldn't hear, to write it.

Q. If you couldn't hear anything that Judge Hahn was saying how could you tell he was whispering? A. Mr. Kase told him to write it.

Q. And therefore you concluded he was whispering? A. Yes, sir.

Q. But you didn't hear him whispering? A. No.

30 Q. What do you mean by saying that part of the conversation between Judge Hahn and Mr. Kase was carried on by Hahn with Mr. Kase? A. I am convinced because Mr. Kase told him to write it and he couldn't hear and Mr. Kase told me afterwards that he tried to whisper to him after Judge Hahn left the office, Mr. Kase told me all of the interview and I told Mr. Kase not to pay the money.

Q. This is the fourth time you have been in court in this case? A. Yes.

40 Q. And of all the four times this is absolutely the first time that you have ever made the statement

Albert C. Fletcher, cross

that Judge Hahn whispered to Mr. Kase? A. Never been asked before.

Q. Isn't this the first time you made the statement? A. Yes, sir.

Q. Didn't you say in the Chancery case, in answer to the question "Tell us what you heard," the following "Judge Hahn requested Mr. Kase to settle a claim of \$25,000 that he informed Mr. Kase positively as being Mr. Peaker's request, that he said; Mr. Kase refused to comply, saying that he thought it was an outrage, that that sum was an exorbitant sum and that he didn't propose to be treated that way; and after a lengthy persuasion on the part of the Judge in explaining that this would save him from"—then there is an interruption. Did you say that in the Chancery case? A. I did. I think I recall that. 10

Q. Did you hear him say what the nature of the case was, what the claim was that he wanted Mr. Kase to settle for \$25,000? A. Yes. 20

Q. What was the nature of the claim? A. Well, he said that Mrs. Peaker had charged him with indecency and sexual relations and that he wanted damage for it—at least Mr. Peaker wanted damage for it.

Q. You are sure of that, are you, Mr. Fletcher? A. Yes, sure of that.

Q. And that he wanted \$25,000 damage? A. That is the amount he said Mr. Peaker had asked for. 30

Q. How long had you known Mr. Peaker? A. Well, I have been acquainted with him, I guess, about eight years.

Q. And it was you that brought her to Mr. Kase's office, wasn't it? A. No.

Q. How did she come to go there? A. She met me on the street, she met me coming out of the door; she had no intention of stopping to see me, she had no intention of even coming to 772 Broad street until she chanced to see me, and we were acquainted 40

Albert C. Fletcher, cross

prior to that, and she simply asked me did I know of any position she could get.

Q. Did you bring her up to Mr. Kase's office?

A. No.

Q. Did you tell her to come up there? A. No.

Q. Well, did you accompany her up? A. No.

Q. How did she get up? A. I told her that I didn't know of anything at that time, but if she would call later, some other time, that is how she came to come to the office.

10 Q. On the day that she first called there were you in? A. On the first day she called?

Q. Yes. A. No.

Q. You were not? A. No.

Q. Was it you that introduced her to Mr. Kase? A. There was no introduction given.

Q. Well, were you there the first time she and Mr. Kase met? A. No, evidently I wasn't because the first time she called I wasn't there and Mr. Kase received her and told her I was out.

20 Q. And you were not there then the day she stripped? A. No, sir; I knew nothing about that.

Q. How many times did she call there, to your own knowledge? A. I only know that she paid two or three calls there.

Q. You were there? A. Yes.

Q. You were present? A. No, I wasn't present.

Q. How many times did she call there I ask you, to your knowledge? A. Well, I said two or three times.

30 Q. Then you were present when she called? A. Yes, sir.

Q. Those two or three times? A. Yes, sir.

Q. Is that right? A. That is right.

Q. Which is it, two or three times? A. Well, now, I have given you the best of my thoughts.

Q. Didn't she call there once a week? A. Oh, no, not to my knowledge.

Q. Did you know that Mr. Kase had given her 40 money? A. No, only I took his word for it.

Albert C. Fletcher, cross

Q. What do you mean by that? A. I mean I took his word. I didn't see him give her any.

Q. He told you he had given her some? A. Yes, she had solicited—

Q. Did he tell you that she had stripped when she came in? A. No, sir; she didn't; she asked for money.

Q. From whom? A. From Mr. Kase.

Q. Did you hear it? A. I didn't hear it, but Mr. Kase told me. 10

Q. Won't you confine yourself to what you know? Did she ask for any money in your hearing? A. No.

Q. How many times were you in the office when Mrs. Peaker came and was admitted to Mr. Kase's room? A. Two or three times.

Q. And on those two or three occasions she was in there alone with him, wasn't she? A. No, she was sitting with me.

Q. When she was admitted to Mr. Kase's room these two or three times did she remain in there with Mr. Kase alone? A. No. 20

Q. [Question read.] You understand that question. Did you go in and out? A. No, I was in my office—in my room, rather.

Q. And she was in Mr. Kase's room? A. No, she came in to see me.

Q. Did you understand the question that I put to you? A. Perhaps I did not. 30

(Question read as follows: "How many times were you in the office when Mrs. Peaker came and was admitted to Mr. Kase's room?")

Q. Do you understand that question? A. I answered that question.

Q. You answered two or three times? A. Yes, sir.

Q. Do you understand what is meant by Mr. Kase's room? A. Yes.

Q. Then to your knowledge she was admitted to 40

Albert C. Fletcher, redirect

Mr. Kase's room two or three times that you were there, wasn't she? A. That is my answer.

Q. And on the occasion of those two or three times she was alone with Mr. Kase in this room, wasn't she? A. Yes, surely.

Q. How many times did Mr. Kase tell you that she had come when you were not there? A. Mr. Kase didn't tell me any times she had come.

• 10 Q. That you were not there? A. No.

Q. Is that right? A. That is right, yes.

Q. Did he tell you that she had come that first time and that he had given her \$3? A. No.

Q. Did he tell you that she had come the second time and he had given her \$5? A. No.

Q. You didn't see Francis Gregory in connection with this case at all? A. Positively never.

20 Q. Until about a year after the visit by Judge Hahn to Mr. Kase's office? A. That is all.

Q. While the Hahn business was going on and the telephone talk you saw nothing of Francis Gregory at all? A. No, sir.

Q. Or his father, John Gregory, the chief? A. No.

Redirect examination by Mr. Van Blarcom.

30 Q. Well, the Hahn visit and talk over the telephone took only a day, I understand. Is that right? A. Yes, everything was done, I think, all on the same day—yes, it was.

Q. And the visit of Hahn to the office? A. Yes, I think the 'phone was two o'clock and I think about three-quarters of an hour from that, I think that Judge Hahn was in the office, therefore there was no other telephone message and I think the business was transacted on that day. I am not at all clear,
40 but that is the best of my memory.

Walter W. Ressler, direct

WALTER W. RESSLAND sworn for the State.

Direct examination by Mr. Van Blarcom.

Q. You are court stenographer? A. Yes, sir.

Q. And report cases in this court? A. Yes, sir.

Q. Did you report the previous trial of this case on February 14th? A. I did.

Q. Took stenographic notes of testimony of Francis Gregory? A. Yes, sir.

Q. I show you a typewritten transcript dated February 14, 1918, in the case of the State vs. Francis Gregory, and ask you if that is a correct stenographic copy of your notes? A. Yes, sir, it is, according to the best of my knowledge and belief. 10

Cross examination by Mr. Davis.

Q. Did you compare that copy with your original shorthand notes? A. No, sir; I did not; I revised it in our usual way of getting out cases. 20

Q. When do you do that? A. After it is transcribed we always revise our transcripts.

Q. Who does the transcribing? A. A young lady in the office.

Q. Do you talk your notes into a talking machine? A. A dictaphone.

Q. And then she takes it from the dictaphone? A. Yes, sir.

Q. You have not compared that with your original shorthand notes? A. No, sir! I have not. 30

Q. I will have to ask you to get your original notes and read it from them.

The Court. You may reserve the right to introduce this after the comparison is made.

(The transcript of the testimony is marked S7 for identification.)

Mr. Davis. I have no objection to this going in now if Mr. Ressler, between now and tomorrow morning, will compare this with his 40

Walter W. Ressler, cross

shorthand notes so as to be able to tell us tomorrow morning if it is a true copy, and, if not, make the corrections.

Witness. I will do that.

The Court. It may be introduced with that understanding.

10 *By the Court.*

Q. I understand you read from your shorthand notes taken at the trial to a dictaphone; do you then take the record and give it to your stenographer who, listening to the record, transcribes the copy in typewriting on the typewriting machine? A. Yes, sir. And then I read it over to catch any errors.

Q. You read it over to catch any typographical errors or any apparent errors that are obvious? A. Yes, sir.

20 *The Court.* It is understood that he is to read his notes and check up this record. It will be admitted with that understanding.

(Marked Ex. S7.)

30 *Mr. Davis.* I want to get an objection on the record to the introduction of this testimony on the ground that it is improper to introduce the testimony of the defendant in a trial of this sort which was given on a previous trial in the same manner. The only reason of introducing it would be either for the purpose of impeaching or contradicting his testimony given in this trial, and I wish to make the point—

0 *The Court.* I do not understand that is the only reason it is introduced, because a situation has not arisen yet, the defendant not having gone on the stand, where there is any occasion for impeaching or contradicting him; therefore I understood it is introduced as part of the State's case as a declaration, antecedent decla-

Walter W. Ressler, cross

ration. Do you contend that it is not evidential for that purpose?

Mr. Davis. Yes, I do. The situation is so novel; I have never in all my experience yet known of a case where the witness's testimony given on a trial, a previous trial in the same matter, was introduced, or upon a previous mistrial, was introduced and used against him as part of the State's case. 10

The Court. Upon what theory do you think it would be inadmissible?

Mr. Davis. Upon the theory that testimony given at a previous trial can only be used for the purpose of impeaching or contradicting his testimony given at that trial.

The Court. We are now dealing with a defendant. 20

Mr. Davis. In this case I will say a defendant, I therefore object to the introduction of it on that ground.

The Court. I cannot see why this is not admissible as a declaration of the defendant, just as any other declaration would be. He was a voluntary witness; he was not compelled to go on the stand; he having voluntarily gone on the stand, made the statements contained in the record, I can see no theory upon which it would not be admissible. 30

Mr. Van Blarcom. I think the proposition is discussed in Wigmore on Evidence, that evidence given by a witness at a previous trial can always be used.

The Court. I think that is correct. Objection overruled.

Defendant's counsel prays an exception to this 40

Francis Gregory, direct

ruling of the Court, and the same is allowed and signed and sealed accordingly.

(Signed)

Judge.

(Mr. Van Blarcom reads the testimony referred to to the jury, as follows:)

10 *State v. Francis Gregory.*

Monday, February 4, 1918.

FRANCIS GREGORY, defendant, sworn in his own behalf.

Direct examination by Mr. Davis.

Q. You are Francis Gregory? A. Yes.

Q. Where do you live? A. 48 Mapes avenue, Newark, New Jersey.

20 Q. How long have you lived in Newark? A. About twenty-seven years.

Q. How old are you? A. Forty-seven.

Q. Are you married or single? A. Married.

Q. And what does your family consist of? A. Two girls and a boy.

Q. And your wife? A. And wife.

Q. (Indicating.) This lady here is your wife? A. Yes.

Q. What are you working at? A. I am working 30 at the American Synthetic Dye Company now.

Q. Where is that? A. On Avenue R, down along the Passaic River.

Q. How long have you been working there? A. Nine months and over.

Q. In 1913, in the latter part of the year, what business were you in? A. The detective business.

Q. Any one associated in it with you? A. My father.

Q. And your father's name is what? A. John 40 Gregory.

Francis Gregory, direct

Q. Why is he not here today? A. Too sick.

Q. What is the matter with him? A. I don't know. He can't hardly walk.

Q. Has he had a paralytic stroke? A. Yes, sir; he had two or three strokes, light ones.

Q. How long were you in the detective business up to 1913? A. All my life.

Q. Were you a state detective? A. I am yet.

Q. Licensed? A. Yes, sir. 10

Q. Do you still continue the detective agency? A. No, sir.

Q. What became of that? A. Gave it up.

Q. When? A. When I went down there to work, pretty near ten months ago.

Q. Why did you give it up? A. Why, I went out of business, that was all.

Q. Now, you knew Peaker, didn't you, Mr. Gregory? A. Yes, sir.

Q. How long had you known Peaker? A. Over 20 twenty-five years, I guess.

Q. Do you remember him coming to your detective agency in the late summer or fall of 1913? A. Yes, sir.

Q. Did he talk to you? A. Yes, sir; I think he did when he came in first.

Q. What was the first time you remember Peaker talking with you or you with him regarding the matter of this case here? A. Well, he told me that Mr. Charles M. Kase, a white man, with an office up on 30 Broad street, was running with his wife, and he wanted to know if we couldn't catch them, get evidence against them.

Q. And that was about when? A. I think that was the latter part of 1913.

Q. Do you remember what month it was in? A. I think it was in December.

Q. Was your father there when Peaker made this statement? A. Yes, sir.

Q. What further was said? What did he ask you 40

Francis Gregory, direct

to do? A. Well, he asked us to follow her and see what we could get against the two of them.

Q. Did you do any following or shadowing or watching? A. Yes, sir.

Q. Did your father, or was it all done by you? A. All done by myself.

Q. What did you do after that visit of Peaker's?

A. Peaker brought me up and showed me his wife going in there one day, in Mr. Kase's office, and he
10 said she used to go in there every Tuesday and Thursday, and I watched there and seen her go in several times, see her go in the door, and that is about all I could see.

Q. Do you know Albert Fletcher? A. Yes, sir.

Q. How long do you know him? A. I know Mr. Fletcher for years.

Q. On the days that you saw Bertha Peaker go into Kase's office would you see Fletcher at all? A. Sometimes I would see Mr. Fletcher come out after
20 she would go in.

Q. How often did that occur? A. Well, it may have occurred two or three times of all the times I was watching them.

Q. For how long a period did you watch Kase's office before you stopped your watching? A. Well, I watched there for some time, but didn't see Mrs. Peaker go in every time I watched there.

Q. Did you make any reports, verbal or written, to anybody? A. I made verbal reports to Judge
30 Hahn.

Q. Of what you saw? A. Yes, sir.

Q. How soon after your father and you had this talk with Peaker did you first see Judge Hahn with regard to the case? A. Well, I suppose I followed Mrs. Peaker maybe a couple of times before I went to Hahn.

Q. Did you have a talk with Peaker before you went to Hahn? A. Yes, sir.

Q. Where was that talk had? A. It was in our
40 office.

Francis Gregory, direct

Q. And just state what the talk was, Mr. Gregory.

A. My father told Peaker that he would have to have a lawyer to do this case right, and Peaker said, "Well, we will get one." And he said, "All right. Is there anybody you have on your mind?" And he said, "How is this Judge Hahn," Peaker said, and my father said, "I guess he is as good as anybody else." He knew every lawyer in Newark, and my father told me to take Peaker up and introduce him to Judge Hahn. I went up and I met Judge Hahn coming out of the lobby, and it was noon, and I introduced Peaker to him, and he said to me, "I am in a hurry. I will be back at two o'clock." 10

Q. Just state the whole conversation you had when you met Judge Hahn in the hallway of 800 Broad street, everything that was said by everybody.

A. I introduced him and told him that Peaker told me that his wife was running with a man by the name of Charles Kase of 772 Broad street, and Judge Hahn said, "Charles M. Kase, yes." And Judge Hahn said, "Francis, you can follow this woman and get something on her and I will take hold of this case;" he said, "It will be a good case;" he said, "Whatever we do we will split three ways; if there is anything to be gotten, we will go three ways." I says, "I don't know anything about that now, Judge," and he said, "Come in and see me anyway at two o'clock." So I had to go somewhere else and Peaker went there himself. 20

Q. At the two o'clock interview when Peaker said he went were you present? A. No, sir. 30

Q. Up to that time had you talked with Peaker about how much should be demanded or anything of that sort? A. No, sir; I never said a word about it.

Q. Previous to that time had your firm and yourself frequently done detective work for Newark law-yes? A. Every lawyer in Newark pretty near.

Q. After you intorduced Peaker to Judge Hahn did you continue to watch Mrs. Peaker? A. Yes, sir. 40

Francis Gregory, direct

Q. And did you continue to make a report to Judge Hahn? A. Verbal reports, yes.

Q. What was the next thing that you knew, or that was said to you by Judge Hahn about this case?

A. Well, I think the very next thing, I know I was sitting in my office one day—Charles Peaker used to come in very often; he worked for us sometimes; we would have that kind of work, work that he could do—
10 —we were sitting there and Judge Hahn called me on the telephone and told me that he settled that case, that he got \$25,000. Of course, I—

Q. Do you remember when that was? A. I think it was on the last day of December, 1913.

Q. Was it December 31st or December 30th? A. Well, I just forget now; I couldn't just say now.

Q. 1913, was it? A. Yes, sir.

Q. What did you do then after Hahn telephoned to you at your office and said that he made the state-
20 ment that you have just repeated? What did you do?

A. I told Peaker I was going up to see Judge Hahn and I would be back in a few minutes. That was all that was said, and I went out.

Q. You went up to see Judge Hahn? A. Yes, sir.

Q. Where did you see him? A. In his office.

Q. Give the conversation that took place between you and Judge Hahn at that time. A. Well, I went up there. Judge Hahn told me that he settled with Charles Kase for \$25,000. Of course, I knew it was
30 an awful lot of money, and he said, "I didn't get it yet, I will get it tomorrow, 10:30 o'clock." And he stood around there a few minutes and he said, "I guess I will go up and get it now." And he asked me to hold his overcoat and I held his overcoat and we went up there.

Q. And Hahn's office was 800 Broad street? A. Yes, sir.

Q. And Kase's office was 772? A. Yes, sir.

Q. That is about opposite the Prudential? A.
40 Yes, about.

Francis Gregory, direct

Q. About what time of the day was this? A. about twenty minutes after three.

Q. You went to Kase's office and Hahn went, too?

A. Yes, I waited outside.

Q. And when you got up there Hahn went in, did he? A. Yes, sir.

Q. And you stayed outside? A. Yes, sir.

Q. And where did you stay? A. I went up the stairs a little while and then I came down and waited 10 on the sidewalk.

Q. How long did you stay there? A. I don't suppose he stayed over ten or fifteen minutes.

Q. What did you see next after they had been in there ten or fifteen minutes? A. They came out.

Q. Who? A. Judge Hahn and Mr. Kase.

Q. Where did they go to? A. Walked over to the Fidelity Trust Company.

Q. In the Prudential Building? A. In the Prudential Building.

Q. What did you do? A. I walked over, too. 20

Q. Did you walk over with them or after them? A. No, after them.

Q. What did they do over there? A. Well, they went in the Fidelity bank and were in there for some time. After awhile I could see the man coming out with a lot of money and give it to Judge Hahn.

Q. What did you see the Judge do with it? A. The Judge got him to write something on a paper and put it in an envelope and put the envelope in his coat pocket and came out and Mr. Kase left him and went 30 across the street, and he came down the east side of Broad street, went over to his office.

Q. And where did you go? A. I walked after the Judge.

Q. And the Judge went to his office. Did you go to the Judge's office, too? A. Yes, sir.

Q. Now, after you go into the Judge's office what was paid? A. Well, he told me that he only got \$20,000.

Q. Give the whole conversation, everything that 40

Francis Gregory, direct

was said. A. He said, "I only got \$20,000." And I said, "Yes?" He said, "Kase was backing down on the \$25,000, he told me that he changed his mind, he was going to see his lawyer, Hardin, Pitney & Skinner," and he thought maybe he wouldn't do what he said he would do at all, so the Judge says, "Well, I told him if he gave me \$20,000 I would throw away \$5,000, I had to get Peaker away, and so he came to the conclusion to give me the \$20,000," and there it is," and he opened his coat and told me to take it out of his inside pocket.

10 Q. What did you do? A. The envelope was sticking out and I took it and handed it to him.

Q. What did you do with it? A. "Now," he said, "I am going to give Peaker"—he just said——

Q. Just state what was said. A. He said, "I am going to give Peaker \$2,000." I told him, "Judge, do you think that is right?" and he said, "That is what I am going to give him." And I said, "You are the boss." I couldn't dictate to Judge Hahn.

20 Q. While you were there did anybody else come in? A. Yes, sir.

Q. Who? A. Peaker.

Q. And anybody else? A. My father.

Q. Give all that you can remember of what took place in Judge Hahn's office from that time on. A. We called Peaker from my office and Peaker came up and Judge Hahn said, "We have got \$2,000 settlement for you," and he seemed to be very pleased——

30 Q. What did he say? A. He clapped his hand on the desk and he said, "If you got \$100,000 I am satisfied with \$2,000." And then we called my father, and I telephoned at my sister's house, and he came up.

Q. Did you wait there until your father came? A. Yes, sir.

Q. When your father came what was done? A. We told him what the Judge got, and we told him, "So Peaker got his \$2,000," and went out.

40 Q. When your father came down what was done

Francis Gregory, direct

then? A. Judge Hahn gave me \$4,500 and my father \$4,500 and kept \$9,000 for himself.

Q. And was that all done on the same day that the Judge got this money from the Fidelity Trust Company? A. It was all done on the same day.

Q. What was the next that you heard of this matter? A. Well, the next I heard was about a year after. I heard he got more money, and I went down to see Mr. Kase myself; I went down, and Mr. Fletcher was standing in front of Mr. Kase's office. I asked him—Mr. Fletcher didn't want to say anything about it, and I told him he was a friend of mine and I wanted to know, and he said he got \$25,000 out of Mr. Kase, and he said, "If you will go upstairs Mr. Kase will tell you the same thing," and I went upstairs and Mr. Kase got pretty well riled up. 10

Q. What did he say? A. He showed me a big gun he had in his place, and I thought he was going to pull it on me, and I grabbed him and told him to be quiet, and he said he was going to kill Hahn, and he grabbed a checkbook and he said he don't want a nickel off of him. Fletcher told him I only came to find out what he gave Judge Hahn, and he showed me the stubs. 20

Q. He showed you two stubs? A. Yes, sir.

Q. Amounting to \$25,000? A. Yes, sir.

Q. Did you see Judge Hahn after that? A. Yes. I went downstairs and down to Judge Hahn's office then and I told Judge Hahn that he got more money than he told Peaker or my father anything about, and he called me a liar, and he called me a blackmailer, and I told him if he called me a blackmailer what I would do, and I went out and slammed the door. 30

Q. When did you next see the Judge? A. The next morning. He called me up a half-past six, and my wife went to the 'phone and he told her to tell me to come up, he wanted to see me.

Q. Did you go up? A. Yes, sir.

Q. Did you see him? A. Yes, sir. He told me then that he was going to whack up the \$5,000. He 40

Francis Gregory, direct

told me he kept that, if he ever got in any trouble over getting the money he would have it for a good lawyer.

Q. He told you that? A. Yes, sir.

Q. Did he ever mention a name before that? A. I don't know. He mentioned Mr. Lindabury's name at that time.

Q. Was Peaker there at that time? A. No, sir.

10 Q. Did you get any money from Hahn at that time? A. No, sir. It was Friday and he told me to come back on Tuesday, and he called me up Monday and said he was going to settle up instead of tomorrow, and there was Peaker sitting there, and I thought Judge Hahn and Peaker had started—

Q. Never mind. Just tell me what happened. A. Judge Hahn said, "I am going to give Peaker \$2,500 out of this \$5,000 I got left." And I said, "Do I come in for any at all?" And he said, "If Peaker wanted to give me I can take it," and Peaker and I got a
20 little mad, and we pretty near got together, but we didn't, and I went up there the next morning and he gave me this \$1,250.

Q. Do you remember when that was? A. I think it was the 5th of January, if I am not mistaken. It is on that paper there.

Q. He gave you this \$1,250 that the Prosecutor has referred to? A. Yes, sir.

Q. And that was the last, was it? A. That was the last.

30 Q. Did you have anything to do whatsoever, Mr. Gregory, with any negotiations with Kase at which the sum of \$25,000 was arrived at? A. I never had one thing to do with it. I never knew one thing about it, only Judge Hahn told me he had it.

Q. Did you know about Peaker sending for his wife? A. Never knew that Peaker sent for his wife.

Q. Did you know about Peaker writing the letter to his wife to come down? A. I never saw the letter, until I saw it in Chancery Court.

40 Q. Did you know anything about Mrs. Peaker

Francis Gregory, cross

and Hahn meeting in Hahn's office? A. Never knew anything about it.

Q. When was the first time you learned about that? A. Judge Hahn read it to me, and that was the first time I knew there was a confession made.

Q. The time he read it to you what day was it with regard to the day that he went after Kase to get the money? A. Why, I can't just remember.

Q. Now, this confession is dated December 29, 1913, and I think it was on December 30, 1913, that the money was gotten. Was it on December 29th or December 30th, the day the money was gotten, the day this confession was read to you? A. I think it was either the last day—I think—I don't know—it was two or three days after, easy, that he got it, because he told me. 10

Q. Did you ever have any talk at all with Mrs. Peaker until the Chancery proceedings or these proceedings were begun? A. I don't think I ever spoke to Mrs. Peaker in my life right to this moment. 20

Cross examination by Mr. Van Blarcom.

Q. How long had you known Judge Hahn at the time this Peaker matter came up? A. I have known him for years.

Q. Had you done work for him? A. Yes, sir.

Q. Had you turned cases over to him that came under your notice? A. I don't know as I ever did turn one over to him.

Q. Hadn't you ever recommended any cases to him that came to you through your agency? A. No, he gave me a whole lot of them. 30

Q. He was a friend of the agency's? A. Yes, sir.

Q. And you had done all his work? A. I don't think we had done all of it.

Q. And Peaker had done some work for you? A. Yes, sir.

Q. What kind of work? A. Detective work.

Q. How long had that been going on? A. He had a case out in Whitehouse, a colored woman who 40

Francis Gregory, cross

had burned a barn and horses and one thing and another.

Q. Was he kind of hard up when he brought this case to you? A. Well, he was working on wagons and so on.

Q. He was pretty hard up? A. I don't know that he was very hard up. I never seen Charlie very hard up.

10 Q. When he first spoke to you about the case what did he say? A. He told me that his wife was running with a man up at 772 Broad street, Charles M. Kase.

Q. Didn't you know Kase? A. I never knew the gentleman.

Q. Hadn't you ever seen him? A. I seen him. I thought he was Mr. Macknet or Doremus.

Q. When you saw Simon Hahn and him coming out of the office that day you knew who it was then? A. I knew who it was before that—my father did.

20 Q. Did you know Charles M. Kase, had you known of him, if you didn't know the man personally? A. No, sir; I never knew of him before Peaker came to me.

Q. Hadn't you ever heard about him? A. I don't know as I did.

Q. Hadn't you ever heard that he was a man of considerable means? A. I hadn't heard anything since that time.

30 Q. You had never heard that he was a wealthy man? A. No, sir; I never had.

Q. What did Peaker say he wanted to get this evidence for? A. Well, now, I didn't know—I didn't know what it was; he told me to get the evidence.

Q. Before this time had you often gotten evidence in alienation of affection cases? A. We turned it in that way and the lawyer could do what he liked with it.

Q. But the primary object was divorce? A. A whole lot of it.

40 Q. Did you have the impression it was an alien-

Francis Gregory, cross

ation of affection or a divorce case? A. Well, I will tell you, I didn't think very much of it.

Q. Didn't you ask Peaker what this was for? A. He wanted to get the evidence.

Q. Didn't he say what for? A. No, sir, not then to me.

Q. At anytime did he say? A. No, sir.

Q. Did you ask him? A. No, I didn't say anything to him at all.

Q. How many times did you go up to Mr. Kase's office and see Mrs. Peaker go in there? A. Six or eight. 10

Q. Five or six? A. Something like that.

Q. And you knew the time she was going there? A. About two in the afternoon, I think it was.

Q. How did you get that information? A. Peaker said that is the time she used to go there. I suppose she got off that time and came down.

Q. Were her days Tuesday and Thursdays? A. Yes, sir. 20

Q. And you used to go up there two o'clock and I suppose you spent fifteen or twenty minutes hanging around? A. A little longer.

Q. An hour perhaps? A. Well, I don't know.

Q. Not two hours anyway? A. Probably not that long.

Q. You went there on five or six occasions and on each occasion you didn't spend more than two hours.

Q. At any time did he say? A. No, sir.

Q. Did you ask him? A. No. I didn't say any- 30
That is about right, isn't it? A. I guess that is about right.

Q. When you took Peaker to Judge Hahn what was said when you met him in the corridor? A. I said, "Judge, this is Mr. Peaker," introduced him, and I said, "He has got a wife and he claims she is running with a man named Charles M. Kase, 772 Broad street."

Q. Well, what else was said? A. Hahn said, "Well, I will tell you, if the man can come around 40

Francis Gregory, cross

and see me around two o'clock. I am busy now." He was going to lunch or something.

Q. He said more than that? A. He told him to come back at two o'clock.

Q. When you testified to this conversation a little while ago you said something about what Judge Hahn said, "Split it three ways." A. Well, he said, "If we can get anything out of this we will split it three ways," something like that.

10 Q. Had anything been said to Judge Hahn whether it was a divorce case or what? A. I hadn't said anything to him.

Q. Had Peaker said anything to him? A. No.

Q. Didn't Judge Hahn kind of pick up his ears—"Charles M. Kase up on Broad street?" A. He seemed to be surprised. He seemed to know him.

Q. And he said, "If we get anything we will split it three ways?" A. If we happen to get anything out of this fellow we will split it three ways."

20 Q. Did you know Mrs. Peaker at that time? A. No, sir.

Q. Had you ever seen her? A. Not yet.

Q. What do you mean by "Not yet"? A. Not until Peaker showed her to me.

Q. He showed her to you in front of Kase's office one time? A. Going up that way, yes.

Q. Did you know anything about Peaker sending for her? A. I never knew one thing about it.

30 Q. Did he tell you how the case was going or anything, I mean, what Judge Hahn was going to charge him or anything? A. No, he didn't say anything to me.

Q. Didn't you see Peaker? A. Nearly every day.

Q. Didn't you talk over with Peaker what he told Hahn? A. When?

Q. When he went to see Hahn at two o'clock. A. He said that Hahn took hold of his case and wanted me to go and get some evidence.

40 Q. Did he tell you what he and Hahn had talked

Francis Gregory, cross

about? A. That is what I am just telling you, he told me that Hahn told him I was going to get the evidence and he was going along with the case. That is all he told me.

Q. Didn't he go into more details? A. No, he didn't say anything more to me.

Q. Didn't he say terms had been discussed? A. No, sir.

Q. Had you talked with Peaker about how you were going to be paid? A. If he got it. 10

Q. Didn't you know that you were going to be paid? A. Well, I would take a chance with a man like Peaker.

Q. You didn't really expect anything out of this case? A. If he had anything, yes.

Q. You knew that it was a divorce case and you couldn't get anything out of Kase? A. Peaker had money sometimes.

Q. If Peaker had paid you what did you expect to get? A. I didn't put no price on it at all. 20

Q. I suppose a ten dollar bill would have satisfied you? A. I always get more than ten dollars for a divorce case.

Q. \$25 from Peaker for a divorce case? A. I don't know whether that would have been right. My father used to charge the money anyway.

Q. I know, but how long had you been in the business? A. We get more money out of some people than we get out of others, you know. 30

Q. That is probably so. He was a poor man and a friend of yours? A. Yes, sir.

Q. And at least \$50 would have satisfied you anyhow for this case, wouldn't it? A. I don't know. My father was the man that took charge of all those things.

Q. I am asking about your ideas about the subject. A. I am talking about him. He is the man that done that business.

Q. Let us suppose he was not there alone. A. 40

Francis Gregory, cross

We won't suppose anything about it. He was the man who charge everybody who came in there.

Q. If you had been alone in the detective business— A. I wasn't alone.

Q. No, I know you were not alone, but if you had been in the detective business alone would \$50 have satisfied you for the work you did?

10 *Mr. Davis.* I submit there is no basis for that question.

Mr. Van Blarcom. It seems to me that the witness is trying to evade the question of what the real value of the service was. I think he has been in the business long enough to know what a fair price would have been.

Q. [By the Court.] How old did you say you were? A. Forty-seven.

20 *The Court.* He is forty-seven years old and he has been in the detective business all his life, and while he says that the father attended to the charges, it seems to me that you have shown enough to qualify the witness as an expert as to what the fees ought to be. At least, you have done enough to put him in position to ask the question, what a reasonable fee would have been for shadowing this woman.

[Question withdrawn.]

30 Q. Mr. Gregory, considering Peaker's financial circumstances, if you knew what they were, the fact that he was a friend of yours, what would you consider a reasonable fee for these five or six trips?

Mr. Davis. I object on the ground that this witness testified that all of the fees were made by his father.

0 *The Court.* He is not asked that question. He is asked in his experience what the services were reasonably worth. Objection overruled.

Francis Gregory, cross

Q. [Question read.]

Mr. Davis. I make the further objection, if your Honor please, that the circumstances and the fact that he was a friend are not proper ingredients upon which to base a reasonable fee. This case does not enter into the question of fees at all.

The Court. He has testified that sometimes he received larger fees from some people than others, and I think he is able to testify, considering his experience, what he considers reasonably worth his charges in a matter of this particular kind. 10

Q. Can you tell us, Mr. Gregory? A. I should say in the neighborhood of a hundred dollars.

Q. Isn't it true that detectives get \$7.50 a day and their expenses? A. Some don't get that and others get more than that. 20

Q. Did you ever get more than that in the regular out and out case? A. Yes, sir.

By the Court.

Q. What is the regular charge of your firm per day? A. We have charged \$10 a day and expenses.

Q. What is your ordinary, regular charge? A. About \$8 a day and expenses.

By Mr. Van Blarcom. 30

Q. How do you figure out \$100 for making five or six trips? A. About eight days, that would be \$80 and expenses.

Q. You would charge your friend the highest charge? A. I don't know what I would charge Peaker. I haven't any idea.

Q. Well, you say \$100 would be the outside charge for anybody; is that right? A. Yes, sir.

Q. Why was it you didn't take Peaker up to Judge Hahn's office that afternoon when you got the 40

Francis Gregory, cross

word about the settlement? A. Because the Judge told me to come up there. He wanted to see me.

Q. It was about Peaker's case? A. Yes, sir. I told him, "Charlie Peaker is there now," and he said, "Tell him to wait there until you come back." So I just told Peaker to wait there.

Q. Didn't you think that was peculiar? A. I didn't think it was anything peculiar at all.

10 Q. He was your client? A. Yes, another client would not be in my office only he knew me so well. I wouldn't have known anything about it at all.

Q. When you got up there why did you change your mind about waiting until 10:30 the next morning and going the same afternoon? A. I didn't do any changing. I didn't change my mind at all.

Q. Why was the change made? A. Judge Hahn can tell you that.

20 Q. You said in your testimony that I read this afternoon, you gave each other a look and he left right away? A. Why, certainly, we looked at each other. There was only two in the office there.

Q. You were asked this question: "Did he give any reason then for suddenly going up to Kase's office?" and the answer was, "No, sir, didn't give any reason, only I looked at him and he looked at me; that is all; wasn't a word said." What was the meaning of that look? Were you afraid that Kase might drop dead over night or anything like that?

30 A. I didn't think a thing about Kase dropping dead.

Q. Why was so much haste necessary? A. I didn't think anything about it. Judge Hahn said that himself. He said, "I will go up there myself and get it."

Q. And nothing was said and he suddenly changed his mind? A. I didn't change my mind. I didn't say a word.

40 Adjourned until tomorrow, Tuesday, February 5, 1918, at ten o'clock A. M.

Francis Gregory, cross

State v. Gregory. Tuesday, February 5, 1918.
Continued pursuant to adjournment.
Present, counsel as before stated.

FRANCIS GREGORY resumes the stand.

Cross examination (continued) by Mr. Van Blarcom.

Q. Mr. Gregory, when you got back to Judge Hahn's office with the money that afternoon what was the conversation between you and him? A. 19
Well, he told me about getting the \$20,000 instead of the \$25,000.

Q. And how long were you talking there before Peaker was sent for? A. I suppose about ten minutes. I don't know.

Q. What was said about the division of the money? Tell us what was said about that. A. Nothing much said about that except Hahn said, "I am going to give Peaker \$2000."

Q. Wasn't any other figure discussed than that? 20
A. Not as I remember.

Q. Didn't you start at a lower figure and gradually work up to the \$2000? A. I didn't mention anything at all.

Q. Did Judge Hahn mention a thousand or fifteen hundred, something like that? A. I can't remember; I don't think so; I don't think he did.

Q. You knew that you had no part in the division of the money? A. I knew I hadn't.

Q. What did you think you were going to get out 30
of it after you talked with Judge Hahn? A. I thought he was going to divide it three ways.

Q. You thought Peaker was going to get one-third A. Yes, sir.

Q. Why didn't you mention that? A. Well, Judge Hahn was the main thing. He was Judge, and I thought anything he said went. I couldn't say anything to Judge Hahn.

Q. Why not? A. Why, because I thought I had
no right to. 40

Francis Gregory, cross

Q. But you had an interest in that money, according to your ideas on the subject? A. Judge Hahn said I had.

Q. Wasn't that your understanding? A. What was?

Q. That you had an interest in the money? A. I thought I had quite some.

Q. You thought you had a third? A. Judge Hahn told me I was to get a third.

10 Q. That was, you and your father between you? A. No, Peaker, too; a third to Judge Hahn.

Q. I mean a third to Peaker and a third to the agency of which you and your father were members?

A. Yes, sir.

Q. Didn't you say anything about Peaker being jobbed then? A. I said that it was kind of small to give Peaker.

Q. How were Peaker's finances that day? Were they high or low, or don't you know? A. I don't
20 just exactly know.

Q. What kind of bills were the \$20,000 in? A. Well, they were large bills.

Q. Were there any small ones, like fifties? A. I think there were; I can't just remember.

Q. Any twenties? A. I don't remember just how there were.

Q. Weren't all the little bills picked out of this pile of money and given to Peaker? A. No, I don't think so.

30 Q. What? A. Not as I know of.

Q. Wasn't the money that was presented to Peaker quite a pile? A. If I ain't mistaken, Peaker got his in hundred dollar bills.

Q. Twenty hundred dollar bills? A. I think that was the way.

Q. Were there any larger bills than hundred dollar bills? A. I don't remember. That was five years ago.

40 Q. How about the money you got? Were there any over hundred dollar bills? A. I think there

Francis Gregory, cross

were some over hundred dollar bills. I don't know just how they were. I know there was quite a bunch of bills.

Q. You and your father between you that day got \$9000? A. Yes, sir.

Q. It was a good deal more than a third of the \$20,000? A. That was about a third of the \$25,000, wasn't it?

Q. I know, but you thought there was \$20,000 to divide that day? A. Yes, sir. 10

Q. If you were only entitled to a third of that how did you figure you got \$9000? A. I didn't do any figuring at all. I thought "I can't kick, I can't say a word to Judge Hahn." Whatever he gave me I took and I took that on the level, as much as any man ever took it.

Q. Why did you go back for more? A. I heard that he had more, because he had promised to divide it three ways. 20

Q. You had gotten more than your share? A. I don't think so, \$4,500.

Q. You and your father got \$9,000? A. I don't know how that was.

Q. You had already had \$9,000; that was more than one-third of \$25,000. A. I thought it was Peaker's place and my place to have more and not let Judge Hahn have more.

Q. Why did you think you were entitled to more? A. Well, if I hadn't got it Judge Hahn would have got it. That is all I thought about it. 30

Q. What did you say to Judge Hahn when he called you a blackmailer. A. I said I would show him whether I was a blackmailer, and I went out and slammed the door.

Q. Did you threaten to have him disbarred? A. I don't know whether I said that or not.

Q. Did you testify in the Chancery proceedings that you did make that threat? A. I may have; I don't remember. 40

Francis Gregory, cross

Q. Well, now, did you say it or not? A. I couldn't remember.

Q. You say you can't remember whether you told Judge Hahn that you would have him disbarred or not? A. Yes, I can't remember that.

Q. How many times did you go to Judge Hahn's office after you heard about the further money that he got before you finally got the check? A. At least about two or three times. He sent for me each time.

10 Q. He sent for you, and what did you say to him before he called you that name of being a black-mailer? What was that entire conversation? A. I told Judge Hahn I heard he got more money. He said I was a liar and blackmailer. That is about all that was said, as I can remember.

Q. Didn't you respond to that at all? A. Well, I got mad and went out and slammed the door and told him I would show him whether I was a black-mailer or not.

20 Q. When was this conversation when he said he held out the \$5,000 in order to hire a good lawyer in case he got in trouble over this? A. It was after this.

Q. Was that the second or third time you went there? A. Either the second or third.

Q. What was said? A. He said, "I got more than \$20,000." He said, "If I get in trouble I will have enough to hire Mr. Lindabury or some big lawyer to get me out of this trouble."

30 Q. Did he say "trouble"? A. He just said "trouble"; that is all.

Q. Did you think he meant this case? A. Yes, I did think so.

Q. After that you took this money? A. Yes, sir.

Q. Did you thing [there was anything wrong about this whole proceeding? A. His taking the money?

40 Q. Yes. A. I will tell you, Judge Hahn told me "Kase begs me to take this money, this \$25,000."

Francis Gregory, cross

He said, "begged me to take it," asked me if he had done right, and I said, "You are the boss. You know whether you done right."

Q. When was that? A. That was one of the times I seen him.

Q. Was that the time you divided the \$20,000 or afterwards? A. It was before that, I think.

Q. Before you divided the \$20,000? A. I think it was.

Q. Did you understand why Kase was so anxious to pay this \$25,000? A. Because he was guilty; that is what I think.

Q. Did you think that Peaker's loss of his wife's affections was worth anything like that? A. \$25,000?

Q. Yes. A. Well, I didn't stop to figure anything about it.

Q. Did you figure on what he might get from a jury if it went to trial? A. Didn't stop to figure anything at all.

Q. Didn't you have anything in your mind why Kase was anxious to pay this \$25,000? A. Because I thought he was guilty and he didn't want this thing to come out publicly through the neighborhood; that is what I thought, I will admit.

Q. And it struck you that he was paying the \$25,000 to escape the public knowing anything about it? A. He said that himself, he said that yesterday.

Q. And you thought that, too? A. I thought so; I didn't think he gave that for nothing, I didn't think.

Q. Didn't you figure out that there was something wrong about this whole proceeding, getting this money. A. I never figured one thing out of it at all; I didn't know.

Q. After this big sum of money was mentioned didn't you think there was something wrong about it? A. I did think it was a lot of money.

Q. And didn't you think there was something

Francis Gregory, cross

wrong when that sum was mentioned? A. I didn't know whether there was anything wrong or not.

Q. Why did you say you were going to fix Judge Hahn? A. Did I say fix him? I said he was a blackmailer.

Q. What did you mean by that? A. I don't know exactly what I did mean. I was mad, slammed the door and went out.

10 Q. And succeeded in scaring him? A. I don't know whether I did or not; he didn't tell me that I did.

Q. In all events, it produced \$1,250 more? A. I gave half to my father.

Q. It produced \$625 more to you and your father? A. I don't know if that is what did it, but we got it.

Q. I again ask you why you thought you were entitled to any more money after you got the first payment? A. Because Judge Hahn got it; that is the only reason I know.

20 Q. I wasn't because you earned it? A. No, I didn't earn it. I always said I got a lot of money on that case. I took it on the level. I never done one thing to get it.

Q. What was there on the level about the whole thing, to get this money? A. Well, I will tell you, if I didn't get this money Judge Hahn would have gotten it all. I would like to see a man in the country refuse the money if he got it the way I got it.

30 Q. There may be one or two. A. Well, there might be.

Q. What happened when you came down to Judge Hahn's office to get the additional division of the \$5,000? A. Nothing happened at all. He just simply gave it to me.

Q. Who was there? A. Him and I; we were the only two there.

Q. Wasn't Peaker there? A. I wasn't there when he got his \$2,500. I heard it and asked him.

40 Q. Didn't you testify in one of these previous

Francis Gregory, cross

proceedings that you found Peaker there on one occasion and thought that Judge Hahn and Peaker were getting together to put the thing on you? A. Yes, sir.

Q. On that occasion when you found Peaker there what was the conversation? A. Well, Judge Hahn told me he was going to give Peaker \$2,500.

Q. Well, there was more said than that, wasn't there? A. Then he said, "If Peaker wants to give you anything he can give it to you." I said I didn't see why Peaker should give me a cent, so I got a little mad and went out and slammed the door there. 10

Q. What did you get mad at then? A. I didn't get anything at all that day and he called me up the next morning.

Q. When you slammed the door that time didn't you say you were going to the bar association? A. I didn't say anything of the kind, as I know of; I didn't say anything about the bar.

Q. What did you say? You say you got mad? Didn't you say anything? A. That is all I said. I walked right out. 20

Q. What did you say? A. I just said what I said there. I said that Judge Hahn told me that Peaker was going to get \$2,500 more and he said, "If Peaker wants to he can give you some of it." And I said, "I can't see where Peaker should give me a cent."

Q. You thought Judge Hahn was the one to give you the money? A. I certainly did, yes, sir. 30

By the Court.

Q. Who hired you, in the first place? A. Peaker hired me.

Q. Why didn't you look to Peaker for your pay? A. Well, Judge Hahn told me if he got anything he would divide it three ways.

Q. Did you understand that was to be your compensation? A. I didn't know what it was.

Q. You must have used your brains a little bit 40

Francis Gregory, cross

in this transaction. A. Well, I couldn't say. I suppose that was it.

By Mr. Van Blarcom.

Q. Did the Gregory Detective Agency have a bank account? A. Yes, sir.

Q. Was this money that you and your father got put in the bank account? A. I put mine in the bank.

10 Q. I mean, was there an account?

The Court. You mean in the firm account or a special account?

Q. Yes, did you put it in the firm account? A. No.

Q. When you got this additional \$2,500 check, did that go in the firm account? A. No, sir.

Q. Why not? A. Because I put my own in the bank.

Q. I know, but you say you had a firm account
20 for the agency? A. We never had any firm account. I didn't know what you meant.

Q. Did the agency have a bank account? A. No, just my father and I banked alone when we had anything to bank.

Q. And you had other operators working for you? A. Yes, sir.

Q. How were they paid? A. We used to pay them.

Q. Were they paid by cash or check? A.
30 Sometimes check and sometimes cash.

Q. When they were paid by check what account was the check drawn on? A. My father would pay it and I would pay him.

Q. You never had a firm account? A. No, sir.

Q. Didn't you have one in the Federal Trust Company? A. No, sir; we never had a firm account.

Q. Did you have an account? A. Yes, sir.

Q. I see that this check for \$1,250 which has
40 been marked Exhibit 7 bears the endorsement of

Francis Gregory, cross

John Gregory, Francis Gregory and Mary Gregory.
Is that your wife? A. Yes, sir.

Q. Why did you turn that check over to her?

A. Because anything I ever had was in her name.

Q. Did the \$4,500 go right into her bank account?

A. Yes, sir.

Q. Did you always divide the fees of the agency immediately? A. As a general rule we did.

Q. How were the checks made out in other cases?

A. Well, would be made out to my father as a general rule, always made out to him. 10

Q. And he would simply give you his check for the half? A. Yes, sir.

Q. You and he divided these fees equally; is that right? A. Yes, sir.

Q. Where was your bank account? A. Federal Trust Company. I used to bank, but I haven't any bank account now.

Q. We are not interested in now. I mean at the time you put that \$4,500 in there? A. Yes, sir, 20
pretty near all of it.

Q. Was that your wife's bank account or yours?

A. My wife's.

Q. You didn't have any bank account yourself?

A. No, sir.

Q. When Judge Hahn said he was saving this \$5,000 to hire a good lawyer didn't that raise any suspicion in your mind that this whole transaction was crooked? A. No, I didn't stop to think much about it at all. He just gave me my money, that 30
was all.

Q. Didn't you say anything to him along the lines why he needed a lawyer, why he wanted to save this money? A. I will tell you. Judge Hahn was a man I never talked to that way at all, never said one word to him in that line.

Q. I know, but you were concerned in this, you were getting part of \$5,000 that Judge Hahn said he might need to defend himself in this case? A. That is just exactly what he told me. 40

Francis Gregory, cross

Q. Didn't that raise any suspicion in your mind that it was a crooked deal? A. Well, I will tell you: I didn't think much at all about it.

Q. You didn't care as long as you got the money?

A. I didn't care what?

Q. You didn't care what happened in the case—you didn't care whether it was a straight deal or crooked deal as long as you got your money? A.

10 I thought it was a straight deal all the way through.

Q. How could you think it was a straight deal if he told you he held out this money to defend the case? A. He told me Kase gave it to him.

Q. You knew he told you he was giving it to keep him from public disgrace? A. He told me that.

Q. You know that? A. I suppose it was.

Q. You know what blackmail is? A. I wasn't in any blackmail in this case.

20 Q. I am not saying that. You know what it is?

A. Yes, sir.

Q. And you know blackmail is scaring people to keep themselves from being held out to the public for some crime or something like that? A. Yes, but Judge Hahn told me that he offered this money before he opened his mouth about it.

Q. You say this statement that this woman made?

A. I saw it.

Q. You saw it before it was taken up with Kase?

30 A. I don't think I did, if I am not very much mistaken, until after that time.

Q. Was it after you got the money that you saw it? A. I am pretty sure that it was.

Q. In the proceedings before Chief Justice Gummere and the other judges do you remember being asked these questions and giving these answers: "How did you come to go to Judge Hahn's office?"

A. I used to go in there very often. Q. Did he speak of this statement? A. Yes, sir. Q. And you

40 discussed its effect? A. Well, I says, 'It is pretty

Francis Gregory, cross

strong.' ” Do you remember giving that testimony?

A. What did I say was pretty strong?

Q. That is, the statement this woman made? A. I suppose I made that.

Q. And then were you asked this question: “Did you discuss plans for the use of it, what you were going to do with it? A. I didn't.” A. The money?

Q. No, I am talking about the statement this woman made. A. Oh, well, I didn't know anything about that. I didn't say anything about the statement. 10

Q. You remember being asked this question before the Chief Justice and giving your answer: “Q. Did he (that is, Hahn) tell you what he was going to do with it”—that is, referring to the statement? A. He said he was going to send for Kase and write the statement or read it to him.” Do you remember giving that testimony? A. I suppose if it is there I gave it. I can't remember it just now.

Q. Does that refresh your memory that you knew about this statement before you got the money? A. Maybe I did know, if it is there. It is a long while ago. It ought to be more right then I could tell now. I know it was away after Mrs. Peaker made it. 20

Q. I will ask you again, why was it that you didn't think this was a blackmail case?

Mr. Davis. This is the third time we have been over this very subject, and I submit that once or twice ought to be enough. 30

The Court. Not necessarily, when the witness is not able to give any clearer answer than he has given to what his thoughts were, if any, at the time.

Mr. Davis. The Prosecutor has asked him to define blackmail.

The Court. They have discussed blackmail and I think have reached a common understanding as to what the ordinary acceptance of that 40

Francis Gregory, cross

term is. Now the Prosecutor wants to know why, under those circumstances, he did not concede this to be a case of blackmail.

A. I told the Prosecutor because Kase gave up this money willingly, that is the reason I didn't think it was blackmail.

Q. He gave it up because Hahn threatened to expose him? A. I only know what Hahn said to him.

10 Q. When you heard this didn't you think "Kase is giving this money up to keep this story out"? A. It is over four years ago and it is a bad time for me to think anything now. I don't know what I thought then.

Q. At all events, you knew at that time what blackmail is? A. Certainly I do.

Q. And didn't you understand that one species of blackmail is a man giving up money to escape being shown up? A. I didn't think so. When both men
20 are willing to give the money, if this man is willing to give it, I don't say that is blackmail. I never thought it was. It might be, but I never thought so.

By the Court.

Q. I understood you to say that Peaker originally retained the firm? A. Peaker was the first one that came into us.

Q. When he retained you he retained the firm, that is, your father and yourself doing business. What was the firm name? A. Yes. It was the
30 New Jersey Detective Agency, Gregory's detectives, we always had.

Q. Did he tell you what he wanted this evidence for? A. No, he never said a word. My father told me to get some evidence against Mrs. Peaker if I could.

Q. Did he tell you what kind of evidence? A. I don't know; only that she was running with Mr. Kase.

Q. He told you that it was going to be used in a
40 divorce case? A. Never told me a thing.

Francis Gregory, cross

Q. You got out and made your report to Judge Hahn? A. Yes, sir.

Q. Who told you to make your report to Judge Hahn? A. I naturally went in to see him and told him what I was doing.

Q. How did you know that he was connected with the Peaker case? A. I brought him up there to see him.

Q. Originally you brought him over there? A. 10
Yes, sir.

Q. Was that the time that the question of compensation was discussed, that is, the three way split? A. I think it was, Judge; if I am not mistaken, I think it was.

Q. When you and Hahn and Peaker were together? A. Well, I don't know. I can't just remember. I don't just remember when that was, but I remember hearing about it some way.

Q. What is the first you recollect having discussed this three way split? A. It may have been once or twice after we first saw him. I don't know.

Q. Do you know whether it was after you had gotten your evidence or not? A. It may have been after I got some of it.

Q. At any rate, during the course of the proceeding, during the course of your investigation, this question of the three way split was—this arrangement of the three way split was made? A. Yes, sir.

Q. How long did it take you to develop this case 30
—that is, to get the evidence? A. I don't think I worked on the case over six or eight times when Judge Hahn told me he made the settlement. I was supposed to work on it for a year for that matter, if I couldn't catch her.

Q. When Judge Hahn told you that he had held out \$5,000 to defend himself did you inquire from him what he was going to defend himself from or why it was necessary to do that? A. I didn't ask him one thing, Judge. I don't know what he meant. 40

Francis Gregory, cross

He may just have told me that to try to keep me quiet or something. I don't know why he told me.

Q. The words meant something to you, didn't they, whether they meant anything to him or not, they meant something to you? A. I knew they meant something.

Q. What did you think they meant? A. I don't know just at that time what they did mean. I don't stop to think what it meant.

10 Q. Why did you go to him to get part of the extra \$5,000? Why did you go to him to get that for? A. I will tell you just the reason: I knew he got it and I thought Peaker and I should get something. I didn't think he was entitled to it all.

Q. Did you think you were entitled to it? A. Well, I will tell you: I didn't think he was entitled to it. I knew he got an awful lot of money.

Q. I know he did, but I am asking you whether you thought he was entitled to all this money? A. 20 Not for the work he done.

Q. Did you think you were entitled to it? A. No, I knew I wasn't.

Q. You had already had \$9,000, the firm? A. Yes, sir.

Q. Yet you went back for the additional five? A. Yes, sir.

Q. Why did you go back to get part of it? A. Because I didn't want him to have it all. That is all I know.

30 Q. Why didn't you give it to Peaker? A. Give it all to Peaker?

Q. It was Peaker's money, wasn't it? A. Well, Peaker got pretty near all of it—that is the last.

Q. Why didn't he get it all? A. I couldn't tell you. Judge Hahn—

Q. As I understand it you didn't want Judge Hahn to get anything that he wasn't entitled to, therefore you went to him and got a share of that \$5,000 which you say you knew you were not en- 0 titled to? A. Yes.

Francis Gregory, cross

Q. You say you knew it was Peaker's money, wasn't it? A. Yes, sir.

Q. Why didn't you give it to Peaker? A. Judge Hahn was the man giving it.

Q. Yes, but after it got in your hands it ceased to be under the control of Hahn? A. Yes, sir.

Q. Why didn't you? If you didn't think Hahn was entitled to it and you knew it wasn't your money and Peaker should have it, why didn't you give it to him? A. Well, I don't know why I didn't. 10

Q. When Hahn told you that Kase was giving this money to save himself from disgrace, when was that? A. Well, I guess that was the time he got it.

Q. That was the time he got the— A. The \$20,000.

Q. \$20,000. He got it all at the same time, as I understand it, but that is the time you knew he got the \$25,000, was that before he split it up or before he got it? A. I think it was after he got it. 20

Q. What did he say about that disgrace? A. Didn't say just a disgrace; save him from publicity.

Q. He said Kase was giving money to save himself publicity? A. Yes.

Q. And that was when the first \$25,000 was divided? A. I think it was.

Q. So that you knew when you took that that this money was given by Kase to save himself from publicity, didn't you? A. Yes, I know I got too much money all the way through. I am satisfied to say that. 30

Q. I am not asking you that; that is not the point. I am asking you what you were thinking about at that time? A. Well, I don't know what I was thinking about.

Q. I am asking you this, what you knew at that time. You knew when Hahn told you that Kase was giving this money up to save himself publicity, you knew then what the situation was, didn't you? A. Well, I knew what Hahn told me. 40

Francis Gregory, redirect

Q. And yet you took that \$9,000? A. I took \$4,500 of it.

Q. You and your father took the \$9,000? A. Yes, sir.

Q. And it was after that that you went back to get some of the \$5,000? A. Yes.

Q. You knew this money didn't belong to you, didn't you? A. Why, yes, Judge, I did.

10 Q. You knew you had only earned \$100, you say?
A. If I had got a hundred I would have been satisfied.

Q. You would have been well paid? A. I was the most surprised man in the world to hear what he got and I thought I had a right to take it, as long as he gave it to me; that was my whole thought in the matter. When a man like Judge Hahn, with a judge behind his name, I thought I had the right to take it.

20 Q. Was he sitting then as police court judge? A. Yes, sir.

Redirect examination by Mr. Davis.

Q. The \$5,000 that was gotten last, was how long after the original \$20,000? A. The next morning.

Q. The \$5,000, how long after the \$20,000 was divided was it that the \$5,000 was divided? A. One year after.

30 Q. And the division of the \$5,000 took place a year after the \$20,000 was divided? A. Yes, sir.

The Court. I would suggest that the colloquy between Court and counsel does not come within the rule of admitting the testimony of the defendant. There has not been any objection made, but I do not think that is properly admissible.

40 *Mr. Van Blarcom.* At this time I want to offer the check referred to in this testimony, which is a check payable to the order of John and Francis Gregory for \$1250, dated January

Bertha Louise Peaker, direct

5, 1915, endorsed John Gregory, Francis Gregory, Mary A. Gregory, and which was before marked as an exhibit.

(Marked Ex. S8, Mch. 6, 1918.)

STATE RESTS

Mr. Davis opens for defendant.

BERTHA LOUISE PEAKER sworn in behalf of
defendant. 10

Direct examination by Mr. Davis.

Q. Your full name is what? A. Bertha Louise Peaker.

Q. And are you the wife of Charles Peaker who has testified here this morning? A. Yes.

Q. Are you living with your husband? A. No.

Q. How long ago is it since you ceased to live with him? A. December 3, 1912.

Q. Did you live in Maplewood out at service in the year 1913 or 1914? A. I did. 20

Q. What year was it, Mrs. Peaker? A. It was very early, I think, of 1913.

Q. For how long after that? A. Until about 1916, I think it was.

Q. And you were living in the service of a family by the name of Carr? A. Yes.

Q. And was Mr. Carr connected with a bank? A. Yes, sir.

Q. Do you know the name of the bank? A. City Trust. 30

Q. In Newark? A. Roseville avenue.

Q. Was he connected with the City Trust Company at that time? A. Yes.

Q. Did you, while living at Maplewood, receive a letter from your husband, Charles, this letter of December 25, 1913? A. Yes.

Q. How long had you been separated from your husband at that time? A. That was 1913; it must have been a whole year. 40

Bertha Louise Peaker, direct

Q. And when you got that letter, Mrs. Peaker, did you come to Newark as he requested you to do?

A. Yes, I did.

Q. Do you remember the day of the week in which you came? A. Why, no, I don't remember the date.

Q. Referring to the letter, the letter asks you to come on the following Monday. Do you remember when you came—at the time the letter asked you to
10 come? A. Yes, I did.

Q. Did you meet your husband? A. I did.

Q. Whereabouts? A. Central station.

Q. On Broad street? A. Yes.

Q. About what time of the day? A. It was in the afternoon, I think about three.

Q. Was there any one with your husband when you met him? A. I didn't notice any one with him.

Q. And did you and he go off together from the depot? A. Yes.

20 Q. Anyone go along with you? A. No.

Q. Where did you and your husband go from the Central depot? A. Went to Judge Hahn's office.

Q. Had you ever seen or known Judge Hahn before that? A. No.

Q. And when you got there did your husband introduce you? A. Why, I don't remember that.

Q. How long did you stay in Judge Hahn's office that afternoon? A. I think it was a little over an hour.

30 Q. While there did he draw up and did you sign those four pages of written statements? Look on the fourth page. Is that your signature? A. Yes.

Q. Now while Judge Hahn was drawing up that paper who was in the room with you and him? A. Just him.

Q. Your husband? A. Yes.

Q. And you and Judge Hahn? A. Yes, sir.

Q. Did you all three stay in that one room from the time you entered it until after the statement was
40 drawn up and signed? A. Yes.

Bertha Louise Peaker, direct

Q. After the statement was drawn up and you signed it where did you go? A. I went back to Maplewood.

Q. And did you leave with your husband or did you leave before or after him? A. I left before him.

Q. Do you know if he was behind you going out or not? A. He was.

Q. How far behind him? A. He was talking to Judge Hahn and I went down the stairs. 10

Q. Did you see him at the foot of the stairs or on the sidewalk at all? A. No.

Q. Did you see him after that again about this matter? A. No.

Q. Now, Mrs. Peaker, from the time you came to Newark that afternoon from Maplewood until the time you left Newark, including all the time that you spent in Judge Hahn's office, did you see there or have any conversation with this man here (indicating), Francis Gregory? A. No. 20

Q. Did you ever see Francis Gregory or talk with him in conjunction with this Kase matter until the suit came on? A. I never spoke to him.

Q. Did he ever speak about it? A. No.

Q. Nor his father? A. None of them.

Q. How long had you known Charles M. Kase?
A. Why, I know him the day before Decoration Day, 1913.

Q. Where did you meet him? A. At his office.

Q. How many times after that did you call at his office? A. About five. 30

Q. Each time that you called at his office did you see him? A. Yes.

Q. And what day did you usually have off from your service? A. Thursdays always.

Q. Do you remember what day you called at Kase's office? A. It is either Mondays or Thursdays.

Q. Do you remember whether you called there as often as once a week or oftener than once a week? 40

Bertha Louise Peaker, cross

A. Well, I went about three times and I didn't go again for about four months; it wasn't again until the fall.

Q. Do you know Fletcher? A. I do.

Q. How long have you known Fletcher? A. For about ten years or more.

Cross examination by Mr. Van Blarcom.

10 Q. How old are you? A. Thirty-two.

Q. Did you know any of the Gregorys before this case came up? A. No, I didn't.

Q. Had your husband ever spoken to you about them? A. No.

Q. What? A. Not that I remember.

Q. Had you ever heard of them? A. No.

Q. Didn't you know your husband was in the habit of going in the office there? A. No.

20 Q. When did you first meet Mr. Kase? A. The day before Decoration Day, 1913.

Q. And were you looking for employment? A. No.

Q. What did you go there for then? A. I went there because I had been told to go.

Q. Who told you? A. Mr. Fletcher.

Q. What were you going for? A. To meet Mr. Kase.

Q. What for? A. To meet him.

Q. To meet him? A. Yes.

30 Q. You say Fletcher suggested it? A. Yes.

Q. What did Fletcher say that Kase wanted to see you about? A. Well, nothing particular.

Q. What was it? A. He didn't state anything special; he wanted me to meet him.

Q. What did you have in mind that you were going to see him about? A. Well, I really didn't know.

Q. Why did you go there? A. Because he told me to.

40 Q. What for? A. To meet Mr. Kase.

Bertha Louise Peaker, cross

Q. What were going to meet him for? A. Because he said he wanted to meet me.

Q. Had he ever seen you that you know of? A. No, he hadn't, not that I know of, and I had never seen him either.

Q. Why did you make this statement in Judge Hahn's office? A. Why did I?

Q. Yes. A. Because I wanted a divorce and it was understood that I would get one on those grounds. 10

Q. You made it because you wanted a divorce? A. Yes.

Q. Did Judge Hahn put down everything you said or a little more than you said? A. A little more than I said.

Q. Why did you want to swear to a little more than the truth? A. Well, he said I would get a divorce and I didn't see anything terrible afraid about swearing to that. 20

Q. Did you think that it was right? A. Well, to get rid of a man like Charlie Peaker.

Q. You were willing to do almost anything? A. Well, mostly anything.

Q. Everything but murder, I suppose? A. Yes.

Q. How long had you been on such bad terms with Charlie Peaker? A. We separated September, 1912, and this was in September, 1913.

Q. Did you have a fight in 1912? A. We didn't have a fight, but we didn't agree on anything at all. 30

Q. When did you become so anxious to get rid of your husband? A. Well, if I couldn't live with him there wasn't any use of being tied to him.

Q. Did you want to get rid of him as soon as you left him? A. No, not as soon as I left him.

Q. When did you want to get rid of him then? A. Well, during the fall of 1913.

Q. Why? A. Because it wasn't possible to live with him.

Q. Did you tell him that you had been up to Mr. 40

Bertha Louise Peaker, cross

Kase's office one day when you met him on the street?

A. Yes, sir.

Q. What did you tell him that for? A. I suppose because he asked me.

Q. Did you tell him there was something wrong between you and Mr. Kase at that time? A. I must have.

Q. Did you? A. Yes.

10 Q. Why did you tell him that? A. Well, I don't know. I didn't see any reason why not; he wasn't anything—

Q. You hadn't lived with him for months and didn't want to have anything to do with him, did you? A. No.

Q. Why did you tell him about what you say took place between you and Mr. Kase? A. Well, I don't know why I should have any reason to hide it.

Q. What? A. I wasn't living with him and
20 didn't intend to.

Q. Why did you want to tell him this for? A. I didn't think he was going to tell anybody else.

Q. Is that the only reason you can give for telling him? A. Well, at the time.

Q. He hadn't seen anything wrong between you and Kase, had he? A. No.

Q. What did he do, ask you where you had been?
A. Yes.

Q. What did you say? A. I told him that I had
30 been to Mr. Kase's office; he asked me did I go to see Fletcher; I said, "No, I went to see Mr. Kase."

Q. And then he asked you if there was anything wrong and you said yes? A. Yes.

Q. Why didn't you deny it? A. Well, I didn't see any sense in denying it. He didn't do anything really for me to care whether I denied anything or not.

Q. He didn't do anything—Mr. Kase? A. Charlie didn't.

40 Q. Charlie Peaker? A. He wasn't—

Bertha Louise Peaker, cross

Q. What? A. He wasn't worth bothering about, denying things to.

Q. Is that the only reason you can give for telling him about your relations with Mr. Kase? A. That is the only reason I had, yes.

Q. That is the only reason? A. That is the only reason.

Q. What was the conversation in Hahn's office at the time you made this statement? What did he say to you? A. Well, he asked me did I understand if I was divorced from my husband that I wouldn't have any further claim on him, and he said whatever we agreed upon would be kept secret, there wouldn't anybody else know about it; the only thing was that I didn't dare go to Kase's office again. 10

Q. Is that all that was said? A. Well, that was about all that was said besides the writing.

Q. What was put in writing that was not the truth? A. Why, just that I left my husband for Mr. Kase was positively not true. 20

Q. What did you put that in for? Q. He said it would have to be that in order to get a divorce.

Q. Had you been a bad woman before you met Mr. Kase? A. No.

Q. Well, did Mr. Fletcher suggest to you that if you went to see Mr. Kase, something would happen between you? A. Well, yes.

Q. What is that? A. Yes.

Q. What did you go for? A. Oh, I don't know. 30

Q. What? A. I don't know.

Q. Was that the first time you had gone with a man besides your husband? A. Yes.

Q. What? A. Well, yes.

Q. And just on Fletcher's say so you walked in Kase's office expecting to have relations with him? A. Well, I don't know if I expected that.

Q. What did you go for then? A. I guess mostly to see what would happen.

Q. How many times did you see Judge Hahn 40

Bertha Louise Peaker, cross

after you were there and signed the statement? A. Twice.

Q. Wasn't it more than twice? A. No.

Q. What did you go to see him about? A. I went to see if I was really going to get a divorce.

Q. You didn't expect to get a divorce yourself, did you? A. When?

Q. You expected your husband to get a divorce from you? A. Well, it didn't make much difference.

10 Q. Did you think Judge Hahn was taking a divorce case for you or against you? A. I wasn't interested in that part, as long as I expected to be free.

Q. Did you consider the fact that when you made these admissions that you might be indicted for adultery? A. No, I didn't know anything about that.

Q. Did you know what you admitted was a crime? A. No.

Q. Don't you know that adultery is a crime? A. I know it now.

20 Q. Did you know it then? A. No.

Q. How old were you then? A. About twenty-seven, I think.

Q. When did you learn adultery was a crime? A. Oh, since this case has been on—Oh, no, they told me that day that my husband could not—

Q. What? A. Judge Hahn told me that day it was a crime and my husband could handle me if he wanted to be mean about it.

30 Q. And notwithstanding that you and your husband were not on good terms you made this statement; is that the truth? A. Yes, sir.

Q. Didn't you expect to get some money out of it? A. No.

40 Q. Never had that in mind? A. And the idea of getting a divorce didn't enter in my head until my husband had borrowed about \$150 from me, and he said that if he ever got on his feet again he would help me, and I said the only thing he could do for me was to divorce me, and he said, "Well, that is a small matter."

Bertha Louise Peaker, redirect

Q. You furnish the evidence and he would do the rest? A. Yes.

Q. And you thought by making this statement you were furnishing the evidence; is that right?

A. Yes, sir.

Q. And you thought by going up to Kase's office and letting Gregory come in you would get the evidence? A. I didn't know anything at all about the Gregorys.

10

Q. Didn't he tell you he was going to get the evidence? A. No.

Q. Didn't he tell you the day he met you at the Central Railroad? A. No.

Q. And you didn't think that the Gregorys were watching you? A. If I had known I wouldn't have obliged them by going.

Q. You knew what the evidence would be? A. I didn't know what the evidence would be until I signed the statement in Hahn's office. He told me that he would get the divorce on the ground of desertion, and that day he said it wouldn't be strong enough.

20

Redirect Examination by Mr. Davis.

Q. When you went to Kase's office would Fletcher be there? A. Always.

Q. Would he stay or would he go out while you were there? A. He would be in his own office.

Q. And where would you be? A. In Mr. Kase's office.

Q. You say that the only thing in that affidavit here that is not true is that you left your husband on account of Kase? A. Yes.

30

Q. Are all the other statements true? A. Yes.

Q. Were you subpoenaed? A. Yes.

Q. To come here? A. Yes.

Q. Were you subpoenaed by the prosecution or by us? A. I didn't look at it.

Q. Who handed you the subpoena? A. The gentleman next to you.

Q. This man, John Gregory? A. Yes.

40

Francis Gregory, direct

By the Court.

Q. Were you on good terms with your husband before your meeting at the Central Railroad? A. Well, I had been lending him money.

FRANCIS GREGORY, defendant, sworn in his own behalf.

10 *Direct examination by Mr. Davis.*

Q. Are you Francis Gregory, the defendant in this case? A. Yes, sir.

Q. How old are you? A. Forty-seven.

Q. Are you married? A. Yes, sir.

Q. Where do you live? A. 48 Mapes avenue, Newark, New Jersey.

Q. And what does your family consist of? A. Two boys and a girl.

Q. And your wife? A. And my wife.

20 Q. How long have you lived in Newark? A. About twenty-seven years.

Q. Your father is John Gregory? A. Yes, sir.

Q. And how old is he? A. Seventy-three.

Q. He is not here today? A. No, sir.

Q. He is ill, is he? A. Yes, sir.

Q. What is the trouble? A. He had two or three paralytic strokes, slight ones.

Q. Where does he live? A. 34 Linden avenue, Irvington.

30 Q. And how long has he lived in Newark? A. We had come from New Brunswick.

Q. Were you and your father in the detective business? A. Yes, sir.

Q. What was the name of the agency? A. Well, we had a sign on it "Gregory Detective Agency," but it was really the New Jersey Detective Agency.

Q. And were both you and he licensed New Jersey detectives? A. Yes, sir.

40 Q. And where was your office? A. 828 Broad street, Newark.

Francis Gregory, direct

Q. And how long had you and your father been in the detective business? A. Well, I have been with my father twenty-seven, twenty-eight years.

Q. And your business, where was it carried on mostly? A. What do you mean?

Q. Was it in the City of Newark or State of New Jersey or where? A. All over the United States, go anywheres.

Q. And did you work for various lawyers in Newark? A. Very near every lawyer in Newark I worked for. 10

Q. You knew Peaker, did you? A. Yes, sir.

Q. How long did you know Peaker? A. I suppose twenty-five years.

Q. Had he ever been called in by you to do any work? A. Yes, sir.

Q. And what kind of work was it? A. Detective work.

Q. Was that frequently or just once in awhile? A. Very seldom. 20

Q. How many years ago? A. Oh, I guess it is fifteen years since Peaker wasn't in my office.

Q. Do you remember Peaker calling at the agency in 1913? A. Yes, sir.

Q. And how long was it before that that you had seen him? A. I saw him shortly before. He used to come in every once in awhile to see us.

Q. Were you present at any talk that Peaker had with regard to any business that he wanted the agency to do for him? A. Yes, sir. 30

Q. And when was that? What time of the year was it, about? A. That was the latter part of 1913, I should think.

Q. And who were present at that time? A. My father, I and Peaker.

Q. What was it Peaker said he wanted you to do? What did he say? A. To follow his wife.

Q. Just give the whole statement, what he said when he came there. A. He came in and asked— told us about his wife going with a man named 40

Francis Gregory, direct

Charles M. Kase up on Broad street. He asked us if we would shadow her and find out just what she was doing. He said he hadn't any money then, but he would pay us shortly, as soon as he could get some work to do at carriage fitting, something of that sort, and he would give us some money when he got it.

Q. Did you at his request begin to shadow his wife? A. Yes, sir.

Q. Did he at any time after that first visit, the
10 first conversation, point his wife out to you. A. He did.

Q. Just state about when and the circumstances of that. A. Well, it was some time shortly after he came in to get us to follow her that I went up to Market and Broad, that he pointed her out going to Mr. Kase's office, and after that, of course, I knew her myself. He said she came down every Tuesday and Thursday.

Q. And was this woman last on the stand the
20 woman he pointed out to you? A. That is her.

Q. Had you ever seen Mrs. Peaker before that?
A. Never saw her before.

Q. Well, now, after Peaker had pointed his wife out to you going into Kase's office what did you do after that in the line of shadowing or watching?

A. I followed her there several times and I went up two or three times and tried to look through the keyhole to see what I could see. I knew she was in there and I seen Mr. Fletcher come out when
30 she would go in, but I couldn't see anything.

Q. Did you know Fletcher? A. Very well.

Q. How long had you known Fletcher? A. Fifteen years.

Q. And how frequently would you see Fletcher come out as Mrs. Peaker came in? A. Very nearly every time she went there.

Q. And how many times during the time that you were watching Mrs. Peaker did you see her go into Kase's office? A. Well, I couldn't just exactly
40 tell whether she was in his private office or not.

Francis Gregory, direct

She had to go through Mr. Fletcher's office to get to Mr. Kase's office.

Q. How often did you see her go into that building? A. I suppose eight or ten times.

Q. And you say it was about once a week or twice a week? A. Well, once a week; maybe once every two weeks, sometimes.

Q. And usually on what day? A. Thursday.

Q. And what time of the day? A. About 2.30. 10

Q. In the afternoon? A. Yes.

Q. Well, now, how long were you watching Mrs. Peaker when either you or your father reported to Peaker on the sufficiency of the evidence that you had gotten? A. Well, I don't believe we ever told Peaker we had sufficient evidence for a divorce, but we told him he had better see a lawyer, that we had got something. That was, I suppose, after I had seen her go in there two or three times.

Q. Do you remember a talk at which you and your father and Peaker were present at which that question came up, the question of the employment of a lawyer? A. Yes, sir. 20

Q. How long had you been watching Mrs. Peaker when that talk was had? A. I suppose two or three times, maybe.

Q. And just state what the talk was. A. My father told Peaker he ought to have a lawyer. He says, "Do you know any lawyer that I could get?" And my father said, "I know very near every lawyer in Newark." And Peaker said, "How is this Judge Hahn, would he be a good man?" And my father said, "He would be as good as any man I know of." And he said, "Do you want him?" And he said, "Yes," and so he sent me up. 30

Q. What position at that time was Judge Hahn holding in the City of Newark? A. He was police judge of the First Precinct of the City of Newark.

Q. Where was his office? A. 800 Broad street.

Q. Was he also a practicing lawyer? A. Yes, sir.

Q. Was it on that same day, Mr. Gregory, that 40

Francis Gregory, direct

this conversation took place that you and Peaker went up to Judge Hahn's office or was it a later day?

A. That was the same day, I think.

10 Q. Just state what you recall about you and Peaker going to Judge Hahn's office? A. When we were going in the lobby of 800 Broad street we met the Judge coming out, and I stopped the Judge and introduced him to Peaker and told him that he thought there was a man named Kase up on Broad street running with his wife. The Judge said, "Well, now, I am going to lunch now, but if you will come back at two o'clock I will see him." So I didn't go back at two o'clock, and I believe Peaker went back.

Q. What else was the conversation there in the corridor between you, Peaker and Judge Hahn? A. Well, I don't just remember whether there was any other conversation then or not.

20 Adjourned until tomorrow, Thursday, March 7, 1918, at ten o'clock, A. M.

ESSEX COUNTY COURT OF QUARTER
SESSIONS

Thursday, March 7, 1918.

STATE,

VS.

FRANCIS GREGORY,

SECOND DAY.

30 Continued pursuant to adjournment.
Present, counsel as before stated.

FRANCIS GREGORY, defendant, resumes the stand.

Direct examination (continued) by Mr. Davis.

Q. At that time was there anything said as to what Judge Hahn and yourself were to be paid? A. Well, I think there was something said.

0 Q. What was said? A. Let me see whether it was said at that time or not; I can't remember.

Francis Gregory, direct

Q. Was there anything said about how any money should be disposed of that Judge Hahn succeeded in getting? A. I think it was at that time he said if they got any money that he would divide it three ways.

Q. Who said that? A. Judge Hahn.

Q. Did you go back with Peaker at two o'clock to Judge Hahn's office? A. I did not.

Q. You have heard the testimony of Peaker and Mrs. Peaker about the letter being written by Peaker to his wife to bring her down. Did you know anything about the writing of that letter? A. Never knew one thing about it. 10

Q. Did you know anything about Mrs. Peaker coming down and going to Judge Hahn's office? A. I never knew one thing about that either.

Q. Were you present at any conference between Mrs. Peaker and Judge Hahn and Peaker? A. Never.

Q. Were you present at the time or did you know anything about the drawing up of the affidavit that Mrs. Peaker signed on four sheets of foolscap? A. I never knew anything about that until the first time I saw it. 20

Q. Did you see that affidavit? A. I saw it, yes, sir.

Q. When did you see it? A. Well, it was the latter part of December, 1913.

Q. Now, what was the next you heard from Judge Hahn or from any one else regarding this matter of Kase's after you had introduced Peaker to him? A. The next thing I heard was when Judge Hahn called me by telephone at my office. 30

Q. What did he say to you? A. He told me, he said, "Well, I settled that case."

Q. And what else did he say? A. He said, "I got \$25,000."

Q. Where were you at the time he talked with you on the telephone to that effect? A. I was in my office.

Q. And what else did he say to you? A. He 40

Francis Gregory, direct

said, "Come up right away." I said, Mr. Peaker is here." He said, "You come up yourself."

Q. And was Peaker in the office at the time Judge Hahn was telephoning to you? A. Sitting right beside me.

Q. Was that by virtue of appointment or just by chance? A. Peaker dropped in, as he usually did.

10 Q. Did you go up to Judge Hahn's office at that time? A. I did.

Q. Please relate what Judge Hahn said to you on the occasion when you went up after that telephone call. A. He said, "I got \$25,000 off of Kase." Well, naturally, I didn't believe him.

Q. What did you say and what did he say? A. I said, "\$25,000!" He said, "Yes, I got \$25,000." And he sat there, and naturally I looked at him and he looked at me; we were the only two in the office, and he said, "I am going to get it tomorrow at 10.30." 20 He said, "Well, I had better go up and see him today," and he asked me to hold his overcoat, and naturally I held his overcoat. I would do anything he asked me to.

Q. What was done then? A. He went out and I followed him up.

Q. Where did he go? A. To Kase's office.

Q. What did you do? A. I remained outside.

Q. On Broad street? A. Yes, sir.

Q. How long did he remain in there? A. I suppose he was in there fifteen minutes. 30

Q. Did they both go out together? A. Yes, sir.

Q. Where did they go? A. Fidelity Trust Company, Prudential building.

Q. Did you go over also? A. Yes, sir.

Q. How long were they in the Fidelity Trust Company? A. I suppose twenty minutes, maybe.

Q. And at the end of that time did they come out?

A. Yes, sir.

Q. Together? A. Yes, sir.

40 Q. Where did Mr. Kase go? A. Mr. Kase left

Francis Gregory, direct

Judge Hahn and walked across the street towards his office.

Q. Where did Judge Hahn go? A. Judge Hahn walked down the same side that the Prudential building is on.

Q. Where did you go? A. I walked after Judge Hahn.

Q. And did the Judge and you go back to his office? A. Yes, sir.

Q. When you got back to his office just state what transpired there. A. When I came back to his office he said, "Well, I only got \$20,000," and I thought that was a lot of money, and I said, "Yes?" and he said, "Yes, that is all I got," and he said, "I will tell you how it is." He told me that Kase, when he went back to his office, he began to think the thing over and thought it was too much money and he was going to wait until morning and see his lawyer, Pitney, Hardin & Skinner, and the Judge thought, "Here, if he sees them I won't get anything;" and he said, 20 "Well, I will tell you what I will do, I will agree to settle for \$20,000."

Q. This is what the Judge told you that Kase said? A. And Kase said, "All right, I will give you \$20,000; and he gave me \$20,000."

Q. What else was done in Judge Hahn's office? A. And he said, "I am going to give Peaker \$2,000." I said, "Judge, do you think that is enough money?" And he said, "I am going to give him \$2,000." And I said, "I have got nothing to say to it. It is up to 30 you."

Q. Then what did the Judge do? A. Called Peaker up at my office on the telephone.

Q. Did Peaker come up? A. Yes, sir; he did.

Q. What was done then? A. Gave Peaker \$2,000.

Q. And did your father come? A. Called my father then.

Q. Who got the money first, you or your father or Peaker? A. Peaker.

Q. After Peaker got his \$2,000 just state what 40

Francis Gregory, direct

further was done? A. We talked there awhile and Peaker went out.

Q. What else was done with the money? A. Then the Judge gave me \$4,500 and gave my father \$4,500 and kept \$9,000, which I saw myself.

Q. Is that all there was about that time? A. That is about all I can remember.

Q. When did you next hear anything about that matter—That, you say, was in the latter part of
10 December of what year? A. Of 1913.

Q. —with regard to the confession made by Mrs. Peaker, which is dated the 29th day of December, 1913, with regard to the day that Judge Hahn told you that he had settled this case for \$25,000, when was it that he first told you or showed you this confession? A. I think it was the day after Mrs. Peaker signed it.

Q. And that was the 30th? A. Yes, sir.

Q. When was the next time after you and your
20 father and Peaker and Judge Hahn got this money that you heard anything about the matter? A. Just about one year.

Q. Well, what took place then? A. Then I heard that Judge Hahn got more money.

Q. What did you do? A. I heard first that he got \$60,000, and I went to see Mr. Kase to see what he did get.

Q. What took place when you went to see Mr. Kase? A. I met Mr. Fletcher on the street in front
30 of 772 Broad street where Mr. Kase's office is, and I asked him; and he didn't want to tell me just right away, but he did tell me that Judge Hahn got \$25,000. "Now," he said, "if you will come upstairs with me I think Mr. Kase will tell you the same thing." I went up with Mr. Fletcher to Mr. Kase's office, and when I went in Mr. Fletcher introduced me to Mr. Kase. I said, "Would you please tell me how much money you gave to Judge Hahn when you settled the Peaker case?" and he pulled a gun out of his pocket,
40 and I grabbed his hand, and we talked there awhile,

Francis Gregory, direct

and he said, "I am going to kill Judge Hahn with that." And I said, "Don't shoot me with it." He said, "How much money do you want now?" and he got his check-book—I think Fletcher will testify to that same thing—he grabbed his check-book and asked me what I wanted; I told him I didn't want five cents off of him, all I wanted to know what he gave Judge Hahn, and we talked awhile and he said, "I gave him \$25,000," and he showed me the stubs of the checks, just exactly what he gave him. 10

Q. What did Fletcher say to Kase when he pulled the gun? A. Fletcher said, "Here, he don't want a nickel off of you. He just wants to find out what you gave Judge Hahn."

Q. After finding out from Kase what he had given Hahn what did you do? A. I went right down to Judge Hahn's office.

Q. Did you see him? A. I saw him.

Q. Just state the conversation that you had. A. I told him, "Judge, you got more money in that Peaker case than you told Peaker or I about." He said, "It is a lie. Who said so?" I said, "I got it right from headquarters. Mr. Kase told me himself," and he growled and hollered awhile, and I went out and slammed the door. I was mad. 20

Q. When did you next see him? A. He called me up the next morning about 6.30; my wife went to the 'phone, and he told me to come up and I went up to his office, and he said he was going to give Peaker and I some more out of it on Tuesday, and he called me up Monday, and when I went up there Peaker was there; naturally I thought that Peaker and him got together; I didn't know—— 30

Q. What was done or said by you? A. He told me that he was going to give Peaker \$2,500 more, and I said "Yes?" and he said, "If you want any you will have to get it off Peaker." I said, "Where do I come off to get it off of Peaker. I don't want anything off of him," and I said something to him and went out and slammed the door again. 40

Francis Gregory, direct

Q. Did you see him again? A. He called me the next morning; he telephoned to me, jollyng me, calling me a little Irish crank, and one thing and another. He said, "I am going to do the right thing," and he gave me half of the other \$2,500, and I gave half of that to my father.

Q. That is, he gave you \$1,250 and you gave half of it to your father? A. I did.

10 Q. Do you remember what month it was in? A. I think it was January of 1915.

Q. Mr. Gregory, did you, from the time you and Peaker went up to Hahn's office and you introduced Peaker to Hahn, have anything whatsoever to do with negotiating this settlement with Charles M. Kase? A. I never had no more to do with that than you did, Judge, not a thing.

Q. Did you in any way figure in the negotiations with Kase whereby \$25,000 was arrived at? A. I never figured in anything; I never knew anything about that until Judge Hahn called me to his office and told me, not a thing.

Q. Did you in any way conspire with Hahn or Peaker or your father to defraud Kase out of any money? A. Judge, I never did. I was the most surprised man in the whole world when I learned he got that money.

Q. Where are you working now? A. In the American Synthetic Dye Company.

30 Q. Where is that? A. Avenue R.

Q. What is it, Butterworth & Judson? A. Yes, sir.

Q. How long have you been working there? A. Going on eleven months.

Q. When did you cease working at the detective business? A. Right after this case.

Q. When did you father cease working at the detective business? A. Before I did, a little.

Q. Why did you both stop working as detectives?
40 A. Nothing doing. I had to.

Francis Gregory, cross

Q. What is it? A. I had to; there was nothing coming in.

Cross examination by Mr. Van Blarcom.

Q. What are you doing down at the Butterworth-Judson Company? A. I am a guard.

Q. You are still a licensed detective? A. Yes, sir.

10

Q. You say you were very much surprised when Judge Hahn told you he had gotten this money? A. I was very much surprised, very much.

Q. You were surprised at the amount rather than the fact that he got any, weren't you? A. Certainly; that is what I mean.

Q. You expected to get some? A. I expected to get some for what I done, certainly.

Q. You expected Hahn was going to get some out of Kase? A. No, sir; I didn't expect Hahn was going to get five cents out of Kase.

20

Q. How about this three-way split, where was that coming from? A. He told me if he got anything he would settle up three ways.

Q. Why do you say that you didn't expect to get a five cent piece out of Kase? A. As I say, I didn't expect to get anything at all. That was all up to Judge Hahn.

Q. You left the obtaining of this money, whatever it might be, to Judge Hahn? A. To tell you the truth, Mr. Van Blarcom, I didn't think anything about any money.

30

Q. Didn't you think anything about it when the division was mentioned? A. I worked for Mr. Peaker the same as anybody else.

Q. Why didn't you go to Peaker for your pay? A. I was looking to Peaker for my pay if Judge Hahn didn't settle.

Q. Come down to this last division when Judge Hahn gave Peaker \$2,500 and Hahn said Peaker could give you some. You wouldn't stand for it? 4)

40

Francis Gregory, cross

A. I didn't think Peaker got enough of it the first time.

Q. Peaker wasn't the man to give it to you? A. Well, I thought Judge Hahn should give it to me.

Q. How do you explain going to Judge Hahn about it? A. At that time I thought Judge Hahn was the man; he promised it to me the day before.

10 Q. Isn't it true that your arrangement with Judge Hahn was that he was to divide equally with the detective agency after giving Peaker something out of it? A. No, he said divide it three ways, Peaker, the agency and himself.

Q. Nobody at the office told Peaker what was obtained? A. I don't think they did. It wasn't my place to tell him.

Q. At all events, he was your client? A. Judge Hahn's client.

Q. You were his detective. You didn't tell him? A. I never told him.

20 Q. Judge Hahn was his lawyer? A. Yes.

Q. He didn't tell him? A. Well, I don't know whether he told him afterwards or not.

Q. You say you went up and stayed by Kase's office five or six times, was it? A. Eight or ten times, maybe; I don't just remember.

Q. Your ordinary charge would be not more than about \$100 for that work? A. Well, as I said before, I never done any charging; I don't know.

30 Q. I know, Mr. Gregory, but if you were alone now and had a job like that involving only eight or ten trips, you would be satisfied with \$1000? A. We got \$3,000 fee for a case like that before.

Q. A divorce case? A. Yes, sir.

Q. Where was that case? A. In New York, and the people, I can let you know who they are.

Q. I don't care to know their names. Did the man pay you? A. No, the woman paid us. We caught her husband.

40 Q. But in this particular transaction, would you have been satisfied with \$100 for your services? A.

Francis Gregory, cross

I can't tell you whether I would be satisfied. If we knew that Peaker had money we would charge him a lump sum.

Q. What were you terms by the day? A. We very seldom charged by the day.

Q. Was it all speculation work? A. Pretty near. If you came to me I would charge so much money, and if we caught your people the same day, or we would work a month or a year on the same case, we would charge the same. 10

Q. You said at the last trial of this case that \$100 would be enough? A. I said we often did charge a hundred dollars a day.

Q. Where did Peaker stand when he pointed out his wife? A. At Market and Broad streets.

Q. Where were you standing? A. At the Firemen's building.

Q. Did she pass right by you? A. Passed right by. 20

Q. Where was her husband? A. Stood back a little.

Q. Did she speak to him? A. No.

Q. How near did she pass you and Peaker? A. She passed pretty near to me and Peaker was in the doorway and she couldn't—

Q. How near to you did she pass? A. As near as this gentleman to me here (indicating).

Q. Three or four feet? A. Right on the sidewalk. 30

Q. What doorway was Peaker standing in? A. Next door to the Firemen's, one of those buildings there.

Q. Next door to the Firemen's building is the Dime Savings Bank? A. Right next to Byrne's office.

Q. The Byrne building is about three buildings from Market and Broad? A. Well, it was one of those buildings; I can't remember which building it was, you know. 40

Francis Gregory, cross

Q. How near to you was Peaker standing at that time? A. Right back of me.

Q. Three or four feet back of you; is that right? A. Yes, sir.

Q. Why didn't you keep any dates and the number of times you went up there to watch her? A. Well, I will tell you the reason, because I never saw anything to amount to anything; I never even made a report.

10 Q. Didn't you think what you saw was worth while making a memorandum of? A. I could have told it if I had gotten anything that was right. I wanted to break in the door and they wouldn't let me.

Q. Who wouldn't let you? A. I asked Judge Hahn, "I will go there and break in that door," and he said not to do it.

Q. When did he tell you that? A. I can't remember; it was one of the times I was working for him.

20 Q. And what did you say to that? A. I said, "Well, you are waiting a long while to get anything right, if there is anything done in that office."

Q. Isn't it your rule to make a written memorandum of your activities when you are on a case? A. When we work by the day.

Q. Don't you have notes when you testify in court? A. Yes, sir.

Q. You expected to go to court? A. If we caught her, yes, sir.

30 Q. You saw this woman go in, saw her go in Kase's office? A. Not in Kase's office. I saw her go in the front office.

Q. But those were the offices occupied by Kase? A. Yes, Mr. Fletcher's office.

Q. You knew Fletcher was out? A. I was in there after that, all through the place.

Q. You knew Fletcher was out? A. Yes.

Q. And you tried to look through the keyhole? A. Yes.

40 Q. And you knew she was alone in there with

Francis Gregory, cross

Kase? A. I didn't know anything about it; I wasn't in there.

Q. You didn't think that was worth while making any memorandum about? A. I thought she was alone, but I didn't know.

Q. (Question read.) A. What was that?

Q. The fact that you saw her go in there. A. Well, I knew that she was in there.

Q. You didn't think that it was worth while making a written memorandum about? A. Well, the chances are I did write something about it, made some dates, something like that. 10

Q. Where are those dates? A. I couldn't tell you now. Since we broke the office up everything is gone.

Q. Did you make any report to Peaker at all about what you found out? A. Yes, when I would see Peaker I would tell him I saw her go in there.

Q. You said yesterday that you thought this evidence was insufficient? A. Insufficient? 20

Q. Yes, to do anything with. A. Well, I thought the evidence—when Peaker came and told us that—I mean the first day.

Q. No, you said that when the lawyer was spoken of—You spoke about getting a lawyer, but you thought at that time the evidence was insufficient? A. Well, we were only on the case a couple of days then.

Q. Did you go to Judge Hahn's office after you had been on the case a couple of days? A. Did I go to Judge Hahn? 30

Q. Or did Judge Hahn get in the case only after you had been working on it a couple of days? A. No, he was in the case at the first starting off, if I remember right.

Q. I thought you said yesterday that you had been working on the case for some little time and then thought it was about time to get a lawyer? A. About three days, I think.

Q. What did you want to get a lawyer for at that 40

Francis Gregory, cross

stage of the proceedings? You hadn't found out anything, had you? A. Well, I saw the woman going in and out there and knowing Charlie told me that she told him what happened there.

Q. You said a moment ago that you didn't think that was important, the fact that you saw her go in?

A. I told him what we got wasn't so important yet.

Q. Didn't you know that she was going to make a confession? A. I didn't know anything about it
10 any more than you did, not one thing about it, and I am under oath, too.

Q. When was it you had this conversation with Judge Hahn after this division of the money? A. I think the first day we went there Judge Hahn mentioned that himself.

Q. You mean Peaker was present? A. Yes.

Q. Didn't you testify at the last trial that Peaker wasn't present? A. When Judge Hahn said this?

Q. Yes. A. I don't know as I did.

Q. As a matter of fact, didn't you go to Judge
20 Hahn after Peaker had seen him and then the mention was made as to the way this was to be divided?
A. I used to go in Judge Hahn's office whenever I felt like it.

Q. How many times were you in Judge Hahn's office after you took Peaker there? A. I couldn't tell you. I went in and out of your office, too.

Q. Were you in Judge Hahn's office many times after you took Peaker there? A. I guess I was. I
30 use to go in; often-times I wouldn't see him.

Q. Didn't you talk about this case? A. Only told him what I was doing offhand.

Q. Did you make a verbal report to Judge Hahn?
A. If I saw her going there I did.

Q. You said yesterday that your father knew Kase, didn't you? A. I don't think so.

Q. I thought you said yesterday that your father knew him? A. I never said anything of the kind.

Q. Did he know him, do you know? A. I don't
40 know whether he did or not. I don't think he did.

Francis Gregory, cross

Q. How many years has your father lived here?

A. The same amount of years I have lived here.

Q. How many years? A. About twenty-seven, I think.

Q. Did Judge Hahn know Mr. Kase? A. I don't know whether he did or not; I think he did. I never knew Mr. Kase until this thing came up.

Q. When Judge Hahn called you on the telephone and told you the case was settled, why was it you didn't tell Peaker? A. Because Judge Hahn told me to come up alone. 10

Q. Why didn't you tell Peaker? A. I say, that is the reason.

Q. What is the reason? A. Because he told me to come up alone.

Q. I am not asking why you didn't bring Peaker up with you. Why didn't you tell Peaker that the case was settled? A. Right then?

Q. Yes. A. Judge Hahn told me not to say anything about it. He said, "Come up, I want to see you." 20

Q. Why didn't you tell him that he had got a settlement of \$25,000? A. If I ain't very much mistaken I did tell him.

Q. You said a minute ago that you did not tell him, that Judge Hahn told you to keep quiet about it? A. Maybe I made a mistake; I can't tell whether I did; it strikes me that I did. If I didn't, I don't know why I didn't.

Q. If you didn't you don't know why you didn't? 30
A. No.

Q. But you didn't take him along because Judge Hahn told you not to bring him? A. That is about the reason.

Q. When was it you saw this confession? A. I think it was the day after it was made, if I am not mistaken.

Q. That was before you got the money? A. Before I got the money?

Q. Yes. Didn't you see it before you got the 40

Francis Gregory, cross

money? A. Well, I can't just remember now whether it was before or after.

Q. This thing moved very quickly, didn't it, after it once started? A. It didn't take very long.

Q. No. A. That is, I didn't think so. I never knew one thing about this conspiracy in this case any more than that chair; I never knew it until after Judge Hahn got the money and told me he got it.

Q. You expected to get some, you said a moment ago? A. Expected to get it off of Peaker, if he had it. Judge Hahn told me, of course, divide it three ways; I didn't know what he meant.

Q. What? A. I didn't know what he meant when he told me divide it three ways—I mean, I didn't stop to think.

Q. You didn't expect the divorce suit to be divided three ways, did you? A. No, I didn't expect no divorce suit to be divided, of course not.

Q. You know what a divorce suit is? A. If
20 Judge Hahn—

Q. You know what a divorce suit is, of course? A. I certainly do.

Q. You knew that there would be no money coming from a straight divorce suit, didn't you? A. Yes, sure.

Q. What did you think when Judge Hahn said, "We will split three ways?" A. I will tell you, I didn't think; he didn't talk there a minute; he walked right away from us; there wasn't much talk.

Q. I know, but you know when people talk about splitting things three ways it means something, doesn't it? A. There's lots of things you can split three ways that is not money.

Q. Didn't you understand it meant money at all? A. I thought it was, yes.

Q. You thought the money was coming out of Kase, didn't you? A. I didn't just stop to think where it was coming from, to tell you the truth.

Q. Peaker wasn't going to split it three ways, was he? A. No.
40

Francis Gregory, cross

Q. And you didn't know where the money was coming from? A. No.

Q. Do you want this jury to understand—
A. I want them to understand the right thing.

Q. I understand that you want the jury to believe that there was talk of a three-way split concerning money and you didn't know where that money was coming from? A. I told you before I thought it was coming from Kase; I didn't know that.

Q. You understood that, did you? A. I thought so; if it was coming anywheres I thought it was coming from him, that is sure. 10

Q. And Judge Hahn was the man that was to conduct the negotiations; that is true, isn't it? A. I suppose so, if he said he was going to do it.

Q. That was your understanding, that he was to get the money, wasn't it? A. It was.

Q. Whether it was \$500 or five cents? A. All he says to me he was going to divide it three ways if he got anything; when he said that Peaker was right there, too. 20

Q. You were satisfied to leave it to Judge Hahn to get the money, were you not? A. Satisfied to leave it to him; he done as he liked. I wasn't satisfied to do anything without him.

Q. Did you say anything to Judge Hahn that Peaker was going to pay you? A. I didn't say nothing to Judge Hahn that Peaker was going to pay me. I never tell a lawyer what I am going to get, and he never asked me. 30

Q. Well, \$20,000 was gotten, as you thought it was only \$20,000, and Peaker came in, and Peaker was to get a third of that, why didn't you see that he got a third? A. Well, I will tell you the whole thing about that: Judge Hahn was managing that whole business; I had nothing to do with it and no matter what Judge Hahn done I had my hands tied; I couldn't say nothing.

Q. You and your father got \$9,000? A. Yes.

Q. You didn't kick about it? A. If we didn't 40

Francis Gregory, cross

get it Judge Hahn would have had \$9,000 more. I told that four or five times.

Q. When Peaker got his \$2,000 and went out did you have any discussion as to how that \$18,000 was to be divided? A. Which \$18,000?

Q. That was left after Peaker took \$2,000? A. Did I have an understanding?

10 Q. Yes. A. Didn't know a thing. Judge Hahn handed me \$4,500, and that is all I knew about it.

Q. And your father \$4,500 and kept nine, and there wasn't any argument about it? A. I didn't argue much about it.

Q. Your father didn't argue, did he? A. Not as I know of.

Q. There wasn't any three-way split about that proposition, was there? A. Was there any three-way split about it?

20 Q. Yes, about the \$20,000. A. Of course, Peaker didn't get what was coming to him; that wasn't my fault.

Q. After Peaker got something, the balance was divided equally between Hahn and the agency, wasn't it? A. Yes, sir.

Q. You were satisfied with that arrangement? A. And the agency.

Q. But you were satisfied with that arrangement? A. Well, it seemed to be a lot of money to me. I didn't make any kick, didn't say a word.

30 Q. You didn't kick about getting so much then. You didn't say that you were not entitled to so much? A. I knew that Judge Hahn knew that I got too much money. I admitted that all along.

Q. You have dealt with lawyers for years? A. Bob McCarter got \$10,000 a few days later. I seen it in the paper.

Q. He probably didn't get it the same way you did. You knew that Judge Hahn done a few days' work on the case? A. I don't know what he done.

0 Q. Did you think that \$2,000 was enough to compensate Peaker for the loss of the affections of his

Francis Gregory, cross

wife? A. I don't know. He may have thought it was enough.

Q. What did you think about it? A. \$2,000 may have been enough, according to how they got along.

Q. I am trying to think what was in your mind. A. I don't know what was in my mind.

Q. Did you think that \$2,000 was enough to compensate Peaker for the loss of his wife's affections?

A. I don't know as I thought about it. I wasn't thinking about those things. 10

Q. What did you think Mr. Kase paid this money for? A. Because he was glad to get rid of what he was charged with, that is what I thought.

Q. You didn't think that \$20,000 or \$25,000 was an amount that was necessary to satisfy Peaker's claim? A. I didn't think it was too much, a white man running with a colored man's wife, that is the reason.

Q. You think \$25,000 is what Peaker would be entitled to? A. I don't know what he would be entitled to, but as far as I am concerned I don't think it was any too much for Peaker, for what was right about it. 20

Q. You could have helped him to get what was right? A. I didn't keep it away from him.

Q. You kept your mouth shut? A. I didn't say anything.

Q. Why did you go back for any more then? A. I didn't want Judge Hahn to have any more.

Q. He didn't have any more than you did? A. I 30 got \$4,500 for myself.

Q. You got the same as Judge Hahn? A. I didn't get the same.

Q. You both got \$4,500? A. We certainly did. I told you that.

Q. You certainly didn't think you were entitled to any further pay, did you? A. I did not.

Q. Why did you go back for more, then? A. As I say, I didn't want Judge Hahn to keep the whole \$5,000, that was all. 40

Francis Gregory, cross

Q. But you had more than your three-way split out of the \$20,000, hadn't you? A. Well, Judge Hahn had more than I had, if he had the \$5,000, more than both of us.

Q. Why were you so anxious that Judge Hahn shouldn't get any more than you? A. Well, I don't know how to answer that.

Q. What? A. I don't know how to answer that.

10 Q. If there was no agreement between you and Judge Hahn, no private agreement of division, why were you afraid that Judge Hahn was getting more than you? A. Is that what you are trying to bring up, that we had it made up?

Q. Yes. A. I told you that I went to get it off of him because he had so much money, that is all; I didn't want him to have it. That is all I know about it.

20 Q. You know you were not entitled to it? A. I say I am pretty well paid for what I done, I admitted that.

Q. And you admit that you were not entitled to any more? A. I admit that I got well paid for what I done.

Q. You admit that you were not entitled to the \$9,000? A. Yes, sir; anybody would know I was not entitled to that, anybody would know that.

Q. And certainly you were not entitled to any part of that \$5,000? A. I said the reason, I didn't want Judge Hahn to have it all.

30 Q. Why not? A. Because he wasn't entitled to it if I wasn't.

Q. Peaker was the man entitled to it? A. He was the man entitled to it, yes, he was the man entitled to it.

Q. Why didn't you see that he got it then? A. Because Judge Hahn was what I call my superior officer in that thing and I couldn't say nothing; he was police judge, and anybody would act the same way as I did; that is all I know.

40 Q. You said a good deal—you put up a pretty big

Francis Gregory, cross

holler when Judge Hahn held out \$5,000? A. I certainly did.

Q. You were not afraid of Judge Hahn then? A. I never was afraid.

Q. He wasn't you superior officer when you found out, as you might say, he double-crossed you a little? A. Certainly not, no.

Q. When you said a minute ago that Peaker didn't get this money because Hahn was your superior officer in it you didn't quite mean that, did 10 you? A. He was managing the whole affair; that is the only way I can explain it.

Q. And as long as he managed it so you and your father got half you were satisfied? A. I didn't say that.

Q. No, you didn't say that, but isn't that so? A. No, it isn't so.

Q. How was the sum of \$1250 fixed out of the balance of \$5000? A. How was it fixed—what do you mean by that? 20

Q. I mean to say, there was \$5000, and after Peaker got \$2500 that left \$2500, of course? A. Yes.

Q. How did you happen to divide that equally? A. \$1250 is half of \$2500, isn't it?

Q. Yes. But why didn't you get a third of some other sum? A. Because Judge Hahn gave me half of it, that is all I know.

Q. You didn't ask for half? A. No, I took what he gave me all through this; I took just exactly what he gave me. 30

Q. Would you have taken \$500? A. I would have taken it if he had offered it.

Q. You wanted an equal amount with Judge Hahn, didn't you, out of that \$5000, after giving that \$2500 to Peaker? A. Did I say that?

Q. No, I am asking you. A. No, I didn't.

Q. How much did you intend to get, how much did you want? A. I am just telling you, I took just what Judge Hahn gave me. That is what Peaker done, too. 40

Francis Gregory, cross

Q. After making all that trouble you were willing to take what Judge Hahn handed you? A. I took what he gave me.

Q. And it happened to be half? A. It wasn't one-third, as you asked me.

Q. But it was half of what was left? A. Yes.

Q. What did Hahn say about holding back this \$5000 to hire a lawyer? A. I suppose Hahn would say anything, but he said something about holding
10 back this \$5000 if he ever got in any trouble over it he would have the money to hire a good lawyer like Lindabury—I am telling the truth—and that is what he told me.

Q. And he told you that before you got any part of this \$5000? A. Yes, sir.

Q. What did you think about this whole situation when he told you he might need a lawyer in this case? A. What did I think?

Q. Yes. A. I don't know as I thought anything.

20 Q. You didn't care as long as you got the money; isn't that true? A. I didn't say I didn't care.

Q. I am asking you. A. No, that is not right.

Q. What did you think about it? A. I didn't think anything, as I say.

Q. Do you want the jury to understand your mind was a blank when Hahn said "I kept this \$5000 to defend myself in case I got in trouble over this matter"? A. I didn't stop to think anything about
30 it at all. I don't know as I thought anything.

Q. You didn't think anything at all during this whole proceeding? A. Oh, yes, I thought a whole lot.

Q. I know, but what did you think? A. I never thought anything much about it.

Q. You were very much pleased to start that? A. I certainly was.

Q. And you didn't think, of course, there was anything wrong about it? A. Anything that Judge Hahn done with me, I didn't think there was any-
40 thing wrong.

Q. I am not talking about what he did to you, but

Francis Gregory, cross

what he did to Kase. A. He told me that Mr. Kase begged him to take this money, that is all I know about it.

Q. He begged him to take it because he was afraid of the case coming out in public? A. He didn't say anything about public; he just said "He gave me this money and I took it."

Q. Didn't you say at the last trial that Hahn told you he gave him this to keep out of publicity? A. I don't think I did. 10

Q. What? A. Not as I know of—I don't remember.

Q. The trial here a few weeks ago? A. I may have said that.

Q. Didn't Hahn tell you that, as a matter of fact? A. I don't remember as he did. He may have told me, but I don't remember.

Q. How well did you know Fletcher? A. I know him about fifteen years, I guess.

Q. How did you happen to meet him? A. My brothers used to be bicycle riders and he used to go around at their meets. 20

Q. As a rider? A. I think as a trainer. I used to see him and knew him very well in those days.

Q. Knew him very well? A. Speak to him; never had many conversations with him. He worked there in the summer and I used to see him standing around there.

Q. Didn't you know that he worked for a man named Kase? A. I never knew it; I never asked and I didn't want to know. 30

Q. Didn't you know what he was doing? A. No, sir, never did.

Q. How many years had you known Peaker? A. Twenty years somewhere, over.

Q. You said Judge Hahn told you not to break in there? A. Yes, sir.

Q. Weren't you hired to get evidence? A. Yes, sir.

Q. Did you speak to Peaker about breaking in? 40

Francis Gregory, cross

A. I am very sure that I did; I told Peaker I would go up there, wrap a night stick up in a paper and break in there.

Q. Why didn't you do it? A. Because Judge Hahn told me not to do it.

Q. What reason did he give you for telling you that? A. He said "We might not catch them just right, and if we didn't they would come back at us."

10 Q. Why? A. If you don't catch a party right they can make it warm for you, if you break or anything of that sort.

Q. But you were anxious to get the evidence? A. I certainly was. When I am working for a man I always am.

Q. And you never did get the evidence yourself? A. Never saw much. I tell you the case came to an end before I thought it was coming or anything else; I never gave it a thought, it came to an end so quick.

20 Q. How did you figure it came to an end? A. I never stopped to figure it all; I didn't figure it all.

Q. How did you figure that if you had no evidence in the case that this money was obtained? A. Just as Judge Hahn told me that Mr. Kase begged him to take the money.

Q. Why? A. To save himself, that is all I know.

Q. What? A. To save himself.

Q. From what? A. From whatever Judge Hahn would bring against him.

30 Q. What was that? A. I didn't know just what it was going to be.

Q. Did Judge Hahn say to you that he gave the money to save himself from disgrace? A. He may have said that.

Q. And from publicity? A. He may have said that; I won't deny it; I don't know.

Q. This case broke up the friendship between you and Judge Hahn, I suppose? A. I haven't saw him much since.

40 Q. He was disbarred in this matter? A. Yes, and he got out of town, too; I never saw him.

Francis Gregory, cross

Q. Left the State? A. I don't know where he is, whether he is out of the State or not.

Q. You haven't seen him around here for a long time? A. No, sir; I haven't.

Q. Was he a married man? A. Yes, sir; so I hear.

Q. Children? A. I believe so.

Q. What kind of a case were you hired to obtain evidence for by Peaker? A. There was no mention of any case at all, just to get evidence against his wife, that was all. 10

Q. Was he going to use it for the purpose of divorce? A. I don't know—I suppose so—I don't know. I can't tell.

Q. Was that your understanding about it? A. I thought that myself, to tell the truth about it, but I didn't know.

Q. You knew that there wasn't any money coming from a divorce case? A. I thought naturally if he got a divorce he would sue a man like Kase after he got his divorce. They generally do. 20

Q. You didn't know whether Kase was worth any money or not, did you? A. After he paid the \$25,000 I did.

Q. I mean before that. A. No, I didn't.

Q. What was there to the case except divorce if you didn't know whether he had any money or not? A. I say, if Peaker had got a divorce from his wife through Kase being the co-respondent, I thought he would have a good case. 30

Q. This had a double aspect in your mind? A. I don't know as I thought very much about it.

Q. What was the discussion between you and Judge Hahn as to the amount you would give Peaker? A. Didn't discuss it in the least, only Judge Hahn told me, "I am going to give Peaker \$2000," that was all.

Q. Didn't you start at a lower figure than that? A. No, sir, not as I know of. 40

Francis Gregory, cross

Q. Wasn't a thousand dollars mentioned or fifteen hundred? A. No, sir.

Q. As a matter of fact weren't those sums mentioned and you said they were too low, he ought to give him more? A. I don't remember any sum being mentioned except the sum of \$2000.

Q. When he mentioned \$2000 what did you say to Judge Hahn about it? A. I said I thought it was pretty low.

10 Q. Didn't you tell Judge Hahn that Peaker would jump at it or something like that? A. No, I don't remember saying anything of the kind.

Q. As a matter of fact, weren't you and Judge Hahn figuring how little you could give Peaker and keep him satisfied? A. Did I say that, Mr. Van Blarcom?

Q. No, but I am asking you. A. I never did.

Q. Nothing like that ever happened? A. No.

20 Q. You said a minute ago that when you went up to Judge Hahn's office that day—or, rather, after he got the money, after you got the \$20,000, Judge Hahn told you he had to take \$5000 off, something about Judge Hahn said Kase was going to see his lawyers, something about Kase's lawyers mentioned? A. Yes, sir.

Q. Judge Hahn said that if Kase saw his lawyers we wouldn't get anything or Hahn wouldn't get anything? A. He didn't think he would get that much, as much as he did get—I don't know.

30 Q. A little while ago you said that Hahn made the statement that he wouldn't get anything. A. "I may not get anything," that is what was said, something to that effect; I don't just remember; it was something to that effect.

Q. Why did you figure you would not get anything if the case was as good as you say it is? A. I didn't figure anything at all. Judge Hahn told me this. I am not figuring in that.

40 Q. What impression did that make on you? A. On me?

Albert C. Fletcher recalled

Charles M. Kase recalled

Q. Yes. A. I don't know as it made any impression on me—I don't know.

ALBERT C. FLETCHER recalled in behalf of defendant.

Direct examination by Mr. Davis.

Q. How long had you known Peaker? A. When he first came to Newark. 10

Q. Had you known him more than ten years? A. Yes, sir.

Q. How long have you known Mrs. Peaker? A. I have known her, I guess, between six and eight years.

Q. At the time she was calling at Mr. Kase's office you knew that she was married to Peaker, you knew that she was a married woman? A. Yes.

Q. There is no doubt about that? A. That was the representation. 20

Q. You knew that Mrs. Peaker was the wife of Charlie Peaker at that time, didn't you? A. That is it.

NOT CROSS EXAMINED.

CHARLES M. KASE recalled for

Further cross examination by Mr. Davis.

Q. At the time of your appearances before the Chancellor and before the Chief Justice in the disbarment proceedings of Hahn, and at the time of your appearances before the Grand Jury and your appearances in this court, have you always denied that you had intercourse with this woman? A. That I did have? 30

Q. Have you always denied that you had intercourse with her? A. Certainly.

Q. Have you ever admitted up to yesterday that she stripped herself in your office? Was that the first time that you admitted that, yesterday? A. Whether it was the first time? 40

Charles M. Case, cross

Q. Was that the first time that you ever admitted it, that you ever stated it in court? A. I don't know; I don't remember whether it was or not. I have always known it.

Q. You don't ever remember stating that in court before, do you? A. I don't know that I ever did. I can't remember.

10 *The Court.* Will you ask him if he has any recollection of having been asked that?

Q. Do you remember that question about the stripping ever having been asked you before? A. I don't think it ever was.

Q. Yesterday when you made this statement you made it without a question being asked, didn't you, you made it as a voluntary statement? A. Yes, I did it that way.

20 *The Court.* I am not sure that is a correct statement of the facts. I think the record will show what happened. Mr. Van Blarcom didn't ask him whether she stripped or not, and I don't know whether he said she stripped on the first occasion or second occasion.

Mr. Van Blarcom. I asked him if he ever committed adultery, and he thereupon said "No, I will tell what happened," and then he went on to say she went in the corner and stripped.

30 DEFENDANT RESTS.

STATE RESTS.

40 *Mr. Davis.* The Court is respectfully asked to direct a verdict for the defendant on the following grounds: First, the evidence discloses an offense, if committed at all, which was committed more than two years before the indictment was found and is barred by the statute of limitations. Second, the evidence produced does not charge or prove any conspiracy committed within two

Charge to Jury

years before the indictment was found. Third, the evidence does not show any offense committed by the defendant.

The Court. The Supreme Court, having decided that the division of the proceeds—that is, the last division of the proceeds—was an overt act done by the defendants in execution of one of the objects of the agreement between them and hence was a completion of the agreement of conspiracy on that date, and from which time the statute of limitations commenced to run, would seem to dispose of your motion. The motion will be denied. 10

Defendant's counsel prays an exception to this ruling of the Court, and the same is allowed and signed and sealed accordingly.

H. V. OSBORNE, (L. S.)
Judge.

Mr. Davis sums up for defendant. 20

Mr. Van Blarcom sum up for the State.

At one o'clock, P. M., the court takes a recess of one hour.

AFTER RECESS

Mr. Van Blarcom continues summing up.

The Court charged the jury as follows:

OSBORNE, J. 30

Gentlemen of the Jury: The indictment in this case is one for conspiracy, charging Simon Hahn, John Gregory and Francis Gregory with that offense.

There has been a severance and the defendant Francis Gregory alone is now on trial.

The first count of the indictment charges that on the 22nd day of December, 1913, the defendant, Francis Gregory, with John Gregory and Simon Hahn, conspired to cheat and defraud one Charles M. Kase of divers large sums of money, and after giving 40

Charge to Jury

to one Charles Peaker a portion thereof, to divide the remainder of said money among themselves.

The second count of the indictment is substantially the same as the first. As you will have the indictment before you in the jury-room, where you may examine it at length, I will not attempt to read it all to you, because it is rather a long instrument and any further exposition of its contents would serve no useful purposes at this time.

- 10 A conspiracy is a combination of persons to effect an unlawful object or a lawful object by unlawful means. A person cannot conspire with himself alone. There must be at least two or more persons involved, otherwise there can be no conspiracy. Our statute provides that where two or more persons combine, unite, confederate, conspire or bind themselves by agreement or other alliance to commit any crime or to cheat or defraud any person of any property by any means which are criminal, or which, if executed,
- 20 would amount to a cheat, or to obtain money by false pretenses, they shall, upon conviction, be deemed guilty of conspiracy, provided that some act in execution of such agreement be done to effect the object thereof by one or more of the parties to such agreement. No formal agreement is necessary. It is sufficient if the minds of the alleged conspirators meet understandingly to bring about an intelligent and deliberate agreement to do the act; nor is it necessary to prove the conspiracy by direct evidence. It may
- 30 be inferred from circumstances. In fact, from the very nature of the case proof of a conspiracy would generally be circumstantial, and it is seldom that any one act, taken by itself, can be seen as tending to prove a conspiracy, but when taken in connection with other acts, its tendency to prove the fact may be more clearly discerned. We may be satisfied from circumstances attending a series of criminal or wrongful acts that they result from concerted and associated action, although if each circumstance was
- 40 considered separately it might not show confedera-

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tion; circumstances that in themselves are inconclusive may, when linked together and taken as a whole, show that apparently isolated acts spring from a common object and have in view the promotion of a common purpose. In other words, if it be proved that the defendant pursued by his acts some unlawful object, with others, one performing one part and one another part, so as to complete it with a view to the attainment of that object, you will be justified in the conclusion that they were engaged in a conspiracy to effect that object, and all who, with the knowledge of the facts, concur therein and aid in execution thereof, are fellow conspirators, and the acts of one, pursuant to such conspiracy, becomes the act of all. 10

It is the function of the jury to determine what the parties intended and what their motives were from what they did and said in furtherance of the alleged conspiracy, as disclosed by the evidence before you. In other words, it is for you to say, after carefully weighing all the evidence before you, whether you are satisfied beyond a reasonable doubt that there was a unlawful conspiracy. 20

The question may arise in your minds whether, if Kase was guilty of having improper relations with Mrs. Peaker, for which offense he was subject to indictment, as well as a suit for damages, there was anything improper in the defendant securing any part of the money paid by Kase.

The Supreme Court, referring to such a situation, has said: 30

“If it be sound, then a person who violates a criminal law thereby subjects himself not only the punishment provided by statute for his transgression, but also renders himself liable to be blackmailed, with impunity, by every unscrupulous scoundrel who suspects his infraction of the law. It needs no argument to refute such a proposition. A conspiracy to extort money from a person who has committed a crime by working upon his fear of discovery is just as deserving 40

Charge to Jury

of punishment as one the purpose of which is to extort money by the same method from a person who has merely been indiscreet, and it is just as criminal an act."

I am not going to review the evidence at length. The case has not taken long to try and the evidence is undoubtedly fresh in your minds. Whether the indictment embraces every person who was a party to this alleged conspiracy or not we do not know. It
10 has been suggested that Mrs. Peaker was a party to the conspiracy. It may possibly occur to you that Peaker himself was co-operating in an effort to get money from Kase and using his wife's relations with Kase to that end as a basis for that. But neither Mrs. Peaker or Mr. Peaker have been named in the indictment and neither is now on trial. The only persons charged with this crime by the State in this
20 indictment are Hahn, the elder Gregory and this defendant. The State has elected to try only Francis Gregory, and you are therefore by your verdict only to pass upon his guilt or innocence, the other defendants named in the indictment not being now on trial. That does not mean that you should not consider whether the defendants were guilty of a conspiracy, because it follows that on a charge of this kind, although only one of the defendants is on trial, you must determine whether or not some one besides the defendant was guilty of conspiracy, because, as
30 I have already indicated, one cannot conspire with himself alone; therefore, if there was a conspiracy some one other than this single defendant must have been concerned in it. If you find there was an unlawful conspiracy to extort money from Kase, it makes no difference whether the defendant was a party to its original inception or not, if he knowingly participated in any of the several steps taken in furtherance of the conspiracy or knowingly participated in a division of the spoils (the division of the proceeds of the scheme being an overt act done in
40 execution of the illegal agreement and a part of it)

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he thereby adopts as his own the acts of the others, and is equally guilty. Guilty knowledge may be found where the circumstances brought to the mind of the accused would satisfy a man of ordinary intelligence and caution. If there was a conspiracy between any of the defendants named in the indictment was the defendant a party to it? You will of necessity have to meet that question, but in rendering your verdict it should be confined solely to the question of the guilt or innocence of the defendant now on trial. 10

Peaker and his wife had been separated. She became acquainted with Kase. Peaker says that he had reasons to suspect that her relations with Kase might not be all they should have been, because he had seen her coming from the building in which Kase had his office. According to Peaker's testimony he went to the detective agency run by John Gregory and Francis Gregory, his son, and asks them to shadow his wife to get evidence for a divorce, and the defendant Francis Gregory, according to his testimony, undertakes to, and does, perform that service. Simon Hahn, a police court magistrate of the City of Newark, and a practicing lawyer, now appears in the case, ostensibly to represent Peaker. Gregory reports to Hahn. Mrs. Peaker makes what is said to be a confession concerning her relations with Kase, with which Hahn goes to Kase, who pays Hahn \$25,000 to hush up the affair. A release is taken, which is in evidence, which appears to indicate that the payment was made to settle a suit for alienation. There is some evidence that a divorce proceeding was contemplated and that Kase might have been named corespondent. Whether the statement in the release that the payment was in settlement of an alienation suit was merely a subterfuge to cover the real situation we cannot tell. We have only Kase's statement as to whether anything but the alienation suit figured in the transaction between him and Hahn, except the testimony of Fletcher that he heard Hahn say to 40

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Kase that he wanted \$25,000 to save Kase from the public disgrace of a divorce suit. At any rate, there is no evidence that any suit was ever actually begun or that the payment was ever made to settle any pending proceeding, but Mr. Kase's statement is that the payment was made to hush up the whole proceeding, whatever form it might take.

Gregory denies any knowledge of or participation in the alleged conspiracy. He says his agency was employed by Peaker to shadow Peaker's wife; that Hahn was engaged to represent Peaker and told defendant he had settled with Kase for \$25,000. He says he supposed he was merely working for his ordinary compensation, without any special arrangement having been made for it or who was to pay it, until it reached the point where it appeared that there might be some adjustment made with Kase, when his agreement was with Hahn to split three ways; each was to have a third—that is, the Gregorys, Hahn and Peaker—of whatever might be secured from Kase. After Gregory followed Hahn to his office Hahn proceeds to divide not \$25,000 which he had received from Kase, but \$20,000, holding \$5,000 out on the Gregorys; in the division made the Gregorys receive for work which the defendant says was worth \$100 a sum aggregating \$9,000, of which the defendant got half and his father got half. Hahn keeps \$9,000, and they give Peaker \$2,000. You have heard Gregory's explanation of the situation; of his confidence in Judge Hahn; his statement to the effect that he gave the matter no particular thought because he felt that as long as Judge Hahn was doing it it was all right. He admits that it was a very large sum of money, out of all proportion to the service rendered; that he didn't have any right to do it; that if it belonged to anybody it belonged to Peaker; that it belonged to Peaker at least subject to the one-third agreement; but he says he took it because he had confidence in Judge Hahn. Whether the explanation meets the situation and satisfies you, is, of

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course, for you to determine, because it is the province of the jury to weigh and consider all of the evidence before it, giving it such credence as you think it entitled to.

About a year later Gregory finds there was \$5,000 paid that he had not participated in, so he goes back to Hahn, and they have some words; Hahn then says he is going to be honest with him and give him his portion of the \$5,000. Hahn explains he kept it out because there might be some trouble about it and he might have to retain counsel. Notwithstanding that his attention is called to the fact that there might be trouble about it defendant participates in a further division of the money obtained from Kase. The \$5,000 is split up and he takes his share of that. If Hahn settled with Kase to avoid the public disgrace incident to a suit for divorce, the extraction of this money from Kase for such a purpose was manifestly improper. 10

As the Peakers were separated and both apparently desirous of being divorced the question may arise in your minds whether, in this situation, there could have been any claim for a basis of alienation of affections, for, if not, the extraction of this money from Kase for such a purpose was improper. 20

If there was an unlawful agreement here it was not to be at an end until the money obtained from Kase had been divided and for the purpose of such division the agreement was kept alive and continued from its inception until the last division of the money. The division of the proceeds was an overt act in execution of one of the objects of the agreement and hence was a completion of the agreement of conspiracy; the offense is a continuing one. 30

All the testimony in the case you have for your consideration. You must apply to it the principles of law which I have indicated to you are applicable in a case of this character.

Perhaps no one incident, as I have already said, would indicate a conspiracy. The fact that Peaker 40

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went to engage the detective to watch his wife, would, standing alone, not indicate a conspiracy; the fact that Peaker retained a lawyer would not indicate a conspiracy; the fact that there was a settlement made with Kase in a suit involving the alienation of Peaker's wife's affections, standing alone, probably would not indicate a conspiracy; you may draw reasonable inferences from proven facts, and these and all the other circumstances surrounding the payment
10 of this large sum of money, and the participation of the defendant in its division, are circumstances which, taken together, may satisfy you beyond a reasonable doubt that a conspiracy has been established and that the defendant was a party to it.

In considering this testimony you will remember that you are the sole judges of the facts. You are to be governed in your deliberations by your recollection of the testimony and not by the recollection of the Court or counsel, and if the testimony conflicts, it is
20 your duty to reconcile it where it is possible to do so.

You have nothing to do whatever with the Grand Jury or the evidence before that body. You are to consider only the evidence before you here. The law you should take from the Court. The facts you take from the witnesses, relying upon your own recollection of their testimony and giving it such weight as you think it is entitled to.

The defendant in this case, as in every other criminal case, is entitled to the benefit of any reasonable
30 doubt arising on the evidence, and the burden is on the State to satisfy you beyond such doubt of the defendant's guilt.

Now, reasonable doubt is a term often used, probably well understood, but not easily defined. It is not a mere possible doubt, because everything relating to human affairs and depending on moral evidence is open to some possible or imaginary doubt. It is that state of the case, which, after the entire comparison and consideration of all the evidence,
40 leaves the minds of the jurors in that condition that

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they cannot say they feel an abiding conviction, to a moral certainty, of the truth of the charge. The evidence must establish the truth of the fact to a moral certainty—a certainty that convinces and directs the understanding, and satisfies the reason and judgment, of those who are bound to act conscientiously upon it. But if, after carefully considering all of the evidence, giving the accused the benefit of this reasonable doubt, you are led to the conclusion that he is guilty, you should so declare by your verdict. 10

I have been requested to charge that “Unless it is proved by the evidence beyond a reasonable doubt that the \$25,000 was gotten from Kase by virtue of a conspiracy or illegal agreement between Hahn and the defendants, and that such conspiracy was to cheat and defraud Kase, you should acquit the defendant.” I so charge you.

“If you believe from the evidence that the money was paid by Kase for the purpose of settling a suit proposed to be instituted against him for damages and was not extorted from him by means of threats made by Hahn against him, there should be a verdict of ‘Not Guilty.’” I so charge you. 20

“It is not illegal for a detective agency to undertake to render services for a contingent fee; there would be no illegality in the acts of this defendant if you find from the evidence that he undertook to render services in the case for a contingent fee; unless, in order to get that fee he became a party to a corrupt agreement to cheat and defraud Kase out of a large sum of money; if he did not become a party to such an agreement he would not be guilty of the conspiracy charged in the indictment, and there should be a verdict of ‘Not Guilty’ in those circumstances.” I so charge you. 30

“The declarations of Hahn, made in the absence of the defendant, cannot be considered as evidence against the defendant, unless you find from the evidence beyond a reasonable doubt that there was a conspiracy between Hahn and the defendant to 40

Charge to Jury

cheat and defraud Kase; if you do not find that the conspiracy has been established beyond a reasonable doubt, the declarations of Hahn made in the absence of the defendant should not be considered by you as establishing a conspiracy as to him." I so charge you.

10 "If you find from the evidence that the representations made by Hahn to Kase at the time the \$25,000 was procured were not false, but were true, and that the \$25,000 was not recovered as the result of a conspiracy in which the defendant figured, but in settlement of a *bona fide* lawsuit, or one about to be started, there should be an acquittal." I so charge you.

The other requests I refuse to charge except as I have already charged.

(The jury retires.)

20 *Mr. Davis.* I do not think your Honor has made any ruling as yet in the matter of excluding the evidence as to conversations given not in Gregory's presence. I presume we ought to have that on the record, that your Honor allowed it to stand.

30 *The Court.* The evidence will be permitted to remain. I think I covered that in my charge and I think it was covered by one of your requests specifically to the effect that that testimony would not be competent unless the jury first found there was a conspiracy.

Defendant's counsel prays an exception to this ruling of the Court, and the same is allowed, and signed and sealed accordingly.

H. V. OSBORNE, (L. S.)

Judge.

40 *Mr. Davis.* I respectfully ask for an exception in each instance where you Honor refused to charge as I requested in my written requests.

Requests to Charge

Exceptions allowed; let it be sealed, and it is signed and sealed accordingly.

H. V. OSBORNE, (L. S.)

Judge.

Mr. Davis. Also to the part of your Honor's charge—I think it consisted of three or four sentences—in which this expression occurred: "You must determine whether somebody else besides the defendant was guilty of a conspiracy." 10 That is not all, but that is merely a portion of the sentence.

The Court. It is in that part of my charge where I say that a man cannot conspire with himself alone.

Mr. Davis. Whatever your Honor said in that particular.

Exceptions allowed; let it be sealed, and it is signed and sealed accordingly.

H. V. OSBORNE, (L. S.)

20

Judge.

Mr. Davis. Also to that part of your Honor's charge in which you say that if he knowingly participated in a division of the spoils, and if he knowingly participated in any of the several steps taken in furtherance of the conspiracy, he thereby adopts as his own the acts of the others.

Exceptions allowed; let it be sealed, and it is signed and sealed accordingly.

H. V. OSBORNE, (L. S.)

30

Judge.

Mr. Davis. And also to that part of your Honor's charge in which you said that if there was an unlawful agreement it was not to be at an end until the last division of the money.

Exceptions allowed; let it be sealed, and it is signed and sealed accordingly.

H. V. OSBORNE, (L. S.)

Judge.

40

Requests to Charge

Mr. Davis. And also a general exception to your Honor's charge.

Exceptions allowed; let it be sealed, and it is signed and sealed accordingly.

H. V. OSBORNE, (L. S.)

Judge.

DEFENDANT'S REQUESTS

10

Defendant's counsel respectfully requests the Court to charge the jury as follows:

(1) Unless it is proved by the evidence beyond a reasonable doubt that the \$25,000 was gotten from Kase by virtue of a conspiracy or illegal agreement between Hahn and the defendants, and that such conspiracy was to cheat and defraud Kase, you should acquit the defendant.

(Charged.)

20

(2) If you believe from the evidence that the money was paid by Kase for the purpose of settling a suit proposed to be instituted against him for damages and was not extorted from him by means of threats made by Hahn against him, there should be a verdict of "Not Guilty."

(Charged.)

30

(3) If you find from the evidence that the money was extorted from Kase by threats of Hahn, but that such threats were made by Hahn acting alone, and not because of any corrupt agreement between the defendant and Hahn, as set out in the indictment, there should be a verdict for the defendant.

(Denied.)

(4) If you find from the evidence that up to the time that the money was gotten from Kase by Hahn, there was no corrupt agreement between Hahn and the defendant whereby they had conspired to cheat and defraud Kase of the money, there should be a
40 verdict of "Not Guilty" rendered in favor of the

Requests to Charge

defendant, even though they were given by Hahn, the sums of money stated in the indictment after he had received the money from Kase.

(Denied.)

(5) If you find from the evidence that Hahn secured this money from Kase by the threats set out in the indictment, but that in so doing, there was no proof of a corrupt agreement with the defendant, and that he knew nothing of the steps that Hahn as attorney for Peaker intended to take in securing money from Kase, nor the amount that he intended to ask, until after the amount had been agreed upon between him and Kase, the defendant would be entitled to be acquitted, even though you believe that the sum of money received from Hahn was greatly in excess of what his services were worth as a detective in the case. 10

(Denied.)

(6) It is not illegal for a detective agency to undertake to render services for a contingent fee; there would be no illegality in the acts of this defendant, if you find from the evidence that he undertook to render services in the case for a contingent fee; unless in order to get that fee, he became a party to a corrupt agreement to cheat and defraud Kase out of a large sum of money; if he had not become a party to such a agreement, he would not be guilty of the conspiracy charged in the indictment, and there should be a verdict of "Not Guilty" in those circumstances. 30

(Charged.)

(7) Before you can convict the defendant all of the allegations of the indictment must be proved beyond a reasonable doubt, or at least sufficient of such allegations to constitute a corrupt agreement to cheat and defraud; if the proof fails in any essential particular as to the defendant there should be a verdict of "Not Guilty."

(Denied.)

40

Requests to Charge

(8) Even though you decide that the proof shows beyond a reasonable doubt that the defendant was guilty of a conspiracy charged in the indictment, there should nevertheless be a verdict of not guilty rendered in his favor, if you find that the common object of the conspiracy was consummated more than two years before the indictment was found, which would be two years before April, 1916.

(Denied.)

10

(9) If you find from the evidence that the full common object of the alleged conspiracy was cheating and defrauding Kase of \$25,000 or any other sum, and that such full common object was consummated when the money was secured from him on December 30, 1913, there should be a verdict of "Not Guilty" rendered in favor of the defendant as under those circumstances, the offense would be barred by the statute of limitations.

(Denied.)

20

(10) The only matter alleged in the indictment as having occurred in January, 1915, was the payment of the money by Hahn to the two defendants and Peaker; if you find from the evidence that the alleged conspiracy of cheating and defrauding Kase was fully consummated on the date next prior to the last date as mentioned in the indictment, to wit, on or about December 30, 1913, there should be a verdict of "Not Guilty" rendered by you in favor of the defendant.

(Denied.)

30

(11) If you find from the evidence that the money paid by Hahn in January, 1915, was paid by him as hush money to buy the silence of the defendant and Peaker, or of the defendant alone, and was not done in execution of a conspiracy to cheat and defraud Kase, or to effect the object thereof, you should find a verdict of "Not Guilty" for the defendant.

40

(Denied.)

Requests to Charge

(12) The declarations of Hahn, made in the absence of the defendant cannot be considered as evidence against the defendant unless you find from the evidence beyond a reasonable doubt that there was a conspiracy between Hahn and the defendant to cheat and defraud Kase; if you do not find that the conspiracy has been established beyond a reasonable doubt, the declarations of Hahn made in the absence of the defendant, should not be considered by you as establishing a conspiracy as to him. 10

(Charged.)

(13) The division of the money, if it took place after the common object of the alleged conspiracy had been attained, did not have the effect of extending the duration of the alleged conspiracy, and if the common object of the alleged conspiracy, had been consummated more than two years before the finding of the indictment, there should be a verdict of acquittal for the defendant. 20

(Denied.)

(14) If you find from the evidence that the representations made by Hahn to Kase at the time the \$25,000 was procured, were not false but were true, and that the \$25,000 was not recovered as the result of a conspiracy in which the defendant figured, but in settlement of a *bona fide* lawsuit or one about to started, there should be an acquittal.

(Charged.)

30

40

Exhibits

EXHIBITS

EXHIBIT S-1, MARCH 6, 1918, W. R.

Newark Dec 25 1913

Dear Bertha this is certainly A swell Christmas Day, but it is just as good to me and I suppose you also if you are over the hot stove which you are I believes Well Sweet I had a talk with my Friend A
 10 Lawyer & he said if you would come down to Newark Monday afternoon he would fix it up for me, but mind you this is to be strictly private only the ones concerned in it must know any thing about it as He would not do this for any body else under any circumstances, so I told him I would guarantee him any thing contracted between you and I as far as we were concerned would be absolutely safe, so after I get straight with you I will like it as soon as I get
 20 straight but until you are married again after we are Divorced I want you to keep in touch with me if you feel so disposed for I will never wish you any ill will and hope the same from you so if you can meet me monday after noon let me know or if not let me know when it will be convenient for you and I will meet you at the Central Depot on Broad st then there will be no danger of the Boss seeing us to gether therefore it will not hurt your standing with Him, answer sure by Saturday so I can make the appointment with the Lawyer, it will not take us
 30 over 1/2 hour so you see we can make it short. all at Present I remain the same old Cranky Hubby

Chas Peaker with love Happy Christmas to A
 Merry New Year Get me Steve

Exhibits

EXHIBIT S-2

State of New Jersey)
 County of Essex) ss.

Bertha Louisa Peaker, being duly sworn, according to law, on her oath, deposes and says: I am 27 years of age and reside at No. 19 Hickory Drive, Maplewood, N. J., where I am employed as maid for Mr. and Mrs. E. S. Carr. I have been there since May 5th, 1913. 10

I am the wife of Charles S. Peaker. We were married Feb. 18, 1908, by Rev. F. F. Smith in Newark, N. J.

For the past eight months I have been living apart from my husband. I left him because I did not want him any longer. I wanted to make my own living. My husband always treated me properly and I left him of my own volition. 20

I did not worry about making my own living because just before a month before I left my husband I met one Charles M. Kase of No. 772 Broad St., Newark, N. J., through his Secretary, Albert Fletcher.

Fletcher took me to Kase's Office about April, 1913, and introduced me to Mr. Kase. Mr. Kase told me he liked me and if I would come in and see him every week he would make it all right for me. He kissed me and hugged me and gave me Five Dollars. I wouldn't let him do anything else. 30

I went back a week later and he did the same thing. I got five dollars again.

The following week I went to his office again and after a lot of hugging and kissing he had intercourse with me. I got \$5.00 from him. I went there every —after that on Thursdays and had intercourse with him. I always got \$5.00 from him. He would always be alone in his office. His Secretary, Mr. Fletcher, would always leave the room. 40

Exhibits

I would never have told my husband about this, but one Thursday in August my husband met me coming out of the building at No. 772 Broad St. and wanted to know what I was doing there. I told him none of his business. He insisted on knowing and then I told him I did not want to live with him any longer, that Mr. Kase was my friend, Mr. Kase loved me and was supporting me.

Mr. Kase has given presents of boxes of candy. 10 He gave me a present of a purse in June, 1913. He said: "I have a present for you but you must let me put it on." He did. It was a purse that fits around the leg. He put it on my right leg. I would never have left my husband had it not been for the way Mr. Kase treated me. He was so kind and gentle and he loved me so much, better, I think than my husband did.

Yes it is true my husband has always begged me to return to him and go housekeeping again but I 20 refused. The day before Xmas. (December 24, 1913) Mr. Kase gave me \$10.00. He said: "Here's \$5.00 extra for Xmas.

Last November I got pregnant and I went to Mr. Kase and told him. He said: "Don't worry, 'I'll see you through." The next day Fletcher gave me \$50.00. He met me in front of the building, No. 772 Broad St. and said: "Mr. Kase told me to give you this \$50.00. You had better see a doctor and get fixed up." I came around all right, that is, I had my 30 menstruation two weeks later.

I am making this affidavit of my own free will and without any coercion. I don't care for my husband any longer and I love Mr. Kase and I know Mr. Kase loves me and I am going to stick to him to the end.

BERTHA LOUISE PEAKER.

Sworn and subscribed before me
this 29th day of December, 1913.

SIMON HAHN,
Master of Chancery
of New Jersey.

Exhibits

EXHIBIT S-3, MARCH 6, 1918, W. R.
SIMON HAHN No. 3842
Newark, N. J., January 4, 1915

Pay to the
order of Charles S. Peaker - - - \$2500.00
Two thousand five hundred - - - 00/100 Dollars
To
The FEDERAL TRUST COMPANY,
of Newark, N. J.
SIMON HAHN 10

ENDORSED
CHARLES S. PEAKER

EXHIBIT S-4

Newark, N. J.
January 4, 1915

Received of Simon Hahn Two thousand five hundred
Dollars—being proceeds of Settlement of my claim
against Chas. M. Kase. 20

I hereby acknowledge receipt of the sum of Two
thousand Dollars heretofore paid to me by Simon
Hahn, making a total of Four thousand five hundred
Dollars, which I have received as my share of the
Settlement of Twenty five thousand Dollars—which
was paid by said Chas M. Kase in settlement.

CHAS S. PEAKER

EXHIBIT S-5

No. 246— Newark, N. J., Dec—30—1913—
FIDELITY TRUST COMPANY 30

Pay
to the
order of Cash, - - - - - \$20,000,00
Twenty Thousand - - - - - DOLLARS
CHARLES M. KASE,
SPECIAL

ENDORSED
Bills all taken by S. Hahn.
CHARLES M. KASE

SPECIAL 40

Exhibits

EXHIBIT S-6, MARCH 6, 1918

No. 3092 Newark, N. J., Dec.—30—1913—
 Charles M. Kase,
 Dec. 30, 1913 UNION NATIONAL BANK
 Newark, N. J. of Newark, N. J.
 Pay to the order of CASH - - - - -
 Five Thousand - - - - - Dollars
 \$5000.00/"= CHARLES M. KASE.

10

CHARLES M. KASE
 ENDORSED
 SIMON HAHN

EXHIBIT S-7

Transcript of Court stenographer's notes of testimony of Francis Gregory at previous trial.

20

EXHIBIT S-8, MARCH 6, 1918

SIMON HAHN No. 3847
 Newark, N. J., January 5th, 1915.
 Pay to the order of
 JOHN GREGORY AND FRANCIS J. GREGORY \$1250.00
 One thousand two hundred fifty 00/100 - Dollars
 To
 The FEDERAL TRUST COMPANY,
 SIMON HAHN
 of Newark, N. J.

30

ENDORSED
 JOHN GREGORY
 FRANCIS J. GREGORY
 MARY A. GREGORY

40

Exhibits

EXHIBIT D-1

To all to whom these Presents shall come or may concern, GREETING :

Know Ye, That I, CHARLES S. PEAKER, of the City of Newark, County of Essex, and State of New Jersey, for and in consideration of the sum of *One Dollar and other valuable consideration*, lawful Money of the United States of America, to me in hand paid 10
by CHARLES M. KASE, of the City of Newark, Essex County, New Jersey, have remised, released and forever discharged, and by these Presents do, for myself my heirs, executors and administrators, remise, release and forever discharge the said CHARLES M. KASE, his heirs, executors and administrators of and from all and all manner of action and actions, cause and causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, 20
promises, variances, trespasses, damages, judgments, extents, executions, claims and demands whatsoever, in law or in equity, which against the said CHARLES M. KASE, I ever had, now have or which my heirs, executors or administrators, hereafter can, shall, or may have, for, upon or by reason of any matter, cause or thing whatsoever, from the beginning of the world to the day of the date of these Presents. And in particular from all claims I have against the said Charles M. Kase on account of his alienating the affections of my wife Bertie Louise Peaker, and his having committed illicit intercourse with her. 30

IN WITNESS WHEREOF, I have hereunto set my hand and seal the Thirtieth day of December in the year of Our Lord One Thousand Nine Hundred and thirteen.

CHARLES SUMMIT PEAKER (SEAL)

Signed, Sealed and Delivered
in the presence of
SIMON HAHN

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Exhibits

STATE OF NEW JERSEY, }
 COUNTY OF ESSEX. } ss.

BE IT REMEMBERED, That on this thirtieth day of
 December in the year of Our Lord One Thousand
 Nine Hundred and Thirteen, before me a subscriber,
 a Master in Chancery of New Jersey, personally
 appeared CHARLES S. PEAKER, who, I am satisfied,
 10 is the grantor in the within Release named; and I
 having first made known to him the contents thereof,
 he acknowledged that he signed, sealed and delivered
 the same as his voluntary act and deed, for the uses
 and purposes therein expressed.

SIMON HAHN,

Master in Chancery of New Jersey.

INDORSEMENT

20

RELEASE

From

CHARLES S. PEAKER

to

CHARLES M. KASE

Dated Dec. 30th, 1913

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Stenographer's Certificate

STATE OF NEW JERSEY,

VS.

FRANCIS GREGORY

I, Walter W. Ressler, one of the stenographers of the Essex County Courts, do hereby certify that the foregoing transcript contains the entire record of the proceedings and testimony taken by me at the trial of the case of State of New Jersey vs. Francis Gregory, on indictment No. 100, for conspiracy, which trial was held before the Honorable Harry V. Osborne, Presiding Judge of the Essex Oyer and Terminer and Court of General Quarter Sessions in and for the County of Essex, and a jury on March 6th and 7th, 1918, at Newark, New Jersey. 10

WALTER W. RESSLER.

20

30

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Court's Certificate

STATE OF NEW JERSEY, }
COUNTY OF ESSEX } ss.

10 I, Harry V. Osborne, Judge of the Court of Quarter Sessions in and for Essex County, New Jersey, do hereby certify and return to the Supreme Court of Judicature of the State of New Jersey, the Judgment Record and proceedings together with all things touching and concerning the same, together with the entire proceedings had at the trial and the entire record of the case as by the within Writ to me directed, I am commanded.

In Witness Whereof, I have hereunto set my hand and affixed the seal of said Court [SEAL] at Newark, N. J., this 10th day of April, A. D. 1918.

H. V. OSBORNE,

*Presiding Judge of the Court
of Quarter Sessions, Essex
County, N. J.*

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Assignment of Errors

NEW JERSEY SUPREME COURT

THE STATE OF NEW JERSEY, <i>Defendant in Error,</i> VS. FRANCIS GREGORY, <i>Plaintiff in Error.</i>	}	<i>On Writ of Error. Assignment of Errors.</i>	10
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Afterwards, to wit, etc., in the Supreme Court of Judicature of the State of New Jersey, comes the said Francis Gregory; by his attorneys, and says; that in the record and proceedings aforesaid and also in the giving of the verdict and judgment aforesaid, there is manifest error in this, to wit:

20

1. In that there is no evidence whatever to sustain the crime charged in the indictment.

2. Before the trial of the said indictment was begun, motion on behalf of the plaintiff in error was made that the indictment in the case be quashed for the following reasons:

If any offense is set out in said indictment it was committed two years before the indictment was found and is barred by the Statute of Limitations; and secondly the indictment does not set out any offense committed within two years of the finding of the indictment; which motion the Court denied, and that the Court should have granted said motion.

30

3. If any offense is set out in the indictment it was committed two years before the indictment was found and is barred by the Statute of Limitations.

4. The indictment does not set out any offense committed within two years before finding of the indictment.

40

Assignment of Errors

5. The Court allowed evidence of conversations with persons not in the presence of the defendant.

6. Upon the trial of the said cause defendant's attorney asked the witness Kase, the question, "And this money and this property came from him, didn't it?" to which the Prosecutor objected and the Court sustained said objection.

7. Upon the trial of the said cause defendant's counsel asked the witness Kase, the following question, "And up to the time of his death it wasn't yours—it was his." to which the Prosecutor objected and the Court sustained his objection.

8. Upon the trial of the said cause the Court permitted to be read and offered in evidence in said cause, the testimony given by the defendant, Francis Gregory, in a previous trial of said indictment, on which previous trial the jury disagreed; and to the introduction of which defendant's counsel objected and which objection was overruled.

9. On the close of the trial and after both sides had rested, the defendant's counsel requested the Court to direct a verdict for the defendant on the following grounds:

First: The evidence discloses an offense if committed at all, which was committed more than two years before the indictment was found and is barred by the Statute of Limitations.

Second. The evidence produced does not charge or prove any conspiracy committed within two years before the indictment was found.

Third. The evidence does not show any offense committed by the defendant; which motion or request was denied.

10. Upon the trial of said cause, the Court before whom it was tried, after the evidence was closed, was requested to charge the said jury as follows:

"If you find from the evidence that the money was extorted from Kase by threats of Hahn, but that such threats were made by Hahn acting alone, and not because of any corrupt agreement between the

Assignment of Errors

defendant and Hahn, as set out in the indictment, there should be a verdict for the defendant;" which request the Court denied.

11. Upon the trial of the said cause, the Court before whom it was tried, after the evidence was closed, was requested to charge the said jury as follows:—

"If you find from the evidence that up to the time that the money was gotten from Kase by Hahn, there was no corrupt agreement between Hahn and the defendant whereby they had conspired to cheat and defraud Kase of the money, there should be a verdict of 'Not Guilty' rendered in favor of the defendant, even though they were given by Hahn, the sums of money stated in the indictment after he had received the money from Kase;" which request the Court denied. 10

12. Upon the trial of the said cause, the Court before whom it was tried, after the evidence was closed, was requested to charge the said jury as follows:— 20

"If you find from the evidence that Hahn secured this money from Kase by the threats set out in the indictment, but that in so doing, there was no proof of a corrupt agreement with the defendant, and that he knew nothing of the steps that Hahn as attorney for Peaker intended to take in securing money from Kase, nor the amount that he intended to ask, until after the amount had been agreed upon between him and Kase, the defendant would be entitled to be acquitted, even though you believe that the sum of money received from Hahn was greatly in excess of what his services were worth as a detective in the case;" which request the Court denied. 30

13. Upon the trial of the said cause, the Court before whom it was tried, after the evidence was closed, was requested to charge the jury as follows:—

"Before you can convict the defendant all of the allegations of the indictment must be proved beyond 40

Assignment of Errors

a reasonable doubt, or at least sufficient of such allegations to constitute a corrupt agreement to cheat and defraud; if the proof fails in any essential particular as to the defendant there should be a verdict of 'Not Guilty,' which request the Court denied.

14. Upon the trial of the said cause, the Court before whom it was tried, after the evidence was closed, was requested to charge the jury as follows:—

10 “Even though you decide that the proof shows beyond a reasonable doubt that the defendant was guilty of a conspiracy charged in the indictment, there should nevertheless be a verdict of Not Guilty rendered in his favor, if you find that the common object of the conspiracy was consummated more than two years before the indictment was found, which would be two years before April, 1916;” which request the Court denied.

15. Upon the trial of the said cause, the Court before whom it was tried, after the evidence was closed, was requested to charge the said jury as follows:—

30 “If you find from the evidence that the full common object of the alleged conspiracy was cheating and defrauding Kase of \$25,000 or any other sum, and that such full common object was consummated when the money was secured from him on December 30, 1913, there should be a verdict of 'Not Guilty' rendered in favor of the defendant, as under those circumstances, the offense would be barred by
30 the Statute of Limitations;” which request the Court denied.

16. Upon the trial of the said cause, the Court before whom it was tried, after the evidence was closed, was requested to charge the jury as follows:—

40 “The only matter alleged in the indictment as having occurred in January, 1915, was the payment of the money by Hahn to the two defendants and Peaker; if you find from the evidence that the alleged conspiracy of cheating and defrauding Kase was fully consummated on the date prior to the last

Assignment of Errors

date as mentioned in the indictment, to wit, on or about December 30, 1913, there should be a verdict of 'Not Guilty' rendered by you in favor of the defendant;" which request the Court denied.

17. Upon the trial of the said cause, the Court before whom it was tried, after the evidence was closed, was requested to charge the jury as follows:—

"The division of the money, if it took place after the common object of the alleged conspiracy had been attained, did not have the effect of extending the duration of the alleged conspiracy, and if the common object of the alleged conspiracy had been consummated more than two years before the finding of the indictment, there should be a verdict of acquittal for the defendant;" which request the Court denied. 10

18. Upon the trial of the said cause, the Court before whom it was tried, after the evidence was closed, charged and instructed the said jury, among other things, as follows:— 20

"The State has elected to try only Francis Gregory, and you are therefore by your verdict only to pass upon his guilt or innocence, the other defendants named in the indictment not being now on trial. That does not mean that you should not consider whether the defendants were guilty of a conspiracy, because it follows that on a charge of this kind, although only one of the defendants is on trial, you must determine whether or not some one besides the defendant was guilty of conspiracy, because, as I have already indicated, one cannot conspire with himself alone; therefore, if there was a conspiracy some one other than this single defendant must have been concerned in it." 30

19. Upon the trial of the said cause, the Court before whom it was tried, after the evidence was closed, charged and instructed the said jury, among other things, as follows:—

"If you find there was an unlawful conspiracy to 40

Assignment of Errors

extort money from Kase, it makes no difference whether the defendant was a party to its original inception or not, if he knowingly participated in any of the several steps taken in furtherance of the conspiracy or knowingly participated in a division of the spoils (the division of the proceeds of the scheme being an overt act done in execution of the illegal agreement and a part of it) he thereby adopts as his own the acts of the others, and is equally guilty."

10 20. Because the Court erroneously refused to charge the jury as follows, as requested by defendant's attorney:—

"If you find from the evidence that the money paid by Hahn in January, 1915, was paid by him as hush money to buy the silence of the defendant and Peaker, or of the defendant alone, and was not done in execution of a conspiracy to cheat and defraud Kase, or to effect the object thereof, you should find a verdict of 'Not Guilty' for the defendant."

20 21. The Court should have quashed the indictment upon the motion of the defendant's attorney.

22. The Court should have directed a verdict for the defendant on motion of the defendant's attorney.

And the plaintiff in error, Francis Gregory, prays that the judgment aforesaid be reversed and altogether held for nothing, and that he may be restored to all things he has lost by reason of the said judgment.

HOWE & DAVIS,

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Attorneys for Plaintiff in Error.

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Specification of Causes

NEW JERSEY SUPREME COURT

THE STATE OF NEW JERSEY,
Defendant in Error, On Writ
 VS. *of Error.*
 FRANCIS GREGORY, *Specification* 10
Plaintiff in Error. of Causes

Francis Gregory, the plaintiff in error, by Howe & Davis, his attorneys, hereby specifies the causes in the record relied upon for relief or reversal in the aforesaid cause as follows:—

1. Because there was no evidence to sustain a verdict of guilty.
2. Because there was no evidence to sustain the offense charged in the indictment. 20
3. Because there was no evidence that the defendant conspired with any one or more of the other defendants named in said indictment to cheat and defraud one Charles M. Kase of divers large sums of money.
4. Because the Court erroneously refused to direct a verdict of Not Guilty.
5. Because the Court erroneously refused to quash the indictment.
6. Because any offense set out in the indictment was committed two years before the indictment was found and is barred by the Statute of Limitations. 30
7. Because the indictment does not set out any offense committed within two years before the finding of the indictment.
8. Because the Court allowed evidence of conversations with persons not in the presence of the defendant.
9. Because the Court erroneously refused to permit to be answered the following question asked by 40

Specification of Causes

defendant's attorney of the witness, Kase, to wit:—
 "And this money and this property came from him,
 didn't it?"

10. Because the Court erroneously refused to permit to be answered the following question asked by the defendant's attorney of the witness, Kase, to wit:— "And up to the time of his death it wasn't yours—it was his."

11. Because on the trial of the said cause the
 10 Court permitted to be read and offered in evidence in said cause, the testimony given by the defendant, Francis Gregory, in a previous trial of said indictment, on which previous trial the jury disagreed.

12. Because the Court erroneously refused to charge the jury as requested by defendant's attorney, as follows:—

"If you find from the evidence that the money was
 20 extorted from Kase by threats of Hahn, but that such threats were made by Hahn acting alone, and not because of any corrupt agreement between the defendant and Hahn, as set out in the indictment, there should be a verdict for the defendant."

13. Because the Court erroneously refused to charge the jury as requested by defendant's attorneys, as follows:—

"If you find from the evidence that up to the
 30 time that the money was gotten from Kase by Hahn, there was no corrupt agreement between Hahn and the defendant whereby they had conspired to cheat and defraud Kase of the money, there should be a verdict of 'Not Guilty' rendered in favor of the defendant, even though they were given by Hahn, the sums of money stated in the indictment after he had received the money from Kase."

14. Because the Court erroneously refused to charge the jury as requested by defendant's attorneys, as follows:—

"If you find from the evidence that Hahn secured
 40 this money from Kase by the threats set out in the indictment, but that in so doing, there was no proof

Specification of Causes

of a corrupt agreement with the defendant, and that he knew nothing of the steps that Hahn as attorney for Peaker intended to take in securing money from Kase, nor the amount that he intended to ask, until after the amount had been agreed upon between him and Kase, the defendant would be entitled to be acquitted, even though you believe that the sum of money received from Hahn was greatly in excess of what his services were worth as a detective in the case." 10

15. Because the Court erroneously refused to charge the jury as requested by defendant's attorney, as follows:—

"Before you can convict the defendant all of the allegations of the indictment must be proved beyond a reasonable doubt, or at least sufficient of such allegations to constitute a corrupt agreement to cheat and defraud; if the proof fails in any essential particular as to the defendant there should be a verdict of 'Not Guilty'." 20

16. Because the Court erroneously refused to charge the jury as requested by defendant's attorney, as follows:—

"Even though you decide that the proof shows beyond a reasonable doubt that the defendant was guilty of a conspiracy charged in the indictment, there should nevertheless be a verdict of Not Guilty rendered in his favor, if you find that the common object of the conspiracy was consummated more than two years before the indictment was found, which would be two years before April, 1916." 30

17. Because the Court erroneously refused to charge the jury as requested by defendant's attorney, as follows:—

"If you find from the evidence that the full common object of the alleged conspiracy was cheating and defrauding Kase of \$25,000 or any other sum, and that such full common object was consummated when the money was secured from him on December 30, 1913, there should be a verdict of 'Not Guilty' 40

Specification of Causes

rendered in favor of the defendant, as under those circumstances, the offense would be barred by the Statute of Limitations."

18. Because the Court erroneously refused to charge the jury as requested by defendant's attorney, as follows:—

10 "The only matter alleged in the indictment as having occurred in January, 1915, was the payment of the money by Hahn to the defendants and Peaker; if you find from the evidence that the alleged conspiracy of cheating and defrauding Kase was fully consummated on the date next prior to the last date as mentioned in the indictment, to wit, on or about December 30, 1913, there should be a verdict of 'Not Guilty' rendered by you in favor of the defendant."

19. Because the Court erroneously refused to charge the jury as requested by defendant's attorney, as follows:—

20 "The division of the money, if it took place after the common object of the alleged conspiracy had been attained, did not have the effect of extending the duration of the alleged conspiracy, and if the common object of the alleged conspiracy had been consummated more than two years before the finding of the indictment, there should be a verdict of acquittal for the defendant."

20. Because the Court erroneously refused to charge the jury as follows, as requested by defendant's attorney:—

30 "If you find from the evidence that the money paid by Hahn in January, 1915, was paid by him as hush money to buy the silence of the defendant and Peaker, or of the defendant alone, and was not done in execution of a conspiracy to cheat and defraud Kase, or to effect the object thereof, you should find a verdict of 'Not Guilty' for the defendant."

21. Because the Court erroneously charged the jury as follows:—

40 "The State has elected to try only Francis Greg-

Specification of Causes

ory, and you are therefore by your verdict only to pass upon his guilt or innocence, the other defendants named in the indictment not being now on trial. That does not mean that you should not consider whether the defendants were guilty of a conspiracy, because it follows that on a charge of this kind, although only one of the defendants is on trial, you must determine whether or not some one besides the defendant was guilty of conspiracy, because, as I have already indicated, one cannot conspire with himself alone; therefore, if there was a conspiracy some one other than this single defendant must have been concerned in it." 10

22. Because the Court erroneously charged the jury, as follows:—

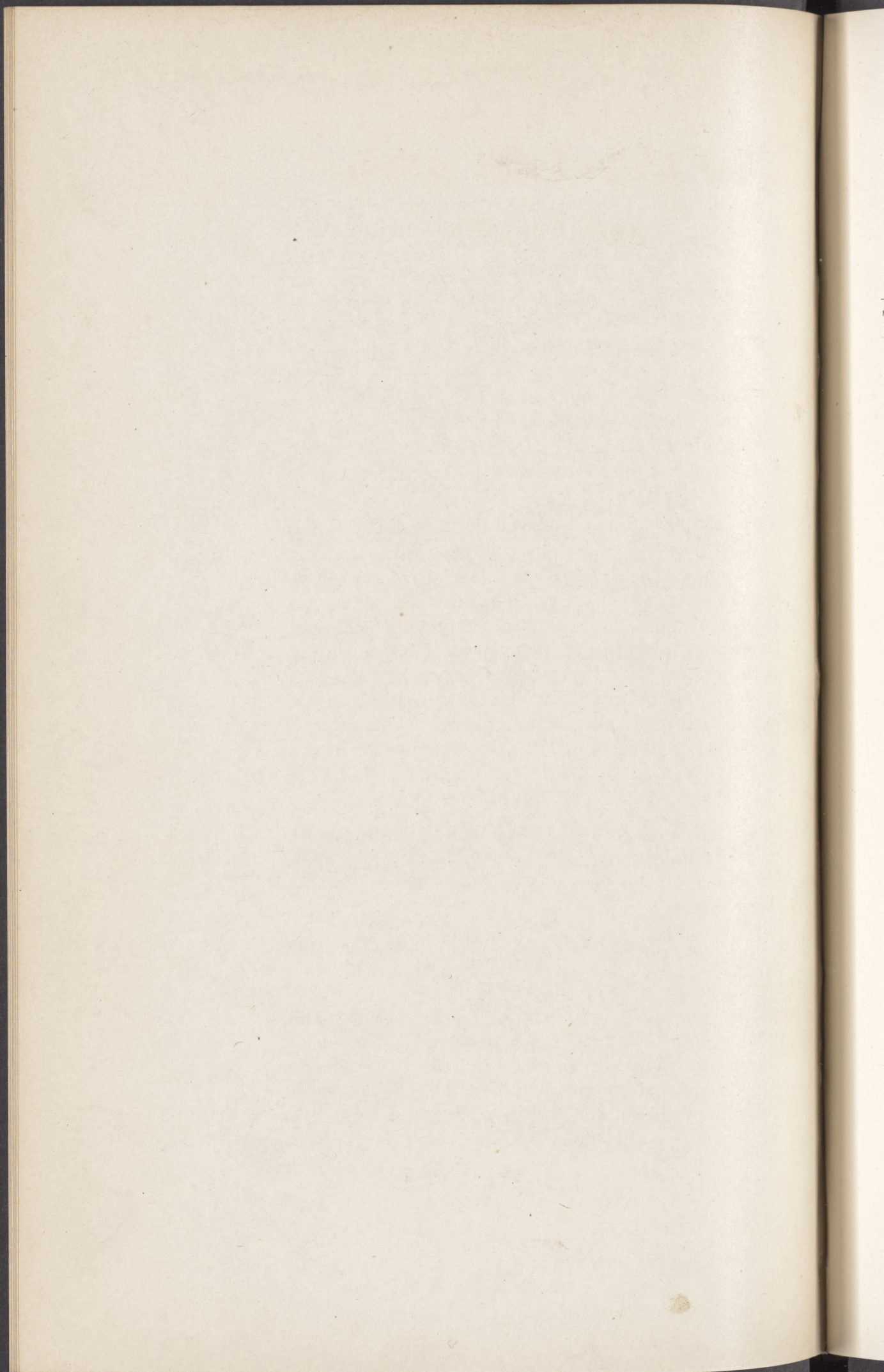
"If you find there was an unlawful conspiracy to extort money from Kase, it makes no difference whether the defendant was a party to its original inception or not, if he knowingly participated in any of the several steps taken in furtherance of the conspiracy or knowingly participated in a division of the spoils (the division of the proceeds of the scheme being an overt act done in execution of the illegal agreement and a part of it) he thereby adopts as his own the acts of the others, and is equally guilty." 20

HOWE & DAVIS,

Attorneys for Plaintiff-in-Error.

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New Jersey Court of Errors and Appeals

THE STATE OF NEW JERSEY,
Defendant in Error,

VS.

FRANCIS GREGORY,
Plaintiff in Error.

*On Writ of Error
Assignment of
Errors.*

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Afterwards, that is to say, on the return day of the said Writ of Error in the Court of Errors and Appeals in the last resort in all causes in the State of New Jersey, comes the said Francis Gregory, by his attorneys, and says: That in the record and proceedings aforesaid, and also in the matters recited and contained in the said bill of exceptions and also in the giving of the verdict and judgment aforesaid, there is manifest error in this, to wit:

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1. In that there is no evidence whatever to sustain the crime charged in the indictment.

2. Because the Supreme Court sustained the Trial Court in refusing to grant the motion made before the trial of the indictment on behalf of the plaintiff in error, to quash the indictment for the following reasons:

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If any offense is set out in said indictment it was committed two years before the indictment was found and is barred by the Statute of Limitations; and secondly, the indictment does not set out any offense committed within two years of the finding of the indictment; which motion the Trial Court denied and the Supreme Court sustained such denial, while the motion should have been granted and the Supreme Court should have reversed the Trial Court.

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3. If any offense is set out in the indictment it was committed two years before the indictment was found and is barred by the Statutes of Limitation.

4. The indictment does not set out any offense committed within two years before finding of the indictment.

5. Because the Supreme Court sustained the Trial Court in allowing evidence of conversations with persons not in the presence of the defendant.

10 6. Because the Supreme Court sustained the Trial Court as to the following:

Upon the trial of the said cause defendant's attorney asked the witness Kase, the question, "And this money and this property came from him, didn't it?" to which the Prosecutor objected and the Court sustained said objection.

7. Because the Supreme Court sustained the Trial Court as to the following:

20 Upon the trial of the said cause defendant's counsel asked the witness Kase, the following question, "And up to the time of his death it wasn't yours—it was his," to which the Prosecutor objected and the Court sustained his objection.

8. Because the Supreme Court sustained the Trial Court as to the following:

30 Upon the trial of the said cause the Court permitted to be read and offered in evidence in said cause, the testimony given by the defendant, Francis Gregory, in a previous trial of said indictment, on which previous trial the jury disagreed; and to the introduction of which defendant's counsel objected and which objection was overruled.

9. Because the Supreme Court sustained the Trial Court as to the following:

40 On the close of the trial and after both sides had rested, the defendant's counsel requested the Court to direct a verdict for the defendant on the following grounds:

First. The evidence discloses an offense if committed at all, which was committed more than two years before the indictment was found and is barred by the Statute of Limitations.

Second. The evidence produced does not charge or prove any conspiracy committed within two years before the indictment was found.

Third. The evidence does not show any offense committed by the defendant; which motion or request was denied.

10. Because the Supreme Court sustained the Trial Court in refusing the request of counsel of the plaintiff in error to charge the jury as follows: 10

"If you find from the evidence that the money was extorted from Kase by threats of Hahn, but that such threats were made by Hahn acting alone, and not because of any corrupt agreement between defendant and Hahn, as set out in the indictment, there should be a verdict for the defendant."

11. Because the Supreme Court sustained the Trial Court in refusing the request of counsel of the plaintiff in error to charge the jury as follows: 20

"If you find from the evidence that up to the time that the money was gotten from Kase by Hahn, there was no corrupt agreement between Hahn and the defendant whereby they had conspired to cheat and defraud Kase of the money, there should be a verdict of 'Not Guilty' rendered in favor of the defendant, even though they were given by Hahn, the sums of money stated in the indictment after he had received the money from Kase." 30

12. Because the Supreme Court sustained the Trial Court in refusing the request of counsel of the plaintiff in error to charge the jury as follows:

"If you find from the evidence that Hahn secured this money from Kase by the threats set out in the indictment, but that in so doing, there was no proof of a corrupt agreement with the defendant, and that he knew nothing of the steps that Hahn as attorney for Peaker intended to take in securing money from Kase, nor the amount that he intended to ask, until 40

after the amount had been agreed upon between him and Kase, the defendant would be entitled to be acquitted, even though you believe that the sum of money received from Hahn was greatly in excess of what his services were worth as a detective in the case."

13. Because the Supreme Court sustained the Trial Court in refusing the request of counsel of the plaintiff in error to charge the jury as follows:

10 "Before you can convict the defendant all of the allegations of the indictment must be proved beyond a reasonable doubt, or at least sufficient of such allegations to constitute a corrupt agreement to cheat and defraud; if the proof fails in any essential particular as to the defendant there should be a verdict of "Not Guilty'."

14. Because the Supreme Court sustained the Trial Court in refusing the request of counsel of the plaintiff in error to charge the jury as follows:

20 "Even though you decide that the proof shows beyond a reasonable doubt that the defendant was guilty of a conspiracy charged in the indictment there should nevertheless be a verdict of 'Not Guilty' rendered in his favor, if you find that the common object of the conspiracy was consummated more than two years before the indictment was found, which would be two years before April, 1916."

15. Because the Supreme Court sustained the Trial Court in refusing the request of counsel of the plaintiff in error to charge the jury as follows:

30 "If you find from the evidence that the full common object of the alleged conspiracy was cheating and defrauding Kase of \$25,000 or any other sum, and that such full common object was consummated when the money was secured from him on December 30, 1913, there should be a verdict of 'Not Guilty' rendered in favor of the defendant, as under these circumstances, the offense would be barred by the
40 Statute of Limitations."

16. Because the Supreme Court sustained the Trial Court in refusing the request of counsel of the plaintiff in error to charge the jury as follows:

"The only matter alleged in the indictment as having occurred in January, 1915, was the payment of the money by Hahn to the two defendants and Peaker; if you find from the evidence that the alleged conspiracy of cheating and defrauding Kase was fully consummated on the date prior to the last date as mentioned in the indictment, to wit, on or about December 30, 1913, there should be a verdict of 'Not Guilty' rendered by you in favor of the defendant."

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17. Because the Supreme Court sustained the Trial Court in refusing the request of counsel of the plaintiff in error to charge the jury as follows:

"The division of the money, if it took place after the common object of the alleged conspiracy had been attained, did not have the effect of extending the duration of the alleged conspiracy, and if the common object of the alleged conspiracy had been consummated more than two years before the finding of the indictment, there should be a verdict of acquittal for the defendant."

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18. Because the Supreme Court sustained the Trial Court, which after the evidence was given, charged and instructed the jury, among other things, as follows:

"The State has elected to try only Francis Gregory and you are therefore by your verdict only to pass upon his guilt or innocence, the other defendants named in the indictment not being now on trial. This does not mean that you should not consider whether the defendants were guilty of a conspiracy, because it follows that on a charge of this kind, although only one of the defendants is on trial, you must determine whether or not some one besides the defendant was guilty of conspiracy, because, as I have already indicated, one cannot conspire with

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himself alone; therefore, if there was a conspiracy some one other than this single defendant must have been concerned in it."

19. Because the Supreme Court sustained the Trial Court, which after the evidence was given, charged and instructed the jury, among other things, as follows:

10 "If you find there was an unlawful conspiracy to extort money from Kase, it makes no difference whether the defendant was a party to its original in-ception or not, if he knowingly participated in any of the several steps taken in furtherance of the conspiracy or knowingly participated in a division of the spoils (the division of the proceeds of the scheme being on overt act done in execution of the illegal agreement and a part of it) he thereby adopts as his own acts the acts of the others, and is equally guilty."

20. Because the Supreme Court sustained the Trial Court in refusing the request of counsel of the plaintiff in error to charge the jury as follows:

20 "If you find from the evidence that the money paid by Hahn in January, 1915, was paid by him as hush money to buy the silence of the defendant and Peaker, or of the defendant alone, and was not done in execution of a conspiracy to cheat and defraud Kase, or to effect the object thereof, you should find a verdict of 'Not Guilty' for the defendant."

21. The Court should have quashed the indictment upon the motion of the defendant's attorney.

30 22. The Court should have directed a verdict for the defendant on motion of the defendant's attorney.

And the plaintiff in error, Francis Gregory, prays that the judgment aforesaid be reversed and altogether held for nothing, and that he may be restored to all things he has lost by reason of the said judgment.

HOWE & DAVIS,

Attorneys for Plaintiff-in-Error.

New Jersey Court of Errors and Appeals

THE STATE OF NEW JERSEY,
Defendant in Error,

VS.

FRANCIS GREGORY,
Plaintiff in Error.

*On Writ of Error
Specification of
Causes.*

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Francis Gregory, the plaintiff in error, by Howe & Davis, his attorneys, hereby specifies the causes in the record relied upon for relief or reversal in the aforesaid cause as follows:

1. Because there was no evidence to sustain a verdict of guilty.

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2. Because there was no evidence to sustain the offense charged in the indictment.

3. Because there was no evidence that the defendant conspired with any one or more of the other defendants named in said indictment to cheat and defraud one Charles M. Kase of divers large sums of money.

4. Because the Court erroneously refused to direct a verdict of "Not Guilty."

5. Because the Court erroneously refused to quash the indictment.

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6. Because any offense set out in the indictment was committed two years before the indictment was found and is barred by the Statute of Limitations.

7. Because the indictment does not set out any offense committed within two years before the finding of the indictment.

8. Because the Court allowed evidence of conversations with persons not in the presence of the defendant.

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9. Because the Court erroneously refused to permit to be answered the following question asked by defendant's attorney of the witness, Kase, to wit: "And this money and this property came from him, didn't it?"

10. Because the Court erroneously refused to permit to be answered the following question asked by the defendant's attorney of the witness, Kase, to wit: "And up to the time of his death it wasn't yours—it was his."

10 11. Because on the trial of the said cause the Court permitted to be read and offered in evidence in said cause, the testimony given by the defendant, Francis Gregory, in a previous trial of said indictment, on which previous trial the jury disagreed.

12. Because the Court erroneously refused to charge the jury as requested by defendant's attorney, as follows:

20 "If you find from the evidence that the money was extorted from Kase by threats of Hahn, but that such threats were made by Hahn acting alone, and not because of any corrupt agreement between the defendant and Hahn, as set out in the indictment, there should be a verdict for the defendant."

13. Because the Court erroneously refused to charge the jury as requested by defendant's attorneys, as follows:

30 "If you find from the evidence that up to the time that the money was gotten from Kase by Hahn, there was no corrupt agreement between Hahn and the defendant whereby they had conspired to cheat and defraud Kase of the money, there should be a verdict of 'Not Guilty' rendered in favor of the defendant even though they were given by Hahn, the sums of money stated in the indictment after he had received the money from Kase."

40 14. Because the Court erroneously refused to charge the jury as requested by defendant's attorneys, as follows:

"If you find from the evidence that Hahn secured this money from Kase by the threats set out in the indictment, but that in so doing, there was no proof of a corrupt agreement with the defendant, and that he knew nothing of the steps that Hahn, as attorney for Peaker, intended to take in securing money from Kase, nor the amount that he intended to ask, until after the amount had been agreed upon between him and Kase, the defendant would be entitled to be acquitted, even though you believe that the sum of money received from Hahn was greatly in excess of what his services were worth as a detective in the case." 10

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16. Because the Court erroneously refused to charge the jury as requested by defendant's attorney, as follows:

"Even though you decide that the proof shows beyond a reasonable doubt that the defendant was guilty of a conspiracy charged in the indictment, there should nevertheless be a verdict of 'Not Guilty' rendered in his favor, if you find that the common object of the conspiracy was consummated more than two years before the indictment was found, which would be two years before April, 1916." 30

17. Because the Court erroneously refused to charge the jury as requested by defendant's attorneys, as follows:

"If you find from the evidence that the full common object of the alleged conspiracy was cheating and defrauding Kase of \$25,000 or any other sum, 40

and that such full common object was consummated when the money was secured from him on December 30, 1913, there should be a verdict of 'Not Guilty' rendered in favor of the defendant, as under those circumstances, the offense would be barred by the Statute of Limitations."

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“The State has elected to try only Francis Gregory, and you are therefore by your verdict only to pass upon his guilt or innocence, the other defendants named in the indictment not being now on trial. That does not mean that you should not consider whether the defendants were guilty of an conspiracy, because it follows that on a charge of this kind, although only one of the defendants is on trial, you must determine whether or not some one besides the defendant was guilty of conspiracy, because, as I have already indicated, one cannot conspire with himself alone; therefore, if there was a conspiracy some one other than this single defendant must have been concerned in it.”

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22. Because the Court erroneously charged the jury as follows:

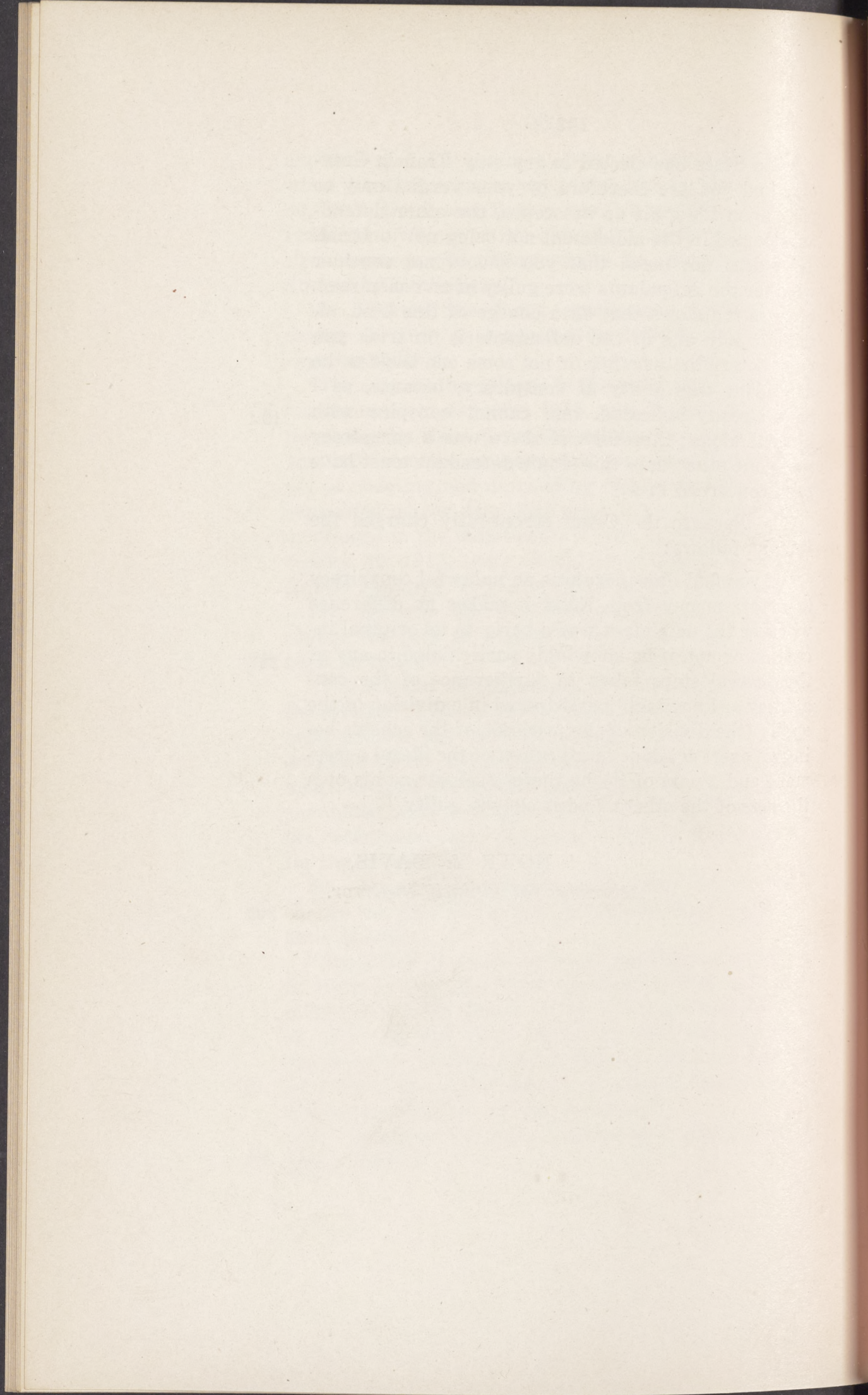
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HOWE & DAVIS,
Attorneys for Plaintiff-in-Error.

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