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New Jersey Court of Errors and Appeals

Petition of Appeal

(*Filed November 9, 1917*)

NEW JERSEY COURT OF ERRORS AND APPEALS

In the Matter of The probate of the Last Will and Testament of Samuel Richter, Deceased.	On Caveat.

To the Honorable Judges of the Court of Errors and Appeals in the last resort in all causes:

The petition of Fanny Gartner, Barnet Rosenfeld, Mollie Rosenfeld, Charles Rosenfeld, Dora Morgenstein, Sarah Lubecher, Yetta Lauer and Baruch Richter, Caveators-Appellants, in the above stated cause, respectfully show:

That your petitioners find themselves aggrieved by the Decree made in the Prerogative Court of the State of New Jersey, by his Honor, Edwin Robert Walker, Ordinary, of the State of New Jersey, bearing date October 15, 1917,

and filed in the said Prerogative Court on the 18th day of October, 1917, in a cause wherein the said Fanny Gartner, Barnet Rosenfeld, Mollie Rosenfeld, Charles Rosenfeld, Dora Morgenstein, Sarah Lubecher, Yetta Lauer and Baruch Richter, were Caveators and one, Lena Richter, sometimes known as Lena Jacobs, was Respondent, in this respect, to wit; That the said Decree ordered, adjudged and decreed that the judgment and decree of the Essex County Orphans Court, admitting to probate the Will of Samuel Richter, be affirmed.

Your petitioners humbly appeal from so much of the Decree of the Ordinary which Decree affirms the judgment and the Decree of the Essex County Orphans Court, admitting to probate the will of Samuel Richter, upon the ground that the same is erroneous, in that it adjudges and decrees that the said will is the Last Will of Samuel Richter, deceased.

Your petitioners therefore pray, that the said Decree of the said Ordinary and the judgment and the Decree of the Orphans' Court of the County of Essex may be in that particular aforesaid, reversed, set aside and for nothing holden, and declared that the alleged Will is not the Last Will and Testament of the said Samuel Richter, deceased, and that your petitioners may have such other and further relief in the premises, as to this Honorable Court shall seem meet.

WM. GREENFIELD,
BENJ. M. WEINBERG,
Proctors for and of Counsel
with Caveators-Appellants.

Petition of Appeal

STATE OF NEW JERSEY

DEPARTMENT OF STATE

I, Thomas F. Martin, Secretary of State of the State of New Jersey and ex-officio Clerk of the Court of Errors and Appeals in the last resort in all causes, do hereby certify that the foregoing is a true copy of Petition of Appeal—In the matter of the probate of the Last Will and Testament of Samuel Richter, Deceased, as the same is taken from and compared with the original filed November 9, 1917, and now remaining on file in my office.

In testimony whereof, I have hereunto set my hand and affixed the Official Seal of said Court at Trenton this ninth day of November A. D. 1917.

THOMAS F. MARTIN,
Secretary of State.

(Seal)

Notice of Appeal

(Filed October 25, 1917)

NEW JERSEY COURT OF ERRORS AND APPEALS

In the Matter of The probate of the Last Will and Testament of Samuel Richter, Deceased.	On Caveat. On Appeal.

The Caveators, Fanny Gartner, Barnet Rosenfeld, Mollie Rosenfeld, Charles Rosenfeld, Dora Morgenstein, Sarah Lubecher, Yetta Lauer and Baruch Richter, hereby appeal from the Decree of the Prerogative Court of the State of New Jersey, affirming the judgment and the Decree of the Essex County Orphans Court, admitting to probate the Last Will and Testament of Samuel Richter, deceased, to the Court of Errors and Appeals, in the last resort of all causes.

Dated, October 23, 1917.

WM. GREENFIELD,
BENJ. M. WEINBERG,
Proctors for and of Counsel
with Caveators-Appellants.

We therefore conceive that there is good cause for appeal in the above stated cause.

WM. GREENFIELD,
BENJ. M. WEINBERG,
Proctors for and of Counsel
with Caveators-Appellants.

Remittitur

(Filed October 8, 1917)

NEW JERSEY PREROGATIVE COURT

In the Matter of The probate of the Last Will and Testament of Samuel Richter, Deceased.	On Caveat. On Appeal.

This cause having been duly argued in this Court by William H. Osborne and David Hahn, Proctors for proponent-respondent, and William Greenfield and Benjamin M. Weinberg, Proctors for caveators-appellants, anh the Court having considered the same, and finding no error in the records or proceedings in the Essex County Orphans Court, as shown by a decree made in this Court dated the fifteenth day of October, Nineteen Hundred and Seventeen.

It is thereupon ordered and adjudged that the record be remitted to the Essex County Orphans' Court to be proceeded with in accordance with the judgment of this Court and the practice of the Essex County Orphans' Court.

On motion of

WILLIAM H. OSBORNE,
DAVID HAHN,
Proctors for proponent-respondent.

Decree

NEW JERSEY PREROGATIVE COURT

In the Matter of The probate of the Last Will and Testament of Samuel Richter, Deceased.	On Caveat. On Appeal.

This cause, being an appeal from the decree of the Essex County Orphans' Court admitting to probate the will of Samuel Richter, having been duly argued before the Prerogative Court, held at Chancery Chambers, in the City of Newark, in the presence of William H. Osborne and David Hahn, Proctors for proponent-respondent, and William Greenfield and Benjamin M. Weinberg, Proctors for caveators-appellants; and the Court having considered the same and finding no error in the records or proceedings in the Essex County Orphans' Court;

It is thereupon, on this Fifteenth day of October, Nineteen Hundred and Seventeen,

Ordered, adjudged and decreed, that the judgment and decree of the Essex County Orphans' Court, admitting to probate the will of Samuel Richter, be affirmed.

And be it further ordered that William Greenfield and Benjamin M. Weinberg, Proctors for caveator-appellants, be allowed a counsel fee of five hundred dollars each.

Respectfully advised,
E. R. WALKER,
Ordinary.

Frederick W. Stevens,
V. O.

Opinion in Prerogative Court

(Filed September 6, 1917)

NEW JERSEY PREROGATIVE COURT

In the Matter of The probate of the Last Will of Samuel Richter.	On Appeal.

Mr. William Greenfield and Mr. Benj. M. Weinberg, for Appellant.
Mr. William H. Osborne, for Respondent.

STEVENS, V. O.

This case is not free from doubt, but the evidence does not convince me that the will was forged. I cannot usefully add anything to the opinion of the Judge of the Orphans' Court, with which I concur. Three witnesses of respectability testify to the execution. Neither to the draftsman, nor to the other two witnesses does the will give anything. It was just such a will as the testator would naturally have made. There is not the slightest independent evidence of a conspiracy to commit forgery and perjury entered into between these witnesses and the widow. Under these circumstances I think the decree of the Orphans' Court should be affirmed.

Notice of Argument

NEW JERSEY PREROGATIVE COURT

Matter of Probate of alleged Will of Samuel Richter, Deceased.	On Appeal.

To William Greenfield, Esq., and Benjamin Weinberg, Esq., Proctors for Appellants:

Take notice, that the appeal to the Prerogative Court of the above entitled matter, has been set down by Honorable Frederic W. Stevens, Vice Ordinary, for argument before him, at Chancery Chambers, Prudential Building, Newark, New Jersey, for February 14, 1917, at 10 A. M.

And you are hereby notified, on behalf of the respondent, that such appeal will be brought on for argument at said time and place.

Yours respectfully,

DAVID HAHN,

Proctor for Respondent.

Consent to Setting Time for Hearing

NEW JERSEY PREROGATIVE COURT

In the Matter of The probate of the Last Will and Testament of Samuel Richter, Deceased.	On Appeal from Orphans' Court.

We hereby waive notice of the application to set a date for hearing the above said cause, and consent that the same may be set down for the fourteenth day of February 1917, at 10 o'clock in the morning at the Chancery Chambers in the City of Newark, New Jersey, before the Hon. Frederic W. Stevens, one of the Vice Ordinaries of the said Court to whom the above matter has been referred.

BENJAMIN M. WEINBERG,
WILLIAM GREENFIELD,
Proctors for Appellants.
DAVID HAHN,
Proctor for Respondent.

Order of Reference

(Filed September 5, 1916)

NEW JERSEY PREROGATIVE COURT

In the Matter of The probate of the last Will and Testament of Samuel Richter, Deceased.	On Appeal From Orphans' Court.

This matter being opened to the Court by Benjamin M. Weinberg and William Greenfield, proctors for and of counsel, with the appellants, and David Hahn, proctor for the respondent, and upon reading the consent hereto underwritten.

It is, on this 31st day of August, 1916, ordered that the above stated cause be referred to the Honorable Frederic W. Stevens, one of the Vice Ordinaries of this Court, to hear the same for the Ordinary, and to report thereon to him and advise what order or decree should be made therein.

E. R. WALKER,
Ordinary.

I consent to the making of the above order.
DAVID HAHN,
Proctor for Respondent.

Petition of Appeal

NEW JERSEY PREROGATIVE COURT

In the Matter of The probate of a Paper Writing Purporting to be the Last Will and Testament of Samuel Richter, Deceased.	On Appeal From an Order of the Orphans' Court of Essex County.

To the Ordinary of the State of New Jersey:

The petition of Fanny Gartner, Barnet Rosenfeld, Mollie Rosenfeld, Charles Rosenfeld, Dora Morgenstein, Sarah Lubecher, Yetta Lauer and Baruch Richter respectfully show that:

1. Your petitioners are all the next to kin of Samuel Richter, late of the City of Newark, County of Essex, and State of New Jersey, who died on September 21st, 1914.

2. There was offered for probate, with the surrogate of the County of Essex, a certain paper writing alleged to be the Last Will and Testament of said Samuel Richter, deceased.

3. Your petitioners filed a caveat against the probate of said Will with the said Surrogate of Essex County.

4. Testimony was taken in said cause, in open Court, before the Hon. Harry V. Osborne, a Judge of the Orphans' Court in and for the County of Essex, who, after hearing the same together with the arguments thereon, by counsel

for the respective parties, heretofore, to wit, on March 29, 1916, made an order admitting to probate, the said paper writing aforesaid, as the Last Will and Testament of the said Samuel Richter, deceased.

5. Your petitioners further show that the said order is, in each and every part thereof, erroneous; and that the said paper writing, as aforesaid, should not have been admitted to probate as the Last Will and Testament of the said Samuel Richter, deceased.

6. Your petitioners further show that they filed a notice of Appeal from said Order of the Ophans' Court with the Surrogate of Essex County on March 30, 1916.

7. Your petitioners further show that they are aggrieved by the order aforesaid, in that they, in and by the provisions of the alleged Last Will and Testament of the said Samuel Richter, deceased, are denied participation in his estate, whereas, if the said paper writing was not admitted to probate as the Last Will and Testament of the said Samuel Richter, deceased, they would participate in the distribution of the same by reason of their being the next of kin of the said Samuel Richter, deceased, as aforesaid.

Your petitioners therefore pray that the said order of the Orphans Court of Essex County, in the premises, be reversed in its entirety.

WM. GREENFIELD,
Proctor for and of Counsel with Appellants.

Decree Granting Probate

ESSEX COUNTY ORPHANS' COURT

In the Matter of The contested probate of the Will of Samuel Richter, Deceased. Lena Richter, Proponent, vs. Sophie Gartner, *et. al.*, Caveators.	On Caveat to Probate Will of Samuel Richter, Deceased.

A petition having been presented to the Surrogate of the County of Essex for the probate of the Will of Samuel Richter, deceased and a Caveat having been filed against the probate of the last Will and Testament of the said Samuel Richter, deceased; and Citations having been issued to all parties in interest, and thereupon the said Surrogate having referred this cause to this Court and the said proponent having appeared by Simon Hahn and William Hamilton Osborne, of Counsel with proponent and Wm. Greenfield, Esquire, of Counsel for the Caveators; and the Court having fixed and appointed a day for the taking of testimony for the probate of the said Last Will and Testament of Samuel Richter, deceased and for the Caveators against the probate of the said Last Will and Testament of the said Samuel Richter, deceased; and the Court having

heard the evidence of the Caveators and Proponents and the argument of the Respective Counsel for the respective parties herein, and the said Court being satisfied after due and mature consideration, that the Instrument in writing offered by the proponent for probate as the Last Will and Testament of Samuel Richter, deceased, was duly executed by the said Samuel Richter, as and for his Last Will and Testament;

It is thereupon on this Twenty-ninth day of March, Nineteen Hundred and Sixteen, on motion of Simon Hahn, and William Hamilton Osborne, of Counsel with Proponent, and in the presence of William Greenfield, of Counsel with Caveators, ordered, adjudged and decreed that the said Instrument dated the Eleventh day of March, Nineteen Hundred and Fourteen, be and the same is hereby established as the last Will and Testament of the said Samuel Richter, deceased, and that the same be and is hereby admitted to probate.

And it is further ordered that the letters testamentary be issued upon the aforesaid will to Lena Richter, as Executrix therein named.

And it is further ordered, adjudged and decreed that William Greenfield, of Counsel with the Caveators be and is hereby allowed the sum of Two Thousand Dollars, as his Counsel fee and disbursements had and that the said sum of Two Thousand Dollars be paid out of the estate of the said Samuel Richter, deceased.

H. V. OSBORNE.

A true copy,
Fred G. Sticklel, Jr.,
Surrogate.

Opinion in Orphans' Court

ORPHANS' COURT

ESSEX COUNTY

In the Matter of The Probate of a paper Writing Purporting to be the Last Will and Testament of Samuel Richter, deceased.	On caveat

For the Proponents appear Simon Hahn, Esq., and William H. Osborne, Esq.,

For the Caveators appears William Greenfield, Esq.,

OSBORNE, J.

Samuel Richter came to America over a quarter of a century ago. Our earliest knowledge of him dates back some sixty years to the place of his birth in Janow, Austria, where the witness David Arbeitel knew him for some twenty years or more, when he, (Arbeitel) came to America. Richter was married in Janow to one Blima Rosa and apparently lived there with her for a time.

The next we know of Richter he is in London, in the butter and eggs business, where he met one Lena Jacobowitz, a native of Kinska, Russian-Poland, who was employed in a restaurant there. This was about thirty years ago. She claims they were married shortly after their meeting by a Jewish Rabbi and thereupon began to live together as man and wife and continued to so live together until he died. She is the principal bene-

ficiary under the disputed will as Lena Richter. There is no corroboration of her statement that a marriage ceremony was performed, although there is ample evidence that thereafter they lived together and were known as man and wife.

After living in London about two years Richter came to America and Lena Jacobowitz followed him shortly afterward. They continued to live together here. He became a push-cart peddler. They moved from place to place and prospered.

A very considerable part of the testimony was devoted to an effort to prove that Richter and Lena Jacobowitz (or Jacobs, as she was sometimes subsequently known) were engaged for many years in the business of running disorderly houses; she admits that such was the case and that the bulk of the property of which Richter died possessed was accumulated in this way. She had helped in the business and they had saved money. They had used her name in conducting these places, because, as she puts it, "I did not want to spoil my husband's name." She testified that they had not been engaged in the business for thirteen or fourteen years before his death.

Lena Jacobs says the first she knew Richter had another wife living was about thirteen years ago when Richter's wife Blima came from Europe to America, that he then told her he had been divorced and showed her a paper purporting to have been a divorce granted by a Rabbi in Russia and that she later knew of a divorce being granted in this country.

There was offered in evidence by the proponent,

and received without objection, a certified copy of a decree of divorce in the Supreme Court of the State of New York, Kings' County, dated the 14th day of February, 1902, between Blima Rosa Richter and Samuel Richter.

Samuel Richter and Lena Jacobs continued to live together as man and wife, and to hold themselves out as such, after the decree as they had done before. From numerous exhibits offered in evidence it appears that they had bought and sold property and executed mortgages as man and wife. He died on the twenty-first day of September, 1914. For some years before his death he had been living in retirement and apparent respectability with Lena Jacobs as man and wife upon the income from the property which they had accumulated together in the preceding years.

This presents an interesting question as to the marital status of the parties similar to that determined by me *in re* Van Wickle (Essex County Surrogate's Office March 19, 1913.) where the authorities controlling such a situation are particularly referred to; it is not however, necessary for me to pass upon the question in these proceedings.

Richter was quite illiterate, being barely able to write his name.

Up to this point the situation presents very little difficulty, as there is practically no dispute as to these facts as will be apparent from an examination of the testimony. The real question in the case hinges upon the genuineness of a paper offered for probate as the last will and testament of Samuel Richter dated the eleventh day of March, 1914, the authenticity of which is most strenuously denied.

Lena Jacobs had a nephew living in New York, a young man attached to the clerk's office in New York County, a graduate of the New York Law School, but not admitted to the bar, who appears as the draftsman of the disputed will and as one of the witnesses. He testifies that the will was drawn by him under instructions from his uncle (Samuel Richter). About a year before he testified (which would have been January, 1914), he says his uncle had discussed making a will with him, and told him his attorney, Mr. Feick, had just died; that the following March his uncle had met him and instructed him as to the provisions of a proposed will and suggested that he meet him at his (witness's) sister's house and execute it there; that his uncle came there by appointment on the day of the date of the will and in the presence of witness's sister, Rose Bernstein, and her husband Louis Bernstein, the will was executed.

What transpired at that time was detailed with particularity by the witness when called to the stand by proponent. He said:

"We were sitting there in the dining-room and speaking of things in general, when he again referred to the fact that he contemplated taking this trip to Sharon Springs on account of his rheumatism, and then said in view of that fact he had instructed me to get up his will for him. He said this to my brother-in-law and sister and then he said to me, 'Have you got the papers with you?' I took out the will, showed it to him; I read it, and then went in detail over the legal phraseology, the wording of it, and it met with his approval. I then asked whether he declared that to be his last will and testament, and he answered me in

the affirmative. I then asked him to sign the will at the end of the attestation clause. He did so. I then asked him if he wanted my brother-in-law and myself to act as witnseses, and I remember distinctly his answer was in the following words, 'Why, certainly,' he says, 'that is exactly what I came here for.' I then signed my name to the will as witness, and address, and had my brother-in-law do likewise, and then delivered the will into his hands and he put it in his pocket, and he said he would have it put away for safe keeping. Before doing that—I also made a carbon copy of the will and I filled that out in my handwriting to correspond with the original will after it had been executed. I inserted in the blank spaces the date and names."

Louis Bernstein, the other subscribing witness, after testifying to the execution of the will, said that afterward he and his wife spoke of "different characteristics of the way of all of a sudden that he signed the will....."

The next scene is at the death bed of Richter on the twenty-first day of September, 1914, a little more than six months later. There was present Lena Jacobs (who was known as Mrs. Richter) Harry Silber, her nephew, Herman Simon, a Justice of the Peace, David Arbeitel, who had long been employed by Richter, and Dr. Steiner, Mr. Richter's physician. The accounts of what took place there—of what deceased said in his last moments—vary to such a degree as to be irreconcilable. This may be due to the failure of some of the witnesses to recall the incidents of that tense moment accurately, or it may be due to a willful and deliberate attempt to pervert the

truth. In this situation I am constrained to accept the statement of the physician, Dr. Steiner, a gentleman of estimable reputation in this community, as being the most intelligent and disinterested and whose serenity would be the least likely to be disturbed by such a scene, and, therefore, the witness whose recollections would in all probability be the most accurate. He had been in attendance professionally upon Mr. Richter and had informed Mrs. Richter (Lena Jacobs) that the end was near. He says he asked Richter if he wanted to say anything and if he wanted a lawyer; that Richter answered yes, and thereupon Justice Simon was sent for and when he came Richter said he wanted to "give a thousand dollars to Blimen and the rest to my Jidena." It appeared that "Jidena" is Jewish German meaning "wife" and, as we have already seen, Blima was the name of the woman whom he had married in Austria and subsequently divorced. Dr. Steiner is corroborated by Mrs. Richter and Harry Silber, her nephew.

Although Richter died on the 21st day of September, 1914, the disputed will was not found by Mrs. Richter (Lena Jacobs), according to her testimony, until about October 3d, 1914, in a leather pocket book behind some silverware in the safe. Considerable testimony was introduced tending to show that young Karp had made various inquiries and statements regarding another will having been executed by Richter. This evidence is not of a very satisfacory character and is denied by Karp, except that he says upon learning after the death of Richter that his aunt knew nothing of the existence of a will, he did make

some inquiries of Justice Simon, thinking that the deceased might have left the will in his care or made a new one, revoking the old.

The instrument in dispute, when found, disposed of the major part of the estate to "Lena Richter," who was designated as the decedent's wife and made residuary legatee. It also gave to his sister Feige Gertner $500 and to David Arbeitel $200.

The circumstances surrounding the execution of the alleged will were subjected to a critical examination at the trial and the signature itself was microscopically examined and minutely analyzed by handwriting experts.

These experts say that signature to this instrument is a forgery. One of them, August Hartkorn, characterizes it as a clumsy forgery, while another, John V. Haring, says it is a clever one. Expert David N. Carvalho insists that it is not the genuine handwriting of any person and says it is a "simulated" signature. Hartkorn and Haring say it is not traced, but copied, while Carvalho points out that the decedent might have written his name on the will first in pencil and then lined it over with ink and, if he did that, it is a "traced" signature. In one part of his testimony Carvalho says the writer of the disputed signature suffers from some physical defect while in another he asserts it to be the compact signature of someone whose nerves are all right. All agree, however, that it is a "built up" or retouched signature and this can very readily be discerned under the microscope even by the non-expert eye.

Carvalho says that the decedent was erratic in

his handwriting? We know, and the experts point out, that he was illiterate, and there is some evidence that there were certain "standard" or admitted signatures submitted to the experts bearing indications of having been written first with pencil and then lined over with pen and ink.

After it had been established by the testimony of the experts and confirmed by the microscopic inspection of the signature, that it had in fact been "built up" or "retouched" Abraham Karp was recalled to the stand for further cross-examination by the caveator and he then testified upon his attention having been directed to the matter that the decedent "used his pencil to write his signature, and then go over it with a pen."

It is urged by the caveator that, being a resident of Newark, it was extremely unlikely that decedent would have gone to New York to have his will drawn and executed. But in answer to that we have the fact that he was a man of leisure, his attorney had died, and it may well have been that he had a considerable regard for and confidence in this so-called nephew Karp, who was a young man of intelligence employed in the County Clerk's Office of New York, a law student, and might have been considered by the decedent the very person to draw his will. There is at least nothing to indicate a contrary situation.

It is pointed out that if Richter's will had already been drawn it is extremely unlikely that he would have gone to Justice Simon a short time before his death, apparently for the purpose of making a new one, as the evidence indicates, and the question is asked, why should he have sent for Justice Simon as he lay dying? That question

can be answered as favorably to the proponent as to the caveator. He may, of course, have desired to alter the existing will by making a new one or executing a codicil; in fact, this theory seems to be quite in keeping with the desire expressed upon his death-bed when he attempted to indicate that he wished the woman to whom he had been married and divorced to receive from his estate $1000. We have no way of knowing what may have prompted this apparent desire on his part, but I cannot say that this wish was inconsistent with the fact that he may have already made a will. It will be observed, if the version of the death-bed scene given by Dr. Steiner and adopted by me is the true one, that the language attributed to Richter in itself imported a distinction between "Blima," who was his former wife, and "Jidena," by whom he must undoubtedly have meant Lena Jacobs, the woman whom he had lived with and treated as his wife for so many years. This attempted death-bed disposition is not necessarily inconsistent with the provisions of the will, but, on the contrary, while differing in detail, possibly through its interruption by the hand of death, tends rather to confirm it.

It is observed that although the testator's safe was opened on the day of his death no will was found and that Karp's inquiries of Simon and others might indicate that none was in fact in existence at that time. As I have already indicated Karp's explanation is that, knowing there was a will, he desired to ascertain whether any codicil or later will existed. The will in dispute was found several days after the funeral and some testimony was offered tending to show that

Lena Jacobs had made various contradictory statements in relation to its finding, but this testimony is not of a very convincing character.

Probably more serious that any other single circumstance is the fact that neither Karp, Louis Bernstein or Mrs. Bernstein recollected, on their direct-examination, the very unusual circumstance that the testator wrote his signature in pencil before "painting" it over in ink. And it was not until this unusual circumstance was pointed out by the handwriting experts that Karp's memory was sufficiently refreshed to recall it. This was on cross-examination by caveator's counsel. It is possible, of course, that one could overlook such a matter or that one or the other of these witnesses would have recalled it had it been brought to their attention. I cannot but feel, however, that their failure to testify to the incident on their direct-examination is a very suspicious crcumstance, although not sufficent to convince me that the signature is forged and as a consequence to justify the rejecting of the will. Richter was an ignorant man; it was quite common for him to sign his name with pencil, even when endorsing checks; making his signature was apparently a laborious process and there is some testimony in the case to the effect that he had at least on one other known occasion drawn his signature in ink after writing it in pencil.

Although Carvalho at first said that Richter could not have written the disputed signature, yet later on, when asked whether it was not a fact that deceased wrote his name first and then lined it over with ink, he answered that "it might have

been." I cannot reconcile the conflicting testimony of this witness.

Notwithstanding the many alleged differences, peculiarities and abnormalities alleged to exist in the disputed signature and pointed out by the learned experts. I am impressed with the strong similarity of the disputed signature to the admitted signatures. I have no doubt that with like industry numerous irreconcilable characteristics might be found in the signature of any one in the situation of the deceased. It is true that the testimony of handwriting experts is admissible, but also that it is of value in pointing out that which might otherwise escape the observation of the court (Gordon's case 50 N. J. Eq. p. 397) but, as was said by the Ordinary in the case of Wright vs. Flynn 69 N. J. Eq. 753, a case very similar to the one at the bar, "The mere opinions of expert witnesses of handwriting, while admissible in evidence, and to be considered by the court, ought not to be permitted to overcome the positive testimony of unimpeached witnesses."

A motive for the alleged forgery was undoubtedly present and the opportunity ample. The subscribing witnesses had no direct interest in the estate although Karp's aunt Lena Richter was vitally interested in it. Most of the property was in the name of the deceased; some of it was in the joint names of herself and the deceased. In view of her uncertain marital status, she might have had considerable difficulty in establishing her right to this property as his wife. This testamentary device would have smoothed out all of these obstacles.

"Fraud should not be inferred, because we see

it was possible or even probable; but it should be shown by positive proof, or circumstances of such force as not to permit of serious doubt." *In Re* Will of Henry Vandeveer, 20 N. J. Eq. 463; 20 N. J. Eq. 561. It should be established by a fair preponderance of the proof. Stoutenburgh vs. Hopkins, 43 N. J. Eq. at p. 593; affirmed 45 N. J. Eq. 890.

It is a natural will; it bears no indication of being an inofficious will, but is, on the contrary, such a will as from the history of the life of the testator he would be quite likely to make, recognizing, as it does, the moral claims upon him by the woman with whom he lived for many years, who had helped him to accumulate his property and whom he had treated as his wife. *In Re* Wilford's Will, 51 Atl. Rep., 501. The mere existence of the immoral and unlawful relations between them raises no presumption against the instrument. Arnualt vs. Arnault. 52 N. J. Eq. 801.

After considering all of the evidence in the case I have reached the conclusion that the evidence is insufficient to justify me in finding that the writing in question is a forgery. The charge is a serious one and the evidence should be of a convincing character before such a conclusion is reached. The attestation clause is *Prima Facie* evidence of the facts stated in it Allaire vs. Allaire, 37 N. J. Law, 312. This is supported by the positive statements of the subscribing witnesses.

The general rule is that the party alleging fraud must prove it either directly or by establishing such circumstances as will warrant a presumption against the instrument. Kise vs. Heath 33 N. J. Eq. 239; Dumont vs. Dumont, 46 N. J. Eq.

223; Salter vs. Ely, 56 N. J. Eq. 357; affirmed 58 N. J. Eq., 581; Schuchhardt vs. Schuchhardt, 62 N. J. Eq. 710; Barkman vs. Richards, 63 N. J. Eq. 211; *In Re* Davis, 73 N. J. Eq., 617; *In Re* Johnson's Will, 80 N. J. Eq., 525.

I am therefore of the opinion that the writing in question should be admitted to probate as the last will and testament of Samuel Richter, deceased. A decree will be signed accordingly.

Citation

Essex County,
The State of New Jersey, } ss:

To Fanny Gartner, Julius Gartner and Berl Rosenfeld GREETING:

(L. S.)

We cite and command you, that you personally be and appear before the Orphans' Court, to be holden in Newark, in and for the County of Essex, on Friday the 20th day of November, A. D., 1914 to answer unto the caveat of Fanny Gartner, Julius Gartner and Berl Rosenfeld, against the probate of any paper purporting to be the last will and testament of Samuel Richter, deceased, and to abide the judgment of the said Court in the premises.

Witness, HON. WILLIAM P. MARTIN, Presiding Judge of our said Orphans' Court at Newark aforesaid, this fourteenth day of October, A. D., 1914.

ISAAC SHOENTHAL,
Surrogate and Clerk.

Testimony

ORPHANS' COURT

ESSEX COUNTY

Tuesday, January 12, 1915.

In the Matter of The Probate of a Paper Writing Purporting to be the Last Will and Testament of Samuel Richter, Deceased.	On Caveat

Before HON. HARRY V. OSBORNE, Judge.

For the Proponents appear Simon Hahn and William H Osbore

For the Caveators appear William Greenfield and Matthew J. Ready.

Mr. Greenfield: I would request the Court to exclude the other subscribing witnesses from the court-room while one of them testifies.

The Court: Let the other subscribing witness leave the room.

ABRAHAM KARP sworn in behalf of the proponents:

Direct-examination by Mr. Osborne:

Q. Mr. Karp, where do you live? A. 125 Second Avenue, New York City.

Q. What is your business? A. I am an attache of the County Clerk's Office in New York County.

Q. Are you a lawyer? A. I am not admitted to the bar, but I am a graduate of the New York University Law School.

Q. How long have you been in the County Clerk's Office in New York City? A. Three years and seven months.

Q. What is your position there? A. As execution and transcript clerk.

Q. I show you what purports to be the last will of Samuel Richter, deceased. Will you look at the signature at the end of the alleged will? A. Whose signature are you referring to?

Q. At the end of the alleged will there is a signature there. It is written in German. What is that signature? A. Why, that is my uncle's, Mr. Richter's signature.

Q. What name is written there? A. Samuel Richter.

Q. It is written in German, isn't it? A. I pre sume so.

By the Court: Q. Don't you know German script when you see it? A. Yes, sir, I do.

Q. Is it written in German script? A. It is, yes, sir.

By Mr. Osborne: Q. Do you recall that will being signed? A. I do.

Q. Where was it signed? A. It was signed at my sister's home in New York City.

Q. And what is your sister's name? A. Her married name is Rose Bernstein.

Q. What is her husband's name? A. Lou Bernstein.

Q. Where do they live? A. 46 West 116th Street.

Q. And they live together there? A. They do, yes, sir.

Q. Who was present when this will was signed? A. My uncle was there, my sister and brother-in-law and myself.

Q. And by your brother-in-law, you mean the gentleman named Bernstein? A. Yes, sir.

By the Court: Q. Your uncle and who else—brother-in-law? A. My brother-in-law, Rose, his wife—that is my sister and myself.

Q. What is your brother-in-law's name? A. Louis Bernstein.

By Mr. Osborne: Q. What part of the house were you in when the will was signed? A. I think it was the dining room.

Q. Now before this will was signed had Samuel Richter, the deceased, seen the will?

Objected to as leading.

A. Why, certainly.

Mr. Greenfield: I object to that as leading.

The Court: Yes, it is leading.

Q. Just state what occurred from the time that you had gotten in that room together, from the time that you all got together.

Mr. Greenfield: I object. He didn't testify that they all got together in one room.

The Court: He said they were all present when the will was signed. That is sufficient to justify this question.

A. My sister and her husband had just gotten through with supper, and from the kitchen they joined us in the dining room where my uncle and

I sat, and the conversation referred to nothing in particular; we were talking of things in general, of days gone by. This was the first visit that my uncle had made to my sister's home after she had been married, and after some time he said he had been troubled with rheumatism and was contemplating making a trip to Sharon Springs, that he had heard that the place had relieved many who had suffered with rheumatism, and he thought he could do likewise. It seems it occurred to him that it would be a good idea to make out his will, inasmuch as I had spoken to them of the estate of Mr. Feick, who had died intestate, and I said it was the best way, to make the will; he thought it a good idea to make out his will, so that previous to this he had so instructed me, and I had the will with me that night—

Q. Before you go into that, just tell us about when and how you met him when these instructions were given? A. He had been at my home one day when he told me, that his attorney, Mr. Feick, had died, and I asked him whether he had left any will, and he said no, and then I asked him whether his death would in any way affect his property holdings or securities, or any investments that he might have had and he said no, that so far as he was concerned things were O. K., and I mentioned the fact that "We don't know when any of us will pass away and it would be a good idea to make out a will. He said nothing about it. He said he would think it over and let me know. This was probably a year ago, and in the early part of the month of March, I think it was a Sunday, I met him in the city, in New York, and after the usual greetings he in-

quired as to the health of the family and general run of conversation. He told me that he expected to go to Sharon Springs and wanted to make his will and instructed me as to the provisions of the will. I told him that I could do it for him if he wanted it; he said there was no very great hurry about it, bnt inasmuch as he hadn't seen my sister's home yet—that is, after she married—he thought it would be a good idea to kill two birds with one stone, pay them a visit and at the same time execute the will there at her home, and that is how we happened to be there that night.

Q. Now, what instructions did he give you in March, or whenever that time was that he gave you instructions—what instructions did he give you as to the making of his will? A. You mean the provisions of the will?

Q. Yes. A. Why, he wanted to leave the sum of $500 to a sister of his by the name of Feige Gertner and wanted $200 left to his janitor, Mr. Arbeitel, and the bulk of his estate to his wife, Lena Richter, my aunt.

Q. Now following these instructions what did you do? A. I got up the will and had it with me this night, the night of the meeting at my sister's home.

Q. You were all in the room together. Tell us from the time that you all got together, what occurred. Did your uncle or not read this will?

Mr. Greenfield: I object to that.

Witness: I hadn't finished my answer.

Mr. Osborne: I withdraw the question.

Witness: I said we were sitting there in the dining-room and speaking of things in general, when

he again referred to the fact that he contemplated taking this trip to Sharon Springs on account of his rheumatism, and then said in view of that fact he had instructed me to get up his will for him. He said this to my brother-in-law and sister, and then he said to me, "Have you got the papers with you"? I took out the will, showed it to him; I read it, and then went in detail over the legal phraseology, the wording of it, and it met with his approval. I then asked him whether he declared that to be his last will and testament, and he answered me in the affirmative. I then asked him to sign the will at the end of the attestation clause. He did so. I then asked him if he wanted my brother-in-law and myself to act as witnesses and I remember distinctly his answer was in the following words, "Why, certainly," he says, "that is exactly what I came here for." I then signed my name to the will as witness, and address, and had my brother-in-law do likewise, and then delivered the will into his hands and he put it in his pocket, and he said he would put it away for safekeeping. Before doing that—I also made a carbon copy of the will and I filled that out in my handwriting to correspond with the original will after it had been executed. I inserted in the blank spaces the date and names.

Q. Have you got the original there? A. Yes, sir.

Q. Will you look at the signature written in German, Samuel Richter. Who signed that? A. My uncle did.

Q. Now, that signature of your uncle, is that above or below the attestation clause? A. Why, that is above the attestation clause.

Q. Did he sign anywhere else? A. No, sir.

Q. Look at the other signatures, your own, and the signature written thereon. Who wrote those signatures? A. The first name, my name, I wrote, and my brother-in-law's name, he wrote himself.

Q. You stated in your last answer that your uncle signed at the end of the attestation clause. A. I made a mistake, I didn't mean that.

Q. I wish you would repeat again. After he had signed this will just state what he said or what you said, or what was said. A. After he had signed the will?

Q. Yes. A. And after the signing of the witnesses?

Q. No, I mean after he had signed. A. Then he said, in answer to my question, he declared this to be his last will and testament, and he said, "Yes, this is my last will and testament," and then asked my brother-in-law and myself to sign as witnesses to the will.

Q. When did you sign? A. Right then and there, probably two minutes, maybe a minute, elapsed after he signed it.

Q. When did your brother-in-law sign it, Bernstein? A. Probably half a minute after I signed it, probably less.

Q. Who was in the room there all that period, during the time that your uncle signed and you signed and Bernstein signed? A. Why, my sister was there; that is Mr. Bernstein's wife.

Q. Who else? A. Mr. Bernstein, my uncle and myself.

Q. And what became of the will? A. After it was executed and signed he put it in his coat pocket, breast pocket.

CROSS-EXAMINATION by Mr. Greenfield:

Q. Did you ever see your uncle sign his name on any previous occasion? A. I did, sir.

Q. Would you know his signature on any other paper? A. I think I would.

Mr. Osborne: Is that proper? This man says he saw his uncle sign this will. What difference does it make about his signature on other papers?

Mr. Greenfield: Our defense is forgery.

Mr. Hahn: There is nothing in the caveat alleging forgery. I saw something about it in the paper. There was no allegation in in the caveat of forgery.

The Court: I will permit the question. If it has nothing to do with the case, it does not make any difference.

Q. Do you? A. I do, sir.

Q. And if I show you writings you think you would recognize them? A. I think I would, yes.

The Court: You object on the ground that it is not cross-examination?

Mr. Osborne: Yes.

The Court: I think, if you are going to make this witness an expert witness, it is not proper.

Mr. Greenfield: Not as an expert. He said he would know it if he saw it.

The Court: The objection is that it is not proper examination. You may recall him and make him your own witness for that purpose if you desire.

Q. What day of the week was it that this paper was signed? A. I think it was a Wednesday night.

Q. Do you know whether or not there was any Jewish holiday on that day? A. I think it was Purim night, or the night before it.

Q. How often would your uncle visit your sister's house in your presence? A. Why this was the first and only visit he made there.

Q. Was he your uncle on his side or on Lena Richter's side? A. What do you mean?

Q. Well, you know. Was he a brother of your father or mother? A. No, sir, an uncle by marriage in the family.

Q. How? A. He was married to my mother's sister.

Q. You mean Lena Richter? A. Yes, sir.

Q. When you say "by marriage" you don't mean— A. I mean he was the husband of her.

Q. But there was no marriage ceremony—

Mr. Osborne: I object to that as not proper cross-examination.

A. As far as I know there was.

The Court: You can answer that you know. If you do not know say so.

Witness: I don't know of any ceremony.

By the Court: Q. You were not present at any ceremony? A. Oh, no, sir.

By Mr. Greenfield: Q. Then, as a matter of fact, Mrs. Richter, the Lena Richter mentioned here, she is a sister of your father or mother? A. My mother.

Q. Is it not a matter of fact that you signed the name Richter? A. No, sir.

Q. Are you quite sure? A. I am positive.

Q. Do you recall being present at the funeral? A. Yes, sir.

Q. Have you been in Newark after that? A. Why, often.

Q. Did you make any inquiries of any person about the will? A. I did of several people.

Q. After his death? A. After his death.

Q. Did you say to the people of whom you inquired that your uncle died without a will? A. I beg pardon!

Mr. Osborne: I want the time and place fixed.

Mr. Greenfield: Shortly after the death.

The Court: They are entitled to have the time and place fixed and the persons.

Q. Do you know Herman Simon? A. Is that a justice of the peace?

Q. Yes. A. I do, sir.

Q. Have you been to see him? A. Yes, sir.

Q. After your uncle's death? A. Yes, sir.

Q. How long after? A. Probably the day after, if I am not mistaken.

Q. Did you go to ask him whether or not your uncle had drawn a will? A. I did, sir.

Q. Did you ask him? A. Yes, sir, I did.

Q. Did you say to him that your uncle died without leaving a will? A. I did not.

Q. Did you say to him, "Here is a man died without leaving your aunt without anything and without a will."? A. I beg pardon.

Q. And didn't you say to him that, "I have told him to make a will and he wouldn't do it"? A. No, sir.

Q. You are sure of that? A. Positive.

Q. Do you know a man by the name of Rosenweig? A. No, sir.

Q. Do you know this gentleman (indicating)? A. I think I recall him now, his face.

Q. You think you recall him now? A. Yes, sir.

Q. Did you say to him that your uncle died without a will? A. No, sir.

Q. And didn't he suggest making a will after that? A. No, sir, he did not.

Q. To you? A. No, sir.

Q. And isn't it a fact that after he spoke to you in a joking way you produced the will? A. I beg pardon. Nothing of the kind.

Q. Did you say to him, "At least, he left no will, but she will have the dower right in the property"? A. Who said?

Q. You said. A. I said to whom?

Q. To the same gentleman? A. I have never had any conversation with the gentleman relative to any will at all.

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

Q. Did you have any conversation with Simon relative to the will? A. I did, sir.

Q. And didn't you make the same statement? A. Namely?

Q. That at least your aunt will have a dower right? A. No, sir—he might have remarked—I will correct myself—he might have.

Q. And didn't you say to Rosenwieg, "But she will probably have to establish her dower right because she was never married to him? A. I beg pardon. No, sir.

Q. Never said anything of the kind? A. No, sir.

Q. To no person? A. To no person in God's world.

Q. Did your uncle make an appointment that he would call to sign the will? A. Yes, sir.

Q. When was it that he made the appointment? A. It was the Sunday previous to this Wednesday.

Q. You expected him on that day? A. What day?

Q. When he came? A. Are you referring to Wednesday or Sunday?

Q. When he came to sign the will? A. I did.

Q. When did you prepare the will? A. I prepared the will Monday and Tuesday. I saw him on Sunday. I worked on it Monday and Tuesday.

Q. It took you two days? A. Well, it did.

Q. Where did you prepare this will? A. On the typewriter up in an office?

Q. Where? A. At a club house up in Harlem.

Q. Is it an office or club house? A. It is the office of the club house.

Q. What is the name of the club? A. I don't recall the name of the club. It is the 31st Assembly District, New York City.

Q. Where is the club? A. It is situated at Madison Avenue and 103d Street—I am not sure.

By Mr. Osborne: Q. Is it a political club? A. Yes, sir.

By Mr. Greenfield: Q. You know where that club is? A. Yes, sir, I have some friends there.

Q. How did you come to go to that place to prepare the will? A. Because of the fact that it was the only place that I knew of that I could get a typewriter at night.

Q. Do you have any typewriters in the County Clerk's Office? A. Yes, sir.

Q. Quite a good many of them there? A. Yes, sure.

Q. Who did the typewriting? A. I did, sir.

Q. You are sure that is the place where you prepared the will? A. I am positive.

Q. Did anybody see you prepare the will there?

A. Not that I know of. I asked for permission to use the machine.

Q. To whom did you ask? A. One of the members there.

Q. What is his name? A. Mr. Weber.

Q And if you expected him and had an appointment with him for a day certain to come to sign the will can you tell the Court why you have omitted to fill in the date? A. Why, I thought probably he wouldn't show up. Nothing is certain in this world.

Q. That is why you didn't fill in the date? A. I might state that this is not the first will that I ever drew up.

Q. I didn't ask you that, did I? A. No, sir.

Q. Then answer my question? A. Yes, sir.

Q. That is the only reason you left the date blank? A. Yes, sir.

Q. When did you fill in the date? A. That self same night.

Q. What night? A. That Wednesday night.

Q. What time did he get there? A. Why, he got there, it was eight or shortly after, not very much after; it couldn't have been very much after.

Q. How soon after that was the will signed? A. Probably half an hour after that; say half-past eight.

Q. How long did he remain after that? A. Say three-quarters of an hour; maybe a little more.

Q. Did he take it along with him? A. Yes, sir.

Q. Are you sure? A. Positive.

Q. How did you hand him the will, in what form? A. Folded or unfolded, you mean?

Q. I am asking you in what form? A. I handed it to him this way (illustrating), I put it in my five fingers and just handed it to him.

Q. Open? A. Just as you have it there, only the page where you have the signature affixed—

Q. You had it this way after it was executed and just handed it to him? A. Yes, sir.

Q. No envelope? A. No.

Q. Was it folded? A. No; just as it is there. It had been previously folded; the creases were there just as they are there now.

Q. You are sure? A. Positive. I had folded it.

Q. Where did you get the cover? A. I think I got the cover in my office, if I am not mistaken.

Q. When? A. That same Monday or Tuesday, probably.

Q. Where did you get the paper? A. I think I got that paper over at my own home or in the office.

Q. Was it at your own home? A. I think so; I am not sure.

Q. Why is it you got the cover in your office and the paper in your home and had it typewritten in the 31st Assembly District club room? A. Why?

Q. Yes. A. Why, because I had the paper home, because I had no back home, so I got the back in my office, and because I had no typewriter home. so I happened to be in Harlem and thought I would use the machine there.

Q. I suppose the County Clerk's Office haven't got any typewriting paper? A. Certainly.

Q. They have? A. Yes, but they are locked after they are gone.

Q. Was the cover locked? A. I got that during the day.

Q. Was the paper locked during the day? A. The paper I got in my home.

Q. Was the paper locked in the County Clerk's

Office during the day? A. I suppose it was—what paper do you mean?

Q. The typewriting paper? A. I don't know. I have no occasion to use that. I would have to ask for it.

Q. Are you sure the backing comes from the County Clerk's Office? A. Yes, sir. It may not be official paper but I got it off one of the men there.

Q. Who? A. One of the Clerks there.

Q. What is his name? A. Henry Schneider—not the County Clerk.

Q. Is he connected with the County Clerk's Office? A. Yes, sir.

Q. He has got his own paper there? A. Well, as I say, I presume. I don't know whether it is the official paper or not.

Q. How long have you been in the County Clerk's Office? A. Three years.

Q. Have you seen the official backing? A. There is no such thing as official backing. We do no work that requires backing.

Q. So you haven't any official backing? A. Not as I know of.

Q. In the County Clerk's Office? A. He might and might not. I can't say definitely.

Q. You can't say definitely? A. No, sir.

Q. And you are just as sure that you didn't write the name Samuel Richter? A. I am positive.

Q. Where did you get the form in the club room to prepare this will? A. I had this form in my pocket, written out on a piece of paper in rough.

Q. Where did you write that out? A. The first part of the will—where I wrote out the whole thing?

Mr. Osborne: The form.

Q. The rough? A. I wrote that out at the County Lawyers' Association—part of it.

Q. When did you write that out in the County Lawyers' Association? A. That Monday or Tuesday; I don't recall.

Q. What time? A. It was after four.

Q. Where is their place? A. At 165 Broadway, in the Singer Building, New York City.

Q. How far is the County Clerk's Office from the Singer Building? A. About four or five blocks at the most, very most.

Q. Why did you go to the Singer Building to write out the form? A. Not at the Singer Building, but to the County Lawyers' Association.

Q. The County Lawyers' Club? A. Because I knew I could get the proper form there for the purpose that I wanted.

Q. The County Clerk hasn't got the forms there? A. Why, no, nothing of that kind.

Q. Where is the Surrogate's Office with reference to the County Clerk's Office? A. It is in another building.

Q. How far? A. Across the street from the County Clerk's Office.

Q. And that is open to the public? A. Yes, sure.

Q. You can go there and look over some wills? A. Certainly.

Q. Where did you get the forms in the County Lawyer's Association Club Room? A. From Bostwicks' Manual. It is the red book. I don't remember the exact title.

Q. Have you the same attestation clause in there? A. I wouldn't say that.

Q. Where did you get that? A. I say I am not

sure. What I do remember getting out of there is that clause as to the contesting of any provision of the will and forfeiture of any devise. I remember that distinctly.

Q. That is what you did get out of Bostwick? A. Yes, sir.

Q. Where did you get the attestation clause form? A. I think I got that out of my own memory, out of my own memory.

Q. You are sure of that? A. I am not positive. I may have refreshed it by reading. I didn't copy—

Q. Suppose you give us the attestation clause from your own memory now. A. "Subscribed" —well, I don't know whether I can give it to you verbatim, as I said.

Q. I will accomodate you with a sheet of paper. Write it out.

The Court: No, repeat it as near as you can remember it? A. "Subscribed, signed, sealed and delivered by the testator as and for his last will and testament, in the presence of us, and each of us, who, at his request and in his presence and in the presence of each other, have hereunto set our names as witnesses thereto, and"—

Q. It is not the exact form as you have it here. A. I don't know what I said.

Q. What? A. I don't remember what I said verbatim.

Q. Just look at it and refresh your memory.

By the Court Q. Did you get that from the book at that time? A. As I say, your Honor, I might have read that form and that might have impressed me, but I do remember this, I didn't make an exact copy of any form.

By Mr. Greenfield: Q. Did you ever draw any other will? A. Yes, sir.

Q. Where? A. In the office of Lockman & Goldsmith, 35 Nassau Street, New York City, attorneys and counsellors at-law.

Q. Did you use the same form? A. They varied more or less.

Q. I mean the attestation clause. A. Not every time; I wouldn't say that.

Q. Did you use any book form? A. The will was given to me typewritten, and I recopied it in script.

Q. Why was it necessary, Mr. Karp, if you were in the County Lawyers' Association Club Room and had it written out, to have it typewritten? A. Why, in the first place, I wanted to be sure there would be no mistake as to any wording if it, and I didn't trust myself in the writing of it for fear I might have an occasion to make an erasure. I know how careful you have to be as to these things, and I wanted to prevent any erasure, if any.

Q. Have you ever done any typewriting before? A. On my own accord, yes, sir.

Q. For anybody else? A. No, sir.

Q. You are not a practical typewriter? A. No, sir, not by any means; I took it up myself.

Q. Then you had more confidence on your typewriter than on your penmanship? A. I did, sir.

Q. What are your duties in the County Clerk's Office? A. Writing out transcripts, execution and certificates, satisfaction pieces.

Q. Typewriting? A. No, sir, filling in.

Q. All longhand, isn't it? A. Yes, sir, filling in various dates.

Q. And then you still had more confidence in your typewriter, your ability as a typewriter, than as a penman; isn't that right? A. Yes.

The Court: Did you say had or have?

Mr. Greenfield. Had.

Witness: Please, your Honor, may I state why the exact reason for my typewriting instead of writing?

The Court: You did state that you thought you could do it more accurately.

Witness: There was another reason.

The Court: Yes, you may state it.

Witness: Simply this. I took it for granted that my uncle would show this to somebody else. I knew there would be no question as to the legibility of typewritten characters as there would be if written in longhand.

Q. Your uncle was illiterate, was he? A. As far as reading and writing was concerned, yes, sir.

Q. If you knew that you had drawn the will and and there was a will why was it necessary for you to go and see Mr. Simon to inquire about a will? A. The day that I was notified that my uncle had died—that is, about four in the morning—I came over to Newark, and after consulting my aunt at her home in the forenoon, around noontime, I asked her whether or not he had said anything to her about a will, whether my uncle had ever said anything to my aunt about any will, and she said no, and then she related to me that at his deathbed were present several people, among whom was the doctor, the attending physician, and my nephew, and Mr. Arbeitel, and that my uncle mentioned or motioned towards the direction of Mr.

Simon's residence, if I recall, and it entered my mind that inasmuch as I had heard my uncle mention Justice Simon's name several times—I thought that they were rather chummy—it occurred to me that he had entrusted his will in his keeping and care, and it was for that purpose that I went down to see the Judge, and I did at the same time ask Judge Simon whether my uncle had ever made any other will, thinking that my uncle had revoked this will and gotten up another one.

Q. Where did you find this will in question? A. I didn't find it.

Q. Did you ever see it after it left your possession? A. Yes, sir, in the hands of Judge Hahn, in this building, in the Surrogate's Court.

Q. When? A. I don't recall.

Q. Don't you remember when it was, how long ago? A. I haven't the slightest idea.

Q. Don't you remember when it was, how long ago? A. I haven't the slightest idea.

By the Court: Q. Can you state the occasion? A. Judge Hahn had informed me—

Q. No, but what was the circumstance? A. We were to offer the will for probate. That was the only time.

By Mr. Greenfield: Q. Did you come here as a witness when the will was offered for probate? A. Yes, sir.

Q. Sure of that? A. Positive.

The Court: What is the date of the will?

Mr. Greenfield: March 11, 1914.

RE-DIRECT-EXAMINATION by Mr. Osborne:

Q. Can you, by looking at this will, refresh your recollection as to the date when it was signed? You have testified as to the day being Wednesday. Can you state the date when it was signed. A. The date was the 11th.

Q. Of what? A. March, 1914.

The Court: What was the date of the death?

Witness: September 21, 1914.

Q. You spoke of Lockman & Goldsmith. A. Attorneys and counsellors-at-law, State of New York.

Q. You were employed by them? A. Yes, sir.

Q. For how long? A. Probably a year.

Q. How long had your sister been married when this will was signed? A. About nine months—eight months.

Q. How long had she and her husband lived at this place? A. The same length of time, about eight or nine months.

LOUIS BERNSTEIN sworn in behalf of proponents:

Direct-examination by Mr. Osborne:

Q. Where do you reside? A. 46 West 116th Street, New York City.

Q. How long have you lived there? A. The past nineteen months.

Q. How long have you been married? A. Nineteen months.

Q. Who is your wife? A. Her former name?

Q. Yes. A. Miss Rose A. Karp.

Q. She is a sister of the witness who has just been on the stand, Abraham Karp? A. Yes, sir.

Q. What is your business? A. Shoe salesman.

Q. For whom? A. H. R. Schenck.

Q. How long have you been employed by them? A. I have been with Schenck for the last three months.

Q. And before that who employed you? A. I was employed with Edward Friedman.

Q. What is their business? A. Shoe business.

Q. How long were you with them? A. Seven years.

Q. (Handing witness paper) I show you a paper which is right before you, purporting to the last will of Samuel Richter. Look at the signature written in German on the second page between the end of the will and the beginning of the succeeding clause? A. Yes, sir.

Q. What signature is that? What does it say? What does that signature say? It is written in German. I want to know what it is in English. A. Well, I presume it is Samuel Richter.

Q. Do you read German? A. No, I can't read German.

Q. Did you know Samuel Richter, the decedent, that we are talking about in his lifetime? A. Yes, sir.

Q. How long had you known him? A. I had known him for the last four to five years; four or five.

Q. Do you remember the will being signed? A. Yes, sir.

Q. Can you state without looking at it about what date it was signed—do you remember? A. Yes, sir, I do. It was on a Wednesday night.

Q. Was it a holiday? A. No, I was off Wednesday nights. I was working until ten o'clock

at the time and Wednesday night was my night off.

Q. That is the way you fix it? A. Yes, sir, that is the way it was.

Q. When that will was signed who was present in the room? A. My brother-in-law, Mr. Karp, and my wife, beside myself.

Q. And who else was there? A. And myself and Mr. Richter.

Q. What room of the house was it signed in? A. It was signed in my dining-room.

Q. About what time, do you remember? A. Why, I don't think I can give you the exact time, but it must have been between eight and nine o'clock.

Q. Who signed that name in German, Samuel Richter? A. Mr. Samuel Richter.

Q. How do you know he did? A. Why, we were there; I was standing right there when he signed his name.

Q. And when he signed his name you say all the other three people were present; is that right? A. Positively.

Q. After he signed his name will you tell us just what was said or what happened after Samuel Richter signed his name? A. After he signed his name my brother-in-law remarked to him, "Do you want us to act as witnesses of this will?" and he says yes, he said that was his purpose in coming up to our house so that we should act as witnesses.

Q. What then was done after that was said? A. I don't just remember. There were numerous topics, we were talking about the family and so on.

Q. Look at the signatures below, what we call the attestation clause. Whose signatures are those? A. My brother-in-law's and myself.

Q. When were they signed there? A. My brother-in-law signed first after Mr. Richter told him that he wanted us to be witnesses, and then I signed.

Q. And who was present when you both signed? A. My wife and Mr. Richter.

Q. Before Mr. Richter signed this will was the will read to him?

Objected to.

(Question withdrawn).

Q. What happened before he signed the will? A. The will was read by my brother-in-law, the original, and I was reading the duplicate at the time he was taking out those sheets, and after we were through my brother-in-law and I were going over the original and explaining.

Q. Explaining to whom? A. Explaining to Mr. Richter, in order to make it explicit. He went over, and I was standing right over my brother-in-law's shoulder when he read it, and after he read it, why, he asked Mr. Richter whether this was his last will and testament and Mr. Richter said yes, and he signed it and the rest of us followed

Q. While you were looking over your brother-in-law's shoulder did you follow it? A. Yes, we went right along together I said just a word or two.

Q. And did what he read correspond with this will? A. Yes, sir.

CROSS-EXAMINATION by Mr. Greenfield:

Q. Did you talk with anybody about this will after it was executed? A. I don't understand the question.

Q. Did you talk to any person about this will after it was executed? A. No, sir, nobody except the people in the room, the three of us.

Q. At any time? A. Why, at no time, beside talking to our counsellor the other day. We were talking to the counsellor. That is the first time that the will was mentioned.

Q. Where? A. At the counsellor's office.

Q. Where? A. Broad and Market.

Q. Whose office? A. Judge Hahn.

Q. Who else was there? A. Mr. Osborne and my brother-in-law, Mrs. Richter and myself.

Q. You went over the details? A. No, sir.

Q. What were you talking about there? A. A few topics there that Judge Hahn asked me about.

Q. About what? A. A few of the details that occurred in the evening.

Q. What details? A. He asked us whether we were all there and how the will was signed, and also asked whether Mr. Richter says everything was all right, and we told him exactly as I told you.

Q. Is that the only time you spoke to Judge Hahn and Mr. Osborne? A. Yes, sir, that is the only time I ever met the gentlemen.

Q. Is that the last time you met them? A. Yes, sir.

Q. Sure? A. Yes, sir, positively.

Q. Did you speak to Mr. Osborne in the court-room this morning? A. No, sir,—I said good morning to him.

Q. Did he speak to you about it? A. No, sir, nothing at all.

Q. Not a word? A. Not a word.

Q. You are quite sure? A. Positive.

Mr. Osborne: These people were half an hour late.

Q. You were here before court opened? A. A few moments, yes, sir.

Q. What time did you get here? A. A little after ten.

Q. Eleven is also after ten? A. No, ten minutes or fifteen minutes after ten.

Q. You say you have known Mr. Richter for four or five years? A. Yes, sir.

Q. Where did you meet him? A. I met him at my wife's house.

Q. Before you were married? A. Before we were married, naturally.

Q. How long had you known your wife before you were married? A. About three years.

Q. You didn't call there before you had known him, did you? A. No, sir.

Q. Then you couldn't have met Mr. Richter four or five years ago? A. Yes, sir, I could, knowing my wife three years and married nineteen months would make it four or five years.

Q. That is the way you figure it? A. Yes, sir.

The Court: Is not that the right way to figure it?

Q. He is dead how long? A. He is dead since September.

Q. Were you here to the funeral? A. I was once, I believe, after the funeral.

Q. How long after? A. I can't just recollect.

Q. A week? A. I couldn't recollect.

Q. A month? A. I really can't say because I wouldn't be sure.

Q. You said you remember the 11 day of March and you don't remember what occurred only about two months ago—three months ago? A. I could give you an indefinite answer. It might be a week or so. I couldn't say exactly. I believe it was several weeks after Mr. Richter died.

Q. What made you remember the 11th day of March? A. Why, we spoke of it between my wife and I several times.

Q. When did you speak to your wife? A. At times we were talking, we were alone; possibly the first three or four weeks it was sort of a conversation between herself and myself.

Q. You continually spoke of this will? A. No, I wouldn't say continually.

Q. For four or five weeks? A. We spoke of it now and then possibly when we talked of him.

Q. What was there to speak of? A. Why, different characteristics of the way of all of a sudden that he signed the will and things that uncle used to say and do; little things of that kind.

Q. You say he signed the will all of a sudden; is that right—that is what you spoke of? A. I didn't know anything about it—

Q. Is that what you spoke of to your wife? That he had signed the will suddenly? A. Yes, sir; exactly.

Q. Do you remember of any other occasion when there was a will and he refused to sign? A. I didn't know of any other occasion.

Q. You don't know of any other occasion? A. I didn't know anything about it until he signed the will.

Q. What was there to talk about? A. Well, I will tell you. At the time that he signed this will he said, "Children, the reason I am making out this will—of course I don't expect to die or anything like that—but I am going to take a trip to Sharon Springs." He was troubled with rheumatism at the time and that was his reason, he claimed, for making out his will.

Q. Now you remember distinctly word for word what took place at the execution of the will? A. No, I couldn't say that I do remember word for word, but I remember the incident plainly.

Q. What was there to impress it on your mind? A. A good deal.

Q. What was it? A. That was the first time that I was a witness or anything of the kind and that sort of impressed me.

Q. You are sure that Samuel Richter signed that paper? A. Yes, sir.

Q. You are sure that you didn't see somebody else sign that name? A. Positively.

Q. You are sure that Mr. Abraham Karp didn't sign it? A. Positive.

Q. Mr. Richter's name I am talking about. A. I understand perfectly.

Q. What makes you understand so perfectly? A. Why, I believe my eyes and seeing.

Q. Isn't it a fact that you remember so perfectly, that you have something else in your mind about this will? A. Why, exactly what I am telling you.

Q. What? A. Making myself perfectly plain.

Q. Did you talk to Karp about the will after Mr. Richter's decease? A. Mr. Abraham Karp are you talking about?

Q. Yes, we are only talking about him? A. There are several of them.

Q. I will be more technical. Abraham Karp. A. Yes, sir, we spoke of it once or twice, yes, sir.

Q. Where? A. At my home.

Q. About the will? A. We said a few words about the will.

Q. Before or after the will was produced? A. After the will was produced.

Q. Was there anything said before the will was produced? A. No, sir, positively.

Q. Not a word? A. Not a word.

Q. How soon after Mr. Richter's decease did you talk about the will? A. The first time I made mention of it was when I seen my brother-in-law and he told me he will attend to everything.

Q. Made a remark about what? A. About the will. I asked him whether he attended to the will and he said, "It is all right, everything will be attended to."

Q. Did he say he had the will? A. No, sir, he did not; he did not have the will.

Q. Did he say how he would attend to it? A. No, sir.

Q. Did he say what he would attend to? A. No, sir.

Q. What were you talking about? A. He said he will attend to the will, and I made a remark, and he said he will attend to the will.

Q. So you did talk about the will? A. At the funeral.

Q. Tell us exactly what he said he would attend to about the will. A. He didn't say anything besides he would attend to it.

Q. Did he make any mention about having the will? A. No, sir, he did not.

Q. Did he make any mention of anyone having a will? A. No, I cannot recall that date—

Q. At the funeral? A. At the funeral? No, sir.

Q. You weren't there after that, after the funeral? A. Why, once.

Q. Here in Newark? A. Once, I believe.

Q. Where? A. At my aunt's house.

Q. How long after the funeral? A. That is about a week or two after the funeral, I think.

Q. Anything said there about the will? A. Yes, we were talking about it then.

Q. Was the will produced then? A. No, sir, the will was not produced. At the time we were looking for the will.

Q. They were looking for the will? A. Yes, sir.

Q. Do you know where the will was found? A. Yes, I understand the will was found somewhere in the safe.

Q. In the safe? A. That is what I understand.

Q. Were you not told that the will was found in a Hebrew bible? A. I don't remember that statement.

Q. Or were you told that the will was found in the safe? A. The will was found in a safe.

Q. Who told you that? A. Why, my brother-in-law.

Q. Where did he tell you that? A. Why I believe it was at my home; I am not sure where he told me that, but it was quite some time later, but he told me at my home, I believe.

Q. Did he speak anything to you when you were here about having found a will? A. No, sir.

Q. Two or three weeks after the death? A. I think it is about two weeks.

Q. Did he speak anything here while you were over here about having found a will? A. No; at that time we were looking for it.

Q. Did you help look for it? A. No, not exactly.

Q. What do you mean "not exactly"? A. I wasn't looking for it. I wouldn't know where to look for the will; I wasn't there looking for it, to look for a will. I made certain remarks and my brother-in-law and aunt said they were looking around, investigating.

Q. The safe was there? A. Yes, sir.

Q. Inside? A. Positively.

Q. Was it open? A. I couldn't say—I don't believe it was.

Q. Do you know whether your aunt had it open before you arrived there? A. I can't say that.

Q. Did she say that she was looking through the safe and couldn't find the will? A. She didn't just say where she was looking. She was looking for the will.

Q. And that was two or three weeks after the death? A. Two weeks after the death. I am not certain.

The will is offered in evidence and marked Exhibit P-1.

Proponents rest.

ISADORE ARBEITEL sworn in behalf of caveators:

Direct-examination by Mr. Greenfield:

Q. What is your business? A. I am a plumbing contractor.

Q. And have lived in Newark how long? A. About seventeen years.

Q. Did you know Mr. Samuel Richter in his lifetime? A. Yes, sir.

Q. How long had you known him? A. About nineteen years.

Q. I show you check, one check, bearing date January 3, 1913, to the order of Mr. S. Richter, signed Isadore Arbeitel. Is that your check? A. Yes, sir.

Q. Now, I ask you, do you know whose endorsement is on there?

Mr. Osborne: I object to that. He is not an expert. He doesn't say he saw anybody sign it.

The Court: He does not say that he is familiar with his handwriting. He says he has known him for nineteen years. That is as far as he goes.

Q. Did you see who endorsed that check? A. Yes, sir.

Q. Who did?

Mr. Osborne: Do you mean did he say who endorsed that check?

By the Court: Q. Did you see who signed that name on there? A. Yes, sir.

By Mr. Greenfield: Q. Who did? A. Mr. Richter.

Q. Give us his first name. A. Samuel Richter.

Q. How did he come to endorse that check? A. I gave him the check and he says he wanted to turn it into cash, so he walked into—he said, "We will go over in the saloon," and we cashed

it and he signed it and we took it over to the saloon-keeper.

Q. And he signed it in your presence? A. Yes, sir.

The Court: What is the date of it?

Mr. Osborne: The date of this is January 3, 1913.

Q. I show you a number of checks and I ask you to look at the back of the checks; they are checks made out by you to the order of S. Richter, and I ask you, did you see S. Richter endorse the check—did you see him? A. Why, yes, sir, he endorsed all the checks as soon as I gave them to him.

Q. That is, checks to his order? A. Yes, sir.

Q. And the endorsements are all his and you saw him sign them? A. Yes, sir.

Mr. Greenfield: I offer them in evidence. There are ten checks all told.

Mr. Osborne: We object to them.

The Court: If Mr. Greenfield alleges forgery I suppose they are laying the foundation for expert testimony, and they are admissible for that purpose. You may cross-examine if you wish to.

Mr. Osborne: I think I ought to cross-examine.

The Court: They are not put in as recognized signatures, but signatures sworn to because he knew his signature and actually saw him endorse the check, he says.

CROSS-EXAMINATION by Mr. Osborne:

Q. Now, Mr. Arbeitel, are these all the checks that you ever made to Samuel Richter? A. Yes, sir.

Q. What was your business at the time these checks were made? A. Plumbing contractor.

Q. They all run from 1912 and 1913, don't they? A. Yes, sir.

Q. What was the occasion of your giving these checks to Richter? A. I had a store at Mr. Richter's place; I paid him rent by check; I often borrowed money from him and paid him back and loaned him money occasionally, small sums. That is how I gave him the checks.

By the Court: Q. You had a great many small financial transactions with him, then? A. Yes, sir.

By Mr. Osborne: Q. You never gave him any more checks than you have here, no other checks that you gave him? A. No, sir.

Q. You have already sworn that each one of these checks was endorsed by Mr. Richter in your presence; is that correct? A. Yes, sir.

Q. Every one of them? A. Yes, sir.

Q. That is S. Solverman, Jr.; his name appears on the check of February 10, 1913? A. I don't know.

Q. Look at that check. A. I don't know who it is.

Q. Well, you stated that his custom was, or that he frequently did endorse these checks in your presence, and then you would take them out and get cash on them.

Mr. Greenfield: He didn't say that.

A. No; he often went to the saloon and cashed them. He had no check account.

Q. Is Solberman a saloon-keeper? A. I don't know this man.

Q. Why do you say he always endorsed these

checks in your presence? A. Because we walked in—we generally walked in a grocery store on the corner or else he would borrow a fountain pen from somebody and he signed them and he turned them into cash as soon as possible for that reason.

Q. You are positive that you were present on February 14, 1913, when he endorsed that check? A. Yes, sir.

Q. You are positive that you saw him put that signature on there? A. Yes, sir.

Q. He evidently turned these checks at various times over to other people. Who is this, Max Pulles, who is he? A. He is a saloon-keeper.

Q. Where? A. On Broome Street.

Q. Did you see Richter endorse it in your presence? A. Yes, sir.

Q. And then you and he got the check cashed? A. Yes, sir. Once in a while he went himself, but most of the time I went with him.

Q. Who is Isadore Arbeitel—are you Isadore Arbeitel? A. Yes, sir.

Q. Did you sign all those checks in his presence? A. Well, no.

Q. Did you ever mail him a check? A. No, he lived across the street from where I did.

Q. How many of these checks did you sign in his presence? I don't know whether I signed any in his presence or not. I made them out in the house and brought them down to him. He was always on the corner or up in his house.

Q. What is this check for $98 for, what is that for? A. That is a loan.

Q. Loan to you? A. Yes, sir.

Q. Where was it executed? A. In the City Hall, in Mr. Swain's office.

Q. And there is another appears there? A. Mr. Swain's name.

Q. Underneath? A. Mr. Sculney. He was not there at the time Mr. Richter signed. He was there on another occasion.

Q. Did you see Mr. Richter sign this bond? A. Yes, sir; I brought him down there.

Mr. Greenfield: I offer this bond in evidence for the signature purpose only.

By Mr. Osborne: Q. Did he sign this on the date of this bond, June 25th, nineteen hundred and blank? When was the bond signed? A. This was signed—

Q. It says June 25, 1912. Is that about the date? A. It must have been later than that—I am not sure—because Mr. Sculney was down there. I had to have two endorsers—

By Mr. Greenfield: Q. Look at this bond. It shows that there is an acknowledgment or affidavit attached to it. A. Yes. I don't know whether it was signed on that day or after because I had both parties there at a different occasion.

By Mr. Osborne: Q. You have no other means than the bond to fix that date that it was about that date? A. There was a small difference, if there was any difference.

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

Q. And you saw him sign his name to that bond? A. Yes, sir.

The bond referred to is offered in evidence and marked Exhibit C-2.

Q. What is your father's name? A. David Arbeitel.

DAVID ARBEITEL, sworn in behalf of caveators.

Direct-Examination by Mr. Greenfield:

Q. Where do you live? A. 25 Clayton Street.

Q. Did you know Mr. Samuel Richter in his lifetime? A. Yes, sir.

Q. How long have you known him? A. From the day that he is born.

Q. That is quite a long while. You have known him in Newark? A. I know him in Newark and know him in the old country from the day he was born.

Q. You come from the same country? A. Certainly.

Q. I show you a paper, certificate of incorporation, which bears the date 29th day of June, 1909. Is that your signature that appears there—did you sign it? A. Yes, sir.

Q. Do you know who signed at the top? A. He was the first, Samuel Richter, and I was the second.

Q. Were you present when he signed that? A. Yes, sir.

Q. Where was this signed, do you know? A. It was in New York signed.

Q. Were you present when the people signed it; were you all together? A. We were all together. We sent that paper up to Washington.

Q. To Washington? A. Yes, sir.

Q. You mean the lawyer told you he sent it to Washington? A. He told me that.

Q. And you saw Mr. Samuel Richter sign this? A. Yes, sir.

CROSS-EXAMINATION by Mr. Osborne:

Q. Did he sign this on or about the date there, June 29, 1909, that is on here? A. What?

Q. Did he sign this about the date that is on here, June 29, 1909? A. The same date.

The Court: What is that?

Mr. Greenfield: It is a certificate of incorporation.

The paper referred to is offered in evidence and marked Exhibit C-3.

AUBREY J. DRUMMOND sworn in behalf of the caveators.

Direct-Examination by Mr. Greenfield.

Q. What is your business? A. Photographer.

Q. Any specialty? A. We make a specialty of photographs and court exhibits, such as handwriting cases.

Q. How long have you been in that line? A. Well, personally I have been in it about fifteen years.

Q. Where is your office? A. 50 Fulton Street, New York City.

Q. Did you, durng your fifteen years' experience as photographer, make any photographs for exhibits for Court? A. Many.

Q. About approximately? A. I couldn't tell you how many.

Q. I show you a will, purporting to be a will, Exhibit P-1 and ask you whether you photographed this signature on your right hand and the one there (indicating)? A. I did.

The Court: The signiture of Samuel Richter?

Mr. Greenfield: Yes.

Q. When did you make these photographs? A. I made them about a month ago.

Q. And have you got the photographs here? A. I have.

(Witness produces books.)

By the Court: Q. These books which you hand us contain duplicates? A. Yes, sir.

By Mr. Greenfield: Q. They are all duplicates, are they? A. Yes.

Q. On page 1, is that a correct reproduction of the signature attached to the will? A. That is.

Q. On page 2, is that a correct reproduction of the will signature? A. Enlarged reproduction.

Mr. Osborne. Of the signature?

Mr. Greenfield: Yes; I say of the signature.

Q. On page 3, what is that? A. Those are the photographs of checks, backs of checks.

Q. Look at the checks. Is that a reproduction of a signature in back of the checks? A. There are many checks here, and we have only photographed four checks. It would be a hard thing to pick out which ones I photographed.

Q. But they are from the checks? A. They are from the checks.

Q. Take page 4; what is that? A. On page 4, the bottom is an enlarged reproduction.

By the Court: Q. What is on page 1? A. Page 1 is the actual size of the signature on the will.

Q. The reproduction of the lower part of the will, the signature and part of the attestation clause? A. Yes, sir.

Q. And what on page 2? A. An enlarged photograph of the signature on the will.

Q. What is page 3? A. Page 3, on the bottom of it is an enlarged reproduction of the photograph of the will, on the bottom.

Q. Page 4 is what? A. Checks, backs of checks.

Q. Endorsements from checks? A. Yes.

Q. Pages 5 and 6 is an enlarged signature, greatly enlarged signature? A. Yes.

Q. Page 7 is what? A. Cut-outs from different writings, and page 8 is a photograph of election registration book.

Mr. Greenfield: I offer them in evidence.

Mr. Osborne: I object. The originals have not been produced and proven. One is the page from the registration book, and you haven't proved the standards on pages 5 and 6, and you haven't shown where these cut-outs come from on page 7.

By Mr. Greenfield: Q. Where did you get that signature to enlarge it? A. I enlarged it directly from this photograph here.

Q. When you say "here" what page is it? A. On page 2.

By the Court: Q. That is the disputed will. Where did you get what you call the standard on the bottom of pages 5 and 6? A. One of the experts who will follow me cut that out and matched those together and I photographed them according to his directions.

Q. You don't know where he cut it from? A. I do not.

Q. Or who wrote it? A. I don't.

By Mr. Greenfield: Q. Where did you get the

cut-out? A. Mr. Hartkorn, the expert who will follow me, will give a description of those cut-outs, where he took them from.

By the Court: Q. You simply made those photographs under his directions? A. Yes, sir.

Q. From writing submitted to you by him? A. Yes, sir.

The Court: You had better withhold the offer of these photographs and put the expert on.

CROSS-EXAMINATION by Mr. Osborne:

Q. These enlargements were made in the usual and ordinary way A. What do you mean?

Q. The enlargement on page 2 of this signature. A. Was made directly from this here will, direct photograph.

Q. And in the usual way, correct way? A. There are two ways. The correct way is to make it direct from the object itself, and there is another way of making a plate and throwing it on from the plate, but the best way is to do it by negative or plate, which will give you an exact reproduction.

By the Court: Q. Which way did you use? A. The correct way.

By Mr. Osborne: Q. And except for the size, it is an exact reproduction of the signature of the will; that is true? A. Yes, sir.

By the Court: Q. Is that also true of the upper signatures on pages 5 and 6? A. Yes; you may note that that signature is divided into two parts.

Mr. Greenfield: With the Court's permission, the County Clerk's representative has produced, under subpoena, the registration book of the Tird Ward, Fifth District,

of 1913, and he would like to get away, and I would like to offer it in evidence.

The Court: Does the other side admit that that is the official book which is produced here by the County Clerk, the official registration book for the district and ward mentioned?

Mr. Osborne: Yes.

DAVID ARBEITEL recalled in behalf of caveators.

Direct-examination by Mr. Greenfield:

Q. Mr. Arbeitel, did you ever go to the polling place of the Fifth District of the Third Ward in the year 1913, with Mr. Richter when he went there to register? A. Yes, sir.

Q. I show you the registration book and ask you whose signature is it, the second signature from the top?

Mr. Osborne: I object to that because it does not appear that he saw him sign it.

Q. Did you see him sign it? A. I see him sign it.

By the Court: Q. Did you always go with him to the polling place every time he voted? A. Sometimes I went with him and in 1913 I was in office.

Q. Did you always go with him? A. This year I was.

Q. How do you know what date this book covers? A. I don't remember the date. I was an officer in the polls.

Q. What time? A. In 1913.

Q. And that is when you saw him sign this? A. Yes, sir.

Q. How do you know this is the 1913 book? A. The counsellor told me.

Q. Did you go with him? A. I was officer in the Board.

Q. That year? A. Yes, sir.

By Mr. Greenfield: Q. Now look at the second signature from the top and I ask you whose signature that is?

Mr. Osborne: Whether he saw him sign it.

The Court: He said he saw him sign it.

CROSS-EXAMINATION by Mr. Osborne:

Q. Does your name appear here? Are you a citizen of the United States of America? A. Yes, sir.

Q. Did you register here? A. Yes, sir.

Q. Where is your signature? Show us your signature. A. (Witness indicates in book.)

Q. Who were the other officers? The witness indicated on page 1 his own signature. Mr. Arbeitel, you are quite sure you didn't sign Mr. Richter's signature to this registry list? A. No, sir; he sign it himself.

Q. Where are the names of the officers? Do they appear here on this anywhere? A. I don't remember the names of the officers. They are all Christian people.

Q. This was 1913, about a year ago? Yes, sir.

Q. A year and three months ago? A. Yes, sir.

Q. You don't remember the names of the other officers? A. No, sir.

Q. You were an officer, you say? A. I was an officer. I don't got in mind the name.

Q. How many times had you been an officer? A. Once.

Q. And that was the only time? A. The only time that I was.

Q. And did you go with Mr. Richter the year before? A. The year before and a couple of years before, every time he called. We lived across the way.

Mr. Osborne: We have no objection.

The book referred to is marked Exhibit C-4.

AUGUST HARTKORN sworn in behalf of caveator.

Direct-examination by Mr. Greenfield:

Q. Mr. Hartkorn, what is your business or profession? A. Examiner of questioned documents and accounts.

Q. And how long have you been in that as examiner for questioned documents? A. For twenty-seven years I have been a professional penman and have taught penmanship to thousands of students, during which time I have made a special study of individuality in handwriting with a view to determining the genuineness or spuriousness of any signatures.

Q. Have you testified in any courts? A. I have.

Q. With reference to questioned documents? A. I have.

Q. In about how many cases? A. I have had hundreds of cases under examination. I have tes-

tified in the United States Court, Criminal Court, City Court in New York, Supreme Court, Boston, Salem, Mass., and Courts in New Jersey.

Q. Have you testified in New Jersey? A. I have.

Q. Before what Court? A. I have testified in the case of State New Jersey vs. Anna Pollard.

Q. In Elizabeth? A. Elizabeth.

Q. Did you in any other Courts? A. I testified in the District Court, Hoboken, N. J.; I testified in the Court in Jersey City before Judge Blair about two weeks ago—three weeks ago.

Q. In questioned documents? A. Questioned signatures.

Q. During your experience you say you have obtained a knowledge to judge signatures whether they are genuine or otherwise, have you? A. Yes, I can.

Mr. Osborne: I would like to cross-examine him on his qualification now.

The Court: You may do so.

CROSS-EXAMINATION by Mr. Osborne:

Q. Where is your office? A. Masonic Temple Building, Twenty-third Street, New York.

Q. What was this case of Pollard in Elizabeth? A. State of New Jersey vs. Pollard.

Q. For whom did you testify?

Objected to.

By the Court: Q. You testified on direct-examination that you testified against Pollard, didn't you? A. No; I said in the case of the State of New Jersey vs. Pollard.

By Mr. Osborne: Q. Did you testify for the

State or for the defense? A. I testified for the defense.

Q. What was the result of that? A. Mrs. Pollard was acquitted.

Q. How many experts were there in that case? A. Two experts.

Q. Who was the other? A. Mr. Kinsley for the prosecution.

Q. One on each side? A. Yes, sir.

Q. Were there any bank tellers? A. There were not.

Q. What was this case before Judge Blair at Jersey City? A. The case of Bier vs. Jefferson Trust Company, Hoboken.

Q. Where was that tried? A. I believe the Second District Court in Jersey City.

Q. Are you sure about its being Judge Blair? A. I am sure; yes, sir.

Q. Was that a forgery case? A. It was.

Q. What was the name of it? A. Bier vs. Jefferson Trust Company.

Q. And what was the other New Jersey case that you had? A. Stubman against Peters in Hoboken, N. J.

Q. In what Court? A. District Court, before Judge Frombach, some years ago; he is now deceased.

Q. How many years? A. I can't give it exactly. Eight or ten years back—perhaps twelve years.

Q. Then you have testified in three cases in the State of New Jersey? A. I also prepared the case of State of New Jersey against Matthew J. Ready for the defense.

Q. Were you called in that case? A. Called to testify?

Q. Yes. A. No; I didn't testify. I prepared the case.

Q. Who was the expert in that case? A. I was the expert for the defense. There were four experts for the prosecution.

Q. You didn't take the witness-stand? A. I didn't; no, sir. It wasn't necessary.

Q. Any other case in New Jersey? A. I can't at the moment recall whether I had any other cases in New Jersey.

Q. In New York Cty, how many cases have you had? A. Well, I have had many hundreds of cases.

Q. I mean where you testified in Court? A. I testified in the United States Court.

Q. New York? A. Yes; in New York.

Q. In the Post Office building? A. Yes, in Newcomb vs. Burbank, I think.

Q. How long ago was that? A. 1908.

Q. A bankruptcy case? A. No; disputed document.

Q. What kind of a document was it? A. A gift of bonds.

Q. A gift of bonds? A. Yes, sir; in the form of a bill of sale.

Q. What was the result in that case? A. The result was there was a settlement.

Q. Anywhere else in the City of New York? A. Yes, sir; within two weeks. The Mutual Alliance Trust Company against Suderov in the City Court.

Q. What was that about; what was the dispute there? A. The dispute was a signature on a note.

Q. What became of that case? A. That case was decided for our side.

Q. And you were called to maintain the validity of the signature, were you? A. I was.

Q. In the Pollard case were you called to maintain the validity of the signature? A. There wasn't any signature in dispute. It was typewr.tten document.

Q. Were you called to maintain the validity of it or were you called to sustain the typewritten document or the typewriting on the document? A. I made an examination and was asked for my opinion, which I gave, and made a report, and I was called to testify as to my opinion as to whether the so-called poison pen letter was written on the same machine as the standards produced.

Q. And you testified that it was? A. No.

Q. In Beir vs. Jefferson Trust Company you were called to maintain the validity of that signature? A. I was not. I was called to make an examination and report, which I did, and after my report I was called to Court to testify as to my finding.

Q. Did your testimony sustain the validity of the signature? A. It did not. It proved it a forgery.

Q. In Stubman against Peters, what was the nature of your testimony—to sustain the signature there? A. It wasn't sgnatures. It was an anonymous writting on a post-card, disputed.

Q. In Newcomb vs. Burbank, in the United States Court, you testified to the validity of the signature in that case or not? A. It was a mass of writing. It took six months of preparation, steady work.

Q. Any other case in the City of New York? A.

Yes, sir; I think it is the Western National Bank—within a couple of weeks—against Suderov.

Q. That is like the Mutual Alliance against Suderov? A. Yes, sir; similar.

Q. That is all in the City of New York? A. Oh, no; there are many others.

Q. Have you ever testified in will cases? A. I have.

Q. In New Jersey? A. I have in New Jersey. The Matthew J. Ready case was a will case.

Q. New York City? A. Yes, I have.

Q. How many, generally—three or four? A. I can't recall. My time goes back somewhat. I can't recall every case.

Q. How long have you been testifying as an expert? A. I should say about fifteen years testifying.

Q. And that is your business? A. That is my profession, accountant and handwriting expert. Certified public accountant of the State of New Jersey.

By the Court: Q. There are other experts in the business besides yourself? A. There are.

Q. And you often find yourself on different sides of the same case? A. Sometimes.

Q. You often reach different conclusions? A. That has happened.

Q. From the same starting point? A. Well, it depends a great deal on the standards submitted to either side.

Q. From the same standards? A. That I can't say that I have had that experience by utilizing the same standards.

Q. From the same exhibits submitted you say you don't reach different conclusions? A. I say

that has not been my experience. I have found experts appearing on opposite sides with different standards, which is, I will say, in the Pollard case, there were some of the standards the same that I had that were used by the prosecution.

Q. You have a questioned writing. That is your starting point you reach different conclusions from that starting point, do you not? A. We study it first, the characteristics of the handwriting.

Q. But you do not always agree? A. That has happened that we don't always agree; no.

By Mr. Osborne: Q. Mr. Kinsley is a well-known handwriting expert? A. He is a great friend of mine.

Q. And a first-class expert? A. Conceded to be such; yes.

Q. You and he didn't agree in the Pollard case? A. No; we did not.

Q. And in these other cases you have testified in, have other handwriting experts been on the other side? A. Yes, sir. The two cases I just spoke of, Mr. Carvalho appeared on the other side in those two cases.

Q. And they disagreed with you? A. In that case he did, that was the only case I know of.

RE-DIRECT-EXAMINATION by Mr. Greenfield:

Q. I show you a book of photographs. Just look at pages 5 and 6. The photographer said that you furnished him with the documents from which he photographed, or supplied him the material for it, did you? A. The photographer accompanied me to the Court House here in Newark to

make a photograph of the will signature, which he did in exact size, and that enlargement on page 2 —that is, both of those were made by contact direct from the will in exact size and enlargement.

By the Court: Q. The one marked "Disputed" is the signature on the will? A. Yes; I am speaking of page 2. I want to connect pages 5 and 6 with page 2.

Q. Now, as to page 5, where did the photographer get the signature to make the enlargement, the disputed and the standard? Who furnished the standard?

Mr. Osborne: Mr. Hartkorn has testified that this disputed signature came from the will. Where did he get this standard?

By Mr. Greenfield: Q. Do you know where he got this standard? A. Yes, sir.

Q. From what did he take that? A. That standard came from one of these documents in the nature of a legal document here before us.

Q. Can you pick it out? A. Yes. One of the two signatures—no, the one signature on this document, certificate of incorporation.

Mr. Osborne: Marked Exhibit C-3.

Q. Do you know who furnished the photographer with that standard? A. I did.

Q. And from what document did you give him that? What was the standard that you used on pages 5 and 6?

The Court: He just testified that it was from C-3, the certificate of incorporation.

Q. On page 7 you have here cut-outs, as they call them? A. Yes, sir.

Q. Did you furnish the photographer with these cut-outs? A. I did.

Q. Where did you get them? A. I got those two documents that appear intact in the photographs in this book. They are all marked at the head where they are taken from, in this photograph on page 7. The first line right down represents the cut-out taken from the disputed document.

Q. The next? A. And the next, the two portions of cut-outs down the column, are taken from the plumber's bond marked C-2.

Q. The next? A. And the next column was taken, cut-out from the certificate of incorporation. That is C-3.

Q. And the next? A. Was taken from one of the checks here. I believe marked in evidence, January 3, 1913.

Q. The next? A. August 5, 1913. The next check of May 28, 1913.

Q. What is the next line? A. That is all the documents that were taken from cut-outs that appear on this sheet.

Q. I understand you, the first letter on your left is taken from the disputed signature? A. Yes, sir.

Q. And the others are taken from the standard? A. Standard.

Q. Indicated on the top? A. Yes, sir.

Q. And these photographs were made under whose direction. A. Under mine.

Q. Are they accurate reproductions of the standards and the disputed signature? A. They are.

Q. Now, we take the next page, page 8. Did you see that photograph made? A. I did, on the day the will signature was photographed here.

Q. And you were present? A. I was.

Mr. Greenfield: I offer those books in evidence.

Mr. Osborne: It is not clear what the checks are on pages 3 and 4. It does not seem to be explained as to what the signatures are.

Witness: The four signatures made in one plate on page 4 in the book, those are the four signatures, endorsements.

Q. They are taken from what checks? A. January 3, 1913; August 5, 1913; May 14, 1913; May 28, 1913.

Q. Now, go to page 3, the top signatures. What are those taken from? A. They are taken from this. The First one is C-3.

By the Court: Q. And C-3? A. C-3 is the top one, and the two below that are taken from C-2.

Q. What is the rest of that? A. That is the plumber's bond, the one on the first sheet.

Mr. Greenfield: I offer those photographs in evidence.

Mr. Osborne: I object to them simply because we have here the original signatures. I see no objection to the witness using this book by way of illustration, but we have the original signatures before us, disputed and otherwise.

The Court: The only question is whether they should formally go in evidence. I cannot see that it makes any difference, for the purpose of convenience, and we want to have them in such shape so that they will be part of the record. If it does not go in evidence it cannot be used on appeal.

The book referred to is marked Exhibit C-5.

Q. Now, Mr. Hartkorn, did you examine P-1, a document purporting to be the last will and testament of Samuel Richter? A. I did.

Q. Did you examine the signature? A. I did.

Q. The signature purporting to be Samuel Richter? A. Yes, sir.

Q. What examination did you make of it? Kindly describe in detail. A. I made an examination of this signature to the will as appended in the Surrogate's offices here in Newark some time in October, I believe it was. I cannot be sure as to the time I came over—I think it was a later date—and spent several hours examining under glasses, high power glasses, and then coming a second time with a photographer and made another examination at that time, and had the signature photographed, and then I studied from the photograph for several weeks at my office and arranged for further photographs to be taken from my examination.

Q. That was done, was it? A. That was done.

Q. Now, then, proceed and tell us just what you did, what you have done in the matter of ascertaining the genuineness of the signature. A. I found from such standards that I had in my possession at the time of making the examination at the Surrogate's office that the signature to the will was—

By Mr. Osborne: Q. Are these standards confined to the standards which are in evidence? A. Exactly. Those are the standards that I had in my possession.

By Mr. Greenfield: Q. I show you these checks. Did you use those checks as standards?

Mr. Osborne: He says he used those standards which are in evidence. He first said that he used certain standards.

The Witness: These are the standards, and these documents. I found by an exhaustive study and comparison between the two, calling the standards one and the signatures to the will another, that the writing purporting to be the signature of Samuel Richter appended to the will was not written by the hand that wrote the standards, but was a clumsy forgery.

Q. How did you arrive at that conclusion? A. What I have to say first in that respect is that in general the alinement, taking the alinement as shown by the signature to this will to which we will refer on page 3 of the photographs, page 3, where the four signatures appear enlarged, the lower one being that of the will, I find that the alinement to that will signature is superior to the alinement of the standards, and those standards appearing above are the standards here on these Exhibits C-3 and C-2, and then, in studying the quality of the lines, I find that the quality of the line is much inferior to the standards showing where the standards are written with the ordinary speed of a man writing his name; that the disputed signature is not a written signature, but a drawing and filling in, and the pen position shows that it was held in different directions in the hand to get the effect of shading here and from filling in with ink, while with the standards the pen was held approximately—the penholder pointing towards the elbow and the shoulder in executing the signature. The line quality, as I stated, taking first, the capital letter

"S," we find at the base of that "S"—we will refer now to pages 5 and 6—we find a filling in, a heavy flow of ink at the base or turn of that oval which should be an upstroke. Now, it is impossible to get an upstroke as heavy as that from a pen that produced that downstroke. That is a filling in after the signature was drawn there, and the pen lifts are shown near the base. In the first upstroke of that capital "S" we find a pen lift about one-third the height also. Then the stroke is carried up and there is another pen lift at the top, and another trial, and some change of direction of line to form the down stroke. Now, taking that second up stroke, we find that by referring now—we can do it here—referring to the two signatures on those pages 5 and 6, we find that that up stroke does not reach the same height as the standard below before finishing with that curved line. Now, that is true in general throughout all the signatures that I have had under examination, that where this portion of the stroke drops below that first stroke—

By the Court: Q. Which portion are you referring to? A. That is the portion where the upstroke ends before the finishing stroke is made that drops below the first upstroke, where in every other instance that stroke is carried higher, much higher, above that first upstroke. Now, another thing—the ending. The finishing stroke of that "S" is unlike the finishing stroke of any other "S" standard that I have had under examination. It is not a finishing stroke with German characteristic. I write the German letters and have done a great deal of work with German characters, and I know what that German charac-

ter is. This is not the formation of a German "S," that finishing point. Another thing, that upstroke, that second upstroke has entirely too much slant to compare with any signature that I have had under examination, and I have measured the degrees of slant all throughout, and I have the figures, which I can give if necessary or required, which will show that throughout the entire signature the slant differs in every respect, up and down strokes. There is not a signature that I have had under examination that shows the filling in, pen lifts—by that I mean, where a man writed to a certain distance before raising the pen. In this signature below we find that the pen is carried along to the last stroke of the "m" before there is a pen lift. That is not so in the disputed signature. We find that the pen is raised after the first upstroke of the "a." After making a break in the upstroke, we have two breaks right there in the upstroke of the "a." Now, we have a break at the base. The pen is lifted and a curve placed there, which is too inferior undoubtedly, to compare with any of the standards. We have on the upstroke a different slant than any of the standards. After making that small dot at the top of the second upstroke of the "a" and carrying that horizontal line and connect that with the next downstroke, we find again the pen lifted there. That stroke is carried to the base in another lift, and so on. We have a broken line that makes up the next upstroke which is filled in in spots. There is no pen that will draw an upstroke when writing in that form. And the downstroke, we find commenced at the base, when there is a lift and the next upstroke of that "m" begins about half-way up,

which is not to be found in any standard under examination. The standards all connect at the base without any retracing or any filling in or lifting the pen and carrying the stroke from the middle up. Now, in the second downstroke, that stroke is patched near the bottom. That shows a filling in. Then there is a stroke commences nearly two-thirds the height to make the next upstroke for the "m" and then a filling in of that same downstroke there shown by the point, not even, under the microscope. That is not so in the "M" in the standards. Every stroke is open. There is no retracing or filling in of any "m." They are all open, pointed top and bottom open. Now, we will take the next downstroke, which also represents a compound curve, more pronounced than the second, which is not so in any of the standards, which likewise shows that the pen was lifted and started a considerable distance above to form the German stroke; and on the "e" there is a considerable filling in afterwards. That is not so in any "m" under examination. Now take the letter "e." That letter "e" is too short entirely, and so I may remark, that all the letters they are shorter than any I have had among the standards. The strokes are all higher. This is brought up to the same degree of enlargement from the steel plate.

By Mr. Osborne. Q. That is, the standard is the same degree of enlargment? A. Yes, sir. Then taking the second stroke of the "e," that is much too short. All the standards show a very long stroke carried on down near the base. There is another pen lift after lifting or commencing, after the down stroke there, another short stroke, and a patching, starting again to form what should

be the upstroke of the "l," which is also filled in and the pen raised several times throughout that stroke. Then the thinness of the line, that is an unnatural stroke, carrying the shade to the right of that, and the downstroke shows filling in and patching, particularly where the line crosses at the up and down stroke and at the base, the "I" was first made short and then it was carried down lower, patched in, and then there was another line curved outward added thereto. That "l" by comparing with the standard, shows a great deal more slant, as though it is toppling over. That is not to be found in any standard, and that down stroke is carried away below that "e." That is not to be found in any standard. The "l" is carried above the "e" in the base line in every instance. Another thing as to that "l,"where the downstroke crosses the up stroke is almost at the bottom in the standard signatures; not so with those disputed. That is almost the height of the other letter where the strokes cross each other. Now, taking that character, which should represent a German "R," but is not an "R." That is not like the standards in any respect. It simply is made up of a compound curve, an up stroke, and another dash put at the top. That stroke has too much of a bend at the top entirely; that is not to be found in any standards, no such curve as that, and the stroke that should be in the initial stroke there is a down stroke, patched in, made very heavy. Not so in any of the standards, where the pen is simply placed on to start off the writing, and it will be noted the slight curvature in the compound curve of that standards, which represents the "R." There is a pen lift

at the very bottom showing a start clearly—of course, there are other lines and filling in throughout the strokes—but these showed very clear the pen method, how the filling in was done, and then that up stroke carried to connect with the "i." It will be clearly noticed that the up stroke is disconnected from the down stroke; the down stroke starts from the left of the top of that stroke and carried down, filled in near the base, when the pen is again raised for the next up stroke, which is a very light stroke to form the German character "c." It seems there to be somewhat of a curl in there, somewhat like the form to be made of an English "c." That is not so in the German "c." It is pointed at the top like an "i" would be. It was carried down with some more patching in at the base, plainly to be seen there without a microscope. Then the pen was lifted and the next letter executed with many patches. It is not a natural letter; that is a filling in drawing, an entire drawing. The down stroke of that letter, the German character "h," is entirely too straight to be a German character "h." We notice in all the standards they have the compound curve, which a German tries when he writes downward, a compound curve, he doesn't make a straight hook. Now, this patching at the very bottom of the "h," also which can be seen to the left, where that up stroke is carried, and in the crossing, the up stroke, where the down stroke crosses it, also shows the patching clearly there. And also with the "t," carried up, and the "t" curved down, first to the left and then to the right and then somewhat of a tick placed to the left of the

"t." That is exactly opposite of the standard writings. Where there are ticks they are always to the right in every instance and light, very light, just where the pen is to be taken off that tick occurs, but this is placed there intentionally. Now, where the stroke to finish the "t" shows there to connect with the following "e," that stroke is a very heavy, awkward filling in, and the downstroke of that "e" shows patching at the top and near the bottom, and that last stroke is rather too short for any of the "e's" that Mr. Richter made, the whole letter too short. And then the "R" is made up of many strokes, filling in, and so with that ending that stroke, carried off to the right; there was no necessity for filling in the stroke carrying to the right, which has been done and which shows clearly. Now, what I have said as to height, size and slants compares with all the standard signatures, but does not compare with this disputed signature.

Q. Now, taking the first letter "S," do you find in any of the standards the same form of the tick, or whatever you may call that? A. Terminal stroke.

Q. Do you find in any one of the standards the same kind of a stroke as it is on the disputed signature? A. I do not.

Q. Can you, from the examination that you have made and the study that you have made of the disputed signature, say how the person—in what condition as to mind was that person in at the time he wrote the signature? A. Which signature—the disputed?

Q. The disputed signature. A. That shows a nervous filling in.

Objected to.

Objection withdrawn.

The Court: Filled in by a hand that was nervous, because it is not steady.

Q. What does the signature show as to the steadiness of the hand that wrote the disputed signature, can you tell? A. I can only tell that the signature was drawn by placing together a number of strokes to build up a writing to make a signature to simulate the standard.

Q. Can you say whether that is a tracing? A. Yes, I can.

Q. What would you say it is? A. It is not a tracing.

Q. Can you tell how the signature was simulated? A. The signature is written by taking the pen and following a copy, stopping, looking at the copy, continuing, and when found that a stroke is not of the thickness or perhaps not of the curvature then there is a filling in, or where a pen is raised, then there is a filling in to complete the stroke.

Q. It is not a tracing—it is not a traced signature? A. In my opinion, it is not a tracing.

Q. Taking page 7, why did you prepare these cut-outs, for what purpose? A. To show in juxtaposition the difference in the letters—not in slant, because it is almost impossible to paste these on in the proper slant, but just to show the dissimilarity through the letters and the strokes. For instance, in the first letter "S," the finishing stroke at the top of that "S" and the length of the line in the "S" there is no place in the standard where it is in the disputed, which is near the base, to the left in the disputed,

so that the next combination there for "ri" to show there the curvature of the downstroke of that supposed "r." I have taken these cut-outs from all the standards as we have photographed in this book and I can find none that resembles that, neither in quality of line or in form, and they are all much higher, larger, so that the next letter the "l," all the "l's" cross the up stroke with a down stroke near the base, where the disputed differs there, being almost near the middle, and the endings are light, natural, light writing. Here there is a filling in of this "l." The "l" is also square at the top, which does not occur in the standard. Likewise the "t's" are all higher and they are not written with such strength as this "t," which is about the strongest. On the signature which is disputed, the strength lines are not there.

Q. What do you mean that it wasn't written with such strength? A. I mean the strength of the signatures as written by Mr. Richter, they fill out about the small letter "h;" that is where the most pressure is placed. Here it is on the "t," which is not so in any of the standards. Now, we find that "a" unlike any of the standards as we see by this following—

Q. In what respect? A. In respect to the curve at the base we notice there is more curvature and the up stroke that follows that curve is more upright in every instance than is this disputed, and the next, "cht," we notice that where the lift occurs at the bottom of the "c," which is usual with Mr. Richter, we find that that stroke that connects with the "h," the upstroke of that "h" is curved up stroke. This

one in the disputed is a straight line, We don't find such a straight line in the standards, and that is a good part true of that second upstroke also of the "h." Now, the "me" combination as I have placed the standards alongside, show all the standards open at the top and the bottom, and no compound down strokes, as shown in this disputed, or any filling in or retracing at the base; and the "e's," we will notice, are all larger than the "e" following the "m." Now, "er" combination, likewise we find the "e's in the standards larger than we do in the disputed—that, is, the disputed has that second stroke entirely too short, while in some instances Mr. Richter made a short stroke, but never as short as this; and the combination of that "er," which, of course, is an imperfect "er," we find that in the disputed, the curve, the stroke after leaving that second stroke, drops down, where in the standards we first have an upstroke before making the curve.

Q. Do you find anything in the standards, the dash after the "r" in any of the standards similar to the one in the disputed signature? A. No, I should say there are variations of the finishing strokes throughout Mr. Richter's standards, but none to compare in line quality with this disputed.

Q. What does the disputed appear to you? A. It shows that after a stroke was made it was gone over again in certain places.

Q. Can that be seen with a microscope? A. Yes, sir, it can be seen.

Q. That the pen went over twice that stroke? A. Yes, sir, that can be seen.

Q. And did you examine the standard signature and did you find in any of the standards where the last stroke after the "r" has been gone over twice? A. No, I don't find any.

Q. You say the alinement is not proper. What do you mean by that, Mr. Hartkorn? A. I mean the alinement of the disputed is too good—that is, it nearly approaches uniformity at the base, the down strokes, as compared with any of the standards. The alinement in the standards is not nearly as good—that is, by the relationship, I mean, of the down stroke to the base line in the different letters, taken together.

Q. In other words they are not as uniform, straight handwriting in the disputed signature as it is in the standards—that is, the disputed signature is more straight? A. That is it.

Q. And do you find anything in the standards that it is as straight a writing as it is in the disputed signature? A. I do not.

At this point the court took a recess of one hour.

After Recess

AUGUST HARTKORN resumes the stand.

Cross-Examination by Mr. Osborne:

Q. Mr. Hartkorn, look on page 5 and 6, which are the largest enlargements, and you will notice that the standard signature upon the lower part of the page is a signature written in the year1909. That is correct, isn't it?

The Court: Here is the paper which you say it was taken from. What is the date of the paper's execution?

Witness: 1909 is correct.

Mr. Osborne: Some witness testified that that was the date.

Q. Isn't it a fact that time makes a difference in a man's signature? A. As to what? Not as to characteristic.

Q. Not as to characteristics at all? A. No.

Q. Why did you select the signature of June 1909, rather than the signature in 1913? A. Because it was on the document that appeared to be a legal document.

Q. Of course, you have talked this matter over with Mr. Arbeitel? A. Who?

Q. Mr. Arbeitel. A. I don't know the gentleman.

Q. With Mr. Greenfield? A. I talked what over?

Q. This case? A. I was asked to make an examination and report, which I did.

Q. That is what I want to know. And by Mr. Greenfield? A. Exactly.

Q. Did Mr. Greenfield furnish you with any other specimens of handwriting than those that are in evidence here? A. Only what is in evidence here.

Q. No other? A. No, sir.

Q. Why didn't you make an enlargement of a signature in 1913? A. Didn't have any of legal document, didn't have any of Samuel Richter in 1913.

Q. Why didn't you make an examination of some of the signatures on the check? A. I did. They are here, in 1913. I took page 3.

Q. Why didn't you make another enlargement such as this as on pages 5 and 6? A. I didn't have any Samuel to enlarge. They are all S. Richter.

Q. Then because you had the word "Samuel" on this one signature that is the reason you enlarged it? A. I enlarged three, three "Samuels" as contained on these legal documents.

Q. Why didn't you enlarge all the signatures on all the checks? A. It wasn't necessary.

Q. Why? A. The same characteristics appear in all. I thought taking four of the checks I had was sufficient for photographs. The originals are here in evidence.

Q. Look at page 7. I call your attention to an "S" which appears under the heading Check, August 5, 1913." Do you find that? It is next to the last on the top line. A. I have it.

Q. That has the appearance of being filled in? A. It has not.

Q. The appearance of being drawn? A. It has not.

Q. The appearance of being traced? A. It has not.

Q. What is the difference, so far as the strokes are concerned between that and the disputed "S"? A. A Perfectly natural pressure at the right of the oval, at the base, where the others at the left of the oval; it is impossible to execute with a pen in a natural position of writing. The pen must be either held off in this direction or the paper turned around or a filling in from the top down. It could not be done with an up stroke.

Q. In other words, your opinion is that the disputed signature was turned upside down in order

to fill in? A. It is not. I do not mean to say that the disputed signature was turned upside down, but to hold the pen in a natural position the paper must be held upside down to produce that stroke.

Q. You find in several of these standard signatures on page 7, particularly those signed in 1913, that there is not the same difference—in other words, that the strokes are all uniform up and down, aren't they? A. What do you mean by uniform up and down?

Q. I mean of the same thickness? A. No, they are not.

Q. Your eyesight differs from mine. A. Look at the one 1913 and certainly there the downstroke has a pressure.

Q. Take August 5, 1913. Do you find a difference in shading there? A. The pressure is uniform there, almost all throughout.

Q. "cht" on the same check, it is also uniform, isn't it, down below? A. Yes, that is the pen. It is not an elastic pen.

Q. It makes a difference what pen you use? A. If the stroke was uniform it shows that the pen isn't elastic and the pen didn't spread to let the flow of the ink come down more freely on the downstroke than on the upstroke.

Q. It looks to me as if the "S" under the head of check August 5, 1913, were drawn instead of being written. A. No, it doesn't look to me—it looks to me as if there was a heavy pen that was used; the pen wasn't elastic, the nibs didn't spread.

Q. In those other cases the pen was elastic? A. In these other cases of the standard.

Q. Did Mr. Greenfield tell you what kind of a pen was used in writing the signature on the will? A. No, sir; I used my eyes.

Q. Did Mr. Greenfield tell you whether or not the testator himself went over that signature himself and shaded it and filled it in? A. No, sir.

Q. Aside from the difference in the signature as testified here, have you any knowledge as to whether the testator himself filled in the disputed signature? A. No, hardly plausible that he did.

Q. You don't know? A. No. It is hardly plausible that he did.

Q. Is it true that the mental condition of a man makes a difference in the signature? A. It depends on what the mental condition is. There may be, yes.

Q. Suppose a man is intoxicated, does that have an effect upon his signature? A. Yes, it wouldn't make the alinement any better. It would make it worse.

Q. Are all the characteristics there even if the man is intoxicated? A. Yes, sir.

Q. In every case? A. Yes, sir, and also if he was hypnotized.

Q. Suppose a man is suffering from paralysis are the characteristics still there? A. There are characteristics there, but there wouldn't be any heavy strokes of retracing; there would show that discrepancy in the strokes in the formation of a wavy line.

Q. Unless the man himself filled the stroke in. I understand that. Did Mr. Greenfield tell you that this man was suffering from Rheumatism at the time this Will was executed? A. I said before, Mr. Greenfield told me nothing.

Q. You are not able to judge unless you know the physical condition of the man? A. I am able to judge in this way, that these strokes are built up, placed together, the same as you would place bricks together to build a house. They are not written. They are strokes put together, up strokes, down strokes, lateral strokes, side strokes, drawn in.

Q. Assume that this man had rheumatism, assuming that his hand was crippled, would that affect his signature? A. It would, somewhat.

Q. It would affect it a great deal, wouldn't it? A. It would depend on how crippled the man is. He may not be able to use it at all.

Q. You have seen lots of people write? A. Yes. I have taught 20,000 scholars.

Q. Have you ever seen a man write his signature over, fill it in, shade the strokes—have you ever seen that done? A. No. We do such things in engrossing, for effect.

By the Court: Q. Suppose your pen doesn't feed satisfactorily, did you ever observe anybody go back and fill in? A. Yes, if the pen doesn't start well, to make the pen feed freely, there is pressure when he starts, but that cannot occur in every stroke. These are short lines in different directions, placed there to build up a form, to simulate another.

By Mr. Osborne: Q. You say that the hand that wrote this signature didn't trace it? A. I would like your definition of tracing.

Q. I will ask you for yours? A. My definition of tracing is placing below a blank, with a light below or against a window and then following the outline. If that were the case I must find

among my standards something that would resemble at least in slant. There is nothing here in slant that I can reconcile that there is a tracing.

Q. You conclude that there is no tracing? A. I do.

Q. You say that somebody drew this. Did he draw it in pencil or ink? A. No, I find no evidence of pencil. Drew it from ink, from copy.

Q. Then he had before him a signature? A. I assume that he had before him the signature in an endeavor to simulate, to get a copy.

Q. The fact is that this signature on the will is a clumsy copy? A. It is.

Q. You cannot conceive of any man, with any of the standard signatures before him, of sitting down and making a signature of this kind by copying? A. Yes, I have seen clumsier ones.

Q. Can you imagine a clumsy man doing it?

Objected to.

The Court: His imaginings are not going to help us in this case.

Mr. Osborne. It is impossible, in my mind, for anybody to sit down and copy these standards and make what this gentleman calls such a clumsy imitation.

Q. In other words, no clever penman, in copying the standard's signature, would ever make such a clumsy imitation, would he?

Objected to.

The Court: That is susceptible to so many constructions. It depends on how clumsy he was.

Question withdrawn.

Q. The man who copied this disregarded the matter of alinement altogether? A. I don't know

what he regarded or disregarded. I know he did not succeed.

Q. In other words, there is no similarity whatever between the standard and the disputed signature? A. The letters are there to spell out the name; that is the similarity, and that is about where the similarity ends.

Q. The whole thing is clumsily done? A. Yes.

By the Court: Q. The letters are of the same general form? A. Yes, to imitate the copy.

Q. You not only have the letters, but you have letters of the same type that are used in the other signatures? A. Yes, sir, to represent German characters.

Q. And as in the other signatures? A. And as in the standard, yes, that same type, yes, sir.

By Mr. Osborne: Q. Do you know whether Mr. Richter was a German or Russian? A. I know these are German characters.

Q. Does age make any difference? A. As to what?

Q. As to the characteristics of a man's signature? A. It makes a little difference in the line, as to how it is executed, whether the line is clean cut or has a wave to it such as would come from old age.

Q. What do you have to say about rheumatism, whether rheumatism does or does not make any difference? A. It depends on where the rheumatism is located. If it was in his toe I should say no.

Q. Unless he wrote with his toes. Suppose it is in his hand? A. That all depends. I don't know how badly he might be affected with rheumatism. A slight rheumatic attack would not cause him to

go back to fill in and build up a signature with broken lines.

Q. Do you know what kind of a pen that this disputed signature was written with? A. A medium pen.

Q. What? A. A medium point pen.

Q. Not like the pen in the standard signatures? A. There is a pen in the standard signature which shows an even pressure throughout and that is shown by the uniform ink flow, but I don't say that there was just such a pen used. The pen that was used is somewhat elastic, as shown by some of the strokes where they are light in spots, and some, they are heavy, where it shows a spread of the nibs, and then besides the spread of the nibs there is filling in, which is done not because of the spread of the nibs, but to make the form appear proper in that place and try to imitate.

Q. Is there anything in that disputed signature to indicate to you whether the pen was old or new? A. No.

Q. Are you able to tell from looking at a signature or handwriting whether a pen is old or new? A. If the signature is a written signature we can tell at times and very often.

Q. What do you mean by a written signature? A. As a man would write his signature. I claim this signature is not written. It is built up by strokes.

Q. Can you tell in the last case, in the case of the 1910 certificate, whether that was an old pen or a new one? A. It is a good pen.

Q. In the case of the disputed signature can you tell whether the pen flowed freely or did not flow freely? A. I think I have stated that already,

that the strokes as made, the nibs were spread and the ink flowed; then there was a patching in of the sides where the nibs were not spread so much, a filling in.

Q. I am asking you whether the pen flowed freely or whether it did not flow freely? A. It flowed freely in spots.

Q. And in other spots it didn't flow freely? A. No; where the patching in was done it was more freely.

Q. Where the patching in was done it didn't flow freely; is that right? A. It did flow freely there.

Q. Then in other spots where there was no patching in did it flow freely? A. The ink flowed in most cases with the exception of one or two up strokes there, as shown by the "h" and the "c" the up strokes of the "c" and the up stroke of the "h" where it crosses the down stroke—I mean the second up stroke.

Q. Then it is clear that that pen did not flow freely at all times while that disputed signature was written; that is true, isn't it? A. In that spot.

The Court: Listen to the question.

(Question read.)

Witness: Those two spots there wasn't sufficient ink upon the pen. It shows that afterwards ink was placed upon the pen.

Q. You cannot tell whether the ink was of such a character that it didn't flow freely, whether it was dried up or thick. Can you tell that? A. No, it wasn't dried up. It was ink that came from the pen.

Q. Now, do you consider that there is any difference between a man in handwriting who is

standing up writing his signature on a check, standing up in a public place writing his signature on a certificate, than a man who is sitting down in a private house and putting his name to a will?

Mr. Greenfield: There is no evidence that when he signed his name to the certificate he was standing up.

The Court: He is not referring to the certificate specifically.

(Question read.)

A. Yes there is usually a difference, so far as slant goes. He may be in an abnormal position when he is writing. Take for instance, the signature in the registration book, that was written in an abnormal position, the way it shows there on page 8 of the photograph.

Q. You judge of this signature, of course, without knowing about the characteristics of this man, without knowing whether he was ill or well when this disputed signature was written? A. No, it is only my ability as an examiner, from experience and knowledge of penmanship.

Q. And you say that penmanship does differ with physical disability, with ill health, paralysis, rheumatism? A. It does.

By the Court: Q. Did I understand you to say, in referring to the up stroke on the lower loop of the "S" on page 5, that that could not have been made by the pen going up, that heavy stroke? A. No, it could not, because the line is entirely too wide; that is a down stroke. That is down very near the base, drawn around to fill in. It commenced at this point here (indicating).

The Court: The witness indicates a point

about two-thirds down on the up stroke.

Witness: It was a down stroke and not an up stroke.

Q. You think that was put on afterwards, then? A. I do, yes, sir. There is more ink there and it shows the—

Q. What kind of a pen was used, stub or a pointed pen? A. No, it was a medium pointed pen. It is not a stub—that is, it approaches nearer a stub, of course, than it would a finer pen.

By Mr. Osborne: Q. I want to ask you whether it is not true—look at page 7 and look again at that "S" another check dated August 5, 1913, and also the word below it, and also the corresponding "cht".

The Court: What is the word below it?

Witness: Is "ri"—it is supposed to be "ri". That is from Richter.

Q. The letters are "ri"? A. Yes.

Q. And the letters corresponding below under the same date. Those letters were made with the same kind of a pen that was used in making the disputed signature; isn't that so? A. No, I didn't say that.

Q. I ask you now whether it isn't so? A. I didn't say so. I said it wasn't so elastic.

Q. The only difference is that this pen in the standard check signature of August 5, 1913, was not so elastic as the pen used for the disputed signature? A. Yes, but I didn't say the disputed signature was a very elastic pen either, and this wasn't so elastic.

Q. So the other signatures were made with fairly elastic pens? A. Yes, they are.

Q. How is it that the check signature of Aug-

ust 5, 1913, is so heavy and the others are so fine and not so elastic? A. Of course, the down stroke would not be much heavier than the up stroke.

Q. That wasn't a stub pen; that is clear? A. No, that wasn't a stub pen. It depends on the holding of the pen where the shading is placed. If the stub pen is held away in this form (illustrating) then the shading comes on the lateral stroke, but the upstroke will likewise be heavy; when held this way the up stroke must be light; the nibs run tandem and cannot form as heavy a line on the lateral stroke as when drawn to the right.

Q. You were furnished with no signatures that was made by this man in the year 1914, were you?

The Court: He says he was only furnished with the ones that are here in evidence.

Witness: Yes, they are here in evidence.

Q. And you were furnished with no signature while this man was stated to have been suffering rheumatism; is that correct? They never gave you a signature of that man and said that was made when he was suffering from rheumatism. A. I don't know when he was suffering from rheumatism, but I think that we have here signatures close to March, 1914—close to December, 1913, if I am not mistaken.

Q. The one on the last page?

Mr. Greenfield: I have one here of December, but it has not been offered in evidence yet.

Mr. Osborne: I would like permission to possibly cross-examine this witness further after we have consulted with experts and submitted these various signatures to them.

The Court: We will dispose of that question when the case is adjourned.

RE-DIRECT-EXAMINATION by Mr. Greenfield:

Q. I show you, Mr. Hartkorn, a check dated December 31, 1913, bearing the payment of the Merchant's National Bank, January 6, 1914—

Mr. Osborne: I object.

Mr. Greenfield: I will establish it before it goes in.

Q. Did you use that as a standard as well? A. I did, sir.

By the Court: Q. Then your statement that you had no other checks before you except the checks in evidence was not accurate? A. I assumed this was in. I thought all these checks were put in. I have a list before me.

Q. Is this check listed on your list? A. It is.

Q. Just look at your list. A. (After examining paper.) December 31, 1913, on the Federal Trust Company.

Mr. Greenfield: I will identify the party who saw him endorse it.

Witness: I will say that I checked them off on my list as I heard them called off here.

The Court: You do not have to have the person who actually saw him write it.

RE-CROSS-EXAMINATION by Mr. Osborne:

Q. Why didn't you enlarge all the check signatures? There are ten of them in evidence. A. As to show what?

Q. As to show whatever you are trying to show. I don't know. You selected four out of the list.

Why didn't you enlarge the rest of them? A. I have enlarged six signatures that I have placed upon this sheet in cut-outs.

Q. Look at page 4.

The Court: The question is why you only enlarged four?

Witness: I enlarged only four because I didn't think it necessary to enlarge all the checks, as the characteristics were all the same throughout. What I had to say was general with all the signatures, and these served for the purpose of my examination, as well as for illustration here.

Q. Why did you select these four? A. I didn't select. I simply took four of the checks.

By the Court: Q. These were not selected because they varied more? A. Yes.

Q. I asked you whether these varied more that you selected and you said yes. Is that what you want to say? Do you want me to understand that you did select these checks because they varied more from the disputed signature than from others you could have selected? A. No.

Q. Well, you answered my question yes. Listen to the question and you will not say something you do not mean to say. A. No, that is not what I wish to say. I want to say that I did not select, but I took signatures as they came from the checks, but when I photographed this enlargement I did take a signature as near to that disputed as I could find, particularly this "S". As you will notice, that is the only "S" where this stroke crossed at the same point where this did.

Q. That is the point. Did you select signatures for enlargement that bore a close resemblance—that is, as close as any signature submitted to

you, as close to the disputed signature as possible, or did you select a signature that varied from it as much as possible? A. No; I took the signature that most nearly resembled in form that of the disputed which shows on that enlargements on page 5 and 6.

By Mr. Osborne: Q. It is also true, is it not, that the standard signature on page 5 and 6 is the lightest—that is, by lightest, I mean its strokes are the most slender, the thinnest of all the signatures? A. No, sir, they are about the same degree as the three that I have photographed on page 4, which are the only three I had of Samuel Richter—that is, with the name of Samuel written out.

Q. But other than that "S" and without the "Samuel" being written out— A. I couldn't have made the comparison with Samuel had I taken an "S. Richter".

Q. And you didn't think to enlarge that, the larger signature—I mean enlarge as on page 5 and 6? A. It wouldn't serve the word purposes. There is no Samuel there.

Q. But you say you did not do it? A. No, I did not do it.

DAVID ARBEITEL re-called in behalf of caveators.

Direct-examination by Mr. Greenfield:

Q. You saw Samuel Richter, the deceased, sign his name a number of times? A. Certainly.

Q. And from seeing him sign are you acquain-

ted—did you get acquainted with his signature? A. Certainly.

Q. I show you a check bearing date December 31, 1913 made to the order of Mrs. L. Bennett, from the Jewish Sisterhood of Newark, and I show you the endorsement, and I ask you, do you say that is an endorsement made by S. Richter—Samuel Richter? A. Yes, sir, that is his.

Q. The middle signature? A. Yes, sir, the middle.

Mr. Greenfield: I offer that in evidence.

By Mr. Hahn: Q. Who was Mrs. Lena Bennett? A. She was a tenant in the house. Every month she gave a check for the rent and he signed it.

Q. How much did Mrs. Bennett pay at that time? A. $10.

Q. And she paid her rent with it? A. Yes, sir, and he gave her change.

The check referred to is offered in evidence and marked Exhibit C-6.

AUGUST HARTKORN re-called in behalf of caveators.

By the Court: Q. You think this building-up process that you have described could be done with such precision that the lines, for instance, here on the lower loop of the "S" could be so nicely done as you see them? Do you think you could put your pen up and put it back with such precision that you would get as good a line as that? A. Yes, sir; the pen, when put back, if there is enough ink on it will flow from the nibs when

striking the wet line, because in engrossing work we do that frequently, where the line is light and we want to show it. For instance, in carbon work, when there is not enough ink on the pen the ink shows brown and then we touch that pen with more ink, and we do it even without disturbing the line.

Q. At what point do you say this re-touching began? A. Right here first (indicating).

Q. You say it began at the bottom? A. Yes.

Q. Did the retouching go up and down? A. There the retouching was to place the ink upon there to flow in.

Q. Where? A. On this stroke. This shows a disconnection here.

Q. You don't mean to say that the pen was drawn over the whole place, retouched, but merely the pen—that is, the way the ink would touch, to that spot so that the ink might flow over it? A. Yes, there was a drawing over near that point, near the center of that stroke.

Q. Where did that begin? A. Where the ink spreads over here to the right.

Q. You say that is where the pen was put on the paper? A. Yes, the pen was put back on the paper, and this point here was spread with a pen, on the base of the "a", the first downstroke of the "a", the first "a" at the base there.

Q. At what point do you think the pen was raised there? A. I can see the stroke there, see where the pen was put there.

Q. Might that not have occurred through the stroke coming down and tremblingly carrying it out? A. No, the stroke extends.

Q. I say, but might not that have occurred by not lifting the pen? A. No it is too heavy.

Q. The whole signature is heavy? A. Yes, but not just as heavy as it is at that point.

Q. You say, that could not be produced with the ordinary flow of ink? A. It could not in the middle stroke, or the last stroke, it could not.

By Mr. Osborne: Q. Why, was it necessary to fill in these strokes? A. I presume he got as good copy as possible to simulate.

Q. You don't think it was due to the fact that the ink did not flow freely or anything like that? A. No, I do not.

Q. So you think that in getting as good a copy as possible they got as bad a copy as possible? A. In some respects they did get it very bad.

Q. Is there any indication there that the testator signed on the line? The paper is not ruled, is it? A. I believe not.

Q. Look at the will and see if there is any indication that he signed on the line so as to keep the alinement straight. A. No, there is no indication of a line that I can see.

Q. Now, as to the filling in, would it require a clever penman to do the filling in that was done on this? A. It wouldn't necessarily require a clever penman, no.

Q. Wouldn't it have appeared very clearly if it had been done clumsily? A. It is done very clumsily in places where the pen is lifted.

Q. It doesn't appear so to the average man, does it, until you get these enlargements? A. That I can't answer, how it appears to the average man. It appeared clumsy to me when I looked at it at first.

Q. Why, then, was it necessary to make these enlargements? A. What?

Q. Why do you make these enlargements? A. To demonstrate before the Court and gentlemen who draw their own conclusions.

By the Court: Q. Did you make any comparison of the other signatures on that will to the attestation clause, for instance? A. I did not.

Q. Did you compare the ink or the type of pen used? A. No, when the photograph was made I was only given from the plate the signature. I didn't have the signatures as on the attestation clause.

By Mr. Osborne: Q. You had, however, the word on your first page of your book, the word "Karp" and "125 Second Avenue, New York City, N. Y.", didn't you? A. Yes.

By the Court. Q. That is on the photograph? A. On the photograph, yes.

By Mr. Osborne: Q. Haven't you examined the signature of Richter on the will with the signature of Karp to see whether Karp's signature is a forgery? A. I didn't have Karp's signature there. I made no such examination on the original.

Q. Then Mr. Greenfield didn't ask you to compare the signature of Richter with the signature of Karp or Bernstein? A. No, sir; he asked me to compare the signature on the will.

Q. Did he give you any theory as to who had committed this forgery? A. No, sir.

Q. Were you employed to discover who committed this forgery? A. I was not.

Q. Have you formed any theory, from the

signature of the will, as to who did it? A. I did not.

Q. Can you tell me which one of those gentlemen wrote it? A. No, I cannot without an examination such as I made of the signature on the will.

Q. Can you tell us whether either of those men did forge that signature—tell us surely? A. I cannot. I may be able to do it if I was given the time and asked to make such an examination.

Q. How long would it take you? A. That depends on the time. I spent a considerable time on this before I gave my report.

By Mr. Greenfield: Q. All you were asked by me was to find out whether the will was genuine or not, to see whether the signature of Samuel Richter was genuine or not? A. Yes, sir.

Q. And nothing else of the facts of the case was mentioned to you? A. Not a word.

Q. You were asked for your opinions and nothing more? A. That is all.

JOHN V. HARING, sworn in behalf of caveators:

Direct-examination by Mr. Greenfield:

Q. What is your occupation or profession? A. For over twenty-seven years I have been engaged in making all manner of pen work for diplomas, for resolutions, for wills, for deeds, for alphabets published for educational purposes.

Q. Did you ever make a study of handwriting, make a comparison of handwriting? A. During

the past few years I have been called upon several times, and my services are increasingly in demand for the examination of questioned signatures, documents, and writing.

Q. Have you made such a number of examinations of questioned documents and questioned signatures? A. Yes, sir, and I have testified in New Jersey.

Q. Where? A. In Jersey and in New York?

Q. Where in New Jersey? A. In this court, I think twice before; before Judge Blackmore in Brooklyn, four or five weeks ago. I have testified before Judge Delahanty and Judge Lynch within the last four weeks.

Q. What was your testimony? A. As to questioned signatures and wills.

Q. And as to what was your testimony in this court? A. There was a will.

Q. Also with reference to a will? A. A will and a note, I believe. I think that was a note.

Q. In how many cases all told did you testify as to the genuineness of signatures to documents? A. I have made it a point not to know exactly, not to figure it up exactly, because I have been confronted with the phrase that I have been in court ten or eleven hundred times. When I get in the hundreds I think I will figure it up but I have been in the neighborhood of thirty times, perhaps nearer forty.

Q. Did you examine the signature on Exhibit P-1 the signature purported to be signed by one Samuel Richter? A. I did.

Q. And did you compare with the standards a number of checks Exhibit C-1 with Exhibit C-3 and Exhibit C-2? A. I did.

Q. Now, then, from your examination and study of those signatures what do you say as to the genuineness of the signature on Exhibit P-1 of the will purporting to be the last will of Samuel Richter? A. It was my opinion that the person who wrote these exhibits in the case, the exhibits shown to me, did not write the signature to the will, or P-1?

Q. Can you give your reasons for your conclusions? A. I can.

Q. Kindly do so. A. In the first place, the difference between genuine and fraudulent writing is that one is based on voluntary, unconscious and general characteristics while the other is made of voluntary, adopted and foreign characteristics; and I find in this will signature it has a voluntary and adopted and foreign characteristics; it has not that freedom of careless abandon about it which appears in genuine writing—in other words, there is that nervousness and strain that is necessary to a hand in writing an unaccustomed signature, when all the minute details visible in that signature are to be repeated; it is made in copying something, in introducing foreign forms—when I say foreign forms, I do not mean that a person writing ordinary English and tries to write German, but I mean a different form, different from their own natural method of writing.

Q. And what other reason have you found that makes you say that the signature Samuel Richter to the will is not genuine. Give us all the details and reasons. A. At this point, I might say that I concur in all that Mr. Hartkorn has said.

Mr. Hahn: I object to that and ask to have it stricken out.

The Court: It will be stricken out. You will have to give your opinion. State the reason for your opinion.

Witness: I find on the initial stroke of the name Samuel—

Q. Just give us the page you are referring to? A. Page 5.

Q. 5 and 6? A. Yes, where the two signatures are. The initial stroke of the name Samuel, the character of the writing there would appear to indicate that the pen had been lifted after it had started up on that stroke, and then retouched and continued to the top, and then again lifted and continued all around to the bottom and up on the second up stroke, and at some time or another there was a retouching made at the bottom, and the turn, where it turned to go up, there appears to be a retouching there. I find that under a microscope. As it crosses the line, as the first up stroke crosses the first down stroke, it is at a different place than what appears in the standards, except the standard signature, which is immediately below it, reproduced below it on the same page; but there is a difference there. It appears to be like, but it is different. We follow that second up stroke, and when it touches that little notch, if we follow the excursion around in an imaginary line, we find that it again descends, and would run in the "m" in Samuel somewhere, whereas, when we take the standard writing, which will illustrate what occurs in all the other standard signatures, it goes on and on and up and keeps

on ascending. And then we go to the "a", which is the second letter in Samuel. We have an initial stroke and carry it up to the top. It appears then as if the pen was lifted and then replaced and the stroke made again at the bottom of the letter, where it is again taken off and started up in the second part of the "a" where the little knob is made on the top. That form, on all the standards I have seen of Mr. Richter's writing, was made with a round curve in the bottom, whereas in the disputed signature it is an acute angle. Then as we go to the top where that little knob is located there, the pen has been lifted again apparently. On the standards I find that there has been a turn there, the pen has not been lifted; it has simply been carried, still touching the paper, carried from there to the next stroke, and then a turn was made and carried to the bottom of that stroke, whereas on the questioned or disputed document, it was lifted just after that knob was made again, another short stroke, and lifted, and then the pen retouched and continued to the bottom, and there again at that point, on the disputed signature, the pen is lifted and carried in a hesitating, nervous line right to the top of the "m"; there the pen was lifted again and a stroke was made to the base line again; the pen was lifted again and touched to the down stroke one-third way up, which is different from any of the standards which I have had under my view. All the standards make a little turn, so if the pen was lifted they touched again at the bottom or base of the letter and continued to the top of the letter, and there, if the pen is lifted, it is retouched at

the same point, and then again the stroke is continued. When I go to the "m" again, the middle stroke of the "m" I find that the pen was lifted at the bottom of that middle stroke and retouched—instead of continuing to the top of the next stroke to the bottom of this stroke it was touched in the middle and then went up to the final stroke of the "m", where it was lifted again and another stroke made to the bottom of the last down stroke of the "m"; then the pen was lifted and touched to the down stroke again one third up and continuing to the "e", and at the same time, then or later, after the signature was completed, there was another film of ink put over the joints of the "m" in Samuel, to cover up any deficiency that may have occurred at the first attempt at making the letter. When we strike an "e" the pen was lifted again, and another line, independent line, made from that point down to furnish the first part of the "e" and there must have been plenty of ink on the pen when the stroke was made. I would say that was made at the same time these other two strokes were made; ahead of that point was inked at the same time that color was put in, because there seems to be plenty of ink there. Now, when the second stroke of the "s" was made there was not so much on the pen. Why, these should not have been when this place is so flooded at this point I do not see, unless it came after some little time elapsed. When that stroke was attempted, the operator, looking at a copy or studying a copy; but there is a different kind of ink that appears in that first stroke of the "e", and that is apparent to the microscope or to the

naked eye, to a certain extent. After the second stroke of the "e" was made the pen was again lifted and again retouched and continued the excursion on up through the "e" to make the "l". Then the downstroke of the "l" was made, and the custom in the standard signature was to continue that finishing stroke of the "l" without taking the pen off. In fact, the standards I have seen started with the second part of the "e" and the pen did not leave the paper until the letter "l" was finished; but in the disputed signature the pen was taken off the paper again at the bottom of the down stroke of the "l", and there is a little extra touch at the bottom of the "l" for the same purposes. Then I will take the "R" in Richter, the character representing the "R", and on the standard I find that was made starting with an up stroke; and on this disputed signature I find that little line at the start is made with the down stroke before or after the "R" was made, I don't know which, but there is a downstroke there and it is foreign to any I find of the standard signature. The form of the "R" is apparent to everyone. It is different from the standard signature.

By the Court: Q. In what way? A. In the manner of its form. It is bent more; it is more of an English "S"; the others are more of an "F"; they are straighter.

By Mr. Hahn: Q. When you say "F" you mean an English "F"? A. Like the English "F", yes, sir. Then the line is again broken at the bottom of that letter and retouched, but not in the natural manner, not as if it had been broken there so as to meet any projection in the

paper, not as though he met a pebble or a straw or a hard substance or anything in the paper, but a decided stop there, and if that line was continued, the first downstroke of the "R", it would run off clear to the left; but the pen was lifted and then it does not record any stroke. Then when the pen was put down again it was put to the right and above that stroke where it left go, and then continued in a straight line up to the "i", where it was taken off the paper again; then the line continues to the base line, where the pen was taken off the paper again; then pen was put down on the paper again; and continued into the "c"; and in the "c"; it looked to me as though there was a turn made at the top and the line brought down.

By Mr. Greenfield: Q. In other words, the "c" appears to be made into an English "c," isn't that right—an English character? A. It occurred to me that way. He made an alinement of the relative size of the "c," as well as all the letters in this name, and it is a conspicuous example in this "c", that specific diversion in making the letter "c" by Richter. The letter "c" was made shronger and longer than the "I" in the standards: there may be one exception one way or the other, but as I recall, it is longer and stronger. In the majority I think this holds true, even in the pencil writing. Then the letter was proceeded with which is the "i". The pen was taken off again at the bottom of that letter, and there seems to be a muddling up; there seems to be an attempt all the way through to conceal something, to hush something, not to show the things where the pen travelled around;

there seems to be an idea of concealing things all the way through. The pen was put down after the "c" and continued in a straight line through the "h", the German character of "h". In all the other standards I find that line represented by what I call an under curve. An under curve is one that fills out at the bottom. An over curve is one that fills out toward the top. But this on the questioned one is a straight line. On the standards if you compare them, it appears below; it is exemplified in the one below, and it is true of all signatures I have examined; there is an under curve then the line is continued around through the "h" and down and turns at the bottom and up again to meet the down stroke; there the pen has been lifted, has also been retouched at the bottom of this turn to straighten it there or to cover up some imperfection. The pen was retouched just before it crossed the down stroke of the "H" and continued across there and then was taken up again and retouched on the down stroke of the "h", and continued to the top of the "t". There I can't tell exactly whether it was taken up or not. It is hidden and the line was continued down to the bottom of the "t", and then there is a tick off to the left, whereas in all the standards that I have seen, if there is anything at all appearing, it is to the right, and some of them very decided to the right. This appears to stop before that tick was added. It seems to me as if there was a finishing stroke, and that was just touched on afterwards. Then the crossing of the "t" is a short, nervous line; it stops when it touches the "e". The pen was taken up again. It has

all the appearance, under the microscope of the pen having been put down again on that line and continued to the base, where it was taken up again, and the second part of the "e" was made. The horizontal line leading to the last part of the signature on all of the standard signatures which I have examined, it is an ascending line. In this instance it descends. I have found one where it ran along just about the level. There is only one instance of that kind there in all the signatures I have examined. Then this bottom loop, the pen is taken off there at the very bottom and lifted again and completed a circle and the finishing strokes seems to me to be made in parts. It looks as though it were manufactured. Taking the exhibit as a whole, I find that the greatest accent has been placed on the "h" in Richter, in all the standards, without exception, lead pencil, indelible pencil and all, but in this signature I find that the greatest emphasis has been placed on the "t", which follows the "h", and that is contrary to any of the signatures which I have seen as standards. That letter is always made lighter than the "h" which precedes it. The heft of the whole signature is put into that whole "h". This placing of emphasis is a delicate characteristic and it baffles simulation; but that is an instance where it evidently was not attempted, but merely because all the "t's" are light all the "h's" are strengthened. There is one or two where the ink did not flow as much or the pen pressure was not as great, but there is emphasis placed at that point.

By the Court: Q. You spoke of the tick running to the left in the disputed signature and to the right in the standard. A. Yes, sir.

Q. Show me some ticks in the standard on the bottom on page 5 and 6. A. On the standards? I said when they did occur they went to the right.

Q. Are there any on that page? A. There is the "t" immediately below the same point.

Q. Is there a tick there? A. There is no tick there, but when a tick occurs—

Q. Do any ticks occur on that standard? Is that a tick on the dot of the "i"—do you call that a tick? A. I was referring, when I spoke of a tick, to this particular point on all the signatures.

Q. What do you call a tick? A. That little point on all the signatures. If there is an occurrence of that it goes to the right.

Q. You don't speak of ticks generally? A. No, just at that particular point.

Q. A tick is a little superfluous touch of the pen? A. Yes, sir.

Q. Where it is not quite lifted from the paper, free from the paper? A. On the standard signature the loop of the "l" crosses down near the bottom toward the base line. That is demonstrated in the signature illustrated below on page 5. On the disputed signature it is up on a line with the top of the small letters, and on all the standards the "L" is raised above the base line. On this disputed signature the letter "l" extends down below. The two "e's", one in Samuel and one in Richter, the second stroke in each of these "e's" is made above the first part of the

letter. Now, all the standards I have seen, whether it is in Samuel or whether it is in Richter, it so happens that that stroke is made below, except in one instance, where it is made even—perhaps two instances—where it is made in this same line. This, of course, alone, separately, would not amount to much, but when you come to combine so many of them it makes me form the conclusion that the signature is an imitated one, what we call a painted signature, a drawn signature, not lifelike. The act of forging a signature induces to a nervous strain, faint, nervous process of the writer. It takes a great deal of painstaking attention to details, and I find all that in this signature.

Q. Take page 3 of the photographs, showing three genuine signatures and one signature of the will, which is questioned, do you find any loop or tick on the "t" of the genuine signatures as you find on the questioned signature—to the left? A. I find no tick at all, your Honor, on those standards "t's" on that page.

Q. Taking the crossing of the "t" on that page of the genuine signature and the questioned signature, do you find the same stroke there anywheres near the same stroke across the "t" in the questioned signature as in the genuine signature? A. In the standard or genuine signatures I can follow them all the way through; there is head and tail to it; there is nothing to conceal whatever. I can follow it with a microscope; I can tell with my naked eye where it begins and finishes and tell what the line is doing, but I can't do that with the questioned signature.

Q. Taking the letter "S" in Samuel, the up

stroke, the top of it, and then the down curve, did you find in any of the standards anywhere near the same stroke or the same curve as you found in the questioned signature? A. I did not.

Q. Take the letter "l" of the questioned signature and compare them with the standard signature. Do you find any of the same so that the "l's" cross the down stroke, cross the up stroke and then the dash away from the letter—that is, the up stroke of the last one—do you find anywheres near a comparison to the questioned signature? A. It is produced altogether different, and if those three signatures were given to a steel engraver or a lithographer to reproduce and he reproduced something of this character which we see in the questioned signature, the job would not be accepted.

Q In other words, if I understand you, that the reproduction in the questioned signature is a clumsy one? A. The way I look at it it is.

Q. Now, Mr. Haring, did you have any experience in producing or reproducing or imitating steel engraving writing? A. I have. I have made miles of it.

Q. Can you raise the pen and then put it on the same place and fill out so that it will come within the line of the original pen mark? A. I can.

Q. And will you say from your experience that that was an attempt to do that in the questioned signature, retouch it? A. That is what it looks like to me. It doesn't look to me like a natural, free careless way of writing the signature. It looks like a studied reproduction.

Q. Will you say that it is a traced signature?

A. I wouldn't say that it is a traced signature, no.

Q. But would you say it was produced in an attempt to simulate the standard signatures? A. There is a simulation, copy.

Q. By having what? A. By having a copy of Mr. Richter's signature in front of them. I would judge that also from the fact that the pen is lifted so often. If I was writing my name, and my name was Samuel Richter, and I was writing it, I wouldn't have to stop to look at forms or anything else. I would go ahead; it is already in my head and my hand produces it.

Q. In other words, the natural movement of the hand is not there in making the name? A. Carelessness, freedom, are all the earmarks of genuine signatures.

Q. Would you say there was any freedom or carelessness in the questioned signature? A. I would say that it was just the reverse.

Q. Now, taking the last stroke, the stroke in the letter "r" at the end of the signature, you say it is a manufactured one. I understand you to say that. How do you arrive at that conclusion? A. The pen seems to me to have been taken from the paper and two attempts at least were made to make that stroke, as shown by the furrows that appear there under the microscope.

Q. Taking page 7, comparing those separate letters, you made a study of them, did you? A. I have.

Q. What is the difference in the letter "S" in disputed signature and as in the check of August 5, 1913.? A. August 5, 1913, the "S" on

three lines run parallel, and the difference in that little finishing stroke.

Q. The top? A. Finishing the up stroke, to finish the letter; that is in conformity with all the standards and is different entirely from the questioned "S".

Q. Did you find in any of the standard signatures that you had to examine any letter with the same stroke, the letter "S" with the same stroke as in the disputed signature? A. I did not. In all these signatures that I had I can reconcile them one to the other, although they go from 1909 to 1913. They are all alive. They are all related, they can all be tied together, but none of them will reconcile themselves to this signature. The nearest one that comes to it is the one that is produced directly below it on pages 5 and 6 as to form of the "S".

Q. Now, you take that curve or the cross line after the "a" in Samuel that connects the "a" at the top, taking the check signatures on page 5 and the questioned signature, did you find any such curve or connection in the genuine signature as you found in the disputed signature?

The Court: He has already explained that he did not. You have already covered that?

Witness: I believe I have.

CROSS-EXAMINATION by Mr. Osborne:

Q. At no time did Mr. Richter write a full, careless signature did he? The signatures were all nervous, weren't they? A. They were nervous in a different way.

By the Court: Q. Were they labored as with

a man who was not very familiar with writing? A. He wrote like a man, I would judge, who didn't write a great deal.

Q. An illiterate man? A. Well, he doesn't show great skill in his penmanship.

Q. A man who might be possibly only able to write his name? A. It might be. I have seen people that write similar to this.

The Court: There is some evidence in the case that he was an illiterate man.

Mr. Greenfield: As far as his writing is concerned.

The Court: Apparently he could write his own name. I do not know whether he could write any more.

Mr. Greenfield: That is the evidence, as I recall it. Mr. Karp, I believe, testified to that.

By Mr. Osborne: Q. Look at page 6. Look at the "r" on page 6. You have referred to a break at the bottom of the "r"; that is correct? A. Yes, sir.

Q. Look at this check of January 3, 1913, the signature of which is reproduced on page 4, and you will find at the top of page 4 that in the "e" there is a similar kind of break. Do you see that—almost exactly similar, isn't it? A. That is a frequent occurrence at that point in the signature.

Q. Then there are breaks in the signature? A. At that point, but not at the bottom of the "S". At that point it is a frequent occurrence.

Q. Compare that break with the break in the bottom of the "r". Very much the same, isn't it? A. At the bottom of the "r" none of the

standards are broken there, but at the bottom of the "c" that you refer to is a frequent thing.

Q. What is this? A. A broken "r".

Q. That is the one you refer to? A. Yes, sir.

Q. It is very similar to the one on the "c" in the check of January 3, 1913? A. No, I wouldn't say a break in the bottom of the "c" is left off. It is left off and taken up again.

By the Court: Q. That doesn't recur in all the signatures? A. That break that Mr. Osborne is speaking of is a common occurrence. I have observed it straight through.

Q. At that point? A. At that point. It is characteristic. If a break like that occurred at the point in this signature it would be very valuable to that questioned signature.

Q. Of, course, I am not an expert, but the break, except for the difference in position is to look the same. Does it look the same to you? A. No, it is a different affair.

Q. You have no photograph of this check of January 26, 1913? A. I didn't have anything to do with the photoghaph.

Q. You recognize the fact that there are two breaks upon these two checks that I have called your attention to? A. I believe there are.

Q. Now, look again at page 4, look at the second check which is August 5, 1913. A. This one.

Q. Which is the second one. You see that that differs from the other in that that apparently is not written with any emphasis at all on the lines; isn't that true? A. The same thing holds true that I asserted. The "h" is heavier

than the "t", the emphasis is there; the degree of emphasis varies.

Q. The emphasis is not nearly so much apparent as it is in the other? A. As long as it is apparent that is all we look for.

Q. Look on page 3, the second signature opposite the large seal. Do you find any emphasis there? A. Yes, the same thing holds true; that is heavier than the letter which precedes it; it is a dragging up of some of the fragments of the paper.

Q. Look at that "h" on the second check on page 3, the "h" in the name Richter. It has the same appearance to me as the other signature. You say that is not filled in? A. No, that is not filled in.

Q. What is that middle break or sputter? A. That is the same thing that occurs in the two "c's" that you called my attention to.

Q. Is this signature opposite the "c" on page 3, is that a genuine signature as compared with the other signatures? A. All these signatures are reconciled one to the other.

Q. How do you account for that wavy line at the end of the signature? A. I cannot account for it, but it is there. If I was going by that alone I might sit up and take notice, but there are an abundance of things in that signature which proclaim its genuineness. No one thing will do it. It is the combination.

Q. Take the "ter" at the end of that signature in conjunction with the wavy line. Do they resemble the other standard signatures? A. They do.

Q. Does that wavy line indicate that the man was nervous that day or what—what does it indicate to your mind? A. I couldn't tell you. That might come from different impulses.

Q. You see how straight the final line is in the signature above it and one below? A. But this much I will say, it is tapering; notwithstanding those little incidental impulses it is a tapering line.

Q. Do you find that the disputed signature differs in its alignement very considerably from the other signtures? A. Well, it is pretty formal. It is very formal.

Q. Look at the second signature, the disputed signature goes up a little and the second signature goes down a little, there is not very much difference in the range of them. A. I don't know that the disputed signature goes up as much as this. The photographer may have had trouble in getting this on the plate and may have raised it more. I think on the will itself it runs level. You agree, I assume, with Mr. Hartkorn that the fact that a man had rheumatism or paralysis or something of that kind might destroy the characteristics of his handwriting? A. It would change it, no doubt.

Mr. Greenfield: I object. Mr. Hartkorn didn't say that.

Question withdrawn.

Q. Isn't it a fact that if a man had rheumatism or paralysis or something of that nature that it might destroy or affect the characteristics of his handwriting? A. I wouldn't think that because a man had rheumatism he would start a letter with a downstroke instead of an up.

Q. Have you ever seen a man go over his signature—have you ever seen him take a pen that didn't have enough ink on and then fill it out with either a downstroke that should be an upstroke or vice versa? A. We have an instance here. That didn't bother him at all, where he left the whole top of the "r" off.

Q. Where is that? A. The second check signature whch we just left.

Q. To return to the question. His pen didn't start up at the top of the "s" at all A. He didn't care whether it was there or not. It was a genuine signature.

Q. Have you ever known of a man to write his signature and to fill it in where the pen hadn't worked? A. Some people are in the habit of doing it. I know lawyers who do that; who go back and fill in places. From signature.

Q. Were you told that this man had rheumatism? A. No, I was told the man was dead, that was all.

Q. Were you told anything about his age? A. Why, his age, I had seen his writing up to December.

Q. Have you seen any that he has written since that time? A. No, I haven't; just the material in here that is all I have seen.

Q. Did you examine every one of those standard writings under the microscope? A. Each one. I spent five hours at two different sittings on this document itself.

Q. You refer to that December check when you say you saw it up to December? A. Yes, that is the one that I refer to, December.

Q. This filling in is done with a fine pen on this will? A. It must have been a fine pen, yes. It is a small place to fill.

Q. And as a matter of fact it is cleverly done? A. Some parts are very well done. Other parts, as to the forming of the signature itself which it is supposed to imitate. I think I could do better.

Q. It would take a clever penman to make that signature by filling and drawing in? . A Yes, it is good work. I have seen worse work; I have seen better.

Q. And this is clever work? A. Part of it, but as a whole—

Q. I understand you say this is a clumsy imitation. don't you? A. I would state so, yes, comparatively speaking.

Q. The man that had any one of these standard signatures before him did a bad job so far as imitation is concerned? A. Yes; this is not a hard signature to make. Some signatures are not very difficult, but this is a person who has not written a good deal and the lines are shaky anyway.

Q. And not very much emphasis? A. And the chance to imitate it is much easier of success than is some signatures that are made with free hand.

Q. But so far as the workmanship, the drawing of lines, that is done with cleverness? A. Some spots there are very poor. Those connecting strokes, some of them, I can't say it is very clever.

Q. But the other is? A. Some parts of it is clever.

Q. Did you and Mr. Hartkorn go over this matter together? A. We did.

Q. Was there any dispute between you before you agreed on this question? A. What do you mean?

Q. Did you both agree when you came back and talked it over the first time? A. Perfectly. After I had made my examination I reported to Mr. Greenfield and I went over to my office in New York and I called up Mr. Hartkorn and told him I agreed with him.

Q. Did you have Mr. Hartkorn's report before you called him up and told him that you agreed with him? A. I did not.

Q. How could you tell then that you agreed with him? A. His report. By report I suppose you meant the report given to Mr. Greenfield. I knew that Mr. Hartkorn was on the case and I knew his decision was that.

Q. You knew that his decision was that it was a forgery; is that the idea? A. That was his opinion. That had no influence on me. If every one goes out of here and anybody else comes in I still retain my opinion.

Q. I want to know whether you and Mr. Hartkorn got together on this matter and consulted about this matter and agreed on the matter? A. We did, but he didn't see some things in there that I saw.

RE-DIRECT-EXAMINATION by Mr. Greenfield:

Q. You received a telephone message from my office, did you not?

Objected to.

Objection sustained.

Q. Is there any similarity in the alinement of the signature, the disputed signature, and in any of the standards?

Mr. Osborne: Hasn't he covered that?

The Court: I think so.

Q. I want to call your attention to one thing in the letter "r" in Richter. Do you notice the curve—I don't know what you may call it; I had better point it out—on page 3, this here (indicating)? A. Yes, I spoke of that.

Q. You did speak of that? A. Yes, sir.

Q. A down curve in the "r", as Mr. Hartkorn tells me, is there any similarity in that down curve of the "r" in the disputed signature and the standard—notice the distances. A. In the name of Richter, the first letter Richter, you mean the capital "R"?

Q. This is where I mean, right here. Did you notice that the disputed signature has sort of a straight stroke before it goes to the down stroke, whereas in the standard it has a sort of an up? A. I mentioned that fact, that horizontal line, but the second part of the "e", in starting, is a heavier stroke in all the standards and it diminishes in width until it reaches the horizontal stroke below. That is true in all the standards, but the reverse is true in the questioned signature.

Adjourned until Monday, February 15, 1915, at ten o'clock, a. m.

SECOND DAY

Continued pursuant to adjournment.

Present: Counsel as before stated.

DAVID N. CARVALHO, sworn in behalf of caveators:

Direct-examination by Mr. Greenfield:

Q. Mr. Carvalho, what is your profession? A. Examiner of questioned handwriting, ink and paper.

Mr. Greenfield: Is there any question of the witness's qualification?

Mr. Hahn: No.

Q. You have had considerable experience in that line? A. That has been almost my constant occupation for the last forty-four years.

Q. And you have testified in court in how many cases? A. In thousands.

Q. And have examined a great many documents, questionable documents? A. Yes.

Q. That is, documents which are alleged to be forgeries? Did you examine a great many documents which were alleged to be forgeries?

The Court: They admit his qualifications.

Q. Now, Mr. Carvalho, I show you Exhibit P-1 and ask you whether you have examined that paper? A. Yes, I examined this document.

Q. When? A. Last month in the office of the clerk of the Surrogate of this County. I think it was the 19th of January. If you want to be more certain I will look it up.

Q. Did you have any standard signatures to compare it with? A. So-called standards.

Q. I show you Exhibit C-2 (handing witness paper.) A. Yes.

Q. Did you compare the signature of Samuel Richter on Exhibit C-2 with P-1 of Samuel Richter? A. Yes, sir; I compared both signatures. It appears twice on this document.

Q. Yes. A. I compared both of them.

Q. I show you Exhibit C-3. A. Yes, sir. This one also.

Q. Now, I show you a number of checks and ask you whether you compared the checks, I think it is C-6, if I am not mistaken. A. Well, I can't remember absolutely certain, sir, that I saw all of these, by my recollection is that I did. I didn't mark them.

Q. From the signatures on these documents alleged to be, or at least proven to be, the genuine signature of Samuel Richter, deseased, comparing the signature on Exhibit P-1 of Samuel Richter, would you say that these signatures were written by the same hand A. I would not.

Q. What would you say? Is that signature on Exhibit P-1 a genuine signature? A. I should say the signature of P-1 is what comes under the heading in the profession as a simulated signature. It is not the genuine handwriting of any person.

Q. What do you mean by "simulated signature"? A. I mean to say it purports to be the signature of Samuel Richter as illustrated in his standard signature; that in some respects it resembles it, and in a great many respects it does not resemble it; that it is an exaggerated draw-

ing; it is not the free handwriting illustrated in the standard signatures, and as the same apparent types and forms of letters are used in its construction it follows that somebody who wrote that must have had before them a signature of Samuel Richter, because they have followed the types and forms of his letters, and in that sense it is a simulation. It is an imitation.

Q. How do you find that to be a simulation? What are the characteristics of it? A. Perhaps if I use a little nearer the every day vernacular, I will call it a copy, your Honor.

Q. Give us, if you can, the defects in that signature.

The Court: What you really want is to have him indicate his reasons for his conclusion, rather than point out defects. Ask him to indicate his reasons for his conclusion.

Q. Mr. Carvalho, will you give us your reasons how you arrive at the conclusion that it is a simulated signature. A. Now, your Honor, in an examination of a questioned signature, what we call signature recognition, it becomes necessary, to examine it from two standards, from two aspects. One is the method employed by the bank teller, which is the pictorial effect, and that includes the slanting, accentuation of staff letters, downstrokes, and the relationship to a base line —that is to say, if you put a straight edge underneath the signature the bottom of the letters will be found to approach or recede from that straight edge in almost a constant quantity. Those three things together, conjoined together, constitute

what we call pictorial effect—that is the costume of the man, not his face, but his general costume. Now, the other way is the comparison of the handwriting by the method adopted by handwriting experts in respect to construction, conformation, accentuation in places, pen movement, and the hundred little things that constitute and make part and parcel of one handwriting. Now, the matter of characteristics—and by characteristics I mean that in the perfect handwriting the school master's handwriting, the ideal handwriting, there are no characteristics, none whatever; they are perfect. The moment you make a departure from that perfect handwriting, whatever departure you make, and it appertains to your individual handwriting, that constitutes, if it is a habit of yourself, one of your characteristics; so that these departures in their conglomeration, in the gathering together, make up what we characterize as characteristics. That means the departure from the standards of penmanship do appertain to you or to me or whoever it is that is writing. The first thing that is noticeable in regard to this person's handwriting is that the writing comes under the head, first, of what we call an inferior hand. It is illiterate in every way. The writer suffers from some physical defect. A careful examination of his signature shows that he is not able to make a complete signature—that is to say, you will find there is a let-go; he breaks in between his letters, of his syllables, and there is an irregularity in his handwriting. In the documents the matter of accentuation or pen pressure, which is a habit, is the machine work of the hand, and which is more or less produced un-

consciously, there you will find his characteristics, that being one of them, to repeat themselves, and while there is a variation due to the kind of a pen he uses, in the one sense the writing is not as broad as another time, on account of the hardness or softness of the pen as might be, nevertheless, the relative comparison between what we call an upstroke and a downstroke are substantially the same. He writes, judging from the standards which are before me, a fairly even hand in regard to what we call his weight of hand. Now, so much for his every day signature. I rather prefer to use, in making my comparison signatures those that are of more importance to a writer than merely putting his name on the back of a check, because, after all, a man who signs his name to his will is performing some act, and perhaps he is trying to make a signature better than he usually does, and in that way his signature would be more formal than what you would find scratched on a check. Consequently, if we can get exhibits like I have here, the plumber's bond, which is Exhibit No. C-2 and 3, and also in his use of his Christian name, as well as his given name, I think I have a better exemplar of such a handwriting as one would expect to find on a will. At the same time the endorsements are very good on the checks as showing his run of hand. The first noticeable thing we find on the disputed signature—

The Court: That is the signature on the will, P-1?

Witness: And in that respect one is able to at once call attention to the fact that it differentiates from the signature in dispute, first, in regard

to quality of line, and that quality of line includes what I have characterized as pen pressure. There is an evenness to the signature in dispute that does not obtain in the conceded signatures, and while your Honor will notice that the same types and the same forms of letters are employed so far as construction is concerned, it differentiates. For instance, if we take what we call a muscular recoil—that is to say, the terminal of a letter where your pen travels to the right quickly and where it is real machine work. Take, for instance, the terminal of the "l" of the word Samuel in the disputed will. You will find the terminal travels up, bends up, as it were, makes an outward curve and opens in what we call a compound curve. If you take the signature in the disputed you will find it is a complete, round curve, and immediately your attention is directed to that differeniation as being something outside of the ordinary. Now, this is merely a superficial examination, without the glass at all, what we call a surface examination. Again, in the method of construction, the length, for instance, of the long letters, as compared with the length or height of the small letters; they differentiate. There is an evenness of line in the disputed signature that does not obtain in the genuine signatures, and then we take the terminal, the last terminal, and we find that is a long dragging stroke. I don't know whether your Honor has seen that under a compound microscope.

The Court: I have seen it under a microscope.

Witness: Then if your Honor has seen it your Honor will notice that there is in places a sort of central narrow, double line, where the ink has

blended over, sometimes on one side and sometimes on the other side. In the true overlapping of ink which you find when the downstrokes are made—because, after all, a pen has two nibs to it; if I turn a pen the both nibs must turn. If I hold the pen over on the side I am operating on the two nibs; I am not using one nib at all, and while there are places in that signature where there are only marks of one nib, where as in the genuine signatures the same habit obtains in regard to the holding of his pen. Now, I also look into this signature with the idea of seeing whether what I characterize as abnormalities might not have been due somewhat to the physical condition of the writer—in other words, that his condition might not have been the ordinary, and that in a way might account for the discrepancies which I shall enumerate in detail a little later; but there is a regularity, I believe, in that signature, a steady pen stroke, showing the handwriting of a person more habituated to making strokes than Mr. Richter. All in all, it is what I might call a better specimen of handwriting, the quality is better, and, as we all know that a man cannot write better than he knows how, while he might write worse, that writing, in my opinion, could not have been done by Mr. Richter because it is too good for him. Now, when we look in other places under the glass there are spots which I characterize as retouchings—that is to say, when the line was made it didn't suit, and so the instrument that was employed to make them has been put back, and you will find spasmodically in places an over accentuation in the line that would not obtain if the pen had come down truly. So that,

judging these from its pictorial effect, the bank teller, if I was a bank teller, I would at once be attracted to something strange about that signature. It is a strange signature, assuming it to be genuine. When I come to examine it and compare it with the habits of this man—and I should say also it is very hard to get a real line on this man's handwriting, he is very erratic in his handwriting, and distinctly in the points which I have addressed your Honor's attention, where he repeats himself with any so-called constant regularity, but even with all that, I find enough there to enable me to formulate the opinion that this alleged signature of Mr. Richter was written by someone else, and it does not comport with the standards which have been placed before me.

Q. Now, Mr. Carvalho, we will take, for instance, the first letter in Samuel. What would you say as to the strokes of the pen in the letter "S," Samuel? A. The inequality of the pen stroke is obvious under the glass. There is a diminuation of line and an increased strength of line that does not appertain to the habits illustrated in the genuine signatures. There are no less than nineteen breaks in the signature. Instead of being made continuously as Mr. Richter sometimes does, it is made in pieces, and to use the vernacular again I might use the word patchwork. It is patchwork in the construction of the signature.

Q. I show you some photographs—A. I haven't used any photographs to form my opinoin. I have only used the originals. I asked his Honor whether he had looked under it under a compound microscope. He said he had, or I would have put mine on the stand so he could have seen it.

The Court: You would save time and reach the same result by asking the witness to point out again, as he has already in a general way done, in its pictorial aspect, his reasons for reaching his conclusions. Ask him now to point out the details which he has in mind. He is so much more familiar with the subject than the examiner that he can usually, without the aid of a suggestion in a matter, of this kind, point out everything that he has in mind without taking the time and encumbering the record with unnecessary questions.

Q. Now, Mr. Carvalho, will you point out in detail all of that which you have explained in a general way—point out on every letter in detail, using this photograph. A. The photograph does not show it. The photograph only shows the outlines.

The Court: Tell him that he has referred to certain pecularities in the signatures. Ask him what those are.

Q. You have referred to certain peculiarities of this signature. Can you point out more in detail, taking every letter separately, and point out in detail? A. I call his Honor's attention to the fact that in the genuine handwriting of Mr. Richter, that he was suffering some physical trouble and he was unable to complete some signatures, and in some places there is a wabble or wavy line. To be a little more specific, take, for instance, the Exhibit 3, and we will take the "r" of Richter, we take that long stem that you have got. Your Honor sees that the continuity of the line is disturbed; there is sort of a wave to it. In the next one, Exhibit 2, we do not find that in there; he succeeded

in making it, but if your Honor will look at the initial stroke that is comparatively a smooth line of the same one—but if your Honor will look at the initial stroke of the first name, the upstroke you will see this wavy line—

The Court: That is, referring to the letter "S."

Witness: You will find somewheres existing an irregularity of line, calling attention to the fact of the incapacity of that writer to make what I might call a true, smooth signature. When we look at the disputed signature, there is hardly a letter in it that has not in its space, so to speak, that has not got more or less of the wavy line to it, and strange as it may appear, irregularity of line, where it couldn't come ordinarily, where it don't belong in handwriting; the reverse of it. Now, to call attention specifically, as counsel asked me, to individual letters of Mr. Richter with a handwriting as valid as he makes it, and expect that to obtain through his handwriting, I can't do it, because it don't exist. All I can do it to take the general run of his handwriting and to cream off the alien and important points and give them their proper importance, The signature is a studied, slowly-written drawing not the particular handwriting of any person. That is the will signature I am talking about.

Q. Take the letter "r" in Richter, that little downstroke, that hook, would you say that is an up or downstroke? A. You are referring to the capital "R"?

Q. The capital "R," that little hook. A. Yes, I see what you mean. Well, I think that line was made somewhere, and then it has been gone over again, beginning a little ways down from the top.

The line is not true. I am not prepared to say whether it is made from the top or the bottom.

Q. Do you find in any of his standards anything similar to that? A. The standard signature, he makes the strong line coming down from the top, down to the bottom. That is the way he ought to make it. The whole quality of every line that is in this signature is an irregular line. It is unequal; it is a drawing, slowly written, and not the comparatively rapid signature that Mr. Richter is in the habit of writing, and in that sense, it doesn't obtain with his handwriting.

Q. Now, if you take this stroke, this stroke here in the letter "r" and then the "i," would you say that was all done by one free hand or is there any pen lifts? A. At the apex of the so-called "i," the terminal stroke of the "r," and then a downstroke was made to grip the "r," the pen was taken off. That is one of the nineteen stops or rests that I called attention to.

Q. This here stroke, would you say this is a downstroke or an upstroke? A. Well, it might be a downstroke or it might be an upstroke. I am not prepared to say that at all, sir.

CROSS-EXAMINATION by Mr. Osborne:

Q. Are you prepared to say that Samuel Richter could not have written this disputed signature on the will? A. Well, yes, that writing is far above the standard of his writing, illustrated in the general signatures.

Q. You say he couldn't have written it? A. In my opinion, it is above him; he couldn't have climbed up that high.

Q. Were you informed that at the date of this will the testator had rheumatism?

Mr. Greenfield: I object. There is no such testimony that he had rheumatism on the 11th day of March, on the day they alleged it was signed.

The Court: He is asked whether he was told. He may answer.

Q. Was there anything said to you as to his peculiar physical condition at that time? A. No, sir.

Q. Did you examine the signatures of the subscribing witnesses to that will? A. I did.

Q. Is it your opinion that either one of the subscribing witnesses forged that signature? A. No, no human being could answer that question, and I am one of the human beings.

Q. Why not? A. Because there is nothing to get a line on, as the saying is.

Q. It would have been impossible for Richter himself to sit down and slowly write that signature as it is there? A. It is impossible, and more so if he had rheumatism, as you insinuate. If he had, he would have sprawled all over the paper. That is the compact signature of somebody whose nerves are all right.

Q. Look at this check dated February 24, 1902.

Mr. Greenfield: I object to that. There is no proof, if your Honor please, that this signature was written by Richter or anybody else. There is no proof that this is a genuine signature, and therefore to use that, without knowing that it is or not a genuine signature, I think it is not fair to the witness or to the objectors to the will.

Mr. Osborne: I am going to offer three checks purporting to be signed by Samuel Richter. I don't say they are signed by Samuel Richter.

The Court: At this stage of the proceeding the proponent is hardly in a position to interrupt the proceedings and the cross-examination of this witness to offer proof as to the authenticity of these signatures to these papers which he now offers and which he desires to use as standards, and I think it is quite proper at this time to show the witness these papers and have him look at them and have them marked for identification and offer them later on. It is certainly proper for him to use any signature to test the ability or capacity of the witness as an expert. The objection is overruled. The witness having answered the question after the objection was made, the Court ordered the answer stricken from the record, but the answer may be now noted on the record.

Q. Is that the one I showed you? A. Yes, you showed me this just now.

Q. And your answer was? A. (Answer read by the stenographer.) Yes, that is a pretty rotten signature.

The Court: Show him the other two checks.

I show you two other notes dated the same date as the last note.

Mr. Greenfield: 1902?

Mr. Osborne: February 24, 1902. Have you looked at the signatures on those two notes?

A. Yes, the two last Exhibits, P-3 and P-4.

The checks referred to are marked Exhibit P-1, Exhibit P-2, Exhibit P-3 and Exhibit P-4 for identification.

Q. Can you tell us whether the signature on P-2 for identification—A. P-2, 3 and 4 I have here.

Q. Whether the signature of Samuel Richter on P-2 is the signature of Samuel Richter? A. I believe it to be so.

Q. You say it is a pretty rotten signature? A. Yes, it is a pretty rotten signature because it is full of abnormalities, they swear at you; they are not hidden away; they are perfectly apparent.

Q. It is wobbling, is it not? A. Yes, I think he was feeling pretty good when he wrote that.

Q. Look at the signature P-3 for identification. A. That looks like his signature—yes, that may be his signature and also P-4.

Q. But P-3 and P-4 have more of his characteristics than P-2? A. P-3 and 4 are written with a harder pointed pen and a much truer signature, so to speak, the lines are truer than in P-2.

Q. When he wrote P-2 you say he may have been feeling pretty good? A. That is off his regular handwriting.

Q. By that you mean that a man who had taken stimulants, it might affect his handwriting? A. Some cases that produces such an abnormality.

Q. And if a man were intoxicated it would remove certain characteristics? A. It would remove certain characteristics, yes. Of course, his mind wouldn't operate so thoroughly, although the hand would have tried to do what it was taught to do, as it is in that signature, P-2, it has tried to do what it is taught to do. It is a distributed

signature, scrawley. There is something wrong about it.

Q. When a man is intoxicated he loses some characteristics? A. Strange as it might appear, then it is just the reverse, because the hand does what it is taught to do. When the mind is operating, he tried, if he can, to repeat, but when he is intoxicated the hand tries to do what it is taught to do; still it is exaggerated, but his constant characteristics are more evident.

Q. It is quite clear that the signature to P-2 for identification was written much more slowly and carefully than on the other? A. Well, I couldn't answer that question. It is a decidedly off signature.

Q. Do you notice in the signature P-2 that the top of the capital "R" has exactly the same formation as the disputed signature has? A. Well, now, there is a difference of twelve years. You don't want his Honor to think, twelve years after he wrote the 1902 signature, that he wrote the same way, because that could not be, you know. You don't want his Honor to think that perhaps the forger used an old signature in order to get that letter. That is what it leads up to.

Q. Is it your idea that a forger might have used that signature? A. Well, it looks awfully alike.

Q. Time, then, does make a difference? A. Yes, time makes a wonderful difference in the evolution of handwriting.

Q. And so does ill health? A. Yes, ill health makes a wonderful difference, too.

Q. And ill health makes a difference as to whether the signature is weak or wabbly? A. Yes,

but there is nothing weak about the disputed. It is good and strong.

Q. How do you mean that it is good and strong? A. I mean that the lines are good, definite lines, that the point of the instrument cut right into the paper.

Q. Don't you find that the disputed signature was filled in? A. In places, one line failed; it has been filled in in places.

Q. How many places do you claim it is filled in? A. I can set up the compound microscope and give it to you, but in at least ten places.

Q. Ten places? A. Yes, sir.

Q. But it is a strong signature? A. As it stands today it is a strong hand, not affected by ill conditions, such as you prognosticate.

Q. Look at the check already offered in evidence by the contestant dated August 5, 1913; look at the endorsement on the back. You see a greater resemblance between that endorsement and the disputed signature, do you not? A. Yes, Mr. Richter, if you will run over his endorsements on the standard signatures that are in accord, you will find, your Honor, that between the initial letter "R" and the letter S in Richter that follows an abnormal space. The correct way of writing that "S" would be to have it closer to the "R," your Honor sees between the initial letter of the Christian name and the first letter of the given name it has an unusually wide space, and we take the next exhibit, there it is again, and the next one, there it is again, and again, and again, and again, and here, of course, he uses his Christian name, and of course I can't compare it. There it is again (indicating.) Now, the one that is given

to me, this exhibit, your Honor sees that has the same marked peculiarity of the wide space between the "S" and the "R" of Richter. Now, to differentiate in the other signatures is to compare with the equality of lines due to the kind of pen that was used; that does make some difference, but so far as a general layout of it is concerned, it is substantially in line with the standards, the standard signatures. Do you want me to compare it with the disputed signature?

Q. Yes, do that. A. Well, now, your Honor sees at once, the first thing in the undisputed is the construction of the letters. Take in the "Richter," the way it begins, with a little hook or knob on the top of it. Take the height of double the loop which is in front of the "t," see the proportion in relation to the other letters. It is entirely out. Notice the amount of pen pressure in the genuine and then the pen pressure that is in the disputed signature, how it varies and how it separates. Also in the making of the "S" in the one case, with the terminal, going over to the right; in the other case with a regular patch there, where the pen has been put back again, and as I said before, in the disputed and genuine signatures the same types and forms of letters are utilized, nevertheless they separate because, in my opinion, somebody else tried to construct them and failed.

Q. Have you ever seen the signature of a man who differed so much in his signature? A. As I said, frankly, this man wrote a most wonderfully erratic hand, and if this disputed signature was an erratic signature I wouldn't be here testifying, but it is not; it is one of those steady,

strong, signatures, which is far away from his handwriting.

Q. But notwithstanding it is strong and steady, you say it is drawn, it is a drawn signnture? A. Yes, because when you draw, if you take a pencil and make a quick line you make a smooth line, but you try to make that line slowly you will wabble it; but in the disputed signature, instead of the line being made up and down with comparative smoothness, there is an irregularity to it.

Q. You find that irregularity on Exhibit C-2, don't you? A. You mean that wabble business?

Q. Yes, on the initial stroke of the "S." A. I called his Honor's attention to that.

Q. And on the final stroke of the small "r"? A. Yes, that is very formal, indeed, and, of course, it is a formal document.

Q. The date of that document is 1912. You see here that there is no such wabble in the signature on C-3 in 1909? A. You are calling attention to the "R" of Richter. You are right, sir. That has a wabble. I called his Honor's attention to that specifically in the beginning.

Q. And there is a great difference in these two signatures? A. The two letters; yes, sir, that is absolutely true.

Q. In your opinion, was the disputed signature done by an expert handwriter? A. No, it was not.

Q. Was it drawn very slowly or very rapidly? A. It is a slowly drawn signature. It is a drawing.

Q. Why, then, do you say it is a strong signature if it was drawn slowly? A. One other reason, your Honor. It cut right through to the back of the paper. That is one of the reasons, and that is a very good reason.

Q. Of course, it is written on thin paper. Isn't the paper thin? A. The paper is thin, that is true, but your witnesses are all here, too, and they didn't go through.

Q. Look at this check dated May 28th already in evidence. You see that differs widely from his other standard signatures? A. Yes, that is a wide difference. That is as wide apart from any of the standards as any of the standards are wide apart each from the other.

Q. Look again at the August 5th check. Do you find that he has filled that in himself? A. You mean filled in the body of it?

Q. No, filled in his signature anywhere. A. Whether he wrote the signature afterward?

Q. No, whether he filled it in after writing it? A. You mean, touched it up?

Q. Yes, touched it up. A. No; on that exhibit there has been no retouching and there has been no retouching the other, either, no mark of any kind.

Q. Can you find any of these that have been retouched? Take the formal signatures on P-2. A. Yes, there are places in some of these conceded signatures where the line has failed and the writer has put his pen back with the evident intention of repairing it, but missed it, he didn't strike the line, and there it is, showing exactly what he undertook to do, but there is nothing of that kind in the disputed signature. When the pen went back it hit the line, the repairing.

Q. But isn't it true that in his conceded signatures, where he did fill in, that there are places where he did hit the line? A. He might have crossed the line, but they are so evident that you

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can see them without a glass where they do appear, I think there are only two instances. In fact, there is one of the subjects that had been written in lead pencil, and someone had lined it over with ink. I wouldn't use it. I think it is a formal document.

Mr. Osborne: I ask you to produce the document which the witness threw out because it had been filled in by somebody. He says he threw one out.

Q. Which document was it that you threw out? A. It was a formal document, I think under seal. Maybe it is one of these two. (Examining paper.' It certainly is not that one. Yes, I think it is this signature here appended to C-2, that there is a little penciling underneath the signature, the man's name at the bottom, Jacob Sk-owlink. The Skolink signature, you can see the pencil, it is written in pencil, and this signature seems to have been written in pencil and over written, which is slightly. It looks a little clearer now than the last time I saw it. Then I think, on the other side, the name Jacob there, you can see it there, but not very much, but a little bit.

The Court: It is quite evident that the word "Jacob" was penciled over before or after the ink signature was written.

Q. Are you sure that this is the document that you threw out? A. What?

Q. Are you positive that this is the document? A. No, I am not positive this was the document. It was a document like that.

Q. Were you shown three documents? A. I think I saw sixteen signatures all together, including the genuine. I have got no memorandum of it.

Q. Do you remember how many solemn documents you saw? A. There were certainly two, and possibly three.

Q. Are you sure there were not four? A. Might have been four.

Mr. Osborne: There are fourteen papers.

Q. You examined how many signatures in all? A. No, I can't tell you that, but it is a dozen or over, at least a dozen and probably a few more.

Q. And you threw one or more of them out because it had been filled in? A. I threw out one of these and said I will not accept it because that signature was originally written in lead pencil, and the writer has traced over it, and I don't want anything that is tainted at all.

Q. And had the original signature been made by Mr. Richter, Samuel Richter? A. Yes.

Q. That is, the original pencil had been made by him? A. Yes, sir.

Q. And he may have drawn over that? A. Well, the law requires that his signature should be written in ink, and I think he wrote it first and then wrote it over again.

Q. You notice he had a way of endorsing checks in pencil—did you notice that? A. Yes, that is not an infrequent thing; people do that. They are allowed to do it in blue pencil, the aniline blue, but not in ordinary pencil, although it is done.

Q. So at times it was his habit, and possibly his preference, to sign in pencil? A. I think I have seen enough of his handwriting to be able to say that sometime he signed in pencil, but you don't mean to carry that to its logical conclusion, that he wrote the signature to the will

in pencil and then somebody wrote it over—you don't want me to say that.

Q. I am asking you. Take this signature on P-2, for instance, if that is one you threw out—we will assume it was—I don't know whether it was or not. Was his the hand which drew the ink over the pencil? A. My recollection of what I saw was that whoever wrote the pencil wrote the ink, and that was handed to me as a standard, and as it was under seal and acknowledged, and all that, I accepted it as a genuine signature.

Q. And if Samuel Richter did write that signature on the face of C-2, and wrote it first in pencil and afterwards in ink, it was the one hand that did it? A. Yes.

Q. In other words, the hand that wrote the pencil worte the ink; that is correct? A. That is right?

Q. What effect does that have on a man's signature, when you write out a signature in pencil and then draw over it in ink? A. I think when we use a pencil we write with a great deal more freedom than we do with a pen, because the smooth point of the pencil runs over the paper, and therefore it would have more of a spreading signature. I think when we come to line it over, while we may try to line it exactly, we couldn't succeed. I have yet to see after my forty-four years of experience, a complete signature that has been written over without being able to detect, under the glass, some place where the pen stops.

Q. And the ink signature looks like a drawing under the circumstances? A. And the signature

looks like an outline—yes, it has more the character of a drawing. You are right. That is right.

The Court: You are referring to the signature on this P-2?

Mr. Osborne: Yes.

Q. Now, you notice that all these standard signatures are written on heavy paper, heavy, smooth paper? A. What do you mean by heavy paper?

Q. I will withdraw that. They are written on smooth paper, aren't they? A. They are written more or less on good paper. The bank checks are supposed to have a fair paper that will stand a little wear and tear.

Q. Now, you notice that the disputed signature is written on rough thin typewriting paper? A. Yes, but the character of that paper is illustrated twice, where the signatures of the two witnesses, and that their addresses are written on that paper, and the pen runs smooth and nicely, showing that the paper was of good enough quality for that, and therefore it should have been good enough for the decendent's signature.

Q. Yes, but a man might write very well on smooth paper, and very ill on rough paper? A. Yes, sir.

Q. For instance, it appears that one of these witnesses is a clerk in the County Clerk's office, he wouldn't have any difficulty with his signature on any kind of paper, would he? A. No, possibly not.

The Court: It depends on what he was doing there. He might have been in any position.

Witness: I am quite sure, if his Honor took

a hundred of his decrees and looked at his signature to them, he would find that you couldn't find any two would be exactly alike, and while there would be the same picture of yourself present, nevertheless they would differentiate; they would have to, because you couldn't manufacture the same conditions, consequently it follows that if you write your name ten times, one right after the other, they will assimilate and be closer in appearance to each other than the signatures you write on ten different days, because everything is approximately the same, and it is because of the difference in environment and circumstances that signatures vary; everything affects handwriting, even to being interrupted for a single moment. The nerves, the motor nerves, are travelling down to the points of the fingers and are differently affected, according to conditions. I have yet to see two genuine signatures, and I have hunted for them—two genuine signatures which are the same—and I have examined, not thousands, but tens of thousands that were not exactly the same. When I have two exactly the same, one is a forgery, one is a tracing of the other; that is the only way you can obtain them.

Q. Was any standard signature furnished you written on typewriting paper? A. I don't think any standard signature shown me was written on typewriting paper.

Q. You have been called as an expert in a great many will cases, haven't you? A. Yes, sir, this will case is the one hundred and thirtieth I have testified in the State of New Jersey alone.

Q. And you find from your experience that when a man signs his will he is more nervous than at any other time? A. I think there is some philosophy to that, sir.

Q. He thinks he is going to die if he signs his will, very likely. A. Yes, he is scared. It is a scared signature.

Q. So his signature on that occasion may well differ from his signature on some other occasions? A. No doubt about it, it would differ.

Q. Why is it that you find that a man's signature is always different? A. Well, I think if his Honor will let the stenographer read what I said to you, it is on the record—

The Court: I heard it. There is no use of repeating it.

RE-DIRECT-EXAMINATION by Mr. Greenfield:

Q. Can you point out on Exhibit P-1 where the filling in took place, in what letters? A. Well, now, I can do that, but I have got to set up my microscope, and it is going to be a long road to Tipperary, and I think the record shows where those filling ins are already, and I would only have to confirm them. If you insist on it I will do it, but I don't think there is anything to be gained about it.

The Court: It has already been pointed out by the other experts in considerable detail, and he refers to the record, from which I assume that he has read the record. Ask him if he has read the record.

Q. What record do you refer to? A. I think the record of the one of the preceding witnesses.

Q. Have you read the record of it? A. I read his record, yes.

The Court: What he now says is that all he can do is to confirm what has already been testified to by the other experts in that respect.

Q. All you can do now is to confirm the record of what has already been testified to by the other experts? A. In so far as what we call filling in is concerned.

RE-CROSS-EXAMINATION by Mr. Osborne:

Q. On the disputed will, did the same hand do the filling in that wrote the signatures? A. I don't catch that.

Q. On the disputed signature, did the same hand do the filling in that wrote the signature? A. You mean where it is dated the eleventh? The only filling in appears on page 2 of this document, "This 11th day of March," is what you refer to, Judge?

Q. Did the same hand do the retouching that wrote the disputed signature? A. I don't sail in the clouds; I don't draw on my imagination for anything. I have given you all the salient facts, and I am here to assist his Honor in arriving at a conclusion, and I can't go into probabilities.

Q. You can't say, then? A. No, I cannot say, and nobody else can say either.

By the Court: Q. You understand that when he refers to the retouching, that he is referring to the disputed signature on the will? A. Yes, sir. As I understand it I have stated that the disputed signature to the will has been

retouched after it was written, and he has asked me if I can assume to find out or state who did that so-called retouching. Am I right about the matter?

By Mr. Osborne: Q. Yes, whether it was in the same hand? A. No, I cannot.

Q. Looking at the handwriting of the last witness on the will, you will find that that runs through the paper, don't you? A. Yes, it shows somewhat, but not with the depth of the disputed signature.

Q. Look at the disputed signature again. Now, doesn't that disputed signature give you any evidence that it was written first in pencil and the pencil erased? A. Did I say that?

Q. No, I am asking you. A. No, I have treated you very nicely in this case. I have done all I can to keep within bounds, if I am to go into that I shall ask his Honor to let me take the signature off entirely to answer your question, because the chemicals won't hurt the pencilings if they are under there, but I have made no such statement.

(Question read.)

Witness: I can't answer the question.

Q. Is there no evidence on the surface of this paper that pencil marks have been erased? A. If you will hold that up to the light at an acute angle you will find that the virginity of that paper has been more or less disturbed. How it was done, I don't know. Our own counsel, Mr. Greenfield, was here today using his pencil to point, in fear that he touched it, I wouldn't let him do it, if you will remember.

Q. You have already testified that on one of

the standard signatures which you threw out it had been written in pencil first and had been drawn over with the pen and that it was probably done by the same hand? A. I said that.

Q. Isn't it a fact that that is exactly what happened to this will? A. That the decedent wrote his name first in pencil and then lined it over again?

Q. With ink, yes? A. Might have been.

By Mr. Greenfield: Q. On the will? A. That is to say, the fact that there might be a pencil writing underneath it, but as to who did it, of course, I am not going to pretend to say.

By Mr. Osborne: Q. There has been an erasure there—don't you know there has been an erasure applied to that paper? A. I think the surface of that paper is disturbed.

Q. And looking at the L S, the L S has been partially erased? A. Yes, that has been disturbed. You are right about it.

Q. You know it is a common practice among people that when they write in pencil and they write over in ink, they use an eraser to remove the pencil mark? A. I do it. I don't know about others—I do it if it is necessary.

Q. This is not the only case—A. It is not exceptional.

The Court: Ask him why he thinks the surface of that paper has been disturbed.

Q. Why do you say that you think the surface has been disturbed? A. Because it is abrased.

Q. Now, Samuel Richter might have written his signature in pencil underneath? A. That is Samuel Richter might have written his signature underneath there in pencil, but I don't

think that Samuel Richter could have lined over that pencil.

Q. But he might have done it? A. Anything is possible in handwriting, yes. You have that point of vantage.

Q. You testified a few moments ago that he might have done it? A. I can imagine a condition that he might have done it, yes.

By Mr. Greenfield: Q. Is there any doubt in your mind that this signature is a simulated signature? A. None whatever. It is a cold-blooded, simulated, studied signature, and if there is a penciling underneath it is a traced signature, that is all.

Q. Is there any doubt in your mind that it was done by Samuel Richter? A. I can't answer that question. How can I answer that? He didn't write his natural signature there, a free-hand signature. Now, if as counsel suggests, he wrote his signature there in lead pencil, now the question comes up, who covered it over, who painted it over. I can't answer that question pro or con.

By Mr. Osborne: Q. You have the same reason, then, for throwing out the disputed document that you had for throwing out the alleged standard document C-2? A. What do you mean, so I can get in touch with you—that if the thing had been reversed and that this will signature had been submitted to me as a standard, what would you have done with it—that is what you mean? I would have thrown it out.

Q. You would have thrown both of them out? A. I would have thrown them out. You and I agree exactly.

Q. But if they told you that C-2 was a genuine document— A. I would have said I wouldn't use that, there is something wrong with it.

THERESA SMITH, sworn in behalf of caveators:

Direct-examination by Mr. Greenfield:

Q. Where do you live? A. 144 Union Street.

Q. How long have you been living at 144 Union Street? A. On March 1st it will be four years.

Q. Did you know Mr. Samuel Richter in his lifetime? A. Yes, sir; he was my landlord.

Q. Do you know the lady that goes under the name of Lena Richter, Mrs. Richter? A. No.

Mr. Greenfield: Is Mrs. Richter in Court?

Mr. Hahn: She was here.

Q. Did you know the lady known as Lena Richter? A. No—I see her in October when she comes for rent.

Q. She called there for rent, did she? A. Yes.

Q. Did you see the lady here the last hearing in Court? A. No.

Q. Mrs. Richter, the one that came there for rent, did you see her a month ago when you were here in Court? A. This is the first time I am in Court.

The Court: Is she one of the parties?

Mr. Hahn: Yes, she is the widow of the testator.

The Court: If her presence is necessary you may withdraw this witness and put her on the stand at two o'clock.

MAX ROSENWEIG, sworn in behalf of caveators:

Direct-examination by Mr. Greenfield:

Q. Where do you live? A. 203 Howard Street.

Q. What is your business? A. Carpenter.

Q. How long do you live in Newark? A. I live in Newark pretty near eight years.

Q. Did you know Samuel Richter in his lifetime? A. Yes, sir.

Q. Do you know Lena Richter? A. Yes, sir.

Q. You have done work for them, have you? A. Yes, sir.

Q. As a carpenter? A. Yes, sir.

Q. Were you present at the funeral of Mr. Richter? A. Yes, sir.

Q. Were you at the cemetery? A. Yes, sir.

Q. Do you know Mr. Karp, Mr. Abraham Karp? A. Yes, sir.

Q. How long have you known him? A. I know him since I came in the same society, you know, belongs together in the society. I belong to that society pretty near—

Q. What is the name of this society? A. Kinska Society.

Q. Where is that society located—in New York? A. In New York.

Q. Now, then, you say you know Mr. Karp. You were at the cemetery? A. Yes, sir.

Q. Did you talk to Mr. Karp? A. No, sir.

Q. Did you talk to Mrs. Richter? A. No, sir.

Q. Did you have any conversation there with any of them at the cemetery? A. Yes, with the family.

Q. Was Karp around there? A. Yes, sir.

Q. Was anything said about a will by anybody at the cemetery in the presence—

Mr. Hahn: I object to that as leading. Who did he talk with?

The Court: He said he talked with members of the family in the presence of Karp.

Q. Karp was present, was he? A. Yes, sir.

Mr. Osborne: Karp is not a party to this proceeding. What difference does that make?

Mr. Greenfield: I want to contradict him to show this man knew there was no will made.

Mr. Osborne: Karp has not so testified.

Mr. Greenfield: I asked him the question when he was on the witness-stand.

The Court: You cannot anticipate just what this testimony will be or whether it will be material. It will be taken subject to its materiality.

Q. You say there was something said about a will at the cemetery? A. No, sir.

Q. What was said there, if anything, at the cemetery, about Richter?

The Court: He says there was nothing said about a will.

Q. There was nothing said about a will? A. Nothing said about a will. I was talking with the family. I wasn't talking with the old Karp or the young Karp, the only one I was talking to was Mrs. Richter's family, her brother, the rest of them, the friends all around there.

Q. Did you ever talk to Mrs. Richter when she came back from the cemetery? A. Yes, sir.

Q. Where? A. The first thing I was talking about, when the body was in the house, before the funeral, took it out to Brooklyn to the cemetery, there was Mr. Karp standing in the dining-room between the bed-room. There was talking, you know, how—

Q. When you say Mr. Karp, you mean Abraham Karp? A. The old Karp.

Q. Was the young man there? A. The young man was there.

Q. You say the two Karps were there? A. Yes.

Q. Now, tell us what took place there. A. They were talking what kind of man he was, you know, he didn't leave anything, you know, he wasn't ready, he shall leave anything, he didn't care—

Mr. Hahn: We object. We don't know who said it and in whose presence.

The Court: You will have to make it more definite.

Q. Was there anything said at that time either by Mrs. Richter, Lena Richter, or Karp, about a will? A. Yes, sir.

Q. What was said there about the will by Karp and Lena Richter and the old man Karp; tell us? A. It was between the dining-room—by the door there is a closet was standing, you know Mr. Karp and the rest of them—I don't remember how many there was there—there was about three or four or five people, they was talking, you know, what kind of man he was, he didn't leave anything for her, he didn't leave anything in black and white, and they was talking, you know—

Q. Who said he didn't leave anything in white or black—he didn't leave anything? A. Old Karp.

Q. Was the young Karp there? A. Yes, he didn't say anything.

Q. At the time he said he didn't leave anything who was present? A. The old Karp was and the young Karp was. The young Karp didn't talk anything. Most I talked to the old Karp, Mr. Karp.

Q. At that time did young Karp say anything to you about drawing a will? A. He didn't say anything to me.

Q. Did you see young Karp after that? A. Yes, sir.

Q. When and where? A. I see him in the cemetery.

Q. You said there was nothing said in the cemetery by young Karp? A. No, sir.

Q Did you see him in Newark after the funeral? A. Yes, sir.

Q. Where did you see him? A. I see him by Mr. Karp. It was about eight days after.

Q. Was there then anything said about the will? A. No, sir, I didn't hear anything.

Q. Did you have any conversation with Lena Richter? A. Yes, sir.

Q. What was it about? A. She was sitting on the stoop, there was a colored man, she was sitting there, and I passed with Nathan Jacobs. They called me, and at the same time I went into her—

Q. Who called you? A. Lena Richter, and I went in to her at the same time, and she says to me, "You know I got a will already?"

Q. When was that? A. That was about eleven days after the funeral.

Q. When you say Mr. Karp, what Karp do you mean? A. The old Karp, his father.

Q. Was the young Karp there? A. He was there.

Q. Did he say where the will was found? A. He didn't say anything.

Q. How did she come to speak about the will? A. I don't know; I couldn't tell you. She called me, she said, "You know, Mr. Rosenweig."—Mr. Nathan Jacobs was with me, and it was summer, and we were stopping and we went away.

Q. Was there ever anything said about the will at any other time previous to this occasion? A. Yes; I was talking with Mr. Richter at the time. I was working in Jacob Street.

Q. How long before his death? A. That was the 14th of October. That was on a Monday; I think that was the same week of the Jewish holiday, New Year's. I was making there a fence.

Q. New Year's? A. That was the Jewish New Year's.

Q. You mean Rosh Hasuna? A. That was the 14th of October, I think.

Q. What year? A. 1914.

Q. He was dead in October.

Mr. Hahn: He died in September.

Witness: I don't remember the month.

Q. You say you talked to him before his death? I don't suppose you talked to him after his death? A. Yes, sir.

Q. Where was it that you spoke to him? A. That was in Jacob Street, in a saloon.

Q. How long before he died? A. That was on a Monday, and he got his sickness on the Tuesday night, and he got paralyzed. It was on the Monday night when I went into the store to buy hinges. When I came back with the hinges he was paralyzed in bed.

Q. The day before he got sick you spoke to him? A. Yes, sir, that was a Monday, and Tuesday night he got his sickness.

Q. Was there anything said by him about any will? A. Yes, sir.

Q. What was said? A. I went in the saloon at twelve o'clock. He said "Mr. Rosenweig, I feel so bad, I feel like drink the whole saloon out. It burns me inside like a fire." After he says, "You know, Mr. Rosenweig, I keep you for a straight man, tell me the truth, is that a proper way in Newark, Rabbi Brodsky, to meet me one morning, Clayton and Barclay Street, he asked me I shall be a member of a loan association that loans money. I promised to give him $12 a year,"and after that he only gives $6; he promised him $12. The first half part he gives me, and he says he put in the papers only $6, and he says to me, "That is a fine man, he took $6, in his pocket." I said, "Mr. Richter, I know Rabbi Brodsky well enough, he will never do that." He said it in Jewish. I don't know the proper way to say all sucker business. I said, "Never mind, Rabbi Brodsky wouldn't take your $6. You only gave him $6." He said, "I promised to give him $12, I got to pay in $12;" he said, "What a fine man, he presses me about the money." He was talking, and the first thing he said to me, he

said, "The majority of them, the most of them is such a people, he takes in half in his pocket."

Q. Was there anything said about a will at that time? A. Yes, sir, I come to it.

Q. What did he say? A. He said about the family, how he don't like her family. "If I will die," he said, "I wouldn't leave all my money," he says, "I will leave for the churches, I wouldn't give nobody a penny," he says; he was a little excited. He says, "For whom shall I give the money, to my family, that wants to see me dead now, but who else—my woman?" He says, "I wouldn't leave for anybody;" he says, "Let them fight after;" he says to me, "Mr. Rosenweig, I would like to see this time when I am dead, these people, how they will be fighting one between the other." I was smiling. I didn't answer him. He was a little nervous.

Q. And that was a day before he took sick? A. It was on a Monday, twelve o'clock, and Tuesday night he gets his sickness about six o'clock.

Q. Who else was there at that time? A. A colored man was there. He makes the posts to put in the fences. They call him Happy Joe.

Q. You said Mrs. Richter said she had a will afterwards, you say about eight days after the death. Did you see her again after that? A. When?

Q. After she mentioned about the will, did you talk to her again? A. After that?

Q. Yes? A. I think I see her about once?

Q. Did you talk to her about the will? A. No, sir.

Q. Did she say anything to you about it? A. No, sir.

CROSS-EXAMINATION by Mr. Hahn:

Q. Are you related to Mrs. Richter? A. She comes from city I come.

Q. Are you related to her, are you a relative of hers? A. No, sir.

Q. Or of Mr. Richter, the deceased? A. No, sir.

Q. Where do you live? A. I live 203 Howard Street, now.

Q. How long have you lived there? A. Pretty nearly four years.

Q. You say you spoke to Mr. Richter on the 4th of October? A. I don't remember the month, but the week I know.

Q. You said you spoke to Mr. Richter on the 14th of October, didn't you? You said that didn't you? A. I don't remember the month.

Q. But you said October in your testimony? A. I don't remember what month it was, but I figure it was in the month of October.

Q. But you said October 14th. A. I only remember that fact, it was the same week the Jewish holiday New Year's.

Q. If you didn't remember why didn't you say so? A. I don't remember the English month exactly, but I remember maybe yes and maybe not. I couldn't say sure the month because—

Q. You afterwards qualified that statement when I told you that Mr. Richter was dead at that time. You said it was on the Jewish New Year's, in other words, Rosh Hasuna? A. Yes, sir.

Q. You spoke to him on Rosh Hasuna, did you? A. No—how can I speak to him? He was dead.

Q. Why did you say in your testimony that you spoke to him on Rosh Hasuna? A. No, sir; I didn't—

Q. You didn't say that? Do you mean to say that you didn't say that on your direct-examination? A. He was dead on Rosh Hasuna.

Q. You said on your direct testimony that you spoke to him on Rosh Hasuna? A. I don't remember I said it. How can I speak to him if a man is dead?

Q. Do you want to change your testimony and say that you didn't speak to him on Rosh Hasuna? A. I didn't speak to him on Rosh Hasuna. He was dead.

Q. When did you speak to him? A. The same week when Rosh Hasuna was. I forget when Rosh Hasuna was—on Sunday, I think.

Q. You say the week, you mean when it started? A. Yes, sir. It was on a Monday when I went to work with him together.

Q. When you say Rosh Hasuna what do you mean? A. It was in the same week, eight days before the Jewish New Years. It was on a Monday. I went to start to make that fence there, and I went, and Mr. Richter went and got a colored man there, went there together there, and the colored man starts to make poles and I start to make the fence.

Mr. Osborne: I would like to re-call Mr. Haring for further cross-examination.

JOHN V. HARING, re-called for further cross-examination by Mr. Osborne:

Q. Mr. Haring, look at the signature again on the will. Did you find any evidence that there had been an erasure? A. I didn't notice particularly that there had been an erasure. I saw the fibre might have been disturbed possibly. I didn't notice it particularly.

Q. Has there been an abrasion of the surface? A. The fibre of the paper, the finish of the paper. It may have come from handling.

Q. Didn't you find it so from your examination under the microscope? A. I didn't notice particularly.

Q. You can't tell under the microscope? A. I think we could, yes.

Q. If you hold it up to the light you can see that an erasure had been passed over it? A. I can't tell what has been passed over it. I couldn't say it was an erasure any more than I could say it was a finger. I wouldn't say definitely what it was.

Q. Is there anything there to show that somebody may have written a signature in pencil and then written it over in ink, and then after the ink dried erased the pencil marks? A. There is positively nothing to make me come to that conclusion.

Q. On this document Exhibit C-2, which is the plumber's bond, did you conclude there was an erasure there? A. On one of those documents—I don't recall what it was—I thought I saw indications of a line below it.

Q. Look at C-2, on the signature Samuel Rich-

ter there, does that indicate that there had been pencil marks under that signature? A. Looks here as though there had been some erasure.

Q. Did you throw that out? A. I did not.

Q. You accepted that as a standard signature? A. I did.

Q. Were there any standard documents offered you which you did throw out? A. None whatever.

Q. Are you prepared to testify that a pencil signature was not made under the signature on the will? A. Prepared to testify that a pencil signature was not made under this signature on the will?

Q. Yes. A. I can testify that I see nothing to indicate that there was.

By the Court: Q. There was what? A. Any pencil line under this signature.

By Mr. Osborne: Q. But it is possible that there might have been a pencil signature underneath which was drawn over that ink? A. I couldn't see—it is possible, you say?

Q. Yes. A. I don't think it is probable.

Q. But it is possible? A. All things are possible with God.

Q. You notice that the abrasion, as Mr. Carvalho, call it, the abrasion extends the whole length of that signature out at both sides, and, in fact, has disturbed the word "L S" a little? A. I can't find it so.

By the Court: Q. Can you find any so-called disturbance of the surface of that paper? A. I can't find where an erasure has been made of that character.

Q. You say something has been drawn over

this paper to disturb that surface? A. Something has been drawn all over this whole document, perhaps rubbing together of the sheets.

Q. Don't you find with that signature in particular that there has been a distinct abrasion of the surface? A. It all harmonizes to me. It all blends.

Q. The same polish? A. It hasn't the same polish but the same finish.

Q. Isn't it possible for somebody to have written that signature in pencil and then a pen drawn over in ink and yet do not know that there were pencil marks there? A. Well, all things are possible, but it doesn't look to me as though it is probable here.

Further RE-DIRECT-EXAMINATION by Mr. Greenfield:

Q. You don't find any graphite in that? A. I haven't discovered any graphite.

Q. If there would have been graphite you would have discovered it, would you not? A. I don't like to brag, but I tried very hard to find it.

By the Court: Q. You looked for it? A. I searched very thoroughly with that specific thing in view. I spent time on it, eliminating anything else, keeping that one thing in mind, I couldn't discover any.

Q. What do you call it when a writing is made with pencil and then inked over? Do you call that a tracing? A. The inking over part would be a tracing.

Q. Have you any peculiar designation for such a situation? A. That would be assimilating with a pencil and then tracing the lead pencil with ink.

Q. Do you find any indication in this signature of that? A. I don't discover any.

Q. When that is done are you ordinarily able to find traces of graphite? A. It would depend on the skill of the operator. One person would take a pencil and rule a line, and simply in ruling your line there is all grades of skill demonstrated. When you come to make this signature a person skillfully—

Q. I suppose a hard, sharp pencil very lightly used would leave very little or no trace of graphite? A. It might be just enough to guide them.

Q. And you probably wouldn't be able to discover it? A. I wouldn't be able to discover it. I have searched for it and I couldn't find anything of it.

Further CROSS-EXAMINATION by Mr. Osborne:

Q. Do you find that the typewritten letter "L" or "S" at the end of that signature is slightly erased? A. I see little breaks in that. Whether it is because of breaks or the type didn't hit the paper properly I couldn't say.

Q. It has the appearance of being erased? A. No, I wouldn't say it was erased. There is a break there. It might have come—it looks to me if the "L S" was put on after the dash. In that case it would not hit the paper as good.

HERMAN SIMON, sworn in behalf of caveators:

Direct-examination by Mr. Greenfield:

Q. Mr. Simon, did you know Mr. Samuel Richter in his lifetime? A. I did.

Q. How long have you known him? A. Over fifteen years.

Q. Did you know the lady that goes by the name of Lena Richter? A. I did.

Q. Did you see Mr. Richter before his death? A. He died right in front of me.

Q. You were there? A. He sent for me three o'clock in the morning.

Q. You were sent for at three o'clock in the morning? A. Yes, sir.

Q. Who called for you? A. Some young man.

Q. Do you know him? A. Harry, or whatever his name is.

Q. Is he here? A. No, he is not here.

Q. And when you arrived there whom did you find in the room? A. In the kitchen I found Dr. Steiner and the woman that used to live with Mr. Richter.

Q. Lena? A. Yes, sir.

Q. Anybody else? A. No, sir; not in that room.

Q. Did you ever see him before? A. You mean in the kitchen?

Q. In the kitchen. Did you go into his room, where he was lying? A. Dr. Steiner told me, "Go inside, he wants to see you."

Q. When you went in whom did you see? A. Harry the fellow which came to me, and Mr. Arbeitel, this gentleman there (indicating).

Q. Which one—the old man? A. In the raincoat.

Q. The old gentleman? A. Yes, sir.

Q. You found them there. What was said by Mr. Richter, if anything?A. We came in there. I says, "Sammy, what is the matter?" He says —shall I use Jewish?

The Court: Give it in English.

Witness: I said, "Sammy, what is the matter?" He says, "I am very sick, very sick." I says, "You know me?" and he says, "Yes, you are Simon, Mr. Simon." I says, "What do you want?" I said, "What do you want?" He said, "I want everything for Blima." And the woman came in and says, "Samka, where you leave me, you didn't"—it means "you didn't support me, you didn't provide for me" and she came in there and hollered, and he says, "Thousand Dollars, Arbeital, a thousand dollars, Blima," and he says, "No, Arbeitel" and he went like this (witness makes a gurgling sound) and that is all of it.

Q. You didn't draw any will? A. I did not.

Q. Was Dr. Steiner there? A. Dr. Steiner was inside, in the kitchen. I called him when he died.

Q. Did you ever see Mr. Richter before his death, and if so, how long? A. Every day, except I didn't know what he was sick, except the eight days before he died I didn't see him.

Q. Has he ever been to your office? A. Every day.

Q. Has he ever spoken to you about a will? A. He did.

Q. How long before his death in your office did he speak about a will? A. It is about two months before he died he came in with Mr. Solomon Krutzel.

Q. (Indicating) This gentleman here? A. Yes, and Solomon says to him, "Mr. Richter, why don't you make a will? If you die the dogs will take your money." He says, "I don't care. I don't believe in it, and I wouldn't make nothing."

Q. That was how long before his death? A. Two months, and about four weeks after this he came in with Mr. Solomon, and he says "I listened to him," and he says, "He told me what he wants"—

Q. Don't tell what he wanted. A. He went in the other room playing pinochle, and he fell asleep.

Q. And that was how long before his death? A. About four weeks.

Q. Did you draw any will then? A. I did not. I simply made a memorandum of what he gave me.

Q. Have you got that memorandum? A. No, sir.

Q. What did you do with it? A. I destroyed it.

Q. Now, Mr. Simon, do you know Mr. Karp, the witness that was on the witness-stand here the last day of the hearing? A. The young fellow, the student, the lawyer?

Q. Yes. A. Yes, sir.

Q. Did you see him after the death of Mr. Richter? A. He came in —

Q. Did you see him? A. He came into my office on the day of the funeral, in the morning.

Q. What did he ask you, if anything? A. He asked me, he says, "Are you Mr. Simon?" I says, "Yes, sir." He says, "Now, I want you to tell

me if Mr. Richter made a will by you, because I know he never believed on it and never made a will, but I want you to tell me if he ever made a will before you?'' And I said, ''What do you want to know it for?'' He said, ''I am the nephew and I want to know it.'' I said, ''It is for you to find out and for me to know.'' That is all I know of it.

Q. That was after the death of Mr. Richter? A. That was on the date of the funeral, the 21st.

Q. Did he say anything to you or mention the fact to you that he drew a will for Mr. Richter? A. No, sir, he says positively he knows he never made a will.

Q. Are you in any way related to Mr. Richter? A. No, sir.

Q. To the family? A. No, sir.

Q. Or to any one connected with this case? A. No, sir, only that I done all his work in his lifetime, all tenancy cases.

Q. You were very friendly? A. Yes, sir.

CROSS-EXAMINATION by Mr. Osborne:

Q. You are not a lawyer, are you? A. No, sir.

Q. Now, you have drawn wills before for people, haven't you? A. I did.

Q. How many? A. I don't know about—

Q. You understand a will is a very solemn thing, don't you? A. I do.

Q. You got instructions from this man Richter to draw his will? A. I did.

Q. In your office one night? A. Yes, sir.

Q. Came there for that purpose? A. Not one night, one day.

Q. He told you what he wanted put in his will? A. Yes, sir.

Q. And he told you he wanted his will drawn? A. No, sir; he didn't say that.

Q. What did he come there for? A. He said, "I want to make a will," and he came in there and told me in the meantime he went in the other room and fell asleep.

Q. You put it down on a slip? A. I did.

Q. What he told you was going in his will? A. That is what I remember today yet.

Q. What did you do with this piece of paper? A. I don't know. I mislaid it or destroyed it —I don't know—after he died.

Q. Did you put it in your desk? A. I did.

Q. Are you quite sure that you destroyed it? A. I don't know.

Q. Why don't you know? A. I can't find it.

Q. Is that the way you treat all the documents relating to your clients, either destroy them or mislay them? A. What is it?

Q. Is that the way you do business? A. Do you want me to give you an answer?

Q. I want you to give me an answer. A. I mislaid it.

Q. What? A. Or destroyed it, I don't know which.

Q. I ask you this: do you treat all your clients' memorandum in reference to wills in this same way? A. It wasn't the final will.

Q. You could have drawn a will from what you had? A. No, sir, it wasn't enlarged. He told me what to write down what he wanted. It wasn't enlarged.

Q. Why did you put it down? A. Because he told me to put down what he want.

Q. Have you searched in your office for this memorandum? A. I did look for it, yes, sir.

Q. And couldn't find it? A. I could not find it.

Q. Tell us all that memorandum contained.

Objected to as immaterial.

The Court: How is it material?

Mr. Osborne: I don't know why the offer was made in the first place.

The Court: What offer?

Mr. Osborne: I don't know why the testimony was put up in the first place.

The Court: There is no testimony in as to the contents of the memorandum. I do not think it is competent now. How can it affect the question at issue? Certainly you cannot establish another will by it. I will sustain the objection. If it appears to be material later, then you can recall the witness for further cross-examination.

Q. You say you did all his landlord and tenancy business for him? A. Yes, sir.

Q. And you occupied a confidential relation with him? A. Yes, sir.

Q. And he came to your house every night? A. Every date pretty near.

Q. Had he ever suggested a will to you? A. No, sir, only since this gentleman spoke to him.

Q. What is his name? A. Solomon Krutzel.

Q. That is the gentleman that brought Mr. Richter there? A. No. That is the gentleman that met him there and spoke to him about the will.

Q. Why didn't you suggest to him about making a will? A. I had no business to.

Q. Is that your only answer? A. That is my only answer.

Q. Had you ever spoken to him about a will before that? A. No, sir.

Q. Why not? If you occupied a confidential relation with him why didn't you? A. Because he never asked me.

Objected to as immaterial.

The Court: I do not think this witness's reasons are competent.

Q. What relation did Mr. Solomon, whom you have just mentioned, occupy to Mr. Richter? A. Simply that they were friends together.

Q. And had no business relations together? A. No, sir.

Q. Mr. Solomon didn't draw any document for him? A. I didn't see it.

Q. Had you drawn documents for him before that? A. Tenancy cases and agreements, when he built, tenancy cases, he had two or three every week.

Q. Will you give me this conversation again that took place at the deathbed? A. At three o'clock in the morning.

Q. Yes. He then was in very bad shape. A. Well, he spoke to me nicely, I didn't know that he will die right in front of me.

Q. Who else was in the house? A. Dr. Steiner and the lady he lived with was in the kitchen.

Q. Her name was Lena? A. I don't know.

Q. Lena Richter, she is the proponent in this case, isn't she? A. I don't know, I couldn't tell you.

Q. How often have you been in his house? A. Never.

Q. How often have you seen Lena Richter? A. I never seen her.

Q. Where do you live with reference to the Richters? A. I live in West Kinney Street. That is two blocks away from her.

Q. And where did Mr. Richter live? A. Clayton, corner of Hoyt.

Q. And these people had lived there for years, hadn't they? A. I don't know.

Q. Didn't you know from what he told you? A. No, sir; he never told me anything.

Q. Then he wasn't accustomed to tell you things, was he? A. I didn't ask him.

Q. He didn't confide anything? A. Not to me. The only story he told me, that he had a first wife, that is all.

Q. So you don't know of your own knowledge anything about the relations with Lena Richter? A. Not at all.

Q. Don't you know of your own knowledge that she is the person that is the proponent of this will? A. I don't know.

Q. Don't you know of your own knowledge that she is the Lena Richter named in this will? A. I haven't spoken to anybody—I don't know.

Q. You don't know anything about it? A. No, sir.

Q. So you don't know anything about her affairs at all? A. No, sir.

Q. How near was your place to him? A. Two blocks.

Q. You saw him every day? A. Every day pretty near.

Q. Passed the house every day? A. No, sir; he came to me.

Q. Did you ever pass his house? A. Oh, a good many times, yes, sir.

Q. Never in it except when he died? A. Never was in the house, no, sir.

Q. Mrs. Lena Richter was there? A. Yes, she was there.

Q. And the doctor was there? A. I don't know her name was Lena, but I know a woman was there.

Q. What did Mr. Richter say on that occasion? A. I came in there. This lady and Dr. Steiner was in kitchen and he says, "Go inside, he wants to see you." I came in there. There was a young boy named Harry and this gentleman, Mr. Arbeitel, and I said, "Samka, what is the matter?" "Oh," he said, "I am sick, I am bad." I says, "Do you know me?" He says, "Yes, Simon, Mr. Simon." I said, "What do you want?" He said, "I want everything"—in Hebrew he spoke to me—he said, "I want everything for Lena—Blima"—I misspoke myself, I meant Blima.

The Court: I want to know what that word "Blima" is. You said that he said, "I want everything for" what?

Witness: Blima.

The Interpreter: That is a Yiddish name, Blima (spelling B-l-i-m-a).

The Court: What is that in English?

The Interpreter: Blima.

The Court: Blima is a Yiddish name?

The Interpreter: Yes.

Q. Go on. A. He said, "I want everything

for Blima." She came in and she said, "Samka,. where you leave me, you didn't provide for me."

Q. Who is "she"? A. This lady. I don't what her name was—Lena, or whatever it was.

Q. You didn't know who was Blima? A. I didn't know at that time.

Q. And still you knew who Lena Richter was? A. I know it now, because you tell me.

Q. But you didn't know who Lena Richter was? A. I don't know who Blima was.

Q. Did you know at that time who Lena Richter was? A. No, sir.

Q. You did not? A. No, sir.

Q. Did you know at that time who Blima Richter was? A. No, sir.

Q. There was nothing in this memorandum about either one of them, was there? A. Yes, there was.

Q. Then you must have known before he died? A. He said his first wife in the memorandum.

Q. When did you hear the name Blima? A. The night he died.

Q. You thought, when he mentioned that word, that he was saying Lena—that is what you thought, wasn't it? A. He did not.

Q. The first time you heard this word, which you call Blima, was at his deathbed? A. Yes, sir, that is the first time.

Q. And when he said Blima you thought he meant Lena, didn't you? A. I didn't know who Lena was at that time.

Q. Didn't even know who Lena was at that time? A. No, sir.

Q. Now, then, go on from the time he said that. A. Then she opened the door and came in

and said, "Samka, where you leave me, you didn't provide for me." And he said "Thousand dollar, Arbeitel," and then she hollered, "A thousand dollar Blima," and he said, "No, thousand dollar, Arbeitel," and then (Witness makes a gurgling noise), and that was all."

Q. This conversation with Mr. Karp, that was the young Karp or the old one? A. The law student. I don't know who he is. He is not here now.

Q. Were you here at the last hearing? A. Yes, he was here the first day.

Q. Did you see him? A. Yes, sir; I seen him.

Q. Was he on the witness-stand? A. He was.

Q. And he came to you and he asked you, after Mr. Richter's death, he said to you, "Mr. Simon, did you draw a will for Mr. Richter?" A. He didn't say those words.

Q. What words did he use? A. He came in and he told me, he says, "Mr. Simon, have you made a will"—he says, "Have you made a will for Mr. Richter?" I says, "Why?" He says, "Because I know that he never made a will and didn't believe in it, and that is the reason I want to find out."

Q. He said, "Because I know that he never made a will and didn't believe in it, and that is the reason I want to find out?" Is that right? A. Yes, sir.

Q. That is the only conversation you had with Karp about that? A. That is all.

Q. Did Mr. Richter have you draw his deeds? A. No, sir.

At one o'clock p. m. the court took a recess of one hour.

After Recess.

HERMAN SIMON resumes the stand.

Cross-examination (continued) by Mr. Osborne:

Q. You say that Dr. Steiner was present at that deathbed conversation also? A. In the kitchen, yes.

Q. Was he present—didn't he hear this conversation? A. I couldn't say; I don't know; I couldn't say; I couldn't tell you.

Q. That is what was said, wasn't it, "All to my wife Lena"— A. No, sir, he said, "Everything to Blima."

Q. And a thousand dollars to Arbeitel?" A. To Arbeitel.

Q. As a matter of fact, didn't he say, "A thousand dollars to Blima, and everything to my wife Lena?" A. No, sir, that is what this lady said. She said, "Pardon me, you mean a thousand dollars for Blima?" And he said "No, Arbeitel," and then that is all.

Q. And, of course, you didn't know who he meant when he said Blima? A. No, sir.

Q. You say when he gave you this memorandum to make his will before that he went to sleep in the back room, that he didn't mention the name of either of these women? A. He said his wife.

Q. He didn't mention— A. Any name.

Q. Did he mention his second wife? A. No, sir.

Q. You didn't know who the first wife was? A. No, sir not at that time.

Q. (Indicating a person in the audience.) Do you know this woman? A. Never knew her.

Q. You have known her for years? A. No, sir.

Q. She never came to your office for Mr. Richter? A. No, sir.

Q. When was the first time you ever saw her? A. The night that he died.

Q. That is the only time you ever saw her? A. That is the only time I saw her. I may see her before, but I wouldn't swear to it—I didn't know who it was.

Q. Didn't she come to your office several times for Mr. Richter? A. Mr. Richter came himself.

Q. And he never sent her to your office? A. No, sir.

SOLOMON KRUTZEL sworn in behalf of caveators:

Direct-examination by Mr. Greenfield:

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

Q. And whereabouts? A. What do you mean?

Q. Have you got an office? A. No.

Q. And where do you live? A. I live now 313 Ferry Street.

Q. How long have you been living in Newark? A. Twenty-five years, I believe.

Q. Did you know Samuel Richter in his lifetime? A. Yes, sir.

Q. How long have you known him? A. I believe I know him about twenty-six or twenty-seven years, the first day when he came over to New York.

Q. Did you ever visit him at his house here in Newark? A. In Newark, never.

Q. Did you ever visit him in New York? A. In New York, yes, we used to see each the other. We belonged to one society.

Q. What is the name of that society you belonged to? A. New York Benevolent Association.

Q. Do you know Herman Simon? A. Yes, sir.

Q. Have you ever been to Mr. Simon's office with Mr. Richter? A. Well, I never came in with Mr. Richter. I always came in Mr. Simon's office.

Q. Did you ever meet Mr. Richter? A. Yes, sir.

Q. Have you been to his funeral, to Mr. Richter's funeral? A. Yes, sir; I am the chairman of the burial committee, and when he died on Rosh Hasuna I was in the synagogue in West Kinney Street and I was notified that Brother Richter died and I went up—

Q. When you say "Rosh Hasuna" you mean New Year's? A. The Jewish New Year's.

Q. How long before his death did you see him? A. Well, I believe the last what I see of Samuel Richter—I couldn't say sure, positively, only just I believe about three or four weeks before he died.

Q. Where did you see him? A. In Justice Simon's office; I used to see him on Prince Street several times.

Q. Did you ever meet him in the office? A. Yes, sir.

Q. When was the last time that you met Samuel Richter in Mr. Simon's office? A. I couldn't give you the date when it was.

Q. About how long before his death? A. Just what I have said before, about three or four weeks before he died.

Q. Was there anything said at that time about any will? A. I don't know anything about a will, only I used to have private conversations with him that is all.

Q. Did you have a private conversation with him in Simon's office at that time? A. Well, not in the office. Just we was all standing there by a bench, a chair, and he came over and I used to sit down.

Q. Was there anything said about a will at that time? A. I used to speak to him so and so, he don't feel good, and he is getting older, and I will ask him if he made a will. He told me he don't believe in such things, that is all.

Q. How long before his death was it? A. That was all the time until the last what I have seen him, he told me that he comes in here and he wants to make a will in Simon's office.

Q. That is the last you saw him in Simon's office? A. Yes.

Q. Do you know whether a will was made in Simon's office? A. I couldn't tell you anything about it.

Q. Do you know Mr. Karp, Abraham Karp, the young man that was here at the last hearing? A. Who is the Karp—I don't know?

Q. Were you here the last hearing in court? A. Yes, sir.

Q. Do you remember the first witness that was on the stand, a young man who is a law student in New York? A. Related to Mrs. Richter?

Q. Yes. A. No, I don't know him from before until I see him right here.

Q. That is the first time you saw him? A. That is the first time.

Q. You didn't see him at the funeral? A. The funeral, yes, he was in the cemetery and I saw him in the cemetery.

Q. You were at the cemetery? A. Yes, sir.

Q. Was there any conversation passed between yourself or with somebody there that young Karp took part in? A. Never, only here in the hall he spoke to me.

Q. In the corridor of this court house? A. Yes, sir.

Q. At the last hearing was it? A. Yes, sir.

Q. Was there anything said about a will at the last hearing to you? A. No, he didn't say about a will, but he said he is going to fight for his right, that is all what he said. He said his aunt left him some money and he is going to give up this money to fight in the case. That is all he tell me.

CROSS-EXAMINATION by Mr. Osborne:

Q. Karp said he was going to give up his money to fight this case? A. He tell me that his aunt put some money on him, I don't remember how much he tell me, I don't want to tell—

Q. Gave him some money to go on the witness-stand and support her in this case; is that right?

Mr. Greenfield: I object to the form of the question.

The Court: Counsel has a right on cross-examination to suggest to a witness.

Mr. Greenfield: The way he was asked it implies that this man testified that way.

The Court: You may ask questions of that character on cross-examination. If he did not testify that way all he has to do

is to say. The record will show what he said.

Q. When this case was on in the court house the last time— A. That was when it was, the day of the trial. It was dinnertime.

Q. And that was after he had been on the stand. You remember he was on the stand in the morning? A. That was after.

Q. Karp said to you and who else? A. He went to me—I was standing there—and he said, "Hello, Mr. Krutzel," because he knows me from the funeral; that is all he knows me and I know him, and he says, "What do you think about the case?" and I says, "Well, I don't know." "Well," he says, "If we will be going to lose here," he says, "my aunt has left some money for me, and I am going to us my money and fight for our rights."

Q. His aunt was going to give him some money and he was going to spend his money to win this case? A. Yes.

Q. Who else was present when this was said? A. Me and him, that is all. He came over to me. I didn't ask him anything. I don't want to be interfered with. I came here to listen to the trial and I was subpoenaed right here in court.

Q. You didn't tell him why you were here? A. No, sir.

Q. He merely volunteered that? A. I just came in to listen to the case, because I know him for the first day and he was a brother of mine in the lodge, and the lawyer, Mr. Greenfield, handed me a subpoena in the court room, and I didn't want to accept it. In fact I went to see the sheriff even.

Q. About when was the first time that you told Richter that he ought to make his will? A. Last summer, pretty near the whole summer we used to—

Q. Covered a period of a whole year? A. Whenever I would see him I asked him, "Why don't you go away in the country, why don't you go to Europe," you know, friendly between ourselves Afterwards I told him, "You can't tell with a person what will happen. You are with that such a thing"—

Q. Didn't you tell him about making a will as early as a year before he died? A. No, we didn't spoke together.

Q. When? A. He was sick and I was president, and he came in for sick benefit, and I refused it without the doctor.

Q. That was in the winter of 1913? A. That was, I believe, in 1913, I believe so—I ain't sure. I don't want to lie to the Court.

Q. And after that you spoke to him? A. Well, no we spoke together.

Q. Isn't it a fact that you spoke to him? A. Well, no, we spoke together.

Q. Isn't it a fact that you spoke to him about making the will as early as January, 1914? A. I wouldn't tell no lie because I can't remember the date, and I am just telling you the truth, that it was about four weeks before he died, something like this.

Q. You had also spoken to him at other times during that period that you knew him about this will question? A. A couple of times I spoke to him? What is it my business if he wants to make it or not? I didn't know what I was called here for.

RE-DIRECT-EXAMINATION by Mr. Greenfield:

Q. You were subpoenaed right here in court? A. Yes, sir.

Q. By me? A. By you.

Q. And have you ever been down to my office to speak to me about this case? A. I wouldn't go to no office and I wouldn't speak to nobody.

Q. You wouldn't speak to anybody about this case? A. I didn't have nothing against this woman and I didn't have nothing against Mr. Richter.

RE-CROSS-EXAMINATION by Mr. Osborne:

Q. You know Lena Richter sitting here? A. Yes, sir.

Q. You know her how long? A. From the same time.

Q. How long is that? A. About twenty-five or twenty-six years, twenty-seven—I couldn't tell you exactly just when.

Q. And they were living together in Newark all that time, were they? A. That corner where they are was mine and they bought it.

EMIL MATZNER sworn in behalf of caveators:

Direct-examination by Mr. Greenfield:

Q. Mr. Matzner, where do you live? A. I live at present 101 Baldwin Street.

Q. How long have you been living in Newark? A. Eleven years.

Q. Did you know Mr. Samuel Richter in his lifetime? A. Yes, sir; I did.

Q. Did you ever meet him before his death? A. I did.

Q. Do you know when he died. A. I recall it was in September, either the 18th or 19th; I can't recall the date.

Q. 1914? A. 1914.

Q. Are you related to Mr. Richter? A. No, sir; I am not.

Q. Are you related to Lena Richter? A. No, sir; I am not.

Q. Are you related to the Arbeitel people? A. No, sir, I am not.

Q. You say you met Mr. Richter before his death? A. I have.

Q. How long before? A. I presume it must have been either two weeks or two and a half weeks, something like that. I can't say exactly the time.

Q. Where did you meet him? A. I met him on a car, a Kinney Street car, going up Union Street. I had been working corner of Pacific and Elm Streets, and the car turns in on a curve there on Union Street. He got on the car and we got in conversation, as we would under the condition, that we knowed each other for years.

Q. How long have you known him? A. I lived in his house three years.

Q. Whereabouts, what house? A. I believe it was 25 Clayton Street, which he owned.

Q. Tell us what conversation you had at that time while going up on the car, riding up in the car? A. We have started that he call my attention, he says, "Mr. Matzner," he says, "where are you

bound for?'' Naturally he talked to me in the German language, and I have said, ''I am going home for dinner;'' and he says to me, ''Don't you think it is not proper for you to go home for dinner?'' I says, ''Why?'' He says, ''Because you can't be back within an hour's time and during that time you are away your workmen may take advantage of you.'' I says, ''Mr. Richter,'' I says, ''life is very short and might as well enjoy life, and furthermore the man I have working for me for years I believe I have full confidence in him. They are not going to take advantage of me, and the chances are I may be late quarter of an hour or half an hour. They may do it.'' He said, ''Well, I don't blame you for it and I wish I could do that.'' I said, ''I don't see no reason why you can't do it.'' He said, ''Mr. Matzner,'' he said, ''the condition I am in now I feel sick, now I feel I am going to go soon, I have got some property; there is trouble with the carpenters and masons and plumbers and different things and collecting rent.'' I said, ''Mr. Richter, a man in your capacity ought to employ somebody to assume all those troubles.'' He said, ''Well, you can't trust very well those things.'' I said, ''Well, how you feeling, Mr. Richter?'' and he said, ''I am feeling very bad;'' he says to me, ''I don't know what will be with me but,'' he says, ''the way it looks to me I will be a goner in a short time.'' I says, ''Mr. Richter, don't you let this thing worry you; we all have to die, but the question is when a person dies he recalls some charitable institutions, and so forth, and I hope you will do so,'' and I start to laugh and he says to me, ''I will

tell you, Mr. Matzner, as long as I am alive''—he said it in Jewish—''I am boss of my money, and after I am dead and buried let them break their heads over it and do what they want about it.''

Q. Was anything said about a will? A. No, not in the nature of going back and asking; I wouldn't feel like taking that privilege, but I said he should just mention in the will a charitable institution; I mentioned the Jewish hospital, and some synagogue and orphans institution, and he said, ''I don't believe in that.'' As long as I am alive I am boss over the money. After I am dead let them worry their head over it.''

Q. Did you talk to any one after the death of Mr. Richter, such as Lena Richter, the woman who is known as Lena Richter? A. I happened to go and take care of my business in the morning the very day when the funeral took place, and waiting for a Kinney car going down east I have seen quite a mob standing in front of the house where the corpse was laying, where the body was laying, and so called me a sort of a curiosity to know what was going on, and I seen quite a riot took place, and I have seen the undertaker there with two coffins, which was a plain coffin, which I would call a very plain, ordinary coffin, and there was a silk-covered coffin, and I heard the people were hollering that a man with his standing, with the money he will have, ought to be buried in a decent coffin, in a silk coffin, and I have seen that the attempt to take the coffin upstairs, wooden coffin, and some people were there, and they prevented the man from carrying the coffin upstairs, and I kind of felt, being I knew Mr. Richter the period of time I lived in Newark, I lived with him,

in fact, in his home and his house, I took my liberty and went up and seen Mrs. Richter—I know her as Mrs. Richter—and I says to her, "Mrs. Richter, don't you think it is improper to have a funeral take place and the body laying on the floor and the people fighting over whether he should be buried in a silk-covered coffin or a plain wooden coffin?" I said, "Mrs. Richter, you ought to give in for the sake of humanity and the people. Certainly, it is none of my business to interfere, it is not proper it doesn't look good." So she says to me, "Mr. Matzner, how do you know that he left money? He left me with $8. and there is no will provided for that I would see—that I can see my way through clear," and I seen the thing was getting in a heavy argument—

Q. So you left? A. No, I didn't leave. I went downstairs and I went up there once more and I says to Mrs. Richter, "What are you going to do about it?" She says, "I am going to have the police force here," and when the policeman came he shoved people on the side, and I thought the best thing for me to do was to get away.

Q. And you got away? A. I did.

Q. Did you see anything of Lena Richter after that? A. No, sir, I haven't went near them.

Q. Do you know young Karp? A. I simply knowed him ever since I attend here the first hearing.

Q. You are under subpoena, are you not? A. Yes, I have been.

Q. You were subpoenaed by me? A. Yes, sir.

Q. You were here the first day of the hearing? A. Yes, sir I have been.

Not cross-examined.

DAVID ARBEITEL recalled in behalf of caveators:

Direct-examination by Mr. Greenfield:

Q. Mr. Arbeitel, I believe you have testified when you were first on the stand that you had known Mr. Richter for a good many years? A. Yes, sir.

Q. Were you present on the night of his death in his room? A. Yes, sir.

Q. How long were you there before he died? A. I was there about twenty minutes before.

Q. Twenty minutes? A. Maybe thirty minutes —not more.

Q. And were you there when Mr. Simon was sent for? A. He told me that I send for him.

Q. Who told you that you should send for him? A. Mr. Richter.

Q. Mr. Richter told you to send for him. Did Mr. Richter say what he wanted Simon for? A. Yes, sir.

Q. What did he say he wanted Simon for? A. I was called by that Mr. Richter, that he feels very bad, he wants me, so I go up from the bed and run over across the way. When I came over he told me, "Dave, I feel very bad. I know that I am going" and the boy Harry what was calling me up was with me and he told me, "Take a little alcohol, rub my body." I told to that boy Harry, "Give me the bottle of alcohol." He bring in the bottle of alcohol and I start to rub him in his hands, it has got no more life in it. He told me, "I know that I am going." It was hurting my heart. I ask him, "How you left me, for such many years, how you go from the city, you

are rich, you got no children." He told me, "Send for Mr. Simon," and then I told Harry—by that time came up my boy that I send Harry for Mr. Simon, take a couple of minutes, and Mr. Simon come in, and Mr. Simon he call, "Samka, you send for me?" He says, "Yes." "You know me?" "Yes, Simon." "What do you want, you want to make any writing?" He says, "Yes." He tell him he got no such a paper to write with. The doctor came in from the kitchen and Simon asked the doctor maybe it can be in paper and by that time he asked him, "What do you want to write?" He answer, "For my wife"—he start—I start to shake him. He told me I should lift up his head. I put my hand behind his pillow and lift up the hand and shake him and he says, "For my wife," and the woman came in, started to holler, "What is Blima, Blima?" He says, "Thousand dollar Arbeitel"—he started to mention my name.

Q. And he died? A. And he died.

Q. Who is Blima? A. That was the first wife from the old country.

Q. And she lives in New York? A. Yes, sir.

Q. Now, Mr. Arbeitel, did you ever speak to Mr. Richter or did Mr. Richter ever speak to you about any will before his death. A. Before he is dead? I tell him a couple of times and he answer me I am older than him.

Q. That you might go first? A. Yes.

Q. Did he ever mention you that he made a will? A. Every time when I tell him anything about his family here, about the will, that he had anything, "I am sick, in poor health," he told me "It be damned, when I am alive I am the boss and when I be dead let everybody take a share." That is what he answered to me.

Q. Do you know Mr. Abe Karp? A. Yes, sir.

Q. Do you know whether or not he was on friendly terms with the Karp family, whether they were friendly with Abe Karp and his father and mother? A. Yes, sir.

Q. Were they friendly? A. He was friendly.

Q. Do you know whether or not Mr. Richter ever went out to visit them for the last year or so? A. Let us see. He went out on a visit and when he come back he was excited and I asked him, "What are you excited about?" "I was to the wedding about Abe Karp's sister and Abe gave me such a word that I never be at his wedding, he never can see me at his wedding."

Q. That was at Abe Karp's wedding? A. Certainly.

Q. Did you see Karp after the death of Mr. Richter? A. Yes, sir.

Q. Where? A. He comes the day when he got to be buried.

Q. On the day of his funeral, you mean? A. To his funeral.

Q. Did you talk or did Abe Karp talk to you about anything? A. Yes, sir.

Q. Did he say anything about a will? A. He didn't say about a will. He says other words to me.

Q. What were the other words? A. The other words was that I told him, "Abe, for a friend to help you many times to your study, now when he is dead you don't let him get the casket nice, that such a rich man go in a casket for $3.50" He answer me, "That is not my fault, my tanta tell me that she is left with $8. she is poor, he don't leave for her nothing, nothing at all." That is what he answer me.

Q. And after that did you ever talk to Lena Richter? A. Yes, I talked many times with her.

Q. After the death of Mr. Richter? A. Yes, sir.

Q. Was there anything said about a will? A. She claims that he left her with that money, she is poor, she can do nothing for him.

Q. How long after the death did she say that—after the death of Mr. Richter? A. She say that right away when he is dead, with a doctor in the house, and Mr. Simon and my boy and my wife and daughter, they all were in, and she started to holler, she got a pen and ink to make a mark—left her poor, without money, that all that she got is $8.

Q. What relation, if any, is Lena Richter—what was Lena Richter, the one that is known as Lena Richter, to Mr. Richter? A. She was in the house by him.

Q. His wife? A. I can't say that was his wife; I wasn't in the night time there; so far he tell me that I call her Lena and not Mrs. Richter all the years I know him, for the last twenty-three years when I come and recognize him in New York I asked him for his wife Blima Richter; he tell me she is in the old country; I ask, "Who is she?" "Well, I got many such a kind."

Q. Were you to the funeral? A. Yes, sir.

Q. Were you at the cemetery? A. Yes, sir.

Q. Did you see Mr. Abe Karp? A. Yes, sir.

Q. Was there anything said about any will up in the cemetery there? A. Yes, sir. His father and he was coming near me where I was by the carriage, his father was with him, near, tell me, you know. How he left her without money, all

she got is $8. he must loan her a couple of dollars that she pay for the funeral.

Q. Who said that? A. Mr. Karp.

Q. The old Karp? A. The old Karp and present was young Karp.

Q. Was the young Karp there? A. Yes, sir.

Q. Did he then say or mention anything of the fact that he prepared a will? A. Not by the funeral.

Q. When was it? A. It was a couple of days; I can't say which day; a couple of days after he is dead he come over, he call me in in a separate room and he tell me, ask me, "Mr. Arbeitel, you know what I call you in for. If you will tell me" —I know he tell me, "you know about any will from Mr. Richter?" I answer him that way, "Abe you remember very well Mr. Richter that he never got on his mind that he die so quick and never believe on a will, and when somebody told him anything about the will he laughed at him." He told me that way, that he met him in New York; he spoke to him about the will, and that was the time that he came back so excited. He told me when he told him about the will he hollered at him, he left him there, he went away, and after that, "You know, Mr. Arbeitel, he came in another day; he tell me to make a will." I start to laugh. He was starting to shiver—"How you can make a will for him? You know that is very good, that he wouldn't sign it, to nobody nothing what he don't believe; he can't read, he don't believe nobody." He tell me that he and his brother-in-law was together to make the will. I told him, "Where is the will, why don't you tell me before, with all this hollering that he don't leave

a will for your aunt?'' He didn't answer me nothing. I went away.

Q. Do you know what holiday it was on the 11th day of March 1914—was there any holiday? A. Yes, sir.

Q. What was it? A. That was the day before the holiday on the 12th was Purim, and on the 11th was the Fast of Esther.

Q. Did you see Mr. Richter on that day, on the fast day? A. Yes, sir.

Q. Where? A. I see him in his house, and he got a job in Union Street, he called my son that he go and make the job with him.

Q. What kind of a job? A. Plumber job, the sewer was stopped up, and my son promise him he come at eleven o'clock from his work, and he says, ''He know that I have to do that, and my son didn't show up at eleven o'clock, he wait until one o'clock, after one, and he was sorry to disappoint him; he told me, ''Maybe you go with me, maybe you did it to me'' ''I wouldn't refuse you.'' I say, ''What I can I do it for you.'' ''I went with him down. When I went down with him I fixed that which he called me in, he want that I go with him for a beer, another drink. I told him I wouldn't go to-day, I want to go to the synagogue.

Q. There was some ceremony that day in the synagogue? A. Yes, sir. He started to laugh. ''Wait, you can have a beer, and after you go there.'' ''I don't need it so badly; I don't want it.'' I went home.

Q. What time was that? A. That was about six o'clock.

Q. In the evening? A. In the evening.

Q. Did you see him that night after that? A. After that I went home and he went home.

Q. Where did he live? A. He lived across the way from me.

Q. Did you see him after he went home? Did you see him again that evening? A. That evening I didn't see him. I see him early in the morning.

Q. Did you see him the next day? A. Early the next morning, 4 o'clock. Every day he went up he went out half-past four; he was in the morning there; everybody see him there.

Q. Did he say anything to you about being in New York the day before? A. No, he don't mention such a thing.

Q. Did he say anything to you of seeing Abe Karp or Abe Karp's married sister the day before, when you saw him on the 12th of March, did he mention anything of the fact that he saw Abe Karp and Abe Karp's sister, Mrs. Bernstein, the night before in New York? A. No, he don't tell me nothing. When he went to New York every time he told me he go.

Q. You took charge of all his property? A. I took charge of all those houses corner of Clayton Street.

Q. You had charge of these houses the very first day they were built? A. Yes, sir.

Q. And you had charge when they were building them? A. He was away from town the time when I built that corner up.

Q. And since then you have collected the rents and taken all care of that property? A. When he came back I got the house built up and collect the rent already and hand him the rent every time—I

collect the rent and handed to him later. When he was living here he collects himself and I help him. Sometimes when he got no time I help him out.

Q. You were the janitor there, weren't you? A. Yes, sir.

Q. Are you related to Richter? A. We come from the same state.

Q. You come from the same state? A. Yes, neighbors.

Q. But not related. A. No.

(The witness is temporarily withdrawn from the witness-stand.)

EDWIN STEINER sworn in behalf of caveators.

Direct-examination by Mr. Greenfield:

Q. You are a practicing physician in this city? A. Yes, sir.

Q. And your office is where? A. On High Street.

Q. Did you know Mr. Richter in his lifetime? A. Yes, sir.

Q. Were you called in to see him in his last illness? A. I was.

Q. When was it the first time that you were called there? A. I haven't got the dates with me, but it was about five days before his death.

Q. Do you know what date he died? A. No, I don't.

Q. Were you the first physician, as far as you know, during his last illness, and you treated him

up to the time of his death, didn't you? A. Yes, sir.

Q. Were you present during his last hours there? A. I was.

Q. Can you say who was there at the time of his death? A. At the time he passed away Mr. Arbeitel, his wife, and Mr. Simon and myself. That is all that was there.

Q. Was young Arbeitel there? A. That I can't tell you. He may have been there.

Q. How long was Simon there? A. No more than ten minutes—maybe five minutes.

Q. Do you know how he came there? A. Yes, sir.

Q. Will you be kind enough to tell us? A. Yes, sir. When Mr. Richter was in very bad shape I asked him if he had anything to say or wanted to say anything. He said, "I do." I said, "Do you want a lawyer?" He said, "Yes," I then said it probably would be a bad hour of the night to get a lawyer, and Mr. Arbeitel, I believe suggested Judge Simon, and he nodded his head yes, and Mr. Simon came in and spoke a few words to him, and then Mr. Richter said that he wanted to give a thousand dollars to Blimen or Blimshen, "and the rest to my Jidena."

Q. His woman? A. His wife.

The Interpreter: That means "wife."

Mr. Hahn: Counsel made the remark "his woman."

The Court: Strike out the remark of counsel.

Q. Was there any paper drawn there that night? A. No, sir. I suggested such a paper be drawn, and Mr. Simon said it wasn't necessary

he would listen to him. I suggested, in fact, to write it myself before anybody came in, but just at that time Mr. Simon came in.

Q. Did he at any time, as far as you know, mention that he left any will? A. He didn't have enough time to mention anything. When I told him he was in bad shape he passed away very quickly.

By the Court: Q. He said he wanted to give a thousand dollars to whom? A. Blimen or Blimshen, whichever it was. I inquired afterward and they said it was his first wife.

Q. And then what did he say? A. "And the rest to my Jidena"—that is, "My wife."

Q. That is his exact language? A. He said, "I want to give a thousand dollars, Blimen, Blimen."

Q. Spell it as you think it sounded? A. (Spelling B-l-i-m-e-n)

Q. Blimen? A. "And the rest to my Jidena."

Q. Did you know who Blima was? A. No, sir.

Q. "And the rest to my wife?" A. Yes, sir.

Q. Did he speak English? A. No, sir; he spoke German.

Q. Or Jewish? A. German. To use his exact German (witness speaks in foreign language) "Everything to my wife."

Q. Is "Jidena" a peculiar kind of word? A. Yes, it is a Jewish German—"Jidena," meaning "My wife."

Mr. Greenfield: It is a sort of jargon.

Witness: I don't know what language it belongs to.

Q. Did he say anything about Arbeitel? A. No, sir.

Q. "Thousand dollars to Blima, everything to my wife?" A. Yes, sir.

CROSS-EXAMINATION by Mr. Hahn:

Q. Doctor, how long had you been the family physician of Mr. Richter? A. About ten or twelve years.

Q. During that period of time how often did you visit him? A. Well, that would be a difficult question. I saw him at frequent intervals.

Q. Did you know him very well? A. Just as a patient.

Q. As a patient? Now, on the occasion when you went to Mr. Richter's home during the twelve years did you meet his wife? A. Yes, sir.

Q. (Indicating). Is this the Mrs. Richter that you met there? A. Yes, sir.

Q. Did you know this woman to be the wife of Mr. Richter? A. Always met her there and he referred to her as his wife.

Q. Did he ever refer to her as his wife in your presence? A. Yes, sir.

Q. How did you address her when you spoke to her? A. Always as Mrs. Richter.

Q. And did you ever address her in his presence? A. Oh, yes.

Q. Your memory is very good as to what took place on the occasion of his death? A. Very good.

Q. What was the illness from which he suffered? A. A cerebral hemorrhage, a hemorrhage of the brain.

Q. Did you ever treat him for any other ailment? A. Yes, sir.

Q. What? A. Well, he had trouble with his stomach; he had at times rheumatic trouble; in fact, he was in bed some with it; he had trouble at times with a rheumatic trouble.

Q. You treated him for rheumatism? A. Yes, sir.

Q. What part of his body did he suffer with rheumatism? A. Well, at one time he was in bed suffering considerably with his joints, with his limbs.

Q. When was it? A. I can't give you the exact time of that.

Q. Did you treat for rheumatism at any time, say, within a year before his death? A. I couldn't tell that unless I would get my record.

Q. Could you look at your records on that? A. Yes, I think I could.

Q. Was Arbeitel's name mentioned by him at all at the time he died? A. No, sir.

Q. You are positive of that? A. Absolutely.

Q. How long had you been with him—I am speaking of the occasion of his death—what time did you get to the house? A. They sent for me some time after midnight, and some young man came over to my office and we walked over there together, and I stayed with him until he died.

Q. Well, then, you reached the house a little after midnight? A. I don't know exactly the hour, but I think it was after midnight.

Q. You stayed with him until what time in the morning? A. He didn't live very long, possibly an hour or half an hour after I arrived there.

Q. You were with him all the time at his bedside? A. Yes, sir.

Q. When you first met him twelve years ago what was his condition physically, what sort of a man was he physically?

Mr. Greenfield: I object to that as not cross-examination.

Mr. Hahn: I will make him my own witness on that.

A. Short, stout and very corpulent man.

Q. Was he in good health at that time? A. Well, he always appeared in good health until he had his little ailments. One time he was in bed maybe one or two weeks—I don't just remember.

Q. Did he commence to decline the last two or three years before his death? A. You would hardly notice it on his stature.

Q. Did you treat him more frequently towards the remaining years of his life than you did twelve years ago? A. That I couldn't say absolutely.

Q. Could you look at your records, Doctor, and ascertain how many visits you made to him or that he called to see you professionally during the year 1914? Would your records show that? A. I think so.

Q. Did you ever recommend to him or advise him to go away from the city for his health to get rid of rheumatism? A. That I can't remember.

Q. Do you remember when Justice Simon reached his bedside on the night of his death? A. Yes, sir.

Q. How long a period intervened from the time that Justice Simon got there and the time that he died? A. About ten minutes.

Q. And were you present all the while Justice Simon was there? A. I was.

Q. And you were present all the while that Arbeitel was there? A. Yes, sir.

Q. When he said that, "I want Blima to have a thousand dollars and all the rest to my Jidena" —meaning his wife— was Mrs. Richter in the

room at his bedside? A. Yes, sir, at the foot of the bed.

Q. What? A. She was at the foot of his bed.

By the Court: Q. What did she say or do when he said that? A. I asked her who Blima was and she told me that was his former wife.

Q. How long was that before he actually died? A. Probably two or three minutes.

Q. Then you asked her that in his presence? A. No, as soon as he died.

Q. You asked her after he died? A. After he died, who that Blima was.

Q. Did she make any protest when he said that? A. Absolutely none.

By Mr. Hahn: Q. Did she cry out when he said "I want Blima to have a thousand dollars and the rest to my Jidena," did she cry out and show her displeasure at his action? A. No, I think she was mourning his death.

By Mr. Greenfield: Q. Well, she wasn't mourning his death before he died? A. We are talking after his death.

Q. You say she cried out? A. I understood the Judge's question to be whether she cried out after he died.

By Mr. Hahn: Q. Before he died he made this statement which you have testified to, in which he said, "I want Blima to have a thousand dollars and the rest I want my Jidena to have"—"My wife to have." Did she cry out or show any dissatisfaction with that? A. She was crying from the time I told her he was in bad shape and he was going to die, and she started to cry at that time, and she cried until I left.

Q. In other words, she uttered no protest in any

way to that statement he made? A. In no way at all.

DAVID ARBEITEL resumes the stand in behalf of caveators.

Cross-Examination by Mr. Hahn:

Q. How old are you? A. Sixty-seven years.

Q. How old was Richter when he died? A. Over fifty-nine.

Q. Where did you first meet Mr. Richter? Where did you first learn to know him? A. In the house where he was born.

Q. Where was that? A. Janow.

Q. Where? A. Austria.

Q. How long did you continue to know him in Austria? A. Twenty years—twenty-two years.

Q. When did you come to this country? A. I came to this country, it will be over twenty-three years.

Q. When did he come to this country, if you know? A. I meet him here.

Q. What? A. I meet him in New York.

Q. Did he come here before you? A. Before me.

Q. What city did you say this was in Austria that you met him? A. Janow.

Q. Was he married in Janow? A. Yes, sir.

Q. And what was his wife's name in Janow? A. Blima Rosa.

Q. Her name was Blima Rosa, was it? A. Yes, sir.

Q. Did you know her? A. I know her from the day that she is born. She was a wife to him.

Q. So you knew her very well, didn't you? A. Yes.

Q. When Mr. Richter left Janow did he bring Blima with him to this country? A. I wasn't in the state when he left Janow.

Q. I thought you were, I thought you were there all the time and that he left Janow before you did? A. No, sir.

Q. When did you leave that Town of Janow? A. I leave the Town of Janow about thirty years, over thirty years ago.

Q. At the time you left Janow—A. I left him there.

Q. Was he married then? A. He was married.

Q. Did you know that to be a fact? A. Yes, sir.

Q. Did he live with Blima there as his wife? A. Yes, sir.

Q. Where did you go to when you left Janow? A. When I left Janow I went to the army. When I came from the army—

Q. When you went to the army, how long did you stay in the army? A. I stayed five years.

Q. Where did you go then? A. Then I go to Barislaw.

Q. How long did you stay there? A. I stay there many years.

Q. How many years? A. Until I come here.

Q. How long was that? A. That was about eight or nine years.

Q. Where was that? A. Barislaw.

Q. After you left Janow you were five years in the army and eight years— A. I don't remember exactly how many years.

Q. What was the name of that place? A. Barislaw—I was in Barislaw until I came here.

Q. Where is Barislaw? A. Austria.

Q. Then you came to America? A. Yes, sir.

Q. What city did you come to? A. New York?

Q. Did you meet Richter in New York then? A. I meet him.

Q. Had he been here before you? A. Yes, sir.

Q. How long before? A. I can't tell you.

Q. How old a man was he when you met him in New York? A. You can count that—twenty-three years, back in '59.

Q. You don't remember, do you? A. I don't remember.

Q. So you didn't see him for thirteen years after you left Janow, which was the last time you saw him. You were in the army five years and eight years in Barislaw? A. Yes, sir.

Q. That was thirteen years, during which period you never saw Mr. Richter; is that right? A. Yes, sir.

Q. And you met him in New York, and at that time was he living with his wife Blima? A. No, sir.

Q. He was not? A. No, sir.

Q. Where was she? A. She was in the old country.

Q. When did you first meet this Mrs. Richter? A. I seen her a year later or two years, when I seen him.

Q. When you came to America? A. Yes, sir.

Q. You knew this, that Blima Richter was his first wife, didn't you? A. Yes, sir.

Q. And you also knew that there was a divorce proceeding in New York, didn't you? A. Yes, sir.

Q. Where Blima Richter instituted an action against Samuel Richter? A. Yes, sir.

Q. And you were a witness in that case?

Mr. Greenfield: I object to that as not cross examination. I don't see what this has to do with this will. We are not going into the details of the divorce now.

Mr. Hahn: I think counsel gave us an opening to go into this, because this witness stated on his direct examination that he didn't recognize this woman as his wife.

The Court: The objection is overruled.

Q. You were a witness in this divorce proceeding in New York, were you not? A. Yes, sir.

Q. And you testified in whose behalf?

The Court: Who did you testify for?

Witness: Blima Richter.

Q. You testified for her? A. For her.

Q. And against your friend Samuel Richter? A. Yes, sir.

Q. You testified against the man who had been your friend all those years, didn't you? A. Yes, sir.

Q. This man whom you thought so much of and who was so friendly with you? A. Yes, sir.

Q. And as the result of your testimony she got a decree of divorce, didn't she? A. Yes, sir.

Q. And before the decree was signed in New York you knew that Blima Richter received a thousand dollars, didn't you? A. Yes, sir.

Q. I show you this paper and ask you whether this is not your signature? A. Yes, sir.

Q. This signature "David Arbeitel" is your signature? A. My signature.

Q. You are a witness here? A. Yes, sir.

Q. Your signature is there as a witness? A. Yes, sir.

Q. (Indicating.) And whose signature is this? A. That is Blima Richter.

Q. You saw her write that? A. Yes, sir.

Q. You saw Blima Richter sign her name to this paper? A. Yes, sir.

Q. Why was this thousand dollars paid to Blima?

Mr. Greenfield: I object to that as immaterial. We are not going into the details of the divorce proceeding.

The Court: I do not know whether we are or not. What is the materiality of this?

Mr. Hahn: The materiality of this is to show that at the time this money was paid that Mr. Richter was then living with her as man and wife, as Mrs. Richter and this witness knew it. He knew that Richter was living with this woman.

The Court: The reason for the payment of a thousand dollars would not show that, would it?

The paper referred to is marked Exhibit P-7 for (identification.)

Q. This paper here was signed February 21, 1902, wasn't it? A. Yes, sir.

Q. Where did Mr. Richter live then? A. He was living a couple of places—not here.

Q. Where were you living? A. I was living in the same place I live now.

Q. Newark? A. In Newark.

Q. Where was he living? A. In New York.

Q. Who was living with him? A. I can't tell you who was living with him.

Q. Did you ever go to his house? A. I was in many houses where he lived.

Q. Did you meet this lady there? A. I meet more sometimes. I meet five or six.

The Court: You were not asked that. You were asked whether you ever met this woman.

Witness: I meet her, too.

Q. You know this woman, too, as Mrs. Richter? A. Not Mrs. Richter. He said I call her Lena. I ask him why, and he tells me "Don't ask me questions. You call her Lena."

Q. He told you to call her Lena? A. Lena.

Q. And when did he tell you that? A. Right when I meet her the first time, I asked him "Who is your wife?" He tell me I meet there a couple; he told me, "Them is all my wives."

Q. You said you asked him "Who is your wife." Why did you ask him that question when you knew that his wife was Blima Rosa, whom you had known since you were a little child? A. Why for I ask him.

Q. Yes, why? A. Because I want to find out if he is married yet to the other one.

Q. What? A. I want to find out if he is married to her. He didn't "gath" the other one.

Mr. Hahn: I don't think your Honor understands what "gath" is.

The Court: I think he means he wanted to find out if he is married the other one before divorcing the first one.

The Interpreter: "Gath" means divorce.

Q. You said that you wanted to find out whether it was his wife? A. There is lots of people get two or three married.

Q. Have you got two or three of them? A. I keep one, the first one.

Q. Do you know many people who have three

or four wives? A. Lots, in the papers, I see it.

Objected to.

The Court: I do not think his remark or further questioning along that line will enlighten the Court.

Q. I show you here a paper and call your attention to the witness's name on that document; is that your signature? A. Yes, sir.

Q. And whose signature is this (indicating)? A. That is Blima Rosa's signature.

Q. And you saw her sign her name to this paper? A. Yes, sir.

Q. Do you know what this paper is—a release of dower—you can read that? A. Yes.

The paper referred to is marked Exhibit P-8 for identification.

Q. I also show you this paper, a release of dower, and ask you if that is your signature as a witness? A. Yes, sir.

Q. And is that Blima Rosa Richter's signature? A. Yes, sir.

Q. You saw her sign it? A. Yes, sir.

The paper referred to is marked Exhibit P-9 for identification.

Q. Here is another release of dower dated the same time, February 19, 1902. Is that your signature? A. Yes, sir.

Q. And is this Blima Rosa Richter's signature? A. Yes, sir.

Q. You saw her write it? A. Yes, sir.

The paper referred to is marked Exhibit P-10 for identification.

Q. I show you another release of dower dated February 28, 1902. Is this your signature? A. Yes, sir.

Q. Whose signature is this? A. Blima Rosa Richter's.

Q. And you saw her sign that? A. Yes, sir.

The paper referred to is marked Exhibit P-11 for identification.

Q. Now, at about the time that these papers which were marked for identification were signed, in 1902, Mr. Richter signed some notes, didn't he, to Blima Rosa Richter? A. Yes, sir.

Q. I show you a note dated February 24, 1902, for $50. payable to Blima Rosa Richter, that is signed by him. Whose signature is that? A. Samuel Richter's signature.

Q. And whose name is written on the back of it? A. Blima Richter.

The Court: Refer to it by its identification mark.

Q. The witness is shown Exhibit 2, 3 and 4 for identification. Look at all three of them. A. Yes, that is his.

Q. I just handed to you Exhibit 2, 3 and 4 for identification. Are these notes the signatures of Mr. Richter? A. Yes, sir.

Q. Were you present when he signed them? A. No, sir.

Q. But you know his signature? A. I know his signature.

Q. And you know that he executed these notes to Blima Rosa Richter? A. Yes, sir.

Q. Wasn't this part of the thousand dollars which she received? A. Yes, sir.

Mr. Osborne: Are those three notes dated February 24, 1902?

Mr. Hahn: Yes, February 24, 1902.

Q. Mr. Arbeitel, at about the time these notes

were signed and about the time you testified in this divorce suit, Mr. Richter lived in New York; is that right? A. Yes, sir.

Q. And you lived in Newark? A. Yes, sir.

Q. Hw soon after did Mr. Richter come to Newark to live? A. I can't remember exactly.

Q. Well, about—was it about a couple of years. A. Yes.

Q. What? A. About two years.

Q. And when he came to Newark he lived here in Newark ever since? A. Not in his houses.

The Court: The question is whether he lived in Newark.

Witness: In Newark, but maybe a place in Mulberry Street, 105 Mulberry.

Q. But in this city he lived? A. Yes, sir.

Q. And you knew him all that time? A. All the time.

Q. He built some houses, didn't he? A. Yes, two houses he built, that one and in Jacob Street, I built a house for him.

Q. Did you know that some of the houses that he bought, that the deeds for them were made out in his name and in Lena Richter's name as his wife? A. Not from them houses.

Q. What houses? A. It was mentioned in her name, 138 Union Street.

Q. How do you know that? A. He told me everything—every move he told me.

Q. Then if he told you that he had put the Union Street house in the name of Samuel Richter and Lena Richter, his wife, why do you say then that he told you it wasn't his wife and that he told you to call her Lena? A. Excuse me—

Q. Answer that question.

Mr. Greenfield: He is answering the question.

Witness: To answer that question I must tell you a whole lot—I can't answer that question for why he told me to call her Lena. When he was living in Mulberry Street she was arrested under the name of Jacobs, and that is the reason he told me, "You call her Lena, not Richter."

Q. You told me before that he told you to call her "Lena" in New York, before they came to Newark. A. In New York and all the time here.

Q. Didn't you? A. I told you the same he told me he was here, why I asked him how many times, "why don't you marry her?" He told me, "I can't marry her."

Q. But you did know that he had some of his houses in his name and in his wife's name jointly, you knew that? A. I know he has got Blima Rosa's name, too.

Q. I am not asking you that; I am asking you whether you knew that Samuel Richter had property in his name and in the name of Lena Richter, his wife? A. He told me that her name is mentioned on one property, "while she serves me right," and that is the reason he want to remember her.

Q. Where was the last place that Samuel Richter lived? A. The last place?

Q. Yes, in Newark, what street—Barclay Street? A. Barclay Street.

Q. That is where he died. How long did he live there, to your knowledge, prior to his death? A. He lived there about nineteen years.

Q. In that same house? A. In that same house, I think.

Q. Don't misunderstand me. I want to know how long he lived at No. 12 Barclay Street prior to his death. A. Before he is dead?

Q. You say he died when he was living in 12 Barclay Street. How long did he live there, to your knowledge, in Barclay Street, No. 12 Barclay Street? A. About ten years, I think.

Q. About ten years? A. That is what I think.

Q. How many rooms did he have there? A. He had there four rooms.

Q. A little apartment—that was an apartment house? A. An apartment house.

Q. Who did he live with in those rooms besides himself? A. She was with him every time.

Q. She was there? A. She was there.

Q. Was anybody else there? A. In that house he doesn't keep nobody more.

Q. Never mind that. Was anybody else living there? A. No, sir.

Q. You say you saw young Karp after the funeral? A. Yes, sir.

Q. How many days after the funeral? A. I can't tell you.

Q. Was it a week? A. I can't tell you if it is a week or a couple of days later.

Q. Where did you meet him? A. I met him in the house.

Q. In whose house? A. In Richter's house.

Q. Well, he was dead then? A. While Richter was living. He was living by his aunt.

Q. He was there in the room? A. Yes, sir.

Q. What were you doing there? A. I am janitor and I came up every day in the house a couple of times.

Q. And you met Karp there? A. Yes, sir.

Q. Who else was there besides Karp? A. All the relations was there. He called me in a separate room at that time.

Q. Did he call you in? A. Yes, sir.

Q. What did he say to you? A. He asked me I know about any will that he left.

Q. Didn't I understand you to say that Karp told you that he did make a will? A. He asked me if I know about any will he made. I told him, "You know very well that he never got his mind on that, he never trust nobody to write anything for him."

Q. When was that day that you say you met Mr. Richter, that he had been over to New York and he came back all excited and he said to you that Abe Karp had used certain words to him and that he never was going to have anything more to do with him? A. That I can't tell you.

Q. When was that? A. I can't tell you.

Q. You don't know? A. I don't know.

Q. If you don't know when it was how do you know he said it? A. What?

Q. If you don't know when he said it how do you know he ever said it? A. He was talking to himself—I asked him, "What is the matter with you today?" He told me about it, he never be on Abe's wedding.

Q. When was that? A. I can't tell you exactly when that was.

Q. Was it on the 11th of March, 1914? A. I can't tell you.

Q. Did he tell you where he was that day? A. He didn't tell me.

Q. Did he say that he saw Abe Karp that day? A. He told me—I asked him what he is excited about; he tell me that he is excited, that he see Abe, and Abe mentioned such a word that he isn't satisfied that he never talk to him, but never be on his wedding.

Q. Didn't you find out where Mr. Richter had been and where he had met Abe Karp? A. He met him in New York. In New York he met him.

Q. And what caused him to say that? A. He met him in New York.

Q. Whereabouts in New York? A. I can't tell you.

Q. Did he tell you why Abe said that? A. I can't tell you which place he seen him.

Q. Are you willing to again state that you can positively swear that Samuel Richter wasn't in New York on the 11th of March? A. I stated that and I swear that that same day he was with me in Union street. I was making a job for him. Maybe in the night-time when he went there, but until six o'clock he wasn't there.

Q. Mr. Arbeitel, do you mean to tell me that you can swear under oath that Samuel Richter was with you on the 11th day of March, 1914? A. Yes, sir.

Q. How do you know that? A. I know. I remember that was a Fast day and he call me in; he was satisfied with that job and he call me in for a drink; I refuse him; that I want to go to the synagogue.

Q. What Fast day was it? A. Fast of Esther.

Q. When is that? A. The day before Purim.

Q. Did you look that up in the book — in the "lauch"? A. Certainly. We know from the

"lauch," look over it, just the same like a calendar.

Q. Did you look that up from the "lauch"? A. What do you mean?

Q. You said that March 11th was a Fast day. Did you look that up in the "lauch"? A. Why, certainly.

Q. Why did you look it up in the "lauch" if you knew it? A. I can tell you any holiday from the "lauch."

Q. What? A. When I buy the "lauch" I look it up, all holidays.

Q. Let me understand this. This is important. Then before you came here to Court you knew you were going to testify that March 11th was a Fast day and on that day you met Richter in Union Street? A. Yes, I was working there on the job.

Q. You knew that it was the day before Purim? A. Yes, sir.

Q. If you knew that, why did you look it up in this little "lauch"? A. Why, I look up.

Q. Yes. A. Look every day in the "lauch."

Q. What for? A. That I know which holiday. Sometimes I know, but mark me anything on the day.

Q. Was that a holiday or Fast day when Mr. Richter came back excited from New York, the day he said that Abe had used harsh words to him? A. I can't remember.

Q. Are you friendly with Mrs. Richter. A. The same as with all people.

Q. What? A. Certainly, the same as with all people. the same to me as nothing.

Q. Since Mr. Richter's death you had some

quarrels with her? A. I got nothing with her, only mad, she don't want to make him a nice funeral at that time.

Q. Why were you mad? A. When I sent for Mr. Simon—

Q. Why were you mad—you are not a relative? A. He asked me—

Q. You were only the janitor. A. He asked me for that.

Q. Who asked you? A. Richter.

Q. When? A. When I sent for Mr. Simon he tell me, "I want you, Dave, that you make me a nice funeral."

Q. The doctor didn't say that? A. What?

Q. Dr. Steiner. A. The doctor was in the kitchen with Lena.

Q. When did he tell you that? A. When I sent Harry away from the bed, when he came to me for the rubbing, and he sent for Simon, he tell me, "You belong to many societies, I want that you make me a nice funeral, nobody knows me here and nobody comes. I want to have a nice—"

Q. When was it he said that—who was there when he said that? A. I was there.

Q. Anyone else? A. Who got to be there?

Q. I am not asking you who has got to be there; I want to know if anyone was there at that time? A. I was there with him.

Q. I know you were there, but who else? A. He was.

Q. Who else? A. The four walls.

Q. No one else was there? A. No one else, when he sent for me nobody was in the house.

Q. Where was the doctor? A. The doctor came after.

Q. Didn't you say a moment ago that the doctor was in the kitchen talking to Mrs. Richter? A. After, when he came, when Simon came, the doctor went in the kitchen by Mrs. Richter.

Q. Haven't you said to Mrs. Richter that before she gets through with this case you will see that all the houses will be ruined? A. Counsellor --

Q. Answer the question. A. I didn't got nothing to say to a woman. I wasn't talking to any woman.

Q. Did you say that to anyone else? A. No, sir.

Q. Did you say to anyone else that you would see that those houses would rot and ruin before she would be able to get anything out of this estate? A. No, sir.

Q. What? A. No, sir.

Q. You are still janitor there? A. I am janitor there.

Q. How much do you get a month?

Objected to as immaterial.

Question withdrawn.

By Mr. Greenfield: Q. When Simon came where was the doctor? A. Simon was coming before the doctor.

Q. Simon came before the doctor? A. Before the doctor.

ABRAHAM KARP re-called for further cross-examination by Mr. Greenfield:

Mr. Karp, how many days did you say you met Mr. Richter before the 11th of March? A. I saw him the Sunday previous to the 11th which,

if I am not mistaken, was on a Wednesday night —that is, the Sunday previous to that Wednesday night I saw my uncle.

Q. Was there any appointment made at that time that he should call? A. Now, Sunday are you referring to or the Wednesday?

Q. At the time that you agreed to draw the will was there an appointment made when he should call? A. I don't understand you.

Q. Did you make an appointment when he would call to sign the will? A. To sign the will, yes, sir.

Q. You made an appointment with him? A. Yes, sir.

Q. And when did you make the appointment? A. For Wednesday evening, March 11, 1914.

Q. Then you knew he would come on the 11th, didn't you? A. I took it for granted he would.

Q. And you left the date blank? A. Yes, sir.

Q. You have testified at the previous hearing that you prepared this in the 31st Assembly District, is that right? A. Yes, sir, that is right.

Q. How long have you been living in New York? A. For the last twenty-four years.

Q. What Assembly District do you live in? A. I live in the 10th Assembly District.

Q. Do you know just how the 10th Assembly District runs? A. I presume I do, yes, sir.

Q. Will you tell us? A. I presume it runs from Houston Street—the southernmost point is Houston Street, running north to Fourteenth Street—and I don't know just exactly where it begins on the east side, but I know it does take in the street I live in, that is Second Avenue, the side of the street I live in.

Q. It doesn't run to Fourteenth Street? A. No, sir.

Q. Are you a member of the 31st Assembly District Club? A. I am not, no sir.

Q. But you know the club, though? A. Yes, sir.

Q. The 31st Assembly District Club? Yes, sir.

Q. What is the name? A. I know the leader of the district is Senator Frawley, James Frawley, he is also the leader of the district.

Q. You know what district he is the leader? A. Yes, sir. Not the 31st.

Q. Not the 31st? A. No, that is what I was going to say.

Q. You have been in that club quite frequently? A. I wouldn't say frequently.

Q. How often? A. Maybe in two years I was there six or seven times.

Q. When were you there the last time? A. About two months ago.

Q. What month would that be? A. That would be December.

Q. When was it previous to that? A. Well, several times; maybe twice—on and off.

Q. When? A. I don't recall exactly.

Q. How long before December? A. Was I there how long before?

Q. Yes. A. Well, I couldn't say definitely; probably two or three months.

Q. Two or three months previous to December? A. Yes, sir.

Q. Were you there in October? A. I might have been.

Q. Were you there in September? A. I might have been.

Q. Were you there in August? A. No, sir; because I was on my vacation; I wasn't in town.

Q. When were you there previous to September in that club room? A. I couldn't say exactly what date.

Q. How long? How many months previous to that date? A. Probably two or three months.

Q. Then you would say you were there as late as May, 1914? A. I couldn't say definitely because I had no occasion to go there for any fixed purpose.

Q. How is it that you remember September, October and December? A. Why, I wouldn't take an oath as to October and September, but I would take an oath as to December.

Q. Why? A. For the very simple reason that a little incident that I now recall to my mind fixed that date positively in the latter part of the month of December.

Q. What was the incident? A. Namely, that we were playing pinochle and one of the boys handed cigars, and the jokes were passed as to the brand of cigars, saying they were Christmas gifts, and I recall it was during that month of December.

Q. That is quite an incident to impress on your mind? A. It is not quite an incident—for that particular occasion, yes, for that kind of a place.

Q. In that particular place? A. It was the usual run of a joke.

Q. You had been in that club quite often? A. I wouldn't say quite often.

Q. Are you a member of that club? A. I am not, as I said before, no, sir.

Q. Now, don't you know that that wasn't the 31st Assembly District? A. I do know. No, sir.

Q. Why did you testify at the last hearing that it was the 31st Assembly District? A. Because it didn't occur to me at the moment. I said Senator J. Frawley at the last hearing.

Q. Did you say Senator Frawley at the last hearing? A. Yes, sir, I will take oath to that and stake my life on it that I mentioned the name Frawley.

Q. You can't be mistaken on that? A. Oh, I am positive. I am pretty sure the stenographer did not omit it.

Q. You are pretty sure the stenographer got it? A. Yes, sir.

Q. Don't you know the 31st Assembly District is Seventh Avenue and 125th Street? A. I do know it is not Senator James Frawley's district.

Q. You know it is the 26th Assembly District? A. Yes, sir.

Q. Why did you tell us it was the 31st Assembly District? A. For the moment I forgot.

Q. Don't you know the 31st Assembly District is the Cayuga Club? A. It is.

Q. And isn't the 26th Assembly District Club at 104th Street and Madison Avenue? A. I know it has some Indian name, but I don't recall exactly the name of it. I know the location.

Q. Where does Mr. Weber live? A. 107th Street.

Q. What number? A. 4 East 107th Street.

Q. What is his first name? A. Abraham Weber.

Q. Is he any relation to you? A. No, sir.

Q. You do recall testifying at the last hearing

that it was the 31st Assembly District? A. Yes, sir, unquestionably.

Q. And you were quite a frequenter there? A. I wouldn't say frequenter, no.

Q. Isn't there quite a big sign in front saying "26th Assembly District Democratic Hall"? A. I never looked at the sign. I don't know there is a sign there.

Q. You don't know, and you are a caller there often. A. I am no caller there.

Q. And you were there in September? A. Yes, sir.

Q. And October? A. I might have been.

Q. And you were there in May? A. I might have been.

Q. How many times a year did you call there? A. Within the last two years I might have been there six or seven times in all.

Q. Were you there within the last week or so? A. No, sir.

Q. Have you been there since the last day of the hearing? A. No, sir.

Q. Are you sure? A. The last day of the hearing, that was January. I am pretty sure.

Q. Sure you weren't there? A. No, sir.

Q. Just think a minute. Did you meet there Judge Prince—you know Judge Prince of the Municipal Court? A. I have heard of him. I wouldn't know him if I saw him.

Q. Didn't you meet him there? A. I did not.

Q. As to the signing of the will, Mr. Karp, nothing unusual occurred in those rooms, did it? A. In what rooms are you referring to?

Q. In the room where the will was executed? A. Unusual?

Q. Yes. A. There was no photographer or moving picture operator, if that is what you mean.

Q. Do you think there was a circus in there? A. No, I would say that it was unusual if it was there.

Q. Otherwise, when this will was signed, was it all ready? A. What do you mean by all ready?

Q. Everything all typewritten and written? A. Yes, sir, except, as I say, the 11th, I dated in at the time of the signing.

Q. If you were not sure that Mr. Richter would call on the 11th why did you put the "th" there? A. Why, it would probably be the week, within that one week.

Q. But you were not certain? A. I was certain it would be within a week.

Q. What was there certain about it? A. What was there? Just as there was something else that made me feel uncertain.

Q. If it made you feel uncertain, why did you put the "th" there? A. As I say, there was something else that made me feel just as certain.

Q. If there was so much to make you feel certain why did you leave the date blank? A. Because I wasn't certain.

Q. That is the only reason you give? A. Yes, sir.

Q. Whose pen was it that Samuel Richter signed it with? A. What do you mean, whom did it belong to, do you mean?

Q. Yes. A. It was in the home of my sister.

Q. An ordinary pen? A. Yes—Oh, yes.

Q. And whose pen was it that was used for your name? A. The same pen, I presume.

Q. Don't you know? A. I am almost certain.

Q. Did you have a fountain pen there? A. I don't think I did.

Q. The same ink? A. I think it was.

Q. Well, don't you know? Did you have more than one bottle of ink there? A. There was only one bottle there. It was the same ink there.

Q. Did you change from one name to the other by any other ink? A. No.

Q. You are sure of that? A. Positive.

Q. You handed him the pen, and there was nothing on the paper, was there? A. When I handed him the pen?

Q. Yes. A. No—Pardon me. I didn't hand him the pen—You mean the physical act of taking the pen from the table and putting it in his hands?

Q. Yes. A. No, I didn't do that.

Q. Did you see him pick up the pen? A. If my memory serves me correctly, I think he did pick it up.

Q. He didn't have it in his pocket? A. No, the pen belonged to the house.

Q. And there was nothing written on the paper before he signed it? A. I don't understand what you mean.

Q. Nothing in writing before he signed it? A. Before he signed it with a pen I recall now remarking something about the uncertainty of the pen, that he would blotch and bur it, and he wanted to draw a line so as to gauge his handwriting straight. I told him—he asked me the purpose of the "'L S" there, and I explained to him that was equivalent to a commissioner's or notary's seal, and that it was a legal signature, and he wanted to draw a line on a tangent along from this "L

S''—I don't remember exactly what it was. He didn't do it.

Q. He didn't do it? A. He didn't do it, no, sir, but he used his pencil to write his signature, and then go over it with a pen. I remember he asked me for a rubber.

Q. You didn't tell us that at the last hearing. A. I don't recall.

Q. Are you sure? A. I am sure I didn't.

Q. You are sure that it was done with a pencil first? A. He wrote it in with pencil first, yes, sir.

Q. Did you see him do it? A. Yes, sir.

Q. Why didn't you tell us that at the last hearing. A. Well, as I say, there were probably many other things that occurred there that I don't remember.

Q. Do you remember Judge Hahn asking you to tell everything that took place in the room? A. Yes, sir.

Q. And did you tell everything that took place in that room? A. Yes, sir, to the best of my recollection.

Q. Why didn't you tell us that he first went over it with a pencil? A. I didn't recollect it—probably for the same reason I told you 31st Assembly District.

Q. Didn't you write that with a pencil? A. I did not.

Q. And didn't you go over it with ink? A. I beg your pardon. I did not.

Q. Don't you know that you signed that will after his death? A. I do not, no, sir.

Q. Don't you know as a matter of fact that this

name is in a different ink? A. That what name is?

Q. The name of Samuel Richter is in different ink? A. I do not. As I said before, there was one bottle of ink there, counsellor.

Q. After he signed the name over with it what did he do with it? A. What did he do with it? Nothing.

Q. What did he do? A. Nothing.

Q. Nothing at all? A. No, sir.

Q. Just merely went over the pencil, he went over it with the ink, and that is all he did with it? A. Yes, sir, left it lay there a moment until it dried. I probably had a blotter. I don't recall.

Q. Was it blotted? A. I don't recall distinctly.

Q. Why not? A. I don't remember. You can write your name without a blotter. I know I can.

Q. You say Mr. Weber gave you the permission to use the typewriter? A. Yes, sir.

Q. Where is the typewriter machine in there? A. It is in one of the rooms upstairs.

Q. Whereabouts? A. What do you mean, whereabouts?

Q. How many rooms are there in that club room? A. The whole house, except the basement, which is occupied by the steward.

Q. What is the steward's name? A. I don't know. He is a colored gentleman.

Q. A colored man, isn't he? A. Yes, sir.

Q. Whereabouts is that typewriter? A. It is in one of the rooms upstairs.

Q. Top floor? A. Well, I am not certain, counsellor.

Q. You were there and you used it? A. Yes, sir.

Q. Don't you know where it is? A. It is upstairs I said.

Q. What floor? A. It may be the top floor.

Q. Top or rear? A. I think it is front—I am not sure.

Q. You are not sure. A. No, sir.

Q. Are you sure it is on the top floor? A. No, sir, I know it is—

Q. How many times did you use that typewriter there? A. Probably—I doubt whether I used it more than twice.

Q. When was the first time? A. I think I used it to get up a circular letter for the members to attend a special meeting of a social club which I belonged to.

Q. When was that? A. It was a little while before this month of March.

Q. Is that the only time you used it? A. I don't recall ever having used it before.

Q. Since the 11th of March did you use it? A. No, sir, not to my knowledge.

Q. Sure? A. I am pretty sure.

Q. Don't you know? A. I am positive.

Q. You are positive? A. Yes, sir, I am positive.

Q. That you haven't used it since March? A. Exactly.

Q. You cannot be mistaken? A. Exactly.

Q. He told you to prepare this will, did he? A. Yes, sir.

Q. And you expected him to call at your sister's house? A. Exactly.

Q. And you expected to be a witness? A. Yes, sir.

Q. You expected your brother-in-law to be a witness? A. Yes, sir.

Q. Sure of that? A. Positive.

Q. Can't be mistaken on it? A. No.

Q. Will you explain now why it is you didn't typewrite the address of the witnesses? A. Why, I didn't know how much space would be required.

Q. For the witnesses? A. No, sir, not that.

Q. You knew your address, didn't you? A. I sure did.

Q. And you knew your sister's address? A. Why, certainly.

Q. Can you say why you didn't typewrite that? A. Because it is customary to write it. I know whenever I would get up a will I would always typewrite it that way and leave the space blank.

Q. But you knew you were going to sign it? A. Yes, sir, as I say, positively knew it.

Q. Why did you typewrite "Residing it"? A. Force of habit.

Q. You have drawn so many wills? A. No, sir, I wouldn't say so many. I have drawn quite a number.

Q. How many? A. Well, I would say five or six.

Q. For who? A. For the firm of Lockman & Goldsmith.

Q. What are the names of the decedents? A. I don't know whether those wills ever went to probate. I will give you the names.

The Court: Did you not go into this phase of the matter at that last hearing?

Mr. Hahn: I think he did.

Adjourned until tomorrow,, Tuesday February 16, 1915, at 10 o'clock a. m.

THIRD DAY

Tuesday, February 16, 1915.

Continued pursuant to adjournment.
Present: Counsel as before stated.

ABRAHAM KARP resumes the stand:

Further CROSS-EXAMINATION by Mr. Greenfield:

Q. Have you seen Mr. Weber of late? A. Well, I haven't seen him for three or four weeks.

Q. Where was it you saw him three or four weeks ago? A. I think it was on Fifth Avenue and 112th or 113th Street.

Q. On the public street? A. Yes, sir.

Q. Didn't see him in the club? A. At my club.

Q. What club do you belong to? Q. To the Apline Rose Circle.

Q. Where is it located? A. 31 West 113th Street.

Q. Did you see him there? A. I think I saw him there, but I saw him on Fifth Avenue. The last time I saw him was on Fifth Avenue.

Q. You saw him after the last hearing in court here? A. Yes, sir, surely.

Q. Where? A. Why, as I said, on Fifth Avenue, and I don't recall distinctly. I may have run into him once or twice at the club.

Q. You met him there? A. I am pretty sure I did.

Q. Where? A. In the Alpine Rose Circle, the club rooms of this organization.

Q. What kind of an organization is that? A. Social club.

Q. You haven't seen him at the 26th Assembly District Club, have you? A. I think I did once, yes, sir.

Q. When? A. Well, it might have been about four weeks ago,—five weeks ago, probably.

Q. Since the last hearing, was it not? A. Yes, after the last hearing.

Q. You met him there by appointment? A. No, sir.

Q. What were you doing in that club since the last hearing? I went there with a cousin of Mr. Weber's. He wanted to see Mr. Weber. That cousin of his and I were bound for the club rooms of this social organization that I belong to.

Q. What is the cousin's name? A. Mr. Harry Reiber.

Q. Do you know him well? A. Yes, sir, very well.

Q. Where does he live? A. 4 East 107th Street.

Q. You spoke to him about the trial going on here? A. Spoke to whom?

Q. Mr. Weber? A. I beg your pardon, I said nothing to Mr. Weber or this other fellow.

Q. Did you tell him that you were a subscribing witness to a will? A. I might have told him that.

Q. How did you come to tell him that, if you hadn't spoken anything about the trial that you were a subscribing witness to a will? A. As I say, I don't recall distinctly whether I did or not, but I do remember this, he said to me, "How is it I don't see you as often as I used to?"—

inasmuch as we used to have lunch down town. His office is—

Q. Where did you have lunch together? A. Why, various places downtown.

Q. What is his business? A. He is a stenographer in the State Architect's office, New York City branch, Woolworth Building.

Q. Abraham Weber is? A. Yes, sir.

Q. Well, what did you say when he asked you how was it he didn't see you lately? A. Why, I told him that I am kept pretty busy inasmuch as I go over to Newark as a rule after my office closes, after four o'clock, that is, that I didn't have many evenings to myself.

Q. How often have you been in Newark? A. Since when?

Q. Since the last hearing? A. Well, about five or six times—may be more—about seven or eight times.

Q. And that is why you couldn't see him? A. I wouldn't say that was the direct reason for it.

Q. Is that all the conversation you had with Mr. Weber concerning your engagements in Newark? A. Yes, sir.

Q. Nothing else said? A. With reference to that subject, no, sir.

Q. Then how did you come to tell him that you are a subscribing witness to a will? A. I told him that is what kept me busy.

Q. What kept you busy? A. The fact that I was interested in the will that was being contested in Newark.

Q. Did you tell him that you are a subscribing witness? A. He asked me what—

Q. I didn't ask you that. Did you tell him—. A. I answered that question, counsellor, I think I did.

Q. You think you did? A. Yes, sir, I think I did, sir.

Q. He didn't ask you anything about your being a subscribing witness, did he? A. No, sir.

Q. You didn't tell him anything about the hearing, did you? A. No, sir.

The Court: Who is this conversation supposed to have been with?

Mr. Greenfield: Mr. Weber.

The Court: Who is Mr. Weber?

Mr. Greenfield: The gentleman who gave the permission to use the typewriting machine in the club.

Q. How many times did you see Mr. Weber since the last hearing? A. Probably two or three times.

Q. And one was on Fifth Avenue? A. Yes, sir.

Q. Did you go with him to the club room? A. We might have gone there.

Q. Don't you remember? A. I do not, no, sir. There were several of us there. There might have been only two, he and I; there might have been three—there was three or four of us.

Q. You don't know whether Mr. Weber went along or not? A. I do not, no, sir.

Q. The second time you saw him at the 26th Assembly District Club? A. I don't know whether that was the first or second—I said the last time I saw him was on Fifth Avenue, the last time I saw him.

Q. The first time where did you see him since the last hearing? A. Why, I think he came into

my office one day in the company of his cousin and asked me whether I was going out for lunch around noon time.

Q. Anything said about the will? A. Not a word.

Q. Anything said about the hearing? A. Not a word.

Q. The second time where did you see him? A. The second time I think I saw him at our club rooms, the social club on 113th Street.

Q. Anything said about the will? A. Not a word.

Q. About the hearing? A. Not a word.

Q. And the third time—A. I met him on Fifth Avenue.

Q. Anything said there about a will? A. Why, as I said, he asked me how it was he didn't see as much of me as he used to, and I told him the reason for it.

Q. How often would you see him previously to the hearing? A. I used to come up to the club pretty near every night, or at least three or four times a week, and it was a meeting place for the members, and we naturally would see each other every time we were there. That is what he referred to when he said that, why he didn't see me as often as he used to.

Q. Have you ever been a stenographer? A. Never.

Q. Do you know how to use the machine? A. I do, yes, sir—not as an expert.

Q. Did you ever take any course in stenography and typewriting? A. No, sir.

Q. You are not very good on the typewriter, are you? A. Why, I wouldn't call myself an expert, as I said.

Q. You are a better penman than a typewriter, are you not? A. I would say yes, that is, I can handle a pen—

Q. Just wait a minute. Would you rely more on your handwriting than on your typewriter? A. Oh, yes, sir, yes, sir, surely.

DIRECT-EXAMINATION by Mr. Osborne:

Q. Were Lockman & Goldsmith accustomed to draw their wills on the typewriter? A. Why, the majority—

Mr. Greenfield: I object to what that firm does. I don't see how that is material.

Mr. Osborne: He was in the firm—he was with the firm. He formed his ideas somewhere in that office. I withdraw the question.

Q. Why did you draw it on the typewriter instead of writing it out? A. That particular will?

Q. Yes. A. As I said before, and in the first place, I wanted to make sure that there would be no occasion for any erasures, inasmuch as I use my hand there would be initials and witnessed by the witnesses' initials in the margin, as we often had occasion to do, whereas if I used the machine the worst that could happen one letter could be erased and typewrite on top of it and probably there would be no question raised about the one letter, and then again, I took it for granted, at least, I assumed my uncle being illiterate, would show this to someone and they would naturally have less difficulty in reading typewritten matters than script.

Q. What is there about this club business—do

I understand it is a social club that you belonged to? A. Yes, sir.

Q. And Weber is a member too? A. Yes, sir, he happened to be a member of that club.

Q. What do you call that? A. The Alpine Rose Circle.

Q. Is that the club you were accustomed to go to a couple of times a week? A. Yes, sir.

Q. In your testimony before you testified that you typewrote this will at the 31st Assembly District, and your testimony was this: "What is the name of the club? A. I don't recall the name of the club. It is the 31st Assembly District, New York City." What Assembly District is the club in that you typewrote this? A. The 26th, as I said before.

Q. Do you know the name of the club? A. I do not. I know it is some Indian name.

Q. You testified yesterday that it was Senator Frawley's Club. A. Yes, sir.

Q. Whether you did so testify or not, is it Senator Frawley's club? A. That is the way they refer to it in New York, whoever is the biggest man in it.

Q. You testified that you drew this will in this club, and you were asked "Q. Where is that club? A. It is situated at Madison Avenue and 103d Street—I am not sure." Is that the place where you typewrote this will? A. Yes, sir; that is the club I spoke of.

Q. Is there any doubt at all that you did typewrite that will in some political club situated about at Madison Avenue and 103d Street? A. I am positive that it was this place.

Q. Is it also true that it is known as Senator

Frawley's club? A. As I said before, we refer to the club that way, political clubs that way, in New York.

Q. And you did this typewriting how long before March 11th? A. This was Wednesday; I think it was Monday or Tuesday night that I typewrote this.

Q. You took the form from Bostwick's Manual, you said? A. Some of the phrases.

Q. In Lockman & Goldsmith's office where you were, did you see wills passed through the office? A. Each and every will that went through the office I handled.

Q. Did you witness wills there? A. I had occasion to witness two of them, I think.

Q. Did you see any wills that were typewritten in that office? A. Yes, sir.

Q. Did you see any wills there where the date was left blank? A. Why, they were always left blank; never inserted the date by machine.

Q. Now, Mr. Karp, a certain witness testified yesterday—

Mr. Hahn: Is that cross-examination? That is a matter of defense.

The Court: I have not heard the question yet.

Q. There was a witness here yesterday, Solomon Krutzel, who testified that at the last hearing, prior to yesterday, you had met him in the hall and had stated that you were, as I recall it, putting up your money in this case and that you were doing your best to support your aunt's contest here.

Mr. Greenfield: I object to that. The question is not in full, the answer given by

the witness is not in full, Secondly, it is a matter of defense.

The Court: True it is that it is a matter of defense, but while the witness is on the stand, coming from a foreign state, whose attendance may or may not be compulsory if he is out of the jurisdiction, I see no objection whatever to asking him a question now which may make it unnecessary to recall him at a later date. It is a matter of mere offer of proof.

(Question read.)

Mr. Greenfield: The question is not in full. He said that the aunt also put up money for that purpose.

Q. I will add to that that he said that your aunt was giving you money for that purpose.

Mr. Greenfield: And his money.

Mr. Osborne: Gave you something to testify here or to prepare this will or to support her. In the first place, you may just as well tell us what the conversation was you had with Krutzel at that time.

Witness: I might be a little lengthy, but that is the only way I can explain.

Q. Answer the best way you can. A. In the first place I never met this man Krutzel—I didn't know him from Adam and Eve until the day of my uncle's death, and he was pointed out to me as a member of an organization of which my deceased uncle had been also a member, and the day before the funeral—the day of the funeral—I spoke to this gentleman and asked him whether it was necessary, under the rules of this organization of which my uncle had been a member and

of which he was a member, to notify them of the death of my uncle so that a committee of the organization would be present at the cemetary, at the interment. He told me that would be taken care of. That is the only conversation I had with the man. Coming to think of it, I asked him how much death benefit in the case of the death of a member, whether the widow would receive anything. I asked him that question and he told me that would be attended to also. That was the first and only conversation I had with the man. The second time I met him I think at the cemetery, at the funeral, and there was nothing said. The last time I saw him was out in the corridor in January. He came over to me and told me that he had just been handed a subpoena and didn't know anything at all why they subpoenaed him what reason then would have for subpoenaing him or what use they might make of his testimony, and asked me whether that was legal service. I told him I knew nothing of the validity of the service, and that the only thing to do under the circumstances was to go on the stand and answer questions as they are put to him, and I think that was all I ever said to the man.

Q. Did you ever say to him that your aunt was giving you money to support her case or was giving—A. I beg pardon; I never said that to anybody. I would be telling an untruth if I did.

Q. Or that you were putting up your money to support her case? A. No, sir.

Q. Did you ever tell Justice Simon that you were positive that your uncle never made a will?

Mr. Greenfield: He went over that the first day. H asked him whether he had ever made a will.

Mr. Osborne: I am calling his attention to conversations these people testified to yesterday.

A. Did I ever tell Justice Simon that I was positive that my uncle never left a will? Most emphatically no, sir.

Q. What conversation did you have with him? A. The first and only time I ever met Justice Simon was the day of my uncle's death. Then I went over to his office in the company of a cousin of mine, who showed me where he lived. We found him in his office and I talked to him—I introduced myself, let the gentleman know who I was and then asked him whether my uncle had ever spoken to him about the will, and he said no, and I asked him whether he drew up a will or whether my uncle had ever entrusted a will under the care and keeping of him, and he asked me why I asked him that question. I told him I heard my uncle mention his name during his lifetime and I thought that my uncle might think he was somewhat versed in the law, and the care and the keeping of them, that he might have entrusted to him a will, or if he had destroyed this will, that he had made out another one for him. That is the only conversation I had with Justice Simon.

Q. Did you ever tell Rosenweig that your uncle never left a will? A. Why, if I am not mistaken, I stated before—that is, at the last hearing—that I never said anything to him, inasmuch as there wasn't nothing at all in common that he and I had that we could speak of only the death of my uncle, the same as anybody else who passed away, as we would speak of the sudden death of anybody, that is all.

Q. You don't recall stating anything of the kind? A. No.

Q. Mr. Arbeitel testified that there was a conversation in which your father took part and that it was either at the funeral or shortly after the funeral, in which your father stated, in your presence, that Mr. Richter had left no will? A. That is a downright lie.

Q. That never happened? A. No, sir.

Q. Where is your father? A. New York City.

Q. Does he live with you? A. With me, yes, sir.

By the Court: Q. You say that your father wasn't at the funeral? A. He was at the funeral, but no such statement was made in my presence, in my hearing.

By Mr. Osborne: Q. Did you make such a statement? A. No, sir.

Q. You testified yesterday, and testified for the first time--in other words, you mentioned in your testimony yesterday a circumstance which you had not mentioned before. We want to know all about it—we want to know all about it from start to finish. You testified yesterday in answer to Mr. Greenfield's question that your uncle in signing thsi will first used a pencil, that he had used ink to write over this pencil. Now, is that the fact? A. Yes, sir.

Q. Why is it you didn't testify to that before? A. That is, at the first hearing?

Q. Yes. A. Why, it simply slipped my memory, that is all.

Q. Had you even seen other people use a pencil and write over signatures?

Objected to.

A. Not to my knowledge.

Mr. Greenfield: What difference does it make what other people do? He has answered the question.

I withdraw the objection.

Q. Have you ever seen other people sign in pencil and then in ink? A. No, sir. I have never seen anybody do it.

Q. Now, Mr. Karp, can you give us any better answer than that you forgot it or didn't remember it, any reason why you didn't testify before about this pencil? A. No more reason than I could give for not remembering whether he held his pen at a certain angle or not. It simply slipped my mind.

Q. How long did it take to sign this will? A. He consumed a considerable length of time, considering the length of time it requires one to sign his signature. I know that.

Q. Where did the ink come from? A. What do you mean?

Q. I mean the bottle of ink? A. It was in my sister's home; it was there.

Q. Do you know whether you signed with the same pen that your uncle signed? A. I am pretty sure I did.

Q. Did your brother-in-law sign with the same pen? A. Yes, sir; there was one pen there I think we all used.

Q. Do you know where the pencil came from? A. I do not. I know he always used to carry pencils around with him.

Q. Did you see the pencil there? A. I did see a pencil, yes, sir.

Q. Do you know whether or not any erasure

was made on that will that night? A. Well, I recall—no, sir, there was no erasure made that night or any other subsequent time that I know of.

Q. Did you ever make any erasure? A. No, sir.

Q. Was anything said by your uncle at that time that you have not stated? A. Well, as I said yesterday, he asked my sister for a soft rubber at the time.

Q. Did you say that yesterday? A. I think I did.

The Court: Yes, he said that he asked for a rubber. There was some testimony as to rubber.

Q. What did your sister do about that? A. She told him that she had none.

Q. Had you ever seen your uncle before use a pencil? A. Oh, yes, certainly, probably more so than a pen.

Q. Had you ever seen him sign his name? A. Yes, sir.

Q. Take the number of times when you saw him sign, did he sign most frequently in pencil or in ink? A. In pencil. I don't believe I ever saw him sign in ink.

Q. Isn't it a fact that your uncle first signed it in pencil and that you signed it over in ink? A. He signed it in lead pencil?

Q. Yes, and that you or someone else in that room signed it over in ink? A. No, sir.

Q. Are you positive that your uncle first signed it in pencil and then drew it over with ink? A. I am, sir.

Q. Did you examine the signature closely after that? A. What do you mean when you say after?

Q. I mean after he had signed it. A. Any time at all after the signing?

Q. Yes. A. The only time I had the will in my hand was at the court room here after that.

Q. What became of the will that night? A. Why, I gave it to him and he took it with him.

Q. When did you next see it? A. The next time I saw it was when it was offered here for probate here in Newark.

Q. In the meantime do you know what became of it? A. No, sir, I do not.

Q. Did you after that at any time tell anybody that your uncle hadn't made a will? A. No, sir, to nobody.

Q. Have you told us everything you know about the execution of the will that night? A. I am pretty sure I did.

Q. Are you sure that you didn't draw the will after the death of your uncle? A. I am positive.

Q. Are you sure that you didn't draw the will after you had asked Mr. Simon whether he had left a will? A. Well, that would be after the death likewise. I say no, sir.

Q. No, sir, what? A. I didn't draw the will after I spoke to Judge Simon.

Q. The night after your uncle was there, do you remember outside of the date, was that any feast or fast night or anything? A. As I stated before, I think it was the day before or the night before the Fast of Esther.

Q. Was your uncle excited that night?

Objected to as leading.

Q. I will withdraw that. Was there anything that you noticed about your uncle's condition? A.

It wasn't at all unusual for him to be fussy and scrappy, so to speak.

Q. Did you have any word with him that night, any quarrel? A. By no means, on the contrary.

Q. Had he been drinking anything that night? A. Not that I know of.

Q. Did he have anything to drink there? A. My sister had some tea on the table for us; I recall that.

Q. I mean liquor? A. I think we did have some liquor, some whiskey.

Q. What was it? A. Whiskey.

Q. Was that before or after he signed the will, do you know? A. This was before.

Q. How long was he there before he signed this will? A. Before he put his pen to the paper?

Q. How long before? A. I should say every bit of—I couldn't remember exact—I would say half an hour—a little over.

Q. Was he there for supper? A. No, sir; not for supper.

Q. Was your uncle a drinking man? A. I would say no. If I were to rely on my own knowledge only, that is, my own eyes and my presence with him.

Q. Did you have a quarrel with him some time before that at your sister's wedding, at your sister's house? A. No, sir.

Q. Or at your house? A. No, sir.

Q. On the day that you met him, when he told you to draw his will, or when you asked him about drawing the will, when he gave you the instructions, on that day had he been drinking? A. I couldn't say, I wasn't with him. If he was drinking, there was nothing about him that would war-

rant my believing that he was drinking, if that is what you mean.

Further CROSS-EXAMINATION by Mr. Greenfield:

Q. You were here immediately after the death of Mr. Richter? A. Oh, yes, my aunt sent someone over to the house and notified us that he died.

Q. You can say yes or no. A. Yes, sir. That is better.

Q. There is a safe in the house? A. Yes, sir.

Q. Did you open it? A. I didn't know the combination.

Q. Can't you answer yes or no? A. I did not, no, sir.

Q. At any time? A. No, sir, never.

Q. Has the safe been opened since? A. Of my own knowledge, I would say once that I know of.

Q. How long after the death? A. Why, last Friday night.

Q. The first time? A. As I say, of my own knowledge, this is the only time that I know of that I can make an oath to the fact that the safe was open.

Q. You were looking for a will? A. I was.

Q. Well, you were interested enough to look for the will, were you not? A. Yes, sir.

Q. You went around and inquired of Mr. Simon? A. Yes, sir.

Q. Did you have the safe opened to find out whether there was a will in the safe? A. Why I did not have the safe opened, no, sir.

Q. Do you know whether or not your aunt had the combination to the safe? A. I do, sir.

Q. Did she have it? A. Yes, sir, I presume.

Q. You know she knew the combination? A. Yes, sir.

Q. When you went around to Mr. Simon was it before or after the funeral? A. Why, before the funeral.

Q. How many days was the body in the house before it was buried? A. Two days, I think.

Q. So then, you went around to Mr. Simon to look for a will before he was buried, before Mr. Richter was buried? A. Yes, sir.

Q. There was nothing that interfered with your aunt opening the safe, was there? A. Nothing that I know of.

Q. Did you speak to your aunt about a will? A. No, sir.

Q. Before you went to Mr. Simon? A. No, sir.

Q. When was it that you first spoke to your aunt about this will? A. On her return from the cemetery.

Q. Was the safe opened then? A. As I said before, no, sir.

Q. And you didn't have the will? A. No, sir.

Q. How long after the death of your uncle was the will, as far as you know, found? A. I am not sure whether it was a week or two.

Q. And you were over here quite frequently during the week or two? A. Yes, pretty near every day.

Q. Spoke to your aunt? A. Yes, sir.

Q. About the will? A. No, sir.

Q. Not a word mentioned about this will? A. Yes, sir.

Q. And did you try to have the safe opened to look for the will? A. Did I try?

Q. Yes. A. No, sir.

Q. Did she open it? A. She said she did.

Q. Did she find the will? A. She told me she didn't.

Q. So then the will wasn't, so far as you know, found in the safe, was it? A. At that time—as far as I know, yes, sir, it was found in the safe as far as I know.

Q. Although your aunt told you before the will was found that she opened the safe and looked for the will and couldn't find it? A. Exactly.

Q. How large a safe is that? A. Why, it is about the height of this rail here—about the size of the stenographer's table.

Q. I suppose there are many pigeon-holes in there? A. There is not.

Q. Didn't you see the inside of the safe? A. Yes, sir.

Q. Don't you know the conditions in the safe? A. I do, sir.

Q. Are there many pigeon-holes in there? A. The same as in any safe.

Q. Are there pigeon-holes? A. Yes.

Q. Or is it one open box-like arrangement—what is it? A. The same as every safe is.

Q. Tell us how every safe is. A. I don't know how every safe is.

Q. Why do you say the same as any safe? A. I remember now. There is an outer door, with a lock, and an inner door and a compartment with pigeon-holes and little drawers. Some of them have no drawers at all in them.

Q. There was nothing there to obstruct the finding of the will, was there? as far as you know?

The Court: Assuming that he was there.

Mr. Greenfield: He said that the aunt found the will there.

Q. Did your aunt tell you that she found the will? A. Yes, sir.

Q. In the safe? A. Yes, sir.

Q. There was nothing in the safe to obstruct the finding of the will when it was first looked for, was there? A. Yes, sir.

Q. What was there? A. A lot of silverware.

Q. Was it in the pigeon-holes? A. It wasn't in the pigeon-holes where the silver lay. It was one big space, one side.

Q. When the safe was opened was it opened in your presence the first time? A. No, sir.

Q. When your aunt told you she couldn't find this will in the safe, did you ask her to open it, that you would look through? A. No, sir, I did not.

Q. You were very much concerned about the will? A. I certainly was.

Q. Why didn't you ask her to open the safe so you could look in it? A. I should look for it—I took it for granted that she knew more about the safe than I did.

Q. As a matter of fact she did? A. I presume she did.

Q. And the will wasn't there? A. That was the first time she looked for it.

Q. And the second time you produced it, didn't you? A. I did not.

Q. When was the first time that you mentioned to your aunt or your aunt to you, about a will? A. In the first place, my aunt never mentioned anything to me about a will. It was I who spoke to her, as I said, on the day of her return from the cemetery.

Q. The first time? A. Yes, sir.

Q. Sure of that? A. I am pretty sure of it—that is when I told her to look for one or asked her whether she knew anything about one.

Q. That was after the funeral? A. That was the same day.

Q. Do you remember that distinctly? A. Yes, sir.

Q. Can't be mistaken? A. No, sir.

Q. Do you remember what you testified at the last hearing? A. I presume I do.

Q. I will read it to you. "Q. If you knew that you had drawn the will and there was a will why was it necessary for you to go and see Mr. Simon to inquire about a will? A. The day that I was notified that my uncle had died—that is, about four in the morning—I came over to Newark, and after consulting my aunt at her home in the forenoon, around noontime, I asked her whether or not he had said anything to her about a will, whether my uncle had ever said anything to my aunt about any will, and she said no, and then she related to me that at his deathbed were present several people, among whom was the doctor, the attending physician, and my nephew, and Mr. Arbeitel, and that my uncle mentioned or motioned towards the direction of Mr. Simon's residence, if I recall it, and it entered my mind that inasmuch as I had heard my uncle mention Justice Simon's name several times—I thought they were rather chummy—it occurred to me that he had entrusted his will in his keeping and care, and it was for that purpose that I went down to see the Judge, and I did at the same time ask Judge Simon whether my uncle had ever made any other will, thinking that my uncle had revoked this

will and gotten up another one.'' That was on the same day wasn't it? A. What do you mean, the same day?

Q. Of his death? A. What was?

Q. That you spoke to your aunt about the will? A. The day of his death?

Q. Yes. A. Not about the will; spoke to her of a will on the day of the return from the cemetery I spoke to her, certainly, of a will that I had drawn up for my uncle.

Q. And before that you spoke to her about a will? Q. Yes, sir; I asked her before that if my uncle had said anything about a will, inasmuch as I knew she was at his deathbed.

Q. How did you know? A. She told me she was there when he died, when he breathed his last.

Q. So that you said something on the very same morning, around noon—that is, on the same morning of the death of Mr. Richter you did speak to your aunt about the will? A. A will.

Q. And it did not occur to you to look for it in the safe? A. No, sir; I didn't know the combination of the safe.

Q. And you didn't care to ask your aunt about it? A. Not the state of mind she was in at the time I didn't.

Q. But it was so much in your mind why your uncle, as you call him, was lying in the house a corpse, and you got busy and looked for a will? A. I didn't get busy, no, sir.

Q. But you went down to Justice Simon's office, didn't you? A. I did, sir.

Q. Did you have any conversation with your aunt yesterday afternoon after the court ad-

journed in the corridor about your testimony here? A. No, sir.

Q. Did she say anything to you? A. Relative to what?

Q. Relative to your testimony? A. No, sir.

Q. Didn't she say to you, "Why did you say about the pencil? I shook my head towards you, you shouldn't say about the pencil." Didn't she say that? A. She did not, nor anybody else.

Q. You are sure of that? A. I am positive.

By the Court: Q. Mr. Karp, as I understand it, this will was executed and witnessed by you on the 11th day of March, 1914; is that right? A. Yes, sir.

Q. New York City? A. Yes, sir.

Q. And your uncle died on the 21st day of September, 1914? A. Yes, sir.

Q. Had you seen your uncle or aunt in the meantime? A. Between March 11th—

Q. Between the execution of the will and the death, about seven months? A. I have seen my aunt. I don't believe I saw my uncle.

Q. During the interval had you ever said anything to her about his having executed a will? A. No, sir; that was his wish that night, that we say nothing to anybody? He didn't mention my aunt particularly; he said to anybody.

Q. When did he say that? A. The night of the execution of the will.

Q. When you came to Newark, how long was it after his death before you arrived? A. Why, the date of his death, your Honor.

Q. The same day? A. I was notified.

Q. He died early in the morning and you got there the same day? A. Yes, sir.

Q. And you did have a talk with your aunt and you did mention the will? A. Yes, sir; I asked—

Q. I understood you to say a few minutes ago on your direct or re-direct-examination here that you didn't mention the will to her until after the time of the funeral? A. Yes, sir, on the return from the cemetery.

Q. You say now you mentioned it to her on the day of the death, which is correct? A. I didn't say that I spoke to her about a particular will—

Mr. Osborne: He didn't say he spoke about the will.

The Court: That is what I am trying to clear up.

Witness: When I came to her home after I was notified, came to my uncle's home, after sobbing and crying she told me that she was at his death-bed when he breathed his last, and I asked her whether she said anything to him about the will, and she said no. That was the sum and substance of the conversation relative to a will that I had with her.

Q. You didn't say anything to her about his having drawn a will? A. No, sir; nothing whatsoever.

Q. How long did you remain in the house the day of his death? A. I went down off and on to get a whiff of fresh air or have a smoke.

Q. I mean, when did you go back to New York? A. That evening I went back to New York.

Q. You were there all day? A. Yes, sir.

Q. And there was no further talk about a will or looking for a will? A. No, sir.

Q. Was that the day you saw Simon? A. I saw Simon, yes, sir.

Q. Why didn't you make some inquiry at the house about a will before you went to see Simon? A. I did, I asked my aunt whether my uncle said anything to her about a will.

Q. That is all you said to her? A. That is all I said to her.

Q. You didn't suggest to her that he had drawn a will? A. No, sir, not that day.

Q. You didn't suggest that she look for a will? A. No, sir; I didn't think I ought to.

Q. You didn't ask her whether she had looked for one? A. No, sir.

Q. Did you come again during the week—at least, during the time which elapsed between the death and the funeral? A. The next day.

Q. Did you have any talk with her about the will? A. No, sir.

Q. Or say anything about a will? A. Nothing at all with her, no, sir.

Q. When did you next come over? A. I think I was there that whole week.

Q. Every day? A. Every day. They held services over his departed soul and I was one of the members of the committee.

Q. And during that week you saw your aunt frequently? A. Yes, sir, pretty nearly every night.

Q. As a matter of fact, how many days did elapse between the death and the funeral? A. I think it was two days.

Q. You saw her frequently? A. Yes, sir.

Q. But you said nothing until the day of the funeral? A. Until her return from the funeral.

Q. What did you say? A. I told her exactly what happened. I had drawn up a will for him in

the month of March and how it came about how he got the will, that he expected to go to Sharon Springs, and asked her to look about, inquire of several people that she knew, those he came in contact with, business or personal friends, and inquire of them if they knew anything about the whereabouts of his will or any other will.

Q. That was all you said to her? A. Yes, sir. Of course, I told her to make diligent search, search every conceivable place that she could think of that he might hide it.

Q. Did she discuss places with you that she had looked? A. Yes, sir, she told me she had looked all through his old clothes, she ripped the pockets open and looked through the desk that he had at home; she looked through that, she said.

Q. Did she say whether she had been able to find the will or not? A. No, sir; I believe she told me that she looked through the safe.

Q. And did she tell you whether she had been able to find the will? A. No, sir; not at that time, she hadn't been able to find it.

Q. She told you she had not been able to find it? A. Yes, sir, had not been able to find it.

Q. Was there any talk of looking through the safe again? A. I don't believe—I took it for granted that she knew every corner and nook of the safe and she would be able to find it.

Q. This was the day of the funeral? A. No, sir.

Q. I am talking about the conversation that took place between your aunt and yourself the day of the funeral. A. Yes, sir.

Q. What was that conversation? A. As I stated, I asked her to inquire amongst his friends.

Q. You went on and told me with reference to the safe as though it was a part of that same conversation? A. I don't believe it was that same day that she looked through the safe, or told me.

Q. Did she tell you that self-same day that she looked through his bureau drawers and his old clothes? A. No, sir.

Q. Where did she tell you she had looked that day? A. I don't believe she told me she had looked anywheres that day.

Q. Did you suggest that she look anywhere? A. Yes, sir.

Q. Where did you suggest that she look? A. That day I told her she ought to look through his old clothes and the desk, and I think it was the following day that she did so.

Q. How long was it after that that she told you she had looked through the safe—that same day or the following day? A. The following day.

Q. That was the following day? A. Yes, sir.

Q. That she told you she had looked through the safe? A. Yes, sir.

Q. How long was it after that that you looked in the safe? A. I never looked in the safe at all, your Honor—for the will, that is.

Q. Do you know how long after the will was found? A. As I said, I think it was a week or two after his death.

Q. Were you there when it was found? A. No, sir.

Q. You don't know who found it—you do not, I suppose, if you were not there? A. Yes, sir.

Further CROSS-EXAMINATION by Mr. Greenfield:

Q. You say that your aunt did not open the safe while Mr. Richter's body was in the house? A. To my knowledge, no, sir, she might have, I don't know.

Q. You were there? A. When?

Q. On the day when your uncle died? A. Yes, sir.

Q. And on the day of the funeral? A. Yes, sir.

Q. You were there for two days, were you not? A. Not for two days, no, sir.

Q. Your aunt's sister lives in the same house, does she not? A. Yes, sir.

Q. Do you remember an occasion on the same day of the death of your uncle, as you call him, taking out documents and everything from the safe and carrying it upstairs? A. No, sir.

Q. To your aunt's sister's house? A. No, sir.

Q. Are you sure? A. I am positive.

Q. Have you ever taken anything from the safe to your aunt's house upstairs? A. No, sir.

Q. You are sure? A. Positive.

Q. You can't be mistaken? A. I am pretty positive, I believe—

Q. Did you at any time go through the safe? A. No, sir.

Q. Did you at any time take anything, either what your aunt took out, articles from the safe, together with your aunt and take that stuff upstairs to your aunt's house? A. No, sir.

Q. You are sure of that? A. Positive. Might I make a remark or two, your Honor, relative to what the counsellor just asked me?

The Court: You want to add something to one of your answers?

Witness: I don't know whether it will be part of my answer.

The Court: Tell us, and we will determine whether it is proper.

Witness: I did look at some papers up in the house, my aunt's house upstairs; my aunt told me that she had some papers upstairs, but I didn't take any there.

Q. Did she tell you where she got them? A. No, sir.

Q. What papers were they? A. A number of checks, water bills, receipts, receipts of taxes and interest paid on mortgages, abstracts of title.

Q. When was that? A. I think that was after the day of his death.

Q. While the body was lying in there? A. Yes, sir.

Q. Don't you know that it was taken out of the safe? A. I don't know where it was taken from.

Q. You were there? A. Yes, sir.

Q. You were there when the papers were gathred and taken upstairs? A. I don't know whether they were gathered upstairs or walked upstairs or were thrown upstairs.

Q. You say there was some silver in the safe? A. Yes, sir.

Q. Did you see that in the safe? A. I saw the silverware.

Q. Did you see any diamonds in there? A. No, sir.

Q. Was there anything there then outside of the silver? A. I saw the drawers there.

Q. Anything in the drawrs? A. I didn't look in the drawers.

Q. How do you know there were no diamonds in there?

The Court: You asked him whether he saw any and he did not see any.

Witness: I didn't see any.

By Mr. Osborne: Q. What was your aunt's condition on the day of your uncle's death? A. She would go off in fainting spells, hysterical.

Q. Did your aunt or uncle ever confide any of their business affairs, either of them? A. Once in a while they might ask me a question of law, say, involving some transaction of real estate or some legal question, probably. Nothing in common with any particular transaction that I can refer to, though.

Q. You didn't transact business for them? A. No, sir.

By the Court: Q. Did you inquire of anyone besides Simon regarding the will? A. I asked Mr. Arbeitel whether or not my uncle had ever spoken to him about a will or told him anything about a will.

Q. When was that? A. That was during that same week, about the middle of the week, several days after the funeral.

Q. After the funeral? A. Yes, sir.

Q. Several days after the funeral? A. It was while we were saying this prayer over his soul. I said before that I met him in my aunt's house.

Q. These services took place after the funeral? A. At home for a week, seven days.

By Mr. Osborne: Q. Why did you wait until after the funeral to speak to your aunt specifically of this will? A. I never—at least I took it for granted that her head and her mind was in no condition for anything like that. She was heartbroken over the fact that my uncle died and pretty well worked up over it.

Q. You never had any conversation with him

about the will? A. I don't believe I saw him—yes, I went to his house once and they told me he was asleep.

Mr. Greenfield: I ask that that be stricken out, what somebody else told him.

The Court: Strike it out.

By Mr. Greenfield: Q. You say your aunt was heartbroken about the death? A. Certainly, yes, sir.

Q. You paid no attention to anything surrounding business affairs during those two days? A. Not that I know of. She might have or might not have.

Q. How did you come to go up to your aunt's sister's house to examine documents there while the corpse was lying in the house? A. She told me there was some papers up there.

Q. Who told you that? A. My aunt.

Q. Did she tell you how these papers got up there? A. No, sir.

Q. Was she hysterical at the time she told you about those documents? A. No, sir; she wasn't in a continual faint.

HENRY N. BIRN, sworn in behalf of caveators:

Direct-examination by Mr. Greenfield:

Q. You live with your father Samuel Birn, the court interpreter? A. I do, sir.

Q. Do you know Mr. Herman Simon, the Justice of the Peace? A. I do.

Q. Do you know where his office was in 1914? A. I do.

Q. Did you know Mr. Richter in his lifetime? A. Why, I didn't know him to speak to. I know him by seeing him.

Q. Have you ever been in Mr. Simon's office when Mr. Richter spoke about a will? A. I did.

Q. Did you hear of his death? A. Yes, sir; I did.

Q. Do you know when you first heard of the death? A. Why, it was on some holiday, a Yiddish holiday when I happened to hear of his death.

Q. What was the name of the holiday? A. It was either on Rosh Hasuna or Yon Kipper, to my knowledge.

Q. The Jewish New Year's or the Day of Atonement? A. Yes, sir; that is it exactly.

Q. How long before that date when you heard of his death did you see Samuel Richter in Mr. Simon's office? A. About three weeks before his death.

Q. What was said there at that time by Mr. Richter concerning a will? A. I didn't hear much. All that I heard him say there that he came to draw up some paper and then went into another room.

By the Court: Q. What kind of paper? A. I really don't know. I didn't really understand all the conversation.

By Mr. Greenfield: Q. Tell us all you understood. A. I went in the next room with Solomon Krutzel, and he went to sleep while he was playing cards. That is all I remember.

Q. You say Solomon Krutzel. Do you know Mr. Krutzel? A. I do, sir.

Q. (Indicating) Is that the gentleman? A. Yes, sir.

Q. He was there? A. Yes, sir.

Q. Was Herman Simon there? A. Yes, sir, he was in the front office.

Q. Did you hear anything said by Samuel Richter to Simon? A. The only thing I heard as I was coming in that he was going to draw up some paper. What it was I don't know.

Q. Do you know if there was anybody else in that office at that time, if you recall? A. A couple of men were playing cards, and later this Mr. Richter came in and he fell asleep watching the game, I suppose. He fell asleep; he might have been tired or something. That was all that I remembered.

Q. Do you remember seeing Mr. Scheiner? A. I don't remember seeing him?

Q. Do you know anything else about this, Mr. Birn? A. No, I don't.

Q. You are quite sure that it was three or four weeks before his death? A. It was three weeks bfore his death that I happened to see him in Justice Simon's office.

CROSS-EXAMINATION by Mr. Hahn:

Q. Were you here yesterday? A. No, sir.

Q. You say you saw Judge Simon there in his own office? A. Yes, sir.

Q. And Richter was there? A. Yes, sir.

Q. Where was Judge Simon? A. Judge Simon was sitting in front of his office.

Q. On the street? A. No, sir; as you come into

the door there are three parts of that office, the front of the place that he had for his private office, and the rear that he kept for his books and in winter storage place for his coal and and different things.

Q. What did Judge Simon do? A. I don't know what he done. All I know is they were going to work and draw up some paper. What it was I don't know.

Q. How do you know? A. (The witness speaks in foreign language) They said it in Jewish.

The Court: Well, translate it, give us the English of it.

Witness: It sounded as if he was going to draw up some paper or that he had never come to it before.

Q. Did Judge Simon have a pen in his hand? A. Yes, sir.

Q. What did he have in his hand? A. He had his pen. He put on a pair of glasses. I went in the room where they were playing cards.

Q. You didn't see Judge Simon write? A. No, I didn't see him.

RE-DIRECT-EXAMINATION by Mr. Greenfield:

Q. You didn't know anything about you being wanted here until this morning, when you were called up on the 'phone? A. That is it.

Q. And you were told your father wanted you here? A. Yes, sir, that is it exactly, and then I came down the hall there.

MAX SCHEINER, sworn in behalf of the caveators:

Direct-examination by Mr. Greenfield:

Q. Mr. Scheiner, what is your business? .A Carpenter, contractor.

Q. How long have you been living in Newark? A. Twenty-eight years.

Q. Did you know Samuel Richter in his lifetime? A. Very good.

Q. Do you know Justice Simon? A. Yes, sir.

Q. Now, did you ever talk to Mr. Richter before his death? A. I saw him a week ago.

Q. A week before his death? A. A week before his death.

Q. Where did you see him? A. Met him on the corner of Bedford and Springfield Avenue, at the front of the printing shop.

Q. Newark Printing Company? A. Yes, the Newark Printing Company. I went out there and he was there.

Q. Was there anything said with reference to any will? A. Yes, sir.

Q. What was said? A. Always any time I met him I always had a conversation with him, I always criticized him on account of his living—

By the Court: Q. What? A. On account of his living, he was living—I know he was well off, he was worth about $150,000. That is what I figure.

Mr. Hahn: I move that that be stricken out.

Witness: And he lived like a man that had nothing.

The Court: It is of no evidential value as to his estate. That is what he figures. He

gives his own estimate of Mr. Richter's wealth merely for the purpose of explaining his criticism of him.

(Objection withdrawn.)

Witness: And he always kept his life like a man ain't worth a cent. I remember he used to wear a coat, I remember him twenty-five years ago the same coat, and I told him—

Q. Get to the conversation? A. I will come to the point.

Q. What I want to get at is the conversation with reference to the will at that particular time. A. At that particular time I told him "You live like that, and after you die the people will throw between them the money. You die and the people will have the money for nothing. Why don't you make out some will and leave"—because I am interested in some institutions, and I want him to leave something for the institutions of Newark.

Q. You mean charitable institutions? A. Yes, that is it. "You should leave something for charity institutions of Newark," and he told me, "I got plenty"—I don't remember good this— "I got three sisters and brothers in Europe, and they are poor, and after I die," he said, "let them have it. I don't want to give nothing for the city of Newark." That is all the conversation I had with him.

Q. Have you been in the office of Justice Simon? Did you ever meet him there? A. I will tell you true, I wasn't in the office. I pass by it.

Q. Did you see Mr. Richter there? A. I saw Mr. Richter many times sitting around there.

Q. Did you see him a month or so before his death? A. I don't remember that. What I remem-

ber, when he died, I didn't know he was sick, and I only heard of Mr. Simon that Samuel Richter died. I said, "Richter died!" He said yes. I said, "How do you know that he die?" He said, "How do I know it? Because in the nighttime they send over for me to make some will, to draw a will or something like that—I don't know.

Q. That is what Simon told you? A. Yes, that is all he told me.

Q. That is all you know about it? A. That is all I know about Mr. Richter. I can't tell any more because I don't know anything.

Not cross-examined.

THERESA SMITH, re-called in behalf of caveators:

Direct-examination by Mr. Greenfield:

Q. Now, Mrs. Smith, you live in Union Street? A. Yes, sir, 144 Union Street.

Q. You say you live there how long? A. Four years in March.

Q. Do you know this lady who it known as Lena Richter? A. Yes, I saw her. She came for the rent.

Q. When did she first come there for the rent? A. In October, between the 4th and 5th I couldn't tell you.

Q. October? A. Yes, October.

Q. Nineteen hundred fourteen? A. Nineteen hundred fourteen.

Q. Did you ever see her before that time? A. Yes, I saw her before the 1st of October. She came over and introduced herself, she is Mrs. Richter.

Q. How long before? A. That was before the 1st of October, maybe the 28th or 29th of September.

Q. The same year? A. Yes.

Q. And did you ever know her before that time? A. No.

Q. Who used to collect the rent there? A. Mr. Richter.

Q. Did you have any conversation with her some time in the month of October? A. Yes.

Q. About what? A. She came for the rent.

Q. Did you talk to her anything about a will or did she say anything to you?

Mr. Hahn: That is a leading question.

A. No, she told me—she was crying, sorry for her husband, and I told her that she is well provided from her husband and she says yes, she has got a will, but she can't find it—well, that her nephew got a copy and told her everything is in her favor.

Q. That was when? A. That was before she came for the rent.

Q. How long before? A. I can't remember the day. Maybe it is September 29th or 28th, but that was before the first of the month when she introduced herself as Mrs. Richter.

Q. Did she ever talk to you after that about the will? A. When she came for the rent for November, I gave her the money, and I asked her how she got along, and she said she find that will in a Jewish Bible.

Q. Now, then, did she say where the Jewish Bible was? A. No.

Q. Did she mention anything about a safe? A. She mentioned about a safe when she came for the rent of November.

Q. When was it that she mentioned to you the Jewish Bible? A. That was in October.

Q. And then what did she say, if anything? A. She came and asked me for rent, and I told her, "I ain't got no money," my husband told her she should wait a week or so because we seen in the paper, and we give her the rent after, and she said she is the legal owner, nobody else could come and claim the rent; she got the will, she found the will in a leather book in the safe.

Q. That is, the second time she told you that she found it in a leather book in the safe? A. Yes, sir.

Q. You spoke of seeing something in the paper. What did you see in the paper?

Mr. Hahn: I object to what she saw in the paper.

Mr. Greenfield: I have the right to show why she refused to pay the rent.

The Court: She saw something in the paper and refused to pay the rent. It does not make any difference why she refused. It has nothing to do with the case.

Q. What else did you speak to her about the estate or about the will with Mr. Richter while she was there? A. In November?

Q. Yes. A. That is all she told me, that she is the owner of the property because she has got the will; nobody else could come and collect the rent.

Q. Did you talk to her about the rent? A. She came after in a week's time—I don't remember exactly—and it was raining; she was at my house maybe an hour or more or less; she told me that nobody else could have the property because she has got the will, the same thing, but I didn't give

her the rent; I told her that I give her the rent when everybody is going to pay without we see that things is straight with her.

Q. Did you have any conversation with Mr. Richter about this lady, Lena? A. No. I didn't know that Mr. Richter even was married.

Q. You didn't know that he was married? A. No, I never had a conversation.

Q. Did you ever have any conversation about some jewelry with Mrs. Richter? A. Yes.

Q. When was that? A. That is the last time I seen her, the rainy day.

Q. What was said about that? A. She told me that she is well protected, more than the people think, because she has got jewelry worth about $12,000, she never wears them because she don't like to dress herself.

Q. Did Mr. Richter say anything to you about his family or private affairs before he died? A. Never.

CROSS-EXAMINATION by Mr. Hahn:

Q. How long were you a tenant at 144 Union Street? A. Four years.

Q. Are you married? A. Sure.

Q. Did you tell your husband about these conversations?

The Court: About these talks you had with Mrs. Richter, did you ever tell your husband about them?

Witness: Perhaps I did—I don't remember.

Q. Who else did you tell? A. About this? I don't know if I was talking to anybody.

Q. Who else did you tell about this conversa-

tion with Mrs. Richter? A. Maybe I tell him—. I don't know.

Q. Who? A. Maybe I speaking home of it, talking to everybody.

Q. Whom do you mean? A. I got a home and I got children and a husband.

Q. Did you talk to anyone else besides your husband and children? A. Yes.

Q. Who? A. I didn't talk to nobody else—maybe I did—I don't remember.

Q. Are you sure about it? A. I say I don't remember.

Q. Why don't you remember? You seem to remember what happened on the 4th of October and what happened on the 1st of November. A. No, I didn't say 1st of November—sometime in November.

Q. Never mind that.

The Court: She has a right to mind, if you misquote her. When you say she said something as having occurred on the 1st of November, and she says, "No, I didn't say that," you must not stop her and say: "Never mind," because it is her privilege to mind.

Q. When was it you stated that Mrs. Richter came there? A. Mrs. Richter came in November for her rent.

Q. What day was it—I understood you to say the 1st? A. I didn't say the 1st. I said in November.

By the Court: Q. You said in November. Do you remember what day? A. No.

Q. You don't remember what day? A. No, I don't remember what day.

By Mr. Hahn: Q. Did you ever speak to Mr. Arbeitel about this case? Do you know Mr. Arbeitel? A. The old man, yes.

Q. Did you speak to him? A. I spoke to him yesterday in Court.

Q. Look at me. A. I am looking at you.

Q. When was the first time you spoke to Mr. Arbeitel about this estate? A. About Mrs. Richter?

Q. Yes. A. I couldn't remember when I spoke to Mr. Arbeitel, but I spoke yesterday.

Q. How many times did you speak to him about it besides yesterday? A. I live far from Mr. Arbeitel; I couldn't see him many times.

Q. Did he ever come to see you? A. Yes, his son was doing the plumber work.

Q. His son was doing the plumbing work? A. Yes, that is about a month ago.

Q. Was old man Arbeitel there? A. No, the young man was.

Q. Is he here? A. Yes, sir.

Q. (Indicating) Is that the one? A. Yes, sir.

Q. Is that the man that talked to you about this estate? A. Yes, sir.

Q. Did you talk to him? A. Yes, sir.

Q. Did he ask you any questions what Mrs. Richter said? A. Yes.

Q. What did he ask you? A. He told me that they have got a case against Mrs. Richter, and that he has got a brother in Europe and his father works for Mr. Richter, worked for twenty-five years, been working, and he was present at the funeral, and he was present when Mr. Richter died—I don't remember every word he was

saying—but he told me he was with him until Mr. Richter died, the last minute.

Q. Have you finished? I don't want to interrupt you. A. He told me that he was with Mr. Richter the last minute, present at his bed, and his father.

Q. Did he say that Mr. Richter hadn't left anything? A. No, sir.

Q. Did he tell you that Mr. Richter had promised to leave his father a thousand dollars or something like that? A. No.

Q. Did he tell you that his father expected to get some money from Mr. Richter? A. No.

Q. Did he say anything about this at all, about getting money? A. No, he didn't mention anything about money.

Q. Did he mention to you that his father worked for Mr. Richter for so many years? A. Yes, sir.

Q. What else did he mention about it? A. That he has got a wife, she is divorced in New York living.

Q. He told you that Mr. Richter had a wife living in New York from whom he was divorced? A. Yes.

Q. He told you all that, didn't he, before you told him what Mrs. Richter said in these conversations in October and November? A. I didn't see Mr. Arbeitel in October and November—

Q. I don't say you did, but I say this young man Arbeitel, who just stood up, told you all this information about Mr. Richter having a first wife in New York from whom he was divorced, how his father had worked for him all these years — he

told you all that before you told him that Mrs. Richter had come and spoken to you about a will, didn't he? A. I don't remember whether he spoke to me first or I spoke to him first. I can't remember that.

Q. You don't remember that? A. No, sir.

Q. When was it you first spoke to Mr. Arbeitel?

The Court: Which Arbeitel?

Mr. Hahn: The young Mr. Arbeitel.

A. When he came to do the plumbing work.

Q. Did you ever speak to the old gentleman? A. I spoke yesterday to him.

Q. Prior to yesterday, when did you speak to him?

The Court: Prior to yesterday did you speak to Mr. Arbeitel?

Witness: No, sir.

Q. Do you know him? A. Yes, sir.

Q. How long have you known him? A. Since I live in the house, and Mr. Richter brought him in to fix the floor.

Q. Did you see the old man Arbeitel after Mr. Richter died? A. Yes.

Q. When? A. I couldn't remember when I see him—I think it is a couple of weeks ago.

Q. That is, the old man. A. The old man.

Q. Where did you see him? A. In Union Street.

Q. At your house? A. No.

Q. Where? A. In Union Street I met him.

Q. What did you say to him? A. He told me "Good morning."

Q. I didn't ask you what he told you. I asked

you what you said to him? A. I didn't say anything.

Q. Nothing at all? A. No, sir.

Q. Sure about that? A. Yes, I am sure about it.

Q. The next time you saw him was here yesterday in Court? A. Yes.

Q. After Mr. Richter's death didn't old man Mr. Arbeitel and his two sons come to see you together? A. No.

Q. Didn't they come there and leave a card for you and tell you not to pay any rent to Mrs. Richter? A. I had that card from the day this young Arbeitel done the plumbing work.

Q. He brought the card there? A. Yes, sir.

Q. Was there anybody there with him when he brought it? A. No.

Q. Sure of that? A. I am sure.

Q. What did you do with the card? A. I had it; it was in the house for some time.

Q. What did you do with it? A. I had it in the dish closet, the card.

Q. After you put it in the dish closet what did you do with it? A. Nothing.

Q. Did you give it to Mrs. Richter? A. No.

Q. How did she know you had it? A. I don't know.

Q. How did she find out that you had a card? A. I don't know.

Q. Did she speak to her? A. I didn't speak to Mrs. Richter since November, and yesterday.

Q. Did you speak to her yesterday? A. Yes, sir; I saw her in the hall and I told her I got subpoenaed.

Q. When were you subpoenaed to come here? A. I got the subpoena with me. I got it Saturday.

By the Court: Q. Where was the first time you met Mrs. Richter? A. In my house.

Q. When? A. Between September 28th or 29th, either one—between that date.

Q. And that is the first time you ever met her? A. That is the first time I met her.

Q. And she told you that she was Mr. Richter's wife? A. Yes, sir.

Q. And she told you that Mr. Richter had died? A. I knew that before.

Q. Did you pay her the rent? A. Yes, sir; around the 4th and 5th.

Q. The first time you saw her was between the 28th of September and the 29th of September—either of those dates? A. I paid the September rent to Mr. Richter.

Q. Why did she come there on the 28th or 29th? A. Introduced herself that she was Mr. Richter's wife.

Q. And she was going to collect the October rent on the 1st? A. Yes.

Q. That was on the 28th or 29th—you don't know which date accurately—but you think it was either one of those two days? A. Yes, sir.

Q. Was it on that occasion that Mrs. Richter spoke to you about a will? A. Yes, she said she couldn't find the will, she look all over, she can't find it.

Q. She said she couldn't find it? A. Yes, sir.

By Mr. Hahn: Q. On the 28th and 29th she told you that she couldn't find a will? A. She couldn't find a will.

Q. When did you see her again? A. November, between the 4th and 5th, when she came for the rent.

Q. When? A. November 3d or 4th—I couldn't tell you.

Q. Take your time and be careful because this is very important. The first time you saw her was September 28th or 29th? A. Yes.

Q. When did you say the next time was? A. In November, when she came for the rent—October, when she came for the rent.

Q. You said October or November? A. November and October I didn't give her the rent.

Q. You say November and October—that is sixty days. A. I say October, when she came I give her the rent for October.

Q. That was the second time, October? A. Yes.

Q. That day—do you remember? A. I couldn't say what day.

Q. Early in the month or late in the month or when? A. Early in the month.

Q. That was the second time, the early part of October. Did you pay her the October rent? A. Yes.

Q. Have you got all your receipts? A. I got a receipt home, yes.

Q. What did she say to you on that occasion, that is, the second time? A,. She told me that she found the will in a Jewish Bible, a book.

Q. Do you remember that she said it was a Jewish Bible? Yes.

Q. When was the third time you saw her? A. In November.

Q. You don't remember what day in November? A. No; early in the part of November.

Q. What did she say in November? A. She came and she asked me for the rent.

Q. Is that all? A. And she asked me for the rent, but I didn't give it to her.

Q. Because you had talked to Arbeitel? A. No, I told her—I even had a paper in my hand—I told her that I seen in the paper that some trouble, we were going to wait to give her money, and she told me if I don't pay the rent she is going to dispossess me, she is the right owner.

Q. Didn't you tell Mrs. Richter that Arbeitel and his two sons had come down to you, had been in your house? A. No, sir.

Q. Will you swear that Arbeitel and his two sons never came to your house together? A. No.

Q. You will swear to that? A. Yes.

Q. Did you send your husband to Mr. Greenfield's office? A. Yes—I didn't send my husband, but I went myself.

Q. You went yourself? A. Yes.

Q. Didn't you tell Mrs. Richter that you had sent your husband? A. No, I told her that I went myself because we seen in the paper Mr. Greenfield—

Q. When did you go to Mr. Greenfield's office? A. Some time in November.

Q. You don't know the date? A. No, sir.

RE-DIRECT EXAMINATION by Mr. Green field:

Q. Up to the time you came to my office you had never seen me before? A. No.

Q. That is the date you signed an affidavit, is that right? A. Yes.

By the Court: Q. How did you come to go to Mr. Greenfield's office, did you say? A. I went to Mr. Greenfield's office because I seen in the paper is Mrs. Richter got the right to collect the rent, shall I pay to Mrs. Richter or shall I hold the money.

Q. You saw that in the paper? A. Yes.

Q. Did you see Mr. Greeenfield's name in the paper? A. In the paper.

Q. And that is the first you knew of Mr. Greenfield? A. That is the first I knew.

Q. That is the reason you went there? A. Yes.

By Mr. Greenfield: Q. At the time when Mrs. Richter came there and introduced herself was there anything said about a wife there, that Mr. Richter said something to you about a wife?

Mr. Hahn: I object on the ground that it is a very leading question. This is Mr. Greenfield's witness.

The Court: You asked her to tell all the conversation and she has undertaken to do it. If there is anything omitted her attention may be directed to it.

Q. Was there anything said when Mrs. Richter the lady that called and introduced herself as Mrs. Richter—was there anything said by you to her as to Mr. Richter being single? A. Yes.

Q. Tell us what was said about that? A. She came and she introduced me, and she said: "Do you know me?" I say no; she said: "I am Richter's wife, I am the owner—I am your landlady," she says to me, and I told her "I thought Mr. Richter is single," and she says she is married to Mr. Richter for thirty years.

Q. How did you come to say that you thought Mr. Richter was single? A. Because one day he used to always fool with my boy.

Q. Who? A. My boy, Mr. Richter; and I asked him one day if he has got his own children, and he say no—he tell me first that he likes children, and I said: "Mr. Richter, ain't you got your own children?" and he said: "No, I am not married," but he said: "I had two children but they are dead."

Q. How long before you heard that Mr. Richter died was it that you had that conversation with Mr. Richter? A. It was the month of July, but I can't remember the date.

Q. The month of July—the same year? A. Yes.

RE-CROSS-EXAMINATION by Mr. Osborne:

Q. Were you ever in Mr. Richter's home in Barclay Street to pay the rent? A. Never.

Q. Are you sure about that? A. I am sure about that, sir.

Q. Did you ever send your daughter there? A. I did.

Q. Didn't your daughter meet Mrs. Richter there? A. Yes, she did.

Q. Then you knew that Mr. Richter had a wife? A. No, she didn't say that she met Mrs. Richter, because she brought the money back. Mrs. Richter didn't take money, she thought she has nothing to do with it.

By the Court:

By the Court: Q. This was after the death? A. No, Mr. Richter came for the rent and I didn't have it, so I sent my daughter with the money.

Q. And she brought it back? A. She brought it back. She said the lady—

By Mr. Hahn: Q. Just a moment. Isn't the reason she didn't take the money because she didn't have the receipt and that your little girl, your daughter, wouldn't leave the money? How old was she? A. Seventeen.

Q. That your daughter didn't want to leave the money unless she got a receipt? A. No, she came home with the money and she said that the lady opened the door and told her that Mr. Richter was going to call himself for the money, and Mr. Richter did come in a day or two, and I told Mr. Richter that I sent the rent to his home to save him coming down, and he said: "Don't send it any more, the rent up to the house, I am going to collect myself." That is the only time I sent it to the house.

Q. Did you always get a receipt for your rent? A. Yes, sir.

Q. Who was it signed by? A. Mr. Richter.

Q. How was it signed? A. Always in pencil.

Q. Did he write in ink? A. I don't know.

Q. Did you see him write the receipt? A. Which he always carried a pencil with him.

Q. You are sure about that? A. I am not exactly sure about it, but I see his name is signed with pencil.

Q. Did you see him sign it? A. guess I did see him sign it, but I know it was a pencil; he always had a receipt all ready when he came for the rent.

Q. Did he always carry more than one pencil? A. I don't know.

By the Court: Q. You say you have seen him

sign his name and at the same time he always had the receipt signed when he came? A. I said he always had a receipt made out, only his name, it was all made out.

Q. Except the signature? A. Yes, sir.

Q. Have you got these receipts? A. No, sir, not here.

Q. Are they home? A. Yes, sir.

By Mr. Greenfield: Will you bring them here, and see if you can get your daughter to come here?

By the Witness: Yes, sir.

JULIUS GARTNER sworn in behalf of caveators:

Direct-Examination by Mr. Greenfield:

Q. You are a son of Fanny Gartner? A. My mother, yes.

Q. And Samuel Richter was your uncle? A. Yes, sir.

Q. How long are you in this country? A. Since 1904.

Q. You are eleven years in this country? A. Yes, sir.

Q. And you live where? A. 323 East Houston Street, New York City.

Q. When you first came to this country where did you land? A. To New York City.

Q. You landed in New York, that is right? A. Yes, my uncle took me off the ship.

Q. When you say your uncle, you mean who? A. Samuel Richter.

Q. When he took you off the ship where did he take you? A. 86 Sheriff Street with my sister, with my mother, together.

Q. You came with your mother? A. Yes, sir.

Q. How long did you stay in Sheriff Street? A. Two weeks.

Q. Then where did you go? A. Then my uncle, Samuel Richter, came over to New York City and took me over to Newark with my mother.

Q. Where did you stay in Newark? A. He took us over to Ferry Street. They used to live in Ferry Street.

Q. What number? A. Mr. Arbeitel knows the number.

Q. I am not asking Mr. Arbeitel. You don't remember? A. I don't remember.

Q. Who was living on Ferry Street at that time? A. When we go over there I ask uncle—

Q. Who was living on Ferry Street at that time—was your uncle living there? A. My uncle, but nobody was in the house when we came over; there was nobody in the house.

Q. There was some furniture in the house? A. Yes, sir.

Q. When you came you say nobody was in the house? A. No.

Q. Your uncle opened the door? A. Opened the door with the keys and took us in the house, and I asked my uncle: "Are you married, have you got a wife?" He is saying "No, sir, I ain't got no wife." I says: "Then who gives you to eat, who serves you?" He says: "I got a servant."

Q. How long did you stay on Ferry Street? A. Until the next day—a few days.

Q. Then where did you go? A. Back to New York.

Q. During those few days did you see any woman there? A. Yes, I see a woman.

Q. Who? A. This lady here.

Q. The one that is known as Lena Richter? A. No. Lena Jacobs.

Q. Who told you her name was Lena Jacobs? A. My uncle, Samuel Richter.

Q. Now, you stayed for a few days? A. Yes, sir.

Q. Where did you go after that? A. To New York City.

Q. Did you go with your mother? A. With my mother together, the same place we was before, 86 Sheriff Street.

Q. Did you ever come back to Newark after that? A. About half a year later.

Q. With whom did you come back to Newark half a year later? A. Myself.

Q. Where did you stop? A. With my uncle.

Q. Where? A. In the same place, in Ferry Street.

Q. How long did you stay with your uncle? A. Just for two or three hours, and then I went back. I just came over to see him.

Q. Did you ever live in Newark for any length of time? A. No, sir.

Q. How often would you come to Newark? A. Sometimes once in a month and sometimes in two months.

Q. Where did your uncle Richter live during that period that you would come over to see him? A. He lived in Ferry Street, but four or five years later he lived in Barclay Street.

Q. Now, Mr. Gartner, were you present at the time of the death of your uncle? A. No, sir; we came over—that was on a Tuesday night, because on account of the holiday we couldn't come over.

Q. On account of the holiday you couldn't come over? A. It was Sunday night, but they let us know Monday night, but we came over Tuesday night.

Q. Came over when he died, did you? A. They told me he died Sunday.

Q. And you came over Tuesday? A. Tuesday night.

Q. Monday and Tuesday was a Jewish holiday? A. Yes, me and my father and my mother and my wife and my brother-in-law.

Q. You are married, too, are you? A. Yes, sir.

Q. When you came over to Newark was your uncle's body still in the house? A. What do you mean, the body?

Q. The corpse. A. Yes.

Q. When you came over here you found your uncle dead? A. Yes, sir; I saw him dead in the house.

Q. Who did you see in the house? A. I seen in the house was Abe Karp and Abe Karp's father and his mother, and was some more people. I didn't recognize them.

Q. Arbeitel? A. Arbeitel—Arbeitel wasn't there that time in the house. My mother was there, my wife and the whole family was there, her family.

Q. Did you go to the funeral? A. No, sir, but the same time—

Q. Wait. How long did you stay? A. I was there until 1 o'clock at night.

Q. And do you know when the funeral was? A. The next day.

Q. Didn't you go to the funeral? A. No, sir; I had a trial that day.

Q. Where? A. In New York City. That was on Wednesday.

Q. The day of the funeral? A. Yes, sir.

Q. Who brought you up in the house there, how did you come to go there? A. She sent for us.

Q. Who sent for you? A. Lena Jacobs.

Q. When you say Lena Jacobs you mean this lady (indicating)? A. Yes, sir.

Q. Was there anything said on the day that you were there—on Tuesday night was there anything said about any will of testament or whatever it is to anybody? A. I will tell you how it was. After this when I seen my uncle is dead, we went all in one room, in the dining-room; they were sitting by that table. There was my father, was there my mother and my wife and my brother-in-law and there was Mr. Karp, Abe, and Abe's father and Abe's mother and Mrs. Lena Jacobs was there. I asked, "Why didn't you send for my mother when my uncle was so sick. You didn't send for my mother." She say he wasn't so very sick, but Sunday night he got sick. I said: "Why didn't he make a will, leave my mother something, my mother is so poor?" She said: "It was too late when I send out for a Justice. He said 'One thousand dollars,' and he died."

Q. Was Abe Karp there? A. Karp and Abe's father and mother and Lena Jacobs.

Q. Did Abe Karp say anything at that time about any will? A. He says to me like this: "He

didn't leave anything, he died like a dog." I opened the door and I want to throw him out of the house, I was so excited, on account of saying that about my uncle.

Q. Is that all that happened there? A. That is all that happened.

At this point the court took a recess for one hour.

After recess.

JULIUS GARTNER resumes the stand:

Direct-Examination (continued) by Mr. Greenfield.

Q. Now you said you were not to the funeral? A. No, sir.

Q. Have you been over to Newark after the funeral? A. I was when the hearing was here.

Q. That is the only time? A. Yes, sir.

CROSS-EXAMINATION by Mr. Osborne:

Q. You are one of the contestants in this case, are you not—you are one of the people that is interested in this estate; is that right? A. This was my uncle, my mother's brother.

Q. Where is she? A. Who?

Q. Where is your mother? A. My mother is here.

Q. You say that you first came over here in 1904; is that right? A. Yes, sir.

Q. And then your uncle, Mr. Richter, took you and your family—that is, your mother and the rest of you? A. Not the rest, only me and my mother.

Q. You and your mother, to live at 323 Houston Street? A. No, sir, Sheriff Street. I live now at 323 Houston Street.

Q. He first took you on Sheriff Street to live with him? A. No, sir, he went away.

Q. Where did he live at that time? A. In Newark.

Q. He lived in Newark in 1904? A. Yes, sir.

Q. What did he do with you—did he pay your rent or your board? A. Over there?

Q. Yes. A. He left a few dollars for me and my mother.

Q. You came here without very much money; is that right? A. Not much—$10.

Q. How long did you live in Sheriff Street? A. Until I got a job.

Q. How long was that? A. That was about two months—three months—I don't remember.

Q. Now when you came over here in 1904 your uncle Samuel Richter and the lady you call Lena Jacobs met you and your mother at Castle Garden, is that right? A. I can't tell you—never introduced them.

Q. Where did he first meet you in New York? A. The uncle?

Q. Yes. A. The ship—Castle Garden.

Mr. Osborne: It was Castle Garden at that time.

Q. Yes. A. He was alone.

Q. This lady whom you call Lena Jacobs wasn't with him then? A. I don't remember.

Q. When did you first see her? A. That time when we came over two weeks later.

Q. Where did you see her two weeks later?

A. When we came over to his house there was nobody, and after this this lady came out, and I asked uncle "Who is this?" and he said "Don't ask me."

Q. Where was that—in Ferry Street? A. Yes, sir.

Q. Was that at the home of Mr. Samuel Richter? A. Yes, sir.

Q. That was your uncle's home? A. Yes, sir.

Q. And at that home you found the lady you call Lena Jacobs; is that right? A. Yes, sir, and the same time she came out an hour later.

Q. She was there? A. Yes, sir.

Q. She was there in that house? A. Yes, sir.

Q. And your uncle said to you: "This is your aunt"? A. No, sir.

Q. What did he say? A. I asked uncle if he is telling me who this lady is? He said: "Don't ask me—she is a servant by me, cleans house."

Q. Who told you to say she was a servant? A. I asked uncle.

Q. How often from that time up to this time have you seen this lady you call Lena Jacobs? A. I used to come out once in a month or two months.

Q. Then you lived in Newark? A. No, sir.

Q. Didn't you live in Newark at all? A. No, sir.

Q. So from 1904 up to the time of his death you used to come out— A. I used to come out to Barclay Street or Ferry Street.

Q. Once or twice a month? A. In Ferry Street once or twice a month, two months, sometimes, sometimes in Barclay Street half a year or two months.

Q. And this lady was there where Mr. Richter lived, she was always there? A. Not always.

Q. Where was she? A. I can't tell you.

Q. What was she doing when you saw her on these various occasions? A. What she is doing? What do you mean? I can't understand you.

Q. Where would you see her, in the kitchen, in the dining-room, or where? A. In the kitchen.

Q. Would she come to the door and let you in? A. When she was in the house, but not always she was in the house.

Q. And would you all sit down and eat together A. No, sir, we never eat there.

Q. Were you on friendly terms with your uncle? A. Sure. We belonged to one society, too.

Q. Was there any other lady at the house except Mrs. Jacobs, except the lady you call Lena Jacobs? A. No, sir.

Q. Did Mr. Arbeitel come there, too? A. In his house?

Q. Yes. A. Very little—I used to meet him very little in his house; always downstairs, they were sitting on a bench.

Q. Mr. Richter simply called her Lena? A. Lena, yes, sir.

Q. What did you call her? A. I always used to call her Lena and sometimes "Lady."

Q. Sometimes Lena and sometimes "Lady"? A. Yes, sir.

Q. You never called her aunt? A. No, sir.

Q. What did your mother call her? A. "Lady" and "Lena." Mrs.—

Q. When you went to the house would she get out some wine or some drink for you to drink, something like that? A. Sometimes.

Q. And who told her to do that? A. Uncle.

Q. Never did it herself, did she? A. No.

Q. How many times in all did you go to his house—a dozen times or fifteen times? A. In the eleven years?

Q. Yes. A. Well, you can figure it—you can figure it twenty times, twenty-five times.

Q. Did you ever meet any other relative of your uncle there? A. To tell the truth, I used to come very little in the house, always used to meet downstairs, always sitting on a bench, always had a talk with him downstairs.

Q. You didn't know your uncle very well? A. I knew him very well, of course.

Q. Did he loan you money from time to time? A. No, sir.

Q. Never? A. Never loaned me any money.

Q. Did your aunt Lena Jacobs ever loan you any money? A. No, sir.

Q. Never give you any money? A. She never loaned me no money.

Q. Did she ever give presents to your mother? A. No, sir.

Q. Not any kind of presents? A. No, sir; I can't tell you; I am not sure.

Q. Who supported you and your mother in New York? You began to work, you say, after you were there two weeks; is that right? A. Yes.

Q. Where did you go to live after that? A. I had a job.

Q. Where did you live, at the same place in Sheriff Street? A. The first time I used to live with my mother.

Q. You lived in Sheriff Street all the time? A. No, sir.

Q. Where do you live now? A. I am married now. At that time I wasn't married.

Q. Where do you live now? A. 323 East Houston Street, New York City.

Q. Have you ever lived at other places than Sheriff Street? A. Single or married?

Q. You first lived in Sheriff Street? A. The first time I came over here.

Q. Where next did you live? A. We moved away when I worked.

Q. Where was that? A. That was in Brooklyn.

Q. Who did you work for? A. Grocery. I worked there half a year.

Q. How long did you live there? A. Half a year.

Q. And then after that where did you live? A. In New York.

Q. With somebody else—who was it? A. All the time in New York.

Q. Where, Sheriff Street? A. No, sir.

Q. Tell us two or three places? A. Ridge Street.

Q. Have you ever lived in Newark? A. In a year my father came over and two girls and we lived together, my mother and father together.

Q. Was that in New York? A. Yes, sir.

Q. Did your father come over to see your uncle? A. He came over to my father.

Q. Where is your father now? A. New York City.

Q. Is he here in this courtroom? A. No, sir, he is at home.

Q. Did you ever live in Newark, New Jersey? A. No, sir.

Q. On this occasion when your uncle died I un-

derstand you to say that Lena telephoned you to come over? A. Where?

Q. Did she tell you to come over? A. To Newark.

Q. Yes, when your uncle died. A. No, a man who belongs to me with the society tell my mother that her brother is dead.

Q. When did he come? A. He come on the second day; that was Monday.

Q. When did your uncle die, as you understand? A. Sunday night.

Q. So you got word as quick as possible, I suppose? A. Monday.

Q. You were told to come over right away because he was dead? A. My mother came over to my house and told me that my uncle died.

Q. In other words, somebody from your uncle's house sent word to your people right away? A. She sent a letter.

Q. By a man? A. A strange man.

Q. The man brought it right over, didn't he? A. I don't know when they brought it to my mother.

Q. You didn't come right over, did you? A. No, sir, on account of the holiday.

Q. What prevents you in your religion, when your uncle is dead to go and see him on account of the holiday? A. Please explain that.

Q. What? A. I don't understand.

Q. I will explain it to you. You say that the reason you didn't come over to your uncle's house when he was lying dead was because it was a holiday; that is your reason. A. Yes, sir, Tuesday night.

Q. What is there in your religion that prevents you from going to your uncle's house on a holiday when your uncle is lying dead? A. I was sorry uncle is dead. I had to come over and see my uncle.

Q. Why didn't you go at once? A. On account of the holiday.

Q. Why couldn't you go on a holiday? A. Because of my religion. I wouldn't ride on a holiday for all the money in the world.

Q. Do you mean to tell me that if your father dies on a holiday you can't go to his house on a holiday? A. This was my uncle; this wasn't my father. For father I can do anything, but I wouldn't do it for nobody else for no money in the world.

Q. Let me understand you. You didn't go to your uncle's house because it was a holiday? A. Yes, sir.

Q. Although you knew he was dead? A. Yes, sir.

Q. You say that if it had been your father you would have gone? A. I can't tell for my father what I will do, but for an uncle I wouldn't do it, but on holidays I don't ride by the car.

Q. The Rosh Hasuna is a day of festivity? A. No, this is New Year's. Festivities is Yom Kippur.

Q. Isn't that a feast day? A. No, sir.

Q. As I understand it, you couldn't go to the home of your nearest friend or relative because of your religion? A. Yes, sir.

Q. So you did go the next day? A. The next day, Tuesday night.

Q. Your uncle died on Sunday. Was your

mother there when you got there or did you all go together? A. We all together come over, my mother and me and all.

Q. You say you talked about a will there, did you? A. Yes, sir.

Q. And you talked before the funeral or the day of the funeral? A. The same night when I came over there.

Q. And your uncle was still in the house? A. Yes, sir.

Q. And what did you say about a will? A. We was all in one room, the dining-room. I asked that lady, I says, "Why didn't you send over my mother, he was so sick, that is her brother." She say he wasn't so very sick, but Sunday night he was very sick. "Did he leave anything for my mother? She is a poor woman, and my father is a sick man?" She said: "Well, I sent down for the Justice and the Justice came up and the Justice asked: 'What you want, Mr. Richter,' and he said: 'I wish you should write something,' and he said the 'thousand dollars," and that is all.

By the Court: Q. Were you there? A. No, that woman said it to me. Abe Karp was present and Abe's father and my mother, my brother-in-law and my wife.

By Mr. Osborne: Q. And the lady you call Lena Jacobs, was she dressed in mourning? A. Just plain black.

Q. She was mourning for her husband, just like a wife should mourn for her husband? A. No.

Q. Did your mother kiss her when she came in? A. No, sir.

Q. Did she shake hands with her? A. No, just said "Hello," that is all.

Q. You were present at the funeral? A. No, I had a trial in New York City, the day when the funeral was.

Q. You didn't go to the funeral? A. No, sir.

Q. What trial was this you had? A. I had an accident once with a push-cart. I am a peddler with a push-cart and I had an accident.

Q. Who was at the funeral? Your mother was at the funeral? A. My mother, my father and my brother-in-law.

Q. Did Lena Jacobs ride in the coach? A. I wasn't at the funeral.

Q. What did your mother and father tell you about it? A. Well, I didn't ask my father—my father ride with an automobile.

Q. Where did your mother say Lena Jacobs sat, where did she sit? A. I didn't ask my mother where she was sitting.

Q. You didn't ask your mother anything about the funeral? A. I think my mother said she was in the carriage—I can't say positively.

Q. You think Lena was in some carriage?

Objected to as immaterial.

The Court: This is not material.

Q. Did your mother tell you where Lena Jacobs rode? A. They came back, my father and my mother, with the automobile to the house.

Q. Are there certain Jewish rites at a funeral where the widow occupies a certain place? Does she sit with the family, does she mourn with the family. A. Where?

Q. At the funeral. A. I don't know. I wasn't at the funeral.

Q. You say at this funeral, at the time when your uncle was dead, when you were there, she was treated as a servant by you all? A. What you mean, she treated?

Q. Did you treat her like a servant? A. Who, the uncle?

Q. Lena Jacobs. A. Uncle.

Q. Did you treat her like a servant at the time you were there when he was dead? A. I just asked her about it.

Q. Let me ask you this: you said that your uncle always treated her as a servant or called her a servant. A. He didn't call her a servant; he didn't say a servant. I asked "Who is this?" He says: "This is my servant."

Q. All these years that you knew your uncle did you believe in your mind that she was a servant? A. Yes, sir.

Q. You didn't believe they were living as man and wife? A. No, sir.

Q. When you were there the time after he-died, did the family treat her as a servant—how did they treat her? A. Which family?

Q. Your family or mother, your father, you. A. We didn't ask her anything. She was in one room; she was in the house.

Q. She was not in the house? A. She was in the house; yes, sir.

Q. Did you ask her to get food for you? A. No, sir—the time he was dead?

Q. Yes. A. No, I wasn't hungry that time. I was crying like a little baby.

Q. Who was crying? A. Me.

Q. When you were over there? A. Sure.

Q. And while you were crying did you ask about this will? A. Yes, sir.

Q. Why were you crying? A. Because he used to come over to me; he was my uncle, and I only

had one uncle here. He used to help me out sometimes.

Q. And your uncle was such a dear friend of yours? A. Yes, sir.

Q. He had been a second father to you, hadn't he? A. I got a father, thank God!

Q. Well, any time you were there did you ever see Samuel Richter treat Lena Jacobs in any other way than as his wife? A. Explain that.

Mr. Greenfield: I object to that. It calls for a conclusion of the witness.

The Court: I think it may be proper for the witness, if he can characterize it, for him to do so.

Mr. Osborne: I don't think I will continue that line of questioning. I will withdraw the question.

Q. Tell me about Mr. Arbeitel, the old gentleman. A. Janitor.

The Court: What do you want to know?

Q. You always found him there? A. Where, in the house?

Q. Yes. A. When I used to come over to my uncle I used to come over to him, too.

Q. He was usually there? A. No, not in his own house.

Q. At the time your uncle was dead he was in the house? A. No, sir.

Q. Didn't see him there at that time at all? A. No, sir.

Q. After your uncle had been buried did Mr. Arbeitel come to see you? A. To New York?

Q. Yes. A. Not soon—maybe one week or two weeks later.

Q. How often since then has he seen you? A. Who?

Q. Arbeitel? A. In New York?

Q. Anywhere. A. I didn't see him since there was a hearing here.

Q. You haven't talked to Mr. Arbeitel, Sr., about this case, have you? A. No, sir.

Q. He didn't tell you that Mr. Richter had left a will or a paper that was said to be a will, did he? A. I even asked him; he says he didn't know anything about a will.

Q. When did he tell you that? A. When I came over that time, when he was dead.

Q. And afterwards he told you there was a will found, didn't he? A. What is that?

Q. After that time, at any time when he saw you, didn't he tell you there was a will found? A. Yes.

Q. When did he tell you that? A. Because he want to make a claim on this case.

Q. Did he tell you that Mr. Richter had promised to leave him a thousand dollars? A. Who?

Q. Arbeitel? A. No, sir.

Q. Did he tell you that Richter had a former wife living in New York? A. Mr. Arbeitel?

Q. Yes. A. He didn't tell me those things.

Q. Never told you that? A. No, sir.

Q. Did he tell you that he wanted you to be a witness here? A. Arbeitel?

Q. Yes. A. Never.

Q. Did his sons ever tell you that he wanted you to be a witness here? A. No, sir.

Q. Who asked you to come and testify? A. My mother—we went first to New York to another lawyer, and then he said he can't do anything because it belongs to New Jersey State.

Q. Who is this New York lawyer you went to?

A. We want to go to a New York lawyer. We asked two or three people.

Q. What is the name of that New York lawyer? A. We asked private people.

Q. What is the name of the New York lawyer? A. We went to private people. They said: "You got to go to lawyers in New Jersey State."

Q. Then you went to Arbeitel? A. No, sir, they gave us notice.

Q. You have never talked to Mr. Arbeitel, the father, about this case? A. No, sir.

Q. You never talked to Arbeitel's son about this case? A. We didn't know where to go. After he give us the orders where to go.

Q. Why didn't you know where to go? A. I didn't know where to go here in Newark.

Q. Didn't you hear at the time about Judge Simon that night, didn't you hear him say that night you were there that Judge Simon had been there? A. I never seen this man; I don't know who this man is, only that lady tell me he send for a Justice. I don't know his name.

Q. Did you go to any lawyer in New York at all? A. No, sir.

Q. How do you happen to be here today? A. I was here yesterday.

Q. Why? A. Because this is the case.

Q. Why do you come here? A. Well, I am interested in it.

Q. You are interested in it to the extent of your mother's claim; is that correct? A. Yes, sir.

Q. Who told you that your mother had a claim?

Objected to as immaterial, and as hearsay.

The Court: I cannot see how it is material.

Q. There was some kind of a quarrel at the house that night you were there; that is right? A. What was it?

Q. Some kind of a quarrel at the house that night you were there?

The Court: A fight.

Q. The time you said you were going to throw somebody out. A. There was no fight; we only had an argument with Abe.

The Court: He did not say he was going to throw anybody out. He said he felt like it.

The Witness: Yes.

Q. How did that start? Tell us about that. A. I asked that lady, "Why didn't you send for my mother when he was so sick, and you didn't send for her, and didn't he leave anything for my mother?" and she says the Justice came too late. Abe said he died like a dog. I was mad on account of this.

Q. Abe Karp said that he died like a dog? A. Yes.

Q. But they sent for your mother? A. The next day they sent for my mother.

Q. Didn't they send just as soon as— A. Not before, when he was sick.

Q. Your mother couldn't go on account of this holiday? A. He was dead, then.

Q. Couldn't she go on account of this holiday? A. No, sir.

Q. Do you know how suddenly your uncle died? A. We didn't know that he was sick.

Q. Do you know how long he had been sick

A. No, sir. I asked and she said only a few days.

Q. Do you know that it was even a few days that he had been sick? A. One week he was so sick.

Q. He had been sick before that? A. Oh, no.

Q. He had never been sick? A. No.

Q. Who told you that? A. He walked around; he wasn't sick; he wasn't laying in the bed.

Q. He had been sick before that? A. Can't tell you.

Q. Why do you say that your mother should have been sent for because he was sick in bed? A. She didn't send for my mother; we didn't know that he was sick.

Q. When he died, they sent for your mother? A. Yes.

Q. She couldn't come any way, could she have come over there? A. No, sir, on account of the holiday.

Q. Then what difference did it make? Now, go on. Karp said that he died like a dog. What did you say? A. I was mad and I want to throw him out.

Q. Why were you mad? A. Because it was my uncle. He helped me out some times.

Q. I understand, but I can't understand why it makes you mad. A. I will tell you why. Sometimes he helped me out. I didn't have no work.

By the Court: Q. He helped you out sometimes? A. Yes, and my mother sometimes, too.

Q. You were very fond of your uncle, you liked your uncle very much? A. Sure, I used to like him.

Q. What was it made you angry at what Karp said. A. I was sorry.

Q. I know you were sorry. Why did you want to throw Karp out? A. He didn't leave anything because he said he died like a dog.

Q. And he made you angry and you wanted to throw him out? A. Yes.

By Mr. Osborne: Q. Because Karp said your uncle didn't leave anything? A. He didn't leave any will or anythting.

Q. No property, no money? A. I asked him, I said: "He left so many houses and he didn't leave anything for my mother and father, they are poor people?"

Q. And you were angry— A. Because he said he died like a dog.

Q. Because he didn't leave anything?

Mr. Greenfield: No, because he said Karp said he died like a dog.

A. He said he didn't leave a will or anything.

By the Court: Who said he didn't leave a will? A. That lady and Abe said he didn't left anything, he died like a dog.

By Mr. Osborne: Q. Did he say he left no property? A. He said he left property and everything.

Q. Did Abraham Karp say he left no property? A. I told him he left so much and so much and he didn't leave anything for my mother.

Q. Karp said, according to you, that he left nothing? A. He didn't leave nothing — he left everything, but he didn't leave no will.

Q. What do you mean by he left everything? A. He left the house, jewelry, about $15,000, jewelry, and he left some money, and we couldn't find anything.

Q. So you looked around that day for something, did you? A. I didn't look around; I only asked where I should look.

Q. Who else did you ask about what he left? A. Lena.

Q. You asked Lena and Lena said he didn't leave anything? A. No, sir.

Q. She said he left nothing? A. Yes.

Q. Did Mr. Arbeitel tell you he left nothing? A. No, sir.

Q. You didn't ask him anything about that that night, did you? A. No, sir.

Q. Do you know this first wife in New York? A. I don't know her well, but I saw her a few times; I see her sometimes in the street.

Q. Did she come out to this funeral? A. I cannot tell you; I am not sure because I wasn't to the funeral; I don't know.

Q. How many times have you seen her in the last six months? A. Maybe once, maybe twice.

Q. Maybe three times? A. No, not three times.

Q. Where did you see her? A. I never talked to her.

Q. Where did you see her? A. In New York.

Q. Where? A. Once she walk in the street and one of my relations show me this used to be the wife to Mr. Richter

Q. Where was that? A. That was a year ago.

Q. Where? A. In New York, Livingston Street.

Q. Where did you see her since? A. I didn't see her since that time.

Q. You only saw her once? A. Yes.

Q. And you never saw her with Mr. Richter? A. No, sir.

Q. She never lived in this house where Lena Jacobs lived? A. No, sir.

By the Court: Q. Mr. Gartner, you say that this woman whom you designate as Lena Jacobs said that he left no will when you went there that day? A. Yes, sir.

Q. Who was present when she told you that? A. Present was Abe Karp and Karp's father, his mother and my mother and my wife and my brother-in-law; they were all in the dining-room, they were sitting on chairs by the table.

Q. And what was said when she said "he left no will" by any of the others? A. Abe answered, he said he didn't leave anything, he died like a dog.

Q. Did Abe say he left no will—are you sure of that? A. He wasn't present.

Q. Who wasn't present? A. When Lena tell me.

Q. Was Abe present when you talked with Lena, when Lena said he left no will Abe was present? A. Yes, sir.

Q. Did Abe say anything? A. He answered me, he said he didn't leave anything, he just died like a dog.

Q. What Abe said was "he didn't leave anything, he died like a dog"? A. Yes, sir.

Q. That is all he said? A. That is all he said.

Q. He didn't say anything about a will? A. Because—

Q. I didn't ask you because; I ask you whether he said anything about a will when he answered you? A. "No will at all," he says.

Q. When I ask you to tell me everything he said

you answer me that he said he didn't leave anything, he died like a dog, and you say that is all he said. Now, why do you now say that he said he left no will at all—did he say that or didn't he—did he say anything about a will? A. Yes, sir, I asked the lady Lena; he wasn't present—

Q. Who wasn't present? A. We was sitting all together and Abe was behind and I asked Lena—

Q. I understand that, when you and Lena talked, that she said he left no will? A. Yes.

Q. And then Abe said something? A. Abe said he didn't leave anything, no will or anything at all.

Q. Did he use the words "a will"? A. Yes, sir, Abe used the word "will."

Q. Are you sure about that? A. Positively.

Q. Why didn't you tell me so in the first place? A. I didn't understand you.

Q. You didn't understand me—I ask you what he said. A. Yes.

Q. You understand me well enough to try to answer me. A. Yes, sir.

Q. And you understand me well enough to tell me what he said. Why didn't you use the word "will" when you were repeating what he said? A. That is why I got mad at him, because he said he didn't leave anything, no will or anything at all.

Q. You say he left houses and jewelry. Who said that? A. I said to him and to Lena, I said he left her $15,000 worth of jewelry.

Q. How did you know? A. He used to show me the jewelry when he used to come over from New York.

Q. What made you think it was worth $15,000? A. He told me.

Q. You knew it was worth $15,000? A. Yes, sir, and she had different jewels he had given her.

Q. Given to whom? A. To Lena.

Q. Did you have any talk with him why he should give Lena the jewelry? A. He said when he goes to New York he is afraid to take the jewelry with him, and he said it was always in the house.

Q. What kind of jewelry was it? A. Diamond rings, all kinds of jewelry.

Q. Men's or women's jewelry? A. Mostly men.

Q. Did he ever wear any of it? A. He used to wear a diamond pin worth about $500.

Q. Did he carry this loose in his pocket? A. He had on hand rings and a diamond pin, different kind of jewelry.

Q. He just came to see you and took this jewelry out of his pocket loose and showed it to you? A. Sometimes I asked him "Where is your jewelry?" and he said: "A little bit I got with me and a little bit I leave in the house in the safe."

Q. How often did you come to see him? A. Sometimes in three months, sometimes in half a year. The first time I used to come over every two or three weeks.

Q. Lena lived with him there, didn't she? A. Well, she lived there, but I asked him "Is this your wife?" and he said "No."

Q. Just answer my question, Lena lived there with him, lived in the same house with him? A. She used to be in the house.

Q. Always when you were there? A. Not always—very little.

Q. Very little? A. Sometimes I used to meet her once and sometimes I didn't meet her.

Q. Over the number of years you went to see your uncle for quite a few years you went to see him? A. Yes.

Q. From what year to what year? A. From 1904 to 1914.

Q. So about ten years you used to go and see your uncle several times a year? A. Yes, sir, twenty-five times.

Q. And during all those years would you see Lena there? A. Not always.

Q. On your various visits? A. Not always.

Q. Not always, but sometimes? A. Sometimes.

Q. When did you have this talk about Lena? A. When he came over the first time.

Q. The first talk you had with him? A. Yes, sir.

Q. You never had any talks after that about this lady. What were the other talks you had about Lena? A. I says: "Well, uncle, ain't you got no wife? What is the matter, you are a rich man, you got so many houses and jewelry, why don't you get married?" and he said: "I don't care, I don't believe in married life," he said. "I got enough, I got somebody to attend me."

Q. How often did he have this kind of a talk with you? A. For the last year.

By Mr. Hahn: Q. You say that when you reached your uncle's house you commenced to cry like a baby? A. Yes, sir.

Q. You felt so bad that he had died? A. Yes.

Q. Why didn't you go to his funeral? A. Because I had a trial.

Q. Then you thought more of this push-cart trial than you did of your uncle's burial? A. Well, I lose altogether because—

Q. You cried and acted like a baby and you say your heart was broken that your uncle died. Why didn't you go to his funeral? A. I couldn't go.

Q. Why? A. Because I had a trial.

Q. What kind of a trial was it? A. I had an accident.

Q. You were hurt or was your push-cart? A. I was hurt and I had some damages too.

Q. Was the case tried that day? A. Yes, sir.

Q. What happened to it?

Objected to as immaterial.

By Mr. Osborne: Q. When was this conversation at which your uncle told you that he was going to give $15,000 worth of diamonds to Lena? A. He didn't say he give somebody.

Mr. Greenfield: I object. He didn't say that.

Mr. Osborne: I thought he said it in response to the Court's question.

The Court: Oh, no, he didn't say that.

Q. Did he say he was going to give it to Lena? A. He didn't say he was going to leave it to anybody—he has got it. He said: "I have got some with me and I got some in the house, too."

The Court: What he said was that he left some home.

Q. Are you sure he said $15,000 worth? A. Positively.

Q. What? A. Yes, sir.

ABRAHAM KARP re-called for Further Cross-examination by Mr. Greenfield:

Q. Mr. Karp, you are quite intimate with Mr. Weber, are you? A. Yes, sir.

Q. Saw him since the trial you said? A. Yes, sir.

Q. The last day of the hearing? A. Yes, sir.

Q. He was the gentleman who gave you the permission to use the typewriter? A. Yes, sir.

The Court: Haven't you gone all over that this morning? Do not repeat it.

Q. Why haven't you got Mr. Weber here in Court to corroborate your statement that he gave you permission to use the typewriter? A. In the first place, I am not conducting this case; secondly, I don't know as they want any corroboration.

Q. Will you produce him? A. If he is willing to come here I will.

Q. He is willing to help you. A. It will be up to him.

Q. Will you ask him to come? A. Yes, sir.

Q. Will you try to get him here tomorrow? A. Yes, sir.

Q. He will do that for you, won't he? A. I presume he will. He ought to.

Q. You are sure you will try to ask him to come here tomorrow? A. Positively. I will make it my business to see him tonight.

Q. And you will bring him here? A. If he will come.

ALICE KATZIN sworn in behalf of caveators: Direct-Examination by Mr. Greenfield:

Q. Mrs. Katzin, you are a daughter of David Arbeitel? A. Yes, sir.

Q. Where do you live? A. 25 Clayton Street.

Q. How long have you been living there? A. About three years this fall.

Q. Did you know Mr. Richter in his lifetime? A. Yes, sir.

Q. Do you know the lady who is known as Mrs. Lena Richter? A. Yes, sir.

Q. Do you know Mr. Abraham Karp? A. Yes, sir.

Q. Do you remember the date when Mr. Richter died? A. It was in September; I think it was the 21st.

Q. You were there? A. Yes, sir.

Q. Did you see Mr. Karp and Lena Richter in Lena's sister's house on the same day or the day following Mr. Richter's death? A. It was either the same day or the day following. I couldn't say exact.

Q. You saw him there? A. Yes, sir.

Q. Where were you at that time when you saw him there? A. I was going up to see Mrs. Silber.

Q. Mrs. Silber? A. Mrs. Richter's sister.

Q. You were up in the house? A. Yes, sir, I went right up to her house.

By the Court: Q. Whose sister? A. Mrs. Richter's sister.

Q. What is her name? A. Lena Jacobs.

Q. What is the sister's name? A. Mrs. Silber.

Q. Do you mean Lena Richter or Lena Jacobs? A. I generally used to call her Lena.

Q. You spoke of apparently two people, you

spoke of Lena Richter and then you corrected yourself and called her Lena Jacobs? A. Some of the people in the neighborhood called her by the name of Richter.

Q. You called her by the name of Richter? A. Not always; I called her Lena.

Q. You did just now? A. Yes, sir.

By Mr. Greenfield: Q. You say you went up there. Did you see Mr. Karp there? A. Yes, sir.

Q. And who else did you see? A. There were Mrs. Silber's sons, or one of the sons, I remember seeing there; I don't remember seeing the rest of them, but there were some more people in the rooms there and I couldn't say their names. I don't know.

Q. Was Mr. Karp there? A. He was at the head of the table.

Q. Now, you say that you think Mrs. Silber's son was there? A. Yes, sir.

Q. Is he in court? A. Harry Silber.

Q. (Indicating.) This young man? A. Yes, sir, and there was some more people in there besides him.

Q. Can you tell us what they were doing at that time? A. They were looking over some papers.

Q. What kind of papers? A. There were some papers; things written on them; I didn't read them; I couldn't say.

By the Court: Q. Where was this, in Mrs. Richter's or Silber's? A. In Slber's.

Q. Now, Mrs. Katzin, do you know whether at that time Lena Richter had Mr. Richter's safe open? A. That was the morning that Mr. Richter died?

Q. Yes. A. Yes, sir.

Q. Do you know whether the safe was open at any time before the funeral? A. Well, it was before the funeral because he wasn't buried the same day that he died.

Q. I know, but how do you know where the papers came from? A. Well, I have seen Mrs. Richter open the safe, because I told her to put her jewelry in; when she took it off she put it in her apron, and I told her to put it away, it was kind of dark, and I told her to light the gas so he could open it, and she opened the safe.

Q. That was the same day he died? A. Yes, sir, that was the same day of his death.

By the Court: Q. What time? A. In the morning. I couldn't say the time.

Q. And how soon after that did you see young Silber and Mrs. Richter, Lena, around the table there examining the papers? A. Well, that was early in the afternoon, probably about 1 o'clock or so.

Q. That was after the safe was opened? A. Yes, sir.

Q. Do you know whether or not those papers were put in the safe after that? A. I couldn't say; I don't know.

Q. Was there anything said in your presence either by Lena Richter, by Karp, Abe Karp, about any will? A. Well, everybody spoke about a will then.

By the Court: Q. When? A. The day that he was dead, the day he died.

By Mr. Greenfield. Q. When you say everybody, whom do you mean? A. The people in the neighborhood there and the people in the house,

the family, and when Abraham Karp spoke to me he said he knew nothing of a will, if he left any will.

Q. When did he say that? A. That was the day he died.

Q. Where did you see him? A. In Mr. Richter's house.

Q. Who else was there? A. There was a number of people there, quite a number of people there.

Q. Was Karp, Senior, there, the father? A. Yes, sir.

Q. And Lena Richter was there? A. Yes, sir.

Q. Was that after or before the safe was open? A. After.

CROSS-EXAMINATION by Mr. Osborne:

Q. This was the day after the funeral? A. The day that he died.

Q. Or the following day? A. The following day.

By the Court: Q. Which? A. The day that he died; he died early in the morning.

By Mr. Osborne: Q. You said that it was either the day that he died or the following day? A. The papers, when I have seen them that time, was either the day that he died or the following day; I couldn't say exact.

Q. I mean at that time when they were all sitting around the table? A. Yes, sir.

Q. You had no trouble getting in the room? A. No, sir, I knocked at the door and the people called me in.

Q. Was this the house next door? Well, it is right above the apartment.

Q. The apartment upstairs? A. Yes, sir.

Q. And these people were looking around among these papers; is that right? A. Yes, sir.

Q. And you took a seat there? A. I just stood up there a while and then I went down again.

Q. You went down? A. I didn't go up there to watch.

Q. They didn't object to your standing there? A. Well, I didn't walk right into the room where they were, but the rooms are straight, the one after the other; there are four rooms there.

Q. They talked to you and you talked to them? A. Certainly.

Q. There was a freedom of conversation, you were made welcome, were you not? A. Yes, sir.

Q. They went on looking over these papers? A. Yes, sir.

Q. And they said they were looking for a will? A. No, sir.

Q. They didn't tell you what they were looking for? A. No, sir.

Q. Before that time, and during Mr. Richter's lifetime, you had seen Lena open Mr. Richter's safe? A. No, sir.

Q. When did you see Lena open Mr. Richter's safe? A. The morning that he died, the very morning that he died, I told her to put her jewelry in and not carry it in her apron pocket when I came up there.

Q. Did she have jewelry on her person? A. Yes, sir, she had it on her person and took it off that very morning that he died; she put it in her apron pocket and I told her not to carry it that way, she was apt to lose it, and it was kind of dark and I told her to light the light.

Q. Was that a safe with a combination? A. Yes, sir.

Q. She had no difficulty in opening it? A. I couldn't tell you whether it was open or closed.

Q. You knew that she could get into the safe, I suppose? A. I told her to put it in and she put it away.

Q. What was this jewelry? A. What I used to see her wear was a pair of ear rings, and whether it was one or two rings —

Q. That is all you know about what she put in her apron pocket? A. I didn't know what she had, but I thought she ought to put it away, I thought it was safer there than her apron pocket.

Q. Who was present at this table when they were sorting these papers? A. Well, the only names I could mention was Abraham Karp and Harry Silber.

Q. And Mrs. Richter? A. And Mrs. Richter was in the room speaking to me while they were inside in the other room.

Q. Then what was said about a will while you were there? A. That was not that same time, when I was upstairs; that was said downstairs in Mr. Richter's house.

Q. It all happened at that time? A. It all happened at that time—it was either the day or the day following because he wasn't buried until the third day.

Q. Then after that you heard something about a will? A. And then about two or three weeks later I heard that there was a will found.

Q. Did you hear where it was found? A. No, sir.

Q. That is practically all you know about it? A. That is all I know.

By the Court: Q. Where is this safe located? A. In one of the rooms in Mr. Richter's house.

Q. In which room? A. In the bedroom.

Q. Which room? A. In the first bedroom as you went in from the dining-room.

Q. Inside room or outside room? A. Inside room.

Q. Any windows in it? A. Yes, sir, there is a window, but there is no door to the hall.

Q. Is this a corner house? A. A corner house, and all the rooms run straight.

Q. And all the rooms are alike? A. Yes, sir.

Q. What time in the morning was that? A. It must have been about 5 or 6 o'clock in the morning, probably 7 o'clock; I couldn't tell you exactly.

Q. Had you been there all night? A. No, sir; I came there about 4 o'clock in the morning.

Q. You came up at 4 o'clock? A. Yes, sir.

Q. With your father? A. My mother woke me up and told me that Mr. Richter was dead.

Q. You live in the same house? A. Across the street.

Q. How did you come to go? A. My mother woke me up and told me that Mr. Richter was dead or died, I don't know which.

Q. What time? A. Four o'clock in the morning; and I got up and got dressed and went up to see her.

Q. What were they doing when you got there? A. I believe they had sent for me, from what they tell me.

Q. Mr. Richter was still alive when you arrived? A. No, sir; he was dead when I got up there.

Q. Had Mr. Simon arrived? A. I met him upstairs or downstairs, but I seen Mr. Simon that morning, but whether he was going up or down I couldn't tell you—I think he was coming down from the house when I was coming up.

Q. Did you have breakfast there? A. No, sir.

Q. Was this before breakfast or after breakfast? A. That was early in the morning.

Q. Was it daylight? A. It was daylight already, just at daybreak.

Q. You were quite familiar with the house, had been there quite frequently? A. Yes, because I had lived there a number of years.

Q. Are you friendly with Mrs. Richter? A. Yes, sir, I know her well.

FANNY GARTNER sworn in in behalf of caveators:

Direct-examination by Mr. Greenfield (through the interpreter).

Q. Mrs. Gartner, where do you live? A. Ridge street, 149.

Q. New York? A. Yes.

Q. You are a sister of the late Mr. Richter, are you not? A. Yes, sir.

Q. When did you come to this country? A. Twelve years.

Q. And when you landed in this country who

took you off the ship at Castle Garden? A. My brother, Mr. Arbeitel and his son.

Q. Who came to this country with you? A. My son.

Q. When Mr. Richter took you out of Castle Garden where did he take you to? A. To my sister-in-law, into Sheriff Street.

Q. New York? A. Yes.

Q. How long did you remain in Sheriff Street? A. Two weeks.

Q. Then where did you go? A. Then my brother came and took me over here to him in Newark.

Q. When you say your brother you mean Mr. Richter? A. Yes, sir, my brother.

Q. How long did you stay in Newark? A. Several days only.

Q. Where did you stay? A. Well, I was in his house, I don't know what street—I was green—I don't know where it is.

Q. Who was here with you in Newark, in Mr. Richter? A. Yes, sir, my brother.

Q. Where did you go after the few days? A. Well, after the several days he told me I will have to go back to New York, "I have no room in the house here."

Q. Do you know whether or not your brother had a wife at that time, here in Newark? A. No, I didn't know.

Q. Do you know Lena Richter? A. I seen her there.

Q. Where? A. There with my brother.

Q. Were you introduced to her? A. No.

Q. Didn't your brother introduce you to her? A. No.

Q. Did you make any inquiry who she was? A. I asked him: "Who is this woman?" and he tell me: "Don't ask me."

Q. You went back to New York, did you? A. Yes.

Q. And then did you ever come back to Newark to live? A. No.

Q. Did you come over to see your brother? A. Yes, two or three times, several times.

Q. Two or three times a year or during the entire period? A. During the period.

Q. And when you would call here in Newark would you see the lady known as Lady Richter? A. Yes.

Q. Do you recognize her here in Court? A. Yes.

Q. Point her out. A. (Indicating) There she is.

Q. Did you ever talk to your brother about her, about the lady, about Lena? A. Yes.

Q. What was it—what were you talking about? A. I asked him: "Who is this woman?" and he tell me "Don't ask me."

Q. Did you ever ask him whether they were married or not? A. I didn't ask him. When I asked him to tell me, he said: "Don't ask me."

Q. Were you here in Newark on the day when your brother died? A. Not on the same day. They sent a man to notify me on the same day, that is, in the evening, that my brother is dead, and I come the next day in the evening.

Q. Why did you go the next day? A. Well, they sent a man to let me know my brother died and I came over to see my brother who was dead.

Q. Why didn't you come the same night? A.

Well, we were not allowed, it was the first day of New Year's; we were only allowed, according to religion, to go the second day in the evening.

Q. According to the religion, are you allowed to ride on that day? A. Well, I am sticking to my religion, and I was not allowed, according to that, to ride on that day, Rosh Hasuna.

Q. Did you go after the holiday, the day after the holiday? A. No, sir, in the evening.

Q. What time did you arrive there? A. Maybe 8 o'clock.

Q. Who was with you? A. My husband and son and my son's wife and my son-in-law; that is, the husband of my daughter.

Q. When you arrived that night, whom did you find in the house? A. Mrs. Lena and family, they were there.

Q. Can you give us the name of the people that were there, the family? A. I recognize her sister, this woman there (indicating) the sister sitting there.

Q. Point them out. A. Her sister.

Q. (Indicating) This sister? A. Yes, and the one next to her.

Q. This lady here? A. Yes, sir.

Q. Mrs. Karp? A. Yes, sir.

Q. And the man sitting there? A. That is the one.

Q. (Indicating Abraham Karp)? A. Two or three others there, several women and some men there of the family, but I don't recognize them now.

Q. When you arrived what took place there when you came in? A. I started to cry, naturally,

of course it hurt me, the death of my brother, and then I said: "Mrs. Lena, why didn't you notify me that my brother was so sick?" And she told me he was sick for several days, in the evening he felt kind of better and during the night he wasn't feeling better, and "We sent for a man and he wanted to have a will drawn and he said 'Thousand dollars' and he died; and she told me he left no will, he left nothing.

Q. Was the young man you pointed out, Karp, there at this talk? A. Yes.

Q. Did he say anything about any will? A. Nothing.

Q. How long did you stay here when you came that night? A. I stayed here over night and in the morning I went to the funeral.

Q. Did you come back to Newark after the funeral? A. No, we went home.

Q. Have you been to your brother's house after the funeral? A. No.

Q. At the time you were there, when you arrived, did you see any argument or word between your son and young Karp? A. No.

(Not cross-examined.)

ISADOR ARBEITEL sworn in behalf of caveators:

Direct-Examination by Mr. Greenfield:

Q. Mr. Arbeitel, where do you live? A. 25 Clayton Street.

Q. How long have you lived at 25 Clayton Street? A. About seventeen years.

Q. Did you know Mr. Samuel Richter in his lifetime? A. Yes, sir.

Q. How long have you known him? A. About nineteen years.

Q. You did some work for him during his lifetime? A. Yes, sir.

Q. What kind of work? A. Plumbing work.

Q. David Arbeitel is your father? A. Yes, sir.

Q. And he was the janitor and is the janitor of the properties? A. Yes, sir.

Q. Do you remember Mr. Richter during his last illness? A. Yes, sir.

Q. You had been to see him during his last illness? A. I was there every day that he was sick a few times.

Q. Were you there on the night of his death? A. Yes, sir.

Q. Who was present on the night of his death in the room? A. In his room when he died there was myself and the father, Mr. Simon, and I believe, Mrs. Silber, I think was in the room at the time.

Q. At the time of his death? A. At the time he died.

Q. Was Dr. Steiner in the room at the time of his death? A. No; he was in the dining room.

Q. When did he come in the room? A. Father said that Mr. Richter had died, he came walking in and closed his eyes.

Q. How long was Simon in that room before he died? A. Well, he was there for awhile, walked out and then came in again.

Q. How long from the time he first arrived up to the time of his death? A. I couldn't actually say how long.

Q. Approximately? A. I couldn't give any approximate time. I imagine—I really can't speak my mind, but not any length of time.

Q. Was it half an hour or twenty minutes or five minutes? A. Well, we might have been there for half an hour and gone out for a few seconds and then back.

Q. Who brought him there? A. I don't know.

Q. Do you know who sent for him? A. Why, yes.

Q. Who did? A. Mr. Richter sent for him.

Q. Do you know who went for him? A. Yes.

Q. Who did? A. Harry Silber.

Q. Do you know about what hour in the night or day that he died? A. He died some time, I believe, between half-past two and three.

Q. In the morning? A. In the morning.

Q. Now, after his death, who came there; when he died who came there? A. Well, I would like to—

Q. Who came to see him, who arrived there? A. After his death I went for the undertaker.

Q. You went for the undertaker. When you came back with the undertaker who did you find in the house? A. I found in the house my mother, Mr. Simon, my father, Mrs. Silber, Harry Silber, Mrs. Richter.

Q. Did Abe Karp come there? A. No, sir.

Q. How soon did he get there after he died, at what time did he get there? A. Abe Karp must have got there just before noon.

Q. Who came there with him? A. Abe Karp, came with his father.

Q. Did his mother come? A. His mother had arrived about eight o'clock with a younger brother, Julius.

Q. In the morning? A. Yes, sir.

Q. Now, you were in the house when Karp arrived? A. No, sir.

Q. When did you first see Abe Karp in the house. A. I saw him arrive; I was down the street.

Q. After Abe Karp came did you go up to the house? A. No, sir.

Q. Have you ever been in his house from the time of his death to the time of his funeral? A. No, sir.

Q. Did you see Karp outside? A. Yes, sir.

Q. Did you talk to him? A. Well, yes, I believe I walked downtown with Abe Karp and Harry Sibler about noon, I think, when we reached the Four corners; I heard the twelve o'clock whistle blow.

Q. Where did he go, if you know? A. I asked him where he was going and he told me that he was trying to locate a friend in Jersey City.

Q. Did he go off to the terminal or not, do you know? A. He went toward that direction.

Q. Where did you go? A. I went to see a cousin of mine.

Q. When you were walking down with Karp and Silber was there anything said about any will of Samuel Richter by anybody? A. We had very little to say.

Q. Was there anything said? A. Abe said he died without leaving a dipped in pen.

Q. Did you ask him what he meant by "dipped in pen"? A. Without—

Q. Did you ask him that, did you ask him what he meant or did you know? A. I asked him and I knew.

Q. What did you ask him? A. I asked him how things were, and he said that the things were pretty fair, and he said there was no dipped in pen, no writing she ain't married and the like of that.

Q. When you say he said "she ain't married" whom were you talking of? A. His aunt.

Q. I presume he has got more than one aunt. What aunt were you talking about? A. Mrs. Richter.

Q. Did you meet him again after that? A. Well, just passing by, met him again before the funeral, after the funeral.

Q. Where did you meet him after the funeral? A. Well, right at the cemetery.

Q. You met him at the cemetery. Were you to the funeral? A. Yes, sir.

Q. And you met him there at the cemetery? A. Yes, sir.

Q. Was there any talk in the cemetery about Richter's affairs, yes or no. A. Yes, sir.

Q. By whom? A. By Mr. Karp.

Q. What Karp are you talking of? A. The old gentleman.

Q. Was young Karp there? A. Yes, sir.

Q. What was said at the cemetery? A. Said there ain't nothing no written line or nothing.

By Mr. Hahn: Q. Who said that? A. Mr. Karp the old gentleman.

By Mr. Greenfield: Q. And was young Karp there? A. Yes, sir.

Q. Did he say anything? A. No, sir.

Q. Did he mention the fact that he drew a will A. No, sir.

Q. Did he mention the fact that he ever prepared a will for his uncle? A. No, sir.

Q. You came back from the cemetery, of course? A. Yes, sir.

Q. Did Abe Karp come back to Newark from the cemetery? A. Yes, sir.

Q. When you all came back did you go in Richter's house after the funeral? A. No, sir.

Q. Did you meet Karp ofter that? A. Passed him by, met him, and passed him by.

Q. Where did you meet him after the funeral? A. The day following he walked past me and we didn't recognize each other.

Q. Why not—did you have any argument? A. Yes, sir.

Q. Where? A. Before the funeral—at the funeral while the funeral was going on—when they wanted to carry the coffin upstairs we had an argument.

Q. Who had the argument? A. Well, we passed quite a number of words.

Q. Yourself and Karp? A. Karp and myself, my father.

Q. About what was the argument there? A. The argument was about the coffin in which Mr. Richter was to be buried.

Q. What was that argument about a coffin? A. When Mr. Richter died I was sent for the undertaker; father was told to take care of the details,

and we ordered the undertaker to have about ten carriages there, a nice casket, and give him a nice funeral, and the morning of the funeral the undertaker said that the order had been changed to a cheap casket—

Mr. Hahn: I object to this.

Mr. Greenfield: We don't want anything at all about what the undertaker told you.

Mr. Hahn: I object to that line of examination.

The Court: What is the purpose of it.

Mr. Greenfield: I want to show that this supposed wife who was supposed to think so much of him, what she thought so much of him that she wanted to bury him, possibly in a three dollar coffin, and then the argument came on. It goes to show the attitude of the alleged wife.

The Court: How can the widow or this woman who you say is not the widow, be bound by anything that was said in an argument between Abraham Karp and this witness? How can her feelings be ascertained by an argument between two people?

Mr. Greenfield: I want to show that she was there and also took part in it.

The Court: Show that then.

Q. Who was present at the time of this argument about the coffin? A. She was not there. Abraham Karp said he was her mouthpiece.

CROSS-EXAMINATION by Mr. Hahn:

Q. How old are you, Mr. Arbeitel? A. Twenty-six years old.

Q. Are you married? A. No, sir.

Q. With whom do you live? A. With my father.

Q. Where? A. Twenty-five Clayton Street.

Q. What is your business? A. I am a plumbing contractor.

Q. You live in the same house with Mr. and Mrs. Richter lived? A. No, I live across the street.

Q. Who owns that house? A. Mr. Richter.

Q. Mr. Richter owned that? A. Yes, sir.

Q. How long did you know Samuel Richter in his lifetime? A. About nineteen years.

Q. And you and he were quite intimate? A. Yes, sir.

Q. You did business for him? A. Business friendship.

Q. You went to his house often, did you? A. Well, I wouldn't exactly say often because Mr. Richter was always outside in the street; very seldom in his house, only nights I suppose.

Q. Where did he eat his meals? A. Sometimes in his house.

Q. Were you very intimate with him? A. Yes, sir.

Q. Or did you know him only in a business way? A. I was very intimate with him.

Q. How intimate were you with him? A. So intimate that I would tell him my business at times, consult him, and he would consult me about some of his business.

Q. When did that intimacy commence between you and Mr. Richter? A. Well, ever since I have grown older; we were always friends.

Q. During the nineteen years that you knew him? A. Why, yes.

Q. How old are you now? A. Twenty-six.

Q. So that, according to your statement, you were seven years old when you first met him? A. About that.

Q. And you say you don't know whether he went to his house or not? A. I didn't say that.

Q. What did you say? A. I said he was most of the time in the street.

Q. Well, did you ever go to his house to see him? A. Yes, sir.

Q. Often? A. Often as anybody.

Q. Well, can't you be a little more explicit than that?

The Court: Judge Hahn doesn't know how often anybody else went there.

Did you go once a week or oftener than that?

Witness: Well, sometimes there would be a stretch of six months because I didn't enter his house because he was always outside, and when he was sick I was there three or four times a day.

Q. In his house? A. Yes, sir.

Q. Where did you say he lived? A. At 30 Clayton Street, and 12 Barclay Street.

Q. And with whom did he live? A. He lived there himself with Mrs. Richter.

Q. Was Mrs. Richter his wife? A. I wouldn't say his wife.

Q. Well, you knew her to be his wife? A. I knew she was not his wife.

Adjourned until tomorrow February 17, 1915, at 10 o'clock, a. m.

Wednesday, February 17, 1915.

Continued pursuant to adjournment.
Present, counsel as before stated.

ABRAHAM KARP, re-called for further Cross-examination by Mr. Greenfield:

Q. Mr. Karp, have you see Mr. Abraham Weber? A. Yes, sir.

Q. Last night? A. Yes, sir.

Q. Where? A. At his home.

Q. What hour? A. At about quarter after seven thereabouts.

Q. Did you ask him to come to Newark? A. Yes, sir.

Q. Did he agree to come? A. No, sir.

Q. Did he give you any reasons? A. Yes, sir.

Q. What were the reasons? A. He said he was the only man in the office outside of a woman who was there and he couldn't get away, all the other folks of the office were up at Albany.

Q. Did he say when he could come? A. Why, he told me, if I am not mistaken—I don't recall this distinctly—I think he remarked that he might be able to come in two or three weeks.

By Mr. Hahn: Q. Why did he say he wouldn't come? A. Because the other folks in the office are up in Albany and he had to remain there and look after things until they returned.

By the Court: Q. What business is he in? A. He is in the State architect's office; he is in the department store where they submit bids, and he has charge of it.

By Mr. Greenfield: Q. How old a man is he?

A. Mr. Weber, I take him to be about twenty-six.

Q. How long has he been in that office? A. In the State's Architect's office?

Q. Yes? A. To my knowledge, I don't think a year, not fully a year.

Q. Did he signify his willingness to testify if depositions were taken in New York? A. Yes, sir, he said he would make an affidavit or any other way of giving his testimony besides coming over here now.

ISADOR ARBEITEL, re-called for further Cross-examination by Mr. Hahn:

Q. Now, Mr. Arbeitel, you testified yesterday that you were very friendly with Samuel Richter? A. Yes, sir.

Q. And that you had known him for the past nineteen years? A. Yes, sir.

Q. Did you know Mrs. Richter? A. Yes, sir.

Q. Do you know her very well? A. Yes, sir.

Q. And did you visit them at their home 12 Barclay Street—did you go into their apartment to see them? A. Yes, sir, often.

Q. Now, do you remember when Samuel Richter died? A. Yes, sir.

Q. When did he die? A. He died, it was Monday morning.

Q. Do you remember the date? A. The 21st of September, I believe.

Q. And were you there when he died? A. Yes, sir.

Q. In the room? A. Yes, sir.

Q. How long had you been there before he died? A. I think about half an hour.

Q. What time did he die? A. He must have died about three o'clock.

Q. Are you sure of that? A. No.

Q. Are you sure that you were there half an hour before his death? A. No, I won't say that neither, because I have no control of time. It is just what I think.

Q. How did you come to go there that night? A. Why, it must have been about two in the morning that there was a knock at our door; Harry Silber woke us up and said that Mr. Richter was feeling very bad, woke up the house—

Q. When you say "us" are you married? A. The family; I live with my father and mother, I stated, and the folks threw on clothes, they didn't dress fully, and I took plenty of time in dressing because I didn't think it was so serious, Mr. Richter seemed to be very well about Sunday afternoon, had quite a conversation with him then, seemed to be well, and I took my time about it; the folks got there before I did and mother came back and says, "Hurry up, Issy, Mr. Richter is very bad, they sent for the doctor and they sent for the Justice of the Peace." Then I finished dressing, threw on the rest of my—just top coat and run right out.

Q. Did you go with your father and mother? A. My father was there; mother had come back for me, and I run before mother.

Q. I thought you just said that this young Silber came there for you, woke you up? A. Woke the family up.

Q. Woke you up? A. The family.

Q. Well, you say your father wasn't there at that time? A. My father wasn't there when my mother came back for me because they both went at once with Harry Silber.

Q. So that when Harry Silber came there and knocked at the door and woke you all up and said that Mr. Richter was dying your father and mother left your house to go to Richter's before you did? A. Yes, sir.

Q. They went with Harry Silber? A. Yes, sir.

Q. And then you went over later? A. Yes, sir.

Q. And you got there about half-past two? A. Why, I don't know; I got there later than they did because mother came back for me; it must have been about half-past two.

Q. When you got there did you go to the sick room? A. Yes.

Q. Did you see Mr. Richter? A. Yes.

Q. Was he alive then? A. Yes, sir.

Q. Who was present in that room? A. In that room was my father, Dr. Steiner, Mr. Simon, Mrs. Silber and Mrs. Richter was walking up and down through the length of the rooms.

Q. Who? A. Mrs. Silber and Mrs. Richter.

Q. They were walking up and down through what rooms? A. The rooms run straight, one following the other.

Q. It is all open, the apartment? A. There is one door outside the other, from one room to another.

Q. All the doors are open? A. Yes, all the doors are open.

Q. It is a small apartment, isn't it, the apartments are small? A. Yes, very small.

Q. Was anyone else present? A. No, not in that room.

Q. You saw the doctor there, didn't you? A. Yes, sir.

Q. What was the doctor doing? A. Why, there was a conversation as Mr. Richter was talking then.

Q. Who was he talking to? A. He was talking to Simon.

Q. Mr. Simon was there? A. Yes, I stated so, that he was there then.

Q. And the doctor was there? A. Yes, sir.

Q. And your father was there? A. Yes, sir.

Q. And Mrs Richter was there? A. Yes, sir.

Q. And Mrs. Silber was there? A. Yes, sir.

Q. And Mr. Richter was talking to Justice Simon? A. Yes, sir.

Q. Could you hear what he said? A. Yes, sir.

Q. How close to the bed were you? A. We were gathered around; the bed stood along one wall; we were in front of the bed.

Q. In front of it or along side of it? A. Well, alongside of it, just as he laid, the length way, along there; Mrs. Silber and Mrs. Richter was wringing their hands and walking up and down through the rooms.

Q. Did the doctor hold him up when he talked? A. No, my father put his hand under the pillow, raising his head as he spoke.

Q. Was the doctor standing alongside of your father? A. No, he stood alongside of Mr. Simon, I believe.

Q. What did Mr. Richter say? A. Mr. Simon spoke first, he says, "What is the matter, Sam?" and Richter says, "I feel very bad." And Simon

says, "Do you know me?" and he says, "Sure." He says, "You are Simon, I sent for you." "What do you want?" Mr. Simon asked. He says, "I want to make a will." Then there was a talk as to whether he could use his hands because he was paralyzed, and the doctor, I believe, said that the testimony would not be legal because he had a hemorrhage of the brain.

Q. Said that then? A. I think he said that then.

Q. Are you sure about it? A. Yes, sir.

Q. Why do you say you think that you are sure? A. I am not sure whether he said it then or whether he said it a few minutes after that.

Q. After he died, you mean? A. Not exactly after he died, because he didn't finish talking and he was alive yet.

Q. Never mind what the doctor said. We will come to that later. I want your statement as to what Mr. Richter said. You said distinctly just now that he was talking to Justice Simon and that he recognized Justice Simon? A. Yes, sir.

Q. And he told Justice Simon, "Yes, I recognize you, you are Justice Simon, I sent for you?" A. Yes, sir.

Q. And Justice Simon said, "Why?" A. Yes, sir.

Q. And then what? A. He said, "I want to make a will."

Q. And then what was said? A. Well, there was a pencil and paper taken up and they start talking. The doctor and Simon said he couldn't use his hand to sign it anyway, being he was paralyzed, and then they listened to his conversation.

Q. They listened to it? A. Everybody listened.

Q. Did you listen to it? A. Yes, sir.

Q. I want that conversation, I want you to state it. A. He said, "Everything for my wife;" then he said, "A thousand dollars," very distinct, and then he says, "Arbeitel," and he sort of gargled until he died.

Q. He said, "Everything for my wife?" A. Yes, sir, very distinct—

Q. Was his wife here when he said that, Mrs. Richter? A. If you mean Mrs. Richter?

Q. Yes? A. She was walking in and out, and as he says "Arbeitel"—not Arbeitel—he says "Thousand Dollars" very distinct and "Arbeit," and he gargled the rest of it. She came running in; she was running in and hollering "Blima, Blima."

Q. Who said that? A. Mrs. Richter.

Q. Mrs. Richter came in and said, "Blima, Blima?" A. Yes, sir.

Q. Why—did she hear him talking, did she hear him say what you have just stated? A. She was walking up and down—I don't really think she heard what was stated because she was coming in from the other room when she hollered.

Q. If you were paying attention to what he was saying and listening very carefully—A. Yes, sir.

Q. —how could you tell what she was doing? A. When they hollered "Blima, Blima."

Q. They hollered "Blima?" A. No, she hollered "Blima."

Q. Mrs. Richter hollered "Blima?" A. Yes, sir.

Q. That was after he got through talking? A. He was still gurgling.

Q. But he got through talking? A. No, never got through until he died; he was still gurgling

and they couldn't understand what he was saying.

Q. You understood what he said? A. When he gurgled, no; no one could understand him.

Q. But you understand that he said "Everything for my wife," and "a thousand dollars, Arbeit" and then he gurgled? A. Yes, sir.

Q. After he got as far as "Arbeit" and then gurgled, you say Mrs. Richter came in and said "Blima?" A. Yes, and they were trying to get him to talk and they couldn't get nothing from him; everybody was around there and I don't remember it was the doctor or Simon says, "Let him have a minute's rest."

Q. When he said all this you are giving the Court your translation of the words that he used because he didn't speak in English? A. Yes, he spoke in English then.

Q. He did? A. Yes.

Q. He spoke English, he says to Justice Simon "You are Simon?" A. Yes.

Q. In English? A. Yes, sir.

Q. And Simon said, "What do you want," and he said, "I sent for you," in English words? A. Yes, sir.

Q. Didn't speak Yiddish? A. Not then.

Q. And then he said in English "Everything for my wife?" A. Yes, sir.

Q. He said that in English? A. Yes, sir.

Q. "Thousand Dollars Arbeit." that was said in English as I am saying it now? A. Yes, sir.

Q. Didn't speak Jewish at all? A. Well, that thousand—it sounded English.

Q. But all the other words were used in English? A. Yes, sir.

Q. Now, you are sure of that? A. Yes, sir.

Q. Why did you state yesterday, Mr. Arbeitel, that Dr. Steiner wasn't there when he said that? A. I didn't state that; I stated he wasn't there when he died.

Q. Didn't you state yesterday on your direct-examination by Mr. Greenfield that Dr. Steiner wasn't there when he made this statement to Simon? A. No, sir; I didn't testify to any statement of that kind. I stated that he wasn't there when he died.

Q. How soon after he finished his conversation that you have just related did he die? A. I can't realize. The moments were so tense and everything was—of course, it was a scene I have never been to before and I couldn't caculate time very well.

Q. Are you not now changing your testimony from yesterday afternoon? A. No, sir; I think I said yesterday the very same thing, but they insisted—someone insisted on time and I simply said time.

Q. Don't you remember yesterday afternoon stating distinctly that Dr. Steiner wasn't present when he spoke to Justice Simon on his deathbed? A. I remember distinctly stating that Dr. Steiner wasn't present when he died.

Q. Well, was he in the house? A. In the dining-room.

Q. How do you know that? A. Why, because when father said "He is dead," we got up and looked toward the doctor and the doctor came in from the dining-room.

Q. How soon after this conversation did that take place? A. Some time elapsed.

Q. What room was this that Mr. Richter was lying in? A. As we came in from the hall you walk in the dining-room; then from the dining-room, walking south, there is a room that is called the bedroom, where the safe was in; he was in the next bedroom where the bed was in.

Q. These rooms are very small, aren't they? A. Yes, sir.

Q. How big is that dining-room? A. Well, that is the largest room of them all; that is about, I will say, 12 by 12.

Q. What? A. About 10 by 12; it is longer than it is wide.

Q. How about the width? A. Say about ten feet wide and 12 long.

Q. Isn't 10 a little bit too much? A. I wouldn't say yes or I wouldn't say no, but it is the largest room in the flat.

Q. The length is about 12 feet, but the width is about 8 feet, isn't it? A. Yes; the toilet in the hall takes up a little space.

Q. Then walking south is a little bedroom, isn't there? A. Where the safe was in, yes, sir.

Q. That is a small room? A. Yes, sir, very small.

Q. And then continuing south is the bedroom that Mr. Richter died in? A. Yes, sir.

Q. So that you could look from the bedroom that he was in into the dining-room and see what was going on? A. Well, I couldn't say I could look and see what was going on because as the door is open, you know, it is open on one end, all the doors, see, but the biggest part of the room would be concealed.

Q. Yes, you could only see on a line through the doors? A. Through the doors, yes, sir.

Q. You couldn't see who was standing back of the wall, if there was anyone standing in the dining-room near the windows, you couldn't see him there? A. Near the windows I could see him because the window is almost opposite the door—well, the window going into the other room—there is a sort of a kitchen.

Q. I mean the window facing the street? A. I couldn't see him then, no, sir, I couldn't.

Q. Then why do you say that you know the doctor was in the dining-room? A. Because when my father said that he is dead we stood up and turned looking for the doctor, and naturally that would be the first one we would look for, and when we said this he came in from that.

Q. Did Mr. Richter speak English all the time? A. Yes, sir.

Q. Never spoke Jewish? A. Not while I was there.

Q. Did he ever speak Jewish to you before he died—I mean before he was taken sick? A. We often passed Jewish remarks to one another.

Q. Isn't it a fact that on this morning of his death that he spoke in German, used German words, what we call Yiddish? A. It may be more of a fact that you say he used words, sort of—take that "Thousand dollars," he wouldn't say "Dollars" as I say it; he would say it "Tollers" with a Jewish accent to it.

Q. Were you here when Dr. Steiner was called as a witness ? A. Yes, sir.

Q. You know Dr. Steiner? A. I seen him almost every time he was in Mr. Richter's house—in fact,

I seen him the first time he was there the night of this illness.

By the Court: Q. How long a time elapsed after the conclusion of this conversation or this statement by the deceased Richter when he said "Thousand dollars" and then was apparently unable to finish the name "Arbeitel"—how long a time elapsed between that remark by him and his death? A. I should say ten or fifteen minutes. I have no control of time. I would imagine that. I don't know.

Q. I am merely asking you for your best judgment and your best recollection; I understand that you didn't have your watch out; I understand that the situation was unusual, but I am merely asking you for your best recollection. What I want to find out is whether it was almost immediately or whether it was several minutes afterwards? A. Several minutes elapsed. How many I don't know.

By Mr. Hahn: Q. You say that you are no judge of time.

The Court: He said he was not under those circumstances. He did not say that he might not be a judge of time here.

Q. You say you are a plumber? A. Yes, sir.

ANNIE GARTNER sworn in behalf of caveators.

Direct-examination by Mr. Greenfield:

Q. Where do you live? A. Houston Street.

Q. What number? A. (Witness talks in foreign language.)

Q. Can't you talk English? A. No.

(The examination proceeds through the interpreter.)

Q. How long are you in this country?

A. Seven years.

Q. What number do you live? A. 323.

Q. And Julius Gartner is your husband? A. Yes, he is my husband.

Q. Did you know Samuel Richter in his lifetime? A. Yes.

Q. Did you ever come to visit him? A. Yes, I was there several times.

Q. Where was he living? A. Well, I don't know the name of the block he was living in.

Q. Do you know the name of the street if you don't know the name of the block? A. No, I don't think I know the name of the street, either.

Q. With whom did you go there? A. With my husband.

Q. Were you there when he died? A. Yes, the last day I was there was in the evening—that is, the evening before he was buried the next morning.

Q. When you came there was he alive or dead? A. He was dead.

Q. When you got there who else was in that room? A. I, my husband, my mother-in-law, and Lena, Lena's sister and the second sister, and the nephew.

Q. What nephew? A. Well, the first time I have seen him was that evening, when there was a little excitement, the first time I seen him there.

Q. Will you recognize him if you see him in Court? A. I may; I am not so positive.

Q. Do you recognize this young man (indicating

a man in the audience)? A. I think that is the young man.

Q. How long did you stay there that evening? A. About two hours.

Q. Where did you go? A. Then we went downstairs and went home.

Q. Were you to the funeral? A. No.

Q. When you were in the room when Richter died was there anything said by anyone there? A. Yes.

Q. Who was doing the talking there? A. We all did ask.

Q. What did you ask about? A. If he was so sick why they didn't notify us.

Q. Of whom did you ask that? A. Lena.

Q. When you say Lena whom do you mean? A. I mean the woman who was there.

Q. Can you identify her? A. Yes.

Q. Point her out? A. (Indicating a person in the audience.) The woman sitting there.

Q. There are three there. A. The one with the muff in her hand.

Q. Mrs. Richter. What did she say? A. She told us he wasn't so very sick and she didn't notify us.

Q. In what room were you there while this conversation went on? A. In the dining-room.

Q. Were you sitting down or standing up? A. I don't know whether we were seated—I can't recall; I think we were seated.

Q. Now, after that tell us whether there was anything else said about Richter? A. She told us he wasn't so sick and she didn't think it was necessary to notify them, but on the evening, as

he felt so bad, she sent in a man, he wanted to make a will.

Q. When she sent for a man did she say who sent for the man? A. Mrs. Richter sent for the man.

Q. Did she say she sent for the man? A. Yes.

Q. When this was spoken, about sending for a man, was her nephew there at the time? A. Yes.

Q. Did he say anything about a will at that time? A. Well, he said something to my husband in English which I didn't know what.

Q. Then what took place? A. As I say, that they passed some words between them, a quarrel, and I then called my husband into another room.

Q. With whom he was quarreling? A. With Lena's nephew.

Q. Now, then, what else took place there? A. Well, I called him in and then we were in the second room and then we went home.

Q. Have you been over here since? A. No.

CROSS-EXAMINATION by Mr. Hahn:

Q. You didn't understand what they were saying when you went there the first night? A. When he spoke to my husband, the nephew he spoke in English; that I didn't understand.

Q. Was your mother-in-law there? A. Yes.

Q. She was with you all the time? A. Yes.

DAVID ARBEITEL re-called for further direct-examination by Mr. Greenfield:

Q. Mr. Arbeitel, do you know a lady known as

Lena Richter? Whether she has been known by any other name, if you know? A. Yes, sir.

Q. What name? A. Lena Jacobs.

Q. Did she ever go under the name of Lena Jacobs in Newark, if you know of your own knowledge? A. Yes, sir.

Q. How do you know that? A. I know that Mr. Richter was living that time in Ferry Street and he came up to me in Clayton Street—

Mr. Hahn: I object to this line of testimony, I don't think that this is material in the case at all.

The Court: That is to say, whether she was known by some other name or not?

Mr. Hahn: Yes.

The Court: The only question is whether or not, of course, this is a valid will, and this is only material as showing possibly whether or not the will which is offered is one which the deceased might have made and throwing some light, perhaps, on what he meant when he said on his deathbed, if he said it, when he made the reference to his wife, he having had a wife in New York, and some suggestion being made that she had been divorced and that this woman Lena lived with this man, that he treated her as his wife and she was so considered; it seems to me it has some bearing as throwing light on the probability of his having made this will. As I say, it has not any bearing on the direct issue, but in a case of this nature it may be necessary to go into collateral circumstances and in-

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cidents that will help us to reach a conclusion.

Mr. Hahn: I am very glad that the Court has passed upon this question, because it will then afford us an opportunity of going into the matter further.

Q. How do you know that she was known or went under the name of Lena Jacobs? A. One time when he was living in Ferry Street he came over about eight o'clock in the morning, early, and I was working at the houses. He said "Take everything away, come with me."

By the Court: Q. Who said that? A. Mr. Richter.

Q. Told you what? A. I left the work by those houses and I go with him; I went with him to High Street; in High Street he told me, "You go in the First Precinct"—I didn't know at that time where the First Precinct is, and he told me which way I got to go there.

By Mr. Hahn: Q. When was that, what time?

The Court: What has this to do with the wife?

Mr. Greenfield: It will.

By Mr. Greenfield: Q. Did you go down to the First Precinct?

Mr. Hahn: Let him fix the date.

Q. Did you go down to the First Precinct? A. Yes, sir.

Q. Now, then, whom did you see there? A. He tell me—I asked him what I got to do there. He told me there was arrested a couple of girls there and his servant; I go and stay there until they come out. I let him know what is going on. He don't want to go inside.

Q. You went inside, did you—you went in the Police Court there? A. Yes, sir.

Q. Did you see the couple of girls there? A. Yes, sir.

Q. Among the couple of girls who was there? A. There was Mrs. Lena Jacobs too.

Q. She was one of the girls there, too? A. Yes.

Objected to as leading.

The Court: I would suggest that counsel refrain from asking leading questions.

Q. When you say you went in the Police Court and you saw a couple of girls who was there amongst the girls?

Mr. Osborne: Not amongst the girls. Who was there in the courtroom?

The Court: What is it you want to prove?

Mr. Greenfield: I want to prove that she went under different names, that she was known as Jacobs.

The Court: Why do you not get to the point? If he went to the courtroom and saw her there.

Q. Did you see this woman Jacobs in the police court? A. Yes, sir.

Q. What name did she give there? A. Lena Jacobs.

Q. When was that? A. About eleven years, I think.

Q. What? A. I can't exactly say the day.

Q. But how many years ago? A. About eleven years ago.

Q. You knew Mr. Richter when they were living in New York didn't you? A. Yes, sir.

Q. And Lena Jacobs was living in New York? A. Yes.

Q. Under what name did she live in New York, if you know, of your own knowledge? A. She was living under the name of Lena Jacobs. She was in one house and he was in another place. She was in Suffolk Street and he was in another street—I don't remember the street.

Q. Did she go under the name in New York of Lena Richter? A. No, sir.

By the Court: Q. She went under that name here? A. What?

Q. She went under the name of Lena Richter here? A. They call her Richter. I don't call her Richter.

Q. I didn't ask you what you called her. I ask you if she went under the name of Lena Richter here? A. Yes, sir.

Q. She lived with him in the same apartment? A. Yes, sir, the same apartment.

Q. She was known as Lena Richter? A. By stranger people which I don't know.

Q. Her neighbors know her as Richter? A. Yes, sir.

Q. Knew her as his wife, considered her his wife? A. The neighbors considered her.

Mr. Osborne: Considered her what?

The Court: As his wife, and that was in response to a question whether they did consider her as his wife.

By Mr. Greenfield: Q. Now, in that death room, at the time of Mr. Richter's death, who was there first, your son or you? A. I was first, I was called up by Harry Silber—

The Court: He has been all through this once.

Q. Do you know of your own knowledge whether or not Samuel Richter was ever married to Lena Jacobs? A. Never.

Q. How do you know that? A. I know that. After the divorce from the first wife, after the divorce, he came over to New York; when he was coming from New York every time he got his meals in my house; we were sitting by the table and he told me—(witness talks in a foreign language).

Mr. Greenfield: We can't understand that.

The Court: I do not think it makes any difference because it is quite apparent that he doesn't know of his own knowledge.

Q. Mr. Arbeitel, did Mr. Richter ever tell you that he was ever married to Lena Jacobs? A. Never.

Q. Did he ever tell you that he was not married?

Objected to as leading.

The Court: Of course, it is. I think he has been all over it any way.

CROSS-EXAMINATION by Mr. Osborne:

Q. Mr. Arbeitel, where did Mr. Richter live in New York at the time you say that Lena Jacobs lived on Suffolk Street? A. That is a long time ago; that is about seventeen, or sixteen or seventeen years.

Q. That is when you first came over? A. When I first came over what?

Q. It was before you came over? A. I don't understand what you mean.

Q. What was the time they lived apart in New York instead of living together; tell us the date. A The date I can't tell; it is twenty-three years.

Q. It is twenty-three years ago? A. Yes, sir.

Q. You were not here in America at that time? A. Yes, sir.

Q. Was that the first time that you ever met Lena Richter? A. No, that wasn't the first time. The first time I met him in Stanton Street and in Delancy Street.

Q. You don't understand me. Where did you first meet Lena Richter? A. Lena Richter, that will be about twenty-three years.

Q. Do you know of your own knowledge when Samuel Richter first met her? A. A couple of months before.

Q. Where did he meet her, if you know? A. Who I meet?

Q. Where did Samuel Richter meet Lena Richter two months before these twenty-three years ago—where did he meet her? A. Where Samuel met her or I meet her?

Q. Where Samuel met her. A. I can't tell you where he met her. It was before I am here.

Q. You had conversations with Samuel about Lena, didn't you? A. Yes, sir.

Q. And Samuel told you that he had met her in London, didn't he? A. Samuel told me that he has got his wife in the old country, that he didn't marry her.

Q. Answer this question. Didn't Samuel tell you that he had met Lena Richter in London; is that right? A. That is what he told me.

Q. Didn't he tell you whether he was married to her or not? A. No.

Q. What did he say about London then? A. He told me that he came with her from London. I asked him, "Is that your wife?" He says, "No."

Q. How long did he tell you he had lived with her in London? A. I didn't ask him.

Q. He asked you nothing about it? A. No, sir.

Q. Did he tell you that he had lived with her in London for a number of years— A. He told me he was a long time in London with her.

Q. A long time? A. A long time. He didn't tell me how long.

Q. That was before they came to America? A. Yes, sir.

Q. Are they people of the same nationality? A. I don't know what you mean.

Q. They are of the same religion, aren't they? A. The same religion.

Q. And are they both Austrians? A. No, sir.

Q. How do you know that? A. I know it. She is from Russia and he is from Austria, from the same state where I am.

Q. He told you that he had lived with her a long time in London. Did he say how long? A. He didn't tell me how long.

Q. Now, then, in New York, how long did they live together? A. When I am come here, that is twenty-three years—over twenty-three years.

Q. How long did Mr. Richter and Lena live together in New York? A. I can't tell you how long; I didn't ask how long; he was before me coming here.

Q. Did he tell you that he had lived with her for a time in New York? A. Yes, sir.

Q. Now, then after you had met both of them in New York—you fixed that time twenty-three

years ago—how long after that did they live together in New York? A. Five or six years or seven years; I can't exactly say.

Q. Five or six or seven years they lived together in New York? A. Yes, sir.

Q. And in one apartment? A. No, sir.

Q. How did they live together if they didn't live in one apartment? A. He kept a place in Christie Street and she was in Suffolk Street. They kept two places.

Q. How long a period didn't they live together, according to you? A. Three years.

Q. Three years they didn't live together at all? A. No; he was in that house in Christie Street and she was in the other house in Suffolk Street.

Q. I suppose she was managing a boarding-house for him and he was managing another boarding-house; is that it? A. Yes, sir.

Q. He slept in one place and she slept in another? But ordinarily, as far as your knowledge goes, they had lived together from the time that they met, hadn't they lived together as man and wife from the time they met, hadn't they? A. I don't understand what you mean.

Q. He told you that they had lived together in London as man and wife, didn't he? A. Yes, sir.

Q. I don't mean that he told you that they were man and wife, but he said that they had lived in London as man and wife a long time? A. I don't understand.

The Court: (To the interpreter.) Make this question clear to him. The question asked is not whether Mr. Richter told the witness that they were man and wife, but

whether he told the witness that they had lived together as man and wife a long time in London.

The Interpreter: He says no.

Q. He did not. How long had they lived in Newark? A. About eleven years, I think.

Q. Where is Barclay Street, where is that in Newark? A. Near Clayton Street, Barclay and Clayton; they run one place.

Q. A residential neighborhood? A. Yes, sir.

Q. Now, for eleven years they had lived there in one apartment as man and wife; hadn't they? A. I don't know as man and wife. I wasn't there during the nighttime.

Q. They have lived together in this apartment with small rooms, haven't they? A. Small rooms.

Q. Your daughter is a respectable young lady, isn't she? A. Yes, sir.

Q. And also your daughter was very friendly with Lena Richter, wasn't she? A. Yes, sir.

Q. And she knew her as Mrs. Richter? A. What?

Q. She knew Lena Richter as Mrs. Richter, didn't she? A. Certainly, everyone in the neighborhood thinks that she is his wife.

Q. Everybody in the neighborhood thinks and believes that Lena is Mr. Richter's wife? A. Certainly.

Q. And they call her Mrs. Richter? A. Certainly.

Q. And this was true all the while they lived in Newark? A. Certainly.

Q. Who did you know in New York that they knew? Were you friendly with their friends in New York? A. I don't understand.

Q. Were you employed by Samuel in New York, were you working for Samuel in New York? A. I was working here; he was living there.

Q. Then you only saw them now and then? A. Yes.

Q. You didn't know their friends in New York, did you? A. Yes, sir.

Q. Did you know the people that lived in the neighborhood where they lived in New York? A. Yes, sir.

Q. All the people that lived in the neighborhood? A. No.

Q. Did you know what the people around the neighborhood in New York called them? A. In New York you don't live in one house, one don't know the other one.

Q. That is exactly it. So you don't know what their reputation was in New York, whether it was that of man and wife, among the neighbors there? A. The neighbors I didn't know.

Q. You didn't know what the people upstairs or downstairs in New York, whether they considered them as man and wife? A. No, sir.

Q. The neighborhood around Barclay Street and Clayton Street in Newark, that is a perfectly respectable neighborhood, isn't it? A. Certainly.

Q. It certainly is? A. Yes, sir.

Q. And has been during the eleven years that they have lived there? A. Yes, sir.

Q. And highly respectable people live in Newark there? That is correct? A. Yes, sir.

Q. Now, you have been in their house in Newark a great many times? A. Yes, sir.

Q. You have seen Samuel and Lena together? A. Sometimes.

Q. Your son and you saw Mr. Richter almost every day? A. Yes, sir.

Q. You were the janitor of the properties? A. Yes, sir.

Q. It is a fact, isn't it, that Samuel and Lena were always affectionate one toward the other? A. I don't understand—

Q. They were loving with each other, friendly? A. Why, certainly. If she is in the house it must be friendly.

Q. But you had opportunity to observe them, didn't you? You were there enough times to see whether they were friendly or otherwise? A. Sometimes they were friendly; sometimes they were not friendly.

Q. And they were affectionate, weren't they—affectionate means loving—weren't they loving? A. What I know what in his heart is. I can't answer such a question.

By the Court: Q. What was his manner towards her, how did he treat her? A. He treated her like a man treat a servant.

Q. He treated her like his servant. A. Certainly.

By Mr. Osborne: Q. Did he also treat her as a man would treat his wife, as far as you could see? A. That I can't tell.

The Court: The witness apparently does not know how man should treat his wife, but he does know how he should treat a servant.

Reserving the right to call two more witnesses.

Caveators rest.

ROSE BERNSTEIN sworn in behalf of proponents in rebuttal:

Direct-examination by Mr. Osborne:

Q. Mrs. Bernstein, where do you live? A. 46 West 116th Street, New York City.

Q. And are you married or single? A. Married.

Q. And who is your husband. A. Louis Bernstein.

Q. And is that the gentleman who testified here as being one of the witnesses to this will? A. Yes, sir.

Q. How long have you been married? A. Since June 18, 1913.

Q. And have you any children? A. Yes, sir, one.

Q. How old? A. Eleven months.

Q. What is your husband's business? A. Salesman in a retail shoe business.

Q. And for whom? A. Young, I think it is, on West Forty-second Street.

Q. You are also a sister of Abraham Karp, are you not? A. Yes, sir.

Q. And it is the young man that has been on the stand while you have been here? A. Yes, sir.

Q. Do you know Lena Richter? A. Yes, sir.

Q. What relation is she to you? A. My aunt.

Q. Did you know Samuel Richter in his lifetime? A. Yes, sir.

Q. And what relation was he to you? A. My uncle.

Q. Where did they live; do you know where they lived at the time of his death? A. At 12 Barclay Street.

Q. What city? A. Newark, New Jersey.

Q. Were you at his funeral? A. Yes, sir.

Q. Now, I show you a paper which purports to be the last will of Samuel Richter, the name Samuel Richter is signed to it, and I ask you to look at that will and at that signature? A. Yes, sir.

Q. Do you recognize that paper? A. Yes, sir.

Q. Were you present when that paper was signed? A. Yes, sir.

Q. Where was it signed? A. At my home.

Q. Where is your home? A. 46 West 116th Street, New York.

Q. Did you see that name Samuel Richter signed to that paper? A. Yes, sir.

Q. Let us go back to before it was signed, let us get this picture as it was. About what time in the evening was it signed? A. I should think about half-past eight.

Q. Now, before it was signed who was there? Who were the people that were there in that room or in the apartment? A. My brother and my husband and myself and my uncle.

Q. That is, Abraham Karp? A. And Louis Bernstein, my husband. Mr. Richter, my uncle and myself.

Q. Now, what time did Mr. Richter arrive there? A. Shortly after eight.

Q. Now, from the time he arrived there will you tell us in your own way what happened? A. We got to talking about the general health of one another, and then my uncle, Mr. Richter, said that he had been taken with sudden attacks of rheumatism here lately and he heard that Sharon Springs was a very good place for him to be cured there, and he would like to take the trip and he

would like to get all his affairs straightened before he went, therefore he want to draw up a will, and then he said to my brother, "Abe, have you that with you?" and my brother took the will out of his pocket and said, "Should I read it?" and my uncle says, "Yes," and he read the will aloud to him, and then my husband got along side of my brother and they both started in explaining the contents of the will—that is, in Jewish—explaining everything to him, and then he says, "Uncle, is everything perfectly clear?" and he said, "Yes, certainly." He said, "Do you declare this to be your last will and testament?" and he said, "Yes," and then he said "Well, sign the will here," at which my uncle signed and then my brother said to my uncle, "Do you want Lou"—meaning my husband—"and myself to be witnesses?" And he said, "Certainly, that is what I came here for," and the two of them signed as witnesses.

Q. Were you present in the room all the time your uncle was there? A. Yes, sir.

Q. Did you live in a small apartment? A. A four room apartment.

Q. Can you tell us how long it took him to sign his signature? I want you to tell us anything that you know about that, about the length of time or what you remember about it? A. Well, it took him rather an unusual time, I should judge about three or four minutes, much longer than I would take to sign my name or any one else who has been accustomed to do a great deal of writing.

Q. Where were you at the time he was signing his name? A. If I remember correctly, I think

I was walking up and down, getting ready to serve some tea.

Q. Were you in the room? A. I was in that room while he began signing and I left every now and then to get something to serve.

Q. Then you were not in that room all the time? A. No, sir.

Q. Did anybody get him any writing materials, that is, pen and ink? A. Yes, sir, I got him the pen and ink.

Q. Where did you have that pen and ink? A. Well, I have it—not out in view—I can get it whenever it is asked for. I have no little writing table, but whenever the ink is asked for I can get it.

Q. Did you see any pencil there—

Objected to as leading.

Q. I will ask her if she saw anything. Did you see anything on the table that you recall besides pen and ink? A. There probably was a pencil; I won't say positively; I think there was.

Q. Did you procure him a pencil? A. No, sir.

Q. Did your uncle make any request of you of any kind that evening?

Mr. Greenfield: I object to it as leading. She should state what took place. She was there and heard what was said.

The Court: She has attempted to do that and apparently did not tell everything on her first narration of these events, because when she was first interrogated further she told of getting the pen and ink which she had not mentioned, and it would be quite unusual for a witness to detail every particular act which took place, especially if it

covers a considerable space of time, and it is not improper to call the witness's attention by a proper question to anything that has been omitted. I will allow the question.

(Question read.)

A. Yes.

Q. What was it? A. He requested that I say nothing about this, it should be kept as a secret.

Q. I will direct your attention to another matter. You got nothing for your uncle except the pen and ink? A. No, sir.

Q. You got no pencil for him? A. No, sir.

Q. Did he ask you for anything? A. Yes, sir.

Q. What was it? A. He asked for a rubber, which he meant an eraser. I have none in the house—

Mr. Greenfield: I object to what he meant.

The Court: Strike it out. He asked for a rubber.

Q. What did you say? A. "I have none."

Q. That was all about that? A. Yes.

Q. Did you or did you not furnish him any? A. I did not.

Q. Did you or did you not notice whether he used that night a pencil or an eraser? A. I didn't notice whether he used the pencil or not, but I am positive that he didn't use the eraser that night in my presence.

Q. And to the best of your recollection you don't recall seeing any pencil? A. I don't recall it.

Q. Now, after he had concluded the signing of his name will you just repeat to us what your

brother said, to the best of your recollection, about this being his will, and so on? A. After he signed my brother said, "Uncle, do you want Lou and myself to be witnesses to this will?" And he said "Certainly, that is what I came here for."

Q. How did your uncle appear that evening—had he been drinking at all? A. Not that I could notice; he was perfectly normal.

Q. Did you give him anything to drink? A. I might have served some whiskey.

Q. Do you remember whether that was before or after he signed the will? A. I guess it might have been before, as soon as he came in.

Q. How long was he there? A. That evening?

Q. Yes, all evening. A. About an hour and a half, I should judge.

CROSS-EXAMINATION by Mr. Greenfield:

Q. How old are you? A. Twenty-two.

Q. You say you were married in June, 1913? A. Yes, sir.

Q. Where did you go to live? A. 46 West 116th Street.

Q. The same place you are living now? A. Yes, sir.

Q. How often did you come to Newark after you were married? A. After I was married—

Q. Did you visit your uncle? A. After I was married?

Q. Yes. A. Pretty often.

Q. How often? A. I think about once or twice a month.

Q. Alone? A. No, with my husband.

Q. You went there once or twice a month from

the day of your marriage up to the time of your uncle's death? A. No, sir.

Q. For what period of time did you come once or twice a month? A. I came until I was unable to do any riding because I was about to become a mother.

Q. When did you cease coming here about? A. I don't recall exactly.

Q. You always came with your husband? A. Most of the time.

Q. Never came alone? A. I don't think after I was married I ever came alone.

Q. Did you ever call at your uncle's before you were married? A. Certainly. I stopped there very often.

Q. How often? A. Well I used to sometimes go out there Saturday and stay there until Sunday, and Sunday my husband would come out to see me. We were not married then.

Q. For what time was that before you were married that you would come out and see your uncle and stay over Saturday? A. Continuously, right before I was married.

Q. For what period, a year or two years, five years, preceding the marriage? A. As long as I can remember, even before I met my husband.

Q. I am talking about before marriage. How long before your marriage did you call at your uncle's? A. You mean when I first began calling at my uncle's?

Q. Yes. A. Ever since I can remember, about five years, six years.

Q. Did you keep company with our husband for five or six years? A. No, I mean since I was five or six years old.

Q. Do you call her your aunt, that is, Lena Richter, the lady known as Lena Richter. How is she your aunt? A. My mother's sister.

Q. You haven't got a distinct recollection of what took place that night at your house, have you? A. I certainly have.

Q. If you have a distinct recollection then why do you say "I might have served him with whiskey?" A. But as to the serving I couldn't very will remember just what I served.

Q. Did you serve any whiskey that night? A. I think I did. It is customary for me—

Q. Why do you say you think—do you know it? A. I don't know—I think I am almost positive.

Q. It was rather an unusual occurrence that took place in your house that night, wasn't it? A. Yes, sir.

Q. And everything that took place you remember, don't you? A. The most important parts I don't forget.

Q. What is the most important part? A. The signing of the will.

Q. What was there so important about it? A. Something very unexpected to me.

Q. Unexpected was it? A. Yes, sir.

Q. Were you told that your uncle might be there? A. Yes, sir.

Q. Then you expected him? A. Yes, sir.

Q. Were you told what he was to be there for? A. No, sir.

Q. You were not told anything about, what his object of the visit would be? A. No, sir.

Q. When had you seen your uncle previous to that visit in your house, if ever? A. I never saw him in the house before.

Q. That was his first visit, was it not? A. Yes, sir.

Q. Was he to your wedding? A. Yes, sir.

Q. Sure of that? A. Positive.

Q. There was no argument between your brother and he there at the wedding, was there? A. No, sir, not that I know of.

Q. You were there? A. Yes, sir.

Q. No doubt about that? A. No doubt.

Q. Now, Mrs. Bernstein, why do you say it took him an unusual length of time to sign his name. You weren't always in the room there. A. Well, I noticed when he began and I noticed when he got through.

Q. Were you standing there from the time he began up to the time he finished writing the name? A. No, sir.

Q. Then how did you know when he finished writing the name? A. Well, I was there when he began writing the name.

Q. Yes. We have got that. Were you there when he finished writing the name? A. Yes, sir; I walked in and out.

Q. I didn't ask you that; I am asking you whether you were there present and saw him writing the name? A. Yes, sir.

Q. Are you sure? A. Positive.

Q. Why did you say a moment ago that you were not present when he finished writing his name? A. Well, I wasn't present during the whole time he was signing.

Q. I didn't ask you that; I ask whether or not you were present and saw him finish writing his name and a moment ago you said you weren't there? A. I was there.

Q. Why did you say a moment ago that you were not there? A. I was there when he finished writing his name.

Q. Then you want to change that testimony? A. I don't think I said that.

(The testimony of the witness is read by the stenographer as follows: "Q. Now, Mrs. Bernstein, why do you say it took him an unusual length of time to sign his name? You weren't always in the room there. A. Well, I noticed when he began and I noticed when he got through. Q. Were you standing there from the time he began up to the time he finished writing the name? A. No, sir. Q. Then how did you know when he finished writing the name? A. Well, I was there when he began writing the name.")

Q. Then you weren't there when he finished writing his name?

Objected to.

The Court: Counsel wants to ask this question: Were you there or were you not there when he finished his writing?

Witness: I was.

Q. You were? A. Yes, sir.

Q. Which is the correct statement, the first statement when you said you were not there or the statement now that you were there?

Mr. Hahn: Is that a fair question?

The Court: I understood she was not there when the name was concluded, that she said that in response to a question of Mr. Greenfield's. She now says she was there and she reiterates that.

Q. When you said first that you were not there was that true? A. I was there. I don't remember saying I wasn't there.

Q. Why, it has just been read to you.

The Court: The question in answer to which she said she was not there when the writing of the name was not finished was not read to her. The one read to her was the later answer, when she said she was there when the writing of the name was finished, but not during the whole of the time that the name was being written.

Q. Just tell us what took place when your uncle came in there, came into your house? A. We were discussing the general health of one another, and then he began telling about his sudden attacks of rheumatism and about the trip he contemplated taking to Sharon Springs in order to have this cured.

Q. What room did he get in when he first came into your apartment? A. To the kitchen.

Q. How long did he stay in the kitchen? A. We were just getting through with our supper—

Q. I didn't ask you anything about your supper, did I? I am asking you how long did he remain in the kitchen when he came in? A. Didn't remain at all.

Q. Where did he go? A. Into the dining-room.

Q. Who went with him? A. I did and my husband.

Q. Anybody else? A. No, sir—and my brother.

Q. He is somebody. A. My brother came with him.

Q. You are sure? A. Positive.

Q. Of course, you don't know where they met? A. No, sir.

Q. Then you are not mistaken, when you say that your brother came with your uncle? A. Positively not.

Q. When they came into the kitchen you say they went to the dining-room? A. Yes, sir.

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

Q. How long did they stay in the dining-room before there was a request for a pen and ink? A. Three-quarters of an hour.

Q. And during this three-quarters of an hour what were you doing? A. I was in the dining-room with them.

Q. You didn't remain in the kitchen—you didn't go into the kitchen, did you? A. No, sir.

Q. At no time while they were sitting in the dining-room? A. I may have to wash some glasses or so.

Q. And you may have gone in there to finish the dishes, or had you finished the dishes? A. I left the dishes.

Q. You left the dishes? A. Yes, sir.

Q. What did you go into the kitchen to clean glasses for during the period they were sitting in the dining-room? A. Well, to serve.

Q. Serve what? A. I think I may have served the whiskey.

Q. Now, are you sure whether you served whiskey? A. I served it later.

Q. When did you serve it, before or after the will was signed? A. After.

Q. Now, you were there, Mrs. Bernstein, from the time your uncle came into the dining-room and

you saw your brother take the will from his pocket; that is right? A. Yes, sir.

Q. You saw him put it on the table, did you? A. Yes, sir.

Q. And then there was a request for ink? A. Yes, sir.

Q. You produced it, you handed the ink? A. Yes, sir.

Q. Where did you find the ink? A. Where I usually keep it.

Q. I don't know where you keep it. A. Well, there is a little closet.

Q. In the dining-room? A. In the dining-room.

Q. And that didn't take you long to get, of course? A. No, sir.

Q. About a second? A. That is all.

Q. And you put the pen and ink on the table? A. Yes, sir.

Q. And then you saw your uncle take the pen and sign his name? A. Yes, sir.

Q. No question about that? A. Positively not.

Q. Nothing else occurred there, did it, at that time, in that room? A. No, sir.

Q. You didn't see anything else—you didn't see anything else in that room except this will, and the pen and ink; that is right, isn't it? A. Yes, sir.

Q. And you didn't see anything else used at that time? A. A duplicate copy.

Q. Was the duplicate signed, too? A. No, sir.

Q. That was used, then, was it? A. Well, my husband was reading the duplicate copy over when the original was first being read by my brother aloud.

Q. But that wasn't signed? A. No, sir.

Q. Nothing was done with it, was there, with the duplicate of the carbon copy? A. No, sir.

Q. And you were there all the time and saw everything that took place, didn't you? A. Almost everything.

Q. You are sure of that? A. Positive.

Q. And if anything else would have occurred you would have seen it? A. Unless during the time that I went back and forth.

Q. But at that time were they signing the will, when you went back and forth, was your uncle signing the will? A. When my uncle began to sign the will I was in the room.

Q. And you saw him finish it? A. I just got in when he finished.

Q. And you saw him take the pen? A. Yes, sir.

Q. You didn't see him take anything else, did you? A. Not that I can remember.

Q. Why is your memory poor now? A. It is not poor, but I may not have noticed anything else.

Q. You saw evertyhing that took place there, didn't you? A. As far as I can remember.

Q. Well, did anything else take place that you don't remember? A. Well, probably there did. If I don't remember I couldn't say.

Q. But you say you saw your brother take that will out of his pocket? A. Yes, sir.

Q. You heard it read? A. Yes, sir.

Q. You saw your brother take that will out of his pocket, didn't you? A. Yes, sir.

Q. You saw him put it on the table, didn't you? A. Yes, sir.

Q. Spread out for signing it? A. Yes, sir.

Q. And you saw them pick up the pen? A. Yes, sir.

Q. From the time your brother put that will on the table for signing it up to the time he took up the pen were you present in that room and at that table? A. The time who took up the pen?

Q. Your uncle. A. Yes, sir.

Q. And you saw him start in to write his name? A. Yes, sir.

Q. You can't be mistaken on that? A. Positive.

Q. What else did you bring at the table besides the pen and ink, whiskey and tea, did you bring anything else there? A. Probably a blotter.

Q. Well, did you? A. I think I did. When I am requested for a pen and ink I usually put a blotter down with it.

Q. I am asking you on this particular occasion. A. I think I did.

Q. You are sure of that? A. I think I did.

Q. Did anybody use a blotter? A. I couldn't say.

Q. You were there all that time, were you not? A. Well, I couldn't say whether they did or not.

Q. Did you see your brother hand the will over to your uncle? A. Yes, sir.

Q. In what condition or position was that will? A. Just as you are holding it now.

Q. (Indicating.) That way? A. Yes, sir.

Q. Open? A. Yes, sir.

Q. Sure? A. Positive.

Q. It wasn't this way, with the front page down? A. No, sir.

Q. It was just this way? A. Yes, sir.

Q. Immediately after your brother signed? A. Well, my brother signed first and then my husband signed.

Q. Was it immediately after your husband signed?

Mr. Osborne: Was what immediately before her husband signed?

Mr. Greenfield: When it was handed over to her husband after it was signed.

Q. After your husband signed was that will handed over to your uncle immediately? A. Yes, sir.

Q. Now, then, did you see any blotter being used? A. I can't rememeber.

Q. Was there any blotter there? A. I think there was.

Q. You don't remember that? A. No, sir.

Q. Now, was there more than one bottle of ink? A. No, sir.

Q. And do you know whether or not your brother and your husband signed with the same pen and used the same ink as your uncle did? A. Yes, sir.

Q. You can't be mistaken on that? A. Positive.

Q. What else did your brother do besides signing his name? At that time? A. After he signed his name?

Q. After or before? A. Well, he read the will aloud.

Q. Anything else? A. Explained it, went through it.

Q. Did he write anything else outside of signing his name? A. I don't think so.

Q. You saw it? A. Unless—

Q. You saw it? A. I saw it.

Q. Did you see him do anything else? A. I can't remember.

Q. You were there? A. I can't remember.

Q. Well, how do you know that he signed his name? A. I saw that.

Q. You say you saw it all from the time your brother took the will out of his pocket and put it on the table? A. Yes, sir.

Q. You saw your uncle sign? A. Yes, sir.

Q. You saw your brother sign? A. Yes, sir.

Q. That is right, isn't it? A. Yes, sir.

Q. Did you see him do anything else? A. No, sir; I didn't see him do anything else.

Q. If he did you could have seen it and would have seen it, wouldn't you? A. Yes, sir.

Q. If I am not too inquisitive, what was your occupation or business before you were married? A. Bookkeeper.

Q. Stenographer? A. No, sir.

Q. Did you know anything about typewriting? A. Yes, I knew a little typewriting, but that wasn't my occupation.

Q. But you knew something about it? A. Yes, sir.

Q. Have you got a typewriter in the house? A. No, sir.

Q. Did you ever have one? A. No, sir.

Q. Did you typewrite this will? A. No, sir.

Q. Sure? A. Positive.

Q. Do you know where your brother got this paper? A. No, sir, only from what I heard.

Q. Now, after your uncle, as you say, signed this will, did your husband sign—was he the last one? A. Yes.

Q. And then you saw your brother pick that up from the table? A. Yes, sir.

Q. As it was folded, as I have it now, with the front page over the cover, it was handed to him? A. Yes, sir.

Q. What did he do with it? A. My uncle folded it up and put it in his inside coat pocket.

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

Q. And during that time you have not seen anything else occur or anything done with the will, have you? A. No, sir.

Q. What day was it when your uncle was at your house? A. I think it was March 11th.

Q. What was there to remind you of March 11th? A. It was on a Wednesday night, it was either a holiday or the day before a holiday, a Jewish holiday.

Q. What was there to impress it on your mind as March 11th? A. I remember it was March 11th that he signed his will.

Q. Nothing unusual occurred in your house outside of signing the will that would make you remember the date? A. No, sir.

Q. Nothing unusual within the short period of time after your uncle signed the will in your house, was there? A. That same night?

Q. Or within a day or two? A. Well, about two weeks later I gave birth.

Q. That doesn't, of course, call your attention to March 11th, does it? A. No, sir.

RE-DIRECT-EXAMINATION by Mr. Osborne:

Q. I want to ask you generally about your uncle and aunt. How many times had you seen them together? A. Always—most of the time, that is.

Q. You visited them here in Newark, did you? A. Yes, sir.

Q. How many times did you go out there? A. I couldn't answer it, it was so often, since childhood.

Q. Since you were seven years of age? A. Since I was born my aunt and uncle always came together most constantly and my aunt came to my mother's house and my mother came to them, from what I hear.

Q. What is your first recollection of having seen them, where they lived, having seen them at all? A. I couldn't recall that.

Q. Do you ever remember a time when you didn't know them? A. No, sir.

Q. Where did they live when you first remember them? A. I couldn't recall that.

Q. Is your earliest recollection of coming to Newark to see them? A. No, sir, I remember before I even went to school my aunt and uncle used to come to my house and I used to see them occasionally.

Q. Where did you live then? A. I couldn't recall.

Q. New York, was it? A. New York.

Q. What did you call Mr. Richter at that time? A. Uncle, all the time.

Q. How many times would they come to see you generally when you were a child like that?

A. Very often; I think I would see them every day. They were particularly fond of me.

Q. After they came to Newark here how often did you come over to see them? A. While I was going to school I would come out to Newark Friday afternoon and stay until Sunday night nearly every week.

Q. How would you address him when you came out? A. Uncle all the time.

Q. In the last few years how have you addressed Mr. Richter? A. Uncle.

Q. Have you noticed their bearing, their manner when they were together? A. Certainly.

Q. Can you describe it? A. Very usual, the same as my husband and I would act.

Q. You have seen other men with their wives? A. Yes, sir.

Q. Did you see any difference between the demeanor of men and wives usually and Mr. Richter and Lena Richter? A. No difference whatever.

Q. Do you remember any excitement at your wedding at all? A. No, sir.

Q. Any words that your brother had with Mr. Richter? A. No, sir.

Q. Did you ever hear of any quarrels that he had with Mr. Richter? A. Never. He was very fond of him.

Q. You say your child was born about two weeks after this will was made? A. March 31st.

Q. When did you come to Newark first after your uncle's death? A. The day of the funeral.

Q. You weren't there the day he died nor the next day? A. No, sir, not me.

Q. Did you hear any conversation about the will on the day of the funeral? A. No, sir.

Q. Did you hear your brother say to anybody he knew there was no will—did you hear your brother say that? A. No, sir.

Q. Did you hear him say to anybody that your uncle didn't believe in wills? A. No, sir.

Q. Did you hear your brother ask anybody whether there was a will? A. No, sir.

Q. Were you present when any search was conducted for the will? A. No, sir.

Q. Were you present on that occasion when they were sitting upstairs? A. No, sir.

Q. You were not present there? A. No, sir.

Q. When they were looking over papers? A. No, sir.

Q. Your child was then born, of course? A. Yes, sir.

Q. And how long did you stay in Newark—how long did you stay at the funeral in Newark? A. Only went to the funeral.

Q. And how long were you in the house here in Newark? A. From the time I came until the time he was buried.

Q. And then you went right back? A. I went to the Cemetery.

Q. Did you see Mrs. Katzin there at all? A. In the house?

Q. Yes, at the funeral, do you know her? A. Yes, sir.

Q. Do you remember seeing her? A. I don't know. I don't think I saw her.

Q. Where were the family gathered in the house at the funeral? Of course, it was a small apartment. Were they all over the four rooms or any one? A. They were all in the four rooms; it was crowded.

Q. Do you know Mr. Arbeitel, Sr.? A. Yes, sir.

Q. How long have you known him? A. Ever since I have been coming to Newark to see my uncle.

Q. And have you seen him frequently around your uncle's house when you came? A. The Senior?

Q. Yes. A. No, sir.

Q. The boy or Mrs. Katzin? A. I used to see her occasionally.

Q. Did you ask anybody about a will at the funeral? A. No, sir.

Q. Did you tell anybody at all after the will was drawn that the will had been drawn? A. No, sir.

Q. Why not? A. I was asked to keep it a secret.

Q. Did you ever see your uncle carry a lead pencil? A. Yes, sir.

Q. How many times have you seen him? A. I think always, he always had a couple of lead pencils in his vest pocket.

Q. Have you ever seen him write with a lead pencil? A. I think I did.

Q. Have you ever seen him write with a lead pencil? A. I think so.

Q. Had you ever seen him write with ink prior to this time of the making of the will? A. No, sir.

RE-CROSS-EXAMINATION by Mr. Greenfield:

Q. How long did you say your uncle stayed in your house about that night? A. About an hour and a half.

Q. And you say he got there what time? A. Shortly after eight.

Q. And he left what time? A. I should think about 9:30.

Further DIRECT-EXAMINATION by Mr. Osborne:

Q. Did this neighborhood in Clayton Street and Barclay Street where you visited, seem to be a respectable neighborhood? A. Yes, sir; I also visited them in Ferry Street.

Q. Did that seem to be a respectable neighborhood? A. Yes, sir.

Q. Did you visit them any at New York when people would call? A. Yes, sir.

Q. People in the neighborhood? A. Yes, sir, relatives.

Q. Do you know on those occasions how they addressed Mrs. Richter? A. Mr. Richter's nephew would call her aunt; in Jewish he would call her "Tanta" and he was very affectionate to her.

Q. What is his name? A. Julius Richter.

Q. Where does he live? A. In New York—Julius Gartner, Mr. Richter's sister's son.

Q. Is that the gentleman that has been on the witness stand here? A. Yes, sir.

Q. (Indicating a man in the audience.) Is that the man? A. That is the gentleman.

Q. And he called her "Tanta?" A. Yes, he was very affectionate to her.

Q. How many times have you heard him say that? A. Why whenever I was there he would call her "Tanta."

Q. How many times do you think? Was he always there when you were there? A. No, sir.

Q. How many times do you think you heard him

say "Tanta" to her? A. Whenever he addressed her.

Q. I know, but it might have been once or a thousand times. How many times do you think you saw him there, for instance? A. I must have seen him there about twice.

Q. Did he call her "Tanta" on both of those occasions? A. Yes, sir.

Q. Did you ever hear Mr. Richter call her his servant? A. No, sir.

Q. Did you ever hear him say to other people "This is my servant?" A. Never.

Q. Do you remember how other people that lived in the neighborhood that may have come in, how they addressed her? A. Mrs. Richter.

Q. Did you ever hear her called Lena Jacobs? A. Never.

By Mr. Greenfield: Q. Do you know her maiden name? A. It is Lena Jacobs, because my mother's maiden name is Jacobs, too.

Q. You say your uncle Richter wasn't in your house from the date of your wedding up to that time when he was supposed to have signed the will? A. Yes, sir; he was not in my house before.

At this point the court took a recess for an hour.

After recess.

HELEN SMITH sworn in behalf of caveators:

Direct-examination by Mr. Greenfield:

Q. Miss Smith, where do you live? A. 144 Union Street.

Q. How long have you been living in Union Street? A. About four years.

Q. And your mother is Theresa Smith? A. Yes, sir.

Q. And who, if you know, was your landlord? A. Mr. Richter.

Q. Did you know him in his lifetime? A. Yes, sir.

Q. How often would he call around that Union Street house where you lived? A. I very seldom see him.

Q. But you did see him occasionally? A. Once in a while.

Q. Have you ever had occasion to go to Mr. Richter's house on Barclay Street? A. Yes, sir.

Q. Can you recall how long ago that was? A. It was in the summer one day, in the summer, that is all I can say.

Q. What did you go there for? A. To bring the rent.

Q. Whom did you see? A. Mrs. Richter.

Q. Could you identify the woman if you saw her? A. Yes, sir.

Q. (Indicating a person in the audience). That is the one you saw? A. Yes, sir.

Q. Did you see Mr. Richter that time? A. No, sir.

Q. Did you pay the rent over there at that time? A. No, sir.

Q. Will you tell us just what took place? A. I knocked at the door and asked if Mr. Richter lived here, and the woman says yes, and she asked me what I want, and I said I brought the rent from 144 Union Street, Mrs. Smith, and she said "Mr. Richter is not in and I have nothing to do

with the rent, so you better bring the rent to him and Mr. Richter will come down for it."

Q. She didn't offer to take the rent, did she? A. No, sir.

Q. That is all you know about it? A. Yes, sir.

CROSS EXAMINATION by Mr. Hahn:

Q. What is your name? A. Miss Helen Smith.

Q. Are you married? A. No, sir.

Q. Where do you live? A. 144 Union Street.

Q. On this occasion you went to Mr. Richter's home was this at 12 Barclay Street? A. Yes, sir.

Q. And you saw Mrs. Richter there? A. Yes, sir.

Q. Isn't it a fact that the reason you didn't leave the money there was because she didn't have the receipt for it? A. No, sir; she told me not to leave it there.

Q. Will you swear that the word receipt was not used at all or was not mentioned? A. Yes, sir.

Q. Will you swear to that? A. Yes, I swear.

Q. Didn't your mother tell you to get a receipt when you paid the rent? A. Yes, sir my mother told me to get the receipt.

Q. She did tell you to get a receipt? A. Yes.

Q. Did you ask for a receipt? A. I didn't ask for no receipt; I asked to take the rent and she said she couldn't take it.

Q. You wanted a receipt? A. Yes, sir.

Q. You wouldn't have left the money there unless you got a receipt? A. No, I wouldn't have left the money without a receipt.

Q. Who signed the rent receipt? A. Mr. Richter did.

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

Q. Are the receipts here? A. I don't know. My mother is in Court.

Q. How were the receipts always signed, ink or pencil? A. I don't know; I never seen the receipts.

Q. Did you see any one there at the house besides Mrs. Richter? A. No, sir.

Q. Is that the first time you met Mrs. Richter? A. Yes, sir.

Q. Did you ever see her after that? A. Once after that down at our house after Mr. Richter's death.

Q. The woman that came down after Mr. Richter's death, is this the lady you saw when you went up there to pay the rent? A. Yes, sir.

Q. Did you go up there on any other occasion? A. No, sir, that is the only time I went.

Q. When was that? A. It was this summer.

Q. How many years ago? A. It was only this summer past.

Q. Why was it that you went to Mr. Richter's house to pay the rent? A. Because he didn't come down and we thought he was sick. He always came down for the rent.

Q. What day did he come down for the rent? A. I don't know; he didn't happen to come down this day; I suppose he came down on a Monday.

Q. How much money did you take up there? A. $25.

Q. In bills? A. Yes.

By Mr. Greenfield: Q. There was no receipt mentioned there at that time at all, was there? A. No, sir.

THERESA SMITH re-called in behalf of caveators:

Direct-examination by Mr. Greenfield:

Q. Mrs. Smith, you were requested to bring your receipts, the particular rent receipts. Did you bring them? A. No, sir.

Q. Why not? A. I ain't got it because last Wednesday we done the kitchen, last week Wednesday, and I had the receipts, all the receipts and gas bills on the door in the kitchen and the painter destroyed it or throwed it on the floor— I don't know what he done with them—I couldn't find it.

CROSS-EXAMINATION by Mr. Hahn:

Q. Do you mean to tell me you haven't got those receipts? A. Yes.

Q. You can't get them? A. I can't get them because I can't find them.

Q. Where did you look for them? A. In the kitchen.

Q. Did you keep them in the kitchen? A. Yes, sir.

Q. How many rent receipts did you have? A. I don't know; I didn't count them.

Q. I know you didn't count them, but about how many? A. I don't know.

Q. How long have you lived there? A. Four years in March.

Q. And you kept the receipts? A. Yes, sir.

Q. And you had four years receipts? A. I can't say whether I got four years or not; I don't know how many I had.

Q. Why did you keep them? A. Because I felt that way.

Q. Is that the best answer you can give? A. Why you holler at me?

Q. I am not hollering at you. I want to get an answer. I asked you why you kept those receipts and you answered me in a very flippant way.

Mr. Greenfield: Oh, no, she did not.

Q. I want an answer. That is not an answer, Mrs. Smith.

The Court: It may be her answer.

Q. I will ask this question; Can't you give me a better reason? A. What question?

Q. I asked you why you kept these receipts for four years. A. I didn't say I kept for four years; I said I had receipts, I didn't know how many; any time I get a receipt or gas bill, I put on the nail.

Q. I am not asking about a gas bill. A. Rent receipts.

Q. You saved them? A. Yes, sir.

Q. Where did you keep them? A. On the door in the kitchen, on a nail.

Q. How many did you have there? A. I couldn't tell you how many; I may have had a dozen or two; I never count them.

Q. Why did you keep them? A. I keep them; that is my habit; I always had them on a nail.

Q. When did you last see the receipts? A. Before the kitchen got painted last Wednesday. Here is the gentleman who did the job (indicating).

Q. What became of the receipts? A. I don't know—when they painting the door they took the receipts and throwed them on the floor.

Q. Who did? A. The painter.

Q. Were you there when he did it, did you see him do it? A. No, I didn't.

Q. How do you know he did that? A. I did not. I said must be.

Q. You said the painter took them from the door? A. I said it must be because the door has been painted. The receipts were hanging on a nail.

Q. You were not there—you didn't see that?

The Court: She has stated to you what she believes probably to be the fact.

Mr. Hahn: Yes, she is presuming something.

Q. When did you first read in the paper about Mr. Richter's death and the fact that there was going to be—

Mr. Greenfield: Is that re-cross examination? I haven't asked her anything about that.

The Court: It is neither re-direct examination nor re-cross. She is brought on the stand and interrogated about an entirely different matter.

Mr. Hahn: I think this is competent for this reason—

The Court: The objection to it is that it is not cross-examination. You can examine her concerning the direct examination—that is, concerning the receipts and their loss.

Q. Have you paid your rent during the last year every month? A. Every month.

Q. Have you got receipts for that? A. You mean for the last year?

Q. For the last year, 1914. A. I put all the receipts together every month I get it.

Q. Did you pay every month? A. I paid September to Mr. Richter, and I paid October to Mrs. Richter; I paid November—nobody called, as I told you, I refused to pay Mrs. Richter the November rent.

Q. Have you paid the November rent? A. No.

Q. November is not paid? A. No.

Q. Is December paid? A. Yes.

Q. Then you owe for November rent? A. Yes, I owe for November rent.

Q. Why haven't you paid it? A. Because nobody called for it.

Mr. Greenfield: Is this material? What has this got to do with the receipts that she has not paid the rent?

Mr. Hahn: I want to get at her attitude.

The Court: I think her attitude is perfectly plain. She says there was a dispute and she refused to pay to anybody.

Q. So that you had these receipts in the dish?

The Court: No, she did not say that. She said she had them on a nail hanging inside of the dish closet.

Q. On the back of the door? A. There is a door, it is a frame, half glass, but there is wood between to paint, and I had a big nail and I kept the rent receipts and gas bills until last Wednesday and they got lost. The gentleman is here who did the job, right here in the court room.

JOSEPH L. ARBEITEL sworn in behalf of caveators:

Direct-examination by Mr. Greenfield:

Q. You are a son of David Arbeitel? A. Yes, sir.

Q. Where do you live? A. 26 Clayton Street.

Q. How long have you been living on Clayton Street? A. About the last six years.

Q. How long have you been living in that neighborhood? A. About seventeen or eighteen years.

Q. Did you know Samuel Richter in his lifetime? A. I did.

Q. How long have you known him? A. About twenty years or over.

Q. Were you present at his deathbed when he died? A. No, sir.

Q. Were you in the house after his death? A. No, sir.

Q. How was your relationship with him with reference to business or anything? A. We were very friendly.

Q. You are also a plumber? A. Yes, sir.

Q. And occasionally did his work? A. Yes, sir.

Q. Did you ever talk to Mr. Richter concerning his personal matters? A. Oh, yes, many times.

Q. How long before his death did you talk to him? A. Only about two or three weeks before his death.

Q. What was the conversation about? A. The conversation, he was complaining to me about his ill health and was not feeling right, and I went into pretty deep details with him, and I asked him whether he expects to do anything in re-

gard to a will, because I have had many other conversations with him in regards to a will and he has always said he has got plenty of time to think about a will because he says he is good for another fifty years to stay.

Q. What did he say the last three weeks? A. He says the last three weeks, he says, "While I am alive I am the boss of my money; I have worked for it and when I am gone let them fight over it like dogs, I don't want to be worried about anything after I am gone." Those are the very words he said.

Q. Did he ever mention to you that he had a will, did he ever mention that he made a will?

Mr. Hahn: I object to that question on the ground that it is leading, did he ever say to him that he had done so and so.

Objection withdrawn.

Q. Did he? A. Yes.

Q. What did he say? A. Well, we had had quite a conversation as I say—

Mr. Hahn: The time should be fixed.

The Court: Yes, the time should be fixed.

Q. When was that? A. Is it the last time you want me to state? I have had many conversations with him from—

The Court: Listen to the question. Have you had a conversation regarding a will, many conversations regarding a will?

Witness: Oh, yes, many a conversation.

Q. Did he ever say to you that he has made a will? A. No, he said to me that "Joe"—he called me by my first name and I personally called him "Sam"—he says, "Joe" he says, "I will tell you the truth. You know that I can't write, and I

can't read" he says "should anybody put down something that I wouldn't know what he put down it would be always on my remembrance and it would worry me to death;" he says "And furthermore, why should I go and make a will now, I am not ready to do it," he says.

Q. And that was how long before? A. That was four months before his death all together, as far as I can remember.

Q. You know Mr. Karp, Abe Karp? A. Yes.

Q. Did you see him in Newark after Mr. Richter's death? A. Yes.

Q. How long after his death? A. The very same day after when he died; he died in the morning.

Q. Did you talk to him? A. I did.

Q. What did you talk to him about? A. I just said to him that it was too bad that his uncle passed away.

Q. And what did he say? A. And he said "Yes, it is too bad," he says "why he passed away, and now we don't know where we are, as he wasn't married to my aunt, and he has left no will, and they sent for Simon, and when Simon came it was too late to make a will"—something like that.

Q. That was how soon after Mr. Richter's death? A. That was on the same day he died, but he died in the morning and that took place in the afternoon.

Q. Did you ever talk to him after that? A. Yes.

Q. To Mr. Karp? A. Yes.

Q. When, how long after that? A. The next day, the next evening.

Q. Where? A. On Clayton Street.

Q. In the street? A. In the street.

Q. Where did you meet him on Clayton Street, whereabouts? A. Just about fifteen feet away from the corner.

Q. What was said there? Give us the entire conversation. A. Well, he belonged to the Masonical organization and there was some committee came up and held service over the dead body, and he says, "Well, at least it pays to belong to an organization of that kind, they show a little appreciation for a person when he dies, they pass him away."

Q. What else was there said—was there anything said about the estate? A. Yes, he did say.

Q. What was it that was said about the estate? A. I asked him, I says, "What is going to happen now, Abe? You told me yesterday that he died without a will. That I know, because he told me he died without a will." He said to me, "Well, I will be hanged if I know."

Q. Did he ever during those conversations mention the fact to you that he had drawn a will for his uncle? A. No, sir.

Q. Did he ever mention the fact to you that he had a will of his uncle? A. Not to me.

Q. Were you to the funeral? A. No, sir.

Q. Did you see Mr. Karp at this aunt's house, Mrs. Silber's house? A. Who did I see?

Q. Karp—did you see young Karp in Mrs. Silber's house while the body of Mr. Richter was laying there. A. No, I didn't see him there.

Q. Now, Mr. Arbeitel, do you know—were you in the house while the Karps were in the house? A. I was not.

Q. Were you there after the funeral, in Richter's house? A. I was not.

CROSS-EXAMINATION by Mr. Hahn:

Q. Are you married? A. Yes, sir.

Q. That was your sister that was here on the stand? A. Yes, sir.

Q. Is your wife in court? A. No, sir.

Q. You say that you spoke to Mr. Richter about a will? A. Many times.

Q. Why? A. Because we was so friendly.

Q. What? A. We were very friendly, good friends, and I would always tell him about my relationship and he would explain to me about his.

Q. Wasn't he a very secretive sort of man? A. What do you mean by secretive.

Q. He didn't talk very much. A. We used to sit at the corner of Barclay and Clayton Street for hours almost every day of the week—if not, every second day.

Q. Didn't you work? A. That is before I started working.

Q. How old were you then? A. Say about twelve or fourteen years old.

Q. Now, I show you a postal-card. Whose children are those? A. Those children are mine, two are mine and one is my sister's.

Q. A picture here of two little girls and a little boy? A. Yes.

Q. Which ones are yours? A. The little boy and the little girl is mine.

Q. Is that your signature on the back of that? A. Yes, that is my signature.

Q. And who did you send that to? A. To Mr. Richter.

Q. What did you write on it? A. "We you and your wife"— that is, "We wish them a Happy

New Year—we leave it out—it says "We, you and your wife a Happy New Year, from Mr. and Mrs. J. L. Arbeitel."

Q. And you sent that to 12 Barclay Street addressed to Mr. Richter, 12 Barclay Street? A. Yes, sir.

Q. Then you knew Mr. Richter had a wife? A. I did. She was living with him as man and wife; that I know.

Q. When you say "We wish you and your wife" you mean Mrs. Richter? A. Yes.

Q. When you said "we" who did you mean—you and you whole family? A. Me and the whole family.

Q. Your father and your sisters? A. No me, my wife and my children are my whole family.

Q. And you knew Mr. Richter for how many years? A. For twenty years and over.

Q. How long did you know Mrs. Richter? A. For about fifteen, sixteen or seventeen years.

Q. Samuel Richter and Mrs. Richter lived at 12 Barclay Street how long, to your knowledge? A. Ten years.

Q. In that same apartment? A. In that same apartment at 12 Barclay Street.

Q. They carried on some business during that time? A. Oh, yes.

Q. Different places? A. Different places.

SOLOMON GRIOFL sworn in behalf of caveators:

Direct-examination by Mr. Greenfield (through the interpreter):

Q. Mr. Griofl, where do you live? A. Houston Street, 348.

Q. New York? A. Yes, sir.

Q. What relation are you, if any, to the late Samuel Richter? A. My wife's uncle.

Q. And you have known Mr. Richter in his lifetime? A. Yes, sir.

Q. How long have you known him? A. Eleven years.

Q. Were you here at the time of his death? A. Yes.

Q. When did you come here? A. Tuesday evening, the night of New Year's.

Q. With whom did you come here? A. My brother-in-law, Joe Hartner, my mother-in-law, Fannie Gartner, Annie Gartner, Ben Rosenfeld.

Q. What time of the day or evening did you get here? A. Eight o'clock in the evening.

Q. Whom did you find in the house when you arrived? A. These people, strangers to me; I don't know them.

Q. Do you know Karp? A. Yes, I would recognize Karp.

Q. Do you recognize this young man (indicating)? A. He had no mustache; he was a young man.

Q. Who were there that you knew? A. I didn't know none of them; I don't know none of them.

Q. Do you know Lena Richter? A. Yes; they call her Lena.

Q. Is she here in court? A. I can't see from a distance.

Q. (Indicating a person in the audience.) Is that her? A. Yes, she was there.

Q. Was there any conversation there between

Mrs. Richter and if so, what was it? A. My brother-in-law Julius asked why we were not notified when he was sick.

Q. Give us the entire conversation. A. They told us that he was not so very sick, but Sunday night he was very sick and he died unexpected.

Q. What else? A. My brother-in-law Julius Gartner inquired whether there was left a will and we were told that during his last sickness that they sent for a man to write a will and was about to start and he was so sick, and he said, "A thousand dollars" and he died.

Q. Who said that? A. Mrs. Lena.

Q. Did the young man, the one that you think had no mustache, was he present? A. Well, I can't say positively; they were strangers to me and I cannot identify them.

Q. Were you to the funeral? A. Yes.

Q. Did you go to the cemetery? A. Yes.

Q. And was there anything said over there? A. No, nothing was said.

Not cross examined.

ABRAHAM KARP re-called for further cross-examination by Mr. Greenfield:

Q. Did you have a mustache? A. No, sir; I did not.

Q. You were clean shaven, were you? A. Yes, sir.

RE-DIRECT-EXAMINATION by Mr. Osborne:

Q. Did you tell this gentleman, Mr. Joe Arbeitel, that you didn't know what to do because your uncle and aunt were not married and there was no will and you were all up in the air and you were hanged if you knew what to do, did you say that on the day of the funeral? A. I don't recall saying it to anybody.

Q. Or to him? A. No, sir; not to my knowledge.

Q. Did you ever see this witness who was just on the witness-stand? A. I never saw this gentleman in my life before.

Q. Was he there? A. I don't know. There was a hundred folks came there, and if I was asked if I saw him before I would say I don't recall, because I don't recall having seen him in my aunt's house or any other place in Newark or any time.

By Mr. Hahn: Q. Were there any other men there with whiskers? A. Plenty of them.

Mr. Osborne: I offer in evidence Exhibit P-4 for identification.

Marked Exhibit P-4.

Mr. Osborne: I will offer in evidence a certified copy of the decree of divorce between Blima Rosa Richter and Samuel Richter in the Supreme Court, State of New York, County of Kings, dated the 14th day of February, 1902, and granted by Hon. William D. Dickey, Judge of the Supreme Court.

Mr. Greenfield: No objection.

The paper referred to is marked Exhibit P-5.

The Court: Is that an absolute decree?

Mr. Osborne: Yes, sir. In 1902 there was no such thing as an intermediate decree.

LENA RICHTER sworn in behalf of proponents:

Direct-examination by Mr. Osborne:

Q. Where were you born, Mrs. Richter? A. Russo-Poland.

Q. What place in Russia, Poland? A. Kinska.

Q. How old are you? A. About forty-seven.

Q. When did you leave that place? A. I left the place near seventeen years.

Q. Have you relatives in this country? A. Yes, sir.

Q. Who lives here? A. My two sisters and a brother and many nephews and nieces.

Q. What are the sisters' names? A. One is Mrs. Silber.

Q. Is she here? A. Yes, sir, she is here, Mrs. Silber.

Q. Where does she live? A. She lives with me—over me at 12 Barclay Street.

Q. Who is the other? A. Mrs. Annie Karp.

Q. Is this Mrs. Karp (indicating)? A. Yes, sir.

Q. And she lives in New York? A. Yes, sir.

Q. She is the mother of Abraham Karp and Mrs. Bernstein who testified? A. Yes.

Q. How long has Mrs. Silber lived over you at 12 Barclay Street? A. She lives over me since July and she lived in 28 Clayton Street, the two houses together; it is two houses straight; she lived about ten years, near eleven.

Q. Who is your brother? A. My brother lives in Monmouth Street, Newark, New Jersey.

Q. What is his name? A. His name is Jacobowitz.

Q. And you have several nephews and nieces, children of these sisters and brothers? A. Yes, sir, sisters and brothers.

Q. Where did you first meet Samuel Richter? A. In England, London.

Q. What part of London? A. Plymouth road.

Q. What year? A. It is near twenty-nine years —near thirty years.

Q. Was there any marriage ceremony performed between you at all? A. Yes, sir.

Q. Where? A. In my house; he had a room before he got married with me and we got married in his room.

Q. Who married you? A. There was ten people, ten men, Russian Jewish people, you can marry by two people, but we have ten people.

Q. That was a ceremony. Was there a clergyman or did you have a clergyman or rabbi? A. No Rabbi.

Q. You simply took each other as husband and wife in the presence of those ten people? A. Yes; they said a few words in Jewish and my husband put me on a ring.

Q. Who are those people that were present, those ten people? A. I can't tell because I didn't know them. I wasn't long in England. When I got married I was a few months in England.

Q. That you say was twenty-nine years ago? A. Over twenty-nine.

Q. During that time have you ever been separated from Samuel Richter? A. No, sir, not a day.

Q. Well, then, you have always lived together? A. Always lived together when we came to New York—

Q. Wait a minute. How long did you live together in London? A. In London I lived together over two years.

Q. With him? A. With him.

Q. What was his business over there? A. He made butter and cheese, he goes around in the groceries.

Q. Did you live together there as man and wife? A. Yes, sir.

Q. Then from London where did you go? A. To New York.

Q. How long ago did you come to New York, how long ago was that? A. It was near twenty-eight years.

Q. Where did you live in New York? A. First when we came, it was the 1st of July, I stopped with my husband, got a room by strange people because we didn't have no room.

Q. Were you poor people? A. Poor people.

Q. What street did you live on? A. Christie Street.

Q. How long did you live there? A. About a few months. Of course, my husband couldn't get no—he wasn't such a heavy workingman, he couldn't get no work, and he had a friend, a landsman, in Chicago, and he wrote him a letter he should come there, he will make a living; I told him he shall go, I had some money from London and we have a little jewelry from London, and I pawned it and I told him he shall go there and make a living, and if he makes a living he shall send for me. I gave him everything along, for if he sends for me it will be too heavy for me, and he was in Chicago two months, and he couldn't

make any living there, and he wrote me, and he used to send me $2 a week, and he wrote me he can't make a living, and I write him he should come back, and if he can't make a living in New York he can't nowheres.

Q. Did he come back? A. Yes, sir.

Q. Where did you live after that? A. Mulberry Street.

Q. New York? A. New York.

Q. What did he do in New York? A. He was peddling with ice, got some greens, what they call vegetables, and onions and fish, he was peddling with a push-cart.

Q. Push-cart peddler? A. Yes, sir, and I helped him along.

Q. Tell us the places where you lived in New York? A. First in Christie Street and then in Mulberry Street and then I lived in Allen Street, and then I lived in Suffolk Street; from Suffolk Street I moved to Orchard Street; from Orchard Street I moved to—no, then after in Allen Street again, and then I moved to Newark, we bought some property here in Newark, and then I wasn't long in Newark, about a year or thirteen months, I can't remember exactly, and then I go to New York.

Q. In all these different places did you live together? A. Yes, sir.

Q. Lived together as husband and wife? A. Yes, sir, always together.

Q. During all these twenty-nine or thirty years, whatever it is, have you ever known your husband to live with any other woman? A. No other.

Q. When was the first time that you lived for

any great period in New York. Was there any place that you lived for two or three years? A. I don't remember what place—no, I didn't live two or three years.

Q. You did move, did you, from time to time? A. From time to time.

Q. Was that on account of your husband's business? A. Yes, sir.

Q. And when you first moved to Newark how long did you live here? A. About thirteen months.

Q. Where was that? A. In Clayton Street.

Q. Didn't you live in Ferry Street here once? A. After when I moved back to Newark.

Q. After you lived in Clayton Street for thirteen months, then you went back to New York? A. Yes, sir.

Q. And then come back to Ferry Street here in Newark? A. No, sir, back to Clayton Street, in the new houses. We built two houses; we moved back to Newark, and then after I moved back to Ferry Street, and I was living in Ferry Street nearly three years.

Q. In what kind of a neighborhood? A. Not far from the depot, 18 Ferry Street.

Q. Did you get acquainted with people in the neighborhood? A. I did, sure.

Q. By what name were you known around there? A. Well, them people they moved, one named Hopkin, he had a bologna store there—them kind of people—and Canal Street, the man whom I used to take the meat from.

Q. Yes, but by what name did they know you? A. Mrs. Richter.

Q. Did you live in any other neighborhood

where they knew you by any other name than Mrs. Richter? A. No, sir.

Q. In Barclay Street where you lived for ten years, is that a respectable neighborhood? A. Very respectable.

Q. What did the neighbors call you there? A. Mrs. Richter.

Q. Did you know the neighbors? A. Yes, sir.

Q. Did the neighbors call you? A. Mrs. Richter.

Q. What did they call you? A. Mrs. Richter.

Q. When did you first meet Samuel Richter's relatives after you had come over to America? A. There wasn't none of them when we came to America, I and my husband, there was nobody else from our people.

Q. You were the first in America? A. Yes, sir.

Q. And then the others gradually came over? A. Yes, sir.

Q. Do you know all of your husband's relatives that are in America? A. I do know it just like myself.

Q. Who introduced you to all these relatives? A. My husband.

Q. Did your husband know all your relatives in America? A. Yes, sir.

Q. Who introduced him to your relatives? A. Me.

Q. How did he introduce you to his relatives? A. First he brought over his sister, with his aunt Fannie Gartner with Julius Gartner, and I went for him to Ellis Island and I took them down from Ellis Island, and they came in the room and my husband introduced him, "This is my neph-

ew," and to the boy, "This is your Tanta," and she fell on me and start to kiss me and cry, and I said, "Don't cry, you are over it;" I said "Don't cry, everything will be over."

Q. Tanta means aunt? A. Yes, sir.

Q. How was it when you met the rest of his relatives, his other relatives, how did he introduce you? A. Then my husband took them people, and I went to her sister's daughter—yes, a daughter, and we had there supper, and I bought her a skirt, and even she has that skirt on that I bought her and then after it was late, we went home, and they was there.

Q. Did your husband in your presence ever tell any of his relatives that you were not his wife? A. Never; always he said—he always respect me and always he says—never abuse me like they abuse me since my husband died.

Q. Did he ever tell anybody in your presence that you were only a servant? A. Never.

Q. How did you introduce Mr. Richter to your relatives? A. Well, my husband sent for my sister, Mrs. Karp, she was the first he brought over; he send tickets for her and for her husband, and we brought her over, and me and my husband went for them at Ellis Island—it wasn't Ellis Island; it was Castle Garden when they landed, and we took them home to us, and they was home by us about two weeks, and then we took rooms and furnished it out.

Q. Well, now, how did you introduce him to your relatives? A. Right away when he came up and I seen my sister—I didn't know my brother-in-law, of course, she got married after I left the

old country—my husband introduced her husband to me, and I said, "This is my husband," and she shake hands and start to cry and she said, "Don't cry, don't cry, it is everything all right."

Q. Did you introduce Samuel Richter to all of your relatives? A. Yes, sir, and he was very good to them.

Q. Did you help your husband save money all these years? A. Yes.

Q. Did you work for him? A. Very hard.

Q. As to obtaining any money or property except from his own efforts or your efforts or both, how was that?

Objected to.

Question withdrawn.

Q. Did anybody leave him any money?

Objected to as immaterial.

Question withdrawn.

Q. Did you ever have any servant? A. Yes, sir; I did.

Q. Where was that? A. In New York.

Q. You had a servant? A. I had a servant when I had the business.

Q. And did you help him in his business? A. Sure, I did. For that I kept the servant because I helped the business.

Q. Did you keep house all these years for your husband? A. All the time I kept house.

Q. And took care of him? A. Yes, sir.

Q. Did you and your husband buy real estate? A. Yes, sir.

Q. Where did he keep his money? A. The first money I had saved up—he was a man, he sometimes like to have a little more over drink, and I

didn't let him, and I say, "I will save the money," and I saved the money up myself. The first time when he went to buy the property I gave him $2,700 in gold pieces to buy.

Q. When? A. The first time when he sent to buy the real estate.

Q. How long ago was that? A. It is about twenty years.

Q. Did he buy the real estate? A. Yes, sir.

Q. Where? A. In Clayton Street, Clayton and Barclay.

Q. What kind of a man was he—did he tell people his business affairs? A. Never.

Q. Was he communicative with other people? A. Never; he used to belong to organizations and never used to go to meetings. One meeting he used to stick to, he belonged to the Free Masons meeting.

Q. Did he ever tell you that he had made a will? A. Never.

Q. When did you first learn that he had made a will, when was the first time that you knew of? A. He tell me many times he is so fixed and make much expenses, and I say, "My jewelry is in Pawn for so many years, we are paying interest," and I told him he shall stop making so much expenses because we go enough, we get out of that, there is too much expense, "What do you care, you got yours, what do you care?" That is what he gave me an answer and when he was sick, the last Sunday when he was sick, my nephew came up—he is not a nephew—he is a cousin of mine, he came up, and I was crying, and he took my hand and he said, "Don't cry, don't cry," he said

in Jewish, he said—(witness speaks in a foreign language.)

The Interpreter: She says, "Don't cry, don't cry. I will take care of you."

Q. Your husband during his lifetime never said anything about his having made a will? A. Never.

Q. Did you ever ask him to make a will? A. Never.

Q. After his death when did you first learn that he had made a will? A. My nephew tell me on the cemetery—

Q. Who? A. Mr. Abraham Karp.

Q. Why? A. He tell me, "You got a will and you look for it." And I told him, "Where he has got it, I don't know where it is." And of course, I got the book-case, and it used to be all the papers in that book-case, receipts, water bills and tax bills and some other kind of deeds, and so and so, and, of course, I take that up—of course, I wanted to look for some letter to write the lodge, the society they shall come, and my nephew tell me, Harry Silber, I shall give them papers upstairs, and I did send it upstairs them papers, and I was sure it was in those papers.

Q. After Karp had told you that there was a will where did you look for it? A. I was looking it over and I couldn't see it.

Q. Did you look in the safe? A. I did look in the safe.

Q. Did you know the combination of the safe? A. Yes, sir.

Q. How long did you know the combination of the safe? A. Always, since we have got the safe.

Q. Did Mr. Richter know how to open it, too? A. Yes, sir.

Q. Was it a combination safe? A. Combination, with the numbers.

Q. Where did you find the will? A. I found it in the safe.

Q. Where in the safe? A. Behind some silverware in the safe, in the leather pocketbook.

Q. Did you find it the first time you looked? A. No, sir.

Q. How many times did you look for it? A. I looked for it once before, and my head don't say to pick up those silver things I had there and I closed it again, and I went away.

Q. Where is the pocketbook? A. The pocketbook, I leave it on the safe.

Q. Have you got the pocketbook now? A. No, sir; it is gone.

Q. Was this in a drawer—where was the silverware? A. The silverware was so laying, spoons and knives and forks, about twenty-three spoons and some knives and some forks.

Q. What will did you find? A. A will—I don't know what will.

Q. What paper did you find there that you say is the will? A. Well, I found it—I went over to Mr. Rosenblitt because I know he was a good friend to my husband.

Q. Look at this paper now. Is that the will you found? A. Yes, sir.

Q. Examine it, look at the signatures on it. A. Yes, and there was the piece of Jewish paper writing because my husband used to sign everything, this is the tax, and this is so and so, and al-

ways in Jewish; it was a piece of paper in the leather pocketbook, and on this it was "Zwuha."

The Interpreter: That means "Will."

Q. Where is that piece of paper? A. I don't keep it; I didn't pay no attention to it.

Q. How many days after the funeral did you find this will? A. This will, I found it about the 3d day of October.

Q. When did he die? A. He died the 21st of September.

Q. Hadn't you taken the silverware out of the place in the meantime? A. When I found—

Q. Why didn't you take the silverware? A. By the Jewish people eight days you have to sit in the house and not doing any work.

Q. You were looking for the will? A. And not going down—

Q. Weren't you looking for the will during those eight days? A. I was looking; this was no such work what I daresn't look and I didn't think so I shall take everything out there, I didn't though, there is something there behind the silverware, I didn't thought.

Q. Did you get out any other papers behind that silverware? A. Nothing, no papers at all in the safe.

Q. When you found the will what did you do with it? A. I took it and I went right away to Mr. Rosenblitt in the First Precinct and he told me to wait, it was on a Saturday, and he tell me to wait, it will be twelve o'clock I shall see Judge Hahn, and then I was waiting there about half an hour and Judge Hahn came out and Mr. Rosenblitt handed him this, and he went with me in the

office of Judge Hahn and he seen it, he said "All right."

Q. This gentleman you speak of was the interpreter down there, a court officer? A. Yes, sir.

Q. Is he in court here? A. Yes, sir.

Q. You gave it to him and he gave it to Judge Hahn? A. Yes, sir.

Q. And that was the same paper? A. Yes, sir.

Q. And the next time you saw it was where? A. In the Orphans' Court; it was about the 26th of September, I was in the house, I couldn't go out in the street, and I was right away on paper I shall go to the Orphans' Court on the 9th.

Q. You remember the night when your husband died? A. Yes, sir.

Q. Had he been very sick that day? A. He wasn't very sick the same day, so about nine or ten o'clock he start to feel bad.

Q. What did you do when he started feeling bad? A. Well, I was alone in the night time; in the day time I had a trained nurse, and the nurse left about seven o'clock and I had that my sister, Mrs. Silber, come down, and it was about ten o'clock and he said to my sister, "Mrs. Silber, go upstairs to sleep, it will be all right to sleep," and she went up to sleep, and she always used to help me when I was alone with my husband at night, and he tell me to go to bed, and I was alone with him, and then after he got feeling bad, he turn around, I had to carry him around in the bed, and I asked him if I shall send for the doctor and before then he said no, and then after, later, it was about two o'clock, I asked him again and I say—I attend to

him, I gave him a little water. He couldn't swallow it because his tonsils was paralyzed, and I told him, "I am going to send for the doctor, I don't know this thing, what you say," and he said, "All right," he couldn't talk out so sharp because his tonsils were paralyzed, and I called up my sister and she called her son, Harry Silber, and I said, "Run as quick as possible for the doctor," and the doctor came and said, "Mrs. Richter, he has got another paralysis he has got to die, and I start to cry.

Q. Was that Dr. Steiner? A. Yes, sir.

Q. Had he been your family physician? A. Yes, sir.

Q. For how long? A. For about twelve years.

Q. As long as you lived up there in Barclay Street? A. Not Barclay; Ferry Street, too.

Q. By the way, did you have any children, you and Mr. Richter? A. Yes, sir.

Q. How many? A. One child and one six months, I had a miscarriage in New York.

Q. None of them living? A. No.

Q. The one was born where? A. In London, England.

Q. How long after this marriage ceremony was he born? A. About a year.

Q. And the other child was born— A. In New York.

Q. So there are no children? A. No.

Q. That evening when Dr. Steiner called and told you that your husband was in a bad way, then did you send for anybody? What did your husband say? A. My husband pointed he said, he said, "Zwuha, zwuha," and I start to cry, and Dr.

Steiner said have I got the will; I said, "I don't know nothing at all," and he hollered, "Zwuha, zwuha."

Q. That means "Will, will?" He said "Will"—it means will? A. Yes, in Jewish.

Mr. Greenfield: We will agree that "Zwuha" means will.

Witness: And I said, "Go to Mr. Arbeitel," to my nephew, and he hollered out the loudest he could, "No," and turned his head, and he hollered, "No." I gave him the wink, he should go for him, I thought there should be somebody in the house when he died, and I told him, "Go, for Mr. Arbeitel and go for Justice Simon." And he sent for Mr. Arbeitel, and my nephew came back with Justice Simon after.

Q. Let me ask you: Did your husband ask for Justice Simon? A. He did, yes, sir. The doctor said, "What do you want?" He said, "Justice Simon."

Q. Did Justice Simon come? A. He did.

Q. And Mr. Arbeitel? A. Arbeitel was before Justice Simon.

Q. When Justice Simon came there then what happened; who was present? A. The doctor was and Arbeitel was and my sister was and my nephew and Harry Silber, but he went for Justice Simon and for Arbeitel and for the doctor, the same boy, and Justice Simon came in, and he said, "What is the matter, Samka?" in Jewish. He said—he couldn't talk so sharp—he said "bad"—"schlecht."

Q. Did your husband during this conversation say anything—after that did he talk English or

Jewish? A. Jewish, he talked the most Jewish; my husband was a small talker in English.

Q. After Judge Simon got there did he talk in English at all? A. Not English; only in Jewish.

Q. Tell us what happened. A. Judge Simon came in and says "What is the matter, Samka?" "Schlecht"—it is "bad" in English, it is bad, and he said in Jewish to him, "Did you send for me?" and he said "Yes." He tell in English yes. "What do you want?" He said, "I want zwuha." He said, "For who?" He said, "For my Jidena, and a thousand dollars for Blima." And Mr. Arbeitel said, "Arbeitel"; and he turned and he said "No." I said he said, "For Blima." He made like this (illustrating) with his head and he died. Before he died, before the doctor was there, he tell me, "I feel so bad;" he said, "I feel so bad, I don't know what I shall do." And I say, "You are worser tonight than any other night." I said, "I am so tired." And he said, "Tomorrow, please, get a man to take care of me in the nighttime, I know you are too weak to take care of me."

Q. Did you hear your husband say, "One thousand dollars to Arbeitel?" A. He didn't say no Arbeitel; he said, "One thousand to Blima," and he turned his head and he died.

Q. You knew who Blima was at that time? A. I heard it—it was the first wife—that is what I heard.

Q. Had you ever met her? A. Never.

Q. After that did you send for the cousins, or whoever they are? A. Well, I will tell you how. Every year they used to send me New Year cards

—I don't know what is his name—he is my sister's son, Ben Rosenfeld, he send me New Year's card; I didn't know no address and send me a New Year's card; it was on this New Year's card the address from him, and as soon as I received that New Year's card, the first day, and my husband die, I told my nephew he shall write a postal-card to him, he shall let know Mrs. Gartner, my sister-in-law, and all his relations—of course, I don't know the addresses—he shall let them know it.

Q. But you got the address of this one man from this card. Did you then send for them? A. Yes, sir.

Q. When did they get there? A. They got there the second night, it was Tuesday night about eleven o'clock.

Q. Did you send for Mrs. Karp and Abraham? A. I did send the same morning when my husband died, right away I send my nephew to New York with a letter, my nephew I did send to New York, a high school boy.

Q. When they were all there the next day was there talk as to whether there was a will? A. Nothing at all.

Q. Nobody talked to you about it? A. Nobody.

Q. Was there a fight there or a row there that night before the funeral? A. If there was a fight —if you will allow me I will tell everything.

Q. Tell the story. A. My husband belonged to a lodge; Mr. Arbeitel proposed husband and wife, it is nineteen years, the Abraham Lodge, and he belonged to the Benevolent Association Society in New York, everything in New York he

belonged, not here, and what he made by this society, bought some ground of this society, and before he died he told he shall be buried on this society, and he write on later to the society they shall come, he die, and they take them upstairs to him, to Mr. Arbeitel's room, and they made out they shouldn't let him bury him in this cemetery, so I shall not give him $1200, and he belonged to the Free Mason Lodge, and I told my nephew, and they had the ceremony there, Mason Lodge, and this lodge come up and say if I didn't give $1200, they wouldn't let them bury him. I said, "If I haven't got it?" They said, "I don't care, I wouldn't let them bury him; he belongs to the other cemetery, B'Nai Abraham, a nice cemetery, it belongs to another society, he has got two stones, his name and my name is written on it, and the last words was he should be buried in Yanover cemetery.

The Court: What are you trying to tell us.

Witness: My brother-in-law Mr. Karp, and he said, "Why should he give $1200? Wasn't he a member there? Why should he pay $1200?" And they said, "Where he came to give $1200 to the cemetery?" And my brother-in-law made up a hundred dollars—I didn't have no money—my husband didn't leave no cash money—and I say, "I will give you a note." They said no, they don't want a note, I shall give cash money," and my brother-in-law take that money and they took a receipt from them, and that was one thing. And he belonged—

The Court: You had better ask this wit-

ness questions rather than allow her to ramble on this way.

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

Q. How old was your husband when he died? A. Sixty years I think in November.

Q. There has been some testimony here that you did not furnish a proper coffin or proper burial for your husband and there was a riot or a row about it? A. Well, I will tell about it.

Q. Don't tell us the history of it first; just tell us what happened that night. A. So the undertaker came up—it is a big book to make, believe me.

The Court: Get down to this particular trouble in question.

Witness: The undertaker came up and asked what kind of a box he shall give for my husband, and so stated by his relations, and I said to the undertaker—I can prove with the undertaker—I said, "Give the best box what belongs to my husband; he left so much, he can have a good box?" And he said, "All right, I will make a box with silver handle bars and make the name on it." I said, "All right." I didn't make no bargain, he left so much, he got money, and the relations started to holler, "We are Jewish people, we are religious people, we want him to be buried plain, even egg boxes." I didn't know in the religion if it is any harm to bury him in any finer box.

Q. Is it a fact that you ordered a cheap funeral for him? A. I ordered the best what could be. I can prove it by the undertaker, too.

Q. What properties did your husband leave? What did you buy? What was the real estate

which you bought and he left, the number of the house you lived in did you own that? A. Sure.

Q. What was the number of that? A. Where I lived?

Q. Yes. A. Twelve Barclay Street.

Q. What kind of a house. Just describe it. A. A tenement house; it is Barclay and Clayton—two houses together.

Q. How many families? A. It is four—double—eight family house.

Q. I only want to know what he died owning, what he owned when he died, these places?

Mr. Greenfield: Can't we agree on that?

Mr. Osborne: I suppose we can.

Q. Did you and your husband own some property in your joint names, too? A. Yes, sir.

Mr. Greenfield: I object. The record is the best evidence.

The Court: It may or may not be. They might pawn it jointly and the deed not put on record.

Q. You spoke about your jewelry being in pawn. Why was that? A. We pawned it because my husband bought the Union Street house.

By the Court: Q. When? A. It is about nine years.

Q. And you never got the jewelry out of pawn? A. Never.

By Mr. Osborne: Q. It is still in pawn, is it? A. Yes, sir.

Q. Where are the pawn tickets? A. The pawn tickets is by Mr. Smith in the Federal Trust Company.

Q. Did your husband have any jewelry himself? A. No, sir.

Q. You were the only one that had any jewelry? A. Yes, sir.

Q. Did your husband have any loose diamonds? A. No, sir.

By the Court: Q. How did you come to give up these pawn tickets? A. He asked me for it.

Q. Who asked you for them? A. Mr. Smith.

By Mr. Osborne: Q. Did you tell this Mrs. Smith that you found the will in a Jewish Bible? A. No, sir.

Q. And then did you tell her later that you found it somewhere else? A. I did told her about the 5th of October I found my will; that is what I told her.

Q. Did you tell her where you found it? A. Yes, sir.

Q. Where did you tell her that you found it? A. In the safe, in a leather pocketbook.

Q. Did you ever see your husband sign his name? A. I did; see many times on the receipts.

Q. Did he sign usually in pencil or with ink? A. In pencil; always in pencil.

Q. Did he carry a lead pencil with him? A. Always he had lead pencils.

Q. Did he carry any erasers or anything of that kind? A. He used to have an eraser on the lead pencil.

Q. On the end of the pencil. You know your husband's signature pretty well? A. Yes, sir.

Q. Now, look at that signature, Samuel Richter. Whose signature is that? A. That is my husband's signature.

Q. I show you a handful of rent receipts, possibly fifty or seventy-five, all signed in lead pen-

cil with the name of S. Richter? Did you give those to Judge Hahn? A. Yes, sir.

Q. Do you recognize them? A. Yes, sir.

Q. Where did you get them from? A. From the tenants.

Q. From tenants in the different houses? A. Yes, sir.

Q. They gave them to you? A. Yes, I got them tenants there.

By the Court: Q. Have you looked them over? A. I did.

Q. Are they all signed by your husband? A. Yes, sir.

Mr. Osborne: I will put this rubber band around them for convenience and have them marked for identification in on a bundle.

Marked Exhibit P-6 for identification.

Mr. Osborne: I will offer in evidence a deed dated July 31, 1905, from Ida N. Cook, widow, to Samuel Richter and Lena Richter, his wife, recorded in Y-38 of Deeds, Essex County, page 283-284.

Mr. Greenfield: No objection.

The paper referred to is marked Exhibit P-7.

Q. The deed of the Union Street property says "Lena Richter." Are you the Lena Richter named in that? A. Yes, sir.

Mr. Osborne: I will offer in evidence another deed dated January 19, 1899, made by Samuel Richter and Lena Richter, his wife, to Max Blau, recorded in the Essex County Register's Office D. 32 page 79, and

signed Samuel Richter and Lena Richter.

The Court: That was apparently before Lena had secured her divorce.

Mr. Osborne: Yes, that is true.

The paper referred to is marked Exhibit P-8.

Mr. Osborne: I also offer a deed dated April 4, 1895 from Alfred Harawartz to Samuel Richter and Lena Richter—it does not say his wife—recorded C. 29 page 57, Essex County Register's Office.

The paper referred to is marked Exhibit P-9.

Q. You have heard me speak of these two last deeds, have you? A. Yes, sir.

Q. Are you the Lena Richter named in these two deeds? A. Yes, sir.

The rent receipts offered in evidence for identification are marked Exhibit P-6.

CROSS-EXAMINATION by Mr. Greenfield:

Q. Mrs. Richter, you say you met Samuel Richter in London? A. Yes, sir.

Q. Were you there alone or with your parents? A. Alone.

Q. You had parents living at that time? A. Yes, sir—not mother—father.

Q. Where? A. In Russia—Poland, where I am born.

Q. How old were you when you arrived in London? A. I arrived in London, I was not quite seventeen years.

Q. How soon after you arrived in London did you meet Samuel Richter? A. About two months.

Q. Where was it that you met him? A. I was working in a restaurant.

Q. Whose restaurant was it? A. The Jewish people had the restaurant.

Q. Will you give us the names? A. Lena Jacobowitz.

Q. Any relation to you? A. Who?

Q. Lena Jacobowitz? A. My name, you mean?

Q. Was Lena Jacobowitz—A. Myself. I can't say who I was working for; I don't remember the people.

Q. Your right name is Lena Jacobowitz? A. Yes, sir.

Q. It was a restaurant in London where you were working? A. Yes, sir.

Q. You are quite sure? A. Yes, sir.

Q. It wasn't no other business? A. No other business.

Q. And then you met him? After you were two months there you say you met him.

By the Court: Q. You didn't say he had the restaurant? A. No, sir; the people I was working for had the restaurant.

By Mr. Greenfield: Q. When you say you met him you met him in the restaurant? A. He met me in the restaurant.

Q. What capacity were you working in in the restaurant? A. I was cooking and handing to the table too.

Q. Those two months after you were there you met Mr. Richter? A. Yes, sir; he met me.

Q. After he met you how long after was the ceremony, the alleged ceremony performed? A. About three months.

Q. Where? A. In his room.

Q. Where was his home? A. In Plymouth Road.

Q. Any number? A. I don't remember.

Q. There was no minister to perform the ceremony? A. No, minister, no, sir.

Q. And you don't know the people who were there? A. If they would be here I would know them.

Q. Did you know any of them at that time? A. No, sir.

Q. And you only knew Mr. Richter three months at that time? A. Yes, sir.

Q. Had you ever been to the place before? A. No, sir.

Q. The first time? A. The first time.

Q. And you went up there and met the people? A. No, I didn't meet them people.

Q. The ten I am talking about, you met ten people? A. No, I did not. My husband took me up and there was a lady there what he was living by that lady, he had a room by this lady, and she had children, too, and he took me up there. I was sittng in this house by this lady, and after he brought up the ten people, the lady had some friends, and he had some good friends, and then we got married.

Q. You knew the Hebrew religion, didn't you? A. Yes, sir.

Q. You knew that it was customary—in fact, necessary—to have a rabbi perform the ceremony, didn't you? A. Well, I know it—

Q. Did you? A. What?

Q. Did you know that at that time? A. What?

Q. That it was customary and necessary in the

Hebrew religion for a rabbi to perform the marriage ceremony? A. I did not.

Q. And you were then seventeen years of age? A. Seventeen years of age.

Q. Have you ever been to any Jewish wedding before that occasion? A. Yes, sir.

Q. Did you ever see any ceremony without a rabbi? A. Yes, sir.

Q. Where? A. In Europe.

Q. Without rabbis? A. Without rabbi.

Q. Give us the name of the people that you saw take part in such a ceremony in Europe? A. My friends.

Q. What is the name of that friend? A. Laina Hymen. That is my niece.

Q. Where did she live? A. She lived in Hensler Street, Newark, New Jersey.

Q. Now, Mrs. Richter, did you see anybody else married that way? A. Well, I don't remember. I heard it.

Q. You say then you lived in London how long? A. Not quite two years.

Q. With Mr. Richter? A. Yes, sir.

Q. You say there was a child born? A. Yes, sir.

Q. Alive? A. Yes, sir.

Q. How old was the child when it died. A. About seven months.

Q. Where were you living at that time that the child died? A. In the same place.

Q. Where was that? A. Plymouth road.

Q. And you don't know this number? A. I don't remember.

Q. Where was the child buried. A. I don't

know. I was sick this time when my child died and my husband had it buried.

Q. Have you ever been to the cemetery? A. No, sir.

Q. Have you had a stone put there for your child? A. No, sir.

Q. That was your first born? A. Yes, sir.

Q. And the child lived for six months? A. About seven months.

Q. And how long after the child's death did you remain in London? A. A short time I ride out to New York.

Q. Was it more than a month? A. I don't remember how long.

Q. Was it a week? A. It was about three months.

Q. And during the three months while you were living in London you didn't take the trouble to go to see where your first born child was buried. A. No, sir.

Q. Is that true? A. Yes, sir.

Q. Did you ever try to ascertain where the child was buried? A. Well, I know he was the father—

Q. Did you ever try to find out where the child was buried—yes or no? A. No, sir.

Q. Didn't you carry on some other business in London? A. No, sir.

Q. What other business did you conduct in London? A. No business. My husband done the business.

Q. What business? A. He make butter and cheese.

Q. No other business? A. No, sir.

Q. When you came in this country you landed in New York. I suppose? A. Yes. sir.

Q. Where did you first go to live? A. In Christie Street.

Q. What number? A. I don't remember.

Q. Near where? A. It was near Clinton Street, not Christie Street.

Q. Do you know where Clinton Street is? A. In Clinton.

Q. Do you know that Clinton Street from Christie is about eight blocks, towards the east? A. Yes, I do know. Division Street.

Q. Near Division Street? A. Yes, sir.

Q. At that time Christie Street, near Division Street, was known as the Red Light District? A. What is that?

Q. You know what the Red Light District is? A. I don't know it.

Q. You didn't know it? A. No, sir.

Q. How long did you live in Christie Street near Division? A. So long my husband was in Chicago.

Q. I don't know how long that was? A. It was a few months, about five or six months.

Q. Did you conduct any business there? A. Where?

Q. Christie Street. A. No, I was boarding by people.

Q. What was the name? A. The name I don't remember.

Q. You don't remember the number? A. No, sir, not the name either.

Q. From Christie Street near Division Street where did you go next? A. My husband came from Chicago. I moved to Mulberry Street.

Q. Mulberry Street, New York? A. Yes, sir, New York.

Q. What number? A. I don't remember the numbers.

Q. Near where? A. It was near—

Q. Near where? A. I am strange, not knowing this neighborhood in Mulberry Street, they used to call Mulberry Street and Elizabeth Street.

Q. Quite a well known street, Elizabeth, was at that time, wasn't it? A. I don't know.

Q. What business did you conduct, if any, over there? A. No business at all. My husband was a peddler.

Q. Didn't he conduct any other business? A. No, sir.

Q. Sure? A. Sure.

Q. How long did you live in Mulberry Street near Elizabeth? A. I don't remember how long.

Q. About a month? A. I don't know; I don't remember.

Q. Two months—three months? A. I don't remember how long.

Q. Was it a year? A. I think six or seven months.

Q. Then you moved from Mulberry near Elizabeth Street. A. Yes, sir.

Q. Where to? A. In Allen Street.

Q. What number? A. In Allen Street—I remember—21 Allen Street or 121 or 21—I don't remember.

Q. Near where is that? A. Near Delancy and Rivington.

Q. That would be 121? A. Yes. You know better as I.

Q. The numbers start from Division Street? A. I don't remember.

Q. You know Allen Street runs into Division Street? A. Sure.

Q. The elevated is running up there? A. Yes, sir.

Q. On Allen Street what business did you have there? A. Cider salon.

Q. What kind of cider did you sell there? A. Soft drinks.

Q. Nothing but soft drinks? A. No, sir.

Q. No other business in there? A. No, sir.

Q. Sure? A. Sure.

Q. How long did you stay there selling cider? A. About a year.

Q. Was the store in the basement? A. Basement floor.

Q. Curtains in front—half ways? A. I don't remember what I had.

Q. You don't remember that? A. No, sir.

Q. Cigar boxes in the window? A. Yes, sir.

Q. Now, how long did you stay there. A. About a year.

Q. Were you raided there. A. Raided.

Q. Yes. A. What for?

Q. I am asking you. Were you not raided in that place? A. I wasn't raided.

Q. Were you not raided and arraigned in the Essex Market Police court under the name of Jacobwitz? A. No, sir.

Q. Sure? A. Sure.

Q. Have you been arraigned as Jacobwitz in the Essex Market police court? A. No, sir.

Q. Nor in any other court? A. No, sir.

Q. Did you ever keep a disorderly house? A. Not me.

Q. Who did? A. I don't know.

Q. Did your husband keep such a place, Mr. Richter? A. No, sir.

Q. At any place? A. I don't know.

Q. Where did you move from 121 Allen Street? A. In Suffolk Street.

Q. What number? A. 102.

Q. Store? A. Store.

Q. What did you keep there? A. A cigar store.

Q. Cider? A. Cider too.

Q. Who was there with you? A. My husband.

Q. Anybody else? A. No.

Q. Did you have any servants in there? A. No, sir.

Q. Domestics? A. What do you mean?

Q. Employment agency? A. No Employment, no, sir.

Q. Did you have any employment agencies there? A. No agents at all.

Q. You say you kept the cigar store there and the cider place? A. Yes, sir.

Q. Also on the first floor in the store? A. Yes, sir.

Q. A little basement? A. No basement; a flat. It is an apartment house.

Q. Was there anything in the back of the store? A. Nothing.

Q. Rooms? A. Yes, there was rooms, sure.

Q. How many? A. I don't remember exactly; I think two rooms.

Q. How long did you stay in Suffolk Street with the cider salon, the cider place? A. I really

don't remember how long. I didn't have it in my head.

Q. How long? A. I can't tell.

Q. Six months? A. I don't remember.

Q. Was it a year? A. I don't remember.

Q. From Suffolk Street you moved. Where did you move to then? A. To Allen Street.

Q. Back to Allen Street? A. No, in Orchard Street.

Q. What number? A. I think it was 129 or 29 —I don't remember exactly.

Q. To where? A. It is between Delancy and Rivington.

Q. That would be 129? A. Yes.

Q. Did you keep a store there? A. No, store.

Q. What else? A. A boarding-house.

Q. The whole house for yourself? A. Yes, sir.

Q. How many rooms did you have there? A. I don't remember how many rooms.

Q. How many floors? A. One floor, single house.

Q. What was on the first floor? A. The ground floor, one floor, that is all.

Q. Had a red light, in front? A. No, sir.

Q. No? A. No, sir.

Q. What sign did did you have out? A. No sign at all.

Q. Cider Saloon? A. No cider saloon at all.

Q. No cigars I suppose? A. No, sir.

Q. How long did you stay there? A. I don't remember how long I stayed there. I don't remember.

Q. A year? A. I don't remember.

Q. Six months? A. I don't remember.

Q. You moved quite frequently in New York, didn't you. A. In so many years.

Q. Wasn't it sort of the custom of your business—

The Court: What business are you talking about?

Mr. Greenfield: The cider saloon business.

Witness: I didn't have no cider saloon this time. A boarding-house.

Q. That was the custom of the boarding-house to move from time to time? A. Well, I didn't want to stay from time to time.

Q. When the police didn't want you in that neighborhood? A. The police didn't stop me; they didn't have no reason to stop me.

Q. When you went from Orchard Street, from the boarding-house where did you move next? A. In Delancy Street.

Q. What number? A. I don't remember the number. It is right over the station-house.

Q. In Delancy Street? A. The Delancy Street station-house near Attorney Street, the corner is a station-house and the next I was living there.

Q. What business did you carry on there. A. Nothing at all.

Q. Had the whole house? A. No, sir.

Q. How many rooms did you have there? A. A flat.

Q. How long did you stay there? A. I don't remember how long I stayed there.

Q. Did you have any servant girls there? A. No servants.

Q. Had no servants at all? A. No; my husband was peddling.

Q. What kind of a peddler was he then? A. He was peddling with a push-cart.

Q. Did he have anything on the push-cart. A. Sure; he didn't peddle with the empty push-cart; that is sure.

Q. How long did you stay next to the police station? A. About two years.

Q. You were rather friendly with the police there, were you not? A. Yes, sir.

Q. From Delancy Street where did you move next? A. In Allen Street.

Q. Back to Allen Street? A. Yes, sir.

Q. What number? A. I think about—if I don't mistake—it is about 117.

Q. About the same block where you were before? A. Yes, sir, the same block.

Q. What did you have there? A. A cider saloon.

Q. In a store? A. Yes, sir.

Q. In the basement? A. Yes, sir.

Mr. Osborne: I object to the character of this cross-examination. There are insinuations here, inflections of voice which do not get on the record, and I do not know what Mr. Greenfield is attempting to do, but it looks to me as if he was trying to connect the deceased Mr. Richter and his wife here with some illegal business. Let us have it. Ask her.

Mr. Greenfield: If I can't get her to admit it I will prove it by the record in due time.

Mr. Osborne: He is insinuating in his voice and his familiarity with the district.

It being impossible to get his manner on the record, he ought to confine himself strictly to a simple question without any insinuations.

The Court: I agree with you that it would be quite impossible to get his manner on the record. I have been waiting with considerable patience trying to find out what the purpose of that particular method of examination was in an effort to see where we were going to be led. If it is the purpose of the examination to show that Mr. Richter was engaged in some questionable business I do not see how that possibly would affect this proceeding, assuming that it is true. We are not trying Mr. Richter for his past deeds or misdeeds. We are simply trying to determine whether or not this instrument is his will. I cannot see how it can possibly affect the situation to show that Mr. Richter was engaged in some illegal business in New York, if he was.

Mr. Greenfield: If your Honor please, the reason I am following this up, they have opened the door, they have tried to show that Mrs. Richter has done work and earned some money. I want to show the kind of business that was being conducted.

The Court: If you propose to show it for the purpose of affecting her credibility, then I say you must show it in concrete manner and not conduct your cross-examin-

ation in the manner which you have been conducting it, by innueno, with the possibility that at the end of the examination you might not be able to show anything. It is hardly fair to this witness to conduct your examination in that manner unless you are able to follow it up with some very concrete evidence? If you are able to do that then it is entirely unnecessary for you to conduct the examination in that manner. You must examine in a proper manner. Counsel has taken exception to your manner of examination and I must say that he is entirely within his rights in excepting to your manner of examining this witness.

Q. You have lived in Newark, have you not? A. Yes, sir.

Q. 105 Mulberry Street? A. No, sir. I lived in Ferry Street.

Q. Did you ever live in 105 Mulberry Street? A. I didn't. I lived in Clayton Street and then I moved to Ferry Street.

Q. Have you ever been known under the name of Lena Jacobs? A. No, sir.

Q. What was your maiden name? A. Lena Jacobowitz.

Adjourned until to-morrow, Thursday, February 18, 1915, at 10 o'clock, a. m.

FIFTH DAY

Thursday, February 18, 1915.

Continued pursuant to adjournment.
Present, counsel as before stated.

ISADORE ROSENBLITT sworn in behalf of proponents.

Direct-examination by Mr. Osborne:

Q. Where do you live? A. 178 Court Street.

Q. You have some official position, have you? A. Yes, sir.

Q. What is it? A. Interpreter of the First Criminal Court.

Q. How long have you been such? A. Seven years.

Q. How long have you lived in Newark? A. Over thirty-four years.

Q. Do you know Mrs. Lena Richter? A. Yes, sir.

Q. How long have you known her? A. To my estimation, I guess about twenty years.

Q. Did you know her husband? A. Yes, sir.

Q. How long had you known him, Samuel Richter? A. The same time.

Q. Then you had known them both in Newark and New York? A. Yes, sir.

Q. I show you a deed, Exhibit P-8. Are you the Commissioner of Deeds who took their acknowledgment on that deed? A. Yes, sir.

Q. I show you Exhibit P-1, which is the alleged will. Have you ever seen that before outside of this courtroom? A. I have.

Q. When did you first see it? A. I don't recollect exactly the date. It was a Saturday, shortly after Mr. Richter died.

Q. The Saturday shortly after he died? A. Yes, sir.

Q. In whose possession did you see that? A. Mrs. Richter.

Q. Where? A. Down in the First Criminal Court. She brought it down there.

Q. What did she do with it when she got there? A. I informed Judge Hahn as soon as she got there—

Q. Wait a moment. I don't think that is admissible. She brought the will to you there, did she? A. Yes, sir.

Q. And you had a conversation with her about it? A. Right there. I called her in to give it to the Judge.

Q. And gave her some advice? A. Yes, sir.

Q. And then referred her to Judge Hahn? A. Yes, sir.

Q. Did you give that paper to Judge Hahn? A. I believe I did, if I ain't mistaken.

Q. Did you see it that day in his possession? A. Yes, the Judge looked at it.

Q. And she was present at the time you gave it to him? A. Yes, sir.

Q. Were you present at the funeral of Mr. Richter? A. No, sir.

Q. Where did he live? A. Barclay Street. I was there a day or two before the funeral, I think.

Q. And you say you have known them both for twenty years? A. Yes, sir.

Q. When you knew them in New York— A. I know them when they moved from Newark to New York.

Q. When you first knew them where were they living? A. In Newark.

Q. Where? A. In Barclay Street.

Q. Were they then living as man and wife? A. Yes, sir.

Q. Did you know him as such? A. Yes, sir.

Q. Did you address Mrs. Richter as Mrs. Richter? A. Never otherwise.

Q. How often have you seen these two people? A. I couldn't tell how often—on and off different times.

Q. Fifty times in twenty years? A. Oh, yes.

Q. More than that? A. More than that.

Q. You lived in the same neighborhood with them? A. Yes, sir.

Q. And saw them many times, both of them? A. Yes, sir.

Q. Did you advise Mr. Richter at times, do business with him? A. Always.

Q. Draw deeds for him? A. Yes, and bought property for him—in fact, the lot I built the houses on.

Q. Did you draw this deed which I just showed you? A. Yes, sir.

Q. Do you know how they were regarded in that neighborhood around Clayton and Barclay Street, their reputation, as to whether they were known as husband and wife? A. Never otherwise.

Q. And is that a respectable neighborhood? A. Yes, sir.

Q. And you are positive that they were known

among all the respectable people in that respectable neghborhood as Mr. and Mrs. Richter? A. Yes, sir.

CROSS-EXAMINATION by Mr. Greenfield:

Q. Mr. Rosenblitt, when they first came to Barclay Street was the neighborhood the same as it is now? A. Well, some houses, wasn't quite as much built up as it is now, some smaller, the neighborhood is the same more or less.

Q. This house at Clayton and Barclay Streets, those brick buildings, they were not built at that time? A. No, sir.

Q. A small house there? A. Yes, sir; Mr. Richter bought the first small house there on the corner. He came to me—

Q. Did you know when they were living any other place in the City of Newark? A. Yes.

Q. The City of Newark we are talking about? A. I know them when they lived on Ferry Street.

Q. Do you know when they had a place on Mulberry Street? A. No, not to my knowledge—Washington Street, I believe.

Q. Wasn't it on Plane Street? A. Plane Street— that is right.

Q. Whereabouts in Plane Street? A. Not far from Market Street.

Q. North or south? A. South.

Q. South from Market Street? A. Yes.

Q. Do you remember any place at 151 Mulberry Street? A. No, sir; I don't recollect that.

Q. Do you know that she was also known by the name of Lena Jocabs? A. Not to my knowledge.

Q. Are you sure? A. I am sure.

Q. You were not a court interpreter in 1903, were you? A. No, sir.

Q. You don't know anything about how they were known in 1903 away from Barclay Street? A. Away from Barclay Street?

Q. While they were away from Barclay Street? A. No, I don't know.

Q. All you know, the time that they were living in Barclay Street, and where were you living at that time? A. I was living in Morton Street or Charlton Street, I don't know exactly—on Springfield Avenue, at least corner Mercer and Springfield Avenue.

Q. All in that vicinity? A. Yes, sir.

Q. But not in the vicinity of Clayton and Barclay? A. Why, around the corner there.

Q. Within how many blocks? A. Within three or four blocks.

Q. Did you ever visit them at the house? A. What time?

Q. Any place. A. Yes, I used to stop in Barclay Street.

Q. When? A. I believe it must be nineteen or twenty years ago, something around that time.

Q. You used to stop in the house in Barclay Street? A. When he bought the property.

Q. On one occasion when he bought the property? A. And then I bought another property. I used to stop there on and off.

Q. Where? A. By him.

Q. Are you quite sure? A. Yes.

Q. You haven't visited them when they were on Mulberry Street? A. No, sir.

Q. You haven't visited them when they were on Plane Street? A. Yes, sir.

Q. You visited them there? A. Yes.

Q. What kind of a house was that? A. Saloon.

Q. You are quite sure that you never heard her going under the name of Jacobs? A. No, sir.

RE-DIRECT-EXAMINATION by Mr. Osborne:

Q. Had you seen Mr. Richter in the company of other men, at times see him when there were other friends around? A. Yes, sir, different occasions.

Q. Was he free to tell people his business, his business affairs. I mean did he confide in people readily? A. I don't think he would tell anybody his business—I wouldn't say that I know—he was a pretty sociable man, that is all I know.

Q. About his business affairs, was he secretive, would he easily tell other people his business affairs?

Mr. Greenfield: Unless this witness was there and heard it.

The Court: How can this man know what he told other people? He may have been very secretive to this man and not so to others. He may have told this man everything and nothing to somebody else. The testimony would be of very little value.

WALTER SCHLUND sworn in behalf of caveators:

Direct-examination by Mr. Greenfield:

Q. What is your occupation? A. Police officer, detailed at the First Criminal Court as Clerk.

Q. In what capacity are you detailed there? A. As clerk.

Q. You received a subpoena to produce the docket in court here this morning? A. I did.

Q. I show you a book and ask you what this book is? A. That is the police docket of the Frst Criminal Court.

Q. Are you acquainted with this docket? A. Yes, sir.

Q. You keep the docket now, do you not? A. I do now, yes, sir.

Q. At that time did you keep this docket? A. No I didn't then.

Q. Do you know who kept that docket at that time? A. Maybe I can tell the handwriting. (After examining the book). Mr. Yuill.

Mr. Osborne: We admit that that is the official record.

Q. On this docket does there appear the name of Lena Jacobs?

Mr. Osborne: I object to that.

Mr. Greenfield: I desire to prove that a woman by the name of Lena Jacob's name is there, and then I will follow it up as the same person who has been living in 151 Mulberry Street in 1903, and it was then raided and she was known under the name of Lena Jacobs.

Mr. Osborne: There might be a different Lena Jacobs. There is no evidence that this is the proponent of the will.

The Court: That is true, but, of course,

evidence must go in step by step. We might take this subject to it being connected with this proponent. If it is not connected it is of no value at all, it can do no harm. If it is connected then it is competent and proper evidence in contradiction of the witness Mrs. Richter. I will admit it subject to the identity of the person being connected with the Lena Jacobs in this case.

We will read into the record in this case the record of the police court. (Reading) Daily docket D of the First Criminal Court, under date of Wednesday, March 11, 1903. Column headed "Name" we find "Lena Jacobs." Under the column headed "Residence" I find ditto marks beneath the address 151 Mulberry Street, 151 Mulberry Street immediately following the name "William Menzel," and following the name "Lena Jacobs" under the same address the name "Gertrude Donaldson, Bella Conklin, Anna File, Henrietta Burrell." I think that group of names is competent as part of the record, because they all appear to be from the same address. Under the column "Age" after the name "Lena Jacobs" appears the figures "39." Under the column entitled "Offense" we find ditto marks beneath the words "Disorderly Person" those ditto marks following all the others except Menzel, being the first name, after his name "Dis. Person;" ditto marks down

to the name of Henrietta Burrell, where we find the word "Drunk.," then the offense ditto marked under the date of March 11th. Under the Column entitled "Arrested by" we find "Hennessey," after Lena Jacobs name and ditto marks under "Hennessey," after Gertrude Donaldson, Bella Conklin, Annie File. After Menzel and Burrell's name we find other names under the "Arrested" column. Under the column headed "Complainant" we find ditto marks under the name "Captain Ubhaus." Under the column headed "How disposed of" we find opposite the name Lena Jacobs the designation "Dis." I will ask the witness what "Dis." means.

Witness: Discharged.

The Court: Under the column headed "Date of" we find ditto marks under March and the figures 12; that would be March 12th, and under the column headed "Sebtebced, Time or Fine" we find the words "No complaint." That seems to be the complete record with reference to the name of Lena Jacobs. The only thing in the record which may or may not connected with the name of Lena Jacobs is with regard to the "Disposition" opposite the other names which have just been enumerated as apparently coming from the same address, some of them being marked "No complaint" some "Thirty days in Jail" and one "2.50 fine or 10 days in jail."

Q. Do you know who was Judge at that time?

The Court: I see in another part of the record Judge Lambert's name, but it does not appear so far as the record opposite these particular names is concerned, who the Judge was. Now, it may be well to have a transcript made of this record, if either party desires it, because as dictated into our record it will read in different form and may not be quite clear, although in reading it into the record I tried to make it so. I may say that the other names referred to by me may or may not be connected with the same transaction. That is a matter that will have to be developed by proof.

Q. Now, Officer, can you say, by examining this record whether it appears that the names following 151 Mulberry Street, William Menzel, and then following Lena Jacobs, Gertrude Donaldson and Bella Conklin and Annie File and the others had come under the names arrest?

Mr. Osborne: I want to cross-examine him on that.

CROSS-EXAMINATION by Mr. Osborne:

Q. You were an officer there in 1903? A. As a clerk no, not in the First Criminal Court.

Q. When did you first come there? A. I think it was in 1906 or 1907?

Q. You were not clerk there at that time? A. No, sir, I was not.

Q. Not until 1906 or 1907? A. Yes sir.

Q. And this record, therefore, was not made under your supervision? A. No, it was not.

Mr. Osborne: I don't think he is competent to testify as to this record.

The Court: He has not said whether he could answer the question or not.

By the Court: Q. Answer this yes or, no. Can you tell from an examination of the record whether or not the names there appearing, whether they were all on the one charge or the one arrest at that time? A. No, sir.

Q. You cannot? A. No, sir.

Mr. Greenfield: Then I will have to subpoena.

Mr. Yuill: I will have to ask that the docket be left here and I could excuse the witness.

Witness: He is at the Second Criminal Court.

CROSS-EXAMINATION by Mr. Hahn:

Q. Did you know Mr. Richter in his lifetime? A. Yes, sir.

Q. How long did you know him? A. About seven or eight years.

Q. Did you live in one of his houses on Union Street? A. Boarding at one of his houses, yes.

Q. And did you know Mrs. Richter. A. No, I did not.

Q. Did you ever meet her? A. Never met her.

By Mr. Greenfield: As far you know there never was a Mrs. Richter—as far as you know personally? A. Personally, no.

EMIL GERMANUS sworn in behalf of proponents:

Direct-examination by Mr. Hahn:

Q. Mr. Germanus, you are a resident here in the City of Newark? A. Yes, sir.

Q. How long have you been a resident of Newark? A. Thirty-two years.

Q. What is your business? A. Steamship and railroad ticket agent.

Q. Did you know Mr. Richter in his lifetime? A. Yes, sir.

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

Q. Did you ever meet her? A. Yes, sir.

Q. How long did you know Mr. Richter? A. About twelve years that I had business with him.

Q. And did you know Mrs. Richter during that time? A. Yes, sir.

Q. Did they ever come to your office? A. Yes, sir.

Q. Together? A. Yes, sir.

Q. For what purpose? A. Buying ship tickets.

Q. Buying steamship tickets? A. Yes, sir.

Q. How did you first come to know Mr. Richter? A. I lived in Barclay Street when they built the house. I know him from the—

Q. You lived in that neighborhood? A. Yes, I lived in Barclay Street.

Q. Who introduced you to Mrs. Richter? A. They came together in the office to buy steamship tickets.

Q. Did he present her to you as his wife?

Objected to as leading.

The Court: I think it is suggestive.

Q. Who introduced you to Mrs. Richter as the wife of Samuel Richter?

Objected to.

The Court: That is certainly objectionable.

Mr. Germanus, will you just state what was said when you met Mr. and Mr. Richter? A. Mrs. Richter bought a ticket, she didn't pay cash, she always gave me a note signed Mrs. Richter, and I said, "Mr. Richter, is that note good?" He said, "Anything my wife signs is good, I will stand for it."

Q. Was that a respectable neighborhood where they lived on Barclay Street and where you lived? A. Yes, I lived around there.

Q. Did the people and neighbors who knew them in that neighborhood know them as man and wife?

Mr. Greenfield: I object, unless he was there.

The Court: He says he lived there; that is the reason he thinks it is respectable. The inference is that he would not have lived there if it had not been respectable.

Mr. Greenfield: I object to the form of the question. How does he know how other people regarded them?

The Court: I think the question is objectionable. You may ask him what their reputation was in the neighborhood with regard to their marital relations, if they had any relations in that respect. Ask him how they were known in the neighborhood with relation to each other.

Q. How were they known in the neighborhood with relation to each other? A. I don't know. I never heard anything wrong about it.

Q. I know, but how were they known to other respectable people who lived in the neighborhood? A. Mr. Richter and his wife?

Q. And Mrs. Richter? A. Yes.

Q. How long have you been in the steamship agency business? A. Twenty-four years.

Q. And where is your office located? A. 97 Mercer Street.

Q. How many years has your office been there? A. Twenty-three years.

Q. You have another office in this City? A. In Ferry Street.

Mr. Greenfield: I will admit his qualifications as a steamship agent.

The Court: I do not think that is particularly important.

CROSS-EXAMINATION by Mr. Greenfield:

Q. When did you move away from Barclay Street? A. That is about fourteen or fifteen years.

Q. Ten or fifteen years ago? A. Yes.

Q. Where did you move then? A. I bought a property in Wallace Street.

Q. And you have been living there ever since? A. No, I move from there. I live in that neighborhood.

Q. But you have not lived in the neighborhood of Clayton Street and Barclay Street for the past fifteen years? A. Just about.

Q. Did you know that Mr. Richter did not move over to Barclay Street within the last twelve years only? A. I don't know that.

Q. You don't know that? A. No.

Q. You have never seen him around Barclay Street? A. When I passed, yes, I saw him.

Q. You have never seen them together on Barclay Street? A. Yes, when I passed there I saw them both together.

Q. But you never talked with the neighbors there about the reputation—it didn't concern you, did it? A. No.

Q. You never had any business dealings with them outside of buying steamship tickets from you? A. No.

Q. That is all you had? A. Yes, sir.

Q. That is the only interest you had in them? A. Yes.

Q. It didn't interest you enough to go around and find out in the neighborhood whether they were husband and wife, did it? A. No.

Q. And you haven't talked to the neighbors about their being husband and wife? A. No.

Q. And fifteen years ago you didn't know where they were living? A. Oh, yes, when they lived there.

Q. Where? A. In Barclay Street.

Q. Are you sure? A. I am sure when they built the house I am living there.

Q. You were not living around that neighborhood, were you? A. When they built the house I am living there.

Q. You said fifteen years ago when they built the house? A. I couldn't remember.

Q. Don't you remember as a matter of fact that the houses were only built ten or twelve years ago? A. I lived there when they build the house.

Q. But you say you moved away from there

fifteen years ago? A. I couldn't say that sure. I thought it was about fifteen years ago.

Q. Did you see Mr. Richter around there when they were building the house? A. Yes.

Q. Positive? A. Positive.

Q. Saw him there? A. Yes.

Q. You can't be mistaken? A. No.

Q. Did you know when they were living on Plane Street? A. No.

Q. Did you know when they were living on Mulberry Street? A. No.

Q. You didn't know them when they were living in New York? A. No.

Q. And you didn't know how they were known on Plane Street? A. Not on Plane Street.

Q. And all you know is that people knew them as husband and wife, and that isn't from your own knowledge, not from talking to anybody—you only guess that? A. No; I don't guess that.

Q. But you didn't talk to anybody in the neighborhood? A. I talked to them together.

Q. Oh, yes, that is how you think that the neighbors know them as husband and wife, because you talked to them? A. I didn't see the neighbors. I said that only I know it.

Q. Then you didn't know how they were known in the neighborhood in which they were living? A. No; I didn't interest myself about the neighbors.

HENRY P. GEORGE, sworn in behalf of proponents:

Direct-examination by Mr. Osborne:

Q. What is your business, Mr. George? A. Real estate and insurance.

Q. And you have been connected with Mr. Charles A. Feick, a deceased lawyer, for years? A. Yes, sir.

Q. And his office was at 758 Broad Street? A. Yes, sir.

Q. Did you know Samuel Richter? A. I did.

Q. Did you know Lena Richter, who sits there? A. I did.

Q. Did you know Lena Richter, who sits there? A. I did.

Q. How long had you known them? A. About twenty years.

Q. In what connection? A. Business connections at the office.

Q. Did they have anything to do with Mr. Feick? A. Yes, sir.

Q. In what connection was that? A. Personal property and mortgages.

Q. Mr. Feick represented them as attorney? A. Yes, sir.

Q. Did you draw any papers for them? A. The office did. I don't know if I did personally.

Q. You have been subpoenaed to produce here a number of deeds and mortgages, cancelled, made by Samuel Richter and wife. Have you got them? A. That is, to bring whatever I could get, deeds or mortgages.

Q. Yes, whatever you could get. A. Yes, sir. (Producing papers).

Q. What do you produce?

The Court: I presume this is for the purpose of showing that they were known as husband and wife. Do you deny that?

Mr. Greenfield: No; in some neighborhoods. They were known as man and wife,

and possibly they were known in Feick's office as husband and wife.

The Court: And signed deeds and conveyed property.

Mr. Osborne: A great number of deeds and mortgages.

The Witness: These are the mortgages.

Mr. Greenfield: We have a transcript of all records.

Mr. Osborne: The signature of these parties and of Samuel Richter is on these mortgages and we want to use them for that purpose.

The Court: It seems quite clear to me that they were known as husband and wife generally and it would therefore seem unnecessary to encumber the record with accumulative evidence on that point.

Q. Now, Mr. George, did you take all these acknowledgments on these papers which you produce? A. No, sir.

Q. You took some of them? A. Yes, sir.

Q. On those that your name appears did you take the acknowledgment? A. Yes, sir.

Q. Did you see Samuel Richter sign this? A. I did.

Q Those on which you took the acknowledgments? A. I did.

Mr. Osborne: We will offer these.

Witness: I don't know how many there are. In some places you may find the signatures are torn off, there may be some that are missing.

Q. Are those signatures that were originally

appended to the mortgage in the condition in which they are now found? A. Yes, sir.

Q. Let me show you, for instance, a mortgage dated October 29th Samuel Richter to Mary S. Grannis, recorded N 20 of Mortgages, page 246. You took the acknowledgments. Did you see Mr. Richter sign that? A. Idid.

Mr. Osborne: I take it that we have sufficiently proven that the signatures that he saw Mr. Richter sign where his asknowledgment appears.

Mr. Greenfield: Wherever it appears.

The Court: It is admitted that the signatures on these documents are signatures of the deceased.

Q. Is that lady that you knew as Mrs. Richter (indicating)? That is the lady you knew as Mrs. Richter? A. I did.

The papers referred to are marked Exhibit P-10.

Witness: You may find in some of these places the bonds are not there.

Mr. Osborne: There are twelve bonds and mortgages in a bundle.

Q. How long were Mr. and Mrs. Richter clients of Mr. Feick's? A. They were clients there before I started in Mr. Feick's office.

Q. When did you start? A. 1894.

Q. And up to the time of his death were they clients? A. Yes, sir.

Q. And he did considerable real estate business with them, did he? A. Yes, sir, practically all.

Q. I mean, their business in his hands was considerable? A. Yes, sir.

CROSS-EXAMINATION by Mr. Greenfield:

Q. You have been up to the house after Mr. Richter's death? A. Yes, sir.

Q. Did you go through the papers there? A. No, sir.

Q. What were you doing there? A. Just merely went up as a friend.

Q. Did you examine any papers or documents? A. No, sir.

Q. When were you up there? A. I think it was a day or two after his death.

Q. Were you to the funeral? A. No, sir.

Q. You have made an affidavit in this case, haven't you? A. Yes, sir.

ELIAS BERNHEIM sworn in behalf of proponents:

Direct-examination by Mr. Hahn:

Q. What is your business? A. Undertaker.

Q. Here in the City of Newark? A. Yes, sir.

Q. How long have you been in business here in the City of Newark? A. Twenty-four years.

Q. Do you know Mrs. Lena Richter? A. Yes, sir.

Q. Did you know Samuel Richter in his lifetime? A. Yes, sir.

Q. Do you remember when Samuel Richter died? A. Yes, sir.

Q. Did you have charge of the burial of Mr. Richter? A. Yes, sir.

Q. Who engaged you for that work? A. In my

house came a boy, Mr. Arbeital's boy, and he came and called me, and he was downstairs, and I went up to Mrs. Richter and she arranged all the funeral.

Q. What did Mrs. Richter say to you when she arranged the funeral? A. When she arranged the funeral she tell me I should prepare everything what is needed. It was on our New Year's, the day before New Year's, and I embalmed the body; the body was laying there in the house three days, and the fourth day I took it over to Springfield, Long Island.

Q. To the cemetery? A. To the cemetery, certainly.

Q. How much was your bill for the funeral?

Mr. Greenfield: Is that material?

The Court: You have tried to show that the funeral was a very cheap one.

Objection withdrawn.

A. $205.

Q. How much did the coffin cost? A. I don't remember—$9 or $10.

Q. Was it a nice coffin? A. The custom of our Hebrews, we bury it in a plain, wooden coffin that the carpenter makes.

By the Court: Q. Was it a nice coffin, or proper coffin, considering that this was a Hebrew funeral? A. Yes, sir.

Q. Then it was a coffin which would be customary in accordance with your religion and your view? A. Yes, sir.

By Mr. Hahn: Q. How many years have you been an undertaker? A. Twenty-three or twenty-four years, like this.

Q. And your business is mostly amongst the Orthodox Jews? A. Yes, sir.

Q. You are an Orthodox Jew yourself, are you not? A. Yes, sir.

Q. And you have had a great many funerals in the twenty-three years that you are in business amongst the Orthodox Jews? A. Yes, sir.

Q. And this funeral of Mr. Richter's which you participated in, which you attended to, that was a very decent funeral, was it? A. Yes, sir.

Q. And was there anything at all that was lacking or missing at that funeral that should have been there? A. Nothing at all; everything was O. K.

CROSS-EXAMINATION by Mr. Greenfield:

Q. There was some argument there, wasn't there? A. Yes, sir.

Q. They wanted a better coffin? A. Yes, sir.

Q. And you had orders first for a better coffin? A. Yes, from Mr. Arbeitel.

Q. And Mrs. Richter, the lady that you knew as Mrs. Richter, countermanded the order? A. Not Mrs. Richter.

Q. Who countermanded it? A. Her relations. They are very Orthodox Jews. One is a Rabbi.

Q. Who was it? A. As I say, they are Orthodox Jews, New York people.

Q. Give the names? A. I don't know the names. They are New York people.

Q. Then you took the order from a stranger that you didn't know in the place of the wife? A. What order? I don't know what order you mean.

Q. The order to give a cheap coffin? A. Not a cheap coffin—a regular coffin that the Jewish are buried in.

Q. No matter how rich or poor they are they use the same coffin? A. Yes, sir, the same kind of coffin.

Q. That is the Orthodox ones? A. Yes, sir.

The Court: There apparently was a controversy on that subject due entirely to religious views. I do not see why you pursue it.

WILLIAM A. YUILL sworn in behalf of caveators:

Direct-examination by Mr. Greenfield:

Q. Were you connected with the First Criminal Court in 1903? A. I was.

Q. I show you Docket D, Daily Docket D. Is this your handwriting? A. A portion of it is my handwriting.

Q. I call your attention to the name William Mensel. Is this your handwriting under date of March 11, 1903 (indicating in book)? A. To the best of my knowledge that is my handwriting.

Q. You were acquainted with the method of keeping a docket at that time, were you? A. I am.

Q. From your acquaintance with the manner of keeping the docket I ask you, looking at the name of William Menzel and the names following there, what does that indicate? A. Indicates all of one address.

Q. And of the same date of arrest and of the same place? A. Of the same date, of the same place.

Q. Do you find there a party by the name of Lena Jacobs? A. Yes, sir, Lena Jacobs, 151 Mulberry Street.

Q. Do you think you could identify the person, Lena Jacobs? A. I question it very much whether I could or not.

Q. If you would look around the court room do you think you could identify the person? (A woman in the audience stands up) Do you remember seeing the lady? A. I can't identify her.

Q. Can't identify her. A. Not positively.

Q. This indicates all under one charge under one arrest? A. All under one head, yes.

By the Court: Q. The question is whether this indicates all under one charge and under one arrest. What do you mean by all under one head? Does that indicate it is all under one charge? A. One charge.

Q. What is there in the record to show that it is all one charge? A. It shows the date of the arrest, the offense committed—presumed to have been committed—the date on which it was committed and the complaining witness.

By Mr. Greenfield: Q. Who was the complaining witness? A. Captain Ubhaus, since deceased.

Q. And the other? A. He was the complainant against these defendants as set forth in the docket.

Q. Is there any other name underneath Captain Ubhaus' name? A. No, he made the formal complaint against these defendants.

Q. He was a formal complainant? A. Yes, sir.

Q. What does that indicate, the name under there? A. Detective Carson and Officer Hennessey.

Q. Is Hennessey alive? A. I believe not.

Q. Is detective Carson on the force? A. No, sir.

Q. Is he alive? A. Yes, sir. He was connected with the police department for a number of years. At that time he was.

Mr. Greenfield: He is connected with the Public Service Company.

CROSS-EXAMINATION by Mr. Osborne:

Q. When you say one charge, the records show here that each person was charged with an offense? A. Yes, sir.

Q. They were not charged with conspiracy, were they? A. No.

Q. Each person was charged with an offense? A. Yes.

Q. In the case of Lena Jacobs, of course, her charge failed. I want to ask you, is it a fact that you, after twelve years, that it is difficult for you to recognize your handwriting there? A. Yes, it is; there was a little—it looked a little peculiar to me after that because I have since that time grown older and my handwriting has been subject to evolution; I write maybe a little better now than then.

Q. And your handwriting has changed since? A. Yes, sir.

Q. And so much so that you had actually difficulty here this morning? A. It looked kind of

peculiar to me this morning when I wanted to be sure before I answered.

Q. The reason I ask you that is because this is a handwriting case and I want to have it on record. Will you just write the name "Lena Jacobs" on this paper now? A. Yes, sir. I have a pen here.

Q. Did you use a fountain pen then? A. No.

Q. (Handing witness pen.) Just use this stub pen. A. Witness writes on paper.)

By the Court: Is there anything on the record that would indicate to you, and your familiarity with it due to the fact that you kept the record, that the offenses charged against these various persons, Menzel, Jacobs, Donaldson, Conkling, File, Johnson and Burrell arose out of the same transaction? A. Yes.

Q. What? A. Well, the complaint down there on the docket is just as we take off the slate, and would leave me to suppose that that must have been a raid.

Q. And then the similarity of addresses? A. Yes, that helps greatly.

Q. The similarity of the charge? A. Yes, sir; that is right.

Q. Except the last one, which is "drunk?" A. Yes.

Q. And the coincident in the date? A. Yes, sir.

Q. And the complaint, that would all leave you to the conclusion that the offenses all arose out of the same transaction? A. One transaction.

Q. But that is a mere conjecture on your part due to this combination of circumstances? A. I believe it to be a fact.

Q. You believe it to be a fact due to that combination of circumstances? A. Yes.

Q. You have no personal recollection of the incident? A. No.

By Mr. Osborne: Q. And the fact that Lena Jacobs there appears to be the only one against whom the charge was dismissed or in whose favor the charge was dismissed, doesn't that lead you to believe that in making this raid you unfortunately got an innocent person.

The Court: In the first place, the record does not show that that was the only one whose charge was dismissed, and in the second place it would seem to me to be pure speculation, whatever opinion the witness may give.

Question withdrawn.

Q. Doesn't it show the fact that two or three of those persons were dismissed—doesn't that indicate that there was no evidence against those persons? A. I should say that would be a just conclusion.

By Mr. Hahn: Q. What does the word "Dis" mean there? A. Discharged.

Mr. Osborne: I will offer in evidence this sheet of paper on which Mr. Yuill, Clerk Yuill, wrote twice the name "Lena Jacobs" and I offer it for the purpose of showing his method of writing in the name twice.

Mr. Greenfield: I object to that. We are not investigating Mr. Yuill's writing.

Mr. Osborne: I call your attention to the fact that both of those signatures

were made on the same day. I am not comparing it with the book.

The Court: While it might show the idiosyncrasy of this particular man, it would not necessarily follow that was the general situation with all people. You may have it marked for identification, and you will have to show that it is competent testimony, otherwise I will reject it.

The paper referred to is marked Ex. P-11 for identification.

LENA RICHTER resumes the stand for further cross-examination by Mr. Greenfield:

Mr. Greenfield: If your Honor thinks that my cross-examination into her life is immaterial I shall certainly not pursue it any further, if that is your Honor's opinion.

The Court: I do not think I have so indicated. I think you have a right to show what her life has been as bearing upon the credibility of her testimony, and I assume that was the purpose of your examination. The objection that was made by counsel, and which I thought was all taken, was in the manner of the examination.

Q. Now, Mrs. Richter, have you ever been in the house at 151 Mulberry Street? A. Yes, sir.

Q. In 1903? A. I don't remember the date.

Q. Were you the Lena Jacobs mentioned in 1903

in the First Precinct Court? A. I came to see the lady—

Q. Just answer yes, or no? A. Not in the house.

Q. Were you in the First Precinct? A. In the First precient. I mentioned Lena Jacobs.

Q. And that was from 151 Mulberry Street? A. Yes, sir.

Q. Did you see Mr. Arbeitel in the First Criminal Court at that time? A. No, sir.

Q. Did you know a party by the name of Gertrude Donaldson? A. I don't know.

Q. Bella Conklin? A. I didn't have no confidence with them.

Q. Annie File? A. No, sir.

Q. There were a lot of women there at that time taken from 151 Mulberry Street? A. Yes, sir.

Q. And you were one of them? A. Yes, sir, and I will tell you how.

Q. Wait a minute.

The Court: You will have an opportunity later on of explaining that.

Q. You have identified Mr. Richter's signature on Exhibit P-1 you know that is his signature? A. Yes, this is his signature.

Q. You were well acquainted with his signature? A. Yes, sir.

Q. I show you another document and ask you whether this is his signature? A. Yes, sir.

Q. Is this your signature? A. It is.

Paper referred to is marked Exhibit C-11 for identification.

Q. I show you another document and ask you whether you identify this to be his signature? A. No, I can't.

Q. What is the difference between the one you have identified and the one that you hold in your hand? A. This is bigger than the first.

Q. You can't read any German? A. No, sir, I can't read no German.

Q. The difference you mean is the first name, the Christian name is not in full; is that right? A. Not in full and not so big. I can't tell because I can't read it.

Q. You can't read? A. I can't read no German.

Q. If you don't know how to read how do you know then that this is his signature? A. I know.

Q. Showing witness Exhibit E-1? A. I know.

Q. How? A. How? I seen it many times his signatures.

Q. And that is how you know? A. Yes; I can't read it.

Q. I show you another and ask you whether this is his signature? A. No.

Q. It is not? A. No, it is too much—

Q. Too much what? A. I don't know—extra something?

Q. You can't read it? A. No, I can't read German at all, not English either.

Q. You can't read English or German? A. Not German and not English.

Q. (Showing witness a check.) Do you know whether this is his signature? A. On the top?

The Court: Witness is shown what?

Mr. Greenfield: Check dated May 28, 1913, showing the signature of S. Richter.

Q. You say that the marriage ceremony was performed in England? A. Yes, sir.

Q. And since then you continued to live with him? A. From the first minute.

Q. From the very first minute? A. From the first minute.

Q. Right along under the same conditions up to the time of his death? A. Until the time he was dead.

Q. There was no change? A. There was no change at all.

Q. Nothing took place? A. Nothing else.

Q. Nothing further was said? A. Said?

Q. Nothing further was talked of? A. Nothing at all.

Q. You are quite sure of that? A. Yes, sir.

Q. There was no change of your surroundings in life since that time? A. Nothing. My husband sent me to Europe too; I was five months in Europe.

Q. When was that? A. Eighteen years ago.

By the Court: Q. What did he do? A. He sent me for a trip to Europe to see my family and he sent me money by telegram and Mr. Arbeitel knows it too, and I had a passport that my husband got for me.

Q. Did you know that he had a wife in Europe? A. I didn't know it before.

By Mr. Greenfield. Q. When did you find out? A. Found out when she came.

Q. Did he then tell you when he was married to her? A. He didn't.

Q. Did he tell you at any time that he was married to her? A. He didn't tell me when; he said, "I was married" when I found it out.

By the Court: Q. You were asked when you

found out and you said when she came. Fix the time when you found it out, that his first wife came here? A. It was about thirteen years ago.

By Mr. Greenfield: Q. That is the time that you found out that he was a married man? A. Yes, sir.

By the Court: Q. And did he then tell you when he was married to this woman who came here? A. I didn't ask him.

Q. At no time? A. No, sir; then he tell me that he was married in Europe.

Q. He told you he was married in Europe before he came to England? A. Yes, sir.

Q. And he told you he was married before he met you? A. Yes, sir.

Q. When you opened the safe, when was it that you first opened the safe after the death of Mr. Richter? A. I opened the safe the morning when my husband died.

Q. For what purpose? A. Mrs. Katzin came up to my house and she tell me to take off my rings from my hand, and I took them off and I put them in my apron, and she said, "Mrs. Richter, you are not sharp, you may lose those rings, you had better put them in the safe," and I opened the safe and put them in. That was the first time.

Q. When did yo uopen the safe next? A. Next I opened the safe, I don't remember the day; I don't remember the day when I opened the safe again.

Q. Was it before or after he was buried? A. He was buried—no, before, I think, the next day.

Q. The next day? A. Yes.

Q. The next day you took out some papers from the safe? A. No, I didn't have no papers in the safe.

Q. Didn't you take up some papers to your sister's house, Mrs. Silber? A. Not from the safe.

Q. Where did you get them? A. From a bookcase.

Q. Where was that bookcase? A. In the bedroom where my husband died.

Q. And you examined them and looked for what? A. I didn't examine because I can't read or can't write.

Q. What were you looking for in those papers? A. For a letter to send my husband's organizations where he belonged.

Q. Was Mr. Karp there at that time? A. No, sir.

Q. Wasn't he upstairs in Mrs. Silber's house when the papers were examined? A. I did send him up to look for them.

Q. You did send him up there to look through the papers? A. Yes, sir.

Q. And there were quite a lot of papers? A. A lot, sure, a whole bundle full.

Q. And at that time was there anything said either by yourself or by Mr. Karp, your nephew, or anyone at the table concerning the will? A. Nobody said.

Q. Nothing mentioned about a will? A. No.

Q. Was there anything said at any time before your husband's funeral, Mr. Richter's funeral, concerning a will? A. I didn't heard it.

Q. Did, Mr. Karp, your nephew, mention any-

thing to you before Mr. Richter's burial concerning a will? A. I didn't hear it.

Q. What? A. He didn't told me nothing.

Q. Didn't say anything? A. No, sir.

Q. When was it that you first spoke, if you did speak to Mr. Karp, your nephew, concerning the will? A. I don't remember when—on the cemetery or when we came home—I don't remember exactly when it was.

Q. But you are sure that your nephew Abraham Karp didn't say a word to you about a will before the funeral? A. I don't remember.

Q. You have testified so yesterday afternoon, that the only time Karp spoke to you about a will was at the cemetery? A. On the cemetery or home. I don't remember when.

Q. When you came back from the cemetery? A. I don't remember; I can't; I was in trouble and I can't remember it.

Q. Did you mention anything to Mrs. Smith concerning a will—you know Mrs. Smith? A. Sure I do.

Q. Did you talk to her about a will when you went down there? A. I told her I have a will.

Q. Did you tell her that you found a will in a Hebrew Bible? A. No.

Q. In a Jewish Bible? A. No, sir.

Q. When was it you say that you found the will? A. When it was? About the 6th of October or the 7th.

Q. From the 21st of September up to the 6th or 7th of October, did you look for any will? A. Yes, sir.

Q. Did you open the safe? A. I did.

Q. You looked for it in the safe? A. I was by the safe before—

Q. Did you look for it in the safe? A. I did.

Q. When was the first time that you looked for a will in the safe? A. On the 3d of October.

Q. And from the 21st of September, up to the 3d of October, you did not look for any will in the safe? A. Well, I was by—

Q. Did you? A. I didn't look exactly for a will. I was by the safe.

Q. And did you examine the contents of that safe? A. The safe was empty, I could see it, one side was silverware.

Q. How much silverware was there? A. About so high (indicating).

Q. What kind of silverware is that? A. Spoons and knives, teaspoons, and that is all.

Q. In a box? A. In the box, a high box.

Q. Were the spoons, knives and forks in a separate box? A. No, the box what is in the safe.

Q. In the safe loose? A. Loose.

Q. Did you at any time take the silverware out of that safe before the 6th or 7th of October? A. No sir; always laying there in the safe; never used it.

Q. From the time of his death? A. Never.

Q. Up to the 6th or 7th of October? A. The 3d.

Q. The 3d of October. You did not take that out? A. No.

Q. Did you take it out on the 3d? A. Why sure.

Q. And after you took out the silverware what

did you find? A. I found a leather pocketbook and I opened the leather pocketbook and it was that paper in, and it was in Jewish writing "Zwuha"; my husband used to sign everything in Jewish.

Q. That was the 3d of October? A. Yes, sir.

Q. Then on the 3d of October you found the will? A. Yes, sir.

Q. I thought you said a moment ago you didn't find the will until the 6th or 7th of October? A. No, sir.

Q. Didn't you say a moment ago, that you didn't find the will until the 6th or 7th of October? A. No, sir.

Q. Are you sure? A. The 6th or 7th I told.

Q. How many days after you found the will did you go down to Mrs. Smith? A. I don't remember—on the 6th or on the 7th.

The Court: What date did she say it was found?

Mr. Greenfield: On the 3d of October.

Q. And is that the first time you say you removed the silverware? A. Yes, sir.

Q. The silverware was loose, wasn't it? . A Laid one on the other.

Q. How many spoons were there? A. Twenty-one or twenty-three spoons.

Q. Forks? A. I don't remember exactly; thirteen or fourteen.

Q. And teaspoons? A. About six.

Q. And how wide is that safe? A. Was like this bench, so high (indicating).

Q. Three feet? A. I didn't measure it.

Q. How deep was that safe? A. It was square.

Q. Did you find it under the silverware? A. Yes, sir.

Q. That pocketbook was lying under the silverware? A. Yes.

Q. Did you ever live on Plane Street? A. I lived in Ferry Street, not in Plane Street.

Q. Never lived on Plane Street? A. Never. I had business in Plane Street. I didn't live in Plane Street.

Q. What kind of a business did you have on Plane Street? A. Cider and cigars.

Q. When was it? A. About eleven years or twelve years.

Q. And at that time you lived where? A. In Ferry Street.

Q. How long did you live in Ferry Street? A. Near three years.

Q. Was that the first place you lived in Newark, on Ferry Street? A. Yes, sir, in Newark.

Q. And you lived on Ferry Street about three years? A. About three years, Judge.

Q. And that was twelve years ago when you first came over here? A. About twelve years ago, yes, sir.

Q. Where did you go from Ferry Street? A. To Barclay Street.

Q. Then you moved to Barclay Street about nine years ago, was it? A. Yes sir; it was nine years ago, when I moved to Barclay Street; I used to live there before and I moved back to New York.

Q. You lived in Barclay Street before you lived in Ferry Street? A. Yes, sir, long before when I bought the property—

Q. How long did you live on Barclay Street before you moved to New York? A. About a year and a half.

By Mr. Greenfield: Q. You lived on that same house on the corner? A. Yes, sir, small house, before we built up.

Q. You conducted a business there? A. Well, we had a cigar store there.

Q. A whole house? A. A whole house, small house.

Q. How many rooms in the cigar store? A. About four rooms.

Q. Besides the store? A. Besides the store, yes, sir.

Q. From there you moved to New York? A. Yes, sir.

Q. Where did you move in New York? A. In Suffolk Street.

Q. Is that the first place you lived, in Suffolk Street, in New York? A. The second place.

Q. How long did you live in Suffolk Street? A. You can ask Mr. Arbeitel.

Q. I am asking you. A. You can ask Mr. Arbeitel. He knows.

The Court: We are asking you now.

Witness: I don't remember how long.

Q. Haven't you lived on Suffolk Street under the name of Lena Jacobowitz? A. I don't know what name I lived. I know Mrs. Richter, that is what I know.

Q. When you say you don't remember under what name you lived in Suffolk Street how is it you don't remember? A. I don't.

Q. Did you have so many names? A. Not many

names. I had my maiden name and my husband's name, that is all.

Q. Did you at any place live under your maiden name? A. Sometimes.

Q. Where? A. I don't remember where.

Q. Was it in Suffolk Street? A. It was in Plane Street.

Q. In Plane Street you lived under what name? A. My name, Lena Jacobs. I didn't live there; I had a business there.

Q. You conducted a business under the name of Lena Jacobs? A. Yes, sir.

Q. Did you conduct a business at 151 Mulberry Street under the name of Lena Jacobs? A. I didn't have no business there.

Q. I will ask you again; I didn't get the answer. Under what name did you live on Suffolk Street in New York? A. I don't remember that; I think it was on the name of—because it was partners.

Q. I don't care now about your partnership. I am asking you under what name did you live on Suffolk Street? A. It wasn't no name.

Q. No name? A. Not my name.

By the Court: Q. What name were you known by when you lived there? A. Mr. Schlessinger.

Q. What name were you known by? A. Mrs. Richter.

By Mr. Greenfield: Q. Was Mr. Richter there? A. Yes, sir.

Q. And Schlessinger was there? A. He wasn't there. He was in business with us.

Q. Isn't it a fact that you conducted one place under one name and Mr. Richter conducted an-

other place of business? A. Well, I don't know what he conducted. I know—

Q. How is it you don't know? A. I don't know.

Q. You say you were his wife. Didn't you know what business he was conducting? A. Well, I didn't know it.

Q. You don't want us to understand that you didn't know what business your husband was conducting in another place? A. I didn't ask him what kind of business.

Q. Didn't ask him what kind of business? A. No, sir.

Q. You didn't know what kind of business he was in in different places? A. No different places.

Q. Always with you? A. Always with me.

Q. In the same place? A. In the same place.

Q. He didn't conduct two or three different places in New York? A. No, sir.

Q. Are you sure? A. Sure.

Q. Why did you say a moment ago that you didn't know? A. If he had another business I don't know.

Q. He might have had another place of business? A. Might have; I don't know.

Q. Did you have more than one place of business in Newark, while you were living in Newark, at the same time? A. My own place.

Q. You and Mr. Richter? A. I didn't have only one place. I can't have two places at once.

Q. I am asking you now, did you have one place and Mr. Richter have another place at the same time? A. I didn't know it—I don't know.

Q. You don't want us to understand that, do

you? A. I do understand. I know so far he was home—

Q. Just a minute. You don't know whether or not Mr. Richter had one place and you had another place at the same time? A. I don't know.

Q. You want us to so understand, do you? A. Yes, I understand that.

Q. You understand my question? A. Sure, I do.

Q. Is it not a fact that you would change in places, certain hours you would be in one place and he in another? A. No, sir.

Q. And then change again? A. No, sir.

Q. Did you ever hear of a place corner of Clayton and Barclay Street about twelve years ago known as the Circus Place? A. Twelve Barclay Street.

Q. No, corner of Clayton and Barclay Street, the little house there, before the brick buildings were put up, known as the Circus Place.—did you ever hear of that? A. I heard it before. We bought it up.

Q. That was a circus place? A. I don't know what it was.

Q. Then you took this place over, didn't you? A. Sure, I bought it—my husband bought it.

Q. And you continued the same line of business after you bought it? A. That was a cigar store, so far as I know.

Q. It was a cigar store before? A. Yes, sir.

Q. That was the place known as the circus place? A. I don't know if it was known in Newark.

Q. But you heard about it? A. I didn't take no attention on it.

Q. I don't care whether you paid any attention or not? A. What it was I don't know.

Q. I asked you whether you heard that that place was known as the circus place? A. I don't remember that now.

Q. Now, don't you know that during the time that you conducted that with Schlessinger, the Suffolk Street place, Richter conducted another place on Christie Street at the same time? A. I don't know.

Q. You don't know that? A. No, sir.

Q. You wouldn't say that he didn't? A. I don't know; I can't say.

Q. Were you not living with Schlessinger on Suffolk Street as husband and wife? A. With Schlessinger?

Q. Yes. A. I beg your pardon! Not.

Q. Did you know a man by the name of Jake Jacobowitz? A. Yes, sir.

Q. What relation is he to you? A. Nothing at all.

Q. Where did you meet him? A. He came to my house.

Q. You took him in the house? A. Yes, sir.

Q. As a boarder? A. No, sir; he was working.

Q. Working what? A. I had a pool table.

Q. I thought you said you had a flat there? A. No, sir; a whole house.

Q. On Suffolk Street you had a whole house? A. Yes, sir; partners with Mr. Schlesinger.

Q. And Jacobowitz? A. Yes, sir.

Q. Is he any relation to you? A. No, sir.

Q. And you were at times known as Lena

Jacobowitz? A. Yes, sir—what Lena Jacobowitz.

Q. Just a minute. Where was it that you were known as Lena Jacobowitz? A. In Plane Street.

Q. I thought you said a little while ago that you were known on Plane Street as Lena Jacobs? A. Jacobowitz.

Q. I ask you under what name you were known on Plane Street and you said Lena Jacobs? A. Yes, sir.

Q. Now you say Lena Jacobowitz? A. By me it is all the same Jacobs or Jacobowitz.

Q. Do you know Mr. Sam Jacobs, Samuel Jacobs, your nephew? A. Sure.

Q. Had he been working for you on Suffolk Street? A. No, sir.

Q. Or on Christie Street? A. I don't know what Christie Street.

Q. You were there on Christie Street. A. He was not working in Christie Street; he wasn't working in Suffolk Street.

Q. Where was he working for you? A. For me he didn't work; he was by me; he was my nephew; he boarded by me and I kept him. I brought him from Europe.

Q. Now, we have that you were known as Lena Jacobowitz in Plane Street and you were also known as Lena Jacobowitz in Suffolk Street in New York? A. Suffolk Street, no, I think not.

Q. I thought you said a moment ago—A. From no people. Mrs. Richter.

Q. You were not living there under the name of Lena Jacobowitz were you not? A. The name Richter I was living, not Jacobowitz.

Q. Are you sure? A. Sure.

Q. Didn't you say, when I asked you under what name you were living on Suffolk Street, that you were living under the name of Lena Jacobowitz? A. Mrs. Richter.

Q. Where did you meet Jacobowitz? A. She came to the house.

Q. And were you not known there as Lena Jacobowitz? A. Lena Richter.

Q. He is no relation to you, is he? A. No, sir.

Q. Neither by marriage or by blood? A. No, sir not at all. He is from Austria and I am from Russia, Poland.

Q. How long had he been living on Suffolk Street with you? A. I don't know how long; I can't tell.

Q. A month or two? A. Oh, more.

Q. A year? A. About a year and a half or two.

Q. Did you conduct any other place, a business partnership? A. Nothing.

Q. Is that the only place on Suffolk Street that you had a partnership business with anyone? A. With Schlesinger's?

Q. Any other place? A. No, sir.

Q. On Allen Street, under what name did you conduct the business there? A. Lena Jacobs.

Q. Was Jacobowitz there? A. No, sir.

Q. Under what name did you conduct the business on Orchard Street? A. Also Lena Jacobs.

Q. And you were known there as Lena Jacobs? A. As Mrs. Richter for the people outside.

Q. Did you have a sign out? A. I didn't have no sign.

Q. Jacobs? A. No Jacobs, no Richter, no sign.

Q. But you were known inside as Lena Jacobs? A. Yes, sir.

Q. And you were known inside on Suffolk Street as Lena Jacobowitz? A. I can't tell.

Q. But you went under that name? A. Might; I can't tell.

Q. And Jacobowitz lived—A. He was working for me; Mr. Arbeitel was working, too.

Q. Did you ever know a man by the name of "Curly-headed Nathen" A. Yes, sir.

Q. What was his last name? A. Biscay.

Q. Where did you meet him? A. We had partners in Plane street.

Q. Then you had another place in partnership? A. Yes, I forgot.

Q. I thought you said a moment ago that you didn't have any other partners outside of Schlesinger. A. Yes, sir.

Q. Then you did have another partner? A. Yes, sir, Nathan and Schlesinger, that is all.

Q. How long were you in partnership with him? A. About six months.

Q. And then weren't you known under the name of Mrs. Nathan, whatever that name is, here on Plane street—Biscay? A. Mrs. Nathan?

Q. Yes. A. Never.

Q. Here on Plane street. A. His name was Nathan Biscay.

Q. Weren't you known as Mrs. Nathan Biscay? A. No, sir, Jacobs; he knowed me as Mrs. Richter and I had partners, and I bought it off of Mr. Krutzel, the place.

Q. Did you have any partners at 151 Mulberry street? A. I didn't have no business there.

Q. But you lived there? A. I lived in Ferry street, not there.

Q. Were you working there? A. No, sir.

Q. Just happened to call there, I suppose, when

the police were there? A. A lady friend of mine she had the place.

Q. Who was it? A. Mrs. Saras.

Q. And you happened to be there when the police came in, I suppose? A. I did.

Q. By appointment? A. I used to come always to visit her and she used to visit me, but in Ferry street.

Q. The second place in Allen street, 121 Allen street, the next was 117, I think you said? A. Yes, sir.

Q. Did you conduct that in partnership? A. No, sir.

Q. It was under what name? A. My name.

Q. What name? A. Jacobs.

Q. And at that time did Mr. Richter conduct another place of business? A. No, sir.

Q. Wasn't he living at that time in Newark? A. No, sir.

Q. How long ago was that 117 Allen street place? A. It is about twenty three or twenty-two years.

Q. Did you know a man by the name of Johnnie Hart? A. No, sir.

Q. Never heard of him? A. No sir.

Q. At 151 Mulberry street? A. No, sir.

Q. Weren't you in business with Johnnie Hart? A. No, sir.

Q. And Mrs. Saras? A. That is what I know, which I done no business with her.

Q. At 151 Mulberry street? A. Yes.

Q. You say you never heard of Johnnie Hart? A. No, sir.

Q. Don't you know that Johnnie Hart at that time was taken in with the crowd under a different

charge? A. He was taken, but I don't know the name.

Q. You don't know the name? A. No, sir.

Q. Is it not a fact that you bought the place at 151 Mulberry street from Saras? A. No, sir.

Q. And that the business was run under the name of Johnnie Hart? A. No, sir.

Q. And isn't it a fact that he was convicted and sent away from 151 Mulberry street while you were conducting that place? A. I don't know. I didn't have no place there.

Q. Did you know who William Menzel was, did you ever hear of him? A. No, sir.

Q. Never heard of him? A. No, sir.

Q. Now, you were not on Mulberry Street? A. No, I wasn't.

Q. You never lived on Mulberry street, New York? A. Yes, sir, New York.

Q. What business did you conduct there? A. No business at all; a flat, three rooms.

Q. And on Orchard street, did you have a business there? A. Yes, sir.

Q. Under what name? A. My name.

Q. What name? A. Lena Jacobs.

The Court: You have been all over that.

Q. Now where else did you live in Newark, if any place, if I didn't mention any? A. I don't remember.

Q. We have Ferry street, Plane street, Clayton street, or Barclay, whichever it was. Now where else in Newark, I am asking about? A. Ferry street and Barclay street, that is all I was living.

Q. Where did you have a business? A. On Plane street.

Q. Any other place? A. No, sir.

Q. You conducted a business in Clayton sareet, didn't you? A. No, sir.

Q. A cigar store? A. Yes.

Q. Isn't that a business? A. It is long ago, the first time we come to Newark.

Q. Now, in what name did you conduct the business in Clayton street or Barclay street? A. I don't remember.

Q. You don't remember that? A. Not this I don't remember.

By the Court: Q. Whose business was it that you were conducting in these various places? A. It was mine and my husband's.

Q. Why did you use your own name—that is, your maiden name Jacobs—in Orchard street and Allen street, New York? A. I didn't want to spoil my husband's name.

Q. Why were you not using his name? A. Because I don't think his name would be nice.

Q. What business were you conducting? A. It wasn't such a nice business?

Q. Were you conducting a disorderly house? A. Yes, sir.

Q. And in New York and Newark as well? A. In Newark, only on Plane street.

Q. Was your husband interested in these different businesses that you were conducting? A. No, he knew it; he wasn't in the business.

Q. He wasn't in the business with you? A. We was living extra.

Q. He was living at the place where you were running the business? A. No, sir.

Q. Did he have any interest in this business, did the business or any part of this business, these disorderly houses that you were conducting belong to your husband? A. He know it.

Q. Was he in any other business? A. I don't know.

Q. He died leaving considerable property—there was considerable real estate when he died? A. Yes, sir; we were in business since twelve or thirteen or fourteen years.

Q. You didn't accumulate all this property running cider stores and cigar stores—did you accumulate this property, did you get all this property, make all this money with which the property was bought, as the result of running these disorderly houses? A. Yes.

Q. That is where it came from? A. Yes.

Q. And you ran these houses both for yourself and your husband? A. Yes, sir.

Q. That is the way all this property was accumulated, where it all came from? A. Yes, sir.

RE-DIRECT-EXAMINATION by Mr. Osborne:

Q. Mrs. Richter, you say you and your husband haven't conducted any such business for twelve or thirteen years; is that true? A. Yes, sir, fourteen years.

Q. Or since the year 1901, practically, which is about fourteen years, you never conducted any such business for your husband since about fourteen years, ago, the last business? A. Since we moved to Newark, to Ferry street.

Q. Are you sure it is about fourteen years? A. No, we moved about twelve years; we was two years in New York before.

Q. About how long is it since the last time you conducted any business for your husband of that kind? A. Thirteen or fourteen years.

Q. And since then you have conducted no busi-

ness? A. No business. This business in Clayton street, it wasn't no disorderly house.

Q. In Plane street it was not a disorderly house? A. No, it was a cigar store and cider; we bought it of Mr. Kutzel; before it was; I didn't keep none.

Q. After you had it it was a straight business? A. Yes, sir.

Q. Will you explain to us about this 151 Mulberry street, this arrest in 1903, just tell us about how that happened. A. Well, I came to see my lady friend, Mrs. Saras, and we was sitting in the back and there was there a few more girls; I know what they are, and we was sitting around.

Q. Who is Mrs. Saras? A. She is a Hungarian woman. I don't think she is living.

Q. Did she run this place? A. Yes, sir.

By the Court: Q. It was a disorderly house she was running there? A. Yes, sir.

Q. And you were there visitng? A. Yes, sir; I was there to see her.

Q. And you and this woman and the inmates were sitting there and the place was raided? A. Yes, sir.

By Mr. Osborne? Q. Were you an inmate of that place? A. I was there; they take me along.

Q. Were you one of Mrs. Saras's girls? A. No, sir.

Q. Then you were not there on that occasion in any improper way? A. We were talking to Mrs. Saras and the place was raided.

Q. They took you along in this raid and you were discharged? A. Yes, sir.

Q. You never ran a business there, did you? A. No, sir.

Q. And I understand that you have run no such business— A. Not in Newark.

Q. —for thirteen or fourteen years? A. Yes, sir.

Q. That is correct? A. Yes, sir.

Q. And prior to that time you did run certain businesses? A. Before.

Q. And the money from these places went to your husband? A. Went to my husband, sure.

Q. And where you conducted then under the name of Jacobs at that time you were living in another house with your husband? A. With my husband extra.

Q. As man and wife? A. Man and wife.

Q. And in the houses where you lived with your husband you were known as Mrs. Richter? A. Yes, sir.

Q. You never had any intimate relations with these men Nathan and Schlesinger? A. No, no relations, only partners.

Q. Business partners? A. Business partners.

Q. And your husband was a silent partner in these businesses—in other words, he and Schlesinger were partners and Nathan were partners and you ran the business? A. Yes, sir.

Q. Was Mr. Arbeitel in New York at that time? A. In my house, where I had Mr. Schlesinger for partner, he know all about it. My husband sent me to Europe and he was attending the place.

Q. When did you first find out when this first wife Blima came over from Europe to America? A. When she came over from Europe I know it.

Q. How do you know it? A. Because Arbeitel tell me.

Q. Did you talk to your husband about it? Yes, sir.

Q. What did he say about it? A. He said I shouldn't tell I am married to him, I shouldn't

go against him because he will see that she will divorce him.

Q. Did you tell him you were surprised or anything? A. Yes, I told him.

Objected to.

Question withdrawn.

Q. What did he say about this Blima when you first found out—was there a quarrel or anything? A. I started to cry and said, "You had a wife, what you had to marry me?" and he said, "I have been divorced by a rabbi in Jewish."

Q. Where did he say he had been divorced? A. By a rabbi in Europe.

Q. Did he show you a paper or anything? A. Yes, sir; you have it.

Q. He handed you a paper which he told you was a divorce granted by a rabbi in Russia, is that right? A. Yes, sir.

Q. Did you after that know or hear that any divorce had been granted Blima in America here? A. She wasn't divorced this time in America, but afterwards.

Q. Afterwards? A. Afterwards.

Q. And when her divorce did come along, when she was divorced in America, did you know about it? A. Yes, sir.

Q. And who told you about it? A. My husband showed to me the papers.

Mr. Osborne: Will you show me those two checks not marked for identification, which were shown to the witness?

Mr. Greenfield. I shall decline.

The Court: The witness was shown a signature which she failed to identify. I do not think you can examine on a paper which the witness has failed to identify merely

because she was asked if she could identify it. That paper is in the control of the other side until such time as it is offered either for identification or in evidence.

Mr. Osborne: I call now for a check marked for identification. I ask the other side to produce it.

The Court: I shall not direct the other side to produce it because it has not been offered yet.

Q. You say that Mr. Arbeitel was at work in all these places where you conducted businesses for your husband? A. Not all these places.

Q. But in some of them? A. In Suffolk street.

Q. In Suffolk street, NewYork? A. Yes, sir.

Q. That was the only place? A. Yes, sir.

Q. How many years was he there? A. Not years— about eight or nine months.

Q. Was he living in New York at the time. you conducted other places? A. He was living in the same house, top floor. In other flats we had the business.

Q. He lived in the place where you had the business? A. In the same house.

By the Court: Q. In the same building in which the business was conducted? A. Yes, sir.

By Mr. Osborne: Q. Did he know what kind of a business you were conducting? A. Sure.

Q. Was he janitor there?

Mr. Greenfield: I object to that as immaterial. The will does not involve Arbeitel.

The Court: You have opened up the matter.

(Objection withdrawn.)

The Court: We are not trying the charge for keeping a disorderly house, and the only purpose is to affect the credibility of the witness who has testified.

Q. Was he janitor there? A. No, sir he was working.

Q. He was employed by your husband in connection with this business? A. He was the working just the same as Jacobowitz.

By the Court: Q. What did he do, what was his job? A. He watched there and he seen everything should be in order.

Q. Who ordered him? A. Me.

Q. Did he see the people that were in this place? A. Yes, sir.

The Court: She has already said that he took charge of it while she was in Europe.

By Mr. Osborne: Q. Did his family live there? A. Yes, sir.

Mr. Greenfield: I object. How can she tell what happened when she was in Europe.

Q. Before you went to Europe did his family live there? A. Yes, sir.

Q. And while business was being conducted there? A. Yes, sir.

Q. When you came back from Europe was the family still there? A. Yes, sir.

Q. Was there anybody else that you know of that conducted that business while you were away? A. Well, he took care of the business.

Q. Where did he and his family live? A. Upstairs, in the inner house.

Q. Of whom did his family consist at that time, who was his family then? A. Small children.

Q. A girl? A. A girl and two boys, this Mr. Arbeitel, and this is the other Mr. Arbeitel (indicating).

Q. And Mrs. Katzin? A. Mrs. Katzin was a small girl, too.

Q. Was his wife living? A. Yes, sir.

Q. Was she there? A. Yes, sir.

By Mr. Greenfield: Q. That place that you had on Suffolk Street was in a rear building? A. It was a rear building and a front building.

Q. You had two buildings? A. It was rear and front, yes.

Q. And the cider place as you call it, was in the rear building? A. In the front and in the rear.

At one o'clock, p. m., the court took a recess of one hour.

After recess.

LENA RICHTER resumes the stand:

Further direct-examination by Mr. Osborne:

Q. Do you know why your husband did not carry on these businesses in his own name? A. Of course, I didn't want he shall be—his name should be on the record.

Q. What record? A. To dirty his name.

Q. Was he a Mason? A. Yes, sir.

Q. What lodge did he belong to?

Object to as immaterial.

Objection sustained.

The Court: (After discussion.) Counsel offers to produce further testimony of the

fact tending to show that Samuel Richter and the woman known as Lena Richter or Jacobs lived together as man and wife for a number of years and they held themselves out to the people as such, and that fact is conceded by the other side, and it therefore becomes unnecessary to introduce any further testimony on that point.

HARRY SILBER sworn in behalf of proponents in rebuttal:

Direct-examination by Mr. Hahn:

Q. How old are you? A. Twenty-five.

Q. What is your occupation? A. Machinist.

Q. Where do you work? A. Edison Phonograph works.

Q. How long have you worked there? A. Pretty near nine years.

Q. You are still working there, now? A. Yes, sir.

Q. Where do you live? A. 12 Barclay Street.

Q. With whom? A. My mother and brother.

Q. Is your father living? A. No, sir.

Q. What relation are you to Mrs. Lena Richter? A. She is my aunt.

Q. That is, she is— A. My mother's sister.

Q. Where does Lena Richter live? A. Under us.

Q. In the same house? A. The same house.

Q. Your apartment is above hers? A. Above hers.

Q. Do you remember your uncle Samuel Richter? A. Yes, sir.

Q. Where did he live? A. Under us.

Q. What street? A. 12 Barclay Street.

Q. How long did you live with your mother at 12 Barclay Street? A. About nine months.

Q. Where did you live before that? A. 28 Clayton Street.

Q. How long did you live there? A. About eight years.

Q. Did you see your uncle frequently? A. Yes, sir, every day.

Q. 28 Clayton is how near to 12 Barclay Street? A. It is just one house; it is all in one.

Q. It is all one property, isn't it? A. Yes, sir, the same porch.

Q. Now, Harry, do you remember the occasion when your uncle Samuel Richter died? A. Yes, sir.

Q. Do you remember before his death that he was sick? A. Yes, sir.

Q. Do you remember the morning that he died? A. Yes, sir.

Q. The 21st of September, 1914? A. Yes, sir.

Q. Were you there when he died? A. Yes, sir.

Q. Will you state what time you reached the house, either the night before, or that morning? A. Well, that morning my aunt called me down between three and four, I don't remember the exact time.

Q. It was in the morning, though? A. I don't remember the exact time.

Q. But I say it was in the morning? A. Monday morning.

Q. As far as your recollection goes it was between three and four? A. Three and four.

Q. Was it dark? A. Well, of course, it was not so very dark.

Q. When she called you what did she say? A. Well, she knocked at the door and she hollered, "Harry" and I got up and my mother got up and went down and she says to me, "Harry, run for the doctor quick," and I run for the doctor.

Q. Which doctor did you run for? A. Doctor Steiner. I brought Dr. Steiner up to the house.

Q. Where is Dr. Steiner's office? A. On High Street.

Q. Did you go back in the house with the doctor? A. Yes, sir.

Q. And when you and the doctor reached Mrs. Richter's apartment did you go into the room where your uncle was lying? A. Yes, sir.

Q. And who was there? A. Well, there was no one there but the doctor and I and my aunt and my mother at the time.

Q. Did you see your uncle? A. Yes, sir.

Q. What was his condition as far as you could observe? A. Well, he felt very bad and the doctor said he is not going to live.

Q. The doctor said that to whom? A. My aunt.

Q. Well, what did you do next? A. Well, my aunt told me to go and call Mr. Arbeitel and call Justice Simon.

Q. Did you call Mr. Arbeitel? A. I called Mr. Arbeitel and then I went for Justice Simon because he spoke to the doctor he says "Zwuha, zwuha."

Q. What does that mean? A. That means will.

Q. Do you understand the Jewish language? A. Yes, sir.

Q. Is it Jewish? A. Yes, sir.

Q. Did you see Justice Simon? A. I have been

to his house and he wasn't even dressed, got him out of bed.

Q. You came back with Justice Simon? A. Yes, sir, with his shoes unbuttoned even, if I am not mistaken.

Q. When you got back to the Richter apartment, in the bedroom in which he was, when you got there with Justice Simon, will you tell me who else was in the room? A. Well, there was no one else in the room, but my aunt and Mr. Arbeitel.

Q. When you say your aunt you mean Mrs. Lena Richter? A. Yes, sir.

Q. And Mr. Arbeitel? A. Mr. Arbeitel, my mother, the doctor, myself and Justice Simon; that is all was in the room.

Q. Did you see Arbeitel there? A. No, sir; he wasn't there at the time; he came in when uncle had his eyes closed, lying dead.

Q. You came in with Justice Simon, and what happened then when you and Justice Simon came in? A. Well, Justice Simon had asked my uncle, "What is the matter?" in Jewish, he said—

Q. Give me the words in Jewish, just say it in the way he did, as you remember it.

(Witness talks in foreign language.)

The Interpreter: He, says "What is the matter, Samka?"

Mr. Hahn: What does "Samka" mean?

The Interpreter: Samuel.

Witness: He said, "I am feeling bad,"

Q. Say it in Jewish.

(Witness talks in foreign language.)

The Interpreter: "I feel bad, and Justice Simon, "What you send for me for?"

Q. What did he say?

(Witness talks in foreign language.)

The Interpreter: "Why did you send for me?"

Q. Then what did your uncle say? A. (Witness talks in foreign language.)

The Interpreter: He says, "And uncle said to him 'I want a will everything to my wife and a thousand dollars for Blima,' and Mr. Arbeitel got up and says—Mr. Arbeitel went to the bed and says, "Samka, for Arbeitel, for Arbeitel."

Q. What did your uncle say? A. He shook his head no and stretched out.

Q. And then did he say anything more? A. Yes, he said "For Blima." My aunt ask him "For Blima?" He shook his head.

Q. That is when he said "a thousand dollars"? A. That is when he said "A thousand dollars" when my aunt asked him "For Blima?" That is all he could do, shake his head.

Q. Did he say anything else after that? A. After that nothing else was said.

Q. How soon after that did he die? A. Right there.

Q. He died right after? A. Right in the doctor's hands.

Q. Was the doctor in the room when he died? A. Yes, sir, he held his hand right under his head and covered him.

Q. Was Dr. Steiner there all this time when your uncle said that? A. Yes, and Dr Steiner covered him up, shut his eyes, pulled his eyelids down and covered him.

Q. Were you born in this country, Harry? A. No, sir.

Q. Where were you born? A. Russia, Poland.

Q. How old were you when you came to this country? A. That is a thing I don't remember exactly.

Q. A baby? A. A small boy, six or seven—I really don't remember—perhaps twelve—I don't remember.

Q. Did you come to this country alone or with your mother? A. I came here with my mother and brother.

Q. When you came to this country with your mother and brother where did you come from? A. From Russia, Poland.

Q. What was the name of the place? A. Kinska.

Q. Did you arrive in New York? A. Yes, sir.

Q. When you arrived in New York was your uncle living here at that time? A. Yes, sir.

Q. And your aunt? A. Yes, sir.

Q. Where were they living? A. 18 Ferry Street.

Q. Where did you go to live then? A. Right to my aunt's house; we stayed there for several weeks until they furnished us a flat on Prince Street.

Q. Do you remember the number of the street? A. 93, if I am not mistaken, Finkelstein's house; that is about all I can remember.

Q. How long did you live on Prince Street? A. A year and a half at the most.

Q. Then where did you go to? A. Moved to uncle's house, 28 Clayton Street.

Q. And from 28 Clayton Street you moved to 12 Barclay Street? A. Yes, sir.

Q. So from the time you came to this country

a little boy, you have lived in Newark ever since? A. Yes, sir.

Q. During that time you saw your uncle frequently? A. Every day.

Q. How did he treat your aunt? A. Very nice.

Q. Did they live happily, as far as you know? A. Every summer he sent her to Coney Island pretty near every day and he told her to take us along, my mother used to take us along pretty near every time she went, and he hasn't charged me no rent since my father died, either.

CROSS-EXAMINATION by Mr. Greenfield:

Q. You say you are twenty-five? A. Yes, sir.

Q. When you came to this country you went to live at 18 Ferry Street? A. Yes, sir.

Q. You lived there how long? A. Well, a few weeks.

Q. What do you mean a few weeks, a week, ten days? A. I can't recall how many weeks it was.

Q. Was it a month? A. I can't recall it.

Q. Then from there where did you go? A. From there we went to 93 Prince Street. He furnished us a flat.

Q. How long did you live at 93 Prince Street? A. About a year and a half at the most.

Q. Then where did you go? A. 28 Clayton Street.

Q. How long did you live at 28 Clayton Street? A. Over eight years.

Q. When you say it is over eight, you say it is nine or ten? A. I can't exactly say.

Q. Why do you say over eight years? A. Because I know.

Q. Will you say it is over ten years? A. That is a thing not true. Why should I say it?

Q. Will you say it is nine? A. No, not nine; it is over eight years.

Q. Where did you move to from 28 Clayton Street? A. To 12 Barclay Street.

Q. How long have you been living at 12 Barclay Street? A. Nine months.

Q. How old were you when you came over? A. I don't remember.

Q. Why? A. Because I don't.

Q. You haven't lived in New York, have you? A. No, sir; I came right to my aunt's house.

Q. Were you so young that you couldn't remember it? A. Of course, I was young; my uncle took me to school.

Q. Just figure it out. You are twenty-five years of age. You lived a year and a half in Ferry Street? A. Yes, sir—who said a year and a half?

Q. I mean a year and a half in Prince Street? A. Yes, sir.

Q. And about eight years in 28 Clayton Street? A. Yes, sir.

Q. And about nine months in 12 Barclay Street? A. Yes, sir.

Q. Have you lived anywhere else? A. Nowheres.

Q. Then you are in this country altogether about ten years, are you not? A. About eleven or twelve years.

Q. And you are now twenty-five years of age? A. Yes, sir.

Q. And you mean to say that you don't remember coming over here when you were about fifteen years of age—about fifteen years of age—fourteen years of age—you don't remember it? A. That don't say I remember everything.

Q. I asked you how old you were when you came over here and you said six or seven years; is that true? A. I said that, yes.

Q. Is it true? A. I didn't say six or seven; I said I don't remember; that is what I just said.

Q. You didn't say you were six or seven years of age? A. No, I did not, nothing of the kind.

Q. Didn't say anything like it? A. I said I ain't sure, that is what I said.

Q. Don't you know, as a matter of fact, you were about fourteen years of age? A. Perhaps you are right. I don't doubt your words.

Q. Don't you know? A. Well, it figures to that, yes.

Q. What kind of a place was 18 Ferry Street? A. Apartment house.

Q. What kind of apartment house, how many families in it? A. About six or eight—I don't remember that.

Q. You mean to say that 18 Ferry Street was a six or eight family house? A. Yes, sir.

Q. Who lived in 18 Ferry Street? A. I don't recall any of the neighbors because I didn't live there long enough to know them and I was green.

Q. During the time that you lived in Clayton Street where did your aunt live? A. My aunt lived in 12 Barclay Street.

Q. Always? A. Always.

Q. Has she ever been in business since then? A. No, sir.

Q. How do you know? A. Why shouldn't I know?

Q. Tell us how you know? A. Didn't I live right over her? I seen her every day; I seen my uncle every day. Why shouldn't I know.

Q. Did you tell everything that took place in that bedroom? A. Yes, sir.

Q. You were very much excited, you were sorry for your uncle? A. I was sorry, yes.

Q. There was a lot of excitement going on? A. Yes, there was.

Q. A lot of people there? A. Well, no, not many.

Q. Who was there? A. Dr. Steiner, my mother, Mr. Arbeitel, Justice Simon and myself and my aunt.

Q. Who held his hand under his head? A. The doctor.

Q. Are you sure? A. Positive.

Q. Isn't it a fact that Arbeitel had his hand under his head? A. No, sir, the only time Arbeitel came to him was when he said, "For Arbeitel, Samka," and that is about all.

Q. Where was he before he came to him? A. Right near the bed.

Q. Whereabouts, the head or foot? A. About the middle of the bed.

Q. Where was the doctor? A. Right next to him.

Q. Head or foot? A. Well, on his breast.

Q. Who was near the head? A. The doctor.

Q. You are sure? A. Positive.

Q. Don't you know, as a matter of fact that Mr. Arbeitel had picked him up and held his hand under the pillow? A. No, sir, it is not true.

Q. For whom are you working? A. Edison Phonograph Works.

Q. How long have you been working there? A. Over eight years.

Q. Do you remember everything that was said? A. Most of it.

Q. Why do you say most of it? A. Because I am not positive that I have heard everything.

Q. Then you don't know what took place—everything? A. I do know.

Q. If you didn't hear everything— A. Most of it.

Q. And if anything else was said you would have heard it? A. Yes, sir; I would.

Q. Then there was nothing else said? A. Nothing else.

Q. Then why do you say most of it? A. Because I say most of it.

Q. If you heard everything why do you say most of it? A. Well, how can I say different? I can't say no different than what I know.

Q. You mean to say that there might have been something else said? A. I didn't hear anything else said than what I stated; that is all that was said.

Q. Did you have a bottle of alcohol there? A. I didn't have anything.

Q. Didn't you have a bottle of alcohol in your hand and spill it in Mr. Arbeitel's hand? A. nothing of the kind, that was the night before.

Q. What night before? A. Sunday night, five o'clock.

Q. When did he die? A. Between three and four Monday morning.

Q. You are sure it was Sunday night four o'clock? A. It might have been half past four to five o'clock; I didn't look at the time.

Q. Did you see Arbeitel after that in Richter's bedroom? A. No, sir.

Q. You are sure of that? A. Positive.

Q. Who told you to go for Justice Simon? A. My aunt.

Q. It wasn't Mr. Richter? A. Mr Richter did state.

Q. He did say it? A. Yes.

Q. Why didn't you tell us that in the first place? A. I did say it.

Q. Did you tell us in the first place that Mr. Richter sent for Simon? A. My aunt sent me, but my uncle said, "Will, will," so my aunt sent me for him.

Q. What has that got to do with Simon? A. He said it in Jewish.

Q. I ask you, did your uncle mention the word Simon or mention Simon's name—did he—yes or no? A. I am not sure.

Q. You were there? A. I was there.

Q. Then who sent for him? A. My aunt.

Q. Who told you to go for him? A. My aunt.

Q. Then what do you mean when you said a moment ago that your uncle told you something about Simon—what did you mean by it? A. I didn't mean anything by it.

Q. Why did you say it if you didn't mean anything? A. Why did I say it?

Q. That is my question. A. Because I thought he may have told my aunt to send for him.

Q. I didn't ask you that. Why did you say, if you were not asked? Did you hear him say it? A. No, I did not.

Q. Why did you say your uncle said "Will, will" and "Simon" if he didn't? A. That is what my aunt told me, to go and call him, he wants to make out a will.

Q. I didn't ask you about your aunt telling

you. I am asking you did you hear Richter say anything about Simon before you went for him? A. No, sir; I did not.

Q. Why did you tell us that a moment ago that he did mention Simon's name, spoke something about Simon? A. I don't remember saying it.

Q. You forgot what you said just a moment ago? A. Perhaps I did say it, but I don't remember.

Mr. Hahn: The witness said he was sent for Simon.

Q. Did Mr. Richter say anything about Simon? A. My aunt.

Q. Did Mr. Richter say anything about Simon? A. Not to me, no.

(Testimony read.)

Q. When you said what the stenographer just read, that Mr. Richter did say something to you about it, that wasn't so; isn't that true? A. I meant that he told my aunt that I should go for Justice Simon.

By Mr. Hahn: Q. When you say "he" who do you mean? A. My uncle.

By Mr. Greenfield: Q. Did you hear him say that? A. No, I did not.

Q. Then how do you know that he told your aunt? A. Because my aunt told me to go for him, I imagine that she—

Q. I am asking you did you hear Mr. Richter say it? A. No.

The Court: He said he did not hear it.

Q. How long were you in the house before you went for Simon? A. Not very long.

Q. About? A. About ten minutes.

Q. What took place during those ten minutes

when you were there? A. Well, the doctor was around my aunt was going around crying, my mother, and that is about all I could see.

Q. Tell us what did Mr. Richter say during those ten minutes, if anything? A. He said not a word.

Q. Not one word? A. He was feeling very bad and couldn't say anything.

Q. Couldn't say a word, could he? A. No.

Q. Then after that what took place, what happened next after you were in there ten minutes, what happened, what was said if anything, to anybody? A. Before I went for Justice Simon?

Q. Before you went, yes. A. Nothing else. I went for Justice Simon there.

Q. Nothing was said by anybody? A. No, sir.

Q. You haven't heard anything said by anybody? A. No, I haven't heard anything.

Q. If anything was said you would have heard it—you were there? A. I suppose so, I could hear it.

Q. Did you say to Arbeitel after the death of Mr. Richter that you wished you had never went for Mr. Simon? A. Nothing of the kind.

Q. Have you talked with him at all? A. I have spoke to him the day of the burial. I said, "Mr. Arbeitel, here is a coach for you." That is the only thing I spoke to him.

Q. That is all you spoke to him? A. Yes, sir.

Q. You were at the cemetery? A. Yes, sir.

Q. Abe Karp was there? A. Yes, sir.

Q. Mrs. Karp? A. Yes, sir.

Q. Your aunt? A. Yes, sir.

Q. Were you present in your house when some papers were examined? A. Yes, sir.

Q. Who was there? A. Why, I don't remember who else was with me; someone else was with me.

Q. Nobody else in the house? A. Yes, there was someone, but I don't remember who was with me, and I have looked over the postals so I can find the addresses of the lodges, of the Masonics.

Q. You don't remember anybody else being in the house? A. I don't remember who was in the house at the time.

Q. Was your mother there? A. My mother wasn't up at the house.

Q. Was your aunt there? A. No, sir.

Q. Was your cousin there, Abe Karp? A. I don't remember whether he was or not.

Q. Why don't you remember what took place there? It was an important matter, wasn't it? A. Of course, it was important—well, it wasn't so very important.

Q. How is it you can't remember the people who were there? A. I think I can attend to it myself.

Q. How is it you don't remember it? A. I don't.

Q. Was Mr. Karp up there looking over papers? A. I don't remember.

Q. He may have been there? A. I don't remember.

Q. That is the best answer you can give? A. That is the best answer I can give.

Q. Were any papers taken from the safe to your house? A. That I know, I am positive.

Q. Why are you sure? A. Because I got them off the desk.

Q. Whose desk? A. My uncle's desk.

Q. You mean on a desk—roll top or flat? A. It is an upright desk.

Q. You took them out of the desk? A. No, sir; they were on the top.

Q. The papers that you took upstairs? A. Yes, sir.

Q. Sure of that? A. Positive.

Q. In those papers you looked for particular postals and letter, and letters from the lodge? A. For the addresses.

Q. What papers did you have to look over? A. Even bills, waterbills, tax bills,—all sorts of papers.

Q. Deeds? A. No, sir.

Q. Mortgages? A. No, sir.

Q. Any such thing? A. No such thing.

Q. The only papers you took upstairs were bills and postals and letters? A. Yes, sir.

Q. And those are the documents you looked over? A. That is all.

Q. And you don't remember whether Abe Karp was there? A. I don't remember who was there.

Q. Was there ever any other papers taken up to your house? A. No, sir.

Q. By your aunt? A. No, sir.

Q. Or by anyone else? A. I was the only one to bring them up.

Q. At any time? A. No, sir.

Q. At no other time? A. No other time?

Q. Who went for Karp? A. My anut sent my brother.

DR. EDWIN STEINER, re-called in behalf of proponents in rebuttal.

Direct-examination by Mr. Hahn:

Q. You have already testified, and I do not care to cover any of the points that you have referred to in this case, but I want to ask you, in order to clear up a point, what language Mr. Richter spoke in on this occasion when he died—that is previous to his dying, when you and Justice Simon and Mrs. Richter and Harry Silber were in the room? A. Why, it was a German dialect.

Q. Will you tell us just what conversation took place prior to his death? A. Yes, sir, he said "I want to leave"—

The Court: You have already given this to us in English. Yon are now asked to give it in the original dialect.

Witness: Yes, sir, as near as I can.

(Witness talks in foreign language.)

The Interpreter: "One thousand dollars for Blima and everything to my wife," and he died.

Q. Doctor, when he said that, was Mrs. Richter there at the bedside? A. Yes, sir; she was at the foot of the bed.

Q. You are sure of that, are you? A. Absolutely. In fact, I spoke to Mr. Simon who was there, I said, "Why don't you put that down in writing?"

Q. You said that to the Justice? A. He, said, "I will remember it." It wasn't necessary.

Q. You understand Yiddish, Doctor, don't you—the German dialect? A. Some words I do.

Q You understood what he said on that occasion? A. Except the word "Blima," and I didn't understand that and I asked Mrs. Richter.

Q. What did she tell you? A. She said it was his former wife.

Q. Did you ask it in the presence of the other witnesses? A. I asked that right after his death.

Q. Do you know this young man, Isidore Arbeitel (indicating)? A. I don't know him, no, sir.

Q. Can you state whether you saw this young man there when Samuel Richter died? A. I don't think he was there. There was a stout man there.

Q. Did you remain in the bedroom after this conversation, which you have just referred to ceased, up to the time of his death? A. I was there from the time I was called until he died, and then I left.

Q. Did you at any time go out of the room, out of that bedroom, after you reached there? A. No, sir.

Q. You stayed in the room all the time? A. Yes, sir.

Q. How long did it take him to die after he made the statement to Justice Simon in your presence. A. He did immediately after he said "Everything to my wife."

By the Court: Q. Was the elder Mr. Arbeitel there? A. Yes, sir.

Q. Did he say anything? A. I don't think he did. The only one spoke was Mr. Simon says "Anything else you want to say?"

Q. Do you remember the word "Arbeitel" being used at all by anybody? A. No, sir.

Q. Or part of that name? A. No, sir; it wasn't used, because I know he has been there around that house continually; I met him every time I came there.

Q. Mr. Arbeitel, the elder? A. Yes, sir.

Q. You knew his name? A. Yes, sir.

By Mr. Hahn: Q. Did you know that he was the janitor there at the house? A. No; I know he was always there.

Q. Did you hear Mr. Richter use the word or say the word "Arbeitel" on his deathbed? A. No, sir.

Q. You are positive of that? A. Absolutely.

Q. Did the elder Arbeitel speak? A. There was nobody spoke after he was telling what he wanted to do because the period was so short, he became very much excited when he was told that he was in bad shape, and he just made a few remarks and he died.

Q. Then the elder Mr. Arbeitel did not participate in this deathbed conversation? A. No, sir, just Mr. Simon and myself.

Q. And the deceased? A. And the deceased. In fact, I was the one that suggested to him if he had anything to say to send for a lawyer or I would do it myself. I have participated in these scenes and I was going to write down on a piece of paper, and I said, "Shall I send for a lawyer?" and he said, "All right"—shook his head, rather—and then Mr. Arbeitel suggested Mr. Simon and then sent for Mr. Simon. I don't know who went for him.

Q. During that conversation was the word "Zwuha" used? A. I can't recall that.

Q. Anything said about a will? A. No, sir.

Q. Anything said about sending for a lawyer? A. No, sir; I simply asked him if he wanted to say anything or to do anything, and that is the way the subject came up, and we sent for Mr. Simon, and when Mr. Simon came he was very much excited.

Q. Who was? A. Mr. Richter, and he hurriedly said, as I repeated before, and with that he died.

By Mr. Hahn: Q. Who came to your house that night to get you? A. I first received a telephone message, and then a young man came over towards my house.

Q. Could you say whether this is the young man (indicating)? A. Yes, sir; I met him before on the street, before he came to my house, I was on my way to Mr. Richter's house.

Q. Did you go right to the house with him? A. Yes, sir.

Q. Your office is about how many minutes walk from Mr. Richter's home? A. About ten or fifteen minutes.

By Mr. Greenfield: Q. Your office is right here corner of High? A. It is on High Street, between Mercer and Court Street, 577.

Q. You are quite sure that nothing was said excepting what you have testified to? A. Yes, sir; I asked to have it put down in writing and it wasn't done.

By Mr. Hahn: Q. Whom did you ask to put it down in writing? A. Justice Simon.

By Mr. Greenfield: Q. Did you have your hand under the pillow, under Richter's pillow before he died? A. No, sir.

Q. Sure of that? A. Yes, sir.

Q. Did Arbeitel have it there, hold him up like? A. He wasn't held up at all. His head was right on the pillow.

Q. Did anybody have his hand under his pillow while Simon was there? A. No, sir; he had his head on the pillow—in fact the man was paralyzed.

Q. But didn't anybody hold him up a little like, put him in sitting position? A. Mr. Simon bent away over his bed as he was talking to him.

Q. And didn't you have your hand under his pillow? A. No, sir; I was standing to Mr. Simon's right.

By Mr. Hahn: Q. Did you hold his hand while he was talking? A. No, sir; I was standing right opposite the bed.

Q. At the time he died did you hold his hand to ascertain whether he was dead? A. Oh, no, you could see that he was dying.

Q. But you were very close to him, were you not, doctor? A. I was right by the side of the bed, within probably a foot of Mr. Simon.

NATHAN JACOBS sworn in behalf of proponents in rebuttal:

Direct-examination by Mr. Osborne:

Q. What is your business? A. Tailor business.

Q. Where do you live? A. 264 Orange Street, Newark, New Jersey.

Q. How long have you been in the tailoring business? A. Six years.

Q. In business for yourself? A. Yes, sir.

Q. Are you any relation to Lena Richter, the proponent here? A. Yes, sir.

Q. When did you come to this country? A. July it is going to be eight years.

Q. You knew Samuel Richter, did you? A. Yes, sir.

Q. Were you at his house the day before he died? A. Yes, sir.

Q. What day was that? A. The Sunday evening between seven and eight.

Q. Was he sick? A. Yes, sir.

Q. Were you present at any conversation between himself and his wife at that time? A. Well, I went up to see him, how he feels, and I walked in the bedroom where he was laying, and Mrs. Richter wasn't there, and I walked over to the bed and I shaked hands with him, he couldn't hold his hand very good, so I said "How do you feel, Mr. Richter?" He said "Oh, my, I don't feel very good." Mr. Richter started to cry "My dear wife," in Jewish that means "Don't cry."

Q. Tell us the exact conversation that happened there in Yiddish or Jewish, whatever it was. A. He was talking to me Jewish, I says "How do you feel, Mr. Richter?" I said that in English to him, so he says to me—(The witness talks in a foreign language.)

The Interpreter: And he said, "My, child, I feel bad."

Witness: And then Mrs. Richter was alongside of the bed and she started to cry, and he said in Jewish—(The witness talks in foreign language.)

The Interpreter: "My dear wife, don't cry, I have provided for you."

Witness: So she says, "Sam, what are you talking about, you will be all right, don't have any mind", those kind of words "You will be all right you will get over this kind of sickness" and I was sitting there about half an hour and I went away.

Q. Who else was there besides yourself? A. Mr. and Mrs. Richter and myself.

Q. Just you three? A. Yes.

EDWIN STEINER re-called:

By the Court: Q. Doctor, you have known Mr. Richter a great many years? A. Yes, sir.

Q. And you have been his family physician? A. Yes, sir.

Q. And treated him from time to time and came in contact with him occasionally? A. Yes, sir.

Q. What was his mental condition immediately before his death as compared with his mental condition generally? A. Why, his mental condition was the same, as far as I have known it.

Q. Had you any reason to believe that in spite of his physical infirmities and this partial paralysis that he was not entirely conscious of what he was attempting to say? A. He was conscious because it didn't affect his mind at all.

Q. He knew what he was talking about? A. Yes, sir.

NATHAN JACOBS resumes the stand:

Direct-examination (continued) by Mr. Osborne:

Q. How long did you stay there? A. About half an hour.

CROSS-EXAMINATION by Mr. Greenfield:

Q. What is your first name? A. Nathan.

Q. How did you come there that Sunday night? A. I went to see him, how he feels, I knew that he was sickly.

Q. When did you find out that he was sick. A. Oh, about two days before.

Q. Who told you about it? A. The relations tell me.

Q. What relations? A. My relations.

Q. Who are they? A. George Jacobs told me.

Q. What relation is he to you? A. Nephew.

Q. Where did you meet him? A. I walked in Prince Street one night and I met him there.

Q. What night was that? A. Oh, that was about two nights before.

Q. Near where in Prince Street? A. Near Springfield Avenue.

Q. And he told you then that Mr. Richter was sick? A. Yes, sir.

Q. Are you related to Richter? A. Mrs. Richter is niece to me.

Q. Then you didn't go up that night when he told you that Mr. Richter was sick? A. Not the same night.

Q. You didn't go up the next night? A. On a Sunday evening I went up.

Q. What night were you told about it? A. It was, I guess, on a Thursday.

Q. Then you didn't go up Friday nor Saturday? A. No, sir.

Q. You waited until Sunday? A. Sunday evening.

Q. Did he recognize you that Sunday night? A. Yes, sir.

Q. You are sure that he said "I have provided for you"? A. Positively sure.

Q. You can't be mistaken on that? A. No, sir.

Q. How long did you stay there? A. About half an hour or three quarters, something like that.

Q. Who talked to you about this case? A. What do you mean?

Q. Did anybody talk to you about this case? A. No, sir.

Q. Did you tell anybody what you heard? A. In my house, I was talking with my wife.

Q. Anybody else? A. No, sir.

Q. Is your wife here? A. No, sir.

Q. You talked to nobody since you talked to your wife about this? A. No, sir.

Q. Not a soul? A. No, sir.

Q. Are you not mistaken? A. No, sir.

Q. Well, I suppose if I mention it, did you talk to Judge Hahn? A. No, sir.

Q. Or to Mr. Osborne? A. No, sir.

Mr. Osborne: I never saw the gentleman.

Q. Did you talk to your aunt? A. Well, we was talking.

Q. When? A. All the time I seen her.

Q. About what you were going to testify? A. No, sir not about this.

Q. Never mentioned it to her since that night? A. No, sir.

Q. Do you know whether or not your wife went up to see Mrs. Richter? A. Yes, she went up to see her.

Q. When? A. Every week she went up to see her.

Q. Since the death of Mr. Richter? A. Yes, sir.

Q. Did she tell you that she spoke to her about what you have told her? A. No, sir, she didn't tell me nothing about it.

Q. Nothing about it? A. No, sir.

Q. And you are quite sure you didn't talk to anybody else except your wife? A. No, sir.

Q. Judge Hahn didn't even ask you what you know about it? A. No, sir.

Q. Was the doctor there when you were there? A. No, sir.

Q. Mr. Richter was alone and Mrs. Richter was there alone? A. Mrs. Richter and Mr. Richter was alone there.

Q. And nobody else was there? A. No, sir.

Q. How long did you stay? A. Three-quarters of an hour.

Q. When did you go to see him next? A. I went to the funeral.

Q. Did you go to the cemetery, too? A. Yes, sir.

Mr. Osborne: With the exception of offering a formal paper purporting to be a Jewish divorce, and the handwriting expert we rest.

Proponents rest.

DAVID ARBEITEL re-called in behalf of caveators in surrebuttal:

Direct-examination by Mr. Greenfield:

Q. Mr. Arbeitel, you heard the testimony of Harry Silber? A. Yes, sir.

Q. Silber testified that Dr. Steiner, at the time of Mr. Richter's death, had his hand under the pillow and that you didn't have your hand under the pillow; is that true—just say yes or no. A. No.

Q. Did you have your hand under the pillow? A. Yes, sir.

Q. He testified also that he didn't hand you the bottle of alcohol. Who handed you the bottle of alcohol that you rubbed in? A. He didn't hand me the bottle, he spilled some of the bottle on my hand and I rubbed it in his hand.

Q. That is the night when he died? A. Maybe half an hour before he is dead.

Q. Was Dr. Steiner there at that time? A. After he came I asked—

Q. At the time that you rubbed the alcohol was Dr. Steiner there? A. No, sir.

Q. How soon after that did Dr. Steiner arrive? A. About ten minutes.

Q. At the time of the death of Mr. Richter was Dr. Steiner alongside of his bed? A. Yes, sir.

Q. When he died? A. When he died—excuse me—when he died he was not in.

Q. He was not in? A. He was not in, but the moment when he was dead he was in.

Q. Where was Dr. Steiner at that moment? A. I can't tell whether he was in the dining room or kitchen.

Q. Then did he come in? A. Then he started to talk, and I says, "He is dead." The doctor came naturally, and closed his eyes.

Q. Do you know when Mr. Richter married in Austria? A. I wasn't at the time he was married; I was in his house when he was living with his wife.

Q. And who was that, what was her name? A. Blima Rosa Richter.

Q. How many years ago was that? A. About thirty-five or thirty-four, about that time.

Q. That was in Austria? A. In Austria.

Q. Did he have any children by her? A. Yes, sir.

Q. How many, do you know? A. I know there was two. She told me that she was in the family way when he left her.

CROSS-EXAMINATION by Mr. Osborne:

Q. You knew both Mr. Richter and Blima Richter, his first wife, from early childhood, didn't you, both of them? A. Yes, sir.

Q. In the same town? A. The same town, neighbors.

Adjourned until Monday, March 1, 1915, at ten o'clock, a. m.

Exhibit P-1

Will of Samuel Richter

I, Samuel Richter, being of sound and disposing mind and memory do hereby, make, publish and declare this as and for MY LAST WILL AND TESTAMENT, as follows:

FIRST: I direct that all my just debts and funeral expenses be paid as soon after my decease as practicable.

SECOND: I direct my Executors hereinafter

Exhibit P-1

named, to pay over unto my sister, Feige Gertner, of the City of New York, N. Y., the sum of Five Hundred ($500.00) Dollars, and unto my friend David Arbeitel of Newark, N. J., the sum of Two Hundred ($200.00) Dollars respectively.

THIRD: All the rest, residue and remainder of my estate, real, personal and mixed, wheresoever situate, of which I may be seized or possessed, or to which I may be entitled at the time of my decease, I give, devise and bequeath unto my wife, Lena Richter, to have and to hold the same absolutely and forever.

FOURTH: I hereby appoint my wife, Lena Richter and my nephew, Abraham Karp, of the City of New York, executrix and Executor respectively, of this my LAST WILL AND TESTAMENT to carry out the provisions herein contained.

I further direct that neither of the above named Executors shall be required to give any bond or security for the proper discharge of their duties.

FIFTH: Should any of the beneficiaries of this MY LAST WILL AND TESTAMENT object to the probate thereof or in anywise, directly or indirectly contest or aid in contesting the same or any of the provisions thereof, or the distribution of my Estate thereunder, then and in that event, I annull any bequest herein made to such beneficiary and it is my express WILL that such beneficiary shall be absolutely barred and cut off from any share of my Estate.

IN WITNESS WHEREOF, I have hereunto set my hand and seal, to this MY LAST WILL AND TESTAMENT, this 11th day of March, One Thousand Nine Hundred and Fourteen.

SAMUEL RICHTER (L. S.)

Subscribed by the above mentioned testator, in the presence of each of us and at the same time declared by him to be his LAST WILL AND TESTAMENT and thereupon, we, at his request, and in his presence, and in the presence of each other signed our names as subscribing witnesses.

Abraham Karp, Residing at No. 125 Second Ave., New York City, N. Y.

Louis S. Bernstein, Residing at No. 46 W. 11th St., New York City.

Exhibit C-2

Plumber's Bond

Know all men by these presents, That we Isidore Arbeitel as principal and Samuel Richter and Jacob Skolnik as suretys..... are held and firmly bound unto the "Mayor and Common Council of the City of Newark," in the sum of One Thousand Dollars, lawful money of the United States of America, to be paid to the said the "Mayor and Common Council of the City of Newark," their successors and assigns. For which payment, well and truly to be made, we hereby bind ourselves, our heirs, executors and administrators, firmly by these presents.

Sealed with our seals, and dated this 25th day of June one thousand, nine hundred and.....

WHEREAS, the above named Isidore Arbeitel is one of the Plumbers licensed by the "Mayor and Common Council of the City of New-

ark," through the Board of Street and Water Commissioners, for making house connections at the curb line with the City water service taps and for making connections at the curb line from any dwelling house, cellar, vault, yard or premises, with the city sewers, all work to be done in accordance with the provisions of the city ordin-

Now the Condition of the above obligation is such, that if the said Isidore Arbeitel shall indemnify and save harmless "The Mayor and Common Council of the City of Newark" of and from all accidents and damages consequent thereupon, for or by reason of any opening, in any street, lane, avenue, alley or court, made by him or by those in his employ, for the purpose of putting down or inserting or repairing any service pipe or pipes, hydrant or other water or sewer connections; and shall comply with the provisions of City ordinances relating to the work under his license; and shall leave no obstructions of any description whatever in said pipes or tubing or upon the surface of the ground over and about the same; and shall also replace and restore the street surface over every such opening, to as good state and condition as he found it; and keep and maintain the same in good order, to the satisfaction of the "Board of Street and Water Commissioners of the City of Newark," for the space of twelve months thereafter; and shall during said twelve months repair said street surface within twenty-four hours after being notified so to do by the General Superintendent of Works; and also make true and faithful reports to the said "Board," of the situation, size, number and character of all pipes, hydrants, washers, water-closets, baths

Exhibit C-2

and all other work or apparatus for conveying, containing or consuming city water made, fixed, or inserted by him, or under his direction, within ten days after the same shall be completed; and shall pay the said "Board of Street and Water Commissioners of the City of Newark," their successors or assigns, any fines or penalties incurred by neglect of rules or by order of the said "Board", then this obligation shall be void and of no effect, otherwise to remain in full force and virtue.

ISIDOR ARBEITEL (Seal)
SAMUEL RICHTER (Seal)
JACOB SKOLNIK (Seal)

Sealed and Delivered in presence of
A. L. Swain

New Jersey,
Eessex County, } ss:

Samuel Richter and Jacob Skolnik being duly sworn, each for himself says, that he is a resident of Newark in the County of Essex and State of New Jersey and worth the sum of one thousand dollars over and above the payment of his just debts.

SAMUEL RICHTER,
JACOB SKOLNIK.

Sworn before me this
25th day of June, 1912
Alfred L. Swain.
(Seal) Notary Public, State of N. J.

Exhibit C-3

CERTIFICATE OF INCORPORATION

of the

Chaim Hersch Weiss Janower Sick and Benevolent Association

State of New York,
City of New York, ss:
County of New York.

We, the undersigned, of full age, being desirous of associating ourselves together for such purposes as hereinafter is more particularly described, pursuant to and in conformity with Acts of the Legislature of the State of New York, relating to Membership Corporations, de hereby certify and declare that we are all of full age, two-thirds of us are citizens of the United States and all of us are resident of the State of New York.

We do further certify and declare as follows:

First: That the particular objects for which said Corporation is formed are as follows, *viz.*: To hold voluntary meetings for the intellectual and spiritual advancement of its members and also for voluntary benevolent and charitable purposes.

Second: That the corporate name by which said Corporation hereby to be formed shall be known and distinguished is and shall be the Chaim Hersch Weiss Janower Sick and Benevolent Association the words Chaim Hersch Weiss Janower being the name of a Rabbi in a town of Austria.

Exhibit C-3

THIRD: That the territory in which the operations of said Corporation are to be principally conducted in the City of New York.

FOURTH: That the principal office of said corporation shall be located in the City of New York County of New York and State of New York.

FIFTH: That the number of Directors of said Corporation shall be Six.

SIXTH: That the names and places of residence of the persons to be the Directors of said Corporation until its first annual meeting are:

Names	Places of residence
Samuel Richter	303 E. 5th St., N. Y. City
David Arbeitel	109 Lewis St., N. Y. City
Jonas Schimmel	247 Rivingston St., N. Y. City
Moses Baron	376 Bristol St., N. Y. City
Max Post	401 E. 47th St., N. Y. City
Bernart Stroh	88 Willett St., N. Y. City

SEVENTH: That the annual meeting of said Corporation shall be held on the first Monday of December in each and every year.

IN TESTIMONY WHEREOF, we have made and signed this Certificate in duplicate and have hereunto set our hands and affixed our respective seals this 29th day of June, one thousand nine hundred and nine.

SAMUEL RICHTER (Seal)
DAVID ARBEITEL (Seal)
JONAS SCHIMMEL (Seal)
MOSES BARON (Seal)
MAX POST (Seal)
BERNART STROH (Seal)

Exhibit C-3

State of New York,
Borough of Manhattan, ss:
County of New York.

I, Leon Stand, a Notary Public duly commissioned and qualified, do hereby certify that on this twenty-ninth day of June, in the year one thousand nine hundred and nine personally appeared before me, Samuel Richter, David Arbeitel, Jonas Schimmel, Moses Baron, Max Post, Bernart Stroh, to me severally known and known to me to be the individuals named in and who executed the foregoing Certificate, and they thereupon severally acknowledged before me that they did execute the same for the purposes therein set forth.

(Seal) LEON STAND,
Notary Public, N. Y. Co.

I, Leonard A. Giegerich, a Justice of the Supreme Court of the State of New York, of the First Judicial District, do hereby approve the foregoing certificate of incorporation, and consent that the same be filed.

L. A. GIEGERICH,
Justice Supreme Court,
Judicial District.

Exhibit C-6

No. 1667 Newark, N. J., Dec. 31st, 1913

FEDERAL TRUST COMPANY

Pay to the order of Mrs. L. Bennet $25.00/100
Twenty-five Dollars.

JEWISH SISTERHOOD OF NEWARK,
Henrietta Rauch,
Treasurer.

JEWISH SISTERHOOD
OF NEWARK

(Endorsed)
Mrs. Lena Bennett
S. Ritcher
Emanuel Vexler

WEST SIDE TRUST COMPANY

No.—— Newark, N. J., November 1, 1912

Pay to the order of Mr. S. Ritcher $21.00/100
Twenty-one Dollars

ISIDOR ARBEITEL.

(Endorsed)
S. Ritcher
Max Pulus

WEST SIDE TRUST COMPANY

No.—— Newark, N. J., Nov. 6, 1912

Pay to the order of Mr. S. Ritcher $35.00/100
Thirty-five Dollars.

ISIDOR ARBEITEL.

(Endorsed)
S. Ritcher
Max Pulus

Exhibit C-6

WEST SIDE TRUST COMPANY

No.—— Newark, N. J., Dec. 14, 1912

Pay to the order of Mr. S. Ritcher $7.00/100
Seven Dollars.
ISIDOR ARBEITEL.

(Endorsed)
S. Ritcher
Max Pulus

WEST SIDE TRUST COMPANY

No.—— Newark, N. J., Jan. 3, 1913

Pay to the order of Mr. S. Ritcher $25.00/100
Twenty-five Dollars.
ISIDOR ARBEITEL.

(Endorsed)
Samuel Ritcher
Max Pulus

WEST SIDE TRUST COMPANY

No.—— Newark, N. J., Jan. 3, 1913

Pay to the order of Mr. S. Ritcher $7.00/100
Seven Dollars.
ISIDOR ARBEITEL.

(Endorsed)
S. Ritcher
Max Pulus

Exhibit C-6

WEST SIDE TRUST COMPANY

No.—— Newark, N. J., Jan. 26, 1913

Pay to the order of Mr. S. Ritcher $25.00/100
Twenty-five Dollars.
ISIDOR ARBEITEL.

(Endorsed)
S. Ritcher
Max Pulus

WEST SIDE TRUST COMPANY

No.—— Newark, N. J., Feb. 10, 1913

Pay to the order of Mr. S. Ritcher $7.00/100
Seven Dollars.
ISIDOR ARBEITEL.

(Endorsed)
S. Ritcher
Max Pulus
L. Lilberman, Jr.

WEST SIDE TRUST COMPANY

No.—— Newark, N. J., May 14, 1913

Pay to the order of S. Ritcher $10.50/100 Ten
Dollars.
ISIDOR ARBEITEL.

(Endorsed)
S. Ritcher
Max Pulus

Exhibit C-6

WEST SIDE TRUST COMPANY

No.—— Newark, N. J., May 28, 1913

Pay to the order of Mr. S. Ritcher $47.00/100
Fourty-seven Dollars.

ISIDOR ARBEITEL.

(Endorsed)
S. Ritcher
Max Pulus

WEST SIDE TRUST COMPANY

No.—— Newark, N. J., Aug. 5, 1913

Pay to the order of S. Ritcher $98.00/100
Ninety-eight Dollars.

ISIDOR ARBEITEL.

(Endorsed)
S. Ritcher
Max Pulus
Isidor Arbeitel

Newark, N. J., Sptbr. 1, 1913.

Received of Mrs. C. Arbeitel Zahn 50¢ Dollars,

Rent of 4 Rooms No. 25 Clayton Street for One Month ending Sptbr. 30, 1913.

$10.50¢

S. RICHTER.

Exhibit C-6

Newark, N. J., Dzbr. 1, 1913.

Received of Mrs. C. Arbeitel Zahn 50¢ Dollars

Rent of 4 Rooms No. 25 Clayton Street for One Month ending Dzbr. 31, 1913.

10 $10.50¢

S. RICHTER.

Argued by George B. Astley,
Of Counsel with Respondent.

New Jersey Court of Errors and Appeals

IN THE MATTER of The probate of the Last Will and Testament of SAMUEL RICHTER, Deceased.	**On Appeal from Decree of Prerogative Court Affirming Decree of Orphans Court admitting the Will to Probate**

Brief of Counsel for Lena Richter, Proponent-Respondent, Chief Beneficiary and Executor Named in Said Last Will and Testament.

The sole issue throughout this litigation has been and is whether or not the signature of the testator, Samuel Richter, to the will in question, is a forgery. The Orphans Court of Essex County decided that the signature was genuine, and admitted the will to probate. On appeal to the Prerogative Court, Vice Ordinary Stevens affirmed the decree for probate (See both opinions printed in case).

This appeal is taken from the decree of the Prerogative Court, affirming the decree of the Orphans Court aforesaid.

There is no question of law raised upon this appeal. Notwithstanding the fact that this brief goes into the facts involved in the case, we nevertheless submit that the genuineness of the signature of the testator is a

New Jersey State Library

question of fact wholly and completely settled by the two decrees which have been appealed from. By discussing the facts in this brief, we do not yield this point. We have discussed the facts in order that the Court may determine that there is no question of law involved, and further, that the Court may the more clearly understand just what issue hitherto has been raised in this case.

This brief is being prepared and printed in advance of the receipt of any printed case—for that reason alone, page and folio numbers have been filled in, in ink. We have scrutinized all the grounds of appeal stated by the appellants. These grounds crystallize themselves into the one claim—forgery.

Facts.

The will was executed March 11, 1914. The testator died September 21, 1914. The will, after providing two legacies amounting to $700, one for testator's sister of $500, and one to a friend of $200, devises and bequeaths the residue of the estate unto testator's wife, Lena Richter, and appoints the wife, Lena Richter, and her nephew, Abraham Karp, as executors of the will. The witnesses to the will are Abraham Karp, the wife's nephew, and Louis T. Bernstein, Karp's brother-in-law. Bernstein's wife, being a niece of Lena Richter, the testator's wife.

The opinion of the Orphans Court goes into the history of Samuel Richter and his wife and into the circumstances surrounding the execution of the will so fully that it is unnecessary to repeat the essential facts as they appear in the opinion to any great length. It appears, however, that ever since he came to America, over twenty-five years ago, Samuel Richter lived with Lena Richter as husband and wife, and for the last thirteen years or more lived in Newark, New

Jersey. The property which Samuel Richter left was the result of the joint savings of the two.

There is no doubt of the identity of the Lena Richter named in the will as Richter's wife.

It appears, however, that many years ago, Richter was married in Europe to one Blima Rosa, but left her, came to London and there married Lena Richter, whose name was Lena Jacobs, she being the beneficiary named in the will. His first wife followed him to America and about thirteen or fourteen years ago obtained a decree of absolute divorce against him in New York Supreme Court, Kings County.

There is no doubt about the identity of the Lena Richter named in the will as the testator's wife and no question as to such identity has been or will be raised. It is to be noted that the testator calls Abraham Karp his own nephew, such Abraham being the nephew of Lena Richter; and it also further appears that said Lena Richter and the testator held certain properties in common, deeds and mortgages having been made by both and to both, in which they are described as husband and wife, and in the City of Newark where their real estate was located they lived practically in one spot for many years and were always known as husband and wife.

As pointed out in the opinions, the provision in favor of Lena Richter was a perfectly natural provision.

1. The question at issue.

The sole question, as above stated, is whether the signature to the will is Samuel Richter's signature, or whether the same was forged.

As will hereafter appear, the sole evidence relied upon by the appellants to sustain their contention that the signature was a forgery is the evidence of three handwriting experts, whose testimony will be taken up hereafter in detail. No handwriting ex-

perts were produced on behalf of proponent respondent. The proponent relied upon the circumstances surrounding the case and upon the positive testimony of three witnesses who were present at the execution of the will, all disinterested, and also upon the weakness of certain expert testimony. Here we call attention to the opinion of Judge Osborne.

2. The present case is almost identical with Wright vs. Flynn.

The case of *Wright vs. Flynn,* 69 N. J. Eq. 753, 61 Atl. Rep. 973, is a case on all fours with the present case, and that case, decided by Magie, Ordinary of the Prerogative Court, in 1905, holds that the Appellate Court reviewing a decree admitting a will to probate on evidence appearing in the transcript, should not set aside the finding of the prior court as erroneous, unless clearly convinced of error. Further held that expert evidence was in that case insufficient to require a finding that the will was a fabrication and a forgery.

It will be observed that in the Wright case very considerable doubt was thrown upon the testimony of Katie Flynn, a niece of the testatrix and one of the subscribing witnesses and the person who wrote out the will. It also appeared that there was evident retouching or overwriting of the words at the bottom of the paper, and it appeared that such retouching was probably done after the signing of the will. The will, however, remained in the possession of the deceased and she had opportunity to retouch the letters. Another suspicious circumstance was that Mary Flynn was the sole beneficiary; she was a sister of the deceased and was the mother of Katie Flynn.

The Court held that notwithstanding the apparently suspicious circumstances in the case and also notwithstanding the evidence of expert witnesses which evi-

dence does not appear to have been contraverted so far as their opinions were concerned—that nevertheless the testimony of the subscribing witnesses to the will, being positive and direct testimony that the will was executed in their presence, and such witnesses, notwithstanding suspicious circumstances, being wholly unimpeached, that the testimony of such witnesses must overcome that of the handwriting experts.

The Court says in conclusion:

> "The Judge of the Orphans Court who saw and heard the witnesses, declared himself unable to disregard the direct testimony of the attesting witnesses, notwithstanding the expert testimony and the observations made from the face of the paper which I have before discussed. I am not convinced that his decision was erroneous."

3. The Trial Judge before whom the witnesses appeared is the best judge of their credibility.

This, we think, is a self-evident proposition, and we refer to *Wright vs. Flynn* and also again to Judge Osborne's opinion, and that of the Vice Ordinary Stevens, and we call attention to the fact that the circumstances in the present case were by no means so suspicious or doubtful as the facts in the case of *Wright vs. Flynn.*

4. The direct testimony of the three witnesses who were present at the execution of the will, is neither impeached nor overcome.

In order to reject this will it would be necessary for the Court to find that the three witnesses were guilty

of deliberate perjury. None of these witnesses are interested or could be interested in the estate of the testator. Two of them, Abraham Karp and his sister, Mrs. Bernstein, were the nephew and niece of Lena Richter, and the third witness, Bernstein, was the husband of the niece. No one of these witnesses is charged with the forgery. None of the handwriting experts fastens the forgery on any person whatsoever; in fact, they go so far as to claim that such forgery cannot be fastened upon any person.

It is true that Karp and his sister are related by blood to Lena Richter and that Karp was named in the will as executor, though he subsequently renounced. These three witnesses are wholly unimpeached. Nothing appears against their characters; they are young people; their testimony was not shaken by cross-examination; there is no denial of their testimony. The circumstances under which the will was prepared and signed were quite natural. The testator's lawyer had been Charles A. Feick, of Newark, and he had died suddenly, and the testator suffering from rheumatism intended to go to Sharon Springs, and being without a lawyer went to Abraham Karp, who was a law student (pp. 33 ~~to~~ printed case).

See also pages 28 to 52, being the testimony of the two subscribing witnesses; also pages 368 to 373 being the testimony of Rose Bernstein, Karp's sister, who was present at the execution of the will, but who was not a subscribing witness.

5. The testimony of the experts wholly fails to establish forgery.

All three experts testify that the signature was not the signature of Samuel Richter. They do not say who wrote it but merely say that it has not the characteristics of Samuel Richter's signature. Their chief

objection to this signature seems to be that it has the appearance of being drawn or traced and this they judge by the fact that the pen has been lifted several times at places where a man in making his signature would not lift his pen.

As pointed out by Judge Osborne in his opinion (p. 21) these experts disagree. One of them says it is a clumsy forgery; another says it is a clever forgery. Carvalho says that it is not the genuine handwriting of any person and that it is a simulated signature. Two say that it is not traced but copied, while Carvalho points out that the decedent might have written his name first in pencil and then lined it over with ink, and says further in one part of his testimony that the writer suffered from some physical defect and in another part that it is the signature of somebody whose nerves are all right.

6. Carvalho's testimony.

See this *expert's* testimony on cross-examination beginning page 145 and recross beginning page 160.

It must be remembered that Carvalho is called by the contestant and not by proponent. He is an expert of national reputation and it would appear that he must have prepared himself carefully upon this case. He admits in the first place (pp. 156) that one of the standard signatures submitted to him was originally written in lead pencil and had been traced over in ink, and the original signature had been made by Samuel Richter, that is, the original pencil had been made by him, and the expert considered with reference to this standard writing that Samuel Richter wrote his name first in pencil and then wrote it over again, and it also appears that that standard writing was a formal document. "Usually," Carvalho says (p. 155) "in endorsing checks, receipts, etc., the testator used a pencil instead of a pen." And accepting the formal document (C-2; p. 156) it would seem

to be clear that that document having been produced as a standard and having been accepted as a standard of Samuel Richter's handwriting that the signature on such document was written first in pencil and afterwards in ink, and that in such event the ink signature looks like a drawing.

In other words, before coming to the disputed signature, it is clear that Carvalho had had presented to him the genuine signature on another formal document where Samuel Richter had drawn a pen signature over his pencil signature, with the result that such pen signature looked in itself not like a real signature but like a drawn signature.

Now, to the important part of Carvalho's testimony. On pages 161 and 162 the following questions and answers appear on further cross-examination:

> "Q. Look at the disputed signature again (meaning the signature of Samuel Richter upon the will); now doesn't that disputed signature give you any evidence that it was written first in pencil and the pencil erased? A. Did I say that?
>
> "Q. No, I am asking you? A. No, I have treated you very nicely in this case. I have done all that I can do to keep within bounds and if I am to go into that I shall ask his Honor to let me take this signature off entirely to answer your question because the chemicals won't hurt the penciling if they are under there, but I have made no such statement.
>
> "(Question is repeated.) A. I can't answer the question.
>
> "Q. Is there any evidence on the surface of this paper that pencil marks have been erased? A. If you will hold that up to the light at an acute angle you will find that the virginity of that paper has been more or less disturbed. How it was done I do not know. Our own counsel, Mr. Greenfield, was here today using his pencil to point. In fear that he touch it I wouldn't let him do it, if you remember.
>
> "Q. You have already testified that on one of the standard signatures it had been written

in pencil first and been drawn over with a pen and that it was probably done with the same hand? A. I said that.

"Q. Isn't it a fact that that is exactly what happened to this will? A. That the decedent wrote his name first in pencil and then lined it over again?

"Q. With ink, yes? A. Might have been."

And on Page 164:

"Q. There has been an erasure there—don't you know there has been an eraser applied to that paper? A. I think the surface of that paper is disturbed.

"Q. And look at the L. S. The L. S. has been partially erased? A. Yes, that has been disturbed; you are right about it.

"Q. You know it is a common practice among people that when they write in pencil and they write over in ink, they use an eraser to remove the pencil mark? A. I take it, it is not exceptional.

"Q. Why do you say that you think the surface has been disturbed? A. Because it is abrased."

Carvalho proceeds to admit (pp. 163) that it is possible that Samuel Richter did write his name in pencil first and that he might have written his signature in ink over the pencil.

The document (C-2) which was produced as a standard and which, as we recall, was a plumber's bond or some legal document on file, and about the genuineness of which there could be no doubt, contained as we have said Richter's signature in pencil overwritten with ink.

Carvalho (pp. 163) says that he would throw out the standard in the same way that he would throw out the will, practically because he could not tell and no other expert could tell whether Samuel Richter drew the pen over the pencil.

This disposes completely of Carvalho's testimony. He cannot say and will not say that Samuel Richter

did not sign the will first with pencil and then with pen, and he practically says that no living expert can decide that question.

In view of the conflicting statements of the three experts and invoking the principle that the strength of a chain is judged by its weakest link, we submit that this case is not a case for expert testimony.

7. Did the testator sign his name in pencil and then outline it in ink?

It is an admitted fact that on their direct testimony neither of the subscribing witnesses mentioned the use of a pencil, but in Karp's testimony on the direct (pp. 28) it will be seen that there was nothing in the questions to direct his attention to this particular point. After the testimony of Carvalho as to the alleged erasure the contestant (not the proponent) recalled Abraham Karp (p. 230) and (p. 237) drew from this witness the fact that testator desired to draw a straight line so that he could sign his name, and further (p. 238) Karp says, still on cross-examination, that testator did use his pencil to write his signature and then went over it with a pen and then asked for a rubber. His testimony on this subject is found on pages 237 to 241.

His sister, Rose Bernstein, examined, as we recall, for the first time in the case, testifies (p. 368, etc.) as to the execution of the will, and says (p. 370), that it took testator some time to write his signature, and says (p. 372) that testator asked for a rubber, but that she had none and that she is positive that he used none that night. Her husband was not examined on this subject, but it was probably because he did not attend the trial except upon the first hearing, it appearing that he is employed in New York.

This is the testimony referred to on page 24 of Judge Osborne's decision as being unusual. Judge

Osborne points out that it seemed to him a suspicious circumstance that these witnesses did not testify on their direct-examination that the testator had signed in pencil and then with ink and that he had called for an eraser. The Court says, however, that the circumstances is not sufficient to convince him that the signature was forged and not sufficient to justify the rejection of the will.

> "Richter was an ignorant man. It was quite common for him to sign his name with a pencil even when endorsing checks. Making his signature was apparently a laborious process, and there is some testimony in the case to the effect that he had on at least one other known occasion drawn his signature in ink after writing it in pencil. Although Carvalho at first said Richter could not have written the disputed signature, yet later on when asked whether it was not a fact that deceased wrote his name first and then lined it over with ink, he answered that it might have been. I cannot reconcile the conflicting testimony of this witness."

Let us emphasize the fact that Karp's testimony as to the pencil was not the result of re-direct, but of cross-examination. Karp, it is quite true, may haxe seen many persons sign their names; it may also have been true that all or a majority of such persons were illiterate persons. The signing of a paper by an illiterate person is an unusual and important and very laborious process as a rule. It is usually accompanied by apologies for the poor handwriting and surrounded by other trival circumstances, which would not at all impress themselves particularly upon the mind. The very fact that the testator was several minutes making his signature, as appears by Rose Bernstein's testimony (p. 370), would lend color to the theory that the testator probably did sign in pencil and then in ink.

If Rose Bernstein intended deliberately to perjure herself, why did she not testify that she had an eraser in the house, and that her brother produced the eraser, or that Ritcher had an eraser on his pencil and that he then and there erased the pencil marks after the ink had become dry.

Referring again to the direct testimony of the subscribing witnesses, it will be found that counsel for proponent devoted as brief a time as possible to putting in the formal proof of the will. Karp, who had been a lawyer's clerk, testified to these formal essentials. The defence of forgery had not been put in, and, even assuming that Karp had forgotten the use of a pencil, there is no reason why in all honesty he should not have remembered that circumstance at a time later than his direct-examination. The testator took the will away with him (p. 256).

8. The signature closely resembles the other standard signatures of the testator.

On page 25 of Judge Osborne's opinion he calls attention to the strong similarity of the disputed signature to the admitted signatures.

We here call attention to the rent receipts which are exhibits in this cause and are marked Exhibit P-6; also to the plumber's bond or legal document marked C-2; and also to the deeds, releases, mortgages, etc., marked Exhibit P-7, etc.

9. The will was a natural will and was in accordance with the subsequent deathbed desire of the testator.

Judge Osborne (p. 26) says:

> "It is a natural will. It bears no indication to being an unofficious will, but is on the contrary such a will as from the history of the life of the testator he would be quite likely to make, recognizing as it does the moral claims upon him by the woman with whom he lived many years, who had helped him accumulate his property and whom he had treated as his wife."

See also:

Vice Ordinary Stevens' Opinion in Affirmance.

On pages 20 and 21 of Judge Osborne's opinion he refers to the testimony of Dr. Edwin Steiner, of Newark, testator's family physician, who was a witness for the contestant. Dr. Steiner's testimony is found on pages 208 to 211 , and further on pages 514 ~~to~~ and 521.

It is very clear from this witness of the contestant's that the testator desired to give $1,000 to Blima and everything else to Lena Richter. It seems probable from Dr. Steiner's testimony that the testator at the last moment had become conscience stricken on account of his treatment of his former wife, Blima, and that he desired to give her $1,000, but it is also very clear that he intended to leave the bulk of his estate to Lena Richter.

Therefore, the will, which is the subject of this controversy, was, so far as Lena Richter is concerned practically the will that he would have made on his deathbed, and there can be no dispute as to what that will would have been, in view of Dr. Steiner's testimony.

10. Reiterating that we regard the facts wholly settled by the decrees, respectively, of the Orphans Court, and of the Prerogative Court, we submit that the decree appealed from should be affirmed.

OSBORNE & ASTLEY,
Counsel with Proponent
and Respondent.

GEORGE B. ASTLEY,
DAVID HAHN,
WM. HAMILTON OSBORNE,
Of Counsel.

New Jersey Court of Errors and Appeals

In the Matter of the Appeal from the Probate of a Paper Writing Purporting to be the Last Will and Testament of Samuel Richter, Deceased.	*On Caveat. Appeal from Decree of Prerogative Court.*

Brief of Benjamin M. Weinberg, on behalf of Caveators—appellants.

STATEMENT OF THE CASE.

This is an appeal from the decree of the Prerogative Court of New Jersey affirming a decree of the Orphans' Court of Essex County, admitting to probate, a paper writing alleged to be the last Will and Testament of Samuel Richter, deceased.

Samuel Richter was born in Janow, Austria, where he lived a number of years. While there he married one Blima Rosa. He deserted her and went to London, where he met one Lena Jacobowitz, then working in a restaurant, with whom he went through a marriage ceremony. (P. 409.) The couple resided there as man and wife about two years, after which they came to America, taking up their residence in New York City. They conducted disorderly houses, under various names there and in Newark until about 13 years ago.

Richter accumulated considerable money, which was invested in Newark realty, one piece of prop-

erty standing in the name of Lena Jacobowitz—now known as Lena Richter.

Blima Rosa Richter, the deserted wife, came to New York, where a divorce was granted her in the year 1902. (This divorce has recently been set aside by the Court which granted it. This fact does not appear in the testimony of the case, but is admitted by all the parties.) What relations were maintained between her and Samuel Richter, thereafter, can be inferred from certain testimony in the case.

Richter had a life-long friend, one David Arbeitel, who knew him and Blima Rosa in the Old Country since they were born. He also knew them as husband and wife, and was also acquainted with Mrs. Richter, second, whom he knew as "Lena," and also as "Lena Jacobs," this being the name she used in Newark, N. J., at the time she was arrested while in a house on Mulberry Street.

After coming to America, Arbeitel continued his friendship and became the confidant of Richter and the manager of his properties and remained so up to the time of the latter's death, at Newark, N. J., September 21, 1914.

After Richter's death, an alleged Will was offered for probate, after a caveat had been filed. The Essex County Orphans' Court (Judge Harry V. Osborne), after a long contest admitted the paper to probate. An appeal was taken to the Prerogative Court, which affirmed the decree of the Orphans' Court and the case now comes before this Court on an appeal from the Prerogative Court.

The appellants are the caveators, brothers and sisters of the deceased, he leaving no children, as far as known, by either of his wives.

For convenience and in order to enable the Court

to consider separately the various elements of the case, I have discussed the evidence under the following heads:

1. Preparation and execution of the Will.
2. Conversations with Abe Karp respecting the Will.
3. Conversations with Mrs. Richter respecting the Will.
4. Conversations with Testator before his death, respecting a Will.
5. Death-bed scene.
6. Finding of the Will.
7. Summary and conclusion.

PART I.

Preparation and Execution of the Will.

The will, the legitimacy of which is questioned, is said to have been drawn by one Abraham Karp, of 125 Second Avenue, New York City, a nephew of Lena Jacobs (being a son of one of her sisters). Though a graduate of New York University Law School, he was never admitted to practice; but took a position in the Clerk's office of New York County, where his principal duty consisted of writing out in long hand, transcripts, executions, certificates of various kinds, satisfaction pieces, etc. (P. 29.)

Abe Karp says that the way he came to draw the Will was as follows: His Uncle, Richter, when at his home one day (does not say where it is, or for what purpose he called), spoke of the death of Charles A. Feick, of Newark, and asked him if Feick's death could affect his property holdings, to which he answered "No"; that his uncle then remarked, "We don't know when any of us will pass away, and it would be a good idea to make a

Will;" and that he would think it over and let witness know. (This conversation took place about a year before the trial, which would make it about January, 1914.) That in the early part of March, 1914, on a Sunday, he met his uncle in the City of New York (he does not say where) and that his uncle told him he expected to go to Sharon Springs and wanted him (witness) to make his Will, and instructed him as to the same (p. 31); that he was told to draw the Will so as to leave $500 to the testator's sister; $200 to his janitor (Arbeitel) and the "bulk" of his estate to his wife, Lena Richter; that his uncle suggested that, as he had not been in the home of witness's sister since her marriage, he thought it would be a good idea to pay them a visit, and execute the Will at their home, "which accounts for how they happened to be there that night" (p. 32).

Witness first said the Will was drawn by him on a typewriter in the office of a club house of the 31st Assembly District, N. Y. (p. 39); but, on cross-examination changed this to the 26th Assembly District Club and that he prepared the Will there, although he was not a member of the club (p. 39). Upon being asked where he got the materials, he replied, "I think I got the cover in my office if I am not mistaken. I think I got the paper at my own home or in the office," and that "happening" to be in Harlem, thought he would use the machine there (p. 41).

He says he had the form of the Will in his pocket, written out on a piece of paper in rough, which he thought out at the "County Lawyers' Association" part of it, on Monday or Tuesday, and that he went there to get the proper form (p. 43), and that he also obtained the form of the clause as to contest-

ing the provisions of the Will (p. 43). (Suspicious!) That he appended the attestation clause to the Will from the "impression" he got from the form that he read (p. 44), and drew the will on the typewriter because he would not trust himself to write it in longhand *for fear he might have occasion to make an erasure* (p. 45). Again he gives his reason for using a typewriter because he "took it for granted" that his uncle would show the will to somebody else, and he knew there would be no difficulty as to the legibility of typewritten characters, as there would be in longhand (p. 46). (Why should he question his own handwriting when his particular occupation was doing that very work?)

Coming down to the signing of the Will, he said it took place in his sister's home, 46 West 116th Street, New York City, in the presence of his sister, Mrs. Louis Bernstein, and her husband, in the dining room, he "thought;" that this was the first visit made by his uncle to the house since his sister was married; that he was talking to his uncle of things in general when, to use his words, "It seemed it occurred to him that it would be a good idea to make his Will, inasmuch as I had spoken to him of the estate of Mr. Feick, who had died intestate and I said it was the best way to make the Will. He thought it a good idea to make his will, so that previous he had so instructed me, and I had the Will with me that night." (Utter confusion here.) That his uncle then turned to him and said, "Have you got the papers with you; that he then *took out the will* and showed it to him and read it, etc., and asked him if he wanted his brother-in-law and himself to act as witnesses, and that his answer was in the following words, "Why certainly,

that is exactly what I came here for," and that the testator signed in the presence of himself and brother-in-law, who affixed their signatures as witnesses (p. 33).

(It seems strange that if the meeting was for the purpose of executing the Will that the witness should keep it in his pocket during all the conversation, and not produce it until asked for, and that the uncle should state that the purpose of coming to the house was to have these witnesses sign, when, in all probability, the testator did not know witnesses were required at all—to a Will.)

This occurred on March 14, 1914, which was on a Wednesday, which the witness says was either the night before "Purim," a Jewish holiday, or the night of it (p. 36). (This is important to recall in view of subsequent testimony.)

After expert witness had been called, and the signature pronounced a forgery, and the details given showing that the signature was a "built up" or "painted over" or "traced one" (see testimony of witnesses Hartkorn, pp. 82 91, etc.; Haring, pp. 112 134, Carvalho, pp. 135 164) the witness, upon being recalled to the stand some days later, after testifying that at the time of the signing nothing unusual occurred, suddenly recalled that he informed his uncle at the time the Will was signed, that the pen was uncertain, and that he would "blotch and blur" his signature; that Richter wanted to draw a line so as to gauge his handwriting straight (p. 237) *but that he did not do it,* and that he *used his pencil to write his signature and then went over it in ink with a pen,* and that he remembered that his uncle asked him for a rubber (meaning eraser) (p. 238).

Right here let us advert to what a few of the

experts said touching this circumstance. Hartkorn said: "I find no evidence of pencil—drew it from ink from copy. It is a clumsy copy" (p. 98).

Haring—"Part of it is clever—but as a whole it is a clumsy imitation" (p. 132).

Carvalho—"It is a drawing made slowly (p. 163). When we come to write over a pencil signature with ink, we cannot succeed in writing over it. *It is a cold-blooded, simulated, studied signature, and if there is a pencil underneath, it is a traced signature, that is all* (p. 163)." Other testimony appears in the case to show that no lead pencil marks were erased, and also that an examination was made to disclose graphite but that there was none (p. 161).

Coming back to the testimony of the witnesses regarding the using of a lead pencil to write his name first, Karp, after saying that Richter asked *him* for a rubber, said that his uncle asked *witness's sister* for a soft rubber. The reason given for using a pencil because witness thought the pen would "blotch and blur" the writing, is ridiculous. What has the "blurring" of a pen to do with writing straight, and in what respect was that cured by making a pencil signature first and going over it with the pen? And how did witness know the pen was bad before trying it, and what ocular proof is there that the pen was one that would "blotch and blur"? On the contrary, the signature is the result of a perfect pen-nib, which any one can undoubtedly see,—we may well ask, "How could this most important fact, signing with pencil and pen, perhaps the turning point in the case, be forgotten?" The witness merely says he forgot about it, although he was in Court many days, and no doubt

held many consultations with his attorneys, concerning all the details of the transaction.

No other witnesses testified that any such thing occurred.

Louis Bernstein, brother-in-law of the witness Karp, and the other subscribing witness, said he was *standing right near the testator when he signed* and heard everything that was said (p. 50). Although this witness puts himself right where he must have seen everything, he, at no time, testified to having heard any conversation regarding the pen or pencil, nor to having seen any pencil used. He did remark, however, to his wife, the *suddenness with which Richter made up his mind to sign the Will* (p. 54).

Rose Bernstein, a sister of Karp and wife of the other subscribing witness, testified that she was present at the time the Will was signed (p. 369) and that *she* brought the pen with which Richter signed his name (p. 371); that she was present and saw everything that happened, being present when Richter began to sign the Will, and saw him finish it (p. 371); that he did not write anything other than his name (p. 383) and that she also saw the witnesses sign the Will (p. 384). Witness admits that, although she was told by Karp that her uncle was expected that night, *she was not told why he would be there nor anything about the purpose of his visit,* although he had never been in the house before (p. 375). (This circumstance is so unnatural as to clearly indicate that either Richter was never in her house, or that if he was, the whole story of the signing of the Will is a pure fabrication. This story isn't natural or reasonable.)

Speaking of the circumstances relative to the failure of Karp to mention the pencil signature,

when he was first on the witness stand, and the lack of corroboration by the other witnesses, Judge Osborne, in his opinion admitting the will to probate, said: "Probably more serious than any other single circumstance, is the fact that neither Karp, Louis Bernstein, nor Mrs. Bernstein recollected, on their direct examination, the very unusual circumstance that the testator wrote his signature in pencil before 'painting' it over in ink. And it was not until this unusual circumstance was pointed out by the handwriting experts, that Karp's memory was sufficiently refreshed to recall it. This was on cross examination by caveator's counsel. *It is possible,* of course, that one could overlook such a matter, or that one or the other of these witnesses would have recalled it, had it been brought to their attention. I cannot but feel, however, that their failure to testify to the incident on their direct examination *is a very suspicious circumstance,* although not sufficient to convince me that the signature is forged, and as a consequence to justify the rejecting of the *Will*" (p. 24).

Karp promised almost daily, to produce his friend "Weber," with whom he chummed, to corroborate his statement that it was with his permission that he used the typewriter in the club house to draw the Will, and at one time said that Weber would make an affidavit or give his testimony in any other way (p. 321) but, although given every opportunity, failed to produce him or an affidavit, *or even an excuse* for not so doing.

The above is practically all of the evidence relating to the actual drawing and execution of the Will, and we will now proceed to examine the evidence from witnesses and circumstances, touching

the probability of the existence of a Will before the death of Richter.

PART II.

Conversations With Abe Karp Respecting the Will.

Karp says that the Will was drawn the night before "Purim," notwithstanding which he says, that the day after his uncle's death, he came to Newark, and after he consulted his aunt (Lena) he asked her whether or not her husband said anything about a Will, and she said "No" and that she then told him that certain persons, whom she mentioned, were present at his death-bed (p. 46) and that "My uncle mentioned or motioned towards the direction of Mr. Simon's residence, if I recall, and it entered my mind that, as I had heard my uncle mention Justice Simon's name several times—I thought they were rather chummy—it occurred to me that he had entrusted his Will to his keeping and care and it was for that purpose that I went down to see the Judge, and I did, at the same time, ask Judge Simon *whether my uncle ever made any other Will,* thinking that my uncle had revoked this Will, and gotten up another one" (p. 47). Witness had previously stated that he inquired of Judge Simon *if his uncle had drawn a Will,* and that Simon might have remarked that his uncle's widow would have the dower right (p. 38).

Justice Simon testified that he knew Richter well; having attended to all of his tenancy cases for him; that the day of the funeral Karp came to him and asked him if Richter drew a will and that he answered. "It is for you to find out, and for me to know;" and that Karp said to him, "I know he never believed on it and never made a will" (see pp. 180-181).

Max Rosensweig, a witness, was at the house at the time of Richter's funeral, and in the presence of Karp, ~~and~~ the latter's father, said that Richter did not leave anything to his wife in "black and white" and that young Karp said nothing about having drawn a Will (p. 168).

David Arbeitel, the old friend of Richter, testified that the day of the funeral he spoke to Karp and said that it did not look right to have Richter buried in a casket costing $3.50, and that Karp said "That is not my fault, my Tanta (aunt) tells me that she is left with $8.00. She is poor, he don't leave her nothing at all" (p. 203), and that, at the cemetery, Karp senior, in the presence of his son, Abe, said: "Mrs. Richter was left with $8.00;" that shortly after, young Karp asked witness if he knew about a Will, to which witness replied that Richter "Never believed on a Will," and that Karp then said that *he* told Richter to make a Will when he met him in New York, and that "Richter got excited and hollered, and he left him there" (p. 205). (Important.)

Julius Gartner, a nephew of the deceased, was at the house the night before the funeral. They spoke about the deceased and he asked if Richter made a Will and if he did not leave his mother anything, as she was so poor and that young Karp spoke and said: "He didn't leave anything. He died like a dog." At which, the witness got angry and was going to throw Karp out of the house. (Bot. p. 297, top p. 298.)

Alice Katzin, daughter of David Arbeitel, testified that she was in the house the day of, or the day after Richter's death, and that they spoke of a Will, and that Abe Karp said that if a Will was left, he knew nothing about it (p. 325).

Isadore Arbeitel testified that he was walking down the street with Karp the day after Richter's death and that Karp said to him that Richter died without leaving a "dipped in pen" (meaning a writing) and said that his aunt was not married to Richter, etc. (p. 336-337).

Joseph Arbeitel swore that the day after Richter's death, he spoke to Abe Karp and said that it was too bad his uncle had passed away, to which remark Karp answered, "Yes, it is too bad. Now we don't know where we are at, as he wasn't married to my aunt, and he has left no Will, and they sent for Simon and when Simon came it was too late to make a Will" (p. 401). That the next day he met Karp on Clayton Street, and Karp said that Richter belonged to a Masonic organization and said, "Well, it pays to belong to an organization of that kind. They show a little appreciation for a person when he dies. They pass him away;" and that he asked him, "What is going to happen now, Abe, you told me yesterday that he died without a Will?" and he answered "Well, I'll be hanged if I know" (p. 402). And that Karp at no time mentioned the fact that he had drawn a Will for his uncle (p. 402).

The above constitutes practically all the conversations with Karp regarding a Will.

PART III.

Conversations With Mrs. Richter Respecting the Will.

Max Rosensweig was told by Mrs. Richter about eight or ten days after Richter's death that she had a Will (p. 171).

Mr. Matzner passed the house the morning of the funeral. There was a sort of riot there, regarding

the style of coffin supplied. He went up to Mrs. Richter and told her to give in for the sake of the people. Her reply was, "Mr. Matzner, how do you know he left money? He left me with $8.00 and there is no Will provided that I can see, that I can see my way through clear. (p. 200).

Fanny Gartner was told by Mrs. Richter that no Will was left (p. 333).

Mrs. Smith says that Mrs. Richter met her about October 1, 1914, and said that she had a Will but could not find it, but that *her nephew had a copy of it,* and that it was all in her favor. Later she said she found the Will in *Jewish Bible,* and again that she found it in a leather book in the safe (p. 279).

Julius Gartner was told by Mrs. Richter that Richter did not make a Will, and that it was too late when she sent for a Justice (p. 297).

PART IV.

Conversations With Testator Before His Death Respecting a Will.

Herman Simon was consulted by Richter about two months before his death regarding a Will. A Mr. Kurtzel, who was with him said: "The dogs will get your money," and he replied "I don't believe in it" (pp. 179-180).

Mr. Matzner met Richter on a Kinney car in Newark, about two and a half weeks before his death, and had a conversation regarding his property and suggested that he leave something to charity. Richter answered, "As long as I am alive I am the boss of my money, and after I am dead and buried let them break their heads after it and do what they want about it" (p. 199).

David Arbeitel spoke to Richter frequently about

a Will and was told "It be damned. When I am alive I am the boss, and when I be dead let everybody take a share" (p. 202).

Max Scheiner met Richter corner of Springfield Avenue and Bedford Street, Newark, about a week before his death and criticised him because of his style and manner of living, considering his wealth, and told him that when he died "the people would have money for nothing" and that he should make a Will, and leave something to charity, to which Richter replied, "I got three sisters and a brother in Europe, they are poor, let them have it, I don't want to give anything to the City of Newark" (p. 277).

Joseph Arbeitel spoke to Richter two or three weeks before his death regarding a Will, at which time Richter said he was "good for another fifty years to stay, etc., and that he worked for it, and when I am gone let them fight over it like dogs, I don't want to be worried about anything after I am gone" (p. 400). That he wouldn't trust anyone to put down anything, as he could not read, and that besides he was not ready for a Will (p. 401).

PART V.

Death-bed Scene.

At the time of Richter's death, which occurred in the early morning, there were present Dr. Steiner, Justice Simon, Mrs. Richter, David Arbeitel, Isadore Arbeitel, Harry Silber.

Much testimony was taken on the subject as to just what the testator wished done with his estate. All agree that the deceased attempted a death-bed disposition of his property, and disagree as to just what was said. It is admitted by all the parties

that the deceased, feeling himself dying, sent for Justice Simon to draw his Will.

Mrs. Richter says that after the doctor was called Richter called "Zwuha-Zwuha," meaning "Will-Will," repeating this twice. That she sent her nephew for David Arbeitel and Justice Simon and that they both came. She says that when Simon came, he said: "Samka, what is the matter?" and he answered "Bad-Schlecht." Simon said: "Did you send for me?" He said "Yes" in English (p. 422-423). Simon said: "What do want?" He replied, "For my 'Jidena' (wife) and a thousand dollars for Blima;" that Mr. Arbeitel said "For Arbeitel?" and he said "No." "One thousand dollars for Blima" and died (p. 423).

Harry Silber practically corroborates this, but adds that his aunt Lena asked her husband "For Blima" and he said "A thousand dollars" (p. 503).

Dr. Steiner gives the conversation substantially as follows, "I want Blima to have one thousand dollars and the rest to my 'Jidean' (wife)" and says that Arbeitel's name was not mentioned at all (p. 210), thus disagreeing with Mrs. Richter (*supra*).

Justice Simon says that at the time the conversation took place at the bedside, Dr. Steiner and Mrs. Richter were in the kitchen, and he and Arbeitel were in the bedroom (p. 179). That Richter said: "I want everything for Blima" and that Lena then came into the room and hollered "Samka, where you leave me?" and he said "Thousand dollars Arbeitel" and then he died (p. 179).

He re-states the conversation after the doctor told him to go inside as follows: "Samka, what is the matter?" He said, "I am sick—I am bad." I

said, "Do you know me?" He said, "Yes, you are Simon." I asked, "What do you want?" He said, "I want everything for Blima." Mrs. Richter came in the room and said, "Samka, where you leave me? You did not provide for me" (p. 179). Richter then said "Thousand dollars Arbetitel," and Mrs. Richter said "Thousand dollars Blima," and he said, "No, thousand dollars Arbeitel," and then died (p. 179).

David Arbeitel practically corroborates the death-bed conversation as related by Justice Simon (p. 202) and says Dr. Steiner was in the kitchen with Mrs. Richter at the time (p. 525).

The principal point of divergence in the narration of the conversation is with respect to the use of the name Blima. One side contends Richter says "One thousand for Blima," and the other says "Everything for Blima." If the points to be determined in this case rested entirely upon what disposition the testator intended to make, upon his death-bed, it seems to me that the evidence of the man who was called for that particular purpose, in this case, Justice Simon, should be absolutely and positively considered. Judge Osborne felt that perhaps in those tense moments Dr. Steiner was the most composed, and hence accepted his story as the true one. But while that might ordinarily be true, it seems to me that in a case like this, where a doctor was considering the health of the patient, and a notary was considering the requests and instructions of the patient, being summoned for that particular purpose, the statements of such person should unquestionably be considered. But this matter will be discussed further.

PART VI.

Finding of the Will.

David Arbeitel says that on the very day the Will is said to have been executed he was with Richter until 6 P. M., the day March 14, 1914, being the eve of a Jewish holiday, and that he saw him again about 4 A. M. the next morning, but that Richter said nothing about having gone to New York, although he had always previously told him of his visits there (pp. 206-207). That some time before this Richter told him that he had been to the wedding of Abe Karp's sister and that Abe insulted him while there, and that he would never see him again and that he was very much excited at the time (p. 203).

Karp admitted the Will was drawn the night before a Jewish holiday, and that his uncle was "fussy and scrappy" and that he had some whiskey before he signed the Will (p. 257).

Karp says that he did not speak to his aunt about a Will and did not tell her to look for one after Richter's death (p. 159). Says he knew she looked in the safe for it and did not find it there at first, but that it was found there some time after (p. 260).

He was severely cross examined by Judge Osborne, as to why he had not said anything to anyone about having drawn a Will (p. 264, etc.). Witness changes his story from the one on page 259 when he said he spoke to his aunt regarding the Will *after the funeral,* to one showing he spoke to her the *same day* (p. 265).

Witness further replied to Judge Osborne's questions by saying that he did not tell his aunt that a Will had been drawn, nor did he tell her to look

for a Will, nor did he ask her if she looked for a Will (p. 265).

Louis Bernstein, his brother-in-law, says he was in Newark, about a week after Richter's death, at which time "they were looking for the Will" (p. 57), and that he was told by Karp later at his home, that the Will was found in the safe (p. 57).

Alice Katzin called upon Mrs. Richter's sister, Mrs. Silber, who lived in the same house. There were then present, besides herself, Mrs. Silber, her son Harry and young Karp, and they were looking over various papers (p. 323).

The day Richter died this witness was in his apartment and saw the safe open. She advised Mrs. Richter to put her jewelry in it, which she did (p. 324).

Mrs. Richter is the only one who gives testimony as to the finding of the Will. Her story is unique, and of course, stands alone. She says she was told, while at the cemetery, by Karp, that there was a Will, and that she should look for it; and thereupon she looked "all over" for it, including the safe; that she found it in the safe, but not the first time she looked there, because there was silverware in the top of it and she did not see it. That the Will was found in a pocketbook in the safe, but that she had lost the pocketbook; that there was in the safe (a small house safe) about 23 spoons, some knives and forks (p.479). That she found the Will October 3rd (eight days after Richter's death) and with it a piece of paper, on which was written the word "Zwuha" (will), but that she did not keep that piece of paper.

It is not conceivable that this witness would not have found the will sooner, if it had been in the safe all along—she looked for it the day after

she was told about it by Karp. She went all over the papers belonging to Richter, together with other members of the family, either the day of or after Richter's death. The truth is—*there was no Will in the safe at the time of his death nor on the first of October, when she told Mrs. Smith that she could not find a Will* (p. 279). It was prepared some time between October 1st and October 3rd, or from 10 to 12 days after the death of Richter.

PART VII.

Summary and Conclusions.

In commenting upon the evidence in the case, I shall not touch upon any testimony of the handwriting experts, as that part of the case has been made the subject of much study by Mr. William Greenfield, who will present an argument on that branch; nor will I discuss the nature of the signature on the Will, nor the enlarged photographic representations of it, because the Court will have all of the exhibits in the case, before it. I will, however, discuss briefly the realities and improbabilities of the case as presented by the evidence, as follows:

Abe Karp was a young man of some ability and education. His aunt was not regarded by him as the lawful wife of the deceased, whom he was not on friendly terms with. When he last met his uncle, at his, or anyone else's home, previous to the drawing of the Will, does not appear, nor does it appear that he ever called upon Richter in Newark. He knew Richter's habits and knew his friend Justice Simon was his confidant and legal assistant. His Aunt Lena had no living children and might not be legally recognized as the wife of Richter.

Her husband (as we will call him) was wealthy, though ignorant, and there would be a large estate left, upon his death. If it came to her, it would practically be in *his* family.

A motive, therefore, was present for his obtaining the estate for his aunt. He *could demand* proper reward for any assistance rendered her in procuring the estate for her. A further motive was the anticipated gain to him as an executor of the estate. When, therefore, his uncle died, the opportunity presented itself for action.

He immediately went to Newark, and after learning from his aunt that a Will had not been made by Richter, went immediately to *Justice Simon, who had been called for that purpose,* just before Richter died, to make certain of it. Learning that Simon had not drawn a Will, and not finding one in the house, he thereupon prepared, or had one prepared to suit his purpose.

Fearing to leave too many clues behind, he had some one, unquestionably his sister, who was a typist, draw the Will on the typewriter. (The work is too clear and perfect for a novice like himself to have done it.) The stage was set at his sister's home, where details as to conditions, etc., could be readily pictured and explained. The witnesses were members of the family. How strange for a young man, somewhat trained in the law, having had experience in a large law office, to select such a time and place and employ close relatives to act as witnesses; himself being one of them! This was not a Will drawn in *extremis,* but deliberately, and after preparation, according to his story. Why did he not procure outside witnesses, which any novice would have done? Because there was no one else whom he *dared* to *trust* his *criminal*

transactions with! He was safe within the bosom of his own family, and with what members of it? Not with his mother or his father, but with his sister and her husband.

He tried to be very careful, however. He made many inquiries concerning the existence of a Will. He went to Justice Simon, the man who attended to all of his uncle's legal affairs, and the one person who would likely be the man to attend to such a matter. He was the man whom his uncle had sent for, upon his dying bed, and he believed that if Justice Simon had not drawn a Will, nobody else had. He had searches instituted immediately. All papers in the house were examined. The safe, a small one, was looked into but nothing was found therein. A week was permitted to elapse, then a Will appeared—just the kind of a Will that Karp realized the Courts might favor, and which would appear to be natural. Testator's sister was remembered to the extent of $500 and the old friend, David Arbeitel, to the sum of $200.

He was not quite careful enough, however, to cover up all of the earmarks of his fraud. He did not realize that the very inquiries which he made concerning the Will would be the things to appear to prove that he had not drawn a Will at the time he claimed to have done so. He also failed to realize that all of the talking done by his aunt, and the relatives, regarding the non-existence of a Will, would add further accusations against him. He did not know that his uncle had stated to others that he was opposed to drawing a Will, and did not believe in it. He did not realize that in testifying as to the alleged instructions given him for the preparation of the Will, he did not account for the fact that although nothing was mentioned by

his uncle about executors of the Will, *he* appears in the same as the executor, and his aunt as the executrix, and, most important of all, he failed to consider that the very attempt of his uncle to make a death-bed Will would be the thing to prove beyond a doubt that no will had been drawn up to the time of Richter's death.

Are all the witnesses, viz., Justice Simon, David Arbeitel, Julius Gartner, Alice Katzin, Isadore Arbeitel and Joseph Arbeitel swearing falsely when they say that Karp asked them about a will? And are these and other witnesses, including Mr. Matzner, Mr. Rosensweig, and Mrs. Smith, also swearing falsely when they say they discussed the matter of the will with Mrs. Richter? And are Simon, Matzner, Scheiner, Krutzel and Arbeitel also deliberately lying when they say they discussed the matter of the drawing of a will, with the deceased, shortly before his death? Are all these witnesses to be swept aside in order to uphold Abe Karp? And after that most damaging of all proofs, the admission by him of the making of the double signature by Richter, after the experts in handwriting had smoked him out, are we still going to stamp him an honest man?

Does the man live, who, at 60 years of age, ignorant, unfamiliar with the use of a pen, and afflicted somewhat with rheumatism, can write his name with a pencil, and then trace it over with a pen, so as to *completely cover the* pencil writing, and do it as cleanly as the signature on the will shows it to have been done? The question answers itself. Such an act could have been performed only by a person accustomed to the use of a pen—as Karp was.

What conclusion is to be drawn from the death-

bed scene? Is it that of the learned Court below, that a change was desired in the Will? Or is not the conclusion, irrespective of what the conversation was, irresistible that *no will had ever been drawn.* Is it within the range of human probabilities that a man, though dying, in the full possession of his senses, desirous of making a disposition of his property, and having *practically within reach a Will* which had been drawn within six months, would call for "Zwuha" (will) and have a notary sent for to whom he stated his desires, without saying anything about a recent will having been drawn? If a will had been drawn in which Lena Richter was beneficiary, with his sister, Feige Gartner, a beneficiary to the extent of $500 and his old friend to the extent of $200, would he be likely, if his dying purpose was to make a death-bed change in the will, to repeat the name of the chief beneficiary, together with her allotted portion, and change only the bequest of $500 for his poor sister to one of $1,000 for his first wife, and cut off Arbeitel's share entirely, as Mrs. Richter contends? The change as alleged was not an important one; was not natural; and *never occurred.* What did happen was this: The dying man, in his last moments, thought only of Blima Rosa, his first wife, and his old friend Arbeitel; and declared that the former should receive everything except the sum of $1,000, which was for Arbeitel. He knew his second wife, Lena, owned one house in her own name, and, no doubt thought she was entitled to dower in the others.

Even though Dr. Steiner's version be accepted, which it should not be, still everything points to the conclusion that nothing had previously been done by Richter in the way of making a will. The more the death bed scene is emphasized, from any

angle, the clearer the fact appears that no prior will was ever drawn.

Now, as to the finding of the will. Was ever a more suspicious and highly improbable story told? Mrs. Richter claims to have looked through the safe without finding the will; then she says she again looked for it and found it under some silverware in the very safe about 12 days later. What greater effort did she make to find the will the second time than the first? When did she last use her silverware, which she says hid the paper? The will, if it ever was in the safe, must have been there from the time it was drawn, until it was found, and if the testator wanted to hide it so that no one could find it (Karp says he was told to keep the matter secret) he would not place it under silverware which would likely be used almost any day, if not every day. No one claims the silverware was left untouched from March, when the will was drawn, until October, when it was said to have been found. This is very important to consider. Mrs. Richter handled the spoons, etc., why did she not see the will during the six months that it laid in the safe?

Mrs. Richter stated to Mrs. Smith, first, that she had a will, but could not find it, then that she found it in a Jewish Bible, and still later that she found it in a leather book in the safe.

Where is there any corroboration of any part of her story? Surely with so many members of the family constantly about her, someone would have seen her conducting the search, if not actually witnessing the discovery of the paper.

This is the story of the transaction. Is Abe Karp's story to be taken with all its improbabilities, against the stories of the numerous witnesses for the caveators including the conclusive testi-

mony of the experts, *which was not opposed by a single handwriting expert*—either professional or otherwise?

Is his conduct in searching for a will, and his statements respecting the non-existence of one to be swept aside and forgotten? And is his change of front in the manner of testator's signing the will to be reconciled with honest forgetfulness? Does the death-bed request for a scrivener to draw a will, followed by an actual attempt to make one, indicate the existence of a *recently-drawn one?* And does the story of the finding of the will bear such earmarks of the truth that it can be accepted by any but the most credulous?

To sum up the case, the caveators rely upon the following circumstances disclosed at the trial, viz.:

1. Lack of confidence or friendly relations between Karp and Richter during his lifetime.

2. Improbability of Richter's going to New York to have his will executed, on the eve of a Holy festival, by Karp, to whom complete information had not been given by him.

3. Incoherency and inconsistency in the narration of facts leading up to the preparation of the will by Karp.

4. The unusual circumstances attending the alleged signing of the will. Richter's unexplained presence and the undisclosed purpose of the visit to Karp's sister's home.

5. Karp's uncorroborated statement of the double signature by Richter after he was cornered by the experts.

6. Karp's search for a will after Richter's death.

7. Karp's statements regarding the non-existence of a will and the unprotected situation of his Aunt Lena.

8. Statements of Lena Richter regarding the search for a will and its alleged subsequent appearance in a place which had previously been searched by her.

9. Significance of the attempted death-bed disposition by Samuel Richter, indicating clearly that no previous will had been drawn.

10. Statements by disinterested witnesses regarding the refusal of Richter to make a will shortly before his death.

11. Testimony of experts as to the forgery of the signature.

12. Sufficient motive on the part of Karp and his relatives for the fraud.

All of the above questions and many others should be satisfactorily answered, and the situations and circumstances above pointed out must be resolved favorably to proponents before the will can be upheld; and inasmuch as the questions and situations cannot be answered and explained, and because of the fact that no honest transaction could have been so successfully attacked in the many particulars mentioned, it is respectfully insisted that but one conclusion can be reached, and that is, that *the will is a forgery* and that the stories told in order to uphold it, downright and premeditated fabrications.

It is therefore respectfully submitted that the paper offered as a will should be revoked, and the decrees of the Prerogative and Orphans' Courts admitting it to probate, should be reversed with costs and counsel fees to the proctors for the caveators appellants.

Respectfully submitted by

BENJAMIN M. WEINBERG,

One of the Proctors for Caveators-Appellants.

New Jersey Court of Errors and Appeals

IN THE MATTER OF THE APPEAL FROM THE PROBATE OF THE PAPER WRITING PURPORTING TO BE THE LAST WILL AND TESTAMENT OF SAMUEL RICHTER, DECEASED.	*On Caveat.* *On Appeal.* *Brief of William Greenfield, in Behalf of Caveators-Appellants.*

Brief synopsis of the Expert Testimony adduced in the above cause, before the Essex County Orphans' Court.

This is an appeal from the Decree of the New Jersey Prerogative Court, affirming the Decree of the Orphans' Court of the County of Essex, admitting to probate a paper writing alleged to be the last Will and Testament of Samuel Richter, deceased.

Samuel Richter was born at Janow, Austria, where he lived a number of years, there having married one, Blima Rosa. He deserted her there, and went to London, where he met Lena Jacobowitz (alias Lena Jacobs, alias Lena Richter), then working in a restaurant there, with whom he went through an alleged marriage ceremony in the presence of ten people (as testified to by her at page 409 of the Printed State of the Case). The couple resided there as man and wife (according to her uncorroborated story) about two years, after which they came to America (p. 410), taking up their residence in New York City, where they conducted disorderly houses, under various names, as well as

in the City of Newark, until about thirteen years ago (pp. 491-492-493-499-552-553).

Samuel Richter died September 21, 1914. The Will was offered for probate, caveat filed and the matter contested.

In my Brief I am not going into the facts of the case, as Mr. Weinberg, who appears for one of the caveators, has taken upon himself to take care of that part, on the facts of the case, and has left it to me to look after the expert testimony.

POINT ONE.

I shall now turn to the expert testimony and briefly give my reasons, as I see, for our contention that the signature on the Will is a *forgery,* and I have no doubt that the Learned Court on comparing the signatures as photographed from the standard signatures, and the disputed signature as appears on the alleged Will of Samuel Richter, deceased, and by mere comparison of the same, without the aid and assistance of any experts, we can come to no other conclusion, as the experts testified, that it was a *"clumsy forgery;"* that the signature on the alleged Will is dead, and not a *"live signature"* which always follows the true characteristics of the true signature of any human being who knows how to sign his name, even if that person is illiterate. The characteristics, the natural reproduction of that person, always appears in the signatures, which can never appear in a simulated, clumsy, forged signature.

Let us advert to the testimony of the three experts adduced on the part of the caveators, namely, Professor Hartkorn, John V. Haring and Carvalho. They say that the alleged signature on the Will of

Samuel Richter, deceased, was not written by the testator, and that it is not the handwriting of any person, but is a clumsy forgery by simulation (see testimony of Experts Hartkorn and Haring, pages 77 to 102 of the printed state of the case); that the alleged signature is not written at all but is a drawing (see testimony of Hartkorn, page 77; Haring, page 114; Carvalho, pages 133 152 of the state of the case).

That this is a drawing, a simulated painting from the genuine signature of Samuel Richter, is very apparent, as it can readily be seen with the naked eye, by reference to page 7 of the Book of Photographs arranged by Hartkorn, exhibiting the disputed signature, the letters cut out and placed in perpendicular column form, and the standard or genuine signatures of Samuel Richter, also cut out and placed in juxtaposition with the disputed, each signature being first photographed by direct contact with the original writing, and all brought up to the same degree of enlargement, and then the letters cut out of the prints and pasted on cardboard and all photographed at one operation as now appearing on page 7 of the photographic album, for the purpose of juxtaposition comparison, which exhibits at a glance, as testified to by the experts, the clumsy simulation or imitation of the genuine signature of Samuel Richter. We can go right down the first column which represents the letters of the disputed, every letter shows a decidedly heavier line production, in other words, it shows that it has been re painted, touched up after the signature was simulated, and in order for the *forger* who made an effort to reproduce the signature of Samuel Richter, to do so, he was forced to go over the lines, and by reason of that fact, in-

stead of producing the autography of the person, he produced a simulated signature and not the signature of any person.

Again we compare the letters in their height, the letters of the disputed are decidedly shorter than was the custom of Mr. Richter to make them, as exhibited by the Standards in the other columns on this page 7 of the Photographic Album, as well as all other standards exhibited and examined; the slant of the disputed signature, likewise, is far different from the standards in that there is much more leaning of the letters to the right, very discernible on pages 5 and 7 of the Photographic Album and the greatly enlarged special photograph shows distinctly the difference in the slant which is apparent.

Again let us take page 7 of the Photographic Album by referring to the Capital or initial letter "S" in "Samel," on page 7 aforesaid, as pointed out by the experts, that the second up stroke which finishes the loop is not carried out to the height as was the custom of Mr. Richter. I am sure the Learned Court will not dispute the fact that once a person gets in the habit of making a certain kind of a letter in his signature, that custom, that characteristic will remain until life is extinct, and if this characteristic does not appear in the signature on the alleged Will, it shows conclusively that it is a painted-over, in common parlance, a dobbed signature, and that the signature is the product of some person other than Samuel Richter.

As testified to by Mr. Hartkorn (pp. 82 to 84 of the printed state of the case) the second up-stroke which finishes the loop is not carried up to the height as was the custom of Mr. Richter, and which constitutes a conventional or copy book form of

the German script; that the terminal stroke which connects with this up-stroke in the disputed, is unlike the finishing stroke of any other "S" in the writings of Mr. Richter, and that this stroke, as made in the disputed "S," is not the German characteristic as shown in the standard letters, as testified to by the expert, who stated in his testimony that he has done a great deal of work on German characters, and knows how the German characters are formed (see pp. 82 to 84, inclusive, printed state of the case).

We will now refer to the next character directly below the "S" just described, of the disputed signature on page 7, which is to represent the capital or initial letter "R" in combination with the "i" in Richter. The experts, Hartkorn and Haring, point out that this letter has a decided bend in its down stroke, unlike any of the standards in juxtaposition comparison, and that the up-stroke which crosses and finishes the loop in the disputed signature, is carried up straight to connect with the "i" differing from the standards, and by further reference to this "R" in the disputed signature as exhibited on page 6 of the Photographic Album, this up-stroke is carried above the letter "i" following, showing that the pen was taken off the paper and put back again to form the down-stroke of the small letter "i." That is not the characteristic of any person accustomed to write his name, no matter how illiterate that person may be, but as long as he knows how to sign his name, the customs and characteristics can always be seen, and no person can disguise his signature unless he deliberately and with some purpose in mind to disguise his signature, does so. There was no testimony adduced during the six days of the trial of

this cause, to show that there was any reason why the said Samuel Richter should disguise or attempt to simulate his signature.

Again, the experts, Carvalho (pp. 135-145), Hartkorn (pp. 89 to 107, inclusive), and Haring (pp. 124-126, inclusive, of the Printed State of the Case) all come to the same conclusion that the signature, as drawn, was beyond the ability of Mr. Richter, in its preparation, particularly if he suffered from rheumatism or any other similar ailment which would cause the writing to sprawl all over the paper. The alleged signature is too compact and strong, heavier strokes and painted over, and prepared by one whose ability to make strokes by the building and drawing process, was beyond Mr. Richter's. Mr. Richter's every pen movement in the standards can be easily followed, showing open, honest, weak, waving strokes. Nowhere does it appear in the disputed signature on the alleged Will, that it was a weak, waving stroke, but on the contrary, it is plainly visible to the naked eye, that the signature was a drawing, a simulated signature. Hence we can form no other conclusion but that the signature is a *forgery.*

Counsel desires to call the Court's particular attention to the initial stroke of the letter "S" at the top, which should be an up-stroke as exhibited by the "R" in the standards just below the disputed, on page 6 of the Photographic Album, but it is seen very distinctly that it is a down-stroke, and also shows that it was added by placing the pen back at the top of the main down-stroke and drawing it downward, *leaving a blunt ending which could not occur by moving the pen upward. No person* when he is accustomed to make the up-stroke in ending the letter, will make or leave a blunt point at the

end, but with the up-stroke and finishing of the letter, there is a waving of the hand which comes down to a fine point, almost disappearing, which does not appear on the signature on the alleged Will, *which shows conclusively* that it is a *simulated signature* and not the *signature of Samuel Richter, deceased.*

The standard shows the starting point to be an upward movement rounding the stroke at the top to form the down-stroke and showing at the top a continuous motion of the pen without a lift or angle, which does not appear in the disputed signature. And that this same letter "S" in the disputed signature shows a clear *break* or *pen lift* at the bottom where the curve should be a continuous stroke as exhibited by standard directly below it on page 6 and by all standard "S's" on page 7 of the Photographic Album, in juxtaposition comparison, and attempts at retouching with the pen are visible throughout the letter on page 6, and can be seen with the naked eye. By reference to the *initial letter "S" in "Samuel,"* on this page 6, the pen lift is visible at the top of the main up stroke in the disputed, where the second up-stroke or short extension occurs before finishing with the terminal stroke, the latter ending *with a heavy abrupt line,* all unlike the standard directly below, and unlike all the standards (see page 7 of the Photographic Album). And that at the base of this capital or initial letter "S," at the curve where it takes an upward trend, there is clear evidence *of the pen having been put back to patch up the stroke* at the rounding, and further evidence that it was done by drawing the pen downward instead of upward as in the case of the standards, by one continuous stroke after or following the down-stroke.

At this time counsel begs the Court's pardon if he is taking up too much of the Court's time with these details, but the Court will realize the fact that this is a serious case and a serious charge.

There can be no question, as it is further evidenced, *that the pen was put back to patch up* the stroke at the rounding, by the fact that the pen in rounding the curve at the base of that letter "S" *could not* possibly produce that width of line on the up-stroke by pushing the pen upward, comparing the width of the line at the curve on its upward trend with the width of the line on the downward trend or down-stroke. This is better illustrated by the photographs of the disputed and the standard, as appearing on page 5 by comparison of the two letters, or strokes, forming the letters. And the initial up stroke likewise *shows clearly the patching and pen lift* about one-third its way up, where an *independent stroke* makes itself visible, and an extra film of ink being applied, and the abrupt beginning of that up-stroke proves this filling in with the pen drawn downward, not the light, weak, honest stroke as was the custom of Mr. Richter in his lifetime, but as shown on the disputed signature, a heavy down-stroke, showing that it is a simulated signature.

Again let us compare the standard "S" directly below the disputed, the disputed letter showing that the line is thinnest near the base line on the down-stroke, where it would be only natural for it to be at least as heavy or as wide as the up-strokes, if a hard-pointed pen were used, and heavier or wider at the base on the down-stroke if an elastic or somewhat flexible pen were used in writing the name which is demonstrated by the standard letter "S" directly below it, as is impossible for any

pen to cause a shading on the up-strokes of letters in the regular way of writing, and is therefore proof of the drawing process resorted to, as testified to by the experts. In fact, in studying this disputed letter "S" *in line-quality* many discrepancies, hidden *breaks* or *hesitations* are revealed, such as come from copying by simulation, having *to stop to look* at copy while in the act of production. It is plainly shown on the disputed signature, that the person who wrote the same, *had to hesitate and halt in copying* and forming the letters, but nowheres does this halting-drawing process appear on the original standard signatures of the said Samuel Richter, deceased, but on the contrary, on the standard signatures can be seen the live characteristics, the autography of the one who wrote that signature, which does not appear from the disputed, simulated signature (see testimony of handwriting experts, Professor Hartkorn, John V. Haring and David N. Carvalho, page 82 to 159, inclusive, of the printed State of the Case).

The second stroke in the disputed "S" also differs from the standards in that it takes a curve in its travel, so that if followed in that course by extension of that stroke, the same would continue on in a curved downward trend, whereas in the standards the up-stroke would continue to rise where it extended (see pages 5 and 7 of the Photographic Album).

The small "a" in "Samel" in the disputed signature, on page 5, is different in form as compared with the standard directly below it, and those also shown on page 7, of Mr. Richter's writing. By looking at that portion of the "a" formed by the first down-stroke and the first up-stroke, it appears in form like a *tick* or *check mark*, angular at

the base with the space between the two strokes near the base, very narrow, and the space near the top between the down-stroke and the up-stroke much wider, or triangular shaped, whereas the standards show almost uniformity in spacing between these two strokes from top to bottom. And it is clearly evident that the down and up-strokes are about of the same thickness in the disputed, thinning out in spots, showing the *re-touching, hesitation* and *patches* in the disputed "a," whereas in the standard "a" directly below on page 5, there is evidence of a heavier down-stroke, or natural writing stroke where pressure is brought to bear upon the pen and a lighter up stroke such as a pen would make in its course of travel upward without retouching, allowing an open view of the line. In the disputed there are hidden spots such as exhibited in the "a" at the base or turn of the first down-stroke which is a pen lift after that down-stroke, making a new start and filling in afterwards.

Again the first up-stroke in the disputed signature exhibits a break half its height, and the pen *taken off,* above. After the second up-stroke of the disputed "a" the German characteristic of the curve to connect with the next down-stroke is again absent, and that up-stroke at the top, after the pen was lifted, was retraced by *patching* and a *straight horizontal line formed between the second up-stroke and the second down-stroke,* unlike the connective stroke of German characteristics or principle in curving by retracing without raising the pen, as was the habit and custom of Samuel Richter, as appears by the standard signatures.

What caused Mr. Richter to suddenly change his signature? What cause or reason, motive or pur-

pose did he have to disguise his signature? For many years he signed his name in a certain way, from which could be seen his characteristics and custom in writing his signature, and then, when he comes to sign his signature on the alleged Will (as testified to by Abraham Karp who, we contend, was the person who simulated the signature, and who said that he saw Samuel Richter sign the alleged Will), he attempts to disguise his usual method, his light, free hand, and signs his name in a disguised way, with heavy strokes, as he never did before. No reason whatever was given for the unusual method of signing his name to the alleged Will.

In the formation of the down-strokes of the disputed signature, the overlapping of the up-stroke of the "m" or retracing is entirely foreign to the formation of these strokes in the standard writings of Mr. Richter, in that the standard "a" shows that after the down-stroke is brought to the base the pen travels from that point of ending of the down-stroke up without retracing that down stroke to connect with the "m" following, leaving the space of the down-stroke of that "a" and the connective up-stroke of the "m" open clear to the base. In the disputed this connective line of the "m" following the "a" shows clearly the retouches and unevenness of the line brought about by hesitations in the drawing process. Without going into detail of the strokes that form the "m" in the disputed signature on page 5, the comparison between this disputed "m" and the standard "m" directly below it, shows conclusively that the disputed is built up by the drawing process, lifting the pen many times, patching and filling-in; producing a simulation that has not even the slightest resem-

blance to the standard "m," because the German letter "m" is composed of straight oblique lines angular at top and bottom, open between the up and down-strokes, whereas the disputed shows that the upward stroke or strokes represented as up-strokes begin nearly half way up on the down-strokes instead of at the base of every down-stroke as shown on the standards, and the fact that the down-strokes in the disputed "m" appear so irregular, the last one being a compound curve, takes it entirely out of the possibility of having been executed by one understanding German script. Mr. Richter's form of "m" in each case can be reconciled with the German script "m" and is regular in formation.

This does not appear in the disputed signature because it does not appear that this Abraham Karp knew anything about German letters or the characteristics of the German script, and therefore the disputed signature shows conclusively the hesitating halting process, showing the copying and drawing, in other words, a simulated signature.

POINT TWO.

The standard signature as appears on pages 5 and 6 of the Photographic Album, is the nearest signature in resemblance to the disputed that could be found, and was so placed in this position for ready comparison, particularly the capital "S" was nearest in point of resemblance as to form, so shown by the testimony of Mr. Hartkorn. The "e" in "Samel" in the disputed signature on page 5, consisting of two short, heavy down-strokes, bears no resemblance to the standards in its formation in that the second down-stroke commences at a point

above the starting point of the first down-stroke, and is much shorter than any letter "e" or either stroke of the letter "e" of the standards. And in that the down-strokes of the letter "e" in the disputed grow wider as they approach the base which is just the reverse of the standards, which down-strokes taper somewhat toward the base.

Now let us measure the point of the second down-stroke on the disputed letter "e," which shows an unnatural stroke for a writing when compared with the second down-stroke of the "e" at the top. This difference shows the changes in the holding and manipulation of the pen, different pen positions as testified to by the experts. The quality of the line in the up-strokes of the "l" in "Samuel," as compared with the standards and the formation of the "l" in the disputed, and the thickness of the line of the up-stroke at the right of the curve at the top, and the unnatural terminal stroke showing the patching and retouching, and the peculiar bending in of the down-stroke, the point of crossing of the up and down strokes as compared with the standards, and the comparison of the "el" in combination as to *alignment and form,* and the whole line-quality show such a difference that it is apparent that the disputed was not written by the writer of the standards, by reason of the fact that it shows that the disputed is not a live signature nor written by the person whose name appears, but that it is a simulated, halting, heavy hand, and written by a person who had in mind that he was committing a crime and *who was conscious* of the guilty act he was executing.

All the experts agree that this is a built-up form, not even an imitation or simulation of the standards other than the type of letters which in them-

selves are failures *to even represent German characters,* and that can be seen at a glance without the aid of the experts and without the aid of a magnifying glass. It is a clumsy, built-up, patched simulation, which signature discloses the lack of knowledge of the German script and German characters and letters. It shows that the one who produced that signature on the Will is unaccustomed and unfamiliar with the German characters and writing, and is evidenced by the small "c" in Richter, in the *disputed signature,* which, at the top or joining of the up and down strokes, shows a tendency to curve as at the top of the English letter "c," whereas in Mr. Richter's standards, it will be noticed in every instance that where the up and the down strokes meet there is a sharp angle at the top and a straight oblique down-stroke following which is the form of the German script.

POINT THREE.

The formation of the "er" in "Richter," where the stroke leaves the second down stroke of the "e" to form the curve or oval of the small "r" or last letter, it is made in a horizontal direction or *slightly dropping downward* after leaving that down-stroke in the disputed signature on page 5. In the standards this connective stroke between the "e" and the "r" to form the first stroke of the "r" travels first *upward before forming the oval,* and by comparison of the disputed with the standards, it is plain to be seen with the naked eye, and can be readily seen, that the disputed signature has hidden strokes and patches, covering up some of the movements of the pen, just as any criminal who commits a crime and then makes an effort to cover

up the same, showing that the person who retraced that signature attempted to cover up the simulation in the movements of the pen, while in all of the standards it is an easy matter to follow each stroke through its course of travel, clearly showing that the holder of the pen was alive and was not simulating his signature, but that it was signed with a free hand movement, as was his custom and his usual way of signing his signature. It does not appear on any of the standard signatures that the man who signed them ever attempted to or made an endeavor to go over any part of the signature. But on the standard signature it is clearly shown the written stroke with the ordinary writing speed of a person without hesitating or attempting to patch, as is represented by the disputed, giving clear evidence of the drawing process, building up by applying more ink and endeavoring to cover up the unsuccessful first attempt at a copy.

The "ht" in "Richter" are entirely foreign to Mr. Richter's production in form, showing in the standard signatures, that Mr. Richter always followed the German script, making a compound down-stroke, while in the disputed the down-stroke, with the exception of the changes in the direction of the line, *is a straight oblique line with patches at the top and bottom to form the curves for the loops,* and so clumsily made that they do not form German loops because of the up-strokes as well as the down-strokes are all straight, building up-lines readily as noticeable at the base of the "h" loop where the turn is made at the left, and the lower up-strokes in crossing the down-stroke, exhibits its patching. Nowhere in any part of the simulated disputed signature does there appear the live characteristics, customs or habits of Mr. Richter.

Again the first up-stroke and the upper loop show evidence of pen lifts and hesitations. The "t" shows evidence of the building-up process with an extra amount of ink applied, and it is here where the greatest strength of the signature obtains in the disputed, whereas in the standards, the greatest strength occurs in the "h."

POINT FOUR.

The disputed signature on the whole, shows itself to be a fraudulent one from the very fact that the retouching and patching is all done by applying so much extra ink, and making the up-strokes too thick and heavy, all done by drawing the pen in the most convenient way to try to get results, namely, downward, and I am sure that the Court, after looking over and considering the same, can form no other conclusion, but that the alleged signature on the will is a clumsy, simulated signature, by reason of the fact that it shows the re-touching and patching process by applying extra ink. It shows conclusively, that the signature is a *simulated one,* and not the original and genuine signature of any person. This is so *clearly illustrated by the capital "S"* along *at the top* where the *initial stroke or tick is drawn downward.* Mr. Richter, according to the standards, didn't try to produce such an effect by a filling-in process, as he didn't care whether such a part of the letter appeared or not, as is evidenced by the capital "S." In the standards, on page 7 of the Photographic Album, appearing on check dated August 5, 1913. Where a tick occurred in the small "t" in the standards it always appears on the right hand side of the letter, not as in the disputed, where a heavily, clumsy drawn stroke to the left to represent a *tick* appears.

And again, why should any person, not only Mr. Richter, care whether or not the beginning of the letter is fully built or not? Why should any person have any reason to patch up the signature and fix up a stroke or a tick, after he has his signature down? And if the disputed signature shows that the person made an effort to simulate the same, by patching and painting process, not realizing that he was a clumsy painter, and therefore could not reproduce the same, but produced a signature which was beyond the power and ability of Mr. Richter to make such signature on the Will, in dispute at bar.

There are too many pen lifts at the top and base of the letters in the disputed, which in itself, is evidence that the disputed signature is an attempt at simulation, by studying from a copy which was before the person who simulated the same. The halting process shows that the person had a signature of the deceased before him and attempted to simulate, by reason of the fact that the patching and re-building can be seen, which was done while in the act of preparation, necessitating the halting of the pen, while the *eyes are taken off to glance at the model from which the simulation is to be made*, carrying in the eye the form as seen in the model and *attempting to reproduce* as closely as the ability of the operator permits, and after these hesitations, rebuilding and repatching, which are in themselves *earmarks of fraud*, he finds that he has not made as good a copy as it should be, and he then attempts to cover up the defects, and place the pressure omitted, and here comes the difficult problem to the person who is simulating another's signature, the pressure, as the experts all agree, is impossible to simulate under any conditions, and

it is here where this disputed signature utterly fails to pass even as a copy, in that respect.

And again, why (as testified to by Mr. Karp at page 237, line 30) did Mr. Richter first write his signature in pencil and then go over the same with ink? But, assuming for the sake of the argument that he did, then why should all traces of the pencil be removed from the paper? The Court can come to only one conclusion, and that is, that every convict, forger and criminal will always leave some little trail of his crime, and this case is no exception. Mr. Karp heard the testimony of the experts that it was a simulated signature, and in order to attempt to satisfy the Court, he re-takes the stand and says that his Uncle first wrote his name in pencil and then re-wrote it with pen and ink. Can the Court permit such testimony? Can the Court assume that such extraordinary occurrence took place when the alleged will was signed, when Mr. Karp forgot to inform the Court of that fact, when he first testified? That, I respectfully submit, shows that the guilty conscience was haunting Mr. Karp and he attempted to hide his criminal act.

It is respectfully submitted on all of the facts herein adduced and as set forth in the Brief of my learned colleague, Mr. Weinberg, and in the argument had before your Honors, and from your Honor's, experience on the Bench and personal knowledge of the German handwriting and characteristics, your Honors can come to no other conclusion but that the signature on the alleged Will is a clumsy forgery and it should be so declared, and the Orphans' Court reversed.

Respectfully submitted,

WILLIAM GREENFIELD,

Proctor and of Counsel for Caveators.