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PETITION OF APPEAL.

NEW JERSEY PREROGATIVE COURT.

In the matter of the appeal from the decree of the Orphans' Court of the County of Atlantic admitting to probate a certain paper writing as the last will and testament of Annie B. Paullin, deceased.	Petition of Appeal.

To the Ordinary of the State of New Jersey:

The petition of Enos Frank Paullin of the City and County of Philadelphia, and State of Pennsylvania, respectfully shows:

1. That petitioner is the husband of Annie B. Paullin, late of the City and County of Philadelphia, and State of Pennsylvania, deceased.

2. That on the twenty-fifth day of June, A. D. nineteen hundred and nineteen, the Orphans' Court of the County of Atlantic made its order admitting to probate a certain paper writing purporting to be the last will and testament of the said Annie B. Paullin, deceased.

New Jersey State Library

3. Your petitioner complains and alleges that the whole and every part of the aforesaid decree is erroneous, improper and illegal, and that your petitioner is aggrieved thereby.

Your petitioner therefore prays that the aforesaid order of the said Orphans' Court, and every part thereof, be reversed by this Court.

Dated August 2nd, 1919.

Jos. J. Summerill,
Proctor for and of Counsel with Appellant.

[ENDORSED]

Service hereof acknowledged August 7th, 1919.

Wm. M. Clevenger,
Proctor for Respondent.

Filed Aug 9 1919
Thomas F. Martin,
Register.

ANSWER.

NEW JERSEY PREROGATIVE COURT.

In the matter of the estate of Annie B. Paullin, deceased, who died testate. } Answer.

The answer of Minnie W. Upham, the executrix named in the last will and testament of Annie B. Paullin, deceased, and the person who proposed the same for probate to the surrogate of the County of Atlantic:

1. This respondent answering says that she denies the allegations contained in paragraph 1 of the petition of appeal filed herein.

2. This respondent admits the allegations contained in paragraph 2 of the petition of appeal filed herein.

3. This respondent is advised, believes and submits that said decree is just and in accordance with the law, and denies that the said decree, or any part thereof, is erroneous, improper or illegal, but on the contrary alleges that the said decree, in every part thereof is legal, proper and correct.

She therefore prays that the said decree may be

in all things affirmed with costs to be adjudged to this respondent.

WM. M. CLEVENGER,
Proctor for and of Counsel with Respondent.

[ENDORSED]

Filed Aug 18 1919
Thomas F. Martin,
Register.

ANSWER.

NEW JERSEY COURT OF ERRORS AND APPEALS.

In the matter of the estate of Annie B. Paullin, deceased.	On Appeal. Answer.

The answer of Enos Frank Paullin, respondent, to the petition of appeal of Minnie W. Upham, appellant.

This respondent, not acknowledging all or any of the matters which in the said petition of appeal are contained, to be true, for answer thereto nevertheless says and admits that a final order or decree was, on January 19, 1920, made and entered in the Prerogative Court of New Jersey, in the cause for that purpose mentioned in the said petition, as is therein stated; but as to the substance and form thereof, this respondent prays to refer thereto when the same shall be produced. And this respondent is advised and believes that the said final order or decree is not erroneous, because of the reasons stated in the petition of appeal, or any other reasons, and he prays that the same may be affirmed, with costs to be adjudged to this respondent.

JOS. J. SUMMERILL,
Proctor for Respondent.
JOHN BOYD AVIS,
Of Counsel with Respondent.

[ENDORSED]

I consent to the filing of this answer, and acknowledge service thereof.
Wm. M. Clevenger,
Proctor.

ACKNOWLEDGMENT.

NEW JERSEY PREROGATIVE COURT.

In the matter of the Estate of Annie B. Paullin, deceased, who died testate. } Acknowledgment.

Due and legal service of a copy of the answer to a petition of appeal in the above-stated cause is acknowledged this 21st day of August, 1919.
Jos. J. Summerill, by
Jos. J. Summerill, *J.*
Proctor for and of Counsel with Appellant.

[ENDORSED]

Filed Aug 26 1919
Thomas F. Martin,
Register.

NOTICE.

PREROGATIVE COURT.

In the matter of the Estate of Annie B. Paullin, deceased, who died testate. } Notice.

To Joseph J. Summerill, Esquire, Proctor for Enos F. Paullin:

Please Take Notice, that on the thirtieth day of September, nineteen hundred and nineteen, I shall move before the Ordinary at the State House, Trenton, New Jersey, at the hour of 11.00 o'clock in the forenoon, or as soon thereafter as counsel can be heard, for an order dismissing the appeal in the above-stated cause for the reason that you have failed to deposit $100 for costs and failed to file a transcript of the proceedings, as required by the rules in such case made and provided.

Respectfully yours,

WM. M. CLEVENGER,
Proctor for Proponent.

Dated September 18, 1919.

[ENDORSED]

Service hereof acknowledged September 19th, 1919.

Jos. J. Summerill,
Proctor for Appellant.

Filed Oct 25 1919
Thomas F. Martin,
Register.

ORDER.

PREROGATIVE COURT.

In the matter of the Estate of Annie B. Paullin, deceased, who died testate. } Order.

It is, on this 10th day of October, nineteen hundred and nineteen, on motion of Joseph J. Summerill, proctor for the appellant, ordered, that the above-stated cause be referred to Hon. E. B. Leaming, one of the Vice-Ordinaries of this court to hear the same for the Ordinary, and report thereon to him and advise what order or decree should be made therein.

E. R. WALKER,
Ordinary.

I consent to the entry of the foregoing order.

WM. M. CLEVENGER,
Proctor for Proponent.

A true copy,
THOMAS F. MARTIN,
Register.

[ENDORSED]

Filed Oct 10 1919
Thomas F. Martin,
Register.

Filed Oct. 14, 1919,
E. B. L. (V. C.)
W. McG.

NOTICE OF APPEAL.

PREROGATIVE COURT OF NEW JERSEY.

In the matter of the Estate of Annie B. Paullin, deceased. } Notice of Appeal.

Minnie W. Upham, proponent and appellant, appeals from the final order or decree of his Honor, the Ordinary, made in this court in the above-entitled cause on the nineteenth day of January, 1920, and from the whole and every part thereof, to the Court of Errors and Appeals, in the last resort in all causes.

Dated January 5th, 1920.

WM. M. CLEVENGER,
Proctor for Proponent and Appellant.

I conceive there is good cause for appeal in the above-stated cause.

C. L. COLE,
Of Counsel with Proponent and Appellant.

[ENDORSED]

Service hereof acknowledged February 9th, 1920.

Jos. J. Summerill,
Proctor for Enos Frank Paullin.

Filed Feb 11 1920
Thomas F. Martin
Register.

DECREE

ATLANTIC COUNTY ORPHANS' COURT.

In the matter of the probate of paper purporting to be the last will and testament of Annie B. Paullin, deceased.	Upon caveat filed by Enos Frank Paullin and caveat filed by Brooks, et al.

For the Proponents:
HON. C. L. COLE and WILLIAM M. CLEVENGER, ESQ.
For the Caveators:
HON. LEWIS STARR, JOSEPH J. SUMMERILL. and JOSEPH W. KENWORTHY, ESQ. of the Philadelphia Bar.

The decedent, Anna B. Paullin, was a woman of mature years, who, many years ago and then being a widow, married one Warren A. Upham, of Atlantic City, this County and State. Upham's business was that of conducting a bakery and dealer in ice cream and confectionery, with a place of business at the time of his death upon Atlantic Avenue, at or near Tennessee, in Atlantic City.

After Upham's decease, Mrs. Upham continued the business under the name of "Upham's Bakery" at Atlantic City, where Upham had resided and

where she continued her residence. The business was of much greater extent in the summer, and apparently as it advanced in success, Mrs. Upham nearly, if not every, winter for many years made pleasure trips to Florida and elsewhere.

A number of years after Upham's death she married a gentleman by the name of Addis, who, at that time, was a resident of and in business in Philadelphia. He, after their marriage, changed his residence and place of domicile to Atlantic City, at 1410 Atlantic Avenue, the place of business and residence of the decedent.

Prior to and after her marriage to Mr. Addis, decedent had, in addition to her pleasure trips to Florida, spent a portion of each winter in Philadelphia, first renting an apartment, afterwards renting a house or houses, and finally buying a property 3839 North Broad Street, in which she and Mr. Addis, Mr. Upham's daughter, and Mr. Addis's children lived a portion of each year. She again became a widow. No change was made in her manner and customs of living, she remaining in Atlantic City during the portion of the year in which business was greatest and spending her winters on pleasure trips and in Philadelphia.

On October 27, 1917, she married Enos Frank Paullin, one of the caveators, who at that time was a resident of Pitman, in the County of Gloucester, this State. The marriage ceremony was performed at 3839 North Broad Street, Philadelphia, and the application for the marriage license states that to be the residence of the decedent.

Mr. Paullin at once closed his residence at Pitman, and endeavored to rent the house furnished. Failing so to do, some time in 1918, he removed the

furniture therefrom and rented the property unfurnished. Paullin states "she wanted me to make my home with her at 3839 North Broad Street."

Mrs. Paullin continued her custom of spending the winters in Philadelphia. She did not, however, go to Florida, after her marriage to Paullin, although just before her death, she was making ready to go south, having made reservations therefor.

She came to Atlantic City as usual in the summer of 1918, and also at Christmas and other times, when the activity of the business increased. While at Atlantic City during the Christmas holidays of 1918, she was taken ill, returned to Philadelphia about the sixth day of January, and on the 29th of that month died.

The only point for consideration is, was or was not decedent domiciled in the County of Atlantic, at the time of her death? Without doubt the residence of the decedent at the death of Mr. Addis was in Atlantic County. That she had not changed that domicile at the time she married Paullin is conclusively proven by the testimony.

The question then resolves itself, has that domicile been changed by any act of the decedent or of her husband since that marriage? It is also clear from the testimony that the decedent did not, by any intentional act on her part, change that domicile, but accepting for the present the proposition that the domicile of the wife follows that of the husband as decided in re Geiser's will, 82 Equity, 311, the question is, where was Paullin's domicile at the time of the decedent's death?

It is clear that he abandoned Pitman. Every act indicates that he never expected to return or continue his domicile there. He states, and is sus-

tained by other witnesses in his behalf, that he was to make his home at the home of Mrs. Paullin, at 3839 North Broad Street. I am convinced from the evidence that he was to make his home with Mrs. Paullin, wherever that home was.

The decedent's places of residence and her habits of life have continued the same for many years. Her marriage to Mr. Addis did not change these customs and habits, and her marriage to Mr. Paullin apparently made no change whatever in them. He went to Philadelphia with her, he made pleasure trips with her, and he came to Atlantic City and remained with her the portion of the year during which she customarily remained there. She paid the household expenses, she continued the business, and all matters appeared to continue the same after her marriage to Paullin as before.

I am convinced that there was no intention on the part of either Mr. Paullin or the decedent that he, Paullin, should be domiciled in Philadelphia. Paullin's son testified that Mrs. Paullin prior to the marriage, told him that his father was to live with her in Philadelphia, which, of course, was true.

I find no serious conflict in the testimony except that witnesses for the proponent insist that Mrs. Paullin considered the house in Atlantic City as "home" and the house in Philadelphia as the "Philadelphia house", and the witnesses for the caveators insist that the house on North Broad Street was considered "home" and the house in Atlantic City was known as "1410". In those cases where the witnesses have particularized as to these respective places, I am convinced that this particularization is of the witnesses and not of the decedent.

There, therefore, remains but one further point to consider. Did Paullin take up his domicile in Philadelphia, independent of or without the knowledge of the decedent? The principal act upon which this might be presumed is the fact that on the 27th day of December, he went to the assessor of the division of the ward in which he lived and upon ascertaining that his name was not on the list, asked that he be placed thereon. He was informed that it was too late for the then present registration, but the assessor wrote his name in the book retained by the assessor and called a blotter, for, as the assessor said, future reference.

About two weeks thereafter, Paullin again called upon the assessor to ascertain if his name had been so placed, and was informed that it had, and was shown the interlineation as made by the assessor. It is to be noted that at the time of the first call upon the assessor Mr. and Mrs. Paullin were actually residing in Atlantic City, and that she was ill, having been stricken with illness from which she never recovered.

The second call upon the assessor was made within a day or two after their return to Philadelphia from Atlantic City, and while Mrs. Paullin was still ill. I cannot find from this evidence that Paullin had theretofore taken up his domicile in Philadelphia. Had Paullin, during the year and three months of his married life, taken any steps toward establishing his domicile in Philadelphia, or had, by any act, evidenced his desire or contention so to do, without doubt he would have been within his rights.

Under all the facts of the case, and a careful consideration of the voluminous testimony taken, I

find Paullin did not establish a domicile within the State of Pennsylvania, nor did he, by this eleventh hour act, that of telling the assessor he wishes his name on the list, which could not be done before the then next May, and which request was made under such suspicious circumstances, prove such a bona fide taking up of his domicile in Philadelphia. I am, therefore, satisfied that he did intend to and did take up his domicile wherever his wife's home or domicile was, and that having already been determined to have been in Atlantic City, he, Paullin, if he ever took up a domicile after having abandoned that at Pitman, was domiciled in New Jersey.

Under this finding of fact, it is unnecessary to decide whether the present case is within the ruling of in re Geiser above cited, although there is much in the case to indicate that the husband, by constructive consent, at least as manifested by his acquiescence, permitted his wife, the decedent, to retain her domicile in Atlantic City.

An order will be made admitting the paper writing to probate.

ORDER FOR PROBATE.

ATLANTIC COUNTY ORPHANS' COURT.

In the matter of the Estate of Annie B. Paullin, deceased, who died testate. } Order for Probate.

This matter being opened to the Court by William M. Clevenger, Proctor for the proponent, and it appearing that Minnie W. Upham, the executrix named in the last will and testament of Annie B. Paullin late of the City of Atlantic City, in the County of Atlantic and State of New Jersey, deceased, duly presented said paper to the Surrogate of the County of Atlantic aforesaid, for probate, and it appearing that Enos Frank Paullin filed with the said Surrogate, a caveat against the admission of the said will to probate until it should have been determined that the said Annie B. Paullin died a resident of the said County of Atlantic, it being therein alleged she was a resident of the State of Pennsylvania and it appearing William Brooke filed with the said Surrogate, a general caveat against the probate of the said will until it should have been examined and decreed upon by the Orphans' Court of the said County of Atlantic, and citations having been issued to all persons in interest and return duly served or acknowledged, and the mater coming on to be heard, and the Court having taken testimony and examined into the

matter and being of the opinion the said paper writing was duly executed by the said Annie B. Paullin as and for her last will and testament, and in the manner and form prescribed by the Statute in such case made and provided, and that the said Annie B. Paullin at the time of the making of said will was of sound and disposing mind, memory and understanding, and that the said Will was not the product of undue influence, and that at the time of her death, she was domiciled in and a resident of the City of Atlantic City, in the County of Atlantic and State of New Jersey, and that at the time of the death of the said Annie B. Paullin, the said Enos P. Paullin, was domiciled in, and a resident of the said City of Atlantic City, in the County and State aforesaid.

And it further appearing that Lewis Starr, Proctor for the caveator, William Brooke, did not offer on the trial or hearing any evidence other than the subscribing witnesses to the said will, and that the said Joseph J. Summerill, Proctor for the caveator, Enos Frank Paullin, did offer on the trial or hearing, the evidence of the said Enos Frank Paullin and the evidence of divers other witnesses than the subscribing witnesses to the said will.

It is thereupon, on motion of William M. Clevenger, Proctor for the proponent, on this 25th. day of June, 1919, ordered, adjudged and decreed that the aforesaid paper writing be and the same hereby is established as the last will and testament of the said Annie B. Paullin, deceased, and that the same be admitted to probate.

And it is further ordered, adjudged and decreed that letters testamentary thereon be issued to the said Minnie W. Upham, the executrix in said will named, upon her duly qualifying as such.

It is further ordered, adjudged and decreed that the said Annie B. Paullin, at the time of her death was a resident of and domiciled in Atlantic City, Atlantic County, New Jersey.

And it is further ordered, adjudged and decreed that a joint counsel fee of $1000 be allowed to William M. Clevenger, Proctor for the proponent, and C. L. Cole, who appeared with him as counsel, and that a counsel fee of $100 be allowed to Lewis Starr, who appeared as Proctor for the caveator, William Brooke, and who did not offer on the trial any evidence other than the subscribing witnesses to the said will, and that no counsel fee be allowed to Joseph J. Summerill and Joseph W. Kenworthy, who appeared with him, as proctors for Enos Frank Paullin, no reasonable cause for the contest of the validity of the will having appeared in the case.

And it is further ordered, adjudged and decreed that the counsel fee of $100 allowed to Lewis Starr, proctor for the caveator, William Brooke, be paid out of the estate of the decedent, and that the costs and expenses of the litigation, other than the counsel fee allowed to the said Lewis Starr, be paid by the said Enos Frank Paullin.

R. H. Ingersoll,

J.

CONCLUSIONS.

NEW JERSEY PREROGATIVE COURT.

In the matter of the Estate of Annie B. Paullin, deceased. | On appeal from decree of Orphans' Court admitting will to probate. Conclusions.

HON. JOS. J. SUMMERILL, with whom was associated JOSEPH W. KENWORTHY, ESQ. (of the Phila. Bar), and HON. J. BOYD AVIS, proctor of appellant.

WILLIAM M. CLEVENGER, ESQ., with whom was associated HON. C. L. COLE, proctor of proponent.

LEAMING, *Vice-Ordinary*:

I share the view of the learned Judge of the Orphans' Court that at the time of marriage of decedent to Mr. Paullin her domicile was in Atlantic City, and that it does not satisfactorily appear that at any time thereafter it was changed by any change of either conduct or intention on her part. It is difficult to escape the impression that the witnesses on both sides have measurably overworked the convenient word "home" in testimony touching statements made by decedent; but whether or not such impressions can be said to be justified, when it is borne in mind that decedent in fact had a winter residence

and also a summer residence, references by her to either of them as her home are obviously without great force unless made so by the context of her statements.

I find nothing in the relations or conduct of decedent and her husband which in any way affords an exception to the general rule that a wife's domicile follows that of her husband. From the time of their marriage until the wife's death they continuously lived together as members of one family, and, so far as the evidence discloses, their relations were at all times harmonious. Baldwin vs. Flagg, 43 N. J. Law, 495, 498. It necessarily follows that if at the date of the death of decedent her husband's domicile was in Philadelphia her domicile must be declared to have been there also, even though she may have believed or even intended to the contrary.

The evidence fully justifies the finding of the trial Judge that Mr. Paullin permanently abandoned his domicile at Pitman, New Jersey, at the time he married decedent. It seems reasonably clear not only that he has at no time entertained any purpose or expectation of returning there, but that he in fact intended the termination of his residence there to be permanent. If at or subsequent to that time he acquired no other domicile by his combined acts and intent, his domicile by origin must be considered his domicile. That was Philadelphia. Valentine vs. Valentine, 61 N. J. Eq. 400, 406; Givernaud vs. Variel, 86 N. J. Eq. 80, 86. But his claim is that at the time of his marriage to decedent he adopted Philadelphia as his domicile and that Philadelphia has at all times since been his domicile. The learned trial Judge found, however, that if he ever took up a domicile after having abandoned that at Pitman, he intended to and did take up his domicile wherever

his wife's home or domicile was; that place, he found, was Atlantic City.

Where, as here, a husband and wife have occupied together what the cases usually define as a divided residence, that is, have together occupied each of two residences at convenient and appropriate seasons of the year, and the husband's occupancy of each residence has been entirely consistent with domiciliary intent on his part, the ascertainment of actual intent becomes peculiarly difficult; but I find myself wholly unable to reach the conclusion that the evidence justifies the finding of the trial Judge that Mr. Paullin ever adopted Atlantic City as his domicile. As already stated, if he adopted no domicile after abandoning that at Pitman, Philadelphia automatically became his domicile; but I think the evidence impels the conclusion that he in fact adopted Philadelphia as his domicile. It seems to me that no other conclusion can be reached without almost wholly disregarding his testimony, and also disregarding it in material respects where it is strongly corroborated by impressive testimony. The fact that he registered at a hotel in Pitman in May, June and October, 1918, as residing at Atlantic City is not without force; but the circumstance that on those dates he was in fact residing there renders the significance of the form of the hotel registry less forceful.

In my judgment the force of the circumstance that Mr. Paullin applied to the assessor of his ward division in Philadelphia on December 27, 1918, for assessment and voting registry cannot be overcome by any suspicion surrounding that application. On that date the sickness of decedent was not regarded as serious; nor does it appear to have been so regarded on the later date when Mr. Paullin again applied to

the assessor to make sure of his registry. But even if it should be assumed that his ulterior motive in the matter may have been to acquire a domicile in Philadelphia to the end that in the event of his wife's decease he could share more liberally in her estate than he could if domiciled in New Jersey, that assumption would in no way operate to defeat his acquisition of a domicile in accordance with his intent. With an existing residence in Philadelphia in every way consistent with a domiciliary residence there, it was only necessary that his intent to make that residence his domicile should be actual and not pretended. 10 Am. & Eng. Enc. of Law (2nd Ed.) 20. In case of divided residence I think it may be properly said that it is the existence of an actual residence at a particular place, accompanied by a present actual intention of making it a permanent home or a home for time indefinite, that establishes a domicile; and that the motives that actuate the apparent intent are immaterial except in so far as the motives may aid in determining whether the apparent intent was actual or merely pretended. In this state it is recognized that a person may legitimately move into this state for the purpose of procuring a divorce; in such case it is only necessary that *factum* of residence and *animus manendi* should concur; also that a person may legitimately move to another state in order to avail himself of the laws of that state. Wallace vs. Wallace, 65 N. J. Eq. 359, at page 364. Our federal courts also recognize the right of a person to move to another state for the purpose of affording jurisdiction to the federal courts through diversity of citizenship. Morris vs. Gilmar, 129 U. S. 315; 328.

Taking all the testimony into account I am unable to escape the conviction that at the time of the death

of his wife the domicile of Mr. Paullin was in Philadelphia and that his wife's legal domicile was accordingly there. His business was there. The Philadelphia residence was better equipped and more like a real home than that at Atlantic City. During the summer when at Atlantic City he made daily trips to Philadelphia to his business there, and that city was the place of his birth. That he should have regarded his residence there as his real home seems to me but natural.

I am impelled to advise a decree denying probate to the will of Mrs. Paullin. The costs and expenses in both courts should be paid out of the estate of the deceased.

Submitted: November 20, 1919.
Determined: December 27, 1919.

DECREE OF REVERSAL.

NEW JERSEY PREROGATIVE COURT.

In the matter of the estate of Annie B. Paullin, deceased.	On Appeal. Decree of Reversal.

Enos Frank Paullin, having presented to this Court his petition of appeal from the decree of the Atlantic County Orphans' Court, dated June 25th, A. D. 1919, wherein it was decreed that the said paper writing was established as the last will and testament of the said Annie B. Paullin, deceased, and ordered admitted to probate; that letters testamentary thereon be issued to Minnie W. Upham, the executrix named in said will; that the said Annie B. Paullin was, at the time of her death, a resident of and domiciled in Atlantic City, New Jersey; and allowing certain counsel fees, costs and expenses to the proctor of the proponents, and that the costs and expenses of the litigation be paid by the appellant in this court, and said appeal coming on to be heard in the presence of Joseph J. Summerill and John Boyd Avis, proctors of the appellant, and of William M. Clevenger and Clarence L. Cole, proctors of the proponent of the will, and the Court having read the record brought up by this appeal and heard the argument of the respective counsel thereon, and duly considered the same,

It is, on this fourteenth day of January, A. D.

1920, adjudged and decreed that the said Annie B. Paullin was, at the time of her death, a resident of and domiciled in Philadelphia, Pennsylvania, and that probate of her said last will and testament be denied in the State of New Jersey.

And it is ordered and further adjudged and decreed that the said decree of the Atlantic County Orphans' Court be and the same is hereby reversed and set aside, and the letters testamentary issued to the said Minnie W. Upham, the executrix named in the last will and testament of Annie B. Paullin, deceased, be and the same is hereby revoked.

And it is further ordered, adjudged and decreed that the sum deposited in the registry of this Court, to perfect this appeal, less such costs as may be taxed against it, be returned to the appellant or to his solicitor.

And it is further ordered, adjudged and decreed that there be allowed to the proctor of the said Enos Frank Paullin, in the court below, counsel fee of one thousand dollars, and his costs and expenses in that court; that there be allowed to the proctors of the proponent, in the court below, a counsel fee of one thousand dollars, and her costs and expenses; that there be allowed to Lewis Starr, proctor for the caveator William Brooke, in the court below, a counsel fee of one hundred dollars; that there be allowed to the proctors of the appellant in this court a counsel fee of two hundred and fifty dollars, and his costs and expenses in this court, and that there be allowed to the proctors of the proponent, in this court, a counsel fee of two hundred and fifty dollars, and her costs and expenses in this court, all of which allowances to be paid out of the estate of the said

Annie B. Paullin, deceased, by the administratrix *pendente lite.*
Respectfully advised:
E. B. LEAMING, *V. O.*

[ENDORSED]

Filed Apr 12 1920
Thomas F. Martin,
Register.

TESTIMONY.

ATLANTIC COUNTY ORPHANS' COURT.

In the Matter of the Probate of Paper Purporting to be the Last Will and Testament of ANNA B. PAULLIN, Deceased. } On Two Caveats.

Mays Landing, New Jersey, March 26, 1919.

Before HON. ROBERT H. INGERSOLL, Judge.

APPEARANCES:

For the proponents, HON. C. L. COLE and WILLIAM M. CLEVENGER, ESQ.;

For the caveators, HON. LEWIS STARR, JOSEPH J. SUMMERILL, ESQ., and JOSEPH W. KENWORTHY, ESQ., of the Philadelphia Bar.

Mr. Summerill: Before any further action is done in this matter, in behalf of Enos Frank

Paullin, I filed a caveat only on the question of the jurisdiction of the Surrogate to hear the case until it had been determined whether the decedent was a resident of New Jersey or of Pennsylvania. If of Pennsylvania, under the Chadwick case the Surrogate had no jurisdiction whatever to hear and determine the cause. After that Judge Starr, in behalf of a relative of the decedent, filed a general caveat which in itself would remove to the Orphans' Court any proceeding before the Surrogate. My caveat I call the attention of the Court, only wanting to be heard on the question of where the decedent resided, permanent home at the time of her decease, so under the citations I suppose there are really two matters before the court, one in which the Surrogate has certified or sent to this court, under citations, the hearing on both caveats. Mine is only on the question of pure jurisdiction to be heard to see where she resided, which from my point of view is a matter to be determined by the Surrogate before he acquires jurisdiction. So at this time I wish, without consenting or assenting to the jurisdiction of the Orphans' Court on the Enos Frank Paullin matter, to challenge the jurisdiction of this court.

The Court: The challenge will be filed.

Mr. Starr: It seems to me, if the Court please, that the primary question to be determined here is upon the issue raised as to the jurisdiction. I don't know whether Judge Cole and Mr. Clevenger will agree with that proposition or not, but it would seem to be unnecessary and futile to proceed with the proof, the formal proof of the execution of the will until your Honor determined whether or not your

Honor has jurisdiction, and that issue is raised by the challenge filed by Mr. Summerill on behalf of the husband, and then, if that question is determined, then we proceed upon the general caveat as to the due execution of the will.

Mr. Clevenger: Do we understand by that, Judge Starr, that you mean that the Orphans' Court has no power to try the question of jurisdiction?

Mr. Starr: No.

Mr. Cole: That is what Mr. Summerill says.

Mr. Summerill: Under the Enos Frank Paullin caveat.

Mr. Cole: I suppose we are interested in seeing whether we get a decree that is worth anything. The point Mr. Summerill makes is clear that this court has no jurisdiction, that the Surrogate must sit and take proof as to the residence of the testatrix in order to determine whether or not the will can be probated.

Mr. Starr: That can easily be determined by looking at the statute.

Mr. Summerill: Section two of the Orphans' Court Act, section thirteen of the Orphans Court Act. The peculiar position in this case—I never ran across it before—it is double. That is the trouble. The Court surely has jurisdiction over the Brooks caveat, because that is not a caveat filed, it is what we term a general caveat without setting forth any particular reason. Our caveat does not raise any

question as to the existence or non-existence, the regularity or irregularity of the will, all it raises is as to where the decedent died.

Mr. Cole: So far as I am concerned I think your Honor has jurisdiction. The statute says that if a caveat be filed against proving the will—that is what this is, a caveat against proving this will—and no matter what the reason may be, they don't want it proven. Now the statute says immediately upon that occurring the cause is moved into the Orphans' Court.

The Court: I will hear the case.

Mr. Cole: We will take the risk of a decree in our favor.

The Court: I will hear the case. You may proceed.

Mr. Summerill: I have filed my motion. I challenge the jurisdiction of the Court to hear and determine.

The Court: I overrule the challenge and file the notice.

Mr. Starr: But it seems to me the orderly procedure would be the establishment of the jurisdiction first, so far as the proceeding is concerned, and it would be unnecessary to proceed with the proof of the will until that has been established. Is that satisfactory?

Mr. Cole: I think so.

The Court: I should assume counsel will do that.

Mr. Clevenger: But the proof of the will will have to be part of the jurisdiction, your Honor.

R. Edward Klaisz, a witness produced on behalf of the proponent, being first duly sworn and examined, testified as follows:

Mr. Cole: May it please your Honor, this testimony is out of order, but this gentleman is an official and we want to get him back on the train, so if your Honor will hear it now, its relevancy I think will appear.

Direct examination.

By Mr. Cole:

Q. What is your business or position?
A. Deputy county clerk of Gloucester County.
Q. Do you produce this morning the two books which I hand you?
A. I do.
Q. What are they?
A. They are the registry of voters of the second district of the Borough of Pitman, Gloucester County, for 1917.
Q. Where did you get those books?
A. Filed in our office, Gloucester County Clerk's office at Woodbury.
Q. Do you personally know Mr. E. Frank Paullin?
A. I do not.

Mr. Cole: I offer these two books.

Mr. Summerill: May I see them?

(Book handed to Mr. Summerill.)

(Two books admitted in evidence, but not marked as follows: Books from County Board of Election as Exhibit 1A. Book from Borough Board as Exhibit 1B.)

Mr. Cole: At the top of these books there is the heading: "Register of voters," there are columns. The first left hand column, being headed "Number of registered voters." Second column "Ballot number." Third column "Name." Fourth column "Street No." Fifth column "Residence." And in both books appears the name "Paullin, E. Frank, Pitman Ave." The book is faced "Municipalities ten thousand or less. General election November fifth, 1917. Register of Voters, County of Gloucester, Second District, Pitman, N. J." One of which comes from the County Board and the other from the borough or town or city, whichever the municipality may be. Both books are certified by the election officers pursuant to the statute.

The Court: As I understand it, Judge Cole, those books are the register of legal voters, not those who have voted?

Mr. Cole: Register of legal voters.

Mr. Summerill: Supposed legal voters.

The Court: Yes, and it is shown by those books

that they are the register of voters in a municipality of less than ten thousand?

Mr. Cole: Less than ten thousand, for 1917.

Mr. Starr: You are not obliged to make any personal application in those.

The Court: That is the point that the Court meant.

Cross-examination.

By Mr. Summerill:

Q. Mr. Klaisz, did you examine the list for 1918?

Mr. Cole: I object. It is not cross-examination.

Mr. Summerill: It is a question of a will case, if the Court please, and the widest latitude is always allowed.

The Court: I will hear those questions, yes.

A. I did.
Q. Was Mr. Paullin's name on the list for 1918?

Mr. Cole: I object to that. We are entitled to the record.

The Court: Yes, objection sustained.

Q. I notice on the right hand side of this register of voters, there is a blank spoken of by Mr. Cole "Ballot number." Do you know what that means?
A. It usually means the number as given to the

man who votes as he puts it in, starting off with one and running up.

Q. And those on this page, unnumbered, upon which Mr. Paullin's name appears, there are figures in that column, all with the exception of seven?

A. Eight.

Q. With the exception of eight?

A. That is right.

Q. Is there any figure opposite Mr. Paullin's name?

A. There is not.

Q. I understood you to say, Mr. Klaisz, in that column the figures represent the number of ballot which the voter receives.

A. They usually do.

Q. You don't know what in this?

A. I don't.

Q. That is what it is for, isn't it, that column is for?

A. Yes.

By Mr. Clevenger:

Q. They don't always put those numbers in the smaller municipalities, do they?

A. I couldn't answer for all municipalities.

By Mr. Cole:

Q. You had nothing to do with the voters?

A. No.

Q. You really have no information at all about that subject, hearsay?

A. No, sir.

WILLIAM HERRMAN, a witness produced on behalf of the proponents, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Cole:

Q. How old are you?
A. I am forty-four years of age.

Mr. Summerill: If the Court please, I would suggest the orderly procedure in this would be first to prove the death of Anna B. Paullin and her residence.

Mr. Cole: You are not willing to admit that she is dead?

Mr. Summerill: I have heard that she is dead.

Witness withdrawn.

ENOS FRANK PAULLIN, one of the caveators, being called as a witness on behalf of proponents, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Cole:

Q. You are Mr. E. Frank Paullin?
A. I am Mr. Enos Frank Paullin.

Q. And you were married to Mrs. Anna B. Addis?
A. Yes, sir.
Q. Is she living or dead?
A. She is dead.

Cross-examination.

By Mr. Summerill:

Q. When did she die?
A. She died on the twenty-ninth day of February.
Q. February?
A. Not February—I mean January.
Q. Of this present year?
A. Yes, sir; 1919.
Q. Where did she die?

Mr. Cole: Objected to as not cross-examination.

The Court: I will admit that.

A. She died 3839 North Broad Street, Philadelphia.
Q. Was she buried from there?
A. Yes, sir.
Q. Where was she buried?
A. West Laurel Hill Cemetery, Philadelphia.
Q. At that time where did you reside?

Mr. Cole: I object.

A. 3839 North Broad Street, Philadelphia.

The Court: I sustain the objection and the answer will be stricken out at this time.

WILLIAM HERRMAN, resumed.

Direct examination.

By Mr. Cole:

Q. Where do you live?
A. 266 South Congress Avenue.
A. Atlantic City?
A. Yes, sir.
Q. How long have you lived in Atlantic City?
A. I judge about twenty-seven years.
Q. What is your business?
A. Baker.
Q. Did you know Mrs. Anna B. Paullin?
A. Yes, sir.
Q. What was her name before she became Paullin?
A. Anna B. Addis.
Q. How long had you known her before she died?
A. About twenty-seven years.
Q. Did you ever work for her?
A. Twenty-seven years.
Q. Were you working for her at the time of her death?
A. Yes, sir.
Q. Where?
A. 1410 Atlantic Avenue.
Q. Atlantic City?
A. Yes, sir.
Q. Was she in business there?
A. Yes, sir.
Q. What was her business?
A. Bakery business.
Q. How long had she been in the bakery business at that place?

A. Twenty-seven years, I guess twenty-eight years, I suppose.

Q. Now did you know her by some other name than Addis and Paullin?

A. Yes, sir.

Q. By what name?

A. Anna B. Upham.

Q. Any other name?

A. No, sir.

Q. Did she live there in Atlantic City?

A. Yes, sir.

Q. In the same building where the store was conducted?

A. Yes, sir.

Q. How many stories are in the building?

A. Three.

Q. Where were her living apartments?

A. On the second floor.

Q. Had she been living in that same building during all the time you have known her?

A. Yes, sir.

Q. Lived there while she was Mrs. Addis and while she was Mrs. Upham?

A. Yes, sir.

Q. And did she live there while she was Mrs. Paullin?

A. Yes, sir.

Q. Did Mr. Paullin live there with her?

A. Yes, sir.

Q. Through how many months of the year did she actually live there?

A. I judge about nine months, sometimes ten, I guess, ten months, mostly.

Q. Now I show you a paper purporting to be a last will and testament of Anna B. Paullin and show you the name of Anna B. Paullin.

A. Yes, sir.

Q. And ask you did you see her sign that?
A. Yes, sir.
Q. Is that her signature?
A. Yes, sir.
Q. Her handwriting?
A. Yes, sir.
Q. And underneath is the name of "William Herrman, 266 South Congress Avenue, Atlantic City"?
A. Yes, sir.
Q. Who wrote that?
A. I did.
Q. And underneath that signature is "Oscar R. Strang, 1315 Atlantic Avenue, Atlantic City, N. J."
A. Yes, sir.
Q. Do you know Mr. Strang?
A. Yes, sir.
Q. Did you see him sign his name to that?
A. Yes, sir.
Q. Where did Mrs. Paullin sign that?
A. Signed that on the second floor front.
Q. Of this building 1410 Atlantic Avenue?
A. Yes, sir.
Q. Were you there when she signed it?
A. Yes, sir.
Q. Was Mr. Strang there when she signed it?
A. Yes, sir.
Q. Were all three together at the same time?

Mr. Starr: I object to the line of examination as leading.

The Court: Yes, subject to that objection, Judge Cole.

(Question withdrawn.)

Mr. Starr: I move that be stricken out.

The Court: Let it be stricken out.

Q. You take the paper in your hand and tell us what happened after you got in this room where you saw Mrs. Paullin.

A. Why she says, "William,"—we were all there together, she says, "I want you to sign my will," and I says, "All right."

Q. Then what happened?

A. Then Mrs. Addis signed her name first and then I signed my name and then Mr. Strang signed his name.

Q. And who else was there besides you?

A. Mr. Levering.

Q. Mr. Levering was there?

A. Yes, sir.

Q. Now at the time of this signing were all in the room?

A. We were all together, yes, sir.

Cross-examination.

By Mr. Summerill:

Q. You had known, as I understand, Mrs. Paullin for twenty-seven years?

A. Yes, sir.

Q. Been working for her during that time?

A. Twenty-seven years, yes, sir.

Q. She stayed—she was in the bakery business?

A. Yes, sir.

Q. And you are one of her employees?

A. Yes, sir.

Q. And have been such for the past twenty-seven years?

A. Yes, sir.

Q. Where did Mrs. Paullin spend her winters?

A. Where did she spend her winters? Why she spent some of it in Atlantic City.

Q. I didn't ask some of it. I didn't ask you that. I asked you where she spent her winters.

A. I couldn't tell you that.

Mr. Cole: That answer was perfectly proper and should not have been interrupted.

The Court: Yes, you may proceed, Mr. Herrman.

A. She was there Christmas time, and she was there, well, you wouldn't call Easter Christmas time, either, but she was there most all the time, she left there in October, and then she came back before Christmas, and she would go away, and she would go to Florida, she would come back and she would go to Philadelphia, come to Atlantic City and stay the rest of the year.

Q. How do you know she went to Florida?

A. Why she told me. I know because I got postal cards from her.

Q. She went away in October?

A. Yes, sometimes later, just depend on conditions.

Q. Did she tell you the past two years that she had been to——

A. Sure——

Q. Wait—did she tell you within the last two years that she had been to Florida?

A. Sure.

Q. Within the past two years that she had been to Florida?

A. No, she didn't tell me that.

Q. That was prior?
A. Prior to that.
Q. She went away in October?
A. Yes, sometimes, and sometimes later. I couldn't exactly tell.
Q. About the middle of October?
A. Yes, I judge so.
Q. And then she came back?
A. Yes.
Q. For Christmas?
A. Yes.
Q. Did she stay there over Christmas?
A. Yes, sir.
Q. Always?
A. Always, yes, always until after Christmas.
Q. Was she there over Christmas during 1918, all of Christmas?
A. Yes, sir; she was away—no, she always went away right after Christmas.
Q. Was she at 1410——
A. 1410.
Q. ——Atlantic Avenue at Christmas, 1918?
A. Yes, sir.
Q. Was she there at 1410 Atlantic Avenue Christmas, 1917?
A. Yes, sir.
Q. Sure of that, are you?
A. Yes, she was always there Christmas.
Q. I am asking you sure, and I am giving you a specific year, 1917?
A. Yes, sir.
Q. How long before Christmas would she come there?
A. About two weeks, I judge.
Q. Two weeks before Christmas?
A. Yes, sir.

Q. You should judge?
A. Yes, sir.
Q. Do you know?
A. Well, I never took——
Q. Or is it a pure guess?
A. I couldn't exactly tell, but she was always there before Christmas, she generally stayed about three, sometimes four weeks.
Q. At that time?
A. Yes, because a busy time.
Q. Did she in 1917, did she go to 1410 Atlantic Avenue two weeks before Christmas?
A. Sure, she was always there.
Q. 1917, I am asking you, specific year.
A. Every year.
Q. The Christmas of 1917, how long did she remain after Christmas?
A. I couldn't tell you that. She always stayed two or three weeks, sometimes four, depends on conditions.
Q. I am asking you particularly, Mr. Herrman, as to 1917.
A. Well, three or four weeks, always, sometimes maybe three, maybe less, I couldn't exactly tell. I never kept account of that part.
Q. Then do I understand you, you mean to tell the Court that in 1917, Christmas, she was there at that time three or four weeks?
A. Yes, sir; I will tell the Court that as near as I can guess at.
Q. As near as you can guess at?
A. Well, I never kept exact account of it.
Q. During the Christmas of 1918, was she there three or four weeks?
A. Well, I guess she was there longer, because she was sick.

Q. In 1918, how long before Christmas did she go to 1410 Atlantic Avenue?

A. 1918?

Q. Yes.

A. I couldn't exactly tell, but I guess she must have been there five or six weeks this trip, because she was sick, laid up with a carbuncle, and she was ill and she didn't go until much after that.

Q. When did she arrive at 1410?

A. Well, I couldn't exactly tell you the exact date, I couldn't tell you that.

Q. How many days or weeks before Christmas?

A. Well, as a rule two weeks before Christmas.

Q. I am asking you specifically as to 1918, that is not very long ago.

A. We will say two weeks, that is about the best I can tell you.

Q. Before Christmas?

A. Yes, about two weeks.

Q. How many weeks after Christmas did she remain?

A. I couldn't exactly tell, but at least, she was at least there six weeks, because she was sick with a carbuncle, sick with a cold and bronchitis.

Q. Six weeks, you mean six weeks after Christmas or six weeks altogether?

A. No, might have been longer for all I know, because I never kept exact account of it, you know.

Q. Are you sure that she was at 1410——

A. Sure.

Q. ——Atlantic Avenue more than three days before Christmas, 1918?

A. Yes, sir.

Q. And you would say that she was there at least two weeks before Christmas?

A. I would say that she was there—you mean before Christmas?

Q. Before Christmas?
A. About two weeks.
Q. By about you mean how many days?
A. Well, fourteen days.
Q. Then you say two weeks and not about two weeks?
A. Say two weeks, yes.
Q. Do you know when she left Atlantic City?
A. No, sir. I never kept account of it.
Q. In December of 1918, or January of 1919?
A. No, sir; I couldn't tell you the exact date. She was sick with a carbuncle on the leg and she was sick with bronchitis, and Dr. Westney was attending her.
Q. She had her living apartments on the second floor, did she?
A. Yes, she did.
Q. They were always reserved for her?
A. Yes, sir.
Q. Did you sleep there?
A. No, sir.
Q. Were you ever in her apartments more than at the time of the execution of the will?
A. Yes, sir; I was in there often, was in there to see her when she was sick.
Q. She was ill with a carbuncle or something in January, 1919?
A. Yes, sir.
Q. Who was her attending physician?
A. Dr. Westney.
Q. How many rooms comprised her living apartments?
A. You want to know the kitchen and everything?
Q. Her living apartments.
A. Oh, her living apartments, there was about four rooms, I judge.

Q. A sitting room and three sleeping rooms?
A. No, there was only one sleeping room there.
Q. She only has one sleeping room?
A. Yes, on that floor.
Q. What were the other rooms?
A. Why, they were parlor, I suppose, and where she did her business, her desk, and one room, and then there was a parlor, and something like that.
Q. Was that the character of the rooms all the time, all of the whole twenty-seven years that you worked for her?
A. Yes, sir; that is the way it was always.
Q. You say Mr. Paullin came there?
A. Sure he was there.
Q. Was he there any length of time consecutively?
A. He was there all last summer.
Q. All last summer?
A. Yes, sir.
Q. By that I mean day and night consecutively?
A. Yes, day and night.
Q. Or was he there only at nights?
A. No, sometimes he was there and he would attend to business in Philadelphia, but he slept there at nights.
Q. Then he was there at nights?
A. Yes.
Q. And attended in daytime to his business in Philadelphia?
A. Yes, sir; and then sometimes he would stay over.
Q. Stay over, what do you mean?
A. Stay in town, stay in Atlantic City.
Q. Did he during the past summer, did he stay in Philadelphia any nights, or was he down here every night?
A. He was there most all the nights, I guess.

Q. I am not asking for guesses. I am asking for facts.

Mr. Cole: But he is telling you he is guessing.

The Court: If you don't know, say you don't know, Mr. Herrman.

A. All right.

Q. You don't know then, is that your answer to that question?

A. Yes, I don't know.

Q. You don't know then whether he was there consecutively or not?

A. I don't know, no, sir.

Q. As a matter of fact, did you not know that there were times when he was not down there during the past summer at nights?

A. Yes, there were times when he was not there.

Q. What time in the late winter or early spring did Mrs. Paullin return or go to 1410 Atlantic Avenue?

A. Well, she would go to Florida and come back and then close the house and come to Atlantic City, that is all that would be to it.

Q. She was not in Florida, I understood you to say, during 1917 or 1918?

A. No, she was not.

Q. Now I am asking you specifically as to 1917 when she returned to 1410 Atlantic Avenue.

A. After she came from Florida she would close the house.

Q. I understood you to say that she was not in Florida in 1917.

A. Oh, no, you didn't. Oh, yes, those two years, that is correct.

Q. If I misunderstand you, I would like to know it. Then in 1917 she was not in Florida?

A. No, sir; she was not.

Q. Now in the spring or late winter of 1917, when did she return or go to 1410 Atlantic Avenue?

A. Just before Easter.

Q. Just before Easter?

A. Yes, sir.

Q. Do you know when Easter came that year?

A. No, sir. I don't know that.

Q. After Easter of 1917 did she go away, go to Philadelphia?

A. No, she came to Atlantic City.

Q. I understood before Easter she came to Atlantic City?

A. Yes, and then she stayed there for good.

Q. Then she did not return to Philadelphia after Easter?

A. Oh, no, after Easter, that settled it, always.

Q. During the fall of 1917, now still on seventeen, then after she came there before Easter, 1917, she remained continuously at 1410?

A. Yes, sir.

Q. Until when?

A. Until fall again.

Q. What time in the fall?

A. About the middle of October.

Q. About the middle of October?

A. Yes.

Q. Did she tell you?

A. Wait a minute.

Q. 1917?

A. She would always go to Boston to buy her candy for Christmas, she would take a trip to Boston, see, and then——

Q. Well, did she go to Boston then in the fall of 1917?

A. I think she did. Yes, I am pretty positive she went to Boston.

Q. What time?

A. Well, right after, as I say, after the middle of October she went up there in the machine.

Q. Know who went with her?

A. No, sir; I do not.

Q. After then going to Boston, do you know where she went then?

A. Well, then she went to Philadelphia.

Q. And remained in Philadelphia until——

A. She went to Florida or wherever she went.

Q. Until just before Easter or just before Christmas of 1918?

A. Yes.

Q. And you think then that she returned to Atlantic City again two weeks before Easter?

A. Yes, about that.

Q. Before Christmas, not Easter. During 1917 was Mr. Paullin at Atlantic City, 1917 is my inquiry.

A. When were they married, that is the question? I don't think Mr. Paullin was married over a year, were you, Mr. Paullin?

Q. Never mind.

A. I couldn't tell you that.

The Court: Just say you don't know if you can't answer.

A. I couldn't tell you that.

Q. You don't know whether Mr. Paullin was down there during 1917 at all or not?

A. I saw Mr. Paullin when he was keeping company with her and I think they were married in the fall of 1917, if I am not mistaken.

Q. He didn't stay there during that time?

A. Oh, no, he wasn't there.

Q. Assuming that they were married in October or November, 1917, Mr. Paullin was not down there during the balance of that year, was he?

A. No, they were married in the fall, you know, after she left.

Q. After she left Atlantic City, the fall of 1917, Mr. and Mrs. Paullin were married?

A. Yes.

Q. I understood you to say that Mrs. Paullin came down there before Easter of 1918?

A. Sure.

Q. And remained there until the middle of October of 1918?

A. Yes, sir.

Q. Or about the middle?

A. Yes, sir.

Q. And that she returned to, went away about that time. Do you know where she went?

A. Went to Philadelphia.

Q. And then returned to Atlantic City about two weeks before Christmas of 1918?

A. Yes.

Q. And during 1918 do you know when Mr. Paullin made his first trip to Atlantic City with her?

A. Do I know?

Q. Yes.

A. What do you mean, after they were married?

Q. They were married, as I understood you to say, sometime in the fall of 1917.

A. That is right.

Q. Now my inquiry is in 1918, when did you first see Mr. Paullin in Atlantic City—I will propound my question—after her marriage?

A. Why, after Easter, of course, they moved

down, and then he bought a ticket and he went up and down, and came back to attend to his business.

Q. Was he there during the Christmas holidays of 1917?

A. Yes, sir.

Q. How long did he remain then?

A. Well, about three or four weeks.

Q. He remained there? How long did he remain?

A. He remained until right after Christmas, I don't think Mr. Paullin was there. Well, I don't know, to tell you the truth.

Q. You don't know whether Mr. Paullin was there or not during that Christmas?

A. Oh, yes, he was there.

Q. He was there?

A. Yes.

Q. But you don't know whether he remained?

A. I don't know whether he remained. I knew he was there. I knew he went up with her after Christmas, whether he stayed there all that time or not, I don't know.

Q. Did he come down with her then, Easter of 1918?

A. 1918, yes, he always came down.

Q. He came down with her before Easter of 1918?

A. I couldn't tell you that.

Q. You don't know?

A. I don't know, no.

Q. Do you know whether he was there during the Easter season of 1918?

A. No, sir; I do not.

Q. Do you know whether he was there at any time after the Easter season of 1918?

A. You mean last summer?

Q. After the Easter season, 1918?

A. Yes, sir; he was there during the summer.

Q. Do you know the first time he was there after the Easter season, 1918?

A. No, I do not.

Q. Do you know how many times he was there?

A. No, sir.

Q. Do you know how many days he remained there consecutively?

A. No, sir.

Q. Mr. Paullin was in business in Philadelphia, was he not?

A. Yes, sir.

Q. Do you recall whether he was there in October of 1918?

A. October, yes, he was there in October.

Q. Do you recall how long he remained?

A. Yes, he came down as long as the ticket lasts.

Q. When the ticket ran out he stopped?

A. Yes, and then he boarded in Philadelphia.

Q. How do you know that?

A. Why, they told me.

Q. Who told you?

A. Why, Mrs. Upham or Mrs. Paullin.

Q. Who is Mrs. Upham?

A. I get mixed up, you know, I have been there so long and sometimes I call her Mrs. Upham.

Q. By Mrs. Upham you mean Mrs. Paullin and don't mean Miss Minnie Upham?

A. No, I didn't mean her.

Q. Then he was there in October, 1918?

A. I don't know exactly.

Q. I understood you to say a minute ago that he was there.

A. Well, he was there, I told you he bought a ticket for the season and then after that ran out then he would come occasionally, I don't know how long it was, I couldn't tell you that exactly.

Q. Do you know when she went to Philadelphia in 1918, Mrs. Paullin?

A. Well, same as usual.

Q. About the middle of October?

A. Yes.

Q. Do you know who went with her?

A. The whole push went with her.

Q. Who do you mean by the "whole push", that is a new one on me?

A. Mr. Paullin and Miss Minnie Upham.

Q. Those two constitute the push, then?

A. Yes.

Q. Mr. Paullin and Minnie Upham are the push?

A. Yes, whole business.

Q. Do you know how they went to Philadelphia at that time?

A. No, sir; I do not.

Q. Whether they went by train or by automobile?

A. Or whether by the car, I couldn't tell you that.

Q. Did Mr. Paullin come down with her just before Christmas, 1918, do you know?

A. Yes, sir.

Q. He came with her then?

A. Yes.

Q. Do you know whether they came down in the car or in the train?

A. I don't remember that.

Q. Did the rest of the push come down with them too?

A. Yes, sir; the whole family.

Q. I beg your pardon, did Miss Minnie Upham come down with her then?

A. Yes, sir.

Q. Who requested you to come to that room to witness that will?

A. The madam.

Q. Who?

A. The madame, Mrs. Paullin.

Q. Mrs. Paullin come downstairs and asked you to come and witness it?

A. No, sir; she did not.

Q. What?

A. No, sir; she called out of the room, and she said she wanted me to sign some papers, and told me to bring Oscar with me.

Q. That is on the second floor?

A. Yes, sir; and the bake shop is on the second floor.

Q. The bake shop is on the second floor?

A. Yes.

Q. And she opened the door and called?

A. No, she called out the window.

Q. You were in the bake shop, you say?

A. Yes, sir.

Q. At that time?

A. Yes, sir.

Q. And that is on the second floor?

A. Yes, sir.

Q. Where does the window come in on this, Mr. Herrmann?

A. Well, there is the back of the place is all in glass, and there is a window open with a screen to it, and she just histed the window and called out.

Q. And she called out to you?

A. And she called me to sign some papers, she said.

Q. She called for you to come and sign some papers?

A. Yes, and told me to bring Oscar with me.

Q. And you took Oscar along?

A. Yes.

Q. Who was in the room when you got there?
A. Oscar and Mr. Levering.
Q. Didn't he go with you?
A. Sure.
Q. When you got to the room who was there with you?
A. We were all together.
Q. No, who was in the room when you and Oscar got there?
A. Why Mr. Strang, Mr. Levering and Mrs. Paullin and myself.
Q. Then Strang preceded you, got there first?
A. No, sir; we all went together.
Q. What?
A. We all were in together, I went upstairs first.
Q. Who followed?
A. Oscar Strang.
Q. Mr. Strang followed you?
A. Yes.
Q. And when you got in the room who were there?
A. Oscar Strang.
Q. No, you went in first?
A. Yes.
Q. When you got in the room who was in the room?
A. Why Mr. Levering and Mrs. Paullin.
Q. And no one else?
A. No one else.
Q. What, if anything, did Mrs. Paullin say to you when you entered the room?
A. She said, "I want you to sign my will," and I says, "All right."
Q. Did anyone else say anything at all?
A. Not that I know of.
Q. That was all the conversation took place in that room at that time?

A. Yes, sir.

Q. Then she signed her name to the paper?

A. Yes, sir.

Q. And Strang signed his name to the paper?

A. No, I signed my name.

Q. You signed first?

A. Yes, sir; Mrs. Paullin signed first and then I signed and then Mr. Strang signed.

Q. Nothing else was said by anyone except what you have stated?

A. Yes, sir.

Cross-examination.

By Mr. Starr:

Q. I understood you to say that Mrs. Paullin called out the window?

A. Yes.

Q. And you were where at that time?

A. I was in the shop.

Q. In the shop?

A. Yes.

Q. With Oscar?

A. Yes, sir. No, sir; Oscar was downstairs. I called Oscar to come along.

Q. Then when Mrs. Paullin called you and you called Oscar, did you start in, start at once to go upstairs?

A. Yes, sir; only I cleaned up a little.

Q. And how long a time elapsed from the time which she called you until you started to go up?

A. Oh, I guess it was not five minutes.

Q. What?

A. It was not five minutes, because she said she wanted me to come right away, and I did, told me to

bring Oscar with me, and I called Oscar. Oscar was downstairs.

Q. Do you have to go upstairs?

A. Yes, sir.

Q. Did the stairway lead in the room where the paper was signed or in to the hallway?

A. No, led into the kitchen or the dining room, and then you walked to the front, walked through another dining room.

Q. And then the stairway you took led in the kitchen or dining room?

A. Dining room, yes, sir.

Q. Then you would have to pass through what?

A. Was another dining room.

Q. Through that room where the stairway came in, through another dining room into the room where Mrs. Paullin was?

A. Yes, there was a hall, and you go into the hall and into the room.

Q. How far back of you was Oscar?

A. He was right behind me. We were all together as soon as we——

Q. He was right behind you?

A. Yes, sir.

Q. Did he wait for you?

A. No, he can't wait for me.

Q. You say you were five minutes before you started to go up after you got the message?

A. Well, I called him right away, and I says, "Get"——

Q. You called him right away?

A. Yes, sir.

Q. Where was Oscar when you first saw him?

A. He was down making ice cream.

Q. And you called him immediately upon getting the message from Mrs. Paullin?

A. Yes, sir.

Q. Now did you say anything more to him after that?

A. No, that is all.

Q. You started up the stairway?

A. Yes, sir.

Q. Went into the first room?

A. Yes, sir.

Q. Then through the second room into where Mrs. Paullin was?

A. Yes, sir.

Q. I understood you to say Mrs. Paullin said something to you just as you got in the room?

A. Yes, sir.

Q. Just as you came in the door?

A. After I was in the room.

Q. Now which was it?

A. When we was in the room, as soon as Oscar and I was in the room then she told us she wanted to sign her will.

Q. Where was Oscar at that time?

A. He was right alongside of me.

Q. Had you been seated, had you gotten in chairs?

A. No, sir; we were standing up.

Q. How large is that room?

A. I couldn't tell you the dimension of it.

Q. Can't you fix some idea?

A. I judge about sixteen by sixteen, maybe larger and maybe smaller.

Q. Sixteen by sixteen?

A. Yes.

Q. Was Mrs. Paullin sitting at the table or desk?

A. No, she met us, she was standing up, and she says, "I want you to sign the will."

Q. She met you at the doorway?

A. Yes, sir.

Q. Now which was it, in the doorway of the room she was or in one of the other rooms?

A. No, she met me right at the head of the stairs, and then walked all the way in.

Q. Well, then I understand it, she met you at the head of the stairway?

A. Yes, sir.

Q. That was in the second room from where the paper was actually signed?

A. Yes, sir.

Q. Is that right?

A. Yes, sir.

Q. And then is when she said, "I want to sign"—she said, "I want you to sign my will," is that it?

A. Yes, sir.

Q. Those are the exact words that she used?

A. Yes, sir.

Q. And that was just as you reached the head of the stairway?

A. Oh, no, then she said it again after we were all together.

Q. Now, I am trying to find out, Mr. Hermann, what the situation is.

A. Yes.

Q. And you told Mr. Summerill that she only said that once. Now did she say it more than once?

Mr. Cole: He didn't say that. He said that is what she said in the room.

A. In the room, sure.

Q. Now, she came out of the room where the paper was actually signed, did she, and met you at the head of the stairs?

A. Yes.

Q. Is that right?

A. Yes, sir.

Q. And in this second room from where the paper was actually signed, did you say anything to her?

A. No, sir.

Q. And what did she say to you?

A. She didn't say anything to me until we got altogether in that room where Mr. Levering and all were.

Q. Then she didn't say anything to you until you came to the room from the stairway?

A. Yes, she said she wanted me to sign her will.

Q. Then she did say that at the top of the stairway?

A. Sure.

Q. Is that right?

A. Yes.

Q. Was there anything else said?

A. No, sir.

Q. Was Levering there at that time?

A. He wasn't there at that time.

Q. He wasn't at the top of the stairway?

A. No, sir.

Q. Then did Mrs. Paullin precede you two men?

A. Yes, sir.

Q. She walked ahead of you?

A. Yes, sir.

Q. How close were you men together?

A. We were right behind her.

Q. Now, when you got into the room Levering was there?

A. Yes, sir.

Q. Mrs. Paullin preceded you and you two men followed her, is that right?

A. Yes, sir.

Q. Where did Mrs. Paullin go?

A. She stayed right there at the desk, and then she says, "This is my will and I want you to sign it, witness it."

Q. Well, you didn't say that before, Hermann, did you?

A. Didn't I? I don't know whether I did or not.

Q. Now, did Mrs. Paullin precede you to the desk?

A. Yes, sir.

Q. Where is that desk with respect to the entrance, to the door?

A. On the side of the room right across the, like, just the same as I was sitting here, here is the desk right there.

Q. How far from the entrance?

A. From the side? Oh, I judge six feet, maybe a little more, about the center of the room, I judge.

Q. Was there anything said before she sat down?

A. Yes, sir; that is when she said, "I want you to sign this will," and she sat down and signed her name and then I signed mine and then Mr. Strang.

Q. Was the paper there on the desk? When did you first see this paper that you signed?

A. When I got in the room.

Q. Where was it then?

A. It was lying on the desk.

Q. You had not seen it before?

A. No, sir.

Q. Where was Mr. Levering?

A. He was in the room there.

Q. Did he say anything?

A. I don't remember.

Q. Did you say anything?

A. No, sir; was nothing for me to say only "Yes, sir."

Q. Did Oscar say anything?

A. I don't know.

Q. Can't you remember whether he said anything or not?

A. No, sir.

Q. How long were you in the room altogether?
A. Oh, just a few minutes.
Q. Do you know who wrote the word "witnesses" and the bracket outside the names of yourself and Herrmann?
A. Mr. Levering.
Q. That is Levering's handwriting?
A. Yes, sir.
Q. When was that put there, do you know?
A. I couldn't tell you.
Q. Was it put there in your presence?
A. Yes, sir.
Q. What about the words "Dated April nineteenth, 1918", when was that written?
A. The day it was signed.
Q. Well, who wrote it?
A. Mr. Levering.
Q. While you were there?
A. Yes, sir.
Q. Did he sit down at the desk and sign it after you had finished it?
A. Sure.
Q. Did you sit at this desk?
A. Yes, sir.
Q. Sit down?
A. Yes, sir.
Q. Did you use the same pen that Mrs. Paullin used?
A. Yes, sir.
Q. The name "William Herrmann", you wrote that?
A. Yes, sir.
Q. Now, the address "266 South Congress Avenue, Atlantic City", whose handwriting is that?
A. Mr. Levering's.
Q. Mr. Levering wrote that?
A. Yes, sir.

Q. Do you remember when he wrote that? Did he write that before or after Strang signed it?

A. He wrote it—he signed it—he wrote that afterwards.

Q. He wrote it after Strang signed it?

A. Yes.

Q. And did he put the word "witnesses" outside the brackets after Strang signed it?

A. Yes, sir.

Q. Now, the words "1315 Atlantic Avenue, Atlantic City", whose handwriting is that?

A. That is Strang's.

Q. Strang wrote that?

A. Yes, sir.

Q. And when with respect to the signing of the names of yourself and Strang were the words "dated April 19, 1918", written?

A. What was that?

Q. Was that written before or after you gentlemen signed it?

A. That was written afterwards.

Q. While you were all there in the room?

A. Yes, sir.

Q. You have given us all that was said and done?

A. Yes, sir; that is all.

Q. Nothing else happened?

A. No, sir; nothing else happened.

Re-direct examination.

By Mr. Cole:

Q. Was this store, 1410 Atlantic Avenue, conducted throughout the entire year?

A. Yes, sir.

Q. How was the third story of this building furnished?

A. In bedrooms.

Q. How many bedrooms?

A. I think there are four there, four and a storeroom.

Q. Ready for people to sleep in them, I say were they all prepared for people to sleep in them?

A. Yes, sir.

Q. So that the third story was fully furnished, was it?

A. Yes, sir; it was fully furnished.

Re-cross examination.

By Mr. Starr:

Q. Did you know that you would be requested to witness a will or paper until Mrs. Paullin called out the window to you?

A. Did I know?

Q. Yes.

A. No, sir.

Q. Had you any intimation at all from any source that you would be expected to sign any paper?

A. No, sir.

Q. Was Miss Upham about the place that day?

A. No, sir.

Q. What?

A. She was not around.

Q. Didn't see her at all?

A. No, sir.

Q. These times that you have said that Mrs. Paullin went to Philadelphia in the winter, Miss Minnie always went with her?

A. Yes, sir.

Q. And came back with her?

A. Yes, sir.

Q. And she was away from Atlantic City the same time that Mrs. Paullin was away?
A. Yes, sir.

Re-cross examination.

By Mr. Summerill:

Q. Did I understand you to say that the store was conducted, the bakery, rather, during the whole winter?
A. Yes, sir.
Q. In the absence of Mrs. Paullin who conducted the store?
A. Miss Belle Clark.
Q. The bakery ran all the winter?
A. All the winter.
Q. When Mrs. Paullin was not there, Miss Belle Clark took charge of it?
A. Yes, sir; she had charge.
Q. You didn't see Miss Minnie Upham around the place the day the will was executed?
A. No, sir.
Q. Was she there the day before?
A. Yes, sir.
Q. The day after?
A. Yes, sir.
Q. Had she been there, do you know whether she came down or came to 1410 with Mrs. Paullin when she arrived there before the Easter of 1918?
A. Did she come with her?
Q. Yes.
A. I think so.
Q. Well, aren't you sure of it?
A. No, I am not sure. I couldn't exactly tell, but she was always with them.

Q. What?

A. I say she was always with them.

Q. Miss Minnie Upham was always with them?

A. Yes.

Q. Who is "them"?

A. With Mrs. Paullin and Mr. Paullin, she waited on her hand and foot.

Q. Did Miss Minnie Upham remain there all the summer of 1918?

A. Yes, sir.

Q. And up until the middle of October of 1918?

A. Yes, sir.

Q. When Mrs. Paullin went away in the middle of October, 1918, Miss Minnie Upham went away with her?

A. Went away with them.

Q. Was Miss Minnie Upham there during the Christmas holidays of 1917?

A. Yes, sir.

Q. Did she come there with Mrs. Paullin?

A. Yes, sir.

Q. When she went away, went away with her?

A. Yes, sir.

Q. When she returned just before the Easter season, she came with her?

A. She came with them.

Q. Who occupied those third floor rooms, bedrooms?

A. Why Miss Belle Clark and another young lady works there.

Q. Miss Upham?

A. Miss Upham, yes, she occupied them when she was there.

Q. Wasn't she there all the time?

A. All the time excepting the winter.

Q. Excepting when she was away——

A. In Philadelphia.

Q. ——with Mrs.—in Philadelphia with Mrs. Paullin?
A. Yes, sir.
Q. Only one sleeping room on the second floor?
A. Only one, yes, sir.
Q. On the third floor there were three?
A. Four.
Q. Four sleeping rooms?
A. Maybe five.
Q. And a storeroom?
A. And a storeroom, but I think it is four. Five.
Q. Five sleeping rooms and a storeroom on the third floor?
A. Yes, sir.
Q. One of those rooms was occupied by Miss Upham?
A. Yes, sir.
Q. And is it not a fact when Mrs. Paullin was at 1410 Miss Minnie Upham was always there with her?
A. Yes, sir.

Re-direct examination.

By Mr. Cole:

Q. During the time that you say Mrs. Paullin was sick, had the carbuncle, was Mr. Paullin there?
A. Yes, sir.

By Mr. Summerill:

Q. Was he there all the time?
A. Mr. Paullin? While she was sick?
Q. Yes.
A. Yes, he was there.
Q. All the time while she was sick?
A. Yes, while she was sick.

WILLLIAM A. FAUNCE, a witness produced on behalf of the proponents, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Clevenger:

Q. Mr. Faunce, what is your business?
A. Insurance and real estate business, Atlantic City, New Jersey.
Q. How long have you been in that business in Atlantic City?
A. Since 1883.
Q. Did you know Anna B. Paullin in her lifetime?
A. I did.
Q. Did you know her when she was Mrs. Upham?
A. I did.
Q. Did you know her when she was Mrs. Addis?
A. I did.
Q. Did you know her up to the time of her death?
A. I did.
Q. Where did she reside?
A. On Atlantic Avenue just west of Tennessee.
Q. What number?
A. 1410 I think they said, 1408 or 1410.
Q. Atlantic City, New Jersey?
A. Atlantic City, New Jersey.
Q. How long did she reside there to your knowledge?
A. Well, I should think somewhere from about 1895 or 1896, somewhere along there, up to date. I can't remember back, ever since the place was built, if you can find out when that was built, that would fix the time, but I wouldn't want to say definitely, because too long ago.

Q. Where is your place of business?

A. At the present in the Guarantee Trust Building.

Q. How far from this 1410 Atlantic Avenue?

A. Two squares.

Q. Prior to your moving into the Guarantee Trust Company, where was your place of business?

A. At 1315 Atlantic Avenue.

Q. How near is that to the place 1410?

A. About a half square, just a little over a half a square.

Q. How long were you at 1315 Atlantic Avenue?

A. We were there for about nine or ten years, we have been at the Guarantee Trust Company Building for about nine or ten years, and previous to that we were at 1326 Atlantic Avenue, right across the street.

Q. How long were you there?

A. Enough to make up within five or six years from 1883.

Q. Previous to 1893 where was your place of business?

A. Down 1626 Atlantic Avenue.

Q. That is two squares in the other direction from 1410?

A. Yes, sir.

Q. So that within all this space of time your place of business has been within two squares either way of 1410 Atlantic Avenue?

A. Yes, sir.

Q. Did Mr. Upham—did you know him in his lifetime?

A. I did.

Q. Did he live 1410 Atlantic Avenue with Mrs. Paullin when she was Mrs. Upham?

A. Yes.

Q. Did you know Mr. Addis in his lifetime?

A. I did.

Q. Did he live at 1410 Atlantic Avenue with Mrs. Paullin, who was then Mrs. Addis?

A. Yes.

Q. Did you know Mr. Paullin?

A. I did not.

Q. Did you ever see Mr. Paullin at 1410 Atlantic Avenue?

A. I never did see Mr. Paullin at 1410 Atlantic Avenue.

Q. Did you ever see that gentleman before?

A. No, not until in the court room this morning.

Q. What kind of business is conducted at 1410 Atlantic Avenue?

A. Ice cream, candy and bakery business.

Q. It is known as what, "Uphams", is it?

A. Upham's Bakery.

Q. Has that been there to your certain knowledge since 1885 or 1886?

A. Has been there since it was built. I don't want to fix it, previous to that it was the corner of Tennessee and Atlantic Avenue, I believe at the corner.

Q. Now it is between Tennessee and New York Avenue?

A. I judge it is about seventy-five feet or a hundred feet just west of Tennessee Avenue.

Q. And that still is a subsisting business there?

A. Yes.

Q. Who conducted the bsuiness at 1410 after Mr. Upham's death and prior to the time that Mrs. Paullin was married to Mr. Addis?

A. Mrs. Upham.

Q. Who conducted the business after Mr. Addis' death at 1410 Atlantic Avenue and up to the time of her marriage to Mr. Paullin?

A. Mrs. Addis.

Q. Did you see her in the store herself personally taking charge of her business?

A. Well, when I have been in the store I have seen her there, but our direct business with her was the business that we had in our line with her.

Q. Well, do you know if she did conduct the business there herself personally?

A. Yes, I do know.

Q. Do you know what portions of the year she was in Atlantic City during all that period of time?

A. Usually all of the time except such times as she went to Florida in the winter or she went to Philadelphia for a short time in the winter.

Q. Now you know that personally?

A. I know that personally by hearing her talk about it, and I know it in another way because Mrs. Faunce was a particularly close friend of Mrs. Paullin's and they visited back and forth, and I knew it from that way.

Cross-examination.

By Mr. Summerill:

Q. Mrs. Addis—I fell into your words, Mr. Faunce, I beg your pardon—Mrs. Paullin did not remain in Atlantic Ciity during the winters, did she?

Q. Well, I should say from general knowledge that I have in business dealings that we would have with her, that a good big share of the time in the winters for the last number of years, when she was first, when she was Mrs. Upham, that some time in the fall or spring, that we call winter, she went to Florida or she went to Philadelphia for two or three

weeks or a month or two, something of that kind, all of that time.

Q. Do you know whether she went to Florida during the fall of 1917 and 1918?

A. I can't just fix some specific date and positively say that she went to Florida or that she did not. I know that she was away practically that year the same as she had been every year for twenty-five years.

Q. When did she usually go away, do you know that?

A. Only in the fall of the year, I should say sometime between November and February, and was back sometime between January and April. Now the specific dates I can't fill in.

Q. We will have to take a guess on that, will we?

A. So far as I am concerned we will have to.

Q. Do you know whether she usually left Atlantic City during October or not for the past three or four years?

A. I wouldn't want to say so.

Q. You don't know whether she did or not?

A. I wouldn't want to say so.

Q. Or do you know where she went?

A. If she went in October?

Q. Yes.

A. Oh, no, I wouldn't want to say. She might have gone to any place, but I do know it was the custom for us——

Q. I am asking particularly for specific years, Mr. Faunce.

A. I can't answer you the question.

Q. During seventeen, how often did you see or converse with her?

A. Well, I wouldn't want to specify any year, seventeen or any other year, but I should say——

Q. I am asking you as to seventeen.

A. Well——

Q. Then in other words you don't know whether you saw her or not in 1917?

A. Oh, I am sure I probably saw her twenty-five or thirty times in 1917, maybe forty, maybe twice that number of times, but I don't want to say that I saw her forty times or that I saw her twenty times, or that I saw her seventy-five times, but I frequently saw her, saw her on the street, saw her at my own house, so I don't want to specify some day or date or the time.

Q. Did you see her during the winter of 1917 and 1918?

A. Well, I wouldn't want to be positive about it, but I will say this, that if she was in Atlantic City during that time I probably saw her. That is the best thing I can answer you on that proposition.

Q. If she were there——

A. And if she was in Atlantic City during that time I think she was at our house.

Q. You saw her, and if she was not there, you didn't, that is the effect of your answer?

A. That is right.

Q. During 1918?

A. Give you the same answer.

Q. You don't know how many times?

A. If you will produce the record that she was there I will then say that I am positive that I saw her, but if you don't, I can't say that she was there, and have you say well, she was in San Francisco.

Q. During the winter of 1918 and 1919, did you see her in Atlantic City from say the middle of October up until the time of her decease?

A. I don't—I don't want to answer you the question in 1919. I knew that she was ill in January or the latter part, around Christmas holidays, but I didn't see her at the time.

Q. Your knowledge of her illness was hearsay?

A. It came from my wife.

Q. Yes, hearsay?

A. Yes, and I didn't see her along about that time, but whether I saw her a month or so before hand, there was no occasion for me to impress it on my mind. "Here is Mrs. Addis, I saw her on the twenty-eighth day of November," and I saw her again in October—and if I met her I said, "How do you do, Mrs. Paullin," and passed on.

Q. And passed on, purely casual?

A. Either casual or I was there trying to get some business or writing some business, and I didn't go and write down the dates I seen Mrs. Paullin.

Oscar Strang, a witness produced on behalf of the proponents, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Cole:

Q. Mr. Strang, how old are you?

A. I will be fifty next birthday, the Fourth of July.

Q. Where do you live?

A. 1315 Atlantic Avenue.

Q. Atlantic City?

A. Yes, sir.

Q. How long have you lived there?

A. I have been living there I guess about six years.

Q. What is your business?
A. I am a baker.
Q. Did you know Mrs. Anna B. Paullin in her lifetime?
A. Yes, sir.
Q. How long had you known her before she died?
A. Well, I went to work, I think, for her in 1896, which will be twenty-three years.
Q. And at that time what was her name?
A. Mrs. A. B. Upham.
Q. And then what name did she get after that?
A. A. B. Addis.
Q. And then Mrs. Paullin?
A. Yes, sir.
Q. When did you first work for her?
A. Well, in 1896.
Q. As early as that?
A. I went to work in the summer.
Q. Where did you work for her?
A. 1410 Atlantic Avenue.
Q. Atlantic City?
A. Yes, sir.
Q. What was the business conducted there?
A. Bakery, ice cream and candy.
Q. That business conducted throughout the year?
A. Yes, sir.
Q. And has been ever since 1896?
A. Yes, sir.
Q. Who conducted the business?
A. Mrs. A. B. Addis at that time, now Mrs. A. B. Paullin.
Q. Were you working for her April nineteenth, 1918?
A. Yes, sir; if it was a week day.
Q. And were you at 1410 Atlantic Avenue on that date?
A. Yes, sir.

Q. Anything unusual occur?

A. Yes, sir.

Q. What was it?

A. Well, I was working there, and also witnessed a will.

Q. Now, I show you what purports to be the will of Anna B. Paullin and I show you the name "Anna B. Paullin", did you see Mrs. Paullin sign that?

A. Yes, sir.

Q. And the name of "William Herrmann"?

A. Yes, sir.

Q. You saw Mr. Herrmann sign that?

A. Yes, sir.

Q. "Oscar R. Strang", is that you?

A. Yes, sir; that is me.

Q. Did you sign that?

A. Yes, sir.

Q. Underneath your name is "1315 Atlantic Avenue, Atlantic City."

A. 1315 Atlantic Avenue.

Q. Thirteen—did you write that?

A. Yes, sir.

Q. That is all in your writing, is it?

A. Yes, sir.

Q. Where were you when you saw Mrs. Paullin sign her name to that paper?

A. In the second story front hall.

Q. Of what?

A. Of 1410 Atlantic Avenue.

Q. Where was Mr. Herrmann when he signed his name?

A. Mr. Herrmann was right alongside of me.

Q. In the same room, you mean?

A. Yes, sir; in the same room.

Q. And where were you when you signed?

A. Right in the same room.

Q. Were you all there together?
A. Yes, sir.
Q. When everybody signed?
A. Yes, sir.
Q. Did you know that you were witnessing Mrs. Paullin's will?
A. Yes, sir.
Q. How did you know it?
A. Mrs. Addis or Mrs. Paullin said to me, "Boys, I want you to witness my will."
Q. And when she said that where were you?
A. Right in this reception hall.
Q. Mr. Herrmann there?
A. Yes, sir.
Q. Did you see Mr. Levering there?
A. Yes, sir.
Q. Was he in—who were in the room when you and Mr. Herrmann went in?
A. Mr. Levering and Mrs. Paullin.
Q. You and Mr. Herrmann go in together?
A. About the same time.
Q. About the same time?
A. About the same time.
Q. Now, did Mrs. Paullin live at 1410 Atlantic Avenue?
A. Yes, sir.
Q. How long has she lived there?
A. Oh, she has lived there as long as I have been working for her.
Q. Long as you have known her?
A. Yes, sir; long as I have known her.
Q. While that business was being conducted?
A. Yes, sir.
Q. Was there a bedroom on this second floor where you were?
A. Yes, sir.

Q. Do you know whether that is the room she occupied?

A. Mrs. Paullin, I believe so.

Q. Through how much of the year, as you can best recall, was she in Atlantic City?

A. Well, she was in Atlantic City all summer and part of the winter she would go away.

Q. Did she herself take any part in the management and conduct of business, give it any personal supervision?

A. Yes, sir.

Q. Did you see Mr. Paullin, the gentleman over there, there at any time?

A. Yes, sir.

Q. After they were married?

A. Yes, sir.

Q. How often was he there?

A. Well, I couldn't just say how often.

Q. Roughly, how often?

A. Well, I couldn't tell you.

Q. Did you see him there frequently?

A. Yes, sure.

Cross-examination.

By Mr. Summerill:

Q. Was he there in 1917?

A. I don't know.

Q. Did you see him there in 1917?

A. That I can't remember whether I seen him there in 1917 or not.

Q. When did you first see him there in 1918?

A. Well, I couldn't tell you that, the time.

Q. When was the last time you saw him there in 1918?

A. The last time I seen him there in 1918 I think was Christmas time.

Q. Before or after Christmas?

A. Well, I think it was the day after Christmas.

Q. Was he there on Christmas Day or weren't you there that day?

A. I was there, yes.

Q. Was he there then?

A. Yes, he was there Christmas Day.

Q. Have his Christmas dinner there, did he?

A. Not Christmas Day, they had Christmas dinner the next day.

Q. They had the Christmas dinner on the twenty-sixth and not on the twenty-fifth?

A. I believe so. They didn't have it on the twenty-fifth, anyhow.

Q. Wasn't Mr. Paullin there on the twenty-fifth, or don't you remember seeing him?

A. I don't remember seeing him.

Q. This is 1918. Did Mrs. Paullin have her Christmas dinner at 1410 Atlantic Avenue on Christmas, 1917?

A. Yes, sir.

Q. Sure of that are you now?

A. Yes, sir.

Q. What makes you so sure of it?

A. Because I was up there to dinner.

Q. That time?

A. Yes, sir.

Q. Mr. Paullin and Mrs. Paullin was there?

A. Yes, sir.

Q. 1917 my inquiry is.

A. Yes, sir.

Q. Miss Minnie Upham there?

A. Yes, sir; she was there.

Q. Who else was there to dinner?

A. Now, they ate in another room from us, they ate in their dining room and we ate in our kitchen, what they called the kitchen.

Q. Then you did see Mr. Paullin there in 1917?

A. Yes, sir; 1917, yes, sir.

Q. My inquiry is 1917.

A. Yes, sir; 1917.

Q. Did you see him there in 1917 prior to Christmas Day?

A. That I couldn't say.

Q. What was the first time you saw him there in 1918?

A. The first time?

Q. In 1918?

A. I couldn't say what time.

Q. Mr. Strang, could you recall whether it was before or after Easter?

A. That I couldn't say truly.

Q. At Christmas time, 1917, how long did Mr. and Mrs. Paullin remain at 1410?

A. I couldn't tell you.

Q. Can't say whether it was one day or a week?

A. No, sir. They were there several days before Christmas, that is all I know. I don't know how long after Christmas they stayed.

Q. Don't know how long after Christmas they remained?

A. No, sir.

Q. Now, after Christmas Day of 1918, when did you next see Mrs. Paullin there?

A. I don't believe I seen Mrs. Paullin after the day after Christmas she was there at Atlantic City.

Q. I don't understand you or you don't understand me, one another.

A. She was sick, too, in 1918, she was sick, too.

Q. Don't remember seeing him there at all?

A. Mr. Paullin? Oh, yes, I saw Mr. Paullin.

Q. Then Mr. Paullin was there after Christmas, 1918?

A. Yes.

Q. Do you know how long he remained?

A. I don't know.

Q. In Christmas, 1917, you are sure that they took Christmas dinner there?

A. Yes, sir.

Q. But don't remember—cannot state how long they remained after that Christmas?

A. No, sir.

Q. This is the question I attempted to ask you a while ago, after you saw him there about Christmas, 1917, when did you next see Mr. Paullin there?

A. That I couldn't say.

Q. Was it before or after Easter?

A. I couldn't say.

Q. Do you know whether he and Mrs. Paullin came there together for Christmas, 1917?

A. Yes, sir; they came there together.

Q. She had been away from there sometime at that time, had she not?

A. I judge maybe a couple of months, something like that, I don't know. I can't say.

Q. Then they went away?

A. Yes, sir.

Q. Immediately or very shortly after Christmas?

A. I suppose so, yes, sir.

Q. But do you know?

A. I don't know, sir. I am not positive what time they went away.

Q. Well, as a matter of fact did they go away?

A. I didn't see them around there.

Q. They weren't there after that until when?

A. I couldn't tell you.

Q. Don't know when they came back?

A. No, sir, I don't know when they came back.

Q. Whether it was before Easter or after Easter?

A. They were there for the Easter season, whether they came the day before or two days before, I don't know which.

Q. By them, you mean who?

A. Mr. and Mrs. Paullin.

Q. Mr. Paullin there during Easter, was he?

A. That I couldn't say.

Q. Of 1918?

A. I wouldn't say positive.

Q. She was there?

A. Yes, sir.

Q. Now after Easter when did you first see Mr. Paullin there? Can you give me that date?

A. After Easter?

Q. Yes, of 1918, my inquiry is now.

A. No, sir, couldn't tell you the exact time that I seen him.

Q. Was he there after Easter——

A. He was there off and on.

Q. —— up until the middle of October?

A. That I don't know.

Q. Did you see him there from the Easter season, 1918, up until about October of that same year?

A. Well, I can't say just how many times, but off and on I would see sim.

Q. You would see him there occasionally?

A. Occasionally, yes, sir.

Q. He was not there continuously, was he?

A. Not at that time.

Q. That is my point of inquiry, during that period he was not there only occasionally?

A. That is the only time I would see him. I didn't know where he was when I didn't see him.

Q. You have been working there for how many years, since 1896?

A. This will be twenty-three years this July, something like that.

Q. You have been boarding there, living there in the house?

A. Well, at one time I used to, nowadays off and on. I worked for about fourteen years, I worked just in the summer, and the past nine years I worked there steady.

Q. We will make our point of inquiry for the time that you have worked there steady, there then?

A. No, I didn't live there, I boarded there, but I didn't live there.

Q. You had not your sleeping apartments there?

A. No, sir.

Q. You worked there and boarded there?

A. Yes, ate there.

Q. But didn't sleep there?

A. Ate there.

Q. For the past nine years?

A. Yes, sir.

Q. And during that time, the past nine years, wasn't Mrs. Paullin away from Atlantic City during the winter months?

A. Yes, sir.

Q. Always?

A. Always went away in the winter time.

Q. Going away about what time?

A. I couldn't just tell you.

Q. Couldn't give the months of her going or the months of returning?

A. No.

Q. During the winter she was away?

A. Yes, sir.

Q. Do you know where she was?

A. From what I understood she was in Philadelphia.

Q. Living there?

A. She had a residence.

Q. She had a residence in Philadelphia?

A. Yes, sir.

Q. What fixes it upon your mind that April nineteenth, 1918, was a peculiar day?

Mr. Cole: He didn't say that. I asked him whether anything unusual happened on that day. If you are going to put the question, put it right.

Mr. Summerill: All right, Judge, I will try to get your exact words.

Q. What fixes it upon your mind that April nineteenth, 1918, was an unusual day?

Mr. Cole: He didn't say that. I object. I asked him whether anything unusual happened on that day.

Q. Well, what fixes in your mind that something unusual happened on April nineteenth, 1918?

A. Well, from what I understand that is the day the will was signed.

Q. That is your only knowledge of that day from the fact it is said that a will was executed on that day?

A. That is all, yes, sir.

Q. You have no other recollection of a day?

A. No, sir.

Q. You could not fix it any other time?

A. No, sir.

Q. Other than by saying a will was executed on that day?

A. That is all.

Q. Where were you working that day, upstairs or down?

A. I was working downstairs part of the time.

Q. What were doing downstairs, there the ovens?

A. Making ice cream.

Q. Ovens downstairs?

A. The oven and bake shop is upstairs.

Q. On the second floor?

A. Second floor, yes, sir.

Q. Who called you upstairs?

A. Nobody called me upstairs.

Q. How did you come to go upstairs?

A. That is where I go after I get through down with ice cream.

Q. Then you went upstairs?

A. Went up to finish up work, yes, sir.

Q. To the bake shop?

A. To the bake shop, yes, sir.

Q. Who called you to go into Mrs. Paullin's apartments?

A. Mr. Herrmann told me that Mrs. Paullin wanted us at once.

Q. How long after you were told that did you go in?

A. Until we straightened up things a little bit.

Q. That would be five or ten minutes?

A. Maybe, maybe a quarter of an hour, for all I know.

Q. Have any idea?

A. Have no idea.

Q. When you got ready you obeyed the summons?

A. When we got ready, yes, sir.

Q. What time of day was it?

A. I judge around noon.

Q. Did you and Mr. Herrmann go into there together?

A. Well, we went up together.

Q. What?

A. We went upstairs together.

Q. I thought you were on the second floor?

A. We were in the second story, in the bake shop, yes, sir.

Q. Stairs from the bake shop?

A. No, sir, we got to go downstairs, to go downstairs again.

Q. Have to go from the bake shop down?

A. Yes.

Q. To go into the private apartments?

A. Yes, sir.

Q. Am I right there?

A. Just through a little areaway.

Q. Did Mr. Herrmann tell you for what you were wanted?

A. He said that Mrs. Paullin wanted to see us.

Q. And not for any specific purpose?

A. No, sir.

Q. Then when both of you were ready you say he started?

A. Yes, sir.

Q. Who preceded?

A. That I couldn't say.

Q. Don't know whether he went first?

A. No, couldn't say.

Q. You went from your bake shop downstairs, then upstairs again, to what would be the second floor?

A. Yes, sir.

Q. Is that a single building or double building, or is the bake shop entirely separate from the other?

A. The bake shop is what the store used to be at one time, and they moved it back, the bake shop is about three or four feet back of the house, the living part.

Q. When you got to the private apartments did you knock. or was the door open?

A. No, we just went up through.

Q. Went up into her room?

A. Went up, yes, sir.

Q. Was the door open?

A. Yes, sir.

Q. Already?

A. Yes, sir.

Q. Who did you first see as you arrived there?

A. I saw Mr. Levering and Mrs. Paullin.

Q. They were both in there?

A. Both in there.

Q. What was Mr. Levering doing?

A. That I couldn't just say what he was doing.

Q. What was Mrs. Paullin doing?

A. Mrs. Paullin was standing there, and she asked me to be a witness to the will.

Q. What did she say?

A. "Boys, I want you to be a witness to the will."

Q. "Boys, I want you to be a witness to the what?"

A. To the will, "To my will."

Q. Which was it?

A. "To my will."

Q. "Boys, I want you to be a witness to my will." Did she have anything in her hand?

A. That I couldn't say.

Q. Did Mr. Levering have anything in his hand?

A. That I couldn't say.

Q. What else did she say?

A. That is all.

Q. That is all she said at any time when you were in there?

A. That is all she said, yes, sir.

Q. What did Mr. Levering say?

A. Nothing.

Q. He said nothing at all?

A. Nothing at all.

Q. Where was Mrs. Paullin——

A. Mrs. Paullin was standing alongside of her desk.

Q. —— at that time when she asked you to be a witness "to my will." "Boys, I want you to be a witness to my will"?

A. Yes, sir.

Q. She was standing alongside of her desk?

A. Yes, sir.

Q. Where was Mr. Levering standing?

A. I think Mr. Levering was on the right—— on the left.

Q. On the left of the desk?

A. Don't know whether he was standing or sitting.

Q. Don't recall that?

A. Couldn't say.

Q. Did you see any paper at that time?

A. I don't think I did, no.

Q. I don't mean a newspaper.

A. I know what you mean. No, I didn't notice anything.

Q. Didn't notice anything?

A. No, sir.

Q. Who produced the will?

A. That I couldn't say.

Q. Where was the will when you first saw it?

A. On the desk.

Q. Lying on the desk?

A. Lying on the desk.

Q. Without saying anything at all Mrs.—— anything further, rather, than you have stated. "Boys, I want you to witness my will" or "sign my will", which one did she use, "sign"?

A. That I couldn't say, witness, I think. Witness I think. I am not positive.

Q. "Boys, I want you to sign my will"?

A. Something similar to that.

Q. Or "Boys, I want you to witness my will"?

A. Something similar to that.

Q. You can't state?

A. No, sir.

Q. After she said that what did she do?

A. She put her signature to the will.

Q. Where were you when she put her signature to the will?

A. Standing right back of her.

Q. Where was Mr. Herrmann?

A. Mr. Herrmann was alongside of me.

Q. Alongside of you or back of you?

A. Right alongside of me as I understand.

Q. Who signed—— after he had signed was anything said by anyone?

A. After she signed?

Q. After she signed what was done?

A. Mr. Herrmann signed.

Q. After Herrmann had signed what did you do, if anything?

A. I signed the will.

Q. What?

A. I signed the will.

Q. Was anything said or done?

A. Yes, she thanked us and then we went on our way.

Q. She thanked you and then you went out?

A. Yes, sir.

Q. As soon as you had signed?

A. As soon as we were through and signed she thanked us and we went on our way.

Q. Do you recall, Mr. Strang, whether the word "witnesses" on the left hand side or margin was there at that time?

A. I don't know, couldn't recall that.

Q. You don't know whether it was or not?

A. No, sir, I do not.

Q. Do you recall whether the word "dated April nineteenth, 1918," was there?

A. That I couldn't say.

Q. Is that in your writing "witnesses"?

A. No, sir.

Q. "Dated April nineteenth, 1918"?

A. No, sir.

Q. That is your signature "Oscar R. Strang"?

A. Yes, sir.

Q. Is this also in your writing, this "1315 Atlantic Avenue, Atlantic City"?

A. Yes, sir.

Q. That is also in your writing?

A. Yes, sir.

Q. Did you see Minnie Upham around there that day?

A. Yes, sir.

Q. How long before you were called into the living apartment?

A. How long before? Oh, I don't know, maybe might have been breakfast time.

Q. Did you see her there afterwards, afternoon—I understand this was about twelve o'clock

A. I judge around noon time, yes, sir.

Q. See her around there after that?
A. No, sir.
Q. Only saw her once that day?
A. That I couldn't say whether I seen her once or twice.
Q. While Mrs. Paullin is away who conducts the business for her?
A. Miss Clark.
Q. Miss Belle Clark?
A. Miss Belle Clark, yes, sir.
Q. She conducts the business when Mrs. Paullin is not there?
A. Yes, sir.
Q. Has she been doing that the whole nine years past?
A. Yes.
Q. While Mrs. Paullin is at Atlantic City is Miss Minnie Upham there also?
A. Yes, sir.
Q. When Mrs. Paullin goes away in the fall Miss Upham goes away with her?
A. Yes, sir.
Q. Goes away at the same time?
A. Yes, sir.
Q. And when Mrs. Paullin returned in the spring Miss Upham also returned at the same time?
A. That I can't tell you.
Q. You can't tell about that?
A. Couldn't tell you.
Q. But they went away together?
A. I think so, yes, sir.
Q. But you can't say whether they returned together?
A. No.

Cross-examination.

By Mr. Starr:

Q. Mr. Strang, do you know what day of the week it was that you signed this paper?

A. No, sir, I couldn't tell you.

Q. Would you know from the kind of employment you were engaged in at that time?

A. No, sir, I couldn't tell you.

Q. I understand you to say you were making ice cream?

A. We make it every day.

Q. You have no independent recollection as to the date?

A. Just the date.

Q. The exact date when you did sign the paper?

A. Just from hearsay, that is all.

Q. Nobody said a word in the room except Mrs. Paullin?

A. That is all.

Q. Levering didn't say anything and neither of the witnesses said anything?

A. No, sir.

Q. And Mrs. Paullin and you and Herrmann were the only persons who did any writing?

A. Yes, sir.

Q. How long were you in the room at the time?

A. That I couldn't say, maybe five or ten minutes, something like that.

Q. You didn't sit down at all?

A. Didn't sit down.

Q. Stood up all the time?

A. Stood up.

Q. And to get from the stairway into the second floor in the apartment you are obliged to go through

two other rooms, are you not, to get into the room where this thing happened?

A. No, sir, one room, that is all.

Q. One room?

A. One room and one hall.

Q. Then in going up the stairway you landed in the kitchen?

A. I landed in the kitchen door, which is at the extreme back of it, which would make it go in that room, the door leads into the kitchen.

Q. Now this particular occasion did you go into the kitchen?

A. Just to walk through it, that is all.

Q. Then you went into the kitchen from the stairway?

A. Yes, sir.

Q. Then you went through another room?

A. No, sir, went through a hall.

Q. Through a hall?

A. Yes, sir.

Q. Then into the room where the paper was signed?

A. No, sir, into the front room.

Q. Into the front room?

A. And from there into the reception hall.

Q. This desk you speak of was in the front room or the reception hall?

A. In the reception hall.

Q. How big is that room?

A. Oh, I judge about five foot wide, about seven or eight feet long.

Q. And that was the room where the paper was signed, where the desk was?

A. Yes, sir.

Q. And was Mr. Levering in there?

A. Yes, sir.

Q. Was he standing or seated?

A. I couldn't tell you whether standing or sitting.

Q. Did you see Mr. Levering until you got into the room?

A. No, sir.

Q. How did Mrs. Paullin come to meet you and Herrmann at the stairway?

A. No, sir, not to my recollection she didn't.

Q. She didn't come to meet you at all?

A. Not to my recollection, no, sir.

Q. And when you went through these rooms, went through the kitchen and through the hall, and then through the living room and into the reception hall you didn't see Mrs. Paullin until you got into the reception hall?

A. Until I got into the reception hall, no, sir.

Q. Miss Minnie Uuham has always lived with Mrs. Paullin, has she not, to your knowledge ever since you have known her?

A. To my knowledge, yes, sir.

Q. She is a stepdaughter, is she not?

A. Stepdaughter, yes, sir.

Q. She is a daughter of Mr. Upham?

A. Yes, sir.

Q. They have always lived together?

A. They have always lived together to my knowledge, yes, sir.

Q. And did Miss Minnie have anything to do with the running of the business?

A. No, sir.

Q. But she was always a member of Mrs. Paullin's family?

A. Yes, sir.

Q. Lived with her in Atlantic City and also lived with her when she would go to Philadelphia?

A. Yes, sir.

Q. Go back and forward with her?
A. Yes, sir.

Re-direct examination.

By Mr. Cole:

Q. By what name did Miss Upham call Mrs. Addis or Mrs. Paullin?
A. Mother.
Q. I think you said that nobody else did any writing except Mrs. Paullin and Mr. Herrmann and yourself, did you see Mr. Levering do any writing?
A. No, sir.
Q. You didn't see him?
A. No, sir.
Q. You also said in answer to Judge Starr that nothing more was said than what you have related?
A. Yes, sir.
Q. Might something else have been said that you may have—— can't presently recall, or are you positive about it?

Mr. Starr: I object to that.

The Court: I will sustain that objection.

Q. In making the statement that there was no other talk, are you positive about that?
A. Now, I will tell you, she thanked——

Mr. Starr: I object to that.

The Court: Just wait a minute, I sustain the objection.

PERRY W. LEVERING, a witness produced on behalf of the proponent, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Cole:

Q. Mr. Levering, how old a man are you?
A. Seventy-four.
Q. Where do you live?
A. Jersey City.
Q. What is your business?
A. Druggist.
Q. How long have you been a druggist?
A. About sixty years, I think.
Q. Have you ever drawn wills?
A. I have drawn a few, yes.
Q. How many do you suppose?
A. I don't know.
Q. Oh, about, approximate.

Mr. Starr: I object to that, what significance is it?

A. I don't know.

Mr. Cole: Leading up to show that he drew this one.

The Court: I will sustain the objection.

Q. Did you know Mrs. Paullin?
A. I did.
Q. How long had you known her before she died?

A. About twenty-three or four years.
Q. Visit her home?
A. Yes, sir.
Q. Did your wife visit there?
A. Yes, sir.
Q. Where?
A. 1410 Atlantic Avenue.
Q. How long have you been visiting her, how long had you been visiting her at that place?
A. About twenty-two years.
Q. Atlantic City?
A. Yes, sir.
Q. Is that where the bakery business is conducted?
A. Yes, sir.
Q. Who conducted that business?
A. Mrs. Paullin.
Q. How recently before her death had you seen her?
A. She was at my house I think about two weeks before Christmas, I don't recollect the date.
Q. Of 1918?
A. 1918, yes.
Q. Your house in Jersey City?
A. Yes, sir.
Q. Was she alone or with Mr. Paullin?
A. She was alone.
Q. Did you see her during the summer of 1917 and 1918?
A. I did.
Q. In Atlantic City?
A. Yes, sir.
Q. Do you know whether Mr. Paullin was there in the summer of 1918?
A. Yes, I met him there a number of times.
Q. Did you sleep at 1410, you and your wife?

A. I did when visiting there.

Q. What part of the house did you occupy?

A. Third floor front room.

Q. I show you paper purporting to be the last will and testament of Mrs. Paullin and ask you whether you caused that will to be drawn?

A. I didn't cause it to be drawn, I drew it.

Q. Oh, you drew it yourself, did you? All right. I noticed it was typewritten, did you do the typewriting work?

A. No, sir. I drew it in ink and had it typewritten at her request.

Q. That is the question, did you do that typewriting work?

A. I did not.

Q. Did you see Mrs. Paullin sign that?

A. I did.

Q. Where was it signed?

A. Signed in the reception hall at her desk.

Q. 1410 Atlantic Avenue, Atlantic City?

A. Yes, sir.

Q. Did you see Mr. Herrmann and Mr. Strang sign?

A. I did.

Q. Now I notice that under the name of William Herrmann there are "26 So. Congress Ave. Atlantic City".

A. I wrote that because he failed——

Q. Never mind because. Whose handwriting it it?

A. That address?

Q. Yes.

A. Mine.

Q. Then in a bracket is the word "witnesses", who wrote that?

A. I did.

Q. Who made the bracket?

A. I did.

Q. And then beneath the signatures is "Dated April 19, 1918". Who wrote that?

A. I did.

Q. What date was this paper signed?

A. The date that that was written, was signed, immediately upon the signing of it.

Q. Now did you write Mr. Herrmann's address and the word "witnesses" and "Dated April 19, 1918" while Mr. Herrmann and Mr. Strang were in the room?

A. I did.

Q. Before they had left?

A. Before they had left.

Q. And was Mrs. Paullin still there?

A. She was still sitting at the desk.

Q. When did you—— were you there when Herrmann and Strang left the room?

A. I was, yes, sir.

Q. Did Mrs. Paullin remain in the room?

A. She did.

Q. Now will you tell us, Mr. Levering, what happened while Mrs. Paullin and Mr. Herrmann and Mr. Strang were together in that room?

A. What happened?

Q. Your recollection of what happened, yes.

A. The boys came up there to sign this paper at her request, as I understand——

Mr. Starr: Wait a moment. I ask that that be stricken out.

The Court: Yes.

Q. What happened after they arrived in the room and before they left?

A. Mrs. Paullin said, "Boys, this is my last will," and picked up a paper, "I want you to witness it."

Q. Proceed and tell us all you can recall happened.

A. And I said, "Boys, as witnesses you are not obliged to know the contents of the will, but you must all be present and see each other sign, in the presence of each other," that is all I said.

Q. Then what happened?

A. Then Mrs. Paullin taken up the pen and wrote her name, as soon as she did that, Mr. Herrmann bent over and wrote his name while she was sitting at the desk.

Q. And then what?

A. Seeing that he had not written his address, I wrote his address in, then Mr. Strang stepped up and wrote his name, and the address after that, was done, I says, "Wait until I finish," and then I bracketed the witness and wrote it over and dated it. I said, "That is all, you may go." That is all there was to it.

Recess taken until 1.30 o'clock P. M.

AFTERNOON SESSION.

Hearing resumed at 1.30 o'clock P. M.

PERRY W. LEVERING, resumed.

Cross-examination.

By Mr. Summerill:

Q. How long did you say that you had known Mrs. Paullin?
A. About twenty-three, twenty-two or twenty-three years.
Q. And you had visited at 1410 Atlantic City?
A. Yes, sir.
Q. How frequently?
A. Sometimes couple of times a year.
Q. Sometimes not so often?
A. Well, I guess I visited there at least that often each year, I don't know.
Q. For the past how many years?
A. Past eighteen or twenty years.
Q. Now the past two years have you visited her at any other place?
A. Any other place than Atlantic City?
Q. At any other place than 1410 Atlantic Avenue?
A. Yes, sir, 3839 North Broad Street.
Q. What number?
A. 3839 North Broad Street, Philadelphia.
Q. 3839 North Broad Street, Philadelphia, is it?
A. Yes, sir.
Q. What was she doing there?
A. I presume she was stopping there.
Q. What do you mean by the word "stopping"?

A. I knew she was there, and she invited us over there.

Q. That was her home?

A. Home at that time.

Q. That was her home at that time?

A. I suppose so, yes.

Q. Now when was that?

A. Why, I don't think, let's see, I was there last spring, I think it was.

Q. Spring of 1818?

A. I think so.

Q. 1918, rather?

A. 1918.

Q. What time?

A. I was trying to think whether I was there since then or not. I don't think so. I don't think I was there since the spring of 1918. I don't recall.

Q. What time in the spring of 1918?

A. Well, during the spring, forepart of the summer, latter part of the winter.

Q. Latter part of the winter of 1918?

A. Yes, early part of 1918, I think it was.

Q. What?

A. The early part of 1918.

Q. The early part of 1918, and in the late part of 1918 both?

A. I don't think I was there later. I don't think so.

Q. You don't recall whether you were there in October of 1918?

A. No, sir.

Q. Or November?

A. I don't recall.

Q. Or December?

A. I don't recall, no, sir.

Q. When and where did you see her the last time?
A. Jersey City.
Q. At Jersey City?
A. Yes, sir.
Q. Last time you saw her?
A. Yes, sir.
Q. When was that?
A. In December of 1918.
Q. Were you at her funeral?
A. I was, yes, sir.
Q. Where was that?
A. Broad Street.
Q. Whereabouts?
A. 3839 Broad Street.
Q. The same place where you had visited her in the spring of 1918?
A. Yes, sir.
Q. The same house?
A. Same house.
Q. She was buried from there, was she not?
A. Yes, sir.
Q. Did you visit her at her Philadelphia home prior or subsequent to April nineteenth, 1918?
A. I don't think so.
Q. I don't think you understand my question?
A. Prior.
Q. Prior or subsequent to April, 1918, before April nineteenth, 1918, or after that, did you visit her at her home in Philadelphia?
A. I visited her after April, 1918.
Q. At her home in Philadelphia?
A. No, sir.
Q. That is what I am asking.
A. No. I visited her in Atlantic City.
Q. I am asking you, Mr. Levering, whether the

time that you visited her at her home in Philadelphia was before April nineteenth, 1918, or after April nineteenth, 1918?

A. It was before.

Q. Can you give the month?

A. No.

Q. How long before?

A. I don't recollect.

Q. Who did you see there in Philadelphia when you were visiting Mrs. Paullin?

A. I saw Mrs. Paullin and Mr. Paullin, I think.

Q. What?

A. Mr. and Mrs. Paullin.

Q. Who else?

A. Miss Upham.

Q. Minnie Upham?

A. Yes.

Q. Who else did you see?

A. I don't know that I saw anybody else.

Q. How long did you remain?

A. I can't recollect. I generally spent a day or two, there, that is all.

Q. It was not an hour?

A. No, it was not any hour.

Q. Or two hours or three hours?

A. Generally a day or two.

Q. Are you sure?

A. With my wife there, and visited for a day or two.

Q. Then your recollection of it is that your visit to her in Philadelphia prior to April nineteenth, 1918, you remained two or three days or at least a day or two?

A. If I was over there. I never kept a record of those dates.

Q. Wasn't it nearer a week?
A. I don't know.
Q. What kind of a home was Mrs. Paullin living in at that time?
A. At what time?
Q. When you visited her there prior to April nineteenth, 1918?
A. Visited where?
Q. Do you know what we are talking about, Mr. Levering? Do you know what I am asking you?
A. I don't know whether I do.
Q. Or is it because I don't make myself clear?
A. I don't know.
Q. Or is it because you don't want to answer?
A. I want to answer, and I want to answer correctly, but I can't recollect dates.
Q. What kind of a home was Mrs. Paullin living in in Philadelphia?
A. A very nice home.
Q. 3839 North Broad Street?
A. 3839, private house.
Q. What kind of a home was it?
A. Very nice home.
Q. Were you all over it?
A. I have been all over it many a time.
Q. How many floors?
A. What is that?
Q. How many floors?
A. Three.
Q. Three floors?
A. Yes.
Q. How was it furnished?
A. Furnished very nicely with furniture.
Q. Temporarily, for temporary use or for permanent use?

A. I don't know whether permanent use or not, I suppose so.

Q. You would judge from the character that it was permanent?

A. Yes.

Q. Had you visited her there prior to this time, the forepart of 1918?

A. Prior to that, yes, sir. I have several times.

Q. And it was usually, was it not, during the winter months?

A. Yes, always in the winter months, yes.

Q. Other times you saw her was down at Atlantic City?

A. Yes. That is where I saw her oftener than any other place.

Q. At all times when you were visiting her at her Broad Street home, who did you see?

A. I can't tell. I don't know.

Q. You don't recall?

A. I don't think I know.

Q. The last time you saw Mrs. Upham was Mr. Paullin there?

A. I saw Mr. Paullin and Mrs. Paullin, and I think Miss Minnie Upham was there at the time, I think so. Now I can't recall.

Q. Prior to that do you recall when you visited there, prior to that?

A. I couldn't say if I saw her there.

Q. Who invited you to visit at that place, 3839 North Broad?

A. Mrs. Paullin.

Q. By letter?

A. Sometimes. As a rule by letter, yes.

Q. This particular time?

A. I don't know about this particular time.

Q. You can't say?

A. No, sir.

Q. Prior to this visit in the beginning of 1918 when was the time next before that you visited there?

A. I can't recall it.

Q. Do you recall whether you were there in October of 1917?

A. I don't recollect. I may have been.

Q. Of November, 1917?

A. I may have been. I don't recall.

Q. Of December, 1917?

A. I don't recall those dates at all.

Q. You will not say that you were not there?

A. I will not say I was not there, and I will not say that I was because I don't recollect.

Q. But you will say that you had visited Mrs. Paullin at that place a number of times during the winter months?

A. Yes, last eight or nine years.

Q. For the last eight or nine years?

A. Yes, sir.

Q. Were you in Atlantic City on the eighteenth day of April last?

A. I think I was.

Q. Do you know whether you were or were not?

A. Not positive.

Q. Do you recall whether you were there on the twenty-first day of April of last year?

A. Last year? Yes, sir.

Q. There on the twenty-first?

A. There on the twenty-first.

Q. You will not say that you were there on the eighteenth?

A. I am not positive I was there on the eighteenth. I think I was there the day before, the twentieth. I may have been there on the eighteenth.

Q. You may have been, but you don't know, is that it, or don't recall?

A. I don't recall just how many days I was there.

Q. And when did you receive the instructions to prepare the will in question?

A. The day before it was signed.

Q. From whom did you receive the instructions?

A. Mrs. Paullin.

Q. Who was present when those instructions were given to you?

A. Mrs. Paullin.

Q. Who else?

A. Nobody.

Q. Anyone else?

A. No, sir.

Q. Did you see Minnie Upham at Mrs. Paullin's residence or at 1410 Atlantic Avenue on the nineteenth day of April last?

A. I don't know whether I did or not. I may have seen her that day, yes. On the nineteenth?

Q. Yes.

A. I don't know whether I saw her that day or not.

Q. Did you see her the previous day, eighteenth?

A. I don't recall.

Q. See her the subsequent day, the twentieth?

A. I think I did, yes, sir.

Q. Where?

A. Down at Atlantic City, 1410.

Q. Did you stop at 1410 the night of April the eighteenth?

A. I think I was there about a week about that time, as near as I can recollect.

Q. Your recollections are now that you remained at Atlantic City about a week?

A. That is my recollection, yes, sir.

Q. Now how long were you there before the will was executed?

A. I think two or three days.

Q. Now your recollection is that you were there on April eighteenth, is that the question?

A. I can't recall the exact date because I didn't put it down.

Q. When did you make the first draft of the will?

A. I think it was the day before it was executed.

Q. What is that?

A. I think it was the day before it was executed, I think it was.

Q. You think you made the first draft of the will the day before the will in question was signed?

A. Yes, sir.

Q. What is that?

A. The day before, I think it was.

Q. Now you made the first draft of the will the day before the will in question was signed?

A. Yes, sir.

Q. Is that right?

A. Yes, that is my recollection now.

Q. Where did you make that draft?

A. 1410 Atlantic Avenue in her presence.

Q. Anyone else present at the time?

A. No, sir.

Q. Where was the will typewritten?

A. Atlantic City.

Q. Where?

A. In the Bartlett Building.

Q. Who by?

A. A young lady in an office there, I have forgotten who it was, what her name was.

Q. Had you remained over night at 1410 of April eighteenth?

A. My mind is I had to go home one of the days

and come back on a litle business, that is my impression, I wouldn't like to say positively.

Q. After your draft of the will had been prepared did you read the draft to Mrs. Paullin?

A. I read it to her and then allowed her to read it herself.

Q. I am speaking of the draft, not the will itself.

A. I know.

Q. Then she read that herself?

A. She did yes, sir.

Q. Was or was not that draft typewritten?

A. Which?

Q. The draft?

A. No, it was in ink.

Q. Written in ink?

A. Or pen.

Q. Where was that written?

A. Right there.

Q. What part of the building?

A. Reception hall.

Q. Upstairs?

A. Yes.

Q. Then after that you took the draft to the Bartlett Building, was it?

A. Bartlett Building, I think they call it.

Q. And had it typewritten?

A. Yes, sir.

Q. Was that typewritten will typewritten the day of its date?

A. Yes, sir.

Q. Then you had it done that morning?

A. I had it done about noontime, if I recollect.

Q. Did the young lady find the paper or did you take the paper with you?

A. I think she furnished the paper.

Q. Are you sure?

A. Not positive.

Q. Was it in some lawyer's office?

A. I don't know whose office it was in.

Q. What?

A. I have forgotten the gentleman's office, on the sixth floor of the Bartlett Building.

Q. After it was typewritten what did you do with it?

A. Brought it back and gave it to Mrs. Paullin to read.

Q. Then what?

A. And she said she wanted it executed.

Q. Then what?

A. She said she would ask the boys to come in there as witnesses to her will.

Q. What was that?

A. Ask Mr. Herrmann and Mr. Strang to come there and witness her will.

Q. Did she say Mr. Herrmann and Mr. Strang?

A. The boys, she said.

Q. To come and witness her will?

A. Yes.

Q. Did you hear her do that?

A. I heard her say that. I didn't hear her call them anything.

Q. When was the seal put on, the seal?

A. When Mrs. Paullin signed it.

Q. Where did you get the seal?

A. Around on New York Avenue, I think it was, at a stationery store because they didn't have a seal.

Q. I understood you to say you didn't know the name of the young lady, the typist?

A. No, I don't recollect the name, no.

Q. After the will was signed by Mrs. Paullin, and Herrmann and Strang, what was done with it?

A. What was done with it? I dated it in their presence and bracketed the witnesses there and wrote "witnesses" above it, and gave it to Mrs. Paullin.

Q. Did she keep it?

A. I presume so, I don't know.

Q. What?

A. I presume so.

Q. At any time during the progress of the execution of the will did you see Minnie Upham?

A. I did not, no, sir.

Q. Or didn't see her at any time during that day?

A. I may have seen her during the day somewhere about the house. I don't know. I don't know whether she was in the house or not.

Q. You don't know?

A. Not positive, no.

Q. Did you remain there the night of the eighteenth and nineteenth in that house?

A. Yes.

Q. You were visiting there?

A. Visiting there, Mrs. Levering and myself.

Q. Did Mrs. Paullin write you to come and visit her at that particular time?

A. She generally wrote for us to come down.

Q. I mean at this particular time.

A. Yes.

Q. She did? Have you the letter?

A. No, sir.

Q. Can you produce it?

A. I cannot because I haven't got it. I don't keep those letters.

Q. What?

A. My wife didn't keep those letters.

Q. They are burned?

A. Yes, burned or destroyed.

Q. In that letter did she ask you why or tell you why she would like to see you?

A. No, sir, she did not.

Q. And you knew nothing at all about this——

A. Knew nothing.

Q. Wait— knew nothing at all about the preparation or execution of this will until she spoke to you about it on the eighteenth?

A. The first I knew of it when she spoke to me after coming down there.

Q. What?

A. The first I knew when she spoke to me after getting down to Atlantic City, may have been a day or two later, I don't know.

Q. The will is dated the nineteenth, couldn't have been a day or two after that, could it?

A. No, I mean before that.

Q. You said a day or two after.

A. No, before that.

Q. What time of day was it, Mr. Levering, the will was executed ?

A. Well, sometime after lunch.

Q. What?

A. After the boys had their lunch, about one or two o'clock, I judge.

Q. You have no recollection yourself of that at all?

A. No exact recollection. It was after the lunch hour.

Q. But you have no exact recollection?

A. No. I couldn't say whether it was one o'clock or two o'clock, about two o' clock I should think.

Q. What time in the morning, time of the day did you go to the Bartlett Building to have that will typewritten?

A. About twelve o'clock I should judge.

Q. About twelve o'clock you went there?
A. Yes.
Q. How long were you gone?
A. I don't know, twenty minutes, maybe.
Q. How far is 1410 from the Bartlett Building?
A. Five minutes walk.
Q. How long were you at the Bartlett Building?
A. Probably ten minutes.
Q. Had you made a previous appointment with anyone there to do the typewriting for you?
A. No, sir.
Q. This a public stenographer or a stenographer in someone's office?
A. Stenographer in some one's office.
Q. You stumbled in on her?
A. I did not.
Q. Why?
A. I was requested to go there.
Q. By whom?
A. By the stenographer in the Underwood typewriting office.
Q. You had gone then to the Underwood people prior?
A. Yes.
Q. To do some typewriting, and they suggested you to go to this young lady?
A. Young lady.
Q. In the Bartlett Building?
A. Yes.
Q. Did you have to wait for her or was she in a position to do it at once?
A. She said call back for it in about half an hour, something of that kind.
Q. You didn't wait there while it was being done?
A. No, sir.
Q. Then you went back to her?

A. Went back and got it.
Q. And then from there you went directly to 1410?
A. Yes, sir.
Q. And as soon as you arrived you gave the will to Mrs. Paullin?
A. I did, to read.
Q. What did she do with it?
A. She read it over again.
Q. Did you read it to her?
A. I may have read it to her, but she read it over.
Q. Did you read it to her?
A. I did.
Q. Couldn't she read?
A. Yes, and then she wanted to read it herself.
Q. Then she read it herself?
A. Yes, sir.
Q. Then what did she do with it?
A. I don't know, she laid it on the desk.
Q. That is her desk in what room?
A. Reception hall.
Q. Then what was the next thing in point of time that was done?
A. Afew minutes after that the boys came up.
Q. Was she in the room all the time?
A. I think so.
Q. What?
A. I think so.
Q. Didn't she go out?
A. Didn't go out of the house, no.
Q. Out of the room?
A. I don't think she went off—— may have gone to her room and back for something, I don't know.
Q. Did she go out to call the boys?
A. I don't recall whether she did or not.
Q. The fact is the boys came in?
A. The boys came in together.

Q. When they came in the room where was Mrs. Paullin?

A. Sitting at the desk.

Q. The will in front of her?

A. Yes, sir.

Q. Ready for signing?

A. Yes, sir.

Q. Had you placed it in that position and condition?

A. Had I placed it there? I had not.

Q. Had you told her where she was to sign?

A. I told her when the proper time came to sign.

Q. Had you told her where to sign?

A. No.

Q. What?

A. I told her where to sign when she did sign.

Q. At the time of her signing, you say?

A. At the time of signing, yes.

Q. You told her where to sign?

A. Yes.

Q. Which one came in the room first of the two witnesses?

A. My recollection is Herrmann came in and Strang right behind him.

Q. What did Mrs. Paullin say when the boys came in the room?

A. She said to them, "This is my last will, and I want you boys to be a witness to it."

Q. What else did she say?

A. I don't recollect her saying anything else.

Q. Did she after that say anything at all?

A. I don't think so.

Q. Did either Mr. Herrmann or Mr. Strang say anything at any time?

A. No, I don't recollect of them saying anything.

Q. What?

A. I don't recall them saying anything, no.

Q. What if anything was said by anybody more except Mrs. Paullin?

A. Nothing, but what I said myself to the boys.

Q. What was that?

A. I said that they as witnesses to the will, it wasn't necessary for them to know the contents of it, but they must be present and see each other sign.

Q. That they were witnesses?

A. They were to be witnesses.

Q. But it was not necessary for them to know what was in it?

A. Yes, I made that remark.

Q. But they all three had to be there at the same time?

A. Yes.

Q. What?

A. Yes, and they were there when I made this remark.

Q. I haven't reached that point. I am coming to that.

A. All right.

Q. Now that is all you said?

A. That is all.

Q. And all that Mrs. Paullin has said?

A. Yes, sir.

Q. Nothing else other than you have stated in answering my questions was said by anyone at that time?

A. That is all, I made one cross there, and I said, "Now, wait, I want to date that and bracket the witnesses," that is all.

Q. Mr. Levering, would it be too much trouble for you to write "April nineteen, 1918" there?

(Witness complies and writes the date April nineteenth, 1918 on a blank sheet of paper.)

Q. And put yourself as near in a position as you were on April nineteenth, 1918. Now write the word "witnesses".

(Witness complies.)

Q. Under that write "266 S. Congress Ave. Atlantic City."

(Witness complies.)

Q. Thank you.

Cross-examination.

By Mr. Starr:

Q. Mr. Levering, had you ever drawn any other wills for Mrs. Paullin?

A. No, sir.

Q. Had you ever transacted any other business for her in any other way?

A. No particular business, no, sir.

Q. She had never entrusted in your hands the conduct of any business affairs before?

A. No, she had not.

Q. Now, on what day did she first say anything to you about preparing the will?

A. My impression is the day before I drew it.

Q. The day before you drew it?

A. I think so.

Q. How many days was that before it was actually signed?

A. The second or third, as near as I can recollect.

Q. What did she tell you?

A. She said she wanted me to draw up a will for her.

Q. What else did she tell you?

A. I don't know as she said anything else.

Q. That is all that was said?

A. I said all right.

Q. Well now, when next did she refer to the question of drawing a will?

A. The next day, I guess it was.

Q. The next day? What did she say to you then?

A. Wanted me to come upstairs and draw up the will for her.

Q. Yes, what happened then?

A. I went up.

Q. You went upstairs?

A. I did, yes, sir.

Q. And what occurred when you got up there?

A. I wrote as she dictated.

Q. And did she dictate the will which you prepared, the draft of which you prepared?

A. A portion of it was a copy of another will, I think.

Q. Where did that come from?

A. I don't know.

Q. Did she have it there?

A. She did.

Q. What portion of it did you copy from another will?

A. I don't know. I don't recollect, just as she picked out.

Q. Then as I understand it she had another will that she picked out certain portions from that and dictated those to you?

A. Dictated them and I wrote them down.

Q. Now which of the paragraphs, the ten paragraphs, in this will, which of the paragraphs contained in the will which is presented for probate, were dictated by her from another will?

A. I don't know.

Q. Did you read the other will over?

A. I don't know.

Q. Was it written in ink or typewritten?

A. My impression was typewritten.

Q. Do you know the date of it?

A. I do not.

Q. Do you know the subscribing witnesses to it?

A. I do not.

Q. You don't remember any of the names?

A. No.

Q. Do you remember any of the provisions of that will?

A. I wouldn't like to say now because I might not be correct.

Q. You don't remember any of the provisions of that will?

A. No.

Q. And the portions of the will which you prepared which were not dictated by her to you from the other will you took and wrote down here along, is that right?

A. Yes.

Q. Did she dictate this third paragraph "I give and bequeath unto my beloved husband E. Frank Paullin, the diamond ring which he gave me as a wedding engagement"?

A. Yes, sir.

Q. Is that her exact language?

A. Yes, sir.

Q. What has become of that draft in your handwriting?

A. Destroyed, I suppose. I told her to destroy it.

Q. What say?

A. Mrs. Paullin destroyed it, I suppose.

Q. So far as you are concerned, what became of it, what did you do with it?

A. Gave it to her.

Q. When?

A. When I brought the copy back.

Q. Ever seen it since?

A. No, sir.

Q. Did she say why she wanted that will, the draft, of the will?

A. No.

Q. What was the conversation?

A. I told her to destroy it.

Q. What?

A. I told her to destroy it.

Q. Did she destroy it?

A. Not in my presence, she said she would, and I presume she did.

Q. And that is all that was said between you and her about the draft which you prepared?

A. Yes.

Q. You told her to destroy it and she said she would and that is the last you saw of it, is that right?

A. That is right, my recollection of it.

Q. Now when you sat down and wrote out in longhand what she dictated to you, did you read it over to her?

A. I did, and she read it over herself several times.

Q. How long were you in there upon that occasion, in the room with her?

A. I don't know, may have been there an hour.

Q. Did you know when you were coming from Jersey City to visit her that you were expected to transact any business matters for her?

A. No, sir. I did not.

Q. Didn't know that she wanted you to come there for that purpose?

A. No, sir.

Q. Then that day when you prepared this draft in your handwriting did you leave it with her?

A. Yes.

Q. The draft?

A. One that I wrote.

Q. Yes, the one that you wrote in longhand.

A. No, I took it up to the typewriter the next morning, she had it during the night, yes, in her possession.

Q. Then it was the next day it went up to the typewriter?

A. Yes.

Q. So that she had it over night?

A. Yes.

Q. Did you have any conversation with her about it after you had prepared the draft and gave it to her? Did she say anything to you about it?

A. No.

Q. Now, the next morning what happened, that was the morning of the day that the will was finally executed? What happened, did she come back to you?

A. I took it up, and had it typewritten.

Q. Did she give the draft back to you?

A. Yes.

Q. What did she say?

A. She said she preferred having it typewritten.

Q. The attestation clause in this will, did she dic-

tate that or did you dictate it, or did you make that up as you went along?

A. No.

Q. Where did you get that from, the attestation clause reading this way: "Signed, sealed, published and declared by the above named Anna B. Paullin, to be her last will and testament, in the presence of us, who were present at the same time, and at the request of the testator, have hereunto subscribed our names as witnesses in the presence of the testator and each other," where did you get that language from?

A. Because it was printed on the blank which I wrote the other on.

Q. What?

A. Printed on a will blank.

Q. What do you mean "printed on a will blank"?

A. I got at a stationery store a blank will.

Q. When did you get the blank will from the stationery store?

A. I got it the day before.

Q. Which day?

A. Before I had it typewritten.

Q. Then you went out to a stationery store and bought a blank will, is that right?

A. Yes.

Q. Now, where is the stationery store?

A. Whether I bought it New York Avenue or Pacific Avenue around the corner.

Q. Which is it, New York or Pacific, which one?

A. I think I bought it on New York Avenue.

Q. What number?

A. About half way between ——

Q. Which side of the street?

A. On the south side.

Q. South side?

A. Stationery store there.

Q. New York Avenue, south side?

A. Yes.

Q. You don't mean that, you mean the east or west side, don't you, New York Avenue?

Q. Well, it is on the righthand side going towards Pacific Avenue.

Q. On New York Avenue, do you know the name of the stationery store?

A. No, I don't recollect the name.

Q. Ever been there before?

A. Yes, sir, I have.

Q. You don't know the name of it?

A. I don't recollect the name of it, no, near Wilson's dairy, I believe it is.

Q. You went and bought a blank will, and that had printed on it you say an attestation clause?

A. Yes, at the end.

Q. And in preparing the paper which was subsequently signed, you copied this blank will, is that right?

A. Copied it on that blank will, yes.

Q. The draft that you prepared, was it drawn on the blank that you bought at the stationery store?

A. Yes.

Q. How many pages to that blank were there?

A. One and a half probably.

Q. And where with respect to the second page was the attestation clause printed?

A. Down near the bottom.

Q. Bottom of the second page? Was there anything else printed on the two sheets except the attestation clause?

A. Yes, and the heading of it.

Q. And what was the heading?

A. Well, I don't recollect the words now.

Q. What say? Had you ever been to that store to buy a blank will before?

A. No, sir.

Q. How did you happen to go there?

A. Because I knew stationers kept it as a rule, I have bought them in Jersey City a number of times.

Q. Did Mrs. Paullin suggest that you go there to get it?

A. No.

Q. You went there of your own volition?

A. Certainly, because I didn't have any other paper.

Q. Now, the next morning, or rather the morning of the day the paper was actually signed, you say Mrs. Paullin gave you the draft which you prepared and told you to go get it typewritten?

A. She said she preferred having it typewritten, yes, sir.

Q. She say where to go?

A. No, sir.

Q. So she left that to you, did she?

A. I didn't know where to go.

Q. So you went to the Underwood place?

A. Yes, sir.

Q. Where is that?

A. I think it is Pennsylvania Avenue—North Carolina Avenue.

Q. Where?

A. On the north side.

Q. Which is it, Pennsylvania or North Carolina?

A. Well, I don't know. I am not familiar with the streets, but I think it is North Carolina Avenue.

Q. And you went there?

A. It is on the north side going towards the beach.

Q. On the lefthand side going towards the beach?

A. On the lefthand side going towards the beach.

Q. And you went there to get the typewriting done?

A. Yes.

Q. And the lady there referred you to somewhere else, is that right?

A. Yes, sir.

Q. Over to the Bartlett Building?

A. Bartlett Building.

Q. Was that in a lawyer's office?

A. I think it was a lawyer.

Q. Do you know the lawyer's name?

A. No, I do not.

Q. Did you know him at the time?

A. No.

Q. Didn't you burden your mind at all with the name of the lawyer's office where you had it done?

A. No, because she gave me the name of this young lady on a piece of paper on the sixth floor, room so and so.

Q. And you don't recollect now the name of the lawyer?

A. I don't recollect the name of the lawyer at all.

Mr. Cole: He was probably trying to evade the lawyers.

A. No, I wasn't trying to evade anything. I was after this young lady.

Q. Did you get pay for drawing this will, Mr. Levering?

A. No, sir, I did not.

Q. It was a pure gratuity, so far as you were concerned?

A. Certainly.

Q. Then you went up there and had the typewrit-

ing done and afterwards obtained the paper, after written, and took it down to 1410, is that right?

A. Yes, sir.

Q. Now, I notice this will is drawn on the first page of a foolscap sheet paper, and then half of the second page, and then there is a blank space at the bottom of the second page, and the attestation clause is at the top of the third page. How did that happen to be drawn that way?

A. That is the way the young lady typewrote it, is all I can tell you.

Q. Did you give any instructions as to having it done that way?

A. No, sir, I did not, only instructions to have it typewritten same as it was in the other, the printing.

Q. And you can't account for the fact of this blank portion of the second page?

A. Which, this?

Q. Yes.

A. No.

Q. With the horizontal line and then the diagonal line across the sheet?

A. No.

Q. Do you know why it was done that way?

A. I think I can give you the reason why.

Q. Let's find out what the reason is.

A. Because on account of these blanks, this was nearly all vacant, the attestation was down here, in these blanks printed, and I suppose she wanted a copy as near as she could.

Q. She made a Chinese copy of it, is that the idea?

A. That is my impression, no suggestion of mine, though.

Q. Were you impressed with the fact that that was a Chinese copy at the time you got it from the young lady?

A. I knew she copied it very well from the other one.

Q. These lines put in there, did you have anything to do with them?

A. I did not.

Q. They were there just as they came from the stenographer?

A. She put them in herself.

Q. When was this seal put on?

A. After Mrs. Paullin had written her name.

Q. And did you get the seal from the stationery store at the same time you bought the blank?

A. I did not. I went around and bought a whole box just to get that one seal.

Q. Extravagant.

Mr. Cole: It wasn't necessary, by the way.

A. I knew it wasn't necessary myself, but I thought I would put it on to satisfy people, don't require a seal in this state.

Q. The seal was purchased the morning of the day this will was executed?

A. It may have been, may have been the day before. I know I went down and got it.

Q. Did you buy the seal the same place you bought the draft of the will, same stationery store?

A. I think so. I don't know of any other store, but I do know of another one on Pacific Avenue, but I think I bought it on New York Avenue where I got the blank.

Q. You think you bought it at the same place?

A. I don't know anything different.

Q. Now, this black line up here on the second page, was that put there by the stenographer, or put there by you?

A. It was not put there by me, no.

Q. And it is evidently a place that was provided by the stenographer for the signature, wasn't it?

A. Yes.

Q. Well, how is it you didn't have Mrs. Paullin sign up there instead of at the end of the attestation clause?

A. I didn't notice that, and I had her sign it there, that is all. I knew it had to be signed.

Q. Now, while you were down there that time visiting Mrs. Paullin did you have any conversation at all with Minnie Upham about the will?

A. No, I don't know as she knew anything about it.

Q. You had no talk with her at all?

A. None at all.

Q. Was there any conversation between Mrs. Paullin and Minnie Upham in your presence about the will while you were there upon that occasion?

A. No, sir.

Q. And you never said anything to Minnie about it?

A. I did not, nor anybody else.

Q. It was a matter purely between you and Mrs. Paullin?

A. It was.

Q. Was your wife there at the time?

A. She was not. She was in the house.

Q. She was visiting with you?

A. She was visiting at the time.

Q. And were any of these conversations that you had with Mrs. Paullin in the presence of Mrs. Levering?

A. They were not, no, sir.

Q. A matter between you and Mrs. Paullin entirely, and no one else knew anything about it, not a living soul?

A. Without they received some information from some other source.

Q. So far as you knew not a living soul knew anything about the business you were transacting for her at that time?

A. Not that I know of.

Q. Did Mrs. Paullin have a desk in this room where the paper was finally executed?

A. Yes, sir.

Q. What sort of a desk was it, roll top desk or flat table?

A. Desk with a lid.

Q. Lid?

A. Yes, sir, dropped down, that formed the table for writing.

Q. And you used your pen to write that or did she have a pen there?

A. I don't recall which pen was used.

Q. Now, did I ask you whether or not you knew what became of this draft, I think you told us that you gave it to Mrs. Paullin?

A. I gave it to Mrs. Paullin.

Q. And told her to destroy it, and you have never seen it since?

A. I have not, no, sir.

Q. Now, did you ever have any conversation with Mrs. Paullin after that day the will was executed about her will?

A. Have no recollection of her ever referring to it afterwards.

Q. She never said anything to you about it?

A. Not afterwards.

Q. And you never referred to the incident at all?

A. No, sir.

Re-direct examination.

By Mr. Cole:

Q. You on cross-examination spoke about an envelope. I show you a white envelope endorsed "will of Annie B. Paullin, April nineteenth, 1918," who wrote that?

A. I did.

Q. Is that the envelope in which the will was placed?

A. One I placed it in and handed it to her.

By Mr. Starr:

Q. You mean the draft or the will that is presented here?

A. I mean the will that was executed.

Mr. Cole: I want to have this will marked for identification at this time, also the envelope, and also the writing which counsel had the witness to make in open court.

(Paper purporting to be will marked P1 for identification, envelope referred to by witness marked P2 for identification, and writing made by witness in court marked P3 for identification.)

SILAS SHOEMAKER, a witness produced on behalf of the proponents, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Clevenger:

Q. Mr. Shoemaker, where do you live?
A. Atlantic City.
Q. How long have you lived in Atlantic City?
A. Thirty years next June.
Q. What banking institution are you connected with?
A. The Atlantic Safe Deposit and Trust Company.
Q. What position do you hold?
A. Secretary and treasurer.
Q. How long have you been secretary and treasurer?
A. Thirteen years last December.
Q. Did you know Anna B. Paullin?
A. I did.
Q. How long have you known her?
A. About twenty-eight or nine years.
Q. Under what names have you known her during that period?
A. As Anna B. Upham, Anna B. Addis and Anna B. Paullin.
Q. Did you know all of her husbands?
A. No, sir.
Q. Did you know Mr. Upham?
A. Yes, sir.
Q. Did you know Mr. Addis?
A. Yes, sir.
Q. But Mr. Paullin you didn't know?
A. No, sir.

Q. Did Mrs. Paullin ever have a bank account with your institution?

A. She had.

Q. Where is the Atlantic Safe Deposit and Trust Company located?

A. Southwest corner New York and Atlantic Avenues.

Q. In what business was Mrs. Paullin engaged?

A. In the ice cream and confectionery and candy business.

Q. At what—on what street and what number?

A. Atlantic Avenue, I think the number is 1410.

Q. How near is that to your banking institution.

A. Half a square.

Q. How long has Mrs. Paullin to your knowledge been engaged in business at 1410 Atlantic Avenue?

A. Well, ever since I have known her.

Q. What sort of a building is it at 1410 Atlantic Avenue?

A. It is a brick front store on the street level, with a residence over.

Q. Where did she reside?

A. I have always understood she resided there, 1410.

Mr. Summerill: I object to the answer.

The Court: I will permit it for what it may be worth.

Q. How long has Mrs. Paullin been a depositor with the Atlantic Safe Deposit and Trust Company?

A. Ever since I have been connected with it.

Q. Did she have a deposit there at the time of her death?

A. Yes, sir.

Cross-examination.

By Mr. Summerill:

Q. Do you know where she resided, Mr. Shoemaker?

Mr. Cole: I object. He has not given any testimony touching residence.

Mr. Summerill: That was the question.

Mr. Cole: No, you moved to strike the question of his understanding where she lived.

The Court: And I refused to strike.

Mr. Cole: I thought you struck it.

The Court: No, I said it could remain for what it was worth.

A. I understood she resided 1410 Atlantic Avenue.

Q. That is not the question. I asked you if you know, not what you understood, did you know?

A. That was her home, that was her registered home, in Atlantic City, 1410 Atlantic Avenue.

Q. What do you mean by registered home?

A. I mean that is the address we have on our books.

Q. Your bank book then you mean gave that as her residence, as her postoffice address?

A. That is her address, yes, sir.

Q. Did you also have any other address?

A. No, sir.

Q. This what you call the register is purely the postoffice address of your depositor?

A. Yes, sir.

By Mr. Cole:

Q. Given by her?

A. Given by her.

Q. This account was a business account, wasn't it?

A. No, sir.

Q. What kind of an account was it then?

A. Well, what we call a savings account.

Q. Didn't she have a business account?

A. Not with us. Without she deposited some of the receipts from her business in this savings account.

Q. Her account with you was purely as a savings account?

A. That is what we looked upon it as, yes.

Q. That is the way you looked upon it?

A. Yes.

Q. Was it drawn on by check?

A. At intervals when she wanted to use some money she would.

Q. Give the fourteen days' notice?

A. She sometimes would, and if she sometimes wanted it without the fourteen days' notice, she would get it.

Q. When was this account changed from Anna B. Addis to Anna B. Paullin?

A. I don't know, sir.

Q. It was not always Anna B. Paullin, was it?

A. No, sir.

Q. In what other names was it, Mr. Shoemaker, that is speaking of her now as Mrs. Paullin?

A. It was in the name of Anna B. Addis before it was made to Anna B. Paullin.

Q. You have no idea when it was changed?
A. I don't know when it was changed, no, sir.
Q. You were not asked to look that up?
A. No, sir.

LEWIS EVANS, a witness produced on behalf of the proponents, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Clevenger:

Q. Senator, where do you live?
A. Corner Atlantic—523 Atlantic Avenue, Atlantic City.
Q. How long have you lived there?
A. Well, I have lived in that house twenty-four years, lived right back of it for twenty more.
Q. What public position have you held in the county?

Mr. Summerill: What has that got to do with a will case?

Mr. Clevenger: I am showing the man's character and reputation.

A. I was county clerk for ten year, and I was state senator for three years.
Q. Are you connected with any banking institution of Atlantic City?
A. With the Second National Bank and with the Atlantic Safe Deposit and Trust Company.

Q. What position do you hold with the Atlantic Safe Deposit and Trust Company?

A. Vice-president.

Q. What position do you hold with the Second National Bank?

A. President.

Q. How long have you been president of the Second National Bank?

A. Two years.

Q. How long have you been on the board of the Second National Bank?

A. Ten or twelve.

Q. Did you know Anna B. Paullin?

A. I did.

Q. How long have you known her?

A. Forty-two years.

Q. What was her name when you first knew her?

A. Why, I knew her by sight by the name of ——

Mr. Cole: Rider?

Mr. Clevenger: Repp.

Q. Did you know her as a girl?

A. Her name never was Repp, her name was Brooks, and then she married a man named Riley. I don't think I knew her until she married a man named Upham. Since Upham I have known her intimately.

Q. Where is the Second National Bank located in Atlantic City?

A. Northeast corner of Atlantic and New York.

Q. Is that diagonally across the street from 1410 Atlantic Avenue?

A. It is.

Q. Does Mrs. Paullin have a bank account with the Second National Bank?

A. She did.

Q. Did she transact all of her business there?

A. I don't know.

Q. Did she have an account with the bank as Anna B. Upham?

A. Well, I don't know that personally. I know it by hearsay, and our cashier is here and can tell you that.

Q. Did she have an account as Anna B. Addis, do you know?

A. She did.

Q. Did you ever see her come into the bank?

A. Often.

Q. Ever see her around the store, 1410 Atlantic Avenue?

A. I did.

Q. Did you know her intimately, Senator?

A. Ever since she married Upham, not before.

Q. What is the character of 1410 Atlantic?

A. What the business is, you mean?

Q. Yes.

A. Confectionery, ice cream and bakery.

Q. Now, is it a one-story building or is it a three-story building?

A. Three-story.

Q. Do you know what is above the first floor?

A. I do not. Well, I know above the first floor, yes, I know that is the residence.

Q. That is the residence?

A. Mrs.—when I visited there it was Mrs. Upham's rooms.

Q. Did you ever visit there when it was Mrs. Paullin's or his residence?

A. Never have been there since she married Mr. Paullin.

Q. Were you ever there after she had married Mr. Addis?

A. No, not upstairs.

Q. Do you know as a fact that she resided there up to the time of her death?

A. As far as I ever heard, I never heard she had any other place to live. She always lived right there when she was to Atlantic.

Q. Did you ever know her to live anywhere except Atlantic City, Atlantic County, New Jersey?

A. I never did.

Q. Who conducted the business after Upham's death, do you know?

A. Mrs. Upham.

Q. Who conducted the business after Mr. Addis' death?

A. Mrs. Upham or Mrs. Addis.

Q. And she still continued to conduct that business all these years up to the time of her death?

A. She has.

Cross-examination.

By Mr. Summerill:

Q. I understand you to say, Senator, that you have not been there in that residence part of the building at least since the death of Mr. Upham?

A. Not upstairs, no.

Q. That is what I mean, upstairs?

A. No.

Q. Did I understand you to say that when Mrs. Paullin was in Atlantic City she always lived at number 1410?

A. I think so.

Q. What?

A. I said so, yes, sir.

Q. Do you know whether she spent her winters away from 1410?

A. I know, personally, that in 1865 she and her husband, Mr. Upham, my wife,—well, there was a party of ten of us,—right after New Year's we went to Florida, and I think we were gone about a month, and since that, of course, I don't know anything, only hearsay and what she has told me, that when she would come back in the spring, she would say she was to Florida and she had a nice time, she went to the old place where we went when we were there.

Q. Has she spoken to you, Senator, within the past two years of having been to Florida?

A. No, I think in three years she has, yes.

Q. Within three?

A. Yes.

Q. Has she spoken to you in the past two years about having been to Florida?

A. Not where she had been to Florida, no, but then she would come into the bank in the last two years, she would always say, "I am going to move down, move back home again," such and such a time. I never paid any attention.

Q. She was going to move down did you say again?

A. She was going to move home.

Q. Where did she say she had been?

A. Well, I don't know, she would say. I know that she used to move away or go up to Philadelphia in the winter time, and she told me that she had a place on Broad Street, I don't know the number of it, where she was staying in the winter time.

Q. Lived there in the winter time?

A. She didn't say whether lived there or not, she went there.

Q. Didn't say how she was there?

A. She told me she had bought the place, anyhow.

Q. That she had bought a place in Philadelphia?
A. Yes.
Q. On Broad Street, and went there in winter?
A. Well, I don't know—yes, she would go up there, but she didn't say she stayed there all the time.
Q. Go to Philadelphia?
A. Yes.
Q. Did she say what number it was?
A. I think she did, but I don't recollect.
Q. Don't recall that?
A. Because she asked me up there, told me when I was in the city to call there and see her.

WILLIAM S. COCHRAN, a witness produced on behalf of the proponents, being first duly sworn and examined testified as follows:

Direct examination.

By Mr. Cole:

Q. How long have you been cashier of the Second National Bank?
A. Since 1906.
Q. Continuously?
A. Yes, sir.
Q. Did you know Mrs. Paullin who was formerly Mrs. Addis and before that Mrs. Upham?
A. I did.
Q. How long had you known her before her death?
A. Well, ever since I have been connected with the institution.
Q. Where did she live in Atlantic City?
A. 1410 Atlantic Avenue.

Q. Is that where the bakery and confectionery business is conducted?

A. It is.

Q. She conducted that business?

A. She did.

Q. She do business with the Second National Bank?

A. She did.

Q. How long has she been doing business with the bank?

A. Well, long before I was cashier of the bank.

Q. And did she continue to do business with the bank up to the time of her death?

A. She did.

Q. Did you have her address for the purpose of mailing?

A. I did.

Q. Who gave it to you, do you recall?

A. She gave it to us.

Q. What address did she give you?

A. 1410 Atlantic Avenue.

Q. Did she ever give you any other address to mail other than 1410 Atlantic?

A. She did not.

Q. I show you check number 156 on the Second National Bank, dated January twelfth, 1918, and signed "A. B. Paullin," and ask you whether that check is signed by her?

A. That is.

Q. And I notice on the margin "A. B. Paullin, 1410 Atlantic Avenue."

A. Right.

Q. Is that the address you have been talking about?

A. Yes, sir.

(Check referred to marked P4 for identification.)

Q. Do you know how long she had been carrying that address on her checks?

A. Well, ever since she changed the account to Paullin.

Q. And was continued up to the time of her death?

A. Yes, sir.

Q. Do you know whether or not she carried that address on the checks before she married Paullin?

A. I couldn't say positively, but I think she did.

Q. Did she come in the bank from time to time?

A. Frequently.

Q. Did you talk to her?

A. Yes, sir.

Q. From your observation how many months of the year did she spend in Atlantic City?

A. Well, I should say practically at least two-thirds of the time.

Q. Did you ever see her in the store?

A. I have.

Q. And that is where she actually lived when she was in Atlantic City in this store?

A. Yes, sir.

Q. Store building?

A. Yes, sir.

Cross-examination.

By Mr. Summerill:

Q. Did you ever see her any other place in the building beside the store?

A. I have.

Q. Where?

A. In her residence.

Q. What part of that building was it?

A. That is on the second floor.

Q. Were you up there?
A. I was.
Q. How many times?
A. Oh, possibly two or three.
Q. What years?
A. I couldn't tell you that positively the years, last time is probably within two years.
Q. Within two years?
A. Yes.
Q. How long before two years?
A. I say it was within two years.
Q. Within two years?
A. Yes.
Q. How long ago, then, I will put it another way, Mr. Cochran?
A. I couldn't say positively.
Q. A year?
A. Possibly a year.
Q. Possibly more?
A. Possibly.
Q. It might be nearer two?
A. It might be. I say within two.
Q. Have you anything with you to show ——
A. Nothing whatever.
Q. Wait—to show when the signature was changed from Addis to Paullin?
A. I have not.
Q. Then whatever answer to the question as to when that was done would be a guess?
A. I certainly could not say.
Q. Was it much as two years ago?
A. It was right after her marriage to Mr. Paullin, shortly after that.
Q. It was changed from Addis to Paullin?
A. From Addis to Paullin.
Q. No other change made in the account?

A. No, just let me correct you a minute, the Addis account was closed out, and a new account was opened in the name of Paullin.

Q. All the money in that account was drawn out and put in an account in the name of Anna B. Paullin, or A. B. Paullin?

A. A. B. Paullin.

Q. Is that correct?

A. Yes, sir.

Q. But that date you cannot say?

A. I cannot without our books.

Q. During the winter while she was absent money came to the bank, did it not?

A. It did.

Q. Who brought it?

A. One of the girls from the store.

Q. Know the name?

A. I do not.

Q. During the winter or summer did Mrs. Paullin, that is after her marriage to Mr. Paullin, come to the bank?

A. She did.

Q. Alone?

A. At times.

Q. At other times?

A. In company with some one else.

Q. Who?

A. Minnie Upham.

Q. Alone oftener than with Minnie Upham?

A. I couldn't say.

Re-direct examination.

By Mr. Cole:

Q. On this occasion or these occasions when you were in the residence part of the house, were you there on business or paying a social call?

A. Business.

Q. In connection with her business or the business of the bank?

A. Her business with the bank.

Re-cross examination.

By Mr. Starr:

Q. Mr. Cochran, while she was away in the south during the winter or in Philadelphia in the winter time, how were the moneys out of this account drawn, did she leave a check, or give a power of attorney to somebody else?

A. She didn't give a power of attorney.

Q. How were the moneys drawn out?

A. By checks.

Q. Signed by whom?

A. If it was drawn out signed by A. B. Addis. She didn't give a power of attorney.

Q. But nobody had a power of attorney?

A. No.

Q. Do you know whether Minnie Upham transacted any business for her while Mrs. Addis was away in the winter?

A. Not to my knowledge.

Q. She bring the money there in the winter time at any time when Mrs. Addis was away?

A. I couldn't say. I am not at the receiving desk.

Q. Would you see Minnie Upham there on business between the bank and Mrs. Paullin?

A. No.

EDWARD W. BIRD, a witness produced on behalf of the proponents, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Cole:

Q. Mr. Bird, where do you live, sir?
A. Pitman.
Q. What is your business?
A. Hotel proprietor.
Q. How long have you been a hotel proprietor in Pitman?
A. Two years.
Q. You know Mr. Paullin?
A. Yes, sir.
Q. How long have you known him?
A. Two years.
Q. What is this book I show you?
A. That is the book, the register, Hotel Pitman.
Q. Of your hotel?
A. Yes, sir.
Q. Now calling your attention to one of the pages in this book under date of 5-26-1918, and name "E. Frank Paullin and wife, Atlantic City."
A. Yes, sir.
Q. Did you see that written?
A. No, sir.
Q. Do you know who wrote it?
A. No. I didn't see Mr. Paullin write it. I presume he wrote it.
Q. Did they stop at your hotel?
A. Yes, sir.
Q. Mr. Paullin and his wife?
A. Yes, sir.

Q. On that date?
A. Yes, sir.
Q. Do you recall who paid the bill?
A. Mr. Paullin.
Q. Now, the same register under date of "6-8-18, E. Frank Paullin and wife, Atlantic City," were they there at that time?
A. Yes, sir.
Q. Who paid the bill?
A. Mr. Paullin.
Q. Do you know whether that is his signature or not?
A. I didn't see him write it.
Q. And he and his wife were there, were they?
A. Yes, sir.
Q. Another date of "10-11-18," the name of "E. Frank Paullin and wife, Atlantic City"?
A. Yes, sir.
Q. Were they there at that time?
A. Yes.
Q. Mr. Paullin and his wife?
A. Yes, sir.
Q. Who paid the bill?
A. Mr. Paullin.
Q. Did you see him write that?
A. I did not.
Q. Do you know whether it is his signature or not?
A. No.
Q. Then you were not there at the time they were written, is that the idea?
A. That is it.

(Book referred to marked P5 for identification.)

Mr. Cole: The caption on these pages is "Hotel Register" and then below is "Date" one column,

"Room" in another column, in another "residence," in another, "time of arrival," "time of departure," and perhaps I better say, to make it clear, under the title of "residence" in each of these cases where the name of Paullin and wife appears is "Atlantic City."

Cross-examination.

By Mr. Summerill:

Q. Can you state from this register, Mr. Bird, under date of 5-26-1918, how long Mr. Paullin remained at the Pitman House?

A. No, I can't, by that register.

Q. You can't tell as to 5-26-18, 6-8-18, or 10-11-18?

A. No, I don't know how long he remained each time.

Q. This merely shows the time of their arrival?

A. Yes, sir.

Q. And not their departure?

A. No.

Q. Time of arrival and the room that was assigned to them?

A. Yes, sir.

Q. You have no means with you of telling that fact?

A. No, I have not.

Q. Beside the page, the entry under date of 10-11, which would be October eleventh, room "18" I see an entry on the opposite page, rather the next page, under date of 10-19, of "M. W. Upham, Philadelphia."

A. Yes.

Q. Did you see that signed, do you remember?

A. No, I don't remember that I did. I might have. I don't remember that I did.

Q. Do you know whether that "M. W. Upham" was a man or a woman?

A. Yes, I know it was a woman.

Q. What?

A. I know it was a woman, a lady.

Q. A woman?

A. The only Upham we had there.

Q. You are not sure whether she registered, that was her signature or not?

A. No, I am pretty sure that she did, but at the same time I didn't see her register.

ENOS FRANK PAULLIN, recalled.

Direct examination.

By Mr. Cole:

Q. Did you and Mrs. Paullin stop at the hotel in Pitman?

A. Yes, sir.

Q. One conducted by the gentleman just left the stand?

A. Yes, sir.

Q. Showing you the register from which he testified (referring to P5 for identification) and to the signature "E. Frank Paullin and wife, Atlantic City," under date of 5-26-18, ask you did you write that?

A. That is my signature.

Q. And under date of 6-7-18 "E. Frank Paullin and wife, Atlantic City," did you write that?

A. That is my signature.

Q. And the same is true of the tenth month, eleventh, 1918?

A. That is my signature.
Q. You wrote that, did you?
A. I wrote that, yes, sir.
Q. And you wrote "Atlantic City" of course? You wrote the word "Atlantic City" in each case?
A. I wrote Atlantic City, yes, sir.

(It is admitted by counsel that the signature of "M. W. Upham, Philadelphia," under date of 6-8-18 and under date of 5-26-18 is the signature of Minnie W. Upham.)

Cross-examination.

By Mr. Summerill:

Q. Mr. Paullin, the entry under date of May twenty-sixth, 1918, where had you come from?
A. Came from Atlantic City ——

Mr. Cole: May it please your Honor, I object to that. I have no objection so long as it is understood we are not trying this case scientifically. I simply showed the fact he put that there. Now, if he is going into the question of the reason for it and wants to show it doesn't mean what it says, that is part of his case. If that is understood I don't object.

The Court: Technically I suppose that is true, but, if we can expedite matters in that way ——

Mr. Cole: Technically I don't think it is right, but, if that is understood, I think it ought to be understood.

Mr. Summerill: The only reason why I am asking that question now is the book is here.

The Court: Proceed; I will admit it.

Q. May twenty-sixth of last year you registered at the Pitman Hotel?

A. Yes, sir.

Q. As "E. Frank Paullin and wife, Atlantic City." Who was with you at that time?

A. Mrs. Paullin.

Q. Who else?

A. Nobody else.

Q. Right under that name is "M. W. Upham."

A. She registered herself.

Q. I know but who was with you, in your party?

A. Why, Miss Upham was along too, then you know.

Q. In going to Pitman on that time from where had you been, where had you gone from?

A. From Atlantic City, staying in Atlantic City.

Q. You had been staying at Atlantic City?

A. Just staying at Atlantic City; that was all, and went up to Pitman.

Q. How long at that time did you remain? This is May twenty-sixth, 1918.

A. May twenty-sixth, I think ——

Q. There is no room marked.

A. I only think we took dinner there. Yes, took dinner there, I think that was all. That was on a Sunday, took dinner there.

Q. Why did you register "Atlantic City, N. J."?

A. Because I came from Atlantic City.

Q. In so registering—came just on that trip, you mean?

A. Just on that trip by Mrs. Paullin's request. She wanted to take the trip.

Q. Why did you register or write "Atlantic City"?

A. Because I came from Atlantic City. That is the reason.

Q. Is that the only reason?

A. That is the only reason because I came from Atlantic City.

Q. At that time how long had you been at Atlantic City if you can recall?

A. Oh, I can't recall that. That I can't recall.

Q. Under date of 6-8-18 also appears name "E. Frank Paullin and wife, Atlantic City" here with no room number given. Why did you write "Atlantic City"?

A. Because we came from Atlantic City.

Q. Had you come just on that trip that day?

A. Just that trip that day.

Q. And the same way as that under date of 5-26, May twenty-sixth?

A. Just that day, May twenty-sixth, I think we stopped there.

Q. No room number given?

A. No room number given.

Q. Under date of October eleventh also appears name "E. Frank Paullin and wife" on the lefthand side appears 10-11, under the column "room" "18" then the name "E. Frank Paullin and wife, Atlantic City."

A. Yes, sir, that is because we came from Atlantic City. She wanted to come up to have a rest. She said she was tired and she wanted to go up to Atlantic City to have a rest.

Q. Do you recall how long you remained, if you did remain, at Hotel Pitman at that time?

A. Why she remained just one week and I remained two weeks.

Q. Where from that point, from Pitman, did she go at the expiration of the week?

A. Why she went down to Atlantic City. I took her down to Atlantic City on the following Monday morning, Sunday.

Q. You remained another week there?

A. Yes, sir; I came back and remained another week at the hotel.

Q. You were in business at that time in Philadelphia?

A. Yes, sir.

Q. Did you go back and forth on the train?

A. Yes, sir, from Pitman.

Q. At the end of the second week where did you then go?

A. Went to Philadelphia on business and stayed at the hotel and came back and forward.

Q. End of the second week?

A. End of the second week I went home, she came to Pitman on Sunday afternoon to take me up home to 3839 North Broad Street, and I wasn't there and she left word that she would be home, she was going home, coming home that day, left word she was up on her way home.

Q. You are not answering my question. She remained there a week?

A. Yes, sir.

Q. And then went to Atlantic City?

A. She went to Atlantic City. I took her to Atlantic City the following week.

Q. Then you remained at the hotel for another week?

A. Yes, sir.

Q. Then at the end of that week where did you go?

A. Went to my home 3839 North Broad Street.

Q. Philadelphia?

A. Yes, sir.

Mr. Cole: I want to reserve the right to cross-examine this witness on these matters developed by you out of order.

Mr. Summerill: No objection at all. I wanted to get through with this particular point—because I shall call Mr. Paullin after a while—while this book was here.

———

Mr. Cole: I offer the marriage certificate showing the marriage of Enos Frank Paullin, of Pitman, N. J., and Anna B. Addis, Atlantic City, N. J., twenty-seventh day of October, 1917.

Mr. Summerill: I object. My objection is the mere statement of residence of somebody else is not sufficient to make proof as against either party.

The Court: I don't see that it is proof as to residence.

Mr. Cole: Why isn't it? Here is a paper made by a minister of the Gospel in which he certifies that he marries two people, one of a certain place, and one of another. It is not conclusive proof, of course, but it is some evidence. Where would he get the information if it didn't come from one or the other of the parties?

The Court: That is it, it may have come from one or the other of the parties.

Mr. Cole: In this case you have got a dual question. It would certainly be admissible as to the

residence and domicile of the one who produces the paper, who is Anna B. Addis or her estate. It may not be binding on Mr. Paullin.

The Court: I will overrule the offer.

(Marriage certificate marked P6 for identification.)

Mr. Cole: I offer now a certified record from the Department of State, Division of Motor Vehicles, showing the application of Mrs. Anna B. Paullin for a license to run an automobile, and certificate showing that she gives her address as 1410 Atlantic Avenue, Atlantic City.

Mr. Summerill: This, if the Court please, only states the address, no question of residence.

The Court: It will be admitted.

Mr. Cole: This is the license for the year 1918, issued on the fourth day of April of that year.

The Court: It will be admitted.

(Certified copy referred to admitted in evidence and marked Exhibit P7.)

Mr. Cole: We offer income tax reports of 1915, 1916, 1917 and 1918.

The Court: Can't we save a little time? Is there any advantage in going back of the time she married Mr. Paullin?

Mr. Cole: Maybe not.

The Court: At the present time I can't see any advantage in going back of that date.

Mr. Clevenger: It establishes the fact that she had a domicile in Atlantic City for all these years, and I think that is very important.

Mr. Cole: We don't know where the light may come out before we get through with this, and my thought was to get all the facts here, so we offer these notices of assessments of the income tax for the years 1915, 1916, 1917 and 1918, all of which show the address of Mrs. Addis and Paullin as 1410 Atlantic Avenue, Atlantic City.

Mr. Summerill: There may be some weight to them for the reason you can file from your residence or place of business.

The Court: Let them be admitted.

(Notices referred to admitted as one exhibit and marked Exhibit P8.)

Mr. Cole: Producing application to the United States Food Administration for a baker's license, in the handwriting of Anna B. Paullin, formerly Anna B. Upham, November thirtieth, 1917, which gives her address as 1410 Atlantic Avenue, Atlantic City, N. J.

(Application admitted in evidence and marked Exhibit P9.)

Mr. Cole: Offer the original license dated July thirtieth, 1918, issued to her for a bakery, giving her address as Atlantic City.

(License referred to admitted in evidence and marked Exhibit P10.)

Mr. Cole: Offer lease dated the fourteenth day of May, 1918, between Anna B. Paullin, of Atlantic City, of the first part, and Simon Eichengree, of Philadelphia, of the other part, which is signed by Anna B. Paullin.

(Lease admitted in evidence and marked Exhibit P11.)

The Court: I see one of the slips from the Tax Department gives the address as 1410 Boardwalk, Atlantic City.

Mr. Cole: Which shows how easy it is to err.

MINNIE W. UPHAM, a witness produced on behalf of the proponents being first duly sworn and examined testified as follows:

Direct examination.

By Mr. Cole:

Q. What is your name?
A. Minnie W. Upham.
Q. What is your age?
A. Forty-nine.
Q. Now, did you know Mrs. Anna B. Paullin in her lifetime?
A. Yes, sir.
Q. How long had you known her?

A. Forty-two years last June.
Q. Was she in any way related to you?
A. Only by marriage.
Q. And how was that relation, what was it?
A. She was my stepmother.
Q. Did you ever live with her?
A. Yes, I lived with her all my life, the great portion of it.
Q. How did you address her?
A. Mother.
Q. Where were you born?
A. Philadelphia.
Q. Have you lived in Atlantic City?
A. Most all my life.
Q. When did you come to Atlantic City to live?
A. I don't know, the best part of forty-two years.
Q. Did you go to school there?
A. Yes.
Q. Where have you lived in Atlantic City?
A. 1410 Atlantic Avenue.
Q. For how long?
A. About twenty years.
Q. Where did you live before you lived there?
A. Seabright Hotel.
Q. Where did Mrs. Paullin live?
A. 1410 Atlantic Avenue.
Q. For how long a time before her death?
A. The greater portion of the year she lived there.
Q. I mean how many years before she died has she lived at 1410 Atlantic?
A. Since about 1896.
Q. And before she moved or lived at 1410 Atlantic Avenue where did she live?
A. 722 Atlantic Avenue.
Q. Did you live with her when she lived there?
A. No.

Q. And where did she live before she lived at 722 Atlantic Avenue, if you know?

A. No, I don't know where she lived from there.

Q. And you first recall her living at 722 Atlantic Avenue?

A. Yes.

Q. And from there you say she went to 1410?

A. Yes.

Q. Who conducted the business at 1410 Atlantic Avenue before Mrs. Paullin conducted it?

A. My father.

Q. And his name was what?

A. Warren A. Upham.

Q. Did Mrs. Paullin take up the management and conduct of this business immediately upon your father's death?

A. Yes.

Q. Has anybody else conducted that business from that time until Mrs. Paullin's death?

A. No.

Q. Do you know where, during the time Mrs. Paullin has conducted that business, she did her banking business?

A. Atlantic City.

Q. What banks?

A. Second National, First National and the Atlantic Safe Deposit.

Q. Did she have a bank account anywhere other than Atlantic City?

A. No.

Q. Did she have any in Philadelphia?

A. No.

Q. Now, during what portion of the year did she actually live at 1410?

A. She lived there all but about four months and a half of the year.

Q. And where would she be during that period?

A. Well, most every winter she went South for a month or six weeks and most of the time she spent at 3839 Broad.

Q. Did she live at 3839 Broad Street in this way you have indicated before she married Mr. Paullin?

A. Yes.

Q. How long before she married him?

A. She bought her house there about eleven years ago.

Q. Do you know where she claimed her residence to be?

A. Yes, Atlantic City.

Q. Did you ever hear her claim it to be at Philadelphia?

A. No.

Q. When she would go South she would stop at a hotel?

A. Yes, sir.

Q. Did you ever go with her?

A. Most always went with her.

Q. Stop at the same hotel with her?

A. Yes, sir.

Q. Has she ever gone to Florida since she married Mr. Paullin?

A. No, sir.

Q. During the time she went to Florida before she married Mr. Paullin, do you know from what place she claimed her residence?

A. Atlantic City.

Q. Ever claim it elsewhere?

A. No, sir.

Q. In registering?

A. No, sir.

Q. This home in Philadelphia, is that furnished by her?

A. Yes, sir.

Q. And was it furnished at the time Mr. Paullin married her?

A. Yes, sir.

Q. Where was he living at the time of the marriage?

A. Pitman, New Jersey.

Q. Do you know how long he had lived there?

A. No, sir.

Q. Did he return to Pitman from time to time, do you know, after he married Mrs. Paullin, I mean go there on occasions, as far as you know?

A. Back and forth.

Q. Now, after Mr. Paullin and Mrs. Paullin married, did they live at 1410 Atlantic Avenue?

A. The spring after they were married, the Christmas after they were married they came down here during the Christmas business, and went back again to Broad Street, and then they came down in the spring and stayed until late fall.

Q. From the spring until the fall of 1918?

A. Yes, sir.

Q. What part of the building did they occupy?

A. Room on the first sleeping floor, the second floor.

Q. Third floor of this building furnished?

A. Yes, sir.

Q. How many bedrooms?

A. Five bedrooms and store room.

Q. And who occupied those rooms?

A. I occupied one, and we had two guest chambers, and the other two rooms were occupied by the young ladies in the house.

Q. Did Mrs. Upham or Mrs. Paullin have any business other than that at 1410 Atlantic Avenue?

A. No, sir.

Q. When Mr. Paullin came to Atlantic City did he bring his personal effects with him, his clothes?

A. Not when they first came down.

Q. Later at any time?

A. Yes.

Q. Did he do any work around the store or assist in any way?

A. No, sir.

Q. Do you know why she did not go to Florida in the winter of 1917 and 1918, I mean 1918 and 1919?

A. Well, we were all ready to go this winter, all packed to go when she died.

Q. Was Mr. Paullin going with her?

A. Yes, sir.

Q. And all arrangements had been made to go, you say?

A. Yes, sir.

Q. And at the time—tickets were bought, were they?

A. No, but the reservation had been made and cancelled a few days before.

Q. At the time the arrangements were made where was Mr. and Mrs. Paullin actually living at that moment?

A. 3839 Broad.

Q. And were you up there?

A. Yes, sir.

Q. And you were going along with them?

A. Yes, sir.

Q. Do you know whether Mrs. Paullin ever regarded North Broad Street, Philadelphia, as her permanent home?

A. No.

Mr. Summerill: I object.

Q. What did she ever say to you about that?

The Court: I will sustain the objection.

Q. Did she ever make any statements to you about that?

A. No, sir.

Cross-examination.

By Mr. Starr:

Q. Miss Upham, when did you know that the will, which has been offered for probate and dated April nineteenth, 1918, had been signed by Mrs. Paullin?

A. About a week after she had it written.

Q. You knew nothing about it before?

A. Knew nothing at all until about a week afterwards.

Q. And how did you become acquainted with the fact of the circumstances of this paper?

A. Why because she told me.

Q. Did she show it to you?

A. No.

Q. What did she tell you about it?

A. She just said, "I made a new will."

Q. That is all?

A. That is all.

Q. Gave you no information as to the contents of the will?

A. No, not any more than she said, "I have made you my sole executrix."

Q. And that is all she said?

A. And that is all, I didn't even know where she had it put away or anything about it.

Q. Well, did you know that you were made the

beneficiary of the estate, that is given the residue, rest, residue and remainder?

A. Oh, she has often spoken about that to me.

Q. Did you know of that gift when she told you she had made a new will?

A. No.

Q. Did she tell you what provision she had made in that will for you?

A. No.

Q. Except the fact you were made sole executrix?

A. No.

Q. And you knew nothing about the fact that you were mentioned in the residuary clause?

A. No.

Q. Had you ever talked with her about making a will?

A. No, I never spoke to her about it, I knew she had made one.

Q. Did you know—did you ever talk with her about the disposition of her property?

A. No.

Q. She ever say anything to you about what she proposed to do with the property?

A. Yes, she said she would leave everything so I would have no trouble when she was gone.

Q. Now, when next, before the week or ten days after this will was brought to your attention, had you talked with her about the disposition of her property?

A. Oh, we talked about it same as a mother would talk to her daughter about things. I knew generally everything she done, in certain reasons, what she was going to do, and all, because I was with her all the time.

Q. When was Mr. Paullin and Mrs. Paullin married?

A. On the twenty-seventh of October, 1917.

Q. Now, from that time on until the time of her death, did you ever talk with Mrs. Paullin about the disposition of her property?

A. No.

Q. Did you ever make any suggestions to her how she would leave her property?

A. No, because my mother was one of those kind she had a will of her own, nobody didn't need to talk to her about anything.

Q. Then you never made any suggestions one way or the other?

A. No.

Q. Never offered to suggest to her as to the method of distribution?

A. No.

Q. At any time?

A. No.

Q. What was the state of Mrs. Paullin's health shortly before she died?

A. Well, she was sick, taken sick about a week or ten days before Christmas with a bad cold.

Q. Christmas, 1918?

A. Yes.

Q. And she died in?

A. She died on the twenty-ninth of January.

Q. Sick about a month, a little over a month?

A. A little over six weeks.

Q. What had been the condition of her health prior to that time?

A. Pretty good outside of these bronchial colds, she used to get from time to time.

Q. What about the condition of her health in April, 1918?

A. She was all right. She was a very healthy woman.

Q. Had she been under the care of any doctor about that time, April, 1918?
A. Only from time to time, that is all.
Q. Who was her family physician?
A. Dr. Westney.
Q. Of Atlantic City?
A. Yes.
Q. Now, for what troubles was she doctored by Dr. Westney?
A. Just for colds.
Q. In the spring of 1918?
A. Just for colds.
Q. Anything but colds?
A. No.
Q. Who is Florence Elizabeth Addis?
A. That is Mr. Addis' daughter, former husband of Mrs. Paullin.
Q. She bore the same relationship to Mrs. Paullin as you?
A. Yes.
Q. She was a step-child?
A. Yes.
Q. And Adele H. Spence, who is she?
A. Mr. Addis' daughter.
Q. And Anna F. Spence, who is she?
A. That is the granddaughter.
Q. Granddaughter of whom?
A. Mrs. Spence.
Q. Mrs. Adele H. Spence?
A. Yes, she is the daughter of Mrs. Spence.
Q. She is the daughter of Adele Spence?
A. Yes, and granddaughter of Mrs. Paululin.

The Court: She is a granddaughter of Mrs. Paullin or stepgranddaughter?

A. Yes.

The Court: Granddaughter of Mr. Addis.

Mr. Starr: Belle Clark, that is one of the young ladies in the store?

A. Yes.

Q. Do you remember the occasion of Mr. Levering being in Atlantic City in April, 1918?

A. No, I didn't happen to be at home at the time.

Q. You were not there at all?

A. No, I went away on the nineteenth of April on the ten o'clock train and did not return until the twenty-first.

Q. You were away from ten o'clock on the nineteenth until what time on the twenty-first?

A. I came back on the evening train.

Q. Was Mr. Levering there when you went away?

A. He was there when I went away.

Q. Well, you knew he was there then?

A. Yes, for I seen him at breakfast.

Q. And did you know from any source whatever that he had prepared a will?

A. No.

Q. Until, as you say, you were notified a week or ten days afterwards?

A. No.

Q. And you did not know the object of his visit?

A. No.

Q. Do you know what became of the former will that was executed by Mrs. Paullin?

A. No.

Q. Did you ever see it?

A. No.

Q. Did you ever see any of the wills that were made?

A. No.

Q. Do you know how many wills she had made?

A. No.

Q. And in any of the papers of which you have had possession since Mrs. Paullin's death, have you come across any copies of old wills?

A. No.

Q. Or unsigned wills or drafts of wills?

A. No.

Q. And you made no suggestions at any time as to the way in which she should leave her property?

A. No.

Cross-examination.

By Mr. Summerill:

Q. When did Mrs. Paullin or Mrs. Addis, as it was then, purchase the property on North Broad Street?

A. I think it was eleven years this August, ten years last August.

Q. Ten years the past August?

A. Yes.

Q. What property was that?

A. 3839.

Q. Did she marry Mr. Paullin at that place?

A. Yes.

Q. Did she die at that place?

A. Yes.

Q. Was she buried from that place?

A. Yes.

Q. How long had she been in the house before she died?

A. She was there from the latter part of October.

Q. I mean immediately, Miss Upham, before her death.

A. In the house?

Q. Yes.

A. She was just confined to bed one week before she died.

Q. She was in the house one week then, in that house one week before her death?

A. Yes.

Q. Only?

A. Confined to her room one week.

Q. How long had she been living at 3839?

A. You mean last fall?

Q. No. Maybe I will lead up to it. When did she leave Atlantic City last fall?

A. The last of October.

Q. From there where did she go?

A. To Broad Street.

Q. From Atlantic City where did she go?

A. She went to Pitman and spent ten days or twelve days there.

Q. From Pitman where did she go?

A. She came back to Atlantic City.

Q. How long did she remain at Atlantic City?

A. About five days.

Q. Then where did she go?

A. She went up to Broad Street.

Q. 3839 Broad Street?

A. Yes.

Q. Did you go with her to Pitman?

A. No.

Q. What?

A. No, sir.

Q. Did you visit her while she was there?

A. Yes.

Q. Did you remain in Atlantic City while she was at Pitman?

A. No, sir, I went to Philadelphia.

Q. Where?

A. 905 North Sixty-third Street.

Q. Did you go while Mrs. Paullin was at Pitman to 3839 North Broad?

A. Yes, sir.

Q. How long did you remain there?

A. One week.

Q. You were there one week?

A. Yes.

Q. That was while she was at Pitman?

A. Pitman.

Q. Then she was away altogether about two weeks?

A. Yes.

Q. Did you go directly to 3839 North Broad Street from Atlantic?

A. No, I went out to Sixty-third Street.

Q. Out where?

A. Sixty-third Street.

Q. You were there about a week?

A. I was there for several days and then I came down to Pitman and spent Sunday with her.

Q. Came down to Pitman and spent Sunday with her there?

A. Yes.

Q. Mr. Paullin was there that Sunday, was he not?

A. Yes.

Q. Then after spending that Sunday at Pitman what did you do? Where did you go?

A. I went back to Broad Street for a couple of days.

Q. Had not been there, had you, before that trip?

A. Yes, but I was putting the house in order after being closed.

Q. Oh, you had been putting the house—the house had been closed since some time ——

A. The early part of last March.

Q. —— in March?

A. Yes.

Q. And you went up to get the house ready for occupancy?

A. Yes.

Q. Now, directly from Atlantic City you went on Sixty-third Street?

A. Yes.

Q. Then remained there a few days, then did you go to the Broad Street property before visiting Pitman on Sunday?

A. Yes.

Q. Then you went back to the Broad Street property?

A. No, I went back to Atlantic City.

Q. From there you had gotten then the house all ready for occupancy?

A. Yes.

Q. Went to Atlantic City?

A. Yes.

Q. And then did Mrs. Paullin from Atlantic City go to Pitman again?

A. No, she went to Broad Street.

Q. Directly?

A. Yes.

Q. Did you stop over in Pitman?

A. No, just went through Pitman.

Q. How do you know?

A. Because I was with her.

Q. That is what I wanted to find out, you were with her?

A. She very seldom went anywheres I didn't go with her.

Q. I was going to ask that question directly but you forestalled me. She went directly from Atlantic City to North Broad Street?

A. Yes.

Q. Was Mr. Paullin there then?

A. No.

Q. When did he come?

A. He came the following Monday.

Q. The following Monday?

A. Yes.

Q. What day did you get in Philadelphia?

A. I don't know.

Q. Don't know what day you arrived there at all?

A. Arrived there Sunday afternoon but I don't know what the date was.

Q. Arrived there on Sunday?

A. Yes.

Q. And he got there the next day?

A. Next evening.

Q. What month was that?

A. That was the latter part of October.

Q. Then did he and you and Mrs. Paullin remain there until nearly Christmas?

A. Yes.

Q. How long did you remain there?

A. Where, Broad Street?

Q. Yes.

A. Until the nineteenth of December when we went to Atlantic.

Q. The nineteenth of December is when you went to Atlantic?

A. Yes.

Q. Know what day of the week that was on?

A. On Thursday, I think.

Q. How do you fix going to Atlantic City on the nineteenth?

A. Well, just happened to be that we were ready to go at that time.

Q. How do you fix it as the nineteenth?

A. Because I know the date I went down.

Q. Keep a memoranda of it?

A. No, I don't have to keep a memoranda of it.

Q. What is that?

A. I remember what the date was.

Q. When did Mrs. Paullin—did you go down with her?

A. Yes.

Q. Went down by train or motor?

A. Train.

Q. When did Mrs. Paullin expect to return to Philadelphia?

A. We expected to return on the day after Christmas.

Q. The day after Christmas?

A. Yes.

Q. But she was taken sick?

A. She was sick.

Q. And how long—when did you actually return to the North Broad Street property?

A. The sixth of January.

Q. And she died what day?

A. She died on the twenty-ninth of January.

Q. Twenty-ninth or twenty-eighth?

A. Twenty-ninth.

Q. And she returned there on January sixth and died on January twenty-ninth?

A. Yes.

Q. During that time she was not down to Atlantic?

A. No.

Q. Were you present at the marriage of Mr. Paullin and Mrs. Addis?

A. I was.

Q. Where did the marriage take place?

A. In the parlor of 3839 Broad.

Q. 3839 North Broad, Philadelphia?

A. Yes.

Q. Were you with Mrs. or Miss Brook, Annie Brook, I think her name is, or were you with Mrs. Paullin, or at that time Mrs. Addis, when Mrs. Paullin met Mrs. Annie Brook in a market, Reading Terminal, I think, the day before the marriage, her marriage—Eighteenth and Ridge Avenue—the day before her marriage to Mr. Paullin, and said that she was going to be married the next day?

A. I don't remember.

Q. You don't remember?

A. No.

Q. You won't say it did not take place?

A. I don't know. I don't remember.

Q. Have you no recollection of it?

A. I don't.

Q. And told Miss Brook that she was going to make her home at 3839 North Broad Street, and asked her to come and see her?

A. No, I never said that if I met her.

Q. I didn't ask you whether you said it. I asked whether you heard Mrs. Paullin, Mrs. Addis then, tell Miss Annie Brook that?

A. No, because Mrs. Paullin was not there.

Q. She was not?

A. In the market.

Q. Mrs. Addis?

A. Yes.

Q. She was not there?

A. No, she was not in the market.

Q. Was she outside of the market?

A. No.

Q. How do you know she was not there?

A. Because I know if she was there I would be with her, and I know I was not there.

Q. That is the only reason that you give?

A. Yes.

Q. That you were not there?

A. I know I was not there and I know she was not there, because I was not there.

Q. Then that conversation did not take place on the day before Mrs. Addis married Mr. Paullin?

A. No.

Q. Either at the market or any other place?

A. No.

Q. On a Friday afternoon or any other afternoon?

A. No.

Q. They were married on the twenty-seventh of October, 1917?

A. Yes, sir.

Q. In the parlor of her home on North Broad Street?

A. 3839 Broad, yes.

Q. 3839 North Broad Street?

A. Yes.

Q. And you were present at the wedding?

A. Yes.

Q. After the wedding, where did they go?

A. They went to Reading.

Q. And did you go along?

A. No.

Q. I understood you to say you always went with her.

A. I didn't go on that occasion. I went on all the rest of the trip, though, to Boston, when she went.

Q. How long did they remain?

A. They remained until Monday afternoon.
Q. What day of the week were they married on?
A. Saturday.
Q. Remained until Monday afternoon? Then where did they come?
A. They came home.
Q. 3839?
A. They came to 3839 Broad.
Q. How long did they remain there?
A. Remained there until Wednesday morning.
Q. And where did they all go?
A. Went to Boston.
Q. By motor?
A. Yes.
Q. Mr. Paullin go along?
A. Yes.
Q. How long did you remain, the party remain?
A. We were gone about ten days.
Q. Then from that Boston trip where did you go?
A. We went back to Broad Street.
Q. That is the Broad Street home?
A. I don't know whether you would call it home or not. I don't call it home.
Q. You may not. We will call it then 3839 North Broad.
A. That is better.
Q. By Broad Street you mean 3839 North Broad?
A. Yes, sir.
Q. Could you approximate the time you returned?
A. No, I could not.
Q. From your Boston trip to 3839?
A. No.
Q. After you returned to 3839, what did you do?
A. We stayed there off and on until Christmas.
Q. Weren't you there all the time from your return from your Boston trip?

A. No, because we went away to one place and another, sometimes mother would go away sometimes ten days or a week, go to Jersey City, take a short trip.

Q. This particular time I am asking you, 1917.

A. We went there again and then went away again.

Q. Where did you go?

A. We went to Jersey City and went to Lakewood on trips to different places.

Q. In November, 1918—1917, rather, I beg pardon.

A. Yes.

Q. Went to Lakewood during that time?

A. Yes, Lakewood and Jersey City both.

Q. How long did you remain at Lakewood?

A. A week.

Q. How long did you remain at Jersey City?

A. Well, anywheres from a few days to a week, sometimes longer than that.

Q. I am not asking sometimes.

A. I don't know. I didn't take account of it.

Q. If you don't know how long you remained, that is all right.

A. I didn't keep account of our time.

Q. I am not asking you generally what you did. I am asking you for a specific period of time. Isn't it a fact that after your return from your Boston trip, you resided at the North Broad Street house until two days before Christmas?

A. We remained there, but we went away at intervals, didn't stay there for every day until Christmas time.

Q. Any other places you went to except Jersey City and Lakewood?

A. No, not up until Christmas time.

Q. By we, who do you mean?
A. Mother and myself.
Q. By mother, you mean who?
A. Mrs. Paullin.
Q. Mrs. Paullin?
A. Yes, sir.
Q. Mr. Paullin go?
A. He came to Lakewood over Sunday while we were there.
Q. You left him when you went away in the Broad Street property?
A. Yes, he slept there.
Q. He was there when you came back?
A. Yes.
Q. To which place did you go first, Lakewood or Jersey City?
A. I don't remember.
Q. Don't remember that?
A. No.
Q. When you returned from the latter of the two, did you go to the Broad Street property?
A. Yes, for a few weeks.
Q. You were there for a few weeks?
A. Yes.
Q. At the expiration of the few weeks, where did you go?
A. To 1410 Atlantic Avenue.
Q. What?
A. 1410 Atlantic Avenue.
Q. When did you go there?
A. The early part of March last year.
Q. No, if you will recall, Miss Upham, we have been to Boston and we have been to Jersey City, and we have been to Lakewood. Now we are back to the Broad Street property. You found Mr. Paullin there while you were away?

A. That was around Christmas time, shortly afterwards?

Q. Yes.

A. We went to Atlantic.

Q. You went to Atlantic City?

A. Yes.

Q. Can you state when you went to Atlantic City?

A. About a week before Christmas.

Q. In December, 1917?

A. Yes, about a week before Christmas.

Q. That was for the purpose of Christmas business, was it not?

A. Yes.

Q. Could you give the exact time you went to Atlantic City in December, 1917?

A. I don't know, just about a week before Christmas.

Q. About a week before Christmas, about?

A. Yes.

Q. Now the word about is the nearest time you can come to?

A. Well, you can count it up, twenty-fifth of December is Christmas and it is a week before that.

Q. A week before?

A. About the eighteenth or nineteenth of December.

Q. I am objecting to the word "about" if you can give a more definite period. If you can't, just say so.

A. Well, I will say no then.

Q. You don't know?

A. No.

Q. When at that time, Christmas, 1917, did you return to, or did you return to the North Broad Street property?

A. Christmas morning.

Q. Did you eat Christmas dinner at Atlantic City?

A. We always have our Christmas dinner there the day before Christmas and then we go up to the city on Christmas Day.

Q. And have another Christmas dinner there?

A. Yes, we do it on account of the employees at home.

Q. Home, you mean 1410?

A. 1410 Atlantic.

Q. You have a dinner for them the day before Christmas?

A. Yes.

Q. You have your own dinner, you had your own dinner in Philadelphia?

A. Yes.

Q. Your own Christmas dinner in Philadelphia?

A. Yes.

Q. At 3839 Broad Street?

A. That Christmas we had it 3839 Broad.

Q. That is the Christmas of 1917?

A. Yes.

Q. You returned 1917 to 3839 on Christmas morning?

A. Yes.

Q. And remained there how long?

A. I don't know just how long we stayed there, but, as I say, we go away in between times, and we never kept account of when we were going away or when we were coming home.

Q. Were you away from that 3839 property January, during the balance of December, January and February?

A. Yes, on short trips.

Q. Where?

A. Sometimes we went to Jersey City and sometimes we went——

Q. I am not asking you sometimes. I am asking now, Miss Upham, for a specific time.

A. I don't know.

Q. Do you know, as a matter of fact, whether you did go away at all during those times?

A. Yes, we went away, but I don't know when.

Q. Where?

A. I told you Jersey City.

Q. You went to Jersey City then in December, after Christmas?

A. I think it was December or January.

Q. You did go there in January, 1918, then?

A. Sometime during that time, yes.

Q. During 1918?

A. Yes.

Q. January, 1918, you went to Jersey City?

A. Yes.

Q. Who went?

A. Mother and myself.

Q. Who do you mean by mother?

A. Mrs. Paullin.

Q. Mrs. Paullin and yourself?

A. Yes.

Q. Went to Jersey City?

A. Yes.

Q. Who did you visit there?

A. Mr. and Mrs. Levering.

Q. How long did you remain?

A. Not often over a few days, sometimes longer.

Q. At this particular time I am asking you?

A. I don't know.

Q. Did Mr. Paullin go over with you?

A. No.

Q. He still remained at the North Broad Street property?

A. Yes.

Q. And you found him there when you returned?

A. Yes.

Q. 1918, what time did you go to Atlantic City, in the spring or winter?

A. March.

Q. What time?

A. Somewheres between the twelfth and twentieth, I don't know just the date.

Q. But somewhere between the twelfth and twentieth?

A. Yes.

Q. Go down by train or motor?

A. Motor.

Q. How was the North Broad Street property furnished?

A. I called it furnished very nicely.

Q. Very nicely?

A. Yes.

Q. All furnished all the way through?

A. Yes.

Q. For permanent occupancy?

A. Well, for what time we were there.

Q. It was furnished sufficiently well and suitable for permanent occupancy?

A. Yes, if you wanted to use it.

Q. It was furnished?

A. Yes.

Q. You needn't look out of the corner of your eyes that way to counsel on the other side.

A. I am not looking at counsel.

Q. Went down to Atlantic City by motor between the twelfth and twentieth of March, 1918?

A. Somewhere between that, yes.

Q. And remained there until when, middle of October?

A. Last of October.

Q. I think you have stated that the latter part or middle part of October you went with Mrs. Paullin to Pitman.

A. I went there and spent a Sunday with her, yes.

Q. Mrs. Paullin went to Pitman?

A. She went on the eleventh of October, yes.

Q. When?

A. Eleventh of October.

Q. Eleventh of October, Mrs. Paullin went to Pitman?

A. Yes.

Q. Remained there a week?

A. No, she was there eleven or twelve days.

Q. Went on the eleventh?

A. Yes.

Q. And then went back to Atlantic?

A. Yes.

Q. And from Atlantic to the North Broad Street property?

A. Yes.

Q. And remained there until before Christmas of 1918?

A. Yes.

Q. Were you in the North Broad Street property during the time, latter part of October and November and December?

A. Yes.

Q. Mr. Paullin was there?

A. Yes.

Q. Do you recall whether at one time Mrs. Paullin was talking about buying a house on the Boulevard?

A. Yes.

Q. When Mrs. William Paullin asked Mrs. Paullin why she did not have Mr. Paullin look at the property—remember that conversation?

A. No.

Q. And you answered, "No, we don't want him in it."

A. No.

Q. Have no recollection of it?

A. No.

Q. Will you say such a conversation did not take place?

A. I don't remember hearing it at all.

Q. Don't remember making that answer?

A. No.

Q. The Boulevard was a Philadelphia property?

A. Yes.

Q. She was talking of buying a property there on the Boulevard?

A. Yes.

Q. When did you first know the full contents of the will in question?

A. Three or four days after Mrs. Paullin—mother's death.

Q. Why do you keep saying mother?

A. Why, because she was my mother.

Q. She was?

A. Yes.

Q. How?

A. She was my mother by marriage.

The Court: Don't go into that. The witness has testified that she was a stepmother and I take it it is natural.

Q. Three or four days after her death?

A. She was buried on a Monday, and it was either

Wednesday or Thursday when I found the contents of it.

Q. When you found the will?

A. When I came down and had it taken out of the box, yes.

Q. You knew nothing at all about the contents of the will except that you were named as executrix?

A. Yes.

Q. Until that time, until you saw the will itself?

A. No, I did know it before that, because she told me after she had made the will.

Q. She had told you more than that, had she?

A. She told me that I was to be the sole executrix to the will.

Q. Is that all she told you?

A. That is all.

Q. She didn't tell you about any other provision of the will?

A. No.

Q. Did you or did you not tell Mr. Paullin before the burial of Mrs. Paullin that the Addis girls were named in the will because their father helped to make the money?

A. Why certainly, I knew that years gone by.

Q. What?

A. That mother was going to look after his children.

Q. How did you know it?

A. Because we had talked it over a long time ago, after Mr. Addis' death.

Q. I understand that you and Mrs. Paullin had talked over what would be in her will?

A. No, she told me that she would always look after the girls, and I said that was nothing more than right.

Q. Did or did not you and Mrs. Paulin talk over what would be in the will?

A. No, we did not.

Q. Only she told you these two things that you were to be sole executrix?

A. Yes.

Q. And that the Addis girls would be named in the will?

A. Yes.

Q. Until after her burial?

A. Yes, sir.

Q. You had not seen the will?

A. No.

Q. Until after her burial?

A. Yes.

Q. And you saw it in the safe deposit box?

A. Yes.

Mr. Starr: How old was Mrs. Paullin at the time of her death?

A. She was in her sixty-sixth year.

Q. While Mrs. Paullin was in Philadelphia, she transacted her business from Philadelphia, did she not, through the banking institutions?

A. No.

Q. Whenever she wanted to draw a check she had to go to Atlantic City?

A. No, she drew her checks and had them cashed in the city.

Q. In Philadelphia?

A. Yes, sir.

Q. And while—didn't she have her check books in Philadelphia and pay bills from there with them?

A. Yes, paid what bills that could not be paid by cash at 1410, she did.

Q. And while she was in Philadelphia, the business, the bakery and ice cream saloon and candy was transacted by Miss Belle Clark?

A. Yes.

Q. And the money taken by Miss Clark to the banking institutions where her active—Second National, wasn't it?

A. Yes, sir.

Q. ——active account was made?

A. Yes.

CHARLES H. EDMUNDS, a witness produced on behalf of the proponents, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Cole:

Q. Mr. Edmunds, you are a member of the bar of Philadelphia, are you not?

A. I am, sir.

Q. Did you know Mrs. Anna B. Paullin in her lifetime?

A. I did.

Q. Did you do some business for her?

A. I did.

Q. Did you draw a will for her?

A. I did.

Q. About when was that?

A. Well, I think it was in March of 1918. I couldn't speak accurately if I had the paper before me.

Q. Well, we haven't got the original.

A. All right.

Q. Where did you meet her on that occasion?

A. At my office in the Crozier Building, 1420 Chestnut Street, Philadelphia.

Q. Now, on that occasion, did she tell you what her residence was?

A. She did.

Q. What did she tell you?

A. She told me that her residence was 1410 Atlantic Avenue, Atlantic City, New Jersey.

Q. And can you recall if you incorporated that in the will?

A. I am reasonably sure that I did.

Cross-examination.

By Mr. Summerill:

Q. That will was never executed?

A. The will was executed.

Q. Oh, it was?

A. It was.

Q. And delivered?

A. And it was executed in my office.

Q. And delivered to her?

A. And delivered to her.

Mr. Cole: We want to make a formal offer of the paper writing as the last will and testament marked P1 for identification, and the envelope which was marked for identification P2, and the writing which was marked P3 for identification, and the check which was marked for identification P4.

(Papers admitted in evidence and marked respectively as follows: P1, P2, P3 and P4.)

PROPONENTS REST.

New Jersey State Library

Mr. Clevenger: I have asked for the appointment of an administrator *pendente lite,* and unless there is some objection, I would like to have Minnie W. Upham appointed.

Mr. Starr: I told Mr. Clevenger when he told me about it that we would not object to Minnie W. Upham as administratrix, *pendente lite.*

Mr. Clevenger: Have you any objection to it, Mr. Summerill?

Mr. Summerill: My clients say that they have no objection as the matter stands now and I join rather with Judge Starr in not opposing the appointment of Miss Upham, and the bond, of course, would be double the amount of the visible personal property.

The Court: Which would make the bond about twenty-five thousand dollars?

Mr. Clevenger: About twenty-five thousand dollars.

Mr. Starr: No doubt in my mind but what it would be infinitely better to have Miss Upham.

The Court: The Court undoubtedly, unless objection is made, would appoint Miss Upham.

Mr. Clevenger: Then can we have the appointment of her with a bond of twenty-five thousand?

The Court: Yes, I think a bond of twenty-five thousand is sufficient. You may make such an order

specifying by consent, and the record will so show. I will make the order.

CAVEATORS' TESTIMONY.

Mr. Summerill: I have an exemplified copy which appears to be under the act of Congress of the application of Enos Frank Paullin and Anna B. Addis for marriage certificate.

(Paper referred to admitted in evidence and marked Exhibit C1.)

Mr. Summerill: I have a certified copy of an application for registration of motor vehicle in Philadelphia, Pennsylvania, for 1918. I don't know that it can be exemplified.

Mr. Cole: We object to that paper as not being properly exemplified.

The Court: Let it be marked for identification.

(Paper marked C2 for identification.)

Enos Frank Paullin, recalled.

Direct examination.

By Mr. Summerill:

Q. Were you the husband of Anna B. Paullin?
A. According to a marriage certificate, I was.

Q. You can answer that yes or no?

A. Yes, sir.

Q. When were you married to her?

A. Married to her on the twenty-seventh of October, 1917.

Q. Where were you married?

A. 3839 North Broad Street.

Q. Immediately after your marriage, did or did you not go there to live?

A. Yes, sir; right after we came home from our wedding trip.

Q. Immediately from the marriage, did you go, after you were married, did you go to Reading?

A. Yes, sir.

Q. Then you came back to 3839 North Broad Street?

A. Yes, sir; on Monday afternoon.

Q. Previous to that, where had you been living?

A. 3839 North Broad Street, Philadelphia.

Q. No, previous to your wedding?

A. Oh, previous to our wedding, Pitman, New Jersey.

Q. Did you own the property at Pitman?

A. Yes, sir.

Q. Prior to your wedding?

A. Yes, sir.

Q. After your wedding, did you alone or with Mrs. Paullin return to that property to live?

A. Once we did, yes, sir.

Q. Returned there to live?

A. No——

Mr. Cole: He said so.

Mr. Summerill: I am trying to find out what he means.

Mr. Cole: You asked him whether he returned there to live and he said yes, and you said, "to live?"

A. We didn't live permanent, no not permanent.
Q. How long did you stay there?
A. One night, one day and one night.
Q. What was the purpose of your going there?
A. Why my purpose of going there, they were to come down at my house and select what they want of my household goods.
Q. Who came there?
A. Mrs. Paullin and Miss Upham and myself, they came down to my home in Pitman to select what goods they want out of the house.
Q. Were selections so made?
A. Yes, sir.
Q. What was done with the selections?
A. They were shipped up to 3839 North Broad Street and a trunk was shipped to 1410 Atlantic Avenue, Atlantic City.
Q. What was shipped to 3839 North Broad?
A. Oh, I couldn't begin to tell you, because I didn't watch what they took and what they packed. Miss Minnie Upham packed the things.
Q. What was the character of the goods?
A. Character of the goods? Well, there was cut glass.
Q. That was shipped to North Broad Street?
A. Cut glass, silver, silverware, folding chairs, kitchen utensils and bed linen, bedding and bed linen.
Q. And furniture?
A. Only chairs, that is all; folding chairs.
Q. After the twenty-seventh day of October, 1917, did you vote or attempt to vote at Pitman?

A. No, sir.

Q. At no time?

A. No time, no, sir.

Q. Are you now a registered voter of the State of Pennsylvania?

A. Yes, sir.

Q. When were you so registered?

A. Well, I can't tell the date of that when I was registered, but I went around to see whether I was on the division book and I was on the division book, my name was registered on the division book, "E. Frank Paullin, housekeeper, 3839 North Broad Street, Philadelphia."

Q. Did you vote in Pennsylvania in 1917?

A. No, sir; I wasn't eligible to vote.

Q. You were married on the twenty-seventh of October?

A. Yes, sir.

Q. And went immediately to the North Broad Street property?

A. Yes, sir; I wasn't eligible to vote in Philadelphia.

Q. Did you vote in 1918?

A. No, sir.

Q. Why?

A. I wasn't eligible to vote in 1918.

Q. Unless you had been immediately registered when you went to Philadelphia in October, 1917?

A. Yes, sir.

Q. When you were married at the North Broad Street property, 3839 North Broad Street on October 27th, 1918, did you go there with the intention of making that your home?

A. Yes, sir; that was the understanding that that was to be my home.

Q. Understanding with whom?

A. With Mrs. Paullin.

Q. Her home also?

A. Her home, yes; she said it was her home, and that is where she wanted me to make my home with her.

Q. After your marriage, as testified to by Miss Upham, you went to Reading?

A. Yes, sir.

Q. And from Reading you returned to the North Broad Street—to your home, North Broad Street?

A. Yes, sir.

Q. After that, did you and your wife and Miss Upham go to Boston?

A. Yes, sir.

Q. Did you then return to your North Broad Street home?

A. Yes, sir.

Q. Did your wife remain with you there until about Christmas?

A. Yes, sir.

Q. Do you recall what day—did you go to Atlantic City about Christmas?

A. Went to Atlantic City about, as near as I can recollect, about four days before Christmas, as near as I can recollect. I didn't set no date, didn't carry any date in my head about, but I know we went down there just before Christmas.

Q. What day did all of you return from Atlantic City?

A. Why on the twenty-fifth of December.

Q. Christmas day?

A. Yes, sir.

Q. You ate your Christmas dinner then at your home?

A. Yes, sir; 3839 North Broad Street.

Q. Did your wife remain there with you during the winter months?

A. Yes, sir.

Q. She had a business in Atlantic City, had she not?

A. Oh, yes, sir; had a business in Atlantic City.

Q. Do you recall how long she had been at the Broad Street property in October before your marriage?

A. No, I couldn't tell that, only what I heard her say, and I don't know what she told me how long.

Q. You visited her there, didn't you?

A. Oh, yes; I visited her there; yes, sir.

Q. Do you recall when she returned from Atlantic City in October, 1918?

A. Yes, she returned the sixth of February.

Q. No, that sixth of February would be 1919. October, 1918.

A. I know, but she went down to Atlantic City on Christmas.

Q. Just pay attention to the questions, Mr. Paullin. Do you recall what time she left Atlantic City in October, 1918?

A. No, I think it was about the latter part of October, as near as I can recollect.

Q. During the summer of 1918, did you visit her in Atlantic City?

A. Yes, oh yes; I visited her.

Q. Were you down there consecutively?

A. Yes, sir; I was down there off and on.

Q. Well, all the time?

A. No, not all the time.

Q. Spend the whole week at a time or anything like that?

A. Not the whole week at the time.

Q. You are in business in Philadelphia, are you not?

A. Yes, sir.

Q. How long have you been in business in Philadelphia?

A. Been in business now in Philadelphia for thirty-five years.

Q. You told me that you were registered in Philadelphia?

A. Yes, sir.

Q. From what place are you registered, what street?

A. Forty-third Ward, twenty-second division.

Q. What street and number?

A. Thirteenth Street above Poplar.

Q. That is the place of registration.

The Court: He has announced he was registered from 3839 North Broad Street.

A. I was assessed there. I wasn't registered there. I was only assessed there. I couldn't get registered until I was assessed.

Q. Are you registered now?

A. I am assessed now, not registered, because the registration board has not set yet for registration.

Q. I asked you whether you were registered?

A. Assessed on the assessors' list.

Q. But you are not registered?

A. No, sir; because the registration board has not set yet to be registered.

Q. Did you go down to Atlantic City the past December?

A. What year?

Q. Past December?

A. This past December?

Q. Yes.

A. No, sir.

Q. Weren't down to Atlantic City this last December?

A. Let me see now, I have got to think about that.

Q. 1918?

A. Oh, yes, sir.

Q. Do you remember what day you went?

A. I don't remember what day, exactly. Yes, it was on the twentieth of the month.

Q. Twentieth of the month?

A. Yes, sir; twentieth of the month as near as I can recollect.

Q. Did Mrs. Paullin go with you?

A. Yes, sir.

Q. When you went there when did you expect to return to your home in Philadelphia?

A. Day after Christmas, on the twenty-sixth, that was the day was set.

Q. By you and Mrs. Paullin?

A. By Mrs. Paullin, not by me; by Mrs. Paullin.

Q. To return to Philadelphia on the twenty-sixth?

A. On the twenty-sixth, yes, sir.

Q. She was taken sick?

A. Yes, sir; she was taken sick.

Q. When did she actually return?

A. Sixth of February—January, I mean to say, January, sixth of January.

Q. She came back to Philadelphia on January sixth?

A. Yes, sir.

Q. And died on the thirtieth, was it?

A. Twenty-ninth.

Q. When Mrs. Paullin went to Atlantic City what clothing did she take with her?

A. Well, she took a suit case and I don't know what was in the suit case for I never examined it; she didn't take no clothing with her, not of any account.

Q. Only a suit case of clothing?

A. Just a suit case, that is all.

Q. Where were the greater or the large part of her clothing kept?

A. 3839 North Broad Street.

Q. How was 3839 North Broad Street furnished?

A. Very nicely; a very nice home.

Q. Permanently furnished?

A. Yes, sir; everything modern in it.

Q. In speaking of 3839 North Broad Street how would Mrs. Paullin designate that?

A. She always called that her home.

Q. From the Pitman Hotel in 1918 where did you go?

A. Why, I can't—I don't understand that question.

Q. What?

A. Where did I go?

Q. Yes.

A. What do you mean; what time?

Q. You were stopping at a hotel in Pitman in October, 1918?

A. Yes, sir.

Q. From that hotel where did you go?

A. I used to go up to my place of business.

Q. After you were through stopping there?

A. Why, we went to 3839 North Broad Street.

Q. Who do you mean by "we"?

A. I mean with me, I mean I went to 3839 North Broad Street.

Q. Mrs. Paullin go with you, your wife?

A. No, sir.

Q. Did you meet her there?

A. I met her there; she left word there at the hotel that she was at home and to come home.

Q. What became of your Pitman property?

A. I have it rented.

Q. When did you rent it?

A. Let's see, I rented it in, I think I rented it in about November, month of November, 1918.

Q. Remain vacant a year?

A. Oh, yes; sir, all furnished.

Q. What did you do with your furniture that was left there?

A. I left it there to see whether I couldn't rent it and I couldn't rent it furnished and I got a tenant for it that didn't want the furniture so I disposed of the furniture.

Q. That furniture was sold?

A. Yes, sir.

Q. You made an effort to furnish the property, to rent it?

A. Yes, sir.

Q. During 1918?

A. Yes, sir.

Q. And unable to do it?

A. Yes, sir; 1917, too.

Q. You left there October twenty-seventh, 1917?

A. Yes, sir.

Q. For good?

A. For good.

Q. And you tried to rent the property furnished as a home?

A. Yes, sir.

Q. And was not able to do it, is that right?

A. Yes, sir.

Q. And in the latter part of last year, November I think you said, you disposed of your furniture and have since rented the property?

A. Yes, sir.

Q. Do you know what month you actually did rent it?

A. Beg pardon?

Q. Do you know what month you actually did rent it?

A. No, I couldn't just recall the exact month. I was just trying to recall how many receipts or checks I got from the tenant, but I couldn't recall that even.

Further testimony adjourned to Monday, March 31, 1919, at Atlantic City, N. J., at 9 A. M.

Monday, March 31, 1919, trial of the cause resumed at 9.15 o'clock P. M. at the court room, Guarantee Trust Building, Atlantic City, New Jersey.

Appearances, same with the exception of Judge Starr, not appearing.

Mr. Clevenger: If your Honor please, I would like to make a note on the record. In the testimony of Enos Frank Paullin, when he was recalled the second time, the stenographer noted an admission of counsel reading as follows: "It is admitted by counsel that the signature of "M. W. Upham, 'Philadelphia,' under date of 6-8-18 and under date of 5-26-18, is the signature of Minnie W. Upham."

The facts set out in the admission are incorrectly set out, I would like to correct them. I have written to Mr. Bird and asked him to write me a letter telling me what the facts are and I think that will confirm what I am about to say. The name "M. W. Upham, Philadelphia" in Miss Upham's handwriting does not appear on the book at any of those dates at all, but does after October eleventh, 1918, and in fact I think is October eighteenth or nineteenth.

The Court: October nineteenth, tenth nineteenth is the correct date.

Mr. Clevenger: Minnie W. Upham's signature appears from Philadelphia, as I recall it, doesn't appear on the book under date of June eighth at all, but it does appear in her handwriting under date of May twenty-sixth, 1918, as "Minnie W. Upham, Atlantic City."



The Court: Does that meet your views?

Mr. Summerill: Sure, one there, but I am not sure which, gave Philadelphia, and another date Atlantic City.

The Court: The Court happens to remember that May twenty-sixth was not the Philadelphia date, but the tenth, nineteenth was. I happen to have a memorandum tenth, nineteenth, "M. W. Upham, Philadelphia."

Mr. Summerill: I know the one date was.

The Court: The one that was tenth nineteenth was. I am not prepared to say the other wasn't.

Mr. Clevenger: As soon as the hotel man's letter comes in I will put that in evidence, but I am sure that is the date.

The Court: I know tenth nineteenth is Philadelphia, because I have a memorandum of it.

Mr. Summerill: If the Court please, when the Court took a recess last Wednesday, Mr. Paullin was on the stand. I have subpœnæd some election officers here and I ask at the discretion of the Court to allow them to be called so that they can get away.

The Court: Certainly, no objection to that.

R. Edward Klaisz, recalled.

Direct examination.

By Mr. Summerill:

Q. Mr. Klaisz, you have already testified you are deputy county clerk of Gloucester County?

A. Yes, sir.

Q. Have you with you the registry books from Pitman Borough for 1917 and 1918?

A. I have.

Q. In the registry book from Pitman for 1918, does the name Enos Frank Paullin appear?

A. Not as far as I remember, but I want to look it up again, if you give me the opportunity. It does not.

Q. In either election district?

A. Either one.

Q. Now, have you with you the registry for 1917, second election district, which you produced last Wednesday?

A. I do.

Cross-examination.

By Mr. Cole:

Q. The books you last refer to are the books you had on the previous examination?

A. Not 1918, no.

Q. I mean 1917?

A. Same ones.

Q. And it is in those books the name of Mr. Paullin does appear?

A. The name of E. Frank Paullin is in both of them in 1917, second district of the Borough of Pitman.

Mr. Summerill: I offer the books.

(Books admitted as Exhibits C3A and B.)

Furman S. Harris, a witness produced on behalf of the caveators, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Summerill:

Q. Mr. Harris, were you in 1917 a member of the Board of Registry and Election for the Second Election District of Pitman?

A. I was.

Q. This book was offered in evidence either A or B on behalf of the proponent last Wednesday. I show you book marked "tp. Woodbury" and I show you the name of E. Frank Paullin as on the registry of voters for the second election district of the Borough of Pitman for 1917.

A. Yes, sir.

Q. Under column marked "Ballot No." what does that refer to?

A. That means the number of the voter. Every one that votes is numbered, that is as he votes each one is numbered you know, and his number is put down here in this column back of the name. If he doesn't vote his name isn't put down there.

The Court: His number isn't put down.

A. His number isn't put down.

Q. Does that represent the number of the ballot?

A. That represents the number of the ballot.

Q. Now, in that book which I show you, Exhibit B, I think, is there any number opposite the name of E. Frank Paullin?

A. There is not.

Q. That indicates what?

A. That indicates that he did not vote at that election.

Q. I show you the last page of that book, the certificates of the Board of Registry and Election. Your name appears on the first certificate, first registry day?

A. Yes, sir; F. S. Harris.

Q. When was that first registry day? Can you tell by looking at the certificate?

A. Sixth day of November—this is the registration day, fourteenth day of September, 1916.

Q. Now the second certificate under date of second registry day?

A. That was the twenty-fifth day of September, 1917.

Q. The third registry day?

A. Third registry day, thirtieth day of October, 1917. That was the last registry day.

Q. I show you registry book for 1918, marked "County Board", two markings on it, one marked "September", there is a blur before the nine, I can't tell what it is 1918, and another marked "File November fourth, 1918," register of voters, County of Gloucester, Second District, Borough of Pitman, municipalities of ten thousand or less, general election November fifth, 1918." Will you look at that book, Mr. Harris, and see whether the name of Mr. Paullin appears?

A. No, sir; not as a voter.

Q. E. Frank Paullin, I am speaking of.

A. E. Frank Paullin, yes, sir.

The Court: You mean not as having voted or not as having been on the list?

A. Not on the list.

Cross-examination.

By Mr. Cole:

Q. Have you personal knowledge as to how Mr. Paullin's name came to be on the registry for 1917?

A. Have I personal knowledge?

Q. Yes.

A. Well, we went around from house to house and canvassed the votes and he must have been at that time——

Q. Were you there? Finish your answer.

A. Well, I couldn't have sworn at that time that he was a voter, but from my work—and I try to do it right—he was a voter at one time, or he would not have been listed.

Q. Did you receive from him any word yourself, that is coming from him directly to you, or to anyone else in your presence, not to put his name on the registry list?

A. No.

Q. How long have you been election officer?

A. Well, I have been election officer about six years.

Q. Mr. Paullin voted every year prior to 1917?

A. I think so.

Q. While you were an election officer?

A. Yes.

WALTER B. WOOLLEY, a witness produced on behalf of the caveators, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Summerill:

Q. Where do you live, Mr. Woolley?

A. I live in Woodbury.

Q. Are you a member—what office do you hold so far as the County Board of Taxation is concerned?

A. I am the secretary of the board.

Q. Have you produced under call, under subpœna the tax lists of Pitman Borough for 1917, 1918 and 1919?

A. I have.

Q. Will you refer to the tax lists, list of 1917? Do you find in there an assessment of poll tax against Enos Frank Paullin, or E. Frank Paullin?

A. On page sixty-eight appears the name of Frank Paullin on line fifteen, and a poll tax was assessed in 1917.

Q. Refer to tax list for 1918 and see whether there is a poll tax assessment made as against E. Frank or Frank Paullin?

A. On page sixty-eight, line fifteen, is the name E. Frank Paullin, no poll tax assessed 1918.

Q. Refer to 1919.

A. The name of Paullin, there is a William G., or William P., I don't know which it is Paullin, and there is no E. Frank Paullin.

Q. On the book?

A. On the book.

Q. Anywhere?

A. I have not found any name of E. Frank Paullin on the book. There was on one of these books, I don't remember now just which one it was, the name appears, but no assessment, there was a name on another sheet, the name Paullin appeared, but there was no assessment against it, either 1918 or 1919, but it is not indexed at all. It appears twice on the 1918 book, but I did not discover it on this book.

Q. Look in Pitman.

A. Pitman Avenue?

Q. There is where the other appears.

The Court: Pitman Avenue, north side.

A. Annie Paullin—I beg pardon—here is the name Frank E. Paullin.

Q. E. Frank Paullin?

A. E. Frank Paullin, line fifteen, no poll tax assessed.

The Court: 1919?

A. 1919, no poll tax assessed, page seventy-three.

Q. Line fifteen?

A. Line fifteen, page seventy-three. It is not indexed.

Q. When was the 1919 list filed?

A. The 1919 list was filed the tenth of January.

Q. This year?

A. This year?

Q. Do you know when the 1918 was filed, list for 1918?

A. The first Tuesday in August, the same for 1917.

Q. Mr. Woolley, under the assessment in all of these years, seventeen, eighteen and nineten, there is real estate taxed, is there not?

A. Yes.

Q. Where is that assessment?

A. Where is that assessment?

Q. Yes.

A. You mean on what street?

Q. Yes, south side of Pitman?

A. It is on Pitman Avenue.

Q. Well, there seems to be two sides.

A. Pitman Avenue, north side.

Q. There is an assessment as against Annie Paullin in 1919?

A. Yes.

Q. What page is that?

A. That is on page seventy-two, Annie Paullin.

Q. What line?

A. Line eleven.
Q. Where is the property located?
A. Pitman Avenue, south side.

Cross-examination.

By Mr. Clevenger:

Q. On page 129, line six, I note the name of "William P. Paullin, Pitman Avenue, poll tax one dollar," in 1919. Who is William P. Paullin?
A. I don't know.
Q. Do you know if he is the husband of Annie Paullin mentioned in the previous page?
A. I don't know.
Q. Do you know if he is the son of Enos Frank Paullin?
A. I don't know.

(Tax book considered as being admitted in evidence but not marked.)

Enos Frank Paullin, resumed.

Direct examination resumed.

By Mr. Summerill:

Q. Before your marriage to Anna B. Paullin, October twenty-seventh, 1917, did you do any work at the 3839 North Broad Street property?
A. Yes, sir.
Q. What was it?
A. I put a shower bath in for her.

Q. What?

A. A shower bath in the bathroom.

Q. Anything else?

A. Yes, sir; put a white enameled seat on the toilet in the bathroom, toilet closet.

Q. Anything else?

A. Yes, sir; I put the old seat from the bathroom down into the cellar toilet room.

Q. What else, if anything? Tell all that you did, if anything more.

A. That was all, I believe. Yes, I turned on the water to the house, and filled the water plant.

Q. Last Wednesday I asked you when you were married at the North Broad Street property, 3839 North Broad Street, October twenty-seventh, 1918, they have it in here, 1917—eighteen, rather, 1917 you were married?

A. Yes, sir; 1917.

Q. Did you go there with the intention of making that your home?

A. Yes, sir.

Q. Did you make it your home?

A. I did.

Q. After that?

A. Yes, sir.

Q. Up until after the decease of your wife?

A. Yes, sir.

Q. Do you know whether in 1918 Mrs. Paullin had a Pennsylvania license on her car, last year?

Mr. Cole: Is that in evidence?

The Court: 1918 is in evidence.

Mr. Summerill: I didn't understand the Court admitted it.

The Court: I did not admit it.

Q. Did she have a 1918 license tag on her car, Pennsylvania?
A. Yes, sir.

Mr. Summerill: Will you admit the application for the license?

Mr. Cole: Yes.

The Court: Being no objection, the copy of the application for license in Pennsylvania, 1918, will be admitted.

(Application admitted in evidence and marked Exhibit C2.)

Q. In addition to what you have testified as to what improvements you made to 3839 North Broad Street did or did you not put a water meter in for her?
A. Oh, yes, I put the water meter in.
Q. You didn't mention it.
A. I didn't think to mention it. I done that to save the water rent.

Cross-examination.

By Mr. Cole:

Q. How old are you?
A. Seventy-three.
Q. Where were you born?
A. Born in Philadelphia.

Q. How long had you lived there before you moved into New Jersey?

A. How long?

Q. Yes.

A. I couldn't tell you that. I didn't set that down.

Q. When did you move into New Jersey?

A. When did I? Couldn't tell you that. I summered there for a while before I moved there permanent.

Q. You mean you can't tell when you took up New Jersey as your home?

A. No, sir; I never kept an account.

Q. Can you give us any idea about it?

A. Couldn't give you any idea of it.

Q. You don't know whether it was a year ago, ten years ago or fifty years ago?

A. I don't know about that. I suppose it was, as near as I can calculate, it has been about fifteen years ago, sixteen years ago, I summered there three or four years before I made my permanent home.

Q. You think you made New Jersey your permanent home about 1916?

A. I am not thinking at all. I mean to the best of my knowledge.

Q. What do you mean you are not thinking?

A. Of these times I moved to Pitman.

Q. Are you testifying without thinking?

A. What?

Q. Are you testifying without thinking?

A. Oh, no.

Q. Now, what is your best judgment as to when you made New Jersey your home, your legal residence?

A. As near as I can calculate fifteen years.

Q. And where in New Jersey did you take up your home?

A. Where? On the northwest corner of Pitman Avenue and Mt. Vernon Avenue, Pitman, New Jersey.

Q. And I assume that from the time you made New Jersey your home, you registered and voted in Pitman?

A. Yes, sir.

Q. Had you owned the property in Pitman before you began to vote there?

A. I couldn't vote there until I bought the property.

Q. What?

A. Yes, sir—give me that question over again, will you, please?

(Question repeated.)

A. No, sir.

Q. Then you had rented before you——

A. I was not a citizen until then. I had a citizenship in Pennsylvania.

Q. You mean you could not be a citizen without owning property?

A. I mean without owning property, yes, sir; I only rented it for the summer.

Q. What I am trying to get at, is this, did you own the real estate in New Jersey, Pitman, before you began to vote there? You might have been renting a house there, a tenant.

A. No, sir.

Q. Did you live always in the same house in Pitman after you began to vote?

A. Yes, sir.

Q. That is the house you now own?

A. That is the house I now own.

Q. You testified last week in answer to your counsel's question that you had voted in Philadelphia, and you afterwards corrected that. Now which is true?

A. I voted in Pitman is true.

Q. Not that you had voted, but that you had registered.

(Question repeated as follows: "You testified last week in answer to your counsel's question that you had registered in Philadelphia, and you afterwards corrected that. Now which is true?")

A. I corrected that because——

Q. Not because, what is the fact. Did you register or not?

A. No, I got assessed in Philadelphia.

Q. Why did you say, in answer to counsel's question, that you had registered in Philadelphia?

A. Because I got kind of mixed on the registration and on the assessment.

Q. Now, were you assessed—have you been assessed in Philadelphia?

A. Yes, sir. Not assessed, I have not. Oh, yes, I have been assessed, yes.

Q. I mean what I think you mean, you testified that you had been assessed in Philadelphia.

A. I have been assessed in Philadelphia.

Q. Now have you been?

A. Yes, sir.

Q. Are you sure about that?

A. I have seen it on the book.

Q. On what book?

A. On the division book, registration book.

Q. What division book did you see it on?

A. Forty-third Ward, Twenty-second Division.

Q. Where is that?

A. Where is that? On Thirteenth Street above Butler.

Q. When did you see it there?

A. I couldn't tell you that.

Q. Was it a week ago, a year ago or when?

A. Sometime in the fall.

Q. What fall?

A. The fall of 1918.

Q. How did you come to see it there?

A. I was anxious to know whether I was on the registry list because we were not home all summer, I didn't know whether the assessor got the house or not to get my name.

Q. You were so anxious to know whether you had been assessed for the purpose of registering that you went to inquire about it?

A. Certainly, I wanted to know.

Q. And you saw it on the books?

A. I saw it on the assessor's books.

Q. Twenty-second division of what ward?

A. Forty-third Ward.

Q. Thirteenth Street near Buttonwood?

A. No, Butler.

Q. Buttonwood near Thirteenth?

A. No, Butler.

Q. You haven't any doubt about that, have you?

A. No, I have no doubt about it.

Q. How many people were in the room the day you saw that?

A. I don't think there was anybody but the assessor and I.

Q. You remember the name of the assessor?

A. No, sir.

Q. You saw this on a book, did you?

A. Yes.

Q. What did it read, what did it say?

A. Said, "Enos Frank Paullin, 3839 North Broad Street, housekeeper."

Q. Fall of 1918?

A. Yes.

Q. Had you gone there before and asked to be assessed or registered?

A. No, sir. I went around to the division house where the assessor's books are supposed to hang up, and it wasn't there.

Q. No, but I mean did you ever go inquire in Philadelphia and ask to have your name put on the assessor's list?

A. Why, yes, I had to do that.

Q. I am not asking about what you had to do. Did you do it?

A. Certainly I done it.

Q. When did you do that?

A. In the fall.

Q. On the same occasion?

A. On the same occasion, yes, sir; I went to the division house first.

Q. I thought you said when you went there in the fall you did find your name there?

A. Not at the division house, the book wasn't there. I couldn't find it and I went to the assessor's house to see.

Q. Is your testimony about seeing your name on the book the same occasion you are talking about now at this assessor's house?

A. Oh, yes, in Philadelphia——

Q. Pardon me now, Mr. Paullin. Don't tell me what the law of Pennsylvania is. Let's get the fact. You testified a moment ago that you saw a book on Thirteenth Street near Butler in Philadelphia with

your name in a book which was the assessor's book.

A. I didn't say I seen a book on Thirteenth Street above Butler. That was the division house, I said.

Q. That was where you saw it?

A. No, sir; I didn't see it there, wasn't there to be had, to see.

Q. Wasn't where to be seen?

A. At the division house.

Q. At Thirteenth near Butler?

A. Yes, sir.

Q. Haven't you already testified that that is where you saw your name on the book?

A. No, sir.

Q. What is it you want us to understand this place, Thirteenth near Butler? What did happen there?

A. I went to Thirteenth Street above Butler, on the east side of Thirteenth Street north of Butler.

Q. In the fall of 1918?

A. The fall of 1918, to see whether my name was on the registry book or the division book. The book wasn't there to be had, and I inquired of the lady that lived in the private house—it was a store, empty store, and she told me where I could find out, and I went around on Butler Street two doors below Thirteenth, and they told me where the assessor lived. There is where I could find out, so I went around there.

Q. And where was that now?

A. Now, that was on a small street, I don't know the name of the street, between Broad and Thirteenth, above Butler, and he wouldn't be home until seven o'clock in the evening, so I went around there, and asked him, and he showed me the book with my name on it.

Q. What is his name?

A. What is his name? I don't know what his name is now.

Q. Now, that was the first time that you knew that your name was on the assessor's list?

A. Yes, sir.

Q. Do you know how it came to get there?

A. How it came to get there?

Q. Yes.

A. Because I requested it to be put there.

Q. Who did you request?

A. Why the assessor.

Q. When?

A. When? When the name was on the book, I wanted to know, I wanted to find out.

Q. When you got there on this occasion you did find your name there, you have testified?

A. Yes.

Q. I am trying to find out now——

A. I was anxious to know whether my name was there.

Q. I am trying to find out now how it got there? You said before that time, you told somebody to put it there.

A. He put it there, I didn't put it there.

Q. Do you mean on that very occasion?

A. What occasion?

Q. The occasion when you said that you were told where this assessor lived and you went to his house and he wasn't there and you went back at seven o'clock, and he was there, and you wanted to find out whether the name was on the book, and he showed you the book and the name was on it, all that is true, isn't it?

A. Yes, that is true.

Q. I want to know, if you know, how your name got on that book.

A. I couldn't tell you that, how it got there.

Q. Just a moment ago you did remember to tell me. Do you mean to say you don't know now?

A. I was not the assessor on the book. I had nothing to do with it.

Q. You were not the assessor, and you are not the President of the United States, but I am trying to find out from you, if you know, how your name got on that book.

A. No, I don't know. He was supposed to put it on that book. He was the assessor.

Q. Will you please answer my question?

A. I am answering it.

Q. Now you say, do you, that you don't know how it got there, is that right?

A. How it got there, no, I don't know how it got there. It got there and it was there.

Q. So you have testified it was there. I am going to try and show after while you are mistaken, but one thing at a time. You remember Dr. Cross marrying you and Mrs. Paullin?

A. Yes, sir.

Q. Did you see the marriage certificate?

A. I saw it; yes, sir.

Q. When did you first see it?

A. After Mr. Cross gave it to Mrs. Paullin.

Q. That very day?

A. That very day.

Q. She handed it to you?

A. No, sir.

Q. Where did you see it?

A. I seen it—couldn't tell you where I seen it.

Q. Well, it was in the house, wasn't it?

A. Oh, yes, it was in the house.

Q. While everybody was there?

A. Beg pardon?

Q. While everybody was there? Just after the ceremony?

A. Oh, yes.

Q. Witnesses to this will weren't there, I mean to this marriage?

A. I guess they were, I don't know.

Q. And you saw the certificate, didn't you?

A. I saw the certificate.

Q. And you saw that Mrs. Addis, Mrs. Paullin was named as of Atlantic City, didn't you?

A. No, I didn't see that.

Q. You didn't see that?

A. No, sir.

Q. What was it you did see?

A. Didn't see anything but the book, but the certificate.

Q. The certificate?

A. Yes, sir.

Q. You mean the marriage certificate?

A. Marriage certificate, that is what I mean.

Q. Well, if you saw that didn't you see that she was named as of Atlantic City?

A. No, I didn't see that.

Q. Did you see where you were named from?

A. No, sir; I didn't see that.

Q. What?

A. I didn't see that.

Q. Now, I show you what purports to be marriage certificate and ask you is that the marriage certificate, your marriage certificate?

A. I guess it is, looks like it.

Q. Now, you have it open at the page where it reads: "This certifies that Enos Frank Paullin,

Pitman, N. J., and Anna B. Addis, Atlantic City, N. J.,'' and so forth, did you see that that day?

A. Don't remember ever seeing it that day.

Q. Seeing it that day, seeing what that day?

A. What you have just showed me.

Q. Did you see that book?

A. Yes, sir.

Q. Didn't see the inside of it?

A. No, sir.

Q. Do you know where Reverend Cross got the information that you were of Pitman, New Jersey?

A. No, I couldn't answer that.

Q. What?

A. No, sir; I couldn't answer that.

Q. Now, don't you know that he asked you that day before he made out this certificate and you told him that you were of Pitman?

A. I told him I resided at Pitman, so I did.

Q. He asked you, didn't he?

A. Yes.

Q. Asked you right there on that occasion?

A. Yes, sir.

Q. And you told him?

A. What occasion is that, the occasion of the wedding day?

Q. I am not talking about the funeral day, I am talking about the wedding day all the time.

A. Well, I don't remember that.

Q. Well, but you did remember a moment ago, and you said in answer to my question that you told Dr. Cross that you were of Pitman, and I asked you whether it was not on that day and you said yes. Now, do you want to change that?

A. Well, no, I don't want to change that. So I was from Pitman.

Q. And you told him so, didn't you?
A. I told him so, yes, sir.
Q. You told him so that day, didn't you?
A. Yes, sir.
Q. And it was after you told him that that he wrote this in there, isn't that right?
A. No.
Q. Did he write it in before you told him?
A. Don't recollect that.
Q. You didn't see him write it at all, did you?
A. Can't answer that question at all.
Q. But let's be certain about this, you did on that day, in answer to his question, tell him that you were of Pitman, didn't you?
A. If he asked me that is what I told him.
Q. Well, did he ask you?
A. That I can't remember.
Q. Do you know how he got the information?
A. I don't know.
Q. Did you hear him ask Mrs. Addis where she was from?
A. No, sir.
Q. And did you hear her tell him that she was of Atlantic City?
A. No, sir; didn't hear that.
Q. And you didn't see the inside of that certificate, never have seen it, have you?
A. No, sir; never seen inside of it at all.
Q. Of course, you knew at that time that Mrs. Addis was of Atlantic City, New Jersey?
A. I knew she went down there on business.
Q. Did you know that was her home?
A. No, never knew that was her home.
Q. Never found it out before?
A. Never mentioned it was her home to me.
Q. Did you ever ask her where her home was?

A. She told me without asking.

Q. What did she tell you?

A. 3839 North Broad Street. I didn't have to ask her that.

Q. Mr. William B. Paullin there that day at the wedding?

A. Yes, sir.

Q. Annie E. Paullin?

A. Yes, sir.

Q. Eleanor F. Paullin?

A. Yes, sir.

Q. John J. Tenan, or Turner, or Turnan?

A. Yes, Mr. Turnan was there.

Q. And Minnie W. Upham?

A. Yes, sir.

Q. Did you see them sign their names to this book?

A. No, sir; I didn't see them sign their names.

Q. And you never knew up to the time that you married Mrs. Addis that she lived in Atlantic City, did you?

A. Only in summer time, that was all.

Q. Only in summer time?

A. That was all.

Q. And she always told you she claimed Philadelphia as her home?

A. She said that was her home.

Q. And as a place of residence?

A. She said to me that she bought this home during Mr. Addis' lifetime as her home.

Q. And that was her legal residence?

A. That is what she claimed, that was her legal residence.

Q. She claimed that as her legal residence, didn't she?

A. I suppose so.

Q. Not what you suppose, did she claim to you that was her legal residence?

A. She didn't say anything about her legal residence, she said that was her home.

Q. Did she ever say she had a home in Atlantic City?

A. No, sir.

Q. What did she call Atlantic City?

A. 1410 Atlantic Avenue, and she told people——

Q. Pardon me, not what she told people, and whenever she invited you down to Atlantic City she asked you to come to 1410 Atlantic Avenue?

A. Yes, sir.

Q. Never called that home?

A. No, sir.

Q. What did she call that?

A. Called that the Upham Bakery.

Q. That is the way she referred to it?

A. Yes, sir; 1410 Atlantic Avenue.

Q. I suppose you would not have married her if you had known her residence was in Atlantic City, would you?

Mr. Summerill: I object. I don't think that is relevant.

Mr. Cole: I think it is relevant.

The Court: I don't think that has any weight at all.

Mr. Cole: He is under cross-examination, I want to find out what the fact is.

The Court: I will overrule that.

Q. Do you know what the law is of Pennsylvania touching the distribution of Mrs. Addis' estate?

A. No, sir.

Q. Know what the law of New Jersey is?

A. No, sir.

Q. So far as you know now it don't make any difference to your interest in this estate where this will is probated, does it?

A. Yes, sir; it does now.

Q. When did you find it out?

A. When did I find it out? Oh, I couldn't answer that.

Q. I thought you said a moment ago you did not know.

A. Neither do I know the law of the States of Pennsylvania, nor New Jersey. You asked me the question.

Q. You don't know now whether it makes any difference to you financially where this will was probated, do you?

A. Yes, sir; financially I do now.

Q. When did you find it out?

A. I couldn't answer that question.

Q. Find it out before you started this contest?

A. Certainly, I wouldn't have started the contest if I had not.

Q. In other words you would not have started the contest?

A. Had no occasion to start it.

Q. Pardon me, the reason you are making this contest is because you know it is a good deal more important for you to be a resident of Pennsylvania than to be a resident of New Jersey, don't you?

A. I have never gave that a thought.

Q. You mean you don't care?

A. Certainly I care, I wouldn't be here if I did not.

Q. And yet, caring, you didn't give that any thought?

A. Yes, give it a thought. I didn't marry Mrs. Addis for her money, told her that, nor a home either, told her that.

Q. When did you first meet Mrs. Addis?

A. That is something I couldn't tell you, couldn't answer that question.

Q. How long before you married her?

A. I couldn't answer that either. I couldn't answer that. I met her in Philadelphia. I didn't meet her in Atlantic City.

Q. You were in Atlantic City in the summer of 1918?

A. Yes, sir; I was in Atlantic City.

Q. When did you first come to 1410 Atlantic Avenue?

A. I couldn't answer that question.

Q. Haven't any idea?

A. No idea.

Q. Were you there in March, 1918?

A. I couldn't answer that.

Q. Will you say you were not there then?

A. I don't say that I was not there, but I couldn't answer the question.

Q. What kind of a ticket did you have through the year 1918 from Atlantic City to Philadelphia?

A. What kind of a ticket? Why let me see, I rode up on a return ticket for a long while, up until May, sometime in May.

Q. Then what did you get after that?

A. Mrs. Paullin told me to get a three months' ticket.

Q. Did you get it?

A. I did.
Q. Was your name on it?
A. Yes, sir.
Q. Tell where you were from?
A. I couldn't say that.
Q. Did you turn in the ticket?
A. I turned in the ticket.
Q. That ticket?
A. Yes, sir; I turned in the ticket.
Q. Do you know whether that ticket will show where you were from?
A. I don't know that.
Q. Did you buy it yourself?
A. Yes, sir; I bought it myself.
Q. Where did you buy it?
A. At the ticket office.
Q. Where?
A. The office here in Atlantic City.
Q. What ticket office in Atlantic City?
A. Why the railroad ticket office.
Q. Well, there are two or three of them.
A. I know.
Q. Which road was it?
A. The one goes over the steam road.
Q. Which steam road, there is the Reading and Pennsylvania?
A. Pennsylvania, I said.
Q. Was it at the South Carolina Avenue station where the trains leave?
A. No, Tennessee—oh, I don't know the avenue's name, but right here where the bridge train goes out.
Q. Bridge train?
A. Yes, sir.
Q. Is that where you bought the ticket?

A. That is, I think, where I bought the ticket.
Q. Did you sign your name on the ticket?
A. I don't remember that. I think I did, yes.
Q. You think you did?
A. Yes.
Q. And you turned that book in to the railroad?
A. I have no recollection whether I turned it in to the railroad or not. I used to turn them in from Pitman. I don't know whether I turned that in or not, couldn't say, I couldn't answer to that.
Q. When did you buy that three months' ticket?
A. I bought that three months' ticket the first of May, I think.
Q. First of May?
A. That is when they started in to sell them, didn't sell them until the first of May.
Q. After that ran out what did you run on, travel on?
A. I traveled on another ticket then.
Q. What kind of a ticket was that?
A. That was a thirty-trip ticket.
Q. What became of that book?
A. That was not a book.
Q. Didn't it have your name on it?
A. Yes, sir; it had my name on it.
Q. Did that state where you were from?
A. I couldn't say that.
Q. You don't remember?
A. Don't remember, bought it in Atlantic City.
Q. How late were you there, how late were you living 1410 that year?
A. Which year is that?
Q. 1918?
A. Couldn't say, couldn't tell you.
Q. And you slept in the same house with Mrs.

Paullin during all that time in Atlantic City, of course, 1410?

A. Yes, sir.

Q. You were there during the Christmas, weren't you, season of 1918?

A. Yes, sir.

Q. You came down to Atlantic when she came?

A. Yes, sir.

Q. And you went back to Philadelphia when she went back?

A. Yes, sir.

Q. And she was there throughout all that summer of 1918, wasn't she?

A. I think she was, yes, sir.

Q. Anybody tell you it was necessary for you to show that you had endeavored to be registered in Philadelphia in order to be a resident there?

A. No, sir.

Q. And you are entirely clear that you are assessed in Philadelphia for 1918, and that you saw your name on the assessor's list for the division and ward where 3839 North Broad Street is?

Mr. Summerill: He didn't say he was assessed for 1918. He said he was on the assessor's book.

Q. On the assessor's book; sure about that, are you?

A. Yes, certainly I am sure, without my eyes deceived me.

Q. What?

A. Yes, certainly I am sure, without my eyes deceived me.

Q. Well, they wouldn't do that, they wouldn't be so unjust.

A. I hope not.

By the Court:

Q. Mr. Paullin, was that the Twenty-second or Twenty-seventh Division?

A. Of October?

Q. Division, which you were assessed, Forty-third Ward?

A. Forty-third Ward, Twenty-second Division.

By Mr. Cole:

Q. It gave your address 3839 North Broad Street?

A. Yes, sir.

Q. And you know personally it is the Twenty-second Division of that ward where this number is?

A. Yes, sir.

Q. Who told you that?

A. The assessor.

Q. On this occasion?

A. Which occasion is that?

Q. That you saw your name on the book?

A. Yes, sir; he told me that.

Q. That is when you found out in what division you were?

A. I asked him that question what it was, certainly sure, I like to know where I am voting from.

Q. When you came to Atlantic City with Mrs. Addis, you found she had a complete wardrobe there, didn't you?

A. Atlantic City?

Q. Yes.

A. I never had occasion to look in her wardrobe.

Q. You didn't know, then?

A. No, I never had known.

Q. What did you bring with you when you came down?

A. Why with me? What year?

Q. 1918.

A. Talk about 1918, summer of 1918.

Q. All that year you were from March until way, until Christmas on in 1918?

A. I brought some shirts along and some underwear along, and I brought a change of suits along, and I brought a spring overcoat along, thought maybe I needed it. I brought my hat along, and Mrs. Paullin always thought she would like to see me look nice, I had to bring something along to look nice in.

Q. Did you know that Mr., Mrs. Paullin with her husband, Mr. Addis, had taken up Atlantic City as his home, as his legal residence?

A. No, sir.

Q. Did you know that his will declared that he was of Atlantic City?

A. No, sir; didn't know that.

Q. Did you know that he voted in Atlantic City?

A. No, sir; didn't know that.

Q. Did you know that Mrs. Addis had retained her membership in the Baptist Church of Atlantic City up to the time of her death?

A. She said she was a member of the Baptist Church, Atlantic City.

Q. And you know, don't you, that she retained her membership there until the time of her death?

A. Don't know that.

Q. Don't you think she did?

A. I hope she did.

Q. What?

A. I hope she did.

Q. Didn't she tell you that she had?

A. Don't recollect ever her telling me that.

Q. Just what did she tell you about the Baptist Church in Atlantic City?

A. Couldn't tell you that. I couldn't tell you that conversation.

Q. About her membership, I mean.

A. I don't remember, she said she was a member of the Baptist Church in Atlantic City.

Q. When did she tell you that?

A. I couldn't answer that.

Q. Before or after you were married?

A. I couldn't answer that either.

Q. Now, your explanation for registering from Atlantic City at the Pitman Hotel was that you did that just because you were, had just come from Atlantic City?

A. Yes.

Q. You want to stick to that, don't you?

A. Sure I do.

Q. Well, if you had come from London to Pitman, would you have registered from London?

A. I would have registered from London when I came from London.

Q. If you had just come from Hong Kong on that occasion you would have registered from Hong Kong?

A. I would have registered from Hong Kong, too.

Q. That is your idea of the purpose of a hotel register?

A. That was my idea, yes, sir.

Q. You been in the habit of registering at hotels?

A. No, sir; never was in the habit of registering at hotels.

Q. Before you were married, did you ever travel any at all?

A. No, sir; never traveled at all; never had time, I was too poor to travel.

Q. Did you ever stop at hotels before?

A. No, sir; I was too poor to stop at hotels.

Q. Never wrote your name as to where you were from before?

A. I had occasion once in a while in my lifetime to do that with my wife.

Q. While you were living in Pitman?

A. While I was living in Pitman?

Q. Yes.

A. No, sir; I never registered.

Q. If anybody had asked you when you were living in Pitman where you were from, would you tell them Philadelphia or Pitman?

A. Pitman.

Q. You regarded that as your home, didn't you?

A. I regarded that as my home.

Q. And you saw this register where it said, "Name and residence," didn't you?

A. Where?

Q. That day you registered in Pitman?

A. Whereabouts? Registered whereabouts?

Q. At the hotel?

A. I wrote it, I ought to have seen it.

Q. That is what I say.

A. I did see it. Didn't I see it when I wrote it? I couldn't write it if I didn't see it.

Q. Now, you shipped a trunk of some kind from where, in Pitman, down to Atlantic, didn't you?

A. I didn't ship it.

Q. Did you cause it to be done?

A. No, I allowed it to be done.

Q. What was in the trunk?

A. That I couldn't tell.

Q. Some of your things?

A. Well——

Q. Some of your things?

A. I guess there were, went out of my house, the things did.

Q. And you knew they were going to Atlantic City?

A. I knew they were going to Atlantic City.

Q. 1410 Atlantic Avenue?

A. 1410 Atlantic Avenue.

Q. Did any of the things that you removed from your home to Broad Street ever go back to Pitman?

A. No, sir; some of them came back, not all of them didn't come back.

Q. What came back?

A. I couldn't tell you.

Q. How do you know anything came back?

A. I know some of the goods came back.

Q. To Pitman?

A. Not to Pitman; no, sir.

Q. Where?

A. At my place of business in Philadelphia, 2014 Columbia Avenue.

Q. You mean they were moved from 3839 North Broad Street?

A. I don't know where they were moved, but that is where they came, 2014 Columbia Avenue, City of Philadelphia.

Q. Did anything that was taken from your Pitman home to 3839 North Broad Street ever come back to that home?

A. To Pitman home?

Q. Yes.

A. No, sir; only the trunk from Atlantic City, and that didn't come to the home, it went to the station. I had to send for it.

Q. Well, since I am asking you about the home, just answer as to that. Did you ever come to Atlantic City with Mrs. Paullin before you married her?

A. No, sir.

Q. How long a time intervened between the time of your meeting her before you married her?

A. Oh, I couldn't answer that.

Q. You haven't any idea?

A. No, sir; have no idea; never kept dates.

Q. Did you know that she had a business in Atlantic City before you married her?

A. I didn't know until she told me.

Q. Well, you knew it when she told you, was that before or after you married her?

A. She told me before she was married, before I married her.

Q. Did you know that she had spent a goodly portion of the year there?

A. Didn't say how long she spent there, didn't ask her.

Q. Did you know that she managed that business?

A. She said she managed it, that is what she told me.

Q. Your lease on the Pitman house in writing?

A. My what?

Q. The lease you made on your Pitman property, is it in writing?

A. Ain't got no lease, didn't take a lease.

Q. You mean you didn't give the tenant a lease?

A. Yes, that's just what I said I meant.

Q. Any receipt given?

A. Receipt?

Q. Any writing of any kind?

A. In what way, for money or for possession of the house?

Q. I understand you rented your Pitman property to somebody?

A. I rented my Pitman property to Mr. Hurst, man by the name of Hurst.

Q. What I want to know is whether there is any writing to show what the terms were?

A. No, sir.

Q. How long has that party been in possession?

A. Well, now, I said the other day, last week, in September I think it was, but I had nothing to do with renting that property, my son rented that property, negotiated with Mr. Hurst about it.

Q. Then there may be a lease in writing that you don't know about?

A. I am sure there is no lease.

Q. You didn't rent it?

A. If I did, I would see it, my son would hand it to to me.

Q. What?

A. My son would have told me and handed it to me.

Q. Then you were clear there was no writing because your son didn't give you one, is that it?

A. No, sir; I told him not to take no lease, I didn't want no lease.

Q. Does he collect the rent?

A. Beg pardon.

Q. Does your son collect the rent?

A. No, sir; man sends the check to the office for the rent, don't have to ask the man for the rent, sends it, don't go after him.

Q. Who was William B. Paullin?

A. My son.

Q. Who is Anna E. Paullin?

A. His wife.

Q. And Eleanor F. Paullin?

A. My daughter.

Q. Will you say now that you did not hear Mrs. Paullin tell the Reverend Cross on the occasion of

your marriage that she was of Atlantic City, New Jersey?

A. I never heard her say to Mr. Cross anything like that.

Q. But you do remember that she told him that you were of Pitman?

A. He asked me if I was of Pitman.

Q. And he asked you that on the very day of the wedding?

A. Yes, sir; that is the day of the wedding he asked me, my marriage certificate will tell you that, that is the license would have told him that, where I was living, if he had not read that, that was his fault, not mine.

Q. Where were your father and mother born, if you know?

A. My father and mother was born in Rhodestown, New Jersey.

Q. That is in Cumberland County?

A. I believe it is in Cumberland County. I couldn't tell you that.

Q. Do you know whether they were married in that place?

A. I wasn't around then.

Q. Well, you might know by reputation.

A. I wasn't around then, and I couldn't tell you that question.

Q. Well, now——

A. There was four or five born before I was born.

Q. I suppose the only way you know how old you are is by reputation?

A. What?

Q. I say the only way you know how old you are is by reputation. Do you know by reputation whether your father and mother were married in that place?

A. I only know how old I am by the Good Book, the Bible, put down in the Bible.

Q. I suppose you have a great respect for that book?

A. I have.

Q. Having that in mind all the time you are testifying——

Mr. Summerill: I object.

The Court: Objection sustained.

Q. I ask you now whether or not by reputation you know whether or not your father and mother were married at this place in Cumberland County where you say they were born?

A. I only heard what they told me.

Q. What did they tell you?

A. Told me they were married.

Q. Yes.

A. Now they said Rhodestown, my only impression is where they were married, and they said Rhodestown, New Jersey, that has been a good many years ago.

Q. Now isn't it your understanding that it is important for you to show that you have been assessed in Philadelphia for the purpose of being a registered voter in order to win this contest you are making?

A. No.

Q. Who first suggested to you the question of being assessed for the purpose of voting?

A. Why nobody.

Q. Not even after this case came on?

A. No.

Q. Didn't your lawyer say anything to you about it?

A. No, sir.

Q. And this testimony you are giving now is all just fresh from you and you never talked about it to anybody?

A. No, I wanted to know in Philadelphia.

Q. I say this question of your being assessed, testimony you are giving is all entirely new, you didn't talk to your lawyers about it?

A. No, certainly.

Q. And they didn't talk to you about it?

A. No, I am a citizen of that State, and I wanted to be assessed, and I wanted to know. I hope I will live to see the next election so I can vote.

Re-direct examination.

By Mr. Summerill:

Q. When were the goods which were taken from your Pitman home and shipped to 3839 North Broad Street returned to your place of business?

A. That I couldn't answer.

Q. Before or after the deecase of Mrs. Paullin?

A. Before the decease of Mrs. Paullin.

Q. Before Mrs. Paullin died?

A. Yes, sir.

Q. When were the goods that have been sent from Pitman to Atlantic City, sent before or after Mrs. Paullin died?

A. Why before Mrs. Paullin died.

Q. Well those things from your home, sent to your Philadelphia place of business, sent to your Broad Street home afterwards?

A. Yes, sir; they were intended to go to the Broad Street home.

Q. What?

A. There is where they were, 3839 North Broad Street.

Q. From your place of business to the Broad Street home?

A. Not from the place of business, from the Pitman home.

Q. From the Pitman home to Broad Street home?

A. Yes, sir.

Q. Then after that part of them were returned to your place of business in Philadelphia?

A. Yes, sir.

Q. Where did they go from there?

A. They are still there.

Q. You said that the rent for the property, the Pitman property came to your place of business in Philadelphia?

A. Yes, sir.

Q. I show you letter dated September twenty-third, 1918, addressed to "Mr. William Paullin, 2014 Columbia Avenue, Philadelphia, Pa. Dear Sir: I am herewith sending you check for thirty-five dollars, covering rent, and another check for fifty dollars in part payment of the furniture as per bill. Yours very truly, Jay A. Hurst." Is that one of the letters which came from that property to your place of business on Columbia Avenue?

A. Yes, sir. This is one of the letters.

Q. Who is William A. Paullin?

A. My son.

Q. He is in business there with you?

A. He is a partner with me.

Q. Did you receive this letter from him?

A. Yes, sir; showed it to me.

Q. And I show you letter dated October third, 1918, addressed "Mr. E. Frank Paullin, 2014 Columbia Avenue, Philadelphia, Pa., Dear Sir: Inclosed

please find check for thirty-five dollars covering rent for October 1918. Yours for the Fourth Liberty Loan. Jay A. Hurst."

A. Yes, sir.

Q. Did you receive that letter?

A. Yes, sir. I received that letter, yes, sir.

Q. Addressed to you?

A. Yes, sir.

Q. I show you a letter dated December fourth, 1918: "Mr. E. Frank Paullin, 2014 Columbia Avenue, Philadelphia, Pa., Dear Sir: Enclosed herewith find check for thirty-five dollars covering rent for the month of December, 1918. Yours very truly, Jay A. Hurst."

A. Yes, sir.

Q. Is Mr. Hurst a tenant of your property?

A. Yes, sir.

Q. And the checks called for in this letter of thirty-five dollars, which is rent for the Pitman property?

A. Yes, sir.

Q. And fifty dollars is what?

A. From household goods, bought what he wanted.

Q. Part payment?

A. Part payment, yes, sir.

(Three letters offered and admitted in evidence and marked as one Exhibit C4.)

Q. Up to the time of your marriage or immediately after your marriage you claimed Pitman to be your residence, legal residence, your home, up to the time of your actual marriage?

A. Yes, sir.

Q. After that, after your marriage where did you?

A. Philadelphia.
Q. Where?
A. 3839 North Broad Street.

Dr. Thomas J. Cross, a witness produced on behalf of the proponents, being first duly affirmed, and examined, testified as follows:

Direct examination.

By Mr. Cole:

Q. You are a minister of the gospel?
A. I am.
Q. And you officiated at the wedding of Enos Frank Paullin and Anna B. Addis, did you not?
A. I did.
Q. I show you marriage certificate which I assume is in your writing, is it not?
A. It is.
Q. I notice that that says that Mr. Paullin is of Pitman. Do you happen to recall how you stated he was of Pitman?
A. No, I shall assume perhaps two things——

Mr. Summerill: I object to assumption.

The Court: Yes, question is do you know, Doctor?

A. Well, I usually ask—would that be permitted? I usually ask.

Mr. Summerill: No.

Mr. Cole: Yes. We have a right to show his custom.

The Court: Yes.

Q. What is your custom touching the ascertainment of the residence of parties to the wedding?

A. First of all they bring their license. I cannot officiate unless I have a license, and then I ask them where they are from.

Q. That is your custom, is it?

A. That is the custom, yes.

Q. Do you think you pursued that custom in this case?

A. I have every reason to believe so.

Mr. Summerill: I object, of course.

The Court: I will permit it.

Q. Have you any present recollection as to whether you did ask Mr. Paullin that question as to where he lived?

A. Only I feel sure that I did because I have been doing it now for twenty-six, twenty-seven or twenty-eight years.

Q. Can you recall that you had any information from any source as to where he did live?

A. Why my license would show me where he was from.

Q. Now, have you any recollection as to whether you asked Mrs. Addis where she resided?

A. Well, I shall assume that I went through the usual way and said Atlantic City, because I have known them for twenty years or so.

Q. This is your signature to this certificate?

A. It is.

Cross-examination.

By Mr. Summerill:

Q. Doctor, you had a license, did you, to marry these two people?
A. Absolutely.
Q. Where was the marriage performed?
A. In Philadelphia.
Q. At Mrs. Addis' home——
A. Paullin home, North Broad Street.
Q. North Broad Street?
A. Yes, sir.
Q. You made a return promptly?
A. I should do.
Q. To the clerk of the Orphans' Court?
A. In Philadelphia I should do it, yes.
Q. There seems to be a certified copy of a duplicate?
A. I mean it is a fine if I don't.
Q. There is a certified copy?
A. Yes.
Q. Dated October twenty-ninth, 1917?
A. Yes, sir. I see there is a typographical error, of course.
Q. Either by you or the clerk or the other?
A. I assume that I did that.
Q. Did the license say where they were from?
A. Yes, I assume so. I assume that it is always, sir—you see they make out the license before they bring it to me.
Q. I understand that the Orphans' Court makes that license out and gives it to the applicant and the applicant gives it to you before you perform the ceremony?
A. Yes, I must possess that before I officiate, of course.

Q. Have you any recollection as to what was in that license as to residence?

A. You won't allow me to assume, will you? I shall only assume it is the name and where he is from.

Q. I show you the statement of male and statement of female sworn to. Statement of female.

A. Mrs. Addis, yes.

Q. "Occupation none. Birth place none, residence 3839 North Broad Street, Philadelphia."

A. Yes.

Q. "Married once."

A. This is wrong, isn't it?

Q. I don't know, only hearsay. Do you recall whether the license you had had all those facts on or not?

A. Well, yes, my license would tell me why I was permitted, always whether they are divorced, widow, single and so forth, you see.

Q. Yes, but I mean place of residence and all of that, do you recall whether your license had all that on or not?

A. Well, I shall assume again it was from Pitman Grove and Atlantic City.

Q. No, the license itself, whether that had the residence on or not, can you recall that? This application for license, sworn to by Mrs. Addis, gives her place of residence as 3839 North Broad Street, Philadelphia.

A. Now, what is the question?

Q. Whether the paper that was given to you as authority for performing the marriage had that on or not?

A. That I can't say.

Q. I don't know either.

A. The law and the gospel meet, do they?

Re-direct examination.

By Mr. Cole:

Q. Doctor, you issued and signed this paper certifying the marriage of these two people, did you not?

A. Yes, sir; this is my authority for officiating at the wedding. In other words, the minister or priest or rabbi cannot marry without he has the authority.

Q. This is the certificate that you returned to the clerk showing that you did marry the folks?

A. Yes, I could have brought my stub which was in substance, and if you desire it I will go home and get it.

A. No. Now——

The Court: As I understand it, that blank is attached to the license for the marriage?

A. Yes, sir. Now in this State, Judge, the Court gives——

Mr. Cole: Never mind, doctor, about that.

Q. Have you any present recollection of having read the license?

A. Yes, I shall assume, Judge, that I read it because I should want to know first of all, I should want to know well, among the first things I should want to know the exact initials, you see, things of that kind, and therefore I must have read it, I must have also read it again as to when it was issued because a marriage cannot take place within a certain number of hours.

Q. Have you any distinct recollection now as to where that license said these folks were from?

A. No, only as it is very clear to me that he came from Pitman and she came from Atlantic City. I question whether I asked her because I have known her for twenty-eight years.

WILLIAM B. PAULLIN, a witness produced on behalf of the caveators, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Kenworthy:

Q. Mr. Paullin, where do you reside and what is your business?

A. My business is 2014 Columbia Avenue, Philadelphia. I live at Pitman, New Jersey.

Q. What is your business?

A. Plumbing and gas fitting.

Q. Associated with your father in that business?

A. Yes, sir.

Q. Did you know Annie B. Paullin during the time that she was living with your father in Philadelphia?

A. During the time she was living with my father, yes, sir.

Q. When did you first know her?

A. Why September of 1917. I can't give you the date. I met her when she was Mrs. Addis at Atlantic City.

Q. Tell us what transpired on that occasion? Did you have any interview with her then?

A. Why she sent me an invitation through my father that she would like to meet me and he told me

at that time he anticipated getting married, and I said I would be glad, and that is about all.

Q. Who told you, Mrs. Addis?

A. My father told me. I said I would be glad to come down a certain Sunday, but I can't tell you what Sunday that was, but it was in September, so I went down with him, received very cordially, and during my stay there Mrs. Addis called me in the parlor, that is the room I judge you would call it, the parlor, first room and reception there on that front part of the second floor, and she says, "I am very glad to have met you. I have been wanting to meet you for some time," but she says, "I presume you know that your father and I are going to be married." I said, "I have learned so." Well, she says, "That is the fact, about the latter part of next month." She says, "We have come to the conclusion that your father will give up his home in Pitman and live at my home." I says, "What, not down to Atlantic City here?" "Oh, no," she says, "that is not my home. I have a home 3839 North Broad Street which I have been living there for a number of years," and I said, "That was very nice." She also told me that she purchased that home from some money that she received from her mother's estate, and that is what she did with that money.

Q. Were you present at the wedding?

A. I was, yes.

Q. Where was the wedding?

A. 3839 North Broad. She also told me that she would like me to see that home at 3839 North Broad Street before she was married, but on account of the time being limited and she was not going to leave her place of business in Atlantic City until about the first week in October, that she would

hardly have time, but she thought it was a grand home.

Q. When did you next have an interview with Mrs. Paullin, if you had?

A. I didn't see her until the day of the wedding.

Q. And after the wedding?

A. She stopped up to the office occasionally.

Q. Did you see her during the latter part of January or February of 1918?

A. Yes, I took dinner there.

Q. Where?

A. 3839 North Broad Street.

Q. Philadelphia?

A. Philadelphia. Let's see——

Q. Anything transpire then?

A. January or early part of February. Why yes, she spoke to me about having a chance to sell her business in Atlantic City to Freihofer and I think I advised her to sell it, yes, I told her, "Well, I would sell it if you could get enough money for it." Well, she says, "I don't know whether I can get my price, but if he will give me seventy thousand dollars I will let it go." Well, I says, "I don't know whether I would do that or not, depends on how much the business pays." I says, "If it makes ten thousand dollars a year, I don't think I would let it go for seventy thousand." Well, she says, "It don't make over forty-five hundred." Well, I says, "Six per cent. of seventy thousand would be forty-two hundred, you would be only three hundred out without working for it." She says, "Yes, that is so." She says, "I am going to take the matter up with him anyhow," so what came out of the matter I don't know.

Q. See her in the summer of 1918 or fall of 1918?

A. Oh, yes, she stopped at our house occasional times.

Q. Your house where?

A. Pitman.

Q. Well, when did she stop there?

A. Well——

Q. Have any conversation with her?

A. Well, different things, yes. There was one, let's see, I think she was talking about buying a house on the boulevard, and her, Miss Upham and my wife and my mother-in-law sat on the chairs on the porch and I sat on the rail right in front of them. My mother-in-law asked Mrs. Paullin if she was not going to have Mr. Paullin examine this house on the boulevard before she made any purchase or bought it, and Miss Upham spoke up and says, "No, we don't want to have him in it."

Q. That is the purchase of the house, in the negotiations?

A. No, in the examination of it before she purchased or negotiated for it.

Q. Well, what further was said respecting any other matter at that time? What day of the week was this conversation?

A. I think that was Saturday afternoon or Sunday afternoon, more like Sunday afternoon, I guess.

Q. Well, what further was said?

A. Why she asked my wife to do up some preserves and keep them there to our home until she came back in the fall, and they would stop in with their car and pick them up and take them on home with them, as they went home in the fall.

Q. Home to where?

A. 3839 North Broad Street.

Q. Now, were those preserves put up by your wife?

A. Yes, sir.

Q. And were they called for by Mrs. Paullin?

A. Yes, sir.

Q. And taken to her Philadelphia home?

A. I presume so, that is where she said she was going.

Q. Who furnished the jars, how did you get the jars? Were they new jars?

A. Why, they brought them down from Broad Street, from 3839 North Broad, furnished the sugar and furnished the money to buy the fruit.

Q. And your wife put the preserves up for them?

A. Did them up for them.

Q. Now in December, 1918, did you see Mrs. Paullin?

A. December when?

Q. December, 1918.

A. Yes, twenty-ninth of December.

Q. On the twenty-ninth of December?

A. Yes, sir.

Q. Where did you see her?

A. I saw her in Atlantic City. She was sick in bed with a carbuncle, I believe.

Q. Have any conversation with her at that time?

A. Nothing more than when I greeted her, when I went in the room I greeted her and told her I was very much surprised to see her like that, not a very fine way to come down to Atlantic City to attend to business.

Q. What did she say?

A. She says, "Yes, Bill, I have been in here since day before Christmas, but I can't get home soon enough. We haven't got anything here to wear. I even had to send Minnie in next door to Braunstein's and buy me some underwear, and your father, I don't know what we will do with him, I

guess we will have to put him in bed while we wash his underwear.''

Q. Anything further in regard to going home?

Mr. Cole: I wish you would not lead the witness by putting words in his mouth, emphasizing home in your own questions.

A. Pardon me, what was the question?

(Question repeated.)

Mr. Cole: I object to the form of the question.

The Court: I will sustain the objection to the latter question.

Q. Did you have any further conversation on December twenty-ninth, 1918, with Mrs. Paullin that you recall?

A. Why, she couldn't get home soon enough.

Q. How do you know she couldn't?

A. Because she told me so.

Q. What further did she say at that time?

A. That day?

Q. Yes.

A. Why she said that she was, would like to have us up there to Christmas dinner, but she would make arrangements as soon as she got home, and she also wanted me to ask Aunt Annie, and Mr. Napier, that they had never seen her home before, which we were invited and went.

Q. You went?

A. Yes, sir.

Q. When was that?

A. That was after she came home from Atlantic

City in, I think she came home early part of January of this year.

Q. That is you went there to dinner, you mean?

A. In January.

Q. Who were there?

A. My wife, and my mother-in-law, my father-in-law, Mr. and Mrs. Napier, and my father.

Q. Well, did you see her after that? See Mrs. Paullin after that, Mr. Paullin?

A. I saw Mrs. Paullin I think was the Sunday before she died, yes, the Sunday before she died.

Q. Where was she?

A. She was at her home, 3839 North Broad Street. I went up there to see her.

Q. What room?

A. Found her in bed in her bedroom.

Q. Have any conversation with her?

A. Except that I was joking with her about laying in bed. Well, she says, "This beats laying in bed down to Atlantic City," and that she was glad to get home, glad to be home. It was better there than it was in Atlantic City laying in bed, and that she didn't think she would be able to get off to Florida on Tuesday, but she would stay home and get herself in good shape to go Tuesday week, and that she thanked me very much for offering to bring her home from Atlantic City in my car on the day that she did expect to, that she found that the roads were pretty rough, as Mrs. Loux, Dr. Loux's wife, I don't know how you pronounce the name, had offered to meet them at the North Philadelphia Station if they came up on the train, and take them home from there, she accepted their invitation, and thanked me very much for mine. She thought riding in the automobile would be hard on her limb.

Q. Do anything for her in December, 1918, before Christmas at her request?

A. 1917 and 1918?

Q. 1918 and 1919?

A. 1918 and 1917.

Q. 1917 and 1918?

A. She asked me to write her visiting cards for her, which I did. I wrote two dozen each time.

Q. What instructions did she give you?

A. Told me to put her name "Anna B. Paullin." I asked her if she wanted any address, she says, "Why sure, put my residence on there, 3839 North Broad Street. I want to put these cards in with my Christmas gifts."

Q. Did you write the cards?

A. I certainly did.

Q. Delivered them to Mrs. Paullin?

A. My father did, and she thanked me for them, so I presume she got them.

Q. Mr. Paullin, who rented the house of Enos Frank Paullin at Pitman Grove at which he used to reside previous to his marriage to Mrs. Paullin?

A. A man by the name of Mr. Hurst.

Q. Who negotiated that rental?

A. You mean negotiated the renting of the house?

Q. Yes.

A. I did, sir.

Q. When did the tenant go into possession?

A. September first, 1918.

Q. Same tenant in possession yet?

A. Yes, sir.

Q. Now, on the assessor's list that was produced here from Pitman, you have heard there was a name "Annie Paullin", who is Annie Paullin?

A. I presume that is my wife.

Q. Does she own property in Pitman?

A. House she lives in.

Q. And whose name "William P. Paullin" as owning real estate there, who is that?

A. I don't know who William P. Paullin is owning real estate in Pitman. I know I don't own any.

Q. I show you letter dated September third, 1918, addressed "Mr. William P. Paullin, 2014 Columbia Avenue, Philadelphia," signed "Jay A. Hurst", which has been marked "Exhibit C4, 3/1/9 L.", and ask you who the William P. Paullin is named in that letter.

A. That is me.

Q. Did you receive the letter?

A. Yes, sir.

Q. Did it contain check as stated in the letter?

A. Yes, sir.

Q. What did you do with the check?

A. Give it to my father.

Q. What was the check for?

A. For rent and part purchase for some furniture.

Q. Rent of what property?

A. Pitman and Mt. Vernon Avenue, Pitman, New Jersey.

Q. Owned by whom?

A. My father.

Q. Enos Frank Paullin?

A. Yes, sir.

Q. When was this lease, agreement of leasing negotiated?

A. I didn't make any lease with them.

Q. What?

A. Didn't make any lease with them.

Q. Not any written lease, but when was the verbal lease negotiated?

A. August.

Q. What time in August?

A. Well, it was before Grangers' Day, for that is the day that I had the second hand man come there and take all the furniture out, so that I guess it was a couple of times in the early part of August that I met him down there.

Q. Early part of August?

A. Yes.

Q. House vacant when you rented it, I mean so far as any furniture was concerned?

A. The house was open for rental furnished, but I could not get a tenant for it furnished, so this man came along and he didn't want the furniture, so I cleaned it out and rented it unfurnished.

Q. Then how long did you have this property in your charge for rental as agent for your father?

A. From about the early part of November, in fact, we talked about renting it when he contemplated getting married.

Q. Of what year?

A. 1917.

Q. Did your father reside there thereafter?

A. After his marriage?

Q. Yes.

A. No, sir.

Q. So that the house was vacant until you rented it in August of 1918, is that right?

A. That is the way I knew it.

Cross-examination.

By Mr. Cole:

Q. Were you giving us Mrs. Paullin's exact language when you say she said things to you?

A. Why, I don't think anybody could give the

exact language of that, could they? That is the course of her conversation.

Q. Then you were not giving us her exact language?

A. I am giving you her course of conversation.

Q. Would you mind answering my question. I ask you whether you were giving us her exact language?

A. I am giving you her course of conversation.

The Court: Yes, but you can answer that question yes or no.

A. Her exact language?

The Court: Yes.

A. Well, I wouldn't like to say yes to that.

Q. Why wouldn't you like to say yes?

A. Because I don't think anybody could remember the exact conversation.

Q. Then I will repeat the question. Of course, if you object to answering it say so. The question is were you giving us her exact language?

A. I object to answering.

Mr. Summerill: Go on and answer.

Mr. Cole: Don't stop him.

A. Because I can't——

Q. Very well, sir, you object to answering?

A. Yes, I object to answering.

Q. Now all through your testimony you say that whenever she would refer to the Broad Street house she would say "her home"?

A. Yes, because she told me——

Q. Pardon me a moment, sir. I haven't asked you a question yet. You are not anxious about this in any way, are you?

A. No, I am not anxious.

Q. Take your time.

A. Only to get through here, that is all.

Q. You weren't in a hurry about getting through when you were being examined by your father's counsel, were you?

A. Excuse me, you can have all the time you want.

Q. Through your testimony on direct examination whenever you would refer to the Broad Street house, or testifying that she referred to it, she always spoke of it as her home, is that right?

A. She certainly did, yes, sir, gave me to understand——

Q. Not what she gave you to understand. I am asking you the simple question whether she referred to it as home and you said yes.

A. Yes, sir.

Q. Where is your home?

A. Pitman.

Q. Is that your legal residence?

A. No, sir; I vote in Philadelphia if that is what you mean by legal.

Q. That is what I mean.

A. Yes, sir.

Q. Your home is in Pitman?

A. Yes, sir.

Q. Voting residence is in Philadelphia?

A. Yes, sir.

Q. Didn't vote at Pitman, I suppose?

A. I hope not.

Q. Where are you registered from in Philadelphia?

A. 2014 Columbia Avenue.

Q. Do you know what division and ward that is in?

A. I do not.

Q. How long have you been voting from there?

A. Why, about six years, never voted anywhere else but Philadelphia.

Q. Now, when you saw her in Atlantic City in 1917 and she told you that she was going to be married to your father, do you know where she claimed her residence?

A. No, sir.

Q. Did you know where she claimed her home was?

A. Not until she told me for I never met the lady before.

Q. Now, just what did she say to you about marrying your father?

A. She told me that she had, that my father and her were to be married.

Q. Then what?

A. I told her I had learned of that fact.

Q. Just proceed now and tell us until I stop you, what was said.

A. She said she was very glad to meet me, and we talked about different things, and she finally said that they had come to the conclusion that my father would give up his home in Pitman and come and live at her home, and I thought she meant Atlantic City and I says, "What, Atlantic City?"

Q. Now, right there, why did you think she meant Atlantic City?

A. Because I met her in Atlantic City and that is the only place I ever seen her.

Q. You thought that was her home, didn't you?

A. At that time, yes.

Q. You saw her in a building that was furnished for a home?

A. Nothing to compare wtih Broad Street.

Q. Oh, I have no doubt Broad Street was much finer, but still it was a place looked like a home, didn't it?

A. She told me it was not, that is all I knew, and after that I didn't know it was her home, only place of business.

Q. It evidently occurred to you, didn't it, that when she talked about——

A. No, because nothing occurred to me, because I went down there to meet her, I wasn't bothering about her home, what it was or where it was, or anything about it.

Q. I was about to ask you when you interrupted me. It evidently occurred to you when she talked to you about marrying your father and he was to live at her home, that possibly she might have had Atlantic City in mind, didn't it?

A. Possibly she might have wanted him to come down there, but it didn't suit me altogether.

Q. Therefore you wanted to be certain that she was not referring to Atlantic City as her home?

A. Sure I did, that is the reason I asked the question.

Q. Did you ever hear her refer to Atlantic City as her home?

A. No, sir.

Q. Now the circumstance of the cards, you say you asked her what address was to go on the cards, and she told you 3839 North Broad Street?

A. No, sir; I didn't. I asked her if I should put anything else on the card, and she says, "Yes, I want my residence on the cards, 3839 North Broad

Street. I want to put those cards in with my Christmas gifts."

Q. You are sure that she followed your question by saying that she wanted her residence placed on the cards, which was 3839 North Broad Street?

A. I am not sure. I am positive.

Q. Isn't this what happened, you asked her if she didn't want her residence placed on the cards——

A. No, sir.

Q. Wait a minute. You mind waiting until I finish my question.

A. Excuse me.

Q. Did you know what I was going to ask you?

A. I imagine what you were going to ask me.

Q. What was your imagination?

A. Whether I didn't ask her to say whether her residence was 3839 Broad Street.

Q. That is not what I was going to ask you. So your imagination—ever been a witness before?

A. I don't know whether I have or not.

Q. You mean to say you don't know whether you ever have been a witness?

A. I don't think I have ever been a witness.

Q. How old are you?

A. Forty-seven.

Q. You mean to say you are not sure whether you have ever been a witness before?

A. I don't think I have ever been a witness.

Q. Have you?

A. I refuse to answer the question.

Mr. Summerill: Answer the question.

A. I have never been a witness, yes.

Q. I was about to ask you if the real circumstance wasn't this, after you had written her name on these

cards you asked her if she wanted her residence on the card and she said yes and then you wrote 3839 North Broad Street without her ever telling you what her residence was?

A. No, I told you——

Q. Did it happen that way or not?

A. No, sir. I told you how it happened and you can't make me say anything else.

Q. No, you are evidently going to stick to your story, aren't you?

A. I sure am. I will stick to the truth.

Q. Now, you haven't any doubt at all, perfectly clear in your mind now, after this intervening time, that whenever she wanted to make reference to 3839 North Broad Street, she referred to it as her home?

A. She referred to 3839 North Broad Street to me as her home, and give me to understand that that was her home.

Q. When she would say her home, would she say "home, 3839 North Broad Street"?

A. She would say 3839, very often used 3839 as a great expression.

Q. She would exploit her home as 3839 North Broad?

A. She sure would. Never said, "My home, 1410 Atlantic Avenue." I never heard her. That was her place of business I have heard from her.

Q. When did you first know that she was claiming Atlantic City as her home?

A. I never knew it.

Q. When did you first knew that she had made two wills declaring that as her home?

A. When I was down to Mays Landing.

Q. You were surprised at that, weren't you?

A. What?

Q. That she had declared 1410 Atlantic Avenue to be her home?

A. No.

Q. You were not surprised at all?

A. I wasn't surprised at anything. Why should I be surprised?

Q. Well, it so happens, Mr. Paullin, if I may acquaint you with the fact that you are the witness and not I, and I am not under——

The Court: Let's proceed.

Q. Have you any interest in your father winning this suit?

A. In what respect?

Q. In any respect.

A. None whatever that I know of.

Q. You don't care whether he wins it or loses it, do you?

A. Who, me?

Q. Well, I am not talking to anybody in Hong Kong. I am talking to you. Have you any interest in his winning or losing this suit?

A. No, what interest have I got in it?

Q. You don't care, do you?

A. I didn't marry Mrs. Paullin, no interest to me.

Q. Do you mind answering my question?

A. No, there is no interest to me.

Q. You don't care which way it goes?

A. I don't care which way it goes, what good would it be if I did?

Q. You are absolutely indifferent in this matter, aren't you?

A. I am absolutely indifferent in the matter.

Q. The upper part of this store from which you vote in Philadelphia is rented, is it not?

A. The upper part of what?

Q. The upper part of this store from which you vote is rented in Philadelphia, is it not?

A. 2014 Columbia Avenue, yes, sir.

Q. That is where you vote from, isn't it?

A. That is my office, 2014 Columbia Avenue, is an apartment house.

Q. You don't occupy any of the apartments, do you?

A. No, sir; occupy the first floor, if you want to call it an apartment.

Q. Are there any other children of your father's?

A. Any other children of my father's?

Q. Yes.

A. Yes, I have a sister.

Q. What is her name?

A. Eleanor F. Paullin.

Q. She is a single woman?

A. I think so, yes, sir.

Q. No other sons?

A. No other sons.

Re-direct examination.

By Mr. Kenworthy:

Q. Mr. Paullin, you have the entire floor at 2014 Columbia Avenue?

A. Entire first floor, cellar and basement, yes, sir; basement and first floor.

Q. You have living apartments in the rear?

A. Yes, sir; living apartments in the rear.

THOMAS J. CROSS, recalled.

Direct examination.

By Mr. Cole:

Q. Since you were on the stand have you been home to get something?

A. I have, sir.

Q. And did you get it?

A. I brought this.

Q. What is that?

A. This is the authorized piece of paper by which I am authorized to marry those persons who bring this document.

Q. That was given to you, wasn't it?

A. That was given to me, yes, sir.

Q. And was a part of this—was that taken from this original certificate and this is numbered 373789?

A. Yes, sir; that is my authority for officiating.

Q. Was it a part of this paper at the time you got it?

A. Yes, sir; it must have been.

(Certificate marked P13 for identification and license marked P12 for identification.)

Miss Annie Brooks, a witness produced on behalf of the caveators, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Kenworthy:

Q. Miss Brooks, where do you live?
A. 2014 Master, Philadelphia.
Q. Did you know Mrs. Anna B. Paullin?
A. Yes.
Q. Did you know her when she was Mrs. Anna B. Addis?
A. Certainly did.
Q. How long have you known her?
A. She is a relative of mine.
Q. In what way was she related to you?
A. Cousin.
Q. How long have you known her?
A. Ever since I have known myself.
Q. All your life?
A. All my life.
Q. Did you have any conversation with her in October of 1917, if so where?
A. The day before she was married in the Ridge Avenue Market, Eighteenth and Ridge Avenue.
Q. Philadelphia?
A. I met her and Miss Minnie Upham.
Q. Was any conversation then?
A. She told me—in fact I knew she was going to be married, and she offered some excuse for not inviting me, by saying it was to be a private affair, "But I want you to come up and see me when I come home," knowing, or at least hearing that Mr. Paullin came from Pitman I said, "Where are you

going to take up your residence?'' She said, ''Take up my residence?'' She says, ''I have a residence 3839 North Broad Street.'' She said, ''That is my home.'' Oh, I said, ''You are still going to live there?'' She said, ''Yes,'' Ridge Avenue Market, Eighteenth and Ridge Avenue.

Q. Was that the Ridge Avenue Market?

A. On Friday afternoon.

Q. Eighteenth and Ridge Avenue?

A. Exactly, the man she was buying of was Harold.

Q. The day before her marriage?

A. The day before her marriage on a Friday afternoon. Otherwise I would not have remembered the day.

Q. Have you any later or further conversations with her?

A. No, not to my knowledge I did not, but that was always known as her home.

Q. What did she—what further did she say, if anything, on that day?

A. I can't recall any other incident.

Q. Did you call in response to her invitation?

A. I did not.

Cross-examination.

By Mr. Cole:

Q. Why didn't you call?

A. I haven't any special reason. I never visited to any great extent, and there was not any reason for not calling at all.

Q. Never call after that?

A. No, I never saw her but once, and that was

in her car, to my knowledge. I had no further conversation.

Q. In her car?

A. Yes.

Q. Is that the day in question you saw her in her car?

A. Yes, I saw the car, she was at my home at that time, and I hadn't any conversation with her at all.

Q. Same day?

A. Oh, no, no, that was in December.

Q. Don't let's get confused. I thought you said that you saw her in the car on this day, that you saw her at Ridge Avenue?

A. No.

Q. Did you see her car that day?

A. No, I did not. I was marketing and met her in the market.

Q. Why did you ask her where she was going to take up her residence?

A. Knowing Mr. Paullin or hearing Mr. Paullin came from Pitman, I didn't know whether she was going down there to live or not. That is why I made inquiry.

Q. You knew that she always referred to North Broad Street as her home?

A. She did to me.

Q. Did you know that she was married to Mrs. Addis?

A. I certainly did, and was present when she married him.

Q. How long were they married?

A. I couldn't tell you that.

Q. Did you ever visit them in Atlantic City?

A. Yes, I think I did.

Q. How often during their married life?

A. Not very often. There wasn't any reason for not doing it, though.

Q. Pardon me, I don't care whether there was reason or not. I am asking the fact, how often did you visit them during their married life?

A. Not very often, I couldn't give you exactly.

Q. Did you know all during the period of their married life, that is to Mr. Addis, I mean, that Mr. Addis had taken up his legal residence in Atlantic City?

A. I did not.

Q. Pardon me, and had voted here?

A. I did not.

Q. Did you know that?

A. No.

Q. Did you know that she never gave up her membership in the Baptist Church in Atlantic City?

A. I did not. I did not even know what church she was a member of.

Q. When did you first hear her refer to the North Broad Street property as her home?

A. She always spoke of it as her home whenever I have talked to her.

Q. Did she refer to Atlantic City as her home?

A. Never to me.

Q. Not even before she bought the Broad Street property?

A. No, I never heard her speak of any place.

Q. How long did you know her before she bought the North Broad Street property?

A. Oh, I knew her all my life.

Q. How old are you?

A. Fifty.

Q. The only place you ever heard her refer to as her home was Broad Street, Philadelphia?

A. Why certainly, when she invited me up to see her.

Q. Did she never refer to Atlantic City as her home?

A. No, I didn't know there was any special mention of her home, no, because she traveled a great deal.

Q. Well, you knew that she managed and conducted this business ever since Mr. Upham's death?

A. Certainly.

Q. And you knew that she lived in Atlantic City at least eight months in every year, didn't you?

A. No, I didn't know how long she was there.

Q. But at all events you never heard her, even before she bought property in Philadelphia, refer to Atlantic City as her home, did you?

A. No.

Q. Strike you as being somewhat singular that she had never referred to Atlantic City as her home, the place that she had always lived, and where Mr. Addis lived, and claimed his residence, never referred to that as her home until after she bought the North Broad Street property?

A. There was never any mention of home. I knew she was down here.

Q. Whom did you first tell this story about the Ridge Avenue incident?

A. Who?

Q. Yes.

A. Why, I had spoke to various ones in my home, when I came back, when I came home from the market in town.

Q. When did you first tell anyone that you had heard her refer to the North Broad Street as her home?

A. I don't know just when it has been. It is frequently spoke of.

Q. I notice in your examination, without your being asked any questions by counsel on the other side, you volunteered the information that she always referred to the North Broad Street as her home. Why did you do that?

A. Because she did.

Q. I say why did you put that in without being asked?

A. Why did I?

Q. Yes.

A. Why, it is a question of establishing where her residence was.

Q. Do you know that is what this case is about?

A. Why, I most certainly do.

Q. How did you come to know that?

A. Well the papers would have told me if I would not have otherwise known.

Q. Are you interested in having Philadelphia established as her residence?

A. Not financially.

Q. In any way?

A. I don't know any more than to justice to a party.

Q. Whom?

A. To her husband.

Q. To whom?

A. To her husband.

Q. Why are you interested in that?

A. Because I think it is just.

Q. Do you happen to know that it makes any difference where this will is probated?

A. Certainly I know.

Q. Who told you?

A. I would not have to know that, no one wouldn't have to tell me.

Q. Is there a difference?

A. Well, I believe so.

Q. What do you believe about it?

A. Why, I believe that he will be interested.

Q. Well, somebody told you, now you have got something in your head, what is the difference, and who told you?

A. I don't know that anyone told me.

Q. Where did you get the impression it makes a difference where the will is probated?

A. I have been told by different ones, not especially people interested in this.

Q. Have you made some inquiry about it since this case has been on?

A. I have heard it spoken of.

Q. Who?

A. Well, I don't think that is necessary at all, who.

The Court: Yes, you may answer the question if you know. You are privileged, if you don't know, to say so, but if you know you may answer the question.

A. It must be answered?

The Court: Yes.

A. But I don't know. I don't think that has anything to do with it, who told me.

By the Court:

Q. It is unfortunate, but the Court directs you to answer that question if you are able to answer it. If you are unable to answer it you can say so.

A. I don't think I am entirely able to answer it.

By Mr. Kenworthy:

Q. Can you state who first spoke to you in regard to Mr. Paullin being interested in having this will probated in Philadelphia in place of in Atlantic City or Atlantic County, rather?

A. Yes.

Q. Who was it?

A. Mr. Paullin.

By Mr. Cole:

Q. How long have you known Mr. Paullin?

A. How long?

Q. Yes.

A. I wasn't personally acquainted with him until just recently.

Q. What time of the day did you meet Mrs. Paullin in the Ridge Avenue Market?

A. Well, so far as I can remember it was in the afternoon, I should think around three o'clock, for that was usually the time.

Q. What were you doing there?

A. Purchasing.

Q. Purchasing what?

A. Well, now, I couldn't tell you just exactly what she was buying.

Q. Eatables?

A. Oh, yes.

Q. How far was that from where she lived?

A. Well, it is Eighteenth and Ridge Avenue.

Q. How far is it; I don't know anything about Philadelphia. How far was it?

A. Quite a distance.

Q. What do you call quite a distance?

A. Well, that is thirty-eight hundred north and it is eighteen hundred.

Q. Was it a mile or ten miles?

A. Oh, it was several miles.

Q. Several, what do you mean by several?

A. Well, I mean the difference from eighteen to thirty-eight.

Q. I don't know anything about that. Can you tell us how far it was from Ridge Avenue Market?

A. No, I couldn't tell you the exact distance.

Q. Was it a mile?

A. Several miles, yes.

Q. Five miles?

A. Yes, I guess it is.

Q. And she was buying things in Ridge Avenue Market, was she, to eat?

A. Yes, they always came there to market.

Q. Have a market basket?

A. I don't know whether they had a market basket.

Q. Didn't observe that? Do you know where she was going to put the stuff she was buying?

A. Yes, I presume in her car.

A. Automobile?

A. Yes.

Q. See her driver that day?

A. No, I did not.

Q. Why did you presume that she was going to put that stuff in her car?

A. Because I seen them down around Eighteenth Street and something with the car.

Q. That would be the natural thing for her to do, to go down there in her car.

A. When I have seen them they have been in the car.

Q. You didn't see anything that anybody had, that they had to carry this stuff that she was going to buy back to her home, did you?

A. No.

Q. No market basket, anything like that?

A. No, I didn't notice any basket.

Q. And your presumption was that whatever she was going to buy she was going to take home in the automobile?

A. Yes.

Q. Now, don't you know that that automobile was not out of the garage on that day?

A. No, I don't know anything about it.

Q. Do you know the driver? Did you ever know him, ever see him?

A. Yes.

(Mr. L. A. Dow, stand up.)

Q. Did you ever see that driver?

A. No. Edgar is the one I mean.

Q. Well, that is Edgar. Now, he was working for her on the day you are talking about, day before the marriage, 1917. Did you see him that day——

Mr. Summerill: I object to the question.

The Court: I sustain the objection.

Q. Did you see him on that day?

A. No, I saw she and Miss Upham.

Q. And you know that gentleman, don't you, to be the one whom you did see driving the car at one time or another?

A. Oh, yes, I have seen him.

Q. Had she actually bought anything?

A. Well now, I don't know that.

Q. How long were you talking with her?

A. Oh, possibly ten or fifteen minutes.

Q. At that time where were you living?
A. 2014 Master.
Q. How far is that from the market?
A. Two blocks, or two and a half.
Q. Were you buying?
A. I was buying.
Q. Did you have a market basket?
A. Yes.
Q. Were you alone?
A. Yes.
Q. How did you come to fix the time as three o'clock in the afternoon?
A. Because I usually went to market around that time every Friday afternoon.
Q. You can't be mistaken about the date, can you?
A. No, because just the day prior to the wedding.
Q. That is what I say, you cannot be mistaken about it?
A. No, the day prior to the wedding.
Q. You say the day this occurred was the day before she was married to Mr. Paullin?
A. Positive.
Q. How do you know what day she was married to him?
A. Well, I wouldn't have known the day any more than meeting her there and knowing it was a Friday afternoon, which Tuesdays and Fridays are market days, and I know it was a Friday afternoon, because she made a remark about her approaching marriage next day.
Q. Then the only way you know that it was the day before her marriage, was because she told you she was going to be married the next day, is that it?
A. I knew it, but that is why I remembered the day.
Q. How did you know it?

A. I knew it, she had been visiting the house, but I didn't see her, saw my sister.

Q. Did you ever get any of her visiting cards?

A. Did I?

Q. Yes.

A. No.

Q. You have a brother?

A. Yes.

Q. What is his name?

A. William G. Brooks.

Q. He filed a caveat against this will, didn't he?

A. He did.

Q. When did you find that out?

A. Prior to him doing it.

Q. You talked about it, didn't you?

A. Certainly did.

Q. You encouraged his doing it, didn't you?

A. I don't know that I had any authority.

Q. Didn't you encourage his doing it?

A. I permitted him to do it.

Q. You encouraged his doing it, didn't you?

A. I don't think it is necessary to answer that.

The Court: Yes, you may answer the question, did you encourage him or did you not?

A. Well, certainly I would be wholly in accord with what my brother did.

Q. And you knew he was interested in making it appear that Mrs. Paullin was a resident of Philadelphia, didn't you?

A. We always believed her to be a resident.

Q. I say you were therefore interested in having it appear that she was a resident of Philadelphia, is that right?

A. Yes.

Q. And you are therefore interested in this controversy in having the Court say that that was Mrs. Paullin's residence?

A. I only know what she told me.

Q. Well, you mind answering that question?

A. Yes, I believe her to be a resident there.

Re-direct examination.

By Mr. Kenworthy:

Q. Do you know upon what ground your brother filed a caveat against probating this will?

A. On what ground?

Q. Yes.

A. No.

Q. You don't know on what ground?

A. No.

Mrs. Katherine A. Brooks, a witness produced on behalf of the caveators, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Kenworthy:

Q. Mrs. Brooks, where do you live?

A. 1334 North Eleventh Street.

Q. What city?

A. Philadelphia.

Q. Did you know Mrs. Anna B. Paullin?

A. I have known her ever since she was a little girl.

Q. Are you related to her?

A. Aunt by marriage.

Q. Aunt by marriage?

A. Yes.

Q. Did you see her at any time during the year 1918?

A. Yes, I met her at a funeral in November.

Q. Whose funeral and where?

A. At——

Q. Whose funeral?

A. Edward Brooks.

Q. Is he related to her?

A. Well, he is a cousin.

Q. And when was that?

A. That was November, either the twenty-second or twenty-third, it was the Monday before Thanksgiving Day.

Q. In 1918?

A. Yes, sir.

Q. Did you have any conversation with Mrs. Anna B. Paullin at that time?

A. Yes.

Q. Where was that conversation?

A. In this house, up in the room where we were.

Q. That is in the——

A. In this deceased's house.

Q. ——in the home of Edward Brooks?

A. Yes, in the home of Edward Brooks.

Q. Who was present?

A. Well, Minnie Upham was present.

Q. Who else?

A. Anna Addis called me in, Anna Paullin rather, called me and wanted to introduce me to Mr. Paullin. I had never met him. She introduced me to him, and then invited me to come to her home 3839 North Broad Street to see her.

Q. Remember just what she said?

A. That is all the conversation we had.

Q. Did you have any conversation with her prior to that at any time in which she referred to where her home might be?

A. Yes, some years ago I visited her 3839 North Broad Street and she told me she had a handsome chair in Atlantic City that she was going to bring there to that home.

Q. As near as you can recollect, the best of your recollection, what was the language she used at this funeral of Edward Brooks?

A. Well, that is all I can remember, that she wanted to introduce me to Mr. Paullin and she called him over and introduced me to him, and then she invited me to come and see her at her home, 3839 North Broad Street, and that is all the conversation that I had with her.

Q. At that time?

A. At that time.

Q. Now, who was present?

A. Oh, well, there was the whole family was present, Minnie Upham was with them.

Q. Yes, any of your family present?

A. Yes, I had two daughters.

Q. Two daughters?

A. Two daughters.

Q. Who are they?

A. Mrs. Frank Seeler and Mrs. Pillsbury.

Cross-examination.

By Mr. Cole:

Q. Did you ever visit her at her home, 1410 Atlantic Avenue, Atlantic City?

A. Years ago.

Q. How recently?

A. Oh, not for a long—the last time I visited her 1410 was during the encampment in 1910, the Grand Army Encampment in September, 1910, the Grand Army Encampment was there.

Q. Have you been a fairly frequent visitor to her home, Atlantic Avenue, Atlantic City?

A. No, never was.

Q. How did you come to visit her on that occasion during the encampment?

A. We went there, Mr. Addis was very sick, had been very sick, and we went there to see him.

Q. Did you go by invitation?

A. No, we just simply dropped in, we were there with this encampment of Grand Army, and we just simply dropped in to see how he was.

Q. And you knew that he was living here with Mrs. Addis in Atlantic City?

A. In Atlantic City, yes.

Q. You knew at that time that was her home, didn't you?

A. No, she had this Broad Streeet home at the same time.

Q. Had two homes?

A. Well, that she always called that, "Upham's Bakery", her business place. This Broad Street was her residence, she always referred to it as her home, 3839 North Broad Street, always.

Q. How many times did she refer to it?

A. Well, I didn't meet her very often, but when I did meet her, my husband was sick and she came to see him.

Q. Did you ever go to North Broad Street?

A. Me?

Q. Yes.

A. Yes, I was up there this time when I spoke of the chairs, that has been some years ago.

Q. How long did she own that property?

A. Oh, I couldn't tell you. She has owned it a good while. I couldn't tell you just exactly.

Q. She lived there at times with Mr. Addis, didn't she?

A. Yes, Mr. Addis lived there too. Mr. Addis was buried from there.

Q. Did you ever hear her refer to that as her home when she was living with Mr. Addis?

A. Yes, she always referred to it as her home.

Q. When Mr. Addis was living with her in Atlantic City?

A. Yes, sir; always refer to her North Broad Street home.

Q. North Broad Street home?

A. Yes, sir; always.

Q. I noticed in your testimony awhile ago you referred to it as "That home," is that right?

A. Maybe I did. I don't remember.

Q. But you did know at all events she had two places where she lived, one in Atlantic City and one ine Philadelphia?

A. She had a business place and residence.

Q. And during all the time that she was married to Mr. Addis you knew that he was living down here with her while she was conducting the business, didn't you?

A. Yes, I guess he helped to conduct the business.

Q. Yes, true, that is right, and did you know that he voted in Atlantic City?

A. I didn't know anything at all about the man's business.

Q. You never heard her mention Atlantic City as her home?

A. Never did, she always referred to it as 1410 Atlantic Avenue.

Q. In no other way?

A. That is the only way I ever heard her refer to it, only as "Upham's Bakery, 1410 Atlantic Avenue."

Q. And she always referred to North Broad Street as her home?

A. As her home, she loved that home and asked me——

Q. Do you remember that she lived in Philadelphia before she owned that property?

A. When she was a girl she did.

Q. No, but just shortly before she bought that, didn't she rent property in Philadelphia and live there in the winter time?

A. Yes, in the winter, she used to rent a furnished house.

Q. Where was that?

A. At one time——

Q Where was that?

A. Oh, different places, I couldn't tell you the numbers, one time she was in the Loraine.

Q. Was that during Mr. Upham's life time?

A. I don't know.

Q. Was it during Mr. Addis' life time?

A. Mr. Addis' life time.

Q. And she rented a house up there?

A. I believe so.

Q. In the winter time?

A. In the winter time.

Q. Did you ever hear her refer to that as her home?

A. No, I never did. I never visited her at all at that time.

Q. Apart from whether you visited her or not, did you ever hear her refer to that as her home?

A. I had no conversation with her at all, not any.

Q. Now, Mrs. Brooks, are you interested in this matter?

A. Not a particle.

Q. Who first talked with you about the testimony you were going to give here today?

A. Who first talked to me about it?

Q. Yes.

A. Oh, I can't remember who first talked to me about it.

Q. How did it come about?

A. Well, I don't know that either.

Q. Did anybody know what you were going to say today?

A. Not one soul knew what I was going to say.

Q. Hadn't any idea what you were going to testify to?

A. Well, I had talked about it, yes, of course, only thing I talked about what I knew, the truth.

Q. Who did you talk to about this?

A. I talked at home.

Q. At home?

A. Different ones at home.

Q. Who is at home with you?

A. I have a daughter and grandson.

Q. When did you begin to talk about this, before or after Mrs. Paullin's death?

A. Shortly afterwards, I wouldn't think of talking about it before.

Q. Why not?

A. Wouldn't have no occasion to talk about it before.

Q. Never talked about the fact before that she had referred to this as her home?

A. What, this Atlantic City? No.

Q. No, the Broad Street, Philadelphia?

A. Always did.

Q. I see, but did you ever talk about that before her death to any members of your family?

A. Members of our family all knew that she had her home on Broad Street, they all knew that.

Q. When did you first talk to the lawyers about this?

A. I couldn't tell you now. I don't know.

Q. Have you talked to them at all about it?

A. I can't say whether I have or not.

Q. Don't remember whether you talked with either of these gentlemen about it?

Mr. Kenworthy: You can answer that question.

A. I have talked to Mr. Kenworthy—is the name?

Q. Now, on this occasion, at this funeral, you have a very clear recollection?

A. Yes, sir; very clear.

Q. Of what?

A. Of talking to Mrs. Paullin and her introducing Mr. Paullin to me.

Q. And then she said, "You are invited to come to my home 3839 North Broad Street, Philadelphia"?

A. Yes, sir.

Q. That is exactly what she said, is it?

A. That is exactly what she said and that is all she said.

Q. And that is exactly what she said?

A. Yes, that is exactly what she said.

Q. Well, didn't you say awhile ago in answer to

the question of the other counsel that she said, "To that home"?

A. I don't remember I said to that home or what home, but I meant at her home on Broad Street.

Q. Well, did it make any especial impression on your mind at that time that she invited you to come to her home at 3839 North Broad Street?

A. No, for she had done it before.

Q. Nothing unusual about that?

A. Nothing at all unusual.

Q. Always mentioned that, she would refer to that as her home?

A. Always.

Q. And never refer to Atlantic City as her home?

A. Never, always her business place.

A. Not even during the time Mr. Addis was living here with her?

A. I never had any conversation with her at that time. I didn't visit her very much on this occasion.

Q. You mean you had no conversation with her during all the time she was married to Mr. Addis?

A. I never visited her, only this Grand Army occasion I stopped in to see her because Mr. Addis was very sick.

Q. Never during all the period she was married to Mr. Addis did she refer to Broad Street as her home?

A. I said I never had any conversation with her.

Q. Then you didn't hear her refer to the North Broad Street property as her home any time during her marriage with Mr. Addis, did you?

A. Yes, they used to come up there, they lived there.

Q. Of course they did. We know all about that. But you have just testified you had no conversation with her during the time she was married to Mr.

Addis, therefore you couldn't have heard her say that was her home.

A. I did hear her say that was her home, she always said that was her home.

Q. During the time she was married to Mr. Addis?

A. Yes, sir.

Q. Didn't you say, a moment ago, that you had no conversation with her during the time she was married to Mr. Addis?

A. Not a bit. No.

Q. Didn't you say a moment ago that you had no conversation with her during the time she was married to Mr. Addis?

A. No, I never said that.

Q. And if you said that, that isn't so, is it?

A. I couldn't have said that because I met her different times.

Q. Will you undertake to fix the time when you heard her refer to the Broad Street property as her home during the time she was married to Mr. Addis?

A. No, I cannot fix any time.

Q. Nor place?

A. No, nor place, only when she came to see my husband when he was sick, that was after Mr. Addis died, and she always invited him to come to her home on North Broad Street.

Q. While Mr. Addis was living?

A. I said after his death.

Q. It was your son who filed the caveat against this will?

A. I have no son.

Q. How are you related to Miss Brooks, who was on the witness stand?

A. I am an aunt by marriage.

Re-direct examination.

By Mr. Kenworthy:

Q. Now, Mrs. Brooks, you saw me and talked about this case on Friday of last week, didn't you?
A. Yes, I think Friday.
Q. And told me just what you knew about it?
A. Yes.
Q. Is that the only time you ever saw me?
A. Until this morning.
Q. Until this morning?
A. I don't think I ever saw you before until this morning, ain't that so?
Q. Exactly. That is the only time I ever met you.
A. Only time I ever met you.

The Court: The Court is willing to say he always deems it proper for the lawyer to know what the witness is going to testify to.

Q. Did you say to me anything other than what you said on the witness stand?
A. Nothing that I remember.

Mrs. Clara B. Seeler, a witness produced on behalf of the caveators, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Kenworthy:

Q. What is your full name?
A. Clara B. Seeler.

Q. Where do you live?

A. 4208 Westminster Avenue, West Philadelphia.

Q. Did you know Anna B. Paullin?

A. Yes, sir.

Q. How long did you know her?

A. All my life.

Q. The last witness on the stand I believe is your mother?

A. Yes, sir.

Q. Were you present upon the occasion which she testified at the funeral of Edward Brooks?

A. Yes, sir.

Q. Did you hear any conversation between your mother and Anna B. Paullin at that funeral?

A. Yes, sir.

Q. Where was that conversation?

A. In the front room of this Edward Brooks home.

Q. Tell us just what was said so far as you can recall it.

A. Well, she came and she spoke to my mother and she said, "Annie, I want you to meet my husband, Mr. Paullin." Well, we were anxious to see Mr. Paullin because we had heard so much about him, my sister and I were standing alongside of my mother, we met Mr. Paullin, and Mrs. Addis said to me, or said to mother, "Annie, I want you to come to see me, at my new—at my home on North Broad Street," and then she turned to my sister and I and she said, "You girls come up too." Miss Minnie Upham was there at the time.

Q. Now when was this conversation?

A. It was Monday before Thanksgiving, November, 1918. I just can't say the date.

Cross-examination.

By Mr. Cole:

Q. You were about to say, were you not, "at my new home, North Broad Street"?

A. Perhaps I got nervous.

Q. But I say "Were you about to say that?"

A. Perhaps I was, but I didn't mean it.

Q. Why were you going to put the word "new" in?

A. I don't know. I got nervous.

Q. Nervous about what?

A. It is the first time that I have ever been on the stand in my life.

Q. Well, is that the best explanation you can give for being about to use the word "new" and then draw it back?

A. Yes, sir. Didn't you ever get nervous?

Q. I am nervous now.

A. Well, I am nervous.

Q. Now, you were about to say "new home", weren't you?

A. Was I?

Q. Weren't you?

A. Well, maybe I was.

Q. And didn't it occur to you, just as you were about to say that, that——

A. Wouldn't be right.

Q. ——right?

A. Certainly did.

Q. Therefore you corrected yourself?

A. I surely did.

Q. And didn't you also have an impression, just as you withdrew that word, that your mother had not used the word "new"?

A. No, I didn't think of that.

Q. That didn't occur to you?

A. No.

Q. You are sure that is the reason?

A. Because I was going to tell you the exact words Cousin Annie said to my mother.

Q. Have you any idea how that word "new" came to be on your tongue?

A. No more than you do.

Q. Can't understand that?

A. No, sir; no more than you could tell me.

Q. Well, you at least thought, didn't you, either on that occasion in Philadelphia or since you have been here that Mrs. Addis or Mrs. Paullin changed her address?

A. No indeed.

Q. From Atlantic City to Philadelphia?

A. No.

Q. You knew, having known her all her life, that she had lived at Atlantic City all her days, didn't you?

A. No.

Q. Did you know she had ever lived here?

A. In Philadelphia?

Q. In Atlantic City?

A. I knew she had a business in Atlantic City.

Q. But she never lived here?

A. Now, maybe she lived here years ago, quite a number of years.

Q. When did she cease to live here?

A. I don't know.

Q. Did she ever cease to live here?

A. I don't know.

Q. Well, do you know whether she ever lived here or not?

A. I can't say.

Q. How old are you?
A. Forty-two.
Q. Did you ever visit her here?
A. Here? I visited her in the saloon.
Q. In what saloon?
A. Ice cream saloon.
Q. Didn't she live here then?
A. She said she had this ice cream saloon.
Q. Didn't she live here then?
A. We visited her there. I wasn't in her home, I visited her in the saloon.
Q. Where did you understand she was living at that time?
A. Where did I understand? I don't know just where she was living at that time.
Q. Didn't you know she was living in that very building?
A. Perhaps she was.
Q. Do you know?
A. It was in the summer time.
Q. Do you know whether she was living there or not?
A. Well, in the summer time she did live there.
Q. How do you know?
A. Because I had always heard my mother and father speak of it in that way.
Q. Know it any other way?
A. I think that is the very best way I could tell you.
Q. It is your understanding, isn't it, that she always claimed Philadelphia as her home?
A. Yes, sir.
Q. Always?
A. And she always emphasized "my home."
Q. And she always claimed Philadelphia as her home?

A. Yes, sir; so far as I know.

Q. She then claimed Philadelphia as her home before she bought 3839 North Broad Street, did she?

A. In the winter time she would rent this house.

(Question repeated.)

A. I couldn't tell you that.

Q. When did you first hear her claim Philadelphia as her home?

A. I guess when she visited my father.

Q. Well, you guess, do you know?

A. Yes, I think when she came to my father's house, he was very sick.

Q. When was that, how long ago?

A. My father has been dead three years this August, it was previous to that. I can't say.

Q. How long before?

A. I couldn't tell you.

Q. Was that while Mr. Addis was alive?

A. I couldn't tell you.

Q. Did you know Mr. Addis?

A. I met him once I think in my life, that is all.

Q. Where?

A. I guess in Atlantic City, one time we were in the saloon there.

Q. While he was married to Mrs. Paullin?

A. Yes, so far as I know they were married.

Q. Did you know they were living together and that this was his legal residence?

A. I didn't know much about that at all.

Q. But the first time you ever heard her make any reference to Philadelphia as her home was about two or three years before your father's sickness, as I understand?

A. Yes, then is when she had bought this home, a few years ago, but I meant she talked about the home.

Mrs. Mattie Pillsbury, a witness produced on behalf of the caveators, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Kenworthy:

Q. What is your name, Mrs. Pillsbury?
A. Mrs. Mattie Pillsbury.
Q. Where do you live?
A. 3910 Pennsgrove Street, West Philadelphia.
Q. Did you know Anna B. Paullin?
A. All my life.
Q. Knew her all your life?
A. Yes, sir.
Q. Were you ever in her home on Broad Street?
A. The only time I was ever in her home on Broad Street was when Mr. Addis was buried, and when she was buried, the only time.
Q. Was that home at that time permanently furnished, or just temporarily furnished?
A. Yes, permanently furnished.
Q. What kind of a home was it, can you describe the interior?
A. Very lovely home.
Q. Now, were you present at this interview which your mother and sister have testified at the funeral of Edward Brooks?
A. Yes, sir.

Q. When was that interview?

A. November, 1918.

Q. And who was there at the time of the interview referred to?

A. Why, Anna Paullin and Minnie, and my mother and sister and myself.

Q. Did you overhear the conversation between Anna Paullin and your mother?

A. Yes, she brought Mr. Paullin over and introduced him to us and then she turned to her and she said, "Anna, I want you to come up to see me sometime at my home on Broad Street."

Q. What did your mother say?

A. She said, "I will."

Q. Did Mrs. Paullin say anything further at that time?

A. Oh she just turned to my sister and I and said, "You girls come along." That is all.

Q. Did you have any conversation with Mrs. Paullin in October, 1917, other than the conversation to which you referred?

A. No, I saw very little of her.

Cross-examination.

By Mr. Cole:

Q. Had you ever before this occasion heard her refer to Broad Street as her home?

A. Always.

Q. What do you mean by always?

A. Well, I remember when she bought her home she came to my father, I guess it was about eleven or twelve years ago, and she said, "Charlie, I have bought myself a home on North Broad Street. I paid

nine thousand dollars for it." I heard her say that to my father.

Q. At the time she bought it?

A. Yes.

Q. So that there was nothing surprising to you in her statement made on this occasion when she asked you to visit her at her home on North Broad Street?

A. No.

Q. And you knew at the time she bought that property on North Broad Street that she was then living in Atlantic city, didn't you?

A. Just had her business.

(Question repeated.)

A. In the summer time, yes, she was living in Atlantic City in the summer time, carrying on her business.

Q. But she didn't live there?

A. She had lived there while she was there, but she never considered it her home.

Q. Never?

A. Never, to us. She always spoke of 3839 as her home.

Q. Where was her home before she lived at North Broad Street?

A. She had apartments at the Loraine, she had a furnished house on Seventeenth Street or Sixteenth Street.

Q. Did she tell you that they were her home?

A. In the winter time I suppose she spoke of them as her home.

Q. Did she?

A. I was a little girl then. I don't remember.

Q. You are on the witness stand and I am asking you the question. Be good enough to tell us what you remember.

A. I am telling the truth and I can't answer any further.

Q. Did you ever hear her refer to the apartments in Philadelphia as her home?

A. I never visited her in the apartments.

Q. I don't care whether you visited or not, I suppose you may have seen her on the street or she may have come to your home. I am asking you a simple question, did you ever hear her refer to those apartments as her home?

A. No, I can't say as I did.

Q. You do know that for years before she bought the North Broad Street property she was living in Atlantic City, didn't you?

A. I don't think she ever lived there all the year around.

Q. You don't think she ever had a home before she got the North Broad Street property, do you?

A. She always——

Q. Don't hesitate so long and answer that simple question. I say you don't think she ever had a home until she got the North Broad Street property, do you?

A. Certainly she had a home.

Q. Where was it?

A. That I don't answer.

Q. Why not?

A. Because she never spoke of any place but home 3839 Broad Street to me.

Q. Then I come back to the question you don't think she ever had a home until she bought 3839 North Broad Street, do you?

Mr. Summerill: I don't think that is a proper question.

The Court: I sustain the objection.

Mr. Cole: I think that is a perfectly proper cross-examination.

Mr. Kenworthy: The question has been answered.

Mr. Summerill: I will object to the question.

The Court: I will sustain the objection. The witness said the woman had not told her of any other home.

Q. Did she ever refer to Atlantic City as her home?

A. Never to me.

Q. Were you ever in her home in Atlantic City?

A. Just went in and had ice cream, never was in the back.

Q. Never were upstairs?

A. No.

Q. You spoke of a lovely home, do you distinguish between a home and building?

A. Certainly I can.

Q. What do you mean when you say it is a lovely home?

A. Why is was a beautiful home on North Broad Street, and she was very proud of it.

Q. Why do you say it was a lovely home?

A. Why just because I consider it so.

Q. Why did you use the word "home"? Why didn't you say it was a lovely building?

A. No, because it was home to her.

Q. That is why you said so, wasn't it?

A. Certainly.

MRS. MARY HASENMAYER, a witness produced on behalf of the caveators, being first duly sworn and examined, testified as follows:

Direct-examination.

By Mr. Kenworthy:

Q. Mrs. Hasenmayer, where do you live?
A. 1854 North Twenty-eighth.
Q. What city?
A. Philadelphia.
Q. Did you know Mrs. Anna B. Paullin?
A. All my life.
Q. Did you know Mr. Paullin, Mr. Enos Frank Paullin?
A. Same time.
Q. How long have you known him?
A. Just about a year, probably.
Q. Were you related to Mrs. Paullin?
A. Yes, cousin.
Q. Now, did you have any conversation with Mrs. Paullin before her marriage or about the time of her marriage or after her marriage?
A. Yes, one Sunday evening she called me on the phone and she said she would like to see me, so I went up, and when I went there Mr. Paullin was there, so I stayed downstairs with Miss Upham, and he soon left, and I went upstairs, and she told me then she was to be married to Mr. Paullin, and I said to her, "Are you still going to reside here?" and she said, "Why sure, this is my residence, and my home, and I intend to stay here".
Q. What did you say?
A. I said, "On account of Mr. Paullin being a

resident of Pitman I thought probably she would go there to live".

Q. What did she say to that?

A. She said no indeed, stay right in her own home.

Q. You have been in that home, have you?

A. Yes, quite frequently.

Q. This language you are giving the language of Mrs. Paullin near as you can recollect it?

A. To my knowledge, yes, sir.

Q. You have frequently been in the home 3839 North Broad Street, you say?

A. Yes, sir.

Q. Tell us what sort of a home it is and how it was furnished.

A. It was furnished very beautifully, a very fine home.

Q. How many floors?

A. Three floors.

Q. All furnished?

A. All furnished.

Q. And was the furniture of a permament character, dining room and kitchen?

A. Yes, furnished complete.

Q. How long did Mrs. Paullin live there?

A. I guess about eleven or twelve years to my knowledge.

Q. You say she called you on the telephone?

A. Yes, one Sunday evening.

Q. What did she tell you on the telephone?

A. Asked me to come up to see her, so I went up to see her.

Cross-examination.

By Mr. Cole:

Q. What did she want to see you about?
A. To tell me she was going to be married.
Q. But didn't tell you that over the telephone?
A. No, sir.
Q. That was her whole purpose in calling——
A. No, I suppose——
Q. Pardon me,—— in calling you over the phone was to have you come to her home to tell you that she was going to be married to Mr. Paullin?
A. No, she wanted me to spend the evening with her.
Q. Then she had wanted something else?
A. Yes, to spend the evening with her.
Q. Had you known her all your life?
A. Yes.
Q. Had you visited her in Atlantic City?
A. Not very often.
Q. At all?
A. Yes, on several occasions.
Q. While she was married to Mr. Addis?
A. Yes.
Q. You knew he lived here?
A. Knew he lived here.
Q. With her?
A. Knew he lived here.
Q. In Atlantic City?
A. Yes.
Q. Did you know this was his legal residence?
A. That I didn't know.
Q. Did you know she was a member of the Baptist Church?
A. No, sir.

Q. Didn't know anything about her Atlantic City affairs?

A. No, I didn't know whether she was a member of any church. I didn't know.

Q. You knew up to the time she moved on North Broad Street that she had lived in Atlantic City all her life, didn't you?

A. Well, a part of her life, yes.

Q. Now when you said to her, "Are you going to keep this residence," did you have her Atlantic City residence in mind?

A. No, sir, I had Pitman.

Q. You had entirely excluded from consideration her Atlantic City residence?

A. Yes, because they said Mr. Paullin had such a nice home in Pitman, they had told me.

Q. And you rather concluded instead of her coming back to Atlantic City to live, that she would want to go where he was?

A. Yes.

Q. And that is what you had in mind when you asked her whether she was going to reside at North Broad Street?

A. Yes, sir.

Q. And you were not distinguishing the North Broad Street residence from the Atlantic City residence at that time in your own mind, were you?

A. Yes, I was thinking of Pitman. I wasn't thinking of Atlantic City at all.

Q. When you asked her about her continuing the residence, did you mean North Broad Street?

A. I was at Broad Street, and I said, "Are you still going to live here," and she said, "Certainly."

Q. You referred to home and didn't give the number of the house and street?

A. I was right in the house and I thought it was

a very foolish thing to say, "Are you going to live right here, 3839 North Broad?"

Q. You thought it was very foolish then or now?

A. I thought it was foolish then.

Q. You mean to say now that you thought then it would be foolish to ask her if she intended to reside at 3839 North?

A. No, I didn't think anything about it then, but I think now it is a very foolish question for you to ask me when I was right in the house.

Q. Didn't you testify a moment ago that you remembered now that you thought then it would be very foolish to ask that question?

A. Certainly I think it would be a very foolish question to ask.

Q. And you thought that at that time?

A. Yes, I guess I have thought that at that time.

Q. She didn't couple 3839 North Broad Street with her residence here, did she?

A. Always.

Q. Did she on that occasion call it her residence?

A. Sure.

Q. Did she mention her residence, 3839 North Broad Street?

A. Probably she did. I am not quite sure.

Q. Did she on other occasions?

A. Always.

Q. Always when she would refer to her residence she would say 3839 North Broad Street?

A. On another occasion I congratulated her, five minutes after her marriage I congratulated her and she said she would be back in about a week.

Q. Pardon me—— always when she referred to her residence in Philadelphia she would couple it with 3839 North Broad Street?

A. Always.

Q. Never omitted to do that?

A. Always said it.

Q. The only occasion when she didn't do that was when you were in the house this time when she invited you out?

A. Yes.

Q. She didn't mention it then, did she?

A. No, I don't suppose she did.

Q. Don't you know?

A. I don't recollect, she said she was going to live right there, and that is where I was.

Q. Did she mention 3839 North Broad Street?

A. Not to my recollection.

Q. I don't suppose you can tell how it was she omitted it on that occasion and always referred to 3839 North Broad Street thereafter?

A. No, I don't suppose I could.

Re-direct examination.

By Mr. Kenworthy:

Q. Mrs. Hasenmayer, you started to tell us as to some conversation with Mrs. Paullin shortly after her marriage, Were you present at the marriage?

A. No, sir.

Q. Where was this conversation after the marriage?

A. I called her up from my home to her home on 3839 North Broad Street to congratulate her five minutes after she was married, both my daughter and I, and she said to me, "You come up to see me, I will be back in about a week or ten days, come up to my house and see me 3839 North Broad."

By Mr. Cole:

Q. So on that occasion when she said, "Come to my home" you said, "3839 North Broad Street"?
A. Yes, on that occasion.

Mrs. Annie Paullin, a witness produced on behalf of the caveators, being first duly sworn and examined, testified as follows:

Direct-examination.

By Mr. Kenworthy:

Q. Mrs. Paullin, you are the wife of Mr. William B. Paullin whose business is in Philadelphia and who resides at Pitman, is that correct?
A. It is.
Q. Now did you know Mrs. Anna B. Paullin?
A. I did.
Q. How long have you known her?
A. About September, 1917.
Q. From about September, 1917?
A. Yes.
Q. Did you have any conversation with her at any time during the period from September, 1917, until her death?
A. Oh, certainly.
Q. How frequently did you see her?
A. Every time she used to come to Pitman she used to stop at the house.
Q. Stop there when she was out automobile riding, I suppose?
A. Automobiling, when she used to come to the house for lunch or dinner.

Q. She would come to your house?

A. Yes, sir.

Q. Now can you recall the conversation which you heard your husband testify to?

A. I can. About the preserves, you mean?

Q. Yes.

A. Yes.

Q. Well, suppose you tell us just what occurred, tell us first when it was.

Mr. Cole: We will admit all about the preserves if we can save time.

A. I can't just exactly tell you the time. I know it was during the summer because she often used to come up, and then on some occasion I know they brought a few jars from Broad Street for me to put tomatoes and peaches and one thing or other in. I didn't have enough jars, so they sent me money to buy some new ones, and she asked me, right on my porch, if I wouldn't do them up for her.

Q. Now what conversation took place between Mrs. Paullin and you or Mr. Paullin and your husband, whichever it may have been?

A. She asked me if I would do up the preserves for her, and store them in my cellar until they came home in the fall to North Broad Street.

Q. Let us have Mrs. Paullin's language in respect to that, as near as you can recall it.

A. I don't know that I can say that, but I know that she said just what I said, she asked me if I would not do up some peaches and tomatoes, and then some currants, I did, and asked me to store them in my cellar until they came home in the fall, and they would pick them up as they came up in the automobile from Atlantic City.

Q. Now who said all this?
A. Mother Paullin.
Q. Did they pick them up in the fall?
A. Yes, they did.
Q. Where did they take them?
A. Philadelphia.
Q. Have you been in that home in Philadelphia?
A. I have.
Q. Will you tell us the character of that home, 3839 North Broad Street?
A. Why, it is very beautifully furnished, very beautiful.
Q. How many floors has it?
A. Three floors.
Q. What character of street is Broad Street in Philadelphia?
A. Well, it is considered a very fine street.
Q. One of the finest residential streets in Philadelphia?
A. Yes, sir.
Q. Did you hear Mrs. Paullin speak of that place upon any occasion?
A. Asher home.

Mr. Cole: That is what he wanted, but you say it.

A. I didn't quite catch the question. Then I answered it then?
Q. Did you in other conversations hear Mrs. Paullin speak of 3839 North Broad Street?
A. Yes, on the occasion when we were invited there for Christmas dinner.
Q. What did she say then?
A. In 1917 they came up from Atlantic City on Christmas Day and we were to go there for dinner in the afternoon, to her home on North Broad Street,

and then we were there on last Christmas, but not Christmas time, she expected to have us there Christmas dinner, but of course being sick she didn't get up until after the sixth of January, and we were there then.

Q. And you had your Christmas dinner there sixth of January?

A. No, she didn't come up from Atlantic until the sixth of January.

Q. Shortly after that?

A. Yes, shortly after that.

Q. That is this year, 1919?

A. Yes, this year, and we were also there in 1917 on Christmas Day.

Q. Who invited you to that Christmas dinner?

A. Mother Paullin.

Q. What did she say when she invited you?

A. "I want to have you folks all up there at Christmas dinner." She was to my house, I had the folks all there on Thanksgiving Day, and she gave us the invitation then.

Q. What did she say?

A. She said she wanted us all to come to her home on Broad Street for Christmas dinner, the family.

Cross-examination.

By Mr. Cole:

Q. Do you have a home?

A. I do.

Q. Where is it?

A. Pitman.

Q. Is that where you were when she was talking to you?

A. Certainly she was when she was there for dinner.

Q. Did you notice when you gave your testimony you said, "My house," and "her home"?

A. Well, that is all the same, house and home, it is just the same, where you live.

Q. Is it? Now have you any reason for saying, "My house" and "her home"?

A. No, because it all means the same.

Q. Well then she may have said——

A. I often speak of my home as "my house" too.

Q. Then she may have said, "My house," may she not?

A. I don't know whether she did or not, but I imagine she said her home.

Q. You imagine she said it?

A. Yes, sir.

Q. Might she have said, "My house North Broad Street"?

A. Well, that would be just the same if she did.

Q. Well, did she?

A. I don't know.

Q. Then you have some doubt about it?

A. No, I haven't any doubt. I think she said home. I am almost positive she said home.

Q. When I called your attention to the fact that when you referred to your home you said, "My house," and then I asked you whether or not she used "My home" or "house" you had some doubt about it.

A. Well, I don't know. I know she said "Broad Street home, 3839 North Broad Street," if that will answer any better, that is what she said.

Q. How many homes did you hear her refer——

A. Many and many a time.

Q. Many a time what?

A. Every time I met her and she had occasion to speak of her home she spoke of it.

Q. Did you know what I was going to ask you?

A. No, I just imagined.

Q. Why did you answer before I asked you?

A. I imagine that is what you were going to say is the reason.

Q. Is all your testimony imaginary testimony?

A. No, it is not. I am speaking the truth.

A. I am not doubting it, but I wish you would wait until I ask the question before you answer it.

A. Proceed then.

Q. Have you a very clear recollection now of this occasion in Pitman she told you that she wanted you to come to her home 3839 North Broad Street?

A. Yes.

Q. She never referred to that as her house, did she?

A. No, home.

Q. Always as her home?

A. Yes.

Q. You think there was anything unusual about that?

A. Why, no.

Q. You knew that she had been coming up from Atlantic City?

A. Yes.

Q. How did you know that?

A. Why, because I knew she did.

Q. How did you know it?

A. Because they often used to take trips up in the automobile.

Q. From Atlantic City?

A. Yes.

Q. Whereabouts in Atlantic City?

A. From 1410.

Q. How do you know?

A. Because she said so, "We just came up from 1410."

Q. What did she say?

A. Why, "We just came up from 1410." I never heard her speak of it as anything else.

Q. She never mentioned Atlantic City?

A. No, she didn't exactly mention Atlantic City.

Q. Did she?

A. I don't know whether she did or not. That is too far back.

Q. How did you know what she was referring to when she said "1410"?

A. Because that is the way she always spoke of it, "1410."

Q. How did you know where it was?

A. Her business place.

Q. How did you know it?

A. On Atlantic Avenue.

Q. How did you know it?

A. Because I knew where it was.

Q. Were you ever there?

A. Yes.

Q. You knew she had the business there?

A. Yes.

Q. You knew she lived there?

A. At times.

Q. Longer than she did at North Broad Street?

A. I didn't know about that.

Q. You don't know?

A. No.

Q. You know how long she lived at North Broad Street?

A. No, because I have only known her since 1917.

Q. Then if you don't know how long she lived at North Broad Street why do you say that she lived there longer than she did Atlantic City?

A. I didn't say it.

Q. Do you say it now?

A. No, I do not.

Q. Which place did she live the longest?

A. I couldn't tell you. I guess half and half, I guess.

Q. Now are you guessing or knowing?

A. Well, I don't know anything about it.

Q. Then if you don't know why don't you say so? Do you know how long a time during the year she lived in Atlantic City?

A. No.

Q. Do you know how long she lived in Broad Street?

A. No, I know she came home in October and lived there.

Q. Do you know how long she lived in North Broad Street?

A. No.

Q. But you do know she lived in Atlantic City?

A. Part of the time.

Q. You know she came up from Atlantic City in the automobile?

A. Yes.

Q. And she told you so?

A. Yes.

Q. And you knew she had been living there?

A. For a time.

Q. How long a time?

A. I don't know.

Q. How do you know she had been living there at all?

A. Why, because she said so.

Q. Is that the only way you knew?

A. Yes.

Q. Were you never down there?

A. Yes.

Q. Didn't you know it then by going in and seeing her?

A. Certainly, anybody has a home when they go away, even if it is only for six months, couldn't go by that.

Q. Just a moment ago you said the only way you knew she lived in Atlantic City was by what she told you. Didn't you know by the fact you saw her there?

A. Certainly I did.

Q. Then there were two ways you knew it, weren't there?

A. Yes.

Q. Then since you were so direct to tell me and emphasize the fact that you were here to tell the truth, why did you first say the only way you knew it was by what she told you, and now you say you knew it by two ways?

A. I don't know.

Q. You know one thing it is imporant in this case to have it established that her home was in Philadelphia, don't you?

A. Yes.

MRS. ADELLA H. SPENCE, a witness produced on behalf of the proponents, being called out of order by consent, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Cole:

Q. You are the daughter of Mr. Addis who was the husband of Mrs. Paullin, are you not?

A. I am.

Q. Do you recall the fact of the marriage between your father and Mrs. Paullin?

A. Do I recall the fact?

Q. There was a marriage, do you recall that?

A. Yes, I was present.

Q. And where did your father go to live after the marriage?

A. He went to live Atlantic City, he sold his home in Philadelphia, and went to live in Atlantic City.

Q. And did he live in Atlantic City with Mrs. Paullin, then Mrs. Addis, up to the time of his death?

A. He did.

Q. Did he die here?

A. He did.

Q. Do you know if Atlantic City was his legal residence?

A. I do.

Q. Did he vote here?

A. He did.

Q. Did he ever vote in Philadelphia after that time?

A. No.

Q. I mean after the marriage?

A. No.

Q. Now during the time that he was living in Atlantic City as his legal residence, did he go to Philadelphia in the winter time?

A. He did for a few months in the winter.

Q. With whom did he go?

A. With his wife, Mrs. Addis.

Q. And where did they go?

A. Why, they went to the Hotel Loraine for two years, we did—— I went with them—— and then we rented a house on Diamond Street for three years.

Q. And then where did you go?

A. And then we went to 3839 North Broad.

Q. Now during the period of your father's life, when he was married to Mrs. Paullin, where did she claim her home or residence, if you know?

A. I do know, and she always claimed her home at 1410 Atlantic Avenue, Atlantic City.

Q. Did you ever hear her refer to North Broad Street as being her home?

A. I never did.

Q. How did she refer to that place?

A. Always as the North Broad Street house.

Q. Now then do you know how it came about that Mrs. Addis went to Philadelphia in winter time?

A. Yes, because she loved the social life up there.

Q. How do you know that?

A. How do I know that?

Q. Yes.

A. Because she attended some card parties up there.

Q. And you say you went with her?

A. I did.

Q. When she would go and would stay until she came back?

A. To the card parties?

Q. No, when they moved to Philadelphia in the winter time.

A. Yes, I would always stay with her until she came back.

Q. Did you go with her to Florida?

A. I did on one occasion.

Q. How many times do you recall did she go to Florida when your father was living?

A. Every winter.

Q. Would that be after she moved to the Broad Street house?

A. Yes.

Q. Leave that and go to Florida?

A. Yes.

Q. When she came back from Florida where would she go?

A. When she came back from Florida, it was according to the year when she came back, when she came back late she would go right to 1410 Atlantic Avenue, her home.

Q. Then you have known her to come direct from Florida to Atlantic Avenue property?

A. Yes, I have.

Q. She have a wardrobe in Atlantic City?

A. She did.

Q. Now all the time she had a wardrobe in Philadelphia?

A. She did.

Q. And the house here was always furnished?

A. It was always furnished and always open.

Q. Was it always equipped to provide for food whenever she came?

A. It was, because there was always heat in it in the winter.

Q. What became of the North Broad Street property when she would go south?

New Jersey State Library

A. It was closed except when we remained home, then it was left open. If I went with her or my sister, then it was closed up.

Q. Was anyone left in the North Broad Street property when you went south with her?

A. No.

Q. Atlantic Avenue property was that kept open throughout the year?

A. It was.

Q. Was the North Broad Street property kept open from March until October, spring and fall, when she was not up there, was it kept open, the North Broad Street property?

A. The North Broad Street property was never kept open when she was not there, except the time when she went to Florida and I and my sister was left home.

Q. That one exception?

A. That one exception.

Cross-examination.

By Mr. Summerill:

Q. Are you named in this will?

A. I am.

Q. You are very much interested?

A. I am not interested financially at all.

Q. Aren't you named in it?

A. Not in the residence.

Q. Are you named in the will?

A. I am named in the will.

Q. I understood you got something, don't you?

A. I do.

Q. What do you get?

A. What do I get?
Q. Yes.
A. Why, what is named in the will.
Q. What is your name?
A. My name is Adella Spence.
Q. You named to the amount of three thousand dollars?
A. I am.
Q. You are interested then in the will, are you not?
A. Not interested in the residence, no.
Q. You are interested in the result of the will?
A. I am interested in the will only.

Mr. Cole: In other words she gets hers anyhow.

A. I get mine anyhow, so it don't make any difference to me.
A. Who told you that?
A. I know it.
Q. Who told you that before?
A. I know a little bit about law.
Q. Who told you before that, your husband?
A. Who told me before what?
Q. Before Mr. Cole just said it, I didn't know that.
A. Oh, didn't you?
Q. Yes.
A. Well then you have got something to learn, haven't you?
Q. We have all got a good bit to learn. How old are you?
A. I am twenty-seven.
Q. When were you married?
A. Married five years ago.

Q. To whom?
A. To Mr. Edwin Spence.
Q. This gentleman over here?
A. That gentleman over there.
Q. Who appears to be so much interested in the case of the proponents?
A. If you call it that.
Q. He is, isn't he?
A. I don't know that he is. He isn't interested financially at all.
Q. He is with counsel in this case, isn't he?
A. Yes.
Q. He is then representing you?
A. What do you mean?
Q. You say he isn't interested.
A. He is not representing me, when I get mine, no matter how it goes, don't I?
Q. Why is your husband so interested in the result of the case that he sits with counsel?
A. What do you mean by that?
Q. Is he there?
A. Yes.
Q. Why is he there?
A. Why is he there?
Q. Yes.
A. Well, I guess he is there——
Q. Don't you know?
A. No, I don't know particularly.
Q. 1310 is Upham's Bakery?
A. It is.
Q. And ice cream saloon?
A. Yes.
Q. And confectionery store, am I correct?
A. You are correct.
Q. And do or do not part of the employees live there all the time?

A. Yes, one or two of the girls in the store.
Q. Any of the men live there all the time?
A. No.
Q. One or two of the girls in the store live there during the winter?
A. Yes.
Q. Is that what you mean?
A. All the time.
Q. They live there all the time, winter and summer?
A. Yes.
Q. Heated with steam?
A. It is.
Q. And their living apartments are kept warm?
A. Yes.
Q. Who are the ones who live there?
A. Miss Clark and Mrs. Bittle at present.
Q. Has Miss Clark been there some time?
A. Yes.
Q. How many years?
A. Well, twenty some years, I don't know the odd date.
Q. And during the winter does not or does or does not Miss Clark have charge of the business?
A. She does in the winter.
Q. And has had charge of the business for a number of winters last past?
A. She has when mother isn't there.
Q. During the winter I am speaking of.
A. When mother isn't present, when mother is down there she takes charge of the business in the winter.
Q. How many days was your mother, as you term her, Mrs. Paullin, there last winter?
A. How many days?
Q. Yes.

A. Just this past winter when she died?

Q. Yes.

A. When do you state the winter commences?

Q. I am asking you a question, and you nedn't ask me questions.

A. Well, I want to answer properly.

Q. Oh no, it isn't that. That isn't your object, Mrs. Spence.

(Question repeated as follows: "How many days was your mother, as you term her, Mrs. Paullin, there last winter?")

A. Well, she came down about a week or so before Christmas and she stayed until about two weeks after Christmas.

Q. Two weeks?

A. Well, now I wouldn't say just what day.

Q. As a matter of fact you don't know the day she arrived there, do you?

A. I don't know the exact date, no.

Q. Nor do you know the day that she went away, do you?

A. I don't know the exact date.

Q. Then when you say a week or two before Christmas, and about two weeks after Christmas, you are all guessing?

A. I know she was there a week before, I can swear to that.

Q. All you know she was there sometime about Christmas, a short time before, and a short time afterwards?

A. I know she was there a week before Christmas.

Q. How do you know it?

A. Because I went up there to visit her and she came down.

Q. What?
A. I went up there to visit her.
Q. Do you know what day you went to visit her?
A. I went about a week before Christmas.
Q. Do you know what day?
A. Well, I went on a Sunday.
Q. The Sunday before Christmas?
A. Yes.
Q. How long had she been there then?
A. Well, I don't know how long she had been there, how many days.
Q. How long was she there during the winter of 1917, how many days?
A. Well, I can't say how many days, but she was there very often.
Q. More than once during the Christmas season?
A. Yes.
Q. Sure of that?
A. Yes.
Q. How long did she remain?
A. When she would come down?
Q. How many days did she remain during the Christmas season?
A. 1917?
Q. Yes.
A. Well, I think about a week.
Q. Guessing again?
A. Guessing again.
Q. Do you know where she took her Christmas dinner?
A. What year?
Q. Seventeen.
A. She had Christmas dinner down to Atlantic City.
Q. On Christmas?
A. No, day before Christmas.

Q. I am asking you where she took her Christmas dinner.

A. I couldn't say positively because I wasn't with her.

Q. You were not with her?

A. No.

Q. When you say she had Christmas dinner at Atlantic City you mean a Christmas dinner for her employees?

A. I do, which was her Christmas dinner also.

Q. She have any other Christmas dinner?

A. She may have, I wasn't present.

Q. You don't know whether she had Christmas dinner at her home in Philadelphia, do you?

A. No.

Q. You were not there?

A. I was not there.

Q. Do you know when Mrs. Paullin or Mrs. Addis at that time bought the North Broad Street property, how long ago?

A. About twelve years ago.

Q. About twelve years ago?

A. Yes.

Q. Prior to that, as I understand, she had apartments at one time at the Loraine?

A. She did.

Q. And also rented a house on Diamond Street?

A. She did.

Q. After she went to—— after she had bought the 3839 North Broad, she spent her winters there until the death of your father, is that right?

A. Until the death of my father?

Q. Yes.

A. Why yes, she spent a few months in the winter there, and also after that.

Q. And spent her winters there until the death of your father?

A. Well, I couldn't say the whole winter, no, because she spent most of her winters down south.

Q. After the death of your father did you visit her at her North Broad Street property in the winter?

A. I lived there.

Q. You lived with her?

A. With her.

Q. Up to what period?

A. Up until about five years ago when I was married.

Q. When did your father die?

A. He died along in 1910, in September.

Q. 1910, where?

A. At 1410 Atlantic Avenue, his home.

Q. Where was he buried from?

A. He was buried from Philadelphia.

Q. Where?

A. 3839.

Q. Taken up to the Philadelphia home?

A. They took him up to the Philadelphia house.

Q. From 1410?

A. From 1410, his home, where he died.

Q. Can you give me the date of his death?

A. I think it was the eleventh.

Q. Eleventh of what month?

A. Of September.

Q. Eleventh of September, 1910?

A. 1910.

Q. And you still continued to live with Mrs.—— with your mother——

A. Yes.

Q. Until your marriage or after your marriage?

A. Until my marriage.

Q. Afterwards, upon your marriage, which was five years ago, you left?

A. Yes.

Q. You spoke of Mrs. Paullin as your mother?

A. Yes.

Q. She was not your mother, was she?

A. She was always known as my mother.

Q. I am not asking you that question.

A. She is not my own mother. She was my stepmother.

Q. I understood Mrs. Paullin never had any children. I wanted confirmation.

A. No, she did not.

Q. Never had any?

A. No, not to my knowledge.

Q. Since your marriage, which would be in 1915—

A. 1914, wouldn't it?

Q. I don't know, I am trying to find out.

A. 1914.

Q. I am only taking that your father died in 1910, that you have been married five years, afterwards, you were married.

A. No, married five years ago, I said.

Q. You were married then in 1914?

A. Yes.

Q. Since then you have been living with your husband?

A. I have.

Q. And not with your stepmother?

A. I think so.

Q. During the past five years have you visited—did you visit Mrs. Addis or Mrs. Paullin, by whichever name she went, at 3839 North Broad Street during the winter?

A. I did.

Q. What winters?

A. Why, I visited her during seventeen and during eighteen.

Q. What time during seventeen?

A. I don't know. I forget.

Q. During the winter—— was it during December or November of seventeen?

A. Why the winter, January, February——

Q. I am speaking particularly now——

A. December of seventeen?

Q. Or November or December of seventeen, after her marriage to Mr. Paullin?

A. I don't think I did. I can't think, I can't recall. I was up there during that winter. I can't recall what months it was.

Q. Can't say whether it was after the first of January, 1918, or prior?

A. No, I can't.

Q. How many times did you visit there?

A. In the last two years?

Q. During that winter?

A. During that winter only once.

Q. But whether it was in January or February, 1918, or the winter months of seventeen, you can't recall?

A. I can't recall, no.

Q. Did you remain there over night?

A. Yes.

Q. How long did you remain?

A. I don't recall that. I know it was about three or four days.

Q. During that winter then you were there but the once?

A. Yes.

Q. Were you there again during 1918?

A. Yes, sir.

Q. What time?
A. In November.
Q. This past November?
A. Yes.
Q. Was she sick at that time, Mrs. Paullin?
A. No.
Q. How long did you remain that time?
A. About a week.
Q. After that did you visit her?
A. Not while she was living.
Q. You didn't see her again?
A. I came there as a visit for about two hours while she was sick, the day before she died.
Q. There for two hours, you see her?
A. I did.
Q. Once during 1918 you stayed there several days, you are sure of that?
A. Yes.
Q. May possibly have been twice?
A. No, I think I was only there once.
Q. Then the first one referred to then must have been in 1917?
A. What do you mean? I didn't understand your other question.
Q. I am trying to make it as plainly as I can, Mrs. Spence. Y ou visited her twice at which visits you stayed some time, in the sense of days?
A. Yes.
Q. Since her marriage to Mr. Paullin?
A. Yes.
Q. At the North Broad Street property?
A. Yes.
Q. One of those visits was in the latter part of 1917, after her marriage to Mr. Paullin?
A. It was after her marriage to Mr. Paullin but I

don't know whether it was in seventeen or eighteen of that winter.

Q. You don't know whether it was before the first of the year?

A. No, I do not.

Q. Then, if it was before the first of the year you were only there once in that year?

A. Yes.

Q. If it was after the first of the year you were not there at all?

A. Not in 1917?

Q. Yes.

A. No.

Q. If that first visit was after the first of the year you were there twice during 1918?

A. Yes, that is it.

Q. When you were there in November was Mr. Paullin there?

A. He was.

Q. Did you see him?

A. I did.

Q. When you were there in November was Mr. Paullin there?

A. What Mr. Paullin? I just said that. You are asking me the same question over.

Q. When you were there in 1917, if you were there in seventeen, was Mr. Paullin there?

A. He was if I was there in seventeen.

Q. If you were there?

A. Yes.

Q. If you were not there in seventeen but were there twice in eighteen, was Mr. Paullin there both times you were there?

A. He was.

Q. Every night?

A. Yes.

Q. Did you go up to visit Mrs. Paullin by invitation?

A. I did.

Q. By her invitation?

A. Her invitation.

Q Who else did you see there besides Mr. Paullin and Mrs. Paullin?

A. Miss Upham.

Q. Anybody else?

A. Well, she had company in two or three evenings.

Q. Did you know any of them?

A. I did.

Q. Who were they?

A. Mr. and Mrs. Lukens.

Q. Who else?

A. Tha is all I can recall

Q. How do you know—— did you ever see your father vote?

A. No.

Q. How do you know he voted then?

A. I only know he went out of the store to go to vote.

Q. You know he went out with the purpose of doing something?

A. I do.

Q. As a matter of fact you don't know he did vote?

A. I didn't go to the polls with him, no.

Q. So you don't know that he did vote actually?

A. He told me he voted.

Q. I am asking you if you know if he did that?

A. I wasn't to the polls to see him vote.

Q. You don't know then?

A. I think he told the truth when he told me he did.

Q. Do you know of your own knowledge?
A. No.
Q. Do you know of your own knowledge that Atlantic City was his home?
A. I do.
Q. Why?
A. Because he sold out his home in Philadelphia and moved down here and made this his home.
Q. Sold out his home in Philadelphia?
A. Yes.
Q. And moved down at Upham's Bakery?
A. 1410 Atlantic Avenue.
Q. It is called that, isn't it?
A. It is.
Q. When did he sell out in Philadelphia?
A. When did he sell out?
Q. Yes.
A. The year he was married.
Q. When was that?
A. 1900.
Q. But in the winter—— did he in the winter go to Philadelphia?
A. He did for a few months, and then they went to Florida.
Q. How many times did they go to Florida, every winter?
A. Every winter.
Q. Every winter during your father's life they went to Florida?
A. Yes.
Q. Before they went to Florida did they stop at the North Broad Street house?
A. They would.
Q. And upon their return for the balance of the winter?
A. According to the time they came home.

Q. How long did they remain in Florida?

A. Well, at different periods, sometimes they remained for three weeks, sometimes four, sometimes five.

Q. But before going and upon returning they would stop over in Philadelphia?

A. Oh, sometimes they would always be in Philadelphia before, but not always afterwards.

Q. When they were not in Philadelphia afterwards, they would be late in going to Florida?

A. Not necessarily. They stayed down longer that year.

Q. Do you know how many rooms there are in the North Broad Street house?

A. How many rooms, bedrooms, or altogether?

Q. Altogether.

A. Yes. Well, there is ten rooms and two baths.

Q. Ten rooms and two baths?

A. Yes.

Q. How many bedroms?

A. There are five bedrooms.

Q. Have you been in the house sufficiently to know whether there has been any change in the furnishings of the house since your father died?

A. I don't understand that question.

(Question repeated.)

A. I have.

Q. Since the marriage of Mrs. Addis to Mr. Paullin?

A. Yes.

Q. Have there been any changes in the furnishings since that marriage?

A. No.

Q. Nothing new put in it at all?

A. What do you mean?

Q. Either in the house or in the furnishings?

A. I don't know about that, there might have been another vase, or piece of cut glass, or something like that, but I couldn't take stock of everything that came in there.

Q. You were not there for that purpose?

A. I was not there for that purpose.

Q. Any change in the bathroom?

A. Any change in the bathroom?

Q. Yes.

A. Well, there was a shower bath put up.

Q. Anything else?

A. New seat on the toilet.

Q. Five bedrooms I understood you to say in that building?

A. Yes.

Q. How was the house furnished?

A. Very nicely.

Q. All the way through?

A. Yes.

Q. In every particular?

A. Yes.

Q. How many bedrooms are there in 1410, excluding bedrooms for help?

A. Why, there is four bedrooms excluding bedrooms for help, two bedrooms for help.

Q. Then there are six bedrooms there altogether?

A. Yes.

Q. In excluding the bedrooms for help did you include or exclude Minnie Upham?

A. I don't just understand your question. Exclude?

Q. Do you exclude Minnie Upham as among the help or not?

A. No.

Q. She was paid by Mrs. Paullin, was she not?

A. I really don't know that.

Q. Never heard that?

A. I know that mother gave her some money, but I didn't know that she paid her regularly.

Q. That is what I am trying to find out, you don't know that your mother paid her a weekly or monthly compensation?

A. I do not.

Q. How many bedrooms are there on the second floor of 1410?

A. One.

Q. Only one?

A. Yes.

Q. From you knowledge, while you had a knowledge or lived there, by whom was that occupied?

A. That bedroom?

Q. Yes.

A. While I lived there?

Q. Yes.

A. By my mother and father.

Q. Have you been there to stay over night since the death of your father?

A. Why I lived there after the death of my father.

Q. For how long, until your marriage in 1914?

A. Until my marriage, yes.

Q. For four years?

A. Yes.

Q. During those four years who occupied that bedroom on the second floor?

A. Mother alone, Mrs. Addis.

Q. How many bedrooms on the third floor?

A. Altogether?

Q. How many bedrooms on the third floor?

A. Five bedrooms and a store room.

Q. Where is the bath room?
A. There is no bath room on the third floor, bath room on the second.
Q. Did the help occupy the same rooms?
A. What do you mean?
Q. Did the help occupy the same rooms, room together, or do they have separate rooms?
A. No, they have separate rooms.
Q. All three?
A. No, only two help that live there.
Q. Isn't Minnie Upham there most of the time?
A. Yes, but I am not considering her as help.
Q. Counting Minnie Upham as help, then there are three rooms occupied?
A. If you count her as help, that would be.
Q. How do the furnishings in that house compare with 3839 North Broad?
A. Very nicely.
Q. One equal to the other?
A. One equal to the other.
Q. All the way through?
A. Not all the way through.

Re-direct examination.

By Mr. Cole:

Q. What was your father's business?
A. Before he married my mother?
Q. Yes.
A. Why, he was hatter in the gent's furnishing business.
Q. And was that business closed out when he married?
A. He did.

Q. Had you been living with your father up to the time of the marriage?

A. Yes.

Q. And when he married you came with him to Atlantic City, and lived with him and Mrs. Upham?

A. I did.

Q. All throughout the married life?

A. I did.

Q. And he had no other business at all?

A. He had no other business at all. He sold out his business and put his business in down here.

Q. Did you attend school here, schools in Atlantic City?

A. Yes, I attended schools here.

Recess taken until two o'clock P. M.

AFTERNOON SESSION.

Trial of the cause resumed at two o'clock P. M.

MRS. ETHEL FRANK, a witness produced on behalf of the caveators, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Kenworthy:

Q. Where do you live, Mrs. Frank?

A. 1854 North Twenty-eighth.

Q. You are a daughter of Mrs. Hasenmayer, are you not?

A. Yes.

Q. Did you have any talk with Mrs. Paullin about the time of her marriage?

A. Yes, I had.

Q. What was it? Where was it and what was it?

A. Well, I had called her up on the phone to congratulate her and she said to come up and see her to her home in Broad Street.

Q. Have any other talks with her?

A. Yes, I have. She was at our home about in February, 1918, she said she was always glad when the busy season was over at Atlantic City so she could get back home.

Q. Any other conversations you remember with her?

A. Oh yes, I had quite a few.

Q. She ever refer to her home in any of these conversations?

A. Well, she always referred to North Broad Street as her home.

Q. Where did Mr. Paullin live?

A. Where?

Q. Mr. Paullin, yes.

A Prior to her marriage?

Q. No, after the marriage.

A. 3839 North Broad.

Cross-examination.

By Mr. Cole:

Q. When she made those statements to you about her home at North Broad Street, did it sound in any way strange to you?

A. No, because she always said her home, North Broad Street, she always specified that.

Q. Make any particular impression on your mind?

A. No.

Q. Did you suppose then that the question of where her home was would ever arise?

A. No, because I always knew her home on Broad Street because I have known Mrs. Paullin for quite a while.

Q. How long have you known her?

A. All my life.

Q. How old are you?

A. I have come in contact with her quite often. Why I am twenty-four.

Q. Did you ever visit her at her home in Atlantic City?

A. Yes, once in a while, not very often.

Q. Stay over night?

A. Yes, about three years ago I stayed over night, stayed for a week.

Q. Ever before three years ago?

A. No.

Q. What time of year was that?

A. It was in, it was in the summer time about July.

Q. Did you come there by invitation?

A. Yes.

Q. Written or by letter?

A. Personal invitation.

Q. I mean written or personal?

A. Personal invitation.

Q. How did you get it?

A. Oh, by coming in contact with her and she invited me down.

Q. Where did you see her?

A. On North Broad Street home.

Q. When was that?

A. That was in the winter time, because Mrs. Paullin, we visited there quite often.

Q. Then you mean you came down to Atlantic in July?

A. I did, July, it was July or August.

Q. As a result of an invitation you had that preceding winter?

A. Yes.

Q. When she invited you to come to Atlantic City, what did she say?

A. She told me to come down and spend a couple of days with her on my vacation, and I did it.

Q. Where did she tell you to come?

A. To 1410 Atlantic Avenue.

Q. What else did she say?

A. I just can't quite recall the words she said, but she always specified 1410 Atlantic Avenue when she spoke of Atlantic.

Q. She always specified North Broad Street too, didn't she?

A. Yes, but she always said, "Her home North Broad Street."

Q. But she never spoke of her home in Atlantic City?

A. No, I never knew of that to be her home in Atlantic City.

Q. Never spoke of it as her home?

A. Never as her home, always 1410, I am going down to 1410.

Q. Were you visiting there while Mr. Addis was alive?

A. No.

Q. Always after his death, was it?

A. Yes.

Q. Did you ever visit her at all while he was alive?

A. Let me see, it has been some years ago, you know, since he has been dead. Yes, because I was

there when they were married, when Mr. and Mrs. Addis were married.

Q. Where?

A. Oh, I was very young then.

Q. You were where?

A. At their marriage, when they were married.

Q. Now during the time that Mr. and Mrs. Addis lived in Atlantic City, which was a period of eight or ten years, did you then hear her refer to North Broad Street as her home?

A. Eight or ten years? She always referred to North Broad Street as her home.

Q. During the time that she was married to Mr. Addis?

A. Yes, always.

Q. When she referred to Atlantic City, Atlantic Avenue property, during that time what would she say?

A. 1410, them were her words.

Q. She mean Atlantic City?

A. Always, "I am going down to 1410." We just knew where it was.

Q. What was the occasion of your telling this story to anybody that you are telling today? How did it come about?

A. Telling what story? I am telling you?

Q. Yes, about what she said to you?

A. Why because you asked me it.

Q. Well, but somebody asked you before today about it.

A. Never.

Q. Now, aren't you mistaken about that?

A. Positively not, no one knew I was coming here today until I saw Mr.—whatever his name is, this morning.

Q. How did you come to be here?

A. I came with my mother. I never saw any of these lawyers before in my life.

Q. How did you come to come with your mother?

A. Just because I wanted to come down with my mother, that is all.

Q. Did you know what your mother was coming for?

A. I did.

Q. What was she coming for?

A. Why for the same thing you have got me up here for.

Q. What did you understand your mother was coming here for?

A. You know without asking me that question.

The Court: Just answer the question.

A. The same thing that you have got me up here for, to question about Mrs. Paullin.

Q. Did you know what your mother was going to testify to?

A. No, not exactly. You never know what you are going to say until you get up here.

Q. Did you know at all what your mother was going to say?

A. I did not.

Q. Did you know what she was going to be asked?

A. I did not.

Q. Did she discuss with you the testimony she was expecting to give?

A. No. I guess she didn't know, what you are going to say until you get up here.

Q. You mean to say that you didn't know that your mother was coming down here?

A. Certainly I knew my mother was coming down here.

Q. Pardon me a moment. You mean to say that you did not know that your mother was coming down here to establish the fact that Mrs. Addis, Mrs. Paullin, had told her that her home was North Broad Street, Philadelphia?

A. Oh, yes, that.

Q. That is what I am talking about.

A. You didn't clearly ask me that question.

Q. How did you find it out from your mother?

A. My goodness alive, she surely would tell me things.

Q. Did she tell you that?

A. That she was coming down here to say that?

Q. Did your mother tell you she was coming down here?.

A. She told me she was coming down here, but she didn't tell me what she was going to say. You never know what you are going to say until you get up here.

Q. Did you and your mother not talk about the testimony she was going to give here today as to what Mrs. Addis had said to her as to her home in North Broad Street, Philadelphia?

A. She hasn't said anything up here what she was, I guess what she was going to say, no.

Q. You live with your mother?

A. I do.

Q. And do you now say that your mother did not tell you what she was coming to Atlantic City for?

A. Why certainly she told me what she was coming about.

Q. What did she tell you?

A. Why she said she was coming down here, but about Mrs. Paullin.

Q. Well, what did she say?

A. She didn't exactly say what she was going to

say or anything like that, because I know she didn't know what she was going to say.

Q. Did she tell you it was important to show where it was that Mrs. Paullin lived?

A. Why, certainly.

Q. Told you it was important to show that Mrs. Paullin's home was in Philadelphia?

A. Why, certainly.

Q. Your mother tell you that, didn't she?

A. Sure.

Q. Then you recalled that she told you the same thing?

A. I certainly do.

Q. Do you know how it happened whenever she referred to Philadelphia as her home that she mentioned Broad Street?

A. That was just a habit of hers, she always mentioned Broad Street.

Q. How do you know it was a habit?

A. Why, because she said it so many times, it must have become a habit.

Q. Well, when your mother told you that she was coming down to say that Mrs. Paullin had said that her home was North Broad Street, did you tell your mother that you heard her say the same thing?

A. No, I wouldn't get up and say a lie, swear to a lie.

(Question repeated.)

A. Why, I wouldn't get up here and say I heard the same thing if I didn't.

By the Court:

Q. That is not the question. The question is, did you tell your mother that you had heard the same thing?

A. I had heard the same thing?

Q. Did you tell your mother that?

A. Oh, why yes, I did.

By Mr. Cole:

Q. When did you tell your mother?

A. Why, just at noon time. I never knew I was going to get up on this witness stand.

Q. How did you come to tell your mother at noon time that you had heard this?

A. Heard what?

Q. Just what you have been talking about?

A. About her home being on North Broad Street?

Q. Yes.

A. Why, I always heard that.

Q. How did you come to tell your mother?

A. Naturally you would talk over those things.

Q. But you never told your mother until today, did you?

A. I certainly have, why I never knew her to claim her home any other place than North Broad Street.

Q. I am not asking you about that. I am asking you about your telling your mother about what you heard Mrs. Paulilin say. Did you ever tell your mother you heard her say that?

A. I don't think I have.

Q. Well, you did tell her today, didn't you?

A. I said something today.

Q. How did you come to say it today?

A. Because I heard so much this morning naturally I would think of what I heard too.

Q. You didn't expect to be a witness when you came down?

A. No, I did not.

Q. Didn't want to be a witness, did you?

A. No, I wasn't crazy about it because I have never been on the stand before.

Q. Why did you tell it so that you could be made a witness, why did you tell what you knew?

A. Well, I thought that I might as well go in favor if I saw what was right.

Q. Did you understand it was important to make it appear that Mrs. Paullin lived in Philadelphia?

A. Why, certainly.

Q. Why did you understand that was so? Who told you?

A. What do you mean?

Q. Who told you it was important to establish that Mrs. Paullin's home was Philadelphia?

A. I should think any one would know that.

Q. Well, outside of what any one would know, did anybody tell you?

A. Yes.

Q. Who told you?

A. I heard my mother and others talking, heard my mother talking about it.

Q. When?

A. Oh, a week or so ago.

Q. What did she say?

A. She didn't just exactly say that it was important that her home was in Philadelphia, but she was talking about things, and I should think it would be necessary—her home is in Philadelphia, anyway.

Q. What did your mother say to you when she told you it was important to show that Mrs. Paullin's home was Philadelphia?

A. I don't just exactly know the words that she said, but I have ears and they could hear.

Q. What is your present understanding of the difference between the probate of this will in Philadelphia, and the probate of it here?

A. Well, I don't just know what that is, I can't answer that question.

Q. It is your idea that this will ought to be taken care of in Philadelphia, isn't it?

A. Yes, because I think her home was in Philadelphia, and I think it ought to be probated in Philadelphia.

Q. You also understand, don't you, that Mr. Paullin will get more if this will is probated up there than if it is probated down here?

A. That is his business. I don't know anything about Mr. Paullin's business, what he will get, anything about that.

Q. Outside of whose business it is, don't you so understand that?

A. I don't know anything about Mr. Paullin's business or anything like that.

Q. You never heard he was to get more property if this will was probated in Philadelphia, did you?

A. I guess he will get more, but that is not the reason I am up here.

Q. Why do you guess that?

A. Well, I just can't answer that question.

Q. You understand your mother is to profit by this will being probated in Philadelphia?

A. I think so, yes.

Q. In what way?

A. I guess she is. I don't know.

Q. Why do you guess she is to profit by it?

A. Well, if she doesn't, she ought to anyway.

Q. Is it your understanding that she does profit if it is probated in Philadelphia?

A. Well, I should think she would. I hope she does anyway.

Q. What do you base that thought on? Has she told you so?

A. No, but I think I know a little bit myself.

Q. Now, what is your understanding?

A. Yes, I think that she will get something.

Q. Why?

A. Why, because I think the laws of Pennsylvania are different from the ones in New Jersey.

Q. How different are they in this respect?

A. Well, different than that, much different. I know that she will get something.

Q. Now, Mrs. Ethel Frank, is that your guess, or has somebody told you that?

A. Why, no, it is not a guess, and no one has told me.

Q. Then what is it?

A. It is my own idea.

Q. And where did you get the idea from?

A. I just know.

Q. How do you know?

A. Because I know the laws of Pennsylvania are different from New Jersey laws.

Q. Who told you they were different?

A. I know that much.

Q. What is your business, have you any business?

A. Yes.

Q. What is it?

A. I am working at the Philadelphia and Reading Railroad.

Q. In the law department?

A. No, not in the law department, but I am no dummy.

Q. Now, do you seriously want this Court to believe that in this case there is a difference between the law of Pennsylvania and the law of New Jersey?

A. Well, there is a difference.

Q. But you don't know what it is, do you?
A. No, I know there is a difference, though.

Mr. Summerill: Before we close I want an opportunity given to call that assessor. We have been trying to find where he is. He was out of town Saturday, and his family didn't know where he was. That is all the evidence I understand we have.

The Court: I think both sides want that.

Mr. Cole: Our information is that there is no such record.

Mr. Clevenger: We made the search, but didn't have the chance to get the exemplification.

(Caveators rest subject to calling the assessor.)

PROPONENTS' REBUTTAL.

CHARLES H. EDMUNDS, recalled.

Direct examination.

By Mr. Cole:

Q. It already appears that you are a practicing attorney I think in Philadelphia, Pennsylvania?
A. I was admitted in 1883, thirty-five years ago.
Q. Have you seen the will in question here?
A. I have, but I have only made a very cursory examination of it, however. I think I recall the pro-

vision in the will which relates to Mr. Paullin, but I am not sure. Perhaps if you have the will here you might let me see it.

(Will handed to witness.)

Q. Under the law of Pennsylvania would Mr. Paullin take more of Mrs. Paullin's estate than is named in that will?

A. Under the law of Pennsylvania ——

Q. If probated there I mean, of course.

A. —— if this will should be probated in Pennsylvania he would only take that which is given to him by the will unless he exercised his right of election to take as against the will. If he exercises his right of election to take as against the will, he would get a larger interest in Mrs. Paullin's estate than given by him by the will.

Q. What would be the interest he would take?

A. That would depend upon the question of the residence of Mrs. Paullin. If it is determined in this case that Mrs. Paullin at the time of her death was a resident of New Jersey, and the will should be probated, or not probated but an exemplified copy of the will should be filed in Pennsylvania, he may at any time within two years from the time of the recording of the will, our Act of Assembly says within two years of the date of the granting of letters testamentary—now whether the two years would run from the date of the probate of the will in New Jersey, or two years from the date of the filing of an exemplified copy in the office of the registrar of wills of Philadelphia, I am not prepared to say—however, that may not be very material, but assuming that Mrs. Paullin's residence is New Jersey ——

Mr. Summerill: If the Court please, I enter an objection that this has nothing whatever to do with the question of jurisdiction or the probate of the will before the Orphans' Court.

Mr. Cole: It has this to do, may it please your Honor, it goes to the interest of Mr. Paullin and as to the weight that your Honor would give to his testimony, it appearing, as I say it will, that it is to his financial advantage to have this present proceeding defeated and the will probated there.

The Court: You have already shown that. Now, is it admissible to go into the details of it, and for the only purpose, as I see at the present moment, the only purpose that I would care to hear it is as affecting the credibility of the witness. You have gone to that extent.

Mr. Cole: Very well. I don't care about the details, as long as it appears that he has a large interest.

The Court: I will sustain the objection it appearing that the interest of Mr. Paullin will be enlarged if it is probated in Pennsylvania or the residence shown to be in Pennsylvania. I think that beyond that it does not enter.

Q. How long must a person be resident in Pennsylvania before he has a right to vote?

A. One year.

Q. How long must he reside in the particular district or division, county?

A. Sixty days, and must be twenty-one years of age.

Q. If one lives with his family in New Jersey, has he a right to register and vote from his place of business in Philadelphia?

Mr. Summerill: I object.

The Court: I will sustain the objection.

Q. Have you been to 1410 Atlantic Avenue, Atlantic City where Mrs. Paullin lived?

A. I have, just came from there.

Q. Have you been there before today?

A. Well, I have never been prior to today. I have never been in the living apartments, I have simply been in the store.

Q. You knew Mrs. Paullin how long before her death?

A. Well, the daughter testified this morning, I have forgotten the date she gave as the date of the marriage of her father to the then Mrs. Upham, but I became acquainted with Mrs. Paullin, then Mrs. Addis, very shortly after her marriage to Mr. Addis. My home then was 2261 North Nineteenth Street, and Mr. Addis' home was perhaps three or four doors below my home, and on the same side of the street and I don't know how long it was after the death of Mrs. Addis that I first became acquainted with Mrs. Addis, but it was upwards of ten years ago at least.

Q. Then you recall the fact of the marriage of the then Mrs. Upham to Mr. Addis, do you?

A. Well, I don't remember the specific event of the marriage.

Q. Now, did there come a time when Mr. Addis left his Philadelphia home?

A. Yes.

Q. And you know where he went?

A. He went to Atlantic City.

Q. Did he ever return to live at this place in Philadelphia where he had lived up to the time of his marriage?

A. No, the house was sold on Nineteenth Street. I don't remember whether I represented Mr. Addis in the sale of the house or not. Mr. Addis had been in business on Market Street near Sixth, on the south side of Market Street. He had a hat store there and I used to patronize his store.

Q. Did he give up that business?

A. Yes, his business was disposed of.

Q. About what time?

A. Well, I couldn't be at all definite in that respect, but it was not very long after his marriage, his subsequent marriage to Mrs. Addis, but just exactly when it was I don't recall.

Q. Did you ever know him to live in Philadelphia after his marriage to Mrs. Upham?

A. No, I did not. I knew that Mr. Addis was in the habit of coming to Philadelphia at the close of the activities of the summer season here in Atlantic City, and I don't remember just what period of the year it was, it was generally after fall had been pretty well advanced.

Q. Now, apart from the circumstances of Mrs. Addis having told you what her address was at the time she wanted you to draw her will, had you ever had any talk with her about where she was living?

A. There was no occasion for me to have had a talk with her on that subject, because I keep an office diary ——

Mr. Summerill: If the Court please, if this is, of course, the professional relations with Mrs. Addis

or Mrs. Paullin, where in the relation of attorney and client would arise, I object.

The Court: Well, I will leave that entirely to Mr. Edmunds' knowledge of the fact.

Mr. Summerill: If it develops that my objection is good, if it doesn't ——

A. There was nothing at all confidential with reference to any statements of that sort. As I was about saying, I keep an office diary, so I may know where to communicate with clients, and then too, if I know the clients are apt to have an address at any particular season of the year which is different from any other address, I note that, and while I haven't referred to any office diary before coming here, I have no doubt that the name of Mrs. Addis, not the name of Mrs. Paullin, I don't think I made any office record of the change of her name, in so far as my office diary was concerned, but I think it is quite likely in it that I did have on my office diary the address 3839 North Broad, and I know that I did 1410 Atlantic Avenue, Atlantic City.

Q. You think you had both addresses?

A. I had both addresses, at least I think so.

Q. While you were down at 1410 Atlantic Avenue today did you look around a little in the living apartments?

A. I was in the living apartments on the second floor only.

Q. See any portraits there of any one?

A. Yes, I saw the portrait of Mrs. Paullin, and the portrait of Mr. Addis, and I think that I saw the portrait of the girls, the Addis girls. I am not sure about both of them. Perhaps I may be mistaken

about having seen the portrait of either of them, but I did see the portrait of Mrs. Spence's daughter, and I also saw the portrait, which was said to be, and of course I never met Mrs. Addis' parents, but there were also family portraits in the living room of the second floor front.

Q. Do you know about where 3839 North Broad Street is?

A. 3839 North Broad Street is in the, if you would let me refer to the letter as a refresher ——

Q. To refresh your recollection of something?

A. Yes, it is in the twentieth division, I think, Forty-third Ward. Now, I am not sure about the ward, but I think it is the Forty-third Ward.

Q. Did you make some investigation to see whether or not Mr. E. Frank Paullin had been assessed from that division and ward?

A. Am I right about the ward?

Q. Yes.

A. I did.

Q. When did you do that?

A. Last Friday morning.

Q. Where were you when you made your investigation?

A. First I went to the office of the receiver of taxes, which is on the first floor of our City Hall towards Broad Street Station, to see whether or not Mr. Paullin was assessed as the payer of a personal property tax. The rule in our city, is that in assessing a taxpayer for personal property tax he is assessed as of the place of his residence and not as of the place of his business, of the place of business.

Mr. Summerill: Aren't these records, if the Court please, the necessary evidence?

The Court: I would like to hear Judge Cole upon that.

Mr. Cole: I want to show by him that he actually examined these records that Mr. Paullin has testified about and show by him that there is no such record as Mr. Paullin says exists.

The Court: Is this such a record as can be exemplified under the Act of Congress?

Mr. Cole: Of course, that I am not so sure about, but I am wondering whether I may not prove by this witness who examined the record, who saw it, and giving the benefit of what he saw?

The Court: It don't seem so to me, Judge Cole.

Mr. Clevenger: We may have time then to get the exemplification?

The Court: Most assuredly.

A. 3839 North Broad Street is not in the Twenty-second division of the Forty-third Ward.

Mr. Cole: There will be no doubt about that. We have an exemplified copy of the registry which shows he did not register, and it is the Twentieth Division of that ward, no question about that.

Mr. Kenworthy: He has admitted he did not register.

Mr. Cole: He has not. He said at first he did.

The Court: He said at first he did, but he corrected while on the stand.

Mr. Cole: I have the exemplified record here of registration and may be he saw it. I don't know.

A. There is one thing I might be justified in saying, and not run contrary to the ruling of the Court, the practice in Philadelphia with reference to the registration of voters is that the assessor sits about the first Monday of May of each year, so that the names of those who desire to go upon the assessor's list, who have the right to be recognized as legal voters, may have their names placed upon the list. Then the assessor files his returns to the City Hall in September of the same year, the following September, so that the official assessor's list is made up in time for the primary election which occurs in the fall, and for the general election, which occurs in November.

Q. How many days in May are taken for that purpose?

A. Well, I don't think the assessor has any particular day. He is supposed to sit until every voter who wishes to register has had the opportunity of doing it.

Q. Now, where are the offices of these assessors, where do they hold forth?

A. At the polling place of the division, according to my best recollection.

Q. I don't suppose you personally happen to know where the polling place of this particular division is, do you?

A. No, I do not, but that is a matter that the records would easily show.

Cross-examination.

By Mr. Summerill:

Q. Did I understand you to say, Mr. Edmunds, that the assessor sits the first Monday in May of each year?

A. Well, I don't know whether it is the first Monday, about the first of May the assessor begins his work.

Q. The first of May?

A. About the first of May.

Q. Leaving Monday out?

A. Yes, about the first of May.

Q. He begins his work?

A. That is the information that I received from the registration commissioners.

Q. This is hearsay then?

A. Well, to a certain extent it is. I have not examined the law on the subject. It may be that the duties of the assessor, and when he shall commence to make his assessments are all specified.

Q. Well, do you suppose it was so specified in an act, the time of his commencing?

A. Very likely is.

Q. Your recollection under the law is that the assessor sits at the polling place sometime early in May?

A. Yes.

Q. To make out the list?

A. To receive the ——

Q. To receive the names of those who wish to be assessed?

A. Yes.

Q. Would that include both personal and poll tax?

A. No, that is simply for, that is for the purpose

of preparing an official list of persons who are entitled to vote. The assessor has nothing to do with the matter of the poll tax. The poll tax of course may be paid at any time.

Q. It is not a question of paying poll tax, but putting him on a list so a poll tax is payable?

A. Well, whether or not the poll tax is payable depends upon whether or not the voter has paid the tax upon real estate. If he has paid tax upon real estate in the City of Philadelphia during the year preceding the election, he is not required to pay a poll tax.

Q. Then you have no specific poll tax?

A. We have a specific poll tax of fifty cents. The payment of that tax will qualify a voter to vote for two years, other things being equal, but the poll tax is not paid by persons who pay a real estate tax unless the voter so desires to do it. I may own real estate, and I may pay the taxes on my real estate, and I may also be disposed to pay a poll tax. I may pay it, but I am not required to, but I submit when I register as a voter I have to produce either a poll tax receipt or a receipt showing payment of taxes on real estate in the City of Philadelphia.

Q. That is when he registers?

A. That is when the voter registers.

Q. Registers as a voter?

A. Yes, sir.

Q. If he don't register he don't pay these taxes?

A. He is not required to pay the poll tax, but whether he votes or not he is required to pay his real estate tax.

Q. Before he applies to the assessor to be placed upon the assessment so that he can vote, must he have been a resident of Philadelphia for one year?

A. Well, I am not so sure about that. He must be

a resident of Philadelphia for at least one year before. I am not prepared to say that he must be a resident of Philadelphia—I don't mean Philadelphia, Pennsylvania. It may be that he may get his name on the assessor's list even though he may not have been a resident of Pennsylvania for one full year prior to his assessment, but he can't vote until he has been a citizen of Pennsylvania for one year prior to the election.

Q. To go back to my first question, do you know whether he can register so as to be placed upon the voting list, that he must be a resident of Pennsylvania for one year?

A. Well, I don't know, but, if you ask my opinion, my opinion would be ——

Q. I am asking you for your opinion on that, Mr. Edmunds.

A. Well, my opinion would be yes, he might get on the list of the register of voters, perhaps even though he may not have been a citizen of Pennsylvania for one full year, but he could not exercise the right of franchise unless at the time he votes he has been a citizen of Pennsylvania for at least one year and a resident of the election division for at least sixty days. Now, I may be wrong about that, so I am only expressing my own opinion, as I recall the provisions of our state constitution ——

Q. When he appeared before the register, does he not have to say how long he has resided in the State?

A. My recollection of the provisions of our constitution is that a man must be a resident in Pennsylvania for at least one year before the election, and that the constitution does not say that he must have had a residence in Pennsylvania for at least one year before he may be registered as a voter.

Now, it may be that the election officers in the interpretation of that constitutional provision will decline to register a voter unless at the time of registration it is made to affirmatively appear that he has been a citizen of Pennsylvania for one year, and on subsequent consideration, I am rather inclined to think that our election officers would decline to register a man as a voter unless at the time of registration it appeared that he had been a citizen of Pennsylvania for one year. I have never served as an election officer and do not claim any particular knowledge of the election laws.

Q. When is it they sit for registration?

A. May. Now, I am giving you the information I received from the City Hall.

Q. Now, your information is that a voter appeared in May for registration must have been a citizen of Pennsylvania for one year?

A. Well, I am rather inclined to think that an election officer would decline to register one as a voter.

Q. I am asking you your opinion.

A. That is my opinion.

Q. And it would be impossible, would it not, for a man who had moved from an adjoining State in October, say the twenty-seventh or twenty-eighth to have at all voted in Pennsylvania in 1918?

A. Well, if I am right in my opinion I should say yes.

Mr. Cole: We want now to offer the certificate of marriage which was marked for identification.

Mr. Summerill: I object to the certificate of marriage.

The Court: I will admit the certificate of marriage for whatever weight it might have.

Mr. Cole: I think it is entirely competent now myself.

(Marriage certificate admitted in evidence and marked Exhibit P6.)

Mr. Cole: Also the original certificate to which was the stub, both numbered #373789 touching this marriage, one was marked P12 and the other P13 for identification.

(Papers referred to admitted in evidence and marked Exhibits P12 and P13.)

Mr. Summerill: I wish to call unto the Court's attention that as to Mrs. Paullin's residence as it appears on the marriage certificates he said that he did not ask her, Mr. Cross did, and had no occasion whatever to ask her. He knew that she lived in Atlantic City.

The Court: I remember the testimony.

Mr. Cole: I also offer exemplified record, Commonwealth of Pennsylvania, which shows that Mr. E. Frank Paullin does not appear on the registration list for the Twentieth Division of the Forty-third Ward for the years 1917 and 1918.

The Court: The former testimony was 3839 was in the Twenty-second Division of the Forty-third Ward and Mr. Paullin said he was not there. Now the testimony is it is in the Twentieth Division and you have an exemplified copy of that fact.

Mr. Summerill: If the Court please, Enos Frank Paullin, 2014 Columbia Avenue does not appear.

Mr. Cole: That is another division. In other words the certificate goes to both places.

(Exemplified certificate admitted in evidence and marked Exhibit P14.)

Mr. Clevenger: It is understood we reserve the right to introduce an exemplification of what appears on the assesssment rolls if we are able to get that yet?

The Court: Yes, I think that is understood?

Mr. Clevenger: Then we would also like to have the opportunity to offer and produce an exemplification of the United States Food Administration, showing the original paper on file at Washington.

The Court: What relevancy?

Mr. Clevenger: As showing her address, as Mrs. Paullin after she married. Before we can have that I have got to send down a short certificate.

ENOS FRANK PAULLIN, recalled.

Direct examination.

By Mr. Cole:

Q. Do you know who procured the license to your marriage, to Mrs. Paullin?

A. Yes, sir.

Q. You go to the City Hall for it yourself?

A. No, she didn't want to go, took both of us to go, but she didn't want to go.

Q. Well, did you go?

A. No, sir.

Q. Do you know who did?

A. Why, go to the City Hall for a license? Nobody did.

Q. Where was this license procured? Where did it come from?

A. From, there was a friend of hers made the proposition he would have the man there from the license court to grant us our license.

Q. Right at the home, you mean?

A. No, sir, not home, to a friend's home on Broad Street.

Q. Were you there when it was produced, made up?

A. Certainly I was there.

Q. Showing you Exhibits number P12 and P13 I ask you whether they are the things that were delivered at your house or her friends' house, which ever it was?

A. The man made out our license was the evening of the twenty-sixth of October, 1917. Now the number of his house I can't tell you.

Q. You were there, weren't you?

A. I was there.

Q. Now, are the papers you hold in your hand the papers he delivered to you?

A. This one wasn't. (Referring to Exhibit P13.) This is the first time I have seen that one. I have never seen this one. (Referring to Exhibit P12.)

Q. What became of the paper that you did see?

A. I don't know what became of it, didn't see any papers, had no occasion to see any papers. I know I took a sworn statement where I lived, my residence then.

Q. Didn't this gentleman from the City Hall leave any paper there?

A. No, sir, not with me.

Q. Did he leave any with Mrs. Paullin?

A. Not as I know of.

Q. What was he doing there?

A. Who, me, doing there?

Q. No, this man from the City Hall?

A. Why, he was called there by this friend, Mr. Wissler.

Q. For what purpose?

A. For to take our marriage license.

Q. To take your marriage license?

A. Get our marriage license, yes, sir.

Q. Did you get it?

A. Appears so, there it is.

Q. Where?

A. I guess so. On the paper there.

Q. You mean the paper the Judge was handling?

A. Yes, sir, I judge that was it.

Q. Do you think the papers were delivered there that night?

A. Was no delivery at all. He took them with him. He came there with papers.

Q. Well, he came there, as I understand it, from

your standpoint, to give you a license to marry, and then went away without giving it to you?

A. Mrs. Paullin objected to going to the license court at City Hall, Philadelphia, to get her license. Now, I didn't want to go against my intended wife, what she didn't want to do, and I was perfectly willing to go anywheres with her, City Hall or Germantown or Manayunk, and this friend made the proposition that he would have the license man, one of the clerks for the license court to give us our license, and I went with Mrs. Paullin and she went with me.

Q. Is that all?

A. He asked me where I lived and I told him Pitman, New Jersey, that was my residence, so it was, and he put it down, I suppose, asked me how old I was.

Q. Now, leaving that detail out, you went to this house to get a license to marry?

A. At Mrs. Paullin's request, she wanted to go there. I didn't want to go there. I would have went to the City Hall and sat there all day.

Q. Did you get the license?

A. Mrs. Paullin got the license.

Q. Yes.

A. I don't know what she got, I don't think Mr. Cross could marry us without a license.

Q. And these papers that are marked Exhibit P12 and P13 you never saw before?

A. Never saw them before until now.

Q. Did you see any paper that night?

A. No, sir, only I seen what the man was writing on the paper, I didn't know what the contents of the writing was, on the paper, never asked to read it.

Q. So when you came you didn't know whether you had a license to marry or not, did you?

A. Mr. Cross knew that he oughtn't to have married me if he hadn't the license.

Q. You didn't know it?

A. I left that to Mr. Cross.

Q. Was he there at that time?

A. No, sir.

Q. How could you leave that to Mr. Cross when he wasn't there?

A. Why he had no right to marry me without he had a license, that is easy explained.

Q. Do you know where he got the license from?

A. I don't know, I don't know where he got the license from. I didn't attend to Mr. Cross' business. He is a minister and I am a plumber.

Louise Lock, a witness produced on behalf of the proponents, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Cole:

Q. What is your age?

A. I will have to tell, fifty-five.

Q. Did you know Mrs. Paullin in her lifetime?

A. I have known her between twenty-three and twenty-four years, employed by her all that time.

Q. Did you know her when she was Mrs. Upham?

A. I knew her when she was Mrs. Upham, Mrs. Addis and Mrs. Paullin.

Q. Did you know Mr. Upham?

A. I did.

Q. Mr. Addis?

A. I did.

Q. And Mr. Paullin?

A. I do.

Q. Did you work for her? Did you work for Mrs. Paullin?

A. I was employed in her store all that time.

Q. During all the time you have mentioned?

A. Every year.

Q. What did you do, what was your work?

A. Clerk.

Q. Did you sleep in this building at 1410?

A. No, I did not, but I was there from eight o'clock in the morning until eleven or twelve o'clock at night.

Q. Was that store open throughout the year?

A. All the year, never closed except on the Sabbath.

Q. Now, did Mr. Addis live with her at 1410 Atlantic Avenue after the marriage?

A. After Mr. Addis' marriage?

Q. Yes.

A. Yes.

Q. All the time?

A. Except when they went to Philadelphia.

Q. Did he assist in the conduct of the business here?

A. Yes.

Q. Do you know if he voted in Atlantic City?

A. I couldn't tell you that.

Q. Do you know of what church Mrs. Addis was a member?

A. Of the First Baptist Church.

Q. Of Atlantic City?

A. Of Atlantic City, years and years. Mr. Upham's time she used to go every Sabbath with Mr. Upham to the Baptist Church.

Q. For how long a time before her death had she been accustomed to spending some part of the winter in Philadelphia?

A. All during Mr. Addis' time I remember, but they then rented a house.

Q. In Philadelphia?

A. Yes.

Q. They first rented, did they?

A. Yes, they rented the house 1710 Diamond Street, Philadelphia.

Q. Then where did they live after they had stopped to rent?

A. Well, one winter I remember they were at the Loraine. Of course, that was boarding too, Hotel Loraine, and a few years, I think before Mr. Addis' death, that she bought that property.

Q. Now, do you know whether or not she had been living in Philadelphia any part of the winter before she married Mr. Addis?

A. Yes.

Q. While she was the widow of Mr. Upham?

A. Yes, but not as often, I think that I don't recollect so much.

Q. Did she at all go to Philadelphia during the winter to live?

A. Yes, I think one winter she was at Mr. Brooks' house.

Q. That was while she was Mrs. Upham?

A. Mrs. Upham.

Q. And after Mr. Upham had died, after Mr. Upham's death and before she married Mr. Addis had she spent a winter in Philadelphia with Mrs. Brooks?

A. No, that was in Mr. Upham's time.

Q. That was you mean during his lifetime?

A. Yes.

Q. Where did Mr. Upham die?

A. Mr. Upham died in Florida.

Q. Had Mr. and Mrs. Upham lived together in Atlantic City all the time so far as you know?

A. Yes, sir.

Q. For how long a time had Mrs. Upham been in the habit of going to Florida in the winter?

A. Nearly every winter.

Q. For how long?

A. I remember twenty-three years.

Q. What part of the year, how much of the year did she spend in Atlantic City?

A. Well, she was always here, they usually went up in October some time, I think the latter part of October, and then she would be back a week or two before Christmas. She always was here to look after Christmas business, and after that she went south, sometimes three weeks and sometimes four weeks to Florida. She went to St. Augustine, St. Petersburg, she was in Palm Beach, different places.

Q. Now, when she would return from Florida where would she go or come?

A. Why, 1410 Atlantic Avenue.

Q. Did Mr. Addis accompany her when she ——

A. Because they always closed the house, after they bought the house they closed the house up there, and had all the gas turned off, water, and all that, because they were going away for the winter in February.

Q. You mean North Broad Street?

A. Yes.

Q. Now, was the house at 1410 Atlantic always furnished?

A. Always, yes.

Q. Throughout?

A. Thoroughly, she has an elegant home there, and always had.

Q. Did she always have her apartment on the second floor reserved for her return at any time?

A. Yes, sir, always.

Q. Could she come there at any time and get her meals?

A. She could come there any time and get her meals. We had the cook there, we had the help there, the cook was there, and she always came down through the winter two or three times, came to look after her business while she was away.

Q. Did she either close up a part of that house at 1410 Atlantic or dismiss the cook when she would move to Philadelphia?

A. No, the help always boarded there.

Q. They stayed right in the house?

A. Yes.

Q. Now, did she ever, when she would refer to Atlantic City property, or the Atlantic City business, or the house, how would she refer to it?

A. Going down home.

Q. Did you hear her say that more than once?

A. Yes, indeed, sometimes, there is a very steep back stairs, often she would go up the back stairs, she would be exhausted, and she would say, "This is my home, and I am home once more."

Q. What would be the occasion of her saying that, "This is my home"?

A. She often said, "My home," anybody could tell you that that knows her, in speaking of 1410 she always said, "My home."

Q. Did you ever hear her refer to North Broad Street, Philadelphia, as her home?

A. Never, the Broad Street house always.

Q. Is that the way you heard her refer to it?

A. The Broad Street house.

Q. Are there any family portraits in 1410 Atlantic Avenue, family pictures?

A. Yes.

Q. Whose pictures are there?

A. Her mother's, Mrs. Repp, Mr. Repp, Mr. Upham, was Mr. Addis, but I think Mrs. Spence has those now.

Q. When she was here in Atlantic City did she have her automobile here?

A. Yes.

Q. And her driver?

A. Yes, sir.

Q. Where did she keep her car when she was in Atlantic City?

A. At the different garages, I don't know just where she kept them, I think she changed from one garage to another, I don't know.

Q. Do you know why it was that she would spend some part of the winter in Philadelphia?

A. Well, she loved the social life, and she liked to spend a little time up there with her friends up there as well as down here.

Q. Did you ever hear her say that?

A. Yes, she had card parties up there, she also had her friends come to her home at 1410 to play cards, she never liked to be alone, she always wanted friends about her.

Q. Do you know whether or not any of the Philadelphia friends ever came to Atlantic City?

A. They did.

Q. Did they stay?

A. She had her card parties, she belonged to two or three, she had them come down in June, and gave them a grand luncheon in her dining room there at 1410.

Q. When she would come, return from Florida to Atlantic City, would she remain then continuously until the following fall?

A. Yes, sir.

Q. During all that time the North Broad Street house was closed, was it?

A. Yes, sir, and sometimes before she went back to it she would go up to the Water Gap, before she went there.

Q. Mr. Paullin after the marriage, after his marriage to Mrs. Paullin, did he come there to live?

A. Yes.

Q. How often was he there, how long?

A. He was married October twenty-seventh, 1917.

Q. Did he come there that Christmas?

A. I think so.

Q. Now, how soon in the following spring did he come to Atlantic City?

A. 1917?

Q. No, 1918, they were married in the fall of 1917.

A. It was in the latter part of March.

Q. And did he remain there continuously until Mrs. Paullin returned to Philadelphia in the fall?

A. Yes, sir, went up and down every day to his business.

Q. And did he leave with Mrs. Paullin when she left to go to North Broad Street?

A. In 1918?

Q. Yes, I don't exactly mean the very day, perhaps that they left, but I mean substantially when she left to go to North Broad did he go and remain up there with her?

A. They went to Pitman I remember about the eleventh of October and stayed ten days there, and then he came down with her, but I think it was only for a day or two, probably over night.

Q. Then where did he go?

A. Why he went up the next morning, I think to his place, so far as I can remember.

Q. Now, when did she leave then that fall, 1918?

A. She stayed down home here for about a week, because they said he went back and forth from Pitman, he didn't want to get another ticket, that is a season ticket, and so his ticket ran out.

Mr. Summerill: You know this of your own knowledge?

A. Yes.

Q. I am not so particular about that. What I want is did they finally go to North Broad Street before Christmas, 1918?

A. Before Christmas?

Q. Yes.

Mr. Summerill: Testify of your own knowledge, Miss Lock.

A. That is what I am doing right along.

Q. Suppose I ask you this question, was Mr. Paullin and Mrs. Paullin at 1410 Atlantic Avenue at Christmas time, 1918?

A. Yes.

Q. Did they leave after Christmas of 1918?

A. Yes, they always did.

Q. Now, did she come back after Christmas of 1918? When was it she was sick there?

A. Oh, yes, she was sick before Christmas.

Q. How long did she remain after she was sick?

A. She was sick a couple of weeks, I guess before she went to Philadelphia.

Q. Now, during the time that she was sick in Atlantic did he come there, Mr. Paullin?

A. Yes, he was there.

Q. What is this book I show you? Do you know what it is?

A. Yes.

Q. What is it?

A. Book Mrs. Addis always had her expenses and income and things.

Q. Where was it kept?

A. Upstairs, always had that in her desk.

Q. 1410 Atlantic Avenue?

A. 1410 Atlantic Avenue.

Q. On page 189 of this book I notice this, "October third, moved up 3839 Wednesday," whose handwriting is that?

A. Mrs. Paullin's own handwriting.

Q. Mrs. Paullin's handwriting?

A. Yes, sir.

Mr. Cole: I offer that book page 189.

(Page 189 admitted in evidence and marked Exhibit P15.)

Q. Now, on page 137 of the same book I find, "August eleventh brought auto down Friday. August twenty-third took car away to other"—don't care about that. Whose handwriting is that, August eleventh, "Brought auto down Friday"?

A. Looks like hers.

Q. Sure about it?

A. Looks like it to me.

Q. Have you seen her write?

A. Yes, sir.

Q. Any doubt about it?

A. There is a letter she sent me.

Q. You have had letters from her, haven't you?

A. Not very often, but she sent me some tickets here lately.

Q. Have you seen her write?

A. Yes, sir.

Q. Received letters from her?

A. That has been several years ago.

Q. Don't care when it has been.

A. Yes, I have.

Q. Now, this writing on page 153, August eleventh "brought auto down Friday." I ask you whether in your opinion that is in her handwriting?

A. Makes me think so, that is the way she makes her a's, she didn't usually make her b's that way.

Q. You don't know whether that is her handwriting or not?

A. I couldn't swear to it.

Q. Now, referring to page 205 of this book at the top of the page, "brought auto down Friday, March twenty-second," now, do you know in whose handwriting that is?

A. It looks to me like her writing.

Q. You think that is her handwriting, do you?

A. Yes.

(Page 205 of book offered and admitted in evidence and marked Exhibit P16.)

Cross-examination.

By Mr. Summerill:

Q. You working there now?

A. I am.

Q. And worked there for the last twenty-five years?

A. Twenty-three or four.

Q. I understand you to say you didn't sleep there?
A. I did not sleep there.
Q. You get your meals there?
A. Yes, sir.
Q. And have during all this time?
A. Yes.
Q. Who else is employed by her except yourself?
A. Miss Bell Clark has been manager for several years, one of the names that are there now.
Q. How many—make it the first day of January last year, this present year rather, or at the time of her death either.
A. Well, Oscar Strang, the bakers, William Herrmann in the bake house, there is a colored boy there, myself and Miss Clark and Mrs. Bittle, Therese Lilly and Edna Allen.
Q. Did she have any additional help during the summer?
A. Yes.
Q. Who?
A. Well, whoever she can get just for the summer.
Q. What?
A. Whoever she can hire for the summer, there is no special one that comes back.
Q. Was Minnie Upham in her employ?
A. She was a stepdaughter, no.
Q. She wasn't paid or don't you know?
A. No, she is not.
Q. Or don't you know, which?
A. She is not paid for store work. I know that, further than that I don't know.
Q. Did you keep the books of account?
A. No, sir.
Q. Expenditures?
A. No, sir.

Q. Know who were paid and who were not?
A. No.
Q. As to show who were paid?
A. No.
Q. How do you know that she was not paid?
A. Because she didn't work in the store with us.
Q. What?
A. She didn't work in the store with us as a clerk.
Q. What did she do?
A. Why, she was housekeeper, she kept the house and looked after things for her mother.
Q. You mean Mrs. Paullin by her mother?
A. Mrs. Paullin, yes. She was known as her mother for years.
Q. The store was open all the time with the exception of Sundays?
A. Yes, sir.
Q. Who had charge of the store while Mrs. Paullin was away or when her name was Mrs. Addis?
A. Miss Bell Clark.
Q. For how many years has she had charge of the store?
A. I guess since Mr. Addis' death.
Q. Ever since Mr. Addis' death?
A. Yes.
Q. Did Miss Clark have charge of the store during the summer season?
A. Yes, all the year.
Q. The whole year?
A. Yes.
Q. Do you know who deposited moneys in bank?
A. She did.
Q. Who?
A. She or Miss Clark.
Q. During the summer season too as well as during the winter, or don't you know?

A. Well, it was sometimes sent over by the different clerks, she didn't always do it.

Q. Didn't Mrs. Paullin usually take the money or Miss Upham?

A. No.

Q. Neither one of those ever took the money?

A. I don't know that they never did, but not as usual.

Q. Were you ever visiting Mrs. Addis when she was living at the Loraine?

A. No.

Q. Then your knowledge of being there is all hearsay?

A. Of what she said to me, yes.

Q. And the same way when she rented the house?

A. No, I was there.

Q. When she rented the house you visited her there?

A. Yes, 1710 Diamond Street.

Q. How many times?

A. Once.

Q. How many years she rent it, how many years?

A. Well, that one house, that is the only winter I remember, of that one house.

Q. Didn't she rent any more houses around Seventeenth and Diamond?

A. I don't remember that.

Q. Ever visit her at 3839?

A. Yes, sir.

Q. When?

A. I was there when Mr. Addis died, and I was there when Mrs. Paullin was buried, I mean Mr. Addis was buried and Mr. Paullin was buried, and I was there again through my vacation, one year, I couldn't tell you what year that was.

Q. When do you have your vacation?

A. In the fall of the year, about September.
Q. Have your vacation in September?
Q. House was open then, was it?
A. Yes.
A. Yes, the latter part.
Q. Who was there then?
A. Couldn't tell you, that is too vague.
Q. But you are sure it was September and part of the house was open?
A. I think it was September because I was on a vacation, the latter part.
Q. I understand you were there when Mr. Addis died?
A. When he was buried, he didn't die there, opened the house for him.
Q. Opened the house for him and he was buried from the Broad Street property?
A. Yes.
Q. What time of the year was he buried, what month?
A. Buried in September, he died the fifteenth of September.
Q. Buried in September?
A. Yes, opened the house purposely for him.
Q. What?
A. They opened the house because they wanted to have another doctor, and he was too low to take up there for the other doctor, and he died here, and they opened the house because most of the friends were there, and he was buried in Philadelphia.
Q. Do you know whether that year after his burial she returned to Atlantic City or remained at 3839?
A. I do not.
Q. Don't know?
A. No.

Q. Do you know what time she went to Philadelphia in October twenty-seventh, October, 1917?

A. What time she went to Philadelphia? Seventeenth they were married, and they went to Reading, a few days, and then they went to Boston, and came back from Boston there.

Q. How do you know where they went?

A. Why, she often told me in conversation.

Q. Did she tell you?

A. Yes, she told me.

Q. When?

A. When she was going.

Q. When she was going?

A. When she was going away from Boston, they went to Boston every winter.

Q. I am asking now particularly, Miss—or Mrs. is it?

A. What?

Q. Mrs. or Miss?

A. Mrs.

Q. I am asking you, Mrs. Lock, as to 1917, and not as to other years. How do you know she went to Boston in 1917?

A. Because she went every year, she had to order her candies every year.

Q. That is the only reason you know because she had previously gone?

A. Yes, I knew that she went, and she always went, the reason I knew.

Q. But you don't know as a fact that she went in 1917, the year she was married?

A. Yes.

Q. How do you know it?

A. Because she always did, I told you that.

Q. Because she had gone a number of years don't

say that she had gone the year she was married again.

A. That wouldn't keep her from going to Boston.

Q. Wouldn't?

A. No.

Q. Did she go to Boston in 1918?

A. No.

Q. Go to Florida in 1918?

A. No, sir, that is the epidemic at that time.

Q. Either the fall in 1917 or the fall in 1918?

A. She went the winter of 1917.

Q. After she was married?

A. No, before.

Q. What time?

A. She hasn't gone to Florida after she was married to Mr. Paullin.

Q. What time did she go to Florida in 1917?

A. February, somewhere around, she usually went, I guess it was the twenty-third or twenty-sixth, around there.

Q. Then if she went to Florida in 1917 it was before her marriage?

A. Yes.

Q. After she was married she never went there, did she?

A. No.

Q. You don't know when she went to Broad Street property in 1917 after the summer season, the business season was over?

A. When she went to the Broad Street house, when she came back from Boston, when she came down again around Christmas time.

Q. Do you know when that was?

A. Right after the marriage shortly.

Q. You don't understand what I am asking you, I think, Mrs. Lock. When did she go to the Broad

Street property after the business season of 1917 was over?

A. That was the year of her marriage, oh, I think it was around the ninth of October, eighth or ninth of October, if I recollect right.

Q. Do you know?

A. Yes, around the ninth.

Q. Ninth of October?

A. Eighth or ninth, yes.

Q. You are sure that she had left 1410 and went to 3839 the eighth or ninth of October, 1917?

A. Yes.

Q. From that time until the time of her marriage, was she back to Atlantic City?

A. Not at all.

Q. Was she back there at all during that time?

A. That I don't remember.

Q. After her marriage when was the next time she was down to 1410?

A. Latter part of March.

Q. Not until the latter part of March?

A. No.

Q. Sure of that, are you?

A. I think so, I can't carry right in my mind so.

Q. I think you are mistaken. Wasn't she down there for the Christmas holidays?

A. Oh, yes.

Q. You didn't mention it.

A. I didn't think you meant that. I thought you meant to stay.

Q. She was down there for a few days to stay for the Christmas business?

A. I said that before.

Q. I know, but you are answering me now and not Judge Cole.

A. I know, but she always did come for the Christmas holidays.

Q. Do you recall whether she left on or before Christmas of 1917?

A. That she left, you mean?

Q. Left 1410?

A. Before Christmas?

Q. On or before Christmas?

A. Well, would be the same way every year, she stayed there for Christmas.

Q. I am asking you now particularly as to a specific time. Do you know what date she left Atlantic City?

A. I don't know the date, no.

Q. Do you recall whether she had Christmas dinner there or not in 1917, the year of her marriage?

A. We always had Christmas dinner the day before.

Q. I am asking not we but she.

A. Well, she is included with we.

Q. Was that Christmas dinner to which you refer on Christmas or not?

A. Always have it the day before Christmas.

Q. Did or did not she go to Philadelphia for her Christmas dinner, Christmas, 1917?

A. She didn't say whether she went there for dinner, because we always had our Christmas dinner together the day before.

Q. I am not asking before, I am asking this specific time.

A. Oh, yes.

Q. Did or did not she have her Christmas dinner in Philadelphia in 1917?

Mr. Cole: We will admit that.

Q. You don't know, do you?

A. Well, to my mind she had her Christmas dinner here the day before.

Q. Speaking particularly as to Christmas Day dinner, then put it that way.

A. She always went up Christmas morning, and had the store open, half a day, she always went up Christmas morning, and I stayed there Christmas.

Q. Did she go up Christmas morning, 1918?

A. She was sick.

Q. After she left, assuming that she left on Christmas Day, when was she back to the store the next time?

A. I don't know, I didn't keep the dates on that. I didn't think of the dates on that because she came down sometimes, she came unexpected to us, we didn't know she was coming, sometimes she would send down word she was coming and stay over night.

Q. Do you know whether she was there between Christmas, 1917, and April first, 1918, or nineteen, rather?

A. I couldn't tell you the dates of that because she did come down, but I don't know the dates.

Q. She was down then between Christmas, 1917, and first day of April, 1918, was she?

A. Yes.

Q. Are you sure of that?

A. Yes, because it was her custom.

Q. That is the only reason you can state because it was a custom?

A. Because it is every year, that is the reason I have it in mind.

Q. I am asking as to a specific time and not her custom.

A. I can't give you the specific time.

Q. You can't tell whether she went away or not?

A. I know she was down, but I can't give you that time.

Q. Do you know what day she came in 1918?

A. Came down to the store, you mean?

Q. Yes, the spring of 1918?

A. In the spring?

Q. Yes.

A. I think it was around the twenty-sixth of March, it was before Easter because Easter was the eighth of April that year.

Q. When did she leave in the fall of 1918?

A. About October the ninth or eleventh, I can't tell, ninth I think it was, the ninth or eleventh.

Q. What?

A. From the ninth to the eleventh, I can't remember just the date.

Q. Somewhere about the ninth to eleventh of October, 1918?

A. Yes.

Q. Was she down again from that date up until about Christmas of eighteen?

A. Yes, they went to Pitman and then she came down.

Q. She remained at Pitman about a week or ten days?

A. Ten days.

Q. Full ten days or a week?

A. Ten days.

Q. From there where did she go?

A. She came down here, home.

Q. Came down to Atlantic City?

A. Yes.

Q. To 1410?

A. Yes, 1410, her home.

Q. How long did she remain then?

A. She remained about a week.

Q. How did she go away?

A. Mr. Paullin came down just for over night then, and then I told you he went up and down to Pitman.

Q. How do you know that?

A. Well, I heard her say so, that is all I know.

Q. She was down there to Atlantic City, was she?

A. Yes, she knew why he didn't come down.

Q. He went up and down to Pitman to his place of business?

A. Yes.

Q. How did Mrs. Paullin get away from Atlantic City in October, 1918?

A. Why, Mr. Spence took her away.

Q. What in?

A. Automobile, and there was a heavy storm, I remember that, and he said a terrible pulling, he said, "We were awfully late getting up there, hard driving," I remember that.

Q. Did you ever see Mrs. Paullin after that?

A. After she went up?

Q. Yes.

A. Seen her before Christmas again.

Q. Mr. Spence took her where?

A. To Philadelphia, I suppose, that is where they started for.

Q. Whose car?

A. I couldn't tell you.

Q. You don't know?

A. No.

Q. Did Mr. Paullin stay continuously at Atlantic City during the summer months?

A. Yes, sir.

Q. There every night, up and down every night?

A. Yes.

Q. Was he there continually during April and May?

A. Yes.
Q. During September and part of October?
A. Yes.
Q. Sure of that, are you?
A. Yes.

EDGAR LADOW, a witness produced on behalf of the proponents, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Cole:

Q. Did you know Mrs. Paullin in her lifetime?
A. Yes, sir.
Q. For how long before her death?
A. About ten years.
Q. Did you work for her?
A. Yes, sir.
Q. What was your position?
A. Chauffeur.
Q. Were you working for her in October, 1917?
A. Yes, sir.
Q. Do you remember the date she was married?
A. I do.
Q. Working for her that day?
A. Yes, sir.
Q. Were you working for her the day before?
A. Yes, sir.
Q. Where was your car or her car the day before the marriage?
A. During the day time I don't think I was out of the garage.

Q. Where was the garage?
A. 3912 North Broad.
Q. She have any other driver but you?
A. No, sir, not at that time.
Q. The day of the marriage was the car out?
A. Yes, sir.
Q. Where did you go?
A. Reading Terminal.
Q. With whom?
A. Mr. and Mrs. Paullin.
Q. Did you have the car at the Ridge Avenue Market, Philadelphia, the day before the marriage?
A. No, sir, not to my knowledge.
Q. Did you have Mrs. Paullin, then Mrs. Addis out in that car on the day before the marriage?
A. Yes, sir.
Q. Where?
A. Well, I went to Mr. Wisler's in the evening.
Q. That was in the evening. Where did he live?
A. 2252 North Broad.
Q. Was that the first time that day you had her out?
A. To my recollection.
Q. Was that the first time you had the car out that day?
A. Yes, sir.
Q. Did you use that car in Atlantic City?
A. Yes, sir.
Q. Did you come backward and forward to Philadelphia with the car?
A. Yes, sir.
Q. Now, had you worked for her continuously during ten years?
A. No, not continuously.
Q. While you were working for her did you drive her around Atlantic City?

A. Yes, sir.

Q. How much of the time of each year did you spend in Atlantic City?

A. Well, now, different years I spent different times.

Q. Give us approximately.

A. Oh, I should say eight months, in Atlantic City.

Q. And when you didn't have the car here where would it be?

A. Why, in Boston or Philadelphia.

Q. Did you go to Florida with her?

A. No, sir.

Q. What became of the car when she would go to Florida?

A. The car was as a rule laid up.

Q. Where?

A. Why in Philadelphia.

Q. Now, when she would go to Florida what became of the 3839 North Broad?

A. Closed up.

Q. Was it ever kept open during the time she was in Florida?

A. Not to me knowledge.

Q. During that time were you dismissed or just stay here?

A. At different times I was dismissed, and other times I was partly paid.

Q. Now, in, she would come to Atlantic City in the spring either from Florida or her Broad Street house, would she remain here until fall?

A. Yes, sir.

Q. What time?

A. Except maybe a trip to Jersey City.

Q. Would she ever go back to North Broad Street to live after she came here from Florida or North Broad Street?

A. No, sir, that house was closed up, I tacked the coverings on the carpets, so I know.

Q. Then would you always be here in Atlantic City with the car during that period?

A. Yes, sir.

Q. Did you ever hear her make any reference to where she regarded her home, her residence?

A. Well, to call home, it was always said to me that we would go home to Atlantic City.

Q. Did you ever hear her refer to North Broad Street as her home?

A. Not as "home."

Cross-examination.

By Mr. Summerill:

Q. What do you mean by saying not to your knowledge that the car was not out of the garage in the evening of October twenty-sixth, 1917?

A. That is what I said, I don't remember going anywhere with it.

Q. You will not say you were not out?

A. I will say that I cleaned and prepared the car for the wedding, that is exactly.

Q. You say that, and you will say now that you had the car out that night, the night before the wedding also?

A. Yes, sir.

Q. But will you say that the car was not out on October twenty-sixth, during the day time?

A. During daylight I will say.

Q. It was not?

A. Yes, sir.

Q. Nor neither were you at the Ridge Avenue market?

A. No, sir.
Q. You were in her employ at that time?
A. Yes, sir.
Q. No one else drive the car but yourself?
A. Yes, sir.
Q. Where was the car kept?
A. Mr. William Gallagher's, 3912 North Broad.
Q. 3912?
A. Yes, sir.
Q. Very short distance from her residence?
A. Yes, sir.
Q. You were working for her all of 1917?
A. Yes.
Q. During the early winter of 1917, 1916 and 1917?
A. Yes, sir.
Q. Or was that one of the parts of time you were laid off, or don't you recall?
A. I was off in 1917, the fall of 1917 awhile.
Q. Were you off in the early winter, the month of January, February and March of 1917?
A. I think that was the winter I was partly paid.
Q. Then after Mr. and Mrs. Paullin were married, then you were laid off?
A. Yes, never went to Florida while I was with them.
Q. I didn't ask you that.
A. I wouldn't have any occasion to be laid off.
Q. You can answer the question, Mr. LaDow, either yes or no.

(Question repeated.)

Q. For the balance of the year?
A. No.
Q. You were not laid off?

A. No.

Q. Or any specific time after they were married of that year?

A. No, sir.

Q. Then you were paid in part?

A. Yes, sir.

Q. Were you laid off during any time in 1918?

A. I wasn't laid off, no.

Q. Well, Mr. Cole used the word "dismissed," or you, I don't know which, dismissed means the same as laid off.

A. To a certain extent, I guess.

Q. You were partly paid then, during 1918 when the car was not in use?

A. The car was in use in 1918, all the time that I worked for her.

Q. All the time in 1918?

A. Yes.

Q. How about all the time in 1917?

A. Seventeen?

Q. Say from the first of July?

A. Oh, from July I was paid.

Q. It was in use all the balance of that year?

A. Yes, sir.

Q. And all of 1918?

A. I only worked until July ninth, 1918.

Q. You left July ninth, you say?

A. Yes, sir.

Q. 1918?

A. Yes, sir.

CLAUDE DEGRAW, a witness produced on behalf of the proponents, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Cole:

Q. Mr. DeGraw, you live in Atlantic City, do you not?

A. Yes, sir.

Q. Are you connected with any of the churches here?

A. First Baptist Church, Atlantic City?

Q. Hold a position there?

A. Financial secretary.

Q. Did you know Mrs. Paullin in her lifetime?

A. Yes, sir.

Q. How long had you known her before her death?

A. Well, I have been a member of the First Baptist Church for seven years, I have known her all that time.

Q. Was she a member of that church?

A. Yes, sir.

Q. Did she retain her membership in that church until the time of her death?

A. Yes, sir.

Cross-examination.

By Mr. Kenworthy:

Q. Did she attend that church during 1917 or 1918?

A. She didn't attend very regularly, but she always paid her subscription to that church, and was

considered a member of that church, and probably was there, but I may not have seen her every time she was there.

Q. How often did you see her there in 1918?

A. I couldn't answer that, several times, I wouldn't say over five or six times.

Q. The whole year?

A. Yes.

Q. The same in seventeen?

A. Now, that I don't know.

Q. She was a member in good standing?

A. Oh, yes, she was a member in good standing of that church.

MINNIE W. UPHAM, being recalled, and examined, testified as follows:

Direct examination.

By Mr. Cole:

Q. Where were you the day before Mr. and Mrs. Paullin were married?

A. At home, at 3839 Broad.

Q. All day?

A. Yes, sir.

Q. Where was Mrs. Paullin?

A. 3839 Broad.

Q. All day?

A. Yes, sir.

Q. Was she out in her car during that day?

A. Not during the day.

Q. Were you away from home during that day?

A. No, sir.

Q. Did you meet Miss Brook at the Ridge Avenue market the day before the wedding?
A. No, sir, I was not there.
Q. Was Mrs. Paullin at the Ridge Avenue market the day before the wedding?
A. No.
Q. Was the automobile down there the day before the wedding?
A. No.

Cross-examination.

By Mr. Summerill:

Q. The car wasn't out that day, you say?
A. No, sir.
Q. Not at all during that day?
A. No.
Q. Day or night?
A. In the evening.

Belle Clark, a witness produced on behalf of the proponents, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Cole:

Q. You knew Mrs. Paullin, did you not?
A. Yes, sir.
Q. Did you work for her?
A. Yes, sir.

Q. How long before her death?
A. For thirty years.
Q. Continuously?
A. No, I was away from there about two years.
Q. At 1410 Atlantic Avenue?
A. Yes, sir.
Q. What was your position?
A. I had charge of her business.
Q. Where did Mr. Addis, her husband, live after the marriage?
A. 1410 Atlantic Avenue.
Q. All the time?
A. Well, all but a few months in Philadelphia, and in Florida, go to Florida.
Q. Do you know if he voted in Atlantic City?
A. I think so. I am not sure.
Q. During the time you worked for them was Mr. Upham alive?
A. Yes, sir.
Q. During that time did they ever spend the winter in Philadelphia?
A. Yes, sir.
Q. Do you recall now how many winters she spent in Philadelphia during Mr. Upham's lifetime?
A. Well, there was one that I recall.
Q. Do you know where they lived in Philadelphia?
A. North Sixteenth Street, I think it was, above Columbia Avenue.
Q. After Mr. Upham died did she again go to Philadelphia in the winter time?
A. Yes, sir.
Q. Before she married Mr. Addis?
A. Yes, sir.
Q. Where did she go to live?
A. She lived with her cousin, Mr. Isaac Brooks.
Q. Where?

A. I think it was on Twenty-fifth Street, I don't just remember the number.

Q. Then after she married Mr. Addis did she go to Philadelphia in the winter to live?

A. Yes, sir.

Q. Where?

A. On Diamond Street, rented a house.

Q. Where else?

A. Yes, she boarded with, they had apartments at the Loraine on Broad Street, Broad and Fairmount Avenue.

Q. Now, while you worked for her how much of the time did she spend in Atlantic City?

A. Well, she was there I should judge, I guess about seven or eight months every year.

Q. And when she was not there, where was she?

A. Well, she was at 3839 North Broad. She would go to Florida and she would take a trip to Boston, and she would go to Jersey City.

Q. Now, when she was in Florida, do you know what happened to the North Broad Street house?

A. It was shut up.

Q. Was the Atlantic Avenue home ever closed up?

A. No, sir.

Q. Was that always open for her reception when she came?

A. Yes, sir.

Q. Were her apartments kept for her?

A. Yes, sir.

Q. Was a cook kept there to cook?

A. Yes, sir.

Q. And in that home, Atlantic Avenue, are there portraits of the family on the wall, are there pictures of the family on the wall?

A. Yes, sir.

Q. Whose pictures are there?

A. Mr. Addis, Mr. Upham, and when she was Mrs. Addis, Mrs. Paullin, not since she was Mrs. Paullin, when she was Mrs. Addis her picture is there hanging on the wall, and on the other side of Mr. Addis in her bedroom.

Q. When she would refer to the Atlantic Avenue property how would she refer to it?

A. "My home."

Q. Have you heard her say that?

A. Yes, sir.

Q. How often?

A. She said it so often I couldn't tell you that.

Q. Did you ever hear her refer to the Broad Street property as her home?

A. No, sir.

Q. How would she refer to it?

A. Always say the Broad Street house, to the best of my knowledge.

Q. Do you know whether when she would go to Florida she would ever come directly to Atlantic City from that trip?

A. Yes, sir.

Q. Wouldn't open the Broad Street house at all on that occasion?

A. Not to my knowledge, no, sir.

Q. Now, after she married Mr. Paullin did he come to Atlantic City with her?

A. Yes, sir.

Q. And was he there all during the summer of 1917?

A. Yes, sir.

Q. What time did they leave in the fall of 1918 to go back to Philadelphia?

A. 1918? Why they went to Pitman—I was on my vacation and I came back, and they went to Pitman I think on the eleventh of October, and they stayed

there I think ten days, I am not sure about the ten, but I think it was ten days, and they came back to Atlantic City, and then Mr. Paullin went to Philadelphia I think the following day, and he didn't come back any more until—he didn't come back any more, and then the Sunday after that Mr. Spence took her and Miss Upham in her own car up to Pitman, that is what she told me when she left, and they were to stop there and get Mr. Paullin.

Q. Then when did she return to Atlantic City after that?

A. Well, she came down I think it was twice before Christmas, then she came down on Thursday before Christmas, that was I think the nineteenth, and, of course, she was sick, and she was there until the sixth of January.

Q. Then she went back to Philadelphia?

A. Yes.

Q. Now, during that time that she was sick was Mr. Paullin there?

A. Yes, I think there was only one day that he went up to my knowledge.

Q. Where were you on the day that she was married to Mr. Paullin?

A. I was in Atlantic City, 1410.

Q. You were not in Philadelphia the day before they were married either, I suppose?

A. No, sir.

Cross-examination.

By Mr. Summerill:

Q. 1410 employs help?

A. Yes, sir.

Q. How much of the help eat there, how many?

A. Well, they all eat there, but the one girl we have there.

Q. What?

A. They all eat there but the one girl we have now.

Q. How many is all?

A. Five of us there.

Q. Five of you there all the time?

A. Yes.

Q. Every winter?

A. Not every winter, this is the first winter there has been five of us there, only four.

Q. Only four previous to this?

A. Four girls in the store.

Q. Previous to that, take the winter of 1918.

A. Yes, four.

Q. Four were boarded by Mrs. Paullin?

A. Yes, sir.

Q. Winter of 1917?

A. Four.

Q. Cook was there, however, to supply them with board, was it not?

A. To supply everybody that came there.

Q. To board the help you had to have the cook?

A. Yes, sir.

Q. In 1917 was Mrs. Paullin in Florida?

A. Yes, sir.

Q. What?

A. Yes, sir.

Q. What time?

A. She went down I think about the last of February and came back around the last of March, she was gone about a month or a little over perhaps.

Q. You know that fact from Mrs. Paullin having told you so?

A. I know she went.

Q. How?

A. Because I took her to the train and I got letters from her from Florida.

Q. Letters from her while she was in Florida?

A. Yes, sir, I am positive she went and was there.

Q. But do you know the letter was written in in Florida?

A. Yes, sir.

Q. How?

A. Well, it was whatever hotel, I don't remember, I think she was at St. Augustine, Magnolia, I have got—she was at different houses, she didn't stay at the same place.

Q. How do you know they were written there?

A. I received them with the name of the hotel on them.

Q. That is the only reason you know?

A. I know it was Mrs. Paullin's writing or Mrs. Addis then.

Q. Do you know those letters you received were written in Florida?

A. Yes, sir.

Q. How do you know?

A. Because I got the letters, came from Florida, and read it, and recognized her writing.

Q. That don't prove that she was there.

A. I know she was there, and that is all there is to it.

Q. Was she there in the fall or winter of 1918?

A. Not in 1918 was not.

Q. Has not been there since the winter of 1917?

A. No, sir.

Q. When did she leave Atlantic in the fall of 1917?

A. Why, I think she left in the fall of 1917, she left the second week in October, about the ninth, around the ninth, I think it was.

Q. You think it was the second week in October?
A. Yes, the ninth of October she left.
Q. And where did she go?
A. She went to 3839 North Broad.
Q. Did she tell you she was going there?
A. Yes, sir.
Q. Sure of that?
A. Yes.
Q. When did she leave there?
A. What time, do you mean, when she left?
Q. You say she went to 3839 North Broad about the ninth or eleventh of October, when did she leave there?
A. What do you mean, to come back to Atlantic City?
Q. When did she leave that place after she got there?
A. Leave 3839?
Q. Yes.
A. I don't know. I wasn't there.
Q. Ever been there?
A. Yes, sir.
Q. When?
A. Well, I was there this winter.
Q. When?
A. I was there Sunday before she died, and I was there, left there Monday and went back on Wednesday.
Q. When did she die?
A. She died the twenty-ninth of January.
Q. You were there the previous Sunday before that?
A. Yes, sir.
Q. And you went back again?
A. I went back on Monday afternoon.
Q. Mr. Paullin there then?
A. Yes, sir.

Q. Had you been at 3839 except that time since October twenty-seventh, 1917?

A. Since October twenty-seventh?

Q. Seventeen?

A. Yes.

Q. When?

A. I was there a week before they were married on a Sunday.

Q. On a Sunday?

A. Yes, sir, went up on Sunday morning and came back Sunday night.

Q. When were they married?

A. They were married the last Saturday in October, whatever date that is.

Q. I asked you particularly if you had been there after October twenty-seventh, 1917?

A. No, sir.

Q. Up until the time you were there this past January, you were not there then?

A. When, what do you mean?

Q. During all of 1918?

A. Yes, sir, I was there in 1918.

Q. What time?

A. Well, I was there before she was, when she was sick I was there.

Q. Was she sick up there or down here?

A. She was sick down to Atlantic City, taken sick down here.

Q. I am speaking about 3839.

A. I don't understand you there at all.

Q. Were you at 3839 at any time during the year 1918?

A. Yes, sir.

Q. What time?

A. Well, I was there just before she died, I went

up on a Sunday, and she died on Wednesday previous.

Q. Didn't she die in 1919, this present year?

A. Yes, sir.

Q. I am speaking of 1918, I am not trying to confuse you.

A. I think you are.

Q. That might be the result, but I am not trying to do it. I am speaking entirely of 1918, were you at the residence 3839 at all during 1918?

A. During 1918?

Q. During the year 1918?

A. I don't remember that.

Q. Don't know whether you were or not, do you mean?

A. In 1918?

Q. You were there a short time before she was married?

A. That was in 1917?

Q. Yes.

A. But I don't think I was there in 1918.

Q. Were you there after her marriage up until the time she had been taken sick from Atlantic City to her North Broad Street home?

A. After she had been taken to Atlantic City?

Q. From Atlantic City to her Broad Street home?

A. After she had been taken sick?

Q. From Atlantic City to her Broad Street home?

A. Yes, I went up on Sunday before she died.

Q. She was taken sick down here, was she not, Atlantic City?

A. Yes, sir.

Q. And taken to the North Broad Street home from Atlantic City?

A. To 3839 North Broad Street.

Q. She was taken then to 3839, if that suits you any better?

A. Yes, sir.

Q. By whom was she taken?

A. Why, she went up on the train with Mr. Paullin and Miss Upham in the afternoon on the two o'clock bridge train.

Q. That was in January of this year?

A. January sixth.

Q. January sixth of this year?

A. Yes.

Q. You were there at that time, and a day or two after and then at her funeral, weren't you?

A. No, sir, I wasn't up there until the Sunday before she died, I didn't go up any more.

Q. Then the Sunday before she died you were not up there after she had left Atlantic City until a day or two before the Sunday before she died?

A. No, sir, not to my knowledge.

Q. Then between her marriage, October twenty-seventh, 1917, up until the time you saw her, went to see her the Sunday before she died, you were not at that home?

A. What time do you mean?

(Question repeated.)

A. Yes, sir, I was.

Q. When?

A. Well, I can't tell you, I don't remember when, but I was there several times, go up on Sunday and come down Sunday night, sometimes I would stay up there Sunday night and come down Monday.

Q. Then during that time you were there?

A. Yes, sir.

Q. I am speaking now at 3839.

A. 3839 North Broad.

Q. Then what month must that have been?

A. It would be in ——

Q. October?

A. No, not in October.

Q. November?

A. The only time I was up there in October was the time before they were married, 1917.

Q. Well, it must have then been November, December, January, February, or part of March?

A. No, I never was there in March in eighteen, I can't give you the dates because I went up any time, I didn't put the dates down.

Q. It must have been in those months, was it not?

A. I guess it would be before Easter, I would always go up to give the Easter order, and I would go up then, so that would be, I guess, maybe in January, first of January.

Q. Now, what other time would you be up besides going up to give the Easter order?

A. That is the only time I remember being up since I have been there.

Q. There has been only one Easter order given after the marriage.

A. One Easter order? Yes.

Q. Is that right?

A. She was married in 1917, and next was 1918, yes, sir, that is the only one Easter order.

Q. When did Mr. Paullin come down in 1918?

A. 1918. Why, he came down I think around the last of April.

Q. Sure it was the last of April?

A. Yes, sir, I think so.

Q. Of eighteen?

A. I can't tell you the dates. I didn't put it down.

Q. And did he go back and forth to business?

A. Back and forth on occasion, he didn't stay all the time, he went back and forth occasionally.

Q. You mean he didn't stay where?

A. Not in May, but the first of June he came down and stayed all the time, that is he came down at night, and go back in the morning, and come down every night.

Q. But during the month of May then ——

A. He came down occasionally.

Q. ——he didn't stay there all the time?

A. I couldn't tell you how many times he has been there.

Q. But during June and July he came down to 1410?

A. Yes, sir.

Q. Every night?

A. Yes, sir.

Q. How about August and September?

A. He was there.

Q. All the time?

A. Yes, sir.

Q. He didn't remain there all the time, only at nights?

A. Up and down to his business, came down in the afternoon and have his supper there.

Q. Get his breakfast too there?

A. No.

Q. Where did he get his breakfast?

A. I suppose he went in the restaurant because the cook wouldn't come that early.

Q. Didn't give him his breakfast?

A. Well, the cook wouldn't come to get it that early in the morning at the time he went.

Q. Shoved him out to a restaurant, but they did give him his dinner at night?

A. Yes, sir.

CHARLES H. EDMUNDS, recalled.

The Witness: I would like to state, if the Court pleases, before having testified I had not made any examination at all with reference to the registration of voters, and I expressed the opinion first that if one was a resident of Pennsylvania for at least one year prior to the election that the one so resident would be entitled to vote, even though the year may not have expired at the time of registration, and then I subsequently revised that opinion and went from that, which was correct, to that which was erroneous. Now, I find by referring to our Act of June sixteenth, 1911, which appears on page 1005 of our Pamphlet Laws, the following: "Every person who shall have paid his taxes on or before the last day for registration, and who shall possess all the other qualifications of an elector as provided in the constitution and laws of this Commonwealth, or who by continued residence in his election division will obtain such qualification before the next ensuing election, shall be entitled to be registered, but no person shall be registered unless at least two of the registrars determine that he is so qualified." Now, the exact provisions of our constitution with reference to the qualifications of electors in Pennsylvania are these: "Article 8. The Elector must have been a citizen of the United States for at least one month. Every male citizen twenty-one years of age possessing the following qualifications shall be entitled to vote at all elections, subject, however, to such laws requiring and regulating the registration of electors as the General Assembly may enact." That was an amendment of our constitution which was adopted on the

fifth of November, 1901. That is that part which relates to the regulations of the registrars. "First he shall have been a citizen of the United States at least one month and shall have resided in the state one year, or, having previously been a qualified elector or native citizen of the state, and shall have removed therefrom and returned, then six months immediately preceding the election. He shall have resided in the election district where he offers to vote at least two months immediately preceding the election. If twenty-two years of age and upwards he shall have paid within two years a state or county tax, which shall have been assessed at least two months and paid at least one month before election." Now, our Acts of Assembly appoint given days upon which our citizens may register. That is the correction I desire to make ——

Mr. Summerill: What are those given dates?

The Witness: The Act of June sixteenth, 1911—and I am not advised of any amendment to the act, but I didn't examine any of the acts subsequent to June sixteenth, 1911. I will do so, however, when I return to my office—provides as follows, page 995: "For the appointment of three registrars for each election division." The registrars ——

Mr. Cole: Without reading that can you give me the dates?

A. No, I can't, because it is bound together. You will see as I read it why I can't give the exact dates. "The registrars meet at the polling place in even numbered years on the ninth Saturday and seventh Tuesday, and fifth Saturday preceding the Novem-

ber election, which shall be known as the fall registration, and on the fifth Wednesday preceding the spring primary, which shall be known as the spring registration, and in odd numbered years on the tenth Thursday, ninth Tuesday, and eighth Saturday preceding the November election, which shall be known as the fall registration, and shall remain in open session from seven a. m. to ten a. m., and from four p. m. to ten p. m.''

By Mr. Cole:

Q. Now, what is the effect of that, that a man must have been in the state for one year before he could be registered?

A. No.

Q. He need not be?

A. He need not be.

Q. Provided he has paid taxes?

A. Well, the act is explicit in that regard. He can't register unless he produces either a poll tax receipt or receipt for the payment of tax on real estate, but he may register even though he may not have been a citizen or a resident of Pennsylvania for one full year, he can't vote until the full year has expired.

Q. Now, any of those registration days between October twenty-seventh and what was termed the fall election in November, the first Tuesday after the first Monday in November?

A. Of the same year?

Q. Yes.

A. No, not for 1917.

Q. Now, then if a party moved into Pennsylvania on October twenty-seventh, say 1917, could he vote

at an election held the first Tuesday after the first Monday in November of 1918?

A. He could.

Q. How?

A. That is if he had registered.

Q. How could he register if there are no registration dates?

A. The registration date in 1918, is an even numbered year, and he could have registered, assuming that he was qualified to do so, he could have registered on the ninth Thursday, seventh Tuesday, or the fifth Saturday preceding the November election of 1918.

Q. Fifth Saturday of what?

A. Fifth Saturday prior to.

Q. Prior to the election?

A. Prior to the election date.

Q. Although he was not a resident of the state at the time?

A. He must be a resident of the state.

Q. Not been a resident of the state for a year?

A. He need not be a resident of the state for one year at the time of registration, but he must have been a resident of the state.

Q. Then it is possible for a man under such circumstances to have voted at the last election?

A. It is possible.

Q. If he had been shrewd enough to know the kinks and turns of your law.

A. Well, if he had known his legal rights and exercised his legal rights, he could have voted.

Q. Or if the powers that be had needed his vote sufficiently to have put him on his guard, or notice how to act and act quickly?

The Court: Overruled.

By Mr. Cole:

Q. Now, as I understand, am I correct, Mr. Edmunds, in this, if the man is once entitled to vote and goes out of the state and comes back within the period of residence need be but six months?

A. Need be but six months.

Mr. Clevenger: We cannot finish today, your Honor, because we have some papers which are in the safe deposit box. I think we ought to state to counsel on the other side what two of those papers are. We have in that box a general release and power of attorney, and I think one other paper that were executed during the year 1916 and signed by some of these people by the name of Brooks who are interested in the Brooks interest who have been on the stand today, in which the paper recites definitely, and positively that Mrs. Addis was a resident of Atlantic City.

The Court: Why can't we close everything but that election officer, because I am right free to say I am ready right now to give you my views on everything except that point, of course, not overruling counsel to change my view, but I think I could save very much time if I gave counsel my view upon the effect of the evidence up to the point you have closed.

Mr. Cole: I don't care how it is handled.

The Court: I don't want to do that when you are continuing on any line of testimony, but until the

line of testimony is closed upon anything but Mr. Paullin's registration or assessment, I don't care to express myself.

Let me express my view as it is now, just shortly. I will amplify it later. Many years ago Mr. Upham conducted a business in Atlantic City. His wife, Anna B. Upham, the decedent, continued that business at the same place in Atlantic City where they had both resided. She continued to reside in Atlantic City, each winter making trips, or nearly each winter making trips to Florida and elsewhere, being, of course, known that the busy season, as one witness expressed it, is in the summer in Atlantic City, that that practice continued, she still holding Atlantic City as her residence, or as the residence of her former husband. Without ruling upon that, however, she married a gentleman by the name of Addis, who was then a resident of Philadelphia. He afterwards changed his residence to Atlantic City at 1410 Atlantic Avenue, which is Upham's place of business and residence. Without doubt at that time Mrs. Addis' domicile and residence was 1410 Atlantic Avenue, Atlantic City. During Mr. Addis' life, and in fact before that she in addition to the trips to Florida and elsewhere in the winter stayed a portion of the winters in Philadelphia, to such an extent as renting an apartment, afterwards renting a house, and finally buying a property in which she lived a portion of each year. Mr. Addis died. She makes no change in her custom and continues in the same way, being in Atlantic City in the summer months, in Philadelphia and in Florida in the winter months. I find nothing in the testimony that would indicate that she had changed her domicile or her place of residence from 1410 Atlantic Avenue after Mr. Addis' death up to

the time that she married Mr. Paullin, and that, so far as I personally see it, brings the only issue in the case. In re will of, I think it is Geiser, in 97 Atlantic, the place of domicile of the wife who dies is that of her husband. That case is cited with approval in 103 Atlantic, to my recollection, page 585, or something of that sort. Now, the only question in my mind is this, has Mr. Paullin, whose place of residence, whose domicile at the time of the marriage to Mrs. Upham, has he or has he not changed, especially to a domicile and residence in Philadelphia? Now, as I presently see it, gentlemen, it has reduced itself to that one point. I think it is only fair that I should in this general way outline to you that up to the time of the marriage, the Court, unless its view of the evidence is changed, or his view of the effect of the law will find that Mrs. Addis' domicile at the time of her marriage to Mr. Paullin was Atlantic City, and that, unless by the fact of Mr. Paullin, if he did or did not take up his residence and domicile in Philadelphia, that status is not changed.

Further testimony adjourned until a later date to be fixed.

ATLANTIC COUNTY ORPHANS' COURT.

In the matter of the probate of paper purporting to be the last will and testament of Anna B. Paullin, deceased.

Atlantic City, New Jersey, May ninth, 1919.

Trial of the cause resumed at 10.45 A. M.

TESTIMONY.

Before Hon. Robert H. Ingersoll, Judge.

Appearances:

Same as before.

Minnie W. Upham, recalled.

Direct examination.

By Mr. Cole:

Q. There has been testimony in this case touching the shipment of a trunk from Pitman to Atlan-

tic City and I ask if you know what the contents of that trunk were?

A. It was bedding, curtains and bric-a-brac, clothing, table linen, blankets and draperies.

Q. And were they used in 1410 Atlantic Avenue?

A. They were brought there for that use, yes, sir.

Q. Now, how came those things to be placed in the trunk and shipped here?

A. Well, Mr. Paullin told mother to take whatever she wanted and send to the home to be used down here.

Q. And then those things that you have enumerated were selected, were they?

A. Yes, sir.

Q. Now, was any of his clothing in the trunk?

A. His spectacles, and hat, and a pair of summer shoes.

Q. When he left 1410 Atlantic Avenue the last time did he leave anything there?

A. He left a hat.

Q. His own hat?

A. Yes, sir.

Q. Is that it?

A. Yes, sir.

Q. Now, do you know what if any contribution Mr. Paullin made toward the maintenance of the home and provision for the table during the marriage?

A. No provision made except he paid a small amount of board for himself.

Q. For what period?

A. November until about a week before mother died.

Q. You mean from the November preceding her death until the time of her death?

A. Yes, sir.

Q. Was there a period that he didn't pay anything?

A. The summer, about eight months.

Q. During that period did Mrs. Paullin pay for the table and so on?

A. Everything.

Q. Who paid the bills for things that went into the home?

A. She did.

Q. Have you the bills and checks?

A. Yes, sir.

Q. Will you look at those bills and checks that are being handed you and see if they are the bills and checks you refer to?

A. Yes, sir.

Mr. Cole: We offer those as one exhibit.

(Bundle of bills and checks admitted in evidence and marked Exhibit B15.)

Mr. Clevenger: Among those bills and checks you will find those that you called for in your notice, Mr. Summerill, of Wanamaker.

Cross-examination.

By Mr. Kenworthy:

Q. What goods did you say were shipped in that trunk from Pitman to Atlantic Avenue?

A. Draperies, curtains, sheets, bedding, and bric-a-brac.

Q. Substantially all the goods of that character that there were in Pitman?

A. Yes.

Q. So that that left the Pitman house unprovided with any sheets or bedding or anything of that sort of furnishings, practically?

A. Yes. There was quilts left there.

Q. What say?

A. There was quilts left there for all the beds.

Q. That is heavy articles of bedding were left there?

A. Yes.

Q. But all the table linen was sent?

A. And returned.

Q. Returned?

A. Yes, sir.

Q. What do you mean by returned?

A. Sent back to Pitman.

Q. Weren't they sent to his place of residence at one time?

A. No.

Q. Sent back to Pitman?

A. Yes, sent to his home in Pitman, that is where it was paid for, sent to.

Q. When were they sent back?

A. About a couple of months after they were sent to Atlantic.

Q. Then these furnishings for Pitman were only down to Atlantic for a couple of months, was that it?

A. Yes, and were returned.

ROBERT E. DOYLE, a witness produced on behalf of the proponent, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Cole:

Q. Mr. Doyle, do you hold some position in the City of Philadelphia?

A. I do.

Q. What is it?

A. I am election clerk in the county commissioner's office, Philadelphia.

Q. How long have you held that position?

A. Twelve years, the [illegible] of this year.

Q. What are your duties?

A. My duties are to take charge of the assessor's books, on the work pertaining to elections.

Q. Is there on file in your office and under your supervision any record which will show whether or not one Enos Frank Paullin was registered either from 3839 N. Broad Street or 2014 West Columbia Avenue, Philadelphia?

A. Not registered but assessed.

Q. Assessed for the years 1917, 1918 and 1919?

A. I have the books of 1917 and 1918.

Q. Will you examine those books and say whether he was assessed for either of those years for either place?

A. What was the address, North Broad Street?

Q. 3839 North Broad Street.

A. 3839 North Broad Street in September, 1917, his name does not appear upon the assessor's list.

Q. 2014 West Columbia Avenue?

A. 2014, Enos Paullin does not appear upon the

assessor's list of the Forty-seventh Ward, Nineteenth Division, 2014 Columbia Avenue.

Q. Suppose you tell us, while you are looking, whose name does appear, if any?

A. 2014 Forty-seventh Ward, Nineteenth Division, is William P. Paullin, occupation plumber.

Q. Very well, now take 1918.

A. From the Forty-seventh Ward, Nineteenth Division, September, 1918, Enos Paullin's name does not appear, but the name of William Paullin, plumber appears.

Q. Now, 3839 North Broad Street for that year.

A. 3839 North Broad Street his name does not appear, that is the Forty-third Ward, Twentieth Division, September, 1918.

Q. Is it yet too early ——

A. We have here in December, 1917, what we call the December assessor's list of the Forty-seventh Ward and the Forty-third Ward. Do you want those?

Q. Yes, give us those.

A. Forty-third Ward, Twentieth Division of 1917, the name does not appear, that is the address of 3839 North Broad Street, that is December, 1917, Forty-third Ward, Twentieth Division. Forty-seventh Ward, Nineteenth Division of December, 1917, 2014 Columbia Avenue, only the name of William Paullin appears, occupation plumber.

Q. Is it yet too early for 1919?

A. Yes.

Q. What are the other two you have before you?

A. Forty-seventh Ward, 1918, of December.

Q. All right, give us that.

A. Only the name of William Paullin appears, occupation plumber at 2014 Columbia Avenue, that is December, 1918, Forty-seventh Ward, Nineteenth Di-

vision. December, 1918, Forty-third Ward, Twentieth Division, no name appears, Enos Paullin or William Paullin, 3839 North Broad Street.

Mr. Cole: We make a formal offer of the books, but I suppose being a public record they should not be marked.

Q. They are the original books, are they not?
A. They are all the original books.

(Books admitted in evidence but not marked.)

Q. Do you know the procedure adopted of getting the assessment, making the assessment or getting the name on the assessment roll?
A. Yes, sir.
Q. Will you state that, please?
A. The first Monday of May of every year the assessor goes around in each and every division in the city, and County of Philadelphia. There are thirteen hundred and forty-nine divisions, and he makes a house to house canvas to find out all those who are eligible to have their names placed upon the assessor's list. In September of that year he sits two days for all those whose names do not appear upon the list to come there in person and take affidavit they reside within the radius of that division and the boundaries of that division to have their names placed upon the assessor's list. In December, in the first Monday in December they start to make another assessment, and they sit, around the fourteenth or fifteenth, the dates may vary from year to year, but between the fourteenth and seventeenth, they sit two days in December, and that custom is done every year twice a year.

Q. Public notice given of the time and place of the assessment?

A. The public notice is given in the newspapers, and also placed in front of the polling place, what we call the blotter, that is a duplicate of the original. The assessor goes with the blotter from house to house, and from the blotter he transcribes those names into four other books. There are three of those books returned to the county commissioner's office, the one we call the penalty book is hung up at the polling place and the blotter is in the possession of the assessor.

Cross-examination.

By Mr. Kenworthy:

Q. 3839 North Broad Street is in the Forty-third Ward, isn't it?

A. Yes, sir.

Q. What division?

A. Forty-third Ward, Twentieth Division.

Q. These are the books turned in by the assessor?

A. Yes, sir.

Q. One of the four books issued to the assessor remains in his official possession?

A. That is the blotter.

Q. Called the blotter?

A. Yes.

Q. One is hung up in the polling place?

A. That is the penalty book.

Q. And the other two are turned into the county commissioner?

A. Three.

Q. Three, is it?

A. Yes, sir.

Q. There are five issued?

A. There are five issued, there are three of them turned into the county commissioner's, one is kept on file, the original book all the time.

Q. When does the assessor turn in his three books?

A. The assessor turns in his three books, he starts to give us the first——

Q. In 1918 when did he turn in his three books?

A. May assessment he turns in in September.

Q. September assessment, when does he turn his book in 1918?

A. December of that year.

Q. What day, what day of the month?

A. The assessor is required to make up the book at the division house on or before Monday, the ninth day of September, he shall sit at the division house on the seventeenth and eighteenth days of December, between the hours of nine A. M. and three P. M. and six P. M., and he shall turn in these books the nineteenth day of December, that is 1918.

Mr. Cole: We offer a certificate signed by the president of the Board of the Revision of Taxes of the City of Philadelphia, which certificate has been exemplified, and certifies as follows: "This certifies that the name of Enos Frank Paullin, residing either at 3839 North Broad Street or 2014 West Columbia Avenue, Philadelphia, does not appear upon the assessor's books in the office of the Board of Revision of Taxes for any of the years, 1917, 1918 and 1919. No personal tax was assessed to him during any of those years. Signed Simon Gratz, President of the Board."

(Certificate admitted in evidence and marked Exhibit P16.)

PROPONENTS REST.

CAVEATORS' REBUTTAL.

MARTIN J. MCGRATH, a witness produced on behalf of the caveators, being first duly sworn and examined, testified as follows:

Direct examination.

By Mr. Kenworthy:

Q. Where do you live, Mr. McGrath?
A. 3855 North Park Avenue.
Q. What is your business?
A. Electrotyper.
Q. Employed by who?
A. Curtis Publishing Company.
Q. What position do you occupy in regard to the assessment of voters in Philadelphia?
A. Just the assessor.
Q. You are the assessor?
A. Assessor of the Twentieth Division of the Forty-third Ward.
Q. How long have you been assessor?
A. Two years.
Q. Did you in December, 1918, turn in the three copies of the assessment book for your division on or before December nineteenth, of that year?
A. I turned them in December nineteenth.
Q. Did you sit for the purpose of receiving applications for assessments as has been stated here was your duty?
A. I did.
Q. On the days that have been named in the testimony of the former witness?
A. Yes, sir.

Q. Did the name of Enos Frank Paullin appear upon the books which were turned in to the County Commissioners for December nineteenth, 1919?

A. No, sir, did not.

Q. Do you know Enos Frank Paullin?

A. I have known him to see just lately, became acquainted with him.

Q. When did you first see him?

A. Why I judge about the twenty-seventh of December, a couple of days after Christmas.

Q. What year?

A. 1918.

Q. 1918?

A. Yes, sir.

Q. Where did you see him on the twenty-seventh of December, 1918?

A. At my home.

Q. What time of the day?

A. About six fifteen or six twenty in the evening.

Q. Now tell us what took place upon that occasion?

A. Well, Mr. Paullin came to my house and he asked me if he was assessed and I told him, of course I told him that he was not assessed, but I would take his name for future reference, for the May assessment, which is going on now this month, and I went and got my blotter book and I showed him that his name was not down, but I had written his name in right then, in front of him, on the blotter book.

Q. Have you your blotter book here?

A. I have it with me.

Q. Is that the official book which you reserve?

A. That is the book I go around from house to house.

Q. Under the regulations as assessor?

A. Yes, sir. He came to my house, of course I told him that I would take his name for future reference. I didn't put his name down, and I went upstairs and got this book, just so I could get it and put it in for the future reference, and I wrote it in with my fountain pen right in front of him.

Q. Is that the book referred to?

A. That is the book.

Q. Is that the entry which you made at the time upon it?

A. I did.

Q. Now when did you write that name upon your assessor's blotter?

A. December twenty-seventh, the first time I met Mr. Paullin.

Q. Of what year?

A. 1918.

Q. Did you see Mr. Paullin again?

A. I saw Mr. Paullin I judge about two weeks afterwards, I would say about the middle of January.

Q. What took place then?

A. He asked me if I had put his name on the assessor's list and I told him again that I could not put him on the books, that I had turned in to the city hall, that I turned the books in on the nineteenth, but I still had his name for the coming assessment.

Q. On the blotter?

A. On the blotter.

Q. You told him you had placed his name on the assessor's blotter but that it was not on the books which had been turned in to the city hall?

A. No, not on the original list.

Q. And did you show him the name at that time?

A. I wrote it down for him, right in front of him, he saw it.

Q. That was the first time?

A. That was the first time.

Q. On the second call did you show him the blotter?

A. Yes, I showed him the blotter.

Q. Why did you show him the blotter, did he ask to see it?

A. I just wanted to prove to him that I could not put it on the book I had already turned in.

Q. You showed him at that time that you had put it on your assessor's blotter?

A. I showed him at that time.

Cross-examination.

By Mr. Cole:

Q. Did he tell you that he was a married man?

A. He told me that he was—— first I asked him—

Q. Did he tell you that he was a married man?

A. He did, yes.

Q. Did he tell you that his wife was quite sick?

A. No, he didn't say anything about his wife.

Q. Did he discuss his wife at all?

A. No, he did not.

Q. Did he tell you where she was living?

A. Yes, he told me where he was living.

Q. Did he tell you where she was living?

A. Well, he didn't say that, I presume that she was living——

Q. Not presumption. Did he tell you where she was living?

A. No, he did not.

Q. Did he say anything to you about his living at 1410 Atlantic Avenue, Atlantic City?

A. No, sir.

Q. Did he tell you anything about his wife living there?

A. No, sir.

Q. Did he tell you why he was anxious to get on the list?

A. No, sir.

Q. Did he tell you how long he had been living at this number on Broad Street?

A. Yes, sir.

Q. How long did he tell you he had been living there?

A. A couple of years, I think.

Q. Did you ask him why he had not come before to be registered?

A. No, I did not.

Q. Did he tell you why he had not?

A. No.

Q. Well, since you knew he had been there for two years, and you being assessor and knowing that he ought to have come, did it seem natural for you to inquire why it was he had lagged so long?

A. Understand I didn't know Mr. Paullin lived there. I knew Mrs. Addis lived there. I had known that she had been a widow, but I did not know that she had married, and I did not know that Mr. Paullin had lived there.

Q. Then you didn't know that he had married Mrs. Addis?

A. Not at that time, no.

Q. And what time was it he came to see you?

A. December twenty-seventh.

Q. Night or day?

A. Six twenty, about in the evening, I was having my supper at the time.

Q. Do you know where he was actually living at that time?

A. 3839 North Broad.

Q. You mean that he told you he was actually living there?

A. Yes, sir.

Q. And he gave you no reason for his anxiety?

A. No, sir.

Q. About getting on?

A. No, sir.

Q. And you say about how long after that when he asked you whether he was on?

A. A couple of weeks.

Q. Where did you meet him?

A. In my house.

Q. He came the second time?

A. Yes, sir.

Q. What date do you fix for that?

A. Well, I would judge about fourteenth or fifteenth of January.

Q. What time in the day was that?

A. Sometime about half-past six in the evening.

Q. Did you then know that he had married Mrs. Addis?

A. I had known then, yes.

Q. How did you find it out?

A. He told me himself.

Q. The second time?

A. Told me the first time he had married Mrs. Addis.

Q. On the second visit did he tell you Mrs. Addis was ill?

A. No.

Q. Tell you where she was?

A. No.

Q. You didn't know she was ill at that time?

A. Didn't know anything about it.

Q. In the discharge of your duties as assessor did you call at the residence in the first instance?

A. Yes, sir.

Q. And had you called at this 3839 North Broad in 1917 and 1918?

A. I did.

Q. What did you find out?

A. I couldn't get any answer to my ring at the door.

Q. You mean no one was home?

A. No.

Q. You knew somebody lived there, didn't you?

A. I knew Mrs. Addis had lived there, yes.

Q. What time were you there in 1917 and 1918?

A. I was there on Saturday afternoon, about two o'clock, and I went there again on Monday night about seven o'clock or a little after.

Q. You are now talking about which year?

A. 1918.

Q. What time in the year?

A. I was there in December, December second, I think.

Q. To make the December assessment?

A. Yes, sir.

Q. What about the May assessment?

A. I was there at the required time. I have been to the house on all times.

Q. And you never found anybody there on any of the occasions?

A. No.

Q. How many times were you there in December, 1917 and 1918?

A. Three times.
Q. Each year?
A. Yes, sir.
Q. And on none of those occasions you found anybody present, is that right?
A. That is right.
Q. You found the house closed, didn't you?
A. Closed, yes.
Q. No response to your call?
A. No, sir.
Q. From which you concluded there was nobody living there that could be assessed?
A. I knew there was somebody living in the house, the house was occupied to some extent, but I could not get anybody to come to the door. The house did not look as if it was unoccupied.
Q. You mean you thought there was somebody there but didn't answer your call?
A. No.
Q. Now you are certain this was December twenty-seventh, you saw Mr. Paullin?
A. I know it was about two days after Christmas because it was right after the holidays time.
Q. Do you know it was December twenty-seventh? I say that for this reason, my recollection is that Mr. Paullin said he was in Atlantic City on that date, and I am wondering whether——
A. I am pretty near sure it was the twenty-seventh.
Q. Is that the date on your book?
A. No, the date is not on my book.
Q. Then you fixed that date from memory?
A. From memory.
Q. Might it have been the twenty-eighth or twenty-ninth?
A. No, sir, it could not have been the twenty-

eighth or twenty-ninth at all, because I was not home on both of these times.

Q. You asked how long he had been living at 3839 North Broad Street?

A. I did.

Q. What did he tell you?

A. Two years.

Q. You didn't inquire why he had not come before to be assessed?

A. No, I didn't bother with it.

Q. Well, didn't you think it suspicious if he had been living there two years that he had not come before?

A. No, I even complimented him on coming around to get his name on the list because I have had trouble with other men in the division I could never get to see, and they came around, and it was really handier for me.

Q. Then you thought he was doing you a favor by coming?

A. No, I didn't think he was doing me a favor.

Q. Didn't you think he was doing something unusual?

A. No, I have had others do the same thing.

Q. This book in which you wrote the name, you wrote it in pen and ink?

A. At that time I had my fountain pen, I didn't have any lead pencil, but that is the book that I carry around with the lead pencil, that is easier to write with.

Q. Hadn't you exhausted that book for the year 1918?

A. No.

Q. Was it still open for putting names down?

A. At that time, oh it was closed then, sure, but

I only took it for future reference, for this May assessment, so I would have his name.

Q. Well, did you do a proper thing by putting his name in this book which had become exhausted? Why didn't you make a memorandum somewhere else?

A. Well, that was just as good, that was a dead book.

Q. It was a dead book?

A. Sure.

Q. Wouldn't a person looking at this book, knowing it to be your blotter for the assessment for 1918, assume that Mr. Paullin's name was on it for the 1918 assessment?

A. Nobody is supposed to look at that book.

Q. Well, you say this is not a public record and can't be seen?

A. It can be seen, but I have four other books I write up, and when I make up three I turn into the County Commissioner's office, and this one for my use.

Q. But are't you required to preserve this under the law?

A. Only during the assessment.

Q. Can you then tear it up?

A. I can.

Q. But you don't?

A. I don't.

Q. A stranger looking at this, would not they assume that Mr. Paullin was on for 1918, knowing this was your blotter?

A. They would from that book, but the other books would verify that he was not.

Q. In other words this book and the other books would not agree?

A. No.

Q. Now have you any other cases in this book where somebody came after the blotter had been closed and you put the name in?

A. No.

Q. That is the only case?

A. I have had them come around during the assessment.

Q. Does that name appear anywhere else?

A. No, sir.

Q. That is the only book it appears on?

A. That is the only book it appears on.

Q. And you didn't use ink anywhere in this book except when you put Mr. Paullin's name in?

A. That is all. I would have used lead pencil if I had had one handy, but I didn't have a handy pencil, and I just used my pen.

Q. You remember being interviewed by someone about this matter in Philadelphia?

A. Was I interviewed?

Q. Yes.

A. Yes, I was interviewed by a Mr. Price.

Q. Did you tell him that this visit was in January, 1918?

A. Yes, sir.

Q. Were you mistaken about that?

A. No.

Q. What were you doing referring to the last visit?

A. At the first time I told him in January I thought, and then I thought back, and then I talked to my mother, because Mr. Paullin had met my mother, first in the afternoon and she told him to come around to see me, and I remember then that it was right after Christmas, two days after Christmas.

Q. In other words when you talked to Mr. Price you thought it was January and so told him?

A. I thought it was the early part of January.

Q. And after you talked with your mother and she helped your memory you concluded it was the twenty-seventh of December?

A. I remembered myself then it was December, because I told Mr. Paullin I had just turned my books in a few days ahead of that.

Re-direct examination.

By Mr. Kenworthy:

Q. Who did this Mr. Price you refer to, was he representing?

A. I think it was some man by the name of Adams, wasn't it?

Q. Well, did he mention the name of any counsel for proponent?

A. Yes, Mr. Clevenger.

Q. Who?

A. He mentioned a man by the name of Clevenger.

Q. Did Mr. Clevenger. How many times did he come to your house?

A. Twice.

Q. You don't mean Mr. Clevenger was there?

A. No, Mr. Price was at my house twice.

Q. When you say that he spoke of Mr. Clevenger you mean, do you, that he stated that he represented Mr. Clevenger?

A. Represented Mr. Clevenger.

Q. Now, what did you tell him the second time he came to see you?

A. I told him that I had seen Mr. Paullin on the

twenty-seventh of December, and about the fourteenth or fifteenth of January, around the middle.

Q. The first time you told him of the second visit in January, did you, the first time that you saw Mr. Price?

A. Yes.

Q. Did he ask you about any other visit except the time that you mention?

A. No.

Q. And the first time that you saw Mr. Price you told him that Mr. Paullin had been around to see you before the middle of January?

A. Yes.

Q. And was anything further said as to whether Mr. Paullin had been to see you any former time than that visit?

A. No.

Q. Now on the second visit did you tell Mr. Price as to both of these visits by Mr. Paullin?

A. I did, and I showed Mr. Price on the first visit that he came to my house, this book, that I had written Mr. Paullin's name in it, I told him why I had written it in, for future reference, and I showed that to Mr. Price. He saw it himself.

Q. And the second time you told him of both visits by Mr. Paullin?

A. I did, yes, sir.

By the Court:

Q. Do you know who lived at 3839 North Broad Street?

A. Did I know?

Q. Yes.

A. Not until I was told, your Honor.

Q. By whom?

A. By Mr. Paullin himself.

Q. You mentioned in your testimony that you knew that Mrs. Addis lived there?

A. I knew that Mrs. Addis lived there. I knew that.

Q. How did you know that?

A. Well, I know that from talk of a little girl that I know, a girl about sixteen years of age goes with several girls in that same block, some young girls, and that time, she often talked about Mrs. Addis.

Mr. Kenworthy: I want to offer that book in evidence but I would like to retain the book being Mr. McGrath's official copy of the assessment.

(Book admitted in evidence but not marked.)

CAVEATORS REST.

TESTIMONY CLOSED.

PROPONENT'S EXHIBITS.

EXHIBIT P1.

Exhibit P1 is the will of the decedent to be found in the certified record.

EXHIBIT P2.

Exhibit P2 is the envelope containing the will of the decedent, which has written on it, "Will of Annie B. Paullin, April 19, 1918."

EXHIBIT P3.

Exhibit P3 is a specimen of the handwriting of the draftsman of the will and has written upon it, "April 19, 1918, witnesses 266 S. Congress Ave., Atlantic City."

EXHIBIT P4.

Exhibit P4 is check of Annie B. Paullin to the order of John Wanamaker for $125.30 drawn on the Second National Bank of Atlantic City, N. J., on January 12, 1918, on which is printed at the end thereof, "A. B. Paullin, 1410 Atlantic Avenue."

EXHIBIT P5.

EXHIBIT P6.

Exhibit P6 is the original marriage certificate issued by the minister who married the parties, and it reads as follows:

"This certifies that Enos Frank Paullin, Pittman, N. J. and Annie B. Addis, Atlantic City, N. J. were by me united in the bonds of matrimony, according to the Ordinance of God and the laws of the State of Penna. on the 27th day of Oct., in the year of our Lord, one thousand nine hundred and seven at Philadelphia, Pa.

Thomas J. Cross,
Minister of the Gospel.

Witnessed by
WEDDING GUESTS.

William P. Paullin
Annie E. Paullin
Ella F. Paullin
John J. Timan
Mrs. John J. Timan
Minnie W. Upham."

EXHIBIT P7. 3/26/19 L

STATE OF NEW JERSEY
Office of Secretary of State

—

Department of Motor Vehicle Registration and Regulation

—

Pneumatic Tire Registration No. 97971
Issued to Annie B. Paulin
of Atlantic City N. J.
In pursuance of "An Act defining motor vehicles and

providing for the registration of the same and the licensing of the drivers thereof; fixing rules regulating the use and speed of motor vehicles; fixing the amount of license and registration fees; prescribing and regulating process and the service thereof and proceedings for the violation of the provisions of the act and penalties for said violations."

[OVER]

DESCRIPTION OF VEHICLE

Made by Hudson
Year 1917 Model H. Body Sedan
Maker's No. 91005 Horse-Power 29

In Testimony Whereof, I have set my hand and my seal of office the 4th day of April A. D. 1918

Signed

Wm L. Dill,
Commissioner of Motor Vehicles.

Fee $7.50 Apr 4-1918
(On lefthand margin) Andrew S. Orr Agent

Owner's Name Annie B. Paullin (97971)
Address 1410 Atlantic Ave. Atlantic City, N. J.

State of New Jersey
Department of State—Commissioner of Motor Vehicles

Application for Registration of an Automobile Equipped on All Wheels With Pneumatic Tires

I, the undersigned, the owner of the automobile herein described, hereby apply for registration of said vehicle and for that purpose make the following answers to the questions contained in this application.

Description of Vehicle
1917 Registration No.....
Maker's Name Hudson
" Number 91005
Kind of Body Sedan
Color of Body Blue
Year of Make 1917
Model H
Number of Cylinders 6
Bore of Cylinders 3½
Horse Power (A.L.A.M.) 29
Has Car a Reflecting Mirror? Yes
Do Headlights comply with Law? Yes
What Method have you employed to eliminate dazzle and glare? Frosted bulbs

---

Annie B. Paulin says that she is the above
(name of owner) (he or she)
named applicant, (or if a corporation the.....
(title of office)
of....., a corporation, the above named
(name of corporation)
applicant), that she signed the above application,
(he or she)
knows the contents thereof and that the statements and answers contained therein are true.

Mrs. Annie B. Paullin
(signature of applicant)

Subscribed to in the presence of
.....
(signature of witness)

Issued by Andrew S. Orr at Atlantic City date Apr. 4-1918 Fee $7.50

STATE OF NEW JERSEY
(Shield)
Department of State.
Division of Motor Vehicle Registration

I, William L. Dill, Commissioner of Motor Vehicles of the State of New Jersey, do hereby certify that the annexed is a true copy of the application of Annie B. Paullin, 1410 Atlantic Avenue, Atlantic City, New Jersey, to whom motor vehicle registration certificate number 97971 was issued on the 4th day of April, 1918, as the same is taken from and compared with the original now remaining on file and of record in this office.

In Testimony Whereof, I have hereunto set my hand and affixed my Official (SEAL) Seal, at Trenton, this twenty-sixth day of February, A. D. 1919.

Wm. L. Dill
Commissioner of Motor Vehicles.

M.

EXHIBIT P8.

Exhibit P8. Income tax notice and receipt given Annie B. Addis, 1410 Atlantic Avenue, Atlantic City, N. J. showing payment of $9.22 to the internal revenue collector of the first district of New Jersey at Camden, N. J., for the year 1914 and $13.60 for the year 1915. Income tax receipt from the United States Government to Annie B. Addis, 1410 Atlantic Avenue, Atlantic City, N. J., showing payment of $30.20 to the internal revenue collector for the first district of New Jersey, at Camden, N. J. for the year

1916. Income tax receipt 10,700,065 to Mrs. Annie B. Paullin, 1410 Atlantic Avenue, Atlantic City, N. J. showing payment of $185.27 to the internal revenue collector for the first district of New Jersey, at Camden, N. J., for the year 1917.

EXHIBIT P9 3/26/19 L

No. .....
Issued .....
(Leave Blank)

UNITED STATES FOOD ADMINISTRATION
Application for Baker's License
(Please Use Typewriter)
(IMPORTANT: See Letter of Instructions Accompanying This Application)

To United States Food Administrator,
Washington, D. C. Date Nov. 30th. 1917

(1) Name Annie B. Paullen (Uphams Bakery)
(2)
(3) Address 1410 Atlantic Ave. Atlantic City N. J.
(Number and Street) (City or Town) (State)
(4) Hereby makes application for a license to manufacture the commodities checked below:
(a) Bread X (b) Rolls (c) Cake X
(d) Crackers and Biscuits (e) Pastry X
(f) Pies X

In this behalf the applicant makes the following statements:

(5) Volume of Business About $4300.00 per. year
(6) Number of Plants or Branches None
(7) Name of Owner Annie B. Paullen
(8) Address 1410 Atlantic Ave. Atlantic City N. J.
(Number and Street) (City or Town) (State)

(9) Officers or Managing Agents of Corporation or Association:

Members of Partnership: (State below)

Name..... Name.....
Address..... Address.....
Name..... Name.....
Address..... Address.....

(10) Describe below all places where your business is conducted:

Principal Plant, Branch or Agency—(A)

(11) Location 1410 Atlantic Ave. Atlantic City N. J.

(12) Character of Plant Bakery

(13) Number of Ovens (1)

(14) Average Flour and Meal Consumption 30 Bbls. per month

(15) *Maximum* Capacity (in pounds per week):
(a) Bread 2700 (b) Rolls (c) Cake 800
(d) Crackers and Biscuits (e) Pastry 6
(f) Pies 75

(16) Average Output (in pounds per week):
(a) Bread 600 (b) Rolls (c) Cake 50
(d) Crackers and Biscuits (e) Pastry 6
(f) Pies 50

(17) Value of Output (in dollars per week):
(a) Bread $42.00 (b) Rolls (c) Cake $25.00
(d) Crackers and Biscuits (e) Pastry $5.00
(f) Pies 10.00

(18) Character of Sales:

Wholesale			%
Retail	X	100	%

If you do business at more than one place, give required information as to all other places on the back of this application or, if space is lacking, on plain white paper, and fasten that paper on this application.

(19) Do you now hold a license from the United States Food Administration? No

The license when issued may be revoked by the United States Food Administration in the event of the violation by the licensee, its officers, agents or employees, of any of the provisions of the Act of Congress, entitled "An Act to provide further for the national security and defense by encouraging the production, conserving the supply, and controlling the distribution of food products and fuel," approved August 10, 1917, or of any of the rules and regulations which have been or which may be promulgated by the President of the United States, or by the United States Food Administrator, acting under the direction of the President, in accordance with the provisions of said Act.

The above statements regarding the business of the applicant are, to the best knowledge and belief of the applicant, true and correct.

(20) Annie B. Paullin Formerly Annie B. Upham

(21) By

NOTE—Application is continued on reverse side of this sheet.

(Reverse side not used)

EXHIBIT P10 3/26/19 L

Not Transferable

No. B10120

UNITED STATES OF AMERICA

Office of

United States Food Administrator

—

Duplicate
LICENSE

—

License Is Hereby Granted To
ANNIE B. PAULLEN
(Uphams Bakery)
of ATLANTIC CITY NEW JERSEY
to manufacture and sell the bakery products checked below, at the place or places designated in application made to the United States Food Administrator in compliance with the President's proclamations of November seventh, 1917, and January thirtieth, 1918, relating to the licensing of persons manufacturing such products.

(a) Bread X (b) Rolls (c) Cake X (d) Crackers and Biscuits (e) Pastry X (f) Pies X

This license is subject to revocation at any time for violation of the rules and regulations prescribed by the President of the United States or by the United States Food Administrator, under the direction of the President, or for violation of any of the provisions of the Act of Congress under which this license is issued.

This license, and the rules and regulations issued thereunder, shall cease to be in effect when the existing state of war between the United States and Germany shall have terminated and the fact of such termination shall have been proclaimed by the President.

Dated July 30, 1918

UNITED STATES FOOD ADMINISTRATION,
By Herbert Hoover
United States Food Administrator.

(Typewritten on reverse side)
Annie B. Paillen,
(Uphams Bakery)
1410 Atlantic Avenue,
Atlantic City, New Jersey.

EXHIBIT P11 3/26/19 L

THIS INDENTURE made the 14th day of May A. D. Nineteen Hundred and eighteen BETWEEN
Annie B. Paullin, of Atlantic City
of the first part, and
Simon Eichengree, of Phila. Pa.
of the second part
WITNESSETH, That the said party of the first part has let and by these presents does grant, demise and to farm let unto the said party of the second part The Furnished cottage, known as 310 Pacific ave. Atlantic City,
with the appurtenances from June 8th. 1918 up to and including Sept. 15th. 1918 at the rent or sum of Five Hundred dollars ($500.00) to be paid as follows: Fifty dollars, the receipt of which is hereby acknowledged and the balance Four hundred fifty dollars ($450.00) to be paid at the time possession is given.

Provided, That if any rent shall be due and unpaid; or if default be made in any of the covenants herein contained then this lease shall immediately cease and become void, and it shall be lawful for the said party of the first part, without notice and without any demand for said rent, to re-enter the said premises and remove all persons therefrom, or to

proceed by action for the recovery of the possession thereof, or otherwise however.

AND the said party of the second part does hereby covenant and agree, to and with the said party of the first part, to pay the said rent in the proportions and upon conditions aforesaid; and not to assign this lease, and not to underlet said premises, or any part thereof, nor permit any person or persons to occupy the same, or any part thereof, nor use or permit any part thereof to be used for any other purpose than

A private dwelling

nor make or suffer to be made any alteration therein, without the written consent of the said part of the first part, and also at the expiration of said term, to yield up and surrender the possession thereof, with the appurtenances in as good state and condition as the same now are; or may be put into by the said party of the first part, reasonable wear and tear and accidents happening by fire or other casualties excepted.

(On reverse side)

And the said part of the first part do covenant that the said part of the second part, on paying the said rent, and performing the covenants aforesaid, shall and may peaceably and quietly, have, hold and enjoy the said demised premises for the term aforesaid.

In Witness Whereof the said parties have interchangeably set their hands and seals hereto the day and year first above written.

Signed, Sealed and Delivered in the presence of } Annie B. Paullin

---

LEASE
Annie B. Paullin
to
Simon Eichengreen
for
310 Paicif c ave.
Expires Sept. 15th. 1918
Dated 191

In Consideration of the letting of the premises described in this Lease, and of the sum of one dollar to in hand paid do hereby become security for the punctual payment of the rent and performance of the covenants mentioned in said Lease, to be performed by and if any default shall be made therein do hereby promise and agree to pay unto the said such sum or sums of money as will be sufficient to make such deficiencies, and fully satisfy the conditions of such Lease, without requiring any notice of non-payment, or proof of demand being made.

Given under hand and seal this day of 191

Signed, Sealed and Delivered in the presence of }

Simon Eichengreen

EXHIBIT P12 3/31/19 L

No. 373789

Void After 60 Days From Date

State of Pennsylvania } ss.
County of Philadelphia }

To any Minister of the Gospel, Justice of the Peace, or other officers or persons authorized by law to solemnize marriage.

You are hereby authorized to join together in the holy state of Matrimony, according to the rites and ceremonies of your church, society or religious denomination, and the laws of the Commonwealth of Pennsylvania,

Enos Frank Paullin of full age once married said marriage dissolved by death at Pittman N. J. about 4 years ago and Annie B. Addis of full age once married said marriage dissolved by death at Atlantic City about 7 years ago

Given under my hand and the seal of the Orphans' Court of said County of Philadelphia, at Philadelphia, this 26 day of October Anno Domini one thousand nine hundred and Seventeen (1917)

John Leonard
2nd Assistant Clerk of Orphans' Court

EXHIBIT P13 3/31/19 L

No. 373789

ORIGINAL

I Thos. J. Cross hereby certify that on the 27th day of Oct. one thousand nine hundred and seven at Philadelphia,

Enos F. Paullin and Annie B. Addis

Were by Me
UNITED IN MARRIAGE
in accordance with License issued by the Clerk of the Orphans Court of Philadelphia County, Pennsylvania, numbered 373789

Thos. J. Cross
Minister of the Gospel, Justice of the Peace or Magistrate.

EXHIBIT P14 3/31/19 L.

BOARD OF
REGISTRATION COMMISSIONERS
for the
City of Philadelphia
Room 630, City Hall

This is to certify that the name of
Enos Frank Paullin
No. 2014 Columbia Ave Phila Pa
Does not appear on the Registration List in the 19 Division 47 Ward, for the year's 1917 & 18 on file in this office.

Geo W Jackson
(Seal) Recorder.
2/21/19

Certified as
correct
Albert H. Ladner Jr
Chairman of Board of Registration
Commissioners of Philadelphia
County.

BOARD OF
REGISTRATION COMMISSIONERS
for the
City of Philadelphia
Room 630, City Hall

This is to certify that the name of
Enos Frank Paullin
No. 3839 N. Broad St. Phila Pa
Does not appear on the Registration List in the 20 Division 43 Ward, for the years 1917 & 18 on file in this office.

Geo W Jackson
(Seal) Recorder.
2/21/19

Certified as
correct
Albert H. Ladner Jr
Chairman of Board of Registration
Commissioners of Philadelphia
County.

Office of the
SECRETARY OF THE COMMONWEALTH OF PENNSYLVANIA,
Harrisburg, February 25, 1919.

Pennsylvania, ss:

I, ——Cyrus E. Woods——, Secretary of the Commonwealth of Pennsylvania, having the custody of the Great Seal of Pennsylvania DO HEREBY CERTIFY, That GEORGE G. PIERIE, ALBERT H. LADNER, JR., WILLIAM A. CARR, and WILLIAM WALSH are, and were on February 21st, 1919, the duly appointed, commissioned and qualified BOARD OF REGISTRATION COMMISSIONERS IN AND FOR THE CITY OF PHILADEL-

PHIA IN THE COMMONWEALTH OF PENNSYLVANIA, as the same appears by the records of this office, hence FULL FAITH and CREDIT are due and ought to be given to their official acts accordingly.

IN TESTIMONW WHEREOF, I have hereunto set my hand and caused the (SEAL) Great Seal of the State to be affixed, the day and year above written.

Cyrus E. Woods
Secretary of the Commonwealth.

In the Name and by Authority of the
COMMONWEALTH OF PENNSYLVANIA
(Shield)

The Governor of the said Commonwealth
To all to whom these Presents shall come, Greeting:

Know Ye, That the Attestation or Certificate hereunto attached is in due form and made by the proper officer, and that Cyrus E. Woods, whose name is subscribed thereto, was at the time of subscribing the same, and now is Secretary of the Commonwealth of Pennsylvania, U. S. A., duly Appointed and Commissioned, and FULL FAITH AND CREDIT are due and ought to be given to his official acts accordingly: that the seal and I verily believe the signature attesting the same are genuine.

Given under my hand and the Great Seal of the State, at the City of Harrisburg, this (SEAL) twenty-fifth day of February, in the year of our Lord one thousand nine hundred and nineteen, and of the Commonwealth the one hundred and forty-third.

Wm. C. Sproul,
Governor.

By the Governor:
Cyrus E. Woods,
Secretary of the Commonwealth.

EXHIBIT P15.

EXHIBIT P16 5/9/19 L.

287 Certificate of Official Capacity.

COMMONWEALTH OF PENNSYLVANIA,
County of Philadelphia, ss.

I, Charles B. McMichael, President Judge of the Court of Common Pleas No. 3 of the County of Philadelphia, in the Commonwealth of Pennsylvania, being the first Judicial District of Pennsylvania, Do Certify, that Simon Gratz by whom the annexed Record, Certificate and Attestation were made and given and who in his own proper handwriting has thereunto subscribed his name and affixed his official Seal, was at the time of so doing and now is President of the Board of Revision of Taxes in and for the City and County of Philadelphia, in the Commonwealth of Pennsylvania, duly commissioned and qualified, to all whose acts, as such, full faith and credit are and ought to be given, as well in Courts of Judicature as elsewhere; and that the said Record, Certificate, and Attestation are in due form and made by the proper officer.

In Testimony Whereof, I have hereunto set my hand this 21st day of April, in the year of our Lord one thousand nine hundred and nineteen (1919).

Charles B. McMichael

COMMONWEALTH OF PENNSYLVANIA,
County of Philadelphia, ss.

I, Henry F. Walton, Prothonotary of the Courts of Common Pleas of the County of Philadelphia aforesaid, Do Certify that the Honorable Charles B. McMichael by whom the foregoing Attestation was made, and whose name is thereto subscribed, was at the time of making thereof and still is President Judge of the Court of Common Pleas No. 3 of the County of Philadelphia aforesaid, being the first Judicial District of Pennsylvania, duly commissioned and sworn; to all whose acts, as such, full faith and credit are and ought to be given, as well in Courts of Judicature as elsewhere.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of said
(SEAL) Courts this 21st day of April in the year of our Lord one thousand nine hundred and nineteen (1919).

Henry F. Walton
Prothonotary.

Office of the
BOARD OF REVISION OF TAXES
Room 180, City Hall
(Shield) Philadelphia, Pa.
Simon Gratz
J. Wesley Durham
David N. Fell, Jr.

This certifies that the name of Enos Frank Paullin, residing either at 3839 N. Broad Street or 2014 W. Columbia Ave., Philadelphia, does not appear upon the assessment books in the office of the Board of Revision of Taxes for any of the years 1917, 1918

or 1919. No personal tax was assessed to him during any of these years.

Simon Gratz
President of the Board

EXHIBIT (not numbered)

Atlantic City, N. J. Oct 19th 1918 Number 694
THE SECOND NATIONAL BANK 55-141
Pay to the order of E. W. Bird————$40.00/100
——Forty———————————— 00/100 Dollars
A. B. Paullin

(Printed on lefthand margin):
A. B. Paullin
1410 Atlantic Ave.
(Perforation on face of check):
PAID 10 24 18
(Endorsements on back):
E. W. Bird
(Stamped)
Pay to the order of
Any Bank, Banker or Trust Co.
(All Prior Endorsements Guaranteed)
Pitman National Bank
55-428 Pitman, N. J. 55-428
Pay to the order of
Any Bank, or Trust Co.
Prior Endorsements Guaranteed.
Oct 23 55
Corn Exchange Nat'l Bank,
3-18 Philadelphia, Pa. 3-18
N. W. Corson, Cashier.

"A large number of checks signed 'A. B. Paullin' drawn on the Second National Bank, Atlantic City, upon which is printed A. B. Addis and A. B. Paullin, 1410 Atlantic Avenue covering the years 1917 and 1918, together with bills from John Wanamaker and others against A. B. Paullin, 1410 Atlantic Avenue, Atlantic City, N. J. for all sorts of articles for personal use were offered in evidence, but are not printed."

Repeated demands were made upon the counsel for the caveator to produce their exhibits, but up to the time of printing, this request has been ignored with the exception of the following:

CAVEATORS' EXHIBITS.

EXHIBIT C1.

DUPLICATE

Filed Oct. 29, 1917

No. 373789

I, Thos. J. Cross hereby certify that on the 27' day of October one thousand nine hundred and 7, at Philadelphia, ENOS F. PAULLIN and ANNIE B. ADDIS were by me united in marriage, in accordance with License issued by the Clerk of the Orphans' Court of Philadelphia County, Pennsylvania, numbered 373789

Thos. J. Cross, Atlantic City, N. J.
Minister of the Gospel, Justice of the Peace, or Magistrate.

This Duplicate Certificate to be returned to the Clerk of the Orphans' Court, Room No. 417, City Hall, within thirty days after the solemnizing of said marriage, under a penalty of Fifty Dollars.

Commonwealth of Pennsylvania }
County of Philadelphia } ss.

We, the undersigned, in accordance with the statements hereinafter contained, the facts set forth wherein we and each of us do solemnly swear are true and correct to the best of our knowledge and belief, do hereby make application to the Clerk of the Orphans' Court of Philadelphia County, Pennsylvania, for a license to marry.

Enos Frank Paullin
Mrs. Annie B. Addis

STATEMENT OF MALE

Full name and surname Enos Frank Paullin
Color W.
Relationship of parties making this application, if any None
Occupation Plumber Birthplace Phila. Pa.
Residence N. W. Cor. Pittman Ave. & Mt. Vernon Ave., Pittman, N. J.
Date of Birth 22' August 1847
That he has once been married before, and marriage was dissolved by death at Pittman N. J about 4 years ago
Is applicant afflicted with any transmissible disease No Name and Surname of Father Rachia of Mother & Rachael Paullin
Maiden Name of Mother Rachael Bacon
Residence of Father of Mother
Color of Father W. of Mother W.
Occupation of Father of Mother
Birthplace of Father New Jersey

of Mother New Jersey
Is applicant an imbecile, epileptic, of unsound mind, or under guardianship as a person of unsound mind, or under the influence of any intoxicating liquor or narcotic drug No.
Has applicant within five years been an inmate of any county asylum or home for indigent persons No.
Is applicant physically able to support a family Yes
Signature of Applicant ENOS FRANK PAULLIN

STATEMENT OF FEMALE

Full name and surname Annie B. Addis Color W.
Occupation None Birthplace Phila. Pa.
Residence 3839 N. Broad St., Phila.
Date of Birth 15' February 1853
That she has once been married before, and marriage was dissolved by death at Atlantic City, N. J. about 7 years ago
Is applicant afflicted with any transmissible disease No.
Name and Surname of Father Louis
of Mother & Mary A. Rett
Maiden Name of Mother Mary Brooke
Residence of Father
of Mother Color of Father W. of Mother W.
Occupation of Father of Mother
Birthplace of Father Germany of Mother Phila. Pa.
Is applicant an imbecile, epileptic, of unsound mind, or under guardianship as a person of unsound mind, or under the influence of any intoxicating liquor or narcotic drug No.

Signature of Applicant ANNIE B. ADDIS

Sworn and subscribed to before me this 26' day of October A. D. 1917

John Leonard
2nd Assistant Clerk of Orphans' Court.

(On reverse side of paper):

Filed Oct. 26 1917
No. 373789
Enos Frank Paullin
and
Annie B. Addis
Affidavit
of
Applicant for Marriage License
Fees
License 1.00
Consent of Parent or Guardian
Affidavit of Guardian
Dr. Thomas J. Cross,
Atlantic City, N. J.

State of Pennsylvania, }
Philadelphia County, } ss.

I hereby Certify the foregoing to be a true and accurate Copy of the application for marriage of ENOS F. PAULLIN and ANNIE B. ADDIS dated the 26th day of October, A. D. 1917; also the return of the officiating clergyman, dated the 27th day of October, A. D. 1917 as the same appears of record in the office of the Clerk of the Orphans' Court of said County.

Witness my hand and seal of said Court this 13th day of February A. D. 1919.

James B. Sheehan
Clerk of Orphans' Court.

(Seal)

State of Pennsylvania, }
Philadelphia County, } ss.

I, Joseph F. Lamorelle, President Judge of the Orphans' Court of Philadelphia County, Do Certify, that the foregoing Certificate and Attestation, made by James B. Sheehan, Esq., Register of Wills and ex-officio Clerk of said Orphans' Court, whose name is thereto subscribed and seal of said Court affixed, are in due form and made by the proper officer.

In Testimony Whereof, I have hereunto set my hand, this 13th day of February in the year of our Lord one thousand nine hundred and nineteen (1919)

Lamorelle (L.S.)
President Judge.

State of Pennsylvania, }
Philadelphia County, } ss.

I, James B. Sheehan, Esq., Register of Wills and ex-officio Clerk of the Orphans' Court of Philadelphia County, Do Certify, that the Honorable Joseph F. Lamorelle by whom the foregoing Attestation was made, and who has thereunto subscribed his name, was, at the time of making thereof, and still is President Judge of the Orphans' Court of Philadelphia County, duly commissioned and sworn; to all whose acts, as such, full faith and credit, are and ought to be given, as well in Courts of Judicature as elsewhere.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of the said Court, this 13th day of February in the year of our Lord one thousand nine hundred and nineteen (1919)

James B. Sheehan
Register of Wills, and ex-officio Clerk of Orphans' Court.

EXHIBIT C2.

Copy

APPLICATION FOR REGISTRATION OF A PNEUMATIC-TIRED MOTOR-VEHICLE FOR THE YEAR 1918

Commonwealth of Pennsylvania
State Highway Department

Registration Number 115760
Date Issued Jan. 7, 1918

To Avoid Errors Name and Address Must be Printed or Written Plainly.

Application Will Be Returned If All Requirements Are Not Answered In Full.

In conformity with the provisions of an Act approved July 7th, 1913, providing for the registration of motor-vehicles, I hereby apply to the State Highway Department of the Commonwealth of Pennsylvania for the registration of the following described motor-vehicle equipped with pneumatic tires.

Name of vehicle, Hudson Style (pleasure) Sedan
Model Super 6
Letter or Number

Name of maker, Hudson Motor Car Co.
Year Built 1916
Manufacturer's number, 19005
Certified H. P. Formula H. P. 29
On Steam or Electric Cars. On Gasoline Cars.
Diameter of bore, 3⅞" Number of cylinders 6
Character of motive power, Gasoline
Number of wheels having pneumatic tires 4
Name of Owner, Annie B. Paullin
Print or Write Name Plainly.

Residence, 3839 N. Broad St. Philada. Penn'a.
Street and Number City or Town. State.

Amount of fee enclosed, Ten dollars ($10.00)
Money enclosed at Sender's risk.

Non-residents of Pennsylvania hereby designate the State Highway Commissioner as their authorized agent.

State of Pennsylvania }
County of Philadelphia } ss:

On this 4 day of Jan., 1918, personally appeared before the undersigned, a Notary Public, in and for the said County of Philadelphia, the said applicant, Annie B. Paullin, who, being duly sworn, doth depose and say that the facts set forth in this application are true and correct.

Annie B. Paullin
Owner or Owners Sign Here.

Subscribed and sworn to before me this 4th day of January 1918

A. M. Schriver
(Seal) Notary Public
Term Expires Feb. 27, 1921.

SIGNATURE:—Owner or owners must sign by their own hands, or file copy of power of attorney with the Department, or his or her mark properly witnessed; officials, officially with full title; firms, with the firm signature, by a member of the firm, not by a clerk or other person for the firm.

NOTE:—Registration fee of five dollars ($5) for motor-vehicles of less than 20 H. P.; ten dollars ($10) 20 H. P. and less than 35 H. P.; fifteen ($15) 35 H. P. and less than 50 H. P.; twenty dollars ($20) 50 H. P. or over. Fees one-half after July 1st. Formula for calculating H. P.; diameter of bore in inches

squared, times the number of cylinders, times four-tenths (.4). Make remittances payable and forward to Automobile Division, State Highway Department, Harrisburg, Pa. This application must be sworn to and the notary's seal attached.

COMMONWEALTH OF PENNSYLVANIA
Office of the
State Highway Department
Harrisburg, Pa., March 8, 1919

Pennsylvania, ss:

I Hereby Certify, That the foregoing and annexed is a full, true and correct copy of the original application of Annie B. Paullin, 3839 N. Broad St., Philadelphia, Penn'a., for 1918 motor-vehicle registration, now on file in the offices of the State Highway Department, Harrisburg, Pennsylvania.

In Testimony Whereof, I have hereunto set my hand and affixed the seal of this Department the day and year aforesaid.

Joseph W. Hunter,
First Deputy State Highway Commissioner.

Attest:
H. W. Fry
Chief Clerk

CERTIFIED RECORD.

WILL.

IN THE NAME OF GOD, AMEN

I, Annie B. Paullin, of 1410 Atlantic Avenue, Atlantic City, New Jersey.

BEING OF SOUND MIND, MEMORY AND UNDERSTANDING, DO MAKE AND PUBLISH THIS, MY LAST WILL AND TESTAMENT, IN MANNER FOLLOWING:

THAT IS TO SAY: That I hereby revoke all wills by me heretofore made————————.

First

I direct that my just debts and funeral expenses shall be paid by my Executrix, hereinafter to be named, as soon as can be done after my decease. I further direct that my body shall be buried at West Laurel Hill Cemetery at Philadelphia, in the grave with my former husband, Warren A. Upham.

Second

I give and bequeath unto my beloved step daughter, Minnie W. Upham, the premises at 3839 North Broad Street, in the city of Philadelphia, and all of the household furniture to be hers absolutely. Further, I give and bequeath unto my step daughter, Minnie W. Upham, my automobile, and all my **jewelery** and diamonds, and all of my personal effects.

Third

I give and bequeath unto my beloved husband, E. Frank Paullin, the diamond ring which he gave me as an engagement ring.

Fourth

Fourth

I give and bequeath unto my beloved step daughter, Florence Elizabeth Addis, the sum of three thousand dollars, ($3,000.00), Also the opal diamond ring which was given to me by her father.

Fifth

I give and bequeath unto my beloved step daughter, Adella H. Spence, the sum of three thousand dollars ($3,000.00). Also the Masonic breast pin which was given to me by her father.

Sixth

I give and bequeath unto my namesake, Anna Margaret Spence, the sum of one thousand dollars, ($1,000.00). If at the time of my decease, she be not living, then the said sum of one thousand dollars ($1,000.00) is to be given to her mother, Adella H. Spence. Also I give and bequeath unto Anna Margaret Spence, my solitaire diamond ring, which was given to me by my former husband, Y. Thornton Addis. I also give to Anna Margaret Spence, my victrola, now at 1410 Atlantic Avenue, Atlantic City, N. J.

Seventh

I give unto Bell Clark, the sum of two hundred dollars ($200.00) in token of my appreciation for the faithful services she has rendered to me.

Eighth

I give and bequeath unto the said Florence Elizabeth Addis and Adella H. Spence, all of my furniture and cut glass which formerly belonged to my husband, Y. Thornton Addis, and are now contained in the premises, number 1410 Atlantic Avenue, Atlantic City, N. J., to be divided between them, share and share alike.

Ninth

All of the rest and residue of my estate, both real

and personal and wheresoever situated, I give to my beloved step daughter, Minnie W. Upham, I also empower my said Executrix to sell any of my real estate wherever it may be situated, either by private or public sale, for the best price or prices that may be gotten for same. Further, it is my wish that she have Charles H. Edmunds, of Philadelphia, as her lawyer.

Tenth

I nominate, constitute and appoint my said beloved step daughter, Minnie W. Upham, to be the Executrix of this, my last will and testament, and hereby direct that she shall not be required to enter any security for the discharge of any of her duties as executrix of this my last will.

SIGNED, SEALED, PUBLISHED AND DECLARED, by the above names ANNIE B. PAULLIN to be **her** last will and testament, in the presence of us, who were present at the same time and at the request of the testator have hereunto subscribed our names as witnesses, in the presence of the testator and of each other.

Annie B. Paullin (Seal)

Witnesses

(William Herrmann
(266 S. Congress Ave., Atlantic City.
(
(Oscar R. Strang,
(1315 Atlantic Ave.,
(Atlantic City.
(

Dated April 19th. 1918.

AFFIDAVITS.

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

WILLIAM HERRMANN, one of the witnesses to the within will , being duly sworn according to law, deposes and says that he saw the testatrix therein named, sign and seal the same and heard her publish, pronounce and declare the within writing to be her last will and testament , and that at the time of the doing thereof, the said testatrix was of sound and disposing mind, memory and understanding, so far as he knows and as he verily believes and that Oscar R. Strang the other subscribing witness was present at the same time and signed his name as witness to the said will, together with this deponent in the presence of the said testatrix and at her request and in the presence of each other, all being present at the same time.

Sworn and subscribed at Atlantic City, County and State aforesaid, the 31st day of March A. D., 1919, before me.

ALBERT C. ABBOTT,
Surrogate.

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

OSCAR R. STRANG, one of the witnesses to the within will , being duly sworn according to law, deposes and says that he

saw the testatrix therein named, sign and seal the same and heard her publish, pronounce and declare the within writing to be her last will and testament , and that at the time of the doing thereof, the said testatrix was of sound and disposing mind, memory and understanding, so far as he knows and as he verily believes and that William Herrmann, the other subscribing witness was present at the same time and signed his name as witness to the said will , together with this deponent in the presence of the said testatrix and at her request and in the presence of each other, all being present at the same time.

OSCAR E. STRANG.

Sworn and subscribed at Atlantic City, County and State aforesaid, the 31st day of March, A. D., 1919, before me.

ALBERT C. ABBOTT,
Surrogate.

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

MINNIE W. UPHAM, executrix of the within named Annie B. Paullin, deceased, being duly sworn according to law, did depose and say that the within writing contains the true last will and testament of Annie B. Paullin therein named, deceased, so far as she knows and as she verily believes, that she will well and truly perform the same by paying first the debts of the said deceased and then the legacies in the said testament

specified, so far as the goods, chattels, and credits of the said deceased can thereunto extend, and that she will make and exhibit in the surrogate's office of the County of Atlantic, at or before the expiration of three calender months, a true and perfect inventory of all and singular the goods and chattels, rights and credits of the said decedent that have or shall come to her knowledge or possession, or to the possession of any other person or persons for her use; and render a just and true account when thereunto lawfully required; and also diligently and faithfully regard and well and truly comply with the provisions of the act relating to collateral inheritances.

MINNIE W. UPHAM.

Sworn and subscribed at Atlantic City, County and State aforesaid the 25th day of June, A. D., 1919, before me.

ALBERT C. ABBOTT,
Surrogate.

ORDER FOR PROBATE

ATLANTIC COUNTY ORPHANS' COURT.

In the matter of the Estate of Annie B. Paullin, deceased, who died testate. } Order for Probate.

This matter being opened to the Court by William M. Clevenger, Proctor for the proponent, and it appearing that Minnie W. Upham, the executrix named in the last will and testament of Annie B. Paullin, late of the City of Atlantic City, in the County of Atlantic and State of New Jersey, deceased, duly presented said paper to the Surrogate of the County of Atlantic aforesaid, for probate, and it appearing that Enos Frank Paullin filed with the said Surrogate, a caveat against the admission of the said will to probate until it should have been determined that the said Annie B. Paullin died a resident of the said County of Atlantic, it being therein alleged she was a resident of the State of Pennsylvania and it appearing William Brooke filed with the said Surrogate, a general caveat against the probate of the said will until it should have been examined and decreed upon by the Orphans' Court of the said County of Atlantic, and citations having been issued to all persons in interest and return duly served or acknowledged, and the matter coming on to be heard, and the Court having taken testimony and examined into the

matter and being of the opinion the said paper writing was duly executed by the said Annie B. Paullin as and for her last will and testament, and in the manner and form prescribed by the statute in such case made and provided, and that the said Annie B. Paullin at the time of the making of said will was of sound and disposing mind, memory and understanding, and that the said will was not the product of undue influence, and that at the time of her death, she was domiciled in and a resident of the City of Atlantic City, in the County of Atlantic and State of New Jersey, and that at the time of the death of the said Annie B. Paullin, the said Enos P. Paullin, was domiciled in, and a resident of the said City of Atlantic City, in the County and State aforesaid.

And it further appearing that Lewis Starr, Proctor for the caveator, William Brooke, did not offer on the trial or hearing any evidence other than the subscribing witnesses to the said will, and that the said Joseph J. Summerill, Proctor for the caveator, Enos Frank Paullin, did offer on the trial or hearing, the evidence of the said Enos Frank Paullin and the evidence of divers other witnesses than the subscribing witnesses to the said will.

It is thereupon, on motion of William M. Clevenger, Proctor for the proponent, on this 25th day of June, 1919, ordered, adjudged and decreed that the aforesaid paper writing be and the same hereby is established as the last will and testament of the said Annie B. Paullin, deceased, and that the same be admitted to probate.

And it is further ordered, adjudged and decreed that letters testamentary thereon be issued to the said Minnie W. Upham, the executrix in said will named, upon her duly qualifying as such.

It is further ordered, adjudged and decreed that the said Annie B. Paullin, at the time of her death was a resident of and domiciled in Atlantic City, Atlantic County, New Jersey.

And it is further ordered, adjudged and decreed that a joint counsel fee of $1000 be allowed to William M. Clevenger, Proctor for the proponent, and C. L. Cole, who appeared with him as counsel, and that a counsel fee of $100 be allowed to Lewis Starr, who appeared as Proctor for the caveator, William Brooke, and who did not offer on the trial any evidence other than the subscribing witnesses to the said will, and that no counsel fee be allowed to Joseph J. Summerilll and Joseph W. Kenworthy, who appeared with him, as proctors for Enos Frank Paullin, no reasonable cause for the contest of the validity of the will having appeared in the case.

And it is further ordered, adjudged and decreed that the counsel fee of $100 allowed to Lewis Starr, proctor for the caveator, William Brooke, be paid out of the estate of the decedent, and that the costs and expenses of the litigation, other than the counsel fee allowed to the said Lewis Starr, be paid by the said Enos Frank Paullin.

R. H. Ingersoll,
J.

CERTIFICATION.

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

I, Albert C. Abbott Surrogate of the said County of Atlantic, do hereby certify the annexed to be a true copy of the last will and testament of Annie B. Paullin, late of the County of Atlantic, deceased, and that Minnie W. Upham, the executrix therein named, proved the same before The Orphans' Court of the County of Atlantic, and is duly authorized to take upon herself the administration of the estate of the said testatrix agreeably to the said will.

In witness whereof I have hereunto set my hand and affixed my (SEAL) seal of office this twenty-fifth day of June, in the year of our Lord one thousand nine hundred and nineteen.

ALBERT C. ABBOTT,
Surrogate.

AFFIDAVIT.

To Albert C. Abbott, Surrogate of the County of Atlantic:

I, William Brooke, a cousin and one of the heirs of Annie A. Addis, late of Atlantic City, deceased, do hereby caveat and protest against admitting to probate any paper purporting to be the last will and testament of the said Annie A. Addis until examined and decreed thereon by the Orphans' Court of the County of Atlantic.

WITNESS my hand this seventh day of March, nineteen hundred and nineteen.

WILLIAM BROOKE.

Filed March 8th, 1919.

CAVEAT.

ATLANTIC COUNTY SURROGATE'S COURT.

In the matter of the alleged writing purporting to be the last will and testament of Annie B. Paullin, deceased.) Caveat.

To Albert C. Abbott, Surrogate of the County of Atlantic:

Take notice that I, Enos Frank Paullin, husband of Annie B. Paullin, who died on Wednesday the Twenty-ninth day of January, A. D., 1919, in the City of Philadelphia, and State of Pennsylvania, do hereby caveat and protest against proving or admitting to probate the alleged last will and testament of said Annie B. Paullin, deceased, until it shall have been determined that the said Annie B. Paullin, deceased, died a resident of the said County of Atlantic, the caveator hereby alleging that the said Annie B. Paullin was, at the time of her decease, a resident of the State of Pennsylvania.

ENOS FRANK PAULLIN,
E. FRANK PAULLIN.

Dated February 6, 1919.

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

Be it remembered that on the sixth day of February, A. D. 1919, and before me, a notary public in and for the Commonwealth of Pennsylvania, personally appeared E. Frank Paullin, who I am satisfied, is the caveator mentioned in the above caveat and I having first made known to him the contents thereof, he acknowledge that he signed, sealed and delivered the same as his voluntary act and deed and desired that the same might be recorded as such.

All of which is hereby certified.

CAROLINE K. KENWORTHY,
(Seal) *Notary Public.*

Commission expires Feb. 5, 1921.

Filed February 7th, 1919.

New Jersey State Library

CITATIONS.

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

The State of New Jersey,
to
WILLIAM BROOKE,

GREETING:

(Seal)

We cite and command you, that you personally be and appear before the Orphans' Court to be holden at the Court House, at May's Landing, in and for the County of Atlantic, on the twenty-sixth day of March, 1919, at 9.30 o'clock in the forenoon, to answer unto the caveat of William Brooke, against admitting to probate a paper writing purporting to be the last will and testament of Annie B. Paullin, deceased, and to abide the judgment of the said Court in the premises.

Witness, ROBERT H. INGERSOLL, ESQUIRE, Judge of the said Orphans' Court, at Mays's Landing aforesaid the tenth day of March, one thousand nine hundred and nineteen.

ALBERT C. ABBOTT,
Surrogate.

[ENDORSED]

Service admitted
Lewis Starr,
Proctor.
Filed March 14th, 1919.

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

The State of New Jersey,
to
ENOS FRANK PAULLIN,

GREETING:

(Seal)

We cite and command you, that you personally be and appear before the Orphans' Court to be holden at the Court House, at May's Landing, in and for the County of Atlantic, on the twenty-sixth day of March, 1919, at 9.30 o'clock in the forenoon, to answer unto the caveat of William Brooke, against admitting to probate a paper writing purporting to be the last will and testament of Annie B. Paullin, deceased, and to abide the judgment of the said Court in the premises.

Witness, ROBERT H. INGERSOLL, ESQUIRE, Judge of the said Orphans' Court, at Mays's Landing aforesaid the tenth day of March, one thousand nine hundred and nineteen.

ALBERT C. ABBOTT,
Surrogate.

[ENDORSED]

Service hereof acknowledged for the within named Enos Frank Paullin.
3/12/19 Jos. J. Summerill.
Proctor.
Filed March 13th, 1919.

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

The State of New Jersey,
to
MINNIE W. UPHAM,

GREETING:

We cite and command you, that you personally be and appear before the Orphans' Court to be holden at the Court House, at May's Landing, in and for the County of Atlantic, on the twenty-sixth day of March, 1919, at 9.30 o'clock in the forenoon, to answer unto the caveat of William Brooke, against admitting to probate a paper writing purporting to be the last will and testament of Annie B. Paullin, deceased, and to abide the judgment of the said Court in the premises.

(Seal)

Witness, ROBERT H. INGERSOLL, ESQUIRE, Judge of the said Orphans' Court, at Mays's Landing aforesaid the tenth day of March, one thousand nine hundred and nineteen.

ALBERT C. ABBOTT,
Surrogate.

[ENDORSED]

Due & Legal service
ack. for Annie B. Paullin,
Wm. M. Clevenger,
Proctor for Minnie W. Upham.
Filed March 14th, 1919.

PETITION.

ATLANTIC COUNTY SURROGATE'S COURT.

In the matter of the Estate of Annie B. Paullin, deceased. who died testate. } Petition.

To Albert C. Abbott, Esq., Surrogate of the County of Atlantic in the State of New Jersey:

The petition of Minnie W. Upham, a resident of the City of Atlantic City, in the County of Atlantic and State of New Jersey, respectfully shows:

1. That she is the executrix named in the last will and testament of Annie B. Paullin, of 1410 Atlantic Avenue, Atlantic County, New Jersey, dated April 19, 1918.

2. That the said Annie B. Paullin, departed this life at 3839 North Broad Street, in the City and County of Philadelphia, and State of Pennsylvania, on the 29th day of January, 1919, at the hour of 6.25 P. M. more than ten days before the date of this petition.

3. That she left her surviving, the following named person who was of kin to her:

John G. Brooke, Uncle, 2906 N. Ringgold St., Philadelphia.

4. That the maiden name of the said Annie B. Paullin,was Annie B. Lindley.

5. That her first husband was Morris Ritter, who died very shortly after their marriage and by whom she had no children.

6. That her second husband was Warren A. Upham, who died many years ago, and by whom she had no children.

7. That her third husband was Yardley T. Addis, who died several years ago, and by whom she had no children.

8. That her fourth husband was Enos Frank Paullin, who survived her and who resides at Pitman, Gloucester County, New Jersey, and by whom she had no children.

9. That the names and addresses of the persons mentioned as her legatees and devisees in her last will and testament are as follows:

Minnie W. Upham, step-daughter, 1410 Atlantic Avenue, Atlantic City, New Jersey.

E. Frank Paullin, her husband, Pitman, New Jersey.

Florence Elizabeth Addis, step-daughter, 114 South Tennessee Avenue, Atlantic City, New Jersey.

Adella H. Spence, step-daughter, 5 South Baton Rouge Avenue, Atlantic City New Jersey.

Anna Margaret Spence, namesake, 5 South Baton Rouge Avenue, Atlantic City, New Jersey.

Bell Clark, employee, 1410 Atlantic Avenue,
Atlantic City New Jersey.

10. That the testatrix was possessed of personal property to the value of about $12,000.

11. That the testatrix was possessed of real estate to the value of about $35,000.

Your petitioner therefore respectfully applies for probate of the said will and testament, and for letters testamentary thereon.

MINNIE W. UPHAM.

Dated February 13th, 1919.

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

MINNIE W. UPHAM, of full age, being duly sworn according to law upon her oath says:

1. I am the petitioner above named.

2. The matters and things set forth in the foregoing petition are true to the best of my knowledge and belief.

MINNIE W. UPHAM.

Sworn and subscribed this thirteenth day of February, 1919, before me.

HERBERT R. VOORHEES,
M. C. C. of N. J.

Filed February 13th, 1919.

CHALLENGE.

ATLANTIC COUNTY ORPHANS' COURT.

In the matter of the probate of the last will and testament of Annie B. Paullin, deceased.	)	On Caveat.

Enos Frank Paullin challenges the jurisdiction of the Atlantic County Orphans' Court to hear and determine, in the first instance, whether Annie B. Paullin, the testatrix died a resident of the State of New Jersey or not.

JOS. J. SUMMERILL,
Proctor.

DECREE

ATLANTIC COUNTY ORPHANS' COURT.

In the matter of the probate of paper purporting to be the last will and testament of Annie B. Paullin, deceased. | Upon caveat filed by Enos Frank Paullin and caveat filed by Brooks, et al.

For the Proponents:
HON. C. L. COLE and WILLIAM M. CLEVENGER, ESQ.
For the Caveators:
HON. LEWIS STARR, JOSEPH J. SUMMERILL and JOSEPH W. KENWORTHY, ESQ., of the Philadelphia Bar.

The decedent, Anna B. Paullin, was a woman of mature years, who, many years ago and then being a widow, married one Warren A. Upham, of Atlantic City, this County and State. Upham's business was that of conducting a bakery and dealer in ice cream and confectionery, with a place of business at the time of his death upon Atlantic Avenue, at or near Tennessee, in Atlantic City.

After Upham's decease, Mrs. Upham continued the business under the name of "Upham's Bakery" at Atlantic City, where Upham had resided and

where she continued her residence. The business was of much greater extent in the summer, and apparently as it advanced in success, Mrs. Upham nearly, if not every, winter for many years made pleasure trips to Florida and elsewhere.

A number of years after Upham's death she married a gentleman by the name of Addis, who, at that time, was a resident of and in business in Philadelphia. He, after their marriage, changed his residence and place of domicile to Atlantic City, at 1410 Atlantic Avenue, the place of business and residence of the decedent.

Prior to and after her marriage to Mr. Addis, decedent had, in addition to her pleasure trips to Florida, spent a portion of each winter in Philadelphia, first renting an apartment, afterwards renting a house or houses, and finally buying a property 3839 North Broad Street, in which she and Mr. Addis, Mr. Upham's daughter, and Mr. Addis's children lived a portion of each year. She again became a widow. No change was made in her manner and customs of living, she remaining in Atlantic City during the portion of the year in which business was greatest and spending her winters on pleasure trips and in Philadelphia.

On October 27, 1917, she married Enos Frank Paullin, one of the caveators, who at that time was a resident of Pitman, in the County of Gloucester, this State. The marriage ceremony was performed at 3839 North Broad Street, Philadelphia, and the application for the marriage license states that to be the residence of the decedent.

Mr. Paullin at once closed his residence at Pitman, and endeavored to rent the house furnished. Failing so to do, some time in 1918, he removed the

furniture therefrom and rented the property unfurnished. Paullin states "she wanted me to make my home with her at 3839 North Broad Street."

Mrs. Paullin continued her custom of spending the winters in Philadelphia. She did not, however, go to Florida, after her marriage to Paullin, although just before her death, she was making ready to go south, having made reservations therefor.

She came to Atlantic City as usual in the summer of 1918, and also at Christmas and other times, when the activity of the business increased. While at Atlantic City during the Christmas holidays of 1918, she was taken ill, returned to Philadelphia about the sixth day of January, and on the 29th of that month died.

The only point for consideration is, was or was not decedent domiciled in the County of Atlantic, at the time of her death? Without doubt the residence of the decedent at the death of Mr. Addis was in Atlantic County. That she had not changed that domicile at the time she married Paullin is conclusively proven by the testimony.

The question then resolves itself, has that domicile been changed by any act of the decedent or of her husband since that marriage? It is also clear from the testimony that the decedent did not, by any intentional act on her part, change that domicile, but accepting for the present the proposition that the domicile of the wife follows that of the husband as decided in re Geiser's will, 82 Equity, 311, the question is, where was Paullin's domicile at the time of the decedent's death?

It is clear that he abandoned Pitman. Every act indicates that he never expected to return or continue his domicile there. He states, and is sus-

tained by other witnesses in his behalf, that he was to make his home at the home of Mrs. Paullin, at 3839 North Broad Street. I am convinced from the evidence that he was to make his home with Mrs. Paullin, wherever that home was.

The decedent's places of residence and her habits of life have continued the same for many years. Her marriage to Mr. Addis did not change these customs and habits, and her marriage to Mr. Paullin apparently made no change whatever in them. He went to Philadelphia with her, he made pleasure trips with her, and he came to Atlantic City and remained with her the portion of the year during which she customarily remained there. She paid the household expenses, she continued the business, and all matters appeared to continue the same after her marriage to Paullin as before.

I am convinced that there was no intention on the part of either Mr. Paullin or the decedent that he, Paullin, should be domiciled in Philadelphia. Paullin's son testified that Mrs. Paulin prior to the marriage, told him that his father was to live with her in Philadelphia, which, of course, was true.

I find no serious conflict in the testimony except that witnesses for the proponent insist that Mrs. Paullin considered the house in Atlantic City as "home" and the house in Philadelphia as the "Philadelphia house", and the witnesses for the caveators insist that the house on North Broad Street was considered "home" and the house in Atlantic City was known as "1410". In those cases where the witnesses have particularized as to these respective places, I am convinced that this particularization is of the witnesses and not of the decedent.

There, therefore, remains but one further point to consider. Did Paullin take up his domicile in Philadelphia, independent of or without the knowledge of the decedent? The principal act upon which this might be presumed is the fact that on the 27th day of December, he went to the assessor of the division of the ward in which he lived and upon ascertaining that his name was not on the list, asked that he be placed thereon. He was informed that it was too late for the then present registration, but the assessor wrote his name in the book retained by the assessor and called a blotter, for, as the assessor said, future reference.

About two weeks thereafter, Paullin again called upon the assessor to ascertain if his name had been so placed, and was informed that it had, and was shown the interlineation as made by the assessor. It is to be noted that at the time of the first call upon the assessor Mr. and Mrs. Paullin were actually residing in Atlantic City, and that she was ill, having been stricken with illness from which she never recovered.

The second call upon the assessor was made within a day or two after their return to Philadelphia from Atlantic City, and while Mrs. Paullin was still ill. I cannot find from this evidence that Paullin had theretofore taken up his domicile in Philadelphia. Had Paullin, during the year and three months of his married life, taken any steps toward establishing his domicile in Philadelphia, or had, by any act, evidenced his desire or contention so to do, without doubt he would have been within his rights.

Under all the facts of the case, and a careful consideration of the voluminous testimony taken, I

find Paullin did not establish a domicile within the State of Pennsylvania, nor did he, by this eleventh hour act, that of telling the assessor he wishes his name on the list, which could not be done before the then next May, and which request was made under such suspicious circumstances, prove such a bona fide taking up of his domicile in Philadelphia. I am, therefore, satisfied that he did intend to and did take up his domicile wherever his wife's home or domicile was, and that having already been determined to have been in Atlantic City, he, Paullin, if he ever took up a domicile after having abandoned that at Pitman, was domiciled in New Jersey.

Under this finding of fact, it is unnecessary to decide whether the present case is within the ruling of in re Geiser above cited, although there is much in the case to indicate that the husband, by constructive consent, at least as manifested by his acquiescence, permitted his wife, the decedent, to retain her domicile in Atlantic City.

An order will be made admitting the paper writing to probate.

NOTICE OF APPEAL.

ATLANTIC COUNTY ORPHANS' COURT.

In the matter of the probate of the last will and testament of Annie B. Paullin, deceased. } Notice of Appeal.

Enos Frank Paullin, the husband of the Annie B. Paullin, deceased, hereby appeals to the Prerogative Court from the decree entered herein on the twenty-fifth day of June, A. D., nineteen hundred and nineteen, admitting to probate a certain paper writing purporting to be the last will and testament of Annie B. Paullin, deceased, and every part hereof.

JOS. J. SUMMERILL,
Proctor for Appellant.

Dated Woodbury, N. J.
July 16, 1919.
Filed July 17, 1919.

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Jos. J. Summerill,
Proctor for Appellant.

Dated Woodbury, N. J.
July 16, 1919.

[ENDORSED]

Service ackd. July 19th. 1919.
Wm. M. Clevenger,
Proctor for Minnie W. Upham.

Filed July 22nd, 1919.

CERTIFICATION.

State of New Jersey.
Atlantic County Surrogate's Office.

I, Albert C. Abbott, Surrogate of the County of Atlantic, and Ex-Officio Clerk of the Orphans' Court of said County, do certify the foregoing to be a true copy of the last will and testament of Annie B. Paullin, late of the County of Atlantic, deceased, together with the Proofs, Oath of Executrix, Order for Probate and Copy of Letters Testamentary issued upon the Estate of the said Annie B. Paullin, deceased, to Minnie W. Upham, on June 25th, 1919. Also copy of Caveat filed by William Brooke; Caveat filed by Enos Frank Paullin; Citation issued to William Brooke with service acknowledged thereon; Citation issued to Enos Frank Paullin, with service acknowledged thereon; Citation issued to Minnie W. Upham, with service acknowledged thereon; Petition for Probate; Challenge; Conclusion of Hon. Robert H. Ingersoll; Notice of Appeal, and Copy of Notice of Appeal with service acknowledged thereon, as taken from and compared with the originals thereof now remaining on file and of record in this office.

Witness my hand and seal of office, this thirtieth day of September, in the year of our Lord One thousand nine hundred and nineteen.

(Seal)

ALBERT C. ABBOTT,
Surrogate and Ex-Officio Clerk.

NEW JERSEY COURT OF ERRORS AND APPEALS.

In the Matter of the Appeal from the Decree of the Orphans' Court of the County of Atlantic, Admitting to Probate a Certain Paper Writing as the Last Will and Testament of Annie B. Paullin, Deceased.

BRIEF FOR APPELLEE.

This is an appeal from the decree of the Prerogative Court, reversing the decree of the Atlantic County Orphans' Court, admitting to probate a paper purporting to be the last will and testament of Annie B. Paullin, deceased. The question raised before the Orphans' Court and on appeal is with relation to the domicile of decedent at the time of her death, for the purpose of ascertaining whether her will should be probated in New Jersey or Pennsylvania.

The claim of the caveator, appellee in this court, Enos Frank Paullin, the husband of decedent, is that decedent was domiciled in Philadelphia at the time of her death, and that the will should be probated there. The proponent of the will, appellant in this court, claims that she was domiciled at Atlantic City, and that the will should be probated in Atlantic County. The Orphans' Court, after hearing the testimony, ordered the will probated in Atlantic

County, finding that the decedent was domiciled in Atlantic City at the time of her death.

On appeal, the Prerogative Court reversed this decree, and refused probate in New Jersey. We claim that the testimony conclusively shows that upon her marriage to Enos Frank Paullin, decedent, by her own acts, agreements and statements, established her domicile at 3839 North Broad Street, Philadelphia, and continued to be domiciled there up to the time of her death, but if there can be any doubt about this, the domicile of her husband was unquestionably in Philadelphia, and it would necessarily follow that decedent's domicile was that of her husband.

The law of New Jersey with relation to the domicile of a married woman seems to be finally fixed in the case *"In re Geiser's Will,"* reported in 82 N. J. E., page 311, wherein it is held:

> "The domicile of a wife merges into that of the husband, and the unity of domicile exists during coverture unless the wife actually acquires a new domicile by the consent of the husband, or a constructive one, as manifested by acquiescence, abandonment or conduct so inimical to cohabitation as will secure to the wife a divorce."

One of the questions therefore involved in this cause is the residence of Enos Frank Paullin, the husband of decedent. We believe that the testimony not only conclusively proves that Paullin was a resident of, and domiciled in Philadelphia at the time of decedent's death, but that decedent also personally and admittedly recognized Philadelphia as her home.

We believe and contend that the burden of proof is on the proponents of the will to prove their allegation that decedent was a resident of New Jersey at the time of her death, but assert that not only have they failed to successfully prove their allegation, but on the other hand, the preponderance of testimony conclusively shows otherwise.

We will discuss first the testimony produced by caveator, as it appears in the printed book.

ENOS FRANK PAULLIN:

Mrs. Paullin died at and was buried from 3839 North Broad Street (p. 36). Married to decedent 3839 North Broad Street, Philadelphia (p. 192). Came back to this house after two-day wedding trip (p. 192). Formerly lived at Pitman, New Jersey, where he owned his home (p. 192). Decedent and Miss Upham, her step-daughter, went to Pitman shortly after her marriage to the caveator, selected from his household goods what they wanted to send to Philadelphia home and Atlantic City. Some of these articles of personal property sent to 3839 North Broad Street, Philadelphia. Articles of cut glass, silver, silverware, folding chairs, kitchen utensils, bedding and bed linen (p. 193). After October 27, 1917, did not vote or attempt to vote at Pitman (pp. 193-194).

Understanding at time of marriage that 3839 North Broad Street, Philadelphia, owned by Mrs. Paullin, was to be home of both parties.

> "A. Her home, yes. She said it was her home, and that is where she wanted me to make my home with her" (p. 195).

Ate Christmas dinner at 3839 North Broad Street, Philadelphia, and remained there during winter

months (p. 195). Assessed at 3839 North Broad Street, Philadelphia (p. 197). Went to Atlantic City December 20, 1918 (p. 198). Expected to return on December 26, 1918, but delayed on account of illness of decedent until January 6, 1919. Mrs. Paullin took suitcase with clothing (pp. 198, 199). Greater part of Mrs. Paullin's clothing at 3839 North Broad Street. Mrs. Paullin always called this her home (p. 199). Rented Pitman property unfurnished November, 1918 (p. 200). Unable to rent furnished in 1917 (p. 200). Made repairs at 3839 North Broad Street before marriage (pp. 210, 211). Went to 3839 North Broad Street with intention of making it his home (p. 211). Application for license for automobile in Pennsylvania for 1918 shows Mrs. Paullin's residence, 3839 North Broad Street as her home (p. 212). See Exhibit C2, p. 462.

Counsel attempts to confuse witness as to whether he was registered or assessed in Philadelphia (p. 215). Examination of testimony on page 197 shows that counsel misquoted witness's testimony. Endeavored to have his name placed on assessment list (p. 216). Did not see that Mrs. Paullin was named as of Atlantic City in marriage certificate (p. 221). Knew Mrs. Addis (his wife) went to Atlantic City on business, but she told witness that her home was 3839 North Broad Street, Philadelphia, (pp. 223, 224). Mrs. Paullin claimed she bought North Broad Street house during Mr. Addis' lifetime, as her home (p. 224). Did not tell witness she had a home in Atlantic City. Called Atlantic City house "1410 Atlantic Avenue" (p. 225). Never called Atlantic City "home"; called it "Upham Bakery" (p. 225). Got three months' ticket in summer of 1918 to go to business in Philadelphia from Atlantic City (pp. 227, 228). Name on assessor's book in Philadelphia (p.

230). Brought clothing, small quantity, when he went to Atlantic City (p. 232). Registered from Atlantic City because at that time was staying there (p. 233).

Never heard Mrs. Paullin tell Rev. Cross that she was from Atlantic City (pp. 237, 238).

FURMAN S. HARRIS:

Member Board of Registry and Election, Pitman (pp. 204, 205). E. Frank Paullin registered, but did not vote in Pitman in 1917 (p. 205). Not registered in 1918 (p. 206).

WALTER B. WOOLLEY:

Secretary Gloucester County Board of Taxation (p. 207). Paullin assessed for poll tax in 1917. No poll tax assessed in 1918 (p. 208). No poll tax assessed in 1919 (p. 209).

ENOS FRANK PAULLIN:

No thought of contest when his name put on assessor's list (p. 239). Did not go to City Hall to get marriage license (p. 363).

WILLIAM B. PAULLIN:

Son of Enos Frank Paullin lived at Pitman. Met Mrs. Paullin in 1917, September, at Atlantic City. Went to see her at her request (pp. 248, 249). Mrs. Addis (afterwards Mrs. Paullin) took him in parlor and said to him, "I am very glad to have met you. I have been wanting to meet you for some time. I presume you know that your father and I are to be married." "We have come to the conclusion that your father will give up his home in Pitman and live at my home." Witness said to her, "What, not down in Atlantic City here?" "Oh, no," she says, "that is not my home. I have a home 3839 North Broad

Street which I have been living there for a number of years." She said she purchased the home with money received from her mother's estate (p. 249). Was present at wedding, 3839 North Broad Street.

Decedent told witness she wanted him to see this home before the marriage, but had not time, because busy at Atlantic City (pp. 249, 250).

Requested wife of witness to put up preserves and have them ready to take to North Broad Street home in fall. They were taken to 3839 North Broad Street, Philadelphia. Jars came from Philadelphia (pp. 251, 252).

Saw decedent sick in Atlantic City December, 1918. Decedent said: "Yes, Bill, I have been here since day before Christmas, but I can't get home soon enough. We haven't got anything here to wear. I even had to send Minnie in next door to Braunstein's and buy me some underwear, and your father, I don't know what we will do with him. I guess we will have to put him in bed while we wash his underwear" (pp. 252, 253). Spoke of her home in Philadelphia, and invited family to see it (p. 253). Saw her in January, 1919, at 3839 North Broad Street. Decedent said, "This beats laying in bed down in Atlantic City," and that she was glad to get home (p. 254). Wrote visiting cards for decedent in 1917 and 1918. She told witness to put her name, Anna B. Paullin, and asked as to address, said, "Why sure, put my residence on there, 3839 North Broad Street; I want to put these cards in with my Christmas gifts" (p. 255). Atlantic City not her home (p. 261). Philadelphia residence (pp. 261, 262). Spoke of North Broad Street home as "3839" (p. 263). Never heard her speak of 1410 Atlantic Avenue as her home (p. 263).

ANNIE BROOKS:

Cousin of decedent (p. 267). Met Mrs. Paullin in Ridge Avenue Market, Philadelphia, day before her marriage. Mrs. Paullin told witness she was going to be married. Said it was to be a private affair. Invited witness to come and see her when she came home. Witness knew Mr. Paullin lived at Pitman, and said to decedent, "Where are you going to take up your residence?" Decedent answered, "I have a residence 3839 North Broad Street; that is my home." Said she was still going to live there (pp. 267, 268).

Made inquiry because she heard or knew Mr. Paullin came from Pitman and didn't know whether they were going to live there (p. 269).

Mrs. Paullin always spoke of North Broad Street property as her home. Never Atlantic City (pp. 269, 270). Only wants justice to parties (p. 272). Personally acquainted with Mr. Paullin only recently (p. 274). Know day, because decedent spoke about her marriage next day (p. 277).

MRS. KATHERINE A. BROOKS:

Aunt by marriage of decedent (p. 280). Met Mr. and Mrs. Paullin at funeral of Edward Brooks in Philadelphia on November 22nd or 23rd, 1918 (p. 280). At this time Mrs. Paullin introduced witness to Mr. Paullin and asked witness to come and see her at her home, 3839 North Broad Street (p. 280). Decedent always called Atlantic City place "Upham's Bakery." Referred to 3839 North Broad Street as her home very often (pp. 282, 283, 284). Referred to Atlantic City as her place of business, never as her home (p. 287).

MRS. CLARA B. SEELER:

At funeral of Edward Brooks, November, 1918. Mrs. Paullin introduced her husband to witness and invited witness and her mother and sister to visit her at her home on North Broad Street (p. 290). The word "new" inadvertently used by witness cannot affect our contention, as the question involved is domicile of Mrs. Paullin at time of her death (pp. 291, 292). Mrs. Paullin talked about Broad Street as home (pp. 293, 294).

MRS. MATTIE PILLSBURY:

Broad Street house permanently and completely furnished (p. 295). Decedent told witness, "Anna, I want you to come up to see me some time at my home on Broad Street" (p. 296). Decedent at time she bought Broad Street property told witness's father, "Charlie, I have bought myself a home on North Broad Street. I paid nine thousand dollars for it" (pp. 296, 297). Mrs. Paullin never considered Atlantic City as her home, always spoke of 3839 as her home (pp. 298, 299). North Broad Street "beautiful home" to Mrs. Paullin (p. 299).

MARY HASENMAYER:

Cousin of decedent (p. 300). In response to phone call went to see decedent at 3839 North Broad Street, shortly before her marriage, and decedent told witness she was going to marry Mr. Paullin. Witness asked if she was still going to reside there, to which decedent replied, "Why sure, this is my residence and my home, and I intend to stay here" (p. 300).

Witness said, "On account of Mr. Paullin being a resident of Pitman, I thought probably you would go there to live," and decedent told witness she expected to stay right in her own home. House 3839

beautifully furnished, a very fine house (pp. 300, 301).

Decedent invited witness to her home, Broad Street, when she returned from wedding trip (p. 305).

MRS. ANNIE PAULLIN:

Daughter-in-law of Mr. Paullin. Decedent visited witness at Pitman (p. 306). At one time agreed to put up preserves for decedent, jars came from Broad Street house and preserves sent there (p. 307). Broad Street house fully furnished (p. 308). Decedent invited family to Broad Street home for Christmas dinner (pp. 308, 309). Referred to Philadelphia house as her home (p. 309). Decedent referred to Atlantic City as "1410" (p. 312).

MRS. ETHEL FRANK:

Relative of Mrs. Paullin. Congratulated Mrs. Paullin at time of marriage, and decedent invited witness to her home in Broad Street (p. 337). Talked with Mrs. Paullin in February, 1918, when Mrs. Paullin told witness she was always glad when busy season was over at Atlantic City, so she could get back home. Referred to North Broad Street house as her home (pp. 337, 338). Decedent always spoke of Atlantic City as "1410," never as her home (p. 339).

MARTIN J. MCGRATH:

Philadelphia assessor, 20th Division, 43rd Ward. On December 27th, 1918, Mr. Paullin called at assessor's home and requested to be listed for assessment (pp. 424, 425). Witness put name of Paullin on list for future reference at that time. December lists had already been returned (pp. 425, 426).

With the exception of the exhibits offered by caveator, this completes the syllabus of testimony on part of caveators as shown by transcript. The main points of proponent's testimony on the point involved, follows:

R. Edward Klaisz:

Deputy County Clerk, Gloucester County (p. 31). Evidence shows only that E. Frank Paullin was registered as a voter in Pitman for 1917 (pp. 31, 32). Name of E. Frank Paullin does not appear on registry list of Pitman for 1918 (p. 203).

William Hermann:

Worked for Mrs. Paullin, 1410 Atlantic Avenue (p. 37). Mrs. Paullin lived in Atlantic City (p. 38). This testimony purely conclusion. Witness *judged* Mrs. Paullin lived in Atlantic City nine to ten months in year (p. 38). Mrs. Paullin left Atlantic City in October, back for Christmas and Easter (p. 41). Always went away right after Christmas. Apparently guesses as to time Mrs. Paullin stayed in Atlantic City (pp. 42, 43). Came Christmas because a busy time (p. 43). Apparently guessing as to length of stay of decedent at Christmas time (pp. 43, 44). One sleeping room on second floor 1410 Atlantic Avenue (p. 46); Mr. Paullin in business in Philadelphia; slept at Atlantic City nights in summer (p. 46). Times when Mr. Paullin was not there (p. 47). Mr. and Mrs. Paullin married in fall after decedent left Atlantic City (p. 49). Mr. Paullin bought season ticket from Atlantic City to Philadelphia, and after that expired came to Atlantic City occasionally (p. 52). Miss Upham away from Atlantic City whenever Mrs. Paullin away (pp. 66, 67).

WILLIAM A. FAUNCE:

Evidence of residence of decedent only a conclusion (p. 68). Guesses as to time Mrs. Paullin spent in Philadelphia. Greatest period from November to April (p. 72). This is five months.

If Mrs. Paullin was in Atlantic City during winter of 1917 and 1918, witness saw her; if she was not there, he did not see her (pp. 72, 73, 74).

OSCAR STRANG:

Worked for decedent (p. 75). Testimony as to where Mrs. Paullin lived pure conclusion (p. 77). Witness's testimony as to time Mrs. Paullin was away from Atlantic City so vague as to indicate he had no knowledge (pp. 81, 82). Mrs. Paullin away during winter months (p. 83). Mrs. Paullin had a residence in Philadelphia (p. 84). Miss Upham lived with decedent in Atlantic City, "and also lived with her when she would go to Philadelphia" (p. 94).

PERRY W. LEVERING:

Visited decedent at both Atlantic City and 3839 North Broad Street, Philadelphia. Philadelphia was her home at time he visited her there (pp. 101, 102). Mrs. Paullin's funeral, 3839 North Broad Street (p. 103). Home permanently furnished (pp. 105, 106). Visited Mrs. Paullin a number of times in Philadelphia (p. 107). Copy of other will, no statement to him as to her residence (p. 119).

SILAS SHOEMAKER:

Secretary and treasurer of Safe Deposit and Trust Company, Atlantic City (p. 132). Testimony as to residence of decedent a conclusion, and only "understood" (p. 134).

LEWIS EVANS:

Banker (p. 136). Never been in living room 1410 since decedent married Mr. Paullin (p. 138). Never heard of other residence (p. 139). Mrs. Paullin went to Philadelphia in winter time, a place on North Broad Street. Said she had bought a place in Philadelphia (p. 140).

WILLIAM COCHRAN:

Cashier Second National Bank, Atlantic City (p. 141). Mrs. Paullin did business with bank (pp. 141, 142). Two-thirds of time in Atlantic City (p. 143). Conclusion.

EDWARD W. BIRD:

Proprietor Hotel Pitman (p. 147). Paullin registered as of Atlantic City (pp. 147, 148). Minnie W. Upham registered as of Philadelphia (p. 149). In her testimony always refers to her residence as the same as that of Mrs. Paullin.

MINNIE W. UPHAM:

The greater portion of time decedent lived at Atlantic City (p. 159). All but four and a half months of the year (p. 160). Most of the time she was away she spent at 3839 North Broad Street, Philadelphia. Bought house there eleven years ago (p. 161).

Mr. and Mrs. Paullin came to Atlantic City after their marriage, at Christmas time, and went back to Broad Street until spring (p. 162). Mr. Paullin did not bring extra clothing with him when he first came down to Atlantic City. He did not help in Atlantic City store (p. 163). Decedent never made any statements to witness as to whether she regarded North Broad Street house as her permanent home (p. 164). Decedent married Mr. Paullin at

3839 North Broad Street and was buried from there (p. 169). Left Atlantic City fall of 1918 in October and went to Pitman and eventually to 3839 North Broad Street (p. 170). In fall of 1918 witness went to Philadelphia to get house ready for occupancy (pp. 171, 172).

Witness says she don't remember whether she was at Ridge Avenue Market at alleged conversation between Mrs. Paullin and Mrs. Brooks (p. 175).

Witness denies she was present at this conversation (p. 175). Mr. and Mrs. Paullin came *home* after wedding trip (p. 177). 3839 Broad Street (p. 177). After trip to Boston, went back to 3839 North Broad Street (p. 177). Paullin slept at Broad Street house while Mrs. Paullin was away (p. 179). There, when they got home (p. 179) Christmas dinner in Philadelphia (p. 181). North Broad Street house furnished completely for permanent occupancy (p. 183).

Charles H. Edmunds:

Decedent told witness her residence was in Atlantic City (p. 189). Had her address in both Atlantic City and Philadelphia (p. 353).

Dr. Thomas J. Cross:

Minister who married Mr. and Mrs. Paullin (p. 243) testifies only as to custom and not that he asked Paullin his residence. Has reason to believe he followed custom in this case (p. 244). Did not ask Mrs. Paullin's place of residence (p. 244). Marriage performed at Mrs. Paullin's *home,* North Broad Street, Philadelphia (p. 245). License gave residence 3839 North Broad Street, Philadelphia (p. 246). Apparently put in address in certificate from assumption (p. 248).

MRS. ADELLA H. SPENCE:

Daughter of Mr. Addis, former husband of Mrs. Paullin (p. 315). Philadelphia house always furnished. Mrs. Paullin had a wardrobe there and house always equipped to provide food. Heat always in it in winter (p. 317). When she and sister left at home (p. 318). Referring to North Broad Street property. Decedent spent her winters in Philadelphia, 3839 North Broad Street, and in Florida (p. 324). Mr. Addis was buried from Philadelphia house (p. 325). Several changes in North Broad Street house just before marriage to Mr. Paullin (p. 333). One bed room second floor "1410" (p. 334). Furnishings in Atlantic City not equal to those in North Broad Street house "all the way through" (p. 335).

LOUISE LOCK:

Worked for decedent in Atlantic City (p. 367). Book of Mrs. Paullin "October third, moved up 3839 Wednesday" (p. 374). From same book "brought auto down Friday, March twenty-second" (p. 375). Miss Belle Clark, manager at 1410 (p. 376). She had charge all the year (p. 377). Philadelphia house open latter part of September (p. 379). Most of the friends of family in Philadelphia, and Mr. Addis buried from Philadelphia house (p. 379). Year of marriage, Mrs. Paullin went to Philadelphia house October 8th or 9th (pp. 381, 382). Returned to Atlantic City latter part of March (p. 382).

EDGAR LADOW:

Chauffeur for Mrs. Paullin (p. 387). Asked if he had car at Ridge Avenue Market day before marriage, answers, "No, sir; not to my knowledge" (p. 388).

CLAUDE DEGRAW:

Financial secretary First Baptist Church, Atlantic City, testifies Mrs. Paullin was a member of that church (p. 393, &c.).

MINNIE W. UPHAM:

Q. Where were you the day before Mr. and Mrs. Paullin were married?

A. *At home* at 3839 Broad (p. 394).

BELLE CLARK:

Had charge of Mrs. Paullin's business in Atlantic City (p. 396). Mr. Paullin came down every evening in summer 1918 (p. 407). But did not get his breakfast at alleged home (p. 407).

MINNIE W. UPHAM:

Trunk shipped to Atlantic City contained, of Mr. Paullin's, spectacles, hat and pair of summer shoes. When he left, he left a hat at Atlantic City (p. 416). All sent back to Pitman (p. 418).

ROBERT E. DOYLE:

Election clerk in Philadelphia. Called to prove fact that Paullin was not registered (p. 419). Paullin testified to same thing; said he was in assessor's book.

THE FACTS.

A summary of the evidence shows the following facts:

The decedent, whose first husband was a man named "Ritter," second husband a man by the name of "Upham," and whose third husband was a man by

the name of "Addis," conducted a bakery, confectionery and ice cream parlor at 1410 Atlantic Avenue, Atlantic City, New Jersey. The business was established by her second husband, "Upham," and conducted by him during his life time. Some time after his death, his widow, the decedent in this case, married "Addis," who was a Philadelphian, and he gave up his Philadelphia business and went with his wife to Atlantic City, established a residence and domicile there, which undoubtedly made it the home of decedent during his life time. About eleven years before death of decedent, she had purchased a house 3839 North Broad Street, Philadelphia, Pa., which she frequently referred to as her home, telling her relatives and others that the Philadelphia house was her home and the place at Atlantic City her place of business. The Philadelphia house was a large one, expensively and fully furnished, whereas the Atlantic City place appears to have been a place of business and temporary residence.

There was only one bed room on the second floor, a reception room or parlor, and an office or business place. The third floor had two extra rooms besides the one for Miss Upham, and two occupied by employees in the business. It is apparent that this was a place of business, although in a way equipped also for living purposes for the warmer months of the year.

Enos Frank Paullin, a man now seventy-four or seventy-five years of age, before his marriage to decedent, for a number of years had resided in Pitman, New Jersey, and carried on a plumbing business in Philadelphia. He gave this business his personal attention, going to Philadelphia each working day.

Some time prior to October 27, 1917, decedent and Paullin had agreed to marry, and the testimony is

conclusive, without contradiction, that they had before their marriage, agreed between themselves to make the house at 3839 North Broad Street their home after marriage. This is testified to by Mr. Paullin, by his son, daughter-in-law and several relatives of the decedent. Paullin gave up his home at Pitman, and although he had been registered as a voter, and had voted at Pitman prior to his marriage, and was actually registered as a voter in 1917, he never voted or attempted to vote at Pitman after his marriage. He was a resident of New Jersey at the time of the marriage, and if he had any intention of changing his domicile to Atlantic City, he could have voted there the following fall, simply by registering in Atlantic City. When the two parties got their marriage license, Mr. Paullin, in his statement, which was sworn to, gave his residence as Pitman, N. J., and decedent gave hers in a sworn statement as at 3839 North Broad Street, Philadelphia (pp. 457-459). It is true that Dr. Cross, in his marriage certificate gave the address of decedent as Atlantic City, but an examination of his testimony shows conclusively that he did not follow the statements in his license, but assumed from his alleged personal knowledge that decedent was a resident of Atlantic City. After the marriage on October 27, 1917, Mr. and Mrs. Paullin took up their residence at the house 3839 North Broad Street, and remained there, with the exception of a trip to Boston, Jersey City and to Atlantic City at Christmas time, until the latter part of March, or early April following. They then went to Atlantic City, where Mrs. Paullin desired to have supervision of her business during the busy season. It does not appear that her presence was absolutely necessary, as Miss Belle Clark was the manager of the business all of the time (when

Mrs. Paullin was there or away) as appears by the testimony (p. 396).

Mr. Paullin, during this period, spent a portion of the time in Atlantic City, but it is significant that he did not take with him a full wardrobe; only one change of clothing and a light overcoat. He bought a season ticket, and went to his business in Philadelphia daily, eating the evening meal only at the house 1410 Atlantic Avenue. He did not even get his breakfast at the place where some of the witnesses testified he had his home and domicile (p. 407). In the fall, some time in October, they returned to the home at 3839 North Broad Street, where they remained until shortly before Christmas, again going to Atlantic City for the holidays. Here Mrs. Paullin was taken ill and they did not return to Philadelphia until January 6, 1919. Mrs. Paullin died at the North Broad Street house on January 29, 1919.

Upon Mrs. Paullin's return to Philadelphia in January it is testified that she expressed herself as glad to get back home again as it was more comfortable than in Atlantic City.

With the exception of one or two witnesses offered by proponents, there is no testimony in which Mrs. Paullin indicated that her home was in Atlantic City, and these witnesses do not specify as to dates when these statements were made; it may be a fact that she said this during the life time of Mr. Addis, or while she was a widow before she married Mr. Paullin. The testimony of many of the witnesses such as bank clerks and officials, a church secretary, &c., gives no indication of her domicile. Her bank account would naturally be kept at a place near her business. Miss Clark and others deposited moneys for her, and the fact that her checks had on them her name and address, 1410 Atlantic Avenue, Atlan-

tic City, was only a business matter and gave no indication of her domicile. Many men in business in Philadelphia, living in New Jersey, do their banking business in Philadelphia, and have their business address on their checks, but this could have no influence in fixing their domicile in Philadelphia. Mr. Paullin, in the winter of 1918, being desirous of voting at the next general election, and believing that was the first election at which he could vote, caused his name to be entered on the assessor's list of the ward and division in which he lived, indicating that Philadelphia was his legal domicile. The Orphans' Court, in its opinion, looks upon this assessment with suspicion, and gives to it an improper motive on the part of Paullin, but it must be understood that the illness of Mrs. Paullin in Atlantic City, was not looked upon as serious, and so far as appears in the case, Mr. Paullin at that time had no idea of the provisions of his wife's will, nor so far as appears, did he then know that his place of domicile was important. As to condition of health of decedent see testimony of Miss Upham (p. 174).

It was only an indication of his desire to vote, and do his duty as an American citizen, at the place which he had selected as his home.

Decedent had no power to fix her domicile, so long as she was Mr. Paullin's wife, except with his acquiescence, or under such conditions as would entitle her to live separate and apart from her husband. The testimony appears to show that decedent actually spent six to seven months of each year in Atlantic City, and from five to six months at 3839 North Broad Street. We do not understand the portions of time spent at either place will fix domicile, but these must be ascertained from the intention of the parties. It is significant that on several occasions

at or about the time of the marriage, Mrs. Paullin said that upon her marriage to Mr. Paullin the home was to be established at 3839 North Broad Street, Philadelphia. The proof of this fact is not denied by any of the witnesses, and the course of conduct adopted by the parties corroborates the testimony. It is true that Mrs. Paullin, in some instances gave her address as Atlantic City; in some instances this related to business matters, and in some instances in matters not relating to her business at Atlantic City, but by doing this, she could not change the fact that she had recognized Philadelphia as her home at the time of her marriage, and by these declarations she could not possibly change the domicile of her husband, whose domicile was her legal domicile.

Some stress is apparently laid upon the fact that on three occasions Mr. Paullin, in registering at the hotel in Pitman, gave his address as Atlantic City. He states that this was because each time he had come from Atlantic City, where he had been staying during the summer time, and it must be borne in mind that Miss Upham, who claims that she always accompanied Mrs. Paullin to practically every place she went, and who claims that the residence of Mrs. Paullin was her residence, at one time in the fall of 1918 registered at this same hotel, giving her address as Philadelphia (p. 149). We feel that these registrations can have no influence in fixing the domicile of decedent.

Upon the marriage of the parties, the personal household effects of Mr. Paullin, which he had at Pitman, were turned over to his wife to do with as she pleased. Some of them were sent to 3839 North Broad Street, some to Atlantic City. Among the things sent to Atlantic City belonging to Mr. Paullin were a hat, a pair of spectacles and a pair of shoes. These are the only articles of wearing apparel which

Mr. Paullin had at Atlantic City, except the extra suit of clothing and overcoat which he took with him.

In the opinion of the Judge of the Orphans' Court, it is stated: "I am convinced from the evidence, that he was to make his home with Mrs. Paullin, wherever that home was." This assumption by the Judge is not sustained by any testimony. The proof is overwhelming that after marriage, this couple were to make their home at 3839 North Broad Street, Philadelphia.

The Orphans' Court finds that during the life of Mr. Addis, who died in 1910, the domicile of decedent was determined by the residence of her husband, and that residence was Atlantic City, and then finds that decedent's residence was not changed by the residence of her husband, Mr. Paullin, in Philadelphia, by her marriage to him.

The learned Judge creates, we believe, a new principle of law for New Jersey, to wit: that the residence of a husband is fixed and determined against his desire and agreement, by the residence of his predecessor in the matrimonial relation.

There is no evidence in the testimony of witnesses for proponents showing that testatrix considered or claimed her residence to be Atlantic City after October 27, 1917. When these witnesses spoke of her calling Atlantic City her home, they do not place the date of such declarations as being after October 27, 1917. The witnesses for the caveator, however, give the specific date and place when testatrix, after October 27, 1917, declared that her home was in Philadelphia. The distinction is significant and conclusive.

The gentleman who drew the will wrote into it that the testatrix was of Atlantic City, New Jersey, but it does not appear that this was by the direction of

the testatrix, or that it was not a mere assumption on the part of the scrivener.

There is not a word or line of testimony in the entire case from which it can be inferred that Enos Frank Paullin ever considered his residence as anywhere other than Philadelphia, Pa., after October 27, 1917.

The comments of the learned trial Judge attributing to Enos Frank Paullin an ulterior motive in seeking to be registered, are without foundation in fact or in evidence. Annie B. Paullin was not seriously ill in Atlantic City, she simply had a cold and a carbuncle on her leg. On the 6th of January, 1919, she came to Philadelphia by train, and after that, before her sickness in Philadelphia, she participated in a Christmas dinner at her home and went out to a card party. Her illness was not thought of as serious until immediately before her death, and she did not herself consider it serious, since she was planning a trip to Florida and during the last few days of her life postponed that trip for one week. When he sought registration Enos Frank Paullin had not the slightest reason to think that his wife was seriously ill. This assumption by the Court is gratuitous and suggested by counsel for the proponents in the examination of the assessor on page 430.

The opinion of the Orphans' Court says (p. 488), "In those cases where the witnesses have particularized as to these respective places, I am convinced that this particularization is of the witness and not of the decedent." When a witness testifies as to the language of the decedent, the particularization is that of the decedent, using the language, and not that of the witness.

On page 489 in the opinion of the Orphans' Court, the Judge asks, "Did Paullin take up his domicile

in Philadelphia independent of or without the knowledge of the decedent?" It is submitted that it is immaterial whether or not the wife had knowledge of the intent of the husband as to his residence. If it was the husband's intention independently, to make his home in Philadelphia, the fact that it was an independent decision on his part is not material. If he independently intended his residence as Philadelphia, that is sufficient under the law, and lack of knowledge on the part of his wife would not change his intent. The only evidence on this question, however, is given in the testimony of Enos Frank Paullin, and in the evidence of declarations to others by the decedent, so that all the evidence is that the decedent knew at the time of the marriage that Enos Frank Paullin intended to take up his residence in Philadelphia, and that she approved of such intention, and agreed that 3839 North Broad Street was her home.

On page 488 of the opinion, the Judge says, "Paullin's son testified that Mrs. Paullin, prior to the marriage, told him that his father was to live with her in Philadelphia, which, of course, was true."

The testimony on pages 249 and 261 goes much further than the Judge's interpretation of it. The Judge neglects to say that the testimony is that the testatrix stated that Mr. Paullin was not to live in Atlantic City and her home was not there. This uncontradicted testimony should not be dismissed in such cursory manner.

THE LAW.

The application for the probate of the will of any person who was resident in this State at his decease, and for letters testamentary thereon, under the pre-

ceding section, shall be made to the Surrogate of the county in which the testator resided at the time of his death.

Section 14 of Orphans' Court Act.

The word resident, under the various statutes of this State, has been given different interpretations —under the Attachment Act, and under the Divorce, the Taxation and Election Acts,—whether an abiding place was meant or domicile.

It is of no use to argue which of these is meant by the word "resident" in the Orphans' Court Act, as our Court of Errors and Appeals, in *Chadwick's Case,* 80 Eq., 471, has conclusively determined the meaning of the word in that case is domicile.

This decision is followed *in re Geiser's Will,* 82 Eq., 311, (87 Atl., 628) and *in re Dodge's Will,* 104 Atl., 646.

The wife's domicile merges in that of her husband. * * * In a genuine sense the domicile of the husband becomes that of the wife, and wherever he goes she is bound to go likewise; not, however, unless his intent be *bona fide* and without fraud upon her person or property rights. In certain cases the wife may, perhaps, be said to acquire a domicile or legal forum for divorce and similar purposes. But the exception, if it exist, is limited by the necessity. To a wife living apart from her husband, no separate domicile is conceded for testamentary purposes, nor does a change of the wife's abode change the husband's or the matrimonial domicile.

> "A debtor having a residence in this State, and also a residence elsewhere, is liable to be sued by attachment, if, at the time, he is not in

this State, and does not dwell or have his usual place of abode here."

"Dicta; 495: Residence is not domicile, though domicile is the legal conception of residence. Domicile is residence combined with intention. It has been well defined to be a residence at a particular place, accompanied with positive or presumptive proof of an intention to remain there for an unlimited time. A man can have but one domicile for one and the same purpose at any one time, though he may have numerous places of residence. His place of residence may be and most generally is, his place of domicile, but it obviously is not by any means necessarily so, for no length of residence without an intention of remaining will constitute domicile."

Stout vs. Leonard, 37 Law, 492.

"The residence required in the laws of this State, to enable a person to vote at an election, means his fixed domicile, or permanent home; and is not changed or altered by his occasional absence, with or without his family, if it be *animo revertendi.*"

Cadwalader vs. Howell, 18 Law, 138.

"To effect a change of domicile there must be a voluntary change of residence; the residence at the place chosen must be actual; to the factum of residence there must be added *animus manendi;* and that place is the domicile of a person in which he has voluntarily fixed his habitation, not for a mere temporary or special purpose, but with a present intention of making it his home, unless, or until something uncertain or unexpected shall happen to induce him to

adopt some other place as his permanent home."
Harral vs. Harral, 39 Eq., 279;
Magowan vs. Magowan, 57 Eq., 322 (324).

"Residence is acquired by living in a certain place with no present or definite intention of removing therefrom. The place where a person lives is, *prima facie,* taken as his residence, unless facts be established to the contrary."

Dicta., p. 810:

"A femme covert's residence follows that of her husband, but terminates with the reason upon which it rests, and when the union between the two ceases, and an attitude of hostility arises, they may each have different residences."
Tracy vs. Tracy, 62 Eq., 807.

"The temporary absence from the State of one domiciled here will not be held a change of residence, unless to the factum of residence elsewhere be added the *animus manendi,* for a domicile having once been acquired continues until a new one is actually acquired *animo et facto.*"
Watkinson vs. Watkinson, 68 Eq., 623.

"Neither the Prerogative Court, nor any of the surrogates of this State have general jurisdiction to admit to probate the last will and testament of a non-resident having a domicile at the date of his death in another State, although decedent leave property in this State, except as ancillary to a probate by the courts of the locality of such domicile."
Chadwick's Case, 80 Eq., 471.

"1. The power of the Prerogative Court to admit to probate a will rests exclusively on the fact that decedent was domiciled in the State at the time of his death, otherwise probate must be denied.

2. The domicile of a wife merges into that of the husband, and the unity of domicile exists during coverture unless the wife actually acquires a new domicile by the consent of the husband, or a constructive one, as manifested by acquiescence, abandonment or conduct so inimical to cohabitation as will secure to the wife a divorce.

3. A woman of considerable means married in Pennsylvania a man of very limited means. The man's domicile continued in Pennsylvania. Throughout their marriage she maintained herself and contributed to the support of her husband. She had no legal grounds for separating from her husband, and did not attempt to do so, but cohabited with him at his domicile in Pennsylvania up to within less than a month before her death, except when away in search of health. She declared that she regarded a city in New Jersey as her domicile. Held, not to show that she was domiciled in New Jersey, and the Prerogative Court was without jurisdiction to admit her will to probate."

In re Geiser's will, 82 Eq., 311.

See *Thompson vs. Thompson,* 89 Eq. 70, 77.

"The testator's domicile of origin was in France. He became a naturalized citizen of the United States in 1873, his domicile of choice being West Hoboken, N. J. He left a wife and two children in France, who are the complainants

in this cause. In 1871 he obtained a divorce in this State and remarried; one son being the offspring of this second marriage. In 1896, having amassed a fortune of $300,000, he decided to take apartments in New York, as he was constantly attending different places of amusement in that city almost every night in the week, and he did not feel strong enough to come back to West Hoboken at night. He made New York his headquarters, but was away traveling in different parts of the world a very great part of his time. He on many occasions emphasized the fact that he was still domiciled in New Jersey. He died in Los Angeles, Cal., in 1908, where he had bought a house in his son's name.

Held, that he never abandoned his domicile of choice, namely, West Hoboken."

Gigernaud vs. Variel, 97 Atl., 49.

"A husband's domicile, in legal contemplation, is the domicile of the wife, and is unchangeable by her, except with his acquiescence or consent or for such misconduct on his part, inimical to the union, as justifies her in selecting another. Whether such justifying cause existed is to be determined, upon evidence, by the tribunal in which a foreign judgment of divorce is offered."

Thompson vs. Thompson, 103 Atl., 856.

"Notwithstanding that a will executed by a person domiciled elsewhere at the time of his death, at a time when he was domiciled here with the formalities necessary under the laws of this State, but not with those required under the laws of the place of domicile at the time of death, and which will cannot be probated at the

place of domicile, may be a valid disposition of immovables within this State, it cannot be probated by the Ordinary under the rule laid down in Chadwick's Case, 80 N. J. Eq., 471, 85 Atl. 266."

In re Dodge's Will, 104 Atl., 646.

Vice-Chancellor Lewis, in *Giveraud vs. Variel,* 97 Atl., 49, gives various definitions of the word domicile:

"Domicile can only be changed *animo et facto,* and residence alone, although decisive as to the factum, is an equivocal act as to the *animus.*"

"Domicile imports an abiding and a permanent home and not a mere temporary one."

"The acquisition of a new domicile involves the abandonment of the previous domicile, and to effect the change the *animus* of abandonment must be shown."

Jopp vs. Wood, 4 De G., J. & S., 616, 4 N. R., 432, 34 L. J. Ch., 212.

"A change of domicile must be a residence *sine animo revertendi.* A temporary residence or business does not change the domicile; also: (1) Every presumption is to be made in favor of the original domicile; (2) no change can occur without an actual residence in a new place; and (3) no new domicile can be obtained without a clear intention of abandoning the old."

"A mere change of residence, however long continued, does not effect a change of domicile in a testamentary sense, unless there is also an intention to change the domicile or throw off his native country, as, for example, if an Englishman goes to France, he must not only reside in

> France, but intend to become a Frenchman instead of an Englishman, before his domicile will be held as changed."

See Mews English Case *Law Digest,* Vol. 8, p. 234, *et seq. tit.* "Domicile."

> "No length of residence without the intention of remaining will constitute domicile."

Discussion as to Matter Contained in Appellant's Brief.

There is nothing in the testimony to sustain the suggestion on page 2 of appellant's brief, that Mrs. Paullin had "mothered" the children of Mr. Upham and Mr. Addis, except the fact that Minnie W. Upham had remained with and made her home with Mrs. Paullin.

Counsel, in the brief on page 2, emphasizes the fact that the family portraits were hung in the parlor of 1410 Atlantic Avenue, Atlantic City. An examination of the testimony referred to shows that the only portraits there were those of Mr. Upham, Mr. Addis and Mrs. Paullin, taken when she was Mrs. Addis. These portraits were apparently placed there when Mrs. Paullin was making her home in Atlantic City, prior to her marriage to Mr. Paullin, and it is perfectly reasonable that she would not want to display these portraits of the past in the house she had agreed to live in with Mr. Paullin. The evidence shows that there were no bath room accommodations above the second floor of the Atlantic City house.

The "principal part" of Mr. Paullin's property, stated on page 2 of brief, consisted of contents of one

trunk, which contained, of Mr. Paullin's personal wearing apparel, a pair of spectacles, a hat and a pair of summer shoes.

It is true, as alleged on page 2 of brief, that some agreements, licenses, &c., with relation to Atlantic City matters, described Mrs. Paullin as of Atlantic City, but as to income tax receipts, the law allows them to be made from place of residence or business. The food administration license was issued to her at her place of business, and nothing in the license indicates her domicile; neither is there anything showing residence or domicile in the application.

Nothing in Exhibit P11 indicates that her domicile was in Atlantic City and it will be noted that this lease was drawn at a time when Mrs. Paullin was in Atlantic City attending to her bakery business. The marriage license, Exhibit P12, does not indicate domicile of either party, and there is nothing in the marriage certificate, Exhibit P13, showing domicile of either party (p. 450).

The application for marriage license sworn to by Mrs. Paullin, gives her birthplace as Philadelphia, Pa., and her residence as 3839 North Broad Street, Philadelphia. Mrs. Paullin's application for motor license dated January 4, 1918, gives her residence as 3839 North Broad Street, Philadelphia, Pa., and is signed and sworn to by her before a Notary Public in which she says "that the facts set forth in this application are true and correct" (p. 463).

An examination of Vice-Ordinary Leaming's conclusions shows that, while he held that Mr. Paullin, upon giving up his Pitman residence, and before he adopted a new one, would automatically become domiciled in Pennsylvania, his domicile of origin, yet, the Vice-Ordinary said (p. 21), "but I think the

evidence impels the conclusion that he in fact adopted Philadelphia as his domicile."

Counsel in brief on page 4, rely upon the testimony of Lewis Evans and Miss Upham in asserting that they "never knew her to live anywhere but Atlantic City, N. J." Mr. Evans, while attempting to testify to complete knowledge of Mrs. Paullin, and as to her domicile, gives her maiden name as "Brooks" (p. 137) when in fact it was "Rett" (p. 459, lines 20, &c.). Gives name of first husband as "Riley" (p. 137) when in fact it was "Ritter" (p. 482). On page 139, witness says he never knew her to live anywhere except Atlantic City, when as a matter of fact it is admitted by all that she had lived a portion of each year in Philadelphia for ten or eleven years prior to her death. On page 159 of case, Miss Upham, the witness relied upon, testified that Mrs. Paullin lived at Atlantic City the greater portion of the year.

Mr. Paullin, at the time of his marriage, did reside at Pitman, N. J., and he so stated in application for license. Mrs. Paullin, in the same application, stated her residence as 3839 North Broad Street, Philadelphia, and that was where she had agreed to make her home with Mr. Paullin.

The brief, on page 6, refers to testimony of Mr. Edmunds to establish law of Pennsylvania as to registration of voter. A perusal of Mr. Edmunds' testimony will show the intricacies of the Pennsylvania law sufficient almost to discourage any one from registering, and as a matter of fact, the reading of the testimony of this Philadelphia lawyer evinces the fact that his knowledge of the law was very limited. We doubt if any one could intelligently register after reading his testimony.

It is asserted in brief by appellant on page 6, that Mr. Paullin "lived at 1410 Atlantic Avenue,

Atlantic City, N. J., after his marriage to decedent, and took up his residence there in the true sense of the word," and cites pages in case to justify this assertion. A reading of the testimony on pages cited discloses nothing to justify the assertion made in brief. Neither is there anything to justify the assertion made on page 6 of brief that "He was a poor, struggling plumber in an outlying section of a big city."

It is impossible to give to the testimony of Mr. Paullin the meaning attributed to it on pages 7 and 8 of brief. Testimony must be read as given, and the effort to so construe it is almost ridiculous.

It will be noted that, although counsel claim, on page 8 of brief, that the lives of Mr. and Mrs. Paullin had not gone along without disturbance and turmoil, there is no testimony, except a very far-fetched inference drawn by counsel to establish that there was the slightest trouble between them. Even in her will Mrs. Paullin refers to her husband as "my beloved husband, E. Frank Paullin."

The efforts of Mr. Paullin to be assessed and registered is seized by counsel, and declared to be an effort on his part to establish a domicile in Philadelphia for the very purpose of contesting the domicile of his wife after her death. The testimony shows that after his marriage, Mr. Paullin established his residence in Philadelphia,—that he never voted at Pitman or Atlantic City. If, in his mind, his home was at Pitman, he would have voted there both years; if, in his mind his home was at Atlantic City, he could, by merely registering, have voted there in November, 1918. He did neither, indicating fully that he believed his domicile at all times to be in Philadelphia. While we are satisfied that his efforts to be assessed and registered in Philadelphia were

sincere and without any improper motive, we feel that the disposition of this case in no way can be controlled by that incident. Other facts conclusively fix his domicile in Philadelphia.

In passing, it may be noted that he had missed a vote in 1917 and 1918. He was at time of assessment preparing to go to Florida (p. 163) and upon his return might go to Atlantic City, so what more natural than that he should, during the spare time he had in Philadelphia, attend to this important matter?

A careful reading of the Chadwick case, we believe, will show that the word "non-resident" is meant to apply to domicile, and that the fact that Mrs. Paullin was physically within the State of New Jersey when she made her will, cannot change the fact that she was a "non-resident" if her domicile was actually in the State of Pennsylvania.

Her residence at the time of making her will would not be controlling; she was not only domiciled in Pennsylvania, but was actually resident there at the time of her death. Domicile or residence at time of death is the important matter, not where she was domiciled or resident at the time of the execution of her will.

There was no direct testimony, nor can it reasonably be deduced from any of the testimony that Mr. Paullin ever agreed by acquiescence that his wife should maintain a home separate from him which would be her domicile, in a different State from his domicile; neither is there anything in the case to show abandonment, or conduct so inimical to cohabitation as would secure to the wife a divorce.

This being so, the law of New Jersey is fixed; as a matter of fact, the law of the country, by a great preponderance of cases is fixed, and declares that

unless some, or one of these conditions are proven as facts, the domicile of the husband is the domicile of the wife.

See 19 C .J., p. 414, &c., and cases cited.

The doctrine enunciated in the cases cited by counsel in brief, in support of their contention that a wife may arbitrarily assume her own domicile, has never been recognized directly or inferentially in New Jersey. The cases all hold that unless some justification exists for separation, the domicile of the wife always follows that of the husband.

See *Baldwin vs. Flagg,* 43 N. J. L., 495;
Hackettstown Bank vs. Mitchell, 28 N. J. L., 516;
Thompson vs. Thompson, 103 Atl., 856;
In re Geiser, 82 N. J. E., 311, 313;
Matter of Hartman, 70 N. J. E., 664;
Duke vs. Duke, 70 N. J. E., 135, affirmed in Ct. of Errors, on opinion of V. C., 72 N. J. E., 940;
Power vs. Power, 65 N. J. E., 93, 101;
Tracy vs. Tracy, 62 N. J. E., 807.

It is true that the domicile of Mr. Paullin was at Pitman at the time of marriage, but testimony shows that immediately upon marriage he adopted Philadelphia as his domicile; that his wife before marriage, fixed her domicile in Philadelphia, and we submit that the burden is upon those who allege that after that time she changed her domicile to New Jersey.

As to the matter of costs, we submit that Mr. Paullin adopted the only method provided by law to contest the question of the right to probate the will of decedent in New Jersey; that technical words cannot and should not defeat the general rule in mat-

ters of this kind; that if caveator's contention is sound, the costs undoubtedly should be paid from the estate, and if his contention is not sustained, he at least had reasonable and strong grounds for making a contest, and costs should be allowed out of the estate of decedent.

It is respectfully submitted that the decree of the Prerogative Court should be affirmed.

Jos. J. Summerill,
Proctor and of Counsel.
Joseph W. Kenworthy,
Of Philadelphia Bar, Associated.
John Boyd Avis,
Of Counsel.

PETITION OF APPEAL.

(Filed February 11, 1920)

NEW JERSEY COURT OF ERRORS AND APPEALS.

In the matter of the Estate of ANNIE B. PAULLIN, deceased.	Petition.

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

The petition of Minnie W. Upham, proponent and appellant in the above stated cause, respectfully shows that your petitioner finds herself aggrieved by a final order or decree made in the Prerogative Court by his Honor Edwin Robert Walker, Ordinary of the State of New Jersey, bearing date the nineteenth day of January, 1920, wherein petitioner was proponent and respondent, and Enos Frank Paullin was caveator and appellee, in this respect, to wit: That the said final order or decree reverses the order or decree of the Atlantic County Orphans' Court admitting to probate the paper writing purporting to be the last will and testament of the said Annie B. Paullin; granting letters testamentary thereon to Minnie W. Upham, the executrix therein named; finding the said Annie B. Paullin to be a resident of

the City of Atlantic City, in the County of Atlantic and State of New Jersey, at the time of her death; and imposing the costs and expenses of the litigation upon the said Enos Frank Paullin, and which said order or decree of reversal decrees the said Annie B. Paullin to have been a resident of the City of Philadelphia, in the County of Philadelphia and State of Pennsylvania; denies the admission of the said will to probate; revokes the said letters testamentary and imposes the costs and counsel fees of the said Enos Frank Paullin upon the estate of the said Annie B. Paullin, deceased.

And your petitioner humbly appeals from the said final order or decree of the Ordinary, which decrees as aforesaid, upon the ground that the same is erroneous for the following reasons:

1. That the said Annie B. Paullin died a resident of the City of Atlantic City, in the County of Atlantic and State of New Jersey.

2. That at the time of the death of the said Annie B. Paullin, the said Enos Frank Paullin was a resident either of the City of Atlantic City, in the County of Atlantic and State of New Jersey, or of the Village of Pitman, in the County of Gloucester and State of New Jersey.

3. That the counsel fee, costs and expenses should not have been imposed against the estate of Annie B. Paullin, and in favor of the said Enos Frank Paullin.

4. That the decree or order of the Orphans' Court of the County of Atlantic should have been affirmed in all things.

Your petitioner therefore prays that the said order or decree of the Ordinary may be reversed and set aside, and for nothing holden, and that your petitioner may have such relief in the premises as to this Honorable Court shall seem meet.

WM. M. CLEVENGER,
Proctor for Proponent-Appellant.
C. L. COLE,
Of Counsel with Proponent-Appellant.

[ENDORSED]

Service hereof acknowledged February 9, 1920.

Joseph J. Summerill,
Proctor for Enos Frank Paullin.

MacCrellish & Quigley Co., Printers, Trenton, N. J.

NEW JERSEY

Court of Errors and Appeals

IN THE MATTER OF THE ESTATE OF
ANNIE B. PAULLIN, DECEASED,
WHO DIED TESTATE.

Brief for Appellant.

Annie B. Paullin, a well-known citizen and business woman of Atlantic City, N. J., died January 29, 1919, at 3839 N. Broad Street, Philadelphia, Pa., and was buried from that place in the West Laurel Hill Cemetery in that city. (*Case,* 36, 69, 133, 137 *and* 169.)

She was born Annie B. Lindley, and, early in life, married Morris Ritter, who died very shortly after the marriage. (*Case,* 137 and 482.) After the death of Mr. Ritter, she married Warren A. Upham (*Case,* 137 *and* 482), a citizen of Atlantic City, who, some forty year ago, founded a very successful confectionery and bakery business, which survives to this day. In the early history of the business it was conducted at 722 Atlantic Avenue (*Case,* 159 *and* 160), but as it grew, shortly before Mr. Upham's death in 1896, the store property, known as 1410 Atlantic Avenue, was purchased, and the business there established. (*Case,* 159.) This store is in the very heart of the business district of Atlantic City, and upon the death of Mr. Upham, was left to his widow. (*Case,* 36, 67, 137 *and* 159.)

Some time after the death of Mr. Upham, the widow married a Philadelphia business man by the name of Yardley T. Addis (*Case,* 482), with whom she lived

until his death on September 11th, 1910. (*Case,* 325.) In 1916 or 1917, she met Enos Frank Paullin, whom she married on October 27, 1917. (*Case,* 210 *and* 482.) While Mrs. Paullin had no children by any of her four husbands (*Case,* 326), strange to say, her last three marriages were to men who had been previously married and had young children by their previous wives (*Case,* 482), and it is the children of Mr. Upham and Mr. Addis who were mothered by her, and who are mentioned in the will under discussion in this appeal, to the exclusion of the children of the last husband, who survived her. (*Case,* 167, 186 *and* 465.)

The property, 1410 Atlantic Avenue, locally known as "Upham's Bakery" (*Case,* 70 *and* 225), is a substantial three-story brick property, in which is located a store for the sale of bread, pies, cakes, confectionery and ice cream at retail. (*Case,* 75 *and* 138.) A bakehouse and ice cream factory is located in the rear in a separate building, and the dwelling is on the second and third floors above the store. In the second story front is a commodious, well-furnished reception hall, or parlor, **in which is hung the family portraits** (*Case,* 353 *and* 397), and back of it, a well-appointed bedroom and bath, dining-room for the family, dining-room for the help, pantry and kitchen. On the third floor are bedrooms for her immediate family, and the help that lived in the house, together with the usual bathroom accommodations. In this home was maintained everything for the comfort of Mrs. Paullin and her family (*Case,* 38, 45, 46, 67, 162, 333, 366 *to* 387 *and* 395 *to* 408), and it was to this home that Mr. Paullin shipped the principal part of his property used by him while living at Pitman, N. J., before his marriage to the decedent. (*Case,* 16 *and* 415.)

It was from 1410 Atlantic Avenue that Mrs. Paullin transacted all of her affairs (*Case,* 187 *and* 457); it was from this same place she made her income tax reports (*Exhibit P* 8); it was to this place that all of her personal bills were directed (*Case* 457 *and Exhibit*

P-4); and it was at this place she declared her residence to be when she made her last will and testament, admitted to probate by the Atlantic County Orphans' Court (*Case,* 465), when she made her leases (*Exhibit* P-11); when she took out her New Jersey automobile license (*Exhibit* P-7); when she took out her government licenses (*Exhibit* P-9 and 10), and when she gave instructions for her first will. (*Case,* 189.)

After the death of Mrs. Paullin, Minnie W. Upham, the residuary legatee and executirx named in the will, on February 13th, 1919, presented the will for probate to the Surrogate of Atlantic County (*Case,* 481), where it was met by a *caveat* on the part of Enos Frank Paullin, the surviving husband, and in this *caveat* it was claimed the decedent did not die a resident of the State of New Jersey, but was a resident of the State of Pennsylvania at the time of her decease. (*Case,* 476.)

At a later date, and before any action taken on the first *caveat,* William Brooke, a cousin of Mrs. Paullin, filed a general *caveat* to the probate of the will. (*Case,* 475.) In due course the matter came on for hearing before the Orphans' Court Judge, and such proceedings were had thereon as resulted in that court admitting the will to probate. (*Case,* 16.)

The Orphans' Court Judge held that Mrs. Paullin was a resident of Atlantic City, N. J., at the time of her death, and that Mr. Paullin was not a resident of the State of Pennsylvania, and had not abandoned his New Jersey residence, although he had left Pitman, N. J., and, accordingly, admitted the will to probate in Atlantic County. (*Case,* 485.) An appeal was taken to the Prerogative Court, and the decree of the Orphans' Court Judge was reversed. (*Case,* 24.) Vice Ordinary Leaming holding that Mr. Paullin was a resident of the State of Pennsylvania, because that was his place of birth, and that *his* residence fixed and determined the residence of the decedent, and allowed counsel fees out of the estate, which had been refused by the court below. (*Case,* 19.)

It is from this determination of the Prerogative Court that an appeal has been taken by the executrix and residuary legatee.

ARGUMENT.

Some eleven years prior to her death the decedent purchased a home at 3839 N. Broad Street, Philadelphia, Pa., and there spent such part of the winter months as she was not in Florida (*Case*, 161, 371 to 386 *and* 394 *to* 408), but it would seem useless to discuss in detail the testimony to be found in the printed book, showing her church, business and other interests, establishing beyond peradventure that up to the time of her marriage with Enos Frank Paullin she was a *bona fide* resident of Atlantic City, Atlantic County, N. J. Two of the witnesses had known her for forty-two years and never knew her to live anywhere but Atlantic City, N. J. (*Case*, 137, 139 *and* 159). The Orphans' Court Judge, in the midst of the hearing, found as a fact that there could be no doubt about her residence up to the time of her marriage to Enos Frank Paullin, and directed counsel to bend their efforts in another direction (*Case*, 413). The Vice Ordinary reached this same conclusion, as will be seen by reading of the first part of his opinion. (*Case*, 19.)

Therefore, the burden, we shall assume, is to establish the residence of Enos Frank Paullin in the State of New Jersey, and not in the State of Pennsylvania as found by the Vice Ordinary, or to establish the residence of the decedent, at the time of her death, in Atlantic County, N. J., even though we fail to establish Mr. Paullin as a resident of this State.

From a legal point of view it is of no significance whether Enos Frank Paullin is found to be a resident of Gloucester County, N. J., or of Atlantic City, Atlantic County, N. J., as the case has reached the Prerogative Court, which is a court of original jurisdiction, and should it be found he is a resident of Pitman, N. J.,

that court is legally obliged to admit the will to probate in the Prerogative Court, rather than to remit the proponement to a new application to the courts of Gloucester County.

Where Does Mrs. Frank Paullin Reside?

His parents were born and married in Cumberland County, N. J. (*Case, 238, 239 and Ex. Cl.*). He was born in Philadelphia, Pa. (*Case, 212*). He and his son were engaged in the plumbing business at 2014 Columbia Avenue, Philadelphia, Pa., for upwards of 35 years (*Case 197, 241 and 248*). Notwithstanding his business interests in Philadelphia, Pa., he had established and maintained a residence at Pitman, Gloucester County, N. J., for upwards of 16 years (*Case, 213*). He owned his own property in which he lived at that place (*Case, 214 and 215*). His son and daughter resided there (*Case, 210, 237, 241 and 248*). He was on the voting list of that town, and voted there for upwards of 15 years (*Case, 27 and 214*), but it seems he did not vote there in 1917 (*Case, 205*), although he was registered for that purpose (*Case, 311*). He was not on the voting list for 1918 (*Case, 206*), and while he paid a poll tax for 1917, none was assessed against him for 1918 and 1919 (*Case, 208 and 209*). After the marriage he took the decedent to his Pitman home, where they stayed for a day and a night (*Case, 193*), and it was on this occasion that the goods were shipped to 3839 N. Broad Street, Philadelphia, Pa., and 1410 Atlantic Avenue, Atlantic City, N. J. (*Case, 193*), but it was the bedding, curtains, bric-a-brac, clothes, table linens, blankets and draperies which went to Atlantic City (*Case, 416*).

When he married the decedent he told the minister he was from Pitman, N. J. (*Ex. P6*), and he gave the same information to the officials at the City Hall, Philadelphia, Pa. (*Ex. C1*).

He was not registered as a voter in Philadelphia, Pa., for the years 1917 and 1918 (*Ex. P14, and Case,* 419 *to* 423), nor was he on the assessment books of that city for the years 1917, 1918 and 1919 (*Ex P15, and Case,* 419 *to* 423). He did not attempt to vote in Philadelphia, Pa., in 1917 and 1918 (*Case,* 194), because he was not eligible to vote (*Case,* 194), but this was not the truth. (*See the testimony of Mr. Edmunds, Case,* 356 *to* 360, *and Case,* 408 *to* 412, *and the testimony of Mr. Doyle, Case,* 419 *to* 423.) All this, notwithstanding the fact he had been in Philadelphia for upwards of 35 years (*Case,* 197). To say the least, he was not at all frank in his statement that he was registered at Thirteenth and Poplar Streets, Philadelphia, Pa., and was assessed at 3839 N. Broad Street, at the time he was examined prior to the production of the records (*Case,* 197 *and* 215 *to* 231).

It is true he did not attempt to vote in Pitman, N. J., after October 27, 1917 (*Case,* 193); that he rented his home in Pitman and took the furniture out of the house (*Case,* 200). It is also true he was not registered in Pitman for the year 1918 (*Case,* 204), but it is also true that he lived at 1410 Atlantic Avenue, Atlantic City, N. J., after his marriage to the decedent, and took up his residence there in the true sense of the word (*Case,* 38, 46, 162, 232, 234, 416 *and* 417).

What Were His Intentions?

He was a poor struggling plumber in an outlying section of a big city, 73 years of age (*Case,* 212), too poor to take an occasional trip (*Case,* 233), and without knowledge as to how to register in a hotel (*Case,* 152, 153, 233 and 234), or else, not entirely truthful in his statement. The condition of his pocketbook was not the sharp, thoughtless answer of "would be smart" witness. It is a truthful description of an existing condition. She paid his hotel bills when they were away together (*Case,* 456), and looked after all other

expenses, with the exception of a slight weekly contribution hereinafter noted. There was no question of pride on his part, as he permitted her to pay for the time spent in the town which had been his home for the previous fifteen years.

What would be the natural condition of the mind of a man of this character and age, suddenly taken from a modest home in a small country village to the home of a wealthy woman, having an established business in a prosperous community, a winter house on North Broad Street, Philadelphia, Pa., with all bills paid out of her bank account? (*Case,* 417.) Would the tail wag the dog? The reply is to be found at pages 194 and 195:

> Q. When you were married at the North Broad Street property, 3859 North Broad Street, on October 27th, 1918, did you go there with the intention of making that your home?
>
> A. Yes, sir; that was the understanding that that was to be my home.
>
> Q. Understanding with whom?
>
> A. With Mrs. Paullin.
>
> Q. Her home also?
>
> A. Her home, yes; she said it was her home, and that is where she wanted me to make my home with her.

Counsel for the caveator will read the answer to the last question as follows:

> A. Her home, yes; she said it was her home, and that is where she wanted me to make my home with her.

The trial court evidently understood the answer as did counsel for the proponent, and that is:

> A. Her home, yes; she said it was her home, and that is where she wanted me to make my home, with her.
>
> "Whither thou goest, I shall go."

It was so in the days of old; it was so with the other husbands, and so it was to be with the last to survive.

He had lived for fifteen years in the village of Pitman and daily commuted to his business in Philadelphia, without a single thought about changing his residence to the State of his birth, and after his marriage to the decedent and following her to Atlantic City, where they resided for the greater portion of the year, it became perfectly natural for him to commute from Atlantic City to that same business, in Philadelphia, Pa. (*Case,* 227, 228 and 229.)

On three occasions he visited his former home with the decedent and stopped at the village hotel, where he registered as "E. Frank Paullin and wife, Atlantic City." This occurred on May 26, 1918 (*Case,* 147 and 150), June 8, 1918 (*Case,* 148 and 150) and October 11, 1918 (*Case,* 148 and 151).

When he and the decedent went to Atlantic City to live for the summer, he took his clothing with him, and when he left, some of the property was left behind. (*Case,* 416.)

Mrs. Paullin was taken ill in Atlantic City, on December 26, 1918, and remained there until January 6, 1919. She recovered sufficiently to return to Philadelphia, where she was again taken ill and died on January 29, 1919 (*Case,* 198). It was not until after this illness that Mr. Paullin saw the necessity of establishing a residence in Philadelphia, Pa. It was not so, as stated by the Vice Ordinary, that the life of these two people had gone along without disturbance and turmoil. He overlooked the fact that the goods shipped by him from his Pitman home were sent back to him at his place of business in Philadelphia (*Case,* 235); that his personal property was sent to him at the railroad station where he had to send for it (*Case,* 235 and 240); that for a period of eight months he failed to make any contribution toward the upkeep of the table (*Case,* 417); and

the very significant fact that in the third clause of her will she said, "I give and bequeath unto my beloved husband, E. Frank Paullin, the diamond ring which he gave me as an engagement ring" (*Case,* 465).

The testimoney of the witness McGrath (*Case,* 424 *to* 437) throws considerable light on his first effort to establish a residence in Philadelphia. On December 27, 1918, he called on him for the purpose of getting his name on the assessment book, although the time for so doing had expired, and on January 14, 1919, he succeeded in having him make a pen and ink notation on an old lead pencil blotter of his name and address, in order that there might be no doubt about him being placed on the next assessment roll. McGrath testified that he had made at least three calls at 3839 N. Broad Street for the purpose of performing the duties imposed upon him by law, but always found the house closed, and was never able to obtain information necessary for his purposes. (*Case,* 430 *and* 431.)

The incentive for the change in the mental attitude of the man is seen in the difference between the laws of the two States (*Case,* 349 *and* 350), despite the fact he did not marry her for her money. (*Case, 226 and 227.*)

The language of the statute authorizing the probate of wills is as follows:

> "The application for the probate of the will of any person who was *resident in this State at his decease*, and for letters testamentary thereon, under the preceding section, shall be made to the surrogate of the county in which the testator resided at the time of his death."
>
> 3 *C. S.* 3817, *Sec.* 14.

In *Chadwick's Case,* 80 *N. J. Eq.* (10 *Buch.*) 471, the Court of Errors and Appeals stated that the substantial question was if the courts of this State had jurisdiction to grant original probate of a will of a nonresident testator domiciled in a sister State at the time of his death, and held that the courts of this State did not have jurisdiction to admit such a will

of a nonresident having a domicile at the date of his death in another State, although such nonresident leave property in this State, except as ancillary to a probate by the courts of the locality of such domicile.

If residence means domicile in the section above quoted; if the Vice Ordinary was correct in finding Mr. Paullin to be domiciled in Philadelphia, Pa., and if Mrs. Paullin could and did not have a domicile in New Jersey separate and distinct from Mr. Paullin's domicile in Pennsylvania, then the decree of the Vice Ordinary must be affirmed, but, if residence means residence and not domicile, and Mrs. Paullin had a residence in Atlantic County at the time of her death, then the decree of the Vice Ordinary must be reversed, irrespective of where Mr. Paullin resided or was domiciled, it being our contention that the Chadwick case applies only to those cases where the application for probate is made by a noresident who is domiciled in another State, at the time of his death.

Baldwin vs. *Flagg*, 43 *N. J. L.* (14 *Vr.*) 495, recognizes there may be circumstances under which the residence of the wife may be in one place or jurisdiction, and that of the husband in another place or jurisdiction. We have shown above Mr. and Mrs. Paullin were not living together in perfect harmony, as suggested by the Vice Chancellor, but assuming that this does not clearly appear in the evidence, still there are other reasons substantially proven, which makes it important to sustain the separate residences. The business conducted in Atlantic City was of long standing and very prosperous, and there is nothing in the case to indicate that it was Mr. Paullin's wish or desire that it should be abandoned. The business required the residence of the decedent, and so long as he consented to its maintenance, he was, in law, consenting to a separate residence, even though he may have intended to maintain his own in another State.

The law is not now as it was at the Common Law. Married women have been given many rights which

they never before possessed, and the acts they may not now perform are but few. The reason for the hard and fast rule that the domicile of the wife follows that of the husband has ceased, so the rule should be disregarded.

Matter of Florence, 54 *Hun.* 328–331;
7 *N. Y. S.* 578; 119 *N. Y.* 661;
Shute vs. *Sargeant,* 67 *N. H.* 305;
36 *Atl. Rep.* 282;
Marks vs. *Germania Savings Bank,* 110 *La.* 659.

Assuming that residence and domicile mean the same thing in a case of this kind, it is to be borne in mind we have domicile or origin; domicile of choice and domicile by operation of law. There can be no question but that Mr. Paullin established and maintained a domicile of choice at Pitman, N. J., and, assuming the proof discloses he intended and did give up this particular domicile of choice at the time of his marriage to the decedent, we contend the Vice Ordinary erred in finding his domicile reverted to his domicile of origin, which was Philadelphia, Pa.

In *Hibbert* v. *Hibbert, 72 N. J. Eq.* (*2 Buch.*) 778, it was held before the law will artificially establish the place of birth as a domicile, based upon the abandonment of the last domicile without the intentional adoption of a new one, the evidence should clearly establish the facts on which that unusual presumption is based.

The burden of proving a change of domicil is on the party alleging it.

Givernaud v. *Variel,* 86 *N. J. Eq.* (1 *B. Stock.*) 80.

Bell v. *Kennedy, Law Reports,* 1 *House of Lords* (*Scotch*) 307.

And in this case this means the burden is on Mr. Paullin. The testimony, beyond all question, shows he had a domicile at the time of the marriage different from the domicile of origin, and the fair inference, if not the positive proof, is to the effect that he adopted

the residence and domicile of his wife after the marriage. For him now to contend he has another and different residence and domicile in another State places the burden upon him and not upon the proponent. It is this burden which he has failed to carry.

Minor, in his book on the conflict of laws, at page 70, lays down the rule that a domicile once acquired is retained until a new domicile is gained, citing *Firth* v. *Firth,* 50 *N. J. Eq.* (5 *Dick.*) 137, and other cases.

We feel the testimony taken before the Orphans' Court was sufficient to warrant the Orphans' Court Judge in finding that both Mr. and Mrs. Paullin were residents of Atlantic City, New Jersey, and that it was entirely proper for him to have admitted the will to probate in his court.

On the question of the imposition of costs we think the order of the Court was correct. Section 197 of the Orphans' Court Act, 3 C. S. 3885, provides as follows:

> "In causes respecting the probate of a will, or of a codicil to a will, *if probate be refused,* the Court may order the costs and expenses of the litigation to be paid by the person or persons propounding the will or codicil, or to be paid out of the estate of the deceased * * *.
>
> "* * * but if probate be granted, the Court shall order the party or parties contesting such will or codicil to pay the costs and expenses of the litigation, *unless* it shall appear to the Court that the person or persons contesting such will or codicil had reasonable cause for contesting the *validity* of the same, *or shall not have offered on the trial or hearing any evidence other than the subscribing witnesses to the will or codicil* * * *.
>
> "* * * and in case it shall appear to the Court that the person or persons contesting such will or codicil had reasonable cause for contesting the *validity* thereof, the Court may order that the costs and expenses of the litigation, as

well on the part of such contestant or contestants as on the part of the person or persons propounding such will or codicil for probate, be paid out of the estate of the deceased * * *."

It will be noticed the first clause of this section does not apply to the case on appeal, for the reason the probate of the will was not refused.

It will also be noted the provisions of the second clause of this section applies only to the clients represented by Judge Starr, as he contested the validity of the will and offered no testimony other than the subscribing witnesses to the will. His fee was allowed, payable out of the esetate, strictly in accordance with this section. This clause of the section does not apply to Mr. Paullin because he did not contest the *validity* of the will; he simply raised the question of domicile or residence. He also offered evidence other than the subscribing witnesses to the will. It was therefore impossible for the Court to direct his fees and expenses to be paid out of the estate, and it became the duty of the Court to direct him to pay the cost and expenses of the litigation.

The third clause of this section does not apply because it says, "reasonable cause for contesting the *validity* of the will," and Paullin did not contest the *validity* of the will.

Further than this, it was the privilege of the Court, under section 196, to adjudge the costs against Mr. Paullin if he failed in what he sought to do.

The point seems to have been considered and decided in the case of *Burr* vs. *Burr*, 53 *N. J. Eq.* 627.

It is respectfully submitted the order of the Orphans' Court should be affirmed in every particular, and the decree of the Prerogative Court reversed in every particular.

WILLIAM M. CLEVENGER,
Proctor for Proponent.

C. L. COLE,
Of Counsel with Proponent.

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