

New Jersey Court of Errors and Appeals

Between

WILLIAM YUCKER et als.,
Complainants,

and

ARTHUR MORRIS et als.,
Defendants.

On Appeal of
Antoinette J.
Lentz et al., Ex-
ecutors, &c.,
from an Order
of the Chancel-
lor.

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BRIEF ON BEHALF OF APPELLANTS.

Statement.

This is an appeal by the Executors of Louisa M. Tournade, deceased, from an order of the Chancellor, dated January 14, 1916, denying the application of said Executors to have the amount due them on a certain judgment (Tournade vs. Morris) paid out of the share of the defendant herein, against whom said judgment was obtained, in the proceeds of sale of the lands sold in the above entitled partition suit. The Chancellor ordered the share (or fund) now in Court, paid to The Highland Trust Company.

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The bill of complaint for partition was filed prior to May, 1914. On May 12, 1914, Louisa M. Tournade recovered a judgment against "Edward

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Morris" (one of the names by which the defendant "T. Edward Morris" was known), and the judgment was docketed May 14, 1914. On June 13, 1914, Morris signed a request that his distributive share be paid to the Highland Trust Company, and the request was thereafter delivered to the Selling Master. On December 7, 1914, an order was made herein admitting Louisa M. Tournade as a party defendant "with all the rights of a judgment-creditor against the defendant T. Edward Morris" (see Petition, page 14, and Order, page 24). Mrs. Tournade died May 15, 1915, and on August 19, 1915, an order of revivor was made herein (page 26). On March 24, 1915, a paper was executed by T. Edward Morris (signed "Thomas E. Morris") and his wife, purporting to assign their shares in said fund to The Highland Trust Company (page 29). The Trust Company never applied to be admitted as party defendant herein.

The distributive share of Morris amounted to \$193.70, and is now in the hands of the Clerk in Chancery.

The appellants claim they are entitled to have their judgment paid out of said Morris' share because said judgment was docketed before the distribution of Morris' share, and because of their having been admitted as parties defendant herein before said distribution, with a judgment lien against said Morris and his share.

The respondent claims it has a prior right to said fund because of said request to the Selling Master, and possibly by reason of said paper dated March 24, 1915, claiming that the judgment of appellants against "Edward Morris" is not a lien on the share of the defendant named in the partition suit as "T. Edward Morris."

POINT I.

Appellant's judgment should be paid out of the fund now in Court.

Section 31 of the Partition Act provides for the payment of judgments against distributees in partition suits *at any time prior to the distribution of the proceeds of sale, &c.* We have a judgment against Morris, a distributee, and our judgment should be paid out of his distributive share. We were duly admitted as defendants on the strength of our having said judgment. 10

The Vice-Chancellor, in his opinion, holds, practically, that as our judgment was entered against "Edward Morris," it could not be considered a lien against the share of the defendant herein who is made a party defendant in the partition suit under the name of "T. Edward Morris." He says that we ask to have our judgment given the "effect of a judgment against Thomas E. Morris or T. Edward Morris as against an *innocent purchaser.*" (He evidently refers to the Highland Trust Company as an innocent purchaser.) He also, in his opinion, refers to the Trust Company as a *defendant* herein. (It never even applied to be admitted as a party defendant.) 20

The Vice-Chancellor refers to a number of cases to sustain his view that our judgment against "Edward Morris" is not a lien on the share of the defendant named as "T. Edward Morris." These cases, we contend, are not applicable. I will refer to same. 30

He quotes only part of the opinion of Mr. Justice Trenchard, in *Schaefer vs. Levenson Wrecking Co.*, 82 N. J. L., 61 (81 A. R., 434), in which suit a motion to non-suit was made at the trial on the ground that the plaintiff sued as "H. Allen 40

Schaffer," &c.; the motion was *denied* below; the Supreme Court held that it had been *properly denied* (see whole opinion).

The case of Seeley vs. O. Schenck & Denise, 2 N. J. L., 75, was where a firm or partnership name had been used—no christian or designating names of the individuals appearing anywhere.

- 10 The case of Crandall vs. Denny & Co., 2 N. J. L., 137, was also where a partnership or firm name had been used.

The facts in M'Credy & M'Kee vs. Vanneman, 32 N. J. L., 870, were similar; also similar in Burns vs. Hall & Smith, 3 N. J. L., 984.

In Kearsley vs. Gibbs, 44 N. J. L., 169, objections to proceedings to lay out a public road were sustained by the Court. Mr. Justice Dixon said:

- 20 "An award to 'Mrs. Porter' is certainly insufficient to meet the claims of Benjamin and George Porter, and an award to 'Mrs. Kearsley' should also probably be condemned, since 'Mrs.' is not a legal name."

In Ditmar Powder Co. vs. Leon, 42 N. J. L., 540, the christian name of the plaintiff was omitted—he was designated simply as "J. M. Leon"; no christian or identifying name whatsoever was used—it was Held bad.

- 30 In McGrew vs. Steiner, 71 A. R., 1122 (77 N. J. L., 377), the Court held that designating the defendant in attachment proceedings as "L. Williams" (no christian or identifying name at all) was bad.

We insist that these cases do not sustain the conclusion reached by the learned Vice-Chancellor.

- 40 In the case at bar the defendant was identified by the name "Edward"—not an initial, not a fictitious christian name, but one of the names by

which he was known. It was *the* name identifying him. Even in the subpoena in the partition suit he was designated as T. *Edward* Morris.

The purpose of the christening or designating name is to identify a person from the others in the family, and *Edward* did identify him.

His brother George, before the Master, gave the names of those interested in the property, and referring to his brother Edward, said: "Thomas E. Morris, who is also known as *Edward Morris*" (page 32). 10

It is admitted that he is the identical person against whom we obtained judgment, and also that he is known as *Edward Morris*, as well as T. Edward Morris.

We are certainly entitled to have our judgment paid out of his distributive share, now on deposit in the Court of Chancery. 20

POINT II.

The Highland Trust Company has no right to the fund in Court.

The Trust Company claims that it is entitled to this fund under an order or request drawn by Morris upon the Special Master, signed June 13, 1914 (page 27), as stated by the Vice-Chancellor (page 6, line 10). 30

The "order or request" referred to is not signed by the defendant Morris by the name by which he is made a defendant (see Subpoena Ad Respondendum, page 28). He signs the order or request "Thomas E. Morris." The money in court is the distributive share of "T. Edward Morris," according to the subpoena in the Chancery suit; according to the proofs in the partition proceedings, this same person is known as Edward Morris and also 40

as Thomas E. Morris. He is just as much "Edward Morris" as he is "Thomas E. Morris." The paper he signed on June 13, 1914, is simply a request of *Thomas E. Morris* to pay out moneys belonging to "T. Edward Morris," and, according to the *reasoning* of the Vice-Chancellor and the respondent, is not good because not signed by the name under which he was made a party to the partition suit.

In addition, we contend that this "order or request" is not such a paper as could transfer or convey an interest in real estate; it contains no words of grant. As far as this fund—Morris' distributive share of the proceeds of sale of real estate—is concerned, it transferred or conveyed nothing. This fund in court represents land, and should be treated as nearly as possible as land (see *Ross vs. Adams*, 4 Dutch, 160; *Oberly vs. Lerch*, 18 N. J. E., 346; *Fidler vs. Higgins*, 21 N. J. E., 138). Our judgment was a lien of record before this request on the Special Master was even signed; we subsequently applied to be made a party defendant on account of our judgment lien against the share or interest of this identical defendant Morris, and were so admitted by order of the Chancellor, who recognized our rights as a judgment-creditor of Morris (see Order, page 25, line 12).

The Vice-Chancellor refers to our claiming this fund "as against an innocent purchaser" (page 9, line 5). He infers that the Trust Company is to be considered an innocent purchaser. It was *not an innocent purchaser*. Reading the order or request of Morris to pay to the Trust Company (page 27), it will be plainly seen that this order was given to pay a past due obligation—undoubtedly a promissory note which fell due April 26, 1914—and also the interest and protest fee. The Trust Company was not an "innocent purchaser";

it bought nothing; it was simply endeavoring to obtain payment of an old, past-due obligation. A *purchaser* is one who acquires property by sale, or for a consideration; a buyer. There is nothing to show that the Trust Company *bought* this order of June 13, 1914, from Morris, nor that it paid Morris anything for it, but, on the contrary, the paper itself indicates otherwise.

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Even if the Trust Company had purchased this order from Morris, they would have been purchasers with knowledge or notice of the proceedings in the partition suit—at least so far as same referred to this defendant Morris and his distributive share; it could not be called an “innocent purchaser.” Even if the order or request is considered as a transfer to the Trust Company of Morris’ rights in said distributive share, the transfer was subject to any then existing rights of others. The record in the partition suit showed that this defendant, T. Edward Morris, was known as Edward Morris and also as Thomas E. Morris. Our judgment was docketed a month before the date of this order, and was entered against this very defendant under one of the names he was known by, and was a lien against his share or interest in the real estate now represented by this fund in court.

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The respondent may claim said fund under the paper executed March 24th, 1915 (page 29). This paper contains no words of grant by Morris, and could not convey Morris’ real estate (now represented by the fund). This paper is also signed “Thomas E. Morris,” and not “T. Edward Morris.” What has been said in regard to the paper of June 13th, 1914, also refers to this paper. In addition, we would call the Court’s attention to the fact that before this paper of March 24th, 1915, was executed, the appellants’ testatrix had been admitted as a party defendant, and the record showed that

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we had a judgment against this man, which was a lien on his distributive share, and if the Trust Company took anything under this last mentioned paper, it took subject to our right to be paid the amount due on our judgment.

10 We insist that the order of the Chancellor directing that said fund (Morris' distributive share) be paid to The Highland Trust Company is inequitable and contrary to law, and is in violation of the rights of the appellants herein, and should be so held by this Court; and that the said fund, to the extent of the amount due these appellants on their said judgment against said Morris should be paid to these appellants, besides their costs herein.

Respectfully submitted,

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LEON ABBETT,
Solicitor and of Counsel with Appellants.

March Term, 1916.

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New Jersey Court of Errors and Appeals

Between
WILLIAM YUCKER, *et als.*,
Complainants,
and
ARTHUR MORRIS, *et als.*,
Defendants.

BRIEF FOR HIGHLAND TRUST COM- PANY, RESPONDENT

This suit was commenced April 28th, 1914, for the partition and sale of lands in which the defendant *T. Edward Morris* had a share.

After the sale on *October 6th, 1914*, and confirmation on *December 2d, 1914*, his share was deposited with the Clerk in Chancery.

The petitioner's testatrix, *Louisa Tournade*, holds judgment against *Edward Morris*, for \$125.-81 docketed in the Hudson Common Pleas Court on *May 14th, 1914*.

The defendant, *T. Edward Morris* on *June 13th, 1914*, gave to the respondent, Highland Trust Company an order for payment to it out of his share of the proceeds of sale, the sum of \$131.60

and interest, the amount of note held by said Company. This order on *August 19th, 1914*, was delivered to Dougal Herr, Esq., the Special Master appointed to sell.

On *December 7th, 1914*, the executors of Louisa Tournade (she having departed this life on May 15th, 1914) obtained an order (without notice to the Highland Trust Company) admitting them as parties to this suit.

This dispute arises between the appellants as executors of Louisa Tournade under said judgment against *Edward Morris* and The Highland Trust Company under its order from the defendant *T. Edward Morris* on the other hand for payment out of the fund.

The wife of the said *T. Edward Morris* (Mary Morris) had an inchoate right of dower in the lands and subsequently she agreed to accept a lump sum in lieu of dower and she and her husband said *T. Edward Morris* assigned all their interest in the fund in Court to the Highland Trust Company.

Appellants filed their petition asking payment to them of the judgment against *Edward Morris* out of the fund on the ground that same was a lien on the lands from the date of its entry and setting forth the claim of Highland Trust Company, under its order from *T. Edward Morris*.

The Trust Company answered claiming payment of its order.

The matter then came on to be heard upon agreed facts before his Honor, Vice Chancellor Griffin, who made an order directing payment of the fund to The Highland Trust Company.

From such order the Tournade executors take this appeal.

Appellants' brief errs, for the partition record does not show that *T. Edward Morris* was also known as *Edward Morris*. *George Morris* testified to this after the assignment to the Trust Company, and as a matter of law such testimony is no part of the

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The judgment against Edward Morris was not a lien on the property of T. Edward Morris.

It was held that the record of a judgment against William Mankedick was not constructive notice to a purchaser in good faith of real estate of H. W. Mankedick.

Johnson v. Hess, 126 Ind., 298.

The rule established by the New Jersey Cases is that

“it must be stated with certainty who are the parties to the suit and actions to be properly brought, must be commenced and prosecuted in the proper Christian surnames of the parties.”

1 Chit. Pl., 256; Frank v. Levie, 5 Rob., 600.

Elberson v. Richards, 42 N. J. L., p. 69.

Kearsley v. Gibbs, 44 N. J. L., 169.

Shaffer v. Levenson, 82 N. J. L., 61.

Dittman Co. v. Leon, 42 N. J. L., 540.

The judgment against “*Edward*” could give no notice to the Trust Company in its dealings with *T. Edward*.

The propriety of the use of the initial “T” to indicate the Christian name is well established.

29 Cyc., p. 264.

Pinney v. Russell, 52 Minn., 443.

Schaffer v. Levenson, 82 N. J. L., p. 61.

Am. & Eng., Ency., 2d Ed., Vol. 21, pp. 308 & 309.

The record of a conveyance by a person who appears from the record to be a stranger to the title

Note: The purpose of the assignment of March 15th, 1915, was to secure the interest of Morris's wife in the fund.

is not constructive notice to one subsequently dealing in good faith with the person holding the record title.

Am. & Eng. Ency. Law (2d Ed.), Vol. 24, p. 150.

The constructive notice which flows from the record cannot be more extensive than the facts stated therein and is only such notice as obtained by actual inspection of record.

Ibid, p. 151.

Gale v. Morris, 29 N. J., E. 2, 222, at p. 226.

II

A point has been attempted to be made by appellant that The Highland Trust Company is not entitled to relief because no order has been made, admitting it as a party to the suit.

The petitioners cannot now raise this question for they made the Trust Company a party to these proceedings and thereby brought them into Court.

If it be held necessary that the Company be made a party to the partition suit in order to obtain relief then to avoid these proceedings failing in the interest of justice this Court can and of right should make an order admitting the Highland Trust Company as a party nunc pro tunc as of the date when the petitioner first brought it in.

See Mabce v Mabce 96 Atl. 495 P, p 496

III

The appellants have also claimed some superior right by reason of the order admitting them as parties to the suit.

This order is made under Section 31 of the Partition Act, Comp. Stat., p. 3907.

Of course their rights under the order admitting them is limited to the effect given thereto by this statute and it does not purport to give any new lien or right in the share of the proceeds of sale. It only provides a new remedy for the judgment creditor.

The appellants' rights are only such as given by the entry of the judgment against *Edward Morris* and the order admitting them as parties cannot possibly give them any greater right or take from the Trust Company any property right in the fund.

If when the judgment creditor was admitted as a party, the distributee no longer owned the fund, it seems perfectly clear that this statute or such order could not make any right to it.

This order was made long after the equitable assignment of the fund to the Trust Company and of course, could give to the appellants no claim to priority in equity over one who honestly and in good faith had long before procured from Morris such assignment of his interest in the fund.

Before the order admitting petitioners was made the Special Master could have legally paid the money either to Morris or his assignee. This shows that appellants had no rights prior to the order admitting them and that order as has been seen could not create in them any right which they did not already have.

IV

Again after the sale was made on October 6th, 1914, the real estate in equity became money in the hands of the Special Master and the equitable assignment operated thereon (*Miller v. Miller*, 25 N. J. Eq., 354; *Keep v. Miller*, 42 N. J. Eq., 100)

for then the Master held the title for the purchaser and the purchaser held the money in trust for the Master. The purchaser became the owner of the land and the vendor the owner of the money. *Marion v. Wolcott*, 68 N. J. Eq., 20; *Schmidt v. Opie*, 33 N. J. Eq., 138; *Haughwout v. Murphy*, 22 N. J. Eq., 531.

V

The order to the Trust Company constituted an equitable assignment of the fund *pro tanto* (*Seyfried v. Stoll*, 56 N. J. Eq., 187; *Supt. v. Heath*, 15 *id.* 22; *Gray v. Pfeiffer* 59 *id.* 510; *Bigelow v. Copper Co.*, 74 *id.*, 457 at page 491; *Cope v. Walton Co.*, 77 *id.* 512), and created a transfer of the fund which would prevent any subsequent order of Court from coming in advance thereof.

Crater v. Crater, 32 N. J. Eq., 484, which holds that such assignment takes precedence over an order for payment of counsel fees in partition.

Dodge v. Brokaw, 32 *id.*, 154.

Tenney v. Wilson, 45 *id.*, 282.

Snover v. Squire, 24 Atl., 365.

Board of Education v. Duparquet, 50 N. J. Eq., 234.

Kafes v. McPherson, 32 Atl., 710.

Flemming v. Hoboken, 40 N. J. L., 270.

Dexter v. Megis, 47 N. J. Eq., 488.

Jenkinson v. Finance Co., 79 N. J. Eq., 247.

Price v. Patterson, 79 N. J. Eq., 448.

VI

The fact that the judgment of Mrs. Tournade was recovered and docketed prior to the date of

Trust Company assignment does not give her any priority, for *her judgment was docketed after the partition suit was commenced.*

Am. & Eng. Enc., of Law (2nd Ed.), 1
Vol. 11, p. 1082.

The rule is that as to those who acquire rights during the pendency of the suit, the litigating parties are exempted from the necessity of taking any notice; as to them it is as if no such right existed.

Dunning v. Crane, 61 Eq., 634 at p. 636.

McPherson v. Housel, 2 Beas. 300.

Allen v. Morris, 5 Vr., 159.

A person who acquires an interest in property in litigation after the commencement of a suit, as assignee or successor to an original defendant need not be made a party, but will be bound by the decree.

Haughwout v. Murphy, 22 N. J. Eq.,
531.

Williams v. Winans, 20 N. J. Eq., 392.

Allen v. Morris, 34 N. J. L., 159.

Eltenborough v. Bishop, 26 N. J. Eq.,
262.

Mabee v Mabee 96 dtl. 495

VII

Again the defendant Tournade is guilty of laches to the prejudice of the Trust Company. She could have applied to have been made a party May 14th, 1914, but she chose to delay till December 6th and in the meantime the Trust Company altered itself to its prejudice (by failing to bid and thereby increase the fund), without notice of the rights of Mrs. Tournade. She should have asserted her rights if any before the sale.

Wright v. Wright, 70 N. J. Eq., 407.

VIII

The order constituted an equitable assignment and as Mrs. Tournade and her executors have no lien, and *T. Edward Morris* has assigned his share to the Trust Company then the fund must go to that Company.

Kafes v. McPherson, 32 Alt., 710.

To the same effect is

Flemming v. Hoboken, 40 N. J. L., 270.

Dexter v. Meigs, N. J. Eq., 488.

Jenkinson v. Finance Co., 79 N. J. Eq., 247.

Also

Price v. Patterson, 79 N. J. Eq., 448.

Am. & Eng. Enc., of Law (2nd Ed.), 1
Vol. 11, p. 1082.

IX

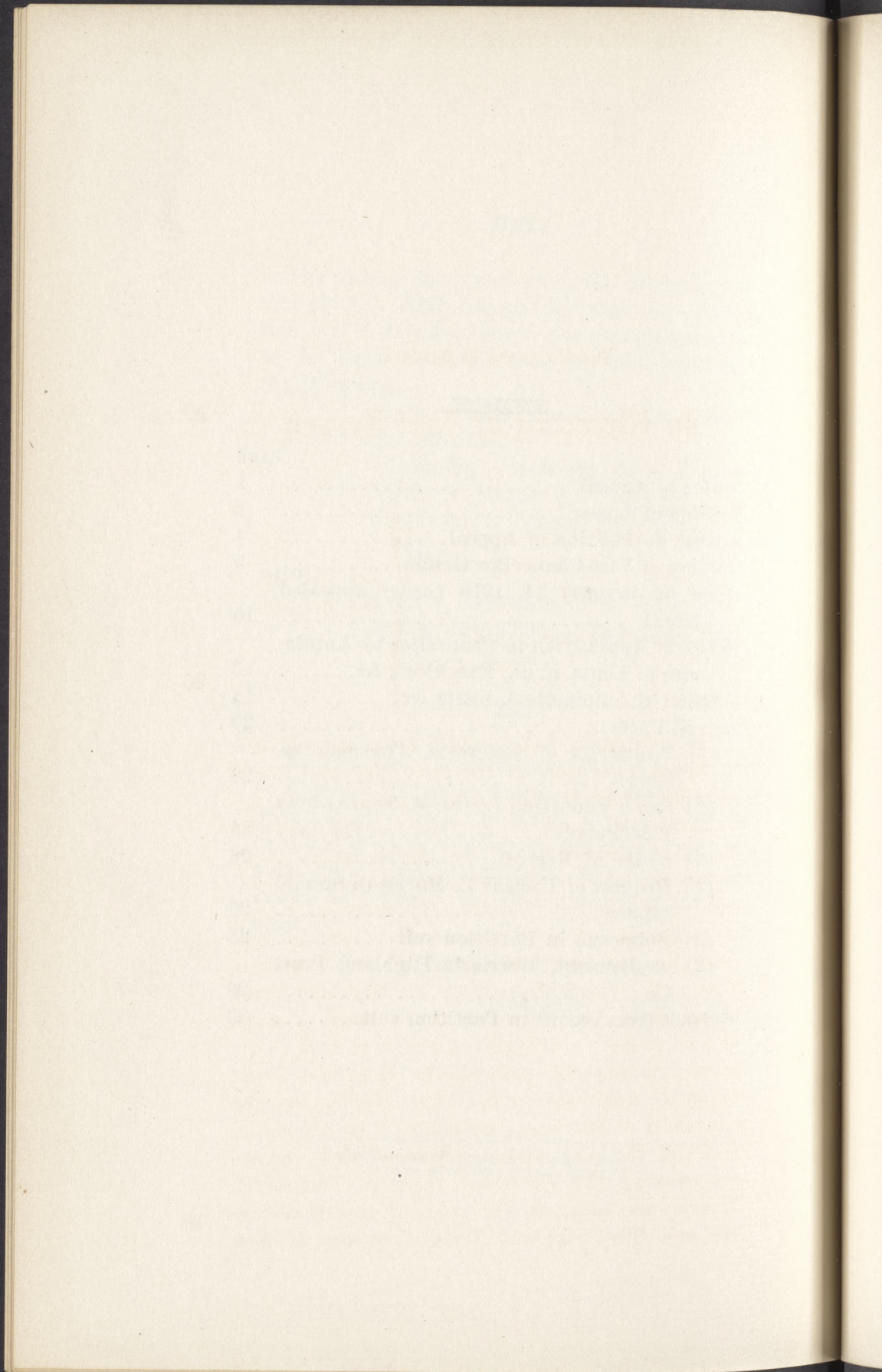
The fact that the defendant Morris was known as Edward Morris as well as *T. Edward Morris* does not give notice to Trust Company of that fact, and there is no evidence that the Trust Company knew of the fact that the defendant was also known as Edward, nor that it knew of the judgment.

Respectfully submitted,

GEORGE J. McEWAN.

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Notice of Appeal.

In Chancery of New Jersey

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Between

WILLIAM YUCKER, et als.,
Complainants,
and

ARTHUR MORRIS, et als.,
Defendants.

On Bill &c.
On Petition.

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The defendants, Antoinette J. Lentz and William G. Lentz, Executors of the Last Will and Testament of Louisa M. Tournade, deceased, hereby appeal from so much of a certain order made in the above entitled cause and dated on the fourteenth day of January, nineteen hundred and sixteen, as orders that the sum or amount of money in the hands of the Clerk of this Court as representing the undivided share of the defendant Thomas E. Morris, be paid to The Highland Trust Company of New Jersey; and also from so much of said order as directs the Clerk of this Court to pay to the solicitor of The Highland Trust Company his costs to be taxed and to pay the remainder of said sum together with the accumulations on the said moneys deposited in Court, as representing the undivided share of Thomas E. Morris, according to the rules of this Court, to the said The Highland Trust Company of New

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Petition of Appeal.

Jersey or to its solicitor; to the Court of Errors and Appeals in the last resort in all causes.

Dated January 21st, 1916.

LEON ABBETT,
Solicitor of defendants Antoinette J.
10 Lentz, and another, Executors &c.

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

LEON ABBETT,
Of counsel with defendants Antoinette
J. Lentz, and another Executors &c.

20 NEW JERSEY COURT OF ERRORS AND APPEALS.

Between	}	On Appeal.
WILLIAM YUCKER, et als., Complainants,		Petition of Appeal of Antoinette J. Lentz and William G. Lentz, Executors, &c., of Louisa M. Tournade, deceased.
30 and		
ARTHUR MORRIS, et als., Defendants.		

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

40 The petition of Antoinette J. Lentz and William G. Lentz, Executors of the Last Will and Testa-

Petition of Appeal.

ment of Louisa M. Tournade, deceased, the appellants in the above stated cause, respectfully shows that your petitioners find themselves aggrieved by an order made in the Court of Chancery by his Honor Edwin Robert Walker, Chancellor of New Jersey, bearing date the fourteenth day of January, nineteen hundred and sixteen, wherein Antoinette J. Lentz and William G. Lentz, Executors of the Last Will and Testament of Louisa M. Tournade, deceased, defendants in the above entitled cause, were petitioners, and one The Highland Trust Company of New Jersey, was respondent, in this respect, to wit: That the said order directed that the sum or amount of money in the hands of the Clerk of the Court of Chancery of New Jersey, as representing the undivided share of the defendant Thomas E. Morris, be paid to the Highland Trust Company of New Jersey; and that the said order directed the Clerk of the Court of Chancery to pay to the solicitor of the Highland Trust Company his costs to be taxed, and to pay the remainder of said sum together with the accumulations on the said moneys deposited in Court as representing the undivided share of Thomas E. Morris, to the said The Highland Trust Company of New Jersey, or to its solicitor.

And your petitioners humbly appeal from that part of the order of the Chancellor which orders as aforesaid, upon the ground that the same is erroneous, for that your petitioners have a lien on or right to the said moneys to the extent of the amount due them on a certain judgment obtained by their intestate against the said Morris, prior and paramount to any rights which the said The Highland Trust Company of New Jersey may have to said moneys; and for that the Chancellor should

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Opinion of Vice-Chancellor Griffin.

GRIFFIN, V. C.:

The dispute in this case is between two defendants touching the right to funds in court allotted to T. Edward Morris, a tenant in common, defendant in the above suit for partition.

10 The Highland Trust Company claims under an order drawn by Thomas E. Morris upon the Special Master, in whose hands the funds then were, signed June 13, 1914, delivered to the Trust Company, and shortly thereafter delivered to the Special Master.

20 The executors found their claim upon a judgment obtained by their testatrix on May 12, 1914, in the Hoboken District Court (as appears by the transcript of the judgment as docketed) against "Edward Morris" (Edward being a middle and not the Christian name), and afterwards, on May 14, 1914, docketed in the Court of Common Pleas of Hudson County.

It is stipulated in the agreed state of facts "That T. Edward Morris, defendant herein, is the "same person against whom said Louisa M. Tour-
 "nade obtained judgment in the District Court of
 "the City of Hoboken as hereinafter set forth.
 "That said Morris is sometimes known as T.
 30 "Edward Morris, sometimes as Thomas E. Morris,
 "sometimes as Eddie Morris, sometimes as Edward
 "Morris." From these facts it is argued by the executors that the judgment is good as against Thomas E. Morris, or T. Edward Morris, and therefore is good against the world. The record in the cause is also stipulated into the agreed state of facts.

In Dilts vs. Kinney, 15 N. J. L. (3 Gr.), 130, where the plaintiff sued as Margaret Kinney,
 40 Chief Justice Hornblower said: "It was sufficient

Opinion of Vice-Chancellor Griffin.

“if she was known as well by the name of Margaret Kinney as of Margaret N. Kinney, or “Margaret Ann Kinney. The law knows only of “one Christian name. Co. Litt. 3 a. Evans vs. “King, Willes R., 554; Franklin vs. Talmadge, 5 “Johns. R., 84. This is not like the case of vari-
 “ance between the writ and declaration as in
 “Bowen vs. Mulford, 4 Halst. R., 230; and Wilber
 “vs. Widnes, 1 Wend. R., 55.”

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In *Elberston vs. Richards*, 42 N. J. L. (13 Vr.), 69, where the attachment was taken out against Mrs. J. W. Elbertson, Mr. Justice Scudder said: “It must be stated with certainty who are the “parties to the suit, and actions to be properly “brought, must be commenced and prosecuted in “the proper Christian and surnames of the parties,”
 citing 1 Chitty Pl., 256. He excepted from this
 rule actions on promissory notes and similar in-
 struments excepted by the statute.

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In *Schaefer vs. Levenson Wrecking Co.*, 82 N. J. L. (53 Vr.), 61, Mr. Justice Trenchard said: “By “the common law, since the time of the Norman “conquest, a legal name has consisted of one “Christian or given name, and of one surname, “patronymic or family name. The surname, or “family name, of a person is that which is derived
 “from the common name of his parents, or is borne
 “by him in common with other members of his
 “family. The Christian name is that which is
 “given one after his birth, or at baptism, or is
 “afterwards assumed by him in addition to his
 “family name,”—and it appearing that the uncon-
 tradicted testimony was that the plaintiff’s name
 was H. Allen Schaefer, the Court held that the
 suit was properly instituted in that name.

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Other cases dealing with the question are *Seeley vs. O’Schenck*, and *Denise*, 2 N. J. L. (1 Penn.),

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Opinion of Vice-Chancellor Griffin.

75; Crandall vs. Denny & Co., *idem*, page 137; McCreedy vs. Vanneman, 3 N. J. L. (2 Penn.), 127, star page 870; Burns vs. Hall, *idem*., page 539, star page 984; Kearsley vs. Gibbs, 44 N. J. L. (15 Vr.), page 169; Leon vs. Dittman Powder Co., 42 N. J. L., page 540; McGrew vs. Steiner, 77 N. J. L. (48 Vr.), page 377.

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The stipulation does not state what Christian name was given Morris at birth or baptism. It is perfectly clear that it was not Edward. The fact that he was known as Thomas E. and Eddie indicates that the prefix "T" was intended for Thomas, and that his full name is Thomas Edward Morris. But following a not uncommon practice, he abbreviated his Christian name to its initial "T" and used the middle name in full, thus

20 adopting for general use the name T. Edward Morris. If reference be made to the Master's Report, it will appear from the proofs taken by the Master and annexed to the report that the name is Thomas Edward Morris; and consulting the searches of the records filed in the cause, the petition for letters of administration disclose his name to be Thomas E. Morris; and in a recorded mortgage made to Mary Goelz, a defendant, he is

30 described as Thomas E. Morris.

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In the absence of the admissions in the stipulation that he was known as Thomas E. (thus indicating in full his Christian name), and treating the case as though his proper name is T. Edward Morris, so as to bring it within the rule laid down in the Schaefer case, *supra*, he is still short of proof that the judgment was against the defendant in his proper name.

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Following the authorities above cited, am inclined to the view that a court of law, on proceedings properly instituted, would set aside the judg-

Opinion of Vice-Chancellor Griffin.

ment. But the judgment stands of record in full force and effect against Edward Morris, and the executors ask that it be given the effect of a judgment against Thomas E. Morris, or T. Edward Morris as against an innocent purchaser. By our statute, a judgment in the District Court may be docketed in the Court of Common Pleas, and when so docketed becomes a lien on lands, and the Clerk is required to note the judgment in a proper index. The object of this is to give notice to the world of the existence of the judgment and of its lien. Considering the law above set forth, would it be negligence on the part of a searcher to treat a judgment against Edward Morris as against Thomas E. Morris or T. Edward Morris? I think not. If the judgment, on a proper application, would be set aside in a court of law, by reason of the absence of the Christian name, or proper name of the party defendant, why should a searcher go farther when he finds that the Christian or proper name of the defendant in the judgment is not the Christian or proper name of the person against whom he is searching? To hold otherwise would greatly increase the expense in, and render more hazardous land transactions, and be contrary to the existing law.

The decree will be for the Trust Company. 30

The wife of Thomas also transferred her interest to the Trust Company, and as the allotment on the share of Thomas is insufficient to pay the Trust Company's claim, with interest and costs, it is unnecessary to pass upon the respective rights of the executors and Morris under the judgment, as between themselves.

Order.

IN CHANCERY OF NEW JERSEY.

Between

WILLIAM YUCKER et als.,
Complainants,
and

ARTHUR MORRIS et als.,
Defendants.

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Application having been made herein by petition duly filed on behalf of Antoinette J. Lentz and William G. Lentz, Executors of the Last Will and Testament of Louisa M. Tournade, deceased, for relief in connection with certain funds on deposit with the Clerk of this Court, representing the undivided share of the defendant T. Edward Morris in the proceeds of sale in the above entitled action, and the same coming on to be heard by consent and upon the said petition, and an agreed state of facts, and Mary Morris, the wife of T. Edward Morris, having filed her consent in writing agreeing to accept a lump sum in lieu of her dower, and having assigned said lump sum and all her interest in said fund to The Highland Trust Company of New Jersey by assignment filed herein, and no other persons being interested in said fund, and the said Thomas Edward Morris having filed an assignment of all his interest in said fund to the said Highland Trust Company of New Jersey, and no other persons being interested except said petitioners, Antoinette J. Lentz and William G. Lentz, the Highland Trust Company of New Jersey, said Mary Morris, and said T. Edward

Order.

Morris. And searches having been offered and filed from which it appears that no one acquired rights in said fund or liens on the lands as against the said Thomas E. Morris and wife from the date of filing the bill down to the sale of said lands, and the Court being of the opinion that The Highland Trust Company of New Jersey is entitled to be paid the whole of said sum of moneys so paid into Court representing the whole of said share of said Thomas E. Morris and also any sum or sums to which the said Mary Morris might be entitled in lieu of her dower in said fund. 10

IT IS, THEREFORE, on this fourteenth day of January, Nineteen Hundred and Sixteen, on motion of George J. McEwan, solicitor for The Highland Trust Company of New Jersey, and in the presence of Leon Abbett, Esq., solicitor for said petitioners, 20

ORDERED that said sum or amount of money in the hands of the Clerk of this Court as representing the undivided share of the defendant, Thomas E. Morris as aforesaid, be paid to The Highland Trust Company of New Jersey.

AND IT IS FURTHER ORDERED that the Clerk of this Court after deducting his lawful commissions upon the said deposit and paying to the solicitor for Highland Trust Company his costs to be taxed, do pay the remainder thereof together with accumulations on the said moneys deposited in Court, as representing the undivided share of Thomas E. Morris, according to the rules of this Court, to the said The Highland Trust Company of New Jersey or to its solicitor. 30 40

Order.

And it appearing that the proceeding taken by the petitioners was necessary in order to distribute said fund and if not taken by them, would necessarily be undertaken by The Highland Trust Company.

10 It is further ordered that the petitioners be allowed their costs to be taxed before any payment is made to Highland Trust Company.

E. R. WALKER,
C.

Respectfully advised,
JOHN GRIFFIN,
V. C.

20 We hereby consent to the making and entry of the foregoing order.

GEORGE J. McEWAN,
Solicitor of T. Edward Morris and
Mary Morris, defendants herein.

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Notice of Motion.

IN CHANCERY IN NEW JERSEY.

Between WILLIAM YUCKER, et als., Complainants, and ARTHUR MORRIS, et als., Defendants.	}	On Bill, &c.,	10
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Take notice that on Tuesday, the 7th day of September, 1915, at 10 o'clock in the forenoon, or as soon thereafter as counsel can be heard, at the Chancery Chambers in the City of Jersey City, I will present the annexed petition to the Chancellor, and apply for the relief prayed for in said Petition. 20

Dated, August 24, 1915.

Yours, &c.,

LEON ABBETT,
 Solicitor of Defendants Antoinette
 J. Lentz and William G. Lentz,
 Executors, &c., of Louisa M.
 Tournade, Deceased. 30

To
 T. EDWARD MORRIS,
 Defendant.

MARY MORRIS,
 Defendant.

THE HIGHLAND TRUST COMPANY OF NEW JERSEY,
 Dougal Herr, Esq.,
 Special Master. 40

Petition.

IN CHANCERY OF NEW JERSEY.

10	Between WILLIAM YUCKER, et als., Complainants, and ARTHUR MORRIS, et als., Defendants.	}	On Bill, &c.
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The Petition of Antoinette J. Lentz and William G. Lentz, Executors of the Last Will and Testament of Louisa M. Tournade, deceased respectfully shows:

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1. That on the twelfth day of May, nineteen hundred and fourteen, Louisa M. Tournade, since deceased, recovered a judgment against T. Edward Morris, one of the defendants in the above entitled cause, in the District Court of the City of Hoboken, for the sum of One hundred and thirteen dollars and fifty-nine cents (\$113.59) damages, and Nine dollars and forty-seven cents (\$9.47) costs; and she thereupon caused a transcript of said judgment to be docketed, on the fourteenth day of May, nineteen hundred and fourteen, in the office of the Clerk of the Court of Common Pleas in and for the County of Hudson, the costs upon such docketing being Two dollars and seventy-five cents (\$2.75). That the total amount due upon said judgment is the sum of One hundred and twenty-five dollars and eighty-one cents (\$125.81) with interest thereon from the said fourteenth day of May, nineteen hundred and fourteen, no part of which said sum has been paid.

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Petition.

2. The said judgment, by virtue of the docketing thereof as aforesaid, became and remained a lien upon the lands described in the bill of complaint in this cause, to the extent of the undivided share or interest therein of the said defendant T. Edward Morris.

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3. That said Louisa M. Tournade was not made a party to said suit because the said bill of complaint was filed prior to the docketing of said judgment. That immediately upon learning of the filing of said bill and of the interest of said T. Edward Morris therein, said Louisa M. Tournade made application herein to be made a party defendant, and an order was duly made on the seventh day of December, nineteen hundred and fourteen, admitting her as a party defendant, and which said order contained other provisions—copy of said order is hereto annexed.

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4. That the lands and premises described in the bill of complaint herein were sold by Dougal Herr, special master appointed for that purpose, on the sixth day of October, nineteen hundred and fourteen, for Five thousand seven hundred dollars, which said sale was confirmed on the second day of December, nineteen hundred and fourteen. That a deed of said premises was delivered to the purchaser thereof. That said Special Master has distributed amongst the parties interested in the fund produced by said sale, the amounts due to them respectively, with the exception of the balance of the share or interest of said T. Edward Morris, which said balance is held by said Special Master in pursuance of the order made herein on the seventh day of December, nineteen hundred and fourteen. That said balance or share of the in-

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Petition.

terest of said T. Edward Morris now in the hands of said Special Master is One hundred and ninety-three dollars and seventy cents (\$193.70).

10 5. That Mary Morris, one of the defendants herein and who is the wife of said T. Edward Morris, claims to have an interest in said fund by reason of her inchoate right of dower in the share or interest of said T. Edward Morris in the said lands and premises.

20 6. That in or about the month of June, nineteen hundred and fourteen, the said defendant T. Edward Morris, signed a request that any Special Master appointed to sell the premises described in the bill of complaint herein, deduct from his distributive share the sum of One hundred and thirty dollars (\$130) and interest, stated to be due The Highland Trust Company of New Jersey, which said request or notice was delivered to Dougal Herr, Esquire, the Special Master appointed to sell said premises. That a copy of said notice or request is hereto annexed. That by reason of said notice or request the said The Highland Trust Company of New Jersey claims to have
30 an interest or right in and to said fund.

7. That the defendant T. Edward Morris is the same person against whom Louisa M. Tournade obtained judgment in the District Court of the City of Hoboken, during her lifetime, as hereinbefore set forth.

40 8. That on or about the fifteenth day of May, nineteen hundred and fifteen, the said Louisa M. Tournade departed this life, leaving a last Will and Testament, wherein and whereby she nomin-

Petition.

ated and appointed your petitioners as her executors; that said last Will and Testament was duly admitted to probate by the Surrogate of the County of Hudson on the twenty-eighth day of May, nineteen hundred and fifteen, and Letters Testamentary thereon were duly issued to your petitioners. That on the nineteenth day of August, nineteen hundred and fifteen, an Order of Revival was made herein, and your petitioners were made defendants herein in the place and stead of said Louisa M. Tournade, deceased, succeeding to all of the rights of the said Louisa M. Tournade, deceased, herein. 10

Your petitioners therefore pray that one or more orders may be made herein vacating that part of the order made herein on the seventh day of December, nineteen hundred and fourteen, which reads as follows, to-wit: 20

“And it is further ordered that the said Dougal Herr, Special Master, hold and retain in his hands any sum or amount which may be found to be the undivided share of the said T. Edward Morris in and to the proceeds of sale in the above entitled cause, subject to the further order of the Court herein.”

And directing the said Special Master to pay into this Court the said sum of One hundred and ninety-three dollars and seventy cents (\$193.70), now in his hands as the share or interest of said T. Edward Morris (defendant herein), in and to the proceeds of sale in the above entitled cause. And also that the Clerk of this Court may be directed to invest one-third of said sum so to be paid into Court, and that the income therefrom be paid to said T. Edward Morris, for life, and after his death, said income to be paid to Mary 30
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Petition.

10 Morris, wife of said T. Edward Morris, if she survive him; and also that said Clerk be further directed to pay the remaining two-thirds of said sum, after the payment of the costs of Louisa M. Tournade, now deceased, and of Antoinette J. Lentz and William G. Lentz, as Executors of the last Will and Testament of Louisa M. Tournade, deceased, to be taxed, to your petitioners on account of the amount due on the judgment obtained by said Louisa M. Tournade during her lifetime against said T. Edward Morris, in the District Court of the City of Hoboken, upon which said judgment there is now due the sum of One hundred and thirteen dollars and fifty-nine cents (\$113.59) damages, Nine dollars and forty-seven cents (\$9.47) costs, and Two dollars and seventy-five cents (\$2.75) costs of docketing, besides interest on said several amounts from the fourteenth day of May, nineteen hundred and fourteen.

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And that your petitioners may have such further and other relief in the premises as may be just and equitable.

And your petitioners will ever pray, &c.,

30 ANTOINETTE J. LENTZ
and WILLIAM G. LENTZ,
Executors of the last Will and Testament
of Louisa M. Tournade, deceased,
By WILLIAM G. LENTZ, Executors,
Petitioners.

LEON ABBETT,
Solicitor of Petitioners.

Petition.

State of New Jersey, }
 County of Hudson, } ss.:

William G. Lentz, of full age, being duly sworn on his oath according to law, says: That he is one of the petitioners in the foregoing petition named; that he has read the foregoing petition and knows the contents thereof, and that the same is true. 10

WILLIAM G. LENTZ.

Subscribed and sworn to before me,
 at Hoboken, N. J., this 24th day of August, 1915.

JNO. S. MABON,
 Master in Chancery of New Jersey. 20

(Copy Order of Dec. 14, 1914, attached.)

(Copy Notice dated June 13, 1914, from Thomas E. Morris to Special Master attached.)

(Above Order and Notice are attached to agreed state of facts.)

(An order, by consent, was made directing Dougal Herr, the Special Master, to pay Morris' distributive share into Court, which was done.) 30

Agreed Facts.

That on May 12, 1914, Louisa M. Tournade recovered a judgment against said T. Edward Morris, in the Hoboken District Court; a copy of a Transcript of said Judgment is hereto annexed, marked Schedule 1.

That by an order made herein on December 7, 1914, said Louisa M. Tournade was admitted as a party defendant herein; a copy of said order is hereto annexed marked Schedule 2. That said Louisa M. Tournade died on or about May 15, 1915; that an order of Revival was made herein on August 19, 1915, a copy whereof is hereto annexed, marked Schedule 3. 10

That on or about June 13, 1914, a paper was signed by said T. Edward Morris, and delivered to The Highland Trust Co. of New Jersey, and shortly thereafter said paper was delivered to said Dougal Herr, Special Master, a copy of which paper is hereto annexed, marked Schedule 4. 20

That said T. Edward Morris is married, and his wife's name is Mary Morris.

That said T. Edward Morris, defendant herein, is the same person against whom said Louisa M. Tournade obtained judgment in the District Court of the City of Hoboken, as hereinbefore set forth. That said Morris is sometimes known as T. Edward Morris, sometimes as Thomas E. Morris, sometimes as Eddie Morris, and sometimes as Edward Morris. 30

That said T. Edward Morris and said Mary Morris defendants herein, and said The Highland Trust Company of New Jersey, are represented herein by George McEwan, Esquire, as their solicitor; that Antoinette J. Lentz and William G. Lentz, Executors of the Last Will and Testament of Louisa M. Tournade, deceased, are represented herein by Leon Abbett, Esquire, as their solicitor. 40

Agreed Facts.

Annexed hereto is a copy of the subpoena issued in the above entitled cause, marked Schedule 5.

Annexed hereto is a copy of a further paper executed and delivered by said Morris and his wife, marked Schedule 6.

10 Dated, September 20th, 1915.

LEON ABBETT,
Solicitor of Antoinette J. Lentz, &c.,
Executors of Louisa M. Tournade,
deceased, defendants and peti-
tioners.

20 GEORGE McEWAN,
Solicitor of T. Edward Morris and
Mary Morris, defendants herein,
and The Highland Trust Company
of New Jersey.

DOUGAL HERR,
Special Master.

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Schedule 1.

State of New Jersey, } ss. :
 Hudson County, }

HUDSON COUNTY COURT OF COMMON
 PLEAS.

<p style="text-align: center;">LOUISA M. TOURNADE, Plaintiff,</p> <p style="text-align: center;">vs.</p> <p style="text-align: center;">EDWARD MORRIS, Defendant.</p>	}	<p style="text-align: center;">In Contract. Dougal Herr, Plaintiff's Attorney.</p>	10
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Judgment docketed from District Court of Hoboken, was rendered in said Court in the above stated action on contract in favor of the plaintiff and against the said defendant, on the twelfth day of May, A. D. 1914, for the sum of One hundred and thirteen dollars and fifty-nine cents debt and Nine dollars and forty-seven cents costs of suit, and Two dollars and seventy-five cents costs of docketing in this Court. 20

	IN TESTIMONY WHEREOF, I have here-	30
Debt, \$113.59	unto set my hand and affixed	
Costs, 9.47	the seal of the said Court and	
Dktg., 2.75	County, at Jersey City, in the	
_____	County and State aforesaid, this	
\$125.81	10th day of February, A. D. 1915.	

(Seal)

JOHN F. CROSBY,
 Clerk.

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Schedule 2.

IN CHANCERY OF NEW JERSEY.

10	Between WILLIAM YUCKER, et als., Complainants, and ARTHUR MORRIS, et als., Defendants.	}	On Bill, &c. Order.
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20 An order to show cause having been made herein on the petition of Louisa M. Tournade to be made a party defendant herein and for other relief, returnable this day; and the Court having heard Leon Abbett, Esquire, of counsel and on behalf of the petitioner, and no one appearing on behalf of the complainants or on behalf of the defendant T. Edward Morris; and it appearing that there is due to the said Louisa M. Tournade from the defendant T. Edward Morris on her judgment against him obtained in the District Court of the City of Hoboken, docketed in the office of the Clerk of the Hudson County Court of Common Pleas, on the

30 fourteenth day of May, nineteen hundred and fourteen, the sum of One hundred and twenty-five dollars and eighty-one cents with interest from the fourteenth day of May, nineteen hundred and fourteen, which said judgment is a lien against the undivided share of the said T. Edward Morris in and to the proceeds of sale in this cause, subject only to the lien of the mortgage of the defendant, Mary Goelz, and to the inchoate right of dower of Mary Morris, wife of the said T. Edward Morris therein; and it appearing that the lands and premises described in the bill of complaint filed herein

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Schedule 2.

have been sold under an order of this Court by Dougal Herr, Esquire, one of the Special Masters of this Court;

It is therefore, on this seventh day of December, nineteen hundred and fourteen, on motion of Leon Abbett, solicitor of the petitioner, Louisa M. Tournade, Ordered that said Louisa M. Tournade be admitted as a party defendant in the above entitled cause with all the rights of a judgment-creditor against the defendant T. Edward Morris. 10

And it is further ordered that the said Dougal Herr, Special Master, hold and retain in his hands any sum or amount which may be found to be the undivided share of the said T. Edward Morris in and to the proceeds of sale in the above entitled cause, subject to the further order of the Court herein. 20

Respectfully advised

VIVIAN M. LEWIS,
V. C.

E. R. WALKER,
C.

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Schedule 4.

Executors of the last Will and Testament of Louisa M. Tournade, deceased, be made defendants herein, in the place and stead of said Louisa M. Tournade, deceased, and succeed to all the rights of the said Louisa M. Tournade, deceased, herein.

Respectfully advised

JAMES BUCHANAN,

A. M.

E. R. WALKER,

C.

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Schedule 4.

IN CHANCERY OF NEW JERSEY.

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Between

WILLIAM YUCKER, et als.,
Complainants,
and

ARTHUR MORRIS, et als.,
Defendants.

On Bill to
Partition.
Request of
Thomas E.
Morris.

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To any Special Master who may hereafter be appointed by the Chancellor to sell the premises described in the bill of complaint herein and to distribute the proceeds thereof;

You are hereby requested to deduct from my distributive share of the proceeds of the sale of the premises described in the bill of complaint herein, the sum of One hundred and thirty dollars (\$130) and interest from April twenty-sixth, nineteen hundred and fourteen, together with protest fees amounting to One dollar and sixty cents (\$1.60),

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Schedule 5.

and to pay the same to the order of The Highland Trust Company of New Jersey.

Dated, June 13, 1914.

THOMAS E. MORRIS,
Defendant.

10 Witness
FREDK. E. BAUER.

Schedule 5.

(Seal) New Jersey, to wit: The State of New Jersey to Arthur Morris and Elizabeth Morris, T. Edward Morris and Mary Morris and Mary Goelz.

20 Greeting: We command you, that you appear in manner and form required by law in our Court of Chancery, on the 5th day of May, 1914, at Trenton, to answer to a bill of complaint exhibited against you in our said Court by Wm. Yucker, Ella Yucker and Viola B. Yucker, Minnie Yucker, Thos. W. Yucker, Eva B. Yucker, Lillian A. Yucker and Florence M. Yucker by next friend, Margaret J. Ruch and Howard C., her husband and George W. Morris,

30 And to do further and receive what our said Court shall have considered in that behalf; and this you are not to omit, under the penalty that may fall thereon.

Witness, his honor, Edwin Robert Walker, Chancellor of our said State, at Trenton, the 28th day of April, in the year of our Lord one thousand nine hundred and fourteen.

ROBT. H. McADAMS,
Clerk.

40 FRED'K K. HOPKINS,
Sol'r.

Bill of complaint was filed before the issuance of above subpoena.

Schedule 6.

IN CHANCERY OF NEW JERSEY.

Between

WILLIAM YUCKER, et als.,
Complainants,

and

ARTHUR MORRIS, et als.,
Defendants.

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WHEREAS, there was distributed to Thomas E. Morris, his share in the lands sold in the above entitled cause, the sum of \$193.70; and

WHEREAS, Mary Morris, the wife of said Thomas E. Morris, is entitled to dower in the lots sold under the proceedings in the above cause, and her said estate having been sold and conveyed to the purchaser,

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NOW, THEREFORE, the said Mary Morris, doth hereby consent and elect to receive and accept, in lieu thereof, the sum of out of the proceeds of the sale, as a just and reasonable satisfaction for said estate, and we, the said Thomas E. Morris and said Mary Morris, do hereby consent and agree that the said amount shall be paid to The Highland Trust Company by the Special Master, as and for full satisfaction of the said estate in dower of said Mary Morris, and of any claim which said Thomas E. Morris might or could have in and to said sum, and we do hereby sell, assign, transfer, and set over unto The Highland Trust Company, its successors and assigns, the said sum of money and the estate and

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Schedule 6.

interest therein, which we or either of us have or could or might have, and

10 WHEREAS, the said Thomas E. Morris hath heretofore sold and assigned his interest in his said share in said estate to The Highland Trust Company, and I, the said Mary Morris, wife of said Thomas E. Morris, do hereby consent to said assignment and the payment of said share to said Highland Trust Company, its successors and assigns, and thereof and therefrom by these presents we do fully, clearly and absolutely acquit, release and forever discharge the said Dougal Herr, Special Master, his heirs, executors and administrators.

20 WITNESS our hands and seals this twenty-fourth day of March, A. D. Nineteen hundred and fifteen.

THOMAS E. MORRIS (L. S.).

MARY C. MORRIS (L. S.).

Signed, sealed and delivered
in the presence of

30 FRED'K E. BAUER.

State of New Jersey, }
County of Hudson, } ss.:

40 Be it remembered, that on this twenty-fourth day of March, in the year of Our Lord One thousand nine hundred and fifteen, before me, the subscriber, personally appeared Thomas E. Morris and

Schedule 6.

Mary Morris, who, I am satisfied are the grantors mentioned in the within instrument to whom I first made known the contents thereof, and thereupon they acknowledged that, they signed, sealed and delivered the same as their voluntary act and deed, for the uses and purposes therein, expressed, and the said Mary Morris, being by me privately examined, separate and apart from her said husband, further acknowledged that she signed, sealed and delivered the same as her voluntary act and deed, freely, without any fear, threats or compulsion of her said husband. 10

FRED'K E. BAUER,
Master in Chancery of N. J.

State of New Jersey, }
County of Hudson, } ss. : 20

Mary Morris being duly sworn on her oath according to law doth depose and say that she is the wife of Thomas E. Morris; that said Thomas E. Morris and this deponent were defendants in the partition suit of William Yucker, et al., complainants, and Arthur Morris, et al., defendants; that this deponent was forty-three years of age at her last birthday and that she is in a fairly good condition of health. 30

MARY C. MORRIS.

Subscribed and sworn to before me this
24th day of March, A. D. 1915.

FRED'K E. BAUER,
Master in Chancery of New Jersey.

(This paper was filed in the Court of Chancery in January, 1916.) 40

Extract from Record in Partition Suit.

Attached to the Master's Report in the proceedings in the partition suit, is a deposition of George Morris, a son of Thomas Morris (the common ancestor from whom the lands descended), and said George Morris, in his said deposition, gives the names and particulars of the various heirs who were entitled to an estate in the lands and premises, and he therein says, referring to said T. Edward Morris, as follows: "Thomas E. Morris, who is also known as Edward Morris, he is now married and his wife's name is Mary Morris, she is alive."

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