

0753

BOX:

23

FOLDER:

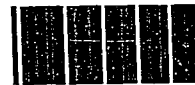
290

DESCRIPTION:

Berdell, Robert

DATE:

11/26/80



290

Bail

William H. Harewood
381 Bridge St.
Brooklyn

\$5000.

Dec 1. 1880.

Monday

P 2

of Trial,
counsel,
at 26 day of Nov 1880
Bonds

THE PEOPLE

vs.

I assign B.

Robert H. Fordell.

Benjamin K. Phelps,
District Attorney.

Under authority of the
Bail Appointed & entered,
A True Bill.

W. H. Harewood

Foreman.

Eliza W. Parkhurst ^{now} ~~was~~ ^{nearly} eighty years
 of age complains that Robert H. Berdell committed
 Robert H. Berdell committed perjury in an action in
 which she was plaintiff and Berdell defendant, tried
 before Hon. B. J. Sullivan, Referee, in 1849.

- Facts -

Mrs Parkhurst was a widow and became
 a member of Mr Berdells family at his re-
 quest in 1867, and was at that time the
 owner of good interest paying securities to the
 amount of ^{about} \$60,000. On 1869, while thus a
 member of Mr Berdells family, he borrowed
 these securities of her giving her a receipt
 therefor, naming, them, and agreeing to return
 them on demand. This was all the prop-
 erty that Mrs Parkhurst had.

Berdell executed a mortgage
 upon property in 118th street, New York to
 secure a return of said securities.

He sold some portion of

the bank stock which he borrowed, and collected the coupons of the bonds and dividends of the remaining bank stock, and after paying Mrs Parkhurst what money she wanted through the year for expenses gave her a note on the 1st of January 1869, for the money remaining in his hands, growing out of the sale of the bank stock and such collections.

He thereafter on the first of January, in each and every year, had a settlement with Mrs Parkhurst in which he charged her with the moneys paid during the year, and crediting her with the amounts that he had collected, together with the interest on the current note, and gave her a new note for the balance due.

This was continued from 1840, to 1845 inclusive, and on the 1st of January of that year he gave her a note for \$34,560.

In 1844 Rudell got into pecuniary difficulty and desired Mrs Parkhurst to satisfy the mortgage he had given her on the 118th Street property, so that he might convey it to the Central State

Park in settlement of the claim it had against him, and promised if she would do so, to give her another mortgage for an amount and for the ^{like} purpose upon his property in Goshen.

The mortgage was satisfied and a new mortgage was executed and ^{was thereupon} delivered by Mrs Parkhurst to Mr Sedell to be put on record after a given time.

In 1845 Sedell's wife was compelled to leave him and did so. Mrs Parkhurst accompanying her.

Mrs Parkhurst then demanded a settlement with Sedell, and a return of her securities, and also that the mortgage upon the Goshen property be put on record.

He denied that he had borrowed the securities from her, or that he had ever executed a mortgage upon the Goshen property.

Mrs Parkhurst filed

a bill to compel an accounting and the delivery to her of the bond and mortgage.

The case was referred to Gen. D. Sullivan Esq. and on the trial before him. Purcell swore that in 1869, he sold to Mrs Parkhurst twenty vacant lots in the City of Brooklyn for the consideration of \$30,000, and that she still owed him that sum with interest from the time of purchase, and claimed that it be allowed to him as an offset in that suit to the claims of Mrs Parkhurst.

In confirmation of this he produced a deed from him to Mrs Parkhurst for said twenty lots for the consideration of \$30,000.

He testified that the sale of said lots was made in good faith, and that Mrs Parkhurst owed him the consideration and interest therefor.

To prove that this testimony was false the following facts will be presented.

1. Mrs Parkhurst will

testify that she never made any contracts with Rudell for the purchase of these lots, nor did she ever have any conversation with him in regard to the purchase of them; that Rudell was in litigation with a former partner of his in 1869 who claimed that these twenty lots were partnership property; that sometime in that year Rudell came to her and stated, "I have put a deed on record to you for some lots in Brooklyn." She replied in some way assenting to it, without knowing why it was done or what the terms of the deed were. On a short time Mrs Parkhurst became very ill and Rudell came to her bed room, with a notary public, and asked her to execute a paper, which she did without knowing what it was.

There will be produced from the records in Brooklyn an exemplified copy of the deed from Mrs Parkhurst to Theodore P.

deed and it will be proved by the Notary Public, that that is the paper that was executed as last mentioned.

A short time after the execution of the last named deed, the said Birdell conveyed the same twenty lots to Robert H. Birdell his father.

Mrs Parkhurst will testify that she never knew when said lots were conveyed to her until Mr Birdell gave his evidence as above stated.

The deed to Mrs Parkhurst is in consideration of \$30,000, and that sum is acknowledged to have been paid in the deed itself.

Birdell testified that he took back no bond and mortgage to secure the purchase money, nor any other instrument designed for that purpose, nor was there any part of the purchase money paid at the time of the pretended sale.

Birdell also testified

that from 1869. when the sale was said to have been made, up to 1876 he never made any claim against Mrs Parkhurst for the Consideration money or any part thereof, neither did he at any time in annual settlements with Mrs Parkhurst as heretofore stated when he gave her notes for the amounts due, even suggest that she was indebted to him in any amount whatever.

The action of Mrs Parkhurst against Mr Budell was commenced in 1875. The original answer of Budell did not set up this claim of \$30,000. and interest, nor was it set up until 1879 after the trial had been going on three years when the application to amend the answer was made; and the claim was for the first time insisted upon.

0762

111 Burdell
Parkhurst

Teyle
Capt

Robert H. Bendall

permanently

Wetmore
Chgo. to Parkhurst

0763

Court of General Sessions, Part II

THE PEOPLE

INDICTMENT

vs.

For

Robert H. Birdell

To

M

Robert H. Birdell

No.

Street.

The indictment against ^{you} ~~the~~ above-named defendant, for ~~whose~~ appearance you are ~~bound~~, has been placed upon the Calendar for part 2 at the Court of GENERAL SESSIONS of the Peace, at the Sessions Building, adjoining the New Court House, in the Park of the said City, on Monday the 10th day of April instant, at eleven o'clock in the forenoon. to fix a

day for trial If the defendant is not produced ^{you are not present} at that time, your bond will be forfeited.

DANIEL G. ROLLINS,

John M. Nixon District Attorney.

0764

Do not place the
case in the calendar
for Monday
Paul is still present

#2 6/80

See 17

City and County Jss.
of New York

The jurors of the People of the State of New York in and for the body of the City and County of New York upon their oath present:

That on the twenty-fourth day of December in the year of our Lord one thousand eight hundred and seventy-six and theretofore and at and during all the times hereinafter set forth there was an action suit and cause depending in the Supreme Court of the State of New York a Court then and there having jurisdiction thereof in which said suit cause and action one Eliza W. Parkhurst was the plaintiff and one Robert H. Berdell was the defendant and which said suit cause and action was brought by the said Eliza W. Parkhurst plaintiff as aforesaid against the said Robert H. Berdell as such defendant ^{as aforesaid} for and to compel an accounting by the said defendant to the said plaintiff for certain bonds and certificates and money alleged in the pleadings and proceedings in said action to have been loaned by the said plaintiff to the

said defendant, and to compel the said defendant to deliver up to the said plaintiff a certain bond for the payment of Eighty thousand dollars, together with a certain mortgage to secure the same upon certain lands tenements and hereditaments situate at Goshen in the County of Orange in the State of New York executed by said Robert K. Bédell and Harriet B. Bédell his wife to the said Eliza H. Parkhurst, and to have the amount of money due and found due to the said Eliza H. Parkhurst as such plaintiff as aforesaid by the said Robert K. Bédell such defendant as aforesaid by reason of said certain bonds, certificates and money so loaned by the said plaintiff to the said defendant as aforesaid, and the said bond and mortgage, declared and adjudged to be a lien upon the said certain lands, tenements and hereditaments at Goshen in the County of Orange and State of New York as by reference to the said pleadings and proceedings in the said suit cause and action more fully and at large appears.

And the Jurors aforesaid upon

their oaths as aforesaid do further present.

That issues were duly and regularly joined in said cause and action by and between the said Eliza W. Parkhurst as such plaintiff as aforesaid and the said Robert H. Berdell as such defendant as aforesaid and thereafter and on the twenty fourth day of June in the year of our Lord One thousand eight hundred and seventy-six, the said suit, cause and action, and all the issues therein, and the issues joined therein as aforesaid were duly and regularly referred by an order of the said Supreme Court of the State of New York to Benjamin D. Silliman as sole referee to hear, try and determine the same.

And the Jurors aforesaid upon their oath aforesaid, do further present:

That the said suit, cause and action regularly came on to be tried, and was tried, in due form of law, at the said City of New York and County of New York aforesaid, by and before the said Benjamin D. Silliman, as such Referee as aforesaid, and that upon such trial at the said City of New York in the County of New York aforesaid, on the twenty sixth day of

October in the year of our Lord one thousand eight hundred and seventy nine, appeared before the said Benjamin D. Silliman as such Referee as aforesaid, the said Robert H. Berdell as a witness on his own behalf, and he the said Robert H. Berdell was ^{then and there} duly sworn by and took his corporal oath before the said Benjamin D. Silliman as such Referee as aforesaid to speak the truth, the whole truth, and nothing but the truth touching the matters in such issues joined as aforesaid, in the suit cause and action aforesaid, he the said Benjamin D. Silliman such Referee as aforesaid, having then and there sufficient and competent power and authority to administer the said oath to him the said Robert H. Berdell in that behalf, and that at and upon such trial of such suit, cause and action as aforesaid, and of the issues joined therein as aforesaid, the following became and were material matters, in substance and to the effect following that is to say: whether the said Robert H. Berdell had sold to her the said Eliza M. Parkhurst twenty lots in the City of Brooklyn for

thirty thousand dollars: whether he the said Robert H. Berdell and she the said Eliza W. Parkhurst ever agreed together, that he the said Robert H. Berdell would sell to her the said Eliza W. Parkhurst, and she the said Eliza W. Parkhurst would purchase twenty certain lots, pieces and parcels of land situate in the City of Brooklyn County of Kings and State of New York; whether a conversation was had by and between them the said Robert H. Berdell and the said Eliza W. Parkhurst wherein and whereby the said Robert H. Berdell and the said Eliza W. Parkhurst had agreed together, the said Robert H. Berdell to sell to her the said Eliza W. Parkhurst and the said Eliza W. Parkhurst to purchase from him the said Robert H. Berdell the said twenty lots pieces and parcels of land situate in the City of Brooklyn, County of Kings and State of New York which resulted in her the said Eliza W. Parkhurst buying the said twenty lots, pieces and parcels of land so situate as aforesaid, and that he the said Robert H. Berdell sold the said twenty lots pieces and parcels of land to her the said Eliza W. Parkhurst and

gave her a deed thereof - Whether a conversation had by and between them the said Robert H. Berdell and the said Eliza W. Parkhurst to the effect that he the said Robert H. Berdell would sell, and she the said Eliza W. Parkhurst would purchase said twenty lots, pieces and parcels of land, and which resulted in his the said Robert H. Berdell selling and giving a deed of said twenty lots, pieces and parcels of land to the said Eliza W. Parkhurst for thirty thousand dollars, and she the said Eliza W. Parkhurst buying the same was intended as an actual and bona fide sale to her the said Eliza W. Parkhurst of said twenty lots, pieces and parcels of land. Whether the giving by him the said Robert H. Berdell to her the said Eliza W. Parkhurst a deed of said twenty lots, pieces and parcels of land was intended as an actual and bona fide sale of the said twenty lots, pieces and parcels of land, without any intention on the part of him the said Robert H. Berdell to get the said twenty lots, pieces and parcels of land back.

Whether there was a bargain by and between the said Robert H. Berdell and the said Eliza W. Parkhurst whereby the said Robert H. Berdell was to be paid for the said twenty lots, pieces and parcels of land by the said Eliza W. Parkhurst, by and out of certain securities (a more particular description of which is to these Jurors unknown and cannot now be given) and the proceeds of the sale thereof, which said securities she the said Eliza W. Parkhurst claimed one Theodore Berdell son of the said Robert H. Berdell had, belonging to her the said Eliza W. Parkhurst.

Whether she the said Eliza W. Parkhurst claimed to him the said Robert H. Berdell that said Theodore Berdell the son of the said Robert H. Berdell had certain securities (a more particular description of which is to these Jurors unknown and cannot now be given) belonging to her the said Eliza W. Parkhurst.

Whether there was a bargain by and between the said Robert H. Berdell and the said Eliza W. Parkhurst whereby the said Robert H. Berdell was to be

paid for said twenty lots, pieces and parcels of land by the said Eliza W. Parkhurst from and out of said securities which he the said Theodore Berdell, son of him the said Robert H. Berdell was to sell, and out of the proceeds of such sale pay to the said Eliza W. Parkhurst thirty thousand dollars to pay to him the said Robert H. Berdell.

And the Jurors aforesaid upon their oath aforesaid do further present.

That the said Robert H. Berdell being so duly sworn as aforesaid, and being then and there lawfully required to depose the truth in the said cause suit and action, and the issue joined therein as aforesaid, at and upon the trial aforesaid, at the City and County aforesaid, then and there falsely, wickedly, wilfully, feloniously and corruptly upon his oath aforesaid; did say, swear, make oath, testify and depose among other things in substance and to the effect following that is to say:

- I can tell nothing more than we agreed together, that he the said Robert H. Berdell and she the said

Eliza W. Parkhurst agreed together, that he the said Robert H. Berdell would sell to her the said Eliza W. Parkhurst, and she the said Eliza W. Parkhurst would purchase from him the said Robert H. Berdell twenty certain lots, pieces and parcels of land situate in the City of Brooklyn, County of Kings and State of New York meaning thereby.

Nothing was said by either the said Robert H. Berdell or the said Eliza W. Parkhurst to the other more definite than a conversation to that effect which resulted in the said Eliza W. Parkhurst buying them, and I sold them to and gave her a deed for them (meaning thereby that a conversation was had by and between them the said Robert H. Berdell and the said Eliza W. Parkhurst wherein and whereby the said Robert H. Berdell and the said Eliza W. Parkhurst had agreed together, the said Robert H. Berdell to sell to her the said Eliza W. Parkhurst, and the said Eliza W. Parkhurst to purchase from him the said Robert H. Berdell the aforesaid twenty certain lots pieces and parcels of land situate in

the City of Brooklyn, County of Kings and State of New York, which resulted in her the said Eliza W. Parkhurst buying the said twenty lots, pieces and parcels of land, and that he the said Robert H. Berdell sold the said twenty lots, pieces and parcels of land to her the said Eliza W. Parkhurst and gave her a deed thereof.)

That was intended as a bona fide sale of the property to her (meaning thereby that a conversation had by and between them the said Robert H. Berdell and the said Eliza W. Parkhurst to the effect that he the said Robert H. Berdell would sell and she the said Eliza W. Parkhurst would purchase said lots, pieces and parcels of land and he the said Robert H. Berdell selling and giving a deed of said lots, pieces and parcels of land to her the said Eliza W. Parkhurst, and she the said Eliza W. Parkhurst buying the same was intended as an actual and bona fide sale to her the said Eliza W. Parkhurst of said lots, pieces and parcels of land.)

That it was intended as a bona fide sale of the property ^{to} of her (That

and giving by him the said Robert H. Berdell to her the said Eliza W. Parkhurst a deed of said lots, pieces and parcels of land was intended as an actual and bona fide sale of the said lots, pieces and parcels of land to her the said Eliza W. Parkhurst, without any intention on the part of him the said Robert H. Berdell to get the said lots, pieces and parcels of land back meaning thereby.)

That I (he the said Robert H. Berdell - thereby meaning) gave her (the said Eliza W. Parkhurst thereby meaning) a deed for them (the said lots, pieces and parcels of land thereby meaning)

That the bargain was (that there was a bargain by and between the said Robert H. Berdell and the said Eliza W. Parkhurst meaning thereby) that (whereby, meaning thereby) I (the said Robert H. Berdell meaning thereby) was to be paid for (to be paid for the said twenty lots, pieces and parcels of land meaning thereby) by and out of said securities, and the selling (and the

proceeds of the sale of said securities meaning thereby) of said securities and which securities she the said Eliza W. Parkhurst claimed Theodore Berdell the son of the said Robert H. Berdell had belonging to her the said Eliza W. Parkhurst, securities which she claimed Theodore had of her.

That she the said Eliza W. Parkhurst claimed to him the said Robert H. Berdell that said Theodore Berdell had securities meaning thereby.)

That there was a bargain between me and Mrs. Parkhurst that Theodore was to sell the securities and pay me thirty thousand dollars (that there was a bargain by and between the said Robert H. Berdell and the said Eliza W. Parkhurst whereby the said Robert H. Berdell was to be paid for said twenty lots, pieces and parcels of land by the said Eliza W. Parkhurst from and out of said securities which he the said Theodore Berdell the son of him the said Robert H. Berdell was to sell and out of the proceeds of such sale to pay to the said Eliza W. Parkhurst thirty thousand dollars

to pay to him the said Robert H. Berdell meaning thereby.)

Whereas in truth and in fact he, the said Robert H. Berdell never sold to the said Eliza W. Parkhurst twenty lots in the City of Brooklyn, and the said Robert H. Berdell and she the said Eliza W. Parkhurst never agreed together at all that he the said Robert H. Berdell would sell to her the said Eliza W. Parkhurst, or that the said Eliza W. Parkhurst would purchase from him the said Robert H. Berdell twenty or any, certain lots, pieces or parcels of land situate in the City of Brooklyn, County of Kings and State of New York, or elsewhere in the City County and State ^{last} aforesaid.

Whereas in truth and in fact no conversation whatever was ever had by and between the said Robert H. Berdell and the said Eliza W. Parkhurst and whereby the said Robert H. Berdell and the said Eliza W. Parkhurst had agreed together the said Robert H. Berdell to sell to her the said Eliza W. Parkhurst, and the said Eliza W. Parkhurst to purchase from him the said Robert H. Berdell the aforesaid twenty lots, pieces and parcels of land, so

situate as aforesaid, which resulted in her the said Eliza W. Parkhurst buying the said twenty lots, pieces and parcels of land or any of them.

Whereas in truth and in fact, he, the said Robert N. Berdell never sold the said twenty lots, pieces and parcels of land nor any of them, to her the said Eliza W. Parkhurst, and never gave to her the said Eliza W. Parkhurst any deed thereof.

Whereas in truth and in fact any conversation ^{that} was never had by and between him, the said Robert N. Berdell and the said Eliza W. Parkhurst to the effect that he the said Robert N. Berdell would sell, and she the said Eliza W. Parkhurst would purchase said lots, pieces and parcels of land, ^{and} his the said Robert N. Berdell selling and giving a deed of said lots, pieces and parcels of land to her the said Eliza W. Parkhurst, and she the said Eliza W. Parkhurst buying the same, were not intended as an actual or bona fide sale to her the said Eliza W. Parkhurst of said lots, pieces and parcels of land or any of them.

Whereas in truth and in fact the giving by him the said Robert N.

Berdell to her the said Eliza W. Parkhurst a deed of said lots, pieces and parcels of land was not intended as an actual or bona fide sale of the said lots, pieces and parcels of land to her the said Eliza W. Parkhurst, and was not without any intention on the part of him the said Robert W. Berdell to get the said lots, pieces and parcels of land back, but on the contrary the giving of the said deed was intended to be, and was fraudulent and fictitious, and in bad faith, and with the intention, and understanding, on the part of him the said Robert W. Berdell to get the said lots, pieces and parcels of land back.

Whereas in truth and in fact there never was a bargain by and between the said Robert W. Berdell and the said Eliza W. Parkhurst whereby the said Robert W. Berdell was to be paid for the said twenty lots, pieces and parcels of land or any of them by or out of said certain, or any securities, or the proceeds of the sale of said securities or any of them, which she the said Eliza W. Parkhurst claimed one Theodore Berdell, son of the said

Robert H. Berdell had belonging to her, as he the said Robert H. Berdell then and there well knew.

Whereas in truth and in fact she the said Eliza W. Parkhurst never claimed to him the said Robert H. Berdell that the said Theodore Berdell son of him the said Robert H. Berdell had said certain or any securities belonging to her the said Eliza W. Parkhurst.

Whereas in truth and in fact, there never was a bargain by and between the said Robert H. Berdell and the said Eliza W. Parkhurst whereby the said Robert H. Berdell was to be paid for the said twenty lots, pieces and parcels of land or any of them by or out of said certain or any securities or the proceeds of the sale thereof or any of them.

Whereas in truth and in fact there never was a bargain by and between the said Robert H. Berdell and the said Eliza W. Parkhurst whereby the said Robert H. Berdell was to be paid for said twenty lots, pieces and parcels of land by the said Eliza W. Parkhurst from ~~and~~ out of said securities or any of them

which he the said Theodore Berdell, son of him the said Robert H. Berdell was to sell and out of the proceeds thereof pay to the said Eliza W. Parkhurst thirty thousand dollars to pay to him the said Robert H. Berdell.

And so the Jurors aforesaid upon their oath aforesaid do say.

That he the said Robert H. Berdell on the said twenty ninth day of October in the year of our Lord one thousand eight hundred and seventy nine at the City and County aforesaid before the said Benjamin D. Silliman such Referee as aforesaid (he the said Benjamin D. Silliman ^{as said Referee aforesaid} having then and there full competent and lawful power and authority to administer said oath to him the said Robert H. Berdell in that behalf) of his own act and accord feloniously, wilfully, wickedly, maliciously and corruptly did commit wilful and corrupt perjury.

Second Count.

And the jurors aforesaid upon their oaths and affirmations aforesaid do further present:

That ^{afterwards} heretofore, to wit, on or about the eighteenth day of November in the year of our Lord one thousand eight hundred and seventy five one Eliza W. Parkhurst as plaintiff therein duly commenced an action in the Supreme Court of the State of New York against Robert C. Berdell as defendant: That ever since the commencement of said action the same has been and at all the different times and dates hereinafter named was and still is pending in said Court.

That the said Supreme Court had lawful jurisdiction of said action:

That the said Robert H. Berdell as such defendant duly answered the plaintiffs complaint in such action whereby certain material issues of fact were joined therein.

That said action was commenced as aforesaid for and to compel the said Robert H. Berdell the defendant

therein among other things to account to the said Eliza W. Parkhurst the plaintiff therein for certain bonds and shares of stock, and certain interest and dividends thereon, alleged in the said plaintiffs bill of complaint in said action to have been loaned by the said Eliza W. Parkhurst to the said Robert H. Berdell, and to have the amount found to be due on such accounting from the said Robert H. Berdell to the said Eliza W. Parkhurst, declared to be a lien upon certain real estate situated in the town of Goshen in the County of Orange in the State of New York, and to compel the said Robert H. Berdell to deliver to the said Eliza W. Parkhurst a certain bond for the payment of Eighty thousand dollars or thereabouts, together with a certain mortgage executed to the said Eliza W. Parkhurst by the said Eliza W. Parkhurst by the said Robert H. Berdell and wife to secure the same upon said real estate to the end that said mortgage might be recorded and become a lien upon said real estate, as by reference to the said pleadings in said action will more fully

and at large appear.

That thereafter and on or about the twenty fourth day of June in the year of our Lord one thousand eight hundred and seventy six, the said action and all the issues therein were duly and regularly referred by an order of the said Supreme Court to one Benjamin D. Silliman as sole Referee to hear, try and determine the same. That the said action regularly came on to be tried, and was tried in due form of law, at the said City of New York and County of New York, aforesaid, by and before the said Benjamin D. Silliman as such Referee as aforesaid, he the said Benjamin D. Silliman having lawful right and authority to hear and try said action. That the trial of said action before said Referee proceeded on the twenty eighth day of June in the year one thousand eight hundred and seventy six and on divers days thereafter and was adjourned and continued from time to time until and including the twenty eighth and twenty ninth days of October in the year one thousand eight hundred

and seventy nine at the said City of New York.

That heretofore, to wit, on or about the twenty eighth day of June in the year One thousand eight hundred and seventy six, that being one of the days on which the trial of said action was proceeding before the said Referee, the said Robert H. Berdell appeared as a witness in said action before the said Benjamin D. Silliman as such referee as aforesaid on his own behalf, and was then and there duly sworn as a witness in said action on his own behalf, at the said City of New York in the County of New York by taking his corporal oath before and administered by the said Benjamin D. Silliman as such Referee as aforesaid, and as such witness as aforesaid, that he would speak the truth, the whole truth, and nothing but the truth touching the matters in question between the said Eliza H. Parkhurst the plaintiff and the said Robert H. Berdell the defendant, and as a witness in the action then and there pending as aforesaid: That the said Benjamin D. Silliman as such Referee as aforesaid, then and there had sufficient and competent power and

authority to administer the said oath and did administer the same to him the said Robert H. Berdell in that behalf:

That after being thus sworn as a witness in said action the said Robert H. Berdell was duly examined and gave testimony as such witness therein before the said Referee at the said City of New York in the County of New York:

That his examination as such witness in said action was proceeded with on divers days from the twenty eighth day of June in the year One thousand eight hundred and seventy six until and including the twenty Eighth and twenty ninth days of October in the year One thousand eight hundred and seventy nine.

That at and upon the said trial of said action before the said Benjamin D. Silliman ^{such} Referee, and of the issues therein there were in said action material matters and questions between the said Eliza H. Parkhurst plaintiff in such action and the said Robert H. Berdell, defendant therein, whether the said Eliza H. Parkhurst was indebted to the said Robert H.

Berdell in the sum of thirty thousand dollars for twenty lots of land, situate in the City of Brooklyn in the County of Kings in the State of New York, and whether he, the said Robert H. Berdell had ever theretofore sold or contracted with the said Eliza W. Parkhurst to sell to her said twenty lots pieces or parcels of land situate in the City of Brooklyn in the County of Kings and State of New York for the sum of thirty thousand dollars or any other sum and

Whether he the said Robert H. Berdell and the said Eliza W. Parkhurst had ever theretofore had a conversation together which resulted in the said Eliza W. Parkhurst buying said twenty lots, pieces or parcels of land, and in the said Robert H. Berdell selling them to her and:

Whether such sale or conveyance of said twenty lots, pieces or parcels of land by the said Robert H. Berdell to the said Eliza W. Parkhurst was intended as a bona fide sale of said land to the said Eliza W. Parkhurst and:

Whether it was agreed in substance and effect between them that

the said sum of thirty thousand dollars was to be paid by the said Eliza W. Parkhurst to the said Robert H. Berdell for the said twenty lots, pieces or parcels of land: and.

Whether it was agreed between them that the same was to be thus paid to the said Robert H. Berdell out of any securities which she the said Eliza W. Parkhurst had or claimed in the hands of one Theodore Berdell: and.

Whether there was ever any bargain or agreement made between the said Robert H. Berdell and the said Eliza W. Parkhurst to the effect that he, the said Robert H. Berdell should be paid the said sum of thirty thousand dollars by the said Eliza W. Parkhurst as the purchase price or consideration for the conveyance of said lots of land by the said Robert H. Berdell to the said Eliza W. Parkhurst out of any securities or the proceeds of the sale of any securities whatever: and

Whether there was ever any bargain or agreement between the said Robert H. Berdell and the said Eliza W. Parkhurst to the effect that one Theodore Berdell

was to sell certain securities in his hands belonging to the said Eliza H. Parkhurst and to pay the said Robert H. Berdell out of the proceeds of such sale the sum of thirty thousand dollars for and on behalf of the said Eliza H. Parkhurst for said twenty lots of land: and

Whether previous to October twenty eighth in the year One thousand eight hundred and seventy nine the said Robert H. Berdell sold or agreed with the said Eliza H. Parkhurst to sell to her twenty lots of land in the City of Brooklyn for the price of thirty thousand dollars: and

Whether in pursuance of any such agreement he, the said Robert H. Berdell ever deeded or conveyed to the said Eliza H. Parkhurst the said property: and

Whether he, the said Robert H. Berdell did at any time prior to the twenty eighth day of October in the year One thousand eight hundred and seventy nine sell or agree to sell to the said Eliza H. Parkhurst or convey or agree to convey to her by deed, the said twenty lots of land without any intention on his part to get the same back: and

Whether he thus sold and conveyed the same to the said Eliza W. Parkhurst out and out or absolutely.

That the said Robert H. Berdell being so duly sworn as aforesaid, and being then and there legally required to depose and speak the truth as a witness in the said action as aforesaid, at and upon the trial aforesaid, at the City and County aforesaid, then and there on the twenty eighth and twenty ninth days of October in the year One thousand eight hundred and seventy nine those being days on which the trial of said action was proceeding before the said Referee and while he, the said Robert H. Berdell was being examined as a witness therein as aforesaid, did for the purpose and with intent to establish and have allowed to him in said action, by said Referee as a counterclaim or set off against the said Eliza W. Parkhurst and against her claims and demands in such action the aforesaid sum of thirty thousand dollars, falsely, wickedly, willfully feloniously and corruptly upon his oath aforesaid, swear, make oath, testify and depose amongst other things in substance

and to the effect following that is to say:

That he the said Robert H. Berdell did theretofore sell or contract with the said Eliza W. Parkhurst to sell to her twenty lots, pieces or parcels of land situate in the City of Brooklyn, in the County of Kings and State of New York for the sum of thirty thousand dollars:

That he, the said Robert H. Berdell and the said Eliza W. Parkhurst had theretofore had a conversation together which resulted in the said Eliza W. Parkhurst buying said twenty lots pieces or parcels of land, and in the said Robert H. Berdell selling the same to her.

That such sale and conveyance of said twenty lots, pieces or parcels of land by the said Robert H. Berdell to the said Eliza W. Parkhurst was intended as a bona fide sale of said land to the said Eliza W. Parkhurst:

That it was agreed in substance and effect between him the said Robert H. Berdell and the said Eliza W. Parkhurst that the said sum of thirty thousand dollars should be paid by the said Eliza W. Parkhurst to the said Robert H. Berdell

for the said twenty lots, pieces or parcels of land.

• That it was agreed between them the said Robert H. Berdell and the said Eliza W. Parkhurst that the said sum of thirty thousand dollars should be paid to him the said Robert H. Berdell out of securities which she the said Eliza W. Parkhurst had or claimed to have in the hands of one Theodore Berdell.

That there was a bargain or agreement made between him the said Robert H. Berdell and the said Eliza W. Parkhurst to the effect that he the said Robert H. Berdell should be paid the said sum of thirty thousand dollars by the said Eliza W. Parkhurst as the purchase price or consideration for the conveyance of said lots of land by the said Robert H. Berdell to the said Eliza W. Parkhurst out of securities or the proceeds of the sale of securities.

That there was a bargain or agreement made between the said Robert H. Berdell and the said Eliza W. Parkhurst to the effect that one Theodore Berdell was to sell certain securities in his

hands belonging to the said Eliza W. Parkhurst and to pay to him the said Robert H. Berdell out of the proceeds of such sale the sum of thirty thousand dollars for and on behalf of the said Eliza W. Parkhurst for said twenty lots of land:

That previous to October twenty eighth in the year One thousand eight hundred and seventy nine he the said Robert H. Berdell sold and agreed with the said Eliza W. Parkhurst to sell to her the said twenty lots of land in the City of Brooklyn for the price of thirty thousand dollars, and that in pursuance of such agreement he, the said Robert H. Berdell deeded and conveyed to the said Eliza W. Parkhurst the said property:

That he the said Robert H. Berdell did prior to the twenty eighth day of October in the year one thousand eight hundred and seventy nine sell and agree to sell and convey to the said Eliza W. Parkhurst the said twenty lots of land without any intention on the part of said Robert H. Berdell to get the same back again and that he the said Robert H. Berdell so

sold and conveyed the said twenty lots of land to the said Eliza W. Parkhurst out and out and absolutely:

Whereas in truth and in fact the said Eliza W. Parkhurst was not indebted to the said Robert H. Berdell in the sum of thirty thousand dollars or any other sum for said twenty lots of land and the said Robert H. Berdell had never theretofore sold or contracted with the said Eliza W. Parkhurst to sell to her twenty lots, pieces or parcels of land situate in the City of Brooklyn in the County of Kings and State of New York for the sum of thirty thousand dollars: and

Whereas in truth and in fact he the said Robert H. Berdell and the said Eliza W. Parkhurst had not theretofore had a conversation together which resulted in the said Eliza W. Parkhurst buying said twenty lots or parcels of land and in the said Robert H. Berdell selling the same to her: and

Whereas in truth and in fact no sale and conveyance of said twenty lots or parcels of land by the said Robert H. Berdell to the said Eliza W. Parkhurst

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was intended as a bona fide sale of said land to the said Eliza W. Parkhurst: and

Whereas in truth and in fact it was never agreed to substance and effect between him the said Robert H. Berdell and the said Eliza W. Parkhurst that the said sum of thirty thousand dollars should be paid by the said Eliza W. Parkhurst to the said Robert H. Berdell for the said twenty lots or parcels of land: and

Whereas in truth and in fact it was never agreed between them, the said Robert H. Berdell and the said Eliza W. Parkhurst, that the said sum of thirty thousand dollars should be paid to him the said Robert H. Berdell out of securities which she the said Eliza W. Parkhurst had or claimed to have in the hands of one Theodore Berdell: and

Whereas in truth and in fact there never was a bargain or agreement made between him the said Robert H. Berdell and the said Eliza W. Parkhurst to the effect that he the said Robert H. Berdell should be paid the said sum of thirty thousand dollars by the said Eliza W. Parkhurst as the purchase price or con-

sideration for the conveyance of said lots of land by the said Robert H. Berdell to the said Eliza W. Parkhurst out of securities or the proceeds of the sale of securities: and

Whereas in truth and in fact there never was a bargain or agreement made between the said Robert H. Berdell and the said Eliza W. Parkhurst to the effect that one Theodore Berdell was to sell certain securities in his hands belonging to the said Eliza W. Parkhurst, and to pay to him the said Robert H. Berdell out of the proceeds of such sales the sum of thirty thousand dollars for and on behalf of the said Eliza W. Parkhurst for said twenty lots of land: and

Whereas in truth and in fact he, the said Robert H. Berdell did not previous to October twenty eighth in the year One thousand eight hundred and seventy nine sell or agree with the said Eliza W. Parkhurst to sell to her the said twenty lots of land in the City of Brooklyn for the price of thirty thousand dollars or that in pursuance of such an agreement he, the said Robert H. Berdell deeded and conveyed to the said Eliza W. Parkhurst

the said property : and

Whereas in truth and in fact
he, the said Robert H. Berdell did not
prior to the twenty eighth day of October
in the year One thousand eight hundred
and seventy nine, sell or agree to sell,
or convey to the said Eliza W. Parkhurst
the said twenty lots of land without
any intention on the part of said
Robert H. Berdell to get the same back
again, and that he, the said Robert H.
Berdell did not sell and convey the said
twenty lots of land to the said Eliza W.
Parkhurst out and out or absolutely.

Therefore the Jurors aforesaid
on their oaths and affirmations aforesaid
do say that he the said Robert H. Berdell
on the day and year aforesaid at the
City and County aforesaid before the
said Benjamin H. Silliman such
referee as aforesaid (he the said Benjamin
H. Silliman, as such referee as aforesaid
having then and there full competent
and lawful power and authority to
administer said oath to him the said
Robert H. Berdell in that behalf) of

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his own act and accord feloniously,
wilfully, wickedly, maliciously and
corruptly did commit wilful and cor-
rupt perjury

Benjamin H. Phelps
District Attorney.