point of death; in the month of August, 1877, on that occasion, he was more pointed; told me that he intended 303 E. Pratt st. for Frances Ann Towne, as she was to derive the benefit from and live in 305, while that house was to keep her.

13 quest. Did he, or not, always claim to own the house No 303 E. Pratt st.?

Ans. Yes, sir, he always claimed to own it, until he gave it to her by the deed filed in this case.

14 quest. Are you aware, whether or not, the elder Kirby, before the gift of the house to Mrs. Towne, paid ground-rent, taxes, &c, on the premises 303?

Ans. Yes, sir, I am aware that he paid the taxes, insurance and water-rent; the house is in fee; I went with him in 1877, when he paid the taxes.

15 quest. Did he pay the taxes and other expenses out of his own money furnished by some one else?

Ans. He paid the taxes when I went with him, out of his own money; he gave the Cashier in Tax Office a one hundred dollar note, and the Cashier deducted the amount and gave him the change; I saw it with my own eyes.

16 quest. Do you know where that one hundred dollar note came from?

Ans. Yes, sir, I know where it came from; Mr. Kirby, the elder, asked me that day, when he went to pay the taxes, to wait awhile, as he was going up town, and he would go along with me; he then went up stairs in the third story, where he had a chest, where he kept his money, and from a roll of notes I saw him take this one hundred dollar note out; he told me he wanted it to pay the taxes on his house, 303 E. Pratt st, and my wife's mother's 305.

17 quest. Had he money of his own?

Ans. Yes, sir.

18 quest. Did you ever know him to borrow any (money)?

Ans. No, sir, I never knew Mr. Kirby, the elder, to borrow any money at that time, as he had money of his own; he has borrowed money from me and my wife on several occasions, during the latter part of '79.

19 quest. Look at "Complainant's Commissioner's Exhibit E. W.B. No 1," and state whether you ever saw it before the commencement of this suit; if so, in whose possession was it?

Ans. Yes, sir, I have seen it on a number of occasions before the commencement of this suit.

20 quest. In who possession was it?

Ans. In the possession of Mr. Kirby, the elder; he also had it in the chest, where he kept his money.

21 quest. Had you any information of it being out of his —; if yes, state from whom you got the information, and how?

Ans. In the month of March, 1878. Mr. Kirby, the elder, brought this deed down stairs, and showed it to me, and told me he was afraid something wrong was going on about it, as his son Addy, had been in the house and got the paper (meaning the deed from him) and had told him that he wanted it to fix some papers with; Mr. Kirby, the elder, then told me that he didn't know what these papers were, but he thought that they might be something about Mechanic' liens, or for labor, when the improvements were put on house 303 E. Pratt st. meaning the back building; he also told me he did not see why, he, Addy, wanted the papers, as he had advanced John Edward Kirby more money than enough to pay for those improvements; he also told me that something must be going on; when me the deed on this occasion, I noticed the lead pencil marks on it.

(Witness here pointed to the marks 150, 303 E. Pratt st, 1st lot gone, in lead pencil, on the margin of front of "Complainant's Commission Exhibit E.W.B. No.1.)

22 quest. Had you ever seen these lead pencil marks on it before?