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Bill of Complaint.

Filed December 26, 1917.

In Chancery of New Jersey

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To the Honorable Edwin Robert Walker, Chancellor of the State of New Jersey.

The complainant, the Globe Ticket Company, respectfully shows that:

1. It is a corporation organized and existing under the laws of the Commonwealth of Pennsylvania.

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2. It now is and has been since its organization in the year 1891 continuously engaged in the manufacture of tickets of all kinds and description, more particularly railway tickets, amusement tickets and theatre tickets, and during said period has evolved and developed as a result of a large expenditure of money and the employment of experts in experimental work, and for many years last past has been and is now the owner and possessor of certain secret processes, compositions, or secret apparatuses, attached to and being a part of the machinery used for the manufacture of tickets by which a complicated completed ticket is finished in one operation.

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For many years last past it has owned and operated, in conjunction with its ticket manufacturing plant, at its place of business, No. 112 N. Twelfth street, in the City of Philadelphia, Commonwealth of Pennsylvania, an experimental and repair machine shop, in which the secret processes and secret apparatuses and secret new and novel machines or secret portions of machines have been manufactured, assembled, constructed, improved and repaired, and have been used continuously in the manufacture of its said products with great profit and gain of the said complainant.

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3. The careful preservation of the secrecy of the aforesaid processes, compositions or apparatuses or portions of the said printing machines has always been a matter of great concern and moment to the officers and managers of the said complainant. They have always deemed it of the utmost importance to carefully guard and preserve said secrets, and in order to guard against the possibility of the loss of the said secrets to the complainant it has only permitted certain trusted employees to become wholly acquainted with the same, relying upon the honor, integrity, trustworthiness and fidelity of such employees for the preservation of the secrecy thereof. That it was necessary for said certain employees to be advised of the said secret processes, compositions, secret apparatuses or secret parts of machines in order that the complainant might conduct its business successfully, and they and each of them were given and knowingly re-

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Bill of Complaint.

ceived said information in trust, and wholly and solely for the benefit of the said complainant and for the preservation and advancement of its interests and for no other purpose whatsoever, all of which was known to them, and more particularly to one of the defendants, Lemuel Titus.

10 In 1896 the said Lemuel Titus was employed by the complainant in its machine shop as an apprentice boy, and in the course of a few years became a journeyman and expert technical repair and construction man. Said complainant, reposing confidence in the integrity and fidelity of the said Lemuel Titus during the years of his employment with it, has permitted him in the performance of his duties to the complainant to go through its plant hereinbefore mentioned and become acquainted with and have full access by reason of his confidential position to all valuable discoveries, inventions, trade secrets, 20 secret machines developed and parts of machines, tracings, blueprints and plans thereof, all for the purpose of enabling him properly to perform his duties to the complainant under his said employment, and all of which information, as was well known to him, was secret and to be kept secret by him. That on or about the 7th day of March, A. D. 1913, the said Lemuel Titus notified the said complainant that he was about to leave its employ, which he immediately did.

4. The said Lemuel Titus, on or about the 7th day of March, A. D. 1913, did enter the employ of the Sun Ticket Co., a corporation existing under and by virtue of the laws of the State of ———, which on 30 or about the first day of February, A. D. 1917, became merged or consolidated with the Rockwell Printing Company, a corporation existing under and by virtue of the laws of the State of ———, and the Manshel Machine Company, a corporation existing under and by virtue of the laws of the State of ———, under the corporate name of the International Ticket Company, the other defendant, and a competitor of the complainant, in the ticket manufacturing business. That the said Lemuel Titus remained in the employ of the Sun Ticket Company until the day of the date of February 1st, 1917, when the 40 consolidation of the three companies above referred to took place, and the said Lemuel Titus is now employed by the said International Ticket Company, a corporation organized and existing under the laws of the State of New Jersey, having its principal place of business in the City of Newark, New Jersey.

5. That the complainant has very recently for the first time been informed and believes that the said Sun Ticket Company with the aid, connivance and assistance of the said defendant, Lemuel Titus, on or about March 7th, 1913, with full notice of complainant's right therein, fraudulently acquired knowledge of the inventions, discoveries, 50 secret processes, apparatuses, articles of manufacture, parts of machines, compositions thereof and trade secrets of the complainant above mentioned, and thereafter and until the transfer of its business to the said International Ticket Company engaged in the business of manufacturing tickets, using the said inventions, discoveries, secret processes, articles of manufacture, parts of machines, compositions

Bill of Complaint.

thereof and trade secrets of the complainant, to the great gain and profit of it and the said Lemuel Titus and to complainant's irreparable injury.

6. That on or about February 1st, 1917, the said International Ticket Company acquired the business of the said Sun Ticket Company, subject to the obligations of the said Sun Ticket Company, and with the aid, connivance and assistance of the said defendant, Lemuel Titus, and the said Sun Ticket Company, its agents and employees, and with full notice of complainant's rights therein, fraudulently acquired knowledge of the inventions, discoveries, secret processes, apparatuses, articles of manufacture, parts of machines, compositions thereof and trade secrets of the complainant above mentioned, and thereafter and until the present time, has engaged in the business of manufacturing tickets, using the said inventions, discoveries, secret processes, articles of manufacture, parts of machines, compositions thereof and trade secrets of the complainant, and now threatens to publish, divulge and make known to complainant's competitors and the public at large all of said inventions, discoveries, secret processes, apparatuses, articles of manufacture, parts of machines, compositions thereof and trade secrets of the complainant, to the great gain and profit of it and the said Lemuel Titus and to complainant's irreparable injury.

7. Complainant is without adequate remedy in the courts of law, and therefore prays:

(1) That the said Lemuel Titus and the said International Ticket Company, the defendants herein, may answer this bill of complaint without oath and each statement therein made.

(2) That a writ or writs of injunction may be issued, preliminary until the final hearing of this cause and permanent thereafter, enjoining and restraining the said Lemuel Titus and the said International Ticket Company, its officers, agents, clerks, attorneys, servants and employees, workmen and confederates, and each of them, from in any way directly or indirectly making, using, selling or otherwise utilizing in any manner or by any means any and all of said inventions, discoveries, secret processes, articles of manufacture, parts of machines, compositions thereof and trade secrets of the complainant, or from publishing, divulging, making known or communicating the same or any information with reference thereto to any other person or persons whatsoever, and commanding them and each of them to deliver and surrender forthwith into the custody of the court any and all memoranda, drawings, plans and specimens, papers and articles of any description relating thereto in their possession or under their control, without making or retaining any copies or duplicates thereof, and that an accounting be made by the said defendants, International Ticket Company and Lemuel Titus, of all profits made by them and each of them, and that an accounting be made by the International Ticket Company of all profits made by the Sun Ticket Company, and that said defendants be decreed to pay over to complainant all such profits, and that complainant shall have such other

Bill of Complaint, Affidavit of E. A. Henkle.

and further relief as shall seem meet and may be agreeable to equity and good conscience.

(3) That a writ of subpoena may issue commanding the said defendants to answer this bill of complaint and to abide by such decree as this court may make in the premises.

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LINDABURY, DEPUE & FAULKS,
Solicitors for and of Counsel with Complainant.

J. EDWARD ASHMEAD,
Of Counsel.

FRANK SMITH (of the Pennsylvania Bar),
Of Counsel.

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COMMONWEALTH OF PENNSYLVANIA, }
COUNTY OF PHILADELPHIA. } ss.

WALTER E. HERING, being duly sworn according to law, deposes and says that he is the president of the Globe Ticket Company, a Pennsylvania corporation, complainant in the foregoing bill of complaint, and has read the said bill of complaint and knows the contents thereof and that the facts therein set forth are true and correct to the best of his knowledge, information and belief.

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WALTER E. HERING.

Sworn and subscribed before me, a notary public in and for the County of Philadelphia and State of Pennsylvania, at Philadelphia, in said county and state, this 24th day of December, 1917.

WM. BROWN, JR.,
*Notary Public in and for the County of Philadelphia
and State of Pennsylvania.*

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(SEAL) Commission expires March 28, 1921.

COMMONWEALTH OF PENNSYLVANIA, }
COUNTY OF PHILADELPHIA. } ss.

EDWARD ANDERSON HENKLE, of full age, being duly sworn according to law, deposes and says:

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I have been connected with the Globe Ticket Co., complainant herein, since the year of 1891, serving as first vice-president thereof, which position I now hold.

I have read the foregoing bill of complaint and know the contents thereof and the matters and things therein contained are true to the best of my knowledge, information and belief.

Bill of Complaint, Affidavit of E. A. Henkle.

The Globe Ticket Company was organized under and by virtue of the Laws of the Commonwealth of Pennsylvania in or about the year 1891, and has since been continuously engaged in the manufacture and sale of tickets of all kinds and descriptions, more particularly railway tickets, amusement tickets and theatre tickets, and during said period has evolved and developed as a result of a large expenditure of money and the employment of eminent experts in research and experimental work, and for many years last past has been and is now the owner and possessor of certain secret processes, compositions, secret mechanical apparatuses attached to and being a part of the machinery used for the manufacture of tickets. It has continuously used and employed secret processes, compositions and mechanical apparatuses and devices for many years last past at its plant, No. 112 N. 12th Street, in the City of Philadelphia, Commonwealth of Pennsylvania, and as a result thereof has developed and carried on its business successfully to its great gain and profit.

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That I have been instrumental in developing practically all of the secrets of the said complainant and with the aid and assistance of two or three people, none of whom are the present defendants, have brought the art of successive printing through the secrets aforesaid up to an exceedingly high standard.

The careful preservation of the secrecy of the aforesaid processes, compositions, mechanical apparatuses and devices attached to its printing machinery whereby it was able to do what is termed successive printing has always been a matter of great concern and moment to the officers and managers of the said complainant. They had always considered it as of the utmost importance to carefully and secretly preserve the same and in order to guard against the possibility of the loss of such secret processes, compositions, mechanical apparatuses and devices attached to complainant's printing machinery, have permitted only certain of the complainant's trusted employees to become acquainted with the same, relying upon the honor, integrity, trustworthiness and fidelity of such employees for the preservation of the secrecy thereof, said secret processes, compositions, mechanical apparatuses and devices to its said printing machinery having been known only to those whom it was necessary to advise of the said secret processes, compositions or secret mechanical apparatuses and devices in order that the said complainant might conduct its business successfully. That said employees and each of them were given and received the same information in trust wholly and solely for the profit of the complainant and for the preservation and advancement of its interest and for no other purpose whatsoever, all of which was known to them and each of them.

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The said Lemuel Titus entered the employ of the complainant and took a position as an apprentice boy in 1896 in its machine shop where its secret processes, compositions, secret mechanical apparatuses and devices were developed, changed and repaired, and while there had access to the various secrets of the complainant.

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Bill of Complaint, Affidavit of E. A. Henkle.

10 . That the said Lemuel Titus has been personally known to me for 21 years last past and to my personal knowledge was allowed access to said secrets only because it was necessary for him to be advised thereof in order that said complainant might conduct its business successfully, and was given and knowingly received said information in trust and wholly and solely for the benefit of the said complainant and for the preservation and advancement of its interest and for no other purpose whatsoever, all of which was known to him from the beginning of his said employment with the complainant.

20 With the information gained in his employment with the complainant, which extended from the year of 1896 to 1913, or seventeen years, the said Lemuel Titus left the employment of the complainant, and entered the employment of the Sun Ticket Company, a corporation of ———, which was also engaged in the ticket manufacturing business. The Sun Ticket Company continued in business until on or about the first day of February, 1917, when it, with Rockwell Printing Company, a corporation of ———, and the Manshel Machine Company, a corporation of ———, became consolidated, organized and incorporated under the laws of the State of New Jersey under the corporate name of the International Ticket Company, with its principal office in the City of Newark, County of Essex, New Jersey, the other defendant.

30 That sometime immediately prior to the consolidation of the Sun Ticket Company with the Manshel Machine Company and the Rockwell Printing Company, the complainant upon seeing some of the tickets printed by the Sun Ticket Company, had an idea that these tickets were printed upon machines containing secret devices and apparatuses of the complainant and shortly after its consolidation with the other companies and the incorporation of the International Ticket Company, the complainant was able to get positive information upon the matter, and for the first time ascertained a short time ago that the International Ticket Company, one of the defendants, with full knowledge of complainant's rights in the premises, was manufacturing tickets of different descriptions upon machinery, the principal parts of which are the secret mechanical devices, processes and apparatuses of the complainant which have been fraudulently and improperly given to the International Ticket Company by the said Lemuel Titus to the great fraud and irreparable injury of the complainant.

40 I have read the affidavit of Miss Rosalie Richards attached to the foregoing bill of complaint and know that the matters and things contained therein in so far as they pertain to me are true, and in so far as they pertain to others I believe them to be true.

50 The secret processes, compositions, apparatuses and devices and parts of the machinery attached to the printing presses of the complainant are of great value and importance to the complainant and would be of the greatest assistance to any competitor having a plan or blue print thereof or having secret information thereof, and any-

Bill of Complaint, Affidavit of Harry R. Keen.

one familiar with the actual construction, operation of the printing plant of the complainant would be of assistance not only in the construction, but in the operation of a printing plant in competition with the complainant, and the utilization of said secret processes, compositions, apparatuses and devices and parts of machinery attached to the complainant's machinery if the said secret processes, compositions, apparatuses, devices and certain parts of machinery were permitted to be published or made known to the public or used by any competitor of the complainant would result in irreparable loss and damage to it. 10

EDWARD ANDERSON HENKLE.

Sworn and subscribed before me, a notary public in and for the County of Philadelphia and State of Pennsylvania, at Philadelphia, in said county and state, this 24th day of December, 1917. 20

WM. BROWN, JR.,

Notary Public in and for the County of Philadelphia and State of Pennsylvania.

(SEAL) Commission expires March 28, 1921.

COMMONWEALTH OF PENNSYLVANIA, } ss.
COUNTY OF PHILADELPHIA.

I, HARRY R. KEEN, being duly sworn according to law, depose and say that I am the secretary of the Globe Ticket Company, a Pennsylvania corporation duly organized under the laws of the Commonwealth of Pennsylvania in 1891 and that I at the time of its incorporation and since have held the office of secretary in the said corporation. 30

In the year of 1896 Lemuel Titus, one of the defendants, entered the employ of the complainant as an apprentice boy in its machine shop. In this machine shop there has been developed a number of very important secrets appertaining to the manufacture of tickets, more particularly railway tickets, theatre tickets and amusement tickets. That several employees of the complainant, including Edward Anderson Henkle, its vice-president, have been instrumental in inventing and developing secret processes, apparatuses and parts of machinery for the printing machines of the complainant which were absolutely novel to the trade and which resulted in what is known as successive printing. That Lemuel Titus had nothing to do with any of these developments, but that while he was in the employ of the complainant, served as an apprentice boy and subsequently as a machinist and it was necessary for him to work on said parts of the apparatuses and parts of machinery and to repair the same. It was in this manner that he learned the method of constructing and 40 50

Bill of Complaint, Affidavit of Harry R. Keen.

assembling the said secret parts owned and possessed by the said complainant.

10 At this time and since the officers and managers of the complainant used the utmost care to safely guard and preserve the said secrets and to guard against the possibility of the loss of said secrets. It permitted only certain trusted employees to become wholly acquainted with the same, relying upon the honor, integrity, trustworthiness and fidelity of such employees for the preservation of the secret. That it was necessary for the said certain employees to be advised of the secret processes, compositions and secret parts of machinery and apparatuses in order that the complainant might conduct its business successfully, and that each of them were given and knowingly received certain information in trust, wholly and solely for the benefit of the said complainant and for the preservation and advancement of its interests and for no other purpose whatsoever. All of which was known to them, and more particularly to one of the defendants, Lemuel Titus.

The complainant furthermore at the time of the employment of the said Lemuel Titus went so far as to lock the doors on each floor so that no one could possibly get into any of the rooms containing said machinery without the permission of someone in authority on the said floor. Lemuel Titus in his confidential position had intimate knowledge concerning all the secrets of the complainant.

30 That in 1913, Lemuel Titus left the employ of the complainant and entered the employ of the Sun Ticket Company, which on February 1st, 1917, together with the Rockwell Printing Company and the Manshel Machine Company became consolidated, organized and incorporated under the name of the International Ticket Company, a New Jersey corporation, which had its principal office in the City of Newark, State of New Jersey. The said Lemuel Titus remained in the employ of the Sun Ticket Company from on or about the 7th day of March, 1913, up to the time of its consolidation or incorporation and merger into the International Ticket Company, with which company Lemuel Titus is now employed.

40 The complainant a short time before the incorporation of the International Ticket Company from examination of some of the products of the Sun Ticket Company which came into its possession was suspicious that the Sun Ticket Company might be manufacturing its tickets, based upon some knowledge improperly and unlawfully gotten by Lemuel Titus. After the incorporation of the International Ticket Company, further evidence came into the hands of the complainant which again made it believe that the International Ticket Company was using machinery containing the secrets of your complainant and investigation was made from which direct information came whereby it was shown that the International Ticket Company by connivance with the said Lemuel Titus had and was improperly and unlawfully manufacturing tickets produced by machines containing the secret processes, secret apparatuses and secret parts of ma-

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Bill of Complaint, Affidavit of Harry R. Keen.

chinery, being the sole and separate property of the complainant and which had been constructed in the factory of the complainant, and the International Ticket Company from the knowledge and information had by Lemuel Titus and which was improperly, unlawfully and by fraud taken from the complainant was being improperly and unlawfully used by the International Ticket Company.

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That in the month of August, 1917, after a conference with the officers of the complainant company, we decided to make an examination of the plant of the International Ticket Company at Newark to ascertain whether or not they were really using on their printing presses the secret apparatuses and secret parts of machinery owned by the complainant, and that for this purpose we employed an investigator named Miss Rosalie Richards, whom we took into our plant and made thoroughly acquainted and familiar with our secret processes, apparatuses and parts of machinery, the property of the complainant, and I instructed her to secure a position in the plant of the defendant, the International Ticket Company, in order to ascertain if possible whether the International Ticket Company was using the secret apparatuses and secret parts of machinery being the property of the complainant.

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That the said Rosalie Richards secured a position with the said International Ticket Company in its factory in Newark, New Jersey, and while in the employ of that company had an opportunity of examining the printing presses used by them. That she informed me that the said parts which were attached to their machinery and which we advised her were absolutely secret and novel and solely the property of the complainant, were also attached to the printing presses of the International Ticket Company and that she furthermore took photographs of the said parts of the secret processes, apparatuses and parts of machinery which were attached to the printing presses of the International Ticket Company, and when shown to me I was able to see at once that the said International Ticket Company had attached to their printing presses the secret apparatuses, processes and parts of machinery which were the sole property of the complainant.

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That the knowledge had by Lemuel Titus and now by the International Ticket Company, its officers, managers and agents, is of the greatest value to them and would be of the greatest assistance to any competitors having blue prints or plans thereof and anyone familiar with the actual construction, and operation of the plant of the complainant would be of the greatest assistance not only in the construction, but in the operation of the plant, and the utilization of the said secret processes, apparatuses and secret parts of machinery and if the said secret processes, apparatuses and secret parts of machinery were permitted to be published or made known to the public at large or other competitors of the Globe Ticket Company, it would result in an irreparable damage and loss to it.

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HARRY R. KEEN.

Bill of Complaint, Affidavit of Roselle Richards.

Sworn and subscribed before me, a notary public
in and for the County of Philadelphia and
State of Pennsylvania, at Philadelphia, in
said county and state, this 24th day of De-
cember, 1917.

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WM. BROWN, JR.,

*Notary Public in and for the County of Philadelphia
and State of Pennsylvania.*

(SEAL) Commission expires March 28, 1921.

STATE OF NEW YORK, }
COUNTY OF NEW YORK, } ss.
CITY OF NEW YORK. }

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I, ROSELLE RICHARDS, being duly sworn according to law, depose
and say:

I have been for upwards of twenty (20) years associated with and
employed by various persons, firms and corporations engaged in the
business of printing tickets of all kinds and descriptions, more par-
ticularly railway tickets, amusement tickets and theatre tickets, hav-
ing begun such employment as a bander and having worked therein
and become an expert examiner of the tickets manufactured and
printed.

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During the latter part of August, 1917, I was employed by the
Globe Ticket Company, the complainant in this suit. Immediately
upon such employment I was made thoroughly acquainted and fa-
miliar with the secret processes, apparatus and parts of machinery,
the property of the complainant, by Walter E. Hering and Harry R.
Keen, president and secretary, respectively, so that after such in-
struction I was familiar with the appearance, construction and oper-
ation of the said apparatus and parts of machinery.

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Thereafter, and on or about the 22nd of August I went to the City
of Newark, County of Essex, State of New Jersey, and applied for
employment with the International Ticket Company at its factory in
such city. I was thereupon given by said company employment as
an examiner and immediately undertook the duties incident to such a
position. My work and duties with said International Ticket Com-
pany afforded me a thorough and complete opportunity to examine
the printing press used by said company in the manufacture of tick-
ets, and I used such opportunity to examine the parts which were
attached to the machinery of said printing press, and discovered that
said parts were identical in appearance, construction and operation
with the parts of the machinery and apparatus which as aforesaid
had been shown to me by Walter E. Hering and Harry R. Keen and
stated by them to be the sole property of the complainant herein. I
also, while in the employ of the International Ticket Company, took
six (6) photographs of the said apparatus and parts of machinery

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Answer of International Ticket Company.

which are true and correct resemblances of the said coupon ticket press, and the parts and apparatus therein attached to the printing press of said company, which photographs I later exhibited to Mr. Harry R. Keen, secretary of the complainant.

After examining the said printing press used by the International Ticket Company with particular reference as aforesaid to the secret processes, apparatus and parts of machinery which were attached thereto, and which resembled and were identical with those exhibited to me as aforesaid and stated to be the sole property of the complainant and taking said photographs thereof, I voluntarily left the employment of the said International Ticket Company.

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ROSELLE M. RICHARDS.

Sworn to and subscribed before me this 21st
day of December, 1917.

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RANDOLPH E. PAUL,

Attorney at Law of the State of New Jersey.

Answer of International Ticket Company.

Filed May 28, 1918.

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The answer of the International Ticket Company to the bill of complaint says:

1. It denies all the allegations of the bill of complaint, except the paragraph numbered 4, which it admits.

2. On or about the 1st of February, 1917, this defendant acquired the assets of the Sun Ticket Company, Rockwell Printing Company and Manchell Machine Company, for a full and valuable consideration, without any notice, knowledge, information or belief of any of the facts set forth in the bill of complaint, or any of the alleged equities of the complainant.

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3. Among the assets acquired by this defendant for said valuable consideration, without notice of complainant's rights or equities, was a calendar printing machine, using the principle of the rotary press, from the Rockwell Printing Company, and a theatre ticket printing machine from the Sun Ticket Company. In addition to these machines, several other printing machines using the rotary press principle were acquired by this defendant from said Rockwell Printing Company, Sun Ticket Company and Manchell Machine Company.

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Neither the complainant nor the Sun Ticket Company, Manchell Machine Company or Rockwell Printing Company, nor any other individual or corporation, advised or notified this defendant of any of the equities or alleged rights of the complainant.

Answer of International Ticket Company.

Complainant is neither the discoverer nor inventor of the art of successive printing, nor the discoverer or inventor of a machine for printing amusement tickets in one operation. These are merely adaptations of the use of the rotary press. Rotary presses have been in common use for more than one hundred years.

10 4. The calendar machine referred to in the preceding paragraph was originally owned by the complainant and sold by it to the Rockwell Machine Company, and by that company transferred to this defendant. The operation of that calendar machine is based on the principle of the rotary press and prints successively each day of the calendar year. The printing machines used by this defendant for the printing of tickets are adaptations of the rotary press principle of the calendar machine, with the use of well-known and neither new or novel ideas of mechanical operations.

20 5. Complainant has known since the year 1913 that Lemuel Titus was employed by the Sun Ticket Company, and has also known that the Sun Ticket Company, for more than fifteen years, and the International Ticket Company since its organization on February 1, 1917, have been engaged in the business of printing amusement tickets; and the complainant has also known, since August, 1917, the style, character and details of the machines used by the International Ticket Company in printing amusement tickets, and the complainant has been guilty of delay and laches in the assertion of its alleged rights.

30 6. This defendant has never had any knowledge or information that Lemuel Titus had any trade secrets of the complainant of machinery, apparatus, processes or parts therefor, for printing amusement tickets; nor any knowledge, information or belief that Lemuel Titus had ever obtained any knowledge from the complainant in a confidential, fiduciary capacity, or under any obligation or agreement not to work as a machinist on ticket printing machinery or to experiment in ticket printing machinery.

40 7. This defendant, since its purchase of the amusement ticket printing machine from the Sun Ticket Company and the calendar machine from the Rockwell Printing Company, and since its organization on February 1, 1917, has developed a large business throughout New York and neighboring states for the printing and sale of amusement tickets, and has also entered into numerous contracts for the delivery and sale of amusement tickets, and has also entered into contracts for employment of labor and salaries of officers and raw material to be used in its business of printing amusement tickets, without any notice, knowledge, information or belief of any of the alleged equities of the complainant; and the business of this defendant has been developed in entire good faith and fair dealing.

50 Defendant prays that the bill of complaint may be dismissed.

EUGENE W. LEAKE,

Of Breed, Abbott & Morgan, 32 Liberty Street, New York.

Counsel for Defendant.

Answer of Lemuel Titus.

Answer of Lemuel Titus.

Filed May 28, 1918.

Lemuel Titus, one of the defendants in the above entitled cause, answering the bill of complaint of the Globe Ticket Company, says:

1. He has no knowledge as to the allegations of paragraph 1 of the bill of complaint.

2. Defendant denies the allegations of paragraph 2 of the bill of complaint.

3. Defendant also denies the allegations of paragraph 3 of the bill of complaint, except that in 1896 defendant was employed by the complainant as an apprentice boy, and that defendant, on or about the 7th day of March, 1913, left the employ of complainant.

4. Defendant admits the allegations of paragraph 4 of the bill of complaint.

5. Defendant denies the allegations of paragraph 5 of the bill of complaint.

6. Defendant denies the allegations of paragraph 6 of the bill of complaint.

7. Defendant says that there was no secrecy about the plant or machinery of the Globe Ticket Company, nor did any officer or employee of the complainant advise this defendant that there was any secrecy about the plant or machinery of the complainant; nor did any officer or employee of the complainant notify or inform the defendant that there were any trade secrets about the plant or machinery of the complainant.

8. Complainant is neither the discoverer nor inventor of the art of successive printing, or the printing of tickets in one operation, or machinery or parts of machinery for successive printing or printing amusement tickets in one operation. The machinery for printing amusement tickets in one operation, and the art of successive printing, is an adaptation of the principle of the rotary press and other mechanical principles and devices, which have been known and in common use for more than fifty years.

9. Complainant has known that this defendant has been in the employ of the Sun Ticket Company and the International Ticket Company since defendant left the employ of the complainant in March, 1913, and complainant, since that time, has also known that the Sun Ticket Company was engaged in the business of printing amusement tickets. At no time since 1913 has complainant, directly or indirectly, warned this defendant that he occupied a fiduciary position with complainant prior to 1913, or that any of the machinery or principle of successive printing of theatre tickets was a trade

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Opening.

JANUARY 11, 1918.

IN CHANCERY OF NEW JERSEY.

Between

GLOBE TICKET COMPANY,

*Complainant,**and*INTERNATIONAL TICKET COMPANY, *et al.*,*Defendants.*

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Transcript of shorthand notes of testimony taken in the above entitled cause on January 11, 1918, at Chancery Chambers, Newark, New Jersey, before Hon. Merritt Lane, Vice-Chancellor.

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Appearances:

Mr. J. Edward Ashmead (of Lindabury, Depue & Faulks) and Mr. Frank Smith (of the Philadelphia bar) for the complainant.

Mr. Eugene W. Leake (of Breed, Abbott & Morgan) and Mr. Louis F. Dodd (of the New York bar) for the defendants.

Mr. Ashmead. This suit concerns a secret device and we want all the protection that can be given in such cases and ask that the case be heard in camera.

The Court. What have you to say, Mr. Leake?

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Mr. Leake. I have no objection to that. I suppose under that rule Mr. Dodd, a member of the bar, counsel, may remain.

The Court. That does not mean that the newspaper reporters have got to leave the room; it simply means that they must not publish anything without permission.

Mr. Ashmead. The case of Taylor Iron Company *v.* Nichols lays down the rule that everybody should leave the room except complainants and defendants and counsel.

The Court. Do you see any reason for excluding the newspaper reporters?

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Mr. Ashmead. We have got this device here and are going to take it apart and show it to you so that you really might know what the contrivance is, but we do not want that thing published.

The Court. It will be considered as not to be published.

Mr. Ashmead. We would like to have everybody excluded except Mr. Leake and some representative of this company.

Mr. Leake. We have no objection to having all the witnesses go out except Mr. Titus, myself and Mr. Dodd.

50

Mr. Ashmead. The incorporation of the complainant is admitted.

Mr. Leake. No doubt about that.

Walter E. Hering, direct.

WALTER E. HERING, sworn.

Direct examination by Mr. Smith.

Q You are the president of the Globe Ticket Company? A I am.

Q The complainant in this case? A I am.

10 Q Mr. Hering, how long have you been in the printing business?

A Well, I started as a boy; I have been in the printing business really doing business for about forty years.

Q And how long have you been in the coupon ticket printing business? A Well, that is over thirty-five years.

Q Do you know Mr. Edward Anderson Henkle? A I do.

Q What business does he have in your company? A He is the next highest stockholder and he is the man who does the developing of the machinery, inventing, and looking after the mechanical end of it.

20 Q How long has he been in your company? A I first met Mr. Henkel sometime in 1890.

Q In what way did you meet him? A He was doing some little coupon ticket business and so was I, and he came to me with the idea of associating, forming a company.

Q Was that company formed? A That company was formed in July or June, 1891.

30 Q Now, in that company, what duties were you to assume and what duties was he to assume? A He was of an inventive turn of mind, and consequently no business man, and so he was to look after the building of the machinery and inventing special machines to facilitate printing these tickets and I was to look after the business end.

Q Now, then did he develop some machinery while he was with you? A He did; he had some machines in mind and when we consolidated he developed those machines, he brought Mr. Teal with him and Mr. Henkle had the ideas.

Q What particular machine did Mr. Henkle develop? A Well, coupon ticket machinery in general.

40 Q Now, did he or did he not develop any particular appliance which was placed on a coupon ticket machine? A Well, the coupon ticket machinery at that time, the numbering of the coupon ticket was done by regular book paging numbering head and that was not susceptible of any speed, so that Mr. Henkle's idea was to build a special head, a special numbering head so as to increase the speed of the machine.

Q Do you know whether he invented such a head? A He certainly did.

50 Q In what way, do you know? A Well, we would get together continuously, you know, he would show me his sketches and ideas and plans; he did that before we consolidated, before we associated and formed this company, showed me what ideas he had of improving this machinery so we could print tickets better and more rapidly than the old style.

Q Did he put this idea into practical effect? A Yes.

Walter E. Hering, direct.

Q In what way? A The Globe Ticket Company was formed on the basis of his special machinery.

Q Now, Mr. Hering, this numbering device, the number head about which you speak, how was that an advantage over the old style head? A Well, it enabled us to run the machinery much faster. 10

Q Had you ever seen this machine anywhere else? A No, mercy, no; never seen anything like it.

Q Do you use this same kind of a device numbering head today? A Exactly the same thing; there might have been some little modification, but nothing—the principle is just the same.

Q Now, how was this particular mechanical device regarded in your company?

Mr. Leake. I object to that as calling for a conclusion.

A I don't quite follow you. 20

Q What care if anything, did you take to protect your property rights in this particular appliance? A Well, it was always agreed between Mr. Henkle and myself and everybody around the establishment that, as we used to say, a padlock was better than a patent, because a patent shows the public just what you have, so we always refrained from patenting most of our mechanical improvements; we would patent parts, one little portion of that, but as a general thing refrained from patenting so as to keep it secret, the idea being secrecy all through, and what we meant by padlock was to keep them within enclosed doors and allow nobody to approach them excepting such people as were directly interested, as we always said a padlock was better than a patent because it was more secret; the whole idea of our establishment is secrecy. 30

Q What methods do you take to enforce this secrecy? A Well, of course, we have to trust our employees, those that are directly connected with that work, but otherwise anybody getting into the establishment, must have a pass, or the doors have been locked until the fire department objected to that; and we surround ourselves with every possible—well, we guard ourselves in every possible way to prevent anybody from seeing any of our machinery or getting into our place, seeing our machinery, the system, or anything else. 40

Q Could you personally get into your factory at night without a pass? A Well, I think I could, yes; I think I could; but I have been held up by the watchman when he has not known me, he didn't know me well enough and the watchman refused to allow me to go through the building, that is a fact; I came there at night; so that shows you how the watchmen protected our interests at that time.

Q Will you please advise the Vice-Chancellor the condition of the health of Mr. Henkle? 50

The Court. Why go into that now?

Mr. Smith. That may be material later. We may not need to take the testimony of Mr. Henkle; he is the man that invented this device and he is a man extremely ill; he is not only a paralytic—

Walter E. Hering, cross.

The Court. I have got the physician's certificate here. What do you want further than that? You are wasting time.

Cross examination by Mr. Leake.

10 Q How many men are employed in the Globe Ticket plant at Philadelphia? A Men and women together, about three hundred, roughly speaking.

Q How long have you had that number employed in your plant? A Well, they have been growing and then they have been diminishing; I really couldn't tell you exactly.

Q How many did you have in 1913, 1914? A 1913?

Q Or 1914? A Or 1914? I don't think we had quite so many.

Q More than two hundred, though? A Oh, yes.

20 Q Can you give me the date when this head was developed and invented by Mr. Henkle? A Well, I would have to refer to the tracings there; the tracings are always dated; I think it was 1899; Yes, this tracing is dated June 16, 1899; Mr. Teal was the engineer.

Q Is that June 16, 1899, in answer to my question as to when this head was perfected? A Well, that is the best of my knowledge, yes.

Q And what are you referring to, when you got that information? A Why, this ninety-six set ticket machine.

30 Q Will you state what it contained? A "Ninety-six set ticket machine"—

Mr. Ashmead. There is more to that.

A Do you want me to read the entire heading? "Continuously operating barrel number device, sheet No. 8."

Q Is that signed by Mr. Teal? A By Mr. Teal, yes.

Q Wasn't he really the inventor of that so-called head? A Mr. Teal and Mr. Henkle; Mr. Henkle gave him the ideas and Mr. Teal did the engineering and developing, and they worked together.

40 Q Wasn't Mr. Teal the inventive man? A No, Mr. Henkle was the inventive man.

Q Wasn't it Mr. Teal who took patents out on these heads and were not the patents taken out in Teal's name? A I couldn't say.

Q Did you know that there were patents on these heads? A I know there were some patents taken out.

Q On these heads? A On this barrel numbering head.

Q On numbering head? A I would add several; I know Mr. Teal—well, he made some other devices, and I know some of them were patented, just as I say, some devices we patented, but very few.

50 Q Is Mr. Teal dead or alive? A He has been dead these fifteen years.

Q Isn't it a fact that up until the time of his death that all the patents on all of these numbering devices were taken out in the name of Mr. Teal and not in the name of the Globe Ticket Company? A I wouldn't say, I don't know.

Walter E. Hering, cross.

Q But you do know that some were taken in Mr. Teal's name?
A I know that some were, but we just occasionally took out a patent just for a portion of a machine.

Q Now, do you know anything about the plant at Philadelphia?
A Do I know anything about it?

Q Is that in your department? A I know a great deal about it, because I established it, but I don't know any of the details of the machinery or anything like that, because I look after the business end of it. 10

Q I mean about the details of the management of the plant at all? A Not of the mechanical part, no.

Q Would you know, for instance, how many different employees you had between 1914 and 1917? A No, couldn't tell you.

Q You wouldn't know that, two hundred or more employees who were there in 1914 are still there? A No; I have a record of the time that the different employees have been there, but I couldn't say so positively. 20

Q In that printing business there is more or less of a floating labor situation, isn't there, they come and they go? A Well, to some extent, like in any other factory, but we have had employees there, well, some forty years, lots of them been there twenty years and twenty-five years.

Q But many of them come and work for a year and then leave and others come and take their places? A That is the case in any factory.

Q Isn't that particularly so in not your factory, but in the printing business? A I don't know; I couldn't say that; I couldn't say that; we treat our employees with the greatest consideration and they always like to stay. 30

Q How many floors in this building are occupied by the Globe Ticket Company? A Seven, really, that is, six and the basement; it is an eight-story building.

Q How long have you been in that building? A 1900, no we haven't been; the building has been built since 1900. Let us see, we moved in when the building was completed sometime in 1900, I think it was. 40

Q You have been in that building ever since? A Yes.

Q Will you tell me what each floor in that building is occupied by, the seven floors that were used? A The eighth floor is occupied by the strip and book department.

Q Eighth floor with the strip and book? A Yes.

Q What about the seventh? A The seventh floor is occupied by the transfer finishing and, well, some offices, and so on, stenographer and purchasing agent and engineer, and so on. Sixth floor has offices, and read transfer printing. The fifth floor supply department and stereotype and composing room. The fourth floor coupon ticket printing; the basement for the storage of stock. 50

Q The fourth floor coupon ticket? A Yes.

Q What about the third floor? A The third is rented and second is rented, and the first floor contains the machine shop and the

Walter E. Hering, cross.

slitting department and the shipping. No, not the slitting, the slitting has been taken away; I will say the machine shop and shipping department.

Q When was the slitting department in with the machine shop?

10 A The slitting department was taken down about, oh, I guess some six or eight months ago; the shipping department has taken the place of that now.

Q But you had slitting department? A We had slitting department.

Q On the same floor as the machine shop? A Yes.

Q And what about the basement? A Basement, storing.

Q How many employees work on the fourth floor? A Oh, I couldn't tell you.

Q Can you give an approximate idea? A I couldn't tell you that.

20 Q How many machines are on the fourth floor? A I couldn't tell you that.

Q Nor what kind of machines? A Oh, coupon ticket machines, yes.

Q Of great variety? A A variety, yes.

Q Different kinds of coupon ticket machines, including some machines that used this so-called barrel, and some that do not use the so-called barrel? A Right.

Q Are there partitions in this room? A Oh, yes.

30 Q How many partitions and into how many portions is it divided, the floor? A Well, each floor is divided by fire wall in the center of the building and some departments, like storage have live tickets, and so on; we have partitions and storerooms, you know, with shelving where we store.

Q There are no partitions between the machines on this fourth floor? A I wouldn't like to say; I don't visit the factory as a general thing; I can't just tell you.

Q Have you ever been on the fourth floor? A I should say so, certainly.

40 Q Have you any approximate idea of the number of machines on that floor? A I couldn't tell you.

Q Forty or fifty or ten? A There are some large machines and there are some little numbering machines and cutting machines; I wouldn't like to say; would be just a broad guess; you would have to ask that of another witness.

Q Are they not all in this large room? A Coupon machines, yes.

Q And some of them with the barrel head and some of them without the barrel head? A Exactly.

50 Q Do you know how many operators work in that large room on the fourth floor on these numerous machines? A Couldn't even tell you that; it would just be a guess.

Q Is there any particular location in that room where the barrel head machines are operated? Are they not all indiscriminately around, one barrel head next to something other than barrel head machine? A Well, we have the floor divided, one section for print-

Walter E. Hering, re-direct—re-cross.

ing, the other for finishing and examining, packing, and all that; of course, all the machinery is together, naturally.

Q (By the Court.) Any attempt made to keep knowledge from the employees of this floor of this barrel machine or barrel head?

A Nothing; the machinery is just run like any other machinery, in the open. 10

Re-direct examination by Mr. Smith.

Q You know Constantine Pope? A I do.

Q Where is he at the present time? A I am sure I can't tell you that.

Q Where is he employed at the present time? A Well, he is connected with the International Ticket Company.

Q What is his position there, do you know? A I believe he is chairman of the board.

Q Was he sometime before this associated with this company? A He was indeed. 20

Q What was his position there? A Well, he started in a small position and he was finally made vice-president, until he was discharged.

Q When was that? A 10th of January, 1916.

Q Do you know when he became associated with the International Ticket Company? A When he became associated?

Q Yes. A January 10, 1916, I told him to leave.

Q When did he become associated with the International Ticket Company? A Sometime after that, after we bought his stock. 30

Q Was he associated with this company at the time of this or before, the International Ticket Company? A I have every reason to believe he was instrumental in forming the company, but I don't know.

Q Do you know whether or not Mr. Pope became an officer of this incorporation immediately after its incorporation? A I couldn't tell you, I don't know.

Q Now, so as to clear one point, do you know whether this particular barrel head which is the subject of this controversy was or was not patented? A Why, the barrel head was not patented to my knowledge. 40

Re-cross examination by Mr. Leake.

Q There is a very great feeling existing between you and Mr. Pope? A Naturally.

Q And as you have expressed it you have a grudge to pay against him? A No, no grudge at all.

Q What have you against him, a hard feeling? A Simply that he broke his word of honor, that is all, and I requested him to resign. 50

Q There is also a personal lawsuit pending between you and Mr. Pope, is there not, involving some former affair? A Not at all; there is a suit pending, yes.

Q Involving some stock transaction? A Involving stock transaction. Shall I explain that.

The Court. No.

Walter C. Scott, direct.

Examined by Mr. Dodd.

Q During the time that Mr Pope was associated with you both Mr. Pope and your company were stockholders in the Rockwell Printing Company, were they not? A Yes.

10 Q And your company continued to be a stockholder in the Rockwell Printing Company down to the month of December, 1916, did you not? A I don't remember those dates; I know that we were stockholders, both Mr. Pope and the company.

Q And you also know that Mr. Pope during all of the time that he was stockholder was an officer of the Rockwell Printing Company? A Yes, sir.

Q You also know that the Rockwell Printing Company was one of the three companies that went into the International Ticket Company? A I believe so.

20 Q (*By Mr. Ashmead.*) How did you get your stock of the Rockwell Printing Company?

The Court. How is that important. What difference does it make how he got it? If he got it he got it; whether he got it by gift or bequest or purchase, he got it.

WALTER C. SCOTT sworn.

Direct examination by Mr. Ashmead.

30 Q Where do you live? A 219 North Sixty-second street, Philadelphia.

Q By whom are you employed? A The Globe Ticket Company.

Q How long have you been in their employ? A Since 1905.

Q And in what capacity were you first employed there? A As a machinist.

Q And what were your duties? A My first position was floor work.

40 Q How long did you hold that position? A About a year and a half.

Q And then what position did you assume? A Assigned to the repairing room.

Q Under what circumstances were you assigned to repairs, who assigned you? A Mr. Hood, the foreman at that time.

Q Did you have any knowledge up to that time of what is known as the barrel continuous numbering head? A No, sir.

Q When did you first get information concerning that device? A When I was put on the floor.

50 Q And from whom did you get that information? A Well, both from Mr. Walter Walton and Mr. Lemuel Titus.

Q What were your instructions with reference to that when you were given access to that device? A That we were to keep these carefully guarded.

Walter C. Scott, direct.

Q Who told you that? A Both Mr. Hood, Mr. Walton and Mr. Titus.

Q Mr. Titus told you what? A That any time we should take a head out we should cover it up as we took it down to the shop.

Q And what else, anything further? A That we should be careful not to let anybody see it. 10

Q From that time did you work upon this device, this barrel head? A Before that time; after that time then I worked on the device after I got up there.

Q Now, what is the general care taken with respect to maintaining the secrecy of this device, what has been? A Well, we have kept it in the vault, every time we have had it off the machine; when it wasn't on the machine and wasn't on the bench for repair it was put in the vault.

Q When it went to the repair cage what happened then? A The repair cage, that was cleaners' cage, that was always under lock and key, too. 20

Q When taking the machine to the repair cage what precaution was taken? A We always covered it up with a rag, always put a rag over it.

Q While it was in the repair cage was it under lock and key? A Under lock and key.

Q What care was taken with respect to the plans of this device? A They were always kept in chest of drawers.

Q Under lock and key? A In an office, yes. 30

Q Under lock and key? A Under lock and key, until they were down in the machine shop, the chest of drawers was removed to the machine shop, then there was bar with padlock put on it.

Q How can anyone get the plans of this machine? A The foreman could give it to them.

Q Only by application to the foreman? A The foreman would be the only way they could get it.

Q Is he the only one that has access to the plans unless he had key? A The foreman was the only one that has key.

Q Since you have been employed by the Globe Ticket Company who has been given access to this device to your knowledge? A Well, that was only the mechanics, that is, for repair, and of course the man that run it. 40

Q Who were they? A Well, at the time there was Mr. Hood, Mr. Walton, Mr. Titus, that is all I can remember.

Q How about Mr. Yates? A Oh, Mr. Yates.

Q Who is Mr. Hood? A Mr. Hood was the foreman.

Q Is he still alive? A No, he is dead.

Q Who is Mr. Walton? A He was our master mechanic. 50

Q Where is he? A I couldn't tell you.

Q Is he any longer in the employ of the Globe Ticket Company? A No, sir; he is not.

Q And how long have you known Mr. Titus? A Since 1905.

Q Is Mr. Yates still in the employ of the company? A Yes.

Walter C. Scott, direct.

Q And you are still in the employ of the company? A Yes.

Q Is it possible to merely have a sight of this device to ascertain the method of its working? A No, sir.

10 Q Or from looking at it to produce a device that would perform the same function? A That would be almost impossible.

Q Why is that? A Why, because all the mechanism is on the inside of the head.

Q I show you this; will you undo that and explain to the Court the working of the device? A That is what it is always wrapped up in.

Q Now, will you explain to the Court the purpose and show its operation and particularly describe its function? A I will have to have a wrench.

20 Q Just first state the purpose of this device, the function that it performs and the improvement over the old method? A This is the continuous barrel numbering head; there are five divisions on there of ten numbers each and it is from naught to nine, and this is what you call the tens head, five sets of ten numbers each, and with this here part out—

Q What is the purpose of this, what is it used for? A This is to number the tickets; we have two heads on the machine, one is unit and the other a ten.

30 Q And what does it accomplish by having this device, what does it add to the ordinary machine, what does it make possible? A It makes possible the numbering of the tickets in rotation, that is, continuous numbering.

Q And what was the old method of doing it? A By thumper.

Q And how many could you do under the old method? A I have no idea; it would be very slow.

Q Very slow? A Very slow.

Q And how fast can you turn out or number tickets by this device? A Well, on this machine we can turn out at least about 600,000 a week.

40 Q Now, will you explain to the Court—what is it you put on there, that is, what numbers do you put on the tickets? A Why, the seat number, this is the seat number.

Q Is that company in the manufacture of theatre tickets? A Theatre tickets.

Q And in those tickets or on those tickets must be placed, as I understand it, a number for each seat in each row? A Yes.

Q Is that right? A Each row in the theatre.

50 Q And the tickets by the press are printed for sixteen weeks on the ninety-six set press? A Yes.

Q And that of those sets there must be a ticket for each different seat in the theatre? A Each different seat.

Q And it becomes necessary therefore to not only put on the row but also the seat number? A The seat number.

Q Right and left of the aisle? A Yes.

Walter C. Scott, direct.

Q And this machine is used for the purpose of putting those numbers on there continuously throughout the sixteen weeks in one operation, is that right? A Yes, one operation.

Q So as to make possible the making up of a sixteen-week set of tickets in one operation instead of having them numbered like the ordinary numbering machine or a number of such heads together, is that so? A Yes, and much more rapid. 10

Q Now, will you explain to the Court the operation of the machine? A There are two heads together; one is units and one is tens.

Q Just ten and just unit? A I haven't got the units with me, but the units is the same thing only it has one ratchet and this has got two inside. Now, we set this here (indicating).

Q Before you start in may I show you—will you mark that an exhibit? 20

Marked Exhibit C. 1.

Q I show you Exhibit C. 1 and ask you what that is? A This is a strip without the numbers.

Strip of tickets offered and marked Exhibit C. 2.

Q I show you Exhibit C. 2 and ask you what that is? A That is strip numbered.

Q Now, is it the function of this machine to put those numbers on as appear on the second strip? A Yes, these here numbers here (indicating). Now, at the end of every strip there is a knocker comes around and hits in here and changes the unit head, and also hits here (indicating), and there is a little ratchet in there that has ten high teeth and one low tooth; there are fifty teeth around those five divisions and every tenth tooth is a low tooth; therefore when it hits the units ten times then it comes in contact with a low tooth here and turns this here (indicating). 30

Q And takes the next number? A Then it goes ahead for another ten numbers also actuating this idle ratchet until another ten, then it pulls the next number.

Q Will you just show that operation? A When we set it it is always at the naught, then idle ratchet is at cipher, too, and this is pushed out at the naught; it don't slip in only until it comes to the one. Now, it is only printing one number on there; then as this here ratchet gets to one of the low teeth this ratchet pulls this one tooth and this comes to the one, which is the only place where it will slide in, and then it starts to print. 40

Q Printing ones? A Printing ones.

Q What is the distance between the two ones? A Inch and a half, every inch and a half. 50

Q Which is the same distance as on the ticket? A Yes. This here one will print here, then every sixth one will be that one again.

Q When you are speaking of the units what do you mean, where it says, "left M" there? A No, units is the other head that turn in every strip, and this turns in once every ten strips.

Walter C. Scott, direct.

Q That may go to any number? A If you run up to the ten then it will be cipher on the unit and that one come here (indicating).

Q What is the mechanism inside, is it complicated or simple?
A Very complicated.

10 Q I will show you the tracing here which I would like to have marked Exhibit C. 3, and ask you what that is? A Well, that is a tracing of this barrel numbering head.

Tracing marked Exhibit C. 3.

Q Made from that head or made from that tracing? A Made from that tracing, yes, or blueprint, that was made from that tracing.

Q What is the function of this end on here, explain that to the Court. A That is spring, when she comes to the one that makes the impression; it would not print unless that had jumped under.

20 Q Did you state how many tickets could be numbered in a day by this machine, by this device?

The Court. He said 600,000 a week.

Q Now, with respect to the number of sets on a press, does the number of sets require a different device as to numbering or do you use the same device on any number of set press? A We use the same device for any number of sets.

30 Q The number of sets on a press has nothing to do with the use of this device attached to that machine? A No; this will number any amount of sets, that is until it goes into hundreds, then we slip a collar on for the hundreds.

Q Then do I understand that this is a device that is entirely distinct from the printing press? A Oh, yes.

Q To be attached to it? A To be attached to it.

Q To perform the particular function of numbering these tickets?
A Yes.

Q In sets? A In sets.

Q Can you take that apart? A I can take it apart, yes.

40 *Mr. Ashmead.* On this we want a limited number of people to see this, Mr. Titus and Mr. Leake. I don't know about Mr. Dodd's knowledge or Mr. Manchell's, but I would like to show that to the Court; Mr. Titus is perfectly familiar with it.

50 *Mr. Leake.* I would think he might work out some plan to protect you and protect us. Our mechanism is entirely different than yours, and we feel equally diffident about letting you know what our mechanical operation is. This suit is based on the idea—Mr. Dodd and Mr. Manchell know all about this secret, they got it from Mr. Titus, of course; in that respect you ought not to have any objection to their looking at it. I thought of this as a fair way. Have your man explain that one to the Court with no one in this room; I don't want to look at it; then I would like Mr. Titus, who is also a mechanical man, to take his and show that to the Court, take it apart. That I think is a fair

Walter C. Scott, direct.

proposition, no injury done to either side; I think that is a fair way. We don't want to know your mechanical device and we don't want you to know ours. Is that fair?

Mr. Ashmead. If the Court please, I don't know that Mr. Leake or Mr. Smith or I have any very great mechanical ability, and I think with the modification that one lawyer from each side be present we can work it out that way? 10

Mr. Leake. I would rather give up the privilege of being present if you give up, because you and I have, as you say, very little mechanical idea. Well, one lawyer, if that is agreeable.

The Court. Why not postpone this examination until after the rest of the testimony is put in? I suppose the crux of the case is whether or not the device used by the International is similar to that; it depends on the character of these two machines, doesn't it? 20

Mr. Leake. It narrows down a little bit further than that. The inventive and discovery part of it is not the type of that thing they call a barrel; it is in its operation; that is the crux of the case; it is in the use of those numbers. There have been successive printing devices that cover numbers around on a barrel, but how we produce our numbers and how they produce their numbers, and also as to the features of the operation, which are well-known mechanical device that have been in use in other mechanical operations, of course that is not an invention or discovery. 30

Mr. Ashmead. We will defer the taking apart until a later time. 30

Q What were Mr. Titus' duties while employed with the Globe Ticket Company? A As a repair man.

Q And what were his duties as repair man? A To keep all machinery, numbering heads, &c., in working order.

Q He had to do and worked on these numbering heads constantly, did he? A Whenever they needed repairing.

Q When did Mr. Titus leave the employ of the Globe Ticket Company? A 1913, I think it was. 40

Q Well, what month; do you remember? A Either March or April, I am not sure.

Q Prior to his going did you observe his activity about the plant of the Globe Ticket Company, any unusual activity on his part? A Only that he was making measurements.

Q Now, what was he measuring, and where? A Both on one of our numbering head collars, he measured that up, and also the head plates.

Q Now, could he have gotten those measurements from the blue-prints? A Yes. 50

Q What would he have had to do to have gotten the place open? A He would have had to ask the foreman for it.

Q Before leaving the Globe Ticket Company did he make any statements to you as to a trip that he was about to make? A Yes.

Walter C. Scott, direct.

Q What were those statements? A That he had corresponded with a firm in Providence and that he was going to go over and see what he could do with them.

Q Now, did he go? A He went on Washington's Birthday.

10 Q How many weeks would you say before he left? A Probably four or six.

Q Did he give you the name of the company then? A No, sir.

Q When he returned did he make any statements to you as to the result of his visit? A Just that he had made out all right.

Q What did he say; just give the statement? A Well, when he came back, of course I knew that he was going, he come back and I asked him just how he had made out, and he said he had made out all right, he didn't know whether he would take it or not, that he would think it over.

20 Q And when did he again speak to you about it? A Just prior to when he left, about four or five days.

Q Did you know when he left over Washington's Birthday where he was going, what town? A To Providence.

Q How did you know that? A Because he told me.

Q Now, when did he next speak to you about this offer that he had had? A Just before he left.

30 Q And what did he say then? A Then he says that he had been down there and they had made him an offer, that he was to put them in the coupon ticket business and that if he was successful that he would get a thousand dollars in stock.

Q Of what company, did he say? A No, he never mentioned the company.

Q Did you know what company he was going with? A No, sir; not at that time.

Q At the time he left do you know whether he knew that the Globe Ticket Company had a forty-eight set press in contemplation? A Yes.

40 Q How did you know that? A Why, through the foreman of the shop.

Q Did you know from Titus? A Did I know from Titus?

Q Yes; did Titus tell you that he knew that? A No, but the foreman told the both of us.

Q Told Titus in your presence? A Oh, yes.

Q Did Titus make any remarks with respect to that forty-eight set press? A Not at that time.

Q Did he make any remarks later? A Later in the letter, that is all.

50 Q And were you in correspondence with him after he left? A Yes.

Q For how long? A Probably a year, year and a half.

Q When he wrote you, have you those letters? A No, sir.

Q When he wrote you did he request any information from you?
A No, but I had offered to give him information in case he ever needed it.

Walter C. Scott, direct.

Q What were the circumstances of that offer; how did that come about that you offered to give him some information? A Why, because I was not satisfied with my position there and that I was willing to help him if he would help me in a way.

Q Why weren't you satisfied with your position? A Well, things were not going right around the place to suit us. 10

Q What was the trouble? A Well, it seemed like they were driving you, were not treating you right.

Q Who was that in particular that was not treating you right? A Well, in the first place, it was Mr. Pope.

The Court. Why go into all this? I am not going to investigate the treatment by this company of its employees.

Q So when he left you were not satisfied with your job? A No, sir; I was not. 20

Q And you told him if you could get him any information you would do it? A I did.

Q Did he write you for the information? A At one time, yes.

Q What did he ask you? A He had asked me the pitch and number of links on a certain chain, and also asked me for electrotype price slug.

Q At the time Mr. Titus left did he speak to you about any measurements that he had made? A The only time that I had any information that he had, when he left I had offered to give him any information that he would want, but he said that he thought he had enough data now and he was going to get a draughtsman, that he was no draughtsman, but he thought he could give a draughtsman enough information that he would be able to proceed all right, and he has never asked me for any measurements, diameters, &c.; that is the only thing he hasn't asked me. 30

Q Did you know that he knew that these processes used in the Globe Ticket Company were secrets?

Objected to.

The Court. You may say what was said that indicated whether Titus knew they were secrets. 40

Q Was anything ever said to you by Titus that would indicate that these processes were to be kept secret?

The Court. That indicated that it was known to him that they should be kept secret.

A Yes, it was known to him.

Q (*By the Court.*) Did he know, did he say anything to you that would indicate that he knew they should be kept secret? 50

Q That is from the beginning to the end? A Yes; one time, if we didn't put a rag around there when we took any numbering heads down, we were liable to be discharged for it.

Q Did he speak to you about that? A Oh, yes.

Walter C. Scott, direct.

Q Have you had conversations with him respecting the methods used in working on these devices, that is, the secrecy of the methods?

A Well, both on this and on all heads, yes.

Q What were some of the things that he said to you, if you recall?

10 A Well, the only thing about this here, that we had to wrap them up when we took them down.

Q And from whom did you first learn that you must keep them secret? I think this has been asked, but I want to repeat it again? A Both from Mr. Walter Walton and Mr. Titus.

Q Did you ever go to visit Mr. Titus at Providence? A Yes, I did.

Q When was that? A I can't just recall the year; I should say about two years ago.

Q And what time of the year? A It was in July.

20 Q And what were the circumstances of your trip there? A Well, Mr. Titus had come up to Philadelphia and we were very friendly, and he had come up to my house and had also invited me down to his place during my vacation, told me when I got my vacation he would get his and we could see the town.

Q And did you go up there? A Yes.

Q While you were there did you have any discussion with respect to the devices he had attached to the machine of the Sun Printing Company? A Only that he was making out all right with his machine he said, and that he was making good, that his machine was running successfully, that the heads were all right.

30 Q And who was he employed by at that time? A The Sun, I thought; it was the Sun Printing Company at that time.

Q The Sun Printing Company at that time? A The Sun Printing Company.

Q Did you run across any other employees of the Globe Ticket Company down there? A Yes, one.

Q Who were they? A George Hill.

Q And did George Hill formerly work for the Globe Ticket Company? A Yes.

40 Q In what department? A In the coupon department.

Q What were his duties? A Running a press with one of these heads.

Q Operator? A Operator of the press.

Q And do you remember when he left the company? A No, I couldn't say.

Q That is when Hill left the company? A No.

Q I mean the Globe Ticket Company? A No, I can't say just when he left it.

Q Did you have any correspondence with Mr. Titus about that?

50 A Yes.

Q Do you remember what that was? A Well, at one time he had wrote to me and asked me if I could get George Hill to correspond with him with reference to a position down there, and I seen George Hill and told him about it, and he corresponded with Mr. Titus and took a position down there.

Walter C. Scott, cross.

Q He did take a position down there—did you see him down there when you were there? A Yes.

Q And where does he board? A With Mr. Titus.

Q What was your purpose in going down there at that time, was it business or pleasure? A Mine was only pleasure.

Q Did you go down to the Sun Printing Company? A I didn't go-down to the Sun Printing Company, no, sir.

Q Were you requested to go down there? A Well, at one time George Hill, he was working down there, that was at one dinner time George Hill had come home and told Mr. Titus that Mr. Manchell had asked to bring me down, but that is all I ever heard of it; I never went down.

Q They did not invite you to go down? A They didn't invite me to go down.

Q Now, you have stated that from time to time you furnished information to Mr. Titus. Did you ever inform the Globe Ticket Company that you had done that? A No, sir.

Q When was the first time they learned that?

Objected to.

The Court. To your knowledge.

Q To your knowledge? A Why, to my knowledge it is just Tuesday was the first that I told.

Q (*By the Court.*) The first that you ever told any officer of the company? A Yes, sir.

Q When you were down there did Mr. Titus make any further statement as to what he was getting for his services at the Sun Printing Company, or what he had gotten? A He hadn't said what he had gotten, but when he told me that if he had made a success of it he would get a thousand dollars in stock, and that the machine was successful, when I was down there.

Cross examination by Mr. Leake.

Q When did you get satisfied with your job at the Globe plant? A It seemed after Mr. Pope got out of there everything seemed to settle down pretty nice.

Q When did you get satisfied with your job at the Globe Company? A I should judge when I got my first raise, that is after Mr. Pope left.

Q When did you get satisfied with your job at the Globe plant, can you state the year? A About 1915, latter part of 1915.

Q About 1915, and which officer did you talk with about your visit to Providence? A I didn't talk to no officer.

Q You talked to the foreman? A I talked to a foreman, yes.

Q A foreman of your department there, didn't you? A Yes.

Q And you told him of this conversation? A What conversation?

Q About how successful Titus was operating the machine. A No, never told him he was operating it successfully.

Walter C. Scott, cross.

Q Did you tell him he was operating it at all? A Yes.

Q And that it had a barrel head on it? A No, sir, never mentioned barrel head.

Q Did you tell him what kind of machine it was? A Forty-eight set.

10 Q You didn't have any forty-eight set in your shop then, did you?
A Yes, we had at that time, I mentioned it to him.

Q When did you get that forty-eight set machine in your shop?

A About latter part of, or about the middle of 1913, I should judge.

Q About the middle of 1913? A Yes.

Q Do I understand you want to state when Mr. Titus left the Globe plant that there was a forty-eight machine in operation? A No, sir, not when he left.

Q Every time you went through the plant with one of these barrel heads you had that bag or similar bag? A Similar bag or rag.

20 Q Did they have the bags over them while they were on the machines in operation? A No, sir.

Q Did they have any other device that concealed? A Every Saturday and Sunday they had cover over the whole machine.

Q When nobody was there, when no employees were working they covered them up to keep the dust and dirt from them? A Yes, and when they were done with the machine, if they were not to be used for a couple of days, whether the middle of the week or not, they would put cover over it.

30 Q To keep the dust and dirt off it? A Yes, to keep everything off it.

Q Now, when the operator was working this machine how much of this was exposed to view? A This here was exposed (indicating).

Q It was exposed, was it not, from this point to the end? A Yes.

Q All of those were exposed? A Yes, all of those were exposed (indicating).

Q This was exposed (indicating)? A Yes.

Q And in fact, the spring and everything was exposed? A All this outside.

40 Q All the outside was exposed to every operator of the machine?
A Yes, of this machine.

Q Was this not set in the machine so that from the point of the device where I am now indicating was extended outside of the machine? It was not set in any secret groove, it extended outside of the machine? A This here was in line with the cylinder.

Q And from the point where those numbers appear to the end was outside of the machine in view to everybody in and near the machine? A Unless they were up to the machine, yes.

50 Q Anyone that came up to that machine would see these numbers and all of this mechanism, wouldn't they? A Yes, this here (indicating).

Q Now, the appearance of this thing or the barrel was not the secret, it was the inside operation of it, wasn't it? A Yes.

Q It was the inside mechanical operation of that device that was the secret, wasn't it? A Well, the whole thing was a secret to me.

Walter C. Scott, cross.

Q Well, because you had not seen it before? A No, it was always indicated that the whole thing was to be kept secret.

Q The whole thing? A The whole thing.

Q Now, may I ask you when the machine was in operation did the operator or any person standing by the operator see these different types in operation? A You couldn't see it. 10

Q You couldn't see them? A No.

Q But you could see that part of the top of the cylinder of the numbers that were not in operation? A When they were not in operation, when the machine was not in operation then you could see it.

Q But when it was in operation you could not distinguish the numbers, but you saw this round cylinder going around? A Yes, sir.

Q Now, on the machine on which this attachment is placed is what is known as a rotary press, isn't it? A Yes, that is attached to a rotary press. 20

Q Now, on that rotary press, were there other cylinders that printed other things on these two tickets which are marked Exhibit C. 1 and C. 2? A Yes.

Q Will you indicate how many other cylinders are on the machines to which this is attachment in court, and what was printed by these other cylinders on this ticket? A There is one cylinder, what they call the head plate, it is this here (indicating).

Q Referring to Lyceum Theatre? A Yes, and the clause.

Q Another cylinder for the clause? A No. 30

Q The head plate and the clause? A No, this here is all one cylinder, this here "Lyceum Theatre, Washington, D. C.," is on one cylinder.

Q All right; now, what is on the next cylinder? A Then on another cylinder, this is date cylinder, called for this part, this part (indicating).

Q The next is the date cylinder? A The date cylinder.

Q That calls for January 27th? A Yes.

Q On the left of the ticket 1918? A Yes, 1918.

Q And what on the right side of the ticket? A And the same date across here (indicating). 40

Q And "A, January 27, 1918," on the right-hand side of the ticket? A Yes. Matinee, January 27th.

Q Any other cylinder? A Then there was location cylinder.

Q Another cylinder called location cylinder printing the word "Orchestra"? A Yes, or other part of the house.

Q Now, any other cylinder? A Well, we had a back cylinder, but there isn't any back on this.

Q There was another cylinder that could be used for printing on the back? A On the back. 50

Q Now, the cylinder which you call the date cylinder, that prints "A, January 27, 1918," that also successively printed the dates, didn't it? A Not successively, there was certain number in there and that is all it could print every revolution.

Walter C. Scott, cross.

Q That was round cylinder, was it not? A Yes, round cylinder.

Q With different fronts or different dates on it? A Yes.

Q And as that would go around the different dates would be successively printed on this ticket? A Yes.

10 Q For instance, there would be in this one, there were two on the 27th, next on the 26th, 25th, 24th, 22nd, 21st and 20th? A Yes.

Q Now, when you spoke of printing ninety-six sets of tickets your machine wasted some of those sets, didn't it? A The machine was built for one hundred, yes.

20 *Mr. Ashmead.* This is really not relevant; he is getting into this case the question of rotary press, which has nothing to do whatever with this mechanism; this may be attached to any rotary press, additional mechanism, and I don't want the Court to get confused, because both Mr. Dodd and Mr. Leake were talking the other day about rotary presses.

The Court. Proceed.

Q How many tickets are wasted in the ninety-six sets that are printed with the use of this so-called barrel head in your shop? A Well, when we run a ninety-six it wastes four tickets.

Q Have you been trying to work out a head that will not waste those four tickets? A It is not the head that wastes the ticket.

Q What is it that wastes it? A It is the cylinder.

Q What cylinder, this cylinder? A No, the big cylinder.

30 Q The big cylinder that wastes it? A Yes, the big cylinder; this head would print right along regardless where it was.

Q One is lost in alternating, isn't it? A One is lost in alternating, yes.

Q In the alternate numbering? A When you run a double number, yes.

Q One of these four is lost in numbering by that device? A In alternating, yes.

40 Q In your mechanical operation of that device that you say is secret you lose one set of tickets by the use of that mechanical principle, do you not? A On ninety-six, yes.

Q May I ask you if in setting that head you can in your machine turn it to the left or right in setting? It is set now at what number? A At one.

Q At one? A Yes.

Q On the left of that one is two and on the right of it is nine? A Is nine, yes.

Q Can you turn it to the right to nine? A No; you can only turn it one way.

50 Q You can turn it to the left, however, to one? A Yes.

Q And if you want to set that at nine you must turn it completely around to the left? A No.

Q You don't? A No.

Q Show me how you set it? A You have to turn it from there to there (indicating).

Walter C. Scott, cross.

Q But you must turn it from the left past two, three, four, five, six, seven, eight, nine? A Yes.

Q You cannot turn it to the nine, which is immediately two numbers to the right? A No, sir.

Q Have you tried to correct that situation? A No, sir; I have not. 10

Q Have you not been working for a long time in your plant to correct that situation? A Not that I know of; no, sir.

Q How long does it take for an operator to set that machine at say twenty-four, can you tell in the number of seconds? A About three or four seconds?

Q About three or four seconds? A Yes.

Q Does it take any longer to set it at any other number than three or four seconds? A No, sir. 20

Q Have you discussed the relations between you and Titus with any other officer of the Globe Company? A No, sir.

Q Any other employee of the company? A I have with employees, yes.

Q Any other official, any other superintendent or foreman? A No; one foreman I did.

Q And when did you tell that foreman, in 1915, was it not? A No, he knew, I discussed with him from the day that Titus left.

Q And what was his name? A Joe Mahrgang. 30

Q And what was he? A At that time he was foreman on the fourth floor, coupon department.

Q Foreman of the coupon ticket printing department? A Yes.

Q And your immediate superior, was he not, your boss, as we call it, or your superior? A No, he was not; he was superior while we were on that floor, but outside of that he was—

Q He was the head of that department? A He was the head of that department, yes.

Q Isn't it a fact that practically every one around the factory knew that Titus was with the Sun Ticket Company in Providence? 40

A Later on, after he left they did.

Q Well, how much later? A Probably four months or so.

Q Every one in the plant knew? A No, not every one didn't.

Q Well, the officers knew that he was with the Sun Ticket Company? A If they did I didn't know it.

Q Was it not common knowledge that Titus had gone to the Sun Ticket Company plant at Providence by the end of 1913? A Yes, it was common knowledge through the plant.

Q Well, you seemed to be very willing to give this so-called secret information to Titus, didn't you? A I was perfectly willing, yes. 50

Q You did not regard it as very much of a secret then when you offered to him, as you said in your direct testimony, to give him any information or help him out? A No, but I was trusted with the secret.

Walter C. Scott, cross.

Q Oh, but you did not regard it as very much of a secret then, not until Tuesday, did you? You were not so much impressed about the secret until Tuesday, were you? A What secret?

Q Well, what secret are you speaking of? A About Titus? I don't know whether you mean the head.

10

Q The head, I mean. A That this here head was a secret?

The Court. Yes.

A Yes, I always regarded it as a secret.

Q (*By the Court.*) And you were willing to divulge the secret?

A I was willing to divulge the secret to Mr. Titus, yes.

Q Well, did you divulge the secret to Mr. Walton? A No, sir; I never did.

20

Q You knew that Walton built a machine for some western ticket concern, didn't you? A I heard that he was going to go into the printing business, that is, for some firm out there.

Q And when did you hear that and from whom did you hear it? A Why, either from Mr. Titus or Mr. Walton, I heard it from both of them.

Q And when did Walton leave, before Titus, did he not? A Oh, yes.

Q Quite some time before Titus? A Quite some time, yes.

30

Q Two or three years? A I judge somewhere around that probably.

Q Wasn't it common knowledge that Walton had gone to some western ticket concern and offered to build a machine for that concern? A I think he did.

Q Do you know the name of the concern? A No, sir.

Q Now, the only thing that Mr. Titus requested you to furnish him was the pitch and the links of a chain? A And also electrotyping price slug.

40

Q There was no chain used in the operation of this barrel head device, numbering device, or any other electrical price slug in this numbering head either? A Not in the numbering head; no, sir.

Q And he never asked you any information about the numbering head? A Not regarding the head; no, sir.

Q When you went to visit Mr. Titus in Providence you were a friend of his, weren't you? A Yes.

Q And you were a friend of Titus for a long while? A Yes, I am yet for that matter; I have never had anything with Titus.

Q Been in the same shop? A Yes.

Q When you went to Providence you were not sent there by the Globe people, were you? A No, sir.

50

Q Didn't Mr. Titus tell you that he had worked out a head that was entirely different in its mechanical operation than the Globe, and that it was better than the Globe? A No, sir; he never told me.

Q What did he tell you about how good his head was, his numbering head? A He told me he could turn it easier than ours.

Walter C. Scott, cross.

Q So you then knew at least insofar as the turning was concerned it was different? A It was easier.

Q Didn't he tell you anything else about its being different than the Globe? A He said he was going to try and put knocker on that would hit from the back instead of the front.

Q Yours still hits from the front, don't it? A Yes, still hits from the front. 10

Q What was the difficulty about the knocker hitting from the front? A At one time it would overthrow from high speed, but we overcome that.

Q But you hadn't overcome it when Titus had left? A No.

Q When did you overcome it, how recently? A Oh, gradually working on it.

Q Now, may I ask you how many years have you been in the mechanical trade or line with machinery? A About nineteen or twenty years. 20

Q There is nothing new or novel in the operation of a ratchet, is there? A This ratchet?

Q A ratchet, the use of a ratchet, it is a common mechanical device, isn't it? A Yes.

Q A knocker is a common mechanical device, isn't it? A A knocker is common mechanical device.

Q What is the surface speed of the mechanism, surface speed of this barrel head you have produced in court? A I don't know.

Q You don't know? A No. 30

Q How many knockers are used in that device? A On a ninety-six set press, that is on a ninety-six set on a regular number one, two, three, four we use one knocker.

Q What about the others? A And on alternate we use two for twenty-four, that is, from one, three, five.

Q You use two knockers? A Yes.

Q Does your machine on which those features are used fold the tickets in its operation? A No, sir; this one here rolls them on a roll.

Q How is that barrel head clamped or anchored on yours? A Clamp collar in a gear at the back. 40

Q Do you use washers? A For what?

Q In that device, for any purpose? A Washers?

Q Split washers, don't you? A No; no split washers.

Mr. Ashmead. It seems to me this examination is going into what kind of apparatus we have got on this press generally, and does not concern itself with this barrel head. We don't want to tell all these appliances or tell how we do all these different things. 50

Q How many inking devices are there on the machine?

The Court. You mean on the machine generally?

Mr. Leake. On the machine from which this device has been taken, the ticket-printing machine?

Walter C. Scott, cross.

The Court. How is that material?

Mr. Leake. Well, it may not be at this time, at any rate.

10 Q If you were an operator on this machine from which this device has been taken and you wanted to set that numbering head at twenty-four, will you please describe what you would do to set it at twenty-four? A I would put four up on the units and two up on this head.

Q And then what would you do? A Then I would ratchet this to four.

Q How would you ratchet it to 4? A Just use a little wrench on here.

20 Q Just describe that whole operation; how do you set it at 24, and if you will just speak to us so the stenographer can get it? A You see that is working the other ratchet in there, the idle ratchet.

Q Have you started now to set it at 24? A No; I haven't started to set it at 24.

Q What was that operation you were going through? A Just to see whether it was working all right.

Q All right. Now, will you please describe exactly what you do to set it at 24? A You bring this up to 2, turning to the left to 2.

Q All right; now, what else? A Then we ratchet this to 4.

Q How many times do you ratchet it? A Four.

Q Ratchet it four times to 4? A To 4.

30 Q Now, is it already to start? A It is already for the start of the machine, yes.

Q (*By the Court.*) I still do not understand what prints the 4? A There is another head in front of this; this prints the units and this prints the ten (indicating).

Mr. Ashmead. One works every time and one works every ten times.

40 Q This mechanical principle of what you call ratcheting it four times; that is an old device which is in use on many numbering heads, is it not? A I never seen any.

Q Did you ever see any other numbering heads? A Oh, yes.

Q Did you ever see any other numbering heads with a ratchet on? A Yes.

Q Have you seen many with ratchets on? A Yes, I have seen many with ratchets on, but not this kind.

Q No, but the principle of ratcheting and the use of ratchets has been in use in the printing trade on numbering heads for many years, has it not? A I don't know whether it was or not.

50 Q How many years have you seen ratchets on numbering heads other than Globe Ticket machines? A I haven't seen none numbered on numbering heads but the Globe.

Q Did you ever see any others? A Yes.

Q And you have never seen a ratchet or the use of a ratchet on any other numbering heads? A No, sir, not that I can remember; I never seen anything but the Globe Ticket Company heads.

Walter C. Scott, cross.

Q (*By the Court.*) Can you do successive printing without the use at least of the principle of the ratchet? A Not on this; not for successive numbering.

Q (*By the Court.*) For successive numbering without the principle of the ratchet? A Yes, you could do it.

Q But the principle of ratcheting in say any kind of successive printing is a well-known and established custom, is it not? A Yes.

Q And it is used by many other concerns and has been in use for many years, has it not, the use of ratchets? A The use of ratchets, yes.

Q And isn't that same thing true about the use of knockers as a mechanical principle? A Yes.

Q Did you ever see the International numbering head? A No, sir; I never seen it.

Q Or the Sun Ticket Company numbering head? A No, never seen it.

Q How many different kinds of numbering heads are there in use in the printing trade?? A I couldn't say.

Q Well, are there as many as forty? A As far as I have seen; I haven't seen that many.

Q How many do you think there are, approximately? A About fifteen.

Q About fifteen different kinds of successive numbering heads in use? A Yes.

Q And hasn't that principle of successive numbering heads been in well-known public use for many years? I am not speaking now of this particular device of yours, but in the use of successive numbering, in printing on cylinders or barrels, with the use of cylinders or barrels? A No, I haven't seen any on cylinders or barrels, but in the thumper I have.

Q In what? A In the thumping machines I have.

Q What do you mean by a barrel? A Well, a good definition of a barrel head is a head shaped like a barrel.

Q Is there anything new or novel in being shaped like a barrel? A There is in that, because you can number; it all depends on the shape of the numbering head how you can number.

Q Are not all cylinders that have numbers for use in successive printing, for instance, like a calendar machine; are they not generally round cylinder heads? A I never seen numbering head on a calendar machine.

Q Did you ever see a round cylinder on a calendar machine? A Yes, I seen round cylinder.

Q Shaped like a barrel? A Well, shaped like a tub, you might say.

Q Well, or like a barrel. What is there between the so-called barrel and the cylinder that characterizes this thing as a barrel, to your mind? A Between this and a cylinder?

Q Yes; isn't that a round cylinder? A That is a round cylinder.

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Walter C. Scott, cross.

Q You call it a barrel for some unknown reason, don't you? A Because it looks like the staves of a barrel.

Q Now, there is nothing new in the use of a round cylinder, is there, for successive numbering? A I don't know about that.

Q Well, is it new or old? A This here is.

10 Q Is the use of a round cylinder for successive numbering a new thing or is it an old thing? A Well, I have known it just since I come to the Globe; that is as far as I know.

Q Is there anything new in the use of the so-called barrel principle because it has staves to it; is there anything new in that? A Why, it is new in it because these here staves help you to pull your cracks up.

Q Let us see if you and I understand each other, if the Court will bear with me; it is hard for me to get this in my own mind, get out what I desire of the witness? There is nothing new in the printing trade in the use of a round cylinder or barrel, is there? A There is nothing new in a round cylinder, no.

Q Now, the newness or inventive or discovery feature of this device is based upon the fact that there are staves which lift up or depress down a certain staff with a number on it. You do not mean to say that that is new or novel in the mechanical world, is it? A It is the first time I ever seen it.

Q The first time you ever saw anything that looked like a barrel with the staves on it that was used in mechanical— A For numbering, yes.

30 Q Did you ever see an old typewriter? A Yes, I have seen an old typewriter; it all depends on how old.

Q Well, the oldest ones had the most perfect barrels on, didn't they? A I never seen them.

Q Well, what do you mean by a barrel? A Round cylinder with staves.

Q Round cylinder with staves? A Yes.

Q You have seen these old typewriters, haven't you? A It all depends on how old; I don't know.

40 Q I mean the real old ones? A That may be before my time.

Q Did you ever see an old typewriter like that, page 42 of that book marked Troop, Martin & Company, Boston, Massachusetts, with a round cylinder head like that, from which the top or staves are suspended? A No, sir.

Q Never did? A No, sir.

Q Did you ever see one like this on page 148, old caligraph with a round barrel head with the staves running all around? A I have seen something similar to that; it wasn't round.

50 Q Those staves have numbers and figures and letters on, have they not? A Figures and letters.

Q How many years ago did you see the typewriter that had the round cylinder head with the staves on? A I didn't see none with round cylinder head; this was about half round.

Q Half round, semi-circle; how many years ago did you see that? A I couldn't say.

Lemuel B. Titus, direct.

Q Was it more than ten years ago? A No, I don't believe it was.

Q How many years ago? A The only time I was ever interested in typewriters was probably six or seven years ago.

Q Now, those staves on that typewriter lift up or depress down for the purpose of making an impression on the paper, don't they, and printing either a number or a figure or a letter? A When you push on a key? 10

Q Then the only difference between the round barrel head with a lot of numbers on and a round barrel head in the typewriter with figures and numbers is in the method of operating those staves, isn't it? A I have never seen any with a round barrel; I have seen them with a semi-circle.

Q With respect to the difference between the half barrel and your barrel, the only difference between the mechanical principle is in the method of making those staves go on the typewriter or making them go on your barrel head to print a number? A Difference between these staves and them? 20

Q Is the difference in the operation? A Yes, there is a difference.

Q Because they both print a figure or letter or number on paper? A There is a difference between this and that kind of stave because this here stave depends on the spring of its own body to pull it back, and the typewriter does not, that either has a spring or drops back of its weight.

Q That is the only difference, isn't it? A That is the difference. 30

Q Yours has a spring to bring it back? A No; ours depends on the spring of its own body.

Q And the typewriter has a spring itself? A Yes.

RECESS.

LEMUEL B. TITUS, sworn.

Direct examination by Mr. Leake.

Q Will you explain the difference in the mechanical operation and the use of the numbering head of the Globe Ticket Company and the numbering head of the International Ticket Company? A On the Globe Ticket Company's head it requires two cams or knockers; they describe them as knockers. 40

Q Now, just show us where the cam is? A The cam is not here; the cam is the part that changes; it engages this part of the head here, it engages the actuating part of the head; and the way their head is constructed they only can change one head at a time, one cam. For alternate numbering they must have two knockers, change it once and then on the next ticket change it again; therefore, in alternate numbering they must throw this set of tickets away, because it takes two tickets to change the numbering. On our head we can change either one or two numbers with one knocker for the simple reason that I have allowed more movement. Now, how I get that more movement is by applying my resistance in the cam or knocker 50

Lemuel B. Titus, direct.

outside of the printing surface. This is the surface speed of the head; they come inside of the surface speed to apply their power; that changes their head this way; if you get outside you change the other way.

10 Q A reverse motion? A Reverse motion. This head here is 1, 2, 3, 4, in the reverse direction; therefore, they must waste that one set of tickets, the way the head is constructed they cannot get enough movement to take two numbers. When I come on the outside here I have unlimited room, I can change two numbers, three numbers, as many as I want. On all alternate numbering as far as theatre tickets are consecutive numbers, of course, don't need to change 1, 3, 5, 7, 9 and like that, by simply taking this pin out of here (indicating).

20 Q What are you demonstrating now? A I get two notches there to a movement; that ratchet is thrown off so it will work easily, now.

Q How many do they get on theirs? A They only can get one.

Mr. Ashmead. That is simply an additional feature that you added.

Mr. Leake. Let him finish this.

30 A In that way I do away with two knockers, always use one knocker, for, with the one knocker I can make one change or two changes of numbers, whereas they have to add that extra knocker there and take one revolution of the head and then come around and get the next one.

40 Q Now, one other question to bring out another point. Now, is there any difference in the time required to set your head at a definite number as distinguished from the time used to set their head at a different number? A This head on their machine they must set it on a cipher and then ratchet this around nine times; there is no other way of setting that head as they have described to you, ratcheting the head around, when they set it at 1 to make this 10 head pull in at 10, otherwise you will get at 5, your unit head is at 5, you will get 16 on the next number; that is the reason you have to ratchet around nine times. On the next move you are sure of dropping the one end when this gets to naught on the unit head, that is the way you have to time it up so it will drop in the proper place. Now, on this head—

The Court. That is yours.

A On the International head you set your head on your cipher.

50 Q Now, it is on the cipher? A It is on the cipher at the start, and you set this on it, if you are running consecutive number you set that ratchet with your fingers.

Q How does it get to a number? A That gives it the right set, so when the unit head gets to nine in printing cipher, next then your one must drop in on this 10 head.

Lemuel B. Titus, direct.

Q So you set at the number itself? A Yes; you regulate it right here with movement of your finger right in front of your eyes; when that is set on that mark there we know it will drop in the right place, we don't have any ratcheting to do. I will show you what I laid awake at night after these heads were built trying to figure out how to overcome; on alternating numbering this must drop in after five moves; you are running 2, 4, 6, 8, 10, on the fifth move it must drop in to get this pawl here to work at the place to put in one number instead of two; you can see what that would mean; this is on ten head, that is moving two numbers every time; I would get 10, 20, it would jump two numbers instead of one, but when you get to twenty you only want this head to jump one number. That is accomplished right here (indicating). This is stopped on here (indicating). You see it makes one move, then turns the head on the next one, only moves here one number.

10

Q Now, is there any difference in the surface speed of the two numbering heads? A The surface speeds are the same here, but you apply your resistance in a different way entirely here (indicating); they apply it inside of the surface feed and I apply it outside of the surface feed.

20

Q How much longer does it take to set the Globe head than required to set the International head? A I should figure about as long again.

Q To set each head? A To set their head than our head, for the simple reason they have got all that ratcheting to do, and it is guess work, anyway, and this counts eight instead of nine, when he is ratcheting, then he will get 19 instead of 9, the head will put in one number too soon.

30

Q That is, on the Globe head? A On the Globe head. This, referring to the International head, the working parts are exposed.

Q (*By the Court.*) Is there any difference between the principle of the two? A Well, they both do the same kind of work, both theatre tickets printing work.

Q What is the effect of using the International head in the loss of that extra ticket, do you lose the extra ticket? A If you are printing ninety-six set you lose one set in ninety-six; printing forty-eight you lose one set in forty-eight.

40

Q On which head? A On the Globe head.

Q What about the International? A If you are printing twenty-four set you lose one set in twenty-four.

Q On the Globe head? A On the Globe head.

Q What about the International head? A Full forty-eight sets and full twenty-four sets.

Q Have you any ninety-six set machine? A No, this machine is forty-eight or twenty-four.

50

Q In that respect, forty-eight or twenty-four, is that alternating of twenty-four or forty-eight tickets all on one machine in the International, can you alternate on the International by using either

Lemuel B. Titus, direct.

twenty-four or forty-eight? A We can run a twenty-four or forty-eight.

Q That is what I mean, with the use of your heads you can operate either twenty-four or forty-eight? A Yes.

10 Q Can that be done with the Globe? A No, this machine, the Globe, will run ninety-six or forty-eight, either ninety-six or forty-eight.

Q I am speaking now when you left did they operate a twenty-four and forty-eight machine, when you left the employ of the Globe in 1913? A They had no forty-eight or twenty-four numbering machine.

20 Q Now, with reference to the general machine again, what other differences are there between the machine itself, of which your head is a part, as distinguished with the machine of which the Globe head is a part?

Mr. Ashmead. I think that is entirely immaterial; this is not a question of rotary press or that stuff.

Mr. Leake. Will you stipulate on the record that you make no claim to any feature of the theatre ticket printing machine—

Mr. Ashmead. No, we will not.

Mr. Leake. I wanted you to state if you make any claim of any other feature as to successive printing machine except this head.

30 *Mr. Ashmead.* This bill is confined to protection of this particular head.

Q Will you explain whether you use the split washers on your head and whether they did? A They are using split washer here themselves; when this head was originally designed there was a threaded washer on there with a lock nut on it when that head was originally designed.

40 Q How was it used when you left there? A Why, I couldn't say, but that had nothing to do with the mechanism of the head anyway, merely held it with rubber collar underneath there anyway to get elasticity, and they have not got that, to get the elasticity for the numbering bar. This head when originally designed, the Globe head, had an internal spring here to get this return movement. This has been added (indicating), since I left, that has been added since; they had internal clock spring there, which was a failure; it worked, but it was not successful. In my head I used this same outside spring here for return. By getting the consecutive numbering insert a pin in here, that is in the head, that only moves one tooth at a time.

50 Q Is that device on the Globe head? A No; that is why they have to have two knockers; we have not got the clock spring for the return.

Q Now, an operator who has learned the operation of the Globe head, can he without instruction operate this head, the International head? A He cannot.

Walter C. Scott, cross.

Q Have you had operators of the Globe head in the employ of the International Company? A Yes, three.

Q How much time has it taken to instruct them in the operation of your head? A Well, the first fellow when I told him I was going to turn the machine over to him at the end of a week he said he didn't know whether he would be able to handle it or not; I was quite a considerable time looking after him off and on; the operator had been away. 10

Q What about the overthrow check? A The Globe has overthrow check; we dispensed with the overthrow check.

WALTER C. SCOTT recalled.

Cross examination by Mr. Leake.

Q Mr. Scott, we want you to act as an experienced operator of that machine and just go through the operation of it in printing a ticket, starting from 16, 18, 20, 22, 24, 26, 28, alternate numbers. Just describe each thing you are doing? A I am on the units here. 20

Q I want from 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24? A I have it set at naught; now, we put the double knocker on, and this is supposed to be the unit head; this is unit here, and when she comes over the double knocker it throws in 2, and there is one knocker and there is another knocker that these two come up against and hit. You see that is working on 10 head; I can't explain that, but that would be 2 on the unit head. 30

Q Why not get it back to this 2? I want to see the whole thing? A This is 10 head.

Q Go ahead on the same principle? A That would be 2; now, I have set the 10 head.

Q This is all in the operation now, is it? A Yes; but if it were tight I could do it much quicker. Now, that is set ready to go. Now, the knocker has not passed here, you see, has not passed here yet (indicating). I ratchet this here up.

Q How many times? A Until she gets ready to throw in there. 40

Q How many times, count each time? A It turns in once and after the ten has passed there five times on the double knocker this throws in on the 10.

Q Now, you want up to 18. A This don't throw in any more; it just works unit head eight times.

Q How many times do you ratchet now? A Don't ratchet on this any more; this is running. Then the other just makes four revolutions and you stop and you have got your eighteen.

Q Then what do you do? A Then you set it again.

Q Now, at what? A At nine. Now, you set it at 2 where you want it on the unit here. 50

Q How many times did you ratchet it now? A Now, she is already to run.

Q How many times did you ratchet it? A This here?

Walter C. Scott, cross.

Q Whatever you ratcheted? A There is nothing on here, there is two up; now, she starts to run.

Q How many ratchets? A Ten ratchets.

10 Q How many men worked on the fourth floor of the coupon ticket department? A I couldn't say.

Q Weren't you there often? A I was there often, but I never paid any attention to the amount of men working there.

Q Were there a great many or just a few? A Just a few.

Q What do you mean by a few? A I should say six or seven on the printing machines.

Q And how many men or women working in that same room? A Why, about four or five.

20 Q What were they doing? A There was some band machine operators and single set operators and eight set operators, thumpers.

Q All these different machines were in the same room, were they not? A Yes, the eight set were on one side and rotary on the other side.

Q There are several different kinds of rotary machines on one side, including this machine? A Yes.

Q Did they have a system of washing these heads in one or the other floors of the building? A Yes.

Q Boys washed them, didn't they? A There was one man supposed to wash the heads.

30 Q Where was he employed? A He was up on the sixth floor in the cage.

Q In what? A What they called the cage, that was an enclosure of wire screen and some closet in there to put numbering heads in.

Q And would these operators of the machines sometimes take them to the sixth floor? A Not while I was there; I always took my own heads up.

Q Did you ever know of any operators of the machines taking them down into the machine shop? A These heads, no.

40 Q Never saw any? A No, because we had to take these heads off.

Q Did you ever see any operators of these machines bring the heads down to the machine shop? A No, sir.

Q How often would you go from the machine shop to this fourth floor where these heads were in operation? A That all depended on the case of necessity of going there.

Q How often did that necessity arise? A Sometimes it would not be once a month, sometimes twice a day, sometimes three times a day; all depends on what trouble we had.

50 Q Was there any regularity about taking the heads off? A There was regularity of taking the heads off.

Q How regular was that? A Once a week.

Q Were they taken down to the machine shop? A No, they were taken out to the cleaners.

Q How many men worked in the cleaning shop? A One man.

Joseph Mahrgang, direct.

Q After he cleaned them, what became of the heads? A He left them in the cage.

Q What was this cleaner's name? A I couldn't tell you, I don't know his name.

Q Is he working there now? A There is one there now; I don't know whether he is the same man or not. 10

Q How long has he been there? A I couldn't tell.

Q Have they had a number of different cleaners? They have had about two, two in my time.

Q Have they had a number of different operators on this machine? A Yes, number of different operators.

Q Great number? A No, I should judge about three or four.

Q Three or four different operators? A Yes.

Re-direct examination by Mr. Ashmead.

20

Q The cleaning of these machines is a necessary operation to their successful function, isn't it? A It is, yes.

The Court. Don't go into that. Of course it is.

Q What was the practice in respect to this cleaning case as to whether it was locked or not? A You mean, do I know whether it was locked or not?

Q Yes, whether it was kept locked or not? A There was a number of times I went up there when the cleaner was not there and it was locked; I couldn't get in to get the heads. 30

JOSEPH MAHRGANG, sworn.

Direct examination by Mr. Ashmead.

Q Where do you live? A 3732 Percy street, Philadelphia.

Q By whom are you employed? A Globe Ticket Company.

Q How long have you been in its employ? A Why, on the average about ten years.

Q What were your duties when you first went there? A Why, as a helper. 40

Q On what? A On the presses and doing odds and ends, going around the floor, whatever they want done.

Q When did you first come in contact with this mechanism known as the barrel numbering head? A Why, after I was there about five years, I knew they had a thing around there of that kind, but never got familiar with it until after I was there about five years.

Q In what connection did you become familiar with it? A Why, that I seen a man operate it, worked around with him, and about two years after that, why, I was given in charge of it, seen that it was operated right and told to tell the people how to operate them. 50

Q Did you ever see the inside mechanism of it? A Why, I have seen them when they were taken apart already to be cleaned, just to have a glance at it, not to stop and take a look at it, just to see what it was made of.

Joseph Mahrgang, direct.

Q Could you from the outside appearance of the mechanism understand how it was made? A No.

Q Do you know Lemuel Titus? A I do.

10 Q When did you first become acquainted with him? A I guess I must have been in the employ about three years.

Q And what was his position when you first became acquainted with him? A He was repairman, repairing the machines.

Q Did he have to do then with this head? A Yes, he did.

Q Who was entrusted with repairs on that head during your period? A All the men?

Q The number of men that were entrusted with it? A Why, Mr. Hood.

Q Is he dead? A He is dead. Mr. Walton.

20 Q Is he still there? A He is not at the company, no. Mr. Yates; Mr. Titus and Mr. Scott.

Q What was Mr. Hood's position?

The Court. It is only cumulative, Mr. Ashmead.

Q Do you remember the time when Mr. Titus left the company's employ? A I don't know just the date.

Q Well, approximately? A Beginning of the year 1913.

Q Prior to the time of his leaving did you see him taking any measurements? A I did.

30 Q Where? A Around the different parts of the machine, ninety-six set press, American and ninety-six set press, and also the press I was operating at that time.

Q What was that? A That was rotary press, twenty-four set rotary press.

Q Did he speak to you about leaving the company? A About a week before he left he told me he had an offer of a company down in Providence, the name of the company he didn't say, told me he was going down there to make a ticket press, and if he made good he was to receive a thousand dollars; I don't remember whether it was in cash or stock.

40 Q Was there any reason for him taking these measurements about which you have spoken?

Mr. Leake. I object to that; it does not appear that he knows.

Q Known to you?

The Court. I overrule that.

Q Do you know for what purpose he was taking these measurements.

50 *The Court.* Did he say anything to you to indicate for what purpose he was taking the measurements?

A No, he did not; I seen him taking these measurements quite a time before he told me that he was going away.

Q After he left, did he communicate with you? A He did.

Joseph Mahrgang, direct.

Q Did he say anything to you before he left as to employment with the Sun Ticket Company? A Yes.

Q What did he say? A He told me that he had an offer, didn't mention the company, told me he had an offer at Providence and asked me if he got the press going would I come down to operate it; I told him I would. 10

Q He asked you to communicate with him about that? A Why, no, he didn't.

Q Did he communicate with you about anything? A Yes.

Q What was it? He wrote to me one time and asked me would I—

Mr. Leake. I object. Have you got his letter?

Q Have you got his letter? A I haven't, no.

Q What did you do with it? 20

The Court. Has it been destroyed?

A It has been destroyed, yes, apparently. He wrote me a letter asking me would I go to work and send him a couple of strips of tickets, one numbered, he would like to have them numbered, that is it.

Q Did you send him those tickets? A I did.

Q When was that? A Well, about three months, three or four months after he left.

Q Do you know whether Mr. Titus tried to get any other employees of the Globe Ticket Company to go to the ticket company in Providence? A I do. 30

Q How do you know that? A Why, seeing him in conversation with the people, and later on asking the people what the conversation was, and the conversation was that—

Mr. Leake. I object.

The Court. Strike it out.

Q Did any of those people with whom you saw him in conversation leave the employ of the company, Globe Ticket Company? A Not the ones I was referring to, no. 40

Q Did you ever apply for a position in the Sun Ticket Company? A I did.

Q When was that? A That must have been a year or two after Titus went down there.

Q With whom did you communicate? A Mr. Manchell.

Q Who was Mr. Manchell; do you know his position with the Sun Ticket Company? A No, I don't; I don't know what position he holds; I wrote; I asked Titus who to write to for a position down there and he mentioned the name of Mr. Manchell. 50

Q Did you communicate with Mr. Manchell? A I did.

Q And just give what transpired in that communication; was it oral or written? A The communication, I just wrote to him asking him for a position, stating what I could do in the ticket printing, and, well, that sums up about all of it, statement of just what I could do.

Joseph Mahrgang, cross.

Q Did he afterwards come to see you? A He sent me a telegram he would see me and dropped in at my house one evening.

Q What happened there? A There he gave me an offer to come down to Providence to take the position of running his press, and at the same time telling me he got another party that was an employee of the company before, saying he would like to see me come down with him, at the same time gave me an offer; and I didn't say yes or no; I told him I would let him know; it didn't quite suit.

Q Did he say anything to you about the arrangement he had made with Titus? A Yes, he says, "Well, you know," he says, "Titus come down there just through word that he would receive," I can't say positively whether it was a thousand dollars in cash or stock, "if he would build this machine" and he says, "If you come down there and make good you might get something along that line or we might do something for you."

20 Q Before Titus left and when he had conversations about the possibility of your being employed, did he say anything to you about acquiring any information of the Globe Ticket Company's operation? A Before he left?

Q Yes, or subsequently. A Yes; at the same time he had that conversation he told me he had an offer from another ticket company or from another concern; he told me just to stay there and keep my eyes open and get as much information and learn as much about the business as I could, that it would be to advantage if I would come down there if I would learn this information, as much as I could.

30 Q Did at any time anyone of the employees ask for any part of the mechanism of the Globe Ticket Company to be forwarded to Titus, ask you for those parts? A Yes.

Q Who was that? A Mr. Scott.

Q And what was that? A Mr. Scott come up one day and says he received a letter from Titus asking him would he give him the number of links in a certain chain on one of our rotary presses, and also for electrotype price slug.

Q Did he explain why he wanted that? A No, he didn't explain to me why he wanted it.

40 Q He knew it was going to Titus? A Yes, I knew it was going to be sent to Titus.

Cross examination by Mr. Leake.

Q What is your position in the Globe Ticket Company now? A Foreman of their coupon printing department.

Q And you were the foreman referred to by Mr. Scott in his testimony, are you not? A Yes.

50 Q When did you know that Titus was at the Sun Ticket Company? A Why, after he went down there he wrote to me with one of their letterheads.

Q Almost immediately after? A Yes, almost immediately after.

Q You didn't think it was improper to send those sets of tickets up to Titus, did you? A Yes, I knew it was improper.

Q But you sent them? A I sent them, yes.

Joseph Mahrgang, cross.

Q Now, when you had a talk with Mr. Manchell, you told him you could operate one of these machines? A Yes.

Q With the numbering head on? A Barrel numbering head.

Q What else, did you tell him about what you knew of the Globe Ticket Company business? A Why—

Q You told him you knew all about that device, didn't you? A 10
I knew how in their printing the tickets and all like that, I knew every operation, everything.

Q You knew how that machine worked? A How it worked, and all.

Q And its mechanism? A Yes.

Q Understood all the details of it? A Well, not all the details, no. I knew how to operate it.

Q You discussed the method of operating that machine with Mr. Manchell? A No, not with the barrel head, no.

Q What machine did you discuss? A We just discussed that 20
Titus had forty-eight set press there.

Q Manchell told you that Titus had forty-eight set press at the Sun Ticket Company? A Yes.

Q You didn't have the forty-eight set press at the Globe plant at that time, did you? A Yes, we did.

Q When? A When Mr. Manchell was up to see me, our press was built by the time that Mr. Manchell was up to see me.

Q You didn't have it when Titus left, did you? A No, sir, we did not.

Q And it was sometime after Titus left that you got in forty- 30
eight set press? A Yes.

Q Now, the rotary press that you say you were working on was that right next to this numbering machine with barrel head numbering device on it? A It was right across the room like over in that corner there.

Q What I was arriving at, you said while operating this rotary press you got to know and understand this numbering, barrel numbering head machine? A Yes.

Q And everybody in that room knew that barrel head numbering 40
machine, didn't they, and knew your rotary press? A No, sir.

Q What? A No, sir.

Q You got to learn it by operating this other press, didn't you? A I got to learn it by operating the other press and by the foreman they had in charge at that time showing me how to do it.

Q Now, how much wages did Mr. Manchell offer you to come to the Sun Ticket Company plant? A \$22 a week.

Q How much were you getting at the Globe at that time? A \$19.

Q And you didn't take it, did you? A No, sir.

Q You went in and told your employers that you had another 50
offer, did you? A Why, I told my superintendent.

Q What is his name? A Mr. Goetz.

Q And you told him of this conversation with Titus, didn't you? A Well, no, not the conversation with Titus; no, not at that time; I told him just the conversation I had with Mr. Manchell.

Joseph Mahrgang, cross.

Q You told him that Manchell, of the Sun Ticket Company, wanted you to go up and operate a forty-eight coupon ticket-printing machine? A I did.

10 Q And that that was the machine that Titus had built up there at the Sun Ticket Company? A Yes.

Q And what year was that in, approximately; was it 1914? A The year Mr. Manchell was to see me?

Q Yes. A I think it must have been the year 1914.

Q And that was the same year that you told your superintendent these things I have just mentioned? A Yes.

Q What did the superintendent say about Titus? A Why, he didn't say nothing to me.

Q You told him that Titus had a forty-eight set machine up there? A I did.

20 Q What did the superintendent say about it? A Nothing to me at that time; just listened to what I had to say.

Q You told him it was a numbering machine for numbering coupons and tickets? A Well, I didn't specify it that way, no; I said he had a forty-eight set press up there.

Q Did the superintendent give you more money for staying with them? A Why, no; I didn't bribe them that way; this was not done as a bribe.

Q I didn't understand it that way, either; you had in mind leaving the Globe, didn't you? A Yes.

30 Q That caused you to write this letter? A Yes; working conditions at the Globe at that time was not satisfactory to anybody; that is the reason of the unrest; people felt unrest; they didn't know how soon they were going to go; you might be next or the next fellow might be next.

Q Was it not common knowledge in your department that Titus was working for the Sun Ticket Company? A Well, I wouldn't say it was common knowledge; I knew it was known to several employees; I wouldn't say that everybody knew it.

40 Q Which officer did you talk to about it other than the superintendent? A I talked to Mr. Pope about it.

Q What position did he have in the Globe Ticket Company at that time? A Well, I think he was their general manager then.

Q And what year was it that you talked to him about Titus having a numbering head, barrel numbering head?

Mr. Smith. He didn't say that.

A I only told him forty-eight set press.

50 Q And what year was it that you told him that Titus had built a forty-eight set press at the Sun Ticket Company? A 1914.

Q You told Pope in 1914 also? A Yes.

Q What did he say to you? A Why, he called me up in the office one time; Mr. Titus was in town and he was trying to get several employees; our superintendent took notice that he was in town, and next morning when he come to work he asked the people what Titus

Joseph Mahrgang, cross.

wanted with him, and his employees told him that Titus asked him to come up to Providence to get a position, and that time one of the employees must have mentioned there was a certain party around there who would be discharged immediately if the company knew what he had done; naturally the superintendent was inquisitive and found out the party's name, that was myself; he come and asked me; I told him no, I didn't do it; asked me did I ever send anything to Lem. Titus, strips of tickets, for instance; I said, no; and they called me up in the office then late in the afternoon, around five o'clock, Mr. Pope's office, and asked me again, and I asked them whether they were accusing me of it or just trying to find out information; he said, "No, we don't know whether you did this or not, we are just asking you if you did do it; if you did do it, let us know." I said, "Yes, I did"; he then asked me just what I did; I told him Lem. asked me to send him a couple of strips of tickets twenty-four to a sheet, and I sent them to him. That was all the conversation at that time. Then he asked me what I intended doing. I said, "I suppose I am going to hang up my hat now," I said, "and go out and look for another position." He said, "Oh, not necessarily." I said, "I don't think I want to stay in the employ of the company now any more after this is known." He said, "Well, we don't know; we might fix it up." "Well," I said, "one thing I would like you to do; I would like to have this thing kept as quiet as possible"; I said, "I wouldn't like to work around here and other people know I tried to do something like this against the company and still holding an official position at the present time; I don't think it will look nice against my character, don't look good", sooner have him keep it to himself; and they said they would, told me to go back to work, and that was all that was done and said at that time.

Q Who else was in the office beside Mr. Pope at that time? A Mr. Goetz.

Q What was his position? A Former superintendent.

Q Do you know how many men worked on that fourth floor? A How many have been working on the fourth floor?

Q No; how many did they have in 1914 and 1915 working in the coupon ticket department on all of those presses there? A Well, never had more than four or five men working on the presses, actually working on the presses.

Q What other men were working on that floor? A Men cutting.

Q How many men cutting? A Sometimes one, sometimes two.

Q Any other men? A Well, proofreader; might be a proof-reader; man who read proof from the press.

Q Any others? A Might be plate boy, boy who screw on the plates, stuff like that; might be boy around to do odds and ends, jobs like I did when I first came there.

Q Any women? A Yes.

Q How many women would be there? A Sometimes fifteen, sometimes as high as fifty.

Q In that same room? A Well, yes, in the whole floor, on the floor; the floor is divided off in two rooms like press room and finish-

Joseph Mahrgang, cross.

ing room, and girls just in the press room, sometimes maybe six, sometimes maybe only two and sometimes eight maybe.

Q They would be going in and out all the time from one room to the other? A No, not necessarily.

10 Q The boys who would be cleaning up would be going in and out?
A No, they would be working right there in the press room.

Q There was nothing that would take anyone from the press room in the finishing room? A Yes, boy from the finishing room come out for the work, come out in the press room and carry the work up.

Q He would bring that right up from the machine? A Yes, he would take it from the machine in the finishing room.

Q Any people from the finishing room go in the press room? A Yes, as I said, this boy go in from the finishing room, go in the press room and get the work.

20 Q Any other people go in between? A Unless the men working in the finishing room would come in the press room where the gent's toilet was.

Q Were the toilets in the room—where were the toilets for the women? A The toilets for the men were in the press room and toilets for the women in the finishing room.

Q Men going in the toilet here? A Yes.

Q The door wasn't locked between the printing room and the finishing room? A There is no door there; fire door only.

Q How big was the door between the press room and finishing room? A As wide from here to that desk, about ten or twelve feet.

30 Q And how high? A About seven feet.

Q Well, a good many people came in both rooms from other floors, too, as business required it? A Well, the only one that would come in from other floors—there was always a rule not to let anybody in from other floors unless they had business, and the ones that had business generally used to be the same ones coming down all the time.

Q For instance, who would be coming from other floors? A Machinists; if machine was out of order and needed repairing machinists would come up.

40 Q And boys for cleaning? A No, boys wouldn't come down for cleaning; we generally used to send a man from our department, take the stuff up to the cleaners.

Q And what other people would be coming on the floor? A Well, foreman, superintendent, assistant superintendent and maybe some of the officials of the company.

Q And some of their friends to whom they were showing the plant? A Well, that very rarely happened; once in a while might happen, very seldom, generally one of the officials, but not often.

50 Q But occasionally you did see friends coming in with officials?
A I don't know whether they were friends.

Q Strangers then, not employees of the plant? A No.

Q What would they do—look at these machines? A Sometimes they would just stop for a moment or say two minutes just to see press run around, then they would go to another one.

Joseph Mahrgang, re-direct—re-cross.

Q They would look at these different machines in that press room? A Yes; not stop at one press, just go right through.

Q Passing through the shop? A Yes.

Q I suppose once in a while these girls on the fourth floor would have friends from some of the other floors stop in after business hours and meet there, wouldn't they? A Why, never as I know of. 10

Q Didn't you ever have any friend while you were in there come from some other floor and meet you on the fourth floor and go home with you? A Never.

Q Never did that? A Never did that; if I wanted to meet anybody tell them to meet me downstairs outside or downstairs at the landing.

Q In a normal day how many other employees in that machine shop would come in the room where the machines were working for any purpose? A How many in a day? 20

Q Yes. A Outsiders or employees of the company?

Q Outsiders. A Sometimes one a month and sometimes might be one in two months; very rarely.

Q How many employees of the company would come in a day in that fourth floor printing room? A Sometimes machinists would be called up half a dozen times a day.

Q How many different people, I mean employees of the company, would be coming to the fourth? A Some days might be three different machinists come up one day, and might be boy sent down with plates one day, some days might be two or three different people, some days might be only one; would be hard to say. 30

Re-direct examination by Mr. Ashmead.

Q Was anyone permitted to make an examination of this barrel head other than the people you have mentioned in your direct examination, was anybody else permitted to make minute examination of this barrel head? A Nobody.

Q No one was permitted to make an examination of that except those— 40

Mr. Leake. I object to that as leading.

Q Was anyone permitted to make examination of that except those that were necessary in the course of their employment? A There was not.

Re-cross examination by Mr. Leake.

Q When you spoke of the minute examination, anybody that stood by that machine with a barrel head on it when it was idle would see these staves with numbers on it, wouldn't they? A They would have to get pretty close to it to see these staves. 50

Q These staves are outside of the machine, aren't they, they extend outside of the machine? A If anybody stood around the press could see them staves.

Harry R. Keen, direct.

Q And they could see they were staves and lifted up and lifted down and made impression? A No, you couldn't tell whether those staves go up or down, no.

Q You could see the staves and numbers on the staves, but you couldn't see the interior operation of it? A No.

10 Q Now, it was Saturday night that they put covers over these, wasn't it? A Saturday afternoon.

Q Every Saturday afternoon there were covers put over these? A Over the press, yes.

Q Over the whole press? A The whole press.

Q And there were covers not only put over the presses with this numbering head on, but all the other presses, except the very large ones? A All presses were covered.

Q In fact, all presses? A All presses.

20 Q That was only done on Saturday afternoon? A Saturday afternoons.

Q No other days in the week? A Unless the press was not in use and did not intend using it for a week or so, come in Monday morning, maybe man put on another press and left the press covered up, didn't use it. Sometimes we have had presses standing for a month already covered up.

Q When they were in use these covers were not put on them except Saturday afternoons, over Saturday and Sunday? A Yes.

30 Q And that was done to keep the dust from getting on the presses? A I don't know whether it was done for keeping the dust from getting on the presses or just what it was done for; I was always told to cover up the machines Saturday afternoons before leaving.

HARRY R. KEEN sworn.

Direct examination by Mr. Smith.

Q Where do you live? A 35 Charlton avenue, Philadelphia.

Q You are the secretary of the Globe Ticket Company? A I am.

40 Q And were you the secretary of the Globe Ticket Company at the time of its incorporation? A I was.

Q When was that? A July 6, 1891.

Q At that time, Mr. Keen, what was the amount of the capital stock of the company?

Objected to as immaterial and irrelevant.

The Court. What is the purpose of that?

Mr. Smith. I want to show your Honor by these inventions, secrets, and so on, to what size the company has grown?

The Court. I don't see its importance.

50 Q Where was the company located at the time of its incorporation? A At 112 and 114 North Twelfth street.

Q And at that time where was the machine shop located in the building? A There was a very small machine shop at that time and it was located on one of the floors of the house at 112 and 114 North

Harry R. Keen, direct.

Twelfth street, and the factory proper was back of that, a four-story structure; the floors did not—were not level, so I do not recall just which floor of the house that would be.

Q Now, in the early part of 1899 where was your company located?

A At 917 and 919 Filbert street.

Q Where was its machine shop located at that time? A On the fifth, which was the top floor of that building. 10

Q What did they do in your machine shop at that time? A They built all the machines that we then had under construction.

Q Do you see this tracing? Of what is that a tracing?

The Court. Hasn't that been identified before? Isn't that in evidence?

Mr. Ashmead. We haven't offered that; we would like to offer that.

The Court. Don't ask the witness what it is; I know what it is. 20

Q You know Mr. Henkle? A Yes.

Q What position has he in the Globe Ticket Company? A His official position at this time is first vice-president and general manager.

Q What was his position in June of 1899? A Vice-president and general manager.

Q And what were his duties at that time? A He was in full charge of the mechanical development of the business. 30

Q And who was E. Percy Teal? A E. Percy Teal was his assistant and a practical engineer, mechanical engineer.

Q Was he an employee of the Globe Ticket Company? A He was.

Q Now, do you know whose idea this barrel numbering device is? A The germ of the idea was Mr. Henkle's; he talked with me about that for possibly six or eight months before that sketch was made, consulted me regarding difficulties in the way of numbering.

Q What was the method of numbering prior to the time that this barrel head numbering device was perfected? A There were two methods, one by a series of numbering heads fastened together in gangs, and another method which was radically different was on an eight set rotary press, which printed and numbered at the same time; but the method of operation was radically different; those two methods were radically different from each other and both those methods were radically different from this continuous barrel numbering head. 40

Q What was the deficiency in the two earlier methods as compared with this barrel head numbering device? A In the one case, the rotary perfecting press, it was only possible to print eight sets at a time. 50

Q What about the other methods? You have only mentioned one? A The gangs?

Q How many in each gang? A Gangs of eight, and subsequently a gang of twenty-four, which was very unsatisfactory; the fact of

Harry R. Keen, direct.

the unsatisfactory character of these twenty-four heads coming down to one operation led Mr. Henkle to think out a device for his barrel numbering head to be applied to a larger press that he then had in contemplation to print ninety-six sets at a time.

10 Q Now, Mr. Keen, what is the function of the present barrel head numbering device and what is the result you obtained by using it?

A The function is to number continuously a larger number of tickets than it was possible to number under the old methods; to number them at a higher rate of speed and number them accurately.

Q Now, what has been the result in the increased production by the use of this particular machine?

20 *The Court.* I don't think I will let you go into that; it has been gone into before by other witnesses, and what is the use of putting it in as cumulative evidence; everybody admits it is an improvement, no question about that, and if it is a secret it can be protected

30 Q When this barrel head was first invented and after it was perfected, what methods did your company use in guarding the secrecy of this machine? A At the time the ninety-six press was built and installed and the barrel head put on it, as I have stated before, the establishment was located at 917 and 919 Filbert Street; it was impossible to get into the factory except through the general offices; the door leading to the factory was always kept locked; at that time instructions were given that the methods were confidential, and every safeguard possible was thrown around the confidential character and secrecy of the operations and production as well.

40 Q Go right on and tell us what method you are still using and what you have always done in order to protect the secrecy of this machine? A In 1900 the Globe Ticket Company moved to the newly constructed Hering building, 112 and 114 North Twelfth street and occupied at that time the four upper floors. The door of every floor, both front and rear, was kept locked, and the superintendent and the officials had master keys that would admit them to any part. That action was taken in accordance with our plan of preserving the secrecy and integrity of our business and the production, and that method was continued subsequently. We took other floors in that building; we are now occupying the fourth and first. That method was continued until the fire marshal compelled us to change the opening of our doors, the method of opening the doors, complying with the city ordinance, and forbade us locking those doors

50 Q What method do you use now since you are not allowed to lock the doors? A Now, someone on every floor is delegated to look out for any stranger who is coming through; if a man, an underwriter, representative of the underwriters or insurance company, or an inspector of the city labor bureau, or anyone, any stranger who has official business, whatever his capacity with the concern he represents, is usually taken through, or, if he is pretty well known he is

Harry R. Keen, direct.

given a pass from the general office to enable him to go through, repairmen, telephone men, for instance, sprinkler investigators.

Q Now, is anybody who comes in the plant allowed to go in alone, or must someone go with them? A A few people are allowed to go alone, very few, but as a rule they are taken through.

10

Q What people would be allowed to go through alone? A Trouble men of a telephone company, because of the difficulty of knowing just where he should go and staying with him while he makes his repairs.

Q Mr. Keen, would anyone like that have an opportunity to examine these barrel head machines? A No.

Q Why? A Simply because the mere presence of a stranger would excite the notice of the foreman or someone in charge and his business would be inquired and he would be ordered out.

Q Now, are other people from other floors allowed on this floor where the machines might be? A In the course of business, yes; it is impossible to keep them off there if their business calls them there.

20

Q I mean anyone else who has nothing to do with that machinery in the course of their employment would they be allowed to inspect these machines? A Decidedly not.

Q Did you ever have any of these machines built, these numbering head devices? A None other than in our own establishment.

Q Did you ever have any of them built outside of the plant? A Not in the entirety.

30

Q How would you have them built? A We would have to have parts made by different manufacturers so as to prevent possibility of any one of the several firms that made it making the part knowing what they were doing; then they would be assembled in our machine shop.

Q You know Lemuel Titus, do you not? A Yes.

Q When did he enter your employ and what position did he hold at that time? A In 1896 the records show, as an apprentice boy.

Q In what branch of the service? A Machine shop.

Q And when did he leave your employ? A In March, 1913.

40

Q What was his position when he left? A He was in the repairing corps.

Q Also the machine shop? A Which is a part of the machine outfit, yes.

Q Now, where did you keep your tracings and blueprints pertaining to this particular barrel head numbering device when it was not in actual use in the machine shop? A Locked in the cabinet.

Q Who had access to that cabinet? A The foreman of that department.

50

Q Would Mr. Titus have access to the plans in that cabinet? A Not unless they were handed to him by the foreman of the machine shop.

Q Now, what is the difference between what you call a machinist in your employ and an operator?

Harry R. Keen, direct.

The Court. I overrule that; I know; the very words speak for themselves.

Q Who were allowed to take these barrel heads apart? A No one but skilled machinists.

10 Q And who were they?

The Court. That is what he says, skilled machinists employed by the company.

Q How many men from the time this barrel head was invented to the present date held such position? A To the best of my recollection the men whose names have enumerated here before. Do you want me to repeat them?

20 Q No. Now, did these particular men that have been mentioned receive this information in a confidential manner? A Of my own personal knowledge I could not say. The policy of the company always was and has been to treat those things as secret processes and confidential, and I simply have the word—

Mr. Leake. I object to what he has the word of.

A It was the general atmosphere—

Mr. Leake. I object to the general atmosphere.

The Court. No, I won't permit it; he doesn't know.

30 Q What was the common knowledge about your place of business regarding the secrecy and confidential position of these men?

Mr. Leake. He says he doesn't know. I object.

Mr. Smith. I am asking about the common knowledge; he didn't say that.

A Repeat that question, please.

Q What was the common knowledge around your plant as to whether or not these men obtained this knowledge in a confidential way, these men that have been enumerated? A You mean common knowledge of the factory or officials?

40 Q Of the factory and officials.

Mr. Leake. He says he doesn't know.

Mr. Smith. No, he doesn't.

Q (Question read.)

The Court. I overrule the question.

50 Q When did you first get an idea that this barrel head device was in use by the International Ticket Company? A About the 1st of August, 1917.

Q And what did you do as soon as you received that information? A After a conference it was decided to send Miss Richards, who was then working for us, up to Providence, to endeavor to get a position there and examine the machines and report as to whether the barrel head in use, alleged to be in use on that machine, was similar

Harry R. Keen, direct.

or identical with the one in use on our ninety-six and forty-eight set presses.

Q And as a result of the information obtained by her what did you find out? A To all outward appearances they were the same.

Q (*By the Court.*) When did you get that information? A That information, possibly about the 20th of August, somewhere in the latter part of August. 10

Q Now, did you verify the information secured from her regarding this machine? A Knowing that an operator, George C. Hill, had left our employ and gone to Providence, and after working there some time had left them and had returned to Philadelphia and was employed somewhere in Philadelphia, I started out to find him.

Q Did you finally locate him? A I finally located him, after a search of about over two months I finally succeeded in getting him, getting in touch with him.

Q (*By the Court.*) When was that? A That was some time in November. 20

Q Did you then bring him to your place of business? A I did.

Q And did you advise him of the information which you had?

The Court. Did you verify the information you had by him?

Q Did you verify the information you had by him? A Yes.

Q And what did he say?

Mr. Leake. I object.

The Court. I overrule that. 30

Q Now, in consequence of the information secured from Mr. Hill, what did you tell me to do? A Start proceedings.

Q (*By the Court.*) When did you do that? A That question does not come in proper sequence, Mr. Smith.

Q When did you do that, when did you advise me to proceed, after you had had a talk with him? A We had already engaged you to begin proceedings on the presumption of the correctness of Miss Richards' observation, and after having the confirmation by Hill we instructed you finally to go ahead. 40

Q (*By the Court.*) When was that? A That was in November.

Q The first part of November or last part of November? A Oh, early in November, first half of November.

Q (*By the Court.*) When did you know that Titus had been employed by the Sun Ticket Company? A Well, several months after he left us.

Q (*By the Court.*) Well, can you give me any definite idea as to how many months? A No, your Honor, I cannot, because it was merely a matter of rumor.

Q (*By the Court.*) Was there any talk among the officials of the company at that time, any suspicion that Titus might divulge the secrets of the concern? A None that I ever heard. 50

Q (*By the Court.*) You knew, as a matter of fact, that it was within his power to divulge those secrets, didn't you? A Well, I at that time, I didn't know—

Harry R. Keen, direct.

Q (*By the Court.*) I mean by that that you knew that he had the knowledge necessary for him to have in order to divulge the secrets of this machine as well as any other? A Yes.

10 Q (*By the Court.*) Why wasn't an investigation made at the time there was a suspicion that he had gone to this rival concern? A I can't answer that, your Honor, because at that time the managing director of the company was Mr. W. C. Pope, and he controlled the policy of it and I was not admitted to his confidence.

Q (*By the Court.*) You and he never had any talk on the subject? A Never on the subject of the possibility of any of our secret appliances being used by Titus.

Q Where is Mr. Pope now? A Presumably he is living in Philadelphia.

20 Q What position is he holding now in a business way? A So far as I know he is holding a nominal position as chairman of the board of the International Ticket Company.

Q When did he leave the Globe Ticket Company? A January 10, 1916.

Q Was that before the International Ticket Company was incorporated? A Yes.

Q Do you know whether or not Mr. Pope became an officer of that company before its incorporation? A I do not; my only knowledge is gained from the letterhead which was sent out very shortly after they were incorporated.

30 Q What did that letterhead have on it? A W. C. Pope, chairman of the board; Charles Manshel, president; Louis F. Dodd, treasurer; the name of the secretary I have forgotten.

Q What led you to believe in August of this year that the International was making use of this secret? A From information that was given me.

Q (*By the Court.*) By whom? A By the president of our company, W. E. Hering.

Q (*By the Court.*) Do you know how he ascertained it? A He told me that he heard it in New York.

40 Q Prior to Mr. Pope leaving the employ of the Globe Ticket Company were his relations there pleasant or otherwise?

Mr. Leake. That is objected to as immaterial.

Mr. Smith. It is not immaterial.

The Court. Why?

Mr. Ashmead. His reason why these things were not reported to these officers.

50 Q Do you know what caused Mr. Pope to leave the employ of the Globe Ticket Company? A Yes.

Mr. Leake. That is also objected to as entirely immaterial and irrelevant.

Q (*By the Court.*) What was the cause—that is over the objection? A The cause was an exhibition of business treason that was despicable.

Harry R. Keen, direct.

Q (*By the Court.*) That doesn't mean anything to me. What was it? A An endeavor to get three of the young men who were associated with him in the management of the business to execute an instrument in which they were to bind themselves to stand together in any demand, however extortionate it might be, upon the directors or executive committee, and in the event of the failure of those demands to be complied with they were to leave in bulk and start a new ticket company, for which he had pledged himself to find abundant capital. 10

Q (*By the Court.*) When did you first know of that agreement? A I personally knew that on the 10th day of January, 1916.

Q What relation was Mr. Hering to Mr. Pope? A Do you mean blood relation?

Q Yes. A Mr. Hering is an uncle of Mr. Pope.

Q (*By the Court.*) When was this agreement made, do you know that? A The agreement was never consummated, your Honor. 20

Q (*By the Court.*) When was it talked of? A It was talked of only the day before and for several weeks previous.

Q (*By the Court.*) Was there anything to indicate that Mr. Pope had contemplated this before it was talked of? A Yes, sir.

Q (*By the Court.*) What? A His manner of conducting the business without any regard to the wishes of the executive committee, he being one of them; his whole conduct seemed to indicate a desire on his part to ruin the theatre ticket business, which had been the foundation and originally the backbone of our present business, and was organized by his uncle, Mr. Hering; furthermore, a desire on his part to be president of the company irrespective of the feelings of his uncle, who had organized the company and was its largest stockholder and had been the president for a number of years; and, furthermore, by the ruthless way that he was directing his subordinates to conduct the business, discharging people whose only fault seemed to have been long and faithful service. 30

Q (*By the Court.*) Why in the world didn't the other officials of the company do something? A They did ultimately, your Honor.

Q (*By the Court.*) I know they did ultimately, but why wait so long? A Well, it was a case where blood is thicker than water, and we realized that the man was a sick man. 40

Q Who? A Mr. Pope; in 1915, in the spring of 1915, he was in the Wernersville Sanitarium as a matter of rest for some weeks, and subsequently went to Maine and spent, possibly, certainly three and possibly four months.

Adjourned to Wednesday, January 16, 1918.

Harry R. Keen, direct.

Continuation of examination, pursuant to adjournment, on January 23, 1918, at the place and in the presence of the Court and counsel as before.

HARRY R. KEEN resumed for

10 *Further direct examination by Mr. Smith.*

Q Explain the functions of the barrel head number device when it is placed in one of your rotary presses, Mr. Keen? A When placed on the ninety-six set press, the press on which it was originally put, its function is to number ninety-six distinct tickets each bearing a separate date, at every revolution of the press, and then to automatically change to the next seat number until that ninety-six shall have been numbered, and then the same method of progression of seat numbers go on continuously automatically until the required number is numbered.

20 Q Do these numbers change at each revolution of the press or not, Mr. Keen. A At every revolution of the press there is automatically a change of seat numbers.

Q And is that successive change brought about by the barrel head device? A It is.

Q And is this barrel head device an individual and separate machine separate from the rotary press? A Yes.

30 Q Mr. Keen, what effect had this barrel head numbering device upon your coupon ticket business?

Mr. Leake. I object to that as immaterial and irrelevant.

The Court. Ask the question; I will permit it.

Q Mr. Keen, what effect had the installation of this barrel head, the numbering device, upon one of your rotary presses in your coupon ticket printing business? A To largely augment the output.

Q To what extent?

40 *The Court.* Augment the output; that is enough. What difference does it make whether it is five more or a hundred thousand more.

Q Was it a very profitable—

Mr. Leake. I object.

The Court. I am going to overrule that.

Q Was it a very profitable piece of machinery?

Mr. Leake. Objected to as immaterial.

50 *The Court.* Overruled.

Mr. Smith. The question is overruled?

The Court. Yes; we have had enough of that.

Mr. Smith. Have we proven to your Honor's satisfaction that it was a machinery that increased the output.

Harry R. Keen, cross.

The Court. Everybody admits that; it is admitted on both sides.

Mr. Smith. Does Mr. Leake admit that?

Mr. Leake. You will find the record is full of your questions and answers on that. 10

Mr. Smith. Do you admit that?

Mr. Leake. You put in your case and I'll put in mine.

The Court. The question is overruled. Now proceed.

Q Do you know whether or not they are using this barrel head numbering device in any other business or any other company making coupon tickets besides your own? A From knowledge that I have gleaned I would say it is in use in no other place except Newark.

Q Save where? A International Ticket Company; it was in use in no other place other than the Globe and the International. 20

Q Are you acquainted with all the other coupon ticket manufacturing plants in this country? A Am I acquainted with all the ticket manufacturers in this country? No, a majority of them.

Q Do you know what position Mr. Manshel occupies in the International Ticket Company?

Mr. Leake. There isn't any dispute about that; he is the president, if you want that on the record.

Cross examination by Mr. Leake.

Q You say from the knowledge you have obtained this device is only used in Newark. What do you mean, from the knowledge you have obtained? From whom have you obtained that knowledge? A From manufacturers of theatrical tickets. 30

Q And you don't know it except from statements? A Except from their personal statements.

Q And that applies only to a majority of the theatre ticket manufacturers in the United States? A Right.

Q The minority you know nothing about? A Correct.

Q There is a minority of ticket manufacturers numbering theatre tickets? A By minority I suppose you mean those that I don't know? 40

Q (*By the Court.*) There are some of whose business methods you know nothing, is that right? A That is correct.

Q And know nothing about the devices in use for numbering tickets in some of the other ticket manufacturers? A I do not.

Q When did you first learn that the Sun Ticket Company was using the information obtained by Mr. Titus from the Globe Company? A I understand the question. Was years ago; I never knew that he was using it until after he had used it. 50

By the Court.

Q Well, when? A The answer to the question is, my knowledge that Titus had been using the information he obtained at the Globe was first obtained in August, 1917.

Harry R. Keen, cross.

Q When did you know that Titus was employed by the Sun Ticket Company in Providence? A Within three or four months after he left us.

10 Q Did you know within three or four months after Titus left you that the Sun Ticket Company of Providence were printing coupon theatre tickets? A I did not.

Q When did you first know that the Sun Theatre Ticket Company of Providence was printing coupon theatre tickets which were numbered? A My first knowledge of it came first in 1914.

Q Was there anything in the tickets of the Sun Theatre Ticket Company, or the numbering of them, which would convey to you the idea that they were using machines similar to yours? A Do you mean at that time?

20 Q At any time? A Yes; yes, not the Sun Ticket Company, no, no; I want to amend that, no.

Q Well, you were present at the time that Manshel was informed by the officer of the Globe Ticket Company that Titus had taken all his knowledge from the Globe and was using it for the benefit of the Sun Ticket Company? A I happened to be standing by and heard that statement made.

Q And when was that statement made? A That statement was made in the spring of 1915.

Q And who else was present at that time besides Mr. Manchell and you? A I think Mr. Snow was there.

30 Q And what position does he hold in the Globe Company? A At that time he was the treasurer.

Q And where was this conversation held? A In Mr. Pope's office.

Q And at that time what office did he hold in the Globe Company? A Vice-president.

40 Q Now, you just tell me what that conversation was about, Titus, as you stated, using his knowledge for the benefit of the Sun Ticket Company? A It was merely accidental—I heard it merely accidentally; I came down to see Mr. Pope to talk to him about a matter connected with the establishment and I saw a gentleman sitting in the office who I didn't know, and I heard him say that he came down, he wanted to come in and meet his competitors, and Mr. Pope remarked that most of our competitors were crooks, they took people away from us after we have taught them all they know and then they make use of it, and Mr. Manchell said, "Do you refer to Mr. Titus?" He said, "I do," and finding air was being surcharged I left.

Q Was that all the conversation you heard at that time? A That was all the conversation that I heard.

50 Q Did they discuss at that time the fact that Titus was endeavoring to get employees from the Globe Company to go to Providence and work for the Sun Ticket Company? A Do you mean that those who were there then—

Q Yes. A I didn't hear any discussion.

Q At that time? A At that time.

Harry R. Keen, cross.

Q When was it that the discussion was held among the officers of the Globe Ticket Company about Manshel or Titus trying to solicit employees of the Globe to go to Providence? A I don't know of any discussion among the officers of the company in which I took part on that subject.

Q It was discussed on several occasions, though, was it not? A I have no recollection of its being discussed with the officers. 10

Q Well, did you know that any of your operators or pressmen had left the Globe and gone to the Sun Ticket Company at Providence? A I was informed so.

Q By whom? A I couldn't say just at this time.

Q An officer of your company? A That I do not recall.

Q Do you know the names of any pressmen or operators who left your company? A To go to the Sun you are referring now?

Q To go to the Sun? A Yes; only that of George C. Hill. 20

Q When did you first learn that George C. Hill had gone to the Sun Ticket Company? A I couldn't answer that question; I couldn't possibly place the date.

Q Wasn't it in 1915? A I don't know, Mr. Leake; I am not trying to fence, but I really don't know.

Q It was shortly after Hill left, was it not? A It is quite likely.

Q Did you or any other officer of the Globe Company make any inquiry about these operators or Mr. Hill leaving your company and going to the Sun Ticket Company? A I did not; I don't know what Mr. Pope might have done. 30

Q Did they make any investigation of the fact that Titus had left the Globe and gone to the Sun Ticket Company? A So far as I know they did not, but I am not positive about that.

Q Was it discussed at any time by the officers of the Globe? A Not to my knowledge.

Q Now, about this western ticket manufacturer, do you mean a ticket manufacturer in Omaha when you spoke of the fact that Titus had offered to build a similar coupon ticket printing machine for a western manufacturer, do you mean an Omaha manufacturer? A I never said that. 40

Q I call your attention to your affidavit sworn to on the 2d day of January, 1918, in which you said: "Said Manchell was notified in the presence of affiant early in 1915 that the said Lemuel Titus had offered to build and perfect one of these rotary theatre ticket machines with the special appliances and secret apparatuses for a western ticket manufacturer." Did you swear to that?

The Court. Oh, he did.

Q Yes. Now, did you refer to an Omaha ticket manufacturer when you used the term "western ticket manufacturer"? A I did not. 50

Q To whom did you refer? A I referred to the Arcus Ticket Company of Chicago.

Harry R. Keen, cross.

Q Where was this conversation held in the early part of 1915? A Mr. Leake, will you read that affidavit again? I haven't any recollection.

10 Q Yes. "The said Manchell was notified in the presence of the affiant early in 1915 that the said Lemuel Titus had offered to build and perfect one of these rotary theatre ticket machines with the special appliances and secret apparatuses for a western ticket manufacturer." A Oh, yes; I can call that to mind now; it had slipped my mind entirely.

Q Where was that conversation held? A That conversation was held at the same time.

Q As what? A In 1915, in Mr. Pope's office.

Q Well, then, there were some other conversations between those officers that you heard other than what you have just stated? A Yes.

20 Q Now, will you tell me what the conversation was in reference to this statement of your affidavit that I have just read? A The statement was made by Mr. Pope to Mr. Manchell that—as a matter of fact, he called me down, told me he wanted me to hear it.

Q Then you didn't accidentally go in there? A Not this time; not this time; after I had gone I was asked to come down and listen to what was being said, because I had been brought into it previously; Mr. Pope informed Mr. Manchell that he had information that Mr. Titus was offering to build a rotary press for a firm in Chicago, and said that the information had come to me through some one in Philadelphia in which the Arcus Ticket Company had written for a recommendation as to Mr. Titus' ability. I verified it and left.

30 Q What did you verify? A Verified that statement.

Q What statement? A The statement that Mr. Titus had offered to build for the Arcus Ticket Company a machine, and they wanted to know something about his ability.

Q How did you verify it? A Well, by simply saying, "That is the way it was brought to me."

Q How did you verify the statement? A I mean I verified the statement that Mr. Pope made to Mr. Manchell.

40 Q Oh, you asked Mr. Pope if he knew that Titus— A Oh, no.

The Court. Just the reverse.

A Mr. Pope had made the statement, then he asked me if that was so, and I said yes.

Q (*By the Court.*) Was Titus in the employ at that time of the Sun Ticket Company?

Mr. Leake. No, he was not.

50 Q Titus was not then employed by the Globe Ticket Company, was he? A No.

Q He was employed by the Sun Ticket Company? A So far as I know.

Q At that time? A Yes, at that time.

Q At the time of this conversation? A Yes.

Harry R. Keen, cross.

Q Now, do you recall the name of another machinist formerly in the employ of the Globe who offered to build one of these machines with the special appliances and apparatuses for an Omaha ticket manufacturer? A No, sir.

Q Did you ever know a man by the name of Walton? A Yes. 10

Q What position did he occupy in the Globe?

Mr. Smith. I object to this line of questioning. I don't see what it has to do with Titus or the International Company, some outside man; he has nothing to do with the case.

The Court. I will permit it.

A You want to know his position?

Q Yes. A He was a skilled head man, the man who put our head numbers together, confidential head man, master mechanic.

Q And when did he leave the employ of the Globe? A My impression is that he left in 1912. 20

Q Prior to Titus leaving? A Yes.

Q And what was there about his offering to build a machine for the Omaha Ticket concern? A I never heard that he offered to build a machine for the Omaha ticket concern.

Q Did you ever hear of him offering to build a coupon ticket printing machine for any firm? A No.

Q (*By the Court.*) I am not at all satisfied with the testimony with respect to this conversation between Pope and Manchell in 1915. What was the result of the conversation, how did it wind up? 30

A Well, your Honor, I left, I don't know what they said after I left.

Q (*By the Court.*) Was there ill feeling between Manchell and Pope at that time, expressed, I mean? A As far as I could see there wasn't any ill feeling on Mr. Manshel's part; he was extremely polite and affable, but Mr. Pope was very much wrought up.

Q (*By the Court.*) Wrought up about what? A Wrought up, as he usually was on the slightest provocation, over the fact that Mr. Manchell had in his mind enticed Mr. Titus from our employ and utilized the information that he had to our detriment.

Q (*By the Court.*) He was protesting against the use by the Sun Ticket Company of this confidential information that Titus had, is that right? A Only inferentially. 40

Q (*By the Court.*) But that was what was in his mind, if you could ascertain it, wasn't it? A That was the ultimate reason, yes.

Q (*By the Court.*) And you knew at that time, didn't you, that the Sun Ticket Company was utilizing his confidential information? A No.

Q (*By the Court.*) Well, how could you escape from knowing it after hearing that conversation, how could you help but know it? A I knew they had Titus up there. 50

Q (*By the Court.*) And you knew that Titus had the information necessary to develop this machine, didn't you? A No, I didn't; to make a machine, but not the head; I didn't know that he had the information to make the head.

Harry R. Keen, cross.

Q (*By the Court.*) It was the head that was to be made by him, or that you had heard was to be made by him for the Chicago concern, wasn't it? A No.

Q (*By the Court.*) What was it? A It was the machine.

10 Q (*By the Court.*) Was there anything confidential about the machine aside from the head, any secret about it? A Not particularly; it is a machine after our own design.

Q (*By the Court.*) But used by almost every manufacturer of tickets, isn't it? A No, sir.

Q (*By the Court.*) I mean aside from this head? A Aside from this head it is not; it is not this particular machine.

20 Q (*By the Court.*) Did you think that Titus was going to build the machine and not use the head when he had the information to build both? A Your Honor, it may seem strange, the answer I am going to give you, but I never gave the matter any consideration personally.

Q (*By the Court.*) As a matter of fact, or, rather, isn't it a fact that neither you or Pope made any distinction between the machine and the head? What you were protesting about was the use by Titus of the confidential information that he had which would produce tickets the way you were producing them? A That is what Mr. Pope protested about; I didn't enter any protest.

30 Q Didn't other employees leave the Globe concern prior to Titus and take with them this confidential information about this head or the ticket printing machine? A Not to my knowledge, Mr. Leake.

Q Well, you never heard of any man in the Globe Company taking away details of this head or this coupon ticket machine except Titus? A No.

Q What did you mean in your affidavits when you said that some employees made copies of this head in lead? A I don't think I said that.

40 Q On two or three occasions during said period certain of our employees made copies of certain of these appliances in lead, which, coming to our knowledge, prosecution was started. A Well, we have other secret processes and appliances beside the barrel head, and the clause in that affidavit refer to one of those other secret appliances.

Q What are the names of those employees who made the copies of these secret processes in lead? A One of them was John Kluge.

Mr. Ashmead. I don't see how this is at all revelant.

The Court. I will permit it.

50 A Another man was Ralph—I can't recall his name, his family name; I can't recall that man's name, Mr. Leake.

Q Any others? A That is all that I can recall just at this time.

Q Is Kluge still employed by you? A Oh, no.

Q When did he leave? A Oh, possibly fifteen years ago.

Q When did Ralph leave? A About thirteen years ago, I think; it is needless to say that they both left under compulsion.

Harry R. Keen, cross.

Q You said you made Rosalie Richards thoroughly acquainted with these secret processes; how did you make her thoroughly acquainted with them? A When I said I made that I meant to convey the idea that she was shown and taught.

Q Shown and taught? A Shown and taught, yes.

Q When was she shown and taught? A Before she left our employ to go to the International. 10

Q Well, had she not been working for you for some time prior to that? A Not very long.

Q How long? A Two weeks.

Q Was she not employed as an operator? A No.

Q She had never been employed as an operator? A Never been employed as an operator, not by us; whether she had been employed anywhere else, I don't know.

Q (*By the Court.*) Was she employed for a particular purpose? A She was employed as an examiner. 20

Q Ticket examiner? A Ticket examiner.

Q What did you tell her to do in the International Ticket Company plant when she got employment there? A I didn't tell her anything.

Q Who did tell her what she should do there, who gave her her instructions? A I suppose Mr. Hering gave her the instructions; I didn't hear him give her the instructions, but I suppose he did.

Q And you don't know what the instructions were? A Not of my own knowledge. 30

Q What salary was Titus paid at the time he left the employ of the Globe Ticket Company? A I don't know, Mr. Leake, I didn't look the record up to see.

Q When did you commence to feel the competition of the Sun Ticket Company or the International Ticket Company? A Whatever opposition—would you mind if I got back to the Sun?

Q You can separate them, if you want to. A Whatever competition came in the Sun, came in 1914, possibly—yes, in 1914. I should say, 1914 and 1915; of that I am not very well posted; I was not in very close touch with it.

Q Well, that was considerable competition in its way at that time in 1914 or 1915, wasn't it? A I don't know. 40

Q (*By the Court.*) Did you notice any increase in competition in 1915 and 1916 or did you feel the competition more strongly—was there any increase in competition? A Yes, your Honor, there was increase in competition.

Q (*By the Court.*) Was there cutting of prices? A Yes, sir.

Q (*By the Court.*) And did you attribute the cutting of prices to the improved apparatus that the International or the Sun was using? A Not so much to that as to the desire of the Sun and other companies to get more business. 50

Q (*By the Court.*) But did you attribute any part of it to the improved machinery? A No.

Q (*By the Court.*) Notwithstanding your knowledge that Titus had gone to the Sun, is that right? A That is correct, yes, sir.

Harry R. Keen, cross.

Q (*By the Court.*) You knew as a fact, didn't you, that the improved machinery would permit the company using it to lower prices? A To lower prices than could be produced by the ordinary methods.

10 Q (*By the Court.*) Yes; then you mean to say you did not attribute the ability of the Sun Company to cut prices in some degree at least to their use of this improved machinery? A No, your Honor, we attributed it to the fact that they wanted business.

Q You knew that in addition to Titus being at the Sun Ticket Company's plant in Providence that they had other operators there who had formerly worked for your concern? A Only George C. Hill.

Q And when did you know that Hill was there? A I don't know just when, Mr. Leake, I was told; I heard about it.

20 *Mr. Ashmead.* He has been asked about that.

Q If you did not give the instructions to Miss Richards about her trip to the International Ticket Company's plant, did you personally instruct her to go there? A I don't think so.

30 Q I call your attention to your affidavit annexed to the bill, which says, "We employed an investigator named Rosalie Richards, who we took into our plant and made thoroughly acquainted and familiar with our secret processes and apparatuses and parts of machinery, and I instructed her to secure a position in the plant of the defendant." A Well, the pronoun should have been used in plural "we", just as the sentence begins.

Q The man who instructed her was Mr. Hering? A I think so.

Q And was she paid by the Globe Ticket Company for this service? A Which service?

Q Going to the International plant and looking over their apparatuses and machinery? A Of my own knowledge I don't know.

Q Are you the treasurer? A I am not.

The Court. I will assume that she was.

40 Q Yes. Did she make any report in writing to the Globe Ticket Company? A If she did, I never saw it.

Q Did you hear her make any oral report about what she found in the International Ticket Company plant? A Yes.

Q Will you state what she reported? A That so far as she was able to determine, the barrel head in use on our presses was identical with that in use on the press of the International Ticket Company; there were some slight differences in the method of operating it.

Q Did she report on the size of the International Ticket Company plant? A Not to me.

50 Q To Mr. Hering? A I don't know.

Q Did she report on the number of employees in that plant? A Not to me.

Q To Mr. Hering? A I don't know.

Q Did she report on other machines in the International Ticket Company plant? A Not to me.

Harry R. Keen, cross.

Q To Mr. Hering? A That I don't know.

Q How many reports did she make to the Globe Ticket Company?

A That I couldn't say, Mr. Leake. I don't know how often she talked to Mr. Hering; she never talked to me but once.

Q Didn't she report about the machine for single numbering? A I never heard of it. 10

Q Which was immediately next to her desk? A I never heard of it.

Q Did you hear of any report on any other thing except just what you have testified? A Nothing whatever.

Q And when was that report made? A I don't know when she made the report to Mr. Hering.

Q When was it that you received the information that you have testified about the enticing of employees or operators or pressmen from the Globe plant to the Sun Ticket Company? A From time to time. 20

Q Commencing when? A Commencing in possibly 1914.

Q And these operators who were enticed away were the operators who were working on coupon ticket machines? A Yes.

Q What did you suppose they were enticing your operators of coupon ticket machines to Providence for? A To put them to work on something they had.

Q Similar to yours? A Not necessarily. There is a dearth of men who understand anything about coupon presses and coupon numbering. 30

Q You thought that was pretty mean of the Sun Company to entice your confidential operators away, didn't you? A No, I personally did not.

Q You did not complain about that? A No, I personally did not.

Q You did not complain about them taking Titus away, did you?

A Not I.

Q You didn't think that he was doing wrong in going to the Sun and build his machine there, did you? A I don't think he was doing wrong to go to the Sun or anywhere else? I want to stop my answer there. 40

Q Do you think these operators of the special machines with these special appliances had any confidential position, or only Titus? A I regarded that they all had confidential positions.

Q Well, then, didn't it occur to you that these pressmen and operators of your special machines at the Globe might go to the Sun Ticket concern at Providence and divulge some of that information? A I never gave the matter a thought, Mr. Leake.

Q In spite of the fact that some man had made lead copies of some machines, one man had offered to build a machine with these appliances for a western ticket manufacturer? 50

Mr. Smith. He did not testify to that, your Honor.

Mr. Ashmead. He didn't testify to anybody building a machine for a western manufacturer; said he never heard of it.

The Court. His affidavit says in so many words that he did.

Harry R. Keen, cross.

Mr. Leake. He did not in his testimony.

The Court. He has now in his testimony; his recollection has been refreshed by his affidavit.

A Will you be good enough to repeat that question?

10 Q Didn't the increased competition of the Sun Ticket Company and the fact that they were enticing away operators of these special machines, and that they had Titus, and that you knew that Titus had offered to build the same kind of a machine for a western ticket manufacturer, make you think that the Sun Ticket Company might be using some of this confidential information from Titus or these other operators or pressmen? A No.

Q It never occurred to you? A Never occurred to us. I would like to change that; it never occurred to me; I don't want to answer for anybody else; it never occurred to me.

20 Q (*By the Court.*) Did you think that the Sun Printing Company had so much business honesty that with that information within their control they would not use it? A Your Honor, I didn't know how much information they had; I didn't know what Titus carried away with him.

Q (*By the Court.*) But you have testified in answer to my question that you knew at that time that Titus had the knowledge if he wanted to use it, to build this barrel head. I asked him the question, Mr. Ashmead, whether he did not know that Titus, if he wanted to, might divulge this confidential information and build this barrel head, and he said yes; if he wanted to change it all right.

30 *Mr. Ashmead.* He said he had information to build the machines, but not the barrel head.

The Court. If you are going to draw the distinction—he says this: “Q Was there any talk among the officials of the company at that time, any suspicion that Titus might divulge the secrets of the concern? A None that I ever heard. Q You knew as a matter of fact that it was within his power to divulge those secrets, didn't you? A Well, I at that time I didn't no. Q I mean by that that you knew that he had the knowledge necessary for him to have in order to divulge the secrets of this machine as well as any other? A Yes.” Now, we were unquestionably referring to this machine which was the barrel head; it is the only thing we have been discussing. I will repeat the question I asked whether or not he thought—did you think that the Sun Printing Company or those in control of it had business honesty enough not to use the secrets which were within their control?

A Your Honor, I didn't think anything about it.

50 Q (*By the Court.*) Didn't think anything at all? A Didn't give the matter any consideration.

Q I call your attention to your affidavit, your answering affidavit, in which you said: “Further, that the said Manchell was informed in conversation by one of the officials of the said Globe Ticket Company that the officers of the Globe Ticket Company had knowl-

Harry R. Keen, cross.

edge that said Titus had taken all the knowledge he had acquired from the Globe Ticket Company to use for the benefit of the Sun Company." When was that conversation held? A I think I have described that.

Q That was at the same conversation when it was discussed about Titus offering to build one of these special machines for the western manufacturer? A That was the time, yes. 10

Q It was the same time? A It was the same time; it was the conversation that I overheard.

Q Was it the same officer who made that statement to Manchell in your presence that made the statement about Titus building the special apparatus for the western manufacturer? A Special apparatus?

Q Yes. Where was this conversation held? A In Mr. Pope's office. 20

Q In Mr. Pope's office? A Yes.

Q Early in 1915? A That is my recollection of it.

Q Was it Mr. Pope who said to Manchell that Titus had taken all of the knowledge from the Globe Ticket Company to use for the benefit of the Sun Company? A Well, possibly not in those words, but tantamount to that.

Q (*By the Court.*) And what did Manchell say to that? A At that point I left; I found the air was getting surcharged and I left.

Q (*By the Court.*) Well, did he deny it? A I didn't hear him deny it. I left immediately; I had heard Mr. Pope get on tantrums so frequently I didn't want to be present and listen to any unpleasant conversation. 30

Q (*By the Court.*) Then, isn't it a fact that you knew, whether you paid any attention to it or not, that in view of this conversation, isn't it a fact that you knew that Titus had taken this confidential information to the Sun Company? A Of my own knowledge, no.

Q No, but it was brought to your attention in that conversation, wasn't it? A It was brought to my attention that Titus offered to build a machine, a rotary press, forty-eight set press, for a western manufacturer; that was clearly brought to my attention. As a matter of fact, I brought it to the attention of Mr. Pope from information that I received from the outside. 40

Q Mr. Keen, you, of course, reported these conversations to Mr. Hering? A Which?

Q These conversations in 1915 about which you have been testifying? A No, I think not.

Q Did you ever discuss them with him? A I think not.

Q What office did you hold at that time? A Secretary.

Q And when were the matters brought up before any other officers than Mr. Pope? A I don't know. 50

Q Weren't they discussed at the directors' meeting? A No.

Q By Mr. Pope? A I think not.

Q By you? A I have looked over all my minutes and I cannot find any record of any discussion.

Harry R. Keen, cross.

Q Irrespective of whether there is anything on the minutes, you certainly reported all other important events to Mr. Hering, didn't you?

The Court. What position did Mr. Hering hold?

10 A President.

Q (Question read.) A Not necessarily.

Q Wasn't this scrap on between Mr. Pope and Mr. Hering at that time? A In 1915; yes, practically.

Q And you took sides with Mr. Hering, didn't you? A I did.

Q And you knew that Pope had some very important information about secrets and the use of the secret processes of this concern by other ticket concerns, didn't you? A Only from that conversation.

20 Q But from that conversation you knew that other concerns were using your secret devices for printing tickets, didn't you? A I didn't know it, no.

Q (*By the Court.*) If you didn't know it you suspected it, didn't you? Now, don't draw a distinction between anything of your own knowledge and having information conveyed to you?

Q You knew that Mr. Pope knew it?

The Court. Or thought it.

A Or thought it. I knew that Mr. Pope thought it, yes.

30 Q And you knew that Mr. Pope and Mr. Hering were not on friendly terms and there was a dispute in the company, didn't you?

A I knew they were not on friendly terms; there was a dispute between them.

Q Don't you think you reported the fact that Pope having knowledge or thinking that some other concern was using your secret devices to Mr. Hering? A I certainly think not.

Q You certainly think not? Well, why wouldn't you report it? A I can answer that question as easily if you ask me why wouldn't I report it to him.

40 *The Court.* Well, why wouldn't you?

Q Well, why wouldn't you? A Because I didn't regard it of sufficient importance to report to him at that time.

Q (*By the Court.*) Why not at that time if at any other time? A Your Honor, it simply brings in the matter that I closed my testimony with when I was here before, the discussion of that disagreeable affair.

50 Q Now, why wouldn't you report it to Mr. Hering? A There is no reason why I wouldn't; there was no reason why I wouldn't, but I very likely did not report it to Mr. Hering because at that time Mr. Pope had full sway in the business.

Q As a matter of fact, you are not sure whether you did or whether you did not report it? A I am not sure whether I did or not; did not, that is correct.

Harry O. Yates, direct.

HARRY O. YATES, sworn.

Direct examination by Mr. Smith.

Q Where do you reside? A In Abington.

Q Pennsylvania? A Yes.

Q What position do you hold with the Globe Ticket Company? A 10
Foreman of the machine department.

Q When did you first enter its employ? A About twenty-one
years ago this March, I think.

Q In what position? A As journeyman machinist.

Q Are you familiar with the barrel head numbering device about
which we have been speaking? A Yes.

Q Are you familiar with its internal construction? A Yes.

Q How long were you employed in the machine shop of the Globe
Ticket Company before you were allowed to become acquainted with
this barrel head numbering device? 20

Mr. Leake. I object to that very leading question.

Mr. Smith. I think that is material, your Honor.

The Court. What do you want to show?

Mr. Smith. Want to show how long he was there before he
was shown how this was put together.

The Court. I will permit this witness to testify, but I am not
going to permit a lot of cumulative evidence on it.

A I would say about ten years. 30

Q Now, do you know when this barrel head numbering device
was first invented? A I should judge about nineteen years.

Q Nineteen years ago? A Yes.

Q Now, do you know who invented it? A Who designed it or
invented it?

Q Invented it. A I couldn't say exactly; probably—

Mr. Leake. I object to "probably."

Q Who designed it, then? A Percy Teal.

Q And with whom did he work in its construction? A In con- 40
junction with E. A. Henkle, general manager of the concern.

Q Now, what methods were used to safeguard the secrecy of this
machine, to your knowledge? A In the building of the heads?

Q Yes. A Why, the heads were, parts of it were built on dif-
ferent machines, and it was assembled by one man, and he is the only
one that ever worked on it, to my knowledge, until he left there.

Q Now, when these heads are not in use, where do you keep
them? A When they are not in use?

Q Yes. A They are always in the machine, unless there is a 50
breakdown, then they are taken to the shop.

Q Where do you keep your extra heads? A Oh, in the vault,
in the vault of the machine shop on the first floor.

Q Who has access to them, who can get at them? A Just my-
self.

Harry O. Yates, direct.

Q And before you were the head of the machine shop who could get at them? A The foreman, Mr. Thomas Hood.

Q Do you know where this plan is kept which has been offered in evidence and which is the detailed plan of the barrel head?

10 *Mr. Leake.* I will admit that is kept in the cabinet, as has been testified to.

Q Do you know of any other who has care of this blueprint, which is a blueprint of this tracing? A It is kept in the cabinet where the mechanical drawings are kept.

Offered in evidence and marked Exhibit A.

Q Is that the blueprint by which these barrel heads were constructed? A Yes, sir, to the best of my knowledge.

20 Q Will you explain to the Court why it is that the lower portion of the blueprint was cut off and does not show this cross section view of the assembled drawing? A When we had two forty-eight set machines built they were built by Mr. Loyster, one of the directors of our company, and we were so particular not to leave a detail drawing of any of our numbering heads go out of the shops, even to a director of the company; for his benefit while he was building the machine there, to get some measurements certain distances from the face of the machine which you see on the tracing, it had knocker, we cut out this bottom section here, which would not show him any of the detailed parts, or how it was put together, or how it worked.

30 Q Now, where were the rest of the parts constructed of the heads? A Ninety-six heads, the original heads, they were built in the machine shop of the Globe Ticket Company.

Q And this barrel head which was put on the original ninety-six set press is practically the same thing as they have today, is it not? A It is the same.

Q And the barrel head numbering device of the forty-eight set press is the same as the ninety-six? A Made of the same drawing, the same.

40 Q Now, when did Lemuel Titus first come in your employ? Were you there when he first came there? A He was working there when I came there.

Q What was his position when you came there? A He was an apprentice at that time.

Q What was your position when you first came there? A I was supposed to be a journeyman.

50 Q And how long was Lemuel Titus there before he was allowed to work on these particular barrel heads? A Why, I don't think Lemuel worked on them until after Walter Walton was dismissed, that is the best of my knowledge. I don't remember working on them myself outside of going up and maybe raising the bearing up to take some impression, to lower the impression down on account of construction, the way it was inserted in the machine.

Harry O. Yates, direct.

Q Well, what kind of work later did Mr. Titus do upon these heads? A Why, adjusting and repair.

Q And in the course of his employment would he take that part and examine the inside mechanism of the machinery? A He would have to to find the cause.

Q About how many parts are there of this particular device? A I judge there are about eighty parts on each head, fifty staves around and I judge there is about thirty other parts, counting each separate piece. 10

Q Is this barrel head numbering device similar in construction to the device they had for numbering coupon tickets before it was invented?

Mr. Leake. I object.

The Court. I overrule that as cumulative. I am not going to sit here and listen to a lot of cumulative evidence; of course, it is not the same; nobody contends it is. 20

Mr. Smith. I would like, your Honor, to have the witness take apart, for your information, one of these heads, so that its construction can be seen, so you can realize the delicate mechanism contained therein; so you can see it is not merely the putting together of a lot of things that anyone can assemble; it is a real invention, real secret, and this man is an expert mechanic, and this man can do it for your information. I would like to have him do that and would like to have excluded from the room all except the witness and counsel. 30

The Court. All right.

A This barrel numbering head turns in every ten times, see. Now, we had two of these on the machine; one of them is constructed like this here, and the other is constructed so it turned in every once, and I will show you when I take it apart why it turns in every ten.

Q Mr. Yates, take this particular head which you have here before the Vice-Chancellor apart and explain to him the uses of the various parts and the construction of its mechanism. First, explain what this is which I had in my hand? A This is just the shaft which the barrel head is assembled on. 40

Q This cylinder? A This collar here with the grooves on here.

Q This collar with the grooves on which is about a foot away from the end of the shaft having the raised portions thereon is what? A For to raise your characters.

Q Raise your characters on what? A On the barrels, raise the staves on the barrel.

Q And how far apart is each one of these raised portions on the collar? A It prints one inch and five hundred and eight thousandths of an inch. 50

Q And this collar with the raised portion is attached to what? A That is attached to a bar that goes up to the center of the shaft.

Q And how is that bar attached to the collar? A By a pin going through the collar and through the stud at the center of the shaft.

Harry O. Yates, direct.

Q And how is that slot through which the attachment of the pin with the collar attached to this collar, how is the collar attached to the pin which goes through the shaft? A It is pinned right through there, there is a pin that goes right through here that connects with this, and that moves so (indicating).

10 Q (*By the Court.*) Pin goes through that slot? A Yes, that gives us that much movement.

Q How much movement do you have in that slot? A About half an inch.

Q Now, I have here in my hand the numbering staves themselves, consisting of a number of segments about an eighth of an inch across and about seven inches long, on the end of which there are a number of numbers raised above the face of each stave; take that apart. How are these particular segments or staves held together?

20 A With a collar, a split collar with two screws in the clearance holding one side of the collar, and tapped hole in the other.

Q (*By the Court.*) This piece of the mechanism is rigid, isn't it, no part of it moves on the other? A Yes; no part oscillates; you say rigid; I say no, it moves up and down.

Q (*By the Court.*) What I meant was, no part moved on itself? A No.

Q (*By the Court.*) On any other part of that particular mechanism? A No.

30 Q How many pieces does this particular part consist of? A There are fifty-six there.

Q Including the staves? A Yes, fifty-six.

Q How many staves? A Fifty staves.

Q Fifty staves? A Yes.

Q On this piece of machinery, the thing which is the largest diameter, which is corrugated, is for a handle, is it not? A Yes, just used for a handle to turn the head around, if you want to turn around to a certain number.

Q Next inside of that I see a gear; what is that? A That is what you might term a ratchet.

40 Q There are fifty teeth, aren't there, and have these teeth all the same depth? A In this particular part here, yes, in that particular part.

Q Now, next to that I see another portion with teeth facing the body of the machine on which it is; what is that? A That is to retain the head by.

Q And what is this, what would you call that? A Why, a series of forty-five degree slots, I would say fifty, around there.

Q Of fifty forty-five degree slots? A Cut radial to the center.

50 Q Now, looking in the inside of the machine I there see a key-way; what is the purpose of that? A That key-way is for the purpose of putting it over the key here.

Q Over the key? A Yes, in the shaft proper.

Q And what does that key do when it feeds in the key-way? A That is only to allow you to get it over this position here; that does

Harry O. Yates, direct.

not have any bearing on the movement of the numbering head at all; that is only to get over this here, to get over that key-way, because that key-way is utilized for the retainer, for the five-point retainer which retains your head on the shaft.

Q (*By the Court.*) A locking device, that is all? A A locking retaining device, yes. 10

Q Now, then, these fifty forty-five degree slots, what fits against them? A This here outer ring here fits on the outside there with fifty teeth in a larger diameter than the one that I spoke about previous. Five of those fifty teeth are cut deeper than the other forty-five at intervals of ten.

Q And what is the purpose of that deeper cut at the intervals of ten? A To allow the function of the numbering head, the driven part of the numbering head to work ten times actuated by the ratchet there before it pulls in once, allowing your unit head that is on the machine to make nine turns and this turn in at the tenth consecutively up to 99. 20

Q Now, then, will you put this on the shaft, showing just where it goes? A Yes, sir.

Q (*By Mr. Leake.*) Before you assemble that, where are your idle ratchets, how is the idle ratchet retained?

Mr. Smith. The idle ratchets is the last ratchet which the witness has described, and that is the ratchet which has the deeper indentations every ten spaces.

The Court. And it is the one that fits next to the barrel to the rigid mass, as I call it. 30

A This here idle ratchet, as they call it, has also got fifty teeth or slots cut in there, forty-five degree slots cut radial to the exact alignment of the inner one, which latter slots are different and do not correspond with the slots on the circumference of the same idle ratchet. I am inserting a washer on here for the purpose of holding the head back. You see the inside of the washer is to hold the head back, and that is held back by the two key-ways which were inserted into the shaft and also imbedded into the washer to keep it from turning around, that is, held back to hold the numbering barrel from being pulled out by the spring; you see the spring pressure going down over the center stud in the center of the shaft for pulling out the raised collar, in the back with the raised portions on it that pulls in at the 1. In the key that holds the barrel into the shaft proper is a dowel pin and a screw to hold these keys in the shaft. I am about to replace the retainer which has five points on the inside face and which has a collar extending away from the inside face about an inch. This retainer also has a key-way running through its inside surface, and this key-way is used to retain the barrel staves in the proper position. 40

Q Now, what are these raised portions on the inside face of this device? A They retain the barrel when it is actuated by the pawl-
eage; this five-point retainer retains the barrel by a spring that runs 50

Harry O. Yates, direct.

from the outside collar on the end of the shaft; the shoulder is up on it against the outside collar on the end of the shaft pushing against a washer, that washer engaging against five pins; that goes through the pawl cage and pressing against the washer that goes next to your five-point retainer.

10 Q Does that washer act on the outside face? A From the side here, that five-point retainer also has a piece of quarter-inch steel fastened on there, riveted through on the outside face.

Q And what is this washer? A That has a pin on it to engage with the pawl cage.

Q Has it a slot? A No, it has a hole in there to engage it.

Q No, this thing. A The washer has a slot to clear the quarter-inch teeth that is riveted into the outside face of the retained washer. We use that for an overthrow in conjunction with a piece, an ad-
20 justable piece that goes through your pawl cage to stop the overthrow of the head on account of the terrific speed of our machine and the awful momentum; the cylinder which actuates the pawl cage is about fifty inches in diameter.

Q And the overall diameter of the printing portion of the barrel head device is how much? A Two and four-tenths inches.

Q Is that the way you get your speed in the difference in the two diameters? A Difference in the speed?

Q Yes. A No, that is geared up on the back of the machine.

30 Q What is it you have in your hand? A That is what I term a pawl cage.

Q You have in your hand a piece of machinery that comes next in order on this barrel head numbering device, and you term it pawl-cage? A Yes, I would term it so.

Q What is the inside construction of that pawl cage? A It is cut out of the inside.

Q Cut out how far of the inside? A Oh, about an inch.

Q (*By the Court.*) It is sufficient to fit over the ratchet? A Sufficient to fit over the ratchet and comes over here.

40 Q What is the purpose of covering those ratchets? A To keep dirt out of there and also to give support for the pawl.

Q What are the pins that appear on the inside face of this cage? A I don't know whether I explained that or not. I said those five pins were on there in conjunction with a spring that pushed against the collar here on the outside, see.

50 Q (*By the Court.*) The spring actuates those five pins? A Actuates those five pins in there up against this washer, and the reason that this hole is in here for this pin to connect in there is so this here washer, there being pressure up against here, oscillate with the pins, otherwise it would be liable to pull around on there and break the pins off. Now, this pawl cage here is turned down at the outside end and a collar fit over there with two three-eighths hardened steel pins in there. These pins are for the purpose of the knocker engaging with these pins to operate the heads.

Harry O. Yates, direct.

Q How many knockers? A There are not any knockers on this, my dear boy.

Q How many knockers are there on there? A No knockers, two places for knockers to operate.

Q From the outside face of this pawl cage I see a shaft which is cut in half; for what purpose is that? A That is cut in half there to allow a certain movement which is timed by pinning the collar on the end of the shaft there just to allow the pawl cage to have a certain movement on the shaft by itself, see. 10

Q How much movement? A One-fiftieth around here, I should say about an eighth of an inch movement.

Q How many numbers can move? A One number at a time. This collar on the outside of the pawl cage with the elongated slots in it is fastened to the main part of the pawl cage by a cap screw which has a distance washer in between to keep from closing the gap up when you tighten it to retain to what position you want to engage in with your knocker. We are allowed movement with this collar which is attached to the main pawl cage for to set your head around different position on the tickets, and also in case your pawl wears or the pin wears you take up this here collar around here by loosening up those two screws and moving around, a very slight adjustment. 20

Q I see on the outside of the pawl cage a raised portion in the nature of a bridge with a little handle on the inside face; what is that little handle and what is its purpose? A That is for putting the pawl in action and throwing the pawl out of action, in case you want to run your machine without any numbers there every time the knocker came around take the knocker off and it would not operate at all. 30

Q In other words, allow your barrel head to revolve without doing any work? A Yes, and when you throw this little catch over it allows the pawl to operate.

Q (*By the Court.*) Your power is transmitted to the operating part of your machine by that pawl? A Yes. 40

Q The pawl is now in the shaft. What are you now putting on? A I am now putting on the spring which goes against the washer which actuates the five pins through the pawl cage against the washer on the inside which is right next to the collar with the five points on. In other words, we are conveying our power from the outside here through the pawl cage to the five points in there to retain the barrel.

Q (*By Mr. Ashmead.*) The pins you mentioned in the pawl cage being moveable or in the nature of plungers? A Yes.

Q Now, against that heavy spring what are you now placing? A Placing on a collar that is a little more than halved off. 50

Q What does that mean? A Was cut down to the center of it or a little further past the center right straight across the collar half an inch back.

Q For what purpose? A To allow the pawl cage movement.

Harry O. Yates, direct.

Q It is held on the shaft by what device? A This collar is held on by a tapered pin.

10 Q Which goes through— A Which goes halfway through the outside of the shaft proper only halfway, in order not to go into the inside and interfere with the spring that operates the back collar which has the five raised portions on it.

Q Now, you are next placing over the inside stud a spring? A Inside that main shaft over the stud which carries the inside collar with the five raised portions on it which raises the characters.

20 Q You are now placing over the inside stud a spring which is smaller in diameter than the spring first spoken of and which— A Goes over the stud in the center of the shaft against a little collar on the outside end of the stud. This spring which goes over the stud bottoms about two inches inside of the shaft fits one bearing and there is a collar screwed onto the end of that stud which gives it the other bearing for the spring which keeps the collar within five raised portions on the back that raises the staves of the barrel up when it comes around to the 1, see, pulls in when it gets to the 1. This outside collar I would say that we screw on the end of that stud, we also screw a screw in the end to bind that, to keep it from coming off, just for a check, that is all, for safety device, that is all. That is the movement of the barrel. (Witness is operating the machine and now says the 3 is up). It takes ten movements before you bring the 4 up, just the same way all the way around, throw that off
30 there, it acts as a sort of retainer against the barrel there in conjunction with the retainer that is operated from the front collar to the washer against the pins to the other washer; it is just a conveyance, that is all, from the outside.

Q Is it possible to raise any numbers you desire by using this hand collar? A You have to move it around to the 1, then this spring here will draw it in automatically to the 1, then if you want any more up you can go down to where you want to go.

40 Q If you want any more up you can turn around to any place you want to go? A Yes.

Q (*By Mr. Leake.*) Can you raise a number by using this hand bar to the left as well as to the right? A Not with this head; it operates in one direction.

Q (*By Mr. Leake.*) Have you any head in use in your plant that will raise a number by turning to the left? A Yes, we have heads in our place there that you can turn either way.

Q (*By Mr. Leake.*) How long have they been in use? A Before my time?

Q (*By Mr. Leake.*) Prior to your time? A Yes.

50 Q (*By Mr. Leake.*) What heads are they called? A They were what you might call—we use them on our band machines and on our single sets.

Q (*By Mr. Leake.*) And they are in general use in the printing trade, aren't they? A Not as I know of; I never seen anything like it before.

Harry O. Yates, cross.

Q (*By Mr. Leake.*) Did you ever work in any other printing establishment? A Not any other printing establishment, no. I couldn't tell, with all my experience, how to assemble the head from the drawing, unless the information was conveyed from the foreman. Of course, it being in our use there, I built a half dozen since, but, of course, I have seen the construction just the same as Titus, we worked together on it. 10

RECESS.

Cross examination by Mr. Leake.

Q Mr. Yates, will you please state the different plants in which parts of these coupon ticket heads or machines are manufactured? A That is, these two that we had on the ninety-six set? 20

Q Any set coupon ticket machine? A You have reference to this barrel head? 20

The Court. Barrel head or any similar to it.

A To my recollection it was built entirely in the Globe Ticket Company, these two heads.

Q These two particular heads? A Those two particular ones that I built you mean recently?

Q (*By the Court.*) No; any heads containing this device or built after this device, to your knowledge? A I don't exactly get it yet.

Q Mr. Keen testified that some parts of coupon ticket numbering heads were built in other than plants of the Globe Ticket Company; now, will you please name those plants? A You have reference to the barrel heads; we have several heads in our place there. 30

Q (*By the Court.*) This particular barrel head? A Was never built anywhere else, to my knowledge, outside of the ones that I built, and I had the staves made outside, that is, just the stave part was made outside only, and the cutting of the characters on there, the aughts, one, two, three, four, up to nine were cut in New York.

Q What was cut in New York? A Just the characters there at the end there. 40

Q What was made at Casanovia? A Just the machine.

Q What do you mean by the machine? A The rotary machine that these here heads fit into; they have nothing at all to do with the head; the head is a separate machine altogether.

Q Were you working for the Globe Ticket Company at the time testified to by Mr. Mahrgang and Mr. Scott when it was discovered that Titus had made a head similar to this head? A I have been working at the Globe Ticket Company for twenty-one years.

Q Did you know that Titus went to the Sun Ticket Company? A I heard indirectly. 50

Q When? A Probably several months after he had gone. I don't remember him telling me himself.

Q No. When did you hear it, several months? A Probably several months after he had gone.

Harry O. Yates, cross.

Q You received a card from Titus from the Sun Ticket Company in Providence, didn't you, shortly after he left? A I couldn't swear to that, I might have, I don't recollect it, though.

10 Q Did you hear of his being there by this report which Mr. Scott said he made about the knowledge that Titus had succeeded in making a barrel head for coupon ticket printing? A I didn't exactly get that.

Q (Question read.) A Yes.

Q And when was that? A I couldn't say exactly, it was some-time after he had left there, quite a while.

Q It was in 1914, wasn't it? A I couldn't say.

Q Was it in 1915? A I couldn't tell you offhand, I couldn't tell you nohow.

20 Q When was this disturbance in the Globe Ticket Company plant to which Mr. Scott and Mr. Mahrgang referred about Titus making a rotary head, barrel head for coupon ticket printing? A I couldn't say.

Q You remember? A I don't know what their evidence was.

Q You don't remember the time? A No, sir.

Q You remember that there was such a discussion about that? A I heard indirectly.

Q Through whom did you hear it? A Scott.

30 Q And what did he say to you? A He said they had received a letter from Lem., and I think in that letter there was a sample ticket that he had made on that machine.

Q And when you speak of Lem. you mean Titus? A Yes.

Q And that sample ticket was sent by Titus to Scott? A As near as I can recollect, yes.

Q Did you see the sample ticket? A I think I did.

Q You could see from that sample ticket that it was made on a rotary coupon ticket machine? A No, you could do it on a job press just as easy.

40 Q Do you mean to say that you can not tell whether a ticket has been on a job press or one of these rotary ticket machines? A No.

Q Did you ever see any tickets— A Nobody could; you can't tell counterfeit money, they are made so close; you can set up a form of anything and print it on job press or any kind of press.

Q In the ticket printing trade do you or do you not know that there are some things about the printing of a ticket on a rotary press, coupon ticket machine, that will sometimes tell you the difference, than the ticket printed on a flat press? A Not necessarily.

50 Q Why do you say not necessarily? A Why, because you can set up a form in anything and you wouldn't notice the difference.

Q Have you ever seen a ticket in which you have noticed the difference? A Not to my recollection. As I said, you can counterfeit money, you can counterfeit tickets, you can counterfeit anything.

Q (*By the Court.*) What was the object of his sending the ticket? A I couldn't say, unless it was to cause dissension.

Harry O. Yates, cross.

Q (*By the Court.*) Why would it cause dissension if it was printed on an ordinary job press? A You couldn't tell.

Q (*By the Court.*) There must have been an object in sending this ticket, now, what was it? A That is about the only thing I would say.

Q What did the letter say about it? A I don't know; I didn't read any letter. 10

Q What did Scott say about this ticket, that it was a ticket made on a rotary press machine? A That is what he said.

Q Did he say that Titus took the principles of the Globe press and printed that ticket on it? A No, no, no, he didn't say that, because he didn't know; I don't know, unless he got it from the letter; he didn't tell me the contents of the letter.

Q Well, Scott told some officer of the Globe Ticket Company about receiving that ticket, didn't he? 20

Mr. Smith. I object.

The Court. Did he to your knowledge?

A Not to my knowledge.

Q Did you report to any superior of yours that you have seen a ticket printed by the Sun Ticket Company on a rotary ticket coupon printing machine? A Not as I can recollect.

Q Well, why didn't you? A That I can't answer.

The Court. That is a woman's answer. 30

Q Who was your immediate superior at that time? A Why, I don't recollect exactly whether Mr. Evans was the superintendent over me then or not in the machine department.

Q And, if not, who, if not Mr. Evans? A Mr. Goetz would be the next I should judge at that time.

Q Who else saw that ticket besides you and Scott? A I couldn't say; I don't know whether he showed anybody else at all.

Q What was Scott's position at that time? A I am pretty sure he was assistant foreman in the machine department.

Q Didn't you know that Scott told an officer of the company about, not about the ticket, but about Titus building a rotary press ticket machine? A I can't recollect it at all. 40

Q Now, what changes have been made in your head since Titus left, in the head of the Globe Ticket Company that you exhibited to the Court? A What changes have been made in the head?

Q Yes, since Titus left. A The clock spring on the inside there was found to be quite a nasty thing to put in, I think it was while Titus was there yet, if I am not mistaken, and we worked probably a day on it and did not get the result then, and I fastened on a piece of steel on the outside collar on the end and a pin in the pawl carrier and connected a coil spring on there which you could put on in a second. 50

Q I asked you what changes were made in your head after Titus left? A Oh, I don't know of any, positively none, just the same as the drawing when it was originated.

Harry O. Yates, cross.

Q Any changes in the head that you exhibited to the Court since Titus left? A No, sir.

Q How were the staves held in the head at the time Titus left? A By that clamp collar around there, as near as I can recollect, on the ten's head.

10 Q How about the other head? A On the unit head it is just the same as the drawing; if you have got the drawing there you can see it.

Q Were not the staves held by tapered nuts at the time Titus left? A There was a tapered nut there cut in half, a tapered bushing with a thread on the outside and that was cut in half and a collar screwed over that; the more you screwed up the tighter it got; but I don't think that was on the ten head, only on the unit head, and that was a very nasty thing.

20 Q How long after Titus left was that change made on the unit head? A It is still on the unit head that we have on the press, but on the heads I have built since then it has got the same kind of a collar that I showed you in there on the ten's head, too complicated, too nasty, too unhandy to put on, but that was not originated by me.

Q How many employees of the Globe Ticket Company worked in the room on the fourth floor in which these coupon printing machines were operated? A I don't know, there might be about fifteen girls and about four men.

30 Q Where is the time clock located in that room? A Right near the elevator doors.

Q And near what machine? A Near the ninety-six set.

Q Near the ninety-six set machine containing this special numbering head, is it not? A Yes, somewheres near there.

Q How many times a day do your employees on that floor punch that time clock? A Night and morning, unless they go out at noon time; if they don't go out at noon time I don't think they punch it.

40 Q Every employee on the floor punches the clock when he comes in in the morning? A Yes.

Q And every employee on the floor punches the clock if he goes out for lunch? A Yes.

Q And every employee on the floor punches the clock when he comes back from luncheon? A Yes.

Q And every employee punches that clock when he leaves at night, doesn't he? A Yes.

Q Now, who is designated in the Globe plant to take visitors through the plant? A The superintendent.

50 Q What is his name? A At this time?

Q At the time that Titus was there? A Charles Goetz I think at that time.

Q How many visitors go through the plant? A I don't know of any visitors outside of the people that has work to do, like the telephone repairmen and the sprinkler system.

Harry O. Yates, cross.

Q Mr. Hering testified about visitors going through; you never saw any visitors going through the plant, and never saw any going through this floor where the presses are? A Not as I can recollect.

Q Most of the time you are on that fourth floor, are you? A No, I am mostly on the first floor.

Q And you don't know how many visitors go through the fourth floor? A You can't go through without a pass; you have got to have a pass before you can go through; you can't work overtime without a pass; you can't come in on Sunday without a pass.

Q You can't work overtime without a pass? A No, sir.

Q So that any girl who works on that fourth floor requires a pass? A The foreman of that department will get a pass for ten girls to work at night from certain hours to certain hours and be allowed on certain floors.

Q Do you have any occasion to measure these machines or any parts of them? A Me?

Q Yes, in your duties; what do you do, what are your duties? A I have charge of the machine work, build and repair new work.

Q Do you carry any measuring instruments in your pockets around on your duties? A I might carry a pair of calipers if I went up to measure anything, to renew something, or larger pulley.

Q Aren't you constantly measuring around when occasion requires? A Yes, but very seldom, mostly in the machine shop; I very seldom go out.

Q But if something goes wrong upstairs you may need measuring up there? A It is liable to.

Q And you carry a caliper in your pocket as a rule? A And a scale.

Q And isn't it a fact that most of the machinists who work on machines carry those two instruments of trade in their pockets around with them? A They are liable to; as a general rule they have a kit they carry around to do repair work with, little box to keep all their tools, files, punches, scrapers.

Q On the fourth floor of the machine room? A Any of the floors, changing, and so on.

Q I think you can help me out. I want to get this very clear in my mind. If you had two tickets, theatre tickets, submitted to you with printed dates and numbers of seats, &c., on them, and you were asked to determine if possible which of those tickets had been printed on a flat press or which printed, had been printed on a rotary press, what would you first look at to make that determination, if you could? A Why, it would be foolish to try to do it because you can imitate anything.

Q (*By the Court.*) Assuming that there is no imitation now, or attempt to imitate, and assuming one was printed on a flat press and one was printed on rotary press by means of this numbering device, could you tell the difference? A I don't think I would be able to; I am no printer.

Harry O. Yates, cross.

Q What would you first look at to make up your mind about which ticket was printed on the rotary press and which ticket was printed on the flat press?

10 *The Court.* Assuming that there isn't any counterfeiting about it, assuming a man prints one strip of tickets on a flat press.

A How would I know?

Q (*By the Court.*) I am asking you whether you could tell or not? A No, I could not; certainly I could not.

Q What would you look at to tell?

Mr. Smith. I object, if he couldn't tell.

A It is impossible to tell. I say you can counterfeit anything.

20 *The Court.* He has given a better answer, too; he says he is not a printer.

A We build the printing machinery and repair it; I am no printer at all.

Q Have you examined the tickets that are printed on rotary press machine having this device in the Globe Ticket Company, have you ever looked at the tickets? A Might give them a glance as I go through.

30 Q Do you ever see any irregularity in the numbers or the figures? Let us be perfectly frank with one another. A Yes, you are liable to see.

Q You are liable to see irregularities in the numbers; what is that irregularity caused by? A I can't see what you are getting at.

Q Never mind what I am getting at. What is that irregularity caused by? Now, this is a mechanical question, not a ticket question. A It could be caused by anything; you can set a form a half or quarter-inch wide for your characters, you can move your numbers and get them any width apart you want.

40 Q What is the irregularity you say you sometimes see on tickets printed with this special machine of the Globe; what is that irregularity caused by? A Might be back lash in the gearing.

Q Back lash in the gearing; what else? A Probably the spring not being strong enough on the front to retain the five points in there, probably the keyway or the key proper is worn in that five points and allowing it to vibrate on account of the awful momentum of the wheel.

Q The speed; isn't that the underlying, one of the principal things, the speed of this rotary press machine? A Not only one, there is so many.

50 Q Are there any other things? A Not as I know of.

Q Have you ever tried to perfect that head so that this irregularity in numbering would not appear on the ticket as printed?

Mr. Smith. I don't think that has anything to do with this.

The Court. What has it?

Walter E. Hering, direct—cross.

Mr. Leake. It is cross examination it seems to me.

The Court. What has it to do with this case?

Mr. Leake. It has this to do with the case, that in the printing of theatre tickets you can determine at once whether that ticket has been printed upon one of these very swift-moving machines, which is apt to throw an irregularity in the type, which you never find in one printed on the old flat press.

10

The Court. I will take judicial notice of that almost. What difference does it make whether they tried to perfect this?

Mr. Leake. Except to show that this witness started out by saying there was no difference between the two tickets. He now says there is irregularity in numbering appearing on these two tickets, and if he attempted to correct that irregularity it would show that he knew that there was something about those printed on rotary press that would absolutely contradict his testimony where he said there was no difference at all.

20

WALTER E. HERING, recalled.

Direct examination by Mr. Smith.

Q Mr. Hering, when did you first have tangible definite information that the International Ticket Company was using the barrel head device similar to that used by the Globe Ticket Company? A On receiving Miss Richards' report.

Q And when was that? A Well, that was in August of last year.

30

Q August of 1917? A Yes.

Q And after receiving that report what did you do? A After receiving a report from Miss Richards?

Q Yes. A Then we told you to proceed.

Q And furthermore, Mr. Hering, in your cross examination when you were first on the stand, on page 15, the Vice-Chancellor asked you "Any attempt made to keep knowledge from the employees of this floor of this barrel head machine or barrel head", you said "Nothing; the machinery is just run like any other machinery, in the open." Was that the answer you wanted to give to that question? A No; I misunderstood that question; that was contradictory to the balance of my evidence, because we always surrounded everything, as I said before, with secrecy, to the best of our ability.

40

Cross examination by Mr. Leake.

Q Mr. Hering, you knew that the Sun Ticket Company of Providence was making, printing and selling theatre tickets, didn't you? A Yes.

Q And there was some competition between your concern and the Sun Ticket Company in 1914, was there not? A Yes.

50

Q And you knew at that time that Titus was there? A Well, I didn't give that matter any consideration; I didn't really know whether he was there or not.

Q Did you not know that Titus was there in 1914? A No.

Walter E. Hering, cross.

Q You did know he was there in 1915? A Perhaps I did.

Q Weren't you in Philadelphia at the time that Mr. Manshel was down there talking to Mr. Keen? A Talking to Mr. Pope.

Q Talking with Mr. Pope and Mr. Keen? A Yes, I think I was.

10 Q And didn't Mr. Keen report that conversation to you? A I don't remember that.

Q Well, your board of directors had a meeting after Manshel was there, didn't they? A Well, we have a board of directors meeting every three months.

Q Well, didn't you take up at a board of directors meeting the fact arising from Manshel's attendance in Philadelphia in the early part of 1915? A Not to my knowledge.

Q Why, didn't you write Mr. Manshel in 1915 that the matter had been taken up with the board of directors?

20 *Mr. Smith.* What matter?

A Why, that was on another subject I suppose you refer to.

Q What was the other subject? A Mr. Manshel came down to visit Mr. Pope to see if we would buy them out, if he could sell us some stock, controlling interest in the Sun Ticket Company, but I don't know anything mentioned about Titus.

Q But that visit for that purpose was the visit referred to by Mr. Keen in his testimony in the early part of 1915, was it not? A I suppose so.

30 Q And someone reported to you that Manshel had been there to sell out his business? A Exactly.

Q Who reported that to you? A Mr. Pope.

Q Did Mr. Keen talk about it? A I don't think Mr. Keen; I know Mr. Pope told me about it first.

Q Wasn't it a fact that Manshel wanted to sell out the Sun Ticket Company to the Globe Ticket Company, discussed at a meeting of the board of directors at which you were present? A Exactly.

Q Keen was present and Pope was present? A Exactly.

40 Q And didn't you discuss the whole situation at that time about the Sun Ticket Company? A Well, what do you mean by the whole situation?

Q Whatever you mean by it.

Mr. Smith. That is too indefinite.

A The only thing I was interested in was the price we would have to pay to acquire an interest in the Sun Ticket Company.

50 Q (*By the Court.*) Wasn't one of the arguments used in order to induce you to buy out the Sun Printing Company or Ticket Company that if you did not the Sun Ticket Company anyhow had Titus and had your secret processes or secret devices and they would compete with you with their own guns, as it were? A Don't remember that was ever brought up.

Q (*By the Court.*) It was a very natural thing to have been brought up, wasn't it? A No, sir; because—

Walter E. Hering, cross.

Q (*By the Court.*) What arguments were used to induce you to buy out the Sun Printing Company? A Simply to get a controlling interest and work together.

Q You knew that Titus was there, employed by the Sun in 1915, didn't you? A Well, I didn't enter into that part of the business at all; I may have heard it, but it never made any impression on me. 10

Q But didn't you hear it in 1915? A I probably did; I don't know, but I never paid any attention to it.

Q (*By the Court.*) Did you think the Sun Printing Company was endeavoring to hold you up, as it were? A Well, I don't know whether you call it hold up.

Q (*By the Court.*) You know what I mean by that? A We have a number of offers from people to buy them out, you know; this was just one of several.

Q (*By the Court.*) You still have not answered my question. Did you think the Sun Printing Company was endeavoring to hold you up? A I did not; no, sir. 20

Q You were one of the directors who advised the purchase of the Sun Ticket Company plant, weren't you? A I was?

Q Yes. A No.

Q Isn't it the fact that the only reason you did not buy them out was on account of the price? A I don't remember the details then, but, as I said before, we have a number of offers to buy people out.

Q Didn't you, as an officer of the Globe at that time, think it was desirable to buy out the Sun Ticket Company if the price would be made satisfactory? 30

Mr. Smith. That is getting into restraint of trade and everything else; I don't think it has anything to do with this case.

The Court. I will permit it; it is not getting into restraint of trade.

A I really don't remember; the fact is we did not buy them out.

Q Who brought to your attention the fact that Manshel was in Philadelphia in the early part of 1915 offering to sell out the Sun Ticket Company? A Mr. Pope. 40

Q Did any other person report to you?

The Court. Was Mr. Pope in favor of purchasing the Sun Ticket Company?

A Is that my question?

Q (*By the Court.*) It is my question. A I mean for me. He was not, no, sir; he was not in favor.

Q He was not in favor? A Not in favor.

Q (*By the Court.*) What was his reason for not being in favor? A He said he was not in favor of buying out anybody; he said the minute you buy anybody out another one crops up; those were his words; he said "I am in favor of fighting rather than buying." 50

Q And you agreed with Mr. Pope? A I did.

Q What do you mean, in favor of fighting; fighting what? A Fighting competition.

Walter E. Hering, cross.

Q Wasn't the competition pretty keen between the Sun Ticket Company and the Globe at that time? A Well, the Sun Ticket Company was only one of about a dozen competitors.

Q But they had this machine that Titus built for them? A I didn't know that.

10 Q Did you know that Titus was with them? A I told you before, Mr. Leake, I pay no attention to that end of the business and I had no knowledge of it.

Q Did you at the time the directors were considering this proposition know that Titus was working for the Sun Ticket Company? A I don't think I did. I didn't know Mr. Titus; I don't think I saw Mr. Titus a dozen times when he was there.

Q (*By the Court.*) Did Mr. Pope express any anger toward the Sun Ticket Company? A Oh, yes.

20 Q (*By the Court.*) What did he base his anger upon, what did he say they had done? A Well, that was brought out in Mr. Keen's testimony, that he did not trust anybody who would come and take away our employees as the Sun Ticket Company had done.

Q (*By the Court.*) What else did he say about taking away your employees? A He claimed it was done in an underhand manner.

Q (*By the Court.*) Well, for what purpose? A Well, to get information from us perhaps and a line on our customers.

30 Q (*By the Court.*) Did he say they already had information they had gotten in an underhand way? A He may have said something about it, but he had no proof, he had no tangible evidence to give me, so I paid no attention to it. Mr. Pope was a sort of alarmist, any way, and whatever he said to me had no particular bearing, because he brought no evidence at all.

Q What did you say when Keen reiterated what Pope had reported? A Reiterated what?

Q The statement as he swore to in his affidavit that Titus had taken these secrets from the Globe and used them for the benefit of the Sun Ticket Company, one of your competitors? A Did Mr. Keen say he told me that?

40 Q He said Pope told you that? A He didn't tell me.

Q He did not repeat that to you? A No.

Q (*By the Court.*) About the most important information that could possibly have gotten into the possession of the Sun Ticket Company was that involving this particular numbering device, wasn't it? A I guess so; other information would help them, you know.

Q (*By the Court.*) Other would help them, but this was most important? A That was important.

50 Q (*By the Court.*) Do you mean to tell me that when Mr. Pope stated that the Sun Ticket Company had in an underhand way gotten secret information, or information, he did not specify what it was, what information it was? A Well, in the first place he had no proof to give them.

Q (*By the Court.*) I don't ask you whether he had any proof or not; I ask you whether Mr. Pope stated it, with or without proof:

Walter E. Hering, cross.

did he say that Titus had gone to them and they had gotten information with respect to this particular numbering device, they had got it in an underhanded way, he would not trust anybody that used those business tactics? A He did say that in a general way, but did not mention anything about Titus.

Q (*By the Court.*) Did he mention this particular numbering device? A No, sir. 10

Q (*By the Court.*) Are you sure of that? A Oh, yes.

Q (*By the Court.*) May you not be mistaken? A Oh, yes.

Q (*By the Court.*) You know it would be the most natural thing in the world for him to do, he had just had a conversation just previous with Manshel in which he had charged Manshel with doing just that very thing, referring particularly to this numbering device; now it would be the most natural thing in the world for him if he repeated part of that conversation to you to tell you. Are you still not mistaken? A I am sure he did not mention the barrel device because I never disassociated one part of the machine with another; he may have said Titus had gone over there, I don't know; I never even knew that Titus was there until sometime after, but as to mentioning anything, any specific part of the machine, that I know he did not. You see I am not a mechanic and I never went into those details, so he wouldn't have occasion to mention it to me. The principal thing he spoke to me about was simply the business end of it, of buying Manshel out. 20

Q You knew that the Sun Ticket Company had something obtained from the Globe Ticket Company employees, didn't you? 30

Mr. Smith. When?

The Court. At this conversation?

Q At that time, whether it was this head or this machine or something else.

The Court. Now, Mr. Leake, is there any use of going any further?

Mr. Leake. No, I shall not proceed any further. 40

Q Have you ever obtained any tickets printed by the Sun Ticket Company for examination? A Oh, yes, you could see them at any of the theatres that they were supplying.

Q And they were supplying them in 1914, 1915 and 1916, and you knew from those tickets that they were probably printed on some sort of a rotary press? A No; you see we set up the ticket and print it by hand; then we try to duplicate that ticket as well as we can on a rotary machine, but to tell the difference between the two is impossible unless there is an irregularity of some kind. 50

Q That often occurs, does it not? A I wouldn't say that.

Q Did you ever see that irregularity in the Sun Ticket, or were they pretty good? A They are so good you couldn't.

Q The Sun tickets were so good you could not notice any irregularity? A You could use that in a circular.

Walter E. Hering, re-direct—re-cross.

Q Did you often examine them for irregularities? A Why, no, I would only look at them in a casual way like you look at anything, unless they were sent to us as a sample.

Q When was the first time you looked at them for irregularities?

10 *The Court.* If you did at all.

Q If you did at all? A I couldn't tell you that; I never looked at them for irregularities.

Q Did you ever direct any employee or officer of your company to look at them for irregularity? A No.

Re-direct examination by Mr. Smith.

20 Q When you sent Miss Richards over to the International Ticket Company did you ask her to look at anything else beside looking for a barrel head numbering device similar to the one in your machine? A No.

Q And did she bring back to you a report of anything else beside that barrel head numbering device? A No.

Re-cross examination by Mr. Leake.

Q The competition grew very much more keen between the International Ticket Company and the Globe in 1917 than it had been in 1916, 1915 or 1914 with the Sun? A Yes, growing.

Q Got to be very keen around in 1917? A I wouldn't say that.

30 Q Now, did you ever know about Titus offering to build one of these special machines for a western ticket manufacturer? A No.

Q Mr. Keen never reported that to you? A No.

Q Nor to Mr. Pope? A Not until here recently, last couple of months or so.

Q (*By the Court.*) When the competition grew keener in 1915 and 1916 between the Sun and the International and your concern, how did you think they were able to cut as they did? A Simply willing to work for less profit than we were.

40 Q (*By the Court.*) You did not impute any part of it to the use of your secret machine? A No, sir.

Q (*By the Court.*) You knew they were cutting prices to such an extent as that they could make no profit or but little profit, unless they were using some mechanical device of this character, didn't you? A Well, that isn't always the case; sometimes people try to get business even if they do it at a loss.

The Court. Oh, no; that is not the question, repeat the question.

50 Q (Question read.)

A No.

Q (*By the Court.*) Did you know that your concern could not meet their prices if your concern had used the ordinary press, could it, I mean and make a profit? A No, sir.

Lemuel Titus, direct.

Q (*By the Court.*) So that either the Sun Company were using a mechanical device of this character or they were not making a profit? A Or were not making a profit, that is right.

Q Did you see the photographs taken by Miss Richards? A I did.

Q And how many machines did she photograph? A She photographed, well, different parts of that one machine, I mean different views from different points.

Q But she had no photograph of any other machine? A I didn't see them.

Q Did she report on any other machine? A No; we were not interested in any other machine.

Mr. Ashmead. Answer his question; did she report?

A No.

Mr. Smith. That is our case, your Honor.

LEMUEL S. TITUS, re-called,

Direct examination by Mr. Leake.

Q Did any officer or employee of the Globe Ticket Company at any time during your employment there speak to you about the secrecy of the coupon ticket machine? A Never.

Q Did any officer or employee tell you while you were in the employ of the Globe Ticket Company that you held any confidential position? A Never.

Q Was your employment in the Globe Ticket Company under any written contract? A No written contract or agreement.

Q What wages did you receive weekly from the Globe Ticket Company at the time you left them in 1913? A Twenty-one dollars, forty cents, I think, if I remember right.

Q Per week? A Per week.

Q How much did you receive from the Sun Ticket Company after you left the Globe? A I think twenty or twenty-one dollars, twenty-one dollars, I think.

Q Will you tell the Court what there is about a coupon ticket or theatre ticket that will show whether it is printed on a rotary press or on an ordinary flat press? A On a flat press your type will all be regular, your numbering will be regular and uniform all the way through your ticket. On the rotary press there are irregularities that occur all the way through your ticket, on different parts there is different parts struck in; it is impossible on a fast speed machine to get a perfect register.

Q (*Showing witness Exhibits C. 1 and C. 2.*) Will you tell me what appears on those tickets which will indicate to you that they were printed on a rotary press and not on a flat press? A The alignment of the 2 and 3 in the 23.

The Court. That shows it in an instant, doesn't it?

A In an instant; don't need to look any further on that ticket.

Lemuel Titus, direct.

Q Every ticket there shows that irregularity, does it not? A Yes. On a flat press your 2 and 3 would line up.

10 Q (*By the Court.*) As a matter of fact, it would be impossible to print that on a flat press and have it out of alignment that way, wouldn't it? A Even get those tickets singly and hand me one of those tickets single I wouldn't hesitate an instant telling you what kind of a press it was printed on.

Q (*By the Court.*) That is not my question. On a flat press it would be impossible to print where the numbers were out of alignment, wouldn't it without being intentional? A Yes, without intentional.

20 Q If the numbers were aligned on a flat press you could not print tickets of those with an irregular alignment of the numbers? A No, you could not print them irregularly, unless it was done intentionally.

Q I show you a numbering head here which is marked Hoole and I ask you what that is? A That is a dummy head used for flat printing.

Q What is the principle of the operation of that numbering head? A That is worked from a pawl and ratchet.

Q Will you explain to the Court its working from a pawl and ratchet? A The pawl is operated— by an arm.

30 Q Operate it for us? A Movement of your tool represents movement of one number; in the interior there is a pin that engages the second disc on every tenth movement, one revolution of your unit disc.

Q As you operate this numbering head how is the numbering changed from 9, the last number, from 79 say to 80, what is the principle that makes that change or swing? A There is a pin on your outside disc that engages the second disc every tenth movement once in every revolution, the principle that all numbering heads are built on, whether rotary or flat.

40 Q Well, isn't every tenth head on that cut deeper than the other to make the engagement, isn't every tenth head cut deeper, isn't that the principle? A Every tenth place is elongated slot which allows this pin to engage in the second disc.

Q It is deeper cut than the previous one? A Yes; then there is a round hole that does not allow the pin to engage the second disc.

Q What do you call this head in the trade? A It is commercial head built for all trade printing.

Q How long has it been in use? A Well, I am only 38 and it has been used as long as I can remember, and I don't know how much longer.

50 Q Has it been in general use during all of that time? A As far as I can remember, yes.

Mr. Leake. I would like to offer that as an exhibit.

Mr. Ashmead. I don't see what it has to do with this.

The Court. I will permit it to be offered. It is sufficiently identified without being marked.

Lemuel Titus, direct.

Q I show you another head marked Bates Machine Company number 81453 and I ask you what is that head used for? A This head is used for flat numbering.

Q What is the principle of the operation and successive numbering of that head? A Pawl and ratchet for actuating and retaining, pawl and spring for retaining. 10

Mr. Leake. I offer that head

The Court. That is sufficiently identified.

Q I show you another head, William A. Force & Company and ask you what that head is used for? A This head is used for the same purpose as the former head, only that it is used for lettering instead of numbering.

Q What is the principle of the operation of that head? A Pawl and ratchet. 20

Q I show you another head which is marked, without any manufacturer's mark on it, but which bears the number 6337, and ask you what that head is used for? A Used for the same purpose as the two former heads.

Q And what is the principle of its operation? A Pawl and ratchet with side plunger.

Mr. Leake. I offer all those heads.

A Every tenth ratchet is cut deep to allow to engage the second disc.

Q I show you an instrument with a circular head with a number of suspended staves, and I ask you if you know what that is? A I believe it is a part of a typewriter. 30

Q Do you know how old? A No, I don't.

Q Any approximate idea of its age? A I should judge fifty or seventy-five years.

Q Why are those staves suspended from the round circular form? A To permit them to strike all in the same place, the same position on the paper.

Q How are they held on the round head? A By a stud and bracket. 40

Mr. Leake. I offer that.

Q Do you know whether that is not many years old or whether it is a new typewriter? A I should say it was one of the older typewriters, one of the back numbers.

Q Now, Mr. Titus, do you know, how long rotary presses have been in common use in the printing trade? A No, I do not.

Mr. Ashmead. I think that is entirely immaterial, if the Court please. 50

The Court. I will permit it.

Q How long have you known of rotary presses used for printing? A Well, as far back as I can remember; I have seen presses when I was a young boy that was old presses at the time.

Lemuel Titus, direct.

Q Rotary presses? A Rotary presses.

Q How long have you known of the art of successive printing being in common use in the printing trade? A As long as I can remember, as far back as I can remember.

10 Q How old are you? A Thirty-eight.

Q How long have you been working in the printing trade? A About 21 or 22 years.

Q Is there any difference in the surface speed of the numbering head of the Globe Ticket Company and the surface speed of the numbering head of the International Ticket Company? A Entirely different.

Q Is that difference due to different construction? A It is due to applying your actuating device method.

Q In a different manner? A In a different manner.

20 Q Does that explain the saving of the wasting of tickets in printing by the International machine as compared with the Globe machine? A It saves one ticket in every forty-eight.

Q Which they lose? A Which they lose and we gain.

Q Do you know of a theatre ticket printing concern in Kansas City? A Yes. There is Quigley and Ackerman Ticket Company in Kansas City, or was.

Q Do you know whether they used the principle of the rotary press? A Only from the appearance of their tickets, I should say they do use the rotary press.

30 Q And when you speak of appearance do you mean this same irregularity? A Irregularity in the tickets, yes.

Q And how long have you seen tickets printed by this Kansas City house with irregular numbering? A Well, I seen one of their tickets, I suppose about four or five years ago, the first one I recall seeing.

Q Do you know of any man that worked for the Globe Ticket Company who was afterwards employed by this Kansas City concern? A No.

40 Q How many knockers do you use on your numbering head? A One knocker.

Q How many do they use? A They use one for consecutive numbering, two for alternate numbering.

Q Is there any difference in the setting of the Globe head and the International head? A Yes.

Q What difference? A On the Globe head—

Mr. Ashmead. I think the witnesses ought to be excluded from the room if they are going in the operation of these heads.

The Court. Haven't we been over that?

50 *Mr. Leake.* It just occurred to me that we covered that in there. Strike that question out.

Q (*By the Court.*) It is a fact, isn't it, Mr. Titus, that your head is an improved Globe head? A Well, it is for the same purpose as the Globe head, theatre tickets.

Lemuel Titus, direct.

Q (*By the Court.*) It is based upon the same principles, isn't it, the same mechanical principle? A It is rotary head, the same as theirs, the same as would have to be on rotary press.

Q (*By the Court.*) You started with the Globe head and improved it, that is, the way you want to make this particular International head, isn't that so? A I don't suppose if I had been working in any other machine trade I would have been familiar with the theatre ticket printing.

10

Q Did you at any time take from the Globe Ticket Company any blue prints, specifications, memoranda or other things about the construction or the operation of their numbering head or their ticket printing machines? A Never, only what was in my head from general knowledge.

Q (*By the Court.*) If you had not had in your head the details of the Globe Ticket machine you never in the world would have invented this International head, or you wouldn't have thought of it even? A No, not perhaps so near their same lines.

20

Q Did you at the time you obtained employment, or before or after, with the Sun Ticket Company, tell Mr. Manshel or any other person in the Sun Ticket Company that you had any confidential data about the Globe Ticket Company numbering head? A No, I never did.

Q Or any other secret—

Mr. Ashmead. Ask him what he did say; don't lead him so much.

30

The Court. That is not leading, Mr. Ashmead; he may answer that question. I am not going to have a whole lot of conversation that is immaterial in order to find out something that was not said.

Q After you left the Globe Ticket Company and was employed by the Sun Ticket Company, do you recall any meeting about Christmas, 1914, with any persons employed in the Globe Ticket Company? A Yes, I was to Philadelphia on a visit Christmas, 1914.

Q And who were you visiting? A My wife's relatives.

40

Q And did you see any persons employed by the Globe Ticket Company on that visit? A Yes, quite a few; I was within half a block of the factory.

Q Did you visit Scott or Evans? A I met Mr. Scott and Mr. Evans on the corner of 12th and Arch, almost adjoining the Globe Ticket Company.

Q What position did Scott have at that time in the Globe Ticket Company? A Why, machinist, as far as I know.

Q What position did Evans have? A He was superintendent of the mechanical department, machine department.

50

Q Did you tell either Scott or Evans, or both, about any numbering head that you had perfected? A I believe so, in the course of our conversation, yes.

Q What did you tell them? A Well, that we had a machine built that was far superior to anything the Globe had.

Lemuel Titus, cross.

Q It was a rotary head? A Rotary press.

Q And a rotary numbering head? A Rotary numbering head.

10 Q Did you notify any employees of the Globe Ticket Company, or any officers of the Globe Ticket Company, shortly after you left them and went with the Sun Ticket Company, that you were employed by the Sun Ticket Company in Providence? A I wrote a postal card to Harry Yates and I corresponded with Walter Scott.

Q Was there any secret about your being employed by the Sun Ticket Company? A I never made any secret of it.

Q Did you tell Scott this Christmas, 1914, that you were with the Sun Ticket Company? A Yes, and a dozen others, I suppose.

Q Did Scott say that he had received the ticket that you had sent that you had printed on a rotary press numbering machine? A I don't recall him mentioning it at all.

20 Q You sent him such a ticket? A I sent him such a ticket, yes.

Q (*By the Court.*) What did you send it for? Why did you send it? A I suppose a matter of pride to show what I had accomplished, he and I were intimate friends.

Q (*By the Court.*) Did you in your letter intimate it had been printed on the press you had invented or improved? A He knew I was endeavoring to build a rotary press.

Q (*By the Court.*) Did you write a letter when you sent this ticket? A Did I write a letter? Yes, friendly correspondence.

30 Q (*By the Court.*) Didn't you say anything about the ticket in your letter? A Well, I couldn't just recall the words of the letter; I suppose I told him I was enclosing him a ticket showing him what we could do.

Q Was there any secrecy in the Globe Ticket Company respecting these machines or their operations during your employment there? A I never considered it so, no.

Q Did Mr. Manshel promise to give you a thousand dollars if you would develop a ticket printing machine or head? A No, he did not.

40 Q Have you ever received a thousand dollars? A I never received a thousand dollars from him.

Q Or anything beyond your wages? A Nothing beyond the increase of my wages from time to time.

Q And what is the amount of wages you are receiving at this time? A Twenty-six dollars.

Q And is that the largest amount of wages you have had since you have been employed either by the Sun Ticket Company or the International Ticket Company? A That is the largest wages I have received from them.

50 *Cross examination by Mr. Ashmead.*

Q Mr. Titus, there has been mentioned here a 96-set press and also a 48-set press. It does not appear on the record just what the difference is between those two presses and what portion of the ticket is printed by the different mechanisms attached to those

Lemuel Titus, cross.

presses. As I understand it a 96-set press has a wheel of about 50 inches in diameter.

Mr. Leake. Objected to as not being cross examination.

The Court. I will permit it. It is not cross examination. Might as well have what it means. 10

A A 96-set press has a cylinder containing 100 one and a half-inch plates; the circumference is 150 inches.

Q And that would be a little less than 50 inches in diameter? A I don't know the exact measurement.

Q On the circumference of that wheel or cylinder there is placed plates on which or from which a portion of the ticket is printed, isn't that so? A Yes.

Q And the lettering on those plates has to do with the dating of the ticket, is that so? A That is correct. 20

Q So that by those plates each one of them has a successive date on it? A Each one has a successive date.

Q So that each ticket of a successive date the date is printed by a separate plate? A Yes.

Q And they are arranged so that in one revolution of the press you may print the date on the tickets for the ninety-six successive dates? A Yes.

Q And that is all that there is on those plates? A That is all on those plates. 30

Q Now those plates would not have to be changed, even though you were filling orders for different theatres if they were having their performances on the same date, you could use those as long as you were using the same dates? A As long as we were using evening dates, yes.

Q Now another portion of the ticket indicates the location of the house, does it not? A It does.

Q And that of course will change on each order, each theatre having an orchestra, balcony or box? A Yes.

Q So that it would be necessary to change those plates more frequently than it would the date plates, would it not? A Certainly. 40

Q And that is the reason, is it not, that the location in the house is put on by a separate mechanism? A I suppose so, yes.

Q That is put on, is it not, or is contained on a sleeve? A On that 96 set press, yes.

Q And while the press is revolving and printing 96 successive dates at the same time, these sleeves will print on this ticket, that is, by the same revolution of the press they will print on this ticket orchestra or balcony, whichever cylinder you may have on? A On their 96 set, yes. 50

Q The location of the house, of course, would repeat on each ticket, would it not? A Certainly.

Q Whereas the information or date on the plate would only repeat once every revolution of the press? A Yes.

Lemuel Titus, cross.

Q Now on a theatre ticket there must also be the name of the theatre? A Yes.

Q And the plate on which that or from which that is printed is known, has been spoken of, as the head plate? A In the trade, yes, called the head plate.

10 Q And that on the 96 set press is put on by another sleeve? A On others, yes.

Q And the purpose of that being put on by a separate sleeve is so that the name of the theatre might be changed without having to change all these plates with respect to the dates and make new plates each time you wanted a new theatre? A Yes.

Q Now that is operated so that the name of the theatre will repeat on each ticket or every inch and a half? A Yes.

20 Q Instead of every revolution of the press? A Well, it makes ten revolutions to the big cylinder's one.

Q But the effect is that the name of the theatre appears on each of the ninety-six tickets printed? A Yes.

Q In the revolution of the big wheel? A Yes.

Q Now the other information that is on that theatre ticket is the row and seat numbers, isn't that so? A Yes.

30 Q Now the seat number could not very well be put on the plate that prints the date, could it, because you would have to change those plates every revolution of the machine? A Well, it wouldn't be practicable, no.

Q It could not very well be put on the sleeve that prints the location of the house because they would have to constantly be changed, wouldn't they? A Yes.

Q And for the same reason it could not be put on the head plate because they would have to be changed each revolution? A Yes.

Q So that the old process was after printing the date, the location and the name of the theatre, to take the tickets out and to put the seat and row number on by a separate operation? A What do you mean by the old process?

40 Q That is prior to the time that you used this barrel head? A Why, up to the present time I think you will find the Globe is printing one-fifth of its tickets by that same method yet.

Q But that was the only method used prior to the invention of this barrel head? A I don't know.

Q (*By the Court.*) To your knowledge? A To my knowledge.

Q The mechanism that I have already referred to in my examination are now what are called generally in the trade a rotary press? A Yes.

50 Q And that rotary press as so far described did not print on the tickets the row or seat number? A No.

Q So that it was very desirable to attach to a rotary press a device whereby the number of the seat would automatically change at each revolution of the big wheel? A It is a question whether it is or not. If you number your tickets at the same time it is printing

Lemuel Titus, cross.

them it slows your press down possibly one-fourth or one-half, if not more.

Q Do you think this is a valuable device? A It is a question whether it is or not.

Q Question in your mind? A Whether one operation ticket or two operations is the best. 10

Q And you are not settled in that opinion yet? A No.

Q So that if the defendant was unable to use this device you don't think they would lose much? A Well, until they got something different they maybe would lose something.

Q The function of the device, however, is that each revolution of the big wheel this numbering head automatically changes the number of the seat, isn't that so? A As far as one row, yes, as far as one row run, that is the disadvantage of it, you have to change to the next row. 20

Q And it does that so that it permits a very high rate of speed? A Without the numbering head you would get a great deal higher rate of speed.

Q But the ticket would still be incomplete? A Would still be incomplete.

Q But you get a completed ticket with a very high rate of speed? A High rate of speed.

Q Now you have spoken of a 40-inch set press; by that you mean, do you not, that instead of 96 plates on the big wheel you have 48? A Have 48 or 24. 30

Q Instead of being 96 you have 48 that will print 48 successive dates? A Or 24 successive dates, whatever use it is adapted to.

Q You have on that press also an additional mechanism to print the location of your house? A Yes.

Q Which operates similar to the same mechanism on the 96 set press, that is, the same mechanism is applicable to both presses? A We have cylinder with ten plates on, ten location plates.

Q And you have separate cylinder or head plate for the printing of the name of the theatre? A Yes. 40

Q And the numbers of the tickets printed on that 48 set press are numbered by the same mechanism as on the 96 set press, is it not? A Speaking for the Globe, I don't know anything about their 48 set.

Q The mechanism is adaptable to both presses? A Yes, or 24 set.

Q So whether a press is 48 set press or 96 set press makes no difference in the construction of the continuous barrel numbering head? A It could be put on any cylinder, 152 sets, any size cylinder you want to put it on. 50

Q Now I believe you have testified from the appearance of the ticket you can tell whether it is printed by a numbering head or not?

A In the majority of cases, yes, nine times out of ten.

Q Didn't you tell the Court you could tell at a glance? A Yes, usually.

Lemuel Titus, cross.

The Court. He didn't say that.

A You may get a rotary ticket that is so near perfect by accident you couldn't tell.

Q What were those tickets printed on (handing witness exhibit)?

10 A They both were printed on rotary press.

Q And what numbering head, that is, continuous numbering—

A I should say printed with rotary head.

Q With heads like this, like the one in question? A I should say so, yes.

Q What makes you think that? A Well, the irregularity of the spaces.

Q Is that the only thing that indicates it? A It is the only thing that indicates it in the numbering.

20 Q Well, on the ticket is there anything to indicate that the numbering head was used in that ticket? A Nothing else to indicate it on the rest of the ticket.

Q Is there anything anywhere on the ticket to indicate that it was numbered by a numbering head? A The numbers.

Q And that is all? A That is all.

Q And by looking at those numbers can you tell it was numbered by a numbering head?

The Court. He is referring to Exhibit C. 2.

30 Q That is, barrel head? A Barrel head? I wouldn't say positive, no, but if I should pick the ticket up on the street I would say it was run on the rotary head, not necessarily barrel head, but rotary head.

Q Now is there anything on that ticket that would indicate from examination of it that the person who printed it had a barrel numbering head in their possession?

Mr. Leake. He didn't say that.

The Court. He is asking a question.

40 A It would indicate that they had a rotary head.

Q Answer my question. A A barrel head? Well, a barrel head doesn't mean anything to me.

Q A head similar to the one about which this litigation is on? A A rotary head, yes.

Q Then you would say, would you, that that ticket was printed on a head similar to the one that has been exhibited to the Court?

A Not under oath, no, I would not.

The Court. You are asked for your opinion, that is all.

50 A In my opinion I would say it was printed on rotary head.

Q If you cannot say definitely whether it was or not why did you say that it could be discovered by the examination of the ticket that it was printed on such, or numbered on such a head? A I didn't say such a head; I said rotary press.

Lemuel Titus, cross.

Q A rotary press has nothing to do with the head, has it? A No, rotary press has nothing to do with the head.

Q The head is an additional attachment on a rotary press? A Yes, head is additional attachment.

Q Now do you say that by the examination of a ticket that you can tell that the person who printed that ticket had a rotary head such as has been exhibited to the Court in this case? A Certainly not. 10

Q There isn't any way you can tell from the appearance of the ticket positively, is there? A That it was printed with the barrel head? No.

Q Did you mean to give the Court any other impression when you testified before? A I intended to give him the impression that it was printed all in one operation with a rotary head of some kind.

Q Then you were confusing a rotary press with and without a rotary head on it? 20

Objected to.

The Court. Let him answer.

A I said a rotary head, it was printed with a rotary head, but not necessarily a barrel rotary head.

Q Well, do I understand then that you intended to give the Court the impression that by the examination of these tickets one could tell that it was printed on a rotary head similar to the one exhibited to the Court? A Yes. 30

Q Do I understand you to now say that you cannot do that? A Printed with barrel head or rotary head.

Q You said you didn't know what a barrel head—that a barrel head meant nothing to you, and since then I have confined my questions to a head similar to the one that has been exhibited to the Court in this case. A Rotary head, yes, been printed with a rotary head.

Q (*By the Court.*) Is the effect of your testimony this: that you can tell by an inspection of that ticket that it was not printed on a flat press, and that it was printed by some device of some kind or another that performs the function of this barrel head? A Yes. 40

The Court. That is the whole effect of his testimony; that is the only impression he made on my mind in the beginning.

Q What other device similar to this barrel head could it be printed by? A By any sort of a cylinder with numbers seven inches and a half apart on it.

Q Then if a person saw irregular figures on a ticket all that it would indicate was that it may have been printed by some cylinder, no matter how different from this barrel head or rotary head, as you call it, and as exhibited in this case? A With numbers. 50

Q With numbers on it? A Yes.

Q Would not indicate at all that they had employed the same mechanism in that numbering head? A No.

Lemuel Titus, cross.

Q How old were you when you were first employed by the Globe Ticket Company? A I think about seventeen years old.

Q Had you had any previous experience in mechanics? A Not a great deal, no; I operated machines in a candy factory.

10 Q And that was the extent of your mechanical experience? A Yes.

Q What was the position you first had when you went to the Globe Ticket Company? A My first position with the Globe Ticket Company was routing poster blocks, cutting poster blocks.

Q How long had you been there when you were made apprentice boy, machinist? A Possibly three months.

Q And how long were you an apprentice? A Four years.

Q And what then was your position? A Machinist.

20 Q When did you first see the inside mechanism of this rotary numbering head now in force? A When I was still in my apprenticeship.

Q When were you placed in the position of repair man? A That would be hard to say; I gradually grew into it, as repairs broke down and was needed I was sent out on repair work; no positive time.

Q Where was the blueprint of this head kept, do you know? A I really couldn't say; it has been kept different places different times, been moved around so many times it is almost impossible to say where it has been kept unless you specify some definite time.

30 Q Was it made available to you? A I really couldn't say whether it was or not.

Q Did you ever have it in your possession? A No.

Q Did you ever take any measurements from it? A No.

Q At the time you left the Globe Printing Company did you have an intention to build a barrel head similar to the one in question? A Well, no; I don't think I had.

Q Didn't you at the time you left the Globe Printing Company have some ideas you wanted to work out? A Yes, quite a few.

40 Q And didn't they pertain to this barrel head? A Well, I had an improvement or two I intended to suggest.

Q The improvement could not be utilized without also using the main body of the barrel head, could it?

The Court. Of course, it couldn't, Mr. Ashmead; don't ask unnecessary questions. How can you use the improvement on the machine without using the machine?

Mr. Ashmead. You might use an improvememnt the same as this was an improvement on a rotary press.

50 *The Court.* That is not what the witness is referring to; he means improvement on this machine.

Q You intended then to make these improvements? A No, I couldn't say that I did.

Q Did you ask anybody for a copy of the blueprint? A Never, no.

Lemuel Titus, cross.

Q Did you take any measurements of the machine? A Not for that purpose; I did it in the course of my daily work continually, measuring for different things.

Q In your daily work did you become acquainted with the measurements of these different parts on this barrel head? A Well, only to the extent I knew it would print an inch and a half ticket. 10

Q Did you know the size of the springs on which the characters are placed? A The characters are not placed on springs; they are placed on bars.

Q They have springs, don't they, don't they spring, those bars have springs? A They are not on springs, flexible bars.

Q Did you know the size of those bars? A Well, I knew that there was ten of them to an inch and a half, inch and a half circumference.

Q Did you know the diameter of the barrel? A It has to be two and four-tenths to print seven and a half inch circumference in one revolution, inch and a half ticket, five inch and a half ticket has to be seven and a half inches circumference. 20

Q You were familiar with the mechanism and every part of it, weren't you? A Well, the working principles of them, yes.

Q How did you happen to go to the Sun Printing Company? A I was walking along the street one day and I picked up a ticket, or a fellow with me picked it up, if I recall right, and handed it to me; ticket down East, Providence, Rhode Island.

Q Is the name of the Ticket Company on the ticket? A No; Sun Ticket Company, Providence, Rhode Island. 30

Q Is the name of the town on the ticket? A I think it was on that ticket, yes.

Q Is it usual to put the name of a town on the theatre ticket of a printing company? A All our imprints show our town name, yes; not the address.

Q You then knew that the Sun Ticket Company at that time was a competitor of the Globe Ticket Company, didn't you? A I knew they were printing strip tickets; it was a strip ticket that I picked up or was handed to me, I don't recall which. 40

Q When did you first go to see the Sun Ticket Company? A 22d day of February, 1913.

Q Whom did you see? A Mr. Manshel.

Q Did you know Mr. Manshel before that time? A I did not, no.

Q In that interview did you apply for a job? A I applied for a position with him, yes.

Q What position did you apply for? A As an expert mechanic in printing machinery.

Q What kind of printing machinery? A Ticket printing machinery; printing machinery in general. 50

Q Theatre tickets? A Not theatre tickets, no.

Q Not theatre tickets? A I don't recall there was any theatre tickets or not; ticket printing machinery I professed to be an expert on.

Lemuel Titus, cross.

Q Did he employ you at that interview? A Well, no, not exactly; he gave me a week or so to decide and make up my mind whether I would accept his offer or not.

Q When you applied as an expert mechanic, of course I suppose he asked for your previous experience, didn't he? A Yes.

10 Q What did you tell him? A I worked seventeen years with the Globe Ticket Company, printing machinery.

Q Did he seem to know of the Globe Ticket Company? A I suppose so; I suppose everybody in the East knows them.

Q He didn't ask you who they were? A No, I don't think so.

Q They were competitor with him in his business? A Both in the same line of business, yes.

Q And did he ask you what you had performed during your employment with the Globe Ticket Company, what duties you had performed? A What special duties? No.

20 Q He did not want to know anything about your experience as mechanic; I say he didn't want to know anything about that except you were an experienced mechanic? A Experienced ticket printing mechanic?

Q What kind of ticket printing was he doing at that time? A It was on a holiday when I was in there and all the presses were shut down; he was printing strip tickets and he had some other presses there; I don't know what they were for.

Q Did you see any theatre tickets, machine coupon tickets, theatre tickets? A Not rotary, no.

30 Q Did you see any continuous barrel numbering head devices there? A No.

Q You, of course, were trying to better yourself, weren't you? A I was.

Q And in that effort it was perfectly natural for you to rather expand on your abilities, wasn't it? A Certainly.

Q Did you do that with him? A Well, I think I have a little bit, yes.

Q No; I mean on that day? A How do you mean?

40 Q Didn't you tell him what experience you had had and how clever you were and what ideas you had? A Well, I told him I thought I could build machinery that is better than anything in existence at the time.

Q For what purpose? A For ticket printing.

Q Did you mention theatre tickets? A I don't think there was any special kind of tickets mentioned, no.

Q Did you at the time you made that statement have in mind theatre tickets? A No more than any other kind of ticket, no.

50 Q Are there any other kind of tickets that need this numbering device that were being numbered like numbers in a row? That pertains to the theatre ticket business principally, don't it? A That part, yes.

Q Now, without any more information than you have stated here did Mr. Manshel say to you to go and think it over for a week? A Yes, he told me.

Lemuel Titus, cross.

Q And made you an offer? A Yes, he made an offer about machinists' wages.

Q Did he tell you what he wanted you to do? A Told me he wanted me to help him develop machinery.

Q Oh, he did want you to develop machinery? A Yes. 10

Q And told you so on that day? A I don't know whether he told me that on that day or not.

Q Well, what was the inducement to him to employ you? What inducement did you give him to employ you on that day? A As master mechanic.

Q And that is all? A That is all.

Q With special knowledge about ticket printing machinery, wasn't it? A Yes, it was his line of business and my line of business.

Q Did he say he was short of men? A No, I don't recall that he did say he was short of men. 20

Q There was no particular need for men that he mentioned?? A No.

Q And he wanted you to help develop machinery? A Yes.

Q Did he ask you where you had been employed?

Mr. Leake. Objected to as already having been gone into.

A I already said I told him I was employed seventeen years by the Globe Ticket Company.

Q Did you tell him you had never been employed anywhere else? 30

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

Q Did he ask you how old you were? A No, I think he only asked me if I was married, or something.

Q What was the name of this company at that time? A Sun Ticket Company or Sun Printing Company; Sun Printing Company, I think.

Q When was the name changed to the Sun Ticket Printing Company? A I wouldn't say but what that was the name at the time; I don't just recall.

Q You don't know about that? What is your best recollection of that? Do you know whether or not this company was ever called the Sun Printing Company? A I really couldn't say. 40

Q (*By the Court.*) Immediately after your employment by the Sun Company did you proceed to effect these improvements that you thought of on this machine? A Immediately after I had gone there we started drawing for a new machine, designing a new machine.

Q (*By the Court.*) A machine which finally resulted in your present machine? A Yes, within a few days after I had gone there.

Q (*By the Court.*) That was what you were employed to do, wasn't it, really? A Yes. 50

Q When did you leave the Globe Ticket Company's employ? A I think about the 8th or 9th of March; I went to work in Providence the 10th of March.

Q That was two or three weeks after your first visit there? A About three weeks, yes.

Lemuel Titus, cross.

Q (*By the Court.*) You don't want me to believe that at this conference with Mr. Manshel before you were hired you did not tell Manshel the Globe Ticket Company had a machine which would do this successive printing and you thought you could improve on it or build a new machine? A No, I don't know as the kind of machine was discussed at all in the conversation, I don't recollect discussing any kind of machine.

Q (*By the Court.*) It is rather remarkable, then, as soon as you went there you started to design a machine like this one you now produce. Do you mean to say you went there without knowing what you were going to do? A I had a rotary press in mind.

Q (*By the Court.*) It was discussed with Mr. Manshel also, wasn't it? A Perhaps in a general way to build a rotary press.

Q (*By the Court.*) Then one of the inducements you held out to Manshel to employ you was that you had been employed for years with the Globe Ticket Company and had operated a machine which did that work? A No, only in a general way that I worked for the Globe Ticket Company for seventeen years.

Q At the time you began your employment with the Sun Ticket Company you, of course, became acquainted with the kind of machines they then had? A Yes, I grew up with the business there.

Q Were they printing theatre tickets at that time on a rotary press? A The Globe Ticket Company?

Q The Sun Ticket Company? A No.

Q Were they in the theatre ticket business at all?

The Court. I overrule that; I won't permit you to ask questions fourteen times; he said distinctly several times they were not.

Mr. Ashmead. I don't think so, if the Court please.

The Court. I recollect it and I stand on my recollection; he said it not only once but several times.

Q Did they have any machine on which there was a continuous barrel head numbering device? A No.

Q That mechanism, then, was brought to their plant by you, was it?

The Court. Overruled, because it already appears in the testimony it was; he distinctly said he went there for the purpose of inventing this thing, and finally invented it. Now, what is the use of going into it any further. There is no doubt in this case, Mr. Ashmead, but that he used the ideas he got in the Globe Ticket Company, improved on it, and built a machine that did the same thing as their machine did.

Q When was this machine of yours completed? A Along in the fall of 1913 sometime.

Q What time, do you know? A No, I couldn't give you the exact time; in fact, there was a few jobs done on it and it was stopped and taken apart and improvements made on it and changes made and

Lemuel Titus, cross.

set to running again different times; I should say about October the first tickets were printed on it.

Q (*By the Court.*) What year? A 1913.

Q You went to the Sun Ticket Company for less money? A Yes.

Q Do I understand you to say that no promises were made by them for any emolument to you if you succeeded in developing this press? A If the business succeeded and prospered I was supposed to have a fair and square deal and be advanced with the business.

10

Q What was that square deal to be? A No definite figure set.

Q They did not offer you then anything for these ideas? A No.

Q And they only paid you mechanic's wages, in fact, even less than what you were getting at the Globe Ticket Company? A That was through a misunderstanding; I understood I was to start at twenty-two dollars and he understood I was to start at twenty-one dollars; there was a dollar difference, slight misunderstanding, that was all.

20

Q And you never got anything for these ideas from the Sun Ticket Company? A They are gradually building up a business and I hope eventually to profit by it.

Q Have you had any share of the business by way of stock? A No.

Q By way of bonuses? A By way of bonuses, never.

Q In any way? A I have increased five dollars a week in salary in four years, that is all.

Q Did the International Ticket Company ever give you anything in consideration for these ideas? A They have not, no.

30

Q (*By the Court.*) Has anybody? A No one has.

The Court. That ends that.

Q Did you ever make the claim that you invented this head? A Did I ever make a claim that I invented it?

Mr. Leake. I object to that as indefinite. Which head, our head or your head?

Mr. Ashmead. The Globe Ticket Company head.

40

A No, I never made any contention of having invented it.

Q After you had been with the Sun Ticket Company did you undertake to get further employment in building this machine for other concerns? A The machine that I built for the International Ticket Company?

Q (*By the Court.*) Yes, or one similar to it? A No.

Q You never applied to anybody or never advertised that you would duplicate those machines with continuous numbering head on them? A No.

Q You are sure about that? A Positive.

50

Q Did you ever hear of the TriMount Printing Company of Boston? A Yes, I have.

Q Did you ever hear of Mr. Cunningham, connected with that company? A No, not that I recall of.

Lemuel Titus, cross.

Q Did you ever write to him? A I did previous that I wrote to Mr. Manshel, or about the time, I think I wrote to both of them about the same time, if I recall.

Q Not since you were in the employ of the Sun Ticket Company?
A No.

10 Q You have not attempted to sell this device to anyone since you were in the employ of the Sun Ticket Company? A The International Ticket Company's device?

Q Well, a device, a rotary press with a continuous numbering head on it? A No, I have never specified any such machine to anyone.

Q I show you that letter; whose handwriting is that in? A Mine, I think.

Q Did you write that letter? A I think so, yes; it looks like my writing.

20 *Mr. Leake.* Is it dated?

Mr. Ashmead. Yes; 1915.

Q I show you another letter and ask you if that is your handwriting? A Yes.

Q And that one? A Yes.

Q And this one? A That one, too, I think, yes.

Q Now, will you say that you have never tried to manufacture one of these machines for somebody else? A Machine like this, no, never.

30 Q I asked you before, a rotary press with a continuous numbering head on it? A I beg to differ with you; you didn't ask me rotary press, you said machine like that.

Q The record will show what you said. What kind of a machine did you offer to build? A Improved rotary printing machine.

Q With numbering head on it? A I don't know whether it specified numbering head on it or not; rotary machine would have to have numbering head on it.

Q Did you offer to build such a machine or not? A Machine duplicate of the International Machine Company's, no.

40 Q No; rotary press with continuous numbering head on it used for printing theatre tickets? A Yes.

Q At that time you had no idea that the efficiency of printing a ticket in one operation was doubtful, did you? A At that time I had a numbering head—just what that letter implies, a continuous numbering head; this is only semi-continuous numbering head we have in operation now.

Q (Question read.) A As we were using it, yes.

50 Q (*By the Court.*) What would be produced by you would be merely improvement on what you were using, would it not? A I have a numbering head in mind, but never been able to perfect it yet.

Q (*By the Court.*) But it is based on the same principle as this? A No, it will be entirely different if we ever perfect it; it will be a continuous number device, what the name implies.

Charles Manshel, direct.

Mr. Ashmead. I would like to have these letters marked and introduced.

Letters marked Exhibits B, C, D and E.

Mr. Ashmead reserves the right of further examination of this witness on the machinery.

10

CHARLES MANSHEL, sworn.

Direct examination by Mr. Leake.

Q Did Titus bring to you or show to you any memorandum of specifications or other data concerning the numbering heads of the Globe Ticket Company? A No.

Q Did he ever tell you that there was any secret about the machinery of the Globe Ticket Company? A No.

Q Did you ever tell the International Ticket Company, or any stockholder or officer, that your company had any of the trade secrets or secret machines or processes or parts of the machines of the Globe Ticket Company? A No. 20

Q Is there anything new or novel about this, the principle of this numbering head of the Globe Ticket Company or its operation? A In my opinion, no.

Q What is it in principle, a rotary press, is it used on a rotary press? A I don't know what you are referring to now.

Q The successive printing and successive numbering of theatre tickets? A I have done that fifteen or sixteen years, successive printing and numbering of tickets. 30

Q What kind of tickets? A Theatre admission ticket, not reserved ticket, but theatre admission ticket.

Q Have you been an experimenter or inventor of machinery? A I have done that all my life.

Q Have you had patents issued to you by the United States Government? A I have.

Q Have you had any operators of the Globe Ticket Company in the employ of the Sun Ticket Company or International Ticket Company? A Yes. 40

Q Do they know when they come to the Sun Ticket or the International Ticket Company how to operate the International numbering head? A No; they always had to learn it.

Q Do you know Walter Walton, a former employee of the Globe Ticket Company? A Yes.

Q Did he build a coupon ticket machine with successive numbering head? A He said he did.

Mr. Ashmead. I object to that.

50

Adjourned to Friday morning, January 25, 1918, at 10 o'clock.

Charles Manshel, direct.

Continuation of examination, pursuant to adjournment, on January 25, 1918, at the place and in the presence of the Court and counsel as before.

CHARLES MANSHEL, resumed for

10 *Further direct examination by Mr. Leake.*

Q How long have you known of rotary numbering heads being in use in the printing trade? A As long as I have been able to read, thirty years.

Q What, if any, new mechanical principle is used in the Globe numbering head and the rotary numbering heads that have been in use in the printing trade for these many years? A I don't know anything new.

20 Q Did you ever use rotary numbering heads in the Sun Ticket Company? A Yes.

Q Before Titus came to your plant? A Yes.

Q How many years before? A Ten or twelve years.

Q Yesterday there was some mention of the Sun Printing Company and the Sun Ticket Company. Was your concern ever called the Sun Printing Company? A Yes, for two years.

Q How long ago? A Nineteen years ago.

30 Q And after that time what was its name until merged with the International? A Sun Ticket Company.

Q Now, for what purpose did you use rotary numbering heads in your business before Titus came? A For printing continuous strip tickets, so-called in the trade, strip tickets for admission to theatres.

Q How many years have you been printing and selling strip tickets? A Fifteen or sixteen years.

40 Q And what similarity is there in the operating mechanism of the rotary numbering head and the so-called barrel numbering head of the Globe Ticket Company? They both use the pawl and ratchet mechanism, and also a cam, or what they call a knocker, to throw from one number to another.

Q Have you ever received a patent from the United States Government for numbering tickets by any such mechanical principle? A Well, in one of my patents we used the pawls and ratchets.

Q Which patent? A That is patent for a ticket vending machine.

50 Q And when was that patent issued to you? A It is several years ago, I can't remember exactly; I have got the patent here, though.

Q I show you patent number 959,063, dated May 24, 1910, to C. Manshel vending machine. What similar mechanical principle used in the Globe head is used in this vending machine head? A The pawl and ratchet.

Charles Manshel, direct.

Q Pointing to page— A Shown on several pages; figure seven the pawl and ratchet movement is the same teeth with the pawl and ratchet.

Q How long has the pawl and ratchet principle of mechanical operation been a matter of common knowledge in the mechanical line? A Oh, over a hundred years. 10

The Court. The mind of man runneth not to the contrary, Mr. Leake, almost.

Q Is the principle of successive numbering new? A No.

Q How old is that? A Older than I am. I found numbering machines when I went in the business.

Q Has it been in common use during all of that time? A Common use with printers all over the world.

Q Is the rotary press principle new? A No.

Q How long has that been in use? A That has been in use for over a century in the newspaper business. 20

Q Did you ever build any theatre ticket machinery before Mr. Titus came to you? A Yes.

Q Did you seek Mr. Titus as an employee for your plant, or did he first communicate with you? A He applied for a position by letter.

Q At the time he applied for the position, did he state that he had any confidential knowledge, information or trade secret of the Globe Ticket Company? A No.

Q Did he offer if you employed him to supply you with any trade secrets of the Globe Ticket Company or any special machinery, barrel heads or appliances, or any other confidential information? A No. 30

Q I show you a strip of tickets marked, "Shubert Theatre, West Forty-fourth Street, March 25," and I ask you if that strip of tickets have been printed on any machine of the International Ticket Company? A Yes.

Q Using a rotary head numbering device? A Yes.

Q Will you please explain to the Court what, if anything, on these tickets indicates that a rotary numbering head has been used in the printing of the tickets? A In the first place it would be the unevenness of numbering; here is a figure "9", which is what they call the unit head is on one cylinder, a figure "1" which is the pin head is on another cylinder, and in running these the paper sways back and forth, it is almost impossible to run it evenly, so the result is one will sometimes strike below the other; it may happen by chance they are even. You take it here on the next number they run more even; here is where the change is made from 19 to 21. 40

Q Thy seem to be more irregular right here? A Yes, this is all one strip of twenty-four here. 50

The Court. There are several things, there is irregularity in the amount of ink.

A Yes, the 2 is a good deal lighter than the one.

Charles Manshel, direct.

The Court. You can tell it almost instinctively.

Mr. Leake. I offer this strip.

Marked Exhibit D. 1, January 25.

10 Q Have you had a number of employees of the Globe Ticket Company working for the Sun Ticket Company and the International Ticket Company other than Mr. Titus? A Yes.

Q Will you state the names of some of them, and the positions? A About three months after Titus came to us we had a girl come from Philadelphia by the name of Susie Roe.

Q Any others? A She was an examiner. After her, perhaps six months later, we had a man by the name of George Hill, a rotary press operator; and that is all we had in the Sun Ticket Company. Then in the International, since we came to Newark, we had two men,

20 Q When was the International organized? A In February, 1917, I believe.

Q And how soon after that did it commence business, the manufacturing and selling of theatre tickets? A It was doing it right along.

Q Immediately? A Immediately.

Q Is there any difference in the interior mechanical operation of the International Head and the Globe numbering head? A I never saw the Globe numbering head, interior operation of it, I couldn't tell.

30 Q I show you a ticket marked, "Hart's New Theatre, Frankford avenue and Norris street, January 8th," No. 22 on the left-hand side and 12 on the right-hand side, and I ask you if you know the concern that prints that theatre ticket? A I know of them, I don't know them personally.

Q What is the name, I mean. A Ackerman, Quigley & Company.

Q Is there anything on that ticket which indicates whether it has been printed on a rotary press or flat head press? A Yes, there are two different things that would indicate.

40 Q What are those two things? A The first one, as far as the rotary press is concerned, would indicate it was printed because the date struck in here is almost on top of the line, which would be impossible on a flat bed press if the form was all on one. The next thing is the numbering, they are entirely out of alignment.

Q Where is this concern engaged in business that made this ticket? A I don't recall the name of the town, out West somewhere.

Q It is a western town? A It is a western city.

Mr. Leake. I offer this ticket.

Marked Exhibit D. 2, January 25.

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Q Mr. Manshel, I have letters of L. B. Titus, Lemuel Titus, to the Argus Ticket Company of Chicago, dated February 6, 1915; March 26, 1915; March 3, 1915, and February 17, 1915. These letters refer to the building of a coupon ticket machine and offer of employment by Titus to the Argus Ticket Company of Chicago, and are marked ex-

Charles Manshel, direct.

hibits in this cause. When did you first hear of these letters and the contents of them? A In the early part of June, 1915.

Q Where? A At the office of the Globe Ticket Company.

Q Who spoke to you about the subject of these letters? A Mr. W. C. Pope. 10

Q What were you doing in Philadelphia at that time? A I went there on a business matter trying to see if we could not combine the two plants into one.

Q Did you know that Mr. Titus had offered to build the Argus Ticket Company of Chicago one of these rotary press coupon ticket machines until mention of it by Mr. Pope in Philadelphia in 1915? A No.

Q What, if anything, did Mr. Pope say about Titus offering to build a machine for the Argus Ticket Company? A He told me that I was foolish to keep him, that I am not sure with him, while he is still working for me he has or his company has letters to show that he was offering to build a similar machine for another concern out West and would go to work there if he got his price. 20

Q Did he say in that conversation anything about this Susie Roe? A Yes.

Q What did he say about her? A He told me when she got through in Providence she came to look for a position there and he and one other official of the company had interviewed her and she told him all we had there in Providence, but they told her they would let her go because they thought I sent her on, they did not believe she come there for a good purpose, they wouldn't engage her. 30

Q Did he say anything about what Susie Roe said as bearing on the price they should pay for the Sun Ticket Company plant? A I didn't quite get that question.

Q (Question read.) A Oh, generally said Susie Roe had reported that our plant was not quite so big as I pictured it to them and told them all we had was one forty-eight set machine and a couple of strip ticket presses and some cylinder presses they were not interested in. 40

Q (*By the Court.*) What was said about this particular barrel head and Titus in connection with it by Mr. Pope? A We simply discussed it; I told him we had machine with rotary heads and were working it, and I told him from what information I was able to get from these former employees we had something better than they had and that was the inducement I offered them to buy us out.

Q What did he say about Titus stealing or taking anything from the Globe plant? A He didn't tell me anything about Titus stealing anything. 50

Q Did he make any statement about any employee stealing? A No, he didn't say anything about employees stealing.

Q (*By the Court.*) Did he say anything about your stealing? A He said that he considered any concern who would steal anything from another concern as crooked.

Charles Manshel, cross.

Q (*By the Court.*) What was the particular thing he charged you with having stolen? A He didn't want to come out so direct; he didn't say, but I knew what he inferred on.

10 Q Now, did you conclude, or was the sale of your plant the Sun Ticket Company, to the Globe Company definitely settled in the negotiations held in Philadelphia at that time, or was there some other communication to you by the Globe Ticket Company after that conference in Philadelphia? A It was several weeks afterwards.

Q And in what form was the communication? A I got a letter from Mr. Pope.

Q Have you a copy of that letter? A No.

Q Has it been lost? A We destroyed all our correspondence, except the last two years, when we came over to Newark.

20 Q What did the letter say, if you know? A Simply told us they had a meeting held by the board of directors, it was thoroughly discussed, and they decided they would not be interested.

Cross examination by Mr. Ashmead.

Q Mr. Manshel, what were your relations with the Sun Printing Company? A When it was the Sun Printing Company I was the sole owner.

Q What? A When it was called the Sun Printing Company, I was the sole owner of it, it was not a corporation then.

30 Q And what were your relations with the Sun Ticket Printing Company? A Treasurer.

Q Any other relation, were you manager? A General manager.

Q General manager of the Sun Ticket Company? A Of the Sun Ticket Company.

Q And what was your connection and what is your connection with the International Ticket Company? A President and general manager.

40 Q Have you in the International Ticket Company any processes which you deem secret? A No.

Q Then great care has been taken that the construction of this head is not to be shown to any person of the defendant corporation, has there not? A There was no person of the defendant corporation there at all.

Q It was requested that it should not be because you did not want them to know the present construction of your head? A We would not want them to see it because we think we have got something different, better than theirs.

50 Q You consider it secret? A To that extent; we don't peddle things out to everyone that comes in there.

Q You are very careful as to who sees your machine? A Not particularly careful, no; there is a lot of people come in and out our plant, but a man that sees the machine don't know how to operate it.

Charles Manshel, cross.

Q Do you take these mechanical devices apart and show the construction to the people that come in your plant? A No, it takes too much time.

Q (*By the Court.*) You wouldn't do it anyhow, would you? A No, certainly not.

The Court. Of course not.

Q How long have you been a machinist? A I have never been a machinist.

Q A mechanical engineer? A In a sense, I can't call it mechanical engineer.

Q What are your abilities? You say you have patented some devices, are you an inventor? A Inventor.

Q And how long have you been working at inventions along mechanical lines? A Over twenty years.

Q What was the business of the Sun Ticket Company? A When we first started, general printing.

Q Did you print tickets at that time? A Not when I first started, no.

Q While it was in existence? A Yes, printed a lot of tickets while it was in existence.

Q What kind of tickets? A For a number of years printed strip tickets, roll tickets and book tickets also.

Q Did you ever print any theatre tickets? A Yes.

Q Coupon theatre tickets? A Coupon theatre tickets.

Q Did you number them at one operation? A Number them at one operation? Yes.

Q Number them at the same operation and print them in one operation? A Not always, no.

Q Did you while the Sun Printing Company was in existence? A Yes.

Q Did you ever use a head similar in construction to the barrel head in question in this suit? A When?

Q While the Sun Printing Company was in existence? A Yes. Do not confuse the Sun—not while the Sun Printing Company was; while the Sun Ticket Company was.

Q I asked you about the Sun Printing Company? A No, never done any tickets while the Sun Printing Company was in existence.

Q Any theatre tickets? A Not that two years, no.

Q When did you begin printing coupon theatre tickets by the Sun Ticket Printing Company? A Sun Ticket Printing Company.

Q Sun Ticket Printing Company? A Must have been fourteen or fifteen years ago.

Q Were you printing coupon theatre tickets? A Yes.

Q And when did you first use the barrel head similar in construction to the one now in question? A Our barrel head was first used sometime in 1914.

Q After Mr. Titus came to your plant? A Yes.

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Charles Manshel, cross.

Q You had before that time been interested in machinery for the purpose of printing coupon theatre tickets and numbering them in one operation, had you? A Yes.

Q Had you spent some considerable time on that? A Spent some time.

1 10 Q Investigating and trying to evolve some method by which that might be done expeditiously? A Yes.

Q And up to the time Mr. Titus came to the Sun Printing Company you never hit upon a barrel head similar to the one in question? A I can't say I never hit upon it; I was working along the lines, yes.

Q You appreciated therefore the difficulty in being able to continuously print and at the same time number so that the numbers would change at the right period in the operation of the printing, had you not? A I did not appreciate any difficulty because I was doing a very similar thing on something else.

2 20 Q When did you first know the Globe Ticket Company? A I have always heard of them as long as I have been in business.

Q Did you know the character of business that they were engaged in? A I knew they were making tickets of all kinds.

Q Did you know they were making coupon theatre tickets? A Yes.

Q Did you know that they were a successful concern? A That I couldn't tell you.

Q When was the first time you were ever at their plant? A June, 1915.

3 30 Q You knew the extent of their business, did you not, prior to 1913 in the coupon theatre ticket business? A In a general way, yes.

Q Now, during the time that you were developing machines for the Sun Ticket Printing Company you, of course, were hitting upon devices that performed the same function as devices in prior years, but to better effect I suppose? A I don't quite get that.

Q (Question read.) A Yes.

4 40 Q And did you publish those devices or did you keep them secret? A I didn't keep them secret, nor did I publish them; I just went along in the usual way.

Q When Mr. Titus came to you did he tell you, or in the first letter he wrote did he tell you he was employed by the Globe Ticket Company? A Yes.

Q At that time your company was not printing coupon theatre tickets? A They were.

The Court. Don't ask that so many times. He has gone into that in great detail.

5 50 Q Did you know how long Mr. Titus had been with the Globe Ticket Company? A He told me so in his letter.

Q In that conversation did he tell you what experience he had had while he was employed by them? A What conversation are you referring to? You asked me about letter?

Q When he came to see you. A When he came to see me, yes.

Charles Manshel, cross.

Q He told you about his experience?

The Court. Of course, he did.

A Certainly.

Q And the character of his duties? A Yes.

Q You knew then that he was familiar with the machines of the Globe Ticket Company? A Yes. 10

Q When you employed him did you stipulate that he should develop for you devices similar to those used by the Globe Ticket Company? A No.

Q The wages that you fixed bore no relation to any such agreement; is that so? A No.

Q What were the wages that you paid Mr. Titus when he began? A \$21 a week. 20

Q And what was the basis of that amount? A The basis?

Q Yes; upon what basis did you fix that amount? A On the basis of what we were paying other machinists.

Q So you paid him only the ordinary wage of a machinist? A That is all.

Q (*By the Court.*) It is a fact, is it not, Mr. Manshel, when Mr. Titus came to you he represented that he thought that he could develop a machine which would number these tickets more effectively than you had been able to number them before? A No; at that time we did not even discuss these tickets at all, because that was the smaller part of my business, and I was not so much interested in these tickets at that time. 30

Q (*By the Court.*) When was the first time Titus brought to your attention the fact that he might be able to develop a better machine? A After he started to work for us I put it up to him.

Q (*By the Court.*) How long after? A Perhaps several weeks after.

Q Did the Sun Printing Company, while it was in operation, ever give to Mr. Titus anything of money value in consideration of these ideas? A Nothing. 40

Q Has the International Printing Company?

The Court. Has anybody, to your knowledge?

A No, sir.

The Court. That covers it.

Q Is the International Ticket Company the result of a merger between the Sun Ticket Company, the Rockwell Printing Company and the Manshel Machine Company? A Yes.

Q What were your relations with the Manshel Machine Company? A I was its president and treasurer. 50

Q From its name I should judge you to be the organizer of that company? A Yes.

Q Did you take part in the negotiations for that merger? A Yes.

Charles Manshel, cross.

Q And in those negotiations whom did you represent? A I represented the Sun Ticket Company and the Manshel Machine Company.

1 10 Q Did the Sun Ticket Printing Company transfer all of its assets to the International Ticket Printing Company?

Mr. Leake. I don't want to stop it; I don't see its materiality.

The Court. I will permit it, but I don't see where it is leading to.

Mr. Leake. We will put on the record a statement of that situation.

The Court. What is the answer?

A Yes.

2 20 Q And what did it receive in return? A Stock in the International Ticket Company.

Q Did the Manshel Machine Company also receive stock in return for its assets? A The stockholders did.

Q All of them did? A All of the stockholders.

Q And that was so throughout the organization of the International Ticket Company, was it, that each one that entered into the International Ticket Company they received stock of the International Ticket Company in return for the assets that they transferred to them? A In return for their stock, yes.

3 30 Q Did the International Ticket Company assume the liabilities of the Sun Ticket Printing Company? A Yes, they paid all the liabilities.

Q So that they took over all the property subject to the liabilities? A Yes.

Q You have presented here a patent issued to you in 1910; what was the mechanism covered by that patent? A A number of points of the mechanism.

4 40 Q What was its function? A Its function was to issue automatically from a machine tickets in amusement places by the dropping of a coin in that machine.

Q That involved the pawl and the ratchet? A Yes.

Q Which had been in use for many, many years? A Yes.

Q And did you have any difficulty upon the ground that those principles had been previously used, and therefore a patent was not to be issued where any such principles were involved? A The patent was not issued probably on those points; the patent was issued on other points that were new.

Q Did it cover the whole machine? A Yes, it shows it; it is illustrated there.

5 50 Q Including those points? A Including those points.

Q How many of these barrel head numbering devices did the Sun Printing Company build prior to its merger with the International Company? A One machine, but, of course, with different heads on it.

Q But numbering devices? A Complete numbering devices, one.

Charles Manshel, cross.

Q Did you have an extra head built for use by the Sun Printing Company? A We had a few in the process of building.

Q How many have the International Printing Company built since its organization?

Mr. Leake. Objected to as immaterial and irrelevant. 10

The Court. I will permit it.

A It has not finished any yet.

Q Do you know whether or not a numbering device similar to the one in question is in use in any other printing plant other than the International and the Globe Ticket Company plant? A Not that I have seen it there, except what I was told.

Q You don't know of your own knowledge? A No, not that I have seen it.

Q You have never seen any other numbering heads similar to the one in question except those that Titus built after he left the Globe Ticket Company and the one of the Globe Ticket Company that has been exhibited in court? A No, never seen them. 20

Strip of tickets marked Exhibit C. 1, January 25.

Q I show you a strip of tickets marked Exhibit C. 1, January 25, and ask if you can tell me whether that was printed on a barrel numbering head? A I will tell you what was done with that. This ticket here was printed, the ticket itself is printed on the rotary machine and then it went through a press twice that printed the 2 first and then printed the figure 3 a second time; it was done purposely to offset, the 3 is offset and the other is not. 30

Q My question is whether or not a barrel head similar to the one in question was used in printing that ticket. I am not asking whether it was printed on a flat press.

The Court. The witness, of course, cannot tell that. All he can tell is, as I held before, and the only effect of this testimony is that it was not printed on a flat press. You cannot tell what kind of device was used, but it was some device other than a flat press; it might have been done by hand, I suppose. 40

A I know it was done by hand; they made a mistake here and didn't look out for that trouble; when they printed the figure 2 there is no offset on the back, and the figure 3 the offset is right on the back here.

Q What does that indicate? A It indicates the impression was taken on the tip of the press, or, we will call it on the cylinder of the press; if these two figures were printed at the same time that would offset on the back of both figures instead of only one.

Q I want a direct answer to my question, if I may have it. Was a barrel head similar to the one in question used in printing that ticket? A I should say no. 50

Q The ticket has the same irregularity, does it not, in both the lightness or heaviness of it? A Yes, because they were numbered twice.

Charles Manshel, cross.

Q And in the irregularity of the position? A Yes, it was purposely done that way.

Q (*By the Court.*) I suppose it is possible to create that situation, even on a flat press, isn't it, if you make a special form for it?

A If you print it twice you can.

10 Q (*By the Court.*) If you do it once you might have a special form that would show those irregularities, except in the ink, of course? A The numbering head is held rigid, and unless they hold one of the wheels off its regular place they could not do it, for it would drop in its place; our head would demonstrate that.

Blue strip of tickets offered in evidence and marked Exhibit C. 2, January 25.

20 Q I now show you Exhibit C. 2, January 25, and ask you how that ticket was numbered, whether on a barrel head similar to the one in question? A I should say yes.

Q You would say yes on that one? What makes you think so? A In most cases if this was not printed on a barrel head there would be some indication here of the edges of the wheels from a flat head numbering machine; there would be some indication somewhere, if not on one ticket on another, and this is all clear, and I would say this is done in that way.

30 Q So that in picking up a ticket as you would separately you could not tell from that ticket just what it was because the irregularities might vary on some tickets, appear on some tickets and not on the others; that is, there is a great advantage in having a whole strip of tickets, isn't there? A No, even single ticket, there is a good many perfect tickets in rotary barrel ticket that would be perfect; most of them should be perfect.

Q So a great many tickets printed on barrel head are perfect? A Yes.

Q Just as perfect as on a flat press? A I should say yes, some of them.

40 Q And only occasionally when you find one where you would have any indication that it was printed on a rotary barrel head? A Not only occasionally; I should say about half of the time.

Strip of tickets offered in evidence and marked Exhibit C. 3, January 25.

Q I show you Exhibit C. 3, January 25, and ask you how that was printed, or numbered, rather? A This would look to me like a band-numbering machine ticket.

Q That is not a device similar to this one? A In my opinion it is not.

50 Q Now in your answers made in reference to Exhibits C. 1, 2 and 3 of January 25, they were made after a very careful and critical examination of the whole strip of tickets, were they not? A Yes.

Q And in the conclusions that you have drawn you have used all of your experience in attempting to answer those questions correctly?

The Court. Of course he has.

Charles Manshel, re-direct—re-cross.

Q Mr. Manshel, has the Sun Printing Company ever offered to make sale of these machines with this numbering device on it? A Yes.

Q Have you done that recently? A No.

Q What does it cost to build one of these machines? A I should say between twelve and fifteen hundred dollars. 10

Q In your affidavit on the preliminary hearing I think you said \$1,500? A About that.

Q After the machine is built what would you consider to be a fair sale price of it?

Mr. Leake. I object to that as immaterial; I cannot see that the issue in this case has anything to do with what he considers a fair price. That is his question, what does he consider a fair price.

Q What have you quoted this machine at? 20

Mr. Leake. That is objected to again as immaterial and irrelevant.

The Court. I will permit it; I do not see how it can harm your client, Mr. Leake. What is the answer?

Q (Question read.) A I offered to sell one at one time for \$10,000.

Letter offered in evidence and marked Exhibit C. 4, January 25. 30

Q I show you Exhibit C. 4, January 25, and ask if that letter was written by you? A It is my signature all right.

Q (*By the Court.*) In that letter you referred to the barrel head that you are now using, did you not? A I wrote several letters to that same concern, so I don't know which that letter is; I didn't read it now.

Re-direct examination by Mr. Leake.

Q Mr. Manshel, at the time of the transfer of the assets of the Sun Ticket Company, and the Manshel Machine Company and Rockwell concern to the International Ticket Company, had you received any notice or any claim or charge of liability by the Globe Ticket Company for having built or used a machine with this numbering head? A No. 40

Q Or any claim of charge or liability that you had anything from Titus which they were entitled to compensation for? A No.

Q At any other time have you ever had any demand that you discontinue the use of this numbering machine? A No.

Q By any officer of the Globe Company? A No. 50

Q Or any other person? A No.

Re-cross examination by Mr. Ashmead.

Q There is one question I forget to ask that I would like to ask. What connection did Mr. Pope have with the Rockwell Printing Com-

Harry Lockhead, direct.

pany at the time of the merger? A I understood he was stockholder and director, member of the board of directors.

Q And what was his position in the International Ticket Company?

10 *The Court.* Chairman of the board of directors.

Q How long has he held that position? A Ever since its organization.

Further re-direct examination.

Q And prior to its organization Mr. Pope and the Globe Ticket Company were stockholders in the Rockwell Printing Company, were they not? A To my knowledge, yes.

Q For how many years? A For a number of years, I don't know how many.

20 Q Was Pope ever interested as a stockholder of the Sun Ticket Company, or did he ever have any office or position or employment with the Sun Ticket Company? A No.

HARRY LOCKHEAD, sworn.

Direct examination by Mr. Leake.

Q By whom are you employed? A International Ticket Company.

Q How long have you been with them? A About four months.

30 Q Prior to that time by whom were you employed? A Globe Ticket Company.

Q For how many years? A About four years.

Q In what capacity were you employed by the Globe? A Running a 48 set press.

Q With the barrel numbering head? A Yes.

Q How many years had you operated it there? A I judge about three years.

Q In what capacity are you employed by the International? A Running a press.

40 Q With a barrel head numbering device? A Yes.

Q Is there any difference in the operation? A Yes.

Q Of the Globe head and the International head? A Yes.

Q Did you have any difficulty in operating the International head after your three years' experience with the Globe head? A Yes, I had to learn it practically over again.

50 Q Will you state what differences there were in the operation? A Well, several differences. The Globe head in running alternate numbering you had to have two knockers; this head of the International you only used one knocker. You have to ratchet the Globe head where you don't have to ratchet the International head, and in turning it you practically have to turn it just the opposite direction of the one of the Globe.

Q And are not the operators of rotary presses with numbering heads required to control those heads during the operation, or at

Harry Lockhead, cross.

periods in the operation, or is it only in the setting? A It is in the setting where the differences are in the heads.

Q (*By the Court.*) It sets automatically, don't it? A Yes, sir.

Q Were you told at any time during your employment in the Globe Ticket Company that this numbering head or this machine or any part of it was a secret? A No, sir. 10

Q Were you told that by any person in the Globe Ticket Company? A No, sir.

Q Were there people going in and out of the room where these machines were located? A Well, the time clock was in that room, everybody working on the floor between the press room and the floor where there are no presses at all are compelled to go in the press room to ring up the clock.

Q Did you ever see visitors going through this room where these machines with the barrel numbering heads were in use? A Occasionally there were visitors. 20

Q What about the cleaning of these numbering heads in the Globe plant? A Every three weeks the heads are taken off the press and taken to another floor to be cleaned, and up there there is a man or boy who cleans the heads, then they are brought back again.

Q And when they are brought back where are they sometimes left? A On a bench, until a machinist comes up.

Q Have you seen these heads in any other places around on that floor? A I have saw them off the press several times, but they have been lying on the bench near the press. 30

Q Are the heads covered when they are lying on the bench? A No, sir.

Q Are the heads covered when they are on the machine and it is not in operation? A Only of a Saturday, that is all, Saturday and Sunday you know.

Q Were there any notices posted in the factory about on this floor that these machines or this head was secret? A No, sir; not as I have known of.

Cross examination by Mr. Smith. 40

Q Mr. Lockhead, you speak about having seen these heads on a bench along side of the machines; was that head on the bench waiting for a machinist to come up and put it on the machine? A Yes.

Q Were you allowed to put it on the machine yourself? A That was machinist's work.

Q You had nothing to do with that? A I never had nothing to do with that.

Q As a matter of fact you could not tell from the appearance of this particular barrel head what its inside mechanism was, could you? A Not by looking on the outside. 50

Q And you of course never took one apart, did you? A I never took one apart myself; I stood and watched them being put apart.

Q After they were cleaned? A Yes; I never put any apart myself.

Harry Lockhead, cross.

Q Now as to the difference in operation, about how long did it take you to operate a barrel head device in the International Ticket Company plant? A It took me several days to get on to it.

Q Several days? A Yes.

10 Q Now, then, the difference in the two devices, as I understand it, is that one has two knockers on, whereas the International has one, that is one difference? A That has only one.

Q And that has nothing to do with the barrel head itself, but is a means by which power is applied to the barrel head, isn't that so? A No; the working of the head is different.

Q The knocker has nothing to do with the head itself, but is a means by which power is applied to the head, isn't that so?

The Court. That is answered yes.

20 Q Now the other reason is that in ratcheting you turn to the right on your machine, or to the left, which? A Left.

Q And on the Globe you turn to the right? A Yes.

Q And what other difference? A The International head you don't have to ratchet at all; it is the Globe head that you have to ratchet.

Q But you do have to, however, turn in only one direction on the head that you are now operating, is that so? A Yes.

Q And on the Globe head it is just the reverse direction? A Yes.

30 Q And it took you how long, did you say, to do that, to learn those two differences? A Several days.

Q About how many times do you say visitors come through that plant? A Well, I couldn't say; sometimes there would be more coming through than others.

Q How often in the course of a month? A For instance, the roller man, or the man that would bring the rollers up, he would come, if I am not mistaken, every Wednesday.

Q And he was a carter who brought things up from the street and put them in that room? A Yes.

40 Q What other visitors would you see coming into the plant? A Telephone fellow.

Q And he was there to repair some telephone apparatus?

The Court. Of course. Don't waste time.

Q Who else did you see come there? A Several other fellows off different floors, and one thing and another like that; I don't know who the people were; some would come to fix the sprinklers, and such like as that.

50 Q You did not see anybody come in the plant and look around at the barrel head though, did you? A I have seen them stand alongside of me and watch me work.

Q Watch you work? A Yes.

Q But they did not have an opportunity to look at the barrel head itself, did they? A Well, if they were standing alongside of the press they could see the barrel head.

George Allston, direct.

Q And they were standing there when the press was in operation, I presume? A Sure.

Q Can you explain to me what makes the number 1, figure, come upon the barrel stave of the barrel head, the mechanism which produces that result? A Well, no.

Re-direct examination by Mr. Leake.

Q Before you left the Globe did Walter Scott, their assistant foreman, say anything about working on the development of their machine with one knocker, and, if so, what did he say? A Several months, yes, several months before I left the Globe Ticket Company Walter Scott was telling me about an idea that I thought was his own, in regards to running the numbering heads with one knocker, and saving the ticket which the Globe has to wait in running 24 or 48 set number, 48 or 24 different dates, and he was trying to tell me that he could run a 48 set without wasting any ticket, and when I got at the International I thought it over and it was exactly the same as what they were using at the International, the different ideas that he was telling me about, putting and changing the heads of the Globe looked to me the same as the International has running now.

Re-cross examination by Mr. Smith.

Q Tell to the Vice-Chancellor just what Walter Scott said to you. A He was just telling me in regard to knowing different things that he could do to the head.

Q What were they, what were the things he could do to the head? A Well, I don't even know what he was saying; I know what he meant, I knew what his object was, that is all; I couldn't do it myself.

Q You didn't know the means by which—

The Court. He says he didn't.

Q This man Scott is the man who testified before we received the letter from Mr. Titus? A He has been here.

GEORGE ALLSTON, sworn.

Direct examination by Mr. Leake.

Q Are you employed by the International? A Yes.

Q As what? A Pressman.

Q How long have you been with them? A About four months.

Q Before that by whom were you employed? A I was employed two or three places since I left the Globe two years ago.

Q When did you leave the Globe? A Two years ago the 23rd of this February.

Q And before you left the Globe in what capacity were you working? A Operating machines in the Globe.

Q Machine with the barrel numbering head? A Yes.

Q Was the barrel numbering head the same kind of a barrel numbering head used by the International? A No.

Louis F. Dodd, direct.

Q How long did you work for the Globe? A Between nine and ten years.

Q Was there any secret about this barrel head or its mechanism or the machine on which the barrel head was used? A Not to my knowledge.

10 Q Did anybody in the Globe plant ever tell you it was a secret machine? A No.

Q Or any part of it was secret? A No.

Cross examination by Mr. Smith.

Q In what way is the barrel head of the International Ticket Company different in its mechanism from the Globe Ticket Company? A I don't know the difference in the mechanism; I am an operator; I didn't make it.

20 Q There is a difference in the operation? A There is a difference in the operation; I didn't make it.

Q Do you know the mechanism of either one of these devices, the interior mechanism? A No, not the interior; I didn't make them.

LOUIS F. DODD, sworn.

Direct examination by Mr. Leake.

Q Are you an officer of the International Ticket Company? A I am the treasurer of the company.

30 Q And have you been treasurer since its organization? A I have.

Q And what was the date of its organization? A The incorporation I think was the first week in February, I can't remember the exact date, and the company immediately organized after its incorporation.

40 Q Has the International Ticket Company ever received any notice from the Globe Ticket Company, or any other person or officer or concern, that the International Ticket Company had any secret barrel numbering head device, or other secret information or apparatus of the Globe Ticket Company? A Not until the papers in this suit were served upon me as an officer of the company.

50 Q At the time of the merger of the Sun Ticket Company and Manshel Machine Company and Rockwell into the International, was any officer, stockholder or any other person so far as you know in the International notified that the Sun Ticket Company had any machine that was the result of trade secrets being stolen from the Globe Ticket Company? A Never to my knowledge. The only possible thing that ever was said by anybody in my hearing, of any nature whatsoever, that would be absolutely the contrary of that was the statement made by Mr. Pope while he was a director of our Rockwell Printing Company, that the Sun Ticket Company had something very much better than anything the Globe had. That was said long after the merger was completed.

Harry R. Keen, direct.

Q Has the International Ticket Company any business or contracts outstanding for the manufacture and sale of tickets and the purchase of materials for the use of its business in coupon ticket printing?

Mr. Smith. I object to that. What has that got to do with this case? 10

Mr. Leake. I merely wanted to show it was a live horse, that is all.

The Court. There is no question about that; I will assume it unless they try to prove the contrary.

No cross examination.

HARRY R. KEEN, recalled.

Direct examination by Mr. Smith. 20

Q There was offered this morning in evidence three strips of tickets marked C. 1, C. 2 and C. 3, January 25; did you see those tickets numbered? A I saw all three strips numbered.

Q Mr. Keen, ticket C. 1, this ticket, explain to the Vice-Chancellor how that particular ticket was numbered? A That ticket was numbered on what we term a band machine.

Q Is that a flat plate printing press? A That is not a printing press, it is a numbering machine.

Q Is it a flat plate numbering head or numbering machine? A The ticket itself is pulled along a band or plate, whatever you may call it, and the numbering head comes down as the ticket is pulled through; the movement of the band and head are symphonized so when the head is up the ticket will pull one, and then the head will come down. 30

Q (*By Mr. Leake.*) Successively printing? A Successively numbering.

Q (*By the Court.*) Are the impressions made, that is, the 2 3 that appears on this particular ticket, are those figures printed at the same time? A Not only that, your Honor.

Q (*By the Court.*) Answer my question. A The 2 3 are printed at the same time. 40

Q (*By the Court.*) Can you explain why it is they are out of alignment then? A Because the discs were slightly out of alignment.

Q Was that particular ticket about which you are speaking printed on the barrel head numbering device? A It was not.

Q (*By the Court.*) Well, if the machine, the band, the discs were properly aligned, that alignment there would not appear, or rather the figures would not appear out of alignment, would it? A If the discs were properly aligned they get out of alignment by use and sometimes by dirt getting into the working parts, or ink getting into them. 50

Q (*By the Court.*) Did you or your employees, whoever printed that ticket, intentionally put it out of alignment? A No, sir.

Harry R. Keen, cross.

Q (*By the Court.*) It would be quite possible to do so, wouldn't it? A No, sir.

Q (*By the Court.*) It would not? A No, sir.

Q Ticket sheet C. 2, January 25, how was that strip of tickets numbered? A That strip was numbered on the same type of machine, but a different machine, a different head from the one numbering this C. 1.

Q (*By the Court.*) By this, you refer to C. 1? A Yes, to C. 1.

Q Was the second strip numbered on the barrel head numbering device? A It was not.

Q In regard to C. 3, January 25, how was that strip of tickets numbered? A That was numbered by the barrel head device.

Q Mr. Keen, did you instruct the operator who turned out any one of those three strips of tickets how you wanted the numbers to appear thereon, whether you wanted them regular or irregular? A I did not; I merely asked to have the strips numbered left M-23. In case of C. 1 and C. 2 the numbering was done by a girl who runs that type of numbering machine. Strip C. 3 was printed and numbered by the operator who runs a 96 set press which operates the barrel numbering device.

Q There has been offered in evidence certain letters, all of the letters that have been offered, the first four being from Lemuel Titus to Mr. James Argus, or the Argus Ticket Company, and the fifth letter to G. W. Finch and signed by Charles Manshel; explain to the Vice-Chancellor when the so-called Titus letters first came into your possession? A Sometime this month, after the hearing on the second, my impression is that it was that week; the Finch letter came into my possession sometime between Christmas and that date.

Q (*By the Court.*) After the commencement of this suit? A After the commencement of this suit.

Q And when were these letters brought to your attention, the Titus letters first brought to your attention?

The Court. Were they ever brought to your attention before the commencement of this suit?

40 A No, sir.

Q Was the Manshel letter brought to your attention before the commencement of this suit? A It was not.

Q How did you happen to have called to your attention these Titus letters?

The Court. Overruled.

Mr. Ashmead. How did he happen to get them.

50 *The Court.* I will overrule that. What difference does it make how he came to get them? I don't care whether he stole them or not; it is immaterial.

Cross examination by Mr. Leake.

Q Who suggested the printing of these three sets of tickets marked C. 1, 2 and 3, January 25? A No one.

Harry R. Keen, cross.

Q Why was it done? A I wanted to produce tickets numbered on the band machine left M-23 because that was the strip, the strips submitted to Mr. Titus bore that number, and in response to a question he said that numbering had been done on a rotary press; that was his expression; I interpreted it to make a barrel head device.

Q C. 1 and C. 2 were printed on the same machine, weren't they? A Printed or numbered? 10

Q Numbered on the same machine? A No, sir; and I have not so testified.

Q Were they numbered on different machines? A They were numbered on different machines.

Q (*By the Court.*) Of similar construction? A Exactly.

Q How old were the machines? A I couldn't answer that question definitely, Mr. Leake; those machines are certainly older than six years.

Q Are they both of the same age? A The machines themselves may be. 20

Q What about the numbering devices on them? A That I don't know.

Q Well, you picked two machines to have these two tickets numbered on for some reason, didn't you? A Merely to get—

Q To show that on one machine the number would be irregular, and that on the other machine it would be regular? A No, sir; I did not.

Q Why did you have C. 1 and C. 2 printed on different machines? A Because I wanted to get a product from each of those two machines of similar construction, and when I asked for them I had no idea what I would get until the result was obtained. 30

Q I see. It did not occur to you that your point would be more forcible if you could have produced on the same machine tickets with irregular numbers and tickets with regular numbers. Can you answer that? A The thought did not occur to me.

Q You knew that that could not be done, didn't you? A No.

Q You knew that one of these machines printed irregularly, didn't you? A I didn't know it; I suspected it did from the sample submitted the other day. 40

Q And you therefore chose to number one of these tickets on that machine that you suspected would number irregularly, didn't you? A Not exactly that, I didn't know which it was; I took the two machines that we had in operation, and had the same number put on a strip from each machine.

Q Didn't Mr. Yates suggest that this be done? A Mr. Yates did not.

Q (*By the Court.*) Let me ask you whether this is not the fact. Isn't it a fact where the irregularities appear on the tickets printed by the band machine all the irregularities are regular, that is, the irregularity that occurs is an irregularity that is repeated exactly each time, whereas on the rotary press machine the irregularities are not regular? A Your Honor, may I venture to ask the difference between the expression rotary head and barrel head? 50

Harry R. Keen, cross.

Q (*By the Court.*) The barrel head I am talking about now. If I used the term "rotary head," the barrel head such as we have been discussing here. A It is quite likely that the irregularities of numbering in the barrel head would be irregular.

10 Q (*By the Court.*) Yes, whereas the irregularities of numbering on the band machine that we have been talking about would be regular? A Would be regular, yes.

The Court. You can see that from the ticket.

Q Has it occurred to you since you made this change in these tickets that you made a mistake in your testimony of yesterday as to when you first knew that the International Ticket Company was using a rotary press machine with a numbering head on it? A You don't mean yesterday, you mean Wednesday.

20 Q Wednesday. May I ask you when you did discover that the International Ticket Company was using a rotary machine, using a continuously operating numbering head? A After Miss Richards' visit.

Q Was that the first? A That was my first knowledge.

Q Was it then in August that you first learned this? A That I learned it definitely, yes.

Q Did you ever learn it indefinitely before that? A No, I suspected it, but I did not learn it.

Q From what did you suspect it?

30 *The Court.* Now, Mr. Leake, he has been cross examined on that.

Mr. Leake. There was one point on that that I wanted to bring out that I think is very material.

The Court. Go on. I am not going to let you go much further.

40 Q When did you first discover it? A I don't know exactly when I first discovered it; it possibly suggested itself to my mind from an examination of some of the tickets made by the International Ticket Company.

Q And wasn't it before the incorporation of the International Ticket Company? A It was not.

50 Q In your affidavit annexed to the bill you swore that it was before; does that refresh your recollection? In your affidavit annexed to the bill you swore that "the complainant a short time before the incorporation of the International Ticket Company from examination of some of the products of the Sun Ticket Company which came into its possession was suspicious, and that the Sun Ticket Company might be manufacturing its tickets based upon some knowledge improperly and unlawfully gotten by Lemuel Titus." Is it not a fact, then, that before the incorporation of the International Ticket Company you suspected that they were using a number head which they obtained through Lemuel Titus and the Globe Ticket Company? A I have so stated in that affidavit.

Exhibits.

Q And isn't it a fact? A No, sir, it is not a fact.

TESTIMONY CLOSED.

LEMUEL TITUS, recalled.

Direct examination by Mr. Leake. 10

Q Did you tell Mr. Scott or Mr. Mahrang—

Mr. Ashmead. I object to the ruling and calling this witness after the case is closed and argued.

The Court. It is entirely within my own discretion and on my own motion.

Q Did you tell Mr. Scott or Mr. Mahrang or any other person in the Globe Ticket Company plant that the knowledge of this numbering head was secret and was to be kept secret? A No, I was never 20
in any such position to make any instructions to anyone.

Q Well, did you make any? A I did not make any, no.

EXHIBIT B.

Prov., Feb. 6, 1915.

Arcus Ticket Co.

Dear Sir:

Can I interest you in a Theatre Ticket Machine that will print and number complete better than 100,000 tickets per day and is not an expensive machine to build and operate when considering the output, will print in two colors if so desired, also print backs in one operation; this is no experimental machine as I have one in operation now I was employed by the Globe Ticket Company of Philadelphia for 15 years, and have been with the Sun Ticket Company of Providence for the past two years as machinist, and I am thoroughly familiar with ticket printing machinery for transfer, roll, and theatre tickets, and ticket production in all its branches. Trusting you will treat this as confidential, if you are interested communicate with. 30

Respectfully yours 40

Mr. L. B. Titus,

26 Maple St

Providence

R. I.

EXHIBIT C.

Prov. Feb. 17th 1915

Mr. Jas. S. Arcus.

The Arcus Ticket Co.

Chicago.

Dear Sir:

In reply to your letter of 11th inst. I am conservative in saying the machine before mentioned, will print one hundred thousand tickets 50

Exhibits.

complete in nine hours as I have run as high as 126,000, and better than 23,000 in one hour, this is ready to be examined and cut, it is a rotary press with automatic number heads is designed to print 24 or 48 sets, 1 1-2 tickets from roll stock and requires stereotype plates, can print two colors of ink if desired. Wish to state machine is my own ideas from 18 years experience with special ticket printing machinery, and I am not using any under hand methods.

I hardly know what kind of a proposition to make as I don't know if you are equipped for building machines, if any of your company have business any where in the East in the near future I could arrange to see them, and could go over the matter more satisfactory. Trusting to hear from you further.

I remain

Yours respectfully

L. B. Titus.

26 Maple St.

20 Prov. R. I.

EXHIBIT D.

Providence 3/3—15

Mr. Jas. S. Arcus,
633-41 Plymouth Court,
Chicago.

Dear Sir:

In answer to your letter of the 22d regarding the cost and time required to build machine before mentioned. It would not cost more than \$2,000 dollars, with best of workmanship, and not neglect anything, the one I have already built cost less than the amount mentioned, as to the time required much would depend on conditions, it could be ready to run inside of 3 or 4 months, as I have drawings already made and work could be started at once,

Yours respt,

L. B. Titus,

#26 Maple St

Providence R. I.

40

EXHIBIT E.

Providence

March 26—15

Mr. Jas Arcus

In your last letter you stated that a member of your firm would be in Providence the following week, as I have not seen any one, Please let me know in advance so I can make it a point to be in the city, or if more convient could meet them in New York or Boston find enclosed tickets printed in one operation on mach'. before refered to,

Yours respt,

L. Titus

#26 Maple St.

Providence,

R. I.

50

(Four theatre tickets enclosed.)

Exhibits.

EXHIBIT C. 4, JANUARY 25.

Oct. 9, 1913

Mr. G. W. Finch, Pres.,
The Ansell Ticket Co.
Chicago, Ill.

10

Dear Sir:

Yours of the 7th inst. received and contents noted. We are now in communication with another ticket printer regarding our coupon ticket press for Chicago. This ticket printer is not located in Chicago, but if he can make the proper arrangements he wants to place one or two there in addition to one or more in his own city.

We are not satisfied with this arrangement however, as we would rather place our machine with a reliable Western concern who will handle Western business only, as we intend to take care of the East ourselves, although we have a very tempting offer to confine the machine to our own use and not place it on the market, or sell it outright and not make coupon tickets.

20

Our machine is entirely rotary, prints 48 tickets at one impression, each a different date, so that when a house plan has been completed, 48 sets are done.

We print and number a sheet of 48 tickets faster than you can number a strip of 8 on a single head numbering machine and save considerable time in examining tickets, as if the end ticket is right the other 47 must be right.

30

The price of our machine is Ten thousand dollars, (\$10,000.00) and if you have enough business to keep it busy, it will earn that amount the first year.

We are not quite ready to show the machine, as we are working on some minor changes. As soon as we are ready to show the machine we will advise you.

Yours truly,
Sun Ticket Printing Co. (Inc.)
Chas. Manshel, Treas.

40

50

Conclusions.

Filed May 9, 1918.

10 Messrs. Lindabury, Depue & Faulks (Mr. Ashmead) and Mr. Frank Smith (of the Philadelphia Bar) for complainant.

Mr. Eugene W. Leake (of Breed, Abbott & Morgan) and Mr. Louis F. Dodd (of the New York Bar) for defendants.

LANE, V. C.

Suit is brought to obtain an injunction restraining defendants from using, or imparting information with respect to, a device alleged to be the exclusive property of complainant by reason of its being a trade secret.

20 It is called a barrel numbering head, and is used for the purpose of successive numbering of coupon tickets. While no new mechanical principle and no new mechanical appliances were used, there was a novel use of familiar principles and appliances which resulted in the perfection of a head which might be used in connection with a rotary press for the continuous successive numbering of tickets. The evidence is that up to the time of the perfection of this device there had not been in existence any apparatus which could be used upon a rotary press for such purpose. The invention permitted an enormous increase in production. It was admittedly an improvement upon any-
 30 thing that had gone before. Its use contributed largely to the successful building up of the business of the Globe Ticket Company. It was used exclusively by the Globe Ticket Company until October, 1913. No attempt was ever made to patent it, the explanation being given that its owners considered a "padlock better than a patent." The Globe Company undoubtedly was adverse to the details of the construction of this device being disclosed to a competitor. It was, however, used on a machine in the open shop where it might be seen by any of the employees or visitors. It was of such construction, however, that a mere casual inspection would not, I think, suffice to
 40 impart sufficient information to anyone so that it might be reproduced.

Certain employees connected with the machine shop were assigned to the duty of cleaning the heads when necessary and of taking them down and repairing them. These men were ordinary mechanics employed at ordinary mechanics' wages. There was no definite contract entered into between the company and any of its employees which would forbid the disclosure of the alleged secret, nor is there sufficient evidence to permit me to find that any of the employees were definitely instructed that they were not to disclose any information
 50 they might acquire. The defendant, Titus, was employed by the concern some twenty-three years ago as an apprentice. He left in March, 1913. For some years prior to his leaving he had worked on the barrel head, had taken it apart and re-assembled it. While he testifies that he was never instructed that the device was of secret construction, and I find no evidence upon which I can base a con-

Conclusions of Vice-Chancellor.

clusion that he was, yet he and the other mechanics unquestionably knew that the complainant did not desire that the details of the construction should be disclosed. It chose to rest upon its ability to hold its employees in its employ, or upon the chance that none of its employees would have the necessary mechanical ability to reproduce the machine even if they were permitted to examine the interior construction. 10

In the year 1913 there was considerable dissension in the plant of the complainant. The morale of its officers seems to have broken down. Employees were leaving right and left. There was in existence in Providence, R. I., a concern known as the Sun Ticket Company, of which one Manshel was president and general manager. On February 22nd, 1913, Titus applied to Manshel for a position with that concern. He represented to Manshel that he had had seventeen years' experience with the Globe Ticket Company, and I am forced to conclude that his experience with the barrel numbering device was referred to, for immediately after his employment with the concern on March 10th, 1913, he started to build such a machine. Manshel denies that at the time he knew that the device was considered by the Globe Company as its exclusive property, or that he knew that Titus was under obligation not to use, in the interests of the Sun Ticket Company, the information which he had acquired at the Globe Company's plant. Titus denies that he considered that he was under any obligation to refrain from using information that he had acquired at the plant of the Globe Company. In view of the action of the officers of the complainant, which will be hereafter adverted to, it seems to me that while Titus and Manshel knew that the Globe Company was adverse to this barrel numbering head being used by a competitor, yet they considered that they were under no legal or moral obligation, the one not to impart and the other not to use, information acquired by Titus while in the employ of complainant. It is significant that when Titus went to Manshel he received no compensation for the information that he had obtained at the plant of the Globe Company. On the contrary he was paid a dollar less a week wages. If he thought that he had a tremendous secret to disclose it would seem as if he would have bargained for more than mechanics' wages: 20 30 40

The machine built under the supervision of Titus was completed in October, 1913. While it is somewhat different in its construction and operation than the device used by complainant, the basic idea is the same. It is an improvement upon the device of complainant, but not so different in construction and operation as to make it a new device. It is conceded by Titus that if he had not had the information acquired at the Globe Company's plant he would never have thought of what he calls his own device. In this respect this case is within *Stone v. Grasselli Chemical Co.*, 65 N. J. E. 756. 50

We come now to the action, or lack of action by complainant, after Titus left, upon which I think the case depends. Titus made no secret of his intention to leave and become connected with the Sun

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10 Ticket Company. The officers of the complainant knew that Titus had the information necessary for him to have to reproduce the barrel numbering head. In 1914 the Sun Ticket Company began printing coupon theatre tickets and it was apparent to the officers of the complainant that they had been printed upon a device which performed the same function as the barrel numbering head of complainant.

20 It is perfectly apparent from an inspection of the various strips of tickets that have been put in evidence here that it is not difficult to determine whether the strips have been printed upon a flat press or upon some machine by which the figures are put on at different times rather than by one impression. The irregularities which appear upon the tickets printed upon the flat press or band machine as described by Mr. Keen, if there are any, are regular, whereas the irregularities which appear upon the tickets made by the barrel head device are irregular. It is perfectly clear to me that the complainant well knew in 1914 that Titus had made use of the information which he had acquired at the complainant's plant, and that the Sun Ticket Company was using that information. In 1914 competition on the part of the Sun Ticket Company increased. Hering admits that the Sun Ticket Company could not have produced the article it did without using a device performing the same functions as the barrel numbering head. The complainant knew that another of its employees possessing information with respect to this device was associated with the Sun Ticket Company. In February and March, 1915, there was brought to the attention of the complainant letters written by Titus to a concern in Chicago offering to build for that concern an apparatus which would contain this barrel numbering head. Competition had steadily increased. In June, 1915, Manshel visited the vice-president and general manager of the complainant with the idea of offering to complainant the plant of the Sun Ticket Company for sale. In that conversation Pope, vice-president and general manager of complainant, charged Manshel with being a business crook, with having enticed away employees of complainant. Titus must have been referred to specifically for Keen, the secretary, was sent for to attend the conference to verify a statement made by Pope to Manshel that Titus had offered to sell to the Chicago concern the barrel numbering head device.

50 There is no doubt, I think, but that at this conversation the fact that Titus had given to the Sun Ticket Company information which he had acquired at the Globe Ticket Company plant, and that the Sun Ticket Company was using this information and was numbering tickets with the barrel numbering head device, were referred to. Manshel denied none of the statements of Pope. Indeed, I think it clear that his possession of this information was used by him as a reason why the complainant should purchase the plant of the Sun Ticket Company. It is not asserted that at the conference any official of the complainant made any claim of exclusive right to the device. The most that Pope claimed was that Manshel had not acted in

Conclusions of Vice-Chancellor.

accordance with good business ethics. Manshel unquestionably left the conference with the idea that Pope considered that he, Manshel, had acted in a way that was unfair so far as business ethics were concerned, but certainly with no idea that Pope or the complainant considered that Titus had violated any legal right of complainant. Indeed, the conversation so far as Pope is concerned may be summed up in this that he practically said to Manshel, "You got this information you are using it; I cannot stop you, but you are a crook for doing it." After consideration, the offer of the Sun Ticket Company to sell out was declined. While there is no evidence that at the board of directors' meeting there was discussed the fact that the Sun Ticket Company was using this barrel head device there is evidence that almost everything else was discussed. There is evidence that the possession by the Sun Ticket Company of the alleged secret was of the utmost importance and was thought one of the important factors to be considered in the sale and it is hard to escape the conclusion that there was discussion with respect to this matter. During 1915 and 1916 competition between the Sun Ticket Company and the complainant became more bitter. In February, 1917, the International Ticket Company was formed. That concern was a consolidation of the Sun Ticket Company, the Rockwell Machine Company and the Manshel Machine Company. The assets of the three concerns were conveyed to the International Company, and the stock of the International Company issued in payment therefor. So far as the Rockwell Machine Company stockholders are concerned there is no evidence whatever that any of them had anything to do with Manshel, or with the Sun Ticket Company, or with Titus or had any knowledge that the Sun Ticket Company was using or might be charged with using the secret device of the Globe Company. There can be no doubt but that the ability of the Sun Ticket Company to number tickets by this barrel numbering device entered materially into the price fixed upon the assets of the Sun Ticket Company. It seems to me that the intervention of the International Ticket Company created a complete change of conditions. The International Ticket Company used the barrel numbering head device, and complainant permitted it to. Nothing whatever was done by complainant until August, 1917. It then sent an operative to the plant of the International Ticket Company, who obtained employment and made photographs of the device used by the International Company. Her report came in in a few weeks, but it was not until the 26th day of December, 1917, that the bill in the present case was filed. From June, 1915, to August, 1917, no additional information came to complainant indicating that the Sun Ticket Company or the International Ticket Company was using this device. Whatever information complainant had it had by June, 1915. Indeed, during the year 1914 it had information upon which it might have acted. It certainly had in 1915. I do not believe that the complainant had any intention of endeavoring to prevent either the Sun Ticket Company or the International Ticket Company from

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Conclusions of Vice-Chancellor.

using this device until competition became so keen in 1917 that it began to look around for some possible means of preventing it.

10 I think both upon the ground of acquiescence and laches the bill should be dismissed. It is true that the defenses of laches and acquiescence, while cognate, are not correlative. Mere delay may constitute laches which will prevent relief, if conditions have changed. Acquiescence implies assent. And it is true that action, or lack of action, occurring during the commission of a wrong may constitute acquiescence or estoppel which would not have the same effect if occurring after the performance of the wrong. *De Bussche v. Alt*, 8 Chan. Div. 286, 314. In this case, however, the wrong was a continued wrong. Complainant is entitled to the benefit of its secret device so long only as it preserves its secrecy.

20 It will have the aid and assistance of the court under certain circumstances in preserving secrecy. Consent to a disclosure or the use by another bars relief. Delay in applying for relief with knowledge of the circumstances may be considered as an element of evidence in determining whether or not there has been acquiescence.

The distinction between laches and conduct evidence which may show acquiescence or election is clearly made in the case of *Faulkner v. Wassmer*, 77 N. J. E. 537, citing *Dennis v. Woglom*, 44 N. J. E. 513, and *Clampitt v. Doyle*, 73 N. J. E. 678.

30 Considering all of the testimony I find complainant acquiesced in the continued use of this alleged secret device by the Sun Ticket Company and the International Ticket Company. With respect to laches the rule is well settled that while under ordinary circumstances a court of equity follows the statute of limitations, yet when extraordinary circumstances intervene the court will disregard the statute and determine the case upon equitable principles. In this case with knowledge, as I have found, of facts sufficient to charge it with knowledge that Titus was disclosing the alleged secret and that the Sun Ticket Company was using it and with knowledge imputed to it of the fact that under the law it was necessary, to protect its right, to preserve the secrecy of the alleged device, complainant failed to act until December, 1917. In the meantime, the building up of a prosperous business by the Sun Ticket Company had been permitted, the International Ticket Company had intervened, purchased the assets of the Sun Ticket Company, into the value of which undoubtedly entered the right of the Sun Ticket Company to use this device. Under the circumstances, I think the doctrine of laches applies.

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50 Upon the main issue I have considered the cases of *Solomon v. Hertz*, 40 N. J. E. 400; *Stone v. Grasselli Chemical Co.*, 65 N. J. E. 756; *Fleckenstein Bros. v. Fleckenstein*, 66 N. J. E. 252; *Vulcan Detinning Company v. American Can Co.*, 70 N. J. E. 588, same case, 72 N. J. E. 387; *Pomeroy Ink Co. v. Pomeroy*, 77 N. J. E. 293; *Taylor Iron and Steel Co. v. Nichols*, 70 N. J. E. 541.

I will advise a decree dismissing the bill with costs. Let decree be settled on two days' notice.

Final Decree—Notice of Appeal.

Final Decree.

Filed May 20, 1918.

IN CHANCERY OF NEW JERSEY.

This cause coming on to be heard in the presence of J. Edward Ashmead, Esq., of Lindabury, Depue & Faulks, and Frank Smith, Esq., of the Pennsylvania Bar, of counsel with complainants, and Eugene W. Leake, Esq., of Breed, Abbott & Morgan, of New York City, and Louis F. Dodd, Esq., of the New York Bar, of counsel with defendants, and the pleadings having been read and the proofs of the respective parties having been taken in open court, and the arguments of the respective counsel having been heard, and the Court having considered the same, and being of the opinion that the complainant is not entitled to the relief prayed for in complainant's bill of complaint, or any part thereof;

IT IS, on this 17th day of May, 1918, ORDERED, ADJUDGED AND DECREED that the complainant's said bill of complaint be and the same hereby is dismissed with costs, in which shall be included a counsel fee of \$350. The allowance of counsel fee is without prejudice to counsel making reasonable charge to clients.

Respectfully advised,

MERRITT LANE,
V. C.

Notice of Appeal.

Filed May 27, 1918.

IN CHANCERY OF NEW JERSEY.

Complainant hereby appeals to the Court of Errors and Appeals in the last resort in all causes from the final decree made in this court in the above entitled cause and filed on the 17th day of May, 1918, and from the whole and every part thereof.
Dated May 24th, 1918.

LINDABURY, DEPUE & FAULKS,
Solicitors for and of Counsel with Complainant.

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

J. EDWARD ASHMEAD,
Of Counsel with Complainant.

Due service of a copy of the foregoing notice is hereby acknowledged this 25th day of May, 1918.

EUGENE W. LEAKE.
BREED, ABBOTT & MORGAN,
Solicitors for Defendants.

*Petition of Appeal.***Petition of Appeal.**

Filed May 27, 1918.

10 **New Jersey Court of Errors and Appeals***Between*

GLOBE TICKET COMPANY,
Complainant-Appellant,
 and

20 INTERNATIONAL TICKET COMPANY and LEMUEL
 TITUS,
Defendants-Respondents.

Petition of Appeal.

To the Honorable, the Court of Errors and Appeals in the Last Resort in all Causes:

The petition of the Globe Ticket Company, the appellant in the above stated cause, respectfully shows that your petitioner finds itself aggrieved by a final decree made in the Court of Chancery by his Honor, Edwin Robert Walker, Chancellor of the State of New Jersey, bearing date the 17th day of May, 1918, wherein your petitioner was complainant and the said International Ticket Company and Lemuel Titus were defendants, in this respect, to wit:

40 That the said decree orders, adjudges and decrees that the complainant's said bill of complaint be and the same thereby is dismissed with costs, in which shall be included a counsel fee of \$350, and your petitioner humbly appeals from the said decree of the Chancellor which decrees as aforesaid upon the ground that the same is erroneous for that your petitioner should have been granted the relief prayed for in its said bill of complaint with costs of suit and without payment of a counsel fee to respondent.

Your petitioner therefore prays that the said decree of the Chancellor may be reversed, set aside, and for nothing holden, and that your petitioner may have such relief in the premises as to this Honorable Court shall seem meet.

LINDABURY, DEPUE & FAULKS,
Solicitors for and of Counsel with Appellant.

50 Due service of this petition is hereby acknowledged, this 25 day of May, 1918.

EUGENE W. LEAKE.
 BREED, ABBOTT & MORGAN.
Solicitors for and of Counsel with Respondent.

*Answer to Petition of Appeal.***Answer to Petition of Appeal.**

Filed October 7th, 1918.

This respondent not acknowledging all or any of the matters in the said petition of appeal says, that the said degree is agreeable to equity and prays that the same may be affirmed with costs to be adjudged to this respondent. 10

BREED, ABBOTT & MORGAN,
EUGENE W. LEAKE,
Solicitors and of Counsel for Respondent.

We consent that the within answer to the petition of appeal may be filed as within time. 20

LINDABURY, DEPUE & FAULKS,
Solicitors of Appellant.

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January 25, 1918.

In Chancery of New Jersey

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Between

GLOBE TICKET COMPANY,

Complainant,

and

INTERNATIONAL TICKET COMPANY,

Defendant.

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Transcript of shorthand notes of testimony taken in camera on January 25, 1918, before Hon. Merritt Lane, Vice-Chancellor.

LEMUEL TITUS, recalled for

Cross examination by Mr. Ashmead.

Q Now, Mr. Titus, I refer to the exhibit of the Globe Ticket Company, consisting of the main shaft on which there is a collar, around the circumference of which are five raised abutments, and ask you if you have not a similar device on your machine? A We have.

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Q How does it compare in size? A I suppose they are possibly the same size, both 2.4 diameter.

Q (*By the Court.*) If they are not of the same size they might have been built of the same size, might they not? A Yes.

Q Around these raised abutments I find that on both exhibits one edge of them is perpendicular to the circumference of the collar and the other edge is bevelled, that is true? A That is true.

Q The difference there is simply that on the International head the perpendicular side of the abutment is on the left, as you look from the front of the machine, the front being the end on which the round knob is placed when assembled? A Yes.

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Q On the other the perpendicular edge is on the right? A On the right.

Q (*By the Court.*) Why is that change, why is that different? A It enables me to operate the head in the reverse direction of the Globe head.

Q And that is the only object? A That is the only object there, yes.

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Q And that is the feature that you referred to when you were asked if your machine could turn to the left and did not have to go around to the right? A That is a necessity for the rest of the mechanism of the machine.

Lemuel Titus, cross.

Q The only difference is that it makes the machine turn easily; the other is the reverse way, isn't it? A No, it will allow you to use a different actuating movement.

Q In what way? A In this way.

Q You mean the knocker now? A The actuating movement.

10 Q It allows you to use the knocker to hit from the front instead of the back, is that what you have in mind? A Yes.

Q That is it, it allows you to apply the power to the machine from the front of the pawl? A That is not the object; the object is to allow you to apply your power outside of your printing diameter instead of inside of your printing diameter.

Q Which results in what? A Which results in allowing you to print—change your heads, alternate with one knocker.

20 Q So that that then refers simply to this difference in the machine where the use will permit alternating with one knocker? A With one knocker on one ticket, changing on one ticket.

Q I next proceed to take the barrel on which the figures appear at the end of the staves and ask how many number of staves you have in the barrel of the International? A Fifty staves; there are fifty in each, really five complete number heads.

Q (*By the Court.*) Is there any practical difference between those two barrels? A No practical difference, no.

Mr. Ashmead. That extends to the whole mechanism that I now hold in my hand.

30 *Mr. Leake.* The records won't disclose what mechanism.

Q (*By the Court.*) What I discussed as the rigid mass, I think I used that term, those two, there is one in the International and one in the Globe, are similar, aren't they? A Similar, yes, sir.

Q (*By the Court.*) If there is any difference, point it out? A There is difference possibly in the measurements.

Q (*By the Court.*) But that is an immaterial point? A That is an immaterial point.

40 Q The size of the corrugated collar is merely made for the purpose of convenience in taking hold of the grip? A Yes. In the barrel device of the head as theirs is constructed it requires a keyway to assemble the head; ours has not got it.

Q (*By the Court.*) The Globe barrel has a keyway? A That is one difference; the Globe barrel has a keyway whereas the International barrel has no keyway.

50 Q I now hold in my hand of the Globe mechanism a circular piece of steel with a hole in it about two and a quarter inches, on the solid part of which, on the outer circumference of which there are ratchets, ratchet teeth, fifty in number, and also on one face of the solid part of which there are ratchet teeth, fifty in number. Do you have a similar device in yours? A Similar device in the International.

Q It performs the same function? A Performs the same function. I am now placing in the International device two keys which is for the purpose of holding the barrel in place; that performs the same function as the keyway and key in the Globe Ticket Company device.

Lemuel Titus, cross.

Q (*By the Court.*) The purpose is merely to hold in place? A Hold in place, yes, sir.

Q (*By the Court.*) The collar that is on the inside of the shaft containing five points or abutments is connected to the shaft by what is called the stud the same way as the Globe collar is connected? A Yes, sir. 10

Q I now hold a washer in my hand from the Globe Ticket Company head which goes— A Inside next to the barrel, that holds the barrel on the shaft.

Q Which goes inside of the barrel? A Yes.

Q Or over the shaft? A Over the shaft inside of the barrel

Q Over the shaft inside of the barrel? A Yes.

Q (*By the Court.*) And the purpose is to retain the barrel? A Retain the barrel on the shaft.

Q (*By Mr. Leake.*) Have you such a device on the International head? A We have no such device. 20

Q (*By the Court.*) The same purpose is achieved by the use of the two keys? A Yes.

Q I next have a retaining device which is the next part of the mechanism that goes on the main shaft through which there is a hole which the main shaft passes and on which there is a flange that has five raised abutments? A Five raised abutments.

Q At equal intervals around the circumference of the flange running from the cylinder that goes over the shaft to the outside edge of the cylinder that goes on the shaft to the circumference of the flange? A Yes. 30

Q (*By Mr. Leake.*) Now, you describe the difference between the Globe collar and the International collar. A The International collar goes halfway to the edge of the flange.

Q (*By the Court.*) The five abutments of the International go but halfway to the edge of the flange whereas in the Globe collar the abutments go to the outer edge of the flange and have midway between the cylinder and the outer edge of the flange a 32d-inch groove? A Yes.

Q (*By Mr. Leake.*) Now, is there an additional abutment on the flange of the International? A Yes, working on a spring. 40

The Court. There is an additional abutment.

Q (*By Mr. Leake.*) Additional abutment on the International, working on a spring on the International, there being no spring on the Globe.

The Court. The spring being attached to the opposite surface of the flange and extending half around the circumference of the flange. There is another difference also, is there not? 50

A The International flange has a recess cut in the circumference of the flange.

Q (*By the Court.*) The outer circumference of the flange near the spring abutment? A Yes.

Lemuel Titus, cross.

Q (*By Mr. Leake.*) What is the purpose of that recess circumference of the flange of the International which does not appear in the outer circumference of the Globe flange? A It permits the ten head to automatically change every five revolutions in printing alternate numbers.

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RECESS.

Q (*By the Court.*) Is there any device on the Globe head that does the same thing? A No, their heads only change once in ten times.

Q (*By the Court.*) What is the purpose of the abutment or plunger going through the outer circumference of the flange and attached to the spring? A That retaining pawl for the idle ratchet, on the Globe heads the idle ratchet is retained by the same mechanism as the barrel head is retained by.

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Q (*By Mr. Leake.*) How is the barrel head retained, by what? A My barrel head is retained by the inside abutments here and the idle ratchet is retained by the outside abutment. On the Globe head both the idle ratchet and the barrel head are retained by the same abutment, with the result that when your idle ratchet is moving it takes the locking device away from the barrel head at the same time, leaves your barrel head without any retaining device at all.

Q (*By Mr. Leake.*) What is the effect of that? A The effect is that you have to have, your springs on the Globe heads have to be at such a high tension that there is a constant wear on the numbering heads, requires to go in the machine shop every three weeks.

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Q (*By Mr. Leake.*) How often does that go to the machine shop, the International? A The International head probably had three hours' repair on it since it has been built, in four years. Do I make that clear to you? The collar with the abutments on is forced away from your barrel head every time your idle ratchet moves, and the head should not turn, that idle ratchet forces the collar away from the inside of the barrel head there and it has nothing retaining at all.

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The Court. No retaining force.

Q (*By Mr. Leake.*) Now, what is the next?

The Court. The differences appearing upon the collar referred to between the International and the Globe, do they serve any purpose except to prevent wear and tear?

A Well, yes, they retain this in position.

Q (*By the Court.*) The Globe retains it in position also? A Yes, they both retain it in position.

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Q (*By the Court.*) Does the difference affect the operation of the machine to any extent? A Only that it has the wear and tear on it.

Q (*By the Court.*) That is what I say, it affects nothing except the wear and tear? A Wear and tear.

Q (*By Mr. Leake.*) What about the recess on the International collar? Explain that; does that affect the operation of the machine

Lemuel Titus, cross.

differently? A Yes, that allows us to operate our International head in a different way than the Globe's head operates.

Q (*By the Court.*) That in conjunction with the pawl which you have not yet explained, the difference will appear in the pawl, is your improvement on the Globe head? A It is one of my improvements on the Globe head. 10

Q (*By the Court.*) It is really important improvement, isn't it? A No.

Q (*By the Court.*) It is a part of it? A It is a part of it. After the collar is on you can turn the idle ratchet on the International head and you can not turn the idle ratchet on the Globe head except by taking the wrench and ratcheting.

Q I hold in my hand a washer which is from the Globe head, that goes on after the collar just described, and have you a washer that goes on next? A Yes, we have a similar washer. 20

Q What is the purpose of the slot in the outside circumference of the washer of the Globe head? A To clear the retaining device on the Globe Ticket Company head.

Q (*By Mr. Leake.*) Have you a similar recess on the outside circumference of your washer? A We have not; we have no locking device.

Q (*By Mr. Leake.*) What is the purpose of the recess on the inside circumference of your washer? A To clear the key?

Q (*By the Court.*) On the outside of your collar? A To clear the key that the retaining device works on. 30

Q (*By Mr. Leake.*) On the Globe washer there is an abutment? A That is automatic locking device on the Globe head.

Q (*By Mr. Leake.*) It is automatic locking device? A Yes.

Q (*By Mr. Leake.*) Have you such device on the International washer? A We have not.

Q Is the washer last described on the Globe head held in place by two keys? A By two keys.

Q How is yours held? A Those two keys hold the inside washer; it is not held at all, it just simply goes over the shaft.

Q And what are these two pieces from the Globe head? A Those two keys hold the barrel into the shaft. 40

Q And how is yours held? A It is held by one key; they are not keys.

Q (*By Mr. Leake.*) The Globe key is in the shaft. What are those two things?

The Court. They are pins, aren't they?

A Segments for holding the barrel on the shaft.

Q Performed by a key in yours? A Performed by a key in ours.

Q The next piece of the Globe head is the pawl cage, which has a hole in the center through which the shaft passes and on the outer edge a portion of the cylinder that goes around the shaft is cut away, half of it? A Approximately half. 50

Q This was in yours? A We have more cut than what they have.

Lemuel Titus, cross.

Q How much more? A Well, enough to give the head an extra number, alternate number.

Q Now, next in order is a division in the pawl cage in which there are bars passing and on the outside of which there are several nuts. You have a similar construction there? A It is constructed in two
10 pieces, yes, nuts holding the two pieces together.

Q This cage also has five plungers that pass through it into the inner side of the cage? A All the way through; ours does not pass all the way through.

Q Aren't they visible on the outside? A Not on the outside, no.

Q But they pass through, in both cases they pass through so as to engage— A Retain the retaining device.

Q So as to retain the retaining device? A Yes.

Q Do yours perform the same function? A In a different way,
20 yes.

Q You have the five plungers? A We have the five plungers.

Q And they are loose? A They are loose.

Q And they are arranged in the same position? A Yes.

Q And do they retain you inside? A They retain inside.

Q Now, in those of the Globe, this cage of the Globe the outside is cylindrical and so made so as to fit over the ratchets that are on the shaft on the inside, is that not true? A Yes.

Q And that keeps the ratchet from view when the machine is assembled? A It is not done with the intention of keeping the ratchets
30 from view.

Q No, but it does? A Partly, yes.

Q And on yours the ratchets are visible? A The ratchets are visible, but that outside ring is put on there to allow a place to hold your actuating pawl.

Examined by Mr. Leake.

Q Will you explain the difference between the cage of the Globe and the cage of the International? A The International cage has five pins, each individual pin has an individual spring to keep the
40 plungers in contact with the retaining device; it only has one roller as an actuating roller.

Q How many has the Globe? A The Globe has two on the roller studs. The International stud or roller is placed outside of the printing diameter, the Globe head studs are placed inside of the printing diameter for the reason that placing them on the outside you use the greater speed to obtain your actuating movement; by placing your stud inside of the printing diameter you use the decrease of speed to get your actuating movement.

Q One being completely reverse of the other? A One being completely
50 reverse of the other. By placing it on the outside there is unlimited movement; by placing it on the inside you can only go to the center of your shaft as far as it is practicable to go, you can not go any closer to the shaft to get any more movement.

Lemuel Titus, cross.

Q Now, on the Globe cage there is a recess on the part which goes around the shaft; does that recess appear on the Globe? A No, it does not.

Q What is that recess for on the International? A That is to allow space for inserting a pin; I will explain that later. The pawls are constructed different. 10

Q In what respect? A Well, we have a lug on the International pawl which permits us to change our head either in five revolutions or ten revolutions.

Q Is that on the Globe? A No.

Q Can they change their head either in five or ten? A No, they have to change it in ten revolutions.

Examined by Mr. Ashmead.

Q The next I have is a washer from the Globe head; what is the function of that? A The contact of the outside of that five plunger pin. 20

Q Have you such a washer on the International? A Have no such washer.

Q What is the purpose? A The purpose is to allow it to give a spring pressure against the pin.

Q Next comes a spiral spring on the Globe head? A Yes.

Q Have you the same mechanism? A Not for the same purpose; don't perform the same function at all.

Q Have you a similar spring that comes next? A Next, to perform a different function. 30

Q (*By Mr. Leake.*) What function? A On the Globe head the spring performs a function of retaining the barrel head and idle ratchet.

Q What does that function perform on your head? A By five separate individual springs.

Q (*By Mr. Leake.*) What is the spring which corresponds apparently in size but not in length with the Globe spring, what is that spring used for on yours? A Similar spring on the International head is used as return spring for the pawl cage. 40

Q (*By Mr. Leake.*) Does the spring in the International fit in any part of the pawl cage of the Globe? A It does not.

Q (*By Mr. Leake.*) Now, what are you putting on? A I am now putting on the last outside collar which is held on by a tapered pin.

Q Is there a similar outside collar on the Globe head? A Similar outside collar on the Globe head.

Q And held on by a pin? A Tapered pin.

Q (*By Mr. Leake.*) Except on the Globe head collar there is what? A An additional spring holder? 50

Q Which performs what functions? A Which performs the function of returning the pawl cage.

Q Which is performed by the spring in the International head that you previously mentioned? A Yes.

Q (*By Mr. Leake.*) Does your spring fit in the last outside collar in the International on each side? A On each side.

Lemuel Titus, cross.

Q (*By Mr. Leake.*) Does the spring on either side fit in the outside collar of the Globe? A Neither side.

Q They have an additional spring which does attach to both inside and outside and perform the same function? A They have additional spring, yes.

10 Q I now show you from the Globe head another spiral spring smaller in size; do you have that on your device; a similar spring in the International head that goes around the stud that runs through from the outside of the head to the inside collar on which there is the abutments? A Yes.

Q Performs the same function? A Performs the same function.

Q Next comes the knob which fits on end, the purpose of which is to retain the whole apparatus, is that right? A Yes.

20 Q To retain what? A It connects with the inside collar with the five abutments.

Q Is there any difference in the head of the International or the Globe head except that which is made necessary by applying the power to the front rather than the back of the stud? A There is quite a few different appliances on it, I should say.

Q (*Question read.*) A Yes.

Q What? A The idle ratchet is retained in it, and another different method, the retaining pins or plungers get their power from an entirely different method of spring appliances, throw off of the pawl, when your head is running idle is different.

30 Q (*By Mr. Leake.*) All these other things that you have just been testifying about are different, aren't they? A They are all different.

Q Weren't some of the things about which you testified differences of construction in order to apply the power from the front instead of the back? A Some are and some are not.

Q Do you know whether or not there is a head like the International in use in any other factory? A I don't know.

Q Do you know whether there is any head like the Globe that is in use in any other factory? A I don't know.

40 Q You don't know of any place where it is in use? A I don't know of any place.

Q (*By Mr. Leake.*) On the outside of the last collar on the International head and through the collar is a hole for inserting a pin. Is there any such hole for inserting a pin on the Globe? A There is not.

Q (*By Mr. Leake.*) What is the effect of taking the pin out of the last collar on the International? A It allows your pawl cage to move a distance equal to two feet on your numbering head.

50 Q (*By Mr. Leake.*) Can that be done on the Globe? A It can not.

Q (*By Mr. Leake.*) What is the effect of that ability to move two teeth on the International as compared with moving one tooth on the Globe in the printing of your tickets? A It allows you to change your head alternately in one movement of your pawl cage and change on one ticket of your printing.

Lemuel Titus, cross.

Q (*By Mr. Leake.*) Can that be done on the Globe? A It can not be done.

Q (*By the Court.*) How is it if at all done by the Globe machine? A It is done with two movements on the Globe head which require a space equal to two tickets, three inches.

Q (*By the Court.*) That is what occasions the loss of one ticket, is that right? A Yes, sir. 10

Q One ticket out of ninety-six set of numbers? A And one out of forty-eight and one out of twenty-four.

Q Is there any part similar to this head in any one of the exhibits shown you yesterday while on the stand? A Yes, the exhibits shown me on the stand and all other numbering head machines, registers, are actuated by a pawl engaged in ratchet teeth.

Q That is the only similar part, is it? A Yes, that is the only similarity. 20

Examined by Mr. Leake.

Q Isn't there also a similarity between those heads, the International and these other numbering heads that were exhibited to you on the stand in the depression of teeth on ratchets? A All numbering heads have tenth tooth cut deeper than the others to allow your pawls to engage in the second series of numbers.

Q How long has that principle been in common use in the printing trade for successive numbering to your personal knowledge? A I have never known of any other device ever used for numbering. 30

Q And how long have you personally known of that device being used for successive numbering head? A Twenty or twenty-one years, since I started.

Q (*By Mr. Ashmead.*) If you attach any one of those devices shown you yesterday on rotary press can they accomplish the same result as this device, any one of those devices shown you yesterday? A On rotary press? I would have to use similar mechanism.

Q (*By Mr. Ashmead.*) To what? A To make any kind of a rotary numbering head or any kind of a numbering head.

Q (Question read.) A No, they are for different numbers, different class of numbers. 40

Q The largest head that was shown you yesterday, and I think called Hoole head, is that head used on a rotary printing press? A No, it is used on a flat press.

Q (*By the Court.*) For successive numbering? A For successive numbering.

Q Have you in your plant a rotary press which successively numbers a certain number of sheets for daily calendars? A Yes.

Q From whom was that machine acquired? 50

Mr. Ashmead. I would like to have that cross examination in the other room because it is about facts that I am not personally familiar with.

Lemuel Titus, cross.

A These changes on this head may seem trifling and insignificant. There is only a few seconds gained in each operation, but in printing a theater these heads have to be reset possible five hundred or six hundred times.

10 Q Which head? A Any rotary heads that are not continuous, numbering heads that are only semi-continuous, they go to the end of the row and have to be reset for the next row. I will show you a plan here that demonstrates how often these heads have to be stopped and reset. In printing this theater, Castle Square Theater, Boston, Massachusetts, in printing your orchestra the evenings you run A to G; now, you will start and set your head at left A 1; you work automatic to left A 9; then you have to stop your press and change it by hand to B 1. On the Globe's head they have to ratchet in; on that operation of the ratchet they head nine times or count
20 nine times and start in, while our heads all that is required owing to our idle ratchet being retained by different spring it allows you to change it around here the way you want to set it. Their head you have got to ratchet around, and by ratcheting around means moving the pawl cage that carries the ratchet or carries the pawl.

Q (*By the Court.*) Whereas in your head you merely move the idle ratchet? A Yes.

30 Q (*By the Court.*) The purpose of the ratcheting on the Globe head is to move the idle ratchet, isn't it? A Move the idle ratchet into the desired position so that the ten head may operate at the proper time. Now, on this theater there are alternate numbers on the left and on right. When you come to your left you run as far as row G; you have to stop your machine and on the Globe heads remove an extra knocker so she can run consecutive numbers.

Q Do you have to do that on the International? A On the International never change knocker, use one knocker for alternate and consecutive numbers, that is one color for part of the orchestra, three different colors and prices on orchestra alone. That means that extra knocker has to be removed and attached three different times for the
40 orchestra.

New Jersey Court of Errors and Appeals.

Between

GLOBE TICKET COMPANY,
Complainant-Appellant,

AND

INTERNATIONAL TICKET COM-
PANY, *et al.*,
Defendants-Respondents.

On Bill, etc.
On Appeal from
Chancery.

Complainant Appellants BRIEF FOR ~~DEFENDANTS-RESPONDENTS.~~

The complainant since its organization in 1891 has been engaged in the manufacture and printing of tickets of all kinds. From the date of its organization it has continuously spent large sums of money in developing new devices for use in connection with its business (Case, p. 16).

In 1899 Mr. Henkle, one of the largest stockholders of the company, and Mr. Teal, an employee, developed a barrel numbering head, which when used in connection with a rotary press permitted the printing and numbering of tickets in one operation and increased production enormously (Case, p. 16, lines 38-55; p. 17, lines 5-12; p. 24, lines 29-39; p. 58, lines 9-13). By its use the row and seat number could be printed on theatre tickets for a period of sixteen weeks in one operation simultaneously with the printing of the remainder of the

tickets (Case, p. 25, lines 8-11). Prior to this invention coupon tickets were numbered by regular book page numbering heads which were not susceptible of any speed (Case, p. 16, lines 41-46). The idea was to devise a special head to increase the production (Case, p. 16, lines 40-46). It is admitted that the device developed by the complainant was a decided improvement on anything else in use for the purpose and that it is of very great value (Case, p. 58, lines 20-22; p. 65, lines 5-6).

Every precaution has been taken by the complainant to keep the device secret. The success of complainant's efforts in this respect is evidenced by the fact that after a period of eighteen years the device in question is in use in no other place except at the plant of the complainant and that of the defendant (Case, p. 125, lines 13-18; p. 57, lines 34-37), who clandestinely acquired its knowledge thereof from the defendant Titus, a former trusted employee of the complainant.

Titus was first employed by the complainant in 1896 as an apprentice boy, and in the course of a few years became a journeyman and expert technical repair and construction man (Case, p. 108, lines 13-19). The complainant, imposing confidence in his integrity and fidelity, in the course of his employment and as a part of his duties permitted him to go through its plant and become acquainted with and have full access to its machinery on which were its secret mechanical devices and of necessity trusted him and gave him access to its drawings, blue prints and plans of such devices (Case, p. 27, lines 33-39). He had full knowledge of the secrecy of such devices. He was fully aware of all the precautions taken by the complainant to maintain this secrecy. His knowledge is directly evidenced by the fact that Mr. Scott, who succeeded Titus as master mechanic and repair man and who received his instructions from

Titus, testified that when he received instructions in reference to the device in question, Titus expressly advised him that he was to keep these devices carefully guarded (Case, p. 22, lines 52-55; p. 23, lines 5-10; p. 29, lines 49-55; p. 30, lines 11-14).

On or about March 7, 1913, Titus notified the complainant that he was about to leave its employ, and he thereupon immediately entered into the employ of the Sun Ticket Company, a corporation of the State of Rhode Island (Case, p. 111, lines 51-54). He was employed by Mr. Manshel, General Manager, Treasurer and sole owner of that company, for the very purpose of building for the Sun Ticket Company a barrel numbering head similar to that of the complainant (Case, p. 111, lines 42-50). Immediately upon his employment Titus proceeded to construct for the Sun Ticket Company such a barrel numbering head (Case, p. 111, lines 42-46) and upon its completion the Sun Ticket Company began to use it in competition with the complainant and both Titus and the Sun Ticket Company offered the device for sale to other competitors (Case, p. 112, lines 50-51; p. 114, lines 16-41; p. 127, lines 25-32; Exhibits B, C, D, E and C 4, January 25 (Case, pp. 137-139).

On February 1st, 1917, Mr. Manshel and his associates incorporated the International Ticket Company and took over the business of the Sun Ticket Company, the Manshel Machine Company, a corporation of Rhode Island, and the Rockwell Printing Company, a corporation of New York (Case, p. 118, lines 21-22; p. 123, lines 47-55). At the time of this consolidation Mr. Manshel was the General Manager, Treasurer and sole owner of the Sun Ticket Company, and President, Treasurer and principal stockholder of the Manshel Machine Company, and Mr. Constantine Pope, one of Manshel's associates and a former Vice-President and stock-

holder of the complainant, was a Director and principal stockholder of the Rockwell Printing Company (Case, p. 120, lines 29-34; p. 123, lines 50-51; p. 127, line 55; p. 128, lines 5-6). The International Ticket Company assumed all the liabilities of the several companies entering into the consolidation (Case, p. 124, lines 29-34).

Upon the organization of the International Ticket Company Mr. Titus discontinued his connection with the Sun Ticket Company and entered the employ of the International Ticket Company and has ever since been engaged in the construction and repair for it of barrel numbering heads similar to those of the complainant, which it has constantly used in competition with the complainant.

The complainant prayed for an injunction and accounting against both Titus and the International Ticket Company, but the court below, holding that the complainant had been guilty of acquiescence and laches, dismissed the bill and allowed the defendant a counsel fee of \$350. (Case, p. 145, lines 22-25).

The complainant appeals from the whole decree and urges that both an injunction and accounting should be granted to it against both Lemuel Titus and the International Ticket Company in accordance with the prayer of its bill of complaint.

I.**The device was secret.**

As previously stated, the device in question was designed in 1899 by Mr. Henkle, one of the largest stockholders of the complainant, and Mr. Teal, an employee. It was a very great improvement over any numbering device then in use anywhere. It increased production enormously (Case, p. 16, lines 38-55; p. 17, lines 5-12; p. 24, lines 29-39; p. 58, lines 9-13; p. 18, lines 36-40; p. 37, lines 31-38; p. 77, lines 39-41). Nothing like it was known in the trade prior to its use by the Globe Ticket Company (Case, p. 17, lines 11-12).

There is nothing in the defendant's contention that because complainant in the construction of the device in question made use of the ratchet and pawl principle the device could not for the reason constitute a secret device.

As was held in *Eastman Co. v. Reichenbach*, 20 N. Y. Supp. 110:

“Where chemists unite agencies the particular properties of each of which, apart, are well understood, but the combination results in producing something not previously known, which has a new or superior use, it is an invention to which as a trade secret, a proprietary right may attach.”

In the case of *Vulcan Detinning Co. v. American Can Co.*, 70 N. J. Eq. 588, a similar contention was made without success. The Court of Chancery, in opening its opinion, said:

“The evidence in this cause shows that the firm of ‘Th. Goldschmidt’ of Essen, Germany, had, prior to 1894, as the result of experiments pursued for that purpose, so perfected a process by which *well known chemical and mechanical principles* could be so applied in the

separation and recovery of different metals as to render the detinning of tin scrap profitable to a degree not theretofore attained."

Also, in *Stone v. Grasselli Chemical Co.*, 65 N. J. Eq. 756, 760, the court said:

"The ingredients used in the manufacture of Stone's depilatories were well known and had been used for that purpose for years before the XXX and XXXX were put upon the market, and the same ingredients were used by the Grasselli Chemical Company in the manufacture of a depilatory. It is urged that the only advantage possessed by the complainants arose out of skill in handling and not out of a secret process, and that there was no secret either in the ingredients, or in the method of compounding them. The complainants combined the ingredients by a different method from any other in use and the result was a product of a different character. The complainant's process of manufacture was considerably more complicated than that of the Grasselli Chemical Company. The secret consisted in a knowledge of the proper method of mixing the ingredients and treating them in order to produce a product of proper consistency.

"The difference between mere skill in manipulation and a process of manufacture is illustrated by a recent case in the United States Supreme court. *Carnegie Steel Co. v. Cambria Iron Co.* 185 U. S. 403. In this case the process which was held patentable consisted in retaining a quantity of molten iron in a reservoir to serve as a basis for mixing the varying products of the blast furnaces preparatory to converting the same into steel. The difficulty to be overcome was a lack of uniformity in the molten metal. The use of a reservoir in which the varying products of the blast furnaces had been mixed was known prior to the patent involved in that case, but the importance of always maintaining in the reservoir a sufficient quantity of molten metal to 'dominate', to use the court's expression, the whole mass, had not before been appreciated. The majority of

the court held that the process was therefore patentable. There the ingredients were the same, the idea of mixing molten metal of different qualities was not new, and the only novelty was the retention in the reservoir of a 'dominant mass' sufficiently large to control the average character of the product from time to time. If such an improvement was patentable, it is clear that a process of treating the ingredients, as complicated as that involved in the present case, resulting in a product of novel character, is a process which, if kept secret, is entitled to the protection of the court."

For a great many years the complainant had its own machine shop where all of its machines were built (Case, p. 57, lines 10-14). The machine shop was on the top floor of the building, the only means of entrance to which was through the general offices (Case, p. 58, lines 26-28). The door of the factory was always kept locked, and instructions were given that complainant's methods were confidential and every safeguard possible was thrown around the confidential character and secrecy of the company's business (Case, p. 58, lines 29-32).

The company moved to its present location on 12th Street in Philadelphia in 1900 (Case, p. 58, lines 35-37). The doors, both front and back, of the new factory building were kept locked, and only the superintendent and officers had master keys that would admit them to any part of the factory (Case, p. 58, lines 37-40). This method was continued until the fire marshal compelled complainant to change by forbidding the doors to be kept locked (Case, p. 58, lines 44-47). From this time on a person on each floor was delegated to look out for strangers (Case, p. 58, lines 49-51).

The drawings and blueprints were kept under lock and key (Case, p. 59, lines 45-47; p. 23, lines 27-29; p. 78, lines 8-15). No employee had access to them except the foreman (Case, p. 59, lines 48-

49; p. 23, lines 34-35). A portion of the blueprints was cut out so as not to show how the device was put together (Case, p. 78, lines 20-30). In later years, when new machines were constructed, a part of one machine was sent to one place and another part to another place to be made, but always assembled in the shop of the company in order that no one should get knowledge of the design of the complete machine (Case, p. 59, lines 31-35; p. 77, lines 44-47; p. 78, lines 22-26). No one was allowed to examine the mechanism of the secret device in question (Case, p. 59, lines 14-15; p. 23, lines 9-10; p. 48, lines 14-20). No employees from other floors were allowed on the fourth floor where the mechanism was operated (Case, p. 59, lines 23-26; p. 54, lines 32-37). When the secret devices in question were cleaned they were taken to a cage and only particular persons were permitted to clean them, and they were kept under lock and key while there (Case, p. 46, lines 28-33; p. 47, lines 29-31; p. 23, lines 19-21). When not in use on the machines the devices in question were always stored in a vault under lock and key (Case, p. 77, lines 52, 53; p. 23, lines 14-19). When employees worked overtime they were required to have a pass (Case, p. 89, line 15). No one was permitted in the factory on Sundays without a pass (Case, p. 89, line 14). It was always indicated that the whole business of the complainant was to be kept secret (Case, p. 32, line 55; p. 33, lines 5-6).

Only certain employees were permitted to work on the machines repairing them (Case, p. 23, lines 40-46; p. 48, lines 14-20). During the whole period from 1899 to date the only persons who have had this privilege were Teal, who helped to design them, Hood, a former machinist, Walton, a former machinist, Titus the defendant, Scott, the present machinist, and Yates, his present assistant (Case, p. 23, lines 44-46). Teal and Hood are dead, and

Walton is no longer with the company (Case, p. 18, line 50; p. 23, line 48; lines 51-53).

Yates, the present foreman machinist and repairman, testified that he worked ten years in the shop before he was allowed to work on the device in question (Case, p. 77, lines 18-20 and 30). Mahr-gang testified he worked for complainant for several years before he was permitted to operate it (Case, p. 47, lines 44-48).

Mr. Titus was not permitted to work upon the device in question until after Walton, the previous foreman and repairman, left the company's employ in 1912 (Case, p. 78, lines 48-52; p. 69, lines 20-21). All the other employees working during the same period knew the device was secret (Case, p. 23, lines 7-39; p. 77, lines 42-55; p. 78, lines 5-30; p. 55, lines 34-38, 42-44). If there were no other evidence in the case it would be inconceivable that Titus under such circumstances did not know that the device was secret. We have, however, the express testimony of Mr. Scott, the present machinist, who received his instructions from Mr. Titus, showing that Titus had actual knowledge of the secrecy maintained by the complainant with respect to the particular device in question.

Mr. Scott testified as follows (Case, p. 22, lines 52-55; p. 23, lines 5-10):

"Q. What were your instructions with reference to that when you were given access to that device?

"A. That we were to keep these carefully guarded.

"Q. Who told you that?

"A. Both Mr. Hood, Mr. Walton and Mr. Titus.

"Q. Mr. Titus told you what?

"A. That any time we should take a head out we should cover it up as we took it down to the shop.

"Q. Anything further?

"A. That we should be careful not to let anybody see it."

And again (Case, p. 30, lines 11-14) :

“Q. From whom did you first learn that you must keep that secret? I think this has been asked before, but I want to repeat it again.

“A. Both from Mr. Walter Walton and Mr. Titus.

“Q. By the Court (Case, p. 29, lines 49-55) : Did he (Mr. Titus) say anything to you that would indicate that he knew they should be kept secret?

“A. Yes; one time, if we didn't put a rag around there when we took any numbering heads down we were liable to be discharged for it.

“Q. Did he speak to you about that?

“A. Oh, yes.”

Mr. Hering, President of the company, testified that the policy of the company has always been that “a padlock was better than a patent” (Case, p. 17, lines 21-34). On one occasion he stated that the machinery was run like every other machinery—in the open (Case, p. 21, lines 9-10). The defendant's attorney claims that this statement of Mr. Hering indicates that no effort was made to maintain secrecy. The answer was called to Mr. Hering's attention, and he stated that he misunderstood the question when he gave the answer (Case, p. 91, lines 35-43). This is obvious, as the answer is contrary to all his other evidence. At page 17, lines 34-41 he said :

“We have to trust our employees, those that are directly connected with that work, but otherwise anybody getting into the establishment, must have a pass, for the doors have been locked until the fire department objected to that; and we surround ourselves with every possible—well, we guard ourselves in every possible way to prevent anybody from seeing any of our machinery or getting into our place, seeing our machinery, the system, or anything else.”

And again (Case, p. 91, lines 42-43; p. 17, lines 32-33):

“We always surrounded everything, as I said before, with secrecy, to the best of our ability. * * * The whole idea of the establishment was secrecy.”

All of the witnesses admitted that from the appearance of the machine no one could discover its internal mechanism (Case, p. 24, lines 6-7; p. 48, lines 5-6; p. 85, lines 5-11). This fact is also perfectly evident to the court as well as to anybody else who sees the mechanism. That the methods employed by the complainant to keep the device secret were entirely successful, is evidenced by the fact that the mechanism is not in use in any other place except in the complainant's and defendant's factories, the latter admittedly having gotten it from Titus (Case, p. 125, lines 13-18; p. 111, lines 43-50).

In this connection we wish to call the court's attention to the remarks of the court in *Eastman Co. v. Reichenbach*, 20 N. Y. Supp. 110, 112:

“It would be useless to indulge in further expenditure of time upon a proposition so self-evident, and it must be assumed, therefore, that the plaintiff is, and was at the time defendants were in its employ, the owner of inventions, discoveries and secrets, which were its own special property, and to which great value attached. That these inventions or discoveries were (some of them at least) made by two of the defendants is, as has just been shown, also a conceded fact, and that these same defendants possessed knowledge as to all of them, which was regarded as confidential in its nature, is abundantly established by the evidence in the case. As illustrative of this proposition may be cited those portions of the testimony which show the care and pains which were taken by the defendants to conceal from a curious public, and even from the knowledge of

their co-employees, the several processes employed to obtain certain results. Again, men employed in one department were not allowed to go into another department. Ingredients employed in compounding certain mixtures were guarded by lock and key, and the various formulæ were only given to those whose business it was to use them. It would be absurd to claim that defendants could have been conscious of the precautions thus taken to hedge in the plaintiff's business affairs without understanding very clearly the meaning of it all, and on conclusion, consistent with sound reason, can be indulged in, other than that which is contended for by the plaintiff, viz., that it was the possessor of certain valuable trade secrets, which were confidentially known by or disclosed to the defendants Reichenbach and Passevant."

II.

Defendant holds the secret process subject to complainant's equities therein.

While Titus was still in the employ of the complainant he had an interview with Manshel of the Sun Ticket Company. When he returned he told Scott and Mahrgang that he had been down to the Sun Ticket Company and they had made him an offer and that he was going to put them in the coupon ticket business and "if successful" that he would get a thousand dollars in stock (Case, p. 28, lines 27-31; p. 48, lines 34-39).

Prior to leaving, Titus was very active about the complainant's plant making measurements (Case, p. 27, lines 44-49; p. 48, lines 27-34). When he left he said he had enough data, and was going to get a draftsman, and he thought he could give him

enough information so that he would be able to proceed all right (Case, p. 29, lines 30-33). Subsequently he sent for additional information (Case, p. 29, lines 23-27; p. 49, lines 22-26).

The fact that Titus did not carry away written records of the complainant is of no consequence. The good faith which exists between an employer and those in his employ renders it illegal, even in the absence of any stipulation to the contrary, for the person so employed to use or disclose any knowledge or information as to the secret processes of his employer acquired by him during his employment. This principle applies to information acquired and retained in the servant's memory, as well as to information committed in writing and existing in a tangible form. *Amber Size & Chemical Co. Ltd. v. Menzol*, (1913) 2 Ch. Div. p. 239.

Titus admitted that he got the idea from the Globe Ticket Company (Case, p. 101, lines 5-12). He knew that they had used the machine since 1899, and it was in use in no other place. At the trial the devices of both complainant and defendant were disassembled and compared, part by part, in the presence of the court. The testimony was taken in camera and may be found in Book 1 of the State of Case, pages 79-84, and in Book 2 of the State of Case. Upon the similarity between the devices, the court below found:

“While it is somewhat different in its construction and operation than the device used by complainant, the basic idea is the same. It is an improvement upon the device of complainant, but not so different in construction and operation as to make it a new device. It is conceded by Titus that if he had not had the information acquired at the Globe Company's plant he would never have thought of what he calls his own device. In this respect this case is within *Stone v. Grasselli Chemical Co.*, 65 N. J. E. 756” (Case, p. 141, lines 44-51).

The fact that Titus developed some alleged improvements does not alter complainant's right to relief against him. As found by the court below, the legal principle involved in such cases is in fact the same as is applied by courts of equity to cases of fraudulent intermixture of goods. *Stone v. Grasselli Chemical Co.*, 65 N. J. Eq. 756, 762 (Case, p. 141, line 50).

At the time Titus was employed by the Sun Ticket Company Mr. Manshel was General Manager, Treasurer, and sole owner of that company (Case, p. 120, lines 27-34). He was an experienced inventor and had been engaged in the ticket printing business for years (Case, p. 121, lines 17-20). He was aware of the inefficient methods of numbering tickets then in use, and had for a number of years endeavored to develop a device that would permit the printing and numbering of tickets in one operation, but had never succeeded in hitting upon anything similar to complainant's device (Case, p. 122, lines 5-20). He was well acquainted with the Globe Ticket Company and with the character and extent of its business (Case, p. 122, lines 22 and 23; 31-33). He knew Titus was employed by the Globe Ticket Company, and familiar with its machines (Case, p. 122, lines 50-55; p. 123, lines 5-10). Titus, at that time thirty-three years of age, represented to Manshel that he had had seventeen years' experience with the Globe Ticket Company (Case, p. 110, lines 11-12). The court below found that Titus's experience with the barrel numbering head was undoubtedly discussed (Case, p. 141, lines 20-21). Manshel "put up to him" the matter of constructing a barrel head similar to the complainant's immediately upon his employment. Manshel so testified (Case, p. 123, lines 32-35). Titus testified that that was the very thing he was employed to do (Case, p. 111, lines 49-50).

During the time Titus was constructing the device for the Sun Ticket Company, he communicated with Scott and Mahrgang, two of complainant's employees, requesting information and sample parts of complainant's device (Case, p. 49, lines 22-25; p. 29, lines 24-26). Immediately upon the completion of that device Titus and Manshel opened up negotiations with several of complainant's employees and induced some of them to leave the complainant's employ and enter the employ of the Sun Ticket Company as operators of the device in question (Case, p. 30, lines 51-55; p. 31, lines 12-17). Titus told Mahrgang to stay at the complainant's plant and keep his eyes open and get as much information and learn as much about the business as he could; that he (Titus) would send for him later (Case, p. 50, lines 24-30). Manshel came to see Mahrgang personally and told him he had gotten another employee of the complainant to come and he would like to have Mahrgang come to this company as an operator (Case, p. 50, lines 7-11). He told Mahrgang of the arrangement he made with Titus. The testimony is as follows:

"Q. Did he say anything to you about the arrangement he had made with Titus?

"A. Yes, he says, 'Well, you know,' he says, 'Titus come down there just through word that he would receive,' I can't say positively whether it was a thousand dollars in cash or stock, 'if he would build this machine' and he says, 'If you come down there and make good you might get something along that line or we might do something for you'" (Case, p. 50, lines 13-20).

Mr. Manshel well knew that no similar device could be obtained in the market. He admits that up to that time he had never seen, and has never since seen, any barrel head numbering device similar to the one in question other than that of the

Globe Ticket Company exhibited in court, and the Sun Ticket Company barrel head built by Titus (Case, p. 125, lines 13-18).

To contend that under these circumstances it was not chargeable with knowledge of complainant's equity is not credible or in conformity with knowledge, observation and experience.

The International Ticket Company stands in no different position. While a new company, it was a consolidation of the business of the Sun Ticket Company, the Rockwell Printing Company and the Manshel Machine Company.

At the trial Mr. Manshel testified that the stockholders of these respective companies had received stock in the International Ticket Company in exchange for their stock, and that the International Ticket Company assumed all the liabilities of the several companies, including those of the Sun Ticket Company (Case, p. 124, lines 22-34).

After the decision of the Vice-Chancellor it was suggested that the transaction was carried out through Augustine B. Brett, who had been authorized by the Sun Ticket Company, the Rockwell Printing Company and the Manshel Machine Company to make an offer to the International Ticket Company, organized by Mr. Manshel and Mr. Pope to take over the business of the three companies named. The resolutions of the stockholders and board of directors of the International Ticket Company accepting the offer were presented to the Vice-Chancellor, and he suggested that they be made a part of the State of Case, which has been done (Addenda, ^{Book III} Case, pp. I). The formal bills of sale have ^{also been} printed in the State of Case (Addenda, ^{Book III} Case, pp. 2-5).

Even if the transaction were carried out according to these resolutions and bills of sale, the fact remains as testified to by Mr. Manshel that the International Ticket Company paid and assumed

all of the liabilities of the Sun Ticket Company, the Rockwell Printing Company and the Manshel Machine Company. And it is admitted that all of the shareholders of these companies who became shareholders of the International Ticket Company received stock of the International Ticket Company in consideration of their interests in the three companies respectively (Case, p. 124, lines 19-28).

As was held in *Schutte v. Florida Central R. R. Co.*, 3 Woods 692, if an association of persons owning property subject to equitable claims obtains an act of incorporation the property will remain subject to these claims after it is vested in the corporate name; and if the company should afterwards consolidate with another corporation the consolidated company will take the property subject to the same equities.

In this connection it should also be observed that at the time of the consolidation Mr. Manshel was general manager, treasurer and sole owner of the Sun Ticket Company (Case, p. 120, lines 24-34); he was president, treasurer and principal stockholder of the Manshel Machine Company (Case, p. 123, lines 47-53); he had actual knowledge of the secrecy of the complainant's device and was the person who had induced Titus to divulge it to the Sun Ticket Company. Mr. Pope had formerly been vice-president and general manager of the complainant company and had actual knowledge of all of its secret devices. He had been discharged by the complainant because of his "treasonable conduct toward it" (Case, p. 62, lines 54-55). Soon after leaving the complainant he became associated with Mr. Manshel in the organization of the International Ticket Company (Case, p. 123, lines 54-55; p. 128, lines 8-12). At this time he was a stockholder and director of the Rockwell Printing Company (Case, p. 127, lines 54-55; p. 128, lines 5-8). Upon its organization he became

chairman of the board of directors of the International Ticket Company and Mr. Manshel became its president and general manager (Case, p. 128, line 10; p. 66, lines 27-28).

It is admitted that the device at this time was in use in no other place than at the plant of the complainant and that of the Sun Ticket Company. Even though Manshel, Pope and the other directors of the International Ticket Company had had no prior actual knowledge of complainant's rights in the device in question they would in seeking in behalf of the International Ticket Company to acquire a practical knowledge of the construction and working details of such device inevitably have become advised of the secrecy of the process and the care with which its secrecy was preserved.

In acquiring property either real or personal the law imposes upon the purchaser a duty to inquire into the validity of the seller's title at his peril and all reasonable men do in fact make careful inquiry. It should be observed that the device in question was not an ordinary chattel, but one to which no one could have had title who had not personally considerable inventive ability, or who had not obtained it from some one with such ability. In making any reasonable inquiry as to the title of the International Ticket Company, they would have found that the defendant's device had been constructed by Titus, a former employee of the complainant, who admittedly would never have thought of it except from his knowledge obtained while confidentially employed by the complainant. They would have found that a similar device was used in only two places in the world, in both of which its secret construction was kept sedulously guarded. They would have found that the process originated with complainant and had been used by it for fourteen years prior to its use by the Sun Ticket Company. It would have found that Manshel had

spent 20 years in attempting to perfect a device which would accomplish the same purpose, but had never succeeded, and that he had employed Titus for the very purpose of constructing a device similar to that of complainant's. They would have found that after Titus had completed the device for the Sun Ticket Company, the company enticed away former experienced employees of the complainant to operate it. We submit that the testimony admits of no other rational conclusion than that the International Ticket Company either had actual knowledge of the complainant's equities or obtained the device in question under circumstances that put its agents acting for it in the acquisition of the device upon inquiry of facts which by irresistible weight of probability charges that corporation with knowledge of complainant's equities.

III.

The complainant has not lost its remedy by either acquiescence or laches.

The defenses of laches and acquiescence are cognate but not correlative. While they are often used as similar in meaning, the distinction in their import is both great and important. Laches expresses a merely passive, while acquiescence implies active assent. As was said by Lord Justice Thesiger in *De Bussche v. Alt*, 8 Chan. Div. 286, 314:

"The term 'acquiescence' which has been applied to his (plaintiff's) conduct, is one which was said by Lord Cottenham in *Duke of Leeds v. Earl Amherst* ought not to be used; in other words, it does not accurately express any known legal defense, but if used at all it must have attached to it a very different signification, according to whether the acquiescence

alleged occurs while the act acquiesced in is in progress or only after it has been completed. If a person having a right, and seeing another person about to commit, or in the course of committing an act infringing upon that right, stands by in such manner as really to induce the person committing the act, and who might otherwise have abstained from it, to believe that he assents to its being committed, he cannot afterwards be heard to complain of the act. This, as Lord Cottenham said in the case already cited, is the proper sense of the term 'acquiescence', and in that sense may be defined as quiescence under such circumstances as that assent may be reasonably inferred from it, and is no more than an instance of the law of estoppel by words or conduct. *But when once the act is completed without any knowledge or assent upon the part of the person whose right is infringed, the matter is to be determined on very different legal considerations. A right of action has then vested in him which, at all events as a general rule, cannot be divested without accord and satisfaction, or release under seal. Mere submission to the injury for any time short of the period limited by statute for the enforcement of the right of action cannot take away such right, although under the name of laches it may afford a ground for refusing relief under some particular circumstances; and it is clear that even an express promise by the person injured that he would not take any legal proceedings to redress the injury done to him could not by itself constitute a bar to such proceedings, for the promise would be without consideration, and therefore not binding."*

Mr. Titus left the employ of the complainant in March, 1913 (Case, p. 111, lines 51-52). The mere fact that while in the employ of the defendant he had obtained knowledge of the mechanism of its secret devices did not charge the complainant with knowledge that he would divulge these processes. On the contrary, the complainant had the right to

assume that he would not do an illegal thing, but would hold all the information he received in trust from it inviolate. The device constructed by him for the Sun Ticket Company was not completed until the Fall of 1913 (Case, p. 112, lines 50-51) and not actually used by the Sun Ticket Company until some time in 1914 (Case, p. 121, lines 52-54), of which completion and use the complainant had absolutely no actual knowledge until August 20, 1917 (Case, p. 61, lines 9-11). From the testimony it appeared that soon after Mr. Titus left complainant's employ he sent to Mr. Scott for certain information concerning the machines of the complainant, but Mr. Scott did not mention or divulge this fact to any officers of the complainant (Case, p. 29, lines 23-27; p. 31, lines 27-28).

Mr. Mahrgang also testified that Mr. Titus soon after he left the employ of the complainant sent to him for certain information which he furnished, but he never mentioned this fact to any officers of the complainant (Case, p. 49, lines 22-26). Later, in the year 1914, Mahrgang told the superintendent and Mr. Pope, general manager of the complainant, that the Sun Ticket Company had a 48-set press, and that Manshel wanted him to go up and operate it (Case, p. 52, lines 5-24; lines 48-51). It appears, however, that the device in question does not in any way form an essential part of a 48-set printing press, but that such presses are rotary presses of a kind in common use and entirely complete without any numbering head (Case, p. 26, lines 32-34; p. 85, lines 42-44).

Mr. Keen, Secretary of the complainant, testified that some time in 1914 he had become advised that the Sun Ticket Company was printing coupon tickets. It was claimed by the court below that from observation of these tickets an experienced manufacturer of tickets could tell that they were numbered by a numbering head, and the court sus-

tained the claim notwithstanding all the evidence was to the contrary.

Titus himself frankly admitted that this could not be done. His testimony is as follows (Case, p. 107, lines 44-55) :

“Q. What other device similar to this barrel head could it be printed by?

“A. By any sort of a cylinder with numbers seven inches and a half apart on it.

“Q. Then if a person saw irregular figures on a ticket all that it would indicate was that it may have been printed by some cylinder, no matter how different from this barrel head or rotary head, as you call it, and as exhibited in this case?

“A. With numbers.

“Q. With numbers on it?

“A. Yes.

“Q. Would not indicate at all that they had employed the same mechanism in that numbering head?

“A. No.”

Mr. Yates testified that from an examination of the tickets no one could tell by what device they were numbered (Case, p. 90, lines 13-14). Several strips of tickets, printed and numbered on different machines, were presented to Mr. Manshel, who attempted to designate those numbered by a numbering head similar to the one in question, and in two out of three instances he failed. The strip of tickets that was numbered by the numbering head of the complainant, Mr. Manshel, an experienced ticket manufacturer, testified were numbered by a band numbering machine (Compare Case, p. 126, lines 46-48, with p. 134, lines 15-16). Another strip of tickets that was actually numbered by a band numbering machine Mr. Manshel testified was numbered by the barrel numbering head of the complainant (Compare Case, p. 126, lines 18-20, with p. 134, lines 8-11). A comparative

examination of these different strips of tickets will demonstrate to the court that it is absurd to say that the appearance of the tickets in any way could indicate the detailed construction of the device by which they were printed.

The only other evidence relied upon by defendant to charge the complainant with knowledge of Titus' fraudulent conduct in divulging its secret processes, concerns a conversation which Mr. Manshel, President of the defendant International Ticket Company, had in June, 1915, with Mr. Pope, his principal associate in the formation of that company, but who at the time of the conversation was general manager of the complainant. Mr. Manshel had called upon Mr. Pope for the purpose of selling the Sun Ticket Company to the complainant (Case, p. 119, lines 11-14). Manshel testified that in this conversation he told Mr. Pope that the Sun Ticket Company had machines with rotary heads and was operating them, and that from what he (Manshel) could get from former employees of the complainant they had something better than the complainant, and that he offered this as an inducement to get the complainant to buy the Sun Ticket Company (Case, p. 119, lines 41-46). Mr. Pope refused the offer, and Mr. Manshel stated that Mr. Pope said: "He considered any concern who would steal anything from another concern as crooked" (Case, p. 119, lines 53-55).

It appears, however, that Mr. Pope never reported this conversation to complainant's Board of Directors (Case, p. 92, lines 15-17). He had no tangible evidence on which to base his accusations, and Mr. Hering testified that Mr. Pope was a sort of an alarmist, and whatever he said to him had no particular bearing because he brought no evidence at all to substantiate it (Case, p. 94, lines 28-34).

In August, 1917, Mr. Hering was informed by a New York customer who had visited defendant's

plant, that the defendant had a barrel head similar in appearance to that of the complainant. The complainant immediately employed Rosalie Richards to investigate the truth of this statement. She obtained employment with the defendant as an operator and while there inspected the defendant's numbering head and took photographs of it (Case, p. 60, lines 51-55). On August 20, 1917, she reported to complainant that the defendant's barrel numbering head was strikingly similar in appearance to complainant's numbering head (Case, p. 61, lines 5-11). In order to get corroboration, search was then made for Mr. Hill, who had been formerly employed by the complainant and induced by Titus to leave its employ and enter the employ of the defendant to operate its barrel head, but who had subsequently left the defendant and returned to Philadelphia. Mr. Hill was finally located after a search of two months, and corroborated Miss Richards' statement (Case, p. 61, lines 12-25). Counsel was immediately advised to bring suit, which was instituted December 26, 1917 (Case, p. 61, lines 36-40).

Upon leaving the complainant Titus entered the employ of the Sun Ticket Company and commenced to work for it at a salary which was increased from time to time until the International Ticket Company was formed, when he entered its employ, and has ever since worked for it, in the capacity of repair man and general machinist. Prior to the organization of the International Ticket Company only one machine had been completed by Titus. A few others were in the process of construction, none of which, however, had been completed at the time of the hearing (Case, p. 124, lines 51-55; p. 125, lines 8-12). There is not then the slightest change of position on the part of either of the defendants that could create any equities in their behalf. In short, neither of them

has done anything but continue to make a profit out of their own wrongdoing in violation of complainant's rights. Upon the evidence it cannot for a moment be contended that complainant actively assented to the use of the device in question by either of the defendants or in other words acquiesced in defendants' wrongs.

As was said in *Fitzgerald v. Fitzgerald & Malory Const. Co. et al.* (Sup. Ct. Nebr.), 62 N. W. 899, 910:

“Acquiescence in a fraudulent transaction is, in effect, a new agreement, made consciously, with an intent to condone the wrong done, and will not be inferred from doubtful evidence, but should be established like any other material fact by the party asserting it. * * * Time alone, unaffected by other circumstances, will not bar the right to rescind a voidable transaction, since it is not for a wrongdoer to impose extreme vigilance and promptitude as conditions to the exercise of the rights of the injured party.”

In the present case there had been no release by the complainant of its right of action, or anything that could amount to an accord and satisfaction. There is no evidence from which defendants could properly infer that complainant intended to abandon any of its rights in its secret devices. It said nothing, did nothing, there was nothing from which it abstained from saying or doing, by which it induced the defendants, or either of them, to alter their position. It is fundamental that there can never be acquiescence or waiver without actual knowledge. Current suspicion and rumor are not enough. Imputed knowledge is not enough. There must be actual knowledge of facts which will enable the party to take effectual action. Nothing short of this will do. *Pence v. Langdon*, 99 U. S. 575, 581. It was not until August 20, 1917, when the complainant received the report of Rosalie

Richards, that it had proof of any facts which would enable it to enforce its rights. Complainant acted as soon as this information was received and confirmed by other testimony. Under these circumstances, the denial of relief by injunction and accounting as against the defendants would be in violation both of good conscience and morals.

Moreover, the wrong here complained of is a continuing injury. As was said in *Love v. Atchison, Topeka & Santa Fe R. R. Co.* (Circuit Court of Appeals, Eight Circuit), 185 Fed. 321, 332:

“And even acquiescence in past continuing injuries does not estop their victim from enjoining their future continuance. One may not escape an injunction against his cutting the remainder of the trees on his neighbor’s lands, because the latter acquiesced in his cutting a part of them, nor an injunction against his future infringement of his neighbor’s patent, because he has long infringed it with impunity, nor an injunction against his continuing trespass upon his neighbor’s land, because he has long trespassed without rebuke. *Attorney General v. Eastlake*, 11 Hare, 205; *McLean v. Fleming*, 96 U. S. 245, 247, 258, 24 L. Ed. 828; *Menendez v. Holt*, 128 U. S. 514, 523, 524, 9 Sup. Ct. 143, 32 L. Ed. 526; *United States Freehold Ld. & Emigration Co. v. Gallegos*, 89 Fed. 769, 773, 32 C. C. A. 470, 474; *Layton Pure Food Co. v. Church & Dwight Co.* (C. C. A.), 182 Fed. 35, 41.”

Nor has complainant lost its right to relief by reason of laches. Courts of equity in cases in which their jurisdiction is exclusive adopt the limitation provided by statute for analogous remedies at law as fixing the period beyond which any delay requires explanation and within which any suit may be brought unless it affirmatively appears that peculiar facts exist which justify the application of some equitable exception to the ordinary rules. The persuasiveness of the statute acquires the force

and effect of absolute law unless the inequity of the application of the rule is made clearly apparent. This is well settled. *Ide v. Trorlicht, Duncker & Renard Carpet Co., et al.*, 115 Fed. 137.

In *Menendez v. Holt*, 128 U. S. 514, at page 523, Chief Justice Fuller said:

“Counsel in conclusion earnestly contends that whatever rights appellees may have had were lost by laches; and the desire is intimated that we should reconsider *McLean v. Fleming*, 96 U. S. 245, so far as it was therein stated that even though a complainant were guilty of such delay in seeking relief upon infringement as to preclude him from obtaining an account of gains and profits, yet, if he were otherwise so entitled, an injunction against future infringement might properly be awarded. We see no reason to modify this general proposition, and we do not find in the facts as disclosed by the record before us anything to justify us in treating this case as an exception.

“*The intentional use of another’s trade-mark is a fraud; and when the excuse is that the owner permitted such use, that excuse is disposed of by affirmative action to put a stop to it. Persistence then in the use is not innocent; and the wrong is a continuing one, demanding restraint by judicial interposition when properly invoked. Mere delay or acquiescence cannot defeat the remedy by injunction in support of the legal right, unless it has been continued so long and under such circumstances as to defeat the right itself.* Hence, upon an application to stay waste, relief will not be refused on the ground that, as the defendant had been allowed to cut down half of the trees upon the complainant’s land, he had acquired by that negligence, the right to cut down the remainder; *Attorney General v. Eastlake*, 11 Hare, 205; nor will the issue of an injunction against the infringement of a trade-mark be denied on the ground that mere procrastination in seeking redress for depredations had deprived the true proprietor of

his legal right. *Fullwood vs. Fullwood*, 9 Ch. D. 176. Acquiescence to avail must be such as to create a new right in the defendant. *Rodgers v. Nowill*, 3 De G., M. & G. 614. Where consent by the owner to the use of his trademark by another is to be inferred from his knowledge and silence merely, 'it lasts no longer than the silence from which it springs; it is in reality no more than a revocable license'. Duer, *J., Amoskeag Mfg. Co. v. Spear*, 2 Sandford (N. Y.) 599; *Julian v. Hoosier Drill Co.*, 78 Indiana, 408; *Taylor v. Carpenter*, 3 Story, 458; s. c. 2 Woodb. & Min. 1."

In *Bissell Chilled Plow Works v. T. M. Bissell Plow Co.*, 121 Fed. 357, 375, the court said:

"And, finally, it is urged by defendants' counsel that complainant has lost all right to any relief by reason of laches. It appears from the evidence that complainant became aware of the fact that defendant corporation had entered into the plow business shortly after it commenced, and continued aware of its being in that business, and its method of doing business, ever afterwards. This suit was not brought until 1899, about six years after the defendant corporation commenced business. About 1895 complainant began to advise with counsel as to its rights, but it never informed defendant corporation of any question as to its rights until the year 1898, when it caused to be sent to said defendant a copy of a bill that it intended filing in the state court against it. The effect of laches in cases of this character is so well settled by the decisions of the Supreme Court in the cases of *McLean v. Fleming*, *supra*; *Menendez v. Holt*, 128 U. S. 514, 9 Sup. Ct. 143, 32 L. Ed. 526, and *Sexlehauer v. Eisner*, 179 U. S. 19, 21 Sup. Ct. 7, 45 L. Ed. 60, that the question is not open for discussion.

"Simple laches, without more—which is the case here—is not sufficient to interfere with a complainant's right to injunctive relief, though it may affect his right to damages for past in-

fringement. Counsel for defendants urge that it will affect complainant's right to injunctive relief where there is an absence of fraudulent intent on defendants' part, and that in this case there was absence of such intent. If fraudulent intent involves knowledge that it did not have a right to do as it did, there may have been an absence of fraudulent intent in this case. As I have before said, it is possible, if not probable, that defendants in good faith believed that they had a legal right to do as they have been doing. However this may be, it is certain that it intentionally adopted complainant's trade name—invaded his property—and that, in itself, in the eye of the law, was a fraud on its part. They must have known also that what they were doing had a tendency to, and in all reasonable probability would, pass off their goods as complainant's, and thus enable it to obtain a part of complainant's trade. It is a presumption that one intends the reasonable and probable consequences of his acts, so that I cannot avoid the conclusion that the defendant has intentionally appropriated to itself so much of complainant's business as it has been enabled to attract to itself by the means complained of. As said by Mr. Chief Justice Fuller, in the case of *Menendez v. Holt*, *supra*:

“The intentional use of another's trade name is a fraud, and, when the excuse is that the owner permitted such use, that excuse is disposed of by affirmative action to put a stop to it. Persistence, then, in the use is not innocent, and the wrong is a continual one, demanding restraint by judicial interposition when properly invoked.”

Even though it should be held that in so far as the act complained of is completed the complainant is barred from relief on accounting, it cannot with propriety be held that in so far as the act is in progress and lies in the future, the right to the in-

tervention of equity by injunction is lost by previous delay in respect to which the elements of estoppel can rarely, if ever, arise.

We submit that both Titus and the International Ticket Company should be enjoined from the further use of the secret device of the complainant, and that they should be required to account for the profits gained by the wrongful use thereof.

IV.

Counsel fees.

Upon the settlement of the decree application was made for a counsel fee, and the court below awarded a counsel fee of \$350 to the defendants. This allowance was made under authority of Section 91 of the Chancery Act (1 Comp. Stat. 445) which provides that the Chancellor shall make such allowance by way of counsel fee to the party or parties obtaining the order or decree as shall seem to him to be reasonable and proper, and shall direct which of the parties shall pay such allowances.

Notwithstanding the statute, we submit that under the circumstances of the case in question the court should not have allowed a counsel fee to the defendants (*Commonwealth Title Insurance & Trust Company v. N. J. Lime Co.*, 86 N. J. Eq. 460).

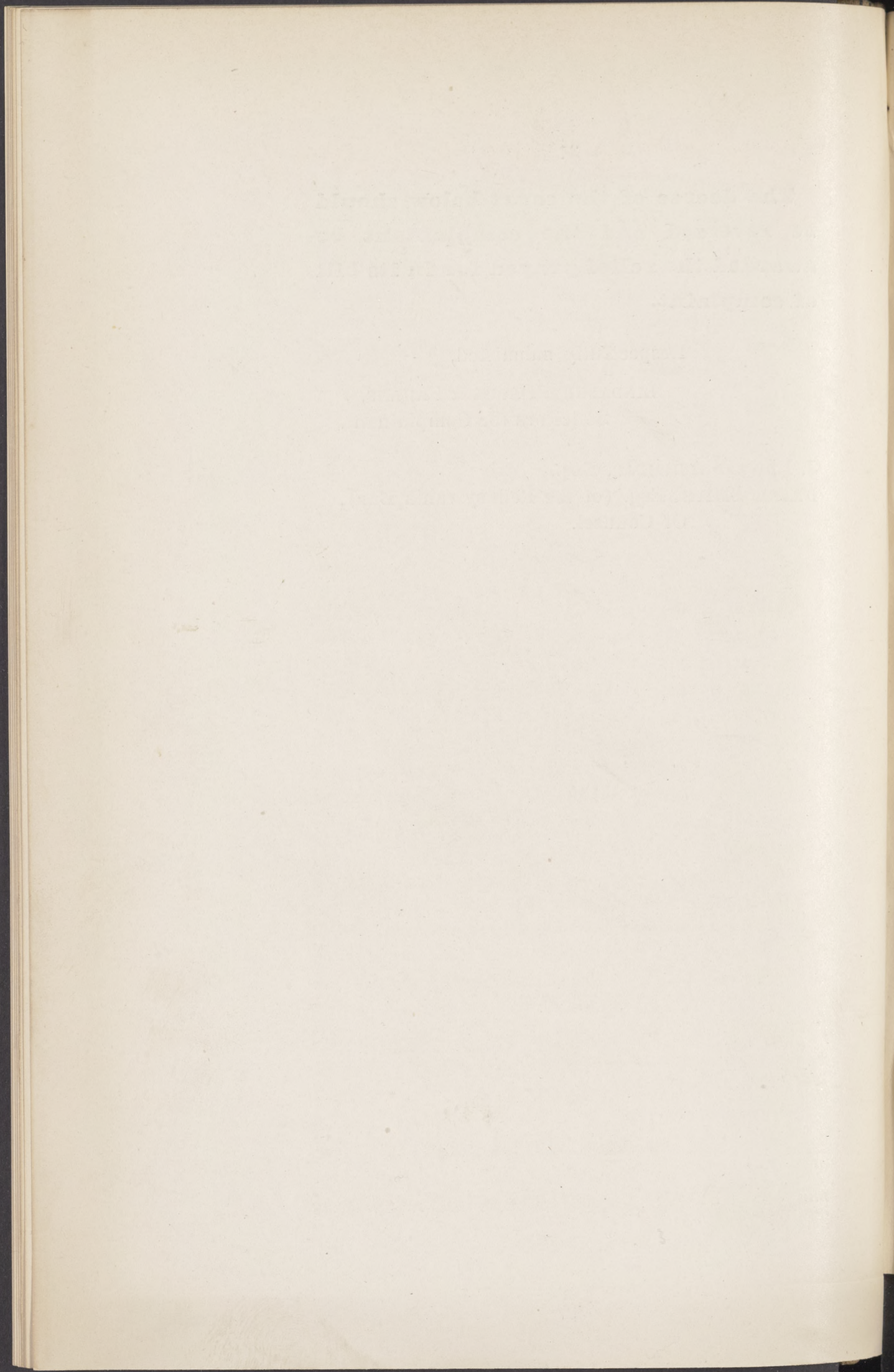
Rule 146 of the Court of Chancery expressly limits the power of a vice-chancellor to allow counsel fees to cases "in which a decree is advised for complainant with costs."

The decree of the court below should be reversed and the complainant be awarded the relief prayed for in its bill of complaint.

Respectfully submitted,

LINDABURY, DEPUE & FAULKS,
Solicitors for Complainant.

J. EDWARD ASHMEAD, Esq.,
FRANK SMITH, Esq. (of the Pennsylvania Bar),
Of Counsel.



New Jersey Court of Errors and Appeals.

Between

GLOBE TICKET COMPANY,
Complainant-Appellant,

and

INTERNATIONAL TICKET COMPANY,
et al.,
Defendants-Respondents.

On Appeal
from
Chancery.

BRIEF FOR DEFENDANTS-RESPONDENTS.

Statement of Facts.

Rotary presses have been in use for over a century (Case p. 117, L. 20). The type required for the different printed matter is attached to separate cylinders. Whenever numbering is also required, as in the printing of calendars and theatre tickets, a numbering cylinder is added to the press. These numbering cylinders for successive numbering are called rotary numbering heads and have been in use for about thirty years (Case P. 116, L. 13). Successive numeral printing has been in common use about twenty years (Case P. 100, L. 2 to 12). There are many kinds of numbering

heads but they are all operated by a pawl and ratchet (Case P. 98, L. 20 to 50; P. 99, L. 1 to 50), each tenth tooth being cut deeper to allow the pawl to engage the second series of numbers.

In 1899 the Globe Ticket Company built a numbering head for numbering theatre tickets for sixteen weeks simultaneously with the printing of the remainder of the tickets (Case P. 116, L. 15). This head was also operated by a pawl and ratchet. The type numbers were contained on metal staves which gave the numbering head the shape of a barrel. These staves were suspended and actuated in the same manner as the round cylindrical typewriters in common use many years ago, except that the staves containing the letters or numbers on the typewriter drop back of their own weight while the staves on the numbering head use springs to accomplish the same result (Case P. 41, L. 18 to 32).

The Globe numbering head was neither an invention nor a discovery. It was an improvement on any other numbering head in use nineteen years ago, because it permitted the numbering of theatre tickets for sixteen weeks, but this was accomplished merely by the application of mechanical contrivances, in common use in the printing and typewriting trade. Its novelty consisted in the number of tickets that could be printed in one operation and not in the construction of the head or the mechanical principle of its operation. No patent on this head was taken out by the Globe Ticket Company, notwithstanding it applied for and secured patents on some of its numbering heads and other portions of machinery (Case P. 18, L. 43; P. 19, L. 2).

In 1896, Lemuel Titus, one of the defendants herein, entered the employ of the Globe Ticket

Company at the age of seventeen years, as an apprentice boy in the machine shop of the company (Case P. 108, L. 2 and 15). During his apprenticeship he became acquainted with the mechanical principles of the Globe head and subsequently was regularly employed as a machinist in the Globe Machine Shop (Case P. 108, L. 19).

On March 8th, 1913, Titus was still employed as a machinist by the Globe Ticket Company and was receiving wages at the rate of \$21 per week (Case P. 97, L. 36).

Titus was an ordinary mechanic and never held any position of trust or confidence and no officer or employee of the Globe Ticket Company ever told Titus that he occupied a confidential position or spoke to him about the alleged secrecy of the Globe numbering head (Case P. 97, L. 25 to 30).

In fact there was no secrecy about the Globe numbering head (Case P. 129, L. 10; P. 132, L. 10). All the machines were in the same room (Case P. 20, L. 47). Employees saw the numbering heads taken apart to be cleaned (Case P. 47, L. 52). All the men made repairs (Case P. 48, L. 13). Employees watched them being taken apart (Case P. 129, L. 52). They were left around on benches (Case P. 129, L. 27 to 35). Employees passed in and out to punch the time clock in the room. Visitors passed through the room where the numbering heads were in operation (Case P. 54, L. 54; P. 129, L. 20; P. 130, L. 31-50). Outsiders came to the room containing the machines (Case P. 55, L. 21; P. 81, L. 55). No notices were published (Case P. 129, L. 37) and no notice was given to or contracts made with employees relating to the alleged secrecy of the numbering head. As expressed by the President of the company, Walter

E. Hering, the machinery was run just like any other machinery in the open.

Titus left the employ of the Globe Ticket Company on March 8th, 1913 and was engaged by the Sun Ticket Company of Providence, Rhode Island, as a machinist, at \$20 or \$21 per week (Case P. 97, L. 40). Shortly after Titus entered the employ of the Sun Ticket Company, he commenced the construction of a numbering head for that company and completed it in October, 1913. The experience of Titus in the Globe Ticket Company undoubtedly gave Titus the knowledge necessary to construct the numbering head for the Sun Ticket Company and the Sun Ticket Company head used the same common mechanical principle of pawl and ratchet with cylindrical staves attached to numbers actuated similarly to the cylindrical typewriters.

The Titus numbering head was necessarily the same size as the Globe head, because both were used for printing standard and uniform theatre tickets. The mechanical skill of Titus was acquired during his apprenticeship and employment in the plant of the Globe Ticket Company for seventeen years. As Titus explained in answer to a question by the Court, "I don't suppose that if I had been working in any other machine trade I would have been familiar with the theatre ticket printing" (Case P. 101, L. 10). The Titus numbering head and the Globe numbering head differed in many important respects. The actuating movement was different (Book 2, P. 2, L. 2). The power was applied inside on one head and outside on the other (Book 2, P. 2, L. 14; also Book 1, P. 42, L. 1). In the Sun or International head the abutments were extended to the edge and in the Globe head they were ex-

tended only half way (Book 2, P. 3, L. 33). There is a locking device on the Globe head and none on the Sun or International (Book 2, P. 5, L. 33). There are two pins used on the Globe and five on the International. The pawls used in the heads are constructed differently. The Globe head is actuated by a decrease of speed and the International by an increase of speed (Book 2, P. 6, L. 46, 47). The heads are set for operation in different ways (Book 1, P. 42, L. 32 to 50).

The result of these mechanical differences is that the Globe and International heads are operated in different ways (Book 2, P. 5, L. 1). An operator of a Globe head cannot operate an International head (Book 1, P. 44, L. 53). The movement of the International head is completely the reverse of the Globe head (Book 2, P. 6, L. 49). The Globe head changes once in ten times and the International head automatically changes every five revolutions. Twice the time is required to set the Globe head as the International (Book 1, P. 42, L. 27). The Globe head requires repairing every three weeks and the International head has been operated with not more than three hours devoted to repair within four years (Book 2, P. 4, L. 30 to 33), and the Globe head loses one ticket in each set of numbers while the International does not lose any tickets in its operation (Book 2, P. 9, L. 10 to 12 and Book 1, P. 42, L. 10 to 18).

Titus made no secret of his leaving the employment of the Globe Ticket Company and entering the service of the Sun Ticket Company. He notified the Superintendent four weeks before he left the machine shop (Book 2, P. 28, L. 10) and spoke to him about putting the Providence concern in the ticket business (P. 28, L.

30). The foreman of the Globe Ticket Company visited Titus and received the information that Titus' machine was running all right (P. 30, L. 30). Titus reported that his numbering head was better than the Globe head (P. 119, L. 40 to 50) and with some pride sent sample tickets printed on his machine to his old foreman in the Globe plant (P. 86, L. 27) and it was common knowledge in the Globe plant that Titus was working for the Sun Ticket Company (P. 35, L. 48). The treasurer of the Globe Ticket Company knew that Titus was employed by the Sun Ticket Company (P. 61, L. 43) that this company was printing coupon tickets (P. 66, L. 12) and also that Titus had offered to build a numbering head for the Arcus Ticket Company of Chicago (P. 68, L. 28 to 30). Evans, the Superintendent of the machine shop, had the same information (P. 101, L. 55) and the subject was discussed in the office of Mr. Pope, Vice-President of the Globe Ticket Company in 1915 (P. 66, L. 33) in the presence of Mr. Snow, former Treasurer, Harry R. Keen, the present Treasurer, and Mr. Manshel, President of the Sun Ticket Company (Page 66), who went to Philadelphia in June, 1915, to sell the Sun Ticket Company plant to the Globe Ticket Company. Manshel explained to Pope that he had a numbering head better than the Globe head (P. 119, L. 43) and Pope told Manshel that Titus had taken all his knowledge from the Globe and was using it for the benefit of the Sun Ticket Company (P. 66, L. 20 and 24) and showed Manshel letters of Titus, Exhibits B, C, D and E, in which Titus offered to build similar machines for other ticket manufacturers (P. 119, L. 1 to 23; L. 40 to 55). Mr. Pope reported the visit of Manshel to the President of the Globe Ticket

Company (P. 92, L. 22 to 32) and after a discussion of the subject by the Board of Directors of the Globe Ticket Company, Manshel was notified that the Globe Ticket Company was not interested in the purchase of the Sun Ticket Company (P. 120, L. 20). No claim was ever made by the Globe Ticket Company or its officers that the Globe numbering head was a secret device or that Titus occupied a confidential position in the Globe Ticket Company and had improperly appropriated the expert knowledge acquired during his employment nor was any objection ever made to the construction or use of the Titus numbering head.

On February 1st, 1917, Augustine J. Brett purchased the Sun Ticket Company and the Manshel Machine Company, both controlled by Mr. Manshel, and also the Rockwell Printing Company, in which Mr. Manshel had no interest. Brett sold these concerns to the International Ticket Company for 2459 shares of the capital stock of the International Ticket Company and \$50,000 in cash, the latter being represented by additional stock of the company. Some of the stockholders of the International Ticket Company, who paid cash for their stock, had never been interested, directly or indirectly, in the Rockwell Printing Company, the Sun Ticket Company or the Manshel Machine Company. Mr. Pope resigned from the Globe Ticket Company in 1915 and became a director of the International. Pope was a member of the Board of Directors of the Rockwell Printing Company, at the time of its purchase by the International Ticket Company, and the Globe Ticket Company was also a stockholder of the Rockwell Printing Company (P. 128, L. 1 to 18).

The Globe Ticket Company never gave any notice to the International Ticket Company that there was any secrecy about its numbering head or that Titus had taken any trade secret from the Globe Ticket Company (P. 132, L. 29 to 55 and P. 127, L. 40 to 50).

The bill of complaint was filed in this cause on December 26th, 1917, and an injunction was issued based on the affidavits annexed to the bill. At the hearing the complainant failed to show any secrecy about the plant or the numbering head or any confidential employment of Titus and the bill was dismissed for this reason, as well as the acquiescence of the officers of the Globe Ticket Company, arising from their knowledge of the construction of a new numbering head by Titus and their failure to give any notice or institute any suit until after a complete change in conditions, arising from the organization of the International Ticket Company.

The difference between the affidavits of the complainant and the testimony produced at the trial, caused the Vice-Chancellor to impose upon the complainant in the decree advised by him, the payment of a counsel fee of \$350.

ARGUMENT.

POINT I.

The employment of Titus as an apprentice in the trade of ticket machinery negatives any idea of an implied contract not to use the knowledge which the complainants agreed to give him as an apprentice.

An inventor has no right to prevent others from using his invention unless he obtains the protection of a patent therefor or preserves the secrecy thereof.

Ryan *vs.* Clayton, 37 Federal, 354;

Kirk *vs.* U. S., 163 U. S., 49;

Stone *vs.* Griselli Chemical Company, 65 Equity, 756.

If the invention cannot be used without a disclosure and no patent is obtained therefor, the invention follows the law of ideas and becomes the acquisition of whoever receives it.

Driscoll *vs.* Equitable Life Association,
132 New York, 264.

Titus entered the employ of the Globe Ticket Company as an apprentice boy machinist and he was so designated on the books of the company. His object at seventeen years was to learn the machinist's trade in connection with printing. By designating him as an apprentice, the company impliedly agreed to teach him the trade of ticket machinery.

The inventor communicating a trade, manufacture or mechanical invention, the art becomes free to all who have learned it from such communication.

Miller vs. Taylor, 4 Burr, 2305, 2331.

By the use of inventions in trade and manufacture, men are taught the art or science and they have a right to use it. "If he starts as a rival in business, he is entitled to carry on the trade in the same way as his principal. He has learned to do it and is entitled to the benefit of the knowledge."

Lewis vs. Smellie, 74 L. T. R. 226, 228; and
Dudley vs. Mayhew, 3 New York, 9, 13.

The relief by injunction to protect the secrets of business is given only where the knowledge of the process or invention has come to the employee under a direct contract not to use or disclose it or under an implied contract to keep it secret. No implied contract to keep a secret can arise from the employment of a man as an apprentice to learn the trade and the secret.

Pomeroy Ink Company vs. Pomeroy, 77
N. J. Equity, 293, 296;

Merryweather Sons vs. Moore, 66 L. T. R.,
719, 727;

Taylor Iron & Steel Company vs. Nichols,
69 Atlantic, 186;

American Co. vs. Delaney, 211 Massachu-
setts, 229.

POINT II.

The numbering head was not secret.

The policy of law is to encourage inventive and creative faculties and a machine to be the subject matter of a patent must be the result of an invention as distinguished from the exercise of knowledge expected of those skilled in a particular art (30 Cyc. 847). The invention must also possess novelty (30 Cyc. 848).

The Globe numbering head was not the result of any invention or creative faculty. It was a rotary head and rotary printing has been in use for thirty years. It performed the work of successive printing but successive printing was in common use in the printing trade. Each tenth tooth on the Globe head was cut deeper so that a pawl might engage the second series of numbers but all numbering heads use the same device and the barrel staves containing the numbers were similar to the staves on circular typewriters in use for thirty-five years.

It was new and useful to the printing trade, but novelty and utility are not enough to sustain a patent since there must also be invention (30 Cyc. 848) and there was no discovery or invention in the use of a rotary press, successive printing or barrel staves containing numbers or letters actuated by springs or ratchets and pawls.

“The complainant must also be the inventor or discoverer of the machine or process”.

Pomeroy Ink Company vs. Pomeroy, 77
N. J. Equity, 293, 296.

The Globe head was therefore unpatentable and no patent was ever obtained notwithstanding the Globe Ticket Company applied for and ob-

tained patents on several devices and numbering heads (P. 18, L. 42 to 49) and patents were also taken out on portions of the machine by the Globe Ticket Company (P. 19, L. 1 to 3).

Assuming, however, for the purpose of argument that the Globe numbering head was entitled to patent rights, the complainant did not apply for nor obtain those rights and any property interest of the complainant in a machine representing the application of a number of mechanical devices and principles to printing theatre tickets, depends entirely upon the preservation of its secrecy for "the protection ends when the secret becomes known."

Stone vs. Griselli Chemical Company, 65
Equity, 756;

If Titus fairly and honestly acquired the knowledge of the machine, equity will not restrain him.

Pomeroy Ink Company vs. Pomeroy, 77
N. J. Equity, 293, 296.

It was the duty of the complainant to notify the employees of their confidential employment and advise them of the secrecy of the numbering head.

At the trial, there was a sharp conflict of evidence on the question of secrecy and it is necessary to comment on the testimony of the witnesses in order to show the basis for the decision of the Court in favor of the defendants.

Complainants called as witnesses, Walter E. Hering, President, Harry R. Keen, Treasurer, Walter C. Scott, foreman of the machine shop, Joseph Mahrgang, a machinist and Harry O. Yates, a foreman, and they gave more or less evidence of the secrecy of the Globe numbering head.

Their evidence, however, did not support the positive statements contained in the affidavits annexed to the bill of complaint.

The defendants called Lemuel Titus, Harry Lockhead and George Allston, former operators of the Globe numbering head in the Philadelphia plant, and they testified that no notice was given to the employees of the secrecy of the numbering heads and that no effort was made by the Globe Ticket Company to preserve the secrecy of its numbering head.

Titus and the other machinists were all employed as ordinary mechanics at ordinary wages. All the machines of the company, including those with the numbering heads attached, were operated in the same room (P. 20, L. 47). Employees stood by and watched the machines being taken apart to be cleaned (P. 129, L. 52). The numbering heads were lying around on benches (P. 129, L. 27-30). No notices were posted in the plant (P. 129, L. 37). All the men made repairs (P. 48, L. 13). Visitors and outsiders came to the room where machines were in operation (P. 54, L. 54; P. 129, L. 20; P. 130, L. 31 and 50; P. 55, L. 21; P. 85, L. 55), and no intimation was ever given to the employees that the numbering heads were secret (P. 129, L. 10; P. 132, L. 10-12 and P. 97, L. 24-30).

The truth about the secrecy or non-secrecy of the Globe numbering head and the reason for the rejection of the testimony of the complainants' witnesses and the approval of the testimony of the defendant's witnesses by the Court below, will appear from the following comments.

Mr. Hering, the President of the Globe Ticket Company, notwithstanding his testimony that the careful preservation of the secrecy of the numbering head was a matter of great importance to

the Company and that a padlock was better than a patent, gave the following testimony:

Q. (By the Court). Any attempt made to keep knowledge from the employees of this floor of this barrel or barrel head?

A. Nothing; the machinery is just run like any other machinery, in the open.

He attempted to modify the effect of that admission at a later hearing but his correction is significant in that he gave no evidence of any facts showing that the machinery was not run in the open and contented himself merely with the statement that his answer was contradictory to the balance of his evidence.

A. No; I misunderstood that question; that was contradictory to the balance of my evidence, because we always surround everything, as I said before, with secrecy to the best of our ability.

Scott, the foreman, testified that he was careful not to let anyone see it and put a rag over it, but it appeared that the rag was put over the barrel head numbering machine and all other machines in the plant, from Saturday night until Monday morning (P. 32, L. 123), and although Scott said he knew the numbering head was a secret, he offered to give Titus any information about the same in case he needed it (P. 28, L. 55) and was very willing to give the so-called secret information to Titus (P. 35, L. 50) and so did not regard it as very much of a secret (P. 35, L. 52-55).

Mahrgang, a witness called by the complainants, became familiar with the mechanism of the barrel numbering head by watching a man operate it (P. 47, L. 48). He saw the head taken apart to

be cleaned (P. 47, L. 53) when he was an ordinary helper (P. 47, L. 40). He also learned about the mechanism of the numbering head by operating the machine (P. 51, L. 37). The only testimony given by Mahrgang supporting complainants' theory of the testimony was "that no one was permitted to make an examination of the barrel head (P. 55, L. 33-43) but Mahrgang said that all the men were entrusted with repairs to the machine (P. 48, L. 13) and cutting men, proof readers, men and women, sometimes as many as fifty (P. 53, L. 40-50) passed through the room where the machines were operating, and he gave no testimony of any instructions by his employers that the numbering head was secret. His testimony shows that the company failed to surround the secrecy of the numbering head with any protection.

Harry O. Yates, another witness called by the complainants, admitted that the time clock was located in the room where the numbering machines were operated and this clock was punched not only night and morning, but at luncheon time, by every employee on that floor (P. 88, L. 33-43). Yates did not testify that any of the employees were notified that they occupied a confidential position or that they were not to disclose any knowledge about the Globe numbering head. He learned from the Superintendent that Titus had succeeded in making a barrel head for coupon ticket printing after Titus had left the plant and he also knew that Titus had sent a sample ticket printed on the Sun Ticket Company machine to the Globe foreman (Case P. 86, L. 1-12 and L. 30).

There are certain undisputed facts in the case which show that the testimony of Titus and the

other witnesses for the defendant that there was no secrecy about the numbering head must be accepted as the truth instead of the testimony of the complainant and its witnesses.

These significant facts are as follows:

First: The positive testimony of Lockwood (P. 129, L. 10), Allston (P. 132, L. 10) and Titus (P. 97, L. 23) that no officer or employee of the Globe Ticket Company ever advised them that the numbering head was secret or their employment was of a confidential character.

Second: The leaving of the numbering heads on benches (P. 129, L. 27-30), taking the heads apart in the presence of employees (P. 129, L. 52) and Mahrgang watching the heads being taken apart (P. 47, L. 52) and the general failure of complainant to preserve its alleged secret.

Third: The conduct of Titus before and after his leaving the employment of the Globe Ticket Company. This conduct is consistent only with his statement that there was no secrecy about the Globe numbering head. Titus, openly and in the presence of other employees, made measurements of the numbering head (P. 27, L. 40-50). He notified his foreman about four or six weeks before he left that he was going to Providence (P. 28, L. 10) to establish a concern in the coupon ticket business (P. 28, L. 30). He wrote to his foreman and talked with employees of the Globe Ticket Company and told them that his ticket machine was running all right (P. 30, L. 30). He sent sample tickets printed on his machine to his foreman (P. 102, L. 20) and finally, with some pride, told Scott, his foreman, and Evans, the superintendent, on the corner of Twelfth and Arch

Streets, Philadelphia, adjoining the Globe Ticket Company plant (P. 101, L. 43), that he had built a machine "far superior to anything the Globe Ticket Company had" (P. 101, L. 54).

The failure of the complainant to notify Titus, the Sun Ticket Company or the International Ticket Company that Titus was under an implied contract not to disclose any details of the Globe numbering head, deprives it of any right to an injunction.

- Fleckenstein Bros. *vs.* Fleckenstein, 66 Equity, 252, 260;
 Solomon *vs.* Hertz, 13 Stewart's Equity, 400;
 Hamlin Mfg. Company *vs.* Tubbs Mfg. Company, 216 Federal Reporter, 401.

POINT III.

The numbering head constructed by Titus for the International Ticket Company differed materially from the numbering head of the Globe Ticket Company.

Trade secrets may be used by employees to invent improvements embodied in new machines of greater capacity and efficiency.

American Co. *vs.* Delaney, 211 Massachusetts, 229.

We have set forth in the statement of facts the principal points of difference between the Globe numbering head and the International number-

ing head, but it may be proper to summarize some of the important differences. The power is applied in a different manner; each head is actuated by a different movement, one being completely the reverse of the other; the Globe head changes once in ten times and the International head automatically changes every five revolutions; the operation of the heads is entirely different; the Globe head must be moved in one direction and the International head may be moved in either direction; the Globe head loses a ticket in each set, while the International head operates to one hundred per cent efficiency.

POINT IV.

Complainant is estopped from claiming relief by acquiescence and laches.

The bill of complaint alleges that Titus notified the complainants on March 7th, 1913 that he was about to leave its employ and that the Sun Ticket Company improperly acquired from Titus knowledge of the trade secrets of the complainant (P. 2, L. 25 and 44). The affidavits of officers of the complainant, annexed to the bill of complaint, state that the complainant, shortly before the incorporation of the International Ticket Company, became suspicious from an examination of the tickets of the Sun Ticket Company that these tickets were being printed with a numbering head improperly obtained by Lemuel Titus (P. 8, L. 40-44). The information that Titus had built a ticket numbering head for

the Sun Ticket Company was therefore in the possession of complainant since 1914.

The President of the Globe Ticket Company testified that the first definite information received by him that the International Ticket Company was using a barrel device similar to that of the Globe Ticket Company was received in August, 1917 (P. 91, L. 30) but admitted knowledge of the conference between Mr. Manshel of the Globe Ticket Company, Mr. Keen, the Treasurer, at the office of the Vice-President, Mr. Pope, in June, 1915 (P. 92, L. 1-20). At that meeting, Keen, the Treasurer, Pope, the Vice-President, Snow, the former Treasurer, Scott, the foreman, and Evans, the Superintendent, all knew that Titus was employed by the Sun Ticket Company and had built for that company a barrel numbering head for printing coupon tickets (P. 101, L. 55; P. 119, L. 40-50; P. 118, L. 52; P. 119, L. 1-10 and 20; P. 30, L. 30; P. 31, L. 50; P. 61, L. 43 and P. 66, L. 24). Manshel, the President of the Sun Ticket Company, was in Philadelphia endeavoring to combine the Sun Ticket Company and the Globe Ticket Company (P. 119, L. 10) and he told Pope that he had a machine with rotary heads which was working (P. 119, L. 40-44) and Pope told Manshel that Titus had also offered to build one of the rotary theatre ticket machines for the Arcus Ticket Company of Chicago (P. 67, L. 42-52) and showed to Manshel the letters of Titus to the Arcus Ticket Company, dated February and March, 1915, and set forth as Exhibits B, C, D and E, on pages 137 and 138. No suggestion was made to Manshel, the President of the Sun Ticket Company, by any of the officers of the Globe Ticket Company that its numbering head was secret or that Titus had ap-

appropriated its alleged trade secret apparatus. No charge was made at that time or any subsequent time that the Sun Ticket Company had appropriated from Titus any trade right of the complainants, notwithstanding the competition between the Sun Ticket Company and the Globe Ticket Company was keen during the years, 1914, 1915 and 1916 (P. 71, L. 37; P. 91, L. 50; P. 71, L. 37). The purchase of the Sun Ticket Company plant was discussed at a meeting of the Board of Directors of the Globe Ticket Company (P. 92, L. 36 and P. 120, L. 20), and after that discussion Manshel was notified that the Globe Ticket Company was not interested in the combining of the two companies.

Titus continued in the employ of the Sun Ticket Company as an ordinary mechanic and at ordinary mechanic's wages and that company continued to use the numbering head constructed by Titus until February, 1917, when Titus entered the employ of the International Ticket Company, and the latter Company purchased not only the Sun Ticket Company and the Manshel Machine Company, belonging to Mr. Manshel, but also the Rockwell Printing Company, in which the Globe Ticket Company was a stockholder (P. 22, L. 10-15). The purchase price of these concerns was not only certain stock of the International Ticket Company but also \$50,000 in cash, which was obtained by the issuance of additional stock of the International Ticket Company to stockholders never theretofore interested in any of the acquired concerns.

We submit that there is a great difference between the effect of acquiescence and estoppel in cases of property absolutely owned and property

which is the subject only of a qualified right, such as a secret machine. The right of the complainant to any trade secret depends upon its preservation of the secrecy, for the moment that knowledge of the secret is fairly and honestly obtained, the complainants' exclusive right to it is lost. It is the duty of the complainant to preserve the secrecy, and if the complainant and its officers not only fail to inform its employees of the secrecy but also, with full knowledge that the machine has been divulged to another who is using it, fail to assert the right to the secret, they acquiesce in the publication of the secret and are estopped from subsequently enjoining its use or disclosure.

Conduct and silence are recognized forms of estoppel (16 Cyc. 680, 681).

In the case of *Escourt vs. Escourt*, 32 L. T. R. N. S., page 80, where it was the duty of the complainant to speak, a delay from January, 1874 to August, 1874, was held to constitute laches and an injunction to protect a trade right was refused.

Equitable relief by injunction will not be granted, except where the equities are certain and definite.

Albright vs. Tees, 37 N. J. Equity, 171.

In this case the equities of the defendant are more certain and definite than the equities of the complainant. Complainant neglected to guard its secrecy and Titus acquired it in good faith and without any contract not to disclose it. After obtaining all the information of its disclosure to and use by the Sun Ticket Company, the complainant made no claim to it as a trade secret and made no objection to its use by the Sun Ticket Company during the years 1914, 1915, 1916 and 1917. The

International Ticket Company, in good faith and without knowledge of any of the rights or equities of the complainant, purchased the numbering head and employed Titus, and the rights of stockholders without notice or knowledge, should receive as much consideration as the uncertain and doubtful rights of a negligent and dilatory complainant.

POINT V.

Allowance of counsel fee.

The testimony presented by the complainant at the hearing differed so materially from the affidavits annexed to the bill of complaint, on which the injunction was issued, that the learned Vice-Chancellor ordered the taxation in the costs of a counsel fee of \$350 to the defendants. This order was made under the authority of Section 91 of the Chancery Act, 1 Compiled Statutes, 445, which provides that a counsel fee may be given to the party obtaining the order or decree and it is submitted that the order was justified.

POINT VI.

The decree of the Court of Chancery should be affirmed.

Respectfully,

BREED, ABBOTT & MORGAN,
Counsel for Defendants.

EUGENE W. LEAKE.

Preamble and resolution adopted by stockholders of International Ticket Company, February 1, 1917.

WHEREAS, it appears after due consideration and investigation, that it is necessary and advantageous and for the best interest of this Company that it purchase and take over the business, property and assets of the ROCKWELL PRINTING COMPANY, the SUN TICKET COMPANY and the MANSHEL MACHINE COMPANY, and that the consideration mentioned in said offer is a fair value of the property proposed to be sold and transferred to this Company, now, therefore, be it

RESOLVED: That this Company do purchase the business, property and assets of the ROCKWELL PRINTING COMPANY (a New York Corporation), the SUN TICKET COMPANY and the MANSHEL MACHINE COMPANY (Rhode Island Corporations), including all accounts, machinery, merchandise, patents, good will and tangible and intangible property or rights of said Companies and each of them for the price named, and to that end do accept the offer, of Augustine J. Brett, and that the aforesaid offer, together with a copy of this resolution, be referred to the Board of Directors, and we hereby authorize and instruct our said Board of Directors to perfect the purchase and acquisition of said property and cause to be issued therefor, in the proper form, pursuant to the Laws of the State of New Jersey, fully paid Certificates of Stock of this Company for Twenty-four hundred and fifty-nine (2,459) shares of the capital stock of the INTERNATIONAL TICKET COMPANY, provided that the judgment of the Board of Directors of this Company concur in our opinion the value of the property to be purchased.

Resolution adopted by directors of International Ticket Company, February 2, 1917.

RESOLVED, that this Company do purchase the business, property, and assets of the Rockwell Printing Company, the Sun Ticket Company and the Manshel Machine Company, including all accounts, machinery, merchandise, patents, good will, and tangible and intangible property or rights of said Companies and each of them for the consideration of Twenty-four hundred and fifty-nine (2,459) shares of the capital stock of this Company, together with Fifty thousand (\$50,000.00) dollars in cash, and to that end do accept the offer of Mr. Augustine J. Brett, heretofore accepted by the Stockholders, and we hereby authorize and instruct the officers of this Company to perfect the purchase and the acquisition of the said Companies, and of the said amount of cash, and to cause to be issued therefor, in the proper form, pursuant to the Laws of the State of New Jersey, fully paid Certificates of Stock of the Company for Twenty-four hundred and fifty-nine (2,459) shares.

Bill of Sale, Sun Ticket Company to International Ticket Company.

Bill of sale by Sun Ticket Company to International Ticket Company, February 2, 1917.

10 KNOW ALL MEN BY THESE PRESENTS, that SUN TICKET COMPANY, a Corporation duly organized and existing under and by virtue of the laws of the State of Rhode Island, party of the first part, for and in consideration of the sum of One hundred (\$100.00) dollars lawful money of the United States, and other valuable consideration, to it in hand paid, at or before the ensealing and delivery of these presents by INTERNATIONAL TICKET COMPANY, a Corporation duly organized and existing under and by virtue of the laws of the State of New Jersey, party of the second part, the receipt whereof is hereby acknowledged, has bargained and sold, and by these presents does grant and convey
20 unto the said party of the second part, its successors and assigns all of its business, property and assets including accounts receivable, machinery, merchandise, patents, good will and tangible and intangible property or rights now in its premises at Providence, Rhode Island, or elsewhere.

To HAVE AND TO HOLD the same unto the said party of the second part, its successors and assigns forever. And it does for its successors and assigns covenant and agree, to and with the said party of the second part, to warrant and defend the sale of the said property, assets and rights hereby sold unto the said party of the second part, its successors and assigns against all and every person and persons whomsoever.

30 IN WITNESS WHEREOF, the party of the first part has caused these presents to be signed by its President and its corporate seal affixed by authority of its Board of Directors this 2nd day of February, 1917.

SUN TICKET COMPANY,

CHARLES MANSHEL, President.

In the presence of:

FRIEDA HOEING.

40 (Corporate Seal)

CITY, COUNTY AND STATE OF NEW YORK, ss.:

On the 2nd day of February, 1917, before me came CHARLES MANSHEL, to me known, who, being by me duly sworn, did depose and say that he resides in Providence, Rhode Island, that he is the President of the SUN TICKET COMPANY, the Corporation described in, and which executed, the foregoing instrument; that he knows the seal of
50 said Corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Direc-

Bill of Sale, Manshel Machine Co. to International Ticket Co.

tors of said Corporation; and that he signed his name thereto by like order.

FRIEDA HOEING,
Commissioner of Deeds of the City of New York,
 Residing in Queens County. 10
 Certificates filed in New York, Kings, Queens and Bronx
 Counties Clerks' Offices.
 New York County Clerk's No. 272.
 Commission expires Sept. 26, 1918.

**Bill of sale by Manshel Machine Company to International
 Ticket Company, February 2, 1917.** 20

KNOW ALL MEN BY THESE PRESENTS, that MANSHEL MACHINE COMPANY, a Corporation duly organized and existing under and by virtue of the laws of the State of Rhode Island, party of the first part, for and in consideration of the sum of One hundred (\$100.00) dollars lawful money of the United States, and other valuable consideration, to it in hand paid, at or before the ensembling and delivery of these presents by INTERNATIONAL TICKET COMPANY, a Corporation duly organized and existing under and by virtue of the laws of the State of New Jersey, party of the second part, the receipt whereof is hereby acknowledged, has bargained and sold, and by these presents does grant and convey unto the said party of the second part, its successors and assigns all of its business, property and assets, including accounts receivable, machinery, merchandise, patents, good will and tangible and intangible property or rights now in its premises at Providence, Rhode Island, or elsewhere. 30

To HAVE AND TO HOLD the same unto the said party of the second part, its successors and assigns forever. And it does for its successors and assigns covenant and agree, to and with the said party of the second part, to warrant and defend the sale of the said property, assets and rights hereby sold unto the said party of the second part, its successors and assigns against all and every person and persons whomsoever. 40

IN WITNESS WHEREOF, the party of the first part has caused these presents to be signed by its President and its corporate seal affixed by authority of its Board of Directors this 2nd day of February, 1917.

MANSHEL MACHINE COMPANY,

CHARLES MANSHEL, President. 50

In the presence of:

FRIEDA HOEING.

(Corporate Seal)

Bill of Sale, Rockwell Printing Co. to International Ticket Co.

CITY, COUNTY AND STATE OF NEW YORK, ss.:

10 On the 2nd day of February, 1917, before me came CHARLES MANSHEL, to me known, who, being by me duly sworn, did depose and say that he resides in Providence, Rhode Island, that he is the President of the MANSHEL MACHINE COMPANY, the Corporation described in, and which executed, the foregoing instrument; that he knows the seal of said Corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Corporation; and that he signed his name thereto by like order.

FRIEDA HOEING,

Commissioner of Deeds of the City of New York,
Residing in Queens County.

20 Certificates filed in New York, Kings, Queens and Bronx Counties Clerks' Offices.
New York County Clerk's No. 272.
Commission expires Sept. 26, 1918.

Bill of sale by Rockwell Printing Company to International Ticket Company, February 2, 1917.

30 KNOW ALL MEN BY THESE PRESENTS, that ROCKWELL PRINTING COMPANY, a Corporation duly organized and existing under and by virtue of the laws of the State of New York, party of the first part, for and in consideration of the sum of One hundred (\$100.00) dollars lawful money of the United States, and other valuable consideration, to it in hand paid, at or before the ensealing and delivery of these presents by INTERNATIONAL TICKET COMPANY, a Corporation duly organized and existing under and by virtue of the laws of the State of New Jersey, party of the second part, the receipt whereof is hereby
40 acknowledged, has bargained and sold, and by these presents does grant and convey unto the said party of the second part, its successors and assigns all of its business, property and assets including accounts receivable, machinery, merchandise, patents, good will and tangible and intangible property or rights now in its premises at Hoboken, New Jersey, or elsewhere.

50 TO HAVE AND TO HOLD the same unto the said party of the second part, its successors and assigns forever. And it does for its successors and assigns covenant and agree, to and with the said party of the second part, to warrant and defend the sale of the said property, assets and rights hereby sold unto the said party of the second part, its successors and assigns against all and every person and persons whomsoever.

Bill of Sale, Rockwell Printing Co. to International Ticket Co.

IN WITNESS WHEREOF, the party of the first part has caused these presents to be signed by its President and its corporate seal affixed by authority of its Board of Directors this 2nd day of February, 1917.

ROCKWELL PRINTING COMPANY,

CHARLES L. ROCKWELL, President.

10

In the presence of:

FRIEDA HOEING.

(Corporate Seal)

CITY, COUNTY AND STATE OF NEW YORK, ss.:

On the 2nd day of February, 1917, before me came CHARLES L. ROCKWELL, to me known, who, being by me duly sworn, did depose and say that he resides in Jersey City, New Jersey, that he is the President of the ROCKWELL PRINTING COMPANY, the Corporation described in, and which executed, the foregoing instrument; that he knows the seal of said Corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said Corporation; and that he signed his name thereto by like order.

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FRIEDA HOEING,

Commissioner of Deeds of the City of New York,

Residing in Queens County.

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Certificates filed in New York, Kings, Queens and Bronx
Counties Clerks' Offices.

New York County Clerk's No. 272.

Commission expires Sept. 26, 1918.

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British Museum

Southern Bond