New Jersey Court of Errors and Appeals

IN THE LAST RESORT IN ALL CAUSES AS HERETOFORE.

THOMAS S. RUDDEROW, and others, Appellants, and EDWARD DUDLEY, WILLIAM S. RUDDEROW and others, Respondents.	ON APPEAL.

To the honorable the Judges of the Court of Errors and Appeals of the State of New Jersey in the last resort in all causes as heretofore:

The humble petition of Edward Dudley, one of the respondents in the above stated cause, respectfully showeth: 10

That in the above cause a bill of complaint was filed in the Court of Chancery for the partition or sale of a house and lot of land in the city of Camden, and a lot of about seventy-six acres of land in the township of Dela-

ware, in the county of Camden, owned by the complainants and defendants (not including your petitioner) about sixty-six in number, in unequal shares as tenants in common; that the said cause was so proceeded upon in said Court of Chancery, that said Court, by its decree made on the ninth day of April, eighteen hundred and eighty-five, ordered and decreed the said premises in said bill of complaint described to be sold at public sale under the direction of Marmaduke B. Taylor, Esquire, one
10 of the Special Masters of said Court; that the said Master advertised the said premises for sale at public vendue, according to the provisions of the statute, at the Court House, in the city of Camden, on the thirteenth day of June, eighteen hundred and eighty-five; that at the time and place so advertised the said premises were sold at public vendue by said Master, the house and lot of land in the city of Camden to one John J. Logan, and the tract of land in the township of Delaware, after being started at a bid of twenty-five dollars per acre, was struck off to your petitioner at the price of thirty dollars
20 per acre, amounting to the sum of two thousand two hundred and eighty dollars; that the said Master reported the said sale of said premises to the said Court of Chancery, by his report in writing, bearing date the fifteenth day of June, eighteen hundred and eighty-five; that a copy of said Master's report, and copies of the affidavits of the advertisements of said sale accompanying said report are hereto annexed; that on the twenty-third day of June, eighteen hundred and eighty-five, the sale to said John J. Logan of the house and lot in the
30 city of Camden was confirmed by said Court, for which a deed was made and delivered by said Master; that objection was made before said Court to the confirmation of the sale of said Master to your petitioner; that on the sixth day of July, eighteen hundred and eighty-five, the Court of Chancery made an

order that all parties in interest do show cause before said Court, on the twenty-first day of July then instant, why the said sale should not be confirmed; that a copy of the said order to show cause is hereto annexed; that said order to show cause came on to be heard on the said twenty-first day of July, eighteen hundred and eighty-five, before the Honorable John T. Bird, Vice Chancellor, in the presence of the complainants, or some of them, and their counsel John F. Harned, Esquire, and Howard J. Stanger, Esquire, and of your petitioner and his coun- 10 sel, David J. Pancoast, Esquire; that at the hearing of the said rule to show cause, Levi O. Rudderow, one of the complainants and appellants; John F. Harned, the complainant's solicitor, and Edward Burrough were examined orally and gave testimony before said Vice Chancellor, and the affidavits annexed to the Master's report, and the affidavits of Edward Burrough, copies of which are hereto annexed, were read and used before said Vice Chancellor; that upon the hearing of said testimony and reading said affidavits, and due consideration thereof, the said Vice Chancellor respectfully advised a decree or order that the sale by the said Master 20 should be confirmed, and that the said Master should execute and deliver to your petitioner a deed or conveyance of the said premises according to law; that a copy of said order of said Court, dated the twenty-first day of July, eighteen hundred and eighty-five, is hereto annexed; that in pursuance of the said decree or order of said Court of Chancery, the said Master, on the twenty-third day of July, eighteen hundred and eighty-five, made, executed and delivered to your petitioner his deed 30 or conveyance of the said premises, bearing date the day and year last aforesaid, upon your petitioner paying to the said Master the residue or the whole of the said purchase money of two thousand two hundred and eighty dollars, and that the said deed was immediately record-

ed by your petitioner in the office of the Register of Deeds of Camden county, in Book No. 118 of Deeds, page 585, &c., as by reference to said deed or the record thereof will appear; that afterwards, on the first day of August, eighteen hundred and eighty-five, upon the filing of a petition in said cause by the appellants, a copy of which, with the affidavits thereto annexed, was printed in the appellants' state of the case or printed book, charging fraudulent actions to prevent competition at said sale between your petitioner and John F. Harned, the solicitor of the complainants in said cause, an order to show cause was granted by said Court of Chancery, on the advice of the Honorable John T. Bird, Vice Chancellor, requiring your petitioner to show cause why the deed made to him, and the order of confirmation and sale in said petition named, should not be set aside and a new sale ordered on the eighteenth day of August then instant, when oral testimony should be heard, a copy of which rule is printed in the appellant's state of the case or printed book; that the hearing of the said rule to show cause was continued on the said eighteenth day of August and was heard on the first day of September, eighteen hundred and eighty-five, before his Honor Vice Chancellor Bird, in the presence of the complainants, or some of them, and their counsel, John W. Wartman, Esquire, and your petitioner and his counsel, David J. Pancoast, Esquire; that at said hearing of said rule the Vice Chancellor stated that he considered all questions as to the due advertising of the sale as settled and already adjudicated; that he had allowed the said rule to show cause only on the ground that in the petition presented to him, fraudulent conduct was charged against the solicitor of the complainant and your petitioner, and that he would only hear the matter on the charges of fraud set forth in the petition. At the hearing the complainants examined Laura and Sarah J. Rudde-

row, and John F. Harned, Charles I. Wooster and your petitioner were examined on his behalf, and after hearing the testimony the Vice Chancellor stated that the petitioners and complainants had utterly failed to support their charges of fraudulent action, and that he would advise an order discharging the rule to show cause, with costs to your petitioner; a copy of said order is printed in the appellant's state of the case or printed book; that afterwards and on the sixth day of October, eighteen hundred and eighty-five, the Court of Chancery 10 made an order or decree of distribution in said cause, thereby directing the said Master, after appropriating parts of the moneys received by him from the sale of the said premises to the payment or satisfaction of certain mortgage incumbrances thereon, to pay out of the residue of said moneys the taxed costs of said suit, to retain his fees and commissions allowed by law and the rules of the Court, and to distribute the remainder of said moneys among the defendants and complainants in said cause, according to their respective shares or interests therein, a copy of which said decree or order of distribution is hereto annexed; that the said Master, pursuant 20 to the said order or decree of distribution, paid to the said appellants, Thomas Rudderow, Barzilla A. Rudderow, Lemuel H. Rudderow, Sarah A. Rudderow, Levi O. Rudderow, and Mary A. Groves, each one twenty-fourth of said proceeds; of the remainder of said proceeds of said sale of said premises, to Mary A. Epley, Nancy J. Rowand, Sarah Watson, and Benjamin R. Epley, each one ninety-sixth of said proceeds, and to Annie Rudderow, Allen Rudderow and Benjamin Rudderow, each one seventy-second of said proceeds, and to all the other 30 tenants in common parties to said suit for partition, except Elizabeth Pike and Hannah A. Stevenson, who died shortly after making said order, and certain minors, their several and respective shares of the proceeds of the

said sale, after paying said mortgage, taxed costs, commissions, &c., as aforesaid.

And your petitioner further shows, that sometime after the order or decree made in the Court of Chancery on the first day of September, eighteen hundred and eighty-five, and above set forth, and on or about the eighth day of September in said year, the said appellants filed their notice of appeal from the said order, discharging said rule or order to show cause to this honorable Court, and afterwards their petition of appeal in this Court; that in the preparation of the state of the case or printed book by the appellants they omitted, or failed to show in any way, that the Court of Chancery had examined into and adjudicated upon the sufficiency of the advertisements of the said sale by the said Master, and had fully confirmed said sale, and directed said Master to deliver the deed or conveyance of said land to your petitioner, and that the said deed had been delivered by the said Master, (and the said moneys paid by your petitioner) under the order or decree of the Court of Chancery to your petitioner; they omitted and failed to show the statements by the Vice Chancellor of the terms and grounds upon which said rule to show cause was granted and heard announced by him at the hearing as aforesaid, but inserted in said state of the case statements, (no parts of the record) different from the statements made by said Vice Chancellor. The order confirming the sale, made on twenty-first day of July, 1885, was never in any way appealed from. They omitted and failed to show in said state of the case the order confirming said sale, the opinion or reasons in writing the Vice Chancellor gave for discharging said rule to show cause, (a copy of which opinion or reasons is hereto annexed); that the said appeal was heard by this Court, at the last November term thereof; that this Court, on the first day of May, instant, announced its decision

reversing the order or decree of the Court of Chancery discharging said rule to show cause, made on the first day of September, eighteen hundred and eighty-five; that your petitioner is aggrieved by said decision or decree of this Court, and believes that if the said printed case of said appellants had stated all the orders, proofs and proceedings in said cause, from the time of the sale by the said Master until the rule or order discharging said rule or order to show cause, appealed from, and the taking of said appeal, and said Vice Chancellor's opinion or reasons for making or advising said order or decree, discharging said rule to show cause appealed from, and a true statement of the grounds upon which the said rule to show cause was granted and heard by the Vice Chancellor as above stated, instead of the statement, (no part of the record,) contained in said state of the case, that such decision or decree would not have been made by this Court.

Your petitioner therefore prays your Honors that you will be pleased to grant to your petitioner a re-hearing of the said cause upon the whole record, proofs, orders and decrees of the Court of Chancery, and the Vice Chancellor's opinion or reasons for advising said order or decree appealed from being produced before this honorable Court, and your petitioner, as in duty bound, will ever pray.

EDWARD DUDLEY.

P. L. VOORHEES,
Of Counsel with Ed. Dudley, Petitioner.

We have read the above petition and conceive there is good cause therein shown for a rehearing.

PETER L. VOORHEES,
PETER V. VOORHEES,
Of Counsel with Petitioner.

NEW JERSEY, ss.

EDWARD DUDLEY, of full age, being duly sworn, on his oath saith:

That he is the petitioner named in the above petition; that the matters and things therein set forth, so far as they relate to his own acts and deeds are true, and as far as they relate to the acts and deeds of others he believes them to be true.

EDWARD DUDLEY.

10 Sworn and subscribed this 12th day of May, A. D. 1886, before me.

GEORGE REYNOLDS,
M. C. C.

STATE OF NEW JERSEY, }
CAMDEN COUNTY. } ss.

MARMADUKE B. TAYLOR, being duly sworn according to law, on his oath says: that he has read the above petition, and that the same, so far as it relates to his own acts and deeds, is true, and so far as the same relate to the 20 acts and deeds of others he believes it to be true; that after the sale mentioned in said petition to the said Edward Dudley was confirmed, on or about the 21st day of July, A. D. 1885, he delivered to said Dudley the deed for the said premises mentioned, and received the sum of two thousand two hundred and eighty dollars, the full consideration for which the said premises were sold; that afterwards an order was made in the Court of Chancery, directing this deponent to distribute the proceeds of the sale of said premises, and that this deponent, in pursuance of such order, paid to the appellants, Thomas 30 Rudderow, Barzilla A. Rudderow, Lemuel H. Rudderow, Sarah A. Rudderow, Levi D. Rudderow and Mary A. Groves, or their solicitor, each the sum of one hundred and twelve dollars and eighty-two and one-fifth cents, being the one twenty-fourth part of the proceeds of said

sale and their full share and interest in the same; to the said Mary A. Epley, Nancy J. Rowand, Sarah Watson and Benjamin R. Epley, or their solicitor, each the sum of twenty-eight dollars and twenty and one-half cents, being the one ninety-sixth part of the proceeds of said sale, and their full share and interest in the same; to the said Annie Rudderow, Allen Rudderow and Benjamin Rudderow, or their solicitor, each the sum of thirty-seven dollars and sixty and one-half cents, being the one seventy-second part of said proceeds of said sale and 10 their full share and interest in the same.

M. B. TAYLOR.

Sworn and subscribed at the county aforesaid, this 13th day of May, A. D. 1886, before me, a Master in Chancery of New Jersey.

GEORGE REYNOLDS,
M. C. C.

In the Court of Errors and Appeals.

Between THOMAS S. RUDDEROW, et al., Complainants, and WILLIAM RUDDEROW, and others, Defendants.	ON BILL FOR PARTITION.

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This bill was filed to partition a house and lot on Third street, in Camden, and seventy-six acres of land in Delaware township—all the property of Jerusha I. Rudderow, deceased.

Sale took place June 13th, 1885, at Court House, Camden. Marmaduke B. Taylor, Special Master, John F. Harned, Solicitor.

Charles I. Wooster cried the sale.

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The seventy-six acres in Delaware township were first offered for sale. The Sheriff's office full of the numerous heirs of the estate.

Amos Rudderow bid $25 an acre.

Edward Dudley bid $30 an acre and the property was struck off to him. The house and lot No. 3 was then put up. John J. Logan purchased same, the heirs also bidding on this.

Marmaduke B. Taylor, the Special Master, reported Sale to the Court, dated June 15, 1885. The report encloses the following affidavits:

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } ss.

WILLIAM H. MOSES, of lawful age, being duly sworn according to law, doth depose and say, that he is the bookkeeper in the office of the *West Jersey Press*, a newspaper printed and published in the city of Camden, in said county and State, on Wednesday of each week, and that the notice of which the above is a true copy has been published in said newspaper for the period of five weeks successively, commencing on the 13th day of May, 1885, once in each week.

WM. H. MOSES.

Subscribed and sworn at the county aforesaid, before me, one of the Masters in Chancery in said State, this 15th day of June, 1885.

F. F. HOGATE,
M. C. C.

[Copy of advertisement annexed.]

IN CHANCERY OF NEW JERSEY.

Between THOMAS S. RUDDEROW, et al., Complts., and WILLIAM S. RUDDEROW, et al., Defts.	ON BILL FOR PARTITION. PROOF OF PUTTING UP NOTICES OF SALE.

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } ss.

JOHN F. HARNED, of full age, being duly sworn according to law, says: That on the eleventh day of April, A. D. eighteen hundred and eighty-five, he set up at five or more public places in the county of Camden and State of New Jersey, an advertisement of the sale in the above stated cause, of which the annexed is a true copy, to wit: One on the premises, No. 23 North Third street, Camden, in the First ward of said city; another in the Register of Deeds' Office of said county of Camden; another in the County Clerk's Office of said county; another in the Sheriff's Office of said county, and another in the office of the *West Jersey Press*, in said county, one whereof was put up in the First ward of the city of Camden, where the real estate thirdly described is situated.

JOHN F. HARNED.

Sworn and subscribed this 20th day of June, 1885, before me.

HOWARD J. STANGER,
M. C. C.

[Copy of advertisement annexed.]

STATE OF NEW JERSEY, }
COUNTY OF CAMDEN, } ss.

JOSEPH M. ENGARD, of lawful age, being duly sworn according to law, doth depose and say, that he is business manager of the *Camden Daily Post*, a newspaper printed and published in the city of Camden, in said county and State, daily, and that the notice of which the above is a true copy has been published in said newspaper successively for the period of five weeks, commencing on
10 the ninth day of May, 1885, once a week.

JOS. M. ENGARD.

Subscribed and sworn before me, Notary Public in said State, this 16th day of June, 1885.

T. F. BOARDMAN,
Notary.

[Copy of advertisement annexed.]

IN CHANCERY OF NEW JERSEY.

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Between THOMAS S. RUDDEROW, et al., Complt., and WILLIAM S. RUDDEROW, et al., Deft	ON BILL FOR PARTITION. REPORT OF SALE.

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In pursuance of a decree made by the Chancellor in the above cause, bearing date on the ninth day of April, A. D. eighteen hundred and eighty-five, by which it was, among other things, ordered, adjudged and decreed, that

all and singular the premises in the bill of complaint mentioned and described, with the appurtenances, be sold at public vendue to the highest bidder, in the presence and under the direction of the subscriber, one of the Special Masters of this Court, and that said Master should give public notice of the time and place of such sale, and in all respects conduct the same according to the provisions of the statute in such case provided, and that after such sale he should make a report thereof to this Court, I, Marmaduke B. Taylor, Master as aforesaid, do hereby report to his honor, Theodore Runyon, the Chancellor, that I did, by public advertisements, signed by myself, and set up at five or more public places in the county of Camden, one whereof was in the township of Delaware, and another in the First ward of the city of Camden, where said real estate is situate, at least two months next before the time appointed for selling the same, and also published in the *West Jersey Press* and the *Camden Post*, two newspapers printed and published in the county of Camden, in which said real estate is situated, at least four weeks successively, once a week, next preceding the time appointed for said sale, give public notice that the said land and premises would be exposed to sale at public vendue, on Saturday, the thirteenth day of June, eighteen hundred and eighty-five, at two o'clock in the afternoon, at the Court House, in the city of Camden, and at the time and place so appointed and advertised, did publicly expose said land and premises to sale at public vendue, to the highest bidder, and Edward Dudley then and there bidding for the first and second described tracts the sum of thirty dollars per acre, (said two tracts containing seventy-six acres,) and no one bidding so much or more for the same, the said first and second tracts were struck off and sold to said Edward Dudley at the price aforesaid, amounting to two

thousand two hundred and eighty dollars; and John J. Logan then and there bidding for the third described tract the sum of twenty-three hundred and fifty dollars, and no one bidding so much or more for the same, the said third described tract was struck off and sold to said John J. Logan for the price last aforesaid.

Respectfully submitted this fifteenth day of June, A. D. eighteen hundred and eighty-five.

M. B. TAYLOR,
10 Special Master.

The Sale to John J. Logan was confirmed by Court June 23, 1885, and deed executed, &c.

July 6, 1885, order made by the Court to show cause July 21, why sale of land to Edward Dudley should not be confirmed.

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20 IN CHANCERY OF NEW JERSEY.

THOMAS S. RUDDEROW, et al., Complainant, and WILLIAM S. RUDDEROW, et al., Defendant.	ON BILL, &c. RULE TO SHOW CAUSE.

This matter coming on to be heard upon motion of
30 the purchaser of the land and premises described in said bill, for the information of said sale;

It is, on this sixth day of July, A. D. eighteen hundred and eighty-five, on motion of the solicitor of the complainants, ordered, that all parties in interest show cause

before this Court on Tuesday, the twenty-first day of July, instant, why said sale should not be confirmed.

THEODORE RUNYON, C.

Respectfully advised,

JOHN T. BIRD, V. C.

At hearing, July 21, 1885, which took place in presence of David J. Pancoast, solicitor for Edward Dudley, and Howard J. Stanger, solicitor of complainants, the following affidavits, with the others before given, were read to the Court: 10

STATE OF NEW JERSEY, } ss.
CAMDEN COUNTY, }

EDWARD BURROUGH, being conscientiously scrupulous of taking an oath, on his solemn affirmation says: That he resides in the township of Delaware, county of Camden, and State of New Jersey, on the farm within view of the timber and brush land described in the annexed advertisement; that, on or before the thirteenth day of April, in the year eighteen hundred and eighty-five, on his way from Haddonfield to his own home, driving past the property in question he stopped and read a large bill or poster tacked up on a board fastened on a tree fronting on the public road, of which the annexed is a true copy, which tree was situate on the premises described in said bill or poster, which is situate in the township of Delaware, in the county of Camden and State aforesaid; that he has the same notice or bill of sale on a post of the fence at the other side of said described premises, also on the public road, parts of which said notices are still on said post and tree aforesaid. 20 30

That one Levi Rudderow, one of the complainants in the said suit of partition, by virtue of which this sale

was advertised, and who is said to have put the said posters up on the said premises, admitted to this affirmant within the last few days, and since the thirteenth day of June, when the sale took place, that there was no doubt about the posters having been put up in time; that this affirmant has no interest whatever in the said sale, or in any of the heirs or parties interested therein; that he was present, with many others owning property adjoining the said described premises, at said sale, and saw and heard the same struck off to one Edward Dudley.

E. BURROUGH.

Affirmed and subscribed this twenty-second day of June, A. D. 1885, before me.

ISRAEL ROBERTS,
M. C. C.

[Copy of advertisement annexed.]

STATE OF NEW JERSEY, }
CAMDEN COUNTY, } ss.

EDWARD BURROUGH, being conscientiously scrupulous of taking an oath, on his solemn affirmation says, that he resides in the township of Delaware, county of Camden, and State of New Jersey, within a short distance of the land described in the annexed advertisement; that on either the eleventh or thirteenth day of April, in the year eighteen hundred and eighty-five, on his way from Haddonfield he drove past the property in question and stopped and read a large bill or poster tacked up on a board fastened on a tree fronting on the public road, of which the annexed is a true copy, which tree is situate on the premises described in said bill or poster, which is situate in the township of Delaware, in the county of Camden, and State aforesaid, and that he is able to state

this particularly and emphatically because on the eleventh and the thirteenth of April he drove to Haddonfield for his sister, and it was on one of these trips he saw and read the poster as stated.

E. BURROUGH.

Affirmed and subscribed this 7th day of July, A. D. 1885, before me.

ISRAEL RORERTS,
M. C. C. 10

[Copy of advertisement annexed.]

IN CHANCERY OF NEW JERSEY.

Between THOMAS S. RUDDEROW and others, Complainants, and WILLIAM S. RUDDEROW and others, Defendants.	ON BILL, &c. ORDER TO SHOW 20 CAUSE, &c. ORDER.

The matter of the order to show cause before this Court, on Tuesday, the twenty-first day of July, eighteen hundred and eighty-five, why the Master's sale to Edward Dudley should not be confirmed, coming on to be heard, in the presence of David J. Pancoast, solicitor of 30 the purchaser, and Howard J. Stanger, solicitor of the complainants, and the Court having fully heard and considered the matter of the said sale, and being of the opinion that the same was duly advertised and made according to law, the same is hereby confirmed and the

Special Master is hereby ordered and directed to execute and deliver to the said Edward Dudley a deed of conveyance of the same according to law, and the said order to show cause is hereby discharged.

THEODORE RUNYON, C.

Respectfully advised.

JOHN T. BIRD, V. C.

The deed was executed and delivered July 23, 1885, to Edward Dudley, dated July 23d, 1885.

10 The purchase money was paid same day to M. B. Taylor, Special Master.

The proceedings under the petition, and the rule to show cause, &c., were commenced August 1, 1885.

The hearing took place September 1, 1885, before the Vice Chancellor, at Trenton. Witnesses examined and rule dismissed, with costs. These proceedings appear in printed book of the petitioners

The following is a copy of Vice Chancellor's opinion upon the above hearing:

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RUDDEROW
vs.
RUDDEROW, et als.

On motion to set aside confirmation of sale.

Mr. J. W. Wartman, for the motion.

Mr. D. J. Pancoast, contra.

30 Bird, V. C.: I cannot entertain this motion, on this petition, because, after every opportunity to be heard, the case was decided against the petitioner, there being nothing new presented to prompt the court to action, except the question of fraud upon the part of the coun-

sel of the petitioner. Indeed, the order to show cause was only allowed, upon the ground that a grave charge was made against an honorable member of the bar, which, by intimation, might possibly extend to the purchaser. The court could not hesitate to inquire into the merits of such charges.

But I refused to proceed upon any other ground and told counsel who presented the petition that I had given all parties the fullest chance and must regard the question as settled, so far as this court was concerned. Such opportunity to be heard is shown by the facts, as they appear by the papers now constituting the records of the court in this cause. The order confirming the sale of the other portion of the premises was made in June, and I refused to advise an order confirming the sale of this portion, because it was intimated that there was some doubt whether or not the notices of sale had been posted long enough. I ordered the case to stand over. July 6th I was again asked to advise a confirmation of the report of sale, but not feeling satisfied that the doubt had been removed, I advised an order to show cause why the sale should not be confirmed. The question came on to be heard under this order July 21st.

July 21st every person had the fullest opportunity to be heard. Counsel appeared and evidence was offered. After this long delay, and the production of all the proofs that seemed possible, and after the argument of counsel, I thought the notices had been posted according to law and advised a confirmation of the sale.

On the evening of the same day that I so advised, but several hours afterwards, I received, through the mail, a letter from Mr. John W. Wartman, saying that he wanted to be heard in opposition to the confirmation of sale. The order having been advised, I could do nothing until the other side had notice.

On Saturday of the same week Mr. Wartman presented the petition now under consideration and wanted the case heard anew on that petition—in effect a rehearing of the case. It appeared at that time that Mr. Wartman was fully apprised of the former hearing, on July 21st, and that he had ample time to be present and make his case, but did not appear because some other ordinary professional business detained him. It was ordinary, but the precise nature of which was not disclosed. It was most evident that if the progress of a cause could be impeded by such excuses, the determination of every cause would depend entirely upon the will of the adversary. When this fact appeared I promptly refused to entertain any motion on the subject of rehearing, except as it might hinge upon the important matter of corruption stated in the affidavits.

This charge of corruption and infamy was not presented as any special ground for opening the case; but being disclosed to the court, it was at once decided to hear the case on that charge, and on that alone, with the determination to wipe out the infamy imputed, or to compel the surrender of the prize. The most solemn obligation to the State seemed to demand this of the court. Although I allowed the petition to be filed, and also the affidavits, disclosing other matter, I distinctly stated that so far as I was concerned, the inquiry should be limited to one point.

And when the case came on to be heard an effort was made to introduce testimony upon the point formerly agitated respecting the notices, which I rejected upon the ground that that branch of the case had been acted upon by this court, saying that I would not open the case, and that if I was in error redress could be obtained by appeal. I also said that I would allow the largest latitude in the examination in order to detect the corruption, if it

existed, which, plainly, might lead to statements of what was said and done respecting the notices.

And now I have heard the evidence from the mouths of the witnesses. As I was bound by a sense of duty to order the inquiry, I am glad, for the sake of the bar and bench, that I did. Honorable men, heretofore enjoying an unblemished reputation, are still as deserving of confidence as before. Suffice it to say that there is not one particle of evidence to sustain the gross imputation. I will advise an order dismissing the order to show cause with costs.

It is proper to say that the counsel who presented the petition did not ask for anything, in the first instance, on account of the said charge against other counsel; and only did before me, afterwards, because he thought that enough testimony had been deduced to establish the insufficiency of the notice; but virtually admitting that the main matter of inquiry was unsupported. As above stated, I only admitted testimony on the question of corruption and considered nothing else. The sufficiency of the notice had been previously considered.

October 6, 1885, order of distribution made as follows

IN CHANCERY OF NEW JERSEY.

Between THOMAS S. RUDDEROW, et al., Complainants, and WILLIAM S. RUDDEROW, et al., Defendants.	ON BILL IN PARTITION. ORDER OF DISTRIBUTION.

This cause being opened to the Court by John F. Harnee, Esquire, solicitor of the complainants, and it appearing by a report heretofore made by Marmaduke B. Taylor, Esquire, one of the Special Masters of this Court, and now on file, that the gross proceeds of the sale of the real estate and premises in the bill of complaint mentioned, as made by said Master, amounts to the sum of four thousand six hundred and thirty-one dollars and fifty cents; and it further appearing by the report of the Receiver heretofore appointed in this cause, that he had remaining in his hands, after paying all expenses, the sum of twenty-eight dollars and ninety-six cents, which said sum has, by order of this Court heretofore made, been paid to said Master for distribution, making the gross sum of money received by said Master from all sources the sum of four thousand six hundred and sixty dollars and forty-six cents; and it further appearing that said Master, in pursuance of an order entered in this cause on the eleventh day of August last, has paid off and satisfied a certain mortgage debt against the prem-

ises in said cause mentioned, amounting to the sum of thirteen hundred and forty-eight dollars and fifty-eight cents, making the gross amount remaining in the hands of said Master for distribution the sum of three thousand three hundred and eleven dollars and eighty-eight cents;

It is, on this sixth day of October, A. D. eighteen hundred and eighty-five, ordered, that out of the remainder of the proceeds of said sale the said Marmaduke B. Taylor, Master as aforesaid, do pay to the solicitor of the complainants their costs in this suit, to be taxed, and a counsel fee amounting to the sum of fifty dollars.

And it is further ordered, that the Clerk of this Court, in taxing the costs of this suit, do tax therein as part of said costs the sum of twenty-five dollars, fees for searching, which was necessary in the proper conducting of said suit.

And it is further ordered, that the said Master do also retain his fees and commissions on said sale, as allowed by the rules of this Court; and that of the residue he do pay to each of the complainants, Thomas S. Rudderow, Barzilla Rudderow, Lemuel H. Rudderow and Levi O. Rudderow, the one equal twenty-fourth part; to each of the defendants, Sarah Rudderow, Mary A. Grow, Jerusha M. Willden, Luanna Rudderow, Eunice F. Toy, Abagail Stiles, and Isaac F. Rudderow, the one twenty-fourth part; to each of the defendants, William S. Rudderow, Hannah Mullen, Jane Ann Nichols and Sarah Phillips, the one thirtieth part; to each of the defendants, Anna Rudderow and Allen Rudderow, the one seventy-second part; to the defendant, Harrison Rudderow, the one forty-eighth part; to each of the defenants, William Cox, George Cox and Ella Shoemaker, the one ninetieth part; to each of the defendants, Mary A. Epley, Nancy Rowand, Benjamin R. Epley and Sarah

E. Watson, the one ninety-sixth part; to each of the defendants, William Cook, Ella Anglen, Hannah Stevenson, Seth Rogers and Elizabeth Pike, the one hundred and twentieth part; to the complainant, Angeline Rudderow, and to each of the defendants, Elmer Stone, Elizabeth Stone, William H. Rudderow and Amanda Moore, the one hundred and eightieth part; to each of the defendants, Phebe Ann Fisher, Hannah Wilson, William R. Fairholm, Isaac V. Fairholm, Emma Francis, Maggie
10 Hubbard, Mary Evans, Thomas Phillips, William Phillips, Ner Phillips, Mary Gushalt and Lizzie Bybe, the two hundred and tenth part; to each of the defendants, Alwilda Cory and Charles Boggs, the one four hundred and eightieth part; to the defendant, Joseph Wills, the one seven hundred and twentieth part; to the guardian of the infant defendant, Franklin Rudderow, the one twenty-fourth part; to the guardian of the infant defendant, Emma Rudderow, the one forty-eighth part; to the guardian of the infant defendant, Anna J. Hackett, the one hundred and twentieth part; to the respective guardians of the infant defendants, Charles Phillips and
20 Samuel Phillips, the one two hundred and tenth part; to the several and respective guardians of each of the infant defendants, Ella Boggs, Emma Boggs, Albert M. Leabo, Eupha B. Leabo, Thomas P. Leabo and Melvina Leabo, the one four hundred and eightieth part; to the several and respective guardians of each of the infant defendants, Blanche Wills, Frank Wills and Annie L. Wills, the one seven hundred and twentieth part, upon each of said mentioned guardians severally executing bonds to the Ordinary of this State, with sufficient sure-
30 ties in double the amount to which each of the said infant defendants are respectively entitled; which said bonds shall be approved by said Master and filed with the Clerk of this Court.

And further, that said Master do pay to the defendant, Mary A. Rudderow, out of the one twenty-fourth part to which the defendant, John S. Rudderow, is entitled, the sum of eleven hundred and eighteen dollars and nineteen cents, together with interest thereon from the sixteenth day of May, A. D. eighteen hundred and eighty-two, should the same so far extend, and in the second place do pay the balance of said one twenty-fourth part, if any there be, to the defendant, John S. Rudderow; and do pay to the defendant, Edith Rudderow, out of 10 the one seventy-second part, to which the defendant, Benjamin F. Rudderow is entitled, in the first place the sum of two hundred and eighty-nine dollars and fifty cents, together with lawful interest thereon from the sixteenth day of July, A. D. eighteen hundred and eighty-four, or so far as the same will extend; and in the second place do pay out of said last mentioned share to the defendant, Richard Kaighn, the sum of three hundred and eighteen dollars and thirty-eight cents, together with lawful interest thereon from the 20 thirteenth day of January, A. D. eighteen hundred and eighty five, or so far as the same will extend, and in the third place to pay to the defendant, Benjamin F. Rudderow, the balance of said one seventy-second part, if any there be.

And it is further ordered, that the said Master file with the Clerk of this Court a statement of his fees and disbursments and commissions under these proceedings, together with a statement or report of the distribution, disposition and investment of the moneys that have come 30 to his hands as the proceeds of said sale.

THEODORE RUNYON, C.

Respectfully advised.

JOHN T. BIRD, V. C.

All the money has been distributed among the heirs by M. B. Taylor, Special Master, who has vouchers for the same.

DAVID J. PANCOAST,
Sol. of Edward Dudley.