

New Jersey Court of Errors and Appeals.

Between :

THE GRAND COURT FORESTERS OF
AMERICA, STATE OF NEW JERSEY,

Complainant-Appellant,

and

COURT CAVOUR NO. 133, FORESTERS
OF AMERICA, et als,

Defendants-Respondents.

On Appeal.

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APPELLANT'S BRIEF.

Facts.

This is a suit brought by the Grand Court Foresters of America of the State of New Jersey, a corporation of New Jersey, against Court Cavour No. 133, a Subordinate branch of the same order, for the purpose of enforcing the laws of the Order, and compelling the defendants to account for and turn over to the Appellant all moneys and property in their possession, in accordance with the laws, rules and regulations of the Foresters of America. 20

The appellant is the New Jersey branch of a fraternal organization known as "The Foresters of America," created for the purpose of promoting fraternal and social intercourse among its members, and to provide a fund for the payment to its members of certain weekly sums in case of sickness or disability, to provide medical service and medicine to members in good standing, who are ill, and the payment of certain sums upon the death of members to members' wives. The 30 40

10 Foresters of America is established throughout the various States of the United States, and this appellant was regularly chartered and instituted by the Supreme Court of the Foresters of America in Eighteen hundred and eighty-nine, and subsequently became incorporated under the laws of the State of New Jersey, and conducts its affairs in accordance with the Constitution and General Laws of the Order, which are the laws enacted by the Supreme Court as well as in accordance with its own laws, known as "Grand Court Laws."

20 The Grand Court of New Jersey, the Complainant and Appellant, is composed of representatives from Subordinate Lodges established in the State of New Jersey, known as "Subordinate Court." The Subordinate Courts elect in March, before a State Convention of the Order, delegates to attend the convention. Each Subordinate Court is entitled to send one delegate for every one hundred members, and an additional one for a fractional part over one hundred. These delegates in convention assembled form the Grand Court Convention and compose the Grand Court. At such Convention, the delegates assembled elect from among the past Chief Rangers of the Order (past presiding Officer), all the Officers of the Grand Court. These Officers compose what is termed in the Order, "The Executive Council," and as a body transact the business of the Order in the State between Conventions.

40 At the Grand Court Convention, the delegates there assembled, elect representatives to attend the Supreme Court Convention, being entitled to one representative for every one thousand members, and an additional one for a fraction over five hundred in the State. The representatives thus elected from this State, and all the other States, form the Supreme Convention, at which, the representatives there assembled, elect the

Officers of the Supreme Court, who compose the Supreme Executive Council, and transact the business of the Order between Supreme Conventions. (See State of the Case, pages 89-90-91).

The Supreme Court is the highest body, and its Constitution and By-Laws are called the General Laws of the Order, and are contained in Exhibit C-3, which is not printed in the State of the Case, because it contains one hundred and fifty-eight closely printed pages, but it presented to the Court with and as a part of the State of the Case. The Supreme Court issues all Dispensations or Charters for both Grand Courts and Subordinate Courts, but the Subordinate Court receives the Charter or Dispensation from the Grand Court of the State where it is to be established.

The form of Charter or Dispensation granted to the defendant in this suit is C-2, and C-18, which appears on pages 206 and 207 of the State of the Case.

The defendant organization was instituted November twenty-fourth, Nineteen hundred and three by the Complainant, which, at that time, was in existence fourteen years. After its institution, the defendant organization continued as a Subordinate body of the Complainant initiating all of its members, including the Charter Members, and conducting its affairs, collecting its dues and disbursing its funds in accordance with the General Laws of the Order and the Grand Court Laws of the Complainant, as well as its own By-Laws which were adopted by it. Every member who joined the defendant made a Contract in the form of an application, a true copy of which is Exhibit C-19, appearing on pages 225-229 of the State of the Case. (See State of the Case, bottom of page 173 and top of page 174). The provision that the Complainant particularly relies on in this case in the application for membership, which forms the Contract, appears on page 227 of the State of the Case, lines 20-30, which is as follows:

"And I further declare that I will conform to and abide by all the rules of the Court and of the Order now in force, or hereafter to be made, or submit to the penalties therein contained."

At the time of the institution of the defendant organization, the Complainant's By-Laws, Article 18, page 20, of Exhibit C-4, page 208, State of the Case and testified to on page 71, lines 10-20, provided among other things that when a Subordi-
 10 nate Court is expelled, all property, moneys, goods and effects shall vest in and be delivered to the Grand Court upon demand being made therefor.

Charges were preferred against the defendants under the laws of the Foresters of America. The defendants appeared for trial and were represented by Counsel; were found guilty and the defendant organization was expelled. The Com-
 20 plainant thereupon brought this suit to recover from the defendants, the moneys and property, which under such circumstances under its law, revert to it. Thirty-eight members of the defendant organization signed a Petition and filed it with the Complainant for reinstatement in the Order, claiming to be innocent of the wrong doing which brought about the expulsion. This Petition with the names and addresses of the signers is Exhibit C-20, and is printed in full on
 pages 230-232 of the State of the Case.

30 Under the construction that the Complainant places on its laws, if the complainant is successful in this suit, it is bound to recognize these thirty-eight members, who signed the Petition above referred to, as the *Subordinate Court*, and deliver to them, all of the property, moneys, etc., which it may recover from the defendants in this suit. And if this Court in its discretion will permit complainant is willing and desirous to sub-
 40 stitute said thirty-eight members as the real Court Cavour No. 133 F. of A. as complainants.

POINTS.

I.

If the charter and by-laws provide a mode of expelling a member, the proceedings of the Association, if in conformity therewith, are *conclusive*.

Note citing cases in

Van Houten v. Pine, 9 Stewart 133.

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Or at least must be exhausted before resorting to courts of law.

Notes to same case.

Also

Smith v. Ocean Castle No. 11 etc., 59 N. J. L. 198, 35 Atl. 917.

In the case at bar, the learned Vice Chancellor went into the details of the trial before the Association (See opinion pp. 247 to middle of 250 State of the Case), *After* having as complainant insists correctly stated the law during the trial of the case (See State of the Case lines 36-40 p. 136), and permitted himself to be influenced by his opinion of the merits of the charges, when in fact the merits were not before him. The General laws of this Order provide (See exhibit C-3 which is the separate book, Sec. 219 p. 58) against resort to the civil courts before exhausting every means of appeal in the order. And further, in same exhibit Sec. 236 p. 62, an appeal is provided from the decision of the Complainant, and the defendants not having taken the appeal cannot in any way question the decision of the Executive Council in this case nor can the court. Complainant therefore respectfully submits that for the purposes of this suit it must be conclusively considered that the defendants are expelled in accordance with the laws of the Order.

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Furthermore, the defendants acquiesced in the order of expulsion by not appealing from the decision of the Executive Council. Having the right of Appeal to the Supreme Board of Appeals of the Order as provided in C-3 quoted above, they could not maintain Mandamus for reinstatement, without taking the appeal.

Smith v. Ocean Castle etc., Supra.

10 The decision of the Executive Council was communicated to the defendants November 11, 1912 (See p. 114 of State of the Case C-13).

After receipt of that notice, the officer who received it called a meeting of the defendant society by notifying *all* the members and also complied with the notice as to turning over books and papers. (P. 168 State of the Case lines 25-35 and p. 169 lines 20-25). A meeting was actually held on November 19, 1912, but no appeal was taken
20 and the time for appealing expired under the laws of the order on November 26, 1912 or one week after the meeting at which the defendants claim about two hundred and seventy-five of the members were present. The main question therefore which is to be determined in this case is the legal rights of the parties arising out of the expulsion, and as that question has been thoroughly considered in other cases in this Court and in the Court of Chancery it will be treated in the next
30 point.

II.

The last word on the question involved in this State is the decision of this Court in the case of

State Council &c., v. Enterprise Council
#6, 72 Atl., 19, 75 N. J. Eq., 245,

40 and the question to be decided is whether that decision controls or whether the case at bar comes rather within the rule of

State Council v. Sharp, 38 N. J. Eq., 24
and

Knights of Pythias v. Germania Lodge,
56 N. J. Eq., 63; 38 Atl., 341.

Some of the important particulars in which the case at bar differs from the Junior Order case are as follows:

(1) Exhibit C., 19 pp. 225, *et seq.*, State of Case, which is the candidates application for membership in the Order and which is the same in form and contents under the evidence as the application signed by each individual member of Court Cavour contains this contract over each member's signature: 10

"And I further declare that I will conform to and abide by all the rules of the Court and of the Order now in force or hereafter to be made, or submit to the penalties therein contained." 20

In the Junior Order case there was no such contract shown to exist between the individual members and the order at large.

(2) In the case at bar the defendant organization was instituted by the complainant in Nineteen hundred and three as a voluntary organization and as a subordinate body of the Complainant subject to all its rules and regulations under the powers granted to the Complainant by the Order as shown in the General Laws of the Order contained in Exhibit C-3 (Book accompanying State of Case), and in the Grand Court Laws of the State of New Jersey contained in Exhibit C-4, p. 208 of State of Case. After the defendant organization had been in existence as a subordinate branch of the Complainant for a while, the Complainant adopted a resolution requiring all its subordinate branches to incorporate under the Laws of the State of New Jersey, providing for incorporation of organizations organized not for pecuniary profit (see p. 65, 30 40

ll. 17 to botton of page, evidence of T. M. Donnelly) and pursuant to the requirements of the Complainant, the defendant became incorporated in Nineteen hundred and four.

In the Junior Order case the facts show that the particular subordinate council existed and became incorporated prior to the organization of the State Council and prior to the organization of the National Council in October, Eighteen hundred and sixty-eight.

(3) In the case at bar at the time of the institution of the defendant organization by the Complainant, the Complainant's Laws Exhibit C-4 (see page 208 of State of Case) contained the provisions as Section One (1) of articles eighteen (18):

“Should any Subordinate Court become either by operation of law or otherwise dissolved, or be suspended, *expelled* or secede from the Order all property, *moneys*, goods and effects shall vest in and be delivered to the Grand Court upon demand being made therefor.”

In the Junior Order case there was no such provision at the time of the institution and incorporation of the subordinate council.

(4) In the case at bar the Supreme Court of the Order in its Convention of Nineteen hundred and seven adopted the law which provides that if a subordinate court is dissolved or expelled, its charter, dispensation, rituals, *moneys*, books, papers and *all other property, real and personal*, shall be forfeited to the Supreme Court or the respective Grand Court. This law has since then remained in force and was the law when this case was tried and is found as Section 215 of the General Laws as contained in Exhibit C-3. Subsequent to the enactment of that law by the Supreme Court, the defendant organization on the *thirtieth day of July, nineteen hundred and nine*, adopted

a new Constitution and By-Laws for its government and regulation and as Section 5 of its (the defendant organization's) Constitution, which is the Constitution which was in force governing the defendant organization locally, provided as follows:

"Section 5: recognizes the authority of the Supreme Court of the Order and the authority of the Grand Court of the State of New Jersey, and it shall abide by, obey, agree to and conform with the General Laws of the Order and the Grand Court Laws of the State of New Jersey, as now in force or as they may be hereafter enacted or amended."

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When this Constitution was adopted both the General Laws of the Order and the Grand Court Laws of the State of New Jersey provided in case of a dissolution or expulsion of the Court (subordinate body) that the moneys and all other property be forfeited to the Grand Court.

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In the Junior Order case there was no such acceptance of any such provision and as far as the case shows no such provision existed prior to Nineteen hundred.

(5) In the case at bar (see Evidence T. M. Donnelly, page 67 and subsequent pages) the Complainant is required under its laws and the General Laws of the Order when a subordinate branch becomes *defunct* to recognize all the members of that subordinate branch, who were in good standing at the time it became defunct by giving them a clearance card to enable them to join another subordinate branch of the Order and during the life of the clearance card the Grand Court itself is required to pay all the benefit which the member was entitled to from the defunct Court and if the member is unable for any reason to become a member of another subordinate branch he continues to pay his dues to the Grand Court (Complainant) and receives all the benefits of

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membership including sick benefit and mortuary benefit for the rest of his life. The Complainant pays these benefits out of its general funds (see page 69 of the evidence).

In the Junior Order case there was no such provision in their laws and the attempt was to work a pure forfeiture.

10 (6) In the case at bar under the laws of the Complainant and the laws governing the Complainant in the Order, if fifteen or more innocent members of the dissolved subordinate branch apply to preserve their membership, it is mandatory for the Executive Council, which is really the Complainant between Conventions, to recognize those fifteen or more members as the same subordinate body to which they formerly belonged and to issue to them a new dispensation bearing the same number, which of course carries with it, they being
20 recognized as the same organization, *all of the property and funds*. So that under the provisions and regulations of this Order as long as there are any innocent members there is no forfeiture but the funds are preserved for the benefit of the innocent members and the real trusts and purposes for which the funds were accumulated are thus carried out.

In the Junior Order case there was a pure forfeiture with no provision to use the money thus
30 forfeited for the same purposes for which it was accumulated and for the benefit of those who complied with the laws, rules and regulations under which the funds were accumulated. In this distinction between the Complainant and its regulations and the State Council of the Junior Order, the Complainant falls exactly within the case of the *State Council v. Sharp*, in 38 N. J. Eq., p. 24, which is not in any way criticized by Justice
40 Swayze in his opinion but on the contrary referred to evidently as still good law but materially different from the Junior Order case.

In the *State Council v. Sharp*, there was a provision preserving the money taken from any subordinate council on its dissolution for the benefit of the widows or orphans of the dissolved council, if they had any, and if not the money was to be kept, and in case of reorganization of the subordinate council to be turned over to it. That is exactly the same situation as in the case at bar, for here there are thirty-eight members who have pleaded their innocence and who are innocent of any of the wrong done which brought about the dissolution and expulsion from the order of the defendant organization and under the Complainant's laws, the money if forfeited would have to be returned to them and they would be carrying out the original trusts for which the money was accumulated. Even if there had not been fifteen or more members this case would come within the principle of *State Council v. Sharp*, because the Complainant is required to use its general funds partly for the purpose of continuing to pay out the death and sick benefits to members of the Order who become members of the Complainant by their subordinate lodge becoming defunct and they being in good standing at the time. So that this Order differs materially from the Junior Order in which there seems to be no financial guarantee to the individual member of having the obligations into which his subordinate lodge entered, carried out by the Order at large through its State Body, which this Order has such a provision, and therefore continues the trusts for which the funds were accumulated in any event. The references to the laws and the explanation is contained in the evidence on pages 69, 70 and 71.

(7) In the case at bar the defendant organization received notice of trial upon the charges preferred against it and appeared to defend the charges, being represented by members of the bar, who were at the same time members of the

Order; and one of the defendant's witnesses, Michael Padula, in his direct examination at p. 136, ll. 14-18, says there were thirty to forty members present at the time of the trial.

10 In the Junior Order case there seems to have been no real notice sent to the members and no appearance before the State Council as the State Council had itself seceded from the National Council, and the defendant there remained true to the National Council and continued with its business and its meetings.

20 (8) In the case at bar the defendant organization was suspended on September 28, 1912, and tried on October 12th, and expelled from the Order and dissolved as a Court of Foresters on November 9, 1912. The defendant organization did not hold any meetings whatever or conduct any business between September 28th and November 19th. A Minute book has been produced after it had been testified in the case on page 171, ll. 28 to bottom and also (bottom p. 141 and top p. 142), that they wrote what took place at their meetings on blank pieces of paper, because they had no books:

"Q. (By the Court.) You have got books now? A. No, no books.

"Q. (By the Court.) Who keeps the papers? A. The recording Secretary.

30 "Q. (By the Court.) Who is he? A. Petro De Maio."

40 Which minute book a translation of which appears on pages 238-244 of Case, shows that even though the minutes have been doctored, nevertheless there was a meeting held on November nineteenth, nineteen hundred and twelve, *no meeting held during the month of December, and no meeting until the very end of January, January twenty-eighth*; that then a meeting was held on February sixth, *no other meeting in February, no meeting in March*, a meeting of the Executive Committee on April third, and a meeting of the

supposed organization on April eighth. The By-laws of the defendant organization, Exhibit C-5 provides in Articles One (1), Section One (1), that meetings shall be held on the second and fourth Tuesday of each month. At the April eighth meeting (p. 242), the following resolution appears:

"RESOLVED also that according to the decision of the Court of Chancery, we should have regular meetings every second and fourth Tuesday of each month." 10

The Complainant knows of no such decision of the Court of Chancery directing the defendant organization to hold any meetings whatever, but apparently some of the members of the defendant organization must have been so advised or that resolution would not appear. The minutes further show, that no dues were paid or collected from September until April, a period of six months, and that the organization which the defendants claim is the original organization and has continued to do business right along and to exist, evidently basing their claim more on the facts that existed in the Junior Order case than on the true facts in this case, is not the same organization for, at the meeting held April eighth, Nineteen hundred and thirteen, the following resolutions were adopted (pp. 242-3 of State of the Case): 20

"It was duly moved and decided that monthly payments begin from the month of April, leaving the question of arrears of payments open, benefits to commence six months from the date hereof, leaving the right to the doctor and medicine open. Brother Fiorini proposed that hereafter the financial officer should accept dues conditionally, viz., whenever the Executive Committee or some member of the Court can show that any of the contributors to the monthly dues is unworthy of being a member, such financial officers are authorized to refuse any further 30 40

payments, and shall also have authority to return such dues *conditionally received*. The motion was voted upon and *unanimously approved*."

In the Junior Order case, the Court says the Enterprise Council was not dissolved, but continued to hold its meetings, conduct its business and remain the same body, all that happened was that it threw over its allegiance to the State Council.

10 In the case at bar, the resolution from the minutes of the defendant organization, or rather from the minutes of those that claim to be the defendant organization, it clearly appears that they did not continue as the same body, organizing the same members and carrying out the same trusts and purposes, but on the contrary took upon themselves, the right to select who their members should be, and, therefore, they cannot
20 by any stretch of the imagination be held to be the same continuous organization. The fact of the incorporation of the original defendant under the laws of this State, makes no difference in the decision of the case, as this Court held in the Junior Order case against Hollywood Council. The evidence of the financial secretary of the organization representing itself now to be the defendant (pp. 139-140 of Case), shows that out of
30 the membership of three hundred and thirty-eight which constituted the original defendant organization, only forty or forty-five had affiliated themselves with the present organization by paying dues up to May sixth, nineteen hundred and thirteen, which is the date on which the Final Hearing of this suit was begun, and the other evidence shows that thirty-eight members have applied to the Grand Court to be recognized as Court Cavour and under the laws it is mandatory
40 for the Grand Court to recognize them and to issue to them the dispensation.

(9). In the case at bar the defendant organi-

zation had a right of appeal from the decision of the complainant to the Supreme Board of Appeals but did not exercise it.

In the Junior Order case, the Subordinate Council could not appeal to the National Council, because the State Council had severed its connection with the National Council and by its own act deprived the defendant from an opportunity to appeal, which under the circumstances of that case the Subordinate Council being loyal to the National Council would no doubt have resulted in a reversal by the National Council of the action taken by the State Council. 10

The complainant, therefore, respectfully submits that the complainant's case is controlled not by the Junior Order case, but by the case of *State Council v. Sharp*, and by the case of *Knights of Pythias v. Germania Lodge*, 56 N. J. Eq., 63, both of which cases Justice Swayze cites in his opinion in the Junior Order case as differing from that case. He does not criticize nor in any way question the authority of these two decisions. 20

III.

The Complainant construes Sec. 112 of Exhibit C-3 of its laws as applying to this case in this way:

Every member, who, if given an opportunity would have voted to comply with the laws of the order so as to prevent expulsion is considered as one who voted against his court being expelled. 30

In the case at bar, every member who did not participate in the violations of the laws of the Order of the Foresters of America, by signing the petition which appears on pages 230 to 232 of the State of the Case is in the position of having voted against his Court being expelled for 40

non-compliance with the laws. That is the only way a member under the circumstances of this case can show his intention and, it seems to complainant is a reasonable construction of Sec. 112. It is the construction which ought to be put on it as it protects an innocent member against a wrongful forfeiture of his membership involving property rights.

- 10 *Thirty-eight* members having signed this petition and thus placed themselves in the position of having voted against their court being expelled, the second paragraph of Sec. 112 applies, and the complainant by virtue of said provision is *re-*
 quired to recognize said *thirty-eight members* as *the same Court* to which they formerly belonged. They being the same Court, of course all the property of every kind of the Court belongs to them and the complainant is, therefore, desirous of having said thirty-eight members substituted
 20 as complainants, and letting the funds go to them direct. If this amendment is not made, and the complainant prevails, it will be compelled in compliance with the laws of this Order, referred to above, to turn the funds over to said members and the same result will ensue as if the amendment is made. The Complainant is not seeking to enrich itself by a forfeiture and is not asking this court to enforce a forfeiture. It is rather
 30 asking this court to decide that the thirty-eight loyal members are entitled to hold the Court as a Court of Foresters as against the forty or forty-five who have reorganized pending this suit as a separate corporation.

IV.

The fact that Court Cavour is incorporated does not affect the situation here for the following reasons:

(1) It became incorporated in compliance with a resolution of the Complainant. It came into existence by means of a dispensation from complainant organized and continued its existence as a subordinate branch of the complainant.

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(2) Its members did not join a corporation, they joined by making an application to join the Foresters of America and entered into a contract with the Foresters of America which is the only contract they entered into. By the evidence of Frank De Feo on pages 172-173 it appears that every member signed the same application as Exhibit C-19 on pages 225-229 of State of the Case.

(3) Exhibit C-5, pages 209, 210 and half of 211 of State of the Case shows that it collected its *funds*, conducted its business, and disbursed its money *not* as a separate corporation but as a subordinate court of the Foresters of America. There is nothing to show that the members who joined after the incorporation even knew that Court Cavour was incorporated. Even the seal is not a corporation seal but a court seal showing the date of its institution as a Court of Foresters, not as a corporation, as shown by the impression made in the open court and read into the record. There is no one connected with Court Cavour either as a corporation or as a Court of Foresters who by his contract in the application is not bound by the General Laws of the Foresters of America, the Grand Court laws of Complainant and the By-laws of Court Cavour.

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(4) The Complainant does not seek to nor has it dissolved Court Cavour a corporation; what

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it has temporarily done was to dissolve Court Cavour a subordinate court of the Foresters of America. If any of the members of Court Cavour desire to continue the corporation, the only possible objection the Complainant may have is to apply to have them restrained from the further use of the name and number as a Court of the Foresters of America.

10 For the reasons above stated, Complainant respectfully submits that the decree dismissing Complainant's Bill of Complaint be reversed and that a decree be ordered directing defendants to account for and turn over all of the funds and property of Court Cavour No. 133 Foresters of America either to the Complainant to be by it turned over to the loyal members of Court Cavour as a Court of Foresters or directly to said loyal members as the Foresters Court Cavour, substituted Complainant.

20 Respectfully submitted,
 PHILIP J. SCHOTLAND,
 Sol'r. for and of Counsel with Appellant.

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New Jersey Court of Errors and Appeals.

Between :

THE GRAND COURT, FORESTERS OF
AMERICA, STATE OF NEW JER-
SEY,

Complainant-Appellant,
and

COURT CAVOUR, NO. 133 FORESTERS
OF AMERICA, et al.,

Defendants-Respondents.

On Appeal
from
Chancery.

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RESPONDENTS' BRIEF.

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The facts are correctly stated by the appellant, except for that part stating that thirty-eight members, of the defendant organization, signed a petition and filed it with the appellant asking to be re-instated in the order. The Vice-Chancellor having regarded that paper as signed only by those (seven in number, see case, p. 177, l. 10) whose signature have been proved (p. 181, l. 12) of the State of the Case.

Three officers of the respondent were cited to appear before the Appellant's Advisory Board, July 13, 1912, to show cause why they should not be suspended for conduct unbecoming "a Forester" in the meetings of their Court (case, p. 106). On July 15, 1912, the Grand Secretary addressed to the Financial Secretary of Court Cavour a written communication citing all the officers to appear before the Advisory Board on September 13, 1912, "prepared to prove that all

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matters in dispute in your Court *has* been settled to the satisfaction of all concerned, and for failure so to do your officers will be suspended from the order" (case, p. 108, l. 9). On September 23, 1912, a party of appellant's officers visited Court Cavour while in session, and removed the "Charter," corporate seal, minute book, regalias and every visible article belonging to Court Cavour (case, pp. 81 and 82).

- 10 It has not been proven that Court Cavour (the only answering defendant) at any time became bound by the provisions of the alleged contract of application, signed by persons applying for membership in the Order. The other defendants in the suit are the financial officers of Court Cavour; the Fidelity Trust Company; the National Newark Banking Company, and the Italo-American Building & Loan Association, the latter being the depositaries of the accumulated funds of the
- 20 said answering defendant. The sole object of the complainant in joining these defendants was to effectually restrain Court Cavour from using its corporate funds. The appellant avers in its Bill of Complaint (par. 9, pp. 14-15, State of the Case), "That respondent Court Cavour No. 133, by its officers was about to withdraw the said funds from each of said institutions, and divide said funds among the officers and members."
- 30 This alleged diversion of the funds was not substantiated on the hearing and it was evidently charged in the Bill merely to create a situation calling for the interposition of the injunctive power of the Court of Chancery.

"Q. Was there any intention on your part to disband Court Cavour?

"MR. SCHOTLAND: I object.

"Question overruled.

- 40 "Q. Did you state to anybody that it was your intention or the intention of the other

officers of Court Cavour to dissolve and to divide the money among yourselves?

"MR. SCHOTLAND: I object.

"THE COURT: Well, there is some charge made about that, but there is no proof about it, so you need not meet it. I shall not assume that they were going to divide it up among themselves until it is proved.

"MR. SCHOTLAND: I just wanted to explain that we have no proof on that point, all we have is a letter giving us that information from the National Newark Banking Company, on which information that allegation was made; now, of course, that is hearsay." (State of Case, p. 137).

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After appellant utterly failed to show any attempt to divert said funds, the other theory was then advanced and elaborately discussed, to wit: That the laws of the Order authorized appellant to hear and determine accusations and dissolve respondent and then by self-conferred authority take hold of the money and property of respondent, administer and carry out the objects specified in the respondent's certificate of incorporation. It is this alleged power and authority of the appellant which the learned Vice-Chancellor, after a search through the laws of the Order, has failed to find. See opinion (p. 250, l. 48).

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I.

The members of Court Cavour have not instituted any proceedings; they have merely protected themselves against an attempt to strip their association of all its property.

10 The mainstay of appellant's case is the resolution of November 9, 1912, and if that is defective and insufficient appellant has no standing in court. The appellant claims that by virtue of the resolution, the power and authority of Court Cavour was ended and the association dissolved. It was, therefore, proper for the Vice-Chancellor to scrutinize the legality of the same.

II.

20 Counsel says in subdivision 5 of Point II that appellant is required under its laws and the general laws of the Order (when a subordinate branch becomes *defunct*) to recognize all the members of that subordinate branch. The sections relied upon read as follows:

"ARTICLE XXIV.

30 "SECTION 112. Any member or members who voted with the minority against their Court disbanding or seceding from the Order, or against their Court being suspended or expelled for non-compliance with the laws or decisions of the Supreme Court, Grand Court or Executive Council thereof, or Arbitration Committee, shall, on satisfactory proof being made thereof, be still recognized as members of the Order, * * *

40 "In the event of any fifteen or more members voting in the minority, as above, so desiring it, they shall be recognized by the Executive Council of Grand Court as the same Court to which they formerly belonged, under a new dispensation, bearing the same number, which the Executive Council shall have power to grant in such cases, and the granting of

which renewed dispensation shall thereby abrogate and cancel all powers and authority conveyed in any dispensation which may have been granted bearing the same number.

"SECTION 113. Any member or members having voted in the minority against their Court seceding or disbanding, and wishing to avail themselves of the above provision, shall signify the same within one calendar month to the Grand Court; provided, such member resides for the time being at the same place in which the Court is held; but if any such member or members reside at a distance of over five miles, they shall be allowed two calendar months to make their intentions known to the proper officers, who shall be authorized to supply proper clearances provided by the Grand Court to members requiring the same."

These provisions are not applicable because these sections refer to a situation that has not arisen in the case. Vice-Chancellor Stevens holds that: "The question of disbanding or seceding was not brought before the society and no one voted either for or against it. It was the Grand Court that sought to dissolve it, not the subordinate court that sought to disband or secede." Opinion (beg. bottom p. 251 and top of p. 252).

III.

Article 18, Sec. 1 of the Grand Court Laws and that portion of Section 215, Exhibit C-3, amended in 1907 so as to include *money* and other *property, real and personal*, should not be considered as controlling because such amendment was unreasonable. *Sautter v. Supreme Conclave, Improved Order of Heptasophs*, 76 N. J. L., 763; 71 Atl., 232. Appellant manifested its interpretation of the rules when on November 11, 1912, in a circular, *Exhibit C-14, printed on page 216*, the Grand Chief Ranger notified the order at large of the so-

called expulsion proceedings and stated: "*The former members of the said dissolved Court Cavour No. 133, of Newark, N. J., are now out of the order and you will not permit any of them to attend any of your meetings or have any further forestic intercourse with them.*"

10 This statement was made in unmistakeable terms and their determination is shown by this fact: That on November 13, 1912, Samuel Grande, a member of Court Cavour, having a claim for sick benefits, made inquiries of the Grand Secretary concerning his rights to the same. The only satisfaction he received was the information that Court Cavour was no longer connected with the Foresters of America. (Ex. D-2, p. 234.) He was not informed that protection would be afforded him by the appellant nor that by certain provisions of the by-laws he would be taken care of. On the contrary he was con-
20 sidered an absolute stranger who had no standing whatsoever.

And yet it must be assumed that every contribution made by a member to the funds of the lodge has been made on the faith that it will be appropriated in no other way than that specified in the constitution and by-laws.

Lady Lincoln Lodge v. Faist, 7 Dick.,
30 510.

IV.

The interpretation put on Section 5 of Respondent's By-Laws, in the brief of appellant, is untenable in the light of the decisions cited by Justice Swayze, in the quoted case of *State Council, etc., v. Enterprise Council No. 6*, where he says:

"We approve of the rule established in *Austin v. Searing*, 16 N. Y., 112, 69 Am. Dec., 665. The court said 'The effect of some of the provisions of these constitutions is to create a tribunal having power to adjudicate upon the rights of property of all the members of the subordinate lodges, and to transfer that property to others; the members of this tribunal being liable to constant fluctuations, and not subject in any case to the selection or control of the parties upon whose rights they sit in judgment. To create a judicial tribunal is one of the functions of the sovereign power; and, although parties may always make such tribunals for themselves in any specific case by a submission to arbitration, yet the power is guarded by the most cautious rules. A contract that the parties will submit confers no power upon the arbitrator; and, even where there is an actual submission, it may be revoked at any time. *The law allows the party up to the last moment to ascertain whether there is not some covert bias or prejudice on the part of the arbitrator chosen.* It would hardly accord with this scrupulous care to secure fairness in such cases that parties should be held legally bound by the sort of engagement that exists here, by which the most extensive judicial powers are conferred upon bodies of men whose individual members are subject to continual fluctuation.'

"A similar result was reached in *Wells v. Monihan*, 129 N. Y., 161, 29 N. E., 232. The court said, referring to Excelsior Assembly 4120 of the Knights of Labor: 'Their charter

was revoked for insubordination, of which, very likely, they were guilty. *The offense and its punishment ended their powers and privileges so far, and so far only, as they were derived from the rules and regulations of the Knights of Labor; but could not destroy their rights as individuals, or as an unincorporated association derived from the law of the state. Under that law they could, as they did, associate for a common purpose, and choose officers, in whose name they could sue. These powers they had when their charter from the Knights was given, and retained when it was taken away. That event broke off their relations with the order, but not with their own treasury. That treasury they could control, in their collective capacity, until some superior power took it away, or it disappeared in a final distribution among the members.*

"The same result was reached in a like litigation in Maryland (*District Grand Lodge v. Jedidjah Lodge*, 65 Md., 236, 3 Atl., 104), and in a later phase (*Goodman v. Jedidjah Lodge*, 67 Md., 117, 9 Atl., 13), where the court said:

"Whatever powers the higher lodges in such an organization as this may have to make rules or laws for the government of the subordinate lodges and the discipline of their members, we think it quite certain that the courts can never recognize as valid any rule or law, so made, the effect of which is to confiscate property, or to arbitrarily take away property rights from one set of members, and give them to another set; nor will the courts allow or recognize the enforcement of any such rule when its enforcement will accomplish, and is designed to accomplish, such a result."

"The case differs very materially from *State Council v. Sharp*, 38 N. J. Eq., 24, where the complainant's constitution provided that the amount received by the State Council upon dissolution of the subordinate council

should be appropriated for the assistance and support of the widows and orphans of members of the subordinate council, and that, if there were no such widows and orphans, the amount should be invested and paid in case of reorganization to the subordinate council. In that case the subordinate council disbanded and undertook to divide up its funds, contrary to the scheme under which they had been raised, and the State Council was seeking to enforce the trust created by the contributors to the fund, not as in the present case to work a forfeiture of the rights of the cestuis que trust. It differs also from the case of *Knights of Pythias v. Germania Lodge*, 56 N. J. Eq., 63; 38 Atl., 341, where the statute of the order provided that the receipts of a subordinate lodge should constitute a trust fund for carrying out the fraternal and beneficial features of the order, and that the fund should not be subject to partition among the members of the lodge, but should revert, in case the lodge ceased to exist, to the grand lodge. In that case, also, the subordinate lodge disbanded and undertook to turn its funds to a channel other than that contemplated by the statutes of the order."

10

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V.

The contentions made in appellant's brief are not relevant to a determination of the matters involved in this suit.

30

We have deemed it advisable to reply to all the facts and arguments presented but we do insist, nevertheless, that it is only the right of the corporation known as Court Cavour that is here in controversy and not the right of its individual members. They have not been brought into Court.

The contractual relation of a member, in a situation such as is presented here, where the Grand Court seeks to *dissolve* a subordinate court and not the subordinate court that *seeks to dis-*

40

band or secede, is that although he has agreed that on *dissolution* the property shall go to the Grand Court, he has not agreed that while his local subordinate court exists, as a corporation, its property shall be administered by the officers and agents of any other court. At no time has the respondent, Court Cavour, its officers or members, either individually or by factions, cliques or as an organization, attempted in any manner to divert the funds which false cry of alarm procured for the appellant its restraining order in this suit. Court Cavour exists and will continue to exist solely for the purposes specified in its certificate of incorporation and will exercise, as it has done to date, the functions which the State, by its laws conferred upon it and although not entitled to any fraternal aid from the appellant, will, without said aid, properly administer to its members and attend to their relief, having beyond a peradventure of a doubt, the absolute right so to do.

March term, 1914.

Respectfully submitted,

J. VICTOR D'ALOIA, and
ANTHONY R. FINELLI,
Counsel for Respondent.

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Notice of Appeal.

New Jersey Court of Errors and Appeals.

Between

THE GRAND COURT FORESTERS OF
AMERICA, State of New Jersey,

Complainant-Appellant,

and

COURT CAVOUR, No. 133, FOREST-
ERS OF AMERICA, et al.

Defendants-Respondents.

On Bill, etc.

10

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The Complainant, The Grand Court, Foresters of America, State of New Jersey, hereby appeals from the decree dismissing the Bill of Complaint, and from the whole and every part thereof, to the Court of Errors and Appeals, in the last resort in all causes.

Dated, July 30, 1913.

30

PHILIP J. SCHOTLAND,
Sol'r. for and of Counsel with Complainant.

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

PHILIP J. SCHOTLAND,
Sol'r. for and of Counsel with Complainant.

40

Petition of Appeal.

(Filed,)

New Jersey Court of Errors and Appeals.

Between

THE GRAND COURT FORESTERS OF
 10 AMERICA, State of New Jersey,

*Complainant-Appellant,**and*

COURT CAVOUR, NO. 133, FOREST-
 ERS OF AMERICA, et al.

Defendants-Respondents.

On Bill, etc.

20 To the Honorable Judges of the Court of Errors
 and Appeals in the last resort in all causes.

The petition of the Grand Court Foresters of
 America, State of N. J., the appellant in the above
 stated cause respectfully shows, that your peti-
 tioner finds itself aggrieved by a decree made in
 the Court of Chancery by his Honor Edwin R.
 Walker, Chancellor of the State of New Jersey,
 bearing date the Twenty-ninth day of July, Nine-
 teen hundred and Thirteen, and filed in the said
 30 Court of Chancery on the said last mentioned date
 in a cause wherein the said The Grand Court For-
 esters of America, State of New Jersey, was com-
 plainant and Court Cavour No. 133 Foresters of
 America, et al, were defendants in this respect to
 wit: that the said decree orders, adjudges and de-
 crees that the Bill of Complaint be dismissed and
 denies the relief prayed for against the defend-
 ants.

40 And your petitioner humbly appeals from those
 parts of the decree of the Chancellor which decree

Petition of Appeal.

as aforesaid upon the ground that the same is erroneous in that it adjudges that the defendant is entitled to have said Bill of Complaint dismissed, when it should have granted the relief prayed for in said Bill.

Your petitioner therefore humbly prays that the said decree of the said Chancellor may be in the particulars aforesaid reversed and 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. 10

PHILIP J. SCHOTLAND,
Solicitor for and of Counsel with Appellant

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Answer to Petition of Appeal.

(Filed,)

New Jersey Court of Errors and Appeals.

Between

THE GRAND COURT FORESTERS OF
10 AMERICA, State of New Jersey,

Complainant-Appellant,

and

COURT CAVOUR, No. 133, FOREST-
ERS OF AMERICA, et al.

Defendants-Respondents.

On Bill, etc.

20 These respondents, not acknowledging all or
any of the matters which in said petition of ap-
peal are contained to be true, for answer thereto,
nevertheless, say and admit, that a decree was on
the Twenty-ninth day of July, Nineteen Hundred
Thirteen, made and entered in the Court of Chan-
cery, in the cause, dismissing the Bill of Com-
plaint filed therein. And these respondents are
advised and believe that the said decree is agree-
able to equity, and they pray that the same may
30 be affirmed, with costs to be adjudged to these
respondents.

ANTHONY R. FINELLI,
Solicitor for and of Counsel with Respondents.

Bill of Complaint.

(Filed,)

In Chancery of New Jersey.

To his Honor, Edwin R. Walker, Chancellor of
the State of New Jersey.

Humbly complaining, shows unto your Honor, your orator, The Grand Court Foresters of America, State of New Jersey, a corporation duly organized and existing under the laws of the State of New Jersey, having its principal office in the City of Jersey City, County of Hudson, and State of New Jersey.

(1) That your orator is an organization created for the purpose of promoting fraternal and social intercourse among its members, and to provide a fund for the payment to the members thereof, of certain sums, payable weekly in case of sickness or disability, to provide medical service and medicine to members in good standing who are ill, and the payment of certain sums of money upon the death of members to their wives or members of their respective family. That the highest authority within the order is vested in an organization known as The Supreme Court Foresters of America, and composed of representatives from various Grand Courts existing in the different States of the United States. That this Grand Court is regularly chartered and instituted by the Supreme Court, and is working in accordance with the constitution and laws provided by that Supreme body. That the Grand Court of New Jersey is composed of representatives from various courts known as Subordinate Courts, established and existing throughout the State of New Jersey, and that the said Grand Court is authorized and empowered to charter and institute said Subordinate Courts throughout the State of New Jersey, and

Bill of Complaint.

by virtue of such power and authority has instituted since its existence one hundred and seventy-six Subordinate Courts in the State of New Jersey, of which Court Cavour No. 133 Foresters of America is one. That said Court Cavour was instituted by the said Grand Court of the State of New Jersey, as a Subordinate Court of the Foresters of America, on or about November
 10 twenty-fourth, Nineteen hundred and three, at Newark, in the County of Essex and State of New Jersey. That the printed constitution and general laws of the Supreme Court and of the Grand Court of New Jersey, Foresters of America, attached to this Bill and made a part hereof, and to which for greater certainty reference is made, are the constitutions and laws governing said Supreme Grand Court and Subordinate Courts,
 20 represented in said order of the Foresters of America.

(2) That Court Cavour No. 133 Foresters of America located at Newark, New Jersey, was a subordinate Court regularly instituted and chartered under the seal of the Grand Court Foresters of America, State of New Jersey, and was represented in said order. That as such Subordinate Court of the Foresters of America, said Court Cavour by virtue of its charter from the Grand
 30 Court of the State of New Jersey, became and was subject to and bound by the constitution and general laws of the Supreme Court of Foresters of America, and the constitution and Grand Court laws of the Grand Court Foresters of America of the State of New Jersey, as were in force at the time of the institution of said Subordinate Court, and as they have since been altered or amended.

40 (3) And your orator further shows unto your Honor, that on the twenty-eighth day of Septem-

Bill of Complaint.

ber, Nineteen hundred and twelve, at a meeting of the Executive Council of the Grand Court Foresters of America of the State of New Jersey, held in accordance with the laws and regulations of the Foresters of America, Court Cavour No. 133 was ordered suspended from the order of the Foresters of America, and cited to appear for trial before the Executive Council of the Grand Court of the Foresters of America, and show cause on the twelfth day of October, nineteen hundred and twelve, at 8 P. M. why Court Cavour No. 133 should not be suspended or dissolved for violating the general laws of the order, Section 215, in the following particulars:

(a) For improper conduct.

(b) For neglecting or refusing to conform to the rituals, laws, ceremonies, enactments or resolutions of the Supreme Court, Grand Courts or Executive Council. That a true copy of said provision of the general laws of the order is as follows:

SEC. 215. Any Grand or Subordinate Court found, guilty, after due notice and hearing, of any of the charges hereinafter set forth, may be suspended for a period not exceeding two years, dissolved or expelled. If dissolved or expelled, its charter, dispensations, rituals, moneys, books, papers and all other property, both real and personal, shall be forfeited to the Supreme Court or the respective Grand Court. The Supreme Executive Committee shall hear and decide all charges preferred under this section against Grand Courts and Subordinate Courts attached to the Supreme Court; and the Executive Council of each Grand Court shall hear and decide all charges preferred against Subordinate Courts within its jurisdiction.

Bill of Complaint.

(a) For improper conduct.

(b) For neglecting or refusing to conform to the rituals, laws, ceremonies, enactments or resolutions of the Supreme Court, Grand Courts or Executive Council thereof. That a true copy of said citation is as follows:

Jersey City, N. J., Sept. 26, 1912.

10 Court Cavour, No. 133 F. of A.
Newark, N. J.

Dear Sir and Brother:

You are hereby cited to appear before the Executive Council of this Grand Court of New Jersey, Foresters of America on Saturday evening October 12, 1912 at 8 P. M. sharp, to show cause why Court Cavour No. 133 should not be suspended or dissolved for violating the general laws
20 Section No. 215 as follows:

A. For improper conduct.

B. For neglecting or refusing to conform to the rituals, laws, ceremonies etc.

By order of the Executive Council.

Attest.

Grand Chief Ranger.

Grand Secretary.

30 N. B. It is not necessary for the whole Court to attend, but the officers and such committee appointed to defend the Court should appear.

(4) And your orator further shows unto your Honor, that in obedience to said citation set forth in the next preceding paragraph, said Court Cavour No. 133 by its officers and a large number of members appeared before the Executive Council of the Grand Court of the State of New Jersey for trial, and was represented by Messrs. J.
40 Victor D'Aloia and Eugene Dotto, members of

Bill of Complaint.

the Bar of New Jersey, as counsel; said trial day being Columbus Day, before the trial was proceeded with, said Court Cavour No. 133, by its counsel waived an objection to the trial proceeding on account of it being a legal holiday. That at said trial, Court Cavour, No. 133 was specifically charged with improper conduct in having held a special meeting of the Court on September
 10
 eighteenth, Nineteen hundred and twelve, in a hall other than the regular meeting place of said Court, on a night other than the regular meeting night without special permission of the Executive Council of the Grand Court or of the Grand Chief Ranger of the State of New Jersey, at which meeting, the members of the said Court so conducted themselves that there was fighting and general disorder and boisterous profane language used. Said Court Cavour was also charged at
 20
 said trial with having violated the general laws of the order, in having held said meeting without permission. Said Court was further charged at said trial with having violated the provisions of Sub-division C, Section 215, of the general laws quoted in the preceding paragraph in having failed to obey a resolution of the Executive Council of the Grand Court of the State of New Jersey, notice of which was served upon said Court Ca-
 30
 vour on the fifteenth day of July, nineteen hundred and twelve, and requiring said Court Cavour to comply with the resolution on or before September fourteenth, nineteen hundred and twelve, and requiring the officers of said Court to appear before the Advisory Committee of the Executive Council at 275 Grove Street, Jersey City at 8 P. M. on September fourteenth, Nineteen hundred and twelve, and satisfy the Advisory Committee, that all matters in dispute in Court
 40
 Cavour had been settled to the satisfaction of all

Bill of Complaint.

concerned, and advising Court Cavour that unless said resolution would be complied with, said Court would be suspended from the order. The trial was had on these three specific charges, witnesses called, examined, and cross-examined, and the Executive Council, after the case had been submitted, adopted the following resolution, finding Court Cavour guilty as charged, and fixing the penalty.

WHEREAS, Court Cavour No. 133 of the Foresters of America, located at Newark, New Jersey, was suspended on the twenty-eighth day of September, Nineteen hundred and twelve, for failure to comply with certain regulations of the Order; and the said Court was cited to show cause why it should not be dissolved as a Subordinate Court of the Order; and the hearing was set for Saturday evening, October twelfth, Nineteen hundred and twelve, in the office of the Grand Secretary, No. 275 Grove Street, Jersey City, New Jersey; which trial proceeded by the induction of, and taking of, said evidence, and

WHEREAS, Section No. 215 of the General Laws of the Order, Edition of Nineteen hundred and Eleven, vests the Executive Council with full, ample, and sufficient authority within the premises, and

WHEREAS, a fair and impartial trial was conducted on the date herein set forth, and at the place above mentioned; the said Court Cavour, No. 133 of the Foresters of America and the Executive Council of the Grand Court of New Jersey, both being represented by counsel, and

WHEREAS, we have carefully considered the testimony and all matters surrounding the case, therefore, be it

RESOLVED, that it is now the order of this Executive Council of the Grand Court of the State

Bill of Complaint.

of New Jersey, that the said Court Cavour, No. 133 of the Foresters of America, of Newark, New Jersey, be and is hereby dissolved as a Subordinate Court of the Grand Court of New Jersey, Foresters of America; and its charter, dispensation, rituals, money, books, papers, and all other property, both real and personal, be and hereby is forfeited to the Grand Court of the State of New Jersey, Foresters of America. And be it further

10

RESOLVED, that the Grand Secretary of the Grand Court of the State of New Jersey be and hereby is authorized and empowered, on behalf of this Executive Council, to take such steps as may be necessary to collect all property of Court Cavour, No. 133, not now in the possession of the Executive Council of the Grand Court of New Jersey. And he is further

20

AUTHORIZED, to take such action as may be necessary to recover, from the said dissolved Court Cavour, No. 133 of the Foresters of America, all money in the possession of any of the officers of the said Court or on deposit; and secure same for the Executive Council of the Grand Court of the State of New Jersey. And be it further

RESOLVED, that the Grand Secretary of the Grand Court of New Jersey is herewith authorized and directed to promulgate these findings at once.

30

Jersey City, New Jersey, November 9, 1912.

This is to certify the above Resolution was presented at a meeting of the Executive Council, of the Grand Court of New Jersey, Foresters of America, held at the office of the Grand Secretary, No. 275 Grove Street, Jersey City, New Jersey, on

40

Bill of Complaint.

Saturday evening, November 9, 1912
and was regularly adopted.

L.S.

W. L. J. JOBES,
Grand Secretary.

(5) And your orator further shows unto your Honor, that, by virtue of said decision and in accordance with the provisions of Section 215, of the General Laws of the Order hereinbefore quoted, all of the funds, paraphernalia, and property of Court Cavour, became the absolute property of the Grand Court of the State of New Jersey; that in partial compliance with said law, said Court Cavour, No. 133 has delivered to the Grand Court of the State of New Jersey, all of its books, papers and paraphernalia, among which it has delivered a Pass Book showing that there stands to the credit of said Court Cavour in the Italo-American Building and Loan Association of Newark, New Jersey, One hundred and eighty dollars, a pass book of the Savings Department of the Fidelity Trust Company of Newark, showing that there is on deposit to the credit of said Court Cavour, seven hundred and eleven dollars and sixty-six cents, and a pass book in the National Newark Banking Company of Newark, showing that there is on deposit in said bank to the credit of said Court Cavour the sum of One hundred and fifty-four dollars and sixty cents, making a total of moneys standing to the credit of the said dissolved Court Cavour, the sum of One thousand and forty-six dollars and twenty cents, which moneys, by virtue of the laws of the order are now the property of the said Grand Court of the State of New Jersey.

(6) And your orator further shows unto your Honor, that after said decision of the Grand Court of the State of New Jersey, your orator

Bill of Complaint.

notified said Court Cavour and its members of said decision and requested the officers of said Court Cavour to sign proper vouchers so that your orator may withdraw said funds in accordance with the laws of said order. And that the said officers refused to comply with said reasonable requests of your orator in the premises, and on their own responsibility and contrary to the wishes of a majority of the members of said dissolved Court, as your orator's Grand Officers have been informed, engaged an attorney who made written demand upon the two Banking institutions hereinabove mentioned, demanding that they pay over the funds on deposit to said officers of said dissolved Court Cavour. That upon receipt of said demand, the Fidelity Trust Company informed your orator's Grand Secretary of the same and the National Newark Banking Company wrote your orator a letter, of which the following is a true copy:

November 26, 1912.

Mr. D. J. Flynn,
Grand Chief Ranger,
Foresters of America,
Jersey City, N. J.

Dear Sir:—

On September 28, 1912, you wrote us claiming control over money on deposit in this bank, to the credit of Court Cavour, No. 133, F. of A., amounting to \$154.60.

Court Cavour inform us that your Grand Court has revoked their charter. They do not question your authority in this respect, but they inform us that you have no authority to demand or receive the money on deposit in their account. They claim that they do not owe any money to the Grand Court, and that you should write us releasing your claim to the money and permit them to withdraw it and distribute it among their members. They have today made formal demand upon the bank for the money, threatening suit if it is not paid to them.

Bill of Complaint.

Please advise us fully your position in this matter.

Very truly yours,

A. H. BALDWIN,
Vice President.

(7) Your orator further shows unto your Honor, that its Executive officers are:

10 Presiding Officer, Dennis J. Flynn, known by the title of Grand Chief Ranger; its Vice Chairman, Charles H. Blohm, known as Grand Sub-Chief Ranger; Dietrich H. Stuhmann, Grand Treasurer; Warren L. J. Jobes, Grand Secretary. And that the Executive and Financial Officers of said Court Cavour No. 133, who held office at the time of said dissolution, are as follows:

20 Chief Ranger Oreste Cerato; Treasurer, Gabriele Matonti; Financial Secretary, Frank De. Feo; Chairman Trustee, Gerardo Spatola; Luigi Avallone, Trustee; Domenico Amiano, Trustee.

That the entire membership at said time of said Subordinate Court is Three hundred and thirty-one members.

(8) And your Orator further shows unto your Honor, that it has demanded from the said Fidelity Trust Company, The National Newark Banking Company, and the Italo-American Building and Loan Association, the funds formerly be-
30 longing to Court Cavour on deposit in said institutions, but that said institutions refused to turn over said funds to your orator until there is an adjudication by a court of competent jurisdiction, directing that said moneys be turned over to your orator.

(9) And your orator further shows unto your Honor, that it is informed and verily believes that, it is the intention of the said officers of said
40 Court Cavour, No. 133 to withdraw said funds from each of said institutions, and divide said funds among the officers and members, instead of

Bill of Complaint.

turning over said funds to your orator in accordance with the rules of the Order, and the trusts and purposes for which they were accumulated. And your orator well hoped that the said Court Cavour, No. 133, Foresters of America, and its said officers, Chief Ranger, Oreste Cerato, Treasurer Gabriele Matonti, Financial Secretary Frank De Feo, Chairman Trustee Gerardo Spatola, and Trustees Luigi Avallone and Domenico Amiano, and the said Fidelity Trust Company, The National Newark Banking Company, and the Italo-American Building and Loan Association, would have complied with the reasonable requests of your orator, as in equity and good conscience they ought to have done, but now may it please your Honor, that the said Court Cavour No. 133, and the said officers, Chief Ranger Oreste Cerato, Treasurer Gabriele Matonti, Financial Secretary Frank De Feo, Chairman Trustee Gerardo Spatola and Trustees, Luigi Avallone and Domenico Amiano, have combined and confederated together to injure and aggrieve your orator in the premises and absolutely refuse to comply with reasonable request. All of which actions and pretences of the said defendants are contrary to equity and good conscience, and the manifest wrong and injury of your orator in the premises.

(10) In tender consideration whereof, and forasmuch as your orator is without adequate remedy in the premises by the rules of the common law, and can only obtain relief in this honorable Court, where matters of this nature are properly cognizable.

(11) To the end therefore, that the said defendants, Court Cavour, No. 133, Foresters of America, Chief Ranger Oreste Cerato, Treasurer Gabriele Matonti, Financial Secretary Frank De Feo, Chairman Trustee Gerardo Spatola, and Trustees, Luigi Avallone and Domenico Amiano,

Bill of Complaint.

may, without oath, to the best and utmost of their ability, knowledge and belief, full true and perfect answer, make to all and singular the matters aforesaid, and that as fully and particularly as if the same were here repeated, and they, and each of them distinctly interrogated thereto. And especially, that they may in manner aforesaid, answer and set forth, what property the said Court

10 Cavour, No. 133, Foresters of America, or any of them as officers thereof, had in their possession or in the possession of others for them at the time of the dissolution of said Court, and where, and in whose possession the said property or any of it now is, and that they may be required by the decree of this honorable court, to turn over to your orator the said funds and property belonging to it, and that their agents, attorneys, officers or

20 employees may be restrained from withdrawing any of said funds from any depository where said funds may be deposited and from disposing or dividing amongst themselves or any of their members, or in any way parting with any of the said funds or other property of said Court Cavour, and that the said Fidelity Trust Company, National Newark Banking Company, and Italo-American Building and Loan Association, be restrained from paying over to the said Court

30 Cavour, No. 133, Foresters of America, or any of its officers, or any person except your orator, any of the said funds or property in their possession deposited by said Court Cavour.

(12) And that your orator may have such further and other relief in the premises, as the nature of the case may require, and as shall be agreeable to equity and good conscience.

(13) May it please your Honor, the premises

40 considered, to grant unto your orator the State's writ of injunction, issuing out of and under the seal of this honorable Court, to be directed to the said Court Cavour, No. 133, Foresters of

Bill of Complaint.

America, and Chief Ranger Oreste Cerato, Treasurer Gabriele Matonti, Financial Secretary Frank De Feo, Chairman Trustee Gerardo Spatola, and Trustees, Luigi Avallone and Domenico Amiano, restraining them from withdrawing from any depository where any of the funds formerly belonging to said Court Cavour are on deposit, and disposing of, or dividing amongst the members of said Court or any of them, or from parting with, 10
in any manner, any of the funds or other property of the said Court Cavour. And that the said Fidelity Trust Company, National Newark Banking Company, and the Italo-American Building and Loan Association be restrained from paying over to the said Court Cavour, or any of its officers, or any other person, except your orator, any of the said funds or property in their possession, formerly belonging to the said Court Cavour, but 20
also the state's writ of subpoena, issuing out of and under the seal of this honorable court, commanding them and each of them, the said Court Cavour No. 133, Foresters of America, and Chief Ranger Oreste Cerato, Treasurer Gabriele Matonti, Financial Secretary Frank De Feo, Chairman Trustee Gerardo Spatola, and Trustees, Luigi Avallone and Domenico Amiano, and Fidelity Trust Company, National Newark Banking Company and The Italo-American Building and Loan 30
Association by a certain day and under a certain penalty therein to be expressed, to be and appear before your Honor in this honorable Court, then and there to answer all and singular the said premises, and to stand to, abide by and perform such order and decree therein as to your Honor shall seem meet, and as shall be agreeable to equity and good conscience.

(14) And your orator, as in duty bound, will 40
ever pray, etc.

PHILIP J. SCHOTLAND,

Solicitor for and of Counsel with Complainant.
Complainant's Supporting Affidavit

Affidavit of Warren L. J. Jobes.
In Chancery of New Jersey.

B e t w e e n

THE GRAND COURT FORESTERS OF
AMERICA, State of New Jersey,

Complainant.

10

and

COURT CAVOUR, No. 133, FOREST-
ERS OF AMERICA, et al.

Defendants.

On Bill etc.
Affidavit.

STATE OF NEW JERSEY, }
County of Hudson. } ss. :

20 Warren L. J. Jobs, of full age, being duly sworn according to law on his oath deposes and says:

30 "I am a grand financial secretary of the Grand Court State of New Jersey, Foresters of America, the Complainant in the annexed Bill of Complaint. As Grand Secretary, I have charge of all of the records, all of the correspondence and the active management of the affairs of the Foresters of America in the State of New Jersey. I have read the annexed bill of complaint and know of my own knowledge that all of the facts therein contained are true, except those stated to be on information and belief of the complainant and that as to those matters I believe them to be true."

Deponent further says that the complainant in the above entitled cause is an organization created for the purpose of promoting fraternal and social intercourse among its members, and to provide a fund for the payment to the members thereof, of certain sums, payable weekly, in case of sickness or disability, to provide medical service and medi-

Affidavit of Warren L. J. Jobes.

cine to members in good standing who are ill, and the payment of certain sums of money upon the death of members to their wives or members of their respective family. That the highest authority within the order is vested in an organization known as The Supreme Court Foresters of America, and composed of representatives from various Grand Courts existing in the different states of the United States. That this Grand Court is regularly chartered and instituted by the Supreme Court, and is working in accordance with the constitution and laws provided by that Supreme body. That the Grand Court of New Jersey is composed of representatives from various courts known as Subordinate Courts, established and existing throughout the State of New Jersey, and that the said Grand Court is authorized and empowered to charter and institute said Subordinate Courts throughout the State of New Jersey, and by virtue of such power and authority has instituted since its existence one hundred and seventy-six Subordinate Courts in the State of New Jersey, of which Court Cavour, No. 133, Foresters of America is one. That said Court Cavour was instituted by the said Grand Court of the State of New Jersey, as a Subordinate Court of the Foresters of America, on or about November twenty-fourth, Nineteen hundred and three, at Newark, in the County of Essex and State of New Jersey. That the printed constitution and general laws of the Supreme Court and of the Grand Court of New Jersey, Foresters of America, attached to said bill and made a part thereof, and to which for greater certainty reference is made, are the constitution and laws governing said Supreme Grand Court and Subordinate Courts, represented in said order of the Foresters of America.

Deponent further says that Court Cavour, No. 133, Foresters of America located at Newark,

Affidavit of Warren L. J. Jobes.

New Jersey, was a Subordinate Court regularly instituted and chartered under the seal of the Grand Court Foresters of America, State of New Jersey, and was represented in said order. That as such Subordinate Court of the Foresters of America, said Court Cavour by virtue of its charter from the Grand Court of the State of New Jersey, became and was subject to and bound by
10 the constitution and general laws of the Supreme Court of Foresters of America, and the constitution and Grand Court laws of the Grand Court, Foresters of America of the State of New Jersey, as were in force at the time of the institution of said Subordinate Court, and as they have since been altered or amended.

And this deponent further says that on the twenty-eighth day of September, Nineteen hundred and twelve, at a meeting of the Executive
20 Council of the Grand Court, Foresters of America of the State of New Jersey, held in accordance with the laws and regulations of the Foresters of America, which meeting this deponent attended, Court Cavour, No. 133, was ordered suspended from the order of the Foresters of America and cited to appear for trial before the Executive Council of the Grand Court of the Foresters of America, and show cause on the twelfth day of
30 October, Nineteen hundred and twelve, at 8 P. M., why Court Cavour, No. 133 should not be suspended or dissolved for violating the general laws of the order, Section 215, for the reasons as set forth in the annexed Bill of Complaint.

Deponent further says that the provision of the general laws of the order as cited in the annexed bill of complaint is correct, and that the copy of the letter sent to Court Cavour, No. 133,
40 Foresters of America, in said bill of complaint is a true copy of the letter which was sent by this deponent on behalf of the Executive Council of

Affidavit of Warren L. J. Jobes.

the Grand Court Foresters of America to said Court Cavour, No. 133, Foresters of America.

Deponent further says that in obedience to said citation set forth above, said Court Cavour, No. 133 by its officers and a large number of members appeared before the Executive Council of the Grand Court of the State of New Jersey for trial, and was represented by Messrs. J. Victor D'Aloia and Eugene Dotto, members of the Bar of New Jersey, as counsel; said trial day being Columbus Day, before the trial was proceeded with, said Court Cavour, No. 133, by its counsel waived an objection to the trial proceeding on account of it being a legal holiday. That at said trial, Court Cavour, No. 133, was specifically charged with improper conduct in having held a special meeting of the Court on September eighteenth, Nineteen hundred and twelve, in a hall other than the regular meeting place of said Court, on a night other than the regular meeting night without special permission of the Executive Council of the Grand Court or of the Grand Chief Ranger of the State of New Jersey, at which meeting, the members of the said court so conducted themselves that there was fighting and general disorder and boisterous, profane language used. Said Court Cavour was also charged at said trial with having violated the general laws of the order, in having held said meeting without permission. Said Court was further charged at said trial with having violated the provisions of Sub-division C, Section 215, of the general laws quoted in paragraph Three (3) of the Bill of Complaint to which this affidavit is attached and made a part thereof, it having failed to obey a resolution of the Executive Council of the Grand Court of the State of New Jersey, notice of which was served upon said Court Cavour on the fifteenth day of July, Nineteen hundred and twelve and requiring said Court Cavour to

Affidavit of Warren L. J. Jobs.

comply with the resolution on or before September fourteenth, Nineteen hundred and twelve, and requiring the officers of said Court to appear before the Advisory Committee of the Executive Council at 275 Grove Street, Jersey City, at 8 P. M. on September fourteenth, Nineteen hundred and twelve, and satisfy the Advisory Committee, that all matters in dispute in Court Cavour had been settled to the satisfaction of all concerned, and advising Court Cavour that unless said resolution would be complied with, said Court would be suspended from the order. The trial was had on these three specific charges, witnesses called, examined and cross-examined, and the Executive Council after the case had been submitted, adopted the resolution, as stated and set forth in the Bill of Complaint to which this affidavit is attached and made a part thereof, finding Court Cavour guilty as charged, and fixing the penalty.

Deponent further says that by virtue of said decision and in accordance with the provisions of Section 215 of the General Laws of the Order hereinbefore mentioned, all of the funds, paraphernalia, and property of Court Cavour, became the absolute property of the Grand Court of the State of New Jersey; that in partial compliance with said law, said Court Cavour, No. 133, has delivered to the Grand Court of the State of New Jersey, all of its books, papers and paraphernalia, among which it has delivered a Pass Book showing that there stands to the credit of said Court Cavour in the Italo-American Building and Loan Association of Newark, New Jersey, one hundred and eighty dollars, a pass book of the Savings Department of the Fidelity Trust Company of Newark, showing that there is on deposit to the credit of said Court Cavour, Seven hundred and eleven dollars and sixty-six cents, and a pass book in the National Newark Banking Company

Affidavit of Warren L. J. Jobes.

of Newark, showing that there is on deposit in said bank to the credit of said Court Cavour the sum one hundred and fifty-four dollars and sixty-cents, making a total of moneys standing to the credit of the said dissolved Court Cavour, the sum of one thousand and forty-six dollars and twenty cents, which moneys, by virtue of the laws of the order are now the property of the said Grand Court of the State of New Jersey. 10

Deponent further says that after said decision of the Grand Court of the State of New Jersey, the Complainant in the above entitled cause notified said Court Cavour and its members of said decision and requested the officers of said Court Cavour to sign proper vouchers so that the Complainant might withdraw said funds in accordance with the laws of said order, and that the said officers refused to comply with said reasonable requests of the complainant in the above entitled cause and on their own responsibility, and contrary to the wishes of a majority of the members of said dissolved court, engaged an attorney who made written demand upon the two banking institutions hereinabove mentioned demanding that they pay over the funds on deposit to said officers of said dissolved Court Cavour. That upon receipt of said demand, the Fidelity Trust Company informed this deponent of the same and the National Newark Banking Company wrote the Complainant in the above entitled matter a letter a true copy of which is set forth in the annexed Bill of Complaint. 20 30

Deponent further says that the Executive Officers of the Complainant in the above entitled matter are:

Presiding Officer, Dennis J. Flynn, known by the title of Grand Chief Ranger; its Vice Chairman, Charles H. Blohm, known as Grand Sub-Chief Ranger; Dietrich H. Stuhrman, Grand 40

Affidavit of Warren L. J. Jobes.

Treasurer, this deponent, Grand Secretary, and that the executive and financial officers of said Court Cavour, No. 133, who held office at the time of said dissolution are as follows:

10 Chief Ranger, Oreste Cerato; Treasurer, Gabriele Matonti; Financial Secretary, Frank De Feo; Chairman Trustee, Gerardo Spatola, Luigi Avallone, Trustee, Domenico Amiano, Trustee; that the entire membership at said time of said Subordinate Court is Three hundred and thirty-one members.

20 Deponent further says that the Complainant in the above entitled matter has demanded from the Fidelity Trust Company, The National Newark Banking Company, and the Italo-American Building and Loan Association, the funds formerly belonging to Court Cavour on deposit in said institutions, but that said institutions refused to turn over said funds to Complainant until there is an adjudication by a Court of competent jurisdiction, directing that said moneys be turned over to the said Complainant in the above entitled cause.

30 Deponent further says that the said Complainant is informed and verily believes that, it is the intention of the said officers of said Court Cavour, No. 133, to withdraw said funds from each of said institutions, and divide said funds among the officers and members instead of turning over said funds to the Complainant herein in accordance with the rules of the Order and the trusts and purposes for which they were accumulated.

WARREN L. J. JOBES.

40 Subscribed and sworn to before }
me this 3rd day of December, }
A. D., 1912.

James W. Simpson,

Commissioner of Deeds of New Jersey.

(Seal.)

**DEFENDANTS OPPOSING AFFI-
DAVITS.**

**Affidavit of Oreste Cerato.
In Chancery of New Jersey.**

Between

THE GRAND COURT FORESTERS OF
AMERICA, State of New Jersey,

Complainant-Appellant,

and

COURT CAVOUR, No. 133, FOREST-
ERS OF AMERICA, et al.

Defendants-Respondents.

On Bill, etc.
Affidavit.

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STATE OF NEW JERSEY, }
County of Essex. } ss.:

Oreste Cerato, of full age, being duly sworn, on his oath deposes and says; that he is engaged in the business of jeweler at the corner of Factory Street and Eighth Avenue, in the City of Newark; that he is the Chief Ranger and Presiding Officer of the defendant, Court Cavour, No. 133, Foresters of America, a corporation organized by and existing under and by virtue of the laws of the State of New Jersey.

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Deponent further says that the certificate of incorporation of the said defendant association was recorded in the office of the Clerk of Essex County on February 16th, 1904 in Bk. "M" of Miscellaneous, on page 299; a copy of same being duly filed in the office of the Secretary of State, at Trenton.

Deponent further says that among the objects for which the association was organized is the

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Affidavit of Oreste Cerato.

keeping and raising a fund by entrance fees, dues, subscriptions, fines, donations and by invested capital, appropriating and using same towards defraying the expenses of the burial of deceased members, and rendering assistance to members when sick and unable to follow their employment.

10 Deponent further says that it is true that this defendant was instituted by the complainant as a subordinate court of the Foresters of America on or about the date specified in the Bill of Complaint.

Deponent further says that the following is a synopsis of the constitution and general laws of the said Foresters of America governing Supreme, Grand and Subordinate Courts, at the time of the institution of the defendant association, and for
20 many years thereafter:

ARTICLE XXVI. Sec. 1. "Any Grand or Subordinate Court may be suspended and dissolved, and its dispensation and rituals forfeited to the Supreme Court, or the proper Grand Court, and after such Courts shall have been notified of the offense and a suitable opportunity shall have been given to answer the charge or charges."

Deponent further says that the dispensation
30 granted to the defendant association and now retaken and in possession of complainant does not contain any reservation or agreement giving the complainant any power or authority, directly or indirectly to control, manage or possess the funds or other property of the defendant association; that Article XXVI of the general laws, above quoted, is positively the only provision on the subject.

Deponent further says that the pretences of the
40 complainant are matters of surprise to him and

Affidavit of Oreste Cerato.

every other member of the defendant association; that at no time whatever did deponent have any intimation, knowledge or belief that the moneys contributed by the members of the association could be taken from the possession and control of the officers and members who created the several funds and that the same funds could be used for the benefit of persons other than the individual members of the defendant association. 10

Deponent further says that there is not now nor was there ever in the constitution and by-laws of the defendant association any provision, requirement or procedure for the turning over any of the funds of the defendant association to the complainant or others.

Deponent further says that the complainant has no steady individual membership; that it is composed of persons chosen among the delegates assembled at an annual convention and representing the several subordinate association similar to the defendant; that its revenue is derived solely from a head tax collected by each subordinate association; and that the members of such subordinate courts have absolutely no claim to relief except from the said subordinate courts; that the complainant merely exercises a supervision over the matters and accounts of the subordinate courts and sometimes acts as a tribunal where grievances arising between members might be adjusted. 20 30

Deponent further says that it is true that on July 15th, 1912, the defendant association was served with notice to comply with certain resolutions of the complainant on or before September 14th, but this deponent says that the further notice requiring the officer of the defendant association to appear before the advisory committee 40

Affidavit of Oreste Cerato.

of the Executive Council on said September 14th, was conditioned that the said matters should not have been settled before that time.

Deponent further says that the mandate of the complainant had been complied with before said September 14th. That his understanding was that if the matters in dispute in Court Cavour has been settled to the satisfaction of all concerned that it was not necessary for the officers to attend the meeting of said advisory committee.

DEPONENT further says that one of the rules of the defendant association is that a member charged with a violation of any by-law, (a trial should be had) before an arbitration committee, which committee, under the provisions of the by-laws, is a standing committee for the administration of the affairs of said association; that the so-called meeting, charged in the bill of complaint, as being held without authority, was the usual meeting of the arbitration committee, called for the purpose of passing upon certain charges made against this deponent; that it was not a regular meeting.

DEPONENT further says that on the 25th day of September, 1912, a meeting of the defendant association was being held, when a committee from the Grand Court (the Complainant) entered the room and forcibly removed from a certain frame suspended on a wall of the room the dispensation or writing, set forth in the Bill of Complaint; that one of the committeemen was T. M. Donnelly, Esq., the Supreme Secretary who then and there stated to the members assembled that the court being suspended, the members need not pay dues; they were no longer foresters; that such statement has greatly embarrassed the members and officers in performing their several duties; that dues are not paid by the members, owing

Affidavit of Oreste Cerato.

to the absence of the books in possession of Complainant; that deponent knows of two members, Sabato Grande, and Paquale Matuallo, who although possessing certificates showing the period of their sickness, yet had not been able to procure their payments; that the association is conducting its affairs as usual.

Deponent further says that none of the members of the defendant association, except the secretary and treasurer knew anything concerning the proceedings to be had before the Executive Council of the complainant; that at no time has deponent been served with either notice or copy of any charges against him or against the defendant association; that he was not present at the meeting of the said executive council, nor was he represented; deponent has no intention to split or divide the funds of the defendant association; that the members do not consider that their association is in anywise dissolved and that a great wrong has been done by the complainant in refusing the allegiance of the Grand Court of Foresters of New Jersey to Court Cavour; that with the exception of deponent and another member who became engaged in an altercation at a certain meeting the conduct of the members has been such as to unwarrant the resolutions and determination of the complainant. That the members of the defendant association, as a whole, are innocent of any wrong doing, have never had the opportunity to be heard and have done nothing which could justify the forfeiture of their rights in the Foresters of America.

ORESTE CERATO.

Sworn to and subscribed before }
me this 9th day of December, 1912. }

J. Victor D'Aloia,

M. C. of New Jersey.

Affidavit of Frank De Feo.

STATE OF NEW JERSEY, }
County of Essex. } ss.:

FRANK DE FEO, of full age, being duly sworn on his oath deposes and says; I am a canvasser and agent for The Metropolitan Life Insurance Company, and the Financial Secretary of the Defendant association, Court Cavour, No. 133, Foresters of America, a corporation organized by and existing under and by virtue of the laws of the State of New Jersey; that the purposes for which said corporation was formed—as particularly set forth in its certificate of incorporation duly filed in the office of the Secretary of State—are “benevolence, to provide relief and aid in sickness and distress, burial at death and inspire its members with the elevating influence of a proper recognition of the stern realization and responsibilities of life.”

Deponent further says that he has been present and has attended all meetings of said association up to and including November 19th, 1912, and that said association is now duly and regularly conducting its lawful business and affairs according to the wording and spirit of the several objects hereinbefore specified, according to the best judgment, skill and ability of deponent and other officers.

Deponent further says that the pretences of the complainant are matters of surprise to him and every other member of the defendant association; that at no time whatever did deponent have any intimation, knowledge or belief that the moneys contributed by the members of the association could be taken from the possession and control of the officers and members who created the several funds and that the same funds could be used for the benefit of persons other than the individual

Affidavit of Frank De Feo.

members of the defendant association as specified in its certificate of incorporation.

Deponent further says that there is not now nor was there ever in the constitution and by-laws of the defendant association any provision, requirement or procedure for turning over any of the funds of the defendant association to the complainant or others.

Deponent further says that the defendant association has made an agreement with its members whereby in consideration of a certain large sum of money as an initiation fee and also of the further sum of Nine Dollars, payable quarterly or monthly as the member desires; such member being incapacitated by sickness or other disability and unable to attend to his usual business, shall during his illness or disability be entitled to receive from the association One Dollar a day for not more than 100 days; such member shall also receive from the association the free service of a physician and free medicine; and it is also part of the agreement that on the death of a member the association shall appropriate the sum of One hundred dollars towards aiding the family of the deceased to defray the funeral expenses; and on the death of the wife of a member the sum of Fifty dollars shall be likewise appropriated and paid to the member.

Deponent further says that it is also provided in said agreement, that membership in said defendant association, and the benefits thereby accruing, shall not be forfeited by any individual member except after due and proper trial and upon notice to him in writing before an arbitration committee selected from the members of the Court Cavour, the defendant association.

Deponent further says that, so far as it is within his knowledge and belief none of the members, except deponent and the Treasurer, know of

Affidavit of Frank De Feo.

any communication, request or notice of any of the proceedings had before the Executive Council of the Complainant, either suspending or otherwise dealing with the defendant association or its individual members.

Deponent says that the notice set forth in the Bill of Complaint was received by him, and that
 10 the members of the defendant association who were present at the meeting of the Executive Council at the so-called trial of the charges are the following: Joseph Sozio, Michael Padyula, Vincent Troiano, Peter Di Maio, and about three others, whose names are not recollected; that at no time have the supposed charges been reduced to writing and delivered to anyone; and that the allegations set forth in the Bill of Complaint concerning the meeting place and meeting without
 20 permission, and relating to the conduct of any member or members are no where found to be causes authorizing said Executive Council to proceed to hear same for the purposes of determining, and deciding that all individual members (guilty or not guilty of misconduct) of the defendant association have lost the benefits accruing to them.

Deponent further says that none of the alleged charges were in anywise substantiated, but that
 30 the presiding officer and the Executive Council, arbitrarily, capriciously and without regard to the meaning of the plain, common and ordinary words contained in the provisions of sub-divisions "E" Section 215, of the general laws quoted in the bill, viz:

"For neglecting to hold the regular meetings without proper authority, unless on account of unforeseen circumstances";

40 so construed said language to read as a prohibition, to hold a special meeting in a hall other than the regular meeting place of

Affidavit of Frank De Feo.

said association, on a night other than the regular meeting night.

Deponent has been a member of the defendant association for eight years, having been initiated as such member on or about April 26th, 1904. That under the provisions of the by laws of the defendant association whenever any member of said defendant association was charged with a violation of any of the provisions of the laws of the said defendant association or of the Order, it was customary that a trial be had before an arbitration committee which committee under the provisions of said by laws is a standing committee for the administration of the affairs of said defendant association. That under the by laws of said association, a meeting of said arbitration could be called by the chair, at any time in its discretion, and that the so-called meeting alleged in the charges against the defendant association alleged to have been held on the 18th day of September, 1912, without authority or special dispensation from the complainant, was nothing more than the usual meeting of the arbitration committee of the defendant association. And that at said meeting the extraordinary situation was presented that the individual member against whom the arbitration committee was to hear charges, was the chief ranger or presiding officer of the defendant association and as the members of said arbitration committee were men of his own selection, it became necessary to notify an extraordinarily large number of the members of the defendant association so that a neutral and impartial arbitration committee could have been selected from their number to hear and determine said charges. That at no time, other than a regular night could any gathering of the members of the defendant association be called a regular meeting within the meaning of the provisions of

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Affidavit of Frank De Feo.

Sec. 215 without a special dispensation from the complainant.

Deponent further says that it is not true that it is the intention of deponent or any other officer of the defendant association to withdraw the funds on deposit in the several banks and companies and divide same among the officers and members; but that the truth is that the financial
 10 officers who are properly bonded to the association and the other members do not consider that the funds were accumulated for any other purpose except as outlined in the certificate of incorporation and positively object to any diversion of same; that deponent and other officers and the members of Court Cavour, No. 133, Foresters of America dispute the authority to pass the resolution of November 9, 1912. And that it is arbitrary,
 20 unwarranted, null and void is apparent from reading of same; inasmuch as it recites that one of the grave penalties mentioned and authorized in Section 215 above mentioned, viz: *suspension* was imposed on September 28, 1912, without any notice or hearing.

Deponent says that on the last meeting of the association held on November 19th, 1912, the members were informed about the resolutions of the Executive Council and unanimously resolved
 30 to engage counsel for the purpose of getting proper advice and protection concerning the property rights of the association as well as the individual members; to take legal proceedings, if necessary, to keep intact, preserve and protect the funds of the association; and prevent any interference with its legitimate existence.

FRANK DE FEO.

40 Sworn to and subscribed before me }
 this ninth day of December, 1912. }

Pietro De Maio,
 Notary Public of New Jersey.

Affidavit of Angelo Veneziano.

STATE OF NEW JERSEY, }
 County of Essex. } ss.:

ANGELO VENEZIANO, being duly sworn, on his oath says that he has been a member of the defendant association Court Cavour, No. 133, Foresters of America for seven years last past; that the same is a New Jersey corporation; that the pretenses of the complainant to get control of the funds is a matter of great surprise to him; that he never knew that the complainant, the Grand Court, could, under any circumstances, get possession of the money or other property of the defendant association; that it is not true that it is the intention of deponent or any other member or officer of the defendant association to withdraw the funds on deposit and divide same; that such an allegation is new to him.

Deponent further says that he has been sick and unable to work since November 19th, last, having suffered a certain injury of the hand; that he has called upon the Court physician and expected to be treated at the expense of the Court; that he is in good standing and is now entitled to pay for sick benefits; that he has not been able to get either the services of the Court physician or pay for the sick benefit; that the physician has refused to render him assistance upon the ground that the suspension of the Court by complainant made it uncertain about his pay.

ANGELO VENEZIANO.

Sworn to and subscribed before me }
 this 9th day of December, 1912. }

Anthony R. Finelli,
 Master in Chancery of N. J.

Affidavit of Edward Caruso.

STATE OF NEW JERSEY,)
 County of Essex.) ss.:

EDWARD CARUSO, being duly sworn on his oath, says that he is a druggist engaged in business at the corner of Factory Street and Seventh Avenue in the City of Newark; that he has been a member of the defendant association, Court Cavour, No. 133, Foresters of America for a period of over five years; that he did not know at any time prior to the institution of this suit that the funds of the defendant association could be taken by the Grand Court as trustee and could be used for the benefit of persons other than the individual members of Court Cavour; that deponent has a contract with Court Cavour expiring April 1st, 1913, whereby in consideration of the sum of One Dollar per member yearly, payable quarterly to furnish such members with all drugs, medicine, bandages and other surgical appliances, excepting patented medicines, imported medicines, rubber goods, which the defendant association has agreed to pay for extra, upon presentation of a prescription by the association's physician.

Deponent further says that he has not heard that it is the intention of the members to disband or divide the funds; that, nevertheless, the complainant, through its secretary, has warned deponent that he will not be paid for medicines or goods supplied after the date upon which the Grand Court has resolved to disband or dissolve Court Cavour; that deponent is also about to be the loser on certain other contracts by reason of the fact that he is no longer considered a Forester, although he has done no wrong.

Deponent further says that on June 20th, 1912, he went on a tour of Europe, and that he re-

Affidavit of Edward Caruso.

mained continuously away until September 30th, 1912, and that he has no knowledge or information, nor has he participated in any manner in the things set forth in the Bill of Complaint; that he has sent his check directed to the Secretary of the defendant association and believes that it was forwarded to the Grand Secretary of the complainant; but that the same has been retained by the complainant; nevertheless a certain check for Seventy-eight Dollars and seventy-five cents, due and owing to deponent for services and supplies rendered up to October 1st, last, has not been honored by the payee, by reason of the orders of the complainant. 10

Deponent further says that he has never received any notice of any charges or otherwise has he been informed that his rights to the funds of Court Cavour, by reason of his membership therein, was forfeited or about to be forfeited. 20

EDWARD CARUSO.

Sworn to and subscribed before me }
this 9th day of December, 1912. }

Anthony R. Finelli,

Master in Chancery of New Jersey.

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Affidavit of Pietro De Maio, Gabriel Matonti.

STATE OF NEW JERSEY, }
County of Essex. } ss.:

10 PIETRO DE MAIO, GABRIEL MATONTI, being severally duly sworn on their oaths respectively say: that they are present members of the defendant association, Court Cavour, No. 133, Foresters of America; that the rules of the association provide that membership in said association, and the benefits accruing to the members, shall not be forfeited except after due and proper trial and upon notice.

20 Deponent severally say that no notice of any proceeding or charges against them, either singly or collectively has ever been received by them; that the actions, doings and pretences of the complainant have greatly surprised them; that at no time whatever did they have any intimation, knowledge or belief that the moneys contributed by them could be taken from their possession and control by any persons whomsoever; that it is not true that the members of the defendant association intend to disband or dissolve, nor do they intend to divide the fund.

PIETRO DE MAIO.
GABRIEL MATONTI.

30

Sworn to and subscribed before me }
this 9th day of December, 1912. }

J. V. D'Aloia,
M. C. of New Jersey.

**COMPLAINANT'S REPLY AFFI-
DAVITS.**

**Affidavit of Thomas M. Donnelly.
In Chancery of New Jersey.**

Between

THE GRAND COURT FORESTERS OF
AMERICA, State of New Jersey,

Complainant,

and

COURT CAVOUR, No. 133, FOREST-
OF AMERICA, et als.,

Defendants.

Affidavit.
On Bill, etc.

10

STATE OF NEW JERSEY, }
County of Essex. } ss.:

20

THOMAS M. DONNELLY, of full age, being duly sworn, on his oath deposes and says, that he is at present the Supreme Secretary of the Supreme Court, Foresters of America, and in active charge of all of the affairs and matters of the Supreme Court, Foresters of America; that at the time when Court Cavour, No. 133, was instituted as a Subordinate Court of the Foresters of America, this deponent was the Grand Secretary of the Grand Court, State of New Jersey, Foresters of America, and then in active charge of all of the affairs and matters of the Grand Court, State of New Jersey, and in actual charge of all the papers and correspondence carried on by and with the Grand Court, State of New Jersey, and took personal charge of the institution of said Court Cavour, No. 133, Foresters of America.

30

Deponent further says, that every charter member of Court Cavour, No. 133, Foresters of America, and every member subsequently initiated, signed an application for membership, in person,

40

Affidavit of Thomas M. Donnelly.

in the Order of the Foresters of America, containing this contract "And I further declare that I will conform to, and abide by, all the rules of the Court and of the Order now in force, or hereafter to be made, or submit to the penalties therein contained."

10 Deponent further says, that in Nineteen hundred and three, the Executive Council of the Grand Court Foresters of America, passed a resolution requiring all Subordinate Courts then in existence, and thereafter to be instituted in the State of New Jersey, to become incorporated under the laws of the State of New Jersey, as a corporation not for pecuniary profit, and that Court Cavour, No. 133, Foresters of America became incorporated pursuant to the said resolution of the Grand Court of the Foresters of America, and in obedience to it, not as a separate corporation, but as a subordinate body of the complainant.

20 Deponent further says, that the constitution adopted by Court Cavour, No. 133, Foresters of America and by which it was governed at the time of the dissolution, and at the time of the controversy which arose between the Grand Court and Court Cavour, contains as Section 5 the following provision:

30 "It recognizes the authority of the Supreme Court of the Order and the authority of the Grand Court of the State of New Jersey, and it shall abide by, obey, agree to, and conform with the General Laws of the Order, and the Grand Court Laws of the State of New Jersey, as now in force or as they may be hereafter enacted or amended."

40 Deponent further says, that under the General Laws governing the Foresters of America, when a subordinate Court becomes dissolved or expelled,

Affidavit of Thomas M. Donnelly.

the innocent members of the Court are not expelled from the Order, nor are they deprived of the benefits of the Order but are protected in the full enjoyment of all their rights and privileges as Foresters of America, by virtue of the provisions of Article 24, Sections 112-118, pages 32-34, of the General Laws of the Order.

Deponent further says, that at the time when Court Cavour was instituted as a Subordinate Court of the Foresters of America, the Grand Court Laws of the State of New Jersey, contained the following provision as Section 1, of Article 18, found on page 20 of the Grand Court Laws, a copy of which has been annexed to the Bill of Complaint, which this deponent has seen and read. 10

Art. 18, Sec. 1.

Should any Subordinate Court become either by operation of law or otherwise, dissolved, or be suspended, expelled or secede from the Order, all property, moneys, goods and effects shall vest in and be delivered to the Grand Court upon demand being made therefor. 20

Deponent further says, that the Grand Court Laws protecting members of defunct Courts, are found on pages 20-26 of the said Grand Court Laws, and unless a different date is indicated after any section, they are the same provisions as were in existence at the time of the institution of Court Cavour, No. 133. 30

Deponent further says, that he is the T. M. Donnelly referred to in the affidavit of Oreste Cerato, as having acted as Suspending Officer of the defendant on September twenty-fifth, Nineteen hundred and twelve, but says that the version as to what this deponent did and said on said occasion in said affidavit is absolutely false, 40

Affidavit of Thomas M. Donnelly.

that in truth and in fact, this deponent informed all of the officers and members of Court Cavour, No. 133 on said occasion, a very large membership being present, in fact nearly all of the members on the roll of said Court, that the Court stood temporarily suspended by order of the Executive Council of the Grand Court of the State of New Jersey, and that the Court would be tried
 10 by the Executive Council at 275 Grove Street, Jersey City, the headquarters of the Grand Court, on Saturday evening, October twelfth, Nineteen hundred and twelve, at 8 P. M. when they should all appear, and that the Executive Council would then determine whether the Court should remain suspended, or be dissolved, or expelled or reinstated, whatever the decision would be.

THOMAS M. DONNELLY.

20 Sworn and subscribed to before me }
 this 12th day of December, A. D. }
 1912, at Jersey City, N. J. }

James W. Simpson,
 Notary Public of New Jersey.

30

40

Affidavit of William L. J. Jobes.

In Chancery of New Jersey.

between

THE GRAND COURT FORESTERS OF
AMERICA, State of New Jersey,

Complainant,

and

COURT CAVOUR, No. 133, FOREST-
ERS OF AMERICA, et als.,

Defendants.

On Bill, etc.

Affidavit. 10

STATE OF NEW JERSEY, }
County of Essex. } ss.:

WARREN L. J. JOBES, being duly sworn, on his oath, deposes and says, that he is the Grand Secretary of the State of New Jersey, Foresters of America, and has fully stated his position and duties in a previous affidavit made in this cause.

20

Deponent further says, that he was present at the trial of Court Cavour before the Executive Council of the Grand Court of the State of New Jersey, and that there were at the very least, thirty members and officers of Court Cavour present at said trial.

30

Deponent further says, that he has caused the minutes of the special meeting of September eighteenth, Nineteen hundred and twelve, held by Court Cavour, No. 133, to be translated in the English language, and that the following is a true copy of said translation:

COURT CAVOUR, No. 133.

FORESTERS OF AMERICA.

Special meeting held in the hall at No. 42 Garside Street, Newark, N. J., on the Eighteenth day of September, 1912, at the hour of 9 P. M.

4.

Affidavit of William L. J. Jobes.

Having seen the number of members present, the sub-chief ranger Brother V. Troiani declares the meeting open. At the roll call of the officers, the following were present: N. Caruso, R. Masucci, L. Avallone, of whom only N. Caruso was legally excused and the others fined twenty-five cents each. After a discussion in reference to sick benefits of Brother Leonardo Gianetti, already
10 approved by minutes of August 13, 1912, the chief ranger appointed the following committee to investigate the true cause of his sickness; Salvatore Cortese, Giovanni Olivo and Guisepppe Sagaraese. Afterwards the sub-chief ranger Troiani explains to the members the principal reason of such a meeting, that is to say, he informs that the chief ranger Oreste Cerato, by order of the Grand Court, must be tried before the arbitration com-
20 mittee for the charge preferred against him by Brother Lecturer G. Sozio. After the discussion, the sub-chief ranger reads to the assembly the names of the arbitration committee already existing and to that effect Brother Salvatore Cortese says that such committee was disqualified to proceed against him, they having been appointed by the accused chief ranger. After such things Cerato and Cortese became angry and started to use profane language, each towards the other, un-
30 til they came to blows, and in such circumstance, the trouble assumed such proportions, owing to the intervention of other brothers in the fight, that the sub-chief ranger was compelled to declare the meeting closed.

Of which we have hereby drawn these minutes reserving the reading of the same at the next meeting after which they will be regularly sub-
scribed.

Affidavit of William L. J. Jobes.

Newark, N. J., September 24th, 1912.

Chief Ranger V. Troiani.

The Recording Secretary,
Pietro De Maio.

I HEREBY CERTIFY that I have made the above translation from the original in the Italian language, as it appears on page 49 of the minutes of Court Cavour, No. 133, Foresters of America, according to my best knowledge of both the English and Italian languages. 10

Newark, N. J., December 11, 1912.

T. MANCUSI-UNGARO,
Attorney at Law of New Jersey.

Deponent further says, that under the laws of the Foresters of America, the funds, now being sued for by the Grand Court, if recovered, cannot become the property of the Grand Court, nor be kept by it, because, complying with the provisions of Section 112 of the Supreme Court General Laws, Foresters of America, thirty-eight members of the dissolved Court Cavour, No. 133, have presented proof of their innocence of the wrong doing of Court Cavour, and have asked in accordance with the provisions of said law to be reinstated as a Subordinate Court of the Order. 20

Deponent further says, that said request having been made by more than fifteen members, the Grand Court is compelled to recognize them as a Court bearing the same number, and to whom the Grand Court will have to issue a new dispensation and turn over all of the assets, funds, and other property of said dissolved Court, to said members who have complied with the Laws of the Order. 30

Deponent further says, that under said laws the Grand Court only acts as Trustee, and if 40

Affidavit of William L. J. Jobes.

there had been less than fifteen members applying and those who applied were unable to join another Subordinate Court of the Order, they would become Grand Court members, continuing to pay their dues to the Grand Court and receive the full benefits of the Order from the Grand Court funds.

10

WARREN L. J. JOBES.

Sworn and subscribed to before me }
this 12th day of December, A. D., }
1912, at Jersey City, N. J. }

James W. Simpson,
Notary Public of New Jersey.

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30

40

Answer.

(Filed, Dec. 24, 1912.)

In Chancery of New Jersey.

Between

THE GRAND COURT FORESTERS OF
AMERICA, State of New Jersey,*Complainant,**and*COURT CAVOUR, No. 133, FOREST-
ERS OF AMERICA, et als.,*Defendants.*On Bill etc. 10
Answer.

The answer of Court Cavour, No. 133, Foresters of America, a corporation of New Jersey, defendant, to the Bill of Complaint of the Grand Court, Foresters of America, complainant. 20

1. This defendant says that it is not true that it was chartered or instituted under the seal of the complainant or that this defendant is in anywise bound by the constitution and "Grand Court Laws" of the complainant, but avers the truth to be that on the sixteenth day of February, in the year Nineteen hundred and four, this defendant, under and by virtue of the provision of an act of the Legislature of the State of New Jersey, entitled "An Act to Incorporate Associations not for Pecuniary Profit" approved April 21, 1898, and the several supplements thereto and acts amendatory thereof, did become a politic recognized in law under the name "Court Cavour, No. 133 of the Foresters of America, as a separate distinct and unaffiliated association. 30

2. And this defendant, further answering avers, that it did voluntarily, and without any agreement or binding obligation submit itself to the 40

Answer.

"laws," rules, regulations and discipline of the complainant; but that it, the defendant association, never became bound by, nor was it at any time subject to, the constitution and "General Laws" of the Supreme Court Foresters of America, and the Constitution and "Grand Court Laws" of the Complainant.

10 3. And this defendant further answering says that it has no sufficient knowledge or information concerning the alleged meeting of the complainant's executive council on September 28th, 1912, at which the alleged suspension of this defendant association from the order of the Foresters of America occurred.

20 4. And this defendant further answering denies that it appeared before the executive council of the complainant for trial on October 12th, 1912, and says that it has no sufficient knowledge or information concerning the matters and things set out in the third and fourth paragraphs of the bill of complaint, and leaves the complainant to make such proof thereof as this Honorable Court shall deem necessary and proper.

30 5. This defendant will maintain, aver and prove that the actings, doing and proceedings of the complainant, set forth in said third and fourth paragraphs of the bill of complaint were invalid, oppressive, illegal and not binding upon this defendant.

40 6. This defendant further answering denies that its dispensation, charter, certificate of incorporation, constitution and by laws or either of them confer any power whatever upon complainant to dissolve this association; that its aim and purpose is benevolence and to provide relief to its own members in sickness, burial at death, to inspire its members with the elevating influence of a proper recognition of the stern realization

Answer.

and responsibilities of life; that it has accumulated a fund amounting to nearly Eleven Hundred Dollars from admission fees, monthly contributions and fines from its own members to be used for such of its members as are incapacitated by sickness or other disability or otherwise unable to attend to his usual business, and for the purpose of relieving the orphans and widows of its deceased members. 10

7. Defendant avers and will prove, in accordance with the rules of this Honorable Court, that it is still performing the functions for which it, the defendant association was organized and that its officers are fully carrying out the purposes for which it, the defendant corporation, was incorporated and that its said officers are scrupulously administering the funds contributed by its own members in accordance with the objects set forth in its certificate of incorporation, its constitution and by laws. 20

8. And this defendant will maintain, aver and prove in any manner, that this Honorable Court shall direct, that the certificate of incorporation of the complainant, or its constitution and by laws, confer no power whatever upon the complainant, to dissolve the defendant association or to revoke or annul its dispensation, as set forth in the bill of complaint and that complainant has no power to control any property or funds of this association. 30

9. And this defendant, further answering, denies the right of the complainant to demand that the defendant association or its officers, shall discover any or all its property or funds possessed at the time of the alleged dissolution of the defendant by the complainant; or that this defend- 40

Answer.

ant should state the nature, amount or particulars thereof, or in whose possession the said property or funds or any part thereof, now is, or that the said funds, and property should be turned over to the complainant, or that the said defendant, its officers or agents should be restrained from withdrawing, any of its funds from any depository where said funds may be deposited or
10 that complainant can in any wise interfere with the funds or property of this association.

WHEREFORE defendant prays to be hence dismissed with its reasonable costs in this behalf most wrongfully sustained.

ANTHONY R. FINELLI,
Solicitor of Defendant.

A true copy.

20

SAMUEL K. ROBBINS,
Clerk.

30

40

Replication.

(Filed .)

In Chancery of New Jersey.

Between

THE GRAND COURT FORESTERS OF
AMERICA, State of New Jersey,*Complainants,**and*COURT CAVOUR, No. 133, FOREST-
ERS OF AMERICA, et als.,*Defendants.*On Bill, etc.
Replication.

10

The complainant joins issue on the answer of
the defendant Court Cavour, No. 133, Foresters of
America.

20

PHILIP J. SCHOTLAND,
Sol'r for Complainant.

30

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Final Decree.
In Chancery of New Jersey.

	Between THE GRAND COURT FORESTERS OF AMERICA, State of New Jersey, <i>Complainants,</i>	
10	and	
	COURT CAVOUR, No. 133, FOREST- ERS OF AMERICA, et als., <i>Defendants.</i>	On Bill, etc. Final Decree.

20 This cause coming up to be heard before the Court in the presence of Philip J. Schotland of Counsel with the complainant, and Anthony R. Finelli and J. Victor D'Aloia of Counsel with the defendants and the pleadings and proofs having been read, and the arguments of the respective counsel having been heard and considered, and the court having duly considered the said pleadings, proof and arguments, and it appearing to the court that the complainant is not entitled to the relief sought and prayed for by it in its bill of complaint, It is on this twenty-ninth day of July, nineteen hundred and thirteen, by Edwin Robert Walker, Chancellor of the State of New

30 Jersey,

ORDERED, ADJUDGED AND DECREED that the complainant's bill be and the same is hereby dismissed, and the said Chancellor, by virtue of the power and authority of this Court, doth hereby order, adjudge and decree that the complainant pay to the defendants the costs of this suit to be taxed, together with the counsel fee of one hundred dollars, and that execution issue therefor

40 according to the practice of this court. The restraining order heretofore made by this court shall not be discharged until the further order of this Court or of the Court of Errors and Appeals.

Respectfully advised,

FREDERIC W. STEVENS,
 V. C.

Testimony.
In Chancery of New Jersey.

Between

THE GRAND COURT FORESTERS OF
 AMERICA, State of New Jersey,

Complainants,

and

COURT CAVOUR, No. 133, FOREST-
 ERS OF AMERICA, et als.,

Defendants.

10

Before

HIS HONOR VICE CHANCELLOR STEVENS.

PHILIP J. SCHOTLAND, ESQ., for the Complainants. 20

ANTHONY R. FINELLI, ESQ., for the Defendants.

MESSRS. PITNEY, HARDIN & SKINNER, for National
 NEWARK BANKING COMPANY.

Transcript of shorthand report of the evidence
 given upon the trial of the above stated cause, on
 Tuesday, May 6th, 1913, at Chancery Chambers,
 Newark, N. J.

MR. WARD: I represent Messrs. Pitney, 30
 Hardin & Skinner, who appear for the
 National Newark Banking Company, a
 custodian of one of the funds in dispute in
 this case. I doubt very much whether it
 will be necessary for me to attend at the
 hearing; I think the amount is agreed
 upon, \$154.60. We would be very glad to
 pay the money into court if counsel desires
 that course to be pursued.

40

Thomas M. Donnelly—Direct.

THOMAS M. DONNELLY, sworn.

DIRECT EXAMINATION BY MR. SCHOTLAND:

Q. Mr. Donnelly, are you connected with the Foresters of America? A. At present its Supreme Secretary.

Q. And in November, 1903, were you an officer
10 of the Grand Court of the Foresters of America?

A. What we know as the Grand Secretary of the State of New Jersey.

Q. What is the complete, full title? A. Grand Secretary of the Grand Court of New Jersey.

Q. Financial secretary? A. Financial secretary.

Q. As Grand secretary, in 1903 what were your duties with relation to the institution of new subordinate courts in the Order? A. My duties were
20 to see that the charter was properly filled out and executed by those with power to execute; to see that the goods necessary for the establishment of a court were gotten together and delivered; to be at the institution of the court and read the charter; to see that the applications for membership were properly made out, signed by the applicant and witnessed; to see that they had undergone a medical examination and were approved by the
30 examining physician as being physically qualified for membership; to see that the members to make the new court complied with all the details of the regulations incident to the establishment of a new court.

Q. Were you one of the officers that was required to sign the charter if you found everything satisfactory? A. I signed it as Grand Secretary of the Grand Court of New Jersey.

40 Q. Was Court Cavour, No. 133, Foresters of America, instituted during your term as Grand

Thomas M. Donnelly—Direct.

Secretary of the Grand Court of the State of New Jersey? A. Court Cavour was instituted November 24, 1903, while I was Grand Secretary of the Grand Court of New Jersey.

Q. The applications that you referred to as being signed by all of the incoming members to constitute a new court, is this one of the applications (showing witness paper)?

10

MR. FINELLI: I object, your Honor. If we have original documents we ought to get the original documents.

MR. SCHOTLAND: If you have them I call upon you to produce them in open court. You say you have original documents; I call upon you to produce them, if you have them.

MR. FINELLI: I merely object to the offer of the document in question, because it is not an original document.

20

MR. SCHOTLAND: I haven't offered it yet. I am asking the witness whether this is an application like the one signed by the members of Court Cavour; he says they were signed in his presence at the time of the institution, he took personal charge of it.

THE COURT: If there was an application you will have to produce the application, or if it has been lost or destroyed give evidence of its contents.

30

Q. Mr. Donnelly, who provided the applications to be signed by the members composing Court Cavour, No. 133, when it was to be instituted?

A. The Supreme Court of the Foresters of America.

Q. Through whom, directly to those members?

40

A. I beg pardon.

Thomas M. Donnelly—Direct.

Q. How did the applications get into the hands of the incoming members of Court Cavour, 133?

A. Through the Grand Secretary.

Q. Was that yourself at that time? A. Yes, sir.

Q. Then you personally provided the applications? A. Yes, sir.

10 Q. And in what form were those applications?

A. They were in printed form, printed on both sides, what we know as letter size, letter sheet size, one side contains the candidates.

Q. Never mind the contents. Were they the form of any particular year? A. The form of 1901.

Q. That is the one that was used at that time? A. Yes, sir.

20 Q. Now do you know who carried out the order of suspension of Court Cavour, by physical seizure of the property of Court Cavour? A. I was the suspending officer.

Q. And did you seize the property of Court Cavour? A. Yes, sir.

Q. Who turned it over to you? A. The financial secretary.

Q. And where?

30 THE COURT: What is his name?

A. If the Court please, I don't think I know his name; it is an Italian name; I would know it if I heard it, though.

Q. (By Mr. Finelli.) Frank DeFeo? A. I think that is the name; I don't believe I know the name, but it was the regularly elected financial secretary acting at that time.

40 MR. FINELLI: I object to that statement and move that the statement be stricken

Thomas M. Donnelly—Direct.

out, that he was the regularly elected secretary.

THE COURT: I suppose the witness is not competent to prove that.

Q. Where was that, Mr. Donnelly? A. In the lodge room.

Q. Where? A. I don't know the location of the lodge room at that night; it occurred to me it was on Bank street; I may be mistaken as to that. 10

Q. Was there a meeting of the Court in session? A. Oh, yes.

Q. All the officers in their chairs? A. Yes.

Q. Do you remember when that was? A. It was prior to October twelfth.

Q. Prior to the trial? A. Prior to the trial, yes. 20

Q. You made an affidavit in this matter, Mr. Donnelly? A. Yes, sir.

Q. You do recall then that it was some time prior to October 12th, 1912? A. Yes, I recall that.

Q. That you visited Court Cavour? A. Yes, sir.

Q. And seized all their property? A. Seized all their property. 30

Q. Now did Court Cavour turn over all the property they had at the time to you? A. They turned over some of their books, records; there were no application blanks turned over at all.

Q. Did you ask for the application blanks? A. We asked for everything.

Q. What reply did you receive when the application blanks were not among the property turned over? A. They said they didn't know where they were. 40

Thomas M. Donnelly—Direct.

MR. FINELLI: I object to this statement.

Admitted.

Q. Have you found them since? A. No, sir.

Q. Now you say that the applications were on a printed form? A. Printed form, yes, sir.

10 Q. Is this like the ones that were used by Court Cavour (showing witness paper)?

MR. FINELLI: I object to that.

20 MR. SCHOTLAND: I will make this offer, if your Honor please, as soon as the financial secretary of the Court arrives I will supplement that proof. In the meantime, not to break up the chronological sequence of events, I will ask permission to put in this evidence subject to having it stricken out if I do not supplement it with the proper proof that the originals have been lost.

MR. FINELLI: I object to that.

THE COURT: I will allow you to do that. If you do not show that the original has been lost or destroyed then this evidence will go for nothing.

30 Q. Now Mr. Donnelly, is that one of the forms that was used at the time Court Cavour was instituted? A. Yes, sir.

Q. Marked "Revised Form, 1901"? A. 1901, yes, sir.

Q. And you say these forms were printed and supplied by the Supreme Court of the Order? A. By the Supreme Court of the Order, the only body authorized to supply them.

40 MR. SCHOTLAND: Now I offer this application in evidence, calling the Court's at-

Thomas M. Donnelly—Direct.

tention to this particular part of it which is to be signed by the applicant: "And I further declare that I will conform to and abide by all the rules of the Court and of the Order now in force or hereafter to be made, or submit to the penalties therein contained; and I agree not to resort to the civil courts for redress for an alleged injury until I have exercised every means of appeal in the Order. As witness my hand, this blank day of blank." I will ask to have it marked in evidence. 10

MR. FINELLI: I object.

Q. Mr. Donnelly, while you were Supreme Secretary did Court Cavour, No. 133, of the Foresters of America, revise or adopt new by-laws? A. Do you mean Supreme Secretary?

Q. I mean Grand Secretary? A. Yes, the Court adopted by-laws while I was Grand Secretary. 20

Q. (By the Court.) Can you give me an idea, generally I mean, of the constitution of the Order, its various organizations. There is first a Supreme Court? A. Yes, sir.

Q. (By the Court.) What is that; is that a National body? A. That is a National body, your Honor.

Q. (By the Court.) Then there is a Grand Court, what is that? A. That is the State body. 30

Q. (By the Court.) And from whom does the Grand Court receive its charter? A. From the Supreme Court.

Q. (By the Court.) Then there are local organizations, and they derive their powers from which body? A. From the Grand body.

Q. (By the Court.) From the Grand body? A. From the State Court; we call it the Grand Court; all charters, you understand, your Honor, are supplied by the Supreme Court. 40

Thomas M. Donnelly—Direct.

Q. (By the Court.) All what? A. All charters are supplied by the Supreme Court, and their issuance, giving the subordinate court life, is after they are executed by the presiding officer and the Supreme Secretary of the Supreme Court and countersigned by a presiding officer and State Secretary of the Grand Court.

10 Q. (By the Court.) I thought you said that the local bodies derived their powers from the Grand Court; then that is not right? A. Yes, your Honor, subservient to the regulations of the Supreme Court.

Q. (By the Court.) But the charter, you say, comes from the Supreme Court? A. The Supreme Court issues the charters, and there is no subordinate court who has a charter that don't contain the signature of the Supreme presiding officer and
20 the Supreme Secretary.

THE COURT: You better put in the by-laws and the charter.

MR. SCHOTLAND: I lost the charter. I have a blank form exactly the same as the one which I lost.

THE COURT: Do you admit that such a charter was granted to this Court, Mr. Finelli?

30 MR. FINELLI: Yes.

THE COURT: Mr. Schotland need not go on the stand and prove it?

MR. FINELLI: No.

MR. SCHOTLAND: Then it is admitted that such a charter was granted on November 24th, 1903, to Court Cavour, No. 133.

Q. Now Mr. Donnelly, is this the constitution and general laws of the Order of the Foresters
40 of America that was in force in the Order at the

Thomas M. Donnelly—Direct.

time when Court Cavour, No. 133, was instituted (showing witness a printed book)? A. This is the constitution and laws that was in force at that time.

Q. And do you know that that is the constitution and general laws of the Order in force at that time? A. It is the issue of 1901.

Q. Well, what position did you occupy in the Order at that time? A. The position of Grand Secretary of the Grand Court of New Jersey. 10

Q. As Grand Secretary I notice your name is in this copy? A. Yes.

Q. As Grand Secretary where did you receive it from? A. I received it from the Supreme Secretary of the Order.

Q. As what? A. As the official copy of the constitution and by-laws of the Order in general. 20

Q. At that time? A. And to make that positively sure I put my name and address in, so that it wouldn't get away from me.

MR. SCHOTLAND: I offer it in evidence.

MR. FINELLI: No objection.

Marked Exhibit C-1.

MR. SCHOTLAND: Now suppose this copy of the charter goes in evidence then.

MR. FINELLI: No objection. 30

Marked Exhibit C-2.

Q. Mr. Donnelly, you are now the Supreme Secretary of the Order? A. Yes, sir.

Q. And as such have you charge of the constitution, general laws of the Order? A. Yes.

Q. And the printing and distribution of the official copies? A. Yes, sir.

Q. Is this an official copy of the laws of the Order, containing the latest amendments? A. 40

Thomas M. Donnelly—Direct.

This is the official copy of the laws of the Order, containing all the laws as they are now, and the latest amendments.

MR. SCHOTLAND: I offer this in evidence.

Marked Exhibit C-3.

10 Q. Now, I show you a book and ask you if you know what that is? A. This is the constitution and laws of the Grand Court of New Jersey.

Q. Is that the one containing all of the present Grand Court laws and all the amendments of the State of New Jersey? A. That is the latest issue and contains all the latest amendments, and is now the laws by which the Grand Court of New Jersey are controlled.

20 Q. That is 1911 issue? A. 1911 issue.

MR. SCHOTLAND: I offer it in evidence.

MR. FINELLI: I object to this book going in evidence, the constitution and laws of the Grand Court, on the ground that they are not binding upon the defendants at all; the complainants in this case say that it is a New Jersey corporation.

Admitted.

30

Marked Exhibit C-4.

Q. Now Mr. Donnelly, while you were the Grand Secretary of the Grand Court of the State of New Jersey did you receive this book in your official capacity? A. Yes, sir; this was first received on July 15th, 1909; it contains an impression of the office stamp of that date.

40 Q. And what is this book? A. This is the by-laws, constitution and by-laws of Court Cavour, No. 133, Foresters of America.

Thomas M. Donnelly—Direct.

Q. When was that adopted? A. This was adopted on the 22nd day of June, 1909.

MR. SCHOTLAND: I call attention to the fact that in the Grand Court laws, which are C-4, there is a provision that when any subordinate Court of the Order adopts a new constitution and by-laws or any amendment of alteration to its constitution and by-laws they must send two copies, after they have been adopted by the Court, to the Grand Court, and they do not go into effect until approved by the Grand Court, one copy to remain on file with the Grand Court as the official copy, and one copy to be returned to the Court as its official copy, from which they strike off their printed copies, and I think Mr. Finelli will admit, at least I will ask him if he will, that this is the official copy left with the Grand Court as the English constitution and by-laws of the Order, from which they struck off an Italian translation for their own use, which I also have here. 10 20

MR. FINELLI: That is a fact.

MR. SCHOTLAND: Now, I offer the original English constitution and by-laws of Court Cavour, 133. 30

Marked Exhibit C-5.

MR. SCHOTLAND: I also offer the Italian translation used by them.

Marked Exhibit C-6.

MR. SCHOTLAND: In this constitution adopted by Court Cavour, I offer it mainly and practically for the sole purpose of calling to the Court's attention section 40

Thomas M. Donnelly—Direct.

5 of its constitution, which reads as follows: "It (meaning Court Cavour No. 133 Foresters of America) recognizes the authority of the Supreme Court of the Order, and the authority of the Grand Court of State of New Jersey, and it shall abide by, obey, agree to and conform with the general laws of the order and the Grand Court laws of the State of New Jersey, as now in force, or as they may be hereafter enacted or amended."

10

Q. While you were the Grand Secretary of the State of New Jersey were there any steps taken by the Executive Council to ask the subordinate courts to incorporate under the laws of the State of New Jersey, providing for incorporation not for pecuniary profit?

20

MR. FINELLI: I object to that.

Admitted.

A. I think it was in June or July, of 1903, the Executive Council adopted a resolution.

Q (By the Court.) Executive Council of what? A. Executive Council of the Grand Court of New Jersey adopted a resolution making it mandatory, or requiring all Courts within the State of New Jersey to become incorporated under the Act allowing incorporation not for pecuniary profit.

30

Q. Do you know of your own knowledge whether Court Cavour No. 133 Foresters of America became incorporated under the laws of the state of New Jersey before or after any demand upon them to incorporate made by you personally? A. No, sir.

40

Q. You don't know that? A. No, sir.

Thomas M. Donnelly—Direct.

Q. I show you a book; do you recognize what that is? A. That is the minutes of the Executive Council of the Grand Court of New Jersey, Foresters of America.

Q. This is the official minute book? A. That is the official minute book.

Q. In whose custody was it after it was written up? A. After it was filled up? 10

Q. Yes. A. In the custody of the Grand Secretary of the Grand Court of New Jersey.

Q. And who was that at that time? A. That was me.

Q. Yourself? A. Yes, sir.

Q. I notice on page 263 of this minute book, under date of May 23, 1903, the reference to the incorporating of the Subordinate Courts; does that fix the date in your mind as to when the action was taken by the Executive Council? A. That fixes the date, yes, sir. 20

Q. After that action was taken what, as Grand Secretary, did you do towards having the Subordinate Courts of the Order incorporated? A. If my memory serves me right I immediately proceeded to put the resolution in execution by issuing instructions to the various Courts to carry out the mandates of the resolution. 30

Q. I notice by the constitution and by-laws of Court Cavour No. 133, Exhibit C-5, the record that that Court became incorporated February 16, 1904; does that refresh your recollection as to whether or not they incorporated as a result of a demand by you that they do so? A. Oh, yes, sir, they incorporated in accordance with the requirements of the regulations of the Order, put into effect by the Executive Council of the Grand Court of New Jersey. 40

Thomas M. Donnelly—Direct.

Q. Now, Mr. Donnelly, do you know of any law in this Order referring to the suspension or expulsion of Subordinate Courts? A. Yes, sir, there was considerable law covering those subjects.

Q. I refer you to section 215 of the general laws of the Order, Exhibit C-3; is that the statute of the Order covering the trial, suspension and punishment or expulsion of Subordinate Courts? A. That is the statute.

Q. I will read it: Section 215, on page 57 of Exhibit C-3: page 35, "Any Grand or Subordinate Court found guilty, after due notice and hearing, of any of the charges hereinafter set forth, may be suspended for a period not exceeding two years, dissolved or expelled. If dissolved or expelled, its charter, dispensation, rituals, moneys, books, papers and all other property, both real and personal shall be forfeited to the Supreme Court or the respective Grand Court. The Supreme Executive Committee shall hear and decide all charges preferred under this section against Grand Courts and Subordinate Courts attached to the Supreme Court; and the Executive Council of each Grand Court shall hear and decide all charges preferred against Subordinate Courts within its jurisdiction. (a) For improper conduct. (b) For seceding or attempting to secede from the Order. (c) For neglecting or refusing to conform to the rituals, laws, ceremonies, enactments or resolutions of the Supreme Court, Grand Courts or Executive Council thereof. (d) For neglecting or refusing to make returns, or for non-payment of dues or taxes to the Supreme or Grand Court, or for failure to pay its sick or funeral benefits to members entitled to receive the same, or to discharge any

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of its legal obligations. (e) For neglecting to hold the regular meetings without proper authority, unless on account of unforeseen circumstances. (f) By its members diminishing so that less than a legal quorum is left." Mr. Donnelly, can you explain what it means by "Subordinate Courts attached to the Supreme Court"? A. The laws of the Order require that a State organization, which we know as a Grand Court, consist of not less than ten Subordinate Courts and one thousand members; where there are less than ten Subordinate Courts and one thousand members in any one particular State they are attached to the Supreme Court, reported to the Supreme Secretary and Supreme Chief Ranger, thus eliminating the State organization, because in that particular State they are not strong enough to maintain them.

Q. Then charges against a Subordinate Court in a State where there is no Grand Court would be preferred before the Supreme Court Executive Committee, and tried by it? A. Yes, sir.

Q. And where there is a Grand Court in existence, tried by the Executive Council of that Grand Court? A. The tribunal is the Executive Council of the Grand Court of the particular State.

Q. Now, Mr. Donnelly, is there anything in the general laws, that you know of, which provides for the taking care of members who are innocent of any wrong doing when the Court is dissolved, or defunct or broken up? A. Oh, yes, our laws are very liberal in that respect, because we recognize that the innocent should not suffer or be punished for the guilty.

Q. You refer to sections 105, 106, 112, 113, 114, 115 and 116 of the general laws? A. Yes, sir.

Thomas M. Donnelly—Direct.

Q. Section 105, on page 31 of Exhibit C-3, provides: "Should the Court from which the brother draws his card break up or dissolve before the expiration of six months from the date of the clearance, then his sick pay shall be paid from the sick fund of the Grand Court until the said six months shall have expired; but if the Court from which the clearance card is granted is still
 10 in existence, said Court shall pay all sick benefits to him until the expiration of six calendar months after the date of said clearance card, whether said claim is for a week or number of weeks, or fractional part of a week, provided that the physician of the Court accepting said clearance card shall have certified that the member has been sick for the period of one week or seven days. Section 106. Should the Court which
 20 granted the clearance card become defunct before the expiration of six months from the date such card was issued, and should any of its former members be taken sick or die before the expiration of said six months, his or their sick or funeral benefits shall be paid by the Supreme Court or by the Grand Court, if the defunct Court was within a Grand Court jurisdiction." Mr. Donnelly, is there any tax or any particular fund
 30 created in the Grand Court of the State of New Jersey to pay the obligations of the Order to members of a defunct Court? A. Yes, sir.

Q. What fund is that? A. It is called the mortuary or sick fund.

Q. There is a special tax raised for that purpose? A. Yes, sir.

Q. Under what provision can you refer me to the Grand Court laws? A. I cannot refer you
 40 to the section now.

Q. It would be under the per capita? A. Yes, sir.

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Q. Do you recall that that was abolished three years ago? A. Yes. If your Honor please, the law did exist, and it was thought sufficient to take care of all the ordinary liabilities, and it was abolished; the fund exists to take care of matters of this kind.

Q. There is now then no special tax creating a fund for that purpose? A. Not at this time.

Q. Well, now then, under these provisions of the general laws, when a Subordinate Court in the State of New Jersey becomes defunct from any cause the members who were in good standing at the time the Court became defunct are taken care of out of what fund then, by the Grand Court? A. Out of the general fund.

Q. Then the general fund of the Grand Court of the State of New Jersey is used for the purpose among all the other things, of carrying out the provisions of this part of the general law? A. Yes, sir.

Q. Now section 112, on page 32 of Exhibit C-3: "Any member or members, who voted with the minority against their Court disbanding or seceding from the Order, or against their Court being suspended or expelled for non-compliance with the laws or decisions of the Supreme Court, Grand Court or Executive Council thereof or Arbitration Committee, shall, on satisfactory proof being made thereof, be still recognized as members of the Order, and in the event of their not being able to obtain admission into any other Court by clearance, in consequence of ill health or over age, they shall pay their dues to the Grand Court and in case of sickness or death their sick pay or funeral benefits shall be paid them from the Grand Court sick or funeral fund, provided the Court to which such members belonged were

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members of the funeral fund; and such members whose Courts are not members of the funeral fund, such benefits shall be paid from the Grand Court management fund, and such members shall pay to the Grand Court such dues and receive such benefits as the Grand Court laws may provide; said benefits to be paid from the Grand Court sick, funeral or management fund, as the

10 case may be. In the event of any fifteen or more members voting in the minority as above, so desiring it, they shall be recognized by the Executive Council or Grand Court, as the same Court to which they formerly belonged, under a new dispensation bearing the same number, which the Executive Council shall have power to grant in such cases, and the granting of which renewed dispensation shall thereby abrogate and cancel all

20 powers and authority conveyed in any dispensation which may have been granted bearing the same number." Then the following sections provide what these innocent members should do in order to be protected as members of the Order and gain the benefit of it. I do not think it is necessary to read all of these, except section 116, on page 34. "Section 116. Members of a Court which has been suspended, expelled or become

30 extinct for cause, and who were in good standing at the time of suspension, dissolution or extinction, and who were blameless of the causes of such suspension, extinction or expulsion, may be admitted to membership in another Court upon presentation of a certificate to above effect from the Grand Secretary upon order of the Grand Executive Council." Of course that would apply if there were less than fifteen; they wouldn't have to do that if there were more than fifteen. Are

40 there similar provisions in the Grand Court of

Thomas M. Donnelly—Cross.

the State of New Jersey to further carry into effect the general laws of the Order? A. Yes, sir.

Q. And similar provisions as to the forfeiture of all property in the Grand Court laws of this State? A. Yes, sir.

Q. As to the forfeiture of property, do you refer to article 18, page 20, of Exhibit C-4? A. Yes, 10
sir.

Q. Section 1, of article 18, on page 20, of Exhibit C-4, "Should any Subordinate Court become, either by operation of law or otherwise, dissolved or be suspended, expelled or secede from the Order, all property, moneys, goods and effects shall vest in and be delivered to the Grand Court upon demand being made therefore."

CROSS EXAMINATION BY MR. FINELLI:

20

Q. Do your duties as secretary of the Supreme Court take up all your working time? A. My entire time is given to the duties of Supreme Secretary and to the duties of the Order in general.

Q. And you receive a salary for your trouble? A. Yes, sir.

Q. Is the Supreme Court a voluntary association or is it incorporated? A. Chartered.

30

Q. It is not a corporation? A. Oh, yes, corporation.

Q. Of what State? A. State of New Jersey.

Q. Supreme Court, Foresters of America, is a corporation of the State of New Jersey? A. Yes, sir.

Q. And its offices are located where? A. The Supreme Chief Ranger resides in Philadelphia?

Q. No, I want to know the office?

40

Thomas M. Donnelly—Cross.

THE COURT: You mean the head office?

Q. The head office, yes? A. Jersey City.

Q. Have you a copy of the charter? A. I have it in my office, not here, sir.

Q. Is the Grand Court, the complainant in this cause, a New Jersey corporation? A. Yes, sir.

10 Q. That is a separate and distinct corporation from the Supreme Court? A. No, sir.

Q. Is it one corporation? A. It is not one corporation, it is a separate corporation, I presume, but incorporated subservient to the laws of the Order and the regulations of the Supreme Court.

Q. That is a conclusion of yours. The charter will state just what the objects of the complainant are? A. I am familiar with the charter.

20

MR. SCHOTLAND: I object to counsel arguing with the witness. As a matter of fact, the witness testified as to the contents of the charter, the certificate of incorporation recites that clause.

Q. (By the Court.) Where is the charter? A. If your Honor please, I think it is in the office of the Grand Secretary, framed and hanging on the wall.

30

Q. Do you recollect the date of incorporation? A. The incorporation of?

Q. The Grand Court of New Jersey, the complainant in this case? A. The Grand Court of New Jersey, I think, was incorporated in 1889.

Q. What? A. In 1889, I think, or 1890, shortly after its institution, I think.

Q. Wasn't the Grand Court of the State of New Jersey, Foresters of America, incorporated in 40 1906? A. Oh, no, sir, long before that.

Thomas M. Donnelly—Cross.

Q. Are you sure about that, Mr. Donnelly? A. Oh, yes.

Q. Isn't it a fact it was incorporated in June, 1906? A. The Grand Court of New Jersey was originally incorporated under the name of the Ancient Order of Foresters of America; the name was changed, the words "Ancient Order of" were dropped, and they became the Foresters of America, and I think were reincorporated under that old name, or changed in some way, I don't remember. 10

Q. You are guessing at these things, but you have record evidence, haven't you? A. I haven't the record evidence with me, sir.

Q. Wasn't the certificate of incorporation of the Grand Court of New Jersey Foresters of America recorded, wasn't it subscribed by you? A. Subscribed by me? 20

Q. Yes, weren't you one of the incorporators? A. I don't know that I was or not, sir, I couldn't say.

Q. Don't you know the last certificate was filed in the Hudson County Clerk's office in June?

MR. SCHOTLAND: I object to the materiality or competency of this evidence. If Mr. Finelli wants the certificates of incorporation offered in evidence they are in the office in Jersey City and we will produce them and put them in evidence; we have them both of the Supreme Court and of the Grand Court; I acted as the incorporating officer in both instances, and I know the facts. 30

THE COURT: I think Mr. Finelli has the right to insist that they shall go in.

MR. SCHOTLAND: And I will produce 40 them.

Thomas M. Donnelly—Cross.

A. The certificate of the Supreme Court is in a heavy frame and it is on heavy card-board.

MR. SCHOTLAND: But we have a printed copy of it in one of the reports, which Mr. Finelli will accept.

MR. FINELLI: Oh yes, I just want to get dates.

10 Q. Is this form subscribed by any officer of the Grand Court, the application blank I refer to?
A. How do you mean?

Q. Is it subscribed anywhere by any officer of the complainant? A. There is nothing on here that indicates that any officer of the Grand Court should subscribe it.

20 Q. Then the applications that you know of, make by alleged members of Court Cavour, were not subscribed by any agent or officer of the complainant? A. Why, I should imagine, from my recollection on the night of institution, that I witnessed the signature of each applicant who was initiated that night.

Q. Just as a witness? A. I was the subscriber to it, and asked him if he agreed to the tenets of it, and he said yes.

30 Q. But the Grand Court agreed to do nothing for the member? A. Oh, yes, oh, yes.

Q. Is there anything on the paper, on the printed paper showing that the Grand Court agreed to do something for that particular person who subscribed the application? A. Gave him membership in the Order, preserved his lodge, and gave him the full benefits and privileges of the organization.

40 Q. You state that from a knowledge of the contents of the printed blank? A. The printed blank?

Q. That is my question. A. Repeat it.

Thomas M. Donnelly—Cross.

Q. Is there anything on the printed blank which guarantees to the member anything from the complainant or the Order in general? A. The printed application blank you mean?

Q. Yes, sir, the one that you have used? A. There is nothing that guarantees him life or existence, in the application blank, further than his agreeing to the statutes which gives him rights and privileges, as the guarantee of his membership. 10

Q. The agreements are all on the part of the incoming member? A. No.

MR. SCHOTLAND: One moment.

THE COURT: The application is here and speaks for itself.

Q. To whom was the so-called charter or dispensation granted? A. If you will permit of an explanation I will go through that, and possibly the Court and yourself will understand it better. 20

MR. SCHOTLAND: We have the original list here if you want it.

MR. FINELLI: I want to test the witness's recollection.

A. I would answer that and say that it is impossible for me to remember the names of the chartered members, or what we know as the founders, they are hard names to remember. 30

Q. Can you tell us the number of the chartered members? A. No, I cannot tell you the number, but I presume in the neighborhood of forty or fifty, possibly more.

Q. Were the names of those members written upon the dispensation or charter? A. Some times that was done when application was made for it. The dispensation members you mean, or all who 40

Thomas M. Donnelly—Cross.

went into the lodge on the night of its institution.

Q. The dispensation members? A. The dispensation members are generally three, and their names are written on the face of the charter; they are known as the founders of the Court.

10 Q. And the other members who become members on the night of the institution of the lodge, are their names also printed or written on the dispensation? A. Some times they like to see them down the sides of the charter, and when that request was made we used to have their names engrossed on each side of the charter, down in two columns.

20 Q. Who was the Supreme Chief Ranger at the time of the institution of Court Cavour? A. I would have to look back at the records, I couldn't say positively.

Q. Do you know who the Supreme Secretary was? A. Yes, sir.

Q. Who? A. E. M. McMurtrie.

Q. Who was Grand Chief Ranger of the State of New Jersey? A. 1903. I think it was Samuel M. Edwards of Orange, New Jersey.

Q. And you were the Grand Secretary? A. Yes, sir.

30 Q. Article 26, Section 1 of the Laws of the Foresters; was that ever amended? A. What is the article?

MR. SCHOTLAND: I object to that. The laws will speak for themselves.

40 Q. "Section 1. Any Grand or Subordinate Court may be suspended and dissolved, and its dispensation and rituals forfeited to the Supreme Court or the proper Grand Court, and after such Court shall have been notified of the of-

Thomas M. Donnelly—Cross.

fense and a suitable opportunity shall have been given to answer the charge or charges, in the following causes: (1) For improper conduct. (2) For neglecting or refusing to conform to the rituals, laws, ceremonies, enactments and resolutions of the Supreme Court, Grand Courts or Executive Council thereof. (3) For neglecting or refusing to make returns, or for non-payment of dues or taxes to the Supreme Court or Grand Court. (4) For neglecting to hold the regular meetings without proper authority, unless on account of unforeseen circumstances. (5) By its members diminishing so that less than a legal quorum is left." Was that article changed or amended? A. If it don't agree with the present article, I presume yes; the laws of 1911 are the laws of to-day.

Q. There was nothing in the laws prior to 1911, the general laws I mean, speaking of forfeiture of money or property? A. Yes, sir.

Q. Will you find it in the laws of 1901? A. No, sir.

Q. Then it was not in the laws at that time? A. 1901? No, sir.

Q. When did that provision become part of the law? A. It was always a part of the Grand Court law of this State since the institution of the Grand Court in 1889, it became a part of the general laws at the Chicago convention of the Supreme Court, and if you will just bear with me a moment I will go back in my mind and give you the year; 1907 I think it was.

Q. So that prior to 1907 the only provision in any of the laws of the Foresters of America pertaining to the forfeiture of property or money belonging to any of the Subordinate Courts ex-

Thomas M. Donnelly—Cross.

isted merely in the Grand Court laws? A. Grand Court laws of the State of New Jersey.

Q. A copy of which is marked C-4 here? A. Yes; that is the section that was read by counsel.

Q. Now I notice that this book was printed in 1911; were there any printed laws of the Grand Court prior to 1911? A. Oh, yes, sir.

Q. Have you a copy of them? A. Have I a copy?

Q. Yes. A. No. Do you mean here?

Q. Well, here or anywhere? A. I don't carry those with me.

MR. SCHOTLAND: I think I have, however, Mr. Finelli, so that I can accommodate you from 1901 down; and while you are at it, the laws of 1907 referred to by the witness orally contained that amendment, I think you ought to be fair enough to get that in the record and show when the change was made of the general laws.

MR. FINELLI: I think the record sufficiently speaks for itself.

THE COURT: Refer to the section and page.

MR. SCHOTLAND: It is section 297, on page 53 of the constitution and general laws of the Foresters of America of 1907, in which this forfeiture clause appears for the first time in the general laws.

A. It is the same as it is to-day, word for word, hasn't been changed since.

MR. SCHOTLAND: Now, Mr. Finelli, I give you here the printed laws of 1904

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together with the sheets showing nineteen hundred and one, two and three amendments; the printed laws of nineteen hundred and eight, and the sheets showing amendments of nineteen hundred and nine, which embody six and seven.

MR. FINELLI: I would have to first examine them. I don't remember calling for 10 them; I asked whether there was any other printed book prior to this of 1911.

A. Counsel asked me if I had them with me.

THE COURT: Do you want to rest there?

MR. FINELLI: Yes.

A. The provision existed since 1889 in the Grand Court laws. 20

Q. You say that in 1889 the Grand Court Foresters of America was a corporation? A. Shortly after, if you will pardon me, I think.

Q. When do you say the Grand Court of the State of New Jersey became a corporation? A. I wasn't a member in 1889, my recollection would only be from the records; I think the seal bears an impression of the date of the original incorporation. 30

MR. SCHOTLAND: It is December 26th, 1889.

A. Yes that is right, December 26th, 1889.

Q. What property did you take from Court Cavour? A. We demanded everything and took what we could get.

Q. Well, this was in September? A. It must have been in September, because the trial was set for October twelfth, and it was prior to that, 40 I don't know the date exactly.

Thomas M. Donnelly—Cross.

Q. What did you say when you went into the meeting room? A. Well, there was a largely attended meeting, I would imagine there were over two hundred of the members there.

10 Q. Just answer my question. What did you say? A. I told them that they were under suspension, that the officers and those members who were interested should appear the next Saturday night, on October twelfth, I think it was, at the headquarters of the Grand Court of the State of New Jersey, 275 Grove Street, Jersey City, for trial, as to whether they would be adjudged guilty or whatever the Executive Council or the trial body saw fit to find, according to the evidence.

20 Q. Did you say anything else? A. Oh in the course of conversation I possibly said a whole lot.

Q. You don't remember anything else? A. Yes, I remember this, that they were an impulsive and an unruly organization.

MR. FINELLI: I object to this statement.

THE COURT: You are asking for what was said; now he is telling what he said to them.

30 A. Yes, I told them that, and I told them as I was presiding, and was sent with the authority of the Grand Chief Ranger of the State of New Jersey, that I expected and demanded order and decorum; that each would be permitted to speak in his turn, if he had anything to say, providing he talked on the question at issue, but I would not permit any disturbance of any character, and there must be the utmost respect for those
40 in authority.

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Q. Were there any other persons in your party?
A. Yes, sir.

Q. Who? A. Mr. Schotland was there, Mr. Jobes, the Grand Secretary of the Grand Court of New Jersey was there, Mr. Emanuel Sonnabend, a Past Grand Chief Ranger, of the State of New Jersey, Mr. F. J. Leuper, a Deputy Grand Chief Ranger from Court Harmony of Hoboken, and I think there were two or three others whom I have forgotten. 10

Q. Were there any other spokesmen besides yourself? A. The members of the Court were talking.

Q. But I mean from your party; you were the only spokesman? A. I was the only authorized spokesman.

Q. You were the only person who spoke to the assembly? A. No, I think not, I am not positive but I think some, possibly some of the others, maybe one or two, had a few words to say. 20

Q. Did you remove the charter? A. Not personally.

Q. Well, who handed it to you? A. I requested the Grand Secretary, I think, of the Grand Court of New Jersey, Mr. Jobes, to get the charter and the regalia, the property.

Q. Did you see the charter taken from the hall? A. Oh, yes. 30

Q. Where was it displayed, if anywhere? A. On the wall.

Q. You saw it removed from the wall, taken out of the frame? A. I had it in my possession.

Q. Was it taken out of a frame? A. Yes, sir.

Q. Did you take a seal? A. Yes, sir.

Q. The corporate seal of the defendant? A. Yes, sir. 40

Thomas M. Donnelly—Cross.

Q. And the minute book? A. Yes, sir.

Q. And the regalia; you asked for all property? A. My instructions from the—

Q. Well, did you ask for all property? A. My instructions from the Grand Chief Ranger was to suspend the Court and bring back all the property, and I asked them for all the property.

10 Q. Then in fact the Court had been suspended in September, 1912, the Court had been suspended prior to this trial in October, 1912? A. Prior to the trial yes.

Q. Suspension is one of the penalties mentioned in the laws? A. They had a trial for that in August.

Q. Just answer my question? A. What is your question?

20 Q. Suspension is one of the penalties provided for in the laws? A. Oh, yes.

Q. This Court had been suspended in September; is that right? A. I have repeatedly said that I don't know whether it was the latter part of September or early in October.

MR. SCHOTLAND: I will admit it was September 23rd.

30 Q. And are you connected directly with the complainants in this case, with the Grand Court? A. How do you mean, sir?

Q. Are you connected with the Grand Court directly?

THE COURT: Do you mean as an officer?

Q. As an officer? A. No, sir.

Q. You are not an officer of the Grand Court?

40 A. No, sir.

Q. How long since you ceased to be an officer

Thomas M. Donnelly—Cross.

of the Grand Court? A. Since the early part of September, 1909.

Q. By what authority did you preside at this alleged trial in October?

MR. SCHOTLAND: I object to that. The minutes will show that.

MR. FINELLI: I ask the witness for his authority to preside. 10

THE COURT: The authority was probably in writing and will be shown in the minutes.

MR. SCHOTLAND: Is that cross-examination or material at this time? He hasn't testified as to anything about that.

THE COURT: He has not testified to the trial, so I doubt if this is cross-examination. If it is objected to on that ground I think I will overrule it for the present. 20

Q. (By the Court). Well, can you tell us by what authority you acted; was it by a commission, or in what other way did you get your authority? A. I acted by the authority of the Grand Chief Ranger of the Grand Court of New Jersey, Mr. Dennis J. Flynn; it was a verbal request on the night of the trial.

Q. So that you had no more authority than a stranger, except the authority you received verbally from the Grand Chief Ranger? 30

THE COURT: He says that was the authority; I will assume it was the only authority.

A. It is the only authority in a case of that character.

Thomas M. Donnelly—Cross.

BY MR. SCHOTLAND:

Q. Can that authority be given to everybody, or must it be a Past Grand Chief Ranger? A. It must be given a Past Grand Chief Ranger.

BY MR. SCHOTLAND:

Q. Are you a Past Grand Chief Ranger? A. I am.

10 Q. Was there a stenographer present at the hearing in October? A. Yes, sir.

Q. And reported stenographically the proceedings of the trial? A. Yes, sir.

Q. Were there any specifications or written charges?

MR. SCHOTLAND: Now I object to that.

20 THE COURT: This may be proper enough when the time comes, but it is not cross-examination.

MR. FINELLI: I will reserve it.

Q. With the exception of the forty-three members who are alleged to have petitioned the Grand Court for reinstatement—

MR. SCHOTLAND: He has not testified to that.

30 Q. It is a fact that all the members of Court Cavour are out of the Order?

MR. SCHOTLAND: I object to that. That is what this Court is going to determine.

MR. FINELLI: Well, I want the witness's opinion.

THE COURT: No, that is for the Court to decide.

40 Q. Isn't it a fact that the general laws provide that applications for re-instatement by in-

Thomas M. Donnelly—Cross.

nocent members, so-called, are to be made within a period of sixty days? A. Either sixty or thirty, I forgot which.

Q. You done nothing to apprise the members of Court Carvour of this forfeiture, except to give them information on September twenty-third orally at the meeting held? A. Of the trial do you mean?

10

Q. No, of their rights? A. I don't understand your question; I wish you would separate it; two questions there occurs to me.

Q. (Question read). A. There wasn't a question of forfeiture at issue at that time, sir.

Q. Then you at no time done anything to inform the members of the defendant corporation as to the forfeiture of their rights in the Order?

MR. SCHOTLAND: I object to that. It has nowhere appeared as yet that this witness is the person upon whom that duty devolved. 20

THE COURT: What followed the trial must be put in evidence by the complainant, and when he puts that in evidence you may cross-examine.

Q. Didn't you at that meeting on September twenty-third state to the members that they were no longer members of the Order? A. Oh, no. 30

Q. Didn't you make a statement like that? A. That they were no longer members of the Order?

Q. Yes? A. No. That would be a foolish statement, because I would be constituting myself judge and jury of the entire trouble then.

Q. Didn't you say that Court Cavour was suspended, and that the members had nothing to do with the Foresters? A. Oh, no. 40

Q. You made no such statement or anything

Thomas M. Donnelly—Re-Direct.

like that? A. I wouldn't make a statement of that character; my duties there were to suspend the Court, bring back the property and to notify them of the trial on October twelfth.

Q. You have refused to deliver back the property that you took? A. It is not in my custody, sir.

10 Q. Well, haven't you given instructions not to deliver up that property? A. I have no authority to give any such instructions.

Q. Did you give any such instructions? A. Positively not.

RE-DIRECT EXAMINATION BY MR. SCHOTLAND:

Q. Is this the seal that was seized at that time and brought here to court this morning? A. 20 May I see an impression of it.

Q. (Shown to witness). A. That is the seal, yes, sir.

Q. Will you look at the impression of that seal carefully, and see whether it is or is not the corporate seal, corporate as distinguished from Court? A. This is Court Cavour No. 133 Foresters of America, Newark, New Jersey; it is the Court seal.

30 Q. Any reference to incorporation on that seal? A. I can't see any.

Q. What does it say as to institution or incorporation? A. I will read this again. "Court Cavour, No. 133 Foresters of America, instituted November 24th, 1903, Newark, New Jersey." It is what we know as the Court seal.

Q. That is the date when the Court received its dispensation or charter? A. Yes, sir.

Thomas M. Donnelly—Re-Cross.

RE-CROSS EXAMINATION BY MR. FINELLI:

Q. Do you know from whom this seal was purchased by Court Cavour? A. Yes, sir.

Q. And how were the funds of the Grand Court created? A. By a per capita tax.

MR. SCHOTLAND: That is all in the by-laws.

10

Q. Is there any other means of revenue from which the Grand Court derives its existence, except the per capita tax paid by members of Subordinate Courts? A. A small revenue is derived from the profit on sale of merchandise.

Q. And who compose the Grand Court? A. Its regularly elected officers.

Q. Has it any State membership?

MR. SCHOTLAND: I object to that.

20

THE COURT: If you want to show that there is no such thing as the Grand Court that the members have died or resigned, why that is a different thing; but the constitution of the Grand Court is in print and speaks for itself.

Q. Do you know who the members of the Executive Council of the Grand Court in October, 1912, were?

30

MR. SCHOTLAND: We have the minute book here that shows it.

THE COURT: If you think it is important you can ask the witness to refer to the minute book.

A. October, 1912?

Q. Yes? A. You mean during the time of the trial?

Q. Precisely. A. I would have to refer to some

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Thomas M. Donnelly—Re-Cross.

record; I can name most all of them from memory.

Q I show you a book? A. Do you want me to name the officers of the Grand Court?

Q. Yes? A. The Grand Court is composed of its officers and members; the members are the delegates from the various Courts; they select the officers, and these are the officers of the Grand Court.

Q. You have answered my question. That is all I want. A. Do you want me to read these names?

Q. No, not necessary now.

MR. SCHOTLAND: If you want to get before the Court the exact constitution as to how the Supreme Court and the Grand Court and its Executive Committee and Executive Council are created and exist, why I am perfectly willing, so the Court will have it on record, without delving through these books, to make a statement, which you can correct or agree to, as to what the provisions are.

MR. FINELLI: No, your Honor.

A. There is nothing to conceal in that direction.

MR. SCHOTLAND: The Subordinate Court—

MR. FINELLI: No. Let the witness testify. I object to the statement.

THE COURT: As I understand it, Mr. Schotland is going to state in brief what could be found in the various books of the by-laws and constitution that have been offered in evidence. Now do not go beyond that.

Thomas M. Donnelly—Re-Cross.

MR. SCHOTLAND: No, sir. The Subordinate Court elects in March, before its State Convention, delegates to attend the State Convention of the members of the Order in that State. Every Subordinate Court elects one delegate for every hundred members that it has, and for a fractional part over, so that if a Court has one hundred and five members it has two delegates and if it has one hundred and ninety-nine, it has two delegates. These delegates, in convention assembled, form the Grand Court convention and make up the membership of the Grand Court. At the convention they elect, from among the Past Chief Rangers of the Order, which means the Past presiding officers of Subordinate Lodges, all of the officers of the Grand Court; the officers consist of the Grand Chief Ranger, who is the presiding officer of the Grand Court; the Grand Sub-Chief Ranger, who is like the vice-president; the Grand Secretary, who is the financial secretary, the Grand Recording Secretary; the Grand Treasurer, and a Grand Senior Woodward, and a Grand Junior Woodward, and a Grand Senior Beadle and a Grand Junior Beadle, three Grand Trustees, and three Grand Court Auditors; all of these officers elected by the convention of delegates assembled, compose the Grand Court Executive Council, that is known as the Grand Court Executive Council, and is the body which transacts the business of the Order from the Grand Court's point of view, between conventions.

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Thomas M. Donnelly—Re-Cross.

THE COURT: These conventions are annual?

10 MR. SCHOTLAND: Bi-annual, after this May, we hold one next Tuesday, and after that bi-annual in this state; they are bi-annual in most of the States, and they start so in this State next Tuesday. Now the convention of the Grand Court is so arranged as to time that it takes place in May, while the convention of the Supreme Court takes place in August; the Supreme Court has a convention every two years. At the convention of the Grand Court, which is held preceding a Supreme Court convention, the Subordinate Court delegates there assembled elect, by open ballot, from among their midst composing
20 that convention, Supreme representatives who are the delegates from this State to the Supreme convention, and they are permitted to elect one repreesntative for every thousand members in the State, or fraction about five hundred over the thousand, so that if we have eighteen thousand five hundred and three members in the State we are entitled to elect nineteen representatives; the representatives thus elected
30 in the different State Grand Court Conventions meet in a Supreme Court convention, and they elect from among their midst the Supreme Court officers, who are the same in name as those I mentioned for the Grand Court, except that the word "Supreme" is used instead of "Grand", and under the Supreme Court law those officers being elected from all parts of the United States, it is only the first four, the Su-
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Thomas M. Donnelly—Re-Cross.

preme Chief Ranger and the Supreme Sub-Chief Ranger, the Supreme Treasurer and the Supreme Secretary who compose the Executive Committee of the Supreme body, and in them vests the power to act between the Supreme conventions. Now that is the way the order is composed. I think that is correct.

10

MR. FINELLI: That is my understanding.

Q. How did you receive your authority to go to the meeting of Court Cavour on September twenty-third?

MR. SCHOTLAND: I object to that; it is immaterial how that authority was received, because the issue in the case is not whether that suspension accomplished anything or not, or whether that suspension was legal.

20

Objection sustained.

Q. Who was presiding at the meeting in September? A. In Court Cavour?

Q. Yes. A. I couldn't tell you, sir.

Q. You cannot tell us who the financial secretary was? A. Very difficult for me to remember the names.

30

Q. You cannot tell us who the corresponding secretary was? A. No.

Q. Can you give us the names of any members present? A. I saw one member here present—I cannot now recall his name—Michael Padula.

Q. Can you give us any other name except Mr. Padula's? A. When I was Grand Secretary I was quite familiar with the names of almost all of them; it has been four years and over since I 40

Thomas M. Donnelly—Re-Cross.

was Grand Secretary, and the names have slipped my memory very materially; I know the gentleman sitting there right behind you, and I know that gentleman over there, but I don't know their names.

10 MR. SCHOTLAND: I have here now the certified copy of the certificate of incorporation of the Supreme Court, which I give to Mr. Finelli.

 MR. FINELLI: I would like to examine it for a moment.

 MR. SCHOTLAND: I will put it in on my case, I will offer it.

20 MR. FINELLI: I call for, and will insist that they produce the certificate of incorporation of the Grand Court, the complainants in this case. I am not concerned with the Supreme Court, or anything else, because I am not prepared to meet this case, I am not prepared to answer any proofs which they might present showing the incorporation of the Supreme body or any other body, except the complainant, and for that reason, at the present time I want to object to this document unless I examine it.

30 THE COURT: You may examine it.

Francis H. J. Radley—Direct.

FRANCIS H. J. RADLEY, SWORN.

DIRECT EXAMINATION BY MR. SCHOTLAND:

MR. FINELLI: I have an objection to this paper, your honor.

MR. SCHOTLAND: I offer it in evidence then. I want to call the Court's attention to this certificate of incorporation, it is dated the first day of October, 1910, and recites— 10

MR. FINELLI: I object to the statement.

THE COURT: Mr. Schotland can call my attention to what it contains, I have got to know what it contains.

MR. SCHOTLAND: It recites this as its second object clause, that the purposes for which it is incorporated are to perpetuate the objects for which the Foresters of America as a voluntary organization was organized, as shown by the general laws and the constitution of the Foresters of America, to carry out those objects and purposes in accordance with the present Supreme Court constitution and general laws of the Foresters of America, or in accordance with such a constitution and general laws as may from time to time be adopted. 20 30

Marked Exhibit C-7.

Q. Are you a member of the Order of Foresters of America? A. I am.

Q. And member of what Subordinate Court? A. Court Friendship No. 65, West Hoboken, New Jersey.

Q. Are you an officer of the Grand Court? A. I am the Grand Recording secretary. 40

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Q. And as such what are your duties? A. To take proceedings of the different Grand Court meetings and write them up.

Q. You don't carry on the correspondence of the Order? A. I do not.

Q. Or promulgate any of the Orders? A. None at all.

10 Q. Which secretary does that? A. Grand Financial Secretary.

Q. I show you a book; is that your minute book? A. It is.

Q. Have you any record there of a trial and proceedings against Court Cavour No. 133? A. I have.

Q. Will you turn to it? A. (Witness did so).

20 Q. Under what date have you those? A. October twelfth.

Q. October 12th, 1912? A. 1912.

Q. Will you read that part of the minutes which refers to Court Cavour No. 133, Foresters of America? A. All the minutes contained in this meeting refer to Court Cavour.

Q. Read them all then? A. "Jersey City, N. J., October 12th, 1912.

30 "A Special meeting of the Twenty-third Executive Council was held on the above date at the office of the Grand Secretary, 275 Grove Street, for the purpose of trying Court Cavour No. 133 on charges preferred; said Court having been suspended on September 28th, 1912, by order of the Executive Council and the Officers and Members cited to appear before the Executive Council on Saturday, October 12th, 1912 at 8 P.

40 M., to show cause why Court Cavour No. 133 should not be suspended or dissolved for violating the General Laws, Section 215, as follows:

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a.—for improper conduct.

b.—for neglecting or refusing to conform to the rituals, laws, ceremonies, etc.

The Executive Council was called to order by the Grand Chief Ranger Br. D. J. Flynn, at 8.15 P. M., who requested Supreme Secretary Bro. T. M. Donnelly, to preside; which request was complied with. Brother Donnelly presiding throughout the trial. Roll call. Bros. A. D. Mason, Past Grand Chief Ranger; D. J. Flynn, Grand Chief Ranger; W. L. J. Jobes, Grand Secretary; H. B. Schaefer, Grand Senior Woodward; C. P. Matino, Grand Junior Woodward; John Polifeme, Grand Senior Beadle; J. G. McKeever, Grand Junior Beadle; Josiah Mann, Grand Trustee; Leonard Witte, Grand Trustee; F. W. Adams, Grand Trustee; H. D. McHorney, Grand Auditor; Joseph Gibian, Grand Auditor; W. E. King, Grand Auditor.”

That composed the members of the Grand Court who were in attendance.

“Grand Recording Secretary Radley being absent owing to illness, the Grand Chief Ranger appointed Bro. Sonnabend, Past Grand Chief Ranger, to act in his stead. Brother F. Leuper was appointed to assist as stenographer to report testimony. Appearances: For Grand Court Bro. P. J. Schotland, Past Grand Chief Ranger. For Court Cavour No. 133—Brothers Eugene Dotto and J. V. D'Aloia. The charges preferred against Court Cavour No. 133 under date of September 28th, 1912, were read. Bro. Dotto objected to the case being tried on this date owing to same being a legal holiday, later, after consultation with officers of Court Cavour No. 133, objection was withdrawn and attorney agreed to go on with case, waiving all objections to case being heard on a holiday. Witnesses were then called and their

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testimony appears in the stenographic record. Decision was reserved after counsel for both sides had summed up at 11:55 P. M.

"Respectfully submitted, E. Sonnabend, Secretary Pro tem.

"Attest. F. H. J. Radley, Grand Recording Secretary.

10 "Attest D. J. Flynn, Grand Chief Ranger."

Q. What was the next meeting, at which any action was taken by the Executive Council in relation to Court Cavour? A. Under date of November 9th, 1912.

Q. Read that part of the minutes of November 9th, 1912, which applies to Court Cavour? A. That likewise had taken all of the proceedings of that meeting. "Jersey City, N. J., November 20 9th, 1912.

"A Special meeting of the Twenty-third Executive Council was held this day in the office of the Grand Secretary, 275 Grove Street.

"Meeting was called to order at 8:45 P. M. Grand Chief Ranger D. J. Flynn, presiding."

After the password was taken up the roll call showed the following officers of the Grand Court in attendance: "Bros. D. J. Flynn, Grand Chief 30 Ranger". Do you want the list of the officers that attended?

Q. Yes. A. "Charles H. Blohm, Grand Supreme Chief Ranger; D. H. Stuhmann, Grand Treasurer; Warren L. J. Jobes, Grand Secretary; F. H. J. Radley, Grand Recording Secretary; H. B. Schaefer, Grand Senior Woodward; C. Marino, Grand Junior Woodward; John Polifeme, Grand Senior Beadle; James G. McKeever, Grand Junior Beadle; Josiah Mann, Grand Trustee; Leonard 40 Witte, Grand Trustee; H. D. McHorney, Grand

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Auditor; Joseph Gibian, Grand Auditor; William E. King, Grand Auditor."

Reading of Minutes.

The minutes of the last regular meeting were on motion approved as written.

The minutes of the Special meeting were approved as read.

Communications and bills. None.

10

Presentation of resolutions.

The following resolutions were presented and read:

WHEREAS, Court Cavour No. 133 of the Foresters of America, located at Newark, New Jersey, was suspended on the twenty-eighth day of September, nineteen hundred and twelve, for failure to comply with certain regulations of the Order; and the said Court was cited to show cause why it should not be dissolved as a subordinate Court of the Order; and the hearing was set for Saturday evening October twelfth, nineteen hundred and twelve, in the office of the Grand Secretary, No. 275 Grove Street, Jersey City, New Jersey, which trial proceeded by the induction of, and taking of said evidence, and,

20

WHEREAS, Section No. 215 of the General Laws of the Order, Edition of Nineteen hundred and eleven, vests the Executive Council with full, ample and sufficient authority within the premises, and

30

WHEREAS, a fair and impartial trial was conducted on the date herein set forth, and at the place above mentioned; the said Court Cavour No. 133 of the Foresters of America and the Executive Council of the Grand Court of New Jersey both being represented by Counsel and

WHEREAS, we have carefully considered the tes-

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timony and all matters surrounding the case, therefore, be it

10 RESOLVED, that it is now the order of this Executive Council of the Grand Court of the State of New Jersey, that the said Court Cavour No. 133 of the Foresters of America, of Newark, New Jersey, be and is hereby DISSOLVED as a Sub-ordinate Court of the Grand Court of New Jersey, Foresters of America; and its charter, dis-
20 pensation, rituals, money, books, papers and all other property, both real and personal, be and hereby is forfeited to the Grand Court of the State of New Jersey, Foresters of America. And be it further

20 RESOLVED, that the Grand Secretary of the Grand Court of the State of New Jersey be and hereby is authorized and empowered on behalf of this Executive Council, to take such steps as may
20 be necessary to collect all property of Court Cavour No. 133 not now in the possession of the Executive Council of the Grand Court of New Jersey. And be it further

30 AUTHORIZED to take such action as may be necessary to recover, from the said DISSOLVED Court Cavour No. 133 of the Foresters of America, all money in the possession of any of the officers
30 of the said Court or on deposit; and secure same for the Executive Council of the Grand Court of the State of New Jersey. And be it further

RESOLVED that the Grand Secretary of the Grand Court of New Jersey is herewith authorized and directed to promulgate these findings at once.

Jersey City, New Jersey November 9th, 1912."
40 That was the date of that resolution. "Grand Chief Ranger Flynn ordered roll call and in-

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structed that all present that were entitled to vote either vote for or against so that vote would be properly recorded. The following Brothers voted as follows:

Bro. D. J. Flynn, Grand Chief Ranger	For.	
" W. L. J. Jobes, Grand Secretary	For.	
" H. B. Schaefer, Grand Senior Woodward	For.	10
" C. Marino, Grand Junior Woodward	For.	
" John Polifeme, Grand Senior Beadle	Not voting.	
" J. G. McKeever, Grand Junior Beadle	For.	
" Josiah Mann, Grand Trustee,	For.	
" Leonard Witte, Grand Trustee,	For.	
" F. W. Adams, Grand Trustee,	For.	
" H. D. McHorney, Grand Auditor	For.	
" Joseph Gibian, Grand Auditor,	For.	
" W. E. King, Grand Auditor	For.	20

The result of the tabulation of the vote showing all voting being for the adoption of the resolution the Grand Chief Ranger declared the resolution adopted." And the rest of it concerns good and welfare.

Q. Anybody vote there who had not participated as one of the officers of the Executive Council at the trial?

30

MR. FINELLI: Objected to.

THE COURT: That will appear from a comparison with the names.

Q. Compare it and see? A. There were none voted, to my knowledge, that weren't in attendance at the meeting when the trial took place.

Q. As shown by the record? A. Yes.

Q. Any other minutes relating to Court Cavour? A. I have under date of September 28, 1912. 40

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Q. Well, read that part of the minutes of September 28th, 1912, which applies to Court Cavour?

MR. FINELLI: I object to that.
Admitted.

A. "The financial officers of Court Cavour No. 133"—This is under date of—

10 Q. September 28th, you said. A. September 28th, yes. "The financial officers of Court Cavour No. 133 were cited to appear before the Grand Chief Ranger on Saturday, July 25th, to show cause why they should not be expelled from the order for conduct unbecoming foresters and the manner they conducted their business. After reviewing the case the Grand Chief Ranger suspended sentence until September 13th, 1912
20 on the promise made that the officers and members would adjust their differences and obey the laws of the Order and report in person on September 13th, 1913, that they have complied with the above as directed."

Q. (By the Court). What is the date of that?

A. This was part of the minutes, you see this takes in the correspondence.

Q. (By the Court). Give me the date? A.
30 September 28th.

Q. (By the Court). Is that right?

MR. SCHOTLAND: Yes, it reports the action that took place before, and is entered in the minutes of September 28th.

A. This was a matter that took place prior to that; there wasn't a meeting between May and September, and I had to handle all the correspondence that came in in that time at that
40 meeting. I will read further, on the same date, under the heading of "New Business" reads:

Francis H. J. Radley—Direct.

"Report was made on the case of Court Cavour who according to the findings of the Grand Advisory Board Court was to report to the Advisory Board on September 14th, 1912, whether or not promise had been lived up to; this they failed to do and since then a communication was received from one of the members of the Court stating that at a meeting called special and held on September 15th, for which no dispensation had been issued that actions most disgraceful to the principles and the teachings of our Order had taken place, such as might be termed a small sized riot, so much so that it was necessary for persons not members of the Order to enter the meeting room to restore peace. The Grand Chief Ranger asked the opinion of the members present before final action was taken. Past Grand Chief Ranger Schotland referred those present to the General Laws, Article 297, as covering the case in question. It was the unanimous opinion of the Grand Executive Council that the Court was guilty on the count of not complying with the sentence as imposed by the Grand Advisory Board, and that they had no right to hold the meeting as mentioned above. On motion Court was to be suspended and Grand Secretary immediately put lien on monies and property of Court, and that Court be cited to appear to answer to the charges. Motion was unanimously carried."

Q. Have you read the balance of the minutes there referring to Court Cavour? A. Yes, at the meeting. I have notice under date of January 25th, 1913.

Q. Oh, well, that is since the case is in court, but I mean prior to that? A. That is all.

Francis H. J. Radley—Cross.

CROSS EXAMINATION BY MR. FINELLI:

Q. What is that book? A. The minute book, the proceedings of the Executive Council Grand Court.

Q. Who is the custodian of that book? A. It is in the office of the Grand Secretary, 275 Grove Street, Jersey City, headquarters.

10 Q. I observe it is in typewriting; who has done the typewriting? A. I, myself.

Q. What official connection have you with the Grand Court? A. As Grand Recording Secretary.

Q. Your name is what? A. Francis H. J. Radley.

Q. Then, Mr. Radley, you were not present on October 12th? A. I wasn't.

20 Q. You had nothing to do with the making up of the minutes of that meeting? A. No, I didn't; the minutes were given to me.

Q. The minutes that you have read concerning a meeting of the Executive Council on October 12th, are minutes written up by some other person? A. I wrote them up on the typewriter, but from data which was given to me.

30 Q. Someone else gave them to you; you were not present at the meeting and had nothing to do with it, except to write them in the book? A. Exactly, just as you say.

Q. (By the Court). Tell us who did write them? A. Emanuel Sonnabend was appointed secretary pro tem, and he signs them.

Q. Is there any reference to Court Cavour, prior to September 28th, 1912? A. There is only one meeting before that, May 25th, 1912.

40 Q. Is there any reference to Court Cavour in that? A. Nothing that I know of.

Francis H. J. Radley—Cross.

Q. Then the first reference to Court Cavour in the minutes of the Grand Court Executive Committee—

MR. SCHOTLAND: Executive Council.

Q. Executive Council, appear in the minutes of September 28th? A. Yes, sir.

Q. And they are the only minutes that you have anything to do with? A. Yes, sir. 10

Q. They are the only minutes in that record that you, of your own personal knowledge, know were voted by the Executive Council? A. Exactly.

Q. Do you know who was present at that meeting on September 28th? A. September 28th?

Q. Yes? A. Yes, I have the roll call right here.

Q. Did you give it to us before? A. Oh, of 20
September 28th?

Q. Yes. A. In addition to those that were present, that I recorded as having voted, there was—why, yes, I think I did give you the attendance at the meeting.

Q. (By Mr. Schotland). Well, give it over again then? A. "After the password was taken up the roll call showed the following officers of the Grand Court in attendance: Bros. D. J. 30
Flynn, Grand Chief Ranger; Charles H. Blohm, Grand Sub-Chief Ranger; D. H. Stuhmann, Grand Treasurer; Warren L. J. Jobes, Grand Secretary; F. H. J. Radley, Grand Recording Secretary; H. B. Schaefer, Grand Senior Woodward; C. Marino, Grand Junior Woodward; John Polifeme, Grand Senior Beadle; James G. McKeever, Grand Junior Beadle; Josiah Mann, Grand Trustee; Leonard Witte, Grand Trustee; 40
Fred. W. Adams, Grand Trustee; H. D. McHor-

Francis H. J. Radley—Cross.

ney, Grand Auditor; Joseph Gibian, Grand Auditor; William E. King, Grand Auditor."

Q. Are you a salaried officer of the Grand Court? A. I am.

Q. Do you do anything else except—

MR. SCHOTLAND: I object.

Objection sustained

10

Question withdrawn.

Q. Have you read everything out of the minute book which concerns Court Cavour and the Grand Court? A. I have, to the best of my knowledge.

Q. There is nothing in that book concerning Court Cavour which you haven't read? A. If you noticed it, I put these little cards in here to mark it off.

20

RECESS.

30

40

Warren L. J. Jobes—Direct.

WARREN L. J. JOBES, sworn.

DIRECT EXAMINATION BY MR. SCHOTLAND:

Q. Are you a member of the Order of Foresters of America? A. Yes, sir.

Q. And are you an officer of the Grand Court of the Foresters of America, of the State of New Jersey? A. Yes, sir; Grand Secretary of 10 the Grand Court.

Q. Since when are you the Grand Secretary of the Grand Court? A. Since the latter part of 1909.

Q. And have you been continuously Grand Secretary since then? A. I have.

Q. And you are still? A. At the present time, yes, sir.

MR. SCHOTLAND: Mr. Finelli, I served 20 you with notice to produce the original of all correspondence between the Grand Secretary.

MR. FINELLI: I don't remember it.

MR. SCHOTLAND: You acknowledged it only yesterday.

MR. FINELLI: It wasn't served on me, but I will give you everything I have; it was not served on me, however, you can 30 ask for what you want.

MR. SCHOTLAND: I want the original of the letter of July 10th, 1912.

MR. FINELLI: Addressed to whom?

MR. SCHOTLAND: Addressed to Frank DeFee, financial secretary Court Cavour No. 133.

(Produced).

Q. Mr. Jobes (showing witness letter dated 40

Warren L. J. Jobs—Direct.

July 10th, 1912, produced by the defendant upon request), did you sign this letter? A. I did.

Q. As the Grand Secretary of the Grand Court? A. I did.

MR. SCHOTLAND: I offer it in evidence.

MR. FINELLI: No objection.

10 MR. SCHOTLAND: It is on the letter head of the Grand Court of New Jersey, incorporated Dec. 28th, 1889, Foresters of America. Office of the Grand Secretary, Majestic Building, 275 Grove Street, Jersey City, New Jersey, July 10th, 1912. "Mr. Frank DeFeo, financial secretary Court Cavour No. 133, 83 Cutler, Street, Newark, N. J. Dear Sir and Brother: You are hereby directed to notify Brother Oreste Cerrato, Chief Ranger, Brother Petro De
20 Maio, Recording Secretary, and Brother Giuseppe Sozio, Lecturer, to appear before the Advisory Board at this office, 275 Grove Street, Jersey City, New Jersey, on Saturday July 13th, at 7:15 P. M., to show cause why they should not be suspended for conduct unbecoming a Forester in the meetings of their Court.

30 "You will kindly advise as soon as you have sent these notices, and oblige, Yours Fraternally, W. L. J. Jobs, Grand Secretary."

Marked Exhibit C-8.

Q. Mr. Jobs, as a result of your mailing that letter did the officers of Court Cavour No. 133, whose names are mentioned in that letter, appear before the Advisory Board on July 13th, 1912?
A. They did.

40 Q. And did you write the financial secretary

Warren L. J. Jobes—Direct.

another letter informing him of what the Advisory Board had decided to do? A. I did.

MR. SCHOTLAND: I call for the letter addressed to the financial secretary, dated July 15, 1912.

(Produced).

Q. I show witness letter dated July 15th, 1912, produced by the defendant upon request; is this the letter you sent them? A. I did. 10

MR. SCHOTLAND: If your Honor will excuse the interruption, I wanted to put into evidence from the minutes of the meeting of the Executive Council of May 25th, 1912, that the Advisory Board, which I have explained to the Court is the Board that acts between meetings of the Executive Council, appointed at that first meeting was D. J. Flynn, W. L. J. Jobes and D. H. Stuhmann, they were respectively the Grand Chief Ranger, the Grand Secretary, the witness on the stand, and the Grand Treasurer; that appears on the minutes of May 25th, 1912. 20

I offer this letter in evidence, dated July 15th, 1912.

MR. FINELLI: No objection. 30

MR. SCHOTLAND: It is on the same kind of letter head as the previous letter of July 10th, and is addressed to Frank De-Feo, financial secretary, Court Cavour No. 133, 83 Cutler Street, Newark, N. J. Dear Sir & Brother: I am directed by the Grand Chief Ranger to notify the officers and members of your Court that all disputes and controversies of any sort whatsoever must be adjusted not later than 40

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September 13th, 1912. Further, that the former action of the Court in regards to the application of members that were to be balloted for must be reconsidered, and the laws of the Order in connection therewith complied with.

10 "You are further notified to have the officers of your Court appear before the Advisory Board on Saturday, September 13th, 1912, at 275 Grove Street, at 8 P. M., prepared to prove that all matters in dispute in your Court has been settled to the satisfaction of all concerned, and for failure so to do your officers will be suspended from the Order. Yours fraternally, W. L. J. Jobes, Grand Secretary."

Marked Exhibit C-9.

20

Q. Now, Mr. Jobes, did the officers of Court Cavour, in reply to your letter of July 15th, 1912, Exhibit C-9, appear before the Advisory Board on September 13th, to report? A. They did not.

Q. After the action of the Executive Council on September 28th, did you notify Court Cavour of what the Executive Council had ordered done? A. I did.

30

MR. SCHOTLAND: I call for letter of September 28th, 1912, addressed to Court Cavour No. 133, F. of A.

MR. FINELLI: I have no such letter.

MR. SCHOTLAND: I have the registry receipt from the post office of this letter.

Q. Mr. Jobes, as a result of your numerous correspondence with the financial secretary of
40 Court Cavour No. 133, and the reports received by you in your official capacity from that Court,

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can you identify the signature of its financial secretary, J. Frank DeFeo? A. I can. I think.

Q. I show you registry receipt from the post office department, under date of October 1st, 1912, can you identify that signature? A. The last of it looks like the secretary, but the "F" is not in conformity with his other "F."

Q. This is the registry receipt returned to you from the post office? A. Yes, sir. 10

Q. Upon your mailing of what? A. Of that certain letter.

Q. Of the original of what? A. Original letter stating the procedure of the Executive Council.

MR. FINELLI: I object, your Honor, to the offer of any secondary evidence of this letter, for the reason that the original has not been called for. 20

MR. SCHOTLAND: I think Mr. Finelli acknowledged only yesterday notice to produce all correspondence between July 1st, 1912 and the date when the bill was filed. I left it on my desk in the office; I will send for it and produce it here.

THE COURT: If Mr. Finelli disputes it you will have to send for it.

MR. FINELLI: It might have been left with a clerk. 30

MR. SCHOTLAND: It was returned to me acknowledged.

THE COURT: I will assume Mr. Schotland's statement to be true, and you may give secondary evidence subject, of course, to the evidence being stricken out.

Q. Do you know for what letter this post office receipt, dated October 1st, 1912, is a receipt? A. Why, I believe that is for to cite the officers to appear for trial. 40

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Q. No. Which letter, the letter of what date?

A. I don't just remember the date; I know there was one sent there.

Q. Is the carbon copy of a letter, to which the receipt of mailing and the return receipt card have been attached, a copy of the original letter sent? A. Yes, sir; it is, it is a copy of the original letter sent.

10

Q. Did you receive this receipt under date of September 30th, yourself from the post office, in your name? A. That is a receipt Council received from the post office in sending the registered letter.

Q. That is when you registered the letter? A. Yes, sir.

Q. The original of this letter of September 28th? A. Yes, sir.

20

Q. And you registered that then on September 30th, 1912? A. Yes, sir—29th, isn't it?

Q. You received the return receipt back on October 1st? A. Whatever date is there,

MR. SCHOTLAND: I offer the post office receipt and the carbon copy of the letter in evidence.

30

MR. FINELLI: Well, it seems to be merely signed "Frank DeFeo"; there is nothing to indicate this was a communication to Court Cavour, Foresters of America.

MR. SCHOTLAND: Except it is so addressed and mailed to its financial secretary.

40

MR. FINELLI: The receipt says "Addressed to Frank DeFeo, secretary, 83 Cutler Street, 9-30-12." That is September 30th. Well, I am powerless before it.

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MR. SCHOTLAND: I will read the letter in evidence: "Jersey City, N. J., September 28th, 1912. Court Cavour No. 133 F. of A., Newark, N. J. Dear Sir and Brother: You are hereby cited to appear before the Executive Council of this Grand Court of New Jersey, Foresters of America, on Saturday evening, October 12th, 1912 at 8 P. M., sharp to show cause why Court Cavour No. 133 should not be suspended or dissolved for violating the General Laws, section No. 215, as follows:

(a) For improper conduct. (b) For neglecting or refusing to conform to the rituals, laws, ceremonies, etc. By order of the Executive Council. Grand Chief Ranger. Attest, Grand Secretary." The signatures do not appear on this carbon copy. "N. B. It is not necessary for the whole Court to attend, but the officers and such committee appointed to defend the Court should appear."

Q. (By the Court). Who signed that? A. The Grand Chief Ranger, and attested by the Grand Secretary.

Q. Is that the letter which was written in accordance with the resolution of the meeting on September 28th, recorded in the minutes? A. Yes, sir.

Marked Exhibit C-10.

Q. Now, Mr. Jobes, was this letter, or was it not, the only written notice to Court Cavour to appear for trial before the Executive Council, under the provisions of section 215 of the General Laws? A. Only one letter was written.

Q. That is the only written notice? A. That is so.

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Q. As a result of that notice did the Court appear? A. The officers and the committee appeared on the night and date therein mentioned.

Q. October 12th? A. Twelfth.

Q. How many members of that Court altogether, including the officers of it, appeared?

A. I should judge there were about forty, including the officers.

Q. Were they represented by counsel? A. They were.

Q. Who represented them? A. Counsellor D'Aloia and Dotto were there, and Brother Schotland for the Grand Court, counsellor Schotland.

Q. Did you receive any letters from any of their officers asking to be excused? A. There were one or two I believe.

MR. SCHOTLAND: I want to offer these, if your Honor please, for the purpose of showing that the notice to the Court of dressed to the financial secretary, evidently reached the members, because we have written excuses.

MR. FINELLI: If the excuses are from the defendants in this cause I shall not object.

MR. SCHOTLAND: Oreste Cerrato, one of the defendant's, Chief Ranger, and Gabriel Matoni, treasurer, another of the defendant's.

MR. FINELLI: I don't object to that because they are defendants in the case.

MR. SCHOTLAND: I will offer letter bearing date October 12th, 1912, addressed to "W. J. Jobes, Grand Secretary, 275 Grove Street. Dear Sir: It is impossible

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for me to be here to-night on account of business importance. Financial secretary will explain my situation. Fraternal yours, Oreste Cerrato, 201 Eighth Avenue, Newark, N. J."

Marked Exhibit C-11.

MR. SCHOTLAND: I also offer letter on the letter head of Gabriel Matonti, dated "Newark, N. J., October 12th, 1912. Dear 10
Sirs and Brothers: It is impossible for me to be here to-night on account of business importance, as the Brothers here will explain. If it is any error in my treasury books I will be responsible for anything whatever, and oblige, Fraternal yours, G. Matonti, treasurer."

Marked Exhibit C-12.

MR. SCHOTLAND: I call for letter addressed to Frank DeFeo, dated October 18th, 1912. 20

MR. FINELLI: I have no such letter.

MR. SCHOTLAND: What date have you a letter on?

MR. FINELLI: November eleventh.

MR. SCHOTLAND: I call for that one.

(Produced.)

MR. SCHOTLAND: Have you any letter between September 28th and November 11th? 30

MR. FINELLI: No, sir. Just ask me for what you want.

MR. SCHOTLAND: What I want to do is to get all the correspondence; I don't want to keep anything out.

MR. FINELLI: I will give you all the 40

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correspondence I have, these three sheets; put them in if you want them.

10

20

30

MR. SCHOTLAND: I offer the letter of November 11th, 1912, addressed to Mr. Frank DeFeo, which is as follows: "Dear Sir: You are hereby notified that at a meeting of the Executive Council of the Grand Court of New Jersey Foresters of America, Court Cavour No. 133 of the Foresters of America, located at Newark, N. J., was, by vote of the Executive Council, dissolved as a Subordinate Court of this Order, and as a consequence thereof the dissolved Court has no standing in the Order, and all members on the rolls are no longer members of this Order. You are directed to turn over to me at this address all property of the Court, which includes books, papers, records, paraphernalia, etc., which are not now in possession of the Grand Court of New Jersey. And you are further directed to deliver to me at this office any and all moneys of the Court you may have now in your possession. Failure to comply with all these mandates at once will result in action to be taken against you in the law courts of this State. Very truly, W. L. J. Jobes, Grand Secretary. P. S. You will notify the members of Court Cavour No. 133 now dissolved of the action of dissolution."

Marked Exhibit C-13.

40

MR. SCHOTLAND: Then there is a mimeograph letter of November 11th, addressed to practically everybody in the Order of Foresters who has any interest, notifying them that Court Cavour No. 133 of New-

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ark was, after due and proper trial, dissolved as a Court of Forestry, and not to recognize their members as they are out of the order, of course, unless they comply with the Supreme regulations. I will offer that in evidence, too.

Marked Exhibit C-14.

MR. FINELLI: I think it should be read. 10
 "The former members of the said dissolved Court Cavour No. 133 of Newark, N. J., are now out of the Order, and you will not permit any of them to attend any of your meetings, or have any further Forestic intercourse with them."

Q. Were you present at the trial of October 12th? A. I was.

Q. And in reply to your letters did you receive 20
 the books of Court Cavour, the property of it?

A. After several requests were made I finally succeeded in getting the books that are now in the possession of the Grand Court.

Q. What are they? A. Cash book, check book, the ledger, treasurer's cash book and the minute book; there might be one there that I haven't recalled.

Q. Did you get the auditor's book? A. I don't 30
 recollect the auditor's book being there; there is a blue book there called the Question book, and the Court seal, together with that was various stationery that is used in Subordinate Courts.

Q. Did you, among the property that you did seize or did receive, find any membership applications? A. There were some in the blue book, called the Question book.

Q. I have just taken two from the book you refer to; are these the applications that you re- 40

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ceived from Court Cavour? A. Those are applications that were in the book; I didn't look at the names to see who they were; there were two applications.

Q. Will you look at them now? A. (Witness did so).

10 Q. Are they the official membership application blanks of the Order of Foresters of America? A. That is the application blank that is used, yes, one of them. What is that, 1907?

Q. Well, look at them and see? A. This is the application blank, yes, by the Foresters of America, revised in form 1907.

20 Q. And these applications, do they differ from the previous form of applications used in the Order, with reference to containing the clause, "And I further declare that I will conform to and abide by all the rules of the Court and of the Order now in force or hereafter to be made, or submit to the penalties therein contained. As witness my hand," etc. Has that part of the application been changed, as far as you know? A. It has not.

Q. How long have you been a member of this Order? A. Since 1902.

30 Q. And since you are a member of the Order are you familiar with the applications used? A. Well, I haven't noticed the former applications, until 1909.

Q. A conditional exhibit application of the form of 1901, that contains that clause that I have just read to you from the application of 1907 form? A. This clause is not inserted in that clause; is that what you mean?

40 Q. I want to know whether it is or not "And I further declare that I will conform to," referring

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to that clause; do you find that clause in the form of 1901? A. Well, this is 1901 here.

Q. That is the 1901 form you are looking at?

A. Yes.

Q. Do you find the clause I read you from the 1907 form in that form of application? A. Well, I don't quite understand you, Mr. Schotland. I haven't closely observed the application.

10

Q. I will withdraw the question. Now I show you application apparently filled out by an applicant named Elio Panico; was that among the official records and papers of Court Cavour No. 133? A. Yes, sir, this was.

Q. And is that an official application form of the Foresters of America? A. It is.

MR. SCHOTLAND: I offer it in evidence, particularly referring to the clause immediately above the applicant's signature, which forms his contract with the Order.

20

MR. FINELLI: That paper has no more evidential value than the other paper; it is a blank.

MR. SCHOTLAND: No, it is not, it is filled out by the member who was initiated into that Court.

MR. FINELLI: We don't know who filled this out, or who he is, except that there is "Court Cavour" in hand writing.

30

THE COURT: This witness says he received those papers from the Court. You can cross examine, of course.

MR. SCHOTLAND: This is the clause: "I further declare that I will conform to and abide by all rules of the Court and of the Order now in force, or hereafter to be made, or submit to the penalties therein

40

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contained. As witness my hand this 24th day of June, 1912. Elia Panica."

Marked Exhibit C-15.

Q. Did you get the members' book of the Court?

A. The roll book; the ledger is there, counsellor, which gives the names and addresses.

10 Q. Did you receive a minute book from the Court? A. I did.

Q. Who was it that gave you the books and papers that you did receive? A. The suit case was brought down by the secretary, containing the books that you have there, with the Court's seal; the minute book was produced.

20 Q. Who was the secretary? A. Frank DeFeo. The minute book, I don't just know how that came to the office, but it was delivered after the trial; the supplies, etc., came by express, which I have the receipt signed and receipted for.

Q. I show you a card purporting to contain the names and addresses of the officers of Court Cavour No. 133, and ask you where you got that card from? A. That card was sent by Frank DeFeo, financial secretary of the Court.

Q. And it is filled out in his writing? A. That is his handwriting.

30 MR. SCHOTLAND: I will offer this card in evidence.

MR. FINELLI: If you tell us when it was received I have no objection.

40 Q. Do you know when this was received, Mr. Jobes? A. I don't know the exact date; it is a record we use in the office, requesting the financial secretaries of Subordinate Courts to fill them out twice a year, after the election of officers, which takes place at the meeting in March and September.

Warren L. J. Jobes—Cross.

Q. Is this, or not, the last card received by you?

A. It is the last card received by me from that Court.

MR. SCHOTLAND: I offer it in evidence.
Marked Exhibit C-16.

CROSS EXAMINATION BY MR. FINELLI:

Q. Why didn't you write to the officers, inas- 10
much as you had their names and addresses on
this card? A. What is that?

Q. Instead of writing to the financial secre-
tary? A. All the business transacted by the
Grand Court is through the Financial Secretary,
he is the agent of the corporate body, of the
Court.

Q. Why, you were directed on July tenth to
notify the Chief Ranger, the recording secretary 20
and the lecturer, to appear before the Advisory
Committee to answer for conduct unbecoming a
Forester—

MR. SCHOTLAND: Not lecturer, treas-
urer.

Q. Lecturer—and you elected to send this noti-
fication to the financial secretary? A. Yes, ac-
cording to the laws of the Order; I have an- 30
swered that question.

Q. You say that is according to the laws? A.
According to the mandates of the Financial Sec-
retary.

Q. Haven't you got any such thing as an
Arbitration Committee? A. The Financial Sec-
retary answers all communications and does all
the corresponding for the Subordinate Courts.

Q. Do you intend to tell his Honor here that
whenever a charge is brought against an officer 40

Warren L. J. Jobes—Cross.

of a Subordinate Lodge or a member, that you do not notify that officer or member, but that you notify the financial secretary? A. As the agent, he is the one to notify.

Q. Where do you find that authority? A. I believe the by-laws of the Court tells that, duties of the Secretary.

10 Q. You find that in the by-laws of the Subordinate Court? A. I think you will find it there.

Q. No other authority? A. That is the duties of the Financial Secretary, I believe.

Q. I am speaking about your duties, you were performing this duty? A. The Grand Court's duty or the Grand Secretary's duty is to comply with the Financial Secretary of Subordinate Courts in all dealings.

20 Q. As a matter of fact Court Cavour was suspended by the Grand Court on September 28th, 1912, wasn't it? A. It was.

Q. And you made claim on the Fidelity Trust Company on that date? A. By the direction of the Executive Council.

Q. You also made claim for the funds on deposit with the National Newark Banking Company? A. Same procedure.

30 MR. SCHOTLAND: One moment. It is all right on cross examination to assert a fact, but it has got to be the fact. I object to the form of the question, it is not cross examination.

Q. Did you or did you not, by a formal letter, notify the National Newark Banking Company on September 28th, that Court Cavour had been dissolved by the Grand Court?

40

THE COURT: Dissolved?

Warren L. J. Jobes—Cross.

Q. Dissolved? A. No, sir.

Q. Did you say that the Court has been suspended? A. A formal letter went there, said the Court had been suspended, and to authorize them not to disburse any of the money until further notification from the Order.

Q. Suspended for failure to obey certain regulations; that is the language that you used, didn't you? A. Well, if you will produce the letter I can tell you what I wrote, I couldn't remember. 10

MR. SCHOTLAND: I have a copy of it, if you want it.

Q. Yes. Using the copy to refresh your recollection, now tell us what you wrote?

MR. SCHOTLAND: No, I object to that; let it go into evidence and let it speak for itself, what he wrote. 20

THE COURT: Well, do you want to offer it in evidence.

MR. FINELLI: Yes. I offer it in evidence.

Marked Exhibit D-1.

Q. Did you send three letters to the same effect and same form? A. Yes.

Q. And same language? A. Same language. 30

Q. Such a letter was signed by you and the Chief Ranger, D-1 I am referring to? A. There was.

Q. And sent on September 28th, 1912? A. Whatever the date there is it was sent, it was sent to the bank; there is an acknowledgment, I guess.

Q. By mail? A. Yes.

Warren L. J. Jobes—Cross.

BY MR. SCHOTLAND:

Q. Mailed at the same time as the other letter dated that day? A. Same time.

Q. Then this so-called trial of October 12th was a mere formality?

THE COURT: Well, that is a question for the Court to decide.

10

Q. Did you keep the minutes of that trial? A. I did not.

Q. Who kept them? A. The recording secretary pro tem.

Q. Who was he? A. I don't know who he was then.

Q. You don't remember who was the recorder on that occasion? A. On that particular occasion I think it was a pro tem secretary, appointed by the Chair, Brother Radley, the regular secretary, being absent.

20

Q. He was not appointed by Court Cavour? A. How could he be?

Q. And by the Chair, you mean Mr. Donnelly? A. I don't mean by the Chair, I mean by the Grand Chief Ranger.

Q. Was he present? A. He was present.

30 Q. But he was not presiding? A. He was present at the opening of the meeting.

Q. Who was in office prior to the taking of the place by Corresponding Secretary Francis H. Radley, who occupied that office before Mr. Radley?

MR. SCHOTLAND: How is that material?

MR. FINELLI: I want to find out if there were any minutes prior to September 28th. I want the whole transaction now.

40

Warren L. J. Jobes—Cross.

MR. SCHOTLAND: Mr. Radley has the minutes for May, and he says there was no meeting between May and September.

MR. FINELLI: Of May, 1912?

MR. SCHOTLAND: Certainly.

Q. Then who gave you authority to write this letter of July 10th, C-8? (showing witness letter) A. The power of the Grand Court gave the authority, according to conditions. 10

Q. Who is the Grand Court, what Grand Court? A. Grand Court, State of New Jersey, of the Executive Council.

Q. By verbal direction? A. By the duties of the office of Grand Secretary, in so far as the power given, to see that the Subordinate Courts are doing the business of their Court in a proper manner and according to the rules and regulations. 20

Q. As Grand Secretary, you directed this communication of July 10th, C-8; now did anyone instruct you to send this communication? A. Must have, or I wouldn't send it.

Q. And the instructions were received orally? A. Very likely.

Q. Did you receive any instructions prior to your sending out the letter of July 15th, 1912, C-9? A. I was directed, as it clearly states there, by the Grand Chief Ranger, who directed that letter to be sent out. 30

Q. You received those instructions verbally? A. I did.

Q. You are the Financial Secretary? A. I am the Grand Secretary, known as the Grand Secretary of the State of New Jersey Foresters of America. 40

Warren L. J. Jobes—Cross.

Q. You have nothing to do with the keeping of the minutes of the Grand Court? A. I have nothing to do with the minutes whatsoever, that has nothing to do with the office.

Q. Who instructed you, if anyone, to send out this letter of September 28th, 1910 C-10? A. The same body directed that to be sent out as the
10 other one.

Q. What do you mean by "body?" A. Grand Chief Ranger of the State of New Jersey.

Q. By verbal directions? A. Yes, sir; that is citing them to appear for trial, isn't it?

BY MR. SCHOTLAND:

Q. Letter of September 28th? A. This letter was to cite the officers to appear and show cause why they should not be dissolved or suspended, as therein stated.
20

Q. Well, do you want to correct your testimony? A. Well, there, the letter is in evidence there.

Q. Do you desire to correct your testimony to say that no one directed you to send this communication, C-10?

MR. SCHOTLAND: I object to that. The minutes are in evidence and already show a resolution passed on September 28th, 1912, directing the Financial Secretary to send that communication.
30

MR. FINELLI: I object to these interruptions.

THE COURT: If the witness can state who verbally told him to write that letter he can say so.

Q. (By the Court.) Well, do you remember
40 what particular person told you to write that

Warren L. J. Jobes—Cross.

letter? A. That was the action of the Executive Council at a meeting.

Q. (By the Court.) No. Answer the question You got some instructions, I suppose, from some particular person; do you remember who that person was? A. I should take it, Judge Grand Chief Ranger, he was the presiding officer at that time.

10

Q. (By the Court) That is the best of your recollection, I suppose? A. Of course they were all in session, and that is the action of the body.

Q. Did anyone instruct you to send out this circular of November 11th, C-14? A. Why, the resolutions of the Executive Council, notifying, after the trial, the dissolution; that was in compliance with the resolution.

Q. Were you instructed by anyone to send this? A. Yes, the Order instructed me to do so in session.

20

Q. Were you instructed by any person?

MR. SCHOTLAND: I object to that; he has answered it as best the witness can.

THE COURT: If the witness does not recollect, he can say he does not recollect. If he heard the resolution passed he can say that.

30

Q. (By the Court.) Did you hear the resolution passed? A. The resolution was passed directing it.

Q. (By the Court) Well, were you present when the resolution was read? A. I was, yes, sir.

Q. When was the resolution passed? A. At a meeting, November, I don't recollect the date now.

40

Warren L. J. Jobes—Cross.

Q. On the same date that the circular was sent out? A. I don't think so.

Q. And was this circular sent generally to all the secretaries of the Order in the State of New Jersey? A. All the Courts, yes, sir.

Q. This is subscribed by you, Mr. Jobes? (showing witness paper? A. Yes.

10 MR. FINELLI: May I have Mr. Grande's letter, dated November 11th?

MR. SCHOTLAND: I haven't got it; if you have a copy of it use it; I don't find it here.

Q. Was this letter sent by you to Mr. Grande, in response to a letter of his? A. It must have been, because it says so here.

20 Q. Do you remember the contents of Mr. Grande's letter? A. I couldn't recall it.

MR. FINELLI: I offer this in evidence. Marked Exhibit D-2.

Q. Were there any specifications or charges written out against Court Cavour, if you know? A. What do you mean by "specifications"?

Q. Specifications in writing, or charges? A. Only what is stated in the previous records.

30 Q. You understand these records, they are charges against officers?

MR. SCHOTLAND: One moment. I object to that. He asks a question and answers it. The letter of September 28th is addressed to the Court and gives notice who should appear for trial, and specifies the charges against the Court.

40 Q. Were there any other specifications, except

Warren L. J. Jobes—Re-Direct.

the alleged specifications contained in this alleged document of September 28th?

MR. SCHOTLAND: I object to the "alleged".

Q. (By the Court.) Well, did you have anything to do with any other specifications? A. Only those that I know of.

10

RE-DIRECT EXAMINATION BY MR. SCHOTLAND:

Q. Mr. Jobes, were the charges gone into in any greater detail at the trial than in those specifications? A. They were.

MR. FINELLI: Of course I don't object if you go into the entire matter.

MR. SCHOTLAND: Well, I will withdraw it.

20

Q. Since you are Grand Secretary have you received any amendments to laws, from Court Cavour No. 133. A. Yes, sir.

Q. Are these the amendments that you received from them, in your official capacity? A. Yes, sir; received on the twenty-first, and sent back for correction on the twenty-seventh.

Q. And then received again? A. Received again on the twenty-seventh.

30

Q. Corrected? A. Corrected.

Q. Twenty-seventh of what? A. Twenty-seventh of January, 1911.

MR. SCHOTLAND: Amendment to their by-laws which are already in evidence, I offer it in evidence.

Marked Exhibit C-17.

40

Warren L. J. Jobes—Re-Cross.

RE-CROSS EXAMINATION BY MR. FINELLI:

Q. I want to ask you a question. Did you have any personal knowledge that the members or officers of Court Cavour intended to divide the funds among themselves? A. Only what I heard on the outside, from foreign sources.

10 Q. Didn't you make an affidavit in this cause that you knew and you spoke of your own knowledge, that the officers and members of Court Cavour intended to divide the funds? A. I don't remember saying it.

Q. Will you say you did not swear to that fact?

20 THE COURT: That has nothing to do with the case, it is aside from the issue; it may possibly become material later, and if it does I will let you recall this witness and ask him the question, but now it seems to me to be utterly irrelevant.

COMPLAINANT RESTS.

30

40

Michael Padula—Direct.

MICHAEL PADULA, sworn.

DIRECT EXAMINATION BY MR. FINELLI:

Q. What is your name and address? A. Michael Padula, 379 Bloomfield avenue, city.

Q. Are you a member of the defendant, Court Cavour? A. Yes, sir.

Q. How long have you been a member? A. 10
Since 1902, I believe.

Q. With reference to the time that it was first organized or created, when did you become a member? A. I believe it was the second year.

Q. Second meeting? A. Second year.

Q. Do you know whether Court Cavour is an incorporated body? A. I believe it is.

Q. Are you in the employ, or do you hold any office with Court Cavour at the present time? 20
A. Yes, sir.

Q. What is that office? A. Financial secretary.

Q. How long have you been its financial secretary? A. About six weeks.

Q. Did you ever occupy any other office in Court Cavour? A. Yes, sir.

Q. What office? A. I was treasurer for about 30
six years.

MR. FINELLI: I have here a certified copy of the certificate of incorporation of Court Cavour, recorded in the office of the clerk of the County of Essex, and I desire to offer it in evidence.

MR. SCHOTLAND: There is nothing there to show it was ever filed with the Secretary of State; if Mr. Finelli knows of his own knowledge that it was why I don't 40

Michael Padula—Direct.

object, but if he doesn't know then I do object.

THE COURT: Do you admit it to have been filed with the Secretary of State?

MR. FINELLI: That was my understanding right along.

10 THE COURT: That is not the question. Have you made any inquiry about it?

MR. FINELLI: I made inquiries about them without making any inquiry about ourselves.

THE COURT: Well you do not seem to know very much about it. You can very easily telegraph this afternoon, I suppose, to the Secretary of State and find out.

20 MR. SCHOTLAND: I don't want the formal proof; I only want to know that it is so.

MR. FINELLI: Well, I offer it, and if it is not a fact we will withdraw it.

Marked Exhibit D-3.

30 MR. SCHOTLAND: I want to reserve the right to subpoena, if I deem it important, and call to the stand the Financial Secretary of the Court, who is a party defendant and who has not appeared here to defend the case, although served with process, and upon whom I rely to testify that he could not find the original application signed by the members of Court Cavour upon joining the Court, because he didn't know where they were, they hadn't been properly conserved.

40 MR. FINELLI: I shall make no point of that.

Michael Padula—Direct.

THE COURT: Will you admit that Mr. Schotland's statement is correct in this respect, that the gentleman, if so called, would testify that way.

MR. FINELLI: No, I don't admit the statement. I shall make no objection to his calling whoever he pleases on that point later on.

10

MR. SCHOTLAND: Well, your Honor will permit me to reserve that right?

THE COURT: Yes.

Q. Were you at this meeting at Jersey City, on October 12th, 1912? A. You mean when the trial went on?

Q. Yes. A. Yes sir.

Q. Do you know whether Court Cavour received any information of that trial, any notice about that trial? A. Do you mean prior to the trial or after?

20

THE COURT: One moment. The notice was addressed to the secretary, and in response to that notice the testimony is that about forty persons connected with the Court appeared; it would, therefore, seem that they received the notice.

MR. SCHOTLAND: And two written excuses for non-appearance.

30

THE COURT: Yes, there were these excuses. Now what do you want to prove?

MR. FINELLI: No notice to anyone else, except the secretary, probably, and I want to know whether the secretary brought it to the attention of the corporation.

THE COURT: You can ask this witness whether, at any meeting of the Court that

40

Michael Padula—Direct.

he attended, the Secretary read that communication; you can ask him that; what the affect of that will be is a different question.

Q. Were you present at the meeting held on or about September 23rd, at which Mr. Donnelly, the Supreme Secretary, came to a meeting of
 10 Court Cavour? A. Yes, sir.

Q. Do you remember what Mr. Donnelly stated, if anything, to the members present? A. Do I remember what he stated?

Q. Yes. A. Well, I can say what he stated, but I like it better if you ask me what.

Q. Well, tell us what he stated, tell us all you remember that he said on that occasion? A. Well he said so much that I hardly remember
 20 what he did say; I know that they came there and they took the charter away, and they took everything that they could get hold of.

Q. Well, now, you must try and remember something that Mr. Donnelly said; tell us what you can, and then when you are through why we will try and help you along; what was it Mr. Donnelly said at the time that the charter was taken away? A. Well, he said that the Court
 30 wasn't getting along very nice, that the Court wasn't complying with the rules and regulations of the Order, and that they came there to take the charter away and also stated that they had sent several communications to the Court to have the Court send out a committee and explain what they were doing and why they weren't doing better. That is as much as I can remember.

Q. Did he say anything about the status of Court Cavour from that night on? A. About
 40 the what?

Michael Padula—Direct.

Q. Did he say anything about what would become of Court Cavour?

MR. SCHOTLAND: I object to the witness being led and suggestions being made in that strong form; a little mild leading I wouldn't object to, under the circumstances, but that is a little bit too strong, to put the actual words in his mouth of what you want him to testify in contradiction of other evidence. 10

Q. (By the Court.) What did he say about the continuance of the Court? A. Well, he said that they would take the charter and that Court Cavour would be suspended for the time being until the trial would go on, and then if the charges were proved why they would dismiss the Court. 20

Q. And was anything said about the members of Court Cavour?

Objected to.

Admitted.

Q. (By the Court.) Did he say anything about the members? A. Well, I couldn't remember, but I think that he said that as long as—if the Court was dissolved why the members wouldn't belong to the Order no more. 30

MR. SCHOTLAND: I withdraw my objection, in the face of the answer.

Q. Did you receive any correspondence from Mr. Jobes? A. Correspondence?

Q. Yes. Did you receive any letter from him informing you of your condition as a member of the Foresters? A. No, sir.

Q. After September twenty-third did you receive any letter? A. No, sir. 40

Michael Padula—Direct.

Q. Did you send Mr. Jobes any letter? A. No, sir.

Q. Were you notified at any time that you were no longer a Forester of America? A. No, sir. Do you mean by the Grand Secretary?

Q. Yes. A. No, sir.

10 Q. Well, by anyone in authority, anyone representing the Grand Court, were you notified?

MR. SCHOTLAND: I object to the question.

A. I wasn't notified by anybody, excepting that I knew after the trial that I wasn't a Forester.

20 Q. I supposed you had received some letter from the Grand Secretary; you haven't received any letter? A. No, sir, not to that effect.

Q. Not to that effect? A. Not to that effect.

Q. Have you the letter; did it refer to Court Cavour at all? A. Well, I haven't received any letter to that effect.

Q. Have you attended the last meeting of Court Cavour? A. Last meeting, when?

Q. Yes, did you attend the last meeting? A. What meeting do you mean?

30 Q. The last meeting of Court Cavour. A. Yes, sir.

Q. When was the last meeting held? A. Why, on the fourth Tuesday of April.

Q. Was there a meeting before that? A. On the second Tuesday.

Q. And has there been any suspension in the operation of Court Cavour after October 12th, 1912? A. Yes, sir.

40 Q. And how long did that period continue? A. Suspension?

Michael Padula—Direct.

Q. The suspension of business now; I don't mean suspension by the Grand Court. A. For over four months.

Q. And during the four months were there any meetings held? A. Yes, sir.

Q. What is the condition of the organization at the present time?

MR. SCHOTLAND: I object to that, a witness being asked to state his conclusions. 10

THE COURT: That would call for the conclusion of the witness. You may ask him whether there are any officers of this present body, and what they are.

Q. Are there any officers of Court Cavour except yourself, to-day? A. There are officers, just the same as it was, Chief Ranger and Sub-Chief Ranger, the Financial Secretary which I am, and the Corresponding Secretary, Treasurer. 20

Q. And are you receiving anything from the members at the meetings? A. Yes, sir.

Q. What? A. Seventy-five cents for each member that pays his dues.

Q. Has there been any falling off in the membership since the commencement of this period. this new period, after the suspension by the Grand Court? 30

MR. SCHOTLAND: I object to that; that wouldn't give us any information.

Q. (By the Court) Have any members resigned since that time? A. Not that I know of.

Q. (By the Court). Well, have any of the members left the organization? A. Not that I know of. 40

Michael Padula—Direct.

Q. (By the Court) How many members were there last September, about? A. Last September?

Q. (By the Court.) Yes, last September, before this trouble commenced? A. I should say three hundred and ten, something like that.

Q. (By Mr. Schotland.) Who is the officer who knows, or who ought to know? A. The Financial Secretary.

Q. (By Mr. Schotland.) DeFeo? A. Yes, sir; I heard him say that there was about three hundred and ten.

Q. How many members were present at that meeting in Jersey City on October twelfth? A. Well, I should say from thirty to forty, something like that.

Q. Was the meeting on September twenty-third well attended? A. The Court meeting?

Q. Yes? A. September twenty-third?

Q. Yes. A. Yes, sir, there were quite a lot there.

Q. Well attended. What, if anything, had the Court or the officers of the Court done in contravention to the Grand Court rules or laws?

Objected to.

MR. FINELLI: I merely want to prove that there wasn't any improper conduct by Court Cavour.

MR. SCHOTLAND: I object.

MR. FINELLI: That there wasn't any neglecting or refusing to conform to the rules or laws, ceremonies, etc.

THE COURT: I will overrule that on the ground that I cannot reverse the decision of the trial court on the merits.

MR. FINELLI: I pray an exception to that ruling.

Michael Padula—Cross.

Q. Was there any intention on your part to disband Court Cavour?

MR. SCHOTLAND: I object.

Question overruled.

Q. Did you state to anybody that it was your intention or the intention of the other officers of Court Cavour to dissolve and to divide the money among yourselves? 10

MR. SCHOTLAND: I object.

THE COURT: Well, there is some charge made about that, but there is no proof about it, so you need not meet it. I shall not assume that they were going to divide it up among themselves until it is proved.

MR. SCHOTLAND: I just wanted to explain that we have no proof on that point, all we have is a letter giving us that information from the National Newark Banking Company, on which information that allegation was made; now, of course, that is hearsay. 20

THE COURT: Well, I shall not assume that they did intend to do it; unless there is some proof to that effect, so you need not controvert it.

Q. So that Court Cavour is carrying on its business at the present time? A. Yes, sir. 30

CROSS EXAMINATION BY MR. SCHOTLAND:

Q. Mr. Padula, you were present at the time when notice was given by Brother Donnelly, Mr. Donnelly, that Court Cavour would stand suspended until they would be tried by the Executive Council on Columbus Day, and that then the Executive Council would render a decision as 40

Michael Padula—Cross.

to what would happen to Court Cavour and its members, weren't you? A. Yes, sir.

Q. That was a summoned meeting of Court Cavour, wasn't it, when every member was notified by mail to appear at the meeting? A. I don't remember if every member was notified.

Q. But it was a very largely attended meeting? A. It was a regular meeting, yes.

Q. Now, Mr. Padula, after the Grand Court's suspension of Court Cavour, were there any meetings of Court Cavour at which the regular business of the Court was transacted, until some months after this case was started in this Court? A. No, we had different meetings, talked the thing over, and see what would be the best we could do, but we didn't do no business.

Q. It wasn't a meeting of the Court, it was only a meeting of some of the members, wasn't it? A. Yes, sir.

Q. Not a meeting of the Court as a Court? A. No; we had no books, we had nothing.

Q. Now, when was it you started up again to have books and to have meetings? A. I believe the first meeting we had was about two months ago.

Q. About two months ago is the first meeting that you had? A. Yes, sir.

Q. Now, at that meeting did you continue with the same members as officers who had been elected in the previous September as the officers? A. No, sir.

Q. You did not. You met together and elected altogether new officers, didn't you? A. I believe all new but with the exception of three or four.

Q. Three or four happened to be the same ones;

Michael Padula—Cross.

but there was an election held and a selection made of officers? A. Yes, sir.

Q. To what office were you elected? A. Financial Secretary.

Q. As Financial Secretary you have the roll book then of this organization, haven't you, a list of your members? A. Yes, sir.

Q. Where is it? A. Home. 10

Q. How many members have you got? A. I haven't counted them; I guess there is a little over three hundred.

Q. You have now paying dues to your present organization? A. Oh, no.

Q. How many have you paying dues to your present organization? A. I should say forty or forty-five.

Q. Out of the entire old membership of three hundred and thirty-eight members, isn't that right? A. There is forty or forty-five that pay now. 20

Q. That pay dues now? A. And the rest are waiting until the thing is settled to come in and pay.

Q. Then only forty or forty-five have organized with you and pay dues and elect your officers; is that right? A. Yes, sir. 30

Q. Now that is true? A. And the others are waiting until the thing is settled.

Q. You think they are? A. They say so, any way.

Q. (By the Court) Did the others attend this first meeting at which new officers were elected, or did they stay away? A. At the first meeting we had there was over two hundred; they are waiting for to see what we are going to do. 40

Michael Padula—Cross.

Q. (By the Court) Waiting until the Court decides the matter? A. Yes, sir.

Q. (By the Court.) How many took part in the proceedings at the first meeting, the meeting at which you were elected? A. Over two hundred.

Q. (By the Court.) Did they all vote? A.
10 Yes, sir.

Q. How many actually joined your organization, which was organized at that time when you were elected Financial Secretary? A. I suppose that everybody joined.

Q. Did you take a list, did you make a list of members? A. I only have a list of those that paid.

Q. Did everybody join who didn't pay? A.
20 Everybody is supposed to have joined, that is, everybody is supposed to belong to it.

Q. You are open to let everybody belong to it, is that what you mean?

MR. FINELLI: I object.

A. Well, in that way.

Q. (By the Court.) I do not quite understand; just tell us about these members who do not pay
30 dues; do they now attend your meetings and do they vote, those who do not pay dues? A. Well, at the last meeting there was about seventy-five present; some of them paid and some of them said they didn't have the money to pay, but they are willing to pay, and we put up a resolution that everybody should pay from the first week in April, and they have three months to pay, in order to get any benefits; if they are in arrears
40 three months then they don't have any benefits,

Michael Padula—Cross.

so that those that don't pay up in three months don't have any benefits.

Q. Don't you start your charges for dues on the first of April? A. In the first meeting of April.

Q. That is practically the start of your organization then, is it? A. That is when we start to collect dues.

Q. And you collected no dues from September 10 until April? A. No, because I was elected about two months before that, and I put up a bond for to withdraw this money that is out now, and I was waiting to see if the bond was accepted before I would go ahead with it; I didn't want to handle any money until my bond was satisfactory.

Q. You did not actually organize until then? A. No, sir, we organized whenever I knew my bond was accepted. 20

Q. That was the first of April? A. First meeting in April.

Q. Now, Mr. Padula, you have about forty or forty-five members then on your rolls? A. That have paid, yes.

Q. That have paid and recognize your organization? A. Yes.

Q. No dues were collected, then, from any of your members between September and April 30 first? A. No, sir.

Q. None whatever? A. No, sir, no dues.

Q. And no meetings of the organization, as an organization were held? A. We had three or four meetings.

Q. Of some of the members to decide what they wanted to do regarding the case in Court? A. Yes, sir. 40

Q. But no official meetings to transact frater-

Michael Padula—Re-Direct.

nal business of the Court? A. No, sir; we had no books to do it with.

RE-DIRECT EXAMINATION BY MR. FINELLI:

Q. Have you made any endeavors to get the books? A. From the Grand Court?

Q. Yes? A. Yes, sir.

10 Q. How long have you been endeavoring to get the books?

MR. SCHOTLAND: I object to that, it is immaterial.

THE COURT: You can show by this witness that he tried to get the books and that they would not deliver them up.

20 Q. (By the Court) You tried to get these books? A. I said that the counsel tried to get them not myself, the counsel said that he was going to get the books, but so far he hasn't got them.

Q. How long has this matter been going on about the books? A. Over three months.

Q. When did you have the first meeting of Court Cavour after the 12th day of October? A. I believe it was about a month or two after the decision.

30 Q. By the decision you mean October 12th, after the trial? A. Yes.

Q. A month after you had meetings? A. Yes, sir.

Q. After that time have you had meetings right along? A. We had three or four meetings all told.

Q. Now you are conducting things regularly? A. Yes, sir.

Michael Padula—Re-Cross.

RE-CROSS EXAMINATION BY MR. SCHOTLAND.

Q. When you reorganized after this trial, did you recognize the officers that had been elected in September as the officers of your Court? A. When we reorganized?

Q. Yes, when you started this present organization?

MR. FINELLI: I object to that designation. 10

A. We got together and we nominated a temporary chairman and we went on with the election.

Q. Now you know, having been a member of the Order at the time, that in September, 1912, before the dissolution of this Court officers were elected for every station of the Court, to serve for six months, don't you? A. Yes. 20

Q. Now when you started, after the suit had been brought in this Court, did you recognize those officers as the officers of your organization, who had been elected in September? A. If we recognized them we wouldn't have elected new ones.

Q. You didn't recognize them?

THE COURT: That is the way I understand it. They organized by appointing a temporary chairman; that was at your first meeting? 30

A. Yes, sir.

Q. (By the Court.) You organized by appointing a temporary chairman, and then you proceeded to elect the officers of the organization; is that right? A. Yes.

Q. (By the Court) When was that first meeting, I am not quite sure when that first meeting was held, when was it held, in what month? A. 40

Michael Padula—Re-Cross.

About a month after the decision; if the decision was in October,—October 28th, was it, the decision was given? Well, it must have been the latter part of November.

Q. But you didn't organize then? A. No.

Q. You organized some time later; that was only a meeting of some of your members to engage counsel to fight the case, wasn't it? A. Yes.

10

Q. That wasn't a meeting to transact business of the whole organization? A. No; we had another meeting about a month after that.

Q. At that meeting, the latter part of November, wasn't when you elected officers, was it? A. No, sir; about a month after that we elected the officers.

Q. Why did you elect new officers instead of recognizing the old ones?

20

THE COURT: It is not worth while to go into that; he says they did elect new officers.

MR. SCHOTLAND: I referred to the petition signed by thirty-eight members; I forgot to offer it in evidence, it is here among the papers and I want to offer it.

Q. (By Mr. Finelli) Mr. Dotto was one of your lawyers at that time? A. Yes.

30

Q. (By Mr. Finelli) He is now with the other side?

MR. SCHOTLAND: I object to that statement. He is not.

Gabriel Matonti—Direct.

GABRIEL MATONTI, SWORN.

DIRECT EXAMINATION BY MR. FINELLI:

Q. Are you in business in this city? A. Yes, sir.

Q. What place? A. 107 Seventh Avenue.

Q. What business do you carry on there? A. Clothing, gents furnishings, hats, drygoods, general merchandise. 10

Q. Are you a member of Court Cavour? A. I am.

Q. How long have you been a member? A. Since nineteen hundred and four.

Q. Have you ever been an officer of it? A. I am Past Chief Ranger, and I was treasurer at the time the Court was suspended.

Q. And how long had you been treasurer? A. 20 A Year.

Q. When was it suspended? A. The last meeting in September.

Q. Is that the time that Mr. Donnelly came to the meeting and took the charter away? A. Yes, that was the last meeting; I got in a little late that night, and when I get in the hall why I find all the members were all excited; I said "What is the trouble?" why somebody told me Mr. Donnelly 30 came here and took the charter away, and in order to take the charter away he broke the glass in it, and they all felt insulted about it.

Q. Did you see Mr. Donnelly there that night? A. He was gone when I got there.

MR. SCHOTLAND: I ask that this witness' evidence of what took place be stricken out; somebody told him that.

THE COURT: I will let it stand. 40

Gabriel Matonti—Direct.

A. And of course I say, we may be able to adjust this matter, and we carried on our business that night regular, and we made out the payments to the members, and I forget now what the expenses was that night, but anyhow the day afterwards the checks were sent to the bank and they all came back, money was stopped.

10 Q. You mean that was on September 24th then?
A. Yes.

Q. And what checks were stopped, for what amounts and what were they for?

MR. SCHOTLAND: One moment. You are giving the date September 24th.

A. Checks paid to the sick members for sick benefit, and others, doctor and the druggist, they all came back; well, in fact I got in my possession
20 about sixty dollars worth of checks that came back, which I paid out to the members, which I had made the checks out, and they brought the checks back, and I kept the checks, I said "It is all right, this thing will be adjusted sooner or later and this money will be all right," and I kept the checks and I paid out the money, being I was in business some of the poor people came there and they wanted money for the sick benefit,
30 people that hadn't anything to eat hardly.

Q. After this meeting where you were informed that Mr. Donnelly had come in and removed the charter, when was the next meeting of Court Cavour? A. I have no recollection of the date, but I remember that we called a special meeting at Miele's hall, corner of Eighth avenue and Sheffield street; it was decided that night to call counsel, and I think you were present at the time.

40 Q. Do you know how many members of Court

Gabriel Matonti—Direct.

Cavour were present at that meeting? A. The hall was full.

Q. How many were present? A. I guess about three hundred, little more or less, something like that.

Q. Did you have any other meetings after that? A. To my recollection I think there were, and decided that they should carry on the business, but they should make an application to the Grand Court for the books. 10

Q. How soon after the September meeting was that? A. Well, I don't know exactly, a couple of weeks or four weeks, I have no recollection.

Q. Since that time have you attended any of the meetings? A. Well, on the fourth of January I took a trip to Europe, and I came back on the twelfth of March; when I came back I heard that they made a new election, and they were organized, but all the members that I met, especially in my business, because I got pretty large trade among the Italians— 20

MR. SCHOTLAND: I object to this, going into conversations now.

Objection sustained.

A. I have a large trade, and they came there and said "When is this thing going to be"— 30

MR. SCHOTLAND: I object.

Q. Were you one of the officers elected in September? A. Treasurer.

Q. You were elected in September? A. Yes, sir.

Q. Are you the treasurer now? A. No; I wasn't present; I resigned when I went away, I told them that they could elect somebody in my place, because I was away.

Q. Do you know whether any members of Court 40

Gabriel Matonti—Direct.

Cavour dropped out of the Court after this alleged suspension by the Grand Court?

THE COURT: This witness would not know, except by hearsay.

Q. I mean did any at any meeting?

10 THE COURT: I suppose the officer who keeps the record of the members would be the proper person to testify to that.

MR. SCHOTLAND: That was the previous witness; he said he had forty or forty-five.

Q. Have you any property of the Court Cavour in your possession or did you have? A. I have, but it was all sent to the Grand Court.

Q. Well, I mean bank books? A. The Grand Court owes me some money.

20 Q. Did you have the bank books? A. I had, until everything was sent to them; nothing else I haven't.

Q. Did you surrender the bank book? A. Everything.

Q. Did you present yourself to the Grand Court to find out where you stood as a member of the Foresters? A. I went to see Mr. Jobes once.

30 Q. Mr. Jones is a Grand Court officer? A. Yes, we had a talk verbally, not really directed to the business, and I told him, I said "Now I don't intend"—

MR. SCHOTLAND: I object.

MR. FINELLI: If this was a conversation relative to the question that I asked the witness I think it is competent.

40 THE COURT: Anything said by an officer in the execution of his duty is competent, but anything said by an officer with reference to past events is not competent.

Gabriel Matonti—Direct.

Q. Where was this conversation you had with Mr. Jobs? A. In his office.

Q. Where? A. Jersey City.

Q. You mean his office, whose office? A. In Mr. Jobs' office, 275 Grove street.

Q. (By the Court) When was this? A. That was about two or three weeks after the suspension.

Q. (By the Court) Was that before or after the trial? A. After the trial. 10

THE COURT: Then it is not competent.

Adjourned until to-morrow at ten o'clock.

In Chancery of New Jersey.

Between

THE GRAND COURT FORESTERS OF
AMERICA, STATE OF NEW JERSEY,

Complainants,

and

COURT CAVOUR, No. 133 FORESTERS
OF AMERICA, et als.

Defendants.

20

30

Before

HIS HONOR VICE CHANCELLOR STEVENS.

Philip J. Schotland, Esq., for the complainants.

Anthony R. Finelli, Esq., for the defendants.

TRANSCRIPT of shorthand report of the evidence given upon the trial of the above stated cause, on Wednesday, May 7th, 1913, at Chancery Chambers, Newark, N. J. 40

Gabriel Matonti—Direct.

10 MR. SCHOTLAND: If the Court please, I found the original charter or dispensation in my safe in the office, after I got back, and I showed it to Mr. Finelli. It is the exact same form as the blank we offered in evidence and I think it can be substituted for the blank; it shows the names of the three members who are the founders.

Marked Exhibit C 18.

GABRIEL MATONTI, recalled.

DIRECT EXAMINATION BY MR. FINELLI.

20 Q. Is there any rule of Court Cavour, that you know of, whereby the money of Court Cavour can be taken from the officers of Court Cavour and used for the benefit of any other person or persons except the members of Court Cavour?

30 MR. SCHOTLAND: I object, if your Honor please, that is the issue in this suit, it is for the Court to decide whether, under the contract between Court Cavour and the parent body, by virtue of the constitution and all of the evidence put in, that is the fact or not; that is the whole thing that your Honor is going to decide.

40 THE COURT: If the question refers to a particular paragraph in the constitution and by-laws, why that is one thing; if it is designed to draw out an expression of opinion from this witness, that is another. The witness cannot give his opinion on the construction of the constitution and by-laws; if you want to ask him whether there is any paragraph in the constitution or by-

Gabriel Matonti—Direct.

laws which, in so many words, gives that right, you may do that, as a matter of convenience.

MR. SCHOTLAND: Yes, I would not object to that.

Q. Is there any provision that you know of in the by-laws of Court Cavour providing that the funds of Court Cavour might be used for the benefit of persons other than the members of Court Cavour? A. The provision was this, that— 10

Q. Just answer my question. Is there? A. There are not, except for the sick debts and the members that are in distress.

MR. SCHOTLAND: I ask that that be stricken out.

Q. You mean helping members in distress? 20

MR. SCHOTLAND: I object.

Q. How are the funds of Court Cavour created or established?

MR. SCHOTLAND: I object; that is all shown.

Q. Have you ever been notified that there were any charges pending against you? A. Not personally. 30

Q. Were you ever called before any Arbitration Committee A. No, sir.

Q. Were any of the members of Court Cavour called before an Arbitration Committee?

MR. SCHOTLAND: I object.

THE COURT: You mean individually.

Q. Individually?

Overruled. 40

MR. SCHOTLAND: This happens to be the

Gabriel Matonti—Direct.

witness who wrote the letter excusing his absence at the trial.

Q. Did you know at the time that you wrote that letter that there were charges pending against Court Cavour as an association? A. According to the letter we got from the secretary, financial secretary.

10 Q. Which letter do you mean?

MR. SCHOTLAND: Here is the letter; read it to him and ask him if he means that letter.

Q. I show you a letter marked Exhibit C 10?
A. I presume this is the one, because I was notified from the Financial Secretary that all the officers were supposed to appear, that the charge
20 was against Court Cavour, and I wrote that letter excusing myself on account of my business. I am a member of Court Cavour and I intend to be a member.

Q. Did you know anything about this letter C-8, which I show you?

MR. SCHOTLAND: I object to that; I don't see how that is competent.

30 THE COURT: I will let the question be asked, whether you saw that or heard it read?

A. No, I have no recollection of it.

Q. (By the Court.) Did you ever see that before? A. No, sir.

Q. Did you ever see C 9, this letter, before?

MR. SCHOTLAND: I object to that as being immaterial at this time.

40 Allowed.

Q. Just look at that letter and say whether you

Gabriel Matonti—Direct.

have seen it? A. I never knew anything about this.

Q. The letter is addressed to the Financial Secretary, and it is a communication to the officers and members of the Court. A. If I read it, or you shall read it to me I will know something about it.

THE COURT: Well, let him say whether 10
that was ever read, or its contents communicated.

A. Yes, I heard about this.

MR. SCHOTLAND: How can it be material?

A. I heard about this, Mr. Schotland, yes, sir. Now, if your Honor please, if you want to give me a moment of time I will explain about this 20
and the other. I know all about it.

Q. What is the explanation which you want to give?

MR. SCHOTLAND: I object.

Q. Do you want to give any explanation?

THE COURT: Oh, no. If you want to ask any question that relates to that letter you may do so, subject to Mr. Schotland's objection. 30

MR. FINELLI: I cannot do that, because the witness says, I desire to give an explanation to those two communications; now that is all I can say, give your explanation.

THE COURT: Well, you may state your explanation, if it relates to that letter.

A. That letter is referring to the same trouble that happened in the Court Cavour between two 40

Gabriel Matonti—Cross.

brothers, and that is the letter that is sent to the Financial Secretary that the matters between brothers and brothers should be adjusted before September; if I am not mistaken that thing was already adjusted when the—

THE COURT: No. That is all.

10 A. That is all that is needed.

MR. SCHOTLAND: I ask that the latter part be stricken out.

A. Brothers shake hands with each other, and everything was adjusted.

THE COURT: Strike that out.

CROSS EXAMINATION BY MR. SCHOTLAND.

20 Q. Now, Mr. Matonti, you say there is no provision in the laws of your Court, by means of which your funds can be forfeited to the Grand Court; is that right? A. Well, can be forfeited, what do you mean? To the Grand Court?

Q. Yes. You say there is no law in your by-laws under which the Grand Court can take the money of Court Cavour, No. 133? A. No, I didn't say that, I don't think I did.

30 Q. Oh, then there is a law? A. I don't know what there is.

Q. You don't know then whether there is any such law or not? A. I am not quite sure of it.

Q. I call your attention to section 5 of the constitution of Court Cavour, No. 133, exhibit C-5, which provides that Court Cavour recognizes the authority of the Supreme Court of the Order, and the authority of the Grand Court of the State of New Jersey, and it shall abide by, obey, agree to
40 and conform with the general laws of the Order

Gabriel Matonti—Cross.

and the Grand Court laws of the State of New Jersey as now in force, or as they may be hereafter enacted or amended; this constitution and by-laws of Court Cavour, No. 133, is a new one, adopted on the 30th of July, 1899, isn't it? A. Well, according to that, yes.

Q. Aren't they the signatures of your own by-law committee approved by the Grand Court. A. I suppose it is. 10

Q. You know your own members, don't you? A. The names are there, yes, sir.

Q. Now at that time, on the 30th of July, 1909, the Grand Court laws, to which your Court bound itself by its constitution, provided—exhibit C 4—

MR. FINELLI: I object to the question.

THE COURT: I will allow the question, but it does not help the case to show the witness a provision of the by-laws and ask him whether he knew of that provision, because he is bound to know of it, he is a member of the society, and whatever the provision is he is bound by it. Your questions are cross examination. 20

MR. SCHOTLAND: But if they are not going to make much difference in the case I don't want to waste the Court's time. 30

THE COURT: I do not think it will make any difference.

Q. Now, Mr. Matonti, you were treasurer of this Court Cavour, No. 133, at the time when the Court was dissolved, by order of the Executive Council? A. I was.

Q. Now, after the Executive Council dissolved Court Cavour when did it hold its next meeting? A. Well, a couple of weeks later, for to see what 40

Gabriel Matonti—Cross.

was going to do about it; then appointed a counsel.

Q. Was that a regular meeting of Court Cavour, where they transacted the business, the same as they always had in the past? A. That was a regular meeting, except that the regalias, we never had any regalias, because they were taken away.

10 Q. Answer my question. Was that the meeting at which the members of Court Cavour transacted the business of the Court the same as they had always done in the past? A. They did, except to collect in money, because people wanted to see if—

Q. Just one minute. They didn't collect any dues? A. Not at that time.

20 Q. Did they pay out any sick benefits? A. How could it? There wasn't any.

Q. Did they go through the regular ritualistic meeting that they had always? A. We hadn't any rituals.

Q. Answer my question. Did they go through the regular ritualistic form of meeting that they had always been having? A. No, because we didn't have it.

30 Q. I don't care for your reason; I want the fact? A. We would have gone through it if we had the rituals.

MR. SCHOTLAND: I ask that be stricken out.

MR. FINELLI: I don't think it ought to be stricken out.

40 THE COURT: Mr. Schotland is entitled to an answer to his question, and when his question is answered he is entitled to have the witness stop.

Q. Mr. Matonti, where was that meeting held

Gabriel Matonti—Cross.

that you refer to, after the Court was dissolved by the Executive Council? A. Well, there was one meeting called at Miele's hall, corner of Eighth avenue and Sheffield street.

Q. Was that the regular meeting hall where the Court used to hold its meeting? A. No, but we held another one previous to that in the regular hall.

10

Q. Was that the regular meeting hall where your organization used to hold its meeting? A. Wasn't.

Q. What is the answer? A. Wasn't.

Q. It was not? A. No.

Q. Was it held on the regular meeting night of your organization? A. Yes.

Q. What night was it held on? A. I don't remember, but I know it was on the second and fourth Tuesday of each month, and I know it was one of the regular meetings.

20

Q. The second and the fourth Tuesday of each month are supposed to be the meetings of Court Cavour? A. Yes, sir.

Q. You say it was held on either the second or fourth Tuesday of the month? A. Must have been; records are there.

Q. What is that? A. I presume there must be some records.

30

Q. (By the Court.) Did you have a record, did you keep minutes? A. No.

Q. Then what do you mean when you say it is on the record? A. Well, probably the secretary, the corresponding.

Q. Did you have a secretary? A. Yes, there was a secretary there.

Q. Did he write out the minutes? A. He write out the minutes.

40

Gabriel Matonti—Cross.

Q. Who was the secretary? A. DeMaio.

Q. Was he the regular secretary of the Court?

A. He was.

Q. What secretary was he? A. Corresponding.

Q. You mean the recording secretary? A. All right, recording.

Q. When was that meeting held, what month?

10 A. Well, I presume it must have been a couple of weeks that the Court was dissolved.

Q. That would make it about the fourth Tuesday of November? A. Maybe sooner or later, I haven't no recollection of it exactly.

Q. What happened at that meeting, what was done? A. Well, it was taken up, the matters, with them.

20 Q. (By the Court.) In the first place, how many were there? A. Oh, the hall was full, mostly every one there.

Q. (By the Court.) Two or three hundred people? A. Fully that.

30 Q. What was done there? A. Well, they decided to take a counsel and let the Court decide this matter, because they found out that the money was tied up, checks all came back, and they hired counsel; that was the time that Mr. Finelli was appointed.

Q. He was appointed then to get the money for the Court? A. He was appointed to see what was to be done.

Q. Was there anything else done at that meeting? A. Except that.

Q. What is that? A. Except that.

Q. Nothing except that? A. No payments were made.

40 Q. Was that all that was done at that meeting? A. That is about all I can remember of.

Gabriel Matonti—Cross.

Q. Do you know who called that meeting? A. Why, committee, financial secretary, recording secretary, chief ranger, I suppose.

Q. Well, do you know? A. I presume that is who they were.

Q. I don't want to know what you presume. What do you know? A. I don't exactly recall, but I guess that is the committee that called it. 10

Q. Do you know? Not your guess. A. No.

Q. You don't know who called the meeting? A. No.

Q. Did you receive a notice for that meeting? A. I think I did, a postal card.

Q. Are you sure? A. I am sure; not now I haven't got it.

Q. You haven't got the card now? A. No, sir.

Q. When was the next meeting held after that? 20
A. Well, I have no recollection, Mr. Schotland; I am full of business, you know, and when the regular meeting is held I go to the meeting.

Q. Well, it was a good long time after that before a meeting was held, wasn't it? A. Not very long, no.

Q. How long? A. Then I went to Italy, you know, for two or three months.

THE COURT: How can the witness testify 30
as to what happened when he was in Italy?

MR. SCHOTLAND: He testified he went to Italy in March, if your Honor please.

THE COURT: No.

A. I went to Italy fourth of January.

Q. (By the Court.) Now the question is whether there was any meeting between the meeting at which Mr. Finelli was appointed to advise, 40

Gabriel Matonti—Re-Direct.

and the time you went to Italy? A. Yes, I am pretty sure it was.

Q. (By the Court.) Were you present at the meeting? A. No; I didn't take much interest into it.

Q. You were not there at any other meeting except the one? A. No.

10

RE-DIRECT EXAMINATION BY MR. FINELLI.

Q. Were you accompanied to Italy by any other officer of Court Cavour?

MR. SCHOTLAND: What difference does that make?

A. Chief Ranger and I, Oreste Cerrato, we traveled through Italy together.

20

Q. Were you in this country at the time of the new election in March? A. No.

MR. SCHOTLAND: In April the officers were elected.

Q. Well, you were not here? A. I wasn't present, I wasn't here.

Q. Were you elected to take office in March of this year? A. No, sir.

Q. Weren't you elected last year? A. Last
30 year?

Q. You were one of the officers re-elected last year? A. Yes, sir.

Q. To hold office?

MR. SCHOTLAND: He testified to that yesterday on your examination.

A. I resigned when I went to Italy.

Q. You resigned. Now what property has
40 Court Cavour except this—

Gabriel Matonti—Re-Cross.

THE COURT: What difference does that make?

MR. FINELLI: I desire to show that there is no other property left except the money.

—THE COURT: I will assume that, in the absence of proof to the contrary.

RE-CROSS EXAMINATION BY MR. SCHOTLAND.

10

Q. Did you resign as treasurer of the Court?

THE COURT: He said he did.

Q. When did you resign? A. When I went away I told them, verbally, I said "If anything happens, gentlemen, here is my resignation," to Mr. DeFeo, Mr. Matuno, the Chief Ranger.

Q. When was that you told them that? A. When I went to Italy.

Q. It was not at any meeting? A. It was not. 20

Q. You simply told these boys outside? A. Certainly.

Q. That you were going? A. Naturally.

Q. You call that a resignation from your office?

THE COURT: Didn't you say you gave them a written resignation?

A. Not in writing.

Q. (By the Court.) It was not in writing? 30
A. No.

Q. (By the Court.) It was just verbal? A. Just verbal.

Q. Not at a meeting? A. Not at a meeting; I hadn't anything in my possession, I said "If there is anything happens that you fix the court up, you may elect a new treasurer."

Q. That is what you told these two or three members? A. Yes, sir.

40

Gabriel Matonti—Re-Cross.

MR. FINELLI: I have just received a telegram from the Secretary of State that the certificate of Court Cavour was filed February 17, 1904, the certificate of the incorporation of this Court.

A. The financial secretary just informs me that I did write a resignation.

10 MR. SCHOTLAND: I will call for its production.

THE COURT: Never mind about that.

Q. You say you left with him a written resignation? A. He tells me, but I don't remember.

Q. You don't remember? A. No.

20 MR. SCHOTLAND: I withdraw my objection to the County Clerk's certified copy of Court Cavour certificate of incorporation going into evidence; all I wanted to know was that it was actually filed with the Secretary of State, and this gives me that information.

THE COURT: Yes, and it now appears it has been.

MR. FINELLI: And it is an exhibit in the case.

30 THE COURT: Yes.

Fiorini Casare—Direct.

FIORINI CASARE, sworn.

DIRECT EXAMINATION BY MR. FINELLI.

Q. What business are you in? A. Salesman for flour.

Q. Are you a member of Court Cavour? A. Yes, sir.

Q. How long have you been a member? A. 10
About seven years.

Q. Did you attend any meetings of the Court?
A. Yes, sir.

Q. When did you attend the last meeting? A.
The last meeting, about three or four weeks ago.

Q. Has Court Cavour been disbanded?

MR. SCHOTLAND: I object.

THE COURT: It appears from your evidence, and there is no proof to the contrary, and I presume there will be none, that most of the members of the old Court met in March and had an election and called themselves Court Cavour the constituted officers of Court Cavour, and that they have since that time been organized as Court Cavour. 20

MR. SCHOTLAND: Yes, that is since the first meeting in April. 30

THE COURT: Yes, that is Mr. Padula's evidence. Now, unless there is going to be some evidence to the contrary, you need not go over the same ground; if you have any new facts that you want to have appear in evidence you may ask this witness as to those.

Q. Were you an officer of Court Cavour in October, 1912? A. 1912, yes—I don't remember exactly, 1911 and 1912. 40

Fiorini Casare—Direct.

Q. Well, what office did you hold? A. Chief Ranger.

Q. You held the office of Chief Ranger? A. Yes.

Q. Was that the last office you held in Court Cavour? A. The last time?

Q. Is that the last office? A. Oh, about two
10 years ago.

Q. Do you hold any office now? A. No, sir.

Q. Do you remember the first meeting that was held after October 12th, 1912? A. The last meeting?

Q. The first meeting after the 12th day of October?

THE COURT: After the trial.

20 A. I don't remember exactly what date, I know there was a meeting, but I don't remember exactly the date.

Q. (By the Court.) Well, did you go there?
A. I don't remember exactly, because I don't know exactly the date.

Q. (By the Court.) Well, the time when Mr. Finelli was appointed counsel were you there? A. Yes.

30 Q. That was at what hall? A. What hall?

Q. Yes. A. Eighth avenue hall, Miele's hall.

Q. Who spoke at that meeting?

THE COURT: That does not make any difference. It appears now that the business transacted was to appoint counsel with a view of getting advice. Now, if anything else was done at that meeting you may ask this witness and he may state
40 it.

Fiorini Casare—Direct.

Q. (By the Court.) You remember the appointment of Mr. Finelli as counsel? A. Yes, sir.

Q. Was anything else done at that meeting, what was done at that meeting when I was appointed counsel for the association? A. Well, I don't understand very well just what you want, because I don't understand very good English.

Q. Except the appointment of me as counsel 10
was anything else done at that meeting? A. Make the regular meeting.

Q. What do you mean by "make the regular meeting"? A. Just anything, make the meeting, about the association.

Q. Well, what do you do at your regular meetings? A. Regular meetings is talking about the business of the Court, and payments, and pass bills, and everything like this.

Q. (By the Court.) What else do you remember, was done, what was done beside appointing Mr. Finelli? A. Well. 20

Q. Do you understand the word "besides", besides appointing Mr. Finelli lawyer, what else was done at that meeting? A. What?

Q. What else, what business, what work? A. Oh, after they make the appointment for the lawyer about this matter here, they make the appointment for the people. 30

Q. You mean selection of officers? A. Yes.

MR. SCHOTLAND: I don't think it is fair to me, when the witness does not quite understand the language, for us to have interjected here something that intelligent witnesses, who did understand the language, testified did not occur.

Q. (By the Court.) You understand the word 40

Fiorini Casare—Direct.

"do". What did they do besides elect Mr. Finelli, what else did they do? A. The association, the Court gave the order to Mr. Finelli for this matter here, this thing.

Q. (By the Court.) Now, what else did they do? A. And after ordinary business about the association, for the sick people, for the payment
10 for the bills and everything like this.

Q. Which meeting did you attend after that?
A. After that?

Q. Yes? A. For the election.

Q. Where was that, and when? A. For the election, I don't remember exactly the month, you know, I didn't mark it, just the day, down.

Q. (By the Court.) About what month was it, winter or spring? A. Winter.

20 Q. (By the Court.) Was it January or February? A. February, I think, I don't remember exactly the month.

Q. Did you receive any notification?

THE COURT: The minutes will show.

A. Yes, I received postal card, and I lost the postal card.

Q. Were there any members of Court Cavour
30 that protested against—

THE COURT: That does not make any difference.

Q. Do you know any members of Court Cavour who have refused allegiance to the organization that you now belong to?

MR. SCHOTLAND: I object to that.

THE COURT: You can show, if you wish, the roll of the new members, and you can
40 compare it with the roll of the old mem-

Frank De Feo—Direct.

bers, and that will show how many of the present members of what is now called Court Cavour were members of the old organization.

NOT CROSS EXAMINED.

FRANK DEFEO, sworn.

10

DIRECT EXAMINATION BY MR. FINELLI:

Q. Mr. DeFeo, are you an officer of Court Cavour? A. Not now, I am a lecturer.

Q. Is that one of the officers provided for in the by-laws? A. Yes, that is an officer.

Q. Did you have another office before that? A. Financial secretary.

Q. How long were you the financial secretary? 20
A. I think about two years.

Q. Did you keep a roll book, as financial secretary? A. Roll book? No, I haven't got any.

Q. Well, did you have one at that time? A. Yes, sure.

MR. FINELLI: Let us have the roll book of Court Cavour.

MR. SCHOTLAND: I have them here, but I don't think I ought to produce them; I don't know just what use he is going to make of them; here is a witness that I have subpoenaed to be here, and who did not appear; I don't know what use he is going to make of that roll book. 30

THE COURT: I think you are entitled to have that roll book for the purpose of comparing the old membership with the new. 40

Frank De Fco—Direct.

10 MR. SCHOTLAND: Yes, if this were the financial secretary of the new, who has the roll book of the new one, on the stand, if that was the one on the stand and would be able to compare with the members who actually enrolled themselves on the new one, I wouldn't have any objection; but this is an unfair way of comparing it; here is the old financial secretary, who has nothing to do with the roll of the present organization, and who is simply going to look over this roll and say they are the members.

THE COURT: Are you going to produce the present roll?

20 MR. FINELLI: There isn't any, I don't know that there is any.

Q. (By the Court.) There is a roll of the old membership, now is there not a roll of the new membership? A. Yes, sir.

Q. (By the Court.) Where is that? A. What do you mean by that?

30 Q. (By the Court.) A roll of the present members of the Court? A. Well, the Grand Court, you know, sent me notice in twenty-four hours to turn over the books and everything that belonged to the Court Cavour; I am a busy man and I don't want to get in trouble and I said "Well, I present you a hundred and fifty members, and I will turn it over right away."

40 Q. (By the Court.) Well, you turned it over Now the question is whether there is a new roll made up of the members of the new organization? A. The new organization. I had the old book, what the other secretary made, and I know the old members, and I call them off, when they

Frank De Feo—Direct.

have notification of the Grand Court, then I take a piece of paper, and I have a little book, and I call the meeting there; but I sent them over every book what I have in my hands.

Q. You had a private book of your own? A. Yes.

Q. A private book? A. Yes, just a private book. 10

Q. And you used the private book in order to notify the members? A. Yes, to call the people and let the people know what the Grand Court done.

Q. After you received C-13, that is the so-called official notification, dated November eleventh, did you call a meeting of Court Cavour? A. Yes, sir.

Q. How did you call it? A. I called it with a postal card, at Miele's hall. 20

Q. To whom did you send the postals? A. To any brothers, to all brothers.

Q. All brothers? A. Yes.

Q. All members of Court Cavour? A. Yes.

Q. Where did you get their names and addresses? A. Because I know a lot of them, and I have the little book what I used for collecting; you see I finished the collecting, and I kept my record for the insurance business, you know, 30 and I kept the record, and I got all those names, and I sent postal cards to let them know.

Q. How many times did you notify the members, by postal cards or otherwise? A. They owe me about fifteen dollars now for stamps; I go about three or four times to the meeting after that.

Q. That notification? A. Sure; postal cards and stamps. 40

Frank De Feo—Direct.

Q. When did you have the first meeting after November 11th? A. Was in January, it was November eleventh, and then was,—in March we didn't have one because we couldn't get the hall, we had to pay the rent; the landlord wouldn't let us go in because the checks were stopped.

10 Q. Let me refresh your recollection as to the first meeting. I show you this paper. A. Yes, I remember, it was in Miele's hall.

Q. (By the Court.) Do you remember what day you called it for? A. It was November eleventh, and then the twenty-first, I guess.

Q. 21st of November, you think? Well, look at this paper.

MR. SCHOTLAND: I object.

20 A. Or twenty-third, I don't remember exactly to a day.

MR. SCHOTLAND: I haven't any objection to this being used to fix the date, if it is used in the right way; if the witness will say that that paper was made out the night they had that meeting then this fixes the date.

30 Q. (By the Court.) Do you recognize that? Look at it. A. Yes, nineteenth of November.

Q. (By the Court.) Nineteenth of November? A. Yes, sir.

Q. (By Mr. Schotland.) Was that paper made out and signed at that meeting? A. Yes, on that night.

Q. Were you present at the election of the officers for this year? A. Yes, sir.

40 Q. When was that election held? A. January, I guess.

Q. How many members were present? A. Oh,

Frank De Feo—Direct.

about two hundred and seventy-five, at Miele's hall.

Q. Were the officers elected in the ordinary way? A. In the regular way.

THE COURT: Why, you have the minutes; put your minutes in evidence, they are the best evidence of what was done, and the best evidence you have now of an organization. 10

A. Yes, the recording secretary has the minutes of what they done that night.

Q. Where is he? A. I don't know why he don't come, but we had regular minute books there, what we done that night.

MR. FINELLI: The minutes are not in Court.

THE COURT: Can you get them? 20

MR. FINELLI: Yes.

THE COURT: Get them, and they will show the whole thing, they will give us the dates accurately and let us know just exactly what was done.

A. We wrote it on a blank piece of paper because we had no books.

Q. (By the Court.) You have got books now? 20

A. No, no books.

Q. (By the Court.) Who keeps the papers?

A. The recording secretary.

Q. (By the Court.) Who is he? A. Petro DeMaio.

Q. (By the Court.) Where is he? A. He is collecting, he is like me.

Q. (By the Court.) Where can you find him this morning? A. We can find him at Eighth 40 avenue, I guess; we call there this morning.

Frank De Feo—Cross.

THE COURT: Is there any objection to your putting in the minutes afterwards?

MR. SCHOTLAND: I would like to see them before they are put in.

THE COURT: Yes.

MR. SCHOTLAND: I want to ask this witness what is not strictly cross examination; he is here under my subpoena.

10

EXAMINED BY MR. SCHOTLAND:

Q. Mr. DeFeo, you were the financial secretary of Court Cavour No. 133, Foresters of America when it was dissolved by the Grand Court Executive Council? A. Yes.

Q. Now you turned over your books and papers to the Grand Court? A. Yes, sir.

20

Q. Did you turn over the applications which had been signed by all the members when they came in as members? A. Everything what was done; I turned everything what I had in my hand.

Q. Did you have the applications which had been signed by the members since the Court was in existence? A. Yes; the new secretary has it all in his desk, I don't know, I can't remember

30

all.
Q. Just a minute; answer my question. Did you have all the applications that had been signed by the members before they were initiated into the Court? A. Yes, it was in the desk.

Q. Did you give them to the Grand Court? A. I didn't know if I send for the express, and I telephoned if I should send the desk down, too; he said, "No, you make too much expense; we want the money"; that is what Brother Jobs say.

40

Frank De Feo—Cross.

Q. Where are those applications? A. I don't know, maybe in the desk there of the financial secretary; I don't want the application; I sent some money too there, with a check, after the meeting was over.

Q. I haven't ask you anything? A. Well, I haven't got anything any more, and I didn't want to have any trouble.

Q. Did you give or turn over the applications to the Grand Court? A. I don't remember if I sent them all, or some, because I sent them with the express, everything, and only the desk was there, and I have no room to keep anything. 10

Q. Did you keep the applications of the members, did you make it a practice to keep them? A. We keep the applications in the desk; I don't know whether they are there or sent over.

Q. Where is that desk? A. The new financial secretary has it. 20

Q. What is that? A. The new financial secretary has the desk.

Q. He has the desk? A. Yes.

Q. Who is the new financial secretary? A. Mr. Padula; he is right here.

Q. And the applications were in the desk? A. Maybe, I don't know, I don't remember if I sent them all with the express or not, because the desk was closed. 30

Q. Were the applications like this one? (I am showing the one which was conditionally used)? A. Yes.

Q. They were the same form? A. Yes, same form.

MR. SCHOTLAND: I now ask that this go into evidence.

Pasquale Matulo—Direct.

MR. FINELLI: I think it ought to go in evidence.

Marked exhibit C 19.

PASQUALE MATULO, sworn.

10 DIRECT EXAMINATION BY MR. FINELLI.

WITNESS: I cannot speak very good English.

Q. Are you a member of Court Cavour? A. Yes, sure.

Q. How long have you been a member? A. Ten years.

Q. Are you an officer of the Court now? A. Now, yes, sir.

20 Q. What office do you hold? A. Chief Ranger.

Q. Are you holding meetings? A. Yes, sir.

MR. SCHOTLAND: I object to any further oral testimony as to their meetings, and all that.

(Question allowed).

NO CROSS EXAMINATION.

30 THE COURT: I think you ought to have the privilege of putting in your minutes, and then we will have more certainty with respect to dates and more certainty with respect to what is actually done at the meetings. I do not think that it will make very much difference, because there is enough in to show that they did try to reorganize and they did try to continue the business in much the same way as they had before; they did not have their regalia, but as far as they could they tried

40

Pasquale Matulo—Direct.

to do pretty much the same as they did before.

MR. SCHOTLAND: Since the first of April. That is admitted.

MR. FINELLI: I would like to offer this power of attorney to me.

MR. SCHOTLAND: I don't see how that is material. 10

Admitted.

Marked exhibit D 4.

MR. FINELLI: And also a letter; they have made an allegation in their bill of complaint about receiving a certain communication from the National Newark Banking Company. I desire to show my letter to the vice president of the National Newark Banking Company, showing just 20 what our claim was at that time

MR. SCHOTLAND: I don't see how that is material.

THE COURT: I will overrule that.

MR. FINELLI: Now I rest, except with putting in the minutes.

MR. SCHOTLAND: I spoke of the petition of the thirty eight members of Court Cavour, and didn't put it in evidence. I 30 will put that in evidence.

MR. FINELLI: I don't know whether that is part of the case.

THE COURT: I will admit it.

Eugene Dotto—Direct.

EUGENE DOTTO, sworn.

DIRECT EXAMINATION BY MR. SCHOTLAND:

Q. Mr. Dotto, are you a member of the Order of Foresters of America? A. Yes, sir.

Q. Member of what Court? A. Court Garibaldi No. 137.

10 Q. Are you an officer in the Grand Court? A. I am.

Q. What officer? A. Supervising deputy over five Courts.

Q. And as such supervising deputy did this paper come to your hands? A. Yes, sir.

Q. Who delivered it to you? A. Mr. Vincenzo Traiana.

20 Q. Is that the name whose signature appears there as the first one? A. Yes, sir.

MR. SCHOTLAND: I am going to offer this petition in evidence.

MR. FINELLI: But first show who was Mr. Traiana, or who were those subscribers, and you don't call Mr. Traiana, you don't identify the signatures.

30 MR. SCHOTLAND: I intend to subsequently prove by the membership roll book that every one of these signatures are signatures of members of Court Cavour No. 133, by another witness; I cannot prove it by this witness

THE COURT: I doubt whether the signatures prove themselves.

Q. Do you know any of these signatures, yourself? A. Yes, sir.

40 Q. Point out those that you know; did you see any of them sign? A. Vincenzo Traiana's signa-

Eugene Dotto—Cross.

ture I know, because I saw it perhaps ten times a month, in my presence.

Q. Yes, go on? A. Giuseppe Sozio and Gerardo Spotola.

MR. FINELLI: They are defendants in this case.

Q. You know those signatures. Now any others? A. Gabriele Caprio and Salvatore Cortese, and Doctor Nicola M. Matturri; that is about all I know. 10

Q. You know those signatures to be signatures of those men? A. Yes, sir, this appears to be their signatures.

MR. SCHOTLAND: I renew my offer.

THE COURT: Do you want to cross examine? 20

CROSS EXAMINATION BY MR. FINELLI:

Q You were counsel for Court Cavour?

MR. SCHOTLAND: I object.

Q. How did this paper come into your hands? A. Why, Mr. Traiana himself delivered it to me.

Q. Where? A At my office, and asked me to forward it to the Grand Court office at Jersey City. 30

Q. Well, when? A. Well, I suppose it must have been about a month after the dissolution of the Court or perhaps later.

Q. It bears date November 13, 1912; is that the date that you received it? A. That is the date that it was received at the office in Jersey City.

Q. It was received at Jersey City on the 13th day of November? A. I presume, because that is stamped Jersey City. 40

Eugene Dotto—Cross.

Q. How long did you have it in your possession?
A. Perhaps a week or ten days or perhaps two weeks.

Q. Was this paper prepared by you? A. It was prepared in my office at the request of Mr. Traiana.

Q. It was prepared under your supervision,
10 wasn't it?

MR. SCHOTLAND: What difference does that make?

Admitted.

Q. It was prepared? A. It was prepared in my office.

Q. When did you prepare this paper?

THE COURT: A week or two before the
20 thirteenth of November, he said.

Q. A week or two before the thirteenth of November? A. A couple of weeks or so, yes.

Q. You are an officer of the Grand Court, and I suppose you were cognizant with the passing of the resolution dissolving Court Cavour?

MR. SCHOTLAND: I object. I hadn't
30 finished with the witness, and he is going into a general cross examination; I supposed he was simply going to cross examine him as to the competency of this paper before it goes in evidence; it is not in yet.

MR. FINELLI: I want to know when this paper originated, I want to fix the time.

THE COURT: He has given you the time as nearly as he can. Now what else do you want?

40 Q. How long before or after October 12th, was this paper prepared by you?

Eugene Dotto—Cross.

Objected to.

Q. How long did Mr. Traviana have it before he brought it back to you? A. Perhaps a week or so.

Q. You had nothing to do with the signatures? A. No, sir.

Q. You don't know whether the signatures are genuine? A. Any more than I have told you. 10

THE COURT: He has testified to the signatures that he knows; I will allow it to go in evidence.

MR. FINELLI: I desire to object to it.

THE COURT: Subject to objection, of course.

Marked exhibit C 20.

MR. SCHOTLAND: If there is any question about the other names being genuine I want to ask the Court to reserve the right to call Mr. Traiana to prove those signatures. 20

MR. SCHOTLAND: I want to call the Court's attention to section 179, found on pages 48 and 49 of the constitution and general laws of the Order, calling particular attention to the duties of the financial secretary; the general laws provide: He shall make out all notices, not otherwise provided for, and conduct the correspondence of the Court. 30

Michael Padula—Direct.

MICHAEL PADULA, recalled.

DIRECT EXAMINATION BY MR. FINELLI:

Q. Mr. Padula, do you know Doctor Matturri?

A. Yes.

Q. Was he present at the election held by Court Cavour in February of this year?

10

MR. SCHOTLAND: I object.

A. Yes, sir.

MR. SCHOTLAND: I object to it; this is the financial secretary of the new organization until he produces the membership roll I object to oral contradiction without his roll of members.

20

THE COURT: If he can recollect independently of the roll the evidence is competent.

Q. Did he not, at that election—

THE COURT: Ask him whether he took part.

Q. Did Doctor Matturri take part in the election? A. He was there, yes, sir.

Q. Do you know Vincenzo Troiana? A. Yes, sir.

30

Q. Do you know whether Mr. Troiana has taken any part in your organization after October 12th, 1912? He has been at two or three meetings that we have had.

Q. Did he take part in the meetings? A. Yes, sir.

Q. Do you know Mr. Cortese? A. Yes, sir.

MR. SCHOTLAND: I object to this.

THE COURT: I will allow the evidence.

40

Q. Was Mr. Cortese present at any of your meetings? A. Yes, sir.

Michael Padula—Direct.

Q. How many? A. All of them, as far as I know.

Q. Took part in all of the meetings? A. Yes, sir.

Q. Supposing you look at the list here.

THE COURT: Your examination must be confined to those signatures on which proof has been given. You objected to the document on the ground that the signatures were not proved. Now I regard that paper as a paper which has been signed only by those whose signatures have been proved, and therefore the examination must be confined to them, unless you are willing to admit that all the people who purport to have signed that paper have signed it. 10

MR. FINELLI: No. 20

THE COURT: Then you must confine your examination to the signatures proved.

Q. Do you know Gerardo Spotolo? A. Yes.

Q. Has he attended any of your meetings? A. Yes.

Q. How many meetings? A. Most all of them.

Q. Took part in them? A. Yes, sir.

Q. Is Mr. Spotolo an officer of your organization now? A. Well, I am not sure, I think he is a trustee—is he? Yes, he is a trustee. 30

MR. SCHOTLAND: I want to put in my objection to all this testimony.

THE COURT: It will be given subject to your objection.

MR. SCHOTLAND: There is an answer dictated by the witness in the back of the room that he is a trustee. 40

THE COURT: Well, the audience must not make any signs to the witness.

Michael Padula—Cross.

A. I don't want to convict myself, you see I wasn't certain.

Q. Do you know Gabriele Caprio? A. I know him, yes.

Q. Did he take part in your meetings? A. Yes, a couple of meetings that I know of, yes, sir.

10 Q. I have reference to meetings after the supposed dissolution? A. Yes, sir.

CROSS EXAMINATION BY MR. SCHOTLAND:

Q. You are financial secretary of this new organization, or the reorganization? A. Yes sir.

Q. You have the book of the members who pay dues? A. Yes, sir.

Q. Where is that? A. At home.

20 Q. You said that yesterday too, didn't you? A. Yes, sir.

Q. Why didn't you bring it today? A. It wasn't requested of me and I didn't think about it; I can get it for you, it won't take me long, I have an automobile outside.

Q. Is Vincenzo Troiana enrolled in that book? A. I don't think so.

Q. Is Gerardo Spotolo enrolled in that book? 30 A. I am not certain.

Q. Is Guiseppe Sozio enrolled in that book? A. No sir, not that I know of.

Q. Is Gabriele Caprio enrolled in that book? A. No, sir.

Q. Is Salvatore Cortese enrolled in that book? A. Yes, he paid his dues.

Q. Is Doctor Matturri enrolled in that book? A. I don't think so.

40 Q. Do you know the signatures of any of these people? A. The signatures?

Michael Padula—Re-Direct, Re-Cross.

Q. Yes? A. It is hard for me to tell the signatures, I may know some of them.

Q. I mean do you know their signatures? A. No, sir.

RE-DIRECT EXAMINATION BY MR. FINELLI:

Q. What is that book that you refer to, what does it contain, that is, generally? 10

THE COURT: He said yesterday that it contained the names of those that paid dues.

A. Yes, sir.

Q. Anything else except that? A. That is all, just those that pay dues.

Q. And no other names? A. And those that were present at the meeting. 20

RE-CROSS EXAMINATION BY MR. SCHOTLAND:

Q. And those what? A. That were present at the meeting.

Q. And it contained those who were present at the meeting? A. Not all those, some of them.

Q. It is the only membership roll book that you have got is it not? A. Yes, sir.

Q. And you are the officer supposed to have the membership roll book? A. Well, so far everything has been established right; the recording secretary should have that, but so far I have the book. 30

Q. You have it so far? A. Of those that pay.

Q. And that is all that constitutes the membership roll at the present time? A. Yes, sir, because we haven't got books enough; we thought we would get the books from the Grand Court, and we don't want to go to the expense of getting 40 more.

Michael Padula—Re-Cross.

MR. FINELLI: Now I want to corroborate this witness as to the attendance.

THE COURT: I do not think it is necessary to do that; if you have anybody else that you want to show attended, that is a different thing, if you want to supplement the evidence.

MR. FINELLI: No.

10

THE COURT: Then the case is closed, except that Mr. Finelli may put in evidence the paper that he wished to put in evidence, and you may call the witness for the purpose of proving the hand writing of the other persons on this paper.

MR. FINELLI: And at the same time explaining the attendance, if any, at any of those meetings.

20

THE COURT: Yes.

MR. SCHOTLAND: Yes, otherwise the case is closed.

MR. FINELLI: I will withdraw the putting in of that evidence, I don't think it is important.

30

MR. SCHOTLAND: Well, I won't; I think it is quite important. If Mr. Finelli will admit the genuineness of those signatures, so that all those names can be considered I am perfectly willing to rest the case.

MR. FINELLI: Oh, no.

ADJOURNED until Wednesday, May 14, 1913, at
Chancery Chambers, Newark, N. J.

40

*Colloquy.***In Chancery of New Jersey.**

Between :

THE GRAND COURT FORESTERS OF
AMERICA, STATE OF NEW JERSEY,

Complainants,

and

COURT CAVOUR NO. 133 FORESTERS
OF AMERICA, et als.

Defendants.

10

Before :

His Honor Vice Chancellor Stevens.

Philip J. Schotland, Esq., for the complainants. 20

Anthony R. Finelli, Esq., for the defendants.

Messrs. Pitney, Hardin & Skinner for National
Newark Banking Company.

TRANSCRIPT of shorthand report of the evidence given upon the trial of the above stated cause, on Wednesday, May 14th, 1913, at Chancery Chambers, Newark, N. J.

MR. SCHOTLAND: If the Court please, I have subpoenaed Mr. Troiana, but he does not seem to have appeared, and that is all that was left out of the case, and that is all I was permitted to put in, to prove these signatures, and the case was closed except for that, and the roll book and minute book on the other side. 30

THE COURT: I do not know whether it makes very much difference whether you prove the signatures of all or only a part. 40

MR. SCHOTLAND: Well, of course I have

Colloquy.

proved a part. I will rest then. I simply wanted to show the Court that I made the effort to have him subpoenaed.

10 THE COURT: If I find, on examining the evidence, that this is a material matter, and if I find that it is going to make any difference in the decision of the case I will allow the evidence to be put in hereafter.

MR. SCHOTLAND: Now I am through.

MR. FINELLI: Is Mr. Schotland going to put in the certificate of incorporation of the Grand Court?

MR. SCHOTLAND: Oh, I had forgotten all about that.

20 MR. FINELLI: Well, I will say that I sort of anticipated something of the kind, and I will offer in evidence a certified copy of their certificate of incorporation.

MR. SCHOTLAND: Both of 1889 and 1906.

MR. FINELLI: I don't know of any 1889; I simply have one and that will speak for itself.

30 MR. SCHOTLAND: If the Court please, I will get a certified copy of the 1889 charter and submit it to Mr. Finelli, and then send it to you.

THE COURT: By the 1889 charter you mean the charter granted by what body?

MR. SCHOTLAND: I mean the certificate of incorporation of the Grand Court of the State of New Jersey originally incorporated in 1889, reincorporated under the 1898 Act and 1906. Mr. Finelli has here the certificate of incorporation of 1906.

40 MR. FINELLI: And it says nothing concerning any former Act or anything of

Colloquy.

the kind. What I say is this, we have requested Mr. Schotland to produce these papers and he has not. Now I know of this certain document, of this certain certificate, and I produce it, inasmuch as he doesn't. I offer in evidence a certified copy of the certificate of incorporation of the Grand Court of the State of New Jersey Foresters of America the complainant in this case, attested by the Secretary of State, David S. Crater, certifying that this is a true copy of their certificate. 10

MR. SCHOTLAND: I object to it on the ground that it is absolutely immaterial to the issues involved in this case. The defendant is estopped from in any way questioning the existence of the complainant in the suit by their own writings, by their own constitution of 1909 which is in evidence. 20

THE COURT: Was it not applied for by the Grand Court?

MR. SCHOTLAND: Yes, Grand Court of the State of New Jersey, certainly, the complainants.

THE COURT: And is it not part of your title? 30

MR. SCHOTLAND: No.

THE COURT: Do you mean to say you repudiate this?

MR. SCHOTLAND: No. I say it makes no difference in the case.

THE COURT: If you do not repudiate it then I will let it go in, and it can be supplemented by proof of the former act of incorporation. 40

Marked Exhibit D 1, May 14, 1913.

Pietro De Maio—Direct.

MR. FINELLI: Now I want to prove the minutes of our organization, November nineteenth, and from that date on.

PIETRO DE MAIO, sworn.

DIRECT EXAMINATION BY MR. FINELLI:

10 Q. Do you hold any office in Court Cavour, Foresters of America? A. I don't understand.

Q. Don't understand English? A. No, sir.

Q. Are you the secretary of Court Cavour? A. Yes, sir.

Q. How long have you been secretary? A. Nine or ten years.

Q. What secretary are you? A. Recording
20 secretary.

Q. For nine years. Have you the minute book of Court Cavour? A. Yes, sir.

Q. Where is it? A. Here. (producing book).

Q. Who is the treasurer of Court Cavour?

THE COURT: Have you not proved all that? It is not worth while to prove anything that you have already proved.

30 MR. FINELLI: I want to call attention that one of the signers is Luigi Avalone, and I want to prove that he is at present the treasurer of this defendant.

Q. Who is the treasurer of your society? A. President?

Q. Treasurer?

40 MR. SCHOTLAND: That is not one of the names testified to by Mr. Dotto; he marked his, and there is no such mark opposite any such name

Pietro De Maio—Cross.

THE COURT: You can prove as a fact who the treasurer is, but whether there was any name corresponding to his on that paper is another matter altogether.

Q. Who is the treasurer? A. Luigi Avalone.

Q. What is this book you have, what is it? A. Recording book.

Q. Recording book, and who keeps that book? 10

A. Another book?

Q. Who keeps this book? A. Myself.

Q. And what is recorded in this book on this first page here? A. Court Cavour 133, Foresters of America.

Q. What meeting? A. Meeting November, 1912.

Q. Are there any other meetings recorded? A. Sure.

Q. Which is the second meeting? A. 28th of 20
January, 1913.

Q. Any other meetings? A. Yes, sir, 6th of February, 1913.

Q. Any other meetings? A. 3rd April, 1913, 8th April, 1913, 22nd April, 1913, the last day, 13th May, 1913.

Q. Last night? A. Last night.

THE COURT: Well, do you offer the minutes in evidence? 30

MR. FINELLI: Yes.

CROSS EXAMINATION BY MR. SCHOTLAND:

Q. When did you write these minutes up in this book? When did you write in this book?

A. Myself.

Q. When, yes? A. Every meeting.

Q. Didn't you write these all up at one time? 40

A. No, no.

Pietro De Maio—Cross.

Q. Didn't you have the minutes on loose papers, on separate papers or loose papers? A. I don't understand.

Q. You don't understand? A. No.

Q. Do you know what a piece of paper is? At the meeting, did you have this book at the meeting? A. Yes, sir, every meeting.

10 Q. When you started the first meeting, November 19, 1912, you had this book there? A. Yes, sir.

Q. And when everything happened you wrote it right in this book? A. No, sir, I got the minutes, I got the papers, the minutes.

Q. And when did you write it in this book? A. Couple of days after the meeting.

20 Q. When did you put the writing in this book? A. 19th November, the minutes, on the morning of the 20th of November I write the minutes.

Q. You wrote the minutes in this book on the morning of the twentieth of November? A. Yes.

Q. And that is the way you did all? A. Yes, sir.

Q. You are sure about that? A. Sure.

30 Q. When was Frank DeFeo elected Chief Ranger? A. What this question? I don't know.

Q. When was Frank DeFeo elected Chief Ranger? A. Chairman at two meetings, Frank DeFeo.

Q. When was he elected? A. What this question? I don't know.

Q. Frank DeFeo signed these minutes as Chief Ranger, didn't he? A. Two minutes.

Q. The first and second? A. First and second, yes.

40 Q. November 19th, and 28th, of January? A. Yes, sir.

Pietro De Maio—Cross.

MR. FINELLI: Twenty-third of January.

MR. SCHOTLAND: Twenty-third may be the exact date; these minutes are the twenty-eighth.

A. Twenty-eighth of January.

Q. When was Frank DeFeo elected Chief Ranger? A. Not Chief Ranger, the chairman.

Q. Did you write this? (indicating in book). 10

A. Yes, sir.

Q. Did you write this? (indicating). A. Yes, sir.

Q. What does that say? A. Just the chairman.

Q. What does this say in this book? A. The chairman, the Chief Ranger.

Q. Where does it say "chairman?" A. Frank DeFeo.

Q. Where does it say "chairman?" A. I don't know. 20

Q. It says "Chief Ranger," does it, doesn't it say "Chief Ranger?" A. Yes.

Q. You wrote that? A. Chief Ranger.

Q. When was he elected Chief Ranger? A. Well, on the night of the nineteenth of November; I wrote the Chief Ranger, Frank DeFeo, in this minutes, Chief Ranger, Financial Secretary, Frank DeFeo, and acting in 1912, November, 1912. 30

Q. Nineteenth of November, 1912? A. Yes, sir, for two minutes.

Q. He was elected for two meetings? A. For three months, two meetings, yes.

Q. Does it say so here? A. November, December and January, three months.

Q. Didn't you write all these pages all at one time? A. What is the matter? 40

Pietro De Maio—Cross.

Q. Didn't you do that since last week, didn't you write in this book everything that is in here, since last Wednesday? A. Last Wednesday?

Q. Yes, since last Wednesday? A. I don't understand. Give me the question in Italian.

THE COURT: Have you any objection to Mr. Finelli translating the question?

10

MR. SCHOTLAND: No.

(Mr. Finelli then put the question to the witness in Italian).

A. No, sir, I write these pages about a day or so after each meeting.

THE COURT: Do you offer these in evidence?

MR. FINELLI: Yes.

20

MR. SCHOTLAND: I object to it without an English translation. I suggest Mr. Mancusi Ungaro, an attorney and officer of this court, make the transaction; he is not connected with any side of this case, he is not a member of our Order, and is a very competent person to do it.

MR. FINELLI: Mr. D'Aloia is associated with us, and we will translate it ourselves.

30

THE COURT: No, let it be translated by somebody on whom you agree.

MR. FINELLI: All right, we are satisfied. Marked Exhibit D 2, May 14, 1913.

MR. SCHOTLAND: I see Mr. Troiana has now appeared, and I will call him.

40

Vincenzo Troiana—Direct, Cross.

VINCENZO TROIANA, SWORN.

DIRECT EXAMINATION BY MR. SCHOTLAND:

Q. Mr. Troiana, I show you exhibit C 20; is this your signature? A. Yes, sir.

Q. Now, did you see any of the other persons whose names are here sign? A. Every one is signed I see. **10**

Q. They all signed in your presence? A. Yes, sir.

CROSS EXAMINATION BY MR. FINELLI:

Q. Mr. Troiana, do you know the contents of this paper? A. Well—

Q. Now just answer the question, do you know the contents of that paper that you signed? A. The contents of the paper, I explained it to the lawyer, to Mr. Dotto, to make an application to the Grand Court, I wanted to be a member of the Grand Court, and don't want to be out. **20**

Q. That is what you told Mr. Dotto to prepare? A. Yes, sir.

Q. (By the Court) Did you read the paper after he prepared it? A. I read the paper, but really I couldn't understand very carefully what it contains. **30**

Q. (By the Court) I am asking you whether you read the paper at the time; did you read it? A. Yes, sir.

Q. You were the Chief Ranger of Court Cavour?

MR. SCHOTLAND: Objected to as not cross examination.

A. Sub-Chief Ranger.

MR. SCHOTLAND: The witness was only **40**

Vincenzo Troiana—Cross.

produced to identify the signatures, just like a subscribing witness.

(Admitted).

Q. Did you know, Mr. Troiana, that this paper stated that the officers of Court Cavour had brought the Order into disrepute and ridicule, and have caused such a disgrace among the Italians
10 of the city of Newark?

THE COURT: Well, did you read that sentence?

A. Well, I read that, because I was notified in the Court.

Q. But you were an officer yourself? A. I wanted to be out of the trouble.

Q. Was this first page attached to this document at the time you had these persons sign?
20 A. Yes, sir, and every one signed that paper, they gave me the full name and address too, and I got it on this paper here.

Q. Mr. Troiana, wasn't the paper that you had these men sign, whose names are on the second sheet here, a manuscript, something in the hand writing of Mr. Sozio? A. No, sir; that is the paper everyone has signed.

Q. Didn't you give Mr. Dotto a paper in writing?
30 A. I gave paper to Mr. Dotto to make a typewrite, or make it like that, and then it is signed.

Q. When did you give directions that this paper should be prepared?

THE COURT: That does not make any difference. The question is did those people sign this paper, and whether, when they did sign it, they knew what they were
40 signing; the cross examination must be confined to that.

Vincenzo Troiana—Re-Direct, Re-Cross.

A. I forget the time, I couldn't remember.

RE-DIRECT EXAMINATION BY MR. SCHOTLAND:

Q. You say that at the same time they each gave you their address and full name, and you made the list? A. Yes.

Q. And this is the list you made? (producing paper). A. Yes, sir. 10

MR. SCHOTLAND: I offer this other memorandum of the witness in evidence.

Marked exhibit C 21.

RE-CROSS EXAMINATION BY MR. FINELLI:

Q. In whose writing is this memoranda? A. Well, I write it myself.

Q. When did you write it? A. At the time everyone make the signatures on that paper. 20

Q. When did you write the first name on this memorandum, what date? A. You mean the date?

Q. Yes? A. I couldn't remember exact date.

Q. Was it before or after Columbus Day, 1912? A. I couldn't say because I don't keep in my mind that.

Q. You were present at Jersey City? A. Yes, sir. 30

Q. On Columbus Day? A. Yes, sir.

Q. Now, will you tell us whether this memorandum was made by you before or after that date? A. After that date.

Q. How long after? A. I couldn't remember, I didn't take careful notice about that because I didn't need it very much.

Q. Didn't you copy these names from a book in Jersey City? A. No, sir; every one I got it, 40

Vincenzo Troiana—Re-Cross.

every one signed and I asked the name and I put it in there.

10 MR. FINELLI: I would like to now call Mr. Sozio. We offer to prove that this paper here was not on this paper at the time it was signed. These signers did intend, and they were given to understand that if they made an application to the Grand Court the Grand Court would preserve their status as members, would give back to them their charter, and they would have their funds and their Court intact.

MR. SCHOTLAND: And this paper is to that effect, a petition for that purpose.

20 MR. FINELLI: Only this paper goes further. This paper admits that a lot of wrong doing has been done, and that the officers of Court Cavour disgraced the Order and committed offences and violations and were deserving of the punishments that they received. That is the only feature of the paper that we desire to controvert and we object to. If the paper merely goes in evidence as some evidence of the fact that the thirty eight members of Court Cavour, many of whom, or I will say all of whom are today affiliated with the defendants in this case, at some time or other attempted to resume their rights or their connection with the complainants, either by petition or otherwise, and in that way avoid litigation and get back all the property belonging to them, and why I don't object to the paper.

30

40 MR. SCHOTLAND: I will make an offer regarding this paper. This paper is addressed to the Grand Chief Ranger and

Vincenzo Troiana—Re-Cross.

the members of the Executive Council of the Foresters of America, and reads as follows:

“We, the undersigned, members of Court Cavour, No. 133, Foresters of America, which court was dissolved by the Order of the Executive Council on November 9th, 1912, respectfully show that we have always
10
respected the laws and regulations of the Order, and are not responsible for the disobedience or disregard of the laws or regulations of the same by some of our former officers, and feel keenly the moral effect that the officers who formerly guided us carried us into destruction and dishonor. Therefore, we respectfully request you to reinstate such members as are innocent of any violation whatsoever against the laws and
20
regulations of Court Cavour or the laws and regulations of the Order, either under the same charter or a new one, and by doing so you will do justice to those that have done their very best and have sacrificed themselves for the welfare of the Order and punish those who have not only disobeyed the laws and regulations of the Order, but brought the Order into disrepute and ridicule, and have caused such
30
a disgrace amongst the Italians of the City of Newark.

We sincerely hope that after considering all the facts, you will grant us the request herein prayed for and outline to us how to proceed to reorganize either under the same charter or under a new one the former innocent members of Court Cavour No. 133.”
40

Vincenzo Troiana—Re-Cross.

10 Now the paragraph that Mr. Finelli seems to object to is that there is an admission implied in this which he says some of the signers did not intend to make that the Court disobeyed the laws, but of course the paper does not contain any such thing. All the paper admits is that some of their officers, and I make this offer, if he says everything else was intended I am perfectly willing to mark off that part of it, and ask the Court not to consider that paragraph as admitting any wrong doing in the decision of the case. I don't think it makes any difference.

20 THE COURT: Now the question is whether or not you agree that those clauses to which Mr. Schotland has referred shall be disregarded. Do you agree to that?

MR. FINELLI: Yes.

THE COURT: Then that is all you want to prove. You want to prove that the gentlemen who signed that paper did not intend to express any opinion on that subject.

MR. FINELLI: Yes.

30 MR. SCHOTLAND: I have marked off that paragraph for the court not to consider.

Michael Padula—Direct. Cross.

MICHAEL PADULA, recalled.

DIRECT EXAMINATION BY MR. FINELLI:

Q. Mr. Padula, you have a book there; what does that book show? A. This book shows the members that paid since April eighth.

Q. Does that book contain anything else except matters relating to Court Cavour? A. That is all. 10

Q. It is one of the records of Court Cavour? A. Yes, sir. I used an old book that the other secretary used to use, and on April eighth I collected \$19.50, seventy five cents each, each paid seventy five cents.

Q. Did you collect any other money? A. And then on April twenty-second I collected \$13.50.

Q. Did you collect any other money? 20

MR. SCHOTLAND: That part of it is immaterial. All he was to do was to show how many members had actually paid dues; that is what the book was for.

MR. FINELLI: Well, I offer the book in evidence.

CROSS EXAMINATION BY MR. SCHOTLAND:

Q. How many members have paid dues to your society, how many have you got there? A. Twenty-sixth of April, eight. 30

Q. Don't count the same ones over again. Go ahead. A. No. On April twenty-second there is thirteen. April thirteenth—

Q. Have you got April twenty-second before April thirteenth? A. I mean this is May thirteenth.

Q. Are these the same members who paid in April? A. A couple of them, maybe four or five. 40

Michael Padula—Cross.

Q. Don't tell me how many paid on the different dates; all I want to know is how many members altogether have paid dues to your organization?

THE COURT: Just give us some idea.

Q. You got it there in the book; how many altogether? A. Well, I was counting them for you.
10 Now on May thirteenth there may be three or four that paid on the last meeting.

Q. You are talking about last night? A. Yes.

Q. No, no, I want up to the time that this hearing started?

THE COURT: Well, the book speaks for itself.

Q. There are only thirty nine who paid dues
20 before this trial on May sixth? A. No, no, there is more last night, there was more last night.

Q. Listen to my question. Only thirty nine paid dues to your organization up to May sixth, the time this trial started? A. Oh, up to May sixth. Yes, up to May sixth.

Q. That is correct, is it? A. Yes, sir.

RE-DIRECT EXAMINATION BY MR. FINELLI:

30 Q. Did you formerly have any receipt book with the carbon copy for members?

MR. SCHOTLAND: What difference does that make?

MR. FINELLI: I want to show that they were copied.

THE COURT: You want to introduce this book in evidence. I do not think it is worth while to go into endless details.

40

MR. FINELLI: Yes.

Michael Padula—Cross.

MR. SCHOTLAND: There was one letter I introduced secondary evidence of, and I was to prove that I served notice to produce. Mr. D'Aloia is the gentleman that was served; he is solicitor of record, and he signed Mr. Finelli's name, acknowledging that service, the night before. That is admitted now.

10

MR. D'ALOIA: Absolutely.

CASE CLOSED.

20

30

40

Exhibit C-1.

Abstracts of those parts of Exhibit C-1, which are material to the issues. The entire Exhibit being a printed book of ninety-six closely printed pages.

ARTICLE XXVI.**DELINQUENT COURTS.**

10 Section I. Any Grand or Subordinate Court may be suspended and dissolved, and its dispensation and rituals forfeited to the Supreme Court, or the proper Grand Court, and after such Courts shall have been notified of the offense and a suitable opportunity shall have been given to answer the charge or charges in the following cases:

1. For improper conduct.
- 20 2. For neglecting or refusing to conform to the Rituals, Laws, Ceremonies, Enactments, or Resolutions of the Supreme Court, Grand Courts, or Executive Council thereof.
3. For neglecting or refusing to make returns, or for non-payment of dues or taxes to the Supreme or Grand Court.
4. For neglecting to hold the regular meetings without proper authority, unless on account of unforeseen circumstances.
- 30 5. By its members diminishing so that less than a legal quorum is left.

ARTICLE XXVIII.**PRIVILEGES OF MEMBERS.**

Section I. Any member or members who voted with the minority against their Court disbanding or seceding from the Order, or against their Court

Exhibit C-1.

being suspended or expelled for noncompliance with the laws or decisions of the Supreme Court, Grand Court, or Executive Council thereof, or Arbitration Committee, shall, on satisfactory proof being made thereof, be still recognized as members of the Order, and in the event of their not being able to obtain admission into any other Court by clearance, in consequence of ill health or over age, they shall pay their dues to the Grand Court, and in case of sickness or death their sick pay or funeral benefits shall be paid from the Grand Court Sick or Funeral Fund, provided the Court to which said members belonged were members of the Funeral Fund, and such members whose Courts are not members of the Funeral Fund such benefits shall be paid from the Grand Court Management Fund, and such members shall pay to the Grand Court such dues and receive such benefits as the Grand Court Laws may provide, said benefits to be paid from the Grand Court Sick, Funeral or Management Fund, as the case may be.

In the event of any fifteen or more members voting in the minority, as above, so desiring it, they shall be recognized by the Executive Council of Grand Court as the same Court to which they formerly belonged, under a new dispensation, bearing the same number, which the Executive Council shall have power to grant in such cases, and the granting of which renewed dispensation shall thereby abrogate and cancel all powers and authority conveyed in any dispensation which may have been granted bearing the same number.

Section 2. Any member or members having voted in the minority against their Court seceding or disbanding and wishing to avail themselves of the above provisions, shall signify the

Exhibit C-1.

same within one calendar month to the Grand Court, provided such member resides for the time being at the same place in which the Court is held; but if any such member or members reside at a distance of over five miles they shall be allowed two calendar months to make their intentions known to the proper officers, who shall be authorized to supply proper clearances provided by the Grand Court to members requiring the same.

ARTICLE XLII.

POWERS OF GRAND COURTS, ETC.

Section 1. There shall be but one Grand Court instituted in each State, Territory, Province, or Dominion in America, where there are ten or more Subordinate Courts in good standing or hereafter instituted therein.

Section 2. In the event of there being but one Subordinate Court or less than ten Subordinate Courts in any State, Territory, Province, or Dominion, such Subordinate Court or Courts shall be under the immediate jurisdiction of the Supreme Court; but on application to the Supreme Chief Ranger may unite with any form part of any contiguous Grand Court, provided the assent of such Grand Court be first obtained.

Section 3. The powers of Grand Courts shall be to enact laws for their own government in conformity with the Constitution and General Laws of the Order, and subject to the approval of the Supreme Chief Ranger; to be governed by an Executive Council; to provide for annual or biennial sessions; to establish and to grant dispensations to Subordinate Courts within its jurisdiction upon such dispensation forms as are supplied by the Supreme Court; to have exclusive

Exhibit C-1.

jurisdiction over all Subordinate Courts connected therewith, excepting as provided by Article II of these laws; to incorporate themselves according to the laws of States, Territories, Provinces or Dominions in America within which they exist, if practicable and advisable; to provide a Management Fund; to provide a Funeral Fund for the payment of a fixed sum upon the death of a member or a member's wife, but it shall be optional with Grand Courts to require that all Subordinate Courts under their jurisdiction shall join said fund, which fund shall be wholly maintained by the Courts belonging thereto; to provide a Sick Fund; to provide a revenue by means of a per capita tax on each Subordinate Court and charges for supplies furnished; to furnish all supplies, regalias, and paraphernalia for the use of Subordinate Courts necessary for the uniform working of the Order, except such as may be exclusively provided by the Supreme Court; to provide for representation from Subordinate Courts to Grand Court sessions; to hear and determine through its Arbitrators all appeals from decisions of Arbitration Committees of Subordinate Courts, or when a case arises in which such Arbitrators would have original jurisdiction to hear and determine charges duly brought, as may be provided in these laws; to provide a uniform Constitution for all Subordinate Courts under its jurisdiction, and to do all things necessary to promote the well-being and harmony of the Order in its jurisdiction.

ARTICLE XLIII.

EXECUTIVE COUNCIL OF GRAND COURTS.

Section 1. The Executive Council of each Grand Court shall consist of such of its officers 40

as may be designated by the laws of the Grand Court, a majority of whom shall constitute a quorum for the transaction of business. It shall hold sessions at least quarterly, as may be provided by the laws of such Grand Court. During a recess of the Grand Executive Council the Grand Chief Ranger shall decide such questions of law or procedure as may be submitted to him, but all actions or decisions must be reported by him to the Grand Executive Council at its first meeting thereafter, and the Grand Executive Council shall have the right to approve, disapprove, or modify any and all actions taken or decisions rendered.

Exhibits C-2 and C-18.

FORESTERS

(Seal)

OF AMERICA.

TO ALL WHOM IT MAY CONCERN:

Be it known that we, the Supreme Chief Ranger and Supreme Secretary of the Supreme Court of the Foresters of America, by virtue of the power and right in us vested by the Constitution and Laws of the Order, do hereby grant and give our full consent, approbation and authority to our well beloved brothers, Pietro De Mayo, Lorenzo Boscaino, Francesco Lanzara, by and with the recommendation and approval of the Executive Council of the Grand Court of the State of New Jersey, to constitute and hold a regular Court of Forestry at the _____, in the City of Newark, in the County of Essex, in the State of New Jersey or elsewhere, as a majority of the members may think proper, under the name and title of COURT CAVOUR, No. 133, and there to

Exhibit C-2 & C-18.

perform all rites and ceremonies of the Foresters of America, in accordance with the laws of the Order. Nevertheless it is hereby agreed and acknowledged that the sole power and privilege of granting and confirming charters or dispensations to whatever City, Town or place it may at any time be found expedient shall always and unalterably remain with and exclusively belong to the Supreme Court. We therefore, the duly authorized Officers of that Court, do hereby confirm, seal and deliver this, our said consent and approbation for the constitution of the said Court, to our well beloved brethren before mentioned. 10

IN FAITH AND TESTIMONY WHEREOF, we have hereunto subscribed our names and caused the great Seal of the Supreme Court of Forestry to be affixed.

JOHN F. KELLY (Seal), 20
 Supreme Chief Ranger,
 E. M. MCMURTRY (Seal),
 Supreme Secretary.

Countersigned by the Grand Chief Ranger of the Grand Court of the State of New Jersey, attested by the Grand Secretary at Jersey City this twenty-fourth day of November, in the year One thousand Nine hundred and three.

EDWARD R. GUTHRIE (Seal), 30
 Grand Chief Ranger,
 THOMAS M. DONNELLY (Seal),
 Grand Secretary.

Exhibit C-4.

Abstracts of Exhibit C-4, containing the provisions which are material to the issues in this suit. The Exhibit itself, being a printed book of forty-three closely printed pages.

ARTICLE XVIII.**DELINQUENT COURTS.**

- 10 Section 1. Should any Subordinate Court become either by operation of law or otherwise, dissolved, or be suspended, expelled or secede from the Order, all property, moneys, goods and effects shall vest in and be delivered to the Grand Court upon demand being made therefor.

ARTICLE XXIV.**SUBORDINATE COURTS.**

- 20 Section 8. All Subordinate Courts established under the jurisdiction of this Grand Court shall become incorporated in accordance with the Laws of the State of New Jersey, governing the incorporation of associations not for pecuniary profit. (Amended, 1904).

- 30 Section 14. All new or amended Constitution and By-Laws of Subordinate Courts when submitted to the Grand Court for approval shall hereafter be submitted in duplicate, one copy to be filed by the Grand Secretary for the use of the Grand Court and the other copy when approved to be returned to the Subordinate Court for its own use. (Adopted, 1907.)

Exhibit C-5.

Abstracts of those parts of Exhibit C-5 which are material to the issues.

The original Exhibit being a closely printed book of forty-three pages, it was adopted and went into effect July thirtieth, Nineteen hundred and nine.

CONSTITUTION.

10

ARTICLE I.**NAME AND OBJECTS.**

Section 1. This organization shall be known as Court Cavour, No. 133, Foresters of America, and will be located at Newark, N. J.

Section 2. It shall possess the full power and privilege of a Subordinate Court having a legal dispensation from the Supreme Court of the Order countersigned by the proper officers, and issued by the Grand Court of the State of New Jersey. 20

Section 3. It shall form a subordinate branch of the Supreme Court of the Order and of the Grand Court of the State of New Jersey.

Section 4. It shall have for its object the raising and maintaining of a fund or funds by entrance fees, dues, subscriptions, fines, donations, etc., and by invested capital for the following purposes: Providing sums of money and appropriating and using same towards defraying the expenses of the burial of deceased members, and of members' deceased wives. 30

Rendering assistance to members when sick and unable to follow their employment and supplying them with medical attendance and medicine.

Granting temporary relief to members sick and 40

Exhibit C-5.

in distress in the way and manner hereinafter provided. The promotion and culture of social intercourse among its members, and for all other purposes as prescribed, provided, directed and included in the General Laws of the Order, Grand Court Laws of the State of New Jersey and the By-Laws of this Court.

- 10 Section 5. It recognizes the authority of the Supreme Court of the Order and the authority of the Grand Court of the State of New Jersey, and it shall abide by, obey, agree to, and conform with the General Laws of the Order, and the Grand Court Laws of the State of New Jersey, as now in force or as they may be hereafter enacted or amended.

B Y - L A W S .

20

ARTICLE I.

Section 1. The regular meetings of this Court shall be held in Roma Hall, located at 120 Bank Street, in the (City or Town) of Newark, State of New Jersey, on the 2nd and 4th Tuesday of each month, legal holidays excepted, and the hour of meeting shall be eight o'clock, P. M.

ARTICLE VIII.

30

MEMBERSHIP.

Section 1. The qualifications for membership, the mode and manner of receiving applications, the investigation, the physical examination, and the election and initiation of candidates shall always be as required by the Ritual, General Laws of the Order and Grand Court Laws of the State of New Jersey.

40

ARTICLE XIII.

FUNDS.

Section 1. The funds of this Court shall be divided as follows:

Sick and Funeral	60%
Management	38%
Benevolence	2%

and the money so divided and placed in each fund shall not be used for any other purpose 10
whatsoever except as designated.

ARTICLE XIV.

MISCELLANEOUS.

Section II. All Arbitration trials and appeals shall be held, and taken as required by the General Laws of the Order.

Exhibit C-7.

20

CERTIFICATE OF INCORPORATION
OF THE

SUPREME COURT, FORESTERS OF AMERICA.

The UNDERSIGNED persons, members and officers of and acting in accordance with the resolution of the Supreme Court, Foresters of America, a voluntary fraternal organization, hereby associate themselves and the members of the Supreme Court, Foresters of America into a corporation pursuant to an Act of the Legislature of New Jersey, 30
entitled, "An Act to Incorporate Associations not for Pecuniary Profit," approved April 21, 1898, and the several supplements thereto and acts amendatory thereof and hereby certify:

First: That the name of this association is:
"Supreme Court, Foresters of America."

Exhibit C-7.

Second: That the purposes for which it is incorporated are to perpetuate the objects for which the "Foresters of America," as a voluntary organization was organized as shown by the general laws and constitution of the Foresters of America.

10 To carry out those objects and purposes in accordance with the present Supreme Court constitution and general laws of the Foresters of America or in accordance with such a constitution and general laws as may from time to time be adopted.

Through Grand and Subordinate Courts, to unite fraternally all white males of good moral character and of sound bodily health between such ages as may from time to time be directed; to give all moral and material aid in its power to its members and those dependent upon them;
20 to educate its members, socially, morally and intellectually; to provide relief in cases of sickness or distress among its members and such death benefits upon the death of a member or a member's wife as may from time to time be determined.

Third: The Supreme Court, Foresters of America shall have the same powers as heretofore and shall be the source of all true and legitimate power and authority in the Foresters of America
30 wheresoever established; it shall have original and exclusive jurisdiction and power.

(A) To establish and control the Forms, Ceremonies, Written and Unwritten Work, and to change, alter and annul the same, and to provide for the safekeeping and uniform teaching and dissemination of the same.

(B) To prescribe the form of Candidate's Application Blanks and to provide, print and furnish all other Forms, Rituals, Ceremonies, Cards,
40 Certificates and Supplies.

Exhibit C-7.

(C) To prescribe the form, material and color of all Regalias, Emblems and Jewels.

(D) To provide for the emanation and distribution of all passwords, and regulate the mode and manner for using same, and generally to prescribe such regulations as may be necessary to secure the safe and easy intercourse and identification of the brothers.

10

(E) To establish the Order in States, Territories, Provinces or Dominions of America, where the same has not been established.

(F) To provide a revenue for the Supreme Court by means of a per capita tax and from a profit on supplies.

(G) To provide for annual returns from each Grand Court and each Subordinate Court under its immediate jurisdiction now existing or hereafter to be established.

20

(H) To hear and determine, through its arbitrators, all appeals from the Arbitration Committee of Grand and Subordinate Courts under its immediate jurisdiction, now existing or hereafter to be established; and to have original jurisdiction in such cases as may be provided by General Laws; and to provide by legislation for the proper enforcement of the verdict of its Arbitrators.

30

(I) To enact Laws and Regulations of general application to carry into effect the foregoing and all other powers reserved by this Constitution to the Supreme Court or its officers, and such as may be necessary to enforce its legitimate authority over Grand and Subordinate Courts under its immediate jurisdiction, now existing or hereafter to be established.

(J) To institute Grand Courts and to define the territorial extent of their jurisdiction now ex-

40

Exhibit C-7.

isting or hereafter to be established, and to institute Subordinate Courts not within the jurisdiction of a Grand Court, and to provide a Constitution for each Subordinate Court under its immediate jurisdiction, now existing or hereafter to be established.

Fourth: The Supreme Court, Foresters of America shall be composed of:

- 1 All Past Supreme Chief Rangers.
- 2 All Past Subsidiary High Chief Rangers.
- 3 Supreme Chief Ranger.
- 4 Supreme Sub-Chief Ranger.
- 5 Supreme Treasurer.
- 6 Supreme Secretary.
- 7 Supreme Recording Secretary.
- 8 Supreme Medical Examiner.
- 9 Supreme Senior Woodward.
- 10 Supreme Junior Woodward.
- 11 Supreme Senior Beadle.
- 12 Supreme Junior Beadle.
- 13 Supreme Trustees.
- 14 Supreme Auditors.
- 15 Representatives (from the Grand Courts and Subordinate Courts under the jurisdiction of the Supreme Court)

and such other and different officers or members as may be required by changes in the laws from time to time.

Fifth: The Corporation is to be located, and its principal place of business is to be conducted in the City of Jersey City, County of Hudson, State of New Jersey.

Sixth: That the number of Trustees shall be—three—and the names of the Trustees elected and the term for which they have been elected, are, viz.:

Exhibit C-7.

Name	Term of Office	Residence
Patrick J. Kennedy	2 Years	Exeter, New Hampshire
Joseph M. Grise	2 Years	22 Union St., Chicopee, Mass.
Daniel E. Hunihan	2 Years	East Pittsburg, Pennsylvania

Seventh: The Corporation shall maintain an Office in the State of New Jersey at Majestic Building, 275 Grove Street, Jersey City, in the County of Hudson, and Thomas M. Donnelly shall be the registered Agent in charge of such office, upon whom process against the Corporation may 10
be served.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this First day of October, 1910.

JOHN F. COSGROVE,
Supreme Chief Ranger,
HARRY W. MACE,
Supreme Sub-Chief Ranger,
EDWARD B. O'BRIEN, 20
Supreme Treasurer,
THOMAS M. DONNELLY,
Supreme Secretary,
JOHN W. SLATTERY,
Supreme Recording Sect'y.

In the presence of
Philip J. Schotland,
W. L. J. Jobes.

30

STATE OF NEW JERSEY, }
County of Hudson. } ss.:

Be it remembered that on this First day of October, in the year of our Lord One Thousand Nine Hundred and Ten before me, the subscriber, a Master in Chancery of the State of New Jersey, personally appeared John F. Cosgrove, Harry W. Mace, Edward B. O'Brien, Thomas M. Donnelly, and John W. Slattery, who I am satisfied 40

are the persons named in and who executed the foregoing instrument and I having first made known to them the contents thereof, they did thereupon severally acknowledge that they signed and sealed the same as their voluntary act and deed for the uses and purposes therein expressed.

PHILIP J. SCHOTLAND,
Master in Chancery of the State
of New Jersey.

10 ENDORSED:

"Received and Recorded in the office of the Clerk of the County of Hudson, this 26th day of October, 1910.

JOHN F. CROSBY,
Clerk."

"Filed and recorded November 10, 1910.

S. D. DICKINSON,
Secretary of State."

20

Exhibit C-14.

GRAND COURT OF NEW JERSEY

(Incorporated December 28, 1889)

FORESTERS OF AMERICA

Office of the Grand Secretary

Majestic Building 275 Grove Street

30

Jersey City, N. J., November 11, 1912.

(Seal.)

Warren L. J. Jobes,
Grand Secretary.

To the Past Chief Rangers, Deputy Grand Chief Rangers, Officers and Members of the various Subordinate Courts, under the jurisdiction of

40

the Grand Court of New Jersey.

Dear Sir and Brothers:

At a meeting of the Executive Council of the Grand Court of New Jersey, held on Saturday evening, November 9, 1912, Court Cavour, No. 133, of Newark, N. J., after due and proper trial was DISSOLVED as a Court of Foresters for continually disregarding the laws and regulations of the Order.

The former Members of the said Dissolved 10
Court Cavour No. 133, of Newark, N. J., are now out of the Order and you will not permit any of them to attend any of your meetings or have any further Forestic intercourse with them.

Fraternally,

Twenty-third Executive Council,
D. J. FLYNN,
Grand Chief Ranger.

20

Attest:

W. L. J. Jobes,
Grand Secretary.

Exhibit D-15.

Revised Form, 1907)

(Seal.)

Subordinate Courts are required to obtain from their Grand Courts supplies of this Official Form issued by Supreme Court. Other forms are prohibited.

30

FORESTERS OF AMERICA,

COURT CAVOUR, No. 133,

We, the undersigned, propose Mr. Elia Panico,
by occupation a carpenter, residing at 280 Or-

40

Exhibit D-15.

ange Street, Newark, *a married man, as a proper person for admission into this Court, and hereby declare, to the best of our knowledge, that he is a person of good character, and is qualified to be a member of the Order; that we believe his age and the age of his wife, as declared by him, to be correct; and to the best of our judgment his wife appears to be in good health.

10

We further hold ourselves responsible for the general truth of the above statements in accordance with the General Laws.

Signed, the 24th day of June, 1912.

Proposed by Joseph Ceraso.

Seconded by Pietro de Maio.

*State whether married or single.

Any Brother proposing or seconding a Candidate who is unhealthy, or inadmissible by reason of bad character, is liable to be expelled from the Order. All propositions must stand over to the next regular meeting of the Court following that on which the proposition was made.

20

CANDIDATE'S APPLICATION.

I, Elia Panico, age next birthday 29 years, by occupation a carpenter, born in Petruro, Avelina, Italy, on the 23rd day of February, 1884, and now residing at 280 Orange Street, Newark, N. J., being desirous of becoming a member of Court Cavour, No. 133, of the Foresters of America, declare that I am in good health, physically sound, and not habitually subject to any disease, and that my wife's name is Maria Caniano; that her age is 21 years, and that she is in good bodily health at this time. I do not know of any physical, legal, or moral reason which should prevent me from becoming a member of the Order; and I hereby agree that this declaration shall be

30

40

Exhibit D-15.

the ground of Contract between the said Court and myself; and if any of the statements herein contained be not true, the sum already paid, or any further sum that may be paid by me to said Court, shall be forfeited, and myself deprived of all benefits or advantages from the said Court and the Order.

AND I FURTHER DECLARE that I will conform to, and abide by, all the rules of the Court and of the Order now in force, or hereafter to be made, or submit to the penalties therein contained; as witness my hand this 24th day of June, 1912. 10

ELIA PANICO,
Applicant.

Witness:

Joseph Ceraso.

The Investigating Committee shall propound 20
and fill in answers to the following questions:

Do you believe in the existence of a Supreme Being? Yes.

Have you ever been a member of this Order? —

Have you ever made a previous application for membership in this Order? No.

If so, give name and location of Court. No.

If only proposed in another Court state reason for not joining. No. 30

Have you sought to enter this Order from any improper or unworthy motives? No.

Are you willing to take upon yourself an obligation, provided it does not conflict with your duty to your God, your country, or yourself?

Witness by Member of Committee:

Berardo Spatolo.

Exhibit D-15.

APPLICATION OF

Mr. Elia Panico.

Proposed June 21, 1912.

Elected August 13, 1912.

Initiated19

Rejected19

..... Fin. Sec.

10

COMMITTEE ON INVESTIGATION.

Bro. Gerardo Spatolo.

Bro. Zausto Venturim.

Bro. Pietro de Maio.

The undersigned, Committee on Investigation,
report.....favorably on the name of

Mr. Elia Panico.

20

PIETRO DE MAIO,
GERARDO SPATOLO,
Committee on Investigation.

(Good.)

MEDICAL EXAMINATION.

State when you were last under a physician's
care or had reason to consult one?

The Physician's name and what was the dis-
ease? No.

30

Are you now in good health? Yes.

Have you ever had Rheumatism? No.

Syphilis? No.

Epilepsy or Fits? No.

Have you Hernia? No.

If so, describe the character. —

Have you ever had a chronic or protracted
cough? No.

40

Have you ever had hemorrhage of the lungs?
No.

Exhibit D-15.

Have you had, or have you ever been treated by a physician for disease of Heart, Lungs, Kidneys, Liver or Stomach? No.

If so, state when, how often. —

Is there insanity in your family? No.

Have you ever been treated for any disease not mentioned above? If so, when and for what? No.

Do you use Alcoholic or other Stimulants? Yes. 10

Is, so to what extent? A lot.

To your knowledge, have any of your family, or your wife's family, died of consumption? No.

Have you ever been rejected by any Order, Society or Insurance Company? No.

Have you been successfully vaccinated? Yes.

I DECLARE, that I have answered the foregoing questions truthfully; and I agree that any misstatement shall render any and all obligations of the above Court and the Order null and void to me and my heirs and assigns. 20

Signature, ELIA PANICO.

Witness:

Gerardo Spatolo.

MEDICAL CERTIFICATE.

A careful examination of the Urine required in every instance. Urinalysis, Specific Gravity 30
 Albumen....., Sugar, Acid
, Alkaline.....

THIS IS TO CERTIFY that the above named applicant has confirmed the answers to the preceding questions; and further that I have personally and carefully examined him and find him to be in good health with no predisposition either hereditary or acquired, to consumption, cancerous or any hereditary disease; and would recommend him 40

as a fit to become a member of the Foresters of America.

DR. M. MATTURI.

Examining Physician, Member of Court No. 133.

Witness* :

Gerardo Spatolo.

*One of the members of the Committee of Investigation or a member of the Court must accompany the candidate to the physician and witness the physician's signature to Medical Certificate.

Section 1 (a). No applicant shall be recommended by the physician for beneficial membership where the medical examination discloses the fact that the applicant has ever been afflicted with either of the following diseases: (1) Tuberculosis. (2) Kidney Disease. (3) Cancer. (4) Syphilis. (5) Epilepsy. (6) Heart Disease.

No applicant under the age of 30 years, whose father, mother, sister or brother, has died of consumption in five years previous to the filing of said application for membership, shall be recommended for admission as a beneficial member of any Subordinate Court. This section of the law shall be printed on each medical examination blank.

30 **Exhibit C-16.**

Court: Cavour. Location: Newark, N. J. No.133.

Residence.

Chief Ranger, Oreste Cerato, 201 8th Ave.

Sub. C. Ranger, Vincenzo Troiani, 25 Breintuall Place.

Treasurer, Gabriele Matonti, 107 7th Ave.

Fin. Sec'y, Frank De Feo, 83 Webster St.

Rec. Sec'y, Pietro De Maio, 2 Wood St.
 Sr. Woodward, Ciro Velard, 3 Wood St.
 Jr. Woodward, Miola Caruso, 219 Bergen St.
 Sr. Beadle, Raffæle Masucci, 103 7th Ave.
 Jr. Beadle, Riocco Falioerra, 14 Factory St.
 Chairman Trustee, Gerardo Spatola, 1st, 135
 8th Ave.

Trustee, Luigi Avallone, 9 Mt. Prospect Ave.

Trustee, Domenico Arniano, 29 Garside St.

Trustee,

10

Trustee,

Lecturer, Guiseppe Sozio, 104 8th Ave.

Collector, Michele Genervino, 90 Sheffield St.

Jr. P. C. Ranger, Carlo De Luca, 110 7th Ave.

Meets at Second and Fourth Tuesday, location
 261 Orange St.

Instituted Nov. 24, 1903.

Date of Incorporation Feb. 16, 1904.

Exhibit C-17.

20

(Seal.)

To the Executive Council, Grand Court, Foresters of America.

Dear Sirs and Brothers:

The following changes have been regularly adopted in the by-laws of Court Cavour, No. 133, Foresters of America, and respectfully submitted to you for approval:

30

First: Referring to Article Eleven, Section ten, of the Uniform by-laws, it shall read as follows: Members that have been sick for sixteen consecutive days from the notification to the Financial Secretary, shall be entitled to sick benefits; benefits to be paid from the sixteenth day of said notification; this for the period of one year from the approved.

40

Exhibit C-17.

Second: In regard to the druggist, in Article Second, Section Fourth, it shall read as follows: Power shall be given to the Trustees of the Court to contract with any owner of a drug store (such owner, to be a Forester), per prescription; so as to give a member the chance or the convenience of getting his medicine from a druggist of his choice, said contract to be given in different sections of the City.

Referring to the Court Doctor: The Court shall elect any physician as per Uniform by-laws; such a physician to charge fifty cents as fee for the examination of applicants.

In reference to the accompanying of a dead brother to the last place of rest, it has been adopted that the entire Court shall march from the last residence of said dead brother to the Church and from there for four blocks from an Italian quarters, and in case that the dead did not reside in an Italian quarter the entire Court shall march from the last residence to the Church and from the Church for four blocks; where the procession shall disband, and the officers of the Court shall proceed to the cemetery in coaches.

Hoping that these changes shall meet with your approval, I remain,

Respectfully yours in L. N. I. and C., for the Committee,

MICHAEL PADULA,
Treasurer of Court Cavour, No. 133.

Law Committee:
Michael Padula,
Pietro de Maio,
Pasquale Matullo.

M. ELLER,
Financial Secretary.

Chief Ranger:
Cesare Fiorini.

P. S. Kindly send me words before Tuesday,
24th, please,

Respectfully,

M. ELLER.

Approved:

S. V. Jackson,
J. C. Coffey,
Chas. H. Blohm.

Approved, as corrected, by the Executive Council of the Grand Court of New Jersey, and executed this 14th of March, 1910. 10

W. L. J. JOBES,
Grand Secretary.

Exhibit C-19.

(Revised Form 1901.)

Subordinate Courts are required to obtain from their Grand Courts supplies of this Official Form issued by Supreme Court. Other forms are prohibited. 20

(Seal.)

FORESTERS OF AMERICA.

CourtNo.
.....

We, the undersigned, propose Mr.
.....by occupation a 30
....., residing at
a*man, as a proper person
for admission into this Court, and hereby declare,
to the best of our knowledge, that he is a person
of good character, and is qualified to be a member
of the Order; that we believe his age and the age
of his wife, as declared by him, to be correct;
and to the best of our judgment his wife appears
to be in good health. 40

Exhibit C-19.

We further hold ourselves responsible for the general truth of the above statements in accordance with the General Laws.

Signed, theday of 19

Proposed by

Seconded by

*State whether married or single.

10

N. B.—Previous to the Proposition of a Candidate, his Proposers should ascertain whether he has been a member of the Order, or proposed for membership in any other Court; and if so, what were the reasons for leaving, or for not joining such Court—same to be stated in Candidate's application.

20 Any Brother proposing or seconding a Candidate who is unhealthy, or inadmissible by reason of bad character, is liable to be expelled from the Order. All propositions must stand over to the next regular meeting of Court following that on which the proposition was made.

.....

CANDIDATE'S APPLICATION.

I,aged next birthdayyears, by occupation a
 30, born in
 on theday of, 18 ,
 and now residing at
, being desirous of becoming a member of Court, No.....,
 of the Foresters of America, declare that I am in good health, physically sound, and not habitually subject to any disease, and that my wife's name is; that
 40 her age is years, and that she is in good

Exhibit C-19.

bodily health at this time. I do not know of any physical, legal, or moral reason which should prevent me from becoming a member of the Order; and I hereby agree that this declaration shall be the ground of Contract between the said Court and myself; and if any of the statements herein contained be not true, the sum already paid, or any further sum that may be paid by me to said Court, shall be forfeited, and myself deprived of all benefits or advantages from the said Court and the Order. 10

 If formerly a member of the Order, or proposed for membership in any other Court, give date, also give name and location of Court, and state reason for your membership ceasing; if only proposed in another Court, state reason for not joining. 20

AND I FURTHER DECLARE that I will conform to, and abide by, all the rules of the Court and of the Order now in force, or hereafter to be made, or submit to the penalties therein contained and I agree not to resort to the civil courts for redress for an alleged injury until I have exhausted every means of appeal in the Order; as witness my hand thisday of....., 19 30

..... Applicant.
Witness

APPLICATION OF

Mr.
Proposed190
Elected190
Initiated190
Rejected190 40
..... Fin. Sec'y.

Exhibit C-19.

COMMITTEE OF INVESTIGATION.

Bro.
 "
 "

The undersigned, Committee of Investigation,
 report.....favorably on the name of
 10 Mr.

.....

MEDICAL EXAMINATION.

State when you were last under a physician's
 care or had reason to consult one?
 20The Physician's name, and what was the
 disease?
 Are you now in good health?
 Have you ever had Rheumatism?.....
 Syphilis?Epilepsy or
 Have you Hernia?If so, describe the
 characterHave you
 ever had a chronic or protracted cough?.....
 Have you ever had hemorrhage of the lungs?.....
 30 Have you had, or have you ever been treated by
 a physician for disease of Heart, Lungs, Kid-
 neys, Liver or Stomach?.....If so, state when,
 how often
 Is there insanity in your family?.....
 Have you ever been treated for any disease not
 mentioned above? If so, where and for what?
Do you
 use Alcoholic or other Stimulants?.....If
 so, to what extent?.....
 40 To your knowledge, have any of your family, or
 your wife's family, died of consumption?.....

Exhibit C-19.

I DECLARE, that I have answered the foregoing questions truthfully; and agree that any misstatement shall render any and all obligations of the above Court and of the Order null and void to me and my heirs and assigns.

Witness

Signed

MEDICAL CERTIFICATE.

10

THIS IS TO CERTIFY that the above named applicant has confirmed the answers to the preceding questions: And Further, that I have personally and carefully examined him and find him to be in.....health with..... predisposition either hereditary or acquired, to consumption, cancerous or any hereditary disease; and would recommend him as..... to become a member of the Foresters of America.

20

.....
Examining Physician (Member of Court No....

Witness*

*One of the members of the Committee of Investigation must accompany the candidate to the physician and witness the physician's signature to Medical Certificate.

30

40

Exhibit C-20.

Newark, N. J., Nov. 13th, 1912.

To D. J. Flynn, Grand Chief Ranger, and the Members of the Executive Council, Foresters of America.

10 We, the undersigned, members of Court Cavour, No. 133, Foresters of America, which Court was dissolved by the Order of the Executive Council on November 9th, 1912, respectfully show that we have always respected the laws and regulations of the Order, and are not responsible for the disobedience or disregard of the laws or regulations of the same by some of our former officers, and feel keenly the moral effect that the officers who formerly guided us carried us into destruction and dishonor. Therefore, we respectfully request you to reinstate such members as
20 are innocent of any violation whatsoever against the laws and regulations of Court Cavour or the laws and regulations of the Order, either under the same charter or a new one, and by doing so you will do justice to those that have done their very best, and have sacrificed themselves for the welfare of the Order; and punish those who have not only disobeyed the laws and regulations of the Order, but brought the Order into disrepute and ridicule, and have caused such a disgrace
30 amongst the Italians of the City of Newark.

We sincerely hope that after considering all the facts, you will grant us the request herein prayed for and outline to us how to proceed to reorganize either under the same charter or under a new one the former innocent members of Court Cavour No. 133.

Yours fraternally,

Vincenzo Troiani,
Domenico De Palina,

Exhibit C-20.

Guippo Gtizuo,	
Felice Ciolaiacovo,	
Vincenzo Fiorillo,	
Giorgio Tinceryo,	
Joseph Ceraso,	
Carlo De Luco,	
Guiseppe Damorc,	
Avalloni Luigi,	10
Errico Minichillo,	
Antonio Errato,	
Vito Calilarese,	
Nicola Caruso,	
Alfonso Ponetti,	
Antonio Vitiello,	
Michele Zinurino,	
Giambuthestor Cooroino,	
Guiseppe Sozio, 127 8th Ave.,	
Gerardo Spatola,	20
Gerardo Del Guercio,	
Sibvester D'Nercei,	
Pietro Calcagno,	
Giavanni Veseidli,	
Rocco Falivero,	
Antonio Gialanella,	
Luigi De Pace,	
Socino Melilniomae,	
Agoltino Saranza,	30
Antonio Cerrato,	
Raffæll Manues,	
Amata Eufromomey,	
Gabriele Caprio,	
Salvatore Cortose,	
Luigi Maso,	
Dr. Nicola M. Mattuni.	

Exhibit C-20.

- Stiscio Guisippe, 104 Morris Ave.
 De Palma Domenico, 104 Morris Ave.
 Pietro Folio, 268 8th Ave.
 Felice Coloicovo, 29 Drift St.
 Vincenzo Fiorillo, 29 Drift St.
 Giorgio Vincenzo, 19 Mont Prospect Ave.
 Guisippe Ceroso, 45 Garrit St.
 De Luico Corlo, 110 7th Ave.
10 D'Amore Guiseppe, 19 Mont Pros. Ave.
 Avallone Luigi, 9 Mt. Pros. Ave.
 Ceroasete Onitomi, 24 14th Ave.
 Vitro Calabrese, 299 Morris Ave.
 Frico Winnidiello, 172 Ninth St.
 Alfonzo Posciello, 245 Norfolk St.
 Cormiso Nicolo, 259 St.
 Antonio Vitiello, 151 Warren St.
 Generino Michelle, 90 St.
20 Corono , 140 8th Ave.
 Gerardo De Guercio, 26 1-2 Cotter st.
 Morcia Lilvestri, 27 Cotter St.
 Pietro Colcapyo, 24 6th Ave.
 Viscito Giovonni, 23 Cutler St.
 Nosso Folivicio, 14 Factory St.
 Merchioney Sofino, 209 8th Ave.
 Agoslino Sors, 23 Cutler St.
 Antonio Cerratio, 251 8th Ave.
 Baffoele Morrisi, 103 7th Ave.
30 120 8th Ave.
 Gabriele Capiro, 21 Clifton Ave.

Exhibit D-1.

Copy to Fidelity Trust Co. of Newark, National Newark Banking Co. of Newark, Italo-American Building and Loan Co. of Newark, N. J.

Jersey City, N. J., Sept. 28, 1912.

Mr. Gerardo Mitoni, Sec'y,
19 Market St. Newark.

Gentlemen:

10

You are hereby notified that Court Cavour No. 133, Foresters of America, a Subordinate Court of this Grand Court, which is in turn subservient to the Supreme Court of the Order, was on this date suspended for failure to obey certain regulations and for continuing to violate the existing laws of this Order. By virtue therefore of our laws (under and by which a charter was granted to the said Court Cavour, No. 133) claim is herewith made on your institution for any and all moneys, property, goods and effects of the said Court Cavour, No. 133, Foresters of America, that may now be on deposit in your institution or in your possession, or which may come in your possession or be deposited subsequent to this date, and you are directed and commanded to hold same in your possession subject to further directions from this Grand Court, or as may be directed by the Courts of Law of this State.

20

30

You are further herewith notified that your institution will be held accountable for a full observance of this claim.

Yours truly,

Attest:

Grand Secretary.

Grand C.

40

Exhibit D-2.

GRAND COURT OF NEW JERSEY (Incorporated December 8, 1889.)

Foresters of America, No. 133.

Office of the Grand Secretary, Majestic Building, 275 Grove Street.

Jersey City, N. J., November 13, 1912.

10 Mr. Samuel Grande,
16 Factory St.,
Newark, N. J.

Dear Sir:—

Replying to your favor of the 11th in relation to benefits claimed to be due to you from Court Cavour, No. 133, I beg to state that Court Cavour is no longer connected with the Foresters of America, having been dissolved as a Court of For-
20 esters for continually disregarding the laws and regulations of the Order, on November 9, 1912.

Notification to this effect should be sent to you by the former Financial Secretary.

Yours very truly,

W. L. J. JOBES,
Grand Secretary.

30

40

Exhibit D-3.

CERTIFICATE OF INCORPORATION
of the
COURT CAVOUR, No. 133 OF THE FORESTERS OF
AMERICA.

THIS IS TO CERTIFY that the undersigned do hereby associate themselves into a corporation under and by virtue of the provisions of an Act of the Legislature of the State of New Jersey, entitled "An Act to Incorporate associations not for pecuniary profit" approved April twenty-first, eighteen hundred and ninety-eight and the several supplements thereto, and acts amendatory thereof. 10

First: The name of this corporation is Court Cavour No. 133, of the Foresters of America.

Second: The purpose for which this corporation is formed are Benevolence, to provide relief and aid in sickness and distress, burial at death and inspire its members with the elevating influence of a proper recognition of the stern realities and responsibility of life. 20

Third: The location of the principal office of this corporation is at No. 16 Factory Street, in the City of Newark, County of Essex and the name of the agent therein and in charge thereof upon whom process against the corporation may be served is Lorenzo Boscaino. 30

Fourth: The number of trustees of this corporation is three with three other officers hereafter named.

Fifth: The names of the trustees selected for the first year of the existence of this corporation are Lorenzo Boscaino, Chief Ranger, John Chiaravalle, Financial Secretary, Antonio Cerrato, Treasurer, Michael Garrone, Trustee for three years, Raffaele Villanova, Trustee for two years, and Gaetano Gialanella, Trustee for one year. 40

IN WITNESS WHEREOF we have hereunto set our hands and seals this (15th) fifteenth day of February, A. D., 1904.

Signed, sealed and delivered }
in the presence of }

LORENZO BOSCAINO, (Seal).
JOHN CHAIRAVALLE, (Seal.)
ANTONIO CERRATO, (Seal.)
RAFFAELE VILLANOVA, (Seal.)
MICHEL GARRONE, (Seal.)
GAETANO GIALANELLA, (Seal.)

10

STATE OF NEW JERSEY, }
County of Essex. } ss.:

BE IT REMEMBERED that on this Fifteenth day of February, A. D., 1904, before me, a Commissioner of Deeds personally appeared Lorenzo Boscaino, John Chiaravalle, Antonio Cerrato, Michel Garrone, Raffaele Villanova and Gaetano Gialanella, who, I am satisfied, are the persons named in and who executed the foregoing certificate, and I having first made known to them the contents thereof, they did each acknowledge that they signed, sealed and delivered the same as their voluntary act and deed.

20

DOMINIC ORGO,

Commissioner of Deeds of New Jersey.

Recorded, February 16, 1904.

30

Arthur Horton, Clerk.

Exhibit D-4.

THIS IS TO CERTIFY, that at a meeting of the members of Court Cavour No. 133 Foresters of America, duly convened and held on Tuesday evening November 19th, 1912, the follow resolutions were adopted:

40

RESOLVED, That Anthony R. Finelli, Counsellor-

Exhibit D-4.

at-law, of the City of Newark, be and he is hereby appointed as the attorney and general agent of this association for the purpose of collecting and receiving all moneys, deposited or otherwise, belonging to this association, whether held in trust or otherwise, together with all other goods, chattels and things whatsoever.

Giving and hereby granting unto him, our said attorney, full power and authority in and about the premises; and to use all due means, course and process in law, for the full, effectual and complete execution of the business afore described; and in the name of said association to make and execute due acquittance and discharge; and for the premises to appear, and represent before any judge and minister of the law whatsoever, in any Court and there on behalf of said association to answer, defend and reply unto all actions, causes, matters and things whatsoever. And our said attorney to have full power of substitution and revocation, this association hereby ratifying and confirming all that our said attorney or his substitute shall lawfully do or cause to be done by virtue thereof.

FURTHER RESOLVED, that the secretary be and hereby is authorized to sign, and seal with the seal of the association, a certificate of authorization to our said agent and attorney in the form submitted at this meeting.

Signed and sealed in behalf of the association this nineteenth day of November, A. D. Nineteen Hundred Twelve.

ORESTE CERRATO, Chief Ranger.
FRANK DEFEO, Fin. Sec'y.
G. MATONTI, Treas.

Exhibit D-4.

MINUTES OF COURT CAVOUR, No. 133 Foresters of America.

Regular and Special meeting held at Miele's Hall, 162 Eighth Avenue, November 19, 1912. Whereas held with dissenting opinions, Frank De Feo was appointed temporary chief ranger, and he explained to the assembly that the mem-
 10 bers of Court Cavour were still entitled to remain united as brothers under the act of incorporation of the Court in the State of New Jersey.

A motion was made by brother Giovanni Visciti, seconded by brother Pietro Falco, to the effect that the old administration remain temporarily in office, put to vote and unanimously carried.

Having to appoint a lawyer to represent us in
 20 the proceedings arising out of the dissolution of our Court by the Grand Court, Foresters of America, and because the Grand Court had appropriated the personal property and books of Court Cavour although paid for by it, and also because the said Grand Court suspended the payments of sick benefits and other bills payable by check on the Fidelity Trust Company, it has been decided to engage Anthony R. Finelli to represent Court Cavour, No. 133 Foresters of Am-
 30 erica in all its judicial proceedings.

A vote of praise was given to lawyer James D'Aloia for having represented us in the proceedings before the Grand Court and it was decided that Mr. Finelli act together with Mr. D'Aloia.

It was also decided that the financial officers should not, without the legal authorization from the members of the Court first had, release any
 40 funds, as officers of the court.

It was also decided to protest against the in-

Exhibit D-4.

justice received from the Grand Court Foresters of America

Mr. Finelli was authorized to start legal proceedings against the Grand Court to get possession of the funds of belonging to this court, which were unjustly attached at the Fidelity Trust Company.

It was decided to pay all the bills approved prior to the order of dissolution by the Grand Court Foresters of America. 10

Having nothing else to discuss the Chief Ranger declared the meeting closed at 11 P. M. reserving the reading of the minutes for the next meeting.

Newark, N. J. Jan. 28, 1913.

FRANK DE FEO.	PIETRO DE MAIO.	
Chief Ranger,	Recording Secretary,	20

MINUTES OF COURT CAVOUR, No. 133 Foresters of America.

Regular meeting held at No. 162 8th Ave., Jan. 28, 1913.

A sufficient number of members being present the Temporary Chief Ranger, Frank De Feo, declared the meeting open.

The roll call of officers showed all present. 30

Minutes of last meeting read and unanimously approved.

After having been explained about the suit brought through Mr. Finelli and Mr. D'Aloia against the Grand Court, Foresters of America to effect a revocation of the order upon the Fidelity Trust Company to withhold money deposited by the members of Court Cavour amounting to more than \$1000.00, it was decided to persist through judicial proceedings for the 40

Exhibit D-4.

honor of the Italian Colony and of the Foresters of America, and to keep ourselves united and proceed with the regular meetings of our Court.

The business having been expedited the Chief Ranger declared the meeting closed at 11 P. M. reserving the reading of these minutes for the next meeting.

10 Chief Ranger, Recording Secretary,
FRANK DE FEO. PIETRO DE MAIO.
Newark, N. J. Feb. 6, 1913.

MINUTES OF COURT CAVOUR, No. 133 Foresters of America.

Regular meeting held at 205 Eighth Avenue, Feb. 6, 1913. A sufficient number of members being present the Temporary Chief Ranger, Frank De Feo, declared the meeting open. The roll call
20 of officers showed they were all present.

The order of business for which such meeting was called being the nomination and election of new officers, Temporary Chief Ranger, Pasquale Matullo, presiding, the following were elected:

1. Chief Ranger, Pasquale Matullo, unanimously.
2. Sub-chief Ranger, Giuseppe Sagarese, unanimously.
- 30 3. Financial secretary, Michele Padula, unanimously, after the office was declined by brother Frank De Feo.
4. Recording secretary, Pietro De Maio, unanimously.
5. Treasurer, Luigi Avallone, by a majority of votes.
6. Senior Woodward, Ciro Velardi, unanimously
Junior Woodward, Felice Colaicovo, unani-
40 mously.

Exhibit D-4.

8. Senior Beadle, Antonio Fuzio, unanimously.

9. Junior Beadle, Rocco Fevilene, unanimously.

10. Trustees,

- | | |
|-------------------------|---------------|
| 1. Giovannina Rosamilia | } unanimously |
| 2. Domenico Amiani | |
| 3. Vito Tuliniero | |

11. Lecturer, Frank De Feo, unanimously, 10

12. Collector, Antonio Balletta, unanimously.

Having finished the business of the day the Chief Ranger declared the meeting closed at 11:15, reserving the reading of these minutes for the next meeting.

Newark, N. J., April 6, 1913.

Chief Ranger,	Recording Secretary,
PASQUALE MATULLO.	PIETRO DE MAIO.

MINUTES OF COURT CAVOUR, No. 133 Foresters
of America. 20

Special meeting of the executive committee of the said Court held at 261 Orange St., April 3, 1913.

The roll call of the officer showed that Chief Ranger, Matullo; Sub-chief Ranger, Sagarese; Treasurer, Avallone; Financial Secretary, Padula; Junior Woodward, C. Velardi and F. Colaiocovo; 30
Trustee, D. Amiano, V. Tuliniero; Senior and Junior Beadle, A. Luzio and R. Favilene, Collectors, A. Balletto and Nicola Pallatella.

The following recommendations were agreed upon:

To have the regular meeting on Tuesday.

To waive the past monthly payments and benefits to the members by beginning to pay the said monthly payments from the first meeting 40
in April, 1913.

Exhibit D-4.

That benefits should begin to accrue to the members after a lapse of six months from April, 1913 and to pay sick benefits and medicine bills in case of sickness to any brother upon presentation of a certificate, where the member does not belong to any other association, wherefrom he may derive such benefits.

- 10 It was decided to propose the above recommendations of the administrative board at the next meeting for the approval of the general assembly.

Newark, N. J., April 8, 1913.

Chief Ranger,

Recording Secretary,

PASQUALE MATULLO.

PIETRO DE MAIO.

MINUTES OF COURT CAVOUR, No. 133 Foresters of America.

20

Regular meeting held at No. 261 Orange St., April 8, 1913. A sufficient number of members being present the chief ranger declared the meeting open.

A roll called by the officers showed that they were all present. The minutes of the preceding meeting were read and unanimously approved.

- 30 The recommendations of the executive committee were explained to the assembly and submitted for their approval. Hearing the opinion of many members, it was duly moved and decided that the monthly payments begin from the month of April, leaving the question of arrears of payments open.

Benefits to commence six months from the date hereof, leaving the right to the doctor and medicines open.

- 40 Brother Fiorini proposed that hereafter the financial officers should accept dues conditionally;

Exhibit D-4.

viz: whenever the executive committee or some member of the Court can show that any of the contributors to the monthly dues is unworthy of being a member, such financial officer is authorized to refuse any further payments and shall also have authority to return such dues conditionally received. The motion was voted upon and unanimously approved.

Resolved that the financial officers give bond in the sum of \$1,000.00 each. The collection of monthly dues amounted to \$19.50. 10

Resolved also that according to the decision of the Court of Chancery we should have regular meetings every second and fourth Tuesday of each month.

No other business coming on for hearing the chief Ranger declared the meeting closed at 10:30 P. M., reserving the reading of these minutes for the next meeting. 20

Newark, N. J., April 22, 1913.

Chief Ranger,
PASQUALE MATULLO.

Recording secretary,
PIETRO DE MAIO.

MINUTES OF COURT CAVOUR, No. 133 Foresters of America.

Regular meeting held at No. 261 Orange St., April 22, 1913. A sufficient number of members being present the chief Ranger declared the meeting open. A roll call of the officers showed recording secretary, Pietro De Maio, absent. The minutes of the preceding meeting were read and unanimously approved. 30

The monthly dues collected amounted to \$13.50.

Having no further business to transact the Chief Ranger declared the meeting closed at 10:30 P. M., reserving the reading of these minutes for the next meeting. 40

Newark, N. J., May 13, 1913.

Exhibit D-4.

Chief Ranger,
PASQUALE MATULLO.

Recording secretary,
PIETRO DE MAIO.

MINUTES OF COURT CAVOUR, No. 133 Foresters of America.

Regular meeting held at 261 Orange St., May 13, 1913.

- 10 A sufficient number of members being present the Chief Ranger, Pasquale Matullo, called the meeting to order. The minutes of the preceding meeting were read and unanimously approved. The roll call of the officers showed that all were present.

- 20 Having discovered that a certain number of members signed a certain petition in the matter of the suspension and the dissolution of Court Cavour, No. 133 Foresters of America, many of those present having signed said petition denied any knowledge of the contents of said petition in so far as same contained any ratification or approval of the course of the Grand Court and disparaged the names of the officers of Court Cavour, and said members protested against the act of Brother Vincenzo Troiano in misrepresenting the contents of the said petition.

- 30 Resolved to reserve the right, to proceed against Brother Troiano before the proper Judge and that said members subscribe a petition at this meeting to rebut the statements of the first petition by them signed.

The monthly dues collected amounted to \$42.00.

Having nothing else to consider the chief ranger declared the meeting closed at 10:30 P. M., reserving the reading of these minutes for the next meeting.

- 40 Newark, N. J., May 13, 1913.

Chief Ranger,

Recording secretary,
PIETRO DE MAIO.

Opinion.

(Filed July 14, 1913.)

In Chancery of New Jersey.

Between

THE GRAND COURT FORESTERS OF
AMERICA, State of New Jersey,*Complainant,**and*COURT CAVOUR, No. 133, FOREST-
ERS OF AMERICA, et als.,*Defendants.*

10

MR. PHILIP J. SCHOTLAND, for Complainant.

MR. ANTHONY R. FINELLI, for Defendants.

20

STEVENS, V. C.

This bill prays that Court Cavour, a beneficial society, allied to the Foresters of America, may turn over to the complainant the funds and property heretofore belonging to it, on the ground that Court Cavour has been dissolved and that under the constitution and by-laws of the Foresters the title to the property has vested in complainant.

30

The Foresters of America consist of a Supreme Court or Society, Grand Courts and Subordinate Courts. It is enough for the understanding of the case to say that the Subordinate Courts are the basic organizations: that where there are ten or more of them in any one State they elect delegates who meet and form a Grand Court, and that the Grand Courts of different States, thus composed, likewise in their turn elect delegates to the Supreme Court, which with its officers, present and past, are the head of the order. To the Su-

40

Opinion.

preme Court is given the prerogative of granting charters, so-called, or dispensations for the formation of subordinate courts.

Each candidate for admission to a Subordinate Court, in his written application declares, among other things, that he will conform to and abide by all the rules of the Court and of the order now in force or hereafter to be made, or submit to the penalties therein contained.

The foundation of the Society is declared, in the constitution of the Supreme Court, to be "upon the broad principle of benevolence and is established to provide relief in sickness and distress, and burial at death, and to inspire its members with the elevating influence and of a proper recognition of the stern realities and responsibilities of life."

The Supreme Court, the Grand Court for the State of New Jersey, and Court Cavour, have all become incorporated under the New Jersey act of Legislature entitled "An Act to Incorporate Associations, not for pecuniary profits." The certificate of incorporation of Court Cavour, dated February 16, 1904, antedates that of the Supreme Court, and that of the present certificate of incorporation of the Grand Court, which is dated May 8, 1906.

The certificate of incorporation of Court Cavour, stating its object to be one of benevolence, uses the language of the above quoted declaration of the Supreme Court. It does not make any reference to the Order of which it is or was a constituent part. Its so-called constitution and laws adopted in July, 1909, which from a legal standpoint can be nothing more than its by-laws, declares (Section 5) that it recognizes the authority of the Supreme Court of the Order and the

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authority of the Grand Court of the State of New Jersey, and that it will abide by, obey, agree to and conform with the general laws of the Order and of the Grand Court laws of the State of New Jersey as now in force, or as they may be hereafter enacted or amended.

Among the so-called Supreme Court laws is the following:

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"Sec. 215. Any Grand or Subordinate Court found guilty after due notice and hearing of any of the charges hereinafter set forth may be suspended for a period not exceeding two years, dissolved or expelled. If dissolved or expelled, its charter, dispensation, rituals, money, books, paper and all other property, real or personal, shall be forfeited to the Supreme Court, or the respective Grand Court. * * * The Executive Council of each Grand Court shall hear and decide all charges preferred against subordinate courts within its jurisdiction: 20

"A. for improper conduct;

"B. For neglecting or refusing to conform to the rituals, laws, ceremonies, enactments or resolutions of the Supreme Court, Grand Courts or Executive Council thereof."

On September 28, 1912, the Grand Chief Ranger addressed to the financial secretary of Court Cavour a written communication, citing him to appear before the Executive Council of the Grand Court on October 12, 1912, at 8 P. M., to show cause why Court Cavour should not be suspended or dissolved for violating the General Laws, Sec. No. 215, as follows: A. For improper conduct. B. For neglecting or refusing to conform to the rituals, laws, ceremonies, etc.; stating that it was by order of the Executive Council. This notice was communicated to the members of the Court, or a large majority of them, and a trial was had 30 40

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at the time named, at which the Court was represented by counsel. Decision was reserved until November 9, 1912, at which time the following resolution was passed by the members of the Executive Council, who had heard the evidence:

10 “Whereas Court Cavour, No. 133, of the Foresters of America, located at Newark, New Jersey, was suspended on the twenty-eighth day of September, 1912, for failure to comply with certain regulations of the Order, and the said Court was cited to show cause why it should not be dissolved as a subordinate court of the order, and the hearing was set for Saturday evening, October 12, 1912, in the office of the Grand Secretary, No. 275 Grove St., Jersey City, New Jersey, which trial proceeded by the introduction of and taking of said evidence, and

20 “Whereas, Section 215 of the General Laws of the Order, Edition of 1911, vests the Executive Council with full, ample and sufficient authority within the premises, and

“Whereas, a fair and impartial trial was conducted on the date herein set forth and at the place above mentioned, the said Court Cavour, No. 133, of the Foresters of America and Executive Council of the Grand Court of New Jersey, both being represented by counsel, and

30 “Whereas, we have carefully considered the testimony and all matters surrounding the case, therefore be it

“Resolved, that it is now the order of this Executive Council of the Grand Court of the State of New Jersey that the said Court Cavour, No. 133, of the Foresters of America, Newark, New Jersey, be and is hereby dissolved as a subordinate court of the Grand Court of New Jersey, Foresters of America, and its charter, dispensation, rituals, money, books, papers and all other property, both
40 real and personal, be and hereby is forfeited to the Grand Court of the State of New Jersey, Foresters of America. And be it further

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"Resolved, that the Grand Secretary of the Grand Court of the State of New Jersey be and is hereby authorized and empowered, on behalf of the Executive Council, to take such steps as may be necessary to collect all property of Court Cavour not now in possession of the Executive Council of the Grand Court of New Jersey. And be it further

"Authorized to take such action as may be necessary to recover from the said dissolved Court Cavour, No. 133, of the Foresters of America, all money in the possession of the officers of said Court or on deposit and secure the same for the Executive Council. * * *"

This resolution is open to serious criticism. It begins with declaring that Court Cavour was suspended. The suspension proceedings appear in the evidence and do not warrant the declaration that the *Court* was suspended. No suspension proceeding was taken against the Court as such. Then the resolution says that the Court was cited to show cause why it should not be *dissolved* as a subordinate court. It was not so cited, but was cited to show cause why it should not be *suspended* or *dissolved* for improper conduct and for neglecting or refusing to conform to the rituals, &c. And even this form of citation was not warranted by the section above quoted. Under it the Court should have been notified that charges for improper conduct, &c., had been preferred and that it must answer them. The punishment was to follow only after adjudication of guilt: that is, after the Council should have found that the charges were sustained by the evidence. Then, and then only, was the Committee to determine whether the Society should be suspended, dissolved or expelled. In their resolutions, the counsel do not find that the charges or any of them are true.

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They only declare what might be the consequence of such a finding, and that, too, not the necessary consequence. Having found the charges true, they would still have had to determine whether suspension, dissolution or expulsion was the appropriate remedy. It is as if a court of justice should adjudge that the alleged debtor's property should be sold, without having first adjudged
 10 that he owed a debt. Nothing is better settled than that a decree that adjudicates a matter not within the issue is a nullity. *Reynolds v. Stockton*, 16 Stew., 211; 140 U. S., 254. The proper issue, and the only issue warranted by section 215, was whether the Court was guilty; and that the Council has not passed upon. The complainant is confronted with this dilemma: If the citation
 20 did not call upon the defendant to answer a charge of improper conduct, &c., then it was not warranted by the laws of the order: if it, in substance, did, then the decree made did not pursue the issue. In either event it appears to afford a very slender foundation for the demand for the property sought to be recovered in this suit.

But there is another difficulty: In *State Council v. Enterprise Council*, No. 6, 5 Buch., 245, it was held that under the laws of the Order the State Council had no authority to administer the trust
 30 fund created by the local council for the benefit of its members and no power to *dissolve* the local Court, considered either as a voluntary association or as incorporated society. That seems to be the case here. Counsel for complainant sought to convince me, in a very elaborate argument, that the Grand Lodge was vested with authority to carry out the trusts or objects for which Court Cavour was constituted, but after a careful examination of the various laws of the order I fail to
 40 find any such authority. It is true that Section

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1 of Article 18 of the Grand Court laws prescribed that "should any Subordinate Court become, either by operation of law or otherwise, dissolved or be suspended, expelled or secede from the order, all property, money, goods and effects shall vest in and be delivered to the Grand Lodge upon demand being made therefor." But it is not provided that it shall take the money and other property of the dissolved Court and apply them as a separate fund for the payment of its debts or for the other uses for which they were contributed. As far as appears they go into the general fund of the Grand Court, subject to be disposed of according to its rules. 10

Counsel refers to the testimony of Mr. Donnelly, the Supreme Secretary, who says that complainant is obliged under its laws to recognize the members of a defunct Branch by giving them a clearance card to enable them to join another subordinate Court of the order, and, during the life of the clearance card, pay the benefit which the member was entitled to from the defunct Court, but assuming that the course thus indicated imposes no uncontracted for burden upon the applying member and assuming further that members not in arrears can, on application, get such card, it is plain that the section relied upon (Section 112, page 32 of Ex. C-3) is not applicable. It provides that "any member who voted with the minority against their Court disbanding or seceding, or against their Court being suspended or expelled (whatever that may mean) for non-compliance with the laws or decisions of the order, on satisfactory proof thereof, may still be recognized as members of the order." This provision applies to a situation that has not here arisen. The question of disbanding or seceding was not brought before the society and no one 20 30 40

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voted either for or against it. It was the Grand Court that sought to dissolve it, not the subordinate Court that sought to disband or secede. Counsel has not been able to refer me to any other provision and consequently the case stands, in this regard, as it did in *State Council v. Enterprise Council*.

10 The rationale of the situation is this: The right of the member is contractual. He has agreed that the fund contributed by himself and by the other members shall be managed and applied by the officers of the Court to which he belongs. He has further agreed that on dissolution the property shall go to the Grand Court; but he has not agreed that, on the contingency that has happened and while the local society, whether incorporated or not incorporated, exists, it shall be ad-
20 ministered by the officers and agents of any other Court. There has been, however, no dissolution, first because the judgment was unwarranted; second, because, if warranted, the Grand Court has no power to dissolve the local society. The Court of Errors expressly says:

30 "The fact is that the word 'dissolution' is inapt to express any legal intent which the parties may have entertained, for, even in the case of an unincorporated association, it would be quite impossible for the State Council to dissolve such a voluntary association as long as its members chose to continue together."

The fund cannot therefore be given into the custody of those officers or agents without his consent, and in this case there has been no consent. The case is unlike *State Council v. Sharp*, 11 Stew., 24. There, as pointed out by Mr. Justice Swayze in the case cited, the constitution itself
40 provided that the amount received by the State

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Council upon dissolution of the subordinate council (the local council had disbanded itself and returned its charter) should be appropriated for the assistance and support of the widows and orphans of members of the subordinate council and that if there were no such widows and orphans, the amount should be invested and paid in case of reorganization to that Council.

There are three particulars in which the case in hand differs from *State Council v. Sharp*. First, the dissolution entailing forfeiture has not been adjudged according to the rules of the Order. Second, even in the event of disbandment or secession there is no provision that the fund shall be preserved intact and used for the payment of the debts or for the relief of the members of the subordinate court. Third, Delaware Council had disbanded itself and had therefore left the fund without any trustee to administer it.

The objections above indicated apply, according to the view of the Court of Errors, even to the case of an unincorporated society. But Court Cavour is incorporated. The so-called constitution and laws of the Order are, as far as this corporation may have adopted them, nothing but its by-laws. Unlike the certificate of incorporation of the Supreme and Grand Courts, the certificate of incorporation of Court Cavour does not recognize any obligation to or dependence upon or connection with the Order at large. It is in legal contemplation an independent entity and its by-laws must stand or fall on that assumption. As long as it exists, it cannot devolve upon any other organization those duties or obligations which by its charter derived from the State, it is bound to perform itself. The Supreme and Grand Courts can by appropriate action, for cause, sever the bond which unites it to them, but after severance

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it is still a corporation and bound to the obligations of a corporation; to paraphrase the words of Mr. Justice Swayze, "it has not been dissolved. It is still an existing body. All that has happened has been that its allegiance to the Order is at an end."

1c Forfeitures are not favored. They certainly will not be enforced, where enforcement must incapacitate the corporation from performing the very duty for which it was constituted. Counsel lays great stress upon the agreement to which each individual must subscribe on joining. "I will conform to and abide by all the rules of the Court and of the Orders * * * or submit to the penalties therein contained." But this is the subscription of the individual binding, no doubt, upon him, but not upon the corporation. It is 20 the right of the corporation and not of the individual that is here in controversy.

I think the bill should be dismissed.

A true copy.

SAMUEL K. ROBBINS,
Clerk.



