NEW JERSEY

Court of Errors and Appeals.

BETWEEN AUGUST SEASTREAM ET ALS., *Complainants,* *and* THE NEW JERSEY EXHIBITION COMPANY (CORPORATION), *Defendant.*	*On Appeal from Chancery of William J. Davis, Benjamin T. Haagenson and Howard C. Griffiths.*

Brief of Frank P. McDermott.

(Under Appointment by the Court.)

That part of the printed case which has direct relation to the contempt proceedings may be indicated as follows:

1. Order to show cause, dated June 21, 1904, and affidavits on which it was based (pp. 40 to 67).

2. Testimony of witnesses (pp. 69 to 457).

3. Order discharging Peter Bentley (p. 68).

4. Opinion of Vice Chancellor Pitney, printed in a separate pamphlet by the Attorney General for this Court, under leave granted by this Court. (Not in the printed book of the case).

5. Order postponing hearing (page 474).

6. Memorandum Opinion of the Chancellor (pp. 487 to 491).

7. Order adjudging certain persons guilty of contempt (p. 47). Same order printed again on p. 479.

8. Order to tax stenographer's fees in costs (p. 473).

9. Taxed bill of costs (p. 475).

10. Warrant to Sheriff, and Sheriff's return to same (p. 484).

11. Notices of appeals (pp. 476, 477, 478).

12. Petitions of appeal filed January 31, 1905 (pp. 513 to 518).

13. Protests on making payment of fines and costs filed February 2, 1905 (pp. 482, 483).

14. The proceedings in the original cause in which August Seastream and others were complainants, and New Jersey Exhibition Company was defendant, incidental to which the original Seastream affidavits were made, may be found in part in the printed book, viz.:

(*a*) Bill and affidavits, pp. 1 to 38; (*b*) order to show cause, p. 39; (*c*) Order for injunction, p. 67; (*d*) order of reference; p. 457; (*e*) designation, p. 458; (*f*) notices, p. 459; (*g*) opinion, p. 460.

In the course of the testimony, two short letters were introduced, the first written by Edward Nelson to Benjaminn T. Haagenson, marked D 1 (p. 139). It reads thus:

"May 26.

"CAPT. HAAGENSON:

"Seastream wants see you right away; he says that he is in trouble; a man has been looking for him on the boats.

"Respt. EDW. NELSON."

The second one (p. 161), written by Haagenson to Seastream, marked D 2 enclosed in envelope marked D 3, addressed "Mr. August Seastream, Ashman, Annex." The letter D 2 is as follows:

"Wednesday, 2 P. M.

"DEAR SEASTREAM:

"If you don't see Griffiths this P. M. be at his office at 9 A. M. to-morrow. He is down to your house this P. M. but I understand you are working.

"Pay no attention to anybody.

"Yours, Cap."

The circumstances out of which the contempt proceeding arose are detailed in the opinion of the Vice Chancellor. The facts upon which the order to show cause was granted are ~~not~~ set forth in the affidavits printed on pages 41 to 67.

These affidavits, with the order, were printed and served on all the persons charged (p. 70). Proof of such service was made and filed.

For convenience in examination the two affidavits of August Steastream are here set side by side. One was annexed to the bill of complaint in the cause and taken under circumstances detailed on pages 36 *et seq.*, 55, 307, 311, 312, 317 *et seq.*, 356 *et seq.*, 403 *et seq.* The other was prepared and taken in the office of William J. Davis, one of the appellants, in Jersey City, a few days later, in the presence of Howard C. Griffiths, another appellant, who wrote it. A large part of the testimony taken on an order to show cause relates to this affidavit and the attendant circumstances (pages 385 *et seq.*, 133 *et seq.*, 154 *et seq.*).

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

August Seastream, of full age, being duly sworn deposes and says: I reside at 525 Avenue B, Bayonne. My residence immediately adjoins the easterly corner of the baseball grounds, corner of Forty-sixth street and Avenue B. I am informed and know that base ball games have been played the last two Sabbaths, but myself and wife were absent for most of the time during which these games were played. The noise that results from the playing of the games and the cheering is very annoying and would disturb the rest and slumber of our two young children who are respectively one year and four months and four months. I am the owner of the house where I reside, and the property is now worth at least one thousand dollars less than it was previous to the coming of the baseball grounds.

The crowd is a large one, consisting of several thousand. At present it does not pass my house as the gate nearest it has not yet been opened, but I am informed and believe it will be opened when the sewer in Avenue B, which is in course of construction, is completed. I would never have bought the two lots which I own, or constructed the house thereon, had I known these baseball grounds would be laid out.

AUGUST SEASTREAM.

Sworn and subscribed before me at Bayonne this sixth of May 1904.

M. J. CURRIE,
Master in Chancery of New Jersey.

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

August Seastream, of full age, being duly sworn, on his oath doth depose and say: I have resided in the city of Bayonne for about four years, and own the dwelling house and two lots immediately adjoining Eastern League Park, the baseball grounds of the Jersey City Club.

I am the person whose property is described in the affidavit attached to the bill, in which I am made a complaint with Alexander and others against the New Jersey Exhibition Company, and who is represented to have signed the same.

I did sign a paper on or about the sixth instant, which was represented to me to be a petition in favor of the playing of baseball Sundays on the grounds adjacent to my home on the westerly side of Avenue B. The affidavit purporting to be signed by me has been read to me and I declare the same to be absolutely and unqualifiedly false, and said paper was at no time read to me.

I was not absent from my home on the first day of May as represented, for I viewed the game with the Rochester Club from the window of my home, and at no time during that game was the applause audible when my windows were closed, and as to any annoyance to my children, their sleep could not possibly have been disturbed, and, as a matter of fact, my little baby slept throughout the game.

I consider the locating of the handsome and beautiful park in Bayonne a great benefit to the neighborhood, for it will attract people who will be apt to locate in the city, and have never stated otherwise to anyone at any time. The grounds and the ball games played there are a great relief from the crowds which

are attracted by the shore resorts every summer through our streets.

The gate in the fence on the Avenue B side of the ball grounds was located there with my permission; the Exhibition Company having rebuilt their fence when they learned that it obstructed the view from the lower floor windows of my home.

All statements accredited to me other than as appear in this affidavit are false and untrue.

AUGUST SEASTREAM.

Sworn and subscribed to before me this twelfth day of May, A. D. 1904, in Jersey City.

PETER BENTLEY,
Master in Chancery of New Jersey.

THE CHARGE AGAINST THE ACCUSED.

The contempt proceedings were initiated by filing affidavits, upon which an order to show cause was issued under date of June 21, 1904. The order and affidavits were printed and served on each of the accused. They are found on pages 40 to 67 of the printed book. The order to show cause recites the reading and filing of the affidavits therein referred to, and orders that the accused parties show cause at a place and time therein mentioned why they or some or one of them should not be adjudged guilty of contempt of the Court of Chancery in attempting to improperly influence the due administration of justice therein, and be punished therefore. The parties accused appeared in response to the order to show cause.

The affidavits served embraced those of August Seastream taken May 12, 1904, both of which are printed in full above—affidavits of Mungo J. Currie and George E. Griswold relating to the taking of the first affidavit of Seastream, the later affidavit of Seastream taken before Judge Blair relating to the first affidavit, the circumstances surrounding the making of the second affidavit, the incident at Mr. Griffith's office, the occurrence at his (Seastream's) house when Haagenson and Griffiths came to see him, to some extent the facts which prevented his attending the hearing before Judge Blair and his being detained in New York by Haagenson when he was wanted in the Court of Chancery; the affidavit of Mrs. Seastream relating to the first affidavit, the calls of Mr. Griffiths at the Seastream home on May 13th or 14th, and on June 1st, and the call of Captain Haagenson about May 20th; the affidavit of Elmer W. Demarest detailing the proceedings in the original cause, outlining the circumstances under which the affidavits were presented,

and what took place before Judge Blair; and the affidavit of George E. Griswold, showing his efforts to reach August Seastream and serve a subpoena on him in the original cause on May 26th.

By these affidavits it was established *prima facie*.

1. That Seastream had made affidavits of such a contradictory nature that one must be untrue.

2. That the first affidavit was made when Seastream was absolutely free to act and of its own accord (pp. 44, 45, 47).

3. That the second affidavit was induced by threats by Haagenson, a countryman of higher intelligence and occupying a much higher position with the railroad company than Seastream, although not his superior officer (p. 48).

4. That this second affidavit was prepared by Howard Griffiths, in the office of William Davis, and signed after Seastream had taken brandy through the persuasion of Mr. Davis (pp. 49, 50).

5. That Haagenson had taken and kept Seastream in New York when he was being sought as a witness before the Court of Chancery (p. 51), and held the terrors of jail over him (p. 52); that Howard Griffiths attempted to obtain false evidence from Seastream and his wife (pp. 52, 53, 56), and that Haagenson, Davis and Griffiths attempted to coach Seastream as a witness (p. 51).

6. That the second affidavit by Seastream, in which he declared the previous affidavit to be absolutely and unqualifiedly false, was, in part, at least, untrue, to the knowledge of Griffiths and Davis, as some facts recited in the first affidavit are restated in the second.

This *prima facie* evidence was amply sufficient to warrant the making of the order to show cause,

and such affidavits constitute a sufficient statement of the charges against the accused.

Rapalje on Contempt, Secs. 93, 94, 103.

9 Cyc. Law and Pro., 38, etc.

4 Ency. Pl. and Pr., 772, 779, 782.

The practice of filing and serving affidavits and an order to show cause has been approved in this State, but convictions have sometimes been permitted to stand where it has not been followed.

In re Cheeseman, 20 Vr., 115, at p. 142.

SUMMARY OF USEFUL DATES.

Bill filed in original cause May 7, 1904.

Seastream's first affidavit May 6, 1904.

Seastream's second affidavit May 12, 1904.

Order to show cause in original cause May 7, 1904 (p. 39).

Order to show cause returnable May 16, 1904.

Seastream signed consent to discontinue May 20, 1904 (p. 260).

Hearing on order to show cause postponed to May 23, 1904 (p. 58).

Hearing further postponed to May 26, 1904 (p. 62).

Subpoena issued for Seastream by Mr. Demarest, May 26, 1904 (pp. 63, 65).

Seastream detained by Haagenson and taken to New York May 26, 1904 (p. 107, 108, 109).

Meeting in Griffith's office May 26, 1904, (p. 110, 111).

Affidavits of Seastream referred to Judge Blair for investigation, May 26, 1904 (p. 64).

Date fixed by Judge Blair for hearing June 2, 1904 (p. 64).

Letter D 2 written by Haagenson to Seastream June 1, 1904 (p. 161).

Griffith's call on the Seastreams June 1, 1904 (p. 113, 367).

Hearing before Judge Blair, Seastream absent, June 2, 1904 (pp. 52, 53, 64, 286).

Frequent meetings ~~before~~ between Haagenson and Seastream June 2, 1904 (pp. 52, 170, 171).

Seastream before Judge Blair June 3, 1904.

Mrs. Seastream before Judge Blair June 6, 1904 (p. 373).

Affidavits on contempt proceedings filed and order to show cause issued June 21, 1904 (p. 41).

Order for injunction in original cause July 8, 1904 (p. 67).

THE OPPORTUNITY TO DEFEND.

The accused were given the fullest opportunity to defend. On the return of the order to show cause the several parties making the affidavits on which said order was based were produced in Court by counsel of the Court for cross-examination by opposing counsel (p. 73).

Thereupon and later August Seastream, Judge John A. Blair, Elmer W. Demarest, Laura Seastream, Mungo J. Currie and George E. Griswold were produced and examined by the counsel of the accused; the accused were also examined, with others, in their behalf.

See further as to production of witnesses for examination and cross-examination by the accused (pp. 217, 218, 419, 421, 432, 433).

In the petitions of appeal it is claimed that the Court refused to permit the appellants to prove that the facts stated in the second affidavit were true.

Upon this it may be said:

1. That the second affidavit could not be true as it pronounced the first affidavit "absolutely and unqualifiedly false," when it actually recited some of the facts contained in the first affidavit. Other statements in the first affidavit were admitted by Mr. Griffiths to be true (pp. 261, 262), and other statements in the first affidavit are proved true beyond the possibility of contradiction.

2. The accused were permitted to prove the truth of every material statement in the second affidavit (pp. 84, 178, 182, 185, 186, 187), and many others.

The testimony of Margaret Fitzpatrick and Charles M. Brown relates almostly entirely to this feature of the case, and other testimony of the same character was admitted.

THE ACTION OF THE CHANCELLOR IS SUSTAINED BY THE GREAT WEIGHT OF AUTHORITY.

The proceeding in the present instance was taken to punish contemptuous conduct relating to the authority and dignity of the Court of Chancery, and belongs to the first of the two classes into which Mr. Justice Depue divides contempt proceedings in *Dodd vs. Una, 13 Stew., 672, at page 714.*

Illustrative cases of what has been considered contemptuous conduct by the Courts may be found declared or cited in the following:

State vs. John L. Doty, 3 Vr., 403 (Chief Justice Beasley).

In re Cheeseman, 20 Vr., 115 (Justice Dixon).

In re Taylor et al., 33 Vr., 131 (Justice Depue).

Grand Lodge K. of P. vs. Jansen, 17 Dick., 737 (Justice Dixon).

9 Cyc. Law. and Pro., pages 22–23.

Littler vs. Thomson, 2 Beavan, 129.

Lord Wellesley vs. The Earl of Mornington, 11 Beav., 181.

Mr. Lechmere Charlton's case, 2 Mylne & Craig's Chancery Rep., 316.

Plating Company vs. Farquhason, 17 Ch. Div., 49.

Huggonson's case, 2 Atkyns, 469.

Roach vs. Garvan, 2 Dickens, 794.

Elliott vs. Holmarack, 1 Merivale, 301.
Ex parte Clarke, 1 Russell & Mylne, 563.
Broad vs. Wickham, 4 Simons, 511.
Rapalje on Contempt, Secs. 3, &c.

It is respectfully submitted that the proceedings under review were in accordance with the practice approved by the Courts of this State, that the parties accused were given ample opportunity to defend; that the action of the Chancellor is fully warranted by the testimony and that the contempt charged and proved is punishable under the law as established in this jurisdiction.

FRANK P. McDERMOTT,
Of Counsel.

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COURT OF ERRORS AND APPEALS

IN THE MATTER OF THE ALLEGED CONTEMPT OF AUGUST SEASTREAM ET AL.

On Appeal from Order Adjudging Guilty of Contempt.

BRIEF OF ROBERT H. McCARTER, ATTORNEY-GENERAL, IN SUPPORT OF THE JURISDICTION OF THE COURT OF CHANCERY.

A careful reading of the voluminous record in this case leaves no doubt of the fact that the appellant, Seastream, made two entirely contradictory and most material affidavits in this case, and that the other defendants united in one way or another in inducing him to do this. A comparison of the two affidavits (pages 24 and 42) will show how diametrically opposed they were. The proofs manifest that the earlier one (attached to the bill of complaint) was quite accurate, and the later one was superinduced by the other appellants, who cajoled or persuaded the affiant to make it with the hope of thereby procuring a dissolution of the restraining order, and, if possible, a dismissal of the bill.

I will not undertake to go into details as to the facts. I will assume that the foregoing is a correct resumé of what this record discloses. If so, no intelligent lawyer

will, I believe, seriously question that such a state of facts constitutes a contempt of court, and subjects all concerned in it to a judgment. The due administration of justice would be a farce if litigants and counsel could unite with persons interested in the controversy, although not parties to the suit, to deliberately deceive the court by false affidavits, particularly where, as here, the affiant has to the knowledge of all applied for and secured extraordinary equitable relief based upon his own sworn statement of material facts, and when, too, one of the parties concerned is an officer of the court and a lawyer of experience.

Indeed, I do not understand that the appellants deny that the assumed state of facts constitute a contempt of court. They either deny the correctness of the assumption or else assert that the proceedings taken in the court below looking to the adjudication were practically *coram non-judice*.

I have been asked by the CHANCELLOR to participate in this argument to the extent of upholding, so far as may be, the jurisdiction of the court below to reach the conclusion it did, and to that branch of the case I will alone address myself, leaving it to my learned associate, who at the request of the Court of Chancery took part, in a dignified and forceful manner, in the proceedings below, to discuss the facts.

The following is, however, necessary to a proper understanding of the situation: A bill was filed by the appellant, Seastream, and one Alexander, seeking an injunction against the further playing of baseball on the defendants' ground on Sunday. Upon the presentation of the bill and affidavits to VICE CHANCELLOR PITNEY, in Chambers, a rule to show cause why an injunction should not issue was granted with an *ad interim* stay, returnable at Jersey City on a regular motion day. This order was in due course filed and a copy of it duly served, and the application was on the return day adjourned for one week. On this adjourned day the defendants appeared, presented a request for a discontinuance of the suit by

the appellant, Seastream, and (*inter alia*) the second and contradictory affidavit by him.

The Vice Chancellor whose regular motion day it was at Jersey City, and who was upon that occasion, by designation, sitting there in place of the Chancellor, after hearing the two affidavits, referred the matter to Judge Blair, a master in chancery, and also judge of the Court of Quarter Sessions, for investigation, with the result that both Seastream and his wife subsequently appeared before Judge Blair and were fully interrogated under oath by him; their evidence was written out and subsequently signed by them, and it, with other affidavits, were the basis of a rule to show cause why the appellant should not be judged guilty of contempt. (Case, p. 40.) This order, after having been advised by Vice Chancellor Pitney, was in due course signed by the Chancellor, and then copies were afterwards served personally upon all the accused persons, who on the return day appeared in person and by counsel.

The Vice Chancellor sat upon the return day of this order, announcing that he had been requested by the Chancellor to hear the matter, whereupon (page 71, line 20) objection was made that no one could sit in a case of contempt of this character (involving the dignity of the court and the due administration of justice) except the Chancellor himself. The objection was overruled, whereupon the affidavits upon which the rule to show cause in the contempt proceedings were based were offered in evidence, and the several affiants (including Seastream and wife) were produced in court and tendered for cross-examination. Seastream was cross-examined fully by the counsel for the accused (page 74), and upon their announcing their intention not to cross-examine his wife the court expressed his desire that she be examined, whereupon she was (page 356) thoroughly examined in the presence of the other parties and their counsel. The other accused parties were fully examined and several witnesses were also sworn in their behalf. At the close of the proofs (page 421) the accused parties

objected to the hearing of the arguments and the decision of the case by the VICE CHANCELLOR, upon the ground that the acts creating the office of Vice Chancellor are unconstitutional. The point being overruled, a little more testimony was taken and the case fully argued before the VICE CHANCELLOR, after the counsel (page 453) had again objected thereto, and after consideration the VICE CHANCELLOR filed an opinion (printed in the small pamphlet), in which he gives at length his reasons for concluding that the appellants were guilty. At the time of the announcement by the VICE CHANCELLOR of his conclusions the CHANCELLOR was present, and pursuant to the request of the accused himself heard additional arguments by counsel in extenuation of their conduct, and after having, as he certifies (page 491, line 10), carefully read the stenographic report of all the testimony in the cause, he reached the same conclusion as the VICE CHANCELLOR had (see his memorandum opinion, p. 487), whereupon the CHANCELLOR himself adjudged the appellants guilty. (See order, p. 470.)

From this order three of the accused have appealed, and their several petitions of appeal are printed on pages 513-517.

Before considering this jurisdictional question, it may be proper to call to the court's attention the question—

IS THIS AN APPEALABLE ORDER?

It is conceded that the contempt, if any, concerns the dignity of the court, and that the proceeding is brought solely for the purpose of vindicating its authority.

In such cases no appeal lies from the order adjudicating the contempt.

Depue, J. *Dodd* v. *Una*, 13 *Stew. Eq.* 672, 715.
Frank v. *Herold*, 17 *Dick. Ch. Rep.* 737.

Assuming, however, that there be an appealable question here, then it is confidently asserted that the right of the VICE CHANCELLOR to hear the evidence and advise the CHANCELLOR cannot be seriously questioned.

Indeed, in view of the actual participation of the CHANCELLOR in the final proceedings, the question really involved is the narrow one whether it was competent for him to adjudge persons guilty of contempt upon testimony and affidavits not taken before him personally—whether, as urged (page 453) by appellants' counsel, he should "see" the witnesses, and whether a proceeding for contempt, being (as claimed) *quasi*-criminal in character, the judge has no right or jurisdiction to pass judgment unless the witnesses shall have personally testified before him.

Now, it is believed that the most cursory examination of the authorities, in England and elsewhere, will show that it has always been the practice for the CHANCELLOR, in contempt cases as in all other, to rely on testimony or proofs taken before an examiner, or some other officer, and certified to him.

In the great case of *Yates* v. *People*, 6 *Johns. Rep.* 229, the whole scope of contempt proceedings and the practice to be pursued was considered by CHANCELLOR KENT in the Court of Errors. It appears that the practice pursued in the court below (in the contempt proceedings) had been to rely on affidavits and on testimony taken both in open court and on commission. On page 487, CHANCELLOR KENT says:

> "In ordinary contempts, by openly insulting and resisting the powers of the court, no moral turpitude is involved, for they may have been the effect of irritation, of passion or of insubordination. Upon proof, by affidavit, either an attachment is issued or a rule to show cause why it should not be issued is granted. At common law, if the contemner is put to his interrogatories, and he purges his contempt by oath, he must be discharged, as the proceeding is contrary to its genius, and no evidence is admitted

> to contradict him. But it is not so in the Court of Chancery; witnesses may be examined in court by a master, by an examiner or on commission; and examinations have been had in this case, at the instance of Mr. Yates, in three of those modes; and if the court are satisfied that the contempt has been committed, it is not bound to discharge."

On page 505 of the same report it is shown that these contempt proceedings are summary, without the compulsory attendance of witnesses and trial by jury, against the rules of common law and even contrary to the genius of a free government. On what principle, therefore, can it be properly urged that the accused had a constitutional right to be "seen" and to have his witnesses "seen" by the court?

The fact is that all courts of record have the inherent power to punish for contempt and that an accused in such cases has no right to a trial by jury, but the matter can be summarily disposed of by the court.

State v. *Doty*, 3 *Vr.* 403.

In *Maginnis* v. *Parkhurst*, 4 *N. J. Eq.* 432, the proper practice is shown to be that the party accused may be examined on interrogatories and if doubt thereafter remains other witnesses may be examined. In this case, depositions taken before a master upon notice and without any order were expressly authorized to be read before the CHANCELLOR on an application in contempt proceedings. No one, so far as I am aware, has ever before suggested that this examination has to be conducted in any other way than the ordinary one, and the CHANCELLOR, either in England or in this State, has not been accustomed to attend personally at the taking of proofs in any proceedings.

In *Bank* v. *Schermerhorn*, 9 *Paige* 372, CHANCELLOR WALWORTH stated the practice to be, when the contempt is denied, for the Chancellor to allow interrogatories to be filed, and then, if not satisfied with the answers,

to refer the matter to a master to take and report such testimony as shall be offered on either side before him.

In that case, it may be noted that a Vice Chancellor had sat and entered the order, upon the evidence taken before the master, and the Chancellor considered the matter on appeal from his conclusion.

In *Musgrove* v. *Medex*, 19 *Ves. Jr.* 651, an application was made to commit a party for contempt upon a foreign affidavit and the LORD CHANCELLOR declined to do so, but only upon the ground that perjury could not be assigned upon it.

In *Parkhurst* v. *Kunsman*, 2 *Blatchf.* 76, the court stated that the proper practice was a "reference to a master to take the proofs of the respective parties * * * and to report the same to the court with all convenient speed." This was in a contempt case where the very question at issue was the proper practice to be pursued in case of doubt as to the facts.

We have already seen that in New York the Vice Chancellors were deemed entitled not only to take evidence, but to adjudge a party guilty of contempt. The same thing is true in England.

Ex parte Clarke, 1 *Rus. & My.* 563.
Broad v. *Wickham*, 4 *Sim.* 511.

In *Dodd* v. *Una, supra*, a most hotly contested case, the counsel for the accused were VICE CHANCELLOR EMERY, EX-CHANCELLOR WILLIAMSON and the late THOMAS N. MCCARTER, yet the whole matter was heard by Vice Chancellor Van Fleet, who not only personally presided at the taking of proofs, but expressly authorized depositions to be taken in New York and read before him. 11 *Stew. Eq.* 460. Neither those counsel nor the learned VICE CHANCELLOR, nor this court on appeal, apparently questioned the power of the VICE CHANCELLOR in the premises.

In *O'Rourke* v. *Cleveland*, 4 *Dick. Ch. Rep.* 577, VICE CHANCELLOR PITNEY tried a contempt case and apparently relied in part upon depositions which had been

taken, and while this court reversed the order he advised it did not question his right to sit.

It is therefore respectfully insisted that the Court of Chancery had full jurisdiction in the premises; that it is utterly unnecessary that the ascertainment of the fact of contempt should be made by the examination of witnesses personally before the Chancellor. He may act on mere *ex parte* affidavits taken before any officer of the court competent to take an oath, and if the accused in his answer to the interrogatories, which under the old practice he was compelled to answer under oath before some officer of the court, failed to clear himself of the charge, the court could act then and there. If, on the other hand, as in this case, the other and more modern practice be adopted of issuing an order to show cause, then the depositions on both sides are taken before a master or a Vice Chancellor and reported to the Chancellor who passed upon them.

Nor was any special order of reference to the Vice Chancellor necessary.

The applications in this cause, and the hearings following such application, were made to Vice Chancellor Pitney under rule 204*a* of the Court of Chancery.

This rule provides for applications to any Vice Chancellor in certain instances, and states that "such applications are hereby referred to such Vice Chancellor, to hear and advise orders and decrees therein, without special order of reference." Paragraph 5 of this rule covers: "Applications in any cause or proceeding for orders or decrees, excepting decrees *pro confesso* and final decrees, and excepting orders of reference to a Vice Chancellor or to an advisory master or to a special master in divorce proceedings."

In section 96 of the present Chancery act, as revised in 1902 (*Pamph. L., p.* 541), the Chancellor is authorized to refer to the Vice Chancellors any cause or other matter pending in the Court of Chancery, and "the Chancellor may also, by general rule, provide for the reference to a Vice Chancellor of causes, matters and proceedings pending or future." The general provision of rule 204*a* is clearly warranted by this statutory enactment.

Following the above-quoted paragraph, section 97 provides: "When any cause or matter shall be so referred to a Vice Chancellor it shall be lawful for him to take and hear the evidence of any or all witnesses in said cause or matter orally," &c.

Under the statute and the rule above referred to the Vice Chancellor clearly had authority to receive the applications in this cause and to hear the evidence of the witnesses on said applications.

While it is believed that he had the power to go further and determine the matter thus before him, that precise question is not before the court, because the Chancellor himself heard argument, read and considered the case, and adjudged the appliants guilty of contempt.

Unless the Court of Chancery be devoid of power to do that, then these proceedings are in all respects proper.

Respectfully submitted,

ROBERT H. McCARTER,

Attorney-General.

May 26th, 1906.

New Jersey Court of Errors & Appeals

IN THE LAST RESORT IN ALL CAUSES.

Between

AUGUST SEASTREAM, et al,
Complainants,

NEW JERSEY EXHIBITION CO. (CORPORATION),
Defendant.

BRIEF OF APPELLANTS.

Abstract of Case,

The appellants, Howard C. Griffiths, William Davis and Benjamin T. Haagenson, by their several appeals, seek to reverse an order of the Chancellor made on the 23rd day of January, 1905, in a cause entitled as above, and to which none of the appellants was a party, either complainant or defendant, and which order adjudged the said appellants to be guilty of contempt of the Court of Chancery and imposed upon Griffiths and Haagenson each, a fine of $1,000, and upon Davis a fine of Two Hundred and Fifty Dollars, with imprisonment until such fine should be paid, together with the costs (Case, page 470). The opinion of the Chancellor, upon which this order was made, is found on page 487 and following pages of the printed case.

The order adjudging appellants guilty of contempt is based upon an order to show cause (Case, page 40) advised by Vice Chancellor Pitney on the 21st day of June, 1904, and entitled in the cause between August Seastream, et al, complainants, and the New Jersey Exhibition Co. (Corporation), defendant, and upon affidavits filed in said cause and upon oral evidence taken by Vice Chancellor Pitney, which oral evidence begins on page 74 of case.

The said order to show cause was advised by Vice Chancellor Pitney, upon reading and filing an affidavit of one August Seastream (Case, page 41) and another affidavit of said affiant (Case, page 42, line 27) and another affidavit made by said affiant (Case, page 46, etc.), and an affidavit made by one Currie (Case, page 44, etc.), and an affidavit made by one Griswold (Case, page 45), and another affidavit made by said Griswold (Case, page 65), and an affidavit made by Laura Seastream (Case, page 55), and an affidavit made by one Demarest (Case, page 58, etc.).

All these affidavits, except the purported affidavit of Seastream (Case, page 46, etc.), and of Mrs. Seastream (Case, page 55, etc.), were entitled in the cause of Seastream, et al., against The New Jersey Exhibition Co.

The bill of Seastream and others was filed in the Court of Chancery against The New Jersey Exhibition Co., to restrain said defendant from playing ball on its property in Bayonne on Sundays, and upon filing said bill Vice Chancellor Pitney, on the 7th day of May, 1904, advised an order to show cause why an injunction should not issue according to the prayer of said bill, which order was made returnable at the Chancery Chambers in Jersey City, on the 16th day of May, 1904 (Case, page 39).

When, in opposition to the order to show cause why the injunction should not issue, the affidavit of Seastream (Case, page 43, etc.) taken before Mr. Bentley, was presented to the Vice Chancellor, he thereupon

set in motion proceedings which resulted in the Seastreams appearing before Judge Blair, the Judge of the Court of General Quarter Sessions of Hudson County, and then the said Vice Chancellor subsequently advised the order to show cause why the said appellants and others should not be adjudged guilty of contempt.

Upon the return of the contempt order to show cause the appellants and accused appeared by their several counsel and such proceedings were had as appears in the case beginning on page 69.

Mr. Frank P. McDermott appeared as counsel for the Court and presented the several affidavits, upon which the order to show cause was based, whereupon the Vice Chancellor verbally directed the accused to show cause why they should not be adjudged guilty of contempt.

Various objections to the Court's jurisdiction were presented and the parties accused were finally permitted to cross examine some of the witnesses, whose affidavits had been taken in the case, and were permitted to swear certain witnesses before the Vice Chancellor and this testimony will be found between pages 74 and 453 of the printed case. At the conclusion of the taking of testimony the counsel were compelled to sum up the case and the matter was then taken under advisement by the Vice Chancellor.

Up to, and beyond this state of the proceedings, *no order of reference or other order had been signed by the Chancellor* giving to the Vice Chancellor any power to hear or determine this contempt matter. Subsequently there was made an order of reference by the Chancellor on the 27th day of September, 1904, ordering that the cause be referred to Henry C. Pitney, Vice Chancellor, to hear the same for etc. (Case, page 547). At a later date Vice Chancellor Pitney informed counsel of the accused that he had determined the matter and would pronounce judgment and fixed the date for so doing at Newark, N. J. At

said time and place so fixed, the accused, with their counsel, appeared before Vice Chancellor Pitney at his chambers and before he pronounced judgment they insisted that they desired to go before the Chancellor and they immediately went before the Chancellor and presented to him such reasons that he thereupon verbally directed that he would hear the argument upon the testimony already taken, and would himself adjudge the matter. This does not appear in form in the printed case but an order was made by the Chancellor on the 3rd day of October, 1904 (Case, page 458) and the Chancellor finally pronounced judgment and rendered his opinion, which will be found on page 487 of the case. The order adjudging the accused guilty of contempt was subsequently made by the Chancellor and a warrant was issued and the accused were taken into custody and confined in the County jail until they paid their fines and costs, which they did under protest.

On the thirtieth day of January, Nineteen Hundred and Five, the accused filed in this Court their petitions of appeal from the judgment of contempt, and on the thirty-first day of January, Nineteen Hundred and Five, served and filed their notices of appeal.

On the thirteenth day of September, Nineteen Hundred and Five, an opinion was filed by his Honor Vice Chancellor Pitney with the Clerk in Chancery.

POINT ONE.

The Court of Chancery was without jurisdiction to pronounce judgment of contempt of Court against these accused.

(a) Because the Court of Chancery had failed to obtain jurisdiction over the subject matter for which the accused were adjudged guilty of contempt.

In most States, and especially in New Jersey, it is well recognized that proceedings for contempt of Court are embraced within two distinct classes, namely: (1) those instituted solely for the purpose of vindicating the dignity and preserving the power of the Court, which are criminal and punitive in their nature; (2) those instituted by private individuals for the purpose of protecting or enforcing private rights, and which are remedial and civil in their nature.

This distinction is plainly announced by Vice Chancellor Pitney in the case of Thompson vs. Pennsylvania R. R. Co., 40 N. J. Eq., 108, wherein he says, "Proceedings in contempt are of two classes, namely, first, those instituted solely for the purpose of vindicating the dignity and preserving the power of the Court. These are criminal and punitive in their nature and are instituted by the Court in the interest of the general public and not of any particular individual or suitor. Second, those instituted by private individuals for the purpose, mainly, if not wholly, for protecting and enforcing private rights and in which the public have no special interest. These are remedial or civil in their nature rather than criminal or punitive." And the Court cites as authority, Dodd vs. Una, 13 Stew. 672, and People vs. Oyer & Terminer, 101 N. Y., 245. See also the case of Paterson vs. Wyoming Valley District Council, reported in 64 Atl. Rep. (Part No. 8, dated Oct. 18, 1906) page 2, etc.

With this distinction in mind, an examination of the record discloses that no contempt could have been committed by the accused which would have placed it in the second classification above mentioned, as there is no intimation that any of the accused were either parties to the suit in which this order was made, nor that they had violated any order of the Court or injunction issued, and, therefore, we must assume that whatever contemptuous act was committed by any of

the accused falls within the first classification, namely, a criminal contempt, and that the punishment inflicted by the Court of Chancery was solely for the purpose of vindicating its dignity and preserving its power.

These criminal contempts are again subdivided, according to judicial decisions and text writers, into two classes, namely, (1) direct contempts, and (2) constructive contempts, by which are meant acts of contempt of the Court committed not in the presence of the Court and of which the Court can have no knowledge except upon information.

The record brought before the Court in this case discloses that the judgment of the Court of Chancery must have been pronounced because of some alleged constructive criminal contempt.

The appellants insist that, to give the Court of Chancery jurisdiction to pronounce judgment against them, as for a constructive criminal contempt, the Court must have acquired jurisdiction not only of their persons by some proper process, but also it must have acquired jurisdiction of the subject matter of the alleged contempt, and they respectfully insist that the Court of Chancery did not acquire jurisdiction over the subject matter of any alleged contempt.

The case of August Seastream, et al vs. New Jersey Exhibition Company was begun by a bill filed May seventh, Nineteen Hundred and Four, in the Court of Chancery, the object of which was to restrain Sunday base ball playing on the grounds of the defendant in Jersey City, and was presented to his Honor Vice Chancellor Pitney and an order to show cause was advised by his Honor on May seventh, Nineteen Hundred and Four, containing an ad interim stay. To this bill the appellants were not parties.

Upon the twenty-first day of June, Nineteen Hundred and Four, his Honor Vice Chancellor Pitney made an order that the appellants "show cause before this Court at the Chancery Chambers in the City of Jersey City, New Jersey, on Tuesday the fifth day of

July, Nineteen Hundred and Four, at the hour of ten o'clock in the forenoon, why they, or some or one of them, *should not be adjudged guilty of a contempt of this Court in attempting to improperly influence the due administration of justice therein, and be punished therefor.* And his Honor further ordered that a true copy of said order and of certain affidavits be served on the appellants, etc. (Case, page 40). The affidavits, of which copies were to be served, are found on pages 41 to 67.

Upon the return of this order to show cause the accused appeared, by their counsel, and the Court was represented by Mr. Frank P. McDermitt, and Mr. McDermitt presented the matter to the Court (as appears on page 69), and in stating the matter he called the Court's attention to the fact that they were there to answer and show cause "*why they should not be adjudged guilty of contempt of the Court in attempting to improperly influence the due administration of justice*" (Case, page 70, line 2, etc.).

The several accused, by counsel, entered objections to the Vice Chancellor hearing the matter, among which is the following :

Mr. Dixon. "I appear for Mr. Bentley. To the exceptions I also desire to add this objection, that, so far as he is concerned, there is no affidavit or proceeding or complaint against him, charging him with any misconduct of any kind which tends to defeat or—" (interrupted by the Court. Page 72, line 5).

By Mr. Allen McDermott. "We should like the benefit of the point made by Mr. Dixon also for our clients." (Page 72, line 25, etc.)

Mr. Dixon. "We also desire the privilege—Mr. Bentley desires the privilege—to have the testimony, or charge against him produced and privilege of cross examining anybody who makes charges against him which tend to impede or interfere with justice" (Page 73, line 8, etc.).

I have thus particularly called the Court's attention to the opening of the proceedings, and respectfully insist that neither the accused could, nor were they, legally bound to imagine, from the affidavits annexed to the copy of the order to show cause, of what the alleged acts of contempt consisted, and I respectfully submit that this Court would be at a considerable loss to say specifically what particular act or acts of which each, or any, of the parties were guilty, and which would constitute "*an attempt to improperly influence the due administration of justice in said cause*," and I respectfully and earnestly insist that at the beginning of said hearing the defendants did not know what the nature of the alleged contempt was, nor during the progress of the hearing did they learn of what it consisted, and indeed, did not know of what it consisted after final judgment and after the presenting of their appeal in this Court.

I respectfully insist that the record shows that his Honor, the Vice Chancellor, did not know what facts could be relied upon or what facts were in issue to prove any contempt of the Court, committed by the accused. On page 83, line 18, in answer to an objection made by counsel for the Court, the Court said:

"I am here simply to know whether *any abuse or improper conduct has been indulged in by anybody* which would be a contempt of this Court. The witness (referring to Seastream) has made two distinct affidavits, or appears to have done so, signed two papers; he has then signed a third, which he says is true. Now the question is *how he came to sign all those three papers, and how they come to be so contradictory in their character.*"

Mr. Allen McDermott in reply to this remark of the Court, said:

"It seems to me the question is, which affidavit is true, and one affidavit says this was a nuisance to him, the other says it was not a nuisance to him; we shall go on in that line of defense."

The Court. *That is just the reason why I am unwilling to go into that question.*"

Mr. McDermott. "We must necessarily go into which one is true in this case."

The Court. No, not necessarily, at the present, at least."

Mr. Dixon. "May I make an inquiry on behalf of Mr. Bentley?"

The Court. "Yes."

Mr. Dixon. "I have been unable to fathom the charge against him; there is no charge in my affidavit —I want to be informed, if I can be informed now, and I think this is a pertinent point, as to whether I can get the information whether or not he is charged, or what the charge is."

The Court. "Not at present."

It will thus be seen that not only did Mr. Bentley, through his counsel, request to be informed of the nature of the charge against him, and which request he had made at the inception of the proceedings and was joined in by the other accused, but that even at that time the Court declined to state what the accusation was.

The position of Mr. Bentley and of the other accused appellants, so far as their knowledge of the accusation is concerned, is identical, and it is apparent from a consideration of the line of cross examination of the witnesses, or cross examination of the accused, that neither they nor the Court understood what facts were to be produced or relied upon as constituting the alleged contempt.

Seastream had made his affidavits, which were contradictory in some particulars, and the accused were, to some extent, connected with the making of one affidavit, and not with the other. They *assumed*

that the Vice-Chancellor *assumed* that that affidavit, so made by Seastream and with which they were connected, was not in fact true, and, therefore, it was their intention to prove that it was in fact true, but in this assumption they were in error, and this they were not permitted to do. (Page 84, &c., page 91, &c., page 182, line 12, &c., page 186, line 29; page 187, pages 188 and 189.)

On page 208 a question was asked of a witness by the accused, and was objected to and the following colloquy, in part, took place between Court and counsel. (This was on the second day of the hearing.)

The Court: "I cannot see how it possibly can affect the issue before the Court here now. If counsel can point it out to me, I will be very happy to have him do it."

Mr. Allen McDermott: "If in this second affidavit —we are trying to establish—*I must say I don't know just what we are trying to establish—it is a little confused,*" &c.

The Court: *I think I will not admit the evidence at this time. I don't say that in the course of investigation it may nat become competent,*" &c.

Mr. A. McDermott: "May I interrupt the Court? At the hearing last Tuesday, just prior to the closing of the hearing, in response to a question from Mr. Dixon as to what the issue in this cause was, the Court made a statement," &c.

The Court: "The issue in regard to Mr. Seastream is undoubtedly, either he was induced to swear to a lie in his first affidavit, or in the second affidavit; or either by reason of his stupidity and lack of knowledge of the English language, he did not know what he was swearing to, *you may say, I don't want to define the issue because I cannot tell until the whole thing is investigated.* But the issue in regard to Mr. Hagenson and Mr. Griffiths and Mr. Bentley is *whether they brought any improper influences to bear*

upon him to make the second affidavit, whether true or false or what not. (Page 209, and see the colloquy between Court and counsel occupying the next three pages).

It thus becomes apparent that not until the second day of the examination of witnesses, and after the examination of all the witnesses, who might be called the complaining witnesses, or the witnesses on whose testimony the truth of the alleged contempt must have been found, had the Court, or counsel for the Court, attempted to enlighten the accused as to the nature of the alleged contempt, and the only light that the Court then furnished the accused appellants was with regard to Messrs. Hagenson, Griffith and Bentley, to the effect that the question was whether they brought any improper influences to bear upon Seastream to make the second affidavit, whether it was true or false or what not. As to Mr. Davis, the Court furnished no information whatever. As to Seastream, the Court's remark that the question undoubtedly was whether he was induced to swear to a lie in his first affidavit or in the second affidavit, or by reason of his stupidity and lack of knowledge did not know what he was swearing to, was effective only to the extent of making it absolutely impossible for the other accused to know with what they were charged. If Seastream's second affidavit were true in fact, it would seem that to bring the truth of the facts to the attention of the Court could not have constituted a contempt of its dignity.

If Seastream's second affidavit was made by him through ignorance of the English language, it would seem that the accused appellants could not be held responsible for his want of knowledge.

If the second affidavit of Seastream was alleged to have been false in fact, and that the contempt of the accused consisted of knowingly procuring a false affidavit, it would seem to be the constitutional right

of the defendants to have been permitted to prove the truth of the affidavit in order to purge themselves of the alleged contempt. This was refused to them.

From the above colloquy between Court and counsel it would also appear that the learned Vice-Chancellor had issued the rule against Mr. Bentley because he had acted as counsel in the cause (which was a mistake of the Vice-Chancellor's, as Mr. Bentley was not a counsellor at law) and the Court at that point further intimated that the reason he issued the order to show cause against these appellants was that they had not filed affidavits, as had Messrs. Curry and Demarest. Why they had not done so, appears by the statement of Mr. McDermott to the Court on page 213.

Further examination of the case to the end will, I think, impress this Court with the belief that at no time during this proceeding did these accused know the nature of the accusation against them, and I respectfully submit that they were not enlightened by the opinion of his Honor, the Chancellor, which was filed on the fourteenth day of February, nineteen hundred and five, and upon which the order adjudging the accused in contempt was made. (Page 487 of case).

It will be remembered that the opinion of Vice-Chancellor Pitney, to which his Honor, the Chancellor refers, was not filed until the thirteenth day of September, nineteen hundred and five, and after this appeal was presented.

I also respectfully refer to the opinion of the Vice-Chancellor filed on September thirteenth, nineteen hundred and five, and which has been printed in a supplemental book, and insist that even from that opinion it cannot be determined with any legal or just accuracy for what acts these appellants have been convicted and so severely punished. On page 41 of the Vice-Chancellor's opinion he recites that his conclusion upon the whole matter is "that Hagenson

accosted Seastream, and either found him in a state of distress or by threats of discharging him (he believes the latter) threw him into a state of distress by reason of his action in this cause. And under pretence of helping him out of his trouble he took him to the office of Mr. Robert Davis, where he was induced by Messrs. Griffith and Davis, "aided by the use of alcoholic stimulants," to make this second affidavit, *which was essentially untrue in most of its material parts.*"

I respectfully submit that the evidence taken does not justify this conclusion, but on the contrary, leads the mind to a directly opposite conclusion.

But it would seem from this statement of the Vice-Chancellor that the alleged contempt, as he then viewed it, consisted in the procurement from Seastream of a false affidavit by threats from Hagenson, aided by the administration of a drink of brandy to Mr. Seastream (he only had one drink) and that these three persons (two of whom were absolute strangers to Seastream), had obtained a false affidavit from him under pretense that they were his friends.

If such was the alleged contempt as found against them, they have been illegally treated with severe injustice by the Court of Chancery, because the learned Vice-Chancellor refused to permit them to prove by evidence that the facts to which Seastream had sworn in his second affidavit were in fact true.

It is respectfully submitted that, before the Court can acquire jurisdiction to pronounce judgment of contempt against a person for a constructive criminal contempt, some definite allegation of the fact which constitutes the contempt must not only be made to the Court, but must be made in such way that the party may be apprised of it and afforded an opportunity to answer, and that this is jurisdictional.

Chief Justice Beasley, in defining jurisdiction, said "Jurisdiction may be defined to be the right to adjudicate concerning the subject matter in the given

case. To constitute this there are three essentials: First, the Court must have cognizance of the class of cases to which the one to be adjudged belongs. Second, the proper parties must be present; and third, the point decided must be, in substance and effect, within the issue. * * * A defect in a judgment arising from the fact that the matter decided was not embraced within the issue, has not, it would seem, received much judicial consideration. And yet I cannot doubt that upon general principles, such a defect must avoid judgment. * * * A judgment upon a matter outside of the issue must, of necessity, be altogether arbitrary and unjust, as it concludes a point upon which the parties have not been heard.

Munday vs. Vail, 34 N. J. L., 423.

This definition was cited with approval in the case of Forrest vs. Price, 52 N. J. Eq., 24.

If then a judgment, to be binding, must be based upon a jurisdictional requisite that it determines a fact within the issue, it needs no argument to demonstrate that there must be an issue, in order for the Court to have jurisdiction.

And this case affords the strongest kind of an illustration for the necessity of the establishment of that jurisdictional requisite. These persons were subjected to an order of the extremest severity, two of them being fined in the sum of one thousand dollars each and costs and imprisoned, for some alleged act, which, if true, must have constituted a criminal offense.

How great then was the necessity for their knowing the nature of the offense with which they were charged in order that they might meet it, and yet they have never known, from the time the order to show cause was granted to the present time, for what offense they have been found guilty, except that the order adjudging them in contempt recites "that the

Chancellor being of opinion that said Hagenson, Griffiths, Davis and Seastream, are and have been *guilty of the contempts alleged against them in the affidavits filed in this suit*, on which the order to show cause was granted, and the proofs adduced before the Court adjudges, &c., them to be in contempt "*in attempting to improperly influence the due administration of justice therein.*" (Page 480, line 33.)

Such an allegation is about as definite as would be an indictment charging a man with having violated the criminal law of the State of New Jersey.

Both in this country and in England it has been consistently declared that in this class of cases the accused is entitled to be intelligently informed of the charges preferred against him, and to be given an opportunity to answer.

In Taylor vs. Roe, 68 L. T., 214, there was an application to the Chancery Division for an attachment for contempt, and Mr. Justice Kekewich said that "applications affecting the liberty of the citizen are strictissimi juris."

In the case of Cheeseman, 49 N. J. L., 142, the Supreme Court of this State, in dealing with the question of notice or information to the accused, indicating the various methods that have arisen in practice both in the courts of England and of this country, says "that these various steps are not jurisdictional, *except to the extent of laying before the Court matters which constitute a contempt, and affording to the party accused a fair opportunity of denying or confessing their truth.*"

See also

Telegram Newspaper Company vs. Commonwealth, 172 Mass., 294.

In re Cartwright, 114 Mass., 230.

In treating of this subject, Blackstone in his Commentaries, says: "If the contempt be committed in the face of the Court, the offender may be instantly

apprehended and imprisoned at the discretion of the Judges without any further proof or examination. But in matters that arise at a distance, and of which the Court cannot have so perfect a knowledge, unless by the confession of the party or the testimony of others, if the Judges upon *affidavit* see sufficient ground to suspect that a contempt has been committed, they either make a rule on the suspected party to show cause why an attachment should not be issued against him; or in very flagrant instances of contempt, the attachment issues in the first instance. * * * This process of attachment is merely intended to bring the party into Court; and when there, he must either stand committed, or put in bail, in order to answer upon oath to such interrogatories as shall be administered to him, for the better information of the Court with respect to the circumstances of the contempt. These interrogatories are in the *nature of a charge or accusation*, etc., and, if any of the interrogatories is improper, the defendant may refuse to answer it, and move the Court to have it struck out. * * * It cannot have escaped the attention of the reader that this method of making the defendant answer under oath to a *criminal charge* is not agreeable to the genius of the Common Law in any other instance; and seems indeed to have been derived to the Courts of King's Bench and Common Pleas through the medium of the Courts of Equity. For the whole process of the Courts of Equity, in the several stages of a cause, and finally to enforce their decrees, was, till the introduction of sequestrations, in the nature of a process of contempt; acting only in personan and not in rem. And there, after the party in contempt has answered the interrogatories, such his answer may be contradicted and disproved by *affidavits* of the adverse party; whereas, in the courts of law, the admission of the party to purge himself by oath is more favorable to his liberty, though perhaps not less dangerous to his conscience; for, if he clears

himself by his answers, the complaint is totally dismissed.

Blackstone's Commentaries, Book 4, page 994, etc.

It will thus be seen that in the English courts, both at law and in equity, the prerequisite to conviction was that the accused should be informed of the accusation and the nature of the charges made against him.

In the case of Savon, 131 U. S., 267, the Supreme Court of the United States, speaking through Mr. Justice Harlan and discussing the requisites to afford a Court jurisdiction over the subject matter of an alleged contempt, said: "It could, in its discretion, adopt such mode of determining that question, as it deemed proper, provided due regard was had to the essential rules that obtain in the trial of matters of contempt." And in referring to the case of Randel vs. Brigham, 7 Wall., 523, quotes the decision of the Court in that case to the effect that the plaintiff had notice regarding the matter of the charge against him, saying, "He was afforded ample opportunity to explain the transaction and vindicate his conduct. It is not necessary that proceedings, etc., should be founded upon formal allegations. All that is requisite to their validity is that, when not taken for matters occurring in open court in the presence of the judges, notice should be given of the *charges made* and opportunity afforded for explanation and defence. The manner in which the proceedings shall be conducted, *so that it be without oppression and unfairness.* is a matter of judicial regulation." And in this case the Supreme Court held that the District Court had jurisdiction of the subject matter because definite charges had been made, of which the contemnor had been duly apprised, and a full opportunity had been given him to answer.

In the case of Brannon vs. Central Bank, 18 Ga., 362, the Court held that the allegation of the contemptuous act must be so clear that the defendant is surely apprised of what the contemptuous act consists, and that when it is so clears, and he is so apprised that he may answer, then the law is complied with.

In the case of Telegram Newspaper Company vs. Commonwealth, 172 Mass., 294, Chief Justice Fields said: "The proceedings of the present case, after the service of process, show that the plaintiffs in error were *specifically informed of the nature of the charge against them and were given full opportunity to be heard with aid of counsel.*"

The statement or affidavit, *being jurisdictional*, should show on its face sufficient facts constituting the contempt.

9 Cyc., 38.
Ex parte Rickert, 126 Cal., 244.
Chaplin vs. People, 57 Ill. App., 577.
Sanderson vs. State, 151 Ind., 550.
Androscoggin R. Co. vs. Androscoggin R. Co., 49 Me., 392.
Murdock's Case, 2 Bland (Md.), 461.
Bradbury vs. Bliss, 23 N. Y. App. Div., 606.
Commonwealth vs. Snowden, 1 Brewst. (Pa.), 218
Hillman vs. Mutual Life Ins. Co., 79 Fed., 749.
People vs. Oyer & Terminer Ct., 27 How. Pr., 14.

In the matter of Wall, 107 U. S., 271, which was an application to the Supreme Court for a writ of mandamus to compel the United States Circuit Court to reinstate Mr. Wall as an attorney of the Court, he having been disbarred for contempt of Court in participating in a lynching, Mr. Justice Bradley said: "It will be perceived that the rule to show cause

which was served upon the petitioner, contained a *definite charge* of a very heinous offense and that an opportunity was given to him to meet it and to exonerate himself if he could. * * * The transaction in which the petitioner was charged with participating was virtually in the presence of the Court. * * * Under the intense excitement which prevailed, it is not wonderful that no person could be found willing to make a voluntary charge against the petitioner or any one else; and yet the fact that he was engaged as one of the perpetrators was so notorious and was brought to the Judge's knowledge by information so reliable and positive, that he justly felt it his duty to take official notice of it, and to give the petitioner an opportunity of repelling the charge. This was done in such manner as not to deprive him of any substantial right. *The charge was specific, due notice of it was given, a reasonable time was set for hearing*, and the petitioner was not required to criminate himself by answering under oath. * * * Looking at all the circumstances of the present case, we are not prepared to say that the course which was pursued rendered the proceedings void, as being *coram non judice*. And since they were not void (though not strictly regular), and since no substantial right of the petitioner was invaded, etc." Continuing, the Court says: "In all cases, that kind of procedure is due process of law which is suitable and proper to the nature of the case, and sanctioned by the established usages and customs of the Court. Citing Judge Cooley, it says that perhaps no definition is more often quoted than that given by Mr. Webster in the Dartmouth College case: 'By the law of the land is most clearly intended the general law, *a law which hears before it condemns;* and which proceeds upon inquiry, and renders judgment only after trial. The meaning is that every citizen shall hold his life, liberties, property and immunities

under the protection of the general rules which govern society.'" Continuing, the Court says: "It is not possible to hold that a party has, without due process of law, been deprived of his property, when, *as regards the issues affecting it*, he has by the law of the State, a *fair trial* in a Court of justice according to the modes of procedure applicable to such a case."

I respectfully request the Court to read the dissenting opinion in the above case rendered by Mr. Justice Field, in which he expresses the opinion that the Court did not proceed according to law, and was without jurisdiction. In his opinion he says: "I am of opinion that all the guarantees of the constitution designed to secure private rights, whether of person or property, should be broadly and liberally interpreted so as to meet and protect against every form of oppression at which they were aimed, however disguised and in whatever shape presented. They ought not to be emasculated and their protecting force and energy frittered away and lost by a construction which will leave only the dead letter of our regard when the living spirit is gone."

By other authorities it has been held that an attachment for a criminal attempt should be drawn up with the same particularity as is required in an indictment.

Bates' case, 55 N. H., 325.
Ex parte Kilgore, 3 Tex. App., 247.

In ex parte Kilgore the Court said: "Whatever mode of procedure be adopted, judgment final for contempt, not committed in view or presence of the Court, is void, if rendered without apprising the parties of the matters alleged against him."

In re Pollard, 2 L. R., 120, the Court of Privy Counsel in recommending the reversal of a judgment of contempt, declared itself as follows:

"Their Lordships do agree humbly to report to your Majesty that in our judgment no person should

be punished for contempt of Court, which is a criminal offense, unless the *specific offense* charged against him be *distinctly stated*, and the opportunity of answering it given."

(B:) Because the accused appellants were not called before the Court of Chancery to respond, but were brought before his Honor, Vice-Chancellor Pitney, who subjected them to examination and cross examination without authority.

The order to show cause served upon the accused required that they appear before "this Court" (the Court of Chancery) at the Chancery Chambers, in Jersey City, on a specified day.

On that day they did so appear in the Chambers of the Court of Chancery, and were forced to submit to an asserted jurisdiction of his Honor, the Vice-Chancellor.

The appellants respectfully submit that his Honor, the Vice-Chancellor, was without jurisdiction to entertain any charges against them, if charges were made for contempt of Court, and was without jurisdiction to examine witnesses or to examine the appellants.

Article 6, Section 4, Paragraph 1, of the amended Constitution of the State of New Jersey, provides that--

"The Court of Chancery shall consist of a Chancellor."

It is respectfully submitted that no other person than the Chancellor has any constitutional power or authority to hear or determine the question of constructive criminal contempt of that Court in the first instance.

Assuming that the Vice-Chancellor of New Jersey is a legally designated officer to perform certain func-

tions in that Court, the appellants submit that his powers are circumscribed within certain constitutional and legislative limits, which limits were overstepped by the Vice-Chancellor in this matter.

By virtue of an Act of the Legislature entitled, "An Act to facilitate proceedings in the Court of Chancery," approved April 6, 1871, the Legislature provided "that hereafter there shall be a Vice-Chancellor who shall be a counsellor at law of at least ten years standing, who shall be appointed by the Chancellor, and commissioned by the Governor, under the great seal of the State, and who shall continue in office for seven years from the date of commission." Section 2 of said Act provides "That the Chancellor may refer to such Vice-Chancellor any cause or other matter which at any time may be pending in the Court of Chancery, to hear the same for the Chancellor and to report thereon to him and advise what order or decree should be made therein."

Section 3 provides, "That when any cause or matter shall be so referred to such Vice-Chancellor, it shall be lawful for him to take and hear the evidence of any and all witnesses in said cause or matter orally in the same manner as the evidence is now taken and heard in the several courts of law in this State on trial before a jury, etc."

By virtue of rules promulgated by the Chancellor and in force at the time of the hearing of this matter, the Chancellor had declared "any cause or other matter may be referred to a Vice-Chancellor (or Advisory Master) at the discretion of the Chancellor. Applications for such reference, if not made by both parties, may be in presence of, or upon five days' notice to the adverse party or his solicitor." (Rule 193 of Court of Chancery.)

"When a cause shall be referred to a Vice-Chancellor, all proceedings in it to the final decree shall be had before him." (Rule 194.)

"When a cause referred to a Vice-Chancellor shall be in issue, either party may, upon five days' notice to the other party or parties, apply to the Vice-Chancellor to whom the cause is referred to fix a time and place for the hearing thereof, etc." (Rule 195, of the Court of Chancery.)

"Applications in the following cases may be made to any Vice-Chancellor, and such applications are hereby referred to such Vice-Chancellor to hear and advise orders and decrees therein without special order or reference."

Sub-Division 5. "Applications in any cause or proceeding for orders or decrees, excepting decrees pro confesso and final decrees, and excepting orders of reference to a Vice-Chancellor, or to an Advisory Master, or to a special master in divorce proceedings, etc." (Rule 204a.)

The original bill, to which these appellants were not parties, was presented to his Honor, Vice-Chancellor Pitney, and the order to show cause against the defendant was advised by him, and was undoubtedly within the Rule 204a, Sub-division 5.

The appellants insist, however, that this proceeding was not a proceeding in that cause; that it was a direct proceeding against them, which had never been referred to his Honor, the Vice-Chancellor, and over which the Vice-Chancellor never acquired any jurisdiction either under the statute or under the rules of the Court of Chancery or by special reference of the Chancellor to him.

It is true that in this proceeding the order to show cause upon these appellants was entitled in the cause between Seastream and the New Jersey Exhibition Company, but this entitling of the order in the cause did not make the matter one cognizable in the cause.

The alleged contempt did not interest nor affect the parties to the cause, but was, according to the opinion of the Chancellor, "one which affected the

dignity and authority of the Court." (Case, page page 489, line 29, etc.)

Referring to the distinction laid down by Vice-Chancellor Pitney in Thompson vs. Pennsylvania Railroad Co., supra, between criminal and civil contempts, and which distinction is generally recognized by the State and Federal Courts, it would seem that the matter should have been brought, not in the cause, but upon allegation either by or on behalf of the State to the Court.

Such has been declared to be the proper practice both by Federal and State Courts.

In Goodrich vs. U. S., 42 Fed. Rep., 392, and Erwin vs. U. S., 37 Fed. Rep., 470, it was held that an attachment against a witness for contempt of Court in not obeying a subpoena, was a criminal proceeding in which the United States was the plaintiff.

In Welch vs. Barber, 52 Conn., 147, the Supreme Court of Errors of Connecticut, reviewing the judgment of the Court of Common Pleas in a contempt matter, said: "Another question which becomes important is whether the contempt is civil or criminal. A civil contempt is one in which the conduct constituting the contempt is directed against some civil right of the opposing party: as where an injunction is violated, etc., in cases of contempts of this sort the proceeding for its punishment is at the instance of the parties interested, and is civil in its character. A criminal contempt is conduct that is directed against the dignity and authority of the Court, and a proceeding for its punishment should conform as near as possible to proceedings in criminal cases. When the Court has knowledge of contempt as it occurs, it will of its own motion proceed to punish it; but when witnesses are required to prove it the proper course is for some informing officer to bring it to the attention of the Court.

Bishop on Criminal Law (Vol. 2, page 147, 6th edition), says: "The offense of contempt of Court is

against the State, not the Judge or the parties in the cause. Therefore, the proceeding should properly be entitled as of 'the State' against the one in contempt."

Ex parte Kearney, 7 Wheaton, 38.

POINT TWO.

The judgment of the Court of Chancery, being made without jurisdiction, is reversible by this Court on appeals.

It will probably be urged on behalf of the Court of Chancery that this adjudication, being for a criminal contempt, is not reviewable by this Court.

The appellants respectfully controvert that proposition.

General Statutes, page 394, Section 114, provides "that all persons aggrieved by any order or decree of the Court of Chancery, may appeal from the same, or any part thereof, to the Court of Errors and Appeals."

It needs no argument to show that these appellants are aggrieved by an order or decree of the Court of Chancery.

It will be argued, however, that our Court of Errors and Appeals has declared itself powerless to relieve against punishment for a criminal contempt of the Court of Chancery.

Expressions to this effect have been delivered by some of the Judges of this Court.

The earliest case which I have found, and which will probably be cited, is that of Coryell vs. Holcombe, 1 Stockton's Ch., 651.

In that case the Court of Chancery directed process against parties to bring them into the Court of Chancery to answer for an alleged contempt, from which

order for process, an appeal was taken to this Court and was dismissed.

The appeal from this order was dismissed upon the express ground that the party appealing was not *aggrieved* and, therefore, there was no necessity for appeal nor was appeal afforded either by statute or the constitution. The Chancellor said: "The constitution contemplates that in the regulation of the Court by the statute, and by the rules or regulations of the respective courts, a party *aggrieved* may have redress by an appeal and this the statute has secured to such party. * * * The very object of the appeal is to redress an injury. If there is no injury to redress there can be no appeal. The object of the appeal cannot be attained. * * * *The order appealed from in this case is nothing more than an order directing process to bring in the parties to answer for an alleged contempt.* * * * It cannot be said that the party is *aggrieved by such an order.* He is not, *and unless he is aggrieved* he is not entitled to an appeal." This was the point of the decision in Coryell vs. Holcombe, rendered in 1854.

The case of Dodd vs. Una, 40 N. J. Eq., 672, was an appeal from the order of Vice-Chancellor Van Fleet holding the appellant guilty of a contempt of the Court of Chancery.

The opinion of this Court was delivered by Mr. Justice Magie, who in voting to reverse the order for contempt, said: "To avoid any misapprehension, it is proper to say that I have not considered the question whether the Court below, of its own motion, and to vindicate its own dignity, could have punished appellant for the violation of its unreversed order, nor whether, if such order had been taken, an appeal would have availed appellant."

In a concurring opinion, Mr. Justice Depue said: "An adjudication of a contempt of the class first mentioned (criminal contempt) is not appealable or reversible upon the merit."

As authority for this declaration the learned Justice cites Ex parte Fiske, 113 U. S., 713; New Orleans vs. Steamship Co., 20 Wall, 387. and In re Crawford. 13 Jur., 955.

It is respectfully submitted that this declaration was *obiter* and is not supported by the reasoning of the United States cases cited.

In Pennsylvania R. R. Co. vs. Thompson, 49 N. J. Eq., 318, an appeal was taken from an order of the Court of Chancery adjudging appellants in contempt and the order was unanimously reversed. The order reversed adjudged Bannard guilty of a contempt of the Court in disobeying an injunction and ordering him to pay the complainant his costs to be taxed, and a counsel fee of One Hundred Dollars ($100), and on failure to be committed, etc.

The case of Grand Lodge Knights of Pythias vs. Jansen, 62 N. J. Eq., 737, was an appeal from an order adjudging appellants guilty of contempt for disobeying a restraining order, and imposing a fine of Five Dollars ($5) as punishment for the contempt against the dignity of the Court. The order was reversed except to the imposition of the Five Dollars fine, as a penalty. This is the first direct adjudication of this Court upon this question, so far as I have found.

The opinion rendered by Mr. Justice Dixon says: "As a mere punishment for sontemptuous conduct, the order *being within the jurisdiction of the Court of Chancery* is not appealable, but so far as it is for the relief of the suitor, it is subject to appeal (citing Dodd vs. Una, 13 Stew. Eq,; Thompson vs. Penn. R. Co.; 4 Dick. Ch., 318; Forest vs. Price, 7 Dick. Ch. Rep; S. C., 8 Dick. Ch. Rep., 693.

As indicated above, the question was not before the Court in Dodd vs. Una, nor in Thompson vs. Penn. R. Co., and, therefore, was not decided, and in Forest vs. Price, the appellant was held in contempt of Court and an appeal taken and the order of contempt was

affirmed by this Court without an opinion, but undoubtedly affirmed on the merits and, therefore, the question was not decided.

It is respectfully submitted that the question of appeal from the punitive fine of $5 did not receive special attention, probably being "de minimis."

In the case at bar the Chancellor states that he has reviewed the evidence because, "since this proceeding is one purely punitive in character, and, therefore, not a subject of appeal (citing Frank vs. Herold, 19 Dick. Ch., 371; case, page 490); the result reached, etc.

The case of Frank vs. Herold, in the Court of Chancery, adjudged appellants in contempt for the wilful violation of an injunction of that Court.

An appeal to this Court was taken, and as I understand it, was dismissed, but no opinion was written or filed by this Court, at least I have been unable to find any.

Upon an application for a rehearing, this Court stated that the appeal had been dismissed upon the ground that the proceedings were punitive in their character, taken solely for the purpose of vindicating the authority and dignity of the Court, and were consequently not reviewable (Frank vs. Herold, 64 N. J. Eq., 372).

This Court was asked to re-hear the matter upon a question raised with regard to a section of General Statutes, page 392, and the application was denied.

No authority is quoted by the Court with regard to the proposition that the criminal contempt, being punitive in character, is not reviewable, but the opinion, per Curiam, mentions Dodd vs. Una.

As Dodd vs. Una seems to be the chief authority of Knights of Pythias vs. Jansen, and of Frank vs. Herold, and as Dodd vs. Una was not decided upon the point in question, the appellants respectfully question the *obiter dictum* of Mr. Justice Depue in the concurring opinion upon that question.

For authority for this proposition he cites three cases, the first being New Orleans vs. Steamship Company.

In that case the Supreme Court of United States refused to relieve against the judgment of contempt of one of its Federal courts upon the ground that the contempt alleged was a *criminal offense*, and that the Supreme Court of the United States had no appellate jurisdiction over *criminal offenses*. Upon this subject the Court said: "Contempt of Court is a specific criminal offense. The imposition of the fine was a judgment in a criminal offense. This Court can take cognizance of criminal cases only upon a certificate of division."

The second case cited was in re Fisk. In this case the Supreme Court of the United States did exercise jurisdiction, and did discharge the alleged contemnor upon the ground that the inferior court had *no jurisdiction* to pronounce the judgment of contempt.

The third case was in re Crawford. That was a case upon a writ of habeas corpus directed to the Court of Chancery of Ireland. The Court of Queens Bench did look into the question as to whether the proceedings were regular, and holding that they were, denied the writ, The chief question in that case was whether or not a commitment "until further order" was valid, and the Court took evidence upon the custom of the country and pronounced it to be valid by custom.

It is, therefore, respectfully submitted that these cases do not justify the assertion that this Court has no jurisdiction to review the punishment of an inferior court for an alleged criminal contempt of that court, and they respectfully insist that the law should be and is to the contrary.

The Constitutional intendment was undoudtedly to furnish a court of review for the correction of all harmful errors and judgments of inferior courts when

properly presented, and this is the Court so constituted.

The Legislature explicitly declared that all such harmful errors, by which any person is aggrieved, in the Court of Chancery by order or decree, should be reviewed in this Court.

The case of Coryell vs. Holcombe expressly declares that both the constitution and the act are adequate to afford such relief.

Regardless of the jurisdiction or power of the Court of Chancery in England, before the adoption of our constitution, it is now insisted that when the Constitution of this State provided for a Court of Errors and Appeals, such provision necessarily cast upon that Court the obligation to review any erroneous and harmful judgment or decree of the Court of Chancery, if properly presented to it, and that if such review, to be effective, in any degree curtailed the power of the Court of Chancery as it had existed in England, prior to the adoption of the Constitution, such curtailment is the necessary and constitutional exercise of the power of the Court of Errors and Appeals.

It is insisted, however, that a judgment of the Court of Chancery and of the Court of Queens Bench for a criminal constructive contempt, was not conclusive and was reviewable.

In the case of In re Clements, a solicitor of the high Court of Chancery of England, had committed an assault upon another solicitor in connection with a matter then pending in the Court of Chancery. This assault was committed, not in the presence of the Court, but in the office of the assaulted party. It was brought to the attention of the Court by proper proceedings, and the Court of Chancery Division held the offending solicitor in contempt of court, and attempted to punish him by fine. An appeal was taken from this order of the Vice-Chancellor to the

Court of Appeals, and was by the Court of Appeals reversed.

In re Clements, 46 L. J. Ch., 375.

Hunt vs. Clarke was an appeal to the Court of Appeals from an order of the Court of Queens Bench Division adjudging the appellant in contempt for a constructive attempt of that Court. That appeal was entertained.

58 L. J., Q. B., 490.

If the Court of Chancery, however, had no jurisdiction to pronounce its judgment (as contended under Point One), then its judgment is void, and is subject to review by this Court in any event.

The authorities to this effect, both in the United States Courts and in State Courts, are numerous.

State vs. Nathans, 49 S. Car., 199, discussing ex parte Kearney, 7 Wheaton, page 38, says: "When the Court commits said party for a contempt its adjudication is a conviction, and commitment in consequence is execution," and the Court points out that the United States Courts have refused to entertain appellate jurisdiction to review a judgment of contempt, because of its criminal nature, on account of which the Supreme Court of the United States had no appellate jurisdiction, except upon a certificate of division. But because of the criminal nature of the offense, and because the Court of Appeals of South Carolina does have appellate jurisdiction in criminal cases, that Court does entertain jurisdiction on appeal from contempts. In this connection the Court says: "Our appellate jurisdiction, however, is limited to the ascertainment whether there is error of law in the judgment and sentence in contempt proceedings. Generally the inquiry is as to the power and jurisdiction of the court pronouncing the judgment.

In support of this contention the following cases are cited:

Ex parte Clarke, 110 Cal. 405.
Shin vs. People, 26 Colo, 516.
Berkson vs. People, 154 Ill. 81.
State vs. Fowl. 42 N. H. 540.
People vs. Hanna, 92 Hun. 37.
People vs. Sturdevant, 9 N. Y. 263.
Haut vs. Irwin, 166 Pa. St. 548.
Ex Parte Tyler, 149 U. S. 164.
Ex parte Frederich, 149 U. S. 70.
Delgado vs. Charez, 140 U. S. 586.
Ex parte Fiske, 113 U. S. 713.
Ex parte Peck, 3 Blatch. 113.
McConnell vs. State, 46 Ind. 298.
Hamilton's Case, 7 Bells. App. 2727.

It is reviewable either by writ of habeas corpus, or on certiorari or by appeal.

Ex parte Hollis, 59 Cal. 406.

POINT THREE.

This judgment of the Court of Chancery, by which the appellants are sorely aggrieved, being unjust, can and ought to be reversed.

If this proceeding, as has been declared by the highest and most ancient legal authority, is a criminal proceeding, the rights of these appellants have been invaded in many particulars.

They were not confronted with any definite charge nor apprised, by any definite information, of the alleged charges against them.

They were not convicted of any general or specific offense by evidence either satisfactory or credible.

They were hailed before the Court to answer uncertain charges of an indefinite nature.

There, they were first stripped of that mantle, with which enlightened Jurisprudence clothes every accused, and which is called "Presumption of Innocence"; were then cast adrift upon the trackless sea of Surmise, blown here and there by the winds of Suspicion and finally cast upon the rock of Conviction, where their backs were burned and blistered by the all-too-ardent rays of "Sol Justiciae."

Before judgment could be lawfully pronounced against them, they were entitled to be confronted by, and have produced against them, evidence demonstrating their guilt beyond a reasonable doubt.

As was said by Judge Green (of our State) in the case of Accumulator Co. vs. Conn. Electric Storage Co., 53 Fed. Rep. 793, when asked to convict, because of the alleged violation of an injunction order issued by him, "This proceeding is criminal in its nature and character, and the same rule should govern as in the trial of indictments. The burden of proof, establishing violation of the injunction, is upon the complainant and the defendants are entitled to the benefit of any reasonable doubt."

See also

Potter vs. Low, 16 How. Pr. 549.
U. S. vs. Jose, 63 Fed. 951.

They were confronted with and put upon their denial of affidavits which had been used to procure the order to show cause, thereby violating two cardinal principles in all criminal trials, i. e., the right of the accused to confront the witnesses against them, and the right to cross-examine them.

Huntington vs. McMahon, 48 Conn., 174.

Finally they were condemned by an order which failed to disclose the matter for which they were condemned.

People vs. Turner, 1 Cal., 155.
In re Dayton, 105 N. Car., 59.

Ex parte Ayers, 123 U. S., 443.
Fisher vs. Hayes, 6 Fed. Rep., 63.

The appellants respectfully submit that the learned Vice Chancellor, both in the conduct of the case, his method of procedure and the conclusions at which he finally arrived, failed to keep in mind the sacred right of the citizen, and the sacred duty of the Court, so well expressed by the Master of the Rolls, in the case of Clements, when he said:

"Therefore, it seems to me that this jurisdiction of committing for contempt, being practically arbitrary and unlimited, should be most jealously and carefully watched and exercised, if I may say so, with the greatest reluctance and the greatest anxiety on the part of the Judges to see whether there is no method, which is not open to the objection of arbitrariness, and which can be brought to bear upon the subject. I have myself had, on many occasions, to consider this jurisdiction, and I have always thought, though necessary it would be, it is necessary only in the sense in which extreme measures are sometimes necessary, to preserve men's rights, that is, if no other pertinent remedy can be found. Probably this will be discovered, after consideration, to be the true measure of the exercise of the jurisdiction."

It may be argued by counsel for the State that the appellants, having paid their fine into Court, could not be relieved even if the judgment of conviction were reversed, and that, therefore, this Court should not take jurisdiction.

The answer to that argument is, that they paid the fines into Court under protest.

If this judgment against them shall be reversed, they do not believe that the State of New Jersey will be a party to an unlawful confiscation of their property.

They have an abiding conviction that the State, of which they are citizens, would be no more willing,

unlawfully, to confiscate their property than would the Queen of England unlawfully confiscate the property of her subjects, and in the case of Pollard, 2 L. R., 106, the Court of Privy Council adopted a practice that a fine for contempt of Court, paid into Court under protest, would be returned by the Queen, if illegally exacted.

For the above reasons the appellants respectfully pray that the judgement of the Court of Chancery may be reversed.

WARREN DIXON,

Of Counsel with Appellants.

MacCrellish & Quigley, Printers, Trenton, N. J.

In Chancery of New Jersey.

AUGUST SEASTREAM ET AL.,

vs.

THE N. J. EXHIBITION CO.

OPINION.

(*Filed September 13, 1905.*)

On order to show cause why August Seastream, Benjamin T. Haagensen, Howard Griffith, William J. Davis and another should not be adjudged guilty of a contempt of this court for attempting to improperly influence the due administration of justice in this court.

Heard on affidavits and oral evidence.

Mr. Frank P. McDermott, counsel specially appointed by the Court, for the State.

Mr. James Benny for Seastream.

Mr. Allan McDermott and Mr. Warren Dixon for the other accused.

Pitney, V. C. There are certain facts, leading up to and involved in the offense charged against the accused, which are either admitted or so thoroughly established by the evidence (as not) to be disputed, and a proper consideration of the real matter to be determined re-

quires that they should be stated quite fully and in their precise order of occurrence.

On the afternoon of Saturday, May 7th, 1904, counsel for complainants presented to me at Morristown the bill of complaint herein, in which August Seastream and Charles C. Alexander were named as complainants, and to which were annexed several affidavits, among which was one by Seastream, dated May 6th, 1904, in the handwriting of and sworn to before Mr. Mungo J. Currie, one of the masters of this court.

The object of the bill was to restrain Sunday base-ball playing on certain inclosed base-ball grounds on the westerly edge of the city of Bayonne, in Hudson county.

Upon that bill and affidavits, an order to show cause with *interim* restrain was advised returnable on Monday, the sixteenth of that month, at Jersey City.

Mr. Seastream was an ashman on one of the "Annex" ferry-boats running from the Jersey City ferry-house of the Pennsylvania Railroad to Brooklyn.

On the morning of May 12th, Mr. Seastream, while standing in the ticket-sellers' small box, on the Jersey City end of the ferry, was accosted by the accused Benjamin T. Haagensen, who is a pilot and captain in the employ of the ferry company, and usually commanding the ferry-boat "Newark," running between Jersey City and Cortlandt street.

Haagensen is a well educated, bright and highly intelligent Norwegian, and speaks English fluently. Seastream is a Swede, who speaks English with difficulty and a great lack of distinctness. He is apparently uneducated, illiterate and by no means bright. Besides, it abundantly appears on his examination that he did not understand the true meaning of questions which were put to him in plain English.

They had known each other for several years, but, while both for a considerable time had been in the employ of the ferry company, their several occupations did not bring them together, and they had not spoken to

each other more than three or four times. In fact Haagensen did not know Seastream's name; he knew him only by his nickname of "Husky."

The result of the interview just mentioned, and several others succeeding it, was that they proceeded together, on that day, May 12th, to the office of Mr. Robert Davis, on Mercer street, Jersey City, and there found his son, Mr. William J. Davis, one of the accused.

The case shows, and it was an admitted fact, that Mr. Robert Davis was largely interested pecuniarily in the defendant corporation.

A conversation took place between Mr. William J. Davis, Haagensen and Seastream which resulted in the calling up, through the telephone by Davis, of Mr. Howard Griffith, another of the accused, who was the president or vice-president of the defendant corporation, a practicing lawyer and one of the solicitors of the defendant herein, and having his office at No. 1 Exchange Place, Jersey City.

Mr. Griffith prepared an affidavit which Mr. Seastream, after having been supplied by Mr. Davis with a drink of brandy, signed and verified before Mr. Peter Bentley, one of the masters of this court, who was called on the 'phone by Mr. Davis or Mr. Griffith for that purpose.

That affidavit was retained by Griffith.

About eight or nine days later Mr. Griffith called on Seastream at his home in Bayonne in the evening and procured his signature to a paper, which had been previously signed by Mr. Alexander, the other complainant, which was addressed to the counsel of the complainant requesting them to discontinue the suit.

On the return day of the order to show cause, May 16th, the matter stood over, by consent, until Monday, the twenty-third, at the same place, when it was reached about the middle of the day, and the defendants produced their request to discontinue. Upon this request

the court declined to act, but the presentation of it resulted in the amending of the bill by adding several other complainants.

The complainants then read the affidavits annexed to the bill and a batch of additional affidavits, which they had served on the defendants, and the reading of which occupied the time until the hour for final adjournment. At that moment the defendants served upon the complainants' solicitors their answering affidavits, which included Seastream's second affidavit.

This was the first that counsel for complainants knew of the making of the second affidavit.

The hearing was adjourned to the morning of Thursday the twenty-sixth, at the same time and place.

Between the twenty-third and the twenty-sixth, the complainants' solicitors procured the affidavits of Mr. Currie and Mr. Griswold, a clerk in the law office of the complainants' solicitors, of the circumstances attending the taking of the first affidavit, and early in the morning of the twenty-sixth, issued a subpœna *ad testificandum*, for Mr. Seastream, returnable forthwith at the Chancery Chambers, Jersey City, and sent out Mr. Griswold to serve it.

On that morning, before proceeding to read their affidavits, counsel for defendants, in open court, asked counsel for complainants whether they intended to act upon the request to discontinue the suit as to Seastream and Alexander, to which they answered that they had seen Mr. Alexander, and that he wished the suit continued in his name, and that they had not been able to communicate with Mr. Seastream, but had issued a subpœna for him and hoped to get him into court for an examination by the court.

The reading of the affidavits (among which was Seastream's second affidavit, made in Davis' office) on the part of the defendants then commenced. As soon as Seastream's second affidavit was reached, I stopped the further reading, the counsel of complainants presented

the affidavits of Currie and Griswold, before mentioned, and stated that they were informed that Seastream's second affidavit had been procured from him by threats of his losing his job on the ferry-boat, and asked the court to investigate it.

Defendants' counsel joined in this request, but I declined to investigate personally, and immediately dictated a message to County Judge Blair requesting him to institute such investigation, and also requested counsel on each side to send copies of the affidavits to Judge Blair. The reason of this action was their incongruousness, as was displayed by placing them in parallel columns. Those conflicting affidavits are inserted here.

STATE OF NEW JERSEY, }
HUDSON COUNTY. } *ss.*

August Seastream, of full age, being duly sworn, deposes and says: I reside at 525 Avenue B, Bayonne. My residence immediately adjoins the easterly corner of the base ball grounds, corner of Forty-sixth Street and Avenue B. I am informed and know that base ball games have been played the last two Sabbaths, but myself and wife were absent for most of the time during which these games were played. The noise that results from the playing of the games, and the cheering is very annoying, and would disturb the rest and slumber of our two young children, who are respectively one year and four months and four months. I am the owner of the house where I reside, and the property is now worth at least one thousand dollars less than it was previous to the coming of the base ball grounds.

The crowd is a large one, consisting of several thousand. At present it does not pass my house, as the gate nearest it has not yet been opened, but I am informed and believe it will be opened when the sewer in Avenue B, which is in course of construction, is completed. I would never have bought the two lots which I own, or

constructed the house thereon had I known these base-ball grounds would be laid out.

AUGUST SEASTREAM.

Sworn and subscribed before me, at Bayonne, this 6th day of May, 1904.

M. J. CURRIE,
Master in Chancery of New Jersey.

STATE OF NEW JERSEY, ss.
HUDSON COUNTY.

August Seastream, of full age, being duly sworn, on his oath doth depose and say: I have resided in the city of Bayonne for about four years, and own the dwelling house and two lots immediately adjoining Eastern League Park, the base-ball grounds of the Jersey City Club.

I am the person whose property is described in the affidavit attached to the bill, in which I am made a complainant with Alexander and others, against the New Jersey Exhibition Company, and who is represented to have signed the same.

I did sign a paper on or about the sixth instant, which was represented to me to be a petition in favor of the playing of base ball Sundays on the grounds adjacent to my home, on the westerly side of Avenue B. The affidavit purporting to be signed by me has been read to me, and I declare the same to be absolutely and unqualifiedly false, and said paper was at no time read to me.

I was not absent from my home on the first of May, as represented, for I viewed the game with the Rochester Club from the window of my home, and at no time during that game was the applause audible when my windows were closed, and as to any annoyance to my children, their sleep could not possibly have been disturbed, and as a matter of fact my little baby slept throughout the game.

I consider the locating of the handsome and beautiful park in Bayonne a great benefit to the neighborhood, for it will attract people who will be apt to locate in the city, and have never stated otherwise to any one at any time. The grounds and the ball games played there are a great relief from the crowds which are attracted by the shore resorts every summer through our streets.

The gate in the fence on the Avenue B side of the ball grounds was located there with my permission; the Exhibition Company having rebuilt their fence when they learned that it obstructed the view from the lower floor windows of my home.

All statements accredited to me other than as appear in this affidavit are false and untrue.

AUGUST SEASTREAM.

Sworn and subscribed to before me this twelfth day of May, A. D. nineteen hundred and four, in Jersey City.

PETER BENTLEY,
Master in Chancery of New Jersey.

The reading of the affidavits and argument thereon proceeded, but was not finished on that day and was adjourned to Monday, June 6th, at Newark.

Mr. Griswold attempted to serve the subpœna on Seastream on the morning of the 26th by watching and inquiring for him at the ferry terminal and house in Jersey City, but did not succeed, though he spent nearly two hours in the effort.

In the meantime, between ten and eleven o'clock, May 26th, Haagensen met Seastream in the ferry house at Jersey City, inducted him into the large brick building adjoining the great train shed, and placed him in the trainmen's waiting room, and induced him to stay there until about two o'clock. At that time he called on him, took him across the river by the Desbrosses Street Ferry, gave him his dinner in New York City, detained him there until after four o'clock P. M., took him back to Jer-

sey City, and about five o'clock, or after, took him to Mr. Griffith's office, where he met Griffith and William Davis, and where they had a conference, and from thence Seastream went to his home.

I omitted to state, in proper order, that it appears by the evidence of the defendants that on the 12th, of May, on the occasion of the making of the second affidavit Seastream was asked if he could prove, as stated in his second affidavit, that he was not absent from his home during the ball game on May 1. He said he could prove it, and mentioned the name of a Mr. Brown, who lived in his neighborhood and was an engineer on a ferry boat running from New York to College Point.

Mr. Haagensen, acting on that information, sent word and wrote to Mr. Brown that he must be ready to be sworn as a witness, and that there was ten dollars, if not more, in it for him. He also interviewed him. He also went to see Seastream at his home in Bayonne about that time, May 19th or 20th.

Some time before June 1 Judge Blair had notified the parties that he would investigate the matter on June 1, at the Court House in Jersey City.

On the evening before that day Griffith visited Seastream at his home in Bayonne with regard to his going before Judge Blair What took place between Griffith and Mr. and Mrs. Seastream on that visit is, in part, disputed, as well as much, if not all, that took place, at the previous interviews between Seastream and Haagensen and Griffith and Davis, and I, therefore, purposely avoid stating it at this time.

The result, however, was that all parties, except Seastream, appeared before Judge Blair on the morning of June 2d, and he declined to proceed in the absence of Seastream. The matter was then adjourned to the afternoon, when Seastream again failed to appear, and Judge Blair seems to have suspected that the other accused parties were not anxious to have him present.

It so happened that Seastream had a friend and

counsellor in a Mr. Holman, living in Bayonne, a solicitor of this court, having an office in New York, and engaged somewhat in real estate operations.

In what appeared to be his distress, Seastream (May 27th or 28th) visited and consulted with Holman, who had heard by the public print of the contradictory affidavits, and who at once advised Seastream to make a full statement of the facts when called upon so to do. On June 2d, Holman was called on the 'phone by the assistant prosecutor of the county and asked if he could produce Seastream.

An appointment was made for the next day at the court house; Seastream and Holman met there, and, in the presence of Holman, Seastream was examined by Judge Blair, and his evidence taken stenographically by Judge Blair's official stenographer, and written out.

The next day Mrs. Seastream was in like manner examined by Judge Blair, and the two depositions forwarded to me. With the approval of the Chancellor, I requested Mr. Frank P. McDermott to act in the matter in behalf of the Court and the State.

Those depositions I insert in full, and add, by way of explanation, that after they had been handed to Mr. McDermott he handed them to Judge Blair, and later on Seastream and his wife appeared before the Judge and signed and reverified them.

In the matter of the investigation of the affidavits made by August Seastream, in the Court of Chancery on the question of base-ball playing on Sunday in the city of Bayonne.

Before Hon. JOHN A. BLAIR, Judge.

June 3d, 1904.

August Seastream, being duly sworn by the Judge in this matter, testified:

By the Court.

Q. You know there are two affidavits in my possession, sent to me by Vice-Chancellor Pitney, which were

made by you in the base-ball playing case, and they are contradictory, and the Vice-Chancellor has sent them to me to ascertain how they came to be made?

A. The first affidavit was made in my own house, and my wife was there too when it was made, and Mr. Currie was there, but Mr. Demarest came there too before it was finished, and was there, and another gentlemen besides.

Q. Do you know who the other gentleman was?

A. I can't remember his name, but he was a clerk in an office.

Q. Mr. Griswold?

A. I think so; an elderly man; he introduced me to all.

Q. Was your wife present at the time?

A. Yes, all the time.

Q. At whose suggestion did you make this affidavit? Who wanted you to make it in the first place?

A. Mr. Curry.

Q. He came to you?

A. Yes; well, there was both Mr. Curry and Mr. Demarest, but he went to Cosines.

Q. Who went over to Cosines?

A. Mr. Demarest.

Q. Where do you live?

A. 525 Avenue B, Bayonne; the affidavit states that my residence immediately joins a certain base-ball ground, corner of 46th street and Avenue B; that is an error; that is Mr. Smith's property; my residence is on Avenue B, between 48th and 49th streets, and it adjoins the base-ball grounds there on that point; in other respects the affidavit made by me on the 6th of May, 1904, is correct.

Q. This affidavit was made by you freely?

A. Yes, freely.

Q. And without any inducement except to ask you to tell the truth about it?

A. Yes; the men were gentlemen; they never wanted us to do anything except our own wish.

Q. Now, as to the second affidavit. What have you to say about that? How did you come to make that second affidavit?

A. Captain Haagensen first came to see me about it. Higginson he is called; he said he was sent there by Captain Carroll; Captain Carroll is superintendent of the Pennsylvania ferry; he said if I would not go up and sign this affidavit, I would be discharged the next day.

Q. Go up where?

A. To Davis's, meaning Willie Davis.

Q. And that if you did not do that, that you would be discharged the next day?

A. Yes.

Q. Then what did you do?

A. When the boat came into the slip at five minutes to ten, and he came around there and stood there, and said, "Gus, come over here; I want to see you; come over to the State street dock." So the dock comes 24 feet in, so that nobody can come over on the pier there, and facing that is a blacksmith shop, and when he came there he told me not to follow him close up, but I followed him close up, and when he came there he waived his hand away, and then Captain Carroll came out of the blacksmith shop, and he said, "I did not want the Captain to see this; now he will want to know what I had with you, but you know where you make your bread and butter," and so he said, "Now, I have no time; you go on about your business;" so I went on the annex boat and commenced my work, and I went right on to Brooklyn, and when I came to Brooklyn then he said, "Now, when you are through?" and I said, "Five minutes to two," and he said, "You know what I told you about to-morrow; meet me on the street in front of the First National Bank;" that is corner of Exchange place.

Q. Haagensen said that to you?

A. Yes.

Q. When was that?

A. We left Jersey quarter after ten, and we went to Brooklyn, and we left Brooklyn quarter to eleven, but in Brooklyn he left me, and then he came back again and landed in Jersey City a quarter after eleven, and I had to go back with her, and I came into Jersey again five after twelve, and then I went and left, and I found him standing at Exchange Place, and he says: "Hold up; let nobody see that you are there."

Q. Who said that?

A. Captain Haagensen; then he gave another sign, motioning with his hand, and when he gave them that sign I did not look over there, but he gave the sign to somebody, and then he came after me, and he got hold of me between York and Montgomery on Hudson street, and then, going up there to Davis's office, he said: "I telephoned up to Davis." Then he said: "Willie Davis, and he will be there." Then I told him; I said: "I won't go; I want to go home and see my wife first." And he said: "You come right now with me, or you won't work there to-morrow."

Q. What did they want you to do?

A. Then, when I came up outside of the house I refused to go in again.

Q. What house is that?

A. Outside of Davis's; opposite the City Hall.

Q. The house of the New Jersey Supply Company?

A. I think it is the last house on Mercer street, opposite the City Hall.

Q. Then what did you do?

A. Then I went in there, and then Haagensen said: "Here is Mr. Seastream and this is Willie Davis." Then he said: "I don't know why you signed that affidavit for." Mr. Davis said that.

Q. Referring to the affidavit of the 6th?

A. Yes.

Q. The first affidavit?

A. Yes.

Q. Then what?

A. Then he took me in a private room inside and telephoned for Griffiths; then Griffiths came up there, and then Griffiths said: "Now, I will draw out an affidavit, and if you sign this one the other one is not binding."

Q. That is, the other one is not good?

A. Yes, sir.

Q. Did he draw an affidavit then?

A. He done that in a little office and I was outside.

Q. He drew that up after he came up to Mercer street?

A. Yes.

Q. Go on.

A. During that time, in the little room, Mr. Davis he was persuading me many times and times again to take some brandy with him, and I declined, because I had not been in the habit of taking it before, but I took it, and then he took me out in the room when Griffiths said he was all ready.

Q. And after you had had the drink of brandy, and went into the other room, and he said it was all ready, you signed this affidavit?

A. Yes.

Q. This one dated the twelfth?

A. Yes.

Q. Before Peter Bentley?

A. Yes.

Q. Was Peter Bentley there all the time?

A. No; I can't say, because I was in the little room inside; I was not in the office.

Q. Were you in there alone?

A. Haagensen and me was in that little room.

Q. And when you went out into the big room who was there?

A. I think Peter Bentley was there, but I won't be

certain that he was there; I know so much, he was not there all the time.

Q. Was Griffiths there?

A. Yes; he was there all the time; he was writing it.

Q. And after it was written did you swear to it before Peter Bentley? His name is signed here as taking the affidavit?

A. Then he was there, but I did not notice that he was there before.

Q. But you swore to it before somebody?

A. I don't know.

Q. Did anybody ask you to hold up your right hand?

A. No, sir.

Q. Did anybody say "Do you swear to it"?

A. No, sir.

Q. Did anybody ask you if you swore to it?

A. No, sir.

Q. It says here "sworn and subscribed before me"—did you swear to it?

A. That I don't know; I am sure I never did.

Q. Did you see anybody there, except Griffiths, Willie Davis and Bentley?

A. And Haagensen.

Q. Those were the only four there?

A. Yes, sir.

Q. Did you see Mr. Robert Davis there?

A. No, sir; he was not there.

Q. Go on.

A. Then, on the 19th, Mr. Demarest wanted me in the Court of Chancery, and Mr. Haagensen came down and kept me from going up; he came to my boat; he told me I must not go, because they would arrest me. Then I told him about my work, and he took me onto the saloon deck of the boat "Annex 4," and then into the room where all the trainmen sit, in the brick building, the waiting-room for all the employes, and he kept me there from a quarter after eleven to five minutes

of two, and then he took me to New York. There he took me to (I can't say the name), but I think it is the third house from the corner of Desbrosses street; it is a restaurant, on West street.

Q. How long did he keep you there?

A. I did not look close, but I think it was till about five minutes to five.

Q. Then did you come home again?

A. Then he took me and he was in Griffiths's office at half-past five exact.

Q. What did you do there in Griffiths's office?

A. Then, there was Will Davis there; Bentley, Griffiths, Haagensen and me. Then Haagensen was going on to say that he overheard that I had put an injunction on the base-ball, and he came to me and he told me: "Have you put an injunction on the base-ball?" and he said I should say "no, sir"; and he says: "Well, I can prove it to you and I will take you to Will Davis and show you that injunction." So I said "all right." So I went with him. When we came there Will Davis produced it. Then I came in and I said: "No, I was speaking then my part next." I said: "No; I have not." I understood that Mr. Demarest and Mr. Currie came to me and so I was for the base-ball ground. Then they telephoned for Griffiths.

Q. That is your part of the story which was to be told?

A. Yes; then Billy Davis said to Mr. Griffiths that I had signed in favor of the base-ball ground and had not signed in favor of an injunction. Then Griffiths drew up the affidavit that I was to make. All that is what we five were to say about that. Now, what Bentley was to say I don't remember. I said: "No. I don't want to go as far as that."

Q. What did you do then?

A. I took my hat and went home.

Q. Did you hear from anybody after that about this base-ball question?

A. Then Haagensen was sent to my house to find out whether anybody had been around there, around the house, and he got me to go to the Arlington Hotel or Arlington Park, and he spoke through the 'phone there to Griffiths, and he, Griffiths, asked Haagensen if either Mr. Currie or Demarest had been over to see me, and he, Haagensen, said no, nobody had been there since we parted on the 6th of May.

Q. Had either Mr. Currie or Mr. Demarest seen you since the 6th of May?

A. No, sir; I had never seen Mr. Demarest since the 6th of May, and I never seen Mr. Currie until I seen him here on the sidewalk this morning.

Q. What did you come here for to-day?

A. To tell the truth.

Q. When did Haagensen see you before yesterday?

A. Yesterday he came to me three times; he told me I had to go to Griffiths and see him, and I said, "No; I never go inside of that place any more; if anybody wants me they have to go and tell me, and I will go and tell the truth." And I said I would rather be arrested than to go there and tell a lot of lies.

Q. Then what did he say?

A. He went away, and afterwards he came back again, and then he said, "For God's sake, don't leave us that way now. We'll all get in jail if you do leave us," and he said, "You will get there, too, and perhaps you will get six years in jail." I said, "I don't care; I won't go a foot for you people; I will stand my ground now."

Q. Did he tell you that Judge Blair wanted to see you yesterday?

A. No, sir; he said he wanted me to go to Griffiths' office.

Q. When did you see Griffiths?

A. I saw him two days ago; he did not speak to me; he spoke to my wife; I heard every word; he wanted her to go to the court and swear—well, he did not get

the chance to tell her what, because my wife told him straight, no; he did not have a chance to tell her what; but then he said, "Won't you say so much as that you were not in when your husband signed this paper, so as to save him going to jail?" She said, "No, sir; I would not; I will tell the truth and nothing else." And he says, "Couldn't you say that your baby was sick, and that you couldn't hear anything because your baby was sick?" And she said, "No." And then he said, "Couldn't you say that you did not hear anything about it?" And she said, "No; I won't; I will tell the truth." And then he said, "You needn't be scared if you do, because Robert Davis is the boss."

Q. Did he say the boss or the leader?

A. He said, "He is the boss of the party."

Q. And that he would protect you?

A. Yes.

Q. What did she say to him then?

A. She said, "No, sir; I won't." She said, "There is the Judge, and he would not do such a thing as that; he wants the truth, and I will go there and tell the truth, and he is a gentleman and will hear me."

Q. What did Griffiths say about himself?

A. That we will all go to jail.

Q. Did he say anything about being disbarred?

A. Yes; he said that story, before we had made up the tale we would tell, and he said, "We must stand together, or we will all go to jail." And he said, "It is either me or Currie will be disbarred." And he wanted my wife to go on the stand and testify and let him out. She says, "Mr. Currie and Mr. Demarest came here, two gentlemen, and I know it well that they would not misrepresent to me, and I am against that thing, too," she said.

Q. What was done in Davis's office, you did for the sake of saving your job?

A. Yes, sir; because I was afraid I would lose my position on the ferry.

Q. Carroll and Haagensen both told you that you would lose the job?

A. No, sir; not Carroll to my face; Haagensen told me that, and told me that Carroll had sent him to tell me that.

Q. Did Carroll ever say anything to you about that?

A. No. Emil Reuter, the ferry master, he said to me, on the 31st of May, that Carroll wants to see me in the office—Carroll is the superintendent—and so I went with him over there and found Carroll there, and Captain Carroll said, "I didn't want August." That was me. Then Emil said, "What have you and Haagensen got together?" I said, "Nothing." Emil then said, "That's my business, and I am going to find out." So I said, "No, sir; it is not your business." Then he said, "I will poke you in the snoot." So I said, "I will write to Philadelphia." Then Carroll came up and took him, Emil, by the arm and took him away. That was at the Cortlandt street ferry slip, right near the depot.

Q. If you had known that I (Judge Blair) wanted to see you yesterday in my office, would you have come?

A. Yes, sir; I would have come.

Q. But you did not come because Haagensen told you that you were needed over at Griffiths' office?

A. Yes. I told Mr. Haagensen that time, as plainly as could be, I would go there and tell the whole truth. "But, gentlemen, I won't go there to tell a pack of lies." And I said, "But I won't go to Griffiths' office anyhow."

Q. When you told Haagensen you would come to my office and tell the whole truth, then he would not let you go?

A. Yes, and then he went away. The last time he sent to me this; it is dated Wednesday, the 2d, but it was Wednesday, the 1st; he sent me this slip, and it was given to me in the morning.

(Witness shows paper.)

Q. Go on.

A. And then when I would not go to Griffiths' office,

he wanted me to go where he lived, and when I would not go there, then he did not want me, and I went home. The letter was for going to Griffiths' office, so that I should not forget where it was.

AUGUST SEASTREAM.

Sworn and subscribed before me this 14th day of June, A. D. 1904.

JOHN A. BLAIR,
Judge of the Hudson County Court of Quarter Sessions, N. J.

MRS. SEASTREAM'S AFFIDAVIT.

Questioned by Judge Blair.

Mrs. Seastream, being sworn in my presence, made the following statements:

Q. You are the wife of August Seastream, who made these two affidavits in question, one dated May 6th, and the other the 12th of May?

A. I know about the 6th of May?

Q. You live on Avenue B, Bayonne, between 48th and 49th streets, and your property adjoins the base-ball grounds?

A. Yes, sir.

Q. Were you present when your husband made the affidavit, dated May 6th, in your home in Bayonne?

A. Yes, sir; Mr. Currie was present, Mr. Demarest, and a gentleman, I think, was Mr. Griswold, came in as well; and I heard the affidavit read before my husband signed it, and I saw him sign it; I was present at the time, and what is in the affidavits is true.

Q. After the sixth of May, did you see anybody connected with this transaction, Mr. Griffiths, for instance?

A. I think it was on the 13th or 14th of May, I saw him; he was at the house; I did not know the gentleman at that time; he rang the bell and my husband went to

the door, and then Mr. Griffiths came in; and then he said to my husband, "Now, we have come to an agreement to keep this out of court, and whoever gets the most votes will be the winners; I have Mr. Alexander, Dr. Ware and a few others' signatures," and he laid the paper on the table and he told him to sign it; he said, "If you will sign your name," and while he was talking the door-bell rang again, and it was Mr. Salter; Mr. Griffiths went to the door with my husband when Mr. Salter rang the bell, and then he said to Mr. Griffiths, "Are you ready?" and then they both went out; then I asked my husband who the gentleman was, and he said it was Mr. Griffiths, Mr. Davis' lawyer, and I said he acted rather strange; then I did not see him again until June 1st, when he called again, and I asked him in and he asked me a few questions about the baby and like that, and then he said, "Now, Mrs. Seastream, I want you to go to Court and say you did not see Mr. Currie sign the paper, and I want you to say in Court that you were not paying any attention to us, that you were attending to the baby"; but, I said, "If I have to go to Court I will speak the truth; I have always spoken the truth, I was brought up to, and I will speak the truth now"; he said "You could say you were paying attention to the baby, you could have been walking in and out of the room and not remember"; I said, "I could have been; but I was paying attention, as I myself had a little to say"; then he said, "Well, will you say that you won't talk about it?" I said, "No, sir; I shall speak the truth and if questions are asked me I shall answer them straighforward"; "Well," he said, "for God's sake, don't go and take the other party's part, if you don't take ours." Then he asked if Mr. Demarest had been here since May 6th, or anyone else, posting me. I said, "No, sir; no one has to post me to tell the truth, and I haven't seen any one since"; "Well," he said, "you would not need to answer any questions if you want only to speak the truth." He then said, "Mr. Robert Davis

is a ruler, you don't need to be scared"; "Well," I said, "I cannot help it, I will speak the truth." "If Mr. Demarest could hear you now," he said, "he would be here as quick as lightning"; I said, "I do not suppose you will go and tell him what I am saying," and he said, "Not on your life, I won't." "Well, Mrs. Seastream," he said, "it wouldn't be telling any untruths if you would say that you did not wish to talk about it, and it will save us all from going to jail"; he said, I cannot help it"; I said, "if questions are asked me I shall answer them, and answer them truthfully." Then he asked me if I would go away for a few days, and he would pay all expenses. I told him, no; that I had no place to go and that it was not convenient at that time for me to go away; also, that I had no cause to go away anyway, and I said, "Mr. Griffiths," I said, "my husband and I have worked very hard to have our little home, and now you have come and asked my husband and me to swear to a lot of untruths; you have come and made me miserable, and the last few days I do not know what to do," and he said, "Well, Mrs. Seastream, I am very sorry, I will try and not have you appear in Court," he said.

Q. Was there anything further said, Mrs. Seastream?

A. No, sir; I don't remember, because he found that I would speak the truth; that was the last.

Q. And you have seen nothing of them since.

A. Capt. Haagensen called once; I think, it was on about the twentieth—the next week; he asked my husband if he had seen Mr. Demarest or any of his party, and he said "For God's sake, don't go and talk, Mr. Seastream, or we will all be sent to jail"; and my husband did not answer him.

Q. And he then went away.

A. Yes, sir.

Q. That is all you know about it, Mrs. Seastream?

A. Yes, sir.

LAURA SEASTREAM.

Sworn to and subscribed before me this 14th day of June, A. D. 1904.

JOHN A. BLAIR,
Judge of the Hudson County Court of Quarter Sessions.

Upon the several affidavits already mentioned, and an additional affidavit by Mr. Griswold and one by Mr. Demarest, an order to show cause was advised by me, and signed by the Chancellor, calling upon the parties to show cause why they should not be adjudged guilty of a contempt of this court in the premises.

All the parties appeared before me both, in person and by counsel.

On the return day of that order, counsel for the Court and State produced in court all the affiants, who made the several affidavits upon which the order was based, and tendered them to the accused for cross-examination.

Seastream was first cross-examined at great length, and afterwards evidence was adduced by the accused; all heard orally, and occupying parts of two days and the whole of a third in its production.

Counsel for the accused took one or more preliminary objections; the principal one was stated in different forms, and on more than one occasion, but amounted, I think, to this: that the Chancellor had not in fact referred to me, and, under the Constitution of the State of New Jersey, had no power to refer to me, and thereby confer on me jurisdiction to hear a matter of this kind.

He argued that the contempt charged did not consist in any mis-behavior in the presence of the Court, or in the disobedience of any order which had been made in a cause referred to me, or which had been advised by me, in the regular course of the practice of the court, as in the *Paterson Strike Case*.

Nor had the offense been committed in connection

with a cause which had been refered to me as in *White* v. *White*.

After conference with the Chancellor I overruled the objections.

The *Paterson Strike Case* arose on a charge of a breach of an order of restraint, signed by the Chancellor, upon my advice, upon *ex parte* application to me, and a further breach of a further order in the same matter made on the return day of the first order, on a regular motion day at chambers, when I sat for the Chancellor.

The order advised by me, and signed by the Chancellor, adjudging the parties guilty of contempt, was tested in every possible way in the Court of Errors and Appeals and the Supreme Court of the United States, and was sustained.

In *White* v. *White* the charge was quite similar to the one made here and was heard by me very much as, so far, has been the present matter, and the Chancellor acted on my advice in adjudging the parties guilty and imposing a penalty upon them for their contempt.

Another preliminary point taken by counsel was that the affidavits taken by Judge Blair were not taken in this court nor by the Judge as an officer of this court.

There can be no doubt that Judge Blair is one of the persons who has authority to take affidavits to be used in this court. Moreover, all parties, including Haagensen and William J. Davis, acquiesced in the investigation by Judge Blair; Davis and Haagensen attending with Griffith before him for that purpose. It is true that they were not then directly accused of any improper conduct, but I do not see how that circumstance varies the case.

In answer to the argument based on acquiescence in the proceedings before Judge Blair they reply that they expected and had a right to be present when Seastream and his wife were examined in order to cross-examine, and this point, possibly, would be well taken if those affiants had not been produced before me for cross-exam-

ination. But they were so produced, and the defendants exercised their rights of cross-examination of Seastream without restriction, but did not choose to cross-examine Mrs. Seastream. For my own satisfaction I called her myself and examined her in the presence of the accused, and their counsel cross-examined her.

With these preliminaries I propose to examine the merits of the affair.

In the first place it clearly appears by the evidence, and might well have been classed with the matters admitted or so thoroughly established as not to be capable of dispute, that the first affidavit was made by Seastream freely and voluntarily and without the least suggestion, persuasion or pressure upon him. He was waited upon at his home in the evening by Messrs. Demarest and Currie (so far as it appears neither had any previous acquaintance with him), they found him seated with his wife and infant children, and all danger of misapprehension of either question or answer was removed by the presence of his wife, who appeared to be a rather bright and somewhat intelligent English woman.

They asked him if he had any objections to Sunday base ball playing. He stated that he did have objections, and with the aid of his wife, proceeded to state them without question or suggestion by his visitors.

At this stage of the affair Mr. Demarest left to see another party in the neighborhood, and Mr. Currie remained to write out Mr. Seastream's affidavit In so doing he did not attempt to use Mr. Seastream's imperfect language, but took pains, and I am entirely satisfied, succeeded in truly embodying the ideas he expressed and the reasons he gave for being opposed to Sunday base ball games.

One or two slight errors of fact seem to have crept into the affidavit. One was as to the length of time that Seastream and his wife were at home during the progress of the two games which were played on April 24th and May 1st, respectively. It is charged that those per-

sons were in their dwelling on the occasions mentioned for a greater proportion of the time occupied by the games than the affidavit indicated, and it was on that part of the affidavit that the evidence of the witness Brown was deemed so important.

The other error of fact was as to the precise location of the lot actually owned by Seastream bordering on or near the base ball grounds. I have not taken the trouble to determine precisely what this mistake was. It abundantly appeared that it did practically adjoin the grounds, and the error is slight and trifling.

When the writing of the deposition was nearly finished Mr. Demarest and his clerk, Griswold, entered the house, and in their presence the affidavit was read to Seastream and his wife, and he pronounced it correct and signed it and swore to it before Mr. Currie.

At or about the same time Mr. Demarest asked him if he was willing to have a suit to restrain the Sunday playing carried on in his name, and he replied that he was willing, but expressed a wonder whether his so doing would have the effect of his losing his job on the ferry boat. He seemed to understand that some of the visitors to the ball games came from Brooklyn by the boats on which he worked.

My conclusion is that, so far as the contents of the first affidavit affected the merits of the cause in which it was to be used, it was perfectly honest and sincere, and truly expressed the views and feelings of Mr. Seastream, and that not the least improper means were used to procure it.

It further appears that neither Mr. Demarest nor his partner, Mr. Roberson, nor Mr. Currie, nor any other person interested on the side of the complainants in this cause ever approached Seastream or had any communication with him or his wife either directly or indirectly from the time of the taking of the first affidavit up to the time of the hearing in this matter, and he appeared here by an independent counsel, Mr. James Benny.

Coming now to the second affidavit, Seastream and Haagensen do not disagree as to the cause of their first interview on the morning of the twelfth, the date of that affidavit.

It is admitted that Seastream was pointed out to Haagensen by one Madden, a ticket taken at the "Annex" ferry, as the man who had stopped the base ball game, and that Haagensen first accosted Seastream. No reason is given by Haagensen in his evidence for accosting Seastream. He had not been asked to do so by either Seastream or any one on his behalf. The two proceeded to have a private interview on the dock at some distance from the ferry entrance. Seastream swears that this was at the suggestion of Haagensen. The latter swears that it was at the suggestion of Seastream, Haagensen swears that he found Seastream in trouble by reason of being twitted and found fault with by his fellow workmen on account of his having stopped the Sunday base ball games, and asked Haagensen's aid to get him out of the scrape. Haagensen undertook this out of pure friendship for a man known to him to be a stupid, helpless foreigner of feeble intellect and little intelligence, unable to take care of himself and evidently easily persuaded.

Seastream swears that Haagensen told him that unless he did something to counteract what he had done already he would lose his job on the boat, and that he was greatly distressed by that threat. Haagensen denies this.

That Seastream was in a state of mental distress at and after the beginning of his interview with Haagensen is an established fact in the case, and I find nothing in the case to cause this distress except the fear of losing his job.

The interview on the docks produced no results. Seastream returned to the boat and Haagensen also took the same boat. The latter says that his object in so doing was to adjust its compasses. Seastream says that

Haagensen again accosted him on the boat, and finally induced him to meet him at a restaurant at No. 1 Exchange Place, Jersey City, at the end of his work for the day.

At the restaurant Haagensen communicated by 'phone with the office of Mr. Robert Davis and found that his son, Mr. William J. Davis, was there. Haagensen and Seastream proceeded together to Davis's office, and, as Haagensen swears, he himself stated to Davis the great trouble in which Seastream found himself, to wit, *that he had signed some paper against the Sunday ball games, whereas he thought he was signing a petition in favor of it.* Haagensen swears that this is what Seastream had stated to him at the previous interview. Seastream denies this last. Haagensen swears that the avowed object of the visit was to relieve Seastream of his trouble.

Davis then 'phoned for Griffith, who promptly appeared and proceeded to write a deposition for Mr. Seastream to sign. This affidavit was written in Mr. Davis's outer office, while Haagensen, Seastream and Davis were in the inner office refreshing themselves with brandy which Mr. Davis apparently kept in his office.

Mr. Peter Bentley was called on the 'phone to take the affidavit, which he did.

Mr. Griffith swears, and is therein supported by Haagensen and Davis, that the affidavit, as it was being written, was read, paragraph by paragraph, to Mr. Seastream and assented to by him, notwithstanding, as pointed out by Mr. Seastream's counsel, some parts of it were absurdly inaccurate, and after Mr. Bentley had arrived, he, before administering the oath, cross-examined, to use the language of Mr. Griffith, Seastream upon it, and found him entirely satisfied therewith. Further, some one asked Seastream if he could sustain by proof the contents of the second affidavit in the matter of the length of time he had witnessed the two ball games, and he then mentioned the

name of his neighbor, Mr. Brown, which circumstance led to the opening of communication between Haagensen and Brown and Haagensen's offer, before stated, of ten dollars to Brown to testify.

One or two other matters seem worth mentioning here.

Haagensen swears that at the very first interview with Seastream the latter told him: "Now, everybody is gibing me and making fun of me for stopping them playing base-ball on Sunday. Now," he says, "I had nothing to do with them stopping base-ball on Sunday. I signed a petition to continue to play base-ball on Sunday, because I like base-ball."

He further swears, as we have seen, that when he reached Davis's office he, Haagensen, repeated what Seastream had told him. That he did the talking at the interview with Davis is repeated by him several times in his evidence. It does not appear that the word "affidavit" was used in any conversation between Haagensen and Seastream before their arrival at Davis's office, or that Seastream was, according to the theory of Haagensen and Davis, conscious of having taken an affidavit, and yet, in giving his account, on direct examination, of the interview at Davis's office, Haagensen swears: "After telling Mr. Davis the conversation I had with Seastream, Davis says: 'There is such an affidavit in the Chancery Court.'"

Griffith swears that on his arrival he was introduced to Haagensen and Seastream by Davis, and that he, Griffith, produced the copy of the first affidavit, and that he addressed himself to Seastream as follows:

> "I asked Seastream what I could do for him, and he said that he would like to see the affidavit they said he had executed, and I showed him this (indicating) * * * and his remark was that he had never signed anything that looked like that, and I said: 'Suppose I read it to you and perhaps you can recall some

of the affidavit.' After reading it to him, I asked him if that had ever been read to him before, and he said it had not; that the paper Mr. Currie showed him (was) represented to him to have been a petition in favor of Sunday base-ball."

He then states that he proceeded to draw the second affidavit from memoranda given him by Mr. Seastream. After that detail was given he was questioned as follows:

"*Q.* (By the Court) I will ask you this question: What was the occasion for making any affidavit at all?

A. Well—

Q. (By the Court) Who suggested making any affidavit?

A. Seastream asked if he could make a statement, and he said he wanted to be set right, and I said that no paper was of any value in the case, unless it was in the form of an affidavit, and if that was his wish I would take the affidavit.

Q. (By the Court) Now, Mr. Griffith, did you stop to consider the effect of asking a man, or letting him, even if he asked, to make a contradictory affidavit of that kind, what kind of a pickle it placed this poor devil in—I use the expression, because that described it—did you think of that?

A. I did, sir.

Q. (By the Court) If you had been his counsel and disinterested, and not counsel or solicitor, not president of the defendant company, solicitor of that company, would you have advised him to make another affidavit?

A. Well, I wasn't representing him in this matter."

I stop here to repeat what I remarked during the hearing of this matter, that I think it was highly im-

proper, from a professional point of view, for counsel situate as was Mr. Griffith, an officer in the defendant corporation, and at that moment acting as its counsel and solicitor in defending the bill in this very cause, to take advantage of a person situate as, on Mr. Griffith's own view, was Seastream on May 12th, to procure from him his second affidavit for use for his client in the pending suit. His plain duty, as a counselor of the Supreme Court, was to advise him to seek and consult with other counsel and not to encourage him to make an affidavit which immediately subjected him to the great danger, if not certainty, of being convicted of the crime of perjury.

I hope and believe that there can be but one opinion on this subject among high-minded lawyers.

Haagensen further swears, and in this he is supported by his quartermaster, or wheelman, Nelson, that about two days later Seastream came up to his pilot-house on his own ferry boat and thanked him for having gotten his out of his scrape. Seastream denies this *in toto*, saying that no such interview occurred.

About a week later (May 19th or 20th) Haagensen induced, as he says, by some article (not produced) which he saw in the newspapers stating that Seastream had made his second affidavit under improper pressure, made a trip and saw Seastream at his house late in the afternoon.

Haagensen says that he asked Seastream about it, and Seastream denied having given any authority for such a statement, and that he, Haagensen, was angry and charged Seastream with having lied to him and Griffith, and threatened him with personal violence if he found out that he had done so, and that Seastream declared that he could prove by Mr. Brown the truth of the second affidavit. Seastream swears that the object of his visit was to find out whether or not Mr. Demarest, or Mr. Currie, or anyone in behalf of the complainants, had been to see him. Plainly the object

was to stiffen Seastream and prevent him from receding from his second affidavit. On this occasion, undoubtedly, Haagensen, through Seastream, made his first offer of ten dollars to Brown to testify, which was afterwards repeated both in writing and orally.

With regard to the incident of the promise of ten dollars or more by Haagensen to Brown to testify in support of Seastream's second affidavit, Mr. Haagensen's statement is that such payment was only intended to cover Mr. Brown's loss of time and his trouble, and Mr. Brown swears that he so understood it.

I asked Mr. Haagensen with whose money he expected to pay it. He said his own. I asked him why he was sufficiently interested in the affair to pay money out of his own pocket, and he replied that he was willing to pay money out of his own pocket from a pure desire to establish the truth. He disavowed any motive of promoting the interests of the ferry company by increasing its receipts from persons wishing to witness the base-ball games played on Sundays between famous clubs advertised to be played on the very grounds in question. It abundantly appeared from the evidence that the most convenient route for parties living in the great residential city of Brooklyn to reach the grounds in question was by way of the Brooklyn "Annex" and the trolley from thence to Bayonne. Now, with regard to the occurrence of May 26th, we have seen that the solicitors of the complainant first became aware of the second affidavit and its contents on the afternoon of May 23d; that they promptly procured the affidavits of Messrs. Currie and Griswold (Mr. Demarest, from motives of proper delicacy, being silent), and held them ready for use on the continuation of the hearing on the 26th; that they also issued a subpœna and took what they had reason to believe were sufficient measures for its service in order to procure the attendanc of Sastream before me on that day; that the fact that they had issued such subpœna was announced shortly after

the court opened at ten o'clock in the morning. Then between ten and eleven o'clock we have Mr. Haagensen seeking an interview with Mr. Seastream in pursuance of a note from his quartermaster saying that Seastream wished to see him:

"May 26th.

"*Capt. Haagensen*—Seastream wants to see you right away; he says that he is in trouble; a man has been looking for him on the boats.

Respt.,

EDW. NELSON."

That he found Seastream in fear of being arrested. I shall deal with his excuse later. He took Seastream away from his work, which of itself protected him from arrest a great portion of the time, and placed him in a waiting-room for the trainmen in the great brick building adjoining the large train shed of the railroad, a place where, in the ordinary course of his employment, he would not be likely to be found, he having nothing to do with the running of the trains, and left him there until two o'clock in the afternoon. He then took him to New York, gave him his dinner and kept him there until after four o'clock, and then brought him back to New Jersey, where he could be conveniently met by the officer with the warrant for arrest, if any.

Haagensen swears that he took no pains to ascertain whether any process of arrest had been actually issued against Seastream or the nature thereof, though he saw in the ferry house a man whom he had seen previously, in the court room. He took Seastream to the office of Mr. Griffith, and there met Mr. William J. Davis.

In the meantime, and during the morning session of the day Seastream's second affidavit had been disclosed to the Court, and the matter had been referred to Judge Blair with the promise of the hearty co-operation of all parties in its investigation by him.

Seastream seems to have no recollection of any fear

of being arrested, though he was not thoroughly examined on this subject. I stop here to say that I am entirely satisfied that the object of Mr. Haagensen's conduct on that day was to prevent Seastream from being served with subpœna to appear in my court. He had no solid reason to believe that Seastream either feared being arrested or that he was in danger of being arrested. Returning now to the interview about five P. M. at Griffith's office, when Haagensen, Seastream, Griffith and Davis were present. Mr. Bentley arrived at the latter part of this interview. Seastream swears that the other parties, Haagensen and Griffith, "schooled" him as to what he was to say when he got before Judge Blair, and wanted him to swear to what was not true. This is denied by those gentlemen, but they all admit that Seastream then and there recited what he expected to swear to when he came before Judge Blair.

Mr. Griffith's evidence on that subject is as follows:

"Seastream was very much agitated at the time, and the very first remark he made was that they were trying to arrest him, and I asked him who, and he responded, 'the Chancery Court,' and I told him he need have no fear if what he told me in the second affidavit was true, and that I did not believe it was possible or probable that a warrant had issued for his arrest inasmuch as the Vice-Chancellor had referred it to Judge Blair for investigation; and I *then asked him to repeat to me what explanation he would have to make to Judge Blair, which he did.*"

Seastream, in his deposition before Judge Blair, mistakenly fixes the occurrences of the 26th of May as having happened on the 19th, when, he says, "Mr. Demarest wanted me in the Court of Chancery," and he further attempts to repeat what occurred in Griffith's office in the way of agreeing on the several stories which each should repeat when called before Judge Blair.

Further on in his deposition he was asked the question, "Did he (Griffith) say anything about being disbarred?" It appears by Judge Blair's evidence, given before me, that that question was put by Mr. Holman. And Seastream replied that Griffith said, "We must all stand together or we will all go to jail. It is either me or Currie will be disbarred." This is quite intelligible when we recollect that Griffith witnessed the indignation manifested by me that morning when the second affidavit was read in court, and I expressed the determination to have the matter investigated and referred it to Judge Blair for that purpose.

Mr. Holman's question was undoubtedly the result of the complete revelation of the whole matter, which he swears Seastream made to him a day or two after the twenty-sixth of May.

Another incident in the history of events should be noted just here.

Up to May 20th or 21st Seastream seems to have felt quite contented with what he had done, because not only do Haagensen and Nelson swear, against Seastream's positive denial, that Seastream did, on or about May 14th, thank Haagensen for getting him out of a scrape, but it is quite clear that nearly a week later he willingly signed a paper with Mr. Alexander, the other complainant, asking the solicitors to discontinue the injunction suit.

No pressure was brought to bear on him in this instance, and he seems to have been in a contented frame of mind.

On the day that he made the second affidavit he informed his wife that he had signed, at Mr. Davis' office, a paper the contents of which he did not know. Mrs. Seastream was anxious to know what those contents were, and at her suggestion, she swears, Seastream went to see Mr. Davis to ascertain what they were.

He does not give the result of that interview, but

Mr. Robert Davis swears that two days after the making of the second affidavit Seastream called on him and said that he wanted him (Davis) to send somebody to protect him. "*Q.* From what? *A.* From the annoyance he was getting from the other side." (Meaning the complainants.) Mr. Davis told him that he had nothing to do with it, and that he had better go to his counsel and attend to it. He further explained that he meant Seastream's counsel; no name was mentioned.

I think Mr. Davis is mistaken either in the date of the interview or in what he understood Seastream intended to say about annoyances from the other side.

Up to May 14th there was not the least reason to believe that anybody on the part of the complainant had heard of the second affidavit, and there is nothing in the case to indicate that anybody on the part of the complainants had approached Seastream, but the contrary abundantly appears.

Be that as it may, the advice of Mr. Davis was eminently proper and creditable to him, and was precisely the advice which should have been given to him by Mr. Haagensen and Mr. Griffith.

After he received that advice, and having passed through the experiences of May 19th (or 20th) and May 26th, he seems to have had sense enough to follow it, and called upon Mr. Holman, who was his near neighbor, and who sold him his lot and had lent him the money with which he had built his house, and related his experiences to him.

Here it is proper to say that on the very day of the making of the second affidavit he told his wife that he made it because he was threatened with the loss of his job; Mr. Holman swears that he told him the same thing.

He also told Mr. Holman about his experiences of May 26th and of his being "schooled" by Hagenson, Griffith and William J. Davis as to what he was going to swear to when he came before Judge Blair.

Mr. Holman advised him to go before Judge Blair and tell the whole truth, and, I infer, the result of his advice was that in the meantime he should have nothing to do with either side.

Then followed the fixing, by Judge Blair, of Thursday, June 2d, at the Court House, as the time and place of making the investigation and the request to counsel to have present all parties implicated.

Judge Hudspeth, counsel in the main cause for the defendant, and whom I take pleasure in acquitting of any part in the procuration of the second affidavit or of any improper attempt to support its truth by evidence, or to suppress the elicitation of the truth, swears that he was requested by Judge Blair to procure the attendance of Seastream before him on the morning of the 2d, at the Court House; that he 'phoned to Griffith to procure Seastream's attendance, but that he enjoined upon him to say not one word to Seastream about what he was to swear to.

Griffith at once took measures to interview Seastream, and also wrote Haagensen to look after him, and we have Haagensen writing this note on Wednesday, June 1st:

"Wednesday P. M.

Dear Seastream:

If you don't see Griffith this P. M., be at his office at 9 A. M. to-morrow.

He is down to your house this P. M., but I understand you are working.

Pay no attention to anybody.

Yours,

CAP."

Griffith swears that he went to Seastream's house that evening to procure his attendance the next day at the Court House, and to that end asked Seastream to come at ten o'clock in the morning to his office near the ferry —more than a mile from the Court House—instead of

going directly to the Court House. Asked by me why he wished Seastream to come to his office instead of going directly to the Court House, he replied that he was not sure that Seastream knew the way to the Court House, and thought he would be more sure to get there if he came by the way of his office.

Griffith swears that he called at Seastream's house and saw him and his wife, and told them that Judge Blair wanted both of them to appear at his court in the morning, and that he, Griffith, wished Seastream to come to his office at ten o'clock, but that his wife refused, and that Seastream appealed to her and said, "My God, Laura, you would not see me go to jail?" Griffith swears that he was getting pretty angry at the time—why, I am unable to see from his evidence—and that he said to Mrs. Seastream that if what her husband had told him and Davis in the second affidavit was not true, then there was no alternative for Seastream but jail, and that he, Griffith, would help send him there, and that he then left.

Seastream and his wife both deny being asked to go to Judge Blair's court the next morning. Mrs. Seastream's deposition before Judge Blair, above set forth, was fully reiterated by her on her examination before me, and she was subjected, without being shaken in the least, to a severe cross-examination by the counsel of the accused. In both cases she swore that Griffith wished her to go to court (without mentioning what court) and to falsify as to what occurred when the first affidavit was taken. This is corroborated by Seastream.

Griffith, in substance, admits having threatened Seastream, but the exact form of the threat is proven by another witness called by the accused. This witness was a Mr. Elliott, who had been a contractor carrying on the work of grading and preparing the base-ball grounds, and he swears that he went with Griffith to Seastream's house on the evening in question, and that he remained outside reading on the piazza while Griffith

was in the house; that the door was partly open, and he heard an animated and angry conversation going on inside, but that he could not distinguish what was said; that it ended by Seastream and Griffith coming to the door, when he heard Griffith say something about Seastream going before the court, and he thinks Judge Blair's court was either specifically mentioned or indicated, and that the last words that were spoken were by Griffith and were to the effect that if Seastream backed out of the second affidavit, he, Griffith, would have him locked up and punished. His exact language is as follows:

> "Mr. Seastream said to Mrs. Seastream, 'Won't you go?' and she said, 'No.' He says, 'For God's sake, * * * if you don't go I will go to jail.' And Mr. Griffith then said, 'Yes, and if he backs out of what he swore to in his affidavit, I will see that he goes to jail.'"

It is admitted that Haagensen urged Seastream to go with him the next morning, June 2d, to Griffiths' office, but Seastream refused.

With regard to the contradictions in the evidence, the serious ones are as follows:

1. Did Haagensen threaten Seastream with the loss of his job if he refused to do something to counteract what he had already done?

It matters not whether Haagensen had or had not the power to execute his threat. Counsel contended that he had not such power. It is enough, however, if Seastream supposed Haagensen had that power, and if it be true, as Seastream swears, that Haagensen said he was sent by Captain Carroll, the superintendent of the ferry.

2. Was Seastream fully informed so that he understood the force and effect of the second affidavit?

In this instance he is brought into conflict, not only with the evidence of Haagensen, Griffith and William J. Davis, but also with that of Mr. Peter Bentley. Sea-

stream denies that he was acquainted with the contents or that he was sworn, and he asserted that ignorance to his wife the same day, and, later on, to Mr. Holman.

In favor of the affirmative, and against Seastream's denial, is the fact that it was learned from him, at Davis' office, that Brown was at his house when the Sunday games were played. Yet it is possible, in my judgment, upon a calm review of the whole case, and taking into consideration the general stupidity and weakness of the witness and his lack of familiarity with the English language, that he may not have been aware of the contents of the affidavit or that he had sworn to it.

Much depends upon the mode in which the ceremony of administering the oath is performed. I place great confidence in Mr. Bentley's evidence, but, after all, I am not satisfied that Seastream consciously falsified in his denials with regard to that affidavit. I may as well say here that the maxim relied upon by the counsel for the accused of *"false in one, false in all,"* must be applied here with caution. I think it does not follow that, if it be admitted that Seastream lied on the stand when he denied knowledge of the contents of the second affidavit, and also denied having been sworn or of even having seen Mr. Bentley on that occasion, the affirmative evidence given by him of the occurrences and conversation is unreliable. In other words, he may be morally capable of denying, under oath, the truth, while at the same time he is intellectually incapable of manufacturing a story out of the solid.

I am unable to believe that he manufactured the story which he told, in part or in whole, first, to his wife, and then to Mr. Holman, and then detailed to Judge Blair and then in court to me.

His examination before Judge Blair was had under circumstances favorable to the elicitation of the truth. He had been subjected to no influence from anybody on the part of the complainants, but had been wholly

under the influence, first, of the accused herein, and then of his wife and Mr. Holman.

The impression which Mr. Holman made upon me was decidedly favorable. He seemed to be a sensible, intelligent and high-minded lawyer.

3. What occurred at the Seastream house on the evening of June 1st? Is Mrs. Seastream's account of Mr. Griffith's conduct and statements reliable?

I will not go over it, except to remark that something which she or her husband said or did made Mr. Griffith very angry. Mrs. Seastream swears it was because Mrs. Seastream refused to go to court and swear as he wished her to do—falsely, as she says. He gives no reason for being angry, and I find none, except her refusal to comply with his wishes; that refusal to a man in Mr. Griffith's position was indeed exasperating.

Mrs. Seastream's manner and appearance on the stand, and her mode of giving her evidence, impressed me most favorably, and the effect of it upon my mind was that she was speaking the truth; an effect which has been strengthened by a careful reading, many times over, of all the evidence.

The result then may be stated in this wise:

If it be necessary or important for the determination of this cause to settle the question: "Whether or not the threat of losing his job was made by Haagensen to Seastream?" I shall hold the affirmative. That is the result of a careful consideration of all the evidence. I can find in the case no other sufficient cause for the great agitation under which Seastream, by the evidence of the accused, is shown to have labored.

With regard to the second disputed question, I am in doubt, for reasons already stated, but think it not necessary to determine, except so far as to acquit fully Mr. Bentley of all improper conduct. He may very well have thought that Mr. Seastream understood thoroughly everything that was said and done, when, for reasons many times heretofore stated, he did not.

With regard to the third question, as I have already stated I conclude that the evidence of Mrs. Seastream is reliable.

My conclusion upon the whole matter is this: Haagensen accosted Seastream, and either found him in a state of distress or by threats of discharging him (I believe the latter), threw him into a state of distress by reason of his action in this cause. Under pretense of helping him out of his trouble he took him to the office of the principal proprietor of the defendant corporation, and there he was induced by the advice of persons who, he thought, were acting in his personal interests, rather than that of the defendant herein, aided by the use of alcoholic stimulants to make the second affidavit, which was essentially untrue in most of its material parts.

In all this, each one of those parties, Haagensen, Griffith and Davis, were acting entirely in the interests of the defendant corporation, while they led Seastream to suppose that they were doing him a favor. The evidence leaves my mind in doubt whether Seastream comprehended the full force and effect of that second affidavit.

About a week later Haagensen visited Seastream for the purpose of ascertaining whether parties interested for the complainants had approached him, and also for the purpose of strengthening him in favor of the defendants side and in support of his second affidavit.

In that interview Haagensen browbreat and threatened Seastream with personal violence if he did not stand by that affidavit.

He also made promises to pay a witness extra compensation for attending and testifying in support of the second affidavit.

On the morning of May 26th, when it had become known that process of subpœna had been issued for Seastream to appear in this Court, Haagensen sought him and concealed him from the server during the whole day for the purpose of preventing him from

being served therewith, and, at the end of the court day, brought him to Griffiths' office where he met Griffith and William J. Davis, and, in the presence of the three, Seastream was coached by the three for his coming examination before Judge Blair, which had that day been provided for.

Then, on the evening of June 1st, Griffiths visited Seastream for the purpose of procuring his attendance at his office on the next morning, in advance of his examination by Judge Blair, with a view of keeping him within his own influence. He also attempted to influence Mrs. Seastream so to falsify, if she was called as a witness, as not to contradict her husband.

When he saw that he had failed in this attempt, he became exasperated and distinctly threatened Seastream with prosecution if he failed in his approaching examination to stand by his second affidavit.

All this I consider as plainly amounting, on the part of Haagensen and Griffith, to an attempt to influence improperly the due administration of justice in this Court.

The only doubt I have is as to how far William J. Davis should be held to have participated therein.

He undoubtedly participated actively and intelligently in the procuration of the second affidavit; he sent for Griffith; he talked with Seastream; he treated him with brandy, and did all in his power to obtain the desired result. He knew that Seastream thought that what he, Davis, was doing was being done in his, Seastream's, interest, without any interest on Davis' part, and he knew that he, Davis, was then taking advantage of Seastream's condition of distress, to use him for the advancement of the interests of the defendant corporation, in which his father was financially interested.

He was also present at the coaching, on May 26th. If he had been a solicitor or counsellor of this Court, there could be no doubt of his responsibility. The doubt arises from the consideration that he may not have

had the same appreciation of the impropriety of such conduct as had his counsel, Griffith. In short, he may have been ignorant of the law governing such matters.

The question is: Ought such ignorance to excuse him entirely?

After mature consideration, I have arrived at the conclusion that he cannot be excused and must be adjudged guilty, but in a lesser degree than Haagensen and Griffiths.

There remains to be dealt with only Seastream.

We have seen that he was unintelligent and unfamiliar with our language and easily persuaded, and I think inexperienced in ordinary matters. He was subjected to severe and continued pressure, which greatly agitated him.

I think, as I have stated, that it is quite doubtful if he understood the full purport of what he did on May 12th at Davis' office, and I think it still more doubtful if he had a full consciousness of the objectionable character of the transaction.

I assume that he knew that he had made an affidavit adverse to Sunday base-ball playing before Mr. Currie, and in the presence of his wife, but, notwithstanding the positive evidence of Haagensen, I am by no means satisfied that he originated or consciously adopted the scheme of pretending that he thought he was signing a petition for Sunday base-ball playing, or that he originated any of the other contradictory statements in his affidavit of May 12th.

But I am satisfied that, for the purpose of counteracting what he had previously done, he consciously signed a paper which he knew was directly contradictory of the truthful affidavit previously made by him, and which he expected would be used for that purpose in Court.

Further, I think that he felt at that time that such conduct on his part was wrong.

For these reasons I am unable to avoid finding him guilty, though the circumstances, which I have already many times repeated, tend strongly to ameliorate the offense and must have weight in fixing the punishment.

A true copy.

VIVIAN M. LEWIS,
Clerk.

THE JOHN L. MURPHY PUB. CO., Printers, Trenton, N. J.

Court of Errors and Appeals.

Between
AUGUST SEASTREAM ET AL.,
Complainants,
and
NEW JERSEY EXHIBITION COMPANY (CORPORATION),
Defendant.

On Bill, &c.

BILL.

[Filed May 7, 1904.]

To the Honorable William J. Magie, Chancellor of the State of New Jersey:

Humbly complaining show unto your Honor your orators, August Seastream and Charles C. Alexander, both of the city of Bayonne, in the county of Hudson, and State of New Jersey, on behalf of themselves and numerous other residents of said city, among whom are those whose affidavits are annexed to this bill of complaint, that they are residents of the northerly and what is known as the upper part, or Third ward, of the city of Bayonne; that said section of said city of Bayonne is almost entirely composed of private residences, largely occupied by the owners thereof, and that, except upon Avenue D, said section of said city is entirely made up

of private homes and residences; that said August Seastream's home and grounds are contiguous to the baseball field hereinafter described, and Charles C. Alexander's home and grounds are on Avenue C, one block distant from said grounds.

Second. And your orators further show that the New Jersey Exhibition Company is a body corporate of the State of New Jersey, of which one Howard C. Griffiths, of the city of Jersey City, is the president; that said corporation is mainly composed of stockholders and officers who are residents of the city of Jersey City; that the same is a business corporation and owns and controls a baseball team, heretofore and now known as the Jersey City Baseball Club, which is a member of the league of professional baseball clubs known as the Eastern League; that for several years last past said corporation has conducted its business, and said baseball team has played its games in the city of Jersey City, in this State, and that, at the present time, the games played by said baseball team, excepting upon the day commonly known as Sunday, are played upon its grounds upon West Side avenue in the western part of said city of Jersey City, and that during the time that said team has played in said city of Jersey City, games have only been played upon weekdays, and the playing of baseball on Sunday within the limits of said city of Jersey City has never been permitted by the municipal authorities of said city.

Third. And your orators further show that on or about the first day of April, nineteen hundred and four, the said defendant corporation purchased or leased certain lands in the city of Bayonne, lying adjacent to and on the easterly side of the public road or highway known as the Hudson County Public Road, and sometimes called the Boulevard, extending from the southerly side of West Forty-ninth street southerly to the center of the block between West Forty-sixth and West Forty-seventh streets, and extending easterly from said easterly side of said Boulevard to the westerly side of Avenue B,

and surrounding said grounds with a high, closely-laid board fence, about fourteen feet in height, erected a gate on the Boulevard side of said grounds for the ingress and egress of horses and carriages, and at the northwesterly corner of said grounds a public entrance, with ticket offices, and grand stand built for the accommodation of upwards of a thousand people, with a covering thereover, and at either side of said grand stand rows of seats, without covering, all of which seats have a capacity of seating six thousand or more people; that at the northeasterly corner of said grounds is now being erected another entrance thereto, and a sewer for the purpose of draining the same; and that within said enclosure has been laid out a ball field, with proper bases, sod and lines, fitting the same as a complete plant for the playing of baseball.

Fourth. And your orators further show that, at about the time of the erection of said fences about said grounds, it became a matter of common rumor in and about said city of Bayonne that the said defendant corporation had procured said grounds for the purpose of playing therein games of baseball, to which an admission fee would be charged to all persons attending said games, on the day of the week commonly known as Sunday; that thereupon a protest, numerously signed by residents and property-owners of said city, was presented to the mayor and council of said city, notifying said municipal authorities that, whereas an effort was being made to establish Sunday baseball games on the grounds hereinabove described, which would interfere with religious services of the Methodist Episcopal Church, situated at the corner of Forty-sixth street and Avenue C, one block distant from said grounds, the said municipal authorities were petitioned to withhold their approval of the establishment of Sunday baseball games on said grounds, a copy of which petition is hereunto annexed and made a part hereof; and that another petition, numerously signed by property-owners along the line of Avenue B, between

Fifty-sixth street and Forty-sixth street, protesting against the playing of baseball on Sunday afternoon on the premises above described, was also presented to said council, a copy of which petition is hereunto annexed and made a part hereof; and that by letter, a copy of which is hereunto attached, the public prosecutor of said county called the attention of the chief of police of Bayonne to said contemplated violations of the law.

Fifth. And your orators further show, that since the enclosure of said grounds and the erection of said grand stand and the fence, to wit, on the twenty-fourth day of April last past, a game of baseball, which was a public exhibition to which the general public was admitted upon the payment of an admission fee of twenty-five cents to the field and uncovered stand, and fifty cents to the grand stand, was played by the said Jersey City baseball team with the Philadelphia club, of the American League; that the persons taking part in the playing of said exhibition were the professional members of the said Jersey City Eastern League team, and were employed by and under the control of the said defendant corporation, and that the members of the said Philadelphia American League baseball team were also professional baseball players; that there were present at said game of baseball about four thousand people; that tickets of admission were sold to the spectators in attendance at said game; that during the playing of said game arrests were made by Captain McBride, of the Bayonne police force, together with Roundsman Whelan and Patrolman Jonas, who took into custody Pitcher M. W. Eason and Catcher George Vandergraft, of the Jersey City team, and Gateman Thomas Rutlidge, of the Jersey City baseball club, under the Vice and Immorality act, but that further than taking into custody the said two players, the said game was in no otherwise interfered with and that the said game was permitted to proceed after the arrest of said players and the substitution of other players in their stead; that said arrested persons were thereupon ad-

mitted to bail, and appeared in the recorder's court of the city of Bayonne on the twenty-fifth day of April by counsel and waived examination for appearance before the grand jury of Hudson county; that the proceedings to be had by virtue of said charge were properly triable before the recorder of said city, who should have taken jurisdiction in the premises, and, according to law, have tried the said arrested persons, but that as your orators believe, with preconceived design, prearranged with the said defendant and with its officers, permitted the said accused to waive said examination and transmitted the papers in said proceedings to the public prosecutor of the county of Hudson, who thereupon returned the same upon their receipt to the said recorder, with instructions to the said recorder to take jurisdiction in the premises, a copy of which instructions are hereunto annexed as one of the schedules to this bill and made a part hereof; that thereupon said accused persons were arraigned before said recorder in said recorder's court of the city of Bayonne, on the fourth day of May, instant; that the said police captain making said arrest testified against said accused persons that he had witnessed a game of baseball upon the premises above described, in which the said accused took part; but, that notwithstanding the said evidence, and as your orators show, contrary to the statutes in such case made and provided, the said recorder of the said city of Bayonne released and discharged the said accused upon the ground that the offence committed by them did not come within the jurisdiction of his said court.

Sixth. And your orators further show that, on Sunday, the first day of May, nineteen hundred and four, a second game of baseball was played upon said grounds between the said Jersey City team, above mentioned, and the Rochester team, which latter team is also a member of the said Eastern League, and that said game was a championship game, so called, of said Eastern League; that at said game there were in attendance upwards of five thousand people, most of whom paid an admission

of twenty-five cents to the said grounds, and some an additional charge of twenty-five cents for seats in the grand stand; that upon said grounds were also sold programmes at the rate of five cents each, and refreshments of various kinds to such spectators as wished to purchase the same; and that, notwithstanding that said exhibition was publicly held and must necessarily have been known of by the police force of said city, that said game was permitted by said police to proceed without any arrests or interruption.

Seventh. And your orators further show that they have refrained from taking action in the premises until this time in order to ascertain whether or not the said arrests were made in good faith by the police officers of said city, and determine whether the said police force and the municipal officers of said city of Bayonne would extend to them and others affected thereby the protection to which they were entitled, and should have been accorded by said officers, but they verily believe that the disposition of said proceedings was prearranged between the municipal authorities, police force and said defendant corporation, and that they cannot hope for any protection of their rights as given and guaranteed by the statutes of this State from the said police force and municipal authorities of said city.

Eighth. And your orators further show that the said city of Bayonne at this time has approximately thirty-five thousand inhabitants; that a very large majority of the persons attending said games were not residents of said city of Bayonne but residents of Jersey City and other places, who came to said city by the trolley cars of the Public Service Corporation, which run from Jersey City to Bergen Point along Avenue C in said city of Bayonne, about one block from the easterly side of said grounds; that said crowds were largely composed of a tough and disorderly element, who were rough, noisy and disorderly, and of a class that would naturally demoralize and not elevate the morals and peaceful condition of said

portion of said city of Bayonne; that, in order to accommodate the said crowds, it was necessary for the said Public Service Corporation to run extra or special cars, which were switched in the vicinity of Forty-seventh street, and that a large number of said cars waited in said vicinity for the termination of said games in order to accommodate and carry from said city said non-residents thereof as might attend the said games; that said crowd, waiting at said point to board said cars, consisted of several thousand people, and that in their haste to obtain transportation were noisy, rough and boisterous; that they not only walked down the sidewalk of said street, known as Avenue C, but also over private lawns, and were disorderly to such an extent as to demoralize the neighborhood, destroy the peace and quiet of the residents of said city living along the line of said trolley, making the condition of said street, while the crowd was being carried to said grounds and waiting for cars to leave said grounds, unfit for travel by young girls, women and the youth of said city.

Ninth. And your orators further show that during the continuance of said game great noise, caused by the stamping of feet, cheering and clapping of hands of the spectators was made; that said noise is such as to be heard at the private residences without the said grounds and sufficient to appreciably disturb the rest and quiet of people in the neighborhood in the comfort and enjoyment of their homes; and that the conduct of the persons brought to witness said games, and the character and class of a large proportion of said persons is also such as to disturb the peace, rest and quiet of the residents of said portion of said city and hinder them in the quiet enjoyment of their homes; all of which, your orators submit, constitutes a nuisance, which, for the reasons above shown, will not be abated by the police force and municipal authorities of said city, but that, in order to obtain relief therefrom and abatement of said several nuisances, it is necessary that your orators, and the per-

sons whom they represent and who are injured by the several acts above mentioned and complained of, are forced and obliged to apply to this honorable court for such relief as they should of right be given or afforded without the necessity for the relief prayed for by this bill.

Tenth. And your orators further show that the section in which the said grounds are located is almost entirely a residential section; that a large portion of said property consists of vacant lots upon which there has not yet been erected buildings, but which are held and are for sale for that purpose; that the playing of these games of baseball, and the drawing of the crowds thereto above mentioned, is already an injury to not only erected residences but to vacant lands, as they repel intending or prospective purchasers; that the present damage already occasioned to said real estate is considerable, and that if said practices are permitted to continue, it will constantly tend to decrease and depreciate the already damaged value of said improved and unimproved property and result in permanent injury thereto.

Tenth. And your orators further show that the carrying on of said violations of the law and playing of said games is a hindrance to the influx of people to said city who would permanently locate there and be a benefit to said community and the property located in that section of said city; that at this time people who own vacant property and had intended to erect buildings thereon in the immediate vicinity of these grounds have been obliged to abandon the idea of the erection of said buildings and the improvement of real estate in said vicinity.

Eleventh. And your orators further show that the character and size of said crowds going to and from said games and occupying the streets and avenues where said trolley cars run are a physical danger to children and women who might lawfully and quietly exercise their rights as pedestrians thereon; that said games are held at an hour of the day when the Sunday schools of the several churches are in session and the children in said

vicinity are passing to and fro to said Sunday schools; that along said street known as Avenue C there are a number of churches in the near vicinity of these grounds; that one of said churches is situated at Thirty-first street and Avenue C, that two are situated at Thirty-third street and Avenue C, that another is situated at the corner of Thirty-fourth street and Avenue C, that there is another at Forty-first street and Avenue C, another at Forty-fifth street and Avenue C, another at Forty-sixth street and Avenue C, and that the people residing in the vicinity of these grounds are attendants at the said several churches and the children and members of their families are members of the several Sunday schools thereof attending said Sunday schools at about the hour when said games are in progress and said crowds assemble upon said streets, wherefore the said persons attending said several Sunday schools, including said children, are materially and to their detriment naturally affected by said crowds, which, in its endeavor to catch a car upon said line and obtain seats thereon, wander along said avenue southward towards Bergen Point and towards said several churches for the purpose of entering said cars before the same reach the point on said avenue nearest to said grounds.

Twelfth. And your orators further show that by reason of said large crowds being distributed in a heretofore quiet residential neighborhood, the character of said neighborhood is changed, and changing in a manner not conducive to the welfare and quiet of the people residing therein, but for the worse and to its detriment; that said crowds being distributed in said neighborhood not only interferes with pedestrians upon the several streets and avenues, and the residents living thereon, but also with the transportation of persons who might lawfully and necessarily be obliged to use the trolley cars of said Public Service Corporation through said city.

Thirteenth. And your orators further show that while they have been annoyed and disturbed in the possession and enjoyment of their several homes upon the two Sun-

days last above-mentioned, announcements have been made in the public press of future games to be played upon said grounds, and that the announcement has been made that a game will be played on Sunday next between the said Jersey City baseball team and the Montreal team of said Eastern League, all of which your orators submit means a further continuance of the above-complained of illegal acts and the nuisance constituted thereby, together with the subversion of the rights of the people in said vicinity.

Fourteenth. And your orators further show that the games already played have had the effect of demoralizing the youth in the vicinity of said baseball games and have materially interfered with the religious services and the Sunday school services in the several churches near said grounds, and that some of the boys who were attendants of said Sunday schools have left said Sunday schools for the ostensible purpose of attending said games; that the noise occasioned by said games has interfered with the exercises of said Sunday schools and with the teachings there given, and with the ability of the officers and teachers of said Sunday schools to properly carry on their work. All of which your orators submit tends to demoralize and are to the detriment of the children and lowers the moral tone of the community, besides being in violation of the several statutes of this State intended to guard and preserve the sanctity and peacefulness of religious services.

Fifteenth. And your orators further show that by the several statutes of this State it is provided that traveling, worldly employment or business, ordinary or servile labor or work, either upon land or water (work of a necessity and charity excepted), playing at football or any other kind of playing, sports, pastimes or diversions done or performed, used or produced by any person or persons within this State on the Christian Sabbath, or the first day of the week, commonly known as Sunday, are acts prohibited by law. (Vice and Immorality act, § 1),

and that all persons who are employed in playing the said games, in either team engaged in said contest for hire, the gate-keepers, ticket-takers, ticket-sellers, programme-sellers, as well as the said defendant corporation who employs the said several persons above named, are liable and violators of the said statute in engaging in worldly work, employment or business, as well as being engaged in the actual playing and participating in said games.

Sixteenth. And your orators further show that the said defendant corporation was expressly formed to give exhibitions, as appears by its certificate of incorporation, which are in violation, unless properly licensed, of the statutes of this State, for the reason that many strangers or worthless persons have unjustly gained and taken to themselves considerable sums of money, which, it has been found, through experience, tend to no good or useful purpose in society, but that they collect together great numbers idle and unwary speculators, as well as children and servants to gratify vain and useless curiosity, loosen and corrupt the morals of youth and straighten and impoverish poor families.

Seventeenth. And your orators further show that by the statutes of this State all persons who shall on Sunday or any other day willfully and of purpose disquiet, interrupt or disturb any assembly met together for religious worship, either by noise or indecent behavior, or profane discourse, whether within said place of worship or out of it, so near the same as to disturb the order and solemnity of the meeting, are guilty of a violation of the statutes of this State, and that the acts above complained of are within the provision of said statute and therefore, by said statute, expressly opposed to the good morals of the community, and tend to their manifest wrong and injury.

Eighteenth. And your orators further show that the continuance of these unlawful acts above mentioned and complained of, as already accrued on two successive

Sabbaths, is not only likely to occur on the next Sabbath, but each Sabbath thereafter, unless prevented by some authority; that by the laws of this State such violation of the statutes is, and has been, deemed to be, when habitually carried on in a certain place, a public nuisance, in direct violation of the penal statutes of this State, and that, except by the aid and intervention of this honorable court, your orators and such persons whom they represent can neither expect nor hope to receive protection from such invasion of their rights, which are above described and expressly prohibited by law.

And your orators further show that by the revised charter of the city of Bayonne, approved March twenty-second, one thousand eight hundred and seventy-two, with supplements and amendments of March twenty-eighth, one thousand eight hundred and seventy-three, March twenty-seventh, one thousand eight hundred and seventy-four, and March twenty-fourth, one thousand eight hundred and seventy-five, it is provided by section 10 that "it shall be the duty of the mayor to see that the laws of this State and the ordinances of the city are faithfully executed therein, and to recommend to the Board of Councilmen such measures as he may deem necessary or expedient for the welfare of the city; and he shall be the head of the city police officers, and as such shall maintain peace and good order in said city, and shall have power to suppress all riots and tumultuous assemblies, and cause to be arrested, without process or warrant, and to commit for trial all persons violating, or whom he has reason to believe have violated the laws of this State or the ordinances of the city;" and that by said charter he is also, within twenty days after his election, required to take and subscribe "an oath or affirmation faithfully, fairly and impartially, to execute the duties of his office according to the best of his knowledge, skill and ability;" yet, notwithstanding the requirements of said charter, and in absolute and utter disregard and violation of said statutes and his oath of

office, the mayor of said city has failed to suppress the acts complained of, or to cause the arrest of such persons who were engaged therein either actively as players or their superiors, who were reaping the profits of said violations of the law.

And your orators further show that, some time before any of said games were played, it became a matter of common knowledge that the grounds were to be laid out for the purpose of permitting the said corporation to conduct Sunday baseball games thereon for the purpose of making profit therefrom; that a written communication, addressed to the mayor and common council of said city, signed by numerous residents of said city and real estate owners in the near vicinity of said grounds, requesting that the said mayor and council take such measures as might be necessary for the prevention of the playing of ball games upon said grounds and the abatement of any nuisance caused thereby, was presented to said mayor and council; that said petition stated that it was the general object of said corporation to commit the acts heretofore complained of, and that said acts were in direct violation of the laws of this State, wherefore the said mayor and police authorities of said city must necessarily have known the illegal and unlawful purpose for which said grounds were intended to be used.

And your orators further show that the mayor of said city is largely interested in, and until recently has been the manager and in charge of the business of a corporation known as the Consumers' Coal and Ice Company; that the said Consumers' Coal and Ice Company is a wholesale dealer in lumber, and sold to the said defendant company the lumber used for the erection of the fence upon and around said grounds, and that the said mayor, as a member of said company, would naturally, from the sale of said material, derive a profit from the said defendant company and indirectly from the unlawful uses to which said grounds were intended to be put.

And your orators further show that a part of the lands

covered by the said baseball grounds were until recently, and possibly are yet, upon the public records, shown as owned by Bernard Brady, a brother of the mayor of said city and a stockholder and officer of the said Consumers' Coal and Ice Company; that your orators believe that, although the title to said lands of record was in the name of the said Bernard Brady, nevertheless the said Consumers' Coal and Ice Company were either the owners thereof or directly interested therein and in the sale thereof and would profit not only by the sale of the lumber above mentioned, but also from the sale of said lands, either now executed or intended to be. From all of which reasons, your orators respectfully submit, it is entirely patent that the said mayor, although invested with all the powers of the chief of police of said city of Bayonne, could not be expected, by reason of his pecuniary interest and prospective profit to be derived from the violation of the law of this State, and the commission of illegal and unlawful acts upon said lands, to enforce the statutes of this State, or abate the said nuisance, causing the arrest of said persons as were engaged therein, or faithfully performing the duties of said office as directed, and as he should have done, by virtue of his said oath of office.

And your orators further show that the noise proceeding from and produced by the crowd gathered upon said grounds to witness said games already played on said grounds has been exceedingly great and so loud as to appreciably disturb complainants' rest and quiet, and the rest and quiet of many others whose affidavits are hereunto annexed, and as to cause them actual physical annoyance and discomfort and to render the houses of these complainants and others adjacent to said grounds less fit for habitation, and as to wear the nervous systems of your orators and their families and as to make them "tired," sick and distracted, and as to disturb their Sunday afternoon siesta and cause them distress and annoyance, both of body and mind.

And your orators further show that said crowds in

going to and returning from said grounds commit numerous kinds of indecency and disorder; that they gather and proceed along the streets in front of and adjacent to your orators' houses in great knots and gangs, emitting boisterous and loud noises which disturb, harass and annoy these complainants, their families and others; that they urinate against the fence of said grounds in sight of complainants' and others' houses and grounds; that they curse, swear and use obscene and indecent language; that they play these games in a field which is plainly visible from the windows of complainants' houses, and thus present a continuous scene of unlawfulness and disorder to complainants and their families, which is an eyesore to them and render their occupation of their homes less comfortable and enjoyable, and that said crowds, composed as they are, of rough, disorderly and questionable characters, render the community and your orators' houses less safe, secure and free from the thief, the thug and the criminal, and thus prevent your orators and their families from leaving their homes, and require more constant and vigilant attention and watchfulness.

And your orators further show that prominent publicity has been given to the result of the games already played on said grounds and the announcement of games to take place, from time to time, in the newspapers of the city of Jersey City and Bayonne, giving the particulars of said games, the individual plays made and the names of the players who took part therein, together with scores. All of which your orators show tends to invite a greater attendance to said games from persons without the limits of said city and to increase the said nuisances above complained of.

And your orators further show that the said grounds are used and intended to be used for the purpose of playing said games of baseball by professional players, and the said business conducted by the said defendant company for the purpose of profit to itself; that the playing of said games is not for the physical cultivation

of the persons engaged therein, but purely and solely for the purpose of profit and gain to be derived by the said corporation and its stockholders.

And your orators further show that, notwithstanding the petitions and complaints made to the municipal authorities of said city above mentioned, it is patent that no relief can be had from said nuisances by the enforcement of the laws of this State and the abatement of said nuisances by the police officers of said city and the municipal officers thereof; that the said defendant company, its managers and other officers are intent upon a continued violation of the law and invasion of the rights of your orators and the persons whom they represent; that the remedy of injunction from this honorable court is the only complete and effective means of obtaining relief from the nuisances above complained of; that all reasonable demands have been made by your orators upon the officials whose duty it was to abate said nuisances and who are vested with the power of abating the same; that it is apparent that the interests of said persons is involved pecuniary to too great an extent to expect relief from said nuisances, and that said nuisances cannot be completely abated by civil actions for damages against the said defendant corporation, and might continue until the termination of such actions as might be brought by law; so that the only adequate relief to insure an immediate abatement of said nuisances and the prevention of further damage to property in the vicinity of said grounds and the annoyances to your orators and such persons who they represent, is by relief from this honorable court, although your orators have well hoped that the said farcical proceedings above mentioned taken by the police force of said city would be sufficient for that purpose, and that the said defendant company would refrain from continuing said nuisances and violating the laws of this State, as in equity and good conscience it ought to have done.

And your orators further show that all the above

actings, doings and pretences of the said defendant are contrary to equity and god conscience and tend to the manifest wrong, injury and oppression of your orators in the said premises.

In consideration whereof and forasmuch as your orators are without adequate relief in the premises at and by the rules of the common law and can only obtain relief in this honorable court where matters of this nature are properly cognizable and relievable.

To the end, therefore, that the said New Jersey Exhibition Company, a corporation as aforesaid, may, without oath, to the best of its knowledge, remembrance, information and belief, full, true and perfect answer make to all and singular the matters aforesaid; and that your orators may have granted to them, by the decree of this honorable court, an injunction, restraining the said defendant, the New Jersey Exhibition Company, its officers, agents, lessees, players and employes, actors or stockholders and exhibitors from obtaining, conducting or exhibiting any and all baseball games or other exhibitions prohibited by law on the seventh day of the week, usually known as Sunday, and from allowing or permitting any game or games of baseball, or other prohibited sport or exhibitions, to be played or exhibited upon said grounds on said day, commonly known as Sunday, and from permitting the assemblying of crowds and spectators upon the said grounds for the purpose of witnessing games of baseball or other games of amusement on said day, known as Sunday, or from continuing the several nuisances above complained of, and from selling tickets of admission to spectators at any of the exhibitions carried on or to be given on said day, generally known as Sunday, and from, in any manner, continuing the nuisances or noises, cries, shouts, slapping of hands by the members of said company or any other person upon said grounds, which said injunction your orators pray shall not only be made final by the decree of this court, but shall also be

extended to restrain any or all of the said acts above mentioned during the pendency of this suit.

And your orators may have such further or other relief in the premises as the nature of the case may require and as shall be agreeable to equity and good conscience.

May it please your Honor, the premises considered, to grant unto your orators not only the State's writ of injunction, issuing out of and under the seal of this honorable court, to be directed to the said New Jersey Exhibition Company, a corporation as aforesaid, restraining it, its officers, managers, agents, lessees, employes, stockholders, from causing or permitting to be played upon said grounds any game of baseball or other sport which will cause a repetition or continuance of the several nuisances and violations of law above complained of, but also restraining them, and each of them, from conducting any and all games or exhibition upon said grounds on any part of the day generally known as Sunday, and restraining it, the said defendant, from giving any exhibitions and charging admission to the same on said day of the week, either upon said grounds or at any other place near or adjoining thereto, either directly or indirectly, or causing or permitting in any manner whatever any of the said noises or nuisances above complained of, but also the State's writ of subpœna, issuing out of and under the seal of this honorable court, to be directed to the said defendant, the said New Jersey Exhibition Company, a corporation as aforesaid, its president, officers and directors, to appear, according to law and the practice of this court, 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 shall be agreeable to equity and good conscience.

And your orators, as in duty bound, will ever pray, &c.

ROBERSON & DEMAREST,
Solicitors and of Counsel with Complainants.

EXHIBIT A.

To the Mayor and Council of the City of Bayonne:

GENTLEMEN—We, property owners along the line of Avenue B, particularly between Fifty-sixth and Forty-sixth streets, and between other streets on said avenue, respectfully and most earnestly remonstrate against the proposed construction of the street railway of the Public Service Corporation on Avenue B, between the streets mentioned for the purpose of affording facilities for the transportation of passengers on Sundays to and from base-ball grounds intended to be established near Forty-sixth street. The doing of this will be a great injustice to us, some of whom are building houses for our families on Avenue B, which houses are now in course of construction. If great crowds of people are permitted to come here from Jersey City and New York to witness baseball playing on Sunday afternoons, the peace of the neighborhood will be disturbed and our property greatly damaged. There will result a public and private nuisance and a calamity of far-reaching proportions will befall the orderly and law-abiding people of the entire city, and particularly of the Third ward.

The said spur is not for the benefit of the public of Bayonne and no favor should be shown to a corporation, which has shown itself incompetent to give proper service on the lines they now attempt to operate.

Respectfully,

Names. Addresses.

WHEREAS, An effort is being made to establish Sunday baseball games on certain grounds at Forty-sixth street and avenue B, to run a spur of the trolley line to said grounds for use on the Sabbath day; and

WHEREAS, We believe that such games will interfere with the religious services of this church, our church being just one block from said grounds; therefore, be it

Resolved, That we, the congregation of the Forty-sixth Street M. E. Church, hereby express our most earnest disapproval of the effort aforesaid; and be it further

Resolved, That in case such games should be started on said grounds, we hereby give notice that we will put forth strenuous efforts to secure an injunction against the responsible parties for maintaining a nuisance on the Sabbath day, and we will call upon the people of Calvary Episcopal Church, two blocks away from said grounds and the Forty-fifth Street Baptist Church, two blocks away from said grounds, and Christ Presbyterian, five blocks away from said grounds, to assist us in this movement; and be it further

Resolved, That we respectfully petition the honorable mayor and council of this city to withhold their approval of the aforesaid plan to establish Sunday baseball games on said grounds.

Passed by the congregation of the Forty-sixth Street M. E. Church on Sunday evening, April third.

Milton E. Grant, pastor; Charles A. Collier, superintendent of Sunday school; John R. Tuttle, secretary board of trustees; John W. Brown, recording steward; William Koester, financial secretary.

April 15th, 1904.

Thomas Magner, Esq., Chief of Police of Bayonne, N. J.:

Dear Sir—I am in receipt of written communications from several people, apprising me that it is intended to run off baseball games on Sunday on the grounds at Forty-sixth street and Avenue B, in Bayonne. The character of the persons who have communicated with me is so high, and their earnestness so apparent, that I feel some notice must be taken by the proper authorities of their claims. It is unnecessary for me to inform you that the playing of baseball on the Sabbath in this neighborhood, which is within one block from a church, during the hours that Sunday school in that church will

be in session, and the gathering together at such a place of such a crowd as usually congregate at a baseball game, with the consequent noise and uproar, is in violation of the act concerning vice and immorality, and comes directly under your cognizance, and should be prevented by you, and that the neglect on your part to perform your duty in that particular would render you indictable for official neglect or misconduct. It is to be further observed that the continuance of such a game in a place of public resort for profit on the Sabbath would constitute the place a disorderly house, and all who maintain, aid, or abet the same, liable to indictment. One of the letters which has come to me is from the Rev. Milton E. Grant, pastor of the church hereinbefore referred to, who is in deadly earnest in his desire to prevent such a thing from being conducted at such a place. His protest represents not only his individual desires in the matter, but he also speaks as secretary of an association of ministers in Bayonne, who are banded together to stop these practices in that place. His letter further apprises me that a game is to be played there on Sunday, April seventeenth, one thousand nine hundred and four, and he has requested me to take steps to prevent such a game. I conceive that it is your duty to take charge of the matter, and I consequently refer it to you, with a perfect satisfaction that you will perform your duty in the premises.

Yours respectfully,

WILLIAM H. SPEER,
Prosecutor of the Pleas.

April 26th, 1904.

Hyman Lazarus, Esq., Recorder of the City of Bayonne, N. J.:

DEAR SIR—There came to my office yesterday from you, a complaint for a violation of the Vice and Immorality act; I am utterly at a loss to know why you

should have sent this paper to me. It relates to a matter with which in its present posture, and in consideration of the fact that but one game of ball has been played, the grand jury has nothing whatever to do. If more than one game had been played it might constitute the place a disorderly house. It would then be a matter for presentation to the grand jury. If the newspaper reports of the game on Sunday last are to be believed, the action of the police was in the nature of a farce-comedy, and, taking the whole proceedings into consideration, the vindication of the law seems to have been a very remote and incidental consideration. The very notion of a "test case," where the law is so plain and certain, is, to say the least of it, hugely humorous.

I return the aforementioned complaint to you for your action. The Vice and Immorality act and the statutes creating and regulating your own office, make it perfectly plain that the case must be tried before and determined by you. Whether the Vice and Immorality act is wise or unwise is a question with which you and the police have nothing whatever to do. It is the law, and any and all violations of it should be punished. If it is an unwise law a vigorous enforcement of it is the surest way to secure its repeal. If the judges who are sworn to enforce the law wink at its violation, the example is inexpressibly pernicious.

Throughout your long connection with the Recorder's Court, extending over many years, this is the first complaint for a violation of the Vice and Immorality act which has been sent by you to my office. Why you should have sent this one is a question which you can probably answer satisfactorily.

Yours respectfully,

WILLIAM H. SPEER,
Prosecutor of the Pleas.

State of New Jersey, Hudson county, *ss.*—Charles C. Alexander, being duly sworn, deposes and says: I reside at 996 Avenue C, in the city of Bayonne, at the corner of Forty-seventh street. The grounds on which the Jersey City baseball club have played baseball the past two Sundays are about one block distant from my house. The crowds in the grand stand and bleachers can be seen from my house. I could see that large crowds were in attendance at the games of baseball played there Sunday, April 24th, and May 1st, last. The main trolley passes my house. Special cars, to accommodate the people attending the games, were switched in front of my house. The crowds from the game waited for the cars in front of my house. There must have been several thousand of them. They walked over my lawn, and, in the wet weather last Sunday, spoiled it. I have decided that, unless these games are stopped, to cease improving my place further. These things have disturbed me in the enjoyment of my property. I believe they bring an undesirable and disreputable class of out-of-town people here, making it unfit for young women and children to walk the streets while the crowd is going to or coming from the grounds. The crowd last Sunday could not easily be accommodated on the cars, rushed wildly to a car ready to leave, and made much noise and disturbance. Real estate in the vicinity is already considerably damaged. I had thought of purchasing lands near here to build upon, but these Sunday games have caused me to abandon the idea. A great many in the crowds seemed to be tough young men, and while they were in the street the neighborhood was perceptibly disturbed. I have already been annoyed by these games to an extent that I have been disturbed in the enjoyment of my property. I feel it is not now safe to leave my property Sunday when these games are in progress.

I believe these games will increase in their disorder, and that, if allowed to continue without restraint, will increase the nuisance already existing. There is now

a certain amount of restraint upon these games and crowds, but as soon as the opposition, now known by them to exist, is no longer feared because of no attempt of the municipal authorities or people to stop it, the state of affairs will become unbearable.

CHARLES C. ALEXANDER.

Sworn to and subscribed before me this fifth day of May, 1904.

M. J. CURRIE,
Master in Chancery of New Jersey.

State of New Jersey, Hudson county—August Seastream, of full age, being duly sworn deposes and says: I reside at 525 Avenue B, Bayonne. My residence immediately adjoins the easterly corner of the baseball grounds, corner of Forty-sixth street and Avenue B. I am informed and know that baseball games have been played the last two Sabbaths, but myself and wife were absent for most of the time during which these games were played. The noise that results from the playing of the games and the cheering is very annoying and would disturb the rest and slumber of our two young children, who are respectively one year and four months, and four months. I am the owner of the house where I reside, and the property is now worth at least one thousand dollars less than it was previous to the coming of the baseball grounds.

The crowd is a large one, consisting of several thousand. At present it does not pass my house, as the gate nearest it has not yet been opened, but I am informed and believe it will be opened when the sewer in Avenue B, which is in course of construction, is completed. I would never have bought the two lots which I own or constructed the house thereon had I known these baseball grounds would be laid out.

AUGUST SEASTREAM.

Sworn and subscribed before me at Bayonne this sixth of May, 1904.

M. J. Currie,
Master in Chancery of New Jersey.

State of New Jersey, county of Hudson, *ss.*—William Koester, of full age and being duly sworn, deposes and says that he resides at No. 44 West Forty-sixth street, in the city of Bayonne, about one block southerly from the grounds used by the Eastern League Ball Club, known as the Jersey City Baseball Club, and that he owns a lot situated about five hundred feet from the aforesaid club grounds, on Forty-sixth street. That he is of the opinion that the value of his property is materially reduced by the playing of games on the grounds on Sunday, and that if such playing continues he will not build on the vacant lot owned by him. He further deposes that on Sunday, the first day of May, instant, the crowd going to and coming from the ball game was so dense and so noisy that it was both unsafe and unpleasant for women and children to be on the streets adjacent to the said grounds.

William Koester.

Sworn and subscribed before me this sixth day of May, A. D. 1904.

George E. Griswold,
Notary Public of New Jersey.

State of New Jersey, county of Hudson, *ss.*—Charles A. Collier, being duly sworn according to law, on his oath says, that he is a resident of the city of Bayonne, at No. 941 Avenue D, which is within four blocks of the grounds of the Jersey City baseball club, in said city; that he is a property owner and is conversant with the value of property adjacent and near the said ball grounds; that the section is a purely residential one and that the playing of baseball or other games on Sunday, with the

consequent noise and the large crowd of visitors to the game, materially deteriorates the value of property in the vicinity.

Deponent further deposes that he is superintendent of the Sunday school of the Forty-sixth Street Methodist Church, situated at Forty-sixth street and Avenue D, Bayonne, about one city block from said ball grounds, and that the noise made by visitors to said ball games, both going to and returning from the grounds, is a nuisance and materially interferes with the exercises of the school and the work of the teachers and officers.

CHAS. A. COLLIER.

Sworn to and subscribed before me this sixth day of May, A. D. 1904.

GEORGE E. GRISWOLD,
Notary Public of New Jersey.

State of New Jersey, county of Hudson, ss.—John Combes, of full age, being sworn according to law, on his oath says: I have lived in Bayonne over forty years, and at the present time reside at No. 77 West Forty-sixth street, about six hundred feet from the ball grounds recently erected, in which Sunday baseball games are indulged in, and that the thousands of people who attend these games, going to and fro, who must necessarily pass my door, I deem a public nuisance. The cheering at these games can be heard distinctly at my home. While out walking last Sunday afternoon, the street was thronged and surprised to see the class of people attending these games. It is my opinion that, owing to the erection of these grounds, that property in this locality has greatly depreciated in value, including my property, adjoining these grounds.

JOHN COMBES.

Sworn to and subscribed before me this sixth day of May, 1904.

MICHAEL A. O'HARE,
Commissioner of Deeds for New Jersey.

State of New Jersey, county of Hudson, *ss.*—Sylvester H. DeHaven, being sworn according to law, on his oath says: I have resided in Bayonne over twenty years, and reside on the southwest corner of Avenue C and Forty-sixth street, in the neighborhood of the baseball grounds, recently erected in the rear of my residence, about six hundred feet away, and where games have been conducted these last two Sundays, and where thousands of people from all over the county congregate. My residence is situated directly in front of where the trolley cars let off and take the spectators to and from these games, and it is my firm conviction that this is certainly a nuisance, especially in this part of the city, which is composed of some of the most expensive residences in this city, and the crowds going to and from these games congregate on the corner and excite commotion, and which necessarily tends to depreciate the value of the property in this vicinity.

SYLVESTER H. DEHAVEN.

Sworn to and subscribed before me this sixth day of May, 1904.

MICHAEL A. O'HARE,
Commissioner of Deeds for New Jersey.

State of New Jersey, county of Hudson, *ss.*—James W. Ware, of full age, being sworn according to law, on his oath says: I have resided in Bayonne over seven years, in the locality of a baseball grounds, situated about one block of my residence. My residence is situated on the corner of Avenue C and Forty-sixth street, where the trolley cars which convey the spectators to and from these games pass. The commotion is certainly a nui-

sance. The avenue and streets are blocked, and the clanging of the trolley bells and all striving to obtain admittance to one car. It is in my opinion the greatest nuisance that has befallen this locality, which is composed of people which seek rest on a Sunday. I am also of the opinion that such a condition of affairs necessarily tends to depreciate the value of the property in this locality.

JAMES W. WARE, M.D.

Sworn to and subscribed before me this sixth day of May, 1904.

MICHAEL A. O'HARE,
Commissioner of Deeds for New Jersey.

State of New Jersey, county of Hudson, *ss.*—Catharine A. Holmes, of full age, being sworn according to law, on her oath says: I reside at No. 74 West Forty-sixth street; have lived on these premises for over ten years, and situated about five hundred feet from the baseball grounds in which the Jersey City baseball club of the Eastern League have for the last two Sundays engaged in baseball games. I am the owner of the premises and it is my firm conviction that a nuisance of this nature would certainly depreciate the value of the property in this vicinity and the quiet of the Sabbath is greatly disturbed by the crowds running and tearing through the street past my door, something that the residential section of this city is not accustomed to, and this locality is composed entirely of residents who seek rest on this day.

CATHARINE A. HOLMES.

Sworn to and subscribed before me this sixth day of May, 1904.

MICHAEL A. O'HARE,
Commissioner of Deeds for New Jersey.

State of New Jersey, county of Hudson, *ss.*—John A. Craddick, of full age, being sworn according to law, on his oath says: I am a resident of this city for over fourteen years and reside at No. 70 West Forty-sixth street, Bayonne, within a few hundred feet of a baseball grounds recently erected in this city, and I deem it a nuisance when such an affair as this has been maintained, especially when they engage in Sunday ball games, which has been the case these last two Sundays. Last Sunday when at my own home I heard cheering from these thousands of voices, and it disturbs my peace of mind, especially in going to and from the grounds the crowds was enormous, and when my children would necessarily be on the sidewalk, would probably be crushed and trampled upon, and I certainly believe that these crowds infesting the neighborhood would necessarily decrease the value of my property and it will hinder respectable people from residing here.

JOHN A. CRADDICK.

Sworn to and subscribed before me this sixth day of May, 1904.

MICHAEL A. O'HARE,
Commissioner of Deeds for New Jersey.

State of New Jersey, Hudson county, *ss.*—Mungo J. Currie, being duly sworn according to law, on his oath says, that he resides in the southerly corner of that portion of Jersey City known as Greenville, and near the boundary line between Jersey City and Bayonne, and that he has resided there for many years last past; that he is one of the executors of the estate of James Currie, which estate is the owner of a large number of lots both in Jersey City and Bayonne; that said estate owns over two hundred and fifty (250) lots in Bayonne between Fifty-fourth street on the south, Avenue C on the east, the Pennsylvania railroad on the north and Newark bay on the west, besides other lots in said city fronting on

and east of Avenue C, and has the active management of the same. That this deponent also has the management of about three hundred (300) lots of land belonging to Walter E. Ammon, adjoining and to the southwest of the property just described and lying on both sides of Avenue B and extending eastwardly to the middle of the blocks between Avenue B and Avenue C and westwardly to Newark bay. That several of said last-mentioned lots front on the northeast side of West Fifty-third street on either side of Avenue B. That this deponent is familiar with the value and designed development and improvement of said lands, and that he is also familiar with the value and prices of lands in the vicinity; that the property belonging to said estate and to said Ammon are particularly adapted for villa sites and homes. That said Ammon has within the last few years spent large sums of money for the improvement of his lands with the view of disposing of said property more readily and to greater advantage.

That this deponent has seen the baseball grounds in said city of Bayonne, located on the southwest side of Avenue B, between West Forty-sixth street and West Forty-ninth street; that he is informed and believes that baseball games have been played there the last two Sabbath days and that one is expected to be played on next Sabbath, the eighth day of May, nineteen hundred and four. That this deponent has not seen any of said games played, but he is familiar with similar games played in the spring of the year 1903, near his residence, and which, in order to stop, he was forced to lease the premises on which said games were played. That in the opinion of this deponent the playing of said games at Forty-sixth street and Avenue B on the Christian Sabbath is a positive damage to properties above described and belonging to said estate, and to said Ammon as well as to all property in the neighborhood; that it results in a material depreciation in the values of such property whether vacant or improved, and this is so because of the dis-

tinctly rowdyish element from nearby cities making up the crowd that attends these baseball games on the Sabbath day, and which crowd with its stamping, shouting and generally disorderly conduct disturbs the peace and quiet of the place and results in annoyance and discomfort to the residents. If this deponent were the owner of said lands and believed the baseball playing on Sunday were to continue indefinitely he would dispose of said lands at once at a great sacrifice, believing that said property would depreciate to the extent of at least twenty-five per cent. of their present value and would continue to depreciate, entailing great loss.

MUNGO J. CURRIE.

Sworn and subscribed before me at Jersey City this sixth day of May, 1904.

GEORGE A. WARDELL,
Notary Public New Jersey.

State of New Jersey, county of Hudson, *ss.*—Milton E. Grant, being duly sworn, deposes and says: I reside at No. 38 West Forty-fourth street, in the city of Bayonne, Hudson county, New Jersey.

On the east side of the Boulevard, extending about two blocks north from Forty-sixth street, about a month ago, there was laid out a baseball ground, which I understand is the property of the New Jersey Exhibition Company, and that said company is a body corporate of the State of New Jersey. This ground lies directly east from the Hudson County Boulevard; extends approximately two blocks in length along said Boulevard and about six hundred feet in width toward Avenue B. It has been enclosed by a high board fence about fourteen feet high, and in the northwest corner of the grounds has been erected a large grand stand with seats for the accommodation of spectators, and on either side of said grand stand are uncovered seats for the accommodation of other spectators at a lesser rate of admission. These

stands, I am informed, have a seating capacity for about five thousand people.

The said corporation is, I am informed, the owner of the Jersey City Baseball Club, of what is known as the Eastern League, which is a league of professional baseball clubs covering ten or twelve Eastern cities. During the week the games played by the Jersey City Baseball Club have been played at Jersey City, but on Sunday, the twenty-fourth day of April, the said Jersey City Baseball Club played an exhibition game with the Philadelphia Baseball Club, of the American League, at these grounds, which I am informed was attended by several thousand spectators. The players of the Jersey City baseball team are employed and paid for playing these games by the said corporation. At the game played Sunday, April twenty-fourth last, M. W. Eason, the pitcher of said Jersey City baseball team; George Vandergrift, the catcher of said team, and a gateman named Thomas Rutledge, were arrested by the Bayonne police for the alleged violation of the act for Suppressing Vice and Immorality, by Captain McBride, of the Bayonne police department, with Roundsman Whalen and Patrolman Jonas. Bail was offered for these players, and the prisoners, on Monday, April twenty-fifth, before Hyman Lazarus, the recorder of the Bayonne police court, waived examination to await the action of the grand jury. The papers in the case were returned by the prosecutor of Hudson county to the recorder for disposition, on the ground that the recorder only had jurisdiction in the premises, and that the charge of violating said act was not indictable, nor a proper subject for the intervention or consideration of the grand jury. Said prisoners were thereupon arraigned before the said recorder on Wednesday, May four, and discharged by him for the reason expressed by said recorder, that no violation of the law of which he had jurisdiction had taken place. Deponent further shows that on the first day of May another game was played upon said grounds

between the said Jersey City baseball team and the Rochester team of the said Eastern League, at which a rate of admission was charged, and a large crowd of people, stated by the newspapers to be six thousand, was in attendance, and that at this game no arrests were made by the police of the city of Bayonne. Deponent further says that it has been publicly announced through the public press that another game will be played upon said grounds, by said Jersey City baseball team, on Sunday, the eighth day of May, instant, with the Montreal team of the said Eastern League.

Deponent further says that the said baseball grounds are located about a block and a half westerly from the Bayonne trolley line, which runs southerly, along Avenue C; that said games attract a large number of people, not only from the residents of said city of Bayonne, but also from Jersey City and other places, who come in with said trolley line for the purpose of witnessing said games, and leave said city by means of said trolley upon their return to their homes. Deponent further says that he is credibly informed that it has been so stated in the newspapers, and that he verily believes it to be a fact, that, to accommodate the crowds attending said games, the Public Service Corporation of New Jersey, which is the lessee of said trolley line above mentioned and operate the cars run thereon, has provided special cars to Bayonne to accommodate the incoming crowds, and has provided special cars in waiting at a point on Avenue C, near the grounds, to accommodate said crowds after the completion of said games.

I most earnestly believe that the playing of said Sunday baseball games has already had a demoralizing influence on our community, especially on the youth. The Sunday school services of my church have been interfered with because of said games. The said grounds are only a little more than a block away from my church, and the said games were played while my Sunday school was in session. A large number of the boys in the Sun-

day school left the session before it was closed, ostensibly for the purpose of going to the said baseball grounds. I have been annoyed and interfered with in trying to teach a Sunday school class, because of the almost continuous noise caused by the large number of extra trolley cars, used in bringing the crowds to the said grounds.

I have noticed large crowds of people on the streets on the afternoons of said games in the vicinity of my church, and the whole community seemed to be in a state of excitement.

Because of all these foregoing conditions my peace of mind and spirit has been disturbed so that I have been more or less incapacitated for the conduct of my evening services.

My congregation, representing about four hundred people in the immediate vicinity of said baseball ground, have protested against the playing of Sunday baseball on said grounds, which protest was sent to the common council of our city for action.

MILTON E. GRANT.

Sworn to and subscribed before me this sixth day of May, 1904.

MICHAEL A. O'HARE,
Commissioner of Deeds for New Jersey.

State of New Jersey, county of Hudson, *ss.*—Joel M. Johnson, being duly sworn, deposes and says: I reside at No. 10 East Forty-fourth street, Bayonne; I have resided in Bayonne for thirty years last. I am a member of the firm of J. M. Johnson & Company, real estate agents, with offices at Avenue D and Eighteenth street, and Avenue C and Thirty-seventh street, in which business I have been engaged for the past fifteen years. I am well acquainted with the property in the vicinity of the baseball grounds at Boulevard and Forty-seventh street; said section at present is almost entirely a residential section. In my opinion, the value of lands in the

vicinity of these grounds for residential purposes have decreased twenty-five per cent. in value by reason of these Sunday games, and if the game is continued on Sundays, the decrease in the value of adjoining property will still further continue.

J. M. Johnson.

Sworn to and subscribed before me this sixth day of May, 1904.

Joseph Duffy,
Master in Chancery of New Jersey.

State of New Jersey, Hudson county, *ss.*—Jacob H. Cozine, being duly sworn, says: I live at 810 Avenue B, between West Forty-seventh and West Forty-eighth streets, Bayonne, New Jersey. The field where the Jersey City baseball club has played baseball Sunday, April twenty-fourth, and Sunday, May first, are directly opposite my house. The fence surrounding said field is about fourteen feet high; the grand stand and field can be plainly seen from my windows. On April twenty-fourth close to four thousand people attended the game; last Sunday fully five thousand were present. The noise caused by the clapping of hands and stamping of feet of the spectators can be plainly heard at my house. If these games are allowed to continue I believe the value of land in the vicinity will be diminished. I don't believe I could now sell my lands—they certainly are not worth what they were before the games were played there. This noise above mentioned disturbs me and my family in the enjoyment and comfort of our home. If these games continue property values will continue to decrease.

J. H. Cozine.

Sworn to and subscribed before me this sixth day of May, 1904.

George E. Griswold,
Notary Public of New Jersey.

State of New Jersey, Hudson county, *ss.*—James J. Elsey, being duly sworn, on his oath says: I reside at 984 Avenue C, Bayonne, near the corner of Avenue C and West Forty-sixth street, about a block from the grounds where the Jersey City baseball club played a game of baseball on the twenty-fourth day of April last. On that date when the game was over the crowd assembled on Avenue C, and the supply of cars being inadequate to take the crowd away, the crowd started to walk south along Avenue C and passed my residence, not only using the flagging, but also walked all over my grass. The noise from the grounds caused by cheering of the crowd could be plainly heard at my house. The following Sunday, May first, I was not at home and did not see what happened on that day. In my opinion these Sunday games destroy this section as a residence neighborhood and destroys the value of property, and is a nuisance.

JAMES J. ELSEY.

Sworn to and subscribed before me May sixth, 1904.

M. J. CURRIE,
Master in Chancery of New Jersey.

State of New Jersey, county of Hudson, *ss.*—Milton E. Grant, being duly sworn, on his oath says: I have examined the foregoing bill of complaint and, so far as the charges stated therein are within my own knowledge, they are true, and, so far as they relate to the acts of others, I believe them to be true. The said defendant, the New Jersey Exhibition Company, is a body corporate of the State of New Jersey. It is in occupation of, either as owner or tenant, the lands and premises mentioned in the bill of complaint, around which is erected a board fence, approximately fourteen feet high, and on said grounds is erected a grand stand. I know that games of ball have been played there on Sunday, April twenty-fourth, and Sunday, May first. I know that the

said Jersey City baseball team has played in Jersey City on week days for several years past, but that games have not been permitted to be played by said team upon its grounds in Jersey City on Sunday. An admission fee of twenty-five cents has been charged to see Sunday games mentioned in the bill of complaint, at Bayonne, and a fee of twenty-five cents additional for seats in the grand stand. I have been informed by an employe of the Consumers' Coal and Ice Company that the said company sold to the said defendant company the lumber used in the erection of said fence and said grand stand. I knew that Thomas Brady, the mayor of the city of Bayonne, was until recently the manager of the Consumers' Coal and Ice Company, and an officer thereof, and that he is still interested in the said Consumers' Coal and Ice Company. I have personal knowledge of the two petitions sent to the mayor and council of the city, copies of which are attached to the bill of complaint in this cause. I have caused it to be ascertained by the attorneys in this suit that a portion of the lands enclosed within the said grounds were of record owned by Bernard Brady, the brother of said mayor. I believe that the proceedings heretofore held in the police court, mentioned in the said bill of complaint, were entirely farcical and a connivance between the said corporation and said police officers of the city. I am informed that Officer McBride, when making said arrest, smiled upon the crowd in attendance at said game, doffed his cap to said spectators and acted as if the making of said arrest was a mere joke. I also believe that adequate protection from the evasion of the rights of the people in the community near said grounds cannot be protected by civil action against the said defendant company, nor can it be expected to be afforded by the police authorities of the city of Bayonne and the municipal officers. I have witnessed the size and actions of the crowd who have attended said games. Said crowds, in order to obtain seats upon the trolley cars, have wandered southerly from

a point on Avenue C, nearest said grounds, for the purpose of obtaining accommodation on said cars; special trolley cars have been provided for the purpose of accommodating said crowds, and the character and actions of said crowds are not conducive to the good of the people living in the vicinity of said grounds, nor to the youth, who must necessarily see their actions and hear their language. The several churches mentioned in the bill of complaint are situated along Avenue C, as therein mentioned. The attendants of said churches reside in the community near and adjacent to said grounds. Sunday school services in some of said churches are held in the afternoon, at about the time these games are in progress. The playing of these games is causing a depletion of the Sunday schools by attracting the boys from said school to said games. Said cars, provided by the Public Corporation for the transportation of the crowds attending these games, cause unusual noise in this community and also interfere with the regular traffic and facilities for traffic heretofore afforded to the residents of this city.

I am acquainted with several of the players of the Jersey City team; they are employed to play ball and are in the employ of the defendant corporation. I am credibly informed, and know it to be a fact, that notwithstanding the noises occasioned by the game on the first day of May, that printed cards were distributed among the spectators at the grounds, requesting them to refrain and desist from making noises, and I do not believe that games of ball, witnessed by crowds of the size that have attended those already played, can be held or given with any less accompanying noise than that which has already been heard.

MILTON E. GRANT.

Sworn to and subscribed before me this seventh day of May, 1904.

MICHAEL A. O'HARE,
Commissioner of Deeds for New Jersey.

ORDER TO SHOW CAUSE, ETC.

[Filed May 10, 1904.]

On reading and filing the bill of complaint in the above-entitled cause, and the affidavits annexed to and supporting the same, and on motion of Elmer W. Demarest, one of the solicitors of the complainant, it is, on this seventh day of May, nineteen hundred and four, ordered that the said defendant, New Jersey Exhibition Company, a body corporate of the State of New Jersey, its president, officers and directors, show cause before the Chancellor or such Vice Chancellor as may sit in his stead, at the Chancery Chambers, No. 15 Exchange Place, in the city of Jersey City, on Monday, the sixteenth day of May, instant, at the hour of ten o'clock in the forenoon, or as soon thereafter as the court may hear the same, why an injunction should not issue according to the prayer of said bill of complaint, and for such further relief as may seem just.

And it is further ordered that the said defendant New Jersey Exhibition Company, its president, directors, agents and lessees in the meantime, and until the further order of this court in the premises, desist and refrain from conducting, or permitting to be played on its grounds, situated on the easterly side of Hudson County Public Road, between West Forty-sixth and West Forty-ninth streets, in the city of Bayonne, in this State, any games of baseball, or other exhibition on the day of the week usually known as Sunday, and from giving any and all exhibitions and charging admission to the same on any Sunday, either upon said grounds, or at any place near or adjacent thereto, and from directly or indirectly causing or permitting in any manner whatsoever any noise, noises or nuisance that will disturb the peace and comfort of the people residing in the vicinity of said grounds, or that will disturb the people in the vicinity

of said grounds in the use and enjoyment of their property.

And it is further ordered that service of a copy of said bill, with the affidavits annexed, and a copy of this order, all of which need not be certified, upon the agent, president, manager or any of the directors of the said defendant company within three days from the date of this order, shall be sufficient service hereof, and that the said complainants shall have leave to take and serve upon said defendant further proofs and affidavits in support of said bill of complaint at least three days before the return of this order, to be used by said complainants upon the argument hereof, if they shall see fit so to do.

W. J. MAGIE,
Chancellor.

Respectfully advised,
H. C. PITNEY,
Vice Chancellor.

ORDER TO SHOW CAUSE.

[Filed June 29, 1904]

Upon reading and filing the affidavits of August Seastream, made on the sixth day of May, nineteen hundred and four, before Mungo J. Currie, one of the masters of this court, another affidavit, made by the said August Seastream on the twelfth day of May, nineteen hundred and four, before Peter Bentley, one of the masters of this court, and another affidavit, made by the said August Seastream on the fourteenth day of June, nineteen hundred and four, before John A. Blair, judge of the Hudson county Court of Quarter Sessions; an affidavit, made on the twenty-fifth day of May, nineteen hundred and four, by Mungo J. Currie, before Richard Boardman, one of

the masters of this court; an affidavit, made by George E. Griswold on the twenty-fifth day of May, nineteen hundred and four, before Charles J. Roe, one of the masters of this court; another affidavit, made by the said George E. Griswold on the fourteenth day of June, nineteen hundred and four, before Charles J. Roe, one of the masters of this court; an affidavit, made by Laura Seastream on the fourteenth day of June, nineteen hundred and four, before John A. Blair, judge of the Hudson county Court of Quarter Sessions, and an affidavit, made by Elmer W. Demarest on the fifteenth day of June, nineteen hundred and four, before Frank P. McDermott, one of the masters of this court, copies of which are hereto annexed:

It is, on this twenty-first day of June, nineteen hundred and four, ordered that August Seastream, Peter Bentley, Howard C. Griffiths, William Davis and Captain Hagenson, or Higginson, show cause before this court, at the Chancery Chambers, in the city of Jersey City, New Jersey, on Tuesday, the fifth day of July, nineteen hundred and four, at the hour of ten o'clock in the forenoon, why they, or some or one of them, should not be adjudged guilty of a contempt of this court in attempting to improperly influence the due administration of justice therein, and be punished therefor.

And it is further ordered that a true copy of this order and of said affidavits, all of which may be uncertified, be served on the said August Seastream, Peter Bentley, Howard C. Griffiths, William Davis and Captain Hagenson, or Higginson, within ten days from this date.

W. J. Magie,
Chancellor.

Respectfully advised,
H. C. Pitney,
Vice Chancellor.

State of New Jersey, Hudson county, *ss.*—August Seastream, of full age, being duly sworn, deposes and says: I reside at 525 Avenue B, Bayonne. My resi-

dence immediately adjoins the easterly corner of the baseball grounds, corner of Forty-sixth street and Avenue B. I am informed and know that baseball games have been played the last two Sabbaths, but myself and wife were absent for most of the time during which these games were played. The noise that results from the playing of the games, and the cheering is very annoying and would disturb the rest and slumber of our two young children, who are respectfully one year and four months, and four months. I am the owner of the house where I reside, and the property is now worth at least one thousand dollars less than it was previous to the coming of the baseball grounds.

The crowd is a large one, consisting of several thousand. At present it does not pass my house, as the gate nearest it has not yet been opened, but I am informed and believe it will be opened when the sewer in Avenue B, which is in course of construction, is completed. I would never have bought the two lots which I own, or constructed the house thereon had I known these baseball grounds would be laid out.

AUGUST SEASTREAM.

Sworn and subscribed before me, at Bayonne, this sixth day of May, 1904.

M. J. CURRIE,
Master in Chancery of New Jersey.

State of New Jersey, Hudson county, *ss.*—August Seastream, of full age, being duly sworn, on his oath doth depose and say: I have resided in the city of Bayonne for about four years and own the dwelling house and two lots immediately adjoining Eastern League Park, the baseball grounds of the Jersey City club.

I am the person whose property is described in the affidavit attached to the bill, in which I am made a complainant with Alexander and others, against the New

Jersey Exhibition Company, and who is represented to have signed the same.

I did sign a paper on or about the sixth instant, which was represented to me to be a petition in favor of the playing of baseball Sundays on the grounds adjacent to my home on the westerly side of Avenue B. The affidavit purporting to be signed by me has been read to me and I declare the same to be absolutely and unqualifiedly false, and said paper was at no time read to me.

I was not absent from my home on the first of May as represented, for I viewed the game with the Rochester club from the window of my home, and at no time during that game was the applause audible when my windows were closed, and as to any annoyance to my children, their sleep could not possibly have been disturbed, and, as a matter of fact, my little baby slept throughout the game.

I consider the locating of the handsome and beautiful park in Bayonne a great benefit to the neighborhood, for it will attract people who will be apt to locate in the city and have never stated otherwise to anyone at any time. The grounds and the ball games played there are a great relief from the crowds which are attracted by the shore resorts every summer through our streets.

The gate in the fence on the Avenue B side of the ball grounds was located there with my permission; the Exhibition Company having rebuilt their fence when they learned that it obstructed the view from the lower floor windows of my home.

All statements accredited to me other than as appear in this affidavit are false and untrue.

AUGUST SEASTREAM.

Sworn and subscribed to before me this twelfth day of May, A. D. 1904, in Jersey City.

PETER BENTLEY,
Master in Chancery of New Jersey.

State of New Jersey, Hudson county, *ss.*—Mungo J. Currie, being duly sworn, deposes and says: On the evening of the sixth day of May, 1904, about seven o'clock, in company with Mr. Elmer W. Demarest, the solicitor of complainant in the above-entitled cause, I called upon Mr. August Seastream at his house, 525 Avenue B. We explained to him and his wife the object of our visit. Mr. Demarest then withdrew with the intention of calling upon Mr. Jacob Cozine, who resides in the vicinity and afterwards returning, and I remained to take Mr. Seastream's affidavit in regard to his objections to the playing of baseball on Sunday on the baseball grounds which adjoin his premises. He and his wife plainly indicated to me by their manner and what they said that they were aggrieved by the location of the baseball grounds near their residence and the playing of baseball there on Sundays. In preparing the affidavit I remember that I was extremely careful in putting down in writing what Mr. Seastream said, and was willing to swear to, and as portions of his affidavit were taken down I read them to him, and afterwards when Mr. Demarest returned in company with Mr. George E. Griswold, the entire affidavit was read aloud to him and he signed the same. He was particularly emphatic in relation to the damage in value to his house. I am sure he knew exactly what he was doing when he signed the affidavit. Just about the time of signing (I do not remember whether it was before or after) he asked if we thought the making of the affidavit would affect his holding his occupation, which, I think he said, was deck hand on one of the ferry lines at Jersey City, and I replied that I did not believe that his employers, whoever they were, would disturb him for stating the truth, or words to that effect. Said Seastream wished to testify to other matters which annoyed him, but Mr. Demarest and this deponent did not consider them pertinent to the issue.

MUNGO J. CURRIE.

Sworn and subscribed before me at Jersey City, this twenty-fifth day of May, 1904.

RICHARD BOARDMAN,
Master in Chancery of New Jersey.

State of New Jersey, county of Hudson, *ss.*—George E. Griswold, being duly sworn, on his oath says: I was present at the house of August Seastream on the evening of May sixth last, when he signed the affidavit attached to the bill of complaint. I came into the house just before Mr. Mungo J. Currie, who was preparing it, had completed the affidavit. Mr. Seastream and his wife were both present, and both appeared to be anxious to take the affidavit. They suggested that the gate to the ball grounds near their residence was not yet opened, because a sewer was being built in the street, and that the nuisance would then become much worse than it already had been. Mr. Currie read the affidavit over to both Mr. and Mrs. Seastream in my presence, and he then signed it. Immediately after the completion of the affidavit, Mr. Seastream remarked that he wondered whether it would have any effect upon him holding his job, and then stated, "I do not think it will." I have read Mr. Seastream's affidavit dated May twelfth. It is untrue so far as it states that Mr. Seastream did not know what he was signing, and I know that he was not only anxious to sign it, but to state a great deal more than was mentioned therein.

GEORGE E. GRISWOLD.

Sworn to and subscribed before me this twenty-fifth day of May, 1904.

CHARLES J. ROE,
Master in Chancery of New Jersey.

In the matter of the investigation of the affidavits, made by August Seastream, in the Court of Chancery, on the question of baseball playing on Sunday in the city of Bayonne.

Before Hon. John A. Blair, judge.

June 3d, 1904.

August Seastream, being sworn by the judge in this matter, testified:

By the Court.

Q. You know there are two affidavits in my possession, sent to me by Vice Chancellor Pitney, which were made by you in the baseball playing case, and they are contradictory, and the Vice Chancellor has sent them to me to ascertain how they came to be made?

A. The first affidavit was made in my own house, and my wife was there, too, when it was made; and Mr. Currie was there, but Mr. Demarest came there, too, before it was finished, and was there, and another gentleman besides.

Q. Do you know who the other gentleman was?

A. I can't remember his name, but he was a clerk in an office.

Q. Mr. Griswold?

A. I think so; an elderly man; he introduced me to all.

Q. Was your wife present at the time?

A. Yes, all the time.

Q. At whose suggestion did you make this affidavit—who wanted you to make it in the the first place?

A. Mr. Currie.

Q. He came to you?

A. Yes; well, there was both Mr. Currie and Mr. Demarest, but he went to Cosines.

Q. Who went over to Cosines?

A. Mr. Demarest.

Q. Where do you live?

A. 525 Avenue B, Bayonne; the affidavit states that my residence immediately joins a certain baseball ground, corner of Forty-sixth street and Avenue B; that is an error; that is Mr. Smith's property; my residence is on Avenue B, between Forty-eighth and Forty-ninth streets, and it adjoins the baseball grounds there on that point; in other respects the affidavit made by me on the 6th of May, 1904, is correct.

Q. This affidavit was made by you, freely? 10

A. Yes, freely.

Q. And without any inducement except to ask you to tell the truth about it?

A. Yes; the men was gentlemen; they never wanted us to do anything except our own wish.

Q. Now, as to the second affidavit; what have you to say about that; how did you come to make that second affidavit?

A. Captain Hagenson first came to see me about it—Higginson he is called; he said he was sent there by 20 Captain Carroll; Captain Carroll is superintendent of the Pennsylvania ferry; he said if I would not go up and sign this affidavit I would be discharged the next day.

Q. Go up where?

A. To Davis'—meaning Willie Davis.

Q. And that if you did not do that, that you would be discharged the next day?

A. Yes.

Q. Then what did you do?

A. When the boat came into the slip at five minutes to 30 ten, and he came around there, and he stood there, and said, "Gus, come over here, I want to see you—come over to the State street dock;" so the dock comes twenty-four feet in, so that nobody can come over on the pier there, and facing that is a blacksmith shop, and when he came there he told me not to follow him close up, but I followed him close up, and when he came there he waved his hand away, and then Captain Carroll came out of the

blacksmith shop, and he said, "I did not want the captain to see this; now he will want to know what I had with you, but you know where you make your bread and butter," and so he said, "Now, I have no time, you go on about your business;" so I went on the annex boat and commenced my work, and I went right on to Brooklyn, and when I came to Brooklyn then he said: "Now, when are you through?" and I said, "Five minutes to two," and he said, "You know what I told you about to-morrow, meet me on the street in front of the First National Bank;" that is corner of Exchange Place.

Q. Hagenson said that to you?

A. Yes.

Q. When was that?

A. We left Jersey quarter after ten, and we went to Brooklyn, and we left Brooklyn quarter to eleven, but in Brooklyn he left me and then he came back again, and landed in Jersey City a quarter after eleven, and I had to go back with her, and I came into Jersey again five after twelve, and then I went and left, and I found him standing at Exchange Place, and he says, "Hold up, let nobody see that you are there."

Q. Who said that?

A. Captain Hagenson; then he gave another sign—motioning with his hand—and when he gave them that sign I did not look over there, but he gave the sign to somebody, and then he came after me, and he got hold of me between York and Montgomery, on Hudson street, and then, going up there to Davis' office, he said, "I telephoned up to Davis"—then he said Willie Davis, "and he will be there;" then I told him, I said, "I won't go, I want to go home and see my wife first;" and he said, "You come right now with me, or you won't work there to-morrow."

Q. What did they want you to do?

A. Then when I came up outside of the house I refused to go in again.

Q. What house is that?

A. Outside of Davis', opposite the city hall.

Q. The house of the New Jersey Supply Company?

A. I think it is the last house on Mercer street, opposite the city hall.

Q. Then what did you do?

A. Then I went in there, and then Hagenson said, "Here is Mr. Seastream, and this is Willie Davis;" then he said, "I don't know why you signed that affidavit for;" Mr. Davis said that.

Q. Referring to the affidavit of the sixth?

A. Yes.

Q. The first affidavit?

A. Yes.

Q. Then what?

A. Then he took me in a private room inside and telephoned for Griffiths; then Griffiths came up there, and then Griffiths said, "Now, I will draw out an affidavit, and if you sign this one the other one is not binding."

Q. That is, the other one is not good?

A. Yes, sir.

Q. Did he draw an affidavit then?

A. He done that in a little office, and I was outside.

Q. He drew that up after he came up to Mercer street?

A. Yes.

Q. Go on.

A. During that time, in the little room, Mr. Davis he was persuading me many times and times again to take some brandy with him, and I declined, because I had not been in the habit of taking it before, but I took it, and then he took me out in the room, when Griffiths said he was all ready.

Q. And after you had had the drink of brandy and went into the other room, and he said it was all ready, you signed this affidavit?

A. Yes.

Q. This one, dated the twelfth?

A. Yes.

Q. Before Peter Bentley?

A. Yes.

Q. Was Peter Bentley there all the time?

A. No; I can't say, because I was in the little room inside; I was not in the office.

Q. Were you in there alone?

A. Hagenson and me was in that little room.

Q. And when you went out into the big room, who was there?

A. I think Peter Bentley was there, but I won't be certain that he was there; I know so much, he was not there all the time.

Q. Was Griffiths there?

A. Yes, he was there all the time; he was writing it.

Q. And after it was written, did you swear to it before Peter Bentley; his name is signed here as taking the affidavit?

A. Then he was there, but I did not notice that he was there before.

Q. But you swore to it before somebody?

A. I don't know.

Q. Did anybody ask you to hold up your right hand?

A. No, sir.

Q. Did anybody say, "Do you swear to it?"

A. No, sir.

Q. Did anyone ask you if you swore to it?

A. No, sir.

Q. It says here, "Sworn and subscribed before me"—did you swear to it?

A. That I don't know; I am sure I never did.

Q. Did you see anybody there except Griffiths, Willie Davis and Bentley?

A. And Hagenson.

Q. Those were the only four there?

A. Yes, sir.

Q. Did you see Mr. Robert Davis there?

A. No, sir; he was not there.

Q. Go on.

A. Then, on the 19th, Mr. Demarest wanted me in the Court of Chancery, and Mr. Hagenson came down and kept me from going up—he came to my boat; he told me I must not go, because they would arrest me; then I told him about my work, and he took me onto the saloon deck of the boat "Annex 4," and then into the room where all the trainmen sit, in the brick building—the waiting-room for all the employes—and he kept me there from a quarter after eleven to five minutes of two, and then he took me to New York; there he took me to (I can't say the name) but I think it is the third house from the corner of Desbrosses street, it is a restaurant, on West street.

Q. How long did he keep you there?

A. I did not look close, but I think it was till about five minutes to five.

Q. Then did you come home again?

A. Then he took me, and he was in Griffiths' office at half-past five, exact.

Q. What did you do there in Griffiths' office?

A. Then there was Will Davis there, Bentley, Griffiths, Hagenson and me; then Hagenson was going on to say that he overheard that I had put an injunction on the baseball, and he came to me and he told me, "Have you put an injunction on the baseball?" and he said I should say "No, sir;" and he says, "Well, I can prove it to you, and I will take you to Will Davis and show you that injunction;" so I said, "All right;" so I went with him; when we came there, Will Davis produced it; then I came in and I said, "No, I was speaking then my part next;" I said, "No, I have not, I understood that Mr. Demarest and Mr. Currie came to me and so I was for the baseball ground;" then they telephoned for Griffiths.

Q. That is your part of the story which was to be told?

A. Yes; then Billy Davis said to Mr. Griffiths that I had signed in favor of the baseball ground and had not signed in favor of an injunction; then Griffiths drew up

New Jersey State Library

the affidavit that I was to make; all that is what we five were to say about that; now, what Bentley was to say I don't remember; I said, "No, I don't want to go as far as that."

Q. What did you do then?

A. I took my hat and went home.

Q. Did you hear from anybody after that about this baseball question?

A. Then Hagenson was sent to my house to find out whether anybody had been around there—around the house—and he got me to go to the Arlington Hotel, or Arlington Park, and he spoke through the phone there to Griffiths, and he (Griffiths) asked Hagenson if either Mr. Currie or Demarest had been over to see me, and he (Hagenson) said no, nobody had been there since we parted on the 6th of May.

Q. Had either Mr. Currie or Mr. Demarest seen you since the 6th of May?

A. No, sir; I had never seen Mr. Demarest since the 6th of May, and I never seen Mr. Currie until I seen him here on the sidewalk this morning.

Q. What did you come here for to-day?

A. To tell the truth.

Q. When did Hagenson see you before yesterday?

A. Yesterday he came to me three times; he told me I had to go to Griffiths and see him, and I said, "No, I never go inside of that place any more, if anybody wants me they have to go and tell me, and I will go and tell the truth, and I said I would rather be arrested than to go there and tell a lot of lies."

Q. Then what did he say?

A. He went away and afterwards he came back again, and then he said, "For God's sake don't leave us that way now, we'll all get in jail if you do leave us," and he said, "You will get there too, and perhaps you will get six years in jail;" I said, "I don't care, I won't go a foot for you people; I will stand my ground now."

Q. Did he tell you that Judge Blair wanted to see you yesterday?

A. No, sir; he said he wanted me to go to Griffiths' office.

Q. When did you see Griffiths?

A. I saw him two days ago; he did not speak to me; he spoke to my wife; I heard every word; he wanted her to go to the court and swear—well, he did not get the chance to tell her what because my wife told him straight no; he did not have a chance to tell her what; but then he said, "Won't you say so much as that you were not in when your husband signed this paper, so as to save him going to jail?" she said, "No, sir, I would not; I will tell the truth and nothing else;" and he says, "Couldn't you say that your baby was sick, and that you couldn't hear anything because your baby was sick?" and she said, "No;" and then he said, "Couldn't you say that you did not hear anything about it?" and she said, "No, I won't, I will tell the truth;" and then he said, "You needn't be scared if you do, because Robert Davis is the boss."

Q. Did he say the boss or the leader?

A. He said "He is the Boss of the party."

Q. And that he would protect you?

A. Yes.

Q. What did she say to him then?

A. She said, "No, sir, I won't;" she said, "There is the judge, and he would not do such a thing as that, he wants the truth, and I will go there and tell the truth, and he is a gentleman and will hear me."

Q. What did Griffiths say about himself?

A. That we will all go to jail.

Q. Did he say anything about being disbarred?

A. Yes; he said *that* story, before we had made up the tale we would tell, and he said, "We must stand together, or we will all go to jail," and he said, "It is either me or Currie will be disbarred;" and he wanted my wife to go on the stand and testify and let him out; she says, "Mr. Currie and Mr. Demarest came here, two gentlemen,

and I know it well that they would not misrepresent to me, and I am against that thing, too," she said.

Q. What was done in Davis' office, you did for the sake of saving your job?

A. Yes, sir; because I was afraid I would lose my position on the ferry.

Q. Carroll and Hagenson both told you that you would lose the job?

A. No, sir; not Carroll to my face; Hagenson told me that, and told me that Carroll had sent him to tell me that.

Q. Did Carroll ever say anything to you about that?

A. No; Emil Reuter, the ferry master, he said to me, on the thirty-first of May, that Carroll wants to see me in the office—Carroll is the superintendent—and so I went with him over there and found Carroll there, and Captain Carroll said, "I didn't want August," that was me; then Emil said, "What have you and Hagenson got together?" I said, "Nothing;" Emil then said, "That's my business and Iam going to find out;" so I said, "No, sir; it is not your business;" then he said, "I will poke you in the snoot;" so I said, "I will write to Philadelphia;" then Carroll came up and took him, Emil, by the arm and took him away; that was at the Cortlandt street ferry slip, right near the depot.

Q. If you had known that I (Judge Blair) wanted to see you yesterday in my office, would you have come?

A. Yes, sir; I would have come.

Q. But you did not come because Hagenson told you that you were needed over at Griffiths' office?

A. Yes, I told Mr. Hagenson that time, as plainly as could be, I would go there and tell the whole truth; "but gentlemen, I won't go there to tell a pack of lies;" and I said, "But I won't go to Griffiths' office, anyhow."

Q. When you told Hagenson you would come to my office and tell the whole truth then he would not let you go?

A. Yes, and then he went away; the last time he sent

to me this, it is dated Wednesday, the second, but it was Wednesday the first—he sent me this slip, and it was given to me in the morning.

(Witness shows paper.)

Q. Go on?

A. And then when I would not go to Griffiths' office he wanted me to go where he lived, and when I would not go there, then he did not want me and I went home; the letter was for going to Griffiths' office, so that I should not forget where it was.

AUGUST SEASTREAM.

Sworn and subscribed before me this fourteenth day of June, A. D. 1904.

JOHN A. BLAIR,
Judge of the Hudson County Court of Quarter Sessions, N. J.

MRS. SEASTREAM'S AFFIDAVIT.

Questioned by Judge Blair.

Mrs. Seastream, being sworn in my presence, made the following statements:

Q. You are the wife of August Seastream, who made these two affidavits in question, one dated May 6th and the other the 12th of May?

A. I know about the 6th of May.

Q. You live on Avenue B, Bayonne, between Forty-eighth and Forty-ninth streets, and your property adjoins the baseball grounds?

A. Yes, sir.

Q. Were you present when your husband made the affidavit dated May 6th in your home in Bayonne?

A. Yes, sir; Mr. Currie was present, Mr. Demarest and a gentleman I think was Mr. Griswold, came in as well; and I heard the affidavit read before my husband signed it, and I saw him sign it; I was present at the time, and what is in the affidavits is true.

Q. After the 6th of May, did you see anybody, connected with this transaction, Mr. Griffiths, for instance?

A. I think it was on the 13th or 14th of May, I saw him; he was at the house; I did not know the gentleman at that time; he rang the bell and my husband went to the door and then Mr. Griffiths came in; and then he said to my husband, "Now we have come to an agreement to keep this out of court, and whoever gets the most votes will be the winners; I have Mr. Alexander, Dr. Ware and a few others' signatures," and he laid the paper on the table and he told him to sign it; he said, "If you will sign your name," and while he was talking the door-bell rang again and it was Mr. Salter; Mr. Griffiths went to the door with my husband when Mr. Salter rang the bell and then he said to Mr. Griffiths, "Are you ready?" and then they both went out; then I asked my husband who the gentleman was and he said it was Mr. Griffiths, Mr. Davis' lawyer, and I said he acted rather strange; then I did not see him again until June 1st, when he called again and I asked him in and he asked me a few questions about the baby and like that, and then he said, "Now, Mrs. Seastream, I want you to go to court and say you did not see Mr. Currie sign the paper, and I want you to say in court that you were not paying any attention to us, that you were attending to the baby;" but I said, "If I have to go to court I will speak the truth; I have always spoken the truth, I was brought up to, and I will speak the truth now;" he said, "You could say you were paying attention to the baby, you could have been walking in and out of the room and not remember;" I said, "I could have been; but I *was* paying attention, as I myself had a little to say;" then he said, "Well, will you say that you won't talk about it?" I said, "No, sir; I shall speak the truth, and if questions are asked me I shall answer them straightforward;" "Well," he said, "For God's sake, don't go and take the other party's part if you don't take ours;" then he asked "If Mr. Demarest had been here since May 6th, or any one else, posting me;" I said,

"No, sir; no one has to post me to tell the truth, and I haven't seen any one since;" "Well," he said, "You would not need to answer any questions if you want only to speak the truth;" he then said, "Mr. Robert Davis is a ruler, you don't need to be scared;" "Well," I said, "I cannot help it, I will speak the truth;" "If Mr. Demarest could hear you now," he said, "he would be here as quick as lightning;" I said, "I do not suppose you will go and tell him what I am saying," and he said, "Not on your life, I won't;" "Well, Mrs. Seastream," he said, "it wouldn't be telling any untruths if you would say that you did not wish to talk about it, and it will save us all from going to jail," he said; "I cannot help it," I said, "if questions are asked me I shall answer them and answer them truthfully;" then he asked me "if I would go away for a few days and he would pay all expenses;" I told him "no; that I had no place to go and that it was not convenient at that time for me to go away; also, that I had no cause to go away, anyway;" and I said, "Mr. Griffiths," I said, "my husband and I have worked very hard to have our little home, and now you have come and asked my husband and me to swear to a lot of untruths; you have come and made me miserable, and the last few days I do not know what to do," and he said, "Well, Mrs. Seastream, I am very sorry; I will try and not have you appear in court," he said.

Q. Was there anything further said, Mrs. Seastream?

A. No, sir; I don't remember, because he found that I would speak the truth; that was the last.

Q. And you have seen nothing of them since?

A. Captain Hagenson called once, I think it was on about the twentieth—the next week; he asked my husband if he had seen Mr. Demarest or any of his party, and he said, "For God's sake, don't go and talk, Mr. Seastream, or we will all be sent to jail," and my husband did not answer him.

Q. And he then went away?

A. Yes, sir.
Q. That is all you know about it, Mrs. Seastream?
A. Yes, sir.

LAURA SEASTREAM.

Sworn to and subscribed before me this fourteenth day of June, A. D. 1904.

JOHN A. BLAIR,
Judge of the Hudson County Court of Quarter Sessions.

State of New Jersey, county of Hudson, *ss.*—Elmer W. Demarest, being duly sworn, deposes and says: I am one of the solicitors for the complainants in the suit now pending in the Court of Chancery of New Jersey, in which August Seastream and Charles C. Alexander are complainants, and New Jersey Exhibition Company is defendant, and have had active charge and management of this suit since it was begun. The bill was mailed to the Chancellor and the order to show cause, returnable May sixteenth, was granted on the seventh day of May. These were served on the eighth day of May, but as I questioned the legality of service of them on Sunday, I again caused them to be served on the tenth of May. Northrop & Griffiths acknowledged service as solicitors for the defendant. We continued taking affidavits on the part of the complainants as provided for in the order to show cause, and the last of these affidavits were served upon Northrop & Griffiths on May thirteenth.

On May sixteenth, before I reached the Chancery Chambers, and in my absence, Mr. Northrop, of the solicitors for the defendants, obtained a rule for continuing the argument to May twenty-third.

On May 23d I entered the Chancery Chambers a few minutes after ten and met Mr. Northrop there. He informed me that Senator Hudspeth had been retained as counsel in the suit, and requested me not to move the case until the senator arrived, to which I assented. At about eleven o'clock the senator arrived and asked me

whether there could not be a consultation of the counsel in the case in my office, which is in the same building and on the same floor as the Chancery Chambers. Senator Hudspeth, Messrs. Northrop, Griffiths and Bentley, representing the defendant, and Mr. Speer and myself, representing the complainants, went to my office, where Senator Hudspeth stated that the action being of a civil nature, where there was no impropriety in settling the differences between parties, the defendant had made settlement with the two complainants named in the bill, and handed to me a paper entitled in the cause, directed to our firm as solicitors for the complainants, requesting us to withdraw the names of the complainants from the suit, which purported to be signed by the two complainants. He asked me whether we would not, upon the instructions of our clients contained in the paper, discontinue the suit. I answered him that while I did not criticise the conduct of the solicitors for the defendant, I had seen the same practice tried in the Court of Appeals in the case of Herbert *v.* The City of Bayonne, that the two clients named in the bill had only been selected as nominal complainants for others who were disturbed by the ball games mentioned in the bill of complaint, and that the bill showed it was filed in behalf of others; that I would not recognize the paper as having been signed by my clients, and that he would have to deal with the court in the matter. Shortly before twelve o'clock I moved the case for argument, and had just begun the reading of the first affidavit taken after the signing of the order to show cause, when the senator interrupted and stated to the court that he had examined the bill, concluded that it presented a *prima facie* case and that it was proper for the parties to the suit to settle their differences; that settlement had been effected and he was in possession of a paper, signed by the two nominal complainants, instructing the solicitors for the complainants to discontinue the suit. The Vice Chancellor turned to me and inquired whether this was true, to which I replied that the matter

was one of surprise to me; that the paper had been brought to my notice within half an hour before and that the circumstances surrounding its presentation to me were in my mind so suspicious that I declined to recognize the signatures to the document until I could find, upon investigation, I had been directed to discontinue the suit. The Vice Chancellor then, turning to the senator, stated that the paper was one for counsel; that counsel for complainants had the right to be convinced that the paper had been actually signed by their clients before recognizing the signatures, and that until the suit was discontinued by the solicitors the court had no right to take notice of the document. The Vice Chancellor then asked whether the signatures were verified, and whether notice of the motion had been given, to which the senator replied in the negative. The court then stated that the motion was one that required notice.

Senator Hudspeth then asked leave of the court to file the paper, and the Vice Chancellor replied that the paper was not a proper one for the files of the court except upon motion of the complainants' solicitors. The senator had laid the paper upon the bench. I, turning to the senator, inquired whether the paper was addressed to me or to the court, and when he replied that it was addressed to me, I picked it up from the bench and put it in my pocket. The senator, turning to me, said: "You now have the paper in your possession, what do you propose to do with it?" I replied, "I shall not discontinue as to these parties until I have satisfied myself that Messrs. Seastream and Alexander signed it, and during that investigation, I move the court for an order that other complainants, whose affidavits have been filed, be added." The senator objected to other parties being added; stated that about one hundred affidavits had been taken by the defendant; that the affidavits were merely in answer to grievances of Messrs. Seastream and Alexander, mentioned in the bill; that an order, permitting the bill to be amended by adding new complain-

ants and a description of their residences, would be another suit, which the affidavits already taken by the defendant would not meet. I stated to the court that the affidavits had not yet been served upon us. The court inquired from the senator whether this was true, and he replied that it was, but that, if the complainants, Alexander and Seastream, were dismissed from the suit, there would be no necessity of serving upon the complainants the affidavits taken. The Vice Chancellor remarked that it was apparent to him that the complainants' solicitors had been taken by surprise; that the suit would not be discontinued on the part of the complainants, Seastream and Alexander, until their solicitors consented to it, or upon proper notice given by the defendant; that he would give the solicitors for the complainants one hour to determine whether they should proceed upon the bill as filed, in which case the defendant should immediately serve its affidavits upon the solicitors for the complainants, or, if they wished to amend the bill by adding complainants and a proper description of their properties, the court would adjourn the argument for one week, and that if the latter course were elected by the complainants' solicitors, the court was of the opinion that the stay should be vacated until the argument should be heard. Mr. Northrop then arose and said the defendant was willing that an order, amending the bill by adding complainants with a description of their residences, should be made. This was assented to by the complainants' solicitor, and the cause adjourned until after the noon recess. Mr. Speer and I then prepared the order of May twenty-third, adding several complainants, and submitted it to Messrs. Hudspeth and Northrop, who assented to it.

After the noon recess, the Jersey City Water case was heard by the Vice Chancellor and given precedence over our argument. Upon its completion our case was taken up. Messrs. Hudspeth and Northrop then assented in open court to the making of the order adding complain-

ants, and I proceeded to read the affidavits taken on the part of the complainants. At the conclusion of this reading Senator Hudspeth handed me, for the first time, the copies of the affidavits taken by the defendant, stated that there were over one hundred of them and that it would be better for the court to then adjourn the hearing to another day, for the purpose of hearing the defendant's case. An adjournment was then taken to May twenty-sixth, at two P. M., at the City Hall, Jersey City.

I handed these affidavits of the defendant over to Mr. Speer before I had read them, and did not receive them back until the morning of the twenty-fifth. On the twenty-fourth I received a telegram from Vice Chancellor Pitney, stating that he would hear the argument, at the Chancery Chambers, on the twenty-sixth, at ten A. M., instead of at the City Hall, at two P. M. I communicated with the other counsel in the case, and found that they had received like messages. During the evening of the twenty-fifth, while preparing the case for argument, I received a telephone message from Mr. Alexander, explaining to me that he had been deceived in signing the document which had been presented to me the previous Monday, and that he did not wish to be withdrawn as a party complainant. I immediately sent someone to his house to take his affidavit to that effect. Shortly afterward I heard from Mr. Holman, who was Mr. Seastream's attorney, and who, before the case was instituted, informed me that Seastream was complaining and advised me to get his affidavit, that Seastream had been sent by one of his superiors at the Pennsylvania ferry in Jersey City to the office of a man in Jersey City, where he had been advised that unless he withdrew from the suit he would lose his position on the Pennsylvania ferry boats. This was the first I had heard of this.

On the morning of the twenty-sixth, at about nine o'clock, I prepared a subpœna *ad testificandum* for Sea-

stream to appear before the Vice Chancellor in the Chancery Chambers that day and gave it to my clerk, George E. Griswold, telling him that no matter at what time he served it, to bring Seastream at once to the Chancery Chambers before Vice Chancellor Pitney. He started out with this shortly after nine, and continued his endeavors to serve it until after noon. When the case was called, Senator Hudspeth again asked me whether the suit would not be discontinued because of the written request he had handed me the Monday previous. I replied that he would not, as Mr. Alexander had made an affidavit in which he stated that he had been induced through deceit and misrepresentation to sign the paper, and I also informed the court that I had been reliably informed that Seastream had been sent by a superior officer of the Pennsylvania Railroad Company to the office of a prominent man in Jersey City, where he was informed that unless he retracted his former affidavit attached to the bill, and withdrew from the suit, he would be discharged from service, and that I had issued a subpœna *ad testificandum* for his appearance so that the court might ascertain the facts and the *bona fides* of the purported withdrawal. The court replied that it could not examine Mr. Seastream in the matter but that if I would obtain an affidavit showing the facts, the court would take the matter up on its own motion. I replied that I feared it would be impossible to obtain such affidavit. I then produced the affidavits of Messrs. Griswold and Currie showing the circumstances surrounding the taking of Seastream's first affidavit. I then submitted the order of May twenty-sixth, adding Mrs. Smith and others as complainants, which was submitted to the solicitors for the defendant and they consenting in open court thereto, was signed by the Vice Chancellor. The defendants then proceeded with the reading of their affidavits and completed the same just before the time for the noon recess. I then began the argument for the complainants and continued it until the close of the afternoon session.

On the morning of the twenty-sixth, when the second affidavit of Seastream was read, as well as those of Messrs. Griswold and Currie in contradiction thereof, the Vice Chancellor directed the counsel in the case to make copies of the respective affidavits bearing upon Seastream's first affidavit, and send them to Judge Blair. This I did on the twenty-seventh, and was informed by Judge Blair, a day or two later, that he would investigate the entire matter at the Court House, on June second, at ten A. M.

On the morning of June second, before going to the Court House, I called at Mr. Holman's office in Bayonne. He told me that Seastream had decided upon his advice, to go before Judge Blair and tell the whole truth about the matter. He stated that he himself was willing to make an affidavit to the facts, but as it would be based only on hearsay, he thought Seastream's affidavit would be stronger. I then went to the Court House. Senator Hudspeth stated to Judge Blair that Seastream's work was completed about one P. M., that he (Seastream) could not attend that morning, but would attend at Judge Blair's office in the afternoon. The hearing was then adjourned to two o'clock, when we all appeared at Judge Blair's office, but without Seastream present. A man who said he was the captain of one of the Pennsylvania boats, stated to Judge Blair that Seastream had refused to attend and the hearing was then indefinitely adjourned. The article contained in the Jersey City *Journal* the following afternoon was the first I knew that Seastream had been examined by Judge Blair. I have neither seen the testimony given by him, nor have I been told what it contains.

At the close of the argument on the afternoon of the twenty-sixth, the hearing was continued to June sixth, at Newark. During Senator Hudspeth's argument a messenger arrived with an envelope which he delivered to the Vice Chancellor. I shortly afterwards was informed that it contained the testimony taken before Judge Blair. The Vice Chancellor took it, read it, and then

called his stenographer to him and dictated something that I could not hear. Senator Hudspeth and Mr. Northrop then continued the argument for the defendant and decision was reserved for the purpose of the defendant furnishing the complainants' solicitors with a brief upon the subject of misjoinder. This brief has not yet been handed to me.

ELMER W. DEMAREST.

Sworn to and subscribed before me this fifteenth day of June, 1904.

FRANK P. MCDERMOTT,
Special Master in Chancery.

State of New Jersey, county of Hudson, *ss.*—George E. Griswold, being duly sworn, according to law, on his oath deposes and says: I am a clerk employed by the firm of Roberson & Demarest, counselors-at-law, and on the twenty-sixth day of May, A. D. 1904, at about 9:30 o'clock in the forenoon, I was given and instructed to serve, by Elmer W. Demarest, a Chancery subpœna, directed to August Seastream and requiring Seastream's attendance at Chancery Chambers in Jersey City, on the same morning, and to bring said Seastream with me before Vice Chancellor Pitney as soon as I could serve him. I was advised that Seastream was a deck hand on one of the boats of the ferry from the foot of Exchange Place, Jersey City, known as the "Brooklyn Annex," said ferry being either owned or managed by the Pennsylvania railroad.

I immediately made inquiries for Seastream from both the ticket-seller and ticket-taker at the ferry in Jersey City, and also from two other employes, all of whom denied all knowledge of Seastream, one employe, however, referred me to the office of the superintendent of the Pennsylvania ferries. The man in charge of the office told me that Seastream was an ash man on the Annex boats and could be found on the dock or on one of the

boats, and that if inquiry were made for "Husky" the employes would know that Seastream was the man wanted.

I then returned to the Annex ferry slip, and after being told by at least two employes that they knew no such man as "Husky" or Seastream, at last secured the information from another employe that Seastream was on board of one of the boats but he did not know which one.

I, after waiting the arrival of two boats and making inquiry of employes on each boat after it was tied up in slip, was told that Seastream was on the next boat due, but if he was I was unable to find him. I then paid my fare and went aboard the next three boats that arrived and made inquiries of employes on each, all of whom denied that Seastream was on board or that they knew where he was. After inquiring on the last boat deponent visited, I came ashore and asked a man, who drove a loaded ash cart off the boat, if Seastream was aboard the boat. The answer was unintelligible, but was accompanied by a shake of the head. Some ten minutes later the same driver returned to the ferry house with the empty cart and I again asked him the whereabouts of Seastream and was told that Seastream was through work and had gone home; further, that he (the driver) had previously told me that Seastream was on the boat; further, that Seastream went to work at an early hour and got through early and had gone home for the day.

Previous to the inquiry made to driver of ash cart, I had been aboard the same boat and made inquiries from three employes, one of which was in the engineer's room, and all denied all knowledge of Seastream's whereabouts.

I then went to Seastream's house at Bayonne, arriving there about 12:30 o'clock (noon) and was informed by Seastream's wife that he was not at home and that she did not know when he would be. She was very reticent and would give no definite information.

GEORGE E. GRISWOLD.

Sworn to and subscribed before me this fourteenth day of June, A. D. 1904.

CHARLES J. ROE,
Master in Chancery of New Jersey.

ORDER FOR INJUNCTION.

[Filed July 13, 1904.]

This matter being opened to the court by Roberson & Demarest, of counsel with complainants, and, upon reading the bill of complaint filed in this cause, together with the affidavits thereto annexed, and the affidavits taken by said complainants and defendant by virtue of an order to show cause, made in this cause on the seventh day of May, nineteen hundred and four, and upon hearing thereon by said counsel of complainant and Messrs. Northrop & Griffiths, Robert S. Hudspeth and Peter Bentley, of counsel with defendant:

It is, on this eighth day of July, nineteen hundred and four, ordered that, pending this suit, and until the further order of this court, the said defendant, New Jersey Exhibition Company, a body corporate of the State of New Jersey, its officers and agents, be and they are hereby restrained and enjoined from conducting, playing or permitting to be conducted or played, any games of baseball on the day of the week commonly known as Sunday, on its grounds on the easterly side of the Hudson County Public Road, between West Forty-sixth street and West Forty-ninth street, in the city of Bayonne, in this State, more particularly described in the bill of complaint in this cause, pending suit in the above-entitled cause, and until the further order of this court.

W. J. MAGIE,
Chancellor.

Respectfully advised,
H. C. PITNEY,
Vice Chancellor.

ORDER DISCHARGING ORDER.

[Filed July 19, 1904.]

The order to show cause, made on the twenty-first day of June, nineteen hundred and four, being returned in court, and testimony of the various parties having been considered, and it appearing to the court that Peter Bentley has not been guilty of any contempt of the Court of Chancery in the premises, it is, on this eighteenth day of July, nineteen hundred and four, on motion of Warren Dixon, of counsel with the said Peter Bentley, in which said motion Frank P. McDermott, Esq., the solicitor appointed by the court, has joined:

Ordered that the said Peter Bentley be, and he hereby is, discharged from the operation of said order to show cause, and that the said order to show cause be, and it hereby is, discharged as to the said Peter Bentley.

W. J. MAGIE,
Chancellor.

Respectfully advised,

H. C. PITNEY,
Vice Chancellor.

I, Frank P. McDermott, the solicitor appointed by the court in the matter of the alleged contempt of said court by various parties, do hereby recommend the making and entry of the above order.

FRANK P. MCDERMOTT,
Solr. appointed by Court.

Dated July 12th, 1904.

TESTIMONY.

Transcript of shorthand notes taken in the above-entitled cause, under an order to show cause why Peter Bentley, Howard C. Griffiths, William J. Davis, August Seastream and Captain Benjamin T. Haagenson should not be committed for contempt of court.

Appearances—Frank P. McDermott, representing the court; Allan L. McDermott, representing Mr. Griffiths Mr. Davis and Captain Benjamin T. Haagenson; James Benny, representing August Seastream; Warren Dixon, representing Peter Bentley.

Mr. Frank P. McDermott—In the case of August Seastream et al., complainants, against the New Jersey Exhibition Company, defendant, affidavits were filed before your Honor in the original cause by August Seastream. One affidavit was made on the 6th day of May, 1904, another made by Mr. Seastream on the 12th day of May, 1904; one made by Mungo J. Currie on the 25th day of May, 1904, and one by George E. Griswold on the 25th day of May, 1904. In addition to that, affidavits were made by Mr. Seastream and his wife before Judge Blair, and sworn to before Judge Blair, on the 14th day of June, 1904, and an affidavit is also presented—an affidavit made by Elmer W. Demarest, sworn to before me, I believe, on the 15th day of June, 1904, and an affidavit made by George E. Griswold, sworn to before Charles J. Roe, on the 14th day of June, 1904.

On the presentation of these affidavits an order was advised by your Honor on the 21st day of June, 1904, and signed by Chancellor Magie, ordering that certain parties therein named, August Seastream, Peter Bentley, Howard C. Griffiths, William Davis and Captain Haagenson show cause before this court, in the Chancery Chambers, in the city of Jersey City, on this 5th day of July,

at the hour of ten o'clock in the forenoon, why they, or someone of them, should not be adjudged guilty of contempt of this court in attempting to improperly influence the due administration of justice; and there was a further order made, served on the same parties, within ten days of that date. I have now the affidavits of Joseph S. Conover and Robert S. Armstrong, showing the service of the affidavits and order to show cause on Mr. Bentley, on Mr. August Seastream, on Captain Benjamin T. Haagenson, believed to be the same man, on William Davis and on Howard C. Griffiths, within the time mentioned in the order.

The Court—Were those services personal?

Mr. Frank P. McDermott—The services were personal, yes, sir; personal service. And I now file these—ask to file the affidavits of service and ask your Honor to take the matter up.

The Court—I have been specially requested by the Chancellor, who appointed Mr. McDermott special counsel in the case, to hear this matter. Are the defendants, parties charged here, present? I will call them. August Seastream.

Mr. Benny—He is here. I represent Mr. Seastream.

The Court—Mr. Seastream appears by James Benny. Peter Bentley is here; I see him. Is Howard C. Griffiths here?

Mr. Griffiths—I am here, sir.

The Court—Is William Davis here?

Mr. Allan L. McDermott—He is here, or hereabouts; he will be here.

The Court—Is Captain Haagenson here? Are those gentlemen, any of them, represented by counsel? Mr. Seastream is represented by counsel. Is Mr. Griffiths represented by counsel, or does he appear for himself? I don't hear any answer. If you will speak so I can hear you.

Mr. Allan L. McDermott—I represent Mr. Griffiths and Mr. Davis.

The Court—Who represents Captain Haagenson here?

Mr. Allan L. McDermott—I represent him, too.

The Court—The parties are all represented. What is your motion? The Court will take it up. I will hear what those gentlemen have to say why the order should not be enforced.

Mr. Allan L. McDermott—May it please the Court. We desire to raise the question of the jurisdiction of your Honor to sit in this cause. I understand that your Honor is to sit and adjudicate——

The Court—It has been referred personally to me by the Chancellor.

Mr. Allan L. McDermott—Our objection is that the rule to show cause——

The Court—Besides, I am sitting here to-day under the rule of the court for the Chancellor. It is one of the motion days of the court, and I am sitting here for the Chancellor; he is engaged in the Court of Errors and Appeals in Trenton.

Mr. Allan L. McDermott—It is our view, tenable or otherwise, that where a rule to show cause why parties should not be punished for contempt of the Court of Chancery has been taken, the Chancellor must sit himself, personally; at the only contempt case in which your Honor, or any other Vice Chancellor, may sit, is the one mentioned in the statute, and we desire to have the benefit of an exception to the jurisdiction now being undertaken by your Honor in hearing the cause.

The Court—I will hear you, sir. Have you anything further to say?

Mr. Allan L. McDermott—Nothing further than that the contempt, if contempt at all, is a contempt of the Court of Chancery, of the Chancellor, the constitutional power that holds the Court of Chancery, and that in the absence of statutory power the power of the Court of Chancery cannot be delegated to a Vice Chancellor to hear a case of contempt of the court. It must be heard by the Chancellor.

The Court—I overrule the objection. It may be well taken, for what I know. What further have any of the defendants to say? I understand this exception is taken on behalf of the three persons that Mr. McDermott appears for.

Mr. Dixon—I appear for Mr. Bentley. To the exceptions I also desire to add this objection, that, so far as he is concerned, there is no affidavit or proceeding, or complaint against him, charging him with any misconduct of any kind which tends to defeat or ——

The Court—I understand you to say you take the objection that there is nothing on the files that implicates Mr. Bentley?

Mr. Dixon—Yes, sir; either in affidavits or any complaint to show that he ——

The Court—You are content then to rest the case on the affidavits, as they appear.

Mr. Dixon—No, I am not content to rest at all; I make that point.

The Court—That point is overruled. Has Mr. Benny got any point to make?

Mr. Benny—I haven't got any legal point to make. Mr. Seastream tells me the facts, as related by him before Judge Blair, are the truth.

The Court—All right.

Mr. Allan L. McDermott—We should like the benefit of the point made by Mr. Dixon also for our client.

The Court—Is there anything else you wish to say or offer?

Mr. Allan L. McDermott—Nothing.

The Court—Nothing else on behalf of any of the defendants you wish to say or offer. I understand then the case is submitted on the papers; is that right?

Mr. Dixon—We desire, if your Honor please, to deny, and do now deny, all contempt of this court formerly as far as Mr. Bentley is concerned, especially we deny it, we deny it under oath, or any other way that your Honor desires.

The Court—The parties charged—I used the word "defendant" unconsciously—are represented by counsel, and counsel must present their case as they shall be advised. I have called on them to know what they have to say under the order to show cause which has been served upon them, and if they have anything to say, or anything to offer, the court is ready to hear it.

Mr. Dixon—We also desire the privilege—Mr. Bentley desires the privilege of having the testimony, or charge, against him produced and privilege of cross-examining anybody who makes a charge against him which tends to impede or interfere with justice. I understand subpœnaes were issued by the gentleman who was appointed solicitor by the Chancellor, who called before your Honor witnesses who made affidavits in the original cause—some cause—and Mr. Bentley and I presume the other defendants insist that they have a right to cross-examine them.

The Court—The defendants are called upon to make their case on the affidavits. The special counsel does not seem to have—appears to have submitted the case on the affidavit. If you wish, any defendant, to ask the privilege of cross-examination I will hear them, any of the parties charged, as to cross-examining the affiance, I will hear that application.

Mr. Frank P. McDermott—I have subpœnaed, in order to meet any question of this kind, all the parties whose affidavits have been submitted to your Honor.

The Court—I suppose they are here in court.

Mr. Frank P. McDermott—I suppose so.

The Court—If their names are called, and either of the parties charged wish the privilege of cross-examination, I will hear their application, but not until it is made formerly.

Mr. Frank P. McDermott—I assume that these witnesses are all here; some of them I don't know.

The Court—It wasn't your business to get them here.

Mr. Frank P. McDermott—I didn't bring them here.

The Court—You have taken proper means to perform your whole duty to both sides, apparently.

Mr. Allan L. McDermott—We will cross-examine August Seastream, if he is present.

August Seastream, sworn.

Cross-examination.

By Mr. Allan L. McDermott.

Q. You testified before ——

The Court—Never mind what he testified before; you can't repeat it to him; I rule that at once. You can ask him any questions; that is my practice, invariably.

Mr. Allan L. McDermott—I don't understand your Honor's ruling.

The Court—My practice is never to repeat to any witness what another witness or himself has sworn to.

Mr. Allan L. McDermott—I don't intend to.

The Court—You did say he testified to something; I stopped it.

Mr. Allan L. McDermott—I beg leave to finish the question.

The Court—All right, sir.

Q. You testified before Judge Blair?

The Court—You were sworn before Judge Blair? If you had said that it would be all right.

Mr. Allan L. McDermott—I want that he testified.

The Court—You say—you were sworn before Judge Blair, weren't you?

A. Yes, sir.

Q. Was your testimony written out for you?

A. Yes, sir.

Q. By whom?

A. Mr. Currie.

Q. Was it written out before you went to the court house?

A. I don't think.

Q. Where did you testify before Judge Blair, at his office, or at the court house?

A. Yes, sir; at the court house.
By the Court.
Q. Who was with you when you testified—that is, what you want to know?
Mr. Allan L. McDermott—No, I don't.
A. Mr. Holman.
Q. Did you testify at the court house, or in Judge Blair's office?
A. Well, I don't know what it is, but a little room inside the court room.
Q. Is the stenographer here who took the testimony?
A. Little room.
Q. Was it in this building?
A. No, sir.
Q. Where?
A. Down below.
Q. Was your testimony written out for you?
A. Yes, sir.
Q. Before you swore to it?
A. Well, I don't understand that, sir.
The Court—He says he don't understand.
Mr. Allan L. McDermott—It is quite evident from the testimony as it reads on the transcript, that this witness never, in my judgment, used the grammatical expressions there.
The Court—You may make all those allegations. Judge Blair happens to be in the room, or was a minute ago; I see him now.
Q. Who did you talk to before you went there to give your testimony?
A. Nobody, sir.
Q. Nobody at all?
A. No, except Mr. Holman.
By the Court.
Q. Your lawyer?
A. Yes, sir.
By the Court.

Q. Is Mr. Holman here; is he in the room; I don't know the gentleman?

A. No, sir; he isn't here.

By the Court.

Q. Where does Mr. Holman live?

A. In Bayonne.

By the Court.

Q. Near you, eh?

A. Yes, sir; Avenue C.

Q. What does the word "immediately" mean; can you answer?

A. No, sir; I can't.

Q. Do you know?

A. No, sir.

Q. What does the word "error" mean, do you know?

A. No, sir.

Q. What does the word "adjoins" mean, do you know?

A. Adjoins—no, sir.

Q. What is that?

A. No, sir.

Q. What does the word "waived" mean, do you know?

A. Waived—that is cloth and something; "waived" means wave cloth and something.

Q. Wave clothing or something?

A. Yes, sir.

The Court—The original paper, Mr. McDermott, which purports to be the witness' evidence, is here before me, in my hands; you can look at it.

Mr. Allan L. McDermott—The original paper?

The Court—Yes, the original paper.

Mr. Allan L. McDermott—That is the original of this printed matter that was served?

The Court—Yes, you better look at it.

Mr. Allan L. McDermott—I am asking the witness whether he knows the meanings of the words there are in it.

The Court—I understand; that's all right, but it is

better for you to look at the paper, as you haven't seen it, probably.

Mr. Allan L. McDermott—If we have not been served with what was taken——

The Court—Manifestly taken down stenographically, and then written out afterwards and signed by the witness.

Mr. Allan L. McDermott—That is my proposition; your Honor can see the line of my testimony.

The Court—I understand, the witness is a foreigner.

Mr. Allan L. McDermott—The word is here, but he says he don't know the meaning of it.

A. Yes, I know what "waive" is in that case, that is wave of the hands.

Q. You know what "waive" means?

A. Yes, sir; waving of the hand.

Q. What does the word "suggestion" mean, do you know—did you ever use the word in your life?

A. Well, I have heard it; yes, sir.

Q. What does it mean?

A. It mean want something to be done, or suppose something.

Q. What is that?

A. Suppose something.

Q. Did you ever use the word "suggestion" in writing, or speaking, did you?

(No answer.)

Q. You took an affidavit, subscribed to one in May last—you took an affidavit before Mr. Currie?

A. Yes, sir.

Q. Was that affidavit true?

A. Yes, sir.

Q. You took another affidavit later on; was that true?

A. I never seen that affidavit.

The Court—He says he never saw that affidavit.

Mr. Allan L. McDermott—Who has got the original?

The Court—The original is here. (The Court handing witness a paper.)

Q. There is where you signed your name?

A. Yes, sir.

By the Court.

Q. Here is the affidavit?

A. They never read it to me; I signed my name on a paper, but I don't know what stood in the paper.

Q. You don't know what was in the paper?

A. No, sir.

Q. That is your signature there, isn't it?

A. Yes, sir.

Q. Anybody say anything to you about what was in the paper?

A. No, sir.

Q. Not a word?

A. No.

Q. Just asked you to sign it?

A. Yes, sir; said if I signed that paper the first one would be no good.

Q. Did they tell you what was in it?

A. No.

Q. How did they tell you it would be no good?

A. It always went by the last one in court.

Q. Oh, it always went by the last one in court?

A. Yes, sir.

Q. What did you think was in it when you signed it?

A. Well, I don't know.

Q. You didn't think it was a butcher's bill, did you?

A. Well, I don't suppose I thought it was a butcher bill, but I signed it because I was told to sign that and it would be all right.

Q. What would be all right?

A. Because if I didn't sign that I would lose my job.

Q. You have been testifying about losing your job right along; when you signed the first affidavit you asked them whether you would lose your job, didn't you?

A. Yes, sir.

Q. Why did you ask that?

A. If it made any difference.

Q. Why did you ask whether you would lose your job when you signed the first affidavit; had anybody said anything about losing your job then?

The Court—One moment; with regard to this witness and all others, especially this witness, the witness must have time to answer; he is evidently illiterate and unaccustomed to the use of our language and must have a fair chance. Now, he asked you how you come to say when you signed the first affidavit that you might lose your job. Just put your mind back and answer that question.

A. I signed—I signed that because I know that—I thought, rather, that Captain Carroll and Robert Davis is my good friends.

By the Court.

Q. No, no; when you signed the first affidavit, down at your house, wasn't it?

A. Yes, sir.

By the Court.

Q. What made you say you thought that maybe you might lose your job?

A. I said I supposed—I say perhaps I will lose my job.

By the Court.

Q. What is your job?

A. I am deck hand.

Q. On what?

A. On the Annex boats.

By the Court.

Q. What made you think this might make you lose your job, making that first affidavit?

A. Well, I merely spoke of that to the gentlemen and just—I say "I don't suppose it will do any different to my job;" I wouldn't lose it, that is what I said.

By the Court.

Q. You didn't suppose it would make any difference?

A. Yes.

Q. Did anybody speak about your job before you spoke about it?

The Court—Fix the time, fix the time; you mean at the time he first took an affidavit?

Mr. Allan L. McDermott—At the time he signed the first affidavit before Mr. Currie.

The Court—Had anybody spoke about your losing your job?

Q. Before you spoke of it?

A. No, sir; nobody did.

Q. Anybody speak about your being employed on the ferry?

The Court—At that time?

A. No, sir; not at that time.

Q. Then, why did you speak about it?

A. I happened to say it, that is all; I happened to say it.

By the Court.

Q. Speak up; don't be afraid, I will take care of you; you know that the ferry company carried a great many passengers to go down to this ball game; didn't you?

A. Yes, sir.

The Court—Then why didn't you say so. We all know it.

Q. What ferry company carried a great many passengers?

A. Well, the Pennsylvania.

Q. You are working on the Brooklyn Annex, weren't you—deck hand—sweeping the deck?

A. No.

Q. What were you?

A. I was down below, shoveling ashes.

Q. On the Brooklyn Annex?

A. Yes, sir.

Q. Not on the New York ferry?

A. No, not now; I have been there before.

Q. Do they bring many on the Brooklyn Annex to the ball game?

A. Oh, yes; sometimes, I suppose.

Q. Did you ever see anybody go there?

A. I don't know, because I am not up on top.

Q. Did you ever see anybody going across——

The Court—He says he isn't up on the top.

Q. I know; did you ever see anybody come across the Pennsylvania ferry and go down to Bayonne to a ball game?

A. I don't, sir, because I don't make a practice of going up on deck.

Q. You say they brought a great many people; what did you mean—to the ball game?

A. Certainly; all, every ferry, they all come, that belongs, all ferries belongs to the same company.

Q. You mean they come over from New York here and then go down to Bayonne to a ball game?

A. Yes, sir; a good many goes.

Q. Eh?

A. Yes, sir; a good many goes.

Q. How do you know?

A. Well, I have seen them leave the boat and going on the Bayonne cars.

Q. Were you home during the two Sundays before you took the first affidavit?

A. Part of it.

Q. Well, what part of it?

A. I was—I went out after half-past four.

The Court—What object is that?

Mr. Allan L. McDermott—In one affidavit he says he was home, and in the other he says he was not.

Q. Do you remember the Sunday that the Rochester club played there?

A. I don't know the name of the clubs; I don't know a bit about it; I don't know one from the other.

Q. Well, the Sundays before you took your affidavit?

A. I don't know the name of any clubs; that is a thing I don't know; I am not interested in it.

Q. What is that?

A. I am not interested in it.

Q. Didn't you see the ball game from your window?

A. I see a few minutes of it, that is all.

Q. Wasn't Captain Brown and his sister-in-law and son there with you all day?

A. Captain?

Q. Yes.

A. No, sir; no Captain Brown.

Q. Well, Mr. Brown?

A. No, sir; he was there part of it—he was there an hour.

Q. Wasn't he there all day, while the game was going on?

A. No, sir; he was there until quarter after four.

Q. Weren't you there during the whole time the game was going on?

A. No, sir; I was not.

Q. Where were you?

A. I was out for a walk.

Q. When this ground was put in condition there for a ball ground did you see Mr. Robert Davis about it?

A. No, sir.

Q. About the fence?

The Court—I don't see the point of that. The counsel for the Court don't seem to take objection, but I don't want—I haven't time.

Mr. Frank P. McDermott—I do object to that.

The Court—Mr. Benny is really looking after the interests of this witness, but you are looking after the interest of the Court.

Mr. Benny—I had felt that in a matter of this kind in contempt proceedings——

The Court—You have a right to protect your client.

Mr. Benny—I ought not to appear to be objecting to any question of that kind.

The Court—No; I suppose the counsel for the Court feels that way, but I don't feel like wasting time going outside the issue.

Mr. Allan L. McDermott—Let me suggest how it might be within the issue. Prior to making any com-

plaint this witness had a talk with Mr. Robert Davis about the location of these grounds and the adjustment of the fence in connection with his residence, and an arrangement was made as to the way in which the ground should be located and the fence adjusted as to his residence; a meeting was held between Mr. Davis and this witness in his house, and he then said to him that he hadn't any objection whatever to the games, and would put nothing in the way of their playing there; he was satisfied with the arrangements that were made. It seems to me, in view of his two affidavits, that that is competent testimony.

The Court—I don't see it, Mr. McDermott.

Mr. Frank P. McDermott—I renew my objection.

The Court—I am not here to assist you in getting evidence to be used on the final hearing of the case of Seastream and others against the New Jersey Exhibition Company. I am here simply to know whether any abuse or improper conduct has been indulged in by anybody which would be a contempt of this court. The witness has made two distinctly different affidavits, or appears to have done so, signed two papers; he has then signed a third, which he says is true. Now, the question is how he came to sign all those three papers and how they come to be so contradictory in their character. The fact that he, beforehand, admitted something to Mr. Robert Davis, who is not a party to this transaction in any way that I know of, unless it is that he is in some way interested in the defendant company, I cannot see that it affects that question in the least.

Mr. Allan L. McDermott—It seems to me the question is which affidavit is true, and one affidavit says this was a nuisance to him, the other says it was not a nuisance to him; we shall go on in that line of defence.

The Court—That is just the reason why I am unwilling to go into that question.

Mr. Allan L. McDermott—We must necessarily go into which one is true in this case.

The Court—No, not necessarily, at the present, at least.

Mr. Dixon—May I make an inquiry on behalf of Mr. Bentley?

The Court—Yes.

Mr. Dixon—I have been unable to fathom the charge against him; there is no charge in any affidavit.

The Court—If you want to submit your case on the affidavit——

Mr. Dixon—I want to be informed, if I can be informed now, and I think this is a pertinent point, as to whether I can get the information whether or not he is charged, or what the charge is.

The Court—Not at present. Mr. McDermott is cross-examining him. You can have an opportunity of cross-examining him.

Mr. Dixon—My point is that he has a right to show by this affidavit that he took——

The Court—Mr. Bentley?

Mr. Dixon—Yes, sir.

The Court—When you come to cross-examining him, do so.

Mr. Dixon—Mr. McDermott is cross-examining for all of us.

Mr. Allan L. McDermott—I understand the question is overruled.

The Court—Yes; his statements made to Mr. Robert Davis are overruled.

Mr. Allan L. McDermott—His agreement that the park shall be maintained there.

The Court—When you come to prove it—when you offer evidence to prove it, I will consider it.

Mr. Allan L. McDermott—It is overruled?

The Court—At present, as a matter of cross-examination, it is not within the line of the matter in any way, either of the affidavits he has made, that I can see, in the line of the affidavits he has made.

Mr. Allan L. McDermott—One affidavit says he wants

the ball grounds there, to be short; the other says he wants it away. We want to show it was located there and its arrangement there by himself; that is the summary of the affidavit.

The Court—I don't see where it contradicts either affidavit, the evidence you offer at present; not at present, I don't.

Mr. Allan L. McDermott—It is overruled, then, I understand?

Q. Have you bowed to your wife since you have been on the witness-stand?

The Court—Done what?

Q. Bowed to your wife—nodded your head?

The Court—Is Mrs. Seastream here?

A. No.

The Court—Be still. Step forward, Mrs. Seastream, right here, I want to speak to you; come right here. Mrs. Seastream, now, you must make no motion or gesture to your husband at all, or look at him, while he is on the stand. I don't know whether you have done it or not; it is very natural, and many persons do it innocently. I call you here not because I feel that you have done anything wrong, or decide that you have done anything wrong, but to warn you against it, Madam, kindly. Do you understand me now? Never mind, I don't say you have or have not, but I now warn you in advance, and everybody else in the room, there will be no motioning or gesture, or nod of your head, or shake of your head, or wink of your eye. You must act just as if you did not see him—better not look at him. I say this all in kindness. Just take your seat. Go on.

Q. Who were present when you signed your name to the second paper?

A. What day?

Q. At Mr. Davis' office?

The Court—There were three papers.

Mr. Allan L. McDermott—What does your Honor

refer to as the third paper; the testimony before Judge Blair?

The Court—No, he signed another paper in the first place, to the knowledge of the Court. Perhaps you are not aware of it, signed a paper that was not sworn to; not any of these—these papers. The paper that you signed in Mr. Davis' office, who were present?

A. William Davis and Mr. Griffiths and Haagenson.

By the Court.

Q. Haagenson?

A. Yes, sir; Captain Haagenson.

By the Court.

Q. Was Mr Bentley there?

A. I didn't see him; no, sir; I didn't see him if he was there.

By the Court.

Q. This gentleman sitting there (indicating Mr. Bentley). Didn't you see him?

A. No, I was introduced to him by Mr. Griffiths in Exchange Place.

By the Court.

Q. Where was it that you signed this last paper when Captain Haagenson was with you?

A. 26 Mercer street.

By the Court.

Q. At Mr. Davis' office?

A. Yes, sir.

By the Court.

Q. Did Captain Haagenson go with you there?

A. Yes, sir.

Q. Well, now, did you have a conversation with Captain Haagenson before you went there?

The Court—He asks you if you had a talk with Captain Haagenson before you went to Davis' office?

A. Yes, sir.

Q. And you then went to Davis' office; what did you do there?

A. I signed a paper.

By the Court.

Q. How long were you there before you signed the paper?

A. Well, I think I was there in about the neighborhood of an hour.

Q. You were there an hour?

A. I think I was; I can't say for certain how long I was there, but I was quite a little time.

Q. Did you see Mr. Griffiths there?

A. Yes, sir.

Q. Where was he?

A. He came in there; he came there twenty minutes after I was there.

By the Court.

Q. Griffiths came there twenty minutes after you were there?

A. Well, I wouldn't say, but he come a little after.

Q. Well, what did he say?

A. He was in a little room, the hind room there, back room.

By the Court.

Q. Little back room?

A. Yes, sir.

Q. Two of you there?

A. No, three of us there.

Q. Who was the third?

A. Haagenson, Davis and me.

Q. Haagenson, Davis and you, that is three?

A. Yes, sir.

Q. Where was Mr. Griffiths—he would make four?

A. He came in there.

Q. Came in?

A. Yes, sir.

By the Court.

Q. From outdoors or this—did he come in from outdoors or from this back room?

A. No, sir; he came from the street into the office and into the back room.

Q. What did he say to you?

A. He said, "Why did you take out that—get that injunction."

Q. Who said that?

A. Griffiths.

Q. Griffiths said that?

A. Yes, sir.

Q. Are you sure about that?

A. Yes, sir.

Q. Eh?

A. Yes, I am sure.

Q. It wasn't Davis that said that, was it?

A. What?

Q. Did Davis say that or Griffiths?

A. Griffiths.

Q. Did Davis say it?

A. Davis said that; yes, sir.

Q. Davis said, "Why did you take out the injunction?"

A. No, Griffiths.

Q. Eh?

The Court—He asked you whether Davis said that.

A. No, Mr. Griffiths said it.

The Court—He asked you also whether Davis said it also.

Q. Was it Davis or Griffiths?

A. No, Mr. Griffiths.

Q. Davis didn't say it then, did he?

A. Well, both of them, perhaps, part of it.

Q. Oh, one said, "Why did you," and the other said, "take out that injunction;" is that it—what did Davis say to you when you got there?

A. When I came there he said—he stood in the window, and he came in and saw Mr.——

Q. Did he say anything to you?

A. Mr. Haagenson introduced me to Mr. Davis.

Q. Now, what did Mr. Davis say?

A. He said, "How do you do, Seastream?"

Q. Said, "How do you do?"
A. Yes, sir.
Q. You never met him before?
A. No, sir.
Q. What did he say to you next?
A. He said, Haagenson, he said, "I took Mr. Seastream up here, and he said he is going to sign a paper now."
Q. Who said that?
A. Haagenson.
Q. Did you tell the court that—Judge Blair; did you tell Judge Blair anything of that kind; well, how long were you there with Mr. Griffiths?
A. Well, I was there about fifteen minutes.
Q. What were you doing?
A. Or ten, perhaps; I signed my name.
Q. What was Mr. Griffiths doing while you were there?
A. He left that room and went out and wrote a paper.
Q. He wrote on a paper?
A. Yes, sir.
Q. Did you see him writing?
A. No, sir.
Q. Did you see the writing on the paper when you signed it?
A. Yes, sir.
Q. Did you ask what it was?
A. No, sir.
Q. What did you think it was?
A. Well, he told me for saying that it would be all right.
Q. Didn't he read it over to you, word after word, in the presence of Mr. Bentley?
A. No, sir.
Q. Didn't he tell you what it meant?
A. No, sir.
Q. What did you think it meant?

A. He said, if I would sign that the other would be no good.

By the Court.

Q. The other would be no good?

A. Yes, sir; they always went by the last.

Q. What was in the other?

A. The other was that I had objection.

Q. And did this mean that you didn't have objection?

A. What?

Q. Did this mean that you didn't have objection?

A. Which, the first or second?

Q. The second one?

A. I don't know, sir.

Q. What did you go there for?

A. I was compelled to go there.

Q. How were you compelled to go?

A. Mr. Haagenson.

Q. How did he compel you?

A. He told me if I didn't go there I would lose my job right away.

Q. What had he got to do with losing your job?

A. I don't, sir.

By the Court.

Q. Captain of the boat, isn't he?

A. He is captain of the boat.

Q. Is he captain of the boat that you are employed on?

A. All the boats belong to one concern.

Q. Isn't it his business to arrange the compasses of this company?

The Court—He is one of the bosses of the steamboat line.

A. He is captain; he is a pilot; yes, sir.

Q. Did he ever give you any orders?

A. Sir?

Q. Were you under his orders—did he employ you?

A. No, sir.

Q. What did he have to do with discharging you?

A. He said that Captain Carroll had told him so.

Q. Who is Captain Carroll?

A. He is the superintendent.

Q. Why didn't you go and see Captain Carroll?

The Court—He told you that Captain Carroll told him that you would be discharged if you didn't sign some paper?

A. Yes, sir.

Q. Why didn't you swear to that before the judge; that is the first time we have had any such statement in this case.

The Court—You will not make that statement, sir; you will not make that statement to the witness. I have not read the paper in some time, but I think that is exactly what he did say; you cannot make any such statement now to the witness. Go right on with your questions.

Mr. Allan L. McDermott—My recollection of the testimony——

The Court—You will not state the testimony, or make any such statement to the witness.

Mr. Allan L. McDermott—I am not making any statement.

The Court—You are making a statement, and I tell you you must not do it. Now, there is no use talking. Put your questions.

Q. Did anybody say anything to you about signing any paper while you were on the boat?

A. Yes, sir; Mr. Haagenson told me.

Q. He said something about signing a paper?

A. Yes, sir.

Q. Why didn't you testify to it before Judge Blair, that he spoke about signing a paper?

The Court—You cannot ask that question; I will not permit it.

Mr. Frank P. McDermott—I don't suppose he has a right to say what is in the affidavit.

The Court—No, the counsel shall not state to him what he has or has not testified to, either side, you or he either.

Now, you must observe that. It is *non constat* that he did not state it to Judge Blair.

Q. When did you first say that Captain Haagenson wanted you to sign any paper?

A. When did I first say?

By the Court.

Q. When did you first say to anybody that Captain Haagenson wanted you to sign any paper?

A. I said it to Judge Blair.

By the Court.

Q. You meant to say it to Judge Blair?

A. Yes, sir; I forgot it.

Q. After you went to Mr. Davis' office where did you sign the paper, in the back room or the front room?

A. I signed it in the office.

By the Court.

Q. Which one?

A. The front room, sir.

Q. Did you understand when you signed the paper that ended your connection with the case?

A. Yes, sir; that is what I thought.

Q. That is what you thought; when did you see Captain Haagenson next?

A. The 19th.

By the Court.

Q. The when?

A. The 19th.

Q. Did you go to him and thank him while he was standing by the pilot-house for getting you out of the trouble that you got in when you signed the first affidavit; didn't you thank him for taking you up to Mr. Davis' office?

A. No, sir; no, sir.

Q. The wheelsman, stand up (a gentleman stood up in the court room); do you know this man?

A. Yes, sir; I know him.

Q. Didn't you thank Captain Haagenson in his presence for what he had done for you in the matter?

A. No, sir; never; no, sir; I never have spoke to that man.

Q. What is that?

A. I never—I ain't spoke to that man for six years.

Q. I think he is wheelsman?

A. He is wheelsman for Captain Haagenson, in the same boat, on the same watch.

Q. Who did you go with when you left Mr. Davis' office?

A. I went with Mr. Haagenson to, so far as to Grove street.

Q. Now, in your testimony you recur to a meeting at Mr. Griffiths' office?

The Court—Never mind, get to Mr. Griffiths' office.

Mr. Allan L. McDermott—I shall not violate the suggestions of the court in anywise whatever.

Q. What occurred in Mr. Griffiths' office—who were there?

The Court—Afterwards were you at Mr. Griffiths' office, after this, at any time?

A. Yes, sir; I was there the 26th; yes, sir; the 26th.

Q. What is that?

A. The 26th.

Q. On the 26th?

A. Yes, sir.

Q. Was Mr. Bentley present in Mr. Davis' office?

A. Not what I know.

By the Court.

Q. He says he didn't see him?

A. I didn't see him.

The Court—He has stated that already.

Q. Do you think he was there?

A. I won't be positive.

Q. You don't know whether he was or not?

A. No, sir.

Q. Did you know Mr. Bentley?

A. Oh, yes, I think; I am not certain of it, but I think.

Q. When did you ever see him before you met him at Davis' office?

A. The only time I see him was the 26th, on Exchange Place, so far as I know.

Q. That was after you went to Davis' office?

A. Oh, yes.

Q. How long after Mr. Griffiths got there did Mr. Bentley arrive?

A. Where?

Q. At Davis' office?

A. Well, that is a thing I don't know, sir.

Q. Didn't you see him come in there?

A. No, sir.

Q. Didn't you sign the affidavit in his presence—didn't you sign your name while he was sitting there talking to you?

A. No, sir; not what I know.

By the Court.

Q. Not as he knows?

A. Not what I know.

Q. Didn't he speak to you there that day?

A. No, sir; not what I know; no, sir.

Q. Do you know him now, sitting here?

A. Oh, yes, I think; I am not sure, but I think that is the gentleman.

Q. Didn't he speak to you in Mr. Davis' office that day?

A. No, sir.

Q. What do you say?

A. No, sir.

Q. Oh, he didn't?

The Court—He has stated that several times, not as he knows of.

Q. Do you swear, positively——

The Court—Don't put that question. He swears to everything. I won't permit it put in my court by anybody. He swears to everything. I don't allow the question put.

Q. Did you sign the affidavit?

The Court—He says he signed a paper.

A. I signed a paper, sir.

Q. Did you swear to it?

A. No, sir.

Q. Did you say before Judge Blair that you didn't know whether you swore to it or not?

The Court—The paper will speak for itself before Judge Blair.

Mr. Allan L. McDermott—I am trying to refresh his memory a little bit.

Mr. Dixon—That is not the paper that the question refers to, your Honor.

Q. Did you swear before Judge Blair "I don't know whether I swore to it, or not?"

The Court—That is what he said substantially here now.

Q. Did you say in answer to a question by Judge Blair that "I don't know, I am sure I never did," in answer to another question as to whether you swore to it?

(The witness did not answer.)

Mr. Allan L. McDermott—It is diplomatic silence.

The Court—You have the benefit of all his declinations to answer.

Mr. Allan L. McDermott—I don't know whether he is declining to answer, or whether he don't comprehend. I do not want to either mislead or confuse the witness.

By the Court.

Q. Do you understand what he was asking you; now, he was asking you whether you were swearing so and so before Judge Blair, swearing before him first, whether you did not know whether you swore to the affidavit or not; and second, swearing there that you did not swear to it; do you recollect now what you did say before Judge Blair?

A. I never swore; no, sir.

Q. Did you swear to the first affidavit?

A. Yes, sir.

Q. That you remember?
A. Yes, sir.
Q. Was it true?
A. Yes, sir.
Q. Did you state your residence correctly?
A. Certainly; there was a mistake there.
Q. There was a mistake in it?
A. Mr. Currie misunderstood me.
Q. Mr. Currie misunderstood you?
A. Yes, sir.
Q. Did you read it over before you swore to it?
A. Mr. Currie's affidavit?
The Court—The Currie.
A. Yes, sir; Mr. Currie read it to me.
By the Court.
Q. Read it to you?
A. Yes, sir; in my wife's presence.
Q. Did you call his attention to the mistake in it?
A. No, sir.
By the Court.
Q. Did you tell him there was a mistake in it?
A. No, sir.
Q. Were you paying any attention to what you signed?
A. Well, I did so much I could.
Q. What do you mean by as much as you could; did you know what you were signing when you signed the first affidavit?
A. Oh, yes, sir.
Q. Did you know what you were signing when you signed the second paper?
A. No, sir.
Q. Didn't you tell Mr. Griffiths that the first paper was never read to you?
A. No, sir.
Q. Didn't you tell Mr. Griffiths that it was never read to you?
The Court—Did you tell Mr. Griffiths that the first

paper that you signed, before Currie, was not read to you—that you didn't know what was in it?

A. No, sir; I never say so.

Q. Now, let us get at your relations with Captain Haagenson; didn't the men on the boat make fun of you because you signed a protest against Sunday ball playing?

The Court—The men on the boat that you worked with.

Q. The men that you worked with?

The Court—The men that you worked with, didn't they make fun of you—jolly you, if you know what that means.

A. Oh, yes, sir.

Q. And did not Captain Haagenson interfere to protect you from their making fun of you?

A. No, sir.

Q. What?

A. No, sir.

The Court—I don't believe he understands the language you use. If you will permit me, you are a very old and respectable counsel and know how to take care of yourself, but I learned, when I was a good deal younger than you, to adapt my language to the witness and to lay aside the learning of the schools, and what may be called didactic language, and use the plain, common language of every day, and if counsel would do it more often witnesses would not make so many mistakes. Now, you are using language to this witness that I do not believe he comprehends at all; you are doing it all the time; if you will bring yourself down to every-day language we will get along more rapidly.

Mr. Allan L. McDermott—He understands me, I think.

The Court—No, he doesn't, and it all has effect on my mind. I want the witnesses to understand the questions you put; I know he doesn't, and it isn't worth while for you to try and make me believe he does.

Mr. Allan L. McDermott—With the assistance of the court I think he will.

The Court—I don't want to assist him.

Q. I asked him if they made fun of him?

The Court—That is a fair question. Did the other men on the boat make fun of you?

A. No, sir.

By the Court.

Q. Did they?

A. They spoke a little about it.

Mr. Allan L. McDermott—The witness don't seem willing to answer me.

The Court—I think he does, Mr. McDermott.

Q. Answer my questions occasionally anyway; didn't Captain Haagenson stop the men from making fun of you?

A. No, sir.

Q. And didn't he ask you whether you had signed against Sunday baseball?

A. No, sir; not there.

By the Court.

Q. No, but did he at any time?

A. Yes, sir; oh, yes.

Q. Did you tell him you had not signed against Sunday baseball?

A. No, sir.

Q. Where did he speak to you about it; where were you?

The Court—Where were you?

A. He called me over on the York street pier.

By the Court.

Q. Where is the York street pier; Brooklyn?

A. No, sir; the York street pier, just the foot of York street.

By the Court.

Q. Oh, here; right here?

A. Yes, sir.

Q. Well, go on.

The Court—He says he called him over on the York street pier. Was it on the York street pier that he spoke to you?

A. Yes, sir.

Q. Didn't he first speak to you on the boat?

A. No, sir; I was in kind of a box; there is a little box there to watch the gate.

By the Court.

Q. You were in there?

A. Yes, sir; I was in there.

By the Court.

Q. The gate-house, watch-box, I suppose is a proper name?

A. Yes, sir; watch-box.

Q. How long did you talk to Captain Haagenson?

The Court—On that occasion, how long did you talk together?

Q. How long—five minutes, ten minutes, one minute?

A. About two minutes.

Q. About two minutes?

A. Yes, sir.

Q. Then what—after that talk, what did you do?

A. I went on the "Annex 5"—no, "Annex 4," and when I commenced my work he come down after me there.

By the Court.

Q. When you commenced your work?

A. Yes, sir; and he was tantalizing me all the time, right over to Brooklyn.

By the Court.

Q. Who was that?

A. Captain Haagenson.

Q. What do you mean by "tantalizing?"

A. He was telling me I had to go with him and sign the paper.

Q. Was that on the boat?

A. Yes, sir; down below.

Q. Down below?

A. Yes.
Q. Then, when did you go with him?
A. Five minutes after twelve.
Q. On the day that he first spoke to you?
A. Yes, sir.
Q. Where did he say you were to go?
A. He said he would go up to Davis' office.
Q. Did you make any objection?
A. Yes, sir.
Q. What objection did you make?
A. I told him I wanted to go home and see my wife first.
Q. Well, what else?
A. He told me I couldn't do it; I had to go with him right now or I would lose my job the next day.
Q. What did you understand that he had to do with your job?
A. He is an officer.
Q. Who employs you—who employed you?
A. Mr. Blumsbock employed me once.
Q. On another boat?
A. No; Mr. Blumsbock is dead; that is about ten years ago, or nine years ago I was employed there.
Q. What was his business?
A. He was superintendent.
Q. Superintendent employs you, not the captain—Captain Haagenson had nothing——
A. No, Captain Carroll is the superintendent at the present time.
Q. Captain Carroll didn't say anything to you, did he?
A. No, sir.
By the Court.
Q. Did go see Captain Carroll?
A. No, sir.
Q. Are you on Haagenson's boat at all?
The Court—Do you go on the boat that Captain Haagenson runs?

A. Sometimes, when I go over to New York and so on, I go on the boat.

By the Court.

Q. No, no; is he captain of the boat that you work on?

A. No, sir.

Q. Why didn't you go see Captain Carroll; you had some doubt about your position when you signed the affidavit; you thought you might lose your position when Mr. Currie was at your house?

A. Yes, sir.

Q. You thought you might lose your position when Captain Haagenson spoke to you?

A. Yes, sir.

Q. Now, why didn't you go see the superintendent?

A. I thought it was all right what he said, because he is an officer.

Q. What is an officer?

A. Captain Haagenson.

Q. He is not on your boat?

A. No, sir.

Q. You have been employed there ten years?

A. Yes, sir.

The Court—You may spend time on that just as much as you choose, but it is a waste—just that part is a waste of time—in my judgment.

Mr. Allan L. McDermott—If your Honor will allow me to waste it to the extent of two more questions, I would like it on the record.

Q. Did Captain Haagenson ever discharge anybody on any boat that you were ever on?

A. That is a thing I can't tell you, sir.

Q. Don't the superintendent employ and discharge?

A. Yes, sir.

Q. Nobody else?

A. Well, I don't know, sir—I don't know that.

Recess.

Mr. Dixon—May I ask the witness one question?

The Court—Yes, if it don't cover the same ground, that is all—unless you deem it necessary.

Cross-examination.

By Mr. Dixon.

Q. Is your memory as to who were present in Mr. Davis' office——

The Court—Who was there?

Q. Who was there in Mr. Davis' office, during the time that you were there, as good to-day as it was when you made your statement before Judge Blair?

The Court—I don't think the witness understands the question, but still he may understand it.

Mr. Dixon—If your Honor thinks it is complicated I would ask your Honor to ask it for me to elicit that information?

The Court—No, go on.

Q. Do you understand that question?

A. If I remember so good to-day as I did that day when I was in the office?

The Court—In Judge Blair's office?

Q. Do you remember to-day so good as you did remember when you were telling Judge Blair who were present in Mr. Davis' office, who were there in Mr. Davis' office; do you understand that question?

A. I guess so.

Q. What is it I want you to answer; now tell me?

A. You want me to answer if I remember that so good to-day as I did when I was in Judge Blair's office?

The Court—That is the question.

Q. That is what I want; do you remember as well to-day as you did then?

A. Yes, sir.

Q. Eh?

A. Yes, sir.

Q. Do you remember any better?

A. No, sir?

Q. No better?
A. No, sir.
Q. Just the same, eh?
A. Yes, sir.
The Court—Any other questions of this witness. Mr. Benny, have you anything?
Mr. Benny—I haven't anything.
The Court—Have you anything, any questions?
Mr. Frank P. McDermott—I would like to see if these gentlemen are all through, first.
The Court—Well, I suppose they are.
Mr. Benny—One question I would like to ask him, I think.

Examined by Mr. Benny.
Q. Mr. Seastream, when you testified before Judge Blair, who were in the room where the testimony was taken?
A. Yes, sir.
By the Court.
Q. Who were there; who were in Judge Blair's room?
A. There was that man, that gentleman that come through the door, Mr. Holman, and Judge Blair and me.
By the Court.
Q. Your wife, was your wife in the room?
A. No, sir.
By the Court.
Q. Mr. Holman was there?
A. Yes, sir.
By the Court.
Q. But not your wife?
A. No, sir.

Examined by the Court.
Q. Did you have anything to drink up at Mr. Davis' office?
A. Yes, sir.
Q. What did you have to drink?

A. Brandy.
Q. Brandy?
A. Yes, sir.
Q. Who gave it to you?
A. William Davis.
Q. How come he to give you brandy?
A. During that time when Mr. Griffiths, he wrote out this here paper.
Q. While he was writing it?
A. Yes, sir; and he persuaded me to take it.
Q. Who, Mr. Davis?
A. Yes, sir.
Q. You did take some?
A. Yes, sir; I took two glasses.
Q. Two glasses of brandy?
A. Yes, sir.
Q. Did you ask for it?
A. No, sir.
Q. Mr. Davis asked you to take it?
A. He asked me times over again before I took it.
Q. He asked you times over again before you took it?
A. Yes, sir, for there was only me, Davis and Haagenson, that is three.
Q. Did Haagenson drink any brandy?
A. Yes, he had two, but not Davis.
Q. Not Davis?
A. No, sir.

Examined by Mr. Frank P. McDermott.
Q. I understood you to say that——
The Court—Don't put that that way.
Mr. Frank P. McDermott—I withdraw the question.
Q. Did you, on this occasion, when you were before Judge Blair, and some one took the testimony down, did you sign the testimony that day or on another day?
A. I signed it another day.
Q. And where did you go when you signed the testimony on another day?

A. Down in Judge Blair's office.
Q. In this building?
A. Yes, sir.
Q. Did your wife go with you at that time?
A. Yes, sir; well, excuse me, sir.
Q. All right?
A. I went there, and my wife she come a few minutes after me.
Q. Was Judge Blair present at his office at that time?
A. Yes, sir.
Q. And did he or not read the testimony to you at that time?
The Court—Read it over again.
A. No, sir; not that time.
Mr. Allan L. McDermott—What is that?
A. No, sir.
Q. Not that time?
A. No, sir.
Q. When was it read to you?
A. When it was taken.
Q. Did your wife come to Judge Blair's office that day while you were there?
A. I met her in the hall.
Q. You mean when you were going away or when you were coming?
A. When I was going down.
Q. When was it?
A. When I went out.
Q. When you started?
A. No, I had been up there, and I came down in the hall, and I met my wife coming in.
Q. Did you go back with her, upstairs?
A. No, sir, I couldn't; I had to go to work then.
Q. One minute; then you were not in the office of Judge Blair with your wife, at Judge Blair's, when you signed the affidavit, but before, when it was taken down, when the gentleman wrote it down some time before?
A. Yes, sir.

Q. Was your wife there then?

A. No, sir.

Q. Where was she?

A. She was here in this building.

Q. She was in the building?

A. Yes, sir.

Q. But not in the room?

A. I wasn't there at that time, sir.

Q. When you first went to Judge Blair with Mr. Holman?

A. Yes, it was in the court house.

Q. That is it; that was up at the court house?

A. Yes, sir.

Q. And was your wife, did she go up with you then?

A. No, sir.

Q. Did she come there afterwards, or when did she come there?

A. She went here, I think, the following day.

Q. But she wasn't there when your testimony was being written down by this gentleman that you have spoken of?

A. No, sir.

Examined by Mr. Frank P. McDermott.

Q. Were you there on this first time; were you and your wife together before Judge Blair, or were you there separately?

A. Separately; yes, sir.

Examined by the Court.

Q. Nobody with you but Mr. Holman?

A. No, sir; he was with me and my wife; he was with both of us at different times.

Q. Did you see Mr. Demarest or Mr. Speer or any of those men between time, between the time you made your first affidavit and the time you went before Judge Blair?

A. The only person I see was Mr. Currie, that gentle-

man over there (indicating); I see him outside the court house on the sidewalk.

Q. Before you went in?

A. Yes, sir.

Q. Did he speak to you?

A. Yes, sir; he spoke to me, or rather he come around, and as he come around, come on the sidewalk; I thought I knowed him; I said, "How do you do, sir;" I lift my hat; first he said, "How do you do;" he says, "This is Mr. Seastream."

Q. Did he talk to you about this business?

A. No, sir.

Q. Anybody else talk to you about it except your wife and Mr. Holman?

A. No, sir.

Q. How did you come to get Mr. Holman; how did you come to talk to Mr. Holman about it?

A. I spoke to Mr. Holman about it because after I had—after I had been up in the building the 26th—after I had been in the First National Bank building, then I thought that they had done some mean work to me and I thought then that I would go to Mr. Holman and ask him for advice.

Q. Well, now, at any time before you went up to Judge Blair's the first time, did you start to go there; did you start to go to Judge Blair's and not go?

A. No, sir.

Q. When was it you went up into Mr. Griffiths' office, at No. 1 Exchange Place, up here?

A. The 26th.

Q. How come you to go there?

A. I was working on the boat, and Haagenson come down and told me that I was a dupe, Mr. Haagenson, I knowed better then.

Q. What do you mean?

A. So far as I can know he means a fellow that don't have no sense.

Mr. Allan L. McDermott—The use of the word "dupe."

The Court—He says he understood him to mean a man without any sense or much sense.

Mr. Allan L. McDermott—I don't get the order of the reference of the word.

The Court—Why did he ask you to go to Griffiths' office?

A. No, sir; he told me to go up in the lobby, and he would meet me there, and he sent me up to the cabin, and he went up to the lobby—meet me there.

Q. No. 1?

A. No, there.

Q. On the boat?

A. No, on the depot down there, they call it lobby, all the passengers go from the upper deck of the boat.

Q. He would meet you there?

A. Yes, sir; so he went on the lower deck and up the stairs, and I went to the saloon deck, so he meet me there on the boat, and then he took me in right straight over to the restaurant from there, into the waiting-room, and from the waiting-room out to the train shed, and then he took me into a room where all the firemen and conductors meet.

Mr. Allan L. McDermott—What happened where all the firemen and conductors meet? We haven't been able to hear a word of this man the last half hour.

The Court—I wish the State of New Jersey would find a different room to hold court. Here it is exceedingly difficult for me at all times, and I never would sit in this court again if I could help it; it is perfectly unfit. I have much more difficulty in hearing this witness than others. I am willing that all this should go down. If the counsel do not hear him, I can't help it.

Q. You went into a room in the big train shed, where the firemen and the conductors go?

A. Yes, sir.

Q. Well?
A. And it was quarter past eleven, and he kept me there until about five minutes of two.
Q. Kept you there all the time in that room?
A. Yes, sir; until 1:55.
Q. Until 1:55?
A. Yes, sir.
Q. Did he tell you what he wanted to keep you there for?
A. Yes, sir.
Q. What?
A. Yes, sir; he wanted to keep me there so the other party couldn't get hold of me.
Q. The other party couldn't get hold of you?
A. Yes.
Q. Where did you go then?
A. He took me over to New York.
Q. Took you to New York?
A. Yes, sir.
Q. Where did you go there?
A. He took me to a restaurant and he keep me there so far as I know until just before four o'clock, then he took me back again and into Griffiths' office.
Q. Brought you over here?
A. Yes, sir.
Q. Well, what did you do in Griffiths' office?
A. And when he come there Griffiths wasn't there, but he come there about three minutes after; then he took us in there and a little after William Davis and Bentley come; that is the time I got introduced to Mr. Bentley.
Q. That is the first time you saw Mr. Bentley?
A. So far as I know, sir.

Cross-examination.
By Mr. Allan L. McDermott.
Q. He was in the office when you got there; he was in Mr. Griffiths' office when you came from New York about five o'clock?

A. Yes, sir.

Q. Now, who was in Mr. Griffiths' office when you got there to the office; how many people?

A. There was nobody in that place so far as I know; there was nobody there.

The Court—Mr. Griffiths and Mr. Bentley came in.

Q. Do you know Mr. Lahey?

A. No, sir; I don't.

Q. Did Captain Haagenson go there with you to Mr. Griffiths' office?

A. Yes, sir.

Q. And then Mr. Bentley and Mr. Griffiths came in.

A. No, sir; Mr. Griffiths come alone; Mr. Davis and Mr. Bentley come together afterwards.

Q. They came together; then there were five of you there?

A. Yes, sir.

By the Court.

Q. How long did you stay there?

A. Well, that is a thing I can't exact answer, but he had a schooling there; he was schooling us.

By the Court.

Q. What do you mean by that?

A. Mr. Griffiths told me what to say.

By the Court.

Q. What to say?

A. Yes, sir.

By the Court.

Q. Say to whom?

A. Don't want me to go out to Mr. Pitney the following day.

By the Court.

Q. Not to go out to Mr. Pitney the following day?

A. Yes, sir.

Q. Do you say he was telling you what to say?

A. Yes, sir.

Q. What did he tell you to say?

A. First he commenced, he said, he was sitting in the middle, so he took two by each hand.

By the Court.

Q. Took what?

A. He took Mr. Bentley and Mr. William Davis in one hand and Haagenson and me in the other; he says, "Now, boys," he said, "now, if they ask a question either me or Currie, we would have to be disbarred."

By the Court.

Q. Be disbarred?

A. Yes, sir; and now, he says, "If we stick together," he said he was going to be disbarred, and he has got to stay home in business.

By the Court.

Q. Who was to do that?

A. Mr. Currie.

Q. Who said all this?

A. Mr. Griffiths.

Q. Griffiths said?

A. Yes, sir.

Q. Did you ever see Mr. Griffiths before you met him at Mr. Davis' office?

A. No, sir.

Q. Never had any conversation with him except then?

A. No, sir.

Q. And at his office, when the five were present?

A. The following day I spoke to him about two minutes.

Q. What did he say there?

A. That night, when I went home, he want me to go home after my wife, and go there and get another schooling.

Q. Another schooling?

A. Yes, sir.

Q. Didn't he ask you to go out?

A. And I went there and told him no, she was not going.

Q. You told your wife she must not go?

A. No, I went the next day and told Mr. Griffiths that my wife was not going there.

By the Court.

Q. That your wife would not go there; he wanted you to get your wife to come to his office?

A. Yes, sir.

Q. Didn't he ask you to get his wife and go out and testify before Vice Chancellor Pitney?

A. No, sir; I never asked.

By the Court.

Q. Didn't he ask you?

A. Yes, sir.

Q. Didn't he ask you to do it?

A. Yes, sir.

Q. Didn't he ask you to go before Judge Blair; didn't he, on the 1st of June—didn't he come to your house and ask you to go down before Judge Blair and testify?

A. Yes, sir.

Q. Didn't he ask your wife to go down and testify before Judge Blair?

A. Yes, sir; to go there and tell a lie.

Q. Tell a lie?

A. Yes, sir.

Q. What lie did he ask you to tell?

A. To say for me what I was going to say.

By the Court.

Q. You were going to say, go on. What were you going to say?

The Court—Let him alone.

A. That Mr. Haagenson, he overheard that.

Q. Who overheard?

The Court—One moment, let him alone.

A. Overheard a man down to the ferry.

Q. Who overheard?

A. Captain Haagenson, that I had put in an injunction on the baseball ground, then, of course, and I should say no, and I didn't, that is what he wanted me to say.

By the Court.

Q. Just repeat what he wanted you to say?

A. To say that I hadn't put in an injunction.

By the Court.

Q. That you had not put the injunction on?

A. Yes, sir; say, then he wanted to say that I said no, I hadn't done such a thing, but I had signed a petition for the baseball ground.

The Court—He wanted you to swear to that?

Q. Mr. Griffiths asked you to swear to that down at your house, did he?

A. No, that was in the office.

Q. Mr. Griffiths called at your house on the 1st of June, didn't he?

A. On the 1st.

Q. And told you you were to testify before Judge Blair, and that your wife was to testify before Judge Blair?

A. He never said anything about me; but it was my wife he wanted to go, because my wife asked him then, "How about my husband;" he said, "Never mind your husband, I will tell them all what to say;" that is what he said.

Q. Didn't he tell you you were to go before Judge Blair and testify?

The Court—Did Mr. Griffiths ask you to go before Judge Blair and be sworn?

A. No, not Judge Blair; no, sir.

Q. Well, before whom then?

A. Sir; he went out there and wanted my wife to go and swear to that she never had heard that when I signed that affidavit for Mr. Currie, and then she didn't notice it.

By the Court.

Q. He wanted her to swear that she didn't notice that you made that affidavit before Currie?

A. Yes, sir.

Q. Did he say anything about why he wanted that testified to?

The Court—Did he say why he—did he tell your wife, or you, why he wanted her to swear that way?

A. Yes, sir; because he said, if she didn't done it we would all go to jail, he said.

By the Court.

Q. All go to jail?

A. Yes, sir.

Q. He didn't ask you to swear that you didn't sign the affidavit, did he—the Currie affidavit?

A. Sir?

Q. He didn't ask you to say that you didn't take the affidavit before Mr. Currie?

The Court—He hasn't said he did.

Q. Did he?

A. It wasn't me, it was my wife; then he said she didn't be scared because Robert Davis was the leader.

By the Court.

Q. Robert Davis was the leader?

A. Yes, sir.

By the Court.

Q. He said, "You mustn't be scared."

A. Yes, sir.

Examined by Mr. Benny.

Q. How old are you?

A. Thirty-five.

Q. And where were you born?

A. Sweden.

Q. How long have you been in this country?

A. I have been here since 1898.

By the Court.

Q. Been working on the steamboat all the while—ferry boat?

A. Before I came here I was working in so many jobs—in several jobs.

By the Court.

Q. Several jobs?

A. Steam yachts.

By the Court.
Q. Steam yachts?
A. Yes, sir.
By Mr. Allan L. McDermott.
Q. Do you say you came here in 1898?
A. Yes, sir.
Mr. Allan L. McDermott—I think he said this morning he had been on the steamers eight or nine years.
A. I said I had been in the Pennsylvania road employed nine years.
By the Court.
Q. Then you made a mistake when you say you came here in 1898—that is only six years?
A. 1888.
By the Court.
Q. What year did you come here in?
A. I come here in 1888, because I took out my first paper 1891; I take my intention paper in Newark.

Examined by Frank P. McDermott.
Q. Do you remember the day of the month when you were before Judge Blair and gave your evidence which the stenographer took down; which the man wrote down; what day of the month was it, if you know?
A. I think it was the 3d.
Q. Of what month?
A. Of June.
Q. 3d of June?
A. Yes, sir.
Q. What was the date of this occurrence that you mentioned when in Mr. Griffiths' office?
The Court—When you went up there and saw Griffiths and Bentley?
A. Oh, that was the 26th.
Q. Of what?
A. Of May.
By the Court.
Q. Was it so long before that; was it a week before?

A. Yes, sir.

Q. And what was the time, the date when Mr. Griffiths, as you say, was at your house?

A. It was the 2d or—no, I won't be certain if it was the 2d or the first—but it was Wednesday.

Q. 2d or the 1st of what month?

A. Of June.

Examined by Mr. Warren Dixon.

Q. The testimony that was taken, your evidence taken before Judge Blair, was taken by another man who wrote it down, and it was read over to you that day, the same day?

A. Yes, sir.

Q. Up there before Judge Blair in the court house it was read to you?

A. The stenographer, that man that took it down.

Q. The stenographer?

A. Yes, sir; he read always back after he took it down; corrected me.

By the Court.

Q. Read it over as he took it down?

A. Yes, sir.

By the Court.

Q. To see whether it was right?

A. Yes, sir.

Q. What do you mean, after he completed it all, he read it over to you?

A. No, sir.

By the Court.

Q. As he went along?

A. Yes, sir.

Q. It had not been written out on the typewriter at that time, had it?

A. I don't know, sir.

Q. Couldn't you see; now, did the man who took it down read it to you as soon as you had completed your

statement, or did he go out of the room and come back again?

The Court—No, he stated just the contrary; said it was read over to him as he went along.

Mr. Dixon—The notes were read over?

The Court—The notes were read over.

Mr. Dixon—Is that what your Honor understands?

The Court—That is the way I understand it at present; he took down the man's answer and then read it over and saw that he had it right at the time; that is the way I understand it; it don't make a bit of difference what you contradict this witness on, I shall go on what the stenographer and Judge Blair say, because they understand the English language; understand the questions they put to him and the answers he made, and we don't know that this witness understands the answers he makes; his English is so very imperfect that it is a mere question whether we are getting what he really means to say or not.

Mr. Dixon—I understand then that——

The Court—Any further questions then?

Mr. Dixon—No further necessary.

The Court—Mr. McDermott, you will please have the official stenographer here if he is within reach. Judge Blair is in the building, or was this morning.

Mr. Frank P. McDermott—Judge Blair states to me it was the official stenographer of his court, Mr. Mosier, who took the testimony.

The Court—Is he here?

Mr. Frank P. McDermott—No, I don't think he is here.

The Court—Who do you want to cross-examine next?

Mr. Allan L. McDermott—I want to call Judge Blair next.

The Court—You had better get through with your cross-examination first. You can call him if you wish, now.

Judge John A. Blair, sworn.

Examined by Mr. Allan L. McDermott.

Q. Judge, the testimony given before you by these witnesses, Mr. and Mrs. Seastream, have you read it over?

A. Yes, I have read it over.

Q. Are the words in that testimony the words used by the witnesses, as you recall them?

A. Well, there may be some words possibly that were not spoken by the witness, but the testimony is as nearly the correct thing as he said it as it could be written out; you observe he speaks very broken English, and the questions were put and he answered.

Q. Nothing broken about the answers as they appear; they appear to be fluent, clear, grammatical?

A. There may be some words used there that he did not use; there is nothing changed in the sense of what he said.

Q. Who determined any change that was made?

A. When the questions were put, he would answer them; the stenographer would take it down; then he would read what he had down and appeal to the witness as to whether that was what he said and what he meant, and if he said it was, it stood, and if he said it was not quite what he meant, then it was changed to cover just what he did mean.

Q. Those changes don't appear in the record?

A. No, sir; they do not appear in the record.

By the Court.

Q. The record was a corrected record?

A. The record was a corrected record.

By the Court.

Q. You gave it your personal attention?

A. I was present at the time; yes, sir.

By the Court.

Q. I mean to say you watched the details?

A. Yes, sir.

By the Court.

Q. Did you satisfy yourself that the answers that were finally written down as the answers were true answers?

A. I satisfied myself that what was written down was just what he intended to say.

Mr. Allan L. McDermott—We pray an objection to that question to the witness; it seems to me that we are entitled to the record. Now, there was a record before Judge Blair, or there was not, and this record is not the record of the testimony taken before Judge Blair; that is quite clear. The stenographer, as I understand it—you asked the question—the stenographer took the answer, and then read to the witness what the answer was—your question and the answer?

A. He would read the question, and then he would read what he understood the witness to have said, and if the witness consented to it it stood, and if he (the witness) changed it any, why, the change went down.

Q. Did you listen to the witness on the stand this morning?

A. I heard part of it only.

Q. Do you think he understood the words as read to him by the stenographer?

A. Well, I think he did if they were read to him slowly and distinctly.

Q. He testified this morning that he didn't know the meaning of the words, one after another?

A. That is possible; I can't tell about that.

Q. Was there any explanation to him of the meaning of the words?

A. I don't recollect that there was.

Q. Judge, there seemed to be several questions asked of this witness not suggested in anywise by his testimony, as, did Mr. Griffiths speak of disbarment?

The Court—What?

Q. Did Mr. Griffiths speak of disbarment; being disbarred; how did you come to ask that question of the witness?

A. I think that Mr. Holman, who was present, asked that question; Mr. Holman was present at the time of the examination.

Q. And the examination was conducted by whom?

A. Conducted by me, in my presence, and Mr. Holman, who was the lawyer and counsel, was also present, and he asked some questions, and this question that you now suggest I presume was asked by Mr. Holman because the matter of disbarment was an entire strange subject to me; I had never heard of it.

Q. It wouldn't have occurred if you had no knowledge of anything of that kind?

A. No.

The Court—He says he didn't.

Q. Judge, was there any opportunity given to counsel for Mr. Griffiths to appear—any notification given to them at all?

A. Not at that time.

Q. Then you proceeded with counsel for Mr. Seastream present, but no counsel for anyone else?

A. Yes, sir.

By the Court.

Q. You had had a day fixed before that, and Mr. Seastream did not appear?

A. Yes, sir; the first day that I fixed for this examination was Thursday, I think, the 2d day of June, at the court house; on that day Judge Hudspeth, I think, represented all that side of the question, and at the hour I asked if those who were interested in the Seastream matter were ready to go ahead, and Judge Hudspeth said no, they were not; that Mr. Seastream was not able to be there at that hour, but would come at any time after twelve o'clock, as I remember; I then fixed one o'clock, at my office.

By the Court.

Q. The next day?

A. The same day—the same afternoon—and at one o'clock, in my office, downstairs, everybody was there,

I think, except Mr. Seastream; Mrs. Seastream was not there, and there was some disposition to go ahead in the absence of Mr. Seastream, and I inquired why he was not there, and Captain Haagenson said that he had seen him once or twice that morning, and Seastream said that he wouldn't come and would take the consequences of staying away; well, I said, to go on under the circumstances would be like the play "Hamlet" with Hamlet left out, and I would not proceed with the examination; we were then unable to fix any day; from what had occurred and the suggestion from Captain Haagenson I think I said that the court assumed that there were some influences at work to keep Seastream away, and if that was true, I didn't think I would go on with the examination in his absence; and then the matter was adjourned without any fixed time; within half an hour after the parties had left my office I learned that Mr. Seastream had been seen by someone and said he had not been asked to come to my office, and if he had been asked he would have come without any hesitation and told all about it; I then said to the person who informed me about that that I would see Mr. Seastream at the court house next morning, at ten o'clock, and next morning, at ten o'clock, was the time I took this testimony.

Q. Right there, there is no doubt in your mind that Seastream said he had not been asked to come to your office and give the testimony?

The Court—He said he had heard—someone told him.

A. I didn't see Mr. Seastream.

Q. Oh, somebody told you?

A. Yes, sir.

Q. Do you recollect who it was?

A. I do.

Q. Who was it?

A. George V. Vickers, the assistant prosecutor; and I sent word by Mr. Vickers back that I would see Seastream the next morning.

Q. How did Vickers come to make the statement; do you recall?

A. Well, he was present in my office to conduct—rather to represent Mr. Speer; he went out of my office and afterwards returned, and who he saw when he was out I don't know, but he came back and told me what I have already said, and it was on the strength of that that I made the appointment to hear Mr. Seastream the next morning, at ten o'clock.

Q. Judge, did you promise to notify Mr. Griffiths when the testimony would be taken?

A. I don't recall that, unless I made some statement, perhaps, in the office.

Q. Promise to notify counsel when the hearing would be resumed or proceeded with?

A. I don't think I made that suggestion; don't think I made that promise; it was talked about in my office, perhaps, before they went away, that some time would be fixed.

Q. None was fixed?

A. None was fixed.

Q. Counsel were not notified?

A. Counsel were not notified; I was anxious to get the testimony of these two witnesses before the matter was to come up before the Vice Chancellor on Monday morning, and this was on Friday; and Saturday was a day of no time to make arrangements to notify everybody about it.

Q. On what theory were you taking this testimony?

The Court—What is that?

Q. On what theory were you taking the testimony?

The Court—You need not answer that; strike it out.

Q. What was the testimony taken for?

The Court—You need not answer that; it is known to the court. Immediately when these conflicting affidavits were read before me here and in the presence of all the counsel, I immediately said that that was a matter to be investigated, and dictated a message to Judge Blair to my stenographer. All the counsel got up with one voice and said they united in the desire to have Judge

Blair examine into the matter; and they wrote me a letter, Northrops and Griffiths, in which they said they wanted the matter examined, and I think they wrote a letter also to Judge Blair—said they did—sent me a copy of a letter they had written to Judge Blair, and that is the way it came to be made; purely courtesy on the part of Judge Blair. The Court knows that.

Mr. Allan L. McDermott—Your Honor's statement fully agrees with my information concerning the matter, and what I want to know is whether Judge Blair took the testimony as Judge of the Court of Quarter Sessions or whether he took it as an officer of this court.

The Court—You need not put the question or answer it. It was taken by him as judge of the Court of Quarter Sessions, and so certified by him at the head of it, and at the bottom. I called him in afterwards and swore to it. It was taken before him, as appears here.

Q. Was the testimony taken?——

The Court—"Judge of the Hudson County Court of Quarter Sessions;" there it is signed.

Q. Was the testimony taken by you in pursuance of any reference to you?

The Court—No, he need not answer the question.

Mr. Allan L. McDermott—Your Honor will allow me to finish the question.

The Court—No, I won't. It is trifling with the Court.

Mr. Allan L. McDermott—I beg leave to finish my question.

The Court—I will not have the question put as started. I don't care what you put at the end of it. Now, that ends it. There is enough said in the question to make me condemn it.

Mr. Allan L. McDermott—May I ask in this form?

The Court—You will not ask this witness anything, or cross-examine him as to how or why he took that evidence. That is enough of that.

Mr. Allan L. McDermott—May I ask him whether he took it as an officer of the Court of Chancery?

The Court—No, sir. You need not or you shall not waste the time, because he states he did not, under his own hand, and I won't have his conduct as a judge brought in question in that way.

Mr. Allan L. McDermott—Your Honor, I have the highest respect for Judge Blair, and it is the first time in thirty years' practice that anybody has suggested that I would suggest on the conduct of the judge.

The Court—Don't make any difference. I will not have the time of the court taken with it.

Mr. Allan L. McDermott—I am not taking much of the time of the court. I asked the question—I think I have it on the record—whether he took it as an officer of this court.

The Court—It shall not be answered.

Mr. Allan L. McDermott—I understand you overrule it.

The Court—Yes, I overrule it. It shall not be answered, simply because it is a waste of time.

Q. When was the testimony sent to the Vice Chancellor, Judge?

A. I think it was sent on the Monday following the day that it was taken?

Q. And that was what day in June?

The Court—The calendar will tell.

A. Probably the 4th or 5th.

Q. 4th or 5th?

A. I think so.

Q. When was it sworn to?

A. It was sworn to probably formally some day, some time after that.

Q. Some time after that?

The Court—Let him have the affidavit to look at. It was taken under oath.

Mr. Allan L. McDermott—I am testing his memory, if the Court please.

The Court—It is a waste of time. The paper is here.

Mr. Allan L. McDermott—I have the original paper here.

The Court—Let him have it.

Mr. Allan L. McDermott—The 14th of June.

The Court—Why do you ask it? Why do you, as a counselor of this court, cross-examine Judge Blair as to whether a certificate written at the bottom of an affidavit is truly dated or not.

Mr. Allan L. McDermott—I did not cross-examine him with that view whatever.

The Court—There it is.

Mr. Allan L. McDermott—I had no idea that it was misdated when Judge Blair signed it; none whatever. The fact developed that it was sent to the Chancellor before it was signed, that is all, and I wanted to know.

The Court—Yes, undoubtedly, it was taken under oath in the first place; wasn't it, Judge?

A. Yes, sir.

Q. Seastream signed it when?

A. He signed it—well, I don't know that I can recall the date—he signed it, I think, the same morning that Mrs. Seastream signed it.

By the Court.

Q. Who?

A. His wife.

Q. That was how many days after the testimony was taken?

A. Oh, possibly——

Q. A week?

A. A week.

By the Court.

Q. Did he sign it the day you certified the oath there?

A. He signed it that day.

Q. That would be the 14th?

A. The 14th.

Q. And you finished it about the 5th?

A. It was read over to him after it was written out by the stenographer and typewritten; it was all read over

to him before it was sent away; afterwards it came back to me and it was formally signed.

Q. He don't recall that; he says it wasn't.

The Court—What you mean to say is, how soon after the testimony was taken stenographically was it written out by the stenographer?

A. I think within a day or two.

By the Court.

Q. And Seastream came and you read it over to him?

A. Yes, sir.

By the Court.

Q. Before you sent it to me?

A. Before I sent it to you.

Q. Why was the delay in taking his affidavit to him?

A. It was sent quickly, because I wanted to get it to the Vice Chancellor at once; after it was there it was returned to me by Mr. McDermott, I think, with the suggestion that perhaps it had better be formally signed and attested.

Q. You are clear that it was read over to him, and he pretended or did understand it?

A. Yes, he pretended to understand it; I suppose he did.

Q. Was it read over to him on the day that he signed it, the 14th?

A. I think not, sir; I don't think so.

Q. Who read it over to him; do you recall—the stenographer?

A. Well, I think I read it to him myself.

Q. Then you read, of course, from the longhand written out by the stenographer?

A. Yes, sir; from the longhand.

Examination by Mr. Frank P. McDermott.

Q. Judge Blair, there is a date at the head of the testimony of Mr. Seastream; will you be kind enough to look at that?

A. That was the morning it was taken in my office at the court house.

By the Court.

Q. That is the date at the time it was taken?

A. Yes, sir.

By the Court.

Q. Did the two come in together, or one after another?

A. No, Mrs. Seastream came to my office on Saturday morning; this was on Friday morning, and the following morning she came to my office.

By the Court.

Q. She came the next day?

A. Yes, sir.

By the Court.

Q. Was anybody with Seastream except his counsel, Holman?

A. No one; Mr. Holman.

By the Court.

Q. Did anybody see Mrs. Seastream when she came?

A. Mr. Holman was, I think, in the office at the time she made her statement.

Q. Now, were you as well satisfied as under the circumstances you could be that the answers he gave there were the real answers he meant to give as written down?

A. I thought it was as near correct as he could get it, and I thought I understood it; of course, he speaks, as you observe, with a good deal of difficulty, and we had to have him repeat sometimes in order to get what he actually meant.

By the Court.

Q. Had to repeat it over several times?

A. Yes, sir.

By the Court.

Q. Was pains taken in doing that?

A. Yes, sir; we endeavored to get him to understand just what he was doing and what he was saying; he talked as though he did understand so far as what was—what is down there.

Examination by Mr. Allan L. McDermott.

Q. The questions asked in this affidavit appear to all have been asked by you; you mentioned that questions were asked by Mr. Holman as counsel; what became of those questions; he does not appear in this record?

A. Well, it is possible that in taking it down that it was all assigned to me; Mr. Holman was there; perhaps the stenographer simply put it down by the court.

Q. Did he ask many questions?

A. Half a dozen, perhaps.

Q. How did he come to be there; do you recollect?

A. He came with—he was Mr. Seastream's private counsel, and friend, I think, and he accompanied him there.

Q. He came with him?

A. Yes, sir.

Q. And he asked all the questions he wanted to?

A. Yes, sir; all that occurred to him, I suppose.

By the Court.

Q. What is that?

A. He asked all the questions that occurred to him, I suppose.

Q. They don't appear in the record anywhere?

A. No.

By the Court.

Q. Do you mean to say the stenographer did not take down Mr. Holman's questions?

A. I don't know whether he did or not; he did take them down; whether they appear as being asked by Mr. Holman or me, I don't know.

Mr. Allan L. McDermott—Everything here by the court, so distinctly reported.

Q. How long has this stenographer been in your court; he is a good stenographer, isn't he?

A. He has been there, I think, four or five years; very competent man, indeed.

Q. What is his name, Judge?

A. Mr. Moeser.

Q. Where are his headquarters?

A. He is with Mr. Nugent at the court house; he is assistant of Mr. Nugent.

By the Court.

Q. Can he be found up there?

A. Yes, sir.

Captain Benjamin T. Haagenson, sworn.

Direct examination.

By Mr. Allan L. McDermott.

Q. What is your employment?

A. I am a pilot on the ferry boat "Newark," Cortlandt street line.

Q. How long have you been employed on the ferries?

A. Very near ten years.

Q. What is your business, technically, on the ferry boats?

A. I am a pilot, with the addition—I am compass adjuster for all the boats; I do that generally on my lay-off day, and sometimes, if there are two or three boats to be adjusted, I don't go on my regular tour; I go right on adjusting.

Q. Are you acquainted with August Seastream?

A. Yes, I am acquainted with him somewhat.

Q. What is his position on the boat there?

A. I understand he shovels ashes on the annex ferry boats.

Q. Any thing to do with your position?

A. None whatever.

Q. Under you, or employed by you, or subject to you——

A. No connection whatsoever.

Q. Are you acquainted with Mr. Robert Davis?

A. No; I can't say that I am acquainted with him, but I know the gentleman, from appearance—know who he is.

Q. Not acquainted with him to speak to him?

A. No.

Q. Acquainted with his son?

A. Somewhat.

Q. Seastream says——

The Court—Never mind what Seastream says. You can't put your questions that way at all.

Q. Did you have a conversation with Seastream about the attempt to stop a baseball game in Bayonne?

A. Yes, sir.

Q. Go on, in your own way, and tell just what did occur.

A. Well, on May 12th I was detailed by the superintendent of the ferries to go aboard annex ferry boat "No. 4" to look after the compasses; they had been reported to me to be working badly by the respective pilots; and that day, at ten o'clock in the morning, while standing at the landing, by the head of the bridge, waiting for the boat to come in, John Madden, who is present in this court-room, spoke to me, and he says, "Do you see that sitting over in the ticket box?"

Mr. Frank P. McDermott—I object to what Mr. Madden said.

Mr. Allan L. McDermott—Why?

The Court—The objection is noted. Go on.

A. (Continuing.) He said to me, "Do you see that sitting over there?" pointing in the direction of one of the ticket boxes; I said, "Do I see what?" he said, "That sitting over there reading the newspaper;" I says, "What about that?" "Well," he says, "only that is what stopped them from playing baseball in Bayonne on Sunday; what do you think of it?" so I says, "Is that so?" I recognized the party he referred to as an ashman we always called "Husky," and that is the only name I ever knew him by up to that time.

By the Court.

Q. That is Seastream?

A. Yes, sir, that is Seastream; and I remembered then that his name was something like I had seen in the paper in connection with the baseball affair, but I didn't know

that his name was Seastream up to that day; pretty soon I went over and spoke to him; I says, "Is that so that you stopped them from playing baseball on Sundays?" and he says, "Cap., I would like to speak to you;" I says, "Talk away;" he says, "Not here," he says, "for people can see us;" he says, "Go over on York street dock," which is the dock adjacent to the ferry slip; he says, "There, there is nobody around, because," he says, "you must understand they are hot after——"

By the Court.

Q. Did he speak in Swedish?

A. He spoke English.

By the Court.

Q. You speak English?

A. I speak Norwegian.

By the Court.

Q. He speaks Norwegian?

A. It isn't very much difference; I understand a Swede; at that time we were talking English; so Seastream—then I went over on the York street dock, and Seastream followed me by a roundabout way; I asked him why he went that way; he said not to be seen with me; he went out of the main gate by way of the trolley shed and up that way; he had twice the distance to go; so when he come over there he asked me if I was his friend; I told him I knew nothing to the contrary; he then told me, he says, "Now, everybody is gibing me and making fun of me for stopping them playing baseball on Sunday now;" he says, "I had nothing to do with them stopping baseball on Sunday; I signed a petition to continue to play baseball on Sunday, because I like baseball;" I then said it was very funny you should be so misquoted; I said, "Why don't you see about it—have the affair straightened out?" he said, "As a friend of mine, will you tell me what to do?" I said, "Willingly; if I was you I would go and see somebody connected with the baseball game, because I think the information would be of some value to them;" "Well," he says, "who had

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I better see then?" I said, "I don't know anybody who is connected with the baseball game;" "Well," he says, "I think Mr. Davis is, because I saw him down there when they were grading the grounds and building the fence;" he says, "Do you think I can see him?" I says, "Yes, I think that is an easy matter;" so I says, "I will do all I can for you as soon as I get through with the job I am going to do, which will take me until about twelve o'clock, or two round trips;" the boat had in the meantime come in the slip and I went aboard then, and Seastream, I suppose, aboard; I paid no further attention to what he did do; during the two hours on the boat I was in the pilot-house ascertaining and correcting the deviation of the compasses, and at twelve, or five minutes past twelve, we landed in Jersey City; I went ashore, and at the head of the bridge, that is the landing stage going down on the ferry boat, Seastream joined me; I told him, "Now," I says, "you go on up the line and meet me outside Basford & Glenn's, and I will go up and call up Mr. Davis' office to find if we can see him;" so he went on, and we went in Basford & Glenn's; I called up Mr. Davis' office, asked if Mr. Davis was there—was informed that he was in New York, but that Mr. William Davis was there, and I asked him to wait until I could get up there, that I wanted to see him, and he said, "All right;" I joined Seastream outside; we walked up York street as far as Henderson and up to Mr. Davis' office, and on the way we chatted somewhat; he told me then that Mr. Davis had been down to see him in connection with some objection that he, Seastream, had to the location of the fence; that Mr. Davis had corrected the location of the fence to suit Seastream; and he says, "If for nothing else," he says, "that would make me in favor of the people of the baseball ground;" and he says, "Besides, I am convinced that Mr. Davis is a gentleman;" and he mentioned several other things that were relevant to the case, if you want me to tell the conversation.

Q. You got up to Mr. Davis' office; you found Mr. William Davis there?

A. Yes, sir; found Mr. William Davis there.

Q. Now, what took place in the office?

A. I introduced Seastream to him and told Mr. William Davis about the conversation I had with him.

Q. Just as to your acquaintance with William Davis, what acquaintance had you with him?

A. Well, I was introduced to Mr. William Davis, I think, last fall, but I never spoke to him subsequent; that is, from that time up to the day I met him in the office.

Q. Up to that time?

A. Yes, sir.

Q. You spoke to him when you were introduced and when you met him in the office?

A. Yes, sir.

Q. Now, what occurred in the office, that you recollect?

A. After telling Mr. Davis the conversation I had had with Seastream, Davis says, "There is such an affidavit in the Chancery Court;" Seastream then asked to see the affidavit; Davis told him that he didn't have a copy.

Q. Seastream had denied that he had made any affidavit——

The Court—Never mind. I heard that.

A. Yes, sir; so he says, "I don't know where a copy is now, unless Mr. Griffiths has one;" so he says, "I will telephone him;" he did so; and I don't know exactly what occurred while waiting for Mr. Griffiths; but, anyhow, in fifteen or twenty minutes, I judge, possibly half an hour, Mr. Griffiths came and brought along the affidavit; it was shown to Seastream and he pronounced it false; and he right away asked the privilege of making a statement defining his views; Mr. Griffiths asked him if he wanted to make it in the form of an affidavit, and he said yes, that is the way he wanted it, and he proceeded to tell what he wanted put in it; he said, "Put in that I was present when them two games of baseball was played,

in presence with some friends of mine; put in that the baby slept through the entire proceedings, as far as I know, and put in that I consider the grounds a benefit to my property," and such that he went on to mention what he wanted to put in; and Mr. Griffiths showed him as he wrote it down; and after it was all finished he gave it to Seastream to read, and he pronounced it O. K.; in the meantime Mr. Bentley had been sent for; and he came just about as the affidavit was complete, when Griffiths told him to cross-examine Seastream, which Mr. Bentley did, paragraph by paragraph; it met with his approval, and he was told to hold up his right hand and be sworn in my presence.

Q. And he was sworn?

A. Yes, sir.

Q. Now, where did you go after you left there?

A. I went home.

The Court—There is no question about the identity of the paper.

Q. When did you next see Seastream?

A. On the following Saturday, which was two days later.

Q. Where?

A. Aboard my boat; on the ferry boat "Newark."

Q. Did he say anything to you about this matter?

A. Yes; he come up to me and he shook hands with me and he says he was very thankful to me for having helped him out of a hole.

Q. Where were you?

A. I was in the pilot-house steering my boat.

Q. Who was there beside?

A. Edward Nelson, my quartermaster.

Q. When did you see him next after that?

A. That was about the 20th, I suppose, at his house.

By the Court.

Q. Whose house?

A. Seastream's house.

Q. How did you come to go to his house?

A. I saw a piece in the Jersey *Evening Journal;* it was a statement from, I think, Mr. Currie, stating that the second affidavit had been taken under pressure, and I went down and asked him if he was playing me for a fool, and he says, "No, if any such statement occurred he didn't know anything about it;" it was a fabrication of Mr. Currie—words to that effect; he didn't say "fabrication;" he said he had nothing to do with it.

Q. Did you see him after that?

A. Yes, on the 26th I saw him; I had been aboard one of the Twenty-third street boats adjusting compasses; and I got through about—somewhat after eleven; the sun got too high altitude, so I couldn't adjust; and I went in the station master's office and found a note addressed to me; the signature under it bore the name of Mr. Nelson, my quartermaster; I have the note right here; it says Mr. Seastream wanted to see me right away; that he was in trouble; that some one there wanted to arrest him.

Mr. Allan L. McDermott—We would like to have the note marked.

Mr. Frank P. McDermott—I object to the admission of that note.

Mr. Allan L. McDermott—Oh, yes, in pursuance of the communication from Seastream.

A. So I went right down; and the boat had just come in that Seastream was on; and I went aboard of the boat; and I see him down in the gangway with his head out of the side of the door leading to the main gangway; and I went down and asked him what he wanted, and he said there was a man up there that wants to arrest him; at least he has a warrant and is asking everybody if there is a man around here, Seastream, and "Husky" and Frank; and I looked up and saw on the head of the bridge a gentleman I recognized as being in here, or at least he was in here.

By the Court.

Q. Recognized as being in here?

A. I have seen him in here, yes, sir; and he said, "That man is after me and wants me;" and he says, "I am afraid I will get arrested;" I said, "What are you afraid of being arrested for?" he says, "I guess they are after me;" he says, "Can't you get me away so that I won't be seen?" "Well," I says, "the best way to do then, if you don't want to be seen, is to go on the upper deck, in the director's waiting room or director's reading room;" so he did go up there, and about fifteen minutes after I joined him in the director's reading room; I told the janitor who he was—that he was a friend of mine and would like the privilege of sitting in the room, which he agreed to so long as he was a friend of mine; and I then went home to dinner; about half-past one or probably two o'clock I came back again, and Mr. Seastream was yet sitting there in the reading room; and I asked him if he intended to stay there all day; he said he wanted to stay there until he could see Mr. Griffiths, that he was afraid to go home for fear of being arrested there; "Well," I says, asking if he wasn't hungry and thirsty; he said he was both; I asked him if he didn't want to go and have something to eat; he said "Not here in Jersey;" I said, "What is the matter with the Keystone restaurant?" he said, "Not there, either;" then I said, "The only thing is to go to New York;" then he said he would go to New York; so we took the Desbrosses street boat and went over to New York and went in a restaurant —Bradley's, on West street, right opposite the Desbrosses street ferry—where Seastream had dinner; and when dinner was over we went back to Jersey and went in Mr. Griffiths' office to see Mr. Griffiths, which was Seastream's desire.

Q. What took place in Mr. Griffiths' office?

A. There wasn't much taking place, only Seastream was asking his advice about this man who was down to arrest him, and wanted to know if there was any danger of arrest; and he says that—well, he went over the matter of taking the affidavit before, stating that as far

as he knowed there was no affidavit at all—words to that effect, &c.

Q. What did he refer to when he said the one taken before?

A. The first affidavit.

Q. Was there any attempt made to coach anybody at that meeting; have any school; he speaks of there being a school there—was there any agreement or understanding what was to be said or done?

A. None that I saw or heard.

Q. Did Seastream go out from there with you, from Griffiths' office—leave there together?

A. It was my impression that he did.

Q. Where did he go?

A. I don't know, but I think he went home; that matter is not quite clear to me now; I can't just recall.

Q. Who was there when you went in; who were there?

A. There was no one there except Mr. Griffiths.

Q. But you left with him?

A. I left with Seastream.

By the Court.

Q. Did you feel afraid he would be arrested that day?

A. No, I didn't see why he should be arrested.

By the Court.

Q. Did you tell him so, there was no danger?

A. I didn't think it was my place to counsel him; I don't know what I said about it; I don't think I referred to it at all.

By the Court.

Q. Did you suggest to him that it was not safe for him to go back to Jersey at all that day for fear he would be arrested?

A. No; I went to New York.

Examined by the Court.

Q. What time did you get back from New York?

A. I guess about four or half-past.

Q. I suppose you knew that the case was on on argument that day, didn't you?

A. I don't know that I did.

Q. Eh?

A. I don't know that I did.

Q. Didn't you know that the baseball case was on argument; anything said about that between you and Seastream?

A. No, not that I can recall.

Q. You did not suspect that they were trying to serve a subpœna on him, did you?

A. Well, I had no right to suspect anything.

Q. No, no; but did you—did you suspect they were trying to serve a subpœna on him?

A. I had never given the matter any thought.

Q. And you didn't think there was any danger of his being arrested?

A. I had nothing at all——

Q. I wish you would just explain that to me; you had heard, hadn't you, that there was a man trying to serve a subpœna on him; this gentleman you say you had seen in this court was trying?

A. Yes, sir; I have seen him in the court.

Q. You didn't think he was a sheriff's officer, did you?

A. Didn't know what he was; never saw him before in my life.

Q. And yet you helped this man to be hidden away in a quiet place where a sheriff's officer wouldn't get him, and at two o'clock took him over to New York and got dinner and kept him there until four—until after this court adjourned; there is a fact right before me now; explain that so that a man of common sense, as I must be, and supposed to be, can account for your conduct and believe your story.

Mr. Allan L. McDermott—He doesn't testify he knew there was any sheriff's officer or anything of the kind.

The Court—You say not a word while I am asking him a question; no prompting from you, sir.

A. If I may state to your Honor, I have always considered Seastream a simple-minded man; had he been anything but a simple-minded man he would have risen to something above ash shoveling in ten years' service; I think if you ask anybody who works down there that, that their opinion will be the same; I acted just with him as a friend; he appealed to me as a friend, and I never gave the matter a thought that I was keeping him from arrest or keeping him from a sheriff's officer or anything else.

Q. You didn't think anything about keeping him from being served with a subpœna?

A. I didn't know anybody was serving him with a subpœna.

Q. You didn't suspect that?

A. No.

Q. Never thought of such a thing?

A. No; it was none of my business to think it.

Q. I didn't ask you whether it was your business; the question is, whether you did think it or not?

A. I didn't think it.

Mr. Allan L. McDermott—We would like to have this marked for identification.

The Court—If you offer it in evidence show it to the counsel for the Chancellor.

Mr. Allan L. McDermott—We offer it in evidence.

Mr. Frank P. McDermott—I object to it as incompetent.

The Court—I will admit it, subject to your objection.

Marked *Exhibit D 1.*

Further direct examination.

By Mr. Allan L. McDermott.

Q. Were you ever informed, that day or any time since, that a subpœna had been issued for Seastream?

A. Another day; on the 26th, I understood from Mr. Griffiths that Judge Blair had issued an order; he wanted him in the office; not on that day, not that day; subse-

quent; the second of June; I had reference to the last case in Mr. Blair's office.

Q. I will ask you the general question; did you try to intimidate Seastream in any way by threatening to have him discharged, or try to influence him in any way by threats as to this keeping of a baseball ground?

A. None whatever.

Q. Did you tell him that Captain Carrol had said his place was in danger, or that Captain Carrol had said anything else about him?

A. No, sir; I never mentioned Captain Carrol's name.

Q. Did you speak to Captain Carrol about the matter one way or the other?

A. No.

Q. Did he speak to you about it?

A. No; except after the hearing in Judge Blair's office, or after this affidavit—the third affidavit of Mr. Seastream—had been taken; Captain Carrol made me write him a letter explaining my connection with the case —that I appeared here as one of the men who had influenced Seastream.

Q. You wrote a letter to him?

A. I explained my connection with it.

Q. What is Captain Carrol's position?

A. Superintendent of the ferry.

Q. He employs and discharges all the men, including yourself?

A. All the men; yes, sir.

Q. Did you try to get Seastream to go before Judge Blair?

A. Yes, sir.

Q. Where was that that you tried?

A. When was it, do you say, when or where?

Q. Both, when and where?

A. Well, that date, that was on the second of June; I had been informed by Mr. Griffiths that he was wanted in Judge Blair's office at eleven o'clock, to meet in his office, to meet in good season in order to go up there; so I

had my relief—that is, the pilot who relieves me; he came and let me off two hours early; I think it was two hours earlier, and I immediately proceeded to Mr. Griffiths' office; so he asked—and before going up I left a note for Seastream, telling him to be sure and be on hand, with one of the ticket-takers on the Annex ferry—ticket-sellers; I waited up in Mr. Griffiths' office until nearly eleven o'clock, when Seastream didn't show up; so Griffiths sent me down again, said you better go down and hurry him up, and he was to come right up to Judge Blair's court.

Q. You met at Griffiths' office and went from there?

A. Yes, sir; we were to originally, but as long as he didn't come I was to go down and get him and come right to Judge Blair's court.

Q. Did you find him that day?

A. I found him there; yes, sir.

By the Court.

Q. Found who?

A. I found Seastream.

By the Court.

Q. Where?

A. Why, on the dock, waiting from one boat to the other, as he shovels ashes on the various boats; and when he gets through with one he waits until the other comes in; it appears he was through with one and waiting until the other come in; I met him there and asked him if he was coming up, and he says, "Yes, I will come right up;" so subsequent to that he told me he must make another trip before he could come.

Q. Did you go to Judge Blair's then?

A. Yes, sir; well, not immediately; I went up to Mr. Griffiths and reported my success with Seastream, the matter of getting him up; we waited then until about twelve o'clock, I think, and no Seastream showed up; then Mr. Griffiths again told me to go down and have him for one o'clock; I went down and spoke to him then again, and he promised to come up; in the same

breath, almost, he says he wouldn't come; he says, "If I have taken two affidavits I have taken two affidavits, and I am going to abide by the consequences," some words to that effect; so I reported to Judge Blair.

By the Court.

Q. Did you do anything—did you do anything by way of relieving him from going on that second trip—he said he had to make another trip; you had power enough to get him excused from going on that trip, didn't you?

A. No; I had no power whatsoever; he was to look out to get there himself; he could get a man in his place if he wanted to.

By the Court.

Q. You could help him, couldn't you?

A. No.

By the Court.

Q. Couldn't help him at all?

A. No.

Q. You don't regulate his duties?

A. No.

Q. You would lose your position if you interfered with his duties?

A. The superintendent looks after the regulating of the men's work, and we never attempt to interfere with him.

Q. When you went back and reported to Mr. Griffiths—at his office—do you recollect what he did?

A. I went right up—do you mean the first time or the second time?

Q. After you had spoken to Seastream?

A. First time or second time?

Q. First time?

A. Then Mr. Griffiths, he waited there until the time was exhausted—he was supposed to make appearance; when he didn't come, then Mr. Griffiths sent me back a second time, as I have said.

Q. Were you absent when Mr. Griffiths telephoned to the court house?

A. I think I was.
Q. Who did he telephone to; do you recollect?
A. No, I don't recollect; I think Mr. Hudspeth.

Cross-examination.
By Mr. Frank P. McDermott.
Q. How long, did I understand you—how long have you known Mr. Seastream?
A. I guess eight or nine years.
Q. Your connection one of intimacy with him?
A. No.
Mr. Allan L. McDermott—Pardon me one second, to close my examination.
By Mr. Allan L. McDermott.
Q. You went before Judge Blair, didn't you?
A. Yes, sir.
By Mr. Allan L. McDermott.
Q. Were you heard?
A. I simply stated I had been to see Seastream, and after promising me he turned around and said he wouldn't come—almost immediately, or in the same breath.
Q. You say your relation is not one of intimacy at all?
A. No.
Q. He occupied an inferior position to yours?
A. Well, I consider it so.
Q. You have charge of the compasses, I understand?
A. No, sir, I haven't charge of any compasses; I am sent there to adjust them when they get out of adjustment.
Q. Part of your duty is to adjust them?
A. Yes, sir.
Q. And your regular duty is that of pilot on one of the boats?
A. That is it substantially.
Q. And Mr. Seastream is a mere ashman on one of those boats?
A. Mere or no mere, he shovels ashes there.

Q. On this first occasion when you met him, I understand, he was pointed out to you as "it?"

A. He was pointed out to me as "it."

Q. And up to that time your acquaintance had been very slight with him?

A. I had seen him around the boats shoveling ashes a great many times, but never had any intimacy; I may have spoken to him three times or four times, probably, in eight years.

Q. Before you became interested together in this baseball matter?

A. Yes, sir.

Q. And you were not interested in him in any way?

A. None whatsoever.

Q. Mere—practically a mere stranger to him?

A. If you choose to call it that, yes.

Q. Don't you call it that?

A. No; not if I know a man you don't call him stranger.

Q. You don't call him friend?

A. Call him acquaintance, if you like—passing acquaintance, or fellow-worker; something to that effect.

Q. On this first occasion, I understood you to say, he seemed to be disturbed about something; was he?

A. Apparently.

Q. And you and he arranged a meeting at that time to talk it over?

A. Well, I agreed to help him as soon as our respective work got over, which would be two hours hence, or thereabouts.

Q. And you took various means to meet some place?

A. No; we didn't take any means at all; I simply walked off the boat and was followed by Seastream.

Q. You had no interest in the matter, had you?

A. No interest?

Q. You had no interest in the baseball business at that time?

A. I had none that time, or never had any since.

Q. Why not talk it over right on the boat with him?
A. On the boat with him?
Q. Yes?
A. My duties wouldn't allow me to; I don't suppose his duties would either.
Q. What was the necessity of going up to the York street dock, was it?
A. It was according to his suggestion.
Q. Well, why—what was the necessity of going to a place of that sort?
A. That is up to Seastream; I don't know why; he asked me to go over there.
Q. Where nobody could see him; that is what I understood you to say?
A. Yes.
Q. So nobody could see you over there?
A. Yes, that is what he said.
Q. You had no interest in secreted action, had you?
A. None whatsoever.
Q. And you hadn't any interest in the man?
A. No.
Q. But you went up there; how far is that from where you got off the boat?
A. A hundred feet, probably.
Q. Hundred feet?
A. Yes, sir.
Q. When you got up to the York street dock, did you find a secret place to talk?
A. I can't say that any place is secret if we stood there in open daylight, but removed from the ferry or from the ferry landing.
Q. Well, was it more secret than the place you had come from?
A. As he held it to be more secret than the other; I had no choice in the matter at all; I simply went there according to his request.
Q. You walked out this hundred feet and found this place; were anybody about?

A. Not that I saw.

Q. There were people about on the other place, I suppose?

A. There may have been.

Q. And after you reached this York street dock, upon what part of the dock did you have the conversation?

A. Well, as near as I can recall it, right close to the—well, not very far removed from the edge of the dock, if that is what you mean, and possibly a hundred feet; no, not as much as a hundred; we will say fifty feet from the bulkhead; probably seventy-five, and probably six feet from the edge; that is correct.

Q. How far from the street?

A. How far from the street; well, I don't know; there is no street around there at all; let me see; do they call that a street? there is no houses right next, right at the edge of the bulkhead—that is, the houses; they stand somewhat back, but I don't know as there is a street; I never heard it called—named as any street.

Q. Well, how far from any house then?

A. From any house; right close to a house?

Q. What house?

A. Why, the cellar and York street dock.

Q. A dock house?

A. Yes, sir.

Q. The house on the dock you mean?

A. House on the dock.

Q. But there were no dwelling-houses near?

A. No, no dwelling-houses in that part of the city as I know.

Q. How far is it from a dwelling-house, this spot?

A. I don't know how far the dwelling-houses reach.

Q. Well, as near as you can tell?

A. I don't know of any dwelling-house immediately around there.

Q. What did he say to you before you went there?

A. Before we went, he says, "Can I talk to you?"

Q. I mean before you went?

A. That is the first conversation we had; that is the only one; and we went there.

Q. Is that all he said?

A. He says he wanted to talk to me, and I told him, "Talk away;" and he says, "Not here;" he says, "Come over on the York street dock, because," he says, "you see they are all after me."

Q. Who was after him, did he say?

A. I didn't ask him, and he didn't say.

Q. Do you think the man was in his right mind?

A. I don't think he is very right at any time.

Q. Did he say any particular person was after him?

A. The words I have said is what he said.

Q. Did he mention the name of any person?

A. No.

Q. That was after him?

A. No.

Q. Didn't you inquire who was after him; he approached you as a friend?

A. Yes.

Q. And said somebody was after him, but you didn't inquire who it was that was after him at all?

A. No.

Q. Weren't you interested in finding out who was after him?

A. If you will recall, he asked me to walk over to the dock; and I didn't stand there and talk to him; and I went over to the dock; if you ask me what occurred after we went over to the dock I will tell you.

Q. When you got over to the dock did he tell you who were after him?

A. He said they were all after him.

Q. Who were all?

A. He said the people working around here.

Q. What did he say they were after him about?

A. For stopping the baseball playing on Sunday.

Q. Didn't you think it strange he took you way up there to tell you about that?

A. No, I didn't think it strange; he appeared as though he was frightened, scared or something, and he didn't want anybody to see him; I have seen people in that state of mind before.

Q. Did you feel under any obligation to get him out of his frightened condition?

A. I said that; I have always said that Seastream was rather a simple-minded fellow, and I was willing to help him out of any difficulty if he requested me to do so.

Q. Well, how long did you stay up in this spot in the York street dock?

A. Two or three minutes.

Q. Is that all?

A. Possibly it might have been four; I can't exactly recall the time exactly; but we had this conversation.

Q. From there where did you go?

A. I went aboard a boat.

Q. Where did he go?

A. I didn't follow him, but I guess he went——

Q. I mean as far as you could see, of course?

A. I didn't notice where he went at all; I went aboard a boat.

Q. Is that all that took place that day?

A. No, sir; that is not all.

Q. That is on May 12th, I understood you?

A. Yes; that is May 12th.

Q. Did you see him again that day?

A. Yes.

Q. Where?

A. The first time I see him next to that was at the head of the bridge as I come off the boat.

Q. About what time of the day?

A. That was about five minutes after twelve.

Q. When was the earlier talk on the York street dock?

A. About five minutes past ten.

Q. Was this meeting five minutes after twelve; was this meeting by appointment?

A. By appointment?

Q. Yes?

A. Well, you may call it appointment; I agreed to help him out as soon as I got through with my work; my work terminated at that time; the boat landed and I was going home ashore to dinner, and I had agreed to help him out when I got through work; and he was there to go ashore; I suppose his work was finished, too.

Q. Then the meeting was by this arrangement between you?

A. Yes, you may call it so.

Q. Where did you get off the boat, at Exchange Place?

A. Well, at the annex ferry boat landing.

By the Court.

Q. First floor, down on the dock, not upstairs?

A. Yes, not down below.

Q. Where did you go from there?

A. I went in Basford & Glenn's.

By the Court.

Q. Where is that?

A. Bassboard & Glenn's is a house adjacent to the First National Bank; it is a hotel and restaurant.

Q. And where did he go, or where did you leave him?

A. He went straight up York street.

Q. Did you have any arrangement to meet him again that day?

A. Yes, sir; I told him to meet me at Basford & Glenn's.

Q. And you went in to telephone to somebody?

A. Yes, sir.

Q. Who paid for the telephone?

A. Nobody; it wasn't required to pay; offered to pay ten cents, and they said, "That is all right."

Q. You offered to pay?

A. Yes, sir.

Q. Where did you meet Seastream again?

A. Outside, as I said.

Q. He stayed out there, did he?

A. Yes, sir.

Q. I thought you said he went up York street?

A. He went up York street by arrangement to meet me at Basford & Glenn's.

Q. He went up York street, and you came up Exchange Place?

A. Yes, exactly.

Q. He was to walk around that way, and you that way?

A. It wasn't my business to tell him which way he was going up; he chose to walk that way up.

Q. Why didn't he walk up with you??

A. Why not ask him?

Q. Wasn't he fit society for you?

A. He might have been fit enough, but he didn't choose to walk up, that's all.

Q. Was it because he was covered with ashes, or why didn't you walk together?

A. I can give you no reason; no reason whatever.

Q. For some reason you both separated, and you came around and met there?

A. It was evidently his desire not to go with me, the same as in the monrning he went.

Q. He didn't want to be seen with you?

A. I don't know, or possibly he considered me inferior to him.

Q. You ther telephoned somebody in Basford & Glenn's?

A. Yes, sir.

Q. Who did you telephone?

A. I telephoned Mr. Davis' office.

Q. That is, Mr. Robert Davis?

A. Mr. Robert Davis' office; yes, sir.

Q. I understood you to say he was out?

A. I was so informed.

Q. You didn't know Mr. Robert Davis, did you?

A. No, sir; only to know who the man was.

Q. I mean that you had no acquaintance with him?

A. No, none whatever; I have never seen him to speak to him in my life.

Q. Did you know he was interested in the baseball business?

A. Through what Mr. Seastream said.

Q. Did you know in any other way?

A. None.

Q. Did you know William was interested?

A. Sir?

Q. Did you know William Davis was interested in the baseball business?

A. No, sir; I didn't know anything about it.

Q. Did anybody tell you that?

A. No.

Q. And where did you go then after this telephone talk and Mr. Seastream's meeting you; where did you go?

A. We proceeded over Hudson street to Henderson, over to Henderson to Mercer, and Mercer up to Mr. Davis' office.

Q. Is that a direct way to go?

A. Yes, sir; as direct as could be.

Q. And whom did you find in Mr. Davis' office?

A. Mr. William Davis.

Q. Anybody else?

A. Not then.

Q. And this is still on the 12th day of May?

A. On the 12th day of May.

Q. Who came after you got there?

A. Mr. Griffiths was sent for to produce the affidavit, and came presently.

Q. But for a while you and William Davis and Mr. Seastream were there all alone?

A. Yes, sir.

Q. In that office?

A. Yes.

Q. And have you told us all that took place before Mr. Griffiths came?

A. I guess I covered it pretty well; you can ask any questions you like.

Q. Mr. Griffiths came before Mr. Bentley?

A. Mr. Griffiths came before Mr. Bentley; yes, sir.

Q. And you think you have covered the entire conversation, do you, of what took place?

A. Well, I had no stenographer to take notes exactly of what took place, but I think I have.

Q. How often have you met Mr. Davis before this, Mr. William Davis?

A. I was introduced to Mr. William Davis last fall.

Q. During the campaign?

A. Well, no; it was quite some time prior to the campaign.

Q. That is the only time you met him?

A. That is the only time I ever met him to speak to.

By the Court.

Q. Hadn't met him between that time and this day?

A. No, not to speak to.

Q. Had you any interest at all in the baseball business?

A. No, sir; I will state that I have seen one professional game of baseball all my life up to this season; that is voluntary information.

Q. Where did you meet Mr. William Davis?

A. Where did I meet him?

Q. Yes, where—I don't mean on May 12th; I mean when you were introduced to him?

A. Well, I will tell you that; I don't suppose it will incriminate anybody—in Mr. Alexander Graham's saloon; I went in to get a glass of beer, and suppose he was in there for the same purpose.

Q. Where was it?

A. In Mr. Alexander Graham's, corner Montgomery and Grove, not very far from where Mr. Davis lived.

Q. Did Mr. Davis do any part of the talking on this occasion?

A. Which occasion?

Q. I mean on the 12th of May?

A. This is on the 12th of May you have reference to again?

Q. Yes, and I mean on the occasion in his office?

A. Well, that was the 12th of May; well, no; Mr. Davis didn't do much of the talking, because all the talking had reference to this affidavit of Mr. Seastream.

Q. Who did the talking?

A. Who did the talking? it was three-cornered; I did part, Mr. Davis part and Mr. Seastream part.

Q. What part did you do?

A. Concerning what?

Q. About anything?

A. Oh, I couldn't tell you.

Q. What did you have to say about it?

A. I don't know.

Q. You introduced Mr. Seastream, I understand?

A. Yes, sir.

Q. To Mr. Davis?

A. Yes.

Q. Did you tell him why you had brought him there?

A. Yes.

Q. What was it; what did you tell him?

A. I told him that Seastream represented to me that he had been misquoted in taking the first affidavit—that he signed what he thought was a petition for it.

Q. A petition?

A. For to continue to play baseball on Sundays; that was all.

Q. You told Mr. Davis that?

A. Yes, sir; bearing on that case.

Q. What did Mr. Davis say?

A. He told Mr. Seastream that there was such an affidavit taken; that he had seen the same, and that it was signed by Seastream; that was in the Chancery Court.

Q. Then what took place next in this conversation between you?

A. Mr. Seastream asked to see the affidavit.
Q. Did he see it?
A. It was brought by Mr. Griffiths; he saw it.
Q. What happened then?
A. He branded it as false.
Q. Did he read it?
A. He read it.
Q. Who read it?
A. Seastream.
Q. Read this affidavit?
A. Yes, sir.
Q. Was it written or typewritten?
A. It was typewritten.
Q. How did he speak of it as being—how did he characterize it, in his own language?
A. Well, he says this, he says, "It speaks about me as being absent, when," he says, "I was present during the whole proceedings, when the two baseball games were played;" he says, "There was friends of mine up there," naming two sailors whose names I can't just recall now, and, well, he said several other friends, whom he subsequently admitted to Mr. Bentley, on cross-examination, to be Mr. Brown, Mr. Brown's son and Mr. Brown's sister-in-law, Margaret Fitzpatrick; he also mentioned a person named Mr. Munger, or some such name as that; and he says, "If I was absent, how could those people be with me and seeing the game;" that was the point he made.
Q. How long did this take place—this interview in Mr. Davis' office?
A. Oh, what do you mean?
Q. I mean as near as you can tell?
A. The whole interview, until after it was complete—written up?
Q. Yes?
A. I judge an hour, probably an hour and a half.
Q. Why did you stay?
A. As a friend of Seastream.

Q. The only interest you had, was it?

A. The only interest I had.

By the Court.

Q. I understood you to say that he was home all the time, or was not home all the time, during the playing of these two baseball games?

A. He told us there that he was home the entire time; that he viewed it in company with friends of his.

The Court—I have got it; that is what I thought you said.

Q. Who wrote the second affidavit—the affidavit he made that day?

A. Mr. Griffiths wrote it.

Q. In what room did he write it?

A. Well, he wrote it in the outer room.

Q. There were two rooms?

A. Yes, two rooms; the door connecting them was open, and we stayed in the inner room; at the conclusion of each paragraph he come in and showed Mr. Seastream if it was correct; he says in each case that it was.

Q. At the conclusion of each paragraph?

A. Yes, sir.

Q. Came from one room into the other, did he?

A. Yes; rooms right adjacent, the same as from here to here (indicating).

Q. And how long did it take him to get this affidavit up?

A. I guess, probably, well, at that time it seemed pretty long to me, but it may not have taken over twenty minutes, or a half an hour.

Q. And you say Mr. Bentley came in later; did he take any part in the conversation?

A. No, didn't take any part in the conversation; Mr. Griffiths simply told him, he says, "Mr. Seastream wants to take an affidavit, and I want you to cross-examine him," or "to take it," or words to that effect.

Q. Cross-examine him, eh?

A. Yes.

Q. Well, what sort of a cross-examination took place then?

A. He read to him each paragraph and asked him if each one was so.

Q. Who did that?

A. Mr. Bentley.

Q. I understood you to say that Mr. Griffiths had done that once?

A. Yes, he did; not once, but a couple or two or three times.

Q. Then Mr. Bentley read each paragraph to him again?

A. Yes, he mentioned the fact that it was such an unusual case he needed to be careful.

Q. Who did that?

A. Mr. Griffiths did it.

Q. Were you there; did you see him sworn?

A. Yes, sir.

Q. How was the swearing done?

A. The swearing was done in the usual way; he was told to hold up his right hand.

Q. How do you know that is the usual way; are you familiar with——

A. Yes; I am thirty-six years old, nearly, and I have been in court proceedings a few times.

Q. Number of times, have you?

A. Yes, number of times.

Q. And you say it was done as they swear in court, was it?

A. He told him to hold up his right hand and be sworn.

Q. Did you see him sign?

A. Yes, sir; stood right alongside of him.

Q. Well, after that when was the next occasion when you saw Mr.——; you stayed there throughout the whole performance, as I understand?

A. Yes, sir.

Q. As Mr. Seastream's friend?

A. Exactly.

Q. Did you go home with him?
A. No, sir; I went to my home to dinner.
Q. Did you leave together?
A. Yes, we left together.
Q. Went downstairs?
A. Went downstairs; the office was downstairs.
Q. Went outdoors together?
A. Yes, went out on the street together.
Q. Do you remember where you went first?
A. Yes.
Q. Where?
A. Home.
Q. Didn't you stop somewhere before you went home?
A. No.
Q. Didn't you go in a saloon and stop and have a drink with these gentlemen?
A. No.
Q. When was the next time you saw Mr. Seastream?
A. After that on Sunday; two days later.
Q. That is the 14th?
A. Yes, sir; the 14th.
Q. Have any talk with him then?
A. Yes.
Q. About this?
A. Something like it; he come up to express his gratification to me for helping him out of a hole; I told him he needn't be under any obligation to me, and I had simply done it as a friend, and was glad he was satisfied; this took place on my boat.
Q. You had some sort of meeting with him on the 20th, too, didn't you?
A. I was down to his house.
Q. On the 20th?
A. Around that; I won't be sure it was the 20th.
Q. About that time?
A. Yes, sir.
Q. Who went with you?
A. Nobody.

By the Court.

Q. Ever been there before?

A. No, sir.

Q. Ever been there since?

A. No, sir.

Q. Did you see his wife on that occasion?

A. Yes, sir.

Q. Have a talk with her?

A. Well, I don't recall whether I spoke to her or not; probably I did pass a word with her; I see her in the middle room, sitting-room, with her two children—no, one child; one was sick; I think I asked her with regard to the child's health; the one she was carrying, she had, it was a puny child.

Q. Did you have any talk about baseball matters that day?

A. No, except I asked him what—I asked him about the statement—I had seen it in the *Journal,* that he had been under pressure.

Q. It was that expression, you say, in the paper that took you down?

A. Yes, sir.

Q. Why did you care?

A. Why would I care; I guess I would care.

Q. Well, why?

A. I asked him if he was playing me for a fool, asking me, as a friend, to help him out of a hole and then —I guess that was enough reason.

Q. You were angry?

A. Yes, sir.

Q. You went down because you were angry?

A. Yes.

Q. You have been angry ever since?

A. Ever since; well, we should forget our enemies, the Good Book says, and I don't generally harbor matters as long as this, because I understand he is a very——

Q. Very what?

A. Well, very unintelligent man.

By the Court.

Q. Very unintelligent?

A. Yes, sir; non-intelligent, I said.

Q. So, having seen the statement that he had signed this under pressure, you went down to see him about it?

A. Yes, sir.

Q. Who was present in that conversation?

A. The conversation took place up in the attic.

Q. Up in the attic?

A. Yes, where he had taken me to show what a magnificent view he had of the baseball ground, and asked me to bring my lady friend down there some Sunday to see the baseball game.

Q. What about this pressure you had heard about and went to see him about; hadn't you got to that yet?

A. It was mentioned while I was there upstairs.

Q. That is what you went to see him about?

A. Yes, sir.

Q. It wasn't to see the view; you went to see about this statement as to the pressure?

A. Yes, that is it.

Q. Where did you have that talk with him, if any?

A. I had that talk upstairs, I guess.

Q. Waited until you got up in the attic, did you?

A. I don't recall now, but I had a talk somewhere there; possibly it was in the attic.

Q. Did you have it when you first got there?

A. Well, I guess I wasn't there very long before I had it; I don't recall whether it was in the parlor or attic, because right away he took me upstairs to show me the view he had.

Q. His wife was downstairs first?

A. Yes.

Q. You went up in the attic; she wasn't up there?

A. Hold on; I recall now; I met Mr. Seastream in the yard; that is where the conversation took place.

Q. You met, did you say, Mrs. Seastream somewhere there?

A. In the house.

Q. But you didn't stop and talk about this where she was?

A. No.

Q. You went up in the attic?

A. No; the conversation took place in the yard, I recall, because I found Mr. Seastream out there planting some fence posts or something of that sort, or some shrubbery; he had the two children there, too; I recall that now.

Q. You are satisfied it didn't take place up in the attic?

A. I won't say just where it was; I don't recall just where it was.

Q. You think now it took place in the yard?

A. I think now it took place in the yard, yes; the yard there is a vacant lot alongside of the house.

Q. You say he was there working, or something of the sort; what did you say to him?

A. I wanted to know what was meant by this statement that I see in the paper; if he had made a statement to Mr. Currie that he was under pressure when he took this affidavit that was taken on the 12th of May; he said, "I haven't seen Mr. Currie since, and I know nothing at all about the statement;" that was all there was to it.

By the Court.

Q. You were satisfied with that, were you?

A. Yes, sir.

By the Court.

Q. Going all the way down there, with that answer?

A. Yes, sir; I couldn't prove it no other way.

Q. I understood you to say that on Wednesday, or either the day before or the time Judge Blair was to examine the witnesses, you left a note for Mr. Seastream?

A. I left it on Thursday.

Q. Was it on Thursday or Wednesday?

A. Yes, on Thursday.

Q. Look at this paper and satisfy yourself?

A. I made a mistake in the paper; I am satisfied of that.

Q. Look at this paper and state just when it was; open the envelope?

A. I wrote that.

Q. The envelope, too; did you?

A. Yes, sir; I was thinking it was the same day I left the note there, but I see it was after.

Q. That was written on Wednesday, and it suggested that he come—well, it speaks for itself.

A. Yes, sir.

Q. That was Wednesday, 1st day of June?

A. Yes, sir; I will state that I left another note there on Thursday; whether he has received that or not, I don't know.

[Letter and envelope marked *Exhibits D 2* and *D 3.*]

Q. Did you know of the hearing on May 26th before Vice Chancellor Pitney?

A. No, sir.

Q. Did you know there was a hearing going on?

A. No, I didn't know anything about it.

Q. It was on that day, I understand, that you found this note from somebody—Captain Nelson, is it?

A. Yes; Mr. Nelson wrote me that note; yes, I recall it; I recognize it.

Q. And later you saw Mr. Seastream?

A. Yes, sir.

Q. The same day?

A. Yes, sir.

Q. And it was on that day, was it—the 26th—that you and he went over to New York?

A. Exactly; you have it right.

Q. You got an intimation somewhere that they wanted him in court, didn't you?

A. No, I didn't know.

Q. You understood somebody was after him?

A. Only from what he said, that somebody was there to arrest him; I didn't know anything at all about him.

Q. Did you know what they wanted of him?

A. No, I didn't, sir.

Q. What it was about?

A. No.

Q. Anything said about being in connection with the baseball matter?

A. No, sir; not by me.

Q. I mean by him to you?

A. No, not by him to me.

Q. Did he say he had done anything that he might be arrested for?

A. I didn't know; he didn't tell me anything.

Q. Why did you take this method of getting out of the State with him on that occasion?

A. Well, in my first admission, when I said I took him up to the trainmen's waiting-room, I went home to dinner about two o'clock; I come down and I found him in the trainmen's waiting-room; I asked him, or he told me that he was hungry and wanted something to eat; I asked him to come outside to have something to eat.

Q. Let me ask you first, why did you take him up in the trainmen's waiting-room?

A. He wanted to be where he couldn't be seen.

Q. And you wanted to help him get there?

A. As a friend, I would have helped him to go anywheres.

Q. He had gotten to be a friend by this time, had he?

A. He appealed to me as such, and if I am appealed to as a friend I think I should be a very poor man if I wouldn't help a man of inferior, mentally, capacity, which I consider him as such.

Q. Then, after you helped him there in the trainmen's waiting-room for a couple of hours or so?

A. Yes, a couple of hours.

Q. You concluded he might be hungry?

A. I went down to see if he was there yet, that is all.

Q. Why did you go to see if he was there?
A. Just to see if he was there.
Q. He was perfectly safe there, wasn't he?
A. Yes, sir; perfectly safe.
Q. Hadn't asked you to come?
A. Yes.
Q. Went to look him up; see if he was still there?
A. Yes, that is right.
Q. You found he was still there?
A. Yes, sir.
Q. You suggested he go to New York to get something to eat
A. No, I didn't suggest it.
Q. What did you do?
A. He told me he was hungry; I said come on out and we will have something to eat; he says, "No, not in Jersey; I suggested then the Keystone restaurant, which was right in the same building; he said, "No, he wouldn't go there, either;" then I said, "Where will you go? you are hungry;" he said New York will be the best place, or I might have said that; I won't just say who suggested going to New York; anyhow, we went there.
Q. You had had your dinner?
A. I had had my dinner.
Q. It was only to get him something to eat you went over there?
A. Yes.
Q. When was the occasion in Mr. Griffiths' office?
A. That same day.
Q. On the 26th?
A. Yes, sir.
The Court—Yes, got back here between four and five o'clock.
Q. What was the occasion of going to Mr. Griffiths' office that day?
A. Mr. Seastream wanted to see him.
Q. I understood you to say this trouble he had didn't have any relation to the baseball situation?

A. I didn't know that.

Q. Didn't you say so a moment ago?

A. Yes.

Q. When did you find out that it had no relation to the baseball situation?

A. Didn't find out.

Q. Well, why go to Mr. Griffiths?

A. He wanted to see him as a lawyer, I suppose; ask him his advice.

Q. Not because it related to baseball, but professional relation?

A. I suppose so; he didn't tell me.

Q. He didn't tell you before he went, or at the time he got there that it had any relation to the baseball question?

A. Not that I can recall.

Q. Not a thing?

A. No.

Q. It was simply to meet him in a professional way, as you understood?

A. Yes, exactly; he was very much worried about arrest, and so forth.

Q. Didn't say what it was about?

A. No, didn't say.

Q. Didn't know he was going to arrest him?

A. No, didn't know he was going to arrest him.

Q. You didn't look upon him as a general law breaker?

A. No, I didn't think the man would break the law; as far as I know he was very law abiding.

Q. Didn't you sympathize with him?

A. Yes, sir; I always sympathized with people in trouble.

Q. Didn't you inquire what he was to be arrested about?

A. I don't know whether I did or not.

Q. Can't remember that?

A. No.

Q. But your best recollection is that during that con-

versation, up to the time you took him in Mr. Griffiths' office, you didn't know it had any relation to baseball?

A. I don't know; I didn't make it my business to inquire.

Q. What time did you reach Mr. Griffiths' office?

A. I can't say; about four o'clock, or probably five o'clock—probably half-past five.

Q. Was he there?

A. Mr. Griffiths was there; yes, sir.

Q. Wasn't this warrant that he supposed still out for his arrest?

Mr. Allan L. McDermott—We object; there is no evidence of any warrant.

A. I don't know, it was only myself that said there was a warrant out; it was only myself said he was going to be arrested.

Q. But after four o'clock you thought it was safe to go to Jersey, didn't you?

A. I didn't think anything about it.

Q. He did?

A. Evidently, or he wouldn't have come.

Q. So, after four o'clock, you and he came over?

A. Yes, sir.

Q. I think you said you found Mr. Griffiths at his office?

A. Yes, sir.

Q. Who opened the conversation?

A. I don't remember.

Q. You?

A. I don't remember.

Q. What was the conversation when it was opened?

A. It had reference first to—about this man had been to see him.

By the Court.

Q. About a man coming to see him?

A. Coming to see him on the boat and, Seastream said, to arrest him, as he thought; and I don't remember what Griffiths told him, but he said there was no danger of

arrest, or words to that effect—words that had such a bearing.

Q. What was this conversation about?

A. I have said.

Q. That is about all there is of it?

A. That is about all.

Q. How long did it take place?

A. Oh, that part didn't take long.

Q. Whatever did take place; how long did it take?

A. Well, I don't remember how long he was in the office.

Q. That is all it had relation to, was it?

A. Yes, and while there Seastream reiterated his first connection with the affidavit.

Q. He had gotten back to the affidavit by that time, had he?

A. Yes, I think you will find on that—I gave him the story.

Q. I want to get what you say now about it; by that time you had got, you yourself then got the notion that it was about baseball, did you—the first notion you had, wasn't it?

A. No; I never thought anything at all about that; Mr. Seastream opened the conversation in connection with the first affidavit.

Q. I mean on this occasion?

A. On this occasion, yes, sir.

Q. That is the first you had thought of it in that connection?

A. I want you to understand I am not Mr. Seastream's mentor, and I don't——

The Court—You just answer that question. You can answer easy enough. He asked you whether that was the first you thought of this Seastream being scared, being arrested, had any connection with baseball?

A. No, I never gave that a thought.

Q. That is all of that conversation that you can recall,

is it, Captain Haagenston, all of it that you can tell us about that?

A. Yes, sir; there may have been a word said here and there; I don't remember every word.

Q. Didn't Mr. Griffiths talk to him about it?

A. Mr. Griffiths had something to say; Mr. Seastream reiterated his connection with the first affidavit and told about his being misled, and such as that.

Q. About what?

A. About his being misled, and about his signing a paper, as he thought, a petition in favor of baseball.

Q. Do you mean to say that was on this second occasion; did he talk about that?

A. Yes, I think he referred to that; I am almost sure he did.

By the Court.

Q. He didn't learn anything of what had taken place in court that day, I suppose?

A. I don't know as that was referred to.

By the Court.

Q. Nothing said at all about reading of the affidavits or anything of that kind?

A. I don't recall.

By the Court.

Q. Nothing said by Mr. Griffiths about the matter having been sent to Judge Blair?

A. I don't recall on that day.

Q. Well, on the 1st of June you knew that the matter had been sent to Judge Blair, on Wednesday, when you wrote this letter?

A. Oh, yes.

By the Court.

Q. How did you hear of it?

A. Mr. Griffiths told me.

By the Court.

Q. When did he tell you?

A. I guess probably that same day.

By the Court.

Q. The same day you wrote this note?

A. Oh, yes, I guess so; it must have been on that day.

By the Court.

Q. Why did you want Mr. Seastream to see Mr. Griffiths?

A. Why, because Mr. Griffiths told me to tell him to be up there; that was why.

Q. To be where?

A. At Mr. Griffiths' office.

By the Court.

Q. Why should he go to Griffiths' office instead of going right to the court house?

A. Mr. Seastream didn't know where the court-room was; we were to go in a body.

Q. Who was to go in a body??

A. All of us that were present.

Q. You and Seastream?

A. Yes, I was to go there as one of the witnesses.

Q. Were you subpœnaed?

A. I don't remember whether I was or not; no, I was not subpœnaed.

Q. You went voluntarily, did you?

A. Yes, sir.

Q. And you did appear there?

A. I did appear there, yes.

By the Court.

Q. Will you tell me why you were called on to be there?

A. Why I was called on to be there?

By the Court.

Q. Yes?

A. I don't know why I was called on; I was asked by Mr. Griffiths to be present.

Q. I understand you to say here, in your letter, that, speaking of Mr. Griffiths, he is down to your house this P. M.?

A. Yes.

Q. You knew that, did you?

A. Oh, yes; evidently, I must have seen him that same day; that speaks for itself.

Q. You must have seen Mr. Griffiths?

A. I must have, yes.

Q. And knew that he was going down to see Seastream?

A. I didn't know he was going down; he must have told me he was there.

Q. You say he is down to your house this P. M.?

A. Doesn't I say I was.

Q. "He is down to your house this P. M."; do I understand you were working?

A. Yes.

Q. You learned that Mr. Griffiths was going down, and then you learned that Mr. Seastream was at work, and they were not likely to meet?

The Court—Is that it?

A. I don't know just exactly what my impression was; that must have been it as long as the letter states it; I don't recall writing that note, but I know it is my handwriting, so I acknowledge it.

Q. You addressed to him, "Dear Seastream?"

A. Yes, I always addressed my correspondents that way.

Q. And you closed, "Pay no attention to anybody;" you don't always close that way?

A. Well, when I begun the letter I probably thought—I had heard that he——

By the Court.

Q. Why did you write that at the end of it—"Pay no attention to anybody?"

A. Because he had told me that some time that they were guying him, abusing him, don't you know, for being instrumental in having this ball game closed; most of them fellows are in favor of seeing a ball game on Sunday; I only take that for granted.

By the Court.

Q. You knew he was wanted before Judge Blair the next day, didn't you?

A. Yes.

By the Court.

Q. And your intention was to have him, you said, on the stand, as I recollect before, you said this, you sent him a note to go there?

A. Sir?

By the Court.

Q. Did you intend this note as a message to him that he was to go before Judge Blair?

A. I did.

By the Court.

Q. Why didn't you say so; why didn't you say "Go to Judge Blair?"

A. Because he was to go to Mr. Griffiths' office; he would know where the office of Judge Blair was.

By the Court.

Q. Didn't you think he knew where the court house was?

A. I don't think he did.

Q. Why didn't you write him "Go to the court house to-morrow morning?"

A. I thought it required Mr. Griffiths.

By the Court.

Q. You thought it required Mr. Griffiths to steer him up there?

A. Yes, sir.

Q. It never struck you that Mr. Griffiths would want to talk to him a little before he went up there and fix up a story; you did not think that?

A. No, sir.

Mr. Allan L. McDermott—Judge Blair made the request of Mr. Griffiths that he produce him in that way.

Q. That day, on the 2d, you say you had your relief come in earlier?

A. Yes, sir.

Q. And you met Mr. Seastream two or three times that day?

A. Twice, I think.

Q. Twice that day?

A. Yes, sir.

Q. And he didn't come over; Mr. Seastream didn't come over?

A. No.

By the Court.

Q. Didn't pay any attention to your note?

A. No, I left him a note that day, too, almost similar to that; I guess Seastream would produce it if he was asked to, or probably he has not received it.

Q. You had one or two talks with him?

A. Twice.

Q. As you have already mentioned?

A. Yes, sir.

Examined by Mr. James Benny.

Q. When Mr. Seastream complained of being in trouble, did he make mention of any other trouble than being jibed?

A. Is this on—what day have you reference to, sir?

Q. When he first spoke to you?

A. The very first day, on May 12th—you mean on May 12th?

Q. I mean on the day when Mr. Madden said, "Do you see that?"

A. Oh, yes; he says that everybody is making fun of him and guying him for interfering with the baseball game, and he appealed to me as a friend to help him out.

Q. Did he say Mr. Madden was one of the persons?

A. No, he mentioned no names.

Q. Is Mr. Madden employed by the same company?

A. Yes, sir.

Q. What steps did you take to prevent the jibing that he complained of?

A. None at all.

Q. Then you didn't take any steps to prevent that which the man complained to you about?

A. I will answer that by another question; how could I take steps to prevent it; I am not a person in authority.

Q. The fact is you did not take any steps to prevent what he complained about; that is the fact?

A. I told him to have nothing to say about it and probably they wouldn't bother him.

Q. Did you make any inquiry of the man Mr. Seastream pointed out to you, who had a warrant for him, why he wanted Mr. Seastream?

A. No, sir; it was none of my business.

Q. You were a friend of Mr. Seastream?

A. Yes.

Q. Was it not your business, in the exercise of that friendship, to know what trouble your friend was in?

A. I didn't consider it was; it might have been.

Q. Did either Mr. Seastream or you, when you reached Mr. Griffiths' office, state to Mr. Griffiths that there had been a man there that day at the ferry house?

Mr. Allan L. McDermott—I will ask who the counsel represents.

Mr. James Benny—Mr. Seastream.

The Court—Refer always to the occasion, so there will be no confusion.

Mr. Benny—There are no dates given, as I recall it—Mr. Griffiths not being able to use the testimony that he gave, I am at a loss to know.

The Court—He says, on the 26th of May he went to Mr. Griffiths' office with him, at four or five o'clock.

Q. On the day, when the man was at the ferry house with a warrant, as you were told by Mr. Seastream, did you tell Mr. Griffiths that there had been a man at the ferry house that day with the warrant?

A. Mr. Seastream confided that information to Mr. Griffiths.

Q. Did he state to Mr. Griffiths anything about why the man should have a warrant for him?

A. No, I don't recall anything specific along those lines.

Q. In going with your friend to a lawyer, did you ask your friend what he had done that would warrant an officer being there for his arrest?

A. Wel, I guess about this time—well, no, I can't state; I will say it is none of my business to make those inquiries, and I didn't make any; I might have thought it was in connection with his two affidavits—one for and the other against—but I don't know if I had that fixed in my mind at that, and I don't think the matter was brought up; it might have been brought up; I won't be specific.

Q. You were interested enough that day to conceal him in the waiting-room, to take him to New York for something to eat, to then take him to a lawyer; were you not sufficiently interested to know what the trouble was he was in that required the lawyer's advice?

A. I want you to understand that I didn't conceal him.

Q. I will withdraw the word "concealed;" you were sufficiently interested to take him into the waiting-room, where he wouldn't be seen?

A. No, sir; I didn't take him into the waiting-room.

Q. You went with him there and stayed with him there?

A. No, sir; I didn't do that.

Q. It didn't occur to you that you might have gone to the Keystone restaurant yourself and brought him something to eat when he was hungry?

A. No, sir.

Q. Would it not have been much easier for you to have done that than to have taken him to New York?

A. What a queer thing it would be to take a man who was able to walk, food from an adjacent restaurant.

Q. You went to New York with him to the restaurant, did you not?

A. I did.

Q. Would it not have been easier for you to have gone to the Keystone?

A. Yes, sir; much easier indeed.

Q. And your purpose was to feed the hungry man?

A. No, sir; I had no interest in the feeding of the hungry man at all; he wanted the food.

Q. If you were not interested in feeding him, why did you go to New York with him?

A. Well, I guess——

The Court—I would like to have you explain why he couldn't go to New York and get his dinner alone?

A. Because he asked me to accompany him; he appeared very much disturbed and nervous, much so all day; if he hadn't been he wouldn't have called for me in the first place.

Mr. Allan L. McDermott—The witness testified he wanted him to go out; he wanted him to go out to the Keystone restaurant.

The Court—I have heard the evidence. It isn't necessary to prompt the witness.

Mr. Allan L. McDermott—I never in my life prompted a witness.

The Court—I don't want you to make any remark at all.

Mr. Allan L. McDermott—I never did prompt a witness.

The Court—It is very well for you to say so. It is a common thing to prompt a witness. You are not the first that have done it.

Q. On the day when the person appeared at the ferry house who Mr. Seastream said had the warrant for him, did you then know where Mr. Seastream lived?

A. I think I knew where Mr. Seastream lived; knowed at the time the affidavit was written, that is the only information I had as to where he lived.

Q. That is the only information you had?

A. As to where he lived; yes, sir.

Q. And such information as you had, where did you supposed he lived?

A. Beg pardon.

Q. From the information you had, where did you suppose he lived?

A. Where did I suppose he lived?

The Court—Where did you suppose he lived?

A. He lived on the northeast corner of that baseball ground.

Q. In New Jersey?

A. Yes, sure.

Q. Did you give him any advice as to how he might escape this officer who was after him after you got into New Jersey from the ferry house?

Mr. Allan L. McDermott—I object. There is no testimony this man said there was an officer after him.

The Court—Answer the question.

A. I had no interest in the matter whatsoever; I told you so, except to aid him as a friend; he wanted to get away without being seen by this man who was out at the head of the bridge, and as such I gave him counsel as to how to go up in the lobby; he might have known that himself.

Q. And your friend said that he was afraid to go out in Jersey for something to eat for fear he would be arrested?

A. I think that is the words he used, or something to that effect; he said he didn't want to go across the street for anything to eat, nor would he go to the Keystone.

Q. Because it was in New Jersey?

A. He didn't mention that fact at all.

The Court—The witness merely inferred that.

Q. Was there anything said by either you or Mr. Seastream about the possibility of him being arrested after he quit work that night?

A. Quit work that night; he quit work at twelve

o'clock that day, or between eleven and twelve—not at night.

Q. Then he was not at work at the time you mention?

A. How could he be?

Q. That the man was at the ferry house with the warrant?

A. Yes, that was in the morning.

Q. That was in the morning; he was at work then?

A. Yes, sir.

Q. Was there anything said by either him or you as to how he should avoid the officer after twelve o'clock when he would be ready to go home?

A. No.

Q. He was not afraid at all about that—expressed no fear, rather?

A. He was not; yes, he was; he appeared to be afraid all day—in a very nervous state—and wanted me very much near him; that is the reason why I stayed with him.

Q. How long had Mr. Seastream been employed on the Annex boat "No. 4?"

A. I can't tell you.

Q. How long had he been employed on the Annex boats generally??

A. I couldn't tell you that.

Q. What other boat was he ever employed on?

A. Oh, all of them.

Q. All of them; and how often did you speak to Mr. Seastream?

A. I think I mentioned here that, possibly, in the eight years I have know him, I have spoke to him four or five times.

The Court—You are repeating almost the same question that Mr. McDermott put, and they have been answered.

Mr. Benny—I couldn't hear for the noise. If he answered, I don't want him to repeat them.

John J. Madden, sworn.

Direct examination.

By Mr. Allan L. McDermott.

Q. You are employed by the railroad company on the ferries here?

A. Yes, sir.

Q. Do you remember the meeting between the captain and Seastream on the 12th of May?

A. No, sir; if your Honor will allow me I will make just the statement I made to the captain, then you can go on with the cross-examine, cross-questions; the only statement I made, we were joking, all of us together, and I says, "There is the one that stopped the baseball," and Captain Haagenson says, "Who, Huskey?" and I says, "Yes;" and that was all the conversation he and I had.

Q. He was known as "Husky" there on the boat?

A. That was the nickname; I wasn't interested in it in any way, shape or form, only just joking.

Edward Nelson, sworn.

Direct examination.

By Mr. Allan L. McDermott.

Q. What is your business?

A. I am quartermaster of the "Newark" ferry boat.

Q. Do you remember the day Seastream spoke to the captain?

A. Captain Haagenson, there? yes, sir.

Q. Where were you?

A. In the pilot-house.

Q. You are engaged in the pilot-house, are you?

A. Yes, sir.

Q. What is your business?

A. Wheelsman.

Q. What boat?

A. Ferryboat "Newark."

Q. What did Seastream say to the captain?

A. He came up to thank him for the assistance he had

given him and putting himself straight; that is the way he termed it.

Q. What else did he say; what was said there; do you recollect?

A. Well, he said, "We always are in favor of the baseball game," and the only objection his wife had was on account of the fence.

By the Court.

Q. What is that?

A. The only objection his wife had was against the fence; and they had explained to her that the fence would be probably better than a disagreeable neighbor that she said she had on the other side; she would be satisfied; the captain then told him, Seastream, "You are under no obligation whatever to me; I only done you a friendly turn; that is all."

Q. Seastream said, "You are under no obligation to me; I only did you a friendly turn?"

A. No, the captain said to Seastream.

Q. The captain said to Seastream?

A. Yes, sir.

Q. Was the captain in the pilot house?

A. Yes, sir.

Q. Seastream came up there?

A. Yes, sir.

Q. You were in there with the captain?

A. Yes, sir.

Q. What did Seastream's duties on the boat—what part of the boat did they call him to, to go up there at all?

A. No, sir.

Q. Did he belong on that boat?

A. No, sir; not as I know of.

Q. Had you ever seen him in the pilot house before?

A. I had occasionally; not on the "Newark," but on other boats I have.

Q. What ferry does the "Newark" run on?

A. Cortlandt street.

Q. He isn't employed on that line there, is he?

A. No, I believe not.
Q. On the Annex?
A. So I believe.
Q. That is the boat that flies between here and Brooklyn?
A. Yes, sir.

Examination by Mr. Frank P. McDermott.
Q. When was this?
A. This was on Saturday, on May 14th, I guess.
Q. How do you happen to remember the date so well?
A. Well, I don't know exactly why, but I remember; that is about all.
Q. What time of day was it?
A. It was afternoon, somewhere; probably 12:30, something like that—12:25.
Q. Is Captain Haagenson the pilot on your boat?
A. Yes, sir.
Q. The same boat as yours?
A. Yes, sir.
Q. And how long have you and he been together in the pilot house?
A. Well, I suppose the last time we shifted over there; but the last time I have been around there probably for three months.
Q. And how long have you known him?
A. For about ten years—ever since he has been in the service.
Q. You and he have been together at various times in the pilot house?
A. Not very much.
Q. At various times you met him?
A. Yes, sir; I met him.
Q. You acted as wheelsman and he as the pilot?
A. Yes, sir.
By the Court.
Q. You turn the wheel and he tells you how to turn it?
A. Not always; there are times when it is required.

Q. How long have you known Seastream?

A. About eight or nine years.

Q. Eight or nine years?

A. Eight or ten years, I said.

Q. Where did you meet him?

A. Down at the ferry.

Q. His place was downstairs, wasn't it?

A. Not always; he used to be extra deckhand at one time, the same as I was.

Q. On this occasion, you say, he came up to where you were?

A. Yes, sir.

Q. And you are satisfied it was Saturday, May 14th?

A. Yes, sir.

Q. Did you make a note of it?

A. No, I didn't, for I wasn't interested in the matter.

Q. How do you happen to remember it so well?

A. Well, I don't know exactly.

Q. You remember the hour, too, don't you?

A. Well, yes, usually do remember things that happen around there.

Q. What was the expression that Seastream used when he came up that afternoon?

A. He merely shook hands with the captain and thanked him; he said, "I thank you, Captain, for assisting me."

Q. He said in that way, did he?

A. Yes, sir.

Q. What else did he say?

A. "And putting myself straight;" I don't know what he meant by it, but that is what he said.

Q. Do you mean he used as good language as you are using now?

A. I don't know; I believe he can speak pretty well; I can't speak very well myself.

Q. You don't mean to say he speaks very well?

A. Well, I don't know.

Q. He wouldn't strike you as a man who spoke English either well or correctly, would he?

A. Well, not very well.

Q. What did the captain say to him after all this?

A. He told him that, he said, addressing Seastream, that Seastream was not under any obligations to him.

Q. He said that to Mr. Seastream?

A. Yes, sir; it was merely a friendly turn.

Q. That was the whole of the conversation, was it?

A. That was the whole.

By the Court.

Q. What scrape was Seastream in; did you understand?

A. No, sir; I did not.

By the Court.

Q. Nothing said about losing his place?

A. No, sir.

Margaret Fitzpatrick, sworn.

Direct examination.

By Mr. Dixon.

Q. Where do you live?

A. 58 Dover street, Brooklyn.

Q. Do you know August Seastream?

A. I have been introduced to him by Mr. Brown.

Q. And on any day in May were you at his house viewing a Sunday—during a baseball game?

A. I don't remember the day; it was the second baseball game.

Q. Between what teams, do you know?

A. I couldn't say.

By the Court.

Q. Was it Sunday or a weekday?

A. On Sunday.

Mr. Frank P. McDermott—I object to the testimony as having no relation to the issue before the court.

The Court—I don't know what they want to prove by this witness.

Q. Who were present at that time while you were there?

A. There was Mr. Seastream, Mr. Brown and his son, of Morristown, and myself; Mrs. Seastream had been upstairs for a while with her baby, her oldest child.

Q. Were you there all that game?

A. I was there until half-past four.

Q. Was Mr. Seastream there all that time that you were there?

A. Yes, sir; he stayed until we went downstairs.

Q. And viewed that game?

A. Yes, sir.

The Court—This evidence is taken subject to objection. I am by no means certain that—I have very grave doubts as to its competency.

Mr. Dixon—If we knew exactly what the allegation was against the defendants—we don't know what it is; that is the trouble; as to Mr. Bentley, for instance.

The Court—The allegation is—it is perfectly plain. The question is not asked as to the truth of the affidavits, but as to which one Mr. Seastream made intelligently and understandingly and freely.

Mr. Dixon—And which is true, I suppose is important, isn't it?

The Court—No, I think not.

Mr. Dixon—It certainly will not be likely to obstruct justice by producing the truth before the court. Certainly, Mr. Bentley would be justified in taking an affidavit that he had reason to believe was true, if it was sworn to.

The Court—I am not going to stop the evidence; I only remark in deference to Mr. McDermott, whom I understand objects to it; I am not going to rule it out.

Mr. Allan L. McDermott—This goes to the truth of the first affidavit.

The Court—I am going to take it subject to the objection, but I don't want counsel to understand that I at present have formed an opinion that it is competent.

Q. Did he enjoy the game and express himself so?
A. Well, he didn't say so to me.
Q. What did he say about it?
[Objected to.]
A. I didn't hear him say anything.
The Court—Did he say anything?
Q. Was this boy there at that time?
A. That is Mr. Brown's son.
Q. What time did you get there; do you remember?
A. About half-past two—quarter to three.
Q. About what time did the game begin?
A. I guess it was a little after three.

Examination by Mr. Frank P. McDermott.
Q. You say you don't recall when it begun?
A. I don't remember when it began; it was a little after three o'clock.
Q. And how long did you stay in the house?
A. Until half-past four.
Q. I suppose you were there to see Mrs. Seastream?
A. Well, I went to see the baseball game; I went with Mr. Brown and his son.
Q. And you went to see the game?
A. Yes, sir.
Q. Where did you see it?
A. In the attic of Mr. Seastream's—attic.
Q. Oh, you saw it up in the attic?
A. Yes, sir.
By the Court.
Q. You went up there just simply to see the baseball game?
A. I went with Mr. Brown.
By the Court.
Q. To see the baseball game?
A. That is what I went for.
By the Court.
Q. You are not an acquaintance of Mr. and Mrs. Seastream?

A. Not until that day.

By the Court.

Q. You were introduced there and told that Mr. Seastream would let you go up and see the game from his attic, and you went up there?

A. Yes, sir.

Q. And who went up with you?

A. Mr. Seastream and Mrs. Seastream, and Mr. Brown and his son and myself.

Q. And when did Mr. Seastream come down?

A. He went down when I went down; that was half-past four.

Q. Wasn't he out in the meantime?

A. No.

Q. Mrs. Seastream was up there, too?

A. No, Mrs. Seastream went downstairs with the baby.

Q. She had the babies to take care of?

A. Yes, sir.

Q. The two of them?

A. Yes, sir; she had one of them up there first, and she brought that downstairs with her.

Q. They are both very small children?

A. Yes, sir.

Q. I understand one is four months and the other a little over a year old?

A. Yes, sir.

Q. You were interested in the ball game and not in Mr. Seastream?

A. I suppose that is all I was interested in.

Q. You didn't pay any special attention to him; that is so, isn't it; you didn't pay any attention to Mr. Seastream?

A. Well, I wasn't talking to the man at the time; I was looking at the ball game.

Q. And talking to Mr. Brown, I suppose?

A. No, I wasn't talking to Mr. Brown, either.

Adjourned until next Tuesday.

July 11th, 1904.

Continuation of examination pursuant to adjournment at Chancery Chambers, Jersey City, New Jersey, in the presence of the parties as before.

Charles M. Brown, sworn.

Direct examination.

By Mr. Allan L. McDermott.

Q. Where do you live?

A. 66 West 50th, Bayonne.

Q. Do you know Mr. August Seastream?

A. Yes, sir.

Q. Were you a visitor at his house on Sunday, April 24th, and Sunday, May 4th?

A. I was.

Q. Did you witness a ball game from his apartments there?

A. Partly through the game.

Q. What is that?

A. Part of the game; not all of it.

Q. He there himself?

A. Mr. Seastream?

Q. Yes?

A. Yes, sir.

Q. Did he comment on the game?

A. Well, once and awhile; yes, sir.

Q. On April 24th, how long were you there?

A. About half-past two until half-past four.

Q. During the game were you there?

A. Yes, sir.

Q. And May 4th, were you there during the game on that day?

A. About the same time.

Q. And he was there during all that time, was he?

A. Well, he was downstairs once and awhile.

The Court—Don't put leading questions, if you please.

Q. Who else was there with you?

A. On the first Sunday there was my son; he was there all the time I was there, and then when the game first started there was a young lady came in by the name of—I forget what her name was; she lived right in the neighborhood there; she stayed there a few minutes; then a friend of Mr. Seastream came up; he stayed there probably ten minutes and then went downstairs; then there was a gentleman by the name of Mr. Unger, a friend of his, came up there, and he was there until I left.

Q. What comment did he make on the game?

The Court—Who?

Mr. Frank P. McDermott—I object.

Q. Seastream?

The Court—Objection is made, but I overrule it for the reasons I gave about a week ago, I think.

A. Well, he didn't understand the game very much; he was talking a little about it.

Q. Did he talk to you about the fence there in connection with his house?

A. At that time?

Q. Yes?

A. No, sir.

Mr. Frank P. McDermott—I make the same objection. I don't mean to make objections all the time.

Q. Did he at any other time?

A. When the fence was going up, yes.

Q. What was said about the fence?

The Court—When—when it was going up?

Mr. Allan L. McDermott—Yes, sir; when it was going up.

The Court—Is that objected to?

Mr. Frank P. McDermott—Yes, sir.

The Court—Will you please state to me how that can possibly have anything to do here, and how the declarations of Mr. Seastream, made weeks before, can have any effect?

Mr. Allan L. McDermott—Yes, sir. My idea is that

the mind of Mr. Seastream is subject to scrutiny—that if before this Sunday, when the fence was going up, he objected to the manner of construction of it, and it being adjusted to suit his views, and he then declared himself satisfied with the ball ground as constructed, it negatives the idea that his mind was opposed to the playing of ball on these grounds. I understand he wanted it just in a certain way—took part in the creation of these grounds —he knew what they were to be used for and expressed himself as satisfied with the manner in which the fence was.

The Court—This is not a suit by Mr. Seastream to enjoin the baseball game; it is not a suit by Mr. Seastream to enjoin the baseball game; nor is it a suit in which parties interested one way or the other may make use of the circumstances to procure evidence for the purpose of hearing on the trial of the suit to restrain the baseball game, and it is so far outside of the limit that I feel constrained to decline to hear it.

Mr. Allan L. McDermott—The court overrules the question?

The Court—I do.

Mr. Allan L. McDermott—We pray an exception.

The Court—Don't have to pray an exception in this court, Mr. McDermott; nobody knows it better than you.

Mr. Allan L. McDermott—Your Honor, an examination of the files of this court does not disclose any reference to your Honor, and it may be that your Honor is sitting in the capacity in which we are entitled to take exceptions. There is no reference disclosed by the record.

The Court—I think you took exception a week ago. You can make it clearer if you wish.

Mr. Allan L. McDermott—I took exception to the jurisdiction proposition. Now, I have no doubt that if your Honor was sitting to take testimony to be reported to the Chancellor—there is no rule of reference that I can find in the record; I understand there is none entered—then we can take, under the practice, exceptions as we take before a master who is taking testimony.

The Court—Your objection is just as good as an exception; your objection is all there is in it. I understand you except to the jurisdiction of the Vice Chancellor to sit for the Chancellor in a case of this kind. I understood it very distinctly the other day. You can make it more clear on the record.

Mr. Allan L. McDermott—That is clear.

The Court—I do not say it is not free from difficulty, and I will give you an additional ground to make it perfectly clear. The case which gave rise to this contempt was not referred to me. In that respect the case differs from that of White against White, in which a case was referred to me for trial. In the course of that trial one of the parties, directly and by the aid of other persons, attempted and did interfere with the evidence of witnesses. That matter being called to my attention, I proceeded to investigate it, took testimony—found Mr. White and one or two other persons guilty—and the Chancellor came here at my request and sentenced them to a heavy fine. The difference between that case and this is that there a case was referred to me. In this case the advice that a proceeding be instituted against these gentlemen for contempt was made by me to the Chancellor. It was, however, investigated by him himself. He saw the affidavits, and did not act alone upon my mere advice, but he acted upon consideration; and I have his letter, requesting me particularly to hear it. It was made returnable on a motion day. I am not quite through. I want to be perfectly fair. It was made returnable on a regular motion day before the Chancellor himself, but by the thoroughly settled practice of the court, the Chancellor cannot sit on every motion day throughout the State—in fact, he sits hardly at all—sits at Trenton; the work is all done by Vice Chancellors who sit for him on that occasion; and I am sitting for for him, regularly assigned to sit here on the calendar on the days that this has been returnable. In addition to that he has requested me personally to hear it, a task

which it is no disparagement to say I prefer to be excused from; and that is the way it is here. Now you are entitled to have that distinctly appear on the record, and your objection to it. I think it has already so appeared, but if it has not I think what I have stated now, Mr. McDermott, gives you the full objection, doesn't it? If you have any other objection to make, you had better make it now.

Mr. Allan L. McDermott—Of course we have the objection to your Honor's sitting here.

The Court—Yes.

Mr. Allan L. McDermott—Now, it may be this testimony being taken, the point raised, the jurisdictional point, would be good and yet the testimony might be taken, reported upon and the Chancellor treat it as though the testimony was so taken, as if so taken before a master to be handed to him, in which case we would be entitled to the exception.

The Court—No exception to the finding of the master, not to mere exception. It don't matter; your objection is an exception, Mr. McDermott. When I said that, I merely repeated what the usual practice is. Your objection is an exception, I suppose. I refuse to have an exception made on the record and the stenographer takes it down. It don't make any difference; it don't make a particle of difference. You can put it in the shape of exceptions if you wish; I don't object; I don't suppose Mr. McDermott does.

Mr. Frank P. McDermott—No, sir.

The Court—I particularly desire, Mr. McDermott, that nothing that counsel for the accused—I will call them accused—may state in that way shall be lost.

Mr. Frank P. McDermott—If your Honor please, I was going to suggest that Mr. McDermott be permitted to put it in any way he thinks is proper on the record.

The Court—It don't make any difference. An exception is an objection on the record. Proceed.

Mr. Allan L. McDermott. That is all I wanted. There was nothing else.

The Court—Anything further with this witness?

Mr. Allan L. McDermott—That is all.

Cross-examination.

By Mr. Benny.

Q. You say you were there before the game; is that so as to all games you saw or only some of them?

A. Those two games.

Q. First two games or the last one?

A. First two.

The Court—There were only two games played there, I understand.

Mr. Benny—I understand he saw three.

A. Two games.

Q. What part of the games did you see, the first or the last?

A. First part.

Q. First part?

A. Yes, sir.

The Court—Don't repeat the answer, if you please.

Q. Do you remember how many innings had been played when you left?

A. First game I witnessed, five innings, I think.

Q. And then left?

A. Yes, sir.

Q. And the next game, how many innings did you see?

A. Seven.

Q. And when you left, where did you go to?

A. Went to business.

Q. Do you know where Mr. Seastream was when you left?

A. Yes, sir.

Q. Where?

A. In the attic.

Q. The attic?

A. Yes, sir.
Q. Did you see him after that day?
A. No, I can't say what time I saw him after that.
Q. Has any person approached you and offered you money or other consideration for testifying in any particular way in this case?
A. Yes, sir.
By the Court.
Q. What do you say?
A. Yes, sir.
Q. Who?
A. Mr. Haagenson.
Q. What did he offer you; what did he say?
A. I first received a letter up to my place of business to come down to see him; there was $10 into it; that was the first offer.
Q. Have you got the letter?
A. No, sir.
By the Court.
Q. What have you done with it?
A. I destroyed it.
By the Court.
Q. What did you do with the $10?
A. I haven't got the $10 yet.
By the Court.
Q. Not yet?
A. No, sir.
By the Court.
Q. What did you do with that?
A. I haven't got anything yet.
By the Court.
Q. Oh, it is an offer of $10?
A. Yes, sir.
By the Court.
Q. But the $10 was not in the letter?
A. No, sir.
The Court—Didn't deliver the goods.
Q. What did he say?

A. To testify to the truth—what I know about this ball game business.

Q. Did you see Captain Haagenson at all about that matter?

A. About two days after I saw him; yes, sir.

Q. Where did you see him?

A. I met him here in Exchange Place.

Q. What did he say to you there about testimony?

A. He only asked me what I knew about it and what part of the games I had witnessed—who was up in the attic with me—and that was about all; he told me he wanted me to tell the truth about it, and that was all he wanted.

Q. He asked you to tell the truth about it?

A. Yes, sir.

Q. He didn't suggest to you any line of testimony he would like you to give?

A. No, sir.

By the Court.

Q. Anything said why he wanted to give you $10?

A. He said he was—he had got in this baseball business in an off-hand way, that he didn't want to—just happened to talk to Mr. Seastream and he got himself in a scrape.

By the Court.

Q. Why did he want to give you $10?

A. You will have to ask him that; I don't know.

By the Court.

Q. Eh?

A. You will have to ask Mr. Haagenson that.

By the Court.

Q. He didn't mention that to you?

A. No, sir.

Cross-examined.

By Mr. Frank P. McDermott.

Q. I understood you live in Bayonne?

A. Yes, sir.

Q. Where do you do business?

A. I am with the New York and College Point Ferry Company at present.

By the Court.

Q. College Point is at Flushing; up that way?

A. Yes, sir.

Q. How much of your time do you spend at your home here in Bayonne?

A. I work twenty-four hour watch and have twenty-four hour watch off.

Q. So that half the time you are at home?

A. Yes, sir.

By the Court.

Q. Are you a pilot or what?

A. Engineer.

By the Court.

Q. Engineer?

A. Yes, sir.

Q. I understand that you have not the letter which was sent you by Captain Haagenson?

A. I haven't got it; no, sir.

Q. Where did you put it?

A. Well, I think I destroyed it.

Q. When you received it?

A. Yes, sir.

Q. Don't you keep your letters generally, Mr. Brown?

A. No, not of that character.

Q. And what did you say was in that letter?

A. Just a request to come down and see him or meet him as soon as I possibly could.

Q. Did it indicate what he was to see you about?

A. Just mentioned the baseball matter.

By the Court.

Q. Wanted to see you about the baseball matter?

A. About that; yes, sir.

Q. And prior to that time had you had any talk with Captain Haagenson about the baseball matter?

A. No, sir.

Q. Your connection with the baseball matter, the game, I understand, was seeing part of it from Mr. Seastream's house?

A. That is all.

Q. Were you there by invitation?

A. Well, yes.

Q. And what time in the afternoon did you get there?

A. About half-past two.

Q. I will take the first day; and was the game then under way when you got there?

A. No, sir.

Q. Who went up to the attic with you?

A. Mr. Seastream was up there already when I went in the house.

Q. He was there?

A. Yes, sir.

Q. Anybody there with him?

A. No, sir; only his little child was up with him.

Q. The little child stay or come down to the mother?

A. He was up and down different times during the time I was there.

Q. The child or Mr. Seastream?

A. No, the child.

Q. I understood you to say that Mr. Seastream did not understand the game very well?

A. Not entirely; no, sir.

Q. And did he understand it at all?

A. Well, I couldn't say that he did; he asked me a few questions about it.

Q. He wasn't able to put any intelligible expression to you that he understood it, was he?

A. No.

Q. I don't suppose he understood it any better the second time?

A. No, I don't think he did.

Q. Did he go down before you did or did you go down together, or how?

A. I guess we went down together.

Q. Do you know where he went then?
A. No, I don't; I went to the house.
Q. Did he go to the door with you?
A. Yes, sir.
Q. Or go to the front gate with you?
A. No, to the front door.
Q. Anybody leave at the same time you did?
A. No, sir; only my sister-in-law, the second Sunday.
Q. Oh, on the second Sunday?
The Court—Your sister-in-law?
A. Yes, sir.
By the Court.
Q. This young lady that was sworn here on the stand last Tuesday?
A. Yes, sir.
Q. The second Sunday, you say, you stayed there seven innings?
A. Yes, sir.
Q. Could you tell the score where you were, in this attic?
A. I could at the time; yes, sir; but I wasn't interested enough to keep it down.
Q. I don't mean to ask you what it was; I only mean to ask you if you could tell what it was—how the game was going?
A. Yes, sir.
Q. And you left that day before the game was over?
A. Yes, sir.
Q. Mr. Seastream go downstairs with you?
A. Yes, sir.
Q. Go to the door with you?
A. Yes, sir.
Q. And you had—Miss Fitzgerald, is it?
A. Fitzpatrick.
Q. Miss Fitzpatrick left at the same time you did?
A. Yes.
Q. Anybody left in the house then?
A. Anybody left in the house?

Q. Beside the Seastreams?

A. Yes, sir; my son was there; I don't know whether—who was in the kitchen—he was in the attic.

Q. You didn't say much to Mrs. Seastream that day?

A. No, sir.

Q. Or the other day, either?

A. No, sir.

Q. She was down with the children?

A. I presume so.

By the Court.

Q. What language did—what were the words that Mr. Haagenson used in this letter when he spoke about $10?

A. Well, Mr. Haagenson informed me that he would like to see me on the baseball case; if I lost any time he would reimburse me; he would give me $10, anyway.

By the Court.

Q. Would give you $10, anyway?

A. Yes, sir.

Examined by Mr. Allan L. McDermott.

Q. Was that written in the letter?

A. Yes, sir.

Q. Just give us the wording of that letter as closely as you can, using the person that he used in writing, as though you were writing?

A. Yes.

Q. What did he say?

A. Well, I was always known by the nickname "Doc" around the ferry, instead of Charles, what my name is.

By the Court.

Q. Doctor?

A. Doc; and the letter began, as near as I can remember, it says "Dear Doc: I would like to see you down at Exchange Place, 1 Exchange," if I am not mistaken, it was, "as soon as possible, to-morrow morning at eight o'clock," and he said there was $10 into it, or something to that effect.

Q. He didn't say there was $10 into it, or something to that effect; what did he say about 10?

A. I think he said, "I will give you $10——"

The Court—Let him answer; he was just answering. That sharp questioning, it is very painful to the court. Just go back.

A. I think it said there was $10 into it, or "I will give you $10," I wouldn't say which it was.

Q. Well, what for?

A. To come down and see him about the baseball matter.

Q. What was said about reimbursing you for your time?

A. That was after I met him the next day down here.

Q. Did he simply say "I want you to meet me at Exchange Place and I will give you $10?"

A. To that effect, yes, sir.

Q. In the letter?

A. Yes, sir; about the baseball matter.

Q. What was the $10 to be given to you for?

A. I was informed a little before I got the letter from Mr. Seastream that he had been—Mr. Seastream—that he wanted to see me on the matter; Mr. Seastream told me he said there was $10 in it.

By the Court.

Q. Seastream told you?

A. Yes, sir; that was before I received the letter from Mr. Haagenson.

Q. Mr. Seastream told you there would be $10 in it?

A. Yes, sir; then I received the letter from Mr. Haagenson.

Q. How did Seastream come to tell you there would be $10 in it?

A. He came around to my house one day and left word with my wife.

Q. Seastream did?

A. Yes, sir; that he wanted te see me; as soon as I come I went around and saw him.

Q. What did he say?

A. He was telling me about Mr. Haagenson and he having talked together about this matter, and I don't know whether that was before or whether it was after they made out this second affidavit or the first affidavit, or whatever it was; I wasn't interested in it enough to take down dates or anything elese about it.

Q. What did Seastream say about $10?

A. Said Mr. Haagenson wanted to see me; there was $10 in it.

By the Court.

Q. Seastream didn't talk of paying you $10 himself?

A. No, sir.

Q. Where did Seastream go to find you??

A. Went around to my house.

Q. Where was that?

A. 66 West Fiftieth street.

Q. Eh?

A. 66 West Fiftieth.

Q. Bayonne?

A. Yes, sir.

Q. Where do you work?

A. College Point ferry.

Q. How long does it take to come from there here?

A. Pretty near two hours.

Q. How days have you been in attendance?

A. Down here?

Q. Yes?

A. This is the second day I have been in court.

Q. You are friendly with Mr. Seastream, aren't you—acquaintance of his?

A. Acquaintance; yes, sir.

Q. Did he invite you to his house to see the baseball game?

A. Yes, sir.

Q. Who did he invite—who else?

A. Nobody that I know of.

Q. There were others there?

A. There were others there; yes, sir.

Q. Now, can't you fix the date that he told you there was $10 for you?

A. No, sir; I cannot.

By the Court.

Q. It was after he had seen Haagenson—it must have been after he had seen Haagenson?

A. He told me about Mr. Haagenson wanting to give it to me.

Q. Do you remember when the second affidavit was taken?

A. No, sir.

Q. Where were you standing when he told you that you could get $10?

The Court—Who?

Q. You, the witness?

The Court—Who told him; Seastream?

Q. Seastream?

A. Alongside of his house in the yard.

Q. Had the affidavit been taken at that time, the second affidavit?

A. I can't say.

Q. Give us all the conversation he had about the case at that time; what were you to do for this $10?

A. I wasn't to do nothing as far as he knew; I wanted to see Mr. Haagenson about it.

Q. What did he say Mr. Haagenson wanted to see you about?

A. Why, being a witness there.

Q. What about?

A. Witness to the game; that is all as far as I could understand.

Q. Seastream said he wanted you to testify that you had witnessed the game?

A. Yes, sir.

Q. Who was there besides you and Seastream at that time?

A. When this conversation took place?

Q. Yes?

A. Mrs. Seastream.

Q. You had witnessed the game?

A. Yes, sir.

Q. Did you say anything about the $10?

A. No, sir.

Q. Then, after that you received this letter, which you destroyed; when did you destroy it?

A. I guess as soon as I got it.

Q. Tore it right up?

A. Yes, sir.

Q. And in it you say that the words that conveyed to you that if you came to see Seastream you would get $10——?

A. Not Seastream; Mr. Haagenson.

Q. To see who?

A. Mr. Haagenson.

Q. Did you mention that $10 when you saw him?

A. No, sir.

Q. Did he mention it to you?

A. Yes, sir.

Q. What did he say?

A. He said there would be $10 into it, probably more.

Q. Where was that?

A. On the pilot house "Newark;" in the pilot house on the ferry boat "Newark."

Q. Now, on your direct testimony, you said your expenses were to be paid?

A. Would have been paid; yes, sir.

Q. Who told you that?

A. Mr. Haagenson.

Q. Is that what the money was for?

A. Partly, I suppose.

Q. Well, how much were your expenses—how much have they been up to date?

A. I can't say.

Q. The time and expense?

A. I can't say until I figure it up.

Q. $10 cover it?
A. No, sir; or twice $10.
Q. Twice won't cover it?
A. No, sir.
Q. Had Mr. Haagenson tried to, or did he request you to testify any particular way, or as to any particular thing?
A. No, sir; only just what I knew, the truth.
Q. He simply asked you to testify to the truth?
A. Yes, sir.
Q. Now just refresh your memory and see if you haven't got that letter somewhere; think of it?
A. I am positive I have not.
Q. Where were you when you tore it up?
A. I was either standing on deck or down in the fire-room, where the fireman handed it to him; it wasn't a letter; it was more of a slip that he had put in an envelope when he was up there, or whoever he sent, but I can't say.
Q. Who gave it to you?
A. My fireman handed it to me.
Q. And he was right upstairs?
A. The fireman?
Q. The captain was right upstairs, was he?
A. No, no; this was on my boat that my fireman handed me the letter.
Q. He wasn't on your boat?
A. No, sir.
Q. You are friendly with Mr. Seastream, aren't you?
A. Yes, sir.
Q. Your friendship has not been broken in any way?
A. No, sir.

Examined by Mr. Frank P. McDermott.
Q. You spoke of your expenses; what expenses do you refer to?
A. Time that I am losing.
Q. You mean to-day?

A. To-day and other days; yes, sir.
Q. You are under subpœna to-day?
A. No, sir.
By the Court.
Q. How many days have you been?
A. This is the second day in court.
Q. Second day?
A. Yes, sir.
Q. You were subpœnaed?
A. I was not subpœnaed.
Q. You were not subpœnaed?
A. No, sir.
By the Court.
Q. You are here on request of Mr. Haagenson?
A. Yes, sir; request, that is all.
Q. You live in Bayonne, I understand?
A. Yes, sir.
Q. You came from Bayonne here last Tuesday?
A. Yes, sir.
Q. You say you were not subpœnaed then?
A. No, sir.
Q. You came at somebody's request then, did you?
A. Yes, sir.
Q. And you have not been subpœnaed to-day?
A. No, sir.
Q. You came at the request——
A. Of Mr. Haagenson.
Q. Captain Haagenson, on both days?
A. Yes, sir.
By the Court.
Q. What are your wages?
A. My wages, $4 a day, eight hours.
By the Court.
Q. How much?
A. $4 a day.

Captain Benjamin T. Haagenson, recalled.
Direct examination.
By Mr. Allan L. McDermott.
Q. Mr. Brown testifies——
The Court—Never mind what Mr. Brown testifies.
Q. Have you been in court during his testimony?
A. Yes, sir.
Q. Did you write him a letter?
A. I did; I wrote him a note without putting it in an envelope.
Q. Who did you sent it by?
A. I sent it aboard his boat by a ferryman.
Q. What was in that letter?
A. I asked him to come down to see me on his next day when he come off duty, that I wanted to see him in connection with this baseball matter; I wanted to tell him what I wanted him for in particular, but I hadn't any further time; I went up to where his ferry lands, and I got in after the last boat had left.
The Court—But he has asked—his question asked you is, what you said in the letter.
A. I said in the letter to meet me at Exchange Place the next morning; that I wanted to see him, and if he lost any time I would guarantee to pay it to the extent of $10, which I would guarantee myself.
Q. Did you meet him the next morning?
A. I saw him the next morning.
Q. What were the $10 to pay him for?
A. His lost time; I am sure I specified in the letter.
Q. Where does he ply between—where does he go on his boat?
A. College Point ferry is all I knew.
Q. College Point ferry?
A. Yes, sir.
Q. Where are the landings of that?
A. Ninety-ninth street, New York.
Q. Were you present at this game of baseball out there last May or April?

A. No, sir.

Q. How did you know that Brown was present at that game?

A. Mr. Seastream told me.

Q. Where were you when he told you?

A. Why, up in Mr. Davis' office.

Q. He told you who elese was present there?

A. Yes, sir.

Q. Who were present when Seastream said Brown was there at the house?

A. Mr. Bentley, Mr. Griffiths and Mr. Davis and myself.

Q. Now, who asked him the question, or how did he come to state that Brown was at his house?

A. In Mr. Bentley's cross-examination of the affidavit, in emphasizing the fact that he was present at the baseball games—emphasizing the fact that the second affidavit was true and the first one was not.

Q. What did he say?

A. He said he could prove it that he was present, by Mr. Brown, and Mr. Brown's son and Mr. Brown's sister-in-law, and he mentioned some other names that I can't just remember, but I think one man's name was Unger.

Q. Was that the first intimation you had that Brown was present?

A. The first intimation I had of Brown being present.

Cross-examination.

By Mr. Benny.

Q. Did you ask Mr. Seastream to see Mr. Brown for you and tell him that you wanted to see him about this matter?

A. I told him to be sure and see Mr. Brown to have him also testify, I think; I am not quite sure on those matters; I am not quite positive whether I did or not.

Q. Did you authorize Mr. Seastream to tell Mr. Brown that there would be $10 in it for him?

A. If I stated in my letter—I might have stated to

Seastream, too, that his time would be guaranteed to the extent of $10, which I would take upon my own shoulders.

Q. Can you fix the time that you made such a statement to Mr. Seastream?

A. No, I cannot.

Q. Can you fix the time when you sent the letter?

A. No, I don't think I recall it.

Q. How did you come to ask Mr. Seastream to see Mr. Brown?

A. No, I don't remember how I come to do that.

Q. What interest did you have in what Mr. Brown might be able to testify to at that time?

A. I don't know; I don't know at that time; I know when I wrote Mr. Brown the reason why I wanted Seastream or Mr. Brown present was to prove that the second affidavit was true.

By the Court.

Q. But what interest had you in proving that the second affidavit was true?

A. Oh, I was present to making it and I understood there was going to be some controversy about it.

Q. How did you understand there was going to be any controversy about it?

A. I heard it spoken of; I don't know whether Mr. Seastream told me or not; I heard it spoken of, I don't know where.

Q. Were you interested in any way in establishing the truthfulness of either of the affidavits?

A. I am always for the truth.

By the Court.

Q. Even if you have to pay the expense out of your own pocket, eh?

A. When I am interested I would go that far, yes.

Q. Is that the only interest that you had in the matter, to see that the truth was established?

A. Exactly.

Q. Were you personally interested in any way concerning the truth?

A. Where I was concerned I was interested.

Q. In what way were you concerned?

A. I think I was—I was present when this second affidavit was made, and that is how I come to be interested, if any at all.

Q. And you had no further interest than that?

A. That is about all, as far as I can say.

Q. And you considered that interest worth $10 to you?

A. Anything is worth $10, yes; when it establishes the truth.

Examined by Mr. Frank P. McDermott.

Q. This letter was written after the interview in Mr. Davis' office, at which Mr. Bentley and Mr.——

The Court—Don't cover the same ground.

Q. No, sir; at which Mr. Bentley and Mr. Griffiths and Mr. Davis were present?

A. Oh, yes; quite some time.

Q. Now, can you tell us when it was written?

A. No, I can't recall that time.

Q. Was it written before this 26th day of May that you were examined about last week?

A. That I can't say either.

Q. Couldn't be sure as to whether it was before or after?

A. I coudn't say sure.

Q. You asked Mr. Brown to meet you on a day when he was off duty?

A. Yes, sir.

Q. And to meet you at Exchange Place?

A. Yes, sir; Exchange place.

Q. What part of Exchange Place, Captain Haagenson?

A. Why, as he come out of the ferry house, by the trolley shed there; that is where I met him anyway.

Q. You did not fix any more definite place than that?

A. Oh, yes; yes, after that we went into Basford &

Glenn's, and I asked him then if he was present at the baseball game, and he said yes.

Q. Yes, but I was asking you whether you fixed any place of meeting?

The Court—When you wrote the letter, where did you ask him to meet you?

A. At Exchange Place; that was fixed in the letter.

Q. And you fixed a time?

A. Yes, sir; when he was off duty; I didn't know what time he got off duty, so I waited.

Q. How long did you wait for him, captain?

A. Possibly an hour.

Q. Down at the ferry?

A. Yes, sir.

Q. And then went up to Basford & Glenn's and had this conversation with him?

A. Yes, sir.

Q. Where did you go with him then, if anywhere?

A. I went nowheres with him.

Q. No other place that day?

A. No, sir.

Robert Davis, sworn.

Direct examination.

Mr. Allan L. McDermott.

Q. You know Mr. Seastream by sight, don't you?

A. Seastream; yes, sir.

Q. Did you have any conversation with him concerning the baseball game near his house?

A. Yes, sir.

Mr. Frank P. McDermott—I object. When? Ask for the time.

The Court—When?

Q. When?

A. Two weeks before the game opened.

Q. The game opened on what date?

The Court—24th of April. The record shows.

Q. Where was the conversation had?

A. In his yard and in his house.

Q. What was it about?

Mr. Frank P. McDermott—I object to the conversation.

The Court—Counsel will state what he expects——

Q. Was the conversation about the baseball ground?

A. About the baseball ground and about the game.

Q. What did he say?

The Court—One moment.

Mr. Frank P. McDermott—I object.

The Court—It is objected to. I think I must rule it out on the same principle that I did the other. I cannot see how it possibly can effect the issue before the court here now. If counsel can point it out to me I will be very happy to have him do it.

Mr. Allan L. McDermott—If in this second affidavit—we are trying to establish—I must say I don't know just what we are trying to establish—it is a little confused; if we are trying to establish, as I think we have a right here, the truth of the second affidavit, that is the truth as he saw it when he made it, may we not show that the building of the ground there, the arrangement of the ground was, with his assent and in pursuance of his specific directions as to certain points, that he said that he was satisfied to have the grounds there near his house? In his second affidavit he says he is glad these grounds are there. Now, if that was his mental condition he had before the grounds were open, while the fence was in course of erection—building—may we not show that on the specific question of Sunday games, his statement, while this was being arranged by the company out there, that he had not any objection to Sunday games; he wanted the fence, however, arranged in a certain way; that is the testimony that I offer.

The Court—I think that I will not admit the evidence at this time. I do not say that in the course of the investigation it may not become competent, but it seems at present so far away from the issue here that I cannot see

that it has anything to do with it at present. I think I made the same remark before. It may be that all this evidence will become competent. You have proved already that Mr. Seastream saw the game and made no objection at the time that he saw it. I admitted that. But a declaration made beforehand, two weeks or more before there was any game played, it seems to me too far in advance to bind him or anybody else—that is the matter with me.

Mr. Allan L. McDermott—May I interrupt the court? At their hearing last Tuesday, just prior to the closing of the hearing, your Honor, in response to a question from Mr. Dixon as to what the issue in this cause was, made a statement. Our stenographer has not written up the notes of the point and I have not been able to get the idea clearly. It was a statement practically what the issue is here before the court. If not presuming too much——

The Court—The issue in regard to Mr. Seastream is undoubtedly whether he was induced to swear to a lie in his first affidavit or in the second affidavit, or whether by reason of his stupidity and lack of knowledge of the English language he did not know what he was swearing to, you may say. I don't want to define the issue because I cannot tell until the whole thing is investigated. But the issue in regard to Mr. Haagenson and Mr. Griffiths and Mr. Bentley is whether they brought any improper influences to bear upon him to make the second affidavit, whether true or false or what not.

Mr. Dixon—If your Honor please, as to Mr. Bentley——

The Court—Mr. McDermott has got the floor.

Mr. Dixon—I want to be heard on it.

The Court—I can't hear two at once. We have got along very nicely, we have, so far. As soon as Mr. McDermott gets through I will hear Mr. Dixon.

Mr. Allan L. McDermott—The point of that is—the whole inquiry is—what was the mental condition of Sea-

stream at the time or times that he acted. Certainly, his mental condition was not the same at both times; that is, allowing he had the affidavit read to him and comprehended it—I believe he denies that the second affidavit was read to him at all—therefore his mental condition, his attitude toward the playing of Sunday baseball adjoining his ground, his house, cannot presume that a man, who has been on these ferries for eight or nine years, and been to New York, as he has, don't know what Sunday ball meant; it would be bringing people and batting balls; it seems to me that it was competent in that light; but I understand your Honor overrules it.

The Court—I overrule it for the present. I will hear Mr. Dixon. I beg pardon, Mr. Dixon.

Mr. Dixon—I insist on the question so far as Mr. Bentley is concerned. If I understand the position in which he is, it is that he has taken an affidavit which is not true. There is no evidence that Mr. Bentley has ever seen Mr. Seastream until the taking of this affidavit, and the charge is that he has endeavored to impede the administration of justice. Now, he took the affidavit; that is conceded, I believe; at least Mr. Seastream's name is there and his name is there.

The Court—Certified to it.

Mr. Dixon—Certified to it; yes, sir. Now, then, the question is, if it be true that he took the affidavit, it seems to me, in order to substantiate that fact, inasmuch as your Honor says that Seastream has denied that he took it, which I think, perhaps, is going further than your Honor intended at the time, because he did not deny it, but if be true what he insists, that he did not take the affidavit, then it seems to me very material for Mr. Bentley, from his standpoint, to show that facts that are there related in that affidavit were the true facts, in order to induce your Honor to find that the probability is that Mr. Seastream did swear to that which was true and not to something which was not true. It only goes to show —show Seastream's state of mind and show Mr. Bentley's good faith and state of mind at the time.

The Court—That may be by and by, but at present, as the evidence stands now, subject to what Mr. McDermott may say, it is due to Mr. Bentley to say that he is not connected with any improper conduct here at all, and when he has gone on the stand and has been heard, if he thinks, then, he wants to support himself by anything further, it will be time enough.

Mr. Dixon—If we had had a charge here, we would have taken a very different position in this matter; but your Honor sees the position which reputable men brought into a court——

The Court—Undoubtedly; I am very sorry; the difficulty with Mr. Bentley is, I say right here now, that, after he had appeared as counsel in this case, and after he had sat there and read affidavits, he took—he went up there and acted as master and took that affidavit.

Mr. Bentley—I beg your Honor's pardon——

The Court—One moment. I know he acted as counsel; I don't know as he—I said he read affidavits—I know he acted as counsel—he might have done it—that is a matter of professional—that is the worst I see about it; I want to be perfectly frank with you. No counsel should ever do it.

Mr. Dixon—It was a mistake of judgment undoubtedly, but that is not before the court now.

The Court—But that is a very different thing from this. As far as the evidence appears at present, Mr. Bentley had nothing to do with getting Mr. Seastream up there at all. That is the way it stands now. But I knew that Mr. Bentley had been acting as counsel, and when I saw the affidavit I felt bound to give Mr. Bentley an opportunity to discharge himself from the *prima facie* slur that was on his conduct.

Mr. Dixon—I don't think he was counsel.

The Court—I think so. I am seventy-seven years old. I think he should have never gone there.

Mr. Dixon—I did not understand he was acting as counsel, your Honor.

The Court—I did; I knew it personally—and more than that, I repeat here what I said on the argument of this case. The moment this contradictory affidavit was produced, the counsel for the complainant and those who were connected with the getting of the first affidavit put in replies, and the defendants did not do it until they were brought here by this order. If Mr. Bentley had made an affidavit right away of his connection with it and handed it to the court his name would not have been in this list, very likely.

Mr. Dixon—May I——

The Court—No, it isn't necessary; I won't allow anything more; I have said enough.

Mr. Dixon—And I remark, your Honor, if you please, Mr. Bentley did not know he was brought in it in any way, or he would have made an affidavit before your Honor.

The Court—He took an affidavit, and he had been counsel in the case.

Mr. Dixon—I want to say that in justice——

The Court—I have a high regard for Mr. Bentley.

Mr. Allan L. McDermott—Your Honor overrules the question.

The Court—I overrule it at present.

Q. Now, Mr. Davis, when did you next see Mr. Seastream after April?

The Court—I will say further, right here, before you go on with this. If Mr. Currie and those gentlemen had not come forward and made their explanation under oath freely at once, I should have put Mr. Currie in, and I don't know but what I would Mr. Demarest, too, in this order to show cause, or at least I should suggest to the Chancellor to do it.

Mr. Allan L. McDermott—I am requested by my client——

The Court—Go on with the examination.

Mr. Allan L. McDermott—May I say one word by request of my client.

The Court—Certainly.

Mr. Allan L. McDermott—That they had in mind the course your Honor suggested as having been taken by Mr. Currie—that their intention was to make their affidavits and give their testimony before Judge Blair; that they asked for the opportunity; they were ready to do it and there is no doubt about that. As to their intention to do that, I am satisfied.

The Court—It is a matter of judgment.

Mr. Allan L. McDermott—They did go there.

The Court—The counter-affidavits—one moment—I thought, since you are talking about that, the affidavits which I refer to, made by Mr. Currie and another gentleman, Griswold, were made and served before the second affidavit of Seastream was read in this court. They were before me at the time I dictated the request to Judge Blair, and Mr. Bentley had ample opportunity and Mr. Griffiths, both of them, to make affidavits and have them there at the same time the affidavits of Mr. Currie and Mr. Griswold were read. I know what I am talking about. There is no kind of doubt about what I state.

Mr. Allan L. McDermott—May it please the Court, I don't think it is entirely material what the chronological statement is, one that is somewhat surprising to my clients.

The Court—You will find the affidavits; I have got them here; if I am wrong I will take it back immediately. Mr. McDermott, I will settle it right here now, because I don't want to do any injustice to anybody. Mr. Currie's affidavit was taken on the 25th of May. I am wrong. Mr. Currie's affidavit was taken on the 25th and was not read until that morning. I thought it was. I have got the statements. Now let us see when the other was taken. The affidavit of Mr. Griswold was taken on the 25th, but I believe it was not served until it was read that morning. Is that right?

Mr. Griffiths—That is the fact.

The Court—When was it served?

Mr. Griffiths—It was never served.

Mr. Frank P. McDermott—The Currie affidavit?

The Court—The Currie and Griswold affidavit.

Mr. Frank P. McDermott—They were taken between the 23d and 25th and filed.

The Court—They were taken on the 25th. I was wrong. I take it back. I thought they were served. I have been under that impression. I am always happy to correct. I thought they were taken sooner and served, but it was another bundle that was served, so they did not know on the 26th. Messrs. Griffiths and Bentley did not know until the morning of the 26th that Currie and Griswold had made affidavit. I thought they had been served some three or four days before. It was a mistake.

Mr. Allan L. McDermott—In the light of that rearrangement of the knowledge here, I desire to state to the court that no counter-affidavits were presented, because counsel advised the parties here, in response to this rule, that the thing to do in view of the reference by your Honor to Justice Blair was to go before him, and that these affidavits would have been rather informal to present to him. He was to take testimony, and they understood he was to allow counsel to cross-examine, so that on that point, I think, we are in agreement.

The Court—All right.

Q. When did you next see Seastream, Mr. Davis?

A. After he made the affidavit in my office.

Q. After he made the affidavit in your office?

A. Yes, sir.

Q. Were you present when he made the affidavit?

A. No, sir.

Q. How many days afterward?

A. Two days after, I believe.

Q. Did you ask him to come there or did he come as a visitor—voluntarily?

A. He came voluntarily.

Q. What did he say?

A. He wanted me to send somebody to protect him.

Q. From what?

A. From the annoyance he was getting from the other side.

Q. What did he say there, that you recollect?

The Court—Mr. Seastream was not inquired of about this, was he?

Mr. Benny—I think not, sir.

The Court.—On the stand. It is rather an unusual proceeding, and he is a defendant here, so to speak, and you are asking for his declaration made now, not a part of the *res gestæ*, and is it just to ask that question without calling his attention to it?

Mr. Allan L. McDermott—What he said after he took his affidavit. He took the affidavit in Mr. Davis' office, Mr. Davis not being present. He went there afterwards and there had a conversation, confirmatory of the affidavit.

The Court—It is not objected to.

Mr. Frank P. McDermott—Mr. Benny objects to it.

Mr. Benny—Mr. Seastream hasn't any objection to all the facts.

The Court—All right, go on then.

Q. Go on?

A. And I told him I had nothing at all to do with it, he had better go to his counsel and attend to it, I wasn't going to interfere with his business.

Q. Did he say anything about his position as to ball playing down there?

A. No, sir; he went away then; I was in the back office.

Q. Do you know Captain Haagenson—were you ever acquainted with him or are you?

A. I know of him.

Q. Ever meet him?

A. No, I don't think so.

Q. Ever speak to him?

A. I think I bowed to him on election day.

Q. But never had any conversation with him?

A. No, sir.

Cross-examination.

By Mr. Benny.

Q. In what way did he ask you to protect him?

A. What do you say?

Q. In what way did Mr. Seastream ask you to protect him?

A. Send some lawyer there to protect him.

Q. Did he say who it was that was annoying him?

A. No, I didn't ask him; didn't want to have anything to do with him.

Q. Did he say what the character of the annoyance was?

A. I didn't ask him.

Q. Did he say when he had been annoyed?

A. Since he took the affidavit?

Q. Which affidavit?

A. The second.

By the Court.

Q. This was the second day after?

A. Yes, sir.

By the Court.

Q. You heard the second affidavit?

A. I wasn't there the day the affidavit was made.

By the Court.

Q. You know it was two days afterward from having heard?

A. It was on Thursday and the affidavit was taken on Tuesday; I was in the country.

Q. Had you known Mr. Seastream before that time?

A. I was in his house in Bayonne.

The Court—He has already sworn to that.

Q. Did you ask Mr. Seastream anything about what he had sworn to the second time?

A. No, sir.

Q. You asked him no questions at all about that affidavit?

A. None at all.

Q. Did you take any action at all to protect him?

A. No, sir.
The Court—He says he told him to go to his lawyer.
Mr. Benny—I didn't hear that.
The Court—It is very noisy here.

Cross-examination.
By Mr. Frank P. McDermott.
Q. To whom did you tell him to go?
A. To his lawyer—counsel.
Q. To his counsel?
A. Yes, sir.
By the Court.
Q. Didn't mention any name?
A. I didn't know he had any or not; I didn't want to interfere with his business; sometimes, when I send counsel to so many, I have to pay the counsel fee; I wasn't well enough acquainted with him.

Mr. Frank P. McDermott—There are a number of witnesses I felt I ought to keep in attendance here so that the gentlemen on the other side, representing the accused, may cross-examine. I feel, if they desire to cross-examine those witnesses, however, it would be proper to do so and not keep them here day after day.

Mr. Dixon—If counsel and the court will all agree as to what the proceeding is we ought to go under, we will be glad to do anything your Honor suggests.

The Court—The court will state it felt under obligations, and in fact I stated to him it was his duty to every one of these affiants whose printed affidavit or evidence are annexed to the order, to show cause here for your cross-examination. What he says, he thinks you ought to cross-examine them right away, before you call your other witnesses.

Mr. Dixon—Those things come out and may make it necessary—we don't understand about it.

Mr. Frank P. McDermott—For instance, I am keeping Mrs. Seastream here, who has two small children, one four months old and another a little over a year old.

The Court—Mrs. Seastream ought to be cross-examined, probably the most important affidavit of all.

Mr. Frank P. McDermott—She is here; Mr. Currie is here—at least I have subpœnaed him—Mr. Bentley and Mr. Griswold. I feel that it would be proper at least——

The Court—Mrs. Seastream ought to be cross-examined; they ought to take every opportunity to cross-examine her, if they wish it, and Mr. Currie.

Mr. Dixon—Do we understand your Honor that—I don't know what phrase to use—the court adopts the affidavits on which the order was granted as the foundation of the procedure?

The Court—They rest and call on you to proceed, and the natural thing was for you to cross-examine their witnesses. You cross-examined Mr. Seastream, I think, first, and then called witnesses but did not cross-examine the others. The counsel suggest that it is hard to keep these gentlemen waiting here, and particularly Mrs. Seastream with her two children, unless you mean to cross-examine her.

Mr. Dixon—Things turn up that we cannot tell about. As at present advised——

The Court—I think his request is reasonable.

Mr. Allan L. McDermott—We do not want to cross-examine them now; we do not want to surrender the right to cross-examine, that is all. For instance, Mr. Griswold's affidavit here, I can see no earthly ground for cross-examination, and so Mr. Demarest's affidavit—I cannot see anything in that. As for Mrs. Seastream, I don't know whether we want to cross-examine her or whether we don't; that is frank. I mean to be perfectly frank to the court. I don't know whether we will or not.

The Court—You will have to keep her here. Have to keep them all here; the witnesses will have to stay here.

Recess.

William J. Davis, sworn.

Direct examination.

By Mr. Allan L. McDermott.

Q. You reside in Jersey City and are one of the respondents to this rule?

A. Yes, sir.

Q. Do you know Captain Haagenson?

A. I do now; yes, sir.

Q. How long have you known him?

A. I met him last fall; just met him once; seen him on the street a few times.

Q. Have any conversation with him on the streets?

A. No, sir.

Q. Did you have any intimate acquaintance with him at all?

A. No, sir.

Q. When did you first see him with reference to this case against the Exhibition Company?

A. On the 12th of May.

Q. Where were you?

A. At my office, my father's office.

Q. 24 Mercer?

A. 24 Mercer.

Q. What was your first communication with him on that day?

A. Over the 'phone.

Q. Over the telephone?

A. Yes, sir.

Q. Whom did he ask for over the telephone?

A. Mr. Robert Davis.

By the Court.

Q. On what day in May was it?

A. 12th of May.

By the Court.

Q. 12th of May?

A. Yes, sir.

Q. Give us the conversation over the telephone?

A. I was sitting in the outside office at the desk where

the 'phone is and the bell rang; I answered the 'phone; the party on the other end asked for Mr. Robert Davis; I told him he was not in town, so he asked to whom he was talking; I told him he was talking to William Davis; so I asked who was on the other end of the 'phone; he told me it was Captain Haagenson; I asked him what he wanted; so he told me he wanted to talk with Mr. Robert Davis but I would do; so he asked me how long I was going to be in the office; I told him I should stay there until one or half-past one; he said he would come up to see me in a few minutes; I told him all right, I would wait for him; that was about twenty minutes after twelve he 'phoned, and he got up there about twenty minutes to one; and he had another party at the time, and I didn't know who this party was; I didn't see him before.

Q. You never saw him before?

A. Never saw him before; no, sir.

Q. Have you seen him here in court?

A. Have I seen him in court?

Q. Yes?

A. Yes, sir.

Q. That is Seastream?

A. Yes, sir.

Q. He came there with Seastream; now, tell us just what occurred after he got there with Seastream?

A. He introduced me to Mr. Seastream; I asked him to come in the inside office and set down, because a few people outside I had been talking to and they went away; so we sat down there and Captain Haagenson told me that Mr. Seastream claimed to have signed a petition in favor of the baseball in Bayonne; I told Mr. Seastream that he had not.

Q. You told him he had not?

A. Yes, sir; that he had signed an affidavit against the baseball; he wanted to know how I knew; I told him I had seen his name on the injunction that was served on my father, and I also saw a copy of the affidavit that

Mr. Griffiths had; so he said he would like to see the affidavit; so I telephoned to Mr. Griffiths and asked Mr. Griffiths to bring the affidavit up to show it to Mr. Seastream.

Mr. Frank P. McDermott—You telephoned what?

Mr. Allan L. McDermott—Telephoned for Griffiths.

A. Mr. Griffiths said all right, he would be up; Mr. Griffiths got there about ten or fifteen minutes afterwards; I brought Mr. Griffiths in the inside office and introduced him to Mr. Seastream and Mr. Haagenson, who he claimed he had never met before, and Mr. Haagenson then explained it to Mr. Griffiths what Mr. Seastream was there for; so Mr. Griffiths showed the affidavit to Mr. Seastream and also read what was in the affidavit to him, and when Mr. Griffiths read what was in it he told him, Mr. Griffiths, it was a damn lie, and he wanted to set himself right.

By the Court.

Q. Wanted what?

A. He wanted to set himself right; Mr. Griffiths asked him how; he said by making another affidavit; and he told Mr. Griffiths a few things, a few notes, and Mr. Griffiths prepared the other affidavit; and in the meantime, while he was preparing the affidavit, asked him different things and read parts of it to him.

Q. Read it as he proceeded making it, I suppose?

A. Yes, sir; the affidavit was made in the outside—prepared in the outside office; Mr. Griffiths would come in and read it to him because the desk in the inside office was locked.

Q. He remained in the inside office; Griffiths came in and read the——?

A. Yes, sir.

Q. Griffiths had a conversation with him?

A. Yes, sir.

Q. Then proceeded to draw the affidavit?

A. Yes, sir.

Q. He says some brandy was given to him there?

A. Yes, sir.

Q. Did you offer him a drink of brandy?

A. Captain Haagenson asked for a drink of water; Mr. Seastream asked him for that; I told him, in an off-hand way, "I have got something finer than water;" so the captain asked me if I had any beer; I told him no, we didn't keep any beer there; I told him we had some good brandy; he said, "That is good enough for me;" he turned to Mr. Seastream, so he said, "Sure, I'll have a drink;" so I got two glasses out of the cabinet and gave each of them a drink; Mr. Seastream did not refuse a drink at all; they drank it and I put the glasses away; and after that Mr. Griffiths asked me, or told me that he was ready for Mr. Seastream to sign the affidavit, but first he wanted Mr. Bentley—and I called Mr. Bentley up and Mr. Bentley said he would be up in a few moments.

Q. He came there?

A. Yes, sir.

Q. Did he read the affidavit to Seastream, too?

A. Yes, sir; I heard him reading it to him.

Q. You heard him read it to him?

A. Yes, sir; he read it loud enough to be heard in the office.

Q. You heard him read it aloud—you were in the adjoining room?

A. Yes, sir.

Q. What occurred next?

A. Well, what occurred next, that he signed the affidavit then, and Mr. Seastream thanked him and shook hands and departed.

Q. Did he sign the affidavit before or after Mr. Bentley got there?

A. He signed it after; Mr. Bentley showed him where to sign it, too.

Q. The affidavit was signed—what further did Seastream say, anything?

A. Nothing that I know of.

Q. Did you introduce Mr. Bentley to Seastream, too?

A. Yes, sir.
Q. And you introduced both Griffiths——
A. Both Griffiths and Mr. Bentley.
Q. You didn't know Seastream, as I understand you, when he came there?
A. No, sir; never saw the man before.
Q. Never saw the man before?
A. No, sir.
Q. Did you hear Mr. Bentley administer the affidavit —the oath to him?
A. I heard him take oath; yes, sir.

Cross-examination.
By Mr. Benny.
Q. What did Mr. Captain Haagenson say to you that he wanted to go to your office for?
A. Wanted to ask me something.
The Court—You mean that is over the 'phone?
A. Yes, sir.
Q. Did he say, over the 'phone, what he wanted to ask you about?
A. No, sir.
Q. Did you ask him what he wanted?
A. No, sir.
Q. Did he say he would bring some person there with him?
A. No, sir.
Q. Did he intimate that he was coming with any other person?
A. He said he was coming up to see me.
Q. And you didn't know Captain Haagenson at that time?
A. I met him once—introduced to him once.
Q. When he came to your office Mr. Seastream was with him?
A. Yes, sir.
Q. And what did he say to you was his mission?
A. Then he introduced me to Mr. Seastream.

Q. And what did Captain Haagenson say he wanted you for?

A. Told me that Mr. Seastream wanted to be set right in regard to an affidavit, that he claimed he signed the petition, and I told him that he had not signed any petition, he had signed an affidavit against playing base-ball.

Q. And when the affidavit, which you spoke of, was produced in your office to Mr. Seastream, was it in type-writing or by hand?

A. Typewriting.

Q. Was it signed by any person?

A. The copy of the affidavit.

The Court—The copy that was produced.

A. Yes, sir.

Q. Copy of the affidavit?

A. Yes.

Q. And who told Mr. Seastream that that was a copy of the affidavit that he had made?

A. I told him first that Mr. Griffiths had copy of it—Mr. Griffiths brought copy with him.

Q. Who told Mr. Seastream that the copy produced was the copy of the affidavit that he had made?

A. Mr. Griffiths and I both.

Q. Do you know where the paper now is that was produced to him at that time?

A. No, sir, unless Mr. Griffiths has got it; I didn't know anybody else had it.

A. Did you ever compare the copy offered to Mr. Sea-stream with the original?

A. Not I.

Q. Did Mr. Seastream himself read the copy produced or did some person read it to him?

A. He saw it himself, and we read it to him, too.

Q. Did he take it and read it himself?

A. Well, took it in his hand—he had it long enough to read it.

Q. And then some person read it to him?

A. Yes, sir.

Q. Who read it to him?

A. Mr. Griffiths read it, and I read it.

Q. Who requested Mr. Seastream to take the brandy?

A. Who requested him to take the brandy?

Q. Yes, who invited him to drink the brandy?

A. Oh, Mr. Seastream, I believe, asked Captain Haagenson for a drink of water; Captain Haagenson asked me for a drink of water; I told him I had something better in the office than water, and he asked me if I had any beer; I told him no, we didn't keep it; I told him we had some good brandy; I told him if he would have a drink of that—Captain Haagenson said yes; he asked Mr. Seastream if he would have some, and Mr. Seastream said he would.

Q. And who poured the brandy into the glass from which Mr. Seastream drank?

A. I did.

Q. Do you know whether he had more than one glass of brandy?

A. Yes, sir.

Q. How many did he have?

A. Two.

By the Court.

Q. How far apart?

A. One before and one after.

By the Court.

Q. Before what?

A. One before he left and one before he signed the affidavit, while we were sitting in the inside office.

Q. Was there any explanation made to Seastream——

The Court—One moment.

Q. Were there any explanations made to Mr. Seastream concerning the whereabouts of the original affidavit?

A. The whereabouts of the original affidavit?

Q. Yes.

A. I don't know what you mean.

The Court—Where it was—where the original affidavit was to be found.

Q. Where the original affidavit was?

A. I don't think so; I didn't hear.

Q. Was he told by any person there that the original affidavit was filed in the Court of Chancery?

A. I don't know.

Q. Was it explained to him that the affidavit——

A. Sir, what is that?

Q. Was it explained to him that his first affidavit had been used in a court proceeding?

A. I don't think so.

By the Court.

Q. You understand?

A. I understand; I don't think so.

Q. You were present during all the explanation, were you not?

A. Yes, sir.

Q. Did Mr. Seastream ask any question about what the effect would be upon him making two affidavits?

A. No, sir.

By the Court.

Q. What did you say?

A. No, sir.

Q. Was his attention, in any way, called to what might happen?

A. No, sir.

By the Court.

Q. Making contradictory affidavits?

A. No, sir.

Q. Did either of the lawyers present tell him that the first affidavit was used in court and that the affidavit he now wanted to take was contradictory—opposite to the first affidavit?

A. I didn't hear him.

Mr. Dixon—I object to that question as to one of the lawyers, on the ground that he was not there as counsel for this party; he was there to take an affidavit.

The Court—He is asked to complete what occurred. I think the question is quite proper, Mr. Dixon, showing he wants to get at exactly what was said to the man.

Mr. Dixon—I object to it.

The Court—He is clearly entitled to that on fundamental principles.

Mr. Dixon—Are we here to answer the claim that Mr. Seastream ought to have been advised by these lawyers as to what his rights were, or only here for contempt?

The Court—I don't know that the counsel is entitled to everything that was said.

Mr. Dixon—I object to it.

Q. Did Captain Haagenson explain to Mr. Seastream that the affidavit that he then was about to take was in opposition to the first affidavit?

A. I don't remember.

Q. Did any person warn Mr. Seastream in any way about that matter?

A. No, sir.

Mr. Dixon—I make the same objection for Mr. Bentley.

Q. What did Captain Haagenson say his interest in Mr. Seastream was, if any?

A. What his interest was?

Q. Yes?

A. As a friend; I don't know as any other.

Q. He stated he was a friend of Mr. Seastream.

A. I don't know, unless he told it to Mr. Seastream.

Q. Did he state any reason for him bringing Mr. Seastream there?

A. Only to straighten Mr. Seastream out; Mr. Seastream said he didn't do it.

Q. That he didn't do what?

A. Didn't sign an affidavit.

Q. Did any one suggest to Mr. Seastream the propriety of bringing the matter to the notice of the court?

A. Where?

Q. In your office?

A. No, sir.

Q. Did Captain Haagenson suggest to him that if he

had been imposed on in making the first affidavit that he ought to make that fact known to the court?

A. I don't know; he might have told him; I didn't hear.

Q. What is that?

A. He may have told him that; I didn't hear it.

Q. You didn't hear it?

A. No, sir.

Q. Were you in the room all the time that the conversation took place between Mr. Seastream and those present?

A. Pretty near all the time except while I was washing out the glasses.

Q. Did you hear any of the statements made by Mr. Seastream to the person who prepared his affidavit?

A. Heard them read to him.

Q. After the affidavit had been prepared?

A. Hadn't been all prepared; reading parts of it and preparing it.

Q. Did you hear Mr. Seastream make any other statements to the person who prepared the affidavit?

A. Heard him give him notes, different little things.

Q. Heard him giving notes?

A. Yes, sir.

Q. What do you mean by giving notes?

A. Well, about being home, and about seeing the game.

Q. What else; what did Mr. Seastream say; what did he swear to?

A. What did he say?

The Court—What language did he use; that is what counsel is trying to get from you.

A. I can't use the language Mr. Seastream used.

Q. Why?

A. Because I don't know it; that was the substance of it, though.

Q. That was the substance of what Mr. Seastream said he would swear to?

A. That is what he said to Mr. Griffiths; he was home

that Sunday and saw the baseball game, and told who was there.

Q. What else did he say?

A. What else did he say?

Q. Yes?

A. That he was in favor of the game.

Q. And what else?

A. He was satisfied everything was done for him.

Q. And anything else?

A. That is all I remember now.

Q. That is all you remember?

A. That is all I remember; yes, sir.

Q. You were interested at the time in what he was saying, were you not?

A. Yes, sir.

Q. And you paid attention to what he was saying?

A. Not to it all; Mr. Griffiths was there.

Q. But were you not there while Mr. Seastream was telling Mr. Griffiths what he wanted to swear to?

A. Yes, sir; I was in and out, from one office to another.

Q. And you do not now remember anything more that Mr. Seastream said?

A. No, I can't say I do.

Cross-examination.

By Mr. Frank P. McDermott.

Q. Where you in the outside office or inside office when these gentlemen came in—Mr. Haagenson and Mr. Seastream?

A. Outside office.

Q. The outside office?

A. Yes, sir.

Q. And you went with them into the inside office?

A. Yes, sir.

Q. And you remained therein during the rest of the interview, didn't you?

A. Except if I came out to answer the 'phone, or something.

Q. And Mr. Griffiths, when he came up, came to the outside office?

A. First?

Q. First?

A. Yes.

Q. And then into the inside office?

A. Yes, sir.

Q. And the affidavit was written with a pen, I believe?

A. Yes.

Q. The original affidavit??

A. Yes, sir.

Q. By Mr. Griffiths?

A. Yes, sir.

Q. And were was that actually written?

A. In the outside office.

Q. And by Mr. Griffiths?

A. Mr. Griffiths.

Q. And when did you know what he had written?

A. I heard him reading it.

Q. When did you hear him read it??

A. Oh, I heard him reading it when he was fixing it up.

Q. Finishing it up?

A. No, when he was preparing it.

Q. When he was fixing it up?

A. Different paragraphs of it.

Q. You mean to say he brought it in by paragraphs?

A. Well, may be two, may be one, may be three; I don't know just how long it is; I couldn't tell you.

Q. Read it over to you?

A. He read it to Mr. Seastream.

Q. You were there to?

A. I was in and out.

Q. In and out?

A. Yes, sir.

Q. And then did he go back and write some more?

A. Yes, sir.

Q. Is that the way it was done?

A. Yes, sir; Mr. Seastream would tell him things.

Q. Did he in any instance use the language that Mr. Seastream used in that affidavit?

A. I don't know.

Q. You have seen the affidavit since then, you yourself never seen it since?

A. I haven't seen it since; no, sir.

Q. You heard it read that day?

A. Yes, sir.

Q. Did Mr. Griffiths in any instance use the words which were dictated to him by Mr. Seastream?

A. I don't know if he used all the words dictated to him by Mr. Seastream.

Q. Did he use any of the words?

A. I think he used some of them.

Q. Anything of the language used by Mr. Seastream?

A. I think he used some of it.

Q. He didn't use it all, of course.

A. No, I don't suppose so.

Q. A good many of the words in that affidavit were never used by Mr. Seastream there, were they?

A. I don't think so.

Q. You what?

A. I don't think some of the words in there were used by Mr. Seastream.

Q. You don't think they were?

A. No, sir.

Q. Mr. Seastream, for instance, did not use such a word as "audible" to Mr. Griffiths, did he?

A. No, sir; I don't think so.

Q. It appears in the affidavit?

A. He may have; I don't know.

Q. You think that Mr. Seastream did use such a word as that?

A. I don't know; he may have used it to him.

Q. But you were there; we want you to give us all the help you can in this matter?

A. I will give you all the help I can; I was in and out nearly all the time.

Q. You didn't hear any such word as that used?

A. No; he may have used it when I was not in the room.

Mr. Allan L. McDermott—It was not "audible" to him.

The Court—I don't think there are three words in either affidavit actually used by Mr. Seastream.

Mr. Frank P. McDermott—I won't waste time about it.

The Court—Go on. You are in perfect order, Mr. McDermott; I am not going to stop you.

Q. Did he use the word "handsome" and "beautiful park"—I mean Mr. Seastream?

A. I didn't hear him use those words.

Q. Did Mr. Griffiths in indicating what ought to be in the affidavit?

A. I didn't hear him use them.

Q. You didn't hear anything like that?

A. No, sir.

Q. Did he say that the ball games were a great relief from the crowds that were attracted by the shore resorts?

A. I don't know whether he said that or not.

Q. How many times have you met Mr. Seastream?

A. Once—about twice.

Q. You talked with him both times?

A. The second time simply said "How do you do," that is all.

Q. You never heard him use any such words as that—these I have referred to—have you?

A. I haven't had enough talk with him to hear him use them.

Q. Did you hear him use any such expression as "immediately adjoining?"

A. No, I didn't hear it.

Q. I understood you to say—did you hear the word "purporting;" would he use such a word as that?

A. No, sir; he may have used it; I didn't hear him.

Q. I mean Mr. Seastream?

A. I say, Mr. Seastream might have used it; I didn't hear him.

Q. I understood you heard Mr. Seastream dictate to Mr. Griffiths?

A. I didn't hear everything; I said I was in and out; he may have used it.

Q. You were in the inside office with Mr. Haagenson and Seastream during the making of this affidavit?

A. Yes, sir.

Q. And I understood you to say Mr. Griffiths would take something from Mr. Seastream, go out with it and write it up and then come back?

A. Yes, sir.

Q. The impression you wished to convey was, was it not, that Mr. Seastream dictated this affidavit?

A. I didn't say Mr. Seastream did.

Q. Well, who did dictate it, if he didn't?

A. I say Mr. Seastream told Mr. Griffiths what to put in it—Mr. Griffiths was the one that wrote the affidavit.

Q. Mr. Griffiths was responsible for the language, was he?

A. I don't know; Mr. Griffiths wrote the affidavit; I suppose he used some of those words from him.

Q. Did you hear Mr. Griffiths explain such words as I have called your attention to?

A. I did not.

Q. To Mr. Seastream?

A. I did not.

Q. Well, did any of the rest of them in your presence?

A. Maybe Mr. Griffiths explained them; I can't say.

Q. In your presence, did anybody do it?

A. No, sir; not in my presence.

Q. I understood that when Captain Haagenson called you up the first, he introduced Mr. Seastream to you, and Seastream said he wanted to be set right?

A. Yes, sir.

Q. And he said immediately afterward that he had made a petition in favor of Sunday baseball?

A. That is what he said.

Q. What did he want to be set right about?

A. I don't know what he wanted to be set right about, only I told him he had signed an affidavit; he said he didn't sign any affidavit.

Q. When he came the expression he used indicated that he had not signed an affidavit?

A. The which?

The Court—The language he used to you indicated that he thought he had not signed any affidavit at all, is that it?

A. Yes, sir.

Q. That he had signed a petition in favor of baseball?

A. Yes, sir.

Q. How did he indicate to you that he wanted to be set right, then?

A. He wanted to be satisfied which he had signed.

Q. Yes?

A. An affidavit or a petition.

Q. Yes?

A. I told him he had signed an affidavit against Sunday baseball playing.

Q. Did you show him an affidavit?

A. I did not; not at that time; Mr. Griffiths brought the affidavit up and showed it to him.

Q. Did you talk to him about it between that time; between the time and he came and Mr. Griffiths' getting there?

A. I told him Mr. Griffiths was coming up right away with the affidavit or copy of the affidavit and would show him that he had signed an affidavit against Sunday baseball playing.

Q. Did it take somewhat of persuasion to convince him that he had signed an affidavit?

A. It did not seem to take very much after showing it to him.

Q. This was only a copy you showed him, wasn't it?

A. Yes, sir; copy of it.

Q. He was satisfied then that he had signed it, was he?
A. He was satisfied then that he had signed it; yes, sir.
Q. Then the suggestion was made that he sign another, was it?
A. He said it was a damn lie.
Q. What was a lie?
A. The affidavit that was read to him.
Q. It was a lie that he had signed it or lie in the affidavit?
A. What was read to him he said was a damn lie.
Q. Was this after the brandy or before?
A. Before.
Q. To whom did he say that, about its being a lie?
A. To me.
Q. Before Mr. Griffiths came?
A. No, sir.
Q. After?
A. After he came.
Q. And when did you see him after that?
A. After that?
Q. Yes?
A. The day the Vice Chancellor held court up in the city hall.
Q. What day was that?
A. I don't know just how long after that it was; the Vice Chancellor was a witness up in Mr. Carrick's court, and the baseball case was tried up there.
Q. Did you have any conversation with him then?
A. No, not then; I didn't see him then; not at that time.
By the Court.
Q. He asked you when was the next time you saw Mr. Seastream?
A. On that day.
By the Court.
Q. You mean to say you did not speak to him?
A. I spoke to him—just said how do you do to him.
Q. Mr. Seastream speaks broken English?

A. Yes, sir.

Q. And the explanation as to what he wished to swear to was made to Mr. Griffiths by Captain Haagenson?

A. What he wished to swear to?

The Court—What he wants to ask you is this. Captain Haagenson and Mr. Seastream both speak the same language.

A. I believe so, or pretty near alike.

By the Court.

Q. Yes; well, now, did not Mr. Haagenson translate to Mr. Griffiths what Mr. Seastream wanted to swear to?

A. You mean that Mr. Haagenson talked to Mr. Seastream in his own language?

By the Court.

Q. Yes?

A. No, sir.

By the Court.

Q. None of that done, eh?

A. No, sir; not in my presence.

Q. The point of the inquiry I had in mind was whether Captain Haagenson did not explain to Mr. Griffiths what Mr. Seastream meant—what he wanted done?

A. I don't know whether he explained that or not.

The Court—Well, it is palpable to the court, from seeing and hearing Mr. Seastream talk, that no ordinary person could find out, without a good deal of difficulty, what he wanted to say, and what counsel wants to know, and what I want to know, is whether Mr. Haagenson did not explain to Mr. Griffiths what he understood Seastream was trying to say and did say.

A. He told him Mr. Seastream wanted to get himself set right.

By the Court.

Q. I know that, but what I want to know, whether, in making this communication to Mr. Griffiths, after he got there, Mr. Haagenson did not act as sort of an interpreter, to try and explain to Mr. Griffiths what Seastream was trying to say?

A. At times.
By the Court.
Q. At times, yes?
A. Yes, sir.
Q. And he took that up in some detail with Mr. Griffiths?
A. Yes, sir; the three spoke about it.
Q. He did more talking, a great deal, than Mr. Seastream?
A. Mr. Seastream did quite a good deal himself.
Q. The captain did more?
A. I won't say he did more; no, sir.

Howard Griffiths, sworn.
Direct examination.
By Mr. Allan L. McDermott.
Q. You are a member of the bar?
A. Yes, sir.
Q. Have been for how many years?
A. Nine or ten.
Q. When did you first see Mr. Seastream?
A. Two or three days before the return day of the order to show cause in this case, which was on Thursday, I think, the 25th; I won't be certain as to that.
Q. Where at?
A. At Mr. Robert Davis' office, 24 Mercer street.
Q. How did you come to go there?
A. I was at lunch——
The Court—You are mistaken in the date; 24th, isn't it? It is Thursday, at any rate.
Mr. Frank P. McDermott—May 12th. I suppose Mr. Griffiths means the first affidavit.
Mr. Dixon—No, he don't; he means the second affidavit, before Mr. Bentley.
Q. What is the date?
A. 12th is right.
Mr. Frank P. McDermott—12th.
Mr. Allan L. McDermott—12th of May.

A. (Continuing.) I was at lunch at the time and my office boy came and told me that somebody was on the telephone, wanted to talk to me, and when I got back to the office Mr. Will Davis was holding the 'phone and said that Seastream was at his office and that he wanted to see the affidavit which he had signed and asked me if I would bring it up; I told him I would and that I would take the next car, which I did; I think I reached the office about quarter after one; I generally go to lunch about one o'clock.

Q. Did you take the affidavit?

A. Yes, sir; when I got there Seastream and Haagenson and Will Davis were in the rear room, Mr. Davis' private office.

Q. Had you ever seen Captain Haagenson before that?

A. No, never seen either one of them; Mr. Will Davis introduced me to both of them; I believe Seastream admitted, though, that I had not seen him on Tuesday; I asked him what he wanted.

Q. You speak of having the affidavit; did you have the affidavit or did you have a copy?

A. I had copy; copy that was served on us.

Q. Copy that was served on you; have you got it with you?

A. I have; I first asked him what he wanted and——

By Mr. Frank P. McDermott.

Q. Asked whom?

A. I asked Seastream what I could do for him and he said that he would like to see the affidavit they said that he had executed, and I showed him this (indicating).

Q. Is that the identical paper that you showed him?

A. Yes, sir; that is the paper I showed him, and his remark was that he had never signed anything that looked like that; and I said, "Suppose I read it to you, and perhaps you can recall some of the affidavit;" I got, perhaps, to the very first paragraph wherein he said that he was at home, that he was not at home on the Sundays in which the games were played, and when I got that far he said,

"That is a damn lie, for I was at home and I saw the game with the Rochester club;" now, I had no means of knowing that Seastream had been at home, and my only knowledge came from his voluntary statement at that time, and the same was true——

The Court—Never mind arguing the case as you go along.

A. I want to state my motive; the same was true, too, about his remark about his baby having slept throughout the game; I then asked if it had ever been read to him; he said it had not.

By the Court.

Q. Said the affidavit had not been read to him?

A. Yes, sir; I asked him if that had ever been read to him before and he said it had not, that the paper Mr. Currie showed him represented to him to have been a petition in favor of Sunday baseball; I don't believe that Mr. Currie ever made such a representation.

The Court—Never mind, now. You had better not make such remarks. Your case will stand better on its own—you say now you didn't believe it then.

Mr. Dixon—He didn't believe then.

A. I didn't know then; I remember underscoring a part of it, and the very first point; and I sat down alongside of him and took memoranda on the back of an envelope; and when I had finished that I withdrew into the outer office; and Mr. Robert Davis' desk was locked; he was of town at the time; and I went out there where pen and ink were available, and I prepared the affidavit—as it appears in long hand, and once or twice, after I had prepared various paragraphs, I went back and read them to Seastream and asked him if that was what, in substance, what he wanted to testify—what he wanted to swear to; while drawing the affidavit, I asked Will Davis to call up Mr. Peter Bentley, that inasmuch as I was one of the solicitors in the case I could not take the affidavit, and later on Mr. Davis announced that Bentley was on his way up there.

Q. You speak of being one of the solicitors in the case; was it your understanding that Mr. Bentley was one of the solicitors?

A. No, sir, not at that time.

Q. Did I judge from the remark of the court this morning he did not appear in court in the case?

A. Mr. Bentley assisted me in reading the affidavits, which were very voluminous, and to that extent he did appear—merely to assist me out; there were one hundred and twelve affidavits.

Q. That was all?

A. That was all; that was afterwards.

Q. That was after he took this affidavit?

A. Yes, sir; that was on the 2d of June, on the hearing here—on the 26th, rather.

Q. Now, after you had completed the affidavit, the language of the affidavit—did you use his language?

A. Well, no—partially; I took it in narrative form, as we generally draw affidavits; I don't believe that much of it was his own language; I remember his saying that he viewed the game with the Rochester club from the window of his home; I remember his saying that the baby slept throughout the afternoon; I inquired as to the condition, as to the fence, and that that had been remedied for him; and it is almost impossible to embody his specific language and make it comprehensible.

Q. Now, before he signed it, did you make any request of Captain Haagenson?

A. Before Mr. Bentley arrived I went in the little room and read it over to him, and, as I thought, carefully; and I turned it over to Captain Haagenson, and I said, "Captain, explain it to him in your own way;" he had it, perhaps, for ten or fifteen minutes before Mr. Bentley arrived.

Q. Now, when Mr. Bentley arrived, what was done?

A. Why, I think that Davis introduced him to Haagenson and Seastream; Davis, Bentley knew; and I informed Mr. Bentley as to the first affidavit, and distinctly

remember telling him that this was in most part a contradiction of that, and for that reason to examine him carefully, and it was in response to that—it was while Bentley was examining him—that it was first brought up as to the person Brown, and Brown's son and his sister-in-law; Bentley asked him how he knew that he was at home when, in his first affidavit, he said he was not, and that brought that out; if I had known it, I would have incorporated it in my affidavit.

By the Court.

Q. I will ask you this question, what was the occasion for making any affidavit at all?

A. Well——

By the Court.

Q. Who suggested making any affidavit?

A. Seastream asked if he could make a statement, and he said he wanted to be set right, and I said that no paper was of any value in the case unless it was in the form of an affidavit, and if that was his wish I would take the affidavit.

By the Court.

Q. Somebody got him to sign a paper, didn't they, another paper—when was that signed?

A. That was subsequently; that was the—I don't know; that must have been ten days later when he signed his discontinuance; he was still favorable disposed up to that point.

By the Court.

Q. Now, Mr. Griffiths, did you stop to consider the effect of asking a man, or letting, even if he asked to make a contradictory affidavit of that kind, what kind of a pickle it placed this poor devil in—I use the expression, because that describes it; did you think of that?

A. I did, sir.

By the Court.

Q. If you had been his counsel and disinterested, and not counsel or solicitor—not president of the defendant company—solicitor of that company—would you have advised him to make another affidavit?

A. Well, I wasn't representing him in this matter.

By the Court.

Q. No, I know; but I want to get what you thought about the man?

A. I would, if I was convinced that the facts which he was stating to me then were the truth, and I was at that time.

Q. He had said what was in the first affidavit was a damn lie?

A. Yes, sir.

The Court—One clause of it.

A. No, sir.

The Court—I heard what the witness said. He stopped on one of the first clauses in reading his own original affidavit and said that was a damn lie. It wasn't when he got all through it.

Q. I may have misapprehended, but what did he say as to the balance of the affidavit?

A. I merely stopped at the first clause in order to explain his first demur to the truth of the first affidavit.

Q. That is the way I understood you?

A. And when I read it to him I asked him if it had ever been read to him, and he said no, and the affidavit was untrue—it was false.

By the Court.

Q. But you did not take into consideration the effect on that man—liability of being indicted for perjury; all that sort of thing, by making a contradictory affidavit—did not take that into consideration at all?

A. I believed this to be the truth; I couldn't conceive why he could have executed the first affidavit in view of what I knew had been done for him.

By the Court.

Q. What had been done for him?

A. Yes, sir; he stated that the fence had been completed at Eastern League Park and the right angle of the fence had been completely torn down and rebuilt at his request.

By the Court.

Q. When did he state that?

A. He stated that at that time, and I knew it, because he said—didn't expect to have any trouble from Seastream, because Seastream said——

The Court—Never mind that.

A. Well, that is motive.

Q. Why did you——

The Court—I must stop right here to say, gentlemen, to the member of the bar on the stand, that I think I cannot possibly justify any lawyer in drawing an affidavit for a man which contradicts one that he has made before, unless under very special circumstances. I think it is highly improper. I don't say it was contempt of this court, but it is something that a lawyer ought never to do, in my judgment, without that party had some party interested in him. I am speaking right from the spur of the moment. This man came there for help—to be set right. This counsel was sent for, brought there, counsel for the defendant in the suit, and not counsel for Mr. Seastream; clearly did not act as his counsel. He never should have, in my judgment as a counselor of this court, have sat down and drawn and asked him to sign a contradictory affidavit when that affidavit was made in favor of his side of the suit—unprofessional in the highest degree, in my judgment, and one that ought not to pass the court without remark. Proceed. It put the man in a situation of being indicted for perjury, hopelessly convicted on one or the other, unless this gentleman was satisfied, not only that the affidavit was untrue, but that Mr. Currie and Mr. Demarest had actually practiced a fraud on him, and before he took that ground he should have had more evidence before him.

Mr. Allan L. McDermott—May it please the Court. It seems to me that that was the position of the witness; that there was a fraud practiced on Mr. Seastream will appear from the papers themselves; he was a client in this court.

The Court—No necessity for that if he had not drawn that affidavit.

Mr. Allan L. McDermott—No, but an affidavit was drawn.

The Court—But he drew it; he drew it for his own benefit—for the benefit of his client—took advantage of the situation of this man's mind, on his own show, in a manner that I think is highly unprofessional.

Mr. Allan L. McDermott—Seastream had said to him, "I didn't sign that affidavit; it is a lie."

The Court—Now, he knew he had; Mr. Griffiths knew he had. He knew that Mr. Currie's certificate that he had signed it and sworn to it was true, and he ought to have ascertained that before he ever permitted him to make an affidavit, or asked him to, or permitted him to do it.

Mr. Allan L. McDermott—If a man comes to my office and says to me, "I am a party in the case in opposition to your clients; an affidavit has been presented in the court in that case; it is untrue; I did not sign it as an affidavit; the statement is not my statement, but a lie"—and that man says, "I want to make an affidavit in contradiction of that;" then I am introduced to a new ethical proposition in the profession if it is not my duty to my client to take that affidavit.

The Court—I think not, sir; I don't change my view at all. Seeing the man on the stand. If it had been Allan McDermott that come in and wanted to make a counter-affidavit it would have been a different thing; but here is a poor, ignorant Swede, that could not speak the English language. The case is different entirely. I don't change my mind at all.

Mr. Allan L. McDermott—That depends as to whether he knew what was in the affidavit, of course.

The Court—I am speaking of what I think as a member of the bar and a judge of this court. I feel bound to say for the benefit of the profession.

Q. Now proceed, Mr. Griffiths.

A. I don't know how far I have gotten; I think I

stated that Mr. Bentley was examining him on the second affidavit.

Q. Yes?

A. And when he was apparently satisfied that Seastream knew the contents of the affidavit Bentley showed him where to sign it, asked him to raise his right hand and swore him as to its truth.

Q. He then signed it?

A. He then signed it; and it is my recollection that Seastream shook hands all around and thanked those present, generally, for having, as he put it, set him straight; Captain Haagenson and Seastream left and Mr. Bentley and myself later.

Q. When did you next see Seastream?

A. Well, he called at my office once between that, I think, and the 26th; I didn't see him; I was absent in Buffalo; but the next time I saw him was on the afternoon, rather the evening, of the day in which the counter-affidavit of Seastream was presented in this court; we had adjourned in the afternoon to the city hall, and at the conclusion of that session Mr. Bentley and I walked down together—I think with Senator Hudspeth—and when we reached the bank—First National Bank building—Mr. Bentley repaired to his own office and said he would return in a few moments; I met Will Davis, coming out of the bank with Mr. Conklin, its cashier, and he joined me on the elevator; and when we reached my office, I think Haagenson and Seastream were seated in the outside room, and I invited them to come into my office.

Q. Then there were present, in your own office, at that time, Seastream, the captain, yourself, Mr. Bentley?

A. Mr. Bentley returned in a few moments.

Q. Mr. Bentley returned?

A. Yes, sir; Seastream was very much agitated at the time, and the very first remark he made was that they were trying to arrest him, and I asked him who, and he responded, "The Chancery Court;" and I told him he need have no fear if what he told me in the second

affidavit was true, and that I did not believe it was possible or probable that a warrant had issued for his arrest, inasmuch as the Vice Chancellor had referred it to Judge Blair for investigation; and I then asked him to repeat to me what explanation he would have to make to Judge Blair, which he did; I don't think he was in the office ten minutes.

Q. He wasn't in the office ten minutes?

A. I don't think so; by the way, before he left I asked him if he would be willing to explain his position to Vice Chancellor Pitney, and he said he would; now, this was on the evening of the 26th, and it was in response to that that we wrote—Northrup & Griffiths wrote our letter to the Vice Chancellor, asking him to investigate the cause; that letter bears date the 27th.

Q. When did you next see him?

A. I think the next time he bobbed up was on June 1st; Senator Hudspeth called me on the telephone.

Q. What time of day was that?

A. About four o'clock that afternoon, and stated that Judge Blair had requested him to have me produce Mr. and Mrs. Seastream in court the next day.

Q. In court or at his office?

A. In court; I then wrote a letter to Haagenson and asked him to see whether Seastream was still on duty on the annex boat, and if he was, to have him at my office the next morning; I told him in that letter I would go to Bayonne, to Seastream's home, which I did; I reached his home about five o'clock.

Q. Who was there?

A. I saw both Seastream and his wife, and I counseled the parties——

By the Court.

Q. Who did you say asked you to go there?

A. Senator Hudspeth, in response to Judge Blair's request; I saw both Mr. and Mrs. Seastream and told them that Judge Blair wanted them both to appear in his court in the morning.

Q. At what time?

A. Eleven o'clock; Seastream said he would go and he would be at my office at ten o'clock; his wife said she wouldn't go, and Seastream then appealed to her, and he said, "My God, Laura, you wouldn't see me go to jail;" and I was getting pretty angry at the time, and I said to Mrs. Seastream if what he had told me in his second affidavit was not the truth then there was no alternative for him but jail, and that I would help send him there; that took place in the hall, near the door; and as I went out, Seastream followed me, and Mrs. Seastream grabbed him by the arm and hauled him in and slammed the door in my face.

Q. Anybody there at the time that was done?

A. Mr. Elliott sat on the steps of the stoop; he had been superintending the laying of a sewer in the ball ground at the time.

Q. When did you next see Seastream?

A. Well, he didn't appear the next morning, and——

The Court—I will ask you this: What did you want him to come to your office for?

A. So I could take him to court, Judge Blair.

By the Court.

Q. He knew the way to court, didn't he?

A. I don't think he did.

By the Court.

Q. You don't?

A. No, sir.

By the Court.

Q. You mean to say, Mr. and Mrs. Seastream could not have got up to the court house without going to your office?

A. They might, but the burden of producing both these witnesses had been placed on us, although he was not our client in this case.

By the Court.

Q. Didn't you think you did enough if you just asked him to go up there?

A. That is all I did, sir.

The Court—But without going to your office first?

Q. Did you have any conversation with Judge Hudspeth about bringing him to your office or his office?

A. Yes, sir; Senator Hudspeth asked me if I would bring him to his office or mine, and I think it was his suggestion that I bring him to my own office and then take him to the court house.

Q. Did Senator Hudspeth state to you——

The Court—I think you are going a little too far, there. Senator Hudspeth can speak for himself. I am very sorry to hear his name in this case, even as far as that.

Mr. Dixon—He is going on the stand.

The Court—Asking that the witness should be seen by him or Mr. Griffiths, if it is true, before he went to the court house. I was in hopes there wasn't as much as that in it, judge, on your account. I speak plainly.

Q. Did Senator Hudspeth say to you that——

Senator Hudspeth—I hope your Honor—I must protest, if your Honor please, to your Honor's remarks, because they are going in the press—because they are absolutely unfair.

The Court—I am not satisfied you did it. I do not believe you are a man who would ask a man, under such circumstances as that, to come to your office first.

Senator Hudspeth—The remarks of your Honor go to the public press and are spread around here as though I had some ulterior purpose, which I object to, and my explanation will be given as a witness under oath.

Q. Did you ask Judge Hudspeth where you were to take the witness?

A. I did.

Q. Go on and give us the conversation?

A. I asked the Senator if I would meet at his office, and he said no; just have the witness at your own office and they could gather there in the morning and bring them all up to the court house, meaning, I took it, Haagenson, Bentley and Davis and all who were in-

terested in the case; when Seastream did not appear that morning, the hour got to be eleven o'clock, and I 'phoned Senator Hudspeth at the court house and announced to him the efforts that had been made to produce him, and that I had been informed that he was off duty at half-past twelve, and that if the matter was adjourned to Jude Blair's chambers at one o'clock that probably he could be produced, and it was in response to that suggestion of mine, made through Senator Hudspeth, that the case was adjourned, the hearing, until one o'clock at Judge Blair's office.

Q. You say efforts were made to get him there; what efforts were made?

A. The efforts made through Captain Haagenson in response to my letter of the night before; my own personal visit to Bayonne, and Captain Haagenson's efforts renewed on the morning of the 2d of June.

Q. Go on, what occurred next?

A. Why, we appeared before Judge Blair at one o'clock and announced that the efforts which we had made and our inability to produce Seastream, and Judge Blair remarked, and in all deference to Judge Blair, I think unfairly, that influences were at work to keep him away; I was in possession of the facts and Judge Blair was not.

Q. Did you make any attempt to keep Mr. and Mrs. Seastream away from the court?

A. Clearly not.

Q. What did Judge Blair say about the continuance of the case?

A. Judge Blair remarked that without Seastream it was like the play of Hamlet with Hamlet absent; and Senator Hudspeth and Mr. Northrup impressed upon him the unfortunate light in which we were placed in view of the final argument in the cause, which was to take place at Newark the following Monday, June 6th; Judge Blair distinctly stated that the matter would be continued to a day subsequent in that week and that he

would notify counsel when he had fixed a day; there can't be any doubt about that.

Q. Seastream says, speaking of the meeting at your office, that there was a school or teaching; did you ever attempt directly or indirectly to influence Seastream in what he was to say in this proceeding at all?

A. I did not, sir.

Q. Mrs. Seastream says that when you came to the house—when did you first go to Seastream's house; do you remember the date?

A. I think—I know I went there prior to that and presented the discontinuance of this case to Mr. Seastream, which he executed without any demur in the presence of his wife.

Q. She says you came there and said, "Now we have come to an agreement to keep this out of court, and whoever gets the most votes will be the winner; I have Mr. Alexander, Dr. Ware and a few other signatures;" that you laid a paper on the table and told her husband to sign it; do you remember that visit?

A. I never heard of that before.

Q. On June 1st, when you called at her house, did you say, "Now, Mrs. Seastream, I want you to come to court and say you did not see Mr. Currie sign a paper, and I want you to say in court that you were not paying any attention—to say that you were attending to the baby?"

A. I had no discussion with Mrs. Seastream as to the merits; I found instantly that she refused to go; the only question foreign to my visit which passed us was a remark of hers that she would not have that fence there for a $100, and I said, "Well, Mrs. Seastream, how much would you have it there for; if it is an injury and a matter of compensation, if you will tell me what your damage is, perhaps I can adjust it."

Q. Did you say to her, "I want you to say in court that you were not paying"——oh, yes, I have asked you that question; you have said no?

A. I told her nothing to say in court.

Q. Did she say, in answer to that or any other question, "If I have to go to court, I will speak the truth; I have always spoke the truth; I was brought up that way and I will speak the truth now?"

A. There was nothing in our conversation that warranted that; I hadn't gone that far.

Q. Did you say to her, in the way of suggestion, "You could say you were paying attention to the baby; you could have been walking in and out of the room and not remember?"

A. No, sir.

Q. Did she answer, to that or any other question, "I could have been, but I was paying attention, as I myself had a little to say?"

A. She did not.

Q. Did you say to her, "Well, you say that you won't talk about it?"

A. No; she said she wouldn't go; there was no question about talking.

Q. You were there to get——

A. To get her to go to court and talk.

Q. Did she answer, "No, sir; I shall speak the truth, and if questions are asked me I shall answer them straightforward?"

A. No, sir.

Q. And you say, "Well, for God's sake, don't go and take the other party's part, if you can't take ours?"

The Court—Answer.

A. There was no question——

The Court—Just answer the question, yes or no.

A. No, sir, she did not; the only appeal along that line which was made was by her husband.

Q. Was what?

A. The only appeal along that line was made by her husband; he asked her if she would see him go to jail.

Q. Did you say to her, "Well, Mrs. Seastream, it would not be telling any untruth if you say you don't wish to talk about it, and it will save us all from going to jail?"

A. No, sir.

Q. You have never been confined in a lunatic asylum?

A. Not yet.

Q. And did you say, "Not on your life, I won't?"

A. No, sir.

Q. Did you say, Well, Mrs. Seastream, it wouldn't" ——oh, yes, I have got over that; did you ask her to go away for a few days and say that you would pay all the expense?

A. Never had any such conversation with her.

Q. You know the Court of Chancery is a constitutional court and continues right along?

[No answer.]

Q. Did she say, "Mr. Griffiths, my husband and I have worked very hard to have our little home, and now you have come and asked my husband and me to swear to a lot of untruths; you have come and made me miserable, and the last few days I don't know what to do;" any such statement as that?

A. No; her only reference to her home and its effect upon her home was her reference to the fence.

Q. Did you say to her, "Mrs. Seastream, I am very sorry; I will try and not have you appear in court."

A. Clearly not; that was my object in going there to have her appear in court.

Q. Did you say, "For God's sake, don't go and talk, Mr. Seastream, or we will all be in jail?"

A. No, sir.

Q. Addressing that to Seastream?

A. No, sir.

Q. Did you ever have any talk with Captain Haagenson—oh, you stated you never met him before you met him in Mr. Davis' office, as I recollect.

A. Neither him nor Mr. Seastream.

Q. You have an official position with the club—the baseball club?

A. Yes, sir.

The Court—President?

A. Yes, sir; I am stockholder in the club.

Q. Do you know how many games were played there —on what day was this?

A. Two—two, on Sunday, April 24th, and May 1st.

Q. Do you know how many innings there were in each game?

A. I presume in the first game eight and a half innings, or nine innings—the Rochester won; the other eight and a half, the second.

By Mr. Frank P. McDermott.

Q. That was the second Sunday?

A. Second Sunday, May 1st; a game was scheduled on the following Sunday and the writ was served that Sunday morning, and I advised the club to observe it.

Cross-examination.

By Mr. Benny.

Q. Did you know that the affidavit that Mr. Seastream made to the bill contained the statement——

[Copy of the bill and affidavit marked *Exhibit A.*]

Q. You knew the writ when served on you was void, didn't you?

A. Yes, sir; it was void, I thought, under a section of the Vice and Morality act, which says all process served on Sunday is void.

Q. But you directed the obedience to it?

A. I certainly did.

The Court—I think you will find the Court against you on that. It is notice, no matter how a man gets notice of injunction, he is bound by it.

Q. Simply that he thought so?

The Court—I made the remark, I think he is mistaken; any mode in which you get notice.

Q. Did you know that the bill, the affidavit of Mr. Seastream to the bill, contained the statement that he and his wife were absent most of the time during which these games were played?

A. Yes, sir.

Q. Did you know that the affidavit of Mr. Seastream

to the bill stated that the noise resulting from the playing of the game and the cheering is very annoying and disturbed the rest and slumber of our two young children?

A. I took his affidavit with considerable care at that time; we went over it together with Seastream himself.

Q. The question I asked is directed to Seastream's affidavit to the bill of complaint?

A. That is the affidavit that I am referring to.

Q. Will you please state what you mean by the Eastern League park; please state what you mean by the park, Eastern League park; what is the Eastern League park?

A. The name of a particular ball ground of the Jersey City Eastern League club is called Eastern League park.

Q. And what has there been done there to make the park?

A. An expenditure of some $12,000.

The Court—What do you want to ask that for?

Mr. Benny—The reason, your Honor, is this: That seems to be the inducement in this affidavit for disputing the first—that these grounds were beautified by placing a park there. I want to show the Court what was done to beautify the ground, that is all, in response to their suggestion and their testimony.

A. The company spent $12,000 in improving it.

Q. In doing what?

A. In grading it and leveling it and planting vines and laying it out.

Q. Is there anything there except the laying out of the diamond and the leveling of the ground and building of a high fence around, and grand stand?

A. The entire field is sodded; it is a very beautiful field.

Q. What was the condition prior to the work being done?

A. They were vacant lots.

The Court—The affidavits show that it had been used as a baseball ground for a long time.

Mr. Benny—As a field?

The Court—As a field, yes; I don't know as that is in this case—if you want to provie it.

Mr. Benny—No; I don't know whether it is either on that. If it is given on direct examination, I want to show what was done. A park, to my mind, signifies trees and shrubbery—things of that kind; not a mere fence and baseball ground.

The Court—You can call anything you are a mind to a park. According to the best English, I believe a park must contain trees, and a baseball ground is the farthest thing you can imagine from a park. One thing further, since you are talking about it—a park that is enclosed by a high board fence—sixteen feet or fourteen feet high—is not a very great object of beauty in the neighborhood, unless you have a third story from Seastream's house or somewhere else to look down on. But that has nothing to do with this case; but, I say, it is common knowledge.

Q. Did you know a mistake had been made by Mr. Seastream in the statement of his residence in his first affidavit?

A. I did not, Mr. Benny, until attention was called to it here on Tuesday last.

Q. So that you did not know whether that part was true or not?

A. No; my affidavit does not mention that.

Q. What part of the affidavit did Mr. Seastream say was not true?

The Court—First affidavit?

Q. First affidavit?

A. He said that the whole affidavit—entire affidavit—was false.

Q. Was the location of the baseball ground not truly stated therein?

A. I presume he was referring, Mr. Benny, to his position—to the position which it recited him as having taken.

Q. I am asking you now what part of the affidavit—first affidavit of Mr. Seastream—was untrue?

The Court—He said all of it.

Q. That is what he said; now, I ask him, was the location of the baseball ground not truly stated in that affidavit?

A. I don't know as to that; I am not familiar, just now, what the affidavit expresses on that particular point.

Q. Was it not true that he owned the premises he resided in?

A. I don't know.

Q. Is it not true that there were two baseball games played on the Sabbaths, as stated in the affidavit?

A. There were two played.

Q. Do you know what part of the affidavit was not true?

A. That which he—outside of his general denial, as to its falsity, my supposition of it was that it was untrue in so far as it recited that he was absent on both of the two Sundays; he further stated that his two children slept throughout both games.

By the Court.

Q. Said that to you?

A. Yes, sir; the others were present.

By the Court.

Q. I mean——

A. Yes; he further stated that he did not regard it as a detriment to his property, that baseball had always been played there, and he preferred to have it played with regulation.

Q. Why did you ask Mr. Seastream what explanation he would make to the Vice Chancellor?

A. Because he had made two affidavits and the matter had been referred that morning by his Honor to Judge Blair, I believe—as I recollect—for the purpose of determining the circumstances under which both those affidavits were made; I think that is the language his Honor used.

The Court—That is right.

Q. And you asked him to repeat to you what he would say to the Vice Chancellor, did you?

A. To that effect.

Q. Why did you ask him that?

A. I just aked him the question, and he repeated the circumstances he had recited in Mr. Davis' office.

By the Court.

Q. You mean that was done at his house, eh?

A. No, sir; that was at my office, the evening of the day that these affidavits were presented here—that Haagenson brought him to my office.

Q. Why didn't you ask him that question, Mr. Griffiths, when the second affidavit was prepared and submitted to him for his signature?

A. How could I; the matter had not been referred to Judge Blair or even to his Honor at that point.

Q. Did it not occur to you he might be asked to explain why he made two contradictory affidavits in the case?

A. No, I thought the affidavit explained that up to that point.

Q. Why did you think Mr. and Mrs. Seastream could not find their way to the court house?

A. I had no particular thought on that, Mr. Benny; perhaps they could, as the Vice Chancellor suggests.

The Court—I can imagine of but only one object in having—plain talk—in having them come to their office first; everbody knows what that means—common knowledge to every lawyer.

There was no such purpose, if the court please, in my visit on June 1st.

The Court—That isn't the question; why you wanted them to come to your office at ten o'clock in the morning.

A. I was bringing them there as per instructions.

Q. On the day that you desired to have Mr. Seastream produced before Judge Blair, did you know where he was employed?

A. I did, sir; I knew he was employed on "Annex Boat No. 4."

Q. Did you go or send any person to "Annex Boat No. 4" to see if he was there?

A. I wrote a letter to Captain Haagenson, as I have testified.

Q. When did you write the letter?

A. About quarter after four on the afternoon of June 1st.

Q. That was the day before he was required?

A. The day before the date fixed by Judge Blair for his production.

Q. Now, then, when Judge Blair adjourned the hearing until one o'clock, did you send or go to the "Annex Boat No. 4" to see if Mr. Seastream was there?

A. I sent Captain Haagenson.

Q. Captain Haagenson?

A. Yes, sir.

Q. Where was Captain Haagenson at that time, when you sent him?

A. I sent for him; I sent to the ferry for him.

Q. You sent for Captain Haagenson?

A. Yes, sir.

Q. Did you send anybody for Mr. Seastream?

The Court—No, he says he sent Captain Haagenson.

A. I sent for Haagenson and directed Haagenson to produce him.

Q. But you didn't send any person for Seastream?

A. I sent Captain Haagenson for Mr. Seastream.

Q. I may misunderstand you?

The Court—Sent nobody directly—he says he sent nobody directly.

Mr. Benny—Your Honor, I understood the witness to say he sent for Captain Haagenson.

Q. Did you send some person to see Captain Haagenson?

A. I sent for Captain Haagenson, and then asked him; when eleven o'clock came, and he did not put in his appearance, I sent for Captain Haagenson, inasmuch as I had informed Senator Hudspeth to state to Judge Blair that we would endeavor to produce him at one o'clock.

Q. Did Captain Haagenson report to you then—did you see him after that?

A. I didn't see Haagenson until perhaps half-past twelve—after half-past twelve.

Q. Where did you see him then?

A. I then saw him at my office.

Q. What did he say about Seastream?

A. He said Seastream couldn't come, and I think he said he would take the consequences for not coming.

Q. After having been informed that Mr. Seastream would not come, did you then send any person to see Seastream, or go yourself?

A. I didn't go myself.

Q. Why didn't you go yourself, Mr. Griffiths?

A. Why, I saw no occasion to go to him there; I didn't know his routes or his hours; Captain Haagenson was familiar with it; I went to his home.

Mr. Allan L. McDermott—It would have been almost unprofessional for him to go for him.

A. I thought I had done all in my power to produce him.

Q. It would not have been any more unprofessional to go to his place of employment than to his home?

A. I differ with you, Mr. Benny; I went there at the request and by suggestion of Judge Blair.

Q. Did Mr. Salter call at Mr. Seastream's during your visit there?

A. No, sir.

Q. Mr. Salter did not call there?

A. No, sir; what you have in mind, evidently, is the fact Mr. Salter accompanied me on the evening I presented the consent to discontinuance.

Q. Was he there with you, then?

A. Yes, sir; that was before the affidavits were presented in this court.

Q. What did Mr. Salter go with you for?

A. He wasn't in the house.

Q. Did he go with you?

A. Not to the house.

Q. Where did he go?

A. We were bent on some errand, I don't know what?

Q. But he was not at Mrs. Seastream's house?

A. He was not; he was standing outside, and I believe Mr. Seastream asked him something about his insurance, if he would increase his insurance.

Q. Did Mr. Salter go with you to Mr. Seastream's house and stay outside?

A. He didn't go with me to the house; he was with me that evening.

Q. Well, did he accompany you as far as the stoop?

A. He accompanied me to Mr. Alexander's, whom he knew, and from Mr. Alexander's he walked one block further along with me.

Q. Where did he talk to Mr. Seastream?

A. At the fence, I think.

Q. Of the house?

A. Yes, sir.

Q. And he came there while you were inside, is that it?

A. He was with me and remained at the gate while I went in with the consent to discontinue; I wasn't in there two minutes.

Cross-examination.

By Mr. Frank P. McDermott.

Q. On how many occasions were you at Mr. Seastream's house?

A. The first occasion was when I presented the consent to discontinue.

Q. That was about when?

A. About the 20th of May; well, it was the Saturday prior to our first appearance in the case, which I think was the 26th, perhaps it was the 24th; was that a Saturday?

The Court—The 24th was not Saturday.

A. No, 21st.

Mr. Frank P. McDermott—21st is Saturday.

Q. And when is the next occasion?

A. When I went there in response to Senator Hudspeth's request on June 1st.

Q. Didn't you see him on the evening of May 26th?
A. Yes, sir; but that was—yes, I did, sir; I beg pardon.
Q. Was that at his house?
A. That was at my office.
Q. That was at your office, not at his house, then?
A. No, sir.
Q. On what other occasion did you see him?
A. The next occasion was——
Q. Next?
A. And the only other one was at his home on June 1st.
Q. And twice at his home; you were twice at his home?
A. Yes, sir.
Q. And met him once at Mr. Davis' office?
A. Yes, sir.
Q. On the 12th of May?
A. Yes, sir.
Q. And once in your own office on the 26th of May?
A. Yes, and I said he called at my office, but I didn't see him at one time.
Q. The first occasion, of course, is the one where you prepared the affidavit, as you have stated?
A. Yes, sir; I was sent for.
Q. Did you make any attempt to put the affidavit in the language of Mr. Seastream?
A. No, I did not.
Q. Is this expression in the second affidavit: "The affidavit, purporting to be signed by me, has been read to me, and I declare the same to be absolutely and unqualifiedly false, and said paper was at no time read to me?"
A. That was a recital, so far as I could express it, of just what Mr. Seastream had said to me.
Q. You knew, however, Mr. Griffiths, that some of the things in the first affidavit were true?
A. Well, when you pick out a detail, such as Mr.

Benny suggests, that the ball ground was there, the ball ground was there; there may have been one or two facts, irrelevant facts, which were true.

Q. But the expression "Absolutely and unqualifiedly false" must have been yours?

A. It was, sir, and the result of his demeanor; when he first pronounced the affidavit false, he arose from his chair and banged the slide on Mr. Davis' roll-top desk and said it was a damn lie.

Q. I understood you had there the first affidavit; the fact is stated, there was a large crowd in attendance at the ball ground; you knew that was true, of course?

A. Well, there was a crowd; I didn't know as it was a large crowd; the gate receipts don't show that it was particularly large.

Q. Did you state to him at all the pickle in which he placed himself by admitting over his own signature a statement that another affidavit was unqualifiedly false?

Mr. Allan L. McDermott—That was covered by the Vice Chancellor pretty thoroughly.

The Court—It is a fair question; he has a right to put it.

Mr. Frank P. McDermott—If it is covered, I don't want to waste time on it.

The Court—Put the question.

[Question read.]

A. I did not, sir.

Q. The next occasion you saw him after making the affidavit was on the 26th?

A. Yes, sir.

Q. What time in the afternoon did you see him?

A. I should say about five o'clock—his Honor left to catch his train—and we walked immediately down from the city hall to my office, and when there found Captain Haagenson and Seastream, waiting for me evidently, in the outer office.

Q. That was after the Vice Chancellor had gone?

A. Yes, sir; that was after adjournment; the matter was adjourned then, I think, to June 1st.

Q. Did Captain Haagenson then tell you of the trip—their tour around?

A. He did not at that time.

Q. Around the station, and across the ferry, and over to New York?

A. No, Mr. McDermott, he made no reference to it.

Q. Did he tell you at all anything that Mr. Seastream had said to him at that time?

A. I think he did; after Seastream said that he thought they were going to arrest him, he then told me about—I think, about Seastream's fears in that particular—and that was why he had brought him in; Seastream had requested to see me.

Q. Did Mr. Seastream say where they had been spending the day?

A. He did not.

Q. Where he had been spending it?

A. No, sir; I had no knowledge as to that until Captain Haagenson testified here on Tuesday.

Q. Did you know there was a subpœna out for Mr. Seastream at that time?

A. I don't know, sir; I don't know it now, if such was the case; was such the case?

Q. I suppose you have read Mr. Griswold's affidavit in this case, which was served?

A. It was not served on me.

By the Court.

Q. Were not these papers served on you?

A. Not Mr. Griswold's affidavit, I don't think; I think it was read here in court.

Q. This printed copy was served on you of these affidavits?

The Court—That he had a subpœna trying to find Mr. Seastream all the morning. Were you in here in the morning? I will ask you this question: The morning of the 26th, when this order was made and I dictated the statement to Judge Blair, did you hear Mr. Demarest get up and say they wanted Seastream here—they had issued a subpœna for him?

A. I did not hear that, sir; I was in and out all that morning.

By the Court.

Q. You did not suspect, then, that the complainants were trying to get Seastream here in court to have him cross-examined or examined right in the presence of the court that day?

A. I did not; no such knowledge; I did not think that was possible, inasmuch as your Honor referred it it Judge Blair, just as I stated to Seastream.

By the Court.

Q. But before that?

A. No, sir, I did not.

By the Court.

Q. You heard me refer it to Judge Blair?

A. I heard you dictate the letter, sir.

By the Court.

Q. You did not hear, about that time or shortly after, a statement from Mr. Demarest, or somebody else, very vehemently declaring they wanted to get Seastream here, and had a subpœna out for him?

A. No, sir; I heard a reference, about adjournment time, they were trying to get Seastream; I didn't know a subpœna was issued for him.

By the Court.

Q. That they wanted to get Seastream here, you heard that about adjournment time, some time before that; they wanted to get Seastream in here for me to examine; do you recollect my saying I could not do it that way, I would not examine witnesses in open court, and counsel, Mr. Demarest, somebody saying, "We wish you would—wish your Honor would examine him here in open court," and I declining to do so?

A. I don't believe I was present at the time, sir; I don't recall that.

By the Court.

Q. I don't say that I did, but that is a pretty strong impression in my mind; certainly the complainants spoke of having Seastream right here in court.

A. They may have, your Honor; I don't dispute that in the least.

Q. On this evening, May 26th, how long were Captain Haagenson and Seastream in your office?

A. Not after my arrival; I don't believe that Seastream was present more than ten minutes; Mr. Will Davis hastened out immediately after; he had an engagement in New York which he was in a hurry to keep.

Q. Where was Mr. Will Davis; was he with you on that occasion?

A. Mr. Will Davis; I met Mr. Will Davis coming out of the bank in company with Mr. Conklin, the cashier of the bank, and Mr. Davis joined me on the elevator at my suggestion; I said, "I want to see you."

Q. Went upstairs to your office?

A. To my office, and there we found Haagenson and Seastream waiting in the outside office.

Q. Did Mr. Seastream have anything to say to you?

A. Not a word, I don't think.

Q. Mr. Seastream was somewhat agitated?

A. Very much so.

Q. Did you give him any suggestion or advice at that time as to what he could do or should do?

A. I told him I saw no occasion for alarm if what he had stated in his second affidavit was the truth.

Q But you knew some things stated in the second affidavit were not true, didn't you?

A. No, sir; in substance I believed it to be true.

By the Court.

Q. Wasn't he in just as great danger after having made the second affidavit on account of having made the first?

A. Not if his statement in his second affidavit was true that the first had been a false representation to him.

By the Court.

Q. But you had had the affidavit of Mr. Currie and Mr. Griswold read to you that day—they were presented here on the 26th, weren't they, and read?

A. They may have been.

By the Court.

Q. In which they explained just how it happened; and did you suppose for a moment—this comes right in—did you suppose for a moment that Mr. Currie and Mr. Demarest had procured this man under pretence of signing a paper to swear to a false affidavit?

A. Not after their affidavits.

By the Court.

Q. No, but before that, did you suppose it?

A. I didn't know, sir.

By the Court.

Q. What do you say?

A. I didn't know any more than it would be supposed that I had taken an affidavit in that second instance which I knew to be false.

By the Court.

Q. Yes; well, you went on the principle that you were not obliged to pay any attention at all to the fact that the other had been taken, apparently before a respectable solicitor, did you?

A. I did, sir.

Mr. Allan L. McDermott—The statement on the record will appear wrong because the affidavits of Mr. Currie and others were read subsequent to the taking of the affidavits by the witness; he had no knowledge of that.

The Court—I am not sure they were read on the 26th; I think their affidavit was read on the 26th when the argument went on in the afternoon; I would not hear any argument until all the affidavits were read.

Mr. Allan L. McDermott—Now, at that time this witness had taken the other affidavit.

The Court—I understand that, but I was asking him about his—the interruption on my part, Mr. McDermott, you want to understand distinctly—I want to keep my own head even; this witness was saying he told Mr. Seastream, on the afternoon of the 26th, the evening after the

adjournment of the court, that if the second affidavit was true he need not be troubled; at that time this witness had seen and heard read the two affidavits of Currie and Griswold.

A. I had not, if the court please.

The Court—They were read in court that afternoon, because I wouldn't hear argument until they were read; some time before the argument occurred up in the court house, up in the city hall, in the freeholders' room or some room there; there the argument took place— deliberate argument; I am stating now so that you shall know exactly what took place. A deliberate argument took place in which I know Mr. Demarest unfolded a brief, prepared argument, and every affidavit had been read before that. I think I am not mistaken about it.

Mr. Frank P. McDermott—They were all filed.

The Court—They were all filed on the 26th, and I am quite sure those exculpating affidavits had been read; and I had observed Mr. Currie's original affidavit, taken by him, was written down by him, in Currie's handwriting, and therein his affidavit corroborated it. Now, what I want to know of this witness is, and what I asked him, Mr. McDermott, and I think you will see the propriety of it, is to explain why it was any more dangerous to this man to have taken a true affidavit the second time and false affidavit the first time than it was if he had taken a true affidavit the first time and a false affidavit the second. Did it make any difference in the danger which affidavit was true? One or the other was.

Mr. Allan L. McDermott—May it please the court, the position of affairs, as represented in the question to the witness is just, to my mind, that line which your Honor——

A. He was afraid; he seemed to be in trouble; I said to him, "You are in no danger."

The Court—Provided your second affidavit is true.

Mr. Allan L. McDermott—Provided your second affidavit is true, which was absolutely true, because the ele-

ments of perjury could not have existed in the first affidavit if the second one was true. Now, he was not bound by his counsel to take personally so and so into consideration. He answered he had, though.

The Court—Your present argument is that it results in instructing the witness. This is the trouble with it.

Mr. Allan L. McDermott—The witness being a lawyer——

The Court—That is the trouble with it. What I asked him—why Mr. Seastream was in any more danger in making a false statement on the first one than he would be making a false statement on the second one? It would make a good deal of difference to this witness, but what difference would it make to poor Seastream?

A. I answered that before, by saying if what had been represented in the second affidavit in his first affidavit to have been perjury was so, then there could have clearly been no danger to him if the second affidavit was true; that was my response before.

By the Court.

Q. I would like to have you make any further explanation that you can that it would make any difference to this man which affidavit was untrue, in the point of danger from false swearing, whether it was the first or the second affidavit that was untrue, provided both were taken with the same care?

A. I was assuming, in all my dealings with him, that the second affidavit was the truth.

By the Court.

Q. I know, but how did that help him out of the first affidavit, if the second affidavit was true; that is the question?

A. I don't consider he would be responsible for the first, if the first was predicated upon a false representation.

By the Court.

Q. That is just the very reason I asked you the question; you had then heard read the two affidavits—one

moment, until I get through with my question—you had then heard read, when you met him in your office on the evening of the 26th, you had heard read the affidavit of Mr. Currie and affidavit of Mr. Griswold, stating the circumstances under which that first affidavit was taken; now, then, how could he escape perjury on that first affidavit if their statement was true?

A. I have been endeavoring to say to your Honor that I was not present when they were read; I was not present at adjournment in the morning; when I finished the reading—my last turn— of those affidavits, I went to my office and Mr. Bentley finished them; I was not in court within half an hour—three quarters of an hour—of adjournment.

By the Court.

Q. Then you say now you didn't know?

A. I certainly do; I have said so all along.

By the Court.

Q. That Mr. Currie and Mr. Griswold had taken affidavits which, if true, showed that the man made his first affidavit in the presence of his wife and family, with his friends around him, under circumstances where it was almost impossible to impose on him?

A. I would have believed that, sir, if I had heard that; I believe it now.

By the Court.

Q. You thought the man was scared all the while about having made two contradictory affidavits; that is what you thought?

A. Yes, sir.

By the Court.

Q. You didn't think he was afraid of being served with a subpœna or process to come into court and swear, did you?

A. No, I can clearly see now what disturbed him.

By the Court.

Q. What do you think now disturbed him?

A. That he knew his second affidavit was false in

most particulars; I believe he signed the first affidavit now in good faith.

By the Court.

Q. Go on; I interrupted you, I believe.

A. I believe the first was taken in good faith.

Q. You knew on this occasion in the evening of May 26th that some reference to the matter had been made to Judge Blair?

A. Yes, sir.

Q. And you went over with Mr. Seastream the explanation to make to Judge Blair?

A. I didn't go over it with him, Mr. McDermott; I merely asked him to recite what explanation he would have to give to Judge Blair.

Q. Captain Haagenson there then?

A. Yes, sir; and Mr. Davis and Mr. Bentley.

Q. Mr. who?

A. Mr. Bentley.

Q. All remained while that was—while he was repeating it?

A. It was but a moment, Mr. McDermott; there was no conference.

Q. I didn't say there was a conference; I say they all remained there?

A. They were there.

Q. I didn't use the word "conference;" they all remained there while he was making this explanation of how he would state the matter to Judge Blair?

A. Yes, sir.

Q. I suppose he made that in the same broken way that——

The Court—Couldn't make it any other way; you don't have to—well, go on.

Q. Was that explanation satisfactory to you?

A. Well, it was the same as the recital in Mr. Davis' office in not so great particular.

Q. But the explanation to Judge Blair was to show why he had made the second affidavit, wasn't it?

A. Yes, sir.

Q. Is that the purpose?

A. Yes, sir.

Q. Then the next time I understand you saw him was at his house on June 1st; was that in the evening—no, you said four o'clock in the afternoon?

A. Five o'clock; it was four o'clock when Senator Hudspeth 'phoned me.

Q. And anybody with you at that time?

A. Not in the house, nor with me.

Q. Haagenson come with you there?

A. No, sir.

Q. On several of these occasions, on this occasion particularly, Mr. Seastream was in great fear of something, wasn't he?

A. Yes, he seemed to be.

Q. The word "jail" seems to have been mentioned several times?

A. Well, only once that I recall there, and that by him.

Q. I understood you to say the husband had asked his wife if she would let him go to jail?

A. If she would stand and see him go to jail.

Q. Yes, and you had said to him if the second affidavit was not true there was no alternative but for him to go to jail?

A. Yes, sir; that I would help send him there.

Q. That you would help send him there?

A. Yes, sir.

Q. That you stated in the presence of his wife?

A. Yes, sir.

Q. What did she say to that?

A. She made no demurrer; it was near the close of the interview; I was toward the door at the time—at the head of the stairs.

Q. Did you suggest that he go anywhere on that occasion?

A. I might have suggested that he go to my office; he said he would be there at ten o'clock next morning.

Q. Did you see Captain Haagenson send him any word about the matter?

A. I wrote to Captain Haagenson before going to Bayonne, in case I should miss him there, to see whether he was off duty on "Annex Boat No. 4;" I didn't know his boat at the time.

Q. Did he come to your office next morning or not?

A. He did not; I 'phoned Senator Hudspeth at eleven o'clock to that effect, at the court house.

Q. Why did you use this expression to him that you would help send him to jail if his second affidavit was not true?

A. Well, I was pretty well incensed, Mr. McDermott, that this man should have signed an affidavit which, at that time, I felt to be untrue; the facts in the case I was in possession of by June 1st.

Q. You felt then, by that time, that the second affidavit was not true?

A. Parts of it were not true, and parts of it were true; I think that it obtained to both of the affidavits.

Q. And with that in mind you told him if it was not true there was nothing to do but to go to jail?

A. Yes, sir; I take the position which the Vice Chancellor suggests now.

Q. And you requested him at the same time to go to your office next morning?

A. That was the purpose of my visit.

Q. And after you made this declaration to him, why did you want him at your office?

A. That was a meeting place for all of them; Mr. Davis was to have been at my office, and Mr. Bentley likewise.

Q. Captain Haagenson at your office next morning?

A. He was; they were all there.

Q. Except Seastream?

A. Except Seastream.

Q. On the occasion here which you have described as a discontinuance, I suppose you mean the request to discontinue the use of his name?

A. Yes, sir.

The Court—We all understand that. It is in the possession, though, of Mr. Demarest, if you want it. I am not sure we don't want it, and Mr. Demarest, if he is here, will please produce it. You have never seen it. As far as I know, it has not been put in your hands.

Mr. Frank P. McDermott—I have never seen it, sir.

Q. That was some days after the affidavit; that was before May 26th?

A. What is that?

Q. What you have described as the discontinuance was procured before May 26th?

A. Yes, sir—the Saturday before.

Q. Was Mrs. Seastream present at that time?

A. She was; she got the pen and ink, with which he signed it on the dining-room table.

Examined by Mr. Allan L. McDermott.

Q. I am reminded by one of my associates that Seastream said something about—was there any shaking hands around in your office, any taking hands together and saying you would stand together?

A. No; the only time that he shook hands was when he left Mr. Davis' office, and then he thanked them all, as he put it, for having set him straight.

Robert S. Hudspeth, sworn.

Direct examination.

By Mr. Dixon.

Q. You are a counselor-at-law of this State?

A. I am.

Q. Been practicing, how long?

A. I have been practicing in this State since the 'seventies.

Q. Were you one of the counsel in the case of August Seastream et al., complainants, and the New Jersey Exhibition Company, in Chancery?

A. I was associate counsel with Mr. Northrop.

Q. Do you remember the occasion of the argument before Vice Chancellor Pitney, here in this room, on the return of the rule?

A. That, I understand, was on the 23d—Monday, the 23d.

Q. Was that the date when the Vice Chancellor made a suggestion that he was going to refer the matter to Judge Blair?

A. I think that was on the 26th.

Q. 26th?

A. Yes, sir.

By the Court.

Q. Let me see, but the argument did not go on on the afternoon of the 23d, and only part of the depositions were read, and then it was adjourned over until the 26th?

A. No, the 23d, may your Honor please, we appeared here, and that was the day the withdrawal was presented, the question of interpolating other parties was argued, and then the matter went over for a week.

By the Court.

Q. 26th?

A. 26th.

By the Court.

Q. The same week?

A. The same week.

By the Court.

Q. And it was adjourned to the city hall, but I telegraphed from Newark, learned this room would be vacant and telegraphed you all to be here instead of the city hall?

A. Yes, sir; we came up.

The Court—They were partly read on the 23d, but what I called the exculpating affidavits were not taken until—were taken between the 23d and 26th.

Mr. Dixon—The affidavits, your Honor, means of Mr. Currie and Mr. Demarest?

The Court—No, they were dated 24th and presented on the morning of the 26th here; I adjourned from here.

Senator Hudspeth—To the city hall.

The Court—To the city hall, so as to allow the court to have my evidence there; and then as soon as I was sworn I passed into another room there and the argument continued, but the argument was not really commenced here in the morning; it was merely finishing the affidavits; I think that is right.

A. That is right, sir.

Q. But it was in the morning here that the Vice Chancellor stated during that argument, I understand, that he thought the matter ought to be referred to Judge Blair, isn't that it?

A. As I recall the circumstances, the morning of the 26th affidavits were presented to his Honor, the Vice Chancellor, by Mr. Demarest, I believe, counsel for the complainants, of himself, Mr. Griswold and Mr. Currie.

The Court—Not of himself?

A. I thought he presented them.

The Court—No, he did not.

A. There was one of Mr. Currie and Mr. Griswold, and they were read and filed, but not served, as I recall, on the other side; and then his Honor——

The Court—Handed you copies?

A. No; his Honor thereupon made the reference that has been spoken of to Judge Blair.

The Court—I must have the stenographer's notes of the dictation to him, because I have reason now to think that we are all slightly mistaken. I think that the affidavits, the second affidavits, the famous second affidavit, was read on Monday and before either Mr. Demarest had prepared the other affidavits; it was then that I sent it to the judge, before I had any explanation.

A. I think I can clarify the atmosphere a little; on Monday, when the controversy arose as to the withdrawal, when the matter was adjourned, the question was whether we should serve our large bunch of affidavits on the other

side, and we had some controversy about it; we were insisting that the affidavits were made in the Seastream case, and finally, I recall, they were served—left with the other side on Monday—when we adjourned; then, on the following 26th, they came in with their affidavits in response to the Seastream affidavit.

The Court—The question is whether I did not see the second Seastream affidavit on the 23d and send it to Judge Blair at that time. I think I did.

Mr. Dixon—You will recall, I think, the Vice Chancellor, on the opening of the matter on the 26th—the first thing that he did was to make his announcement to the stenographer before any argument took place.

A. Not until after these affidavits were made and were read, at least of Messrs. Currie and Griswold.

The Court—I think you are mistaken. I think it was before Currie's and Griswold's affidavits were read—before.

Mr. Dixon—Yes, I think so.

The Court—At the time I made that announcement, I think I had not heard Griswold's and Currie's affidavits, and I think if Mr. Demarest is here he will probably know. Isn't that so, Mr. Demarest?

Mr. Demarest—Yes, sir.

The Court—Because I think it was before, some time. When was it that you got up in court and said you wanted to have Seastream here to be cross-examined?

Mr. Demarest—That was on the morning of the second day of the argument.

The Court—The 26th, then?

Mr. Demarest—Yes, sir; the day we went up to the city hall.

The Court—When was it I was going to send the matter to Judge Blair?

Mr. Demarest—In the morning.

The Court—Morning of that same day?

Mr. Demarest—Yes, sir.

Mr. Griffiths—Prior to that?

The Court—Before I had read the affidavits.

A. That is my recollection.

The Court—I don't think I had read the affidavits of Currie and Griswold at the time I had dictated that to the stenographer.

Mr. Demarest—That is right.

The Court—Quite sure I hadn't. The only question is between the 23d and 26th.

Mr. Dixon—But your Honor had seen the affidavit taken before Mr. Bentley.

The Court—Yes, second affidavit. All I had before me when I dictated the statement to Judge Blair was two affidavits.

Senator Hudspeth—And his Honor became very indignant, as he had a right to become, when he had these two affidavits.

The Court—Yes, but the Currie and Griswold affidavits were read later, afterwards, but I do not recall my delegation to Judge Blair.

Senator Hudspeth—Then, at that time, when your Honor made the reference and the matter was under discussion, Mr. Griffiths and Mr. Bentley wanted to make a statement, and either Mr. Northrop or myself insisted with your Honor that your Honor should proceed and investigate. We courted the fullest investigation then and there.

The Court—Undoubtedly.

Mr. Dixon—That was done by both sides.

A. Yes, sir; and we thereupon, upon your Honor refusing to proceed, we advised Mr. Griffiths and Mr. Bentley that they were to have full opportunity to be heard before Judge Blair, whenever he appointed for a hearing.

Q. When did you advise with them, that same day?

A. Then and there; in this court-room; both Mr. Northrop and myself.

The Court—There is no doubt about that.

Q. That they would have this opportunity?

A. Yes, sir.

Q. The opportunity before Judge Blair?

A. Yes, sir, Judge Blair; there could be submitted to cross-examination and have the fullest ventilation of all the facts.

Q. Now, in pursuance of the remark of his Honor, the Vice Chancellor, in reference to sending it to Judge Blair, did you have any talk with Mr. Griffiths or with Judge Blair with regard to the producing of any witnesses before him, and if so, what?

A. I said to Mr. Griffiths, in the presence of Mr. Northrop, both of us impressed upon Mr. Griffiths that the matter should be fully investigated, and that every facility should be afforded Judge Blair for that investigation; we insisted upon it as counsel, as it reflected upon all concerned, and reflected upon our client, and might prejudice our client before the court; the next step in that investigation was my receiving a telephone in my office, about four o'clock on the afternoon of June 1st, from Mr. Vickers'—prosecutor's office; he said that he represented Mr. Speer in the matter.

Q. He was one of the counsel?

A. Mr. Speer happened to be counsel and therefore he appeared for the State.

The Court—Excuse me; I was trying to think who was with Mr. Demarest and made that statement, wanted to have Mr. Seastream examined by me. It was Mr. Speer.

Senator Hudspeth—No, it was myself, if your Honor please—myself. I insisted very emphatically, and your Honor got angry at me, because I felt we ought to have him examined.

The Court—I know, certainly, the first word that was said by the complainant——

Senator Hudspeth—I know, the other side took it up the moment you suggested it.

The Court—They said they wanted Mr. Seastream there to be cross-examined on that affidavit.

Senator Hudspeth—You said both sides seemed to be angry, so to have the fullest investigation——

The Court—I said that?

A. Yes, sir; the next thing I said was the telephone of Mr. Vickers to me in my office about two o'clock, to my office, June 1st; he wanted to know if we could produce Mr. Seastream and his wife the following morning before Judge Blair, as I recall it, eleven o'clock, which time his Honor had fixed for the investigation directed by Vice Chancellor Pitney; I said I didn't know; that I was only the associate counsel in the matter; that I would have to communicate with the solicitors, and I said—I am very intimate with Mr. Vickers—I said, "George, I don't know why we should go to the trouble of getting Mr. and Mrs. Seastream there; the other side should do it;" "Well," he said, "it was suggested that you would produce them;" I said, "I will do all in my power to see that they are on hand;" I then at once telephoned Mr. Griffiths; got him on the 'phone; said I had heard from Mr. Vickers, who was representing the State, and that Judge Blair had fixed the following morning, at eleven, to hear Seastream and others; and I said, "Now, can you get Mr. Seastream and his wife?" he says, "If I do I have got to go all the way to Bayonne;" he says, "Why can't they get them?" I said, "We are requested to do it, and I want you to do everything in your power to facilitate this investigation;" he said, "I will try, Judge Hudspeth, to get them;" he said, "I will have to go to Bayonne;" he says, "Will you come to your office to-morrow?" I said, "No, you need not come to my office, because I will go direct to the court house;" and I said, "Howard, you want to be very particular in connection with the Seastreams; this is a serious charge; you don't want to say anything to him;" I impressed that on him; I says, "All you want to do is to have him at the court house and have all the witnesses there;" he said, "Where will you have them?" I said, "You can get them at your own office and I will meet you at the court house;" my idea was to corral all the witnesses and carry out my agreement with Mr. Vickers to have them all there and facilitate this in-

vestigation; next morning I went to the court alone from my house in Greenville—waited there; Mr. Demarest came, Speer and Vickers; Judge Blair was on the bench; I waited for some time and finally I received word to come down to the telephone—Mr. Griffiths wanted to talk to me; I went down; Mr. Griffiths said they couldn't get Mr. Seastream there at eleven o"clock; I said, "Why?" he said he couldn't get off before half-past twelve or one; I said, "What do you want me to do?" "Try and have Judge Blair fix it for that time up at his office, if he can't hold it at the court house;" I said, "Very well, I will see and I will communicate with you;" so I at once went to Judge Blair, and with Mr. Demarest and Mr. Vickers, made the statement to the court that we could not get Seastream there at the time indicated, but that we could have him between half-past twelve and one; and the question was whether he would hear us then—whether he would hear us at the court house or his office; he finally determined at his office; I then went back and communicated over the 'phone to Griffiths that Judge Blair had fixed one o'clock, as I recall it, at his office, and to be sure and have all witnesses present at that time; that ended our conversation; at one o'clock I went to Judge Blair's office, or about that time; Mr. Griffiths was there; some others; Mr. Vickers was there; Mr. Speer came in; Judge Blair was there; Mr. Bentley was there and Mr. Northrop; I then asked, "Are the witnesses here?"

Q. Captain Haagenson, was he there?

A. I beg pardon; I was just coming to that; I then asked Mr. Griffiths and Mr. Northrop if the witnesses were there; they said not all of them; they then took me into one of Judge Blair's rooms and introduced me to Captain Haagenson, the first time I had ever met him or heard of him; I was told that he had been sent after Seastream, or word had been sent through him, and I asked him what about it, and he said he had tried to get him there; and I then became a little indignant; I said, "Well, have I imposed on Judge Blair?" he said

no, he had agreed to be on hand at half-past twelve or one; then, finally Captain Haagenson said he couldn't get them; he refused absolutely to come and would stand the consequences; we then went before Judge Blair, all of us; and the result of the attempt to get Seastream there was explained to Judge Blair; Mr. Griffiths insisted on going on; said that he was there with witnesses, referred to Captain Haagenson, Mr. Bentley—I think they had one other individual there; Judge Blair demurred, and then Mr. Northrop took the floor and insisted, and I insisted, and Judge Blair said it would be like proceeding in Hamlet without the ghost; then another insistment was made that we should be heard, and something was said about the charges that were being bandied about which were very disagreeable, and we should have a right to have an investigation then and there, irrespective of Mr. Seastream's presence—he might never come; Judge Blair said he preferred referring the matter to some other day, and he stated Monday; we told him the argument was to come on before your Honor at Newark at that time, and it would be impossible to go on; then it was understood the matter would go over to a day to be fixed, and counsel and parties would receive notice, and we then left; I never knew of any proceeding before Judge Blair or examination of Mr. Seastream and his wife until I was arguing the matter before your Honor when an intimation was given me *sotto voce* that Seastream had been before Judge Blair with his wife, and I said, "That is a remarkable thing; I don't believe it;" "Well, it is so;" and some one then said, "Why, here comes the testimony."

Q. Where was that?

A. That was in the court-room while I was on my feet arguing the matter before Vice Chancellor Pitney in Newark.

Q. Arguing this case?

A. Yes, sir; I said, "It isn't possible that those affidavits or depositions would be handed to the court while

I am arguing this matter"—said this to Mr. Northrop; Mr. Northrop said, "We hear it is;" I said, "I don't believe it; I don't believe there has any such examination gone ahead," and I turned to Mr. Demarest and Mr. Spear, who sat beside him, and I said, "Gentlemen, is it possible an examination of Seastream has been taken before Judge Blair and it is now being handed to Vice Chancellor Pitney at this time?" Mr. Demarest said, "I don't believe it; I don't know anything about it;" so did Mr. Speer, both of them.

By the Court.

Q. But it was in the newspapers Saturday night; I saw it?

A. I don't know anything about it; I was perfectly thunderstruck; I turned to Mr. Northrop——

The Court—Saw Mr. Seastream and his wife had been to Judge Blair and made a clean breast of the whole thing.

A. I was out at Millington.

The Court—I only mention that because you are going into what may be termed hearsay, general knowledge.

Senator Hudspeth—I turned to Mr. Northrop and said, "Both counsel on the other side repudiate any knowledge of this being the testimony" handed to your Honor, "and I don't think it is;" Mr. Northrop said, "I think it is," and a few minutes after your Honor stopped us and proceeded to read it; then I said you did have the deposition; I said to Mr. Northrop, "That is a remarkable condition of affairs in the midst of an argument of a case of this kind to have handed to his Honor depositions of Mr. Seastream, his wife and others, which reflected on our case and our clients;" and that ended the matter. I want to say in connection with my testimony in relation to my surprise that the testimony should be handed to your Honor during the argument; I had no reference to Judge Blair; I had no reference to him at all.

Adjourned until to-morrow.

July 12th, 1904.

Continuation of examination pursuant to adjournment at the Chancery Chambers, Newark, New Jersey, in the presence of the parties as before.

James P. Northrop, sworn.

Direct examination.

By Mr. Dixon.

Q. You are a lawyer of the State of New Jersey?

A. Yes, sir.

Q. You are a counselor of the State of New Jersey?

A. Yes, sir.

Q. Have been how long?

A. I was admitted to the bar in November, 1880.

Q. Practicing in Jersey City ever since?

A. Yes.

Q. Were you connected with this case pending in the Court of Chancery between August Seastream and the New Jersey Exhibition Company, as counsel?

A. I was; yes, sir; and am.

Q. With Senator Hudspeth?

A. With Senator Hudspeth.

Q. Were you present in court when the matter came up before his Honor, Vice Chancellor Pitney, on the day in which he referred some matter to Judge Blair?

A. I was.

Q. That was in Jersey City?

A. That was in Jersey City, on the 26th day of May; I think the original order to show cause was returnable on the 16th day of May, at which time I obtained from Vice Chancellor Pitney the continuation for a week, being consented to by Mr. Demarest; on the following Monday, the 23d, the matter came before the court, and the complainants read their affidavits; there was some discussion between court and counsel as to filing of the counter-affidavits by the defendants, and serving them; the complainant's case occupied, as I now recall it, the entire afternoon, and late, just before adjournment, the

affidavits were filed with his Honor, the answering affidavits of the defendant, and copies were served on complainant's counsel, Messrs. Demarest and Speer; on the following Thursday morning either Mr. Griffiths or Mr. Bentley commenced the reading of the defendant's affidavits, very voluminous, one hundred in all—one hundred and over—and Mr. Bentley was asked to take part in the reading, because it was thought that one man could not read them all; the Vice Chancellor read slightly in advance, I think, of the reading by whoever was on the floor, and, after reading Seastream's affidavit, remarked that——

Mr. Frank P. McDermott—The second one—the second affidavit, you mean?

A. Seastream's second affidavit—the one annexed to the defendant's affidavits.

Q. That was presented to his Honor at that time?

A. That was presented to his Honor at that time, although it had been filed on the Monday previous.

By Mr. Frank P. McDermott.

Q. What day?

A. Monday, 23d; Thursday, 26th.

Q. That was the day it was read to his Honor?

A. The day it was read to his Honor was Thursday morning, 26th, and he commented on the apparent conflict of affidavits; stated it was something that should be investigated, and inasmuch as Mr. Speer, prosecutor of the pleas, was of counsel in the case, he would refer it to Judge Blair.

The Court—I will correct you there.

A. It would be embarrassing.

The Court—Yes. I did not put it in Mr. Speer's hands.

A. No, you did not, your Honor; your Honor remarked that inasmuch as the prosecutor of the pleas was the counsel, and it would be embarrassing to him, that you would refer it to Judge Blair, and your Honor directed that Judge Blair be sent for, which was done,

and the report came back that Judge Blair was at the court house, whereupon the Vice Chancellor dictated a letter, or some statement, to the stenographer, referring to him to investigate the circumstances under which the two affidavits were made.

Q. Now, do you recall whether his Honor said anything, and if so what, with regard to the parties producing the witnesses before Judge Blair, being heard there?

The Court—I know what I said, and it had better be taken from the stenographer's notes. I didn't say anything about counsel. I asked the parties to send copies of the affidavits.

A. Which we did; we promptly did it.

By the Court.

Q. Nothing said about producing the witnesses?

A. He directed that we ask the parties to send copies of the affidavits, which we promptly did, either that day or the next, and I wrote a letter to Judge Blair, over the firm title, requesting an investigation, and I think I sent Vice Chancellor Pitney a copy of the letter.

The Court—Yes.

A. Later in the day, after some affidavits had been read, as I recall the transaction, affidavits were produced by the complainants' counsel, made by Mr. Currie and Mr. Griswold, but it was subsequent to the reference to Judge Blair.

Q. Do you know whether or not, at that time when those affidavits were produced, Mr. Griffiths was present in the court?

A. I think not; I think he had left the court-room for something; I will say this—after reading those affidavits and knowledge of it coming to Mr. Bentley and Mr. Griffiths, they both insisted on drawing counter-affidavits, and Senator Hudspeth and myself advised them they were utterly futile—useless then—because the Vice Chancellor had referred the matter to Judge Blair for determination, and their time to be heard was before Judge Blair; after that hearing I was informed that Judge

Blair was to hear us on the 2d day of June, at the court house; I was busy with my office matters and in some way learned that the hearing had gone off until one o'clock, at the judge's chambers; I saw Captain Haagenson, either in the office or on the street, who told me that Mr. Seastream had promised to be present and would be present at that hearing; later, and just either at Judge Blair's chambers, in the Commercial Trust Company o'clock, he told me that Seastream had refused to appear; all parties other than Seastream were present at Judge Blair's chambers, in the Commercial Trust Company building, and both Senator Hudspeth and myself urged upon Judge Blair the necessity of an immediate hearing; he remarked that Seastream was absent, and that it was the play without the ghost; but I told him there were two sides to the question; that each side——

The Court—I don't think this is right. Judge Blair is not on trial here.

Mr. Northrop—May it please the Court, I wish to say——

The Court—There is no doubt about your being there ready. I do not want to sit here and hear criticisms of Judge Blair's conduct.

Mr. Northrop—Can't I tell what took place?

The Court—Yes; all right.

A. Judge Blair stated he would not hear us then; he said, "I will hear you on Monday;" we replied, "We can't be heard on Monday, because Monday we go to Newark for the final hearing of the case before the Vice Chancellor;" "Well," he says, "then we will fix a day later in the week, and counsel will be notified;" then follows what Judge Hudspeth testified to yesterday; we were sitting here before his Honor, and either Mr. Bentley or Mr. Griffiths said, "Judge Blair's office boy is outside with an envelope, and I think it is Seastream's affidavits;" I said, "I don't believe it;" and I told Senator Hudspeth.

The Court—This is quite improper. It was unexpected to you?

A. Very unexpected.

The Court—That is enough.

Mr. Dixon—It is a fact that nobody was notified.

A. I was not.

The Court—There is no pretence you were notified—none in the case whatever—and all your putting that in is a waste of time.

Mr. Allan L. McDermott—Want to explain to your Honor why it was that these affidavits in which your Honor has spoken two or three times during the proceedings, that should have been filed by Mr. Bentley and Mr. Griffiths, were not filed; that is the only desire.

The Court—That is all explained. They refrained from making, by advice of counsel; that is all.

Q. Do you know, from any conversation with Mr. Griffiths, or with Seastream, whether or not Mr. Griffiths endeavored to get the witness Seastream?

A. I never——

The Court—I cannot go——

Q. Get the witness Seastream before Judge Blair?

A. I never had spoken to Mr. Seastream.

Q. I didn't mean Seastream—conversation with him or Haagenson?

A. I know both Captain—I remember Mr. Griffiths told me, on the afternoon of June 1st, he was going to leave the office early; he was going to Bayonne to endeavor to get Seastream to go before Judge Blair; that Senator Hudspeth had telephoned him that Judge Blair would hear us at eleven o'clock next morning at the court house, and he was going to Bayonne after him; and Captain Haagenson was in the office looking for Mr. Griffiths on the following morning, and stated he had not then seen Seastream; and I think he came in again and told me he had seen him and he would be present at one o'clock.

Q. You had had consultations with Mr. Griffiths in regard to this matter all through, hadn't you?

A. I had, yes.

Q. Been consulting and advised him?

A. Yes, sir; both Senator Hudspeth and myself.

Q. So far as your knowledge goes, have you, from any conversation with Mr. Griffiths or knowledge in any other way, any information as to whether Mr. Griffiths ever endeavored to exercise any influence over Seastream in procuring this second affidavit?

A. On the contrary, he expressed great surprise when he produced the affidavit to him, stating in detail how it was obtained, and before it was used I had questioned both—the captain, who is an entire stranger to me; of course, Mr. Bentley I know—to find out the conditions under which that affidavit was made—satisfied myself it was obtained in perfect good faith by them.

Q. Do you know whether or not that affidavit was presented to the other side before it was presented to the court?

A. Well, you might say it was done simultaneously; we handed the original affidavits to the court—laid them upon the bench—and at the same time Monday afternoon handed the copies——

The Court—Afternoon of Monday, the 23d. You are quite accurate.

A. Yes, sir; they were unused.

The Court—One question arose as to service of affidavits, and I said they were to be served immediately, as I always do.

A. Yes, sir, and we served them then, pursuant to the Court's direction.

Q. What, if anything, do you know about this paper called discontinuance?

A. After obtaining the affidavit, and after Senator Hudspeth and myself had gone over it with Mr. Griffiths, we suggested that as good practice required that they should be a formal consent to a discontinuance—direction to a continuance—which I dictated and which Mr. Griffiths took away from the office and presented to me again on Monday morning—the Monday of the first hearing—signed by Seastream and by Mr. Alexander, which

we tendered to the solicitor and counsel of the complainant, who refused to receive it, and afterwards tendered it again in court, and the Vice Chancellor directed—said it could not be filed, but to give it to complainant's solicitor, which was done.

Q. That was signed, then, after the affidavit?

A. Yes, sir, long after the affidavit, but it seemed to me, as a practitioner, that the practice of the court required a formal request of the solicitors to discontinue.

Examined by Frank P. McDermott.

Q. On how many occasions did you see Captain Haagenson at your office?

A. I don't know; I didn't keep any tab on it; I talked with him; he was in and out occasionally and I used to speak to him, see him sitting there; I don't think he was in my office more than once or twice.

Q. I mean in the firm office?

A. In my room.

Q. You think twice would be the limit that you saw him?

A. I might have seen him three or four times, for I didn't make any mental memoranda.

Q. He wasn't a party to the original cause at all?

A. No, sir; not at all.

Q. And you think he was there as many as three or four times; I mean before the contempt proceedings were taken?

A. I think so; he may have been.

Q. Did you confer with him?

A. I talked with him.

Q. Went into detail with him as to the making of that affidavit?

A. How he come to get Seastream to take him to Davis' office.

Q. And did the conversation of some sort in relation to the affidavit or in relation to Seastream occur on these three or four occasions, did it?

A. I don't think I talked with him but once on that.

Q. And on the other occasions what was his business at your office?

A. I don't know; I saw him sitting there; you know my office is off in the wing, and people might sit there for hours and me not see them; he wasn't to see me.

Q. He was there to see Mr. Griffiths?

A. I assume so.

Q. The only conversation you recall was the one you just mentioned?

A. The only conversation I had with him was relative to that affidavit.

Redirect examination.

By Mr. Dixon.

Q. You asked him how he come to take him to Davis' office; what did he say about that?

Mr. Frank P. McDermott—I didn't ask him about it.

A. He told his story, he detailed on the stand.

Mr. Dixon—I think it is proper because Mr. Haagenson is one of the defendants; proper to show his statement in regard to it.

The Court—Mr. Haagenson has been on the stand and told his own story.

A. He detailed that.

The Court—One moment. The question is now whether you can ask Mr. Northrop to state Haagenson's statement to him. Is there any authority for that?

Mr. Dixon—No, I haven't them just now, but being a contempt matter, where the Court wants to know the animus of the parties, which is the essence, I presume, of contempt, largely at any rate, wanting to know the animus of the parties, it seems to me the conversations with disinterested third parties with regard to the matter would be competent both for and against him, and the matter that the Court is inquiring into. We are not only here defending these gentlemen who are charged with this contempt, but we are also endeavor-

ing, as counsel and solicitors of the Court, to enlighten the Court on the facts. As far as we understand it, there is no complainant here—no parties to the suit; it is before the Court and the matter——

The Court—You are quite right.

Mr. Dixon—And it seems to me the Court ought to get all the light possible on the subject.

The Court—Yes, but there must be some limit. They have got to see to that.

Mr. Frank P. McDermott—My objection is on fundamental principles, that no man can make evidence for himself. Mr. Haagenson has. It may have been against him, but his general statement made by himself—favorable to himself—could not be used on familiar principles, even in a proceeding of this character.

The Court—I will admit the evidence. I think it is highly probable that it is improper and should not be used, but I don't want to make any mistake, possibly, against the parties charged. I will admit the evidence.

A. I would state this, that Captain Haagenson, when I questioned him about the affidavit—asking him under what circumstances it was made—he practically told the same story he did on the stand.

Q. State what it was?

A. Well, in brief, it was this: That "Husky"——

The Court—It isn't necessary to repeat it. If he can recollect any additions he can do it.

Q. All right.

A. I don't recall any addition, except someone called his attention to "Husky" as the man that stopped Sunday baseball.

Q. Was that inquiry by you and any explanation by him given before or after the hearing before Judge Blair?

A. Oh, no, before.

Q. Before?

A. Yes, sir, before that.

Q. Was it given before or after the reference by his Honor, the Vice Chancellor, to Judge Blair?

A. It was given before the reference to Judge Blair, before the use of the affidavit; shall I go on and detail?

The Court—I think not. Mere matter of memory.

A. There was no difference, except he reported how he had taken him, and taken him up to Mr. Davis' office, as he had heard Mr. Davis was interested in baseball, and then followed my examination of Mr. Griffiths as to how he got there, and my examination of Mr. Bentley as to how he got there—all substantially as they have detailed their story.

Q. And that was drawn out by you from the fact, I understand it, that these two affidavits conflicted, and were very unusual?

A. Conflicted and were very unusual, and I wanted to know which, probably, was the correct one.

The Court—You can ask him any questions on that subject. You are entitled, as counsel for the State, entitled to cross-examine Mr. Northrop as to Mr. Haagenson's statement to him.

Examined by Mr. Frank P. McDermott.

Q. Did he explain his interest in the matter in giving so much attention to Mr. Seastream and the case?

A. Well, his desire was to get his semi-fellow countryman out of a disagreeable situation, because the employes of the ferry, he said, were making it very disagreeable for him.

Q. And did it seem to you, in getting him to make two affidavits so contradictory in nature as those, was reaching in that direction?

A. Well, it seemed as though it was straightening out the tangle—that he had been imposed on in taking the first one; the second one was to correct.

By the Court.

Q. Now, you are a counselor of the court I have great confidence in, and always have had; do you say to me that you thought that was the way to get this man out of a disagreeable position—to make two contradictory affidavits, either of which might convict him of perjury?

A. It seemed as though he had been imposed on in the first affidavit.

By the Court.

Q. Was that the way—to make him make another affidavit, or have him go to the court and frankly say, without being sworn, I made a mistake; would you advise any man, if he was your client now, and you were not interested in the matter in any way—would you advise any man to go and make a contradictory affidavit of that kind?

A. I don't think I would.

Examined by the Court.

Q. Eh?

A. No, sir.

Q. I don't think you would?

A. No, sir.

Q. Do you think it was proper, however, for him to fall in the hands of the counsel in the case who was interested in getting evidence the other way—do you think that is right; I don't say you are responsible for Mr. Griffiths for having gone there, but do you think that was the right thing?

A. Well, that is a question; if he told the truth in the second affidavit, I would do the same thing again.

Q. You think so?

A. Yes, sir.

Q. You think you would get a man to make an affidavit——

A. If he had made his first affidavit under misapprehension, no court would disturb him by reason of the first one; they would stand for the second one.

Q. But it would put him in a very awkward predicament, wouldn't it; it wouldn't improve his position?

A. It was our duty to help him out.

Q. Would it improve his position?

A. No, but it is very easily explainable.

Q. Would it improve his position?

A. No, it would not improve his position; neither would it prejudice it, because it was capable of explanation.

Q. I confess I cannot see, unless a man is highly intelligent and has his own private counsel, how parties' counsel in the case—interested in the result—has any right to take an ignorant, illiterate man and ask him to make a counter-affidavit; I cannot get it through my mind, and I cannot think any counsel of experience would possibly look at it in that light, and I am glad to see that Mr. Northrop is inclined to take that position.

A. I never saw him until after the affidavit was used.

Q. You did not know anything about it until after?

A. Never saw him.

Q. I understand that; but what you understood Mr. Haagenson was he thought he would get him out of the scrape by making a counter-affidavit?

A. No; he would take him to somebody who would straighten him out; he felt he had been imposed on; he was complainant in this court without knowledge—did not suppose he was in the court at all—and wished to be extricated from that situation.

Q. You knew how to do that without making a counter-affidavit?

A. We tried to get him out; your Honor wouldn't let him go.

The Court—That is a judicial act you need not criticise. No difficulty about it, in making a motion.

A. We didn't have time.

Q. But the making of a counter-affidavit—an affidavit, Mr. Northrop, while I am speaking on the subject, an affidavit that he made the other affidavit under misapprehension, is one thing; but to go on and state contrary to it is quite another, and not at all necessary?

A. It is like cross-examining a witness to make him testify the other way.

The Court—That is a fair thing in open court when a man has protection.

Examined by Mr. Frank P. McDermott.

Q. Did Captain Haagenson state to you, as he did the court here, that Mr. Seastream was an unintelligent man?

A. He did not; I didn't ask him as to the mental grade of the man at all.

Q. Or that he was simple-minded man, as he stated here?

A. No, I had no——

Q. Did he state to you the interview on the York street dock?

A. He did not; he didn't go in the detail of it.

Q. Or the fact that they sought a common meeting place by one going around one street and one going around the other?

A. Not at all; we cut off the circumlocution and landed him up at 24 Mercer street as quick as possible.

Q. Facts of that sort would have made an impression on you?

A. They would if I had gone in them.

By the Court.

Q. Then he did not speak of substantially what he did?

A. He did specify a reason for taking him up to Davis' office, but he did not go in detail, because I passed those things by as much as possible; I like to get at the pith of it.

Q. Did he explain to you about his directing Mr. Seastream to some room in the Pennsylvania station?

A. That was after the affidavit was taken.

The Court—That was long after.

Q. Long——

A. Long after the affidavit was filed.

Q. Did he, at any time, mention that fact to you?

A. No; I heard that for the first time on the stand.

Q. Did he tell you he had taken him over to New York?

A. That, for the first time, on the stand; I had no—he was at the office as Mr. Griffiths testified—that is, Mr.

Griffiths stated to me that Seastream was in his room; that was the afternoon of Thursday that Seastream and Captain Haagenson were there.

Q. That afternoon?

A. That afternoon.

Q. Well, when they were there that afternoon—that was the afternoon of the 26th?

A. Yes, sir.

Q. Did they inform you then that they had been spending part of the day over in New York?

A. No; I paid no attention.

Q. Going back to the original affidavit—the second affidavit in the case—did Captain Haagenson say to you, at that time, that Mr. Seastream had brandy given him before the affidavit was taken?

A. No.

Q. Or at the time the affidavit was taken?

A. No.

Q. Or that—did he go over the conversation which took place at the time the affidavit was given in Mr. Davis' office?

A. He went over the introduction of Seastream to Davis; I will tell you frankly, Mr. McDermott, that I was very anxious to ascertain why—whether there was any political influence or any influence of any kind that induced Haagenson to take Seastream to 24 Mercer street, and I learned that there was not; from what Haagenson told me he was an entire stranger; that is what actuated my commencement to investigate; if it had been brought to the office, why we would have gone into it the same way, but I ascertained that that element, so far as anything said to me, was lacking; that he was a stranger to Mr. Davis, Sr., and also a passing acquaintance of the second Mr. Davis.

Q. But you were convinced that a good many of the facts concerning the taking of Seastream to Davis' office and the taking of the affidavit were not told you there?

A. Not the detail of it; what I was getting at was

why he was taken there, and when he went there; who examined him or caused him to make the affidavit; who wrote it, and the circumstances under which Mr. Griffiths wrote it, and how Mr. Bentley happened to be there.

By the Court.

Q. You didn't inquire whether the ferry company was interested in having the ball games to go to increase their ferry?

A. No, sir; did not.

By the Court.

Q. Didn't think of it?

A. No, sir.

By the Court.

Q. Did you know Captain Haagenson was captain of a ferry boat?

A. Yes, sir.

By the Court.

Q. Didn't it strike you at all that there was any influence behind that to induce Captain Haagenson to engineer——

A. That was just what I was looking after; didn't find a trace of it; did not find any reference to it at all.

By the Court.

Q. You were a little suspicious?

A. To start with—until I had made my examination.

Redirect examination.

By Mr. Allan L. McDermott.

Q. Do you know where these ball grounds are located?

A. Only from my general knowledge.

Q. Do you think anybody ever goes over the Pennsylvania ferry for the purpose of going to those grounds to see a game of baseball?

A. Well, I don't know, for I don't go down there at all; I am not on that line any longer; I used to know it twenty years ago, very well; I should suppose they would go to the Central Railroad of New Jersey, Forty-ninth street, and walk over.

Q. Take forty or fifty minutes to go this way?

A. I should think forty minutes, easily.

Q. Where is the depot of the Central Railroad Company?

A. At Forty-ninth street.

Q. How near to the ground?

A. These grounds are Avenue B; they are at Avenue E—Avenue E and Forty-ninth street; E, D, C and B; probably a thousand feet.

Examined by Mr. Benny.

Q. The trolley cars run within one block?

The Court—Oh, that is a fact. The trolley car goes right within one block.

Mr. Benny—We concede that. I would rather take your testimony as to the schedule of the ferries out there than my own.

The Court—Any proof needed on that subject, of course counsel on either side can offer the proof. It was proven before me in the other case, and I suppose counsel concede the trolley runs immediately from the Pennsylvania ferry to these baseball grounds. It may not be common knowledge, and it may not be proper to rely upon it.

Mr. Dixon—Anybody going from New York would go the other way.

The Court—I don't know anything about it, but I don't believe it. If you want to prove that, prove it—that it is the favorable way from Brooklyn there. Here is an annex boat running from Brooklyn, to the knowledge of the Court, immediately to the Pennsylvania ferry. A person gets on the annex, and for three cents, I suppose it is, rides to Jersey; and for five cents, I suppose he rides from there to these baseball grounds.

Mr. Dixon—Ten cents.

The Court—Well, ten cents—and the ferry goes every few minutes. You may call that common knowledge. Besides that, the Pennsylvania ferry has ferries running

from up town—from points that the Central railroad does not—and to get there by the Central railroad they have got to take a steam car, as I understand it. If it is different, why let me know; that is all. What is common knowledge may be considered in the case, but if there is any doubt about it let us have proof about it from one side or the other. It is capable of proof. You had better offer it—some side.

Mr. Allan L. McDermott—I think, on that point, we will call Captain Haagenson.

Captain Benjamin Haagenson, recalled.

Direct examination.

By Allan L. McDermott.

Q. Captain, did you ever attend a ball game at Bayonne?

A. No, sir.

Q. How long have you been in the employ of the Pennsylvania Railroad Company?

A. Very near ten years—that is, will be ten years 14th of next October.

The Court—Already sworn to.

Q. Did anyone in the employ of the Pennsylvania Railroad Company, except those that you have testified to, ever speak to you concerning the ball game in Bayonne?

[Objected to.]

A. No.

Mr. Allan L. McDermott—Object on what ground?

Mr. Frank P. McDermott—It is answered now.

Mr. Allan L. McDermott—I will withdraw the answer. I would like to argue on the objection.

The Court—Go on.

Mr. Frank P. McDermott—I object to the question, but it was answered immediately.

Q. Did anybody in the Pennsylvania Railroad Company, or in its employ—in the Pennsylvania Railroad Company, that covers its officials, or anybody in its em-

ploy—ever speak to you concerning the effect on the traffic over that ferry of conducting a baseball game in Bayonne or any other place?

A. I think it is preposterous to think that they might do any such thing.

The Court—You had better answer the question. Did they?

A. No.

Mr. Allan L. McDermott—I agree with you. I know something about the Pennsylvania Railroad Company.

Examined by the Court.

Q. How many ferries are there from the Pennsylvania railroad station in Jersey City to New York?

A. There are four; there are three to New York and one to Brooklyn.

Q. One is Twenty-third street or Desbrosses street, and one Cortlandt street?

A. Yes, sir.

Q. And one to Brooklyn?

A. Yes, sir.

Q. You understand that the question was put to you with regard to the Pennsylvania Railroad Company included the officers of the ferry company?

A. Why, yes; they all come under the same head.

Q. You never had any communication with Captain Carroll about it?

A. Not any.

Q. Who is Captain Carroll?

A. Superintendent of the ferries; I wish to state to qualify that.

Q. Never mind; just answer my question.

Mr. Allan L. McDermott—Cannot he qualify that?

Q. Did you request Seastream to call on Captain Carroll?

A. No, I did not.

Q. Anybody you know of request him to call on Captain Carroll?

A. No, not to my knowledge.

Q. Do you know anything about the arrangements of the Pennsylvania railroad—I mean the Central railroad—for carrying passengers to Bayonne?

A. Not whatever; I never went over that ferry in my life.

Q. There is a trolley, however, to your knowledge; runs from the Pennsylvania railroad station—Pennsylvania railway, from the ferry terminus, I mean—around to Bayonne, isn't there?

A. Why, yes.

Q. You went down on it when you went down to Seastream's house, didn't you?

A. Exactly, your Honor.

Q. And it lands you close to the baseball grounds?

A. Well, yes, pretty close.

Q. One block?

A. One long block, yes, sir; I think that is the one; I won't be positive on that; it isn't very far, anyhow.

The Court—Any questions?

Mr. Frank P. McDermott—I was going to ask him those.

Examined by Mr. Allan L. McDermott.

Q. One other question is suggested by counsel—did anybody connected with the trolley company, directly or indirectly, ever speak to you concerning the baseball game in Bayonne?

A. No one whatever.

Q. You said, a moment ago, and was interrupted, that you wanted to qualify?

The Court—He didn't say qualify.

Mr. Allan L. McDermott—He used the word "qualify."

The Court—I didn't understand him too.

A. I did; when my name appeared in the Jersey *Evening Journal* and other papers connected with this matter, Captain Carroll asked me to write a letter stating my connection with this case; I did so.

Q. That is in your previous testimony?

A. Yes.

Q. Is that the only communication you ever had with Mr. Carroll about the matter?

A. That is all.

Examined by Mr. Frank P. McDermott.

Q. Who was this man who first pointed out Seastream to you?

A. His name is John Madden.

Q. What is he?

A. A gateman.

Q. On the ferry?

A. On the annex ferry.

Q. On the annex ferry?

A. Yes, sir.

By the Court.

Q. Gateman at the other end or this end?

A. At the Jersey end.

By the Court.

Q. The annex comes right out into the regular big hall, don't it?

A. No, it does not.

Q. Comes out beyond that?

A. The fare on the annex, I wish to state, is ten cents; so they exclude the passengers going out there.

By the Court.

Q. The annex has separate exit at this end?

A. Separate exit.

By the Court.

Q. One moment; let us see about general knowledge; I pass up and down that five hundred-foot hall occasionally from which the ferries go; I see the annex boat there; any difficulty in my stepping on the annex?

A. You mean from the lobby or downstairs?

By the Court.

Q. Upstairs?

A. By paying ten cents from the lobby and on the annex boat?

By the Court.

Q. There is another gate upstairs from the annex; you can't get on the annex?

A. No, without paying an additional ten cents; there is a man stationed there to collect that.

Q. At the annex boat?

A. Yes, sir.

By Allan L. McDermott.

Q. Is the annex boat to Brooklyn owned by the Pennsylvania railroad?

A. That I can't say; I don't know whether it is or not; I won't be positive on that point; it is called the "Pennsylvania Route," not the "Pennsylvania Railroad."

Mr. Allan L. McDermott—Some three or four years ago I attempted to collect taxes on what is called the "Brooklyn Annex Ferry;" whether it is changed or not——

The Court—Do what?

Mr. Allan L. McDermott—Collect taxes on it. I advised the assessment of its boats when they came into the slips; they assessed them about $120,000. The assessment was challenged, on the ground that it was interference with interstate commerce. At that time, in taking the testimony, my recollection is that the ownership of that ferry was in a Captain Butterfield—name very much resembling that—not in the Pennsylvania railroad at all. I believe that he died within a year or two after that, and the quarrel was still going on, I believe, between his estate and the city of Jersey City. Whether it was transferred after his death to the Pennsylvania railroad, I don't know, but originally it was not a Pennsylvania railroad institution.

The Court—The ferry slips there all belong to one concern. The boats may be different, but the ferry slips all belong to one concern.

Mr. Allan L. McDermott—Yes; they lease from the Pennsylvania.

The Court—It is all one.

Mr. Frank P. McDermott—All on the same time-table.

Mr. Allan L. McDermott—I am informed now, and it concurs with my recollection, they did lease the Bergen county institution, practically—that is, the Bergen county gentlemen had their money in it—they did lease, and after the death of Captain Butterfield the lease expired, and the Pennsylvania railroad then took the ferry.

The Court—I was not aware that there was anything to prevent any gentleman that arrived on a train, or anything else that got in the ferry-house there, from getting on the annex boat, but they have, as I understand, a separate ticket box.

The Witness—Your Honor, I will state that if the ticket is taken to Brooklyn you can go without additional fare.

The Court—I understand that, but it is separate from the entrance—the annex boat—from the others?

A. Yes, sir.

By the Court.

Q. Both below and above?

A. Yes, sir.

By the Court.

Q. Then this man Madden stood at the gate entrance of the annex proper?

A. At the annex proper.

The Court—I was wondering where he did stand—whether in the big place.

By Mr. Dixon.

Q. That was downstairs?

A. It was downstairs.

Q. And he is the man that first called your attention to Seastream at all?

A. The very first man.

Q. And he called your attention, did he, by stating the fact that he was the man who was opposing Sunday baseball?

A. As the man who stopped Sunday baseball?

Q. Then you went over to see him?
A. By and by.
Q. You went over to see Seastream?
A. Yes, sir; I went over and saw Seastream.
Q. Up to that moment, you had no interest in the matter whatever?
A. None whatever.
By the Court.
Q. You hadn't heard anything?
A. Hadn't heard of anything.
Q. Or heard of him?
A. Not in connection with the baseball business whatsoever.
Q. You hadn't known him?
A. Known him three or four years.
By the Court.
Q. Known him three or four years, but had not spoken to him for three or four years substantially, eh; are you from the same country as he?
A. Practically the same; I am Norwegian, he is Sweden.
Q. Do you both speak the same language?
A. Yes, sir; practically.
By the Court.
Q. Is it written different?
A. Yes, sir; it is written different, but one can understand the other.
By the Court.
Q. What is the difference between the Swedish language and Danish?
A. The Norwegian and Danish is the same, but the Swedish language is different from the Norwegian, but, when written and spoken, it don't sound very much unlike; I can't explain.
By the Court.
Q. I understand you knew nothing from Seastream, or had no message from him until he was pointed out to you by Madden?

A. The very first time I know his name was Seastream.

By the Court.

Q. I understand, but you had received no message from him or anything else, but Madden says, "There is the man that stopped the baseball game;" and you went and saw him?

A. Yes, sir.

By the Court.

Q. That is the way I understood before.

A. I wish to say I was prompted by curiosity in that matter—just curiosity.

Elmer W. Demarest, sworn.

Direct examination.

By Allan L. McDermott.

Q. You are a member of the bar?

A. Yes, sir.

Q. Practiced how many years?

A. About twelve or thirteen.

Q. When did you first see Mr. Seastream?

A. I saw him on the evening that the first affidavit was taken.

Q. That is the first time you ever saw him?

A. First time I had ever seen him or heard of him; no, I had been told the day before about him; I had heard of him before, but I had never seen him before.

Q. You had never seen him?

A. Never.

Q. Ever had any written communication with him?

A. No, sir.

Q. You went to his house with whom?

A. I went with Mr. Mungo Currie.

Q. Did you have any talk then with Seastream?

A. I did.

Q. Well, give us that conversation.

The Court—Go on. State the order of it.

Q. First conversation?

A. I went to Mr. Seastream's house with Mr. Currie.

The Court—State what you saw.

A. I saw Mr. and Mrs. Seastream in the dining-room; I told him that I had been informed that he was complaining against the Sunday baseball games; that they were annoying; and that, if that were true, Mr. Currie was there and would take his affidavit, as we were about to bring injunction suit to stop the game.

Q. Who did you mean by "we?"

A. That Mr. Currie and I, as counsel, were both interested in such suit.

Q. Did you mean you and Mr. Currie were to be the parties in the suit or counsel?

A. Counsel.

Q. Who were the parties in the suit that you were to bring?

A. Mr. Alexander was one of them.

Q. Give us them all.

A. And I explained to Mr. Seastream——

Q. I don't want your explanation to Mr. Seastream.

The Court—The witness was put on the stand by you and must be treated respectfully.

Q. I am going to treat him respectfully; I want the parties—you say Mr. Alexander—what other parties?

A. The people? what do you mean? do you want to know who were my clients or who had retained me, or who were to make affidavits, or what?

Q. Yes; who did retain you?

A. I was retained by people represented, as I understood, by an association of ministers in Bayonne, who were complaining about these baseball games.

Q. Who paid you?

A. Nobody.

Q. Did you receive any pay yet?

A. Not as yet.

Q. Who agreed to pay you?

A. I was to be paid, I believe, by the ministers' association, or those people whom they represented.

Q. Did you have any talk with Colonel Dickinson about the matter?

Mr. Frank P. McDermott—I object.

The Court—I will not permit counsel—if the gentleman, the gentleman don't—Mr. Demarest don't seem to refuse—to protect himself against improper questions, but I can't see; I must see that the examination must have something to do with the matter before me here now. You may ask him everything that was said to Mr. Seastream, and every influence that was brought to bear on him, but to use this occasion to put Mr. Demarest in the position of exposing the secrets of his clients, and to get at the motive of this prosecution, the suit that he brought, it seems to me is highly improper at present. I will hear counsel; if they can show me that I am wrong, though, I am disposed to let everything into this case.

Mr. Allan L. McDermott—It must be apparent to the court from its knowledge of this case that while Mr. Seastream appears as a party, and the witness on the stand appears as solicitor for that party, that it is very doubtful indeed whether that relation between the two people ever existed.

The Court—It don't make a particle of difference whether it did or not. I decide against you on that right away, now—not a particle. I will not hear in this case the question of the propriety of Mr. Demarest's action and his authority to bring the suit in the name of Seastream, or anything of the kind. Any representations he made to Seastream—I don't mean to say that you may not show that he did not; that Seastream did not authorize him to use his name, but I doubt that, even; that is a matter between him and Seastream entirely, and nothing to do with whether any improper influences were brought to bear on Seastream to make one or the other of those affidavits, and that is what I am dealing with here now.

[Question read.]

Mr. Allan L. McDermott—The court overrules it?

The Court—Who is Colonel Dickinson?

Mr. Frank P. McDermott—There are two Colonel Dickinsons.

The Court—About what matter? I didn't hear that question.

Mr. Frank P. McDermott—That is the question I objected to; this question which is just up now. There are two Colonel Dickinsons in the State, as I understand it. That is a matter of common knowledge—one Colonel Dickinson of the Chancery Court, the other Colonel Dickinson, Secretary of State.

Mr. Allan L. McDermott—I mean the Secretary of State.

The Court—I have nothing to do with that; I don't see what he said to Colonel Dickinson—if you are going to contradict him hereafter, you are putting your own witness on the stand; you are going clear outside of the range here, I think.

Mr. Frank P. McDermott—My objection is not that it is Colonel Dickinson, but to anybody outside, except those which are related to this particular proceeding.

The Court—It is a matter of indifference unless you say to me, as counsel, that you intend to show that he has made a different statement of facts to A, B or C.

Mr. Allan L. McDermott—I cannot make that statement.

The Court—No, sir; I don't think you can; I don't believe you can; that is the reason why I——

Mr. Allan L. McDermott—Your Honor overrules the question?

The Court—I overrule the question—anything he said to Colonel Dickinson—unless counsel says he expects to contradict him by Colonel Dickinson.

Mr. Allan L. McDermott—We pray the entry of an objection.

Q. Did you tell Seastream that he was to be a party—a complainant—in the Court of Chancery?

A. I asked him if he was willing to be one of the complainants in the suit, and he said he was.

Q. Did you explain to him what you meant by that?

A. I explained to him that the suit was brought by a

number of people, and that it would be necessary to have as a party complainant one of those persons who lived directly adjacent to the ground; and that as he lived there and was able from the windows of his house to see the game played, and was within hearing distance of the noise that took place in the grandstand, I knew of nobody who could better take the position of complainant than himself, and of the other people who were interested in the movement than Mr. Seastream, and asked him whether he was willing to stand as one of the complainants; he told me that he was.

Q. Who were present during this conversation?

A. Mr. Currie and myself; I think that Mr. Griswold was also present at this part of the conversation.

Q. Who?

A. Mr. Griswold.

Q. You incorporated that statement in any of the affidavits that have been taken here?

The Court—What is that?

Q. Has that statement been incorporated in any of the affidavits?

The Court—You must know for yourself; they are all in print.

A. I don't know myself whether it is in or not, Mr. McDermott.

The Court—The authority to bring the suit in Seastream's name is not properly here.

Q. Was there anything said about compensation moving from Seastream to you?

The Court—Anything said about Seastream paying you anything for your services?

A. I don't remember.

Q. Did you make any charge against him?

A. Against Seastream—no; on the firm's books, you mean?

Q. Yes?

A. No; the matter has been charged up as a whole; it is under the title, "Jersey City baseball matter."

Q. That is the title of it?
A. That is the title of the charges; yes, sir.
Q. Who is your associate in the case?
A. Mr. William H. Speer, Jr.
Q. Do you know by whom he was retained?
A. I do not.
Mr. Frank P. McDermott—I object to the question.
The Court—Yes; it is objectionable, entirely. There is no—it is entirely out of order. I have expressed myself on the subject and I wish Mr. McDermott will not again trespass. Perfectly plain to the Court what Mr. McDermott is driving at, and he will not succeed with consent of the Court. I have expressed myself on that subject very plainly and I hope Mr. McDermott, counsel of the court, will conform himself to it and not ask such questions.
Mr. Allan L. McDermott—I shall endeavor to respect the direction of the court; what the court directs me.
The Court—If you please.
Mr. Allan L. McDermott—The question is overruled and I ask that the objection be noted.
Q. Were you present at the reading of the first affidavit to Seastream?
A. You mean immediately after it was drawn?
Q. Yes?
A. Yes, sir.
Q. Did you have the bill prepared at that time?
A. No, sir.
Q. When was the bill prepared?
A. The affidavits were taken on the evening of the day of the date of the first affidavit, and up until about ten o'clock at night; I dictated the bill after ten o'clock that night, and it was drawn during the night; I dictated the bill from the affidavits.
Q. Seastream's affidavit; was it the language that he used?
A. I can't tell you that as to the whole of it; I will explain how that affidavit was taken, if you want me to.
Q. I would like to have it?

A. Mr. Currie and I went to Seastream's house and met Mr. and Mrs. Seastream; I explained to them that we were both lawyers and that we had been informed that he was greatly annoyed by these games, and had come for the purpose of taking his affidavit if he objected to them and wanted to give it; he said that he was annoyed, and went on and stated what is set out in the first part of the affidavit; I then stated to Mr. Currie, "I want to get Mr. Cozine's affidavit;" Mr. Cozine lives almost directly opposite, across the street; I left Mr. Currie to take Seastream's affidavit; I went over and drew Cozine's affidavit; I met my clerk, Mr. Griswold, at Mr. Cozine's house; he was there waiting for me; and he took Cozine's affidavit; then he and I returned to Seastream's house, where Mr. Currie was still talking with him.

Q. How long were you absent?

A. Sir?

Q. How long were you absent?

A. I suppose about—well, about twenty minutes.

Q. And he was talking to them yet?

A. He was talking to them yet, but he had the main part of the affidavit drawn; I heard Seastream make the statements contained in the last couple of sentences, probably, which Mr. Currie reduced to writing while I was there; and then the entire affidavit was read over to Mr. and Mrs. Seastream, and it was sworn to.

Q. Is that all?

A. That is all that occurred there, except the conversation.

Q. Any of your clients reside in the vicinity of the ball grounds?

A. Yes, sir.

Q. How near?

The Court—I don't think that has anything to do with it.

Mr. Allan L. McDermott—Is the question overruled?

The Court—Yes; I don't see that that has anything to do with it.

Mr. Allan L. McDermott—I pray an objection.

The Court—If you want to have all the affidavits that were presented before the court put in, in order that any person who reviews the finding of the court will have the opportunity of being in the same situation as to knowledge that the Court is, I will hear an application of that kind. The residence of the parties interested are all given in detail in their affidavits on both sides, but I doubt the propriety of doing that even. But if you will make that application—just a short way of doing it—so that anybody who reviews my finding in this case can have—see just the situation that I am in—I will hear that application, and hear what Mr. McDermott has to say on the other side. You have got to take every one of the complainants who were named in this bill, and take a map which I had before me—and I believe have it in Morristown now—and you will find where every one of them live. I did that in writing my opinion. Their distance from the baseball grounds is all given on the map. Now, as for going in it here in detail and trying the merits of that case, I positively decline to do it.

Mr. Allan L. McDermott—I make this offer.

The Court—What do you want to offer to do?

Mr. Allan L. McDermott—I offer to prove counsel in this cause was employed and instigated to bring this suit by parties not resident of Bayonne—by a party not resident of Bayonne; that the inception of the litigation was not in any annoyance caused by the playing of a game of ball in Bayonne; that, pursuing to direction from a client not in any wise interested in the question of the disturbance resulting from the playing of ball in Bayonne, the witness started out to find complainants to a bill. That is my proposition. Now, if your Honor will listen to me for a moment. The attitude of Seastream in this case has been to me, perhaps, more of a puzzle than it has been to your Honor. I don't understand it; I am free to say that. I do not understand whether he is frank with the court or whether he is

frank in his expression—for instance, in the matter of the taking of the testimony before Judge Blair. I cannot understand his cross-examination here, in view of the evidence that has been put on the stand. But this is apparent, that he was not a moving party—not intent upon moving, not preparing to move—and counsel called upon him. We have, therefore, counsel in the position of having been employed by parties who do not seem to have been willing to have been complainants themselves—don't mean Seastream, for there were others—going to Seastream, because he was adjacent to the ball game and his residence, and asking him practically to become a complainant in this cause. The man's mind, if it is reflected by his action in this court, is of that plastic character—to put it slightly—that it would be influenced in all probability by anybody who came to ask him one thing or another—the changing of the wind; and he appears to have been, from the testimony, a very reluctant affiant—his doing there what he does afterward, not assuming the attitude of one who is crying out for the Court of Chancery to protect him.

The Court—Are you arguing the merits now?

Mr. Allan L. McDermott—No; I am arguing as to his position, and that leads to my question, as to the admissibility of my question. He is in a position, practically, of one hauled into the Court of Chancery and crying, "Shall I suffer for this," to the witness on the stand, Mr. Griswold, everybody else; "Will I lose my position?" Now, it seems to me that he is before the court not as a willing complainant, but one rather dragged into the work, and I desire therefore to show who moved counsel to draw the bill and seek Mr. Seastream to get his affidavit. That, in short, is the ground on which I——

The Court—You have already asked the witness every question that you want to now—even asked him who his clients were—and he stated they were some ministers, clergy, and association of clergy in Bayonne. Now, if

you want to ask him, I will let you go this far, because the witness answered that without objection, as I know of, from either side. You may ask him whether there was any other client behind him, although I think it is all wrong myself—but you may ask him whether there was any other client behind him, or influence other than that he has stated. This is subject to your objection.

Mr. Frank P. McDermott—There isn't any question before the Court at all; there is no question.

The Court—No, the counsel says he offers to prove all this.

Mr. Frank P. McDermott—Offers to prove something.

The Court—I will not entertain that offer now, because he does not offer to prove it by this witness. He has already asked that witness those questions.

Mr. Allan L. McDermott—No, if your Honor please, I did offer to prove it by this witness.

The Court—I will let you prove it so far as to ask him whether there is any other party. I think it is all wrong. I will let you ask him that, because the witness voluntarily answered the first question as to who his clients were. You can ask him whether there were any other clients or motive power behind the movement, other than that he stated.

Q. Perhaps I will put it this way—who is the first party that came to you to file the bill?

The Court—No; I won't let you do that. I won't let you cross-examine your own witness in that way.

Mr. Allan L. McDermott—That is not cross-examination.

The Court—I think it is all wrong, and if you examine him, you must examine him in the way that I direct.

Q. Well, were you influenced, directly or indirectly, in filing this bill or taking these proceedings, by anyone except the ministers' association that you speak of?

Mr. Frank P. McDermott—I object to that question.

The Court—Or the persons in the immediate neighborhood? I will allow the question to be put.

New Jersey State Library

A. Yes, sir; there were people down in Bergen Point, even, who objected to playing the games on these grounds.

Q. I mean anybody resident in Jersey City; I will limit it.

Mr. Frank P. McDermott—I object to the question.

A. I understand the question is objected to.

The Court—You need not answer it if you don't choose to. You are entirely at your liberty. The only reason I allowed it put was because you did not object before.

A. I shall not enlighten you on that, Mr. McDermott.

Q. I ask you the question.

The Court—He says he will not enlighten you on it.

Q. I will ask you this question, to see whether you will enlighten me or not; did Colonel Dickinson, secretary of State, either directly or indirectly, engage you, or request you to bring this suit?

The Court—I won't let him answer that.

Mr. Frank P. McDermott—I object to the question.

Mr. Allan L. McDermott—We pray an objection, that is all.

The Court—The object is plainly to show that this suit was instigated as a political measure. Now, I won't permit it to be put in, plainly. I told the counsel I wouldn't.

Mr. Allan McDermott—And your Honor will note I have the most delicate—I understood your Honor was going to overrule it, and I asked the question in a most delicate way, due to your previous ruling, in my judgment. I earnestly differ with your Honor on the question.

The Court—So far as I am concerned, it makes no difference. I do not see how it influences the operation; I don't see how it influences the moral force upon Mr. Seastream, and I may say to counsel that they only injure their case by it. I often say to counsel——

Mr. Allan L. McDermott—I cannot conceive that your Honor fully means that.

The Court—I don't like to have counsel injure their case by that kind of movement. I would rather have it tried in a lawyer-like manner, and tried on its merit; then I feel as if I am deciding something fairly.

Q. Was this bill ever read to Mr. Seastream?

A. No, the bill was not; the affidavit was taken, and the bill was prepared from the affidavit; the matter was in a great hurry.

Q. Affidavits annexed to the bill?

A. Yes, sir.

Q. Did you ever file a bill in Chancery in that way before?

A. Yes, I have, in a like case.

The Court—I think plenty of us have done it. Did you ever read over a bill to foreclose a mortgage to your client?

Mr. Allan L. McDermott—Those are matters *pro vo;* I wouldn't allow a client of mine to take an affidavit to a bill——

The Court—This affidavit is not an affidavit to the bill, and you ought not to state it.

Mr. Allan L. McDermott—If I should happen by chance to misstate it, your Honor would not be misled. I supposed it had been myself, annexed to the bill.

The Court—It was annexed to the bill, but don't swear to the bill. I am getting a little tired of mere skirmishing and trying to have my mind directed from the real issue, Mr. McDermott.

Examined by Mr. Frank P. McDermott.

Q. Have you stated all that took place on this occasion of taking this affidavit?

The Court—Did you state anything about his—anything that he said about his position?

A. I did not state that part; no.

Q. I understand that you were not present during all the time that the affidavit was in drawing?

A. Mr. Currie drew the major part of the affidavit before I returned from Mr. Cozine's house.

Q. And was there a discussion about it before he drew it at all?

A. Oh, yes; there was a discussion between Mr. and Mrs. Seastream and Mr. Currie and myself; Mrs. Seastream talked as much as Mr. Seastream.

By the Court.

Q. Found a difficulty in finding out what Mr. Seastream meant? Did you use his language?

A. We did not use his language.

By the Court.

Q. Finding out what he meant by the language he used?

A. No, we understood what he meant, but as Mrs. Seastream's conversation helped him out somewhat; she was directly in line with him; she speaks good English, splendid English; she is a very bright little woman and we had no difficulty whatever in understanding every word she said, and she was talking with him; it was a conversation among four.

By the Court.

Q. That was when you first went in?

A. When we first went there.

Q. Were you there when it was sworn to?

A. Yes, sir; I was.

Q. What happened then?

A. After the affidavit was sworn to Mr. Seastream turned around and said, "I wonder whether this action will have any effect on my holding my job?" and Mr. Currie said, "I don't believe that any man would lose his job for telling the truth."

Q. Was the affidavit read to him?

A. Yes, sir.

Q. By whom?

A. By Mr. Currie, in the presence of Mr. Griswold and myself.

By the Court.

Q. And the wife?

A. And the wife.

By the Court.

Q. Was she paying attention to it, apparently?

A. Yes, sir; she was paying as much attention to the whole matter as he was, and I think more.

The Court—That is what I want to find out.

Q. Was the affidavit, as drawn, consistent with what he had said to you prior to the making of the affidavit—prior to the drawing of it?

A. The affidavit was read to him in its entirety.

By the Court.

Q. He asks whether the affidavit as read in your presence was consistent with what you had heard his wife say and him say?

A. Yes, sir; they said more than what was in that affidavit, though, no doubt.

Mr. Allan L. McDermott—We object.

The Court—Never mind that.

Q. I want to know if it was consistent with what was in the affidavit?

A. Yes, sir; it was.

Mr. Allan L. McDermott—We object.

A. And the affidavit falls short of what they did say.

Mr. Allan L. McDermott—We object, and ask that it stricken out. We do not happen to have been there and had any representatives.

The Court—You put this witness on the stand to state what took place, and the other side are entirely right in examining him thoroughly and fully. If they had not done it, I should have done it fully myself. I cannot conceive the least objection.

Q. What time in the day was it when you reached there?

A. I should say a little after eight in the evening.

Q. And you have already stated, on your direct examination, how you opened the subject to Mr. Seastream?

A. Yes, sir.

Q. Did he, at any time in that conversation, express any opposition to making such an affidavit?

The Court—Any reluctance?

A. No; he said his property was worth considerably less money than it had been before, and that it would be still further depreciated when the entrance at the corner of the grounds nearest his house, which had been shut up because of the construction of a sewer, was opened.

By the Court.

Q. Was that suggested to him by you or Currie, or did he suggest that himself?

A. He spoke of it himself.

By the Court.

Q. First?

A. Yes, sir; we knew nothing about it.

By the Court.

Q. Did you have any idea, before you went there, what he did want to swear to, or anything of that kind—what he was willing to swear to?

A. I had been told by two or three people he was very much annoyed and was perfectly willing to take an affidavit in these proceedings.

Q. Who mentioned about the crowd?

The Court—The what?

Q. The crowd?

The Court—Oh, yes.

A. Mr. and Mrs. Seastream.

Q. And the fact that it did not pass the house at that time, but would when the gate was opened?

A. They both mentioned that.

Q. Who mentioned the fact that he would not have bought the lots if he had known that the ball ground was to be laid out?

A. I think that was first suggested by Mrs. Seastream, and then Mr. Seastream went on and talked about the same subject.

Q. Was there any urging on the part of Mr. Currie in this connection?

A. Not a bit; we urged nobody to take an affidavit.

Q. While you were there, was there any urging by

Mr. Currie, either as to the taking of the affidavit, or as to anything to be put in the affidavit?

A. None whatever; we explained to them that if they had any scruples against taking any affidavit that we would not take them.

Q. And were the affidavits, or this affidavit—the first affidavit—absolutely voluntary on the part of Mr. Seastream?

A. Entirely so; as much so as any I ever saw.

Q. And concurred in by his wife, who was there?

A. Entirely.

By the Court.

Q. Required no management or coaxing, or anything of that kind?

A. None whatever.

Examined by Mr. Benny.

Q. Who was it suggested they had not been there during the entire games?

A. Both of them, I think, Mr. Benny; they both talked along the same lines; every matter that was spoken of they both talked to us about, I think.

Q. What did they say in detail—in particular—about it; their presence or their whereabouts during those games?

A. I remember they said that they had heard considerable noise, but that they had not heard all that took place, because they were away a part of the time, and that it would be very much worse if they happened to be home some Sunday when a game was being played.

Q. Did they say where they had been during the rest of the time?

A. No, sir; I think not; I don't remember.

Examined by the Court.

Q. I will ask you this question; was there a single thing in that affidavit, to your knowledge, that was suggested by you or Mr. Currie, or was it all the suggestion

of the other side, except, of course, the making of the affidavit?

A. I don't remember a single suggestion that was made by either of us; I think it all came from them voluntarily; there were two or three matters which they mentioned, which we did not consider relevant, and those were left out.

Q. Who spoke about disturbing the slumber of the two children?

A. Both of them.

Q. And what did they say about that?

A. I have forgotten the exact words of it now, nor could I give you Mr. Seastream's words, but the effect of it is as set out in that affidavit.

Examined by Mr. Allan L. McDermott.

Q. Two or three parties requested you to go to Seastream?

A. Yes, sir.

Q. Give us the names of all those that mentioned Seastream's name; were they residents of Jersey City or any other place——

Mr. Frank P. McDermott—I object to the question as immaterial.

The Court—If he recollects the names—who said Seastream would be willing to swear—he can mention them.

A. One of them was a resident of Jersey City, I think; I think Mr. Mungo Currie was the first one that spoke to me about Mr. Seastream; he lives in Jersey City.

Q. Associate counsel?

A. Yes, sir; no, not an associate counsel in this matter; Mr. Currie was interested, and asked me several times before this suit was brought whether I was to bring it; he had heard I was; and said if I didn't, he would; and in that way he was interested and took some of these affidavits.

By the Court.

Q. He owns property in the neighborhood?

A. He owns property in the neighborhood, and told me if I was not going to bring this suit he would; so I told him I would tell him as soon as the bill was to be filed, which I did; and he helped take affidavits and suggested a great deal in the draft of the bill; Mr. Currie, I think, spoke to me about it; I think that Mr. Grant, who was one of the members of the ministers' association, told me; I am not sure about that; and Mr. Holman, who was Mr. Seastream's counsel, also told me before I went to Mr. Seastream's house.

Q. Anyone else?

A. I think my partner, Mr. Roberson, told me that Seastream was interested and would take the affidavit, but that somebody had told him; I don't know who told him.

By the Court.

Q. You—both of you—keep an office down in Bayonne?

A. Yes, sir.

By the Court.

Q. An office there, as well as Jersey City?

A. Yes, sir, as well as Jersey City.

Q. By the Court.

Q. Who attends down there?

A. Mr. Roberson is there almost entirely, and a great deal in this matter has been transacted at the Bayonne office; people have told him and then he has telephoned to me.

Q. Did Seastream tell you he had invited friends there to witness the game?

A. He did not.

Q. Did not mention the fact?

A. He did not.

Q. Did his wife?

A. She did not, either.

Q. Didn't tell you Mr. Brown and his daughter, and the others you have seen on the stand?

A. That wasn't mentioned while I was there; it might

have been while Mr. Currie was there with them; I don't know about that.

Q. Did he tell you the fence had been altered to suit him by the club?

A. I don't think he did.

Q. How is your memory on that?

The Court—He says he don't think he did.

A. I wouldn't be positive, but I have no recollection of the fence being mentioned by him while I was present.

Q. Did his wife tell you it had been altered?

A. I think not.

Q. You don't recollect either one of them mentioning the fence?

A. I do not.

Robert A. Elliott, sworn.

Direct examination.

By Mr. Allan L. McDermott.

Q. What is your business?

A. Contractor.

Q. Do you know Mr. Seastream?

A. I do.

Q. Do you know Mr. Robert Davis?

A. I do.

Q. Did you, in April last, hear any conversation between Mr. Davis and Mr. Seastream as to the placing or construction of the fence around the baseball ground?

Mr. Frank P. McDermott—I object.

A. I did.

The Court—It is objected to. I ruled it out, I believe, yesterday. I won't change my ruling; I see no reason.

Mr. Allan L. McDermott—We pray an objection.

The Court—Yes.

Q. I will ask this question, not to be answered as it would be answered—yes or no—until the Court rules upon it; did Mr. Seastream tell Mr. Davis—I will lay a little more foundation for that—what are you engaged in there at the ball ground, or what were you?

A. I was engaged in the ball grounds to lay them out; I was acting superintendent at that time.

Q. Did Mr. Seastream tell Mr. Davis, after they had had a conversation concerning the location or readjustment of the fence, that he was in favor—he, Seastream—was in favor of baseball, and looked at it and enjoyed the game, and now that the fence had been reconstructed so as not to obstruct his view, he was perfectly satisfied to have Sunday baseball games continue?

Mr. Frank P. McDermott—I object to it.

The Court—It is objected to and ruled out.

Mr. Allan L. McDermott—We pray an objection.

Q. On June 1st, I call your attention to the house of Seastream; did you meet Mr. Griffiths at the baseball grounds?

A. Was that in the evening?

Q. Five o'clock?

A. Yes, sir.

Q. Tell us what occurred there?

The Court—What?

Q. With reference to going to Seastream's house; this was the occasion of Griffiths' visit to Seastream to tell him to go to Judge Blair's court.

The Court—Well, there is no dispute, I believe, that Mr. Griffiths did go there.

Mr. Allan L. McDermott—I want to show what Mrs. Seastream did.

The Court—Well, I don't see that has anything—do you want to contradict her affidavit?

Mr. Allan L. McDermott—I want to support Mr. Griffiths.

The Court—Well, go on.

A. On Wednesday evening, I believe it was—June 1st—I was entering the gate nearest Mr. Seastream's house and Mr. Griffiths hailed me, and he said, "Do you know whether Mr. Seastream is at home or not?" I said I didn't know, but I would find out, so I started to go; and he said, "Never mind; I will go over myself;" and

just about that time I was going home, and I said, "I have got to speak to the foreman here a minute, and I will go over with you;" so we walked over to Seastream's house together; and he went up and rung the bell, and I stood —just about saying good night to him—to go along; he said, "Hold on a minute; I will be with you;" and with that he rung Seastream's bell; Mrs. Seastream answered the door.

By the Court.

Q. Who?

A. Mrs. Seastream answered the door; Mr. Griffiths asked if Mr. Seastream was at home; she said something indistinctly; I couldn't hear it; I was probably eight feet away; but all of a sudden I heard Mr. Griffiths talking to Mr. Seastream, although I couldn't see him, in the rear; with that he entered the house, and Mrs. Seastream sort of closed the door—left it about half open; and I took a paper out of my pocket and sat there on the stoop and started to read; I heard some very loud talking inside—something about baseball—but what it was, I couldn't say; but about five or six minutes—well, maybe ten minutes—after that, the door was pulled open and Mr. Griffiths backed out; and Mrs. Seastream was holding on to the knob of the door, and Mr. Griffiths was talking to Mr. Seastream; he said he wanted him to come down to court—I believe it was court—and he said he wouldn't go; so Mr. Seastream said to Mrs. Seastream, "Won't you go?" and she said, "No;" he says, "For God's sake"—calling her Minnie, or Lizzie, or some name; I don't just remember the name—"if you don't go, I will go to jail;" and Mr. Griffiths then said, "Yes, and if he backs out of what he swore to in his affidavit, I will see that he goes to jail;" that was all that I heard; and the door was slammed in his face, and he and I started—took a trolley car to Jersey.

Cross-examination.

By Mr. Benny.

Q. Do you know who were talking inside the Seastream house?

A. Sir?

Q. Do you know who were engaged in loud talking in Seastream's house?

A. I could hear the voices; I could distinguish Mr. Griffiths' voice and Mrs. Seastream's; that was all; I know both their voices very well.

Q. When you say that Mrs. Seastream slammed the door, what do you mean; what did she do?

A. I mean—well, I would take it from what Mr. Griffiths said that he would see that he went to jail, that she was angry, and that she banged the door in his face; that is the way I would look at it.

Q. You couldn't hear what Mrs. Seastream said in the house?

The Court—To Mr. Seastream?

A. In the house?

Q. Yes?

A. No, sir; all I heard was what took place in the hallway.

The Court—He says the last he heard was Mr. Seastream, that he backed out, if he backed out of what he had sworn to, his affidavit, he would see that he was sent to jail.

Cross-examination.

By Mr. Frank P. McDermott.

Q. Will you repeat exactly what you heard—understood Mr. Griffiths to say, or what you heard him say, Mr. Griffiths?

The Court—I think he stated it very clearly. He said he heard Griffiths say that if Seastream did not stand up to his affidavit which he had made for him, Griffiths, he would go to jail; that is what I understood the substance of it was; he would see that he went to jail.

Q. Is that all you heard?

A. Yes, sir.

Q. You heard nothing more said by Mr. Seastream than you have detailed here?

A. No, sir.

Q. Or by Mrs. Seastream?

A. No, sir.

Q. Or by Mr. Griffiths?

A. No, sir; Mr. Griffiths?

Q. Not what he said to you; I mean in the presence——

A. What he said to me?

By the Court.

Q. To them?

A. No; I heard nothing else.

Q. I mean in the presence of Seastream?

A. No, sir.

Redirect examination.

By Mr. Allan L. McDermott.

Q. Did he use the words, "Back out;" did he use those words, and are you trying to give us his language; did you say, "If he backs out of what he said in his second affidavit," or did he say——

The Court—Never mind. He is your own witness.

Mr. Frank P. McDermott—He is cross-examining.

A. I think that—I don't think those were his words; that is just the way I was trying to show you the way—what he meant; what he did say was—I don't recall just what he said.

By the Court.

Q. You don't recollect the words he used?

A. Not the words he used.

By the Court.

Q. That was the sense?

A. That was the sense of it; I would imagine that he meant if he repudiated what he had sworn to.

The Court—Yes.

Q. Your understanding was that if he repudiated——

Mr. Frank P. McDermott—I object to your cross-examining your own witness.

The Court—That is his language.

Mr. Allan L. McDermott—You object to what?

Mr. Frank P. McDermott—I object to your cross-examining your own witness.

Q. Did you hear Judge Blair's name mentioned in connection with the court?

A. Well, that was in connection with the court—last word; that is how I knew it was court.

By the Court.

Q. Did you hear—this is the question he put—Mr. Griffiths used the words "Judge Blair" there to Mr. Seastream or Mrs. Seastream?

A. I think he did, because it was Judge Blair's court; that is where I got the court.

By the Court.

Q. You got the idea it was Judge Blair's court?

A. Well, I got the court end of it; it was Judge Blair's court.

Q. You got what idea?

A. He was to go to some——

The Court—Judge Blair's court?

A. What it was at the time, I didn't know.

Cross-examination.

By Mr. Frank P. McDermott.

Q. How far away were you standing or sitting from the house at the time you were waiting?

The Court—On the stoop, he said.

A. I was on the stoop—about five feet from the door.

Q. Of the house; were the windows open?

A. Sir?

Q. Windows open?

A. I didn't notice, sir.

Q. The talking inside you could hear, but could not distinguish, I understand?

A. Yes, sir; that was due to the fact that the door was half open and the hallway runs directly in—straight from the stoop.

By the Court.

Q. You heard loud talking?

A. I heard loud talking; what it was inside, I couldn't hear.

By the Court.

Q. Except talking?

A. Yes, sir; very angry talking.

By the Court.

Q. Angry talking?

A. Angry talking.

Q. Exactly what I was going to ask; talking—altercation in there?

A. Yes, sir; some trouble going on.

Q. There was nothing carried to you by which you could distinguish the words of that?

A. No, not inside; all I remember what was in the door—in the hallway, threshold there—as I was on the stoop.

Cross-examination.

By Mr. Benny.

Q. Why did you hesitate so long in replying to Senator McDermott's question, whether Judge Blair's name was used by Mr. Griffiths or not?

A. I tried to convince myself—thoroughly satisfy myself—that I was right before answering.

Q. You were not certain, at that time, whether he had used the words or not?

A. No; I was trying to get the court end of it, to the best of my recollection.

Q. You are certain now he did use the words "Judge Blair?"

A. Yes, I am pretty sure he said "Judge Blair's court."

Q. Did you hear for what purpose he was to go to Judge Blair's court?

A. No, sir.

Q. Did Mr. Griffiths not tell why he was to go to Judge Blair's court?

A. No, sir.

The Court—There was no opportunity there.

A. I was just there waiting; that is all I was; I didn't pay much attention to it.

Peter Bentley, sworn.

Direct examination.

By Mr. Dixon.

Q. You are a practicing attorney-at-law of this State?

A. Yes, sir.

Q. How long have you been practicing?

A. I was admitted in the fall—in November—1895.

Q. You are not counsel yet?

A. No, sir.

The Court—Now, Mr. Dixon, unless the counsel for the State—I will call him—has some other evidence against Mr. Bentley than that already produced, I don't think you need spend any time on Mr. Bentley, unless you wish to.

Mr. Dixon—We wanted him to state to your Honor everything he knows about it, if your Honor wants to hear anything.

Mr. Frank P. McDermott—I have no other evidence.

The Court—I do not require any explanation from Mr. Bentley. I have said all I have to say about that.

Mr. Dixon—May I dispel one notion of your Honor, that he took this affidavit as solicitor?

The Court—The reason why I said that was, Mr. Bentley himself spoke about this case on behalf of the defendant before he come into court, and I was in confusion in my mind as to date. The reading of the affidavits and the appearance of Mr. Bentley among the counsel was subsequent to the taking of this affidavit, but before that affidavit was taken Mr. Bentley had himself spoken to me in such a manner that led me to believe he was counsel for the defendant, privately—nothing improper, but privately.

Mr. Dixon—I think that is all, then, unless counsel wants to ask him. I wanted to ask him, your Honor,

about whether or not he cross-examined this man Seastream.

The Court—You have a right to do that. I did not know but what you called him particularly on his own account, and I want to say, once and for all, there is nothing here that would lead me to——

Q. You never knew Seastream, did you, or saw him to your knowledge, until this day in Mr. Davis' office?

A. 12th day of May, sir.

Q. You were called there on the 'phone by Mr. Griffiths?

A. Yes, sir; by Mr. Davis.

Q. By Mr. Davis?

A. Yes, sir.

Q. You went there, and was then introduced to Mr. Seastream?

A. Yes, sir; and Captain Haagenson.

Q. Took that affidavit?

A. Yes, sir.

Q. Did he sign it in your presence?

A. He did, sir.

Q. And what information did you give him, or what did you do with regard to the affidavit before you swore him?

A. Well, at first, I said to Mr. Seastream, "Do you know the contents of this affidavit?" and he said he did; I said, "Well, then, has it been read to you?" he said yes; I said, "Will you sign the affidavit?" Mr. Griffiths then suggested to me the advisability of cross-examining Seastream on this affidavit, because it was a counter-affidavit to the one he had originally made in the cause.

By the Court.

Q. Let me interrupt you; had you read the other affidavit?

A. The first affidavit?

By the Court.

Q. Yes?

A. Yes, sir.

By the Court.

Q. At that time?

A. Yes, sir.

By the Court.

Q. Go on?

A. I then went over the affidavit, paragraph by paragraph—or, I should say, more properly, sentence by sentence, I think, and to each sentence, as I read it—I read it very slowly, and endeavored to have Seastream understand it, and he said he did; and each time I would say to him, "Is that so?" and he would say, "Yes;" and I would ask him some other questions, trying to convince myself that the affidavit was the truth—all the contents of it; and he would say they were; and finally, one thing which impressed me with the fact that it must have been so was when, in answer to a question by me, "How do you know you saw those games?" he said, "I saw them, and I can prove I saw them, because 'Doc' Brown" —I think he called him "Doc" Brown—"his son and his sister"—I think he said his sister—"saw the game with me and some other people;" and at that time he—or before he told those names he made us promise, or asked us to promise, that we would not call those people in the case, because he said he did not want to have any women mixed up in it.

Q. And then he signed the affidavit?

A. He then signed the affidavit, and I administered the oath, sir.

Q. Up to that time, you acted only as a master in chancery?

A. Yes, sir; to obtain affidavits.

Q. As far as this matter is concerned, that is all you know about it, is it; except, I think—you did see him again, did you?

A. Yes, sir; I saw him subsequently.

Q. Where was that?

A. At Mr. Griffiths' office.

Q. Went in there that day?

A. I went in there alone that day, and was told to go into Mr. Griffiths' private office.

Q. How long were you there?

A. I wasn't in Mr. Griffiths' private office; I remember I was in a great hurry to get over to New York; I am living uptown in New York now, temporarily—way up to One Hundred and Twenty-fourth street; and I try to get home as near half-past six for my dinner as possible; and I was in a hurry to get away; it was long after half-past five, or very close to half-past five; and I know everybody pushed everything; and I was not there more than ten minutes at the outside; and after that I remember we went out with Captain Haagenson; I went out with Captain Haagenson and Mr. Seastream; we went down and had a drink together.

Q. What statement, if any, did Seastream make at that time?

The Court—What is it?

Q. What statement did Seastream make in your presence, at that time?

Mr. Frank P. McDermott—May 26th, wasn't it?

A. Yes, sir; as I remember, when I arrived at Mr. Griffiths' private office—I might say there were present Captain Haagenson, William J. Davis, Mr. Griffiths and Mr. Seastream; Mr. Seastream was telling a story, as I remember, and Mr. Griffiths said that he was then telling what occurred at that time, and the story which he was going to tell to Judge Blair in the morning, or whenever he went before Judge Blair or Vice Chancellor Pitney; I don't remember which.

By the Court.

Q. They were talking over what he was going to swear to or state?

A. They were talking over his statement of the facts connected with the second affidavit.

Q. Was there any schooling there by Mr. Griffiths as far as you know?

A. There was not, sir; no, sir.

Q. And what did he say substantially that you heard—Seastream say?

A. He said substantially as has been testified by the witnesses in this case—this investigation.

The Court—That is very poor satisfaction.

A. I can repeat it if you——

The Court—He asked you—the answer given don't amount to anything. I don't say that counsel must pursue it. I only say that——

Mr. Dixon—I don't care anything about it.

By the Court.

Q. Captain Haagenson was in there?

A. Yes, sir.

Q. You read the affidavit to him, the one that you took?

A. Yes, sir.

Q. And was what he stated in Mr. Griffiths' office on the second occasion about the same as that or different?

A. About the same thing; deviated very little.

Examined by the Court.

Q. You were up in the court-room on the morning of the 26th, or on the 26th, when the Seastream second affidavit was read, weren't you?

A. Yes, sir.

Q. You read it, didn't you?

A. I think I did.

Q. I had read it before you got to it, hadn't I?

A. I think you had, yes, sir; you struck it first.

Q. Was anything said there; is Mr. Demarest here?

Mr. Demarest—I am here.

The Court—Then I won't ask it.

Examined by Mr. Benny.

Q. Why did you cross-examine Mr. Seastream?

A. Well, I was first advised by Mr. Griffiths to do it, and I thought it was a very wise suggestion.

Q. Why—why was it wise?

A. Well, because if a man makes an affidavit one way

in a case and then makes another affidavit diametrically opposite, there is apt to be a little trouble.

Q. What trouble?

A. Well, such as has been in this case.

Q. And which affidavit did you cross-examine him on?

A. I cross-examined him upon the affidavit that I took—certified to.

Q. Did you cross-examine him as to the statements made in the first affidavit?

A. No more than he said; I asked him about the first affidavit; and he said it was not true—that he had thought it was a petition; as I remember.

Q. What points in the second affidavit did you cross-examine him upon?

A. I cross-examined him upon every one.

Q. Sentence by sentence, I think you said?

A. Yes, sir.

By the Court.

Q. But the Currie affidavit and Griswold affidavit had been read then, hadn't they?

A. No, sir; this was taken on May 12th, and those were not submitted until May 26th.

The Court—Yes, I beg your pardon. You are quite right.

Q. Did you cross-examine him upon this statement, "I declare the same to be absolutely and unqualifiedly false?"

A. I did, sir.

Q. Did he say that everything in the first affidavit was false?

A. He said—he answered that paragraph when I read it to him by saying it was true.

Q. That his statement in the second affidavit was true?

A. Yes, sir.

Q. And did he make any statement concerning whether there was any truth in the first affidavit?

A. I asked him, as I just told you about the first affidavit, as to the truth of it; and he said it was untrue.

Q. I am not speaking now of the affidavit as a whole; I mean, in your cross-examination in detail, did you ask him in what respect it was not true?

A. The first affidavit?

Q. Yes?

A. No, sir; he said it was all untrue.

Q. He said it was all untrue?

A. Yes, sir; and he thought it was a petition.

Q. Did you ask him whether it was true that he resided in the place—in his first affidavit?

A. No, sir; I did not.

The Court—It is not necessary to go into that. It is palpable.

Mr. Benny—Your Honor——

The Court—Go on. I ought not to limit you. Go on.

Q. Did you ask him whether the location of the ball ground was accurately and truly stated in the first affidavit?

A. I did not, sir.

Q. Did you ask him whether he was at home during part of the time of the games on the two Sabbaths he complained of?

A. I did not refer to the first affidavit, excepting as a whole.

Q. Did you ask him any question about whether he was at home or not?

A. I did, when it came to that part of the second affidavit, as I testified to.

Q. And what did he say?

A. He said that he was at home; and he saw the games, or "seen" them; I think he used the word.

Q. Did you ask him anything about whether there was noise occasioned?

A. Yes, sir.

Q. And what did he say?

A. He said the noise could not be heard in his house.

Q. Did you ask him any question on his children's sleeping—slumbering?

A. I read that part of the affidavit to him; and he said it was true, or said it was so.

Q. Did you ask him whether he was the owner of the house that he resided in?

A. If it is embodied in the second affidavit, I did.

Q. In the first affidavit?

A. No, sir; I did not; I told you I did not ask him anything about the first affidavit, excepting as a whole.

Q. Who was telling the story that was to be related by Mr. Seastream in court?

The Court—On the evening of the 26th?

Q. Whenever it was told; yes.

A. Who was relating that story?

Q. Yes, who was relating?

A. Mr. Seastream.

Q. And to whom was he relating it?

A. Evidently to Captain Haagenson, Mr. Griffiths and Mr. Davis, when I walked in.

Q. And were there any questions asked him by any person during the relation by him of the story?

A. I don't think there was.

Q. Were there any suggestions made to him by any person?

A. If there was, I don't remember it; I don't think there was.

Q. Did any person suggest——

The Court—They were at work when you got in there?

A. Yes, sir.

Q. Did any person, in your hearing, suggest to him that he try to relate the story he would tell?

A. No, sir.

By the Court.

Q. Did you understand how he came to be reciting what he was going to state to the court in explanation of the contradictory affidavits?

A. Yes, sir; as I said, that when I got in there his story was interrupted long enough for Mr. Griffiths to say to me—calling me by my first name—and saying that

we were going to go before Vice Chancellor Pitney or Judge Blair—I have forgotten which—and Seastream was telling just how the thing happened.

Q. Was he telling what had happened or telling what he was going to say in court?

A. He was telling what had happened.

Q. I understood you to say he was relating the story he would tell in court?

A. Yes, sir—which was to be the story, of course, in court, what had happened.

Q. Were you present at Mr. Davis' office when the brandy was given Mr. Seastream?

A. I didn't see the brandy.

By the Court.

Q. Did you know any brandy had been given to him?

A. No, sir; I didn't know anything about it; I may have smelled it, but not thought of it at the time.

By Mr. Dixon.

Q. You didn't get any?

A. I didn't get any of it.

Examined by Mr. Allan L. McDermott.

Q. Was there any appearance of his being under the influence of liquor at all?

A. Absolutely not.

Examined by Mr. Frank P. McDermott.

Q. On this occasion—on May 26th—did you happen in Mr. Griffiths' office or did you go by request?

A. We left—Mr. Griffiths and I left the First District Court together, after the hearing before Vice Chancellor Pitney; walked down Montgomery street—I remember a drug store on the corner of Warren street; we went in there and we had a drink.

Q. I don't care about that?

A. I was going to tell you how I happened to be there.

Q. All right?

A. And from there we went on down Montgomery—to

the corner of Washington and Montgomery—and met Judge Hudspeth, who was talking to somebody on the corner, and we held a little conversation with him; and from there we walked down to the First National Bank building, on Exchange Place; I said to Mr. Griffiths that I was going down to my office; I had been away all the afternoon, and I would come back in ten or fifteen minutes to talk the situation over; naturally, there had been quite a sensational matter, and as lawyers will, they get together and talk things over; I went down to my office and found there was nothing of importance to attend to and I then returned to Mr. Griffiths' office.

Q. Mr. Griffiths, I suppose, went up to his office when you left him?

A. I suppose so; yes.

Q. When you came back to Mr. Griffiths' office you found these four gentlemen upstairs, did you?

A. I was told to go into Mr. Griffiths' private office and I found—yes, those four.

Q. Mr. Davis?

A. Yes, sir.

Q. Captain Haagenson?

A. Yes, sir.

Q. Mr. Seastream?

A. Yes, sir.

Q. And Mr. Griffiths?

A. Yes, sir.

Q. And at that time, Mr. Seastream, you say, was in the middle of his story?

A. Yes; I won't say "middle."

Q. In the way of telling a story.

A. Yes, sir.

Q. Who told you that was the story he was to tell Judge Blair?

A. As I remember, when I walked in, Mr. Seastream was talking, and Mr. Griffiths stopped him long enough to say so, and then Mr. Seastream continued with his story.

Q. To say what—what did Mr. Griffiths say?

A. His exact words, I can't tell you.

Q. As near as you can?

A. The idea he conveyed to me, and the one he undoubtedly meant, was that Mr. Seastream——

Q. I would rather have his words, if you can give them to me?

Mr. Dixon—He said he couldn't.

Q. As near as you can.

A. I will see if I can recollect them.

Q. I would rather have the best of his recollection?

A. I think he said, as nearly as I can remember, "Seastream has just been telling us the facts which led up to the making of the second affidavit."

Q. And you remained a very short time, I understand?

A. Yes, sir; probably ten minutes; not any longer.

Q. During the time you were there, did Mr. Seastream cover the facts leading up to the second affidavit in his story?

The Court—He had already got that done. He was telling what occurred at the taking of the affidavit.

Q. I want to get——

The Court—Go on.

[Question read.]

A. He covered some of the facts.

Q. Did he cover anything relating to the first affidavit while you were there?

A. I don't think he did.

Q. Or make any statement to reconcile the two affidavits before going before Judge Blair?

A. No, sir; excepting to say that the first affidavit was not true; I don't know whether he said that or whether he didn't, to tell the truth; he may have, and he may not.

Q. And so he proceeded in some detail and gave the story as he was to tell it to Judge Blair?

A. Well, you might call it detail; I wouldn't; in his way.

Q. How did he—what did you say about it?

A. In his way—he skipped and jumped around.

Q. Did you make any suggestions to bring about a consecutive story?

A. I did not, or anyone in my hearing.

Q. Or make it more logical?

A. No, sir.

Q. Bring the facts in their chronological order?

A. No, sir.

Q. So it would be more intelligible to Judge Blair?

A. No, sir; I thought the man ought to tell his own story.

Q. Did anybody there tell?

A. No, sir—within my hearing.

Q. Captain Haagenson have anything to say?

A. No, sir.

Q. Or Mr. Davis have anything to say?

A. They did, after he had told his story.

Q. After he told his story?

A. After he told his story.

Q. What did they say then?

A. I couldn't tell what the conversation was.

Q. I would like to have it.

A. It was more about being in a hurry to get away; it was nothing connected with the case, you might say.

Q. You were in a little bit of a rush to get away?

A. I was in very much of a rush.

Q. Well, did not Captain Haagenson and Mr. Davis have something to say to him?

A. I wouldn't say they said a word to Seastream; no, sir.

Q. To whom did they say—talked among themselves in Seastream's hearing?

A. Yes, sir.

Q. And you all come out together with Seastream?

A. Yes, sir; that is, Captain Haagenson and myself did.

Q. Captain Haagenson, you and Seastream came down together and had a drink, as you have stated?

A. Yes, sir; and I remember Mr. Seastream drank whiskey on that occasion.

Q. Not brandy that time?

A. No, sir; not brandy; I remember he said, as I was going to treat, he might as well have a good one.

Q. Can't you tell us at all what was said after he reviewed his story?

A. Mr. McDermott, the best of my recollection, it was in regard to getting away; and I think something said about going before Vice Chancellor Pitney—whether Seastream would not only go before Judge Blair, but go before Vice Chancellor Pitney; and he said he would; then the conversation, I think, was about our getting away; I probably told Mr. Griffiths I would see him in the morning.

Q. You didn't pay very much attention to this, did you?

A. I did—paid very strict attention to Seastream's story.

Q. Anything said to him about whether he had made any statement to other people—whether Seastream had made statements to other people?

A. No, sir; not that I remember.

By the Court.

Q. Did he ask if he had been talking to anybody else?

Q. Mr. Demarest or Mr. Currie?

A. I don't think, within my hearing, he did, or anybody ask him.

By the Court.

Q. Any injunction made to him not to talk to anybody else—anything said up there not to talk to anybody else?

A. I think it was suggested by Mr. Griffiths, if I am not mistaken, that the best thing he could do would be not to talk to anybody until he went before Judge Blair or Vice Chancellor Pitney.

Anything said to him by Captain Haagenson, or Mr. Davis, about losing his job?

A. No, sir; not within my hearing.

Q. Not within your hearing?

A. No, sir.

By the Court.

Q. Anything said where he had been during the day?

A. No, sir; not while I was there.

By the Court.

Q. How he happened to be there that evening?

A. No, sir.

Q. Or about where they had been traveling about during the day?

A. No, sir; I heard that from Captain Haagenson, subsequent to that time.

Q. But not on that occasion?

A. Not on that occasion, sir.

Q. Where he had been staying during the day?

No, sir.

Q. Since he had been off duty?

A. No, sir.

Q. You didn't hear anything about that?

A. No, sir.

Mr. Allan L. McDermott—We rest.

The Court—I want to ask Mr. Demarest a question.

Mr. Allan L. McDermott—May it please the Court, before he is called, we have sent for Captain Carroll, and we find that he is not obtainable, just at present, being out of town on duty, I guess, for the Pennsylvania railroad. I want to show what relation the baseball is—that railroad and his relation to the parties. We have asked for the stenographer of the Hudson County Court.

The Court—You are entitled to him, and will get him, some time or other, undoubtedly. The gentleman—I will not accuse him of disobeying the subpœna.

Mr. Allan L. McDermott—He evidently intended to get here. I don't know why he didn't—sickness or something. What I want to show by him is this, so your Honor can have it in mind if we have to show: He says this affidavit of Seastream, the identical language—using polysyllables—is the language of Seastream.

The Court—I read it over last night, and I saw for the first time for some days. I was very much struck with it

in that respect. It is evidently the language of Seastream —the one taken before Judge Blair. I think you can see by reading it—anybody can see by reading it—in advance of what the stenographer may say. It was evidently taken as near as practicable in the very words Seastream used.

Mr. Allan L. McDermott—There are words there——

The Court—Oh, there are some. Evidently, it was stenographically taken, with some corrections.

Mr. Allan L. McDermott—Any stenographer—there cannot be that error; he cannot make in putting down— he cannot make that mistake.

The Court—You don't have to argue that; I understand that. I read it over in view of the evidence that Judge Blair gave before me here now, as to the mode in which it was taken.

Mr. Allan L. McDermott—Now, what I want to do if that stenographer——

The Court—You can have him. You don't have to open what you want him for. I want him. I told you at once what I saw by reading the affidavit.

Mr. Allan L. McDermott—That is what I want to see.

Elmer W. Demarest, recalled.

Examined by the Court.

Q. What is the mode of getting to Bayonne by way of the Central railroad?

A. Take the Central railroad, which has a ferry at the foot of Liberty street, one block from the Pennsylvania ferry, in New York—crosses over to Communipaw—and take a train from Communipaw to Forty-ninth street, Bayonne; that is the nearest railroad station in Bayonne to these grounds.

Q. How far is that?

A. That is three long blocks and one short one.

Q. Which is the cheapest and most convenient way to get from the various parts of New York and Brooklyn to these baseball games?

A. Well, the trolley is the cheapest; the single fare to Forty-ninth street from New York is, I think, thirteen cents, and the round trip twenty-two cents.

By Mr. Frank P. McDermott.

Q. You mean by trolley or railroad?

A. By railroad; by trolley, the ferry would be three cents from New York, each way, and five cents on the cars; that is the cost; now, the question of convenience

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Q. Which way, according to your experience, do most of the people come to this baseball ground?

A. Undoubtedly, most of them come there by trolley.

Q. How often do the trolleys run?

A. The trolleys, on Sunday, run a great deal closer than they do in the week.

Q. About how close?

A. I don't think they are more than two minutes apart.

Q. How often do the Central railroad trains run?

A. Well, at that time of the day I don't think they are nearer than an hour apart—probably more than that Sundays; there are less Sunday trains than there are week-day trains; there are more Sunday trolleys than there are week-day trolleys.

Q. Now, the length of time?

A. If one got the train promptly, it would take him about twenty-five minutes, including the ferry, to get to the Forty-ninth street station, and there would be about four blocks there—three of them are very long blocks; if he came down by trolley, it would take him fifteen minutes to cross the ferry, and probably thirty-five minutes to get to these grounds.

Q. Fifty minutes?

A. About fifty minutes; I live right near this section, and I usually find, in going over from New York, unless I can catch a train on the very minute when I arrive at the station, that I can make as good time by trolley as I can by train.

Q. I will ask you one other question; on the 26th

of May, in the court-room at Jersey City, in the forenoon, of course; that was because, as you recollect, the sitting in Jersey City on the 26th was in the Chancery court-room, in the afternoon in the city hall?

A. Yes, sir; that is right.

Q. During the forenoon, sitting in Jersey City, was anything said by anybody about bringing—about having Seastream in court before me?

A. Yes, sir; I said it.

Q. Well, when and under what circumstances?

A. That was on Thursday, 26th?

Q. Yes.

A. On Monday, the 23d, Senator Hudspeth had presented first to me in my office, and later to the court, the letter from Seastream and Alexander, authorizing our firm to withdraw their names from the suit; and on the afternoon of the 23d I had completed reading the affidavits annexed to the bill.

Q. On the same evening, the 23d, the affidavits of the defendant were served on you?

A. Yes, sir; they were served the last thing in the afternoon.

Q. You then saw Seastream's second affidavit for the first?

A. I saw it after the court had adjourned; Senator Hudspeth handed it to us just as the court was to adjourn.

Q. I understand, then, you had the affidavit of Currie and Griswold prepared on the 24th?

A. Yes, sir.

Q. And verified?

A. Yes, sir.

Q. Now, what measures, if any, did you take; I don't know, but it is set out in your affidavit here, but I want it just in this connection; what measures, if any, did you take to have Mr. Seastream before the court?

A. Late on the night of the 25th I was told that Mr. Seastream had been imposed upon and had been told

that unless he gave a counter-affidavit in favor of the defendant company that he would lose his position; I suppose that was eleven o'clock at night; and I was working then with my stenographer; and I told her——

Q. Where, down at the house?

A. No, in my office.

Q. In Jersey City?

A. Yes, sir; and I told her that night to prepare a subpœna *duces tecum*—a subpœna for Mr. Seastream—
10 and to give it to Mr. Griswold the very first thing when he came in the following morning; that would be the 26th; and serve it upon him at once; and if he could not get him before ten o'clock, to stay at the ferry and get him whatever time he could, and bring him immediately before the court; then, when we got into the court-room, Senator Hudspeth again asked whether we were not going to discontinue upon the authorization of Mr. Alexander and Seastream.

Q. That is, in the morning?

20 A. Yes, sir; the first thing in the morning; and I stated that we were not going to; that I had an affidavit from Mr. Alexander in which he said he had been deceived, and that he did not wish to be dropped as a complainant in the suit, and that I had been reliably informed that Mr. Seastream had been threatened with the loss of his position unless he took an affidavit for the defendant; and that, in order to place the court in the same position that I was, I had issued a subpœna for Seastream.

30 Q. The first thing in the morning?

A. First thing in the morning; then, immediately afterward, Senator Hudspeth fell in line and said they courted an investigation; but when the matter came before the court——

Q. That was before his second affidavit had been read to the court, or made known to the court?

A. Yes, sir.

Q. You stated, then, you had issued a subpœna?

A. Yes, sir; the reason I stated—what called for that statement was that—the fact that Senator Hudspeth insisted we should discontinue as to these parties.

The Court—Yes, that is the way the discussion arose. I will state to the counsel that yesterday, when I was rolling this over in my mind, I got confused between the reading of the second affidavit to me and the motion, and the fact that early in the morning of the 26th Judge Hudspeth did ask the complainants what they were going to do about dismissing Seastream and Alexander from the bill; and I had that confused; and Mr. Demarest's evidence has cleared my mind about it. And I think Judge Hudspeth raised it the same way—don't you, judge?

Senator Hudspeth—Yes, sir. I remember saying to Mr. Speer and Mr. Demarest, at the time; I said, "Why, you are playing a big game of bluff;" I said, "I'm going to try and insist on having this case withdrawn;" and they laughed and said there is no bluff in it—something to that effect—and I sat down.

Q. The fact that you had issued a subpœna was made known then?

A. Yes, sir, and stated; and your Honor said you could not hear him in court; you said you did not want to hear me, at first; I said, "May I be heard?" and you said, "Yes;" and I said, "This information has been given to me in a reliable manner, and I cannot produce the evidence to the court, as asked for, and I have issued the subpœna in order that the Court may investigate if he wants to."

Senator Hudspeth—May I not ask Mr. Demarest a question?

The Court—Certainly. I don't want the least misunderstanding about it, because I don't want to go on my own impression; but the issuing of a subpœna to call Mr. Seastream into the court-room was mentioned there early in the morning—the first thing—at ten o'clock.

Examined by Senator Hudspeth.

Q. Wasn't this subpœna episode just about recess?

A. No, sir.

Q. Didn't you instruct Griswold, in the court-room, about recess, to go and subpœna Seastream?

A. I did not; I didn't see Mr. Griswold that morning; he started out before I went in the Chancery Court at all, to subpœna Seastream.

Q. Before you got to the court?

A. Yes, sir.

Q. When you spoke about the subpœna, wasn't there an acknowledgment from counsel on the part of the defendant that they desired Vice Chancellor Pitney to proceed?

The Court—Oh, yes.

A. Oh, you immediately fell in line—you did that—but you were not the first one to speak of the investigation.

The Court—No doubt about that. Both parties desired it at once; and I should not have asked this, but I was in confusion as to when both parties did ask for the investigation; but Mr. Demarest's evidence has cleared it up in my mind; and Mr. McDermott (Frank P.) is entirely ignorant of these things.

Examined by Mr. Allan L. McDermott.

Q. Seems to be another disagreement as to the proposition of the subpœna; when was it you told any of counsel that a subpœna had been issued for Seastream?

The Court—When did you state it in open court?

A. The very first thing in the morning.

Q. What time was it?

A. Ten o'clock—shortly after ten.

By the Court.

Q. There was no other business before the court except that case that day; was it before or after the Chancellor had announced that the matter would be sent to Judge Blair?

A. Oh, before that.

Q. The first thing?

A. Senator Hudspeth, as soon as the case was called on the 26th, asked me if I had yet made up my mind what I was going to do with the authorization signed by Mr. Alexander and Mr. Seastream.

Q. Now, about what time was that o'clock?

The Court—Ten o'clock.

A. Just after ten o'clock; and I told him that I had —that I refused to withdraw either of them from the suit; that I had Mr. Alexander's affidavit, stating that he had been deceived.

By the Court.

Q. That was in open court—addressed to the court?

A. Yes, sir.

By the Court.

Q. And Judge Hudspeth's question was addressed to the court, too?

A. Yes, sir.

Q. Did you, at that time, state subpœna had been issued?

A. I did.

Q. You say you were told that Seastream had been imposed upon?

A. Yes, sir.

Q. Where were you when you got that information?

A. At my office.

Q. Jersey City?

A. Yes, sir.

Q. Who told you?

A. My partner gave me the information over the telephone.

Q. Where was he?

A. He was at the Bayonne office.

Q. What did he say?

The Court—Oh, well——

A. He told me that—does the court want it; I don't wish to bring anybody else into this thing unless it is necessary.

The Court—It don't matter; I don't think it matters at all; you got it in the regular way.

A. No outside party at all.

Q. Nobody in Jersey City?

A. Nobody in Jersey City.

The Court—It don't make any difference. You must have his partner here to find out where he got it. It would be pure hearsay and binds nobody. His partner can tell who it was he got it from, but his partner, stating to him, would not be competent, except in the matter of the *res gestæ;* it was questioned whether he was justified in acting on it at all. That is all. Easy enough to guess how his partner got it—probably got it from Mr. Seastream.

A. No, he did not get it there.

Senator Hudspeth—I am not satisfied about that subpœna episode yet. I cannot get it in my mind, neither can Mr. Northrop, that it occurred in the morning—neither one of us. It is strange that we cannot agree on that fact.

A. It did, Judge; it occurred in the morning, positively, for this reason; Mr. Griswold is here; he will tell you whether I am right.

Mr. Griffiths—He wasn't there. You said he was out.

A. If you will allow me to proceed, Mr. Griffiths, I will enlighten—I will explain to you when you allow me to go on without interruption.

Mr. Griffiths—Nobody is stopping you.

A. Yes, you are; when the court adjourned for the noon recess, I went back to my office; and Mr. Griswold then came in and said to me, "I can't find that man anywhere; they are hiding him from me; they told me he had gone to one place and another and another; and nobody seems to know him; and at last I did find a man who knew "Husky;" I have chased him up ever since; and somebody is hiding that man away from me;" I said to him, "The Vice Chancellor has already ruled that he won't take Mr. Seastream's testimony if he appeared, so you need not hunt him any longer."

Examined by Senator Hudspeth.

Q. Don't you remember just when the Vice Chancellor arose—at recess—there was some little tittle-tattle amongst counsel—some exchange of words—and question of subpœnaing Mr. Seastream and bringing him in court was suggested by you or Mr. Speer?

A. I suggested subpœna.

Q. Then?

A. No, not then; the first thing in the morning was, when I spoke of it—when you insisted that I subpœna those two parties—I remember saying—when you insisted about discontinuance—I had affidavit of Mr. Alexander, but I don't recall anything about subpœna until the noon recess.

Mr. Northrop—Neither do I.

A. It come out then; I stated at that time that I had Mr. Alexander's affidavit, stating he had been deceived, and for that reason I would not discontinue as to him; and I had been informed that Mr. Seastream had been threatened with his job unless he got out of the case—I hadn't seen him—and unless he authorized me to discontinue for him, I refused to do it; that is the way it came up.

Mr. Frank P. McDermott—Was this made any part of the record?

The Court—I don't know anything about——

A. I think not; the Vice Chancellor did tell Mr. Salmon, after we got into argument, to take down every word of what was being said, but I think my mention of the subpœna was made before Mr. Salmon began to take notes.

Mr. Frank P. McDermott—I thought, if it was a matter of record——

The Court—I state the Court is quite sure the word "subpœna" was used, and, certainly, I am entirely sure that Mr. Demarest said they were trying to get Seastream there; and I think he said—I am quite sure he said—he issued a subpœna—a subpœna was out for him.

A. I did say so.

The Court—And the only question, in my mind, was as to whether that occurred in connection with the discontinuance incident or the other. I had forgotten that the discontinuance incident came up on that morning, but I now recollect that it did; and my memory, I want to state to counsel, accords with that of Mr. Demarest.

Examination by Senator Hudspeth.

Q. Don't you remember Mr. Northrop and I saying to you, at the time you spoke about having Seastream there, that we wanted him there; and you said, "Well, I have got a subpœna out for him," or words to that effect?

A. The first announcement I made of subpœna was to the Court.

By the Court.

Q. Did you also, in that connection, say that?

A. Yes, sir, I did; I said we were trying to get him.

Q. Don't you remember Mr. Northrop and I saying we were going to insist on the investigation?

A. You insisted on that.

Q. And we hoped you would get him there?

A. Yes, you did.

The Court—That was said.

Senator Hudspeth—That was at recess.

The Court—I want to say I never connected Judge Hudspeth or Mr. Northrop with any improper conduct in the least.

Senator Hudspeth—We appreciate that, but we want to get at the truth of the facts.

The Court—Never connected you in my mind in the least. The defendant not having any witnesses here at present, having noted that they want to call Captain Carroll, and also Mr. Moesier, the stenographer; you know what they want to prove by them.

Mr. Frank P. McDermott—I don't know what they want to prove by Captain Carroll at all.

The Court—It don't matter, in this matter; there is no jury here.

Mr. Allan L. McDermott—Simply want to prove that he had charge of the boat, and he never spoke to anybody in regard to this baseball game.

Mr. Benny—I understand the situation concerning these affidavits is this: That the affidavits of Mr. and Mrs. Seastream, taken before Judge Blair, are before your Honor.

The Court—They are. The only question there can be about this is that they were taken in the absence of the other side and before a judge of a criminal court, and not acting as an officer of this court. If the other side had been present at the taking of those affidavits there could have been no doubt at all about it, because they consented to the investigation before Judge Blair. These parties who were charged—every one of them except Captain Haagenson; I don't say that he did—but the deposition was taken in the absence of the parties before a judge who is not an officer of this court; and Mr. McDermott has taken the point distinctly that the was not acting as an officer of this court. I wouldn't allow him to ask a question because it appeared on the paper, and I supposed Mr. McDermott had read it. I haven't heard Mrs. Seastream. It is always a satisfaction to the Court to hear the evidence of a witness in open court. She has not been cross-examined, although she has been produced here and offered for cross-examination. Mr. McDermott has declined or said he did not wish to examine her.

Mr. Allan L. McDermott—I see nothing in her testimony I want to cross-examine her about.

The Court—Yes, I think it is the most important testimony in the case.

Mr. Benny—I have proceeded, so far as Mr. Seastream's part of the case is concerned, that these affidavits were before your Honor.

The Court—So they are, but I still myself prefer, in a matter of such immense importance as this, and where

such a very disagreeable burden is cast upon me—one that I have done everything, except resign my office and refuse to do my duty, to be rid of, in my time of life—I should prefer to hear Mrs. Seastream's story on the stand if the counsel for Mr. Seastream——

Mr. Benny—Then I will call her.

Mrs. Laura Seastream, sworn.

Direct examination.

By Mr. Benny.

Q. Are you the wife of Mr. August Seastream?

A. Yes, sir.

Q. And you reside with him in Bayonne?

A. Yes, sir.

Q. What nationality are you?

A. I am English.

Q. And how near to the ball grounds do you live there?

A. Our property is adjoining the baseball ground.

Q. And how long have you lived there?

A. Lived there now about three years last November.

Q. And where is your husband employed?

A. With the Pennsylvania railroad ferry.

Q. And what does he do there?

A. He is working on the annex boats as ashman.

Q. Do you remember a visit made to your house by Mr. Currie and Mr. Demarest?

A. Yes, sir.

Q. Please state what they said they came for?

A. They came to know if we had any objections to Sunday games—Sunday baseball games—and, of course, we had.

By the Court.

Q. What did you say to them?

A. Yes, we had objections.

By the Court.

Q. You told them so?

A. Yes, sir.

Q. Was your husband present there at that time?

A. Yes, sir.

Q. And who took part in the conversation—you and your husband?

A. Well, we both.

Q. And what was done thereafter?

The Court—What further conversation. They asked you if you had any objections to baseball—Sunday baseball playing—and you told them you had?

A. Yes, sir.

By the Court.

Q. Both you—you and your husband, both?

A. Yes, sir.

By the Court.

Q. And then what next was said?

A. We told them of course we didn't like to have it there.

By the court.

Q. Eh?

A. We didn't like it there.

By the Court.

Q. What did you say then?

A. They said, "Very well;" if we had known that the ball grounds was coming there at the time, we never would have bought the property.

Examination by the Court.

Q. That is what you told them?

A. Yes, sir.

Q. What else did you tell them?

A. I said, "Of course, it wasn't very pleasant to have such things, with my children;" I have two small children—one about a year and a half and the other four months; and I says, "Of course, it wasn't nice for them; especially during the summer time, when the games would be played, it would be very annoying to them; they couldn't get their rest, as little children should have."

Q. Is that what you told those gentlemen?

A. Yes, sir.

Q. I only want to know just what you told those gentlemen?

A. Yes, sir.

Q. Well, go on; what else?

A. I said, "I think, if they have such things as this, it should be outside of the city limits—not in our city, as this property, to disturb the children with, and their rest on Sundays."

Q. It ought to be outside the city limits, you said?

A. Yes, sir; I said that.

Q. Well, go on; didn't they talk any; didn't Mr. Currie or Mr. Demarest say anything while you were talking?

A. No, sir; they had very little to say to us.

Q. Very little to say to you?

A. Only, of course, when Mr. Currie was writing it; of course, he asked us after he had wrote.

Mr. Allan L. McDermott—We desire to object to all conversation that took place when none of the respondents was there; and we desire to object to any conversation that took place wherein Peter Bentley, Howard C. Griffiths, William Davis or Captain Haagenson was not present, as in anywise affecting them in this case, or either of them.

The Court—Affecting Mr. Seastream. Mr. Seastream is on trial here.

Mr. Allan L. McDermott—I understand the testimony is not relevant to the other——

The Court—I cannot—the objection is overruled, in short.

Q. Was there anything said, Mrs. Seastream, about having the game stopped in any way?

A. Well, Mr. Demarest said that, of course.

Q. He said——

A. Mr. Demarest said he was there, of course, come to know if we had any objections to it; and, of course, we told him yes.

Q. Then, what did he say about stopping it?

A. He asked us what we had to say about it; so, of course, we told him what objections we had to it.

Q. You have told that; what then, anything about a suit?

A. I don't remember anything about a suit.

Q. Eh?

A. I don't remember.

Q. Don't remember anything about suit?

A. No, sir.

Examination by Mr. Benny.

Q. Did anybody say anything about having games stopped?

The Court—Stopping them by law?

A. I don't remember.

Q. Well, after you had the conversation—after your husband had the conversation with Mr. Currie and Mr. Demarest—what did Mr. Currie and Mr. Demarest do?

A. After the paper was wrote?

The Court—No. After you and your husband had told Mr. Currie and Mr. Demarest what you have said—what you have stated about the baseball business—what was done?

A. Well, Mr. Currie wrote.

By the Court.

Q. Mr. Currie wrote?

A. Yes, sir; and Mr. Demarest went out; he told Mr. Currie he was going over to Mr. Cozine's.

By the Court.

Q. Going over to Mr. Cozine's?

A. Cozine's; yes, sir.

By the Court.

Q. And left Mr. Currie; what was Mr. Currie to do?

A. Mr. Currie was to write out our statement—what we was going to give him.

By the Court.

Q. Well, did he do it?

A. Yes.

Q. Where was Mr. Currie when he was writing?

A. He was at the dining-room table writing it.

Q. And where was your husband, and where were you?

A. We were by the table, also, in the dining-room.

Q. Did Mr. Currie wait until you had all the talk before he started to write, or how?

A. No; he commenced to write; and as he was writing we told him what objections we had to it, and he wrote in reference to that.

Q. Did he have the paper all completed before Mr. Demarest came back, or not?

A. Well, it wasn't quite completed, but it was very near; I can't exactly say what it was, but very little writing.

Q. When Mr. Demarest came back, then, was there anything more said or anything more done?

A. Yes, sir; there was just the finishing up—the finishing of the affidavit done, and then, of course, the signing.

By the Court.

Q. And what?

A. The signing.

Q. After it was completed—after the paper was all finished—what was done?

A. My husband asked if he thought it would make any difference to his employment—to his work.

Q. Ask who?

A. Well, he asked me, of course; there was Mr. Demarest and Mr. Currie, and another gentleman—I think it was Mr. Griswold—and he said—of course there was all three there; I can't be positive whether it was Mr. Demarest or Mr. Currie answered and said, "No, I don't think it would make any difference—your speaking the truth."

Q. Was that before the paper was signed or after?

A. I couldn't be positive whether it was before or after, but I know it was said.

By the Court.

Q. You are not quite sure whether it was before or after?

A. No, I am not quite sure.

Q. After Mr. Currie had finished writing on the paper, what was done?

The Court—Was the paper read over to your husband?

A. Yes, sir.

By the Court.

Q. Did you hear it?

A. Yes, sir.

Q. Who read it over?

A. Mr. Currie read it—yes, Mr. Currie read it.

Q. Mr. Currie read it?

A. Yes, sir.

Q. Then what did your husband do after he read the paper over—did your husband do anything to the paper?

A. My husband signed the paper—oh, yes, my husband signed the paper.

Q. And after he signed the paper, was there anything else done about the paper?

The Court—Did he swear to it?

A. Yes, sir; he swore to the paper.

The Court—That is what he is asking.

A. Yes, sir; he swore.

Q. What did he do to swear—what do you mean?

A. He held up his right hand and there was a few words.

Q. Few words?

A. Yes, sir.

Q. By whom?

A. I couldn't say whether Mr. Currie or Mr. Demarest; I didn't know the gentlemen at that time, but it was one of the gentlemen—one of those two.

Q. You knew which one was writing the paper?

A. Yes, sir; it was Mr. Currie writing the paper—the gentleman sitting down.

Q. Who was it said a few words when the hand was uplifted?

A. I couldn't say which one it was, but I know it was one of the gentlemen who said it; I couldn't recollect, because I had my baby in my arms; I didn't know, because I didn't look at the gentlemen.

By the Court.

Q. Did they coax your husband or you in any way?

A. No, sir; not at all.

By the Court.

Q. Did they tell you what they wanted you to swear to?

A. No, sir; we told them.

By the Court.

Q. No, no; but did they tell you, at any time, what they wanted you to swear to—ask you to swear to something?

A. No, sir.

By the Court.

Q. You told them first yourself?

A. Yes, sir; we told them ourselves.

By the Court.

Q. They didn't coax you—didn't sugest to you what they wanted you to swear to?

A. No, sir.

Examined by the Court.

Q. You know what I mean by the use of those words?

A. Yes, sir.

Q. Didn't do that?

A. No, sir.

Q. Urge your husband?

A. No, sir; not in any way whatever.

Q. Offer to pay him anything for swearing to it?

A. No, sir.

Examined by Mr. Benny.

Q. Was there anything said by any person about what was to be done with the paper when it was completed?

The Court—What they were going to do with it?

A. I don't remember, but I supposed it was going to be presented to the court.

Q. You supposed it was going to be presented to the court?

A. Of course, when they wrote it out; I don't remember anything was said about the paper—what they was going to do with it.

Q. Did they say what they were going to do with it?

The Court—Did either Mr. Currie or Mr. Demarest say to you, in so many words, what they were going to do with that paper—the affidavit your husband signed?

A. I don't remember anything said.

Q. Did they tell you why they wanted the paper—did they say anything about why they wanted the paper?

Mr. Allan L. McDermott—May it please the Court, we desire to have an objection recorded at this point to this kind of testimony—what occurred between Mr. Currie and somebody else and this witness—as in nowise relative to our clients.

The Court—There is nothing in the question at all. The question whether it affects these other parties is an entirely different question. The objection is to leading questions, I suppose?

Mr. Allan L. McDermott—It is as to both.

The Court—That is within the discretion of the Court.

Mr. Allan L. McDermott—I object to it as being irrelevant—as in nowise affecting any of the four defendants here.

The Court—Yes, I want to find out who is to blame for these contradictory affidavits—that is what I am after. If Mr. Currie or Mr. Demarest is, it isn't too late to reach them; if they are to blame, it isn't too late to reach them; if they procured Mr. Seastream—either of them—to make an affidavit by improper means, they are not going to run away; they are within reach of the Court, and this order to show cause was advised on the information then before the Court. When the information came—when that order was advised, according to the information

before the Court—there was no case upon which the Court could reasonably proceed against either Mr. Demarest or Mr. Currie. As I stated long ago in this case, if but for the exculpating affidavits made by Mr. Currie and Mr. Demarest, or Mr. Currie and Mr. Griswold, very likely Mr. Currie's name would have been in it. If I recollect aright, I dictated one order to show cause with Mr. Currie's name in—I am quite sure I did. I don't know that the counsel for the State, here for the public, saw it, but I have a distinct recollection of having dictated one order to show cause with Mr. Currie's name in; but after Mr. Currie's exculpating affidavit and Mr. Griswold's exculpating affidavit were read, or some time, and some affidavits come before me, I omitted his name—I did not think it was right.

Mr. Dixon—Then, if your Honor please, that reminds me—does your Honor desire to have Mr. Bentley explain why he did not put that in at that time?

The Court—Put what in?

Mr. Dixon—Put in affidavits in reference to the matter.

The Court—No; I don't recollect how it was. I only want to say that I did, at one time, advise an order to show cause, which has not been signed or anything—draft of one—with Mr. Currie's name inserted in it, but just when or under what circumstances I do not know; but I concluded there was not any *prima facie* case against him, and I had no right to advise the Chancellor to institute any proceedings against him—but it is not too late now, and I want to find out the truth.

Mr. Allan L. McDermott—We want to join the Court in that.

The Court—Well, it is one o'clock, now, and we will take a recess, gentlemen.

Recess.

Examination by the Court.

Q. Did Mr. Demarest or Mr. Currie ever come to see you again?

A. No, sir.

Q. Or anybody come to see you about it—about what your husband had sworn to?

A. No, sir.

Q. Did you see Mr.—this gentleman that was here this morning—Mr. Griffiths?

A. Yes, sir.

Q. The other gentleman—Mr. Haagenson—was he down there?

A. Yes, sir, he was there; it was either the 19th or the 20th.

Q. How many times was Mr. Haagenson down there?

A. Once.

Q. What did he want?

A. He came and asked my husband if Mr. Demarest or any of the party had been to see him; and he said no; and he said, "Well, for God's sake, Seastream, don't go back on us now, or we shall all of us get sent to jail."

Q. Haagenson said that?

A. Yes, sir.

Q. What else did he say, if you recollect now?

A. Then he spoke to me about the children.

Q. What?

A. He spoke of the children—my little babies that I had there; that was all; he spoke of the babies that I had there, and asked my husband if he would go to Arlington Hotel.

By Mr. Benny.

Q. Where is that?

A. On the Boulevard.

Q. On where?

A. On the Boulevard.

Q. Close by?

A. Yes, sir.

Q. Well, did your husband go with him?

A. Yes, sir.

Q. Was anything said, at any time, by anybody about your husband losing his place as ashman?

A. No, sir.

Q. By Mr. Haagenson, or anybody?

A. No, sir.

Q. You didn't hear what was said between your husband and Mr. Haagenson when he said to the hotel?

A. No, sir.

Q. Did Mr. Griffiths come there?

A. Yes, sir; Mr. Griffiths was there; the first time he was there, it was either the 13th or the 14th of May, I think; it was 13th or 14th of May—somewhere near that date it was.

Q. What makes you think it was 13th or 14th of May?

A. I was trying to remember which date it was, but I can't remember now, at the time; I didn't remember the dates at that time, but on the 26th, when my husband came home and told me what Mr. Griffiths had said to him, then I tried to recall to my mind at what date he was down at the house.

Q. Oh, yes.

A. That is why I wasn't sure what date it was.

Q. Did your husband tell you that he had made another affidavit?

A. Yes, sir.

Q. Well, how long was it after your husband told you he had made another affidavit that Mr. Griffiths was down there?

A. My husband told me on the 12th—on the 12th of May.

Q. How long after that do you think it was that Mr. Griffiths was down there?

A. I think it was two nights after that he was there.

Q. What did he want there?

A. He came and he said, "Now," he said, "Mr. Seastream, we have come to the agreement to settle this outside of court, and those that gets the most votes is going to be the winners, but," he says, "if you will sign this," he said, "it is all right; I have Mr. Alexander's and Dr. Ware's," and a few others he mentioned that

I can't recall to mind now; and he said, "If you will sign here," and got my husband pen and ink.

Q. He had a paper?

A. Yes, sir; he had a paper and laid it on the dining-room table.

Q. And your husband signed it?

A. Yes, sir.

Q. Anything else said that night that you recollect now?

A. I don't think—I don't recollect anything else that was said; he was only there just a few minutes.

Q. Anything said about the second affidavit your husband had made?

A. No, sir.

Q. But you knew he had made it at that time?

A. I knew that he had made it on the 12th—yes, sir.

Q. Did you know what was in your husband's affidavit that he made on the 12th?

A. No, sir, I did not.

Q. He only told you he had made one, eh?

A. He told me he had made one, but he said he didn't know what was read to him; I asked him.

Q. Never mind; now, then, when next was Mr. Griffiths down there?

A. He was there on June 1st.

Q. June the 1st?

A. Yes, sir.

Q. Now, just tell us what occurred then, and tell it slowly—tell it all?

A. Mr. Griffiths called June 1st; he rung the bell, and I went to the door to him, as my husband had the baby; when I went to the door, he asked if my husband was home; I said yes, and I asked him in, and he went through to the dining-room; he says, "How do you do, Mr. Seastream?" he said, and he asked me a few questions concerning the baby, and which was the sick one; of course I answered him; and he said, "Now, Mrs. Seastream," he said, "I want you to go to court and say that

you did not see Mr. Currie; you did not hear what passed between Mr. Currie and your husband; and you did not see him sign any paper; and that you thought what he was doing was in favor of the ball games; and that—" but I interrupted him, because I was so disgusted; I said, "No, if I have to go to court, I will go, and I will speak the truth; I have always been brought up to be truthful, and I will do so now."

Q. Well, what did he say then?

A. Well, he says, "You wasn't paying any attention to it; you could have been walking out in the other room and paying no attention;" "I could have been walking out in the other room, and could have been paying attention; I heard it myself."

Q. Did you say that?

A. Yes, sir.

Q. What did he say, then?

A. He said, "Well, Mrs. Seastream," he said, "you should not tell everyone that come here your business;" "I don't tell no one my business only where I want to do so."

Q. That is what you answered?

A. Yes, sir.

Q. You stated in such a way that I couldn't tell where what he said ended and what you said commenced; so be kind enough to say—to separate your sentences—what he said ends, then say what "I" said—do you understand me?

A. Yes, sir.

Q. Now, go on?

A. Shall I repeat the same?

Q. No; go on and tell anything further that he said—that you said?

A. "Well, Mrs. Seastream, won't you say that you don't remember it?"

Q. Yes; what did you say?

A. "No, sir; because I do remember what was done—what was said and what was done."

Q. What did he say, then?

A. He said, "If you don't want to tell any untruths, won't you say you don't wish to talk about it—you don't wish to discuss the matter?"

Q. What did you say, then?

A. "If I have to go, I shall speak the truth; when questions are asked me, I shall answer them truthful and straightforward;" "You don't need to be scared——"

Q. What is that?

A. "You don't need to be scared; Mr. Robert Davis is the ruler;" "I can'thelp it; I shall speak the truth."

Q. Who said, "I can't help it?"

A. I said to Mr. Griffiths; Mr. Griffiths said, "You don't need to be scared, Mr. Robert Davis is the ruler;" I said, "I can't help it; I shall speak the truth."

Q. Do you recollect anything else?

A. He said, "Well, for God's sake, if you don't take our part don't go and take the other parties' parts;" "I can't help it," I said, "I shall tell the truth."

Q. Anything else you recollect?

A. "Won't you say," he said, "that you don't remember, which will save us all from going to jail;" I said, "I shall speak the truth if I have to go."

Q. Anything said about "disbar?"

A. No, sir.

Q. Eh?

A. No, sir; he said, "Well, Mrs. Seastream, will you go away for a few days, and I will pay all expenses?"

Q. What did you say to that?

A. I said, "No, it is not convenient for me to go, and, in fact, I have nothing to go for, for I have done nothing."

Q. See if you recollect anything else?

A. "Well, Mrs. Seastream"—I said, "Well, Mr. Griffiths, I think it is a shame for you to come here," I said, "for my husband and I have worked so hard for our little home, and you come here to spoil my home and happiness," I said, "and wanted my husband and I to go and

swear to a lot of untruths;" I said, "You have made me so unhappy and so miserable the last few days that I scarcely know where I am;" he says, "I am sorry; I will try and not have you to appear at court."

Q. Anything else?

A. "Well," I said, "Mr. Griffiths, what do you think my husband is going to say;" "Oh, never mind about your husband; what he is going to say; that is all right; I know what he is going to say; you haven't to worry about him."

Q. Well, try and recollect anything else that he said?

A. Then he took his hat and was going through the hall; and as he was going through the hall he turned to my husband—my husband went to the hall with him—"Now, Mr. Seastream," he said, "can you tell me where Mr. Brown lives;" my husband said, "On Fiftieth street;" he said, "Do you know if he is working;" "I think he is working this afternoon;" he said, "Well, I must see him and the little boy, to tell him what to say;" and he says, "Where is he working?" "Out at College Point;" "That is so," he said.

Q. Who was it said over to College Point; you or he?

A. Mr. Griffiths said, "Where is he working; over to College Point? that is so;" I suppose he just remembered.

Q. He said he must see him, eh?

A. He said he must see him and the little boy, to tell him what to say?

Q. Well, anything else that you heard?

A. I don't remember there was anything else.

The Court—You can examine her.

Examined by Mr. Benny.

Q. Was there anything said by anybody, in your presence, about your husband going to Judge Blair?

A. No, sir.

Q. Was there not some person at the house asking him to go to Judge Blair's?

A. No, sir.

Q. Did any person request you to go to Judge Blair's?

A. No, sir.

Q. Did you slam the door in Mr. Griffiths' face, on any occasion.

The Court—Oh, that is a mere figurehead expression; don't ask her that question. She shut the door after he went out, I suppose.

A. My husband did; I didn't go to the door with him.

By the Court.

Q. Then you did not go to the door with your husband?

A. No, sir; I went just inside of the hall door to the dining-room; my husband went to the door with him, and closed the door behind him.

Q. Has Mr. Currie been to your house at all since the first affidavit was signed by your husband?

A. No, sir.

The Court—I have asked her the question; you didn't hear it, I suppose. No objection to your asking it.

Mr. Benny—I heard the question.

Q. Has Mr. Currie been to see you at any place since then?

A. No, sir; I have never seen Mr. Currie since until last Tuesday.

Q. Has Mr. Griswold been there to see you about this case?

A. No, sir.

Q. In any way, since?

A. No, sir.

Q. Has any person been to see you about the case except those that you have already named in the answers to the Vice Chancellor's questions?

A. No, sir.

Q. Mr. Roberson—you know Mr. Roberson—the lawyer—Mr. Demarest's partner—do you know him?

A. Roberson? no, sir; no, sir; I don't know the gentleman; I have never seen him—I never heard his name, in fact.

Q. Has any person come to see you, saying they were from Mr. Demarest's office, about the case since the first affidavit was taken?

A. No, sir.

Mr. Benny—Your Honor brought out the question I had in mind.

The Court—Yes, I asked her; I want to find out. There isn't the least particle of evidence in the case so far, but I want to satisfy myself on that subject.

A. There was a gentleman called on the 26th, but he did not tell me who he was from; he only asked if my husband was home, and I told him no; and he asked me what time my husband would be home, and I told him I couldn't tell him, because my husband comes home all times; and he said, did I know some near time he would be home; I told him no; I couldn't tell him; it was impossible; I never knew from twelve o'clock until four; I asked him if he would call again; he said yes; he said I should tell my husband he was coming; he said, "I may call this evening;" the gentleman did give me his name, but I don't remember the name at the time.

Q. How did you learn that you were wanted at Judge Blair's court or office?

The Court—How come you to go to Judge Blair's—you and your husband?

A. Mr. Holman came.

By the Court.

Q. Your husband's lawyer?

A. Yes; and said Judge Blair wanted to see me; that was—he came—Judge Blair wanted to see me on Monday, June 6th.

By the Court.

Q. It was before that you were up there; it was on the 3d you were there—Friday?

A. No, sir; I was June 6th to Judge Blair's.

The Court—Yes. Let me see.

Mr. Benny—June 14th the affidavit was taken.

By the Court.

Q. Didn't you first go before Judge Blair—at the same time your husband did?

A. No, sir.

The Court—I guess she did not; no.

Mr. Benny—Mr. Seastream was there on June 3d.

The Court—Just what the date of her being there is not stated here, but it was said by Judge Blair that she came subsequent—on Monday, the 6th.

A. Yes, sir.

Q. Before Mr. Holman told you that Judge Blair wanted you to go to him had you heard anything about Judge Blair wanting you?

A. No, sir.

Q. And where did Mr. Holman tell you that?

A. He came to the house.

Q. Was your husband there when he came?

A. Yes, sir.

Q. And did he tell your husband anything?

A. No, sir.

Q. Did he say who Judge Blair wanted to see?

A. He said Judge Blair wanted to see me.

Q. You?

A. Yes, sir.

By the Court.

Q. When your husband went—how come your husband to go the week before—do you know how your husband come to go before Judge Blair?

A. Well, on the 26th of May, when he came home from work, he was telling me Captain Haagenson—of course, I didn't know him at that time—and he said how he had taken him—he said he had come to him on the ferry, and he said, asked him to go to—no, I can't answer how it was.

The Court—No. You have got things mixed, I guess. Let me see if I cannot disentangle you.

A. Captain Haagenson came to him; that was on the 12th of May; on the 26th of May Captain Haagenson went to him and told him that there was a man wanted

to see him, he said; but Mr. Seastream says he wouldn't go; he says, "You better come with me."

The Court—Never mind that, but how did you find out your husband was going to Judge Blair? Did you know he was going before he went?

A. Yes, sir; he asked Mr. Holman.

By the Court.

Q. What?

A. He asked Mr. Holman; of course, then he thought there was something, and Mr. Holman told him he had better see Judge Blair.

By the Court.

Q. Oh, yes, I see; he went to Mr. Holman's office?

A. Yes, sir.

By the Court.

Q. Your husband?

A. Yes, sir; on the 3rd, I think it was, he went to Judge Blair.

Q. What did he go to Mr. Holman's for?

A. He thought there was something wrong when he got him there and took him away, when this gentleman wanted to see him; and wouldn't let him see the gentleman; and then they took him to his office, and he came home; and he was telling me all they was going to say—what each one was to say—and he knew there was something, then, that was not right.

Q. And did your husband know, when he went to Mr. Holman's office, that Judge Blair wanted to see him?

[Objected to.]

The Court—As far as you know?

A. No, sir; not as far as I know, he didn't know.

Q. Do you know how your husband learned that Judge Blair wanted to see him?

A. I don't know.

Q. Do you remember your husband going to Judge Blair's court or office?

A. Yes, sir; I remember my husband—he says to me, on the 3d—3d of June——

By the Court.

Q. On Friday?

A. Yes, sir; on Friday morning.

Q. But you didn't go with him at that time?

A. No, sir.

Mr. Benny—I don't see, your Honor, that the presence of Mr. Brown and some others at the house of Mr. Seastream during the games has much, if anything, to do with these proceedings.

The Court—You must take your own course about that.

Mr. Benny—I will ask the question. It may be objected to.

Mr. Allan L. McDermott—We don't object to it.

The Court—What do you say?

Mr. Allan L. McDermott—We don't object to it.

The Court—You can ask him anything you choose about it.

Q. Do you know under what circumstances Mr. Brown and Miss Fitzpatrick, and some others that were not named, attended your house during the games that were played in the baseball ground on the two Sundays?

A. Well, Mr. Brown and the little boy came the first Sunday; I don't know if they come with my husband's invitation or not; I don't know; I had never invited them there; and they came, and the other two gentlemen —Mr. Unger and Mr. Rollenburg—they came; and they said they would like to see the arrest, if we had no objection for them to go up and see it; they didn't say they had any interest in the game, but they would just like to see.

Q. See what?

A. The arrest; it was in the paper there was going to be an arrest, and they said they would like to see it, and they went upstairs.

Q. What was in the paper—what arrest was it to be?

The Court—That there was going to be an arrest; that is enough.

A. Something that was in the paper; of course, I didn't see the papers that time; it was just what they said when I opened the door to them; I opened the door, and they said if I had no objections they would like to see the arrest; the young lady that called—of course, I had no idea she was coming until she came—she asked me if she could go up to see the grounds.

By the Court.

Q. That was Mrs. Fitzpatrick?

A. That was Miss Unger; she went upstairs; she was there just a few minutes, and the other gentleman came; so a friend of ours who was in New York, he came there to see us Sunday afternoon; I told him my husband was upstairs; he went upstairs; my husband was there a few minutes; he had no interest in the game; he come downstairs; he was talking to me; of course, my husband came down with him; he was up and down; he had no interest in it; the second Sunday, I didn't know anyone was coming until Mr. Brown and his sister come; I never met her before; never knew her, never seen her; when they came we were going out; we intended to go out that Sunday afternoon; after that game we went; I was getting my children ready to go when they come; they didn't come with any invitation at all, of ours; I didn't know they were coming.

Cross-examination.

By Mr. Allan L. McDermott.

Q. Mr. Brown is a friend and companion of your husband?

A. Mr. Brown—because they had worked together.

Q. How far from your house did they live?

A. He lives on Fiftieth street, near Avenue C, and we live on Avenue D, near Forty-ninth street.

Q. Now, the first time that you knew about going to court was when—what is the name of your counsel—Mr. Holman told you about it, was it?

A. Yes, sir; when he said we were to go to Judge Blair—yes, sir.

Q. That was the first time anybody had spoken to you about going to court at all?

The Court—About whose going to court?

Q. About your going to court—was Mr. Holman the first one that spoke to you about your going to court?

A. Yes, sir; he wanted me to go; yes, Mr. Griffiths wanted me to go to court.

Q. Who wanted you to go?

A. Mr. Griffiths came and said he wanted me to go to court; but he said he wanted me to say I hadn't heard what passed between Mr. Currie, and I hadn't seen him sign any paper; and I told him no; if I had to go to court, I would speak the truth.

Q. What court did he say he wanted you to go to?

A. He didn't say any court; he said he wanted me to go to court; he didn't mention any court.

Q. Did he mention that he told your husband that he wanted him to go to court?

A. No, sir.

The Court—There is nothing in this witness' manner which justifies so loud and boisterous a mode of putting questions. It is a defect I had at the bar, as well as you, but I must ask you to be quiet and mild to her. There is nothing in her manner that justifies.

Mr. Allan L. McDermott—I did not think my voice was so very loud.

The Court—It was very forcible; I don't suppose you meant it. I shall ask you——

Mr. Allan L. McDermott—I shall do anything the Court suggests. I have practiced law for thirty years, and for the first time in my life I am trying to pursue suggestions of the Court, never having had any made to me before.

Q. Did Mr. Griffiths say anything to your husband about his going to court?

A. No, sir.

Q. What court did he say he wanted you to go to?

A. He didn't mention any court at all; he didn't men-

tion the name of any court; he only said he wanted me to go to court; he didn't mention any name.

Q. Didn't you ask him what court?

A. No, sir.

Q. Did you ask your husband whether he was going to court?

A. No, sir.

Q. Eh?

A. No, sir.

Q. Did you never ask him, after Mr. Griffiths left, whether he was going to court?

A. Yes, sir; I asked him, and he said he would go to court and he would speak the truth.

Q. Your husband?

A. Yes, sir.

Q. Now, how long after Mr. Griffiths left was that?

A. Well, of course, we had a conversation about it different times after.

Q. Didn't your husband agree to go to Mr. Griffiths' office, and go from there to the court?

A. No, sir.

Q. You did not understand that to be so?

A. No, sir.

A. I didn't hear it at all.

Q. Didn't Mr. Griffiths ask him to go to the office?

A. I didn't hear it.

Q. When did you first learn about the second affidavit?

The Court—Affidavit of May 12th.

A. On May 12th my husband came home and told me.

Q. What time of day was it?

A. Well, during forenoon; I couldn't say exactly what time it was.

Q. After three o'clock?

A. It may be a little after three—between three and four; I couldn't exactly say the time, because I didn't notice the time.

Q. Was there anything unusual in his appearance, or did he come that day the same as he does every other day?

A. No, he didn't come the same.

Q. What way did he generally come?

A. When he came home, the first thing I could smell that he had something to drink; and I asked him where he had been, and he told me he had been to Mr. Davis' office; I said, "Mr. Davis—who is Mr. Davis?"

By the Court.

Q. What is that?

A. I asked him who was Mr. Davis; he said Mr. Davis' office; he said that gentleman that owned the base-ball ground; I said, "What did you go there for?" and he told me that Captain Haagenson had been to him, and he told him that he had to go or he wouldn't be working where he is to-morrow.

By the Court.

Q. Wouldn't be what?

A. Wouldn't be working where he is to-morrow.

By the Court.

Q. Oh, yes.

A. He said, "You know," he said, "where you earn your bread and butter, and you had better go."

By the Court.

Q. That is what your husband told you?

A. Yes, sir; and he told me that he had come down to the ashpit to him and gone right from Jersey City to Brooklyn, and begging him all the time while he was going over to go to Mr. Davis' office with him; and he told him, he said, "Mr. Haagenson, what have you here to do with me? I am on duty now."

Q. Now, did he tell you what he did at Mr. Davis' office?

A. He told me that he had signed another paper in favor of the baseball ground.

Q. He told you he had signed another in favor of the baseball grounds?

A. Yes, sir.

Q. What did he call the paper?

A. An affidavit.

Q. An affidavit?

A. Yes, sir.

Q. Did he say anything further about it?

A. No, sir.

Q. Did he tell you what was in the affidavit?

A. No; I asked him; he said he didn't know; and I said to him—he told me—I said, "Don't you know what was in it?" and he said, "No;" I said, "Didn't they read it to you?" he said, "No;" he said, "I asked him what about the other that I had signed?" and he said they said, "That would be all right; they said there was nothing in the other; they said the last one that you signed is the one that they take notice of."

By the Court.

Q. Who told him that?

A. Mr. Griffiths or Mr. Davis; some of the party that was there.

Q. But he told you it was an affidavit in favor of the baseball ground?

A. Yes, sir.

Q. Did you see Captain Brown afterwards?

A. Mr. Brown?

Q. Mr. Brown?

A. Yes, sir; he was to our house on the 27th of May.

Q. Did your husband invite him there?

A. My husband called to his house and he wasn't home; he wasn't come home from his work; so my husband left word for him to come to the house.

Q. Do you know why your husband called at his house?

A. Yes, sir.

Q. Why?

A. Because on the 26th—it was the 26th of May—26th of May, when my husband——

By the Court.

Q. Called on Mr. Brown?

A. Called on Mr. Brown; it was the 26th; I think it was the same day he told me he called to tell him that Mr. Griffiths wanted to see him.

By the Court.

Q. Wanted to see Mr.——

A. Mr. Griffiths wanted to see Mr. Brown, so my husband—of course, he had this schooling to see what he should say—and wanted to see Mr. Brown.

Mr. Allan L. McDermott—I ask that be stricken out.

The Court—She is answering your question. Go on.

Mr. Allan L. McDermott—I ask that it be stricken out.

The Court—No, it won't be stricken out.

Mr. Allan L. McDermott—We object to it.

A. He told my husband what he was to say when he come to court, and he wanted to see Mr. Brown to tell him what to say; my husband being acquainted with Mr. Brown, he thought he would tell him how he had deceived him and what he wanted to say, and he was going to tell Mr. Brown this in case they should see him—just to post him a little.

Q. You heard Mr. Brown's testimony here in court; did you hear Mr. Brown's testimony in court; did you hear what Mr. Brown swore to?

The Court—You needn't answer the question.

[Objected to.]

A. He told Mr. Brown one thing—Mr. Griffiths wants you to say that it was an orderly crowd; "Well," he says, "if I have to go," he said, "I will tell you that it was the worst crowd I have seen in years, and the language used in those trees from the boys, outside of anyone else, is disgraceful."

By the Court.

Q. Who said that?

A. Mr. Brown said it; that was the day he come to my house.

The Court—That is of no consequence whatever.

Q. Did your husband sign a paper brought there by Mr. Griffiths?

The Court—She has already stated he did.

A. Yes, sir.

Q. What did you understand, from the conversation, he was signing at that time?

A. It was an agreement to settle the baseball games out of court, and this was a paper which got the most votes was going to be the winners.

Q. Which way was your husband to sign?

A. That was the paper, of course, in favor of it.

Q. In favor of it?

A. Yes, sir.

Q. You knew he was going to sign that?

A. I knew he was going to sign that.

Q. Did you get the pen and ink for him to sign?

A. No, my husband got the pen and ink himself, for I had the baby in my arms at the time.

Q. You stood there and saw him sign it yourself?

A. I stood there and saw him sign it.

Q. You didn't say anything?

A. No, sir.

Q. Made no objection?

A. No, sir; there was nothing said to me.

Q. How long after he told you about signing the second affidavit did he sign this paper which you speak of in the house?

A. I think that was the second day after.

Q. Second day after?

A. Yes, sir.

Q. Is that your memory of it?

The Court—She stated that very clearly to me. I asked her two or three times over. You can go over it again.

Mr. Allan L. McDermott—I don't want to go over it again.

Q. And, of course, I can't be sure to the date, because I was not thinking of the date at that time; but it was shortly after, I know—two or three days after.

By the Court.

Q. Two or three days after the second affidavit was made, and you understood then that the matter was settled in favor of the baseball people?

A. I understood it was going to be settled outside of the court.

Q. But in favor of the baseball people, and in favor of those Mr. Griffiths represented?

A. Yes, sir.

By the Court.

Q. Your husband had already told you that they threatened him with losing his place?

A. Yes, sir.

By the Court.

Q. If he went on with that suit?

A. Yes, sir; he threatened him he would lose his place if he didn't change and sign.

By the Court.

Q. Change sides?

A. Yes, sir; and then this paper—of course, they said that was going to settle it outside of the court.

By the Court.

Q. I understand?

A. And this was another paper; he had to sign that.

Q. One June 1st, when Mr. Griffiths left your house, did you see Mr. Elliott sitting on the doorstep there?

A. No, sir.

Q. You saw Mr. Elliott in court; do you know him—stout man?

The Court—Stout man that was in court here?

A. Yes, sir; I saw him when they was building the baseball ground, but I haven't seen him since until to-day.

By the Court.

Q. Now, the gentleman asks you whether that day that Mr. Griffiths called there—on the 1st of June—you saw Mr. Elliott at the house there?

A. No, sir.

Q. Did you go to the door—I believe you said that you didn't go to the door?

A. Yes, sir; I went to the door myself.

The Court—And she said let her husband in.

Q. When he went out, where were you—when Mr. Griffiths left?

A. I was in the hall.

Q. And your husband was in the hall?

A. Yes, sir; my husband opened the door to him.

Q. How far were you from the door?

A. Well, it is a short hall, and I was between the front door and dining-room door in the hall.

Q. Did your husband tell you where he signed the second affidavit—in whose office?

A. On May 12th; he signed it in Mr. Davis' office.

Q. Did he tell you who were there?

A. Well, he spoke of Mr. Davis and Captain Haagenson and Mr. Griffiths.

Q. Did he tell you who took the affidavit—who swore him?

A. He didn't say anything about swearing.

Q. Well, did he tell you who drew the paper?

A. He said Mr. Griffiths.

Q. Why did you use the word "affidavit"—did he use it?

A. Yes, sir; he used it.

Q. Your husband used it?

The Court—Did he say "affidavit," or how did he speak of the paper?

A. He said he signed a paper.

Q. Now, you have testified the word "affidavit" several times?

The Court—I introduced that word to her myself, in the very first place, in asking her questions about the second affidavit.

Q. Did he say he had signed an affidavit at Mr. Davis' office?

A. He said he had signed a paper at Mr. Davis' office.

Q. Did he say that he didn't know what was in it?

A. Yes, sir.

Q. Did you ask him if anybody had read it to him?

A. I asked him if anybody had read the paper; he said no; he didn't know what was in the paper.

Q. You asked him if he had read it, did you?

A. Yes, sir.

Q. Did you ask him if anybody had read it to him?

A. Yes, sir; he said no one had read any paper to him; he didn't know what was in it.

Q. He didn't know what was in it?

A. No.

Q. Now, did you have any conversation with him between that time and the time that Mr. Griffiths came with the paper to be signed, and the affidavit taken in Mr. Davis' office?

The Court—Two or three days elapsed, you said—two or three days afterwards they came and got him to sign a paper in the house there. Now, between the time that he came home—when you thought he had been drinking a little, and told you he had been to Davis' office, and signed a paper—and the time that Mr. Griffiths, or whoever it was, came there two or three days afterward and got him to sign another paper, had you talked it over between your husband?

A. Yes, sir; I said I would like to know what was in the paper; and he said, well, he didn't know; and he said—well, he said, "The other paper, they told me," he said, "that the other paper I had signed is no good; it was the one that I last signed is the one that they would go by;" and I said, "Well, I would like to see Mr. Davis about that;" so he called to Mr. Davis' office and said I would like to see him; he didn't say what for, because he was only there a few minutes.

Q. Did you call at Mr. Davis' office?

A. No; my husband.

The Court—Told you he did?

A. My husband told me when he came home that he had called.

By the Court.

Q. About a day or two afterwards?

A. Yes, sir.

The Court—That is what Mr. Robert Davis swears to.

Q. Your husband is not a teetotaler, is he, on temperance?

A. He isn't temperance; he very seldom takes it.

Q. He keeps liquor in the house to drink?

A. No, sir.

Q. None in the cellar?

A. Well, keep a little in the house if anyone should come; but he don't use it, only if great friends should be there and something like that.

Q. To what extent does he keep liquor in the cellar; how many bottles of liquor in the cellar now?

A. I can't say what we have, because we only have one at a time.

Q. What is it, whiskey?

A. Yes, sir.

By the Court.

Q. You don't keep liquor in the cellar?

A. No, sir.

The Court—Counsel put it in your mouth. I think you didn't mean to say that.

Q. Where do you keep the liquor in the house?

The Court—Where do you keep this bottle of whiskey?

A. The whiskey?

Q. Yes?

A. We keep that in the dining-room.

Q. That is all the liquor there is in the house—just the bottle of whiskey?

A. Yes, sir.

Q. Does your husband drink often?

A. No, sir.

Q. How often?

A. Well, it may be months before he would take anything.

By the Court.

Q. Doesn't drink every day?

A. Oh, no, sir.

Q. Well, how often?

A. Maybe several weeks; maybe several months; sometimes between—because he don't do it unless we have very great friend there.

Q. I am not talking about you; I am talking about your husband?

A. My husband don't unless he has very great friend there; otherwise he never touches it.

By the Court.

Q. You are not in favor of drinking yourself, I suppose?

A. No, sir; I never take anything whatever.

By the Court.

Q. You don't want your husband to—you prefer your husband should not?

A. No, sir; I haven't said anything to him, because he takes it so little; I haven't any objections, when there is a great friend there, to take a little with him; otherwise he never takes it; he isn't in the habit of going around to take——

By the Court.

Q. That is what I want to get at—does he go around nights in beer saloons?

A. No, sir; I have never known him to go to beer saloons since we have been married.

Mr. Allan L. McDermott—Evidently not riotous in his dissipation.

Edward S. Holman, sworn.

Direct examination.

By Mr. Benny.

Q. You are a member of the bar of this State?

A. I am, sir.

Q. And you have an office, where?

A. 919 Avenue D, Bayonne.

Q. Are you acquainted with Mr. August Seastream?

A. I am, sir.

Q. Has he had any conference with you on the subject of the baseball game near his residence recently?

A. He has.

By the Court.

Q. Before that, did you consider him your client, or did he have no business?

A. I had done business for Mr. Seastream from time to time; loaned him some money to build his house and sold him the property he had; any little thing Mr. Seastream wanted, I generally acted for him.

By the Court.

Q. And also as a personal friend?

A. Well, in a measure, yes; Mr. Seastream was a neighbor there.

By the Court.

Q. Did you have any interest in this baseball property?

A. Did I have any?

Q. Did you take any in it?

A. I haven't taken any side in it; I am a property owner in the vicinity.

Q. What I want to get at, whether you took any side and aided either side?

A. Not at all; I was requested to join—a request.

Q. You were requested to join in the bill and declined?

A. Yes, sir.

Q. Have you any interest, directly or indirectly, as counsel in this suit—have you taken any interest?

A. I haven't taken any interest, only as I might be affected by having owned real estate in the vicinity; that is all.

Q. Not employed by anybody?

A. Not employed by anybody.

Q. Consulted by either side as a lawyer?

A. No one, except Mr. Seastream.

Q. When did Mr. Seastream consult you about it?

A. Well, it depends on what you call consulting.

By the Court.

Q. Speak to you about it; it matters not.

A. Well, I went by his house one Sunday morning—about the time they were grading the grounds and before the fence was completed.

By the Court.

Q. Never mind that; but later on.

A. Well, later on—after Mr. Seastream came to see me, and stated that he had gotten into some trouble over this thing, and before that Mr. Vickers, the assistant prosecutor, had telephoned me that Judge Blair was looking for Mr. Seastream; and he understood Mr. Seastream was my client; and I told him he was; and he said that unless Mr. Seastream came before Judge Blair that Judge Blair would issue a warrant for his arrest and compel him to come; I told Mr. Vickers there was no necessity for that; I thought that Mr. Seastream, from what he had said to me, was disposed to tell the truth on the baseball question; and that I would undertake to produce Mr. Seastream.

By the Court.

Q. Before that, had you had any talk—few days before that—with Seastream?

A. Yes, sir; a few days before that.

By the Court.

Q. Did you hear of his having made affidavits?

A. Oh, yes; I knew that.

By the Court.

Q. Did you hear of his having made contradictory affidavits?

A. Yes, sir; I knew that.

By the Court.

Q. Did he come to see you?

A. He came to see me and told me he had gotten into this trouble.

By the Court.

Q. What do you mean, trouble—making two affidavits?

A. Yes, sir; the first time Mr. Seastream came to me he told me of being at Mr. Griffiths' office in the afternoon; and he related the tale to me which has been related to me several times as the story that was made up, and they requested him to tell; and he refused to tell it;

and left that night Mr. Griffiths' office and said he would have nothing further to do with it; then he came to me.

By the Court.

Q. He told you that story, did he?

A. He told me that story; I advised him the only thing to do was to go up to Judge Blair and tell him the truth, which he did the following morning with me.

By the Court.

Q. You went with him?

A. Not with him, no; I asked him if he knew where the court house was; he said yes; he went to the court house; I met him at the court house—in the corridor—after he arrived.

By the Court.

Q. And you stayed by him while he was being examined?

A. I sat in the room while the Judge was examining him.

The Court—Now, I went as far as the rules of evidence will allow in the case. I have no doubt myself about the matter, but I have no objections to this gentleman telling what he observed about the examination by Judge Blair—whether it was taken fairly and with an endeavor to get at the exact truth or not. If anybody wants to ask him the question, they may. I don't think I want to put the question myself, the way I feel now.

Mr. Benny—That is all I want to ask him. I have no other questions to ask him.

The Court—Do you want to ask him (addressing Mr. Frank P. McDermott)?

Mr. Frank P. McDermott—If the gentleman will cross-examine him first.

Examined by the Court.

Q. I will ask you this—do you know of any influence brought to bear on him before he went to Judge Blair's court by anybody to state anything but the simple truth?

A. I can't say that I do, sir.

Q. What was your advice to him?

A. My advice was to go to Judge Blair and tell the truth.

Q. Tell the exact truth?

A. Yes, sir; the exact truth; he said to me that he had been misled; and he had signed the paper and he didn't know the contents of the paper, and I, of course, concluded that he had been misled, and advised him to go.

Q. You mean in the second affidavit?

A. In the second affidavit.

Q. You heard the examination—you heard the whole of it before Judge Blair?

A. Yes, sir.

Q. I will ask you this question—what pains, if any, were taken to get the exact truth from him?

A. Well, Judge Blair allowed Mr. Seastream to make his statement in his own language, as far as the stenographer could understand; when it came to a point where the stenographer could not understand Mr. Seastream, either Judge Blair or myself made it plain, or asked Mr. Seastream some question that would bring out the facts as he understood them; as I understood them from his statement previously made to me.

Q. What was the result, as far as you saw, as to the accuracy of the affidavit?

A. It seemed to be perfectly straight.

Q. You had no interest in it, except to protect Mr. Seastream?

A. None whatever; only friendliness for Mr. Seastream.

Mr. Allan L. McDermott—The witness is called for the State. Did you finish?

Mr. Frank P. McDermott—The witness is called by Mr. Benny.

Mr. Allan L. McDermott—What is the ruling of the Court? The counsel for the State should finish with this witness, otherwise he will have two—direct and cross-examination.

The Court—There is no rule about that.

Mr. Frank P. McDermott—Mr. Benny called the witness.

The Court—Mr. Benny called the witness at my suggestion. The gentleman has been waiting here and I really myself wanted to hear it, and I suggested to Mr. Benny, or the counsel for the State—either one—that it would be a good time to put Mr. Holman on, because he has been here before; I sympathize with him.

Mr. Frank P. McDermott—I don't know as I have any question to ask at all.

Mr. Benny—I would like to ask one question.

The Court—Certainly.

By Mr. Benny.

Q. Did the statement that Mr. Seastream made before Judge Blair correspond with what he had told you before he went there?

A. Exactly.

Mr. Allan L. McDermott—I understand you have no more questions?

Mr. Benny—No more.

Cross-examination.

By Mr. Allan L. McDermott.

Q. You had no interest in the baseball game there at all?

A. I had no interest outside of what I have stated to the court—that I am a property owner in Bayonne.

Q. Weren't you antagonistic to it—weren't you against having baseball?

A. Most assuredly.

Q. Didn't you call at Mr. Griffiths' office and say you intended to apply to the courts for an injunction?

A. I did call at Mr. Griffiths' office; I happened to be in the building in which he has his office to see Mr. David Edwards; and coming out of the hall, Mr. Edwards called his attention to the fact that I was from Bayonne, and was one of the kickers against baseball; Mr. Griffiths

invited me in his office, and I went in, and he endeavored to show me where baseball was going to advance the property in the neighborhood; of course, I remarked against that, and told him while I intended to take no measures one side or the other—against or in favor—I thought I understood the people in the neighborhood well enough to know that someone would object, and I thought he was foolish to go to the expense he had gone to there without first finding out; he then informed me that he had had assurance—I don't know whether he said assurance or that he had talked to the prosecutor, and the prosecutor had said if nobody else interfered he wouldn't interfere; and he had reason to believe the legal authorities would not take any side against them; and for that reason they were going ahead; I said to him at that time, "Well, of course, Mr. Griffiths, you know there are other people above the prosecutor and the legal authorities;" I think that what I said to Mr. Griffiths was in the most friendly manner toward him and toward the baseball people.

Q. I am not disputing that proposition.

The Court—I don't think that has anything to do here, but I supposed it was something that passed between this gentleman and Mr. Griffiths after this question that we are now dealing with had risen.

A. It was before I ever thought of having anything to do with the controversy.

Q. Mr. Vicker called you up, and asked you to speak to Seastream?

A. Mr. Vicker called me up; he said he understood I was Mr. Seastream's attorney in Bayonne, and said if I was——

Q. You were his attorney?

A. I have been in some matters; not at that time.

Q. You are an attorney-at-law and in the real estate business?

A. I am, sir; and he then told me if Mr. Seastream was a friend of mine—he told me they were going to issue

a warrant for Mr. Seastream's arrest; I said I didn't think that was necessary, and that I thought I could produce Mr. Seastream, which I did.

Q. Had you been to see Seastream before that about the matter?

A. About the baseball matter?

Q. Yes?

A. Yes, sir.

Q. How long before that?

A. Oh, I couldn't say; probably two or three, or four weeks; I had spoken to him two or three different times on the baseball matter.

Q. No, but about the affidavit question?

A. About the affidavit question—the second affidavit question?

Q. The trouble?

A. No; it was prior to that; no.

Q. When did you first speak to Seastream about the affidavits—about the trouble as you have called it here?

A. Well, I think it was the day after the hearing in Chancery, when the paper came out and said—the newspapers stated—I think that was where I got the information—of these two affidavits having been signed and sworn to.

Q. That was on the 26th of May; we might as well locate it.

A. Well, it might be.

Q. That is my recollection of it; when did you see Seastream after that?

A. I think it was the following day, or two days after that; I won't be sure which.

Q. Did you get in communication with Mr. Vickers about anything?

A. Mr. Vickers called me up on my telephone, and then I sent for Mr. Seastream.

Q. Who told Vickers that you were Seastream's attorney?

A. I don't know.

Q. You had no communication with him himself?

A. Not with Mr. Vickers; no, sir; I never knew the gentleman; never had seen him.

Examined by the Court.

Q. I will ask you a question; do you mean to say that before—I understood you awhile ago to say something like this: That very soon after the expose of the dual affidavits—the contradictory affidavits—Mr. Seastream told you about the meeting he had had in Mr. Griffiths' office?

A. Yes, sir.

Q. Did he come to see you or you come to see him?

A. I think it was the following day.

Q. He came to see you?

A. Yes, sir.

Q. Vickers' communication was in regard only to the appearing before Judge Blair?

A. That is all, sir.

The Court—I thought there was a little confusion.

Examined by Mr. Allan L. McDermott.

Q. When Seastream came to see you, what did he tell you about affidavits?

A. Well, he told me—he didn't seem to understand anything; he said he had made two affidavits; and he then showed me the *Evening Journal*, which he had, and said that was the statement; and I, of course, had read the statement.

Q. Did that have the affidavits in?

A. I don't know whether it had the affidavits in or not; I think it was a mere statement that there had been contradictory affidavits; I don't remember as to that.

Q. That was on the 27th, as I understand you?

A. I won't say whether it was the 27th or not; it was a couple of days after the matter was in court.

Q. The affidavits were printed in the paper?

The Court—He didn't say so.

A. I don't say whether they were or not; I don't remember; they were either printed or there was a statement, enough to convince me; I had known of it before, because I had read in the paper before Seastream came in.

Q. Will you tell what Seastream said about that second affidavit; he said he had taken two affidavits; what did he say about it?

A. He didn't say anything about affidavits; he came to me and said this Mr. Captain Haagenson had bothered him on his boat for a considerable time, for, I think, all day, or two or three days, and had said that he came from Captain Carroll and wanted Mr. Seastream to go up to Mr. Davis' office and make a statement against the statement that he had made for Mr. Currie in the baseball transaction; and he had stated to Mr. Seastream that unless he went there that he would lose his job; and that Captain Carroll said so.

Q. Say anything about losing his job because of the first affidavit?

A. He didn't say anything about that.

Q. Didn't mention that to you?

A. No.

Q. Did he tell you what the statement was that he had made?

A. At Mr. Davis' office?

Q. Yes?

A. Well, I knew from what I had seen in the *Evening Journal;* I think he did.

Q. Did he tell you?

A. No, he didn't.

Q. Simply said he had made a statement?

A. That he had made a statement and gotten into trouble; he didn't seem to know how he was in trouble; but he knew he was in trouble from the fact that he had been taken by Captain Haagenson—he told me that—from the lower part of the boat up through the saloon deck, as he called it—whatever that is I don't know—up to the upper part of the Pennsylvania depot, and there

taken in the waiting-room, which is for conductors, or where the conductors meet, and was told to wait there until Captain Haagenson came back; and then Captain Haagenson took him over to New York; and they had dinner; and kept him there until after five o'clock; and then back to Mr. Griffiths' office.

Q. Did he tell you that the affidavit was obtained on the day that he was taken upstairs?

A. I don't think he did, sir.

Q. Did he say anything to you about the circumstances under which he took the first affidavit?

A. Yes, sir; he did; he said that Mr. Currie—and Messrs. Currie and Demarest came there; and they came as gentlemen; and they came for just what he wanted; and they were all right; but he had been bothered to death by Mr. Griffiths and Captain Haagenson; and they were trying to get him to do something he didn't want to do.

Q. Did he say that Mr. Griffiths had asked him to make the affidavit?

A. I understood that.

Q. Why didn't you ask him what was in it?

A. I don't know; I think I knew at the time about what was in it; I knew it was on the other side, and I was satisfied if it was on the other side it must be contradictory, because I knew from the papers and general information that he had made an affidavit in favor or against the baseball.

Q. Why didn't you ask him the trouble; what did you say in your second affidavit?

A. Why didn't I ask him?

Q. Yes?

A. I don't remember why I didn't ask him.

The Court—The witness has already answered that question; he said because he knew substantially what it was.

A. Yes, I knew from general knowledge.

By the Court.

Q. And reading the papers?

A. Yes, sir.

Q. Did you talk to him about the contents of the affidavit?

A. I did not, sir; when Mr. Seastream came to me and told me the situation, I concluded and advised him that the best thing for him to do was to say nothing to anybody, but to go to Judge Blair and make whatever statement he had to make; and I went so far as to say that I didn't care to discuss it with him.

Q. This was on the 27th or 28th that you advised him to go to Judge Blair?

A. I can't say when; it was two or three days prior to the time—I believe, the day before he went to Judge Blair.

Q. Was that on the occasion of his first visit to you about this matter?

A. Yes, sir.

Q. That was the first?

A. Yes, sir.

Q. Did he say anything about Judge Blair?

A. He said that Captain Haagenson had been around to see him to get him to go to Mr. Griffiths' office and to make a statement, and he wanted—he said he had told Captain Haagenson that he was ready to go to court and make a statement if they wanted him to tell the truth; but Captain Haagenson said, "No, we don't want you for that purpose."

Q. How long was it from that occasion that Vickers telephoned you?

A. I think it was the next day.

Q. Now, in talking to you about going to court, during your first interview, who did he say wanted him to go to court?

A. He said Captain Haagenson; he said he didn't want to go to court.

Q. Why did you speak of Judge Blair?

The Court—You had seen it in the paper, hadn't you?

A. Yes, sir.

The Court—The Court had referred it to Judge Blair?

A. Yes, sir.

Mr. Allan L. McDermott—I am cross-examining him.

Q. Did you speak to him about Judge Blair?

A. Did I speak to him about Judge Blair?

Q. Yes?

A. I did, sir; I advised him to go to Judge Blair.

Q. Did he go?

A. He did.

Q. When?

A. I don't remember the day—the date—Mr. McDermott.

Q. But after Vickers called you up, did you go to him again about Judge Blair?

A. Yes, sir—sent for him.

Q. Did you ask him why he had not been to Judge Blair?

A. No; I never asked him to go to Judge Blair before that?

Q. On the first interview, you say you told him to go to Judge Blair and tell the whole truth?

A. If it came to that—that he was to go to Judge Blair or anywhere else—to go and tell the truth.

Q. You are a lawyer; did you say, "Go to Judge Blair or anywhere else?"

A. Yes; I thought perhaps the Vice Chancellor might take the matter up.

Q. What did you know about Judge Blair?

A. I knew he was Judge of the Quarter Sessions.

Q. How did you know anybody was going before him?

A. I understood from the newspaper this thing was to be investigated.

Q. How did you know Judge Blair was to have anything to do with it?

A. I thought naturally he would be the one; if there had been crime committed—perjury committed—it would be punishable by Judge Blair.

Q. It was not because he mentioned Judge Blair?

A. I don't——

Q. Did you ask him on the second interview why he had not followed your advice and gone to Judge Blair?

A. No, I did not; I told him the best thing he could do was to go, and go at once; that I had arranged the next morning.

Q. You had arranged then—after the first interview, what did you do?

A. When Mr. Vickers called me up I told him I would produce Mr. Seastream next morning at Judge Blair's chambers, which I did; I did not produce him; I sent for him and told him he had better go.

Q. You went there as his counsel, didn't you?

A. No, I can't say I went as his counsel; I went with him more as a friend.

Q. Didn't you question him on the taking of this very affidavit?

A. Yes, I did.

Q. Are not the answers there in answer to your questions?

A. Not all of them.

Q. Are all of your questions and answers in there—in the affidavit?

A. I think they are.

Q. And a good many of them are yours in there?

A. Not a good many of them; a few; Judge Blair asked him questions, and, as I say, we both attempted to interpret what he said to the stenographer for that reason.

Q. How were you acting, as a *mi curiæ?*

The Court—Mr. McDermott, that is trifling with an intelligent court.

A. I was acting as I tell you—principally as Mr. Seastream's friend.

Q. Did you present yourself before Judge Blair as his counsel?

A. I don't know whether Judge Blair understood it that way or not.

By the Court.

Q. He knew you were a counselor, I suppose?

A. No; I think I stated distinctly to Judge Blair, "I am not interested in this baseball controversy, nor am I Mr. Seastream's attorney; I am merely here as a friend of Mr. Seastream."

By the Court.

Q. He knew you were a lawyer?

A. He did, sir.

The Court—That is enough.

Q. At whose invitation did you question the witness?

A. I did it so that Mr. Seastream would express himself in the way that I thought he wanted to or that he had expressed himself to me.

Q. Did you do that on the invitation of the court?

A. No.

Q. Have you seen the affidavit in this case?

A. Which one?

Q. The printed affidavit, taken by Seastream before Judge Blair?

A. Yes, sir.

Q. Are your questions and answers there—all of them?

A. I think they are, sir.

Q. Who else questioned him?

A. Judge Blair.

Q. Anybody else?

A. No, sir; there was no one else present except the stenographer.

Q. Did the stenographer question him?

A. No; I say no one else was present except the stenographer.

Q. Was Mr. Vickers there?

A. He was not, sir.

Mungo J. Currie, sworn.

Direct examination.

By Mr. Benny.

Q. You are a member of the bar of this State?

A. I am.

Q. And have an office and active practice?

A. Yes, sir; have an office at 15 Exchange Place, Jersey City.

Q. Do you know August Seastream?

A. I do.

Q. Do you remember being at his residence, in Bayonne, on the 6th of May?

A. I believe that is the date—yes, sir.

Q. Will you state under what circumstances you went there and what you did there?

The Court—What occurred?

A. About three or four weeks previously to that date I happened to meet Mr. Demarest on the trolley going, I think, from Bayonne to Jersey City; I mentioned to him the matter of the proposed baseball grounds near the corner of Forty-sixth street and Avenue B, and I told him that I had been talking with several people around there and they were very anxious to have the games stopped; I told him that I proposed filing a bill for injunction, and he said that propobly he would be retained to do that very same thing; I then said to him that if that were the case, why I would yield to him and allow him to bring the case, particularly for the reason that he had had a similar case at Bergen Point; subsequently I met some gentlemen, or one gentleman, on the trolley, and he asked me to draw a petition up to the Bayonne council, protesting against the playing of baseball on Sunday; also, protesting against the building of a spur from Avenue C through Fiftieth street, and along Avenue B.

Q. Spur to what?

The Court—Spur to the trolley.

A. Spur in connection with the baseball grounds; I did that and handed it to this gentleman, and he got it numerously signed and it was presented, subsequently, to the council; after, Mr. Demarest informed me that he had been regularly retained by Mr. Grant and by others of the Bayonne people there near the ground to

bring suit for an injunction; I said then to him that I would help him.

Mr. Allan L. McDermott—I enter an objection at this point.

A. (Continuing.) Help him in every way that I could.

The Court—I don't see how it is hurting you at all. It shows Mr. Currie took an interest in this thing.

A. Finally, it happened that Mr. Demarest proposed getting affidavits, and I said I will help you; Friday night, I think it was—the 6th of May; I won't be sure of the day; I think that is the date on the affidavit—I went with Mr. Demarest to Bayonne, at five o'clock in the afternoon, for the purpose of procuring affidavits with the view of making application the next day for an injunction to his Honor, Vice Chancellor Pitney; we went to Bayonne, and got there, I think, about six o'clock or half-past five; we immediately endeavored to procure affidavits, and we got quite a number—I think eleven or twelve; finally Mr. Demarest said to me, "We have not got Seastream's affidavit;" he had been mentioning a number of times that Seastream was a man that would give us a very good affidavit.

Mr. Allan L. McDermott—I ask that be stricken out. We object to it.

The Court—Your objection is noted and overruled. Proceed.

A. And finally we reached Mr. Seastream's house; I had never met Mr. Seastream before, and Mr. Demarest was with me; his house is near the corner of Forty-sixth street and Avenue B; I had never been at the house before; we went to the door, and, I think—I don't know who it was that first rung the bell, but finally we got inside the house and met Mr. Seastream and his wife; Mrs. Seastream was nursing a baby, as I remember, and beside that she had another child that was near by; there was a table there, and, I think, it was the dining-room; she sat at one end of the dining-room table, I suppose it was, and Mr. Seastream sat on the other side; and Mr. Demarest

then explained the object of our visit; and he told them that he was there in order to find out if they had objections to the playing of baseball on Sunday in the near-by ground, and what their objections were; and they were apparently in a very receptive mood at once and told us, as near as possible, what is contained, so far as I know, in the affidavit; that consumed, I think, about three or four minutes; Mr. Demarest then went away, saying he was going to get the affidavit of Mr. Cozine; I remained to take the affidavit.

By the Court.

Q. Write it down?

A. Write it down; I started in by getting a piece of paper, and taking my pen and putting down the date, and so on; and finally I asked them a whole lot of questions in order to bring out exactly what Mr. Seastream was saying; I couldn't fully understand, on account of his enunciation, exactly what he was saying; and Mrs. Seastream was practically talking at the same time and trying to explain what her husband was saying; I finally got down the affidavit; it consumed about a page of foolscap, as I remember it; I haven't seen the affidavit since, but I think it consumed about a page of foolscap; they fully understood, as I remember it, exactly what they were saying and what they were willing to swear to; I think I have covered briefly what——

Q. After the affidavit was reduced to writing, what was done?

A. After the affidavit was reduced to writing—just before it was finished—Mr. Demarest and Mr. Griswold came back, or at least Mr. Demarest came back and Mr. Griswold with him; and they heard the last part of the affidavit, which I had been repeating to Mr. Seastream in sections, because I wanted to be sure that what I put down was exactly what he wished to have there; then I read the last, as I remember it—I read the last part of that affidavit in the presence of Mr. Demarest and Mr. Griswold; I won't be sure of that; however, finally it

was read all over in the presence of the affiant and his wife, Mr. Demarest and Mr. Griswold; I read it; and Mr. Seastream then signed it; I thereupon took his oath; and just after that, or before it—I won't be sure which—he said to all of us, "Will that make any difference in respect to my keeping my position?" or words to that effect; I replied to him, I didn't see how it could, if he were telling the truth.

By the Court.

Q. Now, I will ask you, was any suggestion, or what might be called coaxing, or any suggestions to him what he should swear to, this thing, or that thing, or the other?

A. No, sir; except in so far as I asked him questions to ascertain what he was trying to say.

The Court—Yes. Was any thought that is in that affidavit initiated by anybody except him and his wife?

A. Not so far as I know; I don't remember it; I certainly didn't propose anything of the kind.

By the Court.

Q. Did you ever go to see him afterwards, or his wife, or anybody?

A. No, sir; I met him; I had a case with Mr. Spear—a motion before Judge Parker on the day that Mr. Seastream went up before Judge Blair; I went into the prosecutor's office; I saw there Mr. Holman; Mr. Holman told me that Mr. Seastream was coming up there to make his deposition before Judge Blair; thereafter I left the court house, having arranged with Mr. Speer to let the matter go over for one week; I went out on the street to get a trolley; I saw on the street, near the curb, Mr. Seastream; I had never seen him before that since the time of the affidavit.

By the Court.

Q. Never had seen him in the meantime?

A. I had not seen him at all in the meantime; as Mr. Seastream recognized me, I recognized him; he spoke to me; he said he had been told to come up to the court house to meet Mr. Holman; he said he didn't know where

he was; I said, "Well, I have just left Mr. Holman; I can take you right to him;" I thereupon walked back into the court house with Mr. Seastream—into the prosecutor's office—and there I saw Mr. Holman, and told him that Mr. Seastream had been looking for him; that was all; I think the only conversation we had, Mr. Seastream said something about the trouble; I said, "Well, you need not fear anything, I believe, if you tell the absolute truth."

By the Court.

Q. That is all the conversation?

A. That is all the conversation I had.

By the Court.

Q. That is the only time you saw him between?

A. That is the only time I saw him between; I haven't seen him since, except at these hearings; and I have not seen him previous to the taking of the affidavit, so far as my recollection goes.

Cross-examination.

By Mr. Allan L. McDermott.

Q. How long did you stay in the prosecutor's office?

A. I was there, I think, about fifteen minutes waiting for Mr. Speer, and while I was waiting for——

By the Court.

Q. Was Seastream in there then?

A. No, sir.

By the Court.

Q. That was before Seastream got there?

A. Before Seastream got there.

By the Court.

Q. How long did you stay there after Seastream got there?

A. I didn't stay there a minute; I didn't go in the prosecutor's office—simply went in the door and walked away—walked back through the corridor of the court house and to the trolley, and came down to Jersey City.

Q. Have you given us all the conversation that took place at Seastream's house?

A. Well, I don't think I have given you very much of the conversation, so far as I remember my direct statement; I don't know that I have given you all of it; I didn't say very much about the—so far as I remember, I didn't say very much about the conversation; I don't know that I can give it to you all; I don't think that I can; I think it would be quite impossible for me to give all the conversation that occurred there; I don't recall it.

Examined by Mr. Frank P. McDermott.

Q. You haven't given the conversation at Seastream's house; will you give that conversation so far as you can recall it?

A. Well, it was a mixed—so to speak—a mixed conversation; the first part of the conversation was very much, as Mr. Demarest has related.

Q. Who opened the conversation?

A. As I remember it, the first part of the conversation was opened by Mr. Demarest, stating the object of our visit to Mr. Seastream; and Mrs. Seastream, either one or the other, or both together, said that they were very much opposed to the baseball business, that is, the playing of baseball on Sunday, and that it had reduced the value of their property very much; that there was a great deal of noise; that they would be very much more injured when the sewer was built, and the door on the gateway on that side of the baseball grounds opened; and that was the burden of the conversation all the way through; it was difficult to understand at first, not so much as here in the court-room; but it was somewhat difficult for me, and I think also for Mr. Demarest, to understand exactly what Mr. Seastream was saying; but that was very much lightened by the fact that Mrs. Seastream explained the words that we did not understand through the conversation.

Q. Had you taken any pains to learn what——

A. I took more pains with that affidavit than, I think, I ever took with any, because of the fact that Mr. Sea-

stream was—did not enunciate very clearly; couldn't quite understand him—and I wanted to put down the exact truth, as far as I could get it from his lips.

Q. Proceed further with what was said at that time?

A. Well, there wasn't anything very much further said, except that the noise was considerable; and what was a curious thing to me was the fact mentioned by the Seastreams that they had not been there during the playing of the game; and I put that down, because that is what they said—that they had not been there for a large part of the time during the playing of the game.

Q. How did they say that to you—how was it expressed to you by Mr. Seastream or Mrs. Seastream?

A. Well, they said, "We don't know so very much about the noise during the games, for the reason that we were not here all the time, and I wondered where they were; and I think I asked them where they were; and they said that they were away—not out of Bayonne, but somewhere else in the city—that is, that they were in the city.

Q. Out of the house, do you mean?

A. Out of the house, I mean.

Q. Or out of sight of the game, or how?

A. Outside of the house, as I recall it.

Q. Anything said about the effect on the children or the child?

A. Yes, sir.

Mr. Allan L. McDermott—We object to that manner of leading the witness.

Mr. Frank P. McDermott—This is cross-examination.

The Court—He has a right to lead him, sir.

Mr. Frank P. McDermott—I don't want to if I haven't the right.

Mr. Allan L. McDermott—The Court severely rebuked me for leading the witness that way.

The Court—I don't consider that leading at all, to ask a man if anything was said on a subject. It isn't leading according to the rule enforced when I was at the bar.

By the Court.

Q. Was anything said about the effect on the children, was the question, I believe?

A. Yes, sir, they said that the noise would—they were not sure that the noise had, but they said the noise would disturb the slumber of the children; one was a year old, as I remember it, or a year and four months old, and the other only four months, and they were sure the noise subsequently, on subsequent days, if baseball was played on Sunday, would disturb the slumber of the children.

Q. Did you attempt to express this affidavit in the language of Mr. Seastream as he gave it to you?

A. No, not directly as he gave it to me, but as he wanted it said—as he believed the truth to be.

Q. Why not put it in his language?

A. Well, I could have done so, but that is not very usual; you mean in the first person?

By the Court.

Q. You didn't attempt to actually express the words he used?

A. I did not; no, sir.

By the Court.

Q. But the sense?

A. No, sir; I did not; I made no effort in that direction.

Examined by Mr. Allan L. McDermott.

Q. Did they say it would keep the baby awake on weekdays, too?

A. Didn't say anything about it; I didn't ask them, and they didn't say anything about it.

Q. She said it would keep the baby awake on Sunday?

A. I understood so; yes, sir.

Q. Sure?

A. That is my recollection of it; it would be true, however.

Q. Did you understand about that, that the awakening of the baby on weekdays was excluded, and only on Sunday it would be kept awake?

A. No, I didn't think anything about it, particularly; it didn't enter into my mind.

The Court—Let Mr. Griswold take the stand. I will call him.

Mr. Frank P. McDermott—I will call him.

George E. Griswold, sworn.

Direct examination.

By Mr. Frank P. McDermott.

Q. Mr. Griswold, when did you first meet Mr. Seastream—August Seastream?

A. On the night that we took the affidavit; I think it was the 26th of May—no, on the 6th of May.

Q. What day in May?

A. I think it was the 6th; I am not positive.

Q. And where did you meet him?

A. At his house.

Q. Who else was present?

A. Mr. Demarest, Mr. Currie, Mr. Seastream and Mrs. Seastream.

Q. Were you there when the affidavit was drawn?

A. The affidavit was nearly completed when I got there, if not entirely; there may have been a paragraph; I am not positive.

Q. Then you took no part in this preliminary conversation that has been referred to?

A. Not any.

Q. And the affidavit was nearly completed when you came?

A. Yes, sir.

Q. What was done or said after you came, Mr. Griswold?

A. Why, the affidavit was talked over a little—not very much—and then Mr. Currie read it throughout—read it very slowly—and Mr. Seastream signed it and swore to it.

Q. Anything said by the Seastreams about what was being incorporated in the affidavit while you were there?

A. Why, yes; it was talked about generally—that is, the damage to their property; and that they would not have built a house there if they had known anything of this kind; and also that it kept the child awake—or would, if it was continued.

Q. Who said this?

A. Well, Mrs. Seastream said most of it.

Q. What did Mr. Seastream say?

A. Well, Mr. Seastream spoke principally on the damage to his property—not so much about the noise.

Q. Were you present when the affidavit was actually taken?

A. I was present, sir.

By the Court.

Q. Were they asked—after the affidavit was read over, was anything asked Mr. Seastream as to whether it was right or not?

A. Mr. Currie had administered the usual oath to him.

Q. After the affidavit was taken, how long did you remain?

A. Oh, possibly five minutes—possibly ten minutes.

Q. Anything more said in relation to the subject-matter?

A. Nothing more than I have said about the damage to the property and the keeping awake of the children if it continued.

By the Court.

Q. Anything said about his leaving his job?

A. Yes, sir; that was distinctly said; he asked, after Mr. Demarest asked him if he would become a party—one of the complainants, I think was the expression—he mentioned that it might have some effect on his job—that is, he wondered if he would lose his job—and afterwards he said, of his own accord, he didn't think it would.

By the Court.

Q. Well, did you hear Mr. Demarest ask him if he was willing to be complainant—one of the parties to the suit?

A. Yes, sir.

By the Court.

Q. He consented?

A. He did, sir.

Q. Did you make any efforts to serve a subpœna on Mr. Seastream somewhat later than that in the month?

A. On the 26th of May.

Q. What time in the morning did you get the subpœna?

A. I got it about 9:30 A. M.

Q. From whom?

A. From the stenographer in the office at 15 Exchange place, left by Mr.——

By the Court.

Q. You were working for Mr. Demarest?

A. I work for Mr. Demarest—yes, sir.

Q. What efforts did you make to serve the subpœna?

A. Why, I went down to the annex pier, and the first man I asked was the ticket-seller; I asked for Mr. Seastream; he said he didn't know him; then I asked the ticket-taker at the annex boat; he said he didn't know him; then I asked one man—I think it was the second man that told me this; I asked him, and he told me the proper way to find Mr. Seastream was to go up to the office of the Pennsylvania ferry—superintendent's office; I went up there, and there was a young man in there.

By the Court.

Q. Where is that; in the big building?

A. That is in where the boats leave the ferry, your Honor—that is the ferry slips where they run along to the right after you get inside.

By the Court.

Q. Upstairs or downstairs?

A. Where the teams go through—downstairs.

By the Court.

Q. Oh, the main gangway?

A. The main gangway.

By the Court.

Q. Leading right off from the end of the trolley line?

A. Yes, sir; all those slips right in that gangway—the slips of all feries—the annex at one end and the Twenty-third street at the far end; and I went to the superintendent's office; there was a young man in there who wore a uniform, and when I asked for Mr. Seastream he laughed; he said, "You had better go back down there and ask for 'Husky;'" he said, "They all know who 'Husky' is;" and I went down and asked for "Husky;" and I had pretty near the same experience; I did finally find a man——

By the Court.

Q. What did they say?

A. They said they didn't know him—didn't know any such man as "Husky;" but finally I found out from some employe that did know a man by the name of "Husky;" said he was ash man; part of the time he was on the ferry boats and part of the time on the dock, or on the pier, or on the slip—whatever you call it; and I couldn't find him; I waited for every boat for two hours; I asked everybody—all the employes who were around the pier or who came off the boat—but could get no information at all; finally I paid ferriage on three boats and went aboard and asked after him first, coming back before the boat left the ferry slip.

Q. What sort of boats were they?

A. They were the annex boats; he was employed on the annex boats; finally there was a man driving an ash cart came off; and I asked him; and he shook his head and made some reply that I could not understand; in about ten or fifteen minutes he came back with an empty cart and then he said he had told me that "Husky" was on that boat, but now he had gone home to Bayonne.

Q. What time was that?

A. That was close on to half-past eleven, I suppose.

Q. Is that the first trace you had of him?

A. Well, except I got a trace that he worked there, of course, but that was the first trace I got on; but after that man—that driver told me that he had gone home,

and he had been on that boat previously; I had been on that same boat and asked three employes, including one in the engineer's office, and every one said they didn't know him, or didn't know where he was; then I went up to Chancery Chambers, where you were, and spoke to Mr. Demarest, and asked him if I should go to Bayonne, Mr. Seastream's house; I went to Mr. Seastream's house.

By the Court.

Q. You went away down to Bayonne?

A. I went to Bayonne, to Mr. Seastream's house; Mrs. Seastream came to the door; I don't think she recognized me; I asked if Mr. Seastream was home; she said no; I asked when she expected him home; she said she didn't know; I asked if he ever got home as early as this; she said sometimes one time and sometimes another; she was evidently afraid to give me any decided answer, not knowing what I wanted.

Q. Did you make any reference to your object—your business—to any of these employes of the ferry company—the railroad company?

A. No, sir; I have served subpœnas before.

Q. Did you state that you had a subpœna, or that you had any sort of paper?

A. Oh, no, sir.

Q. Or that you were an officer in search of Mr. Seastream?

A. No, sir.

Q. Anything of that sort?

A. No, sir, nothing of the kind.

Examined by Mr. Allan L. McDermott.

Q. You kept that a profound secret from everybody did you?

A. I surely did.

Q. Did you act as though you were not an officer?

A. Well, I don't know as I can answer that question, sir.

Q. Did you, in your general deportment and inquiry,

try to convey the idea that you were merely an ordinary citizen inquiring for one "Husky" or Seastream, or that you were an officer of the law?

A. As far as in my power I tried to be innocent in the matter and not an officer.

Q. You think an officer of the law conveys idea of guilt; why didn't you tell somebody there that you had a subpœna and that you wanted this man as a witness?

A. I used my own judgment, and I didn't think that would be good judgment; of course, I may have been wrong.

Q. Did you see Mr. Cassatt, the president of the road there?

A. I wouldn't know him if I had seen him.

Q. You knew this man was an ash man?

A. I was told he was ash man when I went on the pier; I was told he was bridge man, or man on the boat.

Q. Did you meet anybody, in the course of your inquiry, that knew you were an officer?

A. I don't think so.

The Court—Could not, because he was not an officer.

Q. Are you an officer?

A. No, sir; simply a lawyer's clerk.

Q. Did you meet anybody that you suspected knew your business?

A. Well, I don't know a single employe that I spoke to; whether they know me or not, I don't know.

Q. Any of them ask you what you wanted of "Husky?"

A. I don't think they did; not to my recollection.

Q. And you returned to the office and reported?

A. Yes, sir; I returned to Mr. Demarest and reported, and he sent me to Bayonne.

Q. What time did you arrive at the ferry; what time did you make your inquiries?

A. My recollection is that I got to the ferry at about half-past nine; it may have been a quarter to ten when I commenced the inquiry.

Q. When you got back to the office, had recess of the court been taken?

A. When I got back to the office, yes, sir; but previous to that I had seen Mr. Demarest before I went to Bayonne; but I didn't get back until after recess from Bayonne.

By the Court.

Q. Got back and came and reported to Mr. Demarest in the court-room?

A. That is, from the boat.

The Court—And then Mr. Demarest sent him to Bayonne.

Q. What time was that?

A. Well, I got down to Bayonne about half-past twelve.

Q. When you reported to Mr. Demarest in the office, was the court in session; you were two hours around the ferry looking for Seastream?

A. Approximately two hours.

Q. Got there quarter to ten?

A. Something like that.

Q. Must have been about noon when you got back to the Commercial building?

A. Well, it was about half-past twelve when I got to Bayonne, and it was about a half hour's ride from there down to Forty-ninth street—Forty-seventh street—perhaps a little more—thirty-five minutes.

Q. Did you speak to counsel when you came back?

A. I spoke to Mr. Demarest—yes, sir.

Q. Did you tell him that you had been unsuccessful—that you couldn't find Seastream?

A. I says to him—I said worse than that—I said, "I think they are dodging me and had I better go to Bayonne;" that is about the expression I used.

Q. Why did you think they were dodging you?

A. Well, it was funny.

Q. What was done that made you think anybody was dodging you?

A. Well, simply from the experience I had on the pier—that I could not find an employe there that had been there for some time inside of two hours.

Q. Who was the first employe you spoke to?
A. The man who sells tickets on the annex.
Q. What did he say?
A. He said he didn't know the man.
Q. You asked for Seastream?
A. I asked for Seastream.
Q. What is the next one?
A. The next one is the man who took the tickets.
Q. What did you ask for there?
A. I asked if he knew a man named Seastream.
Q. And third?
A. The third man, I don't know what he did; but the fourth man, he was the stout man, told me to go to the ferry office—the superintendent's office.
Q. Did you think the first man was dodging?
A. I don't think he was; I think perhaps he didn't know Seastream.
Q. Well, about the second man?
A. Well, of course, I can't tell whether he was or not, but I don't think so.
Q. The man that told you to go to the office, was he dodging?
A. I don't think so.
Q. Who did you see in the office?
A. Youngish man, solidly built.
Q. He told you had better go back and inquire for "Husky?"
A. Yes, sir.
Q. Did you think he was dodging?
A. I wouldn't, no.
Q. Who did you speak to next?
A. I went back the rounds again, and spoke to the man who sold the tickets, and he said he didn't know "Husky."
Q. Did you think he was dodging then?
A. I kind of had my suspicions about that time.
Q. Why?
A. Because I thought they must know him by one name or the other when he worked on the annex.

Q. What has the ticket man got to do with the man who shovels ashes on the boat?

A. I don't know, sir.

The Court—Has to pass him every time he goes on the boat. Do you suppose Seastream pays his fare when he goes on the boat to work?

Mr. Allan L. McDermott—Oh, no, I suppose they have employes' tickets.

The Court—Then don't you suppose the man who takes the tickets would know Mr. Seastream?

Mr. Allan L. McDermott—I wouldn't suppose—I would think it was a phenomenal thing if he did.

The Court—I think he would be known if he had a pass. I don't know what the rule is about that, but I think the employes are known and passed without a written pass; that is my guess about it.

Mr. Allan L. McDermott—He might have passed in with what is known as employes' ticket, but who he was they wouldn't know in a hundred years. I employ twelve hundred men; I don't know five of them.

The Court—The witness you produced knew him very well, and knew him by the name of "Husky?"

Mr. Allan L. McDermott—He said he knew him around the boats four or five years. Never spoken to him.

The Court—Don't waste time.

Mr. Allan L. McDermott—I am not wasting time.

Q. Who is the next one you spoke to?

A. Well, I couldn't enumerate them; I spoke to every employe I could get a-hold of on those five or six boats that come in there—bridgemen and everybody—and asked if "Husky," or Seastream, was on the boats.

Q. What did they say?

A. One man told me he would be on the next boat; but when the next boat came in nobody knew him.

Q. He was mistaken about the next boat?

A. He was mistaken about the next boat, or next boat after that.

Q. And from these things you concluded what?

A. I concluded I was up against a losing game.

Q. That is a way of putting it; I think you are right.

A. I think they waived me aside.

Q. How long did you stay in the court-room?

A. Minute—go in and go out; that is all.

Q. Did you hear any announcement made by counsel in the court-room?

A. No, I heard nothing—paid no attention to anything; I simply wanted to see Mr. Demarest in a hurry, because I was on a job I wanted to get through with.

The Court—Any other evidence to be offered now?

Mr. Frank P. McDermott—No more.

The Court—Any on the part of the excused?

Mr. Allan L. McDermott—We would like to have Captain Carroll and the stenographer.

The Court—You shall have them. The only question is when. That is all.

Mr. Frank P. McDermott—As far as Captain Carroll is concerned, I have said to Mr. Benny that the testimony which these gentlemen suggest, he will consent to on the part of his clients and I could consent to it on the part of the court.

Mr. Allan L. McDermott—The only testimony I am going to prove by him is this—the only proposition—that Captain Carroll is in charge of a certain department of the railroad ferries—ferries and railroads are all one—to some extent it is, when you come to the question of taxation anyhow; that Captain Carroll never spoke to anyone concerning the ball game at Bayonne; never had any conversation with anyone concerning it; never spoke to Captain Haagenson concerning it; and that, until after the publication in the newspapers, when in the course of his duties, he called on Captain Haagenson to make to him a statement as his superior officer. That is all I desire to prove by him.

Mr. Benny—I don't feel justified in consenting to anything. I don't know what Captain Carroll will testify to. I haven't had any opportunity to present this matter to my clients. I don't know what his duties were.

The Court—You need not give any reasons for not consenting to that at all, or need the counsel for the court or the State.

Mr. Benny—I don't want to inconvenience——

The Court—I am going to be in Jersey City next Monday and I will continue this hearing until that time, when Captain Carroll and Mr. Moeser may be heard. In the meantime the stenographer will have an opportunity to write up his notes.

Mr. Dixon—I desire to ask whether or not it will be necessary for Mr. Bentley to appear any further?

The Court—No, sir; I have already expressed my opinion on that subject.

Mr. Dixon—He may be withdrawn from the suit?

The Court—He may be withdrawn.

Mr. Frank P. McDermott—I wish to have the pleasure of making that motion.

The Court—He may consider himself discharged from the order.

Mr. Dixon—Probably take an order advising that?

The Court—Oh, yes, but don't bother me about that now; it will be all right.

Mr. Allan L. McDermott—I must ask the court—I am on a commission appointed by the government to examine the Merchant Marine, and I have received notice they are going to sit in San Francisco and Seattle and other places. It may be that I will have to go away. I will waive the other witnesses on our part and stand with the case closed now.

The Court—Do you want to argue it to-morrow?

Mr. Allan L. McDermott—I would rather argue it now.

The Court—It is so near four o'clock. I can hear you fifteen or twenty minutes. I thought you would rather commence fresh in the morning, the cool of the day.

Mr. Allan L. McDermott—I want to raise the question of the argument before your Honor, whether or not this case is in a position, your Honor sitting for the Chancel-

lor, has legal capacity to advise. In our judgment that is a question of some consequence. There is something on both sides. We assume the negative side. We therefore object to any argument before your Honor in this case—make that objection.

The Court—Well, I shall have to overrule that, after advising with the Chancellor. I have advised with him on the subject. I wished to have the Chancellor sit with me on the argument of this case—to divide the responsibility—but he finds it impossible, with his engagements, to sit with me. And, further, I am authorized and directed to hear this case in disregard of the point you make.

Mr. Allan L. McDermott—We desire to make it on the specific ground that all acts creating the office of Vice Chancellor are, so far as they delegate any of the powers of the Chancellor—being the Court of Chancery, under the constitution—are unconstitutional. I am willing to say we hardly expected to have a favorable opinion on that point immediately, but we want it on the record.

The Court—I am constrained to decide against you.

Mr. Allan L. McDermott—I suspected I would lose on that point.

Mr. Frank P. McDermott—I understand you waive the production of Mr. Moeser?

Mr. Allan L. McDermott—If I happen to have him there so to take five minutes' testimony, you wouldn't object to it?

The Court—You had better have Mr. Moeser there, then.

Mr. Frank P. McDermott—I don't want to take——

Mr. Allan L. McDermott—You had better have him there; he is your witness.

The Court—You better have him there by request of the court. I want him there.

Mr. Frank P. McDermott—I tried to have him here to-day.

Adjourned until next Monday.

Monday, July 18th, 1904.

Continuation of examination pursuant to adjournment at the Chancery Chambers, Jersey City, New Jersey, on Monday, July 18th, 1904, in the presence of the parties as before.

Mr. Frank P. McDermott—At the close of the last hearing suggestion was made that Mr. Moeser was to be called.

Mr. Allan L. McDermott—I want to call one witness before—Mr. Driscoll.

John F. Driscoll, sworn.

Direct examination.

By Mr. Allan L. McDermott.

Q. Where do you live?

A. 92 Evergreen street, Bayonne.

Q. What is your business?

A. I am a bartender.

By the Court.

Q. What?

A. Bartender.

Q. Where?

A. Campbell's, Arlington Park.

Q. Do you recall a visit made there by Captain Haagenson and Mr. Seastream?

A. I do.

By the Court.

Q. Where is your place?

A. Campbell's, Arlington Park, Boulevard and Fifty-first street, Bayonne.

Mr. Allan L. McDermott—Your Honor will recollect they stated they left his house and went to a saloon near there.

The Court—Well.

Q. About what date?

A. I should judge it was around the 21st of May; I wouldn't be sure.

Q. Were they ever in there at any other time?

A. No; not to my knowledge they wasn't.

Q. Was any conversation had there about playing baseball?

A. Yes, sir; they came in there and had a couple of drinks; while I was making the drink they started to talk about baseball over here in the ground, and I happened to say, "I guess baseball is dead here now."

By the Court.

Q. You don't speak distinctly, but you utter the words——

A. These two gentlemen came into the hotel.

By the Court.

Q. I heard that, but when you go to tell what they said you didn't utter the words so distinctly that I could get them.

A. They started to talk about the situation—baseball situation—and I said, "I guess baseball is dead over there now;" so the man who I afterwards learned was Captain Haagenson said, "No, I guess it is all right now;" I said, "This here friend of yours is one of the men who signed an affidavit against it," and Seastream spoke up and said, "Yes, I did, but they deceived me," and he says, "I have signed the right paper now, I think."

Q. Who ordered the drinks?

A. Mr. Seastream asked Captain Haagenson what he would have to drink; so Seastream asked for a whiskey sour, and asked the Captain what he would have; and the Captain said, "That is good enough for me;" and they had two whiskey sours.

Q. They drank twice?

A. Yes, sir.

Q. Was there any conversation over the telephone?

A. They asked me if they could use the telephone; and I said yes; and the Captain rung up No. 520 and asked for Mr. Griffiths; and Mr. Seastream dictated to him

what to say; he told him to tell Mr. Griffiths he would meet Mr. Brown that night.

Cross-examination.

By Mr. Benny.

Q. How long had you known Mr. Seastream?

A. I had known him for about a year; not acquainted with him, though; just known him.

Q. Had you known Captain Haagenson before that date?

A. Never seen him before that day; never seen him since.

Q. What paper did he say he signed to make it all right?

A. He didn't say; he said he guessed he signed the right paper now.

Q. When did he sign it?

A. I don't know, I am sure.

Q. Do you know what the paper was?

A. I do not.

Q. Did he say anything about the contents of the paper?

A. No.

Q. Did he say who asked him to sign the paper that made it all right?

A. No.

Q. Did he say where he signed it?

A. No.

Q. What did Captain Haagenson say to him when Mr. Seastream said he had signed the right paper now?

A. Well, he said, "I guess everything will be all right now," then.

Q. What would be all right?

A. Well, I suppose they meant the baseball.

Q. Did he say anything that would enable you to think so?

The Court—He said he thought it would be all right now.

A. I should think that was what we were talking about; I don't know what else he would mean.

By the Court.

Q. What day of the week was this?

A. It was on Friday.

By the Court.

Q. Quite sure it was Friday, eh?

A. Yes, sir.

Q. What did they have to drink there?

A. Had whiskey sours.

Q. And how many times did he drink whiskey sours?

A. They had two whiskey sours before they telephoned, which Mr. Seastream paid for, and had two afterward.

By the Court.

Q. Had two apiece, eh?

A. Yes, sir.

By the Court.

Q. That makes four drinks each?

A. No, two apiece; this man treated and the Captain treated; that was four—two apiece.

Q. Who was the telephone call?

A. They called for Mr. Griffiths.

Q. Mr. Griffiths didn't come there, did he?

A. I don't know; I think he did, by the way they spoke.

Q. I mean, did he come to the hotel where you were?

A. No, sir.

Q. And what was it that Mr. Seastream dictated to somebody?

A. I just stood there, and Mr. Seastream said to the captain, "Tell Mr. Griffiths I will meet Mr. Brown to-night."

Q. Did you know Mr. Brown?

A. No, sir.

Q. Did he say anything about what he was to meet Mr. Brown for?

A. No, sir.

Cross-examination.

By Mr. Frank P. McDermott.

Q. You didn't know Brown, did you?

A. No, sir.

Q. Know anything about him?

A. No, sir; never seen him.

Q. You never saw Captain Haagenson before?

A. No, sir.

Q. How did you know it was Captain Haagenson?

A. Well, I have known from reading the *Evening Journal* about him being in the hotel; I should judge that was the captain.

Q. I know, but have you seen him since?

A. No, sir.

Q. You never saw him before?

A. No, sir.

Q. You don't know anything about him then, do you?

A. No, sir.

By the Court.

Q. Did Seastream call him by any name?

A. Called him by "Cap."

Q. What date do you say it was?

A. Around the 21st, I should judge.

Q. 21st or 20th?

A. 21st, I should think.

By the Court.

Q. How do you get 21st in your head?

A. How do I get it in my head?

By the Court.

Q. Yes; how do you get it in your mind—21st?

A. I should judge that was about the time it was.

By the Court.

Q. I know, my dear sir; that is no answer to the question at all, for a person to say that "I judge it was about that time," in the business that you are, and can give no other reason for it; that isn't giving any reason at all?

A. I can tell you the reason.

By the Court.

Q. That is what I asked you?

A. I have off every Friday; Friday is my day off, and I had to work that day; I had to work the 21st and 28th, and it was either one of those dates.

By the Court.

Q. It may have been 28th, then?

A. It may have been 28th.

Q. That is only your surmise, then, as to its being Captain Haagenson?

A. That is all, yes; I could point him out if I seen him again, though.

Q. Seastream, you have known some time, you say?

A. Yes, sir; I have known him about a year, I should judge.

Q. Who opened the baseball subject, you or they?

A. They did; they were talking about it.

Q. I thought you said you said it was dead around there?

A. I didn't say anything of the kind; I said they were talking of it while I was making the drinks.

Q. Yes, and after that?

A. I remarked, I said, "I guess it is dead around there now"—the baseball.

Q. They had been talking about it before then—before you made this remark?

A. Yes, sir; as soon as they came in.

Q. What had they said, anything?

The Court—What had they said before you made the remark?

A. They were talking about the situation in general—the baseball question—and about being stopped; and there was a whole lot of remarks I couldn't hear while I was making up the drinks and waiting on them.

Q. Mr. Seastream a pretty intelligent talker on the baseball situation?

A. Well, no, he didn't seem to be.

Q. He is a man of broken English and few words, isn't he?

A. Yes, sir.

Q. Whatever talking there was must have been largely by the other men, then?

The Court—Who was the man of broken English?

A. Mr. Seastream.

The Court—Oh, yes.

Q. After they had the first round of drinks they used a telephone, did they?

A. Yes, sir.

Q. Who did the telephoning?

A. The captain.

Q. And you say the other man talked to him about it?

A. The other man told him to tell Mr. Griffiths that he would meet Mr. Brown that night—standing right alongside of him.

Q. Meet Mr. Brown?

A. That night.

Q. And you don't know whether this was the 28th or the 21st?

A. No, I don't; I wouldn't be sure; I wouldn't swear to either one.

Q. I suppose it made no impression on you?

A. No, sir.

Q. How did you come to tell about it?

A. How did I come to tell about it now?

Q. Yes?

A. I read it in the paper about them being over there, and I have been following the case right up, and I remembered the incident of them being in there that day, and I came down here and told Mr. McDermott all I knew of the case.

Q. Anybody ask you to come down.

A. No, sir.

Q. You volunteered to come down?

A. Volunteered to come down.

The Court—There has no objection to this evidence been made by Mr. Benny, who represents Mr. Seastream. Mr. Seastream is not here and the case is not left open.

Mr. Benny—Yes, sir; I think he is here.

The Court—The case was left open only for two witnesses. All right; Mr. Seastream is here.

Examined by Mr. Allan L. McDermott.

Q. Seastream and Haagenson were never in your place together, except once?

A. That is all I remember.

Q. They never telephoned from there except once?

A. Never.

Mr. Allan L. McDermott—I think we had the testimony of both of them that they went there and telephoned.

The Court—I don't recollect.

Mr. Allan L. McDermott—Captain Haagenson does, and Seastream does, too. Captain Carroll is in Cincinnati.

The Court—Is Mr. Moeser here?

Jacob Moeser, sworn.

Direct examination.

By Mr. Allan L. McDermott.

Q. You are a stenographer in Judge Blair's court, are you not—Court of Quarter Sessions?

A. I act as stenographer in that court as proxy for Mr. Nugent, the official stenographer of the Supreme Court.

Q. On June 3d, 1904, did you record the testimony of August Seastream?

A. I can't say I recorded the testimony of Mr. Seastream.

Q. What can you say?

A. I took a statement which he made in the presence of Judge Blair and in the presence of Mr. Holman—I think that was the name.

Q. Did you take down the words as he uttered them?

A. I took down words as he uttered them; in other instances, he uttered words and his English was not intelligible, and his sentences then were put in form by

Judge Blair, and he assented to the correctness of such sentences.

Q. Let us get that procedure; turn to your notes, please?

A. I haven't got my notes with me.

Q. Weren't you served with a subpœna *duces tecum?*

A. When?

Q. You were served with subpœna *duces tecum?*

A. When?

Q. Were you served with one?

A. I was.

Q. When?

A. Week ago.

By the Court.

Q. What kind of a subpœna?

A. It appeared to be a *duces tecum;* the *duces* part was interlined in a different handwriting, and I attended here and had my notes all that day.

Q. Why haven't you got them now?

A. I wasn't required to bring them to-day.

Q. Were you told to leave them away, or were you told not to bring——

A. I was not told not to bring them.

Q. Did you have any conversation with anybody about bringing them.

A. I had not.

Q. Why didn't you bring them?

A. I have answered.

Q. Oh, you have; what do you suppose you were subpœnaed for?

A. To testify according to the alleged subpœna with which I was served.

Q. Alleged subpœna?

A. Yes, sir.

Mr. Allan L. McDermott—Have you issued an alleged subpœna?

Mr. Frank P. McDermott—The situation I understand was this. This gentleman was subpœnaed a week ago

to-morrow, or to-day, with a *duces tecum,* to appear and produce his notes. All the witnesses were then requested to appear before you the next day, at Newark—Mr. Moeser among the rest—and for some reason he did not appear the next day. I then had another subpœna issued for him. That subpœna was drawn by one of the young men in my office, and I discovered that it had no *duces tecum* in it.

The Court—The second subpœna?

Mr. Frank P. McDermott—The second subpœna, but the first one had, and this would not have been necessary if Mr. Moeser had attended on the second day, as requested by your Honor. I did not notice the omission until it came back.

The Court—It is unintentional.

Mr. Frank P. McDermott—Oh, of course. I wanted him to bring his notes.

The Court—So far as any responsibility between counsel for this omission goes, perhaps the defendants—I call them defendants—the accused were justified in relying upon the subpœna first issued by the State; but if they wished Mr. Moeser to come here to-day they should have issued a fresh subpœna, because he was not at Newark when the case was adjourned over, as I understand.

Mr. Frank P. McDermott—I didn't see him until I went up there.

A. I was not at Newark on Tuesday for this reason ——

The Court—Never mind. You were not there. I am dealing with another question; so, so far as any blame goes——

Mr. Allan L. McDermott—He was ordered to be at Newark.

The Court—That may be. He didn't come.

Mr. Allan L. McDermott—No. He did not come.

The Court—That isn't the question. The question is, who is to blame for his not having his notes here?

A. That statement, I was ordered to be at Newark, is on the record; I would like to make a counter-statement in contradiction of it.

The Court—All the witnesses were. You might not have heard it.

A. When the proceedings were ended the court suggested going to Newark; counsel did not respond immediately, and then the court said, "I will adjourn this case here to-morrow morning at ten o'clock," and I proceeded to go out; and as I went out of that passageway I heard Mr. McDermott, Mr. Frank McDermott, first ask the court to direct all the witnesses to be here the next day; that is the last I heard of the case until the day afterwards when Mr.——, the constable up at Judge Blair's court, Mr. Kirk, told me I should have attended at Newark, and I told him he was mistaken.

The Court—And you did not hear the last order of the court?

A. No, sir.

Mr. Frank P. McDermott—I do not assume Mr. Moeser would disobey an order of the court at all.

The Court—Oh, no. How long would it take you to get those notes here?

A. I suppose if I telephoned down, Mr. Nugent will send them up; I can telephone by the number of the books; the reason I said "alleged subpœna" was simply a little matter of humor, because it was dated 1804.

The Court—If you say you want those notes you may have them. I will keep the case open until he can get them here.

Mr. Frank P. McDermott—I haven't—the original subpœna is properly dated.

The Court—Never mind about that. We won't spend time on that. If you wish them the witness—I will suspend the case and send for them; let him send for them.

Mr. Frank P. McDermott—I move the case be suspended, and Mr. Moeser get his notes.

Mr. Allan L. McDermott—We don't ask it.

The Court—Oh, well; I thought you were disappointed or finding fault that you did not have the notes here.

Mr. Allan L. McDermott—I am disappointed. I think it, however, not material enough to waste any particular time on.

The Court—If you want them, you shall have them here; that ends that. As far as I can, I am relying on Judge Blair's personal character as a judge, and on the fact that he was boss of the situation and saw what was written down by this gentleman—may be able to show that there was some improper conduct on the part of Judge Blair or Mr. Holman. If there was, let us know it. I don't want any insinuations hereafter at all. Let the whole thing come out. I don't want any doubt about it. That is the reason I am willing to suspend the case.

Mr. Frank P. McDermott—I move that the case be suspended and this gentleman——

The Court—I shall not make the order unless Mr. McDermott, or counsel on that side, ask it. I give them the offer, if you ask it, and please decide immediately.

Mr. Allan L. McDermott—I have said I don't ask it.

The Court—Oh, you don't ask it. All right; go on with your examination.

Mr. Allan L. McDermott—That is all.

The Court—Any questions, gentlemen?

Mr. Benny—None from me, sir.

The Court—Any further questions on the part of the accused, Mr. McDermott.

Mr. Allan L. McDermott—I am in a peculiar position as to that, if your Honor please. There is some testimony here that Captain Carroll had said something in the case. Of course, Captain Haagenson says he did not—never had any conversation with him. There is some testimony about the captain's having interfered—having the power to discharge—and Seastream afraid of him. As a matter of fact he had nothing to do with Seastream's department whatever, absolutely disconnected—had noth-

New Jersey State Library

ing more to do with discharging him than I had. They seemed to have had some mix-up about their relations there. Mr. Haagenson had no power. Now he is away. I don't know but what, in exercising the prudence which counsel is supposed to exercise in a case of this kind, I may close at this point. We rest, then.

The Court—They rest. Anything more on the part of the other accused?

August Seastream, recalled.

Direct examination.

By Mr. Benny.

Q. Do you know where Arlington Park is, in Bayonne?

A. Sir?

Q. Do you know where the Arlington Park is, in Bayonne?

A. Yes, sir.

Q. Do you remember going there with Captain Haagenson?

A. Yes, sir.

Q. Can you tell the date when you went there?

The Court—Can you tell when it was?

A. I think it was the 19th, the 19th or 20th.

The Court—Friday of the 20th?

Q. Why did you go with Captain Haagenson to the Arlington Hotel?

A. He asked me to go there.

Q. What for?

A. Telephone to Griffiths.

Q. What did you want to telephone; what were you to telephone to Griffiths for?

A. He wants to know if Demarest or Currie had been down there since the 6th.

Q. And when you went to the Arlington Hotel what did you do?

A. He only telephoned, and he said on the 'phone—he said Demarest had been there since, after the 6th, so I said, "No, sir;" that is all what I said; I said, "No, sir, he hadn't been there since the 6th."

By the Court.

Q. Hasn't been to see you?

A. Yes, that is what I answered.

Q. Did you have any drinks there?

A. Well, Haagenson, he had a kind of a drink, but I had a cigar.

Q. Did you have any drink of any kind there?

A. No, sir; I had been in Arlington Park altogether three different times during four years.

Q. And that night did you see Mr. Driscoll, the bartender who testified a moment ago?

A. Well, I have never seen that man as I know; he is quite strange to me.

Q. You saw him in court this morning?

A. Yes, sir.

Q. Have you ever seen him before?

A. No, sir.

The Court—He says not to know.

A. No, not to know him.

Q. Did you see him at the Arlington Hotel that night?

A. I seen a man inside the bar, but I don't know if it was him or not.

Q. Did the bartender say anything to Captain Haagenson and you about the baseball games?

A. No, sir, not whatever.

Q. Did you say anything to Mr. Haagenson in the presence of the bartender or to the bartender?

A. No, sir.

Q. About having signed another paper?

A. No, sir.

Q. Was there any conversation between Captain Haagenson and you in the presence of the bartender about the papers you had signed?

A. No, sir.

Q. What did Captain Haagenson and you talk about while you were waiting for the telephone?

A. There was nothing spoken at all, except I corrected him on Mr. Demarest—that he had not been down in my house since the 6th.

Q. After you had sent the telephone message, what did you do?

A. Haagenson then ordered a drink, and a cigar for me; and we went out—and we went right straight up to Avenue C and Fiftieth street.

By the Court.

Q. Up Avenue C and Fiftieth street?

A. Yes, sir; went up Fiftieth street to Avenue C; and he took a trolley and went home.

Q. While Captain Haagenson was having a drink and you were getting a cigar, did either of you talk to the bartender about the baseball case?

A. No, sir.

Q. Did you talk about the games in any way?

A. No, sir.

Q. Did you say anything to Captain Haagenson after the telephone?

A. No, sir.

Q. That you had signed another paper?

A. No, sir; I did not.

Q. Did you say anything about the case being settled and you guessed it was all right now?

A. No, sir.

Cross-examination.

By. Mr. Allan L. McDermott.

Q. Did you ever take a drink in this saloon in your life?

The Court—Did you ever take a drink in this saloon that you speak of as Arlington Park?

A. I have had a glass of beer there once; but two years ago—something like that.

Q. Now, where did you meet Captain Haagenson before you went to the saloon?

A. He came home to my house.

Q. And you went from the house to the saloon?

A. He was, I will say, about ten minutes in the house.

By the Court.

Q. He asks you whether you went from your house to the saloon?

A. With him; yes, sir.

Q. Did you talk about the baseball case, going to the saloon?

A. No, sir.

Q. And you didn't talk about it while you were inside there?

A. No, sir.

Q. Did you talk about it after you left?

A. No, sir.

Q. To what extent are you educated?

The Court—How much have you been to school?

A. Well, I have had common school; what we call a common school.

Q. Have you ever written anything on any subject?

A. Well—yes, sir.

Q. What?

A. Well, I have for different countries and different history—different kind of countries in the world.

Q. You are a writer of history, aren't you?

A. No, sir.

Q. Haven't you written historical works?

A. Sir?

Q. Haven't you written history of wars?

A. Wars, well, a little of it; yes, sir—history of war.

Q. You wrote a history of war?

A. Yes, sir—some of it.

Q. Have you written anything on the Japanese war?

A. Well, yes, a little.

Q. Have you written for magazines for publication?

A. No, sir.

Q. To be published?

A. No, sir.

By the Court.

Q. Has anything you have ever written been printed?

A. Oh, yes.

By the Court.

Q. Whereabouts—printed in the newspapers or whereabouts?

A. Well, newspapers; yes, sir; that is all.

Q. What newspapers have you written for?

Mr. Frank P. McDermott—You mean where they have been published?

The Court—What newspaper has what you have written been printed in?

A. Sometimes in the *Press.*

By the Court.

Q. New York *Press?*

A. Yes, sir; I have read something in that; I have read in that paper.

By the Court.

Q. No, no; in what newspaper has your—what you have written been printed?

A. Yes, sir.

By the Court.

Q. In the New York *Press?*

A Yes, sir.

By the Court.

Q. That is to say, you have read in the New York *Press,* in print, what you have written?

A. I don't understand it, sir.

The Court—I don't know as you understand me, but I want to find out. Do you know what it means to write for the newspapers?

A. No, sir; I have never write for the newspapers; no, sir.

By the Court.

Q. Do you know what it is to write for the newspapers?

A. That is to make out statement—something like that—to newspaper.

By the Court.

Q. And have the newspaper print it?

A. Yes, sir.

Q. You have written things, you say?

A. No, sir; I have not.
By the Court.
Q. Haven't you written about the war?
A. I have read.
By the Court.
Q. Oh, read?
A. Yes, sir—read.
By the Court.
Q. Never have written anything?
A. Oh, no, sir.
By the Court.
Q. You have read about things in the newspapers, and so forth?
A. Yes, sir.
By the Court.
Q. But you have not written articles?
A. Oh, no, sir; I couldn't do that.
By the Court.
Q. You couldn't do that?
A. No, sir.
Q. Have you ever written anything about your own country?
A. No, sir.
Q. Put with your pen on paper, writing?
A. No, sir.
Q. Never have?
A. No, sir.
Q. Do you say that you were going to see Mr. Brown that night?
A. What night, sir?
Q. The night that you went to the garden; the time yoy went to the garden?
The Court—Went to the liquor saloon with Mr. Haagenson?
Mr. Frank P. McDermott—Arlington Park.
Q. Do you say you were going to see Brown that night?
A. No, sir.

Q. Did you go to see Brown?

A. No, sir, not that night.

Q. When did you go?

A. I went there about the 27th—the 27th of June.

Q. May, wasn't it?

A. 27th of May.

Q. Where did Brown live?

A. Fiftieth street.

Q. Did you find him?

A. 27th?—no, sir.

Q. What did you go there for?

A. I went to see him; I went to ask him about this here thing—this story Griffiths told me what I should say in court.

By the Court.

Q. What you should say in court?

A. Yes, sir.

Q. What was it you were to say to him?

The Court—Wanted to see him about what he was to say in court.

A. Yes, sir.

Q. Well, did you see him at all?

A. Yes, sir; he come to my house.

By the Court.

Q. You left word at his house for him to come to your house?

A. Yes, sir.

By the Court.

Q. And he came there?

A. Yes, sir.

Q. When was that?

A. 27th.

Q. 27th?

A. Yes, sir.

Q. And what did you tell him then, that they wanted him to testify in court?

A. Well, I didn't say, but I said they don't want him to say that; I don't know what the first paper was; so

my wife says I said to Brown that they wanted him to say what the first paper was.

By the Court.

Q. Wanted Brown—you say see for say all the time and we can't tell what you are saying; now repeat it; what you said to Brown; did you talk to Brown?

A. Yes, sir.

By the Court.

Q. He came to your house?

A. Yes, sir.

By the Court.

Q. Were you home when he came there?

A. Yes, sir; my wife was alongside of me.

By the Court.

Q. Yes, yes; just tell what words passed between you now.

A. I said Mr. Griffiths want me to say that I don't know what Mr. McDermott or Mr. Currie wrote down the 6th.

By the Court.

Q. You told him that Mr. Griffiths wanted you to say——

A. Yes, sir.

By the Court.

Q. That you don't know what Mr. Currie wrote down on the 6th of May?

A. Yes, sir; so my wife she turned, and she said, "Mr. Brown," she said, "don't you go and tell any lies, because that will never do; you go there and tell the truth."

By the Court.

Q. That is what your wife said?

A. Yes, sir; and I didn't say any more to him, because my wife took that and said to him, you know.

Mr. Allan L. McDermott—We ask that the answer be stricken from the record.

The Court—I can't do that.

Mr. Allan L. McDermott—We pray an objection.

The Court—You asked him the question as to what occurred between him and Brown, as I understood you. The difficulty was, I don't think he understood the question, and I put it in my own language, so I think he did. If you say now you did not mean to ask him the question as to what took place between him and Brown, but I understood you intended to ask him the question as to what took place between him and Brown. Am I mistaken in that?

Mr. Allan L. McDermott—I intended to ask him whatever I did ask him, and I have forgotten what it was. My objection is to the question and answer asked by the court; not that I think it is worth spending a second over one way or the other.

Mr. Frank P. McDermott—You said Mr. Currie or Mr. McDermott?

The Court—I didn't understand him to say Mr. McDermott—Mr. Demarest.

Mr. Frank P. McDermott—He used the word McDermott. I don't know whether he meant my friend, the congressman.

By the Court.

Q. Who did you mean?

A. Mr. Demarest.

By the Court.

Q. Demarest?

A. Yes, sir.

Redirect examination.

By Mr. Benny.

Q. When you went to see Mr. Brown about what somebody was to say in court—who was to say in court?

The Court—He hasn't got your question, I don't think.

Q. You said you went to see Mr. Brown about what somebody was to say in court; who was to say that in court?

A. Mr. Griffiths wanted to see Mr. Brown and tell him what to say in court.

By the Court.

Q. Mr. Griffiths wanted to see Mr. Brown to tell him what to say in court?

A. Yes, sir.

Q. What did you say to Mr. Brown about that—what did you tell Mr. Brown?

A. That was the 27th.

By the Court.

Q. What did you say to him—to Brown—about that?

A. Well, let me see; I don't know what Mr. Griffiths wanted to tell me.

Q. What did you tell Mr. Brown—what did you say to him when you went there?

The Court—Did you tell Brown Griffiths wanted to see him?

A. Yes, sir, I did.

Q. Tell us what you said to him; what did you say to Brown?

A. I told him that [witness paused and said no more].

Q. Can't you remember what you said?

The Court—Can't you remember what you said to Brown, now?

[Witness did not answer.]

Q. Do you understand what I say—do you understand what I say?

A. No.

Q. You don't understand it?

A. No, sir.

Q. I am trying to find out what you said to Mr. Brown?

The Court—What you told him? He uses the word "see" and "say" indiscriminately.

Q. I want to know what you told Mr. Brown when you went to his house?

The Court—He didn't see him at his house, as I understand him. He left word and Brown came to his house. When you did see him, what did you tell Brown?

A. I told him that——

Mr. Allan L. McDermott—May I have——

Q. Go ahead; what did you tell him?

Mr. Allan L. McDermott—What did Mr. Seastream tell who?

Mr. Benny—Brown.

Mr. Allan L. McDermott—I think we will object to that.

Mr. Benny—You brought it out yourself.

Mr. Allan L. McDermott—No, I didn't.

A. I told him that he wanted him to go to court and say that I didn't know what Mr. Demarest, he wrote in the house; so my wife, she said, "Mr. Brown, if you go there you tell the truth, because that will never do."

Q. Did you tell him that Mr. Griffiths wanted to see him?

A. Yes, sir; I told him Mr. Griffiths——

Q. Did you tell him what Mr. Griffiths wanted him for?

A. Yes, sir.

Q. What did you tell him?

A. I told him Mr. Griffiths wanted him to go and say he was the whole time in my house.

By the Court.

Q. During the baseball game?

A. Yes, sir.

Examined by Mr. Allan L. McDermott.

Q. That is all he wanted him to tell about?

A. Sir?

Q. That he was in your house at the time of the baseball game; that was on Sunday, wasn't it?

A. Yes, sir.

Mr. Allan L. McDermott—We want to call Captain Haagenson.

The Court—For what purpose?

Mr. Allan L. McDermott—To contradict this witness.

The Court—You cannot do it now. You have had Captain Haagenson on the stand. You have had this young man on the stand, and this gentleman is brought on in pure rebuttal. I don't know.

Mr. Benny—I object to Captain Haagenson being recalled.

Mr. Allan L. McDermott—That would be an entirely intelligent objection, in view of the fact that the right to recall Captain Haagenson is one of our rights. The right to ask him questions might be subject to objection, but I have never heard——

The Court—The case; I don't want to cut off anything here.

Mr. Allan L. McDermott—I want to offer—I will make my offer.

The Court—Never mind; I don't want that at all. This case was closed on last Wednesday, I think, wasn't it? Tuesday, at Newark, with the exception of the two witnesses, Mr. Moeser and Captain Carroll, and leave was reserved to put them on the stand here at Jersey City this morning. This morning the accused came with a witness whose name I forget now—a bartender, Driscoll—to prove what had occurred between Mr. Haagenson and Mr. Seastream on the occasion that Mr. Haagenson was examined about, if I recollect right; I haven't the evidence here about which he could have been fully examined and presumably was fully examined. This gentleman went on the stand and this Mr. Driscoll went on the stand and told his story, and Mr. Benny put Mr. Seastream on the stand to contradict or vary that evidence. Now, does that justify the other side, who are opposed to Seastream, a fact between two defendants here, so to speak, in putting Mr. Haagenson still on the stand when he was in Newark—been in attendance every day? I don't think it does, but I am going to let him go on the stand against Mr. Benny's objection.

Mr. Frank P. McDermott—I was going to move that he be allowed to go on the stand.

The Court—I understand the State wants him on, but I think it is an injustice to Mr. Seastream—very great injustice—because I don't know when Mr. Haagenson came in the room. He may have come in since Dris-

coll left the stand, for what I know, but he ought to have been here, and counsel ought to have had him here; but he can take the stand.

Captain Benjamin T. Haagenson, recalled.

Direct examination.

By Mr. Allan L. McDermott.

Q. Captain, when you went to Arlington Park with Seastream, what did you drink there?

A. We drank whiskey sour.

Q. How many?

A. We had two each.

Q. Did he drink the same?

A. Yes, sir.

Q. Did you have a cigar?

A. Yes, sir.

Q. Did you telephone to Mr. Griffiths?

A. I did.

Q. Where was Seastream while you were telephoning?

A. Sitting alongside of me part of the time.

Q. Did you telephone about Mr. Brown?

A. Yes, sir.

Q. What did you telephone; do you recollect?

A. I says that he had sent Mr. Brown down to see Mr. Griffiths, I think, or else down to see him; I know I requested Seastream to send Mr. Brown on the boat to me on his way to New York; and I think that was the substance of my conversation through the 'phone; and we had some conversation in connection with Mr. Brown at the bar there; and that is how I come to 'phone about it.

Q. Did you have a conversation about the ball game while you were there at the bar?

A. Yes, sir; spoke about the ball game; I was talking to Seastream about the ball game, or about the article he had written in the paper on the way over; and I remember I told him, I says, "If find out you are lying," I says, "I have a good mind to knock your block off;"

that is the word I used, if I found out he was lying; he said, "Captain, I ain't lying; I can prove I am telling the truth."

By the Court.

Q. Knock his block off; what do you mean?

A. I meant hit him in the head; he says, "I am not lying about it; I can prove everything I said by Mr. Brown;" and that is how I came to call Mr. Griffiths up on the telephone and tell him that Mr. Seastream would prove what he had told us by Mr. Brown.

Cross-examination.

By Mr. Benny.

Q. Where did you say to him that you would knock his block off?

A. I think it was in the Arlington Hotel, or approach thereto; I won't be sure where it was; it was either there or on the way there we had that conversation concerning the article.

Q. And after he had seen the—to prove by Mr. Brown certain things, then you went to the parties?

A. Yes, sir.

Q. Is that why you went to the telephone?

A. That is why I went to the telephone—to tell Mr. Griffiths what—that Seastream could prove by Mr. Brown everything he had told us; that everything was the truth.

Q. What did you leave Mr. Seastream's house to go to the Arlington for?

A. When did we; yes.

Q. What did you leave his house to go to the Arlington for?

A. Do you say when or what?

The Court—Why?

Q. Why did you leave his house to go to the Arlington?

A. Well, I don't remember just how we come to go down to the park; Seastream wanted to buy me a drink; first he had been out to show me the fence which had been erected adjacent to his dwelling; he said it was a spite fence; he asked me if I could see Mr. Griffiths to see if

he could do something to have that fence taken down; it was a source of annoyance to him, because they had a swing there banging up against the fence, making a terrific noise—keeping his children awake; I said I would see Mr. Griffiths and do the best I could for him; then we walked over; I am almost sure it was according to his suggestion that we went over there; I am very near sure of that.

Q. Then you did not go to the Arlington for any specific object?

A. Not for any specific object.

Q. Where was the spite fence he complained of?

A. Alongside of the house; I think it is there to this day.

Q. Did he say anything about spite fence?

A. Yes, sir; he was very much annoyed with it.

Q. Do you know whose fence it is?

A. I don't know the neighbor's name—no.

Q. Why did you not testify about this conversation that took place in the Arlington when you were here before?

A. I can't think of everything that took place every day of my life, and I never thought of it; I was asked a good many things on the stand that day.

Q. You didn't tell us of this because you didn't think of it?

A. That is it.

Q. You were very angry when you went down to the house on this occasion?

A. I have testified so once before.

Q. And this angry condition continued, I suppose, during the time you went to the telephone and when you were going to knock his block off?

A. Well, angry or not angry, I was very much angered to think that the man told a lie—or to that effect.

Q. I want to get the condition of your mind about it; you were still angry about it?

A. I may have been somewhat angry yet, and I may not.

Q. Well, you made this threat you have testified to; without any doubt, you threatened to do that?

A. I made that threat deliberately, meaning just what I said.

Q. Yes, and you made some threats to him at the house, too, didn't you?

A. Oh, no; I made no threats at the house.

Q. Then you went down to the—you say he wanted to buy you a drink?

A. Yes, sir.

Q. Was that to pacify you or what?

A. Probably it might have been to pacify me.

Q. But while he was going down to this saloon trying to pacify you, you were making these threatening statements to him?

A. Well, you may call it a threat and may not; I told him if I detected him in a lie—if he was lying to us and playing me for a fool, appealing to me as a friend and then have it appear that the contrary was the case, I told him I should take measures, and I used that expression.

Q. Well, you said you would take measures, and you said you would knock his block off?

A. Something to that effect.

Q. Any other things you said of that kind?

A. Well, I don't know; I might have said other things; I don't recall them exactly, but I know that was one of the expressions.

Q. Your action continued for a considerable time, and these threatening statements continued for some time?

A. I was angry when I went to the house.

Q. I understood that?

A. We talked on the matter out there, and I told him what was uppermost in my mind when I went down to the house, so I didn't get a chance to tell him because, to use a slur expression, he took me back by saying he had nothing to do with it whatsoever.

Q. Your going down to this saloon was sort of an accident, wasn't it?

A. I judge so.

Q. Going to the telephone was an accident, was it?

A. Telephone was an absolute accident.

Q. Who suggested the telephone?

A. I did.

Q. What did you care about it?

A. What did I care about it?

Q. Yes?

A. I think I would care a whole lot about it.

Q. Well, what did you care about it; what interest had you in it?

A. I was interested in proving that what he told us was the truth; I had been mixed up in taking him up to a certain—an office of a prominent man and having him take an affidavit; that is the statement I saw in the paper, and I wanted to know if that affidavit was true, that which I had been interested in getting or was present in getting.

Q. What had this using the telephone to do with that?

A. I think I said that Mr. Seastream told me that Brown could prove that the second affidavit was true.

By the Court.

Q. He told you that right there, in Davis' office, hadn't he, the day before?

A. Yes, sir.

By the Court.

Q. And you had sent word by him to Brown that you wanted him to testify, and there was $10 in it, hadn't you?

A. I told him to tell—I don't know whether I told Mr. Seastream to tell Mr. Brown, but I know I wrote a note to Mr. Brown, telling him I would allow him $10 toward defraying the loss of time.

Q. When did you say this was, Captain?

A. Oh, I can't remember the date; it was on Friday—I think either Thursday or Friday.

Q. I mean about what time in the month—was it 20th or 27th?

A. Probably may have been 20th or 27th; I am not fixed at all upon those two days.

By the Court.

Q. Wasn't it the next day after you had the meeting up here at Griffiths' office—Exchange Place—after the testimony was read here in court; wasn't it the day after you had Seastream over in New York and gave him his dinner?

A. I don't remember whether it was before or after; I should judge it was before; I should judge so.

Q. You don't know which it was?

A. No.

Q. You telephoned Brown—you telephoned Mr. Griffiths on that occasion, I understand?

A. Yes, sir.

Q. What was the telephone message, as you recall it—what did you telephone; you did the telephoning?

A. I did the telephoning; yes, sir.

Q. Was it a booth or open instrument?

A. It was open; I said, "Mr. Seastream says he knows nothing about this newspaper article; he disclaims any connection with it whatsoever," or words to that effect, "and he can prove everything with Mr. Brown and Mr. Brown's family."

Q. Yes; is that all?

A. About all; there may have been other things said; I can't just recall; it is a long time since.

Examined by Mr. Benny.

Q. What did you expect Mr. Griffiths to do concerning the spite fence?

The Court—What do you want to go into that for?

Mr. Allan L. McDermott—We object.

A. I don't know; it was Mr. Seastream's appeal; Mr. Seastream appealed to me to see Mr. Griffiths to see what he could do about the spite fence.

Q. Where was the spite fence?

A. I guess adjacent to his house; I guess I testified to that before.

Q. How high was the fence?

A. The fence was quite high, so I judge—eight or ten feet.

Q. Isn't that the baseball fence?

A. Oh, no.

Q. Are you sure there was a fence eight or ten feet around his house?

A. Yes, sir, quite sure; you will see it there to-day, if you go near his house; you will find a swing right inside of it.

Q. There may be a swing; do you mean to say there is a fence there eight or ten feet high?

A. Yes, sir.

Q. You mean to say there is a fence there, other than the baseball fence, of that height?

A. Oh, yes; I think I insinuated that, or meant as much.

The Court—Is there any more evidence either party wishes to offer?

Mr. Allan L. McDermott—Anything further on your side? That is all.

Mr. Frank P. McDermott—Nothing further on the part of the Court?

The Court—Anything further on the part of the accused? Counsel may proceed to sum up.

Mr. Dixon—I have drawn an order in this case in regard to Mr. Bentley.

Mr. Frank P. McDermott—If your Honor please, I had some question as to the extent of my duty in this matter, but concede that I ought to, in justice to all parties, to prepare a memorandum of the authorities upon which I shall move to dispose of this matter.

Mr. Allan L. McDermott—Will you allow me to interrupt you one moment? I want to, at this point, say while if the Court will listen to argument we will argue the cause; nevertheless, we protest that we should not, on the part of the defendants, be either allowed to present argument here or put to the presentation of it, and to say that we desire to argue this case before the Chancellor,

and that whether argued here or not we shall make request of the Chancellor to have the case argued before him.

The Court—Have you made such request?

Mr. Allan L. McDermott—I am informed no one has been——

The Court—I cannot postpone the argument on that account. I would be very glad if counsel had requested the Chancellor to sit in the argument of this case. Nothing would be more gratifying to me.

Mr. Allan L. McDermott—I would like to express my view on it if the court will listen to it. It won't take but a moment. My idea of this is this: This power of contempt which is being exercised has been for centuries exercised; is a very—well, it is a power that nowhere else is found except in times of war—of taking a man's liberty or subjecting him to pecuniary punishment without a jury. It seems to me, therefore, that all the elements which go to justify jury trial—the right to see the witness, the right to hear the witness—must exist; the right to be heard, the right to be seen, must exist. Here is a delegated power, and in its final aspect the Chancellor is to pass upon one or two positions—either to take, as is ordinarily done, the recommendation of the Vice Chancellor; say it being so recommended I approve, and decree may be entered, or hear the argument in the cause. Now, if he merely hears the argument in the cause, he does not see the witnesses. This is a case where reading the testimony, as your Honor will see, can give no one an idea of the case at all. It does seem to me, therefore, that the Court of Chancery must, so far as those elements that guard and protect any criminal law can be fostered, the Court of Chancery should foster them. I do not believe—this is a criminal cause; the defendants are entitled, I think, to all the protection that is thrown around in the criminal law courts, and I do not believe, therefore, that the Chancellor can delegate the hearing and decision, nor the recommendation to him, because, in my view, he

cannot act on recommendation in a criminal cause. He must have all those elements which the common law of this country says shall be present, both for and against a defendant, when he comes to adjudge that defendant, in the absence of a jury, guilty of crime. It is with that view that I most respectfully ask my idea to be noted.

The Court—Nobody feels the strength of the counsel's statement more than I do, or can feel it more than I do. The power of both the Court of Chancery and the law courts to inquire into and deal with contempt of the court is thoroughly established. It is a part of our system, and is not, as I understand it, included in that or covered by the constitutional privilege of trial by jury. If anything was ever settled I think it has been settled—that is, settled in this country. It was even almost brought right in question in the Supreme Court of the United States in the famous case of the shooting down of a man in the presence of Judge Field in a restaurant in California, and has been exemplified in two cases in this court. I am stating this now because I think it is a repetition of what I have before said. I don't know that it is, but I will state it now. It has been exemplified in two cases in this court. The one case was the Jersey City case of White against White, which was precisely similar to this case, except that there the tampering with the witnesses occurred in a cause which had been referred to me, and the investigation was made by me. The judgment was pronounced, as Judge Hudspeth knows, by the Chancellor sitting with me. No exception was ever taken to that proceeding, though I am not sure that Judge Hudspeth did not object from time to time. I think he did. There was no imprisonment imposed except as conditioned upon the nonpayment of a fine. The fine was a punishment, with commitment until it was paid. The fine was promptly paid, so that the question of personal liberty did not arise.

The other case, which is somewhat similar to this, was the Paterson strike case, Herold against somebody, Clemens and Frank against Herold. There that was a breach

of an order advised by me sitting here for the Chancellor on a motion day in a case that was not referred at all. The investigation took place precisely as this did, and was hotly contested. There was an adjudication of contempt, and both fine and imprisonment. Counsel exhausted their ingenuity in attacking the power of the court. They went to the Court of Appeals twice, and they went to the Supreme Court of the United States, and the power of the court and the legality of the proceeding as far as that was concerned was thoroughly established. The Court of Appeals did determine, as it was of that nature, that kind of a contempt, it was not appealable. The Supreme Court of the United States held that there was no breach of any clause of the constitution of the United States in the conduct of that proceeding and on the fine and imprisonment. So far as the constitutional question goes I am of the impression at this moment, without meaning to express opinions and go on record, that the decision of the Supreme Court of the United States in that case is completely conclusive and ends the matter. But one word as to the practice. Now, there is no use of my saying this; but I am going to say it, because there are a good many of the members of the bar here. The practice, as I recollect it—I haven't looked at it for a great many years and I may be entirely mistaken—the practice of the English Chancery, which is our practice embodied in our constitution, was for all these matters to be referred to a master, the taking of the depositions referred to a master. He reported, and the Chancellor acted on that report. I am still further of the impression that where the party wanted to apologize, wanted to be heard in discharge of the contempt, he may have been heard personally before the Chancellor, but I doubt it. I think everything was done before a master. That is my impression; mere impression, however. But I am quite sure the Chancellor never took any evidence in person, the English Chancellor, but referred it all to a master. And if the English Chancellor could refer it to

a master then the present proceeding before a Vice Chancellor is clearly regular. But, be it as it may, I am compelled to hear and determine this matter as to what the conduct of these parties has been. I do not say that there will be no exception or no appeal from me to the Chancellor. I hope there is, and will do everything in my power, should my conclusion be against the accused here, which I hope it won't, to have a review by the Chancellor. Counsel may rely upon that.

And now I want to say one more word that is not cognate here, and I want to say it once for all. I understand it has been stated by members of the bar of Jersey City that I have interfered with the stenographer's notes, and have required the stenographer to show me his notes of evidence, and have changed them. It is false from beginning to end, and there is not a word of truth in it. It is an insult to the Court, and I want to take this first opportunity that has come to me since that report came to me to denounce it. No counselor or solicitor dare get up and charge me with that. If he has done so behind my back, he has done a thing that he ought to be ashamed of. I defy anybody to say it. I never did such a thing and never thought of it. The notes of the stenographer are sacred so far as taking the testimony goes. Oral opinions are different things. We are not obliged to stand by our oral opinions. We change them and write them over again. But the taking of testimony is something that this Vice Chancellor or no other one in the State of New Jersey ever attempted to change. I say this for the purpose of—the first opportunity—I see a good many of the bar here—of denouncing the thing with all my power. The matter that I have just spoken of has nothing to do with this case—did not arise here.

Mr. Allan L. McDermott—The accusation which your Honor mentions is an accusation of statutory crime. I cannot conceive——

The Court—It has been done. I am very thoroughly satisfied the charge has been made.

Mr. Allan L. McDermott—As an officer of the court, I join in the indignation of the court. If any such charge has been made, however, it has nothing to do with this case.

The Court—No. It didn't arise in this case.

Testimony closed.

ORDER OF REFERENCE.

[Filed September 27, 1904.]

It appearing to the court that the defendant, New Jersey Exhibition Company, has filed an answer to the complainants' bill of complaint in the above entitled cause, and that replication thereto has been filed by the complainants:

It is, on this twenty-seventh day of September, nineteen hundred and four, ordered that the above-stated cause be referred to Henry C. Pitney, one of the Vice Chancellors of this court, to hear the same for the Chancellor and report thereon to him, and advise what order or decree shall be made therein.

W. J. Magie,
Chancellor.

We hereby consent to the making and entry of the above order.

NORTHROP & GRIFFITHS,
Solicitors for Defendant.

ORDER TO POSTPONE.

[Filed Oc ober 4, 1904]

The hearing on the order to show cause why certain parties should not be adjudged guilty of a contempt of this court having been adjourned to this day, and a request being now made in behalf of such parties that said hearing be postponed:

It is, on this third day of October, nineteen hundred and four, ordered that the hearing on said order to show cause be and the same is hereby postponed to Monday, the seventeenth day of October, nineteen hundred and four, at the hour of ten o'clock in the forenoon, at the Chancery Chambers in the city of Newark, N. J.

W. J. MAGIE,
Chancellor.

DESIGNATION.

[Filed December 6, 1904.]

It appearing to the court that, in pursuance of an order of reference heretofore made in the above-entitled cause, due notice of a motion hereof has been given to the solicitors for said defendant:

It is, on this sixth day of December, nineteen hundred and four, ordered that said cause be and the same is hereby set down for hearing on the third day of April next, at the Chancery Chambers in the city of Jersey City.

H. C. PITNEY,
Vice Chancellor.

NOTICE.

[Filed December 6, 1904.]

To Messrs. Northrop & Griffiths, Solicitors for Defendant:

Please take notice that on Tuesday, the sixth day of December next, at the hour of ten o'clock in the forenoon, at the Chancery Chambers at Newark, we shall apply to his Honor H. C. Pitney, one of the Vice Chancellors of this court, to whom the above cause has been referred, for a date to be fixed for the hearing of the above-entitled cause.

Respectfully yours,

ROBERSON & DEMAREST,
Solicitors for Complainants.

November 29th, 1904.

Service of a copy of the within notice is hereby acknowledged this 29th day of November, A. D. 1904.

NORTHROP & GRIFFITHS,
Solicitors for Defendant.

NOTICE.

[Filed December 7, 1904.]

To Messrs. Northrop & Griffiths, Solicitors for Defendant:

Please take notice that, in pursuance of an order made in the above-entitled cause on the sixth day of December, nineteen hundred and four, by Henry C. Pitney, one of the Vice Chancellors, fixing Monday, the third day of April, nineteen hundred and five, at ten o'clock in the forenoon, at the Chancery Chambers in Jersey City, as the time and place of hearing in the above cause,

that we shall, on said third day of April, nineteen hundred and five, at the Chancery Chambers in Jersey City, at said hour of ten o'clock, or as soon thereafter as the same may be heard, move the hearing of said cause before said Vice Chancellor.

Respectfully yours,

ROBERSON & DEMAREST,
Solicitors for Complainants.

Service of the within notice is hereby acknowledged this 7th day of December, A. D. 1904.

NORTHROP & GRIFFITHS,
Solicitors for Defendant.

OPINION.

[Filed December 23, 1904.]

Heard on bill and affidavits on the part of the complainants and also on the part of the defendants.

Mr. William H. Speer and *Mr. Elmer W. Demarest,* for the complainants.

Mr. Robert S. Hudspeth, Mr. James P. Northrop and *Mr. Peter Bentley,* for the defendant.

PITNEY, V. C.

The object of the bill is to restrain the playing of baseball games on Sunday on a plot of ground called "The Eastern League Park," situate in the westerly part of the city of Bayonne, in the county of Hudson. This park comprises the greater portion of three blocks, situate between the Hudson Boulevard on the west and Avenue B on the east, and West Forty-sixth street on the south

and West Forty-ninth street on the north. Forty-seventh and Forty-eighth streets, as laid out on paper, traverse the park but are not open on the ground. The park is about four hundred feet wide and five hundred feet long, and is enclosed with a board fence about fourteen feet high. Avenue C is about seven hundred feet east of Avenue B, and the more densely built part of the city lies to the east of it.

The complainants, of which, as the bill now stands, there are some twenty, own or occupy lands in the vicinity.

Persons visiting this park reach it by a trolley line which connects the Pennsylvania ferry, in Jersey City, with the extreme south end of Bergen Point, on the banks of the Kill von Kull, and which is laid through Avenue C. Those persons alight from and board the cars in Avenue C, at the corners of Forty-ninth, Forty-eighth and Forty-seventh streets.

The complaint of the complainants is twofold:

First. That the advertisement of the baseball games brings large numbers of persons—running into the thousands—on such occasions into the locality by the trolley conveyances; that they alight in such congested numbers in Avenue C that the sidewalks and streets do not accommodate them, and that they do not hesitate to encroach upon the private grounds and trample the lawns of the residents of that neighborhood; that they make a great deal of noise and clatter, and use vulgar and obscene language, not only in alighting from the trolley cars and going to the park, but also in returning therefrom and scrambling for seats for the return to the cities, and indulge generally in rough and boisterous and disorderly conduct.

Second. That while viewing the ball games they become hilarious and excited, and shout and applaud in such a manner and to such a degree as to disturb the neighbors for a considerable distance therefrom.

It is not alleged or shown by the affidavits that each of the complainants suffers from each of the two classes of

New Jersey State Library

annoyances, and hence it was urged at the argument that there had been a misjoinder. I shall refer to that later.

As originally presented, the bill was filed by August Seastream—who, with his family, occupied a house immediately adjoining the park on the northeast, and who, it is alleged, suffers from the noise of the spectators of the game—and by Charles C. Alexander, who lives on the corner of Avenue C and Forty-seventh street, over seven hundred feet away from the park, but immediately adjoining that part of the trolley line where the visitors to the park alight from and board the cars. He represents the persons annoyed by the first class of injury.

The bill, however, in addition to naming the two persons just mentioned as complainants, declared that it was filed "on behalf of themselves and numerous other residents of said city, among whom are those whose affidavits are annexed to this bill of complaint."

Several affidavits were so annexed, and on the presentation of this bill, on May 7th, 1904, an order to show cause with *interim* restraint was advised by me, returnable May 16th, with leave to complainants to procure and serve further affidavits.

Further affidavits were made and served on both sides in great numbers and volume.

On the return day, May 16th, the hearing was adjourned by consent until May 23d. On that day, after the hearing was reached and proceeded with, and additional affidavits had been read on the part of the complainants, counsel for defendant, being called upon to proceed on its part, arose and said that it was admitted by them that complainants' affidavits made out a *prima facie* case under the doctrine of *Gilbough* v. *West Side Amusement Co., 19 Dick. Ch. Rep. 27; 53 Atl. Rep. 289,* and *Cronin* v. *Bloemecke et al., 13 Dick. Ch. Rep. 313,* but that they had not only a complete answer on the merits, but also a written request, directed to the solicitors of complainants and signed by Messrs. Seastream and Alexander, requesting them to discontinue the suit.

As the signatures to this paper were not verified by affidavits, I stated that I could act upon it only after notice to complainants; that its present affect rested entirely with the solicitors of complainants. They declined to act upon it, and immediately moved for, and, by consent, obtained an order amending the bill by adding numerous other complainants by name.

(The action of Mr. Alexander in signing the request to discontinue was afterwards explained by an affidavit made by him and filed by his counsel, and his desire was there expressed that the suit be continued.)

The defendant then commenced the reading of its affidavits, which were continued on that day and May 26th. Among these affidavits was one of the complainant Seastream, contradicting all to which he had testified in his former affidavit, annexed to the bill, which affidavit was, later on, met by counter-affidavits on the part of the complainants.

I then, on my own motion, took measures, which were heartily acquiesced in by counsel on both sides, to investigate the circumstances under which Seastream made the two conflicting affidavits.

That investigation is still pending, but the complainants' counsel has not stricken his name from the list of complainants.

I shall, however, disregard his affidavit in considering questions of fact.

I think both classes of injury sufficiently established by the affidavits.

The proof tends to show that some five or six of the complainants who reside in the neighborhood of the park have been disturbed by the noise of the shouts and applause from the grounds on the two Sundays when ball games had been played, to wit, on April 24th and May 1st, and several others of the complainants have suffered from the noise and unruly conduct of the great crowds alighting from and boarding the trolley cars in front of their residences and going to and from the park and the trolley.

The affidavits on the part of the defendant show that great pains were taken to prevent the spectators from making any noise while on the grounds. They seem to have been aware and to have borne in mind that many of the persons who usually attend Sunday baseball games are very likely, if not almost certain, to indulge in noisy demonstration during the progress of the game, and thereby create a nuisance to the dwellers in the vicinity.

To ameliorate, if not entirely to prevent, this result, they caused cards to be printed, as follows:

"The management respectfully requests every one present to refrain from shouting and applause, and to maintain a gentlemanly demeanor at all times, especially while approaching and leaving the grounds."

These cards were handed to every person who entered the park, and in addition personal requests were made and repeated to the spectators to refrain from noise. While the defendant's affidavits tend to show that there was certainly much less noise than, as a matter of common knowledge, usually results from such exhibitions, they do not satisfy me that the affiants, who testify to being disturbed by such noises, are untruthful.

Besides, there is proof on the part of the complainants of much noise on the street in going to and from the park, and, in one instance, of extremely obscene language used by a man where it could be heard by females.

There are also among the affidavits of the defendants statements that on the two Sundays in question the spectators were unusually quiet and orderly in their use of the streets.

But this I found, on pretty close examination, was, in many cases, a mere favorable comparison with the character of the crowds, admittedly boisterous and unruly, which had infested the neighborhood on previous occasions, of which I shall speak later.

On the other hand the affiants on the part of the complainants characterize the generality of the people attending the ball games as rough and boisterous and as ren-

dering it extremely disagreeable, if not unsafe, for women and children to meet them on the street.

With regard to the law covering the case, so far as noise is concerned, I do not care to add anything to or to repeat what I said in *Gilbough* v. *West Side Amusement Co., supra.* With regard to the cumbering by the crowds of the sidewalks, that aspect was dealt with by Vice Chancellor Emery in *Cronin* v. *Bloemecke, 13 Dick. Ch. Rep. 313, 314,* where he says:

"The third nuisance complained of is the collection of large numbers of idle and disorderly persons in the neighborhood of the grounds and of complainant's house while the games are in progress, which crowds, by their noise, vile language and behavior, disturb the peace and quiet of the neighborhood and subject complainant and other residents to insult and abuse if they venture from their homes."

In dealing with it, on page 318 he says:

"The other objection which is urged specially against any injunction, based on the collection of disorderly persons outside of defendant's grounds, is that the nuisance is a public nuisance only, and cannot be reached by injunction at the suit of complainant. But the right to relief in behalf of one who suffers private injury or annoyance from that which is a public nuisance is well settled. The only question is as to the character of the relief or remedy, and the right to relief by injunction against the special nuisance to one's dwelling-house by reason of crowds of disorderly persons upon the highways, drawn there by entertainments given by a third person upon his own land for pecuniary profit, is based upon fundamental principles which have been recognized and inforced wherever they have been called in question. In *Rex* v. *Moore, 3 Barn. & Ad. 184* (which was an indictment), Lord Tenterden says: 'If a person collects together a crowd to the annoyance of his neighbors, that is a nuisance for which he is answerable.' In *Walker* v. *Brewster, L. R. 5 Eq. 25* (where an injunction was

granted), it was held that a case of nuisance was established by the collection of a crowd on the highways in the neighborhood of grounds upon which entertainments, with music and fireworks, were given continuously for profit. In *Bellamy* v. *Wells*, 39 *W. R. 158*, cited in *Barker* v. *Penley*, 2 *Ch. 457*, *458 (1893)*, an injunction was granted against holding boxing or prize fight entertainments, which had the effect of collecting large and noisy crowds in the streets outside of the premises."

I need hardly say that I concur in this.

The affidavits on both sides dealt with the question of values of real estate; those on the part of the complainant asserting that the result of the permanent establishment of Sunday playing of baseball games would be to depreciate the value of the real estate in that neighborhood; and those on the part of the defendant asserting precisely the contrary.

In answer to the latter it was shown by counter-affidavits that many of defendant's affiants were keepers of houses of entertainment in the neighborhood, and others were directly or indirectly interested in the success of the defendant's enterprise.

The well-known Hudson Boulevard, as already stated, bounds the ball park on the west, and, as I understand the evidence, though the whole region is laid out in streets, none has been opened or worked between the Hudson Boulevard and Newark bay, and not all immediately to the east of the Boulevard have been opened or worked, and most of the improvements to the east and between that and Avenue B have been of cheap and moderate character, but it clearly appears that all the improvements that have been made are of a residential character.

I am therefore inclined to think that the result of the establishment of the Sunday baseball games will, in the long run, be detrimental to the value of real estate in the neighborhood.

The defendant raises another point by his affidavits,

which I feel constrained to mention, which is that this immediate neighborhood has for a long time been subjected to the nuisance of baseball games on Sunday, played on the very ground now occupied by the defendant corporation, and that such use of the ground has been acquiesced in by the dwellers in the neighborhood, and that only a slight distance to the west is Newark bay, which, for many years, has attracted great crowds of people on Sundays. That these people are attracted to its shores for amusements on Sundays, consisting of boating, crabbing, fishing and general picnicing in the woods, which are found between the ball park and the river, and that, quite independent of the baseball playing, a large crowd of persons has habitually, on Sundays, resorted to the neighborhood by means of the trolley, alighting at the very same part of the avenue and creating precisely the same nuisance as has been complained of in passing from the trolley cars to the baseball park and the woods and the shores of the bay.

The affidavits on the part of the defendant tend strongly to support this view. It appears that the grounds, which for the first time in April last were fenced and occupied by the defendant, had previously laid open in common, and had for several years been used on Saturdays and Sundays by baseball players, who came there on those days and took possession of them without the let or hindrance of the owners and played their games in the presence of all who chose to look on, and that the non-paying onlookers formed a most undesirable, boisterous and noisy crowd, and were undoubtedly a nuisance to the neighborhood. Also that great crowds visited the woods lying between the ball grounds and the bay and its shores, attracted by the boating, crabbing, fishing and ability to divert themselves in the shaded commons and to refresh themselves in the numerous houses of entertainment which they found in those parts.

The reading of the affidavits on this subject fully accounts for the fact that the value of real estate between

Avenue B and Newark bay is much depressed, and lots difficult of sale, and that the thriving, populous city of Bayonne has practically stopped in its growth at Avenue B.

But does that state of affairs estop these complainants from asserting their rights as against this defendant?

In considering this question it must be observed that the case shows that there were no particular persons or corporation who could be held responsible for or proceeded against for those annoying practices. In fact, it clearly appeared by the proofs in this case that prompt application was made to the municipal authorities by the complainants herein, as soon as they learned of the intention of the defendant to enclose the park in question and establish baseball playing on Sundays, to prevent the same, and that their appeals were in vain.

The only place in which the complainants could obtain any efficient relief was in this court. But in order to obtain relief in this court there must be some person against whom to proceed. No responsibility, cognizable in this court, attached to the owners of the vacant lots, who simply permitted any parties who chose to come along and play baseball there without any pecuniary profit to anybody except the common carriers who transported them.

So with the numerous persons who let out boats on Newark bay and kept houses of entertainment there; they could not be proceeded against by injunction. Hence, the complainants were practically without remedy.

But, even if there had been an available remedy, I by no means admit that it would have affected the equitable standing of the complainants herein. The state of affairs, however, was entirely changed when the defendant, a corporation, obtained exclusive possession and fenced in the old ball ground, erected accommodations in the way of seats and a grand stand, and fitted it up and made it attractive to that part of the public which

enjoys such sports, and invited baseball clubs to come there on Sundays to play matches, and placed around this ball ground a high fence to exclude spectators, except such as should pay an admission fee for the benefit of the defendant.

That action afforded an opportunity for the complainants to assert their rights in this court, and I am of the opinion that they are entitled to relief by way of *interim* restraint upon the case as made.

There only remains to consider the question of misjoinder.

This question has been considered in many cases in this State. The last one, so far as I am at present advised, is *Rowbotham* v. *Jones,* decided by Chancellor McGill and reported in *2 Dick. Ch. Rep. 337,* and affirmed on his opinion, *3 Dick. Ch. Rep. 311.*

The hardships attending the old rule were ameliorated by the rule adopted by Chancellor Zabriskie May 8th, 1869, No. 132 of the present series.

Chancellor McGill, *2 Dick. Ch. Rep. 339,* states the rule thus:

"It may be said that it is the established rule in this State that several owners of distinct tenements may join in a suit to restrain a nuisance or other grievance which is common to all of them, affecting each in a similar way, but may not so join when the object of the suit is to restrain that which does a distinct and special injury to each of their properties."

Applying that rule here, it is probable, I do not say certain, that this court would feel obliged, when properly moved thereto, to hold that the injury arising from noises by spectators of the games while in the ball park, and that arising from the crowds of semi-disorderly persons alighting from and mounting the trolley cars, and going to and from the ball park, will be so dissimilar as not to be capable of being enforced in the same suit by several persons joining therein who are not suffering or liable to suffer from each of those injuries. Be that as

it may, I think it has no effect upon the present question. No demurrer has been filed. The defendant has not been embarrassed in presenting its defense to the present application.

The two different styles, so to speak, of injury as shown by the affidavits run into each other and interlace. They are both the result of the defendant's action, and the only effect that I can at present see will be at some stage of the proceeding to compel the complainants to elect on which kind of injury they will rely, and for the court to strike from the record the names of all complainants not affected by that kind of injury.

At present I do not see how the right of those complainants who are injured by noise emanating from the baseball park to *interim* restraint can be affected by the circumstance that other complainants are affected by the misbehavior of persons on the street outside of the baseball park, and *vice versa*.

I will advise an order restraining the playing of baseball on Sundays pending the suit.

ORDER FOR CONTEMPT, &c.

[Filed January 23, 1905.]

This matter being opened to the court in the presence of Frank P. McDermott, solicitor appointed by the court; James Benny, of counsel with the complainant August Seastream; Allan L. McDermott and Warren Dixon, of counsel with Peter Bentley, Howard C. Griffiths, William Davis and Benjamin T. Haagenson; and it appearing that an order was made and entered herein on the twenty-first day of June, nineteen hundred and four, ordering the said August Seastream, Peter Bentley, Howard C. Griffiths, William Davis and Cap-

tain ——— Hagenson, or Higginson (being the above-named Benjamin T. Haagenson), to show cause before this court, at the Chancery Chambers in the city of Jersey City, New Jersey, on Tuesday, the fifth day of July, nineteen hundred and four, at the hour of ten o'clock in the forenoon, why they, or some or one of them, should not be adjudged guilty of a contempt of this court, in attempting to improperly influence the due administration of justice therein and be punished therefor; and the said order, made on the said twenty-first day of June, nineteen hundred and four, coming on to be heard on the said fifth day of July, nineteen hundred and four, at the time and place aforesaid, and the said James Benny, Allan L. McDermott and Warren Dixon, solicitors and of counsel with the said August Seastream; Peter Bentley, Howard C. Griffiths, William Davis and Benjamin T. Haagenson, and the said August Seastream, Peter Bentley, Howard C. Griffiths, William Davis and Benjamin T. Haagenson having appeared before the court on the said fifth day of July, nineteen hundred and four, and oral testimony having been then and there taken in behalf of the said August Seastream, Peter Bentley, Howard C. Griffiths, William Davis and Benjamin T. Haagenson, and the witnesses produced having been examined and cross-examined before this court, and the said matter having been continued on the eleventh, twelfth and eighteenth days of July, nineteen hundred and four, and the testimony and proofs on the part of all the parties interested having been heard, and the arguments of the counsel of the respective parties having been heard, and the said testimony, proofs and arguments considered;

And an application having been made to the Chancellor on the nineteenth day of September, nineteen hundred and four, to rehear the whole matter; and the said application having been granted, and the whole matter heard by the Chancellor on the seventeenth day of October, nineteen hundred and four;

And the adjudication upon the said testimony and proofs before the court having been fixed for this twenty-third day of January, nineteen hundred and five, at fifteen minutes past ten o'clock in the forenoon, at the Chancery Chambers in the City of Jersey City;

And the said order to show cause having been heretofore discharged as to the said Peter Bentley;

And the Chancellor being of the opinion that certain of the parties named and included in the said order to show cause, to wit, Benjamin T. Haagenson, Howard C. Griffiths, William Davis and August Seastream, are and have been guilty of the contempts alleged against them in the affidavits filed in this suit on which the above-recited order to show cause was granted, and the proofs adduced before this court:

It is hereby, on this twenty-third day of January, A. D. nineteen hundred and five, ordered, adjudged and decreed by the Chancellor of the State of New Jersey as follows:

That the said Benjamin T. Haagenson be and hereby is adjudged guilty of contempt of this court and against the dignity of this court, in attempting to improperly influence the due administration of justice therein, and the court orders and sentences him to pay a fine to the clerk of this court, for the use of the State, in the sum of one thousand dollars, and the costs of this proceeding for contempt to be taxed; and that he stand committed to the county jail of the county of Hudson, and remain in close custody until the fine herein imposed for such contempt, with said costs, be fully paid;

That the said Howard C. Griffiths be and hereby is adjudged guilty of contempt of this court and against the dignity of this court, in attempting to improperly influence the due administration of justice therein, and the court orders and sentences him to pay a fine to the clerk of this court, for the use of the State, in the sum of one thousand dollars, and the costs of this proceeding for contempt to be taxed; and that he stand committed to the county jail of the county of Hudson, and remain in

close custody until the fine herein imposed for such contempt, with said costs, be fully paid;

That the said William Davis be and hereby is adjudged guilty of contempt of this court and against the dignity of this court, in attempting to improperly influence the due administration of justice therein, and the court orders and sentences him to pay a fine to the clerk of this court, for the use of the State, in the sum of two hundred and fifty dollars, and the costs of this proceeding for contempt to be taxed; and that he stand committed to the county jail of the county of Hudson, and remain in close custody until the fine herein imposed for such contempt, with said costs, be fully paid;

That the said August Seastream be and hereby is adjudged guilty of contempt of this court and against the dignity of this court, in attempting to improperly influence the due administration of justice therein, and the court orders and sentences him to pay a fine to the clerk of this court, for the use of the State, in the sum of ten dollars, and that he stand committed to the county jail of the county of Hudson, and remain in close custody until the fine herein imposed for such contempt, with said costs, be fully paid.

And it is further ordered, adjudged and decreed that for such commitment to the said county jail of the county of Hudson a proper warrant do issue to the sheriff of said county of Hudson and the keeper of the common jail of said county.

W. J. Magie,
Chancellor.

ORDER TO TAX.

[Filed January 23, 1905.]

It appearing that it was necessary to have the testimony taken in above-entitled cause on the order to show cause made on the twenty-first day of June, nineteen

hundred and four, transcribed by J. R. Salmon, the stenographer who took the notes of said testimony:

It is, on this twenty-third day of January, nineteen hundred and five, ordered that the fees of said stenographer, for transcribing the said testimony, amounting to the sum of one hundred and twenty-five dollars and twenty cents, be included in the taxed bill of costs of the proceedings on said order to show cause, and collected with the other taxed costs therein.

W. J. MAGIE,
Chancellor.

Respectfully advised,
H. C. PITNEY,
Vice Chancellor.

ORDER TO POSTPONE.

[Filed January 24, 1905.]

The hearing on the order to show cause why certain parties should not be adjudged guilty of a contempt of this court having been adjourned to this day, and a request being now made in behalf of such parties that said hearing be postponed:

It is, on this third day of October, nineteen hundred and four, ordered that the hearing on said order to show cause be and the same is hereby postponed to Monday, the seventeenth day of October, nineteen hundred and four, at the hour of ten o'clock in the forenoon, at the Chancery Chambers in the city of Newark, New Jersey.

(Signed) W. J. MAGIE.

We hereby acknowledge service of a copy of the within order to postpone this ——— day of October, nineteen hundred and four.

ALLAN L. McDERMOTT,
Solicitor.

JAMES BENNY,
Solicitor for August Seastream.

COSTS, UNDER ORDER, FILED JANUARY 23, 1905.

[Filed January 26, 1905]

May Term, 1904.	*S. & C.*	*Ch.*	*Clk.*	*Als.*	
Drawg., takg. & filg. affidavits,	19.60		.24	.48	
Motion for order to show cause	1.50	.50			
Drawg., eng. & filg. order 6 fol.	1.80		.06		
Drawg., eng. & sealg. subpas., *ad test*	1.20	.90	.24		10
Filg. do & service fees			.18	12.50	
Drawg. & takg. proofs of service	.80			.36	
Witness fees				6.00	
Motion for order to postpone,	1.50	.50			
Drawg., eng. & filg. order 2 fol.	.60		.06		
Copies of affidavits	24.50				
Copies of order to show cause,	1.50				
Serving copies of affidavits				2.00	20
Serving copies of order to show cause				2.00	
Drawg., takg. & filg. proofs service	1.20		.18	.24	
October Term, 1904.					
Motion for order to tax stenographer's fees	1.50	.50			
Drawg., eng. & filg. order 2 fol.	.60		.06		
Stenographer's fees as per order				125.20	30
Motion for order adjudging contempt	1.50	.90			
Argument fee on do	3.00				
Drawg., eng. & filg. order 18 fol.	5.40		.06		

Copies of order.....	2.25		2.25	
Serving copies of order.....				2.00
Drawg., eng. & sealg. warrant,	3.00		.08	
Filg. do. & shff's. fees.....			.06	5.62
Serving copy of costs.....				.40
Drawg. & eng. costs.....	1.70			
Taxg. & filg. costs of copy....			.75	
	$73.15	3.30	4.22	156.80
	3.30			
	4.22			
	156.80		2.45	
	$237.47			

Taxed at two hundred thirty-seven dollars and forty-seven cents.

Jan. 26, 1905.

VIVIAN M. LEWIS,
Clerk.

ON NOTICE OF APPEAL OF WILLIAM J. DAVIS.

[Filed January 30, 1905.]

William J. Davis hereby appeals from the order or so mentioned thereof, made in this court in the above-stated cause, as declares that the said William J. Davis is adjudged guilty of contempt of said court and against the dignity of said court in attempting to improperly influence the due administration of justice therein, and as orders and sentences him to pay a fine to the clerk of said court, for the use of the State, in the sum of two hundred and fifty dollars, and the costs of the proceedings for contempt to be taxed; and as orders that he stand committed to the county jail of the county of Hudson, and remain in close custody until the fine therein imposed be fully paid; and as orders that a warrant do issue

to the sheriff of the county of Hudson and the keeper of the county jail for such commitment, to the Court of Errors and Appeals in the Last Resort in All Causes.

WARREN DIXON,
Solicitor of Appellant.

Dated January 30th, 1905.

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

WARREN DIXON,
Of Counsel.

ON NOTICE OF APPEAL OF HOWARD C. GRIFFITHS.

[Filed January 30, 1905.]

Howard C. Griffiths hereby appeals from the order or so mentioned thereof, made in this court in the above-stated cause as declares that the said Howard C. Griffiths is adjudged guilty of contempt of said court and against the dignity of said court in attempting to improperly influence the due administration of justice therein, and as orders and sentences him to pay a fine to the clerk of said court, for the use of the State, in the sum of one thousand dollars, and the costs of the proceedings for contempt to be taxed; and as orders that he stand committed to the county jail of the county of Hudson, and remain in close custody until the fine therein imposed be fully paid; and as orders that a warrant do issue to the sheriff of the county of Hudson and the keeper of the county jail for such commitment, to the Court of Errors and Appeals in the Last Resort in All Causes.

WARREN DIXON,
Solicitor of Appellant.

Dated January 30th, 1905.

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

WARREN DIXON,
Of Counsel.

ON NOTICE OF APPEAL OF BENJAMIN T. HAAGENSON.

[Filed January 30, 1905]

Benjamin T. Haagenson hereby appeals from the order or so mentioned thereof, made in this court in the above-stated cause, as declares that the said Benjamin T. Haagenson is adjudged guilty of contempt of said court and against the dignity of said court in attempting to improperly influence the due administration of justice therein, and as orders and sentences him to pay a fine to the clerk of said court, for the use of the State, in the sum of one thousand dollars, and the costs of the proceedings for contempt to be taxed; and as orders that he stand committed to the county jail of the county of Hudson, and remain in close custody until the fine therein imposed be fully paid; and as orders that a warrant do issue to the sheriff of the county of Hudson, and the keeper of the county jail for such commitment, to the Court of Errors and Appeals in the Last Resort in All Causes.

WARREN DIXON,
Solicitor of Appellant.

Dated January 30th, 1905.

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

WARREN DIXON,
Of Counsel.

ON ORDER TO SHOW CAUSE WHY CERTAIN PERSONS SHOULD NOT BE ADJUDGED GUILTY OF CONTEMPT. ORDER ADJUDGING CERTAIN PERSONS GUILTY OF CONTEMPT OF THE COURT.

[Filed January 23, 1905.]

This matter being opened to the court in the presence of Frank P. McDermott, solicitor appointed by the court; James Benny, of counsel with the complainant August Seastream; Allan L. McDermott and Warren Dixon, of counsel with Peter Bentley, Howard C. Griffiths, William Davis and Benjamin T. Haagenson; and it appearing that an order was made and entered herein on the twenty-first day of June, nineteen hundred and four, ordering the said August Seastream, Peter Bentley, Howard C. Griffiths, William Davis and Captain ——— Hagenson, or Higginson (being the above-named Benjamin T. Haagenson), to show cause before this court, at the Chancery Chambers in the city of Jersey City, New Jersey, on Tuesday, the fifth day of July, nineteen hundred and four, at the hour of ten o'clock in the forenoon, why they, or some or one of them should not be adjudged guilty of a contempt of this court, in attempting to improperly influence the due administration of justice therein and be punished therefor; and the said order, made on the said twenty-first day of June, nineteen hundred and four, coming on to be heard on the said fifth day of July, nineteen hundred and four, at the time and place aforesaid, and the said James Benny, Allan L. McDermott and Warren Dixon, solicitors and of counsel with the said August Seastream, Peter Bentley, Howard C. Griffiths, William Davis and Benjamin T. Haagenson, and the said August Seastream, Peter Bentley, Howard C. Griffiths, William Davis and Benjamin T. Haagenson having appeared before the court on the said fifth day of July, nineteen hundred and four, and oral testimony having been then and there taken in behalf of the said August Seastream, Peter Bentley, Howard C. Grif-

fiths, William Davis and Benjamin T. Haagenson, and the witnesses produced having been examined and cross-examined before this court; and the said matter having been continued on the eleventh, twelfth and eighteenth days of July, nineteen hundred and four; and the testimony and proofs on the part of all the parties interested having been heard, and the arguments of the counsel of the respective parties having been heard, and the said testimony, proofs and arguments considered;

And an application having been made to the Chancellor on the nineteenth day of September, nineteen hundred and four, to rehear the whole matter; and the said application having been granted, and the whole matter heard by the Chancellor on the seventeenth day of October, nineteen hundred and four;

And the adjudication upon the said testimony and proofs before the court having been fixed for this twenty-third day of January, nineteen hundred and five, at fifteen minutes past ten o'clock in the forenoon, at the Chancery Chambers in the city of Jersey City;

And the said order to show cause having been heretofore discharged as to the said Peter Bentley;

And the Chancellor being of the opinion that certain of the parties named and included in the said order to show cause, to wit, Benjamin T. Haagenson, Howard C. Griffiths, William Davis and August Seastream are and have been guilty of the contempts alleged against them in the affidavits filed in this suit on which the above-recited order to show cause was granted, and the proofs adduced before this court:

It is hereby, on this twenty-third day of January, A. D. nineteen hundred and five, ordered, adjudged and decreed by the Chancellor of the State of New Jersey as follows:

That the said Benjamin T. Haagenson be and hereby is adjudged guilty of contempt of this court and against the dignity of this court, in attempting to improperly influence the due administration of justice therein, and the court orders and sentences him to pay a fine to the clerk

of this court, for the use of the State, in the sum of one thousand dollars, and the costs of this proceeding for contempt to be taxed; and that he stand committed to the county jail of the county of Hudson, and remain in close custody until the fine herein imposed for such contempt, with said costs, be fully paid;

That the said Howard C. Griffiths be and hereby is adjudged guilty of contempt of this court and against the dignity of this court, in attempting to improperly influence the due administration of justice therein, and the court orders and sentences him to pay a fine to the clerk of this court, for the use of the State, in the sum of one thousand dollars, and the costs of this proceeding for contempt to be taxed; and that he stand committed to the county jail of the county of Hudson, and remain in close custody until the fine herein imposed for such contempt, with said costs, be fully paid;

That the said William Davis be and hereby is adjudged guilty of contempt of this court and against the dignity of this court, in attempting to improperly influence the due administration of justice therein, and the court orders and sentences him to pay a fine to the clerk of this court, for the use of the State, in the sum of two hundred and fifty dollars, and the costs of this proceeding for contempt to be taxed; and that he stand committed to the county jail of the county of Hudson, and remain in close custody until the fine herein imposed for such contempt, with said costs, be fully paid;

That the said August Seastream be and hereby is adjudged guilty of contempt of this court and against the dignity of this court, in attempting to improperly influence the due administration of justice therein, and the court orders and sentences him to pay a fine to the clerk of this court, for the use of the State, in the sum of ten dollars, and that he stand committed to the county jail of the county of Hudson, and remain in close custody until the fine herein imposed for such contempt, with said costs, be fully paid.

New Jersey State Library

And it is further ordered, adjudged and decreed that for such commitment to the said county jail of the county of Hudson a proper warrant do issue to the sheriff of said county of Hudson and the keeper of the common jail of said county.

W. J. MAGIE,
Chancellor.

A true copy.
VIVIAN M. LEWIS,
Clerk.

Service of a certified copy of the within order and a certified copy of the taxed costs in said proceedings acknowledged this twenty-seventh day of January, nineteen hundred and five.

For Griffiths, Davis and Haagenson.

WARREN DIXON,
Attorney.

PROTEST OF WILLIAM J. DAVIS.

[Filed February 2, 1905]

I, William J. Davis, hereby pay to the clerk of the Court of Chancery of New Jersey the sum of two hundred and fifty dollars fine, and two hundred and thirty-seven and forty-seven hundredths dollars costs, under protest, protesting that the order of the Chancellor wherein and whereby this payment is compelled in order to secure my release from imprisonment, is illegal and void, and I pay the same under duress of said imprisonment under said order, that I may be released from imprisonment until the legality of said arrest and said order may be determined by a court of competent jurisdiction.

WM. J. DAVIS.

PROTEST OF HOWARD C. GRIFFITHS.

[Filed February 2, 1905.]

I, Howard C. Griffiths, hereby pay to the clerk of the Court of Chancery of New Jersey the sum of one thousand dollars under protest, protesting that the order of the Chancellor, wherein and whereby this payment is compelled in order to secure my release from imprisonment, is illegal and void, and I pay the same under duress of said imprisonment under said order, that I may be released from imprisonment until the legality of said arrest and said order may be determined by a court of competent jurisdiction.

HOWARD C. GRIFFITHS.

PROTEST OF BENJAMIN T. HAAGENSON.

[Filed February 2, 1905.]

I, Benjamin T. Haagenson, hereby pay to the clerk of the Court of Chancery of New Jersey the sum of one thousand dollars under protest, protesting that the order of the Chancellor, wherein and whereby this payment is compelled in order to secure my release from imprisonment, is illegal and void, and I pay the same under duress of said imprisonment under said order, that I may be released from imprisonment until the legality of said arrest and said order may be determined by a court of competent jurisdiction.

BENJAMIN T. HAAGENSON.

WARRANT.

[Filed February 7, 1905.]

New Jersey, to wit—The State of New Jersey to the sheriff of the county of Hudson and to
[L. S.] the keeper of the common jail of the county of Hudson, greeting:

Whereas, by a certain order made in our Court of Chancery, before our Chancellor, at Trenton, bearing date on the twenty-third day of January, A. D. nineteen hundred and five, in a certain cause therein depending wherein August Seastream and others are complainants and the New Jersey Exhibition Company is defendant, it was ordered, adjudged and decreed that one Benjamin T. Haagenson was guilty of contempt of said court and against the dignity of said court, in attempting to improperly influence the due administration of justice therein; and the said court therein and thereby ordered and sentenced him to pay a fine to the clerk of this court, for the use of the State, in the sum of one thousand dollars, and the costs of said proceedings for contempt to be taxed; and further, that he should stand committed to the county jail of the said county of Hudson, and remain in close custody until the fine therein imposed for said contempt, with the costs, should be fully paid; that one Howard C. Griffiths was guilty of contempt of said court and against the dignity of said court, in attempting to improperly influence the due administration of justice therein, and the said court therein and thereby ordered and sentenced him to pay a fine to the clerk of this court, for the use of the State, in the sum of one thousand dollars, and the costs of said proceedings for contempt to be taxed; and further, that he should stand committed to the county jail of the said county of Hudson, and remain in close custody until the fine therein imposed for said contempt, with the costs, should be fully paid; that one William Davis was guilty of contempt of said court and

against the dignity of said court, in attempting to improperly influence the due administration of justice therein; and the said court therein and thereby ordered and sentenced him to pay a fine to the clerk of this court, for the use of the State, in the sum of two hundred and fifty dollars, and the costs of said proceedings for contempt to be taxed; and further, that he should stand committed to the county jail of the said county of Hudson, and remain in close custody until the fine therein imposed for said contempt, with the costs, should be fully paid; that one August Seastream was guilty of contempt of said court and against the dignity of said court, in attempting to improperly influence the due administration of justice therein, and the said court therein and thereby ordered and sentenced him to pay a fine to the clerk of this court, for the use of the State, in the sum of ten dollars; and further, that he should stand committed to the county jail of the said county of Hudson, and remain in close custody until the fine therein imposed for said contempt should be fully paid;

And that a proper warrant issue for that purpose.

And whereas, the said costs of said proceedings for contempt have been taxed by the clerk of this court at two hundred thirty-seven dollars and thirty-eight cents;

And whereas, the said Benjamin T. Haagenson, Howard C. Griffiths and William Davis, above named, have not paid the said fines imposed by the said Court of Chancery, or the costs of said proceedings for contempt, and the said August Seastream has not paid the said fine imposed by the Court of Chancery;

Therefore, we command you that you take the body of the said Benjamin T. Haagenson, and him safely and closely keep in your custody in the common jail of the said county of Hudson until the said fine, imposed by the Court of Chancery, and the said costs of said proceedings for contempt shall have been paid, or until said court shall make order to the contrary; that you also take the body of said Howard C. Griffiths, and him safely and

closely keep in your custody in the common jail of the said county of Hudson until the said fine, imposed by the Court of Chancery, and the said costs of said proceedings for contempt shall have been paid, or until said court shall make order to the contrary; that you also take the body of said William Davis, and him safely and closely keep in your custody in the common jail of the said county of Hudson until the said fine, imposed by the Court of Chancery, and the said costs of said proceedings for contempt shall have been paid, or until said court shall make order to the contrary; that you also take the body of said August Seastream, and him safely and closely keep in your custody in the common jail of the said county of Hudson until the said fine, imposed by the Court of Chancery, shall have been paid, or until said court shall make order to the contrary.

The costs above recited shall be paid only once, whether paid by one or all of the said parties adjudged guilty of contempt.

And that you make return to our Chancellor in our said Court of Chancery, at the State House, at Trenton, on the seventh day of February, nineteen hundred and five, under your hand, of your doings in the premises, together with this writ.

Witness His Honor William J. Magie, our Chancellor, on this twenty-third day of January, in the year of our Lard one thousand nine hundred and five.

VIVIAN M. LEWIS,
Clerk.

FRANK P. MCDERMOTT,
Solicitor Appointed by the Court.

I, John Zeller, sheriff of Hudson county, N. J., hereby certify and return that under and by virtue of the within writ to me directed, I have taken the within-named Benjamin T. Haagenson, Howard C. Griffiths and William Davis into custody. I have received receipts from the clerk in Chancery certifying that the fines and costs or-

dered to be collected have been paid, and I have let the defendants at large in accordance with the commands of the within writ.

JOHN ZELLER,
Sheriff.

February 6th, 1905.

MEMORANDUM.

[Filed February 14, 1905.]

On order to show cause why August Seastream, Benjamin T. Haagenson, Howard Griffiths, William Davis and another should not be adjudged guilty of a contempt of the Court of Chancery for attempting to improperly influence the due administration of justice therein.

Mr. Frank P. McDermott, specially appointed.

Mr. Allan L. McDermott, for Haagenson, Griffiths and Davis.

Mr. James Benny, for Seastream.

MAGIE, CHANCELLOR.

The bill in this cause was filed by August Seastream and Charles C. Alexander, as complainants for themselves, and other residents of the city of Bayonne, against the "New Jersey Exhibition Company," a corporation of this State. Its purpose, as indicated by its prayer, was, among other things, to obtain an injunction restraining the company from permitting the playing of baseball or other sports upon grounds occupied by it in Bayonne, on the first day of the week, commonly called Sunday.

The bill, when filed, was presented to the Hon. Henry C. Pitney, one of the Vice Chancellors, under the pro-

visions of Rule 204-*a*, and application was made thereon for an order to show cause and a temporary restraining order. An order to show cause, including a temporary restraining order, was advised by him, and signed by me upon his advice.

The order to show cause was returnable at one of the Chancery Chambers, and was brought to hearing before Vice Chancellor Pitney, sitting for me in my absence. It was supported upon the affidavits appended to the bill, and other affidavits, taken and served according to the practice of the court, and was objected to by the defendant upon affidavits presented by its counsel, taken and served in accordance with the practice.

Among the affidavits presented on behalf of the defendant company was one made by the complainant August Seastream. For present purposes it is sufficient to say that the sworn statements contained in the last-named affidavit were absolutely inconsistent with the statements contained in the affidavit of the same person which had been annexed to the bill and upon which the pending order had been made. One of the other of the affidavits was evidently untrue.

Upon the presentation of the latter and contradictory affidavit, the Vice Chancellor before whom the matter was pending, evidently conceiving that a question arose thereon whether there had not been a violation of the law respecting perjury, requested Hon. John A. Blair, the judge of the Court of Common Pleas and *ex-officio* judge of the Quarter Sessions of Hudson county, to investigate. Judge Blair is a master, and a special master, of this court, but the matter was not referred to him to take testimony as such master, or to report thereon to this court. If the request was in this respect irregular, the irregularity is of no consequence, for Judge Blair, although fixing times for investigation, and being attended by counsel for that purpose, did not proceed thereon, and mainly because of the absence of August Seastream. But afterward August Seastream did ap-

pear before him and was examined by the judge. His statements were put into the form of an affidavit and sworn to by him before Judge Blair. The wife of August Seastream was also examined and her affidavit taken by Judge Blair. These affidavits, with others, were presented to Vice Chancellor Pitney, who thereupon advised an order upon August Seastream, Benjamin T. Haagenson, Howard Griffiths, William Davis and another, directing them to show cause why they should not be adjudged guilty of a contempt of court in attempting to improperly influence the administration of justice therein. The order was signed by me upon his advice.

The order was accordingly brought to hearing before Vice Chancellor Pitney, the persons named therein appearing before him and being represented by counsel. The affidavits on which the order to show cause was granted (including those made by August Seastream and his wife before Judge Blair) were before the court. The Seastream affidavits, although *ex parte,* were properly used in procuring the order to show cause. When that order was upon hearing, both August Seastream and his wife were produced, offered to the persons named in the order for cross-examination, and were examined, the latter by the Vice Chancellor when no cross-examination was demanded. The facts in the affidavits taken before Judge Blair were substantially restated and sworn to in the oral testimony of both Seastream and his wife.

Vice Chancellor Pitney, conceiving that the matter was one which affected the dignity and the authority of the court, with my approval, requested Mr. Frank P. McDermott, a member of the bar, to attend at the hearing and the presentation of the evidence, and to examine and cross-examine the witnesses. It is proper to say that the gentleman selected performed the duties imposed upon him by the request in an eminently satisfactory and impartial manner.

The hearing of the order to show cause was upon evidence orally taken and stenographically reported. It

occupied some time in taking, and the parties accused were given every opportunity to present evidence to be heard.

Vice Chancellor Pitney took time to consider the matter, and afterward furnished me with his conclusions, in writing, as to the facts proved, and requested me to attend at the time he should announce his conclusions, to consider and determine what should be done thereon, which I consented to do.

When I attended for that purpose, counsel for the accused parties made application to me to rehear the whole matter. Their contention was that the proceeding was an inquiry into conduct alleged to have been directed to the injury of the Court of Chancery in its dignity and authority in the administration of justice, and that, as the Court of Chancery constitutionally consists of the Chancellor, he ought personally to conduct the proceedings and take the evidence on which his judgment should be rendered. I found myself unable to agree with this view. In my judgment, I would have been justified in directing any master of my court to investigate such an accusation and to report to me the facts, and I could justifiably act upon such report. Under the present practice of the court, an investigation by a Vice Chancellor and a report from him is not only proper, but more desirable. Therefore, I should not have hesitated to adopt the conclusions of the Vice Chancellor and even to have made a decree or order advised by him, but for other considerations.

There were two other considerations which were deemed by me to require a review of the whole matter. One was that the report of a master, if the matter had been referred to a master, could have been challenged by exceptions, which would have required some review. The other, and more controlling, consideration was that, since this proceeding is one purely punitive in character, and therefore not the subject of appeal (*Frank* v. *Herold, 19 Dick. Ch. Rep. 371*), the result reached (which may

affect property and liberty) ought not to depend upon the judgment of a single judicial officer unless necessary, as for example, in the punishment of a contempt of court, committed in open court. In this aspect, I think such a case is a fair exception from the rule enunciated in *Gregory* v. *Gregory, 58 Atl. Rep. 287*, respecting review of the conclusions of Vice Chancellors under the acts creating that position as an aid in the conduct of the business of the Court of Chancery.

In consequence of this conclusion I heard counsel for the accused parties, and have examined the whole matter. The stenographer's notes of evidence have been read and re-read. I have endeavored to reach conclusions thereon, uninfluenced by the results of the Vice Chancellor's examination. It is with sincere regret that I feel bound to say that my conclusions are those which he reached and expressed in his opinion furnished to me.

The result is that August Seastream, Benjamin T. Haagenson, Howard Griffiths and William Davis must be pronounced guilty of the contempt charged, and it only remains to declare my judgment as to the penalty that should follow.

AFFIDAVITS.

[Filed June 21, 1904.]

In the matter of the investigation of the affidavits made by August Seastream in the Court of Chancery on the question of baseball playing on Sunday, in the city of Bayonne.

Before John A. Blair, Judge.
June 3d, 1904.

August Seastream, being sworn by the judge in this matter, testified:

By the Court.

Q. You know there are two affidavits in my possession, sent to me by Vice Chancellor Pitney, which were made by you in the baseball playing case, and they are contradictory, and the Vice Chancellor has sent them to me to ascertain how they came to be made?

A. The first affidavit was made in my own house; and my wife was there, too, when it was made; and Mr. Currie was there; but Mr. Demarest came there, too, before it was finished, and was there, and another gentleman besides.

Q. Do you know who the other gentleman was?

A. I can't remember his name, but he was a clerk in an office.

Q. Mr. Griswold?

A. I think so; an elderly man; he introduced me to all.

Q. Was your wife present at the time?

A. Yes; all the time.

Q. At whose suggestion did you make this affidavit—who wanted you to make it in the first place?

A. Mr. Curry.

Q. He came to you?

A. Yes; well, there was both Mr. Curry and Mr. Demarest; but he went to Cozine's.

Q. Who went over to Cozine's?

A. Mr. Demarest.

Q. Where do you live?

A. 525 Avenue B, Bayonne; the affidavit states that my residence immediately joins a certain baseball ground—corner of Forty-sixth street and Avenue B; that is an error—that is Mr. Smith's property; my residence is on Avenue B, between Forty-eighth and Forty-ninth street, and it adjoins the baseball grounds there on that point; in other respects the affidavit made by me on the 6th of May, 1904, is correct.

Q. This affidavit was made by you freely?

A. Yes, freely.

Q. And without any inducement except to ask you to tell the truth about it?

A. Yes; the men was gentlemen; they never wanted us to do anything except our own wish.

Q. Now, as to the second affidavit; what have you to say about that; how did you come to make that second affidavit?

A. Captain Haagenson first came to see me about it—Higginson he is called; he said he was sent there by Captain Carroll; Captain Carroll is superintendent of the Pennsylvania ferry; he said if I would not go up and sign this affidavit I would be discharged the next day.

Q. Go up where?

A. To Davis'—meaning Willie Davis.

Q. And that, if you did not do that, that you would be discharged the next day?

A. Yes.

Q. Then what did you do?

A. When the boat came into the slip, at five minutes to ten; and he came around there; and he stood there, and said, "Gus, come over here, I want to see you—come over to the State street dock;" so the dock comes twenty-four feet in, so that nobody can come over on the pier there; and facing that is a blacksmith shop; and when he came there, he told me not to follow him close up; but I followed him close up; and when he came there he waved his hand away; and then Captain Carroll came out of the blacksmith shop; and he said, "I did not want the captain to see this; now he will want to know what I had with you, but you know where you make your bread and butter;" and so he said, "Now, I have no time; you go on about your business;" so I went on the annex boat and commenced my work; and I went right on to Brooklyn; and when I came to Brooklyn then he said, "Now, when are you through?" and I said, "Five minutes to two;" and he said, "You know what I told you about to-morrow—meet me on the street in front of the First National Bank;" that is, corner of Exchange Place.

Q. Haagenson said that to you?

A. Yes.

Q. When was that?

A. We left Jersey quarter after ten; and we went to Brooklyn; and we left Brooklyn quarter to eleven; but in Brooklyn he left me, and then he came back again, and landed in Jersey City a quarter after eleven; and I had to go back with her; and I came into Jersey again five after twelve; and then I went and left; I found him standing at Exchange Place; and he says, "Hold up; let nobody see that you are there."

Q. Who said that?

A. Captain Haagenson; then he gave another sign—motioning with his hand; and when he gave them that sign, I did not look over there, but he gave the sign to somebody; and then he came after me; and he got hold of me between York and Montgomery, on Hudson street; and then, going up there—to Davis' office—he said, "I telephoned up to Davis"—then he said Willie Davis—"and he will be there;" then I told him—I said, "I won't go; I want to go home and see my wife first;" and he said, "You come right now with me, or you won't work there to-morrow."

Q. What did they want you to do?

A. Then, when I came up—outside of the house—I refused to go in again.

Q. What house is that?

A. Outside of Davis'—opposite the city hall.

Q. The house of the New Jersey Supply Company?

A. I think it is the last house on Mercer street—opposite the city hall.

Q. Then what did you do?

A. Then I went in there; and then Haagenson said, "Here is Mr. Seastream, and this is Willie Davis;" then he said, "I don't know why you signed that affidavit for"—Mr. Davis said that.

Q. Referring to the affidavit of the 6th?

A. Yes.

Q. The first affidavit?

A. Yes.

Q. Then what?

A. Then he took me in a private room inside and telephoned for Griffiths; then Griffiths came up there; and then Griffiths said, "Now, I will draw out an affidavit, and if you sign this one, the other one is not giltig."

Q. That is, the other one is not good?

A. Yes, sir.

Q. Did he draw an affidavit, then?

A. He done that in a little office, and I was outside.

Q. He drew that up after he came up to Mercer street?

A. Yes.

Q. Go on?

A. During that time, in the little room, Mr. Davis, he was persuading me many times and times again to take some brandy with him; and I declined, because I had not been in the habit of taking it before; but I took it; and then he took me out in the room, when Griffiths said he was all ready.

Q. And after you had had the drink of brandy, and went into the other room, and he said it was all ready, you signed this affidavit?

A. Yes.

Q. This one, dated the 12th?

A. Yes.

Q. Before Peter Bentley?

A. Yes.

Q. Was Peter Bentley there all the time?

A. No; I can't say, because I was in the little room inside; I was not in the office.

Q. Were you in there alone?

A. Haagenson and me was in that little room.

Q. And when you went out into the big room, who was there?

A. I think Peter Bentley was there, but I won't be certain that he was there; I know so much—he was not there all the time.

Q. Was Griffiths there?

A. Yes; he was there all the time; he was writing it.

Q. And after it was written, did you swear to it before Peter Bentley—his name is signed here as taking the affidavit?

A. Then he was there, but I did not notice that he was there before.

Q. But you swore to it before somebody?

A. I don't know.

Q. Did anybody ask you to hold up your right hand?

A. No, sir.

Q. Did anybody say, "Do you swear to it?"

A. No, sir.

Q. Did anyone ask you if you swore to it?

A. No, sir.

Q. It says here, "Sworn and subscribed before me"—did you swear to it?

A. That I don't know; I am sure I never did.

Q. Did you see anybody there except Griffiths, Willie Davis and Bentley?

A. And Haagenson.

Q. Those were the only four there?

A. Yes, sir.

Q. Did you see Mr. Robert Davis there?

A. No, sir; he was not there.

Q. Go on?

A. Then, on the 19th, Mr. Demarest wanted me in the Court of Chancery; and Mr. Haagenson came down and kept me from going up—he came to my boat; he told me I must not go, because they would arrest me; then I was told him about my work; and he took me onto the saloon-deck of the boat "Annex 4," and then into the room where all the trainmen sits, in the brick building—the waiting-room for all the employes; and he kept me there from a quarter after eleven to five minutes of two; and then he took me to New York; there he took me to—I can't say the name—but I think it is the third house from the corner of Desbrosses street—it is a restaurant, on West street.

Q. How long did he keep you there?

A. I did not look close, but I think it was till about five minutes to five.

Q. Then did you come home again?

A. Then he took me—and he was in Griffiths' office at half-past five, exact.

Q. What did you do there in Griffiths' office?

A. Then there was Will Davis there, Bentley, Griffiths, Haagenson and me; then Haagenson was going on to say that he overheard that I had put an injunction on the baseball; and he came to me and told me, "Have you put an injunction on the baseball," and he said I should say, "No, sir;" and he says, "Well, I can prove it to you, and I will take you to Will Davis and show you that injunction;" so I said, "All right;" so I went with him; when we came there Will Davis he produced it; then I came in, and I said, "No;" I was speaking then my part next; I said, "No, I have not;" I understood that Mr. Demarest and Mr. Curry came to me; and so I was for the baseball ground; then they telephoned for Griffiths.

Q. That is your part of the story which was to be told?

A. Yes; then Billy Davis said to Mr. Griffiths that I had signed in favor of the baseball ground and had not signed in favor of an injunction; then Griffiths drew up the affidavit that I was to make; all that is what we five were to say about that; now, what Bentley was to say I don't remember; I said, "No, I don't want to go as far as that."

Q. What did you do then?

A. I took my hat and went home.

Q. Did you hear from anybody after that about this baseball question?

A. Then Haagenson was sent to my house to find out whether anybody had been around there—around the house—and he got me to go to the Arlington Hotel, or Arlington Park; and he spoke through the 'phone there to Griffiths; and he, Griffiths, asked Haagenson if either

Mr. Curry or Demarest had been over to see me, and he, Haagenson, said no, nobody had been there since we parted on the 6th of May.

Q. Had either Mr. Curry or Mr. Demarest seen you since the 6th of May?

A. No, sir; I had never seen Mr. Demarest since the 6th of May, and I never seen Mr. Curry until I seen him here on the sidewalk this morning.

Q. What did you come here for to-day?

A. To tell the truth.

Q. When did Haagenson see you before yesterday?

A. Yesterday he came to me three times; he told me I had to go to Griffiths and see him, and I said, "No, I never go inside of that place any more; if anybody wants me they have to go and tell me, and I will go and tell the truth;" and I said, "I would rather be arrested than to go there and tell a lot of lies."

Q. Then what did he say?

A. He went away, and afterwards he came back again, and then he said, "For God's sake don't leave us that way now; we'll all get in jail if you do leave us;" and he said, "You will get there, too, and perhaps you will get six years in jail;" I said, "I don't care; I won't go a foot for you people; I will stand my ground now."

Q. Did he tell you that Judge Blair wanted to see you yesterday?

A. No, sir; he said he wanted me to go to Griffiths' office.

Q. When did you see Griffiths?

A. I saw him two days ago; he did not speak to me; he spoke to my wife; I heard every word; he wanted her to go to the court and swear—well, he did not get the chance to tell her what, because my wife told him straight "no;" he did not have a chance to tell her what; but then he said, "Won't you say so much as that you were not in when your husband signed this paper, so as to save him going to jail?" she said, "No, sir; I would not; I will the truth and nothing else;" and he says,

"Couldn't you say that your baby was sick, and that you couldn't hear anything, because your baby was sick?" and she said "No;" and then he said, "Couldn't you say that you did not hear anything about it?" and she said, "No, I won't; I will tell the truth;" and then he said, "You needn't be scared if you do, because Robert Davis is the boss."

Q. Did he say the boss or the leader?

A. He said, "He is the boss of the party."

Q. And that he would protect you?

A. Yes.

Q. What did she say to him then?

A. She said, "No, sir, I won't;" she said, "There is the judge, and he would not do such a thing as that; he wants the truth, and I will go there to tell the truth; and he is a gentleman and will hear me."

Q. What did Griffiths say about himself?

A. That we will all go to jail.

Q. Did he say anything about being disbarred?

A. Yes; he said, that story, before we had made up the tale we would tell; and he said, "We must stand together, or we will all go to jail;" and he said, "It is either me or Curry will be disbarred;" and he wanted my wife to go on the stand and testify and let him out; she says, "Mr. Curry and Mr. Demarest came here—two gentlemen—and I know it well that they would not misrepresent to me; and I am against that thing, too," she said.

Q. What was done in Davis' office you did for the sake of saving your job?

A. Yes, sir; because I was afraid I would lose my position on the ferry.

Q. Carroll and Haagenson both told you that you would lose the job?

A. No, sir; not Carroll, to my face; Haagenson told me that, and told me that Carroll had sent him to tell me that.

Q. Did Carroll ever say anything to you about that?

A. No; Emil Reuter, ferry master, he said to me, on

the 31st of May, that Carroll wants to see me in the office—Carroll is the superintendent; and so I went with him over there and found Carroll there; and Captain Carroll said, "I didn't want August"—that was me; then Emil said, "What have you and Haagenson got together?" I said, "Nothing;" Emil then said, "That's my business and I am going to find out;" so I said, "No, sir; it is not your business;" then he said, "I will poke you in the snoot;" so I said, "I will write to Philadelphia;" then Carroll came up and took him (Emil) by the arm and took him away; that was at the Cortlandt street ferry slip—right near the depot.

Q. If you had known that I (Judge Blair) wanted to see you yesterday in my office, would you have come?

A. Yes, sir, I would have come.

Q. But you did not come because Haagenson told you that you were needed over at Griffiths' office?

A. Yes; I told Mr. Haagenson that time, as plainly as could be, I would go there and tell the whole truth, "But, gentlemen, I won't go there to tell a pack of lies;" and I said, "But I won't go to Griffiths' office anyhow."

Q. When you told Haagenson you would come to my office and tell the whole truth, then he would not let you go?

A. Yes; and then he went away; the last time he sent to me this—it is dated Wednesday, the 2d, but it was Wednesday, the 1st—he sent me this slip, and it was given to me in the morning.

[Witness shows paper.]

Q. Go on?

A. And then when I would not go to Griffiths' office he wanted me to go where he lived, and when I would not go there, then he did not want me, and I went home; the letter was for going to Griffiths' office, so that I should not forget where it was.

AUGUST SEASTREAM.

Sworn and subscribed before me this fourteenth day of June, A. D. 1904.

JOHN A. BLAIR,
Judge of the Hudson County Court of Quarter Sessions, New Jersey.

State of New Jersey, county of Hudson, *ss.*—

Laura Seastream, being duly sworn according to law, on her oath saith.

Questioned by Judge Blair.

Q. You are the wife of August Seastream, who made these two affidavits in question, one dated May 6th and the other the 12th of May?

A. I know about the 6th of May.

Q. You live on Avenue B, Bayonne, between Forty-eighth and Forty-ninth streets, and your property adjoins the baseball grounds?

A. Yes, sir.

Q. Were you present when your husband made the affidavit dated May 6th, in your home in Bayonne?

A. Yes, sir; Mr. Curry was present, Mr. Demarest and a gentleman, I think was Mr. Griswold, came in as well; and I heard the affidavit read before I signed it; I was present at the time, and what is in the affidavit is true.

Q. After the 6th of May did you see anybody connected with this transaction—Mr. Griffiths, for instance?

A. I think it was on the 13th or 14th of May I saw him; he was at the house; I did not know the gentleman at that time; he rang the bell, and my husband went to the door, and then Mr. Griffiths came in; and then he said to my husband, "Now, we have come to an agreement to keep this out of court, and whoever gets the most votes will be the winners; I have Mr. Alexander's and Dr. Ware's and a few others' signatures," and he laid the paper on the table and he told him to sign it; he said,

"If you will sign your name"—and while he was talking the door bell rang again, and it was Mr. Salter; Mr. Griffiths went to the door with my husband when Mr. Salter rang the bell, and then he said to Mr. Griffiths, "Are you ready?" and then they both went out; then I asked my husband who the gentleman was, and he said it was Mr. Griffiths, Mr. Davis' lawyer, and I said he acted rather strange; then I did not see him again until June 1st, when he called again, and I asked him in, and he asked me a few questions about the baby and like that; and then he said, "Now, Mrs. Seastream, I want you to go to court and say you did not see Mr. Curry sign the paper, and I want you to say in court that you were not paying any attention to us—that you were attending to the baby;" but I said, "If I have to go to court I will speak the truth; I have always spoken the truth, I was brought up to, and I will speak the truth now;" he said, "You could say you were paying attention to the baby; you could have been walking in and out of the room and not remember;" I said, "I could have been, but I *was* paying attention, as I myself had a little to say;" then he said, "Well, will you say that you won't talk about it?" I said, "No, sir; I shall speak the truth, and if questions are asked me I shall answer them straightforward;" "Well," he said, "for God's sake don't go and take the other party's part if you don't take ours;" then he asked if Mr. Demarest had been here since May 6th, or any one else, posting me; I said, "No, sir, no one has to post me to tell the truth; and I haven't seen anyone since;" "Well," he said, "you would not need to answer any questions if you want only to speak the truth;" he then said, "Mr. Robert Davis is a ruler, you don't need to be scared;" "Well," I said, "I cannot help it, I will speak the truth;" "If Mr. Demarest could hear you now," he said, "he would be here as quick as lightning;" I said, "I do not suppose you will go and tell him what I am saying;" and he said, "Not on your life I won't;" "Well, Mrs. Seastream," he said, "it wouldn't be telling any

untruths if you would say that you did not wish to talk about it, and it will save us all from going to jail," he said; "I cannot help it," I said, "if questions are asked me I shall answer them, and answer them truthfully;" then he asked me if I would go away for a few days and he would pay all expenses; I told him, "No, that I had no place to go, and that it was not convenient at that time for me to go away;" also, "That I had no cause to go away, anyway;" and I said, "Mr. Griffiths," I said, "my husband and I have worked very hard to have our little home, and now you have come and asked my husband and me to swear to a lot of untruths; you have come and made me miserable, and the last few days I do not know what to do;" and he said, "Well, Mrs. Seastream, I am very sorry; I will try and not have you appear in court," he said.

Q. Was there anything further said, Mrs. Seastream?

A. No, sir, I don't remember, because he found that I would speak the truth; that was the last.

Q. And you have seen nothing of them since?

A. Captain Haagenson called once; I think it was on about the 20th—the next week; he asked my husband if he had seen Mr. Demarest or any of his party; and he said, "For God's sake don't go and talk, Mr. Seastream, or we will all be sent to jail;" and my husband did not answer him.

Q. And he then went away?

A. Yes, sir.

Q. That is all you know about it, Mrs. Seastream?

A. Yes, sir.

LAURA SEASTREAM.

Sworn to and subscribed before me this fourteenth day of June, A. D. 1904.

JOHN A. BLAIR,
Judge of the Hudson County Court of Quarter Sessions.

State of New Jersey, county of Hudson, *ss.*—George E. Griswold, being duly sworn according to law, on his oath deposes and says: I am a clerk, employed by the firm of Roberson & Demarest, counselors-at-law, and on the twenty-sixth day of May, A. D. 1904, at about 9:30 o'clock in the forenoon, I was given and instructed to serve, by Elmer W. Demarest, a Chancery subpœna, directed to August Seastream, and requiring Seastream's attendance at Chancery Chambers in Jersey City, on the same morning, and to bring said Seastream with me before Vice Chancellor Pitney as soon as I could serve him. I was advised that Seastream was a deckhand on one of the boats of the ferry from the foot of Exchange Place, Jersey City, known as the "Brooklyn Annex," said ferry being either owned or managed by the Pennsylvania railroad.

I immediately made inquiries for Seastream from both the ticket-seller and ticket-taker at the ferry in Jersey City, and also from two other employes, all of whom denied all knowledge of Seastream; one employe, however, referred me to the office of the superintendent of the Pennsylvania ferries. The man in charge of the office told me that Seastream was an ashman on the annex boats and could be found on the dock or on one of the boats, and that, if inquiry were made for "Husky," the employes would know that Seastream was the man wanted.

I then returned to the annex ferry slip, and after being told by at least two employes that they knew no such man as "Husky," or Seastream, at last secured the information from another employe that Seastream was on board of one of the boats, but he did not know which one.

I, after waiting the arrival of two boats, and making inquiry of employes on each boat after it was tied up in slip, was told that Seastream was on the next boat due, but if he was I was unable to find him. I then paid my fare and went aboard the next three boats that arrived and made inquiries of employes on each, all of whom

denied that Seastream was on board or that they knew where he was. After inquiring on the last boat deponent visited, I came ashore and asked a man, who drove a loaded ash cart off the boat, if Seastream was aboard the boat. The answer was unintelligible, but was accompanied by a shake of the head. Some ten minutes later the same driver returned to the ferry house with the empty cart, and I again asked him the whereabouts of Seastream, and was told that Seastream was through work and had gone home; further, that he (the driver) had previously told me that Seastream was on the boat; further, that Seastream went to work at an early hour and got through early and had gone home for the day.

Previous to the inquiry made to driver of ash cart, I had been aboard the same boat and made inquiries from three employes, one of which was in the engineer's room, and all denied all knowledge of Seastream's whereabouts.

I then went to Seastream's house at Bayonne, arriving there about 12:30 o'clock (noon), and was informed by Seastream's wife that he was not at home and that she did not know when he would be. She was very reticent and would give no definite information.

GEORGE E. GRISWOLD.

Sworn to and subscribed before me this fourteenth day of June, A. D. 1904.

CHARLES J. ROE,
Master in Chancery of New Jersey.

State of New Jersey, county of Hudson, *ss.*—Elmer W. Demarest, being duly sworn, deposes and says, I am one of the solicitors for the complainants in the suit now pending in the Court of Chancery of New Jersey in which August Seastream and Charles C. Alexander are complainants and New Jersey Exhibition Company is defendant, and have had active charge and

management of this suit since it was begun. The bill was mailed to the Chancellor, and the order to show cause, returnable May sixteenth, was granted on the seventh day of May. These were served on the eighth day of May, but, as I questioned the legality of service of them on Sunday, I again caused them to be served on the tenth of May. Northrop & Griffiths acknowledged service as solicitors for the defendant. We continued taking affidavits on the part of the complainants, as provided for in the order to show cause, and the last of these affidavits was served upon Northrop & Griffiths on May thirteenth.

On May sixteenth, before I reached the Chancery Chambers, and in my absence, Mr. Northrop, of the solicitors for the defendant, obtained a rule for continuing the argument to May twenty-third.

On May twenty-third I entered the Chancery Chambers a few minutes after ten, and met Mr. Northrop there. He informed me that Senator Hudspeth had been retained as counsel in the suit, and requested me not to move the case until the senator arrived, to which I assented. At about eleven o'clock the senator arrived and asked me whether there could not be a consultation of the counsel in the case in my office, which is in the same building and on the same floor as the Chancery Chambers. Senator Hudspeth, Messrs. Northrop, Griffiths and Bentley, representing the defendant, and Mr. Speer and myself, representing the complainants, went to my office, where Senator Hudspeth stated that the action, being of a civil nature, where there was no impropriety in settling the differences between the parties, the defendant had made settlement with the two complainants named in the bill, and handed to me a paper entitled in the cause, directed to our firm as solicitors for the complainants, requesting us to withdraw the names of the complainants from the suit, which purported to be signed by the two complainants. He asked me whether we would not, upon the instructions of our clients contained in the paper, discontinue the

suit. I answered him that while I did not criticise the conduct of the solicitors for the defendant, I had seen the same practice tried in the Court of Appeals in the case of *Herbert* v. *City of Bayonne;* that the two clients named in the bill had only been selected as nominal complainants for others who were disturbed by the ball games mentioned in the bill of complaint, and that the bill showed it was filed in behalf of others; that I would not recognize the paper as having been signed by my clients, and that he would have to deal with the court in the matter. Shortly before twelve o'clock I moved the case for argument, and had just begun the reading of the first affidavit, taken after the signing of the order to show cause, when the senator interrupted and stated to the court that he had examined the bill, concluded that it presented a *prima facie* case, and that it was proper for the parties to the suit to settle their differences; that settlement had been effected and he was in possession of a paper, signed by the two nominal complainants, instructing the solicitors for the complainants to discontinue the suit. The Vice Chancellor turned to me and inquired whether this was true, to which I replied that the matter was one of surprise to me; that the paper had been brought to my notice within half an hour before, and that the circumstances surrounding its presentation to me were, in my mind, so suspicious that I declined to recognize the signatures to the document until I could find, upon investigation, I had been directed to discontinue the suit. The Vice Chancellor then, turning to the senator, stated that the paper was one for counsel; that counsel for complainant had the right to be convinced that the paper had been actually signed by their clients before recognizing the signatures, and that until the suit was discontinued by the solicitors, the court had no right to take notice of the document. The Vice Chancellor then asked whether the signatures were verified, and whether notice of the motion had been given, to which the senator replied in the negative. The court then stated that the motion was one that required notice.

Senator Hudspeth then asked leave of the court to file the paper, and the Vice Chancellor replied that the paper was not a proper one for the files of the court except upon motion of the complainants' solicitors. The senator had laid the paper upon the bench. I, turning to the senator, inquired whether the paper was addressed to me or to the court, and when he replied that it was addressed to me, I picked it up from the bench and put it in my pocket. The senator, turning to me, said, "You now have the paper in your possession; what do you propose to do with it?" I replied, "I shall not discontinue as to these parties until I have satisfied myself that Messrs. Seastream and Alexander signed it, and, during that investigation, I move the court for an order that other complainants, whose affidavits have been filed, be added." The senator objected to other parties being added; stated that about one hundred affidavits had been taken by the defendants; that the affidavits were merely in answer to grievances of Messrs. Seastream and Alexander, mentioned in the bill; that an order, permitting the bill to be amended by adding new complainants and a description of their residences would be another suit, which the affidavits already taken by the defendant would not meet. I stated to the court that the affidavits had not yet been served upon us. The court inquired from the senator whether this was true, and he replied that it was, but that if the complainants—Alexander and Seastream—were dismissed from the suit, there would be no necessity of serving upon the complainants the affidavits taken. The Vice Chancellor remarked that it was apparent to him that the complainants' solicitors had been taken by surprise; that the suit would not be discontinued on the part of the complainants, Seastream and Alexander, until their solicitors consented to it, or upon proper notice given by the defendant; that he would give the solicitors for the complainants one hour to determine whether they should proceed upon the

bill as filed, in which case the defendant should immediately serve its affidavits upon the solicitors for the complainant; or, if they wished to amend the bill by adding complainants and a proper description of their properties, the court would adjourn the argument for one week, and that, if the latter course were elected by the complainants' solicitors, the court was of the opinion that the stay should be vacated until the argument should be heard. Mr. Northrop then arose and said the defendant was willing that an order, amending the bill by adding complainants with a description of their residences, should be made. This was assented to by the complainants' solicitor and the cause adjourned until after the noon recess. Mr. Speer and I then prepared the order of May twenty-third, adding several complainants, and submitted it to Messrs. Hudspeth and Northrop, who assented to it.

After the noon recess, the Jersey City Water case was heard by the Vice Chancellor and given precedence over our argument. Upon its completion our case was taken up. Messrs. Hudspeth and Northrop then assented in open court to the making of the order, adding complainants, and I proceeded to read the affidavits taken on the part of the complainants. At the conclusion of this reading Senator Hudspeth handed me, for the first time, the copies of the affidavits taken by the defendant; stated that there were over one hundred of them and that it would be better for the court to then adjourn the hearing to another day for the purpose of hearing the defendant's case. An adjournment was then taken to May twenty-sixth, at two P. M., at the City Hall, Jersey City.

I handed these affidavits of the defendant over to Mr. Speer before I had read them, and did not receive them back until the morning of the twenty-fifth. On the twenty-fourth I received a telegram from Vice Chancellor Pitney, stating that he would hear the argument at the Chancery Chambers on the twenty-sixth, at ten A. M., instead of at the City Hall, at two P. M. I com-

municated with the other counsel in the case, and found that they had received like messages. During the evening of the twenty-fifth, while preparing the case for argument, I received a telephone message from Mr. Alexander, explaining to me that he had been deceived in signing the document, which had been presented to me the previous Monday, and that he did not wish to be withdrawn as a party complainant. I immediately sent someone to his house to take his affidavit to that effect. Shortly afterward I heard from Mr. Holman, who was Mr. Seastream's attorney, and who, before the case was instituted, informed me that Seastream was complaining and advised me to get his affidavit; that Seastream had been sent by one of his superiors at the Pennsylvania ferry, in Jersey City, to the office of a man in Jersey City, where he had been advised that unless he withdrew from the suit he would lose his position on the Pennsylvania ferry boats. This was the first I had heard of this.

On the morning of the twenty-sixth, at about nine o'clock, I prepared a subpœna *ad testificandum* for Seastream to appear before the Vice Chancellor, in the Chancery Chambers, that day, and gave it to my clerk, George E. Griswold, telling him that no matter at what time he served it, to bring Seastream at once to the Chancery Chambers, before Vice Chancellor Pitney. He started out with this shortly after nine, and continued his endeavors to serve it until after noon. When the case was called Senator Hudspeth again asked me whether the suit would not be discontinued because of the written request he had handed me the Monday previous. I replied that we would not, as Mr. Alexander had made an affidavit in which he stated that he had been induced, through deceit and misrepresentation, to sign the paper, and I also informed the Court that I had been reliably informed that Seastream had been sent by a superior officer of the Pennsylvania Railroad Company to the office of a prominent man in Jersey City, where he was

informed that unless he retracted his former affidavit attached to the bill and withdrew from the suit, he would be discharged from service, and that I had issued a subpœna *ad testificandum* for his appearance, so that the court might ascertain the facts and the *bona fides* of the purported withdrawal. The court replied that it could not examine Mr. Seastream in the matter, but that if I would obtain an affidavit showing the facts the court would take the matter up on its own motion. I replied that I feared it would be impossible to obtain such affidavit. I then produced the affidavits of Messrs. Griswold and Currie, showing the circumstances surrounding the taking of Seastream's first affidavit. I then submitted the order of May twenty-fifth, adding Mrs. Smith and others as complainants, which was submitted to the solicitors for the defendant, and they consenting in open court thereto, was signed by the Vice Chancellor. The defendants then proceeded with the reading of their affidavits, and completed the same just before the time for the noon recess. I then began the argument for the complainants and continued it until the close of the afternoon session.

On the morning of the twenty-sixth, when the second affidavit of Seastream was read, as well as those of Messrs. Griswold and Currie, in contradiction thereof, the Vice Chancellor directed the counsel in the case to make copies of the respective affidavits bearing upon Seastream's first affidavit, and send them to Judge Blair. This I did on the twenty-seventh, and was informed by Judge Blair a day or two later that he would investigate the entire matter at the court house on June second, at ten A. M.

On the morning of June second, before going to the court house, I called at Mr. Holman's office, in Bayonne. He told me that Seastream had decided upon his advice—to go before Judge Blair and tell the whole truth about the matter. He stated that he himself was willing to make an affidavit to the facts, but as it would be based only on hearsay, he thought Seastream's affidavit would

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be stronger. I then went to the court house. Senator Hudspeth stated to Judge Blair that Seastream's work was completed about one P. M.; that he (Seastream) could not attend that morning, but would attend at Judge Blair's office in the afternoon. The hearing was then adjourned to two o'clock, when we all appeared at Judge Blair's office, but without Seastream present. A man, who said he was the captain of one of the Pennsylvania boats, stated to Judge Blair that Seastream had refused to attend, and the hearing was then indefinitely adjourned. The article contained in the *Jersey City Journal* the following afternoon was the first I knew that Seastream had been examined by Judge Blair. I have neither seen the testimony given by him, nor have I been told what it contains.

At the close of the argument on the afternoon of the twenty-sixth the hearing was continued to June sixth, at Newark. During Senator Hudspeth's argument a messenger arrived with an envelope, which he delivered to the Vice Chancellor. I shortly afterwards was informed that it contained the testimony taken before Judge Blair. The Vice Chancellor took it, read it, and then called his stenographer to him and dictated something that I could not hear. Senator Hudspeth and Mr. Northrop then continued the argument for the defendant, and decision was reserved for the purpose of the defendant furnishing the complainants' solicitors with a brief upon the subject of misjoinder. This brief has not yet been handed to me.

ELMER W. DEMAREST.

Sworn to and subscribed before me this fifteenth day of June, 1904.

FRANK P. MCDERMOTT,
Special Master in Chancery.

PETITION OF APPEAL OF WILLIAM J. DAVIS.

[Filed January 31, 1905]

To the Honorable the Court of Errors and Appeals in the Last Resort in All Causes:

The humble petition of William J. Davis, the appellant herein, respectfully shows that your petitioner finds himself aggrieved by an order made in the Court of Chancery by his Honor William J. Magie, Chancellor of the State of New Jersey, on the twenty-third day of January, one thousand nine hundred and five, in a certain cause pending in the Court of Chancery, wherein August Seastream and others are complainants and the New Jersey Exhibition Company defendant, in this respect, to wit, that the said order adjudges that your petitioner, who was not a party to said cause, was, together with other parties, guilty of a contempt of said Court of Chancery.

And your petitioner humbly appeals from that part of said order which adjudges your petitioner guilty of a contempt of said court, and ordering your petitioner to pay a fine to the clerk of the said court, for the use of the State, in the sum of two hundred and fifty dollars, together with the costs of said proceedings against your petitioner and against other parties named in said order to be taxed, and that your petitioner stand committed to the county jail of the county of Hudson, and remain in close custody until the fine therein imposed for such contempt and said costs be fully paid, upon the ground that the same is erroneous in this, that the said Chancellor did not acquire jurisdiction over your petitioner by lawful process, and for that said Chancellor condemned your petitioner without hearing any witnesses either for or against your petitioner, but made said order upon reading certain testimony taken before his Honor Henry C. Pitney, without any order of reference of said cause to Henry C. Pitney by the Chancellor, and without any jurisdiction in said Henry C. Pitney to take said

testimony; and because the said Chancellor condemned your petitioner upon the testimony of one "Seastream," a confessed perjurer in said cause, and against the denial under oath of your petitioner and other creditable witnesses; and because the said Chancellor pronounced a judgment of guilt against your petitioner without any specific charge of any contempt having been laid before the said Chancellor, or having been proved before the said Chancellor or before any other lawfully constituted authority; and because said Chancellor convicted your petitioner of a contempt which consisted, so far as your petitioner is able to surmise, in having procured, or aided in procuring, an alleged false affidavit used in said cause; yet the said Chancellor, through his said Vice Chancellor, Henry C. Pitney, refused to permit your petitioner to prove that the facts stated in said alleged false affidavit were in fact true; and because the said Chancellor was without jurisdiction to pronounce said judgment and make said order against your petitioner.

Your petitioner therefore prays that the said order of said Chancellor may be, in the particulars aforesaid, reversed, set aside and for nothing holden.

And that your petitioner may have such other or further relief in the premises as to this Honorable Court shall seem meet.

WARREN DIXON,
Solicitor of Counsel with Appellant.

I conceive there is good cause for this appeal.

WARREN DIXON,
Of Counsel.

PETITION OF APPEAL OF BENJAMIN T. HAAGENSON.

[Filed January 31, 1905.]

To the Honorable the Court of Errors and Appeals in the Last Resort in All Causes:

The humble petition of Benjamin T. Haagenson, the appellant herein, respectfully shows that your petitioner finds himself aggrieved by an order made in the Court of Chancery by his Honor William J. Magie, Chancellor of the State of New Jersey, on the twenty-third day of January, one thousand nine hundred and five, in a certain cause pending in the Court of Chancery, wherein August Seastream and others are complainants and the New Jersey Exhibition Company defendant, in this respect, to wit, that the said order adjudges that your petitioner, who was not a party to said cause, was, together with other parties, guilty of a contempt of said Court of Chancery.

And your petitioner humbly appeals from that part of said order which adjudges your petitioner guilty of a contempt of said court, and ordering your petitioner to pay a fine to the clerk of the said court, for the use of the State, in the sum of one thousand dollars, together with the costs of said proceedings against your petitioner, and against other parties named in said order to be taxed, and that your petitioner stand committed to the county jail of the county of Hudson, and remain in close custody until the fine therein imposed for such contempt and said costs be fully paid, upon the ground that the same is erroneous in this, that the said Chancellor did not acquire jurisdiction over your petitioner by lawful process, and for that said Chancellor condemned your petitioner without hearing any witnesses either for or against your petitioner, but made said order upon reading certain testimony taken before his Honor Henry C. Pitney without any order of reference of said cause to Henry C.

Pitney by the Chancellor, and without any jurisdiction in said Henry C. Pitney to take said testimony, and because the said Chancellor condemned your petitioner upon the testimony of one Seastream, a confessed purjurer in said cause, and against the denial under oath of your petitioner and other creditable witnesses, and because the said Chancellor pronounced a judgment of guilt against your petitioner without any specific charge of any contempt having been laid before the said Chancellor, or having been proved before the said Chancellor, or before any other lawfully constituted authority, and because said Chancellor convicted your petitioner of a contempt which consisted, so far as your petitioner is able to surmise, in having procured or aided in procuring an alleged false affidavit used in said cause; yet the said Chancellor, through his said Vice Chancellor, Henry C. Pitney, refused to permit your petitioner to prove that the facts stated in said alleged false affidavit were in fact true, and because the said Chancellor was without jurisdiction to pronounce said judgment and make said order against your petitioner.

Your petitioner therefore prays that the said order of the said Chancellor may be, in the particulars aforesaid, reversed, set aside and for nothing holden;

And that your petitioner may have such other or further relief in the premises as to this Honorable Court shall seem meet.

WARREN DIXON,
Solicitor and of Counsel with Appellant.

I conceive there is good cause for this appeal.

WARREN DIXON,
Of Counsel.

PETITION OF APPEAL OF HOWARD C. GRIFFITHS.

[Filed January 31, 1905.]

To the Honorable the Court of Errors and Appeals in the Last Resort in All Causes:

The humble petition of Howard C. Griffiths, the appellant herein, respectfully shows that your petitioner finds himself aggrieved by an order made in the Court of Chancery by his Honor William J. Magie, Chancellor of the State of New Jersey, on the twenty-third day of January, one thousand nine hundred and five, in a certain cause pending in the Court of Chancery, wherein August Seastream and others are complainants and the New Jersey Exhibition Company defendant, in this respect, to wit, that the said order adjudges that your petitioner, who was not a party to said cause, was, together with other parties, guilty of a contempt of said Court of Chancery.

And your petitioner humbly appeals from that part of said order which adjudges your petitioner guilty of a contempt of said court, and ordering your petitioner to pay a fine to the clerk of the said court, for the use of the State, in the sum of one thousand dollars, together with the costs of said proceedings against your petitioner, and against other parties named in said order, to be taxed, and that your petitioner stand committed to the county jail of the county of Hudson, and remain in close custody until the fine therein imposed for such contempt and said costs be fully paid, upon the ground that the same is erroneous in this, that the said Chancellor did not acquire jurisdiction over your petitioner by lawful process, and for that said Chancellor condemned your petitioner without hearing any witnesses either for or against your petitioner, but made said order upon reading certain testimony taken before his Honor Henry C. Pitney, without any order of reference of said cause to

Henry C. Pitney by the Chancellor, and without any jurisdiction in said Henry C. Pitney to take said testimony, and because the said Chancellor condemned your petitioner upon the testimony of one Seastream, a confessed perjurer in said cause, and against the denial under oath of your petitioner and other creditable witnesses, and because the said Chancellor pronounced a judgment of guilt against your petitioner without any specific charge of any contempt having been laid before the said Chancellor, or having been proved before the said Chancellor, or before any other lawfully constituted authority, and because said Chancellor convicted your petitioner of a contempt, which consisted, so far as your petitioner is able to surmise, in having procured or aided in procuring an alleged false affidavit used in said cause; yet the said Chancellor, through his said Vice Chancellor, Henry C. Pitney, refused to permit your petitioner to prove that the facts stated in said alleged false affidavit were in fact true, and because the said Chancellor was without jurisdiction to pronounce said judgment and make said order against your petitioner.

Your petitioner therefore prays that the said order of the said Chancellor may be, in the particulars aforesaid, reversed, set aside and for nothing holden;

And that your petitioner may have such other or further relief in the premises as to this Honorable Court shall seem meet.

WARREN DIXON,
Solicitor and of Counsel with Appellant.

I conceive there is good cause for this appeal.

WARREN DIXON,
Of Counsel.

Index.

PAGE.

Bill 1
Order to Show Cause, Etc 39
Order to Show Cause 40
Order for Injunction 67
Order Discharging Order 68
Testimony 69
August Seastream—
Cross-examination 74
Cross-examination (continued) 102
Judge John A Blair—
Direct examination 118
Captain Benjamin T. Haagenson—
Direct examination 129
Further direct examination 139
Cross-examination 143
John J. Madden—
Direct examination 177
Edward Nelson—
Direct examination 177
Margaret Fitzpatrick—
Direct examination 181
Charles M. Brown—
Direct examination 185
Cross-examination 190
Captain Benjamin T. Haagenson, recalled—
Direct examination 203
Cross-examination 204
Robert Davis—
Direct examination 207
Cross-examination 217
William J. Davis—
Direct examination 219
Cross-examination 223
Howard Griffiths—
Direct examination 237
Cross-examination 253
Robert S. Hudspeth—
Direct examination 273

PAGE.

James P. Northrop—
Direct examination 283
Redirect examination 290
Captain Benjamin T. Haagenson, recalled—
Direct examination 299
Elmer W. Demarest—
Direct examination 306
Robert A. Elliott—
Direct examination 324
Cross-examination 326
Redirect examination 328
Cross-examination 329
Peter Bentley——
Direct examination 331
Elmer W. Demarest, recalled—
Direct examination 345
Mrs. Laura Seastream—
Direct examination 356
Direct examination (continued) 364
Cross-examination 376
Edward S. Holman—
Direct examination 387
Cross-examination 392
Mungo J. Currie—
Direct examination 401
Cross-examination 406
George E. Griswold—
Direct examination 410
John F. Driscoll—
Direct examination 422
Cross-examination 424
Jacob Moeser—
Direct examination 429
August Seastream, recalled—
Direct examination 434
Cross-examination 436
Redirect examination 442
Captain Benjamin T. Haagenson, recalled—
Direct examination 446
Cross-examination 447
Order of Reference 457
Order to Postpone 458
Designation 458
Notices 459
Opinion 460

PAGE.
Order for Contempt, &c. 470
Order to Tax 473
Order to Postpone 474
Costs, Under Order, Filed January 23d, 1905 475
On Notice of Appeal of William J. Davis 476
On Notice of Appeal of Howard C. Griffiths 477
On Notice of Appeal of Benjamin T. Haagenson 478
On Order to Show Cause Why Certain Persons Should Not be Adjudged Guilty of Contempt. Order Adjudging Certain Persons Guilty of Contempt of the Court 479
Protest of William J. Davis 482
Protest of Howard C. Griffiths 483
Protest of Benjamin T. Haagenson 483
Warrant 484
Memorandum 487
Affidavits 491
August Seastream 492
Laura Seastream 501
George E. Griswold 504
Elmer W. Demarest 505
Petition of Appeal of William J. Davis 513
Petition of Appeal of Benjamin T. Haagenson 515
Petition of Appeal of Howard C. Griffiths 517